Vagias Karavas*

The Best of All Possible Worlds: Gunther Teubner's Theodicy

(A reading of Gunther Teubner's text
"The constitution of non-monetary surplus values")

Die beste aller möglichen Welten: Gunther Teubners Theodizee

(Ein Lektüreversuch von Gunther Teubners
„Die Verfassung gesellschaftlicher Mehrwerte")

https://doi.org/10.1515/zfrs-2024-1008

Abstract: The present contribution is a critical reading of Gunther Teubner's text "The constitution of non-monetary surplus values". On the basis of this text, Gunther Teubner's theodicy, i.e. his doctrine of the rotten and irrational foundations of modern society and the normative way of dealing with them, is elaborated and embedded genealogically. The article then ends with remarks on the "katechontic" role that, according to Gunther Teubner, law has to play in a "fallen" society.

Zusammenfassung: Beim vorliegenden Beitrag handelt es sich um eine kritische Lektüre von Gunther Teubners Text „Die Verfassung gesellschaftlicher Mehrwerte". Auf der Grundlage dieses Textes wird Gunther Teubners Theodizee, d.h. seine Lehre von den faulen und irrationalen Grundlagen der modernen Gesellschaft und dem normativen Umgang mit ihnen, herausgearbeitet und genealogisch eingebettet. Der Beitrag endet dann mit Ausführungen zur „katechontischen" Rolle, die das Recht nach Gunther Teubner in einer „gefallenen" Gesellschaft zu spielen hat.

Keywords: Surplus value, desire and drive (of capital), theodicy, Gunther Teubner, Karl Marx, Adam Smith, katechon.

Acknowledgements: For helpful comments, I would like to thank in particular Michelle Cottier, Malte Gruber, Steve Howe, Teona Kvirikashvili, Suad Salihu, and Doris Schweitzer. However, most of all, I would like to thank my teacher Gunther Teubner for his generosity in discussing my text at length.

***Korrespondenzautorin: Vagias Karavas,** Frohburgstrasse 3, 6002 Luzern, Schweiz,
Tel. +41 76 43 95 971, E-Mail:vagias.karavas@unilu.ch

Social Theories of Excess

A sense of disquiet about (late) modernity drives social theory.[1] How else can we explain the recurring interest in phenomena exhibiting a dimension of excess, of surplus, of superfluity? Examples of this are numerous. In the past decade alone, we might mention Virilio's dromology (2006, 1993) or the theory of technical acceleration that, very early on, pointed to the phenomenon of an ominously growing acceleration hidden in technical inventions of speeding up (Tholen 1999: 135), as well as to its social and power-political implications. Likewise, Baudrillard's "theory of hyperreality" (2017) sees lived reality in a similarly hyperbolic way – as a referenceless, an enhanced form of reality resulting from an advanced simulation. Rosa's theory (2005) of social acceleration offers another example of an alarming theory of late modernity; his view shares similarities with Virilio's theory, but he rejects the latter as unscientific by German standards of quality (Rosa 2003: 3). Instead, he draws on the work of Weber, Simmel and Marx to develop a more comprehensive "theory of social acceleration". In this context, Abbott's "sociology of excess" (2014), which reinterprets problems of scarcity as problems of excess and advocates a corresponding reorientation of the sociological perspective, also warrants mention, as do "economic post-growth or degrowth theories" (see D'Alisa et al. 2015; Kallis 2018), which, for example, attribute climate change and natural disasters to the promise of perpetual economic growth in a finite world, in order to draw the conclusion that the ideal of growth should be abandoned altogether. Finally, this list of contemporary diagnoses should also include the work of the young French philosopher Garcia (2018), who suggests that, since the discovery of electricity in the eighteenth century and as a consequence of the fascination this triggered, modern society has been in a state of high tension, with individuals continually searching for ever-greater experiences of intensity.

To this list, we might also add Teubner's recent approach to a capitalist society oriented towards surplus value production (2021). His approach shares some common aspects with the aforementioned diagnoses, such as an interest in growth, a tone of alarm, etc. Yet it is also notably distinct. While the former deal with partial aspects of the growth problem by locating its essence either in a temporal or in a factual dimension, Teubner tries to understand the problem on a more fundamental and comprehensive, i.e. society-wide level.

According to Teubner, capitalist society is not an exemplary society oriented towards perfection, but rather one that is controlled by destructive drives. However,

1 For a comprehensive diagnosis of late modernity, see Reckwitz 2019.

contrary to what classical Marxism claims, one should not blame this strictly on capitalism, because the drive to increase, to skim off a surplus value does not only concern the economic system. The pressure to generate surplus value is, as Teubner observes, by no means a unique characteristic of capitalist economies, but rather is established in every single function system. Each individual social system, through its own production of meaning, is oriented towards the production of surplus value, which materializes in different forms in each case. In the economic system, it is called economic profit. In the political system, it is called power. In the legal system, it is juridical authority. In the scientific system, it is reputation – and so on. Moreover, surplus value production is used for both good and bad. It works to secure the common good, while also revealing a dark, destructive side of both the particular system and its environment. Teubner's approach would not be genuinely Teubnerian if it did not appeal to the law in its functional role oriented towards limitation and damage control. Thus his text "The constitution of non-monetary surplus values" ends with reflections on the function of the law in a fallen world that holds no promise of salvation, but which, according to Teubner (as we shall see), is the best of all possible worlds.

In the following, I will first present Teubner's approach. Teubner himself declares that his ideas follow the Marxist theory of surplus value, which he simply tries to generalise and re-specify with his approach. However, the reference to Marx is – so one of my claims here – a mere feint designed to hide Teubner's true source: Adam Smith. In a further step, the essay thus looks to locate Teubner's approach genealogically. Ultimately, it will be argued that Teubner may, in fact, be right with his theodicy – that is, his doctrine of the rotten and irrational foundations of modern society, and of the normative handling of these. The time of great revolutions seems to be over, once and for all. (Neo-)liberalism gives the impression of an insurmountable horizon. But this does not mean that we have reached the end of history. The end time can, rather, be delayed, as long as the law – according to Teubner – fulfils its "katechontic" function.

The History of Evil

When did the history of evil begin? It began at the very beginning – at the moment when the first communication was articulated. This is because "the original Fall of Man happens at the Tree of Knowledge: the meaning-producing force of communication, with its ability to distinguish good and evil, destroys the original unity of man and nature, makes man god-like and leads to the loss of Paradise. The origin of alienation lies in the very first communication" (Teubner 2006a: 173).

The history of evil and sin thus begins with the separation of the world of meaningful communication from everything that from then on is only unspecifically called the "environment". This violent act upon which society is based cannot be put right. Rather, humankind has been condemned ever since to live in a depraved world, a world of separation, of insurmountable differences, in a divided world. Paradise in the sense of perfection and unity, in the sense of the Gospel verse "that they may all be one" (John 17, 21), is not only irrevocably lost, but can never be attained in this world. This is the starting point of Teubner's theodicy: Society presupposes the Fall. It is not the society *after* the Fall, because without the Fall there can be no society. Rather, it is the society *of* the Fall – the fallen society.

The Fall and the mechanism of dealing with it take different forms and names within society. In antiquity, it was personified in the form of hubris. Depending on whether one follows Theognis or Pindar, Hubris is either the mother or daughter of Corus, the god of (over-)surfeit (Hubbard 1986: 37, Fn. 31). However, humans are denied surfeit or perfection. Those who claim to have acquired perfection (or to be able to acquire it) commit hubris. In the noble societies of antiquity, which assume a well-ordered universe or a cosmos,[2] the self-overestimation and arrogance of man cannot be tolerated. It would thus trigger a cascade of consequences that can be summarised in the following equation: *hubris* > *até* > *nemesis* > *tisis*.[3] Arrogant behavior (hubris) leads to man's loss of reality (até), due to which he commits even greater evil, which causes the nemesis, the wrath and revenge of the gods. The circle then closes with the tisis, the punishment and destruction of man, with which the disturbed, cosmic order is restored.

In the hierarchical societies of the Christian Middle Ages, hubris is spelled out as different deadly sins, which number as many as the days of creation. Its administration was subject to a sophisticated order of competence and delegation that determined the demon in charge of each deadly sin. So, Lucifer was responsible for pride; Mammon for greed; Leviathan for envy; Satan for anger; Asmodeus for lust; Beelzebub for gluttony; and Belphegor for slothfulness. Indeed, the task of punishing sins was no longer entrusted to God alone. Instead, it was assumed by the Catholic Church itself, which decided on salvation or damnation (Teubner 2020: 2).

But in the Early Modern Age, something happened that turned the world upside down. This constituted a radical reversal in the traditional social and value order up until that point. Teubner (2020: 2) summarises the "Big Bang" responsible for the origin of modern society as follows: "What counted in the Middle Ages as the

2 The etymology of the word "cosmos" is not well defined, but since Iliad it rather means "order" or "ornament" (cf. Brague 2006: 31).

3 As for the genealogical analysis of this tragic pattern in the thought of ancient Greece, see Luce (1997: 9ff).

mortal sins of individuals [...] was radically revalued to the extreme during the Renaissance in two ways. For one mortal sins became admirable individual virtues. More importantly, though, deadly sins were transformed into autonomous social institutions, each seeking to perfect a single *idée directrice*."

According to Teubner – and in contrast to Weber (1922 [Bd. 1]: 1) – the real take-off of the West thus begins not with the appearance of cultural phenomena on Occidental ground, "which developed in a direction that is of *universal* meaning and validity", i.e. with the emergence of a new type of culture, for which Weber famously reserved the term "occidental rationalism", but rather with a reversal of traditional values. Sins were reimagined as virtues, yet without ever quite losing their sinful character, for "deadly sins remain deadly sins!" (Teubner 2020: 3). But what is sinful in the aforementioned sins that is now reinterpreted as virtuous? The etymology of the Greek word for sin "hamartia" (*ἁμαρτία*), which originally had the meaning of "failure" or "not achieving a goal" (Bremer 1969: 24 ff.), could help us to get closer to the true nature of sin. Based on this meaning, it could therefore be argued that the seven deadly sins are simply the failure to achieve a desired goal, which spurs people on to try again. But what is the goal that we miss when we indulge in one of these sins? Emmanuel Lévinas (1969) would say: to have encountered the Other face-to-face. In all seven deadly sins, the Other is either ignored or degraded into an object. From another point of view, Luhmann (1981) would soberly describe the same as detachment from personalized reciprocal relations. However, detachment from reciprocal relations means that one no longer has to include the Other as an horizon in one's own actions. On the contrary: Ruthlessness is expected by society today. In this way, however, the ruthlessness of man (as well as of the social systems), the worst of all sins, which finds only one specific expression in each of the seven deadly sins, is elevated to the highest virtue. Should we perhaps enrich Weber's "disenchantment of the world" by this further dimension of meaning and interpret it no longer only as a detachment from magic, but also as a detachment from the magical content of relations?[4]

According to Teubner, the establishment of the new social order on this new basis is not a problem in itself. On the contrary, it leads to an unleashing of an enormous potential of productive forces (Teubner 2020: 3; see also Menke 2008, Wielsch 2008), which will later take the form of different areas of society whose autonomous character is reduced to this very point of self-referentiality (Guski 2017). But if mortal sins are reinterpreted as virtues, to what extent do they remain sins? Social

4 Of course, the considerations made here do not only concern the interpersonal level, but are analogously applicable to the societal level of intersystemic relations. Teubner's text pertain mostly to intersystemic relations.

theory answers this as follows: It is the immanent excessiveness of the behaviors described in the seven deadly sins that constitutes their sinful character.

A World without Measure

How does this new excessive world without measure come about? The question is justified. For European history can also be read as a history of measure. "Est modus in rebus" writes Horace, expressing a conviction that runs like a thread through the whole of European history right up to the present day. The sentence, however, is not to be understood as a purely descriptive phrase. It not only states, but at the same time expresses an ethical imperative – namely, that one must observe the measure of things. As Konersmann (2021: 9) remarks: "For the longest time in European history, measure and mass, ethics and technics, morality and science were two sides of the same coin."[5] But this fundamental conviction begins to unravel with the emergence of modern society. Again, according to Konersmann (2021: 13): "Within a few generations, the possibilities offered by excess and transgression were to outstrip the traditional realism of the ethics of moderation. Measure and its catalogue of virtues shrank to the format of an 'ethics of mediocrity', which, in view of the ever-new promises of transgression, became the object of condescension and even ridicule."

The dwindling concern for the measure in things and its accompanying ethics go hand in hand, moreover, with the typical modern feeling of being overwhelmed by a world that has lost its measure (see Fuchs et al. 2018). Here, we can return to our initial question: How did this come about?

From a systems theory perspective, two explanations have been given. The first is offered by Nassehi (2019) who, in his book *Muster (patterns)*, develops – as the sub-title signals – a theory of digital society. According to his main thesis, modern society is a digital society *avant la lettre* – that is, before the outbreak of the digital revolution. This claim rests on the premise that one understands digitalisation – as Nassehi does – as a search for patterns, accompanied by a wish for reduced complexity. Digitalisation is thus not simply a contingent event in the evolution of a society that was destined for something else. On the contrary, it is the logical advancement of a society that, from its inception, was already indebted to the digital gaze.

With regard to the relevant point here of a world without measure, Nassehi draws an interesting parallel between modern society and the digital world. Both worlds are characterised by the same tendency towards self-growth. In the digital

5 Unless otherwise stated, the translations of German texts are mine.

world, this tendency reveals itself in the form of an excess of control, which "is based on metrics, quantifications, on forms of comparability, of self-tracking, of standardisation through set measures" (Nassehi 2019: 179). Despite attempts to limit all these new control possibilities, this excess of control is fundamentally uncontrollable. This is because this tendency towards self-increase, namely that which constitutes the excess, lies precisely "in the digital nature of the thing itself" (Nassehi 2019: 180). By this, Nassehi means the technology of signal transmission based on a binary coding that, in its sheer simplicity, can record all of the world's phenomena and transmit them in the form of electronic signals – without knowing any stop rules. Digital technology is thus unstoppable. It duplicates society in the form of a data world and is responsible for the production of ever more data, which becomes subject to ever new control possibilities.

For Nassehi, the functionally differentiated modern society behaves similarly. It, too, is characterised by a corresponding tendency towards self-growth. This time, however, the tendency lies in the nature of the function system itself and its binary coding. This is because function systems are systems whose operations are guided exclusively by a binary code, which, through the exclusion of criteria or factors alien to the system, decides entirely autonomously on the connection of system-internal operations. As such, systems fall prey to a tendency towards operational increase. In a half-theological, half-psychoanalytical Creole language, one might summarise this thought as follows: operational increase is only a symptom that reveals the sinful nature of the self-referential function system. The main problem of modernity is that the recklessness of the system, as manifested in its tendency towards operational increase, cannot be criticised, corrected or overridden by any (ruling) social authority. As Nassehi (2019:183) puts it, "coded function systems have neither external nor internal criteria that could limit their operations, and that could therefore develop a measure towards self-restraint". However, this means that the trend towards operational growth cannot be attributed solely to binary coding. The problem is not only the radical closure of the system, but also the absence of a centre – a place in society "which truly orders and integrates the parts" (Nassehi 2019: 183). Put differently, it is the decentralised and fragmented character of modern society that is to blame for the excessiveness of the function systems. At least the Middle Ages had the Catholic Church to provide a certain amount of integration! Yet it is not clear where exactly this excessiveness begins for Nassehi. The fact that different function systems know no inherent stop-rule on account of their binary coding does not automatically turn them into self-exceeding systems (Teubner 2020b: 509).

The second approach from a systems-theoretical perspective points to a different reason. Teubner distances himself from Nassehi by mentioning, that "[w]hat makes function systems move is not the binary code of a function system but the motivational force of its communication medium and the acceleration via surplus

pressures" (Teubner 2021: 509). Pressures to add surplus value have, according to Teubner, become established in all function systems (not just in the capitalist economy) and take on different forms according to each system. This production of surplus value is, moreover– and this is a central point of this approach – governed by respective communication media.

In systems theory, communication media represent evolutionary achievements "that start at the breaking points of communication and transform improbability into probability" (Künzler 1987: 320, based on Luhmann 1975). What is meant here are three improbabilities, for overcoming of which three different media types were created. The first improbability relates to the mutual opacity of the psychic systems involved in the communication. How can it be ensured that ego understands what alter means? In systems theory, the answer is: through language. The discovery of language created the condition of possibility for understanding. Psychic systems that are essentially inaccessible are thus at least brought onto the same wavelength.

The second improbability concerns the question of how absent addressees of a communication offer can be reached. This complication is, in turn, counteracted by the discovery of distribution media, such as writing, printing, radio, and so on. Thus, communicative operations that rely on written or printed form have a better chance of reaching those who are not present, but at the same time there is an increased risk that the communicative offer will be rejected. Here, we might think of the culture of criticism and comparison stimulated by the discovery of printing (Bohn 2005: 367). By way of such distribution media, society has thus learnt to say "no".

The third media type, the symbolically generalised communication media or success-media, eventually came about in order to transform this "no" into a "yes". According to Luhmann (2012: 1990), these media "assume the function of rendering expectable the acceptance of a communication in cases where rejection is probable". And this they do – as Teubner (2021: 504) adds – by "creating the motives (!) for accepting a communication". Symbolically generalised communication media thus cater for communicative success; they cannot, however, guarantee it on their own. The communication offers of a scientist cannot be accepted on the grounds that he/she is, by nature, in possession of truth. Rather, they are accepted when they result from the observance of scientific methods and theories. Political communication offers are likewise not accepted simply due to the sheer power of their ability to create pressure. Rather, power must be supported with reference to reasons of state. Whether my conduct is ultimately accepted as lawful depends on relevant legal programmes, such as laws or judicial rulings. As Bohn (2005: 371) remarks, "coding is the basic requirement for differentiating symbolically generalised communication media as closed operational connections. In contrast to the Yes/No code of lan-

guage, here it is about preference codes with a positive and negative value. Under what conditions the assignment of negative or positive value happens, however, is decided by the programmes."

According to Teubner, success-media do not merely ensure communicative success (Teubner 2021: 505ff.). Rather, through their motivational power, they fuel the various function systems by forcing them to increase performance. By motivational power, however, he does not just mean the motivational power of the respective success-medium, which is used with regard to communicative success. He is also referring to a secondary motivational force, that of the communication medium itself, which relates to the reinforcement of the first. Only through the combination of the two does a self-reflexive, self-strengthening process develop, that dictates the rhythm for all surplus value production in each respective function system, and which consequently drives it to increase performance. In Teubner's own words (2021: 505): "[T]he turbocharger for this motor is surplus value extraction. […] By applying reflexively a communication medium upon itself, surplus production restores and augments the motivational power to accept communication. The primary motivation, which increases the chances for acceptance, is overlaid by a secondary motivation, which augments the primary motivation itself."

A clarification is, however, necessary here – without which one cannot understand the mechanism in question that lies behind the respective production of surplus value. As Teubner (2021: 506) explains: "To avoid misunderstanding, it should be emphasized that the motivational power of communication media is not directed towards influencing mental states of individuals. Instead, it forms binding social expectations in relation to social positions (persons, organizations, networks), i.e. semantic constructs of communication that get by with the mere assumption, with the mere supposition, almost with the fiction – not with the actual realization – of corresponding states of individual consciousness."

In other words, communication media are not directed at individual people of flesh and blood. Rather, they are directed at social positions, i.e. the semantic constructs of communication. Greed for profit is thus not a personal characteristic of Bezos or Gates; rather, it is a social fact that has been institutionalised as a concrete feature of our society, and also attributed to social positions, companies and networks. Of course, this hardly exculpates Bezos or Gates. On the contrary, it would be surprising if Bezos or Gates were not greedy for profit. But what matters here is not the personal weaknesses of individual people, rather the description of a social mechanism. Accordingly, it should not be forgotten that the names of Bezos, Gates and others have a significant function within popular discourse (in that they symbolise the profit-hungry *homo economicus*). But these semantic constructs are not just mere recipients of binding expectations from the respective success-medium. They are also the driving engine behind the whole production of surplus value.

Teubner explains this via reference to media theory and, specifically, the medium/form distinction (Teubner 2021: 507ff.). In doing so, he also illustrates how the motivational power attributed to the success-medium itself is important.

As we saw earlier, the primary motivation is generated by the medium itself: the success-medium creates motives for the acceptance of a communicative offer. The question now, however, is: who motivates the success-medium to strengthen its initial motivational position? The answer to this question is rooted in the medium/form distinction, and in the triad of the medial substrate, medial form, and medial competence. By medial substrate, Teubner means the success-medium itself – money, truth/reputation, power, love, etc. (Teubner 2021: 508). This medial substrate is further condensed into various forms: numbers, cognitive acts, acts of power, acts of love, and so on. By medial competence, Teubner ultimately means the capacity of every social position "to mobilise medial forms" (Teubner 2021: 507). His examples for this include the ability to pay, the potential for power, scholarly reputation, estimation etc. But medial competence has a fundamental flaw or shortcoming. It is never present to a sufficient degree, but must be permanently re-established when a medial substrate is brought into a form. To give an example: the reputation of an academic seldom rests on a single publication. Rather, it fades after each publication, and therefore has to be generated again and again through new publications. Social positions are confronted by the corresponding demand to regenerate their medial competence. So, the answer to the question of the *primus-movens* behind the self-strengthening processes of communication media is now apparent. According to Teubner, it is social positions, to which the expectation is attached, that they renew their medial competence so that the motivational power to accept communication offers does not wane.

The Drive of Capital

But why should this be about a mode of augmentation rather than a mode of regeneration? Medial competencies may fade, but they are constantly being reproduced by the various social positions. To what extent does this result in a moment of excess that then forces the whole system into augmenting surplus value? This is a question that Teubner himself poses and which he only vaguely answers: "The tentative answer is that a moment of excessive expectations, a type of high-risk 'credit' in future communications, lies hidden in the motivation to accept a communication created by the communicative media – property/money, power, legal normativity, truth/reputation. This moment can only be 'cashed in' there with permanently higher 'payments', and with their reaction, in turn, to increasing 'credit'-expecta-

tions, so that a necessary increase-dynamics, a growth-spiral of surplus production, develops" (Teubner 2021: 509).

What he means by credit-expectations is, in turn, explained via reference to an example from the world of economy: "For the economy it is clear that, while mere rentability regenerates the payment capacities for the survival of companies, augmentation is needed for securing the fulfilment of future needs" (Teubner 2021: 509). From this, however, one can infer that the augmention of surplus value is not a blind process of growth. Quite the contrary, *est modus in rebus*. The augmentation of surplus value, according to Teubner, is directed towards a telos, a purpose. In economics, this has to do with generating a monetary surplus for "securing the future needs of society"; in politics, a "power surplus of policies as generalized resources for future political decisions" (Teubner 2021: 509). Against the backdrop of such teleological notions, our modern capitalist society appears more like a well-oiled machine that simply works to fulfil future needs – and only ever at top speed.

But such a picture would contradict empirical evidence that the world is out of joint, something which Teubner's approach touches on and tries to develop. The reason why Teubner feels compelled to provide his approach with a teleology will become apparent later. Here it is only to be noted that due to this inserted teleology his approach is not able to register that capitalism achieves its actual goal of surplus value production, although and precisely because it misses the goal of social production, namely the production of use-values for the satisfaction of needs and desires. This is because the "*Trieb des Kapitals* [drive of capital] is indifferent to whether or not aims towards the satisfaction of consuming use-values (C′) are inhibited, so long as the goal of repeatedly spinning off surplus-value (M′) can be continuously achieved without interruption and ad infinitum" (Johnston 2017: 321).

But to better understand this counterintuitive event, we must (psychoanalytically speaking) leave the order of desires to which Teubner's approach is still committed. Instead, we must turn to the order of drives. Žižek (2012: 496f.) explains the difference between the two as follows: "Therein lies the difference between desire and drive: desire is grounded in its constitutive lack, while the drive circulates around a hole, a gap in the order of being. In other words, the circular movement of the drive obeys the weird logic of the curved space in which the shortest distance between two points is not a straight line, but a curve: the drive 'knows' that the quickest way to realise its way is to circulate around its goal-object. At the immediate level of addressing individuals, capitalism of course interpolates them as consumers, as subjects of desire, soliciting in them ever new perverse and excessive desires (for which it offers products to satisfy them); furthermore, it obviously also manipulates the 'desire to desire', celebrating the very desire to desire ever new objects and modes of pleasure. However, even if it already manipulates desire in a way which takes into account the fact that the most elementary desire is the desire

to reproduce itself as desire (and not to find satisfaction), at this level, we do not yet reach the drive. […] The drive inheres in capitalism at a much more fundamental, systemic level: the drive is that which propels forward the entire capitalist machinery, it is the impersonal compulsion to engage in the endless circular movement of expanded self-production. We enter the mode of the drive the moment the circulation of money as capital becomes an end in itself, since the expansion of value takes place only within this constantly renewed movement."

While desire in capitalism is thus directed at solid objects (money, power, reputation etc.), and overdetermined by phantasmatic projections (see, for example, Teubner's reference to the "securing of future needs"), drive is free from any such purposefulness. The drive of capital circulates around a hole, a gap in the order of being. Accordingly, the generation of surplus value or surplus pleasure (*surplus jouissance*) results from a similarly recursive, circular movement around a hole, or, in the language of Lacan, around the small object *a*. For "the process of 'gain-of-pleasure', or *Lustgewinn*, operates through repetition: one misses the goal and one repeats the movement, trying again and again, so that the true aim is no longer the intended goal but the repetitive movement itself of attempting to reach it" (Žižek 2017: 8 f.).

According to Žižek, we enter the drive mode as soon as the medium becomes an end in itself. In capitalism, this happens the moment money becomes an end in itself. Aristotle famously referred to the dangers of confusing means and purpose in Book I of his *Politics*, distinguishing between two types of the art of acquisition: one natural and one unnatural. The first he calls economics, the second chrematistics. The natural art of acquisition (economics) aims at acquiring goods to fulfil human needs. It is therefore subject to limitation because the acquired goods are used for the purpose of subsistence. But in the unnatural art of acquisition, in the acquisition of money, there is a "*parekbasis*, a digression from the right and natural path" (Vogl 2010: 120). This drift concerns the fact that acquiring money "no longer finds its limit in need or use" (Vogl 2010: 120). On the contrary, "it is redirected to an inner limitlessness in which the purposeful expenditure of means aims at an increase in means. With the pursuit of moneymaking, no limits are set to the investment of means, and hence to commercial enterprise. Chrematistics is limitless with respect to both means and ends, and is thus defined by its inner boundlessness" (Vogl 2010: 120).

While the ancient world, and later the medieval world, criticised, damned, and forbade this drift, modernity declares it the measure of social vitality. Chrematistics, the art of artificial procreation, which "in the moneymaking business or usury, in the lending out of money for profit (*obolostatikḗ*), spawns a self-reproducing means, a 'breed' or 'offspring' or simply 'interest' (*tókos*), which makes it possible for money to father itself, so to speak, to proliferate and flourish by its own devices"

(Vogl 2010: 122), now functions as a model for all other social areas. Consequently, our modern capitalist society is the one society where the artificial or "chrematistic" reproduction of various forms of capital (money, power, knowledge, etc.), together with their dynamics and crises, is made into the measure of a measureless world.

But who should be trusted with this so-called chrematistic reproduction? In other words, who is to set in motion the repetitive circular movements of the capitalist drive that are devoid of any purpose? As we have seen, Teubner's answer is that social positions (i.e. persons, organisations, and networks) are expected to produce surplus value by mobilising their medial competences (Teubner 2021: 507). Yet at an advanced stage of capitalism and in a society after the advent of digital media (see Floridi 2014, Vesting 2015) such as ours, surplus value production cannot be made dependent on narcissistic subjects. These subjects are too unstable and unreliable to be able to fulfil this task smoothly.[6] It is preferable, then, to trust the production of surplus value to algorithms. By using their digital competence (namely, their capacity for calculation), algorithms do not simply keep the circle of drives alive. They also make it immortal.[7]

A fleeting look at the world of high-frequency trading[8] suffices to prove that the algorithm responsible for the stock market crash of Black Monday, 19 October 1987, best corresponds with the picture of that subject who strives for surplus pleasure by perpetually repeating the same movements. But the same applies to the other function systems. Why do we need narcissistically invested judges if legal issues can be operationalised efficiently inside the blockchain?[9] Who is better placed to guarantee the generation of added knowledge than algorithms that are tirelessly searching Big Data (Anderson 2008)? Why do we ultimately need Nobel Prize winners, academies, and universities as selection mechanisms in academia when, nowadays, the worth or worthlessness of academic theories and associated scholarly reputations can be accurately decided by algorithmically-guided citation indexes?[10]

6 The advantage of algorithms over such semantic artifacts is that - speaking in terms of media theory – they function on a wavelength that is imperceptible to human consciousness (cf. Krämer 2004: 217ff).

7 On the "power of algorithms" as social order agents, see, among others: Beer (2017); Introna (2016); Pasqual (2015); Esposito (2014).

8 This refers to computer-driven trading on the stock exchange. For more on this, see MacKenzie (2021, 2005); Lange, Lenglet and Seyfert (2019); Coombs (2016). On the legal question of responsibility for new technical risks, see only Gruber (2013/14).

9 From the meanwhile vast literature on this subject see only De Filippi and Wright (2018); Goldenfein and Leiter (2018); Reyes (2017).

10 For the latter example, see especially the volume edited by Biagioli and Lippman (2020), which uses specific examples to show how the increasing reliance on algorithm-driven metrics to evaluate scientific publications is leading to new forms of academic fraud and misconduct.

Admittedly, it is not surprising that Teubner does not address such developments, as his approach remains committed to social metaphors for reasons of theoretical fidelity.[11] His language alone bears witness to this. His reference to communication media, which on the one hand create motives for accepting communicative offers and, on the other, possess their own secondary motivational power, shows that, in principle, Teubner has a society in mind before the advent of digital media – that is, the world of meaningful communication in which the efficacy of such social motivational forces can be readily presupposed. But in a post-digital society, the aforementioned algorithms can easily manage without the existence of corresponding motivational powers and positions – so long as they are provided with enough electricity.

Adam Smith Revisited

> "A part of that force which, always willing evil, always produces good."
>
> (Goethe, Faust part I: 36)

Teubner's text suggests an elective affinity with Marx's theory of surplus value. In fact, Teubner tries with Marx, against Marx, and beyond Marx to manoeuvre this central concept of surplus value out of the basis of society, i.e. the economy, and to rehabilitate it. The pressures to surplus value that distinguishes a capitalist society, which Marx rightly recognised and sharply criticised, are not a unique characteristic of the economy. In his opinion, they are a trans-social phenomenon present in various systems, and taking a different form for each.

Obviously, this is not the place to go into detail about the Marxist theory of surplus value (much less to submit it to a comparative analysis with Teubner's theory). Yet a central aspect of Marxist theory cannot go unmentioned in this context. Namely, that of exploitation. According to Marx, the production of surplus value and its subsequent appropriation by the owner of capital constitutes not just one type of exploitation, but the main form of exploitation in capitalism. "The production of surplus value, or the making of profits (*Plusmacherei*) is the absolute law of this (capitalistic) mode of production", writes Marx (1990 [1887]: 536), thereby highlighting the fact that the owner of capital is only interested in producing goods "which include more work than he pays for, i.e., include a part of the value that costs him nothing and is nonetheless realised by selling the goods."

11 However, to be fair, it should be noted that these developments are mentioned here in the text after all, even if only in passing. In more recent works, Teubner addresses these developments more directly and elaborates on them in a productive way Teubner (2018, 2006b).

Exploitation is therefore an inherent element of surplus value production. A perfect expression of this is found in the concept of the rate of surplus value. On the one hand, the rate of surplus value signifies the relationship between produced surplus value and applied variable capital. On the other hand, it signifies the accompanying degree of exploitation. In Marx's own words: "Surplus-value bears the same ratio to variable capital, that surplus-labour does to necessary labour, or in other words, the rate of surplus-value, s/v = (surplus labour)/(necessary labour)" (Marx 1990 [1887]: 188).

Thus, for Marx, the production of surplus value necessarily requires exploiting the workforce of labourers – much as if surplus value production and exploitation were Siamese twins. For Teubner, too, the pressures to produce surplus value are connected to exploitation and suffering, to tendencies of harming the self and others (Teubner 2021). On this, they both agree. Where their shared path notably diverges, however, is on the issue of how to deal normatively with this phenomenon. While Marx absolutely negates the justification of capital profit through surplus value, Teubner discovers a hidden side of modern pressures to produce surplus value that promotes the common good. The corresponding passage from Teubner's text (2021: 508–509) on surplus value speaks volumes: "[E]xploitation of human energies and expropriation of realized surplus values can occur at any time in various social systems, which incites moral and political condemnation of surplus value as such. But this is an overhasty judgment. *Massive exploitation, frequent expropriation of surplus and a whole series of other negative aspects should not blind us to the simultaneous public good qualities of surplus values.* The pressure to produce a surplus of motivational force is in substance a system-immanent 'taxation' of every operation for the fulfilment of the system's functions: monetary surplus in the economy for securing the future needs of society, normative surplus of concrete dispute adjudication in law for norm production in society, power surplus of policies as generalized resources for future political decisions, surplus knowledge for the formation of theories in science, educational surplus in the form of a series of certificates, and surplus medical value of individual operations for the development of the health sector [my emphasis]."

One could almost sense Goethe's spirit behind these lines. Is Teubner perhaps a late heir to Weimar Classicism? Without wanting to completely exclude this possibility, I would like to propose an alternative genealogical root for Teubner's theory of surplus value, namely, one that leads directly to Adam Smith – or rather, to the pioneers of liberalism.[12] The hypothesis advanced here is that Teubner's theory

12 Indications of a specifically German reception of Smith's work can already be found in the German Romantic period (cf. Giessmann 2006). However, as Giessmann (2006: 176 f.) notes, a copy of the book *An Inquiry into the Nature and Causes of the Wealth of Nations according to Adam*

of surplus value logically advances this liberal doctrine by developing an idyllic notion of a surplus value-oriented society that "always wants evil" but then "produces good".

The aforementioned modern experience of a revaluation of values is accompanied, as Vogl has convincingly argued, by an anthropological revolution whose apologists are the pioneers of liberalism: "If, then, in modern times the earth not only begins to rotate around the sun but money too starts to rotate around the earth, these revolutions are evidently complemented by an anthropological one, which no longer presents a mere 'image' of mankind but mankind as it 'really' is - and this redefinition becomes the starting point for new conceptions of sociopolitical order" (Vogl 2010: 32f.).

In modernity, the new human is therefore instituted as he "really" is – not as Christian virtue doctrines want him/her to be. The truly revolutionary element of this "anthropological revolution" is its claim to a new realism. From now on, the new order of ideas, legitimised by the "invention" of this new human, shall be based on real, true facts. But what does this new type of human look like? Vogl describes him/her as a rather unpleasant contemporary who also proves to be dysfunctional due to an all too great aversion to anything communal (Vogl 2010: 33). He/she is a creature who is stuck "in a hopelessly depraved state" due to a soul filled with bad desires (see also Sen 1977: 317–344).

This talk of the so-called "real" man, who is assumed to have concrete psychic dispositions, desires, and passions, should not – as already mentioned – obscure the fact that what is at stake here is not the production of a psychogram of modern man, but a kind of interpellation that produces the subject as assumed, in order to reintegrate him/her into a superordinate functional context.[13]

The story of William Fullerton, a Scottish surgeon who served in the East India Company in Murshidabad from 1744 until 1766, is instructive in this sense. Fullerton was a "gentleman" who used his "experimental thinking and practical knowledge"[14] to secure commercial transactions on the Indian subcontinent for the East India

Smith, already made its way "into the most important bookcase of a German man of letters, namely Goethe's library." The connection made here between Goethe and Smith is not as idiosyncratic as it might seem at first glance.

13 Teubner presumes in the text discussed here, as well as in general, a strict separation between semantic artefacts and psychic systems, which, according to his understanding, irritate and exploit each other (cf. also Hutter & Teubner 1994). However, he cannot explain so well why psychic systems not only take over the signals emanating from semantic artefacts, but even surpass them. In my view, this is better explained by theories of subjectification vation, which are implicitly referred to here (cf. Gehring 2013; Reckwitz 2006; Foucault 2005; Foucault 2003; Butler 1997; Althusser 1977).

14 Vesting (2021) masterfully tells the story of these gentlemen, but his telling is fraught with many blind spots in its glorifying tone.

Company, thereby bringing it considerable wealth. But for London headquarters, his ingenuity presented a real problem. Men such as Fullerton in no way limited themselves to acting in the interests of their employers alone. Rather, they undertook private trade alongside their regular occupation and accordingly made money by exploiting corporate networks. The headquarters of the East India Company was therefore confronted by the agency dilemma (also known as the principal-agent problem in corporate governance theory). In this particular case, the problem was aggravated by geographical and temporal circumstances. But the manner in which the East India Company solved this problem is the turning point of this story.

Initially, the company tried to solve the problem through prohibitions and sanctions. This approach failed as, due to geographical distance, it was difficult for the company to control employees. Company directors decided to change course in 1675. The new approach not only entailed relaxing the ban on private trade but also involved recognising workers for what they really were: profit-seeking subjects. The interpellation was advanced by contracts that regulated their expected behaviour. The employee was newly forbidden to introduce Asiatic goods to Europe but allowed to undertake private trade in Asia to whatever extent possible. This change of course paved the way for the emergence of one of the first transnational networks of contracts.

Hejeebu's study (2005: 520) summarizes the win-win situation resulting from this change of strategy of the company as follows: "By encouraging the servants' private business in India, the company encouraged them to stay with the company and cultivate the requisite skills required to fulfil the company's orders. Those who failed to devote sufficient effort to the company's business were dismissed from the service and thereby cut off from the avenues that could lead to private fortune."

It is not to be suggested here that the pioneers of liberalism simply accepted such business practices *partout*. Smith, for example, was one of the sharpest critics of the East India Company (Donoghue 2020). His criticism, however, was primarily directed at the distortion of competition due to what he saw as the company's overly extensive state privileges. Rather, it is being suggested that Smith (here understood as a signifier of a certain way of thinking) provided the ideological foundation for practices such as those mentioned above, thus contributing to an "unleashing of productive forces".

The pioneers of liberalism called with their writings for the new "real" human, from whom they then – and this is the crucial point – expected public benefits. For reasons of space, we will concentrate here on only two representatives of liberalism, Smith and Mandeville. Despite their considerable differences, the two have something in common. Both draw on "the transcendental figure of man's nature in order to claim the individual as a dynamic element of a market-based society" (Schulze Wessel 2013: 247).

None of the writings from this period better depicts and celebrates the aforementioned revaluation of values than Mandeville's *Fable of the Bees* (1988 [1714]). In it, Mandeville dismantles the expectations of the citizens of his time and turns them into their opposites. His writings provocatively conclude that order in society is not dependent on man's tendency for moderation, but for immoderation. Yes, there are even deadly sins, such as *superbia*, *avaritia*, *invidia*, and *luxuria* (i.e. pride, greed, envy and lust) which make up the ingenious, cunning, and productive spirit of the new human. What is more, they ensure balance in society.

As Vogl states, the anthropological revolution initiated by modernity addresses man in the first instance as a subject guided by emotion and demands that he be recognised as such: "Modern humans come into the world not merely as rational beings but as particularly passionate subjects who can transform even the old Christian deadly sins into new social assets" (Vogl 2010: 35). But the question is how can an order emerge from the actions of such an immoral and unruly being? The answer is found in the mechanics of interests (Vogl 2010: 37). These mechanics enabled smooth circulation as well as compatibility across various interests. According to Vogl again (2010: 37), "this is the law of society, and it makes for better government than all other moral precepts or legal rules. An older wisdom that perceived public loss in private gain and demanded that limits be set on private interest 'so that your neigbor too may live' is thus inverted and transformed into a system of fruitful opportunism."

Smith famously called this new law of society the invisible hand. He describes how it works in a famous passage from *Wealth of Nations* (2007 [1776]: 349): "He [the economic agent] generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. […] I have never known much good done by those who affected to trade for the public good."

According to Smith, the common good thus takes the form of a collateral damage that one never intends, but always co-produces through one's actions. Still more interesting is a further version of this same idea that Smith presents in his volume on moral philosophy in *The Theory of Moral Sentiments*. Smith (2005 [1790]: 165) writes: "It is to no purpose that the proud and unfeeling landlord views his extensive fields, and without a thought for the wants of his brethren, in imagination consumes himself the whole harvest that grows upon them. The homely and vulgar proverb, that the eye is larger than the belly, never was more fully verified than with regard to him. The capacity of his stomach bears no proportion to the immensity of his desires and will receive no more than that of the meanest peasant. The rest he is obliged to distribute among those, who prepare, in the nicest manner, that

little which he himself makes use of, among those who fit up the palace in which this little is to be consumed, among those who provide and keep in order all the different baubles and trinkets, which are employed in the economy of greatness; all of whom thus derive from his luxury and caprice, that share of the necessaries of life, which they would in vain have expected from his humanity or his justice."

Here, the common good does not merely constitute a collateral damage. It is the product of an enforced redistribution of surplus value or surplus pleasure. As Johnston (2017: 331) writes in reference to Lacan, the retention of surplus pleasure could have fatal consequences for the affected subject: "*Jouissance* is akin to the proverbial hot potato. As soon as it lands in one's hands, one must quickly toss it to someone else. If one holds onto it for any length, one suffers the painful 'consequence' of getting burned". And as he (ibid: 335f.) further remarks, "it now can be anticipated [...] that if one ends up at the very top of the Forbes billionaires list – God forbid – one will hurl one's enormous mass of accumulated surplus-value/*jouissance* into philanthropic endeavours. One thereby not only evades getting burned by *jouissance* attained, but, in the process, launders one's past misdeeds, airbrushes one's legacy. Nobody dares be caught dead wallowing in *plus-de-jouir*. Following the Lacan of '*Radiophonie*', one even can say that capitalism forecloses surplus-value by turning it into an infinite void, a never-ending hole, everyone, capitalists included, strains to avoid at all costs. No sooner does the bourgeois (re-) obtain it then he/she 'squanders' it again. The capitalist repeatedly sends surplus-value, and the surplus-*jouissance* clinging to it, back into circulation via reinvestment, decadence, philanthropy, and/or buying politicians."

This close intertwining between the compulsion to produce surplus value and the production of public goods therefore risks declaring the common good the prerogative of Gates.

Vogl brings this radical message of liberalism to the point: "What later goes by the name of 'liberalism' thus first took the form of naturalism, which defined so-called market freedoms primarily in terms of a duty and an obligation: the duty to relinquish control of economic subjects and a corresponding obligation to subordinate governments and their agents to primordial market laws" (Vogl 2010: 47). Teubner's approach is certainly not indebted to a programme of such radical liberalism. Nevertheless, he also outlines the idyllic notion of a modern functionally differentiated society along similar premises. His generalization and respecification of Smith's moral philosophy consists in transferring the ordering concepts of economic liberalism, which refer only to the market, to all other social systems. Of course, there are massive differences between Teubner and the pioneers of liberalism discussed here.[15]

15 I owe these hints to my discussions with the author.

For example, Teubner does not take anthropological constants as his starting point. He does not explain pressures to produce surplus value via affects (although – as already shown – the affects that the pioneers of liberalism spoke of were also semantic constructs that were merely attributed to social positions). For him, pressures to produce surplus value are rather the product of hard normalisation processes controlled by relevant communication media. Likewise, Teubner's programme is not directed at illusory ideas of balance. Thus, he does not rely on a single invisible hand to ensure the integration of the whole. Rather, he assumes the existence of various invisible hands in the form of a dynamic imbalance of the different pressures to produce surplus value. Nevertheless, the central message remains the same: private vices, public benefits. Just as future economic needs cannot be met without capitalism, the need for new knowledge cannot be met without reputation-seeking scientists, and so on and so forth. However, this already impairs the search for alternatives at the theoretical level.

The *katechon*

"καὶ νῦν τὸ κατέχον οἴδατε"
(Paul's letter to the Thessalonians)

Are there alternatives? According to Teubner, yes. Still, these alternatives should only be sought in the context of the functionally differentiated society. In other words, the bourgeois horizon is insuperable. But this does not mean that the mechanisms of evolution are broken with the emergence of modern society – as if a paradisiacal state of stasis, where all evolutionary possibilities were exhausted, had been reached. The adjective above should be understood in a normative sense. Even if modern society is a corrupt society, it must not be overcome. This is because it is the best of all possible societies. As a new, secular Leibniz, Teubner has never shied away from proclaiming his loyalty to the project of modernity which, incidentally, he sees as incomplete and open to further development – much like Habermas. Moreover, it is historical experience that forces him to make such a normative assessment. He repeatedly cites national socialism and communism as examples in this context, both of which began as experiments for overcoming the bourgeois horizon and ended in catastrophe (Teubner 2012a).

One would not do justice to Teubner's life project if one did not mention in this context the role that he reserves for the law, the spontaneous sphere of civil society and, more recently, even more so for politics. In his text on surplus value, for example, he makes a case for the establishment of so-called "non-surplus-value

institutions" as the antithesis to parasitic orientations towards surplus value, with the aim of achieving "a democratic channeling of collective demands of the constituencies formed around areas of false surplus values" (Teubner 2021: 517). These institutions should replace the damaging orientation towards surplus value, enhancing an ecological sensibility of surplus value production (the good kind, not the bad). The same should also happen through external pressures from civil society in the form of protests (Teubner 2006a: 346). Finally, as far as the role of law is concerned, he writes that this consists in "promot[ing] a society-wide reflection on different surplus values" (Teubner 2021: 518). Yet Teubner is not naïve; he immediately adds "including the surplus-values of law itself" (Teubner 2021: 518).

But again, in concrete terms: what role exactly should legal norms, civil society protests and political interventions play here? Can they even ensure a *buon governo* (Teubner 1998)? The following example by the author also illustrates his ideas and hopes in this regard: "A suggestion could be to learn from – *horribile dictu* – economic experiences with external societal pressures on commercial enterprises, which are currently being exerted in the direction of monetary profit generation. This is because the concrete design of surplus generation and distribution is not solely left up to the companies, but rather imposed externally by a triad of surplus transfers: returns, taxes and employee wages. Various collective actors force the companies to achieve a profit beyond mere production and direct them as to how they distribute it to different beneficiaries. The state skims off taxes; trade unions fight for wages and working conditions; capital owners collect the residual profits for their risk exposure; and the companies themselves reinvest" (Teubner 2021: 516 f.).

The example describes the role of law and politics in controlling companies that exhibit "parasitic profit-skimming excesses". Unlike Smith, Teubner does not want to leave the task of redistributing the production of surplus value to the companies themselves (and certainly not to the market either); instead, he declares this task to be a genuinely legal and political project, to the fulfillment of which a number of actors, such as the state, the trade unions and the owners of capital themselves, should each make their own contribution in an enviable concordance.

Teubner certainly has the model of German neo-corporatism in mind here.[16] His hope is that this model will be exported across Europe or even the whole world, or at least that lessons about limiting excessive surplus value in other function systems will be drawn from it. One does not have to look too far, to the Asian sweatshops, which, by the way, have accompanied the capitalist economy from the beginning

16 See only Streeck (2008). Teubner's interest in German neo-corporatism can be traced back to his habilitation thesis (Teubner 1978).

(see, for example, Darlymple 2021; Jenkins & Leroy 2021), to recognize the futility of such an expectation. A look at one's own front door is enough.[17] But Teubner remains optimistic, firm in his belief in the possibility of reframing and limiting the parasitic excesses of surplus value.[18] In other words, he believes in the possibility of capitalism with a human face.

But capitalism cannot be without the drive of capital and its fatal consequences. This reality was recognised by no less a figure than Hegel, who used the example of the problem of poverty and the emergence of a rabble (*Pöbel*) to show, with astonishing coolness, that "civil society functions only by contradicting its own principles" (Ruda 2017: 164). In Hegel's words, "the poverty of the masses is inevitable, because [...], despite all the 'excess of wealth', civil society is not wealthy enough, i.e. does not possess enough of its own specific assets to control the excess of poverty and the formation of a rabble" (Hegel 1955 [1820]: § 245). The mutual dependence between both types of excess, as well as the indissolubility of the paradoxes contained within, is pertinently summed up by Augsberg (2020: 121) as follows: "In doing so, he [Hegel] not only links a certain excessiveness with the fate of the formless mass. Rather, what is decisive is the intertwined, mutually dependent double form of excessiveness. The one excess can do so little to prevent the other that it only continues to provoke it. Worse still, all attempts to eliminate poverty once it has set in must fail within bourgeois society."

Hegel, the philosopher, sets his hopes – despite the futility of it all – on the state. Teubner, the legal scholar, prefers to put his faith in the law. Moreover, he gives law a place in his project similar to that of the *katechon* in the divine order. The term *katechon* is one of the most puzzling terms of the New Testament. It famously appears in Paul's second letter to the Thessalonians, which describes what will happen before Jesus Christ comes again. The description includes the appearance of an Antichrist who will adopt God's position before ultimately being destroyed by the breath of Jesus Christ (*parousia*). Why does this day not come? Paul answers this question with an enigmatic reference to the existence of a power that prevents both the appearance of God's adversary as well as Jesus Christ's *parousia*.

But this power, denoted by the Greek participle *katéchon*, is a paradoxical figure. The *katechon* saves the world from chaos, by preventing the appearance of the Antichrist. Yet in doing so, it also, at the same time, stops the coming of Jesus Christ and the redemption of the world. The *katechon* moves inside and outside of

17 See the ECJ's rulings in the *Viking* and *Laval* cases: Case C-438/05, Int'l Transp. and Workers' Fed'n v. Viking Line ABP, 2007 E. C. R. I-10779;"Laval" (Case C-341/05, Laval v. Svenska Byggnadsarbetareförbundet, 2007 E. C. R. I-11767); see also Christodoulidis (2021: 365ff).

18 Teubner's optimism could be interpreted as a parasitic form of exploitation of the capitalist drive.

the divine order. Its effect is thus both for and against the divine plan. In Teubner's project, the law plays a similarly ambiguous role. It prevents the collapse of modern society, but at the same time, due to its own limited rationality, it holds up the completion of the project of modernity.[19] According to Teubner, however, this is no cause for concern. On the contrary, the *parousia* may yet be a long time coming. And who knows? Perhaps he is right after all.

Bibliography

Abbott, Andrew (2014) The Problem of Excess. *Sociological Theory* 32: 1–26.

Althusser, Louis (1977) Ideologie und ideologische Staatsapparate. Anmerkungen zu einer Untersuchung, p. 108–153 in: L. Althusser, *Ideologie und ideologische Staatsapparate. Aufsätze zur marxistischen Theorie*. Hamburg/Berlin: VSA.

Anderson, Chris (2008) The End of Theory: The Data Deluge Makes the Scientific Method Obsolete. *Science*. https://www.wired.com/2008/06/pb-theory/ (gesehen am 16. März 2022).

Augsberg, Ino (2020) *Schmitt-Lektüren. Vier Versuche über Carl Schmitt*. Berlin: Duncker & Humblot.

Baudrillard, Jean (2017) *Symbolic Exchange and Death. Revised Edition*. London: Sage Publications Ltd.

Beer, David (2017) The social power of algorithms. *Information, Communication & Society* 20: 1–13.

Biagoli, Mario & Lippman, Alexandra (eds.) (2020) *Gaming the Metrics. Misconduct and Manipulation in Academic Research*. Cambridge/MA: The MIT Press.

Bohn, Cornelia (2005) Die Medien der Gesellschaft, p. 365–375 in: M. Jäckel (ed.), *Mediensoziologie. Grundfragen und Forschungsfelder*. Wiesbaden: VS

Brague, Rémi (2006) *Die Weisheit der Welt. Kosmos und Welterfahrung im westlichen Denken*. München: C. H. Beck.

Bremer, Jan Maarten (1969) *Hamartia. Tragic Error in the Poetics of Aristotle and in Greek Tragedy*. Amsterdam: Adolf M. Hakkert.

Butler, Judith (1997) *The Psychic Life of Power. Theories in Subjection*. Stanford: Stanford University Press.

Christodoulidis, Emilios (2021) *The Redress of Law. Globalisation, Constitutionalism and Market Capture.* Cambridge*:* Cambridge University Press.

Coombs, Nathan (2016) What is an algorithm? Financial regulation in the era of high-frequency trading. *Economy and Society* 45: 278–302.

D'Alisa, Ciacoma; Demaria, Federico & Kallis, Giorgos (2015) *Degrowth. A Vocabulary for a New Era*. New York: Routledge.

Darlymple, William (2021) *The Anarchy: The East India Company, Corporate Violence and the Pillage of an Empire*. New York/London: Bloomsbury Publishing.

De Filippi, Primavera & Wright, Aaron (2018) *Blockchain and the Law. The Rule of Code*. Cambridge/MA: Harvard University Press.

Donoghue, Mark (2020) Adam Smith and the Honourable East India Company. *History of Economics Review* 77: 1–19.

19 Teubner (2012b) has masterfully analyzed this double bind in which law is entangled in his reading of Franz Kafka's story "Before the Law."

Esposito, Elena (2014) Algorithmische Kontingenz. Der Umgang mit Unsicherheit im Web, p. 233–250 in: A. Cevolini (ed.) *Die Ordnung des Kontingenten. Beiträge zur zahlenmässigen Selbstbeschreibung der modernen Gesellschaft*. Wiesbaden: Springer.

Floridi, Luciano (2014) *The Fourth Revolution. How the Infosphere Is Reshaping Human Reality*. Oxord: Oxford University Press.

Foucault, Michel (2003) *Abnormal: Lectures at the Collège de France, 1974–1975*. London: Verso

Foucault, Michel (2005) Subjekt und Macht, p. 269–294 in: M. Foucault, *Schriften in vier Bänden. Dits et Ecrits. Bd. IV. 1980–1988*. Frankfurt: Suhrkamp.

Fuchs, Thomas; Iwer, Lukas & Michali, Stefano (eds.) (2018) *Das überforderte Subjekt. Zeitdiagnosen einer beschleunigten Gesellschaft*. Berlin: Suhrkamp.

Garcia, Tristan (2018) *Das intensive Leben. Eine moderne Obsession*. Frankfurt: Suhrkamp.

Gehring, Petra (2013) Ethik und Foucault – Die Frage nach "Technologien des Selbst", p. 51–63 in: R. Großmaß and R. Anhorn (eds.), *Kritik der Moralisierung. Theoretische Grundlagen –Diskurskritik – Klärungsvorschläge für die berufliche Praxis*. Wiesbaden: Springer VS.

Goethe, Johann Wolfgang von (2014) *Faust I & II, Volume 2: Goethe's Collected Works – Updated Edition*, edited by S. Atkins. Princeton, NJ: Princeton University Press.

Goldenfein, Jake & Leiter, Andrea (2018) Legal Engineering on the Blockchain: Smart Contracts as legal Conduct. *Law and Critique* 19: 141–149.

Giessmann, Sebastian (2006) Die Romantik und das Unendliche. Grenzgänge zwischen Ästhetik und Ökonomie. *Weimarer Beiträge* 52: 165–190.

Gruber, Malte-Christian (2013/14) Flashmobs, Flashboys und Flashbacks des automatisierten Handelns. Zur rechtlichen Konstruktion neuer Verantwortlichkeiten. *Soziale Systeme* 19: 327–349.

Guski, Roman (2017) Autonomie als Selbstreferenz. Tautologien und Paradoxien subjektiver Rechte. *Zeitschrift für Rechtssoziologie* 37: 88–111.

Hegel, Georg Friedrich Wilhelm (1955 [1820]) *Grundlinien der Philosophie des Rechts*, edited by J. Hoffmeister. Hamburg: Felix Meiner Verlag.

Hejeebu, Santhi (2005) Contract Enforcement in the English East India. *The Journal of Economic History* 65: 496–523.

Hubbard, Thomas K. (1986) Pegasus Bridle and the Poetics of Pindar's Thirteenth Olympian. *Harvard Studies in Classical Philology* 90: 27–48.

Hutter, Michael & Teubner, Gunther (1994) Der Gesellschaft fette Beute: homo juridicus und homo oeconomicus als kommunikationserhaltende Fiktionen, p. 110–145 in: P. Fuchs and A. Göbel (eds.) *Der Mensch – das Medium der Gesellschaft?* Frankfurt: Suhrkamp.

Introna, Lucas D. (2016) Algorithms, Governance and Governmentality: On Governing Academic Writing. *Science, Technology & Human Values* 4: 17–49.

Jenkins, Destin & Leroy, Justin (eds.) (2021) *Histories of Racial Capitalism*. New York: Columbia University Press.

Johnston, Adrian (2017) From Closed Need to Infinite Greed: Marx's Drive Theory. *Continental Thought & Theory* 1: 270–346.

Kallis, Giorgos (2018), *degrowth*. Newcastle upon Tyne: Agenda Publishing.

Konersmann, Ralf (2021) *Welt ohne Mass*. Frankfurt: S. Fischer Verlag.

Krämer, Sybille (2004) Friedrich Kittler − Kulturtechniken der Zeitachsenmanipulation, p. 201–224 in: A. Lagaay and D. Lauer (eds.): *Medientheorien. Eine philosophische Einführung*. Frankfurt/NY: Campus.

Künzler, Jan (1987) Grundprobleme der Theorie symbolisch generalisierter Kommunikationsmedien bei Niklas Luhmann. *Zeitschrift für Soziologie* 16: 317–333

Lange, Ann-Christina; Lenglet, Marc & Seyfert, Robert (2019) On studying algorithms ethnographically: Making sense of objects of ignorance. Organization 26: 598–617.
Lévinas, Emmanuel (1969) *Totality and Infinity: An Essay on Exteriority*. Pittsburgh, Pennsylvania: Duquesne University Press.
Luce, Thomas T. (1997) *The Greek Historians*. London/NY: Routlegde.
Luhmann, Niklas (1975) Einführende Bemerkungen zu einer Theorie symbolisch generalisierter Kommunikationsmedien, p. 170–192 in: N. Luhmann, *Soziologische Aufklärung, Bd. 2*. Opladen: Westdeutscher Verlag.
Luhmann, Niklas (1981) Subjektive Rechte: Zum Umbau des Rechtsbewusstseins in der modernen Gesellschaft, p. 45–104 in: N. Luhmann, *Gesellschaftsstruktur und Semantik, Bd. 2*. Frankfurt: Suhrkamp.
Luhmann, Niklas (2012) *Theory of Society, vol. I*. Stanford: Stanford University Press.
Mandeville, Bernard (1988 [1714]) *The Fable of the Bees or Private Vices, Publick Benefits, 2 vols.* Indianopolis: Liberty Fund.
MacKenzie, Donald (2005) Opening the black boxes of global finance. *Review of International Political Economy* 12: 555–576.
MacKenzie, Donald (2021) *Trading at the Speed of Light: How Ultrafast Algorithms Are Transforming Financial Markets*. Princeton/NJ: Princeton University Press.
Marx, Karl (1990 [1887]) *Capital. A Critical Analysis of Capitalist Production*, Band 9. Berlin: De Gruyter Akademie Forschung.
Menke, Christoph (2008) Subjektive Rechte: Zur Form der Differenz. *MenschenRechtsMagazin* 2: 197–204.
Nassehi, Armin (2019) *Muster. Theorie der digitalen Gesellschaft*. München: C. H. Beck.
Pasquale, Frank (2015) *The Black Box Society. The Secret Algorithms that Control Money and Information*. Cambridge/MA: Harvard University Press.
Reckwitz, Andreas (2006) *Das hybride Subjekt. Eine Theorie der Subjektkulturen von der bürgerlichen Moderne zur Postmoderne*. Weilerswist: Velbrück.
Reckwitz, Andreas (2019) *Das Ende der Illusionen. Politik, Ökonomie und Kultur in der Spätmoderne*. Berlin: Suhrkamp.
Reyes, Carla L. (2017) Conceptualizing Cryptolaw. *Nebraska Law Review* 96: 384–445.
Rosa, Hartmut (2003) Social Acceleration: Social and Political Consequences of a Desynchronized High-Speed Society. *Constellations* 10: 3–33.
Rosa, Hartmut (2005) *Beschleunigung. Die Veränderung der Zeitstrukturen in der Moderne*. Frankfurt: Suhrkamp.
Ruda, Frank (2017) That Which Makes Itself: Hegel, Rabble and Consequences, p. 160–176 in: D. James (ed.) *Hegel's Elements of the Philosophy of Rights*. Cambridge: Cambridge University Press.
Schulze Wessel, Julia (2013) Zur Kritik liberaler Ordnungsentwürfe. Bernard de Mandeville, Adam Smith, Karl Marx und Alexis de Tocqueville, p. 247–275 in: H. Vorländer (ed.) *Demokratie und Transparenz. Die Begründung politischer Ordnungen*. Bielefeld: transcript Verlag.
Sen, Amartya K. (1977) Rational Fools: A Critique of the Behavioral Foundations of Economic Theory. *Philosophy & Public Affairs* 6: 317–344.
Smith, Adam (2007 [1776]) *Wealth of Nations. An Inquiry into the Nature and Causes*, edited by S. M. Soares. MetaLibri Digital Library.
Smith, Adam (2005 [1790]) *Theory of Moral Sentiments*, edited by S. M. Soares. 6th ed., MetaLibri Digital Library.
Streeck, Wolfgang (2008) Korporatismus, p. 655–658 in: S. Gosepath, W. Hirsch & B. Rössler (eds.), *Handbuch der Politischen Philosophie und Sozialphilosophie, Bd. 1*. Berlin: de Gruyter.

Teubner, Gunther (1978) *Organisationsdemokratie und Verbandsverfassung. Rechtsmodelle für politisch relevante Verbände*. Tübingen: Mohr Siebeck.
Teubner, Gunther (1998) Vertragswelten. Das Recht in der Fragmentierung von *Private Governance Regimes*. *Rechtshistorisches Journal* 17: 234–265.
Teubner, Gunther (2006a) The anonymous matrix: human rights violations by 'private' transnational actors. *The Modern Law Review* 69: 327–346.
Teubner, Gunther (2006b) Elektronische Agenten und grosse Menschenaffen: Zur Ausweitung des Akteurstatus in Recht und Politik. *Zeitschrift für Rechtssoziologie* 27: 5–30.
Teubner, Gunther (2012a) *Constitutional fragments: societal constitutionalism and globalization*. Oxford: Oxford University Press.
Teubner, Gunther (2012b) Das Recht vor seinem Gesetz. Franz Kafka zur (Un-)Möglichkeit einer Selbstreflexion des Rechts. *Ancilla Iuris*: 176–203.
Teubner, Gunther (2018) Digitale Rechtssubjekte? Zum privatrechtlichen Status autonomer Software-agenten. *Archiv für die civilistische Praxis* 218: 155–205.
Teubner, Gunther (2020) Von "Wirtschaftsverfassung I, II" zum "selbstgerechten Rechtsver-fassungsrecht". Zur Kritizität von Rudolf Wiethölters kritischer Systemtheorie. *Ancilla Iuris*: 1–33.
Teubner, Gunther (2021) The constitution of non-monetary surplus values. Social & Legal Studies 30: 501–521.
Tholen, Georg Christoph (1999) Geschwindigkeit als Dispositiv. Zum Horizont der Dromologie im Werk Paul Virilios, p. 135–162 in: J. Jurt (ed.), *Von Michel Serres bis Julia Kristeva*. Freiburg: Rombach Verlag.
Vesting, Thomas (2015) *Die Medien des Rechts. Computernetzwerke*. Weilerswist: Velbrück Wissenschaft.
Vesting, Thomas (2021) *Gentleman, Manager, Homo Digitalis. Der Wandel der Rechtssubjektivität in der Moderne*. Weilerswist: Velbrück Wissenschaft.
Virilio, Paul (2006) *Speed and Politics: An Essay on Dromology.* New York: Semiotext(e).
Virilio, Paul (1993) *Revolutionen der Geschwindigkeit*. Berlin: Merve.
Vogl, Joseph (2010/16) *Das Gespenst des Kapitals*. Zürich: diaphanes.
Weber, Max (1922) *Gesammelte Aufsätze zur Religionssoziologie, Bd. 1: Die protestantische Ethik und der Geist des Kapitalismus*. Tübingen: Mohr Siebeck Verlag.
Wielsch, Dan (2008) *Zugangsregeln. Die Rechtsverfassung der Wissensteilung*. Tübingen: Mohr Siebeck Verlag.
Žižek, Slavoj (2012) *Less Than Nothing. Hegel and the Shadow of Dialectical Materialism*. London / New York: Verso
Žižek, Slavoj (2017) The Varieties of Surplus. *Problemi International* 1: 7–32.

Vagias Karavas
Frohburgstrasse 3
6002 Luzern, Schweiz
Tel. +41 76 43 95 971
E-Mail: vagias.karavas@unilu.ch