

Robert von Friedeburg

Political thought in early-modern Europa

Kurseinheit 3:
New politics
The enlightenment

Fakultät für
**Kultur- und
Sozialwissen-
schaften**

Das Werk ist urheberrechtlich geschützt. Die dadurch begründeten Rechte, insbesondere das Recht der Vervielfältigung und Verbreitung sowie der Übersetzung und des Nachdrucks, bleiben, auch bei nur auszugsweiser Verwertung, vorbehalten. Kein Teil des Werkes darf in irgendeiner Form (Druck, Fotokopie, Mikrofilm oder ein anderes Verfahren) ohne schriftliche Genehmigung der FernUniversität reproduziert oder unter Verwendung elektronischer Systeme verarbeitet, vervielfältigt oder verbreitet werden.

7. The genre of the new politics

After introducing Machiavelli, we have been drawn into accounts mainly driven by the religious turmoil following the reformation and the subsequent arguments on the nature of regal power and the possibilities to resist it. Those in need of favouring resistance argued variably in favour of a late medieval sharing of powers between king and estates (as in Germany between Emperor and princes), the representation of the corporate community by the estates, the possibility of self defence in certain cases often drawing on examples from the biblical people of Israel. From the later 1580s, however, as a reaction to the catastrophic consequences of civil war, the indivisibility of government power and the divine sanction of kingship were emphasized in unprecedented terms.

By that time, reflections on the nature of the body politic, stirred by religious conflict, had not only led to mutually exclusive accounts on the nature of government, and of kingship in particular, but also brought about a fundamental transformation of the very way in which the issue of government was discussed. This transformation was due to a number of diverse influences and challenges. Bodin's challenge to identify a sovereign institution in any body politic was only one of these challenges. Indeed, from focussing on the nature of kingship and its powers, or the legal limitations of these powers, the crisis of Christian society led to attempts to understand much more systematically the true working of human society and of human actors, in particular beyond what could be learnt from Scripture. While Machiavelli would often not be used directly, attempts were made at a more realistic assessment of the sinews of power. Another influence was the reflection about the techniques to defend one's status in times of turmoil, focussing on the *raison d'etat* ('Staatsräson'), the inherent best strategy to pursue this goal according to circumstances, championed by Italian works on this issue. In this context, the history of the crisis of the Roman republic, and even more so of the later Roman Empire, gained particular interest.

The new ways to reflect on governing the body politic pertained less to the actual argument in favour or against strong government as such, but rather to the way the case was argued. Four fundamental changes will be

addressed in this chapter. Under way since the later sixteenth century, they led to a fundamental transformation of political thought into ways that we would now recognize as 'modern'. While we will discuss the actual break with tradition only in the next chapter, the present one will track changes that in retrospect rather appear to be a part of the disintegration of received ways of thinking.

7.1 Tacitus and Tacitism

Toward the end of the sixteenth century, the Roman historian Tacitus was increasingly referred to in order to understand the possibilities and limits of kingship in a time of civil strife. Jean Bodin's treatment of Tacitus in his *Methodus ad facilem historiarum cognitionem* (Paris 1566) is one of the early examples of this fascination with Tacitus. But the edition of the Leiden professor Justus Lipsius, *C. Cornelii Taciti Historiarum et Annalium libri* (Antwerpen 1574) marks the breakthrough of this source as a major new inspiration to political thought. Some hold that Tacitus was mainly used as a way to discuss Machiavelli and his ideas since Machiavelli had been put on the index. But interest in Tacitus was undoubtedly sponsored by the attempt to understand and find the true way of preserving and increasing power, and thought by many to be the most effective recipe to secure peace. Tacitus' history of the Roman emperors from the end of the republic and Augustus to Nerva seemed to provide an analytical survey of how princely power and the liberty – i.e. privileges – of the people, *principatus* and *libertas*, clashed and led to catastrophic turmoil in Rome. It could be used with quite different points of view in mind. Whatever one's own point of view, Tacitus provided, as to Lipsius himself, a theatre of contemporary life (*theatrum hodiernae vitae*), ready for analysis and understanding, because Tacitus' analysis appeared to be complex and realistic: it addressed motives and circumstances, not only of princes (the emperors), but also of people; it did not arbitrarily argue in favour of one side, but attempted to understand civil strife in its full complexity. His text clearly provided much more material to understand the real mechanisms of politics than the few lines on kingship in 1. Samuel 8. Tacitus was read and recommended both by readers in favour of strong princely power and by those who wanted to warn republics against submitting themselves to such power.

In order to make Tacitus's text work, Lipsius's interpretation built on the humanist interest in providing not only critical editions, but to understand the terminology and the issues addressed in an historically critical way. The same urge in methodology had set in with respect to Roman law, as lawyers throughout the sixteenth century increasingly attempted to amend the text and remove medieval distortions of editions or interpretations in order to gain the most complete and accurate insight into the actual classical argument. Both with respect to Roman history and to Roman law, however, this increasing historical scrutiny in handling texts was directed at making maximum use of their alleged superior insight for current application by way of analogy, leaving ample room for individual speculation.

Classical texts had provided a focus for reflection during the whole renaissance and the humanist movement. But we must not underestimate the differences in use that had occurred by the later sixteenth century. These only partly pertained to changes in the emphasis on specific books. Early sixteenth century humanists had also read Tacitus. Late sixteenth century Tacitists read the whole range of classical authors, including Cicero and Livy. To both humanists and the later users, classical texts provided a medium through which to reflect upon the present without any simple identification of the ancient history with one's own time. However, while the interpretation of Tacitus worked along the same lines as that of Cicero and Livy a hundred years earlier, the relation to antiquity had changed. From Petrarch to Erasmus, humanism had not only been a philological concept, aiming at a more perfect acquisition of the original text, freeing them from medieval distortions. The use of ancient texts had been part of an idea of the formation of men and citizens by non-theological means, by re-approaching the lost qualities of 'classical antiquity'. Reading these texts and acquiring the ability to write and argue along the classical style, was meant to improve the mind. Humanists had themselves been Christians, though in a highly critical relation to the established church and sometimes operating independently from it. Moreover, while they did not naively identify their own problems with those of the past, in many ways the literature and arts of classical antiquity provided a model for the improvement of both the individual and society.

In contrast to these humanist motives of reading and teaching Cicero and Livy, later uses of Tacitus, by Bodin or Lipsius, was quite prepared

to argue that these classical authors belonged to a world now long bygone and that a striving for emulation of classical virtues was hardly useful. Not only was the present different from the classical past, but that past did no longer provide a model. Constancy in the face of rapidly changing circumstances could be helpful, but its acquisition would not improve the state of society as such. During the sixteenth century, room for manoeuvre beyond one of the new confessional churches became increasingly small. At one point or another, you had to take sides. At the same time, learning from classical sources was integrated into the canon of teaching at universities; it ceased to be a principle alternative to ecclesiastical scholasticism, but became part of the armoury of the confessional world. Rather than re-shaping men according to the better example of antiquity as an educational aim that had its own rationale, classical texts were now scrutinized for reasons beyond them. Lipsius himself, the major editor of Tacitus, with his change of religion, his diverse readership (Maurice of Orange just as his enemy Philip of Spain), and not least with the shifts in his own career, proved that this sort of political analysis was used by all religious camps, but that those making it available could not stay aloof from some sort of commitment to the course of their masters and had thus, like Lipsius, to change confession along the way. Humanist methodology was still vital to an understanding of the text, but the material had shifted from accounts celebrating the republic to an analysis of the working of monarchy and where there had once been a humanist movement with its own goals there were now academic professionals who were able to put the sources in the service of forces that were no longer humanist.

7.2 *Prudentia civilis and politica*

Part of the changed environment for the reception of classical texts was the emergence of an increasingly varied and sophisticated analysis of politics, represented in a genre of its own, the books on civil prudence (*prudentia civilis*). While these works sometimes even referred to Aristotle as their main source in their title, they had become much more than comments on this source. Although still dependent on Scripture and law to an extent often denied by their authors, these works attempted to understand society in terms of its mechanisms, in terms of politics by a

significantly stronger emphasis on the present. Their shape differed from region to region.

In the Netherlands and Germany, university-based authors were particularly prominent. The Lutheran reformation had given the occupation with Aristotle's politics a new emphasis, beginning with Melanchthon's refusal to find evidence for the organisation of the body politic in Scripture and his 1530/31 *Commentarii in aliquot politicos libros Aristotelis*. From 1535 on editions of Aristoteles' politics mushroomed. The Lutheran distinction between revelation and law allowed to develop a sphere of inquiry into the nature of politics not directly dependent on the interpretation of Scripture. Orientation on Aristotle did not provide a guideline determining the argument, but rather a set of questions, problems and themes apt to integrate varying concerns. From the 1590s, the reception of Bodin gave this need further focus. Moreover, confessional strife kept stimulating debate on these issues. Subsequently, topics such as the philosophy of politics, guides to the developing imperial public law and advice on the upkeep of order were merged to a new independent subject within the curriculum of the *artes liberales*. Its object was politics. The standard kinds of publication highlighting this new genre bore the term *Politica* in their title, a catchphrase to characterize the summoning of political philosophy, legal training and practical advice.

Within this genre, various strands of thought are commonly distinguished. Within the Empire, Lutheran work on the *Monarchia Christiana* emphasized the independence of the church and the responsibility of lay authorities to the upkeep of a pious order, frequently making use of Lutheran three-estate-theory (Reinkingk). Neo-Aristotelians (Arnisaeus) were particularly engaged in the methodical explication of the Aristotelian heritage. Some accounts remained more indebted to Lipsius and the rhetoric of Tacitism. Althusius eschews easy allocation to any subcategory not least due to his terminology. The plurality of forms of government in the Empire (small town democracies, ecclesiastical aristocracies, monarchies of princes) and the specific situation in the Netherlands prevented the outright condemnation of any of those forms, at least for teaching purposes, in the Dutch and German versions of this genre. Most authors, including Dutch ones located at a university, generally preferred monarchy for any body politic larger than a town and identified democracy with turmoil and technical problems of government as a consequence of the nature of man. Thus, magistrates in command over

obedient subjects were conceived to be a functional necessity no matter what form of government was at issue. More specifically, a major issue of these works was how to avoid, forestall or suppress internal conflict for the sake of the common good, for unity and the preservation of internal harmony were seen as key problems.

The most frequently used and cited works of this genre were arguably the publications of Henning Arnisaeus, including his *Doctrina Politica in genuinam methodum, quae est Aristotelis* (1606), his *De iuribus maiestatis libri tres* (1610) and his *De re publica seu reflectiones politicae libri duo* (1615). What is important to note here is not so much the actual argument in favour of any specific manner of government, as the degree to which some professors at philosophy faculties struggled to piece together from their classical sources an analysis of politics independent - as an academic discipline - from theology or law.

The degree and nature of that independence is different for each of the various branches of political studies and must never be associated with the degree of secularisation. A certain distance to the applicability of Scripture by theologians to political problems and the subsequent claim that politics was a discipline in its own right does not mean that these authors did not believe in the truth of God's will and deeds as revealed in Scripture. Moreover, while the above typology holds true for the Empire, it does not for other countries. Dutch writers that might be considered part of the new genre, like Simon Stevin, for instance, directed their works more toward a larger public than toward an academic audience. The various combinations of religious outlook, social circumstances and political background makes for a wide variety of works that can be considered to be part of the new interest in *prudencia civilis*, though substantially different in composition and approach. In any case, they shared the attempt at emancipation of analysis from mere commentary of a classical source, and from law and theology.

However, whatever their relationship to confessional theology, a great number of works of the genre of *Politica*, while sharing the attempt to provide a comprehensive teaching manual for would-be civil servants, included a firm normative basis. Writers like Althusius or Reinkingk remained firmly tied to a specific confessional notion of the body politic, whether to Catholic Thomism, a Reformed point of view or the Lutheran three-estate-approach to the body politic. Nevertheless, some of these

works, in search for the foundation of politics, had begun to emancipate from received prescription, by means of a most comprehensive analytical description of the actual working of society and government.

Due to the different constitutional, social and cultural settings across the European polities, there were strongly diverging the notions of *politica*. Although sharing the attempt to understand the princely state by a more empirical approach to current events, the approach to politics in England and France took an entirely different shape than in Germany or the Netherlands. First, French and English writers were much less connected to universities. After taking an initial degree, most of them left the institution and worked as advisors. Much of their reflection on politics thus had a less voluminous and academic character than in Germany. Second, in both France and England, any reflection on politics had to start (and to end) with the nature of kingship, and a type of kingship that made strong claims to its divine right origins, a situation completely different from the Netherlands and Germany.

A case in point is the work by Francis Bacon in England, epitomized in his *Essays*. These are short comments, sometimes only of a few paragraphs, that outline various topics in loose order. Two features define the scope and character of this work – the position of Bacon within the government of his king and the role of monarchy in England. Bacon was a major advisor to the king and a judge to a prerogative court under James I of England. As James IV of Scotland, he had written two major works on the true nature of monarchy, as a form of polity not subject to the constraints of human positive laws. When taking government in England, he had to realize that this approach would be difficult to uphold, facing an increasing commitment of the estates to understand the varied laws and regulations of the realm as a cohesive set of laws that must not be violated by the crown, under the notion of the ‘Ancient Constitution’.

Bacon’s own work has to be understood against an ever-increasing weight and density of precedent provided by sentences of common law courts. As these court judgements came to be published in collections since the second part of the sixteenth century, the notion of precedent gained increasing importance against the ability of the king to make or change the law. The ‘common law’ as the source and matter of the civil laws of England, allegedly existing in some form or other since the days

of Edward the Confessor, began to acquire a definite shape, a shape that judges like Edward Coke argued needed to be respected by the king. During the second and third decade of the seventeenth century, this English variant of Elliot's 'corporate or national constitutionalism' began to severely limit the king's ability to make the law. James I (as James IV of Scotland the author of the *True Law of Free Monarchy*) had to find out that his subjects in England believed his government was actually bound to the common law.

Against this theory of legal constraint, Bacon, a privy councillor to Queen Elizabeth since the 1590s, and then Chancellor under James from 1617, aimed at a reform of the law as a means to a reform of the Commonwealth. Calls for reforms of the common law increasingly inaccessible to lay people had been mounted in particular during the 1530s. Such a reform could not, however, hold all sentences of judges and their interpretation of the law sacrosanct. It meant to allow royal intervention into the interpretation of the law and thus aimed at a strengthening of the ability of the monarch to mould the law. Bacon was primarily interested in a reform of the Commonwealth along ideas of harmony and rationality derived from his interest in natural philosophy. A reform of the law, ridding it of idiosyncrasies, had to be conducted from the top. At this point, his interest in the reform of society met up with his ideas on the position of the crown. To Bacon, royal sovereignty provided the basic bond for civil society. The administration of justice and the execution of government by a strong monarchy were no contradiction. Judges, when deliberating their ability to determine the law in the emerging common law tradition, had to beware that the crown needed to be above them: 'Let Judges also remember, that Salomons Throne was supported by Lions, but yet Lions under the Throne; being circumspect, that they doe not checke, or oppose any Points of Soveraigntie'. While his major opponent Edward Coke, chief judge of the common law Court of King's Bench, insisted on the interpretation of the common law by the judges themselves, along the guidance of precedent, and thus began to collect and publish passed sentences to provide such guidelines, Bacon held that since the laws of nature were related to the body politic, insight into the former would also allow a more perfect rule of the latter – to be exercised by 'statesmen', not by judges. In contrast to Bacon, judge Coke and the common law movement introduced innovations into the existing law under the cover of the interpretation of precedent to effectively undermine royal power. Against this background, parliament enforced Bacon's dismissal in 1620/21 to defend what it

considered to be the common law of England, a system of law that must not be changed, not even by the crown. The new reflection on politics found here was embedded in short maxims that themselves reflected, if only indirectly, not only the philosophical interests of Bacon, but also the overwhelming role of the institution of monarchy in England. In Germany or the Netherlands, no *Politica* could even have begun to contemplate the changing of positive law by princes, the Emperor, or the governor (stadhouder), because the whole constitutional framework would not have allowed this. In considering the variety of textbooks and treatises under the common title of *Politica*, we must always allow for the huge discrepancy of historical circumstances in which these works remained embedded.

In France, an example of the new consideration of politics is provided in the work of Gabriel Naudé. Born in 1600, he worked as secretary to the president of the Paris parliament, from 1630 to 1640 as secretary to the ambassador of the Pope in Paris, and then became responsible for the library of Richelieu and then of Mazarine. In his *Considerations Politiques sur les coups d'état* (1639), he referred, among others, to Seneca, in an attempt to understand human affairs *comme un théâtre* (the same phrase as used by Lipsius when trying to describe the value of Tacitus for understanding current affairs). Although he still wrote about *l'institution des princes*, that is, on the institution of monarchy, this was understood in terms of *les affaires de l'État*. This approach also informed his *Jugement de tout ce qui a esté imprimé contre le Cardinal Mazarin* of 1651. Against the noble revolt against Mazarin as executive officer of royal politics, these considerations defended the strong role of the monarchical executive with arguments based on the political necessity to have a strong central power, rather than with inherently legal or religious arguments.

It is important to stress that the argument referring the 'reason of state' (*raison d'état*), always went in favour of a strong executive, and thus against limitation put on this executive by either the church and its theologians or the estates and society by reference to alleged fundamental laws. To that extent, Bacon, Naudier and Arnisaeus argue in the same direction (a strong government needs to be free from constraint as far as possible), and on the basis of an attempt at fundamental analysis of the nature of politics as distinguished from legal or theological precedent. However, two issues need to be kept in mind. First, each of these three authors argued from an entirely different intellectual background, from natural philosophy (Bacon), from the Lutheran distinction of gospel and

law and the subsequent possibility of a non-theological inquiry into politics (Arnisaeus) and from the vocabulary of Tacitism (Naude). While all of them reflect the attempt to understand the crisis of public order by an explicitly 'political' – rather than legal or religious – analysis, the variety of intellectual starting points was considerable. Second, emphasis on the need of a strong executive government was by all means to be based on an emphasis on monarchy. Henry Parker, a major theorist supporting Parliament against King Charles during the English civil wars (1642 to 1648), wrote, in his *Contra Replicant* (1643), one of his attacks on the king's position:

Lawes ayme at Justice; Reason of state aimes at safety; Laws secure one subject from another, Law protects subjects from the Insolence of Princes...and Princes from the sedition of subjects ... But reason of state goes beyond all particular forms and pacts, and looks rather to the being, than well being of a state, and seeks to prevent mischief forraign as well as Domestical ... Reason of State is something more sublime and imperiall than Law: it may rightly be said that the Statesman begins when the Lawyer ceaseth: For when warre has silenced Law, as it often does, Policy is to bee observed as the only true law, a kind of dictatorial power to be allowed to her; and whatsoever has any right to defend itself in time of danger is to resort to policy instead of law ... To deny to Parliament recourse to reason of State in these miserable times of warre and danger, is to deny them self-defence ... Nothing has done us more harm of late than this opinion of adhering to Law only for our preservation.

This was a clear-cut distinction between the major aim of politics, that is, securing safety, and the aims of laws and religion, that is securing justice and faith. Piecemeal and from entirely different intellectual and political backgrounds, still using examples from Scripture, connected by a wide variety of ways to the confessional religions of the day, and using classical literature as a means to reflect the current state of affairs (though no longer to re-shape men along classical precedents), reflections on politics had, since the 1590s, begun to explore a foundation for politics not based on theology or government as administration of justice according to the law.