

This article is published in a peer-reviewed section of the Utrecht Law Review

Intuition beyond the law of the state

Stephen Connelly*

If there is some one man who differs so much in excess of virtue, or more than one but not enough to be able to make up the complement of the polis, that the virtue and the political ability of all the others is not commensurable with theirs, if they are more than one, or if one, with his alone, then these men must no longer be reckoned to be part of the polis; for they will be treated unjustly if deemed worthy of equal things, being so unequal in virtue and political ability; since such a man is in all likelihood a god amongst men.

Aristotle, *Politics* [1284^a3-6] (emphasis added)

1. Introduction

This paper seeks to explore at a very high level Spinoza's differentiation, in the fourth chapter of the *Tractatus theologico-politicus* (hereafter TTP), between:

- a) the divine law *in general*, understood as the commands (*iussa divina*) which are the means to achieving the supreme good (*summum bonum*), which derives from the common nature of all men, and is thus of universal application, and to which standard the law of the best state should aim (Geb. III/61/21-23; Akkerman 188.29-31);¹ and,

* Stephen Connelly (email: kconn02@mail.bbk.ac.uk) is a doctoral student at Birkbeck College, University of London (UK). His research covers theories of normativity, assent, and the magnitude of value, with reference to the philosophy of Spinoza. This is a version of a paper delivered at the Utrecht Critical Legal Conference 2010, and the author would like to thank the organisers for the invitation to attend.

¹ References are to the Gebhardt Latin edition, C. Gebhardt, *Spinoza, Opera*, 1925 (hereafter Geb.) and the Shirley translation, S. Shirley, *Spinoza: Complete Works*, 2002, except where otherwise specified. References to the TTP, the *Korte Verhandlung* (KV) and the *Tractatus de Intellectus Emendatione* (TdIE) are (for the KV, to the part and) to the chapter number and, within chapters, by the line numbering '[n]' employed in the Gebhardt edition. References to the Epistolae are by Letter number, as reproduced in Shirley. References to Descartes' Principles of Philosophy (DPP) and Ethics begin with the abbreviation of the work followed by a roman numeral denoting the Part, then the various relatively standard abbreviations for e.g. Proposition 'P', Demonstration 'Dem.', Scholium 'Sch.' and Corollary 'Corol.'. So, for example, 'EIP14 Dem., Corol.1' refers to Ethics Part I, Proposition 14, Demonstration and Corollary 1. References to the *Tractatus politicus* (TP) are to the chapter number and paragraph §n. Additional references to Akkerman are for the benefit of Spinoza scholars with that edition: F. Akkerman, *Spinoza: Oeuvres III – Traité Théologico-politique*, 1999.

- b) the divine law *in particular*, which pertains to the individual, and which is the intuitive knowledge of God: for ‘the supreme reward of the divine law is the law itself,² to know God and to love him in true freedom’ (Geb. III/62/17-21; Akkerman 189.29-34).

By outlining the metaphysical and genetic geometrical structures on which these conclusions are built, I propose to investigate an interpretation of Spinoza’s conception of the divine law which seems to run contrary to the idea that the final stage of Spinoza’s intellectual journey is but the internalisation of the law of the state, and thus sketch a tension running at its heart. Within the confines of this paper I intend to focus largely on certain illuminating proximities between the works of Aristotle and Spinoza. This is for exegetical purposes, and no claim is made that Spinoza can somehow be read as a neo-Peripatetic thinker – this is simply not the case.³ We seek merely to show how a specific problematic of the exceptional person in Aristotle’s *Nicomachean Ethics* casts light on Spinoza’s own thinking of virtuousness and the city as his thought develops.

2. The constitution of the rational citizen

Spinoza divides reason (thus not imagination) into two *incommensurable* types of cognition, which I term *Rational Science* and *Intuitive Science* (EIP5, P8).⁴ These correspond to what Spinoza nominates the second and third types of cognition. By ‘incommensurable’ I wish to indicate that Intuitive Science is not merely an extension or completion of Rational Science, but is of a different order entirely.⁵ Spinoza’s idea of Rational Science concerns only knowledge of that which is common between things, for it can only arise out of this very commonality, that is, the possibility of encounter (TdIE §101, Geb. I/389/37; EIP40 Sch.2). Spinoza’s idea of Intuitive Science expressly concerns the idea of singularity; broadly, that which is uncommon between things (EIP40 Sch.2; EVP36).

The governance of the self with respect to the state rests upon the aforementioned structure. It:

1. flows from the foundational role for any encounter of an *x* which is in some way similar to a *y* (commonality) but which is irreducible to that *y* (individuality of *x*) for ‘the common notion [of Rational Science] as logical law (...) expresses the common properties of things in the abstract necessity of the “interactions” of universals’;⁶
2. draws its power from the metaphysical conclusion that the individuality of *x* is nothing other than God or Nature insofar as God or Nature self-individuates (EIP7; EVP30; DPP App.2 Part10). For something *x* cannot be said to be part of God or Nature, because God or Nature, considered as such, has no parts (but only when considered through thought or extension, implying number and divisibility). Thus insofar as *x* is considered through God

2 Spinoza describes it as a *praemium*, that is a gift or reward to the one who knows God through Intuitive Science, an individual also characterised as being a law unto itself (EVP41 Sch.; TP§1[4]).

3 Of the Hellenic Schools, Spinoza appears to show closest affinity with the Stoa.

4 This is a division founded in the understanding of essences which is noted by Wolfson (H.A. Wolfson, *The Philosophy of Spinoza. Unfolding the Latent processes of His Reasoning*, 1958, pp. 292-293) late in his work on Spinoza and strangely not followed through. Wolfson also notes here that this division is confirmed in the TP at Ch. 2 §2 (*essential data* or *actualis/essential idealis* or *formalis*), and can be found in EIP24, EVP22; DPP Annex I, Part 2 (*existential*); EIP5/8 (*esse formalis/ ideae rerum non existentium*); EIP17 Sch. (*essential formalis*).

5 Cf. a different interpretation by S. Malinowski-Charles, ‘The Circle of Adequate Knowledge: Notes on Reason and Intuition in Spinoza’, in D. Garber & S. Nadler, *Oxford Studies in Early Modern Philosophy Vol. 1*, 2003.

6 Cf. L. Lermond, *The form of man: human essence in Spinoza’s Ethic*, 1988, pp. 56-57, apparently following Hallett’s *Aeternitas*, 1930.

- or Nature it is God or Nature in a certain particular manner – one sees how substance and mode are immanently related by Spinoza as *one*;⁷
3. derives its value (i) from the linking of virtue with power (EIV Def.8), and (ii) from the very (inherently necessary) rarity with which any given Intuitive Essence becomes fully known⁸ and actualised in Nature (EIVP3 and EVP42 Sch.); and,
 4. has legal force (bindingness) from the intense pleasure that one must derive in following one's own Intuitive Essence (TTP Ch.IV, Geb. III/58-60) understood not just as instantiations of the rational citizen as universalised or common notion, but as the very *x* that instantiates citizenship (that bears the qualities of citizen through these encounters); an *x* that is conceptually beyond-the-citizen and the laws that are appropriate to that construct.

The citizen is not a static concept.⁹ The legal force of pleasure as the command of God not just determines the boundaries of the self, but is also genetic: the self (understood merely as an arbitrary collection of thought or matter) is capable of modification, with pleasure being the best means thereof (EIIIP17-18 with EIIIP13 Lem.6 and Post.5). Balibar's concept of the 'trans-individual'¹⁰ builds on Spinoza's idea that the citizen must be constructed through mental (and so bodily) modification from the raw material of the 'self'. 'Men are not born citizens, but are made so'.¹¹ This construction can only be brought about by encounters (EII ax.4 and P13) and thus only deals in terms of common notions,¹² with, note, modifications which increase commonality engendering greater numbers of encounters between those same things and thus further modifications, tending, it is hoped, towards a state of rationally constructed mutual dependence (EIVP38, EVP39). It is this construction towards the rational state which clarifies Spinoza's claim that a rational state works because rational people are more likely to get on together ('*dari quadam ideas sive notiones hominibus communes*' (EIIIP38 Corol.)). Spinoza's statement is grounded in the construction of a rational self in the very togetherness of social interaction, not in an arbitrary definition or ideal.¹³

Spinoza is fully aware that the path to citizenship is not a necessary one in every case, and is very clear that those who remain 'ignorant' will also occupy the state. Laws must be made to control their irrationality; laws which are tuned to the imaginative nature of these people's cognition.¹⁴ Yet we put this to one side, for the purpose of this paper is to examine the role of Intuitive Science in the state. In this latter case, as we have already noted, whereas that which forms the definition of Rational Essence is generated from interaction in the form of the common notions, Intuitive Essence, on the other hand, is the individuating something which expresses

7 Cf. G. Deleuze, *Expressionism in philosophy: Spinoza*, 1990, pp. 196-197.

8 It is not enough that we say that there necessarily exist singularities, but that the ability to cognise them is achieved. The rarity (EVP42 Sch.) of this occurrence is precisely the economy on which Spinoza is able to distribute value other than equally, and so attempts to avoid the relativism that plagues Aristotelianism.

9 See the Preface to EIV, which discusses the exemplar of human life.

10 E. Balibar, 'Spinoza: From Individuality to Transindividuality', 1997 *Mededelingen vanwege het Spinozahuis* 71 (entire issue).

11 TP§5[2], which is taken directly from Hobbes' *De Cive* I, 2, n.1.

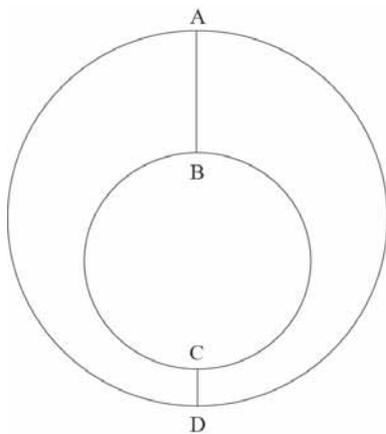
12 On the common notions see EIIIP13 Lem.2, EIIIP37-38, EIIIP40.

13 Spinoza here has in mind the definitions of 'man' proffered by Plato and Aristotle. See EIIIP40 Sch. 1.

14 TTPIV (Geb. III/59/2-10): the clever rulers '[institute] another motive for obedience – very different from the one which follows necessarily from the nature of law – by holding out the sort of reward for active support, and the sort of penalty for transgression, that appeals most strongly to the loves and fears of the masses; and in this way they have persevered in keeping them on the tightest possible rein.' (trans. mod.) '(...) *alium finem, longe diversum ab eo, qui ex legum natura necessario sequitur, sapienter statuerunt, nempe legum propugnatoribus promittendo id, quod vulgus maxime amat, & contra iis, qui eas violarent, minitando id, quod maxime timet; sicque conati sunt vulgum, tamquam equum fraeno, quoad ejus fieri potest, cohibere; (...)*'.

God's power, bears the interactive *qualia* of Rational Essence, but which remains veiled from the view of Rational Science alone. The citizen may be considered a material or concrete concept in the sense that it can be found in the world instantiated by this or that person, but it is still only a concept because no matter how citizen-like this or that person seems to be, the qualities of citizenship cannot exhaust the entire essence of that individual; the Intuitive Essence always remains. Spinoza famously provides an illustration of the excess of God or Nature over the beings of Rational Science (*entia rationis*) in his Letter on the Infinite¹⁵ (see Figure 1), an example which draws directly on Descartes' attempt to refute atomism in his *Principles of Philosophy* (cf. in particular Part II Propositions XXXIII-XXXIV of the *Principles*), but which brilliantly blends in aspects of the Scholastic science of the infinite, particularly, I believe, the work of Nicolaus Cusanus, perhaps mediated through Kepler¹⁶ to Spinoza, and, as Audié has shown, also draws on the mathematical work of van Schooten.¹⁷

Figure 1: Spinoza's diagram from the Letter on the Infinite.



In Spinoza's example, a figure determined by non-concentric circles ABCD (Rational Essence) describes an interior space, the sum of the inequalities of which lying between known minimum CD and maximum AB are not quantifiable by any natural number, and are thus incommensurable (disclosing an Intuitive Essence). To illustrate how, it is sufficient to consider, firstly, the Archimedean definition of a circle as a polygon of infinitely many infinitesimally small sides, and to notice that as CD increases to AB it must pass over each of these infinitely small sides at each point increasing by an infinitesimal magnitude (for circle BC is non-concentric to circle

15 Letter XII to L. Meyer. For a review of some of the Medieval background for Spinoza's example, see R. Ariew, 'The Infinite in Spinoza's Philosophy', in E.M. Curley & J.-F. Moreau (eds.), *Spinoza: Issues and Directions*, 1990, pp. 16 et seq. Cf. also DPPIIP9 Lemma.

16 Spinoza owned Kepler's *Eclogae Chronicae* upon his death, though this is primarily a work of theology, so we can only conjecture to how much of Kepler's astronomical work Spinoza was exposed. Kepler called Cusanus *mihi divinus*: W. Hay, 'Nicolaus Cusanus: the structure of his philosophy', in 1952 *The Philosophy Review* XVI, no. 1, pp. 14-25.

17 Cf. F. Audié, *Spinoza et les mathématiques*, 2007, pp. 31 et seq. Great credit is due to Audié for having shown that Spinoza may well have drawn the geometrical example of Letter XII from the works of van Schooten. Audié does not, however, also note that Descartes uses the same geometric structure (the torus) in his *Principles of Philosophy* to 'disprove' the theory of atoms, an example which Spinoza replicates in his exposition of that work (DPPIIP9). Spinoza's letter on infinity (Letter XII) is dated April 1663. We know the DPP was with L. Meyer for editing by 26 July 1663 (cf. Letter XIIIa). It would seem unlikely that Spinoza could not have had Descartes' torus example in his mind when he wrote Letter XII.

AD). Within Rational Science as conceived by Spinoza, we describe the infinitesimally immediate successor of CD_0 as $CD_1 \dots CD_n \dots AB$, and sum these differences between the two thus:¹⁸

$$\sum = (CD_1 - CD_0) + (CD_2 - CD_1) + \dots + (AB - CD_n) = 0$$

It is this difference, or rather the *blindness* of Rational Science to it,¹⁹ for the sum ‘ought’ to equal zero, which has the potential to create a problematic for Spinoza’s rational state. We must first remember, however, that Intuitive Essences are infinite in difference in accordance with the power of *Deus sive Natura* (EIP16), so the problematic is not so much that there are Intuitive Essences at all, but rather the special case where a given Intuitive Essence is able to express itself most clearly in the World, which is to say that it (a) has the relatively greatest degree of power or virtue; and (b) by Spinoza’s schema of the degrees of the power of cognition, exhibits the third kind of knowledge or Intuitive Science. Put otherwise, the problem for the state arises when an Intuitive Essence comes to the realisation²⁰ of itself as Intuitive Essence. Let us now examine why this is potentially problematic for the state.

3. The ideal and the exceptional

Despite our extremely brief overview of the metaphysical structure underlying Spinoza’s politics, it might still be tempting to regard this virtuous individual as no more than an ideal to which all should aim. Indeed, (and here I find the proximity to Freud’s *Group Psychology and the Analysis of the Ego*²¹ to be striking²²) one might wish to argue that at the point when, say, three individuals have been sufficiently modified so as to be similar enough to work together for their common good (they have become citizens of their own mini-state in a way), one could abstract that which is common between them, complete the gaps left by continued difference, and thereby posit an ideal citizen for their state to which all should aim. In the more populous state this ideal may be more or less realised by someone (but never completely), and because that person draws her perfection from the partly actualised, partly idealised ground of the actually existing citizenry, this person is unquestionably valued as the most perfect (and so most powerful) among that citizen body.

This model, however, is not that of Spinoza, who decries the generation of abstract universals as useful but dangerously misleading applications of the imagination to the data of reason (EIIP40).²³ Spinoza rails against philosophers who ‘shower extravagant praise on a human nature that nowhere exists and revile that which exists in actuality’ (TP§1[1]; see also EIII Pref.). Why then, it may be asked, does Spinoza nevertheless work to generate an exemplar of human

18 The operation can clearly be reversed by starting from AB and reducing, but the notation becomes cumbersome. In the interests of clarity, the summation notation is simplified following Gueroult’s exposition (M. Gueroult, *Spinoza – Dieu*, 1968, p. 524). Equating the summation to zero may strike one as at the least a little informal by modern standards, but the point is to indicate the problem Spinoza’s mathematical contemporaries were coming up against. C 17th mathematics was more liberated in its approach to issues of strange numbers (transcendental, imaginary etc.), with, for example, John Wallis (in his 1655 exposition of Descartes’ *Géometrie*) dividing one by infinity to obtain the infinitesimal – a manoeuvre which allowed him to initiate the work on the Newton/Leibniz calculus.

19 A blindness which begs the question to which the integral calculus was an attempted answer.

20 In the senses both of: (i) understanding through intuition and (ii) coming to be in reality.

21 S. Freud, *Gesammelte Werke*, 1991, Band. 13, p. 127 (Ch. VIII, *Being in Love and Hypnosis*).

22 With thanks to Etienne Balibar who has drawn certain parallels between the work of Freud, Marx and Spinoza (personal communication).

23 F. Manzini, *Spinoza: une lecture d’Aristote*, 2009, p. 97, suspects that Spinoza has the following quotation from Aristotle’s *Metaphysics* (Λ) in mind: ‘The universal causes, then, of which we spoke do not exist. For the individual is the source of the individuals. For while man is the cause of man universally, there is no universal man; but Peleus is the cause of Achilles, and your father of you (...)’ (*Meta.* (Λ) [1071^a19-22]).

conduct, by which we should all live?²⁴ The contradiction is only apparent if we again take care to note the metaphysical substructure. The *Ethics*, right up until EVP21, is very much written from within the constraints of Rational Science, and Rational Science works precisely by universalising data in order to establish what appear to be natural laws applicable throughout the universe. This abstraction can be valid in certain cases; principally when the principle in question applies as to the part as to the whole – that is, we are extremely lucky that the notion of measurable extension is everywhere the same (or so Spinoza thinks); but it is not the case that this notion exists separately as a thing or that in accessing extension in this place, we have access to its entirety (cf. EII App.). With these caveats, however, such natural laws can be applied to reality, and likewise in the case of natural laws concerning the abstract universal ‘human’. Subject to these caveats, the exemplar is put into play by Spinoza as a limited practical device for considering social relations²⁵. Through awareness of the limits of Rational Science in this context, we can understand how declarations about the possibility of human interaction in general can become more refined as particular humans mutate into more similar citizens (Spinoza’s ‘union or harmony of minds [and bodies]’ TP§4[4]), but also at the same time we can understand that:

1. it is quite possible that one group of humans and a second group of humans may coalesce differently so that what can be abstracted from each group as *the* ideal citizen may actually differ;
2. given the reduction in the universality of the natural laws applied in these cases, the abstractive move of thought becomes increasingly dangerous; and,
3. as such, the model of the ideal citizen becomes both more and more determined by the historical conditions of its basis in this or that citizenry and less and less useful as a rational principle (*entia rationis*).

Spinoza has something else in mind when he begins to speak of the actually existing virtuous man and, in particular, of the one who has attained beatitude. A parallel we can make with Aristotle’s most excellent individual perhaps draws out this point most clearly. The *aporia* of the most excellent is generated within the sole instance of the normally deviant democratic state attaining acceptability as a state form: namely where the citizens are of sufficient virtue when formed within a body. Aristotle founds this possibility on his *mathesis* of the state constitution (which Keyt²⁶ has wonderfully explicated), where geometrical proportion²⁷ instantiated in distributive justice is critical. In this state, the worth of each in relation to his means is in proportion to all and to the whole. Here, driven by the Pythagorean discovery of the incommensurable numbers in nature, Aristotle posits the hypothetical excellent individual (or more than one), who is (or are) incommensurable in virtue with the others:

‘If there is some one man who differs so much in excess of virtue, or more than one but not enough to be able to make up the complement of the polis, that the virtue and the political ability of all the others is not commensurable with theirs, if they are more than one, or if

24 EIV Pref.

25 Similar reasoning can be used to dismiss a number of apparent contradictions in the text, such as between the famous diatribe against teleology in EI App. and the various declarations concerning human aims in *Ethics* Parts III-V. Spinoza’s point, as a realist, is that while the *telos* may be a dubious concept, humans nevertheless actually think using ends, and that this and other human frailties can be utilised in statecraft.

26 D. Keyt, ‘Aristotle’s Theory of Distributive Justice’, in D. Keyt & F.D. Miller, *A Companion to Aristotle’s Politics*, 1991, pp. 238-278.

27 *Geōmetrikē analogia*. Cf. *Nicomachean Ethics* [1131^b12-13], as quoted in Keyt, *supra* note 26.

one, with his alone, then these men must no longer be reckoned to be part of the polis; for they will be treated unjustly if deemed worthy of equal things, being so unequal in virtue and political ability; since such a man is in all likelihood a god amongst men.’

Politics (1284^a3-1284^a11).²⁸

These ‘geometrical’ considerations can also be found within Spinoza’s work (which is, however, considered in certain quarters to be geometrical in style but not in content²⁹). This is not only a matter of reconsidering the role of proportion of movement and rest (EIP13 & Lemmata), essential to Spinoza’s physics, within his idea of state groupings acting together as a body³⁰ as if they have one mind, as Matheron has argued.³¹ It also demands a review of the Letter on Infinity (Ep.XII to Meyer, 20 April 1663) which at one and the same time relegates the mental constructs of mathematics (*entia rationis*) to Rational Science, but also employs mathematical considerations to tie (however incorrectly) the notion of incommensurability to that of divine infinity as part of that very excess over mathematical objects which is however indirectly disclosed by them. Most clearly, Spinoza actually uses the language of proportion when determining an ‘inverse ratio’ between patricians and populous in the *Tractatus politicus*.³² With extreme caution, we may wish to consider how this final move may help us read Spinoza’s division in TTPIV between the divine law in general and the divine law as actually existing in a real individual or in particular.

It is herein the TTP that Spinoza’s argument (perhaps unsurprisingly) sets off in a new direction, discussing theological interpretations of the divine law, leaving us alone trying to understand what is meant by the divine law being granted to the virtuous. From what we have outlined above, it should be at least arguable that regarding our virtuous man as merely embodying an ideal of the citizen and following the laws that that ideal citizen would lay down for himself (what might be termed the internalisation of law) seems very far from the conception that Spinoza’s own logic draws us towards. We have a situation where this individual, understood as aware of itself as God or Nature individuated and thus incommensurably different from all else, must somehow, and this is Spinoza’s recommendation, live quietly within the state, refusing the benefits of the ignorant (which I read as being principally an offer of the crown) (EIVP70).

Aristotle used the most excellent and incomparable individual as the bridge from democracy to Macedonian monarchy, with the supreme virtue of the one leading to his promotion to kingship. The alternative in Greek political life was ostracism.³³ Spinoza, presented with this argument, which finds, if anything, even greater force within the Spinozist system, must now try and justify his political theoretical opposition to Aristotle in privileging democracy over monarchy in spite of the possibility of the most virtuous man. One might object with Aristotle that excellent individuals such as these are a source for instability, especially when the civil law is

28 The translation differs from Barnes (J. Barnes, *The Complete Works of Aristotle*, 1995, p. 2037) and follows Keyt, *supra* note 26, p. 274 in rendering *mê sumblêtên* as incommensurable, so as to draw out the mathematical flavour of Stagirite’s analysis.

29 Cf. H.A. Wolfson, *The Philosophy of Spinoza*, 1931, pp. 52-56. By style it is meant the method exists for pedagogical purposes and Spinoza’s doctrine could just as easily have been written according to Descartes’ preferred analytical manner.

30 See also EIVP39, concerning the relation of motion and rest within the human body’s constitution, which is interestingly immediately followed by a proposition discussing the introduction of discord into the state.

31 Cf. A. Matheron, *L’individu et communauté chez Spinoza*, 1971, Chs. 3 and 11.1, regarding external unification and collective equilibrium. For the reasons set out above, in particular in relation to a Spinozist doctrine of individuation separate from his physical or modal doctrine, I would respectfully suggest *pace* Matheron that one should not limit Spinoza’s political philosophy to somewhat of a parallel with Spinoza’s physics of *corporae simplicissimae*.

32 TP§8[13].

33 Cf. Aristotle’s *Politics* following the text quoted in note 28, *supra*.

a product of abstraction and thus potentially defective from the Intuitive point of view. Nevertheless, EIVP40 clearly states:

‘Whatever is conducive to man’s social organisation, or causes men to live in harmony, is advantageous, while those things that introduce discord into the state are bad.’³⁴
‘Quae ad hominum communem societatem conducunt, sive quae efficiunt, ut homines concorditer vivant, utilia sunt, et illa contra mala, quae discordiam in civitatem inducunt.’

How, then, might Spinoza resolve this potential conflict between the divine law in general and the divine law in particular?

4. A Hobbesian solution?

The TTP appears to offer at least one ‘solution’ to this problematic which very closely mirrors the solution Hobbes describes in *De Cive*.³⁵ This is the scenario where a devout Christian is required by the civil law of the duly constituted commonwealth to deny the divinity of Christ. This ‘solution’ is martyrdom. Paralleling Hobbes, Spinoza speaks in the following terms in the final chapter of the TTP:

‘Yet how much better would it be to curb the frenzied anger of the mob instead of passing useless laws [suppressing heterodox opinions] which can be broken only by those who love virtues and the arts, and reducing the state to such straits that it cannot endure men of noble character! What greater misfortune can be imagined for a state than that honourable men should be exiled as miscreants because their opinions are at variance with authority (...)? (...) [For] those who are conscious of their own probity do not fear death (...). On the contrary, they think it an honour (...) and a glorious thing to die for freedom.’
‘At quanto satius foret vulgi iram et furorem cohibere iis, qui virtutes et artes amant, et rempublicam in tantum angustiam redigere, ut viros ingenuos sustinere non possit? Quid enim majus reipublicae malum excogitari potest, quod viri honesti, quia diversa sentiunt et simulare nesciunt, tamquam improbi in exilium mittantur? (...) Qui enim se honestos norunt, mortem ut scelesti non timent (...) sed contra honestum (...) pro libertate gloriosum [mori].’
(TTP XX Geb. III/231/4-10; Akkerman 646.12-29).³⁶

34 Space does not permit a discussion of Spinoza’s views on harmony (EI App.), nor the proposition that the more pious man will more greatly desire the well-being of his acquaintances (EIVP37), but it is interesting to note the tension in Spinoza’s work between the above-quoted proposition and the tumult in his own time caused by the interpretation of scripture by philosophy. Spinoza of course argues that governors have nothing to fear from free thought, but EIVP40 is making the stronger claim that all discord is bad. Were one to pursue this here, one would start by admitting the especial nature of the thing in question as more active, that is more perfect, that is more real, that is more powerful, and therefore query whether the harmony of any existing state is rendered now comparatively bad in the presence of this greater perfection (cf. EIVP40).

35 A copy of which Spinoza owned upon his death (cf. J. Freudenthal (ed.), *Die Lebensgeschichte Spinoza’s in Quellenschriften, Urkunden und nichtamtlichen Nachrichten*, 1899) and which, as numerous commentators have pointed out, informs much of Spinoza’s political thought in form and content.

36 Spinoza reconfirms this at the end of the same chapter: ‘where (...) attempts are made to deprive men of [their freedom of judgement], and when the opinions of dissenters – not their wills, which alone are capable of moral error, are called into account, the punishment inflicted on good men seems more like martyrdom than punishment (...)’ *‘ubi (...) eandem [libertatem iudicii] hominibus adimere laboratur, et descriptantium opiniones (non autem animi, qui soli peccare possunt) in iudicium vocantur, ibi honestos exempla eduntur quae potius martyria videntur (...)’* (TTP XX Geb. III/233/4-7; Akkerman 652.3-6).

Martyrdom here speaks in two directions, firstly explicitly to the problems it can cause in inspiring false prophets and usurpers to claim they have divine authority over the temporal sovereign, who, in executing freethinkers, both enacts the zealots' will and undermines his own reason for being.³⁷ Secondly, however, Spinoza will no doubt have had in mind those who had been martyred as the very freethinkers to which he belonged³⁸ (and we think here of the trial of the Koerbagh brothers in 1667³⁹). This is more greatly emphasised in Hobbes' *De Cive*, where the choice to be martyred rather than disrupt the commonwealth forms the perspective.⁴⁰ While Hobbes' use of martyrdom could be interpreted as a sop thrown to the ecclesiastical authorities to uphold the official interpretation of Christian martyrdom, the re-characterisation of martyrdom in the texts set out above, backed as it may be by the idea of beatitude, suggests a more positive political claim by Spinoza, yet also perhaps draws us towards the discourse of a certain fanaticism.⁴¹ Spinoza appears to be aware of this, with his warning that suppressing the opinions of zealots will only encourage them to declare that they have been elected by God and that His decree (*decreto*, not *ius*, nor *lege*) overrides the civil law.

This does not, however, deal directly with the problematic of trying to pass laws over incommensurably virtuous individuals, though it is closely connected with it. My reading of Chapter XX TTP is that Spinoza actually comes to the idea of what is now described as liberal tolerance (the famous declaration that 'each should be able to think what he will, and say what he thinks'⁴²) through this problematic of a potential clash between the divine law in general and in particular. Spinoza accepts that insofar as one has opinions which are incommensurably more virtuous than the common view, the sovereign cannot possibly hope to prescribe laws suppressing such opinions and will only cause civil strife if he or it does.⁴³ The practical fact that stopping people thinking is just impossible,⁴⁴ and stopping people thinking the truth offends them to action,⁴⁵ also covers, I say, the natural law of a scenario where divine law in general meets

37 A point alluded to by Hobbes in *De Cive* Ch. XVII, 27, and explicitly stated by Adriaan Koerbagh in *De Bloemhof*, pp. 337-339, as quoted by J. Israel, *Radical Enlightenment*, 2001, p. 191.

38 Perhaps now we have sufficient colour to see Spinoza's rendering of Paul's words in TTP IV in a new aspect. Spinoza, having stated that the just man acts knowing the reasons for laws and their necessity, and from his own and not another's decree, writes: 'This I take to be Paul's intended meaning when he said that those who lived under the law could not be justified through the law.' 'quodetiam Paulum docere voluisse puto, cum dixit eos, qui sub lege vivebant, per legem justificari non potuisse.' (Geb. III/59/16-18). This statement is commonly attributed to Paul's *Epistle to the Romans*, though our view is that the *Epistle to the Galatians* (Ch. 2.16) is just as probable a candidate for the reference. It immediately makes us think of the dogmatic tripartite division of temporal law: *ante legem*, *sub lege*, *sub gratia*, whereby there is a state of nature without law, a human state with its laws, and a state of grace where faith justifies works before God. Hobbes to some degree maintains this structure when he divides *De Cive* into three parts: Liberty; Government; Religion. We can see how Spinoza, having denied the state of nature and the principles of grace, proffers a reading of legal experience as *sub lege* in relation to the passionate mind, and *per legem* in relation to the rational mind. Insofar as we have indicated the continued role of individuation in Spinoza's intuitive form of knowledge, we can begin to think of the *post legem*. Not in the sense of a world without civil laws, but in the sense of a certain problematic exceeding those laws which renders them at once necessary and always incomplete. If Spinoza did indeed intend a reference to Galatians, we are not surprised to find written shortly afterwards some words which become very affective if reinterpreted in Spinozist fashion: 'For I, through the law, am dead to the law, that I may live to God' (Gal. 2.19). It is an equivalent philosophical space which Spinoza endeavours to open up.

39 Cf. J. Israel, *Radical Enlightenment*, 2001, pp. 185-196.

40 *De Cive* Ch. XVIII, 13 'a Christian citizen (...) in spiritual matters (...) must follow some Church of Christians. (...) But what follows? Are princes to be resisted when they are not to be obeyed? Of course not! This is contrary to the civil agreement. What must one do? Go to Christ through martyrdom. If anyone thinks this a harsh thing to say, it is very certain that he does not believe with his whole heart that JESUS IS THE CHRIST' (emphasis in original).

41 Cf. A. Toscano, *Fanaticism: On the Uses of an Idea*, 2010.

42 'caeterum unicuique et sentire, quae velit, et quae sentiat, dicere concedatur' (Geb. III/233/23; Akkerman 652.22-23), which is drawn from Tacitus' *Historiae* I, 1. Cf. also the Preface to the TTP.

43 '(...) sequitur leges, quae de opinionibus conduntur, non scelestos, sed ingenuos respicere, nec ad malignos coercendum, sed potius ad honestos irritandum condi, nec sine mango imperii periculo defendi posse' (Geb. III/230-231; Akkerman 644.14-20).

44 'impossibile esse libertatem hominibus dicendi ea, quae sentiant, adimere' (Geb. III/232 point I; Akkerman 650.18-19).

45 Geb III/230/1-15; Akkerman 644.9-20.

particular divine law. The conclusion: sovereigns should not try to suppress opinions, which should be allowed to be aired. To come back to Spinoza's example of the non-concentric circles, we might seek to push it beyond Spinoza's own use and apply it to the state. Let figure ABCD be the form of the Spinozist state (see Figure 2). We can say that it encompasses an infinite number of line segments which may nevertheless only be approximated, and which, at specific points peculiar to the line segments, there is always something which exceeds rational approximation. Could we analogise to the field of laws, which may rationally approximate to the properties of rational citizens as beings of reason, but which must admit that there is something more in intuition over which rational laws cannot range and which must then remain a-legal (and we are reminded that the first Pythagorean term for the incommensurable was *alogos* – the unutterable⁴⁶)?

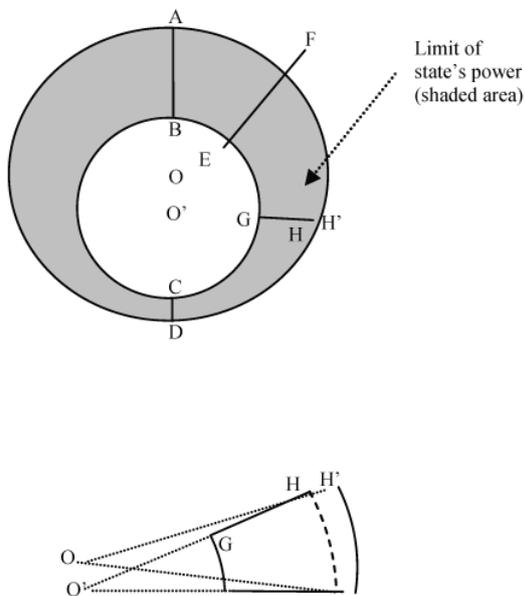


Figure 2. *The inequalities of space⁴⁷ between known line segments AB and CD (a constitution as a distribution of proportion) may be approximated to a natural number system, but even though they are bound by and spring forth from the maximum/minimum of figure ABCD, the inequalities between them cannot be measured by reference to it or to any natural number line. Note O is the origin of circle OAD; O' is the origin of circle O'BC. Line segment EF, produced from O', represents an isolated law of the state which overestimates the magnitude between ABCD at that point, thus seeking to bind Intuitive Essence by pushing reason beyond its limit to become transcendent (the lawyer might say it is ultra vires, or beyond the state's power). Spinoza believes this will only lead to strife. His recommendation could be analogised as a segment of radius O'GH, which is rationally constructed and remains within the limits of reason (and thus the rational state's power). What is left over (HH') must be allowed to be a-legal. It must be stressed that the single segment must be extrapolated approximately through the space to create a network of laws;⁴⁸ however, the radii would have to vary in infinitely small ways to remain in proportion to the state, which, for Spinoza, is beyond the capacity of Rational Science.*

46 One can also find *arrētos* (in mathematics: 'not having a ratio', though one should also note the general meanings of 'not taught', 'secret', 'shameful to be spoken') and 'incomparable' (as noted supra) in the texts.

47 There is disagreement between Macherey and Deleuze on whether the difference arises from the magnitudes of the line segments or between the inequalities between these distances. Deleuze is possibly closer to Spinoza's text, but arguably for the wrong reason in that he goes on to argue about infinitesimal differences, which appears somewhat anachronistic (in the sense that Spinoza seems at best to beg the question to which the calculus was an answer) – Gueroult points us rather to Cartesian physics and the inequalities of movement and rest of a fluid passing through a space of the type in Figure 2, (cf. M. Gueroult, *Spinoza – Dieu*, 1968, p. 524) which would be critiqued by *inter alios* Leibniz. Spinoza is also likely to have had in mind the incommensurability of differing proportions by reference to the integers, which ties in with Euclidean geometry's attempt to avoid the problem of counting incommensurables because they cannot be so counted. Spinoza surely is playing on *this* point to argue in Letter XII that numbers are just beings of Rational Science. Cf. G. Deleuze, *Spinoza's Concept of Affect*, Cours Vincennes 24/01/1978, <<http://www.webdeleuze.com/php/sommaire.html>>; versus P. Macherey P, *Hegel ou Spinoza*, 1990 pp. 165-172. A discussion of this difference of interpretation can also be found in S. Duffy, *The Logic of Expression*, 2006, c. 2.

48 By always failing to completely fill the state with law, one can conjecture as to the validity of the claim by certain legal systems to completeness (for example in Argentina and France, cf. J.M. Broekman, 'Beyond legal gaps', 1985 *Law and Philosophy* 4, no. 2, pp. 217-237, and also remark that Spinoza provides a wonderful geometric basis for explaining why laws proliferate in the vain attempt to cover every aspect of society.

Successful approximation is most likely to happen, claims Spinoza, in a democracy, where all judgements and reasoning may be heard, but once a vote is taken all agree to be bound to act in common⁴⁹ by *force of decree*.⁵⁰ Democracy is in this manner closest to the natural order of things ('*quod maxime ad naturalem accedit*'⁵¹). Except we are left with the obvious criticism that in allowing freedom of thought but determination of act, Spinoza has broken apart the so-called mind-body parallelism⁵² on which his theory of human transformation towards citizenship is based. The power of intuitive thought, with all its motive force (pleasure) must be suppressed by rational obedience to law. It is questionable whether this is truly possible. The democratic state is closest to the natural order, but it is not equivalent.

Furthermore, there is a more fundamental way in which the analysis of the infinitesimal itself disguises a key feature of the problematic, which Euclidean geometry, as a science of the continuum, seeks to uphold. Returning to the Letter on the Infinite and our example, an analytical conjecture that GH' minus GH must equal an infinitely small *quantity* fails in the very analysis of this subtraction to realise that the very difference between GH and GH' *extends throughout the entirety of each*. This is the point of Descartes' original proposal of the example as a refutation of the atomists, and it is precisely why Spinoza talks about inequalities of spaces, i.e. of differences at every non-extensive point of the above shaded area. The difference is thus not quantitative, it does = 0 within the above geometrical analogy, and 0 is the sign of the qualitative difference that extends throughout the space. In such a qualitatively differentiated space, an attempt by Spinoza to carve out a subspace where freedom of thought can somehow escape from yet coexist with the dominant power of the state seems highly problematic.

We must remember, however, that to a certain degree this 'disjointedness' between the Stagirite's problematic and Spinoza's apparent responses do arise from precisely the exegetical move of this paper which seeks to view Spinoza through the lens of Aristotle. What we are unable to do here, for example, is consider responses to Aristotle's use of the geometry of proportion in the *Nicomachean Ethics* and indeed elsewhere which occurred in the Hellenic world as Greek science and mathematics continued to advance. The Epicureans and the Stoa, for example, would provide powerful *dynamic* critiques (but also extrapolations) of Aristotelian physics, and their surviving thought was resurrected in the Renaissance and Early Modern period in the form of exegeses, borrowings and reworkings by, among others, Lipsius, Gassendi, Grotius, and Hobbes' friend Dr Walter Cudworth. In Spinoza's library we find⁵³ the works of Stoics and contemporary adherents competing in number with those of Descartes. The theoretical tensions that I have attempted to draw out in this paper feed into Hellenistic philosophical debates which were being continued with new inflections at Spinoza's time. For the purposes of distribu-

49 '*In imperio enim democratico (...) omnes pacisci ostendimus ex communi decreto agree, at non judicari et ratiocinari*' (Geb. III/231; Akkerman 648.10-12).

50 '*ut id vim decreti haberet*' (Geb. III/231; Akkerman 648, 10-12). This is a strange thing for Spinoza to say, given his realisation that the force of a law rests only in the primary motive force of its benefit to the individual (cf. Ch. IV and XVI TTP), and any additional 'contractual bindingness' becomes superfluous. Why, for example, does he not claim that the agreed law binds because of its right (*ius* rather than *decreto*), that is, because for rational citizens the benefit is obvious and obedience is pleasurable? It is perhaps that Spinoza admits that in some cases laws will only be satisfactorily reasonable until a better law can be agreed upon (which he alludes to in the above-referenced text). In TP§3[6] he argues that even if a citizen can see a decree is less than rational, he will see that disobedience will cause greater harm than obedience, and so reason will motivate obedience (following Hobbes, *De Cive* X, 1.). This is countered by his statement in TP§7[2] that if 'the right of the state, or public freedom, rests only on the feeble support of laws (...) this will even prove their ruin'.

51 Cf. note 49, *supra*.

52 Spinoza, of course, does not use the phrase parallelism, and the *ex post facto* explanation is that parallelism is utterly misleading as a description because *inter alia* (a) attributes are incommensurable expressions of God; and (b) each attribute is united with the others in God (in a rather ironic post-Gaussian sense, the parallels meet at infinity).

53 Cf. Freudenthal, *supra* note 35. For example, Spinoza owned works by Seneca, Epictetus and Marcus Aurelius, and works setting out Stoic positions by Cicero and the late Renaissance thinker Lipsius.

tive justice, the question of excellence is regarded only as an issue within a static geometrical system, one which Spinoza's metaphysical thinking had already superseded. If the Hobbist character of the final four chapters of the TTP may indicate an initial attempt to overcome Peripatetic legal thinking, perhaps the *Tractatus politicus* can be seen as indicating dissatisfaction with Hobbist solutions, or rather, we would venture, the force of Spinoza's singular metaphysics forcing itself into the open. Precisely how the Hellenic and Early Modern debates about proto-dynamics informed Spinoza's thinking of law and the state is a matter, however, for another investigation.

5. Conclusion

In this short paper I have begun to sketch the tension that exists between Spinoza's conception of reason and intuition insofar as they are to be accommodated as two aspects of the divine law within a peaceful state. The *Tractatus politicus*, in its unfinished and perhaps unfinishable state, appears to draw us towards a more fundamental Spinozist conclusion that as much as the state, and particularly democracy, may be planned, the beings of reason which are abstracted from the reality of civil bodies will always be exceeded by the infinite differentiated power of God or Nature as manifested in the incommensurability of its individuals. Just as a state, says Spinoza, could collapse into panic at any time (TP§10[10]), so it may be subjugated by another (TP§3[13]). Just as the human body experiences illness and death, so the state.⁵⁴ By indicating an Aristotelian problematic which helps illuminate certain aspects of Spinoza's thinking, we should equally note how Spinoza moves beyond Aristotelian conceptions of the state. As such, the apparatus of illumination that is Aristotle must be deployed with care, lest we fail to take into account the apparatus' own particularities.

There is also an additional 'practical' limitation on individual freedom which Spinoza admits. Within the city, the power of the state is so great when compared to that of the citizen as to render the latter's power null. I call this Spinoza's *asymptotic* analysis of the state.⁵⁵ The state can still martyr the bodies of the virtuous (TP§2[4]; §9[4]). This is Spinoza's radical democracy as the permanent tumult of the real, from which every last trace of political fiction is eradicated.⁵⁶ Such a brutal realism informs the entirety of Spinoza's political work.⁵⁷ So Spinoza can write:

'No state has stood as long without any notable change as that of the Turks, and, conversely, none has been less lasting or more liable to civil strife than democratic or popular states.'

54 Here I therefore depart from Hampshire's view (S. Hampshire, *Spinoza and Spinozism*, 2005, pp. 143-145) that Spinoza had a completely static or ahistorical view of political organisation. At a very basic level, Spinoza seems willing to accept that a state can be created, modified, and be destroyed as a unit in much the same way as a human body. Cf. infra. This is similar to a Stoic critique of Aristotle, which tries to dynamise the continuum and differentiate various structures into simple, compound and unified (cf. S. Sambursky, *Physics of the Stoics*, 1959, Ch. 1).

55 In brief, one can notice how in the function $f(x)=x^2+A$, and where A represents an independent constant of low value (say 1), where $x=1$ the addition of A has a significant effect on the magnitude of $f(x)$. However, as $x \rightarrow \infty$ $f(x)$, A becomes increasingly irrelevant as an augmentation of x^2 , the latter coming to *dominate*. In applied mathematics, where the variable magnitude is expected to be great, A is just ignored, such that (using Landau notation) $f(x)=O(x^2)$ as $x \rightarrow \infty$.

56 Cf. E. Balibar, *Spinoza & politics*, 1998, p. 120, where Balibar makes such an observation in relation to Spinoza's abandonment of the concept of 'independent powers' making a social pact in the state of nature.

57 See Roland Callois: '*Spinoza part du fait politique empirique, de la donnée historique. Tout autant qu'Aristote, il est persuadé que les "choses politiques" ne peuvent se déduire (...)* En dépit de l'usage de concepts modernes, cartésiens ou hobbesiens, en dépit de la conscience aiguë qu'il a du fait politique dans son autonomie, à la manière de Machiavel, Spinoza recrée une théorie de la politique du type antique et spécialement aristotélicien, sans doute parce qu'il retrouve, plus que tout autre moderne, l'idée de "theoria"': 'Métaphysique et politique', in *Actes du colloque international Spinoza, Paris, 3-5 mai 1977, Revue de synthèse, III^e, série n° 89-91, 1978*, pp. 48-56.

‘Nam nullum imperium tamdiu absque ulla notabili mutatione stetit, quam Turcarum, et contra nulla minus diuturna, quam popularia, seu democratica fuerunt, nec ulla, ubi tot seditiones moverentur.’ (TP§6[4])

Spinoza, as we have averred above, is prepared to accept that even if destroyed, the virtuous can by their example entail strife and discord within the state. ‘There is no thing from which some effect does not follow’ (EIP 36). The possibility of a difference between the divine law in general and particular indicates to us the continued⁵⁸ excess of God or Nature over imagination and reason, and the consequent mutability of the latter’s constructs in the face of change. The divine law in particular, as the acts of the self-intuited individual, plays its role in this mutability as much as the divine law in general.

58 It is the continuance of the same excess which is characteristic of Spinozism and which has been ascribed also to Deleuze by Badiou (Cf. A. Badiou, *Clamour of Being*, 2000, and the explicit and implicit criticisms scattered through both volumes of *Being and Event*). In the latter case pure difference still bears the marks of the same and the one because it always returns to the world as different. In Spinoza’s case, the logic of immanence of the infinite as incommensurable remains trapped within a misunderstanding of the nature of an immanent excess which was common currency in the C 17th and had been so since the Greeks (this said, I do believe that Spinoza’s thought does disclose to us a number of remarkable *and* salvageable ethical techniques for working within such a logic). In a sense, Spinoza’s *Scientia Intuitiva* leads us to the door of incommensurability, but it was for others to forge the key and pass through it.