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Forget Malthus! Or: The Enduring Relevance of a Conservative Thinker

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Forget Malthus! Or: The Enduring Relevance of a Conservative Thinker*

La natura in principio. Costituzione, società e governo nel pensiero politico di Thomas Robert Malthus [The Nature in Principle. Constitution, Society and Government in the Political Thought of Thomas Robert Malthus], written by Jacopo Bonasera, provides an excellent example of how a historical and conceptual study can help to elucidate what appear to be »perennial« political problems. Few political discourses are as tenacious as the one based on the principle of population. In its original formulation by T. R. Malthus (*An Essay on the Principle of Population*, 1st ed. 1798), the principle of population asserts that the population growth rate is inevitably greater than the growth rate of the means of subsistence. Despite centuries having passed, the idea that a normative principle links limited resources with population growth constantly surfaces in political debates, especially in the face of the ecological crisis. As Carlo Galli writes in his preface, the aim of the book is therefore »to untangle the central tenet of conservative thought – that ›there is no alternative‹ – which is supported by employing the scientific method to demonstrate the insurmountable natural necessity of a specific economic and social order and a specific course of political processes« (7).

Bonasera traces the origins of the principle of population and contextualises its formulation. Born from the political debates following the Atlantic revolutions, the principle of population emerged from a modern conservative perspective that was seeking to »neutralise the potentially revolutionary political nature of the people« (20). Like other conservative thinkers, such as Edmund Burke, Malthus was primarily concerned with saving the ancient English constitution from the political demands of equality coming from new collective subjects. However, Bonasera highlights the originality and specificity of Malthus' theoretical manoeuvre. In response to the political demands coming from radicals, workers and women contesting the unequal distribution of wealth and the authority of traditional institutions, Malthus grounded class and sexual inequalities in the immutability of nature. Indeed, in his political discourse, nature represented »an indisputable and insurmountable limit to the people's demands for equality, representation, subsistence and even well-being« (21). Bonasera provides a convincing reconstruction of how Malthus sought to (re-)establish through the principle of population that inequalities in power and wealth are the only eternal truths of human society.

In particular, Malthus drew heavily on constitutional semantics in order to legitimise his scientific endeavour to discover the fundamental laws of human association. Laws that he claimed to be grounded in nature rather than in moral universal truths. One of the most interesting aspects of the English theologian's discourse, as highlighted by Bonasera, is the reciprocal interaction between »the laws of the constitution« and »the laws of society«. Malthus drew a set of concepts from the British constitutional tradition, such as »checks, limits, proportions, equilibrium, the mixed system, and even despotism« (24), and used them to talk about the functioning and the administration of society through the principle of population. Conversely, he identified the preservation of the English constitution as being dependent on the maintenance of wealth inequalities embodied in a landed aristocracy. Finally, these inequalities were made possible by two private institutions: the two

* Jacopo Bonasera, La natura in principio. Costituzione, società e governo nel pensiero politico di Thomas Robert Malthus, Bologna: Il Mulino 2025, 168 p., ISBN 978-88-15-39194-0;
– all English translations of quotations are the author's.

»fundamental laws« of private property and marriage (25).

The name of Malthus is, of course, well known in the history of economic and political thought, for reasons that the book *La natura in principio* helps to elucidate. At the same time, Malthus' writings should also be of interest to legal historians looking at the establishment of a »legal culture«, understood broadly, and therefore going beyond the study of legal practice and legal doctrine. I would like to briefly highlight two themes in Bonasera's book that make relevant contributions to ongoing fundamental debates in legal history and can inspire further research.

Firstly, Malthus was an active participant in debates about major legislative reforms at the time. He discussed not only the content of different reforms, but also the scope and legitimacy of legislative and governmental intervention during the years of the creation of the fundamental public / private conceptual divide in law. From the Berkshire Bread Act (1795) to the Acts of Union (1800), and from the Poor Laws to the Corn Laws, Malthus intervened in these debates to defend the »the real spirit of the constitution« (42), which he constantly reinterpreted and adapted in light of the prescriptions coming from the principle of population. He was not just for or against social reforms, for or against government intervention. While he called the age-old Poor Laws »seditious laws« (117) and »tyrannical code« (118), he praised the Corn Laws enacted in 1814 as »exceptional« and »necessary«, because they »preserved the economic and social position of the aristocracy« (139), thereby safeguarding the very social foundations of the constitution. To Malthus, it was not laws approved without popular consent or infringing natural rights that were despotic, but those that violated the fundamental laws of exchange in commercial societies. By intervening in various political debates of the time, Malthus made »the stability of social relations contingent upon the denial of the public and political legitimacy of what should instead fall within the private sphere of charity or exchange« (43).

In this sense, one could consider how Malthus' theories emerged alongside the creation of the public / private distinction in law, which was linked to the emergence of 19th-century market capitalism.[1] Indeed, the »naturalisation« of wealth and sexual inequalities coincided with the »naturalisation« of the private / public distinction, which was no longer based on the natural rights of the sovereign individual but on the laws of a commercial society characterised by the asymmetrical exchanges between the poor and the wealthy, and between men and women.

Opposition to the doctrine of natural rights and the resulting shift towards a new philosophical approach to law marks the second distinguishing feature of Malthus' contribution to 19th-century British legal culture. This polemical encounter with natural law was once again a reaction to the revolutionary use of natural rights and contractual theory made by radicals in the aftermath of the French Revolution. However, as Bonasera highlights, »Malthus' attempt to counter the doctrine of natural law through a reworking of experimental philosophy takes place in a Newtonian world« (61). Within this philosophical framework, law was no longer the command of a superior Being or a dictate of Reason. Instead, it was a natural cause that stood beyond the regularity of human behaviour and was understood through consolidated experience. From this point of view, one might read Malthus' critique of natural law as an early statement of the »social source thesis«, the defining feature of legal positivism (H. L. A. Hart, *The Concept of Law*, Oxford 1961). Nevertheless, Malthus was primarily concerned with opposing the political demands associated with natural rights, a position he adopted following a typical Hobbesian line of thought, whereby »one is entitled only to what one has the power to access« (88).

As much as he was critical towards natural rights, Malthus was also critical towards the project of codification promoted by Bentham, one of the »founders« of legal positivism. According to Malthus' Newtonian philosophy, it was simply impossible to »rationalize the complexity of society«

1 Morton J. Horwitz, The History of the Public / Private Distinction, in: The University of Pennsylvania Law Review 130,6 (1982) 1423–1428.

(124) by enacting a code to regulate all social interactions. In short, his legal philosophy did not align with either the »rationalist« natural law theory or the »voluntarist«/»imperativist« legal positivism camps. Albeit difficult to categorise, Malthusian legal thought could probably be situated within the history of the emergence of legal positivism, with its own degree of originality. As Bonasera brilliantly demonstrated, Malthus' re-semantisation of legal terms contributed to the framing of a different scientific understanding of the law – and so to a different legal science – that approached its object as a complex social whole to be grasped in principles.

The goal of *La natura in principio* is to »to critically reexamine Malthusian theoretical contribution in order to give it back to its own history« (13), so that we can finally »forget« Malthus and his discouraging prophecies. Not only has Bonasera managed to achieve this, he does so in an effective, engaging and elegantly written way. ■