MARTIAL STAUB

The Poverty of 'Civism'

▼ **ABSTRACT** This chapter shows how medieval civism, or
civicness, revolved around poverty. In an excursus on Georg
Simmel's reflection on modern civic life and the work of the
Chicago School, it then demonstrates how influential the
enmeshing of civicness and poverty has been in modern urban
sociology. Returning to the Middle Ages, it elaborates on the
consequences of the intricacies between civicness and poverty for
the development of the idea of the rights of the poor in Jean
Gerson's work. In a final move back to our time, it outlines the
development of the rights of the poor in early modern and
modern thinking and demonstrates that some of the characteristic
aporiae of the contemporary notion of rights of the poor can best
be explained by their origin in medieval civism. The chapter thus
provides original insights into the importance of the forgotten in
history as it explores the forgotten origins of civicness and,
through its modern reflections within urban sociology, on the one
hand, and in the notion of the rights of the poor, on the other, the
political relevance of the forgotten in the history of civism, and
beyond.

This chapter examines how the notion of rights of the poor developed in the late
Middle Ages against the background of medieval civic life.[1] It is hoped that it will
contribute to a better understanding of the history of the rights of the poor and of the
importance of the medieval period in their development.

The Middle Ages is not an obvious starting point for considering the relation
between 'civism', or 'civicness', and the rights of the poor.[2] Premodern civicness, in

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1 I am much obliged to Dr Jessica Dubow from the Department of Geography at the University of Sheffield for her
   'editorial scratching-outs'. I am afraid that I have to take responsibility for the remainder of the text.
2 While 'civism' (from 18th-century French *civisme*) has vintage appeal, 'civicness' is more commonly used
   nowadays for designating qualities attached to and required by active citizenship. 'Civility' has been associated
   with civil society and distinguished from civicness. While the distinction between the citizen and the bourgeois

general, and medieval civicness, in particular, have usually been seen as distinctive and deficient when compared to their classical model and their modern transformation. Attitudes towards the poor in late medieval and early modern cities, for example, have often been interpreted as a strong indication of the difference between pre-modern exclusive and modern inclusive forms of civicness.[3] Although the comparison between classical and medieval ideals does not explicitly turn to the advantage of the former – it is generally assumed that the Greek *polis* and the Roman *civitas* did not as such care for their poor[4] – the institutionalisation of slavery reminds historians that the Ancients made the link between deprivation, or lack thereof, and civic status.

This chapter claims that medieval civicness has to be reconsidered, in particular in relation to the attitudes towards the poor, and that its place within the history of civism needs to be reassessed. Civism may, after all, have more to do with forgetting and renouncing than has been suggested. It will hopefully become apparent that, in many respects, medieval civicness still informs its modern equivalent, yet that the failure of modern scholarship to recognise the continuity between them has led to a gross underestimation of the role of civism in the development of the rights of the poor and a series of *aporiae* in current debates about the foundations of those rights. What this chapter aims to show, in other words, is that the history of medieval civicness provides an important element of explanation for both the appearance and the development of the notion of rights of the poor.

In the first instance, it will be argued that medieval civicness revolved around poverty, as evident from the context of 13th-century Civic Italy. This section will show how poverty was revisited by the ideal of apostolic life, so that the figure of the poor became closely associated with the 'idiot', and how the 'idiot' subsequently came to define the citizen. The implications that these changes had for communities beyond the civic context will also be explored, as communities since the early Middle Ages had in general been and would long afterward remain at the core of the perception of, and attitudes towards, poverty. The chapter will, secondly, explore how civicness has subsequently been tied to poverty with a particular emphasis on the similarities between urban contexts on the eve of the 'commercial' and political 'revolution' of the Middle Ages and the development of modern city life as reflected upon by Georg Simmel and the urban sociologists of the 'School of Chicago'. The third section will

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is not obliterated in the following, this chapter aims to work out their close relationship. See also John Gillingham, 'From *Civilitas* to Civility: Codes of Manners in Medieval and Early Modern England', *Transactions of the Royal Historical Society* 12 (2002), 267-289. Any resemblance of the chapter's title with Karl Marx's *Misère de la philosophie* and Karl Popper's *Poverty of Historicism* is – needless to say – purely fortuitous.

3 František Graus, 'Randgruppen der städtischen Gesellschaft im Spätmittelalter', *Zeitschrift für historische Forschung* 8 (1981), 385-437; Bronislaw Geremek, *The Margins of Society in Late Medieval Paris*, trans. J. Birrell (Cambridge: Cambridge University Press, 1987); Ernst Schubert, "Soziale Randgruppen und Bevölkerungsentwicklung im Mittelalter", *Saeculum* 39 (1988), 294-339; Robert Jütte, *Poverty and Deviance in Early Modern Europe* (Cambridge: Cambridge University Press, 1994), pp. 100f-102.; Frank Rexroth, *Deviance and Power in Late Medieval London*, transl. P. E. Selwyn (Cambridge, 2007) ; Giacomo Todeschini, *Visibilmente crudeli. Malviventi, persone sospette e gente qualunque dal Medioevo all'età moderna* (Bologna: Il Mulino, 2007).

4 Paul Veyne, *Le Pain et le Cirque. Sociologie historique d'un pluralisme politique* (Paris : Edition Seuil, 1976), pp. 58-59 (this passage is missing from the English translation; see n. 9 below).

focus on the formulation of the rights of the poor in the late Middle Ages, by Jean Gerson in particular, and its, broadly speaking, 'civic' background. A final section will elaborate on the light that Gersonian legal definitions may shed on current debates on the rights of the poor and some of their *aporiae*.

I/1

Poverty was a common experience throughout the Middle Ages. Undeniably, many more people were affected by recurrent economic difficulties and unequal access to resources and power than is the case in any modern Western society.[5] More importantly, however, poverty covered a range of experiences, some of which would hardly fit any modern definition of poverty. Religiously motivated poverty, in particular, was widely recognised as a form of poverty. Contemporaries, of course, were able to distinguish between freely chosen poverty and poverty that was imposed and suffered. Tensions between the religious and the poor were anything but rare and the religious ideal was all but uncontested; yet both experiences were generally seen to have enough in common to be perceived as part of a broader phenomenon.[6]

If not consistently accepted, the blurred boundaries between voluntary and involuntary forms of poverty were a singular characteristic of medieval poverty. The persistence of this pattern can in part be explained by the fact that poverty, in the Middle Ages, was most commonly experienced by a group of people sharing the same condition. Not unlike monks and clerics, poor people were most frequently organised in associations of poor, socially disadvantaged or socially excluded people. Although this can more commonly be observed for the late Middle Ages, it was by no means limited to that period.[7]

Strikingly, associations of poor were defined by their members' economic activity, their labour in other words. To most people, begging was as much a form of labour as any other and surely more than any infamous, let alone any illicit job. Historians have, however, observed a tendency in the Late Middle Ages to stress

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5 Brian Tierney, *The Medieval Poor Law: A Sketch of Canonical Theory and Its Application in England* (Berkeley: University of California Press, 1959); Michel Mollat, *The Poor in the Middle Ages: An Essay in Social History*, trans. A. Goldhammer (New Haven: Yale University Press, 1986); Otto Gerhard Oexle, 'Armut, Armutsbegriff und Armenfürsorge im Mittelalter', in *Soziale Sicherheit und soziale Disziplinierung. Beiträge zu einer historischen Theorie der Sozialpolitik*, ed. by Christoph Sachße and Florian Tennstedt (Frankfurt: Suhrkamp, 1986), pp. 73-100; Bronislaw Geremek, *Poverty: A History*, transl. A. Kolakowska (Cambridge (Mass.), Blackwell, 1994); Bernd-Ulrich Hergemöller, 'Randgruppen der spätmittelalterlichen Gesellschaft – Einheit und Vielfalt', in *Randgruppen der spätmittelalterlichen Gesellschaft. Ein Hand- und Studienbuch*, ed. by idem (Warendorf, 2nd ed.: Fahlbusch, 1994), pp. 1-55; *Armut im Mittelalter*, ed. by Otto Gerhard Oexle, Vorträge und Forschungen 58 (Ostfildern: Thorbecke, 2004).

6 In fact, some historians go as far as to argue that religious poverty came to shape medieval representations of poverty overall. See Karl Bosl, 'Potens und Pauper. Begriffsgeschichtliche Studien zur gesellschaftlichen Differenzierung im frühen Mittelalter und zum "Pauperismus" des Hochmittelalters', in *Frühformen der Gesellschaft im mittelalterlichen Europa*, ed. by idem (Munich: Oldenbourg, 1964), pp. 106-134; Lester K. Little, *Religious Poverty and the Profit Economy in Medieval Europe* (London: Paul Elek, 1978), pp. 171-173.

7 František Graus, 'Randgruppen' (note 3), pp. 430-432.

the distinction between beggars and workers. This shift of perception and attitude has been interpreted as the start of a new phase in the history of poverty as it had until then consistently been associated with labour.[8] Yet it would be misleading to underestimate the importance of the radicalisation of the relation between poverty and labour that occurred in the 12th and 13th centuries as a consequence of the rise of the ideal of apostolic life. In order to appreciate the fundamental nature of this change and its impact, it is essential to return to the factors that made medieval poverty distinctive.

In the ancient world, the poor were not singled out as a category. As Paul Veyne and Peter Brown have both emphasised, poverty could become a concern in its own right only once the framework of the ancient city had disappeared. Before then, poverty was merely, it seems, perceived and addressed in conjunction with citizenship.[9] Contrary to the ancient world, Christianity developed, as Judaism did and Islam would eventually do, what Peter Brown has called an 'aesthetic' conception of society. A 'beautiful' society did not hide the poor; it had, to the contrary, to make sure that they be included. More importantly, however, a beautiful society did not neglect its poor. Christianity thus marked a double departure from ancient attitudes towards poverty.[10]

The reason for that shift was remembrance or rather oblivion. Christianity was obsessed with remembrance to the extent that the historians of the Freiburg and Münster Schools have seen the repeated reference to the dutiful remembrance of the dead as evidence of the central role played by associational life in medieval society. According to this interpretation, oblivion equated social death.[11] Peter Brown has emphasised that the poor were in danger of losing "access to the networks that had lodged them in the memory of their fellows"; they were, as he put it even more bluntly, "eminently forgettable".[12] The poor were hardly visible. God was even less so, yet He must not be forgotten. The poor reminded their fellow Christians of their

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8 Otto Gerhard Oexle, 'Armut, Armutsbegriff und Armenfürsorge' (note 5), pp. 91-93.

9 Paul Veyne, *Bread and Circuses: Historical Sociology and Political Pluralism*, transl. B. Pearce (London: Pinguin Press, 1990), pp. 34-36; Peter Brown, *Poverty and Leadership in the later Roman Empire* (Hanover (NH). University of Chicago Press, 2002), pp. 3-5.

10 Peter Brown, 'Remembering the Poor and the Aesthetic of Society', *Journal of Interdisciplinary History* 35 (2005), pp. 513-522 and pp. 517-518. See, however, Paul Veyne, *Le Pain et le Cirque* (note 4), p. 57: 'Dans le paganisme, la douceur envers les pauvres et les miséreux était tenue pour un mérite, mais mineur, *pour l'ornement d'une belle âme* [my emphasis]; ce n'était pas une vertu canonique'.

11 See, e.g., Otto Gerhard Oexle, 'Liturgische Memoria und historische Erinnerung. Zur Frage nach dem Gruppenbewußtsein und dem Wissen der eigenen Geschichte in den mittelalterlichen Gilden', in *Tradition als historische Kraft*, ed. by Norbert Kamp and Joachim Wollasch (Berlin: De Gruyter, 1982), pp. 323-340. On social groups and their memory in medieval society, see idem., 'Gruppen in der Gesellschaft. Das wissenschaftliche Œuvre von Karl Schmid', *Frühmittelalterliche Studien* 28 (1994), pp. 410-423. On the importance of groups in medieval society more generally, from a German perspective, see idem, 'Soziale Gruppen in der Ständegesellschaft: Lebensformen des Mittelalters und ihre historischen Wirkungen', in *Die Repräsentation der Gruppen: Texte – Bilder – Objekte*, ed. by idem and Andrea von Hülsen-Esch (Göttingen: Vandenhoeck und Ruprecht, 1998), pp. 9-44.

12 Peter Brown, 'Remembering the Poor' (note 10), p. 519.

duty to remember God. Forgettable as such, they were, thus, crucial intermediaries between this world and the next by virtue of their pedagogical value.[13]

As has already been stated, associational life was an essential dimension of medieval society. Remembrance, in turn, was undeniably a core activity of medieval associations or, in some cases, their only *raison d'être*. Remembering the dead was therefore primarily the concern of associations.[14] The poor had, as mentioned, their own associations in which the dead members would be remembered. As a consequence of their special status, they also had the privilege to be remembered by other associations.

Not forgetting the poor took the form of beneficent practice. It is, however, hardly contestable that medieval 'philanthropy' benefited the religious more than the poor, even if anti-Catholic polemics following the Reformation might have induced historians to overestimate the clergy's overall benefit. As has been stressed by Peter Brown, religious leaders soon aspired to become 'forgettable'.[15] Yet on what ground was the assimilation between economic and religious poverty possible?

Western religious communities seemed to pay far less attention to poverty than their Eastern predecessors and counterparts. Whereas the latter aimed to support individual asceticism, the former were modelled around St Luke's description of the community of the apostles in Acts 4, 32-37.[16] Religious communities had to share ownership, and it was not until the 13th century that collective poverty was professed as an ideal within mainstream Latin Christianity. Common ownership obviously presupposed the renunciation of private property on the part of the community's members. Above all, however, it required obedience to the authority of the community's leader. That the abbot's duties are compared to those of the *paterfamilias* in the second chapter of St Benedict's Rule is anything but incidental in this respect.[17] Yet the allegory of the household's father might obscure rather than elucidate the fundamental relationship between obedience and poverty.

At the very end of the last lecture that he delivered at the Collège de France only two months before his death, Michel Foucault drew an intriguing parallel in the context of early medieval Western Christianity between the progressive subordination of

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13 Peter Brown, 'Remembering the Poor', (note 10), pp. 519-520.

14 On medieval *memoria* as a 'social total phenomenon' (M. Mauss), see Otto Gerhard Oexle, 'Memoria als Kultur', in Memoria als Kultur, ed. by idem (Göttingen, Vandenhoeck und Ruprrecht, 1995); Michael Borgolte, *Totale Geschichte des Mittelalters* Memoria als Kultur', in *Memoria als Kultur*, ed. by idem (Göttingen: Vandenhoeck und Ruprecht, 1995), pp. 9-78. See also Michael Borgolte, '*Totale Geschichte*' des Mittelalters. Das Beispiel der Stiftungen' (Berlin: Humboldt Universität Berlin, 1993).

15 Peter Brown, 'Remembering the Poor' (note 10), pp. 520-521.

16 On the ideal of the *vita communis* as conceived by St Augustine, see Adolar Zumkeller, *Das Mönchtum des heiligen Augustinus* (Würzburg: Echter, 1950), pp. 121-123; George Lawless, *Augustine of Hippo and His Monastic Rule* (Oxford: Clarendon Press, 1987), pp. 128 and pp. 157-159. On its impact on Western monasticism, see Hans-Jürgen Derda, *Vita communis. Studien zur Geschichte einer Lebensform in Mittelalter und Neuzeit* (Cologne: Böhlaus, 1992), pp. 105-107; Ulrich Meyer, *Soziales Handeln im Zeichen des 'Hauses'. Zur Ökonomik in der Spätantike und im früheren Mittelalter* (Göttingen: Vandenhoeck und Ruprecht, 1998), pp. 257-259.

17 *Regula Benedicti* 2, 7; *La Règle de saint Benoît*, ed. by Adalbert de Voguë and Jean Neufville, vol. 1 (Paris: Cerf, 1962), p. 442. On the link relationship between 'household' and monastery in St Benedict's Rule, see Ulrich Meyer, *Soziales Handeln* (note 16), pp. 277-270.

asceticism to obedience, on the one hand, and the rise of coenobitism and pastoral power, on the other. As Foucault explained, these developments were prompted by Christianity's emphasis on discipline as a way of paradoxically both caring for the self and telling the truth.[18] Foucault had latterly grown interested in the relation between techniques of individualisation and the production of truth as a major aspect of the history of philosophy and, beyond that, of the history of the formation of the West itself. He had started retracing the genealogy of modern society by focusing on the Cynics. Their way of life, he reckoned, established a radical relation between the care of the self and truth-telling (παρρησία/*parrhesia*), the legacy of which was to be taken up by early Christianity.[19] Yet, whereas the Cynics' ideal was a kind of radical freedom, Christianity would stress absolute obedience as a means of achieving both self-care and truth. Instead of philosophical self-care, Christianity promoted subjectivity; instead of truth-telling, truth-finding.[20] Without doubt, this constituted a radical departure from the ideals of the Cynics. However, the continuity between Christianity and the Cynics prevailed in two essential respects. Like the Cynics, Christianity valued poverty as a way of life and, however important the differences between Christian and Cynic self-care and truth were, these notions remained tied together in Christianity as they had been among the Cynics. Accordingly, Christian subjectivity, although defined by obedience, did not exclude participation, and it is worth recalling, in this context, that election by members was the normal way to designate the leaders of medieval religious communities.[21]

Discipline is what defined the religious way of life as life in 'poverty'. As discipline had been associated with labour, in particular, albeit not exclusively, in the context of the Roman army,[22] poverty eventually entered a close and complex relation with the perception of labour.[23] It is precisely this relationship that underwent a radicalisation as a result of the rise of the ideal of apostolic life in the 12th and 13th centuries.

I/2

Apostolic life had been at the core of religious communities since the early Middle Ages. However, the 12th and 13th centuries saw a range of attempts by Christian reformers to 'return' to the true sources of this ideal and a repeated claim to take it more 'literally', as Herbert Grundmann has shown.[24] As a result of this reform activity,

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18 Michel Foucault, *Le courage de la vérité* (Paris : Gallimard-Seuil, 2009), pp. 304-306.

19 Michel Foucault, *Le courage de la vérité*, pp. 303-304.

20 Michel Foucault, *Le courage de la vérité*, pp. 296-298.

21 *Regula Benedicti* 64; *La Règle de saint Benoît* (note 17), p. 648.

22 Sara Elise Phang, *Roman Military Service: Ideologies of Discipline in the Late Republic and Early Principate* (Cambridge: Cambridge University Press, 2008), pp. 201-203.

23 Aurelius Augustinus, *De opere monachorum*, in *Corpus Scriptorum Ecclesiasticorum Latinorum*, vol. 41, ed. by Joseph Zycha (Prague: Verlag der Österreichischen Akademie der Wissenschaften, 1900), pp. 529-596. On Augustinus' influence, see Otto Gerhard Oexle, 'Armut, Armutsbegriff und Armenfürsorge' (note 5), pp. 75-77.

24 Herbert Grundmann, *Religious Movements in the Middle Ages*, transl. S. Rowan (Notre Dame (In): Notre Dame University Press, 1995), pp. 7-9.

apostolic life became much more common and broadly interpreted than ever before. It informed, in particular, an array of new religious communities and the initiatives of many lay people across Europe.[25] The Franciscan order was but one of the many forms of expression of that reform activity; yet it was the most influential, and still is the best known, of them all.

According to Otto Gerhard Oexle, it would at any rate be as appropriate to interpret the promotion of the ideal of apostolic life in the 12th and 13th centuries as a labour movement than as a poverty movement.[26] St Francis saw labour as a way of challenging and overthrowing the importance of status in social life.[27] There is, however, another and possibly more fundamental dimension to St Francis's emphasis on labour. By the beginning of the 13th century, labour had lost the productive connotation with which it had been associated since, at least, the Carolingian period. In Alanus ab Insulis' theological encyclopaedia, the *Liber in distinctionibus dictionum theologicalium*, labour was reduced to hard manual work.[28] Yet, if labour was to overcome the boundaries of status, its dignity had to be asserted. St Francis played an essential role in this process by turning the reduction of labour to hard work on its head. St Francis saw himself and his fellow Friars as instruments in God's hands. At the very end of his life, he insisted in his 'Testament' that "no one [had] showed [him] what [he] should do, but the Most-High himself [had] revealed to [him] that [he] should live according to the pattern of the Holy Gospel" (*nemo ostendebat michi quid deberem facere, sed ipse altissimus revelavit michi quod deberem vivere secundum formam sancti evangelii*).[29]

St Francis's contention that "no one [had] showed [him] what [he] should do" has fuelled debate about the extent to which, in his later years, he adhered to the notion of a sacramental Church.[30] If, however, attention is given to the whole passage, it appears that St Francis did not only claim to be a vessel of God's revelation in the best tradition of Christian mysticism, but that he understood himself as a tool destined to continue the work of the Gospel. Admittedly, St Francis did not use the analogies of the 'vessel' and the 'tool', which are taken from Max Weber's *Sociology of*

25 Robert Norman Swanson, *Religion and Devotion in Europe, c. 1215-c. 1515* (Cambridge: Cambridge University Press, 1995), pp. 10-12.

26 Otto Gerhard Oexle, 'Arbeit, Armut, "Stand" im Mittelalter', in *Geschichte und Zukunft der Arbeit*, ed. by Jürgen Kocka & Claus Offe (Frankfurt: Campus, 2000), pp. 67-79, p. 74.

27 Otto Gerhard Oexle, 'Armut und Armenfürsorge um 1200. Ein Beitrag zum Verständnis der freiwilligen Armut bei Elisabeth von Thüringen', in *Sankt Elisabeth. Fürstin, Dienerin, Heilige* (Sigmaringen: Thorbecke, 1981), pp. 78-100, p. 81.

28 Alanus ab Insulis, *Liber in distinctionibus dictionum theologicalium*, ed. Jacques-Paul Migne, *Patrologia Latina*, vol. 210 (Paris, 1855), coll. 687-1012, coll. 825. See Marie-Dominique Chenu, *The Theology of Work: An Exploration*, transl. L. Soiron (Chicago: Henry Regnery, 1963).

29 'Testamentum beati Francisci', in *Opuscula sancti patris Francisci Assisiensis*, ed. Kajetan Eßer (Rome: Collegium S. Bonaventura, 1978), pp. 305-31, p. 310; Francis of Assisi, *Early Documents*, vol. 1: *The Saint*, transl. R. J. Armstrong (St. Bonaventure (NY): New City Press, 1999), pp. 124-127, p. 125.

30 Kajetan Eßer, *Das Testament des heiligen Franziskus von Assisi. Eine Untersuchung über seine Echtheit und seine Bedeutung* (Münster: Aschendorf, 1949), p. 160.

Religion.[31] There, they describe two common ways of referring to one's instrumental role, which Weber identified as producing contrasting effects on the history of human societies. Weber stressed, in particular, the passivity that characterises the former as opposed to the agency implied in the latter. St Francis, it seems, was anxious in his 'Testament' that his role as an instrument in God's hand be actively perceived.[32] Only then could his 'deeds' be seen as a form of productive labour.

St Francis made an essential contribution to asserting the dignity of labour when many of his contemporaries had lost sight of the significance of its productive dimension. Does this mean that his view was closer to that of the early Middle Ages? It is striking that the recalling of the productivity of labour did not go hand in hand with any renewed emphasis on discipline. To the contrary, St Francis justified disobedience in cases in which the ideal of poverty, as he professed it, was betrayed by the community's leadership.[33] Neither poverty nor labour could be achieved through mere discipline. This was unquestionably a new position, and a radical one at that.

What, then, did it take to be a tool in God's hand? St Francis's answer was: poverty, not discipline. St Francis's ideal of poverty has been the object of many debates almost since the early days of the Franciscan movement.[34] Yet, despite the difficulties that the sources have posed to historians, a relatively consistent picture of St Francis's instrumental understanding of poverty can be drawn from them. For all his hesitations, contradictions or changes of mind, St Francis was firm about disappropriation, begging and renunciation as being the only way to live like a poor.[35]

Long before St Francis, the leaders of the movement of apostolic life had equated poverty with bareness. Nudity expressed both Christ's condition on earth and the readiness to imitate it. This programme was expressed in the saying "nakedly follow the naked Christ" (*nudus nudum Christum sequi*), which can ultimately be traced back to St Jerome.[36] To St Francis, denudation was even more important than nudity. On the one hand, it was a sign of his indifference to status. This is for instance evident in the episode in which St Francis stripped off his clothes in the diocesan court of Assisi and gave them to his father from whom he had received them and

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31 Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, transl. T. Parsons (New York: Routledge, 1958), pp. 103-104.

32 See in particular 'Testamentum' (note 29), p. 311. This aspect is misrepresented as poverty as 'a source of comfort' in Kenneth Baxter Wolf, *The Poverty of Riches: St Francis of Assisi Reconsidered* (Oxford: Oxford University Press, 2003), p. 32.

33 *Regula non bullata* 5, 2, in *Opuscula*, ed. by Kajetan Eßer (note 29), pp. 239-294, p. 250.

34 See Malcom D. Lambert, *Franciscan Poverty: The Doctrine of the Absolute Poverty of Christ and the Apostles in the Franciscan Order, 1210-1323* (London: S.P.C.K., 1961), pp. 68-72; Gordon Leff, *Heresy in the Later Middle Ages: The Relation of Heterodoxy to Dissent, c. 1250-c. 1450* (Manchester: Manchester University Press, 1967), pp. 51-53.

35 Malcom D. Lambert, *Franciscan Poverty* (note 34), p. 57.

36 Matthäus Bernards, '*Nudus nudum Christum sequi*', *Wissenschaft und Weisheit* 14 (1951), 148-151; Réginald Grégoire, 'L'adage ascétique *Nudus nudum Christum sequi*' in *Studi storici in onore di Ottorino Bertolini* (Pisa: Pacini, 1972), vol. 1, 395-409; Jean Châtillon, '*Nudum Christum nudus sequere*. Note sur les origines et la signification du theme de la nudité spirituelle dans les écrits spirituels de saint Bonaventure', in *S. Bonaventura 1274-1974* (Rome: Collegio Bonaventura, 1974), vol. 4, pp. 719-772; Giles Constable, '*Nudus nudum Christum sequi* and Parallel Formulas in the Twelfth Century: A Supplementary Dossier', in *Continuity and Discontinuity in Church History: Essays Presented to George Huntston Williams*, ed. by Forrester F. Church and Timothy George (Leiden: Brill, 1979), pp. 83-91.

who wanted him to be deprived of his heritage by the bishop.[37] On the other hand, and even more importantly, denudation was meant to express the Friars' gratitude to the Creator, which St Francis saw as the quintessential imitation of Christ and the ultimate preparation to follow him.[38] To be poor was, for St Francis, to acknowledge that the Creator had provided for all that was needed and to live accordingly. The poor were thus able to adopt a new perspective, which valued frugality, on the world. They were also fundamentally confident that others and nature would give them the little that they needed for life. Frugality and confidence were the virtues for which St Francis recommended that his followers strive both for themselves and in order to convert by their example their contemporaries, be they rich or poor, *maiores* or *minores*.

The radiance of poverty that was supported by preaching was essential both as the productive side of St Francis's ideal and as the core of his conception of religious communities. Historians have noted how the missionary ideal that had since St Augustine traditionally been seen as an aspect of common life shifted between the 12th and 13th centuries. While Acts 4, 32-37 had served for many centuries as the reference text for both the ideal of common life and missionary activities,[39] the emphasis had eventually shifted to Matthew 10, 5-15, in which Christ himself sent his disciples out to proclaim the Gospel.[40] One might, then, wonder why St Francis kept calling himself an 'idiot' in an explicit reference to Acts 4, 13. Yet it is striking that *idiota* did not only refer to his ignorance as in Acts, nor to the fact that he was not a cleric and, therefore, not literate by 13th-century standards.[41] The notion is used in St Francis's 'Testament' in the very context in which he describes himself as a tool and designates the attitude that is required for achieving precisely this goal.[42] The poor had thus become the 'idiot'.

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37 On this scene and its importance within the early hagiography and iconography of St Francis, see Damien Boquet, 'Ecrire et représenter la dénudation de François d'Assise au XIIIᵉ siècle', *Rives méditerranéennes* 30 (2008), 39-63. For St Francis's knowledge of status, see Richard C. Trexler, *Naked Before the Father: The Renunciation of Francis of Assisi* (New York: Lang, 1989).

38 Malcom D. Lambert, *Franciscan Poverty* (note 34), pp. 49-52 and 61-63.

39 The monastic care for the poor had for centuries been based on this missionary ideal. See, for instance, Otto Gerhard Oexle, 'Individuen und Gruppen in der lothringischen Gesellschaft des 10. Jahrhunderts', in *L'abbaye de Gorze au Xᵉ siècle*, ed. by idem and Michel Parisse (Nancy: Presse Université de Lorraine, 1993), pp. 105-139.

40 This shift was made explicit by St Thomas against William of Saint-Amour; Thomas Aquinas, *Contra impugnantes Dei cultum et religionem* pars 2, cap.3, ed. by Hyacinthe François Dondaine, in *Sancti Thomae Aquinatis opera omnia*, ed. Commissio Leonina, vol. 41 A (Rome: Typografia Polyglotta, 1969-1970), p. 78. On St Thomas's 'double evangelism of religious life', see Jean-Pierre Torrell, *Saint Thomas Aquinas*, vol. 1, rev. version, transl. R. Royal (Washington (DC): Catholic University of America Press, 2005), p. 90.

41 Herbert Grundmann, '*Litteratus – Illiteratus*. Der Wandel einer Bildungsnorm vom Altertum zum Mittelalter', *Archiv für Kulturgeschichte* 40 (1958), pp. 1-65: Arno Borst, 'Laie', in *Historisches Wörterbuch der Philosophie*, vol. 5 (Basel: Schwabe, 1980), coll. 8-10; Andreas Urs Sommers, 'Kurze Geistesgeschichte des Idioten', *Zeitschrift für Ideengeschichte* 4 (2010), pp. 5-19, pp. 7-8. On St Francis's understanding of knowledge and ideal of *simplicitas*, see Kajetan Eßer, 'Studium und Wissenschaft im Geiste des heiligen Franziskus von Assisi', *Wissenschaft und Weisheit* 39 (1976), pp. 26-41.

42 'Testamentum', in *Opuscula*, ed. Kajetan Eßer (note 29), pp. 310-312.

I/3

How did the idiot come to define the citizen as this chapter contends? It has already been alluded to some of the consequences of the equation of the poor with the idiot in the context of the rise of the ideal of apostolic life. The radical link that St Francis, in particular, established between poverty and labour challenged the boundaries of status on which the 'feudal' order of society rested. Labour was now seen as productive and, as such, recommended as an ideal to all categories of society. Egalitarianism did not mean individualism, however, as communities remained essential to any life in poverty. Moreover, communities promoted their members' participation in making decisions. Yet, while poverty postulated the existence of communities wherever it was likened to discipline, this postulate was less evident in the Franciscan context. There, the community was as much a product as a prerequisite of poverty.

That the Franciscan community was based on poverty did not alienate it from the communal context of Civic Italy where it originated. To the contrary, as a result of St Francis's activity, poverty and citizenship were thrown into what seems to be a most improbable alliance. The movement of apostolic life had most certainly prepared the ground for this development, although the coincidence between its rise and the success of the communal movement still awaits explanation.[43] That the Franciscan ideal penetrated into the civic world of Italy relatively early in the 13th century is hardly contestable. Hans Baron has given evidence of this.[44] Since then, much attention has been paid to the interaction between political thought and political life in communal Italy, in general, and the ethical dimension of citizenship, in particular.[45] Yet the mores of the people in the early days of the Italian City-State remain largely unexamined.

For all the significance that St Francis's emphasis on labour had on 13th-century society, the political implications of Franciscan renunciation might potentially have been even more considerable. To begin with, St Francis justified renunciation to property on the grounds that owning something meant the same as excluding somebody else from it.[46] While postulating that the relation between the general whole and the single individual was an essential part of justice, he implicitly anticipated St Thomas Aquinas's notion of 'distributive justice'. It is worth noting, however, that St Thomas, whose work was to have a considerable influence on modern reflections

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43 This question was at the core of the enquiry suggested for France by Jacques Le Goff, 'Apostolat mendiant et fait urbain dans la France médiévale : l'implantation des ordres mendiants', *Annales ESC* 23 (1968), pp. 335-352. For Italy, see *Les ordres mendiants et la ville = Mélanges de l'Ecole française de Rome, Moyen Âge – Temps modernes* 89 (1977), pp. 557-773; for Germany, see John B. Freed, *The Friars and German Society in the Thirteenth Century* (Cambridge (Mass.): Medieval Academy of America, 1977).

44 Hans Baron, 'Franciscan Poverty and Civic Wealth as Factors in the Rise of Humanistic Thought', *Speculum* 13 (1938), pp. 1-37, pp. 4-6.

45 This interest was in part prompted by Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1993), pp. 121-123 and pp. 177-179. See, e.g., Edward Muir, 'The Sources of Civil Society in Italy', *Journal of Interdisciplinary History* 29 (1999), pp. 379-406. See also Giorgio Chittolini, 'The "Private", the "Public", the State', *Journal of Modern History* 67, suppl. (1995), pp. 34-61.

46 Malcom D. Lambert, *Franciscan Poverty* (note 34), p. 50.

on justice, derived the distinction between commutative and distributive justice from Roman law and, above all, from Aristotle's *Nicomachean Ethics*,[47] and that neither of these sources was averse to property. It is, therefore, hardly surprising that St Thomas did not tie poverty to distributive justice.[48]

Yet was St Francis, ultimately, thinking of justice or 'uprightness'? The distinction between these notions has famously been suggested by German philosopher Ernst Bloch in his influential work on *Natural Law and Human Dignity*. There, Bloch argued that a theory of rights was only possible as a critique of rights theory. He therefore drew a distinction between justice, which he saw as a means of domination, and 'real justice', which, in his mind, classically originated 'from below'.[49] While Marxism had merely equated 'uprightness' with a fight for human dignity, Bloch was keen to salvage the legacy of human rights by emphasising their importance in this process. Even so, Bloch sharply distinguished between concerns for dignity, which were aimed at happiness, as opposed to suffering, and claims for rights that were intended at emancipation from degradation.[50] As demonstrated by the reception of St Francis's ideal of justice in late medieval natural law theory, to which this chapter will return, human dignity and human rights were not fundamentally separate issues, nor were 'uprightness' and justice or political life and political theory.

However important justice was to communal life, its role was ancillary to the instauration of peace within the communes. Without peace between their members and with their elected officials, the medieval communes or, for that matter, the medieval guilds and universities would not have lasted very long nor would they have had the impact they did on the modern world. The latter is in part, as historiography has recently stressed, the result of those and similar institutions' ability to defend an ideal of peace based on consensus among equals against an environment that saw peace settlement as a matter of sovereignty in St Augustine's tradition.[51]

Peace by association was generally limited to members, however. This is particularly obvious in the case of the communes. Communes waged war against other authorities in order to defend peace. They even attacked other communes, although alliances between communes in order to defend each other's peace were not uncommon. More importantly, communes imposed their authority on non-members within their walls and, quite commonly, in the countryside.[52] For many, thus, communal peace meant arbitrariness.

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47 Thomas Aquinas, *Summa theologiae*, IIa-IIae, q.61fols., in *Opera omnia*, ed. Commissio Leonina, vol. 9 (Rome: Typografia Polyglotaa, 1897), pp. 31-33.

48 Samuel Fleischacker, *A Short History of Distributive Justice* (Cambridge (Mass.): Harvard University Press, 2004), p. 22.

49 Ernst Bloch, *Natural Law and Human Dignity*, transl. D. J. Schmidt (Cambridge (Mass.): MIT Press, 1987), pp. 200-202.

50 Ernst Bloch, *Natural Law*, p. 208.

51 Otto Gerhard Oexle, 'Friede durch Verschwörung', in *Träger und Instrumentarien des Friedens im hohen und späten Mittelalter*, ed. by Johannes Fried (Sigmaringen: Thorbecke, 1996), pp. 115-150, pp. 115-117.

52 Wilhelm Ebel, *Die Willkür. Eine Studie zu den Denkformen des älteren deutschen Rechts* (Göttingen: Schwartze, 1953), pp. 62-64; Gerhard Dilcher, *Die Entstehung der lombardischen Stadtkommune* (Aalen: Scientia, 1967), p. 146.

Arbitrariness was a more fundamental form of exclusion than mere injustice. The issue was no longer the unfair repartition of power and goods, but the fact that some people were denied access to them in the first place. The poor were particularly vulnerable to arbitrariness, as citizenship was commonly dependent upon property. The justification for tying ownership to citizenship stated that communal liberty had, if necessary, to be defended by taking up arms since it was the condition of individual liberty.[53] The disenfranchisement of the poor was thus a mere corollary, possibly the most obvious of all, to the limitations inherent in communal peace.

St Francis's understanding of peace was at odds with such limitations. More importantly, however, it provided an inclusive alternative to exclusive citizenship by emphasising renunciation as the prerequisite of true peace. The *Legend of the Three Companions*, whose inspiration goes back to the early days of the Franciscan fraternity,[54] stresses the importance of peace in St Francis's predication, which is seen as resulting from his conversion. Yet, while this text is known to focus on St Francis's individual journey, it also hints at his interaction with the civic context of the age. Chapter eight relates the story of an anonymous figure that 'frequently went through Assisi greeting the people with "Peace and good! Peace and good!"' as a source of inspiration for St Francis's own peace predication.[55] Despite the similarity of this episode to the activities of apostolic life disciples and the greeting pre-dating the Franciscan movement,[56] the formulation *pax et bonum*, as the Italian vernacular *pace e bene* is rendered in Latin, captures the essence of St Francis's predication and of his engagement with the civic world in which he preached.

Modern interpretations of the Franciscan greeting have generally oscillated between an active and a passive understanding of *bonum*. This term has been seen to designate either the 'good things' that could be achieved by the citizens or their well-being.[57] It has hardly been noticed, however, that *pax et bonum* alluded to the fabric of peace in the civic context: while *bonum* must have referred, in the mind of many town-dwellers of the age, to the repartition of goods and power in the communal context and, hence, to an essential prerequisite for sustaining peace within the city walls, *pax* invoked the very peace oath that constituted the communes as well

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53 See, e.g., the justification for the constitution of the Lombard League according to the chronicle of Archbishop Romuald of Salerno *pro honore et libertate Italie et Romane ecclesie dignitate servanda*: *Romualdi II archiepiscopi Salernitani annales*, ed. Wilhelm Arndt, in *Monumenta Germaniae Historica: Scriptores*, vol. 19 (Hanover: Hahn, 1866), 387-461, p. 445. See Knut Schulz, '*Denn sie liebten die Freiheit so sehr…*'. *Kommunale Aufstände und Entstehung des europäischen Bürgertums im Hochmittelalter* (Darmstadt, 2nd ed.: Wissenschaftliche Buchgesellschaft, 1995), pp. 211-214.

54 Rosalind B. Brooke, *The Image of St Francis: Responses to Sainthood in the Thirteenth Century* (Cambridge: Cambridge University Press, 2006), pp. 147-149; *François d'Assise vu par les compagnons: Du commencement de l'Ordre – Légende des trois compagnons*, transl. J. Dalarun (Paris: Payot, 2009), pp. 9-11.

55 Théophile Desbonnets, '*Legenda trium sociorum*: Edition critique', *Archivum Franciscanum Historicum* 67 (1974), 38-144; Francis of Assisi, *Early Documents*, vol. 2*: The Founder*, transl. R. J. Armstrong *et al.* (St. Bonaventure (NY): New City Press, 2000), pp. 61-112, p. 84.

56 Niklaus Kuster, '*Pax et bonum – Pace e bene*. Ein franziskanischer Gruß, der nicht von Franziskus stammt', *Wissenschaft und Weisheit* 71 (2008), pp. 60-80.

57 Francis of Assisi, *Early Documents* 2 (note 55), p. 84.

as citizenship.[58] Yet the processes of creating and maintaining peace were difficult to join both in practice and in theory. If citizens were equal, it proved nonetheless difficult to eschew economic differences when distributing power. If, alternatively, property had to be accounted for, as it undoubtedly did, its significance had to be played down in order to achieve equality. *Pax et bonum* suggested renunciation as a way of attaining both justice and peace. Foolishness was a path to distributive justice, as stated earlier; beyond that, however, the 'idiot' was the perfect citizen.

To many contemporaries of St Francis, the equation of the citizen and the idiot must have sounded like an oxymoron, even though the original Greek meaning of ἰδιώτης/*idiotes* as 'private' had by then long been lost. This meaning was, on the other hand, certainly present to Nicholas of Cusa in the 15th century when he referred to, and identified himself, with the 'idiot' in his three dialogues of the *idiota*.[59] Yet it is striking that, although Cusanus had some notions of Greek and had certainly learnt it by the end of his life,[60] the 'idiot' was primarily and foremost to him the embodiment of the wisdom of the 'man of the street'.[61] Cusanus and, before him, his mentor Jean Gerson, to whom this chapter will later return, lived in a context that was in many respects still heavily influenced by the developments of the 12th and 13th centuries. Accordingly, Cusanus's 'idiot' conveyed connotations that were reminiscent of the Franciscan poor.

I/4

The significance of St Francis's equation of the citizen and the poor for the history of pre-modern cities and poor relief cannot be overestimated, even though it remains to be explored in detail. Before our attention turns to the history of civicness in relation to poverty, some of the consequences that the equation between membership and poverty had on medieval associations will briefly be examined.

It has already been noted that the interaction between the movement of apostolic life and urban society remains largely unexplained, especially in the case of the Mendicants. It is striking, in particular, how little has been said about the role played by associations in that process. Yet there is little doubt that urban confraternities were strongly boosted by the Mendicants. The numerous confraternities of penitents that blossomed in and from Central Italy from the first half of the 13th century around the convents of the Franciscans and the Dominicans embraced all categories of lay

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58 Albert Vermeesch, *Essai sur les origines et la signification de la commune dans le Nord de la France (XI*ᵉ *et XII*ᵉ *siècles)* (Heule : UGA, 1996), pp. 179-180; Gerhard Dilcher, *Entstehung* (note 52), pp. 153-155; Otto Gerhard Oexle, 'Friede' (note 51), pp. 121-123.

59 Nicolaus de Cusa, *Idiota de sapientia; de mente; de staticis experimentis*, ed. Ludovicus Baur, in idem, *Opera omnia*, ed. Academia litterarum Heidelbergensis, vol. 5 (Leipzig: Meiner, 1937).

60 Martin Honecker, *Nikolaus von Cues und die griechische Sprache* (Heidelberg: Winter, 1938), pp. 6-8; John Monfasani, 'Nicholas of Cusa, the Byzantines and the Greek Language', in *Nicolaus Cusanus zwischen Deutschland und Italien*, ed. by Martin Thurner (Berlin: De Gruyter, 2002), pp. 215-252.

61 Arno Borst, 'Laie' (note 43), coll. 8-10; Kurt Flasch, *Nikolaus von Kues. Geschichte einer Entwicklung* (Frankfurt: Klostermann, 1998), pp. 251-253.

people, male and female, married and single, thus re-enforcing the openness and universalism inherent in the Mendicants' approach to communities.[62] Contemporary critics of the Mendicants were well aware of their impact on associational life as the criticism of the 'fluidity' of those associations as late as in the Reformation shows.[63]

The reference to the recurrent anti-Mendicant polemics testifies to the difficulties that the Franciscans and the Dominicans, in particular, faced in promoting open associations. The loss of political significance in a context in which peace was increasingly seen as given by the state rather than agreed upon by mutual renunciation might ultimately, however, have been more harmful to open associations. Having lost their political *raison d'être* while keeping to their universal claim, associations would eventually make an important contribution to uniformising people. Alongside the new technologies of power aimed at both the individual and social bodies described by the late Foucault, associations thus prepared the ground for modern 'governmentality' and the welfare-state.[64]

II

As early as 1899, German sociologist Georg Simmel had outlined the intriguing resemblance between Franciscan attitudes towards poverty and the 'philosophy of money', as he was to famously formulate the impact of monetary economy on culture and social relations.[65] Even though the shortcomings of Simmel's perspective may be obvious at the distance of a century, its influence on our understanding of society, especially, albeit not exclusively, through the work of the urban sociologists of the 'School of Chicago', cannot be overestimated.

Like Simmel, Robert Park and Louis Wirth as well as their colleagues and followers at the University of Chicago saw the city and, more particularly, the life style that the heterogeneity of urban population and the density of relationships promoted as at once a factor of rootlessness and an element of individual freedom.[66] Admittedly, the School of Chicago's town-dweller was much more than Simmel's 'stranger' a

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62 Gilles Gérard Meersseman, Ordo fraternitatis: *Confraternite e pietà dei laici nel medioevo*, 3 vols (Rome: Herder, 1977).

63 Christopher Ocker, 'Rechte Arme und Bettler Orden. Eine neue Sicht der Armut und die Delegitimierung der Bettelmönche', in *Kulturelle Reformation. Sinnformationen im Umbruch, 1400-1600*, ed. by Bernhard Jussen and Craig Koslofsky (Göttingen: Vandenhoeck und Ruprecgt, 1999), pp. 129-158, up. 149; Valentin Groebner, 'Mobile Werte, informelle Ökonomie. Zur Kultur der Armut in der Stadt des späten Mittelalters und der frühen Neuzeit', in *Armut im Mittelalter* (note 5), ed. by Otto Gerhard Oexle, pp. 168-180.

64 The historiography of late medieval and early modern philanthropy has moved 'away from viewing the emergence of the welfare state as the work of some reformers and governments" and turned its attention "to the rather complex role of the community and the poor themselves in the growth and development of the welfare state', as stated by Robert Jütte, *Poverty* (note 3), p. 2.

65 Georg Simmel, 'Über Geiz, Verschwendung und Armut (1899)', in idem, *Gesamtausgabe*, vol. 5, ed. Otthein Rammstedt (Frankfurt: Suhrkamp, 1992), pp. 529-542; idem., *The Philosophy of Money*, transl. T. Bottomore & D. Frisby (London, 3rd ed.: Routledge, 2004), p. 254.

66 Georg Simmel, 'The Metropolis and Mental Life' transl. E. A. Shils, in *Georg Simmel: On Individuality and Social Forms*, ed. Donald N. Levine (Chicago: Springer, 1971), pp. 324-339.

member of a community, which had to be controlled and, above all, cared for if social disintegration was to be prevented.[67] Even so, poverty was deemed an issue of citizenship rather than welfare, as Morris Janowitz's emphasis on the negative effects of welfare spending on political participation, in particular, shows.[68]

Both Simmel and Janowitz were interested in the formal principles according to which groups of people organised their common life. Yet, for Janowitz even more than for Simmel, participation involved self-restraint. 'Social control', as he put it, was to be distinguished from 'social conformity', let alone 'social repression'. While convinced of the capacity of social organisations to regulate themselves and of the importance of set goals in that process, Janowitz insisted on values in the explanation of patterns of influence within society. More specifically, he contended that self-restraint was a pre-condition for working welfare and that it was therefore essential, for the modern welfare state, to build citizen participation into the institutions of welfare. This corresponded exactly to the lesson that Janowitz had drawn from Simmel's sociological observations. 'Simmel', he stressed, 'rejected the assertion that participation engendered only social constraint and conformity or, alternatively, individuality resulted only from withdrawal'. Simmel held, to the contrary, 'that individuality was the result of a pattern of social participation and the outcome of specific types of social control'.[69]

The School of Chicago's emphasis on the importance of self-restraint and, more generally, poverty in the definition and practice of citizenship is but one of the latest occurrences of a tradition that goes back to the high Middle Ages and, more precisely, to the rise of the ideal of apostolic life in the 12th and 13th centuries. This tradition has tended to interpret political participation as a moral response to the formalisation of communal life following, in particular, the rise and development of monetary economy.

III

The importance of linking the social to the political question for the development of modern civicness cannot be overestimated. Yet, however substantial the legacy of the Middle Ages has been for the history of 'social control' and urban sociology, the most important sequel of the medieval definition of civicness around poverty was the development of the notion of rights of the poor in the 14th and 15th centuries.

It was Jean Gerson who was to give the clearest formulation and be the most vocal exponent of the idea that the poor had rights which came from nature. In a sermon that he delivered on Holy Thursday of 1402 to the chapter of the Notre-Dame cathedral in Paris, Gerson summarised his purpose by stating that he aimed to demonstrate

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67 See, most notably, Robert E. Park, 'Human Migration and the Marginal Man', *American Journal of Sociology* 33 (1928), pp. 881-893.

68 Morris Janowitz, *Social Control of the Welfare State* (New York: Eleviier, 1976).

69 Morris Janowitz, 'Sociological Theory and Social Control', *American Journal of Sociology* 81 (1975), pp. 82-108, p. 91.

that the poor had been given "a right to all things which [were] to be possessed and held in dominium, not by civil law but by divine law" ([*pollicitus sum ostensurum*] *ex titulo humilitatis ius tradi humilibus ad omnia quae dominantur possidenda, non quidem civili lege sed divina*).[70]

This statement was as bold as it was unexpected, both given the audience to which it was intended and the trajectory of the cleric who delivered it. Gerson's attitude towards the Franciscans had been ambivalent at best, and it would eventually deteriorate rather than improve.[71] More significantly, however, Gerson's sermon on Holy Thursday 1402 marked a noticeable shift from his formative years at the University of Paris, which ended so abruptly in 1399 when he momentarily abandoned his position as chancellor and sought refuge at St Donatian in Bruges.[72] Upon his return to Paris in 1400, the Lord's Supper had, it seems, become the catalyst of his own experience as a cleric who had been anxious to reconcile the requirements of being a good administrator, teacher, pastor and Christian, yet had eventually found comfort in the Father's commitment to the Son that He had 'put all things into His hands' (O*mnia dedit ei Pater in manus*; John 13, 3). It was precisely this message that Gerson would repeatedly and tirelessly convey to the many audiences that he addressed in the years following his return to Paris.[73] While giving absolute dominion to Christ, God had made every just man a proprietor of all things, Gerson argued; more importantly, however, He had infused in every man the ability to participate in His will.[74] If renunciation was a logical consequence of the universal dominion promised by God to humankind, it was, above all, a way of acknowledging the Creator's unequalled generosity[75] and, hence, the prerequisite for the mystical union with the divine will, the *unio mystica*, which was to become the core of Gerson's theology.[76]

Gerson's instrumental understanding of poverty was undeniably reminiscent of the ideal of apostolic life; and it was as political as St Francis's equation of the 'idiot' and the citizen, albeit in a different way. Poverty was still, in Gerson's days, the central ecclesiological issue that it had been from the beginning of the 14th century,

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70 Jean Gerson, '*A Deo exivit*', in idem., *Œuvres complètes*, ed. Palémon Glorieux, vol. 5: *L'œuvre oratoire* (Paris: Desclée, 1963), p. 17. On this sermon and the controversy about the date of its delivery: Steven E. Ozment, *Homo Spiritualis: A Comparative Study of the Anthropology of Johannes Tauler, Jean Gerson and Martin Luther (1509-1516) in the Context of Their Theological Thought* (Leiden: Brill, 1997), pp. 55-57.

71 Guillaume H. M. Posthumus Meyjes, *Jean Gerson – Apostle of Unity: His Church Politics and Ecclesiology*, transl. J. C. Grayson (Leiden; Brill, 1999), pp. 293-295.

72 Brian Patrick McGuire, *Jean Gerson and the Last Medieval Reformation* (Philadelphia; Pennsylvania State University Press, 2005), pp. 92-94.

73 See, in particular, Jean Gerson, O*mnia dedit ei Pater*, in idem, *Œuvres*, ed. Palémon Glorieux, vol. 5 (note 70), pp. 405-419. On the context of *Omnia dedit ei Pater* and *A Deo exivit* (part of the Holy Thursday 'trilogy') and their influence on Gerson's *De mystica theologia speculativa*, see Steven E. Ozment, *Homo Spiritualis* (note 70), pp. 55-57. On the continuity in Gerson's work post-1400, see Brian Patrick McGuire, *Gerson* (note 72), pp. 125-127.

74 Jean Gerson, *De vita spirituali animae*, in idem, *Œuvres*, ed. Palémon Glorieux, vol. 3: *L'œuvre magistrale* (Paris: Desclée, 1962), pp. 141-142; see Brian Tierney, *Idea of Natural Rights*, p. 226.

75 Brian Tierney, *Idea of Natural Rights. Studies on Natural Rights, Natural Law and Church Law 1150-1625* (Cambridge (U.K): Eerdmann, 1997), p. 2 17, against Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge: University of Cambridge Press, 1979), p. 30.

76 On Gerson's interpretation of the *Unio mystica*, see Steve E. Ozment, *Homo* Spiritualis (note 70), pp. 72-74.

when the papacy clashed with leading Franciscans over the justification of ownership. Between Ockham and Gerson, the main concern had, however, shifted from the limits of property to the Church's entitlement to it. John Wyclif had contested the rights of the Church to possession while radicalising the arguments of the pope's supporters and directing them against papal claims. If divine grace was the foundation of licit dominion, as stated by both Giles of Rome and Richard FitzRalph, Wyclif insisted that the prelates had forfeited their right to it because of the corruption of the visible Church.[77] Gerson gave the debate about grace and dominium yet another twist, which enabled him to dismiss Wyclif's criticism.

As Gerson argued, dominium was ultimately based on the acceptance of the divine grace, and rights on renunciation. Renunciation guaranteed rights because everybody had been given divine grace, regardless of their sinful status.[78] Every community, therefore, consisted first and foremost of people who had to acknowledge that they had been given much more than they could give. This was particularly, although not exclusively, the case of the University of Paris. In the letter that he sent to his colleagues at the Collège de Navarre only weeks before he returned to Paris, in 1400, Gerson drew a reform programme for the institution of which he was still the chancellor.[79] He emphasised, in particular, the need to address the corporation in sermons and pleaded in favour of the re-integration of the Dominican masters into university, although he had, as he acknowledged, been instrumental in having them excluded only a few years earlier.[80] The Dominicans' exclusion had, he felt, had a negative impact on preaching in the university. Both regular sermons and the end of the rivalry between the secular clergy and the Dominicans were, as he now insisted, vital for the success of the reform of the University of Paris. For, while nobody contested that rivalry was detrimental to peace by consensus, for Gerson it detracted from politics altogether, as it prevented people recognising that they were all at the receiving end of God's grace.[81] Unlike St Francis's, Gerson's citizen did not have to become poor-like in order to be ideal. In Gerson's political thought, citizens did not have to occupy the moral high ground; they were citizens because they were poor and, as poor, they had rights.

While Gerson's influence on modern political theory has generally been acknowledged since J. N. Figgis's seminal *Studies of Political Thought from Gerson to Grotius, 1414-1625*,[82] scholars have only more recently focused their attention on the afterlife and implications of his rights theory. If the question as to whether late medieval

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77 Richard Tuck, *Natural Rights Theories* (note 75), pp. 25-27; James Doyne Dawson, 'Richard FitzRalph and the Fourteenth-Century Poverty Controversies', *Journal of Ecclesiastical History* 34 (1983), pp. 315-344; Tierney, *Idea of Natural Rights* (note 75), p. 229.

78 Jean Gerson, *De vita spirituali animae*, in idem., *Œuvres*, ed. Palémon Glorieux, vol. 3 (note 74), pp. 141-143.

79 Jean Gerson, *Œuvres*, ed. Palémon Glorieux, vol. 2: *L'œuvre épistolaire* (Paris : Desclée, 1960), pp. 36-42; Brian Patrick McGuire, *Gerson* (note 72), pp. 122-123.

80 On the background and circumstances of their expulsion from University, see Brian Patrick McGuire, *Gerson*, pp. 41-43.

81 Jean Gerson, *De vita spirituali animae*, in idem, *Œuvres*, ed. Palémon Glorieux, vol. 3 (note 74) p. 147.

82 John Neville Figgis, *Studies of Political Thought from Gerson to Grotius, 1414-1625* (Cambridge: Cambridge University Press, 1907).

rights theory, in general, and Gerson's, in particular, were forerunners of modern constitutionalism has become the subject of much dispute, the debate has more recently concentrated on conciliarism.[83] Yet, although Gerson's thought would be closely associated with conciliarism by early modern authors,[84] its origin seems to have lain in his understanding of citizenship as deriving from poverty. This set of ideas was developed before Gerson emphasised from about 1408 the authority of the general council on the Church and urged its summoning in the face of the triple challenge of the Western Schism, the need to reform the Church and the heresy.[85] While Gerson's influential definition of a right as "an immediate faculty or power pertaining to anyone according to the dictate of primal justice" (*ius est facultas seu potestas propinqua conveniens alicui secundum dictamen primae iustitiae*) in *consideratio 13ᵃ* of his *De potestate ecclesiastica* was famously formulated in 1416 at the Council of Constance, a similar version can be found as early as 1402 in his *De vita spirituali animae*.[86] It would, however, appear that the conciliar connotations, which would later be attached to Gerson's thought, have concealed the implications of his civic theory. For it is particularly intriguing that the notion of rights of the poor was lost from the very moment at which, in the late 16th and 17th centuries, political theorists would develop a new understanding of natural rights, while discussing the merits and limits of late medieval conciliar thought.[87]

IV

If the question of the origins of modern rights theory in the late 16th and 17th centuries remains outside the scope of this study, it is nonetheless striking that some of the most intricate *aporiae* in contemporary reflexion on the rights of the poor disappear when they are examined against the background of Gersonian political thought and its civic context. This chapter, therefore, ends with a plea for a reassessment of the civic dimension of rights theory, in general, and the rights of the poor, in particular.

Poverty has become a central issue of international law through the discussion of so-called 'second-generation' social rights, and it is nowadays generally considered to be a violation of human rights to the same extent that any infringement of

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83 Cary J. Nederman, 'Conciliarism and Constitutionalism: Jean Gerson and Medieval Political Thought', *History of European Ideas* 12 (1990), pp. 189-209; Francis Oakley, 'Nederman, Gerson, Conciliar Theory and Constitutionalism: *Sed contra*', *History of Political Thought* 16 (1995), pp. 1-19; Cary J. Nederman, 'Constitutionalism – Medieval and Modern: Against Neo-Figgisite Orthodoxy (Again)', *History of Political Thought* 17 (1996), pp. 179-194.

84 On re-edition and reception of Gerson's conciliarist tracts from around 1600, see Francis Oakley, "'Anxieties of Influence': Skinner, Figgis, Conciliarism and Early Modern Constitutionalism", *Past and Present* 151 (1996), pp. 60-110, pp. 82-84.

85 Brian Tierney, *Idea of Natural* Rights (note 75), pp. 223-225.

86 Jean Gerson, *Œuvres*, ed. Glorieux, vol. 6: *L'œuvre ecclésiologique* (Paris: Desclée, 1965), p. 242, and vol. 3 (note 74), p. 141.

87 Brian Tierney, *Idea of Natural Rights* (note 75), pp. 233-235.

civil and political, 'first-generation' rights is.[88] The question of the foundations of 'second-generation' rights remains open, however, and part of the difficulty encountered in implementing them is a direct consequence of the interrogation about the basis of their validity.

At a theoretical level, the rights-based approach to poverty starts from people's needs. The legal response to those needs depends to a large extent on whether they are rights or claims or, put differently, on who the subject of rights is (those who receive, those who help, both?).[89] Martha Nussbaum has recently drawn attention to the 'problematic legacy' of Cicero's influential distinction between justice (*iustitia*) and beneficence (*beneficentia*) in this context.[90] Justice and beneficence are closely linked, as stated in book I, chapter 20 of *De officiis*.[91] Yet, while justice forbids the use of violence against any other person for one's advantage, in the case of beneficence human fellowship is best served by benefiting one's neighbour. Despite working out the fundamental asymmetry thus introduced by Cicero between the two notions and emphasising its negative effect on the discussion about duties of justice, as opposed to duties of material aid, Nussbaum does not go so far as to question the usefulness of a need-orientated approach to 'second-generation' rights.

The number of extent manuscript copies of Cicero's *De officiis* is testimony to the popularity of the text in the Middle Ages.[92] While being a common school reading even beyond that period, *De officiis* was also used at university, and it is often quoted by St Thomas. It has already been mentioned, however, that St Thomas's theory of justice owed most of its inspiration to Aristotle and Roman law and that the ideal of justice of the Middle Ages cannot be deducted from justice theory, however influential it turned out to be in the long term. Although neither St Francis nor Gerson would have denied that poverty was characterised by the lack of the means of providing essential needs, they both placed gratitude for the gift of life at the centre of their approach to the problem. Yet, whereas, for St Francis, deprivation offered the opportunity to embrace Christ's example and concentrate on what was essential, for Gerson it meant the acknowledgement of man's deficient nature. From the radical equality of that awareness, Gerson was able to develop a theory of universal rights based on poverty and a legal reflexion centred on the notion and the experience of civicness.

Gerson's emphasis on gratitude had an undeniable missionary dimension, as it implied conversion. Yet, while St Francis associated gratitude with life conversion, as shown, Gerson rather insisted on the conversion of the soul.[93] The acknowledgement by man of the sinfulness of his nature might have been a giant leap from a theological

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88 See, e.g., the statement on "Poverty and the International Covenant on Economic, Social and Cultural Rights" adopted by the Committee on Economic, Social and Cultural Rights on 10 May 2001 (E/C.12/2001/10).

89 Garrett Cullity, 'Beneficence, Rights and Citizenship', *Australian Journal of Human Rights* 18 (2003), pp. 85-105.

90 Martha C. Nussbaum, 'Duties of Justice, Duties of Material Aid: Cicero's Problematic Legacy', *Journal of Political Philosophy* 8 (2000), pp. 176-206.

91 Marcus Tullius Cicero, *De officiis* 1, 20, ed. Michael Winterbottom (Oxford: Clarendon, 1994).

92 See Michael Winterbottom, 'The Transmission of Cicero's *De officiis*', *Classical Quarterly* 43 (1993), pp. 215-242.

93 Brian Tierney, *Idea of Natural Rights* (note 75), pp. 225-227.

point of view;[94] it only represented a small step politically, especially as it empowered man to claim natural rights. Gerson would eventually base his entire conciliar theory on that step,[95] and from there Cusanus would develop a model of universal peace.[96] From Gerson's viewpoint, the contemporary opposition between cosmopolitan and nationalist versions of rights, which has been at the core of modern theory,[97] was not decisive. Whereas it has, in particular, become customary in the context of rights debates to discuss how demanding the requirements of beneficence may or ought to be,[98] such a debate would not have made much sense to Gerson. The canonists had, it is true, reflected since the 12th century, not least following on Gratian's reception of Cicero's *De officiis*, on gratitude and its requirements, and the dominant position among them was that there were limits to what benefactors could be asked to do for the poor and that it was right to establish priorities among those who needed help, despite the evangelical tradition of universal poor relief.[99] Contrary to modern authors, however, Gerson remained unaffected by this discussion while thinking of rights and their impact.

If the impact of late medieval rights theory on the institutional ideas and arrangements of the age was real, as has been demonstrated, it is nonetheless the case that, where the political reflexion of modern authors revolves around society, Gerson and his contemporaries had the city in mind. In other words, they took civicness quite literally.

Recent debates over corporatist and individualist influences in Gerson's thought have demonstrated the complex nature of his brand of civicness. As far as Gerson's individualism is concerned, it is no less evident than this is the case in modern rights theory. Yet, while modern individualism conceives of the individual as detached from any political body in the first place, such perspective would have seemed strange to Gerson.[100] The influence of the Classics is evident in this context, as Gerson and his contemporaries were taught that the City was the prerequisite of any civilisation. For Gerson, the importance of the City was ultimately, however, a consequence of responsibility, or what he understood as such. Responsibility has been seen by modern authors as the correlate of the social contract, on which society is based, and, as such, it has a transpersonal dimension. Not so for Gerson, for whom it was something genuinely personal that infused human relations. God's generosity is, once again, the

94 Henri Rondet, *Original Sin: Patristic and Theological Background*, transl. C. Finnegan (Shannon: Ecclesiastical Press, 1972).

95 Jean Gerson, *De vita spirituali animae*, in idem, *Œuvres*, ed. Palémon Glorieux, vol. 3 (note 74), p. 152; Brian Tierney, *Idea of Natural Rights* (note 75), pp. 232-233.

96 Nicolaus de Cusa, *De concordia catholica*, ed. Gerhard Kallen, in idem, *Opera omnia*, ed. Academia litterarum Heidelbergensis, vol. 14 (Hamburg: Meiner, 1964-1968), p. 348; Brian Tierney, *Idea of Natural Rights* (note 75), p. 234.

97 Martha C. Nussbaum, 'Duties of Justice' (note 90).

98 Alan Gewirth, 'Private Philanthropy and Positive Rights', *Social Philosophy and Policy* 4 (1987), pp. 55-78; Garrett Cullity, *The Moral Demands of Affluence* (Oxford: Clarendon, 2004).

99 Suzanne Roberts, 'Context of Charity in the Middle Ages: Religious, Social, and Civic', in *Giving: Western Ideas of Philanthropy*, ed. by Jerome B. Schneewind (Bloomington (Ind.): Indiana University Press, 1996), pp. 24-53 and pp. 30-32.

100 Brian Tierney, *Idea of Natural Rights* (note 75), pp. 224-225 and pp. 234-235.

key to Gerson's rights theory,[101] as responsibility was ultimately man's response to the gaze of Him Who fixed him while, at the same time, remaining beyond the reach of his gaze, as the Czech philosopher Jan Patočka has famously expressed the specifics of Christian politics, as opposed to Ancient and modern politics.[102]

For Patočka, irresponsibility was one of the roots of totalitarianism, to which he tragically fell victim.[103] His thought and his example are, thus, a strong reminder of the importance of civism in rights theory. Yet, while inscribing citizenship into poverty, Patočka stood in a long tradition at the heart of which we find forgetting and renouncing, as this chapter has sought to demonstrate.

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101 Jean Gerson, *A Deo exivit*, in idem, *Œuvres*, ed. Palémon Glorieux, vol. 5 (note 70), p. 17. On Gerson's key distinction between *esse realis* and *esse idealis* in this context, its theological implications and the difference between Gerson, on the one hand, and Tauler and the German mystics, on the other, see Steven E. Ozment, *Homo Spiritualis* (note 70), pp. 55-57.

102 Jan Patočka, *Heretical Essays in the Philosophy of History*, transl. E. Kohák (Chicago: Open Court Publishing, 1996), pp. 106-107; Jacques Derrida, *The Gift of Death*, transl. D. Wills (Chicago: Chicago University Press, 1995), p. 25.

103 Aviezer Tucker, *The Philosophy and Politics of Czech Dissidence from Patočka to Havel* (Pittsburgh: University of Pittsburgh Press, 2000), p. 60.