(where the rule is present and the subsumption of particular cases is already automatically determined), while the latter are peculiar to aesthetic (or teleological) judgements (where there is no given rule and it has to be discovered by an extra effort of reflexive thinking). Maybe Kant's belief that reflexivity is needed (especially) where judgements are more difficult would have provided a useful frame of reference for Kronman, had he considered it more carefully.

References


Democratic Distributive Justice


THOMAS CASADEI

Zucker's book is of particular interest for its methodological structure, which allows the author to deal with issues now at the very centre of the debate and—through a redefinition of the paradigm of justice—to suggest original solutions concerning income distribution, aspects of democracy, and economic rights. This mainly economic approach is connected to political theory, and refers on the one hand to a definite moral philosophy linked to complex anthropology, and, on the other hand, to normative ethics, leading to practical solutions of considerable politico-legal significance. Zucker's argument takes as its starting point the concept of property—more precisely, the connection between unequal property and individualism in liberal theory. The implicit and fundamental logic of the liberal theory of property predominant today consists—as Hegel, Macpherson and Unger, among others, have noted—of an anthropological concept described by the author as a "subjective person" or "subjective personality" (Zucker 2001, 28). The individual "is highly independent in the midst of social relations, because his or her nature is ultimately formed autonomously rather than by social conditioning. A subjective person is one whose physical and intellectual nature is distinct from other persons rather than connected with them". The relation between the premise of subjective personality and the right to highly unequal amounts of value (income and/or wealth) may constitute the fundamental logical structure of liberal theory. On the basis of this logic, Zucker works out a typology (ibid., 31–2), including natural law theories (Hobbes, Locke, Rousseau), metaphysical theories (Kant, Hegel), twentieth-century sociological jurisprudence theories (Pound), natural need theories (Hobbes, Locke), Utilitarian theories (Bentham, Austin), social contract theories (Locke, Kant), twentieth-century jurisprudence (Pound), Keynesian economic ethics, new economic analysis of law (Demsetz, Coase, Posner), modern theory of justice (Rawls), and contemporary "egalitarian liberalism" (Dworkin).
Taking part in the debate on the notion of property, to which many others have contributed (lately, Jeremy Waldron), Zucker first provides a wide-ranging analysis of Locke's theory. Here, he finds new grounds to support the old idea that individualism is the core of Locke's theory of property, and in particular the assumption of its distributive implications (ibid., 33–51, 61). Next, he examines all the theories in the typology, from Kant to Rawls, and concludes that "the underlying assumption of subjective personality profoundly affects all of the four major elements of a property theory: 1) the nature of the subject entitled to property, 2) the objects to which the subjects are entitled, 3) the scope or latitude of the subject's control over the disposition of property-objects, and 4) the entitlement to equal or unequal value and control accumulated through the use of property" (ibid., 79).

But the liberal principle of property distribution—"individuals are ethically worthy of entitlement to property, including highly unequal accumulations, because they are self-determined beings pursuing self-goals"—may be questioned if one moves from an "intersubjective inner structure of personality, formed by and within the socioeconomic system," to an alternative anthropological and philosophico-moral concept, centered on relatedness and solidarity. Opposed to the main contemporary economic schools of thought, which do not fully take into account "the social formation of consumer attributes and acts," Zucker outlines his "theory of dueness," taking the unfamiliar concept of dueness as an element of economic justice, which can provide an ethical foundation for a right to property. From the description of its main features (ibid., 86–7), it is clear that the dueness theory can be distinguished from the other theories in that it "develops reasons for redistributing income for certain intersubjective aspects of the person, that is, for particular aspects of personality that develop through formative relations to other persons" (ibid., 88), based on the fact that "individuals are formed through constitutive interaction with the other members of the system of commodity owners and exchangers" (ibid., 90).

The idea of justice as dueness allows Zucker to take sides in the debate on equality, discussing Amartya Sen's theory of equality of capabilities (ibid., 134–7) and the need-based theories of justice (ibid., 137–9). The author works out a theory of egalitarian property based on "an ethic of dueness for economic contributions": "[P]roperty should go to individuals in proportion to their economic contributions. Economic contributions are those activities that contribute to the value of commodities, not just those activities that produce a product. Consumers, and not just producers, contribute to the creation of value, and these consumers can be due a benefit for these economic contributions." The dispersion and equalization of responsibility for the creation of economic contributions entails a correlative equalization of some claims to value, on the basis of a principle of dueness for economic contributions, thus implying "a property right to egalitarian distribution of part of national income" (ibid., 140).

At this stage of his argument, Zucker introduces his key concept: the idea of economic community. The demonstration of the existence of such a community becomes a priority from the logical point of view, to support a normative argument proposing equal property. This is the basis on which principles and practices of equality can be formulated (ibid., 168). The ethics of economic community "entitle members to equal portions of a part of national income." Moreover, it demonstrates that "membership in an economic community entitles individuals to a right to equal portions of a part of national income because they are members of a community, whereas the ethics of dueness derive this right from a class of equal economic contributions." Hence, the ethics of economic community provide additional ethical validation for the redistributory right (ibid., 153).

This reasoning takes place within the debate between liberals and communitarians, in which Zucker takes an equidistant position, recalling the ideas of Michael Walzer, but more generally those of his masters: Charles E. Lindblom, Robert Dahl, and David P. Levine. These authors can be placed in the perspective of social democracy, dealing with both liberal and solidarity issues. It is significant, therefore, that Zucker utilizes the concept of "ethics of community." An ethics of community is fundamental in that it supposes that relatedness and community are constitutive conditions of the person, whose primary characteristics—including needs, will, and capacity for self determination—are socially constituted within a community. "Commonalities between individuals can be the ethical basis for a principle of the just distribution of property, though, as Zucker makes clear, community cannot be the subject of rights: "Individuals are the subject of rights, because people remain individually willed despite being socially influenced" (ibid., 154).

To support his position, the author resorts to the expression "social theory," to an ideological alternative to liberalism and communitarianism, which brings together these two competing positions to derive a "principle of equality from community" (ibid., 159–60). The pivot of this connection can be found in the concept of cooperation, another cardinal principle of Zucker's theoretical construction. In contrast with the dominant trends in the debate, he considers cooperation as a part of the economic process. In this way, the moral basis can be found for "equal shares of part of total social income." Cooperation is a significant aspect of economic activity and wealth production, "because the unity of parts, not the parts taken separately, produces wealth" (ibid., 163).

The idea of reducible cooperation is connected with the idea that the economy has primarily a communitarian element, making it possible to state the "essential argument for equal shares from community membership [...]. Corresponding to the dimension of common action in production, the cooperative surplus should be divided equally among individual productive agents. Equalization of total income is not, however, required, because
productive activity is not entirely cooperative." In order to support such philosophico-political reflections (ibid., 153-68), to which a logical demonstration of the derivation of equality from community is linked (ibid., 167), Zucker advances three more elements showing the communitarian dimension of capital-based market systems. These elements are taken from an eminently economic approach providing a link between Marx, neo-classical theory and Keynes: 1) the close connection "between productive activity, consumer satisfaction" (ibid., 169-87); 2) the link between economic community and the formation of "endogenous preferences" (ibid., 188-219); 3) the connection between capital and labour, which have an identical aim, the expansion of capital itself (ibid., 220-45).

The demonstration that community exists in capitalist economies could invoke an egalitarian ethics of community that revives the moral criticism of capitalist injustice. Community can provide a moral foundation for a principle of equal distribution of some income, because membership in a community intuitively warrants sharing (ibid., 243-4). At this stage the idea of community suggested by Zucker becomes clearer. Economic society has a communal composition that morally warrants the equalization of income because "1) wealth is a common end, 2) different ends of happiness are submerged under this end (as an overarching common end), and 3) different pursuits are variations on a theme of happiness as involving wealth. Economic union must entitle members to some income equalization, if the union to protect conditions of choice equally entitles them to conditions of free will." The system of wealth is overarching community, not a holistic community, and this implies a limit on the extent of community within it, in turn limiting the legitimate degree of income equalization (ibid., 252). The overarching community shows quite a definite idea of civil society, too: this is 1) union with regard to the condition of freedom of choice, 2) an overarching union for the pursuit of wealth, and 3) a concrete multitude seeking different particular aims and ends. Such a threefold structure implies that property "is an equal right to an equal portion of one part of total social income and a right to an equal portion of another part of this income." Hence "membership does not justify a strict equalization of income, because the overarching unity of economic actors includes a lot of relatively independent action for somewhat separate ends" (ibid., 259).

Justice as dureness, social theory, and the idea of overarching community lead, finally, to a complete reformulation of democracy. Here Zucker contributes to the most recent theoretico-political debate about the features of democracy, and the central distinction between substantive and procedural democracy, clearly preferring the former: His opinion is that "the essential characteristics of democracy include the conditions necessary for attaining not merely political equality and popular consent, but also the primary economic rights of citizens" (ibid., 269). This proposal is therefore equal to "a 'social theory' of substantive democracy, because the 'concrete equalities' underlying egalitarian democratic distributive justice have a social origin." Here, "concrete equalities" means "equalities in the content of persons' capacities, faculties, and ends, as distinct from the merely abstract equality of persons in having such attributes" (ibid., 270, 281-5). The social theory of substantive democracy is characterized by the "internal relationship between democracy and justice" based on rights that have "supreme ethical worth, so that their preservation becomes a quintessential element of rule for the people" (ibid., 273).

As democracy internalizes justice, and becomes obliged to maintain it, it acquires many fundamental moral commitments from the breadth and depth of justice itself: Democracy's basic moral commitments, which define its ruling tasks, extend to the many basic freedoms inherent in substantive rights—property rights, which are necessary conditions for the freedom of will in relation to things. It has a further obligation to equalize a portion of individual income and personal wealth—an obligation enjoined by two branches of justice, the ethics of dureness for economic contributions and the ethics of economic community (ibid., 274). Substantive social democracy provides for a degree of redistribution that goes beyond "the welfare state's commitment to meeting basic needs" presupposing a "redistributive property right," that is, each citizen's right to an equal portion of income and personal wealth" (ibid., 274, 278-81). As a result, the defining characteristics of democracy—in contrast with the usual formulation, according to Zucker (but his frame is solely the US)—must include economic rights along with primary political rights. However, since "property rights are a large part of economic justice, and therefore also of rule for the people, democracy must preserve them." Zucker's argument clearly appears here as a normative one, because it goes back to "ethically valid forms of property" (as treated in parts I and II of the book) and he comes to the practical conclusion that "substantive economic rights—controversial as they are—are constitutive of democracy, not merely conducive to it" (as in Dahl's polyarchic theory, for example: ibid., 278, 287). Therefore, seeing distributive property as a fundamental feature of democracy, the social theory of substantive democracy acquires an operational meaning—theoretically valid and potentially universal (ibid., 285-6)—which can be contested only by disputing the underlying reasoning and premises.

Taking the right to property seriously ("property is a right of basic freedom"), and incorporating it into the list of fundamental rights, Zucker elaborates the connection between democracy and distributive justice in an original way: "As a condition of basic freedom, the redistributive property right accues the supreme ethical worth possessed by other rights of basic freedom. Having supreme ethical worth, the redistributive property right is indispensable to the core of a democracy that internalises justice" (ibid., 292).

Zucker's strategy therefore points to an inner criticism of the capital-based market system, putting the concepts of relatedness and sociality (commonality)
at the centre of the analysis, and follows a logically coherent and well-argued format. In ethical terms, the book specifies a redistributive property right as crucial to the definition of democracy [...] through a theoretical analysis of the ethics of community and the ethics of economic community (ibid., 301).

The wide scope of the analysis provided by the method adopted allows the author to deal with many significant perspectives: from Locke to Marx, from Keynes toRawls and Dworkin, from the communitarians to Deleuze. However, three highly problematic themes probably deserved more extensive treatment: the question of membership and the relation between democracy and the politics of difference (mentioned in passing, ibid., 271), the global context of economic processes, also affecting national ones, and finally, the "status" of those individuals who for various reasons are excluded from the economic and productive process, though needing access to resources. But beyond these omissions, the book has the merit of demonstrating, by contrast to the view of modern economic theory, that capital-based systems are characterized by a dimension of community on a systemwide scale and that democracy "necessarily involves rule in accord with redistributive property rights." Distributive justice is a crucial problem—both from a theoretical and a practical point of view—in a renewed democracy willing to go beyond the persistent liberal model derived from Locke.

References