Communalism as a Concept

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Why do the humanities and social sciences use terms like 'feudalism', 'absolutism', and 'capitalism'? It is because they intend to bring out the significant aspects of an epoch. Such epochs are defined by their institutions, by their social basis, by a system of accepted norms and values, and finally by reflections on those institutional, social, and normative premises in the form of a 'theory'.

The term 'communalism' assumes – let me anticipate this – that common institutional, social, and normative structures existed in villages and valleys, towns and markets of late medieval and early modern Europe. Communalism is a 'concept', a 'model', a 'type'.[1] It is drawn from a region encompassing the southern part of Germany, the western part of Austria, and the eastern part of Switzerland, and, thus, from a highly differentiated region in respect of its political structure. By contemporaries it is named 'Upper Germany' (*Oberdeutschland*).

I shall firstly present this concept, secondly ask how far it fits for Europe, and thirdly examine whether or not we can find any traces of it in European political theories.

The concept

The concept is best introduced in three steps, beginning with a description of the institutional forms of communal order, followed by a shorter paragraph dealing with the social basis of communes in the form of the 'common man' (*Gemeiner Mann*), and ending with the question what sort of norms and values this system was able to develop.

The institutions in villages, valleys, markets, and towns are the communal assembly, an administrative body organized on a collegial basis, and the court (cf. Figure 1).

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1. The concept of communalism was developed in 1981, see P. Blickle 2000. For a short introduction in English, see P. Blickle 1998.

Figure 1. System of communal institutions
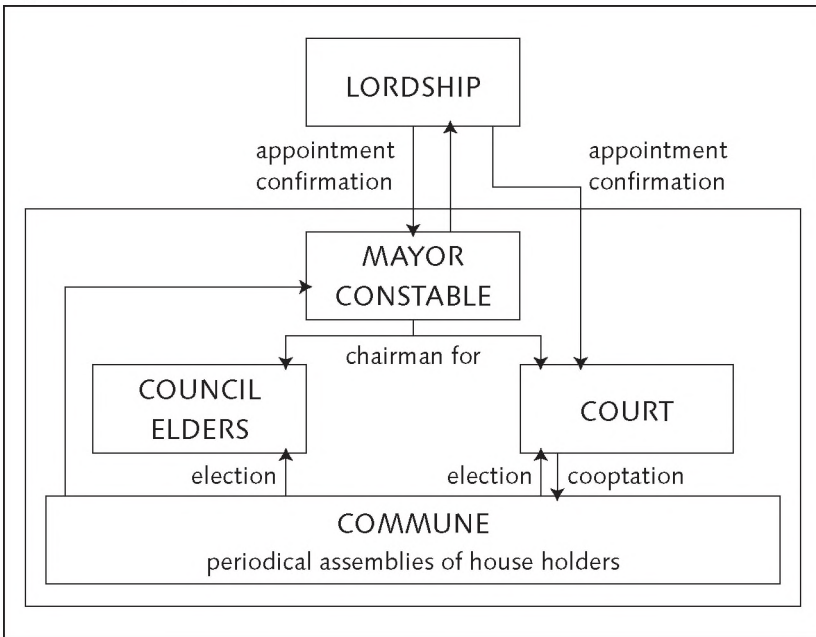
Communal assemblies usually take place periodically, mostly once a year. At communal assemblies in the countryside elections are held to those offices that can be appointed by the community itself. The communal budget is dealt with, commands and bans are issued, and sometimes court sessions take place at the same time. There is a greater regional difference in the nature of communal authority in the cities. Usually it is also more complicated. This is particularly so because the guilds were organised as an electoral body. But the 'burgher assembly quite often elects a council that changes every year.'[2] In addition to that, the commune meets when the need arises, especially when far-reaching decisions have to be made. A village does not write a grievance list to its lord before the communal assembly has passed the resolution. Normally the alliance of two cities has to be confirmed by the communal assembly. The same is true with new statutory laws, both in the countryside and in the cities. Naturally, in villages legal matters are closely

2. Isenmann 1988, p. 134.

linked with questions of agriculture and in cities with questions of the market. In summary we can say that 'more fundamental matters': appointments to offices on the one hand, and far-reaching commitments with serious consequences like alliances on the other, are decided upon by the communal assembly.

Administrative bodies are set up by both rural and urban communes. The number of the elders (*Vierer, Sechser, Zwölfer*) in a village depends on the size of the commune. Sometimes this communal organ is called a 'council' (*Rat*). They have their equivalents in the city council (*Rat*). Decisions are taken co-operatively and issued as commands and bans or by-laws.

To enforce these ordinances, new offices have to be introduced, offices like the pasture- and forest warden (*Flurschütz und Forstwart*) in the villages and the tax-collector in the cities. They are meant to regulate everyday business, to apportion wood, to draw out the commons, to watch the weekly market, to control the baths, and to prevent fires and fights. To use a contemporary term, they support the 'good police' (*Gute Polizei*).

A village, a valley, a market, and a city have a *court*. Administration and jurisdiction were not strictly separated in former times. This is most evident in the cities where the councillors totally control the court. The commune is represented by the council and therefore linked to the court. These bonds are reflected in the court's chairman, the *Schultheiss*, who was initially an agent of the city lord, and later became an organ of the urban commune.

Once more, conditions are simpler in the countryside. The office of an elder (*Vierer, Sechser*) is more distinct and communal connections are closer, because the members of the court are either elected by the commune itself, proposed by it, or co-opted onto the court by its judges. Occasionally they might also be designated by the lords. There is no doubt that of all the communal institutions the court is the one that shows the most traits of lordship. This is understandable, since to guarantee rights is one of the noblest duties of a lord, but at the same time the legal matters it deals with make the court a communal institution. It negotiates the violations of the norms that have been introduced by the statutes of the communal assemblies.

It may well be that there is more to the following sixteenth century proverb than scientific attempts at reconstruction have

yet discovered: 'Nothing but the city wall separates burghers and peasants' (*Bürger und Bauer scheidet nichts als die Mauer*). The division of the occidental world into one of 'oikonomia' and one of 'chrematistic',[3] a world of peasants and nobles and one of burghers, loses a lot of its persuasive power when one looks inside a village or a city.

Let me formulate a first result concerning the theme's aspect of the history of institutions. Communalism is not an abstract term for just any form of commune, but rather for politically constituted communes equipped with such basics as legislative, jurisdictional, and penal authority. In this sense not only cities but also villages are an expression of the *societas civilis cum imperio,* to use the terminology of Old Europe.

Legislative, jurisdictional, and penal authority must have their proper institutional counterparts: from the communal assembly via the council and the court to the town mayor and the village constable. Communalism as a term requires the guaranteed relation of those institutions to the commune. This does not necessarily mean that urban and rural officials are elected by the commune. But urban and rural officials have to see themselves, and must be seen, as representatives of their communes.

One of the distinctive features of communalism is the fact that political rights used in the communes themselves and in their name cannot be seen as rights purely delegated by the lords. The commune's legislative, jurisdictional and penal competence have their origin in the altered organisation of work and the new forms of social coexistence which crystallised when villages and cities developed. A need for regulations, which did not exist before, helps to develop and to promote communal autonomy.

Nowadays – to turn to the basic social features of communal order – historians take the dichotomous separation of rural and urban people, peasants and burghers, for granted. The supposed evidence relates to various observations. Year after year the peasants sow and harvest, drive their cattle up to the pastures and down to the valleys, but they do this work according to the seasons, without conscious reflection, illiterate as they are. Not so the burghers. Their point of orientation is the market, they know how to read

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3. Brunner 1968.

and write and are therefore predisposed to a more intellectual mode of Christianity, namely Protestantism, and so they are able to escape the circle of eternal sameness.

In the view of contemporaries in the Late Middle Ages, both burghers and peasants primarily have in common, that they do not belong to the lords. This social group, situated below nobility and clergy, bears the name of the 'common man' – *Gemeiner Mann.* Not only do the lords make use of this word in a tactical way as an expression of their pejorative intentions, it is also used by the burghers and peasants to locate themselves within society.

Under the assumption that this derivation is correct, it defines the common man with his own deficiencies – he is excluded from *potestas*, from political power. It may also be assumed that the term *Gemeiner Mann* is replacing the *laboratores* in the theory of estates. *Laboratores* work with their own hands, but the term does not distinguish between peasants and craftsmen.

If common man is a translation of *laboratores*, then the term describes an 'estate' (*Stand*), too. But this estate does not include everyone: mercenaries and professional soldiers, travelling people and beggars, vagabonds and minstrels are excluded, while the common man is defined by his respectable, regular work and his own house (*Haushäblichkeit*). A house in a city or a farm in a village is necessary to be part of a commune.

When these observations are applied to the commune's institutional forms, then it is the common man who establishes a totally new kind of political organization inside the commune.

Each coherent social group develops its own norms and values. Is this also true for communalism?

If the common man is more than a rough idiom, if he rather unifies peasants and burghers in one term, and if the institutions in rural and urban communes outlined above, are not only accidental analogies, but rather a common principle of the community's formation, then it should also be possible to discover common norms and values.

Peace is a guiding category of communal order. A quantifying evaluation of the village regulations (*Dorfordnungen*) shows, that in 80 per cent of the statutory laws in Upper Swabia the keeping of the peace (*Friedewahrung*) was a prominent feature. We know that

this is the same in the cities.[4] It seems reasonable to object that in this case a banality is expanded to a norm, since the keeping of the peace is, by definition, part of every body politic. But this objection can easily be refuted. The innumerable decisions of urban communities and city councils from the thirteenth to the fifteenth century confirm that feuds belonged to the cities' life. Similar things can be said about the countryside: central Switzerland experienced political associations like Uri and Schwyz as a counter-movement to the numerous feuds of the local clans and families. Alliances of rural und urban communes to the Swiss Confederation and alliances of cities in Upper Germany aimed at nothing more than the prevention of feuds and the establishment of peace.

Guild rules, civic law, and village regulations are often improved by their legitimation of the '*common good*'. Common good (*Gemeiner Nutzen*) is very popular in rural and urban society. Scientific discourse comments on it in the same way as it does on peace: every political order is based on common good, on *bonum commune*. But, in fact, the legitimation of law in cities and the countryside is far more closely related to the common good than it is in the Empire and the territories. This can at least be said of the Late Middle Ages.[5] With a few exceptions at the level of the Empire, the common good is only mentioned in connection with public peace (*Landfrieden*), but not until the late fourteenth century. Such a peace is, however, greatly aided by the burghers' and peasants' interest in a peaceful life.

Urban and rural society uses the argument of the common good earlier and more extensively than the Empire and the territories. Common good is referred to in Bern from 1350 onwards as the reason for alliances and appears in court regulations and market and guild rules. In Upper Austria the term is found in manorial by-laws (*Taidinge*).

There is no etymological connection between the common good in the context of communalism and the rhetorical figure of *bonum commune* in Greek-Latin antiquity.[6] Representative investigations of urban and rural sources show one distinct tradition: it is a development of the old formula 'increase profit and limit damage'

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4. Rublack 1984.
5. Brunner 1970.
6. Eberhard 1986.

(*Nutzen mehren und Schaden warnen*), promised by the vassal to his lord (*Lehensherr*), by the burgher to the city lord (*Stadtherr*), and by the peasant to his landlord (*Grundherr*). This traditional profit 'for the lord' could become 'common' profit wherever cities and villages, i.e. communes, could extend their rights as a body politic. It is the common good upon which officials in cities and villages usually take their oath.

The transformation of the lord's profit into the common good results, naturally, in a kind of explosive ideological power. All 'private' profit is to be examined for its compatibility with the whole community. It is not without reason that common good becomes a leading term in fighting feudal power in the revolts of the Reformation period.

Common good is the ideology of communal order. Its analogy in the communal subsystem of the household is the *Hausnotdurft*, in Latin sources called *necessitas domestica*.[7] The term implies that proper sustainability must be guaranteed to each household according to its size and provisions. This explains a peasant's right to purchase corn seed outside the official market or to cut as much timber or firewood as he needs. Furthermore a crosscheck shows the similarity of *Hausnotdurft* to a basic right. A nobleman is allowed to ask for labour services to build a castle but not to build a city palace or to maintain a brickyard or a brewery. This would go beyond his *Hausnotdurft* and must not be demanded from the peasants.

Hausnotdurft as a norm also has considerable defensive substance because it is oriented towards free labour. There were two threats to the 'reward of labour': the rents on land and the person's bondage. The former enabled the lord to siphon off the profits of the peasants' labour every year and the latter to collect parts of his property (e.g. cattle) at the end of his life. Both threats could only be prevented if land was owned and personal dependencies, bondage, were replaced by freedom (cf. Figure 2).

Property and *freedom* were first successfully achieved in the cities but since found considerable response in the countryside. On the one hand, rights of ownership improved from the Late Middle Ages to Early Modern times: from the limited annual use called *Freistift* via 'life tenancy' (*Leibrecht*) followed by the 'right of inheritance' (*Erbrecht*) to tax-loaded 'property' (*Eigentum*). On the other

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7. R. Blickle 1987 and 1988.

Figure 2. System of communal norms
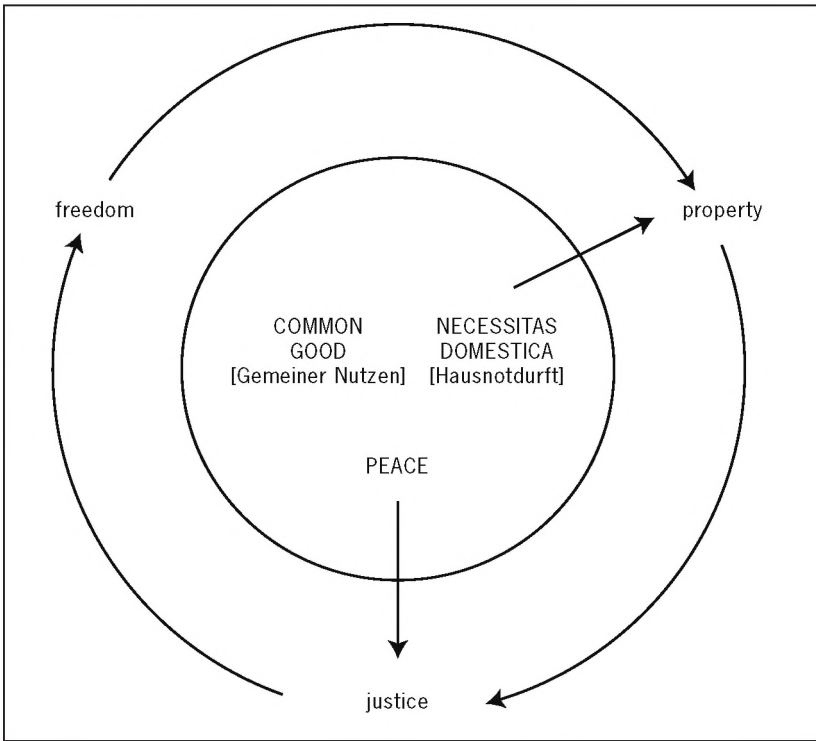
hand, in the whole span of the Late Middle Ages and Early Modern times no aristocratic right was so strongly and continuously attacked as that of serfdom and bondage, and, it may be noted, with considerable success.

In the context of communal order and security, the imperative *labora* in the ideology of the three estates (*Ständeideologie*) developed a strong vigour of modernisation. Nevertheless, communalism does not have its successor in the modern community. Any remnants of autonomy that had not been devoured by absolutism were swallowed by the sovereignty of the people.[8]

Communalism is a term valid for a society of estates and therefore it is useful only for the Late Middle Ages and for part of the Early Modern period. Communalism does not favour the territorial state but certainly tolerates it. This is made clear by the 'sym-

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8. Cf. Koch 1983, especially pp. 76, 83, 92.

bioses' communalism can form together with the territorial state: the representation of the cities and of rural communes in the territorial diets (*Landstandschaft*).

Communalism in Late Medieval and Early Modern Europe

A cursory glance at Europe summarising some evident observations may show that communalism can be interpreted as at least complementary to feudalism, if not as a widespread alternative to it.

Europe in the late medieval and early modern period has been described as aristocratic, monarchic, feudal, and thus hierarchical, with regard to its political structure. This interpretation, being in accordance with contemporary theories, which conceded to members of the nobility an innate right to rule, is one-sided and only partially covers Europe. The so-called 'urban belt' of Europe, stretching from the middle of Italy over Switzerland down the Rhine to the Netherlands was mostly non-feudalised, on the contrary, the common political pattern was the city. A city's internal structure can be metaphorically described as an ellipse, oriented toward the two focal points 'commune' and 'council'. Cities developed during the high noon of the theoretical debate on sovereignty in the seventeenth century the concept of a shared sovereignty between the commune and the council, and in practice there was a loud echo in the revolts, whereby citizens (i.e. the householders) expressed their right to articulate themselves politically as a commune. Cities are insofar communal in their very essence.

The urban belt of Europe can be complemented by a 'rural belt', covering Scandinavia, encompassing a region, to be more precise, from Norway to Finland. It is sufficient here to remember a few essentials of the bodies politic, which have been outlined by Steinar Imsen for Norway, and Eva Österberg, Gösta Åquist and Peter Aronsson for Sweden. Keeping the peace and administering justice on the one hand, and administration in the sense of management of economic and social problems on the other, were (at least in Sweden-Finland) the separate responsibility of two different institutions, the rural commune (*herred*) and the parish (*socken*). The rural commune grew out of an older court (*ting*) and, therefore, local administration is strongly bound to jurisdiction. The 'ting as-

sembly' operated like a court in Upper Germany but included the competencies of a council. The parish on the other hand was obviously able to establish statutes in the field which historians today call 'good policy'. That both institutions were complementary may be shown for Sweden, where the grievances for the diets of the realm were brought forward by delegates from the parishes, who elected their respective representatives for the sessions in Stockholm on the commune-court-ting level.

Cities did not only exist in the urban belt, and rural communes not only in Scandinavia, but were structural elements characteristic of European kingdoms and principalities. There were, however, remarkable exceptions in space and time. Eastern Europe and Britain has nothing to do with any communalism at all, and Spain seems to have a stronger communal organisation than France. The Habsburgs, from the fifteenth to the seventeenth century, elevated some thousand villages to the legal status of a city, because of the political activities of the respective peasant landowners and the state's financial interests. In Italy, the communal development starts very early on in the eleventh century, though, on the other hand, the city-states were, from the fifteenth century onwards, more and more subjected to princes, but, nevertheless, they saved their urban institutional and legal scheme.

Of course the political competences were on the one hand limited by the kings' or princes' *imperia*, yet on the other hand the communes were given responsibilities and tasks arising from the daily problems of their economy: for instance, agriculture in rural areas and guilds and trade in the cities and the increasingly consolidated settlements of the cities and villages, tasks which they attempted to accomplish with the help of ordinances and by using their own administration. There are good arguments to suppose that the communes brought 'politics' back to Europe and therefore shaped the modern state, which is mostly rooted in administration.

If this is plausible, then the norms and values growing out of labour and neighbourhood must also have had an influence on the modern state's legitimacy as well. Summarising the results of a research project recently edited by Wim Blockmans and Jean-Philippe Genet,[9] it can be said that peace, the common good, and domestic necessity were norms of a more communal than feudal

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9. Blockmans and Genet, eds. 1995-2000.

nature, familiar to the common people but alien to the medieval nobility.

Living together in the household, working together and participating in the duties and responsibilities of the village and small town communes, were the elements which were combined in Ferdinand Tönnies' definition of the term 'community' (*Gemeinschaft*),[10] against which he set modern 'society' (*Gesellschaft*). This may be a good starting point to answer the question as to whether or not Old Europe's political philosophy had developed a 'theory' of communalism, which has remained unknown among historians concerned with the history of ideas until today.

Communalism in political theories

The theory of communalism starts in the Middle Ages and ends on the eve of the French Revolution. To show the broad debate over the centuries of Old Europe's history I will present four examples to support my argument.

With the debate on imperial reforms at the end of the Middle Ages, the 'theory of communalism' begins in Germany. The so-called 'Oberrheinische Revolutionär'[11] demands respect for divine law, imperial law, and old conventions as a basis for social and political orders; this being the only way to put the real purpose of a state into effect, i.e. the common good and justice. Institutional safety is ensured by a *consistorium imperiale* which elects the Emperor, controls him, supports his ruling and functions as the Supreme Court of the Empire. It is staffed by three senior officials, and each of them has five councillors. The senior officials and the councillors represent in equal shares the three estates: the first that of the ruling princes, the second that of the peasants and the third that of the craftsmen. Obviously, the senior officials of the *consistorium* are elected, but we do not know how. The community seems to be the point of reference, because of the introduction of the 'sent' as the court (*Rügegericht*) for clerical *and* secular offences. The *consistorium imperiale* can be appealed to by the 'sent' meeting once a year in each church and relating equally to urban and rural

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10. Tönnies 1963.
11. Lauterbach 1985.

communes. Hence, peasants and villages, cities and burghers are thoroughly integrated in the Empire's constitution.

The ecclesiology of the reformers of the early sixteenth century could be called a theological theory of communalism. Jakob Strauss, Martin Bucer, Huldrich Zwingli and Johannes Brenz are inclined to translate *ecclesia* with commune. They allow the commune to elect the pastor, to decide on the norms of religious belief and to exclude members. All the above-mentioned reformers could refer to Martin Luther.[12] Since 1520 he had again and again supported elections of the pastor by the commune and its right to decide on the true doctrine. Finally, in 1523, he had justified it fully in his pamphlet 'The Christian Congregation's or Community's Right and Power to Decide on the Teaching and the Teacher, to Put Him in and Remove Him from Office. Reasons and Causes from the Gospel' (*Dass ein christlich Versammlung oder Gemeine Recht und Macht habe, alle Lehre zu urtheilen und Lehrer zu berufen, ein und abzusetzen, Grund und Ursach aus der Schrift*). Is it going too far to see this theology as a theory of institutional forms of communal order? Is it a mere coincidence that the election of the pastor can be compared with the election of the major, the decision on such a great issue as religious belief with the decision on alliances, and the communal power of command with the communal power of excommunication?

The theory of communalism reaches a new level in the seventeenth and eighteenth centuries. Its main purpose is to establish the principles of communes as basic for the state. All concepts of a 'social contract' on the continent promote the functioning of communes on a territorial or national level. Johannes Althusius in his *Politica*[13] has built up the body politic through the voluntary association of private institutions (*Vergesellschaftung*), especially of the families or their respective representatives, the house fathers (*Hausväter*). Thus, the *consociatio publica particularis* comes into being. It is also called *universitas*. There are different universitates: 'Porro universitates illa est vicus, pagus, oppidum, vel urbs.' This basic assumption is essential. For the first time villages (*vicus*) and cities (*oppidum, vel urbs*) and their sub-systems, the households, are integrated as equal and indispensable elements into a theoretical

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12. Luther 1883-1980, vol. VI, pp. 379-402; vol. XII, pp. 420-26.
13. Althusius 1603.

political blue-print. The way this is being done is closely equivalent to real communalism. *Consociatio publica particularis* or *universitas* is defined as *communicatio rerum, communicatio operarum* and *communicatio iuris. Communicatio rerum* refers to the common land, *communicatio operarum* to the offices and *communicatio iuris* to the town or village statutes. All levels of Althusius' body politic are based on contracts and on free will. Therefore offices are appointed through elections, and the law is confirmed by the communal assembly. – We can add that Althusius' *Politica* despite being based on social contracts still tolerates the overlordship of princes and kings. Both the horizontal orders of communities and the vertical ones of principalities are joined in the theory.

Jean-Jacques Rousseau based his state theory on the 'social contract', *contrat social.*[14] Different ways of describing the theory are possible. Let us begin with the key term *volonté générale*. The *volonté générale*, the general will, is expressed in laws. The people, being subjected to law, should also be its author. The law's purpose is to guarantee freedom and equality and to promote 'the common good' (*le bien commun*). Every human being wants to maintain freedom and equality and to participate in the public good. Therefore, the *volonté générale* can be extracted through votes from the *volonté de tous*, the total of all individual wills. These fundamental assumptions of the *contrat social* can be understood as a theory of communalism. Even the social contract itself can be seen to have its roots in history, namely in the *coniuratio*. When a given number of people transform themselves into a body politic or a moral body through the social contract it seems to be the same procedure as that of medieval burghers or peasants being bound together by swearing an oath to secure the peace in their respective commune. Rousseau himself leads the reader to such an interpretation, arguing that sometimes a *contrat social* results from a revolution, explicitly referring to the Swiss *coniuratio* of 1291, and implicitly to the revolution in Geneva in the 1520s and 1530s when the bishop and his baillif were expelled from the town and a new law was introduced by Jean Calvin's *ordonnances écclesiastiques*. Thus, the *contrat social* could be interpreted as a very late theoretical frame for a very old institution. Such interrelations are still not widely known among scholars.

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14. Rousseau 1964.

Over the centuries there have been attempts to assimilate communalism theoretically. Certainly, the theory of communalism is not a raging torrent in political thinking, but perhaps its real extent will only be seen when the claimed interrelations are reinforced by further investigations.

Conclusion

Communalism as a concept is drawn mostly from the archives. In some respects it may be linked with other concepts of interpreting European history – for example the *Deutsche Genossenschaftsrecht* of the legal historian Otto von Gierke,[15] or the *Gemeinschaft und Gesellschaft* of one of the fathers of German sociology, Ferdinand Tönnies.[16]

Let me conclude with a short reference to Alexis de Tocqueville. Tocqueville says that in most European countries political life has its origin in the top social stratum unlike in America, where 'the commune (township) was formed before the shire, the shire before the state, and the state before the union'.[17] He continues by stating that 'real political life exists in the communes, it is active, entirely democratic and republican'. If aristocratic-monarchic authority is weak or non-existent, democracy grows out of the communes. By checking this result in his analysis of the French Revolution, Tocqueville concludes that, under the Ancien Régime, communes were developed to various degrees but that they existed in the whole of Europe.[18] During the Middle Ages even villages had 'administered themselves democratically', not to speak of the cities. And – for Tocqueville – there was a 'striking' similarity to American communes.

Supposing that Tocqueville was right, this would mean that communalism and democratisation are mutually dependent. Such connections must not be understood as a direct process with rising tendencies to democracy. Instead they are broken continuities coming into the modern nineteenth century as fragments and transformations: as vague memories and as political theory.

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15. Gierke 1954.
16. Tönnies 1963.
17. Tocqueville 1984, p. 46.
18. Tocqueville 1952, pp. 108-22, especially pp. 119-20.

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