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IUSTITIA UT CARITAS SAPIENTIS:
THE RELATIONSHIP BETWEEN LOVE AND JUSTICE
IN G.W. LEIBNIZ'S PHILOSOPHY OF RIGHT

One of the most unique and intriguing problems of Leibniz's philosophy of right seems to be a close link between love and justice, which is emphasised in the works that the philosopher from Hanover wrote in different periods of his career. The first attempts at outlining and explaining this relationship may be found in the early works of the German philosopher, such as the *Elementa Iuris Naturalis* (1669–1671),¹ yet its complete explication was presented in the preface to the *Codex Iuris Gentium* (1693),² where the philosopher demonstrated his unique definition of justice as *caritas sapientis*³ for the first time, the definition that Leibniz adopted as fundamental and to which he referred to on numerous occasions in his later works.⁴

Previous researchers, recently Christopher Johns, have partially broached upon this subject.⁵ However, in their interpretations, which can be mutually

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¹ Gottfried Wilhelm LEIBNIZ, *Elementa Iuris Naturalis*, in IDEM, *Sämtliche Schriften und Briefe*, Akademie-Ausgabe, ed. Deutschen Akademie der Wissenschaften, Reihe VI, Band 1 [further quoted as AA VI,1] (Berlin: Akademie Verlag, 1971), 431–485.

² Gottfried Wilhelm LEIBNIZ, *Codex Iuris Gentium Diplomaticus. Praefatio*, in IDEM, *Sämtliche Schriften und Briefe*, ed. Deutschen Akademie der Wissenschaften, Akademie-Ausgabe, Reihe IV, Band 5 [further quoted as AA IV,5] (Berlin: Akademie Verlag, 2004), 48–79.

³ Patrick RILEY, "Justice as Universal Charity: The Case of Leibniz," *The Art of Theory. A Political Philosophy Quarterly*, 1–11, e-book available online: <http://www.artoftheory.com/wp-content/uploads/2011/08/Justice-as-Universal-Charity-Patrick-Riley.pdf> [accessed 20.01.17].

⁴ See e.g. Gottfried Wilhelm LEIBNIZ, *Méditation sur la notion commune de la justice*, in *Mittheilungen aus Leibnizens ungedruckten Schriften*, ed. Georg Mollat (Leipzig: Verlag von H. Haessel, 1893), 58.

⁵ Christopher JOHNS, *The Science of Right in Leibniz's Moral and Political Philosophy* (London, New Delhi, New York, Sydney: Bloomsbury, 2013).

exclusive,⁶ it is impossible to find satisfactory answers to some fundamental questions: why does Leibniz actually link both notions so closely together? What is the purpose of presenting justice as some sort of love? An attempt to answer these questions and a description of the relationship between justice and love in Leibniz's philosophy of right constitute the basic goals of this article. On account of the restrictions related to its form, I will not focus on the historical contexts of Leibnizian philosophy and classical concepts of love, but I will try to present an outline of a systematic demonstration of the ideas which are the subjects of my considerations. Also due to its limited size, the article will be essentially based on the two-abovementioned works: the *Elementa Iuris Naturalis* and the preface to the *Codex Iuris Gentium*.

I. THE RELATIONSHIP BETWEEN LOVE AND JUSTICE

1. THE *ELEMENTA IURIS NATURALIS* (1669–1671)

The *Elementa Iuris Naturalis* consists of six drafts, collected by Akademie editors⁷, which were written, like the previous *Nova Methodus Discendae Docendaeque Iurisprudentiae* (1667),⁸ in a spirit of the idea of thoroughly reforming the science of right with the use of the geometric method (*mos geometricus*),⁹ based on Euclid's *Elements*. The main themes broached upon by the author are constituted around the issue of justice, the essence of which Leibniz attempts to capture through numerous definitions and terms that comprise the *catenae definitionum*. This essence is expressed through an invocation to the category of love, which is manifested in the opening definition of the fifth text in the collection: "Justice is an attitude of loving all (*Iustitia est habitus amandi omnes*)."¹⁰ The verb *amare* used by Leibniz has

⁶ Such as the interpretations of the aforementioned Patrick Riley and Christopher Johns.

⁷ Ch. JOHNS, *The Science of Right*, 27.

⁸ AA VI,1, 261–364.

⁹ See Ch. JOHNS, *The Science of Right*, 27; Hans-Peter SCHNEIDER, *Justitia Universalis. Quellenstudien zur Geschichte des <Christlichen Naturrechts> bei Gottfried Wilhelm Leibniz* (Frankfurt a. Main: Vittorio Klostermann, 1967), 359–360.

¹⁰ AA VI,1, 465. If it has not been marked otherwise, the translations of original texts into Polish are of my authorship, but additionally I made use of translations by Christopher Johns (*The Science of Right*) and Patrick Riley (*Leibniz: Political Writings*, trans and ed. with Introduction by Patrick Riley, (Cambridge Texts in the History of Political Thought), 2nd edition (Cambridge: Cambridge University Press, 1988)). Some fragments are quoted directly in English, with relevant references to the aforementioned authors.

several meanings, the most important of which include: (1) love, make love, be in love (sensual love), (2) love (general), (3) be grateful, be obliged for something, (4) like, enjoy something, love, willingly see something (about things).¹¹ It seems that in the context referred to, the verb relates to general, non-sensual love of a person towards another person, which is corroborated by another definition: “We love that in whose happiness we find our own pleasure (*Amamus eum cuius felicitate delectamur*).”¹² The subject of love understood as such is “a good person”, i.e. “that who loves them all (*Vir bonus est, quisquis amat omnes*)”.¹³ Therefore, the *vir bonus* is also the subject of justice itself—“Justice is an attitude (or rather a permanent disposition) of the good man (*Iustitia est habitus (seu status confirmatus) viri boni*).”¹⁴

With reference to the abovementioned definitions, justice is presented as a moral attitude or virtue¹⁵ which characterises a good person, i.e. a person that directs one’s love towards other people, in whose happiness, understood by Leibniz as “the best state of a given person (*status personae optimus*)”,¹⁶ he (or she) finds his own happiness and pleasure. This interconnection of one’s own happiness and the happiness of another enables, according to the German thinker, the refutation of Carneades’ accusation that either justice does not exist at all, or represents the greatest stupidity, as it entails inflicting damage to oneself for another person’s sake.¹⁷ By linking justice with love thusly defined, Leibniz points out that the results of just actions are always beneficial both for the subject of those actions and the person towards whom these actions are directed, therefore *iustitia* must not be regarded as a supreme stupidity, but it is fully rational, and its final consequence is happiness. On account of emphasising the issue of pleasure and happiness, the opinions that the philosopher presents seem a little hedonistic. However, one may not fail to observe that *voluptas* does not constitute a reason for which the *vir bonus* loves another person, but rather is a result the act of love, an act which exceeds purely hedonistic and egoistic motives.¹⁸

¹¹ The meanings of Latin terms are quoted with reference to: *Słownik łacińsko-polski* [Latin-Polish Dictionary], t. I-V, ed. Marian Plezia (Warszawa: Wydawnictwo Naukowe PWN, 1998), and Janusz SONDEL, *Słownik łacińsko-polski dla prawników i historyków* [Latin-Polish Dictionary for Lawyers and Historians] (Kraków: Universitas, 2003).

¹² A VI,1, 466.

¹³ Ibidem.

¹⁴ Ibidem, 480.

¹⁵ See ibidem, 454–455.

¹⁶ Ibidem, 466.

¹⁷ See ibidem, 431; Ch. JOHNS, *The Science of Right*, 29.

¹⁸ Ch. JOHNS, *The Science of Right*, 42 et al.

In order to elucidate the nature of justice, which in the *Elementa Iuris Naturalis* is expressed through the prism of love, one should consider the sense and meaning that Leibniz gives to the latter on the grounds of his science of right. In the work under scrutiny (and also in later Latin texts) the German philosopher makes use of three expressions to denote love, which are essentially different in meaning: *amor*, *dilectio* and *caritas*. Basic meanings of the first mentioned, which can be compared to the Greek term *eros*, include: (1) sensual love; (2) love towards children, relatives, friends, fatherland, (3) desire, lust, drive, urge. The term *dilectio* is mainly used in relation to: love, attachment, liking and charity (in Christian meaning). *Caritas*, on the other hand, is the most significant term from the abovementioned on account of the later definition from the preface to the *Codex Iuris Gentium*, and it essentially means: (1) love, esteem, attachment; (2) respect, (3) charity. This term, being together with *dilectio* a Latin equivalent of the Greek ἀγάπη [*agapē*], has a Christian overtone of love between neighbours, spouses, or between God and man. It can be found in different meanings in classic literary Latin, but also in Latin legal texts (particularly in Roman-Greek and Justinian law), in the context of the law of succession.¹⁹ It may be problematic that Leibniz uses different Latin expressions, as it points, at least to a degree, to different ways of understanding and interpreting love. However, it seems that the German philosopher uses the above expressions largely synonymously, bringing out their shared features, which can be demonstrated by a different fragment from the *Elementa* in which all three terms can be seen used in three consecutive sentences:

Love and Justice cannot be handled apart. Neither Moses nor Christ, neither the apostles nor the early Christians have honoured another measure of justice more than love. Nothing the Platonists, the mystical theologians, nothing that pious men of all nations and regions celebrate more, nothing they cry out and urge for more, than love.

Caritatis et Iustitiae inseparabilis tractatio. Non Moses aliam, non Christus, non Apostoli, non veteres Christiani, Iustitiae regulam dedere, nisi in dilectione. Nihil Platonici, nihil Theologi Mystici, nihil omnium gentium partiumque homines Pii celebrant magis, inclamant, urgent, quam Amorem.²⁰

¹⁹ Emilio ALBERTARIO, "Caritas nei testi giuridici romani," in IDEM, *Studi di diritto Romano*, vol. V (Milano: Giuffrè, 1937), 23–38; *Caritas* (a headword), in Adolf BERGER, *Encyclopedic Dictionary of Roman Law* (Philadelphia: The American Philosophical Society, 1953), 381.

²⁰ AA VI,1, 481. English translation with my small adjustment by Ch. JOHNS, *The Science of Right*, 58.

Being aware of some profound disparities at times between the depiction of love in earlier religious and philosophical thinkers, differences between Christian ἀγάπη [*agapē*] and Plato's ἔρος [*eros*], Leibniz observes certain similarities in these conceptions which consist in ascribing love a special meaning as a supreme, and basic at the same time, rule of morality thanks to which a human being fills the lack that is ingrained in him, by steering him towards what is good, beautiful and just. In the intuitional interpretation of love appears its basic, cosmos-making function, emphasised by Empedocles,²¹ which Leibniz transplants into his own philosophical system, linking it directly with the issue of universal harmony.

Harmony, which constitutes one of the main metaphysical notions of the philosopher from Hanover, is defined in the *Elementa* as “diversity compensated by identity (*diversitas identitate compensata*).”²² Its essence consists in the occurrence of a certain unity in many various, coexisting things: substances, perceptions or worlds (natural or moral),²³ which enables their mutual responsiveness, while at the same time preserving their absolute individuality and uniqueness. As a principle that encompasses the entire universe with its validity, it is also a principle that determines functioning of the moral world, which is a reflection of the macrocosm of nature. When considering the issue of love, Leibniz points to universal harmony as a proper objective to which the love of the good man is directed: “We all would love all people, if we would look at, if we would direct our sight towards universal harmony (*Omnes amaremus omnes, si modo intueremur, si oculos*

²¹ See e.g. Hermann DIELS and Walter KRANZ, *Die Fragmente der Vorsokratiker*, vol. I (Berlin: Weidmannsche Verlagsbuchhandlung, 1960) [further quoted as DIELS-KRANZ], 31 [21] B 17,7: “now in Love all coming together into one (ἄλλοτε μὲν Φιλότῃτι συνερχόμεν’ εἰς ἓν ἅπαντα [*allote men Philotēti synerchomen’ eis hen hapanta*]”); B 33: “For [Love] brings together, puts together and holds together [the elements], compressing them by associations and friendlinesses, as the acid juice of the fig-tree curdled white milk and bound it (ἡ μὲν γὰρ [φιλία] συνάγει καὶ συνίστησιν καὶ συνέχει καταπυκνοῦσα ταῖς ὁμιλίαις καὶ φιλοφροσύνας ὡς δ’ ὅτ’ ὀπὸς γάλα λευκὸν ἐγόμφωσεν καὶ ἔδησε [...] [*hē men gar [philia] synagei kai synistēsēn kai synechei katapyknousa tais homiliais kai philophrosynais hōs d’ hot’ opos gala leukon egomphōsen kai edēse [...]*”).

²² AA VI,1, 484. English translation by Ch. JOHNS, *The Science of Right*, 60.

²³ See Gottfried Wilhelm LEIBNIZ, *La Monadologie*, § 86–87. I am using the original text in *God[efridi] Guil[ielmi] Leibnitii Opera philosophica quae exstant latina, gallica, germanica omnia. Edita recognovit e temporum rationibus disposita pluribus ineditis auxit, introductione critica atque indicibus instruxit Joannes Eduardus Erdmann* (Berolini: Sum[p]tibus G. Eichleri, 1840), 703–712. English translation: Gottfried Wilhelm LEIBNIZ, *The Principles of Philosophy, or, the Monadology*, in IDEM, *Philosophical Essays*, trans. and ed. Roger Ariew and Daniel Garber (Indianapolis, Cambridge: Hackett Publishing Company, 1989), 213–225.

attolleremus ad Harmoniam Universalem).²⁴ This relates to the nature of love that consists in finding one's own pleasure in the happiness of another person, that is in the actual identification of the happiness of the loving with the happiness of the loved. Accompanying the act of loving is the act of looking at comprehensively, which consists in noticing the good and happiness of others, and thus the good and happiness of all, which proves that love is rational and points out that the man, who is referred to by Leibniz as the *vir bonus*, is in fact also the *vir sapiens*.²⁵

In the definitions from the *Elementa Iuris Naturalis* presented above, there is no identification of love and justice directly expressed. Both remain separate virtues, yet the nature of justice may be explained through love on account of being its specific manifestation. However, justice itself and that which is just, derive from natural right which is ingrained in human *ratio* and seen through it, which takes two forms: *ius* ("ability which characterises the good man (*potentia viri boni*)") and *obligatio* ("necessity which characterises the good man (*necessitas viri boni*)").²⁶ In relation to such defined *ius* and *obligatio*, Leibniz points to the so-called *modalia iuris*, which are meant to justify the logical structure of these moral qualities.²⁷ In reference to them, what the good man can do is just, whereas that which the good man cannot do is unjust.²⁸ Remembering that the *vir bonus* is defined as the one who loves all people, one may notice that it does not mean that love, which is the essence of that man, points out and determines at the same time that which is just. One should think that the *vir bonus* acts justly, i.e. in compliance with the dictates of natural right, because he loves all people. The virtue of justice is not reducible to the virtue of love but, looking from the perspective of a metaphysical assumption of universal harmony that constitutes the form of the natural and moral world, it is its manifestation on

²⁴ AA VI,1, 481.

²⁵ Leibniz presents an analogy between the *vir bonus*, who is an ethical-political-legal model of a rationally functioning individual, and the *fronimos* (the prudent man who possesses practical wisdom) from *Nicomachean Ethics*, and the *vir bonus*, to whose judgement Roman jurists turned in the event of legal doubts. See AA VI,1, 465, 480; ARISTOTLE, *Nicomachean Ethics* 1107a. This analogy is also emphasised by Ch. Johns (*The Science of Right*, 50).

²⁶ AA VI,1, 465. Cf. definitions of both terms contained in *Nova Methodus*, II § 14 [a] (AA VI,1, 301): "Similarly there are two real qualities in relation to an action: ability and necessity of an action. Therefore, moral ability is defined as a right, whereas moral necessity—as an obligation (*Ut autem Qualitas realis in ordine ad actionem duplex est: Potentia agendi, et necessitas agendi; ita potentia moralis dicitur Ius, necessitas moralis dicitur Obligatio*)."

²⁷ Ch. JOHNS, *The Science of Right*, 48.

²⁸ AA VI,1, 465.

normative grounds. This issue will be further developed in the later part of this paper.

An early conception of the relationship between justice and love presented in the *Elementa* contains certain gaps and understatements; however, it constitutes a starting point for the evolution of Leibniz's theory of justice as *caritas*. In essence, basic intuitions and views included in that collection were not abandoned by the Hanoverian, but they were developed in later works, including the preface to the *Codex Iuris Gentium*.

2. THE PREFACE TO THE *CODEX IURIS GENTIUM* (1693)

The *Codex Iuris Gentium* constitutes a collection of medieval documents edited by Leibniz that "support the position of the Empire towards France's claims".²⁹ In the preface, the German philosopher intended to present "the true sources of the right of nature and of nations (*veri iuris naturae gentiumque fontes*)."³⁰ In relation to the subject of this article the preface may be regarded as significant on account of the fact that it is the first published text in which Leibniz formulates his definition of justice as *caritas sapientis*. The first ever mention of this definition by the Hanoverian can be found in the letter of 1677 to John Frederick, Duke of Brunswick-Lüneburg (1625–1679).³¹

The conceptions presented in the preface to the *Codex* are largely a continuation of earlier deliberations from the *Elementa Iuris Naturalis*, yet they appear to be of a more synthetic and more complete character, crowning the evolution of Leibniz's legal thought:

A good man is one who loves everybody, in so far as reason permits. Justice, then, which is the virtue that regulates that affection which the Greeks call philanthropy, will be most conveniently defined, if I am not in error, as the charity of the wise man, that is, charity which follows the dictates of wisdom [...] Charity is a universal benevolence, and benevolence the habit of loving or of willing the good. Love then signifies rejoicing in the happiness of another, or, what is the same thing, converting the happiness of another into one's own.

²⁹ Leibniz: *Political Writings*, 165; Ch. JOHNS, *The Science of Right*, 85.

³⁰ AA IV,5, 50. English translation by Ch. JOHNS, *The Science of Right*, 85.

³¹ Ch. JOHNS, *The Science of Right*, 69; cf. H.-P. SCHNEIDER, *Justitia Universalis*, 380–386; The original of the letter in AA I,2, 23: "Habe das arcanum motus gefunden: Demonstrationes de iurisprudencia naturali ex hoc solo principio: quod iustitia sit caritas sapientis." English translation: "I have discovered the secret of action: demonstrating jurisprudence from one principle, that justice is the love of a wise man.")

Vir bonus autem est, qui amat omnes, quantum ratio permittit. Iustitiam igitur, quae virtus est huius affectus rectrix, quem *φιλανθρωπίαν* Graeci vocant, commodissime, ni fallor definiemus Caritatem sapientis, hoc est sequentem sapientiae dictata [...] Caritas est benevolentia universalis, et benevolentia amandi sive diligendi habitus. Amare autem sive diligere est felicitate alterius delectari, vel quod eodem redit, felicitatem alienam asciscere in suam.³²

As well as in the *Elementa*, in the quoted fragment Leibniz relates to the “good man” as a subject of love and justice. However, he distinctly points to the fact that is more presupposed in the *Elementa* rather than expressed directly, namely that loving all other people, which is the essential feature of that person, is regulated through reason as a supreme cognitive ability, and thus it is strictly rational in nature. This rational property of love as such enables its recognition as an essence of justice as *caritas sapientis*. This expression may be understood in a twofold manner, yet this ambiguity appears to be intentional. The adjective *sapiens* (“wise”) may refer both to the subject and the object of love, therefore the entire expression *caritas sapientis* may mean: (1) love which characterises the wise man, and (2) love shown to the wise man or that which is wise.³³ Both interpretations are not exclusive but complementary as they equally remain in relation with a rational attitude of the subject of *caritas*. In accordance with the principles of cognition assumed by Empedocles and Plato, “the same through the same”,³⁴ which Leibniz adopted, the object of love shown by the wise man may not be something or someone that possesses features which are in opposition to those possessed by the subject. *Caritas*, which is regulated by reason, is directed towards what is wise—towards other rational substances that constitute the universe governed by God. Love interpreted in this way is, just as it was in the *Elementa*, finding pleasure in the happiness of another person and identifying it with one’s own, nevertheless Leibniz expressly points to its disinterestedness and independence of fear, hope and any profit.³⁵

For Leibniz’s theory of justice, the issue of the most perfect kind of love remains particularly important, namely the love for God, which Leibniz

³² AA IV,5, 61. English translation by Patrick Riley in *Leibniz: Political Writings*, 171.

³³ See Aleksandra HOROWSKA, “Racjonalistyczne zasady filozofii politycznej G.W. Leibniza [The Rationalistic Principles of G.W. Leibniz’s Political Philosophy],” in *Idea. Studia nad strukturą i rozwojem pojęć filozoficznych XXVII/t.t.*, ed. Joanna Usakiewicz (Białystok: Wydawnictwo Uniwersytetu w Białymstoku, 2015), 143–168.

³⁴ See e.g. DIELS-KRANZ, 31 [21] B 109.

³⁵ See AA IV,5, 61.

defines as *divinus amor*.³⁶ The fact that the German philosopher used the noun *amor* rather than *caritas* may be interpreted as pointing out to a unique character to this kind of love, the object of which is the most perfect, the most complete, the wisest and the happiest Being. Not only is the Divine *felicitas* accepted by the loving man as his own happiness, but it is also the true cause and reason for it.³⁷ Leibniz is not mentioning that directly, but nevertheless it may be assumed that *divinus amor* has another, subjective aspect, as it works in the opposite way, i.e. God is the subject, and the entire universe is the object. If the characteristics of the one that loves are wisdom and goodness, the Creator, in which they acquire their fullness, is also the one that loves in the most perfect way, being in fact—as Christian tradition has it—Love in itself.³⁸ It is in accordance with Leibniz's principle of continuum, according to which there are differences in the degree of perfection between the respective beings which are different in terms of quality, yet there are no significant or sudden "quality leaps" between them. This way the acts of *caritas* and *amor* are characteristic of all rational substances that possess the abovementioned features, including the most perfect of them all.

The fact that the German philosopher acknowledges the existing God as a subject and object of love is particularly significant on the grounds of Leibniz's theory of natural right and the mature conception of universal justice (*iustitia universalis*). As it is God, and more precisely: the Divine Intellect that is the source of all natural right understood as eternal, unchangeable, perfect *ius*, which comprises part of the normative order of nature and is seen by man through reason. Hence, from this Divine source³⁹ emerge three, hierarchically ordered degrees of *ius naturae*: *ius strictum* ("right in a strict sense"), *aequitas* or *caritas* ("equity" or "love") and *pietas* or *probitas*

³⁶ Ibidem.

³⁷ Ibidem.

³⁸ Gr. "Ὁ θεὸς ἀγάπη ἐστίν [*Ho theos agapē estin*]," Lat. "Deus caritas est" (I J 4,16).

³⁹ "From this source emerges the right of nature, which has three degrees... (*Ex hoc iam fonte fluit ius naturae, cuius tres sunt gradus...*)" AA IV,5, 61. According to Christopher Johns (see Ch. JOHNS, *The Science of Right*, 89–90) this phrase needs to be interpreted differently, i.e. the notion of the "source" is to be referred to *ius* and *obligatio* already mentioned by Leibniz (AA IV,5, 61). However, it seems that the Hanoverian relates to the primal source of the natural right, which at the same time constitutes its ultimate foundation (cf. *Nova Methodus...*, II § 75 (AA VI,1, 344–345)), i.e. God. This is corroborated by the beginning of the paragraph from the later part of the preface (after the discussion of three degrees of the natural right, A IV,5, p. 63), in which Leibniz writes: "Except for the eternal rights of rational nature which emerge from the Divine source... (*Praeter aeterna naturae rationalis iura ex divino fonte fluentia...*)"

(“respect” or “honesty”).⁴⁰ With regard to them there are three corresponding main dictates, which Leibniz took over from Ulpian: *neminem laedere* (“hurt no-one”), *suum cuique tribuere* (“give to anyone that which is owed to him”) and *honeste vivere* (“live honestly”).⁴¹ It is apparent that the lowest degree—*ius strictum*—is purely negative, as the dictate that relates to it is restricted to not doing harm to other people, which enables to maintain peace. The next degree, which is more perfect, is positive as it consists in doing other people good according to their merits and situations. This degree transcends right in a strict sense as it also encompasses duties (e.g. gratitude, alms) which, if unfulfilled, may not be used as causes for taking legal action, therefore they are primarily of a moral nature, but also of a legal nature—in the sense of natural right and in the sense of Roman *aequitas* to which Leibniz refers.⁴² When calling the degree in a twofold manner, the Hanoverian points to two important aspects: the acceptance of criteria of equity and measure when doing other people good (as *aequitas*), and identification of this attitude with *caritas* understood as the attitude of rational love towards another person. It appears that Leibniz used this term only in the context of the second degree of natural right on account of its positive nature, which is the essence of love. It would be hard to consider *caritas* only as refraining from hurting another person, without any actions for the sake of his well-being and happiness. On the other hand, when taking into account the principle of continuum, one may suppose that a certain type of less perfect, more egoistic love already exists on the level of following the dictates of *ius strictum*.

Being the highest degree of natural right, *pietas* combines several meanings and aspects. Firstly, it refers to a certain sense of duty (e.g. towards parents, one’s fatherland), respect and goodness. It is also a kind of attachment and love that encompasses all types of family love, whereas in the religious dimension it means piety and man’s respect towards God. The

⁴⁰ AA IV,5, 61–62. Cf. i.a. G.W. LEIBNIZ, *Nova Methodus...*, II § 73 (AA VI,1, 343). See A. HOROWSKA, “Racjonalistyczne zasady filozofii politycznej G.W. Leibniza.” On the three degrees of natural right, see Hubertus BUSCHE, “Leibniz’ Lehre von den drei Stufen des Naturrechts,” in “*Das Recht kann nicht ungerecht sein...*”—*Beiträge zu Leibniz’ Philosophie der Gerechtigkeit (Studia Leibnitiana Supplementa, Sonderheft 44)*, ed. Wenchao Li (Stuttgart, 2015), 30–54. On issues of *aequitas*, see Matthias ARMGARDT, “The Role of *aequitas* in Leibniz’s Legal Philosophy—a formal reconstruction,” in “*Für unser Glück oder das Glück anderer*”—*Vorträge des X. Internationalen Leibniz-Kongresses*, Band VI, ed. Wenchao Li et al. (Hildesheim: Olms, 2017), 305–314.

⁴¹ AA IV,5, 62. See D. 1.1.10, in *Digesta Iustiniani Augusti*, ed. Theodor Mommsen, vol. I (Berolini: apud Weidmannos, 1870).

⁴² AA IV,5, 62; Ch. JOHNS, *The Science of Right*, 90.

reference of *pietas* not only to other people but also to God plays the most important role in the context of Leibniz's theory of right. *Ius strictum* and *aequitas* are restricted to the issues related to earthly life: maintaining peace and realising as much happiness as possible, and according to them they are two types of justice which Leibniz, following Aristotle, calls commutative and distributive.⁴³ Not only does *pietas*, on the other hand, relate to relations within restricted earthly life, but it also transcends to eternal life, which is guaranteed by the existence of God as the governor of the world, and the existence of the immortal soul.⁴⁴ This virtue is in essence a type of pure love which is oriented towards that which is perfect and at the same time closest and dearest to humanity—God as the Creator, highest Sovereign and Father.⁴⁵ Being even more ideal than *caritas* itself, which is usually shown to other people, it remains coincident with the aforementioned *divinus amor*, while at the same time, via the expression *pietas*, the philosopher emphasises more distinctly the issues related to showing one's respect and fulfilling duties unconditionally towards God.

Thus, when presenting the essence of the third degree of natural right, Leibniz takes into account fundamental assumptions of his metaphysical system, the foundation of which is the existence of God, which constitutes the source of the world's rationality. In reference to these assumptions, it is useful to relate to *The Monadology* (1714)⁴⁶, the final paragraphs of which remain coherent with the discussed conceptions from the preface to the *Codex*. In that later work, Leibniz points to two aspects of the nature of the universe, which consists in the fact that it is both a kingdom of nature created by God, as well as a moral kingdom governed by Him, which is comprised of spirits, or rational souls, that were created in the image of the Creator, capable of seeing the universe and partially imitating God.⁴⁷ These spirits are at the same time subjects that possess *iura* and *obligationes*, which follow from the natural order. When fulfilling them, they appear as the good (*bons*), i.e. those who

⁴³ See AA IV,5, 62; cf. ARISTOTLE, *Nicomachean Ethics*, 1131 a–1132 b.

⁴⁴ AA IV,5, 63.

⁴⁵ Cf. G.W. LEIBNIZ, *La Monadologie*, § 84.

⁴⁶ On this subject, see also: Matthias ARMGARDT, "Die Monadologie als Vollendung der Rechtsphilosophie von G.W. Leibniz," in: *1716 – Leibniz' letztes Lebensjahr. Unbekanntes zu einem bekannten Universalgelehrten*, ed. Michael Kempe (Hannover: Gottfried Wilhelm Leibniz Bibliothek, 2016), 343–353.

⁴⁷ See G.W. LEIBNIZ, *La Monadologie*, § 82, 83, 86, 87.

are not dissatisfied in this great state, those who trust in providence, after having done their duty, and who love and imitate the author of all good, as they should, finding pleasure in the consideration of his perfections according to the nature of genuinely pure love, which takes pleasure in the happiness of the beloved.

ne sont point des mécontents dans ce grand état, qui se fient à la providence, après avoir fait leur devoir et qui aiment et imitent comme il faut l'auteur de tout bien, se plaisant dans la considération de ses perfections suivant la nature du pur amour véritable, qui fait prendre plaisir à la félicité de ce qu'on aime.⁴⁸

In the quoted paragraph one may clearly see the references to early the Leibnizian conceptions of the *vir bonus*, as well as the love that comprises the basis for actions of the good man. The essence of a perfect functioning of the moral *civitas Dei* is imitation of the Divine Monarch by individuals, imitation which is realised on the basis of love (*amour*), which is directed both towards other created beings, as well as, in its most perfect form, towards the Creator himself. Just as the *amor divinus*, which is characteristic of God, has cosmos-making effect which constitutes the harmony of the world, and so its reflection, a rational love shown by the *virī boni* constitutes—in a less perfect way than God of course—a political and social order. It is crucial that, in the quoted fragment, Leibniz appears to be drawing a distinction between the attitude of love that comprises a moral foundation for just actions and that which defines the justness of those actions—fulfilling one's "obligation" (*devoir*) by an individual, i.e. the duties which follow from a natural right that is based in the Divine Intellect. One might say that a just action derives from love, it is founded on it, but it may not be reduced to it. The *vir bonus* acts justly as he is directed by the love for God and other people, which is regulated by reason, whereas a just action, although it is its fundamental manifestation and expression, consists in acting in accordance with an eternal and perfect order of *ius naturale*.

Thus, when referring to the third degree of natural right, Leibniz takes into consideration the holistic perspective of the world as the universal Divine monarchy, which is not restricted to earthly life, but is eternal in its essence. In the kingdom the most perfect form of justice—*iustitia universalis*—is realised. Its source, just as the source of natural right, lies in the Divine Intellect, whereas its real existence is only possible due to Divine Omnipotence and Providence, which cause "all right to become fact (*effi-*

⁴⁸ Ibidem, § 90. Translation into English by Roger Ariew and Daniel Garber in G.W. LEIBNIZ, *The Principles of Philosophy, or, the Monadology*, 224.

citur, ut omne ius in facto transeat).⁴⁹ The preface to the *Codex* lacks a proper definition of universal justice. Leibniz points to a metaphysical foundation of this justice and argues that it contains “all the other virtues (*omnes alias virtutes*).”⁵⁰ The philosopher probably refers not only to all other types of justice, which correspond to lower degrees of natural right (commutative and distributive), but also all the other virtues in general, in the image of Plato’s conception of justice that encompasses the other main *aretai*: moderation, courage and wisdom. As with the exception of a short account, there is no accurate description of *iustitia universalis*, it would appear legitimate to refer it to the presented definition of justice as *caritas sapientis*. Universal justice is the most perfect form of it, what is fully visible in the adjective *universalis* that refers both to its subjective and objective scope. The former involves all the *viri boni* and God, in whom goodness (which Leibniz links to love) and wisdom are realised in their fullest. In the objective aspect, universal justice refers to all actions of those subjects comprising their measure not only as a virtue, but also as an idea that is founded in the Divine Intellect. This objective universality of this type of justice is particularly important as, in Leibniz’s view, it enables a legal (in reference to *ius naturale*) evaluation of actions which may not become subject of the judgement from the point of view of their compliance with the positive law of states:

For duties that do not seem to concern others, as, for example, not to abuse our own bodies or our own property, though they are beyond [the power of] human laws, are still prohibited by natural right, that is, by the eternal laws of the Divine monarchy,⁵¹ since we owe ourselves and everything we have to God.

Quae enim alioqui alterius interesse non videntur, veluti ne nostro corpore aut nostris rebus abutamur; etiam extra leges humanas, naturali iure, id est aeternis divinae Monarchiae Legibus vetantur, cum nos nostraque Deo debeamus.⁵²

⁴⁹ AA IV,5, 63. English translation by Patrick Riley in *Leibniz: Political Writings*, 173.

⁵⁰ AA IV,5, 63. English translation by Patrick Riley in *Leibniz: Political Writings*, 174.

⁵¹ It is hard to recognise Leibniz’s definition of natural right as “Leges aeternae divinae Monarchiae” as a conceptual equation of natural right to the Divine positive law, as both these types of law are distinguished by the Hanoverian (in accordance with the philosophical tradition, i.a. with the conceptions of Thomas Aquinas) on account of the fact that they are based on different principles: natural—on immutable and apriorical *Ratio* which is contained in the Divine Intellect, whereas the Divine positive law—on His Will. It appears that in the quoted fragment Leibniz points only to a certain analogy between natural right viewed as “acts of law, constitutions” that are in force in the Divine monarchy, and the positive law as acts and constitutions that are in force in human states.

⁵² AA IV,5, 63. English translation (with my small adjustment) by Patrick Riley in *Leibniz: Political Writings*, 174.

Any shortcomings and imperfections which manifest themselves both at the level of positive law (*lex*) and in the first and second degree of natural right (*ius strictum, aequitas*) disappear in the third degree (*pietas*) and the universal justice that corresponds to it. Since, in accordance with the principles of the latter, each action of a given individual will be judged and duly awarded or punished by God, who is the most perfect judge; therefore the gratification that ensues will be complete, what is not possible in an earthly life, even with the existence of the best political and legal systems. Thus, perfect natural right and the idea of justice that is grounded in God do exist, but so does the real Divine jurisdiction which causes both to be executed and implemented.

Leibniz points to the fact that, without making both assumptions on which the conception mentioned earlier is based, namely the immortality of the soul (which makes the posthumous judgement of an individual possible) and the existence of God as the *rector universi* and the source of universal justice, one may not solidly (*solide*) prove that “everything honorable is useful and everything base is damned (*omne honestum esse utile, et omne turpe damnosum*),”⁵³ but one may only restrict oneself to philosophical argumentation in favour of the virtuous life, which cannot be enough to convince every man to act justly, that is in conformity with the three main dictates of natural right and oriented towards the common good. Thus, it appears that according to Leibniz, for some people (who are not proficient enough in practising virtues) the ultimate reason for such actions is the existence of a system of punishments and rewards which will be the judgement for every human being after death, therefore their motivation is based on the fear of the former and the desire to attain the latter.⁵⁴ This realistic element of Leibniz’s theory is not in contradiction with the supreme conception of the good man as the one whose actions, in compliance with the dictates of natural right, are motivated by a disinterested love for God and other rational substances. The *vir bonus* does not act justly as a result of fear of the punishment and the desire to attain the reward, but on account of and on the basis of the virtue itself, which is underpinned by love. Obviously, the German philosopher presents the good man as an *a priori* model and ideal which forms a basis for his moral and legal conceptions. In reality, people depart from this ideal in a lesser or greater degrees, as their actions are driven by other reasons, which include the fear and the desire to attain the reward that

⁵³ AA IV,5, 63. English translation by Patrick Riley in *Leibniz: Political Writings*, 173.

⁵⁴ Ch. JOHNS, *The Science of Right*, 92; cf. *ibidem*, 77–78 et al.

was mentioned before. The existence of the absolute Divine jurisdiction emphasises, according to Leibniz, the real dimension of universal justice, but it is not a supreme reason on account of which one should act justly.

II. LOVE AS NATURE AND FOUNDATION FOR JUSTICE

In the conceptions presented by the Hanoverian philosopher in his above-mentioned works one may distinguish several basic aspects of love: (1) metaphysical, (2) cognitive, (3) ethical, (4) political and legal, and (5) religious. On account of the strong relationship of Leibniz's theory of right with other fields that comprise his entire philosophical system, all the mentioned aspects will remain essential for his conception of justice. Love in a metaphysical sense refers to a certain cosmos-making force that endows the world with a proper order and harmonises it. In the context of the assumption made by the German philosopher that God represents this force, this depiction might also be viewed as theological. The cognitive aspect, on the other hand may point to the fact that love understood as finding pleasure in the happiness of another person contains an important epistemic element, as in order to make it a reality, first the knowledge of what is good (what is happiness) for another person is required, as well as the knowledge that it is ultimately good also for the subject of love—the good man who at the same time is the wise man. In the expression *caritas sapientis*, Leibniz puts a strong emphasis on the epistemic nature of the feeling that is directed by reason as the supreme cognitive power of a human being. Additionally, the German philosopher points to this special kind of cognition which accompanies the act of loving—the looking at (*intueri*) universal harmony that is present in the world and at the same time is reproduced by the rational subject of love. The third of the distinguished aspects, the ethical aspect, consists in the fact that love can be understood as a virtue which at the same time is a basis for all the other virtues, including justice. It is indirectly linked to its metaphysical understanding, because as the cosmos-making and harmonising element, it enables in essence all virtuous action, i.e. the one which is in correspondence with the natural order and mimetic in reference to the perfect actions of the Creator. On the other hand, love in a religious sense refers to a “pure”, most perfect feeling that man has for God, and God for man (*divinus amor* in subjective and objective senses). This feeling creates a proper bond (*religare*—to tie, bind) between those subjects, with the

result in two consequences: on the one hand making possible happiness for a human being (by God that loves), and on the other a self-improvement of an individual that practises *pietas* through “soaring” towards the Creator.

The most important, from the point of view of the relationship between love and justice, is the fourth of the aspects, which points to the essential meaning of love in the political and legal space of both the universal *Monarchia Dei*, and human states that should imitate it. First and foremost, love comprises an essential virtue and a feeling that determines the actions of an individual that is viewed as a model by the Hanoverian philosopher (*vir bonus, sapiens*), who is the subject of rights and duties (*iura et obligationes*) which follow from natural right rooted in the Divine Intellect. On account of the fact that this love, as *caritas sapientis*, is strictly rational in nature, and therefore could be understood and called *ratio inclinans*—a rational element that directs the subject towards a particular goal,⁵⁵ which in this case is the well-being and happiness of another person, with which one’s own *felicitas* can be identified. It may also be regarded, quoting Johns, as a “principle of motivation”.⁵⁶ As an internal principle that determines the actions of the good man in accordance with reason and virtue, love constitutes a foundation of just action, i.e. one that is in compliance with the dictates of an objectively existing and universally binding natural right, which the *vir bonus* sees through reason.

In his science of right Leibniz avoids reductions and he draws a distinction between both spheres: love and justice (normative sphere), yet it might be observed that both have a common source in God, in which the boundaries between *iustitia* (understood in this case as an idea that is founded in the Divine Intellect) and *caritas (amor divinus)* are blurred. In the universal dimension (*iustitia universalis*) the essence of justice is rooted in God who, being *bonus et sapiens* to the highest degree, loves all rational substances which, together with him, create the natural, as well as ethical and political universe, and remains Love himself in the highest sense of the word—a force that constitutes the harmony of the universe. Only in His own essence one may search for the moment in which *caritas (amor divinus)* and *iustitia* may be identified with each other. In the case of the *viri boni*, who

⁵⁵ See Bogusław PAŹ, *Naczelna zasada racjonalizmu. Od Kartezjusza do wczesnego Kanta* [The Supreme Principle of Rationalism. From Descartes to Early Kant] (Kraków: Aureus, 2007), 145.

⁵⁶ Ch. JOHNS, *The Science of Right*, 63. Yet Johns also enumerates other similar principles (pleasure, happiness) without emphasising the meaning of love. He concentrates on a purely deontic character of Leibniz’s theory of right which, in my opinion, is an erroneous interpretation.

imitate the Creator in love in an imperfect manner, but are not identical with love itself, the distinction between *caritas*, which determines their actions in general, and justice, which is understood as the observance of *ius naturale*, still holds, even though both virtues are closely linked to each other.

By introducing the definition of justice as *caritas sapientis* (preceded by earlier definitions, i.e. from the *Elementa*) to the science of right, Leibniz puts the issues of right in a wider context, and primarily in metaphysical and ethical contexts. The philosopher presents his holistic perspective in which justice may be understood as a special manifestation of love which is a cosmos-making force which determines the actions of both the Divine Monarch and the *virii boni* who imitate Him. These actions, on account of *caritas* and subjects' rationality, remain in concordance with the normative order of nature (dictates of *ius naturale, iura et obligationes*), and therefore are right and just, and as such create a proper universal harmony within the political and legal world. It is worth noting that it is no coincidence that the Hanoverian philosopher in his definitions of *iustitia* makes use of the concept of love; this is because he is guided by basic intuitions expressed by the Greeks, who saw in *eros* (or *philia*) the natural binding force that created and brought order. On the other hand, he is also driven by the assumptions of Christian philosophy (viz. St. Augustine), in accordance with which God, as Love in itself, is both the source and measure of justice. In relation to these intuitions and assumptions, Leibniz's definition from the preface to the *Codex*, the definition which *prima facie* appears to be incomprehensible, may be regarded as real, as it emphasises the ordering, constructing and harmonising aspect of justice as a specific manifestation of love on normative grounds. In essence, when taking into account the aforementioned assumptions and at the same time avoiding conceptual reductions, one may assume that love constitutes the proper nature of justice in itself. This justice, which is *iustitia universalis* based in the Divine Intellect, is not an empty abstract idea, but it manifests itself as complete, perfect, real and executable. On the other hand, in a less metaphysical, and more ethical and political perspective, justice may be understood as a virtue of the good man conditioned by *caritas*, which constitutes an internal *ratio inclinans*, an element that makes the subject act in accordance with the dictates of natural right.

The conception of *iustitia ut caritas sapientis* is one of the most unique, and at the same time most important elements of Leibniz's theory of right. On account of the limited scope of this article, only a framework of this theory has been presented, which in itself contains certain inconsistencies

and ambiguities, which are probably one of the main reasons for the discrepancies in the interpretations between the researchers and the failure to resolve certain issues. One may argue that one of the most important problems related to the conceptions presented in the *Elementa* and the *Codex*, is a certain terminological inconsistency, which is manifested through the use of several terms to denote love by the author, as well as the lack of sufficient argumentation and justification for the proposed assertions. However, most importantly, Leibniz's theory of justice is based on numerous assumptions and premises (especially metaphysical) that are usually implied, which may to some degree make it difficult to understand it. However, bringing those premises to light makes it possible for the conception of justice to be embedded within the context of the entire system of the Hanoverian philosopher and allows us to consider it, although not without inconsistencies or difficulties, as a coherent theory.

By way of concluding, one may argue that by perceiving justice through the prism of love, Leibniz not only brings out the true nature of *iustitia*, nature which could remain insufficiently emphasised in the attempt to define justice in a different manner. By doing so, the Hanoverian philosopher links legal issues to metaphysical, ethical, epistemological, or even religious assumptions, laying the foundation under the universal, all-encompassing science of right (*iurisprudentia universalis*) which relates to the perfect, and at the same time a real normative order which stems from *physis* that is based in the Divine Intellect, and therefore covers the entire universe within its scope.

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IUSTITIA UT CARITAS SAPIENTIS:
ZWIĄZEK MIŁOŚCI I SPRAWIEDLIWOŚCI
W FILOZOFII PRAWA G.W. LEIBNIZA

Streszczenie

Celem niniejszego artykułu jest próba przedstawienia i analizy jednego z najbardziej intrygujących i oryginalnych elementów filozofii prawa Leibniza — związku między miłością (*amor, dilectio, caritas*) i sprawiedliwością (*iustitia*) — głównie na podstawie wybranych fragmentów z *Elementa Iuris Naturalis* (1669–1671) i przedmowy do *Codex Iuris Gentium Diplomaticus* (1693). Autorka prezentuje charakterystykę owej ścisłej realacji (widocznej szczególnie w definicjach sprawiedliwości jako *habitus amandi omnes* i *caritas sapientis*) i stara się odpowiedzieć na pytanie o przyczyny tego związku, odwołując się do metafizycznych założeń oraz zasad Leibnizjańskiej filozofii. W odniesieniu do tych ostatnich autorka wyjaśnia również znaczenie związku między miłością a sprawiedliwością w filozofii prawa Leibniza jako części całego jego systemu filozoficznego.

IUSTITIA UT CARITAS SAPIENTIS:
THE RELATIONSHIP BETWEEN LOVE AND JUSTICE
IN G.W. LEIBNIZ'S PHILOSOPHY OF RIGHT

Summary

The purpose of this paper is an attempt to present and analyse one of the most intriguing and unique elements of Leibniz's philosophy of right—the relationship between love (*amor, dilectio, caritas*) and justice (*iustitia*)—mainly based on selected excerpts from the *Elementa Iuris Naturalis* (1669–1671) and the preface to the *Codex Iuris Gentium Diplomaticus* (1693). The author presents the characteristics of this close connection (particularly noticeable in definitions of justice as *habitus amandi omnes* and *caritas sapientis*) and she tries to answer the question about the reasons for this relationship referring to the metaphysical assumptions and principles of Leibniz's philosophy. With respect to the latter the author also explains significance of the connection between love and justice in Leibniz's philosophy of right as a part of his whole philosophical system.

Słowa kluczowe: Leibniz; justice; love; right; the good man.

Key words: Leibniz; sprawiedliwość; miłość; prawo; dobry człowiek.

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