

8th Biennial Conference of the ESCLH: Back to the Past and Building the Future

Rome is not Rome: The (Legal
Historical) Impact of Northern
European Humanism

—

The Eagerness to Read Primary
Sources in Celtis' Networks

PROF. DR. ULRIKE MÜBIG

CHAIR OF CIVIL LAW, GERMAN AND
EUROPEAN LEGAL HISTORY

UNIVERSITY OF PASSAU

Table of Contents

I. Antiquity's Well-Ordered Communities as Templates

- ▶ 1. Humanist Latin's Linguistic-Ethical Focus
- ▶ 2. Taking the Immediate Access to Antiquity as Moral Standard for Life and Rational Standard for Politics
- ▶ 3. A Theology Derived from Rhetoricism and Humanist Scepticism Towards Universal Monarchy
- ▶ 4. *Ad fontes*: Antiquity as an Argument in Machiavelli's *Discorsi*

II. Specifics of Eastern European Humanism and Celtis' Hungarian Contacts

- ▶ 1. The Italian Renaissance's Focus on Free Will
- ▶ 2. Eastern Europe's Political and Cultural Upswing of the 14th century – the Hungarian Precedence
- ▶ 3. Hungarian Contacts of Konrad Celtis Protucius (1459-1508)
- ▶ 4. Literary Genres of Wandering and Courtly Humanism

III. The Humanists' Orientation towards Broad Impact

IV. The Practicability and Utility of Rule – Leaving Justice Aside

- ▶ 1. The Humanist Colloquial Approach to Law and Judgement
- ▶ 2. The Mathematical-Naturalist Interest in Human Autonomy

I. Antiquity's Well-Ordered Communities as Templates

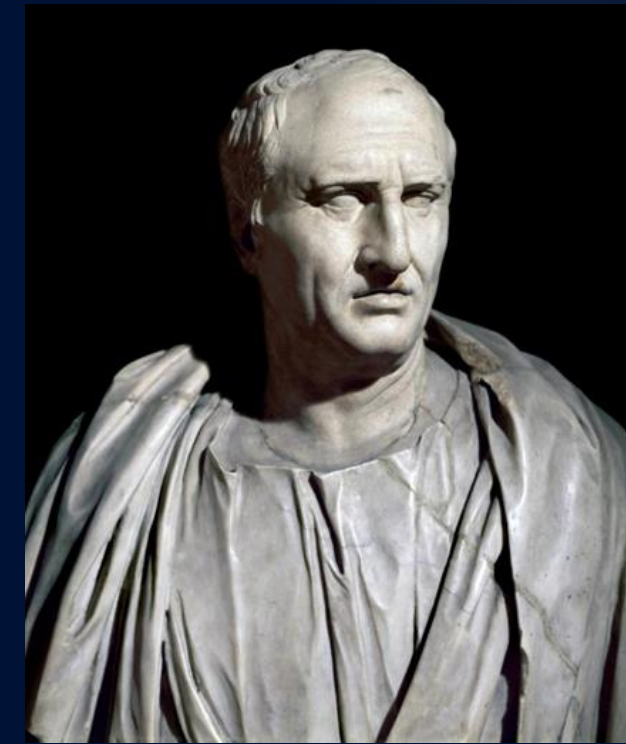
1. Humanist Latin's Linguistic-Ethical Focus

Reading primary sources for *litterae, sapientia et eloquentia*



*Imperium rapuit nobis
Germana propago,
Sed nostras Musas rapere
nemo potest,
Dices post paucos, tribuet si
Juppiter, annos Germanos
Latias vincere posse lyras.*

Five Books Epigramms by
Konrad Celtis, hrsg. von K.
Hartfelder, Berlin 1881, 515.



https://de.wikipedia.org/wiki/De_officiis#/media/Datei:Tommaso_Baldinotti_of_Pistoia_-_Opera_Filosophica_-_Walters_W364_-_Obverse_Detail.jpg

<https://www.welt.de/geschichte/article185137874/Cicero-Sie-schlugen-ihm-Kopf-ab-durchbohrten-seine-Zunge.html>

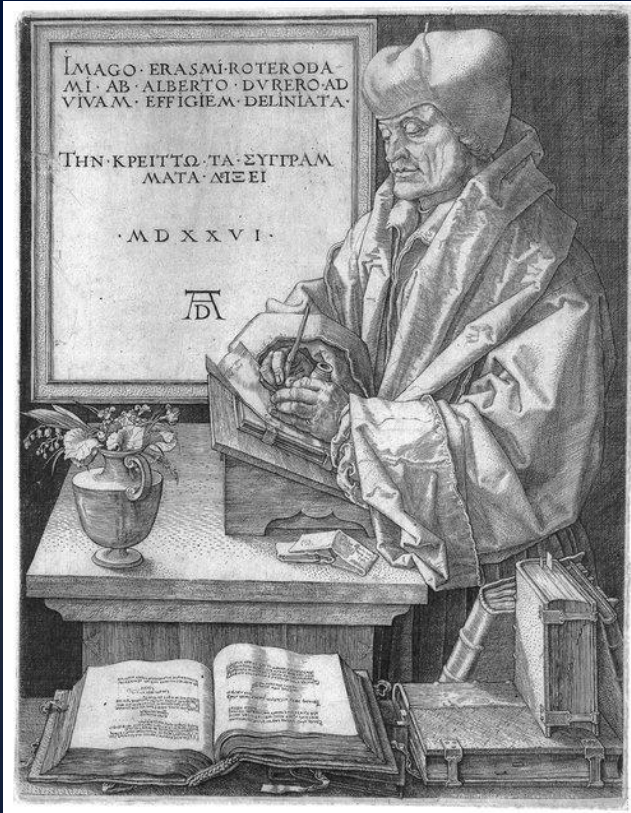
2. Taking the Immediate Access to Antiquity as Moral Standard for Life and Rational Standard for Politics

- ▶ The humanist educational ideal of *eloquens et sapiens pietas* sought to revive the original (*ad fontes!*) dialogical and colloquial effectiveness of Ancient Latin (Cicero in prose and Virgil in poetry) for communication, comprehension, and regulation.
- ▶ The receptive and imitative access to classical poetry, speeches, letters, and historiography (*imitatio* and *aemulatio veterum*) were considered the means of instilling moral norms for individual and social life.
- ▶ The existing bilinguality between scholastic-universitarian Latin (“scharpffen“ Latin in the wording of Tengler’s Lay Mirror 1511) and colloquial German („verfencklichem“ German, dig. v. Bayerische Staatsbibliothek, bsb11201521?page=%2C1 p. 10v) allowed for a boost of the national languages due to the humanist translation activities (1450-1550).



<https://www.sammlung.pinakothek.de/de/artwork/apG9BRn4Zn/albrecht-duerer/vier-apostel-hll-johannes-ev-und-petrus>

3. A Theology Derived from Rhetoricism and Humanist Scepticism Towards Universal Monarchy



<https://bawue.museum-digital.de/object/4300>

- ▶ Utilitarian justification of injustice in single cases by adapting Tacitus' *Annales* (14 Book, 44 Chapter): *Habet aliquid ex iniquo omne magnum exemplum — quod contra singulos utilitate publica rependitur.* (bsb10704793? page=,1) at the end of the medieval *universitas christiana* (i.e. separation of private and public morals!)
- ▶ Cf. Justus Lipsius' letters: *Summa, in re publica multa interveniunt, quae privatim iniqua, respectu alicuius publici boni aut quietatis tolerantur* (cit. bei Etter, Else Lilly, Tacitus in der Geistesgeschichte des 16. und 17. Jahrhunderts, Basel 1966, S. 136).



<https://www.sammlung.pinakothek.de/de/artwork/RQ4XP7p410/tiziano-vecellio-gentizian/bildnis-kaiser-karls-v-im-lehnstuhl>

4. Ad fontes: Antiquity as an Argument in Machiavelli's *Discorsi*

- ▶ For his theory of republican freedom Machiavelli relies on history as empiric evidence for contemporary politics: *Il modo del rinnovargli è, come è detto, ridurgli verso e' principii suoi. Perché tutti e' principii delle sètte e delle repubbliche e de' regni conviene che abbiano in sé qualche bontà, mediante la quale ripiglino la prima riputazione ed il primo augumento loro* (Discorsi III 1).
- ▶ His longing for stability and order led him to excuse princely injustice in single cases by employing a cost-benefit calculation: 'E credo, computato ogni cosa, che in questi casi, dove è il pericolo urgente, si troverrà qualche stabilità più nelle repubbliche che ne' principi.' (Discorsi I 59).
- ▶ By systematically deducting political guidelines for action from his historical analysis, Machiavelli made political theory a science; the test lies in the effectiveness within the former historical situation and the actual needs of politics, not in ethical or theological terms.



https://commons.wikimedia.org/wiki/File:Portrait_of_Niccol%C3%B2_Machiavelli_by_Santi_di_Tito.jpg

Summary I Antiquity's Well-Ordered Communities as Templates



Das Renaissance Ideal der guten Regierung - Ambrogio Lorenzettis Fresken im Palazzo Pubblico, Siena, 1338, in: Hasso Hofmann, Bilder des Friedens oder Die vergessene Gerechtigkeit, 1997, S. 22.

- ▶ The correct political action was no longer measured against the medieval virtue of justice (as by the Latin Aristotle), but against the templates of classical well-ordered communities, which served as (immediate) historical-philosophical arguments for contemporary decision making in politics.
- ▶ Justice as the primary signifier of good rule became thereby set aside (cf. the humanist reception of Tacitus).
- ▶ There was a new appreciation for public discourse. (cf. Machiavelli, Discorsi: „*Debbe adunque un principe fuggire questi carichi private*“)

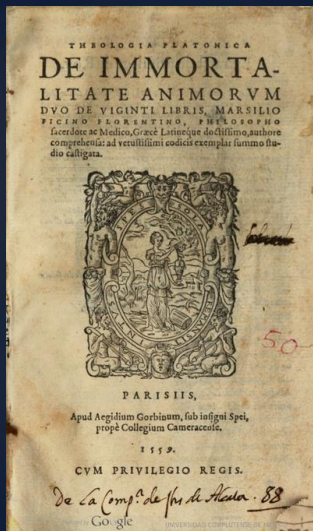


Quentin Skinner, 'Ambrogio Lorenzetti on the Power and Glory of Republics', in ders., Visions of Politics, Bd. II, Cambridge, 2002, S. 93-117 and Hasso Hofmann, Bilder des Friedens oder Die vergessene Gerechtigkeit, 1997, S. 23.

II. Specifics of Eastern European Humanism and Celtis' Hungarian Contacts

1. The (Italian) Renaissance's Focus on Free Will

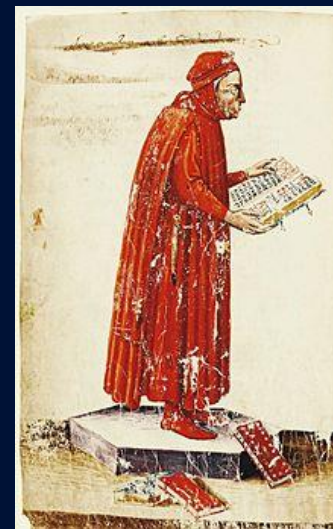
Subjectivity, commonly attributed to the Italian humanists, was discussed by Pico's contemporaries Marsilio Ficino, Giannozzo Manetti, Coluccio Salutati, and Lorenzo Valla as a category of human freedom's 'divinity' (Ficinus 1559 (1970). *Theologia Platonica de immortalitate animorum*, lib. xvi, cap. 6 fol. 301 r ; Manetti 1452 (1975). *De Dignitate et Excellentia Hominis*, lib. III cap. 1-3), or balancing free will (libertas arbitrii; ingenium) even with God's omniscience (Salutati 1396-99 (1985). *De Fato et Fortuna*, I, 3, p. 19 f.; Valla 1461 (1987). *De libero arbitrio* § 92, p. 126 f.). Cf. also Erasmus' *De libero arbitrio diatribe sive collation* 1524



https://www.europeana.eu/en/item/9200110/BibliographicResource_1000126621017



https://www.google.de/books/edition/%C3%9Cber_die_W%C3%BCrde_und_Erhabenheit_des_Men/8wyKDwAAQBAJ?hl=de&gbpv=1



https://de.wikipedia.org/wiki/Coluccio_Salutati



https://de.wikipedia.org/wiki/Lorenzo_Valla

2. Specifics of Eastern European Humanism in Relation to the Political and Cultural Upswing of the 14th century – The Hungarian Precedence

- ▶ By founding the ephemere universities in Fünfkirchen (Pécs) in 1367 and in Altofen (Óbuda) in 1389, humanism reached the Hungarian court. János Hunyadi hoped for humanist support against the Turks. His victory in Belgrade in 1456 gave his son Matthias (rul. 1458-1490) the respite for the development of Renaissance culture in Hungary. The ancient Roman genealogy (Corviner) claimed by the epithet 'Corvinus' is typical of courtly humanism, though minnesong and chivalric romances have been lacking in Hungary.
- ▶ Medici Florence was the role model for the Corvinian court. Supported by his highly educated wife Beatrix of Aragón (1457-1508) and his chancellor and former tutor Ivan Vitéz (1408-1472) Matthias promoted humanism in Hungary: Next to the *Academia Corvina* in Buda and the *Universitas Istropolitana*, founded in Pressburg (Bratislava) in 1465, this included the Corviniana library as well as printing houses in Pressburg and Ofen; Janós Kükülle's *Chronica Hungarorum* (1472) was Ofen's first print.



<https://smb.museum-digital.de/object/150405>

3. Hungarian Contacts of Konrad Celtis Protucius (1459-1508)

- ▶ Since 1482 Celtis was associated with Matthias Corvinus' court.
- ▶ In 1489 Celtis founded the *Sodalitas Vistulana* as the first academic society north of the Alps and in 1499 the *Sodalitas litteraria Danubiana*.
- ▶ As Celtis was a student of Rudolphus Agricola (1444-1485), the latter's sympathy for the Erasmian theology derived from Rhetoricism prevailed within Celtis' networks.

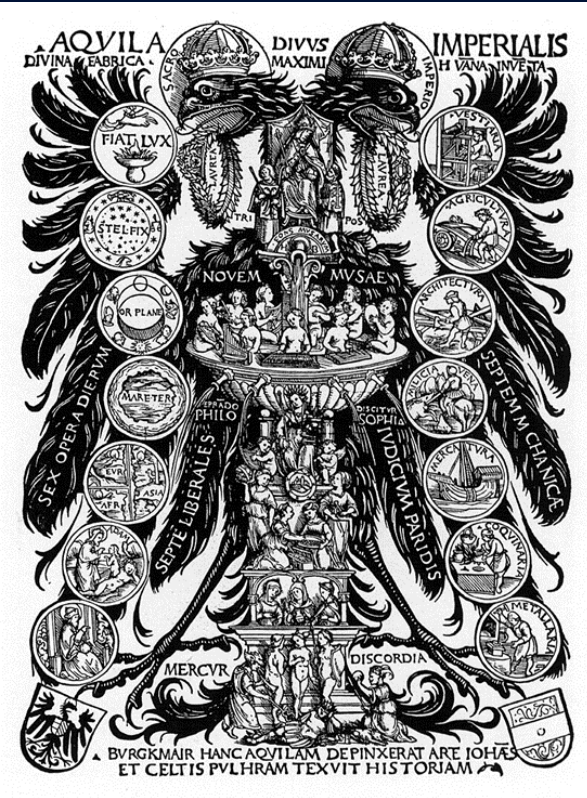


https://de.m.wikipedia.org/wiki/Datei:Konrad_Celtis_%28Protucius%29.jpg

4. Celtis' Literary Genres of Wandering and Courtly Humanism

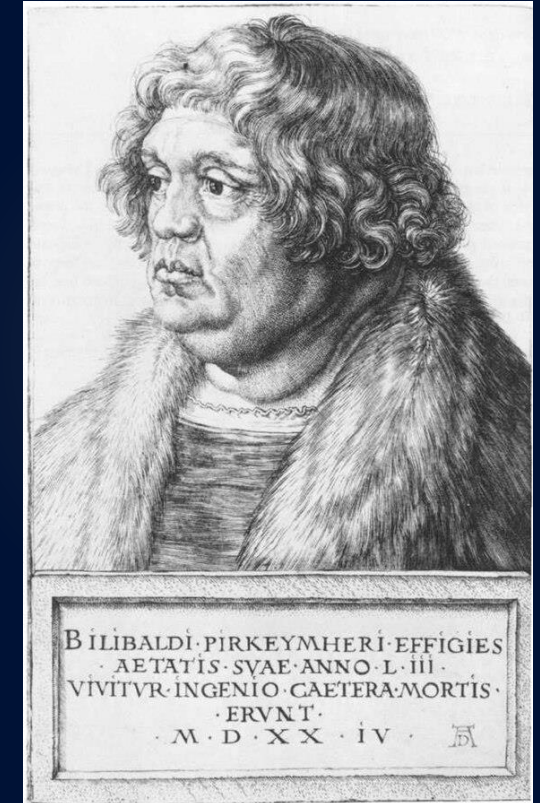
- ▶ As a result of his 10-year travels through Germany in 1487–97, Celtis' lyrical love novels were dedicated to Emperor Maximilian I in 1502. Since 1491 he has been working on a *Germania illustrata*, which was meant to describe Germany in four books according to the four cardinal directions. Within this context he edited Tacitus' *Germania* (1500, with his own 'Germania generalis').
- ▶ Among the festival plays (*Ludus Dianae*, 1502; *Rhapsodia, laudes et victoria de Boemanis*, 1505) the third one 1506 (unfortunately lost) the Judgement of Paris plays a decisive allegorical role.
- ▶ Next to his editions (*Opera Hrosvithae*, 1501; *Melopiae* by Petrus Tritonius, 1507, and the *Ligurinus*, 1507) Celtis has compiled a map collection known as the *Tabula Peutingeriana*.
- ▶ Last, but not least he is known for his letters and epigrammes (published from his estate).

III. The Humanists' Orientation towards Broad Impact



https://de.wikipedia.org/wiki/Poetenkolleg#/media/Datei:Burgkmair_Reichsadler_mit_Collegium_poetarum.jpg

- ▶ The Celtis' sodalities' goals of comprehensive intellectual renewal met with the no longer transcendental legitimization of politics as a 'matter for all citizens' (*res publica*). The equal ranks among the members (*sodales*) matched with simultaneous efforts to get rid of the guild restraints within economic life.
- ▶ The sodalities showed an openness towards cities' municipalities and merchants (Nuremberg; Augsburg), and to universities (Heidelberg, Vienna).
- ▶ Their Latin proficiency was *sensu stricto*, but not *conditio sine qua non* (the richer the novice the less important their Latin proficiency...). Nevertheless, Albrecht Dürer has constantly failed to become a sodalite, even after his ascent into the Greater Council of Nuremberg.



https://de.wikipedia.org/wiki/Da:Albrecht_D%C3%BCreri:_Willibald_Pirckheimer_-_WGA7334.jpg

1. The Humanist Colloquial Approach to Law and Judgement



Tengler, Ulrich, Der neu Layenspiegel, Augspurg 1511, Staats- und Stadtbibliothek Augsburg, dig. v. Bayerische Staatsbibliothek, <https://www.digitale-sammlungen.de/view/bsb11201521?page=%2C1>, S. 82.

- ▶ The Humanist Latin's Linguistic-Ethical interest (supra I) allowed for a lay access to law. Tengler's Laymen's Mirror (*Neü Layenspiegel* 1511) provided the (unlearned) common man with legal arguments in colloquial terms.
- ▶ As justice was set aside as a logically deductible and substantial standard of correctness, her compulsory character was instead formally anchored by judicial sovereignty, and superelevated by the judges' and all men's ultimate responsibility in front of the Last Judgment (*Weltgerichtsspiel* 1512).



Lorenzetti, Ambrogio, Allegorie der Guten Regierung, https://commons.wikimedia.org/wiki/File:Ambrogio_Lorenzetti_-_Allegory_of_Good_Government_-_Google_Art_Project.jpg

In regard of procedural safeguards ensuring strict justice

Tengler – 9th section Last Judgment Play: Von gottlichen radt vor dem urteil.

Aus Ursula Schulze (Hrsg.), Das Münchner Weltgerichtsspiel und Ulrich Tenglers Büchlein vom Jüngsten Gericht, Stuttgart 2014, S. 146 ff.:

Die ewig weißheit(1) ist keins rats notdurftig, aber tzu versteen, das am jungsten gericht allein die gerechtikeit furgang haben, so wirdet hie nach tzwischen gotlicher barmhertzigkeit und seiner gerechtigkeit ein disputation eingefurt, betzeichnet durch ein feurin schwert und gütigen plomen, so am jungsten tag bey im erscheinen, als ob die also solt beschehen, wie hernach volget.

(1) Gemeint ist Gott.

Barmhertzigkeit.

315 O herr gott, gedenck daran,
Dem sunder hast du trost gethan,
Dein erbarmmen sol ewig weren
Und nymmer mer tzu verkeren;
Die mitteil heut dem sunder groß,
320 Das er nit werd der helle roß.

Gerechtigkeit.

Ach spiegel der gerechtikeit,
Laß dir das unrecht wesen leidt,
Streck auß den tzom gewaltigklich
Und straff den sunder ewigklich.
325 Er kant dich nit hie auff erden,
Des sol er verurteilt werden.

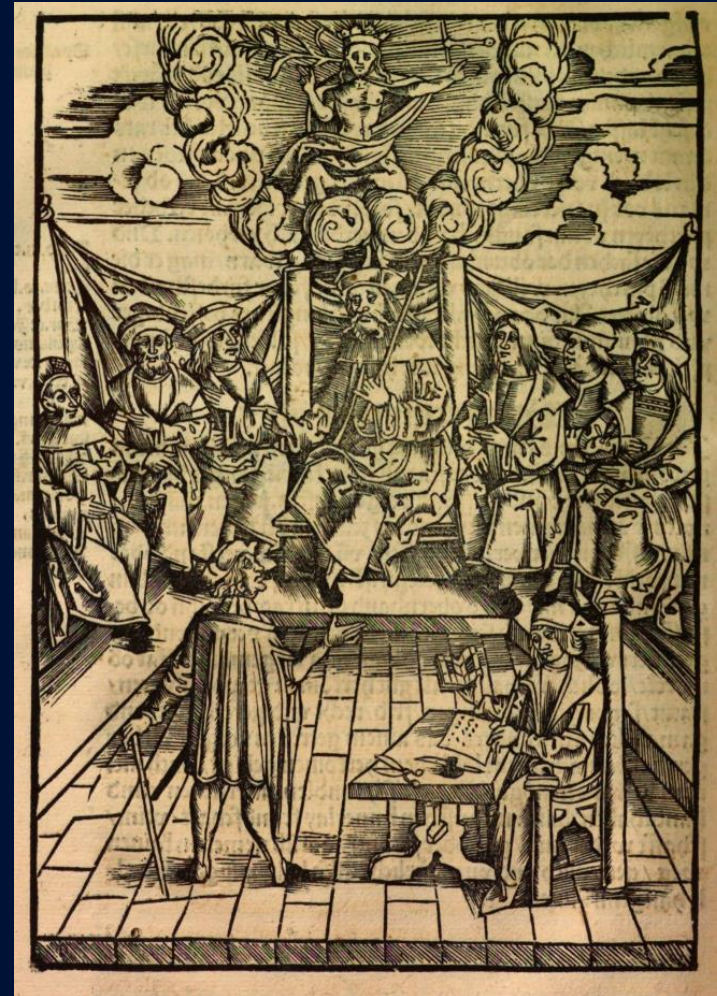
In regard of procedural safeguards ensuring strict justice, ctd. Tengler - 9th section Last Judgment Play: Von gottlichen radt vor dem urteil.

Barmhertzigkeit.

- O herr, der du barmhertzig bist,
Vergib dem volck tzu diser frist,
Thu in heut dein genad ertzeigen,
330 Sy sein gewesen dein eigen.
Laß sy nit gar verloren sein,
Wann sy sein ye die erben dein,
Alß du selbs offt gesprochen hast.
Wann wo du sy also verlast,
335 So wurden sy des erbs entsetzt
Unnd deiner genad nymmer ergetzt.

Gerechtigkeit.

- Ach herr, sy haben das erb verworcht,
Im leben gehabt kein gots forcht,
Alltzeit wider dich gewesen,
340 Darumb laß sy nit genesen,
Das dein gerechtikeit erschein,
Sy mogen dein erben nit sein.
Die dich haben versmecht auf erden,
Sollen heut verurteilt werden.



Tengler, Ulrich, Der neu Layenspiegel, Augspurg 1511, Staats- und Stadtbibliothek Augsburg, dig. v. Bayerische Staatsbibliothek, <https://www.digitale-sammlungen.de/view/bsb11201521?page=%2C1>, S. 82.

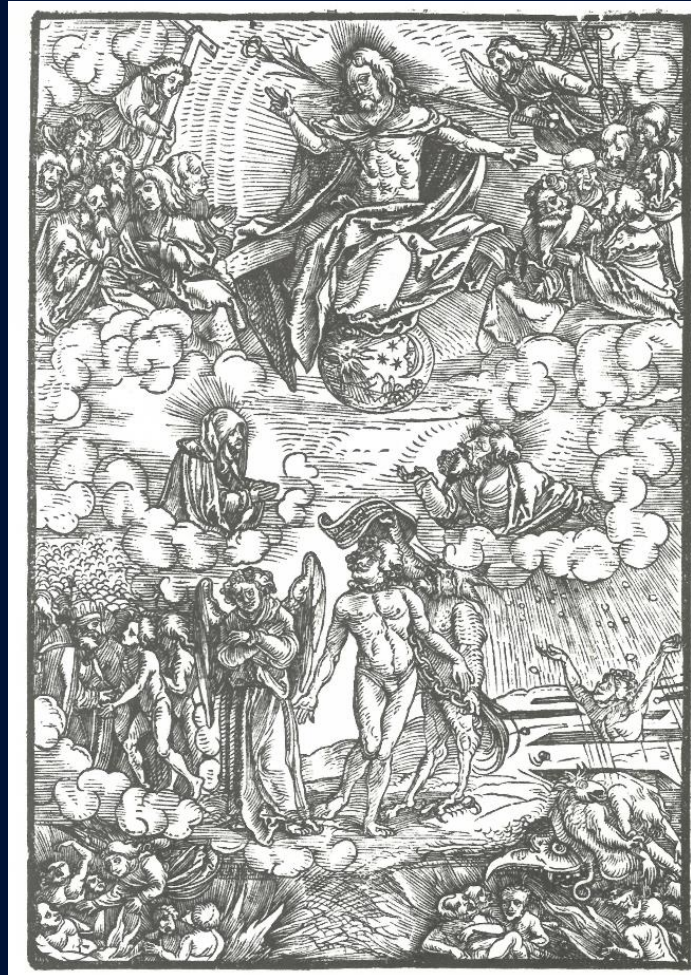
In regard of procedural safeguards ensuring strict justice, ctd. Tengler - 9th section Last Judgment Play: Von gottlichen radt vor dem urteil.

Barmhertzikeit.

- 365 O herr, las ab von grymmikeit,
Gedenck an dein barmhertzikeit,
Die ist auff diser erden breit,
Wie uns die heilige schrift seyt.
Durch Mariam, die reine magt,
370 Der du kein pitt nye hast versagt,
Und aller außerweiten bitt,
Vertzeich in deiner gnaden nit.
Gedenck daran tzu diser frist,
Das du auch menschlich gepom bist
375 Und das sy nach dir sein gepildt.
Ach herr, mach dich heut gen in mild.

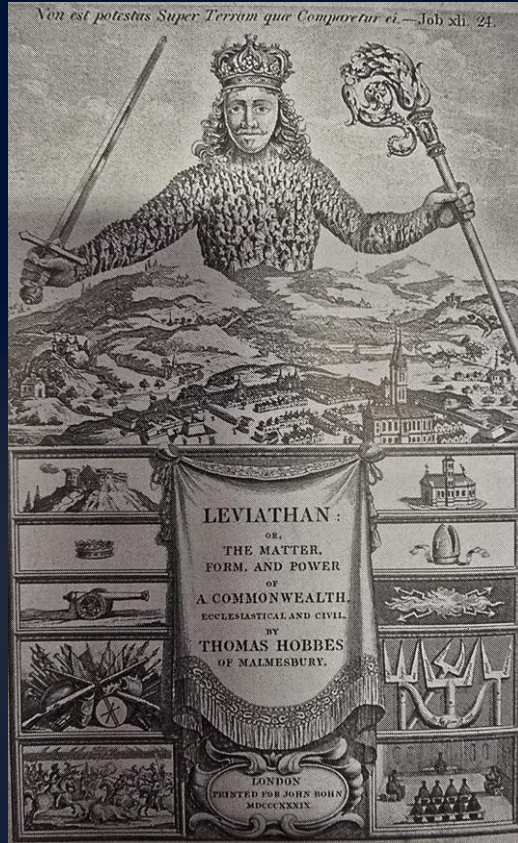
Gerechtigkeit.

- O herr, begnad sy nymmer mer,
Sy erputen dir nye kein eer,
Die weil sy waren hie auff erden,
380 Noch Marie deiner mutter werden.
Sy haben dein pildung verlom,
Verschult billich göttlichen tzom.
Sy haben dein erpermung verschmecht,
Du solt allein sprechen nach recht
385 Und brauchen kein barmhertzikeit,
Das rat ich ytz auff meinen eydt.



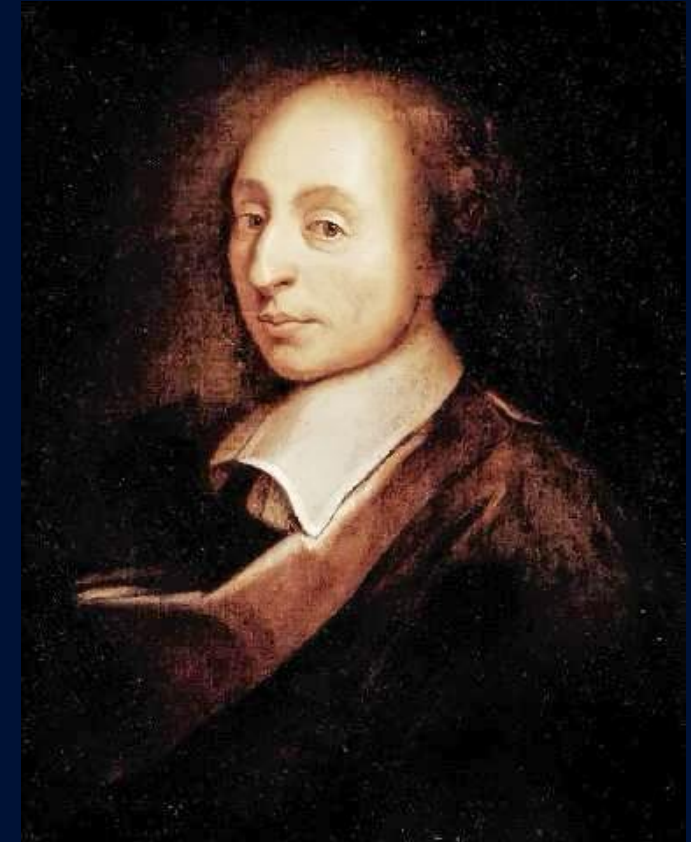
Ursula Schulze
(Hrsg.), Das
Münchner
Weltgerichts
spiel und Ulrich
Tenglers
Büchlein vom
Jüngsten
Gericht,
Stuttgart 2014,
S. XXVI.

2. The Mathematical-Naturalist Interest in Human Autonomy



Thomas Hobbes. Leviathan, Titelpuffer, in: Hasso Hofmann, Bilder des Friedens oder Die vergessene Gerechtigkeit, S. 1997, S. 38.

- ▶ The world was no longer in order by itself; rather, man must willfully put it in order, and such a *volenti non fit iniuria*-voluntarism eliminates any virtue ethics of distributive or equalising justice out of the Leviathanic statehood (1651 ff.).
- ▶ For Blaise Pascal (1623-1662) a just solution was just as likely as an unjust solution.
- ▶ Legal humanism's interest in the practicability and utility of rule refers to judicial sovereignty and the procedural control by the *ordo iudiciarius*, thereby bidding farewell to any identification of a God's people with an (ideal) political community.
- ▶ The mathematization of the practicability and utility of rule happened to set the path for the focus on freedom in early constitutionalism; neither 1776 nor 1789/91 were interested in justice as a particular goal of constitutional formation (Müßig, Legal Thinking, Open Access: <https://eum.unimc.it/it/catalogo/884-legal-thinking-between-art-and-mathematics>).



https://commons.wikimedia.org/wiki/File:Pascal_Blaise.jpeg

Köszönöm a figyelmet!

Ulrike Müßig

Legal Thinking between Art and Mathematics

m eum biblioteca Giornale di Storia costituzionale



<https://eum.unimc.it/it/catalogo/884-legal-thinking-between-art-and-mathematics>

Juristische Fakultät
Universitätsbibliothek

Recht auf gut Deutsch.
Ulrich Tenglers Layenspiegel
in der europäischen Rechtstradition



Buchvorstellung
im Oberen Foyer der
Universitätsbibliothek Augsburg
29. April 2025 18:00 Uhr s.t.

Ausstellung
in der Schatzkammer der
Universitätsbibliothek Augsburg
29. April 2025 bis 27. Juni 2025
jeweils
Montag - Freitag 9:00 Uhr - 19:00 Uhr
Samstag 10:00 Uhr - 14:00 Uhr

UNA
Universität
Augsburg
University

<https://www.uni-augsburg.de/de/fakultaet/jura/lehrende/moellers/ausstellu-und-buchvorstellung-recht-auf-gut-deutsch-ulrich-ten/>

Der Neü Layenspiegel von Ulrich Tengler

Herausgegeben von
CHRISTOPH BECKER,
THOMAS M. J. MÖLLERS
und KLAUS WOLF

Mohr Siebeck

<https://www.mohrsiebeck.com/buch/der-neue-layenspiegel-von-ulrich-tengler-9783161641381/>