Dobrá vôľa, spravodlivý rozum. Hodnoty a princípy v súdnej praxi.
By Radoslav Procházka. Bratislava: Kalligram, 2005.

Good Will, Fair Reason confronts the tension between reason and will. The author describes it as a tension "informing the theory and the practice of modern democracy" since "its beginnings".

The given tension can also be framed within the key dispute of the middle-age philosophy. In the period named by Petrarca, this differently scaled philosophical dispute occurred between realists and nominalists to whom any voluntaristic worldview must be grateful for their thesis of will reigning over reason. The wider interpretive community, too, is indebted to them for the terminology of the subject.

This is a very long run, indeed. One can come across the expression of "practical reason", by which Immanuel Kant tried to reconcile reason with will.

Procházka's book attempts to cultivate this relationship. He defines „practical reason" as „the capacity for moral evaluation of phenomena of the social world, without distinguishing any further between the valuing judgement's origin (sources of normativity)".

The practical reason, not the least for the purpose of situated understanding, is identified by „capacity", which the author – in line with Heidegger's and Gadamer's return to Aristotle – dubs as "phronesis", consoning with "practical knowledge, practical wisdom, a certain practical know-how" of the practitioner to whom it serves.

The practical reason applies differently at the level of what "ought to be" and the level of what "ought to be done", while this difference reflects the author's intention to differentiate between the right and the good.

The liberal approach to that, which is read as morally "good", crosses out the traditional model of what it means to lead (from generation to generation, for instance) a good life. Even if the criteria for the good allow the moral agents to orient themselves in the moral discourse by being placed in the individuals' subjective competence and their relative schemes of what is good, these criteria lack the ability to offer a tangible content of general validity.

The ideas about the good are presented in the political competition as those referring to what "ought to be", being then secured by means of the law as normative legal acts, "binding for all". These are adopted predominantly by the parliament.

The nature of the ideas of the good, born in an area charged by bias and relativism, is thereby unchanged.

The ideas of the good reflected via legal acts present themselves as „the outcomes of the will "of the parliament as a law-making body. In a democratic government ruled by the law, these outcomes are to be reached by means of „an agreement that they do represent a juncture of those competing visions that have obtained approval by the majority".

Procházka's book is divided into five parts as follows: the Foreword, the Introduction and three chapters – Good values, right principles (I.), Ius et lex (II.) and Interpretive communities (III.). This structure, even more so when juxtaposed against the titles of the different chapters and sub-chapters, leads one to guess that what the lawmaker has sanctioned, is placed at a different level of definition from what the judiciary is to declare in specific cases as the principle-embedded formula of the right. The rationality corresponding to the needs of competition is then different from that corresponding to the coordinates of a dispute, as the latter seems to require from a court "the only right answer" there is. Such an answer stems from textual interpretation, which – with bigger or lesser contributions by judicial creativity – represents the life of the law.

The author pays special attention to constitutional review. He introduces it by, among other things, pointing out the different layers of rationality being at play when there is a particular case or controversy (review of individual legal acts) as opposed to an abstract conflict (review of laws). In this framework, Procházka suggests that while the particular constitutional review results in „an imperative formulation" of that, „which is truly right", the abstract constitutional review provides "an answer to that, which is truly good", mapping the environment of values and consensus.

The characterization of the proportionality principle as „an overarching principle governing the balancing enterprise as the fundamental technique of abstract constitutional review" sheds some light on certain moves by the Court of Justice of the EC as the interpretive community for European integration processes.

The work Good will, fair reason may be recommended especially to those who like to think about the possible crossroads of different legal cultures placed at the orbit of the Western civilization as well as those who try to elevate the practical cultural threshold by cultivating their understanding.

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