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Social and economic ethics is a rapidly changing field. The systems of thought and ideologies inherited from the 20th century seem to be exhausted and prove incapable of responding to the challenges posed by, among others, artificial intelligence, the transformation of labor and capital, the financialization of the economy, the stagnation of middle-class wages, and the growing ideological polarization of our societies.

The Journal Ethics, Economics and the Common Goods promotes contributions to scientific debates that combine high academic rigor with originality of thought. In the face of the return of ideologies and the rise of moral neopharisaisms in the Anglo-Saxon world, the journal aims to be a space for rational, free, serious and open dialogue. All articles in the journal undergo a process of double anonymous peer review. In addition, it guarantees authors a rapid review of the articles submitted to it. It is an electronic journal that publishes its articles under a creative commons license and is therefore open access.

Research articles, research reports, essays and responses are double-blind refereed. The journal is bi-annual and publishes two issues per year, in July and December. At least one of these two issues is thematic. The journal is pleased to publish articles in French, English and Spanish.

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RESEARCH ARTICLES

Decisiones en conflicto con la Inteligencia Artificial

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Resumen

Los avances tecnológicos han permitido usar inteligencia artificial para analizar y resolver problemas antes considerados complejos. Gracias al incremento del poder computacional, actualmente es posible acceder a herramientas de inteligencia artificial para desarrollar actividades artísticas, productivas, económicas o recreativas de manera más eficiente. Por ello, las inteligencias artificiales son cada vez más utilizadas en procesos de toma de decisiones. Aunque el avance en las inteligencias artificiales ha permitido que tomen decisiones certeras, la automatización en la toma de decisiones ha generado cuestionamientos sobre las implicaciones éticas y sociales de su despersonalización. El presente ensayo analiza los conflictos que pueden surgir cuando tomadores de decisiones son sustituidos total o parcialmente por inteligencias artificiales para resolver un problema común. Por medio de la teoría de juegos se muestra que la automatización de las decisiones puede llevar al Dilema del Prisionero donde el bienestar social no sea el máximo posible. También, el uso asimétrico de estas herramientas pone en riesgo a quienes no las utilizan ya que las inteligencias artificiales pueden tomar ventaja de la información que se les comparte. Entonces, es necesario diseñar algoritmos que internalicen el impacto social, y mecanismos que regulen la forma en qué se usan.

Palabras clave: Juegos no Cooperativos, Elección Racional, Egoísmo.

Abstract

Technological advances have made it possible to use artificial intelligence to analyze and solve problems that were previously considered complex. Thanks to the increased computing power, it is now possible to access artificial intelligence tools to develop artistic, productive, economic or recreational activities more efficiently. Therefore, artificial intelligence is increasingly used in decision-making processes. Although advances in artificial intelligence have allowed them to make accurate decisions, the automation of decision-making has raised questions about the ethical and social implications of their depersonalization. This essay analyzes the conflicts that may arise when artificial intelligence totally or partially replaces decision-makers to solve a common problem. Following a game-theoretical approach, we show that the automation of decisions can lead to a Prisoner's Dilemma where social welfare is not the maximum possible. Also, the asymmetric use of these tools puts those who do not use them at risk since artificial intelligence can exploit the information shared with them. Therefore, it is necessary to design algorithms that internalize the social impact and mechanisms that regulate their use.

Keywords: Non-Cooperative Games, Rational Choice, Egoism.

JEL: C70, C72, D69, D74.

Introducción

Una de las principales características de la inteligencia artificial es su capacidad para tomar decisiones sobre problemas complejos asociados a un gran volumen de datos (Duan, Edwards y Dwivedi, 2018). Algoritmos de inteligencia artificial (IA), como las redes neuronales, proporcionan predicciones certeras de la demanda de un producto con lo cual se mejora la planeación de los procesos productivos (Feizabadi, 2022). También, existen algoritmos con la capacidad de clasificar y agrupar variables, con características afines, para una selección de proveedores más certera en las cadenas de suministro (Chai y Ngai, 2020). Sin embargo, la aplicación de la inteligencia artificial no se limita a procesos productivos; las personas también pueden mejorar la organización de sus actividades semanales con ayuda de este tipo de algoritmos (Venkatesh, 2022).

Aunque sus beneficios son claros, definir qué es una inteligencia artificial es un proceso que continúa en evolución. Para Turing, una IA es una máquina capaz de imitar el comportamiento humano (Muggleton, 2014, p.1). Por su parte, la Organización para la Cooperación y Desarrollo Económico define a una IA como un sistema que puede tomar decisiones cuando un humano (o usuario) le indica una serie de objetivos (Suleimenov et. al, 2020, p.23). Puesto que definir a la IA no es el objetivo del presente trabajo, consideramos que una IA es un mecanismo capaz de tomar la mejor decisión con respecto a la información que tiene disponible y al poder computacional que posee para transformarla en conocimiento (Lohani, Rahamn & Shaturaev, 2023, pp. 4-5). En otras palabras, podemos decir que una IA es un tipo de agente económico con racionalidad limitada desde la perspectiva de Herbert Simon (Kalantari, 2010). Así, el impacto de las IAs se ha estudiado en el mercado laboral por su capacidad para automatizar procesos, transformar empleos existentes y desplazar trabajadores (Ramos, Garza-Rodríguez & Gibaja-Romero, 2022). Al mismo tiempo, las decisiones de las IAs están generando dilemas éticos cuando las IAs toman decisiones que pueden provocar la muerte de algún involucrado (Ashok, et. al, 2022). Por consiguiente, existen dudas sobre si estos algoritmos deben sustituir total o parcialmente a tomadores de decisiones, particularmente, cuando estos interactúan en situaciones de conflicto (Zhang, Chen, & Xu, 2022). Por lo anterior, el presente ensayo se enfoca en responder la pregunta ¿cuáles son las consecuencias de que la IA sustituya a tomadores de decisiones humanos cuando las decisiones impactan a todos los agentes involucrados en un problema común? Por medio de teoría de juegos damos respuesta a la pregunta anterior al analizar dos interacciones: (a) La primera considera dos IAs que interactúan entre sí, es decir, un juego donde los tomadores de decisiones fueron sustituidos por una IA para resolver un problema común; (b) La segunda analiza una interacción donde solo uno de los dos tomadores de decisiones fue sustituido por un algoritmo de IA. En ambos casos, para ilustrar el conflicto, consideramos que las interacciones son simul-

táneas; así, usamos al equilibrio de Nash como concepto de solución.

La primera interacción se asemeja al Dilema del Prisionero pues su equilibrio de Nash es Pareto inferior ya que existe otro escenario donde los involucrados incrementan su utilidad sin perjudicar a los demás. Sin embargo, el mejor escenario no es elegido debido a que las IAs buscan unilateralmente la mejor solución posible con la información que tienen disponible. Respecto al segundo escenario, se observa que la IA afecta al tomador de decisiones que no utiliza IA pues tiene una menor capacidad para obtener la mejor decisión cuando se le compara con una IA.

El presente ensayo se relaciona estrechamente con una creciente literatura preocupada por los dilemas sociales asociados al uso de IA. Por ejemplo, al tratar de tomar decisiones racionales, la IA aplicada a vehículos autónomos genera el dilema de si debemos salvar a los peatones o a los pasajeros ante un posible accidente (Bonneton, Shariff, & Rahwan, 2016). También, la IA puede propagar información falsa después de recibir cierto entrenamiento y, con ello, afectar la reputación de los agentes económicos involucrados (Strümke, Slavkovik, & Madai, 2021; Sullivan & Fosso Wamba, 2022). Por otra parte, el segundo juego proporciona un equilibrio donde el tomador de decisiones tradicional se ve perjudicado por una inteligencia artificial no cooperativa. Es decir, si el uso de IA no es universal, la implementación de este tipo de algoritmos puede incrementar la desigualdad entre los agentes económicos debido a que las decisiones tienen diferentes niveles de optimalidad (Lutz, 2019).

El ensayo se estructura de la siguiente forma. La segunda sección describe los elementos generales del conflicto entre tomadores de decisiones tradicionales e IAs. Posteriormente, la tercera sección analiza los equilibrios de las interacciones consideradas. Así, la discusión de los resultados se presenta en la cuarta sección. La última sección presenta las conclusiones del trabajo.

Modelo

El presente ensayo usa la Teoría de Juegos para analizar las implicaciones de sustituir tomadores de decisiones en conflicto por inteligencias artificiales. Un juego es un modelo matemático que permite estudiar la toma de decisiones estratégica. Los elementos básicos de este tipo de modelos son los jugadores, acciones, reglas y pagos (Beckenkamp, 2006). A continuación, describimos dichos elementos para analizar el conflicto entre IAs y tomadores de decisiones tradicionales.

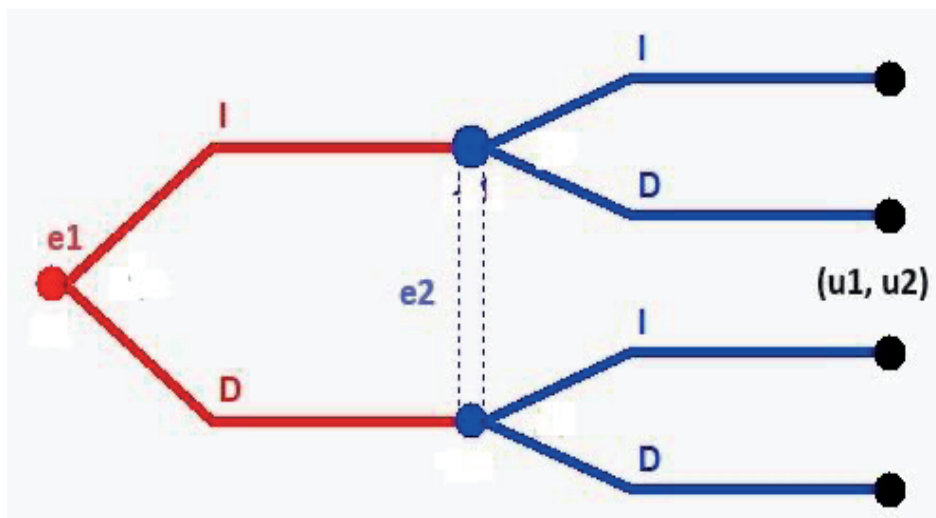
Sea $J = \{e_1, e_2\}$ el conjunto de jugadores; estos pueden ser de dos tipos: agentes económicos tradicionales (individuos o empresas) y algoritmos de inteligencia artificial capaces de tomar decisiones racionales, es decir, que elijan la mejor opción de entre todas las alternativas posibles que tienen con la información disponible (Lohani, Rahman, y Shaturaev, 2023). Un jugador genérico se denota por e^i . Sin importar el tipo de jugador, asumimos que el conjunto de acciones del jugador e^i es $A^i = \{I, D\}$. La acción I representa implementar una solución indirecta donde se comparte información con el otro agente, mientras que D es resolver el problema de manera

directa, sin compartir información adicional. Una acción cualquiera del jugador e^i se denota por a^i . Como es usual, un perfil de acciones es $a=(a_1,a_2)\in A_1\times A_2$. Para simplificar el análisis, consideramos el siguiente supuesto.

Supuesto 1. Cuando son del mismo tipo, los jugadores son homogéneos en las características que los definen.

Respecto a las reglas del juego, consideramos que ambos jugadores interactúan simultáneamente en la resolución de un problema común sobre el cual los jugadores tienen información completa. Es decir, ambos agentes toman decisiones sin conocer la acción que elige el otro jugador, pero sus decisiones los afectan mutuamente. Por ello, el conjunto de estrategias de cada jugador coincide con su conjunto de acciones. Así, los pagos dependen del perfil de acciones que resulta cuando el juego termina. Formalmente, el pago de e^i es una función $u^i: A_1\times A_2\rightarrow\mathbb{R}$, la cual proporciona a cada perfil (a_1,a_2) un valor $u^i(a_1,a_2)$. La Figura 1 presenta la forma extensiva del juego anterior.

Figura 1. Forma extensiva del juego. Elaboración propia.



Es importante enfatizar que el conjunto $A_1\times A_2$ indica todos los perfiles de acciones que pueden resultar al finalizar el juego; es decir, todos los escenarios posibles de la interacción. Sin embargo, el resultado de un juego no es lo mismo que su solución. Además, existen diferentes conceptos de solución, los cuales dependen de las características del juego. Al ser una interacción simultánea, sólo analizamos el equilibrio de Nash debido a su aplicabilidad para entender problemas en diferentes disciplinas (Hazra et. al, 2024). Un **equilibrio de Nash** es un perfil de acciones (a^*_1,a^*_2) donde los jugadores no tienen incentivos a desviarse unilateralmente; es decir, $u_1(a^*_1,a^*_2)\geq u_1(a^*_1,a_2)$ y $u_2(a^*_1,a^*_2)\geq u_2(a_1,a^*_2)$ para cualesquiera $a_1\in A_1$ y $a_2\in A_2$.

Análisis de equilibrio

El juego descrito en la Figura 1 establece los pagos de los jugadores de forma general. Puesto que buscamos entender el impacto de una sustitución parcial o total de los tomadores de decisiones humanos por IA, describimos en las siguientes subsecciones los pagos correspondientes a dos posibles interacciones. La primera analiza la interacción entre dos algoritmos de inteligencia artificial; es decir, una sustitución total de los tomadores de decisión debido a una automatización de procesos en la toma de decisiones. La segunda interacción considera que sólo un tomador de decisiones se sustituye por IA.

Interacción 1. Sustitución total de tomadores de decisión

Asumimos que e_1 y e_2 son algoritmos de IA con la capacidad de tomar decisiones óptimas asociadas a la información que tienen disponible. Entonces, los algoritmos de IA maximizan el beneficio de los usuarios que las utilizan al tomar una decisión. Así, el pago de cada IA es la diferencia entre la ganancia asociada a la decisión y el costo de establecer dicha decisión. Recordemos que la solución directa implica que cada algoritmo resuelve el problema de manera independiente. Es decir, no comparten información. Por su parte, la solución indirecta implica compartir información para resolver el problema; entonces, las IAs tienen mayor información, y ello incrementa la eficiencia del proceso de toma de decisiones (Li, Chen and Shang, 2021).

Supuesto 2. Más información incrementa la eficiencia de la IA al tomar decisiones.

Por el Supuesto 1, consideramos que resolver el problema común proporciona una ganancia de 20, mientras que la ejecución de la IA tiene un costo de 10. Por el Supuesto 2, usar una IA incrementa los beneficios, por lo cual asumimos que los costos se reducen a la mitad. Entonces, cuando ambas IA eligen D , cada una resuelve el problema por separado y obtienen un pago de 10. Por otra parte, elegir simultáneamente la solución indirecta genera un beneficio de 15. Finalmente, cuando eligen diferentes acciones, la IA que recibe información adicional disminuye sus costos a la mitad, mientras que la otra pierde eficiencia al conectarse con otra IA y no recibir nada a cambio. En este caso, los pagos son 15 y 5, respectivamente. La siguiente matriz de pagos resume los cuatro escenarios posibles y los pagos asociados a cada uno de ellos.

Tabla 1. Matriz de pagos de la interacción entre dos inteligencias artificiales.

C		e ₂	
		I	D
e ₁	I	15, 15	5, 20
	D	20, 5	10, 10

La Tabla 1 es la forma estratégica del juego que describe la sustitución total de tomadores de decisiones por algoritmos de IA. Dicha tabla resume los pagos y escenarios en los que puede concluir el juego, y con ellos podemos calcular los equilibrios de Nash.

Proposición 1. El equilibrio de Nash del juego inducido por la interacción 1 es el perfil de acciones

$$(a^*_1, a^*_2) = (D, D)$$

Demostración

Para calcular el equilibrio de Nash de la primera interacción (ver la Tabla 1), buscamos la mejor respuesta de cada jugador ante cada acción del otro jugador.

Consideremos que e₂ elige la acción I. Respecto a los pagos que puede recibir e₁, notemos que 20 > 15. Es decir, la acción D le proporciona a e₁ un mayor pago que elegir la acción I. Por ello, la mejor respuesta de e₁ a I es D.

Ahora, consideremos que e₂ elige la acción D. En este caso, los pagos que recibe e₁ son 10 y 5 cuando elige D e I, respectivamente. Por lo tanto, el jugador e₁ elige la mejor respuesta que es D.

El razonamiento anterior se puede replicar para calcular la mejor respuesta del jugador e₂ a cualquier acción del jugador e₁. Notemos que, cuando los jugadores eligen la solución directa D, esta es mejor respuesta sin importar lo que elija el otro jugador.

Particularmente, la acción D es mejor respuesta a D para cualquier jugador. Por ello concluimos que los jugadores no tienen incentivos a cambiar sus acciones en el perfil (D,D). En otras palabras, dicho perfil es un equilibrio de Nash.

Es importante notar que el perfil (D,D) proporciona una solución Pareto eficiente pues nadie puede mejorar sus pagos sin perjudicar al otro jugador. Específicamente, si la IA e₁ quiere obtener 20, la IA e₂ tiene que disminuir su beneficio a 10. A pesar de que es un escenario Pareto eficiente, dicho equilibrio de Nash es socialmente subóptimo pues existe un perfil Pareto eficiente donde los pagos de ambos jugadores se incrementan. Específicamente, el escenario (I,I)

proporciona un mayor pago, 15, para cada $e^i \in J$. Desafortunadamente, este no es un equilibrio de Nash pues los jugadores tienen incentivos unilaterales para cambiar su elección a la acción D pues su pago se incrementa a 20.

La observación anterior implica que la interacción descrita en la Tabla 1 se asemeja al Dilema del Prisionero. Particularmente, la acción I se refiere a cooperar, mientras que la acción D representa la no cooperación. Entonces, sustituir ambos tomadores de decisiones por mecanismos basados en IA implica que sus usuarios no obtienen el mejor pago pues la IA se limita a tomar la mejor decisión posible para el problema que enfrentan. Así, dicho escenario se convierte en una trampa social pues no hay incentivos para que las inteligencias artificiales cambien sus acciones por ser un equilibrio de Nash.

Interacción 2. Sustitución parcial de los tomadores de decisión

En el caso de una sustitución parcial, sólo un agente es sustituido por IA. Consideremos que e_1 es un tomador de decisiones clásico, mientras que e_2 es una IA. Al ser agentes distintos, primero procedemos a describir sus características.

Respecto a la IA e_2 , al igual que en la subsección anterior, consideramos que ésta es capaz de tomar la mejor decisión posible con la información que tiene disponible. Por el Supuesto 2, podemos considerar que los costos de e_2 se reducen cuando e_1 le proporciona información adicional. Aunque es claro que la cooperación entre IAs se puede lograr mediante la interconexión de sus algoritmos para compartir información, como ocurre con el Internet de las cosas (IoT por sus siglas en inglés) (Chander et al., 2022), la cooperación entre un tomador de decisiones tradicional y una IA no es tan inmediata. Para que una IA coopere con un humano, no es suficiente comportarse como un agente con racionalidad limitada. Cooperar, compartiendo información, requiere que la IA sea flexible, tome decisiones generalizables y aprenda rápidamente (Dafoe et al. 2021). En general, el tipo de IA que estamos considerando es menos eficiente cuando se le pide cooperar con un humano pues carece de la capacidad para aprender por refuerzo en la interacción humano-IA (Barfuss and Meylahn, 2023) y, en consecuencia, no percibe los beneficios estratégicos de compartir información (Crandall et al., 2018). Resumimos la discusión anterior en el siguiente supuesto.

Supuesto 3. Compartir información con el tomador de decisiones disminuye la eficiencia de la IA.
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Por su parte, el jugador e_1 es un tomador de decisiones tradicional que puede resolver el problema con y sin apoyo de recursos tecnológicos. Sin embargo, las herramientas tecnológicas facilitan la resolución y análisis de un problema (Damioli, Van Roy y Vertesy, 2021). Por ello, asumimos que e_1 es más eficiente cuando comparte información con la IA, que se resume en el supuesto siguiente.

Supuesto 4. El jugador e_1 toma decisiones más eficientes cuando se apoya de inteligencia artificial.

Ahora procedemos a construir la matriz de pagos con los supuestos anteriores. Asumimos que ambos agentes tienen una ganancia de 20 y costos de 10 al resolver el problema. Cuando ambos agentes comparten información mutuamente, por los supuestos 2 y 4, la eficiencia de cada uno se incrementa. Entonces, consideramos que los costos de e_1 disminuyen a cero pues usa la IA y al mismo tiempo la IA provee apoyo adicional a una solicitud específica. Por su parte, los costos de e_2 disminuyen a la mitad por tener que generar el proceso de cooperación. Así, los pagos son 10 y 15, respectivamente. Cuando e_1 comparte información, pero e_2 no lo hace, e_1 disminuye sus costos a la mitad (supuesto 4), mientras que e_2 reduce sus costos a cero por los supuestos 2 y 3. En el caso contrario, e_1 reduce sus costos a la mitad pues recibe información de apoyo por parte de la IA, y los costos de e_2 se incrementan a 15, por ejemplo, pues al compartir se vuelve menos eficiente. Entonces, los pagos son 15 y 5, respectivamente. Cuando ambos agentes buscan una solución directa, ganancias y costos permanecen sin cambios, y ambos agentes obtienen un beneficio de 10. La siguiente tabla muestra los pagos asociados a la discusión anterior.

Tabla 2. Matriz de pagos de la interacción entre un tomador de decisiones tradicional y una IA

C		e_2	
		I	D
e_1	I	20, 15	15, 20
	D	15, 5	10, 10

La Tabla 2 nos permite observar las diferencias entre la interacción 1 y la interacción 2. Al no ser los jugadores homogéneos, los pagos que pueden recibir no son simétricos por los Supuestos 3 y 4. La siguiente proposición muestra la solución de la segunda interacción.

Proposición 2. La interacción tiene como equilibrio de Nash el siguiente perfil de acciones

$$(I,D)$$

Demostración

Considerando la Tabla 2, procedemos a buscar la mejor respuesta de cada jugador a las acciones del otro jugador para encontrar el equilibrio de Nash.

Primero, buscamos la mejor respuesta del tomador de decisiones tradicional e_1 . Si e_2 elige la acción I , notemos que los pagos de e_1 son 20 y 15 al elegir I y D , respectivamente. Entonces, la acción I le

proporciona a e_1 un mayor pago que elegir la acción D. Por ello, la mejor respuesta de e_1 a I es I.

Ahora, asumimos que e_2 elige la acción D. Al elegir I o D, e_1 gana 15 y 10, respectivamente. Por lo tanto, la mejor respuesta de e_1 es la acción I.

Respecto a e_2 , su mejor respuesta es la solución directa D cuando e_1 elige I pues le proporciona el mayor pago posible. Lo mismo ocurre cuando e_1 elige D. Es decir, e_2 siempre elige D sin importar las acciones de e_1 .

Por lo anterior, notemos que D es la mejor respuesta de e_2 cuando e_1 elige I. Por su parte, I es mejor respuesta de e_1 a D. Por ende, los jugadores no tienen incentivos a cambiar de acciones en el perfil (I,D). En otras palabras, dicho perfil es un equilibrio de Nash.

La Proposición 2 muestra un equilibrio asimétrico donde el tomador de decisiones tradicional e_1 coopera mientras que la IA e_2 no lo hace. Es decir, la IA obtiene información adicional pero no comparte su información, esto le permite ser más eficiente e incrementar sus beneficios. Por su parte, e_1 se vuelve más eficiente, pero no obtiene los mismos beneficios ya que la IA se limita a seguir sus instrucciones y no retroalimenta al tomador de decisiones tradicional. Así, los pagos que obtienen son 15 y 20, respectivamente. Es interesante notar que el pago de quien no sustituye sus decisiones con la IA es menor que el pago de quien si lo hace. Dicho resultado se relaciona con trabajos empíricos que señalan que la IA mejora la productividad y competitividad de quienes la adoptan en diferentes procesos (Hassani, et. al, 2020).

Comparación de equilibrios

Las Proposiciones 1 y 2 muestran que la sustitución total o parcial de tomadores de decisiones por algoritmos de IA genera equilibrios distintos cuando los agentes involucrados tienen que resolver un problema común. En el primer caso, el equilibrio señala que los algoritmos de IA eligen la solución directa, no cooperar entre ellos, pues dicha acción es óptima ya que maximiza los beneficios individuales. Sin embargo, automatizar la toma de decisiones por medio de IA no proporciona el mejor resultado para los jugadores pues se ignoran los beneficios de compartir información; es decir, el primer juego se asemeja al Dilema del Prisionero. Tal como ocurre en los estudios sobre el uso ético de la IA (Ashok, et. al, 2022), el resultado anterior sugiere revisar el diseño de las IAs en escenarios de conflicto de tal forma que las IAs contemplen el impacto de sus decisiones. Particularmente, la Tabla 1 señala la necesidad de generar mecanismos de IA que internalicen los beneficios de cooperar cuando interactúan en la resolución de un problema común. Esto puede lograrse mediante la interconexión de sus procesos (Chander et al., 2022). Al internalizar el impacto de sus decisiones en otros, las IAs pueden elegir de manera conjunta el perfil (I,I), que proporciona el máximo pago posible para cada jugador.

La segunda interacción, por su parte, hace referencia a la automatización parcial de procesos pues sólo un tomador de decisiones es sustituido por una IA. La solución a esta interacción

es el equilibrio asimétrico (I,D) donde la IA opta por una solución no cooperativa, mientras que el otro agente decide cooperar. Además, la IA obtiene el máximo beneficio posible en este equilibrio. Esto genera un dilema sobre la adopción asimétrica de este tipo de algoritmos ya que la IA puede tomar ventaja del tomador de decisiones tradicional para maximizar su beneficio, como lo señala March (2021, p.12). Así, este equilibrio simétrico muestra las implicaciones de las desigualdades digitales: beneficios distintos, pero también desventajas asociadas al uso de los recursos disponibles (Lutz, 2019, p. 144).

Respecto al bienestar social, el segundo juego también ilustra los problemas potenciales a los que el gobierno se puede enfrentar como agente regulador. Por un lado, tanto (I,I) como (I,D) son resultados Pareto eficientes. Además, ambos escenarios proporcionan el mismo bienestar social cuando este se define como la suma de los pagos individuales (35), que coincide con el máximo bienestar posible en este juego. Sin embargo, los pagos de cada agente son diferentes en cada escenario. El escenario (I,I) proporciona al tomador de decisiones tradicional su máximo pago, mientras que el equilibrio (I,D) hace lo mismo para la IA. Sabemos que el escenario (I,I) representa una situación de cooperación en la que tomadores de decisiones y usuarios de inteligencia artificial pueden mejorar su comprensión del problema común al compartir información. Sin embargo, esto no induce una mejora de eficiencia simultánea como ocurre en el juego previo cuando se opta por el escenario cooperativo. Dicho escenario (I,I) tampoco es un equilibrio pues la IA puede mejorar sus pagos al no compartir información. Por consiguiente, con diferencia del juego anterior, en esta interacción no es claro cuál es el mejor resultado desde una perspectiva social. En otras palabras, no es claro si el gobierno debe proteger a quienes no usan alguna IA, o impulsar el uso de estas herramientas.

La discusión anterior nos permite extraer dos observaciones importantes. La primera se refiere a la ventaja que obtienen quienes utilizan nuevas tecnologías sobre quienes no la utilizan. Es decir, la adopción desigual de nuevas tecnologías genera desigualdad en los beneficios. La segunda observación se asocia al origen de los beneficios. Particularmente, considerando los supuestos 3 y 4, la IA obtiene mejores beneficios pues tiene más información y no tiene que interconectarse con un agente distinto a ella. Se puede decir que los beneficios adicionales se obtienen tomando ventaja de quien coopera con ella. Por consiguiente, es importante resaltar la importancia de educar a las personas sobre la convivencia con la IA; el compartir información con estos mecanismos no garantiza que quien comparte vaya a obtener beneficios por hacerlo.

Conclusiones

El presente ensayo analiza las implicaciones de sustituir total o parcialmente a tomadores de decisiones por algoritmos de IA en la resolución de un problema común. Particularmente, en una situación donde las acciones resultantes afectan los beneficios que pueden obtener los individuos involucrados. Para ello se plantean dos modelos de teoría de juegos donde los agentes son descritos a partir de sus habilidades para tomar decisiones con la información que tienen disponible y las características del otro agente. Específicamente, las IAs son más eficientes en la toma de decisiones cuando se interconectan y comparten información (Chen & Shang, 2021; Chander et al., 2022). Sin embargo, compartir información con un humano tiene un impacto negativo en la eficiencia de la IA pues cooperar no es una de sus características básicas; ello requiere características adicionales a su capacidad de procesar grandes volúmenes de datos para tomar decisiones sofisticadas (Barfuss & Meylahn, 2023; Crandall et al., 2018). Por su parte, el tomador de decisiones tradicional es más eficiente cuando comparte información con la IA pues éstas sirven de apoyo en la toma de decisiones (Damioli, Van Roy & Vertesy, 2021).

Los supuestos anteriores impactan en la eficiencia de cada agente, lo cual representamos por medio de cambios en los costos para ejemplificar la construcción de los beneficios. Cada juego tiene un sólo equilibrio de Nash, lo cual refleja diferentes dilemas respecto a la sustitución total o parcial de tomadores de decisión por inteligencias artificiales.

El primer juego muestra que la sustitución total de tomadores de decisiones por algoritmos de IA genera un resultado subóptimo para los agentes involucrados. Ello se debe a que los algoritmos de IA seleccionan la mejor solución con la información que tienen disponible pues los describimos como agentes con racionalidad limitada capaces de tomar decisiones sofisticadas. Sin embargo, el resultado no es el mejor pues se ignoran los beneficios de cooperar; es decir, el equilibrio se asemeja al Dilema del Prisionero. En este sentido, diseñar algoritmos de IA debe contemplar tanto la búsqueda de la mejor solución como el impacto de las decisiones en los otros agentes involucrados. Tomando como referencia la programación multiobjetivo (Abdollahzadeh and Gharehchopogh, 2021), la observación anterior señala la necesidad de crear algoritmos de inteligencia artificial multiobjetivo que maximicen simultáneamente el beneficio propio y el social. Al considerar múltiples objetivos, la toma de decisiones apoyada por IA puede considerar otras formas de medir o caracterizar el bienestar social, como lo es el bien común.

El segundo juego muestra que, en el único equilibrio, el tomador de decisiones tradicional coopera mientras que la IA no lo hace. Así, el primero obtiene un beneficio menor al de la IA, quien obtiene su beneficio máximo; además, el bienestar utilitario es máximo en este resultado. También, notamos que el escenario donde ambos agentes cooperan es eficiente, maximiza el bienestar social y beneficia a quien no usa la IA, pero no es un equilibrio. Entonces, el dilema radica en la adopción desigual de la IA. El equilibrio señala que quien usa la IA de manera egoísta puede obtener ventaja de quien comparte información pues una IA con racionalidad limitada no necesariamente es cooperativa. Dicha interpretación es de suma relevancia en un entorno

donde las plataformas digitales recolectan información personal de quienes interactúan en ellas. En este sentido, la adopción desigual de IA se debe regular buscando que la automatización de ciertos procesos mediante IA no tome ventaja de quienes no la utilizan. Por ejemplo, esclarecer y transparentar el impacto de dichas herramientas en usuarios directos e indirectos (Memarian and Doleck, 2023).

Finalmente, los equilibrios anteriores ilustran la necesidad de diseñar herramientas de IA que internalicen el impacto social que pueden generar cuando interactúan automáticamente entre ellas, o con un tomador de decisiones tradicional, en la resolución de un problema común. En este sentido, se deben diseñar mecanismos e instituciones que regulen el uso ético de la IA y faciliten el acceso a este tipo de herramientas (Joyce, et. al, 2021). En otras palabras, es necesario replantear la regulación económica en plataformas digitales para garantizar el bienestar social (Tirole, 2017). Es importante resaltar que la teoría de juegos proporciona una modelación sencilla de los conflictos asociados a la interacción con algoritmos de inteligencia artificial. De manera simple, ambos resultados señalan la importancia de diseñar algoritmos de IA capaces de cooperar para lograr el mejor resultado. En este sentido, además de refinar el concepto de inteligencia artificial conforme la misma evoluciona, futuros trabajos pueden hacer uso de la Teoría de Juegos para establecer un concepto de cooperación que pueda programarse en este tipo de algoritmos.

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Entrepreneurial action for the common good

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Abstract

In today's complex and pluralistic society, the construction of the common good poses a significant challenge for researchers, think tanks, and policymakers. Some propose a re-evaluation of the fundamental role of existing organizations, while others advocate for the promotion of bottom-up initiatives, including community leadership and mission-oriented entrepreneurships, as a means to address social issues. This latter perspective conceptualizes new ventures as entities designed to contribute to the common good through the creation and implementation of innovative business models that redefine institutional functions, changing the rules of social interaction. Building on prior research, we propose a cyclical entrepreneurial process for achieving the common good. This process is marked by the establishment of organizational freedoms, relational mechanisms embedded in business model-driven governance, instability, and combined circumstances of justice and injustice. Our approach indicates a paradigm shift in the conceptualization of the development of the common good, involving an alternative that deviates from both the collective and the purely libertarian viewpoints on social organization, which aims to influence habits, power structures, and relationships to create a more conducive environment for humanity.

Keywords: Business Model, Common Good, Entrepreneurship, Institutional Work.

Resumen

En la sociedad compleja y plural dentro de la cual nos encontramos, la construcción del bien común plantea retos importantes tanto a investigadores y grupos de reflexión como a responsables de la política pública. Algunos proponen una reevaluación del papel de las organizaciones, mientras que otros abogan por la promoción de iniciativas con un enfoque "de abajo hacia arriba", incluyendo el liderazgo comunitario y los emprendimientos que buscan cumplir una misión, como medios para abordar los problemas sociales. Esta última perspectiva conceptualiza las nuevas empresas como entidades diseñadas para contribuir al bien común mediante la creación y aplicación de modelos de negocio innovadores que redefinen funciones institucionales, cambiando las reglas de interacción social. Con base en investigaciones previas, proponemos un proceso cíclico del emprendimiento en la búsqueda del bien común. Este proceso está marcado por condiciones de libertad para organizarse, mecanismos de relaciones integrados en una gobernanza impulsada por modelos de negocios, inestabilidad y circunstancias combinadas de justicia e injusticia. Nuestro planteamiento indica un cambio de paradigma en la conceptua-

lización del desarrollo del bien común, involucrando una alternativa que se aparta tanto de la perspectiva colectivista, como de aquella puramente libertaria de la organización social, la cual busca influir en los hábitos, las estructuras de poder y las relaciones para crear un entorno más propicio para un cierto nivel deseado de humanidad.

Palabras clave: Common Good Systems, Corporate Governance, Corporate Social Responsibility.

JEL: B52, D63, L26.

Introduction

The interpretation of the common good is influenced by historical and ideological factors. Some conceptualizations emphasize the decision-making process, while others highlight its constitutive nature. Examples of these interpretations are provided by Mansbridge (2013): (1) the common good as the outcome of a democratic decision-making process; (2) the common good as the aggregate of acquired goods at the individual level (utilitarian perspective); (3) the common good as the result of moral reasoning by a leadership authority or group; (4) the common good as the welfare of an organization over its individual members' wellbeing; or (5) the common good as a means of supporting a national leader-defined goal. Generally, these interpretations align with either a collectivist or a liberal perspective on the common good. Liberalism, on the one hand, asserts that individuals possess basic rights and independence, as well as the freedom to determine their own definition of what is good (Freeman, 2001, pp. 105, 131). In this sense, we concur with the distinction that the author makes between liberalism and the concepts of *laissez-faire* in economics (classical liberalism), utilitarianism (which seeks to maximize individual welfare), and libertarianism (which prioritizes the right to private property as a fundamental maxim). All recognize the role of markets in the exchange of goods (Freeman, 2001, p. 117). Regarding the collectivist approach, while some academic works use "collectivism" and "communitarianism" to refer to similar ideas, it is important to understand the key differences between them. Collectivism refers to a sociological perspective that emphasizes the group, while the communitarian approach refers to social belonging and relationships between an individual and a community (Leeds, 1998, 52-53).

In particular, collectivism draws inspiration from the premodern conception of the common good, as exemplified by the thought of Aquinas and Aristotle (Hollenbach, 2002, p. 4; Jaede, 2017, p. 3). This perspective demands the sacrifice of immediate and individual concerns, which are characteristic of liberal thought, in favor of a communitarian pursuit of the common good. To this end, some scholars have proposed a Hegelian approach to social development, centered on the establishment of a rule-based plan for the eradication of power inequalities. The objective is twofold: firstly, to foster greater group collaboration, with individual success taking a back seat (Kilminster, 2013); secondly, to prioritize the collective process of decision-making

(Radder, 2022). However, the presence of a wide array of incompatible ideas in our contemporary pluralist society presents considerable challenges to achieving societal consensus, implying that the common good can only be attained in small and uniform groups (Knight, 1998, pp. 247–50). From this viewpoint, the aspiration for a common good has led to significant concerns in that it may implicate the emergence of repressive interpretations as a means to reach societal unity (Hollenbach, 2002, p. 9). Furthermore, Kilminster (2013) cautions against the collectivist approach, noting that it represents an excessively critical stance that aims to achieve a theoretical utopia of moralized community, which could impede actual progress toward the common good.

In response, some scholars suggest that liberalism, individual freedom, and tolerance should take precedence over the public matters, especially in the face of pluralism (Hollenbach, 2002, pp. 9-19). This perspective seems to argue that the concept of the common good is hardly applicable in today's pluralistic society (Mansbridge, 2013). Furthermore, those who advocate a libertarian stance place significant emphasis on the role of property and individual rights as indispensable elements in the pursuit of fairness, which is prioritized over the common good (Collaud, 2018, p. 7). This approach encourages individuals to pursue their own self-interest in a manner that appears justified (Rawls, 1999), considering that the welfare of a society does not necessarily imply the equal attainment of that level of welfare among all its members (Hollenbach, 2002, p. 7). Furthermore, it is essential to draw a distinction between that which is common to a group of individuals and that which is public (Mansbridge, 2013). The common good is contingent upon the existence of a "community" with shared values, while the public interest focuses on individual well-being and rights (Hollenbach, 2002). According to this latter author, it is social relationships that distinguish the common good from other societal denominations. It is evident that the notion of the common good is contingent upon context and discourse, which explains why objectives pertaining to the attainment of a certain version of common good have frequently been a source of contention (Drucker, 1992), and its development a subject of considerable debate (Mansbridge and Boot, 2022).

In light of the aforementioned discussion, if it is deemed unrealistic to expect a pluralistic society to identify common elements of a good life, then tolerance should be considered as the only viable alternative for achieving healthy social coexistence (Hollenbach, 2002). However, our society's current inability to address pressing environmental and societal challenges that jeopardize our future indicates that expectations regarding tolerance are simply ill-advised. In a departure from the aforementioned scholars, Aquinas's theory of human action establishes that people have a natural will or rational appetite to do what they consider good (Keys, 2006). The common good can therefore be understood as a problem with a future orientation requiring present actions by individuals embedded in a society that develops as a communitarian process (Sherover, 1984, pp. 478-479). Individuals and groups alike exhibit goal-oriented behavior aimed at achieving the common good in the future (Lautermann, 2012, p. 54; Sherover, 1984, p. 476). This perspective suggests that despite the presence of pluralistic societies, individuals with

diverse beliefs can still agree on pursuing shared objectives that benefit all. This suggests that collectivist and liberal rights perspectives are not inherently exclusive, but rather complementary, depending on how certain leaderships orchestrate social participation in a particular proposal. This perspective is characteristic of mission-oriented entrepreneurship, which is defined by the pro-social effectiveness of its business model, i.e., the manner in which an organization creates and delivers value in the form of products and services, as well as the monetization strategy employed to generate revenue (Osterwalder and Pigneur, 2010). From this viewpoint, mission-oriented entrepreneurship could be the liberal response to the communitarian demand to address the common good. As might be expected, business thinking represents the dominant institutional logic in new ventures. However, mission-oriented entrepreneurship simultaneously pursues both a business and a social mission, the institutional logic of which determines the nature of the business model (Laasch, 2018). Nevertheless, this type of entrepreneurship is a form of action that is often overlooked in discussions of the common good, which distorts our understanding and inclusion of alternative forms of action for the common good, especially in today's crowded and pluralistic society, as we discuss next.

First, the grand challenges that constrain our common good are distinguished by their inherent complexity (Ferraro, Etzion and Gehman, 2015). This is indicative of the “wicked problems” that cannot be solved with the linear thinking that characterizes traditional institutional action (Clarke and Stewart, 1997). Moreover, there is a lack of acknowledgment of the systems dynamics inherent in the construction of the common good, the quality of which is contingent upon the structure of justice, stability, and governance that a given society is able to implement (Nebel and Arbesu-Verduzco, 2020, p. 386). From this perspective, the common good can be conceptualized as a system design problem, where the rules that govern its dynamics ultimately determine whether desired or undesired outcomes are achieved. Within this system, both incumbent and new business organizations are stakeholders that play a significant role in contemporary society. If their mission includes pro-social effectiveness, their business model can provide a functional design for the common good.

Secondly, the common good is contingent on interpersonal relationships that are shaped by systemic dynamics and network structures (Nebel and Arbesu-Verduzco, 2020). Although this perspective allows for a broad range of interpretations, scholars tend to align with the collective approach, which emphasizes the importance of strong relationships and the actions of community members involved in the production and distribution of the goods that constitute the common good. Consequently, the majority of analytical frameworks concentrate on the role of communitarian relationships as a foundation for the development of the common good. However, communal structures are less prevalent in larger and more complex societies. The contemporary social order is structured around a variety of organizations, with numerous autonomous, task-oriented centers of power coexisting (Drucker, 1992). This gives rise to a multitude of non-communitarian relationships. As Drucker (1992, p. 100) observed decades ago, organizations are rooted in a specific society but are not inherently tied to it. While communities are

defined by their shared membership, organizations are defined by the tasks they undertake. The majority of products and services are provided by these organizations, as opposed to being the result of collective production. This reality bestows upon business organizations a pivotal functional role within the foundational structure of the social apparatus for the provision of goods, including those specific common goods that require the interaction of people in order to be realized - education, work, and so on (Nebel and Arbesu-Verduzco, 2020, p. 387). This rationale suggests that expectations of a generalized collective process of production, distribution, and decision-making in contemporary societies seem illusory.

Thirdly, the growing number of new venture founders who are embracing a mission that extends beyond conventional business logic is typically associated with the design of novel institutional functions as an integral component of their business model. The objective of this approach is to create a positive societal impact in situations where existing institutional configurations, including markets, have not succeeded (Dohrmann, Raith, and Siebold, 2015, p. 127), transforming the market into what Zamagni (2018) describes as a shared civil space. This approach gives rise to novel forms of institutional work, including bottom-up initiatives led by individual leaders, known as social entrepreneurs, who become institutional entrepreneurs when their ventures internalize incumbent institutional functions, either to create new institutions or to affect existing ones (Heeks *et al.*, 2021). From this perspective, every constituent of society, namely, the people and the organizations that make it, has a role to play as in a functional social body (Collaud, 2018, p. 8), which changes dynamically as a result of mission-oriented entrepreneurial ingenuity.

This position paper adopts an entrepreneurship perspective, which acknowledges that society has a meta-organizational structure comprising not only individuals but also organizations capable of institutional action. Each of these entities exerts influence on the dynamics of the common good. By acknowledging the multiplicity of sources of institutional action inherent in the dynamics of the common good, we can initiate a dialogue on how the common good can be achieved within a complex, contemporary society where multiple stakeholders are present and the aspiration for institutional change is pervasive. In particular, we adopt the perspective of institutional entrepreneurship embedded in business model designs, which allows us to consider alternative paths to the development of the common good. Our analysis commences with an examination of bottom-up alternatives for achieving institutional work, including the self-organization of collectivities and the perspective of the mission-oriented entrepreneur. We then put forward an entrepreneurial approach to common good dynamics, reframing the distinctive features of the common good as outlined by Nebel and Arbesu-Verduzco (2020), namely, collective agency freedom, governance, stability and justice, to become agency freedom to engage in the creation of a new organization, business model-driven governance, positive instability, and the combination of justice and injustice. Our objective is not to question the definitions established by the authors of the original framework; rather, we aim to offer an insightful rephrasing of the dynamics of the common good as influenced by entrepreneurial action. In doing so, we hope to contribute to the field of common good research by characterizing entrepreneurship and its

potential role in fostering the common good. We conclude this position paper with a summary of our findings.

Background: institutional work from the bottom up

The majority of social functions can be attributed to the presence of an institutional framework, that is, specifically planned structures of rules and norms. Institutions influence individual behavior and regulate power dynamics (Lawrence, 2008, pp. 170-171), thereby reducing societal uncertainty (Meyer, 2001, p. 358). Institutions facilitate the continuity of market transactions and the enforcement of legal agreements. Top-down politics represents the pinnacle of this effort, enabling the control over the behaviors and beliefs of all members of society, as well as the agency necessary to change institutions (Lawrence, 2008, pp. 173-174). In this regard, it is important to recognize that institutions are not static entities. In order to remain effective, institutions frequently require adaptations or even radical transformations, particularly when they prove ineffective at solving specific problems. Empirical evidence indicates that institutions evolve or that their functions are transferred, transformed, or recreated by other means (Heeks et al., 2021). However, top-down institutions typically accept only incremental changes to their current configuration (Mahoney and Thelen, 2009). The policies of these institutions frequently focus on overt indications of the immediate situation, rarely encompassing a comprehensive understanding of the complexities embedded in evolving societal conduct (Meadows, 2008). As a result, the inability of these institutions to adequately address the environmental and societal challenges of our time has led to an overall crisis of confidence (Battilana, Leca and Boxenbaum, 2009, p. 93). The situation is further complicated by the emergence of anti-establishment regimes that challenge the established institutional frameworks of liberal democracies. These regimes prioritize short-term commitments, yet they fail to assess the long-term consequences of their policy choices (Woo-Mora, 2024). It is evident that power plays a pivotal role in enabling institutional transformation as well (Lawrence, 2008). Departing from extant institutions is a more arduous process than building upon the existing institutional order (Battilana, Leca and Boxenbaum, 2009, p. 66). In any case, institutions are typically regarded as needing improvement, necessitating sustained effort to enhance them with an impetus for institutional action that extends beyond political power.

Other forms of institutional work are conducted by individuals who are driven to effect societal change, either as a result of a disinterested motivation to improve the circumstances of a specific group, as a consequence of identifying a business opportunity, or a combination of both. This may constitute the majority of institutional work in society, which is a distributed learning process enabled by the involvement of several types of stakeholders (Boon, Spruit and Frenken, 2019, p. 900). Therefore, while the common good represents an aspirational goal for a healthy social life, i.e. a more conducive environment for humanity, institutional work provides the means to develop a better society as a result of collaboration and co-creation (Scognamiglio

et al., 2022). However, as supra-organizational structures designed to regulate human behavior, institutions may not always align with the common good. The outcome is contingent upon the institutional logics that inform individual and organizational practices (Thornton and Ocasio, 2008). Institutional logics influence how individuals and organizations ascribe meaning to their activities, thereby defining the manner in which resources will be allocated (Laasch, 2018, p. 159). In this regard, our research identifies two types of bottom-up institutional work, led by individuals that aim to contribute to common good dynamics. The first is collectivities, which are a form of self-organization leading to participation by conviction. The second is entrepreneurs, namely, individuals who create a new organization, expecting to persuade users and clients about their value proposition. Table 1 illustrates this classification in accordance with the framework established by Nebel and Arbesu-Verduzco (2020), which serves as the basis for our analysis of the four normative drivers of common good dynamics that lead to the anticipated level of humanity. These drivers include freedom of agency, which pertains to the form of action, as well as the three constituent drivers of the common good structure (governance, stability and justice), which are referred to as institutional dimensions¹.

¹ The five normative drivers have been defined by Nebel and Arbesu-Verduzco (2020), whose summarized version is given below: (1) Humanity: "denotes the human quality of our coexistence in the nexus; how we relate and act together as human beings". (2) Collective agency freedom: "overall capability of a nexus population to engage with others and act together freely" (note: in this paper, we broaden this definition beyond collectivism, considering freedom of agency as the human capability to engage and act freely). (3) Governance: "capability to lead the nexus towards an ever broader and deeper human integration". (4) Justice: "how people take part and have part in the social goods". (5) Stability: "the social institutions preserving and enriching the achieved humanity".

Table 1: Types of bottom-up institutional work

<i>Leading agency (freedom of action)</i>	<i>Form of stakeholder engagement</i>	<i>Institutional dimensions</i>		
<i>(motivation)</i>	<i>(rule adoption)</i>	<i>Governance (“steer”)</i>	<i>Stability (“durable”)</i>	<i>Justice (“benefits for all”)</i>
<p><i>Community leadership (little/ no personal reward) (Taylor, 2021).</i></p> <p><i>Sense of belonging (relational).</i></p> <p><i>Stimulates collective action (self-organization freedom).</i></p>	<p><i>By conviction (shared perceptions of injustice; cooperation networks).</i></p> <p><i>Commons-based resources/ peer production (Esteves, et al., 2021).</i></p>	<p><i>Collective organization.</i></p> <p><i>Heterogeneous interests lead to harder coordination efforts (Bridoux and Stoelhorst, 2016).</i></p> <p><i>Non-market mechanisms.</i></p> <p><i>Relational design.</i></p>	<p><i>Social mission is the end goal.</i></p> <p><i>Philanthropic capital/ government funding-dependent (Esteves, et al., 2021, Kostakis and Bauwens, 2014).</i></p> <p><i>Risk of ephemerality.</i></p>	<p><i>Usual targets: neglected segments.</i></p> <p><i>Small group effectiveness (Olson, 1971).</i></p>
<p><i>Mission-oriented entrepreneurship.</i></p> <p><i>Freedom to create a new organization (Baron and Henry, 2011).</i></p> <p><i>Personal reward.</i></p>	<p><i>By persuasion (build value networks; communities are resources).</i></p> <p><i>Coordination of diverse interests (Rossignoli, Ricciardi and Bonomi, 2018).</i></p>	<p><i>Business model-driven.</i></p> <p><i>Interests aligned to value-proposition (Zahra and Wright, 2016).</i></p> <p><i>Combined institutional logics (Thornton and Ocasio, 2008).</i></p> <p><i>Transactional and relational design (Rahman and Thelen, 2019, Valentinov and Roth, 2024).</i></p>	<p><i>Constant trade-off between social mission and business objectives.</i></p> <p><i>Venture capital-dependent (Valentinov and Roth, 2024).</i></p>	<p><i>Usual targets: neglected segments</i></p> <p><i>Service improvement (aspirational).</i></p> <p><i>Small and large group potential effectiveness.</i></p>
			<p><i>Expected outcome: justice/instability or injustice/instability (incremental or disruptive continuous change)</i></p>	

Own elaboration

As illustrated, the distinction between institutionalized collectivities and political action is based on their intrinsic motivations to engage in the processes of creation, learning, and communication within the community (Kostakis and Bauwens, 2014). This facilitates the development of a commons-based peer production (CBPP) system. This form of organization encompasses a range of property regimes, task allocations, and exchange structures, as well as the collective management of shared resources (Esteves *et al.*, 2021). As Esteves *et al.* (2021, p. 1425) observe, the majority of cases pertain to contexts involving the management of natural resources, such

as land products. In such instances, community-based organizations may prove more effective than hierarchical enterprises in redefining the relationship between people and the natural environment (Gurău and Dana, 2018) and in legitimizing the process of self-governing decision-making. From this perspective, self-organization is driven by conviction and serves as the foundation for cooperative behavior. Nevertheless, while shared meaning and a common understanding of mutual problems appear to be prerequisites, they are not sufficient to explain the effectiveness of collective action. This is evidenced by the lack of success of certain sharing economy models in encouraging conscious behavior (Maggioni, 2017). In this regard, a sense of belonging and community affection can indeed encourage collaboration. However, it is important to note that self-interest in members of the collective is a significant factor as well, compromising the goals of the community (Bridoux and Stoelhorst, 2022, p. 214). Therefore, for community members to engage in such cooperative behavior (active contribution), Bridoux and Stoelhorst (2022, pp. 217-218) indicate that there must be an agreement to establish limits to resource exploitation. It is therefore crucial for the community to comply with established rules, with penalties expected to be higher than rewards for being uncooperative (Rossignoli, Ricciardi and Bonomi, 2018, p. 421).

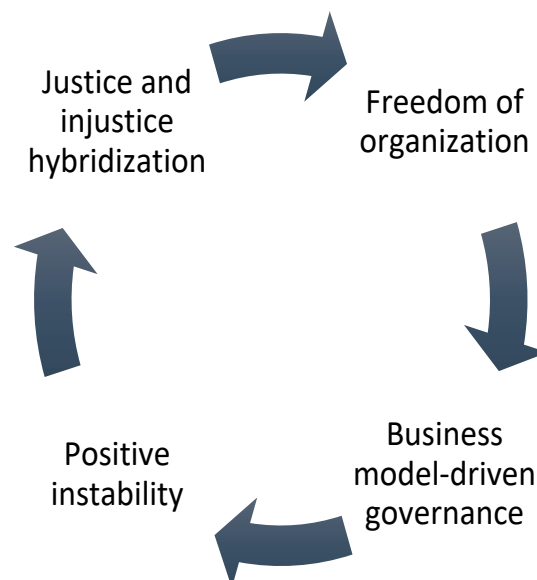
In this context, it is crucial to have leaders who can facilitate the development of cooperation infrastructures (i.e., CBPP) with the support of foundations (Kostakis and Bauwens, 2014, p. 54) in order to manage self-interest and rationality in collective action. Such a leader is a type of brokering entrepreneur whose role is to coordinate the heterogeneous preferences of stakeholders and associated transaction costs (Taylor, 2021, pp. 2-3). However, Taylor (2021) observes that the role of brokering may be discouraged by the expectation that they will receive minimal compensation for their efforts. In general, it is challenging for individuals to generate a sustainable income from a CBPP system (Kostakis and Bauwens, 2014, p. 55). This is particularly the case for larger groups, where individual interests are not easily aligned with group interests due to higher organizational costs and a smaller share of individual benefits (Olson, 1971). Nevertheless, individuals who are alienated from conventional forms of organization frequently gravitate towards collective organizations as a means of addressing their unmet needs. In other words, cooperatives represent a viable alternative to markets that are often overlooked by for-profit firms and governments. This is why cooperatives typically require a motivated benefactor who is willing to invest patient capital and who finds support in public policy (Taylor, 2021), as illustrated by the examples provided by Rossignoli, Ricciardi and Bonomi (2018). In essence, those who advocate for collective action are seeking to establish a system of collective ownership, thereby preventing the appropriation of resources for private benefit (Ridley-Duff and Bull, 2021). However, the viability of these models is contingent upon the presence of several subsidiary factors, including human capital, financial resources, and a state that is amenable to this approach (Esteves *et al.*, 2021, pp. 1426-1428).

In an alternative perspective, the second source of institutional work is that which originates from bottom-up initiatives, typically spearheaded by individual leaders, known as entrepreneurs. It is evident that the success of entrepreneurial initiatives is contingent on the institutional context in which they operate (Henrekson, 2006). Furthermore, as this author notes, the role these initiatives play can have a beneficial or detrimental effect, contingent on the goals they aim to accomplish. However, it is important to acknowledge that entrepreneurs also function as institutional creators. When entrepreneurs assume the role of "bridging organizations", coordinating the diverse interests and contributions of stakeholders, they establish an institutional environment conducive to project development (Rossignoli, Ricciardi and Bonomi, 2018). This transition signals the emergence of institutional entrepreneurship, which involves the creation of new institutions or the exertion of influence on existing ones (Heeks *et al.*, 2021). The concept of institutional entrepreneurship was first introduced by DiMaggio (1988). This approach differs from conventional institutional theory in that it views action as involving a form of rational agency whose interests can be fulfilled by transforming or creating institutions that are shaped by context and the position of key stakeholders (Battilana, Leca and Boxenbaum, 2009, pp. 72-74). As outlined by Van Bockhaven, Matthyssens and Vandenbempt (2015, pp. 174-175), there are two scenarios in which institutional entrepreneurship occurs. The first scenario is when incumbent powers encourage institutional entrepreneurship, but are constrained by vested interests in the current institutional framework. This is exemplified by new ventures in the private education, security, and health services sectors, which have been permitted by central authorities to contribute to the advancement of justice and stability. These ventures operate under the umbrella of the state. The second scenario is comprised of "peripheral" motivated players, operating within an organized ecosystem. Some scholars posit that these institutional entrepreneurs typically develop novel business models that challenge the status quo (Battilana, Leca and Boxenbaum, 2009). In order to achieve this, they deploy resources in order to transform existing institutions or to develop new institutional proposals (Jayanti and Raghunath, 2018), thereby creating, avoiding, or filling institutional voids (Dieleman *et al.*, 2022). Some of these entrepreneurs pursue an evasive strategy to challenge the status quo and exploit institutional contradictions (Elert and Henrekson, 2017). This entails testing the limits of the extant institutional framework while circumventing the potential for punishment (Huang *et al.*, 2019, p. 2). As stated by Ciambotti, Zaccone and Pedrini (2023, p. 168), these entrepreneurs view social change as a means of fulfilling their psychological needs (to matter and make a difference) and becoming the provider of the necessary acquisition and mobilization of physical resources. They persuade the relevant stakeholders involved in the new business model proposal through a narrative that targets aspirational objectives in society. This form of bottom-up institutional action represents a stochastic and open process of common good development, based on the design of new business models that seek to integrate business and social objectives. In other words, these models prioritize social wealth profitably (Zahra and Wright, 2016, p. 615). This will be discussed in more detail in the following section

An entrepreneurial approach to the common good dynamics

The preceding analysis indicates that the common good can be conceptualized as an institutional design issue, which necessarily entails the consideration of factors that foster the development of a functional system. One such factor is the enterprise, both new and existing, which represents the most efficient production organization in contemporary society. It distributes the outcome of its activities through market mechanisms. Nevertheless, not all individuals have the opportunity to engage with numerous markets. If the common good is defined as “the best possible outcome for the largest number of people” (Wheeler *et al.*, 2024, p. 956), whereby “possible” is defined in terms of organizational affordance and “best” is defined in terms of stakeholder benefit, then inclusion become as important as system functionality. This is where entrepreneurial leaders are willing to exert influence, taking advantage of appropriate conditions to carry out institutional work that redesigns the functionality of current arrangements. In their efforts to achieve long-term benefits for a specific group of individuals, entrepreneurs propose functional models that address people’s problems, establishing diverse forms of governance, stability, and justice. Consequently, entrepreneurs may propose changes that range from incremental to disruptive, resulting in innovations that can create circumstances of justice for some individuals while causing injustice to others. This influences the overall structure of the common good dynamics, creating cyclical processes, as illustrated in Figure 1.

Figure 1: Entrepreneurial action cycle. Cyclical processes of the common good dynamics are marked by the creation of combined circumstances of justice/instability or injustice/instability by entrepreneurial innovations



Own elaboration

The process commences with the agency of the entrepreneur, whose freedom to establish a new organization and take action gives rise to business model proposals that exert control over systemic interdependencies related to the problem in question. This represents a novel form of institutional work, which frequently modifies extant conditions, thereby introducing instabilities into the societal arrangement. However, it could be argued that these instabilities are positive in that they are designed to address specific issues for particular groups of people. Inevitably, some problems may be resolved, thereby ensuring a degree of justice for some, but it is also likely that other problems will emerge as a consequence of these changes, thus reinitiating cycles that will require further entrepreneurial action.

Freedom and entrepreneurial agency

La RContemporary societies are defined by a heterogeneous population comprising individuals with diverse aspirations, objectives, and values. While all individuals must satisfy their basic human needs, the plurality of interests that characterizes our society expands the potential for defining the common good. This implies that problems may be shared by a group of people but not necessarily by everyone. Consequently, the means and ends for the advancement of a specific type of common good may be accepted by one group of people but rejected by another. Ultimately, it is incumbent upon those in positions of leadership to determine specific objectives pertaining to the common good and to pursue them through appropriate means. Such capacity for action may derive from a number of sources, including hierarchies and individuals occupying positions of authority (such as public officials), collective entities (i.e., leaders in self-organized groups), and, more generally, entrepreneurs. Beyond the utilization of existing resources and practices, entrepreneurs are individuals or groups of people who seek to identify novel opportunities for addressing the problems of others (Hsieh, Nickerson and Zenger, 2007). Christensen, Raynor and McDonald (2015) posit that disruption typically emanates from entrepreneurs, rather than incumbents. Typically, entrepreneurship involves the introduction of novel ideas that challenge the status quo and disrupt existing institutions in specific contexts (Avelino *et al.*, 2019). Entrepreneurs may either collaborate with, confront, or find workarounds within the existing institutional framework (Sydow *et al.*, 2022). This process enables the construction of alternative models, thereby creating new possibilities for a specific group of people. In this regard, their vision and values are of paramount importance. In order to achieve success, entrepreneurs must embrace creativity, innovation, and the inherent uncertainty of the entrepreneurial process (Brouwer, 2000). They typically establish novel organizational structures (Baron and Henry, 2011). Moreover, entrepreneurs rely on the existence of private property rights and the capacity to innovate through the utilization of borrowed (or invested) capital (Ebner, 2006).

It is evident that a framework of freedom of agency, property rights, and freedom of association are essential preconditions for the occurrence of entrepreneurial action, as outlined in the liberal approach. In such circumstances, motivated entrepreneurs put forward market-based proposals with the intention of generating social or environmental value for a group of people, with the expectation of driving social change. If properly facilitated, venture founders can serve as a source of distributed agency action that triggers common good dynamics, whereby a few producers have the potential to provide goods, services, and employment to many beneficiaries. In other words, in this model, people do not necessarily participate collectively in the production of the good—although they may all use it—but only those entrepreneurial leaders and collaborators with agency would be involved in its production, thereby distinguishing between entrepreneurial agency and the beneficiaries of the goods. Moreover, in light of the intricate nature of societal challenges, entrepreneurs assume a pivotal role as key participants within a complex ecosystem. They establish the value proposition by coordinating relationships and assuming a meta-organizational governance position over select sub-elements of the ecosystem. Accordingly, in the absence of an environment that encourages free thinking and action, entrepreneurial agency will be constrained to the existing institutional framework, thereby inhibiting innovation and diversity of options. This is how parallel markets (e.g., informality) have emerged as a consequence of the absence of freedom and ineffective government intervention (Lindauer, 1989). Freedom of action allows social innovators to develop institutional functions (e.g., new markets) that provide vulnerable populations with greater access to a broader range of products, services, and solutions (Christensen, Ojomo and Dillon, 2019)

Business model-driven governance

As posited by Drucker (1992, p. 95-96), organizations are established for the purpose of integrating knowledge in a manner that optimizes work. This necessitates the exertion of control over the people and resources that are involved in the business operation (Perrow, 1991, p. 726). In order to achieve this objective, it is incumbent upon managers to implement governance mechanisms. These are a set of rules, practices, and processes that direct stakeholders, including employees, clients, partners, and suppliers, toward a particular objective. Consequently, as entrepreneurs endeavor to establish novel organizations, they must give due consideration to the governance mechanisms that are intrinsic to their business models. These mechanisms facilitate the efficient management of resources and people that contribute to the fulfillment of the mission of new ventures (Dohrmann, Raith and Siebold, 2015). In the context of business, market mechanisms serve as the means of value exchange, enabling clients to express their agreement with the firm's value proposition through the act of payment. Nevertheless, the governance of a complex network of goods and services - what Nebel and Arbesu-Verduzco (2020) have termed the nexus - requires the involvement of multiple participants. This may explain why numerous scholars of entrepreneurship consider stakeholders and their forms of interaction to be pivotal

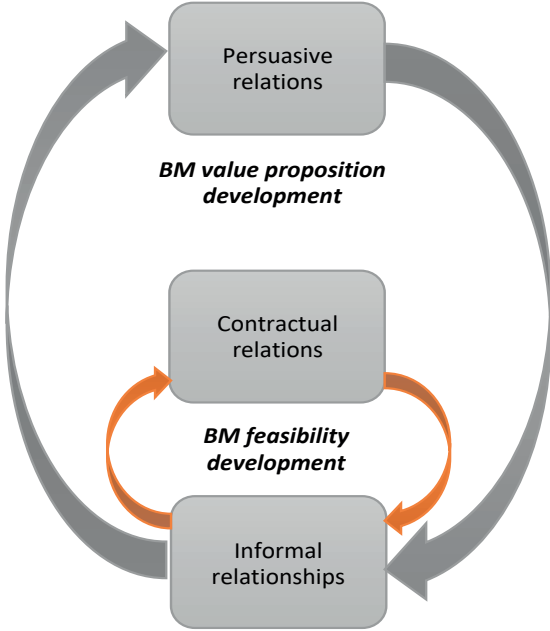
elements of the business model. This encompasses customer relationships and partners (Osterwalder and Pigneur, 2010), suppliers, distributors, and alliances (Wittkop, Zulauf and Wagner, 2013), as well as all types of value networks that assist entrepreneurs in developing competitive advantages (Rogers, 2016). It is therefore evident that relationships represent a central aspect of business model governance. In conventional governance structures, confidence is typically bestowed upon the individual occupying a position of authority, such as duly authorized managers or government officials. In contrast, entrepreneurs generally place a great deal of trust in business model design, including its relational aspects. It is thus imperative for entrepreneurs to ensure that the business model incorporates the requisite regulatory structures to effectively manage human relationships (Rahman and Thelen, 2019, p. 2).

3.2.1 Relational management in business model design

A From a theoretical standpoint, the logic of the firm is typically understood through the lens of transaction cost economics. Consequently, it is frequently assumed by firms and managers that individuals will act in accordance with their own self-interest, resulting in the formation of a self-fulfillment prophecy regarding the prevalence of market-based transactional relations (Bridoux and Stoelhorst, 2016, p. 246). In light of the heightened significance of market transactions, customer service contracts, and employment in business compared to other relational arrangements, transactions are conducted in accordance with formal governance mechanisms, such as organizational hierarchies, markets, or a combination thereof. Although transaction cost economics acknowledges the significance of interpersonal dynamics in business transactions, stakeholder theory offers a more thorough investigation of relationality. As Argandoña (1998) explains, stakeholder theory is rooted in the concept of the common good, recognizing that every member of society contributes to its development. This theory posits that the cultivation of positive informal relationships fosters trust and commitment among stakeholders, thereby streamlining formal contractual obligations (Valentinov and Roth, 2024, p. 536). In this regard, the function of relationships in a business context is contingent upon the needs they are able to fulfill. For example, democratic arrangements have been demonstrated to foster positive group sentiments, including altruism (community) and reciprocity (equal partners) (Bridoux and Stoelhorst, 2016, p. 238). In another example, the authors posit that more structured and formal rule-based systems, where subordinates operate under authoritative managers, are conducive to such relationships because they provide security and esteem. Ultimately, when businesspeople recognize the value of relationships and comprehend the factors that motivate stakeholders, the new venture is better positioned to persuade other people about its value proposition, overcoming the inefficiencies of pure transactional relationships.

Although entrepreneurs may anticipate influencing the mental representations of their stakeholders and their relationships, thereby affecting joint value creation, the ultimate effectiveness of this approach would depend on the design of the business model. Consequently, business models may adopt a dual approach, integrating both informal relationships and formal governance structures, contingent on the degree of risk associated with opportunistic behavior (Valentinov and Roth, 2024, pp. 540-542). This presents an opportunity for entrepreneurs to leverage both formal rule-based institutional structures and informal relationships to encourage engagement in the production, consumption, and/or behavioral change in relation to a business model proposal that incorporates elements of a communitarian perspective. In light of the aforementioned considerations, we put forth two mechanisms through which business model-based governance can be exercised. The aforementioned mechanisms are illustrated in Figure 2.

Figure 2: Relational mechanisms embedded in business model-based governance



Own elaboration.

In the first mechanism, the effective management of people (and resources) within an organization enables the operation of a new venture, ensuring the feasibility of the business model. This is achieved through the combination of both informal relationships and formal governance structures. It is anticipated that entrepreneurs will engage people in the development of the new venture's value proposition, leveraging resources to drive innovation and seize opportunities through the aforementioned relational combination. Access to employees and key partners be-

comes crucial, as they must accept the institutional logic of the new venture and adopt a hybrid relational strategy with it. In this sense, informal relationships that are formed around the new venture are of great importance in resolving unforeseen issues, particularly those involving interactions that are challenging to observe with stakeholders, such as beliefs, values, and internal behavioral structures (Bradbury and Lichtenstein, 2000). In the second mechanism, entrepreneurs seek to engage users and clients in their value proposition. In order to achieve this, it is necessary for entrepreneurs to identify an appropriate discourse that will facilitate acceptance of their new proposal (Huang *et al.*, 2019, p. 13). On occasion, stakeholders (in particular, users) become allies in opposition to incumbent institutions (Rahman and Thelen, 2019, p. 4), thereby establishing more robust informal relationships with the entrepreneurial initiative. Furthermore, informal relationships are essential for garnering support for innovation, sustainability, and impact investments. By connecting different people in their role as stakeholders, entrepreneurs facilitate a distributed system that aims for the co-creation of a type of common good dynamics (Rossignoli, Ricciardi and Bonomi, 2018). This system is guided by the rules of the business model that has demonstrated widespread acceptance.

Positive instability, justice and injustice hybridization

Once a certain threshold of humanity has been reached, it is of the utmost importance to prioritize the preservation and improvement of the existing structure of the common good as a fundamental objective (Nebel and Arbesu-Verduzco, 2020, p. 389). Concurrently, there is a proclivity to preserve the status quo when a system that individuals are invested in is confronted with threats, when they are dependent on a system from which they cannot disengage, and when their sense of order is tied to a system that provides a certain level of control (Kay and Friesen, 2011). From this perspective, the existing institutional order tends to demonstrate resilience. However, while some groups in the dominant position within the system may perceive the status quo as stability, others may view it as stagnation and a lack of humanity. These latter groups may be small or large, may not be fully integrated into the market economy, may suffer from a situation of precarity, may be unable to pay for a solution to the problem in question, or may simply be unwilling to take full responsibility for a problem caused by many. Therefore, despite any desire for stability, the reality is that the tangible benefits of social achievements remain justifiably unequally distributed (Christiano and Braynen, 2008), which gives rise to a desire for change in those groups of people who are unsatisfied. In any case, if change is required, the existing order calls for an evolutionary perspective, rather than a revolutionary one.

In contrast, the prevalence of such social disparities and other grand challenges encourages disruptive entrepreneurial action. Specifically, mission-oriented entrepreneurs seek to influence conditions that cause such problems in the first place, identify and address unseen system flaws, or design workarounds (Savaget, 2023) to circumvent the current system through experimenting with business models. As experimentation is a central aspect of entrepreneurship (Kerr, Nanda,

and Rhodes-Kropf, 2014), it is a crucial element in determining which entrepreneurial business models can contribute the most to addressing persistent problems in a manner that challenges traditional conventions. It is evident that the development of a business model entails a greater degree of uncertainty and complexity than the evolutionary perspective. This is because the entrepreneur must identify a means of monetizing social value for which others are unwilling to pay. In an attempt to balance financial and social wealth (Zahra and Wright, 2016), entrepreneurs devise models that generate revenue by fulfilling a social mission (Dohrmann, Raith and Siebold, 2015), which often entails identifying a paying party that may be difficult to ascertain. Furthermore, the creation of a new proposal can give rise to tensions. While individuals who have attained a certain level of wellbeing tend to seek stability, a new venture challenges the status quo to pursue new opportunities (Drucker, 1992, p. 96). Entrepreneurship is inherently destabilizing, and the disruptive potential of a business model can yield positive results, as it can facilitate the generation of much-needed change. In this regard, entrepreneurs identify and act upon market disequilibria and information asymmetries (Plummer, Haynie and Godesiabo, 2007), thereby engaging in processes of opportunity evaluation and resource mobilization that result in the creation of novel forms of value, market delivery, and capture (Rogers, 2016).

In other words, entrepreneurs instigate change based on business models that advance their motives through market-based mechanisms. These entrepreneurs represent a type of prospective agency that seeks to trigger common good dynamics (Lautermann, 2012). Notwithstanding the absence of market-based incentives for collective action (Taylor, 2021), entrepreneurship anticipates that institutional change will originate from the embedded incentives within the business model to modify behavior, which hinges on the capacity for experimentation. This can provide the basis for a change that meets both the needs of the entrepreneur and particular societal concerns. However, it is possible that not all members of society may be satisfied with such changes, which could in turn give rise to new motives for further change. Nevertheless, there must be a balance between change and stability (Kay and Friesen, 2011), at least in the short term.

Concluding remarks

The variety of organizational forms and quality relationships that define our society serve as vehicles designed to accomplish particular tasks, thereby fulfilling a societal function (Drucker, 1992). As the author notes, the fulfillment of such tasks represents the "ultimate good" of the business venture. This is a form of organizing built around a culture that transcends community. This suggests that individuals' ability to obtain societal benefits is contingent upon their organizational affiliation. This may be why 3.5 billion people worldwide are currently employed in some form of organization (Statista, 2024). It is evident that our contemporary knowledge society is a society of organizations (Drucker, 1992), with entrepreneurs assuming a leading role in the creation of these smaller forms of "society" within society (Argandoña, 1998, p. 1095). If we consider that entrepreneurship is not solely about business, but rather a philosophy of action (Hjorth, 2015), then it follows that entrepreneurs are capable of building new locally-supported

and more humane value chains that emphasize non-market assets, social and renewable natural capital (Esteves *et al.*, 2021). In other words, they engage in institutional work.

On the other hand, as evidenced throughout this paper, entrepreneurs can facilitate the formation of relational structures as a consequence of their business model designs. This proposition is consistent with the findings of Esteves *et al.* (2021, p. 1427), who suggest that relationships in society may be the outcome of entrepreneurial action. This indicates the centrality of entrepreneurs for the construction of the common good. Although entrepreneurs must identify a paying party to ensure the economic viability of their proposal, the success of the entire business model ultimately hinges on the acceptance of stakeholders (Wouter *et al.*, 2019). This underscores the importance of adopting a variety of relational styles to achieve business model objectives. However, Bridoux and Stoelhorst (2022) have demonstrated that governance in firms is typically conducted through formal and transactional mechanisms. Entrepreneurs contest this rationale and the prevailing institutional configuration by proposing alternative models that seek to align with both business and alternative logics, thereby establishing distinctive forms of relationships with each stakeholder group. This is how mission-oriented entrepreneurship achieves equilibrium within an institutional context that is accustomed to a business logic oriented towards immediate profitability and further growth (Thompson, Purdy and Ventresca, 2018).

From this perspective, this paper presents an alternative approach to the collective viewpoint of the common good nexus. Social entrepreneurs develop business models that provide different mechanisms to govern and supply justice for a group of people, with implications for the stability of the group conditions and potentially those of other groups. This approach develops a type of institutional work by addressing problems that the public policy was expected to solve. As entrepreneurs challenge dominant institutions, some may view entrepreneurship as a challenge to public policy (Avelino *et al.*, 2019). However, we put forth the proposition that novel decentralized institutional forms are not replacing existing institutions, but rather, are facilitating an upgrade to these institutions. This represents a shift in perspective regarding societal development, wherein individual leaders propose alternatives that diverge from both the collective and the purely libertarian viewpoints on social organization. For this to occur, entrepreneurial agency is essential, implying a distributed ecosystem of people who possess the freedom of action, property rights, and freedom of association necessary to generate social or environmental value that triggers common good dynamics for a group of beneficiaries who do not necessarily participate in the production of goods. This represents a society in which entrepreneurial activity is encouraged, enabling individuals to propose new initiatives with the goal of improving humanity within particular sectors of society. In this context, it is important to consider the reasons for, and the processes through which, people become embedded in such institutional forms. This is also a society in which meta-organizational system-wide relationships are transformed into agreements that shape habits, power structures, and situational ties, including those related to work, community, family, and other social connections. Ultimately, this is a society in which the principles of the economy for the common good align with those guiding new venture creations.

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Thomas Piketty and the Natural Rights Argument for Equality

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Abstract

Thomas Piketty's work has elevated equality to the forefront of policy discussions. This essay supports Piketty's project by proposing a theoretical grounding for his ideas in natural rights theory. It briefly traces French rights theory back through enlightenment figures to the French theorist Jean Barbeyrac, a younger contemporary and follower of the political philosopher John Locke. The essay then explicates Locke's theory to show how he, and by extension Barbeyrac, held property rights not as private and exclusive but in common and inclusive, subject to egalitarian constraints and societal obligations, thereby undergirding Piketty's arguments for equality.

Keywords: equality, property rights, Thomas Piketty, Jean Barbeyrac, John Locke.

Resumen

El trabajo de Thomas Piketty ha elevado la igualdad al primer plano de los debates políticos. Este ensayo apoya el proyecto de Piketty proponiendo una base teórica para sus ideas en la teoría de los derechos naturales. Se remonta brevemente a la teoría francesa de los derechos a través de las figuras de la Ilustración hasta el teórico francés Jean Barbeyrac, un joven contemporáneo y seguidor del filósofo político John Locke. A continuación, el ensayo explica la teoría de Locke para mostrar cómo éste, y por extensión Barbeyrac, consideraban que los derechos de propiedad no eran privados y exclusivos, sino comunes e inclusivos, sujetos a limitaciones igualitarias y obligaciones sociales, lo que sustenta los argumentos de Piketty en favor de la igualdad.

Palabras clave: igualdad, derechos de propiedad, Thomas Piketty, Jean Barbeyrac, John Locke.

JEL: B12, P14

Introduction

In important ways, Thomas Piketty's body of work has done for 'equality' what John Rawls did for 'justice' – returning it to the forefront of policy discussions and academic debates. Although controversial and subjected to criticism from both left and right, few deny this is vitally important work. This essay takes up one aspect of the criticism that Piketty has faced from the start – charges of insufficient theoretical and philosophical grounding - arising often from those in the classical liberal political tradition. The earliest formulations in this sort of criticism can be seen

in the sharp critiques that appeared in the aftermath of *Piketty's Capital in the 21st Century*, such as Blume and Durlauf (2015) chiding Piketty for his insufficient grounding in political philosophy and R. S. Hewett (2017) for failing to adequately anchor policy prescriptions in sound ethical standards.¹ One might concede that the critics are correct in pointing out that Piketty does not offer a voluminous philosophical grounding of his position – such as Rawls did, for example. However, that was not his task. Piketty is an economic historian not a political theorist or moral philosopher. Piketty's approach in making the case for equality is to present statistical and graphical representations of the wide disparities in income and wealth that speak for themselves, demonstrating inequalities in the existing institutional arrangements that are self-evidently unjustifiable. The theorists among his critics might themselves be chided for failing to take the next, constructive step, working within Piketty's project rather than against it, and aiding in providing the undergirding philosophy.

The task I set is an initial step in drawing out Piketty's political philosophy and ethical standards and beginning the sort of grounding and anchoring that critics have been calling for. In terms of his philosophical position, there is no doubt that Piketty is a deeply convicted, strong (but not strict) egalitarian. Although it is an important question, I will not take up the issue of what sort of egalitarian he might be. At various points in his writings and interviews Piketty expresses a variety of equality ideals: a 'humanitarian' ideal of equality concerned with providing basic human needs for all; a 'libertarian' ideal, concerned with wealth concentrations that carry a high degree of political/societal control; an 'equal opportunity' ideal concerned with the full development of individual talents and abilities; and a 'social cohesion' or *fraternite* ideal of equality concerned with maintaining a sense of common interest and organic unity within civil society. It is this latter ideal, which Piketty characterizes as the condition where "general interest takes precedence over private interests" (Piketty 2014, 3) that seems to fit his overall project and thus provides an organizing principle in our analysis.

No matter which particular formulation of the equality ideal, Piketty's egalitarianism involves property rights claims that ultimately rest on a common 'natural' right to property for all. This includes a claim right to impose conditions and limitations on the property of others – involved, for example, in the taking or transferal of property by right to produce the redistributive benefits being called for. Under each formulation of the equality ideal the better-off must provide for the less well-off in order to realize this natural claim right. So, I take up the question of how might Piketty ground a natural property right in favor of equality?

It might be admitted that Piketty may be initially resistant to natural rights language. There is a brief but revealing discussion in Piketty's recent book, *A Brief History of Equality* (2022), that indicates he does not think that his egalitarian ideas are supportable in classical 'natural rights'

¹ It is important to note that criticisms of Piketty on the basis of lack of philosophical/theoretical grounding also came from the left side of the political spectrum. Marxists and socialists have their own critique, one even claiming that Piketty has no more than a superficial understanding of Marx, as in Lordon (2015) "Why Piketty isn't Marx." To claim Piketty does not understand Marx is highly dubious. But it is not relevant to our argument as Piketty has never claimed that his ideas are grounded in Marx. The point is if one were to look for grounding it would be in another philosophical tradition, as this paper attempts to do in the classical liberal tradition.

theory. In his discussion (Piketty 2022, 113-116) he describes the limitation of a stockholder's ownership rights (by claims of labor) in the German concept of corporate co-management "*as an unacceptable challenge to their [stockholder's] natural rights.*" (115)² He goes on to say that this limitation on property right is only possible in Germany because of the Constitution of 1949 that adopted "*an innovative definition of property considered in terms of its social goal.*" (115) In other words, Piketty is saying that in Germany the limitation on property is based in a constitution, a form of conventional right, not a natural right. Article 14 of the German constitution actually does set a limit to property right, stating: "*The right to property is legitimate only insofar as it shall serve the public good.*" (115) Piketty goes on to draw the contrast to his own country noting that "...conversely, several countries, including France, have maintained in their fundamental texts a definition of property as an *absolute and natural right.*" (116) In support of this reading, Piketty then cites a fundamental text of France's political heritage, *The Declaration of the Rights of Man and of the Citizen*, to say, "*the aim of every political association is the preservation of the natural and imprescriptible rights of Man. These rights are liberty, property, safety and resistance to oppression.*" (116) Piketty then takes the position that since the French Constitution offers no further explanation of this naturalist definition of property, it must be assumed that 'natural and imprescriptible' can only be interpreted narrowly in favor of a strict and absolute *private property* right that cannot be abridged by the public good, in what is now called the neo-liberal tradition. And that, according to Piketty, is how the conservative French judiciary has interpreted this provision. However, although Piketty is correct in thinking 'private' is how 'natural' has been interpreted of late, this was not the case in the classical liberal tradition.

I would submit that Piketty's arguments for equality could benefit greatly from an elaborated and complete interpretation of the French property rights heritage. A proper explication of the classical liberal tradition, and the political economy that derives therefrom, actually provides strong supporting grounds for Piketty's egalitarian position. The intellectual lineage of the 'natural' right to property in the French Constitution is not 'absolute' in favor of *private* property holders; it comes from a deep tradition of 'property held in common' that equally protects persons as yet without property but who seek to obtain it. This tradition could be used to establish the grounding for Piketty's redistributivist proposals. My argument then is that the classical liberal tradition in political philosophy - on which the French (and Anglo/United States) natural rights theory rests - contains precisely the natural rights-based limitations on private property rights in favor of egalitarian considerations and the public good that would support Piketty's equality ideals.

² The discussion can be found in T. Piketty (2022) *A Brief History of Equality*. Piketty's discussion on rights takes place in the section in on corporate co-management schemes but I take it as indicative that Piketty is dubious of the potential that classical liberal theory holds in providing property arrangements subject to social obligations that support his egalitarian ideals.

2. The Grounding in Political Philosophy: Natural Rights Sources

A fully developed mapping of the intellectual lineage of ‘private’ versus ‘common’ property to develop a natural rights grounding for a Piketty egalitarianism would require a thorough excursus through the key natural law theorists of the 16th to 18th century - and their predecessors. This would be a considerable task. A full discussion of the inclusive, common natural right to property that we elucidate below would reveal its roots in Aquinas and the heavy reliance on the thinking of the neo-Thomists of the late 16th and early 17th century. This is important but beyond the purpose and scope of this article.³

We offer instead an abbreviated tracing of the relevant figures and concepts of contemporary antecedents to get our argument started. The natural rights elements of the *Declaration of the Rights of Man and Citizens*, the document to which Piketty refers, emerged from the debates in the French Assembly in 1789-1790. There is much discussion as to the various sources informing those debates. Thomas Paine (1737-1809) acted as advisor to the French Assembly and is often credited with having a major influence in the debates. However, although Paine had played a large role in the American revolution and was a brilliant pamphleteer and polemical essayist, he was not considered an original political theorist. As the Paine biographer J. C. D. Clark puts it, “*Despite the title Rights of Man his Common Sense was hardly a natural rights theory.*” (Clark 2018, 152) Furthermore, although Paine used the language of rights in a rhetorically compelling way, according to Clark, Paine’s theory of government came from a utilitarian generation of necessity - not rights theory. (153) As Clark states further on: “*Rights of Man used the term rights but the book does not contain any worked-out theory of natural rights, only a series of assertions which took natural rights for granted as premises.*” (226) So if Paine was not the source of the theory of the Declaration of Rights, our question of the theoretical origins of ‘rights’ is what were the sources of Paine’s premises? According to Clark, it was not a French theorist. He points out that Paine was English born and actually could not speak, read or write French. (229) The answer to the question of what were Paine’s sources is that he was steeped in the Anglo tradition from his youth and acquired natural rights premises by osmosis, so to speak. He had begun work as a printer’s assistant and picked up the prevailing street rhetoric and used it in his own writings as he became a successful pamphleteer. There is general concurrence that the main sources of Paine’s ideas of natural rights had their theoretical origins in the ideas of his intellectual antecedents, John Locke (1632-1704), his fellow Whigs, and their predecessors, the English Civil War Republicans.

³ As Lockean scholar James Tully points out in tracing Locke’s sources, “Locke paralleled Aquinas”, and further, that the “neo-Thomist political philosophy is .. important for understanding Locke.” (Tully 1980, 65) Tully discusses in particular the similarity of neo-Thomist Francisco Suarez (1546-1617) to Locke’s own formulations. A fuller excursus into this and other connections, such as the Roman law, are important as they show the deep tradition of the common right to property that Piketty and others who argue for equality are relying on. However, the immediate purpose of this article is to give Piketty and his advocates an example for grounding political and policy ideas. An acknowledgement of appreciation to an anonymous reviewer for suggesting a strong emphasis on this intellectual heritage.

There is another intellectual connection, specifically French in character, that points specifically to John Locke as a source for the *Declaration of Rights* in the French Constitution. Tracking this out in detail is also a considerable task. However, a sufficient tracing of this lineage that at least gets us a start toward finding a source of natural rights theory supporting the egalitarian ideal has already been undertaken by notable Lockean scholars James Tully and Peter Laslett. Both have produced authoritative studies of Locke: Tully in *A Discourse on Property: John Locke and his adversaries* (1980) and *An Approach to Political Philosophy: Locke in context* (1993); and Laslett in *Locke and Two Treatises* (1970). Tully and Laslett both emphasize that Locke is quite relevant to the French understanding of natural rights and provide a suitable framework for the analysis offered here. They point to the French legal theorist, Jean Barbeyrac (1674-1749), who was a disciple of and corresponded with Locke and fully subscribed to Locke's framework of natural rights. Barbeyrac's name is not so well known now but in the early 18th century he was considered the primary French natural law/natural rights theorist. As Rousseau's biographer has noted, "...in cultivated circles an acquaintance with Grotius, Pufendorf, Barbeyrac and Burlamqui were considered an essential part of every man's political education." (Rosenblatt 1997, 88) Rousseau, who is acknowledged to have been influenced by Locke, had been exposed to the work of Barbeyrac at a very early date. And Rousseau's fellow Encyclopedist, Diderot, was also a great admirer of both Locke and Barbeyrac. "*The Encyclopedie did much to popularize and spread their theories, many of the articles borrowing freely from them.*" (88) To our specific point of connecting Barbeyrac and Locke, Barbeyrac wrote a history of natural political theory that situates Locke's idea of property right as not 'exclusive' but 'inclusive' and in 'common', and thus recognizing early that it was very different from and not to be confused with Grotius, Pufendorf or Filmer. As noted Lockean scholar Peter Laslett put it, "...no man is better positioned than Barbeyrac to know about the relationship of Locke's writings with the whole tradition of social and political theory." (Tully 1993, 109; Laslett 1970, 306n) In France, Barbeyrac would have been recognized as authoritative in property rights matters. Barbeyrac explicitly disagreed with Pufendorf's idea that 'consent' was required for property appropriation and instead adopted Locke's view. "*What matters is the act of taking possession which is the basic method of acquisition and legitimate as long as one does not take too much and leaves enough for others.*" (Hutchison 1991, 74)

Barbeyrac explicitly cites Locke to support this assertion.

"God gave man the earth and all that therein is and wanted man to use the gift to best advantage. ...So the principle is established that what one takes in good faith is legitimately one's own. Additionally one's labor is one's own, so that what one removes from the state of nature (by mixing one's labor with it) is also one's own, on condition there is enough and as good left for others. The voices of reason and revelation are to be our guide in working out the principles that God has given us all things richly to enjoy". (1 Timothy v. 17) (Ibid. 74)

As shall be seen in the ensuing discussion, the conditionality that Barbeyrac recites of leaving enough for others was most important to Locke's scheme and that is what made it fundamentally egalitarian in character. Leaving enough for others is required because the property is held in common, not the right to property as Pufendorf had held.⁴

Given the French jurist Barbeyrac's prominence and his endorsement of Locke's theory, his influence on Rousseau and Diderot and the promulgation through the *Encyclopedie*, Locke must be considered to have been a primary influence in the natural rights theory undergirding the formulation of the *Declaration of Rights of Man*. When this is added to the background on Paine and his own exposure and absorption of the Anglo natural rights tradition so firmly rooted in Locke et al., then the reasonable conclusion is that the intellectual lineage of French natural rights theory may be situated comfortably within the Lockean tradition. On this basis, it seems appropriate to focus our initial exploration of French natural rights theory on Locke.⁵ As shall be seen, this Lockean connection will prove quite helpful to the cause of undergirding Piketty's egalitarian argument with natural property rights theory.

3. Locke Explicated

Locke's famous work containing his theories on natural rights and property is *Two Treatises on Government*. Locke's primary target was Sir Robert Filmer's treatise *Patriarcha*, which presented a defense of an absolutist monarchy and sovereign rights over property.⁶ In his refutation of Filmer, Locke asserts a theory of popular sovereignty and an individualist theory of resistance to arbitrary government. (Tully 1993, 101)⁷ It is important to note here, as will be discussed below, that Locke's 'individualist' theory of resistance is superficially and incorrectly read as an 'individualist' and absolutist theory of private property. This inaccurate interpretation of Locke was advanced by C.B. Macpherson's *Possessive Individualism*, which confuses and collapses the theories of Hugo Grotius and Locke.

In order to refute Filmer using natural rights and natural law as a basis to advance popular sovereignty and oppose monarchical absolutism, Locke had to also take on Filmer's misconstrual of

4 It is important to point out, as with the neo-Thomist connection the Roman law antecedents and the distinction between *res privata* and *res communes* are of utmost importance in fully understanding the idea of the common. However, it is beyond the scope of the paper and my own background to draw these connections. To understand the legal discussion and reappropriation of these notion in the early modern legal thought (XVI-XVIII Century), see Marie Alice Chardeaux, *Les choses communes*, Paris: LGDF, 2006. <https://www.lgdj.fr/les-choses-communes-9782275030500.html> An acknowledgement of appreciation to an anonymous reviewer for emphasizing this important antecedent and providing these references.

5 There are other connections that may be drawn and other influential figures besides Locke. The point of the essay is to show that a dominant strain in French thinking is that of Barbeyrac who was greatly influenced by Locke. And further, to show that the ideas of both regarding 'common' not 'private' property provide Piketty with resources in natural rights theory for saying that a property right can be limited by the public good, thus providing a French natural right grounding for his egalitarian arguments.

6 To again underscore the centrality of the neo-Thomists and of Francisco Suarez in particular, Filmer had criticized Suarez's anti-Adamic account and in the *Two Treatises* Locke was essentially rebutting and replying to Filmer on Suarez behalf. (Tully 1980, 68)

7 Also see John Dunn, (1969) *Political Thought of John Locke and Quentin Skinner (1978) Foundations of Modern Political Thought* which both support this interpretation.

Grotius' theory of property and, even further, differentiate himself from Grotius as well.⁸ I continue to rely on Lockean scholar James Tully's detailed arguments that demonstrate how Locke differs from Grotius. In brief, the relevant points are as follows. Grotius' theory, which Locke's target Filmer followed, (Tully 1993, 110) has an "exclusive" and "absolute" right over one's possessions and no sense in which the property could be held in 'common.' For Grotius the *right* is held in 'common' not the property, meaning the property belongs to no one and the consent of others is required to appropriate and individuate a property claim. To the contrary, for Locke (relying on the Scholastic tradition) the natural right in 'common' is in the property itself, meaning that property belongs to everyone, open to individual appropriation without *consent*, but subjected however to certain limitations and conditions. As shall be seen below, Locke's limitations and conditionalities on individual appropriation are egalitarian in nature and critical to undergirding a 'naturalist' anchoring for Piketty's egalitarian ideals.

To provide some historical context on Locke, his property entitlement by 'fruit of one's labor' and 'honest industry' is now viewed as a proto-capitalist justification, a source upon which current neo-liberal capitalist principles have been built.⁹ However, Locke's arguments for property entitlement in the 17th century were directed to the new freeholders obtaining suffrage rights in England who the Whigs were attempting to attract to their political movement. Arguments for equality and 'natural rights' by Locke - and predecessors such as the Levellers - were thus critical to the broadening of suffrage and property holdership in 17th century.¹⁰ So Locke's ideas in the *Two Treatises* would have been recognized by his audience as a direct challenge to the landed aristocracy and monarchy whom Filmer was defending. Locke's ideas were thus radical and revolutionary and were likely the reason why Locke never claimed the authorship of the *Two Treatises* during his lifetime, fearing it would bring about his arrest or worse. Further supporting the radical 'proto-socialist' interpretation of his work, Locke was still in the early 1800's being read as the father of modern socialism in England. This socialist interpretation of Locke was the case in France as well as attested in Etienne Cabet's 1842 study *Voyage en Icarie roman philosophique social*. (Tully 1993, 97) This interpretation largely held sway in some circles up until the mid-20th century when the work of C.B. Macpherson characterized Locke among the 'possessive individualists' who advocated unlimited property accumulation devoid of social obligation.¹¹ I would argue the Macphersonian interpretation is inaccurate and Locke is more

⁸ The tracing of Locke's own position is a bit tedious but it is important to fully understand the complexity of Locke's task and see how easily errors can arise in interpreting natural rights language as Macpherson and others have done by collapsing Grotius and Locke. This error is especially important because the 'possessive individualist' interpretation of Locke is perhaps where Piketty and others may have been led astray in their negative interpretations of naturalist property theory.

⁹ See for example. R. Nozick (1974) *Anarchy State and Utopia*.

¹⁰ For a more detailed discussion see J. Feldmann (2022) "Equality Lost: John Locke and the Tax Reform Act of 1986."

¹¹ Macpherson's 'possessive individualist' error in interpreting Locke is considered to be rooted in the fact that he declined to read the First Treatise as part of Locke's argument on property rights. See H. Breakey (2013) "Parsing Macpherson: The Last Rites of Locke the Possessive Individualist" It can be said in Macpherson's partial defense that Locke did express some inconsistent and ambiguous views on how natural rights were to be applied in the case of *minority groups, such as the native Americans, papists and Muslims*, ideas which were not so liberal or inclusive. However, it also should be pointed out, as for example, historian Mark Goldie does, that in later writings such as in Letter Concerning Toleration, Locke modified his views and all things considered it can be said that his positioning as an egalitarian was quite progressive for his time. M. Goldie (2015) "Locke and America."

properly considered a social-minded or egalitarian capitalist than a possessive individualist, as the next paragraph will show.

4. Locke's Two Treatises

Locke begins his case in the *First Treatise* with a quote from Scripture, “*God gave Adam not private dominion ...but right in common with all mankind.*” (Locke 1823, 1.24) So Adam had no power over mankind or property. (2.25) Barbeyrac concurs here, using Locke's exact words, commenting “...property is a right in common with all mankind, a right common to all.” (Tully 1993, 111) In contrast, Filmer had it that God gave the exclusive right to property to Adam as the putative first monarch, and Adam then passed it to the line of monarchs to follow. This is the rationale for the English monarch to hold property ‘absolutely’ in Filmer's interpretation of Scripture.

Having established in the *First Treatise* that ‘property in common’ is consistent with Scripture, Locke goes on in the *Second Treatise* to show how his idea of common property differs from Grotius and is necessary both to self-preservation and to the mutual duty of preservation of all mankind.¹²

The rationale in Locke's scheme for a person in need being entitled to a portion of a fellow society member's plenty or surplusage is that by ‘Reason and Scripture’ the natural right to property in the state of nature is held in common by all humankind. This natural property right in common is then recognized in Civil Society and this carries social and political obligations. There are numerous passages in Locke's *Two Treatises* that elucidate his basis for conditioning property rights to social obligations.

Locke begins with the state of nature and postulates a conjectural history that all humans had lived together in a primitive state under a law of nature that recognized each human – ‘all mankind’ - as equal and independent.

Locke first sets forth the status of all mankind as “... equal one amongst another, without subordination or subjection, evident in itself, beyond all question.” (2:04) From this “...arises the obligation to mutual love from which the duties they owe one another and the great maxims of justice and charity are derived.” (2:05) And again further on: “The State of Nature has a law of nature to govern it, which obliges everyone... And Reason which is that law, teaches all mankind... that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions”. (2.06)

Accordingly, Locke establishes the common property right with such passages: “...men, once being born, have a right to their preservation.” (2:24); “...a fundamental law of nature is the preservation of mankind.” (2:135); and “a fundamental law of nature and government is as much as

¹² For a detailed tracing of Locke's argument from the First Treatise to the Second Treatise see J. Feldmann 2022.

may be that all members of Society are to be preserved." (2:159; 2:171) This right to preservation of all mankind logically implies a mutual and reciprocal duty of all mankind to preserve themselves and others and this entails a sharing of property in common. Let me underline this point. According to Locke this 'right' is not a liberty, it is a duty imposed on all and cannot be denied. This contrasts with Grotius' and Filmer's understanding of an 'exclusive' right of property that would effectively block the free exercise of this duty to preserve oneself, one's family and, most importantly for our argument, the lives of others. Locke makes clear that if a society blocks this right 'to preserve and be preserved' then: "...a Brother in need has a right to the surplusage of others that cannot be justly denied." (1.42)¹³ Furthermore, each member has a right to appropriate from others having a surplusage as "...Charity gives every man a Title to so much of another's Plenty as to keep him from extreme want..." (1.42) This is manifestly not the 'absolutist', 'exclusive', 'private' idea of naturalist theory of property that Piketty appears to be worried about (as discussed above), which would prevent property appropriation in the name of the common good and equal sharing. Piketty is (correctly) concerned with the Robert Filmer absolutist notion of property, which was based in Grotius 'exclusivist' theory. There is additional analysis of Locke below showing potential support for Piketty but already the sort of anchoring and grounding in a classical natural rights theory that would undergird Piketty's egalitarian position is becoming evident.

Locke theorized, that in the state of nature, ownership was held in common by all of humankind, that is, everyone held in common an equal ownership right in all the property of the society.¹⁴ By laboring over a property, a person established an individuated ownership right in that property. The idea that property ownership was based on what one could "*mix his labor with*" (1.42) was a radical egalitarian idea in the 17th century when most land in England was held to be owned by the monarch and a few hundred families where property was acquired directly or through inheritance by primogeniture or a King's grant. Locke establishes here a natural principle of justice as desert, under which "*justice gives every man title to the product of his honest industry.*" (Tully 1980, 118, 145) The honest industry of the individual (and the natural principle of justice) defeats the original common ownership: an individual claims his property and removes it from common ownership when he labors over it. (2.31, 2.35).

However, the right of every person to use the property that they labored over as they pleased, was under Locke's theory subject to the constraints of the state of nature. These constraints were essentially egalitarian limitations on each individual's exercise of the ownership right, preserving the original 'common ownership' concept by ensuring that all persons had an equal oppor-

¹³ This argument is made well before and addressed in Aquinas Summa IIa IIae, Q. 66, 94 and 95. The question is developed in the 4th century by Basil of Caesarea in his 'Homily on poverty'; Homily VI, <https://stjohngoc.org/st-basil-the-greats-sermon-to-the-rich/> : and also "On the words of Luke: 12, 16-21 On the Rich Man"; Homily VII, <https://www.svots.edu/blog/sermon-luke-1216-21-rich-fool> An acknowledgement of appreciation to an anonymous reviewer for pointing out this connection and providing the references.

¹⁴ Locke's theoretical position that the 'equal right' was in the property itself is to be distinguished from the idea of a commonly held equal right to acquire property as, for example, how Hugo Grotius is usually interpreted. This difference and confusion with Grotius led to misinterpretations of Locke's views. Generally see Richard Tuck, (1979) *Natural Rights Theories: Their Origins and Development*. Also, John Salter, (2001) "Hugo Grotius: Property and Consent."

tunity to exercise their property right. So property entitlement was thereby subject to three ‘fair share’ limitations, manifestly egalitarian in purpose and effect. First, the right of property entitlement only extended to the “*conveniences of life*,” which included “*subsistence and comfort*” and “*enjoyment*” (but not unlimited accumulation. 1.92, 1.97, 2.35, 2.51) And the first limitation naturally led to a second, that “*enough and as good*” (2.32) must be left for others, meaning that an individual could ‘appropriate’ or acquire property through his labor for his enjoyment only so long as there was enough and as good left for the subsistence and enjoyment of others. And a third limitation also follows, that the acquirer lost any right to hold property which was not being used and was being wasted (a spoilage, non-wastage, anti-hoarding provision; 2.30).

These are significant constraints on Locke’s state of nature property right; in totality they clearly operate as egalitarian constructs and can hardly be interpreted any other way. But for Locke the property rights in the state of nature ceased with the entrance into Civil Society. However, the natural right did not go away, it became enforceable, ensconced in ‘positive laws and Constitutions of civil society’ (e.g., as in the *Declaration of the Right of Man*) as a conventional right. And this is where this natural right based conventional limitation on property rights in favor of redistributive taxation is to be found.

5. Property Entitlement in Civil Society

It is important to note the reason that Locke held that ‘natural’ property right ceased to exist in the state of nature. It was because there was no longer sufficient property for all common owners to have an ‘enough and as good’ share of what was needed for their ‘subsistence and enjoyment.’ Henceforward, the right to property would have to be governed by the laws of Civil Society; and this required the establishment of a government to enact property laws and ensure that those laws were enforced. (Tully 1980, 130).¹⁵

Under Locke’s framework, the limitations and conditions on property ownership did not disappear when the state of nature ceased. Once a person was inside civil society these property rights became ‘civil rights’ or ‘conventional rights’ subject to the constraints set by the government that confers them. In civil society, the property rights and limitations became fixed by laws or ‘positive constitutions.’ (Tully 1980, 151; Locke 2.50). In other words, the property rights conditioned by egalitarian limitations in the state of nature were established by and became subject to society’s positive laws and regulations, including the laws of property and taxation. The degree of inequality that would be permitted in civil society thus would be ‘regulated’ and limited by the positive constitutions and ‘Laws of Society.’

In Locke’s system the Laws of Society could provide for taxation as a legitimate taking of an individual’s property by the government, as long as the individual or his deputy gives consent.

¹⁵ In Locke’s account of how Civil Society came about, the establishment of government became necessary to regulate property ownership under the conditions of acquisitiveness, covetousness and inequality that the introduction of money and the ability to hoard without spoilage money had brought about. (2.37, 2.47, 2.51)

As Locke put it, “[Governments] must not raise taxes on the property of the people without the consent of the people given by themselves or their deputies.” (2.142) Under Locke’s theory of taxation, deputies are chosen as representatives and entrusted with the responsibility of balancing the property interests of all of those who have consented to be a part of civil society and elected them.

The following passage establishes the preservation, in Civil Society, of the ideas of honest industry and fair share limitation as they existed in the state of nature, according to which they remained in force upon entrance into Civil Society to be actively enforced by the magistrate.

“It is the duty of the civil magistrate by the imperial execution of equal laws to secure unto all the people in general, and to every one of his subjects in particular, the just possession of these things belonging to his life. If anyone presume to violate the laws of public justice and equity, established for the preservation of these things, his presumption is to be checked by the fear of punishment consisting in the deprivation or diminution of those civil interests or goods which otherwise he might and ought to enjoy.” (Locke 2010, *Toleration*, 38; Tully 1980, 168)

To appease those who had a greater amount of property in the state of nature, Locke provided for a degree of inequality in civil society under the rationale that there was already an agreement on disproportionate ownership in the state of nature prior to the formation of civil society. (2.50, 2.131) Although there could be inequality in Locke’s Civil Society, it was to be regulated and limited. The less well-off were protected by standards of ‘public justice and equity’ against the diminution of goods belonging to their lives. For Locke, as stated, the ‘things belonging to one’s life’ are quite extensive, and involve not only subsistence but also enjoyment of life. (Tully 1980, 168)

There are also passages indicating limitations on the property right in favor of social obligations. For example, entitlement to property is explicitly limited how much one labors on behalf of society and contributes to the public good.

A worker is not entitled to the whole product of his labor since enough must be left for the necessities of the publick...(Locke 2.219; Tully 1980, 168).

*[Necessities to include] “specifically the peace, riches, and publick commodities of the whole people. (Locke 2010, *Toleration*, 83; Tully 1980, 168).*

And taxes must be paid to provide for the public necessities and protection, with the rich paying ‘proportionately’ more as they received a greater share of the protection.

It is true that governments need a great deal of money for their support, and it is appropriate that each person who enjoys his share of the protection should pay his proportion of the cost. (2.140)

The ‘positive Constitutions’ and political society must thus provide for taxation and the distribution of property such that the duty of charity is met, and beyond that, each individual in society has access to the necessities of life, *subsistence and enjoyment*. This requirement that each indivi-

dual has access to such is a redistributionist provision that would support a progressive taxation scheme. As Lockean scholar Peter Laslett states: “...*redistributive taxation, ... could be justified on the [Lockean] principles...*”. (Laslett 1970, 105).

The fundamentally important takeaway from this discussion of Locke’s theoretical views on property entitlement is the degree to which his property rights provisions - both natural and conventional- are contingent on and subject to premises of equality, common ownership and societal and ‘public’ interests. This it seems is exactly the sort of grounding in classical political theory that Piketty could rest on in an Anglo-American context - or in the French context once Barbeyrac’s influence on French political theory is properly resurrected and considered.

6. Concluding Comments

Thomas Piketty’s project in equality represents a moral clarion call of the fragmentation of the social order and democratic institutions resulting from the vast and growing income and wealth disparities around the world. He has indeed elevated equality as a norm of social and political critique much as John Rawls elevated ‘justice’ in his famous tome. There is more work to be done in supporting the cause of equality. In the direction of *praxis*, the degree of inequality must, in the words of Locke, ‘be regulated and limited by the positive constitutions and ‘Laws of Society.’ This is what Piketty himself is trying to do, for example in advancing the cause of equality in his proposals for a wealth tax and a steeply graduated rate of taxation. There is also theoretical work to be done. Neither Piketty nor others on his behalf have yet fully drawn out the available theoretical frameworks for justifying and undergirding his project. As I have argued, one approach in ensuring that property ownership is regulated and limited in the laws of society is to connect the concept of natural, common property with the language of rights. A next step would be to ‘objectify’ the ‘moral power’ of natural rights in the common within the legal order.¹⁶

Piketty’s normative perspective is, of course, readily identified with and supported by the French socialist political tradition but, in many circles, Piketty is too often dismissed on that account. However, as the analysis above demonstrates, Piketty’s ideas on equality and property ownership also have a place in the ‘natural rights’ tradition of John Locke, Jean Barbeyrac in France, and importantly as part of the neo-Thomist lineage that undergirds both. It is the inclusivist, common Dominion, communitarian strain of property right - which Locke exemplifies in ‘enough and as good’ and ‘duty of charity’ - that Piketty seems to envision as an outcome of the greater equality that he advocates. This vision might be seen as an expression of the *fraternite* political ideal in Piketty’s home country, a more harmonious society where as Piketty put it, “the general interest takes precedence over the private interests.”

¹⁶ The idea of a ‘right’ as ‘moral power’ comes from Suarez and the school of neo-Thomism. (Tully 1980, 64; Tully 1993, 104) The necessary sort of theoretical work to be done in translating rights in the common into the legal order’ is exemplified in the article, “The Commons as a Legal Concept” by M. R. Marella. Among other arguments, Marella uses the Hohfeld concept of ‘bundle of rights’ to avoid the private/public dichotomy. See M. R. Marella (2017) “The Commons as a Legal Concept”, *Law Critique* 28:61-86 DOI 10.1007/s10978-016-9193-0

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I have set forth one avenue of inquiry. It is beyond the scope of the paper to take up all of the potential grounds of Piketty's work. That task must be left to the papers that may follow. Suffice to say, if the depth and connections of Piketty's (and his compatriots') intellectual lineage are properly understood his ideas on equality and property cannot be easily dismissed. They must be taken most seriously by political theorists and policy makers alike if the income and wealth disparities and societal fragmentation are to be abated and reversed.

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ESSAYS

Juvenile Crime, Juvenile Justice and the Collective Social Good

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Introduction

A recent gruesome road accident in the metropolitan city of Pune, India, has once again revived deliberations on issues pertaining to juvenile crime and juvenile justice. In this case, irresponsible and unmindful rash driving by a minor boy, aged 17 years, took the life of two young engineers traveling on a motorbike. The juvenile accused was driving a luxury Porsche at 2:00 am, under the influence of alcohol, when his vehicle crashed at high speed into a bike killing both the riders. As per Indian Penal Code, a 17 year old is neither allowed to drive a four wheeler nor allowed to drink alcohol. In fact, even an 18 year old is not legally permitted to drink and drive. On that ill-fated night the juvenile, who belongs to an extremely rich and politically influential family, had gone to some pubs in the city with his friends to celebrate his success in the class 12th Public Board exam. He spent extravagantly on the occasion, something that is not normal and usual among teenagers for such celebrations. The luxury vehicle which had no license plate was gifted to him by his father who is a real estate tycoon owning many business houses. The family also attempted to cover up the case by taking recourse to political heavyweights to influence and change reports and facts. Needless to say that this entire incident and the handling of it raised a lot of hue and cry. This case recalled another gruesome gang rape case in which a few juveniles were involved known as the Nirbhaya Rape Case that had shaken the collective conscience of the entire nation so much so that it led to an Amendment in the Juvenile Justice (Care and Protection of Children) Act, 2000. With this most recent accident case juvenile crime and juvenile justice have once again become a relevant subject to address in a serious way. This paper attempts to address those issues taking into account some of these empirical facts of the case.

In order to understand issues arising with respect to juvenile justice, we need to look at different aspects of juvenile crime amongst which, undoubtedly the most important is the legal aspect which determines the nature and quantum of punishment to be given to the juvenile. It is important because punishment is essentially linked with the issue of justice in the sense that only when the convicted is punished that one feels that justice has been done to the victim. Further, the justification of the nature and quantum of punishment is sought in terms of the ethical theories and principles bringing out the connection between the legal and the moral, where the latter ought to determine the nature of the former. In other words, that law needs to be ethical too. In ethics, there is an important distinction between the 'is' (the factual) and the 'ought' (the

norm). What is the law and what ought to be the law with respect to juvenile crime and why it ought to be so is fundamentally a philosophical or moral question. It is because of its normative character that an ethical approach to the subject can justify a change in an existing law claiming that the change is for the better.

Important as the legal and moral aspects of juvenile crime are, one cannot ignore other aspects like the socio-economic and the psycho-social aspects of juvenile crime that contribute towards the incidence of juvenile crime. In fact, a reflection on these aspects helps us to better understand the concept of juvenile justice as well as strike at the root cause of juvenile crime so that we can strive to minimize the occurrence of juvenile crime and aspire to bring about a more humane social order aimed at promoting the collective good of human society while protecting the human rights of the juvenile. The aim of the paper is to critically examine the connection between the ethical issues related to juvenile justice and the psycho-socio-economic conditions leading to juvenile crime. In outlining this connection, it also suggests ways in which the incidence of juvenile crime can be alleviated thereby contributing to the larger common good of a more humane society. It goes without saying that each criminal case comes with a baggage of empirical facts that are important to understand the case itself and in the case of juvenile crime one such fact, like 'cut off age' becomes very crucial to the outcome of the case. Having said that, the paper does not intend to discuss the empirical details, the facts and figures, pertaining to any specific case of juvenile crime but focus rather on two main points:

1. What ethical considerations should guide the justification of the nature and quantum of punishment for juvenile crime when such crimes are committed, and
2. What are the root causes of juvenile crime that need to be addressed to alleviate such crime and how to go about it in a manner conducive to the collective good of human society while protecting the human rights and dignity of the juvenile.

Before we take up these two points in detail there is a need to understand the definition and some technical and controversial aspects of juvenile crime and these will be stated in the next section.

Juvenile Crime and the Juvenile Justice Act (2015) in India

Who is a juvenile as opposed to an adult and what is a juvenile crime? This is, perhaps, the most contentious issue particularly when the nature and quantum of punishment is to be decided. For heinous crimes, like, murder and rape, where the demand is to treat the juvenile as an adult, the cut off age is an important parameter and has become a major controversial issue. In a significant move, the Ministry of Women and Child Development, Government of India, decided to repeal and re-enact the Juvenile Justice Act (Care and Protection of Children) 2000. Along with its claims to streamline adoption and foster care procedures, it also proposes that juveniles above 16 years of age involved in heinous crimes should be tried as adults under the Indian Penal Code. The proposal however, has always been contested by the premier child rights

body NCPCR (National Commission for the Protection of Child Rights), which said that there cannot be any “compromise” on the age of a child as defined by the United Nations and in other international conventions.

The Juvenile Justice Act (Care and Protection of Children) 2015 of the Government of India allows juveniles between the ages of 16 -18 to be tried as adults for heinous crimes, like, rape and murder. Prior to this amendment, no one under 18 could be tried as an adult. In the amended Act, there is also the provision for a Juvenile Justice Board that decides whether to treat the juvenile as an adult or a child offender. To focus more specifically we would restrict ourselves to those cases where a heinous crime has been committed by a person of age between 16 – 18 and discuss what kind of ethical justification we can provide for some form of punishment for such crimes and what should that punishment be. We will not dwell on the arguments justifying the cut off age to be 15 or 16 or 18. This is a matter of much debate and there has been much opposition to the legal reduction of age from 18 to 16 for such crimes. Our concern will be, whatever be the cut off age, 16 or 18, what kind of punishment would deliver justice to all concerned in such cases taking us directly to the first point stated above.

Juvenile Justice in the light of the Classical Ethical Theories of Punishment

Passionné It is quite obvious that in cases of crimes like murder, assault, rape, burglary, offenders are liable to be punished as per the criminal law. But, what justifies the punishment? Punishment is a deprivation, taking away from offenders what they value – their freedom, or some of their money when they are fined. Since deprivation in any form causes suffering, punishment not deserved or greater than what is deserved, is wrong in itself. So, what should count as a just or fair punishment? In the specific context we are concerned with in this paper, viz., juvenile crimes, the question is – what is a just punishment for crimes committed by individuals in the range of 16 - 18 years of age? The question needs to be discussed in the light of the standard ethical theories of punishment that debate on the purpose and justification for punishing criminals.

There are two main types of theories of punishment – the Utilitarian theory that justifies punishment solely in terms of its good consequences also called the Deterrent Theory and the second theory called the Retributive theory which states that punishment is justified because the offender has voluntarily committed a wrong act and that wrongdoers deserve to suffer for what they have done, whether or not the suffering produces any good consequences. It is based on the principle of “an eye for an eye and a tooth for a tooth” (*Lex Talionis*). In other words, in this theory, punishment must be proportionate to the crime committed. Many objections have been raised against both these theories and an alternative method of crime control in the form of reform and rehabilitation has also been strongly advocated. The question is which theory does justice to the case of juvenile crimes?

Clearly, in the context of juvenile crime, the Retributive theory would not apply even in cases of heinous crime like murder or death caused by rash driving or driving under the influence of alcohol since Juvenile Law prohibits capital punishment and for good reasons mainly the age factor. Hence, even if a juvenile was tried as an adult for murder, the harshest punishment would still be some years of imprisonment whereas for the same crime an adult might be given the death penalty. Thus, in so far as juvenile crimes are concerned, the purpose of punishment is not retribution.

It has been argued that punishing juvenile crimes where a juvenile might be treated as an adult serves the purpose of setting an example in society thereby preventing potential offenders from committing similar crimes. In that sense, a greater good is expected for society than if the offender was not given any punishment or a softer punishment. This brings in the deterrent theory. But, the serious question is whether it is just or fair to punish a juvenile crime for the purpose of deterring potential offenders (including the offender) from doing similar acts in future? Deterrence, as a principle justifying punishment, violates the ethical principle laid down by Immanuel Kant - Never use an individual including yourself, merely as a means but always as an end. Since the concept of 'deterrence' uses the punishment meted out to a convicted criminal as a means to teach others a lesson, which on Kantian grounds would be morally unjustified. Further, the principle of deterrence and consideration of the larger 'social good' would justify the framing of innocent individuals on pretext of the larger good of society being served by the act of punishment. Moreover, deterrence is not needed in the case of law-abiding people, and it would not work on hardened criminals and repeat offenders. The more relevant question is whether deterrence works for potential offenders or the criminally inclined. A lot of research has gone into showing that the simple formula that the prospect of punishment deters potential offenders can no longer be held to be true. In the case of juvenile crimes, it would be all the more wrong to use a juvenile to teach other potential offenders (adults or juveniles) a lesson. A juvenile deserves to be treated as an end unto himself/herself considering age and other factors. Also, society must seek better ways to deter potential offenders than serving punishment to a juvenile only for the purpose of deterrence.

We next come to reform or rehabilitation which appears to be the real purpose of punishment. In fact reform should not be considered as punishment except that the convict is not free and is under strict guidance of the reform program charted out for the juvenile. Here the aim is to give the convict another chance to realize the gravity of the offense committed and somewhere repent and become a reformed individual. Reformation aims at the removal of a criminal disposition of the mind by improving the behaviour of the offender. Since, reform aims not only negatively to remove the criminal disposition, but also, positively, to improve the individual, it is the soft option in penal theory. In principle, at least, it is the most humane option and seeks to recognize the intrinsic value of a human being. To acknowledge the possibility of redemption through expiation and reintegration into social life, is to accept that human nature is fallible, that crime does not have to blight the core of a man and that it is possible to restore order and

health to society without sacrificing its members. The Reformatory theory of punishment goes beyond the other two theories in being based on the notion of 'human need'. That is, reform as punishment addresses the most primary form of justice in any society concerned with the basic necessary conditions for life and health. The real significance of the reformatory theory is that institutionalized forms of punishment should be modified and re-assessed and the circumstances of the offense or crime be taken into consideration before awarding a suitable punishment. The plea for reform and rehabilitation is well argued for on the premise that the cause of juvenile crime is the deprived psycho-social and socio-economic background of the criminal for which society at large is responsible.

There is also the issue whether juvenile crimes need to be treated as adult crimes invoking the principle – adult time for adult crime. It is evident that this has not worked in the USA where some state laws allow juveniles to be treated as adults for heinous crimes committed by them. Subjecting juveniles to court trials also raises the question of the competency of the juvenile to face such trials. Treating juvenile offenders as adults and giving them appropriate punishment has not resulted in the reduction of crimes in society. On the contrary, treating a juvenile as an adult may hurt the self-esteem of the juvenile making the juvenile a hardened criminal or evoking such a deep sense of guilt that the process of reformation may be vitiated. Thus, it is not entirely clear that if juveniles of age 16 - 18 are tried as adults for heinous crimes committed by them then, when they complete their period of imprisonment and are sent to reform homes they will come out as reformed individuals. Of course, the law has also taken note of this when it says that juveniles sent to prison must be segregated from other adult prisoners whose presence around the juvenile may have an adverse influence on the mind of the juvenile. The point is that if we admit that the juvenile mind is vulnerable, impressionable and sensitive, then, trying him/her as an adult and pronouncing imprisonment is going to be counterproductive to any further program of reform and rehabilitation. On the other hand, considering this aspect of the mental state of the juvenile and the prospect of a full life ahead, providing for a program of reform and rehabilitation becomes the moral duty of the state. Hence, the reformatory approach to juvenile crimes without the sentence of imprisonment seems to be a better option since it would amount to treating the individual as an 'end' unto himself rather than a means for the end/ larger good of society.

Psycho-Social and Socio-Economic aspects of Juvenile Crime

It is significant to deliberate on the root causes that are responsible for juvenile crime and work towards eliminating them to preserve the common good of the community. Is a juvenile solely responsible for his/her errant behaviour? Perhaps not. We need to look into the socio-economic and the psycho-socio conditions in which the juvenile has been brought up. Statistics shows that there is a direct co-relation between the incidence of juvenile crime and poverty and child abuse which are responsible for criminal tendencies in individuals. Such children are known sometimes to be coming from broken families and subjected to physical, mental and sexual

abuse. Many of them have not received any education or are school or college dropouts. They have faced failures, admonished for those failures and lack a sense of self-esteem and are more vulnerable to committing petty and sometimes more serious crimes. Considering the fact that juveniles who commit serious crimes come from socially deprived backgrounds plus considering their vulnerabilities to become a victim of such background conditions clearly shows that the juvenile is not solely responsible for the crime committed. In a sense, society as a whole is responsible and hence reform of the individual becomes an incumbent duty of civil society as well as of the state. Also, pinning responsibility on the individual alone means that that person was truly free to choose what he did. But, again considering the backgrounds from which such criminals come, one could say that they are forced by their environment to indulge in anti-social activities. This is definitely true of petty juvenile crimes like theft and cheating but may be hard to maintain in the case of wilful murder or rape. The whole point is whether juveniles who commit such crimes are fully aware of the consequences of such acts or are they just influenced by the bad company which is around them and in some cases a false sense of 'machismo' stemming from a lack of proper education and their very impressionable age.

It is important to point out that there is a substantial decline in the moral fabric of shared social experiences of adults. It is no hidden fact that in modern times, with the overbearing emphasis on material prosperity, financial affluence has become the defining criterion of success. There is a developing sense of entitlement among people about their material possessions. For instance, as adults and more specific to the context, as parents our perception of a 'good life' and 'well-being' is shaped by multiple intermeshed factors, like, class consciousness, peer pressure to live a life of over indulgence, consumerism by indulging in unlimited spending and extravagant celebrations etc. Financial privilege blinds people from understanding the consequences of their actions towards other human beings. Material affluence combined with such an idea of a 'good life' pushes people to develop an overarching lack of empathy and in general a value system that is not only indifferent to the basic needs of human beings but also apathetic towards the animate and inanimate life world. Given that the values practiced and imparted by parents are imbibed by children, thoughtful and responsible parenting is important. Specifically, in the context of rising rates of juvenile crimes, there is a need for inculcating values in the upbringing of a child. Thus, are parents and civil society responsible for addressing these concerns? Is our parenting/upbringing lacking in certain ways? If so, what steps should be taken towards 'good parenting'? The case under consideration clearly brings out the problems with 'bad parenting'.

Adults ought to invest the best resources in making children understand the true definition of success. Success is not merely about individual accumulation of money. Success is to be understood as a holistic concept which takes into account social, economic, intellectual, spiritual progress. Moreover, children ought to be taught about the real value of money i.e., money has merely an instrumental value to help us achieve the common good. Instead of focusing on what assets money can buy we ought to teach them what social change and common good money can help us achieve. We ought to expose children to a diverse range of experiences and real life ethical dilemmas, which often challenge their decision making abilities. They ought to harness virtues, like, compassion, honesty, truthfulness, dutifulness, temperance, respect among others.

Additionally, we should teach children to manage their emotions, which would certainly help them stay in focus. They should be taught to understand and fulfil their obligations and commitments towards others. These are marks of 'good parenting' and building blocks towards inculcating responsible behaviour in civil society.

It can be said that in the Pune Porsche case, financial privilege fails to distinguish the fine line between need and luxury. We see that despite being a minor the child is not only gifted a luxury car but is also allowed to go out to celebrate his success at night, spend extravagantly and consume alcohol with his friends and drive. The importance of age appropriate parenting cannot be undermined. Children should not only be given the opportunity to make informed choices but the choices must also be age appropriate. Parenting is like balancing on a tightrope between empathizing with the child to understand their needs and setting boundaries by saying 'no' to inappropriate demands.

Summing up the causal influence of socio-economic and psycho-social 'deprivation' along with 'bad parenting' of the juvenile, one can definitely say that juveniles are not totally responsible for their actions that cause harm to them and in some cases harm to others. This sympathetic view in favour of juveniles who have committed heinous crimes must not be misunderstood, by any means, as an endorsement of such crimes or even of taking them lightly. Rape, murder and non-culpable homicide are crimes that cannot be pardoned and there needs to be zero tolerance for them. In the case of juveniles committing such crimes it is the legal and moral duty of the state and civil society to see what kind of environment we can create for them so that they can grow up to be not only law abiding citizens but also sensitive individuals. The question is how this can be done without taking recourse to harsh punishment and not whether it needs to be done. Neither the state nor civil society can turn a blind eye to this cause of juvenile crime by making punishment more stringent and/or lowering the age of juveniles for such crimes.

Conclusion

We now come to the last point which is the implications that the law pertaining to juvenile crime has on human rights and how a humane approach to punishment and juvenile justice can contribute to the larger social good. Clearly, every human being has a right to be treated with dignity and respect even if he/she is convicted of a heinous crime. The fact that he/she has a right to a fair trial and due process bears evidence to this.

It may be argued that a person convicted of a heinous crime after a fair trial, has forfeited some of his rights and therefore, deserves some punishment. Having said that, one must keep in mind that the punishment must not be given just for the sake of punishment, nor for the betterment of society, for this would be violating the right to be treated with human dignity. A punishment which aims at reforming the criminal by imposing some restraint and restrictions on his freedom commensurate with the crime would be more appropriate. One must allow the criminal to regain his self-esteem and sense of dignity by driving home the wrongness of the crime committed and a sense of repentance and remorse.

This of course raises the question whether the victim's rights are violated in the process? Also, whether a softer punishment for juvenile crime is going to see an increased incidence in such crimes? As already mentioned, civil society needs to take other measures to stop the incidence of juvenile crime by providing a better life for children coming from deprived socio-economic backgrounds. At the same time 'good parenting' that is value laden is also very crucial specially for those who are privileged to be coming from affluent backgrounds. As for the victim's rights one can only say that two wrongs do not make a right. The attitude of revenge or retribution is not going to restore the rights of the victim violated by the crime though it may bring about a sense of closure.

The attitude of retribution does not work for anybody. Nobody is a winner. On the contrary, the attitude of improvement is what will ultimately work for the betterment of society and this can come about by reform and rehabilitative programs for juvenile crimes. Juvenile courts ought to operate on the principle that rehabilitation is a better response to delinquency than the punishment and stigma that generally accompany an adult conviction. We are being increasingly reminded that the 'end' or aim of the criminal law is the maintenance of certain values, such as the protection of the life of human beings, physical and mental inviolability of the person and the maintenance of order and peace in society. In doing this the law of the state will also serve to promote the larger social good or the common good of humanity. The larger social good of society is determined by the promotion of the well-being of all sections of society and protection of basic rights to a life of dignity and freedom inclusive of all kinds of freedom listed in the UN Charter of Basic Human Rights. At the same time, duties and responsibilities related to the different roles played by individuals, especially parents and other family members of children are also important. All this would embrace inclusivity, diversity and concerns for the non-human environment and the future generations. It is only in this context that the larger social good of society can be achieved. Juvenile justice is an integral part of this social goal.

Regarding crime as a kind of social disease, Gandhi talked of the need for society itself to cleanse the evil within it. Consider the following words by Gandhi as epitomizing the most spirited defence of human rights:

"Even the hoodlums are part of us and, therefore, they must be handled gently and sympathetically. It is not only right but also profitable to wish well to the wrong-doer in spite of his wrongs, however grievous these may be... Ahimsa teaches us to take even an erring hooligan into our warm embrace."

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Repensar la IA a través de la mirada humana

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El ser humano ha recorrido un largo camino en la comprensión de la inteligencia, desde las primeras reflexiones filosóficas que intentaban desentrañar la mente humana hasta la actual tarea de desarrollar máquinas capaces de emular, reproducir e incluso superar ciertas capacidades cognitivas propias del ser humano. La inteligencia artificial (IA), entendida en un sentido amplio, se ha convertido en el último siglo en una de las más prometedoras empresas tecnológicas, científicas y filosóficas: “The theory and development of computer systems able to perform tasks normally requiring human intelligence, such as visual perception, speech recognition, decision making, and translation between languages.” (Lasse, 2018). En este sentido, la IA no solo intenta resolver problemas complejos con mayor eficiencia que el ser humano, sino que además busca la imitación de funciones cognitivas, la comprensión del lenguaje, el razonamiento, la toma de decisiones y la creatividad, entre otras capacidades tradicionalmente asociadas a la inteligencia humana¹⁷ (Mueller & Massaron, 2018).

Por ello, es preciso destacar que la noción de inteligencia sigue siendo objeto de controversia pues, la definición de lo que es “inteligencia” humana no es trivial; históricamente, se la ha vinculado con la capacidad de razonar, abstraer, aprender, comprender significados, distinguir entre verdades y creencias, adaptarse al entorno, así como crear y resolver problemas es por ello que, a lo largo del desarrollo de la IA, sus pioneros se han inspirado en las funciones de la mente humana (Mueller & Massaron, 2018), desde Alan Turing en la década de 1950 hasta las investigaciones más recientes sobre redes neuronales profundas. No obstante, esta equiparación entre la inteligencia humana y la artificial se ha demostrado problemática ya que, se ha descubierto que, la inteligencia humana es un fenómeno complejo que involucra componentes biológicos, psicológicos, sociales y culturales, mientras que la IA, aun en sus manifestaciones más avanzadas, sigue siendo el producto de algoritmos, sistemas estadísticos, análisis de datos, cómputo masivo y reglas lógicas (Lasse, 2018).

A medida que la IA avanza, su capacidad de imitar tareas humanas antes impensables, como el reconocimiento del habla, la conducción autónoma, la traducción en tiempo real y la generación de textos coherentes, ha suscitado múltiples debates muchos de ellos ganados por la IA y otros que aun se encuentran en medio de la discusión y esto, es interesante dado que, en estos desarrollos existe un enfoque antropocéntrico que, desde sus orígenes, ha buscado medir el progreso de la IA en relación con la inteligencia humana, es de hecho, equivocado haberla llamado de esta manera pues, la “Inteligencia” artificial, no es capaz de emular los procesos complejos a

¹⁷ Es muy interesante en este sentido ver la comparación que hace Gardner de las inteligencias múltiples y lo que puede hacer la Inteligencia Artificial.

través de los cuales funciona la inteligencia humana. Es quizá similar en los resultados que cada una de estas inteligencias arroja, pero en el proceso existe una gran diferencia. De esta manera, de acuerdo con The Turing Trust (n.d.) históricamente, los primeros intentos de emular la inteligencia datan del test de Turing, en el que se perseguía comprobar si una máquina podía “engañar” a un ser humano haciéndole creer que conversaba con otro ser humano sin embargo, el logro de esa prueba no necesariamente implica la existencia de una inteligencia equivalente a la humana, solo sugiere que la máquina es capaz de simularla en el nivel del comportamiento lingüístico. Actualmente, modelos del tipo GPT han demostrado una capacidad sorprendente para responder preguntas, generar textos y resolver problemas en diversos contextos, pero de nuevo surge la pregunta sobre la naturaleza de su “inteligencia”.

El problema que surge a través de esta perspectiva tiene que ver con el hecho de que, si aún no se comprende plenamente qué es la inteligencia humana, ¿cómo es posible aspirar a reproducirla en una máquina? Y por otra parte, si la IA comienza a desplegar capacidades no previstas, ¿hasta qué punto puede servir para ampliar, enriquecer o trastornar las capacidades y la experiencia humana?

Así, el propósito de este ensayo es, en primer lugar, presentar y sintetizar el estado actual de la inteligencia artificial, resaltando sus logros, limitaciones y retos pendientes, teniendo como trasfondo la complejidad de la inteligencia humana. En esta primera parte, el objetivo es doble: por una parte, ofrecer un panorama general del desarrollo histórico y las definiciones teóricas sobre la IA y por otra, profundizar en la comprensión de cómo la inteligencia humana puede servir de inspiración y guía en el perfeccionamiento de sistemas artificiales. En segundo lugar, el ensayo pretende examinar el modo en que el entendimiento del cerebro y la mente humanas pueden orientar el diseño de nuevos sistemas de IA, más avanzados y mejor alineados con nuestras capacidades cognitivas. La esperanza es que al comprender mejor lo que caracteriza la inteligencia humana, se puedan diseñar algoritmos que no solo imiten el comportamiento, sino que también reflejen procesos cognitivos complejos e incluso aporten nuevos modos de pensar y resolver problemas, incrementando nuestras habilidades intelectuales. Finalmente, en tercer lugar, este ensayo busca explorar perspectivas futuras y proponer vías de investigación destinadas a desarrollar una IA expansiva. En lugar de limitarse a la imitación de la inteligencia humana, la IA podría contribuir al enriquecimiento de la cognición humana, generando simbiosis en las que las capacidades humanas se vean potenciadas por las capacidades algorítmicas. Esto incluye considerar enfoques éticos y normativos, garantizando que la IA se desarrolle en beneficio del bien común, con responsabilidad y bajo un marco ético sólido que respete la esencia de lo humano.

La metodología adoptada en este ensayo es esencialmente analítica y conceptual, se parte del análisis de un corpus bibliográfico clásico y contemporáneo sobre inteligencia artificial, desde las definiciones propuestas por Turing, Minsky, McCarthy, Russell y Norvig, entre otros, hasta las más recientes investigaciones sobre aprendizaje profundo, redes neuronales y sistemas de lenguaje. Asimismo, se integran aportaciones filosóficas y psicológicas que ayuden a comprender el fenómeno de la inteligencia humana desde múltiples perspectivas, como las teorías de las inteligencias múltiples de Gardner o las reflexiones de Boden y Nosta sobre la relación entre lo biológico, lo cultural y lo algorítmico. Así también, esta reflexión tiene una base interdisciplinaria en áreas como la filosofía de la tecnología y la epistemología, combinando además las investigaciones históricas y técnicas de la IA. Se analizarán diferentes definiciones de IA, las críticas a estas definiciones y las vías por las cuales la IA ha buscado históricamente imitar aspectos de la cognición humana.

Así, podemos decir que la comparación entre la inteligencia humana y la IA es una labor compleja, si lo vemos desde un punto de vista histórico, la IA se definió, en gran medida, a partir de la habilidad de las máquinas para realizar tareas que antes se consideraban exclusivas de la inteligencia humana (Rouhiainen, 2018). Al inicio, el centro estaba en las tareas lógicas, matemáticas y de razonamiento formal, las cuales eran más cercanas a los procesos de las máquinas, sin embargo, al poco tiempo se dieron cuenta que la inteligencia humana es poliédrica, involucra no solo el razonamiento sino también las emociones, el contexto cultural, la historia personal, la corporeidad y la interacción con el entorno. Es por ello que, Howard Gardner, en su teoría de las inteligencias múltiples (Project Zero, 2025), argumentó en su momento que el ser humano no posee una inteligencia única, sino un conjunto de capacidades cognitivas diversas que incluyen diversos tipos de inteligencia como la inteligencia espacial, kinestésica, lógica-matemática, lingüística, musical, interpersonal, intrapersonal y naturalista, entre otras. Muchas de estas variedades siguen siendo difíciles de emular por una máquina aunque, sí ha logrado llegar a emular e incluso superar los resultados de la inteligencia humana. Así, es posible afirmar que, la IA ha tenido un éxito relativo en áreas como el razonamiento lógico-matemático, el reconocimiento de patrones, la generación de lenguaje coherente, el análisis de datos masivos, el aprendizaje por refuerzo en tareas definidas y la creación de imágenes o música basadas en patrones estadísticos sin embargo, la IA carece aun de capacidades tan humanas y necesarias para trabajar con la inteligencia como la conciencia, el sentido del yo o la compleja red de relaciones biológicas, hormonales y emocionales que subyace en la experiencia humana. En realidad es difícil afirmar o negar que la IA será capaz de imitar todos estos procesos, lo que es posible decir hoy por hoy es que, aun e falta mucho camino para ello.

En este sentido, es posible afirmar que, la diferencia fundamental radica en la falta de sustrato biológico y socio-cultural en la IA; el ser humano piensa, siente, se emociona y actúa impulsado por una conjunción de procesos biológicos y cognitivos, así también, las decisiones humanas pueden verse influenciadas por hormonas, neurotransmisores, la memoria a largo plazo, las experiencias pasadas, el miedo, la esperanza, las creencias, las normas sociales, la moral y la empatía. Cuando una persona se ve en peligro, activa la respuesta de lucha o huida; la adrenalina se libera en el torrente sanguíneo, el corazón late más rápido, la respiración se acelera y el cuerpo se prepara para la supervivencia. Esta compleja respuesta involucra sistemas que la IA no posee ni comprende, pues su funcionamiento se basa en principios completamente distintos: algoritmos, cálculos estadísticos y acceso a enormes bases de datos.

Este desajuste entre lo biológico y lo algorítmico nos lleva a la pregunta: ¿puede la IA “pensar” en el sentido humano del término? Algunos investigadores argumentan que la pregunta está mal planteada, ya que las máquinas y los seres humanos operan en niveles radicalmente distintos. La IA no necesita imitar la fisiología humana para ser efectiva. De hecho, buena parte de las aplicaciones exitosas de la IA ocurren sin intentar reproducir la complejidad de la inteligencia humana, sino más bien aprovechando las fortalezas propias de las máquinas, su capacidad de procesar información a gran escala y su precisión en el análisis de datos. El ser humano, a su vez, puede beneficiarse de esta capacidad, delegando a la IA tareas que antes resultaban arduas o imposibles, y concentrándose en las actividades que requieren empatía, juicio moral, improvisación, intuición, flexibilidad, sentido del humor o creatividad genuina.

Es por ello que, se ha planteado que la IA puede actuar como un espejo que nos permita entender mejor nuestra propia inteligencia. Esto es impresionante dado que, al intentar emular capacidades humanas en máquinas, los investigadores se ven obligados a preguntarse qué es esencialmente humano. El debate filosófico en torno a la conciencia, la subjetividad, el libre albedrío y la experiencia fenomenológica se revitaliza ante el empuje de la IA. Este campo se vuelve un terreno fértil no solo para ingenieros y científicos de la computación, sino también para filósofos, psicólogos, sociólogos, abogados, educadores y artistas que se preguntan por el significado de la mente, la esencia de la creatividad y el lugar de la humanidad en un mundo cada vez más automatizado.

Ahora bien, es necesario ahora plantearse la pregunta acerca del ¿por qué existe la IA?, ¿cuál es su objetivo primario? En este sentido, es posible decir que, la IA se ha desarrollado con la intención de mejorar la vida humana o al menos, eso es lo que señalan los investigadores y es aquí donde la discusión adquiere un matiz más pragmático; más allá de la emulación, la IA se presenta como una herramienta para ampliar las capacidades humanas, puede analizar datos masivos en medicina para diagnosticar enfermedades con mayor precisión; puede personalizar la educación adaptándola a las necesidades individuales de cada estudiante; puede asistir en tareas cotidianas, optimizando recursos y mejorando la eficiencia de empresas e instituciones. Esta faceta de la IA, que no necesariamente busca “pensar” como los humanos, sino colaborar con ellos, abre perspectivas positivas sin embargo, también surgen amenazas, como la pérdida

de puestos de trabajo a manos de la automatización, la vigilancia masiva, la manipulación de la opinión pública a través de sistemas de recomendación algorítmica, la erosión de la privacidad y las desigualdades tecnológicas que pueden agravar las brechas sociales y económicas así como, el declive cognitivo que está sucediendo precisamente en este momento.

En este punto, es necesario voltear la mirada hacia las implicaciones éticas y es que, el desarrollo de la IA no puede darse al margen de la reflexión sobre el bien común y el respeto a la dignidad humana. Diversas iniciativas, tanto institucionales como académicas, buscan delinear un marco normativo para garantizar el uso responsable de la IA, por ejemplo, la Unión Europea ha propuesto un marco regulatorio que procure la transparencia, la equidad y la rendición de cuentas en el diseño y aplicación de sistemas de IA (2024). En el plano filosófico, autores como Luciano Floridi (2023) plantean la necesidad de una ética de la información que reconozca el valor moral de los datos y las tecnologías y es que, es necesario cuestionarse acerca de los alcances que la IA puede tener y el bienestar que puede dar a la humanidad. ¿Es ético buscar que la IA supere a la inteligencia humana?, ¿cual sería su papel?, ¿para qué o por qué se busca esto?, ¿hay implicaciones sociales, económicas, políticas, sustentables que apoyen este desarrollo? La discusión tiene que ver con el futuro de la humanidad, es necesario plantearse si la IA podrá o no trascender su carácter imitativo y pasar a convertirse en una inteligencia expansiva y complementaria a la humana. Esto podría implicar la generación de nuevas formas de cognición, surgidas de la interacción entre el humano y la máquina, en un proceso simbiótico que amplíe las fronteras del conocimiento y la creatividad. Sin embargo, para que esto ocurra de manera beneficiosa, es necesario que la IA integre valores humanos, que no se limite a actuar con eficiencia, sino que considere la justicia, la empatía, la solidaridad y la sostenibilidad.

En última instancia, el desafío radica en equilibrar la búsqueda del progreso tecnológico con la preservación de aquello que nos hace humanos. La IA puede ofrecernos reflejos digitales en los que observar nuestros propios procesos mentales y cognitivos, estos reflejos no deben verse como un simple duplicado de la inteligencia humana, sino como una oportunidad para explorar las fronteras de la mente, la creatividad y la razón.

Así, la reflexión presentada a lo largo de este ensayo permite delinear algunos resultados conceptuales y anticipar posibles rumbos futuros: En primer lugar, queda claro que la definición de inteligencia artificial sigue siendo motivo de debate, debido a la complejidad y multidimensionalidad de la inteligencia humana. La IA ha sido históricamente concebida en términos antropocéntricos, midiendo su progreso con las posibilidades de la mente humana. Sin embargo, esta comparación resulta imprecisa y equívoca, ya que la IA carece del sustrato biológico y las dinámicas emocionales, sociales y culturales que son parte constitutiva de la inteligencia humana. En consecuencia, resulta más útil concebir la IA como una forma distinta de procesamiento de la información, con fortalezas y debilidades propias.

En segundo lugar, a pesar de los intentos en ver la IA como una inteligencia análoga a la humana, es necesario verla no como una “inteligencia rival” que compite con la humana, sino como una herramienta que puede colaborar, inspirar y expandir la capacidad humana. Asimismo, la inteligencia humana, a través del estudio de la IA, se redescubre a sí misma, encontrando nue-

vas preguntas sobre su propia esencia, identidad y fines. En este doble juego reflexivo, la IA y la humanidad se contemplan mutuamente, aprendiendo la una de la otra, abriendo la puerta a un futuro en el que la tecnología no reemplace lo humano, sino que lo complemente y lo potencie.

En tercer lugar, es necesario ver que la integración de la IA en la sociedad debe realizarse con prudencia y con un fuerte énfasis en la responsabilidad social y moral. Los próximos años serán críticos para delinear la relación entre las máquinas y la humanidad. La educación, la legislación, la ética y la filosofía tendrán un papel crucial en la orientación del rumbo que tome esta tecnología. Si se realiza de manera correcta, la IA puede convertirse en un verdadero reflejo digital que nos permita no solo descifrar su lógica interna, sino también comprender mejor la complejidad de nuestra propia inteligencia. Más aún, puede ayudarnos a reconocer la singularidad del ser humano, esa chispa irreductible que nace de la interacción entre cuerpo, mente, entorno social y herencia cultural, algo que difícilmente una máquina podrá igualar en su totalidad.

Finalmente, el balance final de este ensayo se inclina a favor de la comprensión recíproca, los estudios y avances en torno a la IA nos han llevado a una mejor comprensión de ésta así como de la inteligencia humana y en este sentido, marcar los límites de las dos y las extensiones que pueden tener si hay una colaboración entre una y otra. Comprender qué es algo, para qué es y hacia dónde se dirige, son preguntas fundamentales que nos llevan a tener una mejor guía de nuestros desarrollos y de nuestras acciones a favor o en contra de la humanidad. Pensar en el bien común y tenerlo como base para nuestras actividades es fundamental para no fallar a la humanidad. Hoy en día, se han cometido crímenes en contra de la humanidad por errar en el camino de la tecnología y usarla no para el bien común sino para el bien propio que a su vez se convierte en el mal común. Hace unos días en Estados Unidos se cometió un asesinato en el que se utilizó un arma hecha con una impresora 3D y la pregunta es, ¿por qué?, ¿para qué?, ¿hacia dónde?, ¿es este el objetivo de las nuevas tecnologías?, ¿matarnos entre unos y otros? El ser humano necesita un hacia dónde, Aristóteles solía decir que, toda acción se realiza por un fin y ese fin se ve como bueno. Nuevamente el tema de la educación, el conocimiento y el bien común se encuentran. Si encontramos ese para qué que efectivamente sea bueno para la sociedad, encontraremos el cómo y entonces todos los desarrollos tendrán un sentido humano, estarán ordenados hacia el bien común.

En suma, el reflejo que la IA nos brinda sobre nuestra propia inteligencia humana no es una mera repetición, sino un prisma a través del cual podemos entender mejor nuestro intelecto, nuestras limitaciones y nuestras posibilidades, tanto individuales como colectivas. La IA, aun desde su diferente naturaleza, puede inspirarnos a revalorar la experiencia humana, a proteger su dignidad y a explorar nuevos territorios del pensamiento y la acción. En este sentido, la interacción entre la IA y la inteligencia humana es una oportunidad para trascender la mera imitación y avanzar hacia una coexistencia enriquecedora.

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