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ARTICLE

The Politics of *societas* and the Early Modern State

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Abstract

This article contributes to a recent shift in the study of early modern political thought,
moving away from a state-centric view of the period towards an interest in the political
significance of a range of other communities. More specifically, I argue that debates
about the scope of one key concept, that of *societas*, resulted in different visions of
the relationships between a variety of human associations. To demonstrate this, I recon-
struct Johannes Althusius's theory of *societas* and compare it to those of several contem-
poraries, ranging from Renaissance Ciceronianism to Jean Bodin and Hugo Grotius. I
show that Althusius provided an innovative juridical interpretation of *societas*, which
he used to ground a conception of politics according to which all human associations,
from the family to the corporation to the state, are political. This complements trad-
itional theological interpretations of his thought, which alone cannot fully account
for its distinctiveness. Althusius's conception of politics enabled him to chart an
original middle way between two options available at the time: on the one hand, the
isolation of politics from social and religious life; on the other, its subordination to
or full identification with other kinds of community.

During the second half of the twentieth century, intellectual historians studied
early modernity mainly as the period in which the state emerged and tri-
umphed as the *locus* of politics. Accordingly, canonical histories of sixteenth-
and seventeenth-century political thought traced the origins and development
of the intellectual resources that made the state possible.[1] Building on these
narratives, scholars of the Enlightenment identified a second, decisive step

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[1] Quentin Skinner, *The foundations of modern political thought* (2 vols., Cambridge, 1978); Maurizio
Viroli, *From politics to reason of state: the acquisition and transformation of the language of politics,
1250–1600* (Cambridge, 1992); Richard Tuck, *Philosophy and government, 1572–1651* (Cambridge, 1993).
For an overview, see the discussion in Paul Sagar, *The opinion of mankind: sociability and the theory
of the state from Hobbes to Smith* (Princeton, NJ, 2018), pp. 5–13.

towards full modernity in the appearance of the sphere of society, existing out-side of but always in relation to (and in tension with) the state.[2]

In recent decades, however, historians have begun to shift their attention away from the state–society binary and towards a more nuanced understand-ing of the conceptualization of politics between the sixteenth and seventeenth centuries. Scholars have recast the state as just one of the many available options, showing that the boundaries of the political were drawn, redrawn, and negotiated over the course of complex debates.[3] These debates intensified especially in the last quarter of the sixteenth century, as many European thinkers confronted Bodin's theory of sovereignty, often drawing on Aristotelian insights as well, and came to very different conclusions on the relationship between politics and other spheres of human life, such as the domestic and religious ones.[4] Politics was thus increasingly studied as an autonomous discipline or even science.[5]

In this article I will focus on one of the intellectual resources employed in this process: the juridical category of *societas*. Given the success of the state–society paradigm, it is unsurprising that pre-eighteenth century theories of *societas* have mostly been interpreted either as contributing to the theorization of the modern state or as anticipating civil society.[6] I will show instead that the meanings of early modern *societas* transcended the state–society dichotomy, and that recovering the forgotten complexity of *societas* allows us to better understand the nature and the boundaries of both the state and other kinds of communities. To do so, I will follow recent studies in re-evaluating the

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[2] Manfred Riedel, 'Gesellschaft, bürgerliche', in Otto Brunner, Werner Conze, and Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe* (Stuttgart, 1975), pp. 719–800; Claude Gautier, *L'invention de la société civile. Lectures anglo-écossaises* (Paris, 1993); Keith M. Baker, 'Enlightenment and the institution of society: notes for a conceptual history', in Willem Melching and Velema Wyger, eds., *Main trends in cultural history: ten essays* (Amsterdam, 1994), pp. 95–120; Giuseppe Duso, 'Sulla genesi del moderno concetto di società: la "consociatio" in Althusius e la "socialitas" in Pufendorf', *Filosofia politica*, 10 (1996), pp. 5–31; Sudipta Kaviraj and Sunil Khilnani, eds., *Civil society: history and possibilities* (Cambridge, 2001); Istvan Hont, *Jealousy of trade: international competition and the nation-state in historical perspective* (Cambridge, MA, 2005), pp. 37–51, 159–84; Peter Wagner, ed., *The languages of civil society* (New York, NY, 2006).

[3] Martin van Gelderen, 'Der moderne Staat und seine Alternativen: Althusius, Arnisaeus und Grotius', in Emilio Bonfatti, Giuseppe Duso, and Merio Scattola, eds., *Politische Begriffe und histor-isches Umfeld in der* Politica Methodice Digesta *des Johannes Althusius* (Wiesbaden, 2002), pp. 113–32; Annabel Brett, *Changes of state: nature and the limits of the city in early modern natural law* (Princeton, NJ, 2011); Noah Dauber, *State and commonwealth: the theory of the state in early modern England, 1549-1640* (Princeton, NJ, 2016); Anna Becker, *Gendering the Renaissance commonwealth* (Cambridge, 2020); Sarah Mortimer, *Reformation, resistance, and reason of state, 1517-1625* (Oxford, 2021).

[4] Merio Scattola, *Dalla virtù alla scienza. La fondazione e la trasformazione della disciplina politica nell'età moderna* (Milan, 2003); Mortimer, *Reformation*, ch. 11.

[5] Sophie Smith, 'The language of "political science" in early modern Europe', *Journal of the History of Ideas*, 80 (2019), pp. 203–26.

[6] E.g. Antony Black, 'Concepts of civil society in pre-modern Europe', in Kaviraj and Khilnani, eds., *Civil society*, pp. 33–8; Peter Hallberg and Björn Wittrock, 'From *koinonia politikè* to *societas civilis*: birth, disappearance and first renaissance of the concept', in Wagner, ed., *Languages of civil society*, pp. 28–51.

importance of early modern Ciceronian jurisprudence – which ascribed a central role to *societas*[7] – and in exploring the political significance of a variety of *societates*, from the family to the church.[8]

I will focus primarily on the thought of Johannes Althusius (1563–1638), reconstructing his use of *societas* and contrasting it with that of various contemporaries, from Renaissance Ciceronianism to Jean Bodin and Hugo Grotius. Althusius is an apt case study not only because he developed arguably the most sophisticated seventeenth-century theory of *societas*, but also because his thought has traditionally been read as expressing a 'modern idea' of politics as 'the study of statecraft',[9] one that repurposed the medieval theory of corporations to support popular sovereignty.[10] I will claim instead that his interpretation of the concept of *societas* led him to an original theory of politics, one in which a range of forms of associated life, from the family to the town to the state, were all political. He articulated this theory by characterizing politics as the study of *consociatio*, a peculiar word which lends itself to both a theological and a juridical interpretation. Although scholars have mostly emphasized its theological dimension, I will make the case that the juridical one is at least as important.

After demonstrating that Althusius's works unmistakably suggest a connection between *consociatio* and *societas*, I will explore this connection, first by summarizing the legal meaning of *societas* between classical Rome and the Renaissance, and then by studying how this term is used in Althusius's juridical texts, which have been almost universally neglected by scholars. This will reveal that the Althusian *consociatio* should be understood as a specific type of *societas*. I will then argue that, even though Althusius only explicitly develops his mature juridical theory in the later *Dicaeologica* (1617), we can see its categories at work as early as the first edition of his *Politica* (1603).

The final sections of this article will develop the implications of this interpretation. First, I will demonstrate that the theoretical features of *societas* allow us to make sense of *consociatio*'s distinctive communal and collaborative aspects. Second, I will situate Althusius's theory of *societas* in relation to the political and intellectual circumstances of the cities of Herborn and Emden, where the various editions of the *Politica* were written and published. I will conclude that Althusius's use of *consociatio* enabled him to chart a middle way between the isolation of politics from social or religious life and its subordination to or full identification with them.

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[7] Peter Stacey, 'Liberty and the rule of law', in Virginia Cox and Joanne Paul, eds., *A cultural history of democracy in the Renaissance* (London, 2022), pp. 41–61; Michael Hawley, *Natural law republicanism: Cicero's liberal legacy* (Oxford, 2022); Jeffrey Dymond, 'Ciceronian jurisprudence and the law of nations', *Historical Journal*, 67 (2024), pp. 1–20.

[8] Becker, *Gendering the Renaissance commonwealth*, ch. 1; Mortimer, *Reformation*, chs. 3–5.

[9] Skinner, *Foundations of modern political thought*, II, p. 350.

[10] Quentin Skinner, *Visions of politics* (3 vols., Cambridge, 2002), II, p. 392; Angelo Torre, 'Universitas (Losaeus)', in Francesco Ingravalle and Corrado Malandrino, eds., *Il lessico della Politica di Johannes Althusius. L'arte della simbiosi santa, giusta, vantaggiosa e felice* (Florence, 2005), pp. 339–60; Daniel Edelstein, 'Rousseau, Bodin, and the medieval corporatist origins of popular sovereignty', *Political Theory*, 50 (2022), pp. 142–68, at p. 154.

I

The *Politica* begins with a definition of its subject matter: 'Politics is the art of associating (*consociandi*) men for the purpose of establishing, cultivating, and conserving social life among them. Whence it is called "symbiotics". The subject matter of politics is therefore association (*consociatio*).'[11] As the rest of the work makes clear, all forms of associated life, from the married couple to the *respublica*, are instances of *consociatio*; by definition, they are all political. On this point, Althusius differed sharply from most contemporaneous theories of politics, which followed classical (typically Aristotelian) models in carefully distinguishing the private/non-political from the properly political realm. This broadening of the meaning of politics was made possible by the choice of *consociatio* as the defining political category. Understanding the precise meaning of *consociatio* has therefore been a major topic of debate in Althusius scholarship.

After decades characterized by an opposition between the two classic interpretations of Otto von Gierke, who emphasized the individualistic and voluntaristic character of *consociatio*, and Carl Friedrich, who portrayed *consociatio* as a purely natural and involuntary phenomenon, more recent research has concentrated on the history of this term, which was not common in classical and medieval Latin.[12] A crucial exception was its use by Cicero, especially in *De officiis* (1.100, 1.149, and 1.157), which is often cited as the source from which Althusius derived the term.[13] The technical meaning of *consociatio* has been explained either as an expression of Aristotelian natural sociability or, more frequently, as a category of the 'federal theology' that constituted a shared theoretical framework at the Herborn School where Althusius taught.[14] According to this line of thought, the relationship between God and human beings was mediated by a covenant (*pactum* or *foedus*) established at the beginning of time and renewed through Christ, which in some cases also entailed a pact between rulers and ruled. To describe the kind of communion (with God and with other human beings) that resulted from such pacts, these writers sometimes used technical terms, such as *consociatio* and κοινωνία (*koinonia*),

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[11] Johannes Althusius, *Politica methodice digesta of Johannes Althusius (Althaus)*, ed. Carl J. Friedrich (Cambridge, MA, 1932) (hereafter *PMD*), p. 15; Johannes Althusius, *Politica*, trans. and ed. F. Carney (Indianapolis, IN, 1995) (hereafter *P*), p. 17.

[12] Otto von Gierke, *Natural law and the theory of society, 1500 to 1800*, trans. E. Baker (2 vols., Cambridge, 1934), I, pp. 71, 76; Carl J. Friedrich, 'Introduction', in *PMD*, pp. xv–xcix, at pp. lxiv–xcvii. For a summary of more recent research, see Cornel Zwierlein, 'Consociatio', in Ingravalle and Malandrino, eds., *Il lessico della* Politica, pp. 143–68.

[13] Friedrich, 'Introduction', p. lxxxiv; Thomas Hueling, *Early modern concepts for a later modern world: Althusius on community and federalism* (Waterloo, ON, 1999), p. 79; Zwierlein, 'Consociatio', pp. 145–6; Simon P. Kennedy, 'Rethinking *consociatio* in Althusius's *Politica*', *Journal of Markets and Morality*, 22 (2019), pp. 305–16, at p. 310.

[14] For *consociatio* as an expression of natural sociability, see Hueling, *Early modern concepts*, pp. 79–80, 85–6; Zwierlein, 'Consociatio', p. 159. As a category of the Herborn 'federal theology', see Johann Wienecke, 'Die gesellschaftlichen Lehren der Herborner Hohen Schule zur Studienzeit Comenius', *Studia comeniana et historica*, 5 (1973), pp. 37–66.

which Althusius also frequently employs.[15] This has led scholars to interpret Althusius's *consociatio* as a theologically inspired 'covenant-as-fellowship'.[16]

Althusius does mention a 'religious covenant' between God and the people, which concerns not only spiritual duties but also 'the correct administration of justice'.[17] And just like some of his Herborn colleagues, such as Johannes Piscator and Wilhelm Zepper, he sees these two dimensions as inextricably intertwined: magistrates and ministers must co-operate in applying divine and natural law, the former in the realm of external actions and the latter in the care of souls.[18] These remarks, however, appear not when introducing the concept of *consociatio* but in a later chapter dedicated to 'ecclesiastical administration', which is separate from 'secular' administration. Likewise, Althusius distinguishes the 'ecclesiastical' from the 'secular communion' as pertaining to two complementary but distinct ends: the welfare of the soul and of the body.[19] His concept of communion is therefore not exactly the same as the standard Reformed position, upheld by Zepper, which allowed only different means aimed at one common end: the glory of God and the realization of his kingdom on earth.[20] This suggests that Althusius's *consociatio* is not an exclusively theological concept.

This impression is reinforced when we consider that, in the prefaces to both the first and the second edition of the *Politica* (also reprinted in the third), Althusius argues for a distinction between politics on the one hand and theology and jurisprudence on the other.[21] This argument is an application of the *lex iustitiae* (law of justice), a fundamental methodological precept of Ramism, the pedagogy adopted at the Herborn School.[22] According to Ramist principles, each discipline must have as its point of departure the general definition of its subject matter, which is determined by its end, and from which the whole range of its contents should be derived. The *lex iustitiae* specifically forbids importing materials from other fields of knowledge.[23] The choice of such a peculiar term as *consociatio* can thus be read as an attempt to create a term of art that identifies the basic political phenomenon and thereby renders it irreducible to other disciplines. This does not mean that there is an incompatibility between politics and theology – on the contrary,

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[15] For some examples, see Zwierlein, 'Consociatio', pp. 150–9.

[16] David P. Henreckson, *The immortal commonwealth: covenant, community, and political resistance in early Reformed thought* (Cambridge, 2019), p. 137. See also Simon P. Kennedy, *Reforming the law of nature: the secularization of political thought, 1532–1689* (Edinburgh, 2022), ch. 3. For a summary of older literature on Althusius and federal theology, see Corrado Malandrino, 'Teologia federale', *Il pensiero politico*, 32 (1999), pp. 427–46.

[17] *P*, pp. 162–5.

[18] *P*, pp. 165–75; Johannes Piscator, *Aphorismi doctrinae christianae* (Herborn, 1589), pp. 127–8; Wilhelm Zepper, *De politia ecclesiastica* (Herborn, 1595), pp. 545–74.

[19] *P*, pp. 74–5.

[20] Zepper, *Politia ecclesiastica*, p. 547. On the standard Reformed position, see Mortimer, *Reformation*, p. 81.

[21] *PMD*, pp. 3–9; *P*, pp. 3–15.

[22] Howard Hotson, *Commonplace learning: Ramism and its German ramifications, 1543–1630* (Oxford, 2007), p. 117.

[23] Guido Oldrini, 'Le "tre leggi" della logica ramista', *Rinascimento*, 33 (1992), pp. 83–100.

'all arts in their use' are 'always united'[24] – but rather that they look at the same objects from different points of view, according to their different ends. However, this approach distinguishes Althusius from Calvinist theorists such as Lambert Daneau, whose *Politices christianae* (1596) was an important source for the choice of the term *consociatio*, but who insisted that politics should be explicitly grounded in scriptural precepts.[25]

Althusius distinguishes politics not only from theology, but also from jurisprudence. However, he acknowledges that he 'experienced difficulties in separating juridical matters from [political] science'.[26] If federal theology can illuminate the religious dimension of Althusius's politics, jurisprudence might shed more light on its secular side – especially given that Althusius dedicated his academic career to civil law. His first publication was titled *Jurisprudentia romana* (1586) and his mature masterpiece, the *Dicaeologica* (1617), provided a monumental synthesis of public, private, and biblical law. As Christoph Strohm has shown, these works were remarkable – when compared to mainstream Reformed jurisprudence – for the relatively limited role that theological principles played in their conceptual architecture.[27] Of course, we should not overstate the distance between theology and jurisprudence: after all, some federal theologians, including those of Herborn, had already articulated their theories in explicitly juridical terms.[28] But precisely because *consociatio* cannot be fully reduced to either theology or jurisprudence, a full understanding of this concept requires recovering its juridical side. This, in turn, requires an identification of its roots in the legal category of *societas*.

Despite the evident lexical proximity between *societas* and *consociatio*, Gierke has been the only one to acknowledge the importance of the connection between the two terms.[29] Twentieth- and twenty-first-century scholarship has either ignored it or, in the case of Friedrich, explicitly declared that 'Althusius does not attribute systematic importance to the word *societas*'.[30] This position, however, does not stand up to a scrutiny of the textual evidence. For one, a connection between *societas* and *consociatio* was already present in Althusius's crucial classical source, Cicero, who often used the two terms

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[24] *P*, p. 6.

[25] Lambert Daneau, *Politices christianae libri septem* (Geneva, 1596), pp. 1–4. Among the sources quoted in the first edition of the *Politica*, Daneau is the one who uses *consociatio* most frequently and in the way most similar to Althusius's: compare Johannes Althusius, *Politica methodice digesta et exemplis sacris et profanis illustrata* (Herborn, 1603), pp. 4–5, 12, to Daneau, *Politices christianae*, pp. 9–10, 21–4.

[26] *P*, p. 5.

[27] Christoph Strohm, *Calvinismus und Recht. Weltanschaulich-konfessionelle Aspekte im Werk reformierten Juristen in der Frühen Neuzeit* (Tübingen, 2008), pp. 189–227.

[28] Cornel Zwierlein, 'Reformierte Theorien der Vergesellschaftung: römisches Recht, föderal-theologische κοινωνία und die *consociatio* des Althusius', in Friedrich S. Carney, Heinz Schilling, and Dieter Wyduckel, eds., *Jurisprudenz, politische Theorie und politische Theologie* (Berlin, 2004), pp. 191–223.

[29] Gierke, *Natural law*, ɪɪ, pp. 241, 244.

[30] Friedrich, 'Introduction', p. lxxxiv. For a partial exception, see Zwierlein, 'Consociatio', pp. 148–9.

interchangeably.[31] Similarly, the text of the *Politica* uses *societas* at various points to refer to the groupings that are elsewhere described as *consociationes*.[32] This was already evident in the preface to the first edition, where Althusius summarized the subject matter of the work as '*consociatio* or *humana societas*'.[33] The *Politica* does not, however, contain an explicit treatment of *societas*. For the clarification of this term we must turn to Althusius's juridical writings.

II

To understand how Althusius uses *societas*, we must begin with its meaning in Roman law.[34] *Societas* was a type of consensual contract through which people shared money, resources, and labour. The fact that a *societas* was a consensual contract meant that, as Gaius explains, 'no formality whether of words or writing is required, but it is enough that the persons dealing have consented'.[35] *Societates* could be of many kinds. They could be aimed at one specific business or at multiple ones, or they could involve all of one's possessions.[36] Each partner contributed something to the partnership – but not necessarily the same amount nor even the same kind of resource – and received something from it in turn. In the absence of a specific agreement, the distribution of benefits was supposed to be equal; otherwise, it allowed for differences according to the different contributions made by each partner.[37] *Societates* could only be formed for legal purposes – a dishonest *societas* was null[38] – and normally subsisted as long as the partners remained the same, possessed the same legal status, and did not opt out.[39]

Two aspects of *societates* are of particular importance. First, a *societas* imposed reciprocal duties on the partners, who had to manage the common goods and affairs in the same way as they would have cared for their own.[40] Losses caused by one of the partners' negligence or by *dolus* (fraud or deceit) would result in the partner having to bear them on their own; otherwise they could trigger a legal procedure (called *actio pro socio*), available when someone

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[31] Cicero, *De officiis*, 1.50–8, 1.100, 1.157, 1.149; Cicero, *De legibus*, 1.23.

[32] *PMD*, pp. 4, 20, 21, 22, 25, 33, 38, 56, 65, 88, 96, 100, 138, 161, 190, 199, 235, 295, 342, 376, 377, 378, 379, 385, 393, 395, 401, 402, 403, 414.

[33] Althusius, *Politica* (1603), sig. iiii^r; *societas humana* is used again as the most general category in *PMD*, p. 38.

[34] For general treatments, see Barry Nicholas, *An introduction to Roman law* (Oxford, 1962), pp. 185–7; Reinhard Zimmermann, *The law of obligations: Roman foundations of the civilian tradition* (Cape Town, 1992), pp. 451–77; Andrew Borowski, *Borowski's textbook on Roman law*, ed. P. J. Plessis (Oxford, 2020), pp. 289–93. References to Roman legal sources in the notes will use the following abbreviations: Gaius = Gaius's *Institutes*; I = Justinian's *Institutes*; D = Justinian's *Digest*; C = Justinian's *Code*.

[35] Gaius 3.136; translation in Gaius, *The institutes of Gaius: part I*, ed. F. de Zulueta (Oxford, 1953), p. 197.

[36] Gaius 3.148; I.3.25; D.17.2.1, 5.

[37] Gaius 3.149–50; I.3.25.1–3; D.17.2.5–13, 29; C.4.37.3.

[38] D.17.2.3.3.

[39] On the various ways to dissolve a partnership, see Gaius 3.152–4; I.3.25.4–8; D.17.2.14, 59, 65.

[40] I.3.25.9.

failed to comply with the terms of the contract.[41] Second, a *societas* was a flexible arrangement that required only consent and which could be dissolved at virtually any time if one of the partners wished to do so.[42] It was therefore a type of association that was only meant to work for the members' benefit; a *societas leonina* – from which one or more partners did not benefit at all – was invalid.[43] A *societas* was an agreement between people who were extremely close to each other and who entertained brotherly relationships of trust; that is why initiating an *actio pro socio* automatically implied the dissolution of the *societas*.[44]

During the middle ages, the scope of the concept widened somewhat, as more abstract meanings of *societas* gained currency in legal texts alongside the more strictly contractual one, leading to a certain ambiguity.[45] At times, the term was taken to refer to any legally recognized group of people, as a near-synonym of *conventus*, *coetus*, *concilius*, *corpus*, or even *civitas*;[46] the *Decretum Gratiani* at one point spoke of the body politic as the *societas civitatis*.[47] For the most part, however, discussions of *societas* as a juridical category between the middle ages and the Renaissance continued to be concerned primarily with the contractual and commercial domain of partnership.[48]

In the *Dicaeologica*, Althusius's treatment of the concept of *societas* begins with this classical meaning. At the beginning of chapter 78, he defines *societas* as 'that by which a sharing and community of goods, works, and honours based on good faith arises among a group of people through simple consent'. Immediately afterwards, however, he distinguishes between two types of *societas*: the *societas bonorum*, 'only limited to [commercial] goods'; and the *societas vitae*, which concerns the sharing of 'whatever is necessary to life'.[49] The rest of chapter 78 analyses the first in largely conventional terms.[50] Chapters 79–81, by contrast, address the *societas vitae* in a very distinctive manner.

Some elements of this innovative account had been anticipated in chapters 7 and 8, which surveyed all the groups that constitute the subject matter of the *Politica*, from the family to the *collegia* to the *respublica*, and repeatedly used both *societas* and *consociatio* to describe them. The *collegium*, for instance, was defined as a '*hominum … consociatio*', but was also called '*societas, sodalitas,*

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[41] Borowski, *Textbook on Roman law*, pp. 290–1.

[42] D.17.2.14.

[43] Zimmermann, *Law of obligations*, p. 459.

[44] Nicholas, *Introduction to Roman law*, p. 186.

[45] Pierre Michaud-Quantin, *Universitas. Expressions du mouvement communautaire dans le Moyen-Age latin* (Paris, 1970), pp. 64–9.

[46] *Decretum Gratiani*, prima pars, distinctio xv, C.1.; Henrici Hostiensis, *Summa aurea* (Venice, 1570), p. 398; Horatio Mandosius, *De privilegiis ad instar, seu de communicatione privilegiorum*, in *Tractatus illustrium in utraque tum pontificii, tum caesarei iuris facultate iurisconsultorum* (Venice, 1584), fo. 128ᵛ.

[47] *Decretum Gratiani*, prima pars, distinctio viii, C.2.

[48] Antony Black, 'The juristic origins of social contract theory', *History of Political Thought*, 14 (1993), pp. 57–76, at pp. 66–8.

[49] Johannes Althusius, *Dicaeologicae libri tres* (Herborn, 1617), p. 269. All unattributed translations are mine.

[50] Ibid., pp. 269–73.

confraternitas'.[51] While, in that context, these may have appeared to be generic uses of *societas* as 'grouping', chapters 79–81 provide a more technical treatment of the same associations, presenting them as instances of *societas vitae*: first, marriage and the family as *societates privatae*; then the *societas publica*, which comprises all *consociationes publicae*, from the *collegium* to the *respublica*.[52] All *consociationes* are therefore in juridical terms *societates*.

The inclusion of these elements under the heading of *societas vitae* is a bold move. In the *Digest* the expression *societas vitae* appears only once – in a section that Althusius references – to describe the sharing of goods that arises through marriage.[53] A more flexible use of the category could already be found in Cicero, who employed it to describe various non-domestic social ties.[54] In the post-classical period, *societas vitae* was mainly used by jurists to refer to situations in which a sharing of goods took place for the purpose of living together, most notably in marriage or between siblings who inherited and shared a patrimony.[55]

The Renaissance jurists whom Althusius quotes in the chapters on *societas* took for granted that the meanings of that term could be summarized through the dichotomy *societas bonorum–societas vitae*;[56] they disagreed, however, as to what the second category included. A strict adherence to Roman sources led the French humanist Hugo Donellus to identify *societas vitae* simply with marriage.[57] At the other end of the spectrum, the Italian Pietro Niccolò Mozzio used *societas personarum colligativa* (as opposed to *societas bonorum acquisitiva*) to refer to a wide variety of associations, from those dedicated to celebrating the patron saint of his native Macerata to cultural academies.[58] Another Italian, the cardinal Francesco Mantica, took a more conventional intermediate position, restricting the category of *societas vitae* exclusively to situations in which people live together.[59] None of them, however, characterized politics as a type of *societas vitae* in their juridical treatises.

By reconceptualizing *societas vitae* as political, Althusius in the *Dicaeologica* differs not only from these sources but also from his own earlier treatment of the topic in the *Jurisprudentia romana*. In that text, he had taken the

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[51] Ibid., p. 21.

[52] The text does not differentiate between the uses, but the inclusion of all of them is clearly shown by the fact that chapter 81 opens with a detailed discussion of specifically 'public' concepts such as *lex*, *magistratus*, and *civis* (ibid., pp. 283–4).

[53] D.25.2.1.

[54] Cicero, *De officiis*, 1.12, 1.29, 1.45, 3.70; Cicero, *Pro Roscio Amerino*, 111; Cicero, *Tusculanae disputationes*, 1.62, 5.5.

[55] E.g. Petrus de Ubaldis, *Tractatus de duobus fratribus et quibuscumque sociis* (Vincentius de Portonariis, 1524), sig. i^r. For the expansion of the meaning of *societas* to include these contexts, see Elvira Contino, 'Societas e famiglia nel pensiero di Baldo degli Ubaldi', *Rivista di storia del diritto italiano*, 82 (2009), pp. 19–92; and Thomas Kuehn, *Patrimony and law in Renaissance Italy* (Cambridge, 2022), ch. 5.

[56] Althusius, *Dicaeologica*, pp. 269–70.

[57] Hugo Donellus, *Commentariorum iuris civilis libri viginti octo* (Frankfurt am Main, 1626), p. 652.

[58] Pietro Niccolò Mozzio, *Tractatus de contractibus* (Cologne, 1597), pp. 575–6.

[59] Francesco Mantica, *Vaticanae lucubrationes de tacitis et ambiguis conventionibus* (Coloniae Allobrogum [Geneva], 1615), p. 364.

traditional approach of simply distinguishing the *societas promercalis* (commercial partnership) from the *societas coniugalis* (marriage);[60] other types of association were simply not *societates*. Political authority was described as a Bodinian absolute power (*potestas absoluta*) over another, with no hint that it should be related to a *consociatio* or *societas*.[61] Between his first and his last work, Althusius therefore transforms his conception of *societas* from a narrow category that closely tracked its use in Roman sources to a general one that encompasses an unprecedented range of human relationships, from the family to the state.

III

So far we have seen that, in the *Dicaeologica* (1617), Althusius radically expands the scope of the juridical category of *societas*. This does not necessarily mean, however, that when we encounter *societas* in the *Politica* – whose three editions were published in 1603, 1610, and 1614 – the term is already endowed with the same juridical meaning. As Merio Scattola has shown, a number of factors stimulated a significant development in Althusius's thought in the late 1590s, which led to the numerous differences between the *Jurisprudentia romana* and the *Politica*; these changes may well have included a rethinking of the meaning of *societas*.[62] This is not enough, however, to establish a connection with the *Dicaeologica*. The *Politica*, after all, was a standalone work that treated politics as an independent discipline, while the *Dicaeologica* was an innovative jurisprudence aimed at 'caring well for the human symbiosis', which might have revisited earlier political ideas in the light of later theoretical developments.[63]

The choice of *societas* to characterize politics in a textbook of political philosophy was not remarkable: its generic senses as 'association' or 'community' were ubiquitous in medieval and Renaissance political thought and practice. For instance, Althusius's two crucial sixteenth-century sources, Jean Bodin and Pierre Grégoire, used *societas* quite loosely, to describe both intermediary, non-political bodies and the *respublica*. Neither of them drew an explicit connection between its juridical and political meanings.[64]

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[60] Johannes Althusius, *Jurisprudentia romana* (Herborn, 1587), p. 118.

[61] Ibid., pp. 23–7. By contrast, in Althusius, *Dicaeologica*, p. 117, the *publica potestas* is conferred 'by the body of the *consociatio*'.

[62] Merio Scattola, 'Von der *maiestas* zur *symbiosis*: der Weg des Johannes Althusius zur eigenen politischen Lehre in den drei Auflagen seiner *Politica methodice digesta*', in Bonfatti, Duso, and Scattola, eds., *Politische Begriffe*, pp. 211–49, esp. pp. 242–7.

[63] Althusius, *Dicaeologica*, p. 1.

[64] On Bodin's use of *societas*, see Daniel Lee, *The right of sovereignty: Jean Bodin on the sovereign state and the law of nations* (Oxford, 2021), ch. 1. Grégoire's juridical account of *societas* can be found in his *Syntagma iuris universi* (Lyon, 1582), part III, pp. 298–302; his political use in *De republica* (Frankfurt, 1597), pp. 4–7, 16, 245. On the differences between Bodin and Grégoire, see Luigi Gambino, *Il De Republica di Pierre Grégoire* (Milan, 1978); Diego Quaglioni, *I limiti della sovranità. Il pensiero di Jean Bodin nella cultura politica e giuridica dell'età moderna* (Padua, 1992), pp. 169–99, 227–76; Cecilia Pedrazza Gorlero, *Immagini dell' 'ordo iuris'. 'Ars' e 'methodus' nella riflessione di Pierre Grégoire, 1540–1597* (Turin, 2012).

Much more than Bodin's and Grégoire's, Althusius's use of *societas* in the *Politica* resembles that of Renaissance Ciceronianism. This tradition can be traced back to Cicero's *De republica*, which, as Elizabeth Asmis has shown, employs the model of partnership to conceptualize the *res publica*.[65] The work famously defines the *res publica* as a *res populi*, and then draws on the language of *societas* to characterize a people as 'an assemblage of some size associated with one another through agreement on law and community of interest' (*coetus multitudinis iuris consensu et utilitatis communione sociatus*).[66] In subsequent sections, the metaphor is used extensively, emphasizing the nature of the *civitas* as an 'association of citizens under law' (*iuris societas civium*).[67] The *De republica* was not known in post-classical times until the nineteenth century. However, some of the passages in which the *societas* metaphor appears were preserved by various sources, most notably Augustine's *De civitate dei*.[68] Moreover, in some of Cicero's works which were not lost, *societas* is used to refer to the *societas rei publicae* (*De legibus* 1.39), *societas civilis* (1.62), or *societas civium* (2.16), and to develop the argument that being part of a *societas civitatis* implies sharing with other citizens a range of resources, from infrastructure to laws.[69]

These ideas were widespread in humanist political thought during the fifteenth and sixteenth centuries, when thinkers from Coluccio Salutati to Matteo Palmieri to François Connan characterized the *civitas* as a *societas*.[70] However, they mostly used *societas* as a *political* term of art: that is, they revived its features as a metaphorical partnership – in particular the idea of sharing common laws – only insofar as they borrowed them from Cicero and Ciceronian texts, but without establishing an explicit connection with its juridical meaning. An exception was Mario Salamonio's *De principatu* (written in 1512–14, twice mentioned in the *Politica*), which developed an extended parallel between the *civitas* and the commercial *societas*.[71] Even in that case, however, the emphasis was not on reciprocity and co-operation between partners, but rather on the affinity between contracts and political laws, which were viewed as binding for both people and magistrates.[72]

Althusius's *Politica* certainly belongs to this tradition, as suggested by the fact that, immediately after introducing the concept of *consociatio*, he quotes *De republica*'s definition of *populus* in the slightly modified form provided by Augustine.[73] And while the quote itself does not appear in the first edition

[65] Elizabeth Asmis, 'The state as a partnership: Cicero's definition of *res publica* in his work *On the state*', *History of Political Thought*, 25 (2004), pp. 569–99.
[66] Cicero, *On the commonwealth and on the laws*, ed. J. E. G. Zetzel (Cambridge, 2017), p. 18 (1.39).
[67] Ibid., pp. 21–2.
[68] Matthew Kempshall, '*De re publica* 1.39 in medieval and Renaissance political thought', in J. G. F. Powell and J. A. North, eds., *Cicero's Republic* (Oxford, 2001), pp. 99–135.
[69] Cicero, *De officiis*, 1.53, 3.28.
[70] Jeffrey Dymond, 'The formation of the state in Italian humanist political thought, c.1250–c.1550' (PhD thesis, University of California – Los Angeles, 2021).
[71] Mario Salamonio, *De principatu libri septem* (Rome, 1544), pp. 20–2; *PMD*, pp. 17, 142.
[72] Black, 'Juristic origins', pp. 68–70.
[73] *PMD*, p. 16; the expression is repeated on p. 44 and the passage is quoted again on p. 88.

of the *Politica*, several references point to sections of Daneau's *Politices christianae* where both this and other similar Ciceronian references can be found.[74] Althusius, however, does not limit himself to the traditional Ciceronian use of *societas*. At the beginning of the same paragraph in which the Ciceronian quotation appears, he also refers to *consociatio* as 'this mutual communication, or common enterprise (κοινοπραξία)'.[75] As Cornel Zwierlein noted, κοινοπραξία (*koinopraxia*) is not classical Greek, in which κοινοπραγία (*koinopragia*) was the more common form; it is rather a Byzantine innovation, inserted from the sixteenth century onwards to replace a missing Greek word at the beginning of the chapter on *societas* in Justinian's *Institutes*.[76] In this way, κοινοπραξία became synonymous with the kind of partnership in which all goods are shared.[77] By using this very specific word, Althusius is referring to this juridical model as the framework within which his concept of *consociatio* should be understood. This is even more explicit in the first edition, where κοινοπραξία appears as early as the second paragraph of the work, precisely when Althusius is explaining what *consociatio* means.[78] Moreover, just as in the *Dicaeologica*, in chapter 2 of the *Politica* the *consociatio privata* is defined as '*vitae societas & symbiosis*'.[79] At the beginning of chapter 9, the *societas publica* is described in similar terms: 'this mixed society (*societas vitae mixta*), constituted partly from private, natural, necessary, and voluntary societies, partly from public societies, is called a universal association'.[80] This evidence reveals that, already in the *Politica*, both private and public *consociationes* are instances of *societas vitae*.

We cannot conclusively establish whether the full juridical background was present by 1603; as we saw in section I, a treatment of the juridical meaning of *societas* would have been inappropriate in the context of a strictly political treatise. However, the presence of *koinopraxia* and *societas vitae* suggests that at least some features of the later juridical model play an important role in the *Politica*. This is also the impression that Althusius wants his reader to get from the *Dicaeologica*, which refers to and relies on the *Politica* on this point.[81] The next section will show that a detailed analysis of the conceptual properties of *consociatio* further substantiates this hypothesis.

Before exploring the conceptual significance of the connection between *consociatio* and *societas*, it is important to highlight some contextual implications of the arguments reconstructed so far. By identifying politics and *societas vitae*, Althusius can characterize as political most of the *societates*, from the family to the corporation, which in Ciceronian thought had remained non-political. However, since he preserved a clear distinction between these dimensions, his position was not as radical as that of some coeval French divine-right

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[74] Daneau, *Politices christianae*, pp. 11, 20, 23–4.

[75] PMD, p. 16; *P*, p. 19.

[76] Zwierlein, 'Consociatio', p. 148.

[77] I.3.25.

[78] Althusius, *Politica* (1603), p. 1.

[79] PMD, p. 20.

[80] Ibid., p. 88; *P*, p. 66.

[81] Althusius, *Dicaeologica*, pp. 283–4.

thinkers, who came close to identifying families and states.[82] Still, it clearly ran counter to the direction in which the discipline of politics was moving in the Holy Roman Empire, where rulers encouraged its development as a way to strengthen their authority. This often resulted in theories that, drawing on both Bodinian and Aristotelian elements, isolated politics from the wider social world, and sometimes even from religion.[83] One of the key protagonists of this process, Henning Arnisaeus, would soon attack Althusius for his over-inclusive definition of politics, sparking a lively debate between the two.[84]

Arnisaeus criticized both Grégoire and Althusius for their use of *societas* and *consociatio*, but there were crucial differences between the two theorists.[85] Unlike Althusius, Grégoire (and Bodin) had separated political from non-political associations. Furthermore, unlike Grégoire's Catholic distinction of the church and the ecclesiastical order from politics,[86] Althusius saw the two as intimately connected. Since all associations are political, the church cannot be a separate, non-political body, nor can it be fully identified with the political community; it is rather embedded within a framework of *societas*-like structures, some – but not all – of which have both a secular and an ecclesiastical dimension. As we will see in section V, there were pressing local reasons for this peculiar compromise.

IV

If Althusius's *consociatio* is to be interpreted as a *societas vitae*, we should also expect him to apply the same normative standards – derived from the classical model of partnership – to all types of association. We can verify this by following his presentation of the properties of *consociatio* through its four Aristotelian causes.

The formal cause of 'political association' is *consociatio* itself. If the Aristotelian form is what makes something what it specifically is, then *consociatio* is what makes human interaction political. Its crucial feature is *communicatio*, the fact of sharing what is 'useful and necessary to this social life'.[87] This corresponds to the fundamental 'communicative' aspect of the juridical partnership, reflected in the *Dicaeologica*'s definition of *societas vitae*: 'that by which a symbiosis is stipulated, and things, works, duties, and goods are united by the members for the conservation of the symbiosis'.[88] This is the 'form' that families have in common with larger associations such as corporations, cities, provinces, and states.

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[82] Cesare Cuttica, 'Anti-Jesuit patriotic absolutism: Robert Filmer and French ideas (*c.* 1580–1630)', *Renaissance Studies*, 25 (2011), pp. 559–79.

[83] Mortimer, *Reformation*, pp. 239–45.

[84] For a reconstruction of the Althusius–Arnisaeus debate, see Merio Scattola, 'Althusius e gli inizi della disciplina politica in Germania', in Ingravalle and Malandrino, *Il lessico della* Politica, pp. 21–37, at pp. 31–3.

[85] Henning Arnisaeus, *De republica* (Frankfurt, 1615), pp. 41–3.

[86] Grégoire, *De republica*, p. 14.

[87] *P*, p. 24.

[88] Althusius, *Dicaeologica*, p. 274.

The efficient cause – that which actively produces such a form – is 'consent and agreement (*pactum*) among the communicating citizens'.[89] At the beginning of the work, *consociatio* was similarly presented as created by 'explicit or tacit agreement' (*pacto expresso, vel tacito*).[90] These expressions have generated considerable controversy among interpreters, whose positions range from that of Gierke, who presented Althusius as 'the creator of a genuine theory of the Social Contract', to that of Friedrich, who denied the importance of the *pactum*, and underscored that Althusius is not a contract theorist in the modern sense.[91] Scholars who read *consociatio* in federal-theological terms have identified this pact with a religious covenant, conceptualized as an ongoing process that constitutes the fellowship as both earthly and spiritual.[92]

But *consociatio* also has a secular, juridical side. If we start from the hypothesis that it should be understood as a *societas*, we can also interpret '*pacto expresso, vel tacito*' as referring to the creation of a partnership.[93] This helps to make sense of its processual nature: a *societas* is brought to life 'through mere consent' (*ex solo consensu*)';[94] as long as the partners are willing to co-operate and respect its terms, a *societas* exists. As we have seen, Althusius sometimes calls his *consociatio* a *koinonia* or *koinopraxia*. Since Byzantine times, these terms had been employed to refer to both the classical *societas* and the *communio incidens*.[95] The latter was the legal arrangement that described situations in which a partnership arose from circumstances which people had not explicitly willed, but which they could agree to through their actions; it was especially useful in explaining how children could be members of the *societas* of the family. The *Dicaeologica* provides a similar account of how consent can be expressed tacitly: 'by living in a certain place and engaging in social interaction, which demonstrates the acceptance of the laws and practices of the place in which one lives'.[96]

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[89] *PMD*, p. 18; *P*, p. 24.

[90] *PMD*, p. 15; *P*, p. 17.

[91] Otto von Gierke, *The development of political theory*, trans. B. Freyd (New York, NY, 1939), p. 102. Friedrich, 'Introduction', pp. lxxxvii–lxxxviii.

[92] Susanne De Vries and Peter Nitschke, '*Consociatio* und *communicatio*: die politische Gemeinschaft als religiöse Ordnungs- und Rechtseinheit', in Carney, Schilling, and Wyduckel, eds., *Jurisprudenz*, pp. 103–19, at p. 105; Corrado Malandrino, 'Symbiosis (Symbiotiké, Pactum)', in Ingravalle and Malandrino, eds., *Il lessico della* Politica, pp. 311–24, at p. 318; Kennedy, *Reforming the law of nature*, pp. 95–7.

[93] In legal terms, *pactum* and *contractus* are not synonyms, and a *societas* is a *contractus*, not a *pactum* (see Althusius, *Dicaeologica*, p. 323). For Althusius's treatment of *pactum*, see Gerald Hartung, 'Althusius' Vertragstheorie im Kontext spätmittelalterlicher Jurisprudenz und Scholastik', in Carney, Schilling, and Wyduckel, eds., *Jurisprudenz*, pp. 287–304. In the *Jurisprudentia romana*, p. 119, he had already written of a *pactum societatis*, and in a 1602 *Disputatio* he referred to a *pactum duplex*: a *pactum civile* and a *pactum religiosum* (Johannes Althusius, 'De regno recte instituendo et administrando', ed. Merio Scattola, *Quaderni fiorentini*, 25 (1996), pp. 23–46, at p. 26).

[94] Althusius, *Dicaeologica*, p. 269.

[95] Zwierlein, 'Reformierte Theorien', pp. 195–6.

[96] Althusius, *Dicaeologica*, p. 283.

This shift in focus is also helpful in further illuminating the relationship between the theological and secular dimensions of *consociatio*. As Althusius himself explains in his discussion of the religious covenant – echoing Herborn's federal theologians – the conceptual structure of this pact consists in a debtor and a creditor promising to each other the performance of specific actions (for instance, obedience and protection).[97] By contrast, the pact that constitutes *consociatio* as *societas* consists in an agreement to share life and resources, and to respect certain rules that apply to all parties. As Zwierlein has shown, this communal dimension was already present in some federal-theological theories, including that of the Polish-born Herborn Reformer Johannes à Lasco, who had used the model of the *communio incidens* to theorize the relationship between human beings and God.[98] Unlike him, however, Althusius partially disentangles the vertical relationship between humans and God, conceptualized as a pact between a debtor and a creditor, from the horizontal relationship among humans, modelled on *societas* and *communio incidens*. While there is an overlap between the two, they are not as fully identified with one another as they were in some federal-theological precedents.

The final cause of politics is 'the enjoyment of a comfortable, useful, and happy life, and of the common welfare'.[99] In a commercial *societas* everyone must provide a certain contribution and can in exchange expect a fair reward. Participation in associational life also imposes on each member a duty to contribute something to the common stock of what is needed for a prosperous life, whether it be goods or works. In commercial *societates* not everyone contributes the same; poorer partners can make up in services what richer ones provide in money.[100] This dimension is explored in detail in the chapter of the *Dicaeologica* dedicated to the *societas publica*, which – after the initial definitions – is an enumeration of the various types of contributions (*munera*) provided by citizens, and which effectively constitutes a summary of chapters 11–14 of the *Politica*. These contributions are distinguished into *munus personale* (works) and *munus reale* (goods); in the case of the latter, much attention is dedicated to their proportionality, especially that of taxation. At the end of the chapter, a list of the benefits to be expected – the *bona communia publica* – complements the presentation of duties.[101]

The terms according to which partners contribute to this kind of *societas* are what the fourth cause refers to: 'the material of politics is the aggregate of precepts for communicating those things, services, and rights that we bring together, each fairly and properly according to his ability, for symbiosis and the common advantage of the social life'.[102] The 'precepts' that regulate this kind of *societas* are what 'materially' constitute the *consociatio* in the sense that they determine the relationships between members, the duties imposed

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[97] *P*, pp. 163–4. See Kaspar Olevian, *Expositio symboli apostolici* (Frankfurt, 1580), p. 9; Matthias Martinius, *Epitome s. theologiae methodice dispositae* (Bremen, 1614), p. 48.

[98] Zwierlein, 'Reformierte Theorien', pp. 205–8.

[99] *P*, p. 24.

[100] Althusius, *Dicaeologica*, p. 270.

[101] Ibid., pp. 284–9.

[102] *P*, p. 24.

on each, and the benefits that each can expect to receive. The content of these precepts, in turn, is based on Ciceronian ideals of harmonious concord, as well as on a strictly hierarchical conception of the cosmos, in which subordination is natural and beneficial at every level, from the angels to the human body to the animals.[103] As chapter 6 explains, 'concord is fostered and protected by fairness (*aequabilitas*) when right, liberty, and honour are extended to each citizen according to the order and distinction of his worth and status. ... Contrary to this fairness is equality (*aequalitas*).'[104] A *societas bonorum* can be egalitarian – though it need not be – because in a purely commercial context it is in principle possible for everyone to contribute the same amount.[105] A *societas vitae*, on the contrary, is never egalitarian because it requires its members to share so much that it is almost impossible to contribute exactly the same. The reason is that 'God distributed his gifts unevenly among men';[106] each person will therefore be required to contribute only as much as their possibilities allow for. Concord is the expression of the consensus by which people accept and abide by the rules that govern the unequal – and, precisely because of this, fair – terms of contribution and co-operation.

When these terms are violated, the *societas* is dissolved. The chief example of this is tyranny, which both the *Politica* and the *Dicaeologica* characterize as destroying the bonds of the *consociatio/societas vitae*.[107] It is on this basis that Althusius justifies an extensive right of resistance, according to which specific magistrates called 'ephors' are empowered to formally indict and even punish tyrants. When they threaten the foundational features of the body politic, tyrants sever the bonds that made them part of the *consociatio*.[108] The same logic applies to *any* abuse of authority, when it is directed against the constitutive features of the *societas*: for instance, adultery in the case of marriage.[109] The crucial difference is that, in the case of public associations, the exclusion of one of the members (the former ruler) does not dissolve the *societas* as a whole, but only the obligation between that member and the rest of the body.[110]

V

These theoretical features confirm that the juridical model of *societas* was already at work in the *Politica* in shaping the properties of *consociatio*. To better understand why Althusius turned to this model, we must keep in mind that his theory was meant to be at once general and local. The *Politica* was first written as a textbook for the Herborn School, which had been founded in 1584 as part

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[103] *PMD*, p. 139; *P*, pp. 96–7. See the quotation of analogous principles from Cicero's *De legibus* (*PMD*, pp. 16, 163) and *De republica* (ibid., p. 19).

[104] *PMD*, p. 59; *P*, p. 49.

[105] Althusius, *Dicaeologica*, p. 271.

[106] *P*, p. 23.

[107] *PMD*, pp. 377–8; Althusius, *Dicaeologica*, p. 420.

[108] *PMD*, p. 383.

[109] Ibid.; Althusius, *Dicaeologica*, pp. 417–19.

[110] A related disanalogy between commercial and political associations is that Althusius's *consociationes* are not dissolved when one of the partners dies or leaves.

of a series of sweeping reforms, by which Count Johann VI of Nassau-Dillenburg aimed to solidify his rule and indoctrinate his subjects in the newly introduced Calvinist faith.[111] Althusius's theory reflected the complex nature of Count Johann's project – and could not have done otherwise, given that all works published in Herborn were subject to rigorous censure by political authorities.[112] On the one hand, Althusius provided a justification of resistance that could be used to legitimize the external efforts of polities such as Nassau and its neighbours in the Wetterau region, which co-operated in a league against anti-Calvinist threats. On the other hand, the *Politica*'s emphasis on 'symbiotic' cohesion fits the co-operative internal structure that Count Johann was trying to build in Nassau-Dillenburg: from the creation of a citizen militia to the employment of burghers in the administration, his project required a high degree of participation and loyalty from his subjects.[113]

The peculiar nature of *societas* is useful in clarifying how Althusius's theory could integrate these very different aspects of resistance and co-operation. Those who participate in a *societas* recognize an internal hierarchy of subordination and have specific duties imposed upon them. They also share with each other the benefits that flow from this co-operation and its legal terms, the violation of which can lead to the dissolution of the contractual bonds. This is exactly the outlook that the new model subject of Nassau-Dillenburg was supposed to exhibit: a combination of loyalty to the ruler and personal investment in the well-being of the *respublica*, as demonstrated through participation in a complex network of intermediary institutions. These included the church, over which Count Johann exercised an inflexible control,[114] and which – as we have seen – Althusius saw as part of his 'consociational' framework. The hybrid nature of *consociatio* thus enabled him to present politics as encompassing and co-ordinating both the secular and the ecclesiastical dimensions of associated life – precisely its role in the plans of the Wetterau counts too.

The model of *societas* also explains how a *consociatio* can relate to others externally in a proto-federal structure.[115] Not coincidentally, Count Johann's political projects included the establishment of connections with other Calvinist churches and polities, with the ultimate goal of uniting them in a supra-national network.[116] In both the internal and the external sphere, the contract of *societas* provided theoretical resources capable of structuring

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[111] Gerhard Menk, *Die Hohe Schule Herborn in ihrer Frühzeit, 1584–1660* (Wiesbaden, 1981); Georg Schmidt, 'Die "Zweite Reformation" im Gebiet des Wetterauer Grafvereins: die Einführung des reformierten Bekenntnisses im Spiegel der Modernisierung gräflicher Herrschaftssysteme', in Heinz Schilling, ed., *Die reformierte Konfessionalisierung in Deutschland. Das Problem der 'Zweiten Reformation'* (Gütersloh, 1986), pp. 184–213.

[112] Howard Hotson, 'The conservative face of contractual theory: the *monarchomach* servants of the count of Nassau-Dillenburg', in Bonfatti, Duso, and Scattola, eds., *Politische Begriffe*, pp. 251–90, at p. 258.

[113] Wienecke, 'Die gesellschaftlichen Lehren', p. 51; Schmidt, 'Die "Zweite Reformation"', p. 202; Hotson, 'Conservative face of contractual theory'.

[114] Schmidt, 'Die "Zweite Reformation"', pp. 199–201.

[115] On Althusius and federalism, see Hueling, *Early modern concepts*.

[116] Paul Lothar, *Nassauische Unionspläne* (Münster, 1966), pp. 65–120.

'symbiotic' co-operation without compromising the autonomy and prerogatives of each member. Relying on a theory like Althusius's was, however, something of a gamble for Count Johann: by fostering partnership-like ties with his subjects, he sought to ensure that the monarchomach side of the doctrine would only be directed against the external enemies of Calvinism, and not against himself.[117]

This tension became evident when Althusius became syndic of the East Frisian city of Emden, which turned to him for help in 1604, at the height of a standoff with Count Enno III to defend its liberties.[118] Once again, the model of *societas* was ideally suited to Emden's complex external situation: nominally part of the county of Ostfriesland, it had asserted its Calvinist identity against the Lutheran counts since the 1590s.[119] During his thirty-four-year tenure as syndic, Althusius developed in theory and applied in practice his resistance theory against the absolutist ambitions of the East Frisian counts, emphasizing the political roles of the city and province as self-ruling *consociationes*, and fighting for the establishment of more collaborative governing bodies in the county.[120] In the new editions of the *Politica* of 1610 and 1614, he also expanded and refined its symbiotic and 'consociational' aspects.[121] This, however, represented an increasingly idealized version of the internal conditions of Emden, which Althusius administered in such a non-co-operative way that frequent discord and conflict with the other ruling bodies ensued.[122]

The intellectual significance of the politics of *societas*, however, goes beyond the borders of Herborn and Emden. For instance, when defining *civitas* in the first chapter of his *De iure belli ac pacis* (1625), Hugo Grotius describes it as 'a complete association (*coetus*) of free men, joined together for the enjoyment of rights and for their common interest (*juris fruendi & communis utilitatis causa sociatus*)'.[123] This is a distinctively Ciceronian definition. *Coetus* and *sociatus* are the same two words that opened and closed the definition of *populus* in *De republica* 1.39, just as *juris fruendi* and *communis utilitatis causa* clearly correspond to Cicero's *juris consensus* and *utilitatis communio*. The 'associational' language reappears in chapter 5 of the second book, which begins with a discussion of marriage but then states in §17 that 'besides the most natural association of marriage, there are other associations (*consociationes*)'.[124] Among these, one stands out in §23: 'an association (*consociatio*) in which many fathers of families unite into a single people … is the most perfect society

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[117] Hotson, 'Conservative face of contractual theory', pp. 284–7.

[118] Heinz Antholz, *Die politische Wirksamkeit des Johannes Althusius in Emden* (Leer, 1954), pp. 38–46.

[119] Andrew Pettegree, *Emden and the Dutch revolt: exile and the development of Reformed Protestantism* (Oxford, 1992).

[120] Heinz Antholz, 'Johannes Althusius als Syndicus Reipublicae Embdanae: ein kritisches Repetitorium', in Karl-Wilhelm Dalm, Werner Krawietz, and Dieter Wyduckel, eds., *Politische Theorie des Johannes Althusius* (Berlin, 1988), pp. 67–88, esp. pp. 79–80.

[121] Scattola, 'Von der *maiestas* zur *symbiosis*'.

[122] Antholz, *Politische Wirksamkeit*; Antholz, 'Althusius als Syndicus'. But on the limits of Antholz's reconstruction, see Corrado Malandrino, *Johannes Althusius, 1563–1638* (Turin, 2016), pp. 31–9.

[123] Hugo Grotius, *De iure belli ac pacis* (Amsterdam, 1646), p. 6; translation in *On the law of war and peace*, trans. F. W. Kelsey (Oxford, 1925), p. 44.

[124] Grotius, *De iure*, p. 155; Grotius, *On the law*, p. 249.

(*perfectissima societas*)'.[125] Other passages similarly present the *societas civilis* as the result of a voluntary and consensual contract, and explicitly compare its operation to that of a commercial *societas* through which people share resources.[126] This suggests that, despite the emphasis that has been placed on the differences between Althusius and Grotius,[127] a more thorough comparison would reveal significant affinities on this point.

The opposite is true of Bodin and Grégoire, for whom *societas* was only political when it denoted not just a group of associated people but also their subordination to a common sovereignty (*imperium* or *maiestas*). This was the position that Althusius, explicitly relying on Bodin, had endorsed (albeit without using the language of *societas*) in the *Jurisprudentia romana*.[128] By contrast, in the *Politica* every *consociatio* is political simply because it is a *societas vitae*; *societates* exist independently of the state, which is the most comprehensive *consociatio* but which is not different in kind from any other political association. While some *consociationes* are voluntarily created and dissolved, others (like the family or the republic) pre-exist most of their members' decisions, and yet constitute a juridically and morally binding framework.

Grégoire influenced another Ramist thinker (and a former student at the Herborn School from precisely when Althusius taught there), Johann Alsted, who quoted the Frenchman's *De republica* in his *Encylopaedia* when defining *res publica*.[129] Like Grégoire, Alsted used *civitas*, *respublica*, and *societas* in a fluid way. He, however, was much closer to Althusius in examining the various *consociationes* which marked the progression of the *societas civilis* from the *societas conjugalis* to the individual *urbes* to the *civitas*.[130] While Arnisaeus had proposed to distinguish between the *civitas* as the multitude of associated people and the *respublica* as the *ordo* or command structure that organized them, Alsted insisted that – if one wanted to distinguish between them – the form and defining characteristic of the *respublica* was the 'community of multiple citizens' (*ommunitas plurium civium*), while the *civitas* was properly its 'government or administration' (*regimen seu administratio*).[131]

These brief remarks show that Althusius's use of the concepts of *societas* and *consociatio* place him at the centre of a conversation which spanned multiple decades and intellectual contexts in continental Europe. While Martin van Gelderen and Annabel Brett have explored some of the republican, Stoic, and Aristotelian aspects of these debates, I have suggested that the notion of *societas*, and especially its Ciceronian interpretation, played an equally important role in informing the positions of some of these thinkers and in distinguishing from each other apparently similar theories.[132]

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[125] Grotius, *De iure*, p. 157; Grotius, *On the law*, p. 253.

[126] Grotius, *De iure*, pp. 86, 170–1, and pp. 16, 230, 576.

[127] Van Gelderen, 'Der moderne Staat'.

[128] Althusius, *Jurisprudentia romana*, pp. 24, 27.

[129] Johann Alsted, *Encyclopaedia septem tomis distincta* (7 vols., Herborn, 1630), IV, p. 1390.

[130] Ibid., p. 1393.

[131] Arnisaeus, *De republica*, pp. 39–40. Alsted, *Encyclopaedia*, IV, p. 1391.

[132] Martin van Gelderen, 'Aristotelians, monarchomachs, and republicans: sovereignty and *respublica mixta* in Dutch and German political thought, 1580–1650', in Quentin Skinner and Martin van

VI

This article has argued that attending to Althusius's Ciceronian use of Roman law allows us to better understand his original conception of politics as a specific kind of association, to which everyone contributes and from which everyone receives benefits in a fair and proportional way. I have also argued that, while there is an important federal-theological background which informs Althusius's concept of *consociatio*, that is not enough to fully account for its peculiarities, which were at least in part devised to reflect the specific political situations of Herborn and Emden. This reconstruction allows us to revise Althusius's collocation in the scholarly debates mentioned in the introduction.

Influential contributions have presented Althusius's political thought as centred around the concept of corporation (*universitas*), making him an important character in the development of the idea of the modern state.[133] It is true that, despite the fact that in classical Roman law *societas* and *universitas* were incompatible categories,[134] Althusius explicitly affirms that *consociationes* can act as corporations, most notably by being represented, and can even be called by the name *universitas*.[135] Focusing on the *consociatio*'s character as *universitas*, however, misleadingly diverts attention from the distinctiveness of Althusius's co-operative conception of politics: for him, politics is essentially *societas*; the dimension of *universitas* is a decisively secondary aspect. The primary meaning of *universitas* in the *Politica* is not even the corporate one, but simply 'city'.[136] The members of Althusius's *societas* do not disappear in a homogeneous multitude by being represented or by transferring power. On the contrary, by sharing goods and laws they constantly have duties imposed upon them and can expect rewards. Rather than as an intermediate step in the trajectory that leads from medieval corporations to the state as an abstract unity, Althusius is best read as an alternative to this whole history.

Once we shift attention away from the state, we can appreciate Althusius's contribution as one of many creative ways in which the political thought of the decades around 1600 defined politics and related it to a variety of communities. While some sought to insulate government not only from the family but also from social realities and from religion, Althusius provided one of the most expansive conceptions of politics in the history of Western political thought. At the same time, he also refused to follow those positions which endeavoured to subordinate politics to religion, or to abolish the distinction between politics and other communities, from the family to the church. His remained an account of politics as an independent discipline and as the overarching social reality within which the church, as well as all secular groups, could find its proper place and flourish. The concept of *consociatio*, with

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Gelderen, eds., *Republicanism: a shared European heritage* (2 vols., Cambridge, 2002), I, pp. 195–218; Brett, *Changes of state*, ch. 5.

[133] See above, n. 10.

[134] Zimmermann, *Law of obligations*, p. 455. During the middle ages a corporate meaning developed for *societas* too, but it remained uncommon (see Michaud-Quantin, *Universitas*, pp. 64–9).

[135] Althusius, *Dicaeologica*, p. 283; *PMD*, pp. 38, 39, 140.

[136] *PMD*, p. 38.

its multiple meanings, enabled him to synthesize the peculiar status of the discipline and of the reality of politics, at once theological and juridical, but ultimately something more than the sum of its parts.