



## HUMAN FLOURISHING AND EXPANSION OF LIFE: AN APPROXIMATION BETWEEN AFFIRMATIVE BIOPOLITICS AND THE COMMON GOOD

*Florescimento humano e expansão da vida: uma aproximação entre a biopolítica afirmativa e o bem comum*

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Trabalho enviado em 24 de janeiro de 2022 e aceito em 15 de fevereiro de 2022



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Rev. Quaestio Iuris., Rio de Janeiro, Vol. 15, N.04., 2022, p. 1954-1976.

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DOI: 10.12957/rqi.2022.64887

## ABSTRACT

This article aims to approximate the views of human flourishing – according to the Neoclassical Natural Law Theory– and expansion of life – according to Roberto Esposito's affirmative biopolitics. In order to verify the possibility of an approximation, the hypothesis conceived was that the notion of the common good can fill the gap left in the understanding of the *munus* of the community. The conceptual explanation and approximation are made in three sections. This is a conceptual debate elaborated from some works of John Finnis (2007; 2011b) and Roberto Esposito's (2008; 2003; 2005) and realized in this article through the technique of bibliographic revision.

**Keywords:** Neoclassical Natural Law Theory; Biopolitics; Common Good; John Finnis; Roberto Esposito.

## RESUMO

Este artigo tem por objetivo aproximar as noções de florescimento humano – conforme a Teoria Neoclássica da Lei Natural – e expansão da vida – conforme a biopolítica afirmativa de Roberto Esposito. Para verificar a possibilidade de aproximação foi levantada a hipótese segundo a qual a noção de bem comum pode preencher a lacuna deixada na compreensão do *munus* comunitário. A explicação conceitual e aproximação são feitas em três seções. Este é um debate conceitual elaborado a partir de John Finnis (2007; 2011b) e Roberto Esposito (2008; 2003; 2005) e levado a cabo nesta pesquisa por meio da revisão bibliográfica.

**Palavras-chave:** Teoria Neoclássica da Lei Natural; Biopolítica; Bem Comum; John Finnis; Roberto Esposito.

## 1 INTRODUCTION

This paper will propose a conceptual debate between Neoclassical Natural Law Theory and Roberto Esposito's affirmative biopolitics. The starting concepts that inspired this investigation were those of human flourishing and life expansion, apparently similar - at least at first - between the two theories.

These are fairly broad theories, and to say that we're going to approximate them is just vagueness. Therefore, the meeting point between human flourishing and life expansion will be the concept of common good, which is dear to the Neoclassical Natural Law Theory and absent (at least in a positive sense) in Roberto Esposito's investigations.

The concrete problem of this research can be formulated through the following question: do the concepts of human flourishing (in Neoclassical Natural Law Theory) and expansion of life (in Roberto Esposito) point to any more objective sense of common good? To answer this question, the hypothesis is that the common good, as conceived in the tradition to which the Neoclassical Natural Law Theory belongs, could fill the gap left in the understanding of the communitarian *munus* of which Esposito mentioned and around which human communities are built.

Since this is a conceptual debate, the technique of this research is the bibliographic review, notably used in the first two sections: the first one explains what the common good is for the Neoclassical Natural Law Theory based on the notions of basic human goods and practical reasonability; in the second section, we analyze, according to Roberto Esposito, the duty (*munus*) present in the community, the immune paradigm and the proposal of an affirmative biopolitics.

The last section is the attempt to approach human flourishing and the expansion of life through the common good that, dependent on the requirements of practical reasonableness, allows the flourishing of the one who acts with and for his neighbor (in the community). This more robust notion of the common good is compared to the communitarian *munus* spoken of by Roberto Esposito.

## 2 HUMAN FLOURISHING: THE REASONABLE PURSUIT OF THE GOOD ACCORDING TO THE NEOCLASSICAL NATURAL LAW THEORY

The first section of this article is dedicated to an articulation between the requirements of practical reasonableness and the common good in the work of John Finnis (2011b), one of the main authors of the current called - by himself - Neoclassical Natural Law Theory and also known as New Natural Law Theory. The purpose of this section is to show how human flourishing is tied to reasonableness in decisions for action aimed at participation in certain basic (properly human) goods; participation in these human goods, in turn, depends on a set of conditions that can be considered the common good.

Flourishing means perfecting, improving in view of a plenitude; it does not cover only the conservation in being, but the plenitude of each being according to the actualization of its potentialities.

A first proposition defended by the Neoclassical Natural Law Theory, in line with St. Thomas Aquinas<sup>1</sup>, A first proposition defended by the Neoclassical Natural Law Theory, in line with St. Thomas Aquinas, is that to understand a being (especially a being of dynamic reality as is the human being) one can start from an epistemological priority: first, one must try to understand its capacities; but, to understand the capacities, one must understand the acts; and the acts, in turn, are understood by their objects, that is, the purposes for which they are intended (FINNIS, 2007, p. 25). Beings are different because they perform different actions, and such actions indicate tendencies prior to the same actions (potentials and their actualizations), inclinations to act and react in certain ways, or the source of a being's basic potentialities (LEE, 2009, p. 47). Therefore, it does not start from a previous conception of nature to say whether an action is legitimate or not; rather, it starts from the purpose of each action to arrive at its own potentialities (specifically human, in the case being dealt with here). The purpose of human action, for neoclassical theorists of Natural Law, is called the good.

The good is for human action - rational and deliberate, therefore concerning practical reason, to act - what the principle of non-contradiction is for theoretical reason, that is, the very

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<sup>1</sup> "Among the foundations assumed by Thomas Aquinas to formulate his theory of natural law is the Aristotelian conviction that human beings, through the use of reason, always act in view of one or more goods; ends of the most varied kinds that exist on account of the most varied occupations. When human conduct is examined, Aquinas thinks, there is at least some objective, some previously deliberate intentionality. (RIBEIRO; PINHEIRO, 2020, p. 436).

condition of its intelligibility (SANTOS; PINHEIRO, 2020, p. 99). In other words, human action is intelligible only from its ends: "All our action is action in view of an end that we apprehend as a good, whether this good is true or false" (SANTOS; PINHEIRO, 2020, p. 99). But what is the relation between the possible purposes of action and human flourishing?

What makes a course of action attractive, what makes it desirable, and so in some basic sense, *good*, is that it is in some way fulfilling for me or those that I care about. A possible action is desirable or good (not yet morally good, but practically good) to the extent that it is, or at least seems to be, fulfilling (or is a means to an activity or condition that is, or seems to be, fulfilling). (LEE, 2009, p. 48, author's emphasis).

Each action has as its ultimate purpose a good that will provide an aspect of human flourishing by updating basic potentialities; this is why the goods are called basic, fundamental, or intrinsic (RIBEIRO; PINHEIRO, 2020, p. 436). Such goods actualize properly human life. Nature, thus perceived from the epistemological priority, is neither predefined nor limiting, but the orientation for diverse possibilities of flourishing to be instanced by human choices (LEE, 2009, p. 48). Deliberation and choices do not merely result in (or from) feelings or emotions - although they may be present, they are not necessary - but constitute the person him/herself, they realize him/her (PEREIRA; PINHEIRO, 2020, p. 80). The person is realized by his choices and actions. Based on the phrase "it doesn't matter what they did to you, but what you are doing with what they did to you", Dienny Pereira and Victor Pinheiro (2020, p. 80) developed the following argumentation.

This particular statement refers to difficult situations experienced by someone and suggests that, even in such contexts, there is still plenty of room for choices that will determine the subject's life course and identity: Revenge or forgiveness? Bitterness or freedom?

In a sense, human beings are masters of themselves and will be what they make of themselves. This is why the construction of one's own identity is, in fact, the achievement that most unequivocally belongs to the agent.

Of course, there are good and bad characters, but self-constitution and authenticity, integral to the good of practical reasonableness, deserve to be preserved as forms of human action, even if developed for ends that are bad or unreasonable from the substantial point of view<sup>2</sup>.

Both the actualization of potentialities (the instantiation of goods, according to the terminology of the Neoclassical Natural Law Theory) and the path to be pursued for this

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<sup>2</sup> Julián Marías, although in another context, wrote something similar: "La libertad es el fondo de la persona que se es, y el que arriesga u ofrece su vida por motivos *personales* ejecuta un acto *libre y necesario* a la vez, en el que se descubre como quien verdaderamente es" (MARÍAS, 1997, p. 30, author's emphasis).

actualization are important for the person and constitutive of his identity, of his flourishing. But if all human choices aim in some measure at the ultimate ends of action (goods), why can some be considered right and others wrong? Because there are two ways of participating in goods: one in which, in choosing and acting, the agent does not deliberately seek to attack other goods (in himself or in other people); and another in which, on the contrary, the agent arbitrarily chooses without respect for other goods (in himself or in other people) (LEE, 2009, p. 48). Even if he is not aware of it, the agent who arbitrarily (unreasonably) chooses a good (even if it is a real good and not an apparent good) will fail even in its instantiation, since each good is valuable in itself (one cannot choose one good and deliberately harm others) and for all persons (they are aspects of integral human fulfillment, to which all human agents are directed). Acts of the will must be open to integral human realization (FINNIS, 2007, p. 43).

The basic human goods - the ends of action or first principles of the Natural Law - considered in themselves are incommensurable, that is, one cannot be reduced to the other. One good cannot be said to be better than another, but all are worthy of choice. These goods are still on a pre-moral level, which emphasizes the sense of good as an intelligible end (and not something morally positive) that the Neoclassical Natural Law Theory refers to. It seems, however, a bit contradictory to speak of pre-morality when, just in the previous paragraph, a difference between good and bad choices was outlined; even more: the criterion of integral human fulfillment (openness to the flourishing of all people) was presented as a guide to evaluate choices. This is a moral criterion. So how to understand the passage from pre-moral goods to value-laden choices? Or rather: what are the criteria to judge an action as good (reasonable) or bad (unreasonable)? Such criteria are the requirements of practical reasonableness.

## **2.1 THE REASONABLE PURSUIT OF BASIC GOODS: REQUIREMENTS OF PRACTICAL REASONABLENESS**

To say of human action that it is directed toward an intelligible end is to say that the agent seeks to cause a situation in which a good (perhaps more than one) will be instantiated or participated in. The verb cause is important in this consideration because, in view of the intended end, the agent who aims at it also needs to think about the means to achieve it; it is from the agent's point of view that the purpose is considered and adopted (TOLLEFSEN, 2008, p. 9).



The intelligible principles expressed by the basic human goods gain moral force properly when the agent seeks to instantiate one of them (or more than one, if possible) in his life through commitment and deliberate action. Deliberation and the action that follows it will depend, of course, on one of the basic human goods: that of practical reasonableness (FINNIS, 2011b, p. 101). This good is responsible for structuring the search for human goods so that it is reasonable (SANTOS; PINHEIRO, 2020, p. 113). This means that not all goods can be instantiated in human life and that, within a concrete choice, some good may be overlooked by another<sup>3</sup>. Prudential reasoning (here is the meaning of practical reasonability: prudence) is necessary so that both the choice of the good and the path to it culminate in the instantiation that truly actualizes a human potentiality. Whether or not a choice is reasonable depends both on the circumstance and on the criteria that guided it. The criteria are expressed by the requirements of practical reasonableness (SANTOS; PINHEIRO, 2020, p. 114), which refer to the fullness - within the possibilities of human life - of participation in goods (FINNIS 2011b, p. 103).

Basic goods are forms of being, expressions of potencies that human beings aim to actualize for their flourishing. The fuller the instantiation of these goods, "[...] the more one is what one can be" (FINNIS, 2011b, p. 103). The requirements of practical reasonableness enunciate as it were contours of the possible fullness in human flourishing.

In his work *Natural Law and Natural Rights*, published in 1980, John Finnis (2011b) listed nine requirements of practical reasonableness, quoted here according to the translation of André Fonseca dos Santos and Victor Sales Pinheiro (2020, p. 114): (I) coherent/rational plan of life; (II) no arbitrary preference for values; (III) no arbitrary preference for persons (Golden Rule); (IV) detachment; (V) commitment; (VI) attention to consequences and effectiveness; (VII) respect for every basic value in every act; (VIII) requirements of the common good; (IX) following the dictates of one's own conscience. These requirements are related and can be seen as aspects of each other (FINNIS, 2011b, p. 104), so that there is a circularity between them in every human life.

Not in *Natural Law and Natural Rights*, but in the first volume of the *Collected Essays*, Finnis (2011a, p. 31-32) comments on a gap left in his explanation of the requirements of practical reasonableness in the first work: the principle of integral directivity, according to which all

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<sup>3</sup> “The basic values, and the practical principles expressing them, are the only guides we have. Each is objectively basic, primary, incommensurable with the others in point of objective importance. If one is to act intelligently at all one must choose to realize and participate in some basic value or values rather than others, and this inevitable concentration of effort will indirectly impoverish, inhibit, or interfere with the realization of those other values”. (FINNIS, 2011b, p. 119-120).

possibilities of realization of human goods chosen must be compatible with integral human realization. The requirements of practical reasonability are specifications of this principle (SANTOS; PINHEIRO, 2020, p. 115), also called the supreme principle of morality.

John Finnis understands that this same principle, although not explicitly formulated, can be found in the ethics of St. Thomas Aquinas: when taken together the first principles (basic human goods) and considered as realizable goods in the agent and in other persons, we arrive at a synthesis representative of integral directivity. This synthesis is expressed in the command to love one's neighbor as oneself (FINNIS, 2007, p. 42). The love for the neighbor - wanting the good of the other, that is, wanting the other to flourish - is the principle that supports the requirements of practical reasonability and, therefore, guides the choices of each person.

The principle of loving one's neighbor as oneself and the Golden Rule immediately distinguish an element in this integral directivity. The other structure moral rules give moral direction by clarifying paths, in which more or less specific *types of choice* are immediately or mediately contrary to some basic good. (FINNIS, 2007, p. 44-45).

When deliberating and acting to achieve goods for oneself, for one's own flourishing, the human being needs to have before his eyes his neighbor; not only el prójimo que además es próximo, as it is said in the Spanish language to mean who in fact is close by, but reasonable human action must protect and foster all human goods for all people. Of course, this supreme principle of morality - and here the Spanish expression has full force - will immediately reverberate in the community of the person acting. Precisely for this reason Finnis (2011b, p. 125) commented that perhaps most moral responsibilities, obligations, and duties result from attention to the requirements of the common good: the eighth requirement of practical reasonableness is that of favoring and fostering the common good in the agent's community.

## 2.2 COMMON GOOD: UNIFICATION AMONG HUMAN BEINGS FOR ITS FLOURISHING

The title of this subsection refers to the sense of community alluded by John Finnis (2011b, p. 136): "Whatever else it is, community is a form of unifying relationship between human beings. The unifying relationship of community is not static, but an ongoing state of affairs, a sharing of life, actions, and interests; community is about interaction (FINNIS, 2011b, p. 135).



To understand how the different relationships between people take place, Finnis brings in the notion of four orders of reality. His goal is not to make mere abstraction - he explains that relations succeed each other in the four orders - but to understand where, in this unity, the practical reasonableness studied in Natural Law and Natural Rights is situated.

The first order is the natural one, which can be known - but not originated - by human beings (FINNIS, 2011b, p. 136). Second is the order that can be brought into understanding and is studied, for example, by logic, epistemology, methodology, and related disciplines (FINNIS, 2011b, p. 137). The third order is imposed on material things subject to human power, studied both in the arts, technology, and applied sciences and in human-made symbols (FINNIS, 2011b, p. 137). Finally, the fourth order has to do with acts and dispositions in intelligent choice and deliberation for action: "Part of our unity in human community, then, is the unity of common action" (FINNIS, 2011b, p. 138). Practical reasonableness is related to the common commitment and unity manifest in the fourth order of reality.

To consider human community, especially when it comes to the flourishing of its members, it is also necessary to take the fourth order and analyze the kinds of relationships that can exist between people: the ends to which the collaborative relationships are directed and also the way in which collaborations take place from the agents' point of view.

If two or more people have a common goal (to say that the goal is common means to say that they cannot achieve it alone) collaboration is necessary for them to achieve it. In a mere utility relationship, collaboration is essential for the associates to achieve their goal - but each one will enjoy it for themselves, without collaboration being an aspect or component of the goal (FINNIS, 2011b, p. 140). There can, on the other hand, be a collaboration in which the concert of collaborators is important: the community of sports play, for example, whose successful accomplishment happens when collaborative harmony is present. Finnis (2011b, p. 140) warns that even in this second case it is not essential that there is authentic (personal) interest of the parties involved for each other.

Relationships by utility and by play exist and have their importance for people. Both can be known by the name of *philia*. But, following Aristotle, Finnis (2011b, p. 141) reminds us that the central case of *philia* is friendship, a relationship in which both sharing the goal and valuing the collaborative concert are present. However, friendship has an element that the previous ones lack: the other's fulfillment and flourishing are taken into account for the sake of the other in a relationship

of reciprocity<sup>4</sup> (FINNIS, 2011b, p. 141-142). To understand all forms of community, it is essential to understand clearly what friendship means.

At this point it is possible to return to the discussion in the previous subsection: the principles of practical reasonableness are specifications of the so-called supreme principle of morality, according to which the agent's choice should be aimed at full flourishing. This principle can also be expressed by the formula to love one's neighbor as oneself. The flourishing of the one who acts takes place through his own (reasonable) participation in human goods and, at least, through openness so that the different ways of participation in the different goods can be realized by other people.

Thus, self-love (the desire to participate fully, oneself, in the basic aspects of human flourishing) requires that one go beyond self-love (self-interest, self-preference, the imperfect rationality of egoism). This requirement is not only in its content a component of the requirement of practical reasonableness; in its form, too, it is a parallel or analogue, for the requirement in both cases is that one's inclinations to self-preference be subject to a critique in thought and a subordination in deed. The demands of friendship thus can powerfully reinforce the other demands of practical reasonableness, not least the demands of impartiality as between persons (though it is obvious that friendship complicates those demands and can, if unmeasured, compete with and distort them). (FINNIS, 2011b, p. 143).

Friendship can be said to be the most communal form of human collaboration. It points to the sense of a complete community, because in the collaboration between agents the good of the other is valued (and there is reciprocity in this) as the goal of everyone who acts alongside someone. But it is not enough just to give something to the friend, to give him something on a platter; this is not the way to participate in basic human goods. In a certain sense they have to be conquered, that is, the one who longs for them has to act in order to participate in them<sup>5</sup> (and the friend can collaborate both in deliberation and in action). The complete community, therefore, will refer first of all to the set of conditions in which people can pursue their flourishing<sup>6</sup>. This is John Finnis' definition of common good (2011b, p. 155):

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<sup>4</sup> "One must treat one's friend's well-being as an aspect of one's own well-being". (FINNIS, 2011b, p. 143).

<sup>5</sup> "Human good requires not only that one receive and experience benefits or desirable states; it requires that one do certain things, that one should act, with integrity and authenticity; if one can obtain the desirable objects and experiences through one's own action, so much the better. Only in action (in the broad sense that includes the investigation and contemplation of truth) does one fully participate in human goods". (FINNIS, 2011b, p. 147).

<sup>6</sup> "The point of this all-round association would be to secure the whole ensemble of material and other conditions, including forms of collaboration, that tend to favour, facilitate, and foster the realization by each individual of his or her personal development". (FINNIS, 2011b, p. 147).

[...] a set of conditions which enables the members of a community to attain for themselves reasonable objectives, or to realize reasonably for themselves the value(s), for the sake of which they have reason to collaborate with each other (positively and/or negatively) in a community.

From the perspective of practical reasonableness, the common good is the factor that will give reason (justification) for the collaboration of individuals with each other, and this reason or justification will be reciprocal (FINNIS, 2011b, p. 154). It is necessary, however, to pay attention to an important element in John Finnis' thoughts on the common good: neither the reciprocal collaboration between individuals nor the set of conditions signal the existence of a static or specific end of the community responsible for coordinating the various collaborations. Community members need not have the same values or goals in order to pursue the common good, because the qualifier common, when applied to basic human goods, means that they are goods for all people. In a more substantial sense, as in the Finnis quote made before this paragraph, conditions must exist (a common good) for people to be able to instantiate (common) human goods in their life projects (FINNIS, 2011b, p. 156).

### **3 LIFE EXPANSION: ROBERTO ESPOSITO'S AFFIRMATIVE BIOPOLITICS**

The first observation to be made in this section of the article is that Roberto Esposito does not speak of the common good. His investigation around life and community goes back to the etymological meaning of the word community and the notion of duty that was attached to this meaning. There is a tension between the individual and the community, which would not consist in a way of being of the subject but in something like a spasm of his individuality (ESPOSITO, 2003, p. 32). How then could the expansion of human life take place amid this tension? Esposito does not deny biopolitics, but investigates it to propose a positive vision in which the tension between community and individuality enables the expansion of life.

The notion of duty, which will be further explored in this section, is drawn from Roberto Esposito's (2003) investigations of community. The Italian researcher based his work - among other sources - on the etymological origin of the word community. According to Esposito (2003, p. 22) community is thought of as a kind of property of the subjects, or even as a substance resulting from their union. From there emerges the paradoxical idea that the common is at the same time the property of each of the subjects (ESPOSITO, 2003, p. 24-25). Property, however, cannot explain

another term that is at the etymological origin of community: the *munus*, the gift that one must give and cannot not give (ESPOSITO, 2003, p. 28).

Por lo tanto, *communitas* es el conjunto de personas a las que une, no una «propiedad», sino justamente un deber o una deuda. Conjunto de personas unidas no por un «más» sino por un «menos» una falta, un límite que se configura como un gravamen, o incluso una modalidad carencial, para quien está «afectado», a diferencia de aquel que está «exento» o «eximido». (ESPOSITO, 2003, p. 29-30, author's emphasis).

The community exists around an inescapable mutual duty whose fulfillment does not necessarily make one think of a counterpart. The gift that is the *munus* refers to the surrender of one's own person - something like the gift of self - which stimulates Esposito to speculate on the paradoxical characteristic of the human community: it can be the most adequate dimension for the human animal, but it can also lead him to the drift of dissolution (ESPOSITO, 2003, p. 33). Such paradox lies in the very constitution of *communitas*, which is the ensemble of individuals and the constant possibility of its dissolution; or put another way, the community carries with it its opposite. The response attempted to maintain the union of people while averting the risk of dissolution caused by the *munus* was the opposition to this duty found in immunization<sup>7</sup> (ESPOSITO, 2003, p. 41), that is, exception or exemption from the duty. Individuals were maintained at the cost of the annihilation of any bond between them (ESPOSITO, 2003, p. 68).

Immunity is the condition for dispensing with mutual obligations and, consequently, for defending life against its possible expropriators (ESPOSITO, 2008, p. 50). It denies a characteristic aspect of the community in order to preserve individual life - within the community. But the denial presupposes the very thing it denies, i.e., the need for immunization exists because the *munus* (and its consequent dissolutive risk) is present at the origin of community. "What is immunized, in brief, is the same community in the form that both preserves and negates it, or better, preserves it through the negation of its original horizon of sense" (ESPOSITO, 2008, p. 52). The preservation of life becomes the center of politics or, more specifically, the center of what is called biopolitics: the management of life over bodies, over species (GERONIMO; SCARMANHÃ, 2019, p. 107). The

<sup>7</sup> “Los diccionarios latinos nos enseñan que el sustantivo *immunitas* – como su correspondiente adjetivo *immunis* – es un vocablo privativo, o negativo, que deriva su sentido de aquello que niega, o de lo que carece, es decir, el *munus*” (ESPOSITO, 2005, p. 14).

purpose of biopolitics is to protect and develop life<sup>8</sup> as a whole (ESPOSITO, 2005, p. 197). Law plays a role of paramount importance in the immunitarian perspective:

[...] el derecho se relaciona con la comunidad por su reverso: para mantenerla con vida, la arranca de su significado más intenso. Protegiéndola del riesgo de la expropiación – que ella lleva en su interior como su vocación más intrínseca –, la vacía de su núcleo de sentido. Se podría llegar a decir que el derecho conserva la comunidad mediante su destitución. Que la constituye destituyéndola. Y esto – por paradoja extrema – en la medida exacta en que procura reforzar su identidad. Asegurar su dominio. Reconducirla a lo «propio» de ella (si es cierto que «propio» es exactamente aquello que no es «común»). Esforzándose por hacerla más *propia*, el derecho la hace necesariamente menos común. (ESPOSITO, 2005, p. 37, author's emphasis).

The immunitarian metaphor, when related to law, can be immediately associated to criminal law: the penalty imposed by the State on the offender, to isolate him from the community and also (at least according to article 1 of LEP) to provide the conditions for his future reintegration, seeks to immunize the life of the community. But Esposito goes further in his analysis and points to the immunizing dynamics of negative protection of life as having its genesis in modernity (although it existed to a lesser degree before), because in this historical period the self-preservation of the individual becomes a presupposition of the other political categories (ESPOSITO, 2008, p. 9). The extreme example analyzed by the Italian researcher in his work is Nazism, which achieved a degree of biologization of politics not known until then by treating the German people as an organic body and attempting what was thought to be its radical cure (ESPOSITO, 2008, p. 10).

But this section of the article will not be concerned with summarizing or commenting on Esposito's analysis of Nazism. It has been mentioned because, after developing the immune dynamics to a thanatological structure (ESPOSITO, 2008, p. 115) perceived in Nazism, the author takes three extreme immune dimensions investigated in this context - life, the body, and birth - and attempts to develop them toward an affirmative biopolitics: not about life, but of life (ESPOSITO, 2008, p. 157).

To overthrow the organic metaphor that could reduce the body to a single territory or specific people, Esposito turns to Merleau-Ponty and seeks the idea of a body whose extension would encompass the whole world so as to fragment any possible political body and thus have nothing outside itself. Esposito's goal would be to consider "[...] a being that is both singular and

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<sup>8</sup> “Ya se trate de la vida del individuo o de la vida de la especie, la política ha de poner a salvo a la vida misma, inmunizándola de los riesgos que la amenazan de extinción” (ESPOSITO, 2005, p. 160).

communal, generic and specific, and undifferentiated and different, not only devoid of spirit, but a flesh that doesn't have a body" (ESPOSITO, 2008, p. 167). In his biopolitics of life, the openness - understood as a constant possibility of individuation - of each person within the community is important also because it has normative consequences.

Biology and law - life and norm, therefore - are intertwined. Only an order that was previously defined - or decided, in Esposito's expression - could constitute a natural criterion for the application of law. From this closure, a norm of life would not necessarily meet the demands of life, but would establish beforehand norms that life should follow (including being able to eliminate deviant cases) (ESPOSITO, 2008, p. 183-184). Here immunization can reach the paroxysm and again Esposito mentions the National Socialist example.

The author's criticism also focuses on the insufficiency of normativism and jusnaturalism as weapons of counterposition to the national-socialist perspective. Esposito believes that the Nazi ideology used both in its thanatopolitics, since, while in the case of normativism, the purification of the norm into mere obligation would remove it from the facticity of life, jusnaturalism would make the norm derive from certain eternal principles in accordance with the divine will or human reason; now, none of these elements would be foreign to National Socialism, which made use of a norm superimposed on nature and of a nature that presupposed the norm (ESPOSITO, 2008, p. 184). The alternative to this problem Esposito tried to find in Baruch Spinoza.

The main contribution made by Spinoza in the relationship between life and the norm, according to Esposito, is the shift from a logic of presupposition (about human nature) to one of mutual immanence. The domains of life and norm are not separated, but one cannot presuppose the other: "[...] norm and life cannot mutually presuppose one another because they are part of a single dimension in continuous becoming" (ESPOSITO, 2008, p. 185). Spinoza would depart from modern contractual formalism (especially in Thomas Hobbes' version) without falling into substantialism because, by arguing that each thing has equal right (by nature) to exist and act, he thinks of a norm of life in which the two components are together in the same movement: the normalized life and the norm endowed with vital content (ESPOSITO, 2008, p. 185). The norm would be the modality assumed by life.

The norm is no longer what assigns rights and obligations from the outside to the subject, as in modern transcendentalism – permitting it to do that which is allowed and prohibiting that which is not – but rather the intrinsic modality that life assumes in the expression of its own unrestrainable power to exist. Spinoza's thought differs from all the other immunitary philosophies that deduce the



transcendence of the norm from the demand for protecting life and conditioning the preservation of life to the subjection to the norm. He makes the latter the immanent rule that life gives itself in order to reach the maximum point of its expansion. (ESPOSITO, 2008, p. 185-186).

It does not seem exaggerated to conclude that, in Esposito's interpretation of Spinoza, when the norm draws its content (and meaning) from life it is a path to that expansion that the Italian author speaks of, that is, a path to the realization and development of life. The transcendence of the norm would then not be allegedly deduced from a prior conception of nature<sup>9</sup>, but rather the circumstance through which life expands. Esposito says that rather than coming from outside, the norm would emerge from the very capacity for existence: each behavior can carry with it that which brings it into existence within a larger context of the natural order (ESPOSITO, 2008, p. 187). The legal order would consist in the plurality of norms resulting from the multiplicity of the modes of expansion of individuals in mutual balance, without it being necessary to establish a fundamental norm (from which the others would derive) nor a normative criterion that could result in measures of exclusion of what would be established as abnormal.

In short, the process of normativization is the never-defined result of the comparison and conflict between individual norms that are measured according to the different power that keeps them alive, without ever losing the measure of their reciprocal relation. To this dynamic, determined by the relation between individuals, is connected that relative to their internal transformation. If the individual is nothing but the momentary derivation of a process of individuation, which at the same time produces it and is its product, this indicates as well that the norms that the individual expresses vary according to his or her different composition. (ESPOSITO, 2008, p. 187-188).

The individual, for Esposito, derives from a constant process of individuation that can be understood from the perspective mentioned at the beginning of this section: the contact with the community and the duty, the required *munus*. The derivation of individuality seems to be the person's attempt to preserve himself without perishing the community; it is, in short, a tension that goes through several modifications. In Esposito's interpretation of Spinoza, the philosopher would not advocate an immune legal apparatus, but rather a system of reciprocal contaminations in which the legal norm would reproduce the changes of the biological norm in this permanent tension from which individuation derives (ESPOSITO, 2008, p. 188). The tension between community and immunity would not disappear, but would be considered as an element of expansion of life itself.

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<sup>9</sup> “What appears as the social result of a determinate biological configuration is in reality the biological representation of a prior political decision” (ESPOSITO, 2008, p. 120).

This is the legal element of the affirmative biopolitics proposed by Roberto Esposito. The norm has an important place not for isolating a determined body from outside contamination, but for providing a path in the expansion of life.

#### **4 FLOURISHING AND EXPANSION OF LIFE: AN OPENING TO THE COMMON GOOD?**

To the idea of expansion of life - considered from the tension that results in individuality - will be associated another notion not commented on by Roberto Esposito: that of human flourishing. The human being who has his life fulfilled - expanded - thanks to his actions and amidst the tensions of the communitarian *munus* seems to be a *homo viator* whose flourishing can happen in all stages of life. This flourishing will depend on his actions and also on his relationship with the community and the political authority also in a tension from which individuation will derive. Human flourishing is not closed to the *munus* to preserve the individual, but draws from duty an aspect of human fulfillment.

Of course, the association between life expansion and human flourishing, if left alone, would be imprecise. These are concepts that depend on the corresponding theoretical frameworks to be understood. However, in a research such as this, both concepts seem to the researcher to signal a possible correspondence to be investigated. It is necessary to place them side by side before the eyes "[...] en postura tal que dé en ellos el sol innumerables reverberaciones" (ORTEGA Y GASSET, 2016, p. 7). But what would the sun be - to follow Ortega's metaphor - in this article? The common good. This other concept that, as mentioned in the first paragraph of the previous section, does not appear in Esposito's work. Or at least it does not appear in an affirmative sense as it is, for example, in the Neoclassical Theory of Natural Law.

Esposito's affirmative biopolitics consists in the reversal of three elements - identified in his research - that made negative biopolitics a thanatopolitics: the body, birth, and the norm. His goal is to find a more original and intense opening to the sense of *communitas* (ESPOSITO, 2008, p. 157); such opening, while keeping life (*bíos*) at its center, moves away the immune paradigm to give way to successive contaminations - Esposito's own term - that allow the necessary tension for the expansion of each life.

The expansion is neither fixed nor does it have a previously fixed goal, that is, it is not finished nor could it be considered finished at any point in time; rather, it consists of a series of



(re)births<sup>10</sup> or an incomplete movement of the individual's formation. In each sphere (physical, psychological, biological, and social) the individual emerges from a pre-individualized foundation that actualizes its potentialities without reaching a definitive form; and even in the state of greatest expansion there is still incompleteness in the individual, so as to remind him that he will need to reach a new stage of development (ESPOSITO, 2008, p. 180).

The individuation process or expansion of life - even if it sounds paradoxical - also depends on the individual's contact with other people. Without diminishing the risk of dissolution referred to earlier, mitigating contact with others would interfere with the expansion of individual life. "If the subject is always thought through the form of bios, this in turn is inscribed in the horizon of a cum that makes it one with the being of man" (ESPOSITO, 2008, p. 182). The consequence of this is that the norm - concerned with the protection and expansion of individual life in community, that is, considering the very tension of individuation - will need to offer the path for the expansion of life; a path that will consist of the conditions for each person to live the tension of realizing their own individuality while maintaining the balance between munus and dissolution.

Here elements of similarity begin to appear between the common good according to the Neoclassical Theory of Natural Law and Roberto Esposito's affirmative biopolitics, that is, the expansion of life and human flourishing seem to meet. Both have at their core an openness of the person, or what Julián Marías (1970, p. 113) called the fontanal character of human life: the human being is not given and needs somehow - active and amid tensions - to go on making himself (the use of the gerund emphasizes the continuity of the human project) or actualizing certain potentialities that are peculiar to him. This is the meaning of flourishing alluded to in the first section of this article: to flourish is not only to preserve oneself in being, but also to reach a plenitude. "¿Y qué es el derecho a la vida? Me dicen que he venido a realizar no sé qué fin social; pero yo siento que yo, lo mismo que cada uno de mis hermanos, he venido a realizarme, a vivir" This is how Miguel de Unamuno (2007, p. 31) illustrated human flourishing in his own way.

Life and its corresponding expansion, however, do not happen just anyhow: there are potentialities whose actualization results in flourishing. The Neoclassical Natural Law Theory indicates that there are certain human goods to which intelligent and deliberate action will always

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<sup>10</sup> "Every step in each phase, and therefore every individuation, is a birth on a different level, from the moment that a new 'form of life' is disclosed, so that one could say that birth isn't a phenomenon of life, but life is a phenomenon of birth; or also that life and birth are superimposed in an inextricable knot that makes one the margin of opening of the other". (ESPOSITO, 2008, p. 181).

be directed; and this is so because participation in these goods is for human beings the actualization of potentialities or self-fulfillment of which Unamuno spoke.

One of the criticisms that Esposito addresses to rationalist jusnaturalism - and whose answer he tries to find in Spinoza - is that this current would start from a previous conception of principles of human nature from which norms would be derived (ESPOSITO, 2008, p. 184). Of course, such a conception would restrict the expansion of life with which Esposito is concerned. But, as analyzed in the first section of this article, the Neoclassical Theory of Natural Law does not start from a prior conception of human nature from which this or that principle would be derived; the epistemological starting point is concerned with verifying first the purposes of action to then be able to know human potentialities. The objectivity of basic human goods lies in their intelligibility as reasons for action, still at a pre-moral level.

Roberto Esposito's concern - in speaking of the expansion of life from the flesh, birth, and the norm - was to suggest a politics centered on life and therefore positive; he sought to turn the key that culminated in the thanatopolitics investigated in his works. In dealing with the openness of human life, expansion, and the process of individuation that involves friction to realize, he did not attempt to describe them and did not indicate in what way exactly the norm would be a possible way for the expansion of human life in community. It is noteworthy that Esposito does not investigate the classical notion of the common good, even though his research on community sought the etymological origin of the word.

From both what Esposito proposes and this gap (identified at least for the purposes of this article), it is necessary to return to the concept of common good brought by John Finnis: a set of conditions that allow people to participate in a reasonable way in human goods and that offer reasons for collaboration among people. But participation in the goods, to be authentic (i.e., conducive to flourishing), must meet the requirements of practical reasonableness, which in turn are specifications of a principle that is beyond the agent: action must be aimed at integral human fulfillment. The flourishing of each person is related to the community, albeit in some cases in a negative way: at the very least the agent should choose in such a way as not to intentionally harm any basic human good.

It stands out in a negative way, so to speak, because even then the instantiation of the good for the one who acts will be directed to his neighbor or to the community. But it is necessary to complete the negative way with something also explained in the first section: the supreme principle of morality can be expressed by the command to love one's neighbor as oneself; moreover, the

collaboration between persons that points in the direction of a complete community is the central case of *philia*: friendship. In a complete community, which demands the common good, the *munus* will be that of the reasonable choice of goods for one's own flourishing: the agent must love his neighbor - not choose to attack directly any basic good and foster goods for others - as himself - when the good of the other, the flourishing of the other, will be a good also for himself. The community, erected by and for the reasonable pursuit and protection of basic goods, in its own *munus*, in what it has in common, fosters the flourishing of people. The reasonable choice of goods cannot be selfish otherwise it will diminish - to a good extent - the flourishing of the agent himself; it will be a failed choice.

Taking into consideration the good of others - making them also one's own - allows us to give a positive sense to the *munus* Esposito spoke of, and neutralizes the immune paradigm. The horror for death - and for its messenger, pain - intends at all costs to preserve life, without realizing that by total immunization, the flourishing - the expansion - of the one who is immunized is compromised. When, on the other hand, the good of the other is part of the good of the one who acts, his suffering is also taken into consideration. Here we propose the interpretation that suffering can be one of the mutual contaminations that Esposito spoke of for individuation. Miguel de Unamuno, in another context, said it more literarily:

Porque los hombres sólo se aman con amor espiritual cuando han sufrido juntos un mismo dolor, cuando araron durante algún tiempo la tierra pedregosa uncidos al mismo yugo de un dolor común. Entonces se conocieron y se sintieron, y se con-sintieron en su común miseria, se compadecieron y se amaron. Porque amar es compadecer, y si a los cuerpos les une el goce, úneles a las almas la pena. (UNAMUNO, 2007, p. 151).

For the good of the other to become one's own goal, perhaps suffering is better perceived before the very instantiation of some good. Esposito proposed an affirmative biopolitics after a careful analysis of a negative one (thanatopolitics). Somehow what first caught his attention was suffering. And Finnis, for his part, in rescuing practical reasonableness (prudence) for the legal debate, pointed out that reasonable choice in a common good context takes into account the good of the other as one's own. Does suffering have a place in human flourishing? A character of Maxence Van der Meersch, in the manner of Unamuno, seems to believe so:

El sufrimiento es el gran educador del hombre, Doutreval. La medicina clásica ignora hasta qué punto esto es verdad, incluso en el plano fisiológico. Nos ha enseñado a odiar la enfermedad, y, sin embargo, la enfermedad aclara, previene y purifica. En el aspecto material tiene las mismas causas - ignorancia, excesos,



insumisión – que el sufrimiento en el plano moral. Extraño paralelismo, ¿verdad? Al exaltar el papel del sufrimiento, los cristianos no hacen más que transponer y sublimar una verdad, ignorando hasta qué punto ésta se arraiga en lo más profundo de nuestro ser fisiológico. (MEERSCH, 1953, p. 254).

The literary character - named Domberlé - not by chance was a doctor. He too brings a biological metaphor to human life as a whole, a metaphor important to the problem faced in this article. Suffering can educate - at the individual and community level - when one makes it a path to flourishing. The metaphor of immunization indicates that one wants to end disease because one wants to end suffering; but Roberto Esposito's reflection reminds us that immunization can go too far. The *munus* - the common duty - is part of human flourishing even when great sacrifices are demanded. And the notion of common good can contribute to fill some (perhaps deliberate) gaps left by Esposito in his exposition of an affirmative biopolitics.

## 5 CONCLUSION

The concept of common good is not in Roberto Esposito's work. So, in order to confirm the hypothesis of this article, the notion of what is the common good according to the Neoclassical Natural Law Theory was brought first. The intention of dealing first with the common good was to suggest a possible reading of Esposito with this concept already developed, even if from a different theoretical referential. In other words: to verify the initial hypothesis a reading of Esposito through the lens of the common good was attempted.

A theory like John Finnis's - which does not claim to be new, but in continuity with the natural law tradition - has the merit of making clear the metaethical assumptions that underlie legal discussions and rescue the relationship between ethics and law in the methodology of practical reason (PINHEIRO, 2020, p. 6-7). The common good emerges as an element of contact between a theory that is legal, political, and ethical at the same time. This is because, as explained in the first section of this article, the requirements of practical reasonableness consist of specifications of a primary (or supreme) principle of morality: each agent should deliberate and act in view of integral human flourishing. For his own flourishing, the agent must consider other persons and, in the central case of the *philia* that is friendship, consider the good of the other as an element of his own good.

But human flourishing is not passive, that is, it is not something that is earned, something that is given; each person must participate reasonably (that is, according to the requirements of practical reasonableness) in human goods in order to flourish. Therefore, the common good is the



set of conditions that enable the people of a community to reasonably instantiate the goods. Nor is the community, like each of its members, statically given: it is an open set of relations.

It is also because of the openness of human life - because of its *fontanal* character - that Roberto Esposito proposed an affirmative biopolitics, a biopolitics of life. Without taking life out of the center of politics the Italian author sought to reinterpret flesh, birth, and the norm as elements fostering human life. His major concern was that of the immune paradigm, not born in modernity but taken to the extreme (thanatopolitics) during this historical period. Before promoting life in its openness, it was necessary for him to investigate the entire immune paradigm that, under the claim of avoiding suffering and preserving life, ended up stimulating its opposite extreme.

The community is constituted around a *munus*, a common duty (indicated in the etymological origin of the word) that threatens to dissolve individuality. Immunization would be the protection of individuality, a first attempt to save it. But, as Esposito analyzes, immunization has become a kind of foundation of human society since modernity. Perhaps this is why the Italian researcher focuses especially on modern authors, both promoters and critics of the immunization paradigm. He does not analyze the common good.

He does, however, propose a biopolitics that takes care of the expansion of life, a human life that actualizes itself (that is, actualizes its potentialities) over time without a determined final stage. The *munus* itself, while retaining some element of dissolution, comes to be seen as necessary for the individuation or expansion of life. But Esposito did not explain - due to the breadth of his analysis and the theoretical framework studied, perhaps he did not even intend to explain - which are the potentialities to be actualized in the expansion of life and how they would also be actualized in the communitarian *munus*.

In this gap there is room for a conception of the common good with classical roots, a conception that likewise perceives life as open and tending to flourish (expand) thanks to the actualizations of potentialities that are properly human, represented and understood by the goods (ends) to which human action tends. This is where the common good - as explained by the Neoclassical Theory of Natural Law - comes in - in the proposal of a positive biopolitics in which the norm is a command of reason (that appeals, therefore, also to the reason of its addressees) aiming to form a set of conditions so that each person can reasonably pursue the goods for its own flourishing and also find reasons to collaborate with others, because in this collaboration - in the good of the other - it will also realize aspects of its own flourishing.

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