

Theses of PhD dissertation

**The philosophy of Oswald Spengler
and the dynamic conception of law**

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Debrecen, 2011

I. The objective of the dissertation

This paper has a twofold goal: On the one hand, to describe the philosophical background of Oswald Spengler's life-work, on the other hand, to show – on the example of law - the relevance of his cultural morphology, a central part of his work, for today's social theory. Within this scope, the paper attempts to provide a cultural philosophical interpretation of Spengler. It takes as a starting point that Spengler's oeuvre can be read from a purely philosophical perspective without thereby distorting the author's original intentions. The reason for this is that – in our view – Spengler separated the scholarly and the political-journalistic sides of his work with a consistency that is rarely appreciated in the literature and his scholarly works – contrarily to the common opinion – are dominated by considerations arising from cultural philosophy.

The examination of the philosophical background, which is accomplished in the dissertation, fills an important gap in the literature. Monographs on Spengler usually concentrate on the theses of *The Decline of the West* concerning philosophy of history and culture interpreting them in the context of Spengler's political views and activities. The philosophical core of his thought is often regarded simply as the foundation of a conservative political ideology, which does not require a thorough analysis as to content. Therefore the literature mostly contents itself with classifying Spengler's philosophical ideas as a manifestation of the irrational, vitalistic philosophical currents of the time. Another important handicap of previous studies was the way they dealt with minor pieces of the life-work having philosophical relevance, which they either completely ignored or examined separately from the principal work. This way they had no chance to consider the steady motives pervading the whole *oeuvre* with the weight they deserved.

Another gap is stopped by the second part of the dissertation, which elaborates Spengler's conception of law in such detail for the first time. In contrast with the chapters concerning the philosophical foundations, this part explicitly aims at completeness in the sense that it takes account of the sources of Spengler's thoughts in the history of ideas as well as their theoretical basis and scientific relevance. Its significance, however, goes beyond the systematic presentation of this topic: The example of law can shed light on problems that the literature is concerned with for long such as Spengler's relationship to his sources and the priority between his political and culture critical motives. The topic may, moreover, bring to focus the fruitful insights of Spengler's cultural morphology which deserve further reflection.

After a sketchy overview of Spengler's life-work, the paper elaborates the outlined themes mainly on the basis of Spengler's principal work, *The Decline of the West*, his dissertation on *Heraclitus* and his fragmentary metaphysical study bearing the title *Urfragen*. For the analysis of Spengler's conception of law it also uses the relevant chapter of his political pamphlet *Neubau des Deutschen Reiches*.

II. Methods applied during the research

The dissertation is based mostly on microanalysis of Spengler-texts enhanced by research on reception history and comparative studies.

With regard to the text analysis, the main difficulty – but also the main reason for an interpretative study – consisted in Spengler's scattered discussion of philosophical issues. The literature often points to the fact that Spengler did not elaborate the metaphysical foundations of his history of philosophy in necessary detail: Some philosophical problems are simply raised at the beginning of certain chapters of *The Decline of the West*, but, instead of solving them, the text proceeds to discuss how differently the problem was understood in each culture. It is often forgotten, however, that Spengler did provide a systematic presentation of his philosophy in *Urfragen*, which was in part written at the same time as the *Decline*, and that his mature philosophy was in many respects adumbrated in his dissertation about *Heraclitus*, which also focused on metaphysics. The paper tries to interpret the ideas expounded in these three works in the light of each other and to reveal both the constant and the changing elements of Spengler's philosophical convictions.

As the methodological principle of text analysis, we chose a hermeneutical approach in the by far not self-evident sense that philosophical statements should not be regarded as mere caprices of their authors but as answers to questions bothering them. For this reason the dissertation – in contrast to a major part of the Spengler-literature – refrains from classifying his system of thought simply as „irrational“, his epistemology as „intuitive“ or his conception of society as „romantic“. Instead of this, it tries to uncover the considerations prompting Spengler to reject rationalistic theories and to take account of the arguments he applied to underpin his solution. The paper of course tries to draw attention also to the shortcomings and discrepancies of Spengler's conception, however, it insists on performing this critical operation only after making all reasonable efforts to reconstruct the system.

With regard to the examination of intellectual influences the paper proceeds in a rather conservative manner: It acknowledges borrowing only from authors who were demonstrably

known by Spengler. This way the dissertation breaks with the harmful tradition of the literature that substituted the analysis of the substance of Spengler's thought for an inquiry into his "precursors" and drawing – often groundless – parallels of ideas with them. This does not mean, however, that the paper would omit to compare Spengler's views with similar ideas of the philosophical mainstream in order to clarify them and assign them their place in the history of philosophy.

III. Main findings of the research

A. Theses concerning Spengler's philosophy

1. Spengler thinks that the task of today's philosophy is the discussion of the problem of man and connects this to the historical scepticism characteristic to the Western civilisation. The raising of this problem makes Spengler's philosophy a universal anthropology consisting of two main parts: The first is a historical anthropology in the strict sense, which approaches the phenomenon of man from the relics of the forms of expression of cultures. The second is a philosophical anthropology dealing with the existential status of man and the place it occupies in nature; this was eventually included, too, in Spengler's late conception of history to be examined "from the beginnings". The foundations of this anthropological undertaking are laid down in Spengler's metaphysical expositions, the study of which can therefore contribute to a better understanding of his theory of culture.

2. Spengler's philosophy is in many respects related to Arthur Schopenhauer's. The most important one is the dualism characteristic to the theory of both of them, which divides the world into an essence in itself (the Will according to Schopenhauer, the Being according to Spengler) and into a phenomenal reality (Representation according to Schopenhauer, Wakefulness according to Spengler). Another important similarity is that both of them regard perception and understanding (the spatial and causal arranging of phenomena) as closely interconnected abilities that already animals are endowed with, whereas the distinctive feature of man is considered to consist in concept-building (which is linked by Spengler to the formation of word-language). The conceptual difference between their views lies in the treatment of time: While Schopenhauer regards time – besides space and causality – as a form of cognition, Spengler reckons it to belong to the being in itself. This change can probably be traced back to the influence of vitalistic currents of this period, most notably, if indirectly, of

the work of Henri Bergson, which repeatedly criticized the Kantian notion of time. In any case, Spengler constructs his whole dualistic system on the juxtaposition of time and space, fate and causality.

3. The key concept of Spengler's epistemology is "wakefulness" (*Wachsein*), which he introduced in the spirit of breaking with the traditional concept of "consciousness" established by German Idealism. Wakefulness describes the original world-experience, in which Proper and Alien, the Self and the World inseparably interweave. In this sense the concept fits into the 20th century process of the deconstruction of the subject, and adumbrates Heidegger's term of "in-the-world-being" (*In-der-Welt-sein*). A parallel can be drawn with Husserl's phenomenology, too: Spengler puts the question of the objectivity of the world into brackets and turns his attention to the phenomena directly accessible from the state of wakefulness. In the course of this he also takes account of the problem of intentionality: He is aware of the fact that elements of reality always appear in the mind *as* something, i.e. invested with a meaning attributed to them by the Self. In contrast to Husserl, however, he denies that this intentional meaning could be detached from the phenomenon or, in other words, that the subjective and objective components of reality could be separated from each other. In order to shed light on the human condition, one has to take stock of the forms of the world directly as given in the state of wakefulness.

4. From the unified structure of wakefulness follows the rejection of systematic approaches by Spengler. Since reality consists of the Self and the World inextricably interwoven with each other, it is a vain effort to try to reduce it to a single entity. This is, however, just what systematic theories criticised by Spengler do: Materialism tries to trace back reality to supposed basic elements of the objective world deemed independent from the self, while transcendental idealism – inversely – to mental structures of the self deemed independent from the objective world. In Spengler's view, however, neither of these endeavours is able to break away from the inseparable unity of wakefulness, and both are therefore condemned to reproduce the world view they wanted to transcend on a more abstract level. This insight of Spengler's is in accordance with the view of many exponents of the philosophy of science in the 20th century.

5. In contrast to systematic theories analysing reality into pieces, the physisiognomic method applied by Spengler starts from the assumption that the visible form of a phenomenon bears

marks of the idea underlying it. In this respect his inspirer was Goethe's morphology. The term of "prime phenomenon", which means the ultimate type of a given form of reality, derives from Goethe, too. The idea underlying a culture as "prime phenomenon" is called by Spengler a "prime symbol". In effect, Spengler undertakes to unfold, by means of intellectual observation, the typical forms inherent in human phenomena and thereby lay down the foundations of a cultural morphology.

6. It is the conception of the world as continuous "becoming" (*das Werden*) which lies at the heart of Spengler's metaphysics. This conviction, stemming from Heraclitus, means on the one hand that the "primordial phenomenon" is not a tangible substance but a process in continuous change. On the other hand, the thesis involves the reality as given in the state of wakefulness being in ceaseless movement. Spengler's view of history as an endlessly and aimlessly streaming flow corresponds to this notion. It was the empirical fact of some permanence in the world which prompted Spengler to introduce the opposite concept of "the thing-become" (*das Gewordene*), which he identifies with extendedness and so links to space and causality, the forms of cognition of tense wakefulness. Spengler differentiates between two world views, the historic and the naturalistic, by considering whether they are dominated by the "becoming" or the "thing-become". He makes it clear, however, that the historic world view is to be regarded as primary or, what is more, as a universally valid *a priori* that is the same for everybody. The world as dead and stiff nature is, by contrast, a manifestation of the culture examining it as mere object.

7. By considering the naturalistic world view an artificial construct Spengler actually denies that things-become forming its basic elements could play a constitutive role in the structure of reality. Since the most important attribute of the thing-become is not materiality but extendedness, this exclusion applies to circumscribed concepts as mental substances as well. According to the paper this is the ultimate source of *The Decline of the West* devaluing abstract ideals, rejecting inter-cultural influences and neglecting the analysis of "intellectual structures" of the society. Even Spengler's anti-liberalism may be traced back to this rejection of the reality-shaping capacity of ideals along with the space as such where these ideals could have an effect.

8. The excursus concerning the metaphysical foundations of anti-liberal social theories argues that Károly Polányi's critique of Othmar Spann can be reformulated using Philip Pettit's social

philosophical matrix. Pettit proposes that, besides the opposite concepts of individualism and collectivism, which refer to the vertical relationship of the individual towards the community, a further differentiation should be made between atomism and holism characterizing the horizontal relationship of the individual towards his fellows. Spann tried to refute individualism by showing the indispensability of interpersonal relations for the mental integrity of the individual; the social theory arising from this notion, however, turned out to be an alienated system of impersonal objectifications. The cause of this becomes clear once Pettit's categories are applied: Spann, in fact, rejected only atomistic individualism in the name of holistic individualism, which he, in turn, could only understand as collectivism.

9. It is the form that organizes the flow of “becoming” into an intelligible totality in Spengler's view. Contrary to transcendent forces of causality, God or a final end, the form means an immanent ordering principle of the world. The form shapes reality in two ways: On the one hand as the internal structure of a particular phenomenon, on the other hand as the external relationship of different phenomena between each other. In the first aspect the form means the idea that organizes the substance into a unity and determines the development of the phenomenon taking shape. It is in this Aristotelian sense that Spengler speaks of the form of an organism such as a plant, a people or a culture. The second aspect of form means the configuration of reality that has evolved in the struggle fought by ideas of form for prevalence in shaping the world around them. What Spengler calls fate is, in fact, the unpredictable, causally inexplicable and yet necessary result of this fight between different ideas of form.

B. Theses concerning Spengler's conception of law

10. Spengler's ideas about law deserve our attention in three respects: In the context of his social theory, philosophy of history and cultural theory. In terms of social theory the law is regarded as the wilful form of a current of being, which regulates its functioning according to the values of the ruling estate. Spengler points out an important difference, however, between the law laid down by an estate placing its own interests above the whole community (*themis*) and those passed by an estate with a sense of duty for the protection of the common good (*diké*). This distinction shows that Spengler allowed also considerations of justice, besides power and strength, to play some role in his concept of law.

11. In terms of philosophy of history the paper highlights the phase lag peculiar to the development of law within the life cycle of cultures: It is namely not before the age of civilization, that is, decline, that a mature jurisprudence comes into existence. This suggests that Spengler's philosophical conception of history is more complex than it is generally accepted. Finally, in the field of cultural philosophy the law has particular importance because Spengler wishes to refer to it as an evidence of one of his main theses, the impossibility of a substantial borrowing of one culture from another. For this purpose, Spengler – implicitly – applies one of his grand conceptions, that of the so-called pseudomorphosis, to legal history and contends that it was merely the form of Roman law that was adopted by later legal systems – belonging to the Arab and Western cultures –, and the legal substance they were to fill into this framework corresponded to their own world attitude.

12. The dissertation takes account of the relationship between Spengler and the German school of historical jurisprudence paying particular attention to the parallel of Savigny and Spengler often mentioned in the literature. Their main difference is established in the fact that Savigny's "public mind" (*Volksgeist*) represents a rationality stemming from practical demands of the society, whereas Spengler's cultural soul subordinates the life conditions of the whole society to an existentialistic "prime symbol". The paper demonstrates, however, that Spengler in many respects relied on the findings of the school of historical jurisprudence in establishing his cultural morphological interpretation of legal history: The notion of the Faustian law was based on the critique of the Germanist wing of the school concerning the reception of Roman law in Germany, whereas the notion of the Magian law was inspired by the research into hellenistic influences in late classical Roman law, which was becoming lively around the turn of the century.

13. The dissertation performs a detailed analysis of Spengler's vision of legal history along the formal and substantial characteristics which – arising from the prime symbol underlying the culture in question – determined the Antique, the Magian and the Faustian law. In the case of antique law the formal characteristic consisted in its being bounded to the moment, the substantial one in its conceiving of legal relations as static connections of physical things. The formal characteristic of Magian law can be seen in the mystical interpretation of legal texts, which – in the absence of a substantial feature – enabled their adjusting the bequeathed Roman legal material to their own Magian world attitude. The Faustian law was unable to breathe a similarly adequate life into the inherited *corpus* of the *Pandects* exactly because its

formal and substantial features conflicted with each other in this regard. While the aspiration to universality as formal characteristic encouraged the study of Roman law as *ratio scripta*, the dynamic conception of the substance of legal relations, which considered them connections of creative capacities with their objectives and means, ran counter to it.

14. The dissertation renders an account of the levels of Spengler's critique of the Roman law and – beyond the “free-law” objections pointing to its aloofness – discerns two main components in it, directed against the Byzantine and Roman elements of pandectistic. In the critique of the Byzantine element Spengler follows the Germanists pretty closely and specifies the main problem of the Pandects in the servile and passive attitude codified in them, which cannot be reconciled with the German ethos of freedom and sense of duty. With regard to the “Roman”, that is, original antique components, however, his estimation is very different from that of the Germanists. While they discovered some analogies of the German freedom in ancient Roman law, Spengler highlighted its particularly Apollonian characteristics, first of all, its focus on corporeality, which severely conflicts with the Western functional view. The sharp contrast can be made clear by saying that, while the Germanists – lead by Gierke – criticized the Pandectistic mainly on social grounds as being too individualistic, Spengler – motivated by cultural philosophical considerations – regarded it precisely as an obstacle to wealth-creating capitalistic enterprises.

15. Spengler's dynamic conception of law, which is to replace the pandectistic, would, in effect, require a legal dogmatics which focuses on capacities and accomplishments instead of physical persons and corporeal things. According to the dissertation, intellectual property law would form the central part of private law in this new dogmatics. Besides the organizing ability of the entrepreneur and the technical competence of the engineer, Spengler emphasises in this respect also the labour force of the worker, which the worker disposes of. Since the acknowledgement of the right to strike, which follows from this, can hardly be regarded as a conservative view, it may serve as a further evidence of the fact that Spengler's scholarly work is dominated by considerations of cultural theory, and not by politics.

16. Generally, Spengler's ideas about law has made little impact. His most thorough reviewer was a practising judge, Alfred Müller, who did not only contribute in his article to the substantial contrast between Antique and Western law, but also pointed out that the difference between the static and dynamic conceptions of law ultimately lies in their contrasting

structure of legal regulation: While antique law was based on obligations laid down in an objective legal norm, Western law has the subjective right at its core. This insight connects Spengler's theory with relevant researches in this field carried out by such authorities of legal history and the history of ideas as Richard Tuck and Michel Villey.

IV. Published or forthcoming publications of the author in the field of the dissertation

„Das Recht als Form und Symbol”, in *Tektonik der Systeme. Neulektüren von Oswald Spengler* (Hrsg. von Bart Philipsen, Sientje Maes und Arne De Winde). Heidelberg: Synchron – Wissenschaftsverlag der Autoren, 2011. (Approx. 14 pages, forthcoming.)

„A Pirenne-tézis mint minden tradicionalizmus cáfolata”, in *Debreceni Disputa*, 2009/2. pp. 52–55.

„Spengler és a Nyugat funkcionális joga (Út egy másik formális racionalitásba?)”, in *Jogelméleti Szemle*, 2005/2. <http://jesz.ajk.elte.hu/novak22.html> (Electronic publication, approx. 50 pages.)

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„A nemzeti partikularitás politikai gazdaságtana”, in *Vulgo*, 2005/1-2. pp. 382–388.

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V. Further publications of the author

A. Studies

„A Balassi Bálint Gimnázium története a kezdetektől 1920-ig”, in *A Balassi Bálint Gimnázium centenáriumi évkönyve*. Balassagyarmat, 2000. pp. 10–25.

„Huszár Aladár élete”, in *Balassagyarmati Honismereti Híradó*, 1995/1-2. pp. 77–110.

B. Critiques

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A longer version with the title „Globális kormányzás, globális gazdaság – ahogy a spanyol későskolasztika látta” was published in *Jogelméleti Szemle* 2006/3. (<http://jesz.ajk.elte.hu/novak27.html>)

„Nulladik út” (on Bogár László: Magyarország és a globalizáció). *Debreceni Disputa*, 2004/2. pp. 48–50.

„Hamvas a fősodorban” (on Thiel Katalin: Maszkjáték). *Vulgo*, 2003/2. pp. 179–185.

C. Essays

„Az Ahtisaari-terv és alternatívái (Miért nem lett volna szabad elismernie Magyarországnak Koszovó függetlenségét?)”, in *Grotius*, January 2008, <http://www.grotius.hu/publ/displ.asp?id=WIIVFJ>. (Electronic publication, approx. 15 pages.)

„Achilleus világa (W. Petersen *Trójája* és a források)”, in *Debreceni Disputa*, 2004/10. pp. 69–75.

„Pacifisták, fegyverbe!” in *Kapu*, 2003/6-7. pp. 17–19.

D. Lectures („Title of the lecture”. *Title of conference*. Date and place of conference.)

„Das Recht als Form und Symbol.” *Tektonik der Systeme. Neulektüren von Oswald Spengler*. December 2009, Katholieke Universiteit Leuven, Belgium.

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May 2005, Debrecen, MTA Vulgo Kutatócsoport, DE Filozófia Intézet.