# 1AC- The Form of the Formless

#### Looking and yet not seeing it

#### We thus call it “elusive.”

#### Listening and yet not hearing it

#### We thus call it “inaudible.”

#### Groping and yet not getting it

#### We thus call it “intangible.”

#### Because in sight, sound, and touch it is beyond determination

#### We construe it as inseparably one.

#### As for this “one”—

#### Its surface is not dazzling

#### Nor is its underside dark.

#### Ever so tangled, it defies discrimination

#### And reverts again to indeterminacy. This is what is called the form of the formless And the image of indeterminacy. This is what is called the vague and the indefinite.

#### Following behind you will not see its rear; Encountering it you will not see its head.

#### Hold tightly onto way-making in the present To manage what is happening right now And to understand where it began in the distant past.

#### …

* Laozi, Roger Ames, and David Hall (Laozi was the first old master of Daoist philosophy, Ames is a Canadian philosopher at the University of Peking. Hall was a professor of philosophy at the University of Texas), 2010, “Daodejing: Making this Life Significant,” Ballantine Books, I have a pdf, r0w@n

#### Space is just another victim of temporal staticizing reification-–outdated desire structures get replaced and the world keeps moving on– gotta change your argument or you’ll lose the uniqueness debate

Andrea Rinaldi, 16, Research in space: in search of meaning: Life science research aboard the International Space Station has come under scrutiny for its costs and apparent lack of returns, PubMed Central (PMC), 7/11/16, DOA: 12-14-2021, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4967952/, r0w@n

Humans have been going into space for a number of reasons: to “beat the other side” during the Cold War, out of curiosity, to make the first tentative steps into the great beyond or simply “because it's there”. Yet, to justify continued or even a permanent presence of humans in space now requires better arguments: the aggressive space programmes by China and India, for instance, serve to demonstrate their advanced financial, technological and organizational capacity and international prestige. Private companies are now exploring ways to get humans off the planet for commercial reasons and the military has always had a long‐standing interest in heaving material and humans into orbit. … scientific research was put forward as a major argument for establishing a permanent presence of humans in space… When the first components of the International Space Station (ISS) were launched into orbit in 1998, scientific research was put forward as a major argument for establishing a permanent presence of humans in space; the ISS was soon expanded with several laboratory modules to conduct a wide range of experiments in microgravity (Fig ​(Fig1).1). However, at a time of prolonged financial and political crisis, the future of science in space is uncertain. Intangibles such as “inspirational value” and “motivation for educational excellence” are no longer sufficient to spur significant investments if the results from the ISS laboratories are neither scientifically relevant nor applicable to use on Earth. The US administration has recently proposed to extend ISS operations until 2024, but given the current strained relations with Russia—which plays a vital role in transporting astronauts and materials to and from the ISS through its Soyuz capsules—even access is getting precarious. In the light of these and other problems, research in space needs to refocus its aims and rethink its role. Figure 1 International Space Station First launched in 1998, and continuously inhabited since November 2000, ISS is a joint project among five participating space agencies: NASA, ESA, Canadian Space Agency, Russian Federal Space Agency (Roscosmos) and Japan Aerospace eXploration Agency (JAXA). Credit: ESA.

#### Desire creates its image, look at the shiny rock that we got on the cheap– it’s an inevitable manifestation of our concentrations

Matt Weinzierl, 21, The Commercial Space Age Is Here, Harvard Business Review, 2-12-2021, DOA: 12-14-2021, https://hbr.org/2021/02/the-commercial-space-age-is-here, r0w@n

There’s no shortage of hype surrounding the commercial space industry. But while tech leaders promise us moon bases and settlements on Mars, the space economy has thus far remained distinctly local — at least in a cosmic sense. Last year, however, we crossed an important threshold: For the first time in human history, humans accessed space via a vehicle built and owned not by any government, but by a private corporation with its sights set on affordable space settlement. It was the first significant step towards building an economy both in space and for space. The implications — for business, policy, and society at large — are hard to overstate. In 2019, 95% of the estimated $366 billion in revenue earned in the space sector was from the space-for-earth economy: that is, goods or services produced in space for use on earth. The space-for-earth economy includes telecommunications and internet infrastructure, earth observation capabilities, national security satellites, and more. This economy is booming, and though research shows that it faces the challenges of overcrowding and monopolization that tend to arise whenever companies compete for a scarce natural resource, projections for its future are optimistic. Decreasing costs for launch and space hardware in general have enticed new entrants into this market, and companies in a variety of industries have already begun leveraging satellite technology and access to space to drive innovation and efficiency in their earthbound products and services. In contrast, the space-for-space economy — that is, goods and services produced in space for use in space, such as mining the Moon or asteroids for material with which to construct in-space habitats or supply refueling depots — has struggled to get off the ground. As far back as the 1970s, research commissioned by NASA predicted the rise of a space-based economy that would supply the demands of hundreds, thousands, even millions of humans living in space, dwarfing the space-for-earth economy (and, eventually, the entire terrestrial economy as well). The realization of such a vision would change how all of us do business, live our lives, and govern our societies — but to date, we’ve never even had more than 13 people in space at one time, leaving that dream as little more than science fiction. Today, however, there is reason to think that we may finally be reaching the first stages of a true space-for-space economy. SpaceX’s recent achievements (in cooperation with NASA), as well as upcoming efforts by Boeing, Blue Origin, and Virgin Galactic to put people in space sustainably and at scale, mark the opening of a new chapter of spaceflight led by private firms. These firms have both the intention and capability to bring private citizens to space as passengers, tourists, and — eventually — settlers, opening the door for businesses to start meeting the demand those people create over the next several decades with an array of space-for-space goods and services. Welcome to the (Commercial) Space Age In our recent research, we examined how the model of centralized, government-directed human space activity born in the 1960s has, over the last two decades, made way for a new model, in which public initiatives in space increasingly share the stage with private priorities. Centralized, government-led space programs will inevitably focus on space-for-earth activities that are in the public interest, such as national security, basic science, and national pride. This is only natural, as expenditures for these programs must be justified by demonstrating benefits for citizens — and the citizens these governments represent are (nearly) all on earth. In contrast to governments, the private sector is eager to put people in space to pursue their own personal interests, not the state’s — and then supply the demand they create. This is the vision driving SpaceX, which in its first twenty years has entirely upended the rocket launch industry, securing 60% of the global commercial launch market and building ever-larger spacecraft designed to ferry passengers not just to the International Space Station (ISS), but also to its own promised settlement on Mars. Today, the space-for-space market is limited to supplying the people who are already in space: that is, the handful of astronauts employed by NASA and other government programs. While SpaceX has grand visions of supporting large numbers of private space travelers, their current space-for-space activities have all been in response to demand from government customers (i.e., NASA). But as decreasing launch costs enable companies like SpaceX to leverage economies of scale and put more people into space, growing private sector demand (that is, tourists and settlers, rather than government employees) could turn these proof-of-concept initiatives into a sustainable, large-scale industry. This model — of selling to NASA with the hopes of eventually creating and expanding into a larger private market — is exemplified by SpaceX, but the company is by no means the only player taking this approach. For instance, while SpaceX is focused on space-for-space transportation, another key component of this burgeoning industry will be manufacturing. Made In Space, Inc. has been at the forefront of manufacturing “in space, for space” since 2014, when it 3D-printed a wrench onboard the ISS. Today, the company is exploring other products, such as high-quality fiber-optic cable, that terrestrial customers may be willing to pay to have manufactured in zero-gravity. But the company also recently received a $74 million contract to 3D-print large metal beams in space for use on NASA spacecraft, and future private sector spacecraft will certainly have similar manufacturing needs which Made In Space hopes to be well-positioned to fulfill. Just as SpaceX has begun by supplying NASA but hopes to eventually serve a much larger, private-sector market, Made In Space’s current work with NASA could be the first step along a path towards supporting a variety of private-sector manufacturing applications for which the costs of manufacturing on earth and transporting into space would be prohibitive. Another major area of space-for-space investment is in building and operating space infrastructure such as habitats, laboratories, and factories. Axiom Space, a current leader in this field, recently announced that it would be flying the “first fully private commercial mission to space” in 2022 onboard SpaceX’s Crew Dragon Capsule. Axiom was also awarded a contract for exclusive access to a module of the ISS, facilitating its plans to develop modules for commercial activity on the station (and eventually, beyond it). This infrastructure is likely to spur investment in a wide array of complementary services to supply the demand of the people living and working within it. For example, in February 2020, Maxar Technologies was awarded a $142 million contract from NASA to develop a robotic construction tool that would be assembled in space for use on low-Earth orbit spacecraft. Private sector spacecraft or settlements will no doubt have need for a variety of similar construction and repair tools. And of course, the private sector isn’t just about industrial products. Creature comforts also promise to be an area of rapid growth, as companies endeavor to support the human side of life in the harsh environment of space. In 2015, for example, Argotec and Lavazza collaborated to build an espresso machine that could function in the zero-gravity environment of the ISS, delivering a bit of everyday luxury to the crew. To be sure, people have dreamt of using the vacuum and weightlessness of space to source or make things that cannot be made on earth for half a century, and time and again the business case has failed to pan out. Skepticism is natural. Those failures, however, have been in space-for-earth applications. For example, two startups of the 2010s, Planetary Resources, Inc. and Deep Space Industries, recognized the potential of space mining early on. For both companies, however, the lack of a space-for-space economy meant that their near-term survival depended on selling mined material — precious metals or rare elements — to earthbound customers. When it became clear that demand was insufficient to justify the high costs, funding dried up, and both companies pivoted to other ventures. These were failures of space-for-earth business models — but the demand for in-space mining of raw building material, metals, and water will be enormous once humans are living in space (and are therefore far cheaper to supply). In other words, when people are living and working in space, we are likely to look back on these early asteroid mining companies less as failures and more as simply ahead of their time.

#### It’s a global phenomenon– the desire overwhelms borders, cultures, law, and institutions alike– all hail to the almighty desire

Caroline Haskins, 18, Private space companies no longer have to follow the law, Outline, 5/8/18, DOA: 12-14-2021, https://theoutline.com/post/4469/outer-space-treaty-commerce-free-enterprise-bill-spacex-blue-origin-boeing-lockheed-martin, r0w@n

The Space Commerce Free Enterprise Bill, which passed the House of Representatives yesterday, works off the Outer Space Treaty, which the United States and dozens of other countries signed in 1967 and serves as a basic framework for keeping space safe and accessible for every country. Countries can’t own property on behalf of their own nation, and they’re liable for any private activity from their country. But the U.S.’s new bill won’t apply every part of the Outer Space Treaty to private companies. In other words, the U.S. doesn’t believe that it’s liable for activities of private space companies like SpaceX or Blue Origin. The bill also bundles almost all space mission approvals under one roof, the Office of Space Commerce, to try and encourage as many companies as possible to launch objects into space. The office would be in charge of everything from a theoretical asteroid mining industry to private space stations, which have been proposed as tourist attractions by companies like Blue Origin. So it’s likely that other countries, um, won’t exactly be thrilled about the U.S. disregarding the first major peacemaking treaty for activity in outer space. According to an email to The Outline, Mike Listner, the founder of the private space policy consulting firm Space Law & Policy Solutions, other countries may also be tempted to have a similar disregard for the rules. “The method used by the bill to permit private space activities could create some unfavorable interpretation of international law—and set a bad example for other nations who are enacting private space activities,” Listner said. It’s also not clear that the Office of Commercial Space would have strict guidelines in place for enforcing the Outer Space Treaty for private companies. The treaty also states that countries can’t launch or test “nuclear weapons” or “weapons of mass destruction.” Companies only need to say they don’t plan on bringing or using a nuclear weapon or weapon of mass destruction in space, and there are no guidelines in place for evaluating these claims. Military companies like Boeing are already looking to expand into space, and Trump has expressed interest in a “Space Force.” It seems less likely than ever that the U.S. respects the idea of space as a war-free commons. “The main criticism I have of the Bill is that [its regulation] is about as ‘light touch’ as you could possibly get, almost to the point of being ‘no touch,’” Brian Weeden, the Director of Program Planning for Secure World Foundation, told The Outline in an email. Weeden said that the State Department should probably be assessing whether a company really has peaceful intentions or not. Instead, the responsibility falls under the Office of Space Commerce, which is under the Department of Commerce—a government agency with a reputation for having a lax stance toward regulation. But Weeden said that the Office of Commercial Space is incredibly small: just 8 people work there. And although the Act proposes a big funding increase—from $2 million annually to $5 million—it’s unclear if the office will have the resources to keep up with the influx of applications that the Trump administration is explicitly encouraging. “[The bill] doesn't really address the resources that will be necessary for Commerce to properly do this new job,” Weeden said. Screengrab of a mockup of the Axiom Commercial Space Station. Axiom Space Still, private companies will probably love this bill. Weeden said that placing most approvals under one roof will make it easier for these companies to figure out how to get their missions approved. And theoretically, the success of private space companies could help the U.S. economy. According to Brendan Cunningham, an assistant professor of economics for Eastern Connecticut State University who has written about commercial space, it’s also important to consider that in order for the U.S. economy to actually benefit from commercial space activity, we’d have to use space efficiently. But Cunningham said in an email that the bill fails to consider efficiency at all. “Commons resources are susceptible to overuse and degradation—one example is overfishing,” Cunningham said in an email to The Outline. “Hazardous debris environment and the risk of [space trash collisions] indicate that space is succumbing to this pattern.” It’s not exactly surprising that the U.S. is moving toward deregulating outer space—a de facto arena for soft nationalistic power. Space offers a way to acquire information (like weather, GPS, or national security data) or practice ownership over some small slice of valuable space real estate. Basically, whether it’s military satellites or private space tourism, anything that the U.S. launches into space has value, and the country has made it clear that these corporate interests take priority over the idea that outer space should serve as a commons for all of humanity. And the U.S. is far from alone in this incentive. Australia just created its first space agency, whose explicit goal is to promote private companies. The UK is investing tremendous resources toward growing its domestic space program since the Brexit vote (with limited success). France, Japan, Russia, and China also want in.

#### Thus the role of the ballot is to vote for the team that has the best relationality to deferential politics, where we can live within productive desires and within the flow of the universe

#### That means it’s wu-wei time

Ames and Hall 10. Roger Ames and David Hall (Ames is a Canadian philosopher at the University of Peking. Hall was a professor of philosophy at the University of Texas), 2010, “Daodejing: Making this Life Significant,” Ballantine Books, I have a pdf, r0w@n

The compilers of the Daodejing seek rather explicitly to develop a contrast between the glimpses of insight this text strives to impart, and the substance of other philosophical doctrines. Many if not most doctrines evolve with their antecedents in an elaborate genealogy of values and ideas. These philosophical doctrines are often hierarchically structured by precepts and governing principles, and they may well require an extended course of study for their mastery and transmission. The precepts that inform these “doctrines” are professionalized by their learned “doctors,” and within their marble academies these erudites—for appropriate status and recompense— are only too glad to amaze the hoi poloi with the ashing dexterity of their philosophic thrusts and parries. What the Daodejing has to offer, on the other hand, is much simpler. It encourages the cultivation of a disposition that is captured in what we have chosen to call its wu-forms. The wu-forms free up the energy required to sustain the abstract cognitive and moral sensibilities of technical philosophy, allowing this energy, now unmediated by concepts, theories, and contrived moral precepts, to be expressed as those concrete feelings that inspire the ordinary business of the day. It is through these concrete feelings that one is able to know the world and to optimize the human experience. The abstraction of the concrete ethical dimension of such felt knowing into a formal moralist vocabulary is rehearsed in chapter 38 of the Daodejing: Thus, only when we have lost sight of way-making is there excellence, Only when we have lost sight of excellence is there authoritative conduct, Only when we have lost sight of authoritative conduct is there appropriateness, And only when we have lost sight of appropriateness is there ritual propriety. As for ritual propriety, it is the thinnest veneer of doing one’s best and making good on one’s word, And it is the first sign of trouble. “Foreknowledge” is tinsel decorating the way, And is the first sign of ignorance. It is for this reason that persons of consequence: Set store by the substance rather than the veneer And by the fruit rather than the flower. Hence, eschewing one they take the other. The moral precepts described in the first two stanzas emerge as objects of reverence, but as hallowed as they might become, they are anemic when compared to the love and life of concrete, spontaneous feelings. It is the “substance” and the “fruit”—the passionate experience of life itself—rather than a catechism of bloodless ethical principles, that is the real site of knowing. Such felt knowing is an ongoing process of focal and field awareness—of way-making—that can only be sustained with indefatigable resolution. Indeed, it is not an easy business to stay focused. Even though the Daodejing’s teachings on how to cultivate the most effective disposition for making one’s way in the world could not be put in more straightforward terms, still “when the very best scholars learn of way-making they are just barely able to keep to its center” (chapter 41). Were we to search for something like a central insight that defines the Daoist sensibility, we might discover that a “single thread” pervades the text. The central focus of the Daoist way of thinking is the decisive role of deference in the establishment and preservation of relationships. As we have said above, integrity in a processual worldview is not being one, but becoming one in the consummatory relationships that one is able to achieve within a context of environing particulars. Deference involves a yielding (and being yielded to) grounded in an acknowledgment of the shared excellence of particular foci (de) in the process of one’s own self- cultivation. Deferential acts require that one put oneself literally in the place of the other, and in so doing, incorporate what was the object of deference into what is one’s own developing disposition. And one’s own disposition thus fortified becomes available as a locus of deference for others. In Confucianism, self is determined by sustained effort (zbong page50image65796320) in deferential transactions (shu page50image65788832) guided by ritually structured roles and relations (li page50image65786128) that project one’s person outward into society and into culture. Such a person becomes a focus of the community’s deference (junzi page50image65783840) and a source of its spirituality (shen ). Daoism, on the other hand, expresses its deferential activity through what we are calling the wu-forms. The three most familiar articulations of this pervasive sensibility are: wuwei page50image65857072, wuzhi page50image65845888, and wuyu page50image65634304. These are, respectively, noncoercive actions in accordance with the de (“particular focus”) of things; a sort of knowing without resort to rules or principles; and desiring which does not seek to possess or control its “object.” In each of these instances, as in the case of Confucian shu, it is necessary to put oneself in the place of what is to be acted in accordance with, what is to be known, or what is to be desired, and thus incorporate this perspective into one’s own disposition. Our chief aim here is to demonstrate how this explicitly Daoist understanding of deferential activity presupposes a focus-field model of self. Given our discussion of the inseparability of feeling and thinking —the affective and the cognitive—in the Daoist heart-and-mind (xin), the conflict associated with the self that the Daoist sage must overcome cannot be a struggle among some compartmentalized rational, appetitive, and emotional faculties. Indeed, given the relational and unpartitioned model of the self characterized by xin, it is dicult to imagine how there could be anything like an internal dynamics that would be a source of agitation. It is unlikely that we would nd Hamlets or St. Pauls prominent among the Daoists. If the problematic of unrealized selfhood does not entail a self divided against itself, what is the source and the nature of the disturbance that the cultivation of the Daoist disposition is meant to overcome? If it is not referenced primarily within an individuating soul, it can only be a disturbance in the relationships that constitute the context of self-consummation. Said another way, if a person is page50image65634512 not in fact constituted by some essential, partitioned “soul,” but is rather seen as dynamic pattern of personal, social, and natural relationships, agitation must arise as a consequence of poor management of these constitutive roles and relationships. Hence, agitation in the heart-and-mind is not narrowly “psychological,” but is more accurately conceived of as of broad ethical concern: How should we act and what should we do? To summarize the three most prominent examples of the wu-forms that we have discussed in more detail elsewhere,20 wuwei page51image65652976, often translated (unfortunately) as “no action” or “non-action,” really involves the absence of any course of action that interferes with the particular focus (de page51image65653184) of those things contained within one’s field of influence. Actions uncompromised by stored knowledge or ingrained habits are relatively unmediated: they are accommodating and spontaneous. As such, these actions are the result of deferential responses to the item or the event in accordance with which, or in relation to which, one is acting. These actions are ziran page51image65653392, “spontaneous” and “self-so-ing,” and as such, are nonassertive actions. It is not through an internal struggle of reason against the passions but through “acuity (ming page51image65653600)”—a mirroring of the things of the world as they are in their interdependent relations with us—that we reach a state in which nothing among all of the myriad of “the goings on” in the world will be able to agitate our hearts-and-minds, and we are able to promote the flourishing of our world. In other words, we defer in attaining integrity with those things that contextualize us, establishing a frictionless equilibrium with them. And it is this state of achieved equilibrium that is precisely the relationship most conducive to symbiotic growth and productivity. The Daoist sages in Zhuangzi are described in such terms: The stillness of the sages is not simply a matter of their saying: “Stillness is good!” and hence they are still. Rather, they are still because none of the myriad things are able to agitate their hearts-and-mind. When water is still, it illuminates one’s whiskers and eyebrows, and in its placidity, it provides a standard so that skilled artisans can take their measure from it. If the stillness of water provides illumination, how much more so one’s spirit. The stillness of the heart-and-mind of the sage makes it mirror to the whole world and the looking glass for all of the myriad things.21 The notion of jing page52image65681008—stillness, tranquillity—that is often used to characterize this posture, far from being simple passivity, is an ongoing, dynamic achievement of equilibrium that requires constant monitoring and adjustment. It is important to remember that all correlative pairs entail their opposites in the sense that jing is “tranquillity-becoming-agitated.” Thus, tranquillity (jing) stands in a dominant relationship in its partnership with agitation (dong page52image65681216); it does not negate or exclude its opposite. The same qualification has to be brought to bear on other familiar pairs that might otherwise mislead us: for example, emptiness (xu page52image65681424) and fullness (shi page52image65681632), and clarity (qing ) and turbidity (zhuo page52image65681840). Wuzhi , often translated as “no-knowledge,” actually means the absence of a certain kind of knowledge—the kind of knowledge that is dependent upon ontological presence: that is, the assumption that there is some unchanging reality behind appearance. Knowledge grounded in a denial of ontological presence involves “acosmotic” thinking: the type of thinking that does not presuppose a single-ordered (“One behind the many”) world, and its intellectual accoutrements. It is, therefore, unprincipled knowing. Such knowing does not appeal to rules or principles determining the existence, the meaning, or the activity of a phenomenon. Wuzhi provides one with a sense of the de of a thing— its particular uniqueness and focus— rather than yielding an understanding of that thing in relation to some concept or natural kind or universal. Ultimately, wuzhi is a grasp of the daode page52image65682048relationship of each encountered item that permits an understanding of this particular focus (de) and the eld that it construes. Knowledge, as unprincipled knowing, is the acceptance of the world on its own terms without recourse to rules of discrimination that separate one sort of thing from another. Rules of thumb, habits of mind and action, established customs, fixed standards, received

#### Thus the plan: Private entities should declare their appropriation of outer space unjust by adopting a deterritorialized form of possession and a nomadic property model in outer space to create a space commons, where Daoist models of creativity and ownership can thrive.

Bruncevic 15, Merima Bruncevic, We Need to Talk About the Cultural Commons: Some

Musings on Rhizomatic Jurisprudence and Access to Art, DOA: 10/5/21, xx/xx/15, (Merima Bruncevic, LLD is a writer, researcher and senior Lecturer in Legal Philosophy and Intellectual Property Law at the Department of Law, School of Business, Economics and Law, University of Gothenburg. She earned an LLD in Jurisprudence from the University of Gothenburg in June 2014 and an LLM in Entertainment Law from University of Westminster, London in 2005. She is based in Gothenburg, Sweden, but has previously studied, lived and worked in London, UK for over six years. She has also worked as a researcher at Universita Degli Studi Roma Tre in Rome, Italy.), I have a pdf, r0w@n

The core idea of the rhizome theory in law may be that it appears to be able to transcend these, admittedly false, dichotomies between e.g. public and private, open and closed, as it is stressing not the hostile opposites, but rather interlinkage, the and... and... and... (Deleuze&Guattari 2011: 27) and the potential of constructing legal concepts based on alliances rather than oppositions. Which means that a cultural commons as a concept can be formulated legally, with e.g. some inspiration from the Scandinavian allemansrätten. In this manner, as we shall see shortly, the principles of the rhizome do not dissolve but rather resolve the dichotomies so that a constellation based concept can be formulated legally, one that can tend to several different interests at the same time. Therefore, jurisprudence may have rhizomatic qualities. The concept of allemansrätten is a prefect example of the rhizomatics of law, where the idea of the public and the private can co-exist and not necessarily form a hostile opposite. The concept of the cultural commons can thus be moved away from the prisoner’s dilemma setting, from the tragedy of the commons, from being understood as paradoxical in terms of the private and public, or as only belonging to the extra-legal, political, sociological, or economical realms. The rhizome theory attracts legal attention as it disrupts the need for a distinction between Merima Bruncevic 123 an inside and an outside of law, of describing public and private as each other’s opposites, and it provides a legal alternative beyond the notion of ownership and access as each other’s antitheses. The cultural commons and the Deleuzeoguattarian forms of possession The models of possession developed by Deleuze and Guattari, within the setting of the rhizomatic theory, can potentially handle a concept that is a constellation of private and public. These two models of possession are the sedentary model and the nomadic model respectively. Deleuze and Guattari distinguish the two forms of possession by claiming that the first is territorialised (i.e. within a known economical form of production and within a territorially defined legal order) and that the second is deterritorialised (i.e. the one that emerges from new modes of production, with e.g. new technology, new laws, new forms of management, the one that cannot instantly be recognised by any one readymade economical or legal principle only). The sedentary model is for instance dependent of stable forms of regulation, of defined territories and jurisdictions. This sedentary model presupposes enclosure or exclusivity; in order to possess material property the object has to be enclosed and governed by individual property rights. If the object of possession is immaterial it has to be enclosed conceptually by e.g. individual rights and exclusivity principles, for instance intellectual property law. Contrary to the focus on enclosure and exclusivity that are both tightly connected to the sedentary model, the nomadic model does not imply any such exclusion or stable territory-based possession (Mussawir 2011:107). Under the nomadic model, Mussawir writes, “possession implies a different kind of relation that cannot sustain any of these elements of establishment, exclusion and lack. Since possession does not imply division, exclusions or stable territory, [it] requires other factors altogether” (Mussawir 2011:107). The sedentary form of possession is dependent on the possibility to divide and exclude – it requires a striated space, a territorialised legal order. The nomadic form of possession challenges the notions of division, exclusivity, territoriality and enclosure, it is a smooth space, not (yet) territorialised by the legal order. However, when Deleuze and Guattari discuss the nomadic forms of possession they do not present it as the opposite of the sedentary form. They write: “[W]e must remind ourselves that the two spaces in fact exist only in mixture: smooth space is constantly being translated, transversed into striated space; striated space is constantly being reversed, returned to 124 Naveiñ Reet: Nordic Journal of Law and Social Research (NNJLSR) No.6 2015 smooth space [….] and the two can happen simultaneously.” (Deleuze & Guattari 2011: 524) It is this very continuity, the constant movement from one form to another, the unfinished transitions from the one form to the other, that must be understood and it is imperative that it be kept in mind when discussing the concept of the commons (natural as well as cultural). The concept of the (again, natural as well as cultural) commons can never be approached as a static, or striated, legal concept or form of possession. The concept of the commons must be understood as a deterritorialising, nomadic legal form of possession. However hard we might try, it is still for instance very difficult to territorially govern or enclose digital and dematerialised, cultural forms of expressions. Within the Deleuzeoguattarian theory, possession cannot be equated to ‘ownership’ either, at least not ‘ownership’ as we have come to know it. Rather, the modes of possession indicate that to possess does not necessarily equate ‘to own’. As Leif Dahlberg argues with reference to digital media content and Roman Law: “[T]he concept of property is complex, and possession (possessio, occupatio, usucapio, or detentio), for example, does not automatically or necessarily lead to an exclusive and absolute ownership (dominium). Whereas in ancient Rome this distinction between possession and ownership generally applied to property in land, today it also bears on the ways in which media users may use the digital media content they have acquired or purchased.” (Dahlberg 2011:264) The concept of the cultural commons may appear to be as a ‘the opposite of private’ or as an equal to ‘public’ form of possession. But it is not. It is a moving, iterant nomadic form of possession. When Lawrence Lessig for instance comments on the cultural commons he claims the key issue is that commons are producing something of value. This value can be a resource e.g. in terms of decentralised or open innovation (Lessig 2001: 85). He argues further: “[Commons] create the opportunity for individuals to draw upon resources without connections, permission, or access granted by others. They are environments that commit themselves to being open. Individuals and corporations draw upon the value created by this openness. They transform that value into other value, which they then consume privately.” (Lessig 2011:85) Merima Bruncevic 125 An environment in which the open access and the private exploitation and consumption do not cancel each other out is precisely the rhizomatic quality of the Deleuzeoguattarian forms of possession that we need, one that opens the theoretical possibility of envisioning and formulating a legal concept where the two can be connected instead of presented as a false dichotomy. As such, it does not dissolve the dichotomies such as private and public, they remain separate. However, it resolves them, from being antagonistic opposite-based pairings, instead becoming an alliance in a rhizomatic concept within the nomadic form of possession. A legal concept of the cultural commons as a “cultural allemansrätt” – a possibility As we saw above, allemansrätten in nature comes with responsibilities in terms of the privacy and ownership; and the person who is given the right to access nature is also simultaneously given an obligation not to harm, disturb, litter, nor to damage the land, its resources, biospheres, the animals or the crops. When we finally arrive at allemansrätten in culture, it too must come with similar set of limitations, obligations and responsibilities, i.e. to not harm the underlying individual ownership right and the resources connected to it. A right that allows the public to, during a short term and under certain conditions, legally access the cultural landscapes and, current and future as well as older or even ancient, cultural heritage. This can be done through a legal constellation that focuses on sustainability of cultural heritage, both the heritage that has existed for centuries as well as the one that is coming into existence now and that is constantly being produced. The rhizomatic approach to legal reasoning opens up the possibility to conceive of such concepts that can handle the public and the private together as an alliance in law. The sedentary and nomadic forms of possession indicate that there is a sliding scale between ownership, possession and access, and this can be upheld and recognised legally in a concept of cultural commons. Enabling access to artworks through a legal concept of the cultural commons works thus in conjunction with current intellectual property and other private ownership laws. A lot of inspiration can be drawn from the institutions that are already somehow managed and governed as cultural commons such as our museums, libraries, archives, open access platforms, commons initiatives... They also show us that principles of free public access do not necessarily preclude profit. 126 Naveiñ Reet: Nordic Journal of Law and Social Research (NNJLSR) No.6 2015 Access to art through a cultural commons is the equivalent of the hiking, camping and the picking of berries in the cultural environment. The notion of “environment” is also what further enables the connection with the natural commons and allemansrätten to be made even more comfortably. It has to do with the public’s cultural health and wellbeing. It certainly has to do with democracy. This approach is both an economically and democratically sustainable management of our common cultural resources. The rationale of this article has been this, to present some musings on the possibilities in terms of rights to access that can be inscribed in law through a legal concept of the cultural commons. This potential is already there in many of our legal orders. I have presented allemansrätten as one such example. UNESCOs regulation of world heritage may be another. A commons-based access, as has been argued here, is capable of handling the private and the public simultaneously. In critical legal studies the constructivist approaches to legal concepts are sometimes frowned upon, the critical is often favoured over the clinical. The Deleuzeoguattarian approach to legal philosophy allows for an alliance between the critical and the clinical. This is one among many connections that is enabled by the rhizomatic approach. This is rhizomatic jurisprudence. But the clinical presented here is only the beginning of this ongoing approach. The next step is to go ahead and construct the legal concept of the cultural commons, one that can handle access to current as well as to ancient cultural heritage. It could maybe be formulated as the “cultural allemansrätten”, or as a principle that is inscribed in the national laws of Europe? Or maybe as an EU directive? Or maybe… To achieve that, we have to acknowledge the possibilities of law and we now not only need to, we have to, talk about the legal concept of the cultural commons.

#### The space commons fosters a sense of wuyu- reforming processes of ‘owning’ and ‘creating’- these things shouldn’t be motivated by temporal desires but rather by intrinsic ones– only these can overwhelm temporary desire and inevitable change

Ames and Hall 10. Roger Ames and David Hall (Ames is a Canadian philosopher at the University of Peking. Hall was a professor of philosophy at the University of Texas), 2010, “Daodejing: Making this Life Significant,” Ballantine Books, I have a pdf, r0w@n

“Foreknowledge” is tinsel decorating the way, And is the first sign of ignorance. It is for this reason that persons of consequence: Set store by the substance rather than the veneer And by the fruit rather than the flower. Hence, eschewing one they take the other. The moral precepts described in the first two stanzas emerge as objects of reverence, but as hallowed as they might become, they are anemic when compared to the love and life of concrete, spontaneous feelings. It is the “substance” and the “fruit”—the passionate experience of life itself—rather than a catechism of bloodless ethical principles, that is the real site of knowing. Such felt knowing is an ongoing process of focal and field awareness—of way-making—that can only be sustained with indefatigable resolution. Indeed, it is not an easy business to stay focused. Even though the Daodejing’s teachings on how to cultivate the most effective disposition for making one’s way in the world could not be put in more straightforward terms, still “when the very best scholars learn of way-making they are just barely able to keep to its center” (chapter 41). Were we to search for something like a central insight that defines the Daoist sensibility, we might discover that a “single thread” pervades the text. The central focus of the Daoist way of thinking is the decisive role of deference in the establishment and preservation of relationships. As we have said above, integrity in a processual worldview is not being one, but becoming one in the consummatory relationships that one is able to achieve within a context of environing particulars. Deference involves a yielding (and being yielded to) grounded in an acknowledgment of the shared excellence of particular foci (de) in the process of one’s own self- cultivation. Deferential acts require that one put oneself literally in the place of the other, and in so doing, incorporate what was the object of deference into what is one’s own developing disposition. And one’s own disposition thus fortified becomes available as a locus of deference for others. In Confucianism, self is determined by sustained effort (zbong page50image65796320) in deferential transactions (shu page50image65788832) guided by ritually structured roles and relations (li page50image65786128) that project one’s person outward into society and into culture. Such a person becomes a focus of the community’s deference (junzi page50image65783840) and a source of its spirituality (shen ). Daoism, on the other hand, expresses its deferential activity through what we are calling the wu-forms. The three most familiar articulations of this pervasive sensibility are: wuwei page50image65857072, wuzhi page50image65845888, and wuyu page50image65634304. These are, respectively, noncoercive actions in accordance with the de (“particular focus”) of things; a sort of knowing without resort to rules or principles; and desiring which does not seek to possess or control its “object.” In each of these instances, as in the case of Confucian shu, it is necessary to put oneself in the place of what is to be acted in accordance with, what is to be known, or what is to be desired, and thus incorporate this perspective into one’s own disposition. Our chief aim here is to demonstrate how this explicitly Daoist understanding of deferential activity presupposes a focus-field model of self. Given our discussion of the inseparability of feeling and thinking —the affective and the cognitive—in the Daoist heart-and-mind (xin), the conflict associated with the self that the Daoist sage must overcome cannot be a struggle among some compartmentalized rational, appetitive, and emotional faculties. Indeed, given the relational and unpartitioned model of the self characterized by xin, it is dicult to imagine how there could be anything like an internal dynamics that would be a source of agitation. It is unlikely that we would nd Hamlets or St. Pauls prominent among the Daoists. If the problematic of unrealized selfhood does not entail a self divided against itself, what is the source and the nature of the disturbance that the cultivation of the Daoist disposition is meant to overcome? If it is not referenced primarily within an individuating soul, it can only be a disturbance in the relationships that constitute the context of self-consummation. Said another way, if a person is page50image65634512 not in fact constituted by some essential, partitioned “soul,” but is rather seen as dynamic pattern of personal, social, and natural relationships, agitation must arise as a consequence of poor management of these constitutive roles and relationships. Hence, agitation in the heart-and-mind is not narrowly “psychological,” but is more accurately conceived of as of broad ethical concern: How should we act and what should we do? To summarize the three most prominent examples of the wu-forms that we have discussed in more detail elsewhere,20 wuwei page51image65652976, often translated (unfortunately) as “no action” or “non-action,” really involves the absence of any course of action that interferes with the particular focus (de page51image65653184) of those things contained within one’s field of influence. Actions uncompromised by stored knowledge or ingrained habits are relatively unmediated: they are accommodating and spontaneous. As such, these actions are the result of deferential responses to the item or the event in accordance with which, or in relation to which, one is acting. These actions are ziran page51image65653392, “spontaneous” and “self-so-ing,” and as such, are nonassertive actions. It is not through an internal struggle of reason against the passions but through “acuity (ming page51image65653600)”—a mirroring of the things of the world as they are in their interdependent relations with us—that we reach a state in which nothing among all of the myriad of “the goings on” in the world will be able to agitate our hearts-and-minds, and we are able to promote the flourishing of our world. In other words, we defer in attaining integrity with those things that contextualize us, establishing a frictionless equilibrium with them. And it is this state of achieved equilibrium that is precisely the relationship most conducive to symbiotic growth and productivity. The Daoist sages in Zhuangzi are described in such terms: The stillness of the sages is not simply a matter of their saying: “Stillness is good!” and hence they are still. Rather, they are still because none of the myriad things are able to agitate their hearts-and-mind. When water is still, it illuminates one’s whiskers and eyebrows, and in its placidity, it provides a standard so that skilled artisans can take their measure from it. If the stillness of water provides illumination, how much more so one’s spirit. The stillness of the heart-and-mind of the sage makes it mirror to the whole world and the looking glass for all of the myriad things.21 The notion of jing page52image65681008—stillness, tranquillity—that is often used to characterize this posture, far from being simple passivity, is an ongoing, dynamic achievement of equilibrium that requires constant monitoring and adjustment. It is important to remember that all correlative pairs entail their opposites in the sense that jing is “tranquillity-becoming-agitated.” Thus, tranquillity (jing) stands in a dominant relationship in its partnership with agitation (dong page52image65681216); it does not negate or exclude its opposite. The same qualification has to be brought to bear on other familiar pairs that might otherwise mislead us: for example, emptiness (xu page52image65681424) and fullness (shi page52image65681632), and clarity (qing ) and turbidity (zhuo page52image65681840). Wuzhi , often translated as “no-knowledge,” actually means the absence of a certain kind of knowledge—the kind of knowledge that is dependent upon ontological presence: that is, the assumption that there is some unchanging reality behind appearance. Knowledge grounded in a denial of ontological presence involves “acosmotic” thinking: the type of thinking that does not presuppose a single-ordered (“One behind the many”) world, and its intellectual accoutrements. It is, therefore, unprincipled knowing. Such knowing does not appeal to rules or principles determining the existence, the meaning, or the activity of a phenomenon. Wuzhi provides one with a sense of the de of a thing— its particular uniqueness and focus— rather than yielding an understanding of that thing in relation to some concept or natural kind or universal. Ultimately, wuzhi is a grasp of the daode page52image65682048relationship of each encountered item that permits an understanding of this particular focus (de) and the eld that it construes. Knowledge, as unprincipled knowing, is the acceptance of the world on its own terms without recourse to rules of discrimination that separate one sort of thing from another. Rules of thumb, habits of mind and action, established customs, fixed standards, received page52image65682256page52image65682464 methods, stipulated concepts and categories, commandments, principles, laws of nature, conventions—all of these prejudices require us to intervene and “welcome things as they come and escort them as they go,” resulting in what Steve Goldberg has described as “a hardening of the categories.” Having stored past experience and organized it in terms of fixed standards or principles, we then recall, anticipate, and participate in a world patterned by these discriminations. Sages, however, mirror the world, and “neither see things off nor go out to meet them.” As such, they “respond to everything without storing anything up.” They mirror the world at each moment in a way that is undetermined by the shape of a world that has passed away, or by anticipations of a world yet to come. As the Daodejing asks in chapter 10: In scrubbing and cleansing your profound mirror Are you able to rid it of all imperfections? In loving the common people and breathing life into the state, Are you able to do it without recourse to wisdom? With nature’s gates swinging open and closed Are you able to remain the female? With your insight penetrating the four quarters Are you able to do it without recourse to wisdom? The Daoist project is neither passive nor quietistic. Water is the source of nourishment; the mirror is a source of light; the heart-and- mind is a source of transformative energy. To “know” as the mirror “knows” is not reduplicative, but is to cast the world in a certain light. Such performative “knowing” is for one to actively interpret and realize a world with healthy, productive effect. These metaphors for xin entail a presentation rather than a representation, a coordination rather than a correspondence. “Mirroring” then is best seen as synergistic and responsive, where all of the elements are in the stream and constitute a fluid interdependent continuity. Perhaps the best rendering of the term wuyu page53image65601536is “objectless desire.” Since neither noncoercive action nor unprincipled knowing can in the strict sense objectify a world or any element in it—that is, make discrete and independent objects out of one’s environing experience—the desiring associated with the Daoist sensibility is in the strictest sense “objectless.” The “enjoyments” associated with wuyu are possible without the need to dene, possess, or control the occasion of one’s enjoyment. Thus, wuyu, rather than involving the cessation and absence of desire, represents the achievement of deferential desire. Desire, based upon a noncoercive relationship (wuwei) with the world and a “mirroring” understanding (wuzhi) of it, is shaped not by the desire to own, to control, or to consume, but by the desire simply to celebrate and to enjoy. It is deference. Desire is directed at those things desirable because they stand to be desired. But those things which stand to be desired must themselves be deferential, which means that they cannot demand to be desired. For to demand to be desired is to exercise a kind of mesmerizing control over the desirer. In a world of events and processes in which discriminations are recognized as conventional and transient, desire is predicated upon one’s ability at any given moment to “let go.” It is in this sense that wuyu is a nonconstruing, objectless, desire. The Daoist problem with desire does not concern what is desired, but rather the manner of the desiring. Enjoyment for the Daoist is realized not in spite of the fact that one might lose what is desired, but because of this fact. The world is a complex set of transformative processes, never at rest. Wuhua page54image65654016, the metamorphosis of things (and not to be confused with the wu- forms), means that we can never pretend that what we seek to hold on to has any permanent status. In Daoism, transient desire is the only desire that lets things be, that does not construe the world in a certain manner, that does not seek to apply the brakes on a world of changing things. The key to an understanding of wuyu—indeed of all these wu- forms that comprise the Daoist disposition—lies in the contrast between “objects” and “objectivity.” Using Western epistemological terms, the thoughts about the world expressed in both the Zhuangzi and the Daodejing represent what we might call a realist perspective.22 Beyond the mediating confusions introduced by language, and by layers of our own distorted perceptions and tendentious categorizations, there is nevertheless, with properly Daoist qualifications, an “objectively” real world. Our task is to experience that world as “objectively” as possible. From the Daoist perspective, the problem begins when we insist that the “objective world” is a world made up of objects—namely, concrete, unchangeable things that we encounter as over against and independent of us; things which announce themselves to us by asserting “I object!” For the Daoist, the objective world cannot be objective in this sense because it is a constantly transforming flow of events or processes that belie the sorts of discriminations that would permit a final inventory of the furniture of the world. Paradoxically, for the Daoist the objective world is objectless. Sages envision a world of changing events that they can, for whatever reason, choose to freeze momentarily into a distinct pattern of discrimination, but that they recognize, when they see clearly, as being beyond such distinctions. For the Daoist, the consequence of this transformed vision is that knowing, acting, and desiring in the world are no longer based upon construal. Feeling ourselves in tension with objectified others can lead us to act in an aggressive or defensive manner in order to effect our will. Principles and fixed standards can lead us to construe the object of our knowledge by recourse to such principles. In this way, an item becomes one of a kind (rather than one-of-a-kind) or an instrument for the achievement of an end (as opposed to an end in itself). Desire motivated by an object of desire leads us to seek possession of that which is desired, allowing it significance only insofar as it meets our needs. A self that is consumed by objects of desire narrows, truncates, and obfuscates the world as it is. On the other hand, noncoercive action, unprincipled knowing, and objectless desire have the following in common: To the extent that a disposition defined in these terms is eficacious, it enriches the world by allowing the process to unfold spontaneously on its own terms, while at the same time participating fully in it. We may say that the implementation of the wu-forms allows us to leave the world as it is. But we may make this claim only if we recognize that “world” in this context means a myriad of spontaneous transactions that are characterized by emerging patterns of deference to acknowledged excellences. In Daoism the self is forgotten to the extent that discriminated objects no longer constitute the environs of the self. These three wu-forms—wuwei, wuzhi, wuyu—all provide a way of entertaining, of deferring to, and of investing oneself in an objectless world. Thus, in their governing of the people the sages are concerned with embodying and promoting the sort of acting, knowing, and desiring that does not depend upon objects. In fact, when these wu-forms are understood as the optimum dispositions of the Daoist self, whether in the person of the sage or the people, they provide us with a way of interpreting passages in the Daodejing that are frequently construed unsympathetically as recommending imposition and control. Chapter 3 is an example: Not promoting those of superior character Will save the common people from becoming contentious. Not prizing property that is hard to come by Will save them from becoming thieves. Not making a show of what might be desired Will save them from becoming disgruntled. It is for this reason that in the proper governing by the sages: They empty the hearts-and-minds of the people and ll their stomachs, They weaken their aspirations and strengthen their bones, Ever teaching the common people to be unprincipled in their knowing And objectless in their desires. They keep the hawkers of knowledge at bay. It is simply in doing things noncoercively That everything is governed properly. But the wu-forms are not just wuwei,

#### Empirics prove the aff works- they even named these companies ‘DAO’s’

Cathy Hackl, 21, What Are DAOs And Why You Should Pay Attention, Forbes, 6-1-2021, DOA: 10-29-2021, https://www.forbes.com/sites/cathyhackl/2021/06/01/what-are-daos-and-why-you-should-pay-attention/, r0w@n

Can you imagine a way of organizing with other people around the world, without knowing each other and establishing your own rules, and making your own decisions autonomously all encoded on a Blockchain? Well, DAOs are making this real. Wikipedia defines DAO (Decentralized Autonomous Organization) as an organization represented by rules encoded as a transparent computer program, controlled by the organization members, and not influenced by a central government. As the rules are embedded into the code, no managers are needed, thus removing any bureaucracy or hierarchy hurdles. Some of today's internet users and the next generations are looking forward to starting social organizations, searching for an answer to: “How can we exchange values in a trusted environment?” Blockchain enables automated trusted transactions and value exchanges, but even so, internet users around the world want to organize themselves in a “Safe and effective way to work with like-minded folks, around the globe”, according to Ethereum PROMOTED Bitcoin is generally considered to be the first fully functional DAO, as it has programmed rules, functions autonomously, and is coordinated through a consensual protocol. Of course, not every DAO has been as successful as Bitcoin. In May 2016, German startup slock.it launched the creatively named “The DAO” in support of their decentralized version of Airbnb. At the time it was a great success with a crowdfunding campaign that raised over $150 million worth of Ethereum. Unfortunately, the code they used in the DAO had certain issues. So inevitably in June 2016 hackers managed to siphon off $50 million worth of Ethereum from the DAO before it was stopped. Even though the fault was in the slock.it code and not in the underlying technology, the hack did undermined some people’s trust in both the Ethereum coin and DAOs in general. MORE FOR YOU Metaverse Weekly: Virtual Gucci Pursues, Digital People, Direct To Avatar Ecosystem, Nerf, NFTs And Beyond Defining The Metaverse Today The Metaverse Is Coming And It’s A Very Big Deal But today, due to the explosion of Decentralized Finance (DeFi) during 2020, has led to a rise in renewed interest in DAOs. Now that you have a better idea of what DAOs are, it is important to understand more about their background and characteristics to appreciate the whole picture of what is turning traditional forms of organizing upside down. What Makes DAOs Different? Blockchain network concept. GETTY Top Articles READ MORE Why Did Brinker International’sStock Fall? A DAO’s financial transactions and rules are recorded on a blockchain. This eliminates the need to involve a third party in a financial transaction, simplifying those transactions through smart contracts. The firmness of a DAO is a smart contract. The smart contract represents the rules of the organization and holds the Organization’s storage. No one can edit the rules without people noticing, because DAOs are transparent and public. Up to today we are used to companies backed by legal status, a DAO may perfectly function without it as it can be structured as a general partnership. In comparison to traditional companies, DAOs have a democratized organization. All the members of a DAO need to vote for any changes to be implemented, instead of implemented changes by a sole party (depending on the company’s structure). The funding of DAOs is mainly based on crowdfunding that issues tokens. The governance of DAOs is based on community, while traditional companies’ governance is mostly based on executives, Board of Directors, activist investors. etc. DAOs’ operations are fully transparent and global, meanwhile, traditional companies’ operations are private, only the organization know what is happening, and they are not always global. Fully Functional DAOs DAOs are picking up steam GETTY DAOs need the following elements for being fully functional: A set of rules to which will operate, a funding like tokens that the organization can spend to reward certain activities to their members, and also to provide voting rights for establishing the operation rules. Also, and most important, is a well and secure structure that allows every investor to configure the organization. One potential problem with the voting system is that even if a security hole was spotted in its initial code, it can’t be corrected until the majority votes on it. While the voting process takes place, hackers can make use of a bug in the hole of the code. How Are DAOs Being Used Today? Steve Aoki performing onstage GETTY IMAGES FOR SHEIN TOGETHER FEST 2021 So far DAOs are being used for many purposes such as investment, charity, fundraising, borrowing, or buying NFTs, all without intermediaries. So you can have a better idea, for example, a DAO can accept donations from anyone around the world and the members can decide how to spend donations. Can you imagine being a co-owner of an Artist’s song by just using cryptocurrency on an internet-based organization? In May 2021, Jenny DAO acquired its first NFT, an original song of Steve Aoki and 3LAU. This DAO is a metaverse organization that provides fractional ownership of NFTs. Its members will be able to oversee the purchase of the NFTs and Unicly protocol’s smart contracts control the vault where these NFTs will be added. The Metaverse Is Changing Business As We Know It 3d rendering of abstract Blockchain concept GETTY DAOs envision a collective organization owned and managed by its members with all of them having a voice. Many analysts and industry insiders affirm that this type of organization is coming to prominence, even potentially replacing some traditional companies. Businesses and brands need to stay abreast of current trends that could impact how they engage with consumers and how consumers interact with them. While DAOs are not ubiquitous yet, they do seem to be picking up steam with many creators.

#### The plan creates a balanced state- that’s a new way of viewing the world that undermines the corruption desire structures have forced upon us all

Joseph Pratt 14, A Daoist Take on American Legal Theory, No Publication, 5-26-2014, DOA: 10-26-2021, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2441773, r0w@n

This point, and critique of CLS, was noted early on. See Mark Hager, Book Review, Against Liberal Ideology: A Guide to Critical Legal Studies, by Mark Kelman, 37 AM. L. REV. 1051, 1057-59 (1988). 86 Professor Gabel has suggested that such a legal system will stress restorative justice, mediation movements, holistic lawyers and integrated legal education. See Gabel, Spiritual Practice, supra note 33, at 530-531. Electronic copy available at: https://ssrn.com/abstract=2441773 18 Realism as well as naturalism and positivism also must come back together—again as in early America—to constitute a simple holistic wisdom.87 Attaining a harmonious consciousness, at the same time, will reduce the need for law and legal theory. 88 Daoism stresses that in a balanced state, people believe the goodness has occurred naturally.89 Rather than a stratified society, which many early Americans also sought to avoid, people will seek arrangements where they can live and work in harmony with each other. There thus will be less overt economic conflict. Even in contractual matters, people will seek solutions that benefit all— recognizing that to injure another is to injure the group and ultimately oneself. In torts, similarly, the grounded consciousness will make people reasonable in their daily interactions and reduce negligence. When an accident occurs, the focus will also be on restoring the group’s balance—a solution where all may win. Some may question whether such a consciousness and way of life is possible or even preferable to today’s economic circumstances? At the end of feudalism, many also questioned America’s experiment with democracy, and it worked well in some portions of the country for several decades. The eventual widespread loss of this consciousness and balance between the common weal and individual pursuits, moreover, was not due to economic necessity. Rather, it stemmed from a pride in 87 Opposite theories like formalism and realism as well as naturalism and positivism unite in a wise contemplation to restore the Dao. 88 Others have noted that a common vision of the “Good” reduces explicit laws and legal institutions. See, e.g., ROBERT MANGABEIRA UNGER, LAW IN MODERN SOCIETY 241-242 (1976). 89 The Daodejing stresses this natural way. See, e.g., TAO TE CHING, supra note 5, at 73 (ch. 17). Electronic copy available at: https://ssrn.com/abstract=2441773 19 purely material gain—a sense that the individual self could outstrip the whole. It was a wrong step in a right direction. With a holistic consciousness, people again will be free to create and invent new ways of doing things. These new ways, moreover, will accord with the underlying natural order and thus be more productive than the former methods. In the present, post-capitalistic-industrial era, this harmonious approach will open up new metaphysical-physical possibilities, which have few, if any, of the negative side effects, such as pollution, cancer and war, of the discordant system. Just as America’s early homesteading outstripped feudalistic agricultural systems, a holistic approach to manufacturing will surpass the capitalistic-industrial order’s methods. In connection with a harmonious economy, this consciousness, by creating a stable community of secure individuals, will free people from the alienation and thus errant desire and displacement activity of modern societies. In the balanced state, people will be free to experience the world on a deeper and fuller basis. 90 Each person will have the opportunity to realize his or her unique contribution to the whole and thereby attain the happiness that ordinary existence promises. The social norms that previously channeled and controlled displacement activity will become redundant. When it comes to any such displacement conflict, the law will seek integrative ways to restore individual and societal balance. Finally, this consciousness, by showing individual health is related to universal principles of balance and harmony, will encourage people to lead healthy lives and 90 CLS scholars seeking to transcend ill-liberal tendencies have noted this relationship. See, e.g., Gabel and Kennedy, Roll Over, supra note 36. Electronic copy available at: https://ssrn.com/abstract=2441773 20 take responsibility for their illnesses. Daoist metaphysics demonstrates that harmony between the Yin and Yang applies all the way down to the cellular level (and farther). 91

#### Creativity evolves with everything else and comes from internal desire, if you want outcome prioritize those things

Ames and Hall 10. Roger Ames and David Hall (Ames is a Canadian philosopher at the University of Peking. Hall was a professor of philosophy at the University of Texas), 2010, “Daodejing: Making this Life Significant,” Ballantine Books, I have a pdf, r0w@n

In our introduction to Focusing the Familiar: A Translation and Philosophical Interpretation of the Zhongyong, we introduce a distinction between power and creativity, and follow A. N. Whitehead in questioning the appropriateness of using “creativity” in the familiar creatio ex nihilo model that we associate with Judeo- Christian cosmogony. Whitehead argues that any robust sense of creativity requires that creativity itself is more primordial than God. In the received Judeo-Christian tradition, the all-powerful God determines things, makes things. God, as Omnipotent Other Who commands the world into being, is Maker of the world, not its Creator. In the presence of the perfection that is God, nothing can be added or taken away. There can be no novelty or spontaneity. Thus, all subsequent acts of “creativity” are in fact secondary and derivative exercises of power. Creativity can make sense only in a processual world that admits of ontological parity among its constitutive events and of the spontaneous emergence of novelty. Power is to be construed as the production of intended effects determined by external causation. Real creativity, on the other hand, entails the spontaneous production of novelty, irreducible through causal analysis**.** Power is exercised with respect to and over others. Creativity is always reflexive and is exercised over and with respect to “self.” And since self in a processive world is always communal, creativity is contextual, transactional, and multidimensional. Thus creativity is both self-creativity and co- creativity. Either everything shares in creativity, or there is no creativity. Indeed, it is this transactional, co-creative character of all creative processes that precludes the project of self-cultivation and self-creation from being egoistic.One further point can be made with respect to the creativity that the spontaneous emergence of novelty makes possible. The radical sense of creativity that we associate with “bringing into being” in a creatio ex nihilo sensibility is too isolated and extreme for this idea within the Daoist tradition. The term dao, like the terms “building,” “learning,” and “work,” entails both the process and the created product. It is the locus and the time frame within which the always contextualized creativity takes place. When the Zhuangzi observes that “we are one with all things ,” this insight is a recognition that each and every unique phenomenon is continuous with every other phenomenon within one’s eld of experience. But is this an exhaustive claim: are we talking about all phenomena in the continuing present? Because the world is processional and because its creativity is ab initio rather than ex nihilo—a contextual creativity expressed across the careers of its constitutive phenomena—any answer to this question would have to be provisional. Phenomena are never either atomistically discrete or complete. The Zhuangzi recounts

#### Conceptualizations of property control desires- forgetting these structures overwhelms the language barrier that makes all other reformation fail

Hansen, Chad, 3, Daoism (Stanford Encyclopedia of Philosophy), No Publication, 2-19-2003, DOA: 9-4-2021, https://plato.stanford.edu/entries/daoism/, r0w@n

With the importation of Indo-European Buddhism from India, wu-wei started to be interpreted via the Western conceptual apparatus contrasting desire or purpose and reason. This shaped the modern Chinese interpretation and probably undermined the ideal. It became the target of attack among “modern” Chinese who regarded Daoist “non-striving” or “purposelessness” as the source of Chinese passivity. The activist 19th century reformer, Kang You-wei (Kang have-wei) took the denial of the slogan as his scholarly name. 9.5 Pusimplicity (Pre-linguistic Purity) 樸 The Daoist “primitivist” ideal as expressed mainly in the Laozi. It metaphorically represents the result of forgetting mingnames and desires (See Wu-wei). Translations include simplicity, “raw” wood, and D. C. Lau’s more elaborate “uncarved block.” The detailed translation more sensitively expresses Laozi’s point in using the metaphor in the context of a view of names as “cutting” things into types and Laozi’s distinctive theory that such socially constructed distinctions (institutions) control us by controlling our desires. When societies adopt names or terms, it does so in order to instill and regulate desires for one of the pair created by the name-induced distinction. Thus Daoist forgetting requires forgetting names and distinctions, but in doing so, frees itself from the socially induced, unnatural desires that cause strife and unhappiness in society (e.g. status, rare objects, fame, authority). Hence: “The Nameless uncarved block thus amounts to freedom from desire.” (Daode Jing 37) 10. Texts and Textual History Questions of textual theory are the focus of the bulk of modern scholarship. They include these kinds of questions. Existence (did Laozi or Zhuangzi actually exist) Authorship (did they write the texts attributed to them?) Dating (when did they exist or write their texts?) Relations (did Laozi influence Zhuangzi?)

#### Changing conceptualizations of ‘the self’ and ‘property’ fixes rationalism- it lets us operate outside of traditional worldviews- also lets us overthrow debate norms coherently and completely

Pettman 05, Ralf Pettman, Taoism and The Concept of Global Security, International Relations of the Asian-Pacific, 2005, <https://sci-hub.se/https://doi.org/10.1093/irap/lci103>, r0w@n

Specific comparisons of Taoist and non-Taoist approaches to global security Having briefly tried to define Taoism and the Tao, and having indicated some of the problems that arise in trying to doing so, I shall now move to the nub of the matter, which is to compare Taoism and rationalism in epistemological terms. I will then compare Taoist thinking with more rationalist thinking about global security in ‘human’ terms, and then with rationalist thinking about global security in more conventional terms. 4.1 Comparing Taoist and rationalist epistemologies The profundity of the concept of the Tao seems to preclude us from using Taoism to describe its meaning in logical, empirical, analytical terms. As a consequence we are typically invited to talk in analogical and metaphorical terms instead. But this is to jeopardize at once the sympathy of most contemporary social scientists, who as a group are likely to require something much more publicly verifiable before considering it reliable. Rationalists are not about to content themselves with accounts of an aptitude for living 6 The story is that of the drunk who returns home at night and loses his key while trying to open the front door to his home. He is subsequently found by a neighbour looking under a lamplight some distance away. After asking what the drunk is doing, and where he lost his key, the neighbour then asks why the drunk is not looking outside his front door. The drunk replies to the effect that the light is brighter under the lamp. Taoism and the concept of global security 71 expressed in ‘stories, verses, maxims’ and the like (Graham, 1989, pp. 199– 200; Giles, 1961 [1889]) If historically or philosophically minded, they will want to be more systematic. If positivists, they will want to use the hypothetico-deductive method. So let us be clear. Rationalism, which is the doctrine within which most thinking and practice about the concept of global security is currently done, prioritizes reason as an end in itself. Taoism, which is the doctrine I am trying to bring to bear upon the rationalist construction of this concept, is a way of thinking and practice that does not. It prioritizes sacral (and in this instance, Taoist) insights instead. These two are seemingly incommensurable. They would seem to represent an unbridgeable epistemological divide. Their protagonists not only talk different analytical languages, they talk past each other as well, which is just what I want to prevent, not just because I do not like dialogues of the deaf, but more importantly, because I think it is to capitulate to rationalism. From the rationalist perspective, Taoism looks anti-rational. As such, it is at best interesting. It is not reliable knowledge. From the Taoist perspective, however, rationalism is what one does with the rational part of one’s mind. It is only part of what Taoists do, nor need it be the larger part, since it includes the injunction to live in a state of sacral spontaneity. I noted above that rationalism is compromised at its root by the kind of self that is required if rationalism is to succeed. I argued that the individuated self – at one mind’s remove from the community – is objectifying. This self is created in turn by learning to be mentally distanced from the communalist context into which ‘one’ was born. Rationalism valorizes this individuated self, typically turning it into a primary normative purpose. Because this bias is built into rationalism itself, and because it limits and distorts so thoroughly what rationalism can do, we have to go outside rationalism to compensate for it. Otherwise, whenever we use rationalism, we will get the world right, but we will also get the world wrong. The most straightforward compensation procedure I know is one that enjoins us to get close to listen, and to take part, that is, to actively eschew the objectifying mind-gaze to participate in what one wants to understand. Anthropologists do this when they immerse themselves in a society not their own. The compensation bid need not stop there, however. It can be carried over from the social ground to the sacral one (and in this case the Taoist one), thus providing the kind of insight not otherwise available to rationalists because of how they choose to know. Those rationalists who get this far will no doubt want to follow their Taoist insights up by considering them rationally, but at least they will have Taoist insights to follow up. At least, having accepted immersion in the ‘shal- 72 Ralph Pettman low’ or meditative end of the experiential pool,7 or even beyond, they may have learned what otherwise they would not have been able to. The rationalist may even want to follow this up with further attempts to take part, and further rationalist reappraisals. By which point we will have constructed a cycle of knowing that is already rolling rationalism forward across the epistemological divide. We are still faced with fundamental uncertainty about the ground on which we stand (though most natural scientists will remain oblivious, and many social scientists likewise.) By eternally returning to both rationalism and Taoism, however, we no longer have to set the one up in opposition to the other. We do not have to abandon our regard for rigour, or our preference for specified indices of comparison, or for reassessing sacral insights in non-sacral ways. But nor do we have to abandon the idea that Taoism has something meaningful to say about the concept of global security. The two are no longer placed in contention, since to place them thus is to cleave to the rationalist line as the surest way to know what is true, and to ignore the way the ontological character of rationalism compromises any such surety. While we are used to having sacral illusion dispelled by analytic clarity, we are not so used to having analytic illusion dispelled by sacral clarity. That is the task before us, however, and it is a task with normative implications considerably more extensive than those rationalists would valorize. How does moving onto Taoist ground, and immersing ourselves in Taoist experience, play out in practice? Our section on mapping the concept of global security began by highlighting the making of modernity. If we start with this general project, and cast it in the light of the general Taoist knack for sacral spontaneity, we see at once how little this knack has to do with the rationalist way of thinking or being. Where the modernist/rationalist talks of empirical logic and scientific representation, the sacralist/Taoist talks (in Graham’s terms, at least) of the rejection of empirical logic, and an ‘infinite regress, testing by tests which in the end are themselves untested’ (Graham, 7 Arriving at Taoist precepts requires the use of what Waley calls ‘quietism’, or the ‘gradual inward-turning of . . . thought’ (Waley, 1934, pp. 43, 45). This involves the use of the mind in non-rationalist, indeed anti-rationalist ways, that allow it to become less distracted and more aware. For rationalists, meditation as a research methodology is too subjective. Why should we accept the results of Taoist quietism, they say, as a way to plan global security, for example, when we can use rationalist bargaining strategies and mediation practices instead? Why, for that matter, should we treat exploitation or global destitution or environmental neglect with meditative detachment, rather than with objective plans for changing the world for the better? Why should we use non-rational illumination to help rulers order the inter-state system when we have publically replicable ways of thinking that allow us to do so scientifically (Graham, 1989, p. 234)? Taoists respond by comparing their accounts of the world with modernist ones. They point out how modernist state-makers are taught to understand world affairs by objectifying. They point out how knowing of this sort is circumscribed by the nature of the primary experience that makes untrammelled reasoning possible (individuation). And they see themselves as eschewing these limits by inviting a different kind of primary experience. Taoism and the concept of global security 73 1981, pp. 10, 11). Where the rationalist talks of the hypothetico-deductive method, the Taoist talks (again in Graham’s terms) of an understanding of the ‘mysterious order which runs through all things’, and the universal motion of chi energy (Graham, 1981, pp. 12, 19–20). Where the rationalist talks of a detached and individuated intellectual vantage-point, separate from society, where reason can be given free reign to cogitate and communicate, the Taoist talks (in Hansen’s terms this time) of ‘heart-minds’ (Hansen, 1992, pp. 53, 85–86). Taoists respond to the situation they are in by unfocusing, that is, by allowing themselves to act with the ‘immediacy of an echo’, rather than the self-consciousness of someone who applies general principles. (Graham, 1981, pp. 6, 12, 14). They invite, in other words, the kind of recognition the ‘heart’ gives ‘when the mind is silent’ (Krishnamurti, 1972, p. 34). This is metaphorical language, but we are not, after all, trying to ascertain what is scientifically true. We are trying to locate scientific truth-finding within its sacral context.8 Faced with global security planning, Taoists highlight the way rationalist attempts to anticipate a particular foreign policy can only reach so far. Taoists highlight how those who really know what they are doing tend to eschew conscious thought to attend instead to the ‘total situation’. This ‘knack’, like a feel for the way a bacterium works, or for how to play a musical instrument, is not one that can be ultimately explained (Graham, 1983, p. 7). Taoists also compare the way they face the future with the way it is faced by those who promote the national interest, for example, or the relevant capitalist/corporate, politico-social, bourgeois, or masculinist interest. The rationalist entertains options A, B, and C, and plays out each one in advance, in a bid to anticipate what will turn out the best. Except that it is not possible to anticipate what will turn out the best. In choosing one policy option, the others cease to exist. Once, for example, option B is chosen, options A and C have no chance of happening. Option A might have been better, or might have been worse. Likewise option C. With the B policy chosen, these alternatives are no longer alternatives. Which is why contemplating such alternatives was futile in the first place, and making decisions on the basis of such contemplations makes no sense at all. It is not possible, that is, to know rationally what is in the national interest. To rely on rationalism is, therefore, to overplay rationalism, which is to underplay Taoism in turn, and to underplay sacral spontaneity (Graham, 1981, p. 14). 8 This is why Taoists see intellectual detachment in terms of a ‘returning’ to the ‘‘root’ or ‘trunk’ or ‘seed’ . . . [or] ‘gate’ . . . [or] ‘axis’ . . .’ (Graham, 1981, p. 21), and tend not to posit a reality behind appearances, as modernists/rationalists do. Taoist thought is figured against a very different metaphysical ground. As Graham says: ‘In so far as we can co-ordinate the Chinese concepts with our own, it seems that the physical world has more being and reality than the Way. However it is only by grasping the Way that we mirror the physical world clearly . . .’ (Graham, 1981, p. 21). 74 Ralph Pettman Modernist proponents of global security demur. Enough people in the world live as if modernist conceptions of global security ought to prevail, they note, for most of these conceptions to prevail in practice. Enough people behave as if world order is made up of sovereign states, for example, for this way of ordering world affairs to be a tangible, global reality. The same applies to liberal marketeering, global modes of making civil identity, the global formation of capitalist classes, the global advent of social movements, and the global advent of gender-specific practices. There is a self-fulfilling quality to the modernist project, and we must deal with its global consequences, they argue, whether the Taoist critique of the rationalist cause is valid or not. This is not to say that the people of the world live in the best of all possible worlds. Perhaps there is a preferred alternative, though perhaps (and this is the Taoist thought) there is no ‘preferred alternative’ either, at least of a rationally accessible sort. Perhaps it is a matter of standing back to look at this cosmos that we are all in, then standing close to listen, then feeling as best we can for how it moves, before standing back to look once more. Perhaps we might even learn something in taking ourselves through such a process, something we might need to know if we are to understand global security. 4.2 Comparing Taoist concerns with human security ones Speaking of the people of the world, I will now move to consider the concept of global security in terms of human security. The concept of human security still tends to be used to describe everything that the statist/militarist forms of security thinking are not (Paris, 2001). I think this is a mistake since I think it is more useful to see strategic security thinking as one aspect of human security thinking. I shall heed the conventional distinction here, however, as a way of comparing Taoist ideas and non-strategic security ones. The Taoist is likely to turn first to the pre- and post-modernist margins that modernist/rationalists create as they seek to extend their hegemonic grasp. Modernists consign to the margins those not deemed rationalistic enough, like women, and those who do not accept modernity as being necessarily beneficial, like many environmentalists. While feminists highlight the male-made character of global security, most feminists are also modernists, however. As such they are not in much of an epistemological mood to listen to Taoists, who they tend to think of as representing a pre-modernist way of thinking. Environmentalists, meanwhile, highlight the impact modernist humankind is having upon the planet’s ecosystems. The modernists among them tend to dismiss Taoist thinking likewise. The Taoist might turn next to those who speak the different analytic lan- Taoism and the concept of global security 75 guages mapped in the first section of this article with regard to the different assumptions analysts make about human nature and nurturing practices. Since those who speak these languages are all rationalists, however, the Taoist is likely to meet with the epistemological incomprehension already discussed. Perhaps the Taoist should apply a more specific Taoist technique, therefore. Perhaps a more particular expression of the Taoist perspective will be able to gain better purchase on the rationalist position. In this section I shall look at human security in the light of the Taoist preference for wu-wei, that is, active pacifism, or ‘no unnatural action’, or, as Graham calls it, ‘Doing Nothing’ (Graham, 1981, p. 288; 1989, pp. 232–233). To Needham, wu-wei means not using force when ‘subtler methods of persuasion, or simply letting things alone to take their own course’ promises a good outcome (Needham, 1956, pp. 37, 68). To Merton it means ‘perfect action – because . . . carried out . . . in perfect harmony with the whole . . . [and] not “conditioned” or “limited” by our own individual needs . . . desires . . . theories and ideas’ (Merton, 1965, p. 28). To Hansen it means action that avoids ‘artificially induced or learned purposes or desires . . . [since g]etting rid of wei . . . [means] freeing us from society’s purposes, socially induced desires, social distinctions or meaning structures . . .’ (Hansen, 1992, p. 214). Clearly, we are going to encounter here the same translation troubles we did earlier. A general reading of the Taoist literature seems to suggest that the Taoist sees wu-wei as a demonstrably caring, humble, frugal, yielding, and wise way to respond, however. It is the kind of (re)action that spares lives as much as it can, while leaving people as much as possible to themselves. It is the kind of (re)action that deals with large matters while they are still small, and fosters ‘being content’. It is the kind of counsel state-makers heed when they keep their ‘sharpest weapons where none can see them’, and regard all weapons as not ‘lovely’. It opposes conquest by force of arms, knows ‘the male’ and yet cleaves to that which is ‘female’, seeks the welfare of ordinary people, and endeavours to see and hear as ordinary people do. It tries not to stimulate the desire for products that are hard to get, and it tries not to legislate kindness or morality, exalt fame or riches, or rely upon either the ritual or overt use of power. In short, it tries to foster gentle friendships, true words, good government, due regulation, and effective deeds (Lao Tzu, 1997, pp. 11, 29, 31, 32, 37, 49, 75, 77, 81). Despite all the in-built universals (what constitutes wisdom or compassion? what is a true word? what is good government? what is an effective deed?), this concept is not a vague one. If it still seems so, it is given a graphic account in the practise of Taoist-inspired martial arts like that of tai 76 Ralph Pettman chi chuan, or judo, or aikido. In tai chi chuan the force of the opponent is returned or redirected, making it possible to prevail by yielding rather than by retaliating. This has important implications for conflict management and conflict resolution, even though it may well be one thing to redirect a punch to the person, and quite another to topple the global edifice of gender discrimination or capitalist exploitation, or to fight a guerrilla war. In Japanese judo, which is derived from the Chinese martial arts, weaker people learn to overcome stronger ones by moving in ways that do not offer resistance (Creel, 1970, p. 67). The same principle is manifest in aikido, a Taoist-style meditation in martial movement, where the purpose is to bring the self into accord ‘with the universe itself ’. This requires the practitioner to prevail over the ‘mind of discord’ in itself. In practice, this does not mean retreat. Nor does it mean retaliation. It means completing the task we all purportedly have, that is ‘to reconcile the world and make human beings one family’ (Uyeshiba, 1963, pp. 177, 178; Pettman, 1993). Returning to the analytic map of the concept of global security provided at the start, we can now compare the thinking of those who speak as liberal analysts of the inter-state system or society, for example, with their optimistic assumptions about the capacity for tit-for-tat behaviour, and Taoist thinking, which makes no such assumptions, and is not constrained by the rationalist context in which such assumptions are articulated. Wu-wei decrees no need to return tit-for-tat in promoting global security. It may mean practising reciprocity. It may not. There is no conceptual obligation either way, since ‘no unnatural action’ is not a contractual practice. The Tao te ching espouses a sense of the human whole instead. Since the Taoist also eschews legislated forms of morality, he or she is not bound to the kind of agreements that make international alliances and organizations possible. In dealing with global security matters, he or she seeks to employ sacral spontaneity rather than analytic deliberation, artlessness rather than purposefulness, and to engage in action not planned in the more premeditated way. This sounds to rationalist ears like a recipe for disaster, since it appears to lack all the certainty they are used to in securing global affairs. There are no agreed rules, or agreed habits of international practice where rules cannot be established, or established ways of using force where co-operative means fail. They are likely to point to the Hitlers of this world, who revel in Taoist-style spontaneity, and who take millions of innocent people down with them. And they are right to do so. Taoists are not racist fascists, however. This kind of spontaneity is not Taoist, even when it gets couched in sacral terms. The key Taoist works read nothing like the ideological writings of a Hitler or one of his ilk. Indeed, they speak from a perspective that shows these writings to be human Taoism and the concept of global security 77 atavisms. They repudiate them comprehensively. Moreover, Hitler was the product of rationalism gone awry. Reaching for the mind-view that made for his rise in the first place is not what we necessarily want to do next. If we turn to the rationalist proponents of world government, we find those who are more optimistic than the liberals about the possibility of global governance, and we find that Taoists do not make this kind of assumption either. Nor do they accept the conceptual constraints involved. Taoists do not see people as being calculating or altruistic. In practise ‘no unnatural action’ makes for a mirror-like appraisal of the moment. It may mean promoting world governance or government. It may not. Given the sacral spontaneity that wu-wei represents, any policy choice may be preferred (Graham, 1981, p. 91). It will depend on what lets most people live out their lives relatively unharassed. In terms of the politico-economic (market-making) dimension to world affairs, the practice of wu-wei may or may not stand in stark contrast to the dog-eat-dog thinking of contemporary economic protectionists, the tit-for-tat thinking of global marketeers, and the hail-fellow-well-met thinking of international socialists. While protectionists always see a need to defend their country against the predatory behaviour of trading and investing ‘others’, Taoists may or may not feel obliged to respond with economic nationalism of this sort. Likewise with the free trading and investing practices that those who see human beings as basically calculating espouse (though the Tao te ching does eschew the stimulation of a desire for products that are hard to get). Nor do Taoists necessarily espouse the planned production and distribution policies that altruistic socialists find most congenial either (though the Tao te ching does recommend distributing a country’s wealth evenly, without legislating kindness). If we focus upon issues to do with global economic development and human want, we can see that Taoists are not constrained to the rationalist languages currently used here to do their thinking with. The concept of wu-wei frees us from the constraints these languages impose. This does not mean that wu-wei prescribes set developmental policies of some other kind, or has a solution it can bring to bear upon a specific famine (though Taoism does enjoin us to be frugal and content, foster the welfare of ordinary people, and not exalt riches). It does mean that wu-wei will always see economic well-being as part of the security equation, however, which is still not an acknowledged part of the rationalist approach to global security. It will always argue that people should not want, as well, which is not yet the basic position in the rationalist world either. In terms of the politico-social dimension to world affairs, we can see how the practice of wu-wei may or may not entail the dog-eat-dog thinking of 78 Ralph Pettman contemporary nationalists, the tit-for-tat thinking of modernist proponents of human rights and democracy, or the hail-fellow-well-met thinking of modernist proponents of social movements. Taoism is not constrained to any particular policy or policies. Indeed, it enjoins us not to get caught up in the conventional thinking that these rationalist ways of talking about the self-in-world-society represent. This does not make it a panacea (though the humane and caring character of Taoism would make it the basis for one, as would its sense of cosmic respect). It does invite us to move beyond the rationalist way of thinking, though, to entertain the Taoist level of experience, before deciding what to do. Which brings us to that part of the analytic map sketched at the beginning that accounts for those who emphasize the importance of human nurturing practices, not human nature. Classical marxists emphasize the materialist nature of the nurturing environment, articulating an analytic language that describes and explains the concept of global security in terms of the capitalist mode of production, capitalist exploitation, and the relevant class struggle. Neo-marxists add a mentalist note to this story to account for the hegemonic power of the ruling class, and its capacity to craft a concept of global security that serves its particular interests. Taoist spontaneity is radically different in that it does not portend any particular alternative to the analytic certainties (neo)marxist doctrines represent. Nor does it preclude the policies they prescribe or proscribe. Wu-wei practice seeks responses that are more immediate, instead, and more appropriate to the global security situation, as read as a whole, and from one moment to the next. It seeks a sense of the whole security situation, before affirming that sense in such a way as to nurture as many concerned as possible. Of the analytic languages that articulate preconceptions about human nurturing practices, constructivism is the one most like Taoism. This analytic language highlights the mentalist aspect of the nurturing environment. It does not recommend any particular policy response, since it merely highlights the mentally-made component to them all. Taoism can look very similar, particularly when we find the Tao te ching recommending that we should think as ordinary people think, which is just what the so-called ‘commonsense’ version of constructivism does (Pettman, 2000). While constructivism does not prescribe a particular way of thinking about the concept of global security, it is still rationalist, however, and it still constrains us to a mentalist rather than a materialist consideration of the concept. Taoism does not. It is non-rationalist and sacralist. And while most rationalists are likely to find this a recipe for epistemological anarchy, some may find that it is an opportunity to explore and assess productive ways of thinking that rationalism precludes. Taoism and the concept of global security 79 4.3 Comparing Taoist concerns with conventional strategic ones The dominant (though not necessarily the most important) language spoken about contemporary world affairs is the (neo)realist one. It articulates all of our dog-eat-dog notions about an anarchic world system, and global and regional balances of power. Compare the concept of wu-wei. This would seem to have nothing to do with the whole politico-strategic spectrum (Pettman, 1998, p. 176). On the one hand we have the classical realist dialect of alliance-hopping, and the neo-realist dialect of structural reasons for self-help. We have prescriptions for the pursuit of the national self-interest, and for the proscription of intervention in other states’ affairs. We have state-centricity, and pessimistic assumptions about human nature. On the other hand we have the Taoist determination to make no such assumptions and accept no such constraints. We have clear but not dogmatic opposition to conquest by force of arms. We have the decision to be as flexible as possible about what foreign policies to adopt, and how to implement them. We have the determination to act or react with profound, indeed sacral spontaneity. Rationalists aptly point out that anything less than sacral spontaneity is likely to fall flat on its face. While we wrestle with whether we are profound enough, however, we can always, as the Tao te ching recommends, keep the state’s biggest guns out of sight, treat them as unattractive (no parades or fly-pasts), use overt force extremely reluctantly, ensure that collateral human damage is kept to an absolute minimum if we do have to use force, and treat any success as a tragedy not a triumph. The ultimate issue in the politico-strategic realm is war. How does wu-wei apply here? Human warring is regularly analysed rationally in terms of a range of causes, kinds and consequences. The results of these analyses are used to plan appropriate politico-strategic practices, whether of an offensive, defensive, or pre-emptive kind. Human warring can also be analysed by meditating, however – that is, by not cogitating so self-consciously upon the ways in which we relate to each other and the world. The results of these meditations can then be used to practice neither offence, defence, or preemption, but a kind of watchfulness, a kind of non-anticipation, a way of being in the world-moment that is equaniminous, open, and aware. The latter is the one that wu-wei exemplifies. It would be worthy but fruitless to try and deal with world conflict

#### The universe is a continuous stream of consciousness with no static reality

Ames and Hall 10. Roger Ames and David Hall (Ames is a Canadian philosopher at the University of Peking. Hall was a professor of philosophy at the University of Texas), 2010, “Daodejing: Making this Life Significant,” Ballantine Books, I have a pdf, r0w@n

We begin our argument for translating Daodejing as “Making This Life Signicant” from Daoist cosmology. Taking a closer look at the interpretation of both the title and the content of the Daodejing as “The Classic of This Focus (de page24image2425456) and Its Field (dao page24image2425040),” we might first ask what does the expression “this focus” mean? The Daoist correlative cosmology begins from the assumption that the endless stream of always novel yet still continuous situations we encounter are real, and hence, that there is ontological parity among the things and events that constitute our lives. As a parody on Parmenides, who claimed that “only Being is,” we might say that for the Daoist, “only beings are,” or taking one step further in underscoring the reality of the process of change itself, “only becomings are.” That is, the Daoist does not posit the existence of some permanent reality behind appearances, some unchanging substratum, some essential denying aspect behind the accidents of change. Rather, there is just the ceaseless and usually cadenced flow of experience. In fact, the absence of the “One behind the many” metaphysics makes our uncritical use of the philosophic term “cosmology” to characterize Daoism, at least in the familiar classical Greek sense of this word, highly problematic. In early Greek philosophy, the term “kosmos” connotes a clustered range of meanings, including arche (originative, material, and efficient cause/ultimate undemonstrable principle), logos (underlying organizational principle), theoria (contemplation), nomos (law), theios (divinity), nous (intelligibility). In combination, this cluster of terms conjures forth some notion of a single-ordered Divine3 universe governed by natural and moral laws that are ultimately intelligible to the human mind. This “kosmos” terminology is culturally specfiic, and if applied uncritically to discuss the classical Daoist worldview, introduces a cultural reductionism that elides and thus conceals truly significant differences. The Daoist understanding of “cosmos” as the “ten thousand things” means that, in effect, the Daoists have no concept of cosmos at all insofar as that notion entails a coherent, single-ordered world which is in any sense enclosed or denied. The Daoists are, therefore, primarily, “acosmotic” thinkers.

#### Wu-Wei brings an understanding of a change that uniquely enables progress

Wenning 11. Mario Wenning (Teaches and studies Social and Political Philosophy, Intercultural Philosophy, Aesthetics at the University of Macau, has a PHD from the New School), 2011, Comparative Philosophy vol. 2, <https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1017&context=comparativephilosophy>, Accessed on July 15, 2021. r0w@n

Pathologies are social and psychological deformations on a structural level manifesting themselves in social institutions, individual patterns of beliefs, motivations and practices. The pathologies which critical theory has been diagnosing can be summarized, following Marx, Lukacs and Weber, as a combination of reification, disenchantment and acceleration. In the process of increasingly understanding intersubjective-, self- and world-relationships primarily from the perspective of exchanging equivalent commodities on a market governed increasingly, and sometimes exclusively, by a competition for these commodities, individuals become systematically estranged from the objects they produce, the process of production, themselves, and from the community of fellow human beings.12 The pathology of reification (Verdinglichung) arising from the exchange principle governing ever more dimensions of society has been analyzed, drawing on the early Marx and Lukacs, from a variety of perspectives.13 Originally reification referred to the process of making singular human beings and experiences similar and exchangeable by abstracting from their unique qualities. While the concept seemed outdated for a long time due to its implicit assumption of a human essence from which one could become estranged, it made an astonishing comeback. Whether it is a critique of the reification/distortion of communication,14 the reification of relationships of intersubjective recognition,15 the reification of gender roles16 or the 12 Karl Marx (1973, 108-111). 13 See for example Axel Honneth, (2005). 14 Jürgen Habermas (1984). 15 Axel Honneth (1996). 57 Comparative Philosophy 2.2 (2011) WENNING reification of conceptions of the self,17 what is being criticized are relationships primarily controlled by a fixed logic of instrumental reason and strategic bargaining processes rather than mutual understanding, recognition, care for the self, love and other preconditions of leading a good life within the constraints of justice. Apart from the attempts to shed light on reification as a major form of pathology in modern societies, it is a significant success of recent work in critical social theory to emphasize that not all pathologies of modernity can be reduced to intersubjective pathologies of communication and reification.18 People in late modern societies do not just suffer from being used rather than understood or being invisible rather than recognized. They also suffer from what Max Weber called ‗disenchantment‘ (Entzauberung). In the process of increased rationalization, traditional sources of meaning that were sedimented in inherited religious traditions, social institutions and customs have lost their power in orienting lives. Finally, **the process that reification and the vanishing of resources of meaning have been engaged in is one of an increasing acceleration** (Beschleunigung) in which, as Marx puts it, ―everything that is solid melts into the air‖. We witness a progressively increasing speed not only of technological innovation, but of social change since the late medieval period. While there was an intergenerational speed of change in the early modern period, and a generational speed of change during classical and high modernity, **late modernity is characterized by an intragenerational speed of change** in which **the basic parameters of coordinating one‘s life change within a lifetime.** In this latest stage of acceleration, the only thing that is certain is that what was taken to be certain today might not be certain tomorrow.19 This acceleration is both subjectively experienced and corresponds to objective modes of accelerated life ranging from processing information, the transportation of goods and people, voting behavior to the change of significant others and professions. Increased change of environments and values undermines traditional forms of identity formation since actors are forced to constantly reassess and readjust their forms of life, practices and sets of convictions. All three pathologies constitute forms of social injury. While the psychological impact of **reification leads to systematic forms** of forced inclusion or exclusion, **of being restricted to or being left out of fixed identities**, and the process of disenchantment corresponds to a sense of existential absurdity in a world devoid of binding resources of meaning, the pressures of increasing acceleration are experienced in terms of existential exhaustion and anxiety. As a consequence, there is an increased sense of superfluousness and being antiquated, a fear to be left behind in, or fall outside of the rushing hamster's wheel of late modern societies. . However distinct these pathologies might appear, it is crucial to notice that there is a close linkage between these three briefly outlined pathological tendencies of modern societies. Not only are reification, disenchantment and acceleration historically connected, they also imply each other on a conceptual level. Reification consists in seeing the world primarily from the vantage point of being a means or a toolbox from which means can be utilized in order to bring about a desired end. In this objectifying process, the end justifies the variable means and is the only factor taken to be intrinsically valuable. This end, then, is understood as not presently realized but as a future possibility the reality of which depends on the implementation of one's plan of action. Bernard Williams, the eminent British moral philosopher, stresses this point by arguing that without projecting an aim into the future, life would become meaningless. He argues for ―the idea of a man's ground projects providing the motive force which propels him into the future, and gives him a reason for living.‖20 If it were the case that our very existence would be safeguarded only as long as we intentionally pursue future-directed goals and projects in increasingly rationalized ways, it would mean that actors would be doomed to be increasingly alienated from a present they could at best regard as offering instrumentally useful, but intrinsically insignificant means for a supposedly meaningful future. Seen from the temporal horizon of the actor engaged in instrumental reasoning and action, the present events, actions, objects and subjects lack any intrinsic value. They are regarded as merely ―useful for‖ certain projects rather than significant in virtue of what they are. The moment a project is realized, the satisfaction vanishes since it is not futural anymore. By presupposing such a restricted conception of projective action as the reason for living, the present environment an actor navigates in is transformed into pure immanence in which prediction becomes possible to the point of resembling an analytic judgment: assuming that we know what we want, and if we can do what we want while nobody keeps us from doing it, what we want will become realized. Novelty is being reduced to the discovery of new implications of what has already been familiar. Effort is generated once we see the end of our action as external to our spontaneously generated attachments. It grows out of the attempt to realize the stipulated end in ever more innovative, efficient and predictable ways in which spontaneity is, at best, forced towards a goal. The goal at which effort is directed often drops out of focus during the acceleration process or it loses its appeal. It seems external to the actor who has been trapped in a means-ends apparatus. This rationalization process increasingly becomes independent from the specificity of ends pursued and impossible to get out of. With every rationalized act the actor moves deeper into the quicksand of a world of suppressed spontaneity. The consequence of this seemingly autonomous rationalization process famously described by Weber as an ―iron cage‖ is that the present is being downgraded as insignificant on its own terms when compared to the future gains one promises oneself as the payoff of one's actions. Processes of innovation become the norm and speed up because actors hope to do and achieve ever more goals in increasingly shorter segments of emptied time. Actors rush to a future, which can in principle never be actualized. Paul Virillio fittingly describes this blind acceleration process of chasing structurally elusive future goals in increasingly higher speeds of innovation adequately as a ―rushing standstill‖. From within the ―iron cage‖ of modernity true innovation, which would have to be different from mere acceleration or enhancement and would require deliberating about alternative present ends, seems increasingly impossible.21 The new is transfigured into the only variable that is to be expected. Instrumental action as the reified forgetfulness of the meaning resources of the present for the sake of the projected future thus seems without alternative. The consequence is what Hermann Lübbe refers to as a ‗Gegenwartsschrumpfung‘, a continuing shrinking of the present under the complimentary pressures of the tendencies of melancholic musealization of irretrievably lost pasts and forced innovation to run after structurally elusive futures.22 The dilemma with which critical theorists see themselves confronted is that whatever emancipatory tendencies – be they introduced as forms of resistance, mutual understanding, recognition etc. – are being proposed as means for a future end, instrumental action is reenacted under a normative guise and the domination of the future over the rest of time is thus further sedimented. As soon as instrumental actors propose or just point to emancipatory forms of action, they replicate and reenact the same temporal logic that it originally diagnosed as the problem of modernity, i.e., the belief that the future can be mastered through acts of projective planning. The problem of this projective planning mentality is not that things often turn out differently than planned, but that the actor sidesteps and thereby undermines the significance of the present and sees it simply as something to be used for future ends. In other words, by downgrading the present including its modes of action to being "for the sake of the future," critical theory denigrates the present to the status of a prefuture, a state of emptiness that is used as a resource rather than lived in. A theory exposing and explaining social pathologies is keen on pointing to the inescapable mechanisms preventing the emancipatory use of reason through action. Such an exclusive focus on the diagnosis and emergence of pathologies coincides with developing an ethics of melancholy that emphasizes the inescapable specter of instrumental reason. Looking back in a melancholy state of mind over the long history of failed revolutions, it only sees what has been irretrievably lost in the wake of histories of catastrophes.23 The present is now seen as an appendix to a past larger than life, an after-past. By replacing the search for an alternative mode of present potentiality with a focus on the traumatic experiences of history, it forecloses the possibility of emancipatory action in the present and thereby reverses the temporal logic of modernity. By replacing the infatuation of the projected future over the present, a new domination – that of the past over the present – is being introduced and sedimented. While the former domination – that of the future over the present - corresponded to forms of blind activism, the latter – that of the past over the present - leads to a state of passivity, an inhibition, which replaces the engagement with the present for the contemplation of mnemonic art. The consequence is not a liberation of the past (which is in principle impossible) or a liberation of the present, but an extension of the temporal pressure put on the present. While the classical modernists only had to justify themselves with respect to the future, late modernists also have to justify themselves with respect to the past. This detour was intended to show that the instrumental actor finds himself in a dilemma that seems impossible to get out off. The shrinking of the present arising out of instrumental action constitutes a theoretical as well as practical impasse. A transcultural engagement with Daoism understood as another critical theory could turn out to be fruitful given that it emerged within a cultural context in which instrumental action has not been the only or even primary form of action. First, however, it needs to be asked whether it is at all legitimate to interpret Daoism as another critical theory. In the second part of the paper I will first show that Daoism can be understood as a critical theory and then discuss whether it offers an insight that could overcome the uneasy relationship between critical theory and emancipatory action with a focus on the present. The goal is to show that the proto-Daoists Lao Zi and Zhuang Zi, commonly referred to as "Lao-Zhuang", provide a promising path which points to an alternative approach of addressing the vexing problem of instrumental action expressing itself in the pathologies of reification, disenchantment and acceleration. At the risk of engaging in anachronistic hermeneutics by applying texts from a different tradition which date back two and a half-millennia, the benefits of tapping rich conceptual sources providing a new insight into entrenched philosophical preconceptions seem overwhelming. Compared to European traditions, Daoism's long history of addressing phenomena of reification and change in theoretical, as well as practical ways, provides an immense richness not only for a reorientation of critical theory, but also in terms of envisioning emancipatory practices. The insight into the fluidity of social dynamics and the fluid subjectivity of actors anticipates many of the developments of late modern societies. At the same time Daoism offers us correctives to these developments. The early Daoist acknowledgment of the value of idling and uselessness, for example, allows us to level a critique of the pathologies of reification, disenchantment and acceleration deriving from a reduction of action to instrumental action. A critical theory in the spirit of Daoism would not simply disclose pathologies. It would also offer constructive resources which allow us to critically address and, as far as possible, overcome these pathologies without providing yet another reifying project that sells out on the potentiality of the present for the sake of the future.

#### Without being distracted by cumbersome desires our lives become acts of resistance

Ames and Hall 10. Roger Ames and David Hall (Ames is a Canadian philosopher at the University of Peking. Hall was a professor of philosophy at the University of Texas), 2010, “Daodejing: Making this Life Significant,” Ballantine Books, I have a pdf, r0w@n

If we look for a more concrete way to express the cultivation of the wu-form disposition advocated by the Daodejing, we might think of “life as art.” The developed customs and habits of mind of the Daoist are a resource that conditions, influences, and attempts to optimize the range of creative possibilities without in fact causally determining the crafting of novel experiences. Such aggregated habits are irreducibly social, and are the unannounced social propensity out of which individual hearts-and-minds express themselves as overt actions. For example, the insistent particularity associated with the uniqueness of a particular person must be understood both relationally and as a dynamic process within the context of a given natural, social, and cultural world. Particular character is an inter- penetration of habits that has organized and made meaningful the more primary but not more important natural impulses. Considered synchronically, persons are irreducibly relational, entailing what they do for this specific community as well as the personal enrichment they derive from participating in its communal life- forms and culture. Viewed diachronically, each particular personality must also be understood as an ongoing and unrelenting awareness that attends every gesture and thought, and that is expressed as a rened disposition in all of its activities. For the classical Confucian, this ritualized awareness (li page61image62594368)—the living of one’s life within the roles and relationships of family and community—focuses one’s aggregated habits as they are expressed in the events of the day. We have reected on this Confucian notion of disposition at some length in our Focusing the Familiar: A Translation and Philosophical Interpretation of the Zhongyong, and attempt to locate the Daoist sensibility within this discussion here. To begin with, for the Daoist, this focused awareness is extended beyond the immediate human community to encompass the other environments as well. The habit-informed interactions between person and environments occur within custom and culture broadly construed. This ecological sensibility is what gives Daoist philosophy its profoundly cosmic dimension. To use the word “habits” to characterize either the Confucian li or the Daoist ecological sensibility might seem, initially, somewhat disenchanting, reducing the intense and elegantly productive human experience, whether human-centered or more broadly construed, to the ordinary and routine. But the claim at issue is that it is precisely in the elevation of the routine and ordinary business of the day, rather than in some ephemeral and transitory “momentous” events, that the profound meanings of a life are to be realized. And, properly understood, “habit” is essential to this process of enchanting the everyday. We are accustomed to think of habit in a negative manner as mere routine, or as compulsively repetitive behavior that we would alter if only we had the willpower. That is, we are inclined to place habit squarely within the sphere of determined behavior. Indeed, habit as acquired disposition is of no great significance if one understands the order of the world to be the result of a transcendent Creator, or as the mechanical instancing of transcendent Laws of Nature. For in such cases, habitual actions merely replicate the necessities of things; they are the involuntary expression of our given instincts and needs. It is only if the world is truly processive and changing in character that acquired dispositions may become a constitutive ground of the way things are. Understanding the Daoist-refined ecological consciousness as habitual behavior will be of benet only if we rethink our own accepted senses of habit. Hexis was used initially by Aristotle as a neologism. The Greek hexus means “having” or “being in possession of.” Early on, hexis also had the suggestion of both “condition” and the “state” of something. It was thus used dispositionally to mean the natural or conditioned “tendencies” of things—as the “habit” of a vine. Aristotle himself sometimes uses hexis to refer to the natural or innate behavior of creatures. If we combine the senses of “habit” as that which is had—as a state or condition that something takes on, and as its consequent tendency—we arrive at the sense of the term that is found most prominently in the American pragmatic tradition. John Dewey contrasts habit with essentialized notions of human nature and reason that are the backdrop of deterministic instinct theory, insisting that “the meaning of native activities is not native; it is acquired.”24 We are our habits, and they possess us rather than we them. So for Dewey, “the real opposition is not between reason and habit but between routine, unintelligent habit, and intelligent habit or art.”25 Habit is an acquired and cultivated disposition to act in one way as opposed to another. It is the significant form that bursts of energy take as they are channeled through existing patterns of associated living, dependent upon anticipated response as much as novel impulse. It is certainly not counterintuitive to understand habit in this creative sense. Most individuals would recognize the peculiar contribution of technique to artistic endeavor. Without the ability to mentally parse and physically play musical notes and chords in a stylized fashion, neither composition nor performance would be possible. Technique, as pre-reflective and dispositional, frees the artist to perform and to create. This same relationship to spontaneity is realized throughout one’s experience

#### To attain real progress we need to make connections- that overwhelms desire that normally causes failure

Joseph Pratt 14, A Daoist Take on American Legal Theory, No Publication, 5-26-2014, DOA: 10-26-2021, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2441773, r0w@n

This consciousness is a sense of the world’s inherent goodness, and that a balance between the other and oneself is necessary to experience that beauty. 83 It is an awareness that separation is only for the experience of community and ultimately Oneness and the Dao. It also follows, as some people in early America understood, only when the common weal and individual pursuits are in harmony can people enjoy true equality and liberty and thus the freedom to pursue that happiness the world provides. This enlightened sense brings together Immanuel Kant’s individualism and Jeremy Bentham’s utilitarianism in a way that achieves much more than either could do separately. 84 81 PENNSYLVANIA CONSTITUTION OF 1776, Article XIV (noting “[t]hat a frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality are absolutely necessary to preserve the blessings of liberty, and keep a government free”). 82 For an early case law comment on this point, see Currie’s Administrators v. Mutual Assurance Society, 14 Va. 315 (Va. 1809) (noting that a legislature could not limit a subsequent legislature’s actions on a particular matter, but only admonish that any change would violate a natural principle). 83 Professor Gabel calls for realizing an “unalienated relatedness,” while Professor Kennedy might refer to this consciousness as an “intersubjective zap.” See Gabel and Kennedy, Roll Over, supra note 36, at 1-14 (1984). Gabel also noted that union and otherness represent a false duality. Id. at 21. 84 Bentham’s utilitarianism would be considered a communalism to the extent it is concerned with the greatest good for the greatest number of people. In harmony with individualism, this communalism achieves the greatest good for everyone. In other words, there are no losers. Similarly, with respect to Kant’s individualism, people are not considered a means to an end. Electronic copy available at: https://ssrn.com/abstract=2441773 17 The problem is not liberalism per se.85 A strict republicanism, as in state Communism, was as dysfunctional as the Lochner era’s liberalism—both lasted less than 50 years. Whereas capitalism overemphasized the individual, Communism overplayed the communal. Without a genuine connection among people, the forced equality saps the work spirit and the society crumbles. Nor is the solution a capitalistic-socialism, as in modern China—in contrast with the socialisticcapitalism found in America. Emphasizing socialist principles without a deeper connection among the people also only perpetuates a wayward system. The two sets of social norms may differ, but the underlying problem is the same. To foster or preserve this consciousness, the law needs to structure social institutions and decide legal disputes in ways that facilitate this consciousness. In this respect, as in early America, the law must promote a harmonious balance between the common weal and individual pursuits, and discourage purely private material aims, recognizing they are neither productive nor fulfilling as they may seem. In this role, the law must be integrative—it must contemplate various personal and social factors, including the psychological, sociological, political, and economic. 86 At the level of legal theory, the opposing sides like Formalism and 85 This point, and critique of CLS, was noted early on. See Mark Hager, Book Review, Against Liberal Ideology: A Guide to Critical Legal Studies, by Mark Kelman, 37 AM. L. REV. 1051, 1057-59 (1988). 86 Professor Gabel has suggested that such a legal system will stress restorative justice, mediation movements, holistic lawyers and integrated legal education. See Gabel, Spiritual Practice, supra note 33, at 530-531. Electronic copy available at: https://ssrn.com/abstract=2441773 18 Realism as well as naturalism and positivism also must come back together—again as in early America—to constitute a simple holistic wisdom.87 Attaining a harmonious consciousness, at the same time, will reduce the need for law and legal theory. 88 Daoism stresses that in a balanced state, people believe the goodness has occurred naturally.89 Rather than a stratified society, which many early Americans also sought to avoid, people will seek arrangements where they can live and work in harmony with each other. There thus will be less overt economic conflict. Even in contractual matters, people will seek solutions that benefit all— recognizing that to injure another is to injure the group and ultimately oneself. In torts, similarly, the grounded consciousness will make people reasonable in their daily interactions and reduce negligence. When an accident occurs, the focus will also be on restoring the group’s balance—a solution where all may win. Some may question whether such a consciousness and way of life is possible or even preferable to today’s economic circumstances? At the end of feudalism, many also questioned America’s experiment with democracy, and it worked well in some portions of the country for several decades. The eventual widespread loss of this consciousness and balance between the common weal and individual pursuits, moreover, was not due to economic necessity. Rather, it stemmed from a pride in 87