

Otto Gierke on the Relationship between the Individual and the Community (1902)

Abstract

Otto Gierke (1841-1921) was one of the leading German legal scholars and legal historians of the German Empire, who taught at the universities of Breslau, Heidelberg, and Berlin. The excerpt that Gierke reads in this recording is taken from the speech he gave on October 15, 1902, when he became rector of Berlin's university. The speech, entitled *Das Wesen der menschlichen Verbände* [The Nature of Human Associations], was published as a book the same year. In this text, Gierke examined the nature of social organization from both a legal and historical perspective, a topic that occupied him for much of his career. Where earlier social contract theorists emphasize individualism and rationalist-natural law theory (based on Roman law), Gierke emphasizes the importance of the community (including groups like guilds and associations), which was based on an older tradition of social theory. Gierke asserts that the (national) community, which the individual may be expected to fight and die for, must be more than a mere empty phrase; and he could draw on his own experience since he had fought in the wars against Austria (1866) and France (1870/71) which led to the founding of the German Empire. He remained a staunch nationalist before, during, and after the First World War.

Source

[...]

However, even lawyers may be permitted to point out the ethical significance of the idea of the real unity of the community. It is only from this idea that the notion arises that the community is something valuable in itself. And it is only from the higher value of the whole vis-à-vis its parts that the moral duty of human beings to live for the whole and, if necessary, to die for it can be justified. If a people is in fact only the sum of the individual members of a nation and the state is only an institution for the benefit of individuals, both born and unborn, then the individual may be compelled to devote his strength and life to them. However, a moral obligation to do so cannot be imposed on him. Then the glow of a high moral idea, which has always glorified death for the fatherland, fades away. For why should the individual sacrifice himself for the welfare of many other individuals who are no different from himself? The moral behavior of individuals toward one another is governed by the commandment: Love your neighbor as yourself! Extreme individualists of an idealistic bent, such as Tolstoy, want to base the life of human society on this commandment alone—and lo and behold! They destroy the state and preach anarchism. The religious complement to the commandment of love for one's neighbor lies in the commandment to love God above all else. It is this commandment that builds the kingdom of God, which is not of this world. But for the earthly community, too, it means: Love the whole more than yourself! And this only makes sense if the whole is something higher and more valuable than the sum of the individuals, if the community means more than a means to the ends of the individual, and if those who work and fight for the honor and welfare, for the freedom and justice of their people and state do not live and die for empty phrases.

Source: Otto Gierke, *Das Wesen der menschlichen Verbände*, Lecture given at his inauguration as rector, held at the auditorium of the Friedrich-Wilhelm University Berlin, October 15, 1902.

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