

Editors' Introduction

Emilio Betti was not only one of the greatest Romanists and jurists of the contemporary era, but he was also a historian and philosopher.

As a legal scholar, his writings on the great themes of legal history and on the philosophers who have dealt with them certainly deserve reconsideration and critical evaluation. In addition, Betti's analysis of the role of jurists and their prudential deserves attention. These include analyses and reflections on the different eras of Roman history, both during the Republic and in subsequent eras, which are still of absolute relevance today. In particular, it is the debate on pandectics and the importance of the critique of European pandectics that marks an epochal shift in the study of law. Betti was an eminent scholar of law, who studied it in all its forms, always studying law from a historical and dynamic perspective, and had been a teacher not only of Roman law, but of various legal disciplines, and above all of subjects that had the current law as its object, in particular contemporary law.

*From a philosophical point of view, Betti's hermeneutics can be considered an alternative to Rudolf Bultmann and Hans-Georg Gadamer's approaches whom he regarded as subjectivists, although it is necessary to underlie the strong relationship between Betti and Dilthey's thought, and also Gadamer's, who are continuously cited in the *Teoria generale dell'interpretazione* (General Theory of Interpretation). For Betti, they represented a constant point of reference. Betti, in fact, in the wake of Dilthey, did not fully adhere to German historicism, and the central point is represented, as it is for Dilthey, by the critique of historical reason; and for this reason Betti did not give*

great importance to the study of the systematic profiles of juridical thought and to the connections of doctrinal elaboration with living law.

For Betti, it is very important to recognise an objective character to legal interpretation, which manifests itself through the connections of jurists' evaluations with real life. Jurists, by their knowledge of the world through their direct experiences and through the connections between their statements and real life, can reach an important level of knowledge, which can become an exemplary model of the same philosophy. Intending and interpreting constituted for Betti, as it did for Dilthey, the central point of hermeneutical philosophy, and it is for this reason that the contrast with Gadamer, who Betti cited continuously, quoting passages from the works and a letter from Gadamer himself, does not constitute, as some interpreters want, an element so important that it can be placed at the centre of a controversy which is not in fact fundamental.

As Jean Grondin underlines,

On a souvent voulu voir dans l'herméneutique pré-heideggérienne une méthodologie des sciences humaines. Si l'idée remonte bien à la fin du XIXe siècle, cette méthodologie herméneutique des sciences humaines n'a vraiment été élaborée de façon systématique qu'après Heidegger et en réaction à sa conception ontologique de l'interprétation, par le juriste italien Emilio Betti¹.

In the various attempts to organise the different addresses of twentieth-century hermeneutics, Betti's philosophical research on

¹ Grondin, J. (1990). L'herméneutique comme science rigoureuse selon Emilio Betti (1890-1968). *Archives de Philosophie*, 53(2): 177-198.

interpretation has therefore always had – and not wholly inaccurately – a particular position. J. Bleicher considers Betti the paradigmatic reference of the methodological address of contemporary hermeneutics, as opposed to Heidegger, Gadamer, Bultmann, Fuchs and Ebeling's ontological address, to Apel, Habermas, Lorenzer and Sandkühler's critical approach, and to Paul Ricoeur's phenomenological-hermeneutical approach².

Betti concentrated mainly on the study of legal dogmatic from a historical and scientific perspective of interpretation, strongly rejecting the universalisation of hermeneutical thought both in an ontological and "existentialist" sense (he would certainly have rejected the idea of interpretation as productive contemporary koinè). Simultaneously, however, his scientific and philosophical research covers another aspect of interest and concern – worthy of clarification and further study –, that is the concern and interest on humanism. This concern and interest is clearly reflected in the legal knowledge itself which, according to Betti must be characterised by the need to pursue objectives in a practical sense, not scholastic doctrines or political ideologies.

Indeed, Betti can be considered as the main contemporary exponent of that "veritative hermeneutics" which never ceases to pursue the "truth" of interpretation, coming to formulation in the famous Teoria generale dell'interpretazione a series of principles and methods capable of opening interpretation to understanding "interpretandum", that is the "object" of interpretation consisting, in Betti's opinion, of all those "representative forms" which are the products of the spirit of man in history. Moreover, Gadamer himself, often opposed to Betti, in a report given in 1960 to the "Deutsche

² See Bleicher, J. (1980). *Contemporary Hermeneutics: Hermeneutics as Method, Philosophy and Critique*. London-Boston-Henley: Routledge and P. Kegan.

Kongress für Philosophie”, titled: *Die Natur der Sprache und die Sprache der Dinge*, published later in the second edition of *Truth and Method*, marks a notable difference between the “nature of the thing” and the “language of the objects”, stating similarly to Betti, that the *Sachlichkeit*, or the “concreteness”, assumes a role of command in front of the person, as it needs to be recognised and to be interpreted in its intimate and real constitution. What Gadamer himself calls “objectivity”, in the jurist Betti it is coloured by the Roman juridical concept of *res*, which indicates a relational relationship not only between the interpreter and the thing, but also between the interpreter and all the horizon of interpretations of *res* which is concretely represented by the historical doctrinal and jurisprudential tradition, which is not therefore available to the discretion of the singular interpreter. Hence Betti emphasises the need for hermeneutics to respect the otherness and truth of the “object” of interpretation.

It is in this sense that he strived to remain faithful to the tasks of a historical and evaluative conception of interpretation, one which is able to question itself, with the necessary critical detachment, both from the conflicting interests of the protagonists of political and economic life, as well as from those of parties to individual juridical disputes. Betti considers the educational moment to be essential, because from such the dynamic meaning of the experiences that the jurist makes in evaluating real phenomena is so derived, and thus better use the hermeneutic and evaluative paths.

In conjunction with the reflection on the placement of Betti’s work in the contemporary legal and philosophical panorama, and on the characteristics of its hermeneutics as a methodology for the human and social sciences, we can ask ourselves what are the key references and constitutive characteristics of Betti’s Humanism, how

is it understood and applied today in both the legal and philosophical fields, and what perspectives it opens up.

The papers collected in this issue and delivered by the editors to the reader offer a significant contribution to the rethinking and updating of Emilio Betti's work along the aforementioned thematic lines. This is a contribution made even more 'significant' due to the variety of disciplinary expertise of the authors who have contributed to it – a variety which reflects the breadth, depth and importance of the lesson of this great contemporary jurist and thinker.

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