

DEVELOPMENTS

Book Review - Udo Di Fabio's Die Kultur der Freiheit and Richard Sennett's The Culture of the New Capitalism

*By Günter Frankenberg**

[Udo Di Fabio, *Die Kultur der Freiheit*, C. H. Beck: Munich (2005), ISBN: 3406537456, Euro 19.0; Richard Sennett, *The Culture of the New Capitalism*, Yale University Press: New Haven (2006), ISBN: 030010782X, \$25]

A.

Observers might consider it to be due to Karlsruhe – that former imperial residence: half the size of Chicago's central cemetery, but twice as boring. The Federal Constitutional Court (FCC), however, which with some justification disputes the U.S. Supreme Court's claim to the title of a "national seminar," could also come into consideration. At any rate, Karlsruhe/FCC appears to be developing into an epicenter of powerful impulses for a genre of new national pedagogical reform literature. Following the appeal of the former president of the Federal Constitutional Court, Roman Herzog,¹ now Udo Di Fabio, a judge on the bench of the Second Senate of that same court, presents his similarly forcefully opinionated and powerfully eloquent polemical work on the recovery of a bourgeois "*Kultur der Freiheit*" (Culture of Freedom, in the following: "KdF").

Although without any reference to Karlsruhe, constitutional jurisprudence, or national pedagogy and although not thematically coextensive, *The Culture of the*

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¹ ROMAN HERZOG, WIE DER RUCK GELINGT (2005). In his speech as Federal President, the author demands that "a pull must go through Germany" (1 July 1997), primarily in the areas of the economy, bureaucracy, parliamentarianism, and education. Everything must be questioned and no taboos respected in order to achieve systematic reform. In his inaugural address from 1 July 2004, Horst Köhler, his successor, agreed: "He was correct [...] We need the courage of the federal government for initiatives that will advance [us] on the way to reform." [Blätter für die internationale Politik 1147 (2004)]

New Capitalism (CC), Richard Sennett's collected reflections on his own sociological and ethnological investigations, theses, and misapprehensions regarding the topic of the new workplace, and on those of others, shall be read and reviewed in parallel to Di Fabio's world.

B.

Apart from genre specific, interpretive, and political differences astonishing correspondences between the liberal *Spätbürger* of "68" and the anti-"68" culture conservative come to light. This affinity appears in their central metaphors: while Sennett describes the workplace of the *New Economy* as a train station quite distant from the warmth of community, Di Fabio captures the post-bourgeois society in the cold picture of an airport departure lounge as a "cathedral of the present." In similar senses, both authors understand themselves as to be diagnosing the present cultural situation and operate with a rather anthropological conception of culture. Sennett offers an inquiry into the values and practices that could hold people together when the institutions they live in an with disintegrate and fragment (CC 3). Above all, Di Fabio understands culture as a comprehensive, collective (Western) way of life (*Lebenspraxis*). Culture provides an interpretive and behavioral framework that "we simply fulfill with our personal approach to life (*Lebensentwurf*)" (KdF 2). They both convey to their readership a prevailing mood that is rather culturally pessimistic. According to both diagnoses, contemporary culture is "enfeebled" (CC 197) and "exhausted" (KdF 47).

Their paths separate with respect to the causes they identify and the remedies they suggest. They lead to a different mode of criticism along with different corollaries. While Sennett in the introductory passages still self-critically laments the dearth of social imaginativeness in his generation and their attachment to "the virtues of small-scale community" (CC 3), Di Fabio unabashedly and unrelentingly touts them when he demands a "renaissance of marriage and family" and a return both to the "religious community" and the "nation as the common destiny." Whereas Sennett at the end of his empirically informed overview suggests in an almost resigned *obiter dictum* the necessity of a "revolt" (CC 197), Di Fabio's in parts stirringly written appeal aims already to the future---"whoever does not maintain his sources of cultural strengths inevitably fails"--- and thereafter argues for an energetic revitalization of a bourgeois culture of freedom: the "departure into a new bourgeois epoch".

C.

The *diagnoses* of the contemporary cultural situation: Di Fabio holds the failed development of the welfare state, the dominance of the social-technological regime, and the quixotic (naturally in the widest sense of '68) cultural criticism *à la* Adorno, Marcuse and Sennett to be primarily responsible for the well-nigh apocalyptic state of freedom and culture. In his view, this triad destroyed the common sense of mutuality, propagated the model of a hedonistic, consumer, and leisure lifestyle, misconstrued freedom as an untethered and unhistorical and thereby abetted an upheaval in the value system of personal lifestyles. In short: the values, institutions, and communities of the bourgeois society have been wantonly razed. Worse still, according to Di Fabio, these internally linked causes left their "prominent marks in the behavior of generations". The social-demographic question to be asked at this point is as follows: how can the pleasure of having more children be roused? Above all one's own, naturally.

Whereas the constitutional judge's study of causes constantly revolves around childlessness as the central symptom of the palpable loss of vitality, Sennett concentrates, incidentally in an entirely comparable distance to Marxist theory, on the cultural *and* structural changes of workplaces, businesses, and large bureaucracies on their way toward the "liquid modernity".² Globalized and oriented towards the short-term gains, technologically complex economic organizations operate, according to Sennett, in a workplace of "elastic existences" and enthrone a new cultural ideal: the flexible individual.³ The *New Economy* continually provokes the fear of becoming redundant and being left behind. Behind the specter of uselessness lurks, arising from the rapid obsolescence of qualifications, the devaluation of professional experience, past accomplishments and craftsmanship (the desire to do something well for its own sake), as well as the entirety of the process of life. "Accelerated institutions" institutionalize impatience and prefer flexible problem-solving ability rather than accomplishment and learning. The increasingly rapid changes, induced by the "new capitalism" and its turbulent markets, dramatically modify the perception of time and undermine the function of institutions as narrative frameworks within which people play a significant and active role. The *New Economy* also extends into the realm of politics, where it awards, in a sense similar to the market, the modern consumer who departs from participating in progressive politics to a passive acceptance of consensus politics and henceforth persists in a kind of free-floating "ontological

² A term leading back to ZYGMUNT BAUMANN, *LIQUID MODERNITY* (2003).

³ See RICHARD SENNETT, *THE CORROSION OF CHARACTER* (1998) for a detailed discussion.

uncertainty".⁴ As early as in the design of his analysis, the sociologist and ethnologist reveals himself to be an advocate for the underdogs of modernization.

Contrary to Sennett, whom he does not particularly appreciate,⁵ Di Fabio, despite his moderate system-theoretical orientation,⁶ in his analytical passages remains almost exclusively on the level of culture and its normative representation through values.⁷ With recourse to the concept of vitality as a principle of interpretation – his “source code” in a culture of freedom⁸ – Di Fabio tracks the destructive phenomena in the superstructure of capitalism and its structural modernization. He leaps onto an amalgamation of crisis symptoms that can hardly be surveyed: an exaggerated cultural criticism and a pervasive nihilism of tradition, social technology and the destruction of common sense, the emphasis on radical individualism and the normative fixation on equality, the degeneration of morals and erosion of cultural identity, false models and false answers, a fearful, hollow society and, finally, all of the consequences of a hermetically rationalistic interpretation of the world. In the course of his criticism of ideology and cultural criticism, Di Fabio moves far beyond the surface of the post-bourgeois society. In the emergency ward of modernity he subjects its body to triage (see above), assessing injuries and the loss of vitality. And the end result is said to be the defeat of a liberal/conservative idea of freedom. Or, to put it differently, the social/liberal/green project has failed to reconstruct the welfare state and to reduce the national debt. It has hit rock bottom.

The constitutional judge and instructor of constitutional law as reformer writes his liberal/conservative/communitarian manifesto with an all too frequent avoidance of empirical support. Caustic remarks about “libertarian nihilism” or “stifling collectivism”, “ignorant tolerance” or “hedonistic credo” remain primarily on a

⁴ See MARGARET MAHLER, *THE PSYCHOLOGICAL BIRTH OF THE HUMAN INFANT* (1975) for details on this concept.

⁵ “In his highly regarded work *The Fall of Public Man*, Sennett, as one of many, portrayed the family as threatening and sense destroying intimacy: a social prison with never-ending squabbles, daily worries over unpaid bills, perpetual pressure to have to chauffeur children from here to there.” UDO DI FABIO, *DIE KULTUR DER FREIHEIT* 32 (2005)

⁶ He follows the system theory in the world differential system, but contests their autopoiesis. Orthodox followers of Luhmann would castigate him as a renegade.

⁷ In earlier works Di Fabio prepares his views on values. See in particular: Udo Di Fabio, *Die Grundrechte als Wertordnung*, 59 *JURISTENZEITUNG* 1 (2004).

⁸ Reference to vitality in *Die Kultur der Freiheit* is not a novelty: see already Udo Di Fabio, *Die Schutz von Ehe und Familie – Verfassungsentscheidungen für die vitale Gesellschaft*, 56 *NEUE JURISTISCHE WOCHENSCHRIFT* 993 (2003).

level of a somber murmur among those in the know. Especially in passages containing criticism, Di Fabio appears to trust that the persuasiveness of sentences stems not from their propositional content, but rather from their expressive hyperbole.

By way of contrast, the ethnologist/sociologist lets himself be consistently informed by the results, experiences, and mistakes of empirical research. Thereby and almost in passing, the analytical gaze captures culture and the deeper structural changes of the world of production and labor. Thus, Sennett is receptive to the destructive and creative changes in capitalist regimes, and to the ambivalence of bureaucracy as both, a prison and home.

D.

Concerning the *therapy* for the ailing culture: Dramatized by the fragmentation of institutions (CC) and the destruction of guiding bourgeois values (KdF), the respective answers to the question of social ties – addressing the problem of how to ensure social cohesion – turn out to be rather similar in KdF and CC: In each case values become crucial media of integration. In a counterfactual and abstract utopic sense, Sennett confronts the values of the *New Economy* and its compliant consumerism with the values of craftsmanship and the new public status of citizens. Di Fabio's preferred values – diligence, fraternalism, sense of family, esteem for religion and patriotism – are embodied, in good right-wing Hegelian tradition, in the triumvirate of family, religion, and nation. Both, Sennett and Di Fabio, thus look forward while in some sense orienting themselves towards the past.

Di Fabio's therapy program focuses on overcoming the pleasure principle, "grey androgeny" (oh dear!), and the idea of an unbridled life – all of which undermine the desire to have children.

At a safe distance from Sennett's earlier model of the free city as a place of unconstrained living⁹ and its careful valuation of informal relationships in a civil society¹⁰ and in "parallel institutions," as well as the possibility of "strong personal

⁹ RICHARD SENNETT, VERFALL UND ENDE DES ÖFFENTLICHEN LEBENS 13 (2002) [The Fall of Public Man (1977)]; UDO DI FABIO, DIE KULTUR DER FREIHEIT 32 (2005).

¹⁰ From the comprehensive literature: ULRICH RÖDEL/GÜNTER FRANKENBERG/HELMUT DUBIEL, DIE DEMOKRATISCHE FRAGE (1989); JOHN KEANE, CIVIL SOCIETY: OLD IMAGES, NEW VISIONS (1998); JEFFREY ALEXANDER, REAL CIVIL SOCIETY: DILEMMAS OF INSTITUTIONALIZATION (1998); ARND BAUERKÄMPER, DIE PRAXIS DER ZIVILGESELLSCHAFT (2003); ANSGAR KLEIN, DER DISKURS DER ZIVILGESELLSCHAFT (2001); HELMUT ANHEIER ET AL., GLOBAL CIVIL SOCIETY 2001 (2001).

relationships also under very impersonal conditions" (KdF, 145), Di Fabio energetically refers us to a new, but also old, "eros of duty" and to an ethos of vital, reflexive freedom (KdF, 158, 256, 268). "Bound freedom" functions as a magic formula for the finally completed quadrature of the circle: the paradoxical re-imagination of the individual as a robust and risk-ready virtuoso of functional differentiation as well as a child of a nurturing and educating societal essence. Man, born free, with insight into the necessity of voluntary requirements, lies everywhere in chains. Specifically, in the chains of his socially and technologically regulated existence. He shall become free again through a cultural change inspired by Di Fabio. This liberation leads to a "rethinking" of the bourgeois generation, its guiding values and laws that fight for "freedom, responsibility, and restriction", as well as the "reflexive re-appropriation of community, which is the basis of individual freedom" (KdF, 136) – in particular marriage/family and state/nation. His comprehensive liberation program contains among other things: the renunciation of "a corrosive egalitarianism" (read: the abolition of anti-discrimination legislation), the "burden-sharing of interests that support the vitality of a free society" (for example through increased contributions of the childless to the care insurance¹¹), the propagation, particularly in the form of the three-child-family, of the "risk of restriction", the correction of the "one-dimensional modern project" leading to the disenchantment of the world through rationality (for example through "the principle of the religion-friendly neutrality of the state"), and the revitalization of "the nation as the regular cultural area of freedom" instead of, as one might already guess, the "wailing toleration of multiculturalism" or "uncritical internationalism". Interestingly enough, Di Fabio's "right wing concept of society"¹² does not mention democracy as a source of emancipatory values.¹³

¹¹ See BVerfGE 103, 242, 267.

¹² Similarly in his review, the enthusiastic Jörg Lau, *Experimenteller Konservatismus*, 682 MERKUR 66, 68 (2006).

¹³ At any rate, perhaps ironically, Di Fabio sees what 'undermines' the justifications of democracy: "Citizens lose their waypoints for making their own judgments when they can no longer judge political questions in the reference framework of their own historically developed and public culture with its deep layers of legends, sagas, and fairy tales, its collective experiences, its proverbs, its rules of wisdom, and the spirit of their own language with its complex references, connotations, and evidence": UDO DI FABIO, *DIE KULTUR DER FREIHEIT* 54 (2005).

E.

If one were to bring the two authors together in dialogue, the conservative lawyer & judge might regret not having taken note of the “*späetbürgerlichen*”¹⁴ views of the sociologist & ethnologist in his earlier books¹⁵ while doggedly engaging in a provincial polemic against Sennett’s---perhaps too idealistic---perception of modern urbanity. If only as a complement to the culture of freedom. It cannot be ruled out that Di Fabio might relish Sennett’s well-tempered and forthright recognitions of mistakes in his reflections. In reverse, the culturally pessimistic sociologist & ethnologist might hardly object to the vehement criticism of a one-dimensional individualism and the triumph of instrumental reason, the excessive reach of the law, and the totality of the “loss of societal vitality”, if not too obsessively connected to generative behavior. Likewise Sennett might share Di Fabio’s criticism of the unjust allocation of burdens and the orientation of society towards the values of the marketplace. On the other hand, Sennett would surely object to his colleague’s voluntarism¹⁶ and might advise him to maintain more analytical, if not political distance to the love of vitality¹⁷, and instead direct his view to the conditions of life under the regime of a “new capitalism” that cannot be disposed of at will: the radically altered structures of work, production, and time that instill a permanent compulsion towards the new and subordinate career, family, social status - indeed, almost everything - to the haphazard demands of the economy.

Only with difficulty might the cultivated Sennett, who writes in a moderate tone, overlook the way Di Fabio on the one hand castigates new and thoroughly precarious communities - such as unmarried cohabitation, civil society, or multiculturalism - with caustic acerbity, and on the other hand portrays with a soft brush the unaccommodating nature of the economy in relation to the family, to social inequality, the “classical” gender-specific roles and the division of labor as well as the entirety of bourgeois culture from Prussia to Adenauer’s Rhenish Republic. Unavoidably, the sociologist would have to recommend the instructor of

¹⁴ See Roger Behrens, *Der Positivismus entdeckt das Erlebnis*, KRISIS 21/22 (2005), his recension on SENNETT, *THE CORROSION OF CHARACTER* (1998).

¹⁵ Besides Sennett’s *CORROSION OF CHARACTER*, his *RESPECT: THE WELFARE STATE, INEQUALITY, AND THE CITY* (2003) needs particular mentioning.

¹⁶ Who, with his - though selective - receptive and value-based system theory from Adorno (footnote 1) to the Maastricht Treaty (footnote 205), from Arnold Gehlen to Giovanni Pico della Mirandola, develops a colorful world of citations.

¹⁷ “New strength arises when people stop regarding economic, cultural, and political occurrences as spectators and instead ask how one can do things better and, above all, what one can do personally”: KdF 276 (2005).

constitutional law to first and carefully investigate the structures and empirical accomplishments of the bourgeois era rather than to romanticize its law and societies. For example: whoever glorifies the family as a source of strength should beforehand evaluate the results of the thorough research on domestic violence.¹⁸

In the end, Sennett might perhaps object that the distinctive tracks of the definitely lamentable generative behavior does not lead to Adorno, Marcuse, the generation of 68, the manifold of editorial articles or some form of hedonism, but more so to the laws of the "*New Economy*" as they regulate production, time, labor and its division. These laws Di Fabio might have to consider, if he wants to prevent his grand gesture to save society from its perils to come to nothing.

¹⁸ Examples from the voluminous literature: BUNDESMINISTERIUM FÜR FAMILIE, SENIOREN, FRAUEN UND JUGEND (HG.), GEMEINSAM GEGEN HÄUSLICHE GEWALT (2004); BUNDESMINISTERIUM FÜR FAMILIE, SENIOREN, FRAUEN UND JUGEND (HG.), LEBENSITUATION, SICHERHEIT UND GESUNDHEIT VON FRAUEN IN DEUTSCHLAND (2004); LUEDKE/LAMNEK, SCHLÄGE IN JEDER DRITTEN FAMILIE (2002); HABERMEHL, GEWALT IN DER FAMILIE (1989).