IASP-AIPS

DP-16/2026 The archetypes of subordination and Marco Polo

Prof. Enrico Gragnoli[1]

1. *Subordination, its archetypes and worker protection.* 2. *Merchant society, prosperity and a new economic order.* 3. *Marco Polo, his adventures in China and subordination.* 4. *Power, trust and subordination.* 5. *Marco Polo and an optimistic view of work.*

1. *Subordination, its archetypes and worker protection.*

Rarely does the study of labour law offer such innovative and, if I may say so, entertaining reading as Prof. Ojeda-Avilès' book, entitled *National archetypes and labour subordination,* which asks us to reflect on the historical and, in part, mythical origins of the concept, long before the birth of the individual contract and, therefore, of labour law. The study does not seek to determine when subordination became important as a category of law and, therefore, when the general problem of employee protection arose and the limits within which it was defined and enriched. On the contrary, in the emergence of the consciousness and experience of nations, Prof. Ojeda-Avilès has

sought out the archetypes of personal and organisational connection that later led to our concept of subordination.

One of our most astute colleagues (whose name I will not mention, to protect his safety) told me that he understood the concept by listening to the instructions his daughter gave his wife on looking after his grandson. In a more lofty but equally effective way, Prof. Suppiej spoke of subordination as a category of the spirit, and ultimately, they are both right. The notion goes beyond the boundaries of business and contracts to become a model of a bond, with roots in our vision of society. It is no coincidence that, in order to clarify his objectives, Prof. Ojeda-Avilès states (p. 16): *'We tend to simplify social relations by making them revolve around the figure of the citizen with full rights and the rule of legislation that respects the values of the individual, both as a being and as a member of a community. Unfortunately, the history of humanity has usually exceeded these limits, and the image obtained has instead been that of an institutional pyramid – permanent and obligatory – of subordination at whose base appeared those who lacked rights and whose status was limited to full submission (slaves, serfs), while the upper strata showed subordination of a lesser degree – by guilds, institutions, estates, contracts, and marriages – and at the top were a few whom we could consider free of subjection to others".*

Ultimately, the delimitation of the employer's power presupposes the social rooting of that power itself, and this requires its acceptance as a bond between people, to be better defined in its features and developments. If the industrial revolution laid the cultural and even ethical foundations for the reduction of authority and its reorientation towards protecting the individual and collective interests of workers, the hierarchical structure of civil life has its roots in its epic background and in history or myth. It is no coincidence that, in establishing the objective of the research, Prof. Ojeda-Avilès defines the concept of archetype (p. 16): *"We can deduce to what extent the transition that occurred in the Middle Ages seems natural, when the archetypes studied here appear in Europe, and we can also see how cultural awareness changes, from initially being focused on the vicissitudes of kings in Greco-Latin tragedies and in early medieval sagas and songs to a stage of maturity where the great heroes are subordinate characters, who will endure in the collective memory of their people".*

Long before the idea of an employment contract was acquired, the social model based on the expression of authority and hierarchical coordination of behaviour to achieve a predetermined goal became established and acquired a central place in the classification of forms of collaboration. This achieved a reasonable possibility of development in the face of widespread acceptance of the fact that it could be based on the exercise of power, conceived in different ways depending on the structure of civilisation and its organisational models. The transition to the rational protection of workers, however, came later and presupposed a demand for protection that arose in response to widespread concern about living conditions in industrial society. It is no coincidence that reference is made to "a hierarchy of men bound by oaths of loyalty" (p. 17).

The research is not historical, but questions collective sensibility, so much so that it mentions "historical formation and literary recreation" (p. 19), with particular emphasis on this combination for Italy, citing not only a literary figure such as Marco Polo, but also a narrative of memories, albeit bordering on myth. Current labour law does not have the Middle Ages, feudal civilisation, or the civilisation of merchants and communes among its direct antecedents and immediate inspirations, but this is not the subject of the work, which instead aims to see how, in the formation of the national cultural environment, the bond of power between subjects in different hierarchical positions found its place and what images, myths or events contributed to the creation of such models. If subordination is a category of the spirit, not only in the modern era, and if it emerges in

different stories and for the achievement of many ends, not always of a productive nature, an archetype can be identified, and literary works or, in any case, tradition are the typical place for this analysis. After all, in its dimension not of employee protection but of identification of the power exercised and its matrix, the connection between those who command and those who obey belongs to everyday experience and finds a noble conception in the collective memory.

This is the subject of the original reflections of Prof. Ojeda-Avilès, who seeks not labour law, but its premise, i.e. some indication of the emergence of the notion of subordination in the general consciousness. If it is seen as an expression of coordinated action, the investigation of its characteristics implies an effort to understand the way in which society addresses its transformations. Power and the corresponding subjugation were a common experience long before and regardless of the industrial revolution, and one must ask where culture, in its broadest sense, found the stimulus for its conception of this connection between individual will and action, for the pursuit of shared interests, albeit not in positions of equality.

Epic poetry, tradition, storytelling and myth have addressed the issue of hierarchy, as well as many other components of collective development, and going to the roots of this theme helps us to understand its relevance and its imposition, as a premise of positive discipline itself, not in order to catalogue manifestations of authority, but to try to circumscribe its prominence in the shared memory of nations and continents, as can be inferred from Prof. Ojeda-Avilès' reference to widespread contexts, such as the Americas and the Far East. It is worth following this fascinating path with regard to Italy and asking ourselves why, with the emergence of mercantile activity, the figure of Marco Polo was taken as a model, on the borderline between autobiography, adventure story and celebration of the resourcefulness of our explorers.

2. *The merchant society, prosperity and a new economic order.*

In Italian memory, the reference to Marco Polo extends to the vision of the new social order of merchants, communes, maritime republics and, therefore, openness to trade and the pursuit of profit, with the adventurous spirit necessary for trade carried out at great distances from the place of departure. Dante commented, “New people and sudden gains have generated pride and excess in you, Florence, so that you already weep”; but this did not trouble his contemporary Marco Polo in his account of Chinese enterprises and in the creation of a symbol of initiative and the desire to discover new places. As the bearer of a letter from the Pope, the merchant boasted of talks and meetings at the highest levels, both political and spiritual, illustrating the freedom of action of someone who, guided by his creativity and the pursuit of profit, entitled his memoirs with a clear reference to wealth, in the spirit of that “excess” that was the subject of harsh reproach in the Divine Comedy.

Universities and the systematic study of Roman law had already characterised municipal societies for over a century, and the maritime republics had assumed a central position in the entire Mediterranean when ambition and the desire for discovery drove them to reach China, if the story is true, as most authors believe, although not unanimously. Ultimately, this matters little, since the veracity of the narrative does not affect its exemplary value and, above all, its synthesis of the fantasies and ambitions of the entire country, even though few had the courage to go so far. First and foremost, the story presents an archetype of the merchant, exalted for his power, his imagination in defining new paths and his determination in pursuing them.

No better context could have been offered than 13th- and 14th-century Venice, engaged in expanding its trade and expressing the anxiety for gain and desire for prosperity defined by Dante

in his harsh words in Convivio, for *'How fearful is he who feels wealth within himself, walking, staying, not only awake but asleep, not only of losing his possessions but of losing himself for his possessions! The poor merchants who travel the world know this well, that the leaves blown by the wind make them tremble when they carry riches with them; and when they are without them, full of confidence, singing and rejoicing, they make their journey shorter"*. If merchants are "miserable" because of their condition of perpetual insecurity, they are at the same time the protagonists of continuous adventures, and therefore of the collective imagination, even though they do not go as far as China! It is no coincidence, observes Prof. Ojeda - Avilès (p. 165), *'Italian merchants had become accustomed to travelling abroad to find commercial opportunities, and had written some books about* mercatura *with itineraries and useful details'*.

The Venetian Republic was considered the prototype of the form of state functional to the exercise of mercantile activity in areas of strong competition; an illustrious 20th-century scholar, Venetian (both by origin and by love for the Republic), Prof. Feliciano Benvenuti, always compared current institutions to the traditional ones of his homeland, expressing himself in favour of the latter, with constant appreciation for the oligarchic tradition and its ability to govern production processes and their continuous expansion in the Mediterranean and beyond. The myth of Marco Polo was part of these phenomena, and it is not very important whether the narrative is about the life of the protagonist or the imagination of Rustichello, as Prof. Ojeda wittily comments – Avilès (p. 166 ff.), who carefully follows the fate of the memoir to Seville and its dissemination by the Venetian Pigafetta, stimulating exploration not of China but of the Americas. It is no coincidence that precious goods arrived in Seville in excessive quantities, as evidenced by the famous Golden Gate, where ships from Peru were unloaded.

The illusion of the wealth of the lands in the East (and, to tell the truth, in the West!) animated the European spirit of adventure, and Marco Polo's work was one of the driving forces behind the frenetic search, even though it only fully manifested itself a few centuries later. The (non-illusory) vision of the mineral potential of countries... at the ends of the earth aroused aspirations, a desire for adventure and greed for many generations; the fascinating narrative of the Chinese way of life has aroused constant interest in Marco Polo's book, as confirmed by the number of manuscripts and their presence in various contexts, starting with the Alcazar of Seville, one of the fundamental starting points for new ventures, as Prof. Ojeda-Avilès recalls (p. 167), with understandable Spanish pride and refined historical knowledge. If the narrative of the exploration of the Far East belongs to the shared memory of the... divided Italian people, in the absence of a unified state, one may wonder where traces of the archetype of subordination can be found.

The concise narrative of Marco Polo's adventures in China leads Prof. Ojeda-Avilès to note (p. 186 ff.) that the hero *"represents what had already been refined and practised by the merchants of his country – then politically fragmented, but united by the same soul – throughout the two great European seas, the Mediterranean and the North"*. For the Venetian public, the link between commercial initiative and political power was certainly not surprising, considering that the entire structure of the Republic had similar objectives. After all, the constitutional system had structural links with economic activity, and the two profiles coincided in everyday practice, even more so between the thirteenth and fourteenth centuries, when Venice had no significant territorial dominion and paid little attention to agriculture and related production. If anything, the traditional link between international relations and trade found an unusual manifestation in the bond of trust between Marco Polo and the Khan, for a state based on a solid and lasting oligarchy and the corresponding fragmentation of authority, regardless of the constitutional model itself.

3. *Marco Polo, his adventures in China and subordination.*

According to Prof. Ojeda-Avilès (p. 187), Marco Polo *"is a faithful reflection of that Venice and Italy from which he comes, and of its commercial habits, which are moulded to other, similar ones in the Asian empire. This model of great commercial freedom based on mutual trust has probably encountered difficulties in recent times since industrialisation, when the pace of work required a collective discipline marked by the assembly line"*. Political authority influenced commercial initiatives, and the latter sought the support of the Venetian government in order to find the conditions for acquiring markets and the trust of others. The novelty of Marco Polo's story lies not only in the exotic environment and opportunities offered by unknown countries with enormous natural and mineral wealth, but also in the close and exclusive bond with an autocrat of enormous power, with collaboration based on specific orders and corresponding subjugation. This does not exclude the prospects offered by the Far East and, in any case, by unexplored areas open to adventure, from imposing themselves on the collective imagination. Prof. Ojeda-Avilès (p. 187) adds that around the myth of Marco Polo (and regardless of whether the narrative corresponds to an objective reconstruction of the facts) there is an exemplary image of subordination based on personal trust. After all, trade enhances these elements, strengthening authority based on mutual knowledge and, therefore, on lasting relationships, such as those established in China. And these feelings were even more valuable in a context of difficult travel and constant risks.

If Marco Polo is an archetype of subordination, he is so in his trustworthiness and respect for an autocratic will which, albeit in a climate of cooperation described as peaceful and profitable, controls the movements, behaviour and actions of his collaborator, according to a logic typical of an absolutist regime such as that of medieval China. If we want to think in today's terms, it is inaccurate to speak in general terms about authority and its impact on subordination, as if the former were to be seen in an indistinct horizon and always manifested in the same way. On the contrary, its expressions are articulated, and only in this way does power have a precise, reconstructive and applicable significance. As it is characterised by its impact on the sphere of others, power is also specific in civil law, and it is necessary to establish what is required and what is to be controlled. Only in a synthetic way can we speak of the powers of the employer as a single category. On the contrary, each must be seen in its prescriptive construction and, although in their composition they are indicative of the same subordination, each must be isolated in order to understand what can be decided and how much must be endured.

They are the point of intersection between the unfolding of the life of the entrepreneur and that of the workers, in that necessary coexistence that exposes each to the knowledge of others and forces employees to collaborate (albeit with respect for their dignity) on a project that is imposed and not shared, except occasionally. However different they may be in their structure and raison d'être, powers are significantly affected by the continuity of the professional relationship. The relationship is long-lasting, and this dimension highlights a large part of the fatigue of employees, who are exposed to authority for a prolonged period of their human journey, in moments linked to the organisational plans of others. It is worth talking about powers not because they are equal. The opposite is true, but no single power is ever exercised alone. The constant repetition of both gives a sense of subordination, showing how they all together affect the worker's experience and make their work useful.

This would not be very noticeable if it were not continuous, if it were not repeated day after day in the exercise of professional skills, if it were not coordinated with objectives resulting from the employer's free creative capacity in establishing what is to be achieved and how the set goals can be attained. If each unilateral act is an expression of power, one cannot think of the measure or, in any case, the initiative of the company without looking at how they coordinate and, in their intersection, show the historical meaning of cooperation and give meaning to the activity. The

limitations of the procedural investigative tools are evident, as they are inadequate in their form to allow the judge to establish how the collaboration takes place and what happens in the countless situations in which the work is carried out.

Given these obstacles, which inevitably affect the intensity and clarity of judicial review, the powers and related acts form a complex web; the individual manifestations of authority belong to a design that the legal system seeks to reconstruct in its unity. The judge is asked to summarise the behaviour, as far as he or she can understand it, so that, even with the limitations of the representation of life, the trial looks at the latter, not at one or another statement, isolated from the context. This is where the appeal and the crisis of labour law lie, in the centrality not of the fact itself, but of the time spent by employees and employers in the company and the claim to look beyond the moment in order to bring to light a broader aspect of the professional dimension. The demand for justice emanates from life and from a more or less long journey, and only if this is taken into account can we go beyond impressions. Precisely because the acts of exercising power are infinite, however different each one may be and however varied the judge's supervision may be, one consideration unites all manifestations of authority, their necessary loyalty, an expression of the principle of good faith, which postulates a structural consistency on the part of the employer in setting up and implementing their project.

4. *Power, trust and subordination.*

Repeated reference to two categories that are already dubious in the recognition of Roman law, at least classical Roman law, such as the so-called *locatio operis* and *locatio operarum,* expressions usually used to indicate the completion of the work as a characteristic element of the obligation of self-employment and, in the first place, of the contract for the provision of work, does not help to achieve a correct qualification. Not to mention the actual nature of locatio in Roman law, the two formulas imply a patrimonial view of the subordinate relationship in particular, as if unspecified (and non-existent) works or, in a variant form, no less imaginary energies contributed to defining the subject matter of the contract, which should instead be identified in a doing. In critical research free from prejudice and aimed at framing work in terms of how it manifests itself in collective experience, the rejection of any comparison with leasing is the premise not only of theoretical reasoning but also of judicial qualification.

Not only the reconstruction of work and the corresponding transaction, but above all the understanding of behaviours and, therefore, the interpretation of the individual contract must accept work as it emerges in society, as doing, never as giving. The (entirely arbitrary) creation of the idea of works or energies leads not only to a misunderstanding of the nature of work, but also to a corresponding mystification of the authority inherent in subordination, the exercise of which is granted by the stipulation of the individual agreement. This emerges clearly not only from the experience of Marco Polo, but from all the archetypes cited by Prof. Ojeda-Avilès, precisely because their epics saw them engaged in doing, albeit in an accentuated fiduciary dimension.

Doing is first and foremost made possible by man's place in time and space, and starting from this fact and the way in which these preliminary elements are defined leads back to individual professional experience as a component of life. For men, not only today, 'work is nothing more than the participation of individual lives in the laborious creation of social life through their own activity, their own actions and their own suffering, their own inventions and their own sufferings, their own spiritual and physical strengths; and thus conceived and qualified, work, inasmuch as it is nothing more than the life of the individual in motion and in collaboration in the construction of associated life, acquires the value that the life of the individual has assumed, and as such

subordinates all other social values to itself, becoming what it actually is, the main factor in the construction of common life' (see Capograssi). This is where the importance of elements of our culture lies, in which we can find the archetypes of subordination in the imagination and in the narrative on the borderline between history and myth. A merchant in search of adventure, able to gain the trust of an emperor at the edge of the world, in a place full of riches and jewels, among unknown peoples, captures much of the feeling of medieval Italy and explains well what a bond based on power and hetero-directed action could represent for his contemporaries.

Without any concession to pauperistic logic, the subordinate worker is not poor in himself (and, fortunately, is often well-off, sometimes rich, not only if he is a manager), but in a condition that needs to be safeguarded due to his subjection to authority, which, in its various forms, affects all relationships across the board, precisely because of the way in which the exercise of power shapes collaboration, according to a logic different from that of self-employment, in which the definition of professional contribution is based on a contract according to a logic of equality. Marco Polo's well-being is irrelevant in Prof. Ojeda-Avilès' view (p. 188).

The legal system lives in society, follows its dynamics and conditions its experience, so that it is even cloying to emphasise how labour law is the expression of the tensions induced by the industrial revolution, with the centrality of subordination. In a modern civilisation based on the capitalist system, the starting point is always the structural underprotection of hetero-directed workers who are not wealthy like Marco Polo. A product of the industrial revolution, labour law was born with the modern idea of subordination and with a need for protection that cannot be explained solely by the contract, since, although it is the result of individual autonomy, its stipulation presupposes a necessity induced by pressing financial needs. It would be strange to imagine subordination in a logic of simple exchange, as if the energies and challenges of the industrial revolution and the social transformations it created had... convinced rather than forced workers to accept subordination itself. Work is not defined by the legal system, which takes it as an empirical fact and refers to common knowledge, omitting a more critical approach, which is absent in the current provisions; in this category, as in other similar ones, the regulatory system is almost fused with the civilisation of which it is an expression and from which it draws some of its assumptions, in accordance with the value attributed to the concepts of collective living. To seek the importance of work, one can trace back from the regulatory horizon to the cultural background.

The idea of work cannot and must not be sought in the law, which, if anything, questions contractual models, left to autonomy and offered for a composition of interests, in different organisational paths. Once the structural complexity of practical life has been accepted and the relational dimension of work has been grasped in this context, however complex the notion may be, preventing analytical decomposition and a synthetic image, the law must focus on regulatory paths, in relation to which the qualification of the contract is central. Among the many possible archetypes, the story of Marco Polo does not have the warlike inclinations of those of Siegfried or El Cid Campeador, but it evokes a spirit of adventure, a dimension of trust, a little greed and a close interrelationship between commerce and politics. There is much of Italian history, not only medieval; Prof. Ojeda-Avilès' choice has more than one justification.

5. Marco Polo and an optimistic view of work.

Marco Polo's epic offers an optimistic view of work, and this could be the weak point of the reconstruction. In the Western tradition, Hesiod first raised the issue of the connection between work, individual will and law in *Works and Days*. There, work is conceived with all its possible components of fatigue, and a connection with justice is found, since Hesiod refers to the two

categories of *ergon* and *dike*, the former emphasising the effort and pain of production, with an invocation to the gods to guarantee justice. The author was what we would today call the entrepreneur of a medium-sized agricultural enterprise, with the necessary differences. When he thinks about work, he reflects on a cross-cutting notion, which concerns not only subordinate work, but the overall human experience, in the sense of the application of physical and intellectual effort and commitment and the related suffering; the same value was taken up by Cesare Pavese in his work Lavorare stanca (Work is tiring).

Modern doctrine proposes the new concept of "vulnerability", which does not only characterise certain members of our community but is, in essence, an attribute that can be applied to each of us to varying degrees in this process of self-affirmation, made more difficult by the media. Work was conceived as an area of expression of the overall impulses of life, but at the same time as a manifestation of fatigue and intrinsic daily suffering; this image has not been superseded, even where respect for personal and property rights is guaranteed, but an indistinct search for some greater satisfaction emerges, most recently taken up with the naive and somewhat anarchic invocation of so-called agile working. Ultimately, as an expression of the precariousness of existence and a sign of its expansion into every corner of our participation in the community that captivates us, work is at once satisfaction and pain, collaboration and isolation, aspiration and disappointment.

These combined characteristics pose unresolved problems and, in some ways, give rise to an expectation of personal fulfilment. This was certainly the goal of Marco Polo, who offers a more than positive image of his experience, not surprisingly a model for many other explorers, starting with those who embarked on Spanish, Portuguese and English ships. If work has evoked the category of justice since the time of Hesiod and if, already at the beginning of Western culture, these two values were understood to be closely connected, it was natural to think of the state as the place where this connection could be synthesised and where work could find its justice.

The Venetian Republic promoted the prosperity of merchants, but that was where its oligarchic message ended, unable to imagine protections for the entire social complex, entrenched in a structural difference in income and benefits. Therefore, the archetype of hetero-directed labour cannot be confused with the beginning of labour law. If anything, hardship brings "the individual" to the fore (see Capograssi). Once the structural complexity of practical life, i.e. human action, has been accepted and the relational and professional dimension of work has been understood in this context, however complex the notion may be, some glimmer of justice must be sought. Able to move from the exercise of entrepreneurial autonomy to subordination to public power, Marco Polo shows the multifaceted actions that those seeking adventure and jewels, discoveries and wealth, novelty and freedom may be forced to take. If the reference point for the construction of modern labour law is the enterprise, the story of Marco Polo refers to resourcefulness, but the theme denotes a structural ambivalence.

The more complex the protection system becomes and the more suitable it is in abstract terms for achieving both distributive and commutative justice, causing an increase in the costs of the individual economic entity, the more advantage is gained by those who deliberately and systematically evade the operation of mandatory provisions, in the knowledge that they are committing an offence, which is, however, rewarded by the opportunity to engage in insidious competition, to contain prices and, often, to increase margins, with a breakdown in the horizon of companies, characterised by a clear contrast between those wishing to act legitimately and those with opposite objectives. To a large extent, we must question the reasons for the failure to restore

balance, due to the lack of effectiveness of the legal system and the lack of deterrent or persuasive force of many instruments for enforcing the law.

We may wonder whether there is a flaw inherent in the Italian and European approach, namely placing the business paradigm at the forefront of the regulatory system, with the naive and implicit belief that only legitimate businesses exist, without considering how the expansion and deepening of instruments to safeguard hetero-directed work create more attractive temptations for those who think about containing costs by deliberately transgressing entire regulatory systems. First and foremost, we can refer to collective agreements and the setting of minimum wages. No less significant, perhaps not from an economic point of view, but from an organisational one, are procedural institutions, with heavy burdens for those who intend to comply with the prescriptive guidelines, as is the case with risk assessment, the adoption of organisational models, compliance with personal data processing provisions, and so on. The more these measures seek to rationalise the behaviour of legitimate businesses, the more they help illegal ones, which, hidden from the authorities responsible for enforcing such provisions, are not interested in them and focus on extreme price containment, sharing the risk with customers or clients with similar aspirations.

Today, the breakdown of the business system is more complex than it might appear, as it leads to the emergence of networks of economic actors with the same propensities, on the one hand, to protect legitimacy, defend commercial reputation, credibility and peace of mind, and on the other hand, to the casual increase of profits, immediate gain, and the instability of the organisations themselves, which are too often ready to face even bankruptcy proceedings, in the knowledge that they can achieve final and substantial impunity and repeat the same illegal model, despite the possible intervention of the criminal court.

Not everything is perfect in contemporary labour law and its protective vocation, nor is corporate behaviour. Therefore, without being accused of a lack of historical sensitivity, it is not only legitimate but almost... obligatory to feel nostalgia for the adventurous times of medieval merchants, where courage and greed were intertwined and discovery and profit came together in enterprises that have remained famous.

If there was no indispensable aspiration to protect the workers who are the subject of our daily studies, authority, obedience and trust emerged from a dense regulatory framework as feelings that were a direct expression of personal convictions and aspirations, always coordinated with the exercise of power and its organisational, but above all moral, explanation. And the fascination of the legend of Marco Polo remains unchanged, sculpting a dimension of our spirit and a backdrop to the modern conception of enterprise, when it was much more unjust, but also a sign of freedom, if not recklessness.

---

[1] Professor at the University of Parma, Italy; practising lawyer; Director of the scientific journal *Variazioni su Temi di Diritto del Lavoro* (Variations on Labour Law Topics).