

Review



AUGUSTO FERNANDO CARRILLO SALGADO
NATIONAL AUTONOMOUS UNIVERSITY OF MEXICO, MEXICO
jose.turpin@um.es

PLATONIC LOVE

How to cite the article:

Carrillo A, (2023). Review: Platonic love. Global Law. Studies in Law and Justice, VIII (24) <https://DOI.org/10.32870/dgedj.v8i24.578> pp. 397-407

Received: 06/06/23 Accepted: 21/04/23

I

There is no doubt that the most well-known and studied aspect of *Hans Kelsen's Reine Rechtslehre* has been its methodological approach¹. It is understood as the sum of all those works, main and secondary, through which the Viennese jurist examines from a scientific point of view (i.e. from the point of view of the *Rechtswissenschaft*) a large number of legal problems.

Las obras principales del enfoque metodológico de la *Reine Rechtslehre* son: *Main problems of constitutional law* (developed from the doctrine of legal propositions) (cuya primera edición data de 1911 y la segunda de 1923), *Allgemeine Rechtslehre* (1925), *Reine Rechtslehre. Introduction to the jurisprudential problem* (1934), *General Theory of Law and the State* (1945), *Reine Rechtslehre* (1960) y la póstuma *Allgemeine Theorie der Normen* (1979).

However, the work of the Viennese jurist is much more extensive and includes other legal areas besides the methodological, e.g. international law, constitutional law and legal sociology. As if the above were not enough, this *österreichische Rechtswissenschaftler* also focused its attention on the *Philosophie der Griechen*². In this way, Plato's thought was one of Hans Kelsen's main objects of study for many years.

The following lines have as a general objective to explain the context in which the essay written by Hans Kelsen whose title is *Die platonische Liebe* (translated into Spanish as *Platonic Love*) and which has been published by Ediciones Coyoacán in 2022 in Mexico City is conceived and evolves. The particular objectives of this review are, of course, to give an account of the general content of the Kelsenian text mentioned, as well as to make a brief critical examination of it. In the development of the following reflections, the deductive, historical and dialectical methods have been used; The main technique used has been documentary research.

¹.Carrillo Salgado, Augusto Fernando, "An approach to Hans Kelsen's inclusive positivism", in Carrillo Salgado, Augusto Fernando & Muñoz Mendiola, Julio César (Coords.) (2021), *Actualidad del pensamiento teórico jurídico de Hans Kelsen*, México: Tirant lo Blanch, pp. 31-38.

².Jabloner, Clemens & Zeleny, Klaus (2022), "Kelsen and the Greek Philosophers: An Introduction", in Kelsen, Hans, *Amor platónico*, México: Ediciones Coyoacán, trans. by Carrillo Salgado, Augusto Fernando, pp. 11-27.

II

To date, Hans Kelsen has been one of the few jurists who has been interested in Freudian psychoanalysis (as there are other variants, e.g. those of Carl Gustav Jung, Alfred Adler and Erich Fromm, it is not tautological to add the adjective "Freudian" to the noun "psychoanalysis"). Moreover, this Viennese jurist has been one of the few legal thinkers who have applied psychoanalysis to legal studies.

Hans Kelsen apparently came into contact with psychoanalysis in 1911 (the year in which he also published the first edition of his *Hauptprobleme der Staatsrechtslehre*). Indeed, on December 13, 1911, the Viennese jurist gave his first at the Psychoanalytic Society at the invitation of Hans Sachs³. This is not, however, Kelsen's last flirtation with psychoanalysis. In reality, this epistemological current would be present for several decades throughout his work.

Although the Viennese jurist is skeptical about the therapeutic possibilities that psychoanalysis could offer, he immediately understands its epistemological value. In this sense, for example, the conceptual apparatus he borrows from psychoanalysis constitutes the cornerstone of his critique of the *Volksgeist*, as well as of the idea regarding the sociological unity of the state⁴. During the first decades of the twentieth century, due to the notable influence of Gustave Le Bon's ideas on German sociological and legal doctrine, it was commonplace to affirm the existence of a collective spirit.

Some thinkers argued that, in certain circumstances, the individual tends to abandon his psychic singularity to constitute a single collective will. This is the core of so-called mass psychology (which is rejected by Kelsen). The Viennese jurist, who draws on a series of ideas borrowed from Sigmund Freud's *Totem und Tabu*, asserts that there is no collective will⁵. The individual He voluntarily decides to participate in the acts of a mob (whether legal or illegal). However, Kelsen would not only use

³.Tommasi, Claudio, (1985), "Introduzione all'edizione italiana", en Kelsen, Hans, *L'amor platonico*, Bologna: Il Mulino, trans. de Tommasi, Claudio, p. 10.

⁴.Nour, Soraya, (2007), "Kelsen as reader of Freud: the identity issue", *Archiv für Rechts- und Sozialphilosophie*, 114, pp. 206-216.

⁵.Nour, Soraya, (2007), "Kelsen as reader of Freud: the identity issue", *Archiv für Rechts- und Sozialphilosophie*, 114, pp. 208-210.

his psychoanalytic knowledge in the field of mass psychology, he would also use it to understand the relationship between the composition of Plato's psyche and his work.

III

Twenty-one years after giving his first lecture within the Psychoanalytic Society, Hans Kelsen would publish in *Imago. Zeitschrift für psychoanalytische Psychologie ihre Grenzgebiete und Anwendungen*, journal edited by Sigmund Freud, an essay whose title is *Die platonische Liebe*⁶, composed of a single part called Eros, which is integrated by several paragraphs and whose general objective is to examine the relationship between the composition of Plato's psyche, his ethical-philosophical doctrine and the impact it had on the society of ancient Greece. Two formal aspects of this publication are striking. The first is that on the cover of that magazine, Hans Kelsen's essay is advertised as *Die platonische Liebe I*, while in the body of the magazine the title appears is only *Die platonische Liebe*.

This difference between the title of the cover and the body of the magazine is very significant and can have two readings. The first is that this difference between the titles is nothing more than a printing error. This explanation, however, is the weakest and poorest since it bears little relation to the facts related to the historical evolution of the Kelsenian text being analyzed.

The second reading, in my opinion the most solid, is that this discrepancy in the titles reveals the intention, on the part of Hans Kelsen, to write a continuation of the essay he published in *Imago*. Several arguments support this claim. The first is to take into consideration that at that time (1933) the process of layout and publication of a text was mechanical. There were no computers that allowed corrections to be made digitally as it happens today. That is, corrections were made in writing on the printing of a small number of copies (editorial proofs).

⁶Kelsen, Hans, (1933), "The Platonic Love", *Imago. Journal of Psychoanalytic Psychology its Frontiers and Applications*, XIX, pp. 34-98.

In that sense, it is likely that the process of editing a journal was done in two different steps. The first of these would consist of laying out and publishing the cover and main interiors of a Zeitschrift. The second step would be to print the articles to submit them to the consideration of their authors before publishing the final print run. These two characteristics, plus the personality of the Viennese jurist, are key elements that allow us to understand this imbroglio.

Hans Kelsen was an extremely meticulous author, to the point that he interrupted the process of publishing a text in the middle of the editorial testing phase⁷. It is likely that, from the outset, the Viennese jurist will view his essay as potentially unfinished. In this way, perhaps Kelsen provided Sigmund Freud with a preliminary title of his text, which ended up appearing on the final cover of *Imago* as *Die platonische Liebe I*. To request, on Kelsen's part, the reprinting of the Zeitschrift cover just to change the title of his essay from *Die platonische Liebe I* to *Die platonische Liebe* would have been a high economic cost. In the XIX issue of *Imago* the number of copies that comprised the edition is not specified⁸. However, assuming that it consisted of 1000 volumes, the same number of covers would have to have been reprinted only to make a minuscule correction as mentioned.

As if the above were not enough, given the political circumstances of that time (remember that 1933 was the year of the rise of National Socialism in Germany and that at that time the Viennese jurist lived in Cologne, which is why it is understandable that he was more concerned with the safety of his family and person than in giving continuity to this essay) everything seems to indicate that the jurist was not sure how soon he could have after the second part of his *Die platonische Liebe I*. For this reason, Kelsen decided to conceive his text as an autonomous (independent) essay although he would not abandon the idea of giving it continuity.

⁷Kelsen, Hans (2008), *Autobiografía*, Bogotá: Universidad Externado de Colombia, trans. by Villar Borda, Luis, p. 155; Métall, Rudolf Aladár (1976), *Hans Kelsen. Vida y obra*, Mexico: UNAM-Instituto de Investigaciones Jurídicas, trans. de Esquivel, Javier, pp. 73, 98; Jabloner, Clemens & Zeleny, Klaus (2022), "Kelsen and the Greek philosophers: an introduction", in Kelsen, Hans, *Amor platónico*, Mexico: Ediciones Coyoacán, trans. by Carrillo Salgado, Augusto Fernando, p. 12.

⁸In the event that the printing press that published the XIX issue of *Imago* still exists, the number of copies that comprised that edition could be known. On the back cover of the Zeitschrift mentioned, at the bottom of the page to be precise, you can read that this volume was published by the printing press of Christoph Reisser's sons.

Indeed, Kelsen would resume this work several years later after his arrival in the United States of America.

As is known, the first part of Hans Kelsen's academic career took place in Vienna. During this time he also served as a judge at the Austrian Constitutional Court but was removed from it due to political pressure against him due to his legal considerations regarding a dispute over dispensation from divorce. Later, Kelsen moved to Cologne (Germany) where he would work as a university professor until the arrival of National Socialism to power (1933). Because of his Jewish background, he was removed from his position as a professor.

Again the Viennese jurist had to migrate, but this time he moved to Geneva (Switzerland) where he joined as a professor and researcher at the Institut Universitaire de Hautes Études Internationales. Finally, the advance of Adolf Hitler's troops through the rest of Europe sowed fear in Hans Kelsen, who decided to leave Geneva in 1940 and go into self-exile in the United States of America due to the fear that his family, or himself, could be victims of aggression or even lose his life.

In the American Union, Hans Kelsen would continue his essay *Die platonische Liebe*. Indeed, in 1942 the Viennese jurist published in *American Imago* (the American version of *Imago*) a second text with the title *Platonic Love*⁹. The difference between the two articles is that I would add the *Kratos* essay to the latter. The American version would be, so to speak, the definitive version of *Die platonische Liebe*. Around *Platonic Love* there are some unavoidable issues.

The first of these is to reinforce the hypothesis set out in the upper lines about Kelsen's ab origine intention to give continuity to his essay published in 1933 in *Imago*. Everything seems to indicate that the title *Die platonische Liebe I*, which can be read on the cover of the *Zeitschrift* mentioned, constitutes more than a simple typing error. The publication of *Platonic Love*, moreover, says a lot about Hans Kelsen's style of work: the ideas of this jurist were in a process of constant refinement that could span several years. Finally, the translation and publication in English of *Platonic Love* leaves many topics unfinished.

⁹Kelsen, Hans (1942), "Platonic Love", *American Imago*, trans. by Wilbur, George B., 3, 1-2, pp. 3-110.

In the first footnote of Platonic Love you can read that this essay was translated by George B. Willbur, but it is not clear if the entire document was translated by him or only a part. This controversy arises from the life experience of Hans Kelsen, as well as from some peculiarities present in Platonic Love. To begin with, it should be remembered that at the time this essay was published, Hans Kelsen had already been living in the United States of America for approximately two years. For this reason, with regard to the English translation of the text under analysis, there are the following possibilities: i) that George B. Willbur had limited himself to translating the first part of Platonic Love (Eros) because Hans Kelsen already had an adequate command of English for himself to write his ideas directly, ii) that George B. Willbur had translated the entire text (both Eros and Kratos) because the Viennese jurist did not yet have a vast knowledge of the aforementioned language.

The answer to this question could be a key to understanding the evolution of the Kelsenian text. A difference between the first and second versions of *Die platonische Liebe* that can be observed with the naked eye is the addition of a considerable number of footnotes. In addition, some fragments of the main body of the text are removed in Platonic Love. Are they additions and omissions by Hans Kelsen himself or errors made by the translator? In the first case, how do these changes affect the understanding and evolution of the text? Which ideas did Hans Kelsen perfect and which did he abandon? Dispelling these questions requires an on-site investigation. In other words, the answers to these doubts are found in the manuscripts that are part of the legacy preserved by the Hans Kelsen Institute in Vienna. Finally, it might also be interesting to study the relationship between Hans Kelsen and George B. Willbur. What ties bound them together? Why did Hans Kelsen decide to entrust you with the translation of his *platonische Liebe*? Was this the only text Hans Kelsen entrusted to you, or is there any other unpublished manuscript that was in the possession of George B. Willbur?

IV

As mentioned above, the text *Die platonische Liebe* has undergone a mutation over the years. The first version, comprising only the essay Eros, was originally published in German. The second incorporates Kratos. This was translated and

published in English as *Platonic Love* and, in turn, published in Italian in the decade of the 80s.

The volume that has recently appeared in Spanish with the title of *Platonic Love* has been developed based on all previous versions since it seeks to homogenize the concepts used by Kelsen, so that the reader does not perceive sudden changes in case he consults any of the mentioned versions. Naturally, since the work of the Vienna jurist and the reader deserve the utmost respect, and since every human work is always perfectible, any comment that improves the quality of the translation will be welcomed and greatly appreciated.

Generally speaking, *Platonic Love* is divided into two parts: *Eros* and *Cratos*. The first part is composed of ten sections; the second by nine. *Eros* is the theoretical aspect of the work, *Cratos* is the practical element. As the name of both essays indicates, love and power are the central themes of *Platonic Love*. Let's start with the theoretical part: *Eros*. Here, Hans Kelsen's central hypothesis is that Plato's homosexual impulses, derived from the erotic attraction he felt towards young people, conditioned his work and behavior.

The Viennese jurist explains that in Plato's literary production one can observe an irrepressible desire for power over men that springs from the social rejection of homosexuality and pederasty. In Plato's philosophical-political model, only different people like him are called to rule. To achieve this goal, that is, dominion over men, Plato makes use of knowledge and education. In this way, in the thought of the Greek philosopher a clear anti-democratic tendency can be observed.

To test his hypothesis, the Viennese jurist examines the main texts of the Greek philosopher. Kelsen explains that, according to the existing documentary vestige, the relationship between Plato and the male members of his family was quite good, while the bond between him, his mother and the rest of the women of his lineage was bad. In Plato there was an incestuous desire that led him to see in all women the figure of his mother, hence his erotic inclinations towards men and also the rejection of women. Plato only placed women on an equal footing to the extent that they fulfilled the same functions as men.

Kelsen strives to prove that, contrary to popular belief, homosexuality and, even more, love for young people, was a behavior condemned by society.

Greek. In this way, the Viennese jurist exposes the content of the penal provisions of that time and analyzes extracts, both from the work of Plato, and from other prominent Greek thinkers, through which he reveals that the attitude of the Greeks towards homosexuality and, even more, towards pederasty was one of rejection. As these behaviors were forbidden, Plato looked for a role model, an ideal of chastity and found it in Socrates.

Kelsen states that Socrates was attracted to young men, except that he was also attracted to women (hence Socrates was married). Despite his homosexual impulses, Plato's teacher resisted again and again the call of desire. But Socrates, unjustly accused of corrupting the minds of young people, was condemned to drink hemlock. Because of this people-supported execution, Plato reaffirmed his anti-democratic stance. For him, democracy was the tyranny of a hydra of a thousand heads and no brains. However, Plato managed to find a way back to society, a path to turn his hostility into creativity: education.

Hans Kelsen explains in *Cratos*, the practical part of Platonic Love, that Plato was not a contemplative philosopher, but was a man of action who tried to put his pedagogical model into practice. Despite his animosity toward democracy, Kelsen explains, Plato feared the darker, more radical version of his own Eros: a tyrannical one prone to destroying everything. For this reason, the Greek philosopher set himself the task of tempering the spirit of those rulers who concentrated all power (or majority) in their person so that they did not become terrible tyrants. In this way, Plato towards the end of his existence tried to put his pedagogical model into practice during his visits to Syracuse without success.

Platonic Love is a text that can have a large number of readings. One of them could be that the text "reveals" Hans Kelsen's "ultra-conservative" position. From this point of view, the Viennese jurist could be criticized for attributing, fundamentally, Plato's desire for political power to his alleged homosexuality. However, this criticism constitutes an obvious methodological error because past ideas cannot be evaluated with categories of analysis or current concepts. To a modern reader,

this text by Kelsen might seem prejudiced, however, we must not lose sight of the time in which it was written, which was characterized by be more "conservative" than the current one. Moreover, to characterize Kelsen as prejudiced for supposedly making value judgments about the homosexuality of a historical figure¹⁰ is, in turn, to formulate a new value judgment. It should not be forgotten that in legal science there are no morally correct or incorrect hypotheses, but false or true ones. Let us avoid any ideological quarrel on this and stick to scientific debates. Proving the falsity of the ideas embodied in Platonic Love demands, without a doubt, an exhaustive written response to this essay.

Platonic Love does not show an image of an "ultraconservative" Hans Kelsen, quite the opposite. Kelsen stresses the importance of society in shaping the personality of individuals. In that sense, one of the central hypotheses of the text would be that social hostility towards individuals can contribute to the development of authoritarian personalities. Consequently, Platonic Love could be a call for democracy and tolerance for diversity.

In that sense, the time when the first part of Platonic Love was published is significant. Remember that Hans Kelsen lived in Cologne until 1933 and witnessed the collapse of the Weimar Republic, as well as the rise and rise of National Socialism. Platonic love could be the result of Kelsenian observations and reasoning in the sense that social pressure plus the pathological propensity of certain personalities towards the pursuit of power could result in the birth of political characters who seek, through ideological control, to dominate the rest of human beings. This could be, so to speak, the result of Kelsen's general observations and reasoning.

From a particular point of view, the Viennese jurist's criticism of the function of the university professor stands out. According to him, the function of the professor is not an objective activity, free of ideology and valuations. In fact, the Viennese jurist

¹⁰.Kelsen, Hans (2021), *Amor platónico*, Mexico: Ediciones Coyoacán, trans. by Carrillo Salgado, Augusto Fernando, p. 32. To tell the truth, Hans Kelsen was aware of the controversy that his text could raise, hence from the first pages he specifies: "the veneration due to a great man in the domain of the spirit is not violated in the slightest degree in trying to reach an understanding of his Eros since, without this, understanding his personality and his work would be impossible; [...] The greatness and pre-eminence of a historical personality cannot suffer any kind of impairment if it is recognized that his eros did not follow the path of all flesh."

emphasizes the fact that on many occasions the teacher, in an open or veiled way, tries to transmit an ideological model to his students so that they, in turn, reproduce in social practice. Could Platonic Love be a brilliant and elegant criticism of a colleague of his time?

If one takes into consideration the anti-Semitic atmosphere of that time, Platonic Love, at least the essay *Eros*, could be seen as an ingenious way in which the Viennese jurist presented his point of view regarding a particular political-academic figure. On a personal note, I must confess that certain personality traits that Hans Kelsen attributes to Plato bring to mind the image of Carl Schmitt. The Viennese jurist was a brilliant enough jurist to resort to this kind of mental exercise to express his considerations, while preserving his safety and that of his family.

Finally, I would like to highlight two other characteristics of Platonic Love. The first is that this text shows us an image of Hans Kelsen to which we are not accustomed: that of an expert in Greek philosophy, philology and psychoanalysis. This image of the Viennese jurist is very different from that of the author of the *Reine Rechtslehre* who is characterized by his conceptual rigor and meticulousness. In this way, Platonic Love reveals Hans Kelsen's versatile character as a writer. The second feature I wish to mention is that the Viennese jurist far anticipated Karl Popper's anti-democratic reading of Plato's work in *Die offene Gesellschaft und ihre Feinde*.

BIBLIOGRAPHY

- Book: Platonic Love.
Author: Hans Kelsen.
Translator: Augusto Fernando Carrillo Salgado.
Publisher: Ediciones Coyoacán.
Place: Mexico City, Mexico.
Year: 2022.
Pages: 153 pp.

