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Laura Bazzicalupo. Full Professor of Political Philosophy at the Dipartimento di Scienze Politiche, Sociali e della Comunicazione (Università degli Studi di Salerno). Founding member of the Kelsen Lab at Università degli Studi di Salerno, and of the Inter-University Lab for Process Subjects, Powers. Director of Soft Power, her scientific interests focus on governmentality technologies, processes of subjectivation, bioeconomic and biopolitical power devices. Among her latest publications: Biopolitica ed economia (Laterza, 2006); Superbia. La passione dell'essere (2008, Il Mulino); Biopolitica. Una mappa concettuale (Carocci, 2010); Eroi della libertà (Il Mulino, 2011); Politica. Rappresentazioni e tecniche di governo (Carocci, 2013); Dispositivi e soggettivazioni (Mimesis, 2013). She edit the volume Crisi della democrazia (Mimesis 2015) and is among the co-editors of the volumes Vita, politica, contingenza (Quodlibet, 2016) and Le trasformazioni della democrazia (Mimesis, 2017).

Contact: l.bazzicalupo@unisa.it

EDITORIAL

NEW LINES OF GEOPOLITICAL SPLIT AND REDEFINITION OF THE SPACES OF POWERS, EXPLOITATION AND EMANCIPATION MOVEMENTS

Laura Bazzicalupo
Università degli Studi di Salerno

World: North and South

The focus of this issue of our journal is on the World.

Broadening the critical lens to include the world is necessary to decipher the social and political ontology in which we live, where different yet interconnected forms of power coexist. This does not mean turning away from the world to see it as a whole. There is no whole, but many different times and spaces, which in no case form an organic totality nor a marely quantitative sum, but nevertheless qualitatively influence, contaminate and alter each other in their very coexistence. Political space is, indeed, worldwide and interdependent, but it is also striated, marked with streaks, bounds, lines. And only a transversal look at the spaces codified as generally identifiable —be they the nation states, or the macro-regions or the mythical Occident— can account for the streaks, fracture lines and reorganisation paths that are overwritten on the traditional geographical map, on the "world-systems" through which, for a long time, geopolitical and geo-economic turbulences have been understood.

Today, the scene is becoming even more complex, not only because of the growing complexity of global interdependence, but above all because the viewpoint from which we are trying to decode it includes, in the scene of power and politics, strengths (and lines of instability and change) that have not yet been covered by the geopolitical map for a long time.

The expansive power that covers the whole world, the Weltmarkt, is the same that divides it, marks it with lines of domination and subalternity, but there are also lines of resistance and struggle that ask to be recognised and, in a way, "mapped". On the other hand, the World Market today not only influences the consolidated ethno-national and historical spaces, but also works through the single subjectivities, bending the old power dissymmetries —of gender, of colour— to its goals and summing them to the new ones. Subjects that, in those institutional spaces (which of course persist and play decisive roles) work, produce and reproduce life, and are organised and governed in such a way as to reaffirm those dissymmetries; but also subjects looking for new forms of political activism that can modify that geopolitical map of power.

That, moreover, globalisation is not simply a quantitative increase in trade, investment and relations between states, and even less a world without borders where nation-states no longer matter, but rather it is a qualitative shift in the spatial organisation of the production, distribution and consumption of commodities and services in the world economy, added to the conflictual interdependence of sovereignties vying for control of that —is, now, a self-evident fact. Globalization materializes in a new kind of territoriality: it is grounded in national territories but in such a way that it constitutes a sort of "extraterritoriality" that affects the sovereignty of the state.

A massive change is occurring —in terms of speed, intensity, extent— concerning the nature and degree of interconnection of global space. It is not a process of smoothing out differences into planetary space, but a series of complex and contradictory processes, in which the reorganisation of the world market as the reference for the capital operations (extraction, financialisation, logistics) is faced with multiple resistances and friction thresholds, economic, political, social and cultural (Mezzadra and Neilson, 2019). It is a restless and unstable cartography, where instability is (or can be) the marker of struggles for emancipation, of testing alternative ways, or marker of dark strategies of control and violent expulsion policies (Sassen 2014).

Given these processes, the meaning of space (and of the map of lines that we draw) is deeply modified.

The space/world —not in its mythical wholeness and homogeneity, but as a universality of differences that remain such, a world streaked with fractures and stresses— is now the lens for realistically deciphering the current dynamic and unstable nature of the political: movement and insurgency or blockage and enclosure, occurring as much in the sovereign settlments and economic localisations or expansions as in the moving struggle frontlines —urban and non-urban (but always localised)— that oppose them.

This streaked world is changing, according to an unruly and unequal development: North and South exceed their previous meaming and remain as place-holders of positions of subordination and dependence to domination (whether imposed through conventional borders, or, beyond them, displaced within lives). The decolonisation processes (*Softpower*, 2021, 14) are literally unfinished, the hegemonic positions (America and Europe) are faltering and from driving centres of expansion, domination and control, they slide towards defensive, securitarian, rhetorically justified positions. While other powers in the Asian or Latin American contexts weigh in with their choices. New lines of domination and colonisation emerge in the colonising North itself. Moreover, trends in economic development are highly dependent on how specific regions, states and territories are embedded in global production networks to capture value. Former geographies of production, and distribution and consumption are continually disrupted and new geographies are being created. The new does not totally erase the old; what already exists provide the basis upon which the new develops.

Spaces and territories

It is therefore a very complex planetary scene. The only thing that can be relatively generalised is the metamorphic suppleness of the production and social organisation form that is capital. Its value-extraction operations let us identify the strategic points where subaltern subjectivities are produced. Paradoxical universalism! It is varied and variable, linked to different forms of subalternity, often specific, localised and situated, structured on patriarchal, racial and religious inequalities. Here, capital crosses the particularism of states, sometimes co-operating and sometimes hindering.

The global health crisis has increased these polarities and changed, again, the scene/world. Some features have come out more clearly: the state's involvement in investments will surely favour the executive institutional arrangements, without however committing to a new Welfare. The trade wars, with their rhetorical-ideological overtones, are

being waged, settling, with BigPharma, on survival itself; and the wars for the control of energy resources keep on going. The crisis joins the previous ones, but ways of responding could be transformed under the pressure of resistance and alternative, self-governing projects that maybe the weakening control over subjectivities (proportional to the greater direct control over lives) could favour.

Space, however, emerges as the proper parameter for these transformations: just thinking about these break lines means assuming the spatiality of relations, not only as a frame, but as a way of making them visible, of positioning them: it is the epistemic player that roots them in the material, within a reality that is never merely conceptual but concrete and geographical, and affect the very processes in favour or against (Galli, 2001). The critical geographer Farinelli speaks of the "spatial (and cartographic) production of society".

With spaces, in fact, boundaries emerge, the lines crossing them: beyond the canonical borders or walls —performative devices that produce the effect they name— they are epistemic devices to make visible permeabilities and crossings, as well as barriers, closures, walls... (Mezzadra and Neilson, 2013) Tools to think in a new and critical way the classic geopolitics of states, macro-regions or empire. Not because that does not persist and indeed is enhanced even in the continuous redefining of spaces of influence, but because, as a "method", lines and borders highlight the many Souths of the world, the many subaltern subjectivities that support, but also fight and dynamise, the "global" scene.

States and geopolitical institutions are themselves involved in and crossed by these multipolar strains. Moreover, many of the most complex elements of globalisation have been formed within the state apparatus as technical and institutional infrastructure capable of producing the geographical spaces for economic globalisation. However, it is clear that its capability to manage differences, tensions and centrifugal drives seems to be failing today. Deliberately or not.

Moreover, with the political move of denationalisation, it is the state itself that has produced and legitimised new legal frameworks, essential to the economic global processes of corporations, "working" to build a globalised space for the capitalist economy (Sassen, 2006).

The epistemic use of a space streaked with multiple and transversal boundaries beyond the canonical ones, lets us avoid the emphasis on financial deregulation, which in fact always has its material roots, as bank cities and offshore areas show.

The point is that —alongside geopolitical and geoeconomic macro-processes— there is also a plenty of micro-processes that divide, fragment (and denationalise) political

space: identity subjectivities, urban spaces, cooperative managements of commons... We need to avoid the blind alley of focusing only on global forms that prevent us from recognising some new strategic elements, which are not or will not always become global, even if from the struggles emerge continuities and alliances that overcome fragmentation and identify common antagonistic goals.

There are spaces that are neither global nor national: *other* spaces, driven by the multiplication of non-formalised or only partially formalised political dynamics and actors. New informal political practices exceed the boundaries of traditional ones and perhaps prefigure new forms of self-government and citizenship. Of course, this space does not coincide with the territory of the state drawn in different colours on geopolitical maps. The territory has always been a non-neutral, oraganiser of relations between space and power, very active player in the global space construction: both if it is marked by confinements and exclusions, and if it is articulated in diverse zones and regimes with differentiating and hierarchising effects. However, it takes part in the political technologies for social organisation, in the proliferation of partial legal systems, in extractive enclaves or in different wage regimes, but it also comes into play in localised resistance and self-management experiments in the commons. These localised, territorial links mean that political and economic powers are forced into unstable alliances with private or public institutions and other semi-formal actors, adapting to contingencies in order to achieve their goals of value extraction or control. There is assemblage, there is network and therefore not totalisation, but there are also continuous lines of exploitation and subalternity that an overly unstructed approach must not obscure.

According to the essays in this issue of the journal, the production of singular and political subjectivities along old and new break lines is the main battlefield where alternative forms of power try to get organised.

Break lines: the monographic section

We need to analyse the lines that compose and divide the geopolitical space, crossing it and breaking its continuity in an always specific way.

The map of the world that is emerging makes any overly general and dichotomous narrative impractical (development-underdevelopment; expansion-depression; hegemony-chaos; authoritarian and populist democracies - liberal democracies).

The plurality of dividing lines - some emphasised by propaganda, some built by politics to force shaky institutional balances, some emerging in a contingent way from ontological indeterminacy and complexity - can be traced as much in the effects of hierarchisation as, and better, in the concrete traces of subjectivities struggling for emancipation along the multiple lines of inequality and exploitation in which states of subalternity overlap.

Therefore, the symbolic polarisation north/south remains valid only if the two terms are pluralised and become markers of these fronts, these lines of division and quest for alternatives.

Although it is impossible to foresee political choices on a planetary dimension, the centrality of social reproduction, of life and its infrastructures, means that the battle-fields against profit and inequality are spreading, even within lives themselves.

So, this issue, beyond the great game of geopolitical powers, is also open to the break lines that divide the global space, producing - within a radically enlarged and self-governing notion of politics - new political subjectivities, from municipalism to global protest movements, to cooperation and solidarity experiences, that overlap and intesect the legal claim of human and humanitarian rights. If the Weltmarkt pivots on the production of subjectivities wich it wants to be functional to the different, always situated, exploitation and valorisation contexts, these materiale subjectivities, are rooted in the territories, even if they are open to the universalization. Their political action and mobilisation breaks up consolidated local relations and challenges the fences, creating new institutional button up forms, new alliances, on the innovative front of aggregations and self-government to reply to the endemic crisis of conventional representation.

Not verticality vs. horizontality: it would be a mistake not to give due weight to the effort of organisation and institutionalisation (often also juridical) that alternative self-government movements and experiments implement today.

The starting point of our analysis cannot but be devoted to a realistic and critical look at geopolitics, moving from both the conceptual and material function that space - which has been a crucial ordering category in modern political philosophy - takes on today. Its unstable relationship with politics - of which it determines the partition, the orientation, the production itself, while being conditioned by it - is the focus of Carlo Galli's essay. The modern dichotomous lines that split spaces: inside-outside, high-low, movement-stability, are now replaced by fracture lines that cross codified spaces, first and foremost the state, without erasing them, each time producing a battlefield,

traversed by tension lines. Sovereignty is not eroding as a consequence of economic globalization and supranational organizations but being transformed. There is plenty of it around, but the sites for its concentration have changed. Hence, sovereignty and territory remain key features of the international system. But they have been reconstituted and partly displaced onto other institutional arenas beyond the state. Genealogical analysis reveals the materiality and concreteness of these geopolitical spaces, where political, economic, theological and governmental drivers for action overlap, changeable and yet somehow persistent. Critical geopolitics fits politics as it is: realistic, strategic, complex and dangerous because of the network of powers, state or macro-regional sovereignties that fight for control, helping or preventing the economic interdependence trends.

In Langford's essay, the restless world scene on which the widespread neoliberal rationality is overlaid, looks locked in its own centripetal game. Langford questions whether it is possible to use the concept of Empire to understand this scene in a "juridical" way. He measures its theological-political implications, the depoliticising effect of its neo-liberal and proprietary model, and the formula of "private regimes" of ruling and conflict resolution of Teubner's legal sociology. By noting the limits of the concept of empire, the proposal emerges to juridify the "common". But this requires a new, radical critique of law.

The essay by Federica Giardini deals with the politically active line of feminism, renewed by the Ni Una Menos movement by building a new intersectionality and a planetary front. This is an experience that marks a real paradigm shift, a new materialism that asserts itself by means of real practices of resistance to different forms of oppression and exploitation. The "conflict" becomes the conceptual operator that allows us to identify new inequalities that would remain invisible, new north-south borders and new political actors not yet recognised, arising within the process of feminist, decolonial and environmental struggles. The very concept of the political is thus dynamised, as it brings about new forms of associated life, networks of cooperation and intersectional fronts of mobilisation.

The city and the self-government of municipalist spaces are the focus of Kioupkiolis' essay, which follows the line of friction they implement against state centralism, which stifles autonomy and obeys neo-liberal dictates, thereby reducing solidarity and cooperative practices. The emphasis is on cities like Barcelona, which call themselves "fearless" or "cities of change". These municipalist experiences act directly and pragmatically a innovative democratic praxis, an alternative model of democratic and really inclusive

self-government against elitism, patriarchy, expropriation for profit. They are bottom up istitutional forms, land-based, embedded in the local areas, sharing new management frameworks of resources and services.

The reference horizon of Guadarrama's essay on Latin American emancipationist political thought is broader, even if more traditional, and it involves the colonial divide line. Classic authors such as Bolivar Montesinos, or Martí and Mariátegui, have always closely linked the instance of anti-colonial liberation with social justice: a link that was then disarticulated and stifled by the post-independence conservative oligarchies.

Referring to anti-colonial movements, the focus of Kassis' essay is the complexity and extreme harshness of the fracture line that 'literally' splits Palestine. It is law, or rather human rights, that are taken as an ambiguous and nonetheless meaningful reference point for the border that cuts through the country, not only shattering legal compliance with treaties, but undermining the very political capability of the dominated from within. The persistent colonial situation, worsened by economic dependence, by the conversion of liberation into market freedom and by humanitarian aids always conditioned by the blackmail of the renouncing of real self-government, and lastly by the impossibility of criticism that is not branded as anti-Semitism, highlight a very painful wound in the world space. In this essay, it is called to witness the need for a rewriting of human rights that is no longer colonial and today neoliberal, but egalitarian and anti-colonial.

Quarta's essay reflects on the very concept of border in the current security turn (worsened by the pandemic). It underlines not only the coexistence of closed spaces and the flows that cross them, but also the current reterritorialisation that locates the borders within human bodies themselves, both in digital and in direct and biometric control. The warlike rhetoric supports these new blocks and confinements.

The monographic section ends with an unedited interview with Ursula Huws, carried out by Into the Black box, in which Huws focuses on the way that advanced digital technology has opened up new fields of capital accumulation, accompanied by the dramatic restructuring of work arrangements, opening the way for new contradictions and new forms of labor solidarity and struggle around the planet

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Carlo Galli was full professor of History of Political Doctrines at the University of Bologna. Since 2018 he is "Professor of the Alma Mater". He has published articles and books —translated into several languages— on the main modern and contemporary political philosophers, from Machiavelli to Schmitt, and on key concepts of political thought. He edits scientific series and the journal *Filosofia Politica*. He contributes to political and cultural periodicals. Among his many publications, he directs and edits (with R. Esposito) *Enciclopedia del pensiero politico. Autori, concetti, dottrine*, Roma-Bari, Laterza, 2000, 2005[2]; *Genealogia della politica. Carl Schmitt e la crisi del pensiero politico moderno*, Bologna, Il *Mulino*, 1996, 2010[2] (spanish translation); *Spazi politici. L'età moderna e l'età globale*, Bologna, Il Mulino, 2001 (english translation); *Lo sguardo di Giano. Saggi su Carl Schmitt*, Bologna, Il Mulino, 2008 (english translation); *Contingenza e necessità nella ragione politica moderna*, Roma-Bari, Laterza, 2009; *Perché ancora destra e sinistra*, Roma-Bari, Laterza, 2010, 2013[2]; *Il disagio della democrazia*, Torino, Einaudi, 2011; *Marx eretico*, Bologna, Il Mulino, 2018. *Sovranità*, Bologna, Il Mulino, 2019; *Forme della critica. Saggi di filosofia politica,* Bologna, Il Mulino, 2020.
Contact: carlo.galli@unibo.it

GEOPOLITICS AS CRITICAL DISCOURSE[1]

Carlo Galli
Università di Bologna

Abstract

The article argues that the spatial dimension of politics exists and is manifested in the geopolitical and geo-economic pluralism of the Great States; that globalisation does not imply the standardisation of the world; that the dynamics of international relations, and those within the European Union, can also be interpreted and criticised through spatial thinking, which is concrete but not deterministic.

Keywords

Space, Geopolitics, Geoeconomy, globalization, European Union.

Resumen

El artículo sostiene que la dimensión espacial de la política existe, y se manifiesta en el pluralismo geopolítico y geoeconómico de los Grandes Estados; que la globalización no implica la uniformidad del mundo; que las dinámicas de las relaciones internacionales, y las de la Unión Europea, también pueden interpretarse y criticarse a través de un pensamiento espacial, concreto pero no determinista.

Palabras clave

Espacio, geopolítica, geoeconomía, globalización, Unión Europea.

Introduction

What we deal with geopolitics? What do critical philosophers have to deal with a geographical domain that seems, at best, to be an aid to international relations studies?

In some cases —Schmitt's is well known— it was an inquiry for space as an ordering category, that provides stability, certainties and guidance, that other conceptual pillars of modern philosophy —Subject, State, Class, History, Freedom— can no longer provide. While they vanish, Space remains; it is presence; indeed, it is the refuge for their phantasmal existences. A notion of space that turns it into a substitute of the Being, or at least makes the two concepts closer; the space of ethology as an essential/existential dimension of man, as a "territorial animal", instead, doesn't fall into this topic, if not as anthropological sign that man inhabits the world in a space context, despite his migratory origins.

However, Schmitt himself —who also, by space concept, gained access to the land-sea dichotomy (in fact first introduced by geopolitics)— did not find the "simple" space, enough to provide a stable key to solving the core issue behind the "turn towards space": how to determine the form and substance of the world.

Indeed, not even in his "spatial" phase, can Schmitt neglect the political action and its inner instability: in the very notion of *nomos*, in fact, the physical elements of land and sea appear as a broken foundation; far from being static and empty, space is not an immediacy that can remain so: it is the politics' basic element, but yet, it is the decision —the taking, dividing, producing— that mediates and orients it, while being conditioned by it (Schmitt, 2003). Or rather, according to other interpreting keys, if there are no "places" —i.e., anthropized spaces mediated by power— then "space" is nothing.

Once we have acquired Schmitt's insights —leaving aside his great mistakes and bitter disappointments— we too must deal with the problem of the measure of politics, of its achievability, however it has much changed in its forms today. We too must try to identify centers, if any, in which politics condenses its energy, becoming someway intelligible. So, the question is "can politics be a space of action, in the modern sense of a *praxis* that has within itself (or not only outside at least) purpose, awareness and sharing?" and if so, whose action? The question of political space arises not only as a question about foundations, but also as a question of action and its subjects.

The categories of political modernity

Despite modernity was conceived mainly along the coordinate of time —i.e. progressive history— space was part of its conceptual structures in an implicit form. Indeed, alongside the chronological axis "past-future", the anthropological axis "man-nature", the epistemological axis "true-false", and the practical axis "subjective profit-common good" (i.e. "private-public"), Modernity is informed by State-centered spatial relations: "internal-external" (to which the opposition between inclusion and exclusion also pertains, internal law and external war, as the relationship between Europe and colonies), "top-bottom" (the relationship between political elites and the people, mediated by political institutions and socio-political intermediary bodies), "movement-stability" (the dynamism of economy and subjectivities and the order of the State) (Galli, 2010). The "color line" and the "sex line", while being strongly political, are not strictly spatial but ubiquitous, as the "capital-labour" line: they do not fall into geopolitics, but into bio-politics (in a broader sense) and into political economy.

These spatial axes of modern power —or rather its battlefield's elements— are quite clearly changed. Indeed, it is said that globalization erased the difference between internal and external, weakening the political actor in charge of it: i.e. the State sovereignty; and the spread of electronics, with its "virtual" feature, has heavily compromised the possibility of distinguish the true from the false; not to say the past-future axis, swept away by the "end of history" and fixed in an eternal present; or the relationship between private and public, redesigned to the former's advantage.

But on the other hand, it's also true that the spaceless world of endless trade and unlimited production, of rampant multitudes and permanent confusing war and peace, mobility and simultaneity, has been opposed by the emergence of spatiality as a decisive interpretative key of the world; Atlantic studies and post-colonial studies attest the basic role —in the past and also, in different ways, in the present— of spatial difference in the building of the Modern political unity, which is in fact a duality, a field of tensions and biunivocal interactions between different spaces (Benton, 2010); Border studies understand the political relevance of borders: far from disappearing or rather fixing original ethno-territorial identities, borders are nowadays lines of tension and conflict between different and opposing interests: between migrants and the holders of access keys to the labour market; but also between the logic of political control of the territory and the logistical needs of "value chains" (Mezzadra & Neilson, 2013).

Moreover, space become central again —and therefore the sovereignty that opens, closes and regulates it— during the pandemic, when it was the only available resource to fight the disease or to mitigate it: distancing, confinement and isolation, decided by politics, took shape within the space, until the vaccination (a biopolitical benefit *par excellence*, albeit mediated by real powers of collective political subjects, negotiating the precious drug with each other and with Big Pharma). The "sovereign" virus, in the improper sense of ubiquitous and invincible, has been opposed —albeit with limited success— by the space managed by territorial "sovereign" bodies, in the proper, determined sense. So, on the one hand, subjects have in fact increasingly turned into masked and bodiless ghosts, losing their ability to relate, approach and meet each other (the ban on assemblages) save, of course, as digital pictures on web platforms whose disintermediation is actually a new mediation that exposes the users to big data's algorithms control (Couldry & Mejias, 2019), becoming web appendages, while de facto society is replaced by social media and the vanishing of intermediary social bodies puts individuals in direct contact with political-bureaucratic power; but on the other hand, subjects have resumed the ancient struggle for the *habeas corpus*, to oppose (rightly or wrongly) the biopolitics of the vaccine and to dispute with the sovereign for spaces of freedom. Space, therefore, still is the stake and the battlefield where sovereignty and freedom, bodies and representations, face each other off. Or rather it is where the need for security (not only imposed from above, but also demanded from below) and the search for escape routes from the devices (public and private) that cage citizens in the house-arrest and surveillance, collide. "Sovereignty" here, means the intertwining, in a specific space, of economic, political and media-communicative powers —what I have called the "trihedron of power" (Galli, 2018b)—, and its irrefutable self-asserting as self-justifying presence: the immediacy of total mediation (the "system", in its internal contradictions) is the contemporary form of political theology.

So, we can say that substance and form of modernity —i.e. the subject and the State, and the notion of human progress— crashed "against the wall of time", in their implicit nihilism; but it must also said that we live in two-sided dynamics: on the one hand, electronics dissolves the space (but also the time, as well as body, providing countless flash transactions of international finance); it defuses the social relationship, i.e. the public sphere (producing a society without individuals and individuals without society); it abolishes the distinction between true and false within the virtual dominion (fake news, far from being simply a lie, are actually a parallel world —or rather infinite worlds).

On the other hand, space still remains a political factor, referring to a complex and contradictory materiality that can hardly be concealed.

In short, space is one of the modern and postmodern categories, co-determining political economy, political theology, bio-politics (which in a broad sense, also includes the critique of a biology used to build power through subaltern inclusion or exclusion), techno-politics, political ecology (i.e. the reverse of the modern "implantation" of the artifice over nature, and the warning that, if it becomes an "abuse", the man-nature relationship can really turn out as a defeat for humanity) and, indeed, geo-politics. These ways of being of politics and thinking about it, all together, critically intercept trends, contradictions and ambiguities of the current historical phase, floating between universal and conflictual, unity and division, freedom and security, openness and closure, virtual and concrete, material and immaterial, absence and presence, human, post-human and non-human. And all together, these ways of thinking about politics are the internal lines of a "critical realism": that is the effort to think about politics in a concrete way, within its nexus of mediation and immediacy.

Geopolitics

Of course, each of these critical attitudes, has a specific focus; and namely geopolitics —which is not the only area where space is meaningful (see the urban planning, for example), but it is the most macroscopic— is a powerful key to capture some of the sides of contemporary politics. Here, space is the immediacy that lies at the origin of mediations, actions and strategies: that is their cogent (though not mechanically determinant) beginning.

Geopolitics is a rather old discipline that today finds its new role in providing one of the pieces to decode the ontological status of the real politics, intercepting cores of consistency that could not be found by navigating only in the virtual sea. It is a key that makes it possible to oppose the competing narratives that, from the right and the left, from neoliberalism and the multitudinous, speak about the disappearance of State, sovereignty, strategic political action and its specific sources: narratives that draw the current world only in terms of connections and connections of connections (between men, between men and things, between everything with everything else, in an infinite connective vertigo).

Since its arose at the end of the 19th century, geopolitics thinks of the world as a unity, and both as split and conflict; space is, for it, a network of powers, a theatre of power projections on a large-scale —in short, not just a microphysics (Foucault, 1977) but a macro power relationship between powers—. Far from any determinism, it highlights the playing field of world powers: politics sets rules and game strategies, always changing means and goals; geopolitics holds both geography and decision, connection and disconnection, the specific political subjectivity (the power) and the global references of its action. It provides not so much a solution to the problems of politics, as one of the keys to deciphering them: the spatial key, which constitutes the frame of both politics and economics (and indeed geopolitics and geo-economics go together). In short, it makes politics concrete, removing the illusion that it consists of the moment, that it exhausts in the gesture, or in a "click" marking a phantasmal presence in the virtual world; and of course, geopolitics also removes the now unfeasible illusion that world politics can be defined in universal terms. By showing that globalization is today at the same time also de-globalization, geopolitics gives politics pragmatism, seriousness, and also, no paradoxically, durability. Indeed, it is quite possible to trace and decipher historical trends and turning points in a geopolitical key: space coexists with movement, with the changing of its political interpretation.

Globalisation

Freed from ideological zeal and positivistic naiveté that coated it by "iron laws", or have, in a fully abstract way, built the "pan-regions" that would ensure world stability, geopolitics arose during the first globalization, between 1870 and 1914, when a group of powers entered the world stage, recognizing that the world was one, but not unified. The founding fathers (Mackinder, Haushofer, Mahan, Spykman, and earlier the geographer Ratzel) foresaw that politics requires subjects capable —due to geographical extension or economic predominance— of Weltmacht and Kampf um Raum, and it develops and projects itself according a few structural data. One is that some powers —defined as "maritime" although they can also have a land-based consistency— control the seas, commercial and military routes and geographical essential gateway: Gibraltar, Suez, Djibouti, Bab el Mandeb, the Strait of Hormuz, Ceylon, Singapore, Panama, the Cape of Good Hope, Skaggerak and Kattegat, the Denmark Strait, the Dardanelles and the Bosporus. The other structural datum is that maritime powers prevent (or try to prevent)

land powers from gaining access to the open sea. That means that the Heartland rulers —Russia, China, Germany— must join, or at least, control (or even be controlled by) countries of Rimland, the outer belt. What must be avoided, and conversely what the land powers are striving for, is the emergence of a continental superpower having also maritime power (Graziano, 2019).

These imperative rules account the policy of the United States. It firstly set itself up as a continental space closed to foreign intrusions, according to the Monroe Doctrine (1823) and the Spanish-American War (1898), and, unlike the Asian and the European cases, it succeed quite easily. Then, US affirmed itself as a maritime power, in the Atlantic, in a latent rivalry against Great Britain which lasted until the Second World War. Above all, these imperative rules explain the constants and the unquestionable axioms of its policy, once it became a world player: preserving the freedom of the seas, over which it wields an incomparable power, and preventing other similar power conglomerates. American exceptionalism is not just isolationism, and democratic interventionism is not just moralistic-capitalistic universalism: more or less hidden, the reasons of geopolitics deeply operate inside the US policy.

Three world wars have been fought by the US to such aims. The first, to prevent Germany from dominating (with Turkey as a subordinate ally) the Balkans and the Pontus-Baltic isthmus, and to constantly threaten France, the Atlantic access holder. The second was fought in order to stop a German Grossraum (or Lebensraum) from Moscow on the eastward to Norway and the French coast on the westward (indeed, Germany too had understood that a Weltpolitik requires a continental size and a sea access, which it used to cut the routes from the US to England by submarines). At the same time - and the very contemporaneity shows the immense power of America - the Second World War also aimed to prevent Japan from a similar operation: the building of a Japanese land empire (the 'Greater Asia Co-Prosperity Sphere'), from Burma to Manchuria, including Indochina, part of mainland China and all of Indonesia, an empire supported by an adequate maritime power that would block the eastern Pacific to the US.

The permanent and non-negotiable imperative of the US policy, is the control —direct or through alliances— of both sides of both oceans on which their "island of the world" (the second one, the first being the ancient continent) overlooks.

It's now obvious that the Third World War —the first Cold War— was fought with every non-military means (nuclear terror included) to prevent the victorious USSR

from replacing Germany as the strategic geopolitical challenger, which could perhaps be achieved both by the military force in the Eastern European territories occupied in 1945 and the ideological penetration into Western Europe. To this threat the US did not oppose a direct engagement, preferring, on the geopolitical basis of George Kennan's "long telegram" of 1946, a containment policy and the NATO alliance system, which assigns the European Atlantic coast to the US military control. At the same time, the US was building a strategic belt in the East and in Oceania, thanks to a set of treaties with Japan, South Korea (also with a war in this case), Taiwan, the Philippines, and even Vietnam, and through alliance systems such as Anzus and Seato: a strategic belt that closed (and closes) Russia and China, preventing them from accessing the ocean.

At the same time, the US actively worked to stop superpowers rising in the Heartland, avoiding the political and military welding between China and Japan (whichever side was acting) and between Russia and China: so the Nixon's trip to Beijing in 1972, pushed by Kissinger. In the West, US worked in the same way to detach Germany from Russia (or the Soviet Union) —whichever of the two was in a hegemonic position— and also to avoid a too close partnership between Russia and Europe (the case of Ukraine is typical), and a real strategic self-sufficiency of the EU. The more the EU feels threatened by Russia, the more, in fact, it militarily clings to the US. The paradoxical result is that Russia is, whether it wants it or not, both in Europe (against the EU) and in East Asia (against China) a valuable ally of the US, a card it plays in the policy of dividing the Heartland.

Moreover, this policy is a partial pursuit of that of the other maritime power of the past, Great Britain, which, however, lacked a true land dimension and has always been driven by the need of preventing a hegemonic power on the European continent —from which it has now broken away, with American approval, for the European power that it perceived as excessive. When Britain's world power did exist, it did not stem from a broad European territorial base (unlike the US), but from its sea dominion and its great industrial primacy on the world, which lasted throughout the 19th century, and was then challenged by lateral powers such as Japan and the US. A primacy that —in the British case as in any other— can take the form of imperialism, i.e. as the hegemonic building of an influence area, as well as colonialism, i.e. as the political-military control of vast lands. It is the cost-benefit calculus, along with the changing forms of political legitimacy, that decides which path to choose.

Europe

This geopolitical interpretative framework might seems out of date today, since the military power becomes de-spazialized in two opposite ways: from above, the nuclear threat by aircraft and missiles, clearly beyond the geographical space; from below, the terrorist challenge which —unlike what Schmitt foretold about the partisan— is (or has been) ubiquitous in many ways and has infiltrated into territories, rather than being based there (the self-proclaimed "Islamic State", Isis, failed just because it was territorially defined). Moreover, certainly just after the Second World War, the powers shifted from much of the territorial competition (decolonization took hold) towards ideological, economic and cultural levels. Universalist, all of them: even the post-War bipolarism was actually a struggle between two universalisms, the liberal-democratic and the communist one, balanced on the unstable dualistic form of *cuius regio eius oeconomia*.

But the post-bipolar age has no longer been a unitary and homogeneous world time, as law, ethics, economics, finance, and the official institutions of universalistic world governance, such as the UN and the WTO, would have wished and still do: it turned out quite soon into an age of plural and contradictory world politics (Petrone, 2021) that the universalisms are no longer able to compose. Even in the almost two decades of triumphing, euphoric globalization —from 1990 to 2008— the logics of geopolitics, albeit under cover, worked: the spreading unipolarity of the American hyperpower, the Washington consensus, the confrontation between public powers (governments) replaced by negotiation between private powers (informal governance) had the most weight; but after 2008, during the crisis of globalization, geopolitics fully re-emerges, its logics become the most evident, making politics easier to read: and more people recognize them. This, if anything, makes geopolitics more complex as it is also geoeconomics, without changing its feature: that is, again, the failure of reading world politics by assuming an universalist unity or a dual conflict between universalisms, whereas the right viewpoint is a plural, composite and agonistic unity.

In this regard, geopolitics follows the fortunes of sovereignty: first, the absolute core of all politics, then overwhelmed by the super-sovereignty of super-powers, but yet still triumphing, at least in formal terms, in the de-colonization phase, since the ex-colonies political independence demanded sovereignty; then denied by the globalist narrative about a smooth and homogeneous world, crossed by free capitalist exchanges and also free flows of money, goods and people; and lastly resurged, both as a protest ideology

(the so-called sovereignism) and as a interpretative key to some differential dynamics of the presumed smooth globe space (Somma, 2018; Galli, 2019). A differing that stems as much from traditional spatiality —the plurality of world public power— as from the unequal distribution of economic power among the different regions of the world.

This structural inequality of colonial legacy endured and grew during decolonization, when all the already scant investments of the motherlands turned to western markets, leaving the weak economic centers of colonies in great trouble. So, that inequality, in the global age, becomes a "dependence" of global South, which is in fact just a producer of raw materials, on the North, the center of creativity, development and financial activity (Visalli, 2020). Globalization indeed has been not only the deregulation of capital flows; but also, the shift of dependence into the subaltern involvement of vast areas of the world in the new, raging global productive development (neo-liberalism), that since early meant the Western production delocalization to once peripheral areas where labour cost was low.

The universal unification of the global world by economy, has always been an ideological narrative; difference, dependence and heterogeneity, have always been the very face of universality. Global capitalism does achieve a planetary network, but it produces (and it increases) local disconnections and inequalities. The spatial differentiation never disappeared: extraction and expulsion —the very core of the economic logic of neo-liberalism— are space-specific processes. Capital takes something away from one space towards another and attempts to prevent or control an autonomous productive capability in subaltern spaces (Sassen, 2014; Mezzadra & Neilson, 2019).

China (which, however, was never formally a colony) is a different case of economic development in areas previously cut off from it: here, from the late 1970s onwards, Deng's reforms ("Marxism with Chinese features" i.e. capitalism driven only by the Communist party) produced a bottom-up growth of light industry (starting up from productive districts following their own tradition). Thus, the country quickly became the "factory of the world", whose potential for export and internal investment, led it to standards (quantitative, not yet qualitative) similar to those of American economy. And this (with its entry into the WTO) has meant not only China's exit from the "century of humiliation" (1839-1949: from the first opium war to the proclamation of the People's Republic) but also its emerging as an international political pole alongside the others already present, such as the US, India and Russia. I called them "Great States", because of their vast territorial extent and, although they are formally federations or empires, by

the strategic unity of their sovereign political power. This greatness allows them, in different degrees, to govern, direct and drive their economies (Galli, 2018a; Galli, 2018b); in short, they are able to enforce (of course, not always) the strategic territorial needs alongside big corporation's business private profit. So, these centers of political power as well as hierarchizing the planet (medium-sized powers, vassal states and failed states support them, while terrorism and guerrilla warfare oppose them) can also attract and flex the course of economy, adapting to their political needs. Just as economic needs demand that politics intervenes in this or that way, they also set in a hierarchical way the world scene (geo-economics). The lack of coincidence between universalism of capital and particularism of political subject, the Great State, is a matter of fact: the former goes wherever it hopes to make a profit; the latter seeks to channel (broadly speaking) the capital flows towards its own strategic goals. Global space has never been smooth, and less today: world capitalism is actually American, Chinese, German, etc.

This does not mean the arising of "Great Spaces that prevent the interdiction of foreign power's interference" (Schmitt, 1941): given the current world economic connection, this is at present impossible. But it means that geopolitical and geo-economic areas of influence emerge; that is disagreeable to the US: indeed, it tends to be universalist in economics —and also in political ideology, although, as said, it practices in fact a strong geopolitical strategy— but it is forced to confront China as a strategic rival, and to threaten protectionist trade wars and even decoupling, (the stark economic separation of the American and Chinese spheres) because of weakening of the western economies after 2008, and the concurrent strengthening of the Chinese and Indian economies (Blustein, 2019; Davis - Lingling Wei, 2020). In a world divided into areas of political and economic influence, the US, however, does not feel at ease: this is still a possible choice, the other is a second "dual" cold war with China, but it is a quite risky scenario, because China owns part of the US public debt.

China itself is behaving politically as a "Great State" opposing to what it sees as the American universalist imperialism, by strengthening its presence in the South China Sea and seeking from there an oceanic access, that still does not have. In fact, China does not contest the principle of free seas and trade, as much as the trade wars and geopolitical closure around Asia —consciously converging with Schmitt's thought (Zheng, 2015) both about the one party and on the topic of the Great Spaces, whose autarchic closure, however, it does not agree—. Political particularism and economic universalism are the core of Chinese politics: a "Great State", communist inside and liberalist

outside, open and closed. This can be clearly seen from the China claiming sovereignty over its coastal seas, while seeking its own area of influence in East Asia (Regional Comprehensive Economic Partnership, 2020), and pursuing a long-range economic strategy through the "Silk Road" (Jingfeng, 2016): across the Middle East, in its final stretch the Silk Road it allows China to reach Europe (which is already the object of its attentions and investments, bypassing the American strategic bloc and surrounding its Indian rival) with which it signed a major trade treaty in December 2020. Moreover, China has deeply penetrated into Africa, where it is competing with Russia. It is also linked to Russia by the Shanghai Pact (1996), aimed to form an unitary Heartland. China, in short, is pursuing many geopolitical and geo-economic strategies: an exit from the South China Sea; an approach with Russia and Japan; the Silk Road; the relationship with Europe; an involvement in Africa. But it does not seem able to pursue a cultural hegemony, to exercise soft power, either as a model of civilisation (splendid but true remote, even linguistically), or as a political ideology (Chinese communism today has very little political appeal in the world).

However, on a global level it is hard to deny an increasing power shift from West to East; the US perceiving of a decline in its past hegemony, is, to some degree, right. Indeed, the US has not yet defined its strategy, having lost, after the collapse of the USSR, its main point of support and challenge, and it no longer is the only center of planetary power. It must therefore choose between a cold war with China —according to a dual scheme it prefers (the American-led West versus the "yellow danger")—, the enhancement of its presence in the Pacific, the re-establishing of a strong transatlantic alliance or a multilateralism among Great States where it would play an important but not exclusive role (Galli, 2021). As well as, of course, the isolationism, that is now, in fact, impossible for the US.

Of course, their overwhelming military power still remains, as the system of alliances surrounding the ancient continent; but some of these alliances are no longer exclusive (Australia and Japan just joined the RCEP) and others have broken down: the Iran loss in 1979 has never been balanced by a Middle East stabilization, both Bush wars notwithstanding and despite the "Abraham Accords" between Israel and some Sunni Arab states, signed by Trump. Of course, that Arabia and Israel are in effect allies of each other and of the US, is a gain for it, but it does not balance the Iranian *vulnus* that provided a "Shia corridor" to the Mediterranean, through Syria and Gaza. Iran is a breach in American control of the Indian Ocean and (partly) of the Mediterranean, as well as of the oil route through the Strait of Hormuz. That makes Iran a *de facto* ally

of China, which needs that oil, and partly also of Russia, if only in an anti-Turkish and anti-American contest.

It is still true that US failed in Afghanistan —as did the powers that tried to control it (czarist Russia, imperialist UK, USSR)—; US has not achieved any success with Iran, and has not yet decided what to do about China; Obama and Trump have almost neglected the Mediterranean (except for the Sigonella base upgrading): so, the Turkey's emerging power is opposed only by France and Russia. US has almost taken no interest in Africa, where moreover, in Sahel states, there is the risk of an Islamic-extremist power center emerging, pressing on the Mediterranean; and Libya is today almost a power vacuum facing the sea. In the worst hypothesis —an Islamic state that reaches Tripoli— for the first time since the Second World War, the powers of the Northern shore would not control also the Southern shore. This is a geopolitical rule for a Mediterranean hegemony: so the struggle between Rome and Carthage —*Litora litoribus contraria* (Aen. 4, 628)—, because one or the other, but not both, could survive, since neither could escape the strategic need of mastering the two shores; anyway, the real end of the Western Roman Empire was the battle of Cape Bon, in 468 a. C., where a thousand imperial ships and a hundred thousand men perished in the flames, so the Roman forces could not free Tunisia from the Vandals: without the African shore, Italy and Europe are bottled —rightly, Pirenne (1997) considered the Arab closure of the Mediterranean as the end of the ancient world—. It's clear that migrations have its geopolitical source in the power struggles for the African center; another one is the climate change, i.e., a critical non-spatial front: the failure and reverse of dominion of man over nature.

Conclusions

European history can be read also from a spatial point of view. Once the subject of politics, Europe becomes an object of it, split between the US and the USSR, and after 1956 (the Suez crisis) devoid of autonomous power projection capability, even in those two states formally winners of the world conflict (France and Great Britain), Europe has found a new geo-political complexity since the fall of communism, as it is crossed by many internal fracture lines: North and South, East and West, Euro and non-Euro countries, debtors and creditors, "frugal", Piigs, sovereignists, etc.: breaking lines that pivot around the German question, around Germany.

Indeed, the conversion of the EEC into the EU (Maastricht, 1992) was driven both by the aim of giving Europe an economic-monetary consistency —so that currencies of member states would not be in the hands of global economic powers— and by preventing the reunified Germany from isolating itself from the Western context. This led to the introduction of the euro, built on the economic-political logic of mark (ordoliberalism): beginning of the economic fracture lines between states that can afford the euro and states that hardly adapt to it. This also led to a growing unbalance of the Franco-German axis, on which the pre-Maastricht geo-economy rested, a quasi-Franco-German-Western "Carolingian" Europe. This unbalance is unspoken, but real and evident to everyone - due to the major economic and demographic power of Germany: quite similar (net of the military violence) to disequilibrium following the German unification of 1871, which broke the European balance of the Congress of Vienna (although Bismarck's prudent policy had later tried to reassure about Germany's will to peace - a real will, while he was ruling). Today, the Franco-German axis still holds, but there is no doubt about where the balance hangs.

But German power is limited by the countries of Eastern Europe. Although they are embedded in its economic space —from the Adige to almost Memel (as its national hymn claims) it reaches as far as the Balkans, Greece and Turkey— they pursue policies that are non aligned with those of Germany. The Eastern European States, such as Poland and Baltic States, but also the central Europe "sovereign" States of the Visegrad group, are anti-Russian and pro-American. Indeed, their integration into the EU also stems from a NATO impulse; and of course, NATO's logic does not coincide at all with European reasons: the US cannot lose its control on both Eastern and Western Europe and cannot let Germany become the political barycenter of Europe. On the other hand, relations with Russia are a geopolitical open issue for Europe, which needs Russian gas and now perhaps Russian vaccine, but is also afraid of Russia, although it may be an attractive market. Moreover, the Franco-German tandem is fuelling more or less silent suspicions in lesser rank states, and also in top ones: even Trump's US (and hardly the new administration will change this specific policy: US does not want a really united Europe) and the UK of Brexit didn't endured a German-driven EU.

Let's be clear: the EU is not a Germanic or Franco-Germanic super-State; but neither it is a real federation; in short, it doesn't have any political unity. It never knew a continental constituent power, and however its "constitution" (actually its revised Treaties) was rejected in 2005. It is in fact —leaving aside the *vexata quaestio* of the EU's political

form, which is neither a State, nor a Federation, or Empire, and may not be defined as a "form" (D'Attorre, 2020)— a set of sovereign States, "Lords of the Treaties": they ceded monetary sovereignty and, partially, budget sovereignty, each having to face the internal effects of this sacrifice. The intergovernmental EU governance method, which of course underlines the different strengths of states, is the political and organizational proof of the inter-state character of the EU. In fact, Germany explicitly asserts its sovereignty since the Lissabon Urteil of its Constitutional Court in 2009, in which the European Union is seen as a "pact between states" (Staatenverbund) i.e., as

> […] a close and lasting union between States that are still sovereign, exercising public power on a pactual basis, the basic order of which is under the exclusive disposition of the Member States,

so

> European unification on the basis of a pactual union between sovereign States cannot be achieved in such a way as to leave the Member States insufficient room for the political determination of economic, cultural and social living conditions.

According to that approach, Germany —too big to be an European State among the others, but too small to be a superpower— has certainly a great influence, but it cannot be a real stabilizer, even though, as a strong but not really hegemonic partner, it is involved in many mediations within the EU, without giving up its own national interest (above all, the safeguard of its banking system and its export capacity).

Lacking political unity, even only federal, and therefore lacking a unitary foreign policy and defence, crossed by many dividing lines, among which geopolitical ones (relations with Russia and the US, which, through NATO, organizes almost the same States as EU), Europe fails to define its own strategic interest: foreign policies of member states are national and certainly not identical (see the Libyan affair from 2011 onwards). Faced with the geopolitical challenge, Europe seems to have exhausted the driving force of its current conformation, and must face a dilemma: to join the US, if it resumes its role as leader of the West (whether in a new cold war with China, or in a less conflictual scenario), or to turn itself into a hegemonic Great State in its own area of influence (but which? a needed presence in the Middle East geopolitically,

should also be envisaged). There are two opposing hypotheses, both of which require great political energy: the first, from the United States, which should regain its economic and military hegemonic power (and today, it is not sure that on the European side there is the past pro-American enthusiasm); the second, from the EU itself, that should make a qualitative step toward unification, essential to "great policy". The outcome, of course, is uncertain. What is certain is that in the present multipolar world, heavily unbalanced and unstable, the EU, as it is, is contestable, and in fact, contended by America, Russia and China: indeed, today China's hold on some economies (Germany and Italy, above all) is very strong. European decisions (French-German, and mainly German) will have to be taken, and they will come in part also from American decisions. And it is not sure that geopolitical choices (pro US, China or European autonomy) will overlap with the old ideological divisions: the right might well be pro-America, while the center and the left (where there is one) pro-China (but surely not for Maoist nostalgia).

So many contemporary political dynamics can be explained by geopolitical reasons: the main power players are de facto "forced" to these reasons, even though they give "free", just "political" and not mechanical interpretations. Despite some analogies, today there is neither a coming back to 1914 —to the wild plurality of power centers in Europe (in their different ways and aims, EU and NATO moderate internal conflicts) nor to 1945— to a new imperial world dualism, with China replacing the USSR. But we are not even in a new, unified, globalised, homogeneous and pacified world; the fracture lines are there, and so the pluralities of powers, the power projects are there: space is a root of political order as much as a root of disorder. Today's complexity of politics includes the spatial dimension and its subjects of action: the Great States. So, we are challenged to face the immediacy-mediation nexus at the very theoretical and practical core of geopolitics. Geopolitics does not provide mechanical, automatic, axiomatic interpretations of that nexus: hence, it is not a positivistic "social science", nor can provide any definitive answer to contemporary political issues, by highlighting them. Nonetheless, as a part of "critical realism", it can help to pose questions better. Its critical power is here.

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Federica Giardini teaches Political Philosophy at the University "Roma Tre". She is the director of the Master program "Gender Studies and Policies" and has cofounded the Master program in "Environmental Humanities". As the General coordinator of the IAPh Italia Research Center, she is supervising the EcoPol/Political Economics-Ecology Program. She has been working on the relational body confronting feminist difference thought, Husserlian phenomenology and Lacanian psychoanalysis (*Relazioni. Differenza sessuale e fenomenologia*, Luca Sossella Editore, 2004); on feminist genealogies; on commons; on social reproduction. Lately her reasearch has been focusing on "cosmo-politics", the transitional space blurring the boundaries between nature and politics (*Cosmopolitiche. Ripensare la politica a partire dal* kosmos, 2013; *I nomi della crisi. Antropologia e politica,* Kluwer, 2017).
Contact: federica.giardini@uniroma3.it

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NI UNA MENOS.
POLITICS ON A PLANETARY SCALE[1]

Federica Giardini
Università Roma Tre

Abstract

In the twenty years that have followed the emergence of globalization, the political scene has gradually lent itself to analyses centered on the crisis, not only of the tendency towards integration between different regions of the world, but of the globalizing perspective itself, to the point of converging towards the exact opposite, i.e. the renewed fragmentation expressed by neo-sovereignisms. This analytical periodization, however, does not question the very constitution of the political, since the role played by the conflicting forces that have marked different regions of the globe is neglected. The beginning of the twenty-first century, although with some differences compared to the great mobilizations of the late twentieth century, was in fact marked by significant conflicts, widespread and connected in a peculiar way, which not only complement and extend the phenomena examined, but impose a paradigmatic shift. Which in turn demands a conception of politics in line with the approach of "new materialism", a large scale and situated expression of which can be found in the transnational movement «Ni Una Menos», and in its analytical and conceptual production.

Keywords

Feminism, Transfeminist Movements, Cosmopolitics.

Resumen

En los veinte años que han seguido a la aparición de la globalización, la escena política se ha prestado progresivamente a análisis centrados en la crisis, no sólo de la tendencia a la integración entre las diferentes regiones del mundo, sino de la propia perspectiva globalizadora, hasta el punto de converger hacia todo lo contrario, es decir, la renovada fragmentación expresada por los neosoberanismos. Esta periodización analítica, sin embargo, no cuestiona la propia constitución de lo político, ya que se descuida el papel desempeñado por las fuerzas conflictivas que han marcado las diferentes regiones del globo. El inicio del siglo XXI, aunque con algunas diferencias respecto a las grandes movilizaciones de finales del siglo XX, estuvo de hecho marcado por conflictos significativos, extendidos y conectados de manera peculiar, que no sólo complementan y amplían los fenómenos examinados, sino que imponen un cambio paradigmático. Lo que a su vez exige una concepción de la política en consonancia con el enfoque del «nuevo materialismo», cuya expresión a gran escala y situada se encuentra en el movimiento transnacional Ni Una Menos, y en su producción analítica y conceptual.

Palabras clave

Feminismo, Movimientos transfeministas, Cosmopolítica.

In the twenty years that have followed the emergence of globalization as a key to geopolitical interpretation, which articulated the analysis according to the perspective of a techno-financial trend in homologation or functional differentiation, the political scene has gradually lent itself to analyses centered on the crisis not only of the tendency to integration between different regions of the world but of the globalizing perspective itself, to the point of converging towards the exact opposite, i.e. the renewed fragmentation expressed by neo-sovereignisms. This type of analytical periodization, however, rests on approaches that do not question the very constitution of the political; even when progressive integration at a global level is presented in terms of socio-economic and technological flows and processes, rather than identity and cultural dynamics in the constitution of political subjects, the role played by the conflicting forces is neglected. The beginning of the twenty-first century, albeit with some differences compared to previous mobilizations, has in fact been marked by relevant conflicts, widespread and connected in a peculiar way, that not only integrate and extend the phenomena examined, but impose a paradigmatic shift.

In partial resonance with the Foucauldian invitation to investigate the different forms of power by reversing the perspective and "taking the forms of resistance against different forms of power as a starting point" (Foucault, 1982, p. 780), conflict as a key to analysis works as a conceptual operator that allows to identify lines of connection and fractures that would otherwise remain invisible; it allows to capture the emergence of new tensions deriving from previous processes, based on peculiar connections; to identify a multiform temporality, which escapes both the progressive linearity and the cyclicity of economic and institutional crises; it allows to consider as political actors those that the hegemonic models or the tradition of political analysis itself does not recognize as such; in other words, it allows to bring out subjects, activities and conditions —as they emerge from feminist and decolonial and environmental struggles— that the disciplinary and cultural canon has left out or relegated to minor history; last but not least, it allows to grasp how the dimension of the political, and its very characterizations, are modified by the tensions that break it up and recompose it (Castelli, Raparelli & Giardini, 2020).

In fact, if we abandon the idea that the scope of the political is already defined in its components, from sovereignty to demos, and in periodization, including crises, aftermaths and reactions, and assume instead the perspective of the dynamism of the same constitution of the political in its extension and characterization, it becomes clear that the tools of the analysis need to change. In this sense, the socio-environmental crisis and

the pandemic itself are not to be considered as political issues only when they become the subject of national, international and transnational public policies, for which the health of populations, rather than citizens, raises problems of socio-economic government; rather, they should be considered as dynamic elements that reconstitute what we mean by politics, right down to its material and spatial articulations. A significant example comes from the now well-established debate on the anthropocene (Bonneuil & Fressoz, 2013), of which the pandemic itself can be said to be a declination: thinking the political has always posed the question concerning the shared dimension that underlies it – in the different forms of demos, state of nature, contract or identification with a physical and symbolic space –: how should this commonality be considered today?

According to the established readings, this is a dimension that emerges from the crisis of the modern pairs State-Nation and State-Society as an effect of the deterritorializing scope of techno-economic processes; a dimension that affects the very constitution of human beings, between biopolitical governmentality and the anthropogenesis of *homo oeconomicus*; a dimension that, moreover, enters into crisis because of the complexity with which the activities of government are confronted. However, these different perspectives do not convey the specificity of the processes that at present affect political life itself on a planetary rather than global scale: in fact, commonality appears not as homologation to a predominant order, nor as the return of a given condition —the condition of the human species undifferentially affected by natural forces— but as a dynamic, which is constituted through dramatic tensions at the crossroads of interdependence and interaction between forces that are not only human. It is therefore a matter of conceiving of politics in line with the approach developed by "new materialism" (Haraway, 2016), an expression of which, both large scale and situated, can be found in the transnational movement *Ni Una Menos*, and in its analytical and conceptual production.

A spatio-temporal multiverse

Assuming this approach, which considers the material emergence of conflicts, a first modification concerns the temporal and spatial dimension of politics. In a renewed materialist conception, it is in fact a matter of taking into account also the tensions that, although exercised, do not appear or cease to appear on the different scenes of representation and communication, from the mainstream mass media to the most formalized debates, thus taking into account also what is not limited to the domain

of the visible and the verbal. To this end, we may borrow, on the one hand, from the Deleuzian considerations on the transformation of power and resistance —the mole that digs is replaced by something more pervasive and volatile, the gas and the snake (Deleuze, 1990) — and, on the other hand, from the feminist category of invisibility —the non-recognition and representation of violence as well as the extraction of value from what is not even considered to be a resource (see Picchio, 2020; Gago & Mezzadra, 2015)— thus complementing the widespread observation about the karstic temporality of movements.

The transnational movement *Ni Una Menos*, in fact, is not the continuation or the simple resumption of the season of conflict sparked by the economic policies of privatization and the conflictual institution of new commons (Linebaugh, 2008); and yet from that humus it emerges and elaborates new fronts of conflict and new analytical tools. The previous mobilizations against "the new reason of the world" (Dardot & Laval, 2009) had as a constituent projection a renewed sense of the "common" and the public, materialized in processes of self-organization and self-government, as happened in the laboratory par excellence that was the impressive Spanish movement of 15M. Also belonging to this phase is the elaboration of a renewed critique of neoliberal political economy which, through the *dispositif* of debt, extends exploitation to subjectivation (Lazzarato, 2011) and at the same time intensifies it by transforming the labor force into a mere resource from which to extract value (Zibechi 2011; Gago & Mezzadra, 2015).

Although there have been attempts to read the front of conflict opened by these mobilizations as a unified perspective, against a renewed law of Capital that insisted and unfolded in the space of globalization, the mobilizations expressed conceptual and analytical innovations and showed potential for more than just reactive elaboration. Indeed, it was a season that redefined the sighting points with regard to the constitution and transformation of politics, incubating an awareness of the plurality of needs, conflictual fronts, and related tools of analysis that were needed. In fact, it is precisely this material capacity to intervene on the forms of associated life, creating alternative ones – from the anti-eviction pickets in Spain to the occupations of cultural and artistic spaces and housing occupations, from the self-organized cooperative networks to the referendums concerning the water services to the redefinition of urban spaces such as Tahrir Square in Cairo and Gezi Park in Istanbul. On the contrary, it was precisely this capacity to produce alternatives, to redefine politics itself, that prompted an equally multiform repressive reaction, from military and police repression in Turkey and the

countries of North Africa to the evictions of European cities, to administrative repression accompanied by the ideology of a "return to legality". If the analyses of the phase following this wave of mobilizations have generally focused on the ideologies generated from the forced retreat of these drives —ideologies of resentment and fear, which have produced scenarios interpreted according through the lenses of populism and neo-sovereignism—, it is however in those same years that a mobilization such as Ni Una Menos emerges, unfolds and relaunches on a global scale the conflicts, as well as the practices of self-organization against neoliberal policies and violence[2]. Silvia Federici, one of the major references of the movement, well expresses the relationship of recovery as well as of innovation that the feminist perspective entertains with the struggles for the commons (Federici, 2018).

Starting from the pervasive wave of feminicides affecting disparate countries and cultures of the world —officially acknowledged by international Conventions since 2011 (Council of Europe Convention, 2011) and appearing in international media since 2013— the genesis of the name Ni Una Menos is linked to the denunciation of feminicides in the Mexican city of Ciudad Juarez and in particular to the injunction *Ni una muerta más*, launched by the poet and activist Susana Chávez Castillo, who was also killed. However, it should be noted that since its inception, the movement has gone beyond the denunciation of violence against women and reworks the previous systemic analysis accompanying them with innovative practices that redefine politics itself. In fact, a diagnosis is developed on the destructive effect of the economic and financial policies in force which, weighing primarily on women, affect everyone's life, the personal sphere as much as the public one and exert violence not only on human but also on non-human life. From the publications in Argentina (Gago & Cavallero, 2019) to the document collectively written by *Non Una di Meno* in Italy (*Non Una di meno*, 2017), it is clear that feminicide is no longer a "gender issue" and has become the key to an active reinterpretation of living conditions on a global and planetary scale. The practices of mobilization and self-organization are developed in the capacity of alliance between different contexts and mobilizations and in an intersectional approach, that is, an approach that takes into account the differences of gender, race and class. Also, violence against women and gender leads to the collective elaboration of a different organization of human relations and activities, and their interdependence with non-human actors,

2. The approach here adopted allows to trace the emergence of the Ni Una Menos movement without resorting to a presumed continuity between the different phases of movements united in a preliminary and unproblematized way by gender characterization, as for example in Chironi (2019), especially pp. 1472-1473.

starting from the primary and disavowed role of the activities of care and reproduction, historically attributed to women.

Material and not only human subjectivation

If in Europe the season of mobilizations preceding *Non Una di Meno* bears the memory of the European governance of Greece's financial crisis, in Argentina, from where the *Ni Una Menos* movement unfolds on a transnational scale, this memory carried the traces not only of the 2001 debt crisis but also of the strong response in terms of popular self-organization (Gago, 2015). This is the approach adopted with feminicide, the critical awareness of the ambiguity inherent in assuming women as victims or as specifically vulnerable subjects[3] and in the consequent need to identify the conditions that produce a multiplicity of forms of violence.

To grasp the innovative characteristics of the transnational movement *Ni Una Menos*, a first indication comes by differential comparison with the #metoo campaign (Peroni, 2018). The latter, in fact, unfolded primarily through the gesture of individual denunciation, which then gained public extension through media resonance and the consequent coming out of further denunciations. This is a mode proper to the tradition of mobilizations for civil rights, within the framework of liberal democracies, which is triggered by individual exemplary gestures and aims at a goal included, or partially extending, in the framework of the existing legality (Giardini, 2020). However, the very subject of the complaint —the violence acted and suffered in a relationship where gender is an essential component— being codified on the basis of an individual measure, encounters strong symbolic and representational limits, also with respect to responses in legal terms. In fact, while "feminicide", although laboriously, has come to be codified as a crime, the complaint of other forms of violence is placed in an area that exceeds the legal framework and therefore gives rise to the evocation of private, ethical and cultural mitigating circumstances. On the other hand, individual denunciation, in addition to the difficulty in gaining a public dimension, has regularly been exposed to the risk of delegitimization through the argument of the subjective perception of what happened. It is therefore no coincidence that, in Italy, *Non Una di Meno* has from the beginning supported the depsychologization, as well as the deindividualization of violence against

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3. The category of vulnerability, popularized in LGBTQ movements through the work of Judith Butler, becomes problematic, if not unusable, in these new analytical and activist circumstances (Pedace, 2018).

women, opting for a systemic reading that is alternative to the neoliberal models of analysis of social phenomena (*Non una di meno*, 2017a).

The refusal of the individual scale and measure —already present in the conceptual production of feminisms of the second half of the Twentieth century[4], and already scrutinized by the criticalities of the new precarious generations— starting from the second decade of the 2000s further unfolds in the genealogical resumption of feminisms characterized by the critical reinterpretation of Marxian categories, and in particular of the theoretical production of the group claiming wages for domestic work, founded in Padua in the Seventies and developed internationally through activists and authors such as Selma James and Silvia Federici (*Non Una di Meno* Padova, 2020). In this case too, it is possible to appreciate the innovative scope of Ni Una Menos through the differential comparison with the approach, also Marxist-inspired, of the text *Feminism for the 99%. A Manifesto* (Arruzza, Bhattacharya & Fraser, 2019). The transnational dimension of the movement, in fact, while researching and identifying the fronts of conflict in a trans-individual dimension, does not rely on the resumption of a collective and therefore uniform subject —"women" as a contemporary analogue of the "workers of the world"— but rather takes up and updates the feminist lesson on the criterion of difference against the universalism that persists in the Marxist conception of the subject of struggles (*Non Una di Meno*, 2017b). In other words, to the age-old aporias of the relationship between socio-historical totality and subjectivity, between structure and superstructure, as well as between theory and praxis, the assumption of a framework of analysis and denunciation that invests the couple formed by capitalism and patriarchy allows for entirely innovative developments (Federici, 2004).

It is here that politics encounters a first redefinition of its boundaries and stakes. Violence against women and gender allows to consider processes that combine the economic, the ethical and the symbolic, thus overcoming the opposition between a critique of political economy based on the key concept of exploitation and analyses in a culturalist key based on the concept of domination (Giardini, 2015). Rather, violence is presented as the result of economic, legal, and moral pressures, which are articulated in a vast ideological orchestration and aim at a renewed division of labor, both productive and reproductive, able to guarantee social and economic order at the same time. Subjectification —being identified and identifiable as functional components of such a

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4. This is a paradigm critique that unites the most diverse feminist approaches: from Carole Pateman's critique of the liberal contract to the proposals for a relational conception of the subject as in Carol Gilligan and in Italian difference thought, and to the situated subject of Rosi Braidotti and Donna Haraway.

productive and social order— becomes a component of renewed *dispositifs* of exploitation which, avoiding economic reductionism, reveal the use of gender and race marks.

In the formulation "If I have no value, I won't produce" —which accompanies the mobilizations and the launch of the 2017 strike— the value extracted, which is neither recognized nor returned to sexualized and racialized activities and forms of life, is identified as the point of exercise of a violence that achieves economic ends through cultural and symbolic tools. The concept of extractivism, elaborated by the struggles in Latin America against the intensive exploitation of natural resources (Zibechi, 2009), is thus extended to the human, to different forms of life and characterizations of identity, which become resources from which to draw extra value that is not returned in any form, not only because it is not quantified according to the wage measure, but above all because the negotiations and conditions characterizing the exploitation of what is still recognized as labor force are annulled (Gago & Mezzadra, 2015). As in the case of domestic activities, and as it became visible in the struggles of the Seventies, the extraction of value takes place in the intertwining of economic processes, normative and ideological dimensions, which entail a symbolic and economic regime of invisibilization that instrumentally uses gender, race, and class identifications as well as behaviors traditionally excluded from the scope of political and economic analysis, such as affective and love relationships (Tabet, 2014). The concept of "naturalization" of the activities and characteristics of the feminine (Guillamin, 1992), elaborated to capture the symbolic dynamics that establish the hierarchy between the sexes, in these more recent elaborations has regained the economic dimension and extended the exercise of violence beyond the merely human and productive sphere.

Exploitation and the category of reproduction become not so much the key to a partisan claim, but rather the paradigm for redefining the critique of the economic system through the forms of life that constitute it (Simone & Giardini, 2015). Moreover, such analyses extend beyond the limits of claims related to a presumed gender issue because of the progressive extension of the status and function of reproductive activities to other social groups, as well as the tertiarization of productive forms in the Global North (Morini, 2007), the new colonizations that make human resources available through the new international divisions of labor (Busi, 2020; Ciccarelli, 2017), as well as the extraction of value from the living and from the very conditions of human reproduction (Cooper, 2008; Barca, 2020).

The concept of reproduction entertains relations of differentiation and consonance with the category of care, established in previous decades especially in academic debates

(see Casalini, 2020). Indeed, care tends to divest the boundaries between morality and politics and takes on a systemic dimension by using patriarchy —the normative social and cultural framework that establishes the hierarchies of gender differentiation— as a perspective that integrates the different phenomena and problems of associated life. However, the more recent resumption of the category of reproduction allows to include not only the dimension of gender but also other differential axes implied by the multifaceted exercise of violence, expanding the scope of the analysis both in the intensive direction of the elements considered and in the extensive direction of the integration of areas as political issues. On the one hand, in fact, through the use of the category of patriarchy, which exceeds Western historical periodization, it is possible to identify the cultural, symbolic and social structures that situate the different subjects affected by violence —transphobia, control of bodies, expulsion from lands and norms inspired by religious and ethical concerns; on the other hand, it is possible to situate in the different contexts the ways in which the cultural dimension contributes to the dynamics of exploitation— from the racialization of the functions of care in the organization of private and family relationships in the Global North to the reinvisibilization of reproductive activities in the pandemic, from the exploitation of biological materials to the renewed ideology of the heterosexual organization of society, a phenomenon that turns out to be characteristic of Western and European countries and not only of societies that are assumed as primitive in comparison to a presumed advanced Global North.

It appears, therefore, that the political dimension identified by the movement can be defined as systemic, but in a new way: it is a multiverse, which extends beyond the human, which is able to take into account the folds of subjective differentiations and different regimes of violence, which extends beyond individual intentionality and imputability —from seclusion to racialization, from invisibilization to symbolic and communicative distortion— and which considers the conditions of the exercise of violence, as well as its different degrees of perceptibility. A systemic and yet situated analysis, that dismisses all homogeneous representations for the purpose of mobilization on a transnational scale.

Commonality: alliances, self-determination, forms of conflict

If in the modern tradition of political thought, strength and effectiveness result from the logic and organizational criterion that unfolds in the principle of the One-to-many,

at the beginning of the twenty-first century the diagnosis of the ineffectiveness of this principle had definitively matured, in the face of the dynamics of globalization and the mutations of the political that no longer presents itself in the synthesis of sovereign power, but in the multiverse of the glocal, of biopolitics and governmentality, as well as in the dynamic creation, both extensive and intensive, of new frontiers. Furthermore, also with respect to these more recent political elaborations, the *Ni Una Menos* movement has brought about further innovations, from the point of view of both political form and content.

What do transfeminist mobilizations for freedom from debt in Argentina, for the legalization of abortion in Argentina and Poland, for the legal and financial recognition of counseling and anti-violence centers, for freedom of education and affective relations in Italy, for freedom of demonstration in Turkey, for civil, social and political freedom in the countries of North Africa and the Middle East have in common? In fact, as much as feminicide is invoked as the emblem and point of origin of the movement, the systemic and situated approach to violence against women and gender violence has made the expression and connection of a multitude of conflict fronts possible; the Italian example of *Non Una di Meno* is particularly significant where the transnational dimension has been refracted into a multiplicity of city collectives, which have allowed participation to be extended beyond the main urban centers.

The political commonality elaborated by *Ni Una Menos* first and foremost modifies its nature, making it a material process that removes it from both an act of initial identification and the end to which it aims through action. Echoing the preference for performative commoning (Linebaugh, 2008) over the substantive form of the commons, and assuming the centrality that feminisms attribute to practices, commonality presents itself as a dynamic and material dimension: there is no uniform condition of oppression attributable to a generic subject, "women", from which to start; rather, in the face of a pervasive dimension of violence, mobilization constitutes its own points of encounter and alliance. The practices that accompanied the constitution of the movement reveal first the conflictual nature of the mobilizations; conflict appears as an operator of connection between situations, fronts of mobilization and different languages. The dynamics of the assemblies, precisely because they were constituted by ongoing conflicts, did not take place with the aim of reaching a discursive agreement —in the assemblies the critique of the naturalization of the sexed bodies of women and transgender subjects coexisted with the analogy between the plundering of land and violence against indigenous women's bodies, without fear of running into aporias— but took shape starting

from a preverbal encounter, as it emerged from the shared situation of mobilization (Giardini, 2020). In the perspective of a situated and differentiated constitution of commonality, intersectionality —a category developed in order to take into account the different conditions of racial, class and gender subalternity— becomes a practice of alliances between different economic, symbolic and legal contents and conflicts, through the material creation of their connections. The refusal of the political Subject —not the people, not the Woman— is substituted by the priority of subjectivation, which takes place through access to speech and to relational legitimation. The subject that emerged from these mobilizations is thus revealed not through nominal fixation but in an autonomous and relational attribution – sexed, gendered, racialized, transfeminist, transpecies subjects and issues.

A further innovative element takes up and situates in a different perspective what emerged in the mobilizations of the previous season, especially regarding the form of what have been called leaderless movements. Among the recurring characteristics, marking a discontinuity with the twentieth-century scenarios, these mobilizations were generally characterized as mobilizations in which the individuals that could emerge, especially in media communication, did not present themselves as reference figures for political decision-making and orientation, but rather as spokespersons for an elaboration collectively reached through assembly and writing practices, to restate the intention to redefine the institutions of associated life, therefore breaking with the top-down organization that characterizes representative politics. Another common feature is a form of mobilization —in Spain defined through the neologism "technopolitics"— that mixes physical actions, based on the interaction in presence, with the use of social media, both for organization and communication, to coordinate actions in different places of the city, for example, or guarantee continuity in participation to assemblies (Della Ratta, 2018).

Ni Una Menos has also rethought the forms of conflict, as in the case par excellence of strikes. Indeed, it has not only been a matter of re-signifying this instrument of revolt, assigned to the neutral canon of the Labor movement, but also of redefining it in its practical expressions, considering the transformations of labor and its use by subjects excluded from its traditional definition. The feminist global strike, called in over 40 countries in 2018 and 2019, blurs the distinction between economic and political strike by considering these two areas as being in a reciprocal relationship of action. It poses the material conditions to elaborate an idea of politics that considers economic struggles as a trigger of processes of subjectification and, at the same time, assumes the

struggle against gender violence as a point of access to the entire system of production and reproduction and its forms of exploitation, from which new economic struggles arise (Montanelli, 2018). It is a transversal conflict that triggers processes of subjectification by connecting different figures —dependent, precarious, intermittent, informal workers, unemployed, housewives— having productive and reproductive functions; it also considers the symbolic and discursive contribution to the extraction of value and exploitation that is exercised through the assignment of gender identities functional to the organization of affective, family and social relations, by proclaiming the "strike of gender and by genders" (*Non Una di Meno*, 2017a).

Further confirming the innovation brought about in redefining the political dimension of economic struggles, the claims for basic income combine, in continuity with the multiverse that characterizes the movement, specifically political issues —the subjectification and recognition of invisible or excluded subjects— with economic issues. The very formulation of an "income for self-determination" captures not so much the equity of economic treatment but the different scales of exercise of domination and violence that determine subalternity and new servile conditions (Chicchi & Leonardi, 2018, p. 18). In other ways, the claim for a self-determination income updates the demand for wages for domestic work of the political genealogies of the Seventies, thus becoming a tool for denunciation and above all for highlighting those specific forms of exploitation that burden the activities that guarantee social reproduction which are not considered productive labor (Global Women Strike, 2020). Not only a measure of economic equity, this specific claim for income presents itself as a tool for liberating the time needed to constitute the necessary spaces and institutions of social reproduction of dignified life; it is also as a tool for including invisible subjects and activities, affected by the double epistemic and socio-economic statute of violence, in the public discourse. It is no coincidence that during the pandemic the campaigns have denounced the invisible and yet essential subjects and activities such as the domestic care of relationships.

In its genealogy and in its karstic references to previous seasons of conflict, the movement *Ni Una Menos – Non Una di Meno* appears to be anticipating the new political coordinates necessary for an analysis of the present. In fact, what is at stake today —at a time when the insufficiency of the economic models based on productivity becomes patent, together with the reduction of the social domain to economic exchanges based on an individualistic anthropology, and the socio-ecological crisis exasperated by the pandemic— is a new conception of politics and the ability to include unexpected subjects and activities (Rispoli & Tola 2020).

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Peter Langford. Senior Lecturer in Law, Department of Law and Criminology, Edge Hill University. In the area of legal theory, his current research concentrates upon two main aspects. The first is the work of the Italian contemporary philosopher, Roberto Esposito; and the second is the work of Hans Kelsen and Max Weber. In the area of human rights, his research interests focus on relationship between non-nationals and the European Convention on Human Rights and the regulation of state practices of arbitrary detention by international law. His publications include: Roberto Esposito. Law, Community and the Political, Routledge, 2015; The Reconstruction of the Juridico-Political: Affinity and Divergence in Hans Kelsen and Max Weber, (edited with I. Bryan and J. McGarry) Routledge, 2015; The Foundation of the Juridico-Political: Concept Formation in Hans Kelsen and Max Weber, (edited with I. Bryan and J. McGarry) Routledge, 2017; (with V. Giordano) Judicial decision-making. Artificio, Razionalità, Valori, Giappichelli, 2017; Kelsenian Legal Science and the Nature of Law (edited with I. Bryan and J. McGarry), Springer, 2018; Hans Kelsen and the Natural Law Tradition (edited with I. Bryan and J. McGarry), Brill, 2019; (with I. Bryan) 'Kelsen, Weber and the Free Law Movement', Jahrbuch für Soziologiegeschichte 2020 pp. 113-145. Contact:langforp@edgehill.ac.uk

BEYOND EMPIRE?[1]

Peter Langford
Edge Hill University

Abstract

The article considers the pertinence of the concept of empire for the continued intelligibility of the configuration of the contemporary international order. The pertinence is examined by tracing its presence in the recent work of Cacciari (*The Withholding Power*) and the more extended thematization in the work of Hart and Negri. The examination commences from the question of the entwinement of the concept of empire with the framework of political theology and the consequences of the particular inflection that Cacciari confers upon this in *The Withholding Power*. The difficulties of the Cacciarian approach are then the basis for the turn from political theology to the examination of Hart and Negri's appropriation of the Polybian *politeia* as the interconnection between the concept of empire and the elements of a mixed constitution. The character of the appropriation is then indicated to be the preparatory delineation of the contemporary international order whose transformation – that which is beyond empire – arises from a globalization from below comprised of the interconnection of the multitude and the common. It concludes with a reflection upon the notion of the common.

Keywords

Empire**,** International Order, Juridical Form.

Resumen

El artículo considera la pertinencia del concepto de imperio para la continua inteligibilidad de la configuración del orden internacional contemporáneo. La pertinencia se examina rastreando su presencia en la obra reciente de Cacciari (*The Withholding*

Power) y la tematización más extendida en la obra de Hart y Negri. El examen parte de la cuestión del entrelazamiento del concepto de imperio con el marco de la teología política y las consecuencias de la particular inflexión que Cacciari le confiere en *The Withholding Power*. Las dificultades del enfoque cacciariano son entonces la base para pasar de la teología política al examen de la apropiación por parte de Hart y Negri de la *politeia* como interconexión entre el concepto de imperio y los elementos de una constitución mixta. A continuación, se indica que el carácter de la apropiación es la delineación preparatoria del orden internacional contemporáneo cuya transformación —la que está más allá del imperio— surge de una globalización desde abajo compuesta por la interconexión de la multitud y lo común. Concluye con una reflexión sobre la noción de lo común.

Palabras clave

Imperio, Orden Internacional, Forma Jurídica.

Introduction

The attribution of a juridical form to the present configuration of the international order confronts the immediate difficulty that the position from which that juridical form is attributed, and the range of forms from amongst which it is selected, is open to question. The absence of a stable theoretical or methodological background in relation to which a position can be delineated and developed arises from the effect of the dominance, and subsequent failure of, the juridico-political framework of globalization.[2] The apparent effect of this initial dominance and subsequent failure is to have sought to create a dynamic unity of international trade, technology, human rights and democracy which has left each of the elements to pursue its own path guided by their different developmental logics.[3] In order for juridical thought to remain capable of an intervention other than that of thematization within the limits of the purported parameters of the failure of the juridico-political framework of globalization, a position of explicit, reflective distance is adopted. The possibility of this position rests upon an initial divergence from the simple assumption that these parameters and their limits impose themselves upon juridical thought as an objective necessity – the primacy of a purported reality over the conceptual content and sources of juridical thought. The divergence is itself the expression of a reflective process which, in detaching juridical thought from hypostatization, extricates juridical thought from a silent acceptance of an adaptation to the continued dominance of the conceptual orientation of neo-liberalism over the failure of the juridico-political framework of globalization.[4] The initial, reflective divergence creates a space for reconsideration and rearticulation of juridical thought[5] and, within this space, the occasion for a deliberation upon the pertinence of the attribution of the juridical form of empire to the present configuration of the international order.

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2. The failure can be attributed, primarily, to the combination of the military invasion and war in Afghanistan (2001-), the military invasion and Iraq War (2003-2011), the further war in Iraq and its intersection with the civil war (later internationalized) in Syria (2013-), the first and second Libyan civil wars (2011-20) and associated direct and indirect international military assistance, the absence of agreement in, and subsequent permanent suspension of, the Doha round of global trade negations at the World Trade Organisation (2001-2008) and the global financial crisis (2007-8) originating in the subprime mortgage crisis in the USA.

3. The appearance finds an exemplary theoretical reflection in the transformation evident in the following works of Francis Fukuyama *The End of History and the Last Man* (1992), *After The Neocons: America at the Crossroads* (2006), 'What Crisis' in N. Birdsall, & F. Fukuyama F (2011, pp. 312-327), *Political Order and Political Decay: From the Industrial Revolution to the Globalisation of Democracy* (2014).

4. On the central position of adaptation within neo-liberalism, see Stiegler, (2019).

5. For instances of broader, foundational reconsideration and rearticulation, see Bazzicalupo, (2019); Bazzicalupo, (2016a); Bazzicalupo, (2016b); Galli, (2016); Marramao, (2020); (Preterossi, (2019); Preterossi, (2017).

The return to political theology?

A preliminary question which arises from the consideration of the pertinence of the juridical form empire is of its intertwinement with a theologico-political conceptual horizon. Thus, that to initiate this consideration is to engage in a return to, or reanimation of, a theological-political horizon and its associated limits.[6] This, in turn, relates to the enduring influence of the thought of Carl Schmitt, in particular, *Political Theology* (1922) and *Political Theology II* (1970), on the interpretative stance towards the juridical form of empire. The difficult and intricate character of this continued influence is evident in Massimo Cacciari's most recent work on political theology, *The Withholding Power* (Cacciari, 2018).[7] The attempt to rigorously conceive and delineate the relationship between politics and theology, within a renewed thematization of the Pauline notion of the *katechon*, in the *Second Letter to the Thessalonians* (2: 1-1), is the tracing of an internal, conflictual dynamic of the *katechon* in which its 'restraint' or 'containment' of chaos (*anomie*) exceeds itself in the necessity to impose a form on chaos: the conflictual dynamic of empire and *katechon* (pp. 11-26). The tendency of this internal dynamic is towards the obsolescence of empire as the corollary of the 'form' revealed to exist within that which the *katechon* seeks to restrain, and can only understand as chaos. The limits of the *katechon* – its incomprehension of the immanence of form within the chaos which it seeks to contain – becomes, with the unfolding of this internal dynamic, the revelation of "its own im-potence" (p. 76). The form which emerges immanently is neither the foundation for the advent of new possibilities nor "the mere absence of measure" (p. 76). It is "the reproduction of the ever-same, of which this every moment of crisis is an essential element" (p. 77).

The form which arises from within this internal dynamic is that of an implacable process orientated to "'desubstantialize' all political power" (Cacciari, 2018, p. 70). It commences from

> […] the critique of the idea of empire, proceeds to that of every 'mortal God' and
> finally corrodes – logically and philosophically – the *reality* of the State, de-sub-
> stantializing it, divesting it of all *auctoritas*, denouncing its ideological fictions and

6. The question differs from that posed by Lefort (2006) —the permanence of the theologico-political— with regard to the relationship between the political and the religious arising from the emergence of modern democracy.
7. The turn to the question of political theology, in *The Withholding Power*, arises from the preceding reflections on the possibility and failure of an 'idea of Europe' as a rethinking of the notion of empire on the basis of certain categories of Roman law (Cacciari, 2016).

showing the impossibility of overcoming the absolute horizontal plane of the net
of conflicts and interests. (p. 110)

In this process, form ceases to be derived from "any instance of transcendence" (Cacciari, 2018, p. 76) and the effect of this displacement is expressed at the level of the individual and at the level of the net of increasingly autonomous "spheres of power and their internal conflict"" (p. 116). The immanence of form originates in an energetics and its internal regulation which, as an individual, is "the quest to develop its own power *as far as it can*" (p. 113). The drive to maximization —"constant competition" (p. 116)— is tempered —regulated— by "the 'natural' functional needs of the system, of the obvious respect owed to the rules by means of which the apparatus labours away" (p. 111). At the level of the net composed by the autonomous spheres of power, there is a drive to maximization within these spheres and to competition between these spheres which is without a common internal regulation analogous to that at the level of the individual. Each sphere is directed by "norms internal to their own function", resulting in a drive to maximization that "*does not know* the global effects of its own *impetus*"; and a "complexity of the relations to which they give rise, traversing various institutional levels, rights and procedures, is literally uncontainable" (p. 113).

The emergence of an entirely internal, immanent form is the corollary of its manifestation in a plurality of spheres of power competing "over claims to be the true interpreter and representative of the immanent Law of the system" (Cacciari, 2018, p. 115). The intensity of competition generated by the internal configuration of each of the spheres is "the space of *permanent crises*, of passing seamlessly from crisis to crisis with no armistice, let alone peace" (pp. 114-5). The space is one of perpetual transformation whose parameters remain "unforeseeable" (p. 113): "neither the absolute and simple absence of law and command, nor anarchy, nor the prospect of a new Age" (p. 70). The space is traversed by an entirely negative indeterminacy which confines the delineation of any stability in the relationship between the spheres to the creation of "great spaces" themselves traversed by a continuing "conflict among their various powers" (p. 117).

The culmination of the internal dynamic of theology and politics is the dissolution of the *katechon*. The dissolution is the self-dissolution of the terminological conjunction, political theology, as both the end (*telos*) of its internal conflict and the end (closure) of its continued possibility. In this dissolution is contained the definitive marginalization of the juridical notion of empire, and the concomitant reduction and accommodation

of the juridical to the space of permanent crises and its immanent reproduction without "any other reference, any ulteriority" (Cacciari, 2018, p. 76).[8]

The culmination and closure of political theology; and the attendant inoperability of the juridical notion of empire, is simultaneously, for Cacciari, the effective termination of the Schmittian project of political theology.[9] The underlying interconnection and inseparability of these elements, articulated by *The Withholding Power*, become open to question once it is acknowledged that the Schmittian texts which form Cacciari's initial interpretative corpus are defined by a significant absence – *Political Theology II*.

The retrieval of *Political Theology II*, in particular, through a renewed concentration upon the Postscript, enables the elements to be detached from the necessity of this interconnection and for the conception of their relationship to be reconfigured. For, it becomes evident that Cacciari's position, rather than an overcoming of the Schmittian position, is a repetition of the Schmittian position articulated in the Postscript. The repetition arises at the conclusion of the Caccarian process of internal conflict and dissolution of the *katechon* which has resulted in the emergence of a post-theological space which has definitively dissolved all further possibility for a political theology. It is the same space, which Schmitt, in the Postscript, explicitly confronts as that resulting from the effect of Blumenberg's *The Legitimacy of Modernity*: the attempt "to negate *scientifically* any political theology" (Schmitt, 2010, p. 117).[10]

The purportedly de-theologized space of perpetual competitive conflict with which *The Withholding Power* concludes, is the space which Schmitt presents as entirely intelligible to political theology. The inherent conflictuality and permanent crisis of the Caccarian characterization of this space is the re-presentation and repetition of the Schmittian "counter-image" to Blumenbergian modernity: "the reality of an enemy whose concrete possibility I can still see in its entirely de-theologized counter-image" (Schmitt, 2010, p. 128).

Within this detheologized space, the figure of an enemy has the perpetual capacity to arise through the inherent aggressiveness of three freedoms – "scientific neutrality, the technical and industrial freedom of production [and] the arbitrary nature of free human

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8. The extent to which, for Cacciari, this affects the geo-political conception of the West is considered in Cacciari's contribution to Cacciari & Prodi (2016).

9. Despite Cacciari's designation of the relationship to Schmitt as one which, commencing from an explicit group of Schmittian texts, adopts 'a radical distance between my and Schmitt's position with regard to the analytical reconstruction of the problem of the *katechon* and to its philosophical and political interpretation' (Cacciari, 2018, fn1, 12); it can be understood as an immanent critique of the project of Schmittian political theology articulated in that group of texts.

10. Schmitt, (2010), 117: "scientifically in the sense of an understanding of science which does not accept any validity for a continuing influence of, or transposition from, the history of salvation stemming from a religion which claims to be absolute. Such transpositions are regarded as tragic mortgages from past epochs".

utilisation" (Schmitt, 2010, p. 130) – constituting this space. The "processive progress of three freedoms (neutrality, use and objectivity)" (p. 129) determine and produce the 'new human being' of this space who, in the Caccarian repetition and re-presentation, has become that of the "last man" (Cacciari, 2018, p. 71). The Cacciarian 'last man' is, thus, traversed by the *internal* conflict which reaffirms, rather than relinquishes, the Schmittian insistence upon the continued pertinence of political theology.

The internal conflict, which develops from "a continuing and process-progress of a widening renewal of knowledge" (Schmitt, 2010, p. 128), shapes a free human action characterized as "the creation of nothingness as the condition of the possibility of the self-creation of an ever new worldliness" (p. 129). Free action is the counterpart of "the neutrality of human science and knowledge" and "the freedom of the use of its results within the framework of free production" (p. 129). The individual "is the unplanned, arbitrary product of the process-progress of himself" (pp. 128-129), and this process-progress contains a ceaseless, restless intensity and aggressiveness.

The new human being is aggressive in terms of the ongoing progress and continuous repositioning of himself. He rejects the concept of the enemy and any secularization or transposition of old conceptions of the enemy. He leaves behind the outmoded through what is scientifically, technically and industrially new. The old is not the enemy of the new. The old resolves itself, through itself, in the scientific, technical, industrial process-progress which either consumes the old – according to the measure of new utilities – or will be ignored as unusable or annihilated as invalid (pp. 129-130).

The affinity between the Cacciarian period of the 'last man' and the Schmittian 'new human being' is also the point of divergence, as the Cacciarian period is a re-presentation which has relinquished the remaining Schmittian hesitation concerning "the 'neutralization' of the evaluative content of 'aggressive'" (Schmitt, 2010, p. 130).[11] The final Cacciarian gesture of resignation – "[t]here does not seem to be much more than this to know" (Cacciari, 2018, p. 117) – is effectively to have assumed the final Schmittian 'neutralization': "Freedom replaces Reason, and Novelty replaces Freedom" (Schmitt, 2010, p. 130).

The effect of the Cacciarian intertwining of empire and *katechon* is to present their supercession as the realization of the final Schmittian depoliticization or neutralization.

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11. For Schmitt, the hesitation concerns the evaluative question: "[w]hich of these freedoms is intrinsically the most intense and aggressive: scientific neutrality, the technical and industrial freedom of production or the arbitrary nature of free human utilisation?" (Schmitt, 2010, p. 130).

The realization is the retention of the remnants of a political theology which has transformed its position of enunciation into one of resigned descriptive detachment.

The relevance of the turn to Polybius: Empire as a mixed constitution

The separability of the notion of empire from the conceptual framework of political theology, and its continued pertinence has been a central aspect of the work of Hardt and Negri.[12] The interpretative horizon from which the notion of empire has been developed is that of Polybius's *Histories* and, in particular, Book VI, which presents a description of the Roman *politeia*.[13] For Hardt and Negri, the Polybian presentation of the Roman *politeia* is a distinctive theory of a mixed constitution whose elements are capable of interpretative rearticulation and extension to encompass the juridical conceptualisation of the contemporary international order.

In this rearticulation, which is also the explicit acknowledgement of a divergent position "in the genealogy of interpretations of Polybius in the history of European political thought" (Hart & Negri, 2000, p. 315), a return to the original Polybian "*tripartite* model" (p. 315) —monarchy, aristocracy, democracy— as "the relations and materiality of force" (p. 316) is substituted for the "*trifunctional* model of constitutional construction" (p. 315) – the juridical formalization of an equilibrium between the three functions of executive, judicial and representative. The return is the reflection of "an evolution beyond the modern, liberal model of a mixed constitution" (pp. 316-317).

The evolution is orientated by "two primary axes" (Hart & Negri, 2000, p. 317) which concern the "nature of the mixture in the constitution" (p. 317) and "both a displacement of constitutional theory and a new quality of the constitutional itself" (p. 318). The nature of mixture is modified from that of an interrelationship between "separate bodies or functions" to that of merger "in hybrid forms" (p. 317): "a passage from *mixed constitution* to *hybrid constitution*" (p. 318). The modification is accompanied by the disappearance of a central, unified locus which is maintained and reproduced by the interrelationship between distinct bodies and functions. The process of hybridization

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12. The turn to Polybius is begun in Hart & Negri (2000) and its centrality is reaffirmed in Hart & Negri (2019).
13. The term *politeia* is utilized here in order to indicate that, for classical scholars, the translation of the term as constitution, and to confer this term with a merely juridical meaning, is already to engage in an interpretative narrowing of the broader phenomena encompassed by the term (See, for example, Erskine, 2013; Nelsestuen, 2017).

extends beyond the absence of a central, unified locus to encompass the interpenetration of the elements which comprise the constitution.

The axis upon which constitutional theory is displaced and the new quality attributed to the constitution arise from a transformation in the form of order required to be imposed. The transformation relates to the requirement for the imposition of order upon "the temporal dimensions of society" which is simultaneously its imposition upon "the dimension of subjectivity" (Hart & Negri, 2000, p. 318). It indicates the passage from order as the imposition of discipline to order as control.

This interpretative appropriation of Polybius, in *Empire*, which sought to trace the rudiments of an emerging constitutional order of globalization in order "to recognize the terrain on which contestation and alternatives might emerge" (p. 319), and to articulate its dynamics, is itself reinterpreted in the subsequent absence of an overarching global order and a process of globalization which has become "less legible" (p. 67). The lack of legibility derives from the effect of the "neoliberal counterrevolution" (p. 69) upon the initial processes of hybridization orientating the interconnection of the elements of the mixed, global constitution. The development of interconnections – hybridizations – is replaced with a central disjunction between the "sphere of governance" and the "sphere of social production and reproduction" (p. 69). The disjunction reflects an unstable subordination of the sphere of social production and reproduction (the inner sphere) to the sphere of governance (the outer sphere) in which "neoliberal imperial governance" confines itself to "rule over and capture value from the inner sphere" (p. 70).

The underlying instability and fragility are the counterpart of a mixed constitutional order which institutes "the proliferation of borders and hierarchies at every geographical scale, from the space of the single metropolis to that of great continents" (Hart & Negri, 2019, p. 73). The monarchic element remains without a permanent, unqualified personification and has as its corollary an aristocratic element — "major corporations, dominant nation-states and supranational institutions" (p. 74)— which indicates an essential continuity. The "intense competition" (p. 74) within and between its components belies an unwavering adherence to the disjunctive neoliberal framework "constructing and maintaining the capitalist global order" (p. 75). The democratic element – "the rule of the many" (p. 75) – encompasses "a vast array of forces", at a global level, which are only nominally democratic and, beyond instances of resistance and challenge to "the monarchical and aristocratic powers", are equally orientated "to support the imperial constitution as a whole" (p. 75). The overarching configuration of the elements of the

mixed constitutional order indicates a "globalization from above" which seeks to contain and prevent a co-ordinated and enduring "globalization from below" (p. 76).

The interpretative appropriation of Polybius presents the global mixed constitutional order within and against that which is *beyond* empire arises. In contrast to *Empire*, the later analysis indicates that its emergence is to be located in the inner sphere —the sphere of production and reproduction— as "the potential to create social relations beyond capitalist rule" (Hart & Negri, 2019, p. 83). The relocation of the processes and practices of globalization from below indicates that their development is presented as one of immanence: it is entirely *internal* to the movements of the multitude.[14]

Thus, the reinterpretation of the Polybian conception of *politeia* retains an affinity with the preceding history of interpretation which confines the Polybian meaning of *politeia* to that of a constitution and its associated juridico-political framework.[15] The divergence relates to the identification of a locus of immanent social and political organization which is at variance with both the order of the mixed constitution and the particular juridico-political form of the elements of which it is composed. The combined effect of this affinity and divergence upon the textual structure of Polybius's Book VI is to separate and redefine the narrower and broader sense of the Polybian conception of *politeia*. The broader, non-judicio-political sense is separated and redefined in a manner which transforms their Polybian configuration, as a constellation of customs, values and norms, into a biopolitics of the production and reproduction of social relations.[16]

The internal differentiation and re-presentation of the Polybian conception of *politeia* necessarily reorientates the conceptualization of empire from that of the Polybian "first globalization on a Mediterranean scale" (Hartog, 2010, p. 32)[17], centred upon Rome, to the tracing of the tendencies of the contemporary situation of full globalization. From this reorientation, the hybrid juridical notion of empire is, in turn, detached, as a necessary corollary of the exclusive concentration on Book VI, from the Polybian peda-

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14. This alteration can be considered as an aspect of a wider transformation in the orientation of Hart and Negri which, commencing from Negri's initial critique of the form of the State, and the place of labour within it, proceeds, through the collaborative work of Hart and Negri, to accord less centrality to juridical categories, particularly those of public or constitutional law, and, with *Assembly* (2017), to concentrate upon a theory of political organization, predicated upon the immanence of decision-making and assembly, of the movements of the multitude.

15. The limitation is evident once reference is made to the text of Book VI, as the discussion and presentation of the distinctive combination of the elements of the Roman form of government is situated within a broader notion of the Roman *politeia*. See Nelsestuen, (2017 p. 215), and the accompanying footnote references.

16. The reinterpretation of Hart and Negri marks a fundamental contrast with recent attempts to present the Polybian conceptual framework as a prefigurative game theory of moral motivations and political institutions, (Straumann (2020).

17. For Hartog (2010), this is inseparable from the underlying question: "By what means and under what system of polity (*politeia*) have the Romans in less than fifty-three years succeeded in subjecting nearly the whole world to their sole government?" (p. 30).

gogical textual strategy of the *Histories*: an adaptation of "the Greek theme of "learning through suffering" (*pathei mathos*) and fusing this theme with the Roman traditions of instruction through *exempla*" (Balot, 2010, p. 497).[18] The notion of empire is, thereby, one whose dynamics and their moderation has ceased to be the exclusive determinant of the presentation of the mixed constitution of which it is composed. The reinterpretation situates the notion of empire, and the elements of its juridico-political framework, as the preliminary level of intelligibility —legibility— of the present configuration of the international order. The dynamics of this preliminary level are inherently immoderate, and their presentation has ceased to be concerned with any attempted moderation. For, the addressees are no longer those engaged in the maintenance of empire and its constitutional elements, but those who, within this preliminary framework, seek an alternative manner of social and political existence beyond the excesses of empire.

Thus, the pertinence of empire, and the reinterpreted Polybian *politeia* upon which its rests, is conferred with an essentially preparatory purpose. The appropriation of the Polybian *politeia* is essentially heuristic through the establishment of determinate points of attribution of global juridico-political authority. The elements of the Polybian mixed constitution are appended to the contemporary international order in a manner which explicitly retains a degree of discordance between the original Polybian elements and their contemporary points of attribution. The discordance indicates an attribution which establishes a distance from, rather than an identification with, empire. In this distance is also an enduring hesitation with regard to an existence beyond empire which continues to articulate itself within the framework of the juridico-political.[19]

The Common

The reticence of Hart and Negri in relation to the continued adoption of the conceptual framework of the juridico-political reflects an attempt to reorientate the thematization of social and political existence beyond empire. The reorientation arises from their insistence upon the interconnection between the multitude – the plural emancipatory political subjectivity animating globalization from below – and the common – a field of production and reproduction which is irreducible to the judicial categories of private

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18. See, also Guelfucci (2003) and Annequin (2018) for important complementary and supplementary analysis.
19. For consideration of the further aspects and effects of this hestitation, see Fitzpatrick (2004).

or public law.[20] The elaboration of the interrelationship between the multitude and the common can be understood as an intervention which defines itself against two main juridical reconfigurations of the international order.

The juridical reconfiguration of the international order, through the sociology of law of social systems theory, is explicitly acknowledged, by Hart and Negri, as the presentation of a theory of a world social system attentive, in the accompanying sociology of law, to the distinctive juridical transformations of the contemporary international order. From this theoretical position of social systems theory, it is the sociology of law of Teubner (2004a) which has been held by Hart and Negri to reflect the position of social systems theory.[21] Teubnerian sociology of law, through recourse to Luhmannian social systems theory, describes the reconfiguration, at a global level, of the domains of private and public law. In this reconfiguration, Teubner traces, in opposition to "a drastic (polit)economic reduction of the role of law in the globalization process" (p. 71), the emergence of a distinctive global law from the operation of "other social systems" than merely that of the economic social system. (p. 72). This, in turn, shifts the level of socio-legal analysis to "the structural linkages of law with other social subsystems" and the emergence of the broader phenomenon of "private regimes" of normative creation and conflict resolution. (p. 73). These regimes are inherently fragile in which

> […] various types of social law linking up with various global sectors and typified by differing internal organization of norm production have to be distinguished, and differing requirements as to the law's distance and adjustment have to be correspondingly clearly developed. (p. 79).

The fragility furnishes the other aspect of the non-reductive role of law within the social systems theory of globalization: "globalization simultaneously opens the chance for law to institutionalize a dual constitution in sectors of global society" (Teubner, 2004a, p. 79).

It is at this juncture that Teubner considers the capacity of law to assist and reinforce this institutionalization is an entirely sectoral process —"[t]he realistic candidate for a dynamic civil society is pluralism of autonomous global social subsystems" (Teubner,

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20. The connection is central to Hart & Negri (2004); Hart & Negri (2009) and is re-emphasized in their more recent exchange with David Harvey (Hart & Negri, 2018a; 2018b). It finds its initial encapsulation in the concluding phrase of Negri's response to Macherey's critical remarks on Hart and Negri's *Multitude* (Macherey, 2004): "the multitude does not have the ambition to take power, but to manage the common" (Negri, 2005, p. 117).
21. The focus culminates in the direct, critical exchange between Teubner and Negri (2010b) and (Negri, 2010).

2004a, p. 81)— the internal distinction established within a global social subsystem be-
tween the autonomy of their activity and the autonomy of their regime. Thus, a non-re-
ductive global law is presented as

> […] institutionalizing constitutions for global villages of social autonomous sec-
> tors, in relative distance from politics and the economy. Within the autonomous
> sectors there would be potentials for re-politicization, re-regionalization and
> re-individualization of norm-making processes. And the main attention of global
> law would then have to be directed towards underpinning the duality of social
> autonomy in the subsystems, i.e., a mutual control dynamic of spontaneous sector
> and organized sector, in normative terms too. (p. 83)[22]

The Teubnerian approach to the reconfiguration, through a sociology of law, of the pri-
vate and the public is the rejection of the conceptual pertinence and possibility of both the
multitude and the common. The complexity —polycontextuality— of the social systems
of which the contemporary international order is composed – is held to expose the limits
of the conceptual adequacy and transformative potential of both notions.[23]

The juridical reconfiguration of the international order, through the continued ac-
ceptance of the conventional extension of the juridical formalization of private property,
whilst absent from explicit consideration by Hart and Negri, represents the reassertion
of private property law as an integral aspect of a theory of international development.
It is premised upon a conception of underdevelopment – the informal economy – as
the absence of systematically formalized relations of private property (de Soto, 2001; de
Soto, 2002; de Soto & Cheneval, 2006; The Commission on the Legal Empowerment of
the Poor, 2009). The expansion of formalized property rights, encompassing a system of
land titling, is the commodification of the informal economy – the creation of distinct
units —property rights— capable of economic valuation and exchange. The informal
economy is, through the extension of property rights, to be transformed into the formal
sphere of production and reproduction. In this manner, it is predicated upon the mis-
recognition and denial of the common: that which exists outside the formalized system
of property rights is as yet unutilized or underutilized value. The misrecognition and

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22. This notion of constitutionalization is further developed, by Teubner, in Teubner, (2004b; 2010a; 2010b; 2012; 2013a;
2018) and Teubner & Beckers (2013b).
23. See, in particular, Teubner (2010b), for a concise exposition of these limitations.

denial of the common is the counterpart of the exclusive focus upon the expansion of the spectrum of the individual holders of private property rights.[24]

In place of a reiteration of Hart and Negi's interrelation of the multitude and the common, as the positive content generated through opposition to the two reconfigurations of the contemporary international order, the final consideration of that which is beyond empire will adopt an indirect response. The indirectness relates to a reflection upon the common which acknowledges that its articulation exists within a broader theoretical project of which Hart and Negri represent a particular emphasis. The indication of this particularity or specificity is to initiate a possibility of reflection through supplementation, a reflection which, in its indirect approach, relinquishes the parameters of a dispute over method.

The indirect reflection would seek to supplement the common by posing the question of its capacity to be formulated juridically. In this sense, to confront simultaneously, the two juridical reconfigurations of the contemporary international order which, while recognizing their obvious differences, effectively prohibit a juridical formulation of the common, with a renewed critique of law.[25]

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24. For the question of the relationship between de Soto's theory of property rights and a wider, Searlean theory of social construction and coordination, see Smith (2006), Smith et. al. (Eds.) (2008).

25. For, certain rudiments of a renewed critique, see Fischer-Lescano & Möller (2016); Möller (2018), Möller (2016), Möller, (2011), Spanò (2019) and Supiot (2016).

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Alexandros Kioupkiolis is Associate Professor of Contemporary Political Theory at Aristotle University, Thessaloniki, Greece. He has studied Classics (BA, University of Athens), and Contemporary Political Theory (MA, Essex University, DPhil, Oxford University). His research interests are focussed on radical democracy, the commons, social movements, and the philosophy of freedom. He has directed an ERC COG project on these topics (Heteropolitics, 2017-2020) and has published numerous relevant books and papers, including the monograph *Freedom after the critique of foundations* (Palgrave Macmillan, 2012), and the co-edited collective volumes *Radical democracy and collective movements today* (Ashgate 2014, with G. Katsambekis). Recent publications include the papers 'Commoning the Political, Politicizing the Common' (*Contemporary Political Theory* 17.3, 2018), 'Movements post-hegemony: how contemporary collective action transforms hegemonic politics' (*Social Movement Studies*, 17.1, 2018), the co-edited volume *The Populist Radical Left in Europe* (Routledge 2019, with G. Katsambekis), and the monograph T*he Common and Counter-hegemonic Politics* (Edinburgh University Press 2019).
Contact: alkioup@polsci.auth.gr

NEW MUNICIPALISM AS A COUNTER-HEGEMONIC PROJECT FOR RADICALIZING DEMOCRACY

The case of Spain 2015-2019[1]

Alexandros Kioupkiolis
Aristotle University

Abstract

Contemporary municipalism has emerged as a global drift and network, encompassing several cities in at least 19 countries in different continents. The present paper focusses on Spain, and particularly on the prominent case of Barcelona, where the citizen platform *Barcelona en Comú* has been governing the city since 2015 (to-date, 2021), led by Ada Colau. "Fearless cities" or "cities of change" have imagined themselves as a creative, democratic, agonistic and solidary response to our critical circumstances of steep inequalities, elite rule, reinvigorated patriarchy, aggravating social expulsions, climate change and civilization crisis.

The paper explores and assesses the transformative democratic force of new municipalism in the Spanish context of 2015-2019. It argues, among others, that in order to foster a "common" democracy whereby power flows from below, the autonomous political

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organization of municipalism should be nourished and fortified, and the real implication of ordinary citizens in fundamental decision-making should be broadened and deepened.

Keywords

Cities, democracy, new municipalism, Spain, democratic transformation, commoning.

Resumen

El municipalismo contemporáneo ha surgido como una deriva y una red global que abarca varias ciudades en al menos 19 países de diferentes continentes. El presente trabajo se centra en España, y en particular en el destacado caso de Barcelona, donde la plataforma ciudadana Barcelona en Comú gobierna la ciudad desde 2015 (hasta la fecha, 2021), liderada por Ada Colau. Las «ciudades sin miedo» o «ciudades del cambio» se han imaginado a sí mismas como una respuesta creativa, democrática, agonística y solidaria a nuestras circunstancias críticas de fuertes desigualdades, dominio de las élites, patriarcado revigorizado, expulsiones sociales agravadas, cambio climático y crisis civilizatoria.

El ensayo analiza, explora y evalúa la fuerza democrática transformadora del nuevo municipalismo en el contexto español de 2015-2019. Sostiene, entre otras cosas, que para fomentar una democracia "común" en la que el poder fluya desde abajo, la organización política autónoma del municipalismo debe ser alimentada y fortificada, y la implicación real de los ciudadanos de a pie en la toma de decisiones fundamentales debe ser ampliada y profundizada.

Palabras clave

Ciudades, democracia, nuevo municipalismo, España, transformación democrática, común.

Recognition of funding

Introduction

Today, as more than half of the world's human population are urban dwellers, cities and citizens have gained an increasing salience (Barber, 2013, p. 5). This stems also from the paramount role of information and knowledge in digitalized economies, as well as from tighter global interconnections, in which cities operate as key nodes. Cities have become chief command points in the global economy under the present neoliberal hegemony. They are central locations for finance, specialized services and the production of innovations (Barber, 2013, p. 66; Glaeser, 2012, p. 40).

In effect, global economic forces and processes of financialization, rentier capitalism, economies of dispossession and predatory practices have conquered urban spaces and the housing market. 'Practices of accumulation by dispossession, rental appropriations, by money-and-profit-gouging, lie at the heart of many of the discontents…for the mass of the population' (Harvey, 2013, p. 129). Hence, cities across the globe have also become sites of political experiment and subjects of 'insurgent citizenship' against urbanizing capital (Harvey, 2013, pp. xii-xvii, 86, 129-130, 139-140). The rise of insurgent and self-organized citizens in central squares in Cairo, Madrid, Barcelona, Athens, New York, Istanbul and many other cities in 2011-2013 bears witness to the political potentials of urbanism. All in all, thus, cities today turn out to be central and striated 'critical junctions' of

> multilevel relational mechanisms that link the global levels of structural power with the respective institutional fields of tactical power on the scale of the nation-state and with the spaces of agential power of common people situated in everyday circumstances. (Kalb, 2011, p. 13 quoted in Kalb & Mollona, 2018, p. 230)

In terms of their possibilities for empowering democratic agency, cities can enfranchise citizens to participate politically in local urban communities, while city administrations can liaise with one another on a global scale. Cities represent a level of government which is sufficiently local to allow for civic participation and to demand efficiency in problem-solving, while international city networks can work out cooperative solutions to global challenges. Climate change, for instance, can be effectively addressed in cities as 80% of carbon emissions are produced in urban sites (Barber, 2013, pp. 22-23, 102, 131, 153). Indeed, cities have committed themselves to meeting

the climate goals of the Paris Agreement, wielding a new form of global power (Katz & Nowak, 2017, p. 35).

> The modern metropolis retrieves the capacity to empower neighborhoods and nurture civic engagement, but at the same time holds out the prospect of networked global integration: that is the promise of glocality. (Barber, 2013, p. 154)

In this context, contemporary municipalism has emerged as a global drift and network, encompassing several cities in at least 19 countries in different continents (Pisarello & Comisión Internacional, 2018, p. 10). The present paper will linger specifically with Spain, and particularly with the prominent case of Barcelona, where the citizen platform *Barcelona en Comú* has been governing the city since 2015 (to-date, 2021), led by Ada Colau. The wave of municipalist platforms and administrations which swept Spain in 2014-2015 stands out internationally as a signal instance of the global new municipalist movement, along with the Kurdish democratic confederalism (Roth, Monterde & López, 2019, p. 14). "Fearless cities" or "cities of change" have imagined themselves as a creative, democratic, agonistic and solidary response to our critical circumstances of steep inequalities, elite rule, reinvigorated patriarchy, aggravating social expulsions, climate change and civilization crisis (Herrero, 2018, p. 7; Colau, 2018, pp. 193-196; Roth, Monterde & López, 2019, p. 14).

The municipalist movement in action today: Municipal confluences in Spain

In the last decades, Spanish cities were converted into a motor of neoliberal "growth", which was engineered by the construction industry and the real estate, the privatization of services and private-public partnerships. As a result, the crisis of this development model since 2007, notably the "housing bubble", depleted their fiscal resources. Combined with austerity and the "free market" policies of the national government, which were enforced also on local administrations, the economic slump plunged cities deeply into debt. The depression devastated their social services. It drove city governments to sell out more public property, and it inhibited them from offering a social security net to their evicted and impoverished citizens (Observatorio Metropolitano, 2014, pp. 96-99, 121-135, 140-141).

The same neoliberal growth model, pivoting around the 'valorization' of land and the construction business, bred political corruption. It spawned interlinked political-economic interests and local oligarchies, which pillaged the city and eroded democracy on the urban level. The corrosion of local democracy was further exacerbated by the centralizing reforms of the state, which shrank the political autonomy of city governments by imposing the marketization of public goods, by cutting back the cities' budget and by curtailing their policy-making competences. At the same time, citizens were disaffected with the national institutional system, which proved corrupt and unresponsive to their needs. The two ruling parties -the social democratic PSOE and the right-wing PP- suffered massive losses of voters, and the crisis of political institutions set in (Observatorio Metropolitano, 2014, pp. 99-109, 140-141).

Starting to rise in 2014 across different cities and localities in Spain, political municipalism walked in the footsteps of the 15M [«Indignados»] movement to confront these latest assaults on freedom and democracy in Spain, reclaiming the city as the heartland of citizens' democracy. New municipalism aspired to overcome fear, social fragmentation, collective impotence, privatization, the hollowing-out of democracy, neoliberal austerity, and xenophobia, by constructing more social, feminist and sustainable cities (Aranzadi-Pamplona en Común, 2018, p. 204). By weaving relations of mutual support in everyday life, on the level of the city, through '*proximity*' and '*from below*,' the 'cities of change' could recover and reinvigorate democracy. They would garner power both inside and outside the institutions, while countering the reactions of ethnic and religious closure (Martínez, 2018, p. 23; Colau, 2018, p. 194).

> "Wining back the city" is about much more than winning the local elections. It means putting a new, transparent and participatory model of local government, which is under citizen control, into practice. It also means implementing fair, redistributive and sustainable policies to respond to the economic and political crisis. Our strategy has been to start from below [...] (Barcelona en Comú, 2016, p. 4)

Engaging with city institutions was meant to be a component of a broader strategic approach to social innovation with two planks, the electoral-institutional and the organizational-movement (Russel, 2019, p. 10; Roth, 2019, p. 59). The movement aspired to refigure the 'forms of doing politics,' to recuperate the city and its institutions and to transform them through the power of the people in order to put them in the service of the common good. Local institutions should be rebuilt to become less hierarchical,

more transparent, and accountable, ruled by the collective decision-making of citizens. Civic participation should expand by including all citizens and by affording real opportunities for "presencial" or digital participation in quality decision-making. Collective decision should proceed on equal terms and should be flexibly adapted to the different availability of persons. The objective was to 'hack' and to remodel the governing infrastructures of the city to open their gates to the "common people" and, thereby, to "common" the city (Roth, Lander & Pin, 2018, pp. 114-116; Ubasart-González, 2018, p. 70).

The project of recovering citizens' democracy is wedded to the broader libertarian objective to attain freedom from domination in its various guises –class, gender, ethnic and species. To this end, new municipalism speaks for a twin struggle on the streets and the institutions, in home and the workplace, through resistance and transformative politics (Herrero, 2018, pp. 5-71; Pisarello & Comisión Internacional, 2018).

The alternative politics of insurgent municipalism in Spain started out from a certain diagnosis of the political conjecture after the 15M movement, which appeared on stage on the 15th of May 2011 and set up encampments on central squares. 15M exacerbated the legitimation crisis of the ruling regime. It also diffused another democratic culture of popular participation, horizontalism and collective co-decision. But the movement failed to reshuffle the decks of power and to instigate "regime change". Dominant institutions remained largely exclusionary and impervious to demands for popular sovereignty, a more equitable distribution of wealth and the protection of welfare rights and political liberties. Hence a turn from mobilizations to "the electoral", which took a municipalist inflection in 2014-2015. The aim of the electoral turn was to reach out to all citizens affected by the crisis, to "win the city" and to translate the politics vindicated by civic spaces and activism into electoral majorities and local institutional policies (Baird, Delso & Zechner, 2018, p. 47; Kois, Morán & Prats, 2018, pp. 14-15; Forti & Spena, 2019, pp. 21-22, 29).

In their swerve towards other patterns of political mobilization and (local) institutions from 2014 onwards, municipalist candidacies clung to the spirit of "real democracy" of the 2011 civic insurgencies. Both internally, in their own political agencies, and "externally" in the institutions they wished to reconstruct, they were keen on "doing politics in another way": open assemblies, collective intelligence, horizontal and participatory decision-making by citizens, a distinct technopolitical infrastructure that shores up civic engagement, collective leadership, democracy in networks, open-source instruments and logics, consensus-seeking, ethical politics, the proliferation of the commons through a "municipalism of the common good", transparent administration, and the

feminization of politics, which pursues gender parity, relations of care and attention to power structures. All these components yield the common breeding ground of diverse municipal platforms in Spain since 2015, bespeaking their common 15M political DNA. At the core of their vision sits a radical pragmatism, which is bent on concrete action, detailed feasible plans, and tangible results in everyday life. This radical pragmatism prioritizes "learning by doing" and "collective learning" over any abstract theory of change (Pérez, 2018, pp. 33-37; Forné, Micciarelli & Fresnillo, 2018, pp.141-145; Pisarello & Comision Internacional, 2018, pp. 9-11; Forti & Spena, 2019, pp. 27-29, 36, 39).

Plunging into the organizational core of municipalist politics in Spain from 2014 to date, this is located in the "municipalist platform" or "confluence". Several formations of this kind were put together in 2014-2015 to contest the May 2015 local elections in several municipalities across Spain. Later, they were implicated in administration, as coalition or minority governments in five of the largest cities in Spain -Madrid, Barcelona, Madrid, Valencia, Zaragoza and A Coruña (Monterde, 2019, pp. 29-34).

Confluences were alliances between converging political projects of parties, movements, civic groups, and non-organized citizens. They sought to become something beyond the sum of their parts, while respecting the identity of each member. They were grounded in common objectives and the endeavor to fashion a political environment where people without prior political engagement can feel at ease. They were designed thus as new instruments of social articulation and political intervention that could bring together those already organized and people beginning or willing to mobilize. Crucially, persons participated on an individual basis, not as representatives of their projects, and they could maintain a "double militancy". Yet, shared commitments, expressed in a commonly agreed "code of ethics", should take precedence over the distinct practices and policies of constituent members. And a strong accent was placed on the inclusion of people who were not activists or party members and did not have previous experience in political action (Junqué, Tepp & Ramas, 2018, pp. 72-73, 80; Kois, Morán & Prats, 2018, pp. 14-15).

In practice, municipalist initiatives negotiated a delicate balancing act between assuming leadership and implementing a transparent, collective, and participatory process in decision-making and action. Hence, trade-offs between horizontality and leadership, impurity, generosity towards other participants, organizational flexibility and a practical mindset intent on concrete outcomes gave the predominant tenor to the organizational logics of new municipalist politics (Baird, Delso & Zechner, 2018, pp. 47-49; Junqué, Tepp & Ramas, 2018, pp. 72-74). More specifically, at the beginning, leadership was

assumed by a group of citizens and activists, which took the initiative to band together an electoral platform and to lay down the pillars of a political program, which would be further worked out through the open participation of other citizens. They also appointed a "pilot group" to set the process in motion and to work for the democratization of the organization once this had been consolidated. Then, the platform was presented in a public event, and it became "open source". People in the city were invited to join the process of building further the platform and of elaborating a text of principles and commitments (Baird, Delso & Zechner, 2018, pp. 49-51; Junqué, Tepp & Ramas, 2018, pp. 72-74; Barcelona en Comú, 2016, p. 5).

Accordingly, a collective initiative led by a particular group was opened to a praxis of *commoning the municipalist project* through collective participation and collaboration. People who shared the main terms and objectives of the project were called upon to co-construct its contents and its further development. The municipalist initiative took the streets and the squares to reach out to the broader body of city residents, beyond movement activists and political parties. They spoke a plain, everyday language, relating to local cultures and employing art and memes to make politics more joyful in its communication with the body of citizens at large. Collaborative and participatory mechanisms were put in place to draw up collectively an electoral program, which would constitute a citizens' mandate, and to select the candidates in ways which would reflect the diversity of the movement. Moreover, from the outset the members of the municipalist platform authored collectively a code of ethics, which would define the conduct of elected and appointed members of the platform, ensuring accountability, constant engagement with citizens, financial transparency, limited salaries, and privileges (Baird, Delso & Zechner, 2018, pp. 49-51*;* Barcelona en Comú, 2016, pp. 6-7).

The evolution of the first municipal confluences in 2015 followed thus a methodology of "five points": the search for wide social support (through the collection of signatures etc.); a collaborative elaboration of the electoral program; open primaries for the selection of candidates; the adoption of a code of ethics which limits the privileges of elected representatives; and a campaign which was largely based on crowdfunding and did not accept funding from banks (Méndez, 2019).

This municipalism sponsored "citizens' leadership", that is, the rise of new faces who enjoy ample support among the members of the platxform and contribute to its development in different capacities (as public spokespersons, technicians, leaders of the

communication group etc.) In its own structure, the municipalist confluence was committed to internal democracy, transparency, and the facilitation of political participation by all citizens. It was administered by a coordinating body, which consisted of representatives of all groups and spaces of the platform. The «coordinadora» contained no strong single-person posts (e.g., of a "general secretary"). Its members usually rotated on a regular basis, and it was subject to the highest authority, the whole community of the platform's members. Furthermore, it reached strategic decisions about the platform or the city administration by holding binding consultations with all the members (Martínez & Baciero, 2019, p. 247).

To lift civic participation, the organizational model was place-based, anchoring the organization in localities, neighborhood assemblies and everyday life. Multiple spaces and modalities of participation and decision-making were introduced, both "presencial" and digital, so that more people could get involved as they can and wish, maximizing inclusion and participation. All decisions should be the outgrowth of collective debate, collaboration, and work in networks. General decisions were voted by all members through simple procedures. Finally, when the platform elected council members or entered the city government, both the institutional space (of the mayor, councillors etc.) and the municipal platform should be kept in place, collaborating, co-deciding, and reflecting on municipal policies. Enhanced civic participation in decision-making for the city should be the main objective in policymaking and campaigns. Elected representatives were bound by the "code of ethics", which curtailed mandates and salaries, enforcing transparency (Junqué, Tepp & Ramas, 2018, pp. 72-75; Comú de Lleida, 2018, p. 217).

Crucially, the municipalist platform was supposed to operate as an autonomous political organization with its proper political project. It was not conceived by its initiators as a simple electoral list. Its presence in city halls through elected representatives –mayors and city councillors- should be coupled with the ongoing activity of an autonomous political agency, which interacts with social movements, neighborhoods, and citizens beyond the city administration itself. Hence, the municipal platform aspired to act as a space of encounter and intercourse between citizens, movements and institutions that re-educates their subjectivity and their ways of doing politics with a view to making citizens the political protagonists of democracy (Roth, 2019, pp. 61-63; Martínez & Baciero, 2019, p. 243).

The example of Barcelona en Comú

The complex texture of the municipal confluence Barcelona en Comú [Barcelona in Common] offers a telling illustration of such a hybrid and multi-tier scheme of organization, which pairs horizontal participation with centralized coordination. Barcelona en Comú was established in 2014 and won the local elections of May 2015, obtaining 25,2% of the vote and 11 councillors (Forti & Spena, 2019, pp. 45-47). In 2019, it came second with 20,71% and 10 seats, forming eventually a minority government. During its first term in office, this formation comprised «El Comú», which contained all registered members (15000) and constituted the ultimate collective body of decision-making, to which all others were accountable. It also consisted of self-managed, autonomous neighborhood groups brought together in a Territorial Coordinator; thematic axes formed by activists who were interested in particular issues (environment, gender, the social economy etc.); «El Plenario», which made the more strategic decisions and was composed of all activists who belonged to a neighborhood or working group (approximately 15000 persons); «La Coordinadora», which was staffed by people selected by all spaces of participation and a certain number of city councillors, and it was responsible for plotting the political strategy of the organization; «La Dirección Ejecutiva», which included a reduced number of members elected by the activists. This executive body was charged with taking operative decisions and with executing the decisions reached by the Coordinadora (Junqué, Tepp & Ramas, 2018, pp. 75-76).

Beyond its internal organization, in its first term in city government, Barcelona en Comú rolled out a wide array of policies which implemented the new municipalist agenda as laid out above and set in motion a commoning of politics and the city, more broadly.

To step up civic involvement in collective deliberation and decision-making, the government of *Barcelona en Comú* has launched the digital platform *Decidim Barcelona*. This is a signature project which highlights the imbrication of the 'municipalism of change' with radical democratic technopolitics. Decidim is an open access software and data platform, which has been designed collaboratively and can be taken up and modified by any other. It boosts civic participation by enabling citizens to submit proposals for the city and to collectively deliberate and decide on them. It provides data bases, instructions for facilitating processes, educational resources, and legal documents. It functions as a public forum for the co-design of city policies and for increasing transparency in administration and information. It has hosted collective processes with

thousand participants, and it supports both online and offline participation. People can make calls for offline meetings. Citizens can follow the development of their proposals and may decide to organize themselves to forward these proposals. Finally, it is itself a telling instance of a "public-common". Decidim has been devised and funded by public institutions, but it is being designed, developed, and managed by an open community of associations, researchers, activists, etc. (Roth, Lander & Pin, 2018, pp. 116-117; Barandiaran, 2019, p. 193).

Citizens' political empowerment was fostered through various other practices and mechanisms. People took part in the co-production of public policies, from their design to their implementation, through "Neighborhood Plans" and "multi-consultations". Effective control over the administration was augmented by monitoring the ethical conduct of civil servants and by enhancing the transparency of financial administration, the execution of the budget etc. (Bonet i Martí, 2018, pp. 114-115).

Beyond the practices of government themselves, contemporary municipalisms nurture the commons and the commoning of public goods and services more broadly. Cities have devised institutional frameworks which bolster the collective construction and the community management of public services and infrastructure, from energy and water supplies to education. Since 2015, when *Barcelona en Comú* took over the city administration, the politics of urban commons in Barcelona has transferred municipal goods to communities for the realization of social and cultural projects. It has promoted the community management of public buildings and services, and it has striven for the "remunicipalization" of basic services. "Remunicipalization" included the establishment of a new energy company and the ongoing struggle to recuperate the privatized water company of Barcelona (Forné, Micciarelli & Fresnillo, 2018, pp. 142-145; Bonet i Martí, 2018, p. 114). In this context, the city drafted the "Citizen Assets program for community use and management". This program regulates civic access to municipal goods and their transfer to citizens' groups or communities (Forné, Micciarelli & Fresnillo, 2018, p. 145).

In the economic field, the mainspring of present-day political municipalism is to stimulate a local "self-centered" development, which valorizes existing resources and meets citizens' needs with them. This other logic of "community" development is ecological. It takes account of the "externalities" it incurs. Community development is pluralist and it favors small enterprises, which are embedded in neighborhoods and are motivated by wider social and environmental concerns, beyond mere profit-seeking (Corrons, Alvarez & Fernández, 2018, pp. 175-177). In Barcelona, the city government

fostered the social and solidarity economy, and championed the co-production of economic politics with civic associations in various ways. It invested a considerable budget in this cause (4 million euros per year), and it opened thus funding lines for cooperatives and SSE initiatives. Furthermore, the administration implemented educational programs. It set up centers of information and support for new initiatives, it crafted instruments of coordination and support, and it knitted municipal and international networks (Corrons, Alvarez & Fernández, 2018, pp. 176-178).

Drawing a first balance

No doubt, despite its aspirations and enthusiasm, new municipalism was faced with daunting challenges and limitations from the outset. Beyond the "taking" of local government and a better style of administration, a radical realignment of local power relations and sustained struggle with potent oligarchies would be required to dislodge vested economic interests and corrupt elites at the municipal level. A major reform of the *national* institutional order, which in recent years abridged the political competences of municipalities and curtailed their resources, would be also in order. City governments control only 13% of the national state budget, while state legislation since 2013 (the "Montoro Law") has prohibited the use of surpluses for social purposes (Bonet i Martí, 2018, p. 115, Kois, Morán & Prats, 2018, pp. 50-51).

In 2019, four years after the first electoral victories of the new alter-municipalism in local elections and the end of the first term of municipalist governments, the balance was mixed and ambiguous in terms of its transformative effects. The fields in which new policy initiatives unfolded in several "cities of change" included: democratic empowerment, civic participation and control over the public administration; redistributive policies and increased social expenditure; reinforcement of social services and public care, particularly for vulnerable persons; gender equality; improvement of the quality of city life in districts and neighborhoods; a new model of urbanism beyond speculation, gentrification and touristification; sustainable, ecological and resilient cities; new urban economies focused around social and solidarity economies, circularity, proximity and healthy alimentary systems; new urban cultures and narratives; municipalist networks that intend to scale up and scale out municipalist politics on the regional, the national and the international level (Kois, Morán & Prats, 2018, pp. 140-183; Méndez, 2019, pp. 116-129).

*Outcomes are variable and diverge from city to city. Important breakthroughs have been accomplished in the core items of the municipalist agenda –citizens' democracy and decentralization. Local forums and digital platforms for collective participation in policymaking were put in place in Madrid and Barcelona, among other cities. D*igital media, which enable citizens to submit and vote their own policy proposals, participatory processes, through which municipal policies (such as the energy policies in Cádiz) are co-produced by citizens and authorities, the inclusion of social actors in the management of urban services, were all deployed to bridge the gap between the inside and the outside the institution. These initiatives reshaped the practices of public decision-making and incorporated new social agents (Méndez, 2019, p. 132). To illustrate, in the Decidim technopolitical machine of Barcelona, more than 1100 popular assemblies had been convened till the end of 2018. Approximately 13000 proposals had been submitted, out of which 9100 became thereafter public policies. The strategic plan of the city, which regards 40% of the city's budget, has been co-decided through this digital platform (Barbadian, 2019, p. 196).

In the social economy, more specifically, Barcelona had a legacy of cooperativism long before the mayorship of Ada Colau. Yet, the strong sponsorship of the SSE by the administration of *Barcelona en Comú* raised its visibility and effectively doubled the number of cooperatives established per year (Kois, Morán & Prats, 2018, pp. 218-219). Regarding policies of space, the "right to housing" has also been at the epicenter of the municipalist agenda in several cities, including Zaragoza and Barcelona, where Ada Colau and other members of the confluence were famously militants of the anti-eviction PAH movement. A battery of policies and a considerable increase of city funding have been channelled to help middle and lower classes pay the high rents of Barcelona or gain access to a 'social rent,' through the construction of council housing or "protected housing" by private constructors; the latter are now obliged to dedicate 30% of new constructions to affordable housing. Despite concerted efforts, budgetary constraints and the limited competences of city government did not allow it to adequately tend to exist needs and to prevent further rises in rents and house prices (Kois, Morán & Prats, 2018, pp. 196-197).

Furthermore, municipalism in government had a strong feminist inflection. *Barcelona en Comú* placed at the core of its policies a robust and integral feminist agenda, which was co-produced by women's collectives and municipal departments and revolved around four axes which traverse all aspects of city government and life: institutional change through a review of budgets, contracts, subsidies etc. from a perspective

of gender equality; economy for life and organization of time regarding employment, care, feminization of poverty; inhabitable and inclusive neighborhoods sustaining security, mobility and ecology; and city of rights, furthering gender equality in participation, culture, health, measures against male violence (Kois, Morán & Prats, 2018, pp. 162-163, 204-205). The municipalist administration also inaugurated a municipal Department of Feminisms and LGTBI, as well as a Center of LGTBI resources.

Finally, new municipalist initiatives came to grips with the question of scale and systemic, global interconnections by converging in global and regional networks of "fearless cities" (Bertran, 2019). They launched confluences to contest regional elections (such as Catalunya en Comú–Podem), and they opened national channels of collective debate, collaboration, and mutual support among municipalist platforms in Spain (such as the networks and regular encounters of MAC and Municilab). The "benchmarking" of good, replicable practices of municipalist alter-politics, the composition of "protocols" and the exchange of knowledge around good practices have been also political precipitants, which were employed by municipalist organizations in order to overcome the diaspora of micro-spheres and to elicit system change (Russell, 2019, p. 20; Bertran, 2019, p. 280).

But these democratizing initiatives and counter-hegemonic politics have come up against institutional, bureaucratic, and party-political barriers, while collective deliberation and participation have been often scant and poor. Critics point out the relative lack of deliberative spaces and mechanisms through which participatory processes with civic associations can reach binding decisions. Digital politics tend also to reproduce inequalities based on class, age, education and geographical location (Kois, Morán & Prats, 2018, pp. 140-142, 185-186). Furthermore, sound financial management decreased cities' indebtment and permitted considerable rises in social expenditure (e.g., up to 24% in the first year of Ahora Madrid's term and 22.2% in the next year). But the austerity laws of the central state impeded the further expansion of redistributive social policies, uncovering the limits of municipal autonomy (Kois, Morán & Prats, 2018, pp. 148-149). The same holds largely true for the policies of 'cities of refuge,' which attended to immigrants and refugees, seeking to offer hospitality, security, and housing (Kois, Morán & Prats, 2018, pp. 156-157).

The municipalist policies of the "city of cares" catered to health, well-being and the everyday needs of citizens, in both emotional and material respects, meeting basic needs, assisting disabled persons, tending to immigrants etc. They cultivated, also, a more 'caring' and sensitive style of city administration, universal accessibility to health

services and social economy policies to fight unemployment (through e.g., the MARES project in Madrid). But the transversal implementation of this cluster of policies has encountered practical difficulties across the different departments of the administration (Kois, Morán & Prats, 2018, pp. 160-161).

Moreover, inhabiting the institutions brought on the typical institutional inertia and bureaucratization of the "new politics". In addition to the legal and institutional bounds on the political power of municipalities in Spain, bureaucratic procedures, technical and political complexities, the forced compromises of minority or coalition governments, resistance by elites, an administrative staff which was not aligned with the municipalist projects, the daily agenda of city administration in conjunction with their administrative inexperience absorbed the energies of municipalist actors in city government. Municipal organizations were weakened, thus, and municipalist members of the administration lost contact with social movements, the neighborhoods and the streets. A feeling of exhaustion and isolation set in, exacerbated by the constant attacks by elite forces and mainstream media (Fundación de los communes, 2018, pp. 38-40; Collado, 2018, pp. 105-106; Monterde, 2019, pp. 45-47).

Short-term pressures, battles with financial and political elites, the complexities of articulating broad consensus, and institutional blockages, aggravated by national Catalan politics in Barcelona, have often resulted in the lack of concern with long-term plans, democratic processes, and integral, systemic narratives. The latter could have prompted the wider renewal of prevailing imaginaries and life-styles. What was arguably missing thus is "a tangible narrative that would allow the confluences to integrate their past achievements, present diagnoses, and future projects into a compelling account...[in] a framework that is immediately accessible to the broader public" (Rubio-Pueyo, 2017, p. 19).

Neoliberal imaginaries and power structures are still the order of the day. A counter-hegemonic contention will be long-haul. Discursive-affective interventions in popular imaginaries ensnared in neoliberalism will be a main plank of this counter-hegemonic enterprise. The mutations in political culture occasioned by 15M have turned out to be only incipient and far from diffuse across all sectors of the population. The traditional political culture of representation and delegation persists. Most of the people do not see political participation in democratic movements and institutions as a permanent chapter of their life (Martínez & Baciero, 2019, p. 250).

Indeed, after 2015 and an apparent "stabilization" or even "recovery" of the Spanish economy, the cycle of protest has suffered a relative paralysis, depriving thus the

municipalist formations of a source of power and impulse. The will to rupture and change the institutions gave often way to political moderation, "good management", "governmentalism" and a conservative interpretation of the 15M political orientation, which gave up on the contestation of neoliberal and post-democratic regimes (García, 2018, p. 125; Rubio-Pueyo, 2017, p. 19).

Political trajectories and relations with social movements and citizens varied from one city to another. In Madrid, for instance, the new mayor practiced an old-style personalist politics. She essentially broke with the municipal confluence at the outset of her term in office. She held on to neoliberal "urban development" projects and she forsook the aspiration to reconstruct the "institutional machine". Political direction was largely concentrated in her hands, and it was divorced from the social bases of the movement. In the absence of institutional checks, it was almost impossible for the municipalist constituency in Madrid to exert control over the members of the council it had elected. The links between institutions and movements broke apart soon. A compromising attitude towards powerful corporate interests was adopted, while austerity politics was not effectively challenged (Méndez, 2019; García López, 2019).

In Barcelona, by contrast, social movements, which were also partly incorporated in the administration, took to the politics of lobbying. They remained active outside the institutional realm, and they pressurized the city government of Ada Colau, pushing for policies beyond the reformist mold. They opted, thus, for a political stance of both collaboration and conflict with the 'new politics,' confronting new reformism with a political disposition of being both inside and against the institution (Fundación de los communes, 2018, pp. 46-47).

In general, the transformative power and the will of municipalist politics to oppose the status quo hinge largely on the effective organization and activity of the municipalist platforms which launch the project of change. These will decline to the point of death under three, at least, circumstances, as recent lessons from Spanish municipalism indicate. First, if the elected representatives of the platform, who command the main decision-making power in city administration and enjoy the greatest public prominence, arrogate all decisive and communicative power to themselves rather than remaining organically connected with the municipalist community and social movements. Second, if the municipalist formation does not maintain strong linkages and living circuits of interaction with democratic movements, associations, and ordinary citizens in the city, drawing sustenance from their demands, their proposals, their energies, their critiques

and their dreams. To effect change, municipalism must be profoundly social and focus on social movements and civil society (García López, 2019).

Third, if an autonomous and expansive operation of the platform, territorially grounded in neighborhood assemblies and sectorial groups, is not sustained over time. When this independent organizational life and the territorial roots are lacking, the municipalist project is bound to lose control over its elected representatives. The reassertion of hierarchies, centralization, bureaucratization, and conservatism follow suit (the case of Madrid is telling in this respect; see Carmona, 2019). Herein lies a key organizational challenge for municipalist alter-politics. It can fruitfully respond by cementing organizational bonds between institutional spaces, the platforms themselves and social movements, and by investing in network collaboration, the exchange of knowledge and mutual reinforcement among municipalist schemes (Martínez & Beciaro, 2019, p. 246; Bertran, 2019, p. 288).

Five years after their upsurge, it appears now that to turn municipal formations into more powerful vehicles of counter-hegemonic organization for commoning democracy, their radical popular and counter-hegemonic aspects should be enhanced. More emphasis should be placed on figuring antagonistic new visions, which can consolidate new popular identities, steering them away from neoliberal imaginaries. Scaling out and scaling up on the regional, national, continental, and global plane is also a vital condition for powerful counter-hegemonic contention in a complex world. The internal life of the platform should be nourished and fortified, as a dynamic political scheme which is autonomous from the city administration and can really direct its policies. The institutional devices to hold municipal officers accountable and directly responsible to the municipal organization and citizens should be adequately mobilized and amplified. Finally, the real implication of ordinary citizens in fundamental decision-making and the monitoring of policy execution, both in the platform and in city administration, should be broadened and deepened. This is the foundation of a 'common' democracy, whereby power flows from below.

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Pablo Guadarrama González. Doctor en Filosofía de la Universidad de Leipzig, Alemania, y Doctor en Ciencias de la Universidad Central de Las Villas, Cuba. Académico Titular de la Academia de Ciencias de Cuba. Profesor Emérito de la Universidad Central "Marta Abreu" de Las Villas, Cuba. Doctor Honoris Causa en Educación, Perú. Investigador Emérito del Ministerio de Ciencias, Tecnología e Información, Colombia. Autor de varios libros sobre el pensamiento filosófico y político latinoamericano y metodología de la investigación científica. Actualmente es profesor la Universidad Nacional de Colombia y de la Maestría en Ciencia Política de la Universidad Católica de Colombia y la Universitá degli Studi di Salerno.

Contacto: pabloguadarramag@gmail.com

ALTERNATIVAS DE ESPACIOS DE PODER DE LIBERTAD Y JUSTICIA SOCIAL EN EL PENSAMIENTO POLÍTICO LATINOAMERICANO[1]

Pablo Guadarrama González
Universidad Católica de Colombia

ALTERNATIVES FOR SPACES OF POWER FOR FREEDOM AND SOCIAL JUSTICE IN LATIN AMERICAN POLITICAL THOUGHT

Resumen

Se analizan algunas alternativas de espacios de poder de libertad y justicia social propuestas en el pensamiento político latinoamericano en diferentes épocas, a través de algunas personalidades representativas de cada una de ellas, tales como Montesinos,

Viscardo, Miranda, Bolívar, Martí, Mariátegui y Zea. En cada momento las alternativas de libertad y justicia social han sido diferentes, pero sus proponentes han estado motivados por similares auténticas ideas de humanismo práctico. Para valorar la genealogía histórica de las jerarquías geoeconómicas y geopolíticas contemporáneas resulta imprescindible conocer las particularidades de la producción teórica sobre el tema, emanadas de diferentes contextos históricos y socioculturales, entre ellos el latinoamericano. Independientemente de que la mayoría de estas alternativas languidecieron aplastadas por el conservadurismo de las oligarquías que se impusieron tras las luchas independentistas, no deben ser ignoradas o subestimadas, pues no todas han constituido utopías abstractas.

Palabras claves

Libertad, justicia social, poder, pensamiento político, Latinoamérica.

Abstract

Some alternatives of spaces of power of freedom and social justice propose in Latin American political thought at different times are analyzed through some personalities representative of each of them such as Montesinos, Viscardo, Miranda, Bolívar, Martí, Mariátegui and Zea. At every age the alternatives of freedom and social justice have been different but their proponents have been motivated by similar authentic ideas of practical humanism. In order to assess the historical genealogy of contemporary geoeconomic and geopolitical hierarchies it is essential to know the particularities of theoretical production under the theme emanating from different historical and sociocultural contexts, including Latin American. Regardless of the fact that most of these alternatives languished crushed by the conservatism of the oligarchies that prevailed after the independence struggles, they should not be ignored or underestimated, for not all have constituted abstract utopias.

Keywords

Freedom, social justice, power, political thinking, Latin America.

Introducción

Para emprender la adecuada reelaboración de una cartografía de las líneas geopolíticas que se han producido en el mundo contemporáneo en los últimos años, sobre todo tras el derrumbe del campo socialista, el auge ideológico del neoliberalismo —que no ha significado necesariamente un mejoramiento económico para grandes sectores de la población en múltiples países— y, en especial, al observar las nefastas consecuencias de la pandemia del COVID-19, es necesario analizar la trayectoria histórica de algunas alternativas de espacios de poder de libertad y justicia social que se han gestado en el pensamiento político latinoamericano en diferentes épocas y circunstancias, a través de algunas personalidades representativas de cada una de ellas, tales como Montesinos, Miranda, Bolívar, Martí, Mariátegui y Zea, todas motivadas por análogas posturas de humanismo práctico (Estrada, 2006, pp. 209-224)[2].

Si se valoran retrospectivamente, sus ideas contestatarias y alternativas pueden resultar limitadas para el observador actual; sin embargo, si se aprecian en sus respectivas épocas, sus propuestas de libertad y justicia social resultarán simplemente reformistas algunas, y genuinamente revolucionarias las otras.

Por supuesto que las conclusiones derivadas de este análisis no significan que sean válidas para la totalidad del sistema mundo capitalista, como de manera indiferenciada planteó Wallerstein al no tomar en debida consideración la extraordinaria significación de las partes, esto es, la especificidad de distintos niveles o formas de capitalismo y el Estado nacional[3] en diferentes regiones y países[4]. Pero desde Aristóteles y Pascal hasta Morin se ha demostrado fehacientemente que un enfoque holístico, sistémico, dialéctico,

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2. Por *humanismo práctico* —término utilizado por Marx en sus trabajos tempranos como *La sagrada familia* y los *Manuscritos económicos y filosóficos de 1844* así como los de *humanismo concreto, humanismo positivo* y *humanismo culto* que diferenciaba del *humanismo real* de Feuerbach—, entendemos una postura de compromiso activo, militante y arriesgado con la defensa de la dignidad de determinados grupos humanos, que se diferencia del humanismo abstracto que se limita a simples declaraciones filantrópicas, que no trascienden más allá de cierta misericordia o postura piadosa ante indígenas, esclavos, siervos, proletarios, mujeres, niños, minusválidos, etc. Un humanismo práctico debe distanciarse del antropocentrismo que ha caracterizado generalmente a la cultura occidental y tomar en consideración la imprescindible interdependencia entre el hombre y la naturaleza. Véase: Guadarrama, P. (2006). Humanismo y marxismo. En J. Estrada (2006) (Coord.), *Marx Vive. IV.* Bogotá: Universidad Nacional de Colombia. http://www.espaciocritico.com/sites/all/files/libros/mrxvv4/08_guadarrama.pdf

3. «Los sistemas-mundo de análisis significaron antes que nada la sustitución de una unidad de análisis llamada 'sistema-mundo' en vez de la unidad estándar de análisis, que había sido el estado nacional». (Wallerstein, 2005, p. 32).

4. «Wallerstein (…) asume que basta conocer y dilucidar 'el todo' sistema-mundo para que los problemas del conocer la realidad social puedan ser resueltos, al fin que las partes son sólo componentes del todo que carecen de dinámicas propias, y son sólo expresión de la dinámica de aquél. Wallerstein construye así un universal en donde las partes no tienen consistencia real. Es como afirmar que si conozco la noción capital, con ello ya conozco cualquier capital. (…) En pocas palabras, el estudio del sistema-mundo es necesario, pero insuficiente para responder a interrogantes no menos importantes de la realidad social, que se definen en otras unidades o niveles» (Osorio, 2015).

complejo e integral que no tome en adecuada consideración la significación de la especificidad de cada una de las partes puede resultar sesgado. Asimismo, cuando se hiperbolizan las particularidades de las partes y se transponen a otros niveles de la realidad y al todo, se producen nuevas formas de reduccionismo epistemológico[5] que desfiguran la adecuada comprensión del todo.

De manera que para valorar la genealogía histórica de las jerarquías geoeconómicas y geopolíticas contemporáneas, así como la actual situación de las nuevas líneas de fractura geopolítica y la redefinición de los espacios de poderes, explotación y emancipación que se han producido en el mundo contemporáneo, resulta imprescindible conocer las particularidades de la producción teórica proponente de espacios de libertad y justicia social emanadas de contextos históricos y socioculturales diferentes, como el latinoamericano, africano, asiático, europeo o norteamericano.

Aun cuando estos no han constituido nichos aislados —especialmente desde la gestación y desarrollo de la modernidad, dada la interdependencia que se generó con la creación del mercado mundial y la consecuente transculturación[6]—, cada una de estas regiones del orbe ha desempeñado funciones diferentes en la conformación del capitalismo actual. Solo una mirada geohistórica que permita superar la visión sesgada sobre los Estados individuales posibilita una mejor comprensión de la totalidad política y socioeconómica mundial[7].

El objeto de estudio del presente análisis consiste en la valoración de algunas alternativas de espacios de poder de libertad y justicia social formuladas por el pensamiento político latinoamericano en este contexto en diferentes épocas y circunstancias históricas. Independientemente de que la mayoría de ellas languidecieron aplastadas por el conservadurismo de las oligarquías que se impusieron tras las luchas independentistas, no deben ser ignoradas o subestimadas, pues no todas han constituido utopías abstractas.

Algunas de estas propuestas han sido utopías concretas, como lo demuestra la praxis política de los pueblos latinoamericanos, y por eso han sido plenamente auténticas expresiones de humanismo práctico. Por esta razón se hace necesario rememorarlas no como simple expresión nostálgica, sino como instrumento orientador de nuevas luchas

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5. «Sería muy ingenuo sostener que la humanidad ha llegado al actual nivel de desarrollo de la ciencia, la tecnología, la filosofía, etc., de una sencilla forma, sin superar obstáculos de todo tipo que explican algunas de las razones de tales errores, insuficiencias y formas de reduccionismos epistemológicos, algunas de las cuales no han desaparecido del todo. Y ante ellas habrá que estar atentos de manera desprejuiciada, por la posibilidad de su renacer bajo formas diferentes, pero con similar contenido. ¿O acaso debe pensarse que en la actualidad no existen condiciones y posibilidades para que viejas y nuevas modalidades de reduccionismo reaparezcan?» (Guadarrama, 2018, p. 32).

6. «El Doctor Ortiz redondeaba con posterioridad su pensamiento al aclarar que no solo se transculturan los seres humanos, sino también las instituciones y las cosas atinentes a la vida social» (Iznaga, 1989, p. 81).

7. Véase: Taylor, P. J. (1999). *Modernities. A Geohistorical Interpretation*. University of Minnesota Press.

sociales en los procesos actuales de emancipación, en los cuales los pueblos latinoamericanos se han expresado a través de numerosas protestas[8], especialmente desde fines del 2019, contra las políticas neoliberales dado su carácter *geno-ecocida*.

Vale entonces tener presente aquella idea según la cual la historia se repite unas veces como tragedia y otras como comedia. Lamentablemente, a los pueblos latinoamericanos les ha tocado más la primera manera de repetición, aunque muchas veces adquieren formas de realismo mágico que las hacen parecer expresión de un gran Macondo.

Precursoras alternativas de poder de libertad y justicia social en el pensamiento político latinoamericano

Si bien la historia de América no comenzó con su «descubrimiento» y constituye un hecho demostrado que los pueblos originarios —en especial los más desarrollados, como los mayas, incas y aztecas, y también otros que no llegaron a constituir imperios, como es el caso de chibchas, mapuches y guaraníes, entre otros— estaban tan organizados por medio de instituciones políticas, militares, económicas, jurídicas, religiosas, educativas, etc., que impresionaron a los conquistadores ibéricos, sobre todo a los cronistas de Indias, **¿có**mo es posible sostener que no tenían pensamiento político, jurídico, económico, religioso e, incluso, filosófico?

Otra cuestión es que los conquistadores hayan tratado, en el mejor de los casos, de ocultarlo o, por lo regular, de aniquilarlo junto a los indígenas. Sin embargo, resulta algo difícil —por no decir imposible— demostrar con pruebas documentales acreditadas que hubiesen desarrollado algunas alternativas de espacios de poder de libertad y justicia social. Ahora bien, el hecho de que sea infructuoso sustentar suficientemente esa tesis no debe significar que no existiesen tales formas de pensamiento.

Es de suponer que, al existir no solo esclavos, sino pueblos enteros dominados por otros —como el caso de los tlaxcaltecas que apoyaron a Hernán Cort**és** en la lucha contra los aztecas que los extorsionaban—, debieron haber formulado ideas alternativas para instaurar otras formas de poder, de libertad y justicia social. Otra cuestión es que no contaron con cronistas que, con alfabetos estructurados, hubieran podido dejar por escrito constancia de aquellas luchas. Sin embargo, en numerosos jeroglíficos, pinturas

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8. «(…) resulta muy difícil arribar a la conclusión de que es una sola la causa de dichas protestas. Por supuesto que hay un elemento común a todas ellas, esto es, la inconformidad con la injusticia social; pero los diferentes sectores que participan la perciben de distinta forma, aunque se hayan unido en las protestas» Guadarrama, 2020, p. 35).

y mitos[9] estas se pueden verificar. ¿Acaso por el simple hecho de no tener en la actualidad constancia de documentos escritos con la utilización de alfabetos ya las descalifica para ser incluidas estas civilizaciones en la historia universal del pensamiento político?

No hay dudas de que desde el inicio del proceso de conquista y colonización del mal llamado Nuevo Mundo se produjeron precursoras expresiones de pensamiento político encaminadas a fomentar las luchas por la libertad y la justicia social. Estas se pueden testificar por las numerosas insurrecciones de indígenas y esclavos de origen africano, pero también de aquellos sacerdotes que asumieron la defensa, al menos, de los primeros, aunque no de los segundos, como Bartolomé de las Casas o Antón de Montesinos, quien en La Española, en 1510, denunciaba:

> ¿Con qué derechos y con qué justicia tenéis en tan cruel y horrible servidumbre aquestos indios? ¿Con qué autoridad habéis hecho tan detestables guerras a estas gentes que estaban en sus tierras mansas y pacíficas, donde tantas infinitas dellas, con muertes y estragos nunca oídos, habéis consumido? ¿Cómo los tenéis tan opresos y fatigados, sin dalles de comer ni curallos en sus enfermedades que, de los excesivos trabajos que les dáis, incurren y se os mueren y por mejor decir, los matáis, por sacar y adquirir oro cada día? ¿Y qué cuidados tenéis de quien los doctrinen y conozcan a su Dios y criador, sean baptizados, oigan misa, guarden las fiestas y domingos? ¿Estos no son hombres? ¿No tenéis ánimas racionales? (Monal, 1985, t. II, pp. 11-12)

Por supuesto que las alternativas de justicia social que demandaban aquellos sacerdotes no se proponían una real libertad de los indígenas y mucho menos de los esclavos africanos, cuya condición llegaron a justificar a partir de los criterios aristotélicos al respecto. Por tanto, en modo alguno dichas alternativas podrían considerarse revolucionarias; sin embargo, aun cuando su carácter reformista se expresa en que solo pretendían mejorar parcialmente las condiciones de vida de los indígenas —pues ellos mismos los sometían a trabajar en sus propias encomiendas—, sus ideas deben ser consideradas expresión de humanismo práctico y no simple piedad religiosa. Además, la postura de

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9. «Es por eso que los mitos y tradiciones expresan una función política muy importante; dan identidad y, con ello, cohesión al grupo. Le permiten identificarse frente al mismo y frente a los otros. Cumplen una función ideológica, cual es la de legitimar o cuestionar el orden establecido, especialmente en el campo político y religioso, pues los éxitos o los fracasos económicos (cosechas) no se ven como éxitos personales o del grupo, sino como expresión de la fuerza o debilidad de las divinidades protectoras y, con ello, como una prueba de lo bien o mal fundados (de la verdad) de los relatos míticos» (Mora, 2006, p. 65).

estos sacerdotes fue en realidad excepcional, pues la mayoría de ellos no la imitaron.

El más auténtico pensamiento político latinoamericano, encaminado a fomentar las luchas por espacios de poder de libertad y de justicia social, se enriqueció considerablemente durante el siglo XVIII, por una parte gracias al incremento de tales rebeliones, a las que se sumaron las de criollos, y por otra, debido al auge de ideas ilustradas —propiciadas por la introducción de la imprenta, la aparición de diarios y editoriales, algunas instituciones permitidas por la política del despotismo ilustrado de Carlos III, como las distintas filiales de la Sociedad Económica de Amigos del País, el surgimiento de las primeras universidades y otras instituciones educativas laicas—, fomentadoras de la modernidad, aun cuando en verdad resultase malograda para los pueblos de esta región del orbe, dadas sus manifestaciones de malestar, desintegración, renovación, lucha, contradicción, ambigüedad y angustia[10].

Entre los intentos de dignificar las condiciones de vida de los indígenas vale la pena mencionar las misiones de los jesuitas, comúnmente consideradas instituciones utópicas. Por reconocer solo la autoridad del papa y no la del rey, así como por conformar especies de ciudades-Estado autónomas fueron expulsados de América. Varios de ellos se destacaron por su avanzado pensamiento político, como Juan Pablo Viscardo (1996), que en 1792 expresaba:

La conservación de los derechos naturales y, sobre todo, de la libertad y seguridad de las personas y haciendas, es incontestablemente la piedra fundamental de toda sociedad humana, de cualquier manera que esté combinada. Es pues una obligación indispensable de toda sociedad, o del gobierno que la representa, no solamente respetar sino aun proteger eficazmente los derechos de cada individuo. (t.1, p. 56)

Para arengar a la rebeldía proclamaba:

Este momento ha llegado, aconsejémosle con todos los sentimientos de una preciosa gratitud, y por pocos esfuerzos que hagamos, la sabia libertad, don precioso del cielo, acompañada de todas las virtudes y seguida de la prosperidad, comenzará su reino en el Nuevo Mundo y la tiranía será inmediatamente exterminada. […] Fundamentaba la lógica articulación entre la significación particular de la

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10. Berman, M. (1995). *Todo lo sólido se desvanece en el aire. La experiencia de la modernidad.* México: Siglo XXI.

emancipación de los pueblos latinoamericanos y la universal de toda la humanidad, y en consecuencia afirmaba: "Nuestra causa, por otra parte, es tan justa, tan favorable al género humano, que no es posible hallar entre las otras naciones ninguna que se cargue de la infamia de combatirnos o que renunciando a sus intereses personales, ose contradecir los deseos generales en favor de nuestra libertad". (Viscardo, 1996, t.1, p. 57)

Su propuesta de alternativa de poder de libertad y justicia social trascendía el reformismo y preparaba el terreno para el pensamiento revolucionario independentista.

La mayor expresión precursora, no solo de elaboración teórica, sino de intentos prácticos, con éxitos y fracasos, de espacios de poder de libertad y de justicia social se produjo con el proceso independentista. Tanto sus próceres, que nutrieron su formación con las ideas humanistas y emancipadoras de la Ilustración, como numerosos intelectuales contribuyeron considerablemente.

Sin embargo, su amor por la libertad no era ciego, sino que encerraba algunas preocupaciones, como se observa en el precursor de la independencia Francisco de Miranda (1982), cuando plantea:

¡Le confieso que si bien deseo la Libertad y la Independencia del nuevo mundo, de igual manera, y tal vez más, le tengo temor a la anarquía y al sistema revolucionario! Dios no quiera que aquellos hermosos Países se conviertan, al igual que Santo Domingo, en un escenario cruento y lleno de crímenes, bajo pretexto de instaurar la Libertad; ¡que se queden más bien por un siglo más si fuese necesario bajo la imbécil y bárbara opresión española! (p. 201)

Expresaba su temor de que interpretaciones hiperbólicas de la libertad condujesen a excesos similares a los acontecidos en las revoluciones de Francia y Haití.

No se limitaba al logro de la soberanía política, sino a alcanzar mayor justicia social, sobre todo para los indígenas, y proponía reivindicarles sus derechos, en especial devolverles sus tierras y otorgarles condiciones dignas de vida:

Ciudadanos, es preciso derribar esta monstruosa tiranía: es preciso que los verdaderos acreedores entren en sus derechos usurpados: es preciso que las riendas de la autoridad pública vuelvan a las manos de los habitantes y nativos del país, a quienes una fuerza extranjera se las ha arrebatado. (Miranda, 1986, p. 352)

Simón Bolívar (1976), a su vez, planteaba reestablecerles sus derechos y dignidad:

> […] 1.º Que la igualdad entre todos los ciudadanos es la base de la constitución de
> la República; 2.º Que esta igualdad es incompatible con el servicio personal que
> se ha exigido por fuerza a los naturales indígenas, y con las exacciones y malos
> tratamientos que por su estado miserable han sufrido estos en todos tiempos por
> parte de los jefes civiles, curas, caciques y aun hacendados; 3.º Que en la distribu-
> ción de algunas pensiones y servicios públicos han sido injustamente recargados
> los indígenas; 4.º Que [en] el precio del trabajo a que ellos han sido dedicados de
> grado o por fuerza, así en la explotación de minas como en la labor de tierras y
> obrajes han sido defraudados de varios modos […]. (p. 236)

Pero su alternativa de mayor significación consistía en abolir la esclavitud, en una
época todavía muy distante de que esto se lograse en los Estados Unidos de América y
en otros países. Sin duda, sus propuestas radicalmente revolucionarias, que no se limi-
taban al plano político, sino que trascendían a lo social, ten**ía**n alcance universal.

La mayor preocupación de Bolívar (1976) no era conquistar la libertad, sino salva-
guardarla posteriormente:

> Después de quince años de sacrificios consagrados a la libertad por obtener el
> sistema de garantías que, en paz y guerra, sea el escudo de nuestro nuevo destino,
> es tiempo ya de que los intereses y las relaciones que unen entre sí a las repúblicas
> americanas, antes colonias españolas, tengan una base fundamental que eternice,
> si es posible, la duración de estos gobiernos. (p. 211)

Por ese motivo, al atisbar la voracidad yanqui manipulando el concepto de libertad,
expresaba su preocupación: «Los Estados Unidos parecen destinados por la Providencia
para plagar la América de miseria a nombre de la libertad» (Emancipación, 2004)

También se afligía sobremanera en sus días finales al observar el caos predominante
en las repúblicas recién fundadas, en las cuales la libertad se había convertido en anar-
quía, como expresó poco antes de su muerte:

> No hay buena fe en América, ni entre las naciones. Los tratados son papeles; las
> constituciones libros; las elecciones combates; la libertad anarquía; y la vida un
> tormento. Esta es, americanos, nuestra deplorable situación. Si no la variamos,

mejor es la muerte: todo es mejor que una relucha indefinible, cuya indignidad parece acrecer por la violencia del movimiento y la prolongación del tiempo. No lo dudemos: el mal se multiplica por momentos, amenazándonos con una completa destrucción. Los tumultos populares, los alzamientos de la fuerza armada, nos obligarán al fin a detestar los mismos principios constitutivos de la vida política. Hemos perdido las garantías individuales, cuando por obtenerlas perfectas habíamos sacrificado nuestra sangre y lo más precioso de lo que poseíamos antes de la guerra; y si volvemos la vista a aquel tiempo, ¿quién negará que eran más respetados nuestros derechos? Nunca tan desgraciados como lo somos al presente. Gozábamos entonces de bienes positivos, de bienes sensibles: entre tanto que en el día la ilusión se alimenta de quimeras; la esperanza, de lo futuro; atormentándose siempre el desengaño con realidades acerbas. (Bolívar, 1976, p. 343)

De tal modo, en las labores emancipadoras los próceres de la independencia —como San Martín, O'Higgins, Artigas, Morelos e Hidalgo, entre otros— previeron la posibilidad de que la libertad alcanzada no se tradujese en orden y justicia social, especialmente en favor de los sectores populares, al establecerse las repúblicas, como lamentablemente sucedió.

A partir del radical cambio que produjo el inicio de la vida republicana en los países latinoamericanos, cuando en Europa se reestablecía el absolutismo monárquico, el mundo comenzaría a concebirse políticamente de forma diferente.

Los enfoques eurocéntricos de la historia generalmente hiperbolizan la influencia de la Revolución Francesa sobre las luchas independentistas latinoamericanas, la cual, por supuesto, no se debe ignorar o subestimar. Sin embargo, en el ámbito académico europeo y latinoamericano no se le dedica atención suficiente al innegable proceso de transculturación en ambas direcciones, pues sin dudas, el ejemplo de las repúblicas americanas también repercutiría favorablemente en el pensamiento político europeo.

La genealogía histórica de jerarquías geoeconómicas y geopolíticas contemporáneas está marcada por la emancipación de las colonias españolas en América, del mismo modo que lo había estado antes con la independencia de las Trece Colonias británicas en Norteamérica. En ese mismo sentido, la Revolución en Haití desempeñó un papel protagónico, especialmente para los pueblos de esta región. Ambos procesos resultaron significativos en cuanto a la lucha por espacios de poder de libertad política; sin embargo, la haitiana tuvo mayor significado en relación con la justicia social, pues logró la abolición de la esclavitud, mientras que la Constitución de Filadelfia la mantuvo.

De ahí que tal problema quedase pospuesto, por lo que luego se desencadenaría la Guerra Civil en el poderoso país norteño.

El mundo comenzó a ser algo diferente a partir de los procesos independentistas americanos, tanto de la república norteamericana como de las latinoamericanas, al propiciar un caldo de cultivo más favorable para el pensamiento político universal que propiciaría mayor confianza en la posibilidad de alcanzar espacios de poder, de manera que también en otras latitudes la libertad y la justicia social tuviesen mejores perspectivas de realización.

Insatisfacciones en el pensamiento político latinoamericano sobre las alternativas de poder de libertad y justicia social en la vida republicana

Casi de inmediato, al establecerse la vida republicana en los países latinoamericanos comenzaron a manifestarse en el pensamiento político expresiones de insatisfacción con los espacios de poder de libertad y justicia social alcanzados, dado el predominio de oligarquías conservadoras en la mayor parte de ellos. Incluso, este hecho daría lugar a innumerables conflictos y a guerras entre liberales y conservadores que se prolongarían hasta mediados del siglo xx.

Pero a los representantes de ambas ideologías se les presentaban otras más amenazantes de sus respectivos privilegios, esto es, las ideas anarquistas y socialistas[11]. Latinoamérica se convirtió también en un laboratorio de conflicto político entre esas cuatro ideologías —conservadurismo, liberalismo, anarquismo y socialismo— que caracterizaban las luchas sociales por espacios de poder en otras latitudes, especialmente en Europa, con la diferencia significativa de que, al no participar de manera protagónica en el proceso de la Revolución Industrial, pues lo hacía solamente suministrando las

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11. «En su lucha contra las ideas negativas, (los socialistas) se enfrentaron al tradicionalismo y al reformismo. También las propias ideas del anarquismo fueron atacadas porque tampoco servían a la causa revolucionaria de instaurar la nueva sociedad, la cual consideraban que no se lograría de golpe, sino gradualmente, pero a la vez rompiendo con muchos moldes arcaicos. Esto no presuponía desechar todo lo creado anteriormente por la civilización humana. Por el contrario, defendieron muchos de los logros materiales y espirituales creados por las sociedades pasadas, pero hasta ese momento solo disfrutados por las oligarquías dominantes, y de lo que se trataba era de una mejor distribución, que tampoco implicara la holgazanería y el disfrute indebido. En sus utópicas formulaciones, deseaban afectar lo menos posible a los ricos, por lo que argumentaban que su objetivo no era eliminar completamente las diferencias entre los hombres, sino atenuar las desigualdades entre las clases. Por eso, apelaban a la moral e incluso al cristianismo para lograr tales objetivos» (Guadarrama, 2018, p. 129).

materias primas necesarias y adquiriendo sus productos, con lo cual se aletargaría el surgimiento de la clase obrera.

Según Engels, las ideologías, unas más que otras, se atrasan o adelantan a las situaciones socioeconómicas que las condicionan; en Latinoamérica el ideario anarquista, socialista y comunista germinaría casi simultáneamente con sus expresiones europeas.

A este significativo factor se une el hecho de que no existía absoluta confianza en que se mantuviesen las conquistas de soberanía alcanzadas por el proceso independentista, no solo por la resistencia de la monarquía española a reconocerlas, sino por sus intentos de reconquistar sus antiguas colonias, como se reveló en la restauración de su poder en República Dominicana o en sus intenciones de recuperar Perú. A esto se añadieron las amenazas o acciones efectivas de viejos y nuevos imperios por apoderarse de territorios de las aún débiles repúblicas —demostrado fehacientemente en las intervenciones británicas en las Malvinas, Belice, Buenos Aires, Guyana, etc., y en especial por la voracidad yanqui al apropiarse de la mitad del territorio mexicano, los intentos anexionistas del aventurero Walker en Centroamérica; la invasión francesa a México, donde impusieron al emperador Maximiliano; la intervención de Estados Unidos en la guerra de independencia de Cuba y Puerto Rico, etc.— ante las cuales el pensamiento político latinoamericano fue prolífico en proponer alternativas de poder de libertad y justicia social articuladas con ideas de humanismo práctico, integracionistas, latinoamericanistas, contrahegemónicas y antimperialistas, como las de José Martí[12], quien consideraba que «La libertad cuesta muy cara, y es necesario o resignarse a vivir sin ella, o decidirse a comprarla por su precio» (Martí, 1976, t. 21 p. 108) pues, a su juicio:

> Las redenciones han venido siendo formales; —es necesario que sean esenciales. La libertad política no estará asegurada, mientras no se asegure la libertad espiritual. Urge libertar a los hombres de la tiranía, de la convención, que tuerce sus sentimientos, precipita sus sentidos y sobrecarga su inteligencia con un caudal pernicioso, ajeno, frío y falso. (Martí, 1976, t. 21 p. 290)

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12. "En Martí el humanismo latinoamericano adquiere una dimensión mucho más práctica y concreta. Esto debe entenderse en su sentido planetario por dos razones significativas: 1) la propuesta de estudio científico de las condicionantes de alienación y de marginación infrahumana en que viven las mayorías en todos los pueblos del orbe, y 2) la comprensión de lo inevitable de las transformaciones revolucionarias que avalan en ocasiones la justa violencia como doloroso remedio ante la violencia injusta". Guadarrama, Pablo. *José Martí: humanismo práctico y latinoamericanista*. Editorial Capiro, Santa Clara, 2015, p. 237.

Su análisis sobre la libertad estaba articulado con la lucha por la justicia social, que tomaba muy en consideración los conflictos de las clases sociales:

> No hay pueblo en la tierra que tenga el monopolio de una virtud humana:—pero hay un estado político que tiene el monopolio de todas las virtudes: —la libertad ilustrada: no aquella libertad que es entendida por el predominio violento de la clase pobre vencida sobre la clase rica un tiempo vencedora— que ya se sabe esa es nueva y temible tiranía;—no la libertad nominal, y proclamaria, que en ciertos labios parece— y son por desdicha los que más la vociferan —lo que la cruz de Jesús bueno en los estandartes inquisitoriales;—sino aquella libertad en las costumbres y las leyes, que de la competencia y equilibrio de derechos vive, que trae de suyo el respeto general como garantía mutua, que libra su mantenimiento a ese supremo e infalible director de la naturaleza humana: el instinto de conservación. (Martí, 1976, t. 21 p. 381)

Por eso pensaba: «¿Qué es la mejor libertad sino el deber de emplearla en bien de los que tienen menos libertad que nosotros?» (Martí, 1976, t. 4 p. 262)

Y a lo anterior agregaba:

> Se es libre, pero no para ser vil: no para ser indiferente a los dolores humanos; no para aprovecharse de las ventajas de un pueblo político, del trabajo creado y mantenido por las condiciones políticas de un pueblo, y negarse a contribuir a las condiciones políticas que se aprovechan. (Martí, 1976, t. 4 p. 435)

Las alternativas de poder para el despliegue de la libertad y la justicia social que proponía José Martí presuponían no solo la emancipación del colonialismo español, sino algo de mayor dimensión. En ese sentido declaraba: «(…) yo quiero que la ley primera de nuestra república sea el culto de los cubanos a la dignidad plena del hombre» (Martí, 1976, t. 4, p. 270). Si bien la nueva época en que el Héroe Nacional cubano desarrollaba su pensamiento político y su praxis revolucionaria había emergido del liberalismo, muy pronto este demostró sus limitaciones para mayores grados de libertad y justicia social.

A la batalla por mayores conquistas de justicia social —sobre todo el logro pleno de la eliminación de la esclavitud y el mejoramiento de las condiciones de trabajo de indígenas y obreros— se le sumó la lucha por los derechos humanos, que ya se había expresado en la época colonial, pero en especial el enfrentamiento a las dictaduras que

comenzaron a proliferar, fundamentalmente desde fines del siglo xix, y que con frecuente alternancia reaparecían incluso en sus manifestaciones fascistas más nefastas hasta casi finales del pasado siglo.

Tras el triunfo de la Revolución de Octubre de 1917 en Rusia se abrieron nuevas posibilidades de que el socialismo de ser simplemente una ideología comenzara a asumir un protagonismo práctico al plantear nuevas alternativas de poder para alcanzar mayores grados de libertad y justicia social para los sectores populares; una cuestión aparte de debate es si se lograron o no realizar.

En el caso de Latinoamérica, se le planteó al pensamiento político la exigencia de pronunciarse al respecto y numerosos líderes e intelectuales lo hicieron oportunamente. Entre ellos se destacó José Carlos Mariátegui (2010), quien argumentó que la democracia burguesa había cumplido su progresivo papel, pero ya evidenciaba su caducidad.

> ¿Cómo ha llegado la democracia a la crisis que acusan todas estas inquietudes y conflictos? El estudio de las raíces de la decadencia del régimen democrático, hay que suplirlo con una definición incompleta y sumaria: la forma democrática ha cesado, gradualmente, de corresponder a la nueva estructura económica de la sociedad. El Estado demo-liberal-burgués fue un efecto de la ascensión de la burguesía a la posición de la clase dominante. Constituyó una consecuencia de la acción de fuerzas económicas y productoras que no podían desarrollarse dentro de los dediques rígidos de una sociedad gobernada por la aristocracia y la iglesia. Ahora, como entonces, el nuevo juego de las fuerzas económicas y productoras reclama una nueva organización política. Las formas políticas, sociales y culturales son siempre provisorias, son siempre interinas. En su entraña contienen, invariablemente, el germen de una forma futura. Anquilosada, petrificada, la forma democrática, como las que la han precedido en la historia, no puede contener ya la nueva realidad humana. (t. 3 p. 65)

Aunque reconocía el valor cultural que significaba la herencia de vida comunitaria heredada de los indígenas, en modo alguna hiperbolizaba su papel en la construcción de una nueva alternativa de libertad y justicia social, pues

> El socialismo presupone la técnica, la ciencia, la etapa capitalista, y no puede importar el menor retroceso en la adquisición de las conquistas de la civilización

moderna, sino por el contrario la máxima y metódica aceleración de la incorporación de estas conquistas en la vida nacional. (Mariátegui, 2010, t. 5 p. 189)

Pero para lograr ese espacio de poder en la nueva sociedad antes había que asegurar la libertad de los trabajadores para organizarse en sus luchas: «La libertad de organización, el derecho de asociación que la ley sanciona: *he ahí* la reivindicación primaria de nuestras clases trabajadoras. Hay que conquistar, a todo trance, esta libertad; hay que afirmar, en todo instante, este derecho» (Mariátegui, 2010, t. 5 p. 210).

Lógicamente, la época del intelectual peruano era muy diferente a la de los antecesores analizados, y los espacios de poder de libertad y justicia social que pretendía alcanzar eran de mayor alcance, pero estaban animados por análogas posturas de humanismo práctico.

La Revolución mexicana, las luchas campesinas de Augusto César Sandino en Nicaragua, de Farabundo Martí en El Salvador, la Revolución cubana, la Revolución nicaragüense, etc., han sido expresiones de esas búsquedas de alternativas de libertad y justicia social, dadas las manifestaciones de insatisfacción de los sectores populares con los logros alcanzados en la vida republicana, recogidas en la labor teórica de los cultivadores del pensamiento político latinoamericano.

Si bien resulta erróneo atribuirles un exagerado protagonismo a los ideólogos, tanto de derecha como de izquierda, en la consecución de avances en cuanto a grados de libertad y justicia social —pues en definitiva son las luchas sociales, entre ellas, las de clases, las que, en última instancia, determinan el progreso social—, también resulta equivocado subestimar el papel de estos intelectuales en su labor crítica del orden existente y en la elaboración de propuestas alternativas para su superación. El efecto de sus ideas se ha incrementado en la misma medida en que se han diversificado los medios masivos de comunicación, con sus peligrosas técnicas de manipulación ideológica en una época de presunta «posverdad», y en especial han adquirido una mayor significación con el despliegue de las redes sociales. Los directivos de tales medios saben muy bien que una mentira repetida miles de veces no se convierte en verdad desde el punto de vista epistemológico, pero en el plano ideológico funciona, que es lo pragmáticamente importante.

Tal vez uno de los mayores desafíos que enfrenta en la actualidad el pensamiento político latinoamericano, al igual que en otras latitudes, radica en la saturación de información por diversas vías y en las formas de trasmisión de sus propuestas a los sectores populares; de ahí que cobre mayor relevancia el papel de las instituciones educativas y

culturales en la adecuada formación ciudadana, para gestar sujetos responsables en las decisiones a tomar en la vida política.

Algunas de las grandes desventajas que se afrontan aún respecto a la organización del sujeto político en el ámbito latinoamericano después de cerca de dos siglos de vida republicana consisten en el relativamente alto índice de analfabetismo en algunos países; las insuficiencias comunicativas y de acceso a diversas fuentes informativas, internet, etc.; la influencia de determinadas iglesias; las secuelas todavía vigentes del caudillismo y el paternalismo en grandes sectores de la población, fundamentalmente en las áreas rurales, pero tal vez una de las más significativas sea la extrema pobreza en algunos países, que favorece el clientelismo y el populismo.

Los precursores del pensamiento y la praxis política en Latinoamérica tuvieron condiciones más adversas que las anteriormente referidas y otros obstáculos que ya no existen; sin embargo, el optimismo, las convicciones emancipadoras y el humanismo práctico que los caracterizó les hizo enfrentar aquellas adversidades para superarlas; de ahí que la situación que han heredado las actuales generaciones sea mucho más satisfactoria. Por tal motivo, no hay justificación para asumir posturas escépticas o pesimistas en cuanto a la construcción de nuevas alternativas de espacio de poder de libertad y justicia social, pues si luego de tantos avatares por lograr la soberanía[13] —además de consolidarla en la vida republicana frente a adversarios externos y cómplices internos—, los próceres de la independencia y sus auténticos continuadores lograron dejar como herencia a las nuevas generaciones instituciones más apropiadas, no hay otra opción que seguir sus vehementes ejemplos para continuar perfeccionándolas.

Se debe aprender de las lecciones de la historia latinoamericana que en verdad no ha sido un cúmulo de tragedias ni de comedias, sino de permanentes luchas de numerosas generaciones de líderes sociales y pensadores por conformar alternativas de poder con mayores grados de libertad y justicia social, en las que ha habido éxitos y fracasos, como en otras partes del mundo. Los pesimistas podrán argumentar que el recipiente de la libertad y la justicia social en Latinoamérica está medio vacío, los optimistas sostenemos que está medio lleno; la tarea debe consistir en unirnos, conservadores y reformadores, como sugería el Libertador en su célebre *Carta de Jamaica* (Bolívar, 1999), para continuar la labor emancipadora.

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13. "De hecho, en términos estrictamente teórico-politológicos, el concepto de soberanía está intrínsecamente fusionado con el de poder, o con mayor precisión, la palabra soberanía remonta evidentemente a la antigua especulación relativa al 'vértice' del poder político, o sea, a la autoridad política". Picarella, Lucia y Scocozza, Carmen. (2019). La soberanía y sus interpretaciones: análisis teórico y caso práctico. En *Del pueblo soberano al soberano del pueblo: evolución del concepto de soberanía en la contemporaneidad* Lucia Picarella y Carmen Scocozza (eds.). Bogotá: Penguin Random House. p. 110.

Alternativas de poder de libertad y justicia social en el pensamiento político latinoamericano en la época de la globalización

En las últimas décadas, marcadas por la globalización, el pensamiento político latinoamericano ha elaborado disímiles alternativas de poder de libertad y justicia social desde diferentes disciplinas como la economía, la sociología, la filosofía e, incluso, desde la teología. De ahí que, además de la socialista cubana, se hayan elaborado la teoría desarrollista cepalina, la teoría de la dependencia, la filosofía de la liberación, la teología de la liberación, el socialismo del siglo xxi, etc., así como diferentes gobiernos conocidos como el progresismo.

Ninguna de ellas se ha constituido como una escuela homogénea de pensamiento político, pues en verdad se han revelado más bien como corrientes de pensamiento en las que incluso se advierten contradictores en su propio seno; pero aun así estos conservan cierto aire de familia. Muchas de estas teorías y prácticas políticas han estado articuladas en diversos grados con lo que comúnmente se conoce como el marxismo, que a su vez es bastante heterogéneo. Esta es la razón por la cual en ocasiones la mayoría de sus representantes han asumido posturas críticas ante la interpretación de lo que Marcuse calificó como marxismo soviético, refiriéndose al denominado marxismo-leninismo e identificándose más con algunos de los cultivadores de lo que Merleau-Ponty denominó marxismo occidental, que es bien sabido tiene tendencias muy diversas.

Todas las propuestas de alternativas elaboradas por el pensamiento y la praxis política que de él se han derivado en el ámbito latinoamericano han constituido distintas formas de redefinición de los espacios de poderes de dominación y explotación; pero, a la vez, de diferentes vías de emancipación y búsqueda de nuevos espacios de poder, de libertad y justicia social. Estas propuestas en modo alguno deben considerarse exclusivamente válidas para los países de esta región, sino que han tenido un significado de mayor trascendencia universal. No en balde han ocupado la atención no solo de académicos, sino también de líderes políticos y hasta de gobernantes de otras latitudes, unos porque encuentran en ellas elementos de valor a tener en consideración en sus respectivas reflexiones o propuestas programáticas y otros para combatirlos.

De esa forma, la producción intelectual latinoamericana, al igual que la generada en otros continentes, constituye un componente de la cultura universal. Esta se ha nutrido de las producciones teóricas elaboradas en otras regiones, principalmente de Europa —por obvias razones, no solo de indudable valor epistémico, sino también de dominación ideológica desde la época colonial hasta las nuevas formas desplegadas durante la

ya larga vida republicana—, sin que esto lleve a desconocer las influencias provenientes de otros continentes.

Del mismo modo, algunas de las concepciones y acciones políticas desarrolladas desde las luchas independentistas en lo que a partir de mediados del siglo XIX comenzaría a denominarse América Latina han inspirado a numerosos intelectuales y líderes de países muy lejanos en ese permanente y creciente proceso de transculturación acrecentado en los últimos conflictivos tiempos de globalización y presunta posmodernidad[14].

El mexicano José Vasconcelos —que impresionó al Conde de Keyserling porque había elaborado un original sistema filosófico con una metafísica, una lógica, una ética, una estética y hasta una historia de la filosofía; de ahí que le considerase un verdadero filósofo— sostuvo que, dada la confluencia, en lo que denominó Indoamérica, de diferentes razas humanas, esta constituía un crisol de «raza cósmica» en la que todas se integran a causa del mestizaje predominante. Tal vez podrían concebirse también estas tierras como una especie de crisol de ideas políticas.

Desde la época de la conquista hasta la actualidad —con sus lógicos momentos ascendentes, descendentes, de estancamiento e incluso de retrocesos, como en cualquier otra región del mundo— se ha ido conformando en un dialéctico proceso una especie de imbricación de concepciones de procedencia endógena y exógena sobre la mejor forma de organizar la sociedad con mayores grados de libertad y justicia social. No debe pasarse por alto que en el código indiano elaborado por funcionarios de la metrópoli española se incorporaron algunas figuras jurídicas de los pueblos indígenas.

Las más auténticas expresiones del pensamiento filosófico y político latinoamericano elaborado en tiempos de la creciente globalización se han caracterizado por articular la cuestión de la libertad con la herencia ideológica proveniente de los próceres de la independencia y con las elaboraciones teóricas del marxismo en cuanto al necesario completamiento de las revoluciones de carácter nacional con las de carácter social. Son numerosos los representantes que pueden confirmar esa hipótesis, y entre ellos se destacó Leopoldo Zea (1988), quien sostuvo:

> Revolución nacional y revolución social son dos expresiones de una misma respuesta a la dominación que unos hombres se empeñan en imponer a otros hombres. Dos formas de explotación y enajenación de libertades a las que se responde proclamando la revolución anticolonial y la lucha de clases. La respuesta a la

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14. Véase: Guadarrama, Pablo. (2006). *Cultura y educación en tiempos de globalización posmoderna*. Bogotá: Editorial Magisterio. https://www.ensayistas.org/filosofos/cuba/guadarrama/textos/Cultura.pdf

explotación impuesta por unos pueblos a otros la dará Simón Bolívar, la respuesta a la explotación impuesta por una clase a otra, la da Carlos Marx. Simón Bolívar ideólogo y hombre de acción se empeña en la primera lucha, la que le era propia, mientras Carlos Marx y Federico Engels, ponen todas sus fuerzas en la lucha por la liberación social. (p. 91)

Numerosos pensadores latinoamericanos han tratado de elaborar alternativas emancipadoras orientadas hacia senderos de humanismo práctico, las cuales, al enfrentarse al eurocentrismo se oponen, a su vez, a cualquier tipo de etnocentrismo. Tal es el caso del uruguayo Yamandú Acosta (2020), quien señala:

Frente a la libertad abstracta de la modernidad eurocéntrica, la libertad concreta de la transmodernidad nuestroamericana. Esta libertad concreta no es obediencia a la ley, sino sometimiento de la ley al criterio de la posibilidad de vivir en términos de dignidad humana del «cuerpo de los que se alzaron y vencieron por ella», quienes –termidores mediante (Hinkelammert)–, una vez conquistada la libertad, son normalmente excluidos del legítimo disfrute de sus beneficios. La interpelación de aquella libertad abstracta por esta conquista de la libertad concreta, aporta a la construcción de libertad no solo en nuestra América, sino en el mundo todo. No se trata de reeditar el universalismo falso o abstracto del eurocentrismo, ahora como americanocentrismo. (p. 399)

La construcción de alternativas de poder de libertad y justicia social en los pueblos latinoamericanos ha estado orgánicamente vinculada a la elaboración de propuestas de integración de estos, lo cual se ha complicado algo más en estos tiempos de globalización.

Desde la época de las luchas independentistas, cuyos próceres las consideraban una necesidad inminente ante los peligros de invasión por los imperios coloniales, o por las nuevas formas de injerencia que trataba de justificar la Doctrina Monroe, hasta las más recientes pretensiones de dominación, como el fracasado ALCA, el pensamiento y la praxis política en Latinoamérica se han visto obligados a proponer formas propias de integración regional, como CARICOM, MERCUSUR, SICA, ALBA, Alianza del Pacífico, etc., y otras de mayor amplitud, como UNASUR y la CELAC, que han excluido la participación de los Estados Unidos de América, independientemente de que algunos gobernantes de los países que han integrado tales instituciones no hayan aprobado tal exclusión muy a su gusto.

Una prueba fehaciente de que a las grandes transnacionales —dada su raigambre apátrida no les importa mucho el beneficio que pueda tener en sus respectivos países la inversión de sus capitales, sino dónde resultan más rentables, apoyadas por los respectivos gobiernos de los países capitalistas desarrollados— no les agradan mucho los procesos integracionistas es que siempre han tratado de boicotearlos apelando a la vieja consigna imperial romana de divide y vencerás. No solo han tratado de obstaculizar la integración de los países latinoamericanos, sino que han promovido la fragmentación de algunos de ellos, como en el caso de independizar la zona más agrícola del sur de Bolivia, la llamada Media Luna en Santa Cruz, o la petrolífera del Zulia en Venezuela.

En la historia reciente de Latinoamérica se ha demostrado que los procesos integracionistas desarrollados, aunque limitados, han tenido un impacto favorable al enriquecer los espacios de poder de libertad y justicia social en los pueblos respectivos que los componen, y permitir, además de los intercambios comerciales, la colaboración en políticas públicas de salud, educación, turismo, etc. Se puede inferir entonces la validez de la ecuación: a mayor integración multilateral, mejores posibilidades de favorecer de manera más eficiente a los pueblos que establecen dichos nexos, y su impacto es inversamente proporcional a los intereses de dominación de las empresas transnacionales. Por supuesto que eso no significa que se trastoque radicalmente el capitalismo en los países que se integran, pero al menos este se desarrolla de una forma algo menos salvaje y ecocida, en comparación con lo que promueven las políticas neoliberales.

El pensamiento político latinoamericano, a partir de las experiencias más recientes de diversos movimientos sociales de indígenas, afrodescendientes, mujeres, comunidades LGTB, además de los tradicionales sindicatos y el incremento del papel de las organizaciones no gubernamentales en las luchas por mayores espacios de poder en la sociedad civil, ha contribuido a proponer alternativas para incrementar los grados de libertad y justicia social dentro y fuera del Estado.

Algunas de tales experiencias y propuestas teóricas pueden resultar válidas tanto para el ámbito político latinoamericano como de otras latitudes, pues, en definitiva, las elaboraciones teóricas de los grandes pensadores no han emergido de sus cabezas, sino de la realidad. Tal es el caso de Hegel, que elaboró una filosofía de la historia no a partir de una autogénesis de sus propias ideas, por brillantes que estas hayan sido, sino del análisis de experiencias históricas reales de la humanidad desde la antigüedad hasta su época. Hegel sostenía que cada filosofía era la expresión de su época manifestada en conceptos, y la de él no constituye una excepción, del mismo modo que la de los pensadores latinoamericanos.

El desafío actual para los que cultivan la filosofía política en cualquier país consiste en no dejarse engañar creyendo que todas sus propuestas teóricas han fluido de su intelecto, cuando en verdad son el resultado de sus análisis y valoración de sus respectivas históricas circunstancias sociales y políticas.

Conclusiones

El pensamiento político latinoamericano ha desempeñado un papel protagónico en la elaboración de alternativas de espacios de poder de libertad y justicia social que han resultado útiles no solo para los países de esta región, sino para quienes en otras latitudes han estado atentos a las instrumentaciones prácticas de sus propuestas desde la época colonial hasta nuestros días. En cada época las alternativas de libertad y justicia social han sido diferentes, pero sus proponentes han estado motivados por similares auténticas ideas de humanismo práctico.

También, en el caso de este continente no resulta totalmente válida la tesis según la cual los filósofos solo se han dedicado a interpretar el mundo, pues, en verdad, al igual que en otras épocas, la mayor parte de los pensadores latinoamericanos no se han limitado a elaborar teorías, sino que han hecho todo lo posible por hacerlas realidad, e incluso algunos de ellos han sido reprimidos y hasta han perdido la vida en tal empeño.

Entre las expresiones precursoras de alternativas de poder de libertad y justicia social en la historia del pensamiento político deben ser incluidas las de algunos pueblos originarios, especialmente de las civilizaciones más avanzadas, pues si tenían instituciones políticas, como reconocieron los primeros cronistas españoles, lógicamente estas debían haber estado avaladas por ideas políticas. Del mismo modo, si hubo insurrecciones de unos pueblos dominados por incas, aztecas, etc., se debe presuponer que se fundamentaban en criterios de libertad y justicia social, aunque no tuviesen una fundamentación teórica elaborada.

Durante el proceso de la conquista y colonización de América se elaboraron propuestas de poder y criterios de libertad y justicia social fundamentalmente por parte de algunos sacerdotes protectores de los indígenas. Sus insurrecciones, así como las de esclavos de origen africano, constituyen otras muestras constatables de similares pretensiones. Posteriormente estas se incrementarían con las protestas de los criollos ante las arbitrariedades de la monarquía que limitaban sus libertades. Tal situación llevó a que pensadores ilustrados elaboraran ideas políticas contestatarias y emancipadoras que

constituirían el fermento esencial del proceso independentista. Precursores y próceres del mismo no solo elaboraron un pensamiento político bien estructurado orientado a alcanzar libertad y justicia social, sino que lo pusieron en práctica exitosamente, lo que hizo que fueran admirados hasta el presente por pueblos de otras latitudes. De tal modo, esas ideas forman parte genuina del pensamiento político universal.

La vida republicana evidenció que muchas de las propuestas emancipadoras de los líderes independentistas, como la abolición de la esclavitud y la reivindicación de los derechos de los pueblos originarios, esencialmente a sus tierras, fueron ignoradas. Este hecho se convirtió en caldo de cultivo favorable para nuevas explosiones sociales e insurrecciones frente a los nuevos poderes oligárquicos establecidos, así como para procesos revolucionarios de mayor magnitud hasta tiempos recientes.

Producto de las insatisfacciones con lo logrado —fundamentalmente en lo referido a la justicia social— durante el establecimiento de la vida republicana emergerían nuevas generaciones intelectuales y políticas que irían elaborando un pensamiento cada vez más contestatario y emancipador en correspondencia con la tradición del humanismo práctico característico de lo mejor del ideario latinoamericano. A lo anterior se añade el pensamiento liberal y antimperialista —que en algunos casos confluyó con el de orientación socialista— que se iría conformando frente a las oligarquías conservadoras y como reacción ante las intervenciones militares y otros tipos de injerencia yanqui. Tales expresiones patrióticas de nuevo tipo —pues el concepto de patria cambiaría de manera radical al abandonar su referencia a España y Portugal de la época colonial—, al corresponderse de manera auténtica con las nuevas circunstancias latinoamericanas, han ido formando parte de la mejor herencia del pensamiento político universal, como lo han reconocido cada vez más investigadores de otros continentes.

Desde mediados del pasado siglo xx hasta el presente, el pensamiento político latinoamericano se ha enriquecido notablemente tanto con el análisis de procesos revolucionarios —unos exitosos y otros fracasados—, además de distintas formas de populismo, reformismo, nacionalismos, antimperialismo e integracionismo. También ha sido prolífico al estudiar el protagonismo creciente de diversos movimientos sociales y diferentes expresiones de lucha, desde la armada hasta las electorales, frente a dictaduras fascistas, políticas neoliberales y ecocidas, así como el poder de las transnacionales y el poder ideológico manipulador de los medios masivos de comunicación. De manera que ante esa constelación de nuevas expresiones —solapadas en ocasiones y otras, abiertas— de lucha de clases, y tras ensayos fracasados y exitosos de transformaciones sociales favorecedoras de los sectores populares, se ha incrementado la germinación de nuevas teorías contrahe-

gemónicas, las cuales han sido y continúan siendo objeto de atención por parte de líderes sociales e intelectuales de todo el orbe. Si América Latina se ha convertido en un extraordinario laboratorio de prácticas políticas de todo tipo, no es de extrañar que de ella hayan emergido tantas corrientes de pensamiento no siempre confluyentes, pero todas con propuestas de alternativas de poder de libertad y justicia social.

Tal vez Hegel no tenía toda la razón cuando afirmaba que América sería la tierra del porvenir, aunque en su eurocéntrica perspectiva se refería básicamente a Norteamérica. Pero al menos se debe reconocer que, en lo que corresponde a Latinoamérica, mucho se ha logrado por la labor de ideólogos y líderes sociales en la elaboración teórica y práctica de alternativas de poder de libertad y justicia social. Ellos, a diferencia del filósofo alemán —quien planteaba que la realidad en su condición de inferioridad ha de tratar de corresponderse con la superioridad de la idea—, han tratado, al igual que Marx, de que sus ideas se correspondan primero con la realidad, esto es, el contexto histórico, socioeconómico, político y cultural latinoamericano, para luego, con nuevas propuestas de libertad y justicia social, intentar que la realidad se aproxime a sus ideas.

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Mudar Kassis is a faculty member at the Department of Philosophy and Cultural Studies at Birzeit University (Palestine). He currently serves as director of Muwatin Institute for Democracy and Human Rights. His current research interests are embedded in the tradition of praxis and include democratisation, decolonisation, the concept of dignity, the everyday, research ethics, political corruption, and populism. His most recent publication: (with Reem Bahdi) Mastery and Gratitude: Development Aid & The Colonial Condition in Palestine. In S. Xavier et al. (Eds.), *Decolonizing Law: Indigenous, Third World and Settler Perspectives*. Routledge. 2021.
Contact: mkassis@birzeit.edu

THE FUTURE OF HUMAN RIGHTS AND THE HUMAN RIGHT TO A FUTURE IN PALESTINE[1]

Mudar Kassis
Birzeit University

Abstract

Reflecting on the Palestinian experience, this article discusses the requirements of ensuring a development of human rights that exceeds the growth of their abuse allowing them to play a role in reshaping the world through fostering emancipatory processes. It looks at the human rights system in the current global context, the caveats of human rights, their limitations, potential in their historic context, current conditions, and their perspectives concerning enabling emancipation. The article makes the claim that sufficient basis exists in the human rights concepts, system, and history to overcome the current limitations and counter their battering through their further development on a basis of human solidarity. Such a transformation can warrant a future for human rights in Palestine.

Keywords

Palestine, Human Rights, Emancipation.

Introduction

The crisis, which the COVID-19 pandemic unmasked, poses a serious threat of fascism beyond the pandemic. We are already witnessing the contestation over the future between two forces: those of radicalising the neoliberal oligarchy through securitisation and 'collectivisation' (Kadirgamar, 2017); and those of socialism. As David Harvey (2020) put it:

> If the only policies that will work are socialist, then the ruling oligarchy will doubtless move to ensure they be national socialist rather than people socialist. The task of anti-capitalist politics is to prevent this from happening.

Is there room for a transformed human rights protection system in the struggle for the prevention of fascism? and what kind of transformation is required for the fulfilment of this task? After more than seven decades since the adoption of the Universal Declaration of Human Rights (UDHR) there are continuing gross violations of all sorts of rights at local and global levels. This situation prevails in spite of the vast and significant developments and efforts that were made in the past half century in the field of human rights protection. Recognising these efforts in view of the violations raises the question about the tacit reasons behind the inability of human rights defenders to achieve a better situation concerning the respect of human rights. More importantly, it raises the question about the future possibilities of respecting and protecting human rights. Reframing this question into an optimistic inquiry will transform it into one about the requirements of ensuring a broadening and deepening of human rights that exceed the growth of their abuse, and enable them to become an element in the endeavour to achieve an order where freedom meets necessity. Achieving such an order requires embracing "precisely those aspects of the socialist/communist ideal that allow a theory and practice radical enough to address the urgent needs of the present, while also not losing sight of the needs of the future." (Foster, 2020) This can as well realise the call to "approach human rights practically, not as the application of an independent philosophical idea to the international realm, but as a political doctrine constructed to play a certain role in global political life" (Beitz, 2009, pp. 48-9), and realise their critical capacity (p. 78).

The assumption behind this discussion is that there are two possible versions of human rights: the version that has been promoted widely and abused in the neoliberal framework; and an emancipatory version that aspires to ensure human dignity under-

stood as a necessary attribute of human/social life, and does not deviate from freedom equally to all, the potential of which exists in the ideal concept of human rights. This second version does have a history. It was utilised by the Global South's emancipatory undertaking during the four decades after the end of the WWII, and in the struggles for civil liberties and equality in the Global North. After a relative pose that lasted for three decades (overwhelmed by the first version), one can sense the second version in the wave of Arab Revolutions that erupted in late 2010 and in such movements as Black Lives Matter.

This article will discuss the requirements of an emancipatory human rights system by reflecting on the Palestinian experience. Being an extreme case of political change and reconstruction, suffering colonial, post-colonial, neo-colonial, and neoliberal impacts and conditionality, in addition to enlarged dosed of class, gender, and ethnic repression, and benefiting [suffering] from extensive international intervention and aid[2], the Palestinian experience can serve as a blueprint of the contemporary reality. In particular, the higher degree of fragility and exposure, the lower threshold of resistance to external pressure, and the combined existence of external and internal conflict situations, typical to the Global South, make Palestine a suitable example to investigate the above-mentioned questions.

In addition, in Palestine, there are at least three more important factors in the "de-railing" of human rights form the protection of rights, and in ensuring that the system of rights does not provide self-determination, not to mention equality. The first is that Palestine and the rights of Palestinians, as humble as they are designated by international law, were belligerently discarded and their formulation was systematically altered in the framework of the attempts to re-write international law after the emergence of the unipolar world order - a process in which Israel has played a pioneering role (Halper & Reifer, 2017). The second is the utility of settlement activity for the transition to neoliberal economic models through the investment in "settler real estate", the major plans for which were set in the late seventies of the twentieth century.[3] In addition to the rent-seeking settler enterprise, the occupied territories were found to be instrumental as a testing ground and a showroom for the development and sales of security technology.[4] The third factor is constituted by the widely exerted efforts to de-platform

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2. For a discussion of how aid replaces legal obligations and acts as "mastery", see: Bahdi & Kassis, *Mastery and Gratitude: Development Aid & The Colonial Condition in Palestine*, 2021.
3. See the World Zionist Organization's Master Plan for the Development of Settlement in Judea and Samaria (1979-1983), by Matityahu Drobles (United Nations, 1979).
4. "No other country in the world specializes in homeland security products, such as surveillance equipment and riot gear,

any critique of Israel or peaceful resistance to it through delegitimising them by wrongly equivocating them to antisemitism and hate speech and using existing or lobbying for new legislation (Bahdi, 2020) – a pioneering effort in limiting the limited freedoms that exist in the liberal order, that might hinder the neoliberal endeavour.

Over the past quarter century, there was an opportunity to restructure almost every single aspect of life in Palestine. A new regime emerged (The Palestinian Authority). Donors invested in the country to the extent that Palestine became a prime per capita recipient of donor funds. Legislators issued a colossal number of new laws including three different versions of the basic law and four versions of the elections law. Nonetheless, today, after this relatively prolonged period of intensive "peace making" and "state-building" along with dozens of billions of dollars in international aid, and numerous peace and prosperity initiatives, the Palestinians have two (pseudo) governments under occupation (dis) functioning in a fully blown colonial situation. This situation evidences itself in a multiplicity of aspects: war acts of large scale evidently including serious war crimes; borders controlled by Israel; territory turned either into a besieged ghetto or into Bantustans; movement blocked; economy dependant and stagnating due to intolerable restrictions; extra-judicial arrests by three different governments controlling a small nation; targeted assassinations; humiliation; embargo on the besieged ghetto (the Gaza Strip); a wall; poverty; bad education; growing political and domestic violence …etc. These were all topped up by the Trump initiative labelled as "Peace to Prosperity", also known as "The Deal of the Century".

For an illustration of the situation consider the following: you temporarily give up your right to seek the application of your basic right to self-determination in order to gain a possible (limited) support to other rights such as the freedom of expression (does not include the right to criticize Israel! Since such criticism will be seen as (anti-emetic) incitement). The freedom of expression is rendered not effective because of the weakness of the central authority due to clientelism, and due to the dualism of power resulting from a situation where Israel has a de-facto veto on any step taken by the Palestinian Authority. Hence, the authority is delegitimised since it is perceived as a servant to colonial and neo-colonial agendas.

This illustration, although quite true, is misleading. If this, and only this, was the case, it would have been impossible to explain the support to this process by the

more than Israel." (Hever, 2018, p. 134) "The "need to pursue an aggressive security politics is what thrusts Israel into wide-ranging global involvement unusual for such a small country. Without an Occupation, Israel would have neither the drive nor the conditions by which to develop, deploy, test and export world-class weaponry and models of control." (Halper, 2015, p. 36).

Palestinians at its initial stages in 1993 for a period that lasted around seven years, and revived for a few more years (after a brake) in the form of electing President Mahmoud Abbas in 2005. Such support reflects the [worst, unspoken] part of the deal: The trade-off was not between the right to self-determination on one hand and limited civil rights and some political rights on the other. What was at stake was the right to life. Since the colonial condition is a condition of perpetual war, peace meant, amongst other things, (hopefully) an end to random continuous daily threats to life. The Oslo process was a deal to trade off "let colonise" with "let live", but it did not work out even as a temporary remedy. One of the reasons for the failure of this deal was that the much needed (and highly present) international support to the process (and is attributes) focused on other issues dictated by the "post-cold war" globalized and "securitised" agenda. What was sacrificed for "security" in this equation was the meaning of the right to life: while as a human rights concept it entailed a certain quality to life, generally expressed in the principle of respect of human dignity, in Palestine, it was treated, to a major extent, merely as a "right to exist in order to consume". The unipolar order has created a discourse (including a human rights discourse) that "makes other valuable, often more valuable, emancipatory strategies less available." (Kennedy, 2002, p. 108)

The Palestinian experience shows that the attempt to solve problems of colonial nature without emancipation, but rather with the transposition of liberation into market freedom and economic liberalisation, tends to create subjugation and warlords rather than sovereignty and prosperity. The rule of law becomes a slogan designating either ruling by law (when feasible), or simply regulating with disregard to rights and law. It is worth considering that the market led entrepreneurial trends within the liberation movements empower nationalist (or other sectarian) tendencies that are expressed through racist separatist trends in the resistance movement and beyond. The combination of free market and war creates two complementary types of warlords: those who gain financial and political power and status through supplying the heroes of their national resistance movement with arms; and those who garner lucrative status, positions, and opportunities, including a much wider range of legal or legalised business opportunities, in exchange for supressing resistance!

These failures, transpositions, and drawbacks take place in an "enabling" global environment. We live in the era of the destruction of human achievements that were attained through the struggles and sacrifices accompanied by devastations and catastrophic acts including two world wars in the twentieth century. Modernity has

reached its peak a while ago, and is now forced to consume itself, and become bare, exposing a long veiled ugliness, and necessitates the viciousness of its godfathers and embalmers. The idea of perpetual peace was in effect transposed into a notion of perpetual conflict. While in the past Empires were imperialist, now imperialists are eager to reconstitute empires. Consider a couple of president Trump's actions: In 2018, he pulled out of the Treaty of Amity and from the protocol involving the ICJ in order to avoid a case filed against his country by Iran. In 2019, he withdrew from the optional amendment protocol concerning the compulsory settlement of disputes of The Vienna Convention on Diplomatic Relations of 1961 to avoid a possible decision by the International Court of Justice in a case filed by The State of Palestine regarding moving the American Embassy in Israel to Jerusalem. Such an act of withdrawal, which might seem as a symbolic diplomatic victory for the Palestinians, has abundant significance demonstrating the urge of an imperial power to stop masquerading in the apparels of international law after the wear of these apparels, which were used as a bridle to ensure that international law contributes to the interests of the powerful. Palestinians witnessed this repeatedly in the form of dual standards, which in essence condition right on might, and undermine the modest limitations that international law sets on might. Empires do not accept limitations to their might.

The picture that emerges in an internationally supported post-colonial state [imitation] is characterized by the lack of popular legitimacy; the failure to balance the negative social impacts of liberalization due to the lacking of a safety net for the poor and the vulnerable; disharmony between the legal (both national and international) and the political; and the de-politicisation of emancipatory tools (including human rights). Such characteristics cannot serve as an enabling environment for the respect and protection of human rights, not to mention their development.

This introduction is not a pessimistic prelude about the immanence of the symptom, nor an optimistic overture declaring the certainty of our ability to eradicate the abuse of human rights and infringement on them. It is rather a statement of the incompatibility of human rights with the current order. Human rights cannot be protected in the shadow of a disregard of rights, and of the law, which must serve as a tool for their protection, not the impunity of their perpetrators. Such incompatibility necessitates the adoption of transformative principles instead of amelioration techniques.

The Condition and Context of Human Rights Protection

The process of wear and tear of international law is not novel. Over the last seven decades, it has been taking place at various paces in different regimes and various historical segments. As early as the time of the drafting of the UDHR the representative of, then apartheid, South Africa voiced the reservation against attributing dignity to all human beings. Israel has a long record of escalating, continuous, and systematic attack on the United Nations and its system. The United States of America recently enacted legislation that undermines the sovereignty of other states, and declared multiple withdrawals from international treaties. Russia, while using techniques that are opposite to those by USA, is achieving similar impact. These are some examples of the challenges that international law faces all the time. It is noticeable that attacks on international law did not come from those who were subjected to UN sanctions like Iran, or Iraq (during Saddam Husein's rule), or by North Korea, as it seems none of these regimes felt like a lion practicing the law of the jungle. The attacks came from those who feel capable of presenting (and marketing) a replacement set!

The battering of international law and its instruments is not only realised by withdrawing form conventions or joining them, but there is an assault on the content and the rationale of international law. For example, what was perceived three decades ago as an established right (even if it was not adhered to or implemented) is now a conditioned right. It is treated as a commodity, which persons or nations become eligible to benefit from, through a process of accepting a barter consisting of adopting a certain political behaviour as a necessary "down payment" to be able to benefit from a right. Such barters in international relations take the form of a war sometimes, diplomacy in other instances, humanitarian aid on occasion, and economic aid frequently. Take the example of the right of the Palestinians to self-determination, which became conditioned on their peacefulness, or actually, on giving up resistance (there are attempts to criminalise even the call to boycott Israel), by agreeing to negotiate with their occupier outside the platform of international law, and by succumbing to external conditionality. Even the right of children to attend a school became contingent on the Palestinian acceptance of a "deal" that ignores, in principle, the concept of rights, although these rights were deemed a couple of decades ago as inalienable. Trump's "Peace to Prosperity" self-declares that it "is intended to maximise self-determination, while taking all relevant factors into account" (*Peace to Prosperity: A Vision to Improve the Lives of Palestinian and Israeli People*, 2020, p. 8), explicitly limiting the

significance and potential practice of self-determination to become external-determination by hegemonic actors.

The pounding of human rights and international law is not novel. The first serious attempts to enact the protection of human rights were embedded in the inauguration of the two covenants, which were designed as tools in the service of cold war competitions, each serving what one of the two camps claimed to be their ideals. The more celebrated of the two covenants (which, also turned out to be more effective) masquerades behind individual rights. The second is neglected, as it mainly deals with those problems that started to become exacerbated in the same period when the two covenants were signed (in the mid-seventies of the twentieth century). Ignoring and side-lining the International Covenant on Economic, Social and Cultural Rights is, in essence, a declaration that the "necessary" (freedom and equality) is "not necessary" (because it is not attainable)! This period witnessed the emergence of Thatcherism, Reganism, and the capitalist transformations of China led by the Chinese Communist Party, i.e. the emergence of the neoliberal era. As Samuel Moyn put it, "human rights surged as a new political economy triumphed." (2018, p. 2) The new syndrome is that the adolescence of this era, and its necessary eventual impact on the fall of modernity, necessitated removing the mask of abiding by international law, and thus, exposing the true aggressive nature of its perpetrators.

While agendas baring the titles of human rights promotion, democratisation, the rule of law, and the like, have objective basis, and are vital to securing a fully-fledged self-determination process (the ultimate human rights principle), they are frequently colonially conditioned and embed in themselves connotations that are averse to self-determination. "Human rights is increasingly seen as the language of a moral imperialism just as ruthless and just as self-deceived as the colonial hubris of yesteryear" (Ignatieff, 2003, p. 299).

The Caveats of the Human Rights System

The impunity of assailants on international law and the corresponding lack of immunity of international law needs to be seen in its historical context. The adoption of the UDHR in 1948 represented an unprecedented milestone in the development of a set of principles that recognise equality and dignity, establish freedom and justice, and require states to ensure the conditions necessary for the full realization of those principles.

The UDHR formed the cornerstone of a global movement to recognize human rights, protect human dignity, defend freedoms, and safeguard human lives. It constituted a ground for emancipatory struggles, including those related to self-determination, women, minorities, workers, prisoners of consciousness, and other oppressed people. The UDHR also played a central role in the development of vital milestones in the Global South's quest for self-determination and independence, including, inter alia, The Bandung Conference (1955), the creation of The Non-Aligned Movement (1961), and the Tehran Conference on Human Rights (1968).

At the same time, the UDHR displayed the shortcomings characteristic of international treaties drafted during the colonial era. Major powers, in the aftermath of WWII, had a disproportionate impact on the UDHR's drafting. Only 58 states were members of the United Nations (UN) when the vote to adopt the UDHR took place in the General Assembly; consequently, more than two thirds of the countries that are members of the UN today did not participate in the UDHR's creation (not to mention non-member states, such as Palestine). Even if we dismiss this fact, on the grounds that this was not intentional, the fact is that these powers now acting under the chic name "the will of the international community" held (and still hold) in their hands the interpretation, realization, inactivation, and prioritization of the declaration and the human rights system, which emerged subsequent to it. Colonial era concepts such as "universal respect," "social progress," "nationality," "a person before the law," "national tribunals," "rights granted by the constitution," "security of person," "periodic and genuine elections," and "a democratic society" are used throughout the UDHR, reflecting its status as an instrument of modernization and its pedigree as an "enlightenment" project. Such concepts are not representative of the world population. Rather, they assume that all people must "live up" to the model of the nation-state and the value system accompanying it. The language of the UDHR, moreover, reflects a liberal ideology that exaggerates the role and place of the individual, reflects the balance of powers which existed at the time of it drafting and inception, and assumes the validity of modernist structures and values for the world. In essence, as Oscar Correas Vázquez stipulates, "Third World countries have human rights that First World countries define." (Trigo, 2017, p. 269)

Third World countries, along with several liberation movements that had not yet formed states, had to struggle for the "real universality" in the UDHR's substance, tenor, meaning, and effect. They had to struggle for focusing the UDHR's impact on achieving liberty and completing the processes of decolonization. This struggle took place despite their formation in the neo-colonial era; their adoption and endorsement of international

law systems; the enormous differences in the political and ideological standings of these countries and their movements; and their asymmetrical alignments with the two poles of the Cold War. For some four decades, Third World countries worked to develop the principles of the UDHR to reflect the right of peoples to self-determination and the right to resist both colonialism and neo-colonialism. They also worked to associate themselves with other principles of international law such as sovereignty, formal equality between states, and economic development. Their efforts occurred primarily under the umbrella of resistance and decolonization projects, and managed to "democratise" international law in general and human rights in particular.

These efforts, as well as the emerging force of anti-colonial alliances that were led by the Non-Aligned Movement, have contributed, for example, to keeping the Palestinian cause a viable emancipatory project that drew worldwide diplomatic, political, and military support. This support helped establish a platform for the continuation of hope, an important factor in the steadfastness of the Palestinian people. In a way, these attempts to democratise the world order can be seen as trying to concretise the abstract universality of rights set in the UDHR, or overcome the dominance of the imperial values that the declaration reflected.

Recent transformations in the application of international law, and the implicit limitation of human rights for the benefit of securitisation and corporatisation are rendering them ineffective from the perspective of their emancipatory utility. In this framework, the closer the Palestinians reach out to international law and its instruments, the further this law and instruments get from being able to serve their emancipation endeavours. Nonetheless, solidarity forces that insist on anti-colonial emancipation remain one of the most important pillars of support for the recognition and fulfilment of Palestinian rights, but international law is losing its capacity to serve as a ground for solidarity.

As stipulated, the above-mentioned transformations date to the mid-seventies of the twentieth century, but they were mainly serving the cold war agendas. The collapse of one of the two parties on the cold war front in the last decade of the twentieth century led to several developments including, inter alia, the emergence of the unipolar world, the rise of international terrorism, the decline of the Non-Aligned Movement and its countries, and the emergence of the "new world order". In this new global context, struggle for the "universalization of universal concepts" became difficult. Endeavours to develop rights in line with the interests of the people of the Global South were practically halted and replaced by new schemes whose pretentions included the facilitation of a "postmodern" global village.

New mechanisms have emerged to regulate the meanings, interpretations, and applications of international legal principles, including those set forth in the UDHR. Distinct from the practices of national sovereignty, these new mechanisms have become an expression of unipolar hegemony over international relations and conventions. The change in regulation is so convoluted that a range of tools, originally central to the system and indicative of it - such as the concepts of international consensus and international law - have been frequently ignored and replaced by new terms or jargon such as the "will of the international community". Such new terminology reflects the acceptance of the transformation of the world order into a regime of "might makes right". Chomsky and others observe that the words "international community" really mean the "United States joined by some allies and clients," and the media that expresses them. (Chomsky, 2009)

In the era of globalized neoliberalism, human rights have become more intensively and extensively violated, and more difficult to defend. States have left or have been forced to abdicate their traditional role of protecting their citizens and the organization of their lives to the private sector. This has allowed transnational corporations to take custody over peoples' rights, partially replacing the role of states with arrangements such as "corporate social responsibility". "The human rights revolution of our time is bound up with a global concern for 'wretched of the earth,' but not in the egalitarian sense that the socialist and postcolonial promoters of that [post WWII] phase originally meant." (Moyn, 2018, p. 8)

Despite persistent attempts to find ways to protect human rights, the limitations of these efforts are demonstrated, at least for the last three decades, by the lack of progress in fighting poverty, environmental problems, wars, other inequalities, and the absence of protecting human dignity and the right to live. The fiasco of the current world order in dealing with COVID-19 pandemic is probably the ultimate demonstration of the failure to protect the most basic of rights – life. The neoliberal system has been signalling the decreasing chances of achieving human rights, and it seems to be delivering its closing remarks with the pandemic crisis, the growth of populism, and the approaching ghost of fascism. It also demonstrates significant tendencies to transpose obligations to protect into charity and intervention trough aid, humanitarian aid, and through the development of new conceptual grounds for external and internal discrimination as fragility, and identity accordingly.

In the case of Palestine, the application of international law and human rights standards used to describe the process of national liberation have undergone many transfor-

mations, including the de-legitimisation, and criminalisation of an ever growing range of resistance acts that are legitimate under international law, including describing them as "acts of terrorism". The right of the Palestinian people to self-determination is conditioned by the consent of the occupying power in prevailing international discourse, including at the UN. State obligations have been transformed from legal duties to charity, often presented in the form of aid, which is increasingly subject to conditions contrary to the will of the Palestinian people, and amount to the abandonment of inherent and inalienable rights.

Many years of oppression, displacement, and occupation have prevented the Palestinian society from normal development, caused its deformation, and produced a set of distorted priorities. As a result, social and economic rights are virtually ignored and political divisions consume energy. People living under occupation are left suffering from escalating unemployment, poverty, and deprivation. This is a people engaged in the struggle for national liberation, whose forces have been exhausted in internal conflict. Today, the situation in Palestine is characterized by corruption and fragmentation. The chances that the Palestinian people will exercise their right to self-determination, see the return of their refugees, realize human rights and freedoms, and establish a state are grimmer today than in the past. In other words, the deterioration of freedoms, the de-development, unemployment, and poverty, are a natural escort to the denial of rights.

The Potential of Human Rights

The struggle between the two "versions" of human rights has, thus far lost to the first version, which Samuel Moyn (2018) calls the "subsistence minimum" (, p. 6) imperative. This minimum is currently only an unrealised aspiration that is adopted widely by human rights activists, but even achieving this minimum will not salvage humanity from the evils of inequality. In addition, the vast polarisation under the neoliberal order that reached striking levels is still incomparable with the polarisation of the colonial order. Furthermore, maintaining this polarisation further shall entail a transformation towards more oppressive totalitarian neoliberal political powers with a fascist threat. The struggle against such a future should, of course, be multifaceted, but an egalitarian human rights doctrine should be an essential and central component of it.

The two versions of human rights have generated two distinct narratives. While they can be seen as two faces of a single coin, the coin cannot maintain its value with one face. The two narratives are pretty much resembled in the two covenants of human rights. The first narrative is that of the drafters/authors of the UDHR, and of the context in which it was drafted, and what can be deduced about their intentions in any critical historical reading of the document and its drafting process. While voting for the UDHR, black Americans were still banned from sitting in the front side of a bus, and had to give up their seats for white Americans. There are no illusions concerning the intentions of the states adopting the rhetoric of human rights defence. There are numerous indicators that it was intended for "others", and did not reflect the actual intentions of the majority of states partaking the drafting and adoption processes.

The second narrative is, in part, that, which is known to a good extent in Palestine. The UDHR and subsequent documents played an important role in the recognition of the rights of those who suffer from foreign hegemony, stated the right to self-determination, and served (and still serves) as a vehicle for enacting international solidarity with the Palestinian people. It also provided clarity and defined the legality of the legitimate Palestinian national liberation struggle. In addition, it provided the legal formalization of the successes of this struggle, like the recognition of the right of the Palestinian people to self-determination as an inalienable right. Another part of the second narrative is related to the legalisation / legitimisation of such concepts like equality, and justice, including social justice. These concepts do not represent the mainstream ideology prevailing today (not the liberal, nor its recent newer neo-liberal version). Nevertheless, the human rights system, has definitely served as an inhibitor to the intentions of the powerful, whether they act as colonizers, exploiters, slave owners, or simply males who believe that their biological specifications grant them social superiority!

The current prevailing "liberal" paradigm of human rights is limited in application to territorialised national jurisdictions, centred on the individual, and conjoined with the market. It resembles the first abovementioned narrative, and contradicts the first statement in the preamble of the UDHR that stipulates the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" (United Nations General Assembly, 1949).

What is needed is the "equality" imperative (which also guarantees minimal subsistence). It adds an additional dimension to the principle of universality of human rights. To illustrate the difference, the "subsistence minimum" allows ideally, for the elevation

of the standard of living of people under colonial or neo-colonial regimes at the expense of colonized or neo-colonized peoples. The same is not possible under the "equality" imperative. Furthermore, the "equality" imperative should lead, eventually, to some form of equality between nations as well, and not stay limited to an internal national framework that is contradictory to the notion of equality in the first place.

Conclusion

There can be no doubt concerning the hypocrisy of those who voted for the UDHR, but there can also be no doubt concerning its usefulness for emancipatory projects in spite of the hypocrites and their colonial and neo-colonial projects. The impact of the UDHR does not emanate from its text, nor from the intentions of its drafters, or those who designate them. It emanates from our own protection of rights. No documents or international institutions can liberate us if emancipation is not our strategy, but they can be elements of our toolbox. The question is where and how these tools should be utilised in order to fulfil the functions that we designate for them.

Because the future is conditioned on achieving equality and solidarity, there is need to counterpoise current root causes of polarisation and fragmentation. Such a strategy requires the braking of the monopoly of the wealthy and powerful over international law. Antony Anghie demonstrated how "the Third World was intent on furthering the project … of separating international law from its colonial past and reconstructing an anticolonial international law that would serve the interests of the entire international community." (2007, p. 198) Today we need to undertake the project of separating international law from its neoliberal present.

"Human rights cannot be everything to everyone. There must be some basis for identifying the perspectives that support human rights protection and those that compromise it." (Pruce, 2019, p. 170) The celebration of human rights as the "lingua franca" of today as a particular "exclusive" language should end. What we need is a language that is globally coined, and belongs to all peoples. We should strive for a world that is free from exclusion and free from inequality. People should become the designers of rights and not only their recipient. The essence and the impact of the UDHR and its subsequent covenants, conventions, and decisions, is determined by what we do with these documents and not by what the documents do to us. Human rights do include principles that can serve as basis for transformation and tools for change. The "invocation of

the concept of human dignity, was, and is, explicitly transformative." There is evidence that it is the main principle that can "address the legacy of cruel and dehumanising regimes." (Evadne, 2007, p. 8)

Such a development in the human rights paradigm is possible, and should lead to re-orienting human rights practice away from the notions of charity like "legal aid", notions of reform like "lobbying" that in essence reproduce and foster the current system, and from market notions that substitute individuality for human particularity (Marx, 1987, p. 331), thus objectifying human subjectivity and transforming it into a commodity.

An egalitarian emancipatory human rights paradigm will facilitate and enable solidarity instead of charity, democratic choice rather than cosmetic reforms of monopolised politics, and personal and communal self-determination instead of a universalised individuality that comes at the price of sacrificing the rational human will. Under such a regime, the Palestinian aspiration for freedom and the practice of self-determination can be realised without having to make "painful concessions" that amount to sacrificing freedom and dignity. The freedom of the Palestinians will stop being conditioned on an external colonial will.

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Emmanuele Quarta is a PhD candidate at the University of Bari Aldo Moro. His main research interest lies in the field of geopolitics, with particular emphasis on the study of the relations between space, power, and identity in post-Soviet countries. He is an editorial board-member of Iconocrazia and his latest publications include "National Identity and the Perception of Geographical Space in Contemporary Russian Political Thought" (with Paolo Pizzolo, *Politics*, n.13, 2020) and "Nostalgia del nemico. Il ritorno della guerra fredda nelle serie TV" (with Sabino Di Chio), *Im@go*, no. 14, 2019).
Contact: emmanuele.quarta@uniba.it

PANDEMIC GEOPOLITICS: DISCUSSING GLOBALIZATION, BORDERS, AND SECURITY IN TIMES OF COVID-19[1]

Emmanuele Quarta
Università di Bari Aldo Moro

Abstract

The coronavirus pandemic has had a major impact on the political, social, and economic context in countries across the world. As it is known, the strategy adopted by the national governments of many of the countries to curb the spread of COVID-19 largely consisted in imposing severe restrictions on both international and intranational mobility. This paper analyses a) the spatial implications of this resurgence of borders against the background of the long-lasting borderless world discourse on globalization, and b) the use of a war-like metaphor to frame (and make sense of) the current situation. As an uneven and asymmetric process, globalization has affected the way borders are conceived, discursively constructed, and managed. The last two decades have seen a technological shift in the way borders —and cross-border mobility— are controlled, with much emphasis placed on the securitization discourse on borders as bulwarks against the negative effects of globalization, such as international terrorism, illegal immigration, and infectious diseases. In the current pandemic, it is argued, this has led to a proliferation of borders and bordering practices at different scales, either strengthening pre-existing borders or creating new ones altogether.

Keywords

COVID-19, borders, globalization, security.

Resumen

La pandemia de coronavirus ha tenido un gran impacto en el contexto político, social y económico de países de todo el mundo. Como es sabido, la estrategia adoptada por los gobiernos nacionales de muchos de los países para frenar la propagación del COVID-19 consistió en gran medida en imponer severas restricciones a la movilidad tanto internacional como intranacional. En este artículo se analizan a) las implicaciones espaciales de este resurgimiento de las fronteras en el contexto del prolongado discurso mundial sobre la globalización, y b) el uso de una metáfora bélica para enmarcar (y dar sentido) a la situación actual. Como proceso desigual y asimétrico, la globalización ha afectado a la forma de concebir, construir discursivamente y gestionar las fronteras. En las dos últimas décadas se ha producido un cambio tecnológico en la forma de controlar las fronteras —y la movilidad transfronteriza— y se ha hecho mucho hincapié en el discurso de la segurización de las fronteras como baluartes contra los efectos negativos de la globalización, como el terrorismo internacional, la inmigración ilegal y las enfermedades infecciosas. En la actual pandemia, se argumenta, esto ha llevado a una proliferación de fronteras y prácticas fronterizas a diferentes escalas, reforzando las fronteras preexistentes o creando otras nuevas.

Palabras clave

COVID-19, fronteras, globalización, seguridad.

Introduction

"Disease knows no borders", explains a fact sheet published in 2017 by the United States federal agency Centers for Disease Control and Prevention (CDC)[2]. Over the last two decades, the CDC —together with other national and international health organisations— has repeatedly warned the global public that a pandemic flu was "not a matter of *if*, but of *when*". As we now know, even though the current pandemic outbreak is not due to an influenza virus but to a new strain of coronavirus, their predictions were proved correct. From the city of Wuhan —the capital of Hubei Province, China, where the novel coronavirus was first identified in December 2019— the outbreak quickly began spreading globally. At the time of writing, the infection has passed the threshold of sixty-million cases worldwide over 218 countries and territories, many of which are now facing a second wave, while vaccine research is progressing at an accelerated pace in what has taken the form of a geopolitical competition between superpowers.

To be sure, there is little new about the diffusion of diseases throughout the world: human history is filled with examples of pandemics having spread across the globe, especially through international commerce. What appears new in the current situation is, instead, the context in which the COVID-19 pandemic is taking place: to put it in the words of the already-mentioned CDC 2017 fact sheet, "[i]n today's interconnected world, a disease threat anywhere is a disease threat everywhere". In our contemporary global village, viruses —like information— spread fast. Much like international terrorism and environmental change, thus, pandemics have taken the dimension of a global phenomenon and represent the "dark side of globalization" (Heine and Thaku, 2011, p. 4).

Referring to the emergence of international terrorism, Newman (2006) observed that "[i]t is a battle of globalization versus globalization, as those forces which have made borders more permeable and easier to cross are now manipulated by new forces which threaten the physical safety of innocent citizens" (p. 182). The same case can be made when discussing the COVID-19 pandemic, as studies show that more globalized countries have been affected "faster and with a larger impact" by the contagion (Zimmerman *et al.*, 2020, p. 1493). It has been convincingly argued that the events of September 11, 2001, have drastically changed our perception of globality. In Bauman's words, the attacks marked the "symbolic end to the Era of Space" and the simultaneous advent of the "planetary frontier-land" (Bauman, 2018): space —and control thereof—

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2. CDC Global Health Fact Sheet 2017. Retrieved from https://www.cdc.gov/globalhealth/resources/factsheets/pdf/CDC_Global-Health_Fact_Sheet.pdf

was once deeply intertwined with the concept of security[3]. The planetary frontier-land is, instead, characterized by a sense of "mutually assured vulnerability" (Bauman, 2018).

Much like national borders, the coronavirus pandemic —as a global phenomenon— has transcended the traditional boundaries between scientific fields of study as well, drawing interest from a wide range of disciplines and approaches. Social sciences have played a major role in the debate, as demonstrates the ever-growing number of journals dedicating special issues and calling for contributions on the political, economic, and social effects of the pandemic. Among other topics, much attention has been devoted to the impact COVID-19 might have on globalization, with scholars assessing the pandemic's potential de-globalizing aftereffects (Iwuoha & Jude-Iwuoha, 2020; Mas-Coma, Jones & Marty, 2020; Sforza & Steininger, 2020; Steger & James, 2020; Sułkowski, 2020). While the shifting nature of the object of study, as well as the speed at which the situation is evolving, call for a certain amount of prudence when confronting this subject matter, this paper aims at contributing to the ongoing debate by discussing the effects the COVID-19 pandemic had on both international and national —or intranational— borders in our globalizing world.

As it is known, the strategy adopted by the national governments of many of the countries affected by the contagion largely consisted in imposing severe restrictions on both international and intranational mobility. With the closure of national borders, international flights have been drastically reduced and only passengers returning home were allowed on board. Simultaneously, subnational administrative divisions —such as regions and cities— have been organized, hierarchized, and managed according to their infection rates and their level of risk: subsequently, borders that were once deemed scarcely relevant have now become significantly more important in our everyday geographical perception. Hence, as we familiarized with the idea of social distancing, terms such as "red zone" have quickly made their way into our daily lexicon. More or less effectively, mobile phones and GPS technology have been employed for keeping track of potential exposure to the infection. By April 2020, half of the world population — around 3.9 billion people around the globe— was on lockdown[4]. All these measures are

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3. Or, as observed by Ritaine (2009, p.16), «Dans l'ère de l'espace, le territoire et son éventuelle fortification étaient garants de la sécurité collective, et leur contrôle constituait une prérogative régalienne majeure, définissant le pouvoir politique : celui des anciens empires (muraille de Chine, mur d'Hadrien), celui des villes et seigneuries du Moyen Age (fortifications), celui des Etats modernes (lignes Maginot et ligne Siegfried), celui des blocs militaires transnationaux (mur de l'Atlantique, mur de Berlin). L'*intra-muros* définissait une appartenance politique et une sûreté collective. Cette ère de l'espace, depuis longtemps minée par la globalisation, s'est définitivement close avec les attentats du 11 septembre 2001 […] ».

4. Euronews – "Coronavirus: Half of humanity now on lockdown as 90 countries call for confinement" (02/04/2020). Retrieved from: https://www.euronews.com/2020/04/02/coronavirus-in-europe-spain-s-death-toll-hits-10-000-after-record-950-new-deaths-in-24-hou

strictly connected with the concept of *space* and control thereof, giving birth to a series of bordering practices that stretch from national borders to the individuals themselves.

Our main argument is twofold and can be summed up —in a somewhat paradoxical fashion— as follows: on the one hand, the fast-paced diffusion of the contagion has once again exposed the permeability and vulnerability of international borders to infectious diseases in our globalized, frontier-land world; on the other hand, attempts at containing the spread of the contagion have largely relied on a proliferation of bordering practices at different scales, either strengthening pre-existing borders or creating new ones. These policies, it is argued, can be framed within the more general securitization discourse on borders, which has gained in strength in many Western countries after the 9/11 attacks.

Therefore, in the first two sections of our paper we explore the relationship between borders and globalization by discussing —and, ultimately, contrasting— the borderless world discourse in the light of research carried out by scholars in the field of border studies. Globalization, it is argued, is often associated with the idea of a borderless world. This definition, however, fails to grasp the inherent unevenness of globalizing trends and the relevance borders still hold to this day. Then, we analyse the (geo) political discourse on security underpinning the symbolic relevance of borders. This discourse, which has been in many cases articulated around a warlike language, serves as both a rhetorical device to make sense of this relatively new and unknown threat, and as a means to gather political support for national governments. Lastly, we propose some elements of discussion of the spatial implications of the global pandemic, with a specific focus on the impact it had on borders and bordering practices alike in our globalizing world.

Globalization today: what remains of the borderless world discourse?

Like many terms that have enjoyed widespread popular success, globalization has spurred a broad range of (sometimes contrasting and sometimes overlapping) conceptual definitions. An accurate account of the evolution of this complex and contested concept throughout the last decades would exceed the scope of this paper; even so, for the sake of clarity, we shall briefly discuss two definitions of what the term 'globalization' indicates. On the one hand, globalization stands for "a multidimensional set of social

processes that create, multiply, stretch, and intensify worldwide social interdependencies and exchanges while at the same time fostering in people a growing awareness of deepening connections between the local and the distant" (Steger, 2003, p.13). It is, in our opinion, a satisfying definition as it conveys the complexity and multiplicity of the economic, political, social, and cultural processes underlying the mechanisms of today's global economy. On the other hand, globalization can be seen as a word that "evokes images of a world in which goods, services, capital, and information flow across seamless national borders" (Ceglowski, 1998, p. 17). This definition may lack the analytical quality of the first one, but —by highlighting the widespread belief of globalization as a process ultimately leading to a borderless world— it tells us a great deal about the powerful geopolitical imagination associated with this buzzword.

In the years following the end of Cold War, the borderless world discourse was, indeed, quite in vogue. With the demise of the Soviet Union, which served as the West's ideological Other —as well as with the disappearance of what was maybe the most tangible sign of Cold War-era bipolarity, that is, the Berlin Wall— the road towards the "end of history", along with that of other "endisms" as well, was seemingly clear, so much so that some commentators went as far as to claiming that the world was, in fact, becoming "flat", that "the global competitive playing field was being levelled" (Friedman, 2006, p. 9). Advocates and critics of globalization alike concur in that technological advancements, especially (but not exclusively) in the field of transportation and communications —combined with the capitalistic shift from Fordism towards flexible accumulation— have progressively reduced (if not annihilated) the relative distance between once faraway places, shrinking the world to the size of a "global village" or a "spaceship earth" (Harvey, 1989, p. 240). Globalization has, indeed, led to unprecedented opportunities of growth and global coordination in some places; it has, however, also brought along "all sorts of inequalities and asymmetries of wealth and power" (Sparke, 2013, p. XV) in others.

As such, globalization can hardly be considered an evenly-unfolding process: a map of our globalizing world would not be 'flat' —if anything, it would look 'spiky' (Florida, 2005, p. 48). Hence, highlighting the inherent unevenness and plurality of the processes underpinning globalization, Steger and James (2020) have introduced a new conceptual framework for globalization articulated around four principal "formations" of this phenomenon, and namely: a) *embodied globalization*, which refers to the physical mobility of bodies; b) *object-related globalization*, which includes goods, commodities, and currency, as well as industrial waste, green emissions, and viruses; c) *institutional-*

ly-related globalization, which refers to the global mobility of agents of states, INGOs, and so on; d) *disembodied globalization*, which mainly includes intangible things such as ideas, images, data, etc. (p. 194). Each of these formations operates simultaneously, although "their dynamics and limits can be enduring, emergent, residual, and dominant at different times and places" (p. 194). In other words, in a given historical context, some of these formations might prevail whereas others might lag behind: such is the case of the now-dominant prevalence of disembodied forms of globalization over the others, further accelerated by the global pandemic (which is, itself, the outcome of an object-related global flow).

These formations, thus, interact with each other: an object-related global by-product (that is, the new strain of coronavirus) has significantly affected the intensity of a disembodied form of globalization: the restrictions on physical mobility adopted by many national governments have led to a massive use of social media and telecommunications applications to fill the void created by social distancing measures. Due to the unevenness, asymmetricity, and multiplicity of the processes underlying globalization, as well as because of their contingent nature and the complex interplay between them, these phenomena produce —and reproduce— different effects at different scales and in different places.

Locating borders and security in a borderless world

Against the background of the borderless world discourse, at the same time when a general consensus around the belief that —with the end of Cold War— "the importance of states […] and international borders would be greatly diminished" (Diener and Hagen, 2009, p. 1197) was catching on in the public and academic debates, the field of border studies underwent a process of rejuvenation (Diener and Hagen, 2009, p. 1199; Newman, 2006, p. 172, Newman and Paasi, 1998, p. 190)[5]. Beginning from the 1990s, the traditional approach to the study of borders and boundaries —whose roots lay mostly in the fields of IR and political and physical geography— has increasingly opened up to contributions from a variety of other fields of study and approaches (Newman and Paasi, 1998, p. 191). Escaping the "territorial trap" which bonded statehood to territory and understood borders as mere 'lines in the sand' that

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5. As observed by Newman (2006), however, many scholars agree that the study of borders was reinvigorated "precisely because of the borderless world discourse" (p. 172).

demarcated the space of state sovereignty (Agnew, 1994, p. 59), border studies agenda has progressively moved toward an understanding of the multidimensional, contextual and contested nature of borders and boundaries (Newman and Paasi, 1998, p. 198). In other words, borders have not withered away in our contemporary world —they have changed. Hence, Balibar's (2002) well-known thesis that borders have become "*invisible* borders, situated everywhere and nowhere" (p. 78) aptly (albeit perhaps incompletely) sums up the understanding of contemporary borders as *decentred* and, at times, *outsourced*. In other words, the location of borders has increasingly shifted away from the geographical site of the *limes* and often "the act of bordering happens far away from the border itself" (Johnson and Jones, 2016, p. 2): in this sense, airports represent a good case in point of bordering practices taking place far from the geographical location of the border (Agnew, 2008, p. 184).

This, however, does not mean that national borders have become altogether irrelevant, nor that they are doomed to wither away any time soon. If anything, as it will be discussed, the current pandemic has further exacerbated a rather lively debate —both within academic circles and in national political arenas— on the issues of borders and security. While the impact globalization had on borders and boundaries can hardly be denied, ours can still be defined, indeed, as "a world of compartments and borders which may be more fluid and elastic, easier to cross, than in the past, but they are out there all the same, impacting upon the minutiae of our daily life practices, identities and affiliations" (Newman, 2006, p. 183). In other words, the "space of flows" and the "space of places" have long coexisted (and will likely continue to exist). Thus, instead of a process of deterritorialization of state authority, we are now witnessing a process of reterritorialization in which state borders have become "more complex and differentiated" than before (Popescu, 2012, pp. 27-28), with different formations of globalization operating simultaneously, although with different intensity (Steger & James, 2020, pp. 194-195). What appears to be most relevant to the ends of our discussion, however, is —despite (and, likely, *against*) the borderless world discourse we have discussed earlier in this text— how borders are still associated with the concept of security. Research on the effects of globalization on borders and bordering practices has sparked a wide range of security-based approaches to the topic, as will be discussed in the next section.

The securitization discourse on borders: evidence from the COVID-19 pandemic

In November 2015, one of the first measures taken by then-President François Hollande in the hours following the terrorist attacks in Paris was the suspension of the Schengen agreements and the subsequent reestablishment of national border control under provisions of the *état d'urgence*. Even though it had not been fully implemented —only "random controls at the most sensitive border points" were introduced (Lequesne, 2016, p. 310)— this decision is quite revealing of the symbolic meaning associated with borders (and control thereof), especially in times of crisis. The September 11 2001 attacks against the World Trade Center in New York played a major role in the way borders are commonly conceived nowadays, as they "shifted perception of fencing from the exclusionary and anachronistic imagery of the Berlin Wall to that of a modern and essential way to secure the future of civilisation and freedom" (Jones, 2011, p. 215).

Discussing the consequences of September 11 on border control in the United States, Amoore (2006) developed to concept of "biometric borders", that is, borders that

> […] extend the governing of mobility into domains that regulate multiple aspects of daily life. Subject to biopower, the crossing of a physical territorial border is only one border crossing in a limitless series of journeys that traverse and inscribe the boundaries of safe/dangerous, civil/uncivil, legitimate traveller/illegal migrant. (p. 338)

As such, in our global frontier, borders and boundaries define at one time a "space of security" and a "space of insecurity" (Ritaine, 2009, p. 29); in other words, they work as performative devices that separate the known (and, thus, safe) from the (inherently dangerous) unknown, simultaneously communicating and reproducing *security* and *risk*. Confronted with the speed at which the contagion progressed in the first months of 2020, most national governments have introduced restrictions to both international and intranational mobility in an effort to geographically contain the spread of an extraterritorial threat – the virus. It has been argued that the symbolic relevance of such measures may exceed their practical effects as "a microbial threat […] is inherently transnational in scope" (Enemark, 2009, p. 204), but, perhaps, their effectiveness lies precisely —al-

though not *exclusively*— in their symbolic meaning, that is, in the way produce a sense of "illusory comfort" (Popescu, 2012, p. 28) or, as Bauman (2002) highlighted, "in the frontier-lands, *fences* and stockades mark intentions rather than realities" (p. 83).

In this context, security —and, conversely, fear— has become a valuable political currency in the post-9/11 world, as shows the unprecedented electoral success of right-wing populist parties in recent years: from Matteo Salvini's "closed-ports" policy to former US President Donald J. Trump's project of a wall at the border with Mexico, there are numerous examples of the place security occupies nowadays in the public debate of countries on both sides of the ocean, even *before* the beginning of the current pandemic. This ever-increasing demand for protection, as we have argued above, relates to the risks associated with the dark side of globalization. It has been argued that today's obsession with "issues of international reach, such as immigration, disease, and terrorism, rather than the concerns of previous decades with local everyday lives, bodies, and places" has led to the rise of a geopolitical meta-narrative of "globalized fear" which needs to be deconstructed (Pain, 2009, p. 467). A concrete example of this narrative may be seen in the recently renewed fascination with zombies in Western popular culture: as argued by Saunders (2012, p. 81), zombies have become convenient stand-ins for the risks associated with globalization and uncontrolled spaces —such as infectious diseases— against which borders and fences might prove (symbolically) effective.

As noted by Popescu (2012), "[i]n the post-9/11 world, border *securitization* discourses have gained a firm grip on many decision makers' minds" (p. 26). Such a perspective can be read in the light of the evolution of the prerogative of the state and the gradual shift from the "social state" to the "security state": in other words, "[h]aving rescinded or severely reduced its previous programmatic interference with market-produced insecurity, contemporary states must seek other, non-economic varieties of vulnerability and uncertainty on which to rest their legitimacy" (Bauman, 2004, p. 87). Hence, "[t]hey act as if they have chosen to move from social states to security states" (Bauman, 2004, p. 87)[6]. Unsurprisingly, thus, the rhetorical arsenal to which many political leaders (regardless of their ideological stance) resorted in the wake of the COVID-19 outbreak mirrors the warlike vocabulary that usually follows a terrorist attack or a war declaration: much like the "global war on terror" narrative pushed forward by George W. Bush administration in the aftermath of the 9/11 attacks (Zalman and Clarke, 2009, p. 101), we now find ourselves in the midst of an ongoing "global

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6. For a thorough analysis on the evolution of the concept of "security" in relation to the state, see Bauman (2004), *Europe: An unfinished adventure*. Cambridge: Polity.

war against COVID-19" (Sabucedo *et al.*, 2020, p. 619). In the public imagination, hospitals and workplaces have become "frontlines", whereas media outlets often depict essential workers, such as healthcare professionals, as the nowadays' equivalent of war heroes. Former European Central Bank (ECB) President Mario Draghi went as far as to drawing a parallel between the current crisis and World War I[7]. In the current context, however, the threat does not derive from the potential invasion of a foreign army —or the attack by a paramilitary terrorist group— but from the action of an invisible and relatively-unknown microorganism: hence, as the threat is simultaneously *nowhere* and *everywhere* —since anyone could potentially be a carrier of the infection— the border itself appears blurred and decentred, repeatedly reproducing itself at different scales.

Upon closer inspection, however, this war metaphor can be interpreted as an attempt at rationalizing the unknown. In other words, confronted with the relatively unknown threat of a pandemic, the adoption of such discourses concurs in *making sense* of this menace by means of a language that sounds familiar to the general public. As such, this communicative strategy is revealing of how the COVID-19 outbreak has produced a discursive overlapping between what "from a technical standpoint […] is fundamentally an issue of human health" (Enemark, 2009, p. 200) and a threat to national security. Furthermore, evidence gathered in cross-country studies highlight the overall positive effects of the pandemic in terms of citizens' trust in their national political institutions (Baekgaard *et al.*, 2020; Bol *et al.*, 2020; Schraf, 2020), at least during the first months of lockdown[8]. To be sure, in many countries the risks associated with infectious diseases have made their way into national-security agendas and foreign policy strategies years before the COVID-19 outbreak (Enemark, 2009, pp. 191-192; Katz and Singer, 2007, p. 233). In the USA, for instance, the end of the Cold War brought along the acknowledgment (or the overlapping) of de-territorialized threats —such as infectious diseases— as a global concern and a matter of national security (Zylberman, 2013).

Discussing the causes behind the appearance of new diseases between 1970 and 2009, Zylberman (2013) highlighted the inherently spatial nature of viral evolution: viruses evolve by conquering "new territories", that is, new hosts. Human activity plays a key-role in this process: intensive agriculture and industrial animal farming lay the

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7. *Financial Times*, "Draghi: we face a war against coronavirus and must mobilise accordingly". Retrieved from https://www.ft.com/content/c6d2de3a-6ec5-11ea-89df-41bea055720b

8. As noted by Sabucedo et al. (2020), however, in spite of the positive connotations of some images this metaphor evokes (such as heroism and resistance) "[…] using this metaphor is problematic because even though it evokes some images with positive connotations, like resistance and heroism, it also dredges up others which denote conflict, like confrontation, obedience and enemy. Likewise, it is unclear why other frameworks associated with care, empathy and solidarity are not being used in a healthcare emergency" (p. 619).

conditions through which zoonosis (that is, the transmission of an animal virus to a human host) happens; individuals, then, become the vectors through which the virus eventually spreads out. For these reasons, cross-border mobility represents the privileged area of intervention, as "borders appear as the primary policy instrument to contain the health risk and to ensure national security" (Radil *et al.*, 2020, p. 2). Accordingly, it has been argued that we are now witnessing a "revenge of borders" (Bandiera, 2020, p. 302) against the borderless world discourse: borders that have been long deemed as scarcely relevant and porous —such as the EU internal borders as part of the Schengen Agreements— have now been *reterritorialized*. It is also, perhaps, the revenge —albeit maybe temporary— of *place* against *time* as, within months from the beginning of the pandemic, the world had suddenly expanded from the size of a "global village" to a much bigger place in our collective geographical imagination.

However, although the renewed importance of national borders stands as perhaps one of the clearest effects of the pandemic, the COVID-19 outbreak has equally brought along the resurgence or the creation of borders at different scales than that of the state. Throughout last year, the citizens of many countries have witnessed both a resurgence *and* a proliferation of borders at different scales. Depending on where we reside, we now experience and cross —or are prevented from doing so— multiple borders in our day-to-day life, with our households having themselves turned into a potential border. The access to certain places, for instance, is now subject to previous temperature screening. In many countries, the introduction of curfews impedes citizens to leave their houses after a certain time, often at night-time, while traditional places of socialization such as bars and restaurants are currently shut, except for deliveries or take-away.

Borders of subnational divisions that once held little relevance aside from their administrative purpose have now become "akin to a national border" (Radil *et al.*, 2020, p. 4). In late January, the epicentre of the outbreak, the city of Wuhan and the Hubei Province, was placed under lockdown by the Chinese government, resulting in the confinement of over sixty million people. Similar measures, albeit to a much lesser extent, have been taken in other countries as well in the attempt to manage and contrast the spread of the contagion: regions and other administrative divisions have been organized and hierarchized according to the evolution of the pandemic trend. This has given birth to what can be dubbed as a "pandemic cartography", in which political maps are combined with a chromatic scale that symbolizes the level of risk of each and every administrative

division, as well as the restrictions into force associated with such level. Hence, in countries such as France and Italy, nationwide lockdown measures gave way to the adoption of differentiated levels of risks on a regional basis.

As noted by some (Radil et al., 2020, p. 4), however, in the handling of the pandemic individuals themselves have become the ultimate border: on the one hand, social-distancing measures (as required by the laws) have introduced invisible —and yet absolutely perceivable— boundaries between people; on the other hand, the border manifested itself up unto the threshold of people's houses in case of suspected or confirmed infections. In a compelling autoetnographic account of her own personal experience through the first months of the pandemic —a time the author spent between Italy and Finland— Tedeschi (2020) has convincingly argued how this situation represents "a unique opportunity for everyone to become aware of the law, its materiality and spatiality, and the consequences that it can have for people's everyday lives (such as the power to restrict movements), even in normal times and in other contexts", highlighting, for instance, the impact the health crisis had on the already precarious personal conditions of migrants (p. 180). In parallel, this renewed visibility of the law went hand in hand with the rediscovery of the role of states in relation to markets. If the borderless world fantasy has untimely celebrated the imminent withering away of the state as a key-actor in global politics, last year has been characterised by an overall redefinition of state-market relationships in many of the countries affected by the disease, possibly leading to a situation of "complex intertwining of state, market and society at all levels of the world, from the global to the regional and the local, with no single party able to stay out of the crisis and with causality running in virtually all directions" (Chung *et al.* 2020, p. 113).

Conclusions

The COVID-19 pandemic has had a major impact on the economic, social, and political context in many countries across the world, while potentially affecting ongoing (de-) globalizing processes. The paradox, so to speak, resides in how the strategy to contain an inherently transnational threat largely relied on the control of international cross-border mobility. We started by discussing the borderless world discourse in the light of latest developments in the field of border studies. Globalization —in its multiple manifestations— has, indeed, had a major impact on the way borders are perceived,

discursively constructed, and —ultimately— enforced. After September 11, border control and bordering practices have largely turned to the implementation of digital technologies to manage the cross-border flows and curb potential threats coming from "outside". Borders, we have observed, have progressively shifted away from their traditional location and the activity of bordering often happens in other places, such as airports or train stations. As we have discussed, the need to contain the spread of the contagion has led many governments to implement restrictions on international and intranational cross-border mobility against what is, by all means, an extra-territorial threat. However, the pandemic outbreak has once again emphasised how, in Popescu's words, borders have increasingly become bodyscapes themselves (Popescu, 2012, p. 107). As noted by Amoore (2006)

> […] in effect, the biometric border is the portable border par excellence, carried by mobile bodies at the very same time as it is deployed to divide bodies at international boundaries, airports, railway stations, on subways or city streets, in the office or the neighbourhood. (p. 338)

Furthermore, much like other undesirable side effects of globalization, these securitization policies have often been treated as threats to national security and, subsequently, framed within the discursive construction of a war-like context: on the one hand, this discursive device served as a means to make sense of the current threat through the use of a familiar language; on the other hand, this military metaphor could be seen as an attempt to foster the general public's support to national governments, possibly —although not necessarily— enhancing a "rally-around-the-flag" effect that might ultimately reinforce the political status quo in such countries. It should be noted, however, that this resurgence and proliferation of bordering practices has come at a time when border security was already a relevant issue in the political debate of many countries, in Europe as well as in the United States, especially —but not exclusively— among far-right populist parties. Much of the popularity of such discourse was based on a critical assessment of the negative effects associated with globalizing processes in their different formations. The current pandemic outbreak has intensified this shift in the perception of borders, especially in relation to embodied forms of globalization.

It is doubtlessly too early to advance hypotheses regarding the political consequences after the end of the emergency. Nonetheless, recent history has shown that policies enacted in times of crisis have often outlived the political context in which they were

conceived. As we have discussed, security policies adopted to limit the spread of the contagion have led to a rapid proliferation of borders and bordering practices: it is unsure, however, whether these restrictions will be altogether dismissed after the end of the global pandemic or if they will spill over into other policy areas. Furthermore, the unevenness of ongoing globalizing processes suggests that the outcomes are likely to differ greatly across different countries and political systems. Whether this unprecedented situation will mark a watershed in globalizing trends —and, if so, in which places and in which direction— or whether things will go back to "business as usual" is yet to be established.

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Ursula Huws. Professor of Labour and Globalisation at the University of Hertfordshire in the UK. She has been carrying out pioneering research on the impact of technological change on labour for many years. She is the editor of the book series *Dynamics of Virtual Work*, and of the *Work Organisation, Labour and Globalisation* Journal. Her most recent books are *Labour in Contemporary Capitalism: What Next?* (Palgrave, 2019) and *Reinventing the Welfare State: Online Platforms and Public Policies* (Pluto Press, 2020).
Contact: ursulahuws@analyticaresearch.co.uk

LABOUR AND TECHNOLOGY IN CAPITALISM 4.0. AN INTERVIEW WITH URSULA HUWS[1]

by Into the Black Box*

Abstract

From the rise of telehomwork of the Seventies to the burst of platform labour occurred after Pandemic: in this interview with Ursula Huws we cover a fifty-year path of the impact of technologies on labour and social life. Considered one of the most important Labour Sociologist in Europe (and beyond), since the early Eighties Huws tackled the topic of the "social isolation" intrinsic to telehomework, the atomization of society and the risks of encroachment of work on family and social life due to application of new technologies on labour. In the article we travel from the very beginning through to the rise of "cybertariat". We conclude by trying to answer the last crucial question: what next?

*Into the Black Box is a project of multidisciplinary and collective research that adopts logistics as a point of view on contemporary political, economic and social transformations. We conceive logistics not simply as commodities circulation, but rather as a whole biopolitical apparatus that performs spaces, subjects and powers. The black box is the symbol of contemporary management techniques and devices that hide the whole logic of the system to external viewers. Similar boxes are all around us: in platform capitalism, in urban planning, in labour organisation, in State governance. A way to penetrate the opacity of the system is to analyse inputs and outputs, operations and consequences, procedures and resistances. Into the Black Box is composed by Carlotta Benvegnù, Niccolò Cuppini, Mattia Frapporti, Floriano Milesi and Maurilio Pirone. They edited singoularly and collectively many books and articles. Their last book is Capitalismo 4.0. Genealogia della rivoluzione digitale (Meltemi, 2021).

Keywords

Labour, New Technologies, Precariat, Capitalism 4.0, Platforms.

Resumen

Desde el auge del teletrabajo de los años setenta hasta el estallido del trabajo de plataforma ocurrido tras la pandemia: en esta entrevista con Ursula Huws, recorremos una trayectoria de cincuenta años del impacto de tecnologías en la vida laboral y social. Considerada una de las más importantes sociólogas del trabajo en Europa (y más allá), desde principios de los ochenta Huws abordó el tema del «aislamiento social» intrínseco al teletrabajo, la atomización de la sociedad y los riesgos de invasión del trabajo sobre la vida familiar y social debido a la aplicación de las nuevas tecnologías al trabajo. El artículo hace un recorrido por los inicios hasta el surgimiento del «cibertariado». Concluimos tratando de responder a la última pregunta crucial: ¿y ahora qué?

Palabras clave

Trabajo, Nuevas Tecnologías, Precariado, Capitalismo 4.0, Plataformas.

Introduction

Capitalism 4.0 is a pervasive phenomenon. Within this lemma we consider a set of processes among which are the rise of the Information Technology industry (American Gafam - Google, Amazon, Facebook, Apple, Microsoft and Chinese platforms such as Alibaba and TikTok) and the recent rapid growth of "platform capitalism" (AirBnb, Uber, Deliveroo, Helpling, Foodora, Taskrabbit, etc.). The grafting into everyday life of robotics, Internet of Things, Artificial Intelligence and algorithmic dimension characterize our global present particularly since the economic crisis of 2007-2008. This set of elements is profoundly transforming the world of labour, inspiring conflicts on "new terrain" and shedding new light on the reproductive dimension of life.

On closer view, Capitalism 4.0 is far from a disruptive phenomenon raised from nowhere. Rather, it has long roots that could be investigated through the lens of labour and its encroachment on social life. If the general extension of Capitalism 4.0, its flood into different aspects of people life and the increased blurring between "time of life" and "time of work" is undeniable, we should be aware that we can retrace the very origin of all of this to at least forty or fifty years ago. The relation between labour and technology has always been rather conflictual: technology is anything but neutral and this is true for digital technologies too. A closer focus on its pervasiveness in human life show an ambiguous picture of freedom and constraint that can only be fully understood with a gaze on the origin of it, since at least the Electronic Revolution (the so-called Third Industrial Revolution of the fifties and sixties), in order to grasp the graduality that has led us where we are.

In the next pages we talk on this matter with Ursula Huws, focusing not just on the features of "labour 4.0", but also delving into its genealogies and its historical trajectories.

Q1: We would like to start this dialogue with a kind of biographical question. Looking at your astonishing list of publications it seems quite clear that since the beginning of the Eighties your main focus has been the relationship between labour and technology, with a constant attention on women's work. Starting from 1982, in article such as "Domestic Technology: liberator or enslaver?" (published in the journal *Scarlet women*, a magazine set up "to provide a forum for the socialist feminist network"[2]) you were investigating the effects of new technology on the home, certifying how they had failed

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2. https://www.grassrootsfeminism.net/cms/node/577

to liberate women from the role of houseworker. Technology and their impact on common life was the topic of other articles of the Eighties such as *Society at Work: The New Homeworkers* (published by the "Low Pay Unit" in 1984) and *Terminal Isolation: the Atomisation of Work and Leisure in the Wired Society* (chapter in the book *Making waves: the politics of communications* edited by the Radical Science Collective in 1985). In both of them, very beforehand you were facing the new "social isolation" intrinsic to telehomework, reporting the risks of encroachment of work on family and social life: topics which are very important also today, thirty years after your publications.

Teleworking is the focus on a book you edited (with Werner Korte and Simon Robinson) in 1990 titled *Telework: Towards the Elusive Office* (John Wiley & Sons Inc.) and of course of many other articles or chapters of that years (just to make some examples: *The Legal Implications of Telework* still in 1990 —published on "Practical Computing"—; *Teleworking in Britain* published for the "Employment Gazette" in 1994). Among the texts you wrote in that period, particular importance should be deserved to *Teleworking and Gender* (published in 1996 for The Institute for Employment Studies). In the book you first considered the early large scale surveys on teleworking throughout Europe, where was shown that there was "some degree of polarisation between teleworkers with a lower education (who were mostly women) and those with a higher education (who were mostly men)" (p. 20) and were was quite clear that women often "underpaid and undervalued and resent the way in which their work [were] trivialised by the men with whom they live" (p. 26). Then you shown your own research on 188 translators (100 women and 88 men) in a British based company called Wordbank which had teleworkers from 28 European countries. The results showed that teleworking appeared "equally capable both of reinforcing traditional gender roles and of challenging them" (p. 83). Indeed, as you pointed out teleworking were "often chosen precisely because it appear[ed] to offer more autonomy and control over one's working time than work in an office [...]. It is clear, however, that in practice teleworking is often accompanied by precisely the opposite conditions" (p. 84) both for men and women, even though the results "reveal that it is still women who are bearing the greatest portion of the responsibility for childcare" (p. 86).

By the beginning of the new millennium your concentration turns to eWork and digital labour: you have been one of the first to do this starting from *The Making of a Cybertariat: Virtual Work in a Real World* (Monthly Review Press, 2003) on which you already had a global perspective more specify all in texts such as *The restructuring of global value chains and the creation of a cybertariat* (in *Global corporate power,* edited

by Christopher May in 2006. The new proletariat arose by new technologies (indeed *cybertariat,* to which we will return) was one of your inquiring theme, and it is quite meaningful that today we are still talking about it when we consider what we could call the "platform proletariat" or "platfortariat" which has job conditions where social rights or collective bargaining power is kind of terrible.

However, since then on the digital economy kept a pivotal position in your publications among which we finally quote *Labour in the Global Digital Economy* (Monthly Review Press, 2014), your work on European gig economy in the context of the European founded project *Dynamics of virtual work*, and finally your last book titled *Labour in Contemporary Capitalism: What Next?* (Palgrave-Macmillan, 2019).

After this long kind of introduction we reach the question. Could you tell us what brought you to focus on the relationship between technology and labour since the very beginning of your research path? And more in general, could you tell us something more about your research trajectory and about your approach to the topic?

Ursula Huws: My interest in technology was very much influenced by my own experience as a worker. In the early 1970s I was active in the National Union of Journalists, a trade union which represented journalists in print and television but was also expanding into the representation of workers in magazine and book publishing. I first became involved in organizing workers in book publishing, where I was employed, a field where there was very little trade union representation and workers were very low paid, much more likely to be women than in newspaper publishing and including some very low-paid people on self-employed contracts working from their homes as proof-readers, copy-editors, indexers or translators. In order to persuade the union to admit them into membership we actually had to campaign to get some of the rules changed. I therefore became quite active in the union at a national level as well as in the immediate field of book publishing.

At the national level much of the union's strength was based in newspapers, where the NUJ worked closely with other print unions, of which there were many, based on a complex division of labour among highly specialist workers practicing specific tasks related to the 'old' technologies of printing from hot metal. Because newspapers are a highly perishable commodity (each issue becomes redundant within 24 hours) these unions had considerable strength at the workplace —even a short strike of a few hours could 'kill' an issue— and had therefore built up a lot of political strength and high wages, in a form of craft trade unionism closely linked to specific technologies and means of production. Around 1973 or 1974 rumours began to arrive from across the Atlantic

that new computerized technologies were being introduced that would fundamentally challenge this strength by replacing the old hot metal technologies (and others, such as offset litho printing) making many of the traditional 'craft' skills redundant. A sub-group within the NUJ, with which I was connected, decided to send somebody over to the USA to speak to members of the US journalists union at the Washington Post to find out about what was going on. This led to the publication of a pamphlet in around 1975 called 'Journalists and the New Technology'.

In 1976 I moved from London to Leeds, in West Yorkshire, a city which was very much marked by its history in the industrial revolution as a centre of machine tools manufacture and clothing manufacture linked to the wool trade. It was geographically near to cities like Bradford, Halifax and Huddersfield where woollen cloth was woven into cloth or made into carpets. Leeds was where the looms were manufactured that supplied the weaving mills, but also where the finished cloth was made into clothes. In the 1970s, although declining because of offshore production, Leeds still had some of the largest clothing factories in Europe. The skills that made Leeds a centre for the production of looms and sewing machines also made it a centre for the production of other machinery, such as printing machinery. The company I went to work for in Leeds had a publishing division (producing school books) but also several factories making other products for schools (such as desks, paints and canes) as well as a number of large warehouses. It also ran the largest book distribution service to schools in the UK. Its factory workers could be said to have been part of the West Yorkshire working class. However the office workers, of whom there were many, were not unionized. The department where I worked was housed in a large central building with an industrial facility (book binding) on the ground floor and offices upstairs in which many other office workers were also based. We shared various facilities such as an enormous canteen (although different grades of staff were supposed to eat in different parts of it, with variations in the types of food and levels of service provided).

From conversations with other workers in the canteen and in the ladies toilets I discovered that new technologies were also being introduced into many office functions, for example data entry which had previously done by key punch operators (holes were punched into cards in order to feed data into large mainframe computers) was now being entered electronically, using keyboards and 'dumb terminals'. The women who did this work complained of headaches, eye strain and neck and shoulder pain from working at these screens and keyboards all day. I became involved in a union recruitment

campaign to organize the office staff at this company and this turned out to be one of the most important issues for motivating them to attend meetings.

Remembering what we had learnt about the impacts of computerization on news print work, I began to do background research to find out more about the implications of these new technologies on office work more generally. Simultaneously, I was getting involved with a broader city-based network of activists in Leeds including from trade unions, women's groups, tenants associations and other community-based groups, initially brought together via an evening class organized through the Workers Educational Association. In a kind of bottom-up collaborative research exercise, influenced by the ideas of Paolo Friere, the group produced a pamphlet called 'The Economic Base of Leeds' which was very widely read and discussed locally. The network led to several local campaigns which brought together workers and people from the wider community, for example an action around bus transport in which community groups supported the bus workers' demands for improved pay and conditions and the reversal of cuts in services and the bus workers supported the community by taking a form of industrial action in which, instead of going on strike, they provided a free service, refusing to take money from the customers for fares. Building on such victories, we were able to raise money for a 'trade union and community resource and information centre' to provide research and support to local workers' organisations, women's groups and community organization.

This centre opened in 1978 and I was one of the first workers there. Based on my experience in my previous job, I began to do more systematic research on the impact of technology on local jobs and, in 1978, this suddenly became a major topical issue, because of a BBC programme called 'Now the Chips are Down' which suddenly brought the issue of job loss associated with new technology to public attention. Because nobody else had yet done much research about it this meant that I became, overnight, an 'expert' in the field. This made it possible to raise money for research projects that we could use for funding the work of the centre.

Because of my experience organizing home-based workers in book publishing it was possible to see the connections between the ways in which these new technologies were being used in clerical work and the potential for new forms of relocation of work with a digital content linked by telecommunications networks. In 1980-81 I carried out the first study of what came to be known as 'teleworking' and also became interested in the ways in which the same technologies (supported, in the early stages, by satellite links)

were being used to relocate data entry and other low-skill digital work to Asian and the Caribbean ('offshore outsourcing'). Subsequently this became the basis for a large body of work on the role of technology in enabling the development of global value chains, a trend that accelerated sharply after 1989.

Q2: Our second question would like to grasp some aspects of the so-called Industrial Revolution 4.0. Generally speaking, following the front of the *global labour history*, the whole idea of "Industrial Revolution" it seems quite problematic, because it appears that such concept lacks a global gaze and a *long durée* analysis.

If we took for example the British Industrial Revolution, and so the so-called first Industrial Revolution, (which could be identified just by the capital letters, according to the famous incipit of *The unbounded Prometheus* by David Landes), a global perspective on it could shed light on the endogenous crucial factors which allowed it. And so, for instance, as out by Sven Beckert in his *Empire of Cotton. A Global History* (New York, Random House LLC, 2014), you cannot understand the Industrial Revolution if you not also take into account the cotton economy plantation of the American Continent: "Slave traders, slave pens, slave auctions, and the attendant physical and psychological violence of holding millions in bondage were of central importance to the expansion of cotton production in the United States and of the Industrial Revolution in Great Britain" (p. 59). A similar point was made by W.E.B. Du Bois, who claimed that to fully understand the Industrial Revolution it would be more useful to look at the Atlantic Ocean rather than at Manchester. In other words, the geo-spatial enlargement of the perspective enables a kind of different interpretation of that "Revolution" showing continuity wherever disruption is usually seen.

Put differently, it is quite clear that during a period which we could identify between 1780 and 1840 amazing technical improvements have been made (after all, it is well known that Industrial Revolution "essential characteristic was technological innovation"[3]). Nonetheless, starting in particular with books such as the one of Sydney Pollard titled *Paceful Conquest* published in 1980s, appear a less celebratory interpretation of that event, and step by step a most complexified analysis arose which took into account for example slavery, imperialism and colonialism as critical causes of the Industrial Revolution. It is in such a sense that it seems that we should highlight continuity rather than disruption.

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3. R. Allen (2009), *The British Industrial Revolution in Global Perspective*, Cambridge University Press, 2011, p. 135.

Somehow the same interpretation could be maybe given for the "Industrial Revolution 4.0" too. Indeed, following the same list of publications you did that we briefly sketched out in the previous question, we can somehow clearly see a common life between "tele-working" and "platform working" both in term of social rights threat, social isolation etc. What do you think about this? What do you think about the so called "Industrial Revolution 4.0"? To what extent do you see a proper "Revolution" in it and to what extent do you see continuity with the evolution of labour? Furthermore, behind the contemporary transformations of labour it seems us to glimpse both technical and political reasons: would you see the "Industrial Revolution 4.0" as a kind of capitalistic answer to its own inability to reproduce itself or do you see it more as a labour force transformation?

Ursula Huws: It is a characteristic of capitalism that it does not develop smoothly but in a series of fits and starts, with each periodic crisis succeeded by a major wave of restructuring which simultaneously violently destroys old industries and ways of life and gives birth to the development of new commodities, with new means of production. The insatiable need of capitalism to expand is fed partly bye new forms of what Marx called 'primitive accumulation' bringing into being entirely novel forms of commodity based on aspects of the natural world or on human activities that previously lay outside the scope of the money economy, and partly on the cheapening of the costs of labour in the production and distribution of existing commodities. Technology can play a role in both of these.

Q3: Back to "*Cybertariat*" our third question is on the "subjects at work". The book *The Making of a Cybertariat? Virtual Work in a Real World,* was a collection of essays you wrote since 1978 until the early 2000s, and *Labor in the Global Digital Economy. The Cybertariat Comes to Age*, is somehow the continuation of the same topics, with a collection of text between 2006 and 2013, which was of course "a tumultuous period in the history of capitalism and the organization of labor". As you point out, this last period is the fourth of a series started with "the Glorious Thirty", followed by a slot which goes from the oil crisis of 1973 until the fall of Berlin Wall, and then concluded with the years between 1990 and 2007/8 when "general wave of deregulation, opening up free trade in goods and services and enabling unhindered flows of capital, intellectual property, and information across national borders throughout the world" (p. 9) as well as "of frenetic growth and of economic instability" (p. 11). All of these periods saw a modification in the work relation, but in the fourth one "the employment landscape was suddenly very different […] and ICTs had [...] become part of the taken-for-granted environment of all

work" (p. 13). ICTs changed dramatically how labor confronts capital in the new century, and a kind of paradigmatic example is given by "platform workers": it is on them that we would like to concentrate.

In *The Making of a Cybertariat? Virtual Work in a Real World*, in the namesake chapter, you face the high "degree of muddle about where to locate office workers" offering six different ways to categorize them "in terms of the *functional relationship of their work to capital*; their *occupations* (their place in the technical division of labour); their *social relation to production* (the ownership or non-ownership of the means of production); their place in the *social division of labour* (including the gender division of labour in the household); their *comparative income* (and hence their market position as consumers); and their social '*status*'»", concluding that somehow "a new cybertariat is in the making" even thought it would not always perceive itself as such. The question is automatically rising: after almost twenty years of your analysis something changed? Do members of the cybertariat reach a deepened acknowledge of themselves itself and what is their relation with proletariat? And then, how would you categorize laborers of the platform economy? Are they part of a cybertariat, proletariat, or should we identify a new terms more consonant with the "new phase" we are now living?

Ursula Huws: I think it is always dangerous to try to group workers into broad categories and to generalize too widely about the class position of these workers. Labour processes are constantly being changed, and so, therefore, are the occupational identities of the workers who carry out these forms of labour. In the process, new potential forms of conflict among different groups of workers are created, just as new potential bases for alliance are also emerging. What seems to me important is to look at workers' identities in two different, though interconnected ways. First, in relation to what Marx would have called their 'objective class position' – what form of value is their labour producing? Are they in a direct conflictual relationship with a capitalist? What commodity is being produced? How is that labour linked to that of others involved in the production or distribution of that same commodity or others like it? How could an alliance with other workers along the same value chain be used to strengthen their bargaining position? And vice versa? Second, what is their 'subjective class position'? How do they view themselves, and with what other groups do they feel aligned? How is this shaped by cultural factors? By ethnicity? How do their roles as consumers, or parents, support or challenge what they perceive to be in their best interests as workers? Once we have such a differentiated picture, and understand its internal contradictions and the dynamics of change, we can then start looking at what forms of action are possible, and

in what configurations of alliances. Experience tells us that the process of taking action in opposition to the capitalists with whom they engage in their daily lives (especially in the refusal to do what these capitalists ask them to do) is itself transformative. 'Class consciousness' is formed firstly in the realization of alienation from the products of one's own labour and secondly in taking part in a struggle which makes visible the way in which the capitalist's interests are opposed to one's own.

Q4: Which is the role of platforms and of digital technologies in the process of commodification of the care and domestic labors?

Ursula Huws: As I have written extensively elsewhere (for example in articles in *Socialist Register* and *Feminist Review* and in my 2019 book *Labour in Contemporary Capitalism: what next?*) platform technologies have made it possible to bring within the scope of the market (and hence under the discipline of global capitalism) a range of activities involved in social reproduction that were formerly provided by other means – through public services, through the labour of privately-employed servants or by means of unpaid labour carried out by household members or their extended families or neighbours.

Q5: Finally we would like to focus on future conflict scenario on labour area. Two different cases, similar in many aspects.

The first. In the last years the global value chain saw the rise of a new labour force taking the center stage: the logistics workers. From 2008 an astonishing series of strikes in logistics sector took place. From the main European container terminal Maasvlakte 2 located in Rotterdam and managed by Maersk (the world biggest sea trade company) to the port of Los Angeles/Long Beach; from Hong Kong to Vancouver, from Newcastle (Australia – the world's largest coal terminal) to Amazon warehouses in Germany as well as in Italy in the Po Valley and elsewhere. Many major world logistics hubs have been marked by conflict in the last few years, despite a lack of coordinating efforts, showing a clear global dimension to the striking logistics workers phenomenon. And even in these days, if we look for instance to the Chile revolt, we saw the Unión Portuaria de Chile went on strike in Valparaiso and elsewhere, followed by a declaration of the International Dockworker Council (which gather together 93 unions and 120.000 dockers worldwide) which is threatening to block all containers coming from Chilean docks. The circulatory dimension was something targeted by the *gilets jaunes* too, who are acting since almost one year on the blockade of the main traffic routes and of roundabouts (and of course not just that) all around France.

Even in the urban dimension (and this is the second case) the strikes and blockades of the so-called "new metropolitan logistics" are spreading worldwide. The most evident categories of this phenomena is offered by food riders. Looking at Europe, for instance, from Madrid and Barcelona to London, Birmingham or Manchester, from Milan, Bologna and Turin to Berlin, Bruxelles and Amsterdam: almost everywhere workers from platforms such as Deliveroo, Foodora, JustEat or Glovo went on to strike for protesting against the high degree of exploitation they face working with platforms. Indeed, if we assume that precarization and atomization are two characters that by far are pervading the contemporary dimension of labour at least since the 90s, under platform capitalism this tendency seems accelerated and exacerbated exasperated in as much as most of the platform workers are not considered employee but rather "autonomous" members part of a widespread "gig economy". And after all, it is not just a matter of riders. Talking about "new metropolitan logistics" we could recall the series of strikes by Uber drivers that occurred in Los Angeles (California) at the beginning of 2019, in Nairobi (Kenya) last July or in Kochi (India) in 2018: wherever the «low wages and poor working conditions» they face are so clear that they push them to protest.

Considering together these is logistics strikes (widely intended) appear to us to have at least two common features. The first one —quite self-evident— is that they acts on the circulatory dimension of capitalism. Although the sector of production still represents the major character of worldwide labour, we saw a proportional reduction in the strikes occurring in the place of production in favor of an increasing of action in order to block the flows of commodities (and of course, Amazon warehouses strikes are part of this). The "circulatory time", using Marx's term, is where labor mostly most laborer acts in order to maximize its voice and its action, hitting what seems the "weak point" of capitalism.

The second feature these two kind of strikes have in common is the centrality of new technology. On the one hand algorithms that are governing the apps are organizing work almost automatically, controlling the worker in almost every moment of his time at work answering to a kind of "Taylor dream". It may be worthwhile to stress that such an algorithmic power is threatening the role of managers too, whoich are basically almost completely bypassed by the computing power of the new devices. On the other hand, it is important to stress that also the workers on their side use technology in unusual ways. Many strikes that have occurred in the last years, particularly among platform workers, have seen a widel use of technological devices (both hardware – Smartphones, GPS, etc. – and software – Facebook, Whatsapp, Youtube etc.) for organizing the protest or

for spreading it. There are cases such as the London food riders who used Whatsapp intensively so as to know each other and organize protests, or other cases where Facebook groups are used in order to organize meeting and so on.

In this kind of scenario, which could be the new terrain of claiming and means by which workers could reach their target, what do are you foresee in terms of labour conflict in the platform era? In other words, to paraphrase the title of the last chapter of your last book: *what next*?

Ursula Huws: I do not have a crystal ball, but during the pandemic we have seen a number of developments that might prefigure what is to come in the future.

First, there has been a rapid growth in the logistics labour involved in bringing goods ordered online to housebound consumers. This has accelerated trends that were already evident. These include a replacement of wholesale for retail supply, with goods being delivered from warehouses, rather than shops, leading to a growth in the kinds of packing and picking labour, generally very tightly managed using digital technologies and sometimes using robots, typified by the Amazon warehouse, at the expense of more customer-facing work involving interpersonal communication found in shops (which may also be accompanied by a gender shift). Another trend is a strong convergence across different sectors providing last mile delivery. This convergence creates overlaps between workers who were traditionally unionized (such as postal delivery workers or workers employed by supermarkets to do home deliveries) and those who do not even have employee status, let alone union representation, such as food delivery workers and couriers. During the pandemic there has also been a convergence among platforms, for example in the UK Uber drivers are increasingly required to deliver food for Uber Eats rather than provide taxi services via UberX, and Deliveroo workers are being asked to deliver goods from shops as well as restaurants. Concurrently, warehouse and logistics workers have been publicly identified in many countries as 'key workers' making their work (and the physical risks they take in carrying out this work) much more visible than in the past. This seems to create a basis for new forms of alliance among these workers which could lead to new forms of organization, collective negotiation and political representation.

Simultaneously, the enormous growth in working from home among white-collar workers whose work can be done by digital means using video communication has made visible a new range of commonalities among these workers. It is likely that remote working will become increasingly common, with contradictory effects – on the one hand creating more isolation from each other, on the other hand engendering ever more familiarity with new means of intercommunication.

What the 'footloose' workforce of logistics workers has in common with the 'fixed' workforce of essential workers working in collective spaces (such as hospitals, factories or food processing plants) and the 'fractured' workforce of people working partly or wholly from their homes is an increasing likelihood of close surveillance and digital management. These commonalities could create the basis for new forms of organization and action focused on obtaining digital rights for all workers.

Finally, the pandemic seems to have ushered in a new wave of organization and action among diverse workers around the world. The need for governments to intervene to enforce lockdown and provide a means of subsistence for furloughed workers has exposed the hypocrisy of the neoliberal claim that 'there is no alternative' to the market, making it evident not only that the national state plays an important role but that this role involves political choices that can be influenced by popular action. Secondly, the divisions in the labour market between 'fixed', 'footloose' and 'fractured' workers, made newly visible in the discourses around 'key' workers and public risk, have drawn attention to the fact that those workers who are taking the greatest risks are also those who are on the most precarious contracts and the most poorly paid and, in many countries, are also those most likely to be from black and ethnic minorities. The upsurge in unionization and strikes among precarious workers has therefore converged, in many places, with the anger expressed by the Black Lives Matter movement in the United States. What is new about these movements has been the strong role played by new technologies in how they have been organized, for example the use of smartphones to record police violence and the use of social media to disseminate this evidence. This has in turn been linked to an unprecedented level of international solidarity. In that solidarity lies our hope for the future.

ARTÍCULOS

Daniel J. García López. Licenciado y Doctor en Derecho por la Universidad de Almería (España). Profesor en el Departamento de Filosofía del Derecho de la Universidad de Granada. Ha realizado estancias de investigación en la Humboldt-Universität de Berlín, el Istituto Italiano di Scienze Umane de Nápoles, la Universidad Autónoma de Madrid, el Centro de Estudios Políticos y Constitucionales y la Università degli Studi di Salerno. Es autor de los libros *Organicismo silente. Rastros de una metáfora en la ciencia jurídica* (2013), *Sobre el derecho de los hermafroditas* (2015), *Rara avis. Una teoría queer impolítica* (2016), *Bioestado de excepción* (2019) y *La máquina teo-antropo-legal* (2020). Contacto: danieljgl@ugr.es

Luísa Winter Pereira. Licenciada en Derecho por la Universidade Federal do Paraná (Brasil) y Erasmus Mundus Master's Degree in Women's and Gender Studies por las Universidades de Granada (España) y Lodz (Polonia). Doctoranda en el programa Pós-Colonialismos e Cidadania Global e investigadora junior en el Centro de Estudos Sociais de la Universidade de Coimbra (Portugal). Centra su investigación en la construcción de una *cuidadanía académica* que tenga presente las injusticias epistémicas y los epistemicidios como violencias institucionales de la academia y la necesidad de implementar éticas de cuidados en la producción científica. Contacto: luisa.w.pereira@gmail.com

WRITE NOW, EVERYWHERE: GOBERNAR LA PRECARIEDAD ACADÉMICA

Daniel J. García López & Luísa Winter Pereira
Universidad de Granada & Universidad de Coimbra

WRITE NOW, EVERYWHERE: GOVERNING ACADEMIC PRECARIOUSNESS[1]

Resumen

En el artículo se estudia la lógica de gobierno de la Universidad neoliberal y cómo produce subjetividades precarias. Sometidas a la eficiencia en la producción de conocimiento, para mantener la situación de precariedad es necesario articular un arte de hacer esperar que provoca un endeudamiento de las investigadoras y un terrible entusiasmo como mecanismo para neutralizar la posibilidad de cambio. A partir de este diagnóstico, se propone una Universidad otra construida por medio de los cuidados.

Palabras clave

Cronobiopolítica, Cuidadanía académica, Dispositivo de la persona, Epistemonormatividad.

Abstract

In the article we study the logic of government of the neoliberal university and how it produces precarious subjectivities. Subjected to efficiency in the production of knowledge, in order to maintain the situation of precariousness it is necessary to articulate an art of making someone wait that causes indebtedness of the scholars and a terrible enthusiasm as a mechanism to neutralise the possibility of change. Based on this diagnosis, we propose a university built through care and caring.

Keywords

Chronobiopolitics, Academic Caringzenship, Dispositif of the Person, Epistemonormativity.

Ubi fracassorium, ibi fuggitorium

Pulcinella

Dedicado a Alexandra Elbakyan y a la memoria de Aaron Swartz

Introducción

1 de junio de 2020, 16:32 horas, Gran Vía de Madrid. Alguien espera el autobús número 148 para ir a Puente de Vallecas. El calor del asfalto se deja notar, a pesar de que el tráfico es escaso debido al encierro pandémico. En la marquesina exterior de la parada de autobús se anuncia la sexta temporada de la serie de ciencia ficción distópica *Black Mirror*. Nada mejor que pasar unas horas de entretenimiento durante las largas esperas de la cuarentena. Pero en la imagen central del anuncio hay algo sumamente siniestro: en el centro de la imagen quien aparece eres *tú*.

Se trata de un espejo en el que se puede leer *Live Now, everywhere*[2]. De forma hiperficcional, nos convertimos en un capítulo de *Black Mirror* en constante producción y emisión. Cada una de las personas que se cruza con esta marquesina se está cruzando consigo misma, situándose como protagonista, centro de una realidad ficcional o una ficción real. Pero como cada una de las personas que se cruza allí se convierte en protagonista del anuncio, se pierde cualquier atisbo de singularidad. Al recibir el mismo reflejo, la misma máscara, se produce una repetición. Se trata de una personalización en extremo, un exceso de personalización, que desplaza al sujeto al ámbito de la ciencia ficción.

¿Qué nos sugiere este anuncio? En las siguientes páginas quisiéramos detenernos sobre una zona de indistinción que podemos encontrar en la propia academia[3] para desvelar uno de sus mecanismos de funcionamiento. Se partirá de la noción de persona y cómo esta funciona al modo de un dispositivo que jerarquiza, separa y neutraliza. Este dispositivo queda ligado a una noción de soberanía vinculada a lo que se ha denominado

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2. La campaña fue un proyecto de estudiantes de la Brother Madrid Ad School. https://www.elmundo.es/f5/comparte/2020/06/03/5ed7b0e121efa0836c8b461a.html (visitado el 16 de junio de 2020).

3. Los términos Academia y Universidad se utilizan indistintamente. Se refieren a las instituciones públicas de enseñanza superior e investigación en un contexto neoliberal de producción de conocimiento. No son términos que pretendan cerrar todas las experiencias existentes de educación superior y creación de conocimiento, sino diagnosticar algunas lógicas de gobierno que mantienen características comunes entre las Universidades Nortecéntricas que las modulan y las Universidades de otras latitudes que *acogen* este modelo occidentalizado como el único a seguir. Las reflexiones en este sentido se esbozan desde diferentes latitudes geo-epistémicas, véase por ejemplo: Bhambra, Gebrial y Nisancioglu (2018); Chauí (2014); Grosfoguel, Hernández y Rosen Velásquez (2016); Le Marec y Du Plessis (2020); Pereira (2017); Santos (2013, 2017); Welsh (2017).

epistemonormatividad (Winter Pereira, 2020), en un marco de gestión cronobiopolítica de la Universidad. Finalmente, se planteará un mecanismo de ruptura a partir de los cuidados.

El dispositivo de la persona académica

¿Qué importancia tiene la categoría *persona*? La Segunda Guerra Mundial supuso un cambio paradigmático en las categorías jurídico-políticas modernas. La biologización del derecho realizada durante el régimen nazi aceleró el dispositivo de la persona a partir de la idea de pureza racial: las garantías jurídicas fueron arrebatadas a ciertos grupos, reduciéndolos a simples vidas desnudas similares a las de los animales (Esposito, 2004, pp. 149-157). Por eso, con la Declaración Universal de Derechos Humanos de 1948 se revigoriza la idea de persona. Es así que a partir de esa fecha tenemos dos categorías conviviendo al mismo tiempo: persona como condición de pensabilidad de los derechos humanos y ciudadanía como condición de pensabilidad de los derechos fundamentales asociados al Estado-nación.

Pero la ineficacia de los derechos humanos quizás pueda explicarse precisamente porque la noción de persona se plantea desde la separación, porque no es capaz de subsanar el hiato entre vida y derecho que ella misma produce (Esposito, 2018, p. 33). La vida quede excluida de la tutela del derecho (Esposito, 2007, p. 91). El dispositivo de la persona reabre el enigma entre *bíos* y *zoè,* entre la vida cualificada y el simple hecho de vivir, a partir de un mecanismo apropiativo donde una parte (animal, vegetativa, corpórea) es gobernada y dominada por la otra parte (racional presentada como objetiva, universal, neutral). La persona implica ser dividido con el fin de someter una parte a la otra. Jerarquizar, separar, neutralizar. Estos son los tres verbos con los que funciona el dispositivo de la persona. Solo a partir del pleno dominio de la parte corpórea es posible la persona.

El dispositivo de la persona muestra cómo funciona el derecho: se incluye por medio de la exclusión. Quienes llegan a estar incluidos en la categoría persona lo están porque precisamente otros están excluidos, o, incluso, sustraídos. El proceso de personificación coincide con el de despersonificación. Por eso la persona no coincide con el cuerpo en el que se inserta, como la máscara no lo hace con el rostro del actor (Esposito, 2018, p. 40). El derecho reproduce este dualismo que separa incluso en el interior del ser humano: la persona no es el ser vivo, sino el estatus jurídico. Se produce un umbral antropológico que divide a la humanidad y que llega a la Universidad.

El dispositivo de la persona académica también jerarquiza, separa y neutraliza: una parte es gobernada y dominada por la otra. La persona académica implica ser dividida con el fin de someter una parte, aquella que se ajusta a la normatividad académica, a la otra, que debe ser neutralizada en tanto se escapa de dicha normatividad académica. He aquí lo que podemos llamar la *summa divisio de iure personarum academicum*, donde nos dividen en distintas categorías, como en las *Instituta* de Gayo. Separar, jerarquizar, neutralizar y sus consiguientes aislar, fragmentar, uniformar.

Y como en Roma, no se utiliza el verbo *ser*, sino *tener: personam habere* como tener una cátedra. Solo el *pater familias académico* es el que tiene una cátedra, puesto que es poseedor del derecho de vida y de muerte académica: decide quién entra y quién queda fuera, establece las condiciones materiales de posibilidad para investigar o impartir docencia, dirige tesis doctorales, consigue proyectos de investigación con financiación para contratar a otras personas. Tiene ese poder porque es ciudadano académico pleno e independiente. El resto que no tiene una cátedra quedará en una zona intermedia, siempre a *disposición* de quien tiene la cátedra. Como sostiene López Alós (2019):

> precario es quien no puede decir que no. Al mismo tiempo, su potencia de afirmación no es propiamente potencia de obrar, sino que se reduce a ratificar o a prestar asentimiento a disposiciones (más bien, imposiciones) ajenas. De ahí la proporción directa entre precariedad y disponibilidad. (p. 17).

La precariedad se configura como una forma de vida, como un producto biopolítico[4].

Write now, everywhere

Binge-papering

Volvamos al anuncio de *Black Mirror*. Imaginemos que en lugar de una marquesina que nos devuelve nuestro reflejo y que al mismo tiempo nos somete al dispositivo, nos encontráramos con una *marquesina académica*. ¿Existe un efecto similar? En lugar de *Live Now, everywhere* encontramos *Write Now, everywhere*. Cada una de las personas que se cruza con esta marquesina académica se está cruzando consigo

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4. Sobre la relación entre biopolítica, economía y producción de subjetividad: Bazzicalupo (2006 y 2016) y Tucci (2018 y 2020).

misma, situándose como protagonista, centro de una realidad académica. Pero como cada una de las personas académicas que se cruzan allí se convierte en protagonista del anuncio, se pierde cualquier atisbo de singularidad del conocimiento. Al recibir el mismo reflejo, la misma máscara, se produce una repetición. Se trata de una personalización académica en extremo, un exceso de personalización que podemos explicar con la idea del *binge-watching* o atracón de series trasladado a la academia como *binge-papering* en un contexto de Universidad *netflixizada*[5].

Byung-Chul Han (2017) ha reflexionado sobre esta nueva forma de entender el entretenimiento: «los tiempos en los que existía *el otro* se han ido» (p. 9). El gusto se convierte en un algoritmo de lo igual que elimina la experiencia y el acontecimiento. Acumulamos series, amigos, retweets, followers sin tener experiencia de lo distinto. De igual forma ocurre con la academia. Acumulamos papers sin experimentar el encuentro con lo distinto. Si «los medios sociales representan un grado nulo de lo social» (p. 12), las revistas académicas representan el grado nulo de lo académico. Porque el tiempo de lectura, maduración, escritura, debate y corrección se solapa como las categorías de Netflix.

En la era de la academia netflixizada, los *papers* no permiten juego ni seducción. Escribir sobre un tema se vuelve maquinal. El imperativo neoliberal de rendimiento reduce el texto académico a un objeto funcional que debe ser optimizado al tiempo que exige la producción masiva de lo nuevo. Lo que hace que quien se dedique a la academia sea totalmente fungible, intercambiable en tanto repetitivamente igual. Las condiciones materiales de la academia imposibilitan lo singular, lo incomparable, expulsando lo distinto en tanto no encuadrable en el algoritmo de las acreditaciones académicas para poder entrar, sobrevivir y promocionar en la academia. El gobierno del algoritmo confina lo sensible a través de máquinas digitales, despolitizando el capital (Lazzarato, 2020, p. 16). Parafraseando a Schmitt, la economía del algoritmo académico se ha transformado en un hecho político y así se ha convertido en el destino[6].

Si «el dinero es un mal transmisor de identidad. Sin embargo, puede reemplazarla, pues el dinero proporciona a quien lo posee al menos una sensación de seguridad y tranquilidad» (Han, 2017, p. 27), los artículos indexados en el Journal Citation Reports y jerarquizados en cuartiles son también malos transmisores de identidad, pero pueden reemplazarla, pues esos JCR's proporcionan al menos una sensación de seguridad

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5. ¿Es posible publicar un artículo cada cinco días? 9000 investigadores lo han hecho entre 2000 y 2016 (Ioannidis, Klavans y Boyack, 2018).
6. «Sería más correcto decir que la política ha sido, es y seguirá siendo el destino, y que lo único que ha ocurrido es que la economía se ha transformado en un hecho político y así se ha convertido en el destino» (Schmitt, 2002, p. 105).

y tranquilidad en el algoritmo de las agencias de evaluación. Porque se presentan desde la neutralidad, por lo que el *valor* y *prestigio* de una persona académica se medirá a través de la combinación de dónde publica, de cuánto publica y del número de citas que recibe. El *paper* —no vinculado al saber sino a la producción— se convierte en el deseo de la institución. Se indexa el pensamiento. Se trata de la estafa del saber indexado: con fondos públicos publicamos en revistas privadas de acceso privado y por pago.

Esta *ilusión* de seguridad y tranquilidad es lo que podríamos identificar con el *mérito* y su promesa de mejorar. Cuantos más méritos acumulemos, más competencias tendremos y, por tanto, más posibilidades de acumulación y progresión en la carrera académica. Por eso, la ideología del mérito establece que todo depende del individuo, de su capacidad. Quienes no tengan éxito en la vida serán los únicos responsables de su propio fracaso. Se trata de una atomización de la vida que se traduce en una concepción puramente individualista de los derechos (Boarelli, 2019, p. 20). Recordemos: «If it's too hot, get out the kitchen» (Gill, 2009, p. 236). Por eso, la ideología del mérito administra el sentimiento de culpa y anestesia el conflicto necesario para la lucha por los derechos (Boarelli, 2019, pp. 81 y 84). Mérito y eficiencia son los instrumentos ideológicos para neutralizar los efectos conflictuales de la diferencia entre quienes están en una situación de precariedad académica y quienes gozan del privilegio de la cátedra.

Troika académica

Seis editoriales científicas controlan el 50% de la producción académica (Elsevier, Springer, Taylor&Francis, Wiley-Blackwell, American Chemical Society, Sage publcations) e imponen el inglés como lengua neutra y universal al modo del latín medieval. Dos de ellas, empresas privadas trasnacionales con ánimo de lucro, financian los índices de impacto internacionales JCR y SCOPUS. Si a estas sumamos las agencias de evaluación de cada país (en España ANECA; en Italia ANVUR), conforman una suerte de *troika académica* que gobierna el saber a partir de establecer los criterios del saber válido y legítimo y del saber espurio e ilegítimo, produciendo *austericidios epistémicos*. La troika académica nos muestra que *el rey* (la Universidad) *reina pero no gobierna*. Desde su poder imperial, esta troika académica es la encargada de conceder ciudadanía académica y estatus epistemológico en una situación de deuda permanente. Lo que tenemos son dinámicas endógenas de privatización en la educación superior por medio de tecnologías de control que evalúan constantemente la producción académica (Ball y Youdell, 2007; Luengo y Saura, 2014).

Al mismo tiempo, desde la atalaya de las agencias de evaluación se produce un enemigo en tanto proveedor de identidad, aún cuando esta identidad sea una singularidad. Las editoriales ajenas a los *rankings* devienen el enemigo al que combatir. Se crea un terror sobre lo distinto: quienes pretenden promocionar o conseguir un reconocimiento de investigación aportando trabajos singulares publicados fuera del algoritmo. Porque ese afuera es un camino inhóspito para la academia. En cierto sentido, la Universidad sin Universidad genera una política sin política, dejando el campo abierto al neoliberalismo.

Pero es precisamente ese camino el que nos puede devolver la extrañeza del mundo como experiencia que nos haga asombrarnos con lo que escribimos o leemos. Un asombro que requiere, inevitablemente, la relación con la otredad que nos haga salir del intercambio acelerado de información (conexión sin relación) y nos permita construir una vecindad académica de la escucha atenta. Una comunidad académica necesita de la escucha, la lectura, la discusión pausada frente al *no tengo tiempo*. Solo así podremos experimentar el acontecimiento como suceso imprevisto que nos toca y nos trastoca, ese radicalmente otro. Pero sobre ello se dedicará el último apartado de este trabajo, antes se pasará a explicar cómo este *binge-papering* es un efecto del dispositivo de la persona y del régimen soberano de la epistemonormatividad.

Deuda, entusiasmo, desesperanza

Marx pronosticó la importancia que tendría lo inmaterial en la configuración del capital. Es lo que llamó *general intellect* en el famoso *Fragmento de las máquinas* de los *Grundrisse*. Lo que se ha venido a llamar el *capitalismo cognitivo* es la fase de autosuficiencia del capitalismo: el capitalismo ahora necesita de la riqueza infinita, que no puede encontrarse en la naturaleza, pues esta es limitada. Solo hay un espacio en donde los recursos no se agotan y es posible la producción permanente: el conocimiento humano (Ossa, 2016, pp. 71-79). El capitalismo cognitivo establece la renta infinita en tanto exista el ser humano pensante. De ahí que si con la modernidad la emancipación radicaba en desarticular la lógica que subordinaba al sujeto al medio de producción, ahora el relato de la emancipación no es posible en esos términos en tanto que la subjetividad es ella misma el modo de producción. El capitalismo es un régimen de subjetividad que la produce por medio de la disciplina y las redes de control. No se modela solo al sujeto, sino que se le modula. Como señala Gómez Villar (2020), «el trabajador no está encerrado en las cadenas del puesto del trabajo, sino atado por una goma a su empresa» (p. 47). En la academia funciona igual.

En este marco de una nueva clase social llamada *precariado* (Standing, 2011), el trabajo cognitivo realizado en la Universidad produce un tipo concreto de subjetividad a la que Bifo (2007) ha llamado *cognitariado*. Lo que caracteriza a la forma de gobierno actual es la amenaza de la prolongación de la precariedad o la promesa de su reducción. La Universidad también reproduce esta lógica en la que devenimos sujetos cuantificados, datificados, digitalizados y metrificados. Se trata de «tecnologías políticas contemporáneas que comienzan a conformar nuevas racionalidades de gobierno a través de relaciones de poder y control en la Educación Superior» (Saura y Bolívar, 2019, p. 10).

Es una lógica basada en la deuda y en el arte de hacer esperar[7]. La situación de precariedad supone un círculo vicioso precisamente porque está sustentada sobre la deuda como forma de gobierno. Por decirlo con Lazzarato (2011), *la fábrica del hombre endeudado*, o de la académica endeudada, supone una apertura automática de la deuda que se instaura de forma permanente (p. 20). De tal forma que quien entra en la Universidad contrae una deuda con quien le ha permitido entrar (normalmente quien tiene una cátedra), aunque esa deuda no implique la posesión inmediata del bien al que se aspira (estabilidad laboral). Lo paradójico es que antes de firmar el contrato social que da acceso a la academia, ya se está en deuda. Es una deuda que se produce sin contrato, a la espera. La lógica soberana académica se instaura antes de la firma del contrato.

En la academia neoliberal no acumulamos capital cultural, sino deuda que se eterniza con el arte de hacer esperar. Los agentes con mayor capital (quienes tienen estabilidad laboral) utilizan su poder para que los nuevos posibles agentes incorporen el *habitus* por medio del tiempo y la esperanza de acceso a puestos laborales en la Universidad. Dado que las posibilidades de mantenerse en la academia y de producir saber en condiciones dignas están restringidas, los agentes con mayor capital juegan con la incertidumbre. El arte de hacer esperar recrudece la subordinación y la conservación del *status quo* por medio de la reproducción de un hábitus que mantiene la esperanza e inhibe la impaciencia (Bourdieu, 1988, p. 89), produciendo desposesión (Welsh, 2020). Por decirlo con Deleuze y Guattari (2002), el oprimido acepta la opresión por un deseo y una promesa de que mañana sea mejor que hoy, aunque la opresión no termine (p. 228). Por eso el cognitariado, las personas que se dedican a trabajar (a veces sin el reconocimiento

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7. Un aspecto sobre el que no trabajaremos, pero que es interesante indagar, es la relación entre ciudadanía y precariedad académica. Muchas personas realizan estudios de doctorado en países diferentes a los de origen. Ello les proporciona una *legalidad* administrativa para residir en dicho país, pero esta legalidad depende de continuar en los estudios de doctorado. Esta continuidad, a su vez, se encuentra condicionada por la firma de quien se encarga de la dirección de la tesis. En última instancia, la residencia legal depende del directo o directora de la tesis doctoral.

como empleo) en la Universidad a la espera de mejorar sus condiciones materiales de vida, está situado en un estado de excepción[8] académico decidido por la troika académica: espacio vacío y suspensión de derechos académicos. Esta excepcionalidad viene velada, ocultada, por medio del bálsamo del entusiasmo.

Este arte de hacer esperar se conjuga con el terrible entusiasmo, usado para aumentar la productividad a cambio de pagos simbólicos (Zafra, 2018, p. 14). El entusiasmo, como justificación de la explotación, se convierte en el motor de producción a costa de la precariedad en las propias condiciones de producción del conocimiento. Un entusiasmo que nos lleva a reproducir la lógica de la deuda con el *pater familias académico*. De ahí que la pregunta *¿quién eres?* realmente quiera decir *¿de quién eres?* La identidad queda definida por el trabajo, por la familia académica a la que se pertenezca.

Esta situación hace que haya una clara diferencia entre quienes se sitúan en la condición de la cátedra (estabilidad académica laboral) como condición de pensabilidad de los derechos fundamentales en tanto ciudadanía académica y quienes se sitúan como simples vidas académicas desnudas (precariedad laboral) como condición de pensabilidad de unos derechos humanos académico ineficaces. Como ocurre en la analogía con el Estado-nación, solo la ciudadanía permite garantías jurídicas para que las vidas sean dignas de ser vividas (Arendt, 1976, pp. 267-302). La ineficacia de los derechos humanos en la academia quizás pueda explicarse precisamente porque la noción de persona académica se plantea desde la separación, porque no es capaz de subsanar el hiato entre vida y academia. Lo que provoca que la vida académica de quienes investigan y producen conocimiento desde la precariedad quede excluida de la tutela del derecho.

El arte de hacer esperar gestiona también desilusión y desesperanza para que la realidad no sea cambiada. En cierto modo, el *binge-papering* al que estamos sometidas por el sistema nos lleva a esa desesperanza: no se publica para entablar un diálogo con otro aún por aparecer (la conversación infinita, por decirlo con Blanchot), sino para rendir cuentas con la deuda que se ha contraído. Se produce una relación crediticia en la que se debe, al mismo tiempo, acumular crédito —prestigio académico por medio de publicaciones— para saldar el crédito (deuda) contraído maximizando la empleabilidad, estando disponible y movilizable, etc. (Gómez Villar, 2020, p. 56). Se naturaliza que la relación con el mundo académico sea a través del crédito.

La relación crediticia, de ese futuro condicionado al saldo de la deuda, desarrollado a través del arte de hacer esperar, nos sitúa ante un esperar algo suprasensible que

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8. En referencia a cómo lo ha planteado de forma general Agamben (2003).

disminuye nuestra vida. Por ejemplo, para una persona religiosa la existencia del paraíso o de Dios son valores suprasensibles que rebajan o disminuyen la vida o la vivencia, quedando sin valor la vida misma, pospuesta por ficciones supraterrenales. La inmanencia de la vida académica queda arrebatada por la trascendencia de un crédito. Lo que nos sitúa en una ambigüedad: queremos conquistar la (ficción de la) libertad académica por medio de la autoexplotación, como empresarias de nosotras mismas.

Es esta ambigüedad la que bloquea la emancipación académica. La consecuencia del sujeto de rendimiento, de la ficción de libertad y la autoexplotación, es la depresión como una transformación topológica de la violencia que se dirige ahora hacia uno mismo (Han, 2018, p. 11). La autoexplotación ligada a la ficción de libertad es más eficiente que la explotación por parte del otro. De ahí que el binge-papering nos lleve al *burnout*. Nos atracamos de series *voluntariamente* como nos atracamos de paper *voluntariamente*. Pero detrás hay un imperativo: ampliar(se), transformar(se), reinventar(se), ofrecer(nos como) nuevos productos. Se trata de dinamizar la producción, pues se requiere de una persona flexible para intensificar la producción. La ecuación se desvela: entuasiasmo+precariedad+índices de impacto+burocracia – creatividad – tiempo = *side effects* de la academia.

Cronobiopolítica académica

Todo este entramado de gestión se puede visualizar con la noción foucaultiana de biopolítica. La universidad neoliberal diferencia bien entre lo público y lo privado, entre el aula y el hogar, cada una con sus tiempos. En el aula o en el despacho universitario se produce según una concepción del tiempo lineal, de crecimiento, de progreso y aceleración propia del sistema capitalista. En cambio, en el hogar se reposa, se descansa, se divierte, para poder volver al lunes siguiente al despacho y al aula para continuar produciendo. El del hogar es el tiempo cíclico de las estaciones, de la menstruación, del fin de semana, del amor, de la herencia, de la seguridad, de la familia. Si pareciera que ambos tiempos son antagónicos, el neoliberalismo los junta, haciéndolos necesarios el uno al otro. Es lo que Luciano (2007) ha llamado *cronobiopolítica*: control y administración de los cuerpos de la población por medio de la gestión de los tiempos. Se trata de yuxtaponer tiempo lineal de producción y tiempo cíclico de descanso para que las corporalidades se adapten al aparato de producción capitalista, presentándose como algo natural y constituyente del sistema, inmodificable. Al final, se es académica full time.

Se produce una normatividad sobre el tiempo y la vida: una serie de técnicas que naturalizan experiencias temporales para aquellos sujetos que privilegia (Freeman, 2010, p. 3). De lo que se trata es de organizar los cuerpos, sus ritmos, sus tiempos, de la forma más productiva para el sistema económico. Una pluralidad de tiempos que conviven simultáneamente: el tiempo lineal de la acumulación del desarrollo y el tiempo cíclico de las tareas domésticas. Esta yuxtaposición de tiempos normaliza los cuerpos para adaptarlos al aparato de producción capitalista, haciéndolos pasar por naturales. Es más: el tiempo lineal de producción necesita del tiempo cíclico doméstico (Freeman, 2010, p. 39). Es así que pasamos de un modelo de producción basado en el tiempo cíclico de las estaciones al tiempo biopolítico de la industria.

Destaca la última reforma introducida por España en la Comisión Nacional Evaluadora de la Actividad Investigadora para la convocatoria de sexenios de investigación. En un intento por paliar las violencias que la academia androcéntrica produce sobre las mujeres, estas «podrán prorrogar el último sexenio vivo un año por cada permiso que disfruten por nacimiento, adopción, guarda con fines de adopción o acogimiento» (apartado 2.3 de la Resolución de 10 de diciembre de 2019, de la Secretaría de Estado de Universidades, Investigación, Desarrollo e Innovación). De nuevo encontramos el problema de identificar la reproducción con la producción, dejando a la responsabilidad individual de la ciudadana el doble peso del cuidado y de la carrera académica. No se trata de romper con la histórica función reproductora de las mujeres, sino precisamente de conservarla por medio del *premio* y la *gracia* soberana. Las mujeres son quienes reproducen y esta lógica no es cuestionada por este intento por paliar las violencias patriarcales de la academia.

La academia exige que se produzcan (tiempo lineal del trabajo) un número determinado de *papers* en revistas internacionales de reconocido prestigio a costa de la salud, que debe ser (des)cuidada (tiempo cíclico del hogar). Ambos tiempos se mezclan en una espiral sin salida. El estrés, el dolor o la culpabilidad no entienden de separación de tiempos. La Universidad controla los tiempos, de ahí que esos papers se escriban en el despacho de la facultad o en la cocina de la casa. Controla el tiempo lineal de la producción y el tiempo cíclico de lo doméstico. Este es ese carácter full time que viene sustentado sobre el arte de hacer esperar y la deuda.

Epistemonormatividad

¿Cómo se explica esta lógica de jerarquización, separación y neutralización? A partir de un régimen soberano que gobierna la Universidad y que funciona a través del dispositivo de la persona académica. Este régimen se puede llamar *epistemonormatividad* (Winter Pereira, 2020). Se trata de un conjunto normativo, un modelo discursivo/epistémico hegemónico de inteligibilidad del conocimiento a través del cual se naturaliza la producción del conocimiento. Un marco regulador de la identidad académica que separa licitud e ilicitud en la producción de conocimiento. Quienes no se ajustan a los patrones de producción académica son situadas en la ilicitud y sobre ellas recaen las sanciones del código epistemonormativo.

Qué se estudia, qué se produce y *dónde se produce.* El conocimiento lícito/normal será aquel que estudia la ciencia nortecéntrica en los espacios legítimos y monopolísticos del conocimiento jerarquizados por los rankings internacionales (Shanghai). En segundo lugar, ese conocimiento que se estudia es aquel que se produce de acuerdo a un status epistémico pre-establecido que jerarquiza los saberes: determinados saberes vinculados a la eficacia serán más valorados que aquellos otros que necesitan del largo plazo para asentar sus propuestas. En tercer lugar, ese saber producido con diferentes status viene condicionado por el lugar dónde se produce: no es igual producir conocimiento en el MIT y publicar en la editorial Oxford University Press que hacerlo en la Universidade de Algarve y publicar en la editorial Centelha.

Es la pura forma de dónde se publica y desde dónde se enuncia la persona que publica lo que determinará el potencial de público lector, citas, etc. sin importar el contenido que se publica. La epistemonormatividad exige esta coherencia entre los tres ítems, jerarquizando, separando y neutralizando a quienes interrumpen la coherencia narrativa del conocimiento estudiando conocimiento no nortecéntrico, publicando fuera de rankings, desarrollando áreas de conocimiento con un status epistémico disminuido. La epistemonormatividad refuerza la idea del dispositivo de la persona académica, de un sujeto abstracto, racional, universal, objetivo y neutral que se impone sobre otras subjetividades posibles. Porque solo produce conocimiento quien tiene una condición laboral, un status jurídico y en jerarquía (de la cátedra a la beca de investigación o a quien trabaja sin ser reconocido como empleo). Además, la epistemonormatividad rechaza el error. No es posible publicar algo erróneo porque sería vulnerar la normatividad

epistémica. Se trata del dogma teológico: la infalibilidad frente a la infidelidad del error. Todo escrito ha de estar libre de error (axiomático). La Universidad solo admite empresarios exitosos.

Acontecer en una academia otra

Hay un elemento que queda excluido de la persona: el cuerpo. Este no coincide ni con la persona ni con la cosa, sino que oscila entre una y otra. A pesar de ser el centro de imputación de las prácticas de poder, el cuerpo ha sido excluido del derecho porque precisamente es aquel espacio de los instintos y pasiones que debe ser neutralizado por la razón (García, 2018). Es por ello que para poder desatar este nudo metafísico, para poder romper con este dispositivo teológico-político de la persona académica y la epistemonormatividad, es preciso abordarlo por medio del cuerpo viviente académico que nos lleve de lo trascendente de la persona a lo inmanente del cuerpo. Por decirlo con Deleuze, *la inmanencia, una vida académica* que deshaga el nudo biopolítico entre vida y norma (Esposito, 2004, p. 215).

Frente a la igualdad formal que nos permite, en principio, poseer todas una cátedra, aquí nos situamos en las condiciones materiales inmanentes a la propia subjetividad de la precariedad académica. Ya que la Universidad nos sitúa en la definición aristotélica del hombre como *ser-en-obra* del alma según el logos (Aristóteles, 1985, p. 141), el ser que viene definido por la producción, quizás sea el momento de situarnos en el *ser-sin-obra*, en el ser que viene definido por su precariedad, o mejor, por su *precaridad* como una inducción política de mayor precariedad (Butler, 2006 y 2009).

La Universidad está configurada por la epistemonormatividad y por el dispositivo de la persona de tal forma que le es imposible construirse a partir de la precaridad, sino que lo hace desde arriba, desde el sujeto privilegiado de la cátedra. ¿Cómo construir una Universidad no excluyente? ¿Una Universidad sin los verbos jerarquizar, separar, neutralizar? ¿Cómo construir una Universidad por fuera del paradigma soberano? Señala Butler que la política que viene debe construirse precisamente partiendo de quienes se encuentran en una situación de mayor vulnerabilidad, o, por decirlo con Santos (2006), la política emergente debe ser construida a partir del otro lado de la línea abisal. ¿Cómo sería esa Universidad que viene? ¿Cómo construir un conocimiento otro, una Universidad otra ya no desde la persona, la ciudadanía o la soberanía, sino sobre aquella parte que ha sido neutralizada? Como sostiene Lorey (2015), "precarity in its different extents

forms the starting-point for political alliances against a logic of protection and security for some at the cost of many others" (p. 91). Esto es, frente al gobierno de la precariedad, de la amenaza a la vida académica, la vulnerabilidad puede ser el punto de partida para otra política. Pasar de un paradigma productivista basado en la obra a un paradigma fuera de la productividad y la eficacia; un paradigma inoperante, improductivo, impotente como medialidad sin fines, destituyente (Agamben, 2014).

Actualmente la Universidad está configurada como un poder constituido pensado a partir de la idea de cátedra que neutraliza toda posibilidad otra, por lo que todo está enfocado a la eficiencia que haga progresar en la carrera académica con las miras puestas en la cátedra, aunque el camino hasta llegar a esa meta esté repleto de violencias. Otro modelo de Universidad lo podríamos pensar desde el poder constituyente: en el que la igualdad formal permite que las interseccionalidades (clase, raza, capacidad, edad, género, sexo, etc.) no sean determinantes a la hora de poder acceder a ese camino de la cátedra, lo que hace que el poder constituido (la Universidad construida desde la cátedra) se apropie, capture, el poder constituyente (las condiciones que permiten el acceso en igualdad formal a la Universidad). Poder constituyente y poder constituido reproducen el régimen soberano del dispositivo de la persona y la epistemonormatividad. Pero podemos pensar en una tercera vía, que es la que se propone aquí: la potencia destituyente académica. Pensar una potencia puramente destituyente trata de escapar de la lógica de los medios y los fines, afirmando la inmanencia de la inoperosidad, del uso de los cuerpos desde su común vulnerabilidad, cercano a lo que se ha planteado como *Slow Scholarship* (Mountz *et al.*, 2015). Y aquí el fracaso puede ser una vía aceptable.

Frente a la idea neoliberal del fracaso, Halberstam (2018) presenta otra forma de entenderlo:

> bajo ciertas circunstancias, fracasar, perder, olvidar, desmontar, deshacer, no llegar a ser, no saber, puede en realidad ofrecernos formas más creativas, más cooperativas, más sorprendentes de estar en el mundo […]. En realidad, si el éxito requiere tanto esfuerzo, quizá el fracaso es más sencillo a largo plazo y ofrece recompensas distintas. (pp. 14-15)

La lógica capitalista establece el éxito como lugar donde llegar si una pretende realizarse, pero este éxito depende del fracaso de tantas otras que, por desigualdades de raza, clase, género, etc. no logran siquiera pensar en un éxito, viviendo en la constante

inseguridad y en el miedo al fracaso continuo en ese arte de hacer esperar que tan bien practican quienes construyen la epistemonormatividad. Aquí encontramos la forma de gobierno neoliberal basada en la promesa de reducir la precariedad o la amenaza para prolongarla.

Desde esta resignificación de la idea de fracaso, Cielemecka y Revelles-Benavente (2017) plantean que "'being a failure' may be seen as a crucial device for resisting and rebelling against the forms of exploitation and relationality which we are expected to reproduce under the neoliberal paradigm" (2017, p. 33). Fracasar para desaprender las formas en que las cosas fueron programadas para ser, con sus jerarquías y cánones. De nuevo Halberstam (2018): «debemos desaprender nuestros saberes, de modo que podamos cuestionar de nuevo luchas y debates que creíamos arreglados y resueltos» (p. 23).

¿Qué significaría aceptar que nosotras mismas y que las demás fracasen? Trabajar las *embodied experiences of failing* desde la aceptación, el entendimiento, el respeto a las necesidades corporales y el cuidado puede devenir una práctica de resistencia. Ir del aislamiento y de la vergüenza individual a una praxis académica feminista que, a través del cuidado de sí y de las otras, construya puentes y estreche redes para provocar comunidades de cuidados. En esta comunidad que provenga del trabajo sobre el fracaso, la concepción del tiempo tiene que ser reconsiderada para salir de la cronobiopolítica. El tiempo del cuidado debe estar fuera del tiempo capitalista. Debe tener presente las vulnerabilidades de las corporalidades, la precariedad y la precaridad. El tiempo de la *cuidadanía* (Winter Pereira, 2018) debe ser gestionado con parámetros distintos a los de la ciudadanía del neoliberalismo. Debe ser un tiempo adaptado a las particularidades de las corporalidades.

Es necesario atender a la situacionalidad de los cuerpos (pensemos en situaciones de embarazado y producción académica). La gestión de los tiempos en la cuidadanía podría darse en las acreditaciones a puestos docentes universitarios por las agencias nacionales de evaluación. Esta acreditación actualmente es individual: se juzga lo que una ha hecho en la academia durante un determinado período de tiempo. ¿Y si en lugar de ser una evaluación individual fuese una evaluación en la que se tuviera en cuenta el papel de esa persona en la comunidad académica en la que se encuentra? De esta forma, en cierta medida, las académicas tendríamos la necesidad de colaborar entre nosotras, compartiendo vulnerabilidades (escritura colectiva de artículos, traducciones mutuas, etc.).

Ya no se trata de construir la Universidad para que todas podamos, siendo eficaces, llegar a tener el privilegio de una cátedra, siempre mediados por el arte de hacer

esperar y por el terrible entusiasmo académico, sino construir la Universidad desde la precaridad, desde esa definición ya no de ser-en-obra, ya no desde la eficacia y la productividad, desde la vulnerabilidad compartida de las de abajo. No se trata de que todas podamos llegar a tener una cátedra, sino que todas tengamos condiciones materiales para poder vivir una vida académica sostenible y que merezca la pena ser vivida.

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Marco Piasentier. Researcher at the University of Jyväskylä (Finland) and research fellow at the Center for Critical Thought, University of Kent (UK). He is a member of the editorial board of *Il Rasoio di Occam* (*MicroMega*) and a founding member of the *Journal of Italian Philosophy* (Newcastle UP). He co-ideated and co-directed the four editions of an annual summer school in ontology (ISP-Grado, 2015-2018). His research interests are focused on political theory and modern European philosophy. Bewond his recent publications *On Biopolitics: An Inquiry Into Nature and Language (*Routledge, New York 2020); "Foucault and the Two Approaches to Biopolitics." *Biopolitical Governance. Race, Gender, and Economy*, Hannah Richter (Ed.), London: Rowman&Littlefield International, 2018; "'The Government of a Multitude'. Hobbes and The Political Subject" (with Davide Tarizzo). *The Routledge Handbook to Biopolitics*, Sergei Prozorov and Simona Rentea (Eds.) (Routledge, London 2016). He is the editor of the volume *Italian Biopolitical Theory and Beyond: Genealogy, Psychoanalysis, Biology* (with Lorenzo Chiesa and Boštjan Nedoh), *Paragraph. A Journal in Modern Critical Theory* 39, 1, 2016. Contact: marco.piasentier@gmail.com

BIOPOLÍTICA Y ANTROPOMORFISMO[1]

Marco Piasentier *
University of Jyväskylä

BIOPOLÍTICA Y *ANTHROPOMORPHISM*

Resumen

Toda investigación sobre biopolítica plantea de forma ineludible preguntas sobre la vida biológica y la política, la naturaleza y el lenguaje. Michel Foucault consideró esencial definir estos conceptos y las relaciones entre ellos. Partiendo de la exhortación de Foucault a pensar filológica y biológicamente, este artículo aborda la división entre naturaleza y lenguaje en el ámbito de los estudios biopolíticos. La investigación abarca diversos modelos filosóficos, desde el giro lingüístico heideggeriano hasta el naturalismo posdarwiniano. Para poder entablar un diálogo entre estas tradiciones, el texto pone en tela de juicio dos vestigios de una cosmovisión «humana, demasiado humana». El artículo intenta demostrar que *el comando del lenguaje* (*command of language*) y la *finalidad de la naturaleza* (*ends of nature*) son dos formas de antropomorfismo que excluyen la posibilidad de pensar filológica y biológicamente acerca de la biopolítica.

Palabras clave

Biopolítica, antropomorfismo, Foucault, naturaleza, lenguaje.

Resumen

Every inquiry into biopolitics inevitably raises questions about biological life and politics, nature and language. Michel Foucault deemed it essential to define these concepts and the relationships between them. Building upon Foucault's exhortation to think philologically and biologically, this article addresses the divide between nature and language in the field of biopolitical studies. The inquiry encompasses diverse philosophical models, from the Heideggerian linguistic turn to post-Darwinian naturalism. In order to establish a dialogue between these traditions, the article puts into question two vestiges of a "human, all too human" worldview. The article attempts to show that the *command of language* and the *ends of nature* are two forms of anthropomorphism that preclude the possibility of thinking philologically and biologically about biopolitics.

Keywords

Biopolitics, anthropomorphism, Foucault, nature, language.

Toda investigación sobre biopolítica implica inevitablemente preguntas acerca de la vida biológica y la política, la naturaleza y el lenguaje. Michel Foucault —padre de los estudios biopolíticos contemporáneos— consideró que era esencial definir estos conceptos y las relaciones entre ellos. «Históricamente y fisiológicamente» [*Histotiquement et physiologiquement*] (Foucault, 1971, p. 163) es una expresión acuñada por Friedrich Nietzsche que más tarde emplearía Foucault para encapsular una visión filosófica en la intersección entre una perspectiva «filosófica-filológica» y una filosófica-biológica (Foucault, 1966, p. 316). La intricada división entre las ciencias humanas y las ciencias naturales ejemplifica el reto propuesto por Foucault. En las siguientes páginas nos dirigimos a exponer algunas de las principales razones que no nos permiten pensar en la biopolítica biológicamente y filológicamente.

Antes de examinar la forma en que las perspectivas biológica y filológica pueden alimentar la tensión entre las ciencias humanas y las naturales, podemos considerar cómo ellas tienden a formarse algunas formas en el estudio foucaultiano. Revisando este vasto corpus literario, recibimos la impresión de que hay dos posiciones filosóficas en conflicto diferentemente agudas entre sí. Las lecturas propuestas por dos ilustres intérpretes nos ofrecen un paradigmático ejemplo de esa división. Si Judith Butler (1989) sostiene que «La posición de que el cuerpo es una construcción que seguramente, si bien no de manera inmediata, está asociada a Michel Foucault» (p. 601), Gilles Deleuze (1986) se pregunta «¿no es la fuerza que viene del exterior una cierta idea de la Vida [*idée de la Vie*] […] aquello en lo que el pensamiento de Foucault culmina?» (pp. 98–99)[2]. La comparación entre los dos pasajes revela un claro contraste entre la perspectiva biológica y la filológica. Es nuestra opinión que un remanente antropomórfico estropea la «idea de Vida» y la idea del lenguaje que constituyen estas interpretaciones. Socavar el antropomorfismo informando esos principios explicativos nos permitirá debilitar el conflicto entre ambas perspectivas foucaultianas.

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2. De las palabras de Butler y Deleuze emergen dos principios explicativos que parecen coincidir con los términos constitutivos de lo que Alain Badiou (2009) considera el axioma de la convicción contemporánea. El pronunciamiento está anunciado así: solamente hay cuerpos y lenguajes (*Il n'y a que des corps et des langages*). Múltiples diferencias problematizan el intento de establecer una creencia singular que informa a las sociedades occidentales. Nuestra búsqueda no es, por lo tanto, decidir si esta definición es realmente el *credo* esencial de la cultura occidental contemporánea. Nos limitaremos a observar que la literatura filosófica contemporánea sobre biopolítica (y otros temas) sugiere una tensión entre estos dos principios, al punto de que parece legítimo discutir si solamente hay cuerpos *o* lenguajes. Si este es el caso, un diagnóstico apropiado y una cura de la «ideología dominante» contemporánea parece requerir una revisión más profunda de la relación entre el naturalismo y la crítica, más que desechar una de las dos como el pensamiento de Badiou y su legado en debates contemporáneos, apegados a cierto realismo, parecen sugerir. Una investigación interesante sobre la posibilidad de naturalizar a Badiou es un aporte de Fabio Gironi (2015).

Creemos que las raíces filosóficas del antropocentrismo que rondan estas lecturas extienden por mucho el pensamiento y el conocimiento del pensamiento foucaultiano. Nuestra investigación no es, por lo tanto, un ejercicio exegético dirigido a rastrear el límite más allá del cual no es posible pensar en términos foucaultianos. Más bien, es un intento de revelar las fallas de dos posiciones filosóficas que informan su obra, pero no exhaustivamente. La teoría foucaultiana de la biopolítica será el centro de grave-dad de un análisis que abarcará un amplio rango de modelos filosóficos: desde el giro lingüístico heideggeriano hacia el naturalismo neo-darwiniano. Las fisuras y barreras conceptuales que inevitablemente caracterizan el diálogo entre tradiciones diferentes pueden reforzar la idea de que existe un límite insuperable entre ambas. Creemos que una multiplicidad de *semejanzas de familia*, estorban a los intentos de fijar un genio filosófico completamente aparte de todas las demás tradiciones. Tomando la expresión de Samuel Beckett, no consideraremos estos malentendidos como pruebas de una in-comunicabilidad esencial, sino más bien como «fallas interesantes» gracias a las cuales, nuevos conceptos filosóficos pueden emerger[3].

En el curso de esta investigación, escribiremos las teorías y métodos de varias tra-diciones filosóficas para sentar las fundaciones de una idea de biopolítica que aún permanece inédita. Trataremos de demostrar que pensar acerca de la biopolítica «his-tóricamente y fisiológicamente» significa renunciar tanto a cierta noción de lo que es la vida como a cierta noción de lo que es el lenguaje. Por un lado, cuestionaremos aquellas investigaciones críticas que juzgan las teorías biológicas como invenciones históricas que han sido producidas en regímenes específicos de discurso y poder. Por otro lado, retaremos aquellas teorías biológicas que consideran una noción literal o metafórica de la teleología natural como algo esencial para la definición de lo que sea el mundo orgánico. El común denominador que sostiene juntas a las dos posiciones filosóficas,

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3. En afinidad con el enfoque de este libro, abarcaremos la visión filosófica propuesta en un volumen reciente de Jeffrey A. Bell, Andrew Cutrofello, y Paul Livingston (2016). En esta colección de ensayos —que pueden considerarse como un manifiesto por una nueva filosofía del siglo XXI— los autores buscan mostrar que «ya es posible avizorar un futuro para el pensamiento y la práctica filosófica que ya no esté determinada como 'analítica' o como 'continental', sino, más bien, como una síntesis plural de lo que mejor hay de ambas tradiciones» (p. 2). Consideramos que *The Politics of Logic* (Livingston, 2012) y *The Logic of Being: Realism, Truth, and Time* (Livinston 2017) son ejemplos paradigmáticos de este enfoque plural. De ambos libros, el primero es el que probablemente comparte más similitudes con el presente libro. Como el título ya sugiere, el libro muestra las implicaciones de largo alcance de la formalización para la comprensión de preguntas políticas. Livingston, de forma admirable, explora la conexión profunda entre las obras de pensadores tan diversos como Badiou, Derrida, Lacan, Cantor Gödel, Wittgenstein, Russell, Turing y Carnap. Por un lado, él demuestra la dimensión formal y lógica de la filosofía continental contemporánea. Por otro lado, demuestra que la lógica y el formalismo tienen importantes implicaciones políticas. A pesar de que no nos referimos a las temáticas abarcadas por Livingston, su enfoque filosófico riguroso y original ha sido una inspiración para definir la estructura del presente libro.

tan diferentes entre sí, es un *horror vacui*, un miedo al vacío, que no les permite aplicar una visión del mundo *humana, demasiado humana*[4].

Nuestra investigación comenzará revisitando algunos momentos en el «camino al habla» inaugurado por Martin Heidegger, un pensador cuya influencia permea no solamente el «desarrollo filosófico entero» de Foucault, como el mismo reconoció en una entrevista en 1984 (Foucault, [1984] 1994, 703), sino que también juega un rol fundamental en el trabajo de otro filósofo cuya teoría filosófica está en tensión crítica con la foucaultiana: Giorgio Agamben. Nos enfocaremos en la definición heideggeriana del lenguaje como «morada de la esencia del ser humano» (Heidegger, 2004, p. 361) y en el legado que esa definición tiene en la obra de Foucault y Agamben.

El pensamiento Heideggeriano ha sido asociado frecuentemente con un «sesgo anti-biológico» (cf. Agamben, 2002; Derrida, 1988; Esposito, 2018; Sloterdijk, 2001; Stiegler, 1994). En *Ser y tiempo*, por ejemplo, la condición de posibilidad para el despliegue del mundo yace en la constitución existencial del ser humano, definido a partir de la exclusión de la dimensión biológica del humano. Si Heidegger considera que es la dimensión biológica el presupuesto desde el cual una serie de "existentialia" deben separarse, parece justo concluir que el no considera que el ser humano sea esencialmente una *criatura viva*. No obstante, esta no es la última palabra de Heidegger. En una conversación de 1963 que ha sido reunida en los *Seminarios de Zollikon*, hace explícita una idea que, según consideramos, anuncia algunos de sus más importantes textos tardíos: «la diferencia antropológica" (*anthropologische Differenz*) […] está en el camino equivocado. Pertenece a la metafísica» (Heidegger, 1994, p. 231). Muchos autores, comenzando por Heidegger mismo, han reoconocido un «giro» (*Kehre*) en su obra. Notaremos que esta transformación no se despliega de una forma única y lineal, sino que bordea trayectorias que se desplazan a diferentes velocidades y en diferentes direcciones. Seguir uno de esos caminos nos permite dejar atrás la diferencia antropológica, para encontrar la semilla de una concepción alternativa del ser humano que tendrá una función significativa en algunas de las obras fundamentales de Agamben y Foucault.

En una carta de 1927 dirigida a Edmund Husserl, Heidegger (1999) explica que el problema central de *Ser y tiempo* puede resumirse en la siguiente pregunta: «¿Cuál es el modo de ser del ente para el cual el mundo está constituido?» (p. 54). En *Ser y tiempo*, Heidegger (1977) discute ciertamente que la existencia humana «tiene la constitución esencial de ser-en-el-mundo» (p. 73): considera que el ser humano está originalmente

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4. En *La genealogía de la moral*, Nietzsche (1999) escribe: «el hecho básico de la voluntad humana, su *horror vacui*: necesita una meta» (p. 339).

abierto al mundo. Sin embargo, la ontología fundamental de Heidegger «revela aspectos estructurales del Dasein que no pueden ser definidos por completo en términos del mundo» (Braver, 2007, p. 278). Lee Braver y otros académicos han demostrado convincentemente que el giro introduce la posibilidad de completar el concepto de ser-en-el-mundo de *Ser y tiempo*, e imposibilita establecer una serie permanente de formas de ser que exceden y fundamentan el mundo[5]. El mundo ya no es «una característica» (*Charakter*) de la constitución existencial del ser humano (cf. Heidegger, 1977, p. 87), sino que los acontecimientos históricos del mundo constituyen las características de los seres humanos. El mundo deviene un evento lingüístico, otorgado históricamente por sí mismo y carente de un punto de anclaje final.

Sugiero que el Heidegger tardío no considera ya la diferencia antropológica como un momento fundacional. Pensarlo de otro modo significaría adjudicar una esencia al ser humano excediendo y fundando las aperturas históricas del mundo. Heidegger no supera la «pasión anti-biológica» (Sloterdijk, 2001) que caracteriza parte de su pensamiento, desarrollando una relación diferente entre el ser humano y su dimensión biológica, pero mostrando que cada articulación entre ambos términos debe ser reducida a una ocurrencia histórica del mundo mismo. «Afuera» (*dehors*) (Foucault) el «mundo» (*Welt*) (Heidegger), en esa «dimensión vacía» (*dimensione vuota*) (Agamben) a la cual Heidegger llama «tierra» (*Erde*), no encontraremos el recordatorio de una dimensión prediscursiva sino una reserva de significación (c.f. Vattimo, 1985 y 1996). Nuestra crítica al horizonte filosófico inaugurado por el giro comenzará cuando la idea de que el lenguaje es la morada del ser humano comience a implicar un proceso de hacer-mundo que pierde su mínimo sentido ontológico como una dimensión independiente del lenguaje. Desde esta perspectiva —la cual no agota el legado del giro lingüístico heideggeriano— discutir que «el lenguaje es la morada de la esencia del ser humano» (Heidegger, 2004, p. 361) significa afirmar que «el desarrollo de la humanidad es una serie de interpretaciones» (Foucault, 1971, p. 158). Cuando las investigaciones históricas y críticas foucaultianas toman esta forma, ellas reducen cada definición del ser humano a un específico «régimen de discurso y poder» (Butler 1989, p. 601), y así, la posibilidad de establecer si el ser humano es o no una criatura viva siempre está ya perdida en una «gran ignorancia» (*grande ignoranza*) (Agamben, 2002, p. 92).

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5. Vincenzo Costa (2002) pripone una lectura del joven Heidegger similar a aquella de Braver. Argumenta que en *Ser y tiempo* la diferencia ontológica depende de la diferencia antropológica. Hemos descubierto el pasaje de los *Zollikon seminars* que hemos citado en esta introducción gracias a la obra de Costa.

Nuestra meta no es desechar el giro heideggeriano y su legado, sino permitir que emerja el remanente antropomórfico acechando en la idea de que los seres humanos siempre habitan el lenguaje[6]. A la luz de la investigación delineada hasta el momento, avanzaremos hacia una lectura de la interpretación del prólogo del Evangelio de San Juan propuesto por Agamben (1984), obra que implícitamente también informa en parte sobre la obra heideggeriana y foucaultiana. La supuestamente profana lectura del pasaje bíblico «en el inicio fue el verbo» (*En arche en ho logos*) infunde un principio antropomórfico en el giro lingüístico. Si el lenguaje está considerado desde el inicio, ninguna dimensión natural o sobrenatural puede explicar su acontecer. La significación deviene lo que Ray Brassier (2011) llamaría un explicador inexplicado (p. 11)[7]. Un *horror vacui* de la memoria Nietzscheana, la de un miedo a la falta de significado, inunda la posibilidad de pensar en una dimensión que sea independiente del lenguaje. Tomando prestado un término popularizado por la deconstrucción, sugeriremos que el antropomorfismo introducido por la interpretación profana del prólogo al Evangelio de Juan difícilmente puede considerarse una forma de logocentrismo, porque no hay voz más auténtica y originaria que el lenguaje cotidiano. El logocentrismo es sustituido por algo que llamaremos *logomorfismo*. Gracias al análisis etimológico-filosófico del termino heideggeriano *Dichtung*, intentaremos dilucidar cómo es que esta voz es pura potencialidad de significar, cuyo único imperativo (*Imperativ*) o comando (*Geheiss*) (Heidegger, 1985, p. 158) es abandonar la creencia en la existencia de una «independencia material u ontológica» (Butler, 1989, p. 602) con respecto a los regímenes del discurso y del poder.

Foucault presenta su investigación sobre biopolítica en su libro *La historia de la sexualidad. Vol 1*. (1976) y en su curso del Collège de France 1977-1978 *Seguridad, territorio, población*. En estas obras explica que la inclusión moderna de la vida biológica en la esfera de las técnicas políticas ha sido desarrollada de un lugar a otro con la definición de un ser humano que excluye cualquier referencia a entidades sobrenaturales. La humanidad biopolítica se apropia hecho biológico fundamental (Foucault, 1978, p. 3) de que él o ella es siempre «un ser vivo específico y que se relaciona de formas específicas con otros seres vivos» (Foucault, 1976, p. 189). La diferencia antropológica,

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6. Nuestra comprensión de Heidegger comparte puntos importantes con la propuesta por Michael Lewis (2014 y 2017). Particularmente, consideramos la posibilidad de presuponer una lectura de Heidegger capaz de contribuir a la superación más que a inflamar el conflicto entre lo manifiesto y la imagen científica del ser humano. En este sentido, nuestra lectura de Heidegger es un intento de moverse en la dirección que Lewis ha señalado, ya que intentamos pensar en Heidegger «más allá de la deconstrucción» o, al menos, más allá de cierta lectura que hay de ella.

7. La obra de Brassier y, especialmente, su redefinición de la pregunta por lo trascendental a través de un enfoque filosófico en la encrucijada entre pensamiento crítico y la metafísica naturalista ha sido una fuente significativa de inspiración por este trabajo.

que considera al ser humano como *esencialmente* no una criatura viva, por lo tanto, no puede ser la fundación para definir la especificidad del individuo y de la existencia política del ser humano biopolítica.

De acuerdo a la interpretación de la perspectiva filosófica-filológica que hemos delineado brevemente en los párrafos previos, la definición del ser humano caracterizada tanto por la diferencia antropológica como por la biopolítica es una invención histórica resultado de regímenes específicos de discurso y poder. Por lo tanto, no es inherente al ser humano tener una dimensión política, sea en antítesis o en relación con su dimensión biológica, sino que es en lo político que el ser humano encuentra su morada. Esta interpretación de la perspectiva filosófica filológica no es la única perspectiva que Foucault adopta para dirigirse a la pregunta sobre la biopolítica. Si Deleuze y otros intérpretes como Roberto Esposito creen que el pensamiento foucaultiano culmina en una cierta idea del mundo orgánico es debido a que en algunos de sus escritos Foucault se dirige a la pregunta sobre la biopolítica desde un ángulo completamente diferente.

De acuerdo a esta perspectiva diferente, definir la dimensión biológica del ser humano es esencial para dar cuenta de su existencia política. El término *vitalismo* que, por ejemplo, Deleuze utiliza para describir la biofilosofia foucaultiana, podría ser confuso porque puede dar la impresión de que Foucault quiere defender una idea del mundo biológico considerando que la existencia de algún ente o fuerza inverificable. Por el contrario, Foucault sostiene que una ciencia de la vida requiere científicos y filósofos dispuestos a enfrentar la pregunta sobre la teleología en la biología pero eso no significa que el vitalismo sea verdadero. Tampoco significa que esta noción, que tan frecuentemente se ha enraizado profundamente en las filosofías menos rigurosas, deba constituir una «filosofía de la biología insuperable» (Foucault, 1994, p. 773). Definir la pregunta sobre la teleología es esencial para la perspectiva filosófica biológica de la biopolítica porque le permite a Foucault establecer si el mundo orgánico es o no genuinamente algo que tiene propósitos y normas. A continuación, nuestra investigación aborda la pregunta sobre la teleología biológica y sobre sus implicaciones biopolíticas. Limitar nuestra investigación a la biofilosofia de Foucault y a su legado no agotaría las ramificaciones de semejante pregunta. Por lo tanto, extenderemos nuestra investigación a la teoría de la evolución de una selección natural, prestando atención particular a la visión estándar de nociones teleológicas en la filosofía de la biología evolutiva.

Un primer paso para dirigirse a la pregunta por la teleología en la biología es decidir si la teleología biológica puede ser considerada independientemente de las intenciones psicológicas y de los propósitos. En nuestra lectura, Foucault y otros pensadores de la

biopolítica creen que el lenguaje teleológico puede dar cuenta del mundo orgánico en virtud de hechos no psicológicos acerca de los organismos y sus partes. A continuación, veremos que, en algunos de sus hitos más importantes, Foucault recurre a una definición de la vida biológica como un proceso no psicológico que no aporta organismos con propósitos y de la genealogía como el método para reconstruir la historia natural. El legado de George Canguilhem y de Nietzsche resuena en estos textos, que también constituirán el comienzo de nuestra investigación. Nos enfocaremos principalmente en aquello de lo que da cuenta genealógicamente Foucault en relación a la historia natural y a su legado en la teoría biopolítica actual. Nuestra investigación mostrará que el intento de preservar las nociones teleológicas en la historia natural depende de la visión que un *humano demasiado humano* tiene del mundo orgánico. A partir de una lectura muy específica de Nietzsche, Foucault y otros académicos mantienen que la genealogía de la historia natural «no pretende volver en el tiempo para restaurar una continuidad pérdida que opera más allá de la dispersión de las cosas olvidadas» (Focault, 1971, p. 152); la genealogía por el contrario problematiza una visión simplista de la historia natural como un camino lineal y progresivo. Esta concepción de la historia natural le permite a Foucault y a otros académicos de la biopolítica subrayar la importancia de los «errores» y de las disfunciones en la historia funcional de los «órganos fisiológicos» (Nietzsche, 1999). Cuestionaremos esta visión de la naturaleza sugiriendo que las partes biológicas y los procesos simplemente operan. Dotar a los entes orgánicos con estándares naturales de performatividad —que establecen si están funcionando o no— introduce contenidos normativos que no pertenecen al mundo natural. Para enmarcar mejor la pregunta sobre las nociones teleológicas en relación al mundo orgánico, nos remitimos al debate actual de la filosofía de la biología sobre si la historia evolutiva imbuye a los organismos y sus partes con propósitos y normas naturales.

Nuestra investigación se moverá desde el supuesto de que la teoría de la evolución por la selección natural ha privado a la teología natural de cualquier legitimidad científica al explicar el mundo vivo. Más adelante, mostraremos que la ausencia de cualquier referencia a un diseñador divino no agota el debate de la teleología en la ciencia: hay opiniones encontradas sobre si la teoría de la evolución por selección natural nos ofrece una visión naturalista de las nociones teleológicas en la biología o si, por el contrario, nos permite dejar de pensar acerca del mundo biológico en términos teleológicos (cf. Allen y Bekoff, 1995). La literatura sobre la naturalización de la teleología en la biología es vasta, pero la mayoría de los estudios recientes se han enfocado en el concepto de función. Tomaremos en cuenta esta literatura reciente con atención particular a aquellas

que establecen la función de los rasgos por referencia a su historia selectiva (cf. Millikan, 1989; Neander, 1991; Griffiths, 1992; Godfrey-Smith, 1994; y otros). Según la formulación "estándar" del argumento del efecto seleccionado (selected effect, en adelante ES), la función de un rasgo está de nida por lo que el rasgo fue seleccionado para hacer en el pasado. El enfoque seleccionado es «genuinamente teleológico» (Neander, 1991, p. 467) porque la presencia de un rasgo es explicada apelando a aquello para lo cual el rasgo es y es normativo porque no meramente describe lo que un rasgo de hecho lleva a cabo, sino que escribe y asegura qué es lo que un rasgo debería hacer. Si consideramos, por ejemplo, el funcionamiento del corazón de los mamíferos, la noción de función empleada por el argumento del ES no se limita a describir un efecto que casualmente tiene el corazón y cómo este efecto contribuye a alguna actividad compleja del sistema de interés. En otras palabras, el planteamiento del ES no afirma simplemente que, en el contexto del sistema circulatorio, la función del corazón sea bombear sangre: cuando este modelo asevera que los corazones de los mamíferos tienen la función de bombear sangre, sostiene que la historia selectiva de los corazones ha impuesto posteriormente a los mismos la función, el "propósito biológico, bombear" (Millikan 1989, p. 294).

Partiendo del trabajo de Roberto Cummins, Paúl Sheldon Davies y otros, sugeriremos que la teoría evolutiva no aporta las fuentes que requiere el enfoque de la selección. Desde nuestra perspectiva, la teoría darwiniana no ofrece un fundamento legítimo para indicar las nociones teleológicas en la biología, sino que, por el contrario, contribuye para que visualicemos un mundo natural libre de estas nociones. La teoría darwiniana puede jugar una función muy importante en mostrar que los rasgos no tienen un propósito y que en este sentido no se espera de ellos realizar una tarea específica. El corazón de un mamífero ciertamente tiene su historia de selección, pero esta historia no implica que se suponga que deba bombear sangre, puesto que la selección natural es indiferente a las funciones. Consideramos que el intento de naturalizar la teleología a través de la selección natural hace que se consideren la sobrevivencia y la reproducción como las finalidades últimas de los seres vivos. Ciertamente, los organismos necesitan algunas capacidades para sobrevivir y reproducirse en un ambiente dado, «sin embargo más que decir que el propósito o punto de vivir sea sobrevivir y reproducirse, sobrevivir y reproducirse son tan sólo algunas de las muchas cosas que realiza un organismo» (Cummins y Roth, 2010, p. 81).

Nuestra investigación continuará con aquellos enfoques filosóficos que desechan las explicaciones literales de la teleología natural y que, sin embargo, utilizan un lenguaje penetrante que trata la selección natural como si fuera un agente que elije rasgos

biológicos (como un calderero) o que los construye (como un ingeniero). Desde Darwin, la personificación imaginaria de la selección natural ha tenido un valor heurístico muy útil. Nuestro escepticismo hacia el lenguaje agencial comienza cuando se vuelve —de una manera más o menos explícita— en una precondición conceptual indispensable para concebir al mundo orgánico. Consideramos que discutir que «la metáfora del diseño está en el corazón de la biología evolutiva darwiniana» (Ruse, 2003, p. 266) significa asumir indirectamente una visión de propósitos y normas en el mundo orgánico. Intentaremos mostrar que científicos como Richard Dawkins y filósofos como Micael Ruse comparten con el enfoque de los efectos de la selección la necesidad de hacer la finalidad de la sobrevivencia y de la reproducción un prerrequisito para sus lecturas de la teoría darwiniana. En contra de este enfoque del efecto de la selección, estos científicos y filósofos consideran que una visión post darwiniana del mundo orgánico no deja ninguna condición verdadera para la teleología, y, sin embargo, consideran indispensable pensar en la selección natural como un agente y a los rasgos orgánicos como herramientas implicadas en la finalidad de la sobrevivencia y la reproducción.

La crítica a la teleología biológica nos permitirá más adelante minar aquellas teorías y prácticas biopoliticas que han sido apoyadas por visiones normativas con propósitos del mundo orgánico. Consideramos que Davide Tarizzo (2008) es el filósofo que más claramente ha argumentado la necesidad de un enfoque como este en la biopolitica: preguntándonos «¿qué significa la vida para nosotros?» (p. 4) acarrea la comprensión sobre por qué todavía prestamos atención a la existencia de «finalidades últimas de todos los seres vivos» (Tarizzo 2011a, pp. 108-109), y por qué continuamos asumiendo implícitamente su existencia en contextos científicos, y más generalmente, en la esfera del discurso público cotidiano (cf. Tarizzo, 2010)[8]. Desde esta perspectiva, asumir la existencia de finalidades naturales, literal y metafóricamente, sirve para contrastar con otra forma de *horror vacui*, a saber, la idea de que, desde la perspectiva de la naturaleza, los seres humanos son para nada. Es a la luz de este enfoque deflacionista, que considera que la finalidad última de un organismo es una sombra de una visión del mundo humana y demasiado humana, que habremos de volver a un pasaje de la ética nicomaquea

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8. Tarizzo (2010) responde estas preguntas a la luz de un estudio paradigmático sobre el origen de la noción moderna de vida, desde la biología germana romántica, imbuida con *Naturphilosophie*, hasta la biología evolutiva moderna anglo-americana. Gracias a su genealogía del concepto moderno de vida, Tarizzo es capaz de trazar una conexión entre la noción kantiana de la voluntad humana y el concepto darwiniano de la selección natural. Este esbozo del kantismo darwiniano no se dirige a saturar el campo entero de la biología evolutiva contemporánea, sino que busca mostrar la deriva teleológica de una cierta noción de la vida biológica que define como «vida autónoma». La vida biológica deviene una fuerza que expresa una voluntad pura y absoluta: como una voluntad que solamente se desea a sí misma, la vida autónoma solamente desea su propia supervivencia y reproducción..

bien conocido por la literatura biopolítica. Aristóteles se pregunta si el ser humano tiene una función en el mismo sentido que el ojo o la mano. La respuesta a esta pregunta es esencial para la concepción de la política que tiene Aristóteles ya que la finalidad última de la política descansa en el conocimiento de «la función de los hombres» (*to ergon tou anthropou*) (Aristóteles, *Eth. Nic.*, 1097b24). Una forma en la cual una visión del mundo darwiniana podría ayudarnos a reconstruir la pregunta aristotélica es encontrar en «las finalidades de la sobrevivencia de la reproducción» un elemento importante para definir lo que se supone que deben hacer los seres humanos. Otra opinión consiste en afirmar la falta de cualquier finalidad como característica de la evolución de los seres vivos, sugiriendo así que nosotros los seres humanos habitamos sin propósito en el mundo natural.

Daniel Dennett (1995) se refiere a esa segunda opción cuando escribe que el darwinismo retrata «un mundo orgánico que es absurdo en el sentido existencialista del término: no absurdo, pero sin propósito» al grado de que su visión de los seres vivos es «finalmente algo independiente de un 'significado' o 'propósito'» (p. 153). No obstante, enmascara esta visión absurda del mundo orgánico con una noción imaginaria de la selección natural —«la madre naturaleza»— que diseña a los organismos y a sus partes «como si» fueran artefactos dotados con la finalidad de la sobrevivencia y la reproducción. Esta metáfora está tan profundamente enraizada en su lectura de la teoría de la evolución de la selección natural que él sostiene: «se sigue de la verdad del darwinismo que tú y yo somos artefactos de la madre naturaleza» (, p. 426). Nos parece que el vacío que deja la falta de una finalidad última para el ser vivo no debería ser considerada una laguna que debe llenarse con viejas o nuevas teleologías naturales, sean literales o metafóricas. El despliegue de la falta de una finalidad última que caracteriza nuestra existencia como seres vivos es, más bien, el despliegue de un espacio vacío que nos puede permitir imaginar nuevas formas de ser-en-común.

Aunque esta conclusión no agota la compleja investigación para pensar la biopolítica histórica y fisiológicamente, podemos, sin embargo, sugerir que este trabajo intenta elucidar la necesidad de excluir aquellas interpretaciones de las perspectivas filosófica-biológica y filosófica-filológica que refuerzan lo que Sergei Prozorov (2019) ha definido como «la estructura bipolar» de la biopolítica (p. 14)[9]. Pensar más allá de esta estructura bipolar

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9. La obra de Prozorov ofrece una de las más importantes formulaciones del encuentro afirmativo entre biopolítica y democracia. Aunque no nos dirigimos directamente a la cuestión de la biopolítica democrática, nuestro proyecto tiene una deuda particular con la obra de Prozorov (2018) y, muy específicamente, con la idea de que «el contenido prescriptivo de la democracia consiste en la afirmación de la contingencia de todas las formas de vida que coexisten en ella, lo que implica su libertad, igualdad, y comunidad» (p. 1090).

significa en nuestra opinión trabajar en el desarrollo de «un naturalismo crítico» (Tarizzo, 2011b). Alguna vez Nietzsche (1999) escribió acerca de la necesidad de una «segunda vista» (*zweites Gesicht*) (p. 297): una perspectiva histórica capaz de corregir la, de otro modo, miope visión del naturalismo. Otros filósofos, trabajando en un frente opuesto a aquel de Nietzsche y de Foucault, han argumentado a favor de «una visión estereoscópica» (Sellars, 1991, p. 4), en la cual lo manifiesto y las imágenes científicas del ser humano son fusionados en una visión coherente. A pesar del hecho de que las categorías utilizadas por estos filósofos no coinciden, consideramos que intentan indicar una atención similar entre dos conceptos del ser humano y su lugar en el mundo. Pensar históricamente y fisiológicamente significa apropiarse de estas visiones filosóficas en el intento de conseguir una nueva relación entre la crítica y el naturalismo. Haciéndolo, ayudaremos a comprender mejor la forma en la que están entretejidas la sociedad y la ciencia, la política y la biología.

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Francesco Mancuso. Full professor at the Università di Salerno (Philosophy and Sociology of Law). Local Investigator of PRIN 2017 *The Dark side of the Law. When discrimination, exclusion and oppression are by law* project. Co-director of *Diacronìa. Journal of history of the philosophy of law*. Responsible for the framework cooperation agreement between the "Laboratorio filosofico-giuridico e filosofico-politico Hans Kelsen" and "UFR de Philosophie", Université Paris 1 Panthéon-Sorbonne.

His scientific interests focus on Philosophy of International Law, History of Modern Political Concepts, State and Constitutionalism, Bioethics, Transformations of Democracy, relationship between Law and Violence, European studies.

Among his books: *Gaetano Mosca e la tradizione del costituzionalismo* (Napoli, 1999); *Diritto, Stato, sovranità. Il pensiero politico-giuridico di Emer de Vattel* (Napoli, 2003); *Le 'verità' del diritto. Pluralismo dei valori e legittimità* (Torino, 2013); *Il doppio volto del diritto* (Torino, 2019).

Contact: fmancuso@unisa.it

VULNERABLE INSTITUTIONS[1]

Francesco Mancuso
Università degli Studi di Salerno

Abstract

The traditional model of the analysis of vulnerability connects this to the anthropological datum and to the necessity, for mankind, to live under the protective umbrella of institutions. The essay tries to identify, from another perspective, *e parte institutionis*, the perverse and anomic effects of the uncontrolled unleashing of fears, hostilities and alterations in the meaning of concepts such as "people" and "sovereignty", which cannot be reduced to simplistic and one-sided views.

Keywords

Fear, Power, Violence, Institutions, Vulnerability.

Resumen

El modelo tradicional de análisis de la vulnerabilidad la relaciona con el dato antropológico y con la necesidad, para el hombre, de vivir bajo el paraguas protector de las instituciones. El ensayo trata de identificar, desde otra perspectiva, *e parte institutionis*, los efectos perversos y anómicos del desencadenamiento incontrolado de miedos, hostilidades y alteraciones del significado de conceptos como «pueblo» y «soberanía», que no pueden reducirse a visiones simplistas y unilaterales.

Palabras clave

Miedo, Poder, Violencia, Instituciones, Vulnerabilidad.

The "semantics of vulnerability" is the thread, less and less hidden and more and more the object of study, that links subjects, institutions, politics and law (Pastore). With it, we have an interpretative category which is not only appropriate for questioning the individual and his or her associated life, but also for addressing the institutions stability problem.

The permanent vitality of the original model of political modernity, the Hobbesian model, proves that: there is no *Oboedentia* without *Protectio*, and the latter is only possible through the activation of an artificial-rational mechanism whose formation, in the description of the political-legal genealogy theorised by Hobbes, is provoked by "fear", *i.e.* by the attempt to make this pre-rational "affective state" productive and not paralysing. Its control is precisely the exercise of rationality, limitation, containment and responsibility.

Fear is a constant presence, ineradicable, productive and at the same time subversive of every associated order: the political artifice finds its *raison d'être* in the containment of this manifestation of human nature. However, the matter is to contain fear, not to make it disappear it, not only because vulnerability is an existential and inescapable condition of man; not only because that sort of civilization of fear which is the transformation of *Phobos* (blind and irrational fear) into *Deinos* (fear as caution, as a rational risk awareness) does not entirely exorcise the ancestral permanence of terror and of paralyzed and inert "reverence", a sort of reflection of the mutation (transfiguration) of power into domination (Ginzburg); and, finally, not only because the mechanisms of fear containment cannot spare the threat of force —*i.e.* fear— as a last resort, worth their ineffectiveness, within a mechanism that does not escape the iterativity of the return, admittedly sublimated and attenuated, of what is nonetheless violence, albeit limited and civilised, made predictable (Popitz).

Throughout political evolution, fear is exorcised, moderated, but it not disappears once that 'civil condition' is activated: it becomes an ancipial and power-consubstantial element. In other words, it is like vulnerability and fear decisively affect the structuring of the political pluriverse, which is precariously balanced between order and disorder, between subjection and subjectification, between public and private, between unity and plurality. Plurality itself can be read in its whole complexity precisely because of the game of cross-references triggered by fear and the permanence of a vulnerability that characterizes not only the subjects of power, but also the institutions within which the structuring of the subjects themselves takes shape (this is why we have a perfect correspondence between the crisis of institutions and the crisis of the subject).

The shadow of the state of nature, of the subversion of every community and communication (the latter being essential to every community, even if one does not share the assumption of politics as discursiveness), of the unlimited deployment of violence, is permanently projected as a political and political vulnerability: of subjects and institutions, together, in a relationship that unfolds in non-linear and non-analogical ways. The centrality of fear, *i.e.* of vulnerability, represents a sort of trigger for a game of cross-references that unfolds in an extremely complex way throughout the history of modernity, but also the opening of a research plan —not only an historical-genealogical one— where the realism of the analysis does not necessarily collide with a critical-normative approach, but, on the contrary, strengthens it and supports it in its counterfactual unfolding against those "devices of inequality" that generate vulnerability, subjugation, domination. After all, vulnerability is nothing more than an awareness of the fragility of the "armour of humanism" and of the fact that (according to de Rivarol quoted by Amin Maalouf in *Les naufrages des civilisations*) civilization is as close to barbarism as iron is to rust. It is therefore necessary to rediscover, but on the basis of an inescapable confrontation with certain (and uncomfortable) "elementary truths", the normative core of daily political and social action of which Remo Bodei (2019) speaks in his last extraordinary book: "the link between dignity and reason and between human rights and reason indicate a path that is not without a guiding star, although not easily visible" (p. 220). Therefore, the key to understanding the duplicity of fear, the centrality of vulnerability, the order/disorder relationship that unfolds precisely from the groundlessness and vulnerability of institutions, lies in the point of conversion of 'politics' into "political", into the friend/enemy dicotomy, into absolute conflict, into "montée aux extremes" (Girard).

Fear and violence

There seems to be no way out of this circularity of fear, vulnerability (human and institutional) and violence. Violence, writes Wolfgang Sofsky (1998), is "omnipresent: it runs through the history of humankind, from beginning to end. Violence creates chaos and order creates violence. This dilemma is unsolvable. Founded on the fear of violence, order itself generates fear and violence" (p. 5). According to Burckhardt (1950), violence is the *prius*, it is a "constitutive part of the great economy of universal Violence, Burckhardt wrote, is the «the devil on earth», is a «part of the great economy of world history», a history studded with violent foundations and equally violent destruction (p. 213).

The Swiss historian, by placing violence at the center of his considerations on history, had two aims: the first one was to reject every systematic and providentialist vision of historical events, every theodicy, every relativization of evil in order to its transfiguration (*a malo bonum*). On the other hand, he warned us against all statolatry, against the at the time prevailing cult of statehood (the *Weltgeschichtliche Betrachtungen* were published posthumously in 1905 but written at the end of the 19th century): for Burckhardt, the state is neither moral power nor moral reason for the people: according to Cassirer (1958), he is too pessimistic to believe in such a conciliation of 'reason' with 'reality', and to his realism the apotheosis of power appears a pure illusion (p. 415). But if Burckhard's critique of the idea of history as progressive development eschews any exaltation of the present and any theology of contemporary history (which turns into an uncritical political theology of state power), in the knowledge that "evil remains evil" and that "if there is anything to be learned from the study of history, it is a sober insight into our real situation: struggle and suffering, short glories and long miseries, wars and intermittent periods of peace" (Löwith, 1949, p. 25), it likewise, if not more strongly, denied any in-futuration in view of an ultimate and supreme, transformative end to present reality. This is the position of those *terribles simplificateurs* who, in the extreme and totalitarian consequences of their actions make a coherent fictitious world no longer disturbed by factuality. Summing up Burckhardt's position in the words of Löwith (1949), already mentioned above, "the historical greatness of a nation does not make up for the annihilation of one individual", and the only reasonable conclusion that can be drawn from the vision of the great cemetery of history, of the rise and fall of peoples, in the rise and fall of powers, "is not a consolation with a higher world plan but a more moderate 'taxation' of our earthly existence" (p. 25).

In the course of political evolution, fear is exorcised, moderated, but by no means disappears once that 'stately [*staatlichen*] condition' whose 'goal and terminus is security' is activated (Schmitt, 1996, p. 31): it becomes an incipient element consubstantial to power (think of the "fear 'of' power", with the genitive at once subjective and objective, of which Guglielmo Ferrero spoke in order to trace in legitimacy —this is the fulcrum of a book as important as *Pouvoir* is today mostly forgotten— an antidote to the destructive redeployment of fear). In other words, it is as if vulnerability and fear decisively condition the structuring of the political pluriverse, precariously balanced between order and disorder, between subjection and subjectification, between public and private, between unity and plurality. The latter can be read in all its complexity precisely because of the game of cross-references triggered by fear and the permanence of a vulnerability that characterizes not only the subjects of power, but also

those institutions within which the structuring of the subjects themselves takes shape (hence also the perfect correspondence between the crisis of institutions and the crisis of the subject).

It is no coincidence that Nietzsche, who was perfectly familiar with Burckhardt's pages, grasped the inextricable link between force (violence) and law from a historian like Thucydides. In Fragment 92 of *Human, all too Human* (1986), the philosopher points out that

> […] justice (fairness) originates between parties of approximately *equal power*, as Thucydides correctly grasped (in the terrible colloquy between the Athenian and Melian ambassadors): where there is no clearly recognizable superiority of forces and a contest would result in mutual injury producing no decisive outcome the idea arises of coming to an understanding and negotiating over one another's demands: the characteristic of *exchange* is the original characteristic of justice. Each satisfies the other, inasmuch as each acquires what he values more than the other does. One given to the other what he wants to have, to be hencefort his own, and in return receives what one oneself desires. Justice is thus requital and exchange under the presupposition of an approximately equal power position: revenge therefore belongs originally within the domain of justice; it is an exchange. (p. 49)

The extraordinarily important theoretical move made by Nietzsche does not go in the sense of a reductive exaltation of violence as the "midwife of History", but more subtly in the direction of an interpretation of violence as an auroral moment of the emergence of law and justice itself, traditionally understood as what law should aim at. In this sense, which is not a mere identification of violence or force —violence qualified and legitimated by law— with law and justice (a justice, moreover, always represented as blindfolded: which means both the necessary non-conditionality and impartiality of administering justice, but also a gaze that precludes itself from assessing the individual concrete case, and, finally, also a cover for the Gorgon's gaze Kelsen saw concealed behind the guise of Justice itself), law and violence interweave and reveal multiple links: "'the operation that amounts to founding, inaugurating, justifying law [*droit*], making law, would consist in *coup de force*, of a performative and therefore interpretative violence that in itself is neither just nor unjust and that no justice or no previous law with its founding anterior moment could guarantee or contradict or invalidate" (Derri-

da, 1992, p. 13). The sovereign and supreme decision that according to Schmitt comes before law and order represents the violent break with non-law, i.e. 'nature': in the state of nature, a condition of permanent violence, of war of all against all, just and unjust, good and evil, simply do not exist: "To this war [present in the state of nature] of every man against every man, this also is consequent; that nothing can be unjust. The notions of right and wrong, of justice and injustice, have there no place" (Hobbes, 1998, p. 85).

No way out?

So? No way out? Is history only a "stormy heap of ruin upon ruin" as in Klee's picture read by Benjamin? Not really: the fact that at the origin of every power and every right there is its seizure by the first usurper does not mean that usurpation, force, are law and that law is that of Thrasymachus: but, on the contrary, that law seeks, in order also to preserve that social peace which is the minimal aim of juridicity, to limit, control, make force predictable.

A political system founded on law cannot be only force or coercion: and both normativity, institution and coercivity refer to the overall legitimacy of the system, which is such only if it is not separated from legality, and if it reflects the complexity and polymorphism of society, becoming a factor of inclusive mediation of the parties: *e pluribus unum*; where, however, *unum* is what protects plurality and exists in function of it. A complex and delicate interaction, which is also reflected in the fact that the institution is an organization of bodies which, in the variety of their aims, are generally projected towards stability and certainty, integration, planning, in a single word towards the "future": this is the main reason why the anti-institutional practices, which are increasingly frequent in the age of political and media populism, are serious: first of all, because pressed as thewy are on topicality, looking for an unreflective consensus rather than a true and proper long-term legitimization, they are configured as elements of corrosion and contraction of the political space of the present, substituting slogans for reflection, and they mortgage the space of tomorrow thanks to their immediacy (to be understood both in a temporal sense and as a lack of mediation). This is especially true since no institutional thought would be definable without this essential function of social "comprehensibility", of support, of producing certainty (also through typificazions of social practices), or at least of reducing uncertainty and irrationality, which characterizes the institution, whether it is structured on the basis of binding rules or not.

The 'Evil giants'

Consider a concept of legal theory that is also fundamental to normativists: the concept of effectiveness. Without effectiveness, law would simply be a *flatus vocis*. Effectiveness orients an overall vision of the political-legal system to the understanding of two decisive questions: the problem of the permanence of law beyond the will that sets it; the even more thorny problem of the criteria of stabilization and observance of law, which are the reasons for effectiveness other than a (precarious) mere obedience produced *vi et armis*. This is the (institutional) horizon of the necessary mediation between artificiality-freedom (of law itself) and naturalness-necessity of some essential conditions of law itself, of some minimum contents —Hart would say— of natural law: elementary truths, "simple truisms" concerning human beings, "minimum natural law" which, according to Hart (1994), cannot fail to conform the legal system in every time and space, given the presence of certain anthropological, economic and social constants, the first of which can be typically dated back to Hobbes (1998): human vulnerability is the primary reason why men accept those limitations of natural freedom (the *ius ad omnia*) that are condensed into social and legal norms (p. 193).

This is the basis for the transformation of fear as a generator of chaos into heuristics of fear, into responsibility, into 'care', into "apprehension when the vulnerability of another being is threatened" (see, for example, *The Imperative of Responsibility*). Without fear, understood as responsibility, we would ignore the catastrophic consequences of climate change, overpopulation, scarcity and non-renewability of resources, and 'absolute' wars. The ethics of responsibility is basically an ethics of fear, of the fear of perverse consequences of social action: political action without a "consciousness of the tragic" —according to Max Weber— would be tragically irresponsible. The heuristics of fear are therefore necessary for any view of the future, of the destiny of mankind, that wishes to be conscious and realistic, rather than altruistic.

And yet, as recent events have shown, fear can turn into a formidable, nihilistic factor that subtracts meaning and hostilizes, breaking up a society fragmented by so many dividing walls. The European project itself, at a time when the term *populism* had not yet experienced its current fortunes, was "democratically" held back by the fear of the "alien" removal of labour (the infamous, at the time, "Polish plumber"). Fear becomes liquid, pervasive, an instrument of propaganda, a necessary premise of those binary codes of the 'political' that structure a political horizon of us/them conflict (and of *Vernichtinung*, of annihilation of the other, as Schmitt disturbingly added in his 1923 paper on parliamen-

tarism). Fear is the trigger for devastating crises of trust and is what prepares the wretched barter between rights and security (or rather, the perception of security):

> For human bonds, the crisis of trust is bad news. From well-protected and secluded clearings, places where one had hoped to take off (at last!) the heavy armour and stiff mask having to be worn in the harsh, competitive world out there, in the wilderness, the 'networks' oh human bonds turn into-frontier territories where interminable reconnaissance skirmishes need to be engaged in day in, day out. If trust is missing and credits of confidence are offered and expected to be offered only reluctantly, if at all, yesterday's armistice terms do not seem a safe ground on which to rest a secure prognosis for tomorrow's peace. (Bauman, 2006, p. 69)

As Danilo Zolo (2011) has effectively noted:

> […] the term security no longer refers to bonds of collective belonging, solidarity and mutual assistance. Security is no longer conceived as a guarantee that ensures all citizens the possibility of freely organising their lives, of spending them protected from destitution, exploitation, disease and the spectre of a disabling and miserable old age. In short, there is a drastic shift from a conception of security as recognition of people's identity and their right to participate in social life to a conception of 'private security' [...]. Moreover, thanks also to the mass media, it can happen that exasperated fear generates growing social alarm and this favours the despotic use of power. (p. 79)

And yet, the re-emergence of fear is by no means a destiny, and its limitation represent an attempt to make our constitutional democracies less vulnerable, our legal civilization, which has been painstakingly built up over the centuries (and which has been jeopardized on several sides, from the re-legitimization of torture to grotesque invocations of *Ermächtigungsgesetz*), less weak. At a time when the destructive prospect of the state of nature was a concrete reality, the fight William Beveridge hoped for against the 'evil giants' (the explicit reference was to Goya's *El Coloso*) - want, ignorance, disease, idleness and squalor -, the construction of the welfare state structures in Great Britain, the same Europe country that —irony of history— in the 1980s will be the leader in its dismantling, Marshall's reflections on citizenship, were nothing more than an attempt to engage, from the point of view of active policies, against destructive fear.

Guido De Ruggiero (2018), in the wake of Roosevelt's four freedoms, thematized the need for freedom from fear (of wars, oppression, revolutions, aggression of all kinds) and in a wonderful article entitled "Le due città (The Two Cities)" he urged recognition of the "function of the ideal in history" (p. 254).

Anti-institutionalism

There is a meaning of "vulnerability" that concerns institutions and the concept of "institution" itself. If the "institution" is "what holds opposing interests together, preventing political conflict from degenerating into violence", then the harmfulness of the anti-institutional potential of theories that reduce the "political" to a degree of intensity of conflict or the "legal" to an undifferentiated "field" where domination takes place, beyond the profound differences between historically appeared institutions, must be strongly underlined. In the words of Luigi Alfieri (2021), the chronological contraposition/succession between *status naturae* and *status civitatis* is actually a co-presence: of the dark undercurrent of the desires and fears of vulnerable man (p. 49) and of the "juridical order", the "event horizon" of the political and the juridical.

Of course, the artificial distance of the law attenuates, but does not annul, the regression to a negative as code of human existence; not as a destiny but —see Kant's theory of radical evil— as a consequence of free decision: mediation, not immediacy.

But even in Hobbes, negative anthropology does not surrender to the ineluctable, it does not give rise to a nihilistic theory of law, of which he draws a democratic as long as theological foundation, a theology not reduced to a forced *reductio ad unum*. Unlike Hobbes, for Schmitt the political is an empty signifier, it is, in the words of Böckenförde, "a public field of relation" with non-predetermined contents, it is the possibility of the intensity of a clash, the 'fight to the death', and death is its 'to what'. But if this is the political, then statehood —which Schmitt distinguishes from the political (there can be a non-political statehood)— can only be intrinsically unfounded and unstable: the mixture of a polemical reading of the political (hostility is the highest realization of the political) and the identification of sovereignty in the decision on the case of exception activated outside institutional normativity, blows up exactly, on the internal level, the possibility of keeping contrasts below the threshold of friend/enemy, and on the external level produces the subversion of those limits of sovereignty that Schmitt himself sees successfully tested by the *Jus publicum europaeum*: transition from the just war to the just enemy, from war

of extermination to war as a duel, from the state which is, starting from Grotius, the only subject that can publicly make/declare war (thus war itself is limited by the recognition of states) to a situation of disappearance of war (understood as a legal institution) in favour of that tendency to the extreme typical of the limitless violence.

Now, is the inauspicious outcome of degiuridification (whatever law is to Schmitt here, it does not matter) the result of an excess of normalization, is it the outcome of an attempt at humanization that is either a false opportunistic universalism or a blind idealization that produces heterogenesis of ends (Schmitt falsely accuses Kant of having exhumed the deadly concept of a just war)? In short, is all this, the unleashing of acherontic powers, not the end of 'war', but rather an increase in violence, the consequence of the limitation of sovereignty and a process of rationalization of domination? Or is this picture of permanent instability and a slide towards a tanatopolitics the logical consequence of a vision of politics and law incapable of identifying limits because it is incapable of thinking of mediation, incapable of having an institutional destination? It has been stated that the Schmittian thesis of the polemical nature of all political concepts has lent itself admirably to the delegitimization of the state (Portinaro, 2005, p. 41), that is, of the main institutional regulator not only of the mechanisms of exclusion, but also of inclusion and integration, of that integration which makes political conflict productive and not dissolving. From this theoretical-ideological basis - structurally unstable - we cannot draw either the relativization of internal contrasts, as Böckenförde claims, or even less that weak and questionable distinction that Chantal Mouffe draws between (positive) agonism and (negative) antagonism.

In short, Schmitt is a paradoxically anti-juridical and anti-institutional jurist. It is no coincidence that his negative definition of the people (apparently similar to Kelsen's) easily fits a populist conception of democracy: the people as formless energy that can only be realized through an alienation in the hands of a charismatic leader. Schmitt's thinking distorts the concepts of people, sovereignty and democracy.

A different way to politics

Nowadays a radical critique of fear is required, in order to rediscover nuclei of meaning that are both necessary for a form of politics that does not turn into a conflictualist "political", and essential for projecting democracy into the future, with the help of those resources De Ruggiero rightly foresaw in the Constitution to come: including the fear

promoted by the exponential increase in post-truths and the corrosive simplicisms of that public debate which is the lifeblood of democracy. A legal and political implementation of the constitutional project of equality and solidarity, of trust and community, which are normatives —*i.e.*, universal morality turned into law— is only possible if critical thought emerges from the lethargy into which it seems to have fallen after what has been (wrongly) defined as the era of the end of ideologies. On this point, I would like to recall the words of Timothy Snyder (2019):

> All of the virtues depend upon truth, and truth depends upon them all. Final truth in this world is unattainable, but its pursuit leads the individual away from unfreedom. The temptation to believe what feels right assails us at all times from all directions. Authoritarianism begins when we can no longer tell the difference between the true and the appealing. At the same time, the cynic who decides that there is no truth at all is the citizen who welcomes the tyrant. Total doubt about all authority is naïveté about the particular authority that reads emotions and breeds cynicism. To seek the truth means finding a way between conformity and complacency, towards individuality. (p. 540, digital ed., epub.)

Integration vs. disintegration, solidarity vs. inequality, democratic ideal vs. hierarchical reality (which is hiding and consolidating behind undefined screen-words like "people"). And in times in which, for example, sovereignty is confused with sovereignism (the first one being legitimization and rationalization of power and therefore limitation, jurisdiction, equality, citizenship; the second one being unlimited, irrational in the Kelsenian sense, gubernaculum, privilege, hierarchy), this is even more urgent (Mancuso, 2013 and 2019).

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NOTAS Y DISCUSIONES

Sobre el libro

Orsetta Giolo
Il diritto neoliberale
(Jovene 2020)

LAW AND ITS MASTERS. THE LEGAL TRANSFORMATIONS IN THE NEOLIBERAL ORDER

Orsetta Giolo

Università di Ferrara

The neoliberal project and the role of law

For neoliberalism, the law is not merely a technique to be used to maximise results: it is one of its main instruments of implementation[1]. The neoliberal ideology[2], in fact, seeks forms of protection through law[3], which, as will be better explained below, seems to take on the same dichotomous logic stigmatised by Judith Butler with reference to contemporary power dynamics (Butler, 2015). This, in order, on the one hand, to

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1. "In this way, law becomes a medium for disseminating neoliberal rationality beyond the economy, including to constitutive elements of democratic life. More than simply securing the rights of capital and structuring competition, neoliberal juridical reason recasts political rights, citizenship, and the field of democracy itself in an economic register; in doing so, it disintegrates the very idea of the demos. Legal reasoning thus complements governance practices as a means by which democratic political life and imaginaries are undone […] it is important to mark the ways that dedemocratization trough neoliberalized law transpires at the more analitically familiar level, that of legal reforms that strenghten the political hand of capital and weaken associations of citizens, workers, and consumers" (Brown, 2015, p. 151-152).
2. As an ideology, neoliberalism today expresses a precise project of society, governed by different political and theoretical orientations, which recognise in the primacy of private initiative, mainly of economic nature, the formula around which to organise the best possible model of society. Because of individual (economic) freedom, therefore, everything that is a limit or a prohibition is perceived as an authoritarian brake and a barrier to the great potential of each individual. Now therefore, as an ideology neoliberalism is not exclusively a new "rationality": if, on the one hand, its qualification as a "new world reason" appears extremely effective, by virtue of the pervasiveness of this orientation and its prevalent "technical" attitude, on the other hand, this representation results even more convincing only when it comes to underlining the openly planning component that neoliberalism brings with it, together with a series of generalised policies of indoctrination, with a "hegemonic vocation" (G.G. Azzolini, 2017, p. 424; Dean, 2008; Galletti & Vida, 2018; Brown, Gordon, Pensky, 2018)
3. With regard to the illusion of a self-regulating market, the most recent critical studies often refer to what Karl Polanyi already pointed out in the 1940s regarding the inconsistency of this representation and the effects that such model of economics produces. See Polanyi, 2001.

promote all that and all those who tend to conform to neoliberal planning and, on the other hand, to repress those who do not conform and challenge it.

This means that within neoliberal practices particular attention is paid to the legal phenomenon and its articulation, with the aim of making law itself consistent with the aims of neoliberalism (Dardot & Laval, 2017).

The latter can be, briefly, recognised in the affirmation of the market as the fundamental rule that legitimises politics and law (and not vice versa, as happens in the constitutional model). The legal corollaries of this main objective coincide, consistently, with the prevalence of the private sphere over the public one and the depoliticisation of law, through: the replacement of the distributive paradigm with the retributive one as the model of contemporary justice; the imposition of the principle of differentiation over equality; the construction of a fragmented and depoliticised subjectivity replacing the legal and political one based on fundamental rights and freedom. The "neoliberal culture of the objective" has replaced the "democratic culture of the rule" to the point that "*un néo-positivisme semble en cours de réalisation: un positivisme économique retenant du positivism juridique l'idée que la validité formelle de la règle de droit dépend de sa capacité à respectes les droits économiques fondamentaux*" (Bottini, 2017, p. 33).

It is therefore an imposing overthrow of the legal (and political) architecture established from the second half of the 20th century onwards: so much so that the transition underway tends to take on the characteristics of a reversal that follows the logic of regression.[4]

The "neoliberal legal style" (Denozza, 2017, p. XV) takes form in a new conception of production and application of standards, of power and subjectivity, while it seems to go beyond the very concept of order as intended over the last two centuries (i.e. from the imposition of legal positivist theory onwards).

This legal style, on closer inspection, seems to present considerable similarities with what the network model[5] intends to represent with regard to the current functioning of the law, i.e., the progressive dissolution of the hierarchy of sources in favour of a complex and "widespread" production of law within a regulatory framework in which the separation and limitation of powers as well as the distinction between public and private progressively lose relevance. The network model also appears to be open, sharing with

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4. Cfr. Geiselberger (ed.) 2017. On the impressive "trend reversal" with respect to what happened in the second half of the 20th century, see also M. De Carolis, 2017, p. 10 et seq.
5. Ost & van Kerchove, 2002; see also M.G. Losano, 2005; Barberis, 2008, p. 175 et seq.

the other spheres of politics, economics and ethics, and released from the inflexibility and formalisms that have characterised law produced by the State[6]. All the more so since, in global law, the national dimension of the legal system tends to lose more and more importance, in favour of a law configuration that is not bound by borders or territories.[7]

The neoliberal "network"

Such convergences suggest the presence of a close dependence between neoliberal ideology and the increasingly pervasive affirmation (both in theory and practice) of the network model. Indeed, it is in the light of neoliberal planning that certain changes seem to take on a precise meaning and the transition underway reveals itself in all its consistency.

Proceeding step by step, I would first like to focus on the compatibility and reciprocal functionality that the network metaphor and neoliberalism present with reference to a fundamental question. The deep assonance between the network and neoliberalism is not about the simple, sometimes even accidental, confluence of interests, but rather the *rationale* that animates both: a *rationale* that apparently contains a contradiction, but which instead reproduces the binary logic of all neoliberal policies.

In all its ramifications, neoliberalism promotes a variety of techniques that can nevertheless be traced back to a dichotomy, i.e. a binary representation of social, political, economic and even legal reality. The *neoliberal binarism* is made up, on one side, of devices aimed at promoting individual freedom, optimising competition and enhancing merit, making obligations more flexible, limiting State interference in both the private and economic spheres, and, on the other side, of mechanisms aimed, on the contrary, at the annihilation of political agency, the repression of dissent, and the exclusion of those who do not intend to/cannot conform to neoliberal standards in terms of performance and productivity, through the strengthening and extension of the penal paradigm. It is no coincidence that the exaltation of individual freedom is flanked, with an apparent contradiction, by the different forms of so-called criminal neoliberalism[8].

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6. On the openness of the network system Barberis, 2008, p. 161.
7. See, by way of example, what is described by Cassese 2002 and 2003. On the crisis of the relationship between territory, state and law see also Irti, 2006.
8. On criminal neoliberalism see Campesi, 2007; Wacquant, 2002 and 2013.

Therefore, within this dichotomous framework, two souls of the contemporary legal phenomenon also end up coexisting. Two legal worlds, inhabited by different subjects, which are arranged within the two levels in hierarchical order.

The network metaphor, with its associated representation of the flexibility and complexity of law, in the light of the dichotomous logic of neoliberalism, seems to represent only one side of contemporary law, yet not the only one. In fact, the legal phenomenon also shows another side: that of authoritarian law, the application of which is delegated to bodies and powers distributed on the territory.

Today the transformations underway should be interpreted considering this only apparently contradictory binary logic. As it is in this perspective that the changes in law (that have already led – partially, not definitively – to the reworking of the purposes of law) become visible and show their strategic importance. All this by promoting, on the one hand, the overthrow of the equality paradigm in favour of the imposition of the criterion of inequality and, on the other hand, the overcoming of the compulsory and uniform nature of the law in favour of greater fragmentation and differentiation.

These issues are notoriously interconnected: during the century of reforms, the debates on the law had led to the belief that the adoption of a few clear and mandatory rules for all was functional to the affirmation of equality since law uniformity was understood as a premise for its correct and equal application among people[9].

On the other hand, the neoliberal network metaphor, because of the complexity of contemporary societies, fully overcomes the representation that has accompanied reflection on law from the 18th century to the present, weakening the connection that had been increasingly strengthening between the articulation of law itself and the principle of equality until the advent of the constitutional State (Ferrajoli, 2007, p. 55 et seq.).

Contemporary complex law therefore no longer has any apparent relationship with the principle of equality, because it is not aimed at its realisation, but rather seems to be increasingly oriented towards the new "principle of differentiation"[10], in the light of which the two legal *levels* mentioned above become possible.

I use the expression "legal levels" or "legal environments" (Denozza, 2017, p. XVIII), and not legal orders, because the characters of order and unity can hardly be found in contemporary legal experience, despite the fact that the distinction among levels is clearly reminiscent of the fragmentation of the pre-modern law order.[11]

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9. For a reconstruction of said debate on the so-called "good legislation" during the 18th century reform, see, for all, Fassò, 2018.

10. Inequality is understood as necessary in order to guarantee the market dynamism. See Valentin, 2002, page 249.

11. For example, Paolo Grossi writes, with reference to medieval law, of the "personality of law": "ogni persona, all'interno

The replacement of equality with the principle of differentiation[12], as a change of course, resembles a real reversal. A reversal of paradigm in line with the needs expressed by neoliberalism, which in turn is interested in reinforcing differences and at the same time the precariousness of *statuses*, much more useful to the logic of the market: the "legal environment" is in fact characterised by variability, the omnipresence of risk and the absence of stable points of reference (Denozza, 2016, p. 441).

In this regard, it is sufficient to recall how the economic policies of recent decades, and with further acceleration following the economic crisis that began in 2008, have led not to the redistribution of wealth but its centralisation in the hands of a few, to the detriment of the masses of individuals who have seen, on the contrary, their well-being greatly reduced (Gallino, 2002). This process of reverse redistribution (not downwards, but upwards), already stigmatised by many scholars, is of such magnitude that reference is increasingly made to the processes of primary accumulation that in Marxian theory are at the origin of capitalism[13], and thus at the origin of the great social transformations and the establishment of new balances (or imbalances) of power, which necessarily have an impact on the legal sphere[14].

The metaphor of the network, therefore, would only represent the superordinate juridical level of contemporary law, whose access would be limited to the privileged class of people who participate – directly or not – in the neoliberal practices of (upward) redistribution of wealth (Gallino, 2015). The "partiality" of this representation therefore conceals the description of the lower juridical legal level, intended for the non-privileged classes. Thus, the network, if it manages to capture some of today's novelties, nevertheless offers an incomplete reconstruction of the current legal phenomenon, and does not highlight the coexistence of several legal dynamics, some of which are strictly reserved for subjects who do not conform with the model of neoliberal subjectivity[15].

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dello stesso regime politico, lungi dall'essere soffocata entro un diritto unitario a proiezione territoriale, è portatrice – a seconda delle particolarità del proprio ceppo etnico – di un diritto specifico e differenziato" (Grossi, 1995, page 54). In the same way, the depoliticised dimension of law is recognizable in the pre-modern order, so much so that political power, according to Grossi, showed, at the time, a "general attitude of substantial indifference towards the legal framework" (*Ibidem*), tolerating the existence of different processes of formation of law (ibidem, page 53).

12. On this point, Giolo, 2020.

13. See Marx [1867], 1992. On the reading proposed by Rosa Luxemburg, according to whom primary accumulation in reality does not only belong to the original phase of capitalism but recurs every time capitalism experiences moments of crisis from overproduction, in Rosa Luxemburg, *The Accumulation of Capital*, 1919. For a reconstruction of this debate, also in the light of Nancy Fraser's elaborations, I refer to Casalini, 2018, page 65 et seq. On the "new" regime of accumulation promoted by neoliberalism, especially in the financial sphere, see Dardot & Laval (2017), p. 18 et seq.

14. See Giordano & Tucci., 2013, page 135 et seq.

15. Interesting in this regard is this statement by Denozza: "[a]d un livello più generale, è almeno singolare che l'emanazione di norme apparentemente idonee ad accrescere la protezione di cui determinati soggetti, considerati più "deboli", godono nel traffico giuridico, abbia coinciso e coincida con un generalizzato e impressionante aumento delle diseguaglianze e quindi con un ulteriore indebolimento dei più deboli" (Denozza, 2014, p. 17).

Moreover, it does not seem to offer visibility to the great concentrations of power that are taking place (Picciotto, 2011, p. 138 et seq.). Above all, it helps to conceal the places and subjects of the legal and political choices: the decision-making moment, core of each legal and political activity[16], always seems to take place *somewhere else* that is not clearly identified, by subjects who are not fully recognisable or controllable, in the context of strategic relations that are not known to most people[17].

On the basis of these relevant convergences between the legal transformations in progress and neoliberal planning, it becomes possible to read these changes in terms of a paradigm shift from constitutional law to *neoliberal law*. The latter appears to be a new model of law compatible with the purposes of a society in which powers are not bound to rules, inequalities are acceptable, and rights and freedom are neither unavailable nor inderogable.

Considering the ability of the neoliberal ideology to propose rather than impose (at least rhetorically) new arrangements, deviously and through modes of progressive adaptation (from nudge to soft law), we need to ask ourselves what role legal culture intends to play in this transition. It is a matter of deciding which law to accept[18], and therefore which model of society and politics to promote: whether in relation to the market, going along with the imposition of neoliberal law or, hopefully, safeguarding the paradigm of constitutional law, in order to build the best guarantees of fundamental rights, on a universal scale.

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16. "Il mondo del diritto è il mondo delle decisioni" (Pastore, 2015, p. 33).
17. On the new contemporary conception of power as a "strategic relationship" I refer to L. Bazzicalupo, 2014, p. 13.
18. As H.L.A. Hart suggested, every system rests its legitimacy and validity on a standard of recognition, which is ultimately embodied in its acceptance by jurists. See Hart, 2012.

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RESTORATION OR REMODELING? THE CONSTITUTIONAL STATE IN THE POSTMODERN ERA

Lucia Re
Università di Firenze

In recent years, a significant part of legal reflection has focused on the crisis of constitutional States, due in part to globalization, in part to the attack that some political forces have launched on the values of "(inter)national constitutionalism"[1] (Mazzarese, 2018). A first reading, which we can define as optimistic, has highlighted the emergence from the crisis of a new "global law" and of international regimes able to foster a supranational protection of fundamental rights. On the contrary, a critical reading has denounced a process of de-constitutionalization overwhelming democracies. These readings are often presented as antithetical. And yet, on the one hand, each of them brings to light useful elements not only for theoretical reflection but also for the defense of (inter)national constitutionalism; on the other hand, both may underestimate the political and social dimension of the current crisis.

In the most optimistic interpretations, globalization and the erosion of national sovereignty have been interpreted as an epoch-making event which has radically transformed the legal sphere, opening up the creation of a "boundless law" (Ferrarese, 2006) fed by a new role of jurisdiction. The latter, more and more released from the territorial dimension, is able to weave a fruitful "dialogue of constitutionalism" (Slaughter, 2000, p. 1108) between national and supranational Courts and between Courts operating in

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1. All the quotations from books published in Italian in the text have been translated by the author.

different legal systems. Thanks to this new dimension of law, individuals become protagonists, because their voices can be heard by the Courts. Moreover, the globalization of law reinforces the social dimension of the "legal order" (Grossi, 2015) and helps to overcome the boundaries of national citizenship, which is increasingly conceived in Western countries as a filter that allows a very selective protection of fundamental rights (Santoro, 2007). Thanks to "judicial globalization" (Slaughter, 2000), (inter)national constitutionalism can finally expand and guarantee the protection of fundamental rights also to those marginal subjects —such as migrants or prisoners— whose claims are often rejected at the national level. The global rule of law thus tends to bring the continental model of the rule of law closer to the English model, based on common law, which is also identified from a historical point of view as a "founding exception" (Zolo, 2002, p. 30). In this respect, the protection of fundamental rights is entrusted to a "community of interpreters" (Santoro, 2008) able to cross the borders of nations, opposing both despotic majorities and nationalisms. According to this perspective, the crisis of the constitutional State should be read as an evolution —certainly problematic— but not as a reversal. In fact, the greatest discontinuity is to be found in the shift from the modern legislative State to the constitutional State. It is this caesura which has undermined the principle of the separation of powers defended by Montesquieu, the supremacy of the law, typical of the French *État légal*, as well as the legal positivist myth of legal certainty, transforming even the continental judge into the "master of law" (p. 30) and giving the constitutional Courts the role of "permanent co-legislators" (Garapon, 1996). Indeed, it is (inter)national constitutionalism that has recognized the central role of interpretation. The protection of rights has had an expansive capacity thanks not only to international conventions, but also to international, regional and national case-law. Moreover, judicial interpretation today takes place in a context characterized by "interlegality" (de Sousa Santos, 2002). Judges must coordinate, for their constitutional mandate, legal sources of different levels: international, regional, national, local, up to the so-called "soft law" of private production and traditional norms. This is a "normativity from below" that does not have a binding force but can influence interpretation. In fact, (inter)national constitutionalism has broken with respect to the model of modern legal positivism, precisely because it requires judges to take into account not only the abstract legal subject of the Enlightenment tradition —the individual, the subject of law— but also embodied reality (Ciaramelli, 2013). Through the principle of substantive equality, which is the basis of the architecture of constitutional States, an equal right of being different is recognized.

The "optimistic" readings of legal globalism, therefore, do not appear, for the most part, as contrary to (inter)national constitutionalism, but see globalization as a viaticum for the expansion of the protection of fundamental rights. Critical readings, on the other hand, which are increasingly frequent today also in light of the serious involutions suffered by the protection of rights, denounce a process of de-constitutionalization that does not seem to be due so much to globalization per se as to the neoliberal political project[2]. This, aiming at the construction of a society of "private law", cannot but attack constitutionalism, which has as its objective the guarantee of fundamental rights through the limitation of both public and private powers.

Many of these interpretations, starting with the famous one developed by Luigi Ferrajoli, read the constitutional State in continuity with the experience of the modern continental European rule of law[3]. The constitutional State would not be conceivable without reference to the principles promoted by legal positivist philosophies: from the concept of order, to the separation of powers, to the principle of legality, to the dogma of legal certainty. In this perspective, the replacement of the metaphor of the pyramid with the metaphor of the network, considered more appropriate to describe the contemporary system of legal sources, is seen as an attempt to endorse the current deconstruction of law, weakening its authoritative dimension.

This reflection has recently been taken up again by Orsetta Giolo in *Il diritto neoliberale* (2020), a book which clearly follows in the wake of Ferrajoli's theories. According to Giolo, what we are witnessing is not at all an expansion of (inter)national constitutionalism, but rather "a striking overturning of the legal (and political) architecture affirmed since the second half of the Twentieth century: so much so that the transition underway tends to take on the characteristics of a reversal that follows the logic of regression" (p. 23). The text, on the one hand, aims to identify the paradigm of "neoliberal law", focusing on the processes in progress, on the other hand, it is a sharp criticism of that legal theory that welcomes the neoliberal lexicon, underestimating the risks associated with the abandonment of the conceptual tools forged by the continental European legal tradition. According to this reading, the metaphor of the network "would represent only the superordinate level of contemporary law, which is limited to the privileged class of people who participate —directly or not— in the neoliberal practices of redistribution of wealth" (p. 27). This partial representation would help to hide the "lower legal level, destined for the non-privileged classes" (Ibid.) to which "neoliberal law" would instead

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2. The literature that has attempted to define neoliberalism is extensive. See, for example, De Carolis (2017).
3. Ferrajoli has offered this interpretation in many works, see in particular Ferrajoli (2007 and 2016).

show a strongly authoritarian face (just think of the results to which "penal populism" leads). The network of global law is pierced. The very power that constitutionalism had attempted to control through law disappears from it. There is thus no continuity between the paradigm of the constitutional State and contemporary global law. Legal cosmopolitanism and universalism, on which (inter)national constitutionalism is founded, should not be confused with legal globalism which, on the contrary, would represent its negation in many respects. And so, while neoliberalism and cosmopolitanism are "false friends" (p. 37), neoliberalism and sovereignism must be considered as "false enemies", since the State which plays the role of "local police station" (Bauman, 1998) on the national territory is the necessary prop for a hegemonic design based on the expansion of the logic of the market and on the containment, even violent if necessary, of social conflict.

The global law narrative would contribute to blur the distinction between legitimate and illegitimate power, to abandon the principle of legality, to liberalize and privatize the use of force, according to a logic of "re-feudalization of social dynamics" (Giolo, 2020, p. 54). At the center of the neoliberal attack are the principle of equality, increasingly replaced with much weaker principles, such as "sameness" and "equal opportunity", and the notion of freedom, reduced to freedom of choice and deprived of its deepest meaning, which historically has opposed it to oppression and connected it with emancipation. This attack is aimed at the erosion of the protection of fundamental rights. A sign of this is the spread, especially in Europe, of the lexicon of "vulnerability" and the new role of the "victim" in supranational and national legal systems. Semantic slippages and the reality of law would converge. In this passage, "the constitutive nexus between victim and vulnerability" is replacing that "between subject and discrimination, between subjectivity and oppression, typical of public space and distributive justice" (p. 85). Neoliberal power paternalistically protects the vulnerable victim and annihilates subject autonomy. The increase in inequality is not a mere consequence of the implementation of the neoliberal project. It is its main objective. That is why neoliberalism undermines (inter)national constitutionalism and aims to "undo" democracy (Brown, 2015).

Giolo (2020) warns jurists against the appeal of postmodernist interpretations and reiterates the need to work towards the full implementation of the project of (inter)national constitutionalism. In this perspective:

> The set-up of constitutional States established in the second half of the Twentieth century, the internationalization of rights and guarantees, as well as the conceptual

clarification that composes and holds up the legal and political map of the principles of equality and freedom are still important and fruitful tools, which must be reaffirmed and renewed, without the fear of resorting to "antiquated" means [...]. (p. 132)

Similarly, the project of cosmopolitanism should be relaunched, achieving, as Ferrajoli has been arguing for some time, the full constitutionalization of powers at the supranational level and placing limits on private powers. And the perspective of legal and institutional pacifism should be recovered (Giolo, 2020, pp. 134-135). Moreover, the role of arbitration and private transactions should be resized and the dialogue between the Courts (p. 137) should follow clearer rules, in order to create "a new constitutional paradigm at the global level" (p. 137). Vulnerability should thus be freed from its neoliberal use and brought back to an "*explicit* foundation" of policies and legal institutions (p. 140), recovering its ontological value and universal meaning. Still in the wake of Ferrajoli, Giolo suggests "rethinking force/violence", relaunching proposals such as the universal ban on weapons. On the level of the philosophy of law —and political philosophy— fighting the neoliberal paradigm means, finally, rejecting the postmodern fragmentation of subjectivities, recovering the centrality of embodied political (and legal) subjects proper to (inter)national constitutionalism and further emphasized by critical legal thinking. Freedom, equality, emancipation —that is, the words that have accompanied the history of the rule of law since its inception— should be put back at the center of legal-philosophical reflection. To legal science, in fact, Giolo (2020) attributes an important task, namely that of "deciding which law to accept" and "therefore which model of society and politics to promote" (p. 147).

This critical reading represents a strong defense of the constitutional State and is conducted with great theoretical and argumentative coherence. Both interpretations, however, the "optimistic" and the critical one, reveal an overconfidence in the autonomy of law and legal science and risk underestimating the scope of political and social processes that have been underway for some time. The "optimistic" reading too quickly dismisses the problem of the transformation of State sovereignty. It trusts in the jurisdictionalization of conflicts and tends to underestimate the resistance that globalism has produced and that can lead to a regressive de-globalization. On the other hand, we agree upon the defense of the legacy of (inter)national constitutionalism promoted by critical interpretations, but some crucial nodes remain to be solved. The first lies in the fact that the phenomena described by the first perspective, such as the development of a *lex mercatoria* and of

interlegality, are not mere metaphors used by philosophical theory or by the sociology of law, but are ongoing processes that cannot be dismissed as univocal, nor are they easily reversible. The second is that, even if it produces resistance, the neoliberal political project still has a strong grip. Neoliberal governmentality is welded to biopolitical government. The neoliberal anthropological model has achieved a cultural hegemony that undermines the value foundations of the project of (inter)national constitutionalism. The principle of competition, the theorization of a hierarchy between lives, commodification, the rupture of the social bond, the acceptance of inequality, the idolatry of merit, etc. are internalized dogmas, whose genesis lies, however, in the intrinsic limits of classical liberalism and in the history and episteme of the West, marked by the post-colonial fracture and heteropatriarchal domination. Fighting this hegemony appears to be an inalienable task, which cannot be entrusted to legal science alone. In fact, law as a social phenomenon is nourished by the values that forge the "legal consciousness" and guide legal interpretation.

Similarly, the thesis that separates the cosmopolitan project of (inter)national constitutionalism from that of globalism (and even more so from neoliberalism) appears convincing[4]. And yet, one cannot fail to grasp how the crisis of the constitutional State was triggered by the erosion of national sovereignty, which reduced the grip of public powers on the economy. The cosmopolitan project, without a strong State anchorage, is either utopian or despotic, as Danilo Zolo (1995) has taught us. As Geminello Preterossi (2019) has argued:

> Taxation and representation are [...] the two gametes that, by uniting, give life to the constitutional State, that is, to that form of State in which public power (of which taxation is a typical expression) is subject to law and this is legitimate if produced by bodies supported by electoral consensus, that is, by those who will have to pay the taxes. (p. 34)

With globalization this nexus has been broken and the great economic powers have been able to evade the constraints imposed by the States (Beck, 2000). The national sovereignty imagined by modern philosophies as monolithic is a myth, but certainly globalization, understood as both a political project and a social process, has led to a transformation of modern States, configuring new practices of sovereignty. The sovereignty of States, including those apparently stronger on the international scene, now

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4. A thesis repeatedly reaffirmed by Tecla Mazzarese.

appears "disaggregated" (Slaughter, 2004), public and private powers interpenetrate. In this context, the relaunch of the project of (inter)national constitutionalism cannot but pass, on the one hand, through the refinement of the instruments of judicial protection of rights offered by the international "constellation of Courts" (Santoro, 2008, p. 76) and, on the other, through the re-proposition of its deep political reasons. This cannot disregard the national dimension, which is the one within which the rule of law was built in modernity. This recovery, however, in order to have an emancipatory value, cannot take place according to the logic of sovereignism, which, as Giolo underlines, is a "false enemy" of neoliberalism. On the other hand, it cannot be resolved in the legal sphere, but implies the construction of a political horizon in which conflicts for redistribution and recognition can be played out on multiple levels and in forms different from those that have characterized modernity. In the current landscape, alliances are necessarily "strategic", "uneasy and unpredictable" (Butler, 2015) and it is from these that one must be able to develop new forms of solidarity, giving rise to that "double movement" advocated by Preterossi (2018, p. 206) that allows, on the one hand, not to flee from power, to "constitute it in order to constitutionalize it" and, on the other, to operate "a constant critical, self-reflective deconstruction". In short, (inter)national constitutionalism, if it wants to survive, must face the challenge of postmodernity. This does not mean that everything that modernity has built must be considered obsolete, starting with the role still played by States institutions. There are, however, caesuras with which it is necessary to come to terms. While demolishing is certainly wrong, restoring is not enough. We need a remodeling that strengthens the building of the constitutional State and makes it capable of coping with new practices of sovereignty and new social dynamics, conjugating itself to that anthropological paradigm shift that the theory of vulnerability, the ethics of care and the critique of Capitalocene have long been calling for as the only way out of the dangerous transition we are experiencing.

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NEOLIBERALISM AT A CROSSROADS

Ivan Pupolizio
Università degli Studi di Bari Aldo Moro

One, None and One Hundred Thousand Neoliberalisms

Not so many years ago, Flew argued that, in a relatively short period of time, the term "neoliberalism" had become "a kind of conceptual trash-can, into which anything and everything can be dumped, as long as it is done so with suitable moral vehemence" (Flew, 2014, p. 67). Although scholars cautioned early on against "reify[ing] neoliberalism and treat[ing] it as a phenomenon which manifests itself everywhere and in everything" (Gamble, 2001, p. 134), Flew asserts that "this is in fact what has happened to neoliberalism over the last decade" (Flew, 2014, p. 51). She offers an astounding number of —sometimes amusing— examples that illustrate how the term has been used in this very way, in contexts ranging from the space dedicated to books in Australian public libraries to the popularity of Bollywood-style weddings (p. 51).

Despite warnings to avoid "conspiracy theories" about neoliberalism, as well as a rough instrumentalism of the nexus between the juridical-political and economic spheres —an instrumentalism that keeps on being credited to poor Marx— Flew's (2014) invitation to consider neoliberalism "as a historical institutional form" (p. 64) may be reduced to little more than a tautology: that is, neoliberal political practices and legal changes vary according to the different "varieties of capitalism". Beyond that, she invites "the neo-Marxist critique of neoliberalism" not to "remain within binary opposition of public and private, collective and individual, and state and market" (p. 64); at the same time, however, her paper dwells heavily on binary oppositions, such as those that pit Harvey against Foucault or, ultimately, Marx against Weber.

Flew's arguments allow me to clearly state my starting point: I agree with her in that neither conspiracies nor instrumentalism should find space in such debates —but I do wonder if these theoretical positions are actually occupied by anyone in this field (and, in the interests of clarity, I doubt that such a criticism can be directed at Harvey). And, while I do not think it is helpful to keep pitting *scholars* against each other (not to mention founding fathers of social science such as Marx and Weber), I do think —as I will argue— that pitting *concepts* against each other is not only productive but also, in a sense, necessary. In particular, I see the "binary opposition" between public and private as the conceptual key to understanding the role of law in the neoliberal project.

As almost any paper on neoliberalism sooner or later acknowledges, such an "umbrella term" can be used to refer to a lot of different things, such as "a political ideology, an historical moment, an economic programme, an institutional model, and a totalising political project" (Brabazon, 2017, p. 1). My point here is that these different theoretical concepts are not mutually exclusive. As is often the case —not only in the social sciences— what is found depends on the starting questions and hypotheses, so there should be no surprise in discovering that neoliberalism as *a political ideology* is different from neoliberalism as *an economic programme*, or as *an institutional model.* Moreover, as both Flew and Giolo have noted, these ideologies, programmes, and models will take a different shape within the context of different legal or political cultures, not least because of the unpredictability of the so-called "transplant effect" (Palacios, 2017, p. 73).

To give just one example: if we look at the development of legal techniques in the field of foreign investment law, we may find clear evidence of the erosion of state sovereignty, partly due to the return of the contract and of an abstract concept of property (Perrone, 2017; Pupolizio, 2015); in other legal fields, such as the management of urban marginality, we may, on the contrary, observe traces of a "punitive turn" that involves a shift "from welfare state to penal state" (Wacquant, 2009). These developments are not contradictory at all since, as Giolo (2020, pp. 32ff.) argued, neoliberal legality rests on the differentiation of (at least) two juridical layers, that produce a sharp hierarchization of juridical subjects. However, to avoid the above-mentioned danger of seeing neoliberalism "everywhere and in everything", scholars should clearly state their basic theoretical assumptions and the specific model of neoliberalism they will investigate.

In this paper, neoliberalism will be treated as *a historical moment* in the development of capitalism. As such, it will be described from the standpoint of historical sociology, and in particular in terms of the theory of "systemic cycles of accumulation" proposed by Arrighi in two landmark books (1994, 2007), which build on the works of giants such

as Marx, Braudel, and (to a lesser extent) Polanyi. This powerful theoretical framework will allow the time boundaries of the neoliberal era to be defined, and will also help in differentiating between what is "neo" and what is "liberal" in that period of time. My only addendum to Arrighi's position is that, in my view, it implicitly reveals an ineludible tension between two legal ideal types, and thus neoliberalism can be interpreted as a historical victory of the private over the public.

By coupling the «*longue durée*», advocated many years ago by Braudel (1958), with the ambition of describing "historical capitalism as a world system", Arrighi's (1994) starting point is that "[o]nce we stretch the space–time horizon of our observations and theoretical conjectures in this way, tendencies that seemed novel and unpredictable begin to look familiar" (p. 4).

From my perspective, Arrighi's theory offers two crucial advantages. Firstly, it follows a narrow path between two antithetical dangers: (i) the risk of "epochalism", that is, of claiming "that we now live in a new kind of society which departs in fundamental ways from previous modes of social ordering" (Savage, 2009, p. 219); and (ii) the impossibility of clearly identifying any rupture of the system, or paradigm shift, so transforming the history of capitalism into "the eternal return of the same" (Hardt & Negri, 2000, p. 239[1]). Secondly, Arrighi's ambition to provide a comprehensive account of capitalism, from its origins in medieval Italy, overcomes the above-mentioned argument that neoliberalism assumes different shapes in different legal cultures. As we will see in the next section, measuring the lifespan of systemic cycles in centuries, rather than in years or decades, offers the possibility of observing "the truly surprising regularity with which the phases of economic freedom and of economic regulation have succeeded each other" (Pirenne, 1914, p. 515). In my opinion, this same regularity is the key to understanding the legal changes that have occurred in the neoliberal era.

Accumulation and crises

It is worth addressing from the outset a possible objection to using Arrighi's theory to describe neoliberalism: Arrighi, himself, almost never uses the term "neoliberalism", either in his 1994 masterpiece, or in his book mainly devoted to the analysis of China, in which the term is used only in the detailed analysis of Harvey's arguments (pp. 222ff.). I

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1. Negri and Hardt believe this is the main flaw of Arrighi's theory, a critique that I do not agree with, for the reasons explained in the text.

could easily dismiss this point by referring to the teachings of legal realists who, almost a century ago, warned us against engaging in "silly word battles" (Frank, 1930, p. vi), but Arrighi's choice in avoiding use of the term is revealing. Notably, the crucial shift that started in the last quarter of the 20th century has been defined in a variety of ways. Before "neoliberalism" occupied the stage, the most commonly used term to capture this social change was, perhaps, "globalization", another "umbrella term" that was later largely dismissed for the same reasons now cited in criticizing "neoliberalism": that is, its "vagueness".

In a 2000 paper, Arrighi addressed this very issue —could "globalization" have a definite meaning or was it just a "gimmick", as Harvey once said he believed "in his more cynical moments"— and wrote:

> Gimmick or not, the idea of globalization was intertwined from the start with the idea of intense interstate competition for increasing volatile capital and a consequent tighter subordination of most states (the United States included) to the dictates of *private capitalistic agencies*. Globalization may be a misleading term with which to denote the shift from a global financial system controlled by a hierarchy of governmental agencies headed by the United States to an equally global financial system in which governments have little control over their finances and compete fiercely with one another for the favor and assistance of *privately controlled capital*. But whether or not we want to retain the term, we can hardly hope to make sense of what has been going on in the world in the last twenty years or so without paying close attention to the shift itself. (p. 119; emphasis added)

The lengthy quotation above is important as it identifies, in a nutshell, the points I will try to defend in this article. First, I will consider the argument that neoliberalism should not be regarded merely as "a political ideology" but rather as a shorthand way of describing a historical shift. The neoliberal era can be described as a *hegemonic crisis* of the state that led the previous phase of material expansion: that is, the United States. From this perspective, the theoretical and practical influence gained by the arguments disseminated by the Mont Pelerin Society or the Chicago School of Economics ceases to appear as the by-product of a conspiracy, or as the brilliant victory of individual freedom over state oppression. Those ideas gained momentum because of their convergence with the material interests of the dominant classes in the "hegemonic bloc", but they also signalled a specific rebalancing of forces *whithin* that bloc.

Second, this crisis does not involve any "blurring" of the public/private distinction, as many observers claimed. On the contrary, as the emphasis added in the Arrighi quotation above shows, we can account for this transition *only by referring to that distinction*, which encompasses not only public and private organizations, but also different "logics of power" (in Arrighi's words) or legal ideal types (from my perspective). To understand the full picture, however, we must first summarize Arrighi's main arguments.

According to Arrighi, the history of capitalism can be interpreted as the succession of different "cycles of accumulation", each led by a different hegemonic power. However, a few caveats are necessary here in order to fully understand this ambitious theory. First, the beginning of each cycle is always, at the same time, the end of the previous one. In other words, cycles overlap. Second, each of these "containers of power" (or "states", if you like) should be regarded as a bloc "of governmental and business organizations that have led the capitalist world-economy through its successive phases of material expansion" (Arrighi, 1994, p. 13). Furthermore, since that same distinction "constitutes the latest stage of *a six-centuries-long process of differentiation of business enterprises from governments*" (p. 86; emphasis added), it is only at the end of the process that we can clearly identify these organizations on the basis of their means (exchange and war, respectively) and ends (economic and political power) — that is, we may perceive the difference between *public and private* organizations as "natural" and "obvious", but that has, in fact, not always been the case.

Third, and finally, each hegemonic bloc can also be identified *as a whole* on the basis of the specific strategy it adopted to lead the phase of expansion. Here again we find two opposite "modes of rule or logics of power":

> In the territorialist strategy, control over territory and population is the objective, and control over mobile capital the means, of state- and war-making. In the capitalist strategy, the relationship between ends and means is turned upside down: control over mobile capital is the objective, and control over territory and population the means. (Arrighi, 1994, p. 35)

Historically, of course, these two strategies do not operate in isolation, as states employ both of them. We can identify powers that represent "the clearest embodiment of a capitalist logic of power", such as the Venetian republic, and typical territorialist powers, such as Spain in its conquest of the new world, but the leading capitalist states of every epoch typically combined both strategies to differing degrees. For example, the United

States were territorialist in their internal "conquest of the West", but later reorganized the world economy following an essentially capitalist strategy.

In my opinion, the main strength of Arrighi's theory is that it allows room for historical and even geographical contingency, since who wins the race for hegemony is *not* predetermined, while at the same time it also points to a developmental path that is "not a purely random process" (Arrighi 1997, p. 159). That (very specific) predictability is linked to the leap inherent in every systemic transition since, in the three shifts observed by Arrighi, the new hegemonic power promotes the two logics of power to a level that helps in overcoming the contradictions of the previous phase. In this way, "the sequence of leading capitalist states […] consists of units of increasing size, resources, and world power" (Arrighi, 1994, p. 14): thus, the small city-state of Genoa, after defeating its old rival Venice (in the 16th century), is superseded at the beginning of the 17th century by the "proto-state" of the Netherlands, that midway through the 18th century gives way to the rising British maritime empire; then, at the end of 19th century, Britain began to pass the sceptre to the "continental island" of the United States[2]. So, an obvious question arises: what is next in the race for hegemony[3]?

There is one last detail to note: as Braudel stated, with reference to the Dutch decline, every systemic transition is marked by a financial expansion in the extant leading state that can be read as a symptom of maturity of that cycle or, to quote Braudel's brilliant words, as "a sign of autumn" (Braudel, 1984, p. 246). This financial expansion indicates an oversupply of capital that cannot be reproduced in the old way anymore, and the need for a change.

Recurring shifts

In Arrighi's (1994) theory, the "financialization" of the economy acts as a "signal crisis" in a systemic cycle, as described below:

> […] it marks a 'turning point,' a 'crucial time of decision', when the leading agency of systemic processes of capital accumulation reveals, through the switch, a negative judgement on the possibility of continuing to profit from the reinvestment of

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2 For the exact dates and a graphic timeline of these cycles, see Arrighi (1994, p. 220).
3 In his 1994 book, Arrighi believed that Japan might take the lead, with the help of the so-called "Asian tigers"; however, in his 2007 book, he subsequently revised this view and pointed to China as the next power, as we will see in the conclusion.

surplus capital in the material expansion of the world-economy, as well as a positive judgement on the possibility of prolonging in time and space its leadership/dominance through a greater specialization in high finance. (p. 220)

So, in the case of contemporary neoliberalism, when did that "turning point" take place? The first sign came in 1971, when United States President Nixon declared the end of the so-called "gold-dollar standard". That happened because the hegemonic power eventually realized that its spending power (impaired by President Johnson's Great Society programme and the Vietnam war) was not infinite and was also under attack from *private capital*. As Arrighi (2007) said "[…] once that system actually collapsed, the gates were open for an ever-growing mass of privately controlled liquidity to compete with the United States and other state actors in the production of world money and credit" (p. 157).

A long struggle against "stagflation" was then about to start until, in 1980, the president of the United States Federal Reserve Paul Volcker, following monetarists' theories, decided that the only real cure for inflation was to deepen the economic recession by raising interest rates —that is, by raising the cost of money. Not by chance is the "Volcker shock" now widely considered as the beginning of the neoliberal era (see, for example, Harvey, 2005; Sonti, 2018), since it involved a significant rebalancing of class forces in American society: it dented workers' power —as any recession does— and at the same time rewarded capital owners, thus leading to a massive inflow of capital to the United States and a "redistribution in favour of creditor–financier interest" (Ingham, 2008, p. 87) that laid the basis for the financial explosion of the 1980s.

In my view, that shift should be regarded as symmetrical to another shift that occurred at the beginning of the 20th century, when the hegemonic role passed from the Britain to the United States. In that case too, we can see a financial explosion that overlaps with the so-called *belle époque*. This latter shift ultimately required two world wars, and a prolonged economic depression (1914–1945) to bury the liberal premises of the Victorian era, along with the dominance of Britain's industry and navy. Nonetheless, these tragedies allowed for a new phase of material expansion (1945–1975), led by the United States and based on the very different assumption that political power must control "the power of money": this *primacy of the public over the private* was required in order to limit and repair the dramatic consequences of entrusting the *whole* allocation of resources entirely to the market, as Keynes (1936) claimed in his groundbreaking work, and Polanyi (1944) later observed in his social history of 19th century Europe.

Towards the end of the 20th century, the turning point of the 1970s simply reversed that premise again, with a return of liberal arguments, albeit in a very different world. United States policy choices in support of a fiat currency (1971) and against inflation (1980) led capital owners to understand the real nature and basis of their power —that is, *a global economic space segmented into independent political units that were in a perpetual struggle for power*. Once again, as Weber told his students more than a century ago with reference to Europe at the beginning of modernity, "[t]his competitive struggle created the largest opportunities for modern western capitalism. The separate states had to compete for mobile capital, *which dictated to them the conditions under which it would assist them to power*" (Weber, 1961, p. 249; emphasis added).

The long-term perspective of Weber, Braudel and Arrighi thus shows us that the current situation is nothing new: if it is true, as Weber went on to say in the passage quoted from above, that modern capitalism arose from "this alliance of the state with capital, dictated by necessity", it is also true that these two powers did not always row in the same direction. As Braudel (1979) pointedly noted:

> Thus, the modern state, which did not create capitalism but only inherited it, sometimes acts in its favor and at other times acts against it; it sometimes allows capitalism to expand and at other times destroys its mainspring. Capitalism only triumphs when it becomes identified with the state, when it *is* the state. (p. 64)

Neoliberalism and law

If we accept the arguments of Braudel and Arrighi, we should conclude that the neoliberal era is not, as many observers claim, the triumph of capitalism but, on the contrary, is one of its recurring times of crisis. Does that help us in decoding the legal changes brought about by neoliberal policies? In considering this, it is worth noting a peculiar paradox in observing neoliberal legality.

Since the public/private distinction rose to be regarded as the "grand dichotomy" of Western legal thought in the 19th century (Pupolizio, 2019, cap. II; the quotation comes from Bobbio, 1970), it has been considered as one of those distinctions that, "taken together, constitute the liberal way of thinking about the social world" (Kennedy, 1982, p. 1349). At the same time, since then, the distinction has been accused of being false, ideological, simplistic, banal, imprecise, contradictory, or of being all of these things

together. The list of critics is so long and varied that it includes authors as different as Marx, Kelsen, American legal realists and, more recently, critical legal scholars.

However, as Giolo (2020, pp. 27ff.) points out, there seems to be no room in the "neoliberal network" for this old-fashioned distinction, which appears to have been ousted by legal developments such as the emergence of soft law, transnational legal regimes and, last but not least, the end of the identification of law with the state. Giolo argues that today this assumed "blurring" of the public/private divide takes on a meaning that is quite contrary to the one it had in classical liberalism. According to her, all of the above-mentioned critics targeted the "grand dichotomy" because it was essentially *ideological*, that is, it supported a false divide between "a heavenly and an earthly life", to quote Marx's famous words (Marx, 1958). In other words, both Marx and Kelsen supported the view that the public/private distinction was meant in the first place to prevent the public (i.e., the political power) from interfering with the private (i.e., the economic power).

I think that Giolo's argument is sound, even though I also see it as *incomplete*. On the basis of what we have learnt from Arrighi, we can now add a few further points to the picture. First and foremost, just like any other "grand dichotomy", the public/private distinction is an ideological device that can be applied *in both directions*: on the one hand, Giolo wrote that it can be used to protect the private from the public (let's call this the "Marxian argument"); on the other hand, as Kelsen repeatedly pointed out[4], it can be used to claim the primacy of the public over the private, that is, to prevent the government from strictly applying the rule of law (*en passant*, this "Kelsenian argument" has been used by common law jurists to claim that this distinction does not have the same importance in their legal systems as is the case in civil law countries[5]).

Second, and odd as it may appear to Kelsen, the elevation of the public/private distinction to a "grand dichotomy" was one of the cornerstones of the building of the rule of law or *Rechtsstaat* in 19th century Western legal culture: from this perspective, the protection of the private *from* the public encompasses the "sacralization" of property as well as habeas corpus or free speech, which together represent the core of so-called civil rights.

Third and finally, as we have seen, the dichotomy is not only an ideological device, as is apparent from Arrighi's discussion of the historical developments of capitalism.

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4. Kelsen's standpoint is clearly stated for the first time in a 1924 article, written for the Italian public (Kelsen, 1924), and then reiterated in all of his major works (for details, see Pupolizio, 2019, pp. 86ff).
5. This tradition perhaps starts with Dicey (1885). More recently, see Lucy & Williams 2013.

On the one hand, Arrighi highlights the functional differentiation between *public and private* organizations (i.e., between governments and business enterprises). On the other hand, he highlights the shift between *public and private* "logics of power" (i.e., between territorialism and capitalism) observed in leading states in the struggle for hegemony: currently, the decline of United States "global military Keynesianism" (Arrighi, 1994, p. 315) has made way for the "pure" capitalist logics of financialization (that is, finance as the main source of accumulation) and privatization (referring not only to the control of resources, but also, as Giolo points out, to the production of rules), although these will not necessarily be the logics of the new phase of expansion.

In summary, my argument is that Arrighi's (1994) description of historical capitalism helps us understand neoliberalism as being, at the same time, (i) the terminal crisis of the United States regime of accumulation and the beginning of "a change of guard at the commanding heights of the capitalist world-economy" (p. 367); and (ii) a historical period marked by *the relative primacy of the private over the public*. No one knows when or how this changing of the guard will end, but it is apparent that, for the first time in history, (i) the leading role of capitalist accumulation is slipping away from Western hands, and will probably end up in those of the People's Republic of China; and (ii) the new hegemonic power will have to cope with newly emerging global threats, such as pandemics or climate change, that could alter the whole context in which capitalism has thrived for five hundred years.

Be that as it may, the next leading power will once again have to find a new synthesis between "the power of the gun and the power of the money" (in Arrighi's words), or between the public and the private (in my words), for dealing with unprecedented problems for a system that originated in Italy's medieval city-states and went on to colonize the entire world economy. In the context of these long-term challenges, I think the following remark from Teubner will still hold true: "It has almost become a ritual these days to de-construct the private/public distinction. The problem is, nobody knows how to dis-place it, not to speak of how to re-place it" (Teubner, 1998, p. 394).

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THE NEO-LIBERAL TWIST OF LAW

Valeria Giordano
Università degli Studi di Salerno

The law between old languages and new concepts

There is no doubt that the term law today is subject to transfigurations of its central constructs, originating from the processes of juridical globalisation that tend to falsify the self-referential and reassuring image of the Kesenian pyramid, revealing an extravagant contradictory pressure on the concept of law itself, which tends to correspond to a lexicon that is increasingly in trouble (Catania, 2008).

Old languages and new concepts come out on a scenario populated by multiple and diverse actors in a fragmented and uneven set of normative production, increasingly detached from a legislative matrix, given the judicial and private vocation of global governance.

The progressive encroachment of law, which goes hand in hand with the proliferation of places where the law is produced outside of traditional geometries, shows a tendency towards the proceduralisation of rights and at the same time an unprecedented flexibility in the forms of soft law and lex mercatoria, resulting in a loss of the sovereign structuring of the legal system.

Indeed, as highlighted in Alessandra Facchi and Orsetta Giolo's (2020) essay, which densely articulates the problematic relationship between neoliberalism and law, the emergence of new governance flows points out, many contradictions blurring the distinction between public and private on which modern logic is modelled., This undermines the process of systemic differentiation of power thought as unitary, forcing us to question the adequacy of some traditional categories developed by legal science and their adequacy to the so-called neoliberal turn.

The author highlights the headless dimension of liberal ideology, its acting within the social context as an institution, without, however, a direction or a summit that determines its affirmation (Giolo and Facchi, 2020, p. 6).

This dimension align with the furrow of Foucauldian discourse on the birth of biopolitics which, by analysing the political implications of government techniques and the power dispositifs underlying them, destructures modern statuses and prerogatives without cancelling them, leaving singularities to continuous readaptation and repositioning. However, this government excludes a static and rigid status of domination, for it shows all the temporality of the influence, its reversible relationship with the governed seen as the object of care in this power relationship: the target of protection for his own good, recognised as a subject of free action (Bazzicalupo, 2010, p. 48).

If, in fact, neo-governmental rationality can be described as the new reason of the world, since it places economic competition as the universal reason and the enterprise as the criterion of subjectivation (Dardot-Laval, 2013), the discourse on law can no longer fail to consider the different criteria of intelligibility of the proliferation of global powers and the effects that the global order produces on subjects, institutions and social practice.

It is therefore necessary to reproblematise the categories located within the discourse of legal science, re-considering the definition of norm, as a dispositif, understood, at the same time, in terms of a functional regularity, linked to the correspondence of a rule to a deontic modality of a prescriptive type; —"transcendent" in the Foucauldian lexicon—, and as a principle of opposition to the pathological, with respect to which it performs a "normalizing" function, being an instrument of coercion.

This dispositf structures ever-changing relations, marked by the strategies of power and by the implications between these and the different regimes of knowledge, combining in itself the tension between the levels of normativity and normalisation, produced from the functional and "excluding" differentiation instituted by the rule itself.

The opportunity for such a problematisation moves from the unprecedented pervasiveness of biopolitical dispositifs that testify how neoliberalism has become a glocalised model of functioning that knows no waste of any biological material and that blurs the production-reproduction distinction (Cooper and Waldby, 2014; Giordano, 2018), reshaping it within the complex public/private dichotomy.

The public/private dialectic in Kelsen's rationality

As we know, This dialectic constitutes one of the cornerstones of modern rationality, since it expresses the dualism, the tension, between state and society, the former considered artificial, as a machine, external to the social tissue and built with bureaucratic apparatuses and adequate for the various political ends to be achieved, the latter, 'natural', anchored in tradition, understood and felt as a "body".

A great dichotomy, as Norberto Bobbio (1985) writes in an important entry on this theme, which despite the ambiguity and confusion traditionally revolving around it, seems to be centred on the character of asymmetry and horizontality of the relations and on the nature of the protected interests: aspects that will be decisive for its resilience before the anti-ideological unravelling carried out by Kelsen's science.

As is well known, in open opposition to German public law, Kelsen highlighted the difficulty of unambiguously determining specific criteria for such a conceptualisation, conceiving it as a difference between two methods of production and bringing dualism back within the will of the state formation process itself, which structures the unity of the legal system, revealing its ideological bearing in the recognition of the 'political' character of every subjective right (Kelsen, 1960).

This conceptual opposition is particularly relevant in the legal philosophical debate, because it mirrors the dichotomy between subjective right and objective law, reflecting the need for an ethical justification of subjective rights, which are assumed to exist even before their legal recognition by the state and are therefore removed from the arbitrary nature of objective law, for the dissolution of which the anti-ideological tendency of Kelsen's pure theory appears particularly incisive.

The division between the public and private spheres is particularly focused today on the expansion of the proprietary lexicon, which takes on a problematic connotation in relation to questions concerning the body, particularly the female body, in respect of which the contours of the lawfulness of the practices that can be performed are progressively blurred in the name of the market's metaphysical claim of self-regulation.

Therefore, in the wake of Foucauldian discourse, we maybe can re-elaborate a discourse that is partially heterogeneous with respect to the one traditionally conducted by legal science because the neo-liberal trend assumed by law involves precisely in the spread of a regulatory instance tending to regulate every detail of individual existence, a multiplication of the juridification of social life, which produces new subjectivities, radically transforming bodies (Bazzicalupo, 2004, pp. 273 ff).

Moreover, It is precisely through bodies and their relationship with knowledge that it would be possible, to respond to the traditional philosophical-legal representation and its process of dissolution of power within the paradigm of sovereignty, recording through the recodification and unveiling of those reticular dynamics of power, today more widespread and complex than ever, which go beyond the State and its institutions, to reach the processes of construction of discourses and regimes of truth corresponding to them.

Undoubtedly, the Foucauldian reading aims at breaking trhough the repressive image of modern juridical rationality, typical of a particular vision of legal positivism, which coincides with the formation of the liberal bourgeois state, structured on the dichotomy of duty and sanction, showing a prismatic dimension of power, which refers to different techniques of government that range respectively from those typical of sovereignist juridical systems to disciplinary ones, up to biopolitical securitarian ones, in which different levels of regulation are carried out, producing multiple and diversified effects.

If, in fact, in the neo-governmental rationality, power is abstracted from its connection with the repressive character of the law, being directly exercised on the person's biological life, as a widespread, pervasive, microphysical power, new practices of self-regulation are arising. Those practices are detached from the trascendent foundation of disciplinary dispositifs, finding their constitutiveness in the self-ruling social tissue, in an incessant dialectic between the introjection of the rule and its continuous adaptation (Tucci, 2018, pp.9-10).

What we have here, therefore, is a rationality characterised by the complexity of its mechanisms and its continuous connections with heterogeneous power dispositifs, which, ranging from biological, cultural and genetic knowledge to discursive practices, are affecting the whole life, in a continuous intertwining and overlapping.

A technique of government that, by overcoming the traditional distinction between public/private on which modern philosophical-legal representation has been based, restructures our lives, modelling them within the logic of the *homo oeconomicus* (Foucault, 2008) entrepreneur of the self and which generates a continuous ambivalence between the empowerment of bodies and the economic dynamics of exploitation and social inequality.

Dispositifs of power and vulnerable bodies

Today, the public/private dichotomy undoubtedly shows an unprecedented fluidity in a scenario that tends to reflect a weakening of the prestige of the authority of law and in some cases the transfiguration of legal regulation into a global network of institutions, agencies and organisations. It makes particularly problematic to draw a line between the public and private spheres in the production of the legal.

In fact, the active promotion of the body, its self-valorisation, in a biological-political sense, pursued through the use of the new technologies of science, constitutes; one of the distinctive features of neoliberalism: by including and excluding different subjectivities along a line that intersects with the categories of race, gender and class, it works as a model of capital accumulation that incorporates the whole life, reproducing it, within the precarious and changing spaces designed by our global democracies.

Indeed, neo-liberalism dissolves the public-private couple in the reticular opacity of private powers, which progressively disengage from the self-referential model *more geometrico*, expanding individual freedom and reproducing, economic logics even within the most private and intimate aspects of life.

The erosion of the Fordist family and the redistribution of care functions outside the private sphere entail, in fact, the outsourcing of goods and services that were previously circumscribed within the private sphere, generating a very strong demand for "making bodies available". Undoubtedly, the image put forward by Rose (2007, p. 3), of a radical paradigm shift following the passage from disciplinary government techniques, which objectify bodies by spatially placing them and domesticating them —to government techniques that take charge of bodies, caring for them, healing them, improving them, empowering them, with a view to security and control— well expresses the growing biopolitical dimension of global power dispositifs and the pervasiveness of differentiated practices that break down bodies, fragment them, in a continuous process of transformation and redefinition.

At the heart of the new social demand for reproductive medicine is the question of the growing vulnerability of the subjects and the progressive spread of practices of subjection and domination. These practices leave little room for the self-regulating illusion of the market, since they are stratified in global arrangements, which inevitably present "objectifying" (Mackinnon, 1989) modes on women's bodies.

If, in fact, the use of biopolitical empowerment dispositifs generates a transformation of the private sphere, from a traditional space of subjection of women to a place of expansion of individual freedom, the risk is to conceal, within the rhetoric of free choice (Giolo and Facchi, 2020), a progressive functionalisation of women's bodies to a purely economic logic.

We are therefore witnessing a progressive extension of the lexicon of ownership that highlights a continuous ambivalence between practices of freedom and dynamics of exploitation, which highlight the growing dimension of mass vulnerability, determined by the weakening of the mechanisms conceived to protect individuals, which seem to leave a large room for manoeuvre to wild powers.

In this regard, denouncing how contemporary political systems are characterised by dysfunctions and distortions in access to equal opportunities, Finemann (2008) proposes a redefinition of rights in the light of the universal condition of vulnerability, intended as a more stringent paradigm compared to the equality-based approach, because it is based on a reconceptualisation of the role of the state and institutions in the distribution of privileges and opportunities within society and on the strengthening of democracy and public participation.

It is therefore a question of re-semanticising the political and legal discourse through the construction of a relational category (Pastore, 2021, p. 24) that leads the subject back to the fragility of human existence and to his own corporeity, overcoming —through the image of the vulnerable subject— a public/private division that confines the burden of care within the family, socially imposing it and at the same time making it invisible.

As Giolo effectively points out, this is a category that should be freed from its rhetorical purpose, which very often hides an involuntary adherence to neo-liberal ideology, making it possible to unveil the dissolution of the subject of law through the problematisation of its relationship with force and power, laying the foundations for a new legal paradigm that is the foundation of global law and institutions.

Moreover, precisely in the sense indicated by the author, it would be necessary to strengthen a theoretical reading that reflects the growing relevance of this paradigm, raising questions and dilemmas also on the relationship that is established between the dimension of corporeality, always seen as a place where desires and personal claims are rooted, and therefore as an exquisitely identitary dimension, and the condition of fragility, dependence and precariousness that characterizes the horizons of our contemporary lives, increasingly compressed by unstable mechanisms of redistribution of resources.

The point is to voice a vulnerability narrative able to read the growing relevance of the biopolitical dimension even in the choices that concern law, shedding light on the political and symbolic matrix of our bodies, on the relational and intersubjective bond that, exposing us, forces us to the otherness, in the confrontation and conflict that structure the fragile and precarious nature of human existence.

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BRIEF REFLECTIONS ON AUTHORITARIAN NEOLIBERALISM

Gianvito Brindisi

Università degli Studi della Campania "Luigi Vanvitelli"

If, as is true, one of the thorniest issues within the debate on neoliberalism is the role played by law and the state, then the book by Orsetta Giolo (2020) is to be favourably welcomed as it represents a useful contribution to the construction of a clearer framework on this problem that has indefinite boundaries.

Among the numerous opportunities for reflection offered by the text, it is certainly worth dwelling on the phenomenon that Giolo (2020) appropriately defines *neoliberal binarism*, that is, the reticular and authoritarian character of neoliberal law, corresponding to two different legal environments inhabited by different subjects: the first one is represented by governance and the metaphor of the network, aimed at promoting freedom and optimizing competition; the second one is represented by penal state, aimed at the annihilation of political agency and the exclusion of subjects that are not adjusted to neoliberal standards (p. 24).

It would be interesting to discuss with the author the existence of a double binary as a specific character already pertaining to liberalism – and just think of what Foucault defines disciplinary counter-law as the effective and institutionalized content of legal forms (Foucault, 1995; Tucci, 2015). However, this would take me away from the direction of Giolo's research, who on the contrary pushes her thesis forward to criticize those theories that confuse what should instead remain separate, i.e. neoliberalism and constitutionalism in relation to global order. If constitutionalism is oriented towards the protection of rights through the shaping of power, the model of the network read through the neoliberal grid justifies a very different project, namely

to favour an articulation of law and politics centred on the process of depoliticization, de-democratization and de-constitutionalization (Giolo, 2020, pp. 37-38). Giolo's polemical target are also, without distinction, recent populisms and sovereignisms, whose aversion to any form of authority beyond the state determines a paradoxical coincidence between their claims and those of neoliberalism. Insofar that the latter on the one hand dismantles internal and international legal systems, freeing private powers from control; and on the other hand, at the same time, claims the maintenance of the authoritarian strong state (p. 38).

Giolo (2020) believes that, unlike philosophical-political reflection, philosophy of law and legal theory have greatly neglected neoliberal authoritarianism (p. 34), and therefore formulates an invitation to rethink this phenomenon, which seems to me worthy of being accepted and, if possible, pushed even further.

I will make some considerations (that I already proposed in Brindisi, 2020) about the relationship between authoritarian neoliberalism, populism and democracy, at the centre of international debate in recent years, to try a dialogue with Giolo's thesis. I will do this, on the one hand, by discussing it on a historical and conceptual level, starting from different authors and in relation to the role of the neoliberal strong state in the depoliticization process to which the Author refers; on the other hand, by demonstrating a more stringent relationship between authoritarian neoliberalism and regressive populism.

This is an opportunity to go back in history and argue that neoliberal authoritarianism, exercised through expertising, penal systems or juridical-political regression, is linked to one's fear of the alleged authoritarian degenerations of democratic and social politics.

Thanks to Foucault, we know that neoliberalism legitimizes itself on a "state phobia" (Foucault, 2008, pp. 75-77 and 187-188) starting from the crisis of governmentality of the first half of the twentieth century, when interventionist policies are accused of being functional to a collectivist planning of the economy. However, as Foucault shows, neoliberalism does not demand less state or less law, but on the contrary a *strong state* that intervenes through a utilitarian use of the law on society. With the difference, compared to liberalism, that in neoliberalism the economy becomes the artificial foundation of politics and public law (p. 84), of a government that aims to fulfil the conditions of possibility not only of a market, but also of a competitive human being.

From the point of view of the field theory, it is really a matter of promoting a change of civilization and an anthropological transformation, since neoliberalism submits to

the economic field and its logic the centuries-old invention of jurists, namely the state as a universal field, an instrument of domination, certainly, but also a space susceptible to be historically conquered by social struggles. In fact, if a universal space can be an object of appropriation but also of conflict, as Bourdieu argued, the substitution of economic rationality for juridical rationality undermines the possibility of a public space in which to fight for emancipation. This is the reason why in the Nineties the sociologist took a tactical position in favor of welfare, albeit in view of the construction of a supranational welfare state capable of putting itself on the transnational level of the new forms of domination (Bourdieu, 1998, pp. 9-50; Laval, 2017 e 2018). The neoliberal conservative revolution, as he defined it, had the objective of returning progressive thought and action to the sphere of archaism, but it differed from the other and more famous conservative revolution, the Weimarian one, in the role attributed to economic science rather than exaltation of blood and soil. Consequently, Bourdieu invited the social sciences to mobilization as an effective condition of democracy, against neoliberal authoritarian technocracy and to avoid falling back into a populism that risked playing into the hands of authoritarianism.

Bourdieu did not point out, however, that populist solutions were thought of as forms of channeling economic and governmentality crises even by the neoliberal side, albeit in a nuanced way.

This is demonstrated by the relationship between the criticisms of democracy and the invocation of a strong state between the 1930s and the 1970s, which has been the subject of a recent reorientation of studies on neoliberalism thanks to the re-evaluation of the notion of *authoritarian liberalism* (or *neoliberalism*, or *national liberalism*), coined by Hermann Heller in reference to a speech by Carl Schmitt in front of German industrialists in 1932, containing a critique of democracy that will not be forgotten by neoliberals.

In fact, the Weimaran debate (Bisogni, 2005) elaborated the theories related to the crisis of liberal democracy as unable to contain the overload of questions addressed to the state: faced with a capitalist economy that produces inequality and conflict, the strategies implemented by conservative thought discussed the failure of the liberal rule of law and tried to prepare the instruments of government that could maintain that economy and control the masses, justifying themselves on the basis of a crisis of civilization.

In 1932 Schmitt condemned what he defined as a weak total state, with reference to the (vain) effort of the Weimar social democracy to control the economy, and therefore to the failure of the depoliticization of the economy envisaged by liberalism.

The total state that attempted to order the economy was as such for Schmitt only from a quantitative point of view, because in reality it was hostage to the democratic demands of redistribution. Aware of the fact that the creation of state-free spheres is a political process, Schmitt contrasted this weak total state with a "qualitative total state", capable of separating itself from the economy and governing the masses through the increase of technical means, making the distinction between friend and foe (Schmitt, 1998). Heller, who feared the collapse of Weimar (Pomarici, 2017), described this approach as *authoritarian liberalism* and observed that the state's renunciation of its authority in relation to the economic order meant nothing more than the authoritarian dismantling of social policy, certainly not the abstention of the state from politics in favor of big banks and big industrialists (Heller, 2015, p. 300): thus, after the proletariat had imposed its participation in legislative power, a bourgeoisie no longer self-confident repudiated its spiritual world, fascinated by a state that would technologically govern the masses and class conflict depoliticizing the economy and homogenizing society.

Neumann traced the Schmittian combination of political authoritarianism and economic liberalism back to Vilfredo Pareto —who had influenced Mussolini's early economic policy— and argued that Schmitt's thesis would have inspired Hitler's speech to the Reichstag on March 23rd, 1933 (Neumann, 2009, p. 49). A few years later he asserted that reactionaries had always recognized the importance of power, even when they had embraced political and economic liberalism, and in times of crisis they had deemed necessary a policy of funding that weakened the democratic movement. The jurist of the Frankfurt School, who valued the liberal rule of law, therefore concluded that authoritarianism arises from the need, on the part of the holders of economic power, of a strong state removed from popular control and capable of repressing the processes of democratization of the economy (Neumann, 1957a, pp. 220-223).

Well, the fear of a state object of social democracy and the prospect of a technical government of the social order have been adopted by many neoliberals. Without this implying any assimilation of neoliberalism and sovereign decision, whose logics are different (De Carolis, 2017), it is indeed possible to note, as Bonefeld did, that neoliberals (Euken, Hayek, Röpke, Rüstow, etc.) affirm the need for the political power to depoliticize economic relations and produce subjectivations based on competition, echoing Schmitt (Bonefeld, 2017, pp. 21-22).

The (political) depoliticization of the economy highlights that this is an artificial order that must be constructed by means of the state, which must create the friends of the market by identifying the "enemies" of freedom (Bonefeld, 2017, p. 49), because there

can be no freedom of competition in a mass democracy that invades the economic field. The Schmittian and Ordoliberal theoretical positions meet, as has rightly been pointed out, at the height of capitalism's need for "a space that politics continually cleans up of all obstacles, of what is not 'compliant'" (Galli, 2019, p. 52).

The strong state is therefore functional to counter what Heller and Neumann intended to enhance, that being internal antagonism. We thus understand that the "state phobia" mentioned by Foucault is also a phobia of the mobilization of the masses for the democratization of the economy.

We can then risk yet another definition of neoliberalism, which I hope Giolo agrees with, as a heterogeneous system aimed at imposing, in Canguilhemian terms, a competitive requirement on a democratic economic existence which represents a danger; since it is from this need – it seems to me – that we must focus on the variety of legal and political solutions devised to keep at bay the social pressures on institutions, to which the reactivations of traditional morality taken on nowadays by neo-nationalisms are not unrelated. With respect to this variety, Heller has offered a new key of intelligibility, as the following three recent 'uses' of his work testify – it being understood that the debate on Heller, Schmitt and liberalism is certainly broader and older. From the point of view of the critique of European legal architecture, Alexander Somek (2003) speaks of an *authoritarian constitutionalism* that can contain various characteristics of constitutional democracy, except for parliamentary democracy, which would represent an obstacle to the authoritarian achievement of social integration around the market (pp. 361-362). He is echoed by Wolfgang Streeck (2015), for whom the EU has shifted the governance of the economy towards institutions constitutionally designed to be free from political contestation (p. 365). Finally, and on a more general level, Grégoire Chamayou (2018) —to whom we owe, in my opinion, the most intelligent and in-depth analysis of authoritarian liberalism— shows how the Schmittian theses formed the matrix of the criticisms of the governability of democracy in the 1970s, which were aimed at devaluing political representation, preventing the socialization of the state, etc., as well as justifying the liberal dictatorships so appreciated by Hayek and the *Chicago Boys* (pp. 225-234); furthermore, from another point of view, he highlights the way in which neoliberal micro-political technologies have redefined individual micro-evaluations by inciting everyone to "suivre ses inclinations les plus insociables", producing an institutional and social fragmentation such as to favor a neopopulism that would make acceptable redistribution strategies against the popular classes (pp. 248-261).

Coming, however, to the relationship between neoliberalism, authoritarianism and populism, this has been revealed in its very announcement: just think of Stuart Hall's studies on authoritarian populism and the production of moral panic as the foundation of the pre-Thatcherian *Law and Order* (Hall et al., 1978, pp. 304-305), or those of Poulantzas (1978) on the transformation of the capitalist state into an authoritarian state, with reference both to the decline of the institutions of political democracy and formal freedoms, and to the establishment of a preventive institutional system for hegemony in the face of danger posed by the increase in popular struggles (pp. 226 and 233).

Alongside this, we should remember that the attempt to channel the crisis of governmentality of the 1970s into options that were not only expert or non-coercive, but also personalistic, is contained in the 1975 report of the Trilateral Commission on *The Crisis of Democracy* (Crozier, Huntington, Watanuki, 1975).

A legal scholar like Mario Dogliani (1994), who offers an interesting Hellerian reading of the Italian constitution (pp. 315-316), has clearly seen that the spread of populism dates back to that time and is linked to the promotion of "a change of the object of 'constitutional concern'": no longer the classical concern (for the tendency of the different forms of power to circumvent and override legal limits) but, in its place, the concern for the excess of pluralism and for the overload of questions it discharged on the institutions". Dogliani (2004) observes that the Trilateral report

> […] advocated the need to replace the image of the politically divided and organized people with the image of a people made up of legitimately self-interested individuals [...]; and it proposed a democracy based not on negotiation between representatives, but on direct popular investiture and on the personalization of *leadership*. (pp. 1-2)

To this we can add that the report condemned the indefinite expansion of democracy and posed the need for political apathy on the part of minority groups, whose pressures overload the political system and weaken the authority of the state and all social authorities (Crozier, Huntington, Watanuki, 1975, pp. 161-163). Hence the will to reorder the world by blocking emancipatory movements and offering traditional authority and leadership as imaginary compensation for the anxiety created by the promotion of economic individualism and of dismantling of democratic and social policies.

I come finally to our present, or rather to our immediate past, to that "new neoliberalism" as a combination of "anti-democratic authoritarianism, economic national-

ism and extended capitalist rationality" (Dardot-Laval, 2019), to try to offer a different reading of the relationship between neoliberal authoritarianism and populism that the one proposed by Giolo. Although, in fact, populisms can be treated indiscriminately from the point of view of their opposition to legal frameworks that go beyond the state (Giolo, 2020, p. 38), I believe that it is only regressive populism that coincides with the neoliberal project.

In relation to recent neo-nationalisms, Wendy Brown (2019) argues that neoliberal political reason has contributed to the rise of an undemocratic law based on a phobia towards politics as such, whereby the neoliberal reactivation of traditional morality in the place of social justice would be configured as the frankesteinian product of a neoliberalism that exploits "populist rage" to attack democracy (pp. 161-188). Even so – it seems to me – the one outlined by Brown does not represent a deviation from neoliberalism, as can be understood if we go back a few years.

In the network model, Giolo (2020) rightly denounces a fluid legal framework that does not allow the identification of power (pp. 30-31) and is therefore difficult to contest democratically, because, for example, it is legitimized by expertising but it is in fact functional to hegemonic interests of market construction (Bazzicalupo, 2020). This is a complaint that is not so far from the one addressed by Brown (2010) a few years ago to the state of our democracies: a situation in which non-democrats live in empty democracies in the throes of anxiety and fear, because they ignore domination mechanisms and fail to successfully challenge the dominant powers.

Well, anxiety, ignorance of the mechanisms of domination and crises, political apathy, they all represent exactly those socio-historical conditions of possibility for the formation of authoritarian legal and political frameworks isolated by Neumann (1975b) in his attempt, in many ways questionable, to elaborate a theory of political anxiety. The 'new neoliberalism' (pre-pandemic) coexists perfectly with the political, identity and gender regression that has swept through the West and that Neumann's categories make intelligible: loss of status of the middle classes as a result of the crisis; sense of abandonment and resentment on the part of previously socially protected individuals and social groups; conspiratorial use of history through propaganda (remember the recent spread of the Kalergi plan of ethnic replacement and destruction of European civilization and its spiritual base); social anger against conspirators and scapegoats (global elite, migrants); rejection of the political system; regressive identification processes with leaders; reaffirmation of the social authority of traditional morality; aestheticizing solutions of fusional communities based on a 'blood and soil' version of neoliberal sovereignty.

However, this cannot be said to be the case of left-wing populism, which is instead aimed at the democratization of the economy and institutions (Laclau, 2005; Preterossi, 2015; Mouffe, 2018; Somma, 2018; Tarizzo, 2020). Although, I would add, it is forced to clash with other disturbing and complex problems: on the one hand, in fact, it is evident that the current historical conditions making a populist movement possible are mainly of a regressive type, because neoliberalism has promoted anxious subjectivities structured around the logic of competition, for which it is difficult to think of a community project that calls into question power and relations of production, and it is on the contrary very easy to identify with a leader; on the other hand, a struggle for social law and for the democratization of the economy that does not want to fall into nationalism must be directed at the level of the effective processes of power of transnational order, which is what Bourdieu intended to do, while tactically defending the state. Ultimately, the legal-political imagination that is resolved in the framework of the state leads to neglect all the power-knowledge systems that are independent of legal architectures and that concretize them by betraying their form of rationality, as Foucault has shown. But this is a discourse, valid also with regard to constitutionalism, which obviously cannot be developed herein.

In conclusion, authoritarian neoliberalism can be thought of as a reactionary recoding of the anxiety produced by the economic crisis and functional to solving a crisis of governmentality, without affecting the relations of power and production.

It is quite evident how decisive will be the question about authoritarian neoliberalism that Giolo helps us to pose in its radicality in the post-pandemic world towards which we are heading.

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SOBRE LA REVISTA

Soft Power es una revista que nace del trabajo conjunto de estudiosos del sur de Europa y de América Latina, con el objetivo de solicitar la investigación sobre el nuevo paradigma de poder gubernamental, que hoy organiza el mundo, con especial atención a la zona geopolítica.

En respuesta a la urgente necesidad de repensar las categorías jurídicas y políticas tradicionales de la modernidad, tiene como objetivo el análisis crítico y reflexivo, centrado en resaltar el carácter problemático de actualidad.

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La revista también tiene una sección, un *forum* de discusión, que le abre paso a la lectura de un libro de gran resonancia y analiza su tema desde diferentes perspectivas.

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Soft Power is published semi-annually. It adopts an interdisciplinary language to ensure the plurality of perspectives on the theme proposed from time to time, giving room to the contributions of political and law philosophers, political scientists and historians of political thought, as well as economists and sociologists.

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- **Conflictos de interés:** El Editor debería excluir de considerar manuscritos que tienen un real o potencial conflicto de interés que resulte de las relaciones o conexiones competitivas, de colaboración, financieras o de otro tipo con cualquiera de los autores, empresas o instituciones relacionadas con el manuscrito.

- **Autoridad:** Al Editor pertenece la decisión última y la responsabilidad de la revista. El Editor debe respetar los componentes de la revista (lectores, autores, revisores, equipo editorial) y trabajar para garantizar la honestidad e integridad de los contenidos de la revista y asegurar una mejora continua en la calidad de la revista.

Deberes de los revisores

- **Justa revisión:** Los revisores deben evaluar los manuscritos de manera objetiva, justa y profesional. Los revisores deben evitar prejuicios personales en sus comentarios y evaluaciones, y deben expresar sus opiniones claramente con argumentos de apoyo. Los revisores deben proporcionar revisiones fundamentadas y justas. Estos deben evitar ataques personales y no deben incluir ninguna opinión que sea difamatoria, inexacta, engañosa, obscena, escandalosa, ilegal o de cualquier otra forma objetable, o que infrinja los derechos de autor de cualquier otra persona, derecho de privacidad u otros derechos.

- **Confidencialidad:** La información relativa a los manuscritos presentados por los autores debe ser confidencial y será tratada como información privilegiada. Los revisores no deben discutir del manuscrito con cualquier persona que no sea el editor, ni deben discutir cualquier información del manuscrito sin permiso.

- **Certificación de las fuentes:** Los revisores de los manuscritos deben asegurarse de que los autores hayan señalado todas las fuentes de datos utilizadas en la investigación. Cualquier tipo de similitud o coincidencia entre los manuscritos

considerados con cualquier otro documento publicado de los cuales los revisores tienen conocimiento personal debe ser inmediatamente comunicada al Editor.

- **Puntualidad:** En el caso de que el revisor perciba que no es posible para él/ella completar la revisión del manuscrito en el plazo estipulado, debe comunicar esta información al Editor, de manera tal que el manuscrito pueda ser enviado a otro revisor.
- **Derecho de rechazo:** Los revisores deben negarse a revisar los manuscritos: a) cuando el autor ha formulado observaciones escritas sobre el manuscrito o sobre su versión anterior; b) cuando aparecen conflictos de interés que resulten de relaciones de colaboración, financieras, institucionales, personales o conexiones de otro tipo con cualquiera de las empresas, instituciones o personas ligadas a los artículos.
- **Quejas:** Cualquier queja relativa a la revista debe, en primera instancia, ser dirigida al Editor de *Soft Power*.

Deberes de los autores

- **Originalidad:** Los autores deben garantizar que ninguna parte de su trabajo es una copia de cualquier otro trabajo, ya sea escrito por ellos mismos u otros, y que el trabajo es original y no ha sido previamente publicado en su totalidad o en parte sustancial.
- **La autoría del artículo:** La autoría se limita a aquellos que han dado una contribución significativa a la concepción, diseño, ejecución o interpretación del estudio presentado. Otros que han hecho una contribución significativa deben estar inscritos como coautores. El autor debe asegurarse de que todos los coautores hayan avalado la versión definitiva del documento y acordado su publicación final.
- **El plagio y autoplagio:** El trabajo en el manuscrito debe estar libre de cualquier plagio, falsificación, fabricaciones u omisión de material significativo. El plagio y el autoplagio representan un comportamiento editorial poco ético y son inaceptables. *Soft Power* se reserva el derecho de evaluar los problemas de plagio y redundancia en una base de datos, caso por caso.

- **Reconocimiento de las fuentes y de los conflictos de intereses:** El autor debe indicar explícitamente todas las fuentes que han apoyado la investigación y también declarar cualquier conflicto de interés.
- **Puntualidad:** Los autores deben ser puntuales con la revisión de sus manuscritos. Si un autor no puede cumplir con el plazo establecido, debe escribir a los correos vgiordano@unisa.it o softpower.journal@gmail.com tan pronto como sea posible para determinar la posibilidad de prorrogar la entrega del artículo o su retirada del proceso de revisión.

El Código de Ética de la revista *Soft Power* se basa principalmente en las siguientes fuentes en línea:

- COPE - Committee on Publication Ethics, 2011. Code of conduct and best practice guidelines for journal editors. Accessed February 2014.
- Ethical-Guidelines, 2011. Ethical Guidelines for Educational Research, 2011. Accessed February 2014.

CODE OF ETHICS

The prevention of publication malpractice is one of the most important responsibilities of the Editorial Board. This Code describes *Soft Power's* policies for ensuring the ethical treatment of all participants in the peer review and publication process. Editors, Reviewers and Authors are encouraged to study these guidelines and address any questions or concerns to the vgiordano@unisa.it or softpower.journal@gmail.com.

These guidelines apply to manuscripts submitted to *Soft Power* starting January, 1, 2014, and may be revised at any time by the Editorial Board.

Duties of Editor

The Editor is responsible for the content of the journal and for ensuring the integrity of all work that is published in it.

- **Publication decisions:** The Editor has the right to make the final decision on whether to accept or reject a manuscript with reference to the significance, originality, and clarity of the manuscript and its relevance to the journal.
- **Review of manuscripts:** *Soft Power* follows a double-blind review process, whereby Authors do not know Reviewers and vice versa. The Editor is responsible for securing timely, independent and anonymous peer review from suitably qualified reviewers who have no disqualifying competing interests, of all manuscripts submitted to the journal. The Editor is responsible for ensuring that the journal has access to an adequate number of competent reviewers.
- **Fair Review:** The Editor and their editorial staff must ensure that each manuscript received by *Soft Power* is reviewed for its intellectual content without regard to sex, gender, race, religion, citizenship, etc. of the authors.
- **Confidentiality of submitted material:** The Editor and the editorial staff will ensure that systems are in place to ensure the confidentiality and protection from misuse of material submitted to the journal while under review and the protection of authors' and reviewers' identities and will themselves take all reasonable steps to preserve the confidentiality of authors' and reviewers' identities.

- **Disclosure:** The Editor should ensure that submitted manuscripts are processed in a confidential manner, and that no content of the manuscripts will be disclosed to anyone other than the corresponding author, reviewers, as appropriate.
- **Conflicts of interest:** The Editor should excuse themselves from considering a manuscript in which they have a real or potential conflict of interest resulting from competitive, collaborative, financial or other relationships or connections with any of the Authors, companies or institutions connected to the manuscript.
- **Authority:** The Editor must have ultimate authority and responsibility for the Journal. The Editor should respect the Journal's constituents (Readers, Authors, Reviewers, Editorial Staff), and work to ensure the honesty and integrity of the Journal's contents and continuous improvement in journal quality.

Duties of reviewers

- **Fair reviews:** Reviewers should evaluate manuscripts objectively, fairly and professionally. Reviewers should avoid personal biases in their comments and judgments and they should express their views clearly with supporting arguments. Reviewers must provide substantiated and fair reviews. These must avoid personal attack, and not include any material that is defamatory, inaccurate, libelous, misleading, obscene, scandalous, unlawful, or otherwise objectionable, or that infringes any other person's copyright, right of privacy, or other rights.
- **Confidentiality:** Information regarding manuscripts submitted by authors should be kept confidential and be treated as privileged information. Reviewers should not discuss the manuscript with anyone other than the Editor, nor should they discuss any information from the manuscript without permission.
- **Acknowledgement of Sources:** Manuscript reviewers must ensure that authors have acknowledged all sources of data used in the research. Any kind of similarity or overlap between the manuscripts under consideration or with any other published paper of which reviewer has personal knowledge must be immediately brought to the Editor's notice.
- **Timeliness:** In the event that a reviewer feels it is not possible for him/her to complete review of manuscript within stipulated time then this information must be communicated to the Editor/Guest Editor, so that the manuscript could be sent to another reviewer.

- **Right of refusal:** Reviewers should refuse to review manuscripts: a) where they have provided written comments on the manuscript or an earlier version to the Author, b) in which they have any conflicts of interest resulting from collaborative, financial, institutional, personal, or other relationships or connections with any of the companies, institutions, or people connected to the papers.
- **Complain:** Any complaint relating to the journal should, in the first instance be directed towards the Editor of *Soft Power*.

Duties of Authors

- **Originality:** Authors must ensure that no part of their work is copied from any other work, either authored by themselves or others and that the work is original and has not previously been published in whole or substantial part.
- **Authorship of the paper:** Authorship should be limited to those who have made a significant contribution to conception, design, execution or interpretation of the reported study. Others who have made significant contribution must be listed as co-authors. The author should ensure that all co-authors have affirmed the final version of the paper and have agreed on its final publication.
- **Plagiarism and self-plagiarism:** All work in the manuscript should be free of any plagiarism, falsification, fabrications, or omission of significant material. Plagiarism and self-plagiarism constitute unethical publishing behavior and are unacceptable. *Soft Power* reserves the right to evaluate issues of plagiarism and redundancy on a case-by-case basis.
- **Acknowledgement of Sources and Conflict(s) of interests:** The author should indicate explicitly all sources that have supported the research and also declare any conflict(s) of interest.
- **Timeliness:** Authors should be prompt with their manuscript revisions. If an Author cannot meet the deadline given, the Author should contact to vgiordano@unisa.it or softpower.journal@gmail.com as soon as possible to determine whether a longer time period or withdrawal from the review process should be chosen.

The Code of Ethics of *Soft Power* draws heavily from the following on-line sources:

- COPE – Committee on Publication Ethics, 2011. Code of conduct and best practice guidelines for journal editors. Accessed February, 2014.
- Ethical-Guidelines, 2011. Ethical Guidelines for Educational Research, 2011. Accessed February, 2014.