

LIVING UNDER THE DOMAIN OF DEAD IDEAS:
LAW AS THE WILL OF THE PEOPLE

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All true good carries with it conditions which are contradictory and as a consequence is impossible. He who keeps his attention really fixed on this impossibility and acts will do what is good.

Simone Weil, Gravity and Grace (1949)

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As will be seen, an important point in the argument to follow is that, as Simone Weil said, "If a child is doing a sum and does it wrong, the mistake bears the stamp of his personality. If he does the sum exactly right, his personality does not enter into it at all". This is the reason why academic activity is an essentially communitarian practice, though its present material conditions force academics and academic managers meticulously to insist on crediting everything that is done to one or more individuals (which in turn provides an incentive for cheating, as we have seen recently). Though this article appears under my name, its central ideas have been developed in conversation with Juan Pablo Mañalich and Samuel Tschorne. If Simone Weil is right, my authorship (my "personality") appears where I misunderstood them or fail to express them correctly. I am also most grateful to Francisco Saffie's comments, whose attempt to look at taxes as sacraments is highly promising. I am also in debt with Juan Ignacio Wilson, without whose assistance this English version would have been impossible.

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This article (as the section numbers above indicate) is excerpted from a longer article of the same title. This means some points seem isolated or lack context, although for the most part the content of this section can be discussed on its own. If anyone is interested in reading the full text, feel free to contact me at fernando.atria@uai.cl.

El artículo para SELA (como la numeración de sus secciones lo hace transparente) es sólo una parte de un artículo mayor de su mismo título. Esto puede hacer que algunas partes parezcan aisladas o fuera de contexto, aunque en general el argumento contenido aquí puede discutirse en sus propios términos. Si alguien estuviere interesado en el texto completo, sólo tiene que pedírmelo a Fernando.atria@uai.cl.

We live under the domain of dead ideas. To a considerable extent, our political language seems to be meaningless. What is the meaning of, for example, “Sovereignty rests essentially with the Nation, and it is exercised by the people¹”? How can we say, without naïvety, that law is the will of the people, and that the people is the bearer of constituent power? When and how (if at all) can we say that a constitution imposed by a dictator or an occupying power is the people’s? This is what I would like to discuss in this paper: not the answers to these questions, but how to make them intelligible.

[...]

II. SIGNIFYING IMPERFECTLY

Il y a un autre monde, mais il est dans celui-ci.

Paul Eluard

Regarding Schmitt, Ackerman shows no disposition to engage, to be questioned by him. Schmitt can be simply excluded from the conversation by mocking him, because as a Nazi jurist he has become fair ground. And that is so notwithstanding the fact that Ackerman perceives the key to solve our riddle. Since he seems not interested in understanding Schmitt, however, he misses it.

The point is that, as Ackerman notices, Schmitt’s Theory of the Constitution

Is a piece of ‘negative theology’, with the crucial exception that Schmitt’s god-term is the Volk: he tells us a lot about how the will of the Volk should not be confused with normal acts of

¹ Article 5 of the Chilean Constitution. All references to articles hereafter must be understood as references to the Chilean constitutional text, unless stated otherwise.

political representation, but he is very weak in developing affirmative criteria for identifying the magical event.²

Ackerman's point here is not to understand, but to discredit ("not only he was a Nazi, but also believed in magical nonsense", one could say). Saying that something is "theological," in this context, is equal to say that it is "magical," i.e., irrational (like believing in witches or unicorns).

The point has been correctly identified by Jeremy Waldron:

Secular theorists often assume that they know what a religious argument is like: they present it as a crude prescription from God, backed up with threat of hellfire, derived from general or particular revelation, and they contrast it with the elegant complexity of a philosophical argument by Rawls (say) or Dworkin.³

In the following pages I want to question the self-sufficiency. I want to explain that the reasons why we misunderstand our own political language are the same reasons why the "secular theorists" Waldron refers to cannot understand theological language as anything but a language based on the discussion of magical events, of crude prescriptions from God, backed up with threat of hellfire, derived from general or particular revelation. This is the key to political theology.

Political Theology

The idea of political theology is much more radical than the thesis, interesting but nowadays transformed into a commonplace, that "All significant concepts of the modern theory of the state are secularized theological concepts."⁴ In its most powerful sense, the idea behind political theology is not a thesis about the genealogy of political concepts, but about their meaning, what we shall later call their mode of signifying. Since they use the same mode of signifying, the

² Ackerman, "The political case for constitutional courts", p. 209.

³ Waldron, God, Locke and Equality, p. 20.

⁴ Schmitt, Political Theology, p. 36.

unintelligibility of the political concepts we have noted is the unintelligibility of theological concepts. This is concealed because, as opposed to political concepts, theological concepts do not seem unintelligible (they only seem plainly and ridiculously false: “magical”). But theological concepts so rejected or accepted are theologically distorted concepts, they are forms of idolatry. This is the reason why there is not much, in my view, to be said about political theology without going into theological questions (one cannot do political theology without theology).

In choosing a point of entry into theological questions one can do far worse than paying special attention to the distinction between faith and idolatry, because this goes right to the hearth of the problem of theological language. As Simone Weil said,

There are two atheisms of which one is a purification of the notion of God.

Of two men who have no experience of God, he who denies him is perhaps nearer to him than the other.

Religion in so far as it is a source of consolation is a hindrance to true faith: in this sense atheism is a purification.⁵

Now, the thesis that political concepts are theological concepts and vice versa, implies something quite precise: it means that their mode of signifying is the same, and therefore that their pathologies are analogue. From the point of view of theology, the point has been brilliantly identified by Juan Luis Segundo:

We are more interested in the (apparently dated) antithesis between faith and idolatry than in the (apparently topical) antithesis between faith and atheism. Furthermore, it has to be said at the outset that those who call themselves Christians can occupy, in the more radical antithesis faith/idolatry, either of these positions. In other words, we believe that men are more profoundly

⁵ Weil, Gravity and Grace, pp. 114, 115. Likewise Karl Rahner said that “If we say “God” we must not imagine that everyone understands this word and that the only question is whether what all mean by it really exists. Very often the man in the street believes it to mean something which he rightly denies, because what he imagines it to mean really does not exist. He thinks it is a hypothesis for explaining phenomena until science can give the true explanation, or someone to frighten children until they realize that nothing extraordinary happens if they are naughty” Rahner, “The Little Word ‘God’”.

divided by their image of God than by the position they take as to whether that image corresponds to something real.⁶

In order to explore the political meaning of the antithesis 'faith-idolatry' the best starting point seems to be, precisely, the idea of "negative theology" which Ackerman mentions without even trying to understand it.

Negative theology (i): The creation of the world

Rowan Williams has perceptively warned that "theology is perennially liable to be seduced by the opportunity to ignore the question of how it learns its own language."⁷ Maybe it is possible to understand Thomas Aquinas' "negative theology" (so-called "apophatic" theology) as an attempt to make explicit his awareness of the danger of seduction identified by Williams. The sense in which Aquinas' theology is negative is expressed in one of his capital points about our knowledge of God:

When the existence of a thing has been ascertained, there remains the further question of the manner of its existence, in order that we may know its essence. Now, because we cannot know what God is, but rather what He is not, we have no means for considering how God is, but rather how he is not.⁸

The way in which I want to exploit this idea is that theology uses an inverted language. Thus, the statement that God is "our father" is a statement about universal human brotherhood. This is because

when we speak of God, although we know how to use our words, there is an important sense in which we do not know what they mean. Fundamentally this is because of our special ignorance of God. We know how to talk about shoes and ships because of our understanding of shoes and

⁶ Segundo, Teología Abierta para el Laico Adulto. Gracia y Condición humana, p. 22.

⁷ Williams, "Trinity and revelation", p. 131.

⁸ McCabe, "Aquinas' Summa Theologiae. Volume 3, Knowing and Naming God: 1a. 12-13", 1a q2.

ships. We know how to talk about God, not because of any understanding of God, but because of what we know about his creatures.⁹

“God, maker of heaven and earth, of all things visible and invisible” is a good start, among other things, because it refers to the paradigm of “religious” statements that Waldron’s “secular authors” have in mind. Richard Dawkins, for example, defines what he takes to be the “more defensible” version of “the God hypothesis” in the following way:

there exists a superhuman, supernatural intelligence who deliberately designed and created the universe and everything in it, including us.¹⁰

And of course, in these terms,

God’s existence or non-existence is a scientific fact about the universe, discoverable in principle if not in practice. If he existed and chose to reveal it, God himself could clinch the argument, noisily and unequivocally, in his favour.¹¹

But this is precisely “cataphatic”, positive theology: it assumes we may know what God is: a super-wizard, which is idolatry (a super golden calf). The alternative to idolatry is negative theology. Therefore, we must understand that the meaning of the phrase “God, maker of heaven and earth, of all things visible and invisible” is not to be found in what it positively affirms about God. But the statement seems to be about what God is (it has God as a subject: the maker of heaven and earth, i.e. the world, in the sense of all that is the case), so in order to understand its way of signifying it must be inverted. It then becomes a statement, not about God, but about the world: “God, maker of the world” implies “the world is something created”. Notice: it is not that since we have independent reason to believe in God’s existence that we believe that, since He is such a powerful person, He is the creator of all that is visible and invisible. We express our faith

⁹ McCabe, “Signifying imperfectly”.

¹⁰ Dawkins, *The God Delusion*, p. 31.

¹¹ *ibid.*, p. 50. Dawkins does not explain the reader what is a “scientific fact” and how it can be distinguished from other, non-scientific facts.

that the world is a created thing by saying that God made it *ex nihilo*. God is whatever is necessary to understand the world as something created.

If the claim that God created the world *ex nihilo* is understood in a positive manner, it seems hard to avoid some form of idolatry. It will have to be taken as a thesis about the (temporal) origin of the world: that there was a moment, at the beginning of time (as if this expression could possibly mean something), in which the world was created by a wizard of fabulous powers. But the (temporal) origin of the world (and the existence of such a wizard) is a fact about the world, and is difficult to deny that such a fact, like any other fact, is *prima facie* verifiable (a “scientific” fact). The distortion contained in this interpretation becomes evident when one remembers that Aquinas, for example, believed that the idea of the world created by God *ex nihilo* was in principle perfectly compatible with the thesis that the world is eternal, that it does not have a beginning.¹²

Now, what does the idea of creation, in its inverted meaning, say about the world? First, that the world is not sacred, that it is not God (it is the negation of every form of pantheism, which does not distinguish God from the world). But it also expresses confidence in the answer to what might be called “the most fundamental question of philosophy”: Why is there something rather than nothing? Or, in Wittgenstein’s formulation, “It is not *how* things are in the world that is mystical, but *that* it exists.”¹³ Not knowing anything affirmative about God implies ignorance of the answer (the believer does not have, qua believer, any special access to privileged knowledge), but faith in that there is an answer. This faith in the existence of an answer to the question about the meaning of the fact that the world *is* might be expressed in the following way:

¹²

¹³ Wittgenstein, *Tractatus Logico-Philosophicus*, §6.44.

the world is like the Ninth Symphony or Hamlet, which exist because they are the expression of somebody's genius. Understanding the Ninth Symphony as a creation, namely, as someone's work is to understand it as something with meaning. But it is clear that the Ninth Symphony or Hamlet only provide an analogy, because neither Beethoven nor Shakespeare could create ex nihilo. In fact, both Hamlet and the Ninth Symphony could only be created in the context of existing practices, and the genius of their authors is to be found in the way in which they were capable of organizing forms of artistic expression that were around when they arrive to the world (remember Hannah Arendt's insight that this obvious fact: that the world was there when we arrived and will be there when we leave, is a fundamental part of the human condition). This means that the sense in which we talk about the Ninth Symphony or Hamlet as created things presupposes something prior to them that was not created: they are not, we could say, radically created. When we ask about the status of a parcel of the world the answer may be partial: when the question is 'why the world' the answer has to be radical. Therefore Shakespeare and Beethoven are "creators" in much less radical a way than God. This implies that although theological language is an inverted language, the inversion is necessary, it is not dispensable. "God is the creator of heaven and earth, of all things visible and invisible" implies but is not reducible to "the world is something created". The second statement gives us a hint about the way in which the first statement signifies, but the meaning of the first is not reducible to the meaning of the second.

Why insist, as Christian theology does, on the idea of a personal God instead of a cooler Hellenist unmoved mover? Is this not affirming something positive about God? A brief answer could be: because God cannot be the answer (or, strictly speaking: the name given to the confidence in the existence of an answer) to Wittgenstein's mystical question and be impersonal

at the same time. If God were impersonal, then it would not be part of the explanation, but part of what needs to be explained: being the first does not stop a motor from being a motor. A motor is something that can be used, if we know how to use it. This is not the case of a “person”: to recognize something as a person is to recognize its character as an end in itself. The thesis that God is “personal”, thus, is also a negative thesis, not positive, because

what this truly and blessedly means is that God cannot be less than man, endowed with personality, freedom and love, and that the mystery itself is free protective love, not an "objective order" which one can, after all, possess (at least in principle), and against which one could insure oneself.¹⁴

Thus the idea that God cannot be an impersonal force (something that can be instrumentally used) may be expressed by saying that God is a person. As can be seen, in these terms the choice is also between a personal God and an idolatrous understanding of God. When we speak about ourselves, the way to express that human beings are ends and not means is to say that they are “persons”. The idea of a personal God expresses the same about God, but in a radical manner. This means that the fact that God is a person does not entitle us to say of God what we say of us: that God has intentions, plans, wishes, will, etc. Almost all of our positive language related to the term “person” is determined by the fundamental fact about human beings: they have (we have) bodies that develop and decay. And of course, God does not have a body, because otherwise God would be part of the world. Therefore God is a “person” like us in the same sense in which he “creates” like Beethoven or Shakespeare.

The point here is that our language about God is a language that cannot account for itself. That is why it must rely on analogies (like “creator”) or metaphors (like “father”). In short, it

¹⁴ Rahner, "The Little Word 'God'".

must use what Hegel called “representations.”¹⁵ And, of course, the first representation is “god”. Indeed, “God” is a pagan word which was appropriated by Christian theology in order to say: there are no gods. But it is a word which shows no meaning at all, that operates as if it were a proper name.¹⁶ The reason why this is so is that when we talk about God we are talking whereof cannot be spoken. The fact that we can speak about it is not a reason to remain in silent, but to keep constantly in mind that we are that we are “stretching language to breaking point”, so that it is “precisely as it breaks that the communication, if any, is achieved.”¹⁷

Negative theology (ii): negative political theology

I want to show now that everything we have been discussing can be understood politically. This task has been facilitated by Professor Carlos Pérez’s notable book, Proposición de un Marxismo Hegeliano. The reason Pérez gives in the introduction of his book for “recurring to Marx once again” are indeed negative:

For his idea that the communist goal, the end of class struggle, is possible. For his radical critique against capitalist exploitation Against all forms of naturalism, against the idea of human finitude, so characteristic of the culture of defeat.¹⁸

Pérez postulates, as the basis of his Hegelian Marxism, what he calls a “theory of alienation”, which is, in its turn, grounded

on an absolute historicism, in which every object is objectified by the human action of producing its whole being. The political reason for affirming so counterintuitive a fundament is to avoid all traces of naturalism, all possibility of appealing to elements that, starting from human nature or the human condition, put limits to the possibility of ending class struggle. What is stated here, as the basis, is a radical affirmation of human infinitude Without these founding statements we

¹⁵ On Hegel’s idea of “representations” (Vorstellung), see Taylor, Hegel, pp. 480-509.

¹⁶ Rahner, “The Little Word ‘God’”

¹⁷ McCabe, God matters, p. 177.

¹⁸ Pérez, Proposición de un Marxismo Hegeliano, p. 9.

can project as an utopian horizon a better humanity, but never a humanity that is essentially free.¹⁹

But the idea of alienation implies that there is no way of knowing what is for humanity to be “essentially free”. This cannot be seen from our alienated perspective; to talk about it is, again, talking whereof we cannot talk. Pérez explains this point with his distinction between lie, error and alienation. What characterizes these three situations is the difference between discourse and action. But in the cases of lying and error this gap is a phenomenon of the conscience: she who lies may get to recognize she is lying, and she who errs may come to recognize her mistake.²⁰ But alienation is different: it cannot be overcome simply at the level of consciousness, by just realizing that one is alienated:

It is not the case that you are alienated. It is, rather, that you are your alienation. And you cannot overcome it until you change what you are In a situation of alienation, there is no non-alienated point of view Only from the point of view of other alienation it is possible to see the alienation. This means that overcoming it cannot be an epistemological process (making the truth appear) but only a specifically political process.²¹

But how can we understand what it would be like to be in a non-alienated situation? If there is no non-alienated point of view in an alienated situation, how can we even describe the idea of a non-alienated life? What is important here is the experience of a deficit:

Suffering that drives us towards breaking the relation that constitutes it, in order to change life itself. The possible mobility of the alienated conscience is given by the flagrant, existential, empirical contradiction, between that which is harmonized by conscience and that which is suffered in immediate experience.²²

What Pérez has called “a suffering” is an existential experience of deficit. This experience of deficit flows from the contradictions of our forms of life, the fact that they promise what they

¹⁹ ibid., 71.

²⁰ ibid., 88

²¹ ibid., 89

²² ibid., 90.

cannot give. We may get to formulate the idea of a non-alienated life through a radicalization of such unfulfilled promises. What makes the conscience of alienation as well as its overcoming action possible is the fact that what is experienced as a deficit may be identified as a deficit (i.e., it is not harmonized). This refusal not to experience it as a deficit can be described as faith in human infinitude: in the possibility of non-alienated life.

The anthropological thesis that is discussed here is that exploitation is, originally, a survival strategy against scarcity, a strategy progressively objectified through history [...] That human beings have no internal tendency to oppress [...] or subjugate [...] is not, and cannot be, an empirical thesis. It is a matter of principle, driven by the conclusion one wants to arrive at. If these tendencies existed (as part of the human nature, the human condition or as a biological basis of conduct) communism would be impossible. If one wishes to arrive at that conclusion it must be excluded from the premises.²³

The conditions under which alienation can be identified, however, are unlikely to be maintained. This is because what allows the individual to identify his or her alienation is consciousness of a deficit, which implies that he or she must face a “generally painful and catastrophic” situation. This condition appears as cognitive dissonance, a contradiction between what is harmonized by conscience and suffered by experience. The dissonance is reduced by denial, which neutralizes the deficit. This denial assumes one of two forms: on the one hand, the liberal (or conservative) answer²⁴: there is no deficit, because a mature understanding of the human condition (enhanced

²³ *ibid.*, 109.

²⁴ In the politically relevant sense, the expressions “liberal” and “conservative” are equivalent. In the apparently most popular antithesis, these two terms are politically opposed: but in the radical antithesis, these two terms are analogous and they both oppose to “socialism”. The matter is discussed with certain detail in Atria, “Veinte años después, neoliberalismo con rostro humano”. This may be one of the reasons why “academic” discussions seem so detached from actually existing politics: those discussions do not capture the oppositions that are really important. This is the case, for example, with the so-called “liberal-communitarian debate”, labels that, in North American academic vocabulary, correspond to the liberal/conservative distinction. Paul Kahn has noticed very much the same point in his *Putting Liberalism in its Place*, where he claims that that liberalism and communitarianism are, concerning the relevant issues, analogous, a thesis as implausible at first sight as it is correct.

To express this larger point briefly, both liberals and conservatives settle for this world: the conservative because he ascribes normativity to the traditional order he discovers in the world, the liberal because he believes that the subject, the human being (not the order), is natural, and therefore the only thing we can do is

nowadays by volumes of neo-darwinism) will show us that human beings are “naturally” wolves to each other, so that the only meaning of politics is to hold each person at bay in order to make our co-existence possible. The second form of denial (which is nothing but the symmetrical reflection of the first) is the one taken by those that Engels called “infantile communists”, those who

imagine that, merely because they want to skip the intermediate stations and compromises, the matter is settled, and if ‘it begins’ in the next few days—which they take for granted—and they take over power, ‘communism will be introduced’ the day after tomorrow. If that is not immediately possible, they are not Communists.²⁵

to order their interactions so they can live without attacking each other. They both deny human being’s infinitude, because they both think there is no hope in this world (the very idea of an “essentially free” humanity is meaningless to them): for the conservative because he thinks that if there is hope it is in other world, completely alien to this one (thus it is politically irrelevant), and for the liberal because there is nothing more than the actually existing world.

The fundamental equivalence of liberals and conservatives makes its more concrete oppositions, about this or that legal reform proposal, to pale in comparison. This equivalence is particularly pristine (*pace* its author, which gives it greater value) in Gray, *Black Mass*. Gray’s thesis is that what characterizes modern political discourse is its apocalyptic dimension: “Modern politics is a chapter in the history of religion” is the book’s opening phrase. Thus, this is the same thesis defended in this paper. Gray, nevertheless, thinks this is modernity’s curse, because all apocalyptic comprehension of politics leads to terror and totalitarianism: “all societies contain divergent ideals of life. When a utopian regime collides with this fact the result can only be repression or defeat. Utopianism does not cause totalitarianism – for a totalitarian regime to come into being many other factors are necessary – but totalitarianism follows whenever the dream of a life without conflict is consistently pursued through the use of state power” (53). Indeed, if this claim can be associated with someone in particular, the most obvious candidate is not a conservative but a liberal thinker, Isaiah Berlin.

Both liberalism and conservatism are defined by the idea that the actually existing world, with its conflicts as they appear to us today, is as good as it gets. Gray claims that this is only asserted by conservatives, but at the price of forcing an obviously implausible millenarist interpretation of liberalism. Now, if Gray is right and totalitarianism is the consequence of pursuing a completely human form of life through politics, then we will have to choose between conservatism and liberalism (that is the reason why after the fall of Berlin’s Wall so many leftists followed Berlin and became liberals). But Gray is wrong, because he identifies the origins of totalitarianism incorrectly. Totalitarianism does not originate in the idea that a world is possible in which the unity of particular and general interest is transparent. It originates in the idea that to achieve this it is necessary to ignore actually existing human beings and their (our) forms of life, because they are completely worthless. It is the idea that, because they are alienated, the interests, wishes and beliefs of actually existing individuals are irrelevant, that they may be ignored in order to hasten the birth of the new man. Later on this will be discussed by reference to the idea of Revolution and what will be called the “Portalian principle”. Because what Gray’s argument legitimately brings into question is not the idea of a world free from alienation, but the idea of Revolution which, as we will see, is where the main problem of Pérez’s argument lies.

²⁵ Engels, “El Programa de los Emigrados Blanquistas de la Comuna”. The passage is quoted at the beginning of Ch. VIII of Lenin, “Left-wing” Communism, an Infantile Disorder.

The first denies alienation because it denies that reconciliation among really existing individuals is possible, either because there is a natural tendency to violence and domination within them, which may be controlled but not eliminated, or because reconciliation will be reached only in paradise, understood as something completely alien to this vale of tears. When they are optimists, they say we can expect a “better humanity” (namely, one with a bigger GDP) but “not an essentially free humanity.”

The second, on the other hand, denies alienation by treating it as a phenomenon of the conscience, which may be solved simply by “realizing” that one is alienated (a state at which, in fact, he or she has already arrived, so that the only thing necessary for the instauration of Communism is his or her obtaining control). Perez’s idea of alienation as foundation (or at least the way in which I interpret it here), implies that in a deep political sense liberals (conservatives) and infantile communists are equivalent, because neither understands the way in which actually existing institutions can legitimately claim our allegiance. The liberal, who accepts the world for what it is, must claim that law is not the will of the people if by “the people” anything greater than the sum total of individuals is meant. But then of course the obvious problem is grounding the obligation to obey a law that one opposes but that was passed anyway because, for example, the lobby of some particular pressure group was highly effective. Democratic theory says that, in a politically relevant sense, that law is still my will because it is our will, but for the liberal this is overloaded rhetoric.

The infantile communist, on the other hand, will flatly deny the legitimacy of any actually existing democratic institution, because to him or her the function of institutions is always the same: to mask exploitation. For them the idea that law is the will of the people is also overheated rhetoric, but in this case its function is ideological.

What is common to both is that they fail to understand political discourse and its particular mode of signifying. It is this mode of signifying that politics shares with theology. Political concepts signify, as theological ones, imperfectly.

The idea of representation (metaphors or analogies) provides us with a new perspective from which we can try to understand our political institutions. Before, the dilemma was that in order to recognise their claim on our loyalty we had to either deny that they embody a systematic deficit (to do this we must change our understanding of the institution –the point of democracy being that heads will be “contadas y no cortadas,” in Norberto Bobbio’s expression) or we had to recognise the deficit and claim that because of it institutions are “merely ideological” and thus false. The problem is that the infantile communist is right in claiming that there is a systematic deficit inherent in institutions: they exist because something must be made probable, and the obvious question concerning any institution is its necessary: why is cooperation unlikely without the institution of contract law? The existence of the institution, in other words, is in itself a deficit, and it is crucial to remain aware of this, because the experience of the deficit as deficit is the necessary condition for identifying our alienation as such without assuming an impossibly non-alienated perspective.

Hence the liberal is right in claiming that actual institutions, with their actual shortcomings, do have a claim on our loyalty. But since he or she will not admit signifying imperfectly, they believe that to say this, the deficit must be ignored or wished away. And with this they invite us to abandon the crucial perspective that stems from the experience of the deficit.

Since actually existing institutions are in themselves the mark of a deficit, all institutions have two faces: one emancipatory and one oppressive. The law of contract is an explication of what is to cooperate for two individuals who recognise each other and refuse to behave instrumentally towards the other. But individuals can assume this position for instrumental reasons. Generally speaking, institutions are false (there will be no institutions in the Kingdom of God or under Communism) but in their falsehood they teach us: it is by living under them we can see from afar what a non-alienated life looks like. For this reason, we can be loyal to institutions without denying their deficits. But this loyalty never loses its ironic quality, insofar as the form of life we live in is necessarily dehumanized, insufficient. This ironic loyalty is based on faith: faith that what is inhuman in the world we live in can be overcome, because it is not a fatal and necessary consequence of our nature, but of our forms of life: forms of life that accustom us to show “incredible levels of indifference towards the pain of others.”²⁶ And as it is a consequence of our alienated forms of life, it is possible, in principle, to live humanly: if we could only live under truly humane forms of life! What could these forms of life be like? The whole point of a theory of alienation like the one defended by Pérez, or at least the sense I have of it here, is that we cannot answer this question: there is no point of view free from alienation in an alienated situation. But we may know some aspects of our forms of life that will not exist: there will be no opposition of class interests (which means: there will be no class differences), there will be no objectification, no exploitation. We know that because those are the conditions that lead to the existential experience of deficit. And as we cannot affirmatively know what these non-alienated forms of life will be like, we cannot truly say anything about them. But here we

²⁶ Pérez, Proposición de un Marxismo Hegeliano, p. 62.

have to follow Wittgenstein's example and disregard the advice he himself contradicted in the very act of giving it.

Sacraments

Once again the idea that we are speaking whereof we cannot speak. Maybe because of that we should remember Pérez's observation: speaking is not enough, because alienation is not a phenomenon of the conscience, but of life. In theological terms, this implies the notion of sacrament and of sacramental practices.

In Christian theology, sacraments are signs of God's presence among us. That is to say, they are signs of the possibility of radical reconciliation, of complete human fulfillment, in a world where reconciliation and such fulfillment are impossible. Therefore, they are signs that, as Aquinas said, "signify imperfectly". Their signifying imperfectly does not mean they are false, but rather that their full meaning is inaccessible to us given our forms of life (forms which Pérez would say are constituted by alienation, Aquinas would say: constituted by sin). And of course, in the Kingdom of God those signs will be unnecessary (and that is why in the Kingdom of God the virtues of faith and hope will disappear). An understanding of politics that avoids the symmetrical errors of someone who believes that what we see today is as good as it gets and someone who thinks that a non-alienated life can be brought about just by seizing power and rearranging things "the right way" is what we could call a sacramental understanding of politics: our institutions are (or at least may be) signs of that which is unknown: living non-alienated lives.

Here it might be useful to put it another way: alienation consists in seeing the other's interest as opposed to my own. Because our interests are (seen to be) in conflict, it is unlike that

we will spontaneously agree in our identification of what is in our common interest. What is likely is that I will try to use whatever means I have to get you to agree to what is in my interest (indeed, if I manage to convince you that your interests are served when you serve mine, I will have thoroughly succeeded) -- and you will do the same. The function of democratic institutions is to make likely what is unlikely: that the norms that we shall recognize serve everybody's interests, and not only those of the powerful.

A "sacramental" understanding of those institutions allows us to show an ironic commitment to them. It is a form of commitment, because in our conditions it is the only way to express (and live according to) the idea that the only source of normativity is one common to everyone's perspective. But it is ironic, because we know that law as an institution does not live up to its own promises. And note that it does not live up to them because it cannot do so: if it could, the fundamental commonality of interests among humankind would be transparent to us; that is to say, we would have overcome our alienation. But had we reached that condition, the institution would no longer be necessary, because the necessity of this institution is the deficit of our alienated forms of life. This is the meaning of the Marxist idea that under communism, law would disappear, as well as the meaning of the Thomist observation that in the Kingdom there will be no sacraments. Just like religion is the soul of a soulless world, law is the will of a community that has no community of wills.

The fact that both political and theological language cannot but use representations (metaphors and analogies), implies that their pathologies are also the same. Indeed, because of this pathology it seems as though we are living under the domain of dead ideas. The pathology is losing sight of the fact that representations are just that: representations, instead taking them as literal descriptions. The origin of this pathology lies in the temptation to deny the contradiction

between promise and delivery on which they are based, and thus lose sight of the possibility of an ironic commitment, which if not resisted reduces our possibilities to naïve devotion or cynical irony.

If the representations to which theological and political language recur must be understood literally, then they are evidently false and must be abandoned. Those who assume this position are likely to ask: do you really believe the consecrated wafer is a piece of human flesh? That the world appeared magically in six 24-hour days? That the earth is no more than 10.000 years old? That law is truly everyone's will and not the will of an "elite"? For this line of criticism, splendidly illustrated nowadays by the recent (and banal) books written by the high priests of neo-darwinism, Richard Dawkins²⁷ and Daniel Dennet,²⁸ as well as in the school called "public choice," all theological language, in addition to the political language of the democratic tradition, is complete nonsense. Since these critics do not even understand the literary genre (i.e., the figurative mode of signification) of theological or political discourse, their admonitions are ridiculously irrelevant.²⁹

27 Dawkins, The God Delusion.

28 Dennet, Breaking the Spell.

29 These critics, which call themselves "brights" (ibid, 21) define what they criticize by reference to the belief in representations literally understood: "For some people, prayer is not literally talking to God but, rather, a "symbolic" activity, a way of talking to oneself about one's deepest concerns, expressed metaphorically. It is rather like beginning a diary entry with "Dear Diary." If what they call God is really not an agent in their eyes, a being that can answer prayers, approve and disapprove, receive sacrifices, and mete out punishment or forgiveness, then, although they may call this Being God, and stand in awe of it (not Him), their creed, whatever it is, is not really a religion according to my definition" (10). In other words, Dennet defines "religion" on the basis of the literalness of its representations: religion, in his definition, is "a social systems whose participants avow belief in a supernatural agent or agents whose approval is to be sought" (9).

The ease of Dennett's move from "him" to "it" shows that he and those he criticizes occupy the same position in Segundo's "more interesting" dichotomy (between faith and idolatry). Indeed, both of them take the language they use for granted (oddly enough, it is authors like Dennet or Dawkins who are specially liable to forget Williams' warning). Therefore his stipulations are quite difficult to comment, since in some sense he is completely right. But not in the sense he imagines to be. It may be said about the idea of "religion" that it is a corrupt notion, incompatible with faith. As François Varone has claimed, "para la religión, Dios es un poder que el hombre ha de hacer reaccionar en provecho propio. Para la fe, por el contrario, es Dios quien actúa,

Or, better, they are or would be for a self-conscious theology or political understanding. The reason why their admonitions might have sense today is the symmetric but inverse pathology of religion; if Dawkins and Dennett believe that metaphors and religious representations are meant to be literal descriptions and that as such they are obviously false, the idolatrous agree with them in the former but disagrees in the latter (believing they are true). They go to court to claim that the story of Genesis ought to be understood as a theory alternative to Darwin's about the origin of life on earth. Here religion becomes a way out of this vale of tears, and is eternally projected outwards: it tells us nothing about this life, except that we must endure it in order to gain access, once we have served our time down here, to a better and truer one. Thus, this idea ignores that "God" is a metaphor, that the meaning of God is that there are no gods, and worships an idol defined by its fabulous powers, whose most portentous demonstration has been the "intelligent design" of everything that is. Politically speaking, they correspond to the neo-constitutionalist who believes that injustice in our forms of life is a phenomenon of pure conscience, and that, were he or she appointed to the Constitutional Court, true justice would follow the very next day.

Here we must return to Juan Luis Segundo's antithesis. In the antithesis faith/atheism Dawkins opposes those who condemn evolution because it contradicts the Book of Genesis just as the infantile communist opposes the liberal/conservative. But in the antithesis faith/idolatry

quien hace vivir al hombre, y éste ha de acogerlo. Sobre esta primera ruptura se esboza inmediatamente una segunda. La religión espera inducir a Dios a intervenir útilmente para hacer realidad los deseos y necesidades del hombre [...]. Para la fe, por el contrario, Dios hace ciertamente existir al creyente, da aliento a su libertad, luz a su búsqueda de sentido, pero no interviene útilmente a favor del hombre. Dios deja que el hombre cargue con todo el peso de su vida y del mundo y los lleve a su realización. No viene, una vez creído y aceptado por el creyente, a transformar los cactus en terciopelo: los abismos concretos de falta de sentido – muerte y depresión, violencia y hambre, esclavitud y cáncer – todo ello permanece inmutado" (Varone, El Dios Ausente, p. 83. See generally ibid, 15-79, the first part of the book, called "Religion, atheism and faith". Notice how Varone's three categories match those of Segundo: idolatry, atheism and faith).

(Varone: faith/religion), Dawkins and those who see God as a super-wizard concur, and they oppose those whose faith is free of idolatry, in the same way the infantile and the liberal (conservative) are against those who exhibit an ironic (i.e., sacramental) commitment to our actually existing institutions.

The Protestant principle

Political theology is the thesis that the modes of signifying of theological and political discourses are the same. We have seen that by adopting the theological-political point of view we can redraw a familiar landscape in which traditional antagonisms are equivalent in an important sense. What makes them equivalent is their rejection of political theology, i.e., their rejection of politics as a language structurally analogous to theology (i.e., that they are based on the same mode of signifying). By ignoring the fact that our political language signifies imperfectly, they are forced to deny the contradiction we live in, and must then embrace one horn while ignoring the other: it means either settling for this world or rejecting it altogether. Since the possible movement of alienated consciousness is grounded in the existential experience of this contradiction (Perez dixit), this denial amounts to the radicalization of alienation, insofar as it hides that which permits its identification. But nonetheless (or maybe precisely because of it) these positions are attractive, as they reduce cognitive dissonance and allow us to continue with our lives.

How can we maintain the tension in spite of normality's brutal levelling force? What I have called a sacramental understanding of our institutions is, of course, the first step. But, is this a stable understanding? Is it possible for a sacramental understanding of politics to subsist in normal times, in the face of the levelling force of normality? (The traditional leftist objection against social-democracy was precisely this: normality transforms citizens into clients, because

the spirit that grounds social-democratic institutions cannot survive the normal operation of the institution; hence they create new forms of alienation, rather than emancipation. That the “revolutionary” left has been defeated and that the social-democratic option is somewhat more attractive nowadays should not make us forget these objections, for they point to a truly fundamental problem). In my opinion, the survival of our political practices depends on the answer to this question. This is what it means to live under the domain of dead ideas. Given the question’s breadth, it would be derisory to pretend to give a full answer here, but we may try to move a step closer by availing ourselves of what Paul Tillich called “the Protestant principle”:

Protestantism has a principle that stands beyond all its realizations. It is the critical and dynamic source of all Protestant realizations, but it is not identical with any of them. It cannot be confined by a definition. It is not exhausted by any historical religion; it is not identical with the structure of the Reformation or of early Christianity or even with a religious form at all. It transcends them as it transcends any cultural form. On the other hand, it can appear in all of them; it is a living, moving, restless power in them [... It] contains the divine and human protest against any absolute claim made for a relative reality, even if this claim is made by a Protestant church. The Protestant principle is the judge of every religious and cultural reality.”³⁰

The last sentences reveals that what Tillich calls the “Protestant principle” is not really Protestant: it is the assumption made by all theological reflection that heeds Williams’ warning, that is to say, that remains aware that it must always account for its own language: for the moment in which representations fossilize and claim to provide a full account of what they represent - specifically, the moment in which metaphors are no longer understood as metaphors but rather as literal descriptions – faith becomes a set of false, irrational and supernatural beliefs (i.e., idolatry). It ceases to be faith in the possibility of a non-alienated human life and becomes a conspicuous sign of alienation.

³⁰ Tillich, The Protestant Era, cap. 11.

In fact, the Protestant principle has to be a Catholic principle, because Catholicism insists on a politically central dimension. One of the distinctive characteristics of Catholicism is its insistence on tradition as a source of revelation, which in turn implies the special relevance of the institutional aspect of the Church. As Schmitt claimed, Catholicism is an idea of representation by means of institutions.³¹ Institutions are formalized traditions. Tradition, on the other hand, is a common history, a collective biography.³² But it is a biography whose meaning only appears when it is read according to the Protestant principle, for only then can revelation be understood not as a truth fallen from the sky and communicated to us from the outside, without denying its radical opposition to this world of sin (as 19th century liberal theology did). The Protestant principle enables us to understand tradition as the effort of successive generations to give finite form to what is infinite, historicity to that which transcends history. This is possible only to the extent that tradition itself does not seem alien, that is to say, that members of the tradition understand that they have a specially responsibility towards it. Tradition becomes alien when it forgets the Protestant principle. Speaking of a tradition as the Christian tradition in general or Catholicism in particular, there is nothing strange about its being, in the same sense as Perez's Marxism, opposed to this world. This is precisely the point: it is the sigh of the oppressed creature, the heart of a heartless world, the soul of a soulless environment. This opposition may be called eschatological, or anticipatory, because it has a sacramental dimension in the sense we have already seen. But since we are talking of actually existing traditions and institutions, it is

³¹ Schmitt, Roman Catholicism and political form.

³² This is the reason why a tradition needs a principle of identity, something of which we can say that the tradition is the history of. And the institutionalization that marks Catholic Christianity off was precisely a compensation for the deficit of identity implied by Christian universalism: from early on, Christianity was understood not as the religion of a (naturally defined) people, but of humanity. The lack of any natural feature that could provide a principle of identity is offset artificially, by the institutional Church. See Segundo, El Dogma que Libera, pp. 190-193.

possible and even likely that this opposition to the world will be due, as least as well, to the fact that the institutional forms of the tradition, since they exist in this world, have become corrupted.³³ Distinguishing these two reasons for the opposition between tradition and the world is what it means to belong to a tradition that is not experienced as alien, a tradition one is responsible for. Tillich's "Protestant principle" is the modulation of this idea. It keeps constantly open the possibility that accepting what we receive is not a form of showing loyalty, but a way of betraying one's tradition. That is why the fact that the Church is a corrupt institution is not a reason to abandon it.³⁴

Revolution

Now we are in a position to discuss one of modernity's most powerful ideas, whose development during the 20th Century was nevertheless very unpromising. Donoso Cortés called it "the most terrible word of all": Revolution.

Pérez characterizes his Marxism as "revolutionary"

[I]n the specific sense that it claims that only violence can break the chain of violence, already installed by dominant classes. But also in the slightly more scholarly sense that the only way to finish the prevailing class domination is radically to change the rule of law and, eventually, putting class struggle to an end will imply abolishing any institutional kind of rule of law.³⁵

Later on Pérez will claim that the dichotomy "reform-revolution" is "one of the most sterile and destructive discussions in the culture of the left,"³⁶ because "the difference between reform and revolution is one of degree, of range, it is not a disjunctive and least of all an antagonism."³⁷

33 McCabe, Law, Love and Language, p. 155.

34 See McCabe, "Comment".

35 Pérez, Proposición de un Marxismo Hegeliano, p. 67.

36 ibid., 182.

37 ibid., 183.

To some extent, the whole of this article's argument is contained here. The usual oppositions that we have been discussing would understand that the difference between reform and revolution is a difference of type: the liberal and conservative would say, in fact, that only reform is acceptable (because revolution implies violence and it is, as a method of political action, it is "immoral"), while the infantile communist will believe that only revolution is acceptable (because in order to end with alienation it is necessary to seize power and arrange everything anew). A sacramental understanding of politics may overcome this opposition because it understands that revolution is a radicalization of what is already present in our institutional forms of life; it is not about replacing one set of institutions for another, nor about doing away with them, but about radicalizing them.

But it is precisely because this point contains the whole argument that the way in which Pérez discusses it is so insufficient. Indeed, Pérez is not overly interested in the emancipatory dimension of our institutional forms of life. This emancipatory dimension does not lie (it is always important to remind ourselves) in the fact that institutional forms of life actually enable us to live non-alienated lives, so that we could accept them naively. This is why their emancipatory dimension is not denied when we recognize that institutions are corrupt, that they have an oppressive dimension. Every actually existing institution possesses these two faces, one oppressive and one emancipatory. When we discussed the institutional forms of our religious practices, we noted something that may be generalized: they belong to an alienated world. A non-alienated world is a world in which mutual radical recognition is no longer improbable, and therefore there would be no need to make it probable by means of institutions: it will have become second nature to us or, better yet, we will have then understood that non-alienated life had always been our authentic nature. The point, however, is not what we might say about forms

of life we cannot imagine, but how they inform our actions, even if we cannot actually imagine them. It is about identifying the forms of political action that are sacramental, not because they are instrumental to hasten the arrival of the Kingdom (or Communism), but because they anticipate it. As we have seen, the idea that alienation may be diagnosed from a non-alienated perspective makes no sense at all. It can only be identified from within alienation, as an existential experience of deficit. And it is this existential experience of deficit that must be coupled with an understanding of our institutional forms of life that shuns both cynicism and naivety. Cynics only see the oppressive face of institutions; the gullible only see their emancipatory side. The former ignore that institutions carry the promise of a non-alienated life (in contract we find the idea of exchanges among subjects that recognize each other completely, in marriage the idea of a community based on love, etc), while the latter ignore that actually existing institutions can never live up to their own promises, and that the extent of their failure to do so is the extent of their being instruments of oppression.

I want to refer here to a rather unknown exchange of letters between Karl Marx and Pierre-Joseph Proudhon.³⁸ In 1846, Marx wrote to Proudhon inviting him to become a member of a European socialist and communist network to get German, French and English socialists in touch. The network was meant, on the one hand, to create a discussion forum that surpassed nationalist limitations and, on the other hand, to allow members in one country to be informed of developments elsewhere, to be prepared “when the moment of action comes.” Proudhon accepted the invitation without enthusiasm. Along with his acceptance, however, Proudhon

³⁸ I have discussed this exchange in further detail in Atria, "Veinte años después, neoliberalismo con rostro humano".

included two remarkable substantive observations in response to Marx. The second observation is particularly relevant now:

I have also some observations to make on this phrase of your letter: at the moment of action. Perhaps you still retain the opinion that no reform is at present possible without a coup de main, without what was formerly called a revolution and is really nothing but a shock. That opinion, which I understand, which I excuse, and would willingly discuss, having myself shared it for a long time, my most recent studies have made me abandon completely. I believe we have no need of it in order to succeed; and that consequently we should not put forward revolutionary action as a means of social reform, because that pretended means would simply be an appeal to force, to arbitrariness, in brief, a contradiction. I myself put the problem in this way: to bring about the return to society, by an economic combination, of the wealth which was withdrawn from society by another economic combination. In other words, through Political Economy to turn the theory of Property against Property in such a way as to engender what you German socialists call community and what I will limit myself for the moment to calling liberty or equality. But I believe that I know the means of solving this problem with only a short delay; I would therefore prefer to burn Property by a slow fire, rather than give it new strength by making a St Bartholomew's night of the proprietors.³⁹

From our historical and spiritual moment it is hard not to see the sense behind Proudhon's observations. Particularly in the third world, so much bloodshed, so many frustrated expectations of revolutions that in the end were "nothing but a shock"! When one remembers the seizures produced by the Land Reform (agrarian reform) in Chile, and the fact that less than ten years later the most extreme neoliberalism the world has ever known was instituted in storm of fire and steel (and this is not a metaphor!), how can we fail to see the truth behind Proudhon's fear of giving property new strength by replaying St. Bartholomew's night with landowners instead of Huguenots!⁴⁰.

I think that Pérez's concept of revolution fails to take account of this. Perez's suggested measures (reducing work time while keeping the wages fixed, decentralizing public services,

³⁹ Proudhon, "Letter to Karl Marx".

⁴⁰ I am not saying that the agrarian reform in Chile was such a St Bartholomew's night of the proprietors. But it is clear that they understood it as such, and that explains why there was to be, after the 1973 coup d'état, so much violence.

reducing the cost of credit, etc.⁴¹) is a set of instrumental measures the value of which can be reduced to its instrumental aptitude to bring about more humanity, but precisely because of this aspect, not a humanity that is essentially free. It is not a program of political action that strives towards a radicalization of the unfulfilled promises of our own institutions. Pérez leaves no space to explain the meaning of our current political forms in terms of their two faces. This double face explains the “more scholarly” sense of revolution Pérez defends (though I am not sure he would recognize my reading). A revolution is in this sense a radical transformation of our forms of life, so radical, in fact, that pre-revolutionary discourse about post-revolutionary life cannot but avail itself of representations, that is to say, to analogies and metaphors. The reason for this is that post-revolutionary life cannot be explained in terms of a pre-revolutionary life:

The revolutionary ... proposes to change not merely this or that detail within society, but the structure, and hence the values of the society itself. The revolutionary does not propose something that in terms of this society is better; he wants to change the terms. He wants history to advance not simply further along the established lines, but along new lines. Now such lines extend into the past as well as into the future. I mean that each society interprets its history as leading up to itself, as well as leading forward into the future. Indeed each society is its interpretation of its past, just as each person is his interpretation of his past; I hope this does not sound too enigmatic. I only mean that if you ask yourself the question 'who am I?' you answer by producing and autobiography. A radical change in society, a revolution, means a change in its interpretation of history, just as a radical change in a person a conversion let us say, involves a change in the whole of his autobiography. He now sees that he was a miserable sinner even though while he was committing the miserable sins he was really rather cheerful about it all.⁴²

Hence Pérez is right when he says that revolution implies “changing the rule of law radically” and “abolishing any institutional kind of rule of law”. Those institutional forms are the sign of a deficit, so they will not be necessary when the deficit is overcome. But it is a mistake to conclude from this that “revolution” implies fighting those institutional forms in order to abolish them.

How will we know what we are fighting for, and how will we be able to distinguish revolution

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⁴² McCabe, Law, Love and Language, pp. 28-9.

from a purely imaginary future, from an illusion? The question is the same as the one we already answered following Pérez: How can we know what it is like to live a non-alienated life? It is impossible, because post-revolutionary forms of life cannot be described in pre-revolutionary language. We can only know how it is not going to be, and it is crucial for that to assume the existential experience of deficit. Our institutional life (the “rule of law”), keeps that existential experience alive. But as we have seen, living with the existential experience of deficit is painful because it means living with cognitive dissonance, although this painful experience can be reduced through denial (false consciousness): the denial of thinking that the rule of law as it actually exists fully guarantees freedom and autonomy (to do so requires redefining liberty and autonomy: negative liberty, for example), but also through the false consciousness of thinking that the institutions of the rule of law are only a mask of exploitation. Although institutions (the “rule of law”) are indeed signs of deficit, the deficit is not in the existence of the rule of law, but in the conditions of our lives that make the rule of law necessary in order to live human lives. By making this dramatic mistake, Pérez seems to be in line with the 20th century revolutionaries who fought for revolution but did not achieve revolution, but what Proudhon (the utopian socialist!) saw: an appeal to force, to arbitrariness; in the end, a contradiction. For today it is hard to deny that, as Tomás Moulian has said:

Socialist revolutions could never overcome their mark of origin and always needed coercion to affirm themselves. They could never build a participatory democracy because the “all-out war” (guerra a muerte) never ceases: it is endless.⁴³

In other words, the objection against Pérez’s less scholarly idea of revolution is not a moralist objection that condemns violence as a method of political action. It is a political objection, one that holds that violence is not a force that can be dominated, but is rather a force that dominates

⁴³ Moulián, *Socialismo del Siglo XXI*, p. 112.

anyone who thinks they have dominated it,⁴⁴ and makes us forget what it was that we were fighting for.

⁴⁴ See Weil, "The Iliad, or the poem of might", and Atria, "Reconciliation and reconstitution".

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