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## Autonomy In and Between Polities: A Political Philosophy of Modernity

Gerard Rosich

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# **Autonomy In and Between Polities: A Political Philosophy of Modernity**

**PhD Dissertation**

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## Contents

<b>Autonomy In and Between Polities: A Political Philosophy of Modernity .....</b>	<b>1</b>
<b>Preface .....</b>	<b>7</b>
a) Opening .....	7
b) Summary of Chapters .....	10
c) Methodological approach .....	15
<b>1. Introduction: Paradoxes of Modernity as Globalization.....</b>	<b>23</b>
1.1. The Tensions in the Present .....	23
1.2. The Immediate Answer: Modernity as Globalization.....	29
<b>Part I: Modernity and Globality .....</b>	<b>41</b>
<b>2. Globalization and History .....</b>	<b>43</b>
2.1. Early Modern Times .....	45
2.2. A Universal History .....	49
2.3. The Hegelian Turn .....	54
<b>3. Globalization and Space .....</b>	<b>65</b>
3.1. Historical Distance.....	65
3.2. Epistemic Space .....	70
3.3. Legal Space .....	75
<b>4. Varieties of Modernity .....</b>	<b>83</b>
4.1. The Persistence of Facts .....	84
4.2. Conceptual Shortcomings .....	90
4.3. Pluralizing Modernity .....	93
4.4. The 21 <sup>st</sup> Century.....	102
<b>Part II: Towards a Political Philosophy of Modernity.....</b>	<b>111</b>
<b>5. Modernity and the Political.....</b>	<b>113</b>
5.1. A Political Genealogy .....	113
5.2. A New Period?.....	118
5.3. Cosmopolitanism as Individualism.....	127
<b>6. Modernity and Democracy .....</b>	<b>133</b>
6.1. Interpretations of the Modern Democratic Imaginary .....	133
6.2. The Challenges to Democracy .....	139
6.3. Inter-democratic Relations.....	145
<b>7. Modernity as Autonomy .....</b>	<b>149</b>
7.1. Autonomy: In Which State? .....	149
7.2. Independence and Autonomy .....	160

7.3.	Concept of Autonomy .....	163
7.4.	Modern Inescapability from the Self(-ves) .....	169
<b>Part III: A Politico-conceptual History of Autonomy .....</b>		<b>181</b>
<b>8.</b>	<b>The Greek Invention of Autonomy .....</b>	<b>183</b>
8.1.	Origins of the Concept of Autonomy .....	183
8.2.	Meanings of the Concept of Autonomy .....	187
8.2.1.	Autonomy and <i>Eleutheria</i> .....	190
8.2.2.	Autonomy and Dependence .....	192
8.2.3.	Autonomy is “living under one’s own laws” .....	195
8.2.4.	Autonomy and Independence .....	197
<b>9.</b>	<b>The Modern Reinterpretation of Autonomy .....</b>	<b>199</b>
<b>10.</b>	<b>The Conceptual History of Autonomy .....</b>	<b>207</b>
10.1.	<i>Freistellung</i> as αὐτονομία .....	207
10.2.	αὐτονομία as <i>populus potestas</i> .....	214
<b>11.</b>	<b>Autonomy and Empire .....</b>	<b>227</b>
11.1.	A Moment of Crisis and Uncertainties .....	227
11.2.	The Political Reform of the Empire .....	231
11.3.	The Religious Reform of the Empire .....	234
11.4.	The Open Settlement .....	245
<b>12.</b>	<b>Autonomy as Modernity .....</b>	<b>251</b>
12.1.	Autonomy as Interpretation of the Peace .....	251
12.2.	Sovereignty and Autonomy .....	257
<b>13.</b>	<b>Conclusion: Historicizing Political Modernity .....</b>	<b>269</b>
13.1.	Autonomy as a Political Concept .....	271
13.2.	The Subject of Autonomy .....	277
13.3.	Autonomy as Independence .....	280
<b>References.....</b>		<b>285</b>

## Summary:

This PhD has pursued three different and interconnected objectives, each corresponding to one of the three parts of the PhD. In Part I, a historical reconstruction is provided in order to present the background against which some political paradoxes in the present have to be understood in relation to globalization. On the one hand, it presents a range of historical developments that have helped to describe some lineaments of the modern world as a history of domination that underpins the univocal and reductionist conceptual association between modernity and globalization. A connection is established between this view of modernity and imperialism, and between progress and globalization. On the other hand, it discusses the conceptual shortcomings and historical inadequacy of this understanding of modernity against the background of recent findings and offers an interpretation of modernity as being constituted by a tension between a totalizing and a pluralizing interpretation of the world. An alternative pluralizing interpretation of modernity, which is not related to globalization, linked to the concept of autonomy and is best suited to understanding our current condition, is proposed.

Part II aims, first, at challenging the narrative of the current hegemony of the liberal understanding of autonomy which underpins political globalization and makes unworkable any notion of a collective self; and second, at retrieving philosophically the normative content with which the concept of autonomy is associated. An assessment of the current global situation is offered which aims at showing the need for the construction of a bounded collective self in order to uphold democracy and challenge the modes of domination that contract theory, as a normative framework for institutional social life, perpetuates by means of legitimation or obfuscation.

Part III establishes the historical context in which the views offered in parts I and II have been elaborated. First, a conceptual history of autonomy is provided. To my knowledge, no exhaustive and systematic history of the concept has been researched in scholarship. It has been taken for granted that Immanuel Kant is the inventor of the concept in its modern use, a view reinforced through the impressive work of Jerome B. Schneewind. Allegedly, Kant's work opens the path to the constitution of individual autonomy as the basic understanding of freedom. In contrast to this understanding, the aim of Part III is to show that in conceptual and in historical terms, autonomy (re)emerges in modernity after its invention in classical Greece as a political concept and as a defining quality of the collective self in its relation with the political Other. At the same time, this part aims at retrieving and grounding historically an alternative interpretation of modernity that challenges the hegemonic and univocal understanding of modernity that has been analysed in Part I. It analyses the different movements of reformation that took place during the first half of the 16<sup>th</sup> century in the Holy Roman Empire, which culminated in the 1555 Peace of Augsburg, as the experiences under which the concept of autonomy was reintroduced into European modernity. It shows that at the moment when European imperialism was beginning with the "discovery of America", alternative interpretations and experiences were already at hand, which aimed at challenging precisely this notion of imperialism. Part III thereby grounds in historico-conceptual terms the interpretation of modernity offered in Part I and the assessment of autonomy offered in Part II.



What we call the beginning is often the end  
And to make an end is to make a beginning.  
The end is where we start from.  
—T.S. Eliot, *Little Gidding*

## Preface

### a) Opening

The introduction is simultaneously the easiest and most difficult part of a PhD. It must summarize the objectives of the work against the background of a specific research field and define the perspective informing the work as well as the strategies adopted to see it to its finish. This should be the unproblematic part. But at the same time, it must present the reasoning that structures all the chapters and guides the reader through the work. And this would be the hard task. As any researcher knows, the project one had at the beginning of the PhD transforms itself through the work done and the experiences one faces. The assumption that there is a single project that evolves in time, is realized in a text and unfolds as it was planned at the beginning is, to some extent, a necessary invention that enables one to begin the work, but nothing else. If it actually happened like this, nothing unknown would be discovered or invented because everything would already have taken place at the beginning. This imaginary corresponds to the metaphysics of necessity that is grounded, as Martin Heidegger has shown, on an ontotheological notion of subjectivity which is best exemplified in the work of Hegel.<sup>1</sup> Reflection would only be the process of becoming aware of what was always already there but lying beneath.<sup>2</sup>

On the contrary, only when the project ends can one know what one has been searching for and what one has found out. This is the reason why the introduction is the last part to be written and where the most important decision has to be taken regarding

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<sup>1</sup> Martin Heidegger, “The Onto-Theo-Logical Constitution of Metaphysics”, in *Identity and Difference*, (New York: Harper and Row, 1969)

<sup>2</sup> *Subjectum* is the Latin translation of Aristotle’s category of *hypokeimenon*, which is “that which lies beneath.”



which is the main thread and objective of the PhD. It posits the researcher in a position of exteriority to his/her own work and forces him/her to establish closure, an undertaking which is highly problematic. However, since it is an inescapable obligation of a PhD, I will try to undertake this reflexive task and at the same time leave open as much as possible other readings of this PhD which are certain to elude the researcher's own understanding.

This PhD is the result of coming to terms with a paradoxical feeling of disillusionment and powerlessness regarding the effects of the positive outcomes of the 20<sup>th</sup> century struggles for emancipation. While acknowledging the normative progress, and the *need*, that gender, national, class and colonial struggles under the banner of autonomy has produced, the feeling remained that these struggles had to accept the recognition model to be successful, that is, those dominated through their exclusion had to seek recognition through inclusion. This model has left the emancipatory movements unable to use in a positive sense any meaningful political concept of a collective self. We may have freed ourselves of all kinds of past dominations, but the price paid has been high: we are, in large parts of the world, assimilated to legally equal and autonomous individuals without conceptual and political means to challenge current political forms of domination. The background against which this PhD started can be summarized under the following two evaluations of our current political condition.

*First*, liberal democracies justify existing dominations —when they are able to “see” them or when are “unveiled”— on the grounds that they are self-imposed through electoral majorities thanks to the universal suffrage granted to individuals. Accordingly, the only unjustifiable form of domination under this framework is one that limits the autonomy of the individual, and constitutions are enacted precisely to self-limit the capacity of electoral majorities to dominate individuals. Furthermore, this narrative holds that the violent experiences of the first part of the 20<sup>th</sup> century normatively support this understanding of democracy. There seems to be no escape from this reasoning if one accepts democracy as the only politically legitimate regime.<sup>3</sup> In this

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<sup>3</sup> In my view, the frequency of elections and the form of government and mechanisms of legislation are not structurally relevant for liberal democracies. It is a contingent matter that depends on the context and historical trajectories of each particular state, though parliamentary legislation and representative government are the most-used forms.

PhD, two of the basic assumptions of this model will be challenged: the notion of political autonomy as being ontogenetically a primary property of the individual and the liberal notion of contract as the fundamental political arrangement that organizes democratic regimes. The research will show that, historically and conceptually, the concept of autonomy emerges as the political capacity of a collectivity, not of an individual. Only when contract theory, linked to the concept of sovereignty, becomes the hegemonic paradigm under which to think political arrangements does autonomy appear a property of the individual and the basis under which to imagine the democratic regime. This does not mean that we should discard contract thinking and individual autonomy at the moment of understanding democracy. It only means that there are historical and conceptual grounds in modernity that justify a change of perspective that enables us to look at democracy from the angle of collective autonomy and the capacity to self-transform.

*Second*, there is a historical narrative that links autonomy to the birth of modernity and the notion of progress. In short, it states that the commitment to individual freedom appears at the end of the 18<sup>th</sup> century in parts of the West and, owing to its normative and functional superiority, is spread in time and space across the rest of the globe. Progress thus means the increase in intensity and reach of the commitment to freedom. This is the core argument of modernization theories. Following this narrative, globalization would be the stage in the history of modernity where this commitment is generally shared across the globe and when other principles that constrain its inner workings and implementation are considered illegitimate. This PhD challenges this view of modernity both in conceptual and historical terms. Though sharing the perspective that the commitment to autonomy is the key element of modernity, the research questions the generalized assumption that the concept of autonomy appears in the Age of Revolutions. It locates the (re)emergence of the concept in modernity precisely at the same time that the concept of sovereignty was invented to justify the absolutist state. Furthermore, it analyses the history of modernity which lies behind the concept of globalization as the history of the domination of the western world throughout the globe and examines the concept of individual freedom and modernity against this background.

## b) Summary of Chapters

Against these background assumptions, the PhD has pursued three different and interconnected objectives, each corresponding to one of the three parts of the PhD. In Part I, a historical reconstruction is provided in order to present the background against which some political paradoxes in the present have to be understood. On the one hand, it presents a range of historical developments that have helped to describe some lineaments of the modern world as a history of domination that underpins the univocal and reductionist conceptual association between modernity and globalization. A connection is established between this view of modernity and imperialism, and between progress and globalization. On the other hand, it discusses the conceptual shortcomings and historical inadequacy of this understanding of modernity against the background of recent findings and offers an interpretation of modernity as being constituted by a tension between a totalizing and a pluralizing interpretation of the world. An alternative pluralizing interpretation of modernity, which is not related to globalization and is best suited to understanding our current condition, is proposed.

Part II aims, first, at challenging the narrative of the current hegemony of the liberal understanding of autonomy which underpins political globalization and makes unworkable any notion of a collective self;<sup>4</sup> and second, at retrieving philosophically the normative content with which the concept of autonomy is associated. An assessment of the current global situation is offered which aims at showing the need for the construction of a bounded collective self in order to uphold democracy and challenge the modes of domination that contract theory, as a normative framework for institutional social life, perpetuates by means of legitimation or obfuscation.

Part III establishes the historical context in which the views offered in parts I and II have been elaborated. First, a conceptual history of autonomy is provided. To my knowledge, no exhaustive and systematic history of the concept has been researched in

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<sup>4</sup> “Today, at the beginning of the 21<sup>st</sup> century, it is nearly impossible to articulate one of these other values of modernity without immediately grasping them as facets of the constitutive idea of individual autonomy.” Axel Honneth, *Freedom’s Right* (New York: Columbia University Press), 15.

scholarship. It has been taken for granted that Immanuel Kant is the inventor of the concept in its modern use, a view reinforced through the impressive work of Jerome B. Schneewind. Allegedly, Kant's work opens the path to the constitution of individual autonomy as the basic understanding of freedom. In contrast to this understanding, the aim of Part III is to show that in conceptual and in historical terms, autonomy (re)emerges in modernity after its invention in classical Greece as a political concept and as a defining quality of the collective self in its relation with the political Other. At the same time, this part aims at retrieving and grounding historically an alternative interpretation of modernity that challenges the hegemonic and univocal understanding of modernity that has been analysed in Part I. It analyses the different movements of reformation that took place during the first half of the 16<sup>th</sup> century in the Holy Roman Empire, which culminated in the 1555 Peace of Augsburg, as the experiences under which the concept of autonomy was reintroduced into European modernity. It shows that at the moment when European imperialism was beginning with the "discovery of America", alternative interpretations and experiences were already at hand, which aimed at challenging precisely this notion of imperialism. Part III thereby grounds in historico-conceptual terms the interpretation of modernity offered in Part I and the assessment of autonomy offered in Part II.

Part I begins with Chapter 1. It is an introductory chapter which starts out from a series of contemporary political paradoxes. The aim is to destabilize the hegemonic narrative of the conceptualization of the present that links globalization to a further stage of modernity. It proceeds by reviewing the current scholarly discussion on the relation between the historical constitution of modernity and the origins of globalization. Chapter 2 examines the philosophy of history which underpins the theory of modernization that lies behind the idea of globalization. A stagist understanding of history was made possible by the temporal distinction which appeared in early modern times between *tempora moderna* and *tempora antiqui*. The "discovery" of America made it possible to spatialize this understanding of time and justify the conquest of non-Europeans. Similarly, the universalist philosophy of history of the Enlightenment enabled non-Europeans to be situated in different times in history. From this perspective, Europeans alone were civilized while the others were living in another time, understood as a condition of backwardness. The chapter analyses the Hegelian dialectic of master and slave against the background of the Haitian revolution —the first

significant challenge to European hegemony— as an attempt to safeguard the universalist understanding of history which grounds the imperial domination of Europe as the engine of modernity. Accordingly, Chapter 3 analyses the transformation of the concept of space— in connection to the philosophy of history as explained in Chapter 2— that was required for the imperial domination of the West. From this perspective, spatiality had to be subordinated to temporality. Globalization is the situation where spatiality no longer plays a role in human life. On the one hand, the chapter identifies the geographical and scientific transformations that occurred during the 16<sup>th</sup> and 17<sup>th</sup> centuries as establishing the foundations for considering space as “empty”. On the other hand, the legal transformation of the concept of space, owing to the “discovery” of America, made it possible to spatialize the distinction between the civil and natural state of contract theory. The state of nature offered the legal justification for conceptualizing the territories of non-Europeans as *terra nullius*. European settlers were responsible for creating the civil state in those colonized territories. Chapter 4 is a critique of this totalizing concept of modernization as it is used in standard scholarship in order to challenge the distinction between modern/backward that has been discussed in chapters 2 and 3. On the one hand, a historical critique is offered in order to question the empirical assumptions of the Eurocentric view of modernity. It shows that no significant development supports the view that Europe was modern before “the rest”. On the other hand, a conceptual critique is provided in order to reveal the flaws and shortcomings that make the concept of modernization untenable. An alternative view of modernity developed in recent times is presented, which aims at pluralizing the concept of modernity and avoiding the normative and explanatory problems of modernization theories. The chapter ends by describing the tension between the totalizing and pluralizing understandings of modernity at the beginning of the 21<sup>st</sup> century.

Part II begins with Chapter 5, which retrieves the constitution of the individualist hegemony that underpins the idea of globalization and cosmopolitanism as the current interpretation of the totalizing understanding of modernity. The aim of this chapter is to show that cancelling the tension between individual and collective autonomy that is constitutive of modernity” leads to undermining any workable understanding of democracy. Chapter 6 discusses the concept of democracy against the background of the previous discussion of modernity and aims at disputing the liberal-democratic understanding that has come to prevail in the 20<sup>th</sup> century. It analyses the current state

of democracy and investigates the contemporary challenges confronting collective autonomy under conditions of globalization, which can be singled out as the tensions between the end of imperialism and global interdependence; the need for recognition and the weakening of the self; and the need for new institutions and the inability to create and stabilize them. In contrast to this interpretation of democracy, Chapter 7 offers a philosophical reconstruction of the concept of autonomy and shows conceptually and historically the necessary inescapability of a plurality of collective selves for democracy to exist. It suggests that the political order that sustains globalization, namely cosmopolitanism, would imply the cancellation of collective autonomy. At the same time, it shows how this order will be unable—in some contexts it is even constituted for this purpose—to define collective responsibilities in relation to the historical injustices of some actors.

Part III starts with Chapter 8, which investigates the coining of autonomy (a composite noun) in Ancient Greece and summarizes the current state of the art. Autonomy has not been one of the concepts to which scholarship on ancient Greece has paid much attention. The main exception is Cornelius Castoriadis, though he used an interpretative, not an historical and contextual, concept of autonomy to understand the Greek world. Scholarship has focused more on *demokratia* and *nomos*, which are concepts related to the internal dimension of the *polis*. Autonomy was a concept coined in Greece as the result of the political consequences of the Peloponnesian War and was associated with the need of the *polis* to be independent from the Athenian Empire. In order to understand the re-emergence of autonomy in early modern times, Chapter 9 is an introductory analysis which aims at contextualizing and explaining the framework under which the conceptual history of autonomy as a moment of radical transformation in early modernity is pursued in the PhD. It shows that we should not identify the “invention of autonomy” with the Enlightenment, but with the time when the concept of sovereignty was being reframed to justify absolutism, namely during the 16<sup>th</sup> century. Consequently, Chapter 10 analyses the historical re-emergence of the concept of autonomy in early modern times. The word was reintroduced in the context of the religious conflicts within the Holy Roman Empire preceding the Thirty Years’ War. Andreas Erstenberger and Johannes Althusius are the key sources at the moment of understanding its reintroduction. This chapter provides a detailed analysis of the texts of both authors, where the concept of autonomy is reintroduced. The concept re-emerged

polemically and its meaning was contested. Andreas Erstenberger used it to attack any claim to autonomy as exemption from the authority of the Roman Church by mundane powers or individuals, and Johannes Althusius to defend the idea of autonomy rooted in the idea of *populus potestas* against any claim to universal jurisdiction of the Church or the emperor. In order to understand the historical context in which the concept of autonomy reappeared, Chapter 11 analyses the background against which the concept of autonomy was reintroduced. It examines this historical transformation as a moment of rupture with the past that inaugurated a period of uncertainties and crisis. The need for political and religious reforms in the Holy Roman Empire launched a conflict of interpretations that led to war, which ended with the Peace of Augsburg. The nature of the Peace and the impossibility of permanent compromise between parties left open to interpretation the settlement which enhanced the rivalry between parties. The Peace of Westphalia settled the question that was not solved by the Peace of Augsburg. To best understand the details and inner workings of this deep transformation, Chapter 12 offers a reading of the Peace of Augsburg as the result of reintroducing the concept of autonomy as the interpretative space in which to understand the new field of experiences inaugurated by the different reformations. It is suggested that the Peace of Augsburg, a fundamental law constituted from the conflict over interpreting the meaning of autonomy, represented another strategy to address the deep historical transformations of early modern times, in contrast to other ones being pursued in other parts of Europe. This chapter develops the argument that a conflict of interpretations over the nature of political power inaugurated by modern times was established between the Bodinian concept of sovereignty underpinning the absolutist state and the Althusian concept of autonomy, for which the pluralist structure of the Holy Roman Empire served as the interpretative background. Chapter 13 aims to conclude the foregoing argument by means of retrieving the history of the concept of autonomy. First, it suggests that autonomy was a concept coined to interpret a deep structural transformation of the relation between polities. A *longue durée* approach to autonomy is offered in claiming that, in the Greek context, autonomy is a concept introduced in a general process that could be described as a historical transition from “plurality to universality”, while during the reformation in the Holy Roman Empire the concept was used in a moment of transition from “universality to plurality”. Second, it claims that autonomy was a true political concept to understand the relations between polities and did not emerge out of the moral sphere. Third, it is a concept used to oppose the

aspiration to imperial hegemony of another polity. It referred to a political claim of self-determination or emancipation. This chapter thereby aims at historically grounding the pluralizing interpretation of modernity against the totalizing interpretation of modernization theories.

c) Methodological approach

There are three elements that must be highlighted when describing the methodology used in this PhD. First, it is a PhD that draws its research topic and interpretative framework from the research project funded by the European Research Council “Trajectories of Modernity: Comparing European and Non-European Varieties” (Tramod) led by Peter Wagner at the University of Barcelona. I have been a doctoral researcher of the research team during the duration of the PhD. Second, it has a non-disciplinary approach to the research topic. Third, it combines different kinds of sources and approaches.

*First*, the Tramod research project aims at elaborating a novel perspective on the comparative analysis of contemporary societies and their historical trajectories, with particular emphasis on the comparison of societal self-understandings and their articulation with institutional structures. Towards this end, it also seeks to revise existing concepts of “modernity”, with a view to enabling the comparative research of societies across the globe in a symmetric fashion, without pre-conceptions about the “origins” of modernity and its “diffusion” from its region of origin.<sup>5</sup>

The project predominantly employs an agential-interpretative methodology to analyse social change and emerging social configurations. Therefore, the research project starts out from an emphasis on *agents* of re-interpretation and proceeds by identifying and analysing their *discourses*. A central concern is the search for evidence of re-interpretative work: to see when and where innovative interpretations of the above-mentioned key issues were proposed and if and how they became accepted and significant for transformation. This approach is distinct from, but complementary to, the existing approaches that analyse the present with a focus on *processes* and *institutions*. Within this context, my PhD project has retrieved discursive and past interpretations

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<sup>5</sup> See Peter Wagner, “Multiple Trajectories of Modernity: Why Social Theory Needs Historical Sociology”, *Thesis Eleven*, no. 100, (2010), 53-60.



that emerged from specific experiences, such as the “discovery” of America, the Peloponnesian War or the “Protestant Reformation”. It has analysed the specific outcomes of these historical developments, western imperialism and the institutional transformation of the Holy Roman Empire, as moments of active re-interpretation which took place at the beginning of modernity. The methodological tool at the moment of analysing moments of transformation through discourses comes from the approach to history developed by Reinhart Koselleck known as “history of concepts.” Concepts are sedimented meanings whose significance emerges from collective experiences. Experiences need to be interpreted in order to become meaningful and the interpretative creation of meaning is usually a conflictual process. From this perspective, a new concept or a change in the meaning of a concept mirrors a historical transformation. Those situations are privileged moments where one can analyse the meaning actors attach to their experiences and all the existing interpretations that are in conflict to determine the meaning of a concept. This is the approach that has been pursued in this PhD when analysing the history of the concept of autonomy in Part III and the concept of modernity” in Part I. Part II deals with the problem of interpreting autonomy in the present. For this reason, it has to be seen more as a contribution to this contemporary discussion, by defending one interpretation against others. The history of concepts approach has been complemented in those cases where it has been needed, above all in analysing the re-emergence of the concept of autonomy, by the approach to intellectual history of the Cambridge School. The work of Quentin Skinner and the volumes edited in the collection *Ideas in Context* by Cambridge University Press has been used to contextualize the intellectual history of the interpretation of political conflicts from the 15<sup>th</sup> to the 17<sup>th</sup> century. The work of Koselleck has been mainly devoted to the historical transformation that occurred in the Enlightenment, known as *Sattelzeit*, and my work has considered the 16<sup>th</sup> century also from this perspective. My approach does not consider both methodologies as incompatible, but as complementary.<sup>6</sup>

One of the main advantages of developing a PhD in a research project like Tramod is that it widens the perspective and broadens the research areas that have to be studied. Furthermore, the PhD becomes to some extent a collaborative work where the

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<sup>6</sup> See Bo Stråth, “Ideology and History”, *Journal of Political Ideologies*, Vol. 11, no.1, (2006), 23–42 for a methodological discussion on the different approaches to study intellectual and conceptual history.

interim conclusions and draft of chapters were discussed. In this regard, collaborations with other members of the research team took place in the course of these discussions and due to the complementarity of each one's work. A different version of Chapter 2 was done in collaboration with Angela Lorena Fuster Peiró and published in the volume edited by Peter Wagner *African, American and European Trajectories of Modernity: Past Oppression, Future Justice?* (Edinburgh: Edinburgh University Press, 2015) under the title "The limits of recognition: history, otherness and autonomy." Parts of Chapter 6 were worked out in collaboration with Peter Wagner and resulted in the chapter called "Epilogue: The trouble with democracy" of the volume edited by myself and Peter Wagner *The Trouble with Democracy: Political Modernity in the 21st Century* (Edinburgh: Edinburgh University Press, in press). Chapter 4 is a work that emerged from the internal discussions, workshops and seminars of the Tramod research team. It is an attempt to synthesize the methodological approach of Tramod to modernity.

*Second*, the 19<sup>th</sup> century saw a transformation in the study of socio-political and natural phenomena that led to the constitution of the distinction between the social sciences, humanities and natural sciences. This separation was further enhanced by the partition in the analysis of different human experiences according to a disciplinary understanding of reality. Reality was fragmented and compartmentalized according to this disciplinary understanding.<sup>7</sup> In historical terms, this disciplinary understanding of reality corresponds to the constitution of western European societies as industrial nation-states and to the internal separation of spheres of action according to a functional differentiation of social relations. The stability of this social constellation and the novel social problems that emerged supported the view that to better understand and solve these problématiques a different approach to human activities had to be performed. Furthermore, the consolidation of the new institutions that were enacted during the 19<sup>th</sup> century created a concrete area of intervention of each institution. This promoted the funding of research activities by the state and transformed the universities into independent institutions oriented to participate in the solution of new social problems

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<sup>7</sup> Michel Foucault's *The Order of Things* and Pierre Bourdieu's *Homo Academicus* have been the most influential perspectives on this issue. For a different but complementary perspective, see Peter Wagner, *A History and Theory of the Social Sciences. Not All That Is Solid Melts into Air*, (London: Sage, 2001).

according to each discipline. Much has been written about this understanding of scholarship and the *effets pervers* of its own logics.<sup>8</sup> In short: research becomes an instrumental tool whose rules do not emerge from research itself; research fields are “created” in order to justify its funding; the institutional embedment of research activities “orients” its objects of study and fosters a logic of self-reproduction of research teams which is not related to research requirements but to power and status relations; and last but not least, the rules that govern the evaluation of what is “good” research and the scholarly assessment by peers of research results is mediated by a wide range of interests and social relations that limit the scope and research freedom of researchers. True, no researcher can be unconstrained by these conventions. First, because these same conventions are the ones that, to some extent, allow research to be developed; second, by the mere fact that the researcher is also a human being and works in collaborative networks.

This PhD has made an effort to balance this situation at the moment of studying its object. More than an interdisciplinary perspective, it has aimed at looking to its research problem *as if* disciplines did not exist. The limits to understanding and knowing the past and present should be the limits of the researcher, not those imposed by disciplines. I have favoured a pluri-perspectival approach to the problem rather than focusing on it from a single angle. This approach has been taken not only to avoid the problems of specialization and fragmentation of research. Two present conditions suggest that the 19<sup>th</sup> century disciplinary project is exhausted. The first is related to the question of what is the object of study at a moment where the sociological and philosophical critiques of collective concepts have seriously undermined their epistemological use. In connection to this, the historical developments after the end of the Second World War plus the growing global interconnectedness have deconventionalized old and stable existing socio-political institutions. This calls into question not only the clear-cut use of the classical containers of society—empires, states, welfare economies, international relations, capitalist relations—but also the idea of society itself. Neither territorial, nor national, nor cultural distinctions enable one to

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<sup>8</sup> Hannah Arendt, *On violence*, (New York: Harcourt, Brace & World, 1970), 29-30: “The ceaseless, senseless demand for original scholarship in a number of fields, where only erudition is now possible, has led either to sheer irrelevancy, the famous knowing more and more about less and less, or to the development of a pseudo-scholarship which actually destroys its object.”

clearly delimit the object of study at the moment of understanding modernity and autonomy in the present. Furthermore, the hegemony of methodological individualism due to the difficulties of using collective concepts positively gives the impression that the only possible objects of study are the relations that individuals establish according to their preferences and choices. This view reinforces the idea that no operative idea of society is at hand, but only individuals from one side and procedural institutions from the other. Chapter 5 is a critique of this methodological perspective. Second, the fact that the question of the object of study is problematic and that no classical use of collective concepts is achievable suggests that no acritical use of a disciplinary perspective is possible. The disciplinary perspective requires that society and its “containers” and mediations are already at work. Disciplines analyse society’s functioning from a specific angle once the object of study is already constituted and ontologically determined. If it is true that this is no longer the case and that we are in a moment of reconstituting a new space of social relations and institutional settings at a new level, then any attempt at inquiring into this situation through any one disciplinary perspective is certain to fail. On the contrary, disciplinary thinking is seen from my approach as a way to constrain and condition the different possibilities of transformations opened in the present.

*Third*, this led me the question of sources and bibliography. The non-disciplinary perspective has obliged me from one side to expand the range of the literature and sources instead of going deep into a single disciplinary literature, and from the other to combine different approaches according to the perspective followed. An enlarged perspective rather than a microscopic understanding has been privileged in the PhD. This may generate some problems at the moment of discussing one particular issue or author from the moment that not all the literature commonly cited in any single instance of the various disciplinary fields I have engaged with has been consulted. I believe that I have derived more benefits than losses in this treatment of the literature. In this PhD, only works quoted or referred to are included in the bibliography. All the works consulted or read that have not been incorporated into the footnotes or the core text have not been added. For instance, many primary and secondary sources have been read to prepare the chapter that analyses the invention of autonomy in Chapter 8 or the politico-philosophical discussion of Part II. To avoid ambiguity in the use of bibliographical references, they have not been listed.

Part I works towards an understanding of the present tensions through a *historical* and *interpretative* reconstruction. Even though there is conceptual analysis, the mode of reasoning is historical. Part II, in turn, is predominantly *conceptual*, even though historical observations continue and an interpretative approach to the present is followed. This is where the key components of the political philosophy of modernity are developed. Part III combines the historical, contextual, interpretative and historico-conceptual approach to fully embrace all the questions related to modernity and autonomy. One of the main differences of my approach with others when studying modernity and autonomy is the important use of literature coming from what is usually labelled as international relations. For instance, instead of discussing the hegemonic interpretation of the Westphalian system of states, as is done in Chapter 5, from a conceptual or international law perspective, a need to reread historically the political and legal constitution of the Holy Roman Empire emerged during the PhD when I discovered the crucial historical tension between sovereignty and autonomy that frames the Peace of Augsburg, as is explained in Part III. In this PhD, autonomy and modernity are considered as concepts which emerge in the field of the experiences between polities or collective selves, not of particular states or individuals. In Part I and II, I have adopted an instrumental and contextual approach to both primary and secondary sources. More than an internal analysis of texts for themselves, I have used them as an illustration of the reasoning or as an example of the issue discussed. In contrast, Part III adopts a detailed and contextual analysis of two key works by Johannes Althusius and Andreas Erstenberger where the concept of autonomy is reintroduced in modernity. The linguistic question has also been a relevant issue in the PhD. Sources in Classical Greek, Latin and Old German were key for the development of the approach adopted here. The work of Andreas Erstenberger is written in Old German and no modern edition of the text or secondary source exists. Althusius's *Politica* was written in Latin. A first version appeared in 1603 and an extended second version in 1614. There is no critical edition comparing the two versions. When analysing the invention of autonomy in Classical Greece, an important methodological problem arises due to the retrospective use by Greek authors of the word autonomy. This issue will be discussed in detail in Chapter 8.

Lastly, key methodological problems—such as diffusionism, Eurocentrism or normative and epistemic biases—are discussed in several chapters of the PhD.

Furthermore, disciplinary thinking is criticized mainly in Part I and II, above all in relation to the constitution of anthropology, legal studies, international relations, philosophy, world history and sociology.



## 1. Introduction: Paradoxes of Modernity as Globalization

### 1.1. The Tensions in the Present

In the field of what is commonly referred to as political theory one encounters in the literature several phenomena labelled as “paradoxes”, which, I believe, signal that now, at the beginning of the 21<sup>st</sup> century, we are living in times of change. The prospect for collective autonomy is deeply related to this moment of transformation. Beyond the historical periodization that one might wish to choose in order to identify on a timeline an event that could shed light on the present, whether it is the fall of the Berlin Wall in 1989, the First Gulf War in 1991, the attack on the Twin Towers in 2001, and so on, there is an absence of clear ideas as to the subterranean currents hidden beneath these events.

The use of the term “paradox” is one of the terminological concepts that the past “postmodern” trend promoted in scholarship. Paradoxes would emerge once the possibility of systemic or structural thinking is no longer theoretically consistent. Persistent internal non-sublatable contradictions or non-subsumable facts have undermined systemic thinking once the social configurations that were thought of as realizations of a system could no longer claim normative superiority or completeness. Thus paradoxes could be described as the conceptual phenomena that appear once we abandon the idea of a structure that is *realized*. If we accept that theoretical thinking must be more “modest” in its epistemic objectives and recognize that too fully embracing totalizing reasoning is by virtue of its methodological assumptions ill-founded, reality appears as an interpretative field of experiences where paradoxes can be useful conceptual tools to test our epistemic limits for understanding reality and to include them as *positive* and *informative* contents within the interplay between micro and macro in theoretical analysis.<sup>9</sup> The concept of paradox is useful insofar as it cannot be either solved or broken up and questions any clear-cut relation between normative

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<sup>9</sup> “When paradoxes arise in describing a phenomenon, we must assume that the description proceeds from inappropriate premises, that is, it employs inadequate categorical means” Ernst Tugendhat, *Self-consciousness and self-determination*, (Cambridge: The MIT Press, 1986), 3.



theoretical blueprints and practices or institutions.<sup>10</sup> For the purposes of the introduction of this PhD, I would like to highlight some of the contemporary paradoxes that can help us to assess the prospects for autonomy in the present. A first set of paradoxes is introduced in relation to the understanding of the new global political constellation and a second one regarding the relation between human rights and democracy.

First, a common narrative of present international relations holds that a new international order based on human rights and liberal democratic principles has emerged as a result of the collapse of the Soviet Bloc, thanks to the economic, cultural and political supremacy of the West, with the United States in the lead. There is no balance-of-power logic at play in the international arena anymore because there is now only *one* superpower. However, while the military ascendancy of the West is true in comparative terms—which is the background that supports its role as defender/promoter of human rights and democratic regimes—this way of perceiving things obscures the fact that the world that is now being constructed is ever less western, with a plurality of

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<sup>10</sup> See Joan Wallach Scott, *Only Paradoxes to Offer: French Feminists and the Rights of Man* (Cambridge: Harvard University Press, 1996), 4-5; Chantal Mouffe, *The Democratic Paradox* (London: Verso, 2000), 4; Martin Hartmann and Axel Honneth, “Paradoxes of Capitalism”, *Constellations*, 13, no. 1 (2006): 47, “A contradiction is paradoxical when, precisely through the attempt to realize such an intention, the probability of realizing it is decreased”. However, the use of the concept by Hartmann & Honneth, though it avoids the problems of the concept of ideology, presupposes the idea of two spheres with their own proper “logics”: the economic represented by neoliberal capitalism and the “normative” represented by the welfare state. While recognizing that capitalism also contains normative principles, they conceptualize them as radically different from those that shape our socio-cultural life. I prefer to interpret the concept of paradox without assuming a priori differentiated functional logics and compartmentalized normative principles, and by thinking it synchronically rather than diachronically: as the occurrence at the *same time and place* of phenomena allegedly commonly *thought* as mutually exclusive, and not as the contradictory effect derived from the elapsed time between an intention and its negation that occurs through its implementation. To some extent, the sociological concept of “unintended consequence” or “perverse effect” and the economic concept of “negative externalities” make the same assumptions that one finds in Hartmann and Honneth’s use of “paradox”. The introduction of the time factor in the analysis, in my opinion, makes the use of the concept of paradox difficult to sustain when comparing different moments in time and, above all, if one wants to consider human beings also as actors.

understandings of human rights and democracy which are not reducible to western liberal democracies. New blocs have appeared to counterbalance the western post-Cold War hegemony, the BRICS being the most relevant. The new balance of powers is no longer tipping to the West. To give one example, China, a supposedly communist country, is the United States' biggest creditor and the Monroe Doctrine has ceased to be valid for explaining the dynamics of power in Latin America (the political sway of the United States in Latin America is ever more limited and, if it does exist, it is only thanks to the discourse of the struggle against international drug trafficking in Colombia and Mexico),<sup>11</sup> not to mention the changes taking place in the continent of Africa and in South-East Asia. Therefore, the United States is a power that surpasses all *others* in its military capacity but it is not able to exercise its dominance politically. Clausewitz's dictum that war is the continuation of politics by other means can no longer be held.<sup>12</sup> Michael Ignatieff suggested in 2003 that, after the 2001 attacks on the World Trade Center, the United States had to assume its imperial role as defender of moral universalism in the protection of human rights. Against the background of the United States' role in the resolution of the Bosnian and the Kosovo conflicts, he considered the invasion of Afghanistan and the occupation of Iraq to be *positive* steps towards this goal.<sup>13</sup> Besides the biased normative assumptions Michael Ignatieff relies upon, the problem is that it has become clear in the present that current military powers are impotent when tackling political conflicts in the contemporary world and that military intervention as a tool for the promotion of human rights and democracy is ineffective.

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<sup>11</sup> The end of the Cuban embargo by the United States has to be seen in this light. See the United States president's reply to Ecuador's president at the 2015 Summit of the Americas. <https://www.whitehouse.gov/the-press-office/2015/04/11/remarks-president-obama-first-plenary-session-summit-americas>. Last accessed 20/5/2015

<sup>12</sup> "We see, therefore, that war is not merely an act of policy but a true political instrument, a continuation of political intercourse, carried on with other means." Carl von Clausewitz, *On War*, (Oxford: Oxford University Press, 2007), 28.

<sup>13</sup> See Michael Ignatieff's article "The American Empire: The Burden" in the New York Times edition of 21/5/2003. <http://www.nytimes.com/2003/01/05/magazine/the-american-empire-the-burden.html> (last accessed 15/7/2015). His book *Empire Lite: Nation-Building in Bosnia, Kosovo and Afghanistan*, (London: Vintage, 2003) is a development of this thesis.

Additionally, though we are still living in an order, with regard to units of power, which is still based allegedly on the Westphalian system of states, one can hardly say that political sovereignty, even in the case of the great powers, continues to be a defining attribute of these units. The most surprising fact apropos of this phenomenon is the simultaneity of two processes: the shaping of *great* supra-regional political entities in order to confront this new situation and, at the same time, the growing number of states, however *small* they might be, which has occurred in recent years. In the past 20 years, 33 new states have appeared and this is the highest figure for any comparable period over the last two centuries.<sup>14</sup> The creation of larger regional units is simultaneous with the internal fragmentation of these blocs. Thus, though political scientists and journalists agree on the crisis of the state form and its related concept of sovereignty, *facts* seem to suggest that more than a crisis, we are living in a period of transformation of the conceptual link between sovereignty and the state which does not imply the disappearance of the state form but a new reinterpretation under new global conditions. These conditions are shaped by hubristic trends, namely by the absence of justifiable limits against the constitution of one single and exclusive world in the terrestrial globe. Accordingly, the new borderless capitalism constitutes a threat to the viability of the worlds we share as human beings. This is the nature of worldlessness, which Hannah Arendt associates with the boundlessness inherent in the capacity for acting when those worlds-in-common are not taken into account.<sup>15</sup> Yet the problem is that we live in a world where any limit or border that we might establish has no legitimacy in itself since it tends to encourage exclusion, or uphold the *status quo*, grant privileges, undermine freedoms, and so on.

Second, the new way of thinking that detaches human rights from the fact of being a citizen of a particular state turns human rights into a source of justice from a higher order,<sup>16</sup> though it cannot enforce them and thereby they are undermined. This new basis

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<sup>14</sup> See Andrew Linklater, *The Transformation of Political Community*, (Cambridge: Polity Press, 1998), 32-34; for the interplay between globalization and fragmentation.

<sup>15</sup> See Hannah Arendt, *The Human Condition*, (Chicago: University of Chicago Press [1958] 1998), 190-192. I concur with Etienne Tassin's interpretation of Arendt on this point in his book *Un monde commun. Pour une cosmo-politique des conflits* (Paris: Seuil, 2003), 117ff.

<sup>16</sup> See Samuel Moyn, *The Last Utopia: Human Rights in History*, (Cambridge: The Belknap Press of Harvard University Press Cambridge, 2010). He considers that our time, roughly from

of supranational political legitimacy for the protection of human rights should have led to a reduction in the importance of “substantive identities” by transforming them, in a certain sense, into performative and secondary elements and rendering central a common identity as humans, while also producing diffuse, lax and porous frontiers. Nevertheless, the reality of political borders is that, rather than being porous, they have on the contrary turned into real physical barriers, whether they take the form of walls, electric fences, blockades or fortresses in the literal sense. In the heart of countries that are allegedly standard bearers of human rights, militarized barriers—for example the United States’ border with Mexico or, in Europe, the Spanish border with Morocco in Melilla—are erected to prevent the entry of people, who are sometimes even killed.<sup>17</sup> It seems that, as a result of globalization, the loss of political sovereignty, one of the two features characterizing the system of states, has given rise to increased intervention in and control of territorial integrity, which is the other characteristic of the nation-state system. This looks very much like a defensive reaction by states: the greater the loss of political sovereignty, the greater the control of territorial integrity. In other words: the greater the undermining of the capacity for acting autonomously, the greater the enhancement of the mastery over oneself. Moreover, the starting point of human rights discourse is essentially political and historical but its foundation is legal and moral and based on human nature, which limits the capacity for transforming oneself through collective autonomy. The abstract nature of the underpinnings of human rights is in radical tension with the contextual nature of political conflicts. At best, the application *in abstracto* of individual human rights in situations of political conflict leaves things unchanged, while sometimes aggravating matters and usually serving as an ideological cover for intervention from outside the country concerned, or giving legitimacy to a situation of internal repression. The resort to individual human rights as a way of resolving conflicts tends to lead to a kind of retributive justice through punishment, but not to peace, reconciliation or stability while, at the same time, turning political

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1970s on, in contrast to the past, is informed by the utopian project of the protection of individual human rights beyond state borders.

<sup>17</sup> See the Amnesty International report on the European borders with Ceuta and Melilla, *Spain and Morocco: Failure to Protect the Rights of Migrants One Year On*, 2006, <http://www.amnesty.eu/static/documents/2006/CeutaandMelillaReportOct2006.pdf> (last accessed 2nd July, 2015). See also Wendy Brown, *Walled States, Waning Sovereignty*, (New York: Zone Books, 2010).

discourse into moral discourse.<sup>18</sup> Some scholars even suggest that there is a direct conceptual link between human rights and the history of modern imperialism.<sup>19</sup> However, it is also true that the 20<sup>th</sup> century has shown that collective autonomy can also lead to internally and externally terribly unjust forms of government, engaging in both the most destructive colonial adventures and perpetrating the most savage massacres. Even if democracy is the time-honoured best political form, and although the defence of human rights may be anti-democratic in some contexts, “civil society may be evil”, as Michael Mann puts it.<sup>20</sup> Therefore, it seems that democracy should limit, restrain or self-cancel some of its potentialities,<sup>21</sup> but since the constitution of a

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<sup>18</sup> “As a number of its partisans in the 1970s were well aware, human rights could break through in that era because the ideological climate was ripe for claims to make a difference not through political vision but by transcending politics. Morality, global in its potential scope, could become the aspiration of humankind.” Samuel Moyn, *The Last Utopia: Human Rights in History*, 213. For a critical view, see Mahmood Mamdani, *Saviors and Survivors: Darfur, Politics, and the War on Terror*, (New York: Pantheon, 2009) on the United States’ intervention in Sudan and how this way of understanding human rights and conflict resolution only reinforces a postcolonial situation.

<sup>19</sup> “The history of rights, of *iura*, and in particular of those rights which were to become “human rights,” is doubly embarrassing for their culturally sensitive defendants in that such rights were not only a creation of the Roman legal tradition but were developed in the form we understand it today, in the context of *imperial*, legislative practices, and have remained closely associated with imperial expansion and its consequences until at least the late nineteenth century.” Anthony Pagden, “Human Rights, Natural Rights, and Europe's Imperial Legacy”, *Political Theory*, Vol. 31, no. 2, 173.

<sup>20</sup> Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing*, (Cambridge: Cambridge University Press, 2005), 21: “In civil society theory, democracy, peace, and tolerance are said to result when individuals are engaged in vibrant, dense social relations provided by voluntary institutions, which protect them from the manipulations of state elites .... This is naïve... *Civil society may be evil*”. (emphasis added)

<sup>21</sup> See Nathalie Karagiannis, “Democratic surplus and democracy-in-failing: On ancient and modern self-cancellation of democracy”, in ed. Gerard Rosich and Peter Wagner *The Trouble with Democracy: Political Modernity in the 21<sup>st</sup> Century*, (Edinburgh: Edinburgh University Press, in press).

democracy as autonomy is the matter of the people as constituent power,<sup>22</sup> it is difficult to see how the self can limit itself in the absolute terms that are required by the foundations of human rights. Thus, there is a growing awareness that contemporary democracies should respect and be based on human rights as a response to past conflicts between different world regions and help to create a common space to safeguard the political interaction between human beings, but at the same time the legal entrenchment of human rights and their normative justification challenges any workable notion of democracy.

### 1.2. The Immediate Answer: Modernity as Globalization

The widespread use of the catchword “globalization” and its twin brother, cosmopolitanism, to conceptualize contemporary political relations would seem to originate from its ability to offer some kind of response to this on-going transformation and to describe its reach, periodization, nature and meaning. It succeeds at this precisely because it points to a major change in the present, unifying into a single theorem different transformations at work in contemporary societies (regional integration, global migration, technological developments, and so on), and intertwining them in a loose and vague manner from a macro perspective. Nonetheless, one senses that the term is only useful if it refers to a new reality, namely global connectedness in the broadest sense of the expression. Indeed, what is novel about this fact, in relation to the past, is that globalization now affects *de facto* the entire surface of the planet, and it is no longer a project that has to be promoted and/or imposed.<sup>23</sup> If in the past it was a project that informed different varieties of utopian universalism, ranging from Christianity to internationalism, nowadays we can claim that it has become a reality with which all humans have to reckon. Yet the problem with a mere proclamation of global connectedness is that it does not specify what the *nexus* might consist of (the question of which are the links that do or should structure the world), what are the units that are

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<sup>22</sup> See Andreas Kalyvas, “Rethinking ‘modern’ democracy: Political modernity and constituent power”, in *The Trouble with Democracy: Political Modernity in the 21<sup>st</sup> Century*, ed. Gerard Rosich and Peter Wagner.

<sup>23</sup> Indeed, there are still polities within the Amazon region that have had no permanent contact with the “rest” of the world.

connected (peoples, individuals, nations, regions, cities, states, etc), what form the *link* takes at the moment of interconnecting the units (imperial, cosmopolitan, federative, anarchic, etc.), or whether *global* refers to the planet or to the human world. It is precisely the answers given to these questions that render problematic the concept of globalization in itself and may help to unveil it as a reinterpretation under current conditions of old universalizing political projects driven by divergent or opposing projects that, when placed within their historical context, turn out to be particularistic in nature.

Scholars do not tend to distinguish between the world and the globe, and both usually are used in reference to the spherical surface of the planet Earth that would exist even if mankind did not. This view could only make sense once it was “discovered” that the Earth was finite and a planet among others, so that the world could be isomorphic with the globe. This was not an obvious claim up to the circumnavigation of the earth and travels of exploration, and at its beginnings, there was a clear connection between the geographical mappings of the globe and further extending the western world with the help of improved technologies.<sup>24</sup> This interpretation was enhanced by the 20<sup>th</sup> century “travels of exploration” to the moon, when the view of the entirety of the Earth from outside “fuelled representations of the world as a distinct, unified global entity whose constituent parts are fitted together into a single whole”.<sup>25</sup> This interpretation is one that understands the world from the standpoint of the globe, which has as a consequence the negation of the coexistence of a plurality of different worlds. Even when the distinction is made between *mundialization*—making a human world *common to all*, though there are different ways of doing it—and globalization, it has the same result, namely, the idea that universalism has to be understood in spatial and totalizing terms and as it is defined in set theory: either as a shared world of which *every single* human being is a part, or as the whole extension of the globe’s surface where human beings reside.<sup>26</sup> The process of understanding universalism from the perspective of the

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<sup>24</sup> See Chapter 4 below.

<sup>25</sup> See Andrew Herod, *Geographies of Globalization: A Critical introduction*, (Oxford: Blackwell, 2009), 27. See Chapter 7 for a detailed discussion.

<sup>26</sup> It is a distinction very much used in the Francophone scholarship. See Jacques Derrida and E. Rottenberg, “Globalization, Peace, and Cosmopolitanism”, in *Negotiations: Interventions and interviews, 1971-2001*, (Stanford: Stanford University Press, 2002), 371 and 386; and Jean-Luc

spatiality of the earth is indeed a process of weakening the human world. As Hannah Arendt contended, it naturalizes the world from the moment that it neglects that it is a “man-made artifact”, built both as a way to escape from the natural cycle of life reproduction and in order to create a permanent and stable space which is a condition for free human action.<sup>27</sup> Hence, in focusing on raw global interconnectedness, social relations are reified and analysed as the result of globalization, not the other way around.

Furthermore, a world that connects *all* human beings risks breaking the intermediate bonds that associate/dissociate some of them as soon as it posits the individual human being as the fundamental ontological entity. Atomism (separation without relation) and fusion (relation without separation) are the two social phenomena that disintegrate the human world.<sup>28</sup> A world is absent wherever globalization is understood as the entanglement of individualism and impersonal self-propelled planetary forces. As discussed in greater detail below, to consider the globe as a polity implies assuming that the main political unit is humanity as a collection of individuals where intermediate social bonds are thin or non-existent. A social world distinct from others is not able to sustain itself beyond the conditions imposed by globalization. Moreover, when it comes to explaining the origins of the world posited in these contemporary accounts of

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Nancy, *The Creation of the World or Globalization* (Albany: State University of New York Press, 2007). For an approximation that does not assume from the outset the principle common to both *mundialization* and globalization and that contemplates the possibility of the coexistence of different worlds, see ed. Nathalie Karagiannis and Peter Wagner, *Varieties of world-making: beyond globalization*, (Liverpool: Liverpool University Press, 2007). Of course, the plurality of different worlds does not mean that they are incommensurable.

<sup>27</sup> Hannah Arendt, *The Human Condition*, 52-53. See also Fina Birulés, *Una Herencia sin Testamento: Hannah Arendt* (Barcelona: Herder, 2007), 107-111.

<sup>28</sup> According to Étienne Tassin, *Un monde commun. Pour une cosmo-politique des conflits*, 156: “This world, however, is not identical with the earth or with nature, as the limited space for the movement of men and the general condition of organic life. It is related, rather, to the human artifact, the fabrication of human hands, as well as to affairs which go on among those who inhabit the man-made world together [...] the world, like every in-between, relates and separates men at the same time. [...] What makes mass society so difficult to bear is not the number of people involved, or at least not primarily, but the fact that the world between them has lost its power to gather them together, to relate and to separate them”.



globalization, these origins are traced back to causal processes that escape the control of the actors involved.

To anticipate here the argument pursued in greater detail in the following chapters, one current trend in world history attempts to elucidate how we have come to this new reality. The advantage of this approach is that it is generally useful when it comes to explaining why the West achieved global dominance after the end of the 19<sup>th</sup> century and how the “great divergence” between the “West and the rest” was established. Nonetheless, although it might offer clues about the transformations we have seen in the 20<sup>th</sup> century, it does not help much at the point where what is to be explained in the study, namely the global economic and political supremacy of the West, is no longer a reality as such: even if western supremacy was as comprehensive as it is commonly thought to have been throughout the 20<sup>th</sup> century—a premise which has been challenged by some scholars—the extension of this supremacy has always been circumscribed.<sup>29</sup> This has prompted a western nostalgia for its past supremacy in many fields and has given rise to explanations of its demise as the outcome of negative trends, with immigration and terrorism foremost among them. The question for many is now why the West is no longer ruling the world and what are the consequences of its diminished power.<sup>30</sup>

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<sup>29</sup> The publication in 1996 by Samuel Huntington of his book *Clash of Civilizations* launched a wide debate on the reactionary normative implications of his assumptions. However, he worked with the premise that the West has lost its hegemony in the world and we are moving to a multipolar world divided along cultural lines. See also Charles A. Kupchan, *No One's World: The West, the Rising Rest, and the Coming Global Turn* (New York, Oxford University Press, 2012), 3: “The emerging landscape is one in which power is diffusing and politics diversifying, not one in which all countries are converging toward the western way [...]. The emergent international system will be populated by numerous power centers as well as multiple versions of modernity.” For a similar assessment of the end of the domination of western world but foreseeing the rise of China as a global power, see Martin Jacques, *When China Rules the World: The Rise of the Middle Kingdom and the End of the Western World*, (London: Penguin Books, 2012).

<sup>30</sup> I believe one might view the novels of Michel Houellebecq as examples of this perspective, at least as old as Oswald Spengler, where it is combined with a critique of the western world for having abandoned its moral standards. For a similar though nuanced perspective coming from

On the other hand, historians working along these lines do not seem to be in agreement either about what made the global nexus possible or how it was achieved. Although there is an on-going discussion about the factors that allegedly “produced” this development and the specific periodization resulting from them, there is a consensus that “globalization” as a boundless *universalist* project has its origins, *grosso modo*, with the birth of modern times.<sup>31</sup> Periodizations are the most difficult task for the historian because he/she is obliged to elevate one perspective for reading history over another in accordance with his/her interpretation of the phenomena analysed. There are two different strategies to address the appearance of globalization: either a singular moment in time is chosen as the event that inaugurates a new period, or a long-term perspective is adopted, conceptually allowing for successive waves of globalization. Usually, the “Discovery of America” or the Age of Revolutions are the events that are highlighted as giving birth both to globalization and modernity.

Recently, a short-term strategy that is more interested at looking at recent transformation has highlighted the 1970s as the period one should look at for understanding our present as shaped by globalization. The neoliberal turn and the dismantling of the conventions of the post-Second World War order are the crucial phenomena in order to interpret the different impulses to globalization from different arenas.<sup>32</sup> Other historians are by comparison more nuanced and try to disentangle both concepts, which allows them to adopt a long term perspective. Göran Therborn has

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an academic, see Walter Laqueur, *The Last Days of Europe: Epitaph for an Old Continent*, (New York: Thomas Dunne Books, 2007).

<sup>31</sup> Christopher A. Bayly, *The Birth of the Modern World, 1780-1914: Global Connections and Comparisons*, (Malden Blackwell, 2004); John Darwin, *After Tamerlane*, (New York: Bloomsbury, 2008); Enrique Dussel, *Política de la Liberación: Historia Mundial y Crítica*, (Madrid: Trotta 2007); Felipe Fernandez-Armesto, *1492: The Year the World Began* (New York: Bloomsbury, 2009). See Patrick O’Brien, “Historiographical traditions and modern imperatives for the restoration of global history”, *Journal of Global History*,1,(2006); and Jerry H. Bentley, *Shapes of World History in Twentieth-Century Scholarship* (American Historical Association: 1997, <http://www.riseofthewest.net/thinkers/bentley01.htm>) for a review of these on-going debates.

<sup>32</sup> For the neoliberal turn, see Sandra Halperin, *Re-envisioning Global Developments*, (London: Routledge, 2013) and for the dismantling of organized modernity, see Peter Wagner, *Progress: A Reconstruction* (London: Polity Press, 2015).

identified six different waves of globalization, the first one starting between the 4<sup>th</sup> and 7<sup>th</sup> centuries CE with the spread of world religions beyond the frontiers of particular polities and monarchical or chieftainship allegiances. Only the second one, the different imperial projects at the beginning of the 16<sup>th</sup> century, can be associated with modernity, though indirectly.<sup>33</sup> Jürgen Osterhammel and Niels Peterssen identify four different waves of globalization from the beginning of the 16<sup>th</sup> century and disentangle the concept to analyse different, sometimes contradictory, patterns of long-term transformation in different domains of human action.<sup>34</sup> In these perspectives, the long- and the short-term angle enable a non-teleological reading of history and see different transformations as moments of globalization and others as de-globalizing reactions to the effects of these transformations.

In contrast, the standard narrative considers these two phenomena—modernity and globalization—as co-originary and holds that all the significant developments that the world(s) has gone through in modern times took off in the West—or to be more precise, first in Europe and afterwards by settler colonies founded by European migrants—and were driven by superior normative principles. These principles, we are told, gave Europeans an “advanced” position in relation to the rest of the world, and thanks to the singular qualitative nature of these principles, pushed them forward towards its global universal expansion. Allegedly, both the content (the abstract human being as free and endowed with reason) and the *telos* (a linear and constant historical progression towards emancipation) of these principles allowed them to be adopted by the rest of the humankind. This was the classical representation of the western idea of progress. In genealogical terms, the transformations leading to the emergence of these superior normative principles are usually traced back, from an intellectual perspective, to the Enlightenment tradition or the Renaissance, and in historical terms to secularization,

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<sup>33</sup> Göran Therborn, “Globalizations dimensions, historical waves, regional effects, normative governance.” *International Sociology* 15.2 (2000): 151-179.

<sup>34</sup> Jürgen Osterhammel and Niels P. Petersson, *Globalization: a short history*, (Princeton: Princeton University Press, 2005).

functional differentiation and to the “Age of Revolution”. To put it simply, the western world was the inventor of modernity and the agent of globalization.<sup>35</sup>

Eurocentrism is correctly criticized in the present when non-European developments are analysed or evaluated with the standards used to look at European realities. Nonetheless, as soon as the discussion proceeds to historical research on the birth of modernity, Eurocentric premises are reintroduced when conceptualizing the two outcomes most often highlighted for their specifically modern character. According to these narratives, the first outcome, democracy, is considered as the result of the French and American revolutions, which opened up a new political imaginary shaping the path for all coming political transformations, the former representing a break with past feudal oppression and the latter with colonial domination; and the second outcome, the “birth” of capitalism, is equated with the Industrial Revolution that happened in Britain, and was propagated throughout Europe thanks to the uniqueness and singularity of her social, political and moral conditions. Accordingly, the particular institutions that emerged in Europe as a result of the rupture with feudalism and which gave birth to modernity—the nation-state and the capitalist economy—are understood as the universal embodiment of political and economic modernity, of democracy and the market.<sup>36</sup>

In relation to the constitution of the nation-state as the recipient of democracy, it would historically emerge according to these narratives from two European developments. The first of these is the creation of the state form. It dates back to the 1555 Peace of Augsburg, which put an end to the conflicts that arose in part due to the

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<sup>35</sup> See Ricardo Duchesne, *The Uniqueness of Western Civilization*, (Leiden: Brill, 2011) for a defence of this position, combining conceptual and empirical arguments, against all the revisionist historiography that questions any normative superiority of the western world for explaining its global supremacy in the last two centuries. In the following chapters, the main arguments of this revisionist position will be summarized.

<sup>36</sup> “However, beginning in the 1950s, theorists of ‘development’ in the United States, working within its basic structures but with new techniques and generous funding from the United States government refurbished the edifice to highlight capitalism and nation states as key features of western modernity and the goal towards which all humankind was moving” Sandra Halperin, *Re-envisioning Global Developments*, 2.

Protestant Reformation.<sup>37</sup> However, only after the 1648 Peace of Westphalia and the 1651 Treaty of the Pyrenees, which ended the so-called European Wars of Religion, would the territorial sovereign state-system be founded. As is commonly argued, this led to the fragmentation of the political space in Europe, which fuelled competition between states. In order to face this new challenge, the need to secure militarily the existence of each state fostered the creation of central state bureaucracy to coerce the population to pay taxes and submit to the needs of the military state.<sup>38</sup> At the same time, to avoid major conflicts that could damage all the states, a new kind of formal relation between states emerged, the *Jus Publicum Europaeum*.<sup>39</sup> The second development is the creation of the nation as the legitimate political subject of the state, which would be the outcome of the French Revolution in substituting the absolute sovereignty of the monarch over the state with that of the nation. It transforms the people, the “Third Estate” under the Old Regime, into the “*nation*” which, according to Abbé Emmanuel Joseph Sieyès in his 1789 pamphlet *What is the Third Estate?*, “*exists prior to everything; it is the origin of everything. Its will is always legal. It is the law itself. Prior to the nation and above the nation there is only the natural law*”.<sup>40</sup> The successive European revolutions from 1848 on would be the significant events that merged the nation as the political subject with the rule of the state, the moment when the new modern frame of legality and legitimacy is reconciled.<sup>41</sup> Ernest Gellner is the best

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<sup>37</sup> This historical period will be discussed at length in Part II below.

<sup>38</sup> Charles Tilly ed., *The Formation of National States in Western Europe*, (Princeton: Princeton University Press, 1975).

<sup>39</sup> Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (New York: Telos, 2006)

<sup>40</sup> Emmanuel Joseph Sieyès, “What is the Third Estate?”, in *Political Writings*, (Indianapolis: Hackett Publishing Company, 2003), 136 ( emphasis added).

<sup>41</sup> Anthony Smith summarizes this perspective as one that “accepted the French Revolution as the event and period of nationalism’s first full blown manifestation, and thereby tied it firmly to the civic and democratic movements of that period in Europe. They also concentrated on charting the evolution of nationalism, the ideology and movement, within modern Europe. If they chose to look further afield, they tended to derive the later nationalisms of India, Japan, China and Indonesia, or of the Arab and African peoples, from this or that version of European nationalism, imbibed by native intellectuals in the metropolis or at home”. Anthony Smith, *Nationalism and Modernism*, (London: Routledge, 1998), 17.

representative of the school that associates the rise of nationalism with state-building in transition from agrarian to modern industrial societies in Western Europe.<sup>42</sup>

In relation to the constitution of the capitalist market economy, there is a wide range of theories that see it as the outcome of non-contingent, endogenous European advantages.<sup>43</sup> Sometimes other regions of the world enter as essential for the existence of capitalism into the analysis, as in World-system approaches or in dependency theories, but only as peripheral areas constituted either as colonies, empires or allies by the same European powers. Peripheries or satellites are significant in the analysis insofar as they are used to provide markets, along with human and material resources, for the constitution of Europe as the centre of the world, either for reasons of accumulation or to externalize costs or negative side-effects.<sup>44</sup> We can group the reasons given to explain the economic growth of Europe into three different ontological domains in accordance with whether they privilege epistemic, political or economic explanations. *Epistemic* explanations claim that legal traditions, social customs and the “innovative role” of the state in the allocation of resources favoured the consolidation of property rights and promoted accumulation regimes and entrepreneurship. The best

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<sup>42</sup> Ernest Gellner, *Nations and Nationalism*, (Ithaca: Cornell University Press, 1983).

<sup>43</sup> David Landes summarizes the background of the different explanations as follows: “Some see Western wealth and dominion as the triumph of good over bad. The Europeans, they say, were smarter, better organized, harder working; the others were ignorant, arrogant, lazy, backward, superstitious. Others invert the categories: The Europeans, they say, were aggressive, ruthless, greedy, unscrupulous, hypocritical; their victims were happy, innocent, weak— waiting victims and hence thoroughly victimized. [...] A third school would argue that the West–Rest dichotomy is simply false. In the large stream of world history, Europe is a latecomer and free rider on the earlier achievements of others. That is patently incorrect. As the historical record shows, for the last thousand years, Europe (the West) has been the prime mover of development and modernity.” David Landes, *The Wealth and Poverty of Nations: Why Some Are So Rich and Some So Poor*, (London: W.W. Norton & Company, 1998), xxi. Chapter 3 analyses European exceptionalism as a combination of long-term economic, political and epistemic advantages beginning roughly at 1000 CE, though Landes himself seems to privilege the epistemic explanations by defining Europe as an inventive society, mainly in the economic use of technological breakthroughs.

<sup>44</sup> Andre Gunder Frank and Immanuel Wallerstein are the best known representatives of World-system theory.

known approach in that tradition is Max Weber's work on the connections of the rise of a capitalist organization of labour and economic instrumental rationality with western societies highly influenced by ascetic Protestantism.<sup>45</sup> Recently, Douglass North and Robert Thomas's influential book *The Rise of the Western World: A New Economic History*, first published in 1973,<sup>46</sup> looked at the institutional incentives unique to Europe, mainly the establishment of a set of property rights, that could explain the constitution of an efficient economic system to boost growth in the western world in contrast to rest. In contrast, *political* explanations prioritize political conflicts and class struggle, originally with the clash of merchants and peasants with the aristocracy, and later of workers with the bourgeoisie, in both cases in relation to increases in agrarian productivity by land distribution and in labour productivity by the wage system. Marxism is still the best representative of this political trend.<sup>47</sup>

Economic explanations try to show how Europe already had accumulated a great amount of unused capital, with physical capital deriving from ecological resources and human capital attributable to demographic changes, which could be invested at the moment of the industrial revolution. Furthermore, socialism as *the* internal project critical of capitalism and the different negative forces that it unleashes and is unable to contain, is also, at least in the minds of Lenin and Marx, an economic system that can only work where industrial capitalism and class division is already established, that is, where a bourgeois revolution has happened. According to this tradition, only parts of Europe were ripe, that is, modern enough, for a communist revolution to be successful. A modification of this theory mainly provided by Lenin, the "two-stage theory", had to

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<sup>45</sup> Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, (New York: Routledge, [1904-5] 2005).

<sup>46</sup> Douglass North and Robert Thomas, *The Rise of the Western World: A New Economic History*, (Cambridge: Cambridge University Press, 1973).

<sup>47</sup> See Robert Brenner, "Agrarian Class Structure and Economic Development in Pre-industrial Europe" in Trevor Henry Aston and C. H. E. Philpin ed., *The Brenner Debate* (Cambridge: Cambridge University Press, 1985) for an understanding of the "original accumulation" thesis that considers the transformation of property and class relations in pre-industrial agrarian England a requirement for the rise of a capitalist economy there instead of other parts of Europe.

be given when the communist revolution broke out in “backwards” countries like Russia and China.<sup>48</sup>

Where these two developments are understood as the embodiment of modernity, nationalism and capitalism (and its twin brother, socialism) appear as European inventions that have spread across the world in a linear (though with setbacks) and progressive way. Thus a society is modern if these imaginaries are present and modernization is the process by which a society is transformed in such a way that these institutions can flourish and stabilize. The problems emerge when analysing how a society is (self-)transformed.

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<sup>48</sup> “From the bourgeois-democratic point of view, the revolutionary peasants in Russia *could go no further: there can be nothing* ‘more ideal’ from this point of view, nothing ‘more radical’ (from this same point of view) than nationalisation of the land and equal land tenure. It was the Bolsheviks, and only the Bolsheviks, who, thanks only to the victory of the *proletarian* revolution, helped the peasants to carry the bourgeois-democratic revolution really to its conclusion. And only in this way did they do the utmost to facilitate and accelerate the transition to the socialist revolution”. V.I. Lenin, *The Proletarian Revolution and the Renegade Kautsky*, 1918. <https://www.marxists.org/archive/lenin/works/1918/prrk/> (Last accessed 2<sup>nd</sup> July, 2015).





## Part I: Modernity and Globality

Los negros en Cuba son libres; pueden contratar, trabajar o no trabajar y yo creo que la esclavitud era para ellos preferible a esta libertad que tienen para no hacer nada y formar masas de vagabundos. Todos los que conocen a los negros os dirán que en Madagascar, en el Congo, como en Cuba, son personas salvajes, inclinadas al mal, y que es preciso tratarlos con autoridad y firmeza para obtener de ellos alguna cosa. Esos salvajes no tienen otro amo que sus instintos; sus apetitos primitivos. Los negros de los Estados Unidos son muchos más civilizados que los nuestros [...]. Y bien, por lo demás, vea usted como se trata a los negros en los Estados Unidos: tienen una sombra de libertad de la cual se les permite usar con ciertos límites; en cuanto quieren aprovechar sus pretendidos derechos de ciudadanos, los blancos saben rápidamente reducirles a su condición y volverles a su puesto. [...] [L]a isla [Cuba] independiente vendría a ser enseguida una nueva República dominicana: una segunda Liberia, que retrogradaría de la civilización a la anarquía. Si el ejército español abandonara a Cuba serían las ideas sabias, fecundas, liberales, progresistas de Europa las que abandonarían aquel país, que ha sido el más rico, el más próspero de la América española.”

—Cánovas del Castillo, parliamentary discourse of  
the President of the Spanish Kingdom, 1896



## 2. Globalization and History

Modernization theories of the 20<sup>th</sup> century are heirs to the same philosophy of history employed by 19<sup>th</sup> century civilizing mission ideologies to justify western imperial projects. After the Second World War, and in response to the conflict for world hegemony between the USA and the USSR, the president of the United States, Harry Truman, set out what would become the strategy for enlisting the other world regions in any of the blocs: “We must embark on a bold new program for making the benefits of our scientific *advances* and industrial *progress* available for the *improvement* and growth of *underdeveloped* areas”.<sup>49</sup> Development was the catchword that seemed to offer a substitute for a new ordering of the world after the end of political imperialism. The western understanding of modernization following a logic of economic development, once political domination was discredited, was exemplarily represented by Walter Rostow: “It is possible to identify all societies, in their economic dimensions, as lying within one of the five categories: the traditional society, the preconditions for take-off, the take-off, the drive to maturity, and the age of mass-consumption”.<sup>50</sup>

Thus, a stagist understanding of history and an instrumental idea of progress were used to equate modernity with the notion of “being in one’s own time”, of being in synchrony with the times.<sup>51</sup> Modern times were those the western world was living in, and the *others* were backwards in relation to the West. The scientific and political language of the time embodied these assumptions by labelling this historical gap in relation to modernity as traditionalism, anachronism, primitivism, archaism, etc. Occupying this gap was always understood either as an anomaly, a deviation from the pattern set by Europe, or as the inhabitation of a previous stage, in the waiting room, to

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<sup>49</sup> Quoted in Petr Daněk, Alice Navrátilová, Marika Hildebrandová, Robert Stojanov, *Approaching the Other: The Four Projects of Western Domination*, (Olomouc: Palacký University, 2008), 77 (emphasis added).

<sup>50</sup> Walter Rostow, *The Stages of Economic Growth: A Non-Communist Manifesto*, (Cambridge: Cambridge University Press), 4. See Sandra Halperin *Re-envisioning global development*, 12.

<sup>51</sup> C.A Bayly, *The Birth of the Modern World*, 10

become modern —one was “not yet” or “not fully” modern.<sup>52</sup> In order to place the *others* in another time in history, a variety of distancing devices to deny coevalness were at work at the moment that the West “encountered” *them*.<sup>53</sup> In the present, it is still possible to notice these assumptions in the developmental discourses associated with the processes of “democratization” or “industrialization”, which make the assumption that the same institutions and processes that led the West to modernity will be replicated elsewhere. Some postcolonial scholars equate this western philosophy of history with progress and universalism *per se* and in further linking it conceptually with imperial domination they ensure that any retrieval of the idea of progress or universalism is either impossible or imperial.<sup>54</sup>

The western philosophy of history resolves this constitutive tension of modernity at the moment of understanding how modernity historically occurred with an understanding of the concept of universality that aspires to totalization, a project of *boundless totalizing universalism*. What is particularly dependent on the European experience of modernity is conceptualized either as the only possible experience of modernity, or as an instance of a universal concept of modernity to which one needs to conform if one wants to be modern.<sup>55</sup> Furthermore, this interpretation of European history, which is still hegemonic, has been driven by Europe’s role as a global imperial power. It has not been able either to “provincialize”, in the words of Dipesh Chakrabarty, the intellectual history of western philosophy as a set of responses to the developments taking place within the European context or to distinguish between empire-making and the project of modernity.

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<sup>52</sup> Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference*, (Princeton: Princeton University Press 2000), 8-10.

<sup>53</sup> Johannes Fabian, *Time and the Other: How Anthropology Makes its Object*, (New York: Columbia University Press, 1983), 25 and ff.

<sup>54</sup> The most representative of these scholars are Ranajit Guha, *History at the Limit of World-History*, (New York: Columbia University Press, 2002), 4; Walter Mignolo, *Local histories/global designs: Coloniality, subaltern knowledges, and border thinking*. (Princeton: Princeton University Press, 2012), 21.

<sup>55</sup> Peter Wagner, *Modernity as Experience and Interpretation: A new Sociology of Modernity*, (Cambridge: Polity Press, 2008)

## 2.1. Early Modern Times

The classical description of the birth of modernity, a time concept in itself, is related to a change in the way “contemporaries” place themselves in historical terms. The Latin term *modernus*, although coined in the 5<sup>th</sup> century AD to mean “recent” and “present”, does not immediately suggest a historical use. Only at the moment the term is used in the expression *tempora moderna*, at the end of the 12<sup>th</sup> century, is there a shift in its meaning: it refers to the time from which we have living memories; namely, no more than one century.<sup>56</sup> At this point, the term is mainly used to refer to the events human beings are acquainted with, and around which they organize their lives, and not to refer to the times in which they are living. As is commonly accepted, the Renaissance is the turning point: the moment when the meaning of the term *modernus* changes and acquires, primarily, a historical connotation.

From that moment on, *histories* are on their way to becoming *History*. The specific understanding of this shift emerges as a gap in time that redefines and enlarges the concept of memory. Now, the *tempora moderna* are understood in opposition to the *tempora antiqui* and the gap is what will come to be identified as the Middle Ages. The Renaissance understands itself as a renewal of the “old time” because it establishes a comparative link between the “moderns”—those who are living in this newly defined present—and the ancients,<sup>57</sup> those who gave birth to the tradition. The aspiration for these early moderns is the *aemulatio* or *imitatio* of the ancients, and not a break with them.<sup>58</sup> The *Querelle des Ancients et des Modernes* only makes sense when a new understanding of historical time emerges: one that makes it impossible “to return back to” because historical time “goes forwards”.<sup>59</sup> It is important in this context to highlight two facts: first, the self-understanding of these early moderns, in contrast to other self-

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<sup>56</sup> Jacques Le Goff & H. F. Bauzá, (1991), *El orden de la memoria: El tiempo como imaginario*, (Barcelona: Paidós, 1991), 156; François Hartog, *Anciens, modernes, sauvages*, (Paris: Points, 2005), 34.

<sup>57</sup> It is at that moment that the Greeks and the Romans are understood as a unity; that is, together they are the ancients of the moderns.

<sup>58</sup> Hans Baron, “The querelle of the ancients and the moderns as a problem for renaissance scholarship”, *Journal of the History of Ideas*, 20, no.1, (1959), 15.

<sup>59</sup> François Hartog, *Anciens, modernes, sauvages*, 251.

understandings, is achieved through a historical comparison; not by an “essential” one (for instance, Christians/Pagans or Greeks/Barbarians), nor by a “spatial” one (Chinese/Europeans), but by a temporal one: we, *moderni*, who live in the present in comparison to those who lived in the past, the Greeks and the Romans. Second, any self-understanding implies the need to distinguish *oneself* from the *other*, from something external: the early moderns compared themselves to the *other* (the ancients) in terms of *similarity*, not of difference. Discussions related to the emergence of this first self-perception agree that the transformations taking place within Europe, mainly in Italy, from the 12<sup>th</sup> century onwards are the key to its interpretation.<sup>60</sup>

However, the “discovery of America” in 1492 would alter this picture.<sup>61</sup> It is significant that Montaigne could still say almost one century later that “Our world has just discovered another world ....yet so new and so infantile that it is still being taught its A B C”.<sup>62</sup> Many developments would have to occur before Europeans would be able to understand that *this* world was *another* and new for *them*.<sup>63</sup> Only with the first

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<sup>60</sup> Quentin Skinner, *Visions of politics*, (Cambridge: Cambridge University Press, 2002), Introduction. He also outlines the new normative framework of exclusions, especially of women, which was one consequence of this *rebirth*. For a radical criticism of the endogenous explanation of the birth of the Renaissance and the influence of the East on its formation, see Enrique Dussel, *Política de la Liberación: Historia Mundial y Crítica*, 167-185; and John M. Hobson, *The Eastern Origins of Western Civilization*, (Cambridge: Cambridge University Press, 2004), Chapter 6.

<sup>61</sup> The Spanish *reconquista* ended nine months before with the conquest of Granada together with the so-called “expulsion” of Muslims and Jews. Now, the entire Iberian Peninsula was ‘*identical*’, i.e. had one Christian *identity*, and the mission was to do the *same* in the New World. See Tzvetan Todorov, *La conquête de l’Amérique: La question de l’autre*, (Paris: Éditions du Seuil, 1982), 69; and José Santos Herceg, “Filosofía de (para) la conquista: Eurocentrismo y colonialismo en la disputa por el nuevo mundo”, *Atenea (Concepción)*, 503, (2011), 167.

<sup>62</sup> “[...] not fifty years ago it knew neither letters, nor weights and measures, nor clothes, nor wheat, nor vines.” Michel de Montaigne, *Complete essays of Montaigne*, (Stanford: Stanford University Press, [1592] 1958), 693.

<sup>63</sup> Michael T. Ryan states that what is shocking about the “discovery” of America is that it took two centuries until it had a real impact on the values, traditions and beliefs of Europe. Michael

*mapamundi* created in 1500 by Juan de la Cosa, together with the third expedition of Amerigo Vespucci in 1502, was it evident that the continent found by Columbus had to be a new one: a *mundus novus*. The epistemic assumptions of the Europeans themselves pre-empted their recognition of the fact that the continent was not the one they had expected, and that the inhabitants had been thus far unknown to the Europeans. The frames of recognition and cognition, namely the intellectual and symbolic resources available for their acknowledgement, were based on the Graeco-Roman tradition, Christian theology and “travel literature” related to the Asian and Islamic worlds; and not one of them was able to provide useful tools for the interpretation of this new situation.<sup>64</sup> The *otherness* of this *other* was not yet recognized as such. It could not be *seen*. It was either ignored or subsumed under the known category of southern Asian *Indian*.

Not until the moment that the first settler colonisers arrived and the continent actually became a “new” one, could dissimilarity or difference no longer be negated. The inhabitants were *other* than those known before *then*. The discussions that took place up to the mid-16<sup>th</sup> century were mainly related to the determination of the *otherness* of the *other* to justify the *conquista*, though *simultaneously* this new relationship *necessarily* destabilized and transformed the *self* of the *conquistadores*.<sup>65</sup> The intellectual resources and language used were based largely on Aristotle’s *Politics*, and the *Corpus Christianorum*, both of them the *ancients* of these early European moderns. This shift non only implied the growing awareness that the ancients were

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T. Ryan, “Assimilating New Worlds in the Sixteenth and Seventeenth Centuries”, *Comparative Studies in Society and History*, 23, no. 4, (1981), 519-538.

<sup>64</sup> “Here was a totally new phenomenon, quite outside the range of Europe’s accumulated experience and of its normal expectations. Europeans knew something, however vaguely and inaccurately, about Africa and Asia. But about America and its inhabitants they knew nothing. It was this which differentiated the response of sixteenth-century Europeans to America from that of the fifteenth century Portuguese to Africa. The nature of the Africans was known, at least in a general way. That of the Americans was not. The very fact of America’s existence, and of its gradual revelation as an entity in its own right, rather than as an extension of Asia, constituted a challenge to a whole body of traditional assumptions, beliefs and attitudes.” John H. Elliot, *The Old World And The New 1492-1650*, (Cambridge: Cambridge University Press, 1970), 8

<sup>65</sup> Rafael Sánchez Ferlosio, *Esas Yndias Equivocadas y Malditas: Comentarios a la Historia*, (Barcelona: Ediciones Destino, 1994)



wrong in their assumptions about the pagans, but at the same time America was a mirror that would transform the image the Europeans had of the traditional truths assumed from ancient Greece onwards.<sup>66</sup> Attending this shift in outlook in Christian Europe was the realization that these newly discovered *others* were unlike already-known groups considered at the time to be infidels, which meant that conquest could not be justified on the grounds of it being a religiously-motivated crusade. The potential progressivity of progress was already in place from the moment it was conceivable that these new peoples, being non-religious, could be Christianized by missionary work. However, what was to be solved firstly was whether they were actually human or not. It is in that context that one must read the striving of the Dominicans of the time to confirm the humanity of these new “barbarians”, which aimed precisely at justifying the conquest as evangelization.<sup>67</sup>

Nevertheless, since this experience was radically novel, the theories emerging from it could no longer be considered as part of the traditional canon: they inaugurated a new interpretative intellectual horizon. From that moment on, a double shift in the conception of history was possible. The first consisted in the possibility of thinking that “differences in place may be identical to differences in time”,<sup>68</sup> that is, the American Man was in *another* period of time although being *here*, and the second, that this event allowed the early moderns to understand themselves as inhabiting another time — a present time in which they dwelt contemporaneously, in comparison to the time of the ancients and of those living in the *mundus novus*.<sup>69</sup> But in order to link these two shifts, that is, in order to consider that some non-Europeans were *backward*, further developments would have to take place and become crystallized within the European Enlightenment. The Philosophy of (and for) the Conquest, to use Silvio Zavala’s

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<sup>66</sup> “In this strange dialectic of strangeness the strange and alien customs of the New World became less strange, become more comprehensible in *virtue of* a comparison, in virtue of an *act of comparison*, with the equally strange and alien customs of Greek Antiquity”.

Bernard McGrane, *Beyond Anthropology: Society and the Other*, 9.

<sup>67</sup> See the section called “Equality and Inequality” in Tzvetan Todorov, *The Conquest of America: The Question of the Other*, (New York: Harper and Row, 1984)

<sup>68</sup> Anthony Pagden, *The Fall of Natural Man: The American Indian and the Origins of Comparative Ethnology*, (Cambridge: Cambridge University Press, 1983), 2.

<sup>69</sup> François Hartog, *Anciens, modernes, sauvages*, 49.

expression,<sup>70</sup> was not rooted explicitly in *backwardness*. The legitimacy of the right to empire had a twofold justificatory framework: first, the right to enslave, resulting from the determination of the *Indians* as barbarous, and second, the evangelical mission, which entailed the territorial right to dominion justified by the duty of the conquerors to convert the *Indians* to Christianity, since they had been determined as pagans.<sup>71</sup> To justify an explicit denial of being coeval with the *other*, to use Johannes Fabian's idea, it is necessary to bind an epistemological concern to a normative view.<sup>72</sup>

## 2.2. A Universal History

It is beyond the reach of a PhD to comprehensively discuss all of the different understandings of history that emerged with the different Enlightenments) and their subsequent evolution. Therefore, with a view to outlining a central trend, I proceed below to offer an account that is focused only on the origins of this new understanding, with its inner conflicts, and on a reading of Hegel's work as marking the culmination of the modern European self-understanding.

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<sup>70</sup> Silvio Zavala, *La Filosofía de la Conquista y Otros Textos*, (Caracas: Fundación Biblioteca Ayacucho, 1990).

<sup>71</sup> The 1550-1551 Valladolid debate between Las Casas and Sepúlveda on the right to conquest is based mainly on the first justification and its relation to the problem of violence. The second justification is also assumed, with nuances, by Las Casas. See José Santos Herceg "Filosofía de (para) la conquista: eurocentrismo y colonialismo en la disputa por el nuevo mundo", *Atenea (Concepción)*, no.503 (2011), 165-86.

<sup>72</sup> The work of Johannes Fabian *Time and the Other: How Anthropology Makes its Object* is focused on the specific epistemological "distancing devices" that anthropology has implemented in order to deny the coeval nature of its object of analysis, the *other*. Fabian is not really interested in the conceptual framework that made these devices possible. Thus, he centres his analysis on the naturalisation of time and on the two main strategies that pre-empted 'coevalness' in his discipline: cultural relativism and structuralism, or as he terms it, "cultural taxonomy". According to our interpretation, the relevant framework is the constitution of the philosophical understanding of history, which emerged at the end of the 17<sup>th</sup> century, and found its most sophisticated elaboration with G. W. F. Hegel. See also Ranajit Guha, *History at the Limit of World-History*, 12)

Despite the range of Enlightenment philosophies of history (Montesquieu, Lessing, Herder, Kant) there is common agreement on the conception of rationality as a guiding force in history, and also as a criterion for belonging to a new “actuality” and a new “we”. This emergence of a “we”, according to Foucault, is the consequence of understanding *Aufklärung* neither as a period, nor as a school of thought. As envisaged by Kant, Enlightenment is a philosophical *ethos* from which a new rationality emerges. This rationality is primarily equated with the double possibility of the critique of our present, that is, of what we are: “a historico-practical test of the limits that we may go beyond, and thus [rationality is defined] as work carried out by ourselves upon ourselves as free beings.”<sup>73</sup>

During the seventeenth and eighteenth centuries, the attempt at conceptualising different experiences of openness in terms of the universalization of time and space was the watershed in the field of theories of history. At the origin of this understanding, there are two *esprits* that are usually polarized in the analyses of the significant transformation that led to the opening of this new “discursive space”,<sup>74</sup> namely Jacques-Bénigne Bossuet and Voltaire. Bossuet’s apologia *Discours sur l’histoire universelle* (1681), addressed to the Dauphin of France —and implicitly to his father Louis XIV— is conventionally defined as “the last theological history to follow the pattern of Augustine”. This is especially remarkable since the transition from pre-modern to modern history is only described in terms of emancipation from the principle of providentialist causality.<sup>75</sup> From this perspective, Voltaire is seen as the pioneer in writing a secularized interpretation of history derived from the adoption of the principle of scientific causality, as opposed to Bossuet, who is one of the distinguished targets of Voltaire’s crusade to “*écraser l’infâme*.”

However, it is also possible to describe that transition from a non-universalizing to a universalizing understanding of history as the result of a decisive quest, conditioned by different kinds of events, such as the discovery of the New World, scientific discoveries

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<sup>73</sup> Michel Foucault, “What is Enlightenment”, in Paul Rabinow ed., *Interpretative Social Science. A second Look*, (Berkeley: University of California Press, 1987), 171.

<sup>74</sup> Gerard Delanty, “The cosmopolitan imagination: critical cosmopolitanism and social theory”, *The British Journal of Sociology*, Vol.57, no.1, (2006), 37.

<sup>75</sup> Karl Löwith, *Meaning in History: The Theological Implications of the Philosophy of History*, (Chicago: University of Chicago Press 1949), 104.

and new information about the world arriving in Europe through travellers, from merchants to monks, a quest towards a re-articulation of the *universal* through temporal concepts, in the context of a deep crisis of self-understanding. At this moment a new history is needed to give meaning to this apparent confusion, a history which must be universal, and the criteria for establishing the foundational principles of this history under which all particulars could be subsumed, appear as an empty space to be conquered by different interpretations, all struggling to be hegemonic and, therefore, to institute the manner of seeing, of determining, the *otherness* of the *other*.

Modern western self-understanding is the consequence of a bifacial crisis involving, on the one side, the validity of the principles that organize society and, on the other, the reliability of human knowledge. In the field of politics, the Hobbesian solution to the uncertainty that living with others carries when the sovereign, the State, has to be justified on rational grounds results in contractualist theory. Its purpose is to legitimize the obedience of the subjects to the sovereign by interpreting this obedience as their voluntary consent to be ruled. At the same time, the doubts cast on the human capacity to reveal reality are related to the new scientific discoveries that refute our everyday perceptions. The Cartesian solution to the problem of uncertainty is the *constitutio cogitans* of the subject, which becomes the source of validity for every representation. Knowledge can be guaranteed by the deductive method of science through isolating a series of causes. The ideal methodology for every systematic theoretical science should be the hypothetical model. It allows for the provision of an explanation for all known facts in order to establish a universal science aspiring to objectivity.

This methodology will also become the model through which meaning is given to historical events. History is a confused collection of myriad facts and occurrences that can easily be perceived as meaningless. Unlike ancient history, which was a catalogue of significant and extraordinary events whose meaning was revealed in the exemplarity of the particular, the new historical science ensures the meanings of events by placing them within a long-term process. Hegemony in historical studies—that is, which of the concepts of the *universal* gets to reign—is seized by means of the concept of *process*. This in turn guarantees the possibility of grasping the meaning of events and positing them in a logical chain so as to avoid pure contingency and the meaninglessness of the particular. As Arendt observes, this understanding corresponds to a symptomatic escape from politics into history, understood as the result of interpreting human action by way

of the category of production, where the capacity of agency is shifted from human beings to hidden forces and self-propelling processes.<sup>76</sup> It is the same escape that Koselleck interprets as the bourgeois attempt “to obscure this cover as cover”; according to him, this “was the historic function of the philosophy of history”: the abandonment of critique for the sake of participation in state power.<sup>77</sup>

Both Bossuet and Voltaire represented an earlier chapter in European modernity in their writing of the first universal histories, coinciding with Vico’s transformation of history into *scienza nuova*. But the idea of *process* is central also to their reading of events: understood as progressive steps towards salvation for Bossuet, and towards moments of civilisation for Voltaire (*progress* with interruptions). Moreover, the only common thread running throughout the history of this understanding, perhaps, is the purpose of finding this universal principle of intelligibility that tends to include everything. This potentially totalising tendency will ultimately turn out to be a complete identification of reality with rationality: morality and politics finally reconciled.

Seen in this light, something emerges that is possibly as compelling as the grand narrative of secularisation; Bossuet and Voltaire are working with the same aim, for the sake of universality. After all, the idea of Providence continues to be present in this understanding, though somewhat hypocritically or “naughtily” for a long time, as a guarantee of rationality, even in the Hegelian system. As Fabian suggests, *universal* has two connotations in this context: 1) generality, that is, applicability “to a large number of instances”; 2) totality, i.e. “the whole world at all times”.<sup>78</sup> In Bossuet’s *Discours*, what is taken for granted is Christian universality (its plan for salvation in history and the omnipresence of God), and therefore the re-articulation of the universal is realized, exclusively, on the side of generality by subsuming the diversity of sacred and profane events under the category of “epoch”. “Epoch” is a methodological device employed to order confusion into a distinct group of times, through the idea of an event that suspends time (*Epokhē*). Through this, and despite his purely Christian-centred perspective of history, he introduces the possibility of breaking with a presentation of facts which is

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<sup>76</sup> Hannah Arendt, *Between Past and Future* (New York: Viking Press, 1961), 41-ff. and 83.

<sup>77</sup> Reinhart Koselleck, *Critique and Crisis: Enlightenment and the pathogenesis of modern society*, (Cambridge: The MIT Press, 2000), 185.

<sup>78</sup> Johannes Fabian, *Time and the Other: How Anthropology Makes its Object*, 3 and ff.

both chaotic and/or canonical. Generality is not understood as the need to give account of and to chronicle all occurrences, details and particulars, but as being bound to the capacity of the historian to identify certain events that interrupt the *continuum* of time, thus instituting a new principle of validity.

This centrality of the judgement of the historian will come to be a position shared with Voltaire, who innovates by introducing his critical opinion and, moreover, by proposing his own historical account as a model with which to judge others. While the space of interpretation in Bossuet's history is circumscribed by his faith, that is, by the idea of "God's chosen people" (only the peoples implied in the history of Christian religion), Voltaire, in *Essai sur les mœurs et l'esprit des nations* (1756), works on the universalization of space and time, not only against the horizon imposed by theological views of history, but also by French and European provincialism. His disgust for the founding national histories, self-referential self-understanding and ancient history, urges him, in an exercise of reflexivity, to rewrite, in these short essays, the history of the human races. In addition, he questions the categorical apparatus used by historians up to that moment, along with the principle of intelligibility that shapes historical writing.

Voltaire's thoughts were fuelled by the image of China brought back by the Jesuits, by the wave of sinomania engulfing France at that time, very common among intellectuals like Montesquieu, Malebranche and Bayle, and, in general, by the expansion of a powerful orientalist discourse, which considered the Orient to be the site of the most ancient civilisations and religions, as well as the cradle of the arts.<sup>79</sup> Nevertheless, his initial chapters devoted to China, India and Persia are more statements of purpose than rigorous historical accounts, which can be attributed to the lack of concrete historical knowledge. Voltaire's aim seems to be to include the *other*, and to legitimate its inclusion by virtue of its antiquity and superiority, derived by founding religions, morals and politics upon the principles of natural reason. The identification of the *grandeur* of this civilisation as originating from the rationality of its foundations is the key to unveiling something that is valid for all times and all places; something different from Christian universality, and which can work as an alternative universal principle of intelligibility for history. However, this universal principle seems to include only the *other* whose otherness can be recognised as sharing a recognisable rationality.

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<sup>79</sup> John J. Clarke *Oriental Enlightenment*, (New York: Routledge, 1997), 44-46.

The eyes of *critique* are also biased by historical frames of recognition, namely, by the ambiguity of the *philosophe*, who expounds the discourse of freedom while, at the same time, amassing one of the most sizeable fortunes in France and with no small contribution from the slave trade. Universality is the totalising result of a partiality; something quite easy to cover theoretically, though more difficult to conceal in practice.

### 2.3. The Hegelian Turn

The stability of this self-understanding seemed to be affirmed by the American and French revolutions, according to the interpretation that the “actors” themselves made of these events. What happened was interpreted by Europeans as a standard for the entire world, although the historical background of these revolutions is not as exceptional as was initially thought.<sup>80</sup> The most representative intellectual at this moment is Kant, who states in a clear and unequivocal manner the Enlightenment maxim: the enlightened is the one who emerges “from his self-incurred immaturity.” The *other* is the one who has “the inability to use one’s own understanding without the guidance of another. This immaturity is self-incurred if its cause is not lack of understanding, but lack of *resolution and courage* to use it without the guidance of another”.<sup>81</sup>

Against the background of the work of David Brion Davis (1999)<sup>82</sup> and Susan Buck-Morss (2009), and in relation to the connection they make between Hegel’s work and the 1791 slave revolution in Haiti as a turning point<sup>83</sup> resulting in the Declaration of

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<sup>80</sup> Christopher A. Bayly, *The Birth of the Modern World, 1780-1914: Global Connections and Comparisons*, chapter 3, shows very well how these revolutions and the world situation were interconnected at that moment, and were shaped by a global fiscal and military crisis beginning at the middle of the 18<sup>th</sup> century.

<sup>81</sup> Immanuel Kant, “An Answer to the Question: What is Enlightenment”, in *Political Writings*, (Cambridge: Cambridge University Press, [1791] 1989): 54. (emphasis added)

<sup>82</sup> Specially the chapter called “Toussaint L’Ouverture and the Phenomenology of Mind” in Davis, David Brion. *The Problem of Slavery in the Age of Revolution, 1770-1823*, (Oxford: Oxford University Press, 1999).

<sup>83</sup> Though accepting her argument, neither her conclusions nor her reading of Hegel’s work are shared in this chapter. For a critical review of her book, see Anders Stephanson ‘The Philosopher’s Island’, *New Left Review*, no.61. (Jan-Feb. 2010). For a similar but more nuanced

Independence and the formation of the Haitian state in January 1804, the aim here is to challenge their positive interpretation of Hegel's *Phenomenology of Mind* while accepting the crucial link they establish between the Haitian revolution and the Hegelian master-slave dialectic.

Haiti was at the core of the colonial slave system with the production of coffee and sugar for world consumption. The relevance of the Haitian revolution becomes apparent when we realize that it obliges us to confront the standard narratives of the age of revolutions. The slave revolution, led by “helpless” and “savage” peoples, was able to defeat Spanish, French and English armies, challenged the political assumptions of the independence of the thirteen colonies, created the prospect of a slave society seceding from the British Empire, and fuelled the emancipation decrees in the French revolutionary National Assembly. Kant's assumptions about how people became enlightened could no longer be accepted from the moment that a non-European people made a revolution in a context where immaturity was not self-imposed but a consequence of domination, and where courage and resolution were not guided by the other. Indeed, it had a major impact in revolutionary France and in the Americas because “planters and government officials learned to live in a state of alert” since “Haiti ...represented the fullest effects of the contagion of liberty among slaves”.<sup>84</sup> Together with this, slave powers started to consider how to treat free black and coloured populations, a group of peoples that increased enormously due to the changes brought about by the Age of Revolutions. If they were perceived as possible allies in the metropolis of the enslaved population, how could one control the effects of the Haitian revolution? Should the masters free their slaves in order to keep economic and political power? Was it possible to assimilate them to the new societies founded after struggles for independence in the Americas?<sup>85</sup> The answer lies not in the historical strategies

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analysis from a purely historical perspective on the importance of the Haitian revolution during the age of revolution, see Robin Blackburn ‘Haiti, slavery, and the age of the democratic revolution’, *The William and Mary Quarterly*, Vol. 63, no. 4,(2006), 643-74.

<sup>84</sup> David Brion Davis *The Problem of Slavery in the Age of Emancipation*, Alfred A. Knopf, 2014,140-141

<sup>85</sup> *Ibid.*, 184: “The blacks turned the entire white cosmos upside down when they forced the French to evacuate Saint-Domingue and when Dessalines and other former slaves then proclaimed the independence of Haiti. Every New World society was familiar with slave



performed to counteract the threat of slave revolutions, but in the philosophical strategy devised to nullify the threat to western hegemony that they posed. In contrast to what Buck-Morss and David Brion Davis argue, Hegel's strategy is one that, instead of acknowledging the emancipatory potential of slave revolts for the advance of Spirit, aims at locating their significance within the imaginary of the western world and precludes any alternative to western hegemony. Seen from this perspective, Hegel is not laying the grounds to justify slave revolutions. On the contrary, it is the most sophisticated philosophical attempt at limiting the transformative potential of the slave revolts for the ontological and epistemological principles of the western world so as to further ensure the latter's hegemony.

The Haitian *revolution* renders the Kantian idea unsustainable since it would compel the *hegemon*, the colonial powers, to acknowledge that those dominated on the grounds of backwardness can also be "enlightened without the guidance of another", which as a consequence invalidates domination.<sup>86</sup> This is precisely the point of departure for Hegel in order for him to make explicit what was previously implicit in the 18<sup>th</sup> Century self-understanding: the historical process progresses through stages of conflict that are resolved through sublation (*Aufhebung*). When this hidden dialectic in particular, which was the secret figure of the hegemonic relationship between the *self* and the *other*, is factually superseded in Haiti, Hegel thematizes it under the *Herrschaft–Knechtschaft* dialectic. His aim in so doing, however, is not to critique the existing reality of that moment, but merely to describe it, and thus furnish a quasi-legitimation of the way in which history had occurred. Moreover, the philosopher of Jena constructs this dialectic as the ontogenetic dynamic of self-consciousness upon which *full* recognition is to be grounded.

Hegel's interpretation will have consequences for the understanding of history itself from the moment he identifies stages in time and place with concepts and

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rebellions; some maroon communities, established by escaped slaves, had resisted conquest for many decades and had even negotiated treaties, as in Jamaica, with colonial authorities. But no slaves in history had ever expelled their former masters and established their own nation-state."

<sup>86</sup> Kant's sentence also implies that immaturity need *not* be self-incurred, either because it is externally generated or because it is based on "lack of understanding", for instance, in children. Such infantilization or the determination as irrational will be a commonplace in the 19<sup>th</sup> century for the justification of domination.

conflicts, rather than with specific contents or determinations. The outcome seems to be a *cul-de-sac* which we cannot exit; the paradox emerges at the moment we fill the *universal* in history with the very form of universality, for example Reason, God, Nature, Man and so on, without any concrete particularity, for example whiteness, maleness, nationality etc.<sup>87</sup> If any singularity is privileged, it is because it embodies the very form of universality. Reason will occupy the position of the universal in history in Hegel's philosophy.<sup>88</sup> Within the encyclopaedic work of Hegel, there are several spheres in which Reason is embodied. For the purposes of this chapter, the key question is how human beings grasp the universal, that is to say, Reason. The dialectic of self-consciousness is the process "through which it is possible, in practice, to attain such a grasp."<sup>89</sup> What is noteworthy here is that this process is interpreted by Hegel through the ontologically constitutive conflict of *Herrschaft–Knechtschaft*. This dialectic consists in demonstrating that self-consciousness demands recognition by another self-consciousness in order to flee the utter emptiness of the pure identity relation  $I = I$ , or that of being an object or being with *ordinary*, that is, immediate, consciousness.<sup>90</sup>

In what follows, the exclusion upon which this dialectic is founded will be sketched out in order to demonstrate that, by politically imposing an understanding of otherness through the *Herrschaft-Knechtschaft* dialectic, the reasoning proceeds in an unavowedly Eurocentric fashion. The English translation of the dialectic as "master-slave" provides a clue to the illustration of this exclusion since it relies on an interpretation of the dialectic as situated within the context of emancipation from colonial dependency. In Hegel's time, slavery was no longer a reality in Western Europe and was already banned in the French and English empires.<sup>91</sup>

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<sup>87</sup> For the paradoxical nature of universality, see Joan Wallach Scott, *Only Paradoxes to Offer: French Feminists and the Rights of Man*, 16); and Susan Buck-Morss, *Hegel, Haiti and Universal History*, 23.

<sup>88</sup> For critical purposes, Charles Taylor's writing on Hegel is used here *Hegel*, (Cambridge: Cambridge University Press, 1974)

<sup>89</sup> Georg W. Hegel, *Phenomenology of Spirit*, (Oxford: Oxford University Press, [1807] 1977), §166-230; and Charles Taylor, *Hegel*, 148.

<sup>90</sup> Georg W. Hegel, *Phenomenology of Spirit*, §103; Charles Taylor, *Hegel*, 128.

<sup>91</sup> However, if it is translated as "lordship–bondage", preference is given to the interpretation of the emancipation from the Old Regime, or, as it is classically understood in the Marxist

Thus, as Buck-Morss and David Brion Davis suggest, the master–slave dialectic can be interpreted from the perspective of the slave colonies outside of Europe.<sup>92</sup> From this angle, and in line with the Kantian interpretation of immaturity, which during this period seemed to implicitly view slaves as lacking subjectivity, Hegel can now appreciate how “*resolution and courage*” can break the chains of the imposed “guidance of another;” this runs contrary to Kant’s take, which sees the emancipation of the enlightened as having its negative solely in “self-enslavement,” and not in the “guidance of another.” Kant works with the implicit assumption of the enlightened understanding of history, something which Hegel cannot uphold after the Slave Revolutions.<sup>93</sup> This is precisely why Hegel’s next step, despite the fact that he makes no historical reference, can be interpreted as proceeding from the need to take into account the Haitian revolution and the struggle of the slaves, since he might consider it as representing a moment of full mutual recognition (although legal recognition by France of Haiti as an independent state is not to take place until 1838, when Haiti grants compensation to French slaveholders). It is also a significant moment for looking at

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tradition, the constitution of the *bürgerliche Gesellschaft*. This translation leads to an epistemic-economic exclusion which I will not address here. As is commonly argued, before Marx *bürgerliche Gesellschaft* means both civil and bourgeois society. Only after his work was it necessary to coin two new expressions to distinguish civil and bourgeois society. I cannot develop here the consequences of the Hegelian-Marxist legacy. However, the main problem with this, in relation to the problem of the universal in history, is that it assumes either a particular economic imaginary (capitalism or communism) or a particular state form as embodiment of the universal. Here the reasoning relies on a view of historical change as a developmental process. At the same time, in making these developments dependent on the transition from the feudal system, it makes a Eurocentric epistemic claim about other situations in the world. See Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* for a critical discussion of this problem. The postcolonial and the Marxist interpretations are to some extent interdependent. There is a third important tradition of interpretation of this dialectic that reduces it to a psychological device.

<sup>92</sup> Davis, David Brion, *The Problem of Slavery in the Age of Revolution, 1770-1823*, 558: “Yet with the sound of Napoleon’s thundering cannons in his ears, Hegel was completing a work that contained the most profound analysis of slavery ever written.”

<sup>93</sup> Susan Buck Morss, *Hegel, Haiti and Universal History*, 9: “Hegel is in fact describing the deterritorialized, world market of the European colonial system, and he is the first philosopher to do so.”

how historically freedom and full mutual recognition in general were conceptualized and experienced in the context of western global hegemony.

In Hegel's theory, full self-consciousness of the slave, that is to say, to be recognized as an embodiment of the universal as opposed to a particular individuality,<sup>94</sup> depends on a twofold ontological condition: 1) the mediated (in)dependence of the slave from the master through the possibility of work, precisely because it is the slave and not the master who has *mastery* over things, as they are transformed by *his* own work; 2) the willingness to risk life in the arena of the struggle for full recognition, namely to use violence,<sup>95</sup> is the other ontological condition for the emancipation of the slave in Hegel's dialectic; a risk which the master is not willing to reciprocate. This is related to the fact that self-consciousness is *embodied* in living beings; the universal is embodied in the particular. These two conditions are those that the Haitian revolution fulfils.<sup>96</sup>

Although it could seem that Hegel justifies the violent self-emancipation of the slaves, things become more problematic when we consider his historical context and other parts of his work. In Hegel's theory, enslavement is constitutive of the struggle for recognition. This struggle is ontogenetically the condition for freedom: the self and the other must be either master or slave. This conceptual device allows Hegel to de-historicise the real conflict between masters and slaves. Historically, the slaves do not enter into the struggle for recognition voluntarily: only the masters do so. The enslaved are in *another* condition before they become involved in the struggle for recognition. They are only *in* the struggle when they become a commodity in the slave trade. It is at this moment that a third necessary actor appears on the stage in Hegel's dialectical

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<sup>94</sup> Charles Taylor, *Hegel*, 153.

<sup>95</sup> This second condition is not developed here, although it is as important as the other condition of the mastery of the world through work. The recourse to violence against the colonizer was justified by Jean Paul Sartre in developing this Hegelian theme in his "Preface" to Frantz Fanon, *The Wretched of the Earth*, (New York: Grove Atlantic, 2007).

<sup>96</sup> Davis, David Brion. *The Problem of Slavery in the Age of Revolution, 1770-1823*, 562: "Only the slave, therefore, has the potentiality for escaping an imbalanced reciprocity and for becoming truly free. It is not fanciful to see in Toussaint's actual deeds a message for later masters and wielders of power, or to see in Hegel's thoughts a message to slaves and the powerless."

theatre, an actor who is never recognized as such: the “Negro”, to use the parlance of the time, in the context of slavery:

But the Africans have not yet attained this *recognition* of the universal; their nature is as yet compressed within itself .... The negro is an example of animal man in all his savagery and lawlessness, and if we wish to understand him at all, we must put aside all our European attitudes .... Slavery has awakened more humanity among the negroes. The negroes are enslaved by the Europeans and sold to America .... Slavery is unjust in and for itself, for the essence of man is freedom; but he must *first* become mature before he can be free. Thus, it is more fitting and correct that slavery should be eliminated *gradually* than that it should be done away with all at once.<sup>97</sup>

The consequence is clear: the absolute *other*, the “Negro”, must be enslaved in order to become ripe to fight for freedom. In Hegel’s terminology, the slave is the *sublation* of the “Negro”.<sup>98</sup> The resolution of the struggle for recognition which leads to the recognition of reciprocal freedom between master and slave has *three* and not two actors in the play. The master, the slave and the “negro”: the *self* and the *other* who are interrelated and are not *foreign* to each other,<sup>99</sup> and the absolute *other*, who is the outsider in this relationship and is unable to possess any of the abstract properties for instituting the struggle for recognition. This *absolute* other is not a part within the struggle, and is not recognized as such, but is the hidden precondition for the constitution of the slave. It is worth pointing out that we are in the 1820s and that the process of colonization of almost all of Africa has not yet begun. Therefore, the Africans are also excluded because they are not yet under “colonial jurisdiction.”<sup>100</sup>

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<sup>97</sup> Georg W. Hegel, *Lectures on the Philosophy of World History*, (Cambridge: Cambridge University Press, [1830] 1975) 173-190. (emphasis added)

<sup>98</sup> We are using the concept of ‘Negro’ as it is defined by Hegel in his work, not in its historical meaning.

<sup>99</sup> Charles Taylor, *Hegel* 153; Georg W. Hegel, *Phenomenology of Spirit*, 110.

<sup>100</sup> See Paul Gilroy, *The Black Atlantic: Modernity and Double Consciousness*, (Cambridge: Harvard University Press, 1993), chapter 2 for a similar argument in relation to a critique of the

Only at that moment can the struggle for recognition take place. To put it briefly, the struggle for recognition is actually imposed by the colonial powers. Seen in this way, slavery is the “guidance of the other” condition towards reaching understanding and a means of making possible the conquest of independence and freedom. The struggle for recognition, considered as the starting point for freedom in history, precludes and silences any past which is not assimilable to it. In naturalizing the absolute *other*, in making *it* foreign to the world instituted by the struggle for recognition, *it* is dispossessed of the possibility of having a history, and, consequently, *it* is condemned to be “peoples without history,” or better, “peoples without [their own] history.”<sup>101</sup>

Not only did Hegel have the cleverness to adapt his philosophy to his own time, but, additionally, he was able to neutralize the disintegrating power of the insurgent elements (categorizing them as irrational or endowed only with immediate consciousness) to ensure the legitimacy of his understanding of rationality. Having the same function as the Negro figure, it is not simply a coincidence that Antigone represents in his work the feminine, defined as the immediate consciousness which goes against political universality from the particular standpoint of the natural family, and, in doing so, the heroine transforms the public into a private and contingent end. During that period, women also began to demand a role in public affairs, and Hegel deactivates, through this analogy, the effects of this potential “tremor” or instability. He minoritizes and naturalizes women and states that the *polis* collapses due to harmful feminine intrigues: “the everlasting irony of the Community” due to the prevalence of the particular over the universality of the state.<sup>102</sup>

In short, Haiti is a problem for contemporary historians because it is integrated into world history by the preclusion of its own past; for philosophers, the problem is that the struggle for recognition needs to make the *other* un-alien for “it” to engage in the struggle. It is the very novelty of the Haitian slave revolution which was reabsorbed

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*bürgerliche* society as formulated on the same originary exclusion. For an epistemic and historical examination of the European constitution of Africa as a continent existing permanently in a state of nature, see Kwame Appiah *In My Father's House*, (Oxford: Oxford University Press, 1992); chapter 1; and Valentin Mudimbe, *The Invention of Africa*, (Indianapolis: Indiana University Press, 1988).

<sup>101</sup> Georg W. Hegel, *Lectures on the Philosophy of World History*, 190.

<sup>102</sup> Georg W. Hegel, *Phenomenology of Spirit*, §475.

and negated in Hegel's philosophy of history, with the latter breaking the logic of the enlightened philosophy of history and having as one of its outcomes the abolition of slavery in revolutionary France. The struggle for recognition requires effecting an epistemic reduction of the otherness of the *other* in order for it to be suitable for entry into this bond.<sup>103</sup> This is precisely the logic that was described at the beginning of this chapter through the discovery of the *other*, together with all the epistemic operations implied in eliminating all that is foreign in the *other*. In the words of Anthony Pagden, "Classifying men is not, after all, like classifying plants. For when regarding his own species, the observer not only has to decide what he is seeing, he also has to find some place for it in his own world."<sup>104</sup>

The Hegelian dialectic of mutual recognition precludes the possibility of seeing the subject-object relation epistemology as non-constitutive, that is, as conforming to one specific world, but not to the *only* possible epistemic world. In so doing, he de-historicizes the way in which *this* epistemic world—this *paradigm*, in Kuhn's words—could have been co-constituted from, according to his logic, an eventual mutual recognition. Doing so, in my view, also makes it impossible to ask if the "recognition" exhibited here does not correspond, in fact, to "historical exclusion", as discussed above. Let us give an empirical example to show how this theory *reifies* history. As Anthony Pagden and John H. Elliot show very well in their own accounts of the epistemic problems derived from the "discovery of the new world", the cognition-recognition problem could not be disentangled. They both formed a *synchronic* problematic at the moment of understanding what *that* experience meant: Columbus *saw* sirens, reported that he did not observe *monsters* etc., that is, he did not see what he expected to see.<sup>105</sup> A change of "gaze" would be the condition of possibility through

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<sup>103</sup> Michael T. Ryan, "The assimilation of the new worlds, in other words, involved their domestication.", 523.

<sup>104</sup> Anthony Pagden, *The Fall of Natural Man: The American Indian and the Origins of Comparative Ethnology*, 12.

<sup>105</sup> One of the chapters in which Pagden discusses this problem in *The Fall of Natural Man: The American Indian and the Origins of Comparative Ethnology* is called "The problem of recognition", although he does not relate it to our topic. See also the previous quotation of Anthony Pagden in the second section above. John H. Elliot summarizes the epistemic reduction that had to be performed in order to "see" the New World in *The Old World And The New 1492-*

which recognition and cognition might be made possible. However—and this is important to underline—historically we have solely at our disposal “the perspective of the European participant”,<sup>106</sup> and only with some difficulty can it be said, as Johannes Fabian and Bernard McGrane show with the birth of anthropology, that both occupy the same position as participants. The ontogenetic priority of recognition over cognition is true only if we have previously epistemologically reduced the *otherness* of the *other* and transformed it into a “significant other”.<sup>107</sup> The reification of the world of the *other* becomes a condition for the struggle for recognition. Both worlds may change in this struggle, and, as resolution, a “common world” can emerge, though this struggle does not end in *full* reciprocity: the “slave” has to negate his epistemic world to enter the “struggle”, and therefore the world of the “master” continues to possess the epistemic prerogative. This previous homologation required for entry into the struggle precludes the possibility of seeing the historical and epistemic conditions for this “struggle” taking place.

To determine the *otherness* of the *other* in temporal terms as being in the *same* time of the *self* requires that this sameness is one constructed from specific historical experiences of one concrete *self*. It requires reifying the *self* by identifying it exhaustively with a particular mode of self-apprehension in the temporal present. Thus, the *other* is in the present only if he embodies the properties that constitute the sameness

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1650, 18: “First of all there was the process of observation, as defined by Humboldt when he wrote: ‘To see . . . is not to observe; that is, to compare and classify.’ The second process was description—depicting the unfamiliar in such a way that it could be grasped by those who had not seen it. The third was dissemination—the diffusion of new information, new images and new ideas, so that they became part of the accepted stock of mental furniture. And the fourth was comprehension—the ability to come to terms with the unexpected and the unfamiliar, to see them as phenomena existing in their own right, and (hardest of all) to shift the accepted boundaries of thought in order to include them.” 18 The same problems can be identified in Tvetan Todorov, Rafael Sánchez Ferlosio and Enrique Dussel, although their evaluations differ.

<sup>106</sup> Only in 1959 was a compilation of “texts” on how “the *other* participant” participated in the “struggle for recognition” published by Miguel León-Portilla. See José Santos Herceg, “Filosofía de (para) la conquista: Eurocentrismo y colonialismo en la disputa por el nuevo mundo”, 167.

<sup>107</sup> See Axel Honneth *Reification*, (Oxford: Oxford University Press, 2008) for an updating of Hegel’s logic of recognition as prior to cognition.



of the self, otherwise he/she is apprehended as an *other* belonging to another time and place. Even at the moment that this *self* has to relate to this “significant other”, a subsumption must come about a priori: the historicity and the epistemic framework of the *other* have to be *the same* as the one of the *self*.<sup>108</sup> However, the spatial understanding of being modern as an enabling condition for temporally “placing” peoples as non-modern, that is, non-western peoples, in another time, was not provided by the tradition of the European Enlightenment philosophy of history; as will be shown in the next chapter, it had to appear much earlier.

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<sup>108</sup> The understanding of time as being empty and homogeneous is the device connecting the epistemic framework to the historical perspective from which this subsumption is realized. Recognition that the self and the other are in the same time is not problematic per se: the problem is what is meant by sameness and how it is produced in historical terms. See Chapter 2 “The Process of Assimilation” of John H. Elliot, *The Old World And The New 1492-1650* for an analysis of the different strategies pursued to transform the newly “discovered” peoples into “significant others”, mainly through assigning them a place in the Christian world: “This assumption, that all knowledge was subordinated to a higher purpose and fitted into a providential design, was crucial for the assimilation of the New World of America by sixteenth-century Christendom.”<sup>31</sup>

### 3. Globalization and Space

#### 3.1. Historical Distance

The connection between space and time is one of the topics more discussed within the social sciences and humanities in the present. What is called “the spatial turn” aims at including as a key dimension the social imagination of space—such as mapping, topography, setting boundaries, epistemic comprehensions of spatiality, migrations, and so on—at the moment of understanding historical transformations instead of considering space either as a pre-given condition for human action or as a mere scientific construction. On the contrary, it aims at showing how the social construction of “space” is intertwined with a variety of developments at the moment of (re-)constituting social relations through interpretative world-making.<sup>109</sup> In this chapter I will try to show how space has been constructed in conformity to the universalizing imperatives of the imperial project.

What Martin Heidegger first stated, “all distances in time and space are shrinking” in relation to an ontological interpretation of what there is as constituted by the subject-object relation,<sup>110</sup> and later David Harvey characterized as “time-space compression” in relation to the new forms of capitalism, is part of a long story that goes beyond the history of the Industrial Revolution and the technological mastery of nature. Both were aiming at signalling a deep transformation in their present which announced a period of distanceless and timeless constitution of human existence, and both being sensitive to historical transformations, they looked to the history of metaphysics and the history of capitalism respectively in order to understand this change.<sup>111</sup> In this context, what is

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<sup>109</sup> See Barney Warf and Santa Arias *The Spatial Turn Interdisciplinary perspectives* (London: Routledge, 2009)

<sup>110</sup> Martin Heidegger, “The Thing” in *Poetry Language and Thought* (New York, Harper Collins, 2001), 163.

<sup>111</sup> “As space appears to shrink to a ‘global village’ of telecommunications and a ‘spaceship earth’ of economic and ecological interdependencies—to use just two familiar and everyday images—and as time horizons shorten to the point where the present is all there is (the world of the schizophrenic), so we have to learn how to cope with an overwhelming sense of compression of our spatial and temporal worlds.” David Harvey, *The Condition of*

important is to interpret this shift from the perspective of imperial universalism. The project of placing the *other* in another time needs to subordinate spatiality to a stagist understanding of history which would conceptually give room for categorizing groups of peoples as being in a different time *here*.<sup>112</sup> It needs to subordinate spatiality to temporality, or as Karl Marx famously put it, it needs to annihilate space by time.<sup>113</sup> Thus, contiguity in space can be disentangled from synchrony in time. This implies that the relation between people's place of living and locality becomes radically contingent. Human beings occupy "space" instead of shaping or building it as their own world. They live "on" space, on a "surface" Therefore, though they are here with "us", they are from another time that it is not the present: they are behind or ahead.<sup>114</sup> For this to happen, it is necessary to transform the notion of space and imagine it as something which is independent from the place human beings occupy.<sup>115</sup> In the actual experience of human beings, this implies that the relation between their being-in-the-world and the

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*Postmodernity An Enquiry into the Origins of Cultural Change*, (Cambridge: Blackwell, 1989), 240.

<sup>112</sup> "I consider regressive the fact that anthropology achieved its scientific respectability by adopting an essentially Newtonian physicalism (Time being a universal variable in equations describing nature in motion) at a moment near the end of the nineteenth century when the outlines of post-Newtonian physics (and post-'natural history' history) were clearly visible." Johannes Fabian, *Time and the Other: How Anthropology Makes its Object*, 16.

<sup>113</sup> However, Marx was thinking in capital as the engine of the annihilation: "Capital by its nature drives beyond every spatial barrier. Thus the creation of the physical conditions of exchange—of the means of communication and transport—the annihilation of space by time—becomes an extraordinary necessity for it." Karl Marx, *Grundrisse: Foundations of the Critique of Political Economy*, (New York: Vintage, 1973), 524.

<sup>114</sup> "So easily this way of imagining space can lead us to conceive of other places, peoples, cultures simply as phenomena 'on' this surface. It is not an innocent manoeuvre, for this means they are deprived of histories", Massey, *For Space*, (London: Sage, 2005), 4. The work of Doreen Massey is an attempt to rethink the concept of space beyond the Newtonian physicist model which informs current understandings of economic, political and cultural globalization.

<sup>115</sup> "*Terra nullius*, the coloniser's dream, is a sinister presupposition for social science. It is invoked every time we try to theorise the formation of social institutions and systems from scratch, in a blank space. Whenever we see the words 'building block' in a treatise of social theory, we should be asking who used to occupy the land." Raewyn Connell, *Southern Theory: The Global Dynamics of Knowledge in Social Science*, (London: Polity Press: 2007), 47.

territory (understood as the surface of the earth) they inhabit transforms radically. Rather than thinking of globalization as a process of deterritorialization, as the progressively decreasing importance of the place territory occupies in the cultural, political and economic self-understandings of a wide variety of peoples, we should link it with the idea that it is a specific and very particular understanding of what territory means which challenges deep historical and anthropological notions of the conditions under which human life takes place. Globalizing forces engage with territory as a particular way of grasping place when there are no a priori conditional limits and boundaries. This interpretation produces actual consequences in the places where human beings live. Deterritorialization suggests that it is the absence of space that organizes the human world at present. Deterritorialization was a metaphysical concept which originated in philosophy in the work of Gilles Deleuze and Felix Guattari in order to interpret capitalism. For them, deterritorialization was driven by capitalism as the multiplication of immaterial flows that permeate all spheres of human life and deinstitutionalized them. However, deterritorialization cannot happen without reterritorialization. It is a double bind.<sup>116</sup> However, as soon as the term became popularized and adopted by other disciplines as a descriptive and empirical concept for designating different purposes and developments, it obliterated the double bind perspective and thought absolute deterritorialization as possible. It was a further radical development of the idea of space as empty. Indeed, the point is that there is no longer any meaningful space. It is a concept which suggests that new social practices and human actions take place irrespectively of the place the actors occupy. It is a virtual space where human beings act. Network society and the internet revolution are the epiphenomena of this transformation. On the contrary, I suggest that it is rather a radical interpretation of the territory as immaterial and undifferentiated which allows for a better understanding of some of the tensions in our present.<sup>117</sup> The task is to analyse how a process of deterritorialization in one domain of human life implies a

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<sup>116</sup> Gilles Deleuze and Felix Guattari, *Anti-Oedipus. Capitalism and Schizophrenia* (Minneapolis: University of Michigan Press, 1983), 257: “Civilized modern societies are defined by processes of decoding and deterritorialization. But *what they deterritorialize with one hand, they reterritorialize with the other.*” (emphasis in original)

<sup>117</sup> See Stuart Elden, “Missing the point: globalization, deterritorialization and the space of the world”, *Transactions of the Institute of British Geographers*, 30, Issue 1, (2005), for a critique of deterritorialization as a suitable philosophical framework for understanding globalization.

simultaneous process of reterritorialization in others. For Gilles Deleuze, the human body has become the new territory created by capitalism where former territorial relations are now encrypted. From this perspective, one has to be very careful at the moment of unbinding the construction of political power from territory because doing so aims at excluding the *other*. To critique any retrieval of a positive link between territory and politics by claiming that the ontological existence of human beings on earth is not conditioned by territorial constraints and, at the same time, rehabilitate a positive notion of nomadic ways of life or a generalized condition of exile or migration of human beings on earth originates as well from this history of globalization which is closely connected to imperial domination over vast territories. It leads to the dismantling of sustainable bonds between human beings, to further individualization and to an occlusion of territorial projects of local domination.

Historically, this change can be understood as the combination of two conceptual shifts coming from science and law, apparently disconnected, which took place at the beginning of western early modernity and were later combined in some narratives of the connection between capitalism and the industrial revolution in the 19<sup>th</sup> century.<sup>118</sup> This conceptual-historical connection has been contested, or nuanced, very recently in some works, but I think that there is enough empirical evidence to suggest that a new understanding, though not exclusive, of spatiality appeared in connection to the imperial project. Lauren Benton labels this narrative as the “rationalization of space”, and though she agrees that it is very compelling, it is an interpretation that is not able to offer a convincing general account of how imperial powers *actually* exercised their rule over distant and unknown places. She suggests that instead of imagining imperial rule along the lines of a homogenous and gridded space to accommodate territorial control, we should modify this view to accommodate imperial anomalies that do not fit into this picture but are important enough to merit attention, such as enclaves, trading posts, sea corridors, indeterminacy of boundaries, the influence of pre-colonial space,

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<sup>118</sup> The commodity as the form of realization of value within capitalism would be the economic and legal translation of this undifferentiated understanding of objects as magnitudes and homogenous, absolute and abstract (read: global) space its sphere of circulation. In this chapter, I discuss only the political implications of this understanding of space.

geographical configurations of imperial spatial ordering and contradictory legal practices. Taken together, “rather than producing the image of blank territories that could be known and dominated, this parallel process insisted that some parts of the world, and even integral parts of empire, might resist categorization or control.”<sup>119</sup> Though I concur about need to nuance our account of the imperial project and to avoid positing this rationalized understanding of space as an indispensable pivot for imperialism, I read her work more as a warning to scholars that aim to construct a teleological history from the globalized present and locate its origins in the discovery of the New World. There is a need to periodize carefully and show the tensions and ambiguities present in each imperial project. However, when it comes to the western narrative that justified the colonization of peoples or territories, 18<sup>th</sup> century philosophy of history, along with 16<sup>th</sup> and 17<sup>th</sup> century *philosophia naturalis* and contractualist theory, were clearly at work in the project. Jürgen Osterhammel’s recent work *The Transformation of the World* argues that only in the 19<sup>th</sup> century can we see that the imperial project was linked to a new understanding of space. For him, it occurs only when the whole earth was actually known and the age of European discoveries ended with the occupation of the African continent. Up to that moment, the narrative of the rationalization of space was combined with the heroic travels of discovery and the narrative of personal adventure that was associated with it. The idea of blanket space was linked to the purely unknown. Only when the unknown places were actually occupied could the rationalization of space as a political project take place. Furthermore, it was as a result of 19<sup>th</sup> century colonization that the western European conception of space could dominate and impose itself on geographical epistemologies from other regions of the world.<sup>120</sup> For him, the paradigmatic historical experience is

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<sup>119</sup> Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires 1400–1900*, (Cambridge: Cambridge University Press, 2010), 16. Chapter 1 provides an historical counterargument that aims at challenging the narrative of the rationalization of space in connection to European empire building.

<sup>120</sup> “None of the non-European world pictures could compete with European cosmology in the nineteenth century. Nowhere else did an alternative metageography arise that systematically divided continents and major regions from one another. Three central features of the modern European discourse of geography were: (1) the natural (not cultural or political) equivalence of different spaces; (2) the foundation in precise surveying and measurement; and (3) the reference to large inclusive entities up to the level of the world or, to put it the other way around, the

not the partition of Africa between European imperial powers, but the territorial constitution of the United States of America. In that context, the occupation eastwards of former native territories is connected with imposing territorial sovereignty and administrative rationalization and legal uniformity regarding property claims. The square planar grid associated with state boundaries and the previous measurement of territory was the result.<sup>121</sup> In contrast, for Peter Wagner the project of the “erasure of space” could only take place roughly from the 1960s onwards when the combination of globalization and individualism suggested that “there was—and: should be—little, or nothing, between the individual human being and the globe. Every social phenomenon that stood in-between tended to be considered as having freedom-limiting effects.”<sup>122</sup> From this perspective, what has led to the constitution of the globe as the politically emptied space under which human beings “act” is the pursuit of freedom understood as the elimination of all kind of constraints, with state boundaries being the most relevant in this context. This view precludes the possibility of understanding such boundaries as one of the institutions resulting from the exercise of autonomy, not to limit freedom but to make it possible. My aim in these reflections is only to suggest that we should combine a *longue durée* perspective with the analysis of concrete historical transformations. In my view, it is useful to retrieve the conceptual tradition that underpins the idea that space is *empty*.

### 3.2. Epistemic Space

The first narrative starts from the Copernican Revolution, moves to the Cartesian concept of *res extensa* and ends with the Newtonian universal mechanical laws of

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general hypothesis of the earth as a global structure. A fourth characteristic was the autonomy of geographical discourse and its institutional crystallization in a separate branch of science.” Jürgen Osterhammel, *The Transformation of the World: A Global History of the Nineteenth Century*, (Princeton: Princeton University Press, 2014), 91.

<sup>121</sup> The grid model was inspired by “the geometrical linear projection of navigational cartography associated with the sixteenth-century cosmographer Gerhard Mercator. A set pattern that could have only a fictitious astronomical character on the high seas was literally engraved on the ‘ocean-wide,’ untouched wilderness of North America”, *Ibid.*, 105.

<sup>122</sup> Peter Wagner, *Progress: A Reconstruction*. Forthcoming.

motion with its related concept of absolute space. This scientific move subordinates space to time from the moment it understands space as the place objects occupy on the surface. As Thomas Kuhn has suggested in his analysis of the transition from geocentrism to helio-centrism, the period of voyages and explorations that followed the “discovery of America” demanded new maps and new navigational techniques, which depended on increased knowledge of astronomy, and as Anthony Pagden states in quoting the 16<sup>th</sup> century Swiss humanist Henry Glarean, the Americas was a region that did not fit the Ptolomeic system.<sup>123</sup> The required new techniques proved the inaccuracy of old systems of astronomical orientation for navigation and the conditions under which territorial seizure in the New World happened were difficult to compare with past experiences of conquest.<sup>124</sup> According to Kuhn, these developments “can help us to understand why the Copernican Revolution occurred when it did”.<sup>125</sup> The significance of the Copernican turn for the transformation of the concept of space in relation to the comprehension of distant others lies in that it disconnects the idea of place from that of space. The place an object occupies in space is relative and depends on its motion, with the Earth’s orbit of the sun being the main object of enquiry. The well-known Aristotelian definition of space is connected to the concept of place and the impossibility of a void. It refers to the volume an object occupies and thus matter and space are inseparable. For this reason, space cannot be either infinite or empty: objects

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<sup>123</sup> “L’Amérique était, selon l’expression révélatrice de l’humaniste Suisse Henry Glarean, « regiones extra Ptolemaeum », des régions hors du cadre ptoléméen : tout était encore trop incertain à son sujet pour faire l’objet d’une enquête scientifique véritable.” Anthony Pagden, “La Découverte de L’Amérique”, *Revue de Synthèse*, Volume 129, Issue 3, (2008), 429.

<sup>124</sup> “The Old World viewed territoriality primarily as socially defined, but events were about to change this. Awareness of the New World accelerated an abstraction of space because the Americas presented European Powers with a vast, distant, unknown and novel space. This meant that with the limited technology and political power at their disposal, Europeans could still claim to ‘clear’ the space and form territories to organize and fill it at all geographical levels and with an intensity that was impossible to match in the Old World.” Robert David Sack, *Human Territoriality: Its Theory and History*, (Cambridge: Cambridge University Press, 1986), 131.

<sup>125</sup> Thomas S. Kuhn, *The Copernican Revolution: Planetary Astronomy in the Development of Western Thought*, (Harvard: Harvard University Press, 1985), 127.



have a proper place and the earth is at rest.<sup>126</sup> The philosophy of Descartes offered the conceptual tools to add to the geometric understanding of volumes and their properties an arithmetic perspective in order to mathematize objects as positions *in space*.<sup>127</sup> Following his distinction between *res extensa* and *res cogitans* as the frontier between the inner space of consciousness and the external space that surrounds it, objects are magnitudes of extension that occupy relative positions in space. This leads to the mechanical understanding of bodily movement in relation to spatial coordinates. When the colonizer negates that the colonized or recently “discovered” peoples lack *res cogitans* because they are natural beings motivated solely by their instincts and without volition, what they are actually doing is to equate these human beings with objects, with *res extensa*.

The language that expresses the nature of these movements as quantitative relations between bodies is mathematics.<sup>128</sup> Newton’s concept of absolute space offered the physical implementation of the arithmetical understanding of space derived from Descartes. Newtonian space works as an inert and universal substratum for all objects. This is what allows for the location and the movement of an object *through* space, namely the distance an object “travels in time”. It is absolute because it does not depend

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<sup>126</sup> Max Jammer, *Concepts of Space: The History of Theories of Space in Physics*, (New York: Dover, 1993), 17-19,

<sup>127</sup> See Stuart Elden, Chapter 9 of his *The Birth of Territory*, (Chicago: Chicago University Press, 2013) for a detailed discussion of the transformation of the concept of space into scientific usage and its impact on the political control of territory. He goes as far as to contextually associate Descartes and the Treaty of Westphalia: “And yet Descartes’s view of space outlined in the *Discours*, and elaborated in the *Geometry* as measurable, mappable, strictly demarcated, and thereby controllable, is precisely that which underpins the modern notion of political rather than solely geographical borders, the boundaries of states. Descartes’s view of space is as radical a break from the geometry of Euclid (which, crucially, and despite the common assertion, includes no notion of space) as the modern state is from the Greek notion of the polis.” 291.

<sup>128</sup> “Modern mathematics thus has its roots, at least some of them, in the same tradition of visualized, spatialized, and ultimately cosmological thought to which we can trace Enlightenment philosophical history and the modern origins of the social sciences.” Johannes Fabian, *Time and the Other: How Anthropology Makes its Object*, 112.

on any object or matter itself.<sup>129</sup> Space, from this perspective, is empty, homogenous, infinite, universal and divisible, and the inter-relation between objects depends on their own force, their gravity, within absolute space. This very brief summary should not be understood as suggesting a causal connection and linear history between the discovery of the New World and the scientific revolution of the early modern period.<sup>130</sup> Bernard McGrane makes a close connection between the “discovery” of America and the scientific revolution in his work on the “archaeology” of anthropology. He claims that the discovery led to a revolution in the geographical imagination of the European mind which could not rely any longer on the ancient sources. The new astronomical knowledge offered the means to face the state of uncertainty in which the Europeans were left after the discovery.<sup>131</sup> I do not want to suggest a co-originality between these

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<sup>129</sup> Except that in the case of Newton’s physics, it depended on God. For him, absolute space is an attribute of God. Newton’s theory was challenged at the time by Leibniz, who held that space was relative and that the concept of gravity was a remnant of theological thought. The dispute between Leibniz and one of the disciples of Newton, Samuel Clarke, in 1715 shows the limits and contradictions of the Newtonian understanding of space, though it was this Newtonian conception that informed physics until Einstein’s theory of relativity. See Stuart Elden, *The Birth of Territory*, for a contextual analysis of this dispute.

<sup>130</sup> Francis Bacon explicitly made this link: “Nor must it go for nothing that by the distant voyages and travels which have become frequent in our times many things in nature have been laid open and discovered which may let in new light upon philosophy. And surely it would be disgraceful if, while the regions of the material globe—that is, of the earth, of the sea, and of the stars—have been in our times laid widely open and revealed, the intellectual globe should remain shut up within the narrow limits of old discoveries.” Ed. by John M. Robertson, *The Philosophical Works of Francis Bacon*, (London: Routledge 2013), 282. In 1627, near the end of his life and once England had recently established overseas colonies and trading networks, Francis Bacon wrote a book called *New Atlantis*. Mixing utopian and travel narrative, he pictures the “discovery” of the New World, after more than one hundred years of European occupation, as an invitation to implement the empire of man over nature by means of scientific research for the benefit of humankind in a context where the constraints of the Old World are absent.

<sup>131</sup> “In the sixteenth century it is principally the geographical imagination in deep linkage with the astronomical imagination that performs the philosophical function of furnishing a site on and in which to live, that is preoccupied with the concern ‘Where are we? [...] The slow infinitization and homogenization of astronomical space in the sixteenth century proceeds, it

two 16<sup>th</sup> century facts. Many developments were taking place during this period that fuelled a growing state of uncertainty.<sup>132</sup> It is better to see this period as marked by the increasing awareness among different social actors of diverse kinds of uncertainties and by strategies to minimize the negative impact of these uncertainties. My point is only to indicate that for the justification of imperial domination of other peoples living in unknown places, a particular concept of space was required which was “borrowed” in the long run from the physico-mathematical understanding of nature.<sup>133</sup> In my view, different elements at work in the 16<sup>th</sup> century “crystallized” with the conquest of the Americas. Here I just want to trace the transformation of the concept of space that was taking place.<sup>134</sup>

One of the consequences of the mathematical understanding of the physical laws that govern nature is to reveal space as cleared and subject to human ordering once these laws are known.<sup>135</sup> In historical terms, we can only discern from the beginning of

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would seem, in strict analogy with the slow expansion and homogenization of geographical space”. Bernard McGrane, *Beyond Anthropology: Society and the Other*, 32.

<sup>132</sup> In Part III I will analyze the novel radical situation of political uncertainty that emerged in 16<sup>th</sup> Europe.

<sup>133</sup> We should not overrate historically the importance of this epistemic transformation. It took a long time until it was accepted as the “true” knowledge of nature and accepted both by the state and the church. Only after it proved to be useful in technological improvements and could be “controlled” by political and religious institutions did it become the valid and universal epistemic understanding of reality. See Margaret C. Jacob and Larry Stewart, *Practical Matter: Newton’s Science in the Service of Industry and Empire, 1687–1851* (Cambridge: Harvard University Press, 2004). For a historical-cultural connection between mathematical invention during the 16<sup>th</sup> century and geographical explorations after the discovery of the New World, see Amir R. Alexander, *Geometrical landscapes: The voyages of discovery and the transformation of mathematical practice*, (Stanford: Stanford University Press, 2002).

<sup>134</sup> “Science’s knowledge, which is compelling within its own sphere, the sphere of objects, already had annihilated things as things long before the atom bomb exploded. The bomb’s explosion is only the grossest of all gross confirmations of the *long-since-accomplished* annihilation of the thing: the confirmation that the thing as a thing remains *nil*.” Martin Heidegger, “The Thing”, 168. (emphasis added)

<sup>135</sup> This connection is well known and has been analysed from different disciplinary perspectives. Martin Heidegger’s *The Question concerning Technology* (New York: Harper &

the 17<sup>th</sup> century this version of the modern understanding of science. We will have to wait two centuries until we can talk about the rise of an instrumental understanding which is connected to economic and political developments that are themselves not directly connected to scientific enquiry but to concrete human needs or interests. However, we can see already at the beginning of the 16<sup>th</sup> century in legal and political discussions, and overall regarding the status of the territories of the New World and of its peoples, the appearance of a new narrative that adopts a spatial understanding of law in connection to a temporality that is very similar to the scientific one.<sup>136</sup>

### 3.3. Legal Space

As has been mentioned at the beginning of the chapter, this narrative responded to the need to justify imperial domination and the right to conquest and relied upon the distinction between the state of nature and civil society coming from the new philosophy of right.<sup>137</sup> As John Locke famously put it in his 1689 *Second Treatise*, to

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Row, 1977) and Cornelius Castoriadis' essays on science and technology in *Crossroads in the Labyrinth* (Cambridge: The MIT Press, 1986) represent the approach that best suits my purposes. Both historically and conceptually connect the rise of the modern physico-mathematical theory of nature with its instrumental mastery through technology, though they differ in their normative evaluations and metaphysical assumptions.

<sup>136</sup> In the words of Anthony Pagden: "Connaître un espace revenait donc à acquérir un *dominium* sur lui, d'abord sous la forme d'une carte, ou d'une description – car l'exploration, elle aussi, a toujours conféré la possession – une liste d'attributs, quelque chose qui, selon la brillante métaphore de Bruno Latour, peut être « rendu mobile » et rapporté en Europe". "La Découverte de L'Amérique. La transformation du temps et de l'espace en Europe", 427 .

<sup>137</sup> See Charles Mills, *The Racial Contract*, (Ithaca: Cornell University Press, 1997) for an understanding of contractalist theory as one of the political philosophical devices under which white supremacy and colonialism has been exercised. In Chapter 2 he discusses the relation between contractalist theory and the understanding of space: "The Racial Contract is thus necessarily more openly material than the social contract. These strange landscapes (so unlike those at home), this alien flesh (so different from our own), must be mapped and subordinated. Creating the civil and the political here thus requires an active *spatial* struggle (this space is resistant) against the savage and barbaric, an advancing of the frontier against opposition, a Europeanization of the world.",43.

illustrate what he meant by the state of nature: “In the beginning all the world was America”.<sup>138</sup> Before, Thomas Hobbes had already affirmed in the *Leviathan*, though in more nuanced manner than Locke, that America was living in a state of nature, though in contrast to Locke, he believed that others parts of the world had not known this state. In the case of Hobbes, this could justify the imperial intervention in America as a way to end the state of war through the constitution of a sovereign power.<sup>139</sup> This kind of thought made it possible to imagine that “differences in place may be identical to differences in time”. Furthermore, one of the founding fathers of international law based on natural law, Hugo Grotius, wrote *De Indis*—published as *On the Right of Capture*—to justify on moral grounds the Dutch East India Company’s superior claim to conquest by contrasting its methods to the brutality of the Portuguese and Spaniards, who already had a consolidated empire in the Americas. Grotius, in his *De Jure Belli ac Pacis*, was one of the main proponents of the right to occupation, which he argued could be justified by equating *terra nullius* with the state of nature. This comparison allowed him to argue that the rules governing politics in these contexts do not derive from pacts, but from *force*. When settlers occupy a territory, they do so in a state of nature. This problem was also worked out as part of a larger concern with enabling expropriation, giving rise to concerns over the correct understanding of property, defining the territories of the “natives” and legally securing the new holder’s rights against other claimants.<sup>140</sup> However, they intellectual tradition originates with the jurists of the

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<sup>138</sup> John Locke, *Second Treatise of Government*, (Indianapolis: Hackett Publishing Company, 1980), 29.

<sup>139</sup> “It may peradventure be thought there was never such a time nor condition of war as this; and I believe it was never generally so, over all the world: but there are many places where they live so now. For the savage people in many places of America, except the government of small families, the concord whereof dependeth on natural lust, have no government at all, and live at this day in that brutish manner, as I said before. Howsoever, it may be perceived what manner of life there would be where there were no common power to fear, by the manner of life which men that have formerly lived under a peaceful government use to degenerate into, in a civil war.” Thomas Hobbes, *Leviathan*, (Oxford: Oxford University Press, 1996), 85.

<sup>140</sup> See the chapter called “The Settler Contract” in Charles Mills and Carole Pateman, *Contract and Domination*, (Cambridge: Polity, 2007) for the elaboration of this argument as the justification for colonization: “Still, it is the theorists’ use of the idea of *terra nullius* that is my concern. Arguments about the right of husbandry appear in their respective conjectural histories

School of Salamanca, a century before Hobbes and Locke made their analogies, and in relation to the justifications for the Spanish empire in the New World. These jurists relied upon Aristotelian philosophy as retrieved and adapted by late Middle Age theological thought, mediated, in a manner that is seldom recognized, by the recovery and translation of Aristotle's work among Islamic scholars, and especially by Averroes. The jurists of Salamanca employed these concepts to argue that the "Indians" lived in a state of nature which constituted them as "barbarians" in need of conversion and domination.<sup>141</sup> "Barbarian" was understood in its Aristotelian meaning, recovered by scholastics to designate men who live *outside* human communities, like beasts and animals. The disputes that emerged in the Salamanca intellectual milieu to justify the right to conquest, of having *Justos Títulos*, followed different strategies regarding the "Indians", but all agreed that their condition was a "natural" one, with disagreement emerging on the question of whether their natural condition was one of slavery or not. The right to occupy was not in dispute; instead, debate centred on the sources of its legitimation, how to treat these new peoples, and whether or not they could be Christianized. The problem that had to be solved was the relation between the peoples living on the European continent and those in the territory occupied by these newly encountered peoples, and how the latter could be dispossessed by the former. The disputes that took place at that moment aimed at proving that the "Indians" were neither publicly nor privately legitimate possessors of the territory they were occupying by the fact of being "barbarians" without signs of "Christian civilization": living in a state of nature, they had no positive right and therefore one could use force to conquer them, could wage a "just war". The territory was "empty" and the conquerors claimed their right to possess it.<sup>142</sup> This process allowed for a historical comparison with pagan

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of the state of nature and the origin of private property, and they claim that Native territories are empty, waste lands". 48

<sup>141</sup> The 1550-1551 Valladolid debate between Bartolomé de Las Casas and Ginés de Sepúlveda, organised by the king of Spain to legitimize the right to conquest of America, is based mainly on the discussion of the nature of "Indians" and on which were the rights that justified the conquest.

<sup>142</sup> The idea that "land" can be private property is grounded on the idea that it can be partitioned, gridded and emptied. However, in conceptual terms, it has remained a very problematic issue given that it cannot be "moved". This has led in the long run to equating the surface of the earth with the concept of space. Karl Polanyi's *The Great Transformation* (Boston: Beacon Press,

antiquity through which the new peoples were portrayed to be the same kind of heathen peoples living before the advent of Christianity.<sup>143</sup> Additionally, this problem was related to the legal title, the “Bulls of Donation” confirming one as the holder of universal *dominium*, that Pope Alexander VI chartered in 1493 for the purpose of granting the Spanish Kings territorial jurisdiction, *imperium*, in the newly discovered territories. Legal title was also secured through the 1494 Treaty of Tordesillas, which put an end to the conflict between Portugal and Spain concerning who owned jurisdiction over the “discovered” territories, which was resolved by dividing the non-Christian world between east and west along the lines of a geographical meridian line, a *raya*.<sup>144</sup> It is historically important to point out that the discussion of the justifications and the amendments to the policy of the Spanish Kings was done 50 years *after* the colonization started. When the discussion began under the reign of Charles V, it was

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2001) remains one of the most compelling analyses of the problems of thinking land as a commodity to be exchanged on the market: “Superficially, there was little likeness in the responses to these challenges, yet they were merely stages in the subjection of the surface of the planet to the needs of an industrial society. The first stage was the commercialization of the soil, mobilizing the feudal revenue of the land. The second was the forcing up of the production of food and organic raw materials to serve the needs of a rapidly growing industrial population on a national scale. The third was the extension of such a system of surplus production to overseas and colonial territories. With this last step land and its produce were finally fitted into the scheme of a self-regulating world market.”<sup>188</sup>.

<sup>143</sup> Michael T. Ryan, “Assimilating New Worlds in the Sixteenth and Seventeenth Centuries”, 526: “The Jesuit missionary Jose de Acosta, whose *Historia natural y moral de las Indias* was a major conduit of information about the Incas and the Aztecs in the seventeenth century, advised His readers that a knowledge of the ancients was crucial in the New World because ancient paganism served as a template of error which provided missionaries with a model for comprehending the Indian.”

<sup>144</sup> Jerry Brotton suggests that the geographic imagination providing the background for the creation of this *raya* was still that of the Ptolomeic world. Only after the amount of travels increased did it become clear that its effectiveness was very limited. There was a need to project the earth’s surface upon a spherical rather than a planar surface. Brotton argues that this occurred not only as a response to the epistemic need for mapping the New World, but also to the increasing global claims to imperial authority made by the Portuguese and the Spanish crowns. See his “Terrestrial Globalism: Mapping the Globe in Early Modern Europe”, in ed. Denis Cosgrove, *Mappings*, (London: Reaktion Books, 1999).

partly as a reaction to how the colonization process was *actually* taking place, not to invalidate the project, and within a European context that was transforming the relation between territory and political power beyond the universal claims to *dominium* of the Pope, enabling territories to be divided along the lines of existing political power.<sup>145</sup> Carl Schmitt is the best representative of the combination of these two “facts”, the association of the state of nature with empty space in connection to the division of the globe by means of lines that distribute and parcel it. In his *Nomos of the Earth* (1950), he equates the history of the making of the Law of Peoples to a process of conquest of the rest of the world regions by Europeans, which instituted Europe as the *locus* of civil society and the rest of the world as the domain of the state of nature constituted as *res nullius*, as an empty space that belonged to nobody.<sup>146</sup> The division of the territory after being “cleared” allowed its appropriation under a new *ius gentium*.<sup>147</sup> Schmitt connects the emptied space with the global division of the earth by European states in order to support the idea that a Europe-centred new world order, enacted by the innovative European powers of the 16<sup>th</sup> to 19<sup>th</sup> centuries, created a positive and civilizing new understanding of the Law of Peoples which “bracketed” the state of war within Europe.<sup>148</sup>

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<sup>145</sup> This transformation will be discussed in Part II below.

<sup>146</sup> “Most essential and decisive for the following centuries, however, was the fact that the emerging new world did not appear as a new enemy, but as *free space*, as an area open to European occupation and expansion. For 300 years, this was a tremendous affirmation of Europe both as the center of the earth and as an old continent. But it also destroyed previously held concepts of the center and age of the earth, because it initiated an internal European struggle for this new world that, in turn, led to a new spatial order of the earth with new divisions.” Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*, 87.

<sup>147</sup> See David Boucher “The Law of Nations and the Doctrine of Terra Nullius” in Olaf Asbach and Peter Schröder *War, the State and International Law in Seventeenth-Century Europe*, (London: Ashgate, 2010) for the connection between the emerging *ius gentium*, the concept of *terra nullius* and the right to the appropriation of conquered lands.

<sup>148</sup> For a more nuanced historical reconstruction of the formation of international law in relation to the Age of Empire as a “science of the development of societies”, see Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960* (Cambridge: Cambridge University Press, 2001).



However, in historical terms, after the ideas of the Enlightenment and the revolutionary events that were connected to them, the European empires could no longer justify their presence or new conquests in their colonies or empires with only the resources provided by the legal right to conquest entrenched in the absolutist state of the Old Regime, a right whose purpose was to perpetuate the condition of natives as “barbarians” in order to justify their domination. From the Age of Revolution on, the major European powers had to introduce the historically progressive narrative, as has been explained above, to justify their right to colonize the *other*: they were those that “helped” the native population to make the transition from the state of nature to civil society. This messianic and universalizing doctrine is the one that Christian missions used in the 19<sup>th</sup> century in order to legitimate the process of cultural colonization that they were actively furthering to support the colonial project. For this reason, and in contrast to the new emerging empires, the Spanish state, firmly rooted well before the coming of the Enlightenment, could not justify with the help of the idea of progress their mission as a civilizing responsibility. It was either the native elites or the other “enlightened/civilized” European powers that could assume this role in relation to native populations, justifying their domination by appeal to the discourse of emancipation and progress and the need to break with Spanish rule. Beyond the loss of its empire, one of the apparent consequences for Spain was that the impact of the Enlightenment was almost non-existent and associated with the forces of disintegration, and that Catholicism remained a strong ideology well into the second half of the 20<sup>th</sup> century.<sup>149</sup> From this perspective, the constitutional project of 1812, ostensibly inspired by Enlightenment ideas, was only a reaction against the Napoleonic invasion and was abandoned in favour of the return of the absolute monarchy with the support of the population as soon as the invader was expelled. The common Eurocentric view suggests that decolonization in America at the beginning of the 19<sup>th</sup> century occurs due to the impact of the Spanish Enlightenment among the colonial American elites and *criollos*. However, the reaction against the Napoleonic invasion in Spain was seen as the means

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<sup>149</sup> The writer and politician from the first half of the 19th century, Juan Donoso Cortés, is the best representative of this trend. Having been a liberal, he shifted to a Catholic ideology as a rejection of the Enlightenment. See his *Essays on Catholicism, Liberalism and Socialism: Considered in Their Fundamental Principles* (Ithaca: Cornell University Library, 2010).

not to escape from foreign rule but to expel revolutionary ideals. The popular reaction was in defence of the king and religion.<sup>150</sup>

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<sup>150</sup> See José Alvarez Junco's work on the history of the Spanish 19<sup>th</sup> century, *Mater Dolorosa, La idea de España en el siglo XIX*, (Madrid: Taurus, 2001). For a more nuanced view, see Ana Guerrero Latorre, Juan Sisinio Pérez Garzón, Germán Rueda Hernanz, *Historia política, 1808-1874*, (Madrid: Istmo, 2004).



#### 4. Varieties of Modernity

The perspective that has been described in the previous chapters still informs some of the debates about the existing differences between different world regions. For mainstream western political thought, late 19<sup>th</sup> and 20<sup>th</sup> century emancipatory movements and decolonization processes, together with contemporary critiques describing some of these newly decolonized states as failed, are always analysed against the background of the European trajectory of modernity and in response to it. Therefore these societies are successful only when they replicate the same developments that led Europe to modernity. This standard narrative has been criticized in recent years from different perspectives. We can differentiate between critiques that focus on the existence of counterevidence or the lack of empirical soundness of the proofs given to support its claims, and those that show the conceptual and methodological flaws which are used to interpret the realities discussed. In response to them, other research programmes which best capture the historical developments and avoid conceptual inaccuracies have been proposed. It is important to emphasize that I am not interested here in the critiques of the standard narrative realized from the contrary normative standpoint, where modernity is by its essence oppressive, imperial and equated with violence. They share with the standard view the same assumptions, only inverted, mirroring the perspective of modernization/civilizing theories where the West is the origin and the agency from which this “dark history spreads”. From this standpoint, the *other* peoples of the world are compelled by imperial domination to either resist modernity or passively assimilate to it. To some extent, these critiques reproduce, from the point of view of the former colonized *Other*, the critiques of the modern project that appeared after the end of the Second World War in Europe itself, best exemplified by Adorno and Horkheimer’s *Dialectic of Enlightenment*, when critical theory associated the modern project with a new form of domination based on reason which self-cancelled the prospects of emancipation and produced a new kind of “barbarism”.<sup>151</sup>

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<sup>151</sup> Theodor Adorno and Max Horkheimer *Dialectic of Enlightenment* (Stanford: Stanford University Press, 2002).

#### 4.1. The Persistence of Facts

Following the research results of contemporary historical scholarship,<sup>152</sup> I claim that it is no longer possible to hold, with the support of empirical evidence, the view that the West was modern according to the criteria that inform modernization theories and to support the view that the West is the site of the birth of modernity. Here the strategy is to confront the self-understanding of the West with the empirical record that derives from its own interpretation of history. Neither the sense of nationhood linked to the state, nor democracy, nor capitalism can be described as generally existing realities until the end of the Second World War.<sup>153</sup> The misleading assumption that these institutions were fully realized before the Second World War is a kind of self-distorted understanding which was to some extent required to justify its role as global *hegemon*. For instance, regarding the idea of the nation, the historian Eugen Weber demonstrates how France, the state that epitomizes the imaginary of the nation, cannot be described either from a cultural-linguistic point of view or as having the nation as the primary locus of citizen loyalty before the period 1870–1914. Rural France, where a large part of the population lived as peasants, was as “backwards” and “ethnic” as others parts of the non-European world.<sup>154</sup> In Spain, which nowadays is sometimes ideologically labelled the oldest European nation,<sup>155</sup> Alvarez-Junco’s historical research on the period known as the War of Independence against the Napoleonic army shows how a great variety of contradictory state projects were at work. The war was seen as a recovery of national independence only from the 1850s on because it mirrored retrospectively the movements of independence of the Latin American countries from the Spanish kingdom, suggesting that the invention of Spain as a nation was also a reaction against the constitution of nations in Latin America. The forces working against the constitution

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<sup>152</sup> See the references provided in the Introduction

<sup>153</sup> Peter Wagner, *Modernity: Understanding the Present*, (Cambridge: Polity Press, 2012), 84-90.

<sup>154</sup> “Indeed, there is a great deal of evidence to suggest that vast parts of nineteenth century France were inhabited by savages.” Eugen Weber, *Peasants Into Frenchmen: The Modernization of Rural France, 1870-1914*, (Stanford: Stanford University Press, 1976), 3.

<sup>155</sup> See Gerard Rosich, “La independència i/de la Unió Europea”, *Revista Mirmanda*, no.10, (2015) and Francesc Ferrer i Girones *Catalanofobia, El Pensament Anticatala A Traves De La Historia*, (Barcelona: Edicions 62, 2009).

of Spain as a nation were also fuelled by the loss of Spanish colonies in Cuba and the Philippines in 1898, at a moment when European nations were reinforcing their national self-understanding with imperial projects.<sup>156</sup> Moreover, if one takes a decentred perspective on the 19<sup>th</sup> century, considered the century of the nation-states, it becomes very problematic to prove empirically the primacy of the nation-state form as a political model. As Jürgen Osterhammel tries to prove in his 19<sup>th</sup> century history, the kind of polities that had a deep and constant impact on the lives of human beings were mainly empires, not largely nation-states: “the nineteenth century was much more an age of empire than, as many European historians continue to believe and to teach, an age of nations and nation-states”.<sup>157</sup> The global importance of the latter is to be situated after the end of the Second World War and the 1960s decolonization movements against the background of the global division of the planet between empires that had existed up to then. The background of the nation is not the *state* form, but the *empire* form. The world before the 1960s was not a world of nation-states, but a world organized around empires ruled by a few nation-states at war. As Hobsbawm reminds us, “between 1876 and 1915 about one-quarter of the globe’s land surface was distributed or redistributed as colonies among a half-dozen states.”<sup>158</sup> The majority of these states were empires much before they became nation-states in the nationalist meaning of the term. Only after the Second World War and the different waves of decolonization can we consider that the international system is based on the interplay between nation-states. It is French and German historiography that has read the developments that took place in these countries as models for interpreting the 19<sup>th</sup> century. Interestingly, a partial exception to this

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<sup>156</sup> See José Álvarez Junco *Mater Dolorosa, La idea de España en el siglo XIX*. According to Ángel Gabilondo, “Nineteenth-century Latin American processes of independence (1810-25) are absent from most Spanish historiography but, at the same time, they haunt the very same fundamentalist refashioning of a contemporary Spain to the point of constituting it” in “Historical Memory, Neoliberal Spain, and the Latin American Postcolonial Ghost: On the Politics of Recognition, Apology, and Reparation in Contemporary Spanish Historiography”, *Arizona Journal of Hispanic Cultural Studies*, Vol. 7 (2003), 254. Indeed, Spain is not a nation, but a pluri-national state constituted historically by the union of different kingdoms. Castile is the kingdom which, in the long run, imposed its nationalist hegemony on the state.

<sup>157</sup> Jürgen Osterhammel, *The Transformation of the World. A Global History of the Nineteen Century*, 392.

<sup>158</sup> Eric W. Hobsbawm, *The Age of Empire: 1875-1914*, (New York: Vintage, 1989), 58

pattern is the constitution in Latin America of independent states breaking with Spanish imperial rule. Though it is contestable whether we can call these polities nations in the nationalist sense,<sup>159</sup> it has been a key experience for the development of nationalism as the aspiration for constituting independent states. Despite the problems that Benedict Anderson's *Imagined Communities* may have, I think that he rightly looks at the Spanish-American decolonization experience as one of the relevant constitutive sites for the emergence of the nationalist imaginary.<sup>160</sup>

The popular notion that democratic regimes came into being through the western Age of Revolutions is difficult to reconcile with the historical record.<sup>161</sup> Proceeding with any plausible account of democracy we wish to use, it is very implausible to maintain that significant numbers of European states were democratic much before the end of the Second World War. Suffrage was limited to male adults who owned property, political and social rights were minimal, judicial and executive powers were oligarchic, and parliamentary activity was marginal. The larger part of the population was excluded from the political arena.<sup>162</sup> The historian Arno Mayer has shown how,

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<sup>159</sup> Jürgen Osterhammel, *The Transformation of the World. A Global History of the Nineteen Century*.

<sup>160</sup> “Here then is the riddle: why was it precisely *Creole* communities that developed so early conceptions of their nation-ness—*well before most of Europe*? Why did such colonial provinces, usually containing large, oppressed, non-Spanish-speaking populations, produce Creoles who consciously redefined these populations as fellow-nationals? And Spain, to whom they were, in so many ways, attached, as an enemy alien? Why did the Spanish-American Empire, which had existed calmly for almost three centuries, quite suddenly fragment into eighteen separate states?” Benedict Anderson, *Imagined Communities Reflections on the Origin and Spread of Nationalism*, (New York: Verso, 2006), 50.

<sup>161</sup> The standard view that associates the age of revolutions with democracy as a western phenomenon is Robert Roswell Palmer, *The Age of the Democratic Revolution: The Challenge*, (Princeton: Princeton University Press, 1959).

<sup>162</sup> Peter Wagner, *Progress: A Reconstruction*: “Given this situation, the struggle for political progress understandably focused on reaching full and equal participation, achieved in many countries by the end of the First World War, often lost again, and regained after the end of the Second World War. Numerous countries faced persistent authoritarian or oligarchic rule to the 1980s or witnessed coup d'états that introduced military dictatorships during the 1960s and 1970s, most of them replaced by electoral democracies by the 1980s and 1990s.” Forthcoming.

from well into the 20<sup>th</sup> century, the aristocracy descending from the Old Regime still maintained political hegemony and a disproportionate share of economic resources—mainly land, in Europe—and that “It would take the two World Wars and the Holocaust [...] to finally dislodge and exorcize the feudal and aristocratic presumption from Europe's civil and political societies”.<sup>163</sup> Europe may be considered modern, but only from 1945 on if we assume the standard narrative and if we don't take into account the authoritarian regimes that were in place in Southern Europe well into the 1970s. To counter the narrative of European political breakthroughs one could, for instance, refer to the 1917 Mexican constitution, which was used as a model both for the Weimar Republic and the Soviet Revolution, being the first constitution in the world to entrench social rights; or the successful Latin American wars of independence inspired by republican and liberal ideas, *at the same time* that wars of independence in the context of the Napoleonic Wars were taking place in Europe, but in Europe the republican ideals failed as a project with the Restoration after the 1815 Congress of Vienna.

In addition to these generally overlooked historical developments, the recent work of world-historians is challenging in a radical way the view that the rise of Europe to world hegemony has to be equated with the birth of modernity.<sup>164</sup> On the contrary, from their empirical work one can make a conceptual distinction between the constitution of the modern world and the power relations within it. Thus, to see relations of domination *within* modernity makes it possible to break with any substantive notion of modernity as domination and to invalidate the view that interprets the end of western global hegemony as the end of modernity. Power relations are a transhistorical dimension of human existence that cannot erase any meaningful understanding of history, change and transformation and the different and plural historical human self-understandings that have constituted historical worlds. One needs to combine the analysis of the modern self-understandings at work with the related variety of frameworks of justification of power relation or complement the analysis of a particular

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See also the chapter called “Democracy” in Jürgen Osterhammel, *The Transformation of the World: A Global History of the Nineteenth Century*.

<sup>163</sup> Arno Mayer, *The Persistence of the Old Regime: Europe to the Great War*, (New York: Pantheon Books, 1981), 115.

<sup>164</sup> Among them, Kenneth Pomeranz, Jürgen Osterhammel, Jack Goldstone, Christopher Bayly and John Darwin



period, the modern, with a long-term perspective where power relations are embedded in deep anthropological or structural continuities that do not invalidate the legitimacy of modern times. Thus world historians place the advance of the West both in terms of global hegemony and a particular trajectory to modernity in the second half of the 19<sup>th</sup> century and, by looking at Europe in comparative terms as but one region of the world, they can analyse the birth of modernity from a standpoint other than one which adopts the nation-state as the main unit of analysis or employs an idealized image of Europe. These historians situate European modernity in a global context and look at how modernity emerged from the beginning as a world phenomenon in response to the new level of interdependence and interaction between world regions. In the words of Kenneth Pomeranz, “we cannot understand pre-1800 global conjunctures in terms of a Europe-centred world system; we have, instead, a polycentric world with no dominant centre. Global conjunctures often worked to western Europe’s advantage, but not necessarily because Europeans created or imposed them”.<sup>165</sup> In his comparative research on the rise of capitalism, he shows how it is very difficult to speak of Europe as a unit of analysis, and when one looks at the European regions where economic growth was taking place, there is no single variable that can explain it when it is compared to other regions of the world such as parts of China and India. Only well into the 19<sup>th</sup> century does Europe become hegemonic thanks to overseas domination and contingent ecological advantages. Neither institutional nor moral-intellectual capacities nor technological superiority can explain its hegemony.<sup>166</sup> At that moment only, and as a consequence, not as a causal factor, of this “rise”, a specific ideology of progress was systematically held by Europeans to support or justify Europe’s dominance and imperial position. For Jack Goldstone, it was only at the beginning of the 1800s that the process of applying scientific innovation for military and industrial purposes led to the actual domination of the world by the West, first by Britain, who had a privileged position in this respect. From this perspective, the challenge to Western domination arises through attempts to overcome the military and industrial capacity of the West, not

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<sup>165</sup> Kenneth Pomeranz, *The Great Divergence: China, Europe, and the Making of the Modern World Economy*, (Princeton: Princeton University Press, 2000), 4.

<sup>166</sup> See Sandra Halperin, *Re-Envisioning Global Development: A Horizontal Perspective* (London: Routledge, 2013), where she analyses the birth of capitalism as the outcome of long-term world regional interactions.

by “copying” the western cultural framework. In modern terms, the “fall” of the west only signals a change in power relations, not the end of modernity *per se*.<sup>167</sup> It is in this sense that one should, in the words of Peter Wagner, look at the “linkages between Africa, America and Europe showing that what is often referred to as ‘the rise of Europe’ is better understood as the creation of an Atlantic world-region with increasingly dense but highly asymmetric commercial and communicative ties”.<sup>168</sup> In connection with explanations that single out the Age of Revolutions as a western phenomenon that gave birth to modernity, C.A. Bayly shows how this period is better understood by looking at how different world crises were at work from 1720, which led to the manifestation of converging revolutions in different parts of the world between 1780 and 1820. In this context, the major transformations are seen from a horizontal perspective and as the outcomes of a series of military and fiscal crises with mutual and correlating repercussions in different world regions which produced novel social configurations, world-views and concentrations of forces. Indeed, according to Bayly, the European crisis of the Old Regime was boosted by the events that were taking place in the Atlantic world. This turbulent period was stabilized in Europe, as in many other parts of the world, with the concrete solutions to the world crisis that emerged helping to generate European modernity and defining a particular historical trajectory and a concrete interpretative field of tensions. Only after European modernity was constituted, in connection to its role as colonizer and taking into account the already-existing established world connections that Europe had before modernity, could Europe consider itself *the* model.<sup>169</sup> This is the reason why Jürgen Osterhammel considers the 19<sup>th</sup> century to be the significant period from which one can date the “rise” of Europe as the hegemonic region of the world, and why he understands the 19<sup>th</sup> century as a “European century”. He reconstructs the history of the 19<sup>th</sup> century from a world perspective and

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<sup>167</sup> Jack Goldstone, *Why Europe? The Rise Of The West In World History, 1500–1850*, (New York: McGraw-Hill 2009).

<sup>168</sup> Peter Wagner, “Introduction”, in Peter Wagner ed., *African, American and European Trajectories of Modernity: Past Oppression, Future Justice?*, (Edinburgh: Edinburgh University Press, 2015), 7. See also Susan Buck Morss, *Hegel, Haiti and Universal History*.

<sup>169</sup> See also David Armitage and Sanjay Subrahmanyam, *The Age of Revolutions, c.1760–1840 – Global Causation, Connection, and Comparison*, (New York: Palgrave Macmillan, 2009) for a similar approach, but testing empirically Bayly’s hypothesis with analysis of different world regions.

without assuming a “European special path” or a dichotomy or gap between the rest and the West. All this new scholarship contests the endogenous/exogenous factor explanations that allegedly “produced” these developments and their traditional periodization. They insist on the mutual influences and reciprocities that from the beginning shaped the constitution of the modern world. The recent debate on the new division of the world, after the collapse of the Three-World imagery, between a Global North and a Global South, points to this common but asymmetrical history constituted by colonialism and imperialism.<sup>170</sup> In sum, the conclusion is that there is great divergence between the self-understanding that the West has of itself and its history.

#### 4.2. Conceptual Shortcomings

The historical critiques of modernization theories make the concept of modernity employed by modernization theories untenable.<sup>171</sup> Though there are serious attempts to reshape it in response to these problems,<sup>172</sup> the main conceptual impasses are not fully overcome. First, it conflates modernity with a specific context-dependent historical experience that emerged as a reaction to the challenges posed by a rupture with its own past. It sets as a model a particular reality. This reasoning is an example of the naturalistic fallacy, where a particular normative or abstract statement is derived from an ontological statement about what it is. It has as a consequence the reification of the concept of modernity. This becomes clear when the hegemony of the western world in the sphere of power relations is explained because it is where the normative

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<sup>170</sup> “Above all, these frontiers fostered conjunctures of Western and non-Western desires, conventions, and practices, fusions that fuelled the destructive, innovative urges of Euromodernity, but with little of the ethical restraint that reined them in ‘back home’ [...]. As this suggests, modernity was, almost from the start, a North–South collaboration—indeed, a world-historical production—albeit a sharply asymmetrical one.” Jean Comaroff and John L. Comaroff, “Theory from the South: Or, how Euro-America is Evolving Toward Africa”, *Anthropological Forum: A Journal of Social Anthropology and Comparative Sociology*, 22 no.2, (2012), 116.

<sup>171</sup> Peter Wagner, *Modernity: Understanding the Present*, 15-27.

<sup>172</sup> See, for instance, the work of Volker Schmidt, “One World, One Modernity”, in Volker Schmidt ed., *Modernity at the Beginning of the 21st Century*, (Newcastle: Cambridge Scholars Publishing, 2008).

commitments of modernity were created and progressively diffused because they are superior and advanced in relation to the normative commitments of the other world regions. There are two strategies to attack this argument, the first is empirical and has been addressed above, and the second is conceptual. Eurocentric explanations are not per se normatively biased: in principle, we should consider that they frame arguments that seek to establish the empirical significance for global developments of local transformations. For instance, it is very difficult to discuss 19<sup>th</sup> century history if one does not consider to some extent that European actions have a global impact.<sup>173</sup> However, in conceptual terms, to claim normative superiority for Europe is to get trapped in all the philosophical problems that are associated with what is called moral realism: whether empirical facts have moral properties is always an open question that cannot be resolved by appealing to the facts themselves, otherwise the argument is circular.<sup>174</sup> At the same time, the argument is potentially flawed because it derives a single pattern of experience from the analysis of a particular case and then seeks to generalize this. In epistemic terms, it is related to the traditional problems accompanying the inductive method, namely the problems associated with inferring a

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<sup>173</sup> I think that David Landes is the most neutral representative, though not absolutely, of this perspective in response to what has been said before: “A [...] school would argue that the West- Rest dichotomy is simply false. In the large stream of world history, Europe is a latecomer and free rider on the earlier achievements of others. That is patently incorrect. As the historical record shows, for the last thousand years, Europe (the West) has been the prime mover of development and modernity. That still leaves the moral issue. Some would say that Eurocentrism is bad for us, indeed bad for the world, hence to be avoided. Those people should avoid it. As for me, I prefer truth to goodthink. I feel surer of my ground.” In *The Wealth and Poverty of Nations: Why Some Are So Rich and Some So Poor*, xxi. As Jürgen Osterhammel points out, in *The Transformation of the World: A Global History of the Nineteen Century*, 86-7, the dichotomy West-Rest is a meta-geographical category which appeared in the 19<sup>th</sup> century as a normative statement. For a critique of the abuses made by anti-Eurocentric scholars, see Johann Arnason “Questioning the West: The Uses and Abuses of Anti-Eurocentrism”, which is the fifth chapter of *Civilizations in Dispute: Historical Questions and Theoretical Traditions*, (Leiden, Brill, 2003).

<sup>174</sup> For a contemporary critique of moral realism, a critique that has been very persistent in modernity, holding that moral arguments are neither true or false but correspond to another domain of human experience, see Richard Joyce, *The Myth of Morality*, (Cambridge: Cambridge University Press, 2001).

general law from the examination of singular instances. Second, it equates modernity with a set of *particular* institutions. It looks at how institutions were born as a rupture with the non-modern past and how differentiated functional social systems developed. This neglects the openness and the multiple interpretations present in the instituting moment that created concrete institutions among an already existing repertoire; the reasons and motivations that the agents had for enacting them and the concrete problems and experiences they were responding to; and the variety of other existing or possible modern institutions. In so doing, it evacuates agency, context and social change in favour of a systemic logic once the institutions are set. Third, when it defines the principles, its *spirit*, which would shape these institutions—usually freedom and reason—it works with an abstract concept of modernity with clear-cut and one-dimensional properties. It does this by favouring one possible interpretation of them, the hegemonic one in Western Europe and North America—individual freedom and instrumental reason. At the same, it melts down into one singular process different developments, such as urbanization, secularization, science and technology, which should be understood analytically and empirically against the background of modernity, without being conflated with modernity itself. For instance, though a link exists in conceptual terms between urbanization and industrial development, this should not mean that industrialization or urbanization are conditions for modernity. Nowadays, globalization is widely understood as one of these new *modern* developments, with the difference that it is believed to determine in the same way any development in any region. Fourth, modernization theories have, depending on their variety, an understanding of concept-formation that is either determinist and diffusionist; deductionist where modernity is an abstract universal category that subsumes regions as cases; or reductionist where reality is compartmentalized and distorted in order to correspond with the concept of modernity proposed. In order to overcome these historical inadequacies and conceptual flaws, two different theoretical frameworks have been launched in recent times to widen the scope of analysis and accept a plurality of modern forms of socio-political organization. These programs proceed by recognizing in a symmetric and non-biased manner multiple modernities or historical trajectories of modernity other than the western one, without denying the specific role that Europe plays.<sup>175</sup> One starts out from civilizational analysis and the other from world-sociology.

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<sup>175</sup> I do not consider *postmodernity* a viable strategy to overcome these problems. Either it is a

### 4.3. Pluralizing Modernity

The civilizational approach developed by Shmuel Eisenstadt with the notion of multiple modernities led to the analysis of modernity as a distinct and new, though not homogenous, civilization which first appeared in western and central Europe but, when it encountered first and foremost the cultural programs of long-existing civilizations from the Axial Age, crystallized in a “a great variety of modern or modernizing societies sharing many common characteristics, but also evincing great differences among themselves”,<sup>176</sup> thus originating a multiplicity of non-substitutive modernities in tension with the western one and developing out of each other in continual interactions. One of the main problems with Eisenstadt’s theory is that it connects the notion of modernity to the specific historical trajectory of each civilization, and in pluralizing modernity, instead of allowing a comparative approach to the different interpretations of modernity, needs to assume that there are a number of modernities at work which are in

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radical critique of modernity from an epistemic point of view and it invalidates the possibility of grand theory without offering alternative tools for the analysis of large-scale social configurations in the long run, or it refers to a concrete social configuration which emerged in the 1970s and is best analysed as a moment of transformation of modernity. See Peter Wagner, *Modernity: Understanding the Present*, 8.

<sup>176</sup> Shmuel Eisenstadt, *Comparative Civilizations and Multiple Modernities, Vol.1&2*, (Leiden: Brill, 2003), 520. The Axial Age, a concept coined by Karl Jaspers, is used to describe a period of similarly deep and profound transformation of world-views of different civilizations, which took place during four or five centuries around the middle of the last millennium BCE. The concept involves “a *broadening of horizons*, or an opening up of potentially universal perspectives, in contrast to the particularism of more archaic modes of thought; an *ontological distinction* between higher and lower levels of reality; and a *normative subordination* of the lower level to the higher, with more or less overtly stated implications for human efforts to translate guiding principles into on-going practices. All these innovations may be seen as signs of enhanced reflexivity, but the reflexive potential is channelled into specific contexts and directions.” Johann P. Arnason, S.N. Eisenstadt and Björn Wittrock, “General Introduction”, in *Axial civilization and world history*, edited by Johann P. Arnason, S.N. Eisenstadt, and Björn Wittrock, (Leiden: Brill, 2005), 2.

principle different and self-containing. Thus, the concept of modernity dissolves itself into a substitute for the concept of a plurality of civilizations.<sup>177</sup>

To avoid the path-dependence and strong assumptions of the long-term stability and permanency of cultural properties of civilizations once they have crystallized, and to escape from the problems related to comparisons of self-containing civilizations,<sup>178</sup> the civilizational approach to modernity has been pursued and amended by Johann P. Arnason who, instead of considering modernity as a new civilization, analyses it as constituted in parallel with the contingent interaction of different civilizations which led to processes of self-transformation (2006).<sup>179</sup> This approach allows for combining a pluralistic understanding of modernity with the trans-modern interaction between civilizations while respecting the need to conceptually approach a common understanding of modernity that is neither associated with any particular civilization nor viewed as the necessary output of the inter-civilizational encounter.<sup>180</sup>

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<sup>177</sup> “The trouble with much of the multiple modernities literature is that it does not really tell us a great deal about what precisely these differences consist in, how significant they are and why they might justify speaking of modernity in the plural, rather than in the singular.” Volker Schmidt, “Multiple Modernities or Varieties of Modernity?”, *Current Sociology*, Vol. 54, no.1, (2006), 80.

<sup>178</sup> See Peter Wagner *Modernity: Understanding the Present*, 24-25, for a critique of the multiple modernities approach in that it must assume stable and permanent cultural historical continuities.

<sup>179</sup> “In view of its internal pluralism and its openness to different models, modernity does not constitute a self-contained civilization; the margin of structural indeterminacy is significant enough to ensure a partial survival of preexisting civilizational patterns”. Johann Arnason, *Civilizations in Dispute: Historical Questions and Theoretical Traditions*, 50.

<sup>180</sup> “The encounter between the West and the rest—the process that some historians have, rather misleadingly, called the Westernization of the world—should be understood in relation to this background, i.e. neither as the unstoppable ascendancy of superior power, nor as the global diffusion of a more attractive form of life; neither as a triumph of civilization in the singular, nor as a transfer of skills and devices that can in principle be adapted to a persisting civilizational pluralism; but as the global projection of a problematic that remains open to conflicting interpretations in its initial Western context and lends itself to more or less original alternative ones in the broader non-Western arena.” Johann Arnason, “Understanding Intercivilizational Encounters”, *Thesis Eleven*, no. 86, (2006), 51.

From a world-sociology perspective, the notion of modernity as experience and interpretation developed by Peter Wagner isolates specific events within concrete contexts that are interpreted as a response to the commitment to modernity and set a specific historical trajectory apart from others. For Wagner, the “interpretation given collectively to the experiences of those significant moments is that which gives shape to a specific variety of modernity”.<sup>181</sup> Instead of looking at the trajectories of modernity in different societal configurations as self-transformations of long-term civilizations, he prefers to work with a conceptual definition of modernity that is open enough to be operationalized when analysing the constitution of historical modernity and its transformation over time, and to read its different varieties as the result of concrete interpretations of commitments to modernity along the lines of previous shared experiences and social arrangements, rather than assuming a close connection between regions, cultures and civilizations. In historical terms, though civilizational analysis can be fruitful when studying contexts where a shared culture and shared experiences go deep into time, it becomes useless when interpreting modern trajectories where this was not the case, particularly in contexts where societies have been founded very recently and where the existence of a civilization in any meaningful sense cannot be assumed. The Americas and Sub-Saharan Africa are paradigmatic cases of such a phenomenon.<sup>182</sup>

The three approaches share the idea that modernity is constituted by a new “social imaginary signification”—a concept coined by Cornelius Castoriadis—whose features are reflexivity, in the sense of openness and uncertainty, autonomy and mastery. Social imaginary significations point both to the creativity of human beings in shaping their own world *ex-nihilo*, namely without assuming that meaning is given or preordained in the act of instituting the world, and to the impossibility of reducing or deriving the meaning human beings attach to the social world from any systemic logic.<sup>183</sup> These approaches also hold that the signification of this social imaginary does

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<sup>181</sup> Peter Wagner, *Modernity as Experience and Interpretation: A new Sociology of Modernity*, (Cambridge: Polity Press, 2008), 2.

<sup>182</sup> Peter Wagner, “Multiple Trajectories of Modernity: Why Social Theory Needs Historical Sociology”, *Thesis Eleven*, no. 100, (2010), 53; and Chapter 6 of *Modernity: Understanding the present*.

<sup>183</sup> “The institution of society is in each case the institution of a magma of social imaginary significations, which we can and must call a world of significations. For it is one and the same



not lend itself to be interpreted, either conceptually or historically, in a totalizing and unidirectional way, since there are a variety of possible interpretations of this signification. The fact that the modern social imaginary is open to reinterpretation by human beings leads to the view that it cannot be interpreted univocally, therefore there will always be conflict surrounding the interpretations that are attached to the modern social imaginary. This multiplicity of possible interpretations is, in the words of Shmuel Eisenstadt, “beset by internal antinomies and contradictions”<sup>184</sup> which, according to Arnason, constitute “a field of tensions that can neither be absorbed by a system nor by a strategy of transformation”;<sup>185</sup> or, as Peter Wagner points out, the “elements of this signification are ambivalent each one on its own and tension-ridden between them”.<sup>186</sup> For these three authors, the main constitutive tension of the modern social imaginary is poised between a totalizing and pluralizing interpretation of the commitments to autonomy, mastery and reflexivity,<sup>187</sup> which is what constitutes modernity. Too often, when we discuss the signification of the modern imaginary, in fact we are referring to individual freedom, instrumentality and rationality instead of opening the field of the different possible interpretations of autonomy, mastery and reflexivity. Moreover, in the case of Arnason and Wagner, in order to empirically assess the varieties of modern imaginary significations while escaping from the unidirectional and convergent view,

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thing to say that society institutes the world in each case as its world or its world as the world, and to say that it institutes a world of significations, that it institutes itself in instituting the world of significations that is its own, in correlation to which, alone, a world can and does exist for it.” Cornelius Castoriadis, *The Imaginary Institution of Society*, (Cambridge: The MIT Press, 1997), 359.

<sup>184</sup> Shmuel Eisenstadt, *Comparative Civilizations and Multiple Modernities: Vol.1&2*, 499.

<sup>185</sup> Johann Arnason, “Modernity as Project and as Field of Tensions” in Axel Honneth and Hans Joas ed., *Communicative Action: Essays on Jürgen Habermas’s The Theory of Communicative Action* (Cambridge: MIT Press, 1991), 186.

<sup>186</sup> Peter Wagner, *Modernity as Experience and Interpretation: A new Sociology of Modernity*, 10.

<sup>187</sup> “The tension which was perhaps the most critical, both in ideological and political terms has been that between totalizing and pluralistic visions—between the view which accepts the existence of different values and rationalities as against the view which conflates such different values and above all different rationalities in a totalistic way.” Shmuel Eisenstadt, *Comparative Civilizations and Multiple Modernities: Vol.1&2*, 499.

they propose a “basic social ontology” that distinguishes three different realms of human action and social practices. They both distinguish between economic, political and cultural/epistemic realms, without collapsing the content of these realms into specific institutional domains, or assigning any functional/structural capacities to them, or deriving the practices belonging to the one realm from the others.<sup>188</sup> This allows for the study of trans-historical human experiences while making it possible to distinguish between modern and non-modern experiences and opening up the historical question of whether the answers given to the problems arising in each realm differ or not.

Peter Wagner’s approach differs from Arnason’s and Eisenstadt’s above all in that he avoids any notion of collective identity that will inform core components of civilizations. For this reasons, the notion of “societal self-understanding” is proposed to analyse social life without the need to assume pre-existing social entities. It is a concept being developed by Peter Wagner and Angela Lorena Fuster Peiró within the framework of the research programme *Trajectories of Modernity*, and is thought of as a conceptual device to break out with over-determinations and hard ontological assumptions of “what there is” and with the use of collective concepts, “civilization” being the most relevant one in this context. The point is that when understanding the meaning of social configurations, the less value judgments or ontological assumptions are attached to collective concepts and their “logic”—as has been shown previously—the more open we are to be challenged by “what there is”, even if have to recognize that there is nothing such as a “society”. This does not imply that the only existing entity, as is normally affirmed by liberal or conservative thinkers, is the individual (an assumption

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<sup>188</sup> Johann Arnason, *Civilizations in Dispute: Historical Questions and Theoretical Traditions*, 197: “They differ in details and specific directions, but they invariably stress the creativity and contextuality of action, and hence also the plurality of frameworks (or practices) which link the diverse meanings and orientations of action to corresponding aspects of social reality. A distinction between economic, political and cultural practices is an obvious way to concretize this view.” Peter Wagner, *Modernity. Understanding the Present*, 74: “It is suggested to abstract from those identifiable self-understandings those elements that concern a *limited set of basic problématiques* that all human societies need to address. In earlier work, we proposed a set of questions: (a) as to what certain knowledge a societal self-understanding is seen to rest upon; (b) as to how to determine and organize the rules for the life in common; and (c) as to how to satisfy the basic material needs for societal reproduction, and referred to these questions as the epistemic, the political and the economic *problématique* respectively.”

that will be criticized in the following chapter), nor that the society is a coherent *representation* of social life held by its members.<sup>189</sup> A societal self-understanding:

has not been stable for centuries but has undergone significant transformations, often even and especially in the recent past. Thus, there is [...] rather an ongoing process of – more or less collective – interpretation of one’s situation in the light of crucial experiences made in earlier situations.... Second, one needs to demonstrate if and how reinterpretations of a society’s self-understanding have an impact on institutional change, or in other words, how cultural interpretative transformations are related to socio-political transformations [...] Rather than on high commonality among its members or on socio-structural cohesion, it focuses on communication between human beings about the basic rules and resources they share, and on the sedimented results of such communication.<sup>190</sup>

Accordingly, when it comes to the realm of human affairs, despite the importance of “natural” conditions (those considered to be beyond the reach of human action in a specific context, though they might change over time), “what there is” is the outcome of human action, thus a specific dialectical relation is established at the core of reality: it is instituted by human beings in historical time, thus exceeding the lives of

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<sup>189</sup> Norbert Elias defined clearly the main methodological challenge: “What we lack—let us freely admit it—are conceptual models and an overall vision by which we can make comprehensible in thought what we experience daily in reality, by which we could understand how a large number of individuals form with each other something that is more and other than a collection of separate individuals—how they form a “society”, and how it comes about that this society can change in specific ways, that it has a history which takes a course which has not been intended or planned by any of the individuals making it up.” in *The Society of Individuals*, (New York: Continuum, 2001), 7. The concept of societal self-understanding is proposed as a solution to this problem.

<sup>190</sup> Peter Wagner, *Modernity: Understanding the Present*, 72-73.

concrete human beings, and becoming to some extent external and conceived of as given. This is what allows human beings to critically engage with their own institutions and to secure their eventual transformation. However, the main problem with the concept of societal self-understanding is the entailed notion of the collective self in case we want to avoid the problems we faced above with the use of collective concepts. In this context the collective “self” refers to the entity that results from or is performed by the—more or less—collective process of understanding. The entity doesn’t pre-exist the process itself, and the process yields as a result something that didn’t exist before in this specific way”.<sup>191</sup> The meaning and boundaries of the collective self change over time due to the interpretations given to particular historical experiences seen by the human beings participating in them as moments of re-instituting of the collective self, that is, as moments of self-institution.

One of the methodological problems when analysing a societal self-understanding is how to operationalize the investigation in order to have access to the empirical dimension, which in itself is interpretative and conflictive.<sup>192</sup> From the moment that human institutions are enacted by human beings, one can look at institutions as the “sedimentation” of the interpretation of “societal self-understanding” and not only as functional and autonomous structures.<sup>193</sup> However, it is difficult to grasp both the historical continuities and transformations of the societal self-understanding if we do not use analytical tools that allow us to interpret social life as informed by these imaginary significations. Foundational moments and historical events such as the creation of constitutions, demonstrations or rebellions are the best contexts for observing a self-understanding is at work. In general, moments where we have to answer *who* is the collective self resulting from this understanding are the privileged

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<sup>191</sup> See Àngela Lorena Fuster Peiró, “The Concept of Societal Self-Understanding”, *Social Imaginaries*, forthcoming.

<sup>192</sup> Peter Wagner, “Multiple Trajectories of Modernity: Why Social Theory Needs Historical Sociology”.

<sup>193</sup> For the notion of the institution as the sedimentation of the interpretation given by human beings to their social experiences, see Peter Wagner, *Modernity: Understanding the Present*, 57-58.

sites for observing social imaginary significations at work and for understanding the world that is being instituted.

As I have tried to show, globalization and modernity may be two interrelated phenomena, but they are neither co-originary nor identical.<sup>194</sup> It is better to understand globalization as a specific interpretation of the modern social imaginary, one that, as I have defined above, is a project of *boundless totalizing universalism*, which in philosophical terms has as a turning point Hegel's philosophy of history, which can be understood as a reaction to some of the subversive trends of the Enlightenment, mainly in relation to Kant's philosophy. Its genealogy goes back to imperialism in connection to an idea of progress linked to the universal realization of a specific interpretation of European modernity. This project was contested not only in other parts of the world, but also in Europe.

*First*, to equate this project with the Enlightenment is to obscure the fact that there were non-totalizing versions of the Enlightenment project and that the non-modern social imaginary was intellectually still present long after the Enlightenment and was successful temporally in parts of Europe, including those states that allegedly epitomized modern ideals.<sup>195</sup> From the perspective of the internal relevance of Enlightenment in Europe, the impressive three-volume work of Jonathan Israel aims at showing contextually and beyond national historiographies of the Enlightenment that it was constituted from the beginning by a tension between a radical transformation of the world aiming at breaking all sorts of dominations, best exemplified in the work of Spinoza and Diderot, and a reactive Enlightenment "reacting to what was widely

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<sup>194</sup> Peter Wagner summarizes this view in a clear-cut manner: "The most common – even though far from unproblematic – view about modernity holds that this term refers to a novel kind of society that emerged from a sequence of major transformations in Europe and North America, culminating in the industrial and democratic revolutions of the late eighteenth and early nineteenth centuries. Significantly, this view often entails both that these transformations catapulted Europe (or the West) to the front position in the course of world history and that the thus established western model would diffuse worldwide because of its inherent superiority. *Thinking about modernity thus meant thinking about globalization.*" Ibid., 3. (emphasis added)

<sup>195</sup> Ibid., 5-6.

perceived as the massively dangerous threat posed by radical thought”.<sup>196</sup> Sankar Muhtu’s work *Enlightenment against Empire* shows, from the perspective of the relation between Europe and the Other, that there was an intellectual tradition within the Enlightenment that was challenging the idea that Europe had any right to colonize and civilize the rest of the world, and that this tradition was not only related to anti-slavery thinking. This tradition had almost disappeared once the Restoration period and the beginning of 19<sup>th</sup> century European colonial project started.<sup>197</sup>

*Second*, European modernity is now being historically regionalized in world history and, rather than seeing it as the origin and the model of modernity,<sup>198</sup> it is considered as a field of tensions constituted by a space of interpretations applied to particular problems that occurred in relation to specific European experiences and whose solution produced a varied modernity. All sorts of intellectual traditions had to confront or integrate the challenges and novelties of the newly circulating ideas, and Europe was only one particular response to this. Dipesh Chakrabarty’s *Provincializing Europe* is a key text for understanding this process in a so-called colonial setting. I believe that his main contribution is that it allows us to denaturalize the relation between the conceptual imaginary that is associated with Europe as the original setting of modernity and the different regional settings to which it was “diffused”. Chakrabarty’s work can be read as suggesting that the “appropriation” of the modern imaginary significations is highly dependent on historically situated, particularistic traditions of thought and that through this appropriation the modern imaginary is transformed in different ways. In this sense, one should look at the appropriation that “Europe” as a region made of the modern imaginary significations in the same way as other regions of the world did. No natural determinism or territorial dimension is associated with the modern significations: Europe is no more than another region of the world where the radical modern imaginary significations, as late as what is called the

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<sup>196</sup> Jonathan I. Israel, *Radical Enlightenment: Philosophy and the Making of Modernity 1650-1750*, (Oxford: Oxford University Press, 2001), vi.

<sup>197</sup> Sankar Muhtu, *Enlightenment against Empire*, (Princeton: Princeton University Press, 2003).

<sup>198</sup> Dipesh Chakrabarty, *Provincializing Europe*; Gerard Delanty, *Formations of European modernity: a historical and political sociology of Europe*, (New York: Palgrave Macmillan, 2013); Peter Wagner, “Europe and the sociology of modernity”, ed. Sokratis Koniordos and Alexandros Kyrtis, *Routledge Handbook of European Sociology* (London: Routledge, 2014).

colonial world, were interpreted. In this context, “appropriation” must be understood as the process by which the self interprets, recognizes and makes his/her own these significations in order to “govern” his/her own life. It points to the active agency of human beings that allows them to create and resignify a wide variety of meanings that inform their own life, instead of thinking of some as “active creators” and others as “passive recipients”.<sup>199</sup>

#### 4.4. The 21<sup>st</sup> Century

The reinterpretation of the tension between a pluralizing and a totalizing understanding of modernity in the 21<sup>st</sup> century is related to how we interpret globalization and its institutions. The 21<sup>st</sup> century is apparently constituted by two new situations that are conditions for contemporary political transformation. First, there is the increasing interdependence of the international state system that transforms the classical properties of modern nation-states, namely national sovereignty and territorial independence. Second, there is the economic global dominance of capitalism, though with different possible varieties, as the all-embracing economic system that no longer faces any real existing revolutionary alternative. Contemporary neo-modernization theories engage straightforwardly with this phenomenon. Globalization is the process by which the aforementioned modern institutions are seen in contemporary times in tension with the allegedly *boundless universalist* nature of modernity. Both the liberal market economy and the democratic nation-state establish limits in the present to the alleged principles of modernity: the state as the recipient of liberal markets is seen as an impediment to the market’s absolute liberal and transparent functioning and the democratic nation-state is commonly perceived to work against the freedom of individuals. Specificities and singularities are not excluded and sometimes even encouraged, because they are related to the particular historical path that brought into existence this common set of institutions which enforces non-substantive societal differences among the units of analysis. Usually the outlined singularities are cultural ones, which are not seen as barriers to globalization. This is the reason why (neo)modernization theories do not have big problems in dealing with multiculturalism.

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<sup>199</sup> See Gerard Rosich “Dipesh Chakrabarty” in ed. Enric Pujoli Jordi Riba *Llibres que fan Idees*, Biblioteca del Núvol, 2015

In fact, sometimes it is seen as a positive trend in connection with the promotion of this model of modernity insofar as it weakens the previously mentioned set of institutions, which imposes limits to the furthering of globalization.

In relation to the state, the old international state system, sometimes called the Westphalian world order, is the main obstacle to liberal democracy. This order can be considered as the combination of two long-term developments: external territorial *independence* (the state) and internal *popular sovereignty* (the nation as the collective self). Collective selves in the so-called globalized world reside in a historical period where this connection is decoupled. The interesting point is that, in decoupling it, both the concepts of independence and sovereignty are transformed, and with them, *the conditions under which a collectivity constitutes itself as a political actor*. Since classical attributes of the state system are undermined by social and economic forces which escape its control, independence is now understood as interdependence and sovereignty as constitutionalism to limit the capacity of collectivities to “endanger” human rights, namely individual freedom. Defenders of globalization would deny that there is any sense in defending the necessity of a plurality of differentiated collectivities since it obstructs these forces, which are seen as emancipatory because they foster freedom and the control of the collective destiny of humankind. The 1945 Charter of the United Nations and the Universal Declaration of Human Rights of 1948 would be political milestones in this process and the growing economic regulatory importance of supranational institutions such as the IMF or the World Bank would impede aggressive economic politics between states and homogenize globally the different economic regional settings. In order to reach global economic convergence, support to those countries that are lagging behind is provided. These institutions would be the significant events that gave birth to this new period and formed as a reaction against the dangers of a non-democratic and nationalist, in its fascist or national socialist versions, understanding of the nation-state that started the Second World War. In keeping with this logic, it is then held that democracy will only be possible on a global scale if there is just *one* people. Recently, Alexander Wendt, setting out an explicitly teleological argument, has stated that the constitution of a World State is inevitable due to the requirements of universal recognition which limit the agency of human beings when confronting the challenges posed by different groups for recognition of collective



selves.<sup>200</sup> For him, the only solution that can accommodate this conflict is the constitution of a neutral space which has the monopoly of legitimate violence to organize society, namely a Weberian state. The Westphalian order, equated with the state of anarchy between nation-states, is considered the main factor that works against liberal democracy. From this perspective, cosmopolitan critics of the Westphalian system contend that a global-scale binding law is needed which transforms the whole globe into a domestic sphere, and thereby avoids the “state of nature” among polities and their discretionary powers or arbitrariness, both in the external sphere with the possibility of unjust wars, and in the internal sphere with the possibility of human rights violations, which characterizes the principle of state sovereignty. These cosmopolitan critics maintain that there should be global, and not just international, laws; all individuals should be subject to these laws; and there should be courts with universal jurisdiction and global coercive power, like the International Criminal Court. Human rights approaches to constitutional law should be privileged while these global laws are not yet correctly institutionalized on a world scale. To equate this process with the safeguarding of democracy is surprising: in a democratic context, laws and even constitutions are variable, disputable and subject to change while the understanding of human rights as inherent to the human being goes against any democratic understanding of the law.

According to this view, the age of globalization represents a normatively superior stage of world relations in comparison to the nationalist age, which roughly corresponds to 1789–1945. It represents *progress*. Within that period, nations had to fulfil some requirements in order to become a political subject. The number or the amount of them is very varied, but we can equate them with the idea that nations had to have defining collective identities. No grand theory in nationalism studies that would

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<sup>200</sup> Alexander Wendt, “Why a world state is inevitable”, *European Journal of International Relations*, Vol. 9, No.4 (2003), 512: “Perhaps paradoxically, if the desire for recognition is about being accepted as different, the effect of mutual recognition is to constitute collective identity or solidarity. The starting point for this claim is that by recognizing the status of the Other and accepting the normative constraints on the Self which that implies, one is making the Other part of the Self—she is no longer purely ‘Other’. When recognition is reciprocal, therefore, two Selves in effect become one, a ‘We’ or collective identity.” See Chapter 3 above for a critique of the recognition framework.

enable us to understand this period from a general perspective has yet won global acceptance. There are a great variety of explanations that seem to be highly dependent on the context from which they are derived.<sup>201</sup> The universalizing abstraction has always proved to be problematic and Eurocentric, since historical counterexamples have been provided for all major features of this all-embracing theory. Therefore, it seems prudent to suggest that when it comes to understanding nationalism, contextually sensitive and comparative analysis is methodologically indispensable.<sup>202</sup> If nationalism is to be related to modernity, suggesting any primacy of the European model would reproduce the universalizing pattern criticized above. However, it seems generally accepted that within that period collective identities were understood in political terms, but the nation was conceptualized within a substantialist metaphysical framework where the bonds that linked human beings to a nation pre-existed their actual being and were unalterable. Language, race and territory were the usual attributes that defined those bonds. Though this understanding of the nation had exclusionary elements, it was always thought that democracy had to have clear boundaries to work. This is the reason why nationalism was conceptualized as emancipatory in different parts of the world in the 19<sup>th</sup> and 20<sup>th</sup> centuries: either because it freed the nation from the oppression of internal oligarchic regimes or from external colonial domination. However, the tension between inclusion and exclusion was always felt within the boundaries of the polity since other national minorities were oppressed, part of the population was excluded—mainly women and the poor—and in settler societies there was also racial segregation.

The situation we are experiencing nowadays with the transformation of the state system implies that the new movements of national emancipation have to mirror the conditions of the transformation of the same international system in order to constitute themselves as political subjects and not reproduce the conditions of the 19<sup>th</sup> and 20<sup>th</sup> centuries because the conditions have changed. Allegedly, there is no longer oligarchic oppression and colonial domination. In order to be recognized as political actors,

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<sup>201</sup> Christopher A. Bayly, *The Birth of the Modern World, 1780-1914: Global Connections and Comparisons*, 199-205; Anthony Smith, *Nationalism and Modernism*, (London: Routledge, 1998); John Breuilly, *Nationalism and the State*, (Manchester: Manchester University Press, 1982)

<sup>202</sup> Johann Arnason “Nations and Nationalism: From general theory to comparative history”, *Journal of Intercultural Studies*, Vol. 22, Issue 1, (2001).

nations face three challenges that seem insurmountable: one conceptual, one historical and one legal. In *conceptual* terms, the substantialist understanding of the nation has been substituted by a performative one, where constructive, hybrid and imaginative properties are privileged over substantialist ones and membership is open, elective and reaches across borders. This weakens the collective bond and makes it very difficult to stabilize collective action over time, having as a consequence a lack of political effectiveness. In *historical* terms, nations after the Second World War and the decolonization period have been delegitimized because they are seen either as aggressive imperial actors or as oppressing internal minorities or the free will of their citizens. In *legal* terms, an understanding of the people as the organic subject of the constituent power has shifted to an understanding of the people as instituted by a plural set of organs which are brought together in constitutional assemblies. The revolutionary paradigm of state formation is no longer considered legitimate in the international arena. One of the main consequences of this shift is that the understanding of legal change is in transformation: the paradigm of violent rupture, radical discontinuity and break with the past is no longer possible as a positive alternative precisely because of the predominance of the capitalist system and the new legal international order. Violent conflicts are no longer considered a matter of internal politics and are more difficult to legitimize. The particularity of the revolutions is related to the founding tension between the moment of de-instituting, *the rupture*, the moment of instituting, *the transformation*, and the moment of the institution, *the stability*. These correspond to three different founding temporalities and agencies which open the space for the critique of the instituted reality. These temporalities do not need to be successive and in moments of deep change they coexist simultaneously and shape the historical framework from which critiques and further developments emerge. Revolutionary institutions have serious problems at the moment of assuring its stability. They are born precisely to break the stability of previous institutions which were thought of either as permanent or eternal. The stability of institutions born out of a revolution can be seen in retrospect by the actors who enacted them as a sign of alienation and in need of continuous transformation.<sup>203</sup> It is in this context that the concept of revolution is in the process of resignification, and instead of understanding it as a rupture with the past, it is

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<sup>203</sup> Trotsky's concept of permanent revolution is the merging of these three temporalities into a single one.

thought of as a transitional moment. Neither the socialist understanding of revolution under the dictatorship of the proletariat through a violent upheaval, nor the understanding of a non-legal constituent moment as the source of constitutional legitimacy, allows us to understand these present transformations. Nowadays, change has a paradoxical nature: revolutions are negotiated, surrender does not imply defeat, and rupture implies continuity.<sup>204</sup> Unfortunately, too often at the level of justifications internal cohesion and procedural mechanisms of decision-making which evacuate conflict from the political sphere are promoted against other normative considerations.

However, the other side of the “transition” coin is the talk about the “legacies of the past institutions”. Thus, the discourse about both the “transition” and the “legacy” points to this double temporal bind inherent to change that always takes place simultaneously: any instituting is a de-instituting of the instituted. Only when the self-instituting society is instituted are we able to grasp the historical duration and meaning of this “social-historical present”. Therefore, any new institution carries the burden of the legacies of the previous institutions, even if the new institution claims to be a revolution acting upon a *tabula rasa*.<sup>205</sup> Transitions transform the relation between the transformative historical dimensions and establish a particular temporal dialectic. However, it is also true that not all kinds of institutions have the same form of, in the absence of a better word, *constitution*. Democratic institutions are shaped in such a way that they cannot close the interpretative and temporal space open at the moment of its instituting. The more the institutions are open to their transformation by a society, the

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<sup>204</sup> See Andrew Arato, “Redeeming the Still Redeemable: Post Sovereign Constitution Making”, *International Journal of Politics, Culture, and Society*, Vol. 22, Issue 4, (2009), 427-443; and Shmuel Eisenstadt, *Comparative Civilizations and Multiple Modernities: Vol.1&2*, 911-924. The South African transition to post-apartheid in 1994 and the Spanish transition to democracy in 1978 would be “exemplary” cases.

<sup>205</sup> Alexis de Tocqueville was the first author who recognized the hubristic aspiration of building a new society unconditioned by its own past: “I was convinced that, quite unwittingly, they had held on to most of the opinions, customs and ideas of the Ancien Régime with whose help they had engineered the Revolution which destroyed it and that, unintentionally, they had exploited the remnants of the old order to erect the structure of the new social order.” Alexis de Tocqueville, *The Ancien Régime and the Revolution*, (London: Penguin 2008), 36.

more able they are to keep alive these founding temporalities, the more democratic they are.<sup>206</sup>

This internal tension is what allows for engaging with the social fabric as an open space of conflicting interpretations of shared experiences. The comparisons that should be privileged are those that the human beings concerned make with themselves. First, actors compare their past and present situation regarding what they have experienced in view of what they have to do according to their expectations of the future. Second, they look at how these different interpretations are embedded in social practices with concrete outcomes, how meanings are given to concepts in relation to their concrete context, and how they see and are seen by the “others”. This comparative faculty, essentially connected to the faculty of imagination,<sup>207</sup> is related to the reflexivity of the human beings who have the capacity to act upon themselves, self-distancing “what they are” and “what they have done” and opening the space for their self-critique and self-transformation. This is also what allows the enquiry to have a firm anchorage in the context it wants to analyse.

However, one should correct the view that the current field of tensions, which could be seen as a world-instituting moment, as the suffix -tion suggests in globalization, is constituted between the “forces of progress”—which would look at the implementation all over the planet of the liberal cosmopolitan state to enhance freedom, and of a single economic world market to improve control, promote global justice and weaken the impact of economic crisis—and conservative forces that want to keep the old securities of the nation-state. Rather, the tension should be seen as a conflict of interpretations of the current transformation which leads to a different understanding of world-making. Again, it is a conflict between totalizing and pluralizing self-understandings, which now have the globe as the context of reference instead of a particular region. What we may be witnessing nowadays is, paradoxically, that the level

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<sup>206</sup> “It is hardly necessary to add that this self-institution is a movement that does not stop, that it does not aim at a “perfect society” (a perfectly meaningless expression) but, rather, at a society that is as free and as just as possible. It is this movement that I call the project of an autonomous society and that, if it is to succeed, has to establish a democratic society” Cornelius Castoriadis, “Democracy as procedure and democracy as regime”, *Constellations*, Vol. 4, no.1 (1997), 4-5.

<sup>207</sup> See Àngela Lorena Fuster Peiró, “Breve topografía de una imaginación reciclada”, *Revista Anthropos: Huellas del Conocimiento*, No.224, (2009), 45-56.

of interdependence many societies have reached undermines not only the nation-state but also the possibility of a regional power becoming a global empire. The nation might not be the primary political actor, but it does not seem that, on a world scale, this position will be occupied by the individual. We are probably looking for new international actors, and the current processes of regional integration may signal a point of arrival from which a new world institutional order may emerge. It is at the level of these new emerging regions, as the current crisis of the European Union shows, that the conflicting interpretations of what the current world situation is have to eventuate in a solution for the continued absence of an appropriate institutional framework.<sup>208</sup> The future shape of our world depends on whether the solution given at this level is a totalizing or a pluralizing one, though the present individualist hegemonic thinking may not be a good prospect for the pluralizing interpretation of political modernity.

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<sup>208</sup> See Manuel Garreton, “Political modernity, democracy and state-society relations in Latin America: A new socio-historical problématique?”, ed. Gerard Rosich and Peter Wagner, *The Trouble with Democracy: Political Modernity in the 21<sup>st</sup> Century*, for an evaluation of this perspective for the constitution of Latin America as a political region.



## Part II: Towards a Political Philosophy of Modernity

El Proyecto de Ley presente, que pretende y que busca, preferencialmente, que la mayoría popular se constituya en instancia decisoria de la reforma, *sólo incardinando en el orden político vigente puede encontrar fuente y base para su legítimo planteamiento.* (emphasis added)

*Law for the Political Reform* of the, 1976  
(Transitional Law from dictatorship to constitutional monarchy in Spain)





## 5. Modernity and the Political

As soon as the plurality of polities is contemplated as being among the world's most serious problems because it limits recognition and undermines freedom, the conceptual outlook I shall call western-rooted cosmopolitanism (in its revolutionary, liberal or progressive forms), which is one of the most predominant in the international arena and supposedly provides a solution to all these stalemates, tends either to reduce the existence of different collectivities to a mere sum of individuals or regard them as superfluous. Furthermore, the same theory is repeatedly used to mask or justify positions of hegemonic power in the guise of universalist discourse.<sup>209</sup> I shall attempt to show that the idea that underpins modernity, namely the concept of autonomy, "to give oneself one's own law" (a definition which I shall discuss below), implies not only historically but also conceptually the existence of different collectivities. A very different problem, and one which is beyond the scope of this thesis despite being indirectly addressed below, would be that of analysing, once it has been demonstrated that the idea of autonomy entails a plurality of collectivities, what the collective entity consists of, how borders between some people and other people are to be understood, what their possible justifications might be, how they are legitimately established and how one should deal with them.

In order to develop the reasoning, I will not do justice to all the nuances and divergences of the different cosmopolitan theories. The justification for this strategy consists in that they all share a core common concern. If "cosmopolitan" is to be a different concept from "international", I fail to see the basic difference between the two positions if it does not consist in giving a certain prominence, whatever form it takes, to the position that *one* occupies in the "cosmos" in relation to any other place.

### 5.1. A Political Genealogy

We know from the earliest traces and empirical knowledge of the existence of *Homo sapiens sapiens* that human beings have always lived together. We also know that, until

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<sup>209</sup> For an exhaustive critical analysis of the different theories of cosmopolitanism, see Gerard Delanty, *The Cosmopolitan Imagination: The Renewal of Critical Social Theory* (Cambridge: Cambridge University Press, 2010).

the present day, human beings have lived in distinct collectivities or, in other words, whatever the reason may be, human beings come together, making distinctions among the collectivities they form. In this sense, it is important to know in each case the reasons offered by different theories to explain this fact since, very often, the reasoning as to why there is no longer any need to “come together in distinct collectivities” holds that this is because the reasons that once made it necessary no longer exist. This is a repetition, praxis, convention, conduct, or whatever one wishes to call it, which has persisted throughout human history. According to all our existing historical evidence, human beings have pondered the whys and wherefores of this conduct, seeking to justify it from all sorts of conceptual groundings. As for the *quaestio facti*, one can find in the history of humanity a host of ways in which human beings have come together and organized into collectivities and in which different collectivities interrelate.

With this commonplace observation I am not assuming any contradistinction between individuals and collectivities or between different collectivities. In fact, any contrast that might result from this would depend on the particular way in which human beings understand themselves in any particular context, and the reasons they give to justify what constitutes them as distinctive collective entities and with regard to who belongs and who does not. Thus, although in the course of history explanations have always been given in the terrain of conceptualizations as to why we live in different collectivities, the general form of this *factum* has never been questioned. A relevant precedent for any critique of this *factum* goes back to when Diogenes of Sinope (“the Cynic”), a Greek philosopher of the fifth century BCE, describes himself as *kosmopolites*: “I am a citizen of the world”. The term was used, for the first time it seems, as a way of automatically opposing the usual practice by his claiming precisely that he is an individual who *lives outside of any collectivity that is not the Kosmos*. In the classical period, a Greek, asked about his origins, would have had to name the *polis* of which he was a citizen. The first time the term “cosmopolitan” is used, then, is to say that one is a citizen who lives alone and outside of any human collectivity.<sup>210</sup>

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<sup>210</sup> Diogenes Laertius, *Lives of Eminent Philosophers*, (Cambridge: Harvard University Press, 1925), 64-64. Diogenes was, in fact, a citizen of Sinope, a Greek polis, but had to seek exile in Athens, where it is said that he chose to live outside society in a large jar, after committing the crime of “defacement of the currency”.

The best-known, the most long-lived and influential explanation of this *fact*, is Aristotle's: the human being is, "by nature, a *zoon politikon*".<sup>211</sup> Nevertheless, many rival theories have challenged everything that this implied, and every change or historical transformation has entailed changes in conceptualization as well. Certainly, the fact of explicitly wondering about a practice that has always been the same at the heart of human existence, which is to say asking oneself about *the whys and wherefores of what has always been thus*, should imply some reference to the nature of the human beings who are engaged in the project. It is not very difficult to see that answering the question "why are things as they are", when there is no possible comparison with other ways of being, provides no explanation but is rather an observation, since there is no way an explanation can be compared with other hypotheses: we have *always* come together in collectivities. The comparison has always been made by comparing ourselves with other animals, divinities, extra-terrestrials, or extraordinary episodes like that of Kaspar Hauser. In historical and anthropological terms, the only thing that one could compare with this *factum* would be nomadic collectivities but, even so, they *are* collectivities.<sup>212</sup> However, the principles of what is known as the dominant modern political philosophy spring from a new theory represented by the philosopher Thomas Hobbes, who takes a radical stand against the Aristotelian position and accepts as an explanation of the collectivity a totally counterfactual principle, which cannot be proven empirically, based on what thenceforth started to be known as the state of nature:

The majority of previous writers on public Affairs either assume or seek to prove or simply assert that Man is an animal born fit for Society—in the Greek phrase, *Zoon*

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<sup>211</sup> Aristotle, *Politics* (London: Harvard University Press, 1944), 1253a. Aristòtil (1944: 1253a). However, since he has to explain why there are a plurality of polities, namely why there is exclusion, he must go on by saying "and a man that is by nature and not merely by fortune citiless is either low in the scale of humanity or above it (like the 'clanless, lawless, hearthless' man reviled by Homer, for he is by nature citiless and also a lover of war) inasmuch as he resembles an isolated piece at draughts".

<sup>212</sup> See Anatoly M. Khazanov, *Nomads and the Outside world* (Madison: University of Wisconsin Press, 1994), in particular Chapter 5, in which he clearly shows the different ways in which nomads constitute differentiated polities, both in relation to other nomad collectivities and to "sedentary" collectivities.

politikon, .... This Axiom, though very widely accepted is nevertheless false; the error proceeds from a superficial view of human nature. Closer observation of the causes why men seek each other's company and enjoy associating with each other, will easily reach the conclusion that it does not happen because by nature it could not be otherwise, but by chance.<sup>213</sup>

The importance of this coinage consists in its pointing out that the fact that humans live in collectivities is neither necessary nor natural but contingent, and while this is the case at the empirical level, it is not so in terms of principles. Since, in the order of *de facto* reality, men indeed live in collectivities, if men were able not to do so, it would be necessary to invent a counterfactual situation, the state of nature, in order to illustrate such a situation. Hence the fact that a man lives collectively with other men is only an *effect*, a result but not a condition. The fact that men live together is only an *appearance* for, in reality, they are independent units, except that this reality is of the same type as the entities theorized by the sciences of physics and mathematics, inasmuch as they are invisible and hypothetical like gravity or the atom. This line of thought is what gives rise to liberalism. Clearly, the trap of this position is that it takes man's nature back to another hypothetical dimension, the state of nature, and, in principle, this nature is neither demonstrable nor refutable. In addition, just as we saw how the Aristotelian explanation is, at bottom, no explanation, the Hobbesian one is no explanation either, since it has to assume something that is not observable: the principles are not demonstrable but are axioms.<sup>214</sup>

The fact of living together which, as such, seems to go back to the beginning of time, has ceased to be so evident in the eyes of many people, not only theoretically, as in the case of Hobbes, but also empirically: the tendency, process, dynamics, or historical power entailed in globalization would deny that there is any sense in the

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<sup>213</sup> Thomas Hobbes, *On the Citizen* (Cambridge: Cambridge University Press, 1998), 21-22.

<sup>214</sup> For the connection between this axiom and the assumptions of political science, see Peter Wagner, *Modernity as Experience and Interpretation: A New Sociology of Modernity*, 240 ff; and *Theorizing Modernity* (London: Sage, 2001), 23 and ff. For the link between the European understanding of the New World and State of Nature hypothesis, see Enrique Dussel, *Politics of Liberation: A Critical Global History* (Norwich: SCM Press, 2011), §8.

necessity of a plurality of differentiated collectivities and would lead us to the establishment of a single collectivity called “Humanity” which would take as its premise, in keeping with liberal logic, that human beings are taken into account only in their capacity as individuals. One would take into account individuals as entities *in themselves*, as members of the collective macro-entity we call “Humanity”.<sup>215</sup> This simplification, although it may sound grotesque, appears at the root of many cosmopolitan theories that have emerged with respect to globalization.<sup>216</sup> Beyond the reasons that might be adduced in favour of or against this appraisal, what does seem to be a point of agreement is that, from a historical standpoint, there occurred around the end of the 19<sup>th</sup> century the end of the last travels of “discovery” and the “unveiling exploration of entirely unknown parts of the planet came to an end”.<sup>217</sup> This would change not only the ways in which human beings related, but also their way of understanding themselves as a result: the world became global.<sup>218</sup> If there is going to be a world-in-common, it will have to be just *one*. If, until that point one could assume that relations between distinct collectivities were limited both in extension and intension, from the time that the globe was occupied, dominated and known, the interconnectedness would be total and would have significant consequences for the forms that had previously prevailed in the ways in which different elements related with each other.

Certain conclusions would, however, be derived from this development on the basis of the historical evolution of modernity which would lead to countervailing

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<sup>215</sup> A clear formulation of this idea may be found in Nigel Rapport, “Emancipatory cosmopolitanism: a vision of the individual free from culture, custom and community,” in Delanty, G., *Routledge Handbook of Cosmopolitanism Studies* (New York: Routledge, 2012), 101: “One states that individual human beings might enjoy an existence beyond the bounds of collectivities, their norms, conventional practices and traditions classifying the world .... According to this vision, individuals are the constituent units of humanity—humankind is a collection of individual I’s—and the individual life is a thing-in-itself which cannot to be treated as means to any ends besides those it itself has construed”. Martha Nussbaum, “Patriotism and Cosmopolitanism,” in Martha Nussbaum and Joshua Cohen, *For Love of Country?* (Boston: Beacon Press, 1996), offers a less individualist version of this idea.

<sup>216</sup> Francis Fukuyama would be the best-known representative of this view.

<sup>217</sup> Jürgen Osterhammel, *The Transformation of the World*, 79.

<sup>218</sup> See Introduction above

positions: globalization would be the “process” that *de-mundane-izes* the world, makes it less worldly, and takes away its constructed and artificial character, and the historical time to come would be that resulting from the logic of necessity or of economic processes. Forces governing the course of history would have been unleashed. Yet if one upholds the distinction between world and globe, the question as to who would have set off this “process” only has one answer: humans themselves. Hence, the question, as I understand it, would be this: why, as of a certain historical moment, is the world “made” taking as a premise the globe of the earth, which entails unity and naturalization, but not understanding globalization as being opposed to the human world? Globalization is only one particular self-understanding of making the world, which is certainly totalizing and invalidates the possibility of different worlds coexisting.

## 5.2. A New Period?

The ingenuity and immensity of the question could make one forget that asking it as such has only made sense very recently. Certainly, there was little point in asking it before the end of the Second World War. After that, a generalized perception arose that something basically problematic was occurring in the assumptions on the basis of which human beings constructed polities. Until that happened, apart from a few exceptions in some intellectual circles, the crucial theoretical problem that governed relations between polities was largely not that they were multiple and plural, which was accepted as just one more fact among others, with all the problems deriving from that, in particular those pertaining to the inclusion/exclusion dichotomy and wars.<sup>219</sup> The importance of collective entities was not discussed, whether they took the form of the *polis*, chiefdom, clan, state or tribe, and so on, as they were simply taken for granted. What was quite a problem and not generally accepted was, rather, the idea that *all of us* were human beings in the same way and/or the question of whether only a few of us were. What was obvious was the difference among peoples but not the similarity among their members.

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<sup>219</sup> Although it is true that the idea that the individual is important, it also has its origins in considerations of the treatment of soldiers in wars between states in the 19<sup>th</sup> century. See Amy Ross “Geographies of Justice: International law, National Sovereignty and Human Rights” in Martti Koskeniemi, *Finnish Yearbook of International Law Volume XXII 2001* (Leiden: Martinus Nijhoff Publishers, 2003).

Therefore, if we were not all equal, boundaries were needed. This difference was frequently justified in terms of a fundamental division in the bosom of humankind. In this regard, it took the First World War, in which atrocities were committed in a battle between “civilized” polities rather than between civilized and uncivilized ones, the experience of Nazism, and the fall of the British Empire to bring explicitly racist theories into total disrepute.<sup>220</sup>

All kinds of divisions have appeared in attempts to explain why we are not the same: from the barbarians in comparison with the Greeks, through to Indians in comparison with the Spanish, infidels in comparison with Christians, African “savages” in comparison with European colonizers, and so forth. This difference tends to be an *a priori* condition of political action. Extreme cases of difference made people think that not everyone was a human being like “us”. After 1945 a perception began to take shape, according to which the existence, analytically and historically, of a plurality of polities would presuppose a fundamental inequality among human beings, between those who belong to the polity in question and those who do not, and all the inter-polity dramas and violence would have arisen in response to the connection between exclusion from a polity and the non-human being: the techniques of extermination/dehumanization of the Nazi concentration camps in accordance with the National Socialist doctrine of the supremacy of the Aryan race would be its most distinctive manifestation, together with the theories of social Darwinism that were constructed to legitimate 19<sup>th</sup> and 20<sup>th</sup> century colonialism.<sup>221</sup> A contingent relation between plurality and war-making was interpreted as a causal connection from the moment that war was understood as the manner through which polities maintained political relations. It is against this background that the Universal Declaration of Human Rights resounded in 1948, in a very clear expression of this conviction. Article 2 of the Declaration is the most significant for my purposes here:

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<sup>220</sup> John Hobson, *The Eurocentric Conception of World Politics: Western International Theory, 1760-2010* (Cambridge: Cambridge University Press, 2012), 185; and Edward Hallet Carr, *The Twenty Years' Crisis 1919-1939: An Introduction to the Study of International Relations*, (London: Papermac, 1981), 225. South Africa is the obvious exception. As for implicit theories, the question is more complex.

<sup>221</sup> Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960*.



*Everyone* is entitled to *all* the rights and freedoms set forth in this Declaration, without distinction of *any kind*, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, *no distinction* shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. (emphasis added)

An extreme interpretation of this article could make any frontier established between polities a breach of human rights. One consequence of this is that, after the Second World War, as many writers have pointed out from very different perspectives, the principle of *ius gentium* underwent such a radical transformation that one might even say it has disappeared.<sup>222</sup> Once states were no longer deemed to be the chief actors in international law, the classical internal/external difference that had structured relations between polities faded out as what are known as international relations or the post-Westphalian era began to predominate.<sup>223</sup>

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<sup>222</sup> See, for example, Martti Koskenniemi's comment on Hans Morgenthau's work in his book *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960*, 437: "Morgenthau's 1951 book was a critique of American foreign policy but also an end-of-an-era analysis. The Second World War, Morgenthau wrote, had made the destructive effects of three 'revolutions of our age' fully plain. A political change had led to "the end of the state system which has existed since the sixteenth century in the Western world." Or Samuel Moyn, *The Last Utopia: Human Rights in History*, 176: "Today it seems self-evident that among the major purposes—and perhaps the essential point—of international law is to protect individual human rights. 'At the start of the new century,' one observer writes, 'international law, at least for many theorists and practitioners, has been reconceived. No longer the law of nations, it is the law of human rights.'"

<sup>223</sup> For critical references to the post-Westphalian order, see Wendy Brown, *Walled States, Waning Sovereignty* and Allan Buchanan, "Rawls's Law of Peoples: Rules for a Vanished Westphalian World," *Ethics*, 110, no. 4 (2000): 697-721; and for the disappearance of the internal/external division in the international order, see James N. Rosenau, *Along the Domestic-Foreign Frontier: Exploring Governance in a Turbulent World* (Cambridge: Cambridge

A new international order that was no longer based on the Westphalian model would entail, in the view of its upholders, the disappearance, or at least irrelevance, of polities. This thesis understands the Westphalian order in terms of the Hobbesian contractualist paradigm and its analogy with the domestic sphere.<sup>224</sup> The analogy consists in considering polities as if they were individuals in the state of nature. From this perspective, what gives rise to a civil state ending the state of nature where individuals are disassociated is a legal constitution with a state monopoly of coercive force cancelling the state of nature, however that might be interpreted. This exit from the state of nature is, however, proscribed for states. To continue with the analogy, the world order would be seen as constituted by a set of “individuals”, the polities, without any positive law to bind them together and, therefore, in the absence of any monopoly on force that would equally compel them all, the state of nature between them would be war or anarchy. A long tradition of modern international law mainly considers *ius gentium* in the light of *ius bellum* (conversely, in my view, affirming that wars are a serious, perhaps the most serious, problem in the international order *should* not be the same as stating that the international order appeared in order to regulate war). This lack among states of an all-embracing norm that would unite them and require their compliance would be the factor that has legitimated the principle of non-intervention in inter-polity affairs and, with that, the consistency of state sovereignty. From this perspective, cosmopolitan critics of the Westphalian system would consider that if a global-scale binding law was desired, it would be necessary—to continue with the analogy—to convert the whole globe into a domestic sphere,<sup>225</sup> and thereby avoid the

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University Press, 1997) and Hidemi Suganami, *The Domestic Analogy and World Order Proposals* (Cambridge: Cambridge University Press, 1989). We would like to point out that, in historical terms, the vanishing of the Westphalian model was not a direct consequence of the creation of the United Nations, but more a result of the movements for decolonization and national liberation that gained momentum with the independence of India in 1947.

<sup>224</sup> Michael Hardt and Antonio Negri, *Empire*, (Cambridge: Harvard University Press, 2000), 7; and Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, (New York: Columbia University Press), 44.

<sup>225</sup> It is curious to see how many interpreters of Rawls, for example Thomas Pogge, continue to point out what, in their eyes, is an inconsistency of Rawls himself in his book *The Law of Peoples: The Idea of Public Reason Revisited* (Cambridge Harvard University Press, 1999), which would contradict the basic principles of his 1973 *A Theory of Justice*. According to this

“state of nature” among polities and discretionary powers or arbitrariness, in both the external sphere with the possibility of unjust war, and in the internal sphere with the possibility of human rights violations, which characterizes the principle of state sovereignty. If this step is to be taken, at least three necessary conditions must be met: there should be global, and not just international, laws; all individuals should be subject to these laws; and there should be courts with universal jurisdiction and a global coercive power. Jürgen Habermas has recently pointed out that the discussion in the core of the international community is no longer about what conception of international law—the realist (state of nature) or the idealist (construction of a system of positive international law)—is the more adequate to tackle injustice, but whether international law or the unilateral policy of one very powerful polity would be the better measure.<sup>226</sup> What Habermas seems to overlook is the fact that this dispute is no longer one between international law and empire, but between international law and global “private” law. Any critique of the United States’ global empire would not entail only the fact that it acts as a global policeman but that it conceals private interests under the ideology of protecting human rights. Few people question the idea that *some kind of coercive force* with universal jurisdiction is needed to protect human rights but, paradoxically, the justification given as the basis for this protection, namely humanity as the bearer of human rights, can only be invoked, according to contractualist logic, in the domain of natural law. One of the main problems with this approximation is that of defining what human rights are being referred to, and who are the bearer-subjects of these rights, apart

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critique, *A Theory of Justice* would deny any notion of collectivity prior to the formation of the polity in question, because the principles of justice would offer no conception as to what or who the people is, unless they are free and equal individuals. Nevertheless, Rawls’ account of peoples as subjects of *ius gentium* which, although he laments it, is not to be reduced to the sum of individuals comprising the peoples, would be, as far as his adherents are concerned, an inconsistency in his thinking. See Andreas Føllesdal and Thomas Winfried Menko Pogge, “Introduction,” in ed. Andreas Føllesdal and Thomas Winfried Menko Pogge, *Real World Justice: Grounds, Principles, Human Rights, and Social Institutions* (Berlin: Springer, 2005) and Allan Buchanan, “Rawls’s Law of Peoples: Rules for a Vanished Westphalian World”. For a critique of Rawlsian political assumptions, see Charles Mills “Decolonizing Western Political Philosophy”, *New Political Science*, Vol.37, no.1 (2015), 1-24.

<sup>226</sup> Jürgen Habermas, *El Derecho internacional en la transición hacia un escenario posnacional* (Barcelona: Katz, 2008), 10.

from the problem of the source of their legitimacy. In the democratic context, laws and even constitutions are variable and disputable. As discussed above, the understanding of human rights as inherent to the human being goes against any democratic understanding of the law. Once the contents are defined, they are valid independently of the context, history, the type of government and their institutionalization. It is not very difficult to perceive this move as one that amounts to a moralization of politics, or to realize that the fact that this way of viewing things is a majority view in the United States is not independent from the international role the country plays.<sup>227</sup> Thus, in order to justify the universal reach of positive law or, in other words, the possibility of an eventual *global* coercive force, one must appeal to the universal sway of natural law and the incorporation of certain rights, independently of positive law, in individuals. One has the feeling that the application of contractualist theory to one single global polity where it is assumed that there is nothing outside its ambit actually implies the self-cancellation of contractualist theory: there would be no criterion that would make it possible to discern what is natural law and what is positive law.<sup>228</sup> Some thinkers call the domain wherein this situation prevails the “state of exception”. The best known theory that hypothesizes the state of exception, which entails a blurring over of the boundary between positive law and nature, as the paradigm of the new international relations, may be found in Giorgio Agamben’s 2005 book *State of Exception*. However, this theory can only be sustained, at least theoretically, if the following points are accepted: 1) the analogy between individuals and states in the international order; 2) that the individual is the basic unit; and 3) the contractualist theory of political affairs. It is quite surprising to see how both critics and champions of the international order who share this standpoint agree on the basic premise that the international order is related to

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<sup>227</sup> See Claude Lefort, *The Political Forms of Modern Society: Bureaucracy, Democracy, Totalitarianism* (Cambridge: MIT Press, 1986), 239–273; for a critique of the a-historical and anti-political metaphysics lying behind this conception of human rights. For a critical account of western epistemological assumptions in the hegemonic discourse on human rights, even while upholding the idea of linking them to individuals, see Boaventura de Sousa Santos, drawing from the work of Raimon Pannikar on diatopical hermeneutics, “*Human Rights as an Emancipatory Script?*” in ed. Boaventura Sousa Santos, *Another Knowledge Is Possible: Beyond Northern Epistemologies*, (London: Verso, 2008).

<sup>228</sup> See Costas Douzinas, *Human rights and empire: the political philosophy of cosmopolitanism*, (London: Routledge, 2007).

the possibility of war. All cosmopolitan approaches that start out from this perspective, the construction of a single political entity to curb war, always favour a government based on security, order and the defence of individual rights. At the same time, all theories that are critical of this form of government as being antidemocratic, while yet sharing the idea of war as the fount of the international order, would have to affirm that people, the masses, are always dominated and subject to violence.<sup>229</sup> It should be pointed out, however, that contractualist theory was only one among several that sought to explain the changes that were occurring.<sup>230</sup>

However, though the Peace of Westphalia can be theoretically explained by the framers of international law in the 18<sup>th</sup> century following the logic of natural law, they never had in mind the idea of an eventual universal jurisdiction of the *same* positive law. The problem arises when this distinction, which is analytical and axiomatic, is used to interpret historical facts: there would be places where positive law prevails and others where it does not.<sup>231</sup> Indeed, for some of them international law had been created precisely against this idea, which was previously justified by religious authorities with claims to universal *dominion* of the Pope and the universal *imperium* of the Holy

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<sup>229</sup> Giorgio Agamben, *State of Exception*, (Chicago: University of Chicago Press, 2005). For a critique of Agamben's position, a subsidiary of Carl Schmitt's, with regard to international affairs and from the historical point of view with numerous counter-examples, see Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900*, 284: "Neither Schmitt nor Agamben, it must be said, reveals a particular interest in, or knowledge of, the world outside Europe".

<sup>230</sup> See Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, for a critique of the notion that states are in a state of nature *vis-à-vis* each other, which would imply the absence of order between them. The contractualist paradigm associates order with the existence of positive law. Where there is no positive law, there is no order. Therefore, the international order is an illusion while there are no positive laws which are collectively binding and a force which is able to coercively enforce them. There would be no law without coercion. The federal tradition has its origins in other political assumptions and does not regard the phenomenon of war as the key political element in the international order. See Andreas Kalyvas, "Rethinking 'modern' democracy: Political modernity and constituent power" for a theoretical contrast between the two approaches.

<sup>231</sup> A different question is whether, for the actual existence of positive law between states, it is required that there are other places where it does not. See Chapter 3 above.

Roman Emperor, matching the idea of the *Respublica Christiana* with the *Populus Christianus*.<sup>232</sup> As the architecture of the states-systems, the substance of the *ius gentium* understood the balance of power precisely as a response to these claims: no earthly authority, namely a part of the *orbis*, could claim to represent the whole *orbis* and no religious authority could claim earthly jurisdictional powers. It was necessary to think of a plurality of *parts* that by their nature could neither become nor overwhelm the sum of all *parts* and become a hierarchically organized universal empire. A *pluriversum* had to actually be created to rebuff the claims that the political world was a *Universum*.<sup>233</sup> The political maxim was *partager pour équilibrer*. Diplomacy, international conferences and the agreement of international treaties were the institutional mechanisms for conflict resolution. We will have to wait until the collapse of this mechanism which led to the First World War and the creation of the League of Nations to move from the paradigm of diplomacy to that of supranational legal arbitration. So the problem is: we have eliminated the abuse of the papal power as a universal coercive force in favour of the balance of powers, but the conditions of this balance cannot be absolutely guaranteed because there cannot be a coercive global force.

Representatives of this school of thought associate the existence of order with the presence or non-presence of international laws and hence they determine, in part, their understanding of any political system according to the presence or absence of rule of law, passing over the fact that there are other rules that are not law, which shape order, and that the legal dimension is just one among others. Any understanding of

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<sup>232</sup> See Part III of this PhD.

<sup>233</sup> The concept of *Pluriversum* is used by Carl Schmitt in his analysis of the appearance of the *Jus Publicum Europeum*. “The development of the planet finally had reached a clear dilemma between universalism and pluralism [*Pluriversum* in the original German version], monopoly and polypoly. The question was whether the planet was mature enough for a global monopoly of a single power or whether a pluralism of coexisting *Grossräume*, spheres of interest, and cultural spheres would determine the new international law of the earth.” Carl Schmitt, *The Nomos of the Earth*, 243. For an understanding of the concept of pluriversum in relation to the plurality of coexisting worlds where their interrelations are not mediated by violence but by communication, see the compilation made by Serge Latouche of works of the Indo-Catalan philosopher Raimon Panikkar, *Pluriversum. Pour une démocratie des cultures* (Paris: Editions du Cerf, 2014).

order that makes it equivalent to the rule of international law must lead to the idea that the best possible order is that in which the *same law rules everywhere*.<sup>234</sup> It is necessary to remember in this context that the discourse of individual human rights arises historically as a result of the experience of two world wars and, though there is no necessary connection between the existence of violence as a consequence of the plurality of polities,<sup>235</sup> it is surprising to see how this view forms the background of individual human rights discourse. If we accept the hypothesis that we have entered a post-Westphalian era, then political units can no longer be analysed through the framework of the Westphalian system. Thus, the growing number of states and secessionist movements worldwide are either considered to be nostalgic for the past or to be actively regressive.<sup>236</sup> The hypothesis that state sovereignty is the capacity to exercise power over territorial integrity might not let us see the changes that the concept of state sovereignty is undergoing at the international level in relation to the creation of new political units and forms of legitimating power. A change of paradigm may be occurring which does not lead to the disappearance of the state but where the state's relation to territorial power is decreasing. The classic political disputes between conservatives and progressives on whether the priority of the state is to ensure security,

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<sup>234</sup> Alexander Wendt, "Why a world state is inevitable", is a coherent example of this way of reasoning. Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, 49 makes a compelling critique of this view for its reductionism: "Because international society is no more than one of the basic elements at work in modern international politics, and is always in competition with the elements of a state of war and of transnational solidarity or conflict, it is always erroneous to interpret international events as if international society were the sole or the dominant element. This is the error committed by those who speak or write as if the Concert of Europe, the League of Nations or the United Nations were the principal factors in international politics in their respective times"; or "The element of international society, is real, but the elements of a state of war and of transnational loyalties and divisions are real also, and to reify the first element, or to speak as if it annulled the second and third, is an illusion."

<sup>235</sup> See Samuel Moyn, *The Last Utopia: Human Rights in History*.

<sup>236</sup> For a denial of this reality because it is considered as "outdated and unreal", see Eric A. Hobsbawm, *Age of Extremes: The Short Twentieth Century 1914-1989*, (London: Abacus, 1995), 10-11. The problem in this kind of reading is that the interpretative framework is no longer able to confront the "facts". To consider a reality outdated is the best proof that the theory is no longer suitable.

order and inner peace or social and political justice and the welfare state may have superseded the state framework, but it has not become irrelevant. It is precisely this new relevance which must be interpreted and considered a novelty instead of an anachronism or a vestige of the past.<sup>237</sup>

### 5.3. Cosmopolitanism as Individualism

To return to cosmopolitan critics, it would seem then that, if we cease to organize ourselves in diverse and different ways and take as our starting point the supposition that the plurality of human collectivities has been one of the key problems of political history then, according to this theory, relations of domination between peoples would disappear. If this reality, this fact, disappeared the problem would also disappear. Beyond the theoretical problem of reducing political relations to relations of domination, from a conceptual standpoint the existence of different collectivities need not imply that there would be relations of domination between the collectivities in question or that, if they did arise, they would be problematical in terms of justice. History offers, on the one hand, numerous examples of peaceful coexistence between different human collectivities which, when compared, were almost seen as different *species* and, on the other hand, the existence of relations of domination between collectivities which were not considered to be problematic from the perspective of their legitimacy.<sup>238</sup> For example, racism is an ideology that only makes sense in a context of

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<sup>237</sup> Lea Ypi names the role that states have to play under this situation as “statist cosmopolitanism”. See *Global Justice and Avant-Garde Political Agency*, (Oxford: Oxford University Press, 2012).

<sup>238</sup> The contrary implies affirming that every kind of domination is felt or experienced as unjust or imposed by external coercion, which is manifestly false unless reality is only interpreted on the basis of concepts of ideology and alienation, or normative principles that exclude any kind of relation of domination: “So far as it is not derived merely from fear or from motives of expediency, a willingness to submit to an order imposed by one man or a small group, always implies a belief in the legitimate authority (Herrschaftsgewalt) of the source imposing it,” Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, ed. Guenther Roth and Claus Wittich (Berkeley: University of California Press 1978), 37. For example, in representative liberal democracies, the fact that the group that receives most votes should be the



justification of domination that is contested, but it is not an ontological *a priori* condition that determines domination.<sup>239</sup> Furthermore, relations of domination between polities that are exclusively based on violence, which is to say that they do not need *any* kind of justification, are notable for their absence in the historical record, at least in the sources that are available to us. Violence has always been justified as a means but never as an end in itself. Then again, we know that *de facto* differences do not imply differences in values or, to reword the proposition slightly, it is not possible to derive normative statements from empirical statements. That being so, normative justifications are always required for arguments that seek to base themselves in empirical evidence.

A brief discussion of an historical example will help me to illustrate the point. All the explanations that insist on realism to understand the so-called Gulf War II, though perhaps they are right about the purpose of the war, are not able to see, or directly dismiss as pure hypocrisy, the real importance of the discussions that took place in the United Nations Security Council. Colin Powell, United States Secretary of State at that time, had to present a set of legal and normative justifications, not only technical, and provide evidence to legitimize the attack. Beyond the debate about whether the evidence provided was false and invented or mere mistakes or half-truths, the important point is that this discussion was to some extent an important condition for waging a war.<sup>240</sup> Had

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one that imposes a particular kind of legislation is not perceived by those who did not vote for it as illegitimate. If a form of domination is legitimate, this does not mean it will be so forever.

<sup>239</sup> Hannah Arendt, *On violence*, (New York: Harcourt, Brace & World, 1970), 75-77; for the idea of racism as an “ideology”. See Chapter 2 above for the historical need to justify the conquest of the “Indians” after the “discovery” of America.

<sup>240</sup> As Hedley Bull contends, *The Anarchical Society: A Study of Order in World Politics*, 43, against those that claim that violence is inherent to the international order: “The question ... is whether an international system in which it is necessary to have a pretext for beginning a war is not radically different from one in which it is not.” Or in Michael Walzer’s words, discussing the justifications for war: “In any case, the possibilities for manipulation are limited. Whether or not people speak in good faith, they cannot say just anything they please. Moral talk is coercive; one thing leads to another.” In *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, (New York; Basic Books, 2006), 12. Another question is whether the reasons are ideological or mere façades. One could say that the justifications represent the interests of the dominant powers, justifications are understood from an instrumental perspective: which is then the end for which the justification is a means? If the answer is ‘power’, the argument would

it been a unilateral invasion, this would have had consequences for the other members based on normative justifications. To say that the UN Resolution was a mere pretext for the war is to overlook something which is a key element for the international order itself: “justified” reasons are needed for waging a war.<sup>241</sup> Nobody would be surprised by the observation that the second half of the 20<sup>th</sup> century witnessed historical transformations that have substantially affected our way of viewing the world. After the end of the Second World War, a political imaginary that had previously been confined to either minority concerns and specialist material, or had only been deemed important in some parts of the world, began to take hegemonic form and to be used, either as a critical weapon or as a legitimizing tool, against any way of understanding the human being that did not consider the individual as the unique and singular entity on the basis of which to “constitute a polity”. One of the lessons that should have been learned from the first “cosmopolitan” project ever to be carried out, the League of Nations, is that the ostensible solution to the problem that arose with the First World War was based on a totally erroneous diagnosis and, rather than being a solution it, too, affected the structural problems that were already present before the war. The nation states created out of the dismembering of ancient empires and guaranteed by the principle of “collective security—which, depended precisely on the volition of the selfsame nation

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clearly be circular because power is precisely what, according to them, does not need justification. One could also say that the order of the justifications moves around a regulatory paradigm that is western but aims at universality. The problem with this account is that almost all states are represented within the United Nations and it is not a necessity to be a member. The fundamental problem lies more in the undemocratic decision-making mechanisms of the Security Council, which promotes the interests of its members and favours closed negotiations.

<sup>241</sup> “What is fundamental to politics is the interaction between structures of meanings on the one hand and the political actors who use them to articulate certain positions on the other. Here, arguing plays as important a theoretical roles as discourse: while the dominant discourse shapes foreign policy by ruling out the proverbial ‘impossibles’, it is arguing that makes some policy directions, more likely than others [...] Due to these intrinsic properties of arguing, political elites can therefore impact the environment which they operate, sometimes radically so.” Srdjan Vucetic, *The Anglosphere: A genealogy of a racialized identity in international relations*, (Stanford: Stanford University Press, 2011), 11. As Vucetic explains in his book, the divergence between Canada and Britain regarding intervention in Iraq was mainly driven by a divergence on the normative justifications which grounded an international intervention.

states—together with the establishment of liberal democracies that included several minorities or nations in one single territory, did not constitute any panacea that would lead to peace but, rather, one more reason for war.<sup>242</sup> In order to avoid these problems after the Second World War, the individual human being was to be placed at the core of the new “cosmopolitanism”, and human rights were not to be linked, from now on, with being a citizen of any nation state as happened with the first universal declaration of human rights, the Declaration of the Rights of Man and of the Citizen, which was derived from the French Revolution of 1789, when it associated citizenship, nationality and human rights. Instead, it was necessary to create a new independent body, the United Nations, as a guarantor of their *universal* fulfilment. One should not ignore the fact that both international responses to the two world wars, the League of Nations and the United Nations, had their origins in a liberal normative model of the international order. In the former case, a liberalism that linked liberal democracy to the form of the nation state fostered by Woodrow Wilson’s interpretation of the principle of self-determination, which fuelled national disintegration in old European empires and promoted conflict in Central Europe, and in the latter, one that gave priority to human rights beyond the polity to which the citizen belonged, in the form of individualist liberalism. For all that, it is still surprising how some of the critiques of this new individualist understanding of human rights are in tune with the other understanding, deriving from the French Revolution, except that now the quality of being a citizen would be in terms of a global polity. Yet one of the historical effects of the individualist position, although it is not shared in any explicit way, is tacitly accepted by numerous critics of the theory, including the most vehement among them: any kind of organization of society that involves borders and differences between individuals, which is to say the existence of different peoples, is potentially aggressive even when the need for them might be recognized. This leads to a double bind. Either there are only individuals, in which case, any border works against them or, to put it another way using Isaiah Berlin’s metaphor of the “inner citadel”,<sup>243</sup> the only border recognized is

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<sup>242</sup> Edward Hallet Carr, *The Twenty Years’ Crisis 1919-1939: An Introduction to the Study of International Relations*, 230; and Hannah Arendt, *The Origins of Totalitarianism* (New York and London: A Harvest Book, 1973), 270 and ff.

<sup>243</sup> Isaiah Berlin, *Liberty*, ed. Henry Hardy, (Oxford: Oxford University Press, 2002), 181 and ff. Michael Walzer offers a critique of this metaphor in his book *Spheres of Justice: A Defense of*

that between “my own skin” and what lies outside it: not only are there just individuals, but any frontier creates exclusion and is dangerous.<sup>244</sup> Any theory that assumes common ground in the shaping of a polity, which therefore excludes on principle those who do not share this ground, is the typical target of this confluence of critiques from these rival positions—with regard to the fact of excluding people on the basis of what is not shared, it is irrelevant if what is held in common is constituted by private interests, culture and shared language or mutual solidarity, although it is perhaps not irrelevant with regard to the form of exclusion. Furthermore, it is possible to construct arguments from the three aspects of the need for common ground that would not recognize the need for different collectivities. There are theories for all possibilities: there can be harmony of private interests among all the citizens of the world, a common culture that we now call multiculturalism, and mutual solidarity, which we might call global social justice.

This communion of diagnosis comes about starting from the point at which an almost universally shared normative approximation in which *all* human beings are free and equal is contradicted by a historical fact, the durability, persistence and ubiquity of which is perhaps as old as human presence on earth: until the present day human beings have lived, and indeed still live, in collectivities that differ from one another (clans, tribes, *poleis*, *civitates*, nations, federations, and so on). Hence, it would seem that it is generally accepted, at the level of principles, that there is no democratic criterion that would permit the exclusion of human beings from any polity. Why, then, should there be different peoples if all human beings are free and equal? The form of the question certainly presupposes potent non-contextual normative contents since, in phenomenological terms, it would not appear that all human beings are free and equal, and neither would it appear that they are free and equal in the same way. Human beings

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*Pluralism and Equality* (Oxford: Basil Blackwell, 1983), 39: “to tear down the walls of the state is not... to create a world without walls, but to create a thousand petty fortresses”.

<sup>244</sup> Tzvetan Todorov, *The Fear of Barbarians: Beyond the Clash of Civilizations*, (Chicago:University of Chicago Press, 2010), 52: “These days, in Western countries, collective identity no longer enjoys a good press. It is viewed with suspicion: the suspicion that it is a sort of conspiracy against individual freedom. When it comes to finding a specifically human trait, people prefer to lay the emphasis on the capacity that each person has of opposing all definition-from-outside, all physical or cultural heredity”.

as such, at least while they live on planet earth, are subject to a series of conditions that partially shape their lives and the range of decision-making possibilities open to them. The most significant of these is that they occupy a certain place on the surface of the planet, which is to say they are born in a clearly determinate context, from which they can dissociate themselves in different ways but always *a posteriori*. It is important to highlight this fact because it points to a tension at the heart of globalization.<sup>245</sup>

If it is true that there is global connectedness, the point from which I connect is always, and as a matter of principle, local. This tension can only be abolished from extreme positions. The first is that which asserts that the place from which a human being connects is exactly the same as that from which another human being connects. The place itself would be irrelevant as all the places are equal. The processes of global homogenization and standardization can be understood in this light. On the other hand, saying that all places are equally different is the other version of this notion that place *per se* has no importance. In this regard, multiculturalism performs the same function as homogenization: invalidating place or rendering it superfluous. The justification of human rights-based multiculturalism partly denies the political significance of place since it detaches culture from the political collectivity. Paradoxically, since culture is only intelligible against the assumption of a collective entity, it would be necessary to create a culture of human rights in order to sustain them, which constitutes a certain naturalization of culture since this can only be done if it is linked to a particular nature, a universal abstract: Humanity. All the rest would come under the heading of particularism or pertaining to the private sphere. The second way of understanding place is one in which, while globalization is acknowledged, only power relations are seen, in which one particular place imposes its norms on all the rest. This position, which might be described as relativist, holds that the place or context determines the extent to which the way of being and self-understanding of human beings precludes any “equality and freedom” that is comparable. There would be a certain degree of incommensurability among the different contexts. This is how I interpret the journalistic use of Huntington’s “clash of civilizations” catchphrase.<sup>246</sup>

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<sup>245</sup> See Chapter 9 below for a critique of this position in relation to historical injustice.

<sup>246</sup> See Introduction above.

## 6. Modernity and Democracy

### 6.1. Interpretations of the Modern Democratic Imaginary

We live in a time where it is a commonplace to argue that the democratic state as the realization of political autonomy is both the hegemonic and the normatively superior political form and, though it may be too soon to assess the impact of what is referred as the third wave of democracy, its reach seems to be almost global. The *state* of democracy, following a positive narrative, would be at its best. After a long history of developments and setbacks, the democratic imaginary has finally imposed its dominance all over the world. The degree of its reality is captured by the existence of a wide range of democratic institutions and their popular support (or consent), and at the moment where there is no other political form that competes normatively against these institutions, some contemporary thinkers and politicians do not hesitate to close the gap which for the Enlightenment thinkers was a metaphysical statement about the difference between reality and ideality, which allowed for an unlimited political progress to happen: nowadays reality and ideality would finally correspond, and therefore a critique of *existing* democracies as lacking or negating any of its properties would only be possible from an instrumental, technical perspective, but not from a normative one. From this moment on, we only have to manage and administer efficiently democratic institutions in order to keep together the form and the content of democracy, but no further substantive progress is needed. We only have to implement it on a global scale. The temporal gap between its idea and its effectiveness is closed and to critique democracy would be tantamount to a rejection of democracy *per se*. Accordingly, the threats that political autonomy encounters are external and not generated by its own dynamics. They are associated, as has always been the case, with the *other* or the *outside*: religious fundamentalism, power relations, cultural difference, and so on.

In contrast, the negative narrative corresponds roughly to the opposite view. In short, it assumes that what is commonly apprehended under the name of democracy is only a technique of government which obscures the reality that the true constitution of political power is in fact non-democratic: reality and ideality are always in conflict. The critical task is to unveil in any allegedly democratic institution its anti-democratic element due to the imbalance of power relations or violence, be it “symbolic” or material. Only in exceptional moments, normally revolutions, democracy becomes real.

There is a wide variety of answers regarding what is hidden: class struggle, gender domination, racial oppression, and so on. If the positive narrative reifies democracy and is unable to accommodate change or crisis, the negative one is utopian or messianic and sees stability as the sedimentation of power relations that hampers any democratic aspiration.

Recently, a new intellectual strategy to escape from the conundrums of the above-mentioned narratives is to state that democracy is a conundrum in itself. Its essence is paradoxical or aporetic, its appearance is phenomenologically *impossible* or it is self-destructive. In the first case, an assumed property of democracy entails its contrary; for instance, the democratic self blurs the difference between the self and the other. In the second case, a property negates another property or robs it of its essence; for instance, the principle of freedom and the principle of equality are irreconcilable, therefore to achieve a *real* democratic polity is, by virtue of its requirements, not possible. In the third case, from the moment that democracy does not limit in principle any form of democratic agency, it also includes the possibility of self-cancellation.<sup>247</sup>

Though any of these narratives can be useful to analyse concrete historical realizations of democracy, they are not plausible when they are used as a *general* theory of democracy. Indeed, their shortcomings may point to the fact that a theory of the democratic experience cannot be generalizable. The positive narrative could be suggestive as a means of analysing democratic institutions when they have been in place and are stable for a long time: the problem is that a *temporal* state of stability is misconceived as a situation of *absolute completeness* of democracy, where all the possibilities of the democratic imaginary are subsumed, and if not, they are anti-democratic. The negative narrative seems only a plausible hypothesis in all those situations where the democratic institutions enacted by the *demos* have become self-sufficient and when the active participation of the *demos* is no longer necessary because these institutions have become self-referential. And last, the paradoxical narrative is

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<sup>247</sup> Nathalie Karagiannis, “Democratic surplus and democracy-in-failing: On ancient and modern self-cancellation of democracy”, ed. Gerard Rosich and Peter Wagner, *The Trouble with Democracy: Political Modernity in the 21<sup>st</sup> Century*, is a critique of this perspective, showing how the paradoxical nature of democracy only emerges when we consider self-cancellation itself as a democratic action.

suitable for all the moments where, in the words of Cornelius Castoriadis is, the *demos* is *at the same* time, the instituting and the instituted, i.e. the revolutionary or foundational situations or moments, as Nathalie Karagiannis points out regarding the state of exception and totalitarianism, where a democratic regime ends by a political decision. Other allegedly paradoxical features of democracy only appear as an effect of assuming *possible* contents of a democratic regime as *necessary*.

This short summary of the current assessments of the state of democracy helps to illustrate the current state of the debate. Since human beings are the instituting actors of any political formation, many of the problems besetting these approaches are a consequence of people not engaging with their actual experiences and the contexts where they live. Concepts are received, used and created by the human beings to guide their actions and constitute a common space of interpretation. Against the background of novel and unprecedented experiences, new practices emerge and others disappear and with them new concepts are created or change their meaning in order to produce a new common space of interpretation. However, political concepts do not refer to any external reality that could exist independently of the presence of human beings. They are self-instituting concepts that transform or create the reality to which they refer, and since, as Hannah Arendt insisted, plurality is the political condition of human beings on earth,<sup>248</sup> there are no *a priori* consensuses among people about their meaning. Democracy is one of these concepts, and its peculiarity is that it neither provides a unilateral meaning nor a single institutional setting. It is the explicit recognition of the collective capacity of self-instituting a polity, of autonomy as it is here understood. Thus, it is not a surprise that its meaning is contested. This is the reason why it is always accompanied by an adjective that qualifies it: liberal, representative, parliamentary, direct, and so on. At the same time, knowing that under democracy political reality is self-instituted by the plurality of human beings and it is the result of collective action, it has as a consequence the strife over its transformation or conservation, which opens a space for critique and progress.

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<sup>248</sup> “Politics is based on the fact of human plurality [...] Politics deals with the coexistence and association of different men. Men organize themselves politically according to certain essential commonalities found within or abstracted from an absolute chaos of differences.” Hannah Arendt, “Introduction into Politics”, in *The Promise of Politics*, (New York: Schocken, 2005), 93.



Democracy is here understood as the collective capacity of having autonomy, of giving oneself one's own laws,<sup>249</sup> and cannot automatically be associated with any particular institutional form, be it the constitutional state or the parliamentary system, nor with any historical formation, i.e. modern times against ancient, archaic or medieval times, nor with any anthropology of the human being. It is a particular way, an ethos, of dealing both with the plurality of human beings and with the need for creating rules for life in common and keeping them alive. Only the availability and/or the study of historical sources together with the analysis of concrete institutions allow us to speak of the presence or absence of a democratic regime and allow us to illuminate the record and varieties of its eventual formation. It is worth outlining that nowadays, at the historical moment where the majority of polities understand themselves as democracies, the conviction is more widespread that there is something at work against it: collective volumes evaluating the fragility of democracy, government initiatives to protect it, popular demonstrations in the name of democracy, and even some representing the interests of capital fears its collapse. It is nonetheless surprising that when parts of Latin America and Africa are experiencing substantive democratic reconfigurations, a narrative affirms that democracy would find itself in trouble. The trouble would appear so important that a new line of research has appeared that works on the assumption that we live in a post-democratic age.<sup>250</sup> Is it not the swan song of the western world, which after almost two hundred years of hegemony, in a new Eurocentric tour de force, associates its demise as a demise of democracy in general? If one takes into account that democracy is the dominant political form in the West only after the Second World War, it becomes even clearer that under the heading of the crisis of democracy, different

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<sup>249</sup> See Peter Wagner, *Modernity as Experience and Interpretation: A New Sociology of Modernity*, 2; Cornelius Castoriadis, *World in Fragments: Writings on Politics, Society, Psychoanalysis, and the Imagination* (Stanford: Stanford University Press, 1997), 332; and Jean Luc Nancy, *The Experience of Freedom*, 171-172. For a partial criticism of the assumptions of this definition of autonomy because it would entail a strong teleological content, see Jacques Derrida, *Rogues: Two Essays on Reason*, 10-12.

<sup>250</sup> Colin Crouch, *Postdemocracy*, (Cambridge: Polity, 2004). He looks mainly at the current economic configuration that makes democratic aspirations unworkable. In my view, it is an updating of class analysis which can be useful to analyze the developments in some countries of the western world, but his conceptual framework prevents him from observing democratic developments in other parts of the world.

transformations are at work. However, awareness of the truthfulness of this new trick cannot be a pretext for thinking about the impact of these transformations on the prospects for democracy in general, precisely because there might be a connection between these transformations and the progressive loss of hegemony by the western world.

Many of the problems of analysing democracy arise because the fact of acting autonomously is disconnected from instituting an order. It would imply two different logics with their own dynamics.<sup>251</sup> Though it is true that there can be an order without being democratic, it is difficult to imagine a democracy without creating order. Autonomy, to give oneself one's own laws, already contains the need for having order and institutions, namely to establish the law that henceforth is to guide one's own actions, or in other words, to control the outcome of one's own actions. In the same move, a tension is created: once there is a law to be followed, there is a limit to autonomy. Autonomy implies *mastery* of the social world.<sup>252</sup> This may produce the effect that establishing order is in principle anti-democratic or that is ontogenetically prior to the exercise of collective autonomy. This tension increases as times elapses and the self that gives the law is no longer exactly the same as the one that obeys the law, and the self that instituted an order at one moment is no longer the same at the next moment.<sup>253</sup> It is in this sense that a democratic order will need to always internally address its implicit capacity of self-transformation and change, so as to avoid domination, a situation where the self that obeys the law has not created it. The call for stability becomes problematic when its end is to limit this capacity of self-transformation. A political effect of not being able to entrench in a democratic order its self-transformation is to indirectly legitimize the contemporary hidden critiques of democracy when they state that the primary objective is to create a well-ordered society. According to these critiques, when democracy is not limited externally with other normative concerns about overall stability, it causes fiscal crisis, political instability,

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<sup>251</sup> However, it is not as easy to demonstrate as radical critiques seem to suggest, which becomes apparent when we cease to assume that either a set of institutions or normative concerns implies having a democracy in place.

<sup>252</sup> This is a perspective shared by Shmuel Eisenstadt, Johann Arnason, Peter Wagner and Cornelius Castoriadis.

<sup>253</sup> Peter Wagner, *Progress: A Reconstruction*, Forthcoming.

populism, and even regress. However, it is significant that it is these very critiques that do not want democracy to have the capacity to self-transform when it is precisely this ability that helps to overcome these moments of instability. Such critics blame democracy for something that in fact is a problem related with the concept of an order that does not have its own means to self-transform. Sometimes it is even an argument used against transformative democratic action that would create a new order as a consequence of the *instability* of the existing one. In contrast, when the capacity for self-transformation is asserted, this ability helps to overcome moments of critical instability, on the one hand, and on the other hand, it also is a means to overcome domination that is crystallized in the contingent institutional order.

Thus, it is not instability that spells trouble for democracy, but the lack of capacity for self-transformation, in particular in situations in which transformations may be needed for democracy to prevail or to move closer to fulfilling the normative promises of the democratic political imaginary. In other words, the main problem for understanding the prospects for democracy today is to identify that which in the current socio-political situation requires self-transformation but may exceed the existing capacity for self-transformation. In what follows I will make a brief attempt in this direction. Because it is a process that it is taking place in the present, it is very difficult to avoid the effects of the distorting lenses implied by the fact of being an actor and an observer at the same time. The analysis can be misled by its own approach and assumptions, or it can be either influenced by manufactured public opinion or biased by normative commitments. Even though one cannot be fully aware of one's own presuppositions or the actual implications of one's reflections—precisely because one is thinking *in* the present, which by definition is open-ended—one has to be explicit about the limits of one's own analysis, which in general are related to the angle from which the present is conceptualized.

The emergence of a democratic imaginary within modernity would be the consequence of a rupture with the status quo, normally associated with the age of revolutions running from 1776 to 1848. However, the self, the *demos*, was based very often on a double exclusion: internally, of women and the poor using a qualified franchise for political rights based on property ownership and, externally, with the creation of a collective self based on the concept of nation or race and defining who was a member and who was a stranger to that collectivity. The self had strict and clear

boundaries both in substantive and territorial terms. The members were recognized as belonging to the self only by virtue of having a degree of common substance, either of blood and/or culture based on *jus sanguinis* and/or *solis*. The self, too, had to be *independent* from external and internal domination in order to be autonomous and the state was legitimized as the institutional and administrative implementation of the collective will. And by far the most problematic dimension, the emergence of a democratic imaginary, also coincides with the so-called age of imperialisms.<sup>254</sup> The social viability and political demands that constituted democracy were linked too often with the domination of other peoples, either enslaving or colonizing them. Even though it is very implausible to maintain that significant numbers of polities were democratic much before the end of the Second World War, the conceptual revolution needed to “implement” democracy was already in place, but it was understood in connection to the need for limiting absolute inclusion. The post Second World War domestic nation-state was the form that stabilized this form of democracy around the world for the first time within modernity, linking full inclusion with the concept of national citizenship.

## 6.2. The Challenges to Democracy

As I will try to show very briefly, if we are not able to find the correct answers to the existing challenges to democracy, we run the risk of making democracy an unviable political regime from the moment we are no longer capable of exercising autonomy collectively. Taking into account the angle from which we have analysed the appearance of democracy in modernity above, I believe the transformations at work and their eventual interrelation, which are troublesome for democracy in contemporary times, can be singled out as, first, the end of imperialism and global interdependence; second, the need for recognition and the weakening of the self and, third, the need for new institutions and the inability to create and stabilize them.

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<sup>254</sup> “The story I have told of the interconnections between liberal nation-building in nineteenth-century France and Britain and the growth of their empires suggests that the process of democratization in western Europe generated exclusions not only internal to those societies but also globally, and that liberal thinkers of this period were deeply implicated in these exclusions.” Jennifer Pitts, *A turn to empire: The rise of imperial liberalism in Britain and France*, (Princeton: Princeton University Press, 2009), 254.

First, beyond the normative implications of empire, global empire building from the age of discoveries until the end of the Cold War has been one of the leading trends in political modernity, as contemporary historians of world history have shown. As has been explained in Chapter 2, globalization is a process that has a far longer history than is commonly assumed. Its main consequences are that it created wide varieties of networks interconnecting polities, though in an asymmetric way, creating relations of domination based on dependence. However, the creation of the UN, the decolonization of the 1960s and 1970s and the end of Soviet “empire” have altered this picture. Both the former polities that were either enforcing domination or suffering dependence are now, in general, equal political independent entities. However, this past relation of dependence created social, economic and political bonds that did not disappear with formal political independence and claims to redress global historical injustice blurs the distinction between the formal boundaries of polities and how these polities have been historically constituted, along with the grounds for their constitution. The end of empire thus creates a situation of global interdependence but the current world order is unable to address the effects on the present of past historical injustice. At the same time, since the framework upon which the social, economic and political relations between people is formed is still mainly the domestic state, and given that many of the issues that the “people” in a domestic state want to determine are of a global nature, there is little in reach and scope that the “people” can decide, determine; though sometimes this little is still of enough importance and relevance, as current processes of independent state formation seem to suggest. At the same time, since empire building is no longer a viable political strategy because the end of imperialism has broken the old balance of powers based on relations between empires, and since there is no political entity that can claim world supremacy, there is no imperial “people” that can determine for the rest of the peoples what the substance and form of interdependence should be. The absence of empires makes the state the only global political actor in town but at the price of losing much of its classical capacities. It is in this sense that the *self* is unable to fully determine the political domain and thus collective autonomy cannot be exercised entirely. The idea that individual autonomy and cosmopolitanism can be the solution to this lack of collective autonomy is the other side of this transformation and one of its political effects is to avoid the need to redress global historical injustice insofar as it assumes that a positive world order will appear only from the interaction of

individuals gathered together exclusively from the standpoint of their private will, their individual freedom.

Second, as discussed above, the democratic self is/has been constituted by a series of formal exclusions, mainly gender, racial and minority exclusion. The nation as container of the collective autonomy had clear and strict boundaries regarding who was a member of the nation and who had political rights. For instance France, the home of *La Révolution*, recognized political rights for women as late as 1944, and there are still features of gender political domination in the allegedly consolidated democratic polities. In the United States, political rights for “blacks” in the southern states were only won through the civil rights movement in the 1960s, while in South Africa blacks only gained political rights as late as 1995 and though formal racism is now said to be discredited, it is far from true that racism as such does not still shape some polities. As long as allegedly democratic requirements in the polity have been fulfilled, more members of it have achieved political rights. However, these stages of inclusion have been achieved by struggles for recognition—not by challenging the political, historical and ontological foundations on which the concept of the state rested—with two effects: first, these struggles have been fought with the discourse of equal rights and second, they have weakened the former strong notion of the self based on an exclusionary understanding of the nation. Now, thanks to struggles for recognition, different collectivities/selves emerge within the polity that weakens the collective capacity to self-determine and transform political action into interest group promotion. It is in this sense that the liberal constitutional state, which considers the individual as the only existing political entity, seems to be reinforced by being the best political form to accommodate these struggles. Weak and temporal notions of the self in contexts of struggles for recognition based on rights claims in liberal constitutional states, security in the first case and work in the second, can be effective but seem to be unable to sustain democracy in general. Furthermore, if the conflicts in the polities emerging with migration patterns are solved in the same manner that has been done with other exclusions, namely by granting rights to all those that are within the polity, borders will be (actually are) converted into fences and walls, citizenship will become a privilege and the collective self will be further weakened.<sup>255</sup> Again, the general consequence is, as Charles Mills suggests in his analysis of the work of John Rawls, that only individual

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<sup>255</sup> See Wendy Brown, *Walled States: Waning Sovereignty*.

autonomy is taken into consideration with the effect of evacuating the question of historical injustice, which would imply a reconsideration of the collective self from the moment it will need to address the question who is responsible and who must be compensated and in what terms. Additionally, the degrees and reach of interconnectedness, as explained above, have created new associative bonds that go against or are different than the national ones, without being able, at least until now, to create new political collective selves. In sum, there is little to determine and there are weak selves, something which in combination makes the exercise of collective autonomy precarious.

However, were one to believe dominant discourses on democracy, one would tend to think that we are still living in democratic polities. And though it may be true that our current institutions had in their origins strong democratic features, the transformations explained above have not (yet?) led to adequate new democratic political institutions, which has had as a consequence the disaffection of citizens because they do not see these institutions as useful. This has changed the deliberative to a procedural understanding of democratic institutions. This disconnection between people and institutions has created a new vicious circle. Institutions have substituted government by the people for government for the people, the latter relying on technocratic forms of decision-making and assuming that expertise is a prior qualification for governing. However, this creates a crisis of legitimacy because technocratic governments do not provide what they promised or are not reproduced through electoral cycles. For the same reasons that the people are unable to exercise collective autonomy, those charged with governing may also be unable to implement decisions: they do not have enough power to determine the domestic sphere. And it is at these moments where it is clear for both the governing elites and the governed that there is a democratic deficit that is seen as difficult to overcome. The governing elites require a new legitimating framework for ruling, and sometimes they even blame the people for its absence, but there is neither a self there to do it nor the possibility of knowing what is common only to those who are within the territorial borders. The political problems that create this democratic deficit have not been addressed by a new understanding of democracy, but by creating institutions that are not democratic and are beyond people's effective control, with the justification that these institutions would engage in an efficient way with the problems associated with the democratic deficit. Among these

institutions we find new kinds of supra-polity global institutions, from NGOs like Amnesty International to international economic institutions such as the IMF or the World Bank or judicial bodies such as the ICC, from global state associations like the UN to regional ones like the UE, BRICS or G20, and so on. However, these institutions are neither democratic in form nor primarily geared toward addressing the challenges that democracy faces in contemporary times, their main concern being instead the stabilization of the dynamics launched by what they term globalization after the Second World War. This may be achieved but we do not see that democracy is also on the agenda; it may even be achieved at the price of abandoning democracy because we are no longer able under current conditions to exercise democratic self-rule. It is far from clear that the new normative political discourses praising individual human rights and the post-sovereign world order are of a democratic nature. The norms constituting this new normative paradigm are justified by appeal to transcendental moral standards which in turn cannot be the outcome of collective autonomy, since it is a capacity that has no grounding outside itself and where every decision can be contested.

Despite this troubled picture, there are signs that the democratic imaginary is alive and is the main driving force in some struggles. On the one hand, the inability of governing elites to address the most pressing issues of our time provokes protest movements. They focus on different issues according to local circumstances—in Latin America, South Africa, India, and Europe. But they have in common the claim that elite governance is the problem and democratic participation—at least: part of—the solution, not the other way around.<sup>256</sup> On the other hand, there are contexts in which collective autonomy has been successful in recent times in transforming the societal self-understanding and achieving considerable institutional stability as well. South Africa is a paradigmatic instance of such self-transformation.

True, it is difficult to assess from the perspective of the present the lasting global relevance of these events, to recognize whether they might be leading towards a constructive self-transformation of democracy. Certainly, under current conditions it is difficult to sustain such democratic experiences based in individual states if they cannot be well embedded in the global sphere. The problem is that the global sphere is marked

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<sup>256</sup> For recent analyses, see Breno Bingel and Mauricio Domingues, eds, *Global Modernity and Social Contestation* (London: Sage, 2015).



by anti-democratic trends and its impact might be too strong for any single democratic collectivity.

One strategy to counter-balance the impact of these trends could be to promote regional integration. But such integration would need to be oriented at radically new democratic standards and would need to let some “regional self” emerge that defines the democratic collectivity in new terms. Otherwise, regional integration as such is not necessarily an answer. European integration has often been hailed as an example for democratic reconstitution under current conditions. But the experiences with the recent crisis within the European Union are sobering. Technocratic government is at the centre of crisis resolution, and its implementation shows the re-emergence of subterranean historical imperial tendencies,<sup>257</sup> with the difference that now there is no “outside” to be conquered and imperial domination develops internally. The current Greek situation within the EU is telling: democratic self-determination in a small and dependent polity is obstructed by the political elites in the dominant states of the Union, with the latter legitimating themselves through technocratic expertise. New political movements in Europe are successful in disintegrating and decapitating the existing states, but in contrast to other regions they have not (yet) been able to bring a democratic self-transformation about.

These brief examples, all of them with long-term outcomes that remain open, offer at least two insights: first, the democratic imaginary is alive. In situations of oppression or crisis, it is forcefully actualized by social movements that call for democracy and justice. Second, under current conditions of global interdependence the lasting success of such movements requires more than the winning of “local” power in existing states. The perspective needs to be a broadening of the democratic impetus by creating federations of movements and institutions that are able to sustain the democratic experiences and, at the same time, address the challenges of the present. This requires a self-transformation of current democratic forms—a transformation that may spell trouble for those only interested in stability, but current stability is neither very democratic nor capable of generating answers to the challenges ahead.

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<sup>257</sup> Gerard Rosich, “La independència i/de la Unió Europea”.

### 6.3. Inter-democratic Relations

When addressing these challenges at the international level, nowadays it is difficult to sustain the idea that, if all polities are democratically governed, they will treat each other democratically. This is not only because of matters pertaining to power dynamics but, also and in particular, because it seems that the conditions and bases of their relations are apparently beyond their control. If E. H. Carr could interpret the disaster that was looming between the First World War and the Second World War as the preponderance of utopianism in international relations, by way of the creation of the League of Nations and the associated idea of promoting liberal democracy in plurinational states that had just been created, one can hardly say at present that democracies,<sup>258</sup> as forms of government all around the world, are utopian projects, and any diagnosis made nowadays would surely start out from the ascendancy of the opposite imaginary, that E. H. Carr also discusses in his book, namely that of conventional realism—in other words, this would be to say that the dynamics and processes of globalization are so powerful that it would be utopian to believe that its progress can be modified or controlled.<sup>259</sup> Beyond proclaiming the success, which is very frequently ideological, entailed in the fact that more and more polities have taken the form of liberal democracies, it would not appear that we are capable of seeing the implications of this for the international order. On the global scale, the only normative project that still has some influence, cosmopolitanism, is at least three centuries old and it has been revived as a result of globalization.<sup>260</sup> Again paradoxically, at a time when more polities are governed in accordance with the principle of autonomy, which might

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<sup>258</sup> Whether or not these are real democracies is a discussion that is well beyond the scope of this analysis.

<sup>259</sup> Edward Hallet Carr, *The Twenty Years' Crisis 1919-1939: An Introduction to the Study of International Relations*, 26-28.

<sup>260</sup> Beyond the first written cosmopolitan projects of the 18<sup>th</sup> century—by Abbé de Saint Pierre, Jean Jacques Rousseau and Immanuel Kant—which had a limited impact only in small circles of intellectuals, cosmopolitanism at that time was associated with the aristocracy and nobility in Europe and was based on common aesthetic and consumption preferences and political solidarity. The French Revolution transformed this situation radically with the emergence of the concept of nation linked to “la patrie” to fight against continental feudal privileges of the aristocracy. See Louis Bergeron, François Furet and Reinhard Koselleck, *Das Zeitalter der Europäischen Revolution: 1780-1848*, (Hamburg: Fischer Bücherei, 1969), 5-6 and 78.

make one imagine that this principle would be consolidating in inter-polity relations, we are in fact witnessing three processes that are transforming or working against democratic relations between polities: first, is what is acknowledged as the general loss of sovereignty of polities in favour of private actors that are not subject to their control in what is seen as an international economy with nation states as the main actors but lacking democratically legitimated international regulatory institutions; second, is what is sometimes called the new imperialism and, depending on the interpretation, this either turns one particular democracy, the United States, into a world policeman, or reduces multilateralism to agreements reached in the United Nations Security Council, G20 or NATO; and third, is the generalized intra-state political exclusion of immigrant workers or refugees from other states, or internal repression of political minorities or other nationalities. One would not need, then, to be very perceptive to understand that one of the great challenges of the 21<sup>st</sup> century is to democratize inter-polity relations precisely at a point in human history where, as a *quaestio facti*, all the peoples occupying the surface of the earth are interconnected. In present-day conditions, it is difficult to imagine a context in which one might keep talking about the validity of the principle of autonomy at the internal level independently of what is happening at the external level. It seems that the two dimensions go hand in hand. Nowadays, and not only for normative reasons, it is very problematical to think about “the good of the nation” independently of “the good of the world”. The other side of the coin, however, is not totally clear: what and who would “the good of the world” represent? If one asked, for example, the state of France to declare clearly what its interests are, it would be no easy matter to establish which of them are strictly national or depend exclusively on its own sovereignty.<sup>261</sup> The same thing certainly occurs with the United States or China. If one is a stubborn realist and starts out from the idea of balance of powers as the linchpin of the international order, it would be difficult to define with any clarity what a “power” is today and which or of what kind another counterbalancing “power” might be. If one wishes to continue analysing international relations from this standpoint, it would first be necessary to recognize a change in the nature of this kind of power, and not only because of technological changes in the military sphere which

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<sup>261</sup> Indeed, the growing success of populism of different kinds can be understood as the political consequence of not addressing this tension in open and democratic terms.

make wars between “powers” almost impossible,<sup>262</sup> but also as a result of the degree of interrelationship between these supposed powers. It is against this background that one must analyse the revival of liberal cosmopolitanism which is, approximately, the position that considers that the only political response to this new situation must entail the shaping of a supra-polity global entity.

Underlying these quandaries one finds the different understandings that, in part, affect the answers to problems pertaining to issues like what makes a people a people, and that range from the most substantive *Blut und Boden*<sup>263</sup> types through to the most metaphysical multitude- or anonymity-based models, each of which would work in terms of whether a theory is more or less inclusive. Or, to be more precise, there are certain different interpretations around the question of what is, or who are the people breaking down the bond from within and converting the political issue into a matter of business conducted only among individuals.<sup>264</sup> Associated with this position one also finds the breakdown of the link between people and territory that has characterized the way of constructing polities since time immemorial, whether through conquest, colonization, migration, expulsion, founding, secession, and so on. This connection has also been understood from different possible positions, ranging from those that assume very strong relationships of identity, like autochthony or *Lebensraum*, through to weaker ties, as with nomadism or the chieftainship system, for example. From the moment in which the territory in question is the planet as a whole, which would mean

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<sup>262</sup> Hannah Arendt, *On Violence*, 10.

<sup>263</sup> Although reading this slogan brings to mind all the philo-Nazi theories of the first half of the twentieth century, the legal systems of many states still adhere to one of both principles in their “naturalization” policies: either applicants must be born in national territory and/or be a blood descendent of a citizen of the state. Indeed, the general principle of citizenship follows the bloodline principle. Newborn babies are citizens because of the simple fact that their parents are that. When they are not, the territorial principle is very important. Naturalization as a result of residence depends more on the political and economic situation of the country in question and is discretionary.

<sup>264</sup> Brad R. Roth, “Anti-Sovereignism, Liberal Messianism, and Excesses in the Drive against Impunity” in Martti Koskenniemi, *Finnish Yearbook of International Law Volume XXII 2001*, 17: “The old political messianism saw the realization of freedom ‘only in the pursuit and attainment of an absolute collective purpose’; the new political messianism sees freedom in the negation of collective purpose.”

that there is no more territory available, the relationship between people and territory, from this perspective, would have dissolved and territory would no longer be understood as a condition of political action or as a relevant ingredient of political organization, and *therefore* political frontiers are meaningless, or so the argument goes.<sup>265</sup> Accordingly, the relationship between people and territory would now be understood only from within the paradigm of individual proprietorship of the earth or by appeal to the notion of competent jurisdiction.<sup>266</sup> In keeping with this logic, it is then held that democracy will only be possible on the global scale if there is just *one* people. My basic understanding, which will developed in the next chapter, is that the constitution of a single people is likely to be incompatible with the principle of autonomy.

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<sup>265</sup> Margaret Moore, “The Ethics of Secession and a Normative Theory of Nationalism,” *Canadian Journal of Law & Jurisprudence*, 13 (2005): 225; “This is dubious because the state does not ‘own’ the territory. Territory simply refers to the domain of jurisdictional authority, to the geographical area in which self-government operates”. For a critical approach to deterritorialization, see Michael Hardt and Antonio Negri, *Empire*, xii: “Empire establishes no territorial center of power and does not rely on fixed boundaries or barriers. It is a decentered and deterritorializing apparatus of rule that progressively incorporates the entire global realm within its open, expanding frontiers.” For the idea of territory as an inescapable condition, see Edward Hallet Carr, *The Twenty Years’ Crisis 1919-1939: An Introduction to the Study of International Relations*, 229; and for a vigorous defence of the relationship, almost one of identity, between people and territory in the international sphere, Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*, ch. 4.

<sup>266</sup> The principle of universal jurisdiction included in the legislation of many states would entail an internal deconstruction of the bond between law and territory. However, when the principle of universal jurisdiction is linked with supra-state and a-territorial entities beyond the reach of democratic control, the International Criminal Court, for example, the risk that it could become an organ used by some polities to hold sway over others is very great. See Chandra Lekha Sriram “Externalization of Justice: What Does it Mean and What is at Stake?” in Martti Koskeniemi, *Finnish Yearbook of International Law Volume XXII 2001*, 47-71; and Mahmood Mamdani, *Saviors and Survivors: Darfur, Politics, and the War on Terror*, 282-288.

## 7. Modernity as Autonomy

### 7.1. Autonomy: In Which State?

While acknowledging the normative progress and the much-needed positive outcomes that 20<sup>th</sup> century gender, national, class and colonial struggles for emancipation under the banner of democracy have produced, the impression remains that the struggles fought along the lines of recognizing those who were dominated through their exclusion have left us unable to use in a positive sense any meaningful concept of collective self, which is a condition for thinking the possibility of autonomy. Almost all the intellectual efforts of critical political or philosophical thought after the end of the Second World War have been devoted to show the internal connection of the projects of modern domination with notions of the collective self, with totalitarianism, nationalism and imperialism being its paradigmatic cases. In theoretical terms, the main target of the idea of collective self has been, again, the concept of the nation. The nation, as the embodiment of the collective self, was by its nature an exclusionary structure of domination: depending on the versions, it enforced patriarchal, capitalist, racist, ethnic or colonial domination. And although this was true in some contexts and in relation to some polities, we should not overlook the fact that the nation also embodied some features that a collective self has to have in order to have autonomy. It was a historically contingent, not a necessary, representation of a collective self: a collective self must have a capacity for collective action, be stable enough to perform its political programme across time, and have a workable notion of membership.<sup>267</sup>

In historical terms, the nation has been the dominant form under which a people understood itself from roughly the end of the 19<sup>th</sup> century. The western narrative holds that the nation was the subject of emancipation from the Old Regime. It simultaneously

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<sup>267</sup> “This self is by definition a collectivity, the membership in which needs to be defined. And this collectivity needs to be capable of action, which leads to further requirements: It needs to be sufficiently separate from its ‘outside’, other collectivities; it needs to be capable of collective decision-making; and it needs to be capable of implementing its decisions” Gerard Rosich and Peter Wagner, “Epilogue: Democracy as capacity for self-transformation”, ed. Gerard Rosich and Peter Wagner, *The Trouble with Democracy: Political Modernity in the 21<sup>st</sup> Century*, Forthcoming.

broke the bonds of existing political domination and constituted a new collective self. After Abbé Sieyès's *What is the Third Estate*, one century later Ernest Renan in *What is a Nation?*—writing after the 1848 Revolutions known as the Spring of Nations, the Franco-Prussian war and the construction of Germany following another national model which led to the loss of Alsace and Lorraine—was still influenced by the tradition inaugurated by the French Revolution.<sup>268</sup> However, from that moment on, the historical narrative shifts to the Scramble for Africa and the first and second world wars, which were seen as a consequence of the competition between nations, of *nationalism*. The different movements of emancipation of the 1960s were to some extent the culmination of a project of “liberation” from the constraining forms that organizing the collective self in modernity through the concept of nation imposed on human beings.<sup>269</sup> In the case of decolonization as the result of national emancipation, the blame for the difficulties and resulting conflicts derived from trying to overcome the colonial legacy was assigned, in a very cynical manner, to the nationalism of the new African states that fuelled their liberation struggle.<sup>270</sup> Even Frantz Fanon was hesitant, in Marxist terms, regarding the emancipatory power of nationalism leading to independence in Africa. In my view, the critics of this period misunderstood the nation as a pre-political notion of a political subject that was based, as said above, on markers of belonging and setting rules and conventions for citizenship derived from fixed properties such as race, sex, class, ethnicity, language, common history, and so on. The awareness of an ambivalent tension constitutive in the concept of nation was thus prevented: what offered the

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<sup>268</sup> See Roger Brubaker, *Citizenship and nationhood in France and Germany* (Cambridge: Harvard University Press, 1992)

<sup>269</sup> See Peter Wagner, *A Sociology of Modernity: Liberty and Discipline*, (London: Routledge, 1994) for the concept of organized modernity and its end in the 1960s; and his *Progress: A Reconstruction* for the understanding of this period as the end of a project that started with the Age of Revolutions. One could also understand the welfare state along these lines and not as the outcome of a specific teleology of Europe.

<sup>270</sup> Partha Chatterjee summarizes this view in his *The nation and its fragments: Colonial and postcolonial histories*, (Princeton: Princeton University Press, 1993), 3: “By the 1970s, nationalism had become a matter of ethnic politics, the reason why the people in the Third World killed each other [...]. The leaders of the African struggles against colonialism and racism had spoiled their records by becoming heads of corrupt, fractious, and often brutal regimes.”

means to break systems of domination based on privileges and status or state oppression was thus analysed as a new kind of domination by excluding from political power those who do not share the commonality, namely the common ground for equality, assumed by the nation. Exclusion was thus equated to a trans-historical form of domination.

In conceptual terms, critical scholarship, mainly post-structuralism, post-colonialism and Marxist historiography, has from the 70s on worked to show the exclusionary nature of any collective self.<sup>271</sup> The two hegemonic trends in poststructuralism worked, in its deconstructivist version, to undermine the metaphysical construction of the notion of subjectivity by criticizing all the binary dichotomies between the self and the other that seek to constitute an undivided, unaltered and master self,<sup>272</sup> and in its disciplinary version to show how the self is always a technology, an *effet*, of power relations, in order to foster social control as *assujettissement*.<sup>273</sup> Postcolonialism tried to show how the constitution of the otherness of the other was at the same time the constitution of a sameness of the self with the properties needed to dominate the other. The other as backward, uncivilized or infantile was the symbolic inversion of the self in racial, cultural or gender terms, which was constituted as advanced and endowed with

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<sup>271</sup> “Today, however, it is either absorbed, and thus, neutralized, in the individualistic and formal liberal ideal of ‘moral autonomy’, or fiercely attacked by heteroclitic political and philosophical positions—some versions of feminism, poststructuralism and communitarianism.” Andreas Kalyvas, “Norm and Critique in Castoriadis’s Theory of Autonomy”, *Constellations* Vol.5, no.2 (1998), 161.

<sup>272</sup> “I thus wish to suggest the oneself [*soi-même*] , the ‘self-same [*même*]’ of the ‘self [*soi*]’ (that is, the same, *meisme*, which comes from *metipse*), as well as the power, potency, sovereignty, or possibility implied in every ‘I can,’ the *pse* of *ipse* (*ipsissimus*) referring always, through a complicated set of relations, as Benveniste shows quite well, to possession, property, and power, to the authority of the lord or seignior, of the sovereign, and most often the host (*hospites*), the master of the house or the husband.” Jacques Derrida, *Rogues: Two essays on reason*, (Stanford: Stanford University Press, 2005), 11.

<sup>273</sup> “An immense labor to which the West has submitted generations in order to produce—while other forms of work ensured the accumulation of capital—men’s subjection: their constitution as subjects in both senses of the word.” Michel Foucault, *The history of sexuality: An introduction*, (New York: Vintage Books 1990), 67.



subjectivity and agency against the other.<sup>274</sup> The postcolonial project aimed at proving that the colonial encounter was indeed the constitution of a hybrid world, where the boundaries between the self and the other were always the effect, not the beginning of, the colonial world.<sup>275</sup> Simultaneously, constructivism<sup>276</sup> and Marxism<sup>277</sup> have come to view with suspicion any attempt at looking at collective selves as constituted also by their own history, by a continuity in time that far exceeds the limited lifetime of concrete human beings. The history of the nation is thus a narrative construction, an invention or an imaginary fiction, in order to justify power relations in the present by specific groups of persons, usually capitalists or state elites, over other groups of persons, usually the majority. The past becomes thus a repertoire to be used for the purpose of present domination. In my view, this manner of framing the problem is really a means of addressing the classical problem of the reproduction of a system. Though I share the idea that cultural artefacts are invented or that imagination is the working force behind the nation, I do not consider that a fiction is a correlate of alienation or falsity. The “capital” form for economic production and its related concept of class, the “atom” particle for physics, or the “nation” for a political collectivity are no less invented or imagined.<sup>278</sup> To state that something is a fiction does not entail *per se*

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<sup>274</sup> Edward Said's *Orientalism*, (New York: Vintage Books 1978) was the most influential work on this topic. Its aim was to show how the Orient was the Other constructed by the West as its “contrasting image, idea, personality and experience.”

<sup>275</sup> The notions of creolization, hybridization, and indigenoussness, point to this problématique. See Homi Bhaba, *The Location of Culture*, (London: Routledge, 1994) for the concept of hybridization.

<sup>276</sup> Benedict Anderson, *Imagined Communities*, 26: “The idea of a sociological organism moving calendrically through homogeneous, empty time is a precise analogue of the idea of the nation, which also is conceived as a solid community moving steadily down (or up) history.”

<sup>277</sup> See the Introduction written by the editors to Eric Hobsbawm and Terence Ranger ed., *The Invention of Tradition*, (Cambridge: Cambridge University Press, 1983). I have always been shocked by the distinction they make between invented and old traditions, which allows them to distinguish between modern and traditional societies, though I see it as way of reintroducing through the back door the idea of alienation.

<sup>278</sup> Michael Mann, *Sources of Social Power. Volume: 2: The rise of classes and nation-states, 1760-1914*, (Cambridge: Cambridge University Press, 1993), 36: “If the nation was an imagined community, its class rival might seem even more metaphorical, a veritable ‘imaginary

either a negative normative outcome or an epistemological falsity. Not all fictions have the same normative or epistemological implications, and at the same time, a fiction has to be created and shared by many people, thus becoming a “real” understanding of what there is. Furthermore, there are serious epistemological problems, which indeed cover normative assumptions, when claiming that it is possible to access the past from a non-perspectivist approach. Facts, historical or not, must be interpreted. To say that the past is the history of domination or the struggle for liberation is to make the same epistemic claim. In both cases, the past is *used*, that is, interpreted from a specific perspective. The unavoidable perspectivist approach to the past results from the fact that it is always analysed from the present in view of a future to come.<sup>279</sup> In the words of Hannah Arendt, the historian is in the middle of these two antagonistic forces.<sup>280</sup>

In political terms, the unintended outcome of this critical view has been to leave the space free for the consolidation of the hegemony of liberal individualism based on equal freedom and constitutionalism. Margaret Thatcher summarized this victory with her famous statement “there is no such thing [as society]. There are individual men and women, and there are families”.<sup>281</sup> The inability to build a collective self able to counteract the hegemony of neoliberalism has fostered an understanding of democratic institutions as technocratic mechanisms of policy making. Efficiency and stability, the aims of the new system of governance, were the main political objectives. Eventual conflicts are interpreted as driven by divergent personal interests of voters and the system based on political parties is no longer understood as representing conflicting interpretations of the collective self, but rather along the lines of rational choice thinking

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community.’ Nations were reinforced by enduring historical traditions, state boundaries (past or present), or linguistic or religious communities. How were classes, with little prior history (apart from ruling classes), which always live among and cooperate with other classes, to be conceived and created as communities?’”

<sup>279</sup> See Angela Lorena Fuster Peiró, *La Imaginació Arrelada: Una Proposta Interpretativa a partir de Hannah Arendt*, (Universitat de Barcelona, PhD Dissertation, 2009) for a critique of the philosophical tradition that conceives of the imagination as a source of error, fantasy and alienation.

<sup>280</sup> Hannah Arendt, *Between Past and Future*, 9-10.

<sup>281</sup> Interview of Margaret Thatcher by Douglas Keay for *Woman’s Own*, 23/09/1987. Available from the Margaret Thatcher Foundation at <http://www.margaretthatcher.org/document/106689>

as the matching of electoral demands and party competition. Political apathy is therefore a condition of the system.<sup>282</sup> Thus, the old democratic maxim of the government of the people, by the people, for the people seemed that it could work out without the need that government should be exercised by the people. If the people do not participate in the democratic power, then it is very difficult to sustain over time a political notion of the collective self. As Foucault suggests, with the transition from government to governmentality, the people become the population.<sup>283</sup> However, while this is true, two political problems emerge if the government is not able at least to govern *for* the people. The first emerges as a situation of ungovernability when the government is neither economically nor institutionally able to govern.<sup>284</sup> This is the crisis of the concept of sovereignty and the national welfare state that goes hand in hand with globalization. The second situation emerges when the government is not governing for the people, but either for themselves or for the political and economic elites. In the first case the government is perceived as a means for corruption and in the second case as a means for dispossessing the people in favour of capitalism.<sup>285</sup>

By the end of the 80s, after the first experiences with neoliberal governments and the end of the Cold War leading to the unrivalled hegemony of liberal democracy, it became obvious that critical thought went too far and was, paradoxically, enhancing the intellectual position of those who critical thought wanted to criticize. It became manifest that critique was biased in underlining the negative aspects of the notion of the collective self and was historically insensitive regarding its assumptions in looking at history as constituted only by domination.<sup>286</sup> A work of reconstruction began in conceptual terms by trying to build a weak notion of collective self, in opposition to former strong concepts of nation or class, which could be interpretatively and normative meaningful. The rise of “communitarianism” in its Anglo-Saxon or European

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<sup>282</sup> See Gerard Rosich and Peter Wagner “Introduction”, ed. Gerard Rosich and Peter Wagner *The Trouble with Democracy: Political Modernity in the 21<sup>st</sup> Century*.

<sup>283</sup> See Michel Foucault, *Securité, Territoire, Population*, (Paris: Seuil, 2004).

<sup>284</sup> See Claus Offe, “Ungovernability” in eds. Stephan A. Jansen, Eckhard Schröter, Nico Stehr, *Fragile Stabilität – stabile Fragilität* (Berlin: Springer-Verlag, 2013).

<sup>285</sup> The Greek and Spanish situations during the current “economic” crisis are paradigmatic cases of the combination of these two situations.

<sup>286</sup> Peter Wagner, *Progress: A Reconstruction*.

version,<sup>287</sup> the multicultural perspective<sup>288</sup> and the new theories of the democratic “limit”<sup>289</sup> are counter-hegemonic attempts at challenging liberal assumptions of the idea of the collective as an aggregation of preferences of free individuals and elections as the democratic procedure for such an aggregation without appealing to a substantivist notion of the collective self. Furthermore, the neoliberal operation of “dismantling society” has also provoked a paradoxical nostalgia for the nation in critical thought.<sup>290</sup> While being more sensitive to the achievements of social democracy as the result of popular struggles, the “defence of society” against globalization should, for such thinkers, consist in protecting the political container that stabilized social democracy, namely, the nation-state. The on-going debate between Jürgen Habermas and Wolfgang Streeck’s, concerning Streeck’s book *Buying Time*, revolves around this problem.<sup>291</sup> While the former attributes to the European Union the political capacity to end the economic austerity measures and blames the EU for its democratic deficit, the latter

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<sup>287</sup> Key works of this period were Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality*, (New York: Basic Books, 1983) and Jean Luc Nancy, *La Communauté Desœuvrée*, (Paris: Christian Bourgois, 1986).

<sup>288</sup> Charles Taylor and Amy Gutmann, *Multiculturalism*, (Princeton: Princeton University Press, 1994)

<sup>289</sup> Judith Butler, Ernesto Laclau and Slavoj Žižek, *Contingency, Hegemony, Universality: Contemporary Dialogues on the Left*, (London: Verso, 2000).

<sup>290</sup> There is also a reactionary nostalgia for the nation among conservative forces, but this should not be surprising.

<sup>291</sup> “As a result capitalism is emptied of democracy. National sovereignty – a central prerequisite of national democracy – is de-legitimized in that it is made to seem a means of running up debt at the expense of other countries, with the result that, cheered on by the national peoples enlisted to provide Europeanized debt relief, it can then be eliminated in favour of supranational disciplining agencies deaf to democracy – not only in debt states with excessive levels of debt but also more generally, with reference to values such as international solidarity or the peaceful overcoming of nationalism through supranational integration.” Wolfgang Streeck, *Buying Time: The Delayed Crisis of Democratic Capitalism*, (London: Verso, 2014), 158. See Jürgen Habermas, *Demokratie oder Kapitalismus?: Vom Elend der nationalstaatlichen Fragmentierung in einer kapitalistisch integrierten Weltgesellschaft*; and Streeck’s reply “Vom DM-Nationalismus zum Euro-Patriotismus?”, in *Blätter für deutsche und internationale Politik*, 2013.

indeed sees the European Union as the economic actor that enhances these measures to weaken the political capacity of nation-states.

In political terms, the reaction to globalization at the beginning of the 90s by different kinds of social movements seemed to accept the globe as the primary field of conflict that neoliberalism was producing.<sup>292</sup> It was the moment that Negri and Hardt's concept of multitude was established as the global counterhegemonic force that has the revolutionary potential to transform imperial globalization.<sup>293</sup> The collective self was thought along the lines of the ontological notion of resistance, as the subject who contests domination. Thus, it resulted in stressing the anonymous and anti-institutional dimension of the people, which is an entity "produced" by power itself. However, beyond the conceptual problems of such a notion of the collective self (Negri himself was aware of it), time proved that social movements as the embodiment of the multitude could neither stabilize in time any collective self capable of transforming global institutions nor challenge the notion of individual human rights. Indeed, though they were using an alternative notion of human rights, they did not have any clear idea about the kind of institution that should enforce them. NGOs for the promotion of global social justice or the protection of human rights are structured more as pressure groups and lobbies than as political collective actors.<sup>294</sup> After the 2008 global crisis, it seems that the thinking that fuelled these global movements has understood that they need to

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<sup>292</sup> "Every social phenomenon that stood in-between tended to be considered as having freedom-limiting effects. Significantly, the notion of democracy, which presupposes a specific decision-making collectivity and thus appears to stand necessarily in an intermediate position between the individual and the globe, tended to be redefined. Rather than referring to a concrete, historically given collectivity, processes of self-determination were, on the one side, related to social movements without institutional reference, and on the other side, projected to the global level as the coming cosmopolitan democracy." Peter Wagner, *Progress: A Reconstruction*, Forthcoming.

<sup>293</sup> "Empire creates a greater potential for revolution than did the modern regimes of power because it presents us, alongside the machine of command, with an alternative: the set of all the exploited and the subjugated, a multitude that is directly opposed to Empire, with no mediation between them." Michael Hardt and Antonio Negri, *Empire*, 393.

<sup>294</sup> One could say that NGOs are collective actors. In this context, I only want to highlight the difference between actors who want to *influence* institutions and actors who *create* institutions.

address the existing state institutions that are responsible for implementing globalization.<sup>295</sup> Nowadays, due to the interconnectedness of political and economic relations between human beings, it has become clear that neither nostalgia—the reinforcement of the old certainties of nation states—nor utopia—the promotion of global supra-national political institutions—seems the appropriate answer for the construction of a democratic collective self. Additionally, the last economic crisis has revealed the limits of the technocratic understanding of democracy. The democratic deficit becomes a legitimation crisis when bureaucracy and experts are not able to deliver.

In my view, the main problem of critical thought consists in that it conceptually associated exclusion with domination and, in doing this, it has remained unable to understand that democracy as autonomy, to give oneself one's own laws, by its inner working needs to establish a limit, a boundary, a *demos*, a collective self, which by its nature is exclusionary of the political *other*. It has conceptualized the historical domination of the *other* as the result of excluding it. A contingent relation between exclusion and domination, and indeed much more complex than often assumed, was misunderstood as a necessary connection. *First*, as discussed in Chapter 4, in historical terms it is not conceptually easy to relate democratic institutions to domination of the political other from the moment that the actual existence of democratic polities is a rare phenomenon in global terms up to the 1980s. If the aim is to demonstrate this link historically, one has to start the analysis taking as the decisive period the one after the different processes of “democratization” in the former “Second World” countries, in Latin America, in the southern European countries and in parts of southern East Asia and Africa took place and not before. From this perspective, globalization could be understood as a way to escape democratic control thanks to the new possibilities opened up by the democratic interaction between polities once imperial or colonial domination is no longer justified. *Second*, to link domination of the other to exclusion, one has to understand exclusion from a uni-directional perspective and not as a reciprocal

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<sup>295</sup> In this respect it is surprising that, at least in Europe, both political parties *Podemos* in Spain and *Syriza* in Greece are retrieving the notion of patriotism to counteract the austerity measures. Symptomatically, they are not thinking in the construction of a European collective self. Antonio Negri and Chantal Mouffe are publicly backing these political projects.

movement of mutual exclusion between different actors, namely as a process of mutual recognition not based on *sameness* but on political *difference*. This can be justified in imperial and colonial domination, but not in contexts where the relation between polities is not based on institutional domination, but on their mutual interaction. Recognition in this context and in contrast to the way it has been understood within the Hegelian paradigm, as discussed in Chapter 2, does not ontogenetically begin with the erasure of the otherness of the other, but on the contrary, recognition is a relation that constitutes the actors as different to each other. The problem, from my perspective, is how this relation is to be understood from a democratic perspective.<sup>296</sup> *Third*, there can be domination of the other in democratic politics, but it is related to the domination of political minorities in relation to how they are *included* within the constitution of the polity, not to how they are *excluded*.<sup>297</sup>

Moreover, to link domination of the other to exclusion has left liberal thought to provide the best solution if the aim of a democratic polity is to avoid exclusion: the protection of individual rights enshrined in constitutional law that prevents the eventual tyranny of political majorities. This also allows liberalism to obscure or neglect the history of 19<sup>th</sup> century colonial and imperialist projects underpinned by liberal ideology, which had as its main objective both the physical exclusion of colonized peoples from the colonial centres and the prevention of movements for self-determination among the colonized.<sup>298</sup>

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<sup>296</sup> In my view, federalism is the political theory that provides the best answer to this problem. In Part III I will look at this problem historically and try to show that in historical-conceptual terms, autonomy appears to address this issue.

<sup>297</sup> For instance, citizenship nationality based on the assumption that all the citizens belong to the same nation is a kind of internal domination of the other in polities where there is a national minority that is forced to accept the hegemony of the national majority. The national minority is *included* in the polity, that is, they are full legal citizens insofar as they negate the political significance of their national belonging, and as such are dominated as a national minority.

<sup>298</sup> For instance, Karl Popper's *The Open Society and Its Enemies* (London: Routledge, 1945) is a critique of teleology in history with the aim of showing the close link between totalitarianism and class as the embodiment of the universal in history. Marx is his main target. Fortunately, in recent times, similar approaches have been pursued to show the close link between a teleological understanding of civilization and the "coloured" races as embodying backwardness which justified British liberal imperialism. See Uday Singh Mehta, *Liberalism and empire: A*

Democracy as autonomy is a project which cannot permanently cancel the conflict between freedom and domination.<sup>299</sup> The unconstrained freedom of instituting the rules for the life in common is at the same time the creation of institutions of self-domination, namely of the rules that were enacted at the instituting moment. Democracy from this perspective is a dialectic between autonomy and domination that cannot be cancelled. The relevant question is whether democracy is not only the constitution of self-domination, but also the domination of the political other through its exclusion. These are two different questions that cannot be answered only by abstract reasoning and need to be addressed historically. The conceptual question refers to the circularity of democracy: ontogenetically, democracy requires a *demos* who exercises *kratos*, thus the political subject must be prior and cannot be constituted by democracy itself. This circularity does not disappear by affirming that democracy is the permanent self-constitution of the *demos*, “le plebiscite de tous les jours”. The reflexivity of the democratic subject might qualitatively change the nature of the subject: a subject was something *before* its political self-constitution and becomes something different *after* its self-constitution. This refers to the historical dimension of democracy: the democratic self is self-transformative. Apparently, the question regarding *who* counts, *who* is the self-transformative self, cannot be resolved democratically. This inherent temporality in the democratic self points to the problem of how to deal with historicity and violence in the constitution of political collectivities. Independence is a means to achieve autonomy through self-exclusion while empire or state making can be considered as a kind of domination through *forced* inclusion. 19<sup>th</sup> century colonialism is a very particular combination of both dynamics.

This leads to a second general problem of critical thought. It has too often read the problems of the constitution of the collective self in Europe either as the background

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*study in nineteenth-century British liberal thought*. (Chicago: University of Chicago Press, 1999); Charles Mills, *The Racial Contract*, and Jennifer Pitts, *A turn to empire: The rise of imperial liberalism in Britain and France*.

<sup>299</sup> Peter Wagner, *Sociology of Modernity*, xii: “The double notion of liberty and discipline provides such a linkage. It captures the ambivalence of modernity in three major dimensions, namely the relations between individual liberty and community, between agency and structure, and between locally situated human lives and widely extended social rules.”



against which to interpret any constitution of the collective self or as the conceptual model for the rest of the world. Thus, the nation is historicized as the outcome of western invention and understood along the lines of how it was interpreted in Europe.<sup>300</sup> The summary I have provided until now, though not exhaustive, offers a perspective on the political situation of our time. However, I am more inclined to think that the crisis of the collective self is more a reflex of the political uncertainties that have been triggered in the western world with the loss of global hegemony. The struggle for recognition and the inclusion of the other may have weakened the notion of collective self, but it has, at the same time, destabilized and put into question the collective self in the western world once its constructed identity as the “master” or the “vanguard of emancipation” of the other has lost its ground: the western world no longer holds sway over the world. In contrast to the Hegelian logic of recognition, as has been explained, this struggle has not lead to reconciliation as its synthesis—in Fukuyama’s terms to the “end of history”—but to the disarrangement of the past world order without knowing yet what the next “ordering of the world” is going to be. Ironically, if this is true, the struggle for recognition as the mechanism imposed by the western world to achieve full inclusion would have weakened the notion of the collective self in the West while strengthening it in former colonies or dominated polities, as one can see in parts of Latin America or Africa.

## 7.2. Independence and Autonomy

In modern times, democracy as the commitment to autonomy is historically linked with that of independence as self-determination, as the result of two events that, in the long term, have ended up combining and becoming predominant in the common understanding of political affairs. The first, classically illustrated by the French Revolution, entails an internal rupture within a collectivity with all the ties of organic and hierarchical dependence derived from the *Ancien Régime*. The second, which is normally associated with the 1776 Declaration of Independence of the British colonies

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<sup>300</sup> See Chapter 6, titles “Nation and Imagination” of Dipesh Chakrabarty, *Provincializing Europe. Postcolonial Thought and Historical Difference* and Partha Chatterjee, *The nation and its fragments: Colonial and postcolonial histories*.

in America, occurs externally and constitutes a break with an alien, colonial power.<sup>301</sup> Indeed, it is only after the 1791 Haitian revolution that we can speak with any rigor of independence from a colonial power. The British colonies in America were formed by European immigrants. In conceptual terms, it was theorized that in order to give oneself one's own laws, the *self* must be independent from the *others*. The old philosophical concept of *causa sui* reinterpreted as self-determination represents this connection.<sup>302</sup> These two ruptures linked autonomy to independence as self-determination. Indeed, as will be argued in more detail in the next section, historically speaking, the word "autonomy" was coined in ancient Greece in order to claim a *polis*'s capacity for dictating its own laws independently of the Athens-based empire. Claiming the autonomy of a *polis* meant reasserting its independence *vis-à-vis* the domination-seeking power of Athens. After the advent of Hellenism, the word ceased to be used but it reappeared at the beginning of modernity in the context of the wars of religion and the juridical-theological interpretation of the new order with the principle *Cuius regio, eius religio* (whose realm, his religion), which is concerned with freedom of worship against

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<sup>301</sup> David Armitage, *The Declaration of Independence: A Global History* (Cambridge Harvard University Press, 2007), 3: "Now, more than two centuries since 1776, over half the countries of the world have their own declarations of independence." It should be born in mind, as Armitage points out on page 19 that, as of the 1776 Declaration of Independence, declarations had as their prime goal the affirmation of the "existence of a population ("one People") and implied a form of government, but ... did not define a territory." Certainly, in the particular case of America, the fact that the territory is not mentioned is related to the situation that the origins of those concerned lay in migration and, more specifically, because they considered that the continent was *vacuum domicilium* or *terra nullius*. Historically speaking, the "territorial" construction of the United States was accompanied by extermination and the conquest of other populations that did not belong to "the one People". See Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing*, (Cambridge: Cambridge University Press, 2005), 83–98 for a description of the way in which this twofold process was constituted and legitimated as the democracy-conquest foundations of the United States. For an account of amnesia and the concealing of this reality by contractualist theories of this historical combination, see Charles Mills, *The Racial Contract*.

<sup>302</sup> Spinoza's reinterpretation of *causa sui* as an immanent and temporal process of *becoming* and Fichte's interpretation of Kant's philosophy of autonomy as requiring *Selbständigkeit* and his practical interpretation in the *Discourse to the German Nation* are key moments of this intellectual history.

the defence of Catholic orthodoxy by the Holy Roman Empire and is the key principle of the Peace of Augsburg of 1555. Thus, historically speaking, autonomy as a concept emerges in response to universalist claims embodied by empires and it becomes interpreted as self-determination with the age of revolutions at the end of the 18<sup>th</sup> century.

The most difficult matter to resolve is whether the democratic link between autonomy and independence as self-determination is of a contingent nature, and whether the fact that they have gone hand in hand historically is only a function of the particular conditions wherein they have appeared, or whether there would be some kind of conceptual relationship between independence and autonomy that would make it very unlikely that one would exist without the other.<sup>303</sup> It is, of course, not necessary to understand independence as the fact of not depending in any way at all on anybody or on questions pertaining to territorial control. If that were the case, the only possible connection between independence and autonomy would be liberation due to death, the only situation in which one does not depend on anything at all.<sup>304</sup> By independence, I understand in this context the need to presuppose the existence of a domain external to that in which the actual principle of autonomy prevails, namely the need to presuppose plurality.<sup>305</sup> Evidently, whether the principle of autonomy prevails in these other external spheres or otherwise is not irrelevant to the question. As I shall attempt to demonstrate, the concept of “a people” is what lies behind this definition of independence. Here it is only a negative determination of plurality, not a positive one in the sense of determining what a “people” is, which, as explained in Chapter 5, is always the result of a process of self-understanding and cannot be resolved conceptually. The

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<sup>303</sup> Jean Luc Nancy, *The Experience of Freedom* (Stanford: Stanford University Press, 1993), 171: “To depend on nothing—to give oneself one’s own law—to be the opening of a beginning: in our discourse we cannot escape this triple determination of freedom, in which everything is held (and holds for both a *we* and an *I*).”

<sup>304</sup> This harks back to the Stoic tradition’s justification of suicide or Christianity’s notion of passing on to another world free of the slavery entailed in being an earthly being, or in contemporary times, to suicide attacks as an extreme defence of claims to absolute and radical independence.

<sup>305</sup> This, in other types of discourse, is referred to as the question of otherness or the constitutive Other.

question thus raised goes back to the one I posed at the beginning: whether the principle of autonomy requires that there should be, at least as a possibility, a plurality of “peoples”. Naturally, this is not to deny the possibility of there being *one* single people as defined above, but it does question whether this fact would be compatible with autonomy. In other words, and it is important to make this clear, the discussion is whether autonomy requires a plurality of selves, and not whether it requires other normative principles or to defend any claim for plurality *per se*. Unfortunately, the cosmopolitan counter-argument would not be able to operate with an empirical counter-example since for those who wish put forth the thesis I wish to criticize, this is seen today as merely a normative project even though it has an influence on many contemporary events. At present there is not *one* single people inhabiting planet Earth (unless by “people” we understand Humanity, which is precisely the notion I wish to criticize) and, therefore, any criticism aiming to demonstrate its incompatibility with the principle of autonomy would have to operate essentially at the conceptual level.

### 7.3. Concept of Autonomy

A minimal definition of autonomy, which does not presuppose normative or empirical contents, would have to leave the elements of its definition maximally indeterminate. In view of this, the definition which is commonly accepted derives from its own etymology: “to give oneself one’s own law”.<sup>306</sup>

The definition itself offers the elements that make it possible to disentangle it into components that are conceptually and empirically analysable in terms of both commonalities shared by all contexts where autonomy is the key political interpretative concept and differences that are due to the variety of possible interpretations of it.<sup>307</sup> The structure of autonomy then implies several concepts: a) the concept of “oneself”, which refers to the entity whose autonomy is predicated; b) the concept of “own”, which should be interpreted from a threefold perspective and countering the

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<sup>306</sup> See footnote 249 above.

<sup>307</sup> I use the concept of disentangling following Peter Wagner’s disentangling of the concept of modernity in “Multiple Trajectories of Modernity: Why Social Theory Needs Historical Sociology.”

natural/positive, private/public and own/alien schemata; c) the concept of “law”, which takes one back to the legality/legitimacy problem and the form of government; d) and the “giving”, namely the constitutive, active aspect of the principle of autonomy, which should be analysed taking as its starting points both the constituent/constituted dialectic and the question of whether, if one is “to give oneself one’s own law”, it is necessary to guarantee certain prior existential and/or economic conditions. Several conceptual implications follow from the general sense of the principle of autonomy.

First, the normativity that any sphere presupposes cannot be derived from any external source. This is what is called the re-flexive character of autonomy and is what ensures that every determination is self-determination.<sup>308</sup>

Second, any normativity is, in principle, disputable. Indeed, the fact that the norms that regulate human life in a given ambit can only be legitimated on the basis of the principle of autonomy—namely that every determinate content has to be recognized as set in place, established, instituted by the determinate object or, in other words, that the ambit on the basis of which the norms are justified is the same as that wherein they are applied—means that the character of this normativity is contingent and therefore revocable. Certainly, if the norm had the character of necessity it could not be modifiable, and it could not have been set in place or established. This is the characteristic that opens the doors to the possibility of the transformation of any ambit. Under modern conditions, there is no sphere of human life that might elude a priori the principle of autonomy. An example of this can be represented, for instance, by the rising voices from the Christian religious domain, in principle one of the domains most reluctant to embrace modernity, that are calling into question the authority of the Vatican. They use the principle of autonomy to justify their demands.

Third, the conditions on the basis of which the principle of autonomy is established imply that there is no law, order or normativity that is pre-established before

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<sup>308</sup> By self-determination I do not assume the sense that 19<sup>th</sup> century German idealism gave to the term from the subject-object relationship as self-position in relation to the problem of truth. German Idealism is a certain interpretation of the principle of autonomy in relation to modernity. See Ernst Tugendhat *Self-consciousness and self-determination*, 38, for this secondary, not primary, understanding of self-determination as self-position. Furthermore, I make no assumptions regarding whether adopting the self-position involves mediation or not, namely whether “external” reality involves the fact of being posited or not.

autonomy can be exercised. There is only normativity once autonomy is exercised. The opposite situation would be determined by the fact that the law or normativity had already been installed prior to the exercise of the principle of autonomy. The source of law would therefore come from an external sphere. The sphere over which the law prevails would not recognize the origin of the law as its own but as alien. We would be admitting the existence of other principles defining modernity if we accepted justifications for some practices without these being founded in the principle of autonomy because they are based on foreign or external principles;<sup>309</sup> in doing so, accepting a variety of fundamental principles, in fact we are making relative at a logical level the idea of modernity and we would require some *ad hoc* argument to justify the use of one or another principle, according to existing conditions. The classic example of this problem is to use the *raison d'état* as a justification, a way to bypass the principle of autonomy by appealing to reasons of force majeure. Actions and norms undertaken in this context are grounded on the security or risk principle. In this situation, it is clear that autonomy is subordinated to other principles. Something quite different is the question of how we could justify security risks under the principle of autonomy. This is a problem of great importance in constitutional theory and can be summarized in the following question: how could we declare a state of exception according to the principle of autonomy? The principle of autonomy must explicitly recognize that the origin of the law is internal to its own ambit and not external. To express it slightly differently, if there is nothing prior to the determination of the law, the only factor that could have been present before it is the origin of the law and, in these conditions, the law can only exist if the origin of the law *realizes, makes explicit, is aware, understands, wishes, desires* that the law is applied *to itself*. Alienation or heteronomy is that situation in which *it is not known* that the *self* is the origin of the law. Evidently, awareness of this fact will have a major bearing on what kind of normativity is in force. From the analytical standpoint, the particular collectivity, the self, is always the origin of the law.

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<sup>309</sup> The classical argument is appealing to divinities or God as the external source of justification.

The other question is how the people perceive themselves and how this knowing or knowledge relates to the possibility of normatively guided transformation or change.<sup>310</sup>

In light of the above, it follows that the principle of autonomy entails the self-understanding that the law's sphere of origin is the same as the sphere in which it is applied. Self-consciousness and self-determination are closely connected. If the principle of autonomy is to be valid there must be self-understanding. In fact, there are practices with a history that amply exceeds the period in which the principle of autonomy prevails, and that are also produced within their own ambit, for example having children, eating meat, making war, establishing borders, producing goods, and so on. The difference with respect to other historical periods is related to the way in which these practices are justified and the legitimacy they presuppose. Under conditions of modernity, it is not possible to justify such practices without turning to the principle of autonomy. We very often focus more on practices that change as a result of the principle of autonomy but overlook those that remain and need to be justified anew.

The other sense in which we speak of self-understanding is determined by the fact that, granted that the law is *consciously, explicitly* introduced, a decision must be made as to *which* laws, compatible with the principle of autonomy, are being introduced. Since the principle of autonomy offers no specific content for the norms that are to prevail, in principle there would have to be infinite possible effectuations of the principle, *each one of them obeying the possible interpretations of the principle of autonomy*. Thus, the principle of autonomy presupposes self-understanding and an infinite variety of interpretations.

In this regard, if one assumes the implications of the definition, it would require speaking of the concept's triple sense of radicality. First, this radicality consists of the fact that, unlike other historical spheres, that which characterizes modernity is that it sets no *a priori* limit to the criterion of autonomy as a source of legitimacy. In conditions of modernity, there is no experience that would *de jure* have to be excluded from the principle of autonomy. The radicality does not lie in the concept itself but in the extension of its domain which is, *a priori*, unlimited.

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<sup>310</sup> Jean-Luc Nancy, *The Creation of the World or Globalization*, 104: "A people are always their own invention. But it can also invent itself by giving itself a sovereign and by giving itself to a sovereign or even by giving the sovereignty to itself."

Second, the radicality consists of the fact that no normativity, order, legislation, or whatever one might wish to call it, has the character of necessity and permanence *per se*, and hence every order is contingent. The possibility of being disputable is inherent to the nature of the self-positioning of any normativity. Thus the principle of autonomy implies uncertainty of the consequences of its performance and precludes the possibility of a permanent stability.

Third, the radicality of the principle of autonomy lies in the fact that it is the bedrock on which modernity is founded as a phenomenon. It is true that laying down the principle of autonomy as the foundation of modernity would have certain implications deriving from the aforementioned fact. If every norm is in principle arguable thanks to the principle of autonomy while, at the same time, the principle of autonomy has to constitute the foundation of any norm in the conditions of modernity, this means setting in place as the foundation of an order the very element that makes it possible to question it. The principle of autonomy is, if one might put it like this, an anti-foundational foundation.<sup>311</sup>

I must now briefly sketch the nature of the principle of autonomy. Following the Kantian distinction between the form and the matter of experience, where the former corresponds to the conditions of possibility of any experience and, as such, must be determinable a priori (*de jure* level), and the latter corresponds to any empirical content of any possible experience (*de facto* level), I would like to underline an inherent tension in autonomy that has important consequences, as we will try to show.<sup>312</sup> If one believes that autonomy must be one of the a priori principles playing a key role in the conditions

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<sup>311</sup> The necessity of finding absolute political principles by some modern political theories, mainly contractualist theory, lies in the fact that historical modernity emerged as a radical questioning of absolute and necessary principles. The absence of transcendent principles and the recognition of uncertainty and contingency as the new understanding of “what there is”, would lead, for contractualism, to a general situation of disorder. The question is the restoration of order, not the grounding of order in contingency. For a review of a positive evaluation of this philosophical gesture, see Olivier Marchart, *Post-Foundational Political Thought*, (Edinburgh: Edinburgh University Press, 2007). See Part III of this PhD for the historical questioning of absolute principles in European early modernity and the reactions to it.

<sup>312</sup> See Chapter 6 below for an understanding of the same tension seen from the political perspective



of possibility of *any* experience,<sup>313</sup> one is analysing its metaphysical shape and exploring which conditions, *de jure*, must be in place in order for any possible experience to be determinable by autonomy. For instance, if the principle of autonomy leads to the idea of positive law, we will be studying how the laws must be created, enacted and enforced. This does not mean at all that any experience is *de facto* reducible to the principle of autonomy. We are in the realm of legitimacy, and we are just finding out if the form of the experience is in accordance with the principle. However, if we look at the material dimension of autonomy, we are inquiring whether any experiences correspond *de facto* to the principle of autonomy and, if so, which they are. . Therefore, we evaluate whether a given context, reality, experience or situation, falls under the conditions imposed by the principle itself. These two dimensions of autonomy, form and matter, open the door to a potential divergence between autonomy and its realization. The temporal aspect of this divergence is what we usually call progress (or decadence) and the manner or procedure by which autonomy is enforced can be called mastery, namely what are the capacities and means that we must put into action and which is the best way to implement autonomy. Two possible interpretations of the relation between autonomy and its realization can be derived from this double dimension of autonomy, from its form and matter.

The first interpretation assumes that any context must be such that autonomy must be performed empirically and, if and only if this is ascertainable, could we be talking about the existence of autonomy. Thus, any empirical limitation must be eliminated, integrated, or just ignored. In this interpretation, reality is either the implementation of autonomy, namely the classical liberal position where there are no other possible worlds, or it is an intermediate stage in its realization process, namely the classical progressive or emancipatory position. This understanding must also assume that the realization of autonomy leads to the establishment of a distinct reality. For example, believing that autonomy in the political realm is represented by one specific institutional setting. It is worth remarking now that this interpretation will make it difficult to respect the contingency inherent to the principle of autonomy, as discussed above. It may also confuse what is legitimacy with a reality.<sup>314</sup>

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<sup>313</sup> According to the radicalness of the principle of autonomy.

<sup>314</sup> See footnote 174 above.

The second interpretation holds that the principle of autonomy is rather a measuring rod and, as such, its realization is in principle unattainable, but the quest for it is unavoidable.<sup>315</sup> It is a concept more similar in kind to something like a triangle than to, for instance, a table (autonomy in no way resembles a concept like, for instance, a unicorn). Following this interpretation, any accomplishment of autonomy would never absolutely reflect the principle itself, and this is so for conceptual and empirical reasons. On the one hand, the conceptual reason is related to the fact that, since any order is in principle contestable according to the principle of autonomy, any reality aspiring to be the ultimate achievement of autonomy would mean, in fact, its absolute termination, since this reality would no longer be contestable. Some thinkers have interpreted the period of *La Grande Terreur* from this point of view. In my opinion, suicide is another good example. The argument goes like this: only if I commit suicide do I fully realize my autonomy, since it is the only case where my decision is not dependent on anything. I subjugate everything, and there are no obstacles opposing to my autonomy. The unfortunate consequence is that once I commit suicide, I cannot anymore be autonomous. On the other hand, the empirical reason has to do with the idea of the event that we are assuming. Autonomy cannot be achieved absolutely since there is always something external to the principle itself, something that always lies beyond the domain where autonomy rules. Many thinkers have defined this evidence as the unforeseeable, unpredictable and uncontrollable feature of what occurs. Reality is always a mixture of expected and unexpected events; therefore autonomy can never be fully accomplished. It is a contingent event.

#### 7.4. Modern Inescapability from the Self(-ves)

In order to address the question of the plurality of selves, I shall conclude first with a conceptual analysis of the first of the concepts I have disentangled from the principle of autonomy: the concept of “oneself”; and second, I address one of the most urgent

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<sup>315</sup> Employing Kantian terms, one can define autonomy as a transcendental idea which has a regulative use. Or, drawing on Kant’s moral philosophy, though we can self-determine ourselves according to universal laws—we can be free—one can never “know” whether the maxim of one’s behaviour is determined by autonomous or heteronomous principles, because knowledge is related to causes and effects and to myself as a being in nature, not as a rational being.

political problems in the present, which cannot be tackled if we assume that there are no different collectivities: the question of historical injustice.

In relation to the first issue, it should be pointed out that I am not primarily concerned with what makes something a *self*, this being a problem that is discussed theoretically in relation to the problem of identity, or with what makes the self *one* or, in other words, the *same* over time. Tackled from this perspective, a certain understanding of the subject of autonomy will always be given priority.<sup>316</sup> I wish to view the problem of the plurality of selves from the inclusion/exclusion standpoint in relation to what the principle of autonomy implies: whether the set of those who come under the legislation is, in principle, identical with the set of those who legislate.

If we think about the problem of the polity from the point of view of inclusion/exclusion and consider, as I have supposed, that it is necessary to stop constituting the self from the interplay between these two elements, contemporary cosmopolitanism offers an answer. The classical problem pertaining to inclusion refers to those members of the polity who, although living within it, are not fully-fledged members. Immigrants and refugees are the classical object. They are excluded by the fact of not being included, that is, they are excluded simply by their omission from the self-understanding of the polity. However, one cannot overlook the fact that, within this logic, one also finds another problem, of equal or greater importance, related to inclusion. This refers to all those who are included in the polity and do not wish to be, or those who are excluded by the fact of being included. Under this heading one finds all the problems connected with assimilation, secession, and so on. Contemporary cosmopolitanism, together with universal human rights discourse, assumes that these problems will cease to exist as of the moment in which all human beings are included, and this can only happen under two conditions. Either we all belong to one single polity, or we stop thinking about citizenship as a political *quality* and start seeing it as a *property* inherent in the fact of being a human being. This is the discourse of human rights. (Linking *membership* to nationality is one possibility among several. If it were

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<sup>316</sup> This perspective will always need to assume the concept of identity, a concept that is difficult to reconcile with the concept of autonomy. It is a concept that implies that the self who acts upon him/herself autonomously remains the *same* after his/her actions. The properties can change, but the subject remains.

associated with work, for example, immigrant workers could not be politically excluded but a problem of exclusion would arise with those who do not work or cannot work.)

The evident paradox of this problem is that the relationship in the inclusion/exclusion dichotomy is one of mutual co-dependence. There is no inclusion if there is no exclusion. As soon as one considers that all human beings are included by reason of their human rights, one has to ask under what conditions, even if they are only conceptual, any kind of exclusion might operate. Once one ceases to consider citizenship as a quality, as something one has and can stop having, and when it comes to be a property of human beings, someone can only be excluded if he or she is considered to be inhuman, and thus does not possess *human* rights. A second consequence of the blurring of the inclusion/exclusion difference is that, if all human beings are included in the polity in question, any criterion that makes it possible to differentiate between included and excluded and distinguish between collectivities would be eliminated. When any criterion is discarded out of principle, the result is that there will only be individuals as such and not members of a polity. When membership is universal, it means that there is no relevant membership. Accordingly, if one wished to draw a new inclusion/exclusion line, the criterion would be between “my skin” and outside it. This would be a situation of generalized exclusion or, to put it in other words, of the supremacy of the private domain. If one is to uphold any idea of the non-private, or of what is held in common, one would have to go back to human rights, which takes one back to the starting point and to the aggregation of private interests. In this case, one sees, too, that the exclusion would be twofold: on the one hand, universal and generalized exclusion of anything that is not one’s “own” and “private” and, on the other, exclusion of all those who have nothing to defend as private except their intimacy, the people who are normally referred to as the poor. To the question of how to make people respect this new line between inclusion and exclusion, which is to say, what government, which would have to be a world government, could enforce this line, what kind of authority would be necessary to see that it is respected, one can conclude by recalling Arendt’s dictum when she discussed this question in *The Origins of Totalitarianism*:

The presently popular liberal notion of a World Government is based, like all liberal notions of political power, on the same concept of individuals submitting to a central authority which "overawes them all," except that nations are now taking the place of individuals. The World Government is to overcome and eliminate authentic politics, that is, different peoples getting along with each other in the full force of their power.<sup>317</sup>

Hannah Arendt always had in mind Kant's *Perpetual Peace* when she abhorred of any notion of world government or a collectivity of human beings constituted only by individuals since, from this perspective, it is quite misleading that Kant is perceived as the father of modern cosmopolitanism instead of modern federalism, which is the main issue in *Perpetual Peace*. For Kant, cosmopolitan right is a *limited* right which has as a condition the existence of a plurality of republics. It is a right that aims at regulating the conditions of mutual universal hospitality, what today we would call immigration, between human beings from the moment that the limits of the earth are finite, not because they are citizens of a state, but because they are terrestrial beings whose freedom of movement is not unlimited. In a context where the earth is divided between territorial states, movement is by definition inter-state, thus there is no possibility of escaping to a territory where there are no states. This negative condition is what justifies a priori the need to host a stranger if she/he is in danger in his/her own state, to a right to visit.<sup>318</sup> Furthermore, for Kant, a world state would be a universal despotic kind of

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<sup>317</sup> Hannah Arendt, *The Origins of Totalitarianism*, 142. To continue with Arendt's line of thinking with regard to the risks deriving from associating membership with the defence of private interests, see Peter Wagner, "Die westliche Demokratie und die Möglichkeit des Totalitarismus", in ed. Antonia Grunenberg, *Totalitäre Herrschaft und republikanische Demokratie. Fünfzig Jahre The Origins of Totalitarianism von Hannah Arendt* (Frankfurt: Peter Lang, 2003), 131-145.

<sup>318</sup> Indeed, Kant says: "He [the stranger] may only claim a *right of resort*, for all men are entitled to present themselves in the society of others by virtue of their right to communal possession of the earth's surface. Since the earth is a globe, they cannot disperse over an infinite area, but must necessarily tolerate one another's company". "Perpetual Peace: A Philosophical Sketch", in *Political Writings*, 106. For Kant, the notion of right is directly associated with the possibility

government given that only a universal monarchy could perform this task by abolishing or conquering all other states and eradicating freedom.<sup>319</sup> However, in Kant's text the possibility of a non-despotic World form of government is envisaged, but it is not a democracy, it is a republic. Thus, from the perspective I have been arguing from, Kant could envisage this possibility but only if it is not a democracy. For him, the necessary separation between the legislative and the executive power if law has to be founded in universality is incompatible with democracy because it is a form of government that eliminates this separation and understands as universal something which is by its own nature partisan.<sup>320</sup> There is a tension in Kant's text that cannot be solved.<sup>321</sup> It depends on the perspective from which one analyses the constitution of a juridical law. If the perspective is international law, namely the relation between states, a federation is privileged over any other political arrangement. However, if the perspective is the free

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of reciprocal use of coercion following universal laws. The possibility of coercion presupposes the existence of a civil society. Thus, *prima facie*, the idea of a right to communal possession of the earth's surface would be a contradiction in a Kantian sense because there is no world civil society. However, we must keep in mind that, as said above, cosmopolitan right presupposes as a condition a "Federation of Free States", not a global federative state, where the relation between states is governed neither by the state of nature nor by a single coercive force that obligates all the states, and that the constitution of each state must be a republican one. For a contemporary critique of this understanding of hospitality as a negative and conditional cosmopolitan right, see Jacques Derrida, *Rogue States*, 148-149.

<sup>319</sup> "The idea of international right presupposes the separate existence of many independent adjoining states. And such a state of affairs is essentially a state of war, unless there is a federal union to prevent hostilities breaking out. But in the light of the idea of reason, this state is still to be preferred to an amalgamation of the separate nations under a single power which has overruled the rest and created a universal monarchy. For the laws progressively lose their impact as the government increases its range, and a soulless despotism, after crushing the germs of goodness, will finally lapse into anarchy." Immanuel Kant, "Perpetual Peace: A Philosophical Sketch", 113

<sup>320</sup> "Of the three forms of sovereignty, *democracy*, in the truest sense of the word, is necessarily a *despotism*, because it establishes an executive power through which all the citizens may make decisions about (and indeed against) the single individual without his consent, so that decisions are made by all the people and yet not by all the people." *Ibid.*, 101.

<sup>321</sup> For this tension, see Thomas Pogge, "Kant's Vision of a Just World Order", in *The Blackwell Guide to Kant's Ethics* edited by Thomas E. Hill Jr, (Oxford: Blackwell, 2009).

individual, then Kant's perspective favours the constitution of a World Republic because it is the only arrangement compatible with the universality of law and the need to enforce it. In either of these perspectives, Kant's solution to the problem confirms the evaluation I have made of the possibility of a cosmopolitan order: either it entails plurality as a federation of free peoples—which negates the possibility of a world government—or it is a World Republic with a world government which is not a democracy and presupposes only individual rational beings—precisely the point I wanted to raise.

Seyla Benhabib has tried to update the Kantian perspective in recent times. Being aware of the Kantian tension mentioned above, she has struggled to reconcile democracy with cosmopolitanism.<sup>322</sup> She recognizes that membership of a bounded collectivity is a requirement for democracy, but at the same time she wants to stress the need to commit oneself to norms of cosmopolitan justice regarding the reciprocal defence of the rights of others in a context of increasing migratory and refugees' movements and their violation justified by state sovereignty. Her point is that membership requires justification based on universal moral standards, namely that bounded collectivities need to justify themselves in just terms. Her moral theory stems from Habermas's discourse theory of morality.<sup>323</sup> Though she is ambiguous about the rationale for a cosmopolitan order—at some moments she stresses a conceptual-normative argument in relation to human rights and at others a banal historico-sociological one regarding the growing interconnectedness of human beings and the ecological, economic and cultural problems that result from it—she is clear about what she understands by democracy, namely liberal constitutional democracy, which by its

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<sup>322</sup> “There is thus an irresolvable contradiction, maybe even a ‘fatal tension’, between the expansive and inclusionary principles of moral and political universalism, as anchored in universal human rights, and the particularistic and exclusionary conceptions of democratic closure.” Seyla Benhabib, *The Rights of Others. Aliens, Residents, and Citizens* (Cambridge: Cambridge University Press, 2003), 19.

<sup>323</sup> “Since discourse theory articulates a universalist moral standpoint, it cannot limit the scope of the *moral conversation* only to those who reside within nationally recognized boundaries; it must view the moral conversation as potentially extending to all of *humanity*.” Ibid, 14.

own nature is universalistic in scope.<sup>324</sup> Thus, if political membership has to be qualified by the commitment to the equal freedom of individuals in constitutional settings and to the normative moral standpoint of *common* humanity based on discursive procedures as *rational* beings, democratic closure can only be justified *ad hoc* if these two elements are guaranteed. Constitutions, from this perspective, are thought to limit any notion of the *demos* that is not based on liberal equal-freedom. Instead of being projects of self-institution, constitutions are seen as a mere procedural norm that creates a form of government and sets the limits of the executive and the legislative capacities. The tension that one could see in Kant's cosmopolitanism becomes in Benhabib a strategy to subordinate democratic closure to universal moral standards, thus favouring the Kant's view of a World Republic. To the question of why democracies require a bounded collectivity, no other answers than procedural or contingent factors are enumerated. The question of domination and the reaction to it in historical terms that prompted the constitution of a bounded collectivity independent of liberal empires is completely absent in her account. Thus, though Benhabib claims a place for democracy, she transforms it into a mere secondary phenomenon.<sup>325</sup>

In sum, we cannot know yet whether the current institutions built at a world level will conform to this prospect, but the blurring of all political differences between collectivities only reinforces the liberal understanding of the political as the order instituted to protect the free interaction of individuals, which is the only ideology that can sustain a cosmopolitan global order.

Regarding the second issue, the idea that humankind is the collective entity that should be constituted by the interaction of all its members is unable to address the

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<sup>324</sup> “Ideally, democratic rule means that all members of a sovereign body are to be respected as bearers of human rights, and that the consociates of this sovereign freely associate with one another to establish a regime of self-governance under which each is to be considered both author of the laws and subject to them.” *Ibid.*, 43.

<sup>325</sup> Jürgen Habermas, from whom Benhabib draws her argument on democracy, “solves” this tension by defining a republican order in a Kantian sense as a “democratic” constitutional state. See his “Constitutional Democracy: A Paradoxical Union of Contradictory Principles?” *Political Theory* Vol. 29, No. 6 (2001), 766-781, for an attempt at reconciling constitutionalism with democracy. In my view, he can only reconcile both principles if he assumes that the individual is the fundamental political unit at the moment of grounding a democratic order.



historical legacies of past domination which inform, to some extent, the current discourses on global social justice. To the question of who are those that suffer the effects of this kind of injustice, the answer cannot be individuals since these people were not dominated as persons, but as members of a collectivity dominated generally by virtue of imposing on those collectivities substantive properties that would justify their domination. Current normative theories of justice, which are based on the combination of individual rights, individual reflexive freedom and intersubjective communication do not provide room to justify claims grounded on collectivities that are not constituted by the interaction of existing individuals as the subject of autonomy, which is a condition for understanding historical injustice from the perspective of the legacies of past domination.<sup>326</sup> One needs to answer the question who were the perpetrators and who the victims, even in cases where legal justice was done to individuals. In many cases, historical injustice was done to individuals as embodying an enforced collective identity that was engineered for domination—a black, a Jew, a woman, a national “minority”, and so on—and not as individuals understood in their singularity.<sup>327</sup> Furthermore, in

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<sup>326</sup> “Two conditions have to be present for collective responsibility: I must be held responsible for something I have not done, and the reason for my responsibility must be my membership in a group (a collective) which no voluntary act of mine can dissolve, that is, a membership which is utterly unlike a business partnership which I can dissolve at will.” Hannah Arendt, “Collective Responsibility”, in Hannah Arendt, *Responsibility and judgment* (New York: Schocken Books, 2005), 149.

<sup>327</sup> Hannah Arendt, talking about her experience in Nazi Germany, says: “If one is attacked as a Jew, one must defend oneself as a Jew. Not as a German, not as a world-citizen, not as an upholder of the Rights of Man, or whatever. But: What can I specifically do as a Jew?” Hannah Arendt, “What Remains? The Language Remains”, in Hannah Arendt, *Essays in Understanding, 1930-1954: Formation, Exile, and Totalitarianism*, (New York: Schocken Books, 1994), 12. The Black Consciousness movement, or a strand of the feminist movement from the 60s onwards, are similar reactions to the same problem. To react to domination exercised on the grounds that they are members of the human community neither addresses the effects of domination exercised on them, not as humans, but as blacks or women, nor transforms the political framework under which this domination was exercised. Their inclusion in the collectivity is done under the condition that they *erase* their former collective being and claim their rights only as individual citizens. Post-apartheid South Africa is in this sense exemplary because, though it acknowledges the current inescapability of building the state on the premises of liberal constitutionalism, it integrates within the constitution limits to the understanding of

many instances, these individuals are already dead and unidentifiable so that present restoration is not possible; therefore it is a past domination whose effects take place in the present though the subjects that were affected are no longer living with us. This impedes the allocation of rights to individuals, any meaningful intersubjective communication is not possible, and it is a kind domination exercised by a present self who is not *guilty* of the actual practice of domination but *responsible* for it, not as an individual citizen among other individual citizens, but as the heir of the self who enforced domination by defining the *other* in such a way that this other could be dominated by the self.<sup>328</sup> Thus, only if we assume the political relevance of such collectivities we can address the legacy of past injustice.

The talk about past injustice may be misleading or puzzling, as it is normally stated in philosophical debates fond of aporetic statements.<sup>329</sup> Indeed, what is relevant about past injustice is whether its effects are constantly “materialized” in the present if they are not addressed: this is indeed a very practical and empirical problem arising from divergent and contested interpretations of the past. Thus, historical injustice may be seen as a constitutive element of any kind of justice because the past must be interpreted in order to justify claims on the present of the empirical effects of such an interpretation of the past. In this sense, it is not an absolute claim for historical injustice as such. True, the most divisive question that must be answered is what the past event is that still has an effect in the present and that creates a particular historical collectivity. And this is a question that can only be raised and answered in the present. If no claims to historical injustice are raised, this can mean that its effects are not felt in the present

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the individual citizen as the political actor, and defines some collectivities as political subjects to which redress action precedes the respect of individual rights. See Adam Habib and Kristina Bentley (eds), *Racial Redress and Citizenship in South Africa*, HSRC Press, 2008.

<sup>328</sup> See Svjetlana Nedimovic, “An Unsettled Past as a Political Resource”, in Peter Wagner ed., *African, American and European Trajectories of Modernity. Past Oppression, Future Justice?* (Edinburgh: Edinburgh University Press, 2015), for a critique of the liberal paradigm at the moment of addressing transitional injustice with the objective of settling the past “absolutely”.

<sup>329</sup> “In fact, the skepticism of many philosophical accounts of the plausibility of reparations for historical injustice has been matched by their increasing political relevance”. Duncan Ivison, “Historical Injustice” in John S. Dryzek, Bonnie Honig & Anne Phillips *The Oxford Handbook of Political Theory*, 2006

by any collectivity—for instance, there are no effects in the present of past slavery in Classical Greece. But it can also mean that domination does not appear in present effects of past events, and is rather an on-going domination occurring in the present. Indeed, one could claim that overcoming domination in the present by being included and recognized within the liberal paradigm is what makes it possible to claim historical injustice as such because the liberal paradigm works with an idea of transition to non-domination as *tabula rasa*. As Hannah Arendt has shown, one of the strategies for not addressing the question of historical injustice is to link the question of responsibility with that of legal guilt. Once the crime is punished, justice is done. The problem is that legal justice, for good reasons, operates with the category of the individual and the effects of her/his actions cease at the moment she/he is punished. The risk is that it may serve as an excuse either to legally exculpate wrong-doers by diluting individual guilt into an empirically unprovable self-accusation of collective guilt, or as a means of avoiding responsibility for past actions.<sup>330</sup> When this occurs, collective actions that shaped the world into a very specific political form and which endure with time are made invisible: nobody is held responsible for this, which is the same as saying that only individuals are responsible.<sup>331</sup>

Following a more radical approach, Carole Pateman and Charles Mills identify the main strategy for escaping the question of historical injustice, which proceeds by associating the normative claims to justice with contractualism. For Carole Pateman, contractualism makes it impossible to raise claims on the effects of past legal gender

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<sup>330</sup> “There is such a thing as responsibility for things one has not done; one can be held liable for them. But there is no such thing as being or feeling guilty for things that happened without oneself actively participating in them. This is an important point, worth making loudly and clearly at a moment when so many good white liberals confess to guilt feelings with respect to the Negro question. I do not know how many precedents there are in history for such misplaced feelings, but I do know that in postwar Germany, where similar problems arose with respect to what had been done by the Hitler regime to Jews, the cry ‘We are all guilty’ that at first hearing sounded so very noble and tempting has actually only served to exculpate to a considerable degree those who actually were guilty.” Hannah Arendt, “Collective Responsibility”, 147.

<sup>331</sup> “This kind of responsibility in my opinion is always political, whether it appears in the older form, when a whole community takes it upon itself to be responsible for whatever one of its members has done, or whether a community is being held responsible for what has been done in its name.” Ibid., 149.

domination, and for Mills, contractualism similarly nullifies claims concerning past racial domination. For them, contractualism is a strategy that connects the end of legal domination with the achievement of freedom. Once legal constraints are over, the individual is free to pursue his own goals. From this point of view, what the end of legal domination does is to empty individuals of their social constraints and assign them the same position in the social order. Once legal domination is over, there are no “attributes” that hamper the freedom of individuals. No language, grounded in experiences of race, gender, or national condition, can be a justification for limiting the freedom of individuals. It is in this sense that they are *equally* equals. They are all equal abstract individuals. As Rawls famously put it, in the original position, no consideration of the substantive properties of individuals can be taken into consideration to avoid an unfair social order. The veil of ignorance is a veil on history, namely on domination.<sup>332</sup> Pateman suggests that the division between the public and the private sphere which results from contract theory is the main strategy through which gender domination has been performed.<sup>333</sup> Within the private sphere, the absolute space of individual freedom, no political relations take place, therefore if patriarchy exists then this is only insofar as it is understood as a private, domestic question affecting individuals, not the collectivity itself. For Pateman, the history of the marriage contract is the best illustration of this strategy. Seen from this light, the question of historical justice cannot be posed because what occurs in the private sphere is agreed by its members. As explained in Chapter 3,

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<sup>332</sup> “Somehow we must nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage. Now in order to do this I assume that the parties are situated behind a veil of ignorance. They do not know how the various alternatives will affect their own particular case and they are obliged to evaluate principles solely on the basis of general considerations.” John Rawls, *A Theory of justice*, (Cambridge: The Belknap Press Of Harvard University Press, 1991), 118 (emphasis added). Charles Mills analyses also John Rawls’s *Law of Peoples: The Idea of Public Reason Revisited*, (Cambridge Harvard University Press, 1999) in “Decolonizing Western Political Philosophy” from the perspective of a theory that erases colonialism from history and theory.

<sup>333</sup> “Questions are rarely asked about the political significance of the existence of two spheres, or about how both spheres are brought into being. The origin of the public sphere is no mystery. The social contract brings the public world of civil law, civil freedom and equality, contract and the individual into being. What is the (conjectural) history of the origin if the private sphere?” Carole Pateman, *The Sexual Contract*, (Stanford: Stanford University press, 1988), 11.

for Charles Mills the history of contractualism is connected to settler colonialism which stemmed from Europe and legitimized white supremacy. It was a theory that was used to render invisible the context from which a contract between individuals could take place in these “new societies”. It is a race contract because it is based on the exclusion and domination of non-white populations. Its main purpose is to erase the previous history of conquest and domination that needed to occur before the “contract” could take place. Thus, inclusion of those peoples previously excluded and dominated will be effected in accordance with the principle that justifies the contract, namely agreement and consent to be ruled among equal individuals. The recognition of equality is based on the conditions imposed by the contract, namely as formal equality without any substantive content. However, and this is Charles Mills’s aim, historically the contract appears as a device to dominate these peoples by defining them as being in the state of nature. The white settler is the one who brings civil society into existence. Incorporation of non-whites into the contract means leaving the state of nature, not restoring justice to non-whites. For Pateman and Mills, the rise of contractualist normative theory in the 1970s is a strategy to prevent the justification of claims based on the present effects of past legal domination.<sup>334</sup> For contractualists, once legal domination ends, domination ends *tout court*.<sup>335</sup>

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<sup>334</sup> “It is at this very time that a meta-normative framework for conceptualizing justice is put forward that has the effect of obliterating the past, marginalizing race, and taking off the table the issue of rectificatory justice, including racial justice.” Charles Mills, “Decolonizing Western Political Philosophy”, 21.

<sup>335</sup> See Chapter 3 above for the connection between historical domination and contractualism.

## Part III: A Politico-conceptual History of Autonomy

[...] y tocándome el dominio absoluto de los referidos reinos de Aragón y de Valencia, pues a la circunstancia de ser comprendidos en los demás que tan legítimamente poseo en esta Monarquía, se añade ahora la del *justo derecho de la conquista* que de ellos han hecho últimamente mis Armas con el motivo de su rebelión; y considerando también, que uno de los principales *atributos de la Soberanía es la imposición y derogación de leyes*, las cuales con la variedad de los tiempos y mudanza de costumbres podría yo alterar, aun sin los graves y fundados motivos y circunstancias que hoy concurren para ello en lo tocante a los de Aragón y Valencia.

He juzgado conveniente (así por esto como por mi deseo de reducir todos mis reinos de España a la uniformidad de unas mismas leyes, usos, costumbres y Tribunales, *governándose igualmente todos por las leyes de Castilla tan loables y pausibles en todo el Universo*) abolir y derogar enteramente, como desde luego doy por abolidos y derogados, todos los referidos fueros, privilegios, práctica y costumbre hasta aquí observadas en los referidos reinos de Aragón y Valencia; siendo mi voluntad, que éstos se reduzcan a las leyes de Castilla, y al uso, práctica y forma de gobierno que se tiene y ha tenido en ella y en sus Tribunales sin diferencia alguna en nada.

Spanish Kingdom, Nueva Planta *Decree* 1710(emphasis added)



## 8. The Greek Invention of Autonomy

### 8.1. Origins of the Concept of Autonomy<sup>336</sup>

The appearance of the concept of autonomy is a phenomenon that must be analysed not only from the perspective of the history of philosophy or political philosophy, but also from that of socio-political history.<sup>337</sup> It is a key issue to understand when, under which circumstances and for what reasons did the concept of autonomy emerge in classical Greece, since this was the first recorded instance. Indeed, it is a Greek word. This chapter will not discuss the general framework under which democracy as such was understood in classical Greece. It is a preliminary study to situate the initial step from which the conceptual history of autonomy will be pursued in this section. It is important to outline that despite the existence of a historical record of the different varieties of democratic experiences, and though it is still necessary to research them in depth to get a better understanding of the democratic regime from a non-partisan world history perspective, the archaeologically and philologically best

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<sup>336</sup> My interpretation draws its conclusions from the existent studies on the origins of the concept of autonomy. E.J. Bickerman, “Autonomia: sur un passage de Thucydide (I, 144, 2)”, *Revue internationale des droits de l'antiquité*, Vol. 5, (1958), 313-344; A. Bosworth, “Autonomia: the use and abuse of political terminology”, *SIFC*, Vol. 10, (1992), 122–152; T.J. Figueira, *Excursions in epichoric history: Aiginetan essays*, (New York: Rowman & Littlefield, 1993); M.H. Hansen, “The ‘Autonomous City-State’. Ancient Fact or Modern Fiction?”, in M.H. Hansen and K.A Raaflaub, *Studies in the ancient Greek polis*, (Stuttgart: Steiner, 1995); M. Ostwald, *Autonomia, its genesis and early history*, (Chico: Scholars Press/American Classical Studies 11,1982); K.A. Raaflaub, *The discovery of freedom in ancient Greece*, (Chicago: University of Chicago Press, 2004); D. Whitehead, “Samian Autonomy,” in R.M. Rosen & J. Farrell ed., *Nomodeiktes: Greek Studies in honor of Martin Ostwald* (Ann Arbor: The University of Michigan Press, 1993); W. Schuller, *Die Herrschaft der Athener im Ersten Attischen Seebund*, (Berlin: De Gruyter, 1974); E. Levy, “Autonomia et eleutheria au Vè siècle”, *RPh*, Vol. 57, (1983), 249-70; Georges Ténékidès, *La Notion juridique d'indépendance et la tradition hellénique: autonomie et fédéralisme aux Ve et IVe siècles av. J.-C.*, (Athens: Institut Français d'Athènes, 1954).

<sup>337</sup> Namely, one needs to combine the perspectives of Quentin Skinner and Reinhard Koselleck on intellectual history.



documented appearance—not the birth—of a democratic regime and its ending is still the *polis* of Athens from the 6<sup>th</sup> to the 4<sup>th</sup> century BCE.

Scholars agree that the concept of autonomy did not exist before the 5<sup>th</sup> century BCE, and *mutatis mutandis*, the events that required the coining of a new term for their interpretation, took place in the same century. The divergences between scholars appear when dating the first recorded use of the concept. There are two different perspectives. The first one suggests that the first appearance is in 446 BCE when “autonomia” was recognized in Aegina through the peace treaty between Sparta and Athens that ended the 30 Years War.<sup>338</sup> The second position argues that “autonomia” is already used in two previous situations. First, in 480-479 BCE within the context of the Greco-Persian wars as related by Herodotus in his *Histories* (VIII.140), when Xerxes communicates to Mardonius that the Athenians must recover their own territory and add those who wish *eontes autonomoi*. The second use is retrospective and comes after Thucydides (II.71.2) within the context of the Peloponnesian War when Plataea, in 429 BCE, made clear to the Spartan judges that Pausanias, at the end of the Greco-Persian Wars, gave back to the Plateans their own land and possessions to benefit from *autonomously*.<sup>339</sup> We must keep in mind that in both instances the evidence is provided indirectly by referring to the texts written by Herodotus between 450-420 BCE and Thucydides between 430-411 BCE. Accordingly, dating the appearance of the concept with any precision becomes very problematic. This problem is not only philological, but also historical. The politico-semantic analysis of the term will differ if the word was coined during the Greco-Persian wars or the Peloponnesian Wars. From an epigraphic perspective, it is accepted that the first empirical evidence of the word occurs in Sophocles’ *Antigone* in 442 BCE (verse 810 and ff.). It is in this sense that the assessment of Kurt Raaflaub on the eventual anachronistic use of the term by both Herodotus and Thucydides to describe past events at the moment of writing seems correct. This fact means that addressing the problem only from a philological perspective is insufficient since there is no possibility from the current state of epigraphic research to determine when the word was coined and for what purpose. The reasons provided to support one view or the other

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<sup>338</sup> E.J. Bickerman, “Autonomia: sur un passage de Thucydide (I, 144, 2)”, 339; K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 148.

<sup>339</sup> E. Lévy, “Autonomia et eleutheria au V<sup>e</sup> siècle”, 252; and M. Ostwald, *Autonomia, its genesis and early history*, 16-21 and 40, though more nuanced.

will depend on the interpretation given to the events that occurred in that period. The meaning of the concept will also depend on this evaluation.<sup>340</sup> From my perspective, the need to coin a new word had to correspond to the radical novelty of events which were perceived as such by the same Greeks. New experiences that had no precedent could not be described with the available concepts at that moment. I believe that the novel forms of relations that took place between the different *poleis* in the context of the Peloponnesian wars were the background against which autonomy was coined. Up to that moment, the kind of conflicts between *poleis* or between Greeks and other peoples could be understood with the existing concepts. The Peloponnesian War radically transformed the way the *poleis* had inter-related until that moment.

All scholars agree that the use of the term *autonomia* is performed in its adjectival form as the condition of being *αὐτόνομος*. Only Raaflaub and Ostwald seem to give enough weight to this fact. Before Thucydides' text, *autonomia* does not appear as a noun (*αὐτονομία*) or as a verb (*αὐτονομέομαι*) and it does not appear in the 5<sup>th</sup> century BCE as an adverb.<sup>341</sup> This information suggests that the main function of autonomy was to denote a particular quality of some entities and not to determine its essence. It was a contingent property that an entity could have depending on the kind of relation it had. Furthermore, the fact that it appeared first as an adjective suggests that it was not coined before the novel realities to which it was applied. On the contrary, it strengthens the view that it was precisely to qualify a new state of affairs that the word was coined. Up to that moment, it was not necessary to consider that some entities could be autonomous or not: the question did not emerge. Autonomy was neither a problem

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<sup>340</sup> K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 148; and K. Raaflaub, "Zeus Eleutherios, Dionysos the Liberator, and the Athenian tyrannicides: Anachronistic uses of fifth-century political concepts", in Mogens Herman Hansen, Thomas Heine Nielsen, Lene Rubinstein ed., *Polis & Politics*, (Copenhagen: Museum Tusculanum Press, 2000), 251-252: "Scholars have offered plausible reasons why the term *autonomia* was coined precisely in the specific constellation of – and not earlier than – the mid-fifth century. Sound methodology thus forces us to assume that it was *not* part of the Spartan general's vocabulary in 479, and that Thucydides (or, for that matter, the Plataians) here did indeed retroject later terminology into an earlier context".

<sup>341</sup> K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 149; and M. Ostwald, *Autonomia, its genesis and early history*, 10.

nor a necessity. It did not exist as such. The word was coined at a moment when it was felt that these entities could be transformed by new experiences and, depending on the context, might realize the potential for autonomy that this context had opened up.

Thus, the context in which the term *autonomia* is used primarily belongs to historical situations in which the relevant actors are the *poleis*. As such, *autonomia* is a term referring to the *political*. If one looks at the 58 instances of the term *autonomia* in the 5<sup>th</sup> century BCE, there is only one case in which the term is used outside of this context, when it appears in Sophocles' *Antigone*. Surprisingly, it is also the first written appearance of this term of which we are aware. However, all the experts seem to agree that it is an incidental appearance due to the absence of previous sources. In this passage, the Chorus warns of the imminent death of Antigone, not by violent means or illness, but according to an *αὐτόνομος* decision (verse 820). All scholars seem to agree that this is a metaphorical use of the term by Sophocles, where he aims at describing the behaviour of Antigone, acting *as if* she were a *polis*.<sup>342</sup> The scandalous and extraordinary attitude of Antigone points to the fact that she has the audacity to act according to rules that are forbidden to individuals. The exceptional nature of her actions is an indirect confirmation that the ordinary use of the term relates to whether a *polis* is autonomous or not.

In light of these two considerations, there is a general agreement that the term *autonomia* applies only to collective entities and not to individuals. Thus, the “subjects” who can claim, lose, demand or keep autonomy are always the *poleis* as collective entities. Even when a *polis* is under the dominion of a tyrant, it can be said that the tyrant is *αὐτόνομος* in place of the *polis*. The textual analysis suggests this.<sup>343</sup>

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<sup>342</sup> M. Ostwald, *Autonomia, its genesis and early history*, 11; E.J. Bickerman, “Autonomia: sur un passage de Thucydide (I, 144, 2)”, 343; K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 148; and E. Lévy, “Autonomia et eleutheria au Vè siècle”, 258.

<sup>343</sup> E. Lévy, “Autonomia et eleutheria au Vè siècle”, 258: “Il [*autonomia*] ne s’emploie pas pour les individus: le passage d’Antigone, seul dans son genre parmi les 58 exemples du Vè Siècle, ne peut être que métaphorique: il suggéra audacieusement que l’héroïne constitue à elle seule une cité et même une cité souveraine. Le terme fait rarement allusion au régime intérieur...». K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 147: “In the fifth century, *autonomos* and *autonomia* appear almost exclusively in political contexts. They are

Autonomy arises, therefore, as a predicate of collective entities, which in the case of Greece is the *polis*. However, we must insist that while autonomy is applied only to the *polis*, this does not mean that the fact of being autonomous is inherent to the *polis*. A true *polis* need not be autonomous. Moreover, although the term is applied to the *polis*, it never refers to its type of internal regime or to its *politeia*, but it is always used in the context of its relations with other *poleis*. This also means that the term does not refer to an internal condition of the *polis*, but it is always in reference to its “external” relations.<sup>344</sup> Given these considerations, it is also important to point out that even though the term *autonomia* is a predicate of *poleis* in general, the term cannot be applied to Athens and Sparta.<sup>345</sup> Due to their particular nature, autonomy is a quality that does not correspond to any of their own properties. The term used to characterize their role in “external” relations is *Hegemon*,<sup>346</sup> namely, the leader of a group of *poleis* that is *primus inter pares*.

## 8.2. Meanings of the Concept of Autonomy

The Lidell-Scott dictionary entry for αὐτόνομος says. “1. *living under one’s own laws*, Hdt, Att.; 2. *Generally, of one’s own free will*, Soph. 3. *Of animals, feeding and ranging at will*, Anth.”<sup>347</sup> According to what I have explained in the previous section, we can reject the idea that autonomy is a feature of the “free will” of an individual.<sup>348</sup>

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occasionally applied to an individual but so rarely that we can assume that the words were primarily political in nature and probably in origin.”

<sup>344</sup> E. Lévy, “Autonomia et eleutheria au Vè siècle”, 259; M. Ostwald, *Autonomia, its genesis and early history*, 1; E.J. Bickerman, “Autonomia: sur un passage de Thucydide (I, 144, 2)”, 327-328.

<sup>345</sup> E. Lévy, “Autonomia et eleutheria au Vè siècle”, 260.

<sup>346</sup> Claude Mossé, *Les Institutions politiques grecques à l’époque classique*, (Paris : Colin, 1967), 117-123 ; and K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 142.

<sup>347</sup> H.G. Liddell and R. Scott, *An Intermediate Greek-English Lexicon Founded Upon The Seventh Edition of Liddell and Scott’s Greek-English Lexicon*, (Oxford Clarendon Press, [1889], 2001), 134.

<sup>348</sup> This is the current definition of the term autonomy. The main objective of this section is to historically trace the changes and transformations of this concept, which has its origins in the

The dictionary aims to establish a definition from only one use instance and, as we have seen, the application of autonomy to Antigone has a metaphorical meaning derived from its original one, which is used to refer to a collective entity, the *polis*. Regarding the meaning related to stockbreeding, the sources do not provide evidence that it is used in the 5<sup>th</sup> or 4<sup>th</sup> centuries BCE. It is the result of later transformations. Certainly, the definition that seems to be closer to the Greek sources would be “*living under one’s own laws*”. However, the definition draws its meaning from the etymology of the word and, as we will see, it does not provide much information: it refers more to a modern understanding of autonomy and it becomes anachronistic when referred to Greek phenomena. Moreover, it does not provide any information about what “*living under one’s own laws*” means in Classical Greece. The dictionary makes uncritical use of the etymology of the term to build its meaning from translating *autos* as “one’s own” and *nomos* as “law”. However, this is a possible definition depending on how we understand what it meant to “live under one’s own laws” in classical Greece. Bickerman is the only scholar who suggests that the meaning of autonomy can be derived from the etymology, though he translates *autos* and *nomos* according to the original meaning that these words had in Greek. This interpretation is supported by the fact that the word itself was a neologism coined by the same Greeks. Martin Ostwald, however, seriously questions his strategy from a philological point of view.<sup>349</sup>

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field of the relations between *poleis*, and investigate how it came to be understood as an attribute of the individual will in modernity.

<sup>349</sup> E.J. Bickerman, “Autonomia: sur un passage de Thucydide (I, 144, 2)”, 341: “Mais comme Aristarque l’a déjà noté...les mots anciens formés avec le radical *Nem*...ne sont pas composés de *nomos*, mais de νέμω. Ils expriment l’idée de distribution...*Autos* exprimant ou pouvant exprimer la notion réfléchie de possession, *autonomos* serait originalement celui qui a sa propre, particulière portion...” See M. Ostwald, *Autonomia, its genesis and early history*, 1 and his footnote 5 where he questions Bickerman’s etymology insofar as it overlooks the ancient Greek grammatical criteria for accentuation. Ostwald’s examination does not fully convince me from the moment that Bickerman holds its argument from the semantic meaning of all the derivatives from *NEM*, and, as far as we know, *nomos* comes from νέμω. See the definition of *nomos* in H.G. Liddell, & R. Scott, *An Intermediate Greek-English Lexicon founded upon the seventh edition of Liddell and Scott’s Greek-English Lexicon*, (Oxford Clarendon Press, [1889], 2001).

Following the analysis of the sources and after reviewing the conclusions of the different scholars addressing the question, it is possible to summarize the current knowledge available on the interpretation of autonomy according to four core elements that the concept may imply, which will be discussed in the following pages:

- a) autonomy is a concept that is connected to the Greek concept of *eleutheria*, which is commonly translated as freedom.
- b) autonomy plays a role in a situation of dependence and subordination of one *polis* in relation to another.
- c) autonomy can be used to designate a condition of “living under one’s own laws”.
- d) autonomy can be understood as the fact of being absolutely *independent*.

These elements are neither mutually exclusive nor irreconcilable. They are rather meanings that complement each other depending on the context of use. As it is explained by different interpreters, the concept of autonomy is polysemic and does not have a univocal and rigid meaning; it is rather a concept that acquires its interpretative force by being vague enough to be used in ambivalent situations.<sup>350</sup> Bosworth defends the idea that autonomy is mainly a polemical concept that is used as a political weapon to justify or legitimize the position of the actor performing it. From this angle, the meaning of the concept can only be understood if one has a clear sense of its context of use.<sup>351</sup> The fundamental problem we face when analysing the context of use is that 83% of the appearances of the concept are found in Thucydides and only 3,5% of instances appear in Herodotus. For this reason, Bickerman argues that the concept belongs to the Law of Peoples as it was framed in the 5<sup>th</sup> century BCE. However, this is clearly an acritical use of a juridical concept in a context where legal relations between different polities did not exist as such. Something similar to a law of peoples only appears in Roman law as *ius gentium* some centuries later and after crucial experiences unknown

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<sup>350</sup> M. Ostwald, *Autonomia, its genesis and early history*, 42; and 45-46; K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 149-150; M.H. Hansen, “The ‘Autonomous City-State’. Ancient Fact or Modern Fiction?”, 29.

<sup>351</sup> A. Bosworth, “Autonomia: the use and abuse of political terminology”, 123: “The word is context hungry; acquiring its precise connotation from the circumstances in which it is used. It is also what J.L. Austin once termed a ‘trouser word’.”

to classical Greece. Almost all interpreters agree that the origin of the concept is political, not juridical, and related to the different sorts of pacts, treaties, oaths of allegiance and promises that were established between *poleis*. This is a key issue from the moment that, through the constitution of this concept, we witness the creation a novel form of alliance between *poleis*, which is truly political in nature and goes beyond the military or commercial alliances that were up until that moment the normal kind of alliances. Given that we cannot detect the use of the concept in any treaty agreed before the first half of the 5<sup>th</sup> century BCE, together with the fact that it appears only twice in Herodotus while just twenty years later it becomes a key concept in Thucydides, we possess an indirect confirmation of the late birth and novelty of the concept in relation to unknown experiences up to this moment. Therefore, we should reject the idea that the concept appears as a guarantee enforced through “written agreements”, and with it, any understanding of these types of agreements as a kind of “legal right”. Furthermore, the concept seems to apply in its beginnings only within the sphere of the Greek world. It is within the framework of the consequences attending the end of the Persian Wars and in relation with the outbreak of the Peloponnesian War that the emergence of this term must be investigated. As I will try to show, only at the end of this long process might the term gain relevance as a “legal” concept and as the result of the first general written treaty of the Second Athenian Confederacy in 377 BCE, known as the *Decree of Aristoteles*. Accordingly, the term cannot have a rigid and concrete meaning because it is in the process of being created.

### 8.2.1. Autonomy and *Eleutheria*

According to the sources, it seems unambiguous that, for the ancient Greeks, autonomy and *eleutheria* would not have had the same meaning. *Eleutheria* has a long history and its existence within the Greek world is already documented in the Mycenaean Era.<sup>352</sup> Unlike autonomy, it is not a compound word of a language and built

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<sup>352</sup> E. Lévy, “Autonomia et eleutheria au V<sup>e</sup> siècle”, 248 and E.J. Bickerman, “Autonomia: sur un passage de Thucydide (I, 144, 2)”, 339.

from different semantic roots. It comes directly from the Indo-European root *\*leudh*.<sup>353</sup> It is beyond the scope of this chapter to make a detailed analysis of the concept of *eleutheria*, but some elements of its meaning can be highlighted in order to show the difficulties of equating *eleutheria* to autonomy before the 3<sup>rd</sup> century BCE. First, its meaning seems to be constant and unchanged and it designates the condition of an individual at his/her birth: he/she is either *eleutheros* (free) or *doulos* (slave).<sup>354</sup> In classical Greece, it was a property of the individual that was inherited through his/her lineage. Second, its derivative meaning is used to indicate whether the *polis* is *internally* oppressed by a despotic or tyrannical power. It seems that this use of *eleutheria* only becomes conventional at the end of the 6<sup>th</sup> century, after the democratic reforms of Cleisthenes. Third, and most relevant for my purposes, it can be applied to a *polis* by analogy with the condition of an individual to refer to whether the *polis*, not internally but in its relations with other collectivities, is *eleutheros* or *doulos*. What is significant about this relation is that the unit of reference is not a single *polis*, but the totality of *poleis*, namely that which is the essence of Greece in contrast to those who are not Greeks, mainly the Persians. As narrated by Herodotus, the struggle between the Greeks and Persians was a struggle for the *eleutheria*, not for the *autonomia* of Greece against the enslaving tyranny of the Persian King.<sup>355</sup> Therefore, in this context *eleutheria* means the independence of the Greeks if it refers to the enslaving threat of an absolute foreign enemy, namely a non-Greek.<sup>356</sup> Autonomy is a concept that will appear to describe the relations between the same Greeks, that is, between *poleis*. *Eleutheria* may play a key role too, but it will be in another sense. This is the reason why autonomy is a key term for Thucydides.

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<sup>353</sup> K. Raaflaub, “Zeus Eleutheros, Dionysos the Liberator, and the Athenian tyrannicides: Anachronistic uses of fifth-century political concepts”, 257. For an examination of its Indo-European origin and the connection with the languages that emerge from it, see É. Benveniste and J. Lallot, *Le Vocabulaire des institutions indo-européennes*, (Paris: Éditions de Minuit, 1969), 321 and ff.

<sup>354</sup> E. Lévy, “Autonomia et eleutheria au Vè siècle”, 253; Benveniste 1969, 324; W. Schuller, *Die Herrschaft der Athener im Ersten Attischen Seebund*, 111;

<sup>355</sup> M. Ostwald, *Autonomia, its genesis and early history*, 10 and 15-16; and E. Lévy, “Autonomia et eleutheria au Vè siècle”, 254, though I do not agree with the rhetorical features of the term *eleutheria*.

<sup>356</sup> E.J. Bickerman, “Autonomia: sur un passage de Thucydide (I, 144, 2)”, 339



### 8.2.2. Autonomy and Dependence

The idea that the concept of autonomy describes the dependency of one *polis* in relation to another arises from the particular interpretation of Thucydides by Bickerman and Ostwald.<sup>357</sup> A concept was needed to describe this new kind of relation which emerged as the result of Peloponnesian War. In contrast to the two retrospective uses of Herodotus, Thucydides uses the term synchronously to relate the events of which he was himself a witness. According to this interpretation, the term appears in the context of the relations between *poleis* within the Delian League, which aimed to continue fighting the Persians once the Pan-Hellenic League, a military alliance (*symmachia*) among the Greeks to fight the Persians, dissolved. The Delian League aimed at defending many ionic Greek *poleis* against the Persian threat. The victory of the Greeks over the Persians, thanks primarily to the leadership and military potential of Athens, turned her into the *hegemon* within this new sphere of influence. Sparta, the other *polis* considered a *hegemon*, was already leading the *poleis* that were located in the Peloponnese since the middle of the 6<sup>th</sup> century BCE. In neither case were the leagues established through “written treaties”. They were only established as the result of agreements reached between representatives of the *poleis* in convened assemblies. Again, it is important not to assume any of the modern conditions under which we understand the concept of alliance or treaty. My hypothesis is that we are indeed witnessing the birth of what in Rome would have been called *foedus*. Under the Delian League, the sources suggest that all the members agreed to pay a tribute, the *phoros*, as

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<sup>357</sup> Ibid., 327: “En effet, la différence réelle entre *eleutheria* et *autonomia* est que celle-ci ne peut se définir que par rapport à un autre ordre juridique auquel la collectivité autonome se rattache...La subordination est toujours présente sur l’arrière-plan mental de l’idée d’autonomie», 330 : Toujours le terme autonomie indique que la cité n’est pas la maîtresse absolue de sa politique. », 334 : « Quel que soit l’avantage, l’étendue ou la raison de l’autonomie, le fait qui la caractérise juridiquement est qu’elle est constituée en faveur d’une cité ou des cités par des tierces puissances signataires du traité international. » ; M. Ostwald, *Autonomia, its genesis and early history*, 1 : “...it belongs to the vocabulary of inter-state relations. Since ... it is always used of a weaker state which tries to assert its independence of the stronger power.”

a contribution to the costs of the common defence. Beyond describing the process and means by which the dependency of the *poleis* in the context of both leagues was achieved,<sup>358</sup> the important issue is that Athens was no longer seen at a particular moment as the *hegemon* of the league but was considered by some of its allies and by the Peloponnesian League behaving as a *polis turanos*.<sup>359</sup> Thus, from this moment on, new conditions appeared that made it possible to judge the *poleis* suffering the tyranny of Athens to be slaves and under the *arkhè* of Athens.<sup>360</sup> A whole new terminology was created to describe this new reality, because until then, the risk of a *polis* becoming enslaved only made sense in relation to a foreign power, most often represented by the Persians. The question is: how to characterize the situation of slavery between *poleis* when a common identity (all are Greeks) and the existence of a pact, the *symmachia*, are

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<sup>358</sup> It falls outside the scope of this study to offer an in-depth discussion of 1) whether the objective of the Peloponnesian League was to keep the oligarchic regime in all the *poleis* of its sphere of influence, and thus to resist the challenges to her hegemony from the democratic regime of Athens; and 2) why the development of Athenian democracy was linked to the transformation of Athens from *hegemon* to *arkhè*, something of which Pericles, according to Thucydides, *History of the Peloponnesian War*, (Cambridge: Harvard University Press/The Loeb Classical Library, 1958) in II, 63, 2, was fully aware: “You may reasonably be expected, moreover, to support the dignity which the state [polis] has attained through empire [*arkhè*]—a dignity in which you all take pride—and not to avoid its burdens, unless you resign its honours also. Nor must you think that you are fighting for the simple issue of slavery [*douleia*] or freedom [eleutheria]; on the contrary, loss of empire is also involved and danger from the hatred incurred in your sway. From this empire, however, it is too late for you even to withdraw, if any one at the present crisis, through fear and shrinking from action does indeed seek thus to play the honest man; for by this time the empire you hold is a tyranny [*turanos*], which it may seem wrong to have assumed, but which certainly it is dangerous to let go. Men like these would soon ruin a state, either here, if they should win others to their views, or if they should settle in some other land and have an independent state [autonomos] all to themselves; for men of peace are not safe unless flanked by men of action; nor is it expedient in an imperial state, but only in a vassal [hupekoos] state, to seek safety by submission [douleuein]”. See Felipe Martinez Marzoa, *La cosa y el relato. A propósito de Tucídides*, (Madrid: Abada, 2009), 63-66; and Claude Mossé, *Les Institutions politiques grecques à l'époque classique*, 123.

<sup>359</sup> K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 142-143.

<sup>360</sup> One of the events that prove it is the decision to move the tributes paid by the members, normally kept at Delos, to Athens in 454 BCE.

assumed? The term *autonomia* is the concept that was coined to define the aspirations of those *poleis* that were under the control of Athens and wanted to recover their status prior to the *arkhè* of Athens. Importantly, the concept appears only once the tyranny of the *polis* to whom was granted the status of *primus inter pares* was felt, and whose superior power was thought to be limited in time and reach. Indeed, the fact that we are witnessing a new political relation is confirmed by the impossibility of establishing clear criteria that allow us to state whether a *polis* is autonomous or not. As some scholars point out, the criteria that help Thucydides to determine whether a *polis* is autonomous differ depending on the context and the *polis*.<sup>361</sup> Moreover, everything is complicated by the fact that the Delian League established a typology to describe the role of each *polis* within the *symmachia*: there were those who were under the absolute control of Athens, the *hupekooi*;<sup>362</sup> those who properly were called *autonomoi*; and those who were not members of the league but had “bilateral” agreements with Athens.<sup>363</sup> Again, there are no unambiguous criteria between *autonomos* and *hupekos* that differentiate them: neither the payment of *phoros*, nor destroying the walls of the *polis*, nor having an army or fleet. What was apparently incompatible with autonomy is having Athenian garrisons within the *polis*. Therefore, it seems that the concept of autonomy was related to the degree of dependence that some *poleis* had towards Athens. However, just as *eleutheria* and *autonomy* cannot be equated, so too *doulos* and *hupekos* possess different meanings. Before the 5<sup>th</sup> century BCE it is very rare to describe a single *polis* as *doulos*. It is this fact that leads Ostwald to state that only after the Peloponnesian War can one link *hupekos* to being *doulos*.<sup>364</sup> For this reason, following Herman Hansen, it appears that in the context of the Peloponnesian War, the conflict

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<sup>361</sup> See M.H. Hansen, “The ‘Autonomous City-State’. Ancient Fact or Modern Fiction?”, 29 and Bosworth, 1989, 124-125.

<sup>362</sup> What is noteworthy to us as moderns is the fact that some *poleis* preferred to be *hupekooi* rather than autonomous. See “The ‘Autonomous City-State’. Ancient Fact or Modern Fiction?”, 24.

<sup>363</sup> See K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 143-144; E. Lévy, “Autonomia et eleutheria au Vè siècle”, 266 and footnote 123; E.J. Bickerman, “Autonomia: sur un passage de Thucydide (I, 144, 2)”, 329; T.J. Figueira, *Excursions in epichoric history: Aiginetan essays*, 261

<sup>364</sup> See M. Ostwald, *Autonomia, its genesis and early history*, 36.

was between having *autonomia* or being *hupekos*, not between being *eleutheros* or *autonomos*.<sup>365</sup>

### 8.2.3. Autonomy is “living under one’s own laws”

This characterization is based on the idea that, while the basic attribute of autonomy is established in the context of a dependency, it is also true that what fundamentally distinguishes a *polis hupekos* from a *polis autonomos* is the capacity of the latter to have a *politeia* and *nomos* that has been decided internally. In light of the discussion above, we also have to consider that in 5<sup>th</sup> century BCE “living under one’s own laws” does not mean being *eleutheros*. As Bosworth points out from his interpretation of Thucydides, a polis can be *autonomos*, but not *eleutheros*.<sup>366</sup> Thus, it seems that the capacity of a polis to act both internally and externally without coercion is the feature of a *polis eleutheros*, and therefore a *polis autonomous* is only free from coercion internally, but externally dependent to varying degrees on the influence of another *polis*. Raaflaub argues that the primary meaning of autonomy is what we, as moderns, call positive freedom. His interpretation originates from the idea that the term autonomy, rather than referring to the “external relations” of the *polis* and having the negative connotation of dependency, appears abruptly on the political agenda as a result of the Peloponnesian War, and since it was used to justify political claims by many *poleis* against Athens, implicitly possessed a positive political sense. His interpretation is drawn from numerous examples of Thucydides which seems to justify this meaning of autonomy.<sup>367</sup> For these reasons, Raaflaub suggests that

The choice of *autonomia* instead of *eleutheria* indicates a change of perspective and a different accentuation. Whoever says *eleutheria* is looking outward, referring to the absence of, or

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<sup>365</sup> M.H. Hansen, “The ‘Autonomous City-State’. Ancient Fact or Modern Fiction?”, 38.

<sup>366</sup> A. Bosworth, “Autonomia: the use and abuse of political terminology”, 125, within the context of the Mitilene rebellion says: “Autonomy is compatible with freedom but it is definitely not the same thing, and for Thucydides there are circumstances in which a state might be *autonomos* but not entirely free.”

<sup>367</sup> K.A. Raaflaub, *The discovery of freedom in ancient Greece*, 150-151.

defense against, subjection to foreign domination; emphasis is placed on the fact that the community involved is not ruled by someone else. Whoever says *autonomia* is looking inward, stressing the self-determination of the community. Since both concepts are concerned with the contrast between self-government and being ruled by another, they are often very close. But *autonomia* stresses self-determination, and *eleutheria*, the absence of foreign rule; *eleutheria* is passive, *autonomia* active; *eleutheria* is a double negative concept (“not unfree”), *autonomia* a positive one; *eleutheria* implies “freedom from something”, *autonomia* “independence for something”. Despite their affinity, therefore, the two terms are clearly and consciously distinguished – as is evident in Thucydides’ usage.<sup>368</sup>

Herman Hansen seems to agree with this interpretation,<sup>369</sup> but he stresses the difficulty of unambiguously defining the meaning of the term.<sup>370</sup> In my opinion, following the Bosworth’s interpretation that the concept of autonomy has essentially controversial and polemical content and its meaning is highly context-dependent,<sup>371</sup> the definition offered by Raaflaub falls into a *petition principii* from the moment he uses modern categories, the distinction between “positive and negative freedom”, to apply them in a context where the historical developments required for this distinction to be meaningful had not yet occurred and was not conceptualized by the actors themselves. It is a duality that requires a tension between individual and collective freedom that did not occur in Classical Greece. However, if the duality is understood as the necessity of being *independent* in order to “live under one’s own laws”, my hypothesis is that we are in a context where we are witnessing at the end of the 5<sup>th</sup> century BCE the political

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<sup>368</sup> Ibid., 154.

<sup>369</sup> M.H. Hansen, “The ‘Autonomous City-State’. Ancient Fact or Modern Fiction?”, 26.

<sup>370</sup> Ibid., 29: “As usual Thucydides is difficult to interpret and it is particularly some passages in his work that lie behind the prevailing view that *autonomia* is an extremely vague term, that is used in different meaning in different contexts, that the adjective *autonomos* can be used almost synonymously with the adjective *hupokoos* and that, accordingly, *autonomia* can be predicated even of dependencies.”

<sup>371</sup> A. Bosworth, “Autonomia: the use and abuse of political terminology”, 122-123.

constitution of this duality to explain a situation that until then had not been perceived as a problem. This new experience, so obvious to us that we have almost naturalized it, was not inherent to the existence of the *polis* but appeared only after a radical conflict arose in the period called Hellenism which led to the new understanding that to “live under one’s own laws” implies the independence of the *polis*. As I will try to show, the possibility of using a negative and positive concept of freedom presupposes a number of conditions that before the 5<sup>th</sup> century BCE were not fully established or perceived as evident.<sup>372</sup> Only at the end of the process of consolidation of this new concept, which corresponds to the end of the Peloponnesian War, will the meaning of the concept be determined clearly and autonomy would mean complete independence. Only from that moment on does the distinction between positive and negative freedom make sense in this context.

#### 8.2.4. Autonomy and Independence

The process leading from autonomy as dependence to autonomy as independence begins with the agreements reached at the end of the Persian Wars and ends with the dissolution of the Athenian *arkhè*, which produces the constitution of a new alliance called the Second Athenian Confederation and the establishment of the *koiné eiréne*, commonly translated as Common Peace. This trajectory transformed the simple link between the absolute independence of the *poleis* and *eleutheria* and, as the *Decree of Aristoteles* shows,<sup>373</sup> it was necessary to extend the concept of autonomy and make explicit the conditions under which a *polis* was understood as independent. What is remarkable in relation to the past relates to the fact that the Second Athenian Confederation foresees the inclusion of non-Greek polities in the alliance. The notion of treaty will move from understanding the alliance built along the lines of the *primus inter pares* to a pact between equals; from unwritten pacts to the need for sanctioning

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<sup>372</sup> The distinction between internal/external, the idea of boundlessness and the blurring of the idea of collectivity are ontological conditions for thinking the duality of the concept of freedom. See Chapter 13 below.

<sup>373</sup> Greek Inscription 42, 3, dated from 377 BCE, usually called the Decree of Aristoteles.

promises and oaths between peers through a “written law”;<sup>374</sup> from the idea that politics takes place only between Greeks to the opening of the political space beyond the limits of the Greek world.<sup>375</sup> In the meantime, the concept of independence will have undergone a major transformation. *Poleis* would have understood that, far from living as disconnected collectivities and with absolute *eleutheria*, where a political relationship between them was established only once they were threatened individually by the Persians, which forced them to enter into a pact by necessity, their existence was interconnected and built from mutual dependencies, their freedom always being influenced or threatened by the existence of other collectivities. Thus, the idea of independence will have to be guaranteed too, and this can only occur in conditions of reciprocal co-dependency, in conditions of general peace, of *koiné eirenè*. When the decree states that all *poleis* within the framework of the confederation are *eleutheroi* and *autonomoi*, and demands that Sparta recognizes that its allies possess the same status, it assumes that a true *polis* should enjoy both conditions. Therefore, independence and “living under one’s own laws” will be considered as necessary attributes of any *polis* from this moment on. However, we should underline the fact that we arrive at this situation only as a consequence of the *koiné eiréne*, namely, through the emerging idea of “confederation” and the dissolution of the boundaries that constituted the Hellenic world. I will address the consequences of these transformations in Chapter 14 when I compare historically the Greek and modern concept of autonomy.

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<sup>374</sup> For the link between the need to write the *nomos* and the birth of democracy, see Gerard Rosich, “Temptatives sobre la República”, *Revista Mirmanda*, no.7 (2013); and Martin Ostwald, *Nomos and the Beginnings of the Athenian Democracy*, (Oxford: Clarendon Press, 1969).

<sup>375</sup> The decree, according to how it is transcribed in the French translation published in Claude Mossé, *Les Institutions politiques grecques à l’époque classique*, 208-209 says: “Afin que les Lacédémoniens laissent les Grecs vivre libres [*eleutheroi*] et autonomes [*autonomoi*], et avoir la jouissance complète de leur propre territoire, et afin que dure effectivement pour toujours la paix commune qu’ont jurée Grecs et barbares, le peuple décrète: si quelqu’un des Grecs ou des barbares, habitant le continent ou les îles, sous réserve qu’il n’appartienne pas au Roi, veut être l’allié d’Athènes et de ses alliés, il le pourra en demeurant *libre et autonome*, en conservant la *politeia* qu’il voudra, sans recevoir de garnison, sans être soumis à un archonte, sans payer de tribut...”.

## 9. The Modern Reinterpretation of Autonomy

It is now a commonplace, much in evidence in the Anglo-American academic world, to start any volume or handbook on the modern reinterpretation of autonomy by placing Immanuel Kant as its starting point. After his critical work, the “autonomy” of reason would be now well rooted and purified from the metaphysical remnants of non-modern or theological legacies. Moreover, after him the negative side of autonomy would be heteronomy, not any external otherness to the human world—be it nature or God—or any self-cancelling property of the autonomous self. However, heteronomy as a political concept emerges only after Kant’s work. It had no relevant use in the past.<sup>376</sup> In consequence, the Enlightenment is seen as the relevant historical period from which to analyze the rise of the principle of autonomy. It is true that the end of the 18<sup>th</sup> century is a very relevant moment for the history of the concept of autonomy since a change of meaning occurs that opened up a new horizon of expectations;<sup>377</sup> but I believe that Kant and the Enlightenment have to be understood as a key turning point in this long history of autonomy, not as its origins. To consider Kant as the ground-breaking figure obscures the previous history of the concept and privileges a particular instrumental interpretation of his thought: one that posits the individual “self” as the subject of autonomy, the moral relation as the ontological grounding of the political and of practical reason.<sup>378</sup> From my perspective, the importance of the Enlightenment in this

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<sup>376</sup> E. Feil, *Antithetik neuzeitlicher Vernunft: “Autonomie-Heteronomie” und “rational-irrational”*, (Göttingen: Vandenhoeck & Ruprecht, 1988), 8.

<sup>377</sup> I follow Koselleck’s analysis of the Enlightenment as a moment of deep crisis and I use experience and expectation as they were defined in his works. Peter Wagner, *Modernity. Understanding the Present*, 36: “In this perspective, a social transformation is the outcome of a crisis of the earlier social configuration. Such crisis, in turn, is the perception of problems or shortcomings of the given practices in the light of principles, expectations or demands.”

<sup>378</sup> When interpreters want to address the political dimension of Kant’s works, they usually draw on his texts and opuscles on the philosophy of history, and thus they indirectly assume that the political is a derivative field from the interplay between *Verstand* and practical reason. For an understanding of the political “metaphysical” groundings against the background of his three critiques, see Hannah Arendt’s understanding of the *Critique of Judgment* as Kant’s critical political formulation in *Lectures on Kant’s Political Philosophy*, (Chicago: Chicago University Press, 1992). For the relation between Hannah Arendt’s reading of Kant and her own thought,



context consists in adding to the meaning of autonomy a new connection that will produce a major change in the socio-political constellation: the concept of independence as collective self-determination. But for this to happen, a space of experience where the concept of autonomy already played a socio-political role had to be in place, and as I will try to show, the new experiences that brought about the reappearance of the concept of autonomy took place at the end of the 16<sup>th</sup> century and the conflict over their interpretations opened up a new horizon of expectations.

In contrast to the studies devoted to the emergence of the concept of autonomy in classical Greece—as we have seen in the previous chapter—and against the background of the current mainstream view on autonomy, research on its historical reinterpretation in relation to the constitution of the modern times is still rare; and the few existing studies do not explore the wide historical context, along with all the implications and assumptions of its reappearance, systematically or in great depth. The partial exception to this state of affairs comes from the German scholarship, which from the 1950s on has endeavoured to retrieve the history of the concept of autonomy.<sup>379</sup>

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see Angela Lorena Fuster Peiró, *La Imaginació Arrelada: Una Proposta Interpretativa a partir de Hannah Arendt*.

<sup>379</sup> The relevant works are mainly in German: R. Pohlmann, “Autonomie“, in Joachim Ritter, Karlfried Gründer and Gottfried Gabriel ed., *Historisches Wörterbuch Der Philosophie*, (Basel: Schwabe Verlag, 1971); Martin Heckel, „Autonomia und Pacis Compositio“, *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Kanonistische Abteilung*, Vol.45, no.2, (1959), 141-248; Hans Blumenberg, „Autonomie und Theonomie“, in *Die Religion in Geschichte Und Gegenwart. Handwörterbuch Für Theologie Und Religionswissenschaft*, (Tübingen: Mohr Siebeck, 1959), 788–792; Konrad Hilpert, *Ethik und Rationalität*, (Düsseldorf: Patmos, 1980); Éric Gaziaux, *L'autonomie en morale: au croisement de la philosophie et de la théologie*. (Louvain : Peeters Publishers, 1998); Giovanni Cazzetta ed., *Autonomia: per un'archeologia del sapere giuridico fra Otto e Novecento. Quaderni Fiorentini per La Storia Del Pensiero Giuridico Moderno*, (Milan: Giuffrè, 2014); Ernst Feil, *Antithetik neuzeitlicher Vernunft: “Autonomie-Heteronomie” und “rational-irrational”*; D Gerber, „Ueber den Begriff der Autonomie“, *Archiv Für Die Civilistische Praxis*, Vol. 37, no.1(1854), 35–62; John Macken, *The autonomy theme in the Church Dogmatics: Karl Barth and his critics*, (Cambridge: Cambridge University Press, 1990). There are two significant exceptions, Éric Gaziaux in French and Giovanni Cazzetta in Italian. The latter has broadened the geopolitical scope of the

There are substantive reasons why this reappraisal has occurred only in the “German” world, but the relative indifference of other linguistic traditions can only be explained by a particular kind of methodological nationalism that compartmentalizes areas of research assuming that some historical and intellectual events only have an impact on national histories.<sup>380</sup> This view is reinforced by the “facts” that would explain the reappearance of autonomy as a concept, which are all related to “German history” as it is built retrospectively and in anachronistic terms by the national historiographies.<sup>381</sup> There are three different but intertwined reasons which would justify this claim. First, the textual sources show that the first reappearance of the concept of autonomy after its use in Classical Greece takes place in 1586 in a book written in German—something which is of relevance at this period since Latin was the usual written language—by an imperial counsellor of the Holy Roman Empire named Andreas Erstenberger. The book was titled *De Autonomia. Das ist von Freystellung mehrerley Religion und Glauben* and it inaugurated a new debate during the 17<sup>th</sup> and 18<sup>th</sup> centuries among “German” political, theological and legal scholars concerning its meaning and correct use. There is no previous historical record, neither in post-classical Greece nor in the Middle Ages.<sup>382</sup> Second, the historical events whose interpretation was approached by recasting the concept of autonomy were the religious wars that came about in the Holy Roman Empire in relation to the Protestant reformation and the Catholic counterreformation. Its key event is the Peace of Augsburg of 1555, and indirectly the different treaties agreed on in the Peace of Westphalia in 1648.<sup>383</sup> This constellation paved the way to the

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use of the concept of autonomy beyond the German and also the European context, though he mainly addresses the problem from the 19<sup>th</sup> century onwards.

<sup>380</sup> Indeed, there are concrete historical problems with which Germany was confronted, mainly regarding the process of social and state integration in the 19<sup>th</sup> century, which created a means of addressing this issue from an historical perspective. The German historical school represented by Savigny aimed at showing the limits of a rational understanding of law by looking at how it was historically constructed. Legal concepts are thus in need of historical interpretation.

<sup>381</sup> Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493–1648*, (Oxford: Oxford University Press, 2012), 1-15.

<sup>382</sup> There is a single instance of *autonomia* in Cicero. R. Pohlmann, “Autonomie“, 701.

<sup>383</sup> Westphalia is usually understood as a nickname for the creation of a system of independent states. Though this interpretation is contested in German scholarship—it created the concept of

German *Sonderweg*. And third, the intellectual traditions that were framed by the discussion of the concept of autonomy (theology, jurisprudence and philosophy) were merged—and as a consequence differentiated as separate spheres with different and mutually exclusive meanings of the concept of autonomy—in the work of Immanuel Kant, who is considered as the “inventor” of modern autonomy. In this chapter I address the first and second reasons only tangentially and where strictly necessary. The aim is to understand the reinterpretation of the concept of *autonomia*, and for my purposes it is irrelevant whether it happened in the German language or in *Deutschland*. In this respect, Heidegger’s idea that *German* is a philosophical language and has an essential relation to *classical Greek*,<sup>384</sup> or the historical discussion on how to interpret that the legal denomination of the Holy Roman Empire that included “of the German Nation”, are irrelevant and fall outside the scope of my inquiry.

Before entering into the discussion, a few words must be devoted to explaining the approach followed in order to map the history of the concept of autonomy in modern times. There are three difficulties that complicate the investigation and must be addressed at the beginning in order to elaborate on the assumptions of this chapter. The first problem relates to J.B. Schneewind’s excellent and ground-breaking book *The Invention of Autonomy* (1998) and the field of research it inaugurated.<sup>385</sup> Schneewind’s intention is to study the history of the moral ought and “to broaden our historical comprehension of Kant’s moral philosophy by relating it to the earlier work to which it was a response.”<sup>386</sup> There are numerous insights that have been very useful for my own knowledge, but there are two big differences that distance Schneewind’s book from my approach. His study does not address the history of the concept “autonomy”, and this is the reason why he considers Kant the inventor of autonomy in relation to the moral ought; moreover, he limits the meaning of autonomy to morality, a specific dimension

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balance of powers, not of the independent sovereign state—even if it were true, at this moment state independence was not linked to *autonomy*, but to sovereignty.

<sup>384</sup> To me, it is a nonsensical statement that should be understood as extremist methodological nationalism.

<sup>385</sup> Natalie Brender and Larry Krasnoff, *New Essays on the History of Autonomy: A Collection Honoring J. B. Schneewind*, (Cambridge: Cambridge University Press, 2004).

<sup>386</sup> Jerome B. Schneewind, *The Invention of Autonomy*, (Cambridge: Cambridge University Press, 1998), 3.

of action that draws upon an antecedent field of experiences that serve as a historically-constituted condition of its possibility. It is true that another period starts after Kant, from where it is impossible to trace the history of the concept *in general* and the word becomes a technical term defined *ex professo*, but to focus on the moral ought as the background of Kant's philosophy only shows that the dominant meaning of autonomy at present is moralistic. The word autonomy was already in the first half of the 18<sup>th</sup> century a common word in the vocabulary of the humanities.<sup>387</sup>

This leads to a second difficulty for my approach. Despite the dominant meaning autonomy has nowadays as a moral concept, its history shows that its meaning was contested and polemical. Concepts are not neutral recipients of meaning. They are the tools required to justify one's own position. The study of the history of concepts is an interpretative perspective from which one can analyse the tensions that constituted a particular historical context. This is fertile terrain for any research but it poses methodological problems for its analysis. One has to keep in my mind the context of use, the purpose for which it's used, who performs it, the experiences referred to and the semantic changes involved. Reinhart Koselleck's *Begriffsgeschichte* is the methodological device that best suits my analysis. Surprisingly, autonomy is a concept that does not appear in the *Geschichtliche Grundbegriffe* or in any of the works of Koselleck or his collaborators. I claim, following his definition of "concept", that "autonomy" is a concept from the moment "it can be used as an indicator of socio-political change [...] altering with the linguistic arsenal of the entire political and social space of experience, and establishing new horizons of expectation" and it condenses into one word "the entirety of meaning and experience within a socio-political

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<sup>387</sup> See Luca Fomesu, "The Return of Autonomy. German Classical Philosophy between Ethics and Metaphysics" in Giovanni Cazzetta ed., *Autonomia: per un'archeologia del sapere giuridico fra Otto e Novecento. Quaderni Fiorentini per La Storia Del Pensiero Giuridico Moderno*, 25-26 for a similar evaluation of Schneewind's work in relation to the history of autonomy and how to interpret Kant's position in this long story. However, he contends that Kant is a destination point in this history, while I think that one can find in Kant all the uses that *autonomia* had in the past, though the hegemonic interpretation of Kant's work, first by idealism and neo-Kantianism, and later by its reception in Anglo-American philosophy, has imposed a conservative and liberal interpretation of his work.

context”.<sup>388</sup> Moreover, the time at which the concept of autonomy was reintroduced was one of deep crisis, signalling a moment of transformation where the political struggle to defend or change the status quo is done by means of coining or changing the meaning of concepts to interpret what is taking place. In contrast to Koselleck, who considered only the Enlightenment as the privileged moment from where to observe a deep structural transformation and the understanding of the present as a “gap” or transition, here I assume Foucault’s periodization of two profound breaks, the first one inaugurating what he calls the Classic Age from the 17<sup>th</sup> century on and the second one, which he labels “modernity”, starting at the beginning of the 19<sup>th</sup> century, with the Enlightenment being the moment of change.<sup>389</sup> My assumption is that the transition from what is called the Middle Ages to the Classic Age can also be partially understood as a moment of radical transformation.<sup>390</sup> One of the hypotheses of this chapter is that, even though we cannot consider the period I study here as a replication of Koselleck’s *Sattelzeit* (1750-1850), mainly because there was not an explicit philosophy of history based on the notion of progress, to analyse it *in analogy* to the *Sattelzeit* can shed light on the historical “birth” of modernity as it is considered here, following Peter Wagner’s understanding of modernity as the commitment to autonomy.<sup>391</sup> As I will try to indicate, it was a moment of a deep rupture with a well- and long-established past that produced an epochal change. Here I will only analyse one of the constitutive elements of this rupture: the

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<sup>388</sup> Reinhart Koselleck, *Futures past: on the semantics of historical time*, (New York: Columbia University Press, 2004), 79; 84.

<sup>389</sup> Michel Foucault, *Les Mots et les Choses* (Paris: Gallimard, 1966), 14-16.

<sup>390</sup> Hannah Arendt, *The Human Condition*, 248: “Three great events stand at the threshold of the modern age and determine its character: the discovery of America and the ensuing exploration of the whole earth; the Reformation, which by expropriating ecclesiastical and monastic possessions started the twofold process of individual expropriation and the accumulation of social wealth; the invention of the telescope and the development of a new science that considers the nature of the earth from the viewpoint of the universe.” In the following chapter I will analyse the impact of reformation. In Part I I have analysed the impact of the “discovery” of America.

<sup>391</sup> Peter Wagner, *Modernity as Experience and Interpretation*, 2. Cornelius Castoriadis, Johann Arnason and Shmuel Eisenstadt are among the key scholars who have interpreted modernity as the commitment to autonomy.

historical reintroduction of the concept of autonomy. In chapter 2, I have considered the transformation of the concept of history that came about at this moment.

The last difficulty is related to the fact that the discussion of the concept of autonomy's history is entangled with the debates about the legitimacy of the modern age, to use Hans Blumenberg's formulation, in confrontation with the secularization hypothesis, best represented by Carl Schmitt in his *Political Theology* (1922). This conflict can be traced back to the origins of the historical reappearance of the concept and I will address it indirectly. However, beyond the fact that these debates are held with more intensity in societies that did not have a "modern" revolution (above all in Germany and Spain), the concept of autonomy has a history that is older than both the modern age and the birth of monotheistic religions. One could also reason the other way around, in line with Ludwig Feuerbach and Friedrich Nietzsche, and assume that theology is only the result of "transferring" to another world experiences of the human world. For my purposes, this is a sterile debate that hides normative claims about the status of the political. It is possible to analyse a change in the meaning of autonomy in relation to new experiences, but not to consider the concept either as an outcome of theological thinking<sup>392</sup> or as an invention of modern times: *autonomia* is a word coined, as explained in Chapter 9, in Classical Greece and its reappearance in modern times explicitly claims for itself this legacy. Furthermore, the word *secularization* well into the 19<sup>th</sup> century means only "the transfer of ecclesiastical territory and property into civil control and ownership" and only as an analogy of this material transfer does the word become, mainly in Europe, after the French Revolution and the period of Restoration, a metaphor for the spiritual transfer from the divine to the mundane.<sup>393</sup>

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<sup>392</sup> Carl Schmitt, *Political theology: Four chapters on the concept of sovereignty*, (Chicago: University of Chicago Press, [1922], 1985), 36: "All significant concepts of the modern theory of the state are secularized theological concepts not only because of their historical development—in which they were transferred from theology to the theory of the state, whereby, for example, the omnipotent God became the omnipotent lawgiver—but also because of their systematic structure, the recognition of which is necessary for a sociological consideration of these concepts."

<sup>393</sup> Ian Hunter, "Secularization: The Birth of A Modern Combat Concept", *Modern Intellectual History*, Vol.12, Issue 1, (2014), 2.



## 10. The Conceptual History of Autonomy

### 10.1. *Freistellung* as αὐτονομία

According to the current state of research, the first recorded use of the word autonomy,<sup>394</sup> after its Greek coinage, takes place in a book published in 1586, titled *De Autonomia; Das ist von Freystellung mehrerley Religion und Glauben* by Andreas Erstenberger (under the pseudonym of Franciscus Burgcardus), who happened to be imperial secretary at the Imperial Aulic Council in the aftermath of the 1555 Peace of Augsburg.<sup>395</sup> A former Protestant, he converted to Catholicism while being in the court of the Emperor of the Holy Roman Empire, Maximilian II. The pseudonym he used was the name of the Archbishop of Köln, who had died in 1584.<sup>396</sup> The author knew that his book would be controversial and highly contested and he preferred to hide his political role and use a partisan pseudonym. Had it been known that the book was written by an Imperial Secretary, the suspicions among Protestants about the role of the Emperor would have increased and he would have lost his position as counsellor.<sup>397</sup> Furthermore, he feared the possibility of being killed together with his family.<sup>398</sup> The book is written more as a pamphlet to defend in a radical and uncompromising way the *truth* of the Catholic faith and the *rights* of the Emperor over the *Stände* (the Imperial Estates), than

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<sup>394</sup> R. Pohlmann, „Autonomie“, 702.

<sup>395</sup> Andreas Erstenberger, *De Autonomia; Das ist von Freystellung mehrerley Religion und Glauben* (München: Adam Berg, 1586). I have consulted the different scanned versions on the Internet. There is no modern edited copy of this book. The book was written in three different sections. The edition I quote from is downloaded from Google Books and includes all three sections. I will use Roman numerals to refer to the sections and Arabic numerals for the chapter numbers. The book is available here:

[https://books.google.es/books?id=9989AAAACAAJ&dq=de+autonomia++erstenberger&hl=ca&source=gbs\\_navlinks\\_s](https://books.google.es/books?id=9989AAAACAAJ&dq=de+autonomia++erstenberger&hl=ca&source=gbs_navlinks_s).

<sup>396</sup> Thomas Nicklas, “Les Idées de pais en 1555 et les motifs d’un compromis indispensable”, Jean-Paul Cahn, Françoise Knopper and Anne-Marie Saint-Gille ed., *De la guerre juste à la paix juste: aspects confessionnels de la construction de la paix dans l’espace franco-allemand, XVIe-XXe siècles*, (Villeneuve d’Asq: Presses Univ. Septentrion, 2008), 59.

<sup>397</sup> Martin Heckel, “Autonomia und Pacis Compositio”, 150.

<sup>398</sup> Theodor Wiedemann, *Geschichte der Reformation und Gegenreformation im Lande unter der Enns*, (Berlin: F. Tempky, 1879), 460-461.



as a study of the impact of the Protestant reform movement on the Empire.<sup>399</sup> It was published in a moment of transition from a period of mutual understanding between confessions after the settlement reached in 1555 to a period of increasing confrontation from the 1580s.<sup>400</sup> The book is divided into three parts and a definition of *autonomia* is given in the first and the second. Indeed, the book was ready to publish in 1582 and it was written 30 years after the text of the Peace of Augsburg, a document which was incorporated into the imperial legal system as a kind of *Grundgesetz*, and the outcomes were already sufficiently visible and institutionalized for the impact and effects it produced to be evaluated. However, due to the nature of the agreements reached at that moment and how the negotiations proceed, there was a sense in both confessions that the settlement was overly ambivalent and incomplete and that it left too many questions open to interpretation on the fundamental issues. A conflict of interpretations, which fostered publicism as a specific branch of the legal studies, emerged from the 1580s on the actual meaning of the Peace. The slogan *cuius regio, eius religio* was coined also in 1586 by Joachim Stephani, professor of Law at the University of Greifswald, to interpret what the substance of the Peace was. It is in this context, to be developed in below, that Erstenberger's text has to be read.

The first problem with which Erstenberger is confronted is the lack of conceptual and historical sources, both in Roman Law and in Church Canon Law, to conceptualize the principal challenge that the Protestant movement represents for the *ordo*. The framework from which Erstenberger elaborates his argument is still the medieval idea of the *Respublica Christiana*, the distinction between *Imperium, potestas* of the Emperor, and *Sacerdotium, auctoritas* of the Pope, the hierarchization between social orders and the subordination of the worldly to the spiritual. The Holy Roman

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<sup>399</sup> According to Robert Scribner, we can call the Reformation a movement from the moment it conceived itself as a collectivity of human beings involved in collective action, exemplifying some degree of common consciousness and characterized by attempts to change the existing order by rapid and immediate action through non-institutional means. Robert Scribner, *Popular culture and popular movements in Reformation Germany*, (New York: Bloomsbury Publishing, 1988), 150.

<sup>400</sup> A. Schmidt, *Vaterlandsliebe Und Religionskonflikt: Politische Diskurse Im Alten Reich, 1555-1648*, (Leiden: Brill, 2007), 281; Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493–1648*, Chapter 32.

Empire and the Papacy are both the translation into political terms of this system. Universality of the Catholic Church, the unity of the Holy Roman Empire and the historical continuity of the Empire from its conversion to Christianity in the Roman period are its conceptual pillars.<sup>401</sup> According to Erstenberger, the novelty that threatens this order is the *Freistellung* movement launched by the Reformation, named in the Peace treaty as *Confessio Augustana*, which he defines as freedom of religion. The *Confessio Augustana* is the written declaration of faith that the Lutheran Church made in the Imperial Diet at Augsburg in 1530 following the request of Emperor Charles V to explain their position in order to evaluate whether it was possible to restore religious unity within the Holy Roman Empire. *Freistellung* was a controversial concept, which had different meanings depending on the context of use, and it could be interpreted in flexible ways.<sup>402</sup> Its primary sense was “exemption”, meaning to grant to those that profess the *Confessio Augustana* the possibility to enjoy “*quietly and peacefully* their religion, faith, church usages, ordinances, and ceremonies, as well as their possessions, real and personal property, lands, people, dominions, governments, honours, and rights”.<sup>403</sup> This exempted them from respecting the authority of the Papacy in spiritual matters and the *potestas* of the Emperor in worldly religious matters. This article is what allegedly grounded the *toleration* of the *Confessio Augustana* within the Holy Roman Empire. Since the Peace was considered as a kind of constitution for the Holy Roman Empire, it represented for the reformers what legally sanctioned the *ius reformandi*: a right to reform.

For Erstenberger, this movement of division, *schism*, of the Christian Dogma (*Religionsspaltung*, as it is mentioned in section 7 of the Peace of Augsburg) has no parallel in the history of the church, and as he points out, neither the concept of *libertas* nor *licentia credenda* are useful to describe it. Both the Fathers of the Church, especially Augustine, and the doctrinarian corpus addressed the problem of freedom from the angle of the *liberum arbitrium* in relation to the problem of the existence of evil and the “free” will of the human being. These intellectual efforts were devoted to reconciling the capacity of human beings to perform evil actions and sin with the

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<sup>401</sup> Martin Heckel, “Autonomia und Pacis Compositio”, 142.

<sup>402</sup> Bernd Schneider, *Ius reformandi: die Entwicklung eines Staatskirchenrechts von seinen Anfängen bis zum Ende des alten Reiches*, (Tübingen, Mohr Siebeck, 2001:157-163).

<sup>403</sup> §15 Peace of Augsburg.

omnipotence of God, that is, theodicy, and God's creation of the world with divine providence.<sup>404</sup> This is the reason why Erstenberger cannot use the concept of *liberum arbitrium* to explain *Freistellung*: it will oblige him to recognize that the *Freistellung* movement belongs to God's plan. The novelty is the connection between the claims to freedom of religion, which mainly means a rebellion against the *Libertas Ecclesiae* adopted by the pope Gregory VII in 1079, which promulgated the independence of the ecclesiastical authority from the temporal power and the absolute jurisdiction of the papacy on religious affairs, and the challenge to the Holy Roman Empire by those Imperial Estates that had adopted the *Confessio Augustana* and thus were claiming exclusive jurisdiction on religious affairs within the territories where they had *Landesherrschaft*, dominion over a territory. It is the entanglement of the political and the religious claims to have exclusive spheres of jurisdiction, what will be called *ius reformandi*, that Erstenberger wants to conceptualize and criticize. Erstenberger introduces *αὐτονομία*, written in the text in Greek, to define what the meaning of *Freistellung* is. In the absence of a Christian source of right, he has to resort to Classical Greece, where one can find a concept that corresponds to the new situation, to "authoritatively" justify his argument. In the first chapter of the first part of the book, *Freistellung* is defined as *autonomia*:

also daß *αὐτονομία* oder die Freistellung anders nicht ist, dann ein freye Willkür und macht anzunemen zuthun zuhalten und zu glauben, was einerselbst wil und ihme gut dünckt oder gefellig ist.<sup>405</sup>

Once it is stated that *Freistellung* is to be understood as *autonomia*, there are within this chapter more specifications as to how to understand this definition. In concrete, with *Freistellung* what one means is:

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<sup>404</sup> See Arendt's analysis of the discovery of the will in relation to the *liberum arbitrium* in Christian thought from Augustine to Duns Scotus in the part on the will in her *Life of the Mind*, (New York: Harvest Book, 1981), 55-128.

<sup>405</sup> Andreas Erstenberger, *De Autonomia; Das ist von Freystellung mehrerley Religion und Glauben*, I.1.

dass einem jedern freigelassen werden soll, ohne jemanden massgebung zu glauben oder anzunemen was ihm gefelt, oder er ihm seinem gewissen für recht helt.<sup>406</sup>

The text establishes a series of correspondences between the definitions that will be very important for the developments that would take place during the Thirty Years War. The connection of *Freistellung* with *autonomia* is done through the concept of *freye Willkür*, which in the text is not equated with *libertas* or *licentia credendi*, but with absolute license, which is “ein falsche Freyheit oder ubernehmung und missbrauch der freiheit zunennen... frei sein in gut thun und böse meiden”.<sup>407</sup> The meaning of license in the text is identified with *Gewissens Freiheit*, which means here disobedience in spiritual and worldly affairs. Assuming the traditional understanding of the distinction between body and soul, he contends that this sort of license can never correspond to any kind of freedom, which in the catholic canon is always related to the relation of the spiritual essence of man with God, but only to a state of “lauttere dienstbarkeit der menschlichen seindes”,<sup>408</sup> that is, a condition of slavery that in the Canon is always introduced by sin. Faith being an attribute of the free will, those that possess another faith are enslaved. Against the background of the *ius reformandi*, *autonomia* as the capacity of establishing “recht” according to one’s own *Gewissen* is to consider oneself free of all “Ordnung und Gesetz”. Therefore, the Reform movement is the major threat that Christendom has faced, given that it considers that which is a sin as a right.<sup>409</sup> *Autonomia* here is mainly defined in negative terms, as “lawlessness”.<sup>410</sup> Interpreters have focused mainly on this negative sense of Erstenberger’s definition.<sup>410</sup>

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<sup>406</sup> Ibid.

<sup>407</sup> Ibid., II.5.

<sup>408</sup> Ibid.

<sup>409</sup> “Freistellung, *autonomia*, wurde also prinzipiell als eine Gefährdung der gegebenen Ordnung angesehen.” (Schulze 1998: 130)

<sup>410</sup> Hilke Harmel, *Subjekt zwischen Abhängigkeit und Autonomie: eine kritische Literaturanalyse und ihre Bedeutung für die Behindertenpädagogik*, (Bad Heilbrunn: Klinkhardt, 2011), 25; A. Schmidt, *Vaterlandsliebe Und Religionskonflikt: Politische Diskurse Im Alten Reich, 1555-1648*, 282; Harmut Kress, *Religionsfreiheit als Leitbild:*

Erstenberger's text is a pivotal point from which to read the general change that was sweeping Europe at this moment. Though he is aware of the novelty and the transformative potential of the Reform movement, precisely because he was still a man of a world that was on the verge of disappearing, we can best see the transformations that were at work. After having defined what *autonomia* means, and thus being able to conceptualize the change that is taking place, he has to qualify his reasoning by referring to the implications it would have for the different social orders that are assumed as part of the natural order. This is the reason why after having explained the concept of *autonomia in genere*, he has to proceed now to the definition *in specie*, that is, what it means depending on who is the *Selbst* that aspires to have *autonomia*. According to the different social orders, there are five meanings of *autonomia* corresponding to each of the *Stände* in the Empire: a) the electoral princes and other Imperial Estates as they exist after the Peace of Augsburg; b) all the clergy; c) the nobility; d) cities and nobility within ecclesiastical territories; and e) all the subjects in general. In the following chapters, he tries to invalidate any of the justifications that each social order has to claim any kind of *autonomia*.

In his Chapter 6 of the second part, he resumes the discussion of the meaning on *Freistellung* and it provides a different perspective that does not take the "freye Willkür" as its grounding. After repeating the argument about the novelty of the term *Freistellung* and why *autonomia* is needed, he proceeds to explain the Greek meaning of *ἀὐτονομία* by splitting the word into *αὐτός* and *νόμος*, which surprisingly he translates into Latin as "*quasi lex ipsimet sibi*", which does not exist as a sentence in Roman Law, and not as *potestas vivere suis legibus*, an expression of the Romans to characterize the *respublica*.<sup>411</sup> Though Erstenberger plays with the etymology of *ἀὐτονομία* and offers a particular translation into Latin, the definition he gives in German resonates, though he does not say it, with the metaphorical use of *ἀὐτονομία* by Sophocles in *Antigona*, when her death has happened because she behaved *as if* she were an autonomous *polis*.<sup>412</sup> For this reason, I believe he draws a comparison between

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*Staatskirchenrecht in Deutschland und Europa im Prozess der Reform*, (Münster: Lit Verlag, 2004), 24.

<sup>411</sup> Andreas Erstenberger, *De Autonomia; Das ist von Freystellung mehrerley Religion und Glauben*, II.6.

<sup>412</sup> Martin Ostwald, *Autonomia, its genesis and early history*, 10.

the Greeks of a “*Statt*” and the “*Deutschen*” using a German saying: “wenn einer seines Kopfs ist, unnd auf niemandt nichts geben will, zu sagen pflegen: er ist für sich selbst wie ein kleines Reichstättlin.”<sup>413</sup> The point of the definition in Part I and Part II is to consider *αὐτονομία* as a quality of an individual instead of a condition of a polity. This is the reason why he cannot use the word “*potestas*”, because this would mean either that the Holy Roman Empire has *autonomia*, that is *Freistellung*, or to consider that in those territories where they have their own laws, there is *potestas*, something which would negate the exclusive *potestas* of the Emperor in the Reich and would justify the jurisdiction of the Imperial Estates on religious issues. Furthermore, had he used the Roman slogan, he would be using the political tools of the *politiques*, that is, those who at this moment were considered atheists and were retrieving the republican tradition of the Romans to justify the use of strictly political arguments to address the constitution of polities. Machiavelli was the foremost representative of this school and was condemned by Catholic orthodoxy as a defender of the *reason of state*, that is, a *respublica* as a *stato* where all religious beliefs would be tolerated and subordinated to statecraft.<sup>414</sup> As summarized by Quentin Skinner, in his genealogy of the concept of the state, “one precondition is clearly that the sphere of politics should be envisaged as a distinct branch of moral philosophy, a branch concerned with the art of government ... a contribution which would culminate in Machiavelli’s *Prince*”.<sup>415</sup>

However, when Erstenberger wants to draw conclusions from his use of the word *autonomia* and extend the definition he has provided in the first part, he will set the ground for the discussions that will take place in the negotiations of the Peace of Westphalia, for *Freistellung* is also “ein Zulassung, Macht und Gewalt anzunehmen, zuglauben und zuhalten was einem jeden selbst für Recht und gut anziehet.”<sup>416</sup> To my knowledge, all the commentators of Erstenberger’s book have focused on the definition

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<sup>413</sup> Andreas Erstenberger, *De Autonomia; Das ist von Freystellung mehrerley Religion und Glauben*, II.6.

<sup>414</sup> Harro Höpfl, *Jesuit political thought: the Society of Jesus and the state, c. 1540-1630*. (Cambridge: Cambridge University Press, 2004), 97 and ff.

<sup>415</sup> Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*, (Cambridge: Cambridge University Press, 1978), 349.

<sup>416</sup> Andreas Erstenberger, *De Autonomia; Das ist von Freystellung mehrerley Religion und Glauben*, II.6.

given in the first part and have contextualized it in relation to historical events. But the definition given in the second part, though also addressing the same historical events in a critical way, has other implications and a different meaning. It is true that Erstenberger's approach to the *Freistellung* question as *autonomia* encompasses in a single concept a problem that was at once religious, political and legal. However, the different meanings he offers for *autonomia*, depending on who the *Selbst* is and the *Stand* to which is applied, already contain a disentangling of the concept into different spheres of action. This is the paradoxical nature of Erstenberger's text: he wants to conceptualize the novelty in order to negate it, but he has to recognize it, and in doing it he builds on a concept that has a potentially revolutionary capacity which can be used polemically by his adversaries and thus sets up a new space for interpretation. The concept allows for understanding reality as corresponding to different dimensions with their own specificities, which goes against the unicity and universality of Medieval theological thinking, and also draws a new partition of the social space between individuals possessing *freye Willkür*, and collectivities, where *Macht und Gewalt* are in relation to *recht* and *gut*; both aiming at having *autonomia*.

This double distinction is made to attack the two main claims that according to Erstenberger the Reformation has introduced into the theological-political developments of the time: freedom of religion for subjects, and the subordination of the Church to the *Stände*, thus granting the latter the possibility to decide upon the confession of those residing within their territories. He wants to negate any right to negative and positive freedom, as we would say today. According to him, the Peace of Augsburg opens the door to these changes and both the Church and the Emperor have to nullify its effects and fight reformers. Erstenberger sees in some of its clauses the seeds of the disintegration of the Catholic Church and the Holy Roman Empire. He believes that what lurks behind the *Confessio Augustana* is the desire to achieve a "GeneralFreistellung aller Christen", an absolute freedom of religion for all subjects.

## 10.2. αὐτονομία as *populus potestas*

Erstenberger's was one of the main texts read and discussed among publicists after its publication—it had four different editions in nineteen years<sup>417</sup>—and was used by theologians and jurists as a weapon either to defend Catholic orthodoxy or as a way to attack it by showing that what the reform seeks is not *autonomia*, and therefore the Catholic position is unfounded. In 1613 a book entitled *Antiautonomia* was published anonymously, probably by a Lutheran,<sup>418</sup> which was written as a *refutatio* of Erstenberger's book and aimed to show the *falsa praesupposita* of his arguments.<sup>419</sup> *Autonomia* was already a concept at work in these disputes. From the perspective of the history of the concept and the change of its meaning, 1586 is the date of its reappearance after its Greek invention. The Peace of Augsburg only recognized the *Confessio Augustana*. Clause 17 of the Peace of Augsburg was agreed on by Catholics and Lutherans in order to exclude Calvinists and Anabaptists from the peace since the latter were considered by both as radicals. If *autonomia* were to mean what Erstenberger says, then both Catholics and Lutherans agree in rejecting it. Erstenberger's text radicalizes the position of Lutherans for practical purposes, his intention being an absolute prohibition, even a violent conflict if necessary, of any degree of toleration, irrespective of whether it is exercised publicly or privately. As noted above, it is far from being true that Lutheran reformers were aiming at such a situation.

Thus, it is not surprising that a defence of the concept of *autonomia* at that time comes from a Calvinist political thinker. Johannes Althusius, in his *Politica Methodice Digesta, Atque Exemplis Sacris et Profanis Illustrata*, explicitly refers to Erstenberger and he uses *ἀὐτονομία* as a concept with a positive political meaning.<sup>420</sup> Althusius's

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<sup>417</sup> Theodor Wiedemann, *Geschichte der Reformation und Gegenreformation im Lande unter der Enns*, 633.

<sup>418</sup> Ralf-Peter Fuchs, "From Pluralization to True Belief? An Austrian Treatise on Religious Freedom (1624)." In Andreas Höfele ed., *Representing Religious Pluralization in Early Modern Europe* (Berlin: Lit Verlag, 2007), 118.

<sup>419</sup> Anonymous, *AntiAutonommia*, (1613), 2. The edition used for the quotation is available here: <https://books.google.es/books?id=wgtUAAAACAAJ&printsec=frontcover&hl=ca#v=onepage&q&f=false>

<sup>420</sup> In order to follow the argument, I will use the available English abridged version of the *Politica* edited and translated by Frederick S. Carney (Indianapolis: Liberty Fund, 1995) for purposes of quotation, which leaves out important sections of the text. However, there is no full



main intention in his work is to constitute politics as an independent domain of analysis and action and remove from the political doctrine all the elements that are alien to it and are dependent on theology, jurisprudence or philosophy.<sup>421</sup> Though some commentators, especially Ernst Feil,<sup>422</sup> suggest that the sporadic use by Althusius of the word *autonomia* is not sufficiently extensive to allow for the inference of any substantive argument, the importance of Althusius in this context is that he uses the word not in its theological or legal meaning, but strictly in a political sense that was without precedent. He frees the concept of its use in the religious debates of the time and this allows him to analyse these developments from another perspective, which is precisely that which both orthodox and Lutherans would like to avoid since they associate *autonomia* with novelty, disorder and lawlessness in spiritual and imperial affairs. For Althusius, at least in the uses he makes of the word, *autonomia* is a concept useful to describe a kind of order that is political in nature and independent of the workings of other kinds of order, especially the theological one. Althusius uses the word *αὐτονομία* (written in Greek in the enlarged 1614 edition of the original publication in 1603) five times in the book.<sup>423</sup> Twice in chapter VI where he discusses the statute of the “*civitas*”—paragraph 41, where he deals with *autonomia* is entitled “*αὐτονομία civitatis, jurisdictio, territorium, tribunalia*”—and twice in Chapter IX, where he analyses the relations of the minor and particular “*consociatione*”—“*civitas*” is one of them—with the universal and major ones, and in particular with the “*jus regni*”. Paragraph 17, where he addresses the question of *autonomia*, is called “*αὐτονομία&anima regnis*”. In Chapter XXV, paragraph 11, he repeats the use he makes in Chapter IX. Moreover, in Chapter XVIII he explicitly discusses Erstenberger’s book and tries to show the “errors” of his reasoning, which he attributes to

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translation into English, only into Spanish. The German one is a selection of texts as well. I have used the great Spanish edition of *Politica* and the Latin edition of C. J. Friedrich, checking the original edition of 1614 in case of conflict. I will quote *Politica* using Roman numerals for chapter numbers and Arabic numerals for paragraph numbers. I have reintroduced the original Latin words into the English translation for the sake of clarity.

<sup>421</sup> Althusius, *Politica*, Preface to the first edition of 1603, 3.

<sup>422</sup> E. Feil, *Antithetik neuzeitlicher Vernunft: “Autonomie-Heteronomie” und “rational-irrational”*, 35.

<sup>423</sup> Feil identifies only two instances of *autonomia* in the *Politica*, but indeed there are at least five.

Erstenberger's attempt to interfere in the political realm with justifications from the theological one. The only political decision that the *magistratus* should follow when dealing with religious division according to political "*praecepta*"<sup>424</sup> is "*diversas religions in regno tolerare*", a position that goes against article 17 of the Peace of Augsburg and the opinions of both orthodox and Lutherans. For Althusius, religious precepts are only to be taken into account in the political realm insofar as they are useful and necessary for the conservation of the *respublica*.<sup>425</sup> The medieval intertwining of worldly and spiritual matters, which justified interrelated spheres of jurisdictional authority between secular and ecclesiastical powers, is translated by Althusius as an absolute frontier between the mundane and the transcendental as such. The mundane is the sphere of political power and the jurisdictional *imperium*, and the transcendental is embodied in the relation established by faith between the believer and God. Thus men have two different properties: one external and constituted by its relation to the mundane, which is governed by *jus regni* and *imperium* over bodies, and one internal related to the transcendental which is governed by the *imperium* of God over men's thoughts (*cogitationis*).<sup>426</sup> Since ecclesiastical matters belong to the mundane sphere, the magistrate has *imperium* over the administration of the Church in all the issues that affect its external relations. Furthermore, he has a right to promote, control, legislate and protect orthodoxy insofar as it is useful for the conservation of the *consociatio*. For that reason, political prudence is superior to defence of orthodoxy when this defence implies the ruin of the *consociatio*.<sup>427</sup> If we translate this argument into Erstenberger's

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<sup>424</sup> Althusius, *Politica*, Preface to the first edition of 1603, 5: "... association, human society, and social life may be established and conserved for our good by useful, appropriate, and necessary means. Therefore, if there is some precept that does not contribute to this purpose, it should be rejected as heteronomous [heterogenum]"

<sup>425</sup> Althusius, *Politica*, preface to the second edition of 1614, 12.

<sup>426</sup> Althusius, *Politica*, XXIX.63 and ff: "A magistrate in whose realm the true worship of God does not thrive should take care that he not claims imperium over faith and religion of men, which exist only in the soul and conscience. God alone has imperium in this area. To him alone the secrets and intimate recesses of the heart are known. And he administers his kingdom, which is not of this world, through his ministers of the Word. For this reason, faith is said to be a gift of God, not of Caesar. It is not subject to the will, nor can it be coerced."

<sup>427</sup> Althusius, *Politica*, XXIX.66: "Franz Burckhard therefore errs, and the Jesuits with him [...] We may say in this case that the magistrate who is not able, without peril to the commonwealth,

terms, Althusius is indeed claiming that a *GeneralFreistellung*, following Erstenberger's five meanings of *autonomia*, is the correct political decision if we consider that the political is a realm of its own, that it is independent of the other ones. For Erstenberger, this is precisely one of the most dangerous points, because it would make everything indistinguishable and chaotic.<sup>428</sup> Everything would be turned upside down and truth would banish from the world. Though they agree in the sense that license and absence of laws is the worst evil the world can face, they disagree on where the frontiers of this world lie.

The use in Chapter VI by Althusius of the word *autonomia* occurs in the context of discussing the nature of a type of public association (*consociatio publica*) which is *particular*, not *universal*. *Universitas* and *provinciae* are its two instances. *Civitas* is another name for *Universitas*. Their existence is permitted and approved by the *ius gentium*. It is an association created for the purpose of constituting a *politeuma*.<sup>429</sup> For Althusius politics is the “art of associating (*consociandi*) men for the purpose of constituting, cultivating, and conserving social life among them (*inter se*)” and the members of the public association are not individuals (*singuli*) but private associations (families and private organizations) which their members, by virtue of assembling (*coeundo*) together, become citizens (*cives*) of the same *universitas*. In moving from a private association to a public one, they constitute a political body (*unum corpus universitatis*). For Althusius, individuals are not the main units of the political from the moment that as singulars (*singuli*) they are neither self-sufficient (*autarchia*) nor related. Relations (*inter se*) of association is what constitutes the realm of the political,

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to change or overcome the discrepancy in religion and creed ought to tolerate the dissenters for the sake of public peace and tranquillity, blinking his eyes and permitting them to exercise unapproved religion, lest the entire realm, and with it the household of the church, be overthrown.”

<sup>428</sup> Andreas Erstenberger, *De Autonomia; Das ist von Freystellung mehrerley Religion und Glauben*, III.16: “Und in Summa alles dermassen umbgekehrt und das underst zu obrist, das hinderst hervorgewendt, das Geistlich und Weltlich undereinander geschmelzt und verwirret, dass mans halt nimmer kennen kann”.

<sup>429</sup> Althusius, *Politica*, VI.5: “[Politeuma] in general is the [jus] and [potestas] of communicating and participating in useful and necessary matters that are brought to the life of the organized body by its associated members. It can be called the public symbiotic right.”

and within the social life these relations never take place between members as *singuli*, but always as members associated (*symbiotes*), related by an explicit or tacit agreement (*pacto*). Indeed, without relation there is no life. For Althusius, symbiotics (*living with*) is another word for politics.

From the first occurrences of *autonomia* in Chapter VI 6,<sup>430</sup> we can derive some provisional conclusions: a) the subject of *autonomia* is the *civitas*. In contrast to Erstenberger, it is not a quality of an individual. The constitution of *symbiotes* as *cives* is what creates *autonomia*; b) *autonomia* is not an exemption from, but a *jus* in itself—it is an act of constituting, not an exception to what it is constituted; c) it is “legally” recognized by *ius gentium* and it is not a right granted arbitrarily by the *emperor* or the result of a peace treaty; d) *autonomia* is not a privilege (*usum regalia*) and it is different from the *jus territorii*. Contrary to Erstenberger, it is not an absolute and general *jus*; e) as such, it is one among the different *jura publica* that correspond to the *jurisdictio* and *imperium* of the *civitas*, that is, to the government of the city. In contrast to Erstenberger, it is a quality of the *Ordnung* and *Gesetz* of the *civitas*, and it is not a state of lawlessness, but a characteristic of the laws of a particular association that they are not common to others, they are proper laws (*leges propriae*); f) since they are proper laws, they are not in conflict with the general laws, which are common to all (*lex communis*). Since the *civitas* is a particular public association and not a universal public association, its *imperium* is limited by the universal *imperium* of the *respublica*. *Autonomia* is here not a quality of sovereignty (*potestas imperandi universalis*), which

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<sup>430</sup> Ibid., VI.39: “The rights [jura] of the city, its privileges, statutes, and benefits, which make a city great and celebrated, are also communicated by the citizens. They are shared with the people in the suburbs, outposts, and surrounding villages, but not with travellers and foreigners. For citizens enjoy the same laws [leges], the same religion, and the same language, speech, judgment under the law, discipline, customs, money, measures, weights, and so forth. They enjoy these not in such manner that each is like himself alone, but that all are like each other, I also include the *ἀὐτονομία* of the city, its privileges, right of territory, and other public rights that accompany jurisdiction and imperium. Even a city recognizing a superior can have these rights by its own authority [jus], and in other things be subject to its superior magistrate by fixed covenants. And even more certainly these rights pertain to a free city recognizing none except the emperor as its superior. These cities, however, cannot have the personal rights of princes, nor exercise jurisdiction beyond their territories”.

is the reason why *autonomia* is not incompatible with being a member of an empire, a universal public association.

The meaning of *jus* in *Politica*, as has been pointed out by Frederick Carney in his translation to English, is diverse and it depends on the context of use. It “often means ‘right’ (e.g., *jus coercendi*—right to coerce), sometimes ‘law’ (e.g., *jus naturale*—natural law), and upon occasion even ‘authority’, ‘responsibility’, ‘power’, ‘legal order’, ‘structure’ or ‘justice’”.<sup>431</sup> In this context *autonomia* is a *jura publica* of the *civitas*, and given that it corresponds to the sphere of enacting their proper laws (*leges*) which are part of the *imperium* and jurisdiction of the *civitas*, the meaning of *jus* seems to include all the previous meanings. Though Althusius starts his study against the background of the corporate medieval order, through his analysis he transforms the quality of this order. In allocating *potestas*, *autoritas* and *ordo* to the same entity, he escapes both from the medieval idea of different entities having specific roles and from the new political theory, mainly represented by Jean Bodin, of describing these qualities as the exclusive personal properties of the *princeps*, who are invested by God and therefore are only accountable to him. As was common among the reformers through their theory of *sola scriptura*—the Bible as the only source of authority and grounding of *ius*—just a few lines below the first appearance of *autonomia*, Althusius justifies his reasoning on historico-Biblical grounds by saying that “in former times, however, in the Jewish *politia* and other *populorum*, cities were understood to have had their own autonomy, polity, and king. Genesis 14; 19.” In this sentence, *autonomia* is written in Latin and not in Greek. This sentence is probably addressed to all those, especially Erstenberger, that deny *autonomia* on the grounds that it goes against both the Bible and the Christian religion.

The second occurrence of *autonomia* in Chapter IX takes place when discussing the statute of the members within a universal public *consociatio* and which is the order proper to this realm, what Althusius calls *jus regni* or *jus majestatis*, where there is no *potestas* “which recognizes no ally, nor any superior or equal to itself. And this supreme [jus] of universal jurisdiction is the form and substantial essence of sovereignty [majestas] or, as we have called it, of his overlying [majoris] state [status]”.<sup>432</sup> I will

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<sup>431</sup> Frederick Carney, “Introduction” in Althusius, *Politica*, 18: footnote 5.

<sup>432</sup> Althusius, *Politica*, IX.15.

quote the paragraph in full because the word happens to be in one of the core sections of Althusius's *Politica*:

The people, or the associated members of the realm, have the power (*potestas*) of establishing this right of the realm and of binding themselves to it [...] And in this power of disposing, prescribing, ordaining, administering, and constituting everything necessary and useful for the universal association is contained the bond, soul, and vital spirit of the realm, and its [ἀὐτονομία], greatness, size, and authority. Without this power no realm or universal symbiotic life can exist [...] But if this right is taken away, the entire symbiotic life perishes, or becomes a band of robbers and a gang of evil men, or disintegrates into many different realms or provinces. This right of the realm, or right of sovereignty, does not belong to individual members, but to all members joined together and to the entire associated body of the realm. For as universal association can be constituted not by one member, but by all the members together, so the right is said to be the property not of individual members, but of the members joint [...] Whence it follows that the use and ownership of this right belong neither to one person nor to individual members, but to the members of the realm jointly. By their common consent, they are able to establish and set in order matters pertaining to it. And what they have once set in order is to be maintained and followed, unless something else pleases the common will. For as the whole body is related to the individual citizens, and can rule, restrain, and direct each member, so the people rules each citizen.

To put it simply, this paragraph states that the *potestas* of enacting a *regni* lies only in the people (*populus*), who as such is the owner (*proprietatem*) of this *jus*.<sup>433</sup> The

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<sup>433</sup> Pietro Costa, “‘So far so close’: the medieval Commune and its Autonomy”, in Giovanni Cazzetta ed., *Autonomia: per un’archeologia del sapere giuridico fra Otto e Novecento*.

people in this context are neither individuals nor the multitude of the *regni*, but those that are associated within each particular association that together constitute a universal association. Its purpose is to institute “good order, proper discipline and the supplying of provisions”.<sup>434</sup> Here the historical constitution of an *imperium* is transformed into a conceptual discussion of its political foundations. Though as a *factum* one may have the impression that what is *first* in genetic terms is the *potestas imperiandi universalis* of the king or emperor, as the subject who has created a *regni*, in *jus*, everything is derived from the members that constitute the *regni*. Althusius is translating here Cicero’s sentence that “Cum *potestas in populo auctoritas in senatu sit.*” In the following paragraph, Althusius draws a strict line between “*plenitudo potestatis*”, which belongs to the people, and “*administratores*”, who are individuals (*singuli*) to which the people have delegated *de jure* (*comittii*) this *potestas* in order to be administered (*gerat*). What at first glance looks like a theory of *consensus* in order to justify the *potestas* of the magistrates, within the work of Althusius becomes a theory to justify political change if it pleases the *communi voluntati*. In contrast to Erstenberger, who attributes will (*Willkür*) to individuals, Althusius only takes into consideration the will as a quality of the people. Individuals as such are under the *imperium* of the people.

Since magistrates are individual citizens, who only have the right to *imperium* over subjects according to the *lex directionis&gubernationis*, that is by those dispositions needed for the conservation of social life, if they do not perform their duties they can be removed from office, dethroned and, in case of usurpation of the *potestas*, even killed. A *potestas* that would be exerted over the people, that is, “absolute and

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*Quaderni Fiorentini per La Storia Del Pensiero Giuridico Moderno*, 691-696, discusses the use of the word *autonomia* by Althusius, but he focuses only on Chapter 6 of *Politica*. This leads him to interpret *autonomia* mainly as a property of the city, mirroring its use in classical Greece, and to consider it as a *libertas*. If one looks at its use in Chapter 9, the word becomes a property of what makes a collectivity a political one. Whether it is a city, a province or a republic is a consequence of the different associations that are consociated by means of *autonomia*, namely, *populus potestas*. Within the same collective volume, Corrado Malandrino, “Autonomy and Federalism: a necessary, subsidiary and synergic co-presence”, 301-302, makes the same assumption about *autonomia* as a property of the city but he puts it in relation to Althusius’s use of *autarkeia*.

<sup>434</sup> Althusius, *Politica*, IX.15.

superior independent laws”, would be by its nature tyrannical.<sup>435</sup> In this paragraph, Althusius is attacking Bodin’s conception of *potestas* as it is embodied in the figure of the *prince*. For Bodin, the *prince* would be somebody that is *freigestellt* in the two meanings that Erstenberger assigns to *autonomia*: he would be exempted from submitting to the laws and he would be at the same time the source of the laws. For Althusius only the existential need (*necessitas*) of ruling and governing is what constitutes some individuals as superiors, rulers, and other as inferiors, subjects, for the sake of the utility and the security and welfare (*salus*) of all. The ruler has only *auctoritas* as delegation of power, and not *potestas*, insofar as he serves the purpose by which he was either explicitly appointed or tacitly accepted. Power and governing correspond to two different realms and qualify the people in different ways, either as having *communa voluntati* or as individual citizens who are rulers or ruled.<sup>436</sup> This distinction has a twofold purpose: first to accommodate political change and, second, to justify and explain it by identifying the agent of change in the *plenitude potestatis* of the people. *Autonomia* in this chapter is an attribute of the *anima&vitalis spiritus regni*, which consists in the *populus potestas* of *statuendi & se obligandi* of the *jus regni*, which is the same as having *majestas*. This is confirmed by the other use of *autonomia* that Althusius makes some lines above in paragraph 15 when he writes: “for that reason, it is said *populus autonomos, autoteles* and *autodikos*.” We should be careful in not linking this *populus potestas* with democracy in the sense of having the capacity of enacting laws. In Althusius’s *Politica*, the responsibility of this task corresponds to the magistrates, not to the *people*. Positive laws gain consent on the grounds of the *pacto* that gave birth to the *consociatio*.<sup>437</sup>

It is very telling that after the so called Thirty Years War there are numerous instances showing that *autonomia* had changed its meaning. In a second edition published in 1661 of the philosophical dictionary *Lexicon Philosophicum Terminorum Philosophis Usitatorum*, authored by Johannes Micraelius, the word *autonomia* is defined as “*potestas vivere propriis legibus*”.<sup>438</sup> However, in the first edition of 1653, the

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<sup>435</sup> Althusius, *Politica*, IX.21.

<sup>436</sup> *Ibid.*, I.12-14.

<sup>437</sup> *Ibid.*, XXIX.4 and ff.

<sup>438</sup> See the Google Books online version:



word is absent. In 1720 Henricum de Cocceji published a book called *Autonomia Juris Gentium*, whose main purpose was to analyse the legal outcomes of the war. *Autonomia* there is defined as “*legibus suis vivere*”<sup>439</sup> and since during the war the *autonomia* of some polities was lost through conquest, its recovery through the Treaty of Westphalia adds a new meaning to the concept: “*libertas patriae suae*”.<sup>440</sup> *Autonomia* in this book means “*seu libertatem&propriaem adeo potestatem in terras suas restituere*”. It is a status that is recovered once you have been conquered.<sup>441</sup> *Autonomia* becomes a concept to interpret the relations *inter gentes*<sup>442</sup> and to define what makes a *civitas* autonomous.<sup>443</sup> However, in Cocceji’s terms it still does not mean independence. One can be a free and autonomous polity while being in an Empire.<sup>444</sup> Furthermore, in another lexicon published by Basilius Faber in 1735, *Thesaurus Eruditionis Scholasticae*, *autonomia* is defined as “*qui est sui juris, qui nullius imperio subest, der sein eigen herr ist*”, which suggests that having *autonomia* is at odds with being coerced and therefore it is in contradiction with being a member of an empire. These examples indicate a change in the meaning of *autonomia*, though they are not internally consistent. Despite its ambiguous use, there seems to be a fundamental change between Erstenberger’s and Althusius’s use of the term and its meaning from the end of the 17<sup>th</sup> century on. What has happened in between for such a transformation to have taken place?

The main difficulty in dealing with the historical context out of which the concept of autonomy grew is related with the possibility of breaking away from a linear

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<sup>439</sup> Chapter 1, paragraph 19. See the Google Books online version:

[https://books.google.es/books?id=cWk2U2IU65gC&dq=editions:-EPK0crrokQC&hl=ca&source=gbs\\_navlinks\\_s](https://books.google.es/books?id=cWk2U2IU65gC&dq=editions:-EPK0crrokQC&hl=ca&source=gbs_navlinks_s)

<sup>440</sup> Henricum de Cocceji, *Autonomia Juris Gentium*, Chapter 20, paragraph, 56.

<sup>441</sup> *Ibid.*, Chapter 1, paragraph, 24.

<sup>442</sup> *Ibid.*, Chapter 4, paragraph, 7.

<sup>443</sup> *Ibid.*, Chapter 8, paragraph, 13.

<sup>444</sup> Though Ernst Feil rightly criticizes Rosemarie Pohlmann for overstating Cocceji’s views, I think that Feil does the opposite. Although it is true that Cocceji is not identifying autonomy with independence, its use is no longer the same as it was before 1648. Cocceji links freedom, territory and autonomy and their interrelation in conflicts of war.

and causal interpretation. A standard view in historiography reads the Peace of Augsburg against the background of the formation of European states system and its related concept of state sovereignty. This endogenous interpretation considers the past as a necessary step for the subsequent developments and thereby eliminates contingency and indeterminacy from history. As I have tried to show with the history of the concept, *neither its reappearance nor its later use supports any interpretation of autonomy as state sovereignty*. On the contrary, if we consider Bodin as the inventor of a concept of absolute sovereignty, “*puissance absolue*” which justifies first the absolutist state and later its reinterpretation as the sovereignty of the nation-state, both Erstenberger—who indeed supports a concept of *majestas* very close to Bodin and for that reason is against autonomy—and Althusius—who can be considered the first user of a positive concept of autonomy against any pretension of a monarch or emperor to hold *summa potestas* exclusively—do not understand autonomy as sovereignty, and much less as independence. To add the meaning of independence to the concept of autonomy, further developments would have to take place. In conceptual terms, at some moment it must be theorized that in order to have “*potestas vivere propriis legibus*”, the *self* must be independent of the *others*. The concept of self-determination (*causa sui*) would represent this connection. In historical terms, there are two situations that will allow for this connection to be made. The first is the absolutist state: state absolutism appears from the moment that a polity is internally ruled through law by a self who is absolutely independent from both the law and the others—who in turn are dependent on him as *subjects*—namely, he has the power to institute the law and is independent from it while the rest are not. The second is the constitution of new polities by “seceding”, that is, by becoming independent from the empire to which they belong only on the grounds that they are seeking to attain “*potestas vivere propriis legibus*” and not to be ruled by *others*. The examples here are more controversial,<sup>445</sup> but in general it is agreed that this link is created by non-Europeans.<sup>446</sup>

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<sup>445</sup> There are some discussions about how to interpret the constitution of the Dutch Republic at the moment of “leaving” the Spanish Empire and the status of Estates within the Holy Roman Empire during the reign of Charles.

<sup>446</sup> Carl Schmitt is one of the few thinkers that link both processes in his *Nomos of the Earth* although he does so within a different conceptual framework and in order to derive other normative conclusions.

The intention of the following paragraphs is not to explain a major transformation such as the transition from a feudal order to a modern one or the constitution of the state form. Furthermore, these lines will not discuss the importance of these developments for German, European or World history.<sup>447</sup> The point is to suggest from which angle it should be interpreted, as it was for the actors of the time, the rediscovery of the concept of *autonomia* and which were the experiences and changes understood with this concept.<sup>448</sup> My aim is not to construct a diachronic-causal story,<sup>449</sup> a discussion that will never end since its answer will always be partial and question-begging, but to understand why *autonomia* was such an appealing word for describing the new political experiences.

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<sup>447</sup> See the articles of Luca Mannori for the historical importance of the word *autonomia* for the cases of France and Italy, Agustín Casagrande and Alejandro Agüero for Argentina and Giacomo Demarchi for Spain, in Giovanni Cazzetta ed., *Autonomia: per un'archeologia del sapere giuridico fra Otto e Novecento. Quaderni Fiorentini per La Storia Del Pensiero Giuridico Moderno*.

<sup>448</sup> Peter Wagner, *Modernity as Experience and Interpretation*, 262: “Concepts homogenize situations – and social transformations are then reinterpretations of situations by means of conceptual change. Such reinterpretation, though, secondly, is the ‘conceptual work’ of actors that leads from one historical situation to the one that succeeds it.”

<sup>449</sup> For this kind of approach, see Charles Taylor, *Sources of the Self: The Making of the Modern Identity*, (Cambridge: Cambridge University Press, 1989), Chapter 12; and Peter Wagner, *Modernity as Experience and Interpretation*, Chapter 13.

## 11. Autonomy and Empire

### 11.1. A Moment of Crisis and Uncertainties

It is commonly accepted that the 15<sup>th</sup> century was a period of growing uncertainty: “It was an age of no longer and not yet, a time when social patterns and customs began to assume their early modern forms”.<sup>450</sup> Beyond the commonplace observation that the 15<sup>th</sup> century represented the summit of the Renaissance achievements, there was a general sense that something was on the verge of happening while remaining radically unknown. At the same time, a shared concern among the elites on the necessity of reforms to confront this situation of uncertainty was taking precise shape. Movements ranging from millenarianism, eschatological views of the future, humanism and the new scholasticism contributed from different perspectives to understand their own time as a moment of crisis.<sup>451</sup> The historian William Bouwsma has interpreted this period as a moment of pervasive anxiety caused by uncertainty about the future due to the destructuring of the medieval worldview that had made people feel at home: the new sciences no longer made the cosmos intelligible and opened the door to chaos, and the growing of urban life challenged the clear boundaries between orders and created new human practices and social interactions. This anxiety was interpreted by agents at this moment as signalling a rupture with the past without clear expectations for the future.<sup>452</sup> The plagues of the “Black Death” had not only a devastating effect in demographic terms, but also profound spiritual and social repercussions. There was a sense of being punished by God and the prospects of salvation of the soul were negative. At the same time, the proximity of death was a source of “moral” distress. The popular obsession with Death at that moment represented a philosophy of history where change could only be understood from the perspective of absolute ending. The radical uncertainty implied by an extramundane afterlife is translated into the present as anxiety. Ideas of a coming

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<sup>450</sup> Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, (Cambridge Cambridge University Press, 2009), 12.

<sup>451</sup> Charles Taylor, *Sources of the Self: The Making of the Modern Identity*, 387: “The millenarist scenario describes a moment of crisis, one in which acute conflict is about to break out, one in which the world is polarized as never before between good and evil.”

<sup>452</sup> W. J. Bouwsma, *Anxiety and the formation of early modern culture*, (Philadelphia: University of Pennsylvania Press, 1980).

saving angel, prophet or prince that would restore things also re-emerged at that moment with force.<sup>453</sup> David Herlihy (1996) suggests that the disease must be seen as one of the turning points in the history of the West given that it led to a technological, demographic, economic and ideological revolution that prepared the ground for a new beginning.<sup>454</sup> At the level of the Empire, the Turkish threat was more acute after the fall of Constantinople in 1453 and the pressure on the eastern side of the empire reinforced the idea of the collapse of Christendom and the reign of the *infidel*. Growing anti-Semitism was also an effect of this situation. Massive religious killings and Jewish pogroms provided a collective scapegoat. This moment of transformation could not be interpreted as a revolutionary period because there was no concept of progress available to interpret what occurred as a moment of transition. For that reason, we should not underestimate the transformative potential that the concept of “reform” had at this moment and avoid understanding it anachronistically from our contemporary alternatives of conservation, reform and revolution.<sup>455</sup> The Papacy, as defender of the status quo, saw any kind of reform as a deviation from the Truths of the Dogma and was opposed to any change that would alter the foundations of the social order. However, the clergy felt that the new state of affairs could not be solved with Papal authority alone. Conciliarism was used as a means to overcome political and religious disputes that could no longer be accommodated by the old power system. This old tool, used in moments of exception, was recast in order to address the many voices within the Church and Empire that were insisting on the need to engage in reforms. Three consecutive councils (Pisa, Constance and Basel) took place during the first half of the 15<sup>th</sup> century,

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<sup>453</sup> Gerald Strauss, “Ideas of Reformatio and Renovatio from the Middle Ages to the Reformation”, in Thomas A. Brady, Heiko Augustinus Oberman, James D. Tracy ed., *Handbook of European History, 1400-1600. Late Middle Ages, Renaissance and Reformation. Volume 2*, (Leiden: Brill, 1995). 12 and ff.

<sup>454</sup> David Herlihy, *The Black Death and the Transformation of the West*, (Cambridge: Harvard University Press, 1997).

<sup>455</sup> In this context, see Gerald Strauss, “Ideas of Reformatio and Renovatio from the Middle Ages to the Reformation” for the discussion of the concept of *reformatio* in connection to *renovatio* and *restauratio* and Heiko Oberman, *The Reformation: roots and ramifications* (New York, Bloomsbury Publishing, 2004), 201 and ff. for a critique of understanding the reformation using the concept of revolution.

which lay the ground for future mechanisms of conflict resolution,<sup>456</sup> though they did not produce lasting solutions.<sup>457</sup> Moreover, at the level of Christianity, different movements were taking place during this period. The *Devotio Moderna*, different brands of mysticism and humanism, while not challenging the main tenets of Catholicism, were all pursuing a renewal of the Christian faith. Different kinds of sects and monastic orders grew out of these reformist movements. The coming success of Protestantism lay in that it offered a justification, through the creation of a new doctrine and theological perspective, of the need to reform the Church, an enduring concern shared by many different social groups. The theology of the existing Church offered a frame of justification of its worldly role that had fallen into crisis precisely because the world was no longer the same. The institutionalized Church, Catholicism, had a clear view on what its mundane function was and the purposes it served. Attacks on the Church from various quarters, arriving from the end of the 14<sup>th</sup> century, were all addressed to its actions as an institution, that is, to its politics, and as a consequence, the justifications the Church provided for its politics had to be challenged by its critics when arguing for the Church's reformation. At the same time, the Imperial Estates had an interest in eroding the power of the Pope in Rome in favour of the Curia in order to strengthen their position in the Empire and weaken the reciprocal influence of the Emperor and the Pope. The list of abuses and complaints that were attributed to the Church all converged on accusations of corruption; foremost among these were such things as the selling of indulgences, the territorial possessions by ecclesiastical princes, the wars waged by the papal state, arbitrary tax levies and fiscal exploitation, lack of defence of the poor against the new merchant class and landlords, the "immoral" lifestyles of the clergy and the fact that they were accountable only to the ecclesiastical jurisdictions of Rome. Given these dissatisfactions, an institutionalized list of grievances against the Roman Church, the *Gravamina nationis Germanicae*, was presented at each Imperial Diet within the Holy Roman Empire from 1458 onward. There was a sense "that Frenchmen, Italians, and Spaniards ran the Curia, and that the

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<sup>456</sup> Heiko Oberman, *The Two Reformations: The Journey From The Last Days To The New World*, (New Haven: Yale University Press, 2003). 8 and ff.

<sup>457</sup> Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 78.

German lands were being milked harder than most to finance the decadent lifestyles of the popes and their minions”.<sup>458</sup>

The pluralization of religious beliefs ran parallel to the rise of universities as sites of knowledge production and critical enquiry. Additionally, and for purposes of the present discussion, it is worth noting that the invention of printing enabled the constitutionalization of law, the rise of publicists as interpreters of the new legal codes and the public defence of political positions to anonymous people. As a consequence, the monastery and the pulpit, as the places from which ideas and discourses emerged, were substituted by universities and books. This should not be underestimated given that all the relevant actors of the 16<sup>th</sup> century, including counsellors, assistants and ecclesiastical officers, were professors or trained within the universities, which already had become sites of political struggles from their inception and would develop as places of religious division and ideological platforms in the 16<sup>th</sup> century. And last but not least, as Peter Blickle has pointed out, prior to the Reformation in the Holy Roman Empire, the feudal relation of people with their own perpetual status in this order was being destabilized. What he calls the “revolution of the common man” is a link that was established between freedom, communal property and control over one’s own body. Emancipation of serfdom was to be understood primarily as emancipation of the bodily bonds of dependence established by relations of fiefdom and as having free access to communal goods. This was a subterranean trend that had shown signals of surfacing at different moments, but emerged with all its force in the Peasant’s Revolt of 1525. Its defeat signified an end to the revolts, and henceforth the political hopes of the “common man” would be canalized by the princes.<sup>459</sup> Those confessions that were seen as representing the aspirations of the “common man”, especially the Anabaptists, were persecuted, banished and violently attacked.

In sum, a state of uncertainty and growing instability due to the different ongoing transformations was the general situation at the end of the 15<sup>th</sup> century. In the

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<sup>458</sup> Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493–1648*, 87.

<sup>459</sup> Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 185: “‘The common man’ (der gemeine Mann) was a contemporary name for those who, because of their status, lack of noble lineage, or wealth, were considered by others to be unfit for participation in governance.”

words of Whaley, “what gave many of their proposals a sense of urgency was the perception that the world was out of joint and the fear that failure to change would result in violent upheaval and possibly the end of all society”.<sup>460</sup> It is against this background that the political and religious reform of the Holy Roman Empire at the end of the century has to be interpreted, which in this context means the use of the concept of *autonomia* as a political tool. I will only address those features of the different “reformations” that are directly linked to it. The aim is neither to analyse the movements in detail nor their general causes and effects, but only illuminate those elements that would play a role in the concept of autonomy’s reappearance.

## 11.2. The Political Reform of the Empire

The transition from the 15<sup>th</sup> to the 16<sup>th</sup> century was a moment of deep transformation of the political and religious configuration of the Holy Roman Empire. From the moment of its constitution, its external boundaries were diffuse and imprecise. It included 65 Free or Imperial Cities, seven Electoral Estates, Imperial Estates either ruled by secular (25) or ecclesiastical princes (90) who had a vote in the Reichstag, 100 Imperial Counts ruled by the nobility, a large amount of lordships which included the Imperial Knights who were only accountable to the Emperor together with peasant communities free of territorial overlords, and finally Imperial Villages (*Reichsdörfer*). There were roughly 1000 political entities in the history of the Reich, which makes it very difficult to consider as a territorial entity and challenges any notion of power as a corollary of territorial control.<sup>461</sup> This constellation favoured the constitution of temporal and tactical alliances and federations based on the defence of concrete interests. The fact that the empire was understood as the worldly translation of the universal *Respublica Christiana* made it very difficult to disentangle its boundaries from those where the Christian faith existed. Besides, it generated a mundane conflict between the papacy and the Emperor, both aiming at imperial *potestas*. The Concordat of Worms of 1122 distinguished between imperial and ecclesiastical jurisdictions and both the Pope and the Emperor recognized each other as powers, but it did not elucidate

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<sup>460</sup> Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493–1648*, 122.

<sup>461</sup> *Ibid.*, 40-46.



the extent to which the clergy was subject to mundane power. The Bull *Unam sanctam* promulgated by the Pope in 1302 aimed at subordinating all mundane powers to the *potestas* of the Pope and at establishing the unity of the authority of the Church based on the scriptures. The purpose was to claim exclusive jurisdiction on matters concerning the clergy and subordinate the temporal power of kings to the spiritual power of the Church, with the Emperor serving only as the protector of Christendom. This conflict enhanced the power of the Emperor in his realms because he was perceived as the defender of rights and privileges against the papacy's demand for exclusive and absolute rights. Since political relations were established as relations of vassalage between estates, territorial jurisdiction was dependent on such relations and territorial boundaries changed greatly in accordance with changes in this feudal relation. Power relations were not based on territorial belongings but on feudal relations among owners of these vassal rights. Sometimes, the same individual had two different overlords depending on the kind of relation in which feudal lords stood to one another. The system of vassalage included all the orders of societies. At the top of the system was the Emperor who exercised direct vassalage over princes and imperial knights. Due to the conflict between the papacy and the Emperor, and from the moment that no dynasty could impose its hegemony on the hereditary succession of emperors because of the large amount of claiming dynasties, a system of election was instituted within the Holy Roman Empire that worked for the election of the Emperor and as a counter-power to limit his aspiration to unlimited monarchy. The Golden Bull of 1356 institutionalized this system of election and the rights and duties of all parties. It represented to some extent a kind of constitutional compromise where checks and balances existed between oligarchic powers in the Holy Roman Empire. Surprisingly, there were neither written forms of laws which could be used as a sort of constitution for the Holy Roman Empire nor a permanent set of institutions. It did not have, for instance, a central government and rule and order were exercised at the local or regional level. The Empire had no cultural or political centre. Claims, privileges and conflict resolution were always solved *ad hoc* and as a result of negotiations and compromises.

In 1495 and 1500 the Emperor Maximilian I launched a series of reforms of the Holy Roman Empire urged by the imperial states to be discussed and agreed by the Reichstag, the Imperial Diet, the main assembly of the Empire. It was no longer a meeting of the king's vassals, but "it was becoming a corporate institution possessing a

fixed form and standard procedures and capable of negotiating with the monarch who convened it".<sup>462</sup> The reasons for the Emperor to find a series of compromises lay in the need to secure the position of the Habsburg dynasty as privileged heirs of the crown, to consolidate its territorial conquests inside and outside the Reich, and to levy taxes and find military support in the Empire against the Turkish threat in the east and to Burgundy/France in the west. To satisfy partially the emperor's claims, the Estates demanded a series of reforms which aimed at eliminating internal disorder by banning the medieval feud (*Ewiger Landsfried*) and implementing an Imperial Chamber Court (*Reichskammergericht*) to secure peace and act as a supreme court of appeal (judges were to be appointed both by the Emperor and Imperial Estates). This court aimed at fixing Roman Law as the basis for legal training and legal uniformity within the Reich and at limiting the power of the Emperor. At the same time, to implement these measures, the Imperial Estates required that an Imperial Council (*Reichsregiment*) should be enacted as a kind of central executive administration to govern the Empire jointly by the Emperor and the Estates and having as its main aim the implementation of policies to secure peace, order and stability by promoting the welfare and care of the subjects (*Polizeiordnungen*). To avoid arbitrary and massive levies of taxes on the Estates' wealth to finance the military and the new institutions, the Imperial Estates wanted to enforce a direct property tax on all Imperial subjects (*Gemeiner Pfennig*). All these measures were perceived by the Emperor as a challenge to his authority and were partially accepted only due to his urgent need to deal with the existing conflicts that threatened his power. However, very soon it was perceived that the majority of these measures would not be implemented. Both the Emperor and some Estates felt that the *Reichsregiment* and the new taxes represented a challenge to their power and privileges. At the same time, there was no mechanism to implement the decisions of the *Reichskammergericht*. To counterbalance these inefficiencies, a new kind of regional institution, the Circles (*Kreise*), were introduced to administer imperial justice and organize the military support. A total of six regional *Kreise* were created.

Although these series of reforms were not fully implemented and most of the time were undermined by the same actors who instituted them, they established a new model for problem solving that worked as a kind of constitutional framework. From now on, it was perceived that neither unilateral solutions nor military pressure were

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<sup>462</sup> Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 115.

sufficient to address the problems that the Reich was facing. These series of arrangements fostered the need for finding compromises and consensus among all actors if they wanted to preserve the Reich as a political structure. The fear felt by the Estates of absolute monarchy by the Emperor with the rise of Habsburg dynasty as the most powerful regional actor, together with the awareness by the imperial power that he could neither rule nor keep his possessions without the assistance of the Estates, created a dual system of decision-making which strengthened the position of Estates, only a few years before the Reformation started. However, the Estates also felt that their existence was only secured against the French and Turkish threat and the internal dynastic rivalries if they could rely on the support of the Emperor. The failure to resolve conflicts due to the incapacity of the new institutions converted the Imperial Diet and the voting of imperial decrees (*Reichsabschied*) against the background of the 1495 and 1500 reforms as the main system of problem-solving. A flexible, adaptive, dynamic and consensual mechanism allowed for maintaining the Reich as a polity. This framework made it possible to address the risk of disintegration that the challenge of the Reformation introduced into the Reich.

### 11.3. The Religious Reform of the Empire

The significance of the Protestant movement is here analysed against the background of the political reforms, compromises and agreements that were necessary in order to avoid the disintegration of the Holy Roman Empire or a generalized social upheaval, a concern which was common to all the elites. In contrast to the proper political reform of the Empire launched at the end of the 15<sup>th</sup> century, the Protestant movement was a radical critique of the social order in its religious dimension that was justified with a theology that was the negation of the one that legitimized the existing order. Due to the nature of the conflict—interpreting and constructing “reality” through absolute truth claims based on the doctrinal and dogmatic religious corpus—the attempts at reaching a theological compromise at the level of justifications failed during the first half of the 16<sup>th</sup> century, which meant that the disputants fell back upon military means to resolve it.

The relevance of Protestantism for my purposes is related to the question of obedience and jurisdiction in relation to the radical separation between the two worlds,

the mundane and the transcendental.<sup>463</sup> It offered a theological justification for disobedience to the Catholic Church at all levels, for insubordination regarding the jurisdictional dependence in mundane ecclesiastical matters based on the *plenitudo potestatis* of the papacy due its spiritual authority, and for the negation of any capacity of the clergy to enact positive laws. Instead of claiming, as was usual, the primacy of the mundane power over the papacy, it separated theologically the mundane and the transcendental worlds and eliminated any possibility of positive communication or interrelation between them. The doctrine of *sola fide* (justification only by faith) was the most important innovation: it made the actions of men irrelevant for salvation; eliminated any claim to authority by the clergy in relation to the interpretation of the Bible and converted mundane men into the laity; it established the Bible as the only positive written source of authority since it is the Word of God and thereby “civilized” the sphere of law; and it eliminated the role of the Church as intermediary in performing the Eucharist and the sacraments between the Christian and God and redefined the church in a metaphorical sense as the “priesthood of all believers”—a theory that invalidates both the monastic mission and the exclusion of the clergy from the everyday practices of the laity.<sup>464</sup> The main consequences of this new doctrine of the two worlds were: the subordination of the Church, clergy and its worldly possessions to the mundane jurisdiction of the magistrate and positive law—which implies the absolute secularization of the Church goods and organizations; a levelling of orders by the elimination of hierarchies imposed by canon or Roman law between laity and clergy regarding access to God,<sup>465</sup> the constitution of a border between the externality of

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<sup>463</sup> John Witte, *Law and Protestantism: The Legal Teachings of the Lutheran Reformation*, (Cambridge: Cambridge University Press, 2002), 105 and ff; Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*, 14.

<sup>464</sup> Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 152: “His [Luther’s] doctrine of salvation, however, enabled him to relativize all forms of earthly authority, spiritual as well as temporal, and to outflank the mystical union of Empire and Church that had frustrated reform since Basel. He thereby opened the way to a step long prepared in practice: the assumption by princes and magistrates of authority over the local churches.”

<sup>465</sup> It has been claimed that the reformation opened the door to the introduction of the concept of equality of citizens. In historical terms, the equality was of individuals as believers, not as citizens, and in front of a superior, God. This has also been used as a metaphor for the

actions, accountable to civil law, and the “conscience” of human beings, accountable only to God; and the consideration of the papacy as a tyrannical power. The attack on the legitimacy of the Church’s claim to exercise power in the mundane sphere as a right implies that those that exercise such power, either the papacy or the Emperor, do it for their own benefit, not that of the Christians. It is then the duty of all Christians to reform the existing church and to live in accordance with the Bible’s precepts.<sup>466</sup> The political implication of these assumptions is to consider that any power held by the clergy or on its behalf is a usurpation of the rights of the temporal authorities. It is against this background that the holders of secular temporal power with self-jurisdiction in the Holy Roman Empire could challenge the exclusive rights of the Emperor and ecclesiastical authorities in all those matters that were related to the government of the Church on their own jurisdiction: “The idea of the Pope and Emperor as parallel and universal powers disappears, and the independent jurisdictions of the *sacerdotium* are handed over to the secular authorities”.<sup>467</sup> It was a mean to resist claims to imperial monarchy and absolute papacy as well as external influences from Rome and its allies, on matters that involved subjects falling within the self-jurisdiction of the Estates. This perspective granted agency to reform the Imperial Estates and enhance their position within the Empire as a collectivity against the Emperor and the Habsburgs.<sup>468</sup>

The turning point was the excommunication of Martin Luther in 1520 and the Edict of Emperor Charles at the Reichstag of Worms in 1521, after Luther’s refusal to recant, forcing to all Imperial Estates to enforce the papal bull on his excommunication, which implied his being outlawed in the Holy Roman Empire and banning his teachings and works. From the onset, the Edict was a dead letter. It generated a constitutional and

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secularization theory of the absolutist state. For the absolute and unrivalled power of the monarch, all orders and subjects had to be equal, and on the same level.

<sup>466</sup> John Witte, *Law and Protestantism: The Legal Teachings of the Lutheran Reformation*, 107: “Luther’s earthly kingdom was a flat regime, a horizontal realm of being, with no person and no institution obstructed or mediated by any other in access to and accountability before God.”

<sup>467</sup> Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*, 15.

<sup>468</sup> Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 150-153; Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493–1648*, 175.

a political problem. According to the constitution of the Empire after the reforms of 1495 and 1500, both the *Reichsregiment* and the *Reichstag* were organs of decision making where the Estates had a vote and its jurisdiction was guaranteed. It resulted in a constitutional conflict between the Emperor and the Estates. The political problems had two sides. The magistrates, especially of imperial cities, and princes were afraid of a popular revolt and social unrest if they executed the ban and of the continental situation which could threaten their rights depending on the outcome. They could not challenge directly the Emperor. At the same time, the European context prevented Charles from imposing his edict since he needed the support of the Estates for his wars against the Ottoman Empire and France and to stabilize the situation in the Netherlands. The Estates' policy was to "protect" Luther but weaken the extremist trends of his doctrine and situate the issue of reform on the satisfaction of the *Gravamina* and the celebration of a Church council on German soil to solve the question of the reformation of the Church. A paradoxical situation was thus taking place: at the same moment that Luther and his teachings were legally banned, demands for a Council to solve the religious problem were increasing.

This state of conflict and division was sharpened by two internal wars, which both were the consequence, though from different perspectives and for distinct purposes, of the demands for reform. The Imperial Knights' War from 1522-1523 was waged by the lower nobility who were losing rights due to the rise of territorial dominions of princes, whose role as military force was weakening and who, economically, were being impoverished by the rise of urban commerce and the loss of feudal privileges. They tried to benefit from the reformation movement in order to preserve their independence. However, their lack of common purpose and an interest-based strategy made it easy for the princes to overcome their challenge. More important and significant for further developments is the insurrection and rebellion of the "common man", the so-called Peasant's Revolt of 1524-1525.<sup>469</sup> According to some interpreters, it set the conflict within the reformation movement between reforms from below, by peasants and burghers, against reforms from the elites, by newly reformed

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<sup>469</sup> It is estimated that up to 300 000 peasants took part in the rebellion and 100 000 of them were killed. It was the greatest rural insurrection in Europe up to that time.

clergy and the high nobility and princes.<sup>470</sup> It was a radical overture of the social space which allowed for a general transformation of the political and religious ontology. According to Peter Blickle, drawing on historical investigation of the sources of the time, there is clear evidence that the Reformation movement at the beginning of the 1520s was led by peasants and burghers.<sup>471</sup> Only from the moment that it was clear enough that “popular” reformation challenged the position of the upper classes did the reformation from above start to have a decisive role in order to mitigate the impact of the political and social transformations associated with the reformation from below, to secure their own position in a context of deep instability and uncertainty and to lead and manage the course of events.<sup>472</sup> The demands of the “common man” were summarized in a declaration known as the *Twelve Articles of the Swabian Peasantry*, which consisted mainly in the suppression of serfdom, adoption of reformation, free disposal of communal rights and reduction of dues.<sup>473</sup> Regarding political power, “the rebels

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<sup>470</sup> According to Heiko Oberman, *Masters of the Reformation: The Emergence of a New Intellectual Climate in Europe*, (Cambridge: Cambridge University Press 1981), 277 and ff., this understanding of the two reformations, one “democratic” and the other treacherous, is done against the background of understanding the experiences of German history after Bismarck and Hitler as a tragedy. At that moment, democratic aspirations were not an element in the struggle, Luther and other theologians never change their minds after the peasant upheaval, and the ruling classes were not homogenous in their conservative reformation. They all were responding to the new experiences. Berndt Hamm suggests that the degree of permeability and interrelation between “above” and “above” together with the question of periodization necessitates a more nuanced evaluation of the two reformations theory. Berndt Hamm, *The Reformation of Faith in the Context of Late Medieval Theology and Piety: Essays by Berndt Hamm*, (Leiden: Brill, 2004), chapter, 7.

<sup>471</sup> Peter Blickle, “The Popular Reformation”, in Thomas A. Brady, Heiko Augustinus Oberman, James D. Tracy ed., *Handbook of European History, 1400-1600. Late Middle Ages, Renaissance and Reformation. Volume 2*, 170.

<sup>472</sup> Ibid., 173; Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 158.

<sup>473</sup> The third article says: “It has been the custom hitherto for men to hold us as their own property, which is pitiable enough, considering that Christ has delivered and redeemed us all, without exception, by the shedding of His precious blood, the lowly as well as the great. Accordingly, it is consistent with Scripture that we should be free (*frey sein*) and wish to be so. Not that we would wish to be absolutely free (*gar frey sein*) and under no authority. God does

wanted territorial governments more responsive to the peasants' needs and governed according to the rules the peasants knew from communal life: consultation, representation, and consent."<sup>474</sup> During the war, they adopted a federal structure among the rebellious cities and villages. According to Blickle,<sup>475</sup> the possibility of constituting an associative and communal republic within the Empire was a reality at this moment. These events, together with the state of growing uncertainty and confusion about everyday life practices (marriages, funerals, sacraments, church attendance, and so on) and about which was the actual law in force and who had to implement it,<sup>476</sup> led the Emperor and the Imperial Estates to address the need for reforming the Holy Roman Empire and respond to the grievances that were being raised. The intention was to leave out of the compromises, as long as it was possible, the confessional question and urge that it be solved by convening a Church council.

The period ranging from The Reichstag at Speyer in 1526 to the outbreak of war in 1546 has been labelled as a period of dilatory compromise,<sup>477</sup> or the institutionalization of dissimulation.<sup>478</sup> It was not possible to agree a permanent

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not teach us that we should lead a disorderly life in the lusts of the flesh, but that we should love the Lord our God and our neighbor."

Retrieved from <http://www.marxists.org/archive/marx/works/1850/peasant-war-germany/ch0e.htm>

<sup>474</sup> Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 191.

<sup>475</sup> Peter Blickle, "The Popular Reformation", 174.

<sup>476</sup> This period saw a rapid increase of crimes, "immoral" practices and the negative effects of the disappearance of the social care that was in the hands of the Catholic Church, especially in Schools, charities, hospices, and other welfare institutions. John Witte, *Law and Protestantism: The Legal Teachings of the Lutheran Reformation 3*; Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493-1648*, 260. "Visitations" was the bureaucratic process used by secular authorities to evaluate what state of affairs the church in the rural environments was in and to check the advance and effects of reformation and implement further policies.

<sup>477</sup> Martin Heckel, *Deutschland im konfessionellen Zeitalter*, (Göttingen: Vandenhoeck & Ruprecht, 1983), 36.

<sup>478</sup> Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493-1648*, 398; Martin Heckel, "Autonomia und Pacis Compositio", 156.



constitutional settlement on religious matters but neither side could solve the conflict by violent means because they needed each other's support against external threats. It was a sort of constituent moment without conscious agency. The actors had to behave *as if* the fundamental laws were still in force and *as if* the religious conflict could be settled by a Church council.<sup>479</sup> Unity was a fiction and plurality could not be recognized because it explicitly challenged the *order* of the Holy Roman Empire as the embodiment of the Universal *Respublica Christiana*. Disunity had to be framed, as far as it was possible, within the limits of the existent institutions. All actors wanted to avoid social unrest of the recent years, but the technique of temporization made it very for each side to accuse the other of promoting unrest. Notwithstanding, this way of accommodating dissent developed a culture of negotiation, consensus making and flexibility that, in contrast to other countries, helped in order to make treaties, truces and peace settlements.

The Reichstag of Speyer at 1526 was convened in order to stabilize the situation within the Reich.<sup>480</sup> It had two important outcomes: first, to elaborate a list of proposals envisaged to improve the condition of the peasants—the most relevant of these being the diminution of taxes, the right to appeal to imperial courts, extending rights on communal goods, local treaties between peasants and lords limiting feudal subservience and awarding them a role in territorial government—and second, to “allow all rulers to execute the Edict of Worms as they saw fit, as far as they could reconcile their policies with their duties to God and the emperor”<sup>481</sup> and “to treat the subjects in such a way as could be reconciled with their consciences, with ‘divine and natural law’ and with ‘fairness’”.<sup>482</sup> From this moment on, those princes that were sympathizers of the reform

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<sup>479</sup> Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493–1648*, 257: “connivance and temporization seemed a logical stance in view of the lack of clarity at the Reichstag. As long as there was the expectation of a national Church council, of some kind of general reform of the Church that took account of the *Gravamina* and other grievances, princes could follow this line without fear of being accused of illegality or of disloyalty to the emperor.”

<sup>480</sup> Peter Blickle, *Die Revolution von 1525*, (München: Oldenbourg Verlag, 2004), 247 and ff.

<sup>481</sup> Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493–1648*, 295.

<sup>482</sup> *Ibid.*, 235.

movement or were pressed by their own subjects and cities to espouse it adduced that the Reichstag implicitly legally accepted the territorialisation of confessions and sanctioned the *ius reformandi*. Bernd Schneider shows how the drafting of the resolutions was so ambiguous that it needed interpretation for its execution and this aided the reformation process, though according to him, at any moment it could be adduced that it granted a sanctioned *ius reformandi*, not only as suspension of hostilities.<sup>483</sup> However, it is from that moment on that everything was precipitated and that the princes started the “reform from above”. It is also true that the military situation of Charles V on the continent was not good and that he was in need of internal support. But the Peace of Cambrais with France, the end of the Turkish siege of Vienna and mainly his coronation as Christian Emperor by the hardliner Pope Clement VII after a war and arduous negotiations—he was the last emperor to be crowned by the Pope, who was interested in securing the papal estate and its ecclesiastical dominions—secured his position in the Reich. At the second Reichstag of 1529 in Speyer, the Emperor wanted to reverse the situation on the grounds that the agreements reached in 1526 have been misunderstood and “from which unrest, ill-doing, violent and aggressive actions had emerged”,<sup>484</sup> challenging his imperial authority. The only solution was to apply the Edict of Worms until a general Council of the Church settled the religious conflict. The adoption of the recess which requested the explicit enforcement of the Edict of Worms by a majority of votes at a Reichstag dominated by Catholic Estates included the phrase “as far as humanly possible”, which made it possible to maintain the public peace and support against the Turks. However, this decision of the Reichstag was the beginning of the division of the Reich by confessions. It provoked a formal protest by the reformist Estates,<sup>485</sup> and what until that moment was a conflict over interpretations became a conflict over justice and legitimacy: the Protestant princes claimed that each ruler had to behave in accordance with his conscience, they claimed a right to resist, they did not recognize the legality of the recess on the ground that a majority vote could not

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<sup>483</sup> Bernd Schneider, *Ius reformandi: die Entwicklung eines Staatskirchenrechts von seinen Anfängen bis zum Ende des alten Reiches*, 93-97.

<sup>484</sup> Bernd Schneider, *Ius reformandi: die Entwicklung eines Staatskirchenrechts von seinen Anfängen bis zum Ende des alten Reiches*, 95; translated by Joachim Whaley, *Germany and the Holy Roman Empire, Vol. 1: Maximilian I to the peace of Westphalia 1493–1648*, 296.

<sup>485</sup> It is from that moment on that the movement is called Protestantism.

contravene the word of God<sup>486</sup> and that the Reich had behaved unilaterally against the principle “*quod omnes tangit, ab omnibus debet approbari*” (what affects all must be agreed by all). The protest laid the ground for a constitutional theory of resistance and for the justification of the *ius reformandi*. There was a perception among Protestant and Catholic princes that the “constitutional” conflict could be used by Charles to impose an Habsburg absolute monarchy within the Reich. Furthermore, he was already negotiating to have his brother Ferdinand elected king of Romans and heir of the imperial crown.

However, the risk of a war in the Holy Roman Empire that could threaten the operational basis of his foreign imperial politics obliged him to summon the Reichstag to Augsburg in 1530 to restore unity, continue the political reforms and find a compromise on the religious conflict. On the request of the Emperor, the Protestants compiled a document, the *Confessio Augustana*, where they explained their beliefs. The imperial cities where another branch of the confession existed submitted their own version. The Catholic side produced a *Confutatio*, which was the last step of the “dialogue” that Charles could accept. It became clear that a theological compromise was not possible at all. Since Charles’s on the continent was temporally secured, the question of whether to accept a political compromise with the Protestants was ruled out and the Edict of Worms was reaffirmed and all the decisions taken against the Catholic Church had to be reverted. Any breaches of these decisions were to be taken as a breach of public peace. The Protestants left the Reichstag and accelerated the creation of alliances and treaties among themselves so as to be prepared in case of war.

The call for funds, the foreign threats and the need to secure the Habsburg dynasty as elected to the crown impeded any military action against the Protestants. However, since the laws were in force, the *Reichskammergericht* was seen as an instrument of the Emperor for fighting the war on another level. The Protestants created the defensive Schmalkaldic League and refused to collaborate in any imperial war or send money as long as they were outlawed. Forced by the circumstances, the Emperor agreed a truce in 1532 at Nuremberg that acknowledged the status quo until the confessional conflict would be solved in a Church council. This agreement indeed boosted the advance of Protestantism in the next years until it became clear to the Emperor that the only way to secure his rule in the Reich was through the destruction of Protestantism. The dialectics between external and internal politics within the Reich

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<sup>486</sup> Martin Heckel, *Deutschland im konfessionellen Zeitalter*, 35.

together with dynastic issues related to the position of the Habsburgs in the Reich were the decisive factors when addressing the solution to the conflict. Compromise and negotiations were only promoted when the Emperor needed the Estates. Furthermore, though Catholic Estates did not want to tolerate Protestantism, they shared with them the need of securing the “German liberties” and the electoral system against the trends to absolute monarchy when the position of the Emperor abroad was stable. Additionally, internal dynastic disputes within both parties did not allow either to strengthen their own positions or to formulate a clear policy towards each other. There was a sense that no further steps that went beyond the status quo could be achieved. The Reichstag did not meet again until 1541.

Three circumstances coalesced to trigger the outbreak of the first religious war in 1546. First, the conflicts that Charles was facing against France and the Ottoman Empire in the first half of the 1540s were settled temporarily and he could turn again to the religious problem. Second, since the crown was elective on the decision of seven Imperial Estates, there was a clash of interests: some wanted to secure or obtain a personal position as elector against another and others were counting on the possibility of having a majority of Protestant electoral princes and territorially extending Protestantism in order to gain these estates. They already controlled the northern part of the German lands. The protestant Duke Maurice of Saxony switched sides in order to get and secure an electoral position. And third, the Papal states wanted to secure their own position both against the Habsburgs and France, and he convened a general Church Council in Trent for 1546 with the approval of the King of France and on the demand of the Emperor to hold it in the Reich territory to avoid accusations of being an instrument of the Pope and to allow the Emperor to impose a decision. The Emperor summoned a Reichstag at Regensburg in 1546 to prepare the German delegation to the Council of Trent, while he was already preparing himself for war, but as expected the Diet reached an impasse on the religious issue and Protestant princes refused to send their delegation to Trent. Charles found the perfect reason to initiate the war. He outlawed the Protestant princes and moved his troops (including Spanish troops and the Pope’s Italian soldiers) for a war that allowed him to win the battle but at the cost of weakening his power to impose a decision.

Just after having won the conflict known as the Schmalkaldic War and depriving the Protestant princes of titles and lands and imprisoning the leading princes, the Emperor summoned a Reichstag in Augsburg in 1547—called the “Interim of

Augsburg”—to provisionally settle the schism that has been menacing the Reich from the 1520s on while the Church Council did not reach a final decision. Although the punitive decisions were intended to reinforce his legal and religious authority within the Church, the Emperor was aware that he could not unilaterally impose political conditions on the Protestant Estates. Both the instability of the continental situation for the Habsburgs—including animosity from the papacy at the Church Council against the possibility of strengthening the Emperor’s power if a religious conciliation was settled—and the fear of an absolute monarchy shared by all the German Estates obliged him to find a political and religious compromise within the Reichstag if he wanted to secure the Crown for the Habsburg dynasty and obtain financial and military support against his foreign enemies. The institutions—*Reichskammergericht* and the Perpetual Peace—of the Reich were further reformed to provide more transparency and impartiality. In order to avoid the emergence of new conflicts for further religious strife, an interim code was prepared that accepted a significant number of protestant practices that were already well established while the decision of the Church Council did not occur. However, the Catholic Estates did not agree to implement it, though it was sanctioned by the Emperor, and it was not approved by the majority of the Protestants. Again, the Imperial Authority suffered from this reversal and it showed the limits of the Emperor’s power in the Reich. Furthermore, tensions within the Habsburg dynasty between Charles and his brother Ferdinand, the expected heir of the imperial crown, appeared in relation to how Charles’s territories would be divided and the efforts he was devoting to promoting the Spanish branch with his son Philip against the Austrian one led by Ferdinand. This only fostered the anti-Spanish prejudices of the German Lands and reinforced the propaganda against a foreign absolute monarchy that would undermine the rights and liberties of the German Electors and Estates.

The decisive coup was delivered by Duke Maurice of Saxony. He switched sides to become the visible head of the opposition and he established an alliance against Charles with his continental arch-enemy, King Henri II of France, with the promise that he would become emperor should the venture succeed. The occupation of key imperial cities both by Henri II and Duke Maurice, the neutrality of the Catholic Estates and the moves of Ferdinand to secure his position within the Empire, obliged Charles to accept a truce, which was signed at Passau in 1552 after negotiations between all the Estates. The solidarity between Protestant and Catholic Estates around the defence of their

privileges was higher than their reasons for strife. They wanted peace with France and to avoid a Spanish Imperial Monarchy within the Reich. Ferdinand supported this policy for his own benefit and further weakened the authority of the Reich. There was mounting pressure to convene the Reichstag promised in the Treaty of Passau to transform it in Imperial Law. Given his weakened authority and that the truce was against his own beliefs, Charles granted Ferdinand full authority to represent him in the Reichstag that would take place in Augsburg in 1555.

#### 11.4. The Open Settlement

It is not the intention in this context to account for all the implications and agreements reached at the Reichstag of Augsburg in 1555–1556, the so-called Peace of Augsburg. I will focus on the controversial issues that were considered settled but indeed could not be so from the moment that they were political in nature. They affected the secularization of Church properties in the reformed Estates, the freedom of religion of the subjects, and the degree of parity between both confessions and the constitutional statute of the ecclesiastical Estates. It was all these developments that Andreas Erstenberger had in mind when he wrote his tract to attack the threatening indeterminations of the Peace of Augsburg as a prelude to the granting of full autonomy, that is, *Generalfreystellung*.

The normative principle that guided the Reichstag was twofold: first, to establish peace within the Reich, and second, to eliminate from the constitutional and political arrangements the religious “causes” of conflict. In that context, this could only be done by recognizing as *ius* what already was a *factum*, the existence of internally legally constituted Protestant Estates. The Peace recognized within the constitution of the Reich the *ius reformandi* of the princes. This in fact granted princes the power to decide upon the internal organization and laws of the Church within their territory. It enlarged the jurisdiction of princes, including the Catholic ones. This meant not only that the religion to be decided by the prince would become the *confession* of the territory, but also that he was the only one that could decide which confession was to prevail. Indeed, one could argue that the first political entities that became independent in Europe, at least in relation to the *politics of the soul*, were the Protestant churches in seceding from the Papal Estate. It created the confessional territory and the right of non-intervention and

granted absolute powers to the prince in this respect. However, this settlement was far away from granting *suprema majestas* to the princes.

But different issues had to be resolved in the course of realizing this political principle. Since the power the prince had was exclusive *only* in relation to the consequences on practical life that a religious belief could have, the problem arose in relation to what to do with the religious beliefs that, being a manifestation of conscience are not affected by coercive legal dispositions. In that respect, the Peace legally sanctioned rights that the subjects had in accordance to their beliefs. It granted *ius emigrandi*, right to emigrate without loss of property, to those subjects that did not want to follow the confession of the territory where they were presently living. Regarding the processes of secularization, it was agreed that the status quo of 1552 should be maintained and those Church properties that were already secularized became legally protected. The main problem emerged in relation to the status of those territories that were ecclesiastical and ruled up to the Peace by the Catholic clergy. It represented a problem for the Protestant inhabitants and a threat of being secularized if the clerical ruler converted to Protestantism. To reach a compromise on this issue, the Peace included the provision that these territories were exempted from the general principle of the treaty and thereby the holder of authority was not a person but the Catholic Church. This clause was called *reservatum ecclesiasticum* and popularized as “*clausula autonomia*”, meaning that the clergy were not autonomous in performing their office but were only representing the Catholic Church, and if they converted to Protestantism they would become private persons and lose the rights attached to public office. Members of the clergy could be *autonomous* only as private persons but never as public clerics ordained by God. The Protestants never accepted this clause, but in order to undermine the opposition and grant security to the Protestants, Ferdinand I made a declaration, known as *Declaratio Ferdinanda*, where he provided partial toleration of Protestant subjects, mainly nobles and cities, within the ecclesiastical Estates. This declaration was also always opposed by these Estates on the grounds that it was not a legal document, but a private declaration. All these problems were related to the question about the degree to which the statute of the *Confessio Augustana* might hold the same status that the Catholic one had within the Reich. Though some provisions were made to avoid the discussion of religious issues by both confessions and avoid the conflicts that emerged from applying the majority rule, the intention of the Peace was

never, as Martin Heckel has shown, to recognize formal legal parity but only levels of political parity based on pragmatic and *ad hoc* arrangements. A wide range of mechanisms and rules for decision-making in order to balance the outcomes and give respective weight to both parties were put in place in the workings of the *Reichskammergericht*, the institution that would have to deal with all the complaints. The intention of the peace was to avoid violence and find legal ways of ensuring peaceful coexistence, but no to legally solve the religious problem—again it was expected that the on-going Church Council would solve them. It was a temporary settlement and granted only special and particular clauses of parity as exceptions to the norm, not as the norm itself.<sup>487</sup> Both sides were still claiming that their confession was the *true* one in opposition to the false and heretical nature of the *other*. For the Catholic side it represented an existential threat from the moment that the question of parity was equated with the problem of legally recognizing *Freistellung*. The territorial confessionalization was proposed by the Catholic side as a blockade to religious freedom by considering territorial borders as spaces of distinction between normality and exceptionality. Moreover, instead of granting religious freedom, what was granted was religious obedience since subjects had to conform to the religion of the territorial prince. The ambiguity in relation to what kind of parity was legally enforced would be the cause of further tensions.

Additionally, the Peace faced three major problems that would threaten it. First, due to the legal nature of the Peace, it was very problematic to find a way to settle the conflict in the cities, which were in transformation as new urban centres of knowledge production, economic exchange and political propaganda. The religious conflict was mainly an *urban* one and the problems of coexistence were intertwined with everyday life.<sup>488</sup> Despite legal provisions or political authority, the confessionalization of life

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<sup>487</sup> Martin Heckel, *Deutschland im konfessionellen Zeitalter*, 61: “Der Sinn des Religionsfriedens bestand ja gerade darin, das faktische Nebeneinander und Gleichgewicht der Konfessionen in ein Verhältnis rechtlicher Koexistenz, Sicherheit, Freiheit (und Rechtsgleichheit?) umzuwandeln, zu stabilisieren und zu neutralisieren.“

<sup>488</sup> Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 234: “It remained nearly impossible for local, internally strong *convivencias* to form in the German lands until the power relations between the religious communities became stable, a condition that hardly occurred until after 1648.”



practices increased the level of conflict in social intercourse. Second, and in relation to the latter, the Peace excluded all the other confessions. This was a cause of growing tension when the “second” reformation launched by Calvinism found great success in cities and in some territories. There were no legal mechanisms to solve the problems that emerged with Calvinism, which was a challenge not only for the Catholics, but also for Protestants. And third, the Papacy was opposed to any kind of religious compromise and never accepted the settlements of the Peace. In 1559 the Church Council was reconvened in order to oppose the settlement and launch a process of general reformation, later called counter-reformation, which, among other things, renewed the Catholic faith within the Empire and provided new legal, theological, philosophical and political tools to oppose Protestantism.

The Peace was to be included in the legal system of the Reich as Fundamental Law and was in force until the disappearance of the Reich in 1806. It was an experimental process of constitution making that further enhanced the technique of dissimulation of constituent dissent in relation to its political form.<sup>489</sup> It created a fictitious consensus among confessions since what was considered constitutive from both sides, the religious justification of their social ontologies, was left out of the common political institutions. The intention of the Peace, as with any Peace treaty, was to put an end to violence but not to settle the conflict permanently. From a constitutional point of view, it represented an innovation in important aspects: it was not based on a normative and moral understanding of the polity but only on political concerns and thus implicitly recognized the conflictive nature of political life. It set the ground for a partisan perspective of the political space. Its temporary nature implicitly acknowledged the separation between the mundane and the spiritual, desubstantialized the written law and did not consider it any longer ordained by the eternal powers of God. The justification of law became an affair of publicists and jurists and the sacral texts became historical and positive examples of perfect law making. The Bible was considered as a superior form of positive law and not only as the embodiment of divine law. Change could happen and be considered a positive development and not a break of the permanent godly order and cause of chaos and disruption. The way the Peace was

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<sup>489</sup> Heinz Durchhart, *Deutsche Verfassungsgeschichte 1495-1806*, (Stuttgart: Kohlhammer, 1991), 83: “das für Europa einzigartige Experiment einer ins Verfassungsrecht übertragenen Bikonfessionalität zu einem guten – oder schlechten – Ende zu bringen“.

written, to accommodate both confessions and escape from conflictive views of the social, compelled those applying it to consider the text an open document that needed to be *interpreted* in order to be implemented. Since authority on interpretation could no longer rely on the exclusive ecclesiastical right to interpretation as had been the practice until that moment, it developed law as a discipline in its own right, a conception of jurisprudence and enforcement of the law purely grounded on human capacities and indirectly made the law relative and functional depending on the kind of interpretation that was made. Additionally, instead of understanding *Freistellung* as exemption, as what the law cannot accommodate and has to be either allocated to the powers of the Emperor as somebody not subjected to the same laws or as a space of violence, it was included in the constitution of the Reich as a space of exclusive competences and rights. Certainly, this mechanism opened the door to constitutional crisis, but instead of leading to the disintegration of the polity, it reinforced a sense of consensus and compromise seeking. In this respect, the Reich resembled more a kind of federation where the Emperor was only the *primus inter pares* among equals. From that moment on, justification in terms of truth claims and authority not based on competence and knowledge but on personal ordainments was considered a source of conflict, and as a consequence, fallibility became a property of the law.

However, it is not clear whether this was the intention of the Peace makers or not. Both parties still thought that in the short term their confession would override the other, they held moral views of the social that were the negation of the other, they opposed the true religion to the false one and considered the other heretical.<sup>490</sup> They understood the Peace in terms of an armistice and not in terms of a definitive settlement. Only the internal balance of power and the continental situation justified the need for Peace but as soon as it was possible things had to be reverted, for the Catholics, or permanently settled, for the Protestants. The success of Andreas Erstenberger's tract at his time lies in that he summarized in a single text and within a single concept, *autonomia*, the uncompromising Catholic position that would be further strengthened up

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<sup>490</sup> Martin Heckel quoted in Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 232: It "consisted of an unprecedented situation of coexistence between what were in principle two hostile bodies which, while each understanding itself as absolute, were bound together in a subordinate political order."

to the Edict of Restitution of 1629, which aimed to impose the Catholic interpretation of the Peace of Augsburg.

## 12. Autonomy as Modernity

### 12.1. Autonomy as Interpretation of the Peace

The Peace of Augsburg has been normatively understood from two different perspectives: either as a failed treaty which led to the Thirty Years' War, or as a successful agreement that avoided further violent conflict within the Reich and secured peace at a moment when the rest of Europe was suffering intensely from religious wars. This interpretation is normally done along the lines of confessional adscription or political belonging. Both sides had different interpretations depending on their world-views in relation to what the Reich was—either a universal empire based on the unity of religion and power or a political federation among German estates with different religions.<sup>491</sup> In this context, what seems paradoxical at first glance is that the radical and conflicting confessional world-views, which in constitutional terms are normally thought impossible to settle and which results in different constitutions for each collectivity, helped to create a new constitutional imaginary that in the long term superseded the old frameworks. The impossibility of grounding the constitution on truth claims made acceptable to both sides the understanding of politics through the concept of reason of state and interest, which as a principle could never have been accepted by both sides.<sup>492</sup> At the same time, radical defence of absolute positions and the impossibility of conceptualizing a polity without unity led to the pluralisation of political life and rethinking the concept of unity ex-post, not ex-ante.<sup>493</sup> Furthermore,

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<sup>491</sup> For the former see Heiko Oberman, *The Reformation: Roots and Ramifications*, (New York: Continuum, 1994), 204; and for the latter Thomas A. Brady, *German Histories in the Age of Reformations, 1400-1650*, 248.

<sup>492</sup> Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*, 352.

<sup>493</sup> Winfried Schulze, "Kanon und Pluralisierung in der Frühen Neuzeit", in Aleida Assmann and Jan Assmann ed., *Kanon und Zensur*, (Paderborn: Fink, 1987), 318: „Mit Kanon und Pluralisierung will ich auf den für mich bedeutsamen Sachverhalt hinweisen, daß für die Neuzeit nicht das Problem von Kanon und Dekanonisierung vorrangig ist, sondern das Problem der konkurrierenden Kanones und ihrer Beziehung zueinander, und damit die Frage nach der Gültigkeit des Kanonkonzepts angesichts der Relativierung und Multiplizierung der konkurrierenden Kanones.“

beyond the developments that were taking place in other parts of Europe, to consider a constitution as a means to overcome religious violence did not lead to thinking in terms of a supreme authority external to the constitutional setting that would act as its guardian, but rather in terms of a polity based on collegiality, checks and balances and with courts acting as quasi-constitutional cameras. The Emperor could never act as an absolute monarch and when, following his own interest, he tried to behave as such it sparked violence instead of avoiding it. And last, if until that moment reality, *factum*, was considered from the angle of *ius* and as a need to conform to it—which was the reason why theodicy was so important and why one could not resist temporal authorities—the religious strife and the solution found in the Peace altered this relation. Now it was a *factum*, religious plurality, that had to be legalized and justified as a kind of *ius*. From the Protestant side it was the purpose of the *ius reformandi*, and from the Catholic side the reinterpretation by the Jesuit and Dominican orders of *natural law* in relation to divine law and the justification of the *potestas indirectas* of the pope in relation to the worldly affairs. Tolerance was not a positive law, but an extra-legal effect of the constitution since it ruled out the possibility of legally solving religious issues and it circumscribed either the prince's power or the private space. Indeed, the division between private and public dominions of human action was accelerated by the Reformation as a need to bracket political violence. More than toleration of confessions, it was toleration of dissent and plurality in order to maintain the legal and political *unity* of the Reich.

From the perspective of historical sociology and the history of ideas, the interpretation of the Peace has been carried out from four complementary perspectives. a) as the transition from a totalistic and monist understanding of the social order to a pluralistic and heterogeneous one;<sup>494</sup> b) as the emergence of the independent individual as a political and social actor and the growing importance of everyday life as a place for self-realization; c) as the constitution of different autonomous functional social spheres

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<sup>494</sup> Winfried Schulze, “Kanon und Pluralisierung in der Frühen Neuzeit”, 318: “Destabilisierung wird auch verursacht durch ein neues Ausmaß sozialer Mobilität und Differenzierung in der Folge neuer gesellschaftlicher Funktionen. Es zerbricht das herkömmliche Konzept fester Standeszuweisungen”. See also Winfried Schulze, “Pluralisierung als Bedrohung: Toleranz als Lösung”, *Historische Zeitschrift. Beihefte* (1998): 115-140; Martin Heckel, *Deutschland im konfessionellen Zeitalter*; Shmuel Eisenstadt, *Comparative Civilizations and Multiple Modernities: Vol.1&2*.

and the increasing importance of the techniques of social disciplining and social control;<sup>495</sup> and d) as setting the framework under which the territorial state form in tension with the new theories of popular sovereignty and natural right will further develop which would interpret the state either as the neutral space where conflicts take place or as a mechanism by which one party dominates the others.<sup>496</sup> From the perspective I have followed here, the concept of *autonomia* as it emerged at that moment and as it will develop within modern times grasps in a single meaning this fourfold perspective.

In relation to a), “the rejection of any external, superior being or principle that could impose maxims for action”<sup>497</sup> means, in this context, the pluralization of the idea of God which relativizes its meaning and makes it dependent on the political orders of both confessions. From the moment that there is a conflict of interpretations concerning the maxims for actions that God ordains and some of them are seen as contradictory, plurality of divergent practices justified by different interpretations of the same source of law leads to a kind of conflict that cannot be solved within the theological sphere and results in looking for the source of law precisely in this fundamental disagreement between human beings. As a solution, religious maxims for action are withdrawn from the political space and contained within the “private” sphere of morality or everyday practices. It corresponds to what Reinhart Koselleck has labelled as the separation of morality and politics performed by the absolutist state where the conflict over power is strictly mundane and based on a normativity which is justified by immanent principles,

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<sup>495</sup> Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, Charles Taylor, *The Sources of the Self*; Louis Dumont, *Essais sur l'individualisme : une perspective anthropologique sur l'idéologie moderne*, (Paris : Éditions du Seuil, 1983), Heinz Schilling, „Disziplinierung oder “Selbstregulierung der Untertanen”?: Ein Plädoyer für die Doppelperspektive von Makro- und Mikro-historie bei der Erforschung der frühmodernen Kirchengeschichte“, *Historische Zeitschrift*, Vol. 264, no. 3 (1997), 675-691; Winfried Schulze, “Das Wagnis der Individualisierung”, in Thomas Cramer ed., *Wege in die Neuzeit* (München: Fink, 1988), 270-286.

<sup>496</sup> Reinhart Koselleck, *Critique and Crisis: Enlightenment and the pathogenesis of modern society*; Peter Blickle, *From the communal Reformation to the revolution of the common man*, (Leiden: Brill, 1998), Robert Scribner, *Popular culture and popular movements in Reformation Germany*; Gerhard Oestreich, “Strukturprobleme des europäischen Absolutismus. Otto Brunner zum 70. Geburtstag”, *Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*, (1968): 329-347.

<sup>497</sup> Peter Wagner, *Sociology of Modernity*, 8.

not transcendental ones.<sup>498</sup> It is one of the meanings that autonomy will assume. The subject of the law has to be the same as that to which it is applied, not external. The Peace worked with the assumption that the settlement in this context could only be temporary and contingent, never permanent and absolute. The state had to become absolutist precisely ex-post as a means to eliminate the contingency and the uncertainty that emerges from the moment a social order organized by unchallenged transcendental theological principles disappears. The contrary of autonomy in this context, as commonly used in the German world, is *theonomy*, an order organized by principles that are ordained by God,<sup>499</sup> the only transcendental being, and which cannot be challenged by the human capacities in this world. It is this particular aspect of autonomy that has never been accepted by later counter-revolutionaries, though they could reconcile themselves with ideas of individual or collective freedom. The use by Erstenberger of autonomy as *Freistellung* is indeed the first recognition, though evaluated in negative terms, of a situation where the social and political order is no longer dependent on divine laws. Indeed, when he writes against any possible justification of secularizing the goods of the church of the ecclesiastical estates and defends the *reservatum ecclesiasticum* by denying *autonomia* to the clergy to convert and thereby appealing to the principles of the Peace, he indirectly has to work with the assumption that *autonomia* in these territories does not correspond to persons, but to a collectivity, the Church.

Regarding b), the angle from which the question of the individual subject is framed within the Peace, though it cannot be considered as intended to recognize his/her claim to any exclusive sphere of action, creates a double bind that sets the ground for conceiving the *autonomia* of the subject. The Lutheran doctrine of the two kingdoms, the “priesthood of all believers” and the justification by faith, is to some extent recognized in the Peace. The *ius emigrandi* creates a condition under which one can understand the *Freistellung* of the individual both in negative and positive terms. It is legally recognized that the subject has freedom of conscience and as such, he can determine to which confession he will submit. An internal sphere of autonomy is granted. However, what is not accepted is the possibility of instituting an external

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<sup>498</sup> Reinhart Koselleck, *Critique and Crisis: Enlightenment and the pathogenesis of modern society*.

<sup>499</sup> Hans Blumenberg, „Autonomie und Theonomie“.

sphere of action that corresponds to this belief, but only a right to emigrate without loss of property to a place where action and belief are not in contradiction. Erstenberger saw clearly that this opened the door to a general instauration of the freedom of conscience independently of where one lives and will create a tension between the internal and the external.<sup>500</sup> In fact, the Treaty of Westphalia had to recognize this general right as a means to establish compatibility between the religious beliefs of a people and the positive laws in force within the territory they inhabit. In the long run, this frontier between the internal and the external, based on the separation of the two kingdoms, is that which will allow for the reintroduction of the moral dimension into the political when all the subjects are ruled aconfessionally by the state.<sup>501</sup> When Kant adopts the concept of autonomy within the moral sphere as the capacity to give oneself one's own law, he reintroduces a Protestant theme since we cannot know whether the maxims of our moral behaviour correspond to the form of autonomy (the categorical imperative) or are dependent on heteronomous maxims of action. Accordingly, we also cannot infer from the observation of material actions whether the maxims of our self-rule correspond to the form of autonomy or not. Indeed, it is the same argumentative structure of Luther's doctrine of grace. Our actions or deeds do not grant us salvation, this is granted by God and we do not have the means to know what his motives are for saving some and punishing others. Kant's doctrine of Right, contrary to morals and knowledge, does not have positive a priori metaphysical principles, but is a consequence of the impossibility of knowing what the maxims of the actions of individuals are. Since we cannot evaluate the maxims of the individual, we can only evaluate whether the external actions of the actor are compatible with others' external actions. A juridical law is that which renders compatible the external actions of individuals according to the autonomy of practical reason, but only in his negative aspect. Coercion is only the mechanism that is applied to external actions to enforce this compatibility.<sup>502</sup> Corresponding to this new space of dissent between what one does and what one believes, which was the means by

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<sup>500</sup> Andreas Erstenberger, *De Autonomia; Das ist von Freystellung mehrerley Religion und Glauben*, I.1: "Christen sollen nicht glauben, was sie wöllen, sondern was inen bevohlen...von der Geistlichen Obrigkeit."

<sup>501</sup> Reinhart Koselleck, *Critique and Crisis: Enlightenment and the pathogenesis of modern society*.

<sup>502</sup> Immanuel Kant, Introduction to the Doctrine of Right: §A-§E. *The metaphysics of morals*, (Cambridge: Cambridge University Press, 1991 [1797]).



which protestants could justify both their right to reform and at the same time resist the authority of the Church by negating the need of externally realizing the faith, redefined the meaning of social practices and transformed everyday life.

In relation to c), the differentiation and enactment of clear boundaries between body and soul implied by the confessionalization of social life resulted in the problem of how to control what was no longer subject to control, the internal dimension of consciousness, and how to prevent a change of practices that could be justified on the same grounds that were used to justify the Protestant ones, that is, on freedom to convert justified by belief. The unity and the universality of the *respublica Christiana* and the theory of mutual dependence between *sacerdotium* and *imperium* left no space for dissent justified through any of these realms.<sup>503</sup> With the Protestant separation of the inner and external spheres and the duty of the subjects to perform external actions in conformity to the religion of the territory decided by the king, the need to master the territory to ensure security was matched by the need to discipline subjects' actions not only at the external level but also internally if stability was to be safeguard and change prevented. Heinz Schilling and Wolfgang Reinhard have pointed out with the concept of confessionalization a common strategy of the different confessions to face this new challenge at the end of the 16<sup>th</sup> century. It implied a growing bureaucratic connection between the church and the secular authorities as a means to enforce Christian norms in the belief, thinking, and behaviour of people. The control of practices and activities that were formerly exclusive to the Church (marriages, births, education, poor relief, social welfare) now began to be controlled by the territorial state. The "disciplining" of conscience created a new set of tools that included the catechism, inquisition, sermons and pastoral care, and new kinds of written materials (hymns or prayer books) or new forms of devotion. The Universities also played a role in the professional education of the clergy.<sup>504</sup> This is the research topic that Weber inaugurated with his work on the

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<sup>503</sup> In Botero's words: "Among all the religions (*leggi*), there is not one more favourable to princes than Christianity, because it submits to them not only the bodies and capacities of the subjects but their minds and consciences as well, and constrains not only the hand, but also the emotions (*affetti*) and the thoughts." Harro Höpfl, *Jesuit political thought: the Society of Jesus and the state, c. 1540-1630*, 115.

<sup>504</sup> Wolfgang Reinhard, „Zwang zur Konfessionalisierung? Prolegomena zu einer Theorie des konfessionellen Zeitalters“, *Zeitschrift Für Historische Forschung*, Vol. 10, (1983), 257–277.

Protestant ethic and its connection to a process of rationalization. He pointed out that the Reformation was not the elimination of the Church as such, but only the substitution of one kind of mediation, with God in the Catholic one which was lax, porous and flexible in its control, by the reformed one which meant the mediation of the individual with mundanity which was “in favour of a regulation of the whole of conduct which, penetrating to all departments of private and public life, was infinitely burdensome and earnestly enforced”.<sup>505</sup> The difference of the approaches consist in the link that the Reformation has to the creation of the state form, in the case of Schilling and confessionalization theories, or in Weber’s case in relation to the rise of capitalism. Additionally, both the Lutheran and Calvinist branch of the Reformation isolated the individual in establishing only the mediation between God and the believer at the level of conscience without any means to gain salvation through his/her involvement in the world. This element that could reinforce the extramundane religious life was prevented given that the other world has no connection with the mundane. They are separated. It leaves the profane as the only space of action for the believer. As has been shown by Weber and later by Charles Taylor,<sup>506</sup> both the Lutheran concept of calling and its further radicalization by Calvin through the theory of predestination and the need to perform duties and obligations reinforces the practice of discipline in everyday life and consolidates the private sphere as the main field of human action.

## 12.2. Sovereignty and Autonomy

Regarding d), if the *ius emigrandi* and *Freistellung* as freedom of religious *belief* are the frameworks under which “individual” *autonomia* are understood, the question of “collective” *autonomia*, as I have shown, is addressed directly only by Johannes Althusius as “*populus potestas*”. Indeed, even Erstenberger’s use of *autonomia*, though

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Heinz Schilling, „Disziplinierung oder “Selbstregulierung der Untertanen”? Ein Plädoyer für die Doppelperspektive von Makro-und Mikro-historie bei der Erforschung der frühmodernen Kirchengeschichte“; Heinz Schilling, “Confessional Europe”, in Thomas A. Brady, Heiko Augustinus Oberman, James D. Tracy ed., *Handbook of European History, 1400-1600. Late Middle Ages, Renaissance and Reformation. Volume 2*, 641-665.

<sup>505</sup> Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, 4.

<sup>506</sup> Charles Taylor, *Sources of the Self*.

it's only used as a property of the individual, has to implicitly recognize that the ecclesiastical prince embodies some degree of *autonomia* as a representative of the true holder of power in the ecclesiastical estate, namely the Catholic Church. This is the paradoxical nature of the defence of the *reservatum ecclesiasticum*. The object of this “*clausula autonomia*” within the Peace was to ban the individual autonomy of the ecclesiastical prince, but as a consequence it has to award it to the Church. The negation of individual autonomy can only be done by accepting the “collective autonomy” of the Church.

There are two new developments which Althusius wants to tackle with this concept: first, the political historical situation of his time in relation to the religious wars and, second, the new intellectual innovations that look at restructuring the political order.<sup>507</sup> Both questions are intertwined with the issue that at this moment was the major concern of intellectuals and political actors, the question of resistance and the right/duty to perform it as well as its impact on unity. Althusius's work is both a critique of Bodin's theory of the absolute sovereignty of the monarch and of the claiming of his territorial universal and exclusive jurisdiction which would be the groundings of the absolutist state.<sup>508</sup> His critique is both historico-sociologically oriented, as we would say today, and philosophical. If Bodin, and later Hobbes for the case of England, can be considered as the theoretical founders of the theory of the absolutist state in France, namely in societies which have faced a civil war without any possibility of compromise between parties, Althusius represents another solution and perspective for contexts where the conflict can neither be considered an internal civil war due to its somewhat associative constitution where different polities coexist nor a polity where legislative

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<sup>507</sup> See Thomas Hueglin, *Early Modern Concepts for a Late Modern World: Althusius on Community and Federalism*, (Waterloo: Wilfrid Laurier University Press, 1999), 11 and 27 for the need to historically contextualize Althusius' *Politica*.

<sup>508</sup> See Andreas Kalyvas, “Rethinking ‘modern’ democracy: Political modernity and constituent power”, for a detailed analysis of the fundamental difference between Bodin and Althusius against the background of the history of modern political philosophy. See also Thomas Hueglin, *Early Modern Concepts for a Late Modern World: Althusius on Community and Federalism*, 4 and Julian H. Franklin, “Sovereignty and the mixed constitution: Bodin and his critics”, in James Burns and Mark Goldie, *The Cambridge History of Political Thought 1450-1700*, (Cambridge: Cambridge University Press, 2008), 312.

and executive powers are not shared. The Holy Roman Empire,<sup>509</sup> the Helvetic Confederation and the United Provinces are examples of this kind of political entity.<sup>510</sup> The main problem for Bodin and Althusius is how to justify with non-theological arguments, which are the cause of fundamental dissent, the need of unchallenged mundane power and peaceful coexistence. The theories of the right/duty of resistance in the context of the religious wars first appeared as the need to justify the dissent and disobedience of the authorities, either secular or ecclesiastical, which justified their power as being ordained by divine law.<sup>511</sup> Indirectly, these theories were claiming a right to dissent and assuming that the polity was *divided* though they were not willing to accept that *division* was a constitutive feature of political order. They still wanted to uphold that Protestantism was the true faith. This *division* indeed was justified on the grounds that a collectivity, when suffering as a consequence of religious domination by a false doctrine, had a right to resist, and if necessary, to reconstitute the political entity.<sup>512</sup> This does not yet imply the right to autonomy, but only a right to dissent and to defensive negative freedom. However, resistance as division of the body politic lays the ground for understanding the polity as constituted by different parties. As explained above, the right to resist had to be justified without assuming the unity of *sacerdotium* and *imperium* and converting the clergy into mere subjects of the polity with any special right over the others. The Catholic party considered this justification as heretical and as the cause of social disorder and chaos and denied any right to resist because it contravened divine law and defied the territorial authorities who had power precisely as defenders of this order. Tolerance could not become a positive political or philosophical

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<sup>509</sup> Otto von Gierke, *Natural Law and the Theory of Society, 1500 to 1800. Volume 1*, (Cambridge: Cambridge University Press, 2008 [1934]), 73: “His [Althusius’s] picture of the Province, which professes to be based on the principles of Natural Law, is actually based on the model of the German territorial principality.”

<sup>510</sup> Julian H. Franklin, “Sovereignty and the mixed constitution: Bodin and his critics”, 309: “It was only in the German Empire, where the monarch was universally and even officially acknowledged to be limited, that Bodin’s central thesis posed an inescapable challenge to academic jurisprudence. And even here the issue was not clearly joined until the first decade of the seventeenth century.”

<sup>511</sup> Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*, Part 3.

<sup>512</sup> Otto von Gierke, *Natural Law and the Theory of Society, 1500 to 1800. Volume 1*, 70.

principle.<sup>513</sup> The problem for the Catholic side emerged at the moment when the territorial authorities were factually no longer Catholic or justified as divinely ordained.<sup>514</sup> Were they to follow their own theories, they would have to submit to the existing power. However, they justified their right to resist using mainly the same Protestant arguments, though they included an historical justification based on tradition by arguing that the Catholic Church's long existence was evidence of its greater capacity for ensuring permanence and stability. The Catholic side had to develop a theory of the right to resist that could provide solid legal and political grounds for opposing the Protestant side and at the same time avoid change.<sup>515</sup> Resistance as such could be seen not only as creating disorder but as restoring order. A consequence of this dispute is that both theories needed to resort to an extra-legal context to justify their claims. They could no longer reason in theological or abstract terms. Theories of resistance became highly dependent on context, and as a consequence, controversial in nature and ambiguous in their use. The mutual accusations that the enemy was behaving as a Machiavellian *politique* pointed to this problem. This is what actually happened in France with the question of the succession to the throne of the Protestant Henri de Navarre and his conversion to Catholicism.

The main problem that the religious divisions entailed for the existing powers from the 16<sup>th</sup> century on was the question of the source and foundations of the political order. Once the link between the divine and the mundane was broken and the interpretation of divine law could no longer justify and organize the political realm, the

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<sup>513</sup> Otto von Gierke, *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien. Zugleich ein Beitrag zur Geschichte der Rechtssystematik*, (Breslau : Verlag von Wilhelm Koebner, 1880), 143.

Book available at <https://archive.org/details/johannesalthusiu00gier>

<sup>514</sup> “It was one of the ironies of the time that, in the second half [of the century], some French Protestant writers turned to support royal authority while their most bitter enemies among Catholic enthusiasts occupied the vacant ground with Catholic theories of resistance”. J.H. Salmon, “Catholic resistance theory, Ultramontanism, and the royalist response, 1580-1620”, in James Burns and Mark Goldie, *The Cambridge History of Political Thought 1450-1700*, 219.

<sup>515</sup> See Ibid., 219-254; Harro Höpfl, *Jesuit political thought: the Society of Jesus and the state, c. 1540-1630*; and Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*, 345.

grounds on which it could be instituted were called into question.<sup>516</sup> Were there to be an unconditional and absolute principle that could put an end to the political violence, it would have to avoid relying directly on theological premises. Three available solutions were proposed in the current state of affairs: the Bodinian solution of a higher authority with unrivalled and perpetual coercive power that could suppress internal or external violence, avoid change and restore peace; the Catholic orthodox solution that insisted on tradition and historical continuity as proofs of higher authority; and the Catholic or Protestant *monarchomach* understanding of violence as the usurpation of power from its true possessor, the people. Within the parameters set by these three approaches, the question is how to justify political power in such a way that it is not dependent on context, to avoid resorting to theories of resistance, and to avoid making political power dependent on religious power. In substance, the rationality of power lies in avoiding division from the moment it is seen as the source of disintegration of the political order and a cause of civil violence. If one accepts the possibility of resistance, one assumes that the party *who* holds power can either lose it or transfer it. It establishes a difference between the “*potestas*” and the “legislative-executive” aspect of the political, which is what has opened the door to a civil strife and radical critiques of existing authorities. I want to address the issue of collective *autonomia* in Althusius from this perspective. Though Bodin and Althusius, I think, were aiming at solving this problem and rethinking the unity of power, their solutions are radically different.<sup>517</sup> To put it shortly, Bodin sees in sovereignty the solution while Althusius believes it lies in *autonomia*. The historian of Law Paolo Grossi has tried to oppose historically the concept of sovereignty, according to him a modern creation best represented in Bodin’s work, to the concept of autonomy, proper to the Middle Ages. According to him, sovereignty as the expression of a totalistic and omni-comprehensive understanding of law is coextensive with the concept of the state as a modern invention, while autonomy is the concept that grounds a coexistence *in re* of different limited states of law without the

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<sup>516</sup> Hannah Arendt, *On Revolution*, (London: Penguin Books, 1990), 160: “Secularization, the emancipation of the secular realm from the tutelage of the Church, inevitably posed the problem of how to found and constitute a new authority without which the secular realm, far from acquiring a new dignity of its own, would have lost even the derivative importance it had held under the auspices of the Church.”

<sup>517</sup> Thomas Hueglin, *Early Modern Concepts for a Late Modern World: Althusius on Community and Federalism*, 43.

“state” or exclusive executive powers.<sup>518</sup> While one could agree with the conceptual distinction, which I do, I do not think it can be sustained either historically or semantically. First, as I have tried to show, the Holy Roman Empire, which ceases to exist in 1806, was as modern as any other contemporary polity. If one accepts Grossi’s interpretation, this would mean that political modernity is equated with sovereignty, while what I think he has in mind is the absolutist state, which is a historical and local interpretation of the notion of sovereignty. Furthermore, there is a consolidated historical tradition in modernity, federalism and anarchism, which both conceptualize a polity without the need for a sovereign state. Althusius would be one of its forerunners. Second, the concept of autonomy that Grossi uses is interpretative-analytical, not historical-linguistic. The concept of autonomy did not exist in the Middle Ages but reappears, as I have explained, at the end of the 16<sup>th</sup> century. The use Althusius makes of the word is mainly directed against the Bodinian concept of sovereignty and any claim to consider Althusius a thinker of the late Middle Ages would make Bodin a thinker of that period as well.

Even though Althusius does not explicitly say that *autonomia* is the source and foundation of all power, it is a consequence of his critique of the Bodinian concept of sovereignty. Bodin did not want to accept the distinction between the “*potestas*” and the “legislative-executive” aspects of political power and merged the two dimensions as marks of absolute sovereignty.<sup>519</sup> The perpetual and supra-legal nature of sovereignty is understood as a device to prevent change, which is seen as the source of crisis and strife, and to repress resistance from the moment that the sovereign is not bound to the legal system. For Althusius and in connection to the theory of *autonomia* as *populus potestas* and to the consociational nature of political bodies, mainly having in mind the Holy Roman Empire, the legal-executive authority of the magistrates, councils, princes and

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<sup>518</sup> Paolo Grossi, *Derecho, sociedad, estado: (una recuperación para el derecho)*, (Mexico: Escuela Libre de Derecho, 2004), 17: “Aquí precisamente quisiéramos hacer hincapié [...] en la imposibilidad de utilizar nociones y esquemas de ordenación tales como ‘Estado’ y ‘soberanía’. Y, por el contrario la sustancial correspondencia de la noción de ‘autonomía’ para poder enfocar la constitución jurídico-medieval.”

<sup>519</sup> Julian H. Franklin, “Sovereignty and the mixed constitution: Bodin and his critics”, 299-308.

kings was always dependent on the source of power, the *populus*.<sup>520</sup> Subjection to positive laws is the same for the people and the magistrates, and the need of a legal-executive body is derived from the theory of government,<sup>521</sup> not from political power. The justifications given to distinguish between rulers and ruled do not emerge from an understanding of the political order, but from how to best administer. Democracy, aristocracy and monarchy are forms of government, not of political power.<sup>522</sup> For Althusius, within all these forms, power remains that of the people. The supreme magistrate's rights of sovereignty are only in relation to the form of government, not as the possessor of this right, who can only be the people. The prince is bound to the law by this pact of cession. Sovereignty is limited by *populus potestas*, by *autonomia*. Anybody who is above the law and not subjected to it is a tyrant.<sup>523</sup> This could give the impression that, in Althusius, the people as autonomous is the absolute sovereign, and though this power of the people is also inalienable, unitary, indivisible and perpetual, which makes it possible to conceptualize it as foundational and solve the constitutional problem, it is not absolute.<sup>524</sup> The power of the people is also limited: ex post, by the pact of rights' cession to the magistrates in executive-legal terms;<sup>525</sup> ex ante, by divine and natural law,<sup>526</sup> which "institutes" the body of a universal association<sup>527</sup> for the

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<sup>520</sup> Andreas Kalyvas names this power as "constituent". Andreas Kalyvas, "Rethinking 'modern' democracy: Political modernity and constituent power"

<sup>521</sup> Althusius labels it as "civilis lex et jus".

<sup>522</sup> Chapter XXXIX of the *Politica* discusses them as types of the supreme magistrate.

<sup>523</sup> Althusius, *Politica*, IX.21: "Indeed, an absolute and supreme power standing above all laws is called tyrannical." Since the people cannot be tyrannical, it means that their power is also limited. When the people do not behave according to these principles, Althusius calls it "coetu et plebe promiscua".

<sup>524</sup> Althusius, *Politica*, XIX.9-11; Otto von Gierke, *Natural Law and the Theory of Society, 1500 to 1800. Volume 1*, 71; Otto von Gierke, *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien. Zugleich ein Beitrag zur Geschichte der Rechtssystematik*, 148.

<sup>525</sup> Althusius, *Politica*, IX.16: "The people, or the associated members of the realm, have the power [potestas] of establishing this right of the realm and of binding themselves to it."

<sup>526</sup> Althusius, *Politica*, IX.21: "It is not supreme because all human power acknowledges divine and natural law [lex divina et naturalis] as superior". Rather it is to be attributed rightfully only to the body of a universal association, namely, to a commonwealth or realm, and as belonging to



purpose of the utility and necessity of human beings.<sup>528</sup> The ontological nature of the people is different when we consider it under this twofold perspective, either as subjects of the government or as holders of *potestas*. In the first case, Althusius calls it *plebe, vulgo* or *multitudo* and considers it from an anthropological and sociological perspective. In Chapter 23 he analyses the main properties of the people from the perspective of their obedience to the ruler. From this angle, resistance to authority is considered negative and the seed of divisions within the people where one party seeks advantage by dominating the other, and in so doing behaving against the pact that constituted the consociation.<sup>529</sup> In the second case, the people become a metaphysical concept from which law and order in society is constituted. In consequence, we have two qualitatively distinct kinds of people. The one instituting and the one instituted.<sup>530</sup> It is also in this sense that the people are autonomous, though the self that creates order is no longer the same self that submits to it. Division, strife, conflict and civil war occur at the level of the people as instituted, not as instituting. What, then, is the manifestation of the people as instituting? It appears only in negative terms in moments of resistance to a tyrant and change of the political order. And since it must be considered under this perspective as ontogenetically prior to the existence of government, the properties of the people cannot include division, submission, alienability and temporality, which are the attributes of government. The people “exist” as long as an actual order exists. For Althusius, democracy is only a form of government. Indeed, he favours a mixed form of

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it.” Althusius, *Politica*, IX.22: “From this body, *after God*, every legitimate power flows to those we call kings or optimates.” (emphasis added)

<sup>527</sup> Ibid.

<sup>528</sup> Ibid., IX.25: “We attribute this right of sovereignty to the associated political body, which claims it for itself alone. In our judgment, it is derived from the purpose [*causa*] and scope of the universal association, namely, from the utility and necessity of human social life.”

<sup>529</sup> Ibid., XXIII.14: “Accordingly, they are unable to come together at the same time without some antipathy toward each other, which when once aroused tends to stir up sedition, subversion, and damage to the life of the commonwealth.”

<sup>530</sup> Ibid., XXVIII.8: “By nature and circumstance [*tempore*] the people is prior to, more important than, and superior to its governors, just as every constituting body is prior and superior to what is constituted by it.” In the following paragraphs, not translated into English, Althusius explains that the people becomes subject to rulers in a constituted body, where the magistrates represent all the people (*totum populum repraesentant*).

government, having in mind the organization of the Holy Roman Empire.<sup>531</sup> From this angle, autonomy limits the sovereignty of the supreme magistrate, but in contrast to the emerging absolutist theories of the state, autonomy as “constituent power” is also limited by natural and divine law.<sup>532</sup> The central problem will be how to interpret this superior source of natural and divine law from which the *populus potestas* emanates.<sup>533</sup> This was precisely what was being contested within Europe at this moment as a conflict of interpretations on the nature of the divine law. The reinterpretation of natural law as the source from which all positive power emanates is partly an effect of the impossibility of using the divine justification any longer.<sup>534</sup> In Althusius, natural law is the consequence of the politicization of the social space and its detheologization, and it is mainly grounded on *necessitas*. Political collectivities are constituted by need and if it is not necessary, collectivities do not have to constitute a political body.<sup>535</sup> This does not

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<sup>531</sup> Ibid., XXXIX.10: “Moreover, the estates, as I have said, represent the aristocratic element, the councils the democratic, and the head-whether it be one person or many in the place of one-the monarchic.”

<sup>532</sup> I cannot develop in this context the potential risks of the Althusian concept of *populus potestas*. They consist in the absolute submission of the individual to the people: the people becomes a non-partisan totality in itself; and second, the *populus potestas* appears phenomenologically in negative terms, as a consequence of resistance and violence, not as an existing constituent moment.

<sup>533</sup> Thomas Hueglin, *Early Modern Concepts for a Late Modern World: Althusius on Community and Federalism*, 23: “Another controversy revolved around exactly this question of whether Althusius was, after all, writing in the tradition of natural law, contributing to the early modern rise of secularized political thought, or whether he wanted to stem that tide, by preserving the old order on the basis of the Bible and traditional church doctrine.”

<sup>534</sup> “Otto von Gierke, *Natural Law and the Theory of Society, 1500 to 1800. Volume 1*, 37: “In particular, the literary controversies on the political and religious issues of the day increasingly tended, after his time, to broaden out into fundamental differences about the nature of sovereignty; and throughout the course of these controversies the champions of popular sovereignty, like the defenders of the sovereignty of the Ruler, availed themselves of the weapons of Natural Law. Espousing the cause of popular sovereignty, Althusius then proceeded, early in the seventeenth century, to erect the first complete system of political theory which was wholly based on Natural Law.”

<sup>535</sup> Althusius, *Politica*, XVIII.18: “For by natural law (*jus naturale*) all men are equal and subject to the jurisdiction of no one, unless they subject themselves to another's imperium by

mean that a collectivity without the need of laws is possible. For Althusius, “when laws are taken away, human society, which we call symbiotic, is changed into a brutal life”.<sup>536</sup> Political law are only a kind of laws.<sup>537</sup> Escaping from grounding natural law on Reason, which was being done at this moment at the School of Salamanca by Dominicans and Jesuits,<sup>538</sup> and would be fully developed by Hobbes in his *Leviathan* just 35 years later, inaugurating a tradition that transcendentalizes Reason as the source of natural law and disembeds it from the social space,<sup>539</sup> he establishes a connection with *autonomia* as *populus potestas* and, in so doing, he anticipates a theme that will be developed by Spinoza in the second half of the 17<sup>th</sup> century as an immanent conception of natural law as *potentia multitudinis*.<sup>540</sup>

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their own consent and voluntary act, and transfer to another their rights, which no other person can claim for himself without a just title received from their owner. In the beginning of the human race there were neither imperium nor realms, nor were there rectors of them. Later, however, when necessity demanded, they were established by the people itself. We see examples of this in India and among the Ethiopians, as historians report.”

<sup>536</sup> Ibid., XXI.18.

<sup>537</sup> Ibid., XVIII.10: “All power is limited by definite boundaries and laws. No power is absolute, infinite, unbridled, arbitrary, and lawless. Every power is bound to laws, right, and equity. Likewise, every civil power that is constituted by legitimate means can be terminated and abolished.”

<sup>538</sup> Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*, Chapter 5.

<sup>539</sup> Thomas Hobbes, *Leviathan*, 86: “A law of nature, *lex naturalis*, is a precept, or general rule, found out by reason, by which a man is forbidden to do that which is destructive of his life, or taketh away the means of preserving the same, and to omit that by which he thinketh it may be best preserved”.

<sup>540</sup> Baruch Spinoza, “Political Treatise”, in *The Complete Works*, ed. Samuel Shirley and Michale Morgan, (Indianapolis: Hackett, 2002), 687: “We therefore conclude that the natural right specific to human beings can scarcely be conceived except where men have their rights in common and can together successfully defend the territories which they can inhabit and cultivate, protect themselves, repel all force, and live in accordance with the judgment of the entire community.” See also his “Theological-Political Treatise” in *The Complete Works*, 526-527. Spinoza does not accept the Hobbesian distinction between law (precepts and rules) and right (liberty) of nature which allows him to self-limit liberty through the laws of Reason when

Althusius's problem is related to one of the two paradoxes that Hannah Arendt has brilliantly summarized in relation to what constitutes the political space once the Church no longer stabilizes the mundane by means of being the interpreter of the *absolute* legislative power of God.<sup>541</sup> The problem is how to stabilize positive laws when their codification and the law-giving self is exactly the same as the self who produces the positive laws. The paradox is that what should be considered unconditional and undisputed has the same ontological status of the positive laws which by definition are modifiable, are adapted to new political conditions and are instituted by a *part* of the society upon the rest. It is a paradox that, as long as we want to live politically, will not disappear.

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it is considered that this liberty is self-destructive. See Chapter 5 above for a discussion of the implications of Hobbes's theory of the state of nature.

<sup>541</sup> Hannah Arendt, *On Revolution*, 161: "The need for an absolute manifested itself in many different ways, assumed different disguises, and found different solutions. Its function within the political sphere, however, was always the same: it was needed to break two vicious circles, the one apparently inherent in human law-making, and the other inherent in the *petitio principii* which attends every new beginning, that is, politically speaking, in the very task of foundation."



### 13. Conclusion: Historicizing Political Modernity

There are two general observations that must be laid out before discussing the commonalities and differences between the uses of the concept of autonomy within the two periods. First, in both contexts, autonomy enters into the scene in moments of profound and contingent transformation of the social world of each society. It was a word used to denote a political breakthrough for which the conceptual political repertoire had no available word. Freedom, *eleutheros* or *libertas* were not suitable to describe the new political setting that was emerging due to the rapid social transformation. These concepts were used to reveal a *state*, a *condition* of an entity and were not mainly understood to accommodate change as a political variable. Autonomy was precisely a concept used to take into account the dynamism and mutability of political entities. Since it was not a word to depict a *state* but an *activity*, it was polemical in its use and its meaning was necessarily contextual. There were no clear and undisputed criteria to assess whether an entity was autonomous and to what degree.

Second, the nature of this deep transformation is antagonistic in both the Greek and European contexts in which it was first employed. In the Greek context, autonomy is a concept introduced in a general process that could be described as a historical transition from “plurality to universality”, while in the Holy Roman Empire during the Reformation, the concept was used in a moment of transition from “universality to plurality”. Christianity can be considered the endpoint of the first process while it is the starting point of the second one. In connection to this *longue durée* historical transformation, the relation of autonomy to the concept of law is also of relevance. The idea of an order constituted by supra-political principles embodied in juridical codes is very old and shared by many collectivities. The point is that autonomy is a political concept that emerges in Greece at a moment where the law, *nomos*, is understood as the great achievement of the *polis*. Written and “constitutional” laws were not an a priori and obvious fact of political life, but were in this context the result of the constitution of *demokratia* in Athens. The problem emerged regarding the relation that *nomos*, which by its essence was limited to the *polis*, had with other Greek *poleis*. The notion of a federation that could have the same kind of *nomos* that a *polis* had was beyond the political assumptions of the Greek world. *Physis*, mainly in the use of Thucydides, is the

kind of relation that governs the life between *poleis*.<sup>542</sup> In this context, autonomy was the political concept used to defend a superior *nomos* to the *nomos* of any particular *polis*, even if one *polis* was stronger than the others. Paradoxically, the moment that can be considered as the written legal source of such a perspective, is the signing of a document between Greeks and *barbaros*, the King's Peace, establishing a common peace, *koine eirene*, and thus binding reciprocally with the Perses through law, which in principle was opposed to any understanding of Greek *nomos*. The recognition of *nomos* between Greeks and "Barbarians" is a profound development for the universalization of *nomos* and for the dissolution of Classical Greece as the political space, the *polis*, where *nomos rules*. Once the other is recognized as subject to the same law, the meaningful difference between them dissolves and what they have in common is a *nomos* that, in this context, can start to be described as universal and to some extent as a primary fact of political life independently of the political form of the polity. With it, *demokratia* is no longer the space under which *nomos* is commonly enacted and the bounds that originally sustained it disappear when there is a *nomos* that far exceeds the scope of any particular *polis*. Alexander of Macedon's "universal empire" and the division of his empire after his death among his generals as personal monarchies (*diadochi*) represents the historical instantiation of this phenomenon where the *polis* is no longer a political collectivity. In contrast, the Peace of Augsburg can be considered the opposite development of law. If we can consider the *Respublica Christiana* and the Holy Roman Empire as the context in which a universal understanding of the law, both in the mundane sphere, represented by the Emperor, and in the spiritual sphere, represented by the papacy, rules independently of the particular form of each polity, the Peace of Augsburg as the event from which the concept of autonomy is reintroduced to interpret it can be considered as the division and pluralisation of the understanding of law. The law becomes a political question that cannot be legitimized any longer with transcendental theological justifications that are unaltered and unaffected by the actions of human beings. The Reformation, breaking the unity and totality of canonical and

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<sup>542</sup> Hannah Arendt, "Introduction into Politics", 129: "They likewise believed that whenever the polis dealt with other states, it no longer actually needed to proceed politically, but could instead use force—whether that was because its continuation was threatened by the power of another community or because it wished to make others subservient to it. In other words, what we today call 'foreign policy' was not really politics for the Greeks in any real sense."

ecclesiastical law, and the Peace treaty as a legal document, granting *ius reformandi* to Estates within the Empire, and thus enacting fundamental laws that are not consonant with those of other Estates or the Empire, makes the concept of law dependent on the polity that is claiming an *ius* to make the law its own. This is the political meaning that the concept of *autonomia* will have from that moment on. It will no longer be possible to sustain that the source of law is transcendental to the domain to which it is applied since the law is no longer universal or unitary. The law breaks up and there is a need to justify and legitimize its reappropriation by the polity who claims a right to have its own laws against the totalistic and unitary interpretation of the law. The urgent question that will need to be solved regards the problem of how the law can be legitimized anew in order to avoid its further fragmentation and how this is to be done in the absence of transcendental foundations. I would like to single out what are, in my understanding, the most relevant features of the concept of autonomy that can be outlined from a reconstruction of its history: it is a purely political concept; it is a quality of collectivities; and it is coined and reinterpreted in defiance to imperial domination.

### 13.1. Autonomy as a Political Concept

It may seem a commonplace to state that autonomy is a political concept, but the current use of the word in bioethics, psychology and law, and the liberal understanding of the polity that locates autonomy mainly in the private domain, makes it necessary to insist that its coinage was the consequence of truly political experiences. Moreover, it is not self-evident that the political as such exists in all contexts of human action.<sup>543</sup> There is a long history of the political thought, starting with Aristotle, discussing whether the constitution of a political collectivity is not only for the purposes of living together, but for living well.<sup>544</sup> The maintenance and reproduction of mere life is, for Aristotle,

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<sup>543</sup> **Ibid.**, “Precisamente necesario —sea en el sentido de una exigencia ineludible de la naturaleza humana como el hambre o el amor, sea en el sentido de una organización indispensable de la convivencia humana— lo político no lo es, puesto que sólo empieza donde acaba el reino de las necesidades materiales y la violencia física. Tan poco ha existido siempre y por doquier lo político como tal que, desde un punto de vista histórico, solamente unas pocas grandes épocas lo han conocido y hecho realidad.” Arendt Fr.3b Was ist politik?

<sup>544</sup> Aristotle *Politics*, (Cambridge: Harvard University Press/The Loeb Classical Library), 1278b, 271: “The good life (*zen kalos*) then is the chief aim of society, both collectively for all



located in the household and is governed by *physis*, not *nomos*. For Althusius, “the end of political ‘symbiotic’ man is holy, just, comfortable, and happy symbiosis, a life lacking nothing rather necessary or useful”.<sup>545</sup> The state of permanent religious violence at the beginning of early modern times will reintroduce this dichotomy in the different justification given for the purpose of the political pact. Beyond the relevant features that each interpreter would like to outline in relation to the definition of the political, scholars have analysed classical Greece and early modern times against the background of the emergence of the political as the dimension that institutes and governs “society”.<sup>546</sup> This goes against any theological or moral understanding of autonomy as the guiding interpretative dimension for common experiences and obliges us to reinterpret its current use as the outcome of the historical transformation of the revolutionary age, best represented in the work of Immanuel Kant and its appropriation by 19<sup>th</sup> century liberal thought. Autonomy was the result of (re)discovering a property of the political that was not experienced before the Peloponnesian War and the Peace of Augsburg. However, as I have tried to show, the moment when the concept was used differed radically in both worlds. In classical Greece, autonomy emerged when the *political* as the primary dimension of social life was in disintegration while in early modern times it was co-originary with the reconstitution of the *political*.

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its members and individually; but they also come together and maintain the political partnership (*politike koinonia*) for the sake of life (*zen*) merely, for doubtless there is some element of value contained even in the mere state of being alive (*zen*), provided that there is not too great an excess on the side of the hardships of life (*Bion*), and it is clear that the mass of mankind cling to life at the cost of enduring much suffering, which shows that life (*zen*) contains some measure of well-being (*euemerias*) and of sweetness in its essential nature.”

<sup>545</sup> Althusius, *Politica*, I.3.

<sup>546</sup> Christian Meier, *The Greek Discovery of Politics*, (Cambridge: Harvard University Press, 1990); Moses Finley, *Politics in the Ancient World*, (Cambridge, Cambridge University Press, 1983); and Claude Mossé, *Les Grecs inventent la politique*, (Paris: Éditions Complexe, 2005) have addressed this issue in relation to classical Greece. Here I have analysed the emergence of the political in these specific historical contexts. It does not mean that the political has emerged *only* in these contexts. My study starts out from the discovery of the concept of autonomy. In other historical contexts the political has been discovered through different experiences and concepts.

Within the Greek world, autonomy emerges as a concept at the moment that the original collectivity that instituted itself *politically*, the *polis*, could no longer embody the principles upon which it was grounded. The growing interconnectedness of the *polis* had serious implications for its internal institution in relation to the exteriority of the *polis*. The *a priori* limited, bounded, political space constituted by the *polis*, through the experiences at the end of the 5<sup>th</sup> and beginning of the 4<sup>th</sup> centuries BCE was challenged by developments that weakened the political bonds that sustained it. These developments have the Athenian democratic *polis* at their centre due to its role as an imperial expansionist power against the conservative and reactive Spartan hegemony. Additionally, the *political* was founded through a double exclusion: internally excluding the women and strangers from the political collectivity and instituting slavery, and externally by drawing a strict separation between those who were included and those who were not. Autochthony and “culture” (*paideia*) were the key features of this divide. The original settlements were the territories from which the boundaries of the polity were demarcated, externally, through *walls* and, internally, by an empty space in the centre of the city, the *agora*, used as the public space for economic exchange and political activities. Recognition of membership in the *polis* was premised on belonging to a family and to a social group (*phratry*, *deme* and *phyle*). This constituted the *polis* as the political subject. *Paideia* was what grounded the *polis* as a member of a wider community, the Hellenes, and instituted a common world in opposition to radical *otherness* (*barbaros*). This boundary established a structure of relations both within the internal space and between the Hellenes and the others. In Athens, the political was instituted as *demokratia*, the rule of the people, which emerged as a rupture with the status quo in 508-507 BCE,<sup>547</sup> as a “revolution” and was based on *isonomia*, the capacity of the citizens, the free autochthonic male adults, of enacting the same common laws for all the members of the *polis*, making decisions by their direct participation and governing its fate by lottery and annual appointments. There was no distinction between the governed and the government except for those internally excluded. They were the same *actors*. After the experience of the Peloponnesian War

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<sup>547</sup> Josiah Ober, “‘I Besieged That Man’: Democracy’s Revolutionary Start”, in Kurt Raaflaub ed., *Origins of Democracy in Ancient Greece*, (Oakland: University of California Press, 2008), 88: “What happened next was completely outside of any Athenian’s prior experience. It was the moment of popular revolution.”

and the oligarchic period at the end of the 5<sup>th</sup> century, a payment, *mistos*, was provided to all the citizens in order to allow them to participate in public life effectively and to prevent their being conditioned by needs or oligarchic pressures. Together with slavery and the enforced dedication of women to the reproduction of life in the household, it liberated them from work obligations and avoided the colonization of political life by the wealthy alone.<sup>548</sup> As a consequence, both the demands of the citizens and the social-economic viability of the political regime were equated in Athens with its role as an imperial power, as having *arche* over the Hellenes as a project of unlimited expansion whereby the rest of the *poleis* were subordinated to the political as it was constituted within Athens.<sup>549</sup>

Many reasons have been given to explain the decay of the political in the Greek world in relation to the end of democracy in Athens in 4<sup>th</sup> century BCE, but pursuing the argument I have developed here, it is relevant to outline very briefly some aspects that are usually highlighted in the literature: first, the general granting of citizenship to “foreigners”, which rendered the limits of the *polis* indeterminate; second, while the political power of the *poleis* was undermined after the Peloponnesian Wars, the further failure of the Athenian imperial project and the inability to build a permanent alliance between Sparta and Athens left the Greek world without any means of reconstituting its political foundations and it became more open to external political influences; and third, the “bureaucratization” of political institutions with the participation of mercenaries instead of citizens in wars, the juridical role of the *sycophante*, the appearance of the *demagogos*, what today we would call “professional politicians”, and a change in the nature of enactment and change of *nomos*, whereby it achieved some pre-eminence and

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<sup>548</sup> See for a more detailed analysis, Peter Wagner and Nathalie Karagiannis, “The Liberty of the Moderns Compared to the Liberty of the Ancients” in Johann P. Arnason, Kurt A. Raaflaub, Peter Wagner ed., *The Greek Polis and the Invention of Democracy: A Politico-cultural Transformation and Its Interpretations*, (London: Wiley Blackwell, 2013), 371-389; and Gerard Rosich, “Temptatives sobre la República”.

<sup>549</sup> Thucydides, *History of the Peloponnesian War*, 3.37.2: “for you do not reflect that the empire (*archen*) you hold is a despotism (*turannida*) imposed upon subjects who, for their part, do intrigue against you and submit to your rule against their will, who render obedience, not because of any kindnesses you may do them to your own hurt, but because of such superiority as you may have established by reason of your strength rather than of their goodwill.”

independence beyond the control of the *demos*. Correspondingly, there were no longer significant ways of distinguishing the Greek *political* constitution from others, the social and cultural ground that sustained the *political* were radically undermined, and a difference between government and governed emerged as a result of the gradual absence of active participation of citizens in democratic institutions and the automation and alienation of the *nomos*. The most salient historical experience of this transformation is the *political* role that the Persian King had within the Greek world in the 4<sup>th</sup> century and the growing political importance and influence that Macedon attained for Greeks. In that context, autonomy emerged as a way to articulate the grounds upon which the political constitution of the *poleis* lay, not only in *eleutheria*, *isonomia* and *autarchia*, but also in *autonomia* as independence. The problem is that independence was felt as a requirement precisely because it was experienced as lost as a consequence of Athenian imperial expansion and, when it was secured and sanctioned in the King's Peace treaty, a *nomos*, it was no longer an exclusive matter of the Greek world. External independence of the *polis* was not an issue before the Peloponnesian war. It was assumed as the obvious and non-thematized condition of the *polis*. This process of depolitization of the Greek world has been studied from different angles since the end of the 19<sup>th</sup> century, but for my purposes the more important are the growing importance given internally to *physis* to the detriment of *nomos*, the transition from “popular sovereignty to sovereignty of the law”,<sup>550</sup> the constitution of philosophy—the conflict between the sophists and Plato—and metaphysics as the self-interpretative framework against the mythological, poetical or divine self-interpretation,<sup>551</sup> the end of the agonal spirit and the extension of the political beyond the borders of the *polis*.<sup>552</sup>

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<sup>550</sup> Martin Ostwald, *From Popular Sovereignty to the Sovereignty of Law: Law, Society, and Politics in Fifth-Century Athens*, (Oakland, University of California Press, 1989).

<sup>551</sup> Martin Heidegger, *Introduction to Metaphysics*, (New Haven: Yale University Press, 2000); Felipe Martínez Marzoa *De Grecia y la Filosofía*, (Murcia; Universidad de Murcia, 1990); Cornelius Castoriadis, *Ce qui fait la Grèce. D'Homère à Heraclite. Séminaires 1982- 1983. La création humaine II*, (Paris: Seuil, 2004).

<sup>552</sup> Jacob Burckhardt, *The Greeks and Greek Civilization*, (New York: St Martin's Griffin, 1999); Hannah Arendt, *The Human Condition*.

In contrast to the developments in the Greek world outlined above, the reinterpretation of the political in the early modern period is synchronic with the reappearance of autonomy. Indeed, I have tried to show that Erstenberger, Althusius and the Peace of Augsburg link autonomy to the constitution of the political as the foundation of society against religious claims relating to the theological constitution of the world. Indeed, if it is God who actually rules and governs our worldly life, whereby the political is subordinated and dependent on the theological, this also would mean that the only autonomous being is God. However, the fact that there is no historic-linguistic source that attributes autonomy to God before early modern times, together with the fact that it is a Greek word unknown to Rome and the Judeo-Christian world, indicates that autonomy was a concept coined to express a purely political human experience independently of the theological realm. The need to claim the Greek non-philosophical legacy of the word—its use during the Greek period was circumscribed to sources from history, law and tragedy—expressed a political connection that could not be reintroduced with the available concepts. Due to the exclusivity of the use of autonomy in human matters, a word had to be invented in the theological realm, theonomy, to limit this human capacity and subordinate it to the modern reinterpretation of theology. While recognizing the breakthrough that autonomy represented and acknowledging its legitimate use, theologians had to justify that, indeed, autonomy was part of the God's order. The intention was to limit human autonomy both in intensity and extent. The reappearance of the political in early modern times has normally been associated with the rise of the interconnection of *raison d'état*-sovereignty-absolutism. However, as I have tried to show, autonomy and the political structure of the Holy Roman Empire make it very difficult to explain the rise of the political in early modern times only from this perspective. At that moment, there was already an existing alternative and a theoretical corpus that was grounded on purely political justifications that were not based on this political imaginary.<sup>553</sup> Althusius explicitly views his work as the constitution of the political in order to found a post-theological society and the Peace of Augsburg reinforces the idea that only the recognition that human beings are guided by political motives in their social intercourse can provide an adequate solution to the crisis. Only in societies that were already constituted as monarchical regimes could

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<sup>553</sup> Andreas Kalyvas, "Rethinking 'modern' democracy: Political modernity and constituent power"

absolute sovereignty embodied by the monarch institute the state form.<sup>554</sup> Religion, from that moment on, would be subordinated to the political needs of the society and considered a tool to enforce political decisions. Theological thinking would get a new life, paradoxically, thanks to the revolutionary age. As Koselleck has shown, the connection between the concept of progress and the respective normative views of the future opened the door to once more subordinate the political to transcendental and moral concerns. Theological thinking was well prepared for this new period: eschatology along with the understanding of human nature as sinful offered an anti-political solution to the conflicts which emerged with the revolution. From the Enlightenment on, a tension would be placed at the core of the political.<sup>555</sup> Though it would be explicitly affirmed that autonomy is the principle that institutes society politically, the reinterpretation of the self as the reciprocal relation between the individual and the nation opens the door to interpret the former from the moral perspective in relation to the private sphere and the latter as the embodiment of the attributes of the absolute monarch but from the perspective of nature instead of God. The political will be caught in the conflict between morality and the pre-political. Moreover, the gap between reality and ideality implied by the notion of progress promotes a factionalist understanding of the political derived from truth claims based on ideology, which by its mode of posing and solving the questions reintroduces a quasi-religious interpretation of the political and evacuates the political relevance of the present by understanding it as subordinated to the future, interpreted as a kind of transcendental and deferred world.

### 13.2. The Subject of Autonomy

I have tried to show that in both contexts, autonomy relates to a capacity, an activity, of political collectivities of being independent politically. In the Greek world, the comparative analysis of all sources indicates that autonomy is a political qualification of the *polis*. It can have it or lose it in the interplay with other collectivities. In the second half of the 4<sup>th</sup> century, autonomy would be felt as a

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<sup>554</sup> Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*, 354.

<sup>555</sup> Reinhart Koselleck, *Critique and Crisis: Enlightenment and the pathogenesis of modern society*.

*condition* of the *polis*. If a *polis* is not autonomous, we could no longer think of it as a political collectivity. This has a paradoxical implication for the Greek world. While the *polis* did not interpret itself as autonomous because there were no experiences that made it necessary to coin the concept, an implicit acceptance of independence was the common ground in the Greek world. At the same time, the *poleis* perceived each other in non-political terms to be part of a wider community, the *Hellenes*, against the *other*, the *barbaros*. Thus, at the moment that independence was felt as a necessary condition of the *polis*, the consequence is that the bonds that historically constituted the *Hellenes* as a community break up. Paradoxically, autonomy is coined to express something peculiar to the Greek *polis* but when it becomes a condition of the *polis*, the *polis* as it was understood and lived in classical Greece changes radically. It becomes a single entity disconnected from the other *poleis*. The 4<sup>th</sup> century political discussion in Athens between pro- and anti-Macedonian factions illustrates this situation historically. To become a part of a non-Greek Empire becomes a possibility for the first time. The radical defence of the autonomy of the *polis* leads to the ruin of autonomy itself.

The reappearance of autonomy in early modern times is more problematic regarding the question of who is autonomous. In historical terms, the *clausula autonomia* refers to the capacity of imperial estates to decide the religion of the territory except in the ecclesiastical estates. In the work of Erstenberger this *clausula* is interpreted in paradoxical terms and is related both to individuals and collectivities. Indeed, the *cuius regio, eius religio* principle grants autonomy in this sense only to individuals, “princes”. This is the reason why Erstenberger reasons against any claim that individuals can be autonomous. However, the fact that the Peace of Augsburg denies autonomy to princes in ecclesiastical Estates implies that autonomy in these territories does not belong to individuals, but is a property of the estate. A double movement is established: autonomy is granted in positive terms to some individuals and as a matter of decision, but in negative terms it is granted to ecclesiastical estates and as a consequence denied to individuals and it becomes permanent condition of the estate. This creates a tension between Protestants and Catholics after the Peace of Augsburg regarding the question of the political role of the prince in these estates. The former defended the rights of the prince to change his policy without changing status while the latter denied a personal right of the prince. The justification given by the Protestants for this right, the freedom of conscience, establishes a link between the prince’s autonomy and his private inner

conscience. For this reason, a tension between individual and collective autonomy is established by the Peace of Augsburg and the different confessions. Althusius starts out from this tension and disconnects the individual from the collectivity in political terms. The question of personal belief is circumscribed to the private sphere in non-political terms while autonomy, considered as *potestas populus*, is understood as the condition of any political order. The political has to be understood from the assumption that the people is by its essence autonomous. Individuals, princes and magistrates are considered from this perspective, are only delegates of this power and are subordinated to it. However, the introduction of the concept of autonomy as a result of the creation of the Ecclesiastical State and the need to justify it in non-theological terms, namely in political terms, makes it necessary to reinterpret the notion of pact under the perspective of natural law. From that moment on, natural law is no longer understood in its subordination to divine law but as the immanent and pre-political condition of any society. As has been shown, two strands of understanding the pact are inaugurated with it. The first is based on the submission of individuals to the sovereign for the security of life and peace, an absolutist lineage which draws its foundations from strong metaphysical and anthropological assumptions on the nature of the human. The development of this reasoning through the authors that understand the state of nature as the condition of the political will lead to the conception of the individual as free and equal. The autonomy of the individual is thus what constitutes theoretically *de iure* the political but *de facto* is always limited by the sovereign. It is a political theory of consent. Historically, there is a theoretical continuity between the absolutist theory of the state and the liberal constitutional understanding of the state. The second strand of thought, which could be called historico-sociological, is best represented with Althusius and starts out from the way collectivities are created, for what purposes and how they associate or dissociate themselves. The political takes place at the moment that these collectivities organize themselves in a very specific manner that is not related to other forms of association, be they for the purposes of the protection of life or the defence of common interests. In this context, natural law is only the “social limitations” that are imposed on the political self-organization of the collectivities, on their autonomy. If the former can be considered a theory of consent, the latter is best understood as a theory of political change. Individuals are only taken into account as subjects and rulers of a government, never as instituting a political order. Only the people can be considered as the subject of autonomy. Contractualist theory hypothesizes the pre-political autonomy



of individuals solely as human beings and not as members of a socio-historical collectivity with a view to politically limiting and controlling the autonomy of individuals in favour of the sovereign power. For contractualist theorists, there is no people, no society and no history. The constitution of the absolutist state is the first chapter in this long narrative. Indeed, historically it eliminated all political intermediate organizations and associations that could limit its power and levelled all citizens politically to the same status: they became equal subjects under the absolute domination of the sovereign.<sup>556</sup> The second theory, which is more difficult to label and in this context, following Andreas Kalyvas, will be called for analytical purposes democratic—though “democracy” barely appears in this theory and is only a form of government always addressed reluctantly and indirectly and never as it was understood in classical Greece—starts from the assumption of a people constituted as the subject of autonomy and subordinates the autonomy of individuals once the order is instituted. The main problem for these democratic theories is that the people as autonomous are not the result of an autonomous political decision.<sup>557</sup> This is the paradox of all the democratic understandings of the people. It is a requirement for democracy that one people is “in place” and thus it cannot be constituted democratically because it is presupposed in the exercise of *populus potestas*. It is in this sense that the social-historic constitution of the people is an element that is taken into account in these theories.

### 13.3. Autonomy as Independence

This last consideration helps to understand the fact that autonomy appears in both contexts as a political reaction to the imperial domination of another polity. Empire is the historical social context from which autonomy emerges as a political response. It is both resistance to and emancipation from imperial subordination. This also means that the nature of autonomy is relational and the entities within this relation are conceived of as polities. It is a political concept that is used to characterize a different kind of relation between polities that does not start out from relations of domination and violence.

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<sup>556</sup> Reinhart Koselleck, *Critique and Crisis: Enlightenment and the pathogenesis of modern society*, 18-19; Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*, 351-352.

<sup>557</sup> Andreas Kalyvas, “Rethinking ‘modern’ democracy: Political modernity and constituent power”

Though it is a quality of the polity, it is only in the relation to others that it is grounded. A minimal analytical definition of empire involves the establishment of a political centre by the domination of other political collectivities through conquest that makes them politically dependent on this centre.<sup>558</sup> In Classical Greece, the constitution of the Athenian Empire, *arche*, which creates autonomy as the movement of resistance by the other *poleis*, was developed as the transition from a kind of military federation for defensive purposes, *symmachia*, to the imperial domination of Athens. In the case of early modern times it is exactly the opposite movement. Autonomy appears as the element that transforms the imperial structure of the Holy Roman Empire, *Reich*, to a kind of loose federative constitution after the Peace of Augsburg and it implies the multiplication of political centres.<sup>559</sup> Thus autonomy is a concept that links the formation of political collectivities and the reconstruction of internal boundaries in relation to a centre that seeks to subordinate them. Imperial discourse needs to justify imperial domination by appeal to universalist claims. In the case of the Holy Roman Empire, the *Respublica Christiana* was the framework within which universal claims were made, and in Athens the responsibility she had as *hegemon* in the Persian War as defender of the Hellenes was used to justify her role as a model for other *poleis* and for being the “School of Hellas”.<sup>560</sup> In this context, the tension in the Greek world between *physis* and *nomos* regarding the impossibility of transforming a military federation into a political one led to the disintegration of the Greek world after the end of Athenian Empire within the context of Persian and Macedonian influence.<sup>561</sup> The classical

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<sup>558</sup> Anthony Pagden, “Afterword: From Empire to Federation”, in Balachandra Rajan and Elizabeth Sauer ed. *Imperialisms Historical and Literary Investigations, 1500-1900*, (New York: Palgrave, 2004), 259.

<sup>559</sup> Shmuel Eisenstadt, *Comparative Civilizations and Multiple Modernities: Vol.1&2*, 589.

<sup>560</sup> Thucydides, *History of the Peloponnesian War*, 2.51.1, Pericles’ Funeral Oration is the best source for understanding what the superiority of Athens over the Hellenes was based on.

<sup>561</sup> Hannah Arendt, “Philosophy and Politics”, *Social Research*, Vol. 57, No. 1, 1990, 82, describes Athens as a “[...] a polis whose life consisted of an intense and uninterrupted contest of all against all, of *aei aristeuein*, ceaselessly showing oneself to be the best of all. In this agonal spirit, which eventually was to bring the Greek city states to ruin because it made alliances between them well nigh impossible and poisoned the domestic life of the citizens with envy and mutual hatred (envy was the national vice of ancient Greece), the commonweal was constantly threatened.”

reference of this tension refers to one of the key examples of the theory of *physis* in inter-polis relations: the Melian Debate within the framework of the Peloponnesian War related by Thucydides.<sup>562</sup> According to commentators, Thucydides shows that the justification for imperial rule of Athens was based only on the superiority of force (*physis* or *anankè*). However, an analysis of the debate shows the problems of this unambiguous interpretation. It relates to how the debate is built and its contents. First, the discourse of *physis* or *anankè* becomes in the same debate a normative justification of empire, it is a different kind of *nomos* opposed to the one represented by the Melians, based on utility and honour. Both discourses claim to represent justice, *dikaia*, and the dialogue is only one manner to present the contest at the level of justifications. It is not a discussion about whether it is justice, *dikè*, or force, *physis* or *anankè*, that governs relations between *poleis*, but what kind of *nomos* supports one interpretation against the other. By contrast, in the case of the Holy Roman Empire, the link between autonomy and the religious schism is directly addressed to the unity of law connected with the universal claims of Catholicism and the threat of absolute monarchy within the Reich by the hegemony of the Habsburg dynasty. Autonomy is the concept rediscovered to dissolve imperial subordination where legality as such will no longer be the a priori criterion for governing but its result. *Nature*, in contrast to *physis*, will be the domain from which the pluralisation of the law will be developed. From this perspective, the work of Althusius can be analysed as the transformation of an empire that federalizes itself by means of autonomy as *populus potestas* and Erstenberger's as a defence of the imperial constitution of the Holy Roman Empire. Bodin's concept of sovereignty as the internal constitution of exclusive *imperium* against any rival institution or corporation claiming *imperium* in its jurisdiction can be considered against this background as a reinterpretation of the concept of empire as a process of absolute recentralization of power at a moment when it was not an exclusive property of the monarch.<sup>563</sup> Bodin'

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<sup>562</sup> Thucydides, *History of the Peloponnesian War*, 5.83-116. I draw the interpretation of the debate from Felipe Martínez Marzoa, *La Cosa y el Relato. A propósito de Tucídides* (Madrid: Abada, 2009: ch. 12), and Leo Strauss, *The City and the Man*, (Chicago: University of Chicago Press, 1978), 139-241. I diverge from the conclusions that Michael Walzer draws from the debate though I agree with his concrete textual analysis in *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 5-13.

<sup>563</sup> Andreas Kalyvas, "Rethinking 'modern' democracy: Political modernity and constituent power".

theory is the fullest development of the doctrine “*Rex in regno suo est Imperator*”, which was opposed to those that upheld the idea that the *civitas* was *imperator* in the realm.<sup>564</sup> The Latin word *imperium* cannot be translated as Empire since “until well into the seventeenth century, the word ‘empire’ was used exclusively to describe either the Holy Roman Empire or territorial sovereignty within individual nation states themselves”.<sup>565</sup> From that moment on, a tension between sovereignty and autonomy can be traced in the history of modernity.

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<sup>564</sup> Quentin Skinner, *The Foundations of Modern Political Thought: Volume 2, The Age of Reformation*.

<sup>565</sup> Anthony Pagden, “Afterword: From Empire to Federation”, 259.



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