THE VOID AT THE CORE: REPOLITICISING THE CONCEPT OF INSTITUTION

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EL VACÍO EN EL NÚCLEO: REPOLITIZAR EL CONCEPTO DE INSTITUCIÓN

Introduction

Gilles Lipovetsky has defined the late-modern age, the age of emptiness, identifying in it the demise of a way of conceiving the world based on faith in the future and progress. Postmodern society means, in this sense, the contraction of social and individual time; the exhaustion of the modernist impulse towards the future, disenchantment and the monotony of emptiness (Lipovetsky, 1983). But does the emptiness of contemporaneity really represent (only) the monotonous rest of a loss? Is it just the disenchantment resulting from the disappearing of given certainties? Or can we somehow read this legacy of the modernity's last phase as a break free from nostalgia for a lost future? Perhaps

this re-emergence of emptiness is also the re-emergence of a repressed. Although perturbing, it may indicate the direction towards a new future, which will may be no longer certain, but precisely for this reason more authentic: an authentical a-going to be. After all, the very creative power of the modern was born from the relationship with the void offered by the fall of religious transcendence. From the dissolution of the classical, the baroque dimension of modernity, was called upon to find new forms and a new unity.

We might say that what characterizes modern experience is the repeated attempt to *mise-en-forme* of an emerging plurality, which resists its own reduction. Indeed, it is precisely the persistence of such attempts that makes this irreducibility evident. Rediscovered at the origins of the modern age, along the season of the Reform and the Counter-reform, the conflict within the social order appears to be the constant of this historical experience, which has been characterized by an ambivalent relationship with transcendence: on the one hand, the search for unity and certainty which were lost in the fall; on the other hand, the awareness that any rediscovered unity could only be the artifice of a society called upon to re-found its own institutions, to put its own conflict back in order; to come to terms with emptiness, precisely in the constant search for fullness.

Today we are dealing with a new loss of certainty. The theological-political wavers for the openness and decentralization offered by new geopolitics sets, cyberspace and extra-planetary dimensions. The violent reappearance of profoundly identity-driven – often conservative when not openly racist – xenophobic and homophobic instances is the fearful response to this openness, to the new emergence of the void, of the broken foundation of history (Brown, 2008). Since it is denied as much by the *reductio ad unum* of the State as by the apparent inclusiveness of neoliberal capitalism, the conflict is manifesting itself in violent clashes and immunizing communitarianism. Then, we have to come to terms with the original emptiness of modern thought, in order to make that constitutive conflict re-emerge. To come to terms again with the void that runs through the modern era and re-explodes in the contemporary implies to problematize the institution, questioning its forms to the point of bringing out its dynamic, problematic, productive dimension: in a word, its political dimension.

In order to do that, I propose a path that starts from the reading of the concept of institution offered by Santi Romano (1917), in order to make its descriptive core interact on the one hand (on a theoretical-legal level) with the later Hartian theory of ordering, and on the other (on a philosophical-political level) with the idea of democratic revolution as *aniconic* power, which Lefort (1972; 1986) develops from Machiavelli's dualism.

Insitution as a whole

As has been observed (Bobbio, 1965; Catania, 2008) the limit of Romano's theory is its excessive static nature. In pursuing an obsession with order, Romano seems to ignore the charge of tension that constitutively runs through the legal system, as well as the society it intends to regulate. Simplifying, we could say that if law is defined as a social *datum*, its definition is resolved in Romano in a double equation: law = institution = social organization. This double equation ends up resulting in the flattening of legal reality on effectiveness. Law would thus always and only be a presupposed order, a registration of the factual *datum*.

Nevertheless, the first part of this equation remains interesting (as, moreover, several voices suggest), provided, however, that we reconsider the second part, operating on it a sort of atomic split. In other words, if institution is a good way of defining the specific reality that is the law, both institution and law cannot simply be resolved in the datum of the social order, on pain of excluding a whole plane of reality.

As is well known, Romano starts from the identification between the legal system and the social order, in an attempt to overcome the conception of the system as a set of norms, and therefore the norm as the identifying and defining element of law: «La c.d. obiettività dell'ordinamento giuridico non può circoscriversi e limitarsi alle norme giuridiche […] ». This is because it:

> «parte sempre da un momento anteriore, logicamente e materialmente, alle norme, e […] arriva a dei momenti che non si possono identificare e confondere con quelli della posizione delle norme stesse. Il ché equivale a dire che queste sono o possono essere una parte dell'ordinamento giuridico, ma sono ben lontane dall'esaurirlo». (Romano, 1917, 22-23)

The same can be said of the sanction. According to the author, with perhaps a somewhat forced and paradoxical argument, if the sanction were the defining element of law, a *regressio ad infinitum* would occur on a theoretical level, since the legitimacy of any sanction would end up lying in the possibility of sanctioning its non-implementation by the entity obliged to do so.

Not only that. Romano points out how the sanctioning element could not be contained or formulated in a specific manner, and therefore not be contained in any rule, but be immanent and latent in the very gears, in the organic apparatus of the legal system

considered as a whole. It could be a force operating indirectly (Romano, 1917, 24). Thus, the existence of a set of valid norms would not precede but follow that of the legal system. The latter would be the presupposition of the norms, their container and framework. Therefore, it would not be resolved in them. There would be a formal element, which would precede the normative complex, containing it and using it as an instrumental complex: a 'system', of which the norms are no more than instruments, or 'pawns'.

What is this something that precedes, contains and utilizes the norm? Romano starts by identifying three elements that would characterise the legal phenomenon: 'the idea of *society*', '*the concept of social order*', '*the organisation, which advances and surpasses the norms, setting them as its own instruments*'. Therefore, what precedes, contains and utilises the norm is the social organisation itself, i.e., the institution considered as an entity, an objective legal order, which is objectively detectable by the observer's gaze. Indeed, for institution Romano means every entity or social body (Romano, 1917, 35).

Now, for a set of social elements to be considered an institution, it must have certain characteristics that make it something more than an ephemeral product of transient social relations. Let us follow the author's words here. Firstly, it must have an objective and concrete existence, and, as far as material, its individuality must be external and visible (Romano, 1917, 35).

Secondly, the institution is a social body or entity, since it is a manifestation of the social, not purely individual, nature of man (Romano, 1917, 36). What is interesting here is the expression 'social body'. This expression is by no means accidental: in perfect coherence with the author's subsequent path, it reveals the unitary and compact vision of the concept of institution, and therefore of law, envisioned by the author[1]:

> «l'istituzione è un ente chiuso, che può venire in considerazione in sé per sé, appunto perché ha una propria individualità, e infine l'istituzione è un'unità firma e permanente, che cioè non perde la sua identità, almeno sempre e necessariamente, il mutarsi dei singoli suoi elementi e da ciò deriva la possibilità di considerarla come un corpo a sestante, di non identificarla con ciò che può essere necessario a darle vita, ma che, dando le dita, si amalgama in essa». (Romano, 1917, 37)

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1 It should also be noted how much for Romano the form exceeds on the logical-legal level the material elements of the institution. As he writes: «[…] ciò non vuol dire che sostrato dell'istruzione di base debbono essere sempre di solamente degli uomini fra di loro collegati questa colleganza da luogo ad una forma particolare di dell'istruzione: alcune di esse risultano infatti, fra gli altri loro elementi, da più individui, che possono così coesistere o anche succedersi l'uno all'altro, uniti dei loro interessi comuni o continui, oppure da uno scopo, da una missione che venga da loro perseguita» (Romano, 1917, 36).

It is evident how unity is a fundamental category in the way Romano conceives the institution, society and law, according to his double equation. This is confirmed on several occasions. For ecample, when the author challenges the idea of law as a legal relationship, at the time supported by authoritative authors such as Cesarini-Sforza (1929), Romano states very clearly that «l'istituzione è unità; il rapporto, giuridico o non giuridico, postula la pluralità» (Romano, 1917, 61). In short, in a relationship the interacting parties agree from different points of view, preserving their difference, their individuality; but as the author writes, individuality is not 'law'.

Extending the reasoning, it is possible to observe Romano's expulsion of conflict from the very idea of law as an institution: since a legal relationship is not resolved in the stable union of its parts (the elements of the substratum) into an organic whole, those parts retain a division, and thus a conflict. That means that they remain parts, and as such divided.

Moreover, thinking the institution in this way, Romano seems to re-propose some features of the States schema of which he wants to get rid of. This re-proposition occurs both on the theoretical level – as a descriptive definition of the concept of law – and on the political level – as an ideological project.

On a theoretical level: if institution is the datum of social organisation, order cannot but appear as a presupposition, as a given. The institution is in itself a concrete fact, recordable as a unity of non-conflicting elements, i.e. undivided. Conflict is ignored, it is not part of the definition. So much so that even a revolutionary organisation is seen in the net of the effervescence, clashes and divergent visions that it bears. Already assimilated to a *pacified* unity, it is opposed in its entirety and from the outside to the predominant unity of the state, with the intention of replacing it entirely (Romano, 1947).

This irenic and unitary approach to the legal system does not fail even in the light of the second part of The Legal System, the part devoted to pluralism. In fact, while it is true that different institutions can coexist within the same social context, in various ways and with varying degrees of cooperation and even conflict, each of them remains within itself an already implicitly pacified entity. Conflict, change, social dynamism, disagreement, change, remain outside. Conflict always occurs, at most, between institutions, never in institutions.

On the ideological level: to clarify this point it is appropriate to go back to 1909, that is to the famous Pisan prolusion, *Lo Stato moderno e la sua crisi.* After registering the fatigue of state unity in the face of the proliferation of new intermediate bodies, Romano

suggests the need to recognise them as legal orders, inaugurating the investigation that would lead him to his best-known work. But in doing so, he declares that this recognition is necessary precisely in order to bring those instances, those organisations, back into the more complex and reassuring framework of the state. If on the one hand today's state organisation proves insufficient, by virtue of the need for new organisations, complementary to it but not contrary to it (Romano, 1910), on the other:

> «un principio sembra a noi che risulti sempre più esigente e indispensabile: il principio, cioè, di un'organizzazione superiore che unisca, contemperi e armonizzi le organizzazioni minori in cui la prima va specificandosi […] maggiori saranno i contrasti che dalla specificazione delle forze sociali e dalla loro cresciuta e organizzata potenza deriveranno, più indispensabile apparrà l'affermazione del principio, che il potere pubblico non potrà considerarsi che come indivisibile nella sua spettanza […]». (Romano, 1910, 38)

The real entity in which this principle will be increasingly affirmed, according to the author, can only be the state, the true personification of that broad and integral collectivity, which a momentary crisis may show in eclipse, but which is destined to acquire ever greater coherence and consistency. Therefore, not only conflict outside the institutions, but possibly not even between institutions, reconciled in the common membership of an organisation, a juridical order, greater and more solid that is the State "stupendous creation of law" (Romano, 1910, 16).

The duality of the norm

Re-reading Santi Romano, Norberto Bobbio suggests a path that it is perhaps worthwhile to attempt today:

> «[…] teoria dell'ordinamento e teoria della norma non erano affatto in contrasto fra loro: anzi, solo attraverso un recupero e un approfondimento della teoria normativa, cioè attraverso il riconoscimento dell'importanza delle norme di organizzazione accanto a quelle di condotta, o per usare l'espressione hartiana, delle norme secondarie accanto e oltre le norme primarie, si sarebbe risolta la maggior difficoltà della dottrina istituzionale, derivante dal fatto che il concetto

di diritto era stato definito risolvendolo nel concetto di organizzazione, ma il concetto di organizzazione non era stato ultimamente chiarito. Il concetto di organizzazione era rimasto non chiarito, perché l'unico modo di fare un passo avanti nella sua determinazione era di ricorrere alle norme di secondo grado, cioè a quelle norme che regolano il riconoscimento, la modificazione, la conservazione delle norme di primo grado, e che fanno di un insieme di rapporti intrecciantisi fra individui conviventi un tutto ordinato, appunto un ordinamento, o un sistema, se pure non nel senso di un sistema logico o etico ma nel senso kelseniano del sistema dinamico, mentre era chiaro che le norme che aveva in mente Romano quando respingeva la teoria normativa erano le norme primarie». (Bobbio, 2007, 145-146)

In short, what is missing in Romano's theory is a dynamic dimension, tensive we might say with Alfonso Catania (2007). That is, what the institutionalist equation of The Legal System fails to restore is the constant duality that runs through the life and concept of both law and institution, the relationship between the ontic and deontic planes, between being and having to be, in which social facts are never automatic occurrences, but are supported by a decisional, and therefore polemical, instance, in which factual behaviour is always in relation to the reasons for action. Thus, every real equilibrium, every observable order, is not a pure given but always, at least in part, a problematic, conflictual, political one.

Bobbio seems to suggest that this is caused by a lack of depth in the analysis of the concept of organisation: the concept of *law had been defined by resolving it in the concept of organisation, but the concept of organisation had not been clarified.*

We might perhaps add that this occurs on the basis of a misunderstanding, or at least an oversimplification that involves the main concept of Roman theory: the institution. What I mean is that the concept of institution is a good synonym for law precisely because, just like the legal phenomenon, it does not presuppose order but constitutively contains an ambivalent, even amphibological, dimension.

As Esposito states, institution has a constitutive relationship with the category of 'negation' (Esposito, 2021, 67). In short, institution is an intrinsically and profoundly ambivalent category, and not a unitary one. In some respects, it would have a double bipolarity. The first one lays in the relationship between the noun and verbal form, between *institutio* and *instituere*. The second one derives from the double 'contradictory tonality' that runs through both forms: the first tonality is that of an act of foundation

or establishment of something new that did not exist and which therefore refers back to something that changes. The second tonality refers to a static element, i.e., to an instance of preservation:

«[…] contemporaneamente, la novità istituita, più che un divenire, è uno Stato, un'entità destinata a stare, resistendo alla dissoluzione. In questo senso, paradossalmente, quello istituente è un movimento che tende a negarsi, vale a dire a creare immobilità». (Esposito, 2021, 68)

In other words, the institution is a dual concept, it refers to a double movement rather than a unity. It is characterised by an internal tension rather than a datitude. Roman institutionalism, despite its happy pluralist precipitate, risks obscuring this tension, due to its realist temptation. Indeed, it is precisely a matter of going beyond the 'real' datum, beyond the 'fact' of organisation, to explore the institution in its making. Indeed, pluralism itself - as a recognition of plurality - raises some questions. In agreement with Deleuze, we could define an institution as an indirect way of satisfying a tendency, through means that do not depend on it. And thus, as an organizational form that finds in functional utility only the smallest part of its explanation. So, Deleuze suggests, it is not enough to say that the institution is useful; we must also ask to whom is it useful?

«A tous ceux qui ont le besoin? Ou bien à quelques-uns (classe privilégiée), ou seulement même à ceux qui font marcher l'institution (bureaucratie)? Le problème sociologique le plus profond consiste donc à chercher quelle est cette autre instance dont dépendent directement les formes sociales de la satisfaction des tendances» (Deleuze, 1953, IX).

To address this question, following the suggestion offered by Bobbio in juxtaposing Romano and Hart seems particularly useful. Indeed, such juxtaposition traces a line that moves from the 'one' towards the 'two'. Rather than the completeness of an already established society, it looks at the dynamic incompleteness of a legal system always to be made, to be recognised. And therefore, to be questioned, problematized, redefined.

That The Concept of Law has a constitutive duality as its pivot seems almost obvious. In introducing a second level of rules, Hart also brings out a second element in the definition of law, which at this point no longer coincides solely with sanction, coercion and

obligation, but is enriched by the dynamic dimension of power. These secondary rules are in fact defined by Hart himself as *power conferring* norms: the dimension of prohibition and obligation is now placed side by side with the dimension of *agency* and *power*. This move allows Hart to introduce one of the most important and most complex - and therefore also most slippery - concepts of his theory: the distinction between external and internal point of view:

> «Most of the obscurities and distortions surrounding legal and political concepts arise from the fact that these essentially involve reference to what we have called the internal point of view: the view of those who do not merely record and predict behaviour conforming to rules, but *use* the rules as standards for the appraisal of their own and others' behaviour. This requires more detailed attention in the analysis of legal and political concepts than it has usually received». (Hart, 1961, 98)

Therefore, Hart calls for more attention to be paid to the link between political and legal concepts. Law is to be read as a union of primary and secondary rules, as an instrument with which different actors can behave on the basis of their own positions, needs, visions and interests. The secondary rules can be seen as the lens through which the author is able to detect change in law, its constantly tensive dimension.

Thus, the limit of what we have called Romano's institutionalist equation consists in the absence of an adequate consideration of the element of power, which is clear in Hartian normativism. Harts entrusts to the concept of secondary rules the task of explaining legal action; i.e., we might say, the *instituting agency*.

Among other things, this absence leads Romano towards the solution of the origin of the established order in a purely negative key, i.e., to the concept of *ius involontarium*. If this concept valorizes the immanent emergence of the social order from its very factuality, it immediately makes the conflictual charge of immanence disappear, eliminating the voluntarist element at the root.

By denying the will, immanence is immediately transformed into a datum. This datitude of the established order precludes from the solipsistic gaze of the privileged observer the conflictual problematic that works within the institution, constantly producing it and calling it into question, sacrificing and recovering those positions, needs, visions, interests and necessities that instead agitate in the syncretism between Hartian internal and external points of view and in the presence of secondary rules (Catania, 2022).

The empty place of power

On a political level, such elision risks precipitating into what Lefort, borrowing the expression from Merlau-Ponty, calls the *surplomb* gaze: a solipsistic detachment of the observer who claims to embrace the pressing unfolding of history at a glance and from a privileged position (Malinconico, 2020, 49).

Taking up Hart's invitation to pay attention to legal-political concepts, it is perhaps in the direction indicated by Lefort that we can maybe take a further step, in order to unhinge the limit of the legal form as an a-problematic datum, derived from the ontological presupposition of the social order. Perhaps, depoliticizing the concept of institution and, by extension, explaining the dynamism inherent in legal forms, implies to consider the inner duality of the social, the original split that runs through any form of associated life. This entails, however, renouncing any full foundation of transcendence, and turning to cleavage and conflict, in order to find an eternally rethinkable foundation, lacking both the guarantees and the constraints of a metaphysically grounded necessitating vision[2] .

In his attempt to identify the great historical change represented by the democratic revolution, Lefort ends up finding precisely in duality the key to the political. For Lefort, the political is a generating movement, the principle that determines society's representation of itself. However, the latter remains a *quasi-representation*, precisely for the impossibility, on the part of the subjects involved, of reaching that point of *surplomb* that would make it fully intelligible. Thus, in the Lefortian lexicon, the politician establishes society through a process of *mise-en-forme*, *mise-en-sens* and *mise-en-scène* that has its revolutionary turning point in the birth of democracy.

This is why Lefort sees modern democracy as the only regime capable of expressing the gap between the symbolic and the real, thanks to the notion of a power that no one can seize. In fact, the virtue of democracy consists in bringing society back to the test of its institution, for where an empty place looms, there is no possi-

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2 Since the mid-20th century, the post-foundationalist hypothesis has found precisely in the absence of ultimate ground the interpretive key to a political thought called upon to confront an increasingly widespread pluralism of values, visions and imaginaries. It is important to remember that post-foundationalism is not synonymous with anti-foundationalism, and that the absence of ultimate ground does not imply the absence of any ground. As Marchart summarizes: «The problem is therefore posed not in terms of no foundations (the logic of all-or-nothing), but in terms of contingent foundations. Hence, post- foundationalism does not stop after having assumed the absence of a final ground and so it does not turn into anti-foundationalist nihilism, existentialism or pluralism, all of which would assume the absence of any ground and would result in complete meaninglessness, absolute freedom or total autonomy. Nor does it turn into a sort of post-modern pluralism for which all meta-narratives have equally melted into air, for what is still accepted by post-foundationalism is the necessity for some grounds». (Marchart, 2007, 14).

ble connection between power, law and knowledge, nor is there any possible enun-
ciation of their foundation. The being of the social is subtracted, or rather given in
the form of the endless search, and the ultimate criteria of certainty are dissolved.
(Lefort, 1981).

It is from his seminal reading of Machiavelli[3] that Lefort finds this original social
cleavage. As he writes in *Le travail de l'œuvre Machiavel:*

> «C'est bien d'une opposition constitutive du politique qu'il faut parler, et irréduct-
> ible à prmière vue, non d'une distinction de fait, car ce qui le Grands sont les
> Grands et que le peuple est le peuple ce n'est pas qu'ils aient par leur fortune, par
> leur *mœurs*, ou leur fonction un statut distinct associé à des intérêts spécifiques et
> divergents; c'est Machiavel le dit sans ambages, quel es uns désirent commander et
> opprimer et les autres ne l'être pas». (Lefort, 1972, 382)

The most obvious reference here is to the well-known Chapter IX of *The Prince*, at
the beginning of which Machiavelli introduces the so-called theory of humours. Ac-
cording to the Florentine:

> «El principato è causato o dal populo o da grandi secondo che l'uno o l'altra di
> queste parte ne ha l'occasione: perché, vedendo e grandi non potere resistere al
> populo, cominciano a voltare la reputazione a uno di loro e faannolo principe per
> potere sotto la sua ombra sfogare il loro appetito; il populo ancora, vedendo non
> potere resistere a' grandi, voltare la reputazione a uno e fa lo principe per essere
> con la sua autorità difeso». (Machiavelli, 1971a, 271)

Machiavelli proposes a radical opposition between different and irreducible desires
(we might say instances), which are eternally present within the 'city'. On the one hand
the desire for domination, on the other one the desire for freedom; on the one hand
the limitless affirmation of the dominant, on the other one the pure negative (the de-
mand not to be oppressed) of the people. Far from disintegrating society, as in identity
theories, such a fracture is what grounds the coexistence. A coexistence that therefore
cannot be definitively pacified, but only controlled by a prince, who does not coincide

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3 Machiavelli's almost obsessive focus on duality resurfaces on every page, starting with the Florentine's style. So much so
that Asor Rosa has proposed to call Machiavelli's «dilemmatic logic» (Asor Rosa, 2019): a way of proceeding hinged on
the sharp contraposition between two elements that never find synthesis, but require a choice for the continuation of the
treatment.

with the 'sovereign', since he is never absolute, never freed from confrontation with the needs of that society he must direct.

Machiavelli returns to the subject in the fifth chapter of the first book of the *Discorsi*, in which he questions where the 'guard of freedom' is more surely placed, either in the 'people' or in the 'great ones' (Machiavelli, 1971b, 87). Lefort sees in these pages a confrontation between the 'liberal democratic thesis' and the 'conservative aristocratic thesis'. The lust for conservation traditionally attributed to the great ones is but a fiction. Since no desire can be fully satisfied, the thirst for power and possessions of the great must be considered insatiable. It is precisely because of this irrepressible desire to dominate that the great cannot be fit to constitute a good guardian of the liberty of a republic[4] .

The laws that shape the republic must therefore take into account the agitation of these two opposing moods:

> E però non è cosa che faccia tanto stabile e ferma una republica, quanto ordinare quella in modo che l'alterazione di quegli omori che l'agitano, abbia una via da sfogarsi ordinata dalle leggi». (Machiavelli, 1971b, 87)

The very stability of the republican order derives from the institutional assumption of the original conflict that agitates coexistence. It follows that conflictuality cannot be expelled in the moment of a founding agreement, but must be envisaged as permanent and formalized in a normative-institutional set-up that governs the parties of citizens.

Although in many passages of Machiavelli's work, the figure of the prince seems to stand alone in the task of ordering the republic, the duality of the original conflict runs through it unceasingly. Machiavelli's prince is a set of opposing yet co-existing elements. He must be fox and lion, and before that man and beast, for there are two ways to fight: with laws and with violence. Above all, the prince must rely on two

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4 Machiavelli's preference for an alliance of the prince with the people is on the other hand clear right from the pages of The Prince. Immediately after having established the original division between the great and the people, the author continues: «Colui che viene al principato con lo aiuto de' grandi si mantiene con più difficultà che quello che diventa con lo aiuto del populo, perché si trova principe con di molti intorno che gli paiono essere sua equali, e per questo non gli può né comandare né maneggiarea suo modo. Ma colui che arriva al principato con il favore populare vi si trova solo e ha dintorno o nessuno o pochissimi che non sieno parati a ubbidire. Oltre a questo, non si può con onestà satisfare a' grandi e sanza iniuria di altri, ma sì bene al populo: perché quello del populo è più onesto fine che quello de› grandi volendo questi opprimere e quello non essere oppresso. Praeterea, del populo inimico uno principe non si può mai assicurare per essere troppi; de' grandi si può assicurare per essere pochi. El peggio che possa aspettare uno principe dal populo inimico è lo essere abbaondato da lui; ma da' grandi inimici non solo debbe temere di essere abbandonato, ma etiam che loro li venghino contro; perché sendo in quelli più vedere e più astuzia, avanzano sempre tempo per salvarsi e cercano gradi con quello che sperano che vinca. È necessitato ancora el principe vivere sempre con quello medesimo populo, ma può bene fare sanza quelli medesimi grandi, potendo farne e disfarne ogni dì, e torre e dare a sua posta reputazione loro» (Machiavelli, 1971, 271).

distinct and opposing elements: his own virtue, the knowledge of the things of history and discernment, and fortune, chance, the historical and immanent changing of events. Neither all virtue nor all luck therefore, the prince is called upon rather to exercise 'a fortunate cunning'.

It is no coincidence that Machiaveli evokes the figure of the centaur: a hybrid being, who combines animality and humanity, violence and control, Machiavelli's centaur is the prince's master because it is from him that those who order the republic must learn to tame the unstable coexistence of the two souls, of the two humours[5] . The centaur becomes the representation of an order that, in order to last, must take charge of its own internal conflict, using both aspects of its dual nature to tame a reality that is reluctant to any stability. The prince then must to have for a tutor someone who is half beast and half man, for he must know how to use both natures, since one without the other is not durable (Machiavelli, 1971a, 18).

This hybridisation refers in turn to an absence: that of a human nature that can guarantee a minimal truth on which to build a peaceful order, albeit through rational artifice[6]. Precisely with regard to the role that the theory of humours plays in Machiavelli, Lefort highlights the fact that Machiavelli does not rely on any anthropological assumptions about human nature:

> «Even if this were the case, the positive 'content' of these assumptions would not affect the argument as to the original division, since the latter is construed in merely 'negative' fashion: Lefort observes that the nature of the two humours, and, as a consequence, of the two classes is entirely relational. Their very existence

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5 Obviously, the duality of this image stands out even more when compared with that of another mythical beast, used as a political metaphor. Of course, we are speaking about Hobbes' Leviathan. As Galli has pointed out, handing us a true baroque fresco: «Il centauro differisce dal leviatano perché li separa l'Idra furiosa delle guerre civili di religione di religione, che hanno divampato in Europa per quasi un secolo e mezzo, la malinconia della crisi dell'umanesimo, la scoperta del nuovo mondo in America, e la nuova energia ribelle del soggetto protestante» (Galli, 2011, IX).
The importance of the figure of the Centaur in Machiavelli is also highlighted by Roberto Esposito. In the duplicity of this figure, he sees the symbol of the split the forms of modern subjectivity have desperately tried to unify, but they inevitably hid: «Il doppio dà l'immagine della soggettivita moderna come forma e come scissione e insieme come prevalere della scissione sulla forma. Niente lo materializza meglio del concetto-simbolo del Centauro, nella raffigurazione mitico-antropomorfica che ne offre Machiavelli. In esso tutti i contrari – il loro conflitto e la loro complementarita – di cui il testo è carico, riempito, ‹formato›, si condensano in un emblema di eccezionale forza esplicativa. Diviso, spezzato, tra uomo e bestia, legge e forza, ordine e potenza, il soggetto, per poter 'consistere', per rimandare, differire, negare la necessità della propria finitezza, deve 'finire' come intero, morire in quanto soggetto uomo, incorporare la propria differenza, il proprio altro, la propria in/umanità» (Esposito, 1984, 34).
6 The reference to a universal anthropology is precisely what Hobbes will use more than a century later to argue for his own rational laws of nature, and with them the need for the molar entity of the Leviathan-State (Hobbes, 1651).

> is based on their confrontation. Resolve this original confrontation and, together
> with society, the identity of the two classes will disappear, since they exist only by
> virtue of their mutual confrontation». (Marchart, 2007, 100)

If even human nature cannot guarantee institutional construction, the only hope for (relative) order remains the ability to take on that same original negative: to include that duality at the very core of the social order. Freedom and domination, law and power, form and *dynamis,* law and politics, form a series of inseparable dyads that revolve around a place of power that remains empty.

Then, for Lefort the political is the 'photographing'. That is to say, political is the process of in-forming the conflict. But this shaping can only occur by virtue of the existence of a 'photographer', namely power, that 'other place' that acts as a symbolic mediator of the conflict. (Malinconico, 2020, 292).

Yet, the *mise-en-scène* and the *mise-en-forme* of power obscure that original conflict from which the image of its own order emerges, showing the phantom of a social body united to its leader, perfectly whole and undivided: a social body which is identical to itself. The phantom of identity secured until the disappearance of the *ancient regime* by the transcendent foundation of religious matrix, according to Lefort is given in modernity by ideologies. It is ideology, as the *mise-en-scène* of power, that in-forms conflict according to a given image. It follows that what distinguishes democracy from other forms of ideology (including totalitarianism) «is the fact that democracy does not occults general condition of the absence of a positive ground, but it institutionally recognizes and discursively actualizes it» (Marchart, 2007, 107).

This is indeed a relevenat difference, which introduces into the core of the *mise-en-scène* of power the perturbing novelty of democratic *incertitude*: the subsistence of power as an *aniconic absence*, and the consequent establishment of a permanent conflict.

In other words, what Lefort sees in democracy is *an aniconic* power, in which the ordering role of the symbolic is not overcome, but can only act through its ontological indeterminacy. The throne remains at the core of representation, but as a void, as an empty place. It is this very emptiness that constantly founds coexistence, through the political. Eternally re-appropriable and disputable, the symbolic order of institutions represents itself without hiding the empty and conflicting background from which it emerges. By revealing itself as originally conflictual, the democratic *mise-en-scène* opens itself up to the possibilities of the instituting. Bound to law by the Romanian

equation to, but split from within between being and doing, between ontic and deontic, between its luminous and its obscure side, the institution also brings out the tension of the law that is glimpsed in the syncretic vision of *internal* and *external point of view* (Catania, 2008), unmasking its inescapable political background.

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