

# **On the ‘essence’ of the modern-secular Political: the case of the interwar national-statist regimes; a constitutional-theoretical and theologico-political approach.**

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**Abstract** – The following paper examines a few issues pertaining to the question of the relations between ‘the secular’ and ‘the religious’ in modern political and constitutional orders. The supposed non-religious nature of the modern Political will be debated. It will be argued that: (i) the modern Political has not simply ‘left’ the ‘religious form’ but is now concretely the *locus* of new mundane/immanent Supreme Goods/Supreme Values – of a *Summum Bonum* that sometimes may even be imagined as the unique, exclusive and unlimited source of all value and normativity (ii) the separation between the political and the religious spheres cannot be regarded as something destined to occur ‘naturally’ in modern political and constitutional orders (iii) one can encounter a few truly Christian-Catholic orders in modern political contexts. The interwar regimes often categorized as authoritarian or totalitarian or fascist will be taken as a main empirical gateway into this thus revamped characterization of the ‘essence’ of the modern Political. The circumscription of these political phenomena shall also be a pretext to re-examine the *vexata quaestio* of the fundamental identity and difference between these regimes. It will be shown that some regimes saw the political community as an absolute good for human beings; and that others did not – some even limiting themselves by reference to a Norm beyond the Political. This study will recover constitutional theory as a comprehensive analytical discourse and will use the idea of the Political as a *locus* of (the recognition of) a Supreme Good as a guiding interpretative hypothesis of the political phenomena. A dialogue will be conducted with some critical theories of modernity/secularity, with the area of studies grouped around the theme *sacralisation of politics* and the topic *political religions*, and the burgeoning academic field of comparative fascist studies.

*For all of us there is, without doubt, something in which we put a special axiological esteem, because we feel it more valuable than anything else, and to which we, consciously or unconsciously, subordinate, in our judgments and practical evaluations, all other things. Thus, for example, for the elites of the capitalist era this higher value laid in the maximum yield of economic goods, expressed in the value of money – Mammonism. As for the nationalists that maximum value is the nation, for the men of science, of the Faust type, infinite knowledge, and for D. Juan, finally, the permanent conquest of women. In principle, all worldly goods can be erected, in this sphere or plane of the absolute, to the status of real and maximum goods and values in the service of which are invested all our longings for the infinite. But here we will always be faced with so many cases of idolatry, where the finite good is booted from the system of the remainder worldly goods, to which it belongs, and starts to be loved and sought with a passion that is not in harmony with its objective meaning; Man will then be magically tied to his idol and dependent thereon as on a god.*

Max Scheler, *Vom Ewigen im Menschen* [On the Eternal in Man], 1921, pp 559 e 561.

# § 1.º

## Argument<sup>1</sup>

The time into which we are thrown (to use Heidegger's terminology) seems to be that of a *return of religion*. The signs thereof are overwhelming; let us just remember a few barefaced examples: the new total/universal/global Islamic political movements, the recent linking of the 'national' to the 'religious' in the USA, the politico-symbolic battles around the constitutional foundation of the European Union via *Invocatio Dei* or the connection of the 'European' to the 'religious-Christian', the debates among public philosophers and intellectuals (e.g. Habermas, Charles Taylor) about the meaning and scope of the presence of 'religion' and 'religious reasons' in the public sphere, the emergence of hyper-sophisticated neo-traditional Catholic intellectual movements in the global scene.<sup>2</sup>

According to some authors we can now finally see the secular nature of secularity as what it always was: *an illusion*.<sup>3</sup>

Against this background, I will address the thesis according to which the modern Political sphere is a 'space' of absence of the 'religious'/a space not defined by

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<sup>1</sup> I am exceptionally grateful to Raquel Barradas de Freitas. I am indebted to Professor Armando Marques Guedes, Jorge Azevedo Correia and Francisco Corboz who read and commented profusely on a first version of this paper.

<sup>2</sup> I have in mind the movement that calls itself *Radical Orthodoxy*. About this movement see: John Milbank/Simon Olivier, *The Radical Orthodoxy Reader*, (London, New York: Routledge, 2009), especially John Milbank's afterword entitled *The grandeur of reason and the perversity of rationalism: Radical Orthodoxy's first decade* (pp. 367 to 404).

<sup>3</sup> For a description of the present time as the time of the return of religion and discovery of the secular illusion see, for example, John Gray, *Black Mass: Apocalyptic Religion and the death of Utopia*, (London: Penguin Books, 2007). For another angle, see Graham Ward, *True Religion*, (Oxford: Blackwell Press, 2003).

‘religion’. This thesis still seems to underlie the hegemonic mainstream, and is even conveyed in very recent ‘revisionist revisions’ of the theme of secularization<sup>4</sup>

I will not deny that there is an essential nucleus of truth in this thesis. In fact, ‘normally’ and ‘naturally’, modern political and constitutional orders are no longer structured by

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<sup>4</sup> See Charles Taylor, *A Secular Age*, (Cambridge, Massachusetts, and London, England: The Belknap Press of Harvard University Press, 2007), p 1 and 2. For some, the observation that in modernity the *secularization of the state, law, legal normativity* is a *general and verifiable phenomenon* seems to be the essential and especially resilient core of the concept of secularization – see, for example, Antonio Flávio Pierucci, *Secularization in Max Weber, On current usefulness of re-accessing that old meaning*, in *Brazilian Review of Social Sciences*, special issue, no. 1, 2000, especially pp 151 to 152. Various meanings have been associated to the concepts secularism/secularization/secular in addition to the ones mentioned in the main text: weakening of beliefs, practices and religious institutions (the Christian maximally); privatization of religion; differentiation of a sub-religious non-political sphere, the necessity/‘naturalness’ of the occurrence of these realities and processes. Recently, Charles Taylor referred to the gradual establishment of a hyper-reflective and questioning mental form, a form in which even the believers themselves participate. The author also notes that contemporary Western societies are informed by a worldview in which there is no place for a transcendent reality (*immanent frame*). In recent decades, the concept has been subjected to various types of deconstruction. In sociological quarters, the existence or the inevitability/naturalness of a phenomenon of privatization of religion has been denied – as has the weakening of the social effectiveness of religion in modernity. Such was the sense of the seminal work of José Casanova at the end of the 80’s, noting the reemergence of religion in the public sphere - see José Casanova, *Public Religions in the Modern World*, (Chicago: Chicago University Press, 1994). As a matter of empirical observation, Peter Berger diagnosed our time as a time of a desecularization of the world – see Peter Berger, *The Desecularization of the World: Global Overview*, in Peter Berger (ed.), *The Desecularization of the world, Resurgent Religion and World Politics*, (Washington, Grand Rapids, Michigan: Ethics and Public Policy Center/Wm. B. Eerdmans Publishing Co, 1999), pp 1 to 18. In other quarters, a different revisionism, a revisionist of a neo-Weberian stamp, has denied the very existence of such a thing as secularization, arguing that in modernity religion has only transmuted into more private and expressivist forms (supposedly the ones most in keeping with the essence of religion ...) – see John Milbank, *Review Article, A Closer Walk on The Wild Side: some comments on Charles Taylor’s A Secular Age*, in *Studies in Christian Ethics*, Vol. 22 No. 1, 2009, p. 90. In our days, the secular/secularity/secularization have been narrated as ‘fortuitous events’/‘inventions’/‘fictions’/‘myths’ and no longer, a-culturally, as inevitable/necessary/‘natural’ realities, as in Weber (it seems ) or in (most of) the sociologies of religion (it seems) – see, in addition to the aforementioned work of Charles Taylor, John Milbank, *Theology and Social Theory: Beyond Secular Reason*, 2nd. ed., (Oxford: Blackwell Publishing, 2006), in particular its first chapter. In the following text I shall focus on the philosophical deconstruction of the supposed post-religious/post-Christian nature of secularity.

reference to a transcendent reality or good. Modern political and constitutional orders structure themselves as assignments of value to worldly realities – the modern Political is an immanent/immanentised Political. But to this I shall add that the thesis is in fact the vehicle of a fundamental illusion: one cannot say that in Modernity the Political has simply ‘left’ the ‘religious’ or is destined to be ‘naturally’ separated from the ‘traditional religions’.

I will take as direct and immediate empirical gateway to this reinterpretation of the ‘essence’ of the modern Political a certain type of political and constitutional orders – regimes that one can in a certain sense ‘detach’ from the *mapa mundi* of the political phenomena attending to the ‘fact’ that, in all of them, the political community, the National State, was the good that directed the definition and actualization of order. Here the Nation-State releases, or tends to release itself, from liberal politics, exceeds or tends to exceed the norms of the liberal Political. What I have in mind is a series of regimes which crystallized in the heart of the twentieth century, namely in the interwar years (*lato sensu*).

[The regimes considered here are the following: the regime that was *in fieri* in Spain under the leadership of Miguel Primo de Rivera, the Spanish regime founded by Francisco Franco, the *Austrian State* founded by Engelbert Dollfuss and continued by Kurt von Schuschnigg, the Hungarian regime established by the pair Horthy Bethlen, the *French State* (The Vichy regime), the Greek regime of the 4<sup>th</sup> of August (the Metaxas regime), The *Independent Croatian State*, the new *Slovak State*, the Szálasi political and constitutional episode in Hungary, the Romanian *National Legionary State*, the Polish regime *Sanaja* founded by Piłsudski, the new post-liberal-democratic Baltic regimes<sup>5</sup>, the regime of King Carol II of Romania, the new regime founded by King Alexander of Yugoslavia, the politico-constitutional experiment directed by Getúlio Vargas in Brazil, in Bulgaria the Zveno regime and the regime founded by King Boris, the Fascist Regime, the National Socialist Regime. These political and constitutional experiments tended to construct, more or less intensely, a National State that was quintessentially ‘national-statist’, a Communitarian-‘monoarchic’ order<sup>6</sup>. The National-Liberal (-democratic) state was in the process of being overruled by this new figure in those political contexts.<sup>7]</sup><sup>8</sup>.

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<sup>5</sup> The new regime *in fieri* in Estonia from 1934 onwards; the new regime established in Latvia also after 1934; in Lithuania, the new configurations of order founded by Smetona and Voldemaras (after 1926) and then by Smetona (after the end of 1929).

<sup>6</sup> In the classic sense of a regime in which political Power is invested in one person.

<sup>7</sup> I have based my formulation of this minimal characterization of these political phenomena on the following books: Michael Mann, *Fascists*, (New York: Cambridge University Press Cambridge, 2004), pp 1 to 91; Eric Voegelin, *The Authoritarian State, An Essay on the Problem of the Austrian State*, 4.th

The circumscription of these political phenomena shall also be a pretext for us to re-examine in a new light the *vexata quaestio* of the fundamental identity and difference between the regimes usually categorized as authoritarian or totalitarian or fascist. It will be shown that there is a fundamental qualitative difference<sup>9</sup> in the *axiological estimations*<sup>10</sup> around which those regimes were constituted – it will be seen that some regimes considered the political community an absolute good for human beings; and that others didn't, some even limiting themselves by reference to a Christian Norm beyond the Political.

An examination of the mentioned cluster of regimes can disclose the 'natural' configuration' of the modern-secular Political:

Modern political societies almost never structure themselves by reference to a transcendent Norm. In that cluster, we recognize the exceptions which reveal the norm. Some of those regimes were rare modern instances of a Christian-Catholic constitutional idea. In those regimes, and in spite of the basic ordering presence of the paradigm of the modern National State<sup>11</sup>, the political and social order was constructed as an order receiving a Christian-Catholic identity, internal structure and external norm: The Spanish regime founded by Franco in its second phase – opened after the foundational period – and the *Austrian State*, are the concrete cases I have in mind. The former differentiated itself by having perfectly updated the politico-constitutional matrix called, in the Catholic tradition, *Christian public law*.

[After 1942 (after the second post-war-certainly) the Franco regime was founded as an order of *Christian public law*, an order that: (i) *provides public and collective worship to God* (ii) *draws its legislation from*

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vol. of *The Collected Works of Eric Voegelin*, (Columbia/London: University of Missouri, 1999), pp 57 a 106 [English version of Eric Voegelin, *Der autoritäre Staat: Ein Versuch über das österreichische Staatsproblem*, (Viena: Verlag von Julius Springer, 1936)].

<sup>8</sup> In the following presentation of the empirical nucleus of this study I will provide just a few illustrative bibliographic indications in English. The references selected from the vast bibliographic universe that could be summoned will be those considered relevant from the theoretical-constitutional and theologico-political perspective that guides this study.

<sup>9</sup> Or, in hegelian terms, differences of degree, quantity, of such intensity that become qualitative differences.

<sup>10</sup> To use Max Scheler's language.

<sup>11</sup> A modern – immanent – trait which ensures that these orders cannot be seen as pre-modern excrescences.

*an unchanging moral order whose foundation is religious [Christian-catholic] (iii) protects the Catholic religion as the only religion that can act publicly*<sup>12</sup>. The idea of a traditional Catholic monarchy was the regime's ordering paradigm – the conscious choice of a type of pre-modern constitutional law (fundamental laws) emerged in this context.<sup>13</sup> The *Austrian State* was founded (Constitution of 1934) through an *invocatio Dei* and as a *Christian State*<sup>14</sup>; it was based in a principle of freedom of the Church<sup>15</sup> and in a concordatarian principle<sup>16</sup>; its founding fathers sought to mould the new order according to the contemporary update of the Catholic political and constitutional tradition expressed in the papal encyclical *Quadragesimo Anno* (15 May 1931)]<sup>17</sup>

Other regimes tended to construct a monistic/monadic nation-state – evoking a fascist image of the political community (see below) – carrying a Catholic substance. In spite of that first constitutive trait, there was still here, in final analysis, a 'transcendentist' moment, the political order being intrinsically subjected to a catholic normativity beyond itself. The final period of the constitutional experiment led by Primo de Rivera and a first phase of the Francoist regime actualised this concept of order. [In the terminal phase of the constitutional experiment led by Primo de Rivera, a new neo-traditional Catholic constitutional discourse crystallized, conveying a new idea of order in which the nation state, though more or less thought of as a

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<sup>12</sup> Here I follow the Spanish constitutionalist Miguel Ayuso.

<sup>13</sup> Within the process of implementation of a neo-traditional constitutional paradigm, the Franco regime would gradually move towards an approach to the liberal-democratic constitutional paradigm, following in this the ongoing redefinition of the Catholic constitutional tradition by the Church of Rome that culminated in the ecumenical council Vatican II. That shift was in itself a sign of the regime's allegiance to an exterior Catholic normativity.

<sup>14</sup> *In the name of God Almighty, from Whom all law emanates, the Austrian people receives to its Christian, German State the following constitution based on the corporative principle* [preamble to the Constitution of 1934].

<sup>15</sup> In the strict sense of protection of the autonomy of the Church-institution and in the more comprehensive sense of guarantee of the autonomy of the individual and social areas seen as non-political autonomous spaces in the Christian-Catholic worldview.

<sup>16</sup> Before the very foundation of the new state, a Concordat with the Catholic Church was signed, which was later sanctioned in the first hour of the Austrian State (May 1, 1934 – promulgation of the new Constitution).

<sup>17</sup> See: Javier Tusell, *From dictatorship to democracy 1939 To The Present*, Translated By Rosemary Clark, (Oxford: Blackwell, 2007), pp. 1 – 269; José Casanova, *Public religions in the modern world*, Chicago: (Chicago University Press, 1994), pp 75 to 91 (*Spain: From State Church to Disestablishment*). Fr. Johannes Messner, *Dollfuss An Austrian Patriot*, (Norfolk, VA: Gates of Viena Books, 2004); Robert Pyrah, 'Enacting Encyclicals? Cultural Politics and 'Clerical Fascism' in Austria, 1933-1938', in *Totalitarian Movements and Political Religions*, Vol. 8, No. 2, 2007, pp 369 – 382; Alfred Diamant, *Austrian Catholics and the First Republic, 1918-1934: A Study in Anti-Democratic Thought*, in *The Western Political Quarterly*, Vol. 10, No. 3, 1957, 603-633.

modern monistic unity, was conceived as inherently inseparable from Catholicism, the Catholic Tradition and the Church-institution. Continuing this Idea, the Franco regime seemed in its initial phase to strive for the realization of a monistic-catholic concept of order: according to a formula combining *personal power* (the power of the sovereign founding father) and a *Catholic essential normativity*, and *fascist legal totalitarianism* with *Catholic substantiality*.]<sup>18</sup>

A fundamental ‘transcendentist’ intentionality gave form to the Portuguese *Estado Novo* (New State): the regime established itself (in the intended design of its founder Salazar) as an order limited by reference to an external Christian-(catholic) ethical norm [The New State crystallized as a synthesis between the paradigm of the modern nation state and the Catholic tradition of organization and limitation of the Political. Eloquently, in the Constitution of 1933 – the fundamental law of the regime – *sovereignty* (absolute and unlimited power... ) appeared paradoxically defined as a sovereignty that recognized *morality* (and *law*) as its *limit* (art. 4.)<sup>19</sup>].<sup>20</sup>

A closer examination of the mentioned orders generates a well founded suspicion about the possibility of conceiving the modern Political as ‘way out’ or ‘absence’ of the ‘religious’; as a ‘de-sacralised’ Political.

It is clear that a formal ‘equivalence’ or ‘analogy’ between the structure of modern intra-mundane political and constitutional orders and the structure of pre-modern political and constitutional orders can be noted:

Like the pre-modern orders, the inner-worldly regimes appear as the embodiment of a Supreme Good, as orders articulated by reference to something regarded as having

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<sup>18</sup> See Agustín José Menéndez, *From Republicanism to Fascist Ideology under the Early Franquismo*, in Christian Joerges And Navraj Singh Ghaleigh ed., *Darker Legacies of Law in Europe, The Shadow of National Socialism and Fascism over Europe and its Legal Traditions*, (Oxford and Portland, Oregon: Hart Publishing, 2003), pp337 to 360.

<sup>19</sup> The Concordat of 1940 crowned the synthesis. The synthesis was progressively developed and made transparent: in 1935, it was inscribed in the constitution that a Christian Catholic conception of The Good should be ministered in the public schools; the constitutional revision of 1951 publicly recognized the Catholic religion as *religion of the Portuguese nation* without suppressing the established principle of separation of state and religion.

<sup>20</sup> About the *Estado Novo* see: António Costa Pinto and Maria Inácia Rezola, *Political Catholicism, Crisis of Democracy and Salazar's New State in Portugal*, in *Totalitarian Movements and Political Religions*, Vol. 8, No. 2, 2007, pp. 353 – 368; António Costa Pinto, *Twentieth-Century Portugal: An Introduction*, in António Costa Pinto ed. *Modern Portugal*, (Palo Alto, California: The Society for the Promotion of Science and Scholarship, 1998), pp. 12 to 40; Nuno G. Monteiro, António Costa Pinto, *Cultural Myths and Portuguese National Identity*, in António Costa Pinto ed., *Modern Portugal*, ..., pp. 213 a 215.

eminent value/normativity; a good that may even be imagined as an Absolute Good, as the sole, exclusive, unconditional, unlimited source of all value/normativity.<sup>21</sup>

Both the Fascist regime and the National Socialist regime imagined the political community as an Absolute Good. In both regimes a communitarian(-monoarchival) *logos* reigned unconditionally.<sup>22</sup>

In the first case, the *State* could indeed be explicitly understood – in an increasingly abstract way – as the *Absolute* and enacted as such<sup>23</sup>. In the second case, emerged a *sui generis* explicit assignment of all axiologico-normative authority to an historical figure embodying the political community – the exclusive source of truth and value<sup>24</sup>. There was here a moment of analogy with the figures of the divine rulers of the ancient and ‘enchanted’ orders – in the National Socialist constitutional discourse the *Führer* Hitler

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<sup>21</sup> The expression absolute does not signify here any adoption of idealist metaphysics.

<sup>22</sup> The Portuguese philosopher António José de Brito captured this guiding logic in a very expressive way: *The rest follows logically* (from the absolutisation of the state). *If the State is above the individuals, the power of the State cannot come from these. If the State is one, given the multitude of individuals, its sovereignty must be found in the hands of one man and whatever menaces the unity of the State, parties, secret associations, etc.. should be banned. And the existence of an elitist organization that seeks to raise the mass of citizens to the passionate service of the State is an imperative* [António José de Brito, *O Totalitarismo de Platão*, in *Ensaios de Filosofia do Direito*, (Lisboa: Imprensa Nacional Casa da Moeda), 2006, pp 167-168.].

<sup>23</sup> In the famous *Dottrina del Fascismo* co-written by Giovanni Gentile and Benito Mussolini, the State was explicitly identified as the Absolute, for example. The fascist political and constitutional experience had as its ordering idea a principle of unity of the Political Community; monistic, self-referential and abstract unity. The *logos* of the Modern State was here re-updated. On the fascist regime’s gestalt see Philip Morgan, *Italian Fascism 1915–1945*, 2nd. ed., Basingstoke, Hampshire, New York, 2004), pp 76 to 175 and John Pollard, *The Fascist Experience in Italy*, (London and New York: Routledge, 1998), pp 39 to 91 and 121 to 132.

<sup>24</sup> About the specific national-socialist ordering idea see: Oliver Lepsius, *The Problem of Perceptions of National Socialist Law or: Was there a Constitutional Theory of National Socialism?*, in Christian Joerges/ Navraj Singh Ghaleigh (dir.), *Darker Legacies of Law in Europe*, Hart Publishing, Oxford, 2003, pp 19 a 41; Michael Stolleis, *The Law under the Swastika, Studies on Legal History in Nazi Germany*, (Chicago/London: The University of Chicago Press, 1998) and Klaus Vondung, *National Socialism as a Political Religion: Potentials and Limits of an Analytical Concept* , in *Totalitarian Movements and Political Religions*, Vol. 6, No. 1, 2000, pp 587–95.

appeared explicitly as a semi-god<sup>25</sup>. In the two regimes the hypothesis of replacing Christianity as the ‘infrastructural’ grammar of collective existence was virtually present – most strongly in the case of the Third Reich.[One has in mind the syncretistic attempts to re-institutionalize the Christian symbolic universe in an Aryan German sense, and also the fact that a sector of the national-socialist galaxy explicitly favored the replacement of Christianity by a new German *mythos* (Erich Ludendorff, Alfred Rosenberg, Heinrich Himmler) <sup>26</sup>. In the Italian case, a part from the episode of the establishment of a school of fascist mystique and the attempts to superimpose a new liturgy to the Italian quotidian, we refer to the possibility, more or else implicit in fascist theory and practise, that an ideal communitarian *forma mentis* could in future define and exhaust the meaning and be the purpose of all human action<sup>27</sup>].

There were other cases of ‘absolutisation’ of the political community. Some regimes had as their exclusive and unconditional purpose the establishment of ethnically homogeneous political communities. We refer to the *National Legionary State*, the *Independent Croatian State*, and to Hungary in the final period of the Horthy regime and under the *imperium* of the Arrow Cross movement. [These regimes gained existence by the evocation of a pseudo-Christian identity. In all these cases a qualitative distinction between the *ethnos* and rest was an ordering principle. In the *Independent Croatian State*, a constitutive Catholic identity reference seems to have been instrumental – ‘covering ideology’ – in a process of ethnocentric social engineering. The *Legion of the Archangel Michael*<sup>28</sup> – the political movement that supported the *National Legionary State* – carried a national-ethnic messianic ideal embedded in its institutive creedal (eastern-

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<sup>25</sup> In Karl Larenz and Binder, as Massimo La Torre showed [M. La Torre, *La lotta contra il diritto soggettivo: Karl Larenz et la dottrina giuridica nationalsocialista*, Milan, 1988].

<sup>26</sup>. Hitler distanced himself from this galaxy. In all these matters he was still a liberal, strictly attached to the neatness of the division between the domain of the state and the spiritual domain of the churches; like nineteenth century secular liberals he hoped that the progress of science and of its social effectiveness would mean the withdrawal of Christianity; not without announcing a final *Kulturkampf* against the Church after the expected German victory in the war. See: Emilio Gentile, *New idols: Catholicism in the face of Fascist Totalitarianism*, in *Journal of Modern Italian Studies*, Vol. 11, No 2, 2006, pp 143 – 170; Eric Voegelin, *Hitler and the Germans*, Eric Voegelin, *Hitler And The Germans, volume 31 the collected works of Eric Voegelin*, translated, edited, and with an introduction by Detlev Clemens and Brendan Purcell, (Columbia and London: University of Missouri press, 1999), pp 121 to 129. Richard Steigmann-Gall, *The Holy Reich, Nazi conceptions of Christianity, 1919-1945*, (Cambridge New York: Cambridge University Press, 2003). Karla Poewe, *New Religions and the Nazis*, New York and London: Routledge, 2006).

<sup>27</sup> On the fascist primal and virtually all embracing communitarian ‘mode of experience’ see, in its concluding remarks, S. Falasca-Zamponi, *Fascist Spectacle: the Aesthetics of Power in Mussolini’s Italy*, Berkeley, Los Angeles and London: University of California Press, 1997).

<sup>28</sup> Iron Guard

)Orthodox confession. In Hungary, at the end of the regime, the ‘Christian’-racialist peripheral segment of the governing class moved to the centre of the political scene. The *Arrow Cross* movement was a racist movement with a social-Darwinist concept of order, and one not without sympathies for a pagan exemplary past.]<sup>29</sup>. In the *Slovak state*, a fundamentally ethnocentric regime crystallized behind, or/and in contravention to, a constitutional law which received a Christian(-Catholic) definition. [The Constitution of July 21, 1939 that gave form to new regime proclaimed a *national Christian community*. The governing class would deviate in practice and in theory from a Christian-Catholic concept of order – ethnocentric politics; racial notions in the definition of certain categories of the population. Part of the governing class even adopted a national-socialist set of principles. Public law moved in the direction of a national socialist paradigm]<sup>30</sup>

Other regimes instituted themselves by elevating the political community to a status of eminent ordering good, but that good did not absorb – or did not absorb ‘perfectly’ – all axiological-normative authority. Their projects of order were not informed, after all, by a monistic vision of the political community – here the political community was not projected as a totality identical to itself. We have in mind the Polish *Sanaja* Regime, the new Baltic regimes, the regime founded by King Carol II of Romania<sup>31</sup>, the regime founded by King Alexander of Yugoslavia, the new Bulgarian orders, but also Hungary under Horthy and Bethlen, the Primo de Rivera regime in its middle phase, the *French*

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<sup>29</sup> See: Nevenko Bartulin, *The Ideology of Nation and Race: The Croatian Ustasha Regime and its policies toward minorities in the Independent State of Croatia, 1941-1945*, (University of New South Wales, A thesis submitted in fulfilment of the requirements for the degree of Doctor of Philosophy, Novembro de 2006); Mark Biondichi, *Religion and Nation in Wartime Croatia: Reflections on the Ustaša Policy of Forced Religious Conversions, 1941–1942*, in *The Slavonic and East European Review*, Vol.83, No.1, 2005, pp. 71-116. Stanley G. Payne, *The NDH State in Comparative Perspective*, in *Totalitarian Movements and Political Religions*, Vol. 7, No. 4, 409–415. Radu Ioanid, *The Sacralised Politics of the Romanian Iron Guard*, in *Totalitarian Movements and Political Religions*, Vol. 5, No. 3, 2004, pp. 419–453; Constantin Iordachi, *Charisma, Religion, and Ideology: Romania’s Interwar Legion of the Archangel Michael*, in John R. Lampe and Mark Mazower (ed), *Ideologies and National Identities. The Case of Twentieth-Century South-eastern Europe*, (Budapest New York: Central European University Press, 2004), 19 a 53. Paul A. Hanebrink, *In Defense of Christian Hungary: Religion, Nationalism, and Anti-Semitism, 1890-1944*, (Ithaca, N.Y.: Cornell University Press, 2006), 137 to 192.

<sup>30</sup> See Michael Burleigh, *The Clash of Religion and Politics, from the Great War to the War on Terror*, (New York: HarperCollins, 2007), pp. 258 to 262; Arnold Suppan, *Catholic People’s Parties in East Central Europe: The Bohemian Lands and Slovakia*, Wolfram Kaiser, Helmut Wohnout (eds), *Political Catholicism in Europe 1918–45 volume 1*, (London New York: Routledge, 2004), pp. 178 a 192

<sup>31</sup> The Carolian order did tend in the end to assume a monistic *gestalt*.

*State* (Vichy), the Brazilian case, the Metaxas regime (*malgré tout*<sup>32</sup>). [These regimes embodied new public orthodoxies establishing the axiological pre-eminence of the political community<sup>33</sup>. In these orders, one does not detect the same intensity of universality -abstraction-(pan) aestheticism present in the fascist and National Socialist experiences of order. These regimes remained what they were in their genesis: national- statist responses from within the state apparatus to crises of national existence and or effectiveness<sup>34</sup>. They were still articulated from within a liberal framework, and maintained a liberal moment. In most cases new constitutions could be enacted, documents that were still formally and substantially constitutionalist, even if they had a fundamental ‘monoarchic’ contextual meaning – the Polish Constitution of 1935, the Romanian Constitution of 1938, the Lithuanian Constitutions of 1928 and 1938, the Yugoslav Constitution of 1931, the Estonian one of 1938, or the Brazilian constitution of 1937. Residual traits of a Christian limitation of the Political were present in some of these politico-constitutional experiments]<sup>35</sup>

By observing the abovementioned regimes, one can indeed conjecture that in the foundation of modern political regimes, the separation between the Politico-constitutional and what some call the ‘traditional-religious’ cannot be seen as something ‘natural’. In the heart of modern times, the traditional Christian discourses and institutions could be part and parcel of the establishment of political and constitutional

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<sup>32</sup>The implicit or explicit (in the regime’s intelligentsia) prioritizing of the political community in the face of ‘religion’. The regime’s Gnostic-universalistic (evocation of a third Hellenic civilization) and syncretic traits (evocation of a model of order combining Christian and pagan traits – Sparta and Bizantium). These traits were more ideological than substantive.

<sup>33</sup> In the dogmatic part (the first ten articles of the Constitution) of the Polish constitution of 1935, for example, the *Polish state* was considered *the common good of all citizens* (article. 1); according to the Romanian constitution of 1938 the Romanians ought to consider the *Fatherland as the fundamental purpose in their life* (art 4).

<sup>34</sup> Here, we follow again Michael Mann.

<sup>35</sup> On these regimes, see for example: Peter D. Stachura, *Poland, 1918-1945: An Interpretive and Documentary History of the Second Republic*, London/New York: Routledge, 2004; Mark Brzezinski, *The Struggle for Constitutionalism in Poland*, St. Martin’s Press, New York, 1998. Dejan Djokić, *Yugoslavism: histories of a failed idea, 1918-1992*, (London: C. Hurst & Co, 2003). R. J. Crampton, *Bulgaria, Oxford History Of Modern Europe*, Oxford University Press, Oxford New York, 2007, 220 a 281. Janusz Zarnowski, *Dictatorships in East-Central Europe 1918-1939*, n.º4 de Polish Historical Library, (Kraków: Polish Historical Society, 1983), specially Piotr Lossowski’s *The Ideology of Authoritarian regimes (The Baltic States 1926-1934-1940)*, pp 181 a 201. Constantine Sarandis *The Ideology and Character of the Metaxas regime*, in Robin Higham, Thanos Veremis, ed., *Aspects of Greece, 1936–1940: The Metaxas Dictatorship* (Athens: ELIAMEP, 1993), pp. 147-177 (<http://www.metaxas-project.com>).

orders, according to an institutive formula that linked the ‘religious’ to the ‘national’. The analysis of these regimes seems to confirm, as has been noted here and there, that such a formula can often be associated with processes of state and nation building, with moments of profound disruptions of order and shaped by a strongly communitarian political and constitutional conscience, as well as with long-term conflicts between secular liberalism and the Catholic tradition. This advises a meditation on the thought of Claude Lefort, according to whom modernity would not have broken completely with the old sources of legitimacy, remaining as it were overshadowed by them<sup>36</sup>, and on the Schmittian suspicion (echoing Donoso Cortés – and also de Bonald and de Maistre) that the modern political legitimacy not founded on an transcendent basis – *et pour cause* – would be inherently unstable<sup>37</sup>. In any case, this study suggests that a Christian communitarian potential may always be latent in Modernity.

The connection of the ‘religious’ to the ‘national’ is obvious in the regimes first described – in those regimes Catholic Christianity was (part and parcel of the) *civil theology*<sup>38</sup>; although, as we have seen, it represented more than that in each case described – it constituted a Norm beyond the Political.

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<sup>36</sup> See: Claude Lefort, *Democracy and Political Theory*, (Minneapolis: University of Minnesota Press, 1988, pp. 213–55 (*The permanence of the Theological–political?*); Oliver Marchart, *Post-Foundational Political Thought, Political Difference in Nancy, Lefort, Badiou and Laclau*, (Edinburgh: Edinburgh University Press, 2007), p. 108, note 4.

<sup>37</sup>See Carlo Galli, *Carl Schmitt's antiliberalism: its theoretical and historical sources and its philosophical and political meaning*, in *Cardozo Law Review*, Vol. 21, no 5-6, 2000, pp 1601 to 1611. The same idea is present in Hannah Arendt, *Authority in the Twentieth Century*, in *The Review of Politics*, Vol. 18, No.4, 1956, 403-417. On this entire theme see the beginning of Avital Ronell’s following presentation: *On Authority – Have I Been Destroyed? 2009* <http://www.youtube.com/watch?v=RshKBwFD9wU>.

<sup>38</sup> According to Voegelin, a political society is always organized, through its instituting political symbolism, as having an eminent value of its own, a sacredness of its own – the concept of civil theology (*theologia civilis*) refers to this. The concrete order of the political society can be/express more than a civil theology – the political society can recognize Christianity as something that transcends the *polis* and norms it from the ‘outside’, as a *theologia supernaturalis*. See Eric Voegelin, *Modernity without Restraint: The Political Religions, The New Science of Politics, and Science, Politics, and Gnosticism*, Ed Manfred Henningsen, (Columbia and London: University of Missouri Press, 2000), pp 153, 214 -17, 220 -21, 223, 233 -34 (the pages refer to the book *The New Science of Politics*, 1952).

A connection of the ‘religious’ to the ‘national’ can also be seen in those regimes that established political communities of ethnic sameness ‘within’/‘through’ or in spite of an evocation of a (national-)Christian identity<sup>39</sup>.

Other regimes had as their *logoi* the mobilization of Christianity as national identifier and unifier. I am thinking of Hungary under Horthy and Bethlen and to the regime of Primo de Rivera in its middle phase<sup>40</sup>. The post-liberal democratic Lithuanian regime, in an initial moment, the *French State* (Vichy) and the Brazilian ‘getulian’ order also defined themselves strongly in national-Christian terms – although here the national-Christian moment was not the regimes’ axis of the wheel.<sup>41</sup>

In the Fascist regime there was a moment of cooptation of Catholic Christianity as content of order, a moment even marked by the adoption of a paradigm of *Christian public law*.<sup>42</sup> The National Socialist regime initially adopted a Christian *ethos* for its project of nation and state building and co-opted the main Christian denominations in the top-down establishment of a national consensus.<sup>43</sup>

In the remainder of the political orders there were fundamental political decisions that maintained or formally recognized local national-Christian consensus [The Bulgarian, Romanian and Greek regimes maintained the State’s confessional connection with the national Christian-Orthodox Church constructed during the liberal era. The Polish regime, in spite of its secular roots and outlook, didn’t questioned the Catholic Church’s juridical status nor the national-Christian social

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<sup>39</sup> The *National Legionary State*, the *Independent Croatian State*, Hungary in the final period of the Horthy regime and under the *imperium* of the Arrow Cross movement; the *Slovak State*.

<sup>40</sup> See Alejandro Quiroga, *Making Spaniards: Primo de Rivera and the Nationalization of the Masses, 1923-30*, Palgrave Macmillan, 2007; Paul A. Hanebrink, *In Defense of Christian Hungary*,.....

<sup>41</sup> See: Saulius Suziedelis, *The sword and the cross: a history of the Church in Lithuania*, Huntington, Indiana: Our Sunday Visitor, Inc., 1988, pp 163 a 176. W. D. Halls, *Politics, Society and Christianity in Vichy France*, Berg, Oxford, 1995; Margaret Todaro Williams, *Church and State in Vargas’s Brazil: The Politics of Cooperation*, in *Journal of Church and State*, Vol. 18 No. 3, 1976, pp 443–62.

<sup>42</sup> We refer to Lateran accords with the Holy See (1929). This moment didn’t define the substance of the fascist order; even if it was an index of the presence of a Christian transcendist virtuality in the regime (to echo Augusto Del Noce’s interpretation of the fascist experience). On the regime’s relations with the Church see: John Pollard, *Catholicism in Modern Italy, Religion, Society and, Politics since 1861*, (London, New York: Routledge), 2008, pp. 69 a 107

<sup>43</sup> An attempt was even made to establish a unified Protestant Reich Church. On the regime’s relations with the Christian Churches see, for example: Hans Mommsen, *National Socialism as a political religion*, in Hans Maier and Michael Schäfer ed., *Totalitarianism and Political Religions Concepts for the comparison of dictatorships, Volume II* (Routledge: London New York, 2007), pp 155 a 163.

consensus<sup>44</sup>. The Yugoslavist project was secular-neutral<sup>45</sup> (even if the old connection between the Serbian governing class and the Serbian Orthodox Church remained a powerful factor in the regime's life). In the Estonian case a new public law status was granted (1934-1938) to the traditional Churches, and a new regalistic intimacy was forged with the sociologically dominant creed<sup>46</sup>. In Latvia the regime interpreted itself as protector of 'religion'; not without there having been attempts to conceive the authority of 'religion' as subsumed within the authority of the State]<sup>47</sup>. This final cluster of cases reminds one that all modern regimes always inescapably represent a decision (a 'negotiation') about the borders between 'religion' and 'politics'.

If we contrast the political *pluriversum* that we have examined with the liberal-democratic 'world' then the images obtained on the meaning of secularization will tend to crystallize as 'general' images about modern political phenomena.

In such a world one encounters:

Regimes obedient to a Christian-Catholic constitutional idea – witness the Irish regime founded by DeValera, a system also based on the inter-war period;<sup>48</sup>

Regimes and moments characterized by a principle of 'confusion' between the Political and certain forms of Christianity. The North American Republic was founded according

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<sup>44</sup> In the Polish case, a national-Catholic ideal came to gradually 'invade' the *Sanaja* regime after the death of its founder – the possibility of establishing a Christian state was in the horizon.

<sup>45</sup> *The 1931 Constitution neither established one Church as the State Church nor proclaimed the principle of separation of State and Church* (as Sabrina P. Ramet noted).

<sup>46</sup> The Estonian Evangelical Lutheran Church.

<sup>47</sup> See: Alan Scarfe, *The Romanian Orthodox Church*, in Pedro Ramet ed. *Eastern Christianity and Politics in the Twentieth Century*. Vol. 1., (Durham, NC: Duke University Press, 1988), pp 208 a 231. Spas T. Raikin, *The Bulgarian Orthodox Church*, in *Eastern Christianity...*, pp. 160 a 207. Adamantia Pollis, *Greece: A Problematic Secular State* em William Safran, *The Secular and the Sacred: Nation, Religion, and Politics*. Frank Cass, London, 2003, pp 155 157. Jerzy Kłoczowski, *A History of Polish Christianity* translated by Malgorzata Sady et al., (Cambridge: Cambridge University Press, 2000), 268 and ff. Sabrina P. Ramet, *The three Yugoslavias: state-building and legitimation 1918-2005*, (Bloomington, IN: Indiana University Press, 2006), pp. 84 e 94 e ff. Merilin Kiviorg, *Church Autonomy and Religious Liberty in Estonia*, in *Juridica International Iv/Church Law*, 1999, pp 93 to 99. Piotr Lossowski's *The Ideology of Authoritarian regimes (The Baltic States 1926-1934-1940)*, in Janusz Zarnowski, *Dictatorships in East-Central Europe 1918-1939...*, pp 194 (Latvia).

<sup>48</sup> An order possessing family resemblance with the Christian-Catholic orders of the 'national-statist' *pluriversum*. About this order see: Dermot Keogh, Andrew McCarthy, *The making of the Irish Constitution 1937: Bunreacht na hÉireann* (Douglas Village, Cork: Mercier Press, 2007).

to an ambivalent idea of order, a mixture of deist and Classical-Christian ordering references<sup>49</sup>; recently, a *momentuum* of (pseudo-)Christian nationalism emerged<sup>50</sup>; The liberal-democratic regimes as regimes defined by a constitutive recognition of intramundane supreme goods<sup>51</sup>. Some of those regimes may even be vehicles of an immanent absolute good, which may be interpreted as all an embracing existential paradigm – consider, for example, the current Atlantic democracies (the continental ones certainly), in which the ideas of individual autonomy and well-being and popular will seem to have acquired the status of a normative *nec plus ultra* – and even seem to include an all-embracing and encompassing ordering paradigm<sup>52</sup>. A political scenario that does not seem fit for a thick description<sup>53</sup> suggesting (Rawls, Habermas) that there is a separation between the secular and ‘strong/essentialised substantive values’<sup>54</sup>. One can speculate that in the *Secular Age* (Charles Taylor), three virtual (more or less pure) grammars of collective existence tended to crystallize: a liberal (-Democratic) one, a fascist grammar, a socialist-communist grammar – a project of an individualist way of life, a project of a communitarian way of life, a project of an individualist-communal way of life.

## § 2.º

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<sup>49</sup> See Ellis Sandoz, *Republicanism, Religion, and the Soul of America*, (Columbia and London: University of Missouri Press, 2006), pp. 1 to 113

<sup>50</sup> About the nature of this phenomenon see John Milbank, *Paul Against Biopolitics*, in *Theory, Culture & Society*, Vol. 25, No. 7-8, 2008, pp. 125-172.

<sup>51</sup> Individual negative Liberty and formal equality in the classic-liberal orders.

<sup>52</sup> Alain Badiou, *Logics of Worlds, Being and event*, 2, (London, New York: Continuum, 2009), first pages; Slavoj Žižek, *Against Human Rights*, in *New Left Review*, 34 July Aug. 2005, especially pp 117 a 121. Pierre Manent, *Democracy Without Nations?, The Fate of Self-Government in Europe*, (Wilmington, Delaware: ISI Books, 2007). *Vide* also Ronald Beiner, *What's the Matter with Liberalism?*, (Berkeley, California: University of California Press, 1992), p. 20-28.

<sup>53</sup>To use Clifford Geertz’s term of art.

<sup>54</sup> Or that there is separation between the political-secular and the ‘ontological’. Alain Badiou shows that the current liberal-democratic hegemonic grammar is based on/presupposes a certain metaphysical imagery under which there are only bodies and languages. See reference in note 56.

# Analytical framework: recovering constitutional theory as holistic description of the political phenomena; conceiving the Political as the *locus* of (the recognition of) a Supreme Good/Value.

In the present text I (re)propose constitutional theory as a comprehensive analytical discourse, as a politico-constitutional phenomenology. The phenomena at stake here are collected as basic forms of political order, in their *logoi*, in their intentionality – and are defined/ differentiated at this level<sup>55</sup>. In all this one recovers, without repeating fully, the original blueprint of constitutional theory, a theoretical field itself emergent in the inter-war world – *maxime* in some Schmittian exercises.

Constitutional Theory is also here deliberately retrieved also against a certain epochal background:

In our time, social theory has been put under suspicion in its ability to illuminate human societies in general, including modern societies, to the extent that it has been exposed as grounded in modern or pos-modern mythical and mystifying presuppositions. [The ‘individual’ and the diverse individual(istic) ‘rationalities’ and ‘behaviour’, the ‘economic infrastructure’, the ‘social’ and the ‘social laws’, the substance ‘Power’, for example, are now seen not as natural/ /transcendental *quid* but as historical/cultural ‘fictions’, the fictions that institute modernity or post-modernity]<sup>56</sup>

To the extent that it does adopt those premises, constitutional theory seems to be able to escape, like *histoire totale*, ethnology, and the non-ideological good practice in the social sciences<sup>57</sup>, that very ‘exhibition’ and ‘suspicion’.

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<sup>55</sup> The classical understanding of the concept of ‘constitution’ as the fundamental form/order/structure of a political community is here a guiding concept. There is no question here of a study of legal systems as clusters of valid rules. The constitution-making processes, the new doctrines and constitutional laws – in the strict sense that these terms customarily receive, and in the sense they have in the interior of the phenomena we refer to – will be considered, however, privileged instances in the process of capturing the regimes’ *logoi*.

<sup>56</sup> See John Milbank’s *Theology and Social Theory, Beyond Secular Reason*, already mentioned.

<sup>57</sup> See John Milbank, *Theology and Social Theory*, p. XII.

It would, however, be a vain illusion to suggest that such thing as a pure constitutional phenomenology could exist. As has been pointed out about phenomenology in general, it seems impossible to describe appearances only in terms of appearances.<sup>58</sup>

In this study I have taken as a hypothetical lens for the basic reading of political and constitutional phenomena the idea that the Political has a determinate ‘ontology’: Political societies are (in their fundamental form) identifications of a Supreme Good (*Summum Bonum*) – of something maximally valuable/normative – for human beings.

This conception of the form of the Political could be found mainly through the reading of the philosophic-political writings of Eric Voegelin. According to the philosopher, the political and social orders and the ‘systems’ of theological, philosophical, political thought are identifications of the greatest or highest good for human beings – *Summum Bonum*<sup>59</sup>. Certain ideas ‘collected’ from other philosophical studies were also central to formulation of that guiding hypothesis: Max Scheler’s showing of the human action as an action that is always oriented by supreme values<sup>60</sup>; Leo Strauss’s showing of politics

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<sup>58</sup> *We cannot, as Husserl and his heirs have imagined, arrive at any fundamental or framing phenomena, with the question of their underlying ontological base either bracketed or rendered superfluous. This is because the idea that we can have a ‘pure’ phenomenology, describing appearances only in terms of appearances, of ‘how things show themselves’, according to Husserl’s ‘principle of principles’, is quite simply impossible. For every description, in order to be a description and not simply a mute regarding, has to describe what appears in terms of something other than what appears – description is ineluctably metaphorical. So characteristically, as Ray Brassier has argued, phenomenology since Heidegger has tended to select a dominant metaphor which it then regards as an ‘arch-phenomenon’ in terms of which everything else appears: ‘Being’, ‘the Other’, ‘Auto-Affection’, ‘Saturation’ and so forth. All the ‘rigor of reduction’ here is spurious, barely concealing what are obviously ungrounded elective preferences. Vide John Milbank, *The grandeur of reason and the perversity of rationalism: Radical Orthodoxy’s first decade, ...*, p 389 [and Ray Brassier, *Nihil Unbound: Enlightenment and Extinction*, (London: Palgrave, 2007), 26-31.]*

<sup>59</sup> See Eric Voegelin, *Published Essays, 1953-1965*, ed. Ellis Sandoz, (Columbia and London: University of Missouri Press, 2000); and Eric Voegelin, *Modernity without Restraint, ...*, pp. 235, 236, 306, 307 (*The New Science of Politics*). In a central paragraph of his famous book *The Political Religions*, Voegelin suggested that personal and political existence is always organized in the light of a *quid* ‘experienced’ as supremely valuable, a *Realissimum* – see Eric Voegelin, *Modernity without Restraint, ...*, p. 32 (*The Political Religions*; Original work published in 1938/1939)]

<sup>60</sup> See the quotation at the beginning of this paper.

as something always occurring in the terrain of the question of the Good Life<sup>61</sup>; Charles Taylor's showing of the moral-social-political imaginaries as being 'inescapably' embodiments of strong evaluations and hyper-goods<sup>62</sup>. Part and parcel of my interpretative hypothesis is the idea that the identification of a Supreme Good by a political society co-involves interpretations of the Whole/the Cosmos/of Being<sup>63</sup>.

By addressing what some call the 'theologico-political' problem – the problem of the nature of the relations between the 'political' and 'religion' – we resume once more the original analytical dimension of the project constitutional theory, a theoretical field opened in the theological-political discussions of the interwar years.

### § 3.º

## **Dialogue with the *status artis***

### i)

#### **Critical and qualifying theories of modernity/secularity**

This theoretical exercise aims to be a dialogue with the grand critical narratives of modernity-secularism-secularization-secularity that affirm the existence of such a thing as a *secular religiousness* (J. Gray), or as a *intramundane religiousness* (E. Voegelin).

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<sup>61</sup> See Leo Strauss, *Notes on Carl Schmitt, The Concept of the Political*, in *Carl Schmitt, The Concept of the Political*, (Chicago and London: The University of Chicago Press, 1996), pp. 83-107.

<sup>62</sup> See Charles Taylor, *Sources of the Self, The making of the modern identity*, 10.<sup>a</sup> (Cambridge, Massachusetts: Harvard University Press, 2001), pp. 3 to 107.

<sup>63</sup> According to Voegelin, political societies institute themselves as possessors of the Truth about the Whole – Eric Voegelin, *Modernity without Restraint,...*, pp. 134 e 135 (*The New Science of Politics*). We have in mind also Heidegger's suggestion that the Political is a house of Being (to echo the author's well known characterization of language), place of the event of 'determination' of 'being' – and, in that, of whole 'measure' there is: see Philippe Lacoue-Labarthe, *Heidegger, Art and Politics, The fiction of the political*, Translated by Chris Turner, (Oxford: Basil Blackwell, 1990) ; see also Miguel de Beistegui, *Heidegger & the Political Dystopias*, (London and New York: Routledge, 2002). We recollect here the Schmittian idea that the 'truths' of a politico-constitutional era are inherently inseparable and counterparts of metaphysical epochal 'truths' (and vice versa), composing an epistemic complex.

We have in mind primarily the genealogies of modernity/secularity elaborated by Eric Voegelin and John Milbank<sup>64</sup>, but also the ones outlined by Karl Löwith<sup>65</sup>, or following Löwith, very recently, by John Gray<sup>66</sup>.

This study diverges from these narratives. There is, first of all, a difference in terms of analytic discourse – this study focuses directly and immediately on the structure of political orders and is based on a systematic categorization of political and legal phenomena.

On the other hand, this study does not have as its primary *telos* any fundamental description of how modern political phenomena are ‘transmutations’, ‘perversions’, ‘degraded repetitions’ of the original Christian symbolic universe<sup>67</sup>. I intend rather to reveal a basic ‘formal-structural’ equivalence between the pre-modern political and constitutional orders and the modern political and constitutional orders, showing that they all are, including the current liberal-democratic societies, constituted by reference to *Summa Bona*. My purpose is to show that all these political phenomena express a dichotomy ‘the sacred’ versus ‘the profane’ – even if in the modern orders the centre of surplus value is ‘found in the world’.

The present exercise does not follow either some of the abovementioned narratives – that of Gray and also, to some extent, Löwith<sup>68</sup> – when they seem to identify Christianity and some quintessentially modern phenomena as the same ‘mytho-political complex’. As for me, there seems to be, from a ‘constitutional-Theoretical’ point of view, a substantive irreducibility/incommensurability between these phenomena. In a Christian order, the political order receives a Norm beyond the Political – *sovereign*

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<sup>64</sup> *Theology and Social Theory* especially, but also in many later writings.

<sup>65</sup> Karl Lowith, *Meaning in History*, (Chicago/London: The University of Chicago Press, 1949).

<sup>66</sup> *Op.cit.*

<sup>67</sup> To evoke the critical framework Hans Blumenberg addressed against certain theories about the nature of secularization (he refers mainly to Löwith), pointing to the substantialist metaphysics underlying them, a metaphysics the author deemed unsustainable in the modern temporality. See Hans Blumenberg, *The Legitimacy of the Modern Age*, 7th repr., (Cambridge, Massachusetts; London, England: The MIT Press, 1999). I do not share Blumenberg’s criticism.

<sup>68</sup> Löwith recognizes that Modernity is Christian in its origin but anti-Christian in its consequences (Christianity in and by itself cannot sanction an immanent *eschaton*).

*lawmakers have to secure a substance of order that is not of their making*<sup>69</sup>. The Fascist, National Socialist and Soviet regimes, as well as some liberal democracies, through their founding ‘mythical’ evocations, monopolize all axiological/normative authority – a circumstance that gives rise to the arbitrariness of the power of the collective One or to the arbitrariness of power of the Many.

ii)

### **Studies on the *sacralisation of politics and political religions*.**

This study also falls within a specific academic field in growing expansion that has been formed around the themes *sacralisation of politics* and *political religions*.

I have as especially present in my enquiry the *histoire totale* of the modern phenomenon of the migration of the sacred to mundane entities developed recently by the Italian historian Emilio Gentile<sup>70</sup>, trying to pursue a still more holistic, connotative analytical ‘style’, and distancing us even more from a tendency to see the (modern) political space through the blocking lens of the primary dichotomy liberal democracy and the rest.

In relation to these *topoi*, I distance myself from ‘phenomenalist’ approaches to political realities founded in the showing of parallels and mimetic movements at the level of symbols – linguistic or visual – and ‘ritual’ forms. Symbols and ritual forms outwardly identical may form part of complexes of order having distinct total meanings.

From a constitutional-theoretical point of view we do not deny the heuristic interest of the concept political religion to describe immanentist regimes as such as the Fascist, National Socialist, Soviet orders or the current liberal-democracies. In fact those

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<sup>69</sup> The phrase is quoted from Eric Voegelin’s *The Nature of the Law and other related legal writings*, the Collected Works of Eric Voegelin Vol. 27, ed. James Lee Babin, John William Corrington, Robert Anthony Pascal, (Baton Rouge and London: Louisiana State University Press), 1991, p. 27 [the author is describing the formation of the modern National state and the concomitant secularization of the law, stressing with this phrase a basic trait of medieval Christianity’s political orders eroded or suppressed in that process.].

<sup>70</sup> See Emilio Gentile, *The Sacralisation of Politics: Definitions, Interpretations, and Reflections on the Question of Secular Religion and Totalitarianism*, in *Totalitarian Movements and Political Religions*, Vol. 1, No. 1, 2000, pp. 18-55.

regimes are based on an evocation of an Absolute Good, of something having an unconditional/unlimited value/normativity; on the other hand that founding Absolute Good is an earthly one and channels all axiological-normative authority to a political instance, the political power. Something similar could be said about the value of the more diffuse notion of intra-worldly religiosity: such a concept could describe the ‘fact’ that modern political societies are constituted by reference to an inner-worldly Supreme Good (which may not be an Absolute Good). The adjective religious could denote the nature of the intentionality of the Political as always consisting in the identification of a Supreme Good, in the sacralisation of something.

Be that as it may, in this study we avoid the use of the word religion in the development of ‘scientific’ categorizations of political phenomena. The word religion is a political symbol that crystallized at the time of the birth of the liberal National State, a symbol which instituted and continues to institute the liberal order; it postulates something transhistorical, transcultural that doesn’t exist as such – a pure private experience that was always already there in the mythical ages, for example; it refers to incommensurable views of the All such as the following: Catholicism, Islam, Buddhism, etc ....<sup>71</sup>

### **iii) *comparative fascist studies***

This theoretical exercise also re-enters the academic field of *comparative fascist studies*<sup>72</sup>, not only because of its empirical material base – but also because my analytical journey among the inter-war ‘national-statist’ regimes seems to suggest more or less implicitly a critique and/or a re-composition of categorizations that have crystallized in this academic field:

The political phenomena that constitute the empirical core of this study should not be described in their external naked reality, in terms of mere regularities or patterns, or the

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<sup>71</sup> On this all topic see the masterful book William T. Cavanaugh, *The Myth of Religious Violence, Secular Ideology and the Roots of Modern Conflict*, (Oxford, New York: Oxford University Press, 2009).

<sup>72</sup> The expression is not yours: see Constantin Iordachi, *Comparative Fascist Studies, New Perspectives, Rewriting histories*, (London New York: Routledge, 2010).

measuring of the quantum of illiberality/ or anti-democratic negativity or of (physical) violence they exhibit<sup>73</sup>; these phenomena are essential configurations of meaning, manifestations of ideas of order, realities with their own *logoi* or *pathê*.

Those realities ought not to be categorized through the lens of the dichotomy liberal democracy/authoritarian regimes and totalitarian regimes. Like any other regime, a liberal-democratic order as/sustains a *public orthodoxy*<sup>74</sup>. Liberal democracies can be concretely totalizing: they can convey an ordering paradigm that knows no boundaries or extrinsic spaces immune to its application.

With regard to more connotative understandings, it seems necessary to reformulate the definitions of *generic fascism*, namely to introduce as the distinctive mark of that political genus the elevation of the political community to the status of an axiological-normative absolute<sup>75</sup>; the concept will then gain organicity and unity, and, what is more, a descriptor able to ‘automatically’ directly and transparently insert fascism in the map of (modern political) phenomena in terms of identity and difference.

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<sup>73</sup> The display of violence (physical) in a superlative degree of intensity has been a democratized and democratic phenomenon in the modern age (M. Mann); in many instances it corresponds to states or stages of the exception is not possible to say that there is virtually destined to disappear when organizing a new consensus. In addition to that violence does not exist in and of itself – it only exists as an abstract moment of an idea of order.

<sup>74</sup> To use Frederick Wilhelmsen’s and Willmoore Kendall’s term of art. The word refers to *that tissue of judgments, defining the good life and indicating the meaning of human existence, which is held commonly by the members of any society, who see in it the charter of their way of life and the ultimate justification of their society*. See Frederick Wilhelmsen and Willmoore Kendall, *Cicero and the Politics of the Public Orthodoxy*, in *The Intercollegiate Review*, Vol. 5, No. 2, 1968-1969, p. 84 ([http://www.mmsi.org/ir/05\\_02/wilhelmsen.pdf](http://www.mmsi.org/ir/05_02/wilhelmsen.pdf)).

<sup>75</sup> I follow here the Portuguese idealist philosopher António José de Brito.