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Levinas, Agamben and the Crisis of the Modern Constitutional Imagination: Ethics, Political Theology and Crisis Management

1. Ethical *religare* vs. (traditional- or "civil-") religion

1.a Levinas's view of the ethics-justice relation was unsettled. He spoke of the "diachrony" of face-to-face ethics, based on an anarchic, pre-reflexive, affectivity as opposed to the 'synchrony' of our social life as linguistic animals. Thus, on the one hand, he spoke of a universal 'human' right to anarchic responsibility which is ethical, not legal or political, and which Levinas traces in other animals too, such as Bobby the dog;¹ And he argued that "justice itself is born of charity..."² This mother-child relationship metaphor attempts to awaken us to the fallacies of *both* the secular social-contract *and* Marxist views in which a conscience of a duty higher than the law becomes an issue only 'after,' and in relation to, the supposed 'primacy' of the function of legal/social justice in the constitution of the social order. On the other hand, Levinas's natal metaphor -of justice born to anarchic responsibility- reminds US that, like a child, ideas of 'right' and 'justice' eventually gain their autonomy in the form of specific legal and political orders based on a form of equality and measure, a set of social rules to be established according to the judgment of the State or the Idea of History. In this paper I wish to remain faithful to this Levinasian ambivalence yet critique it. I wish to retain it because it alone prevents us from reducing the 'idea of infinity,' – which, for Levinas, *has no signified but is experienced in the actual onerous proximity to the Face of my neighbor* who, in terms of ethical responsibility, is approached as if absolutely unique and 'higher' rather than a member of a *genus* – into a principle of legal or political justice applicable to a *genus*. Infinity as sign of godless transcendence is central to Levinas's ethics of proximity based, as it is, on obsessively dedicating one's self to the other who is approached *as if* s/he was absolutely Other; Thus sociality is the result of an infinite ethical command: open up to the stranger, *religare*! It is important to stress that infinity, as the only idea that is not produced by

1 Bobby the dog strayed into the German camp where Levinas was held during the war. "This dog was the last Kantian in Nazi Germany, without the brain needed to universalise maxims and drives", E. Levinas, *Difficult Freedom, Essays on Judaism* (Johns Hopkins University Press, 2015), p. 153.

2 "Philosophy, Justice and Love," in *Is It Righteous to Be?* (Stanford: Stanford University Press, 2001), pp. 165-166. Cf. *Entre Nous* (New York: Columbia University Press, 2000), p. 104.

the subject but signifies a meaningless yet irreducible exteriority, concerns me at a *pre-reflexive* level. What is this re-reflexive state of ethical conscience of the linguistic animal? If someone steps on my foot I will, for a split second, undergo the painful impact of exteriority at a pre-reflexive level: without knowledge, judgment and representation; bereft of meaning, incommunicable, absurd, my “useless suffering”³ commands my attention in the same way it will attract that of the witness of the incident: one takes notice of the impact of exteriority in excess of empathy, sympathy or pleasure. Exteriority is thus affecting *me* in excess of my ability to think it or even totalize it as an experience of a sensation and a *logos* and in this sense, humans as well as Bobby the dog are affected by exteriority otherwise than as object of knowledge and representation, in excess of intentionality, demanding my thoughtless and hyperbolic, attention.

Unlike Bobby the dog, however, linguistic animals fantasise about omnipotent and omniscient gods who are invented so as to alleviate the (exclusively human) problems of embarrassment over reproduction and fear that our interlocutors may be lying. For this reason I wish to sound the alarm to the possibility that Levinas underestimated the extent to which traditional, divisive, religions – and the hierocratic but also the deistic-cum-‘secular’ political theologies they epigenetically gave rise to – have a way of collapsing the universal individuated experience of the idea of infinity in the face-to-face, into what the social anthropologist calls “ultimate sacred postulates” shared only by members of particular communities as the basis of their inter-subjective trust;⁴ namely: particular religious and secularized metaphysical postulates (e.g. Genesis, the ‘chosen people,’ Christ, universal salvation through martyrdom and resurrection etc.). Like the universal idea of infinity, such postulates are un-falsifiable (because they, too, correspond to no empirical *significata* that can be known, represented and measured). *Unlike* the idea of infinity, however, such postulates *must be treated as unquestionable* by participants of particular social groups as the price of their inclusion to their particular commonwealth or their specific social or ideological affiliation but also to our global juridical or political ‘humanity.’ In this regard my worry is that the reception of Levinas’s view of the idea of infinity in public discourse may be totalisable and over-determined by Christian/post-Christian political theology central to which is the postulate of a Triune God – the ‘one’ as all encompassing relationality subject to an *oikonomia* – which, as Giorgio Agamben shows continues to over-determine

3 In brief, this refers to the fact that in suffering the subject and meaning dissolve but for the responsibility of the external other to offer succours. Levinas, *Entre Nous* (Paris: Grasset, 1991), pp. 18-110.

4 Morality, far from outshining religion through its rational dignity, offers itself strictly the same services to society, as does religion. As linguistic beings our communication is beset by two fundamental problems: the ‘lie’ and the ‘alternative’ – the two sources of evil for M. Buber – and these are ameliorated by religion on the basis of adopting “absolute sacred postulates” that are not only un-falsifiable (as they do not correlate to any material *significata*), but also validated as unquestionable not through subjective belief but performatively R. Rappaport, *Ritual and Religion in the Making of Humanity* (Cambridge: Cambridge University Press, 1999).

the western legal and political imagination. Whilst as we saw Levinas deliberately describes the ethics-justice relation ambiguously – so, in the end there can be no closure or synthesis – it is precisely the hallmark of western economic political theology to identify autonomy and sovereignty with the postulated ‘relation’ of transcendence and immanence and to ‘capture’ ethics in the very process that manages the contingency produced in the ‘cybernetic ‘relation’ of ethics/justice and justice/law, just as it ‘captures’ the indeterminacy and freedom of, what Agamben calls, the infinite “forms of life” of the linguistic animal in the distinction *zoe/bios*.⁵ If Agamben shows this in relation to the capture of human inoperability to the tradition that combined Greek philosophical metaphysics, the Stoic Logos – who ‘structures’ the dualisms *zoe/bios* and *dunamis/energeia* –, and Christian/post-Christian political theology, it can be argued that in the same tradition and by the same token Levinas’s *Face* and the ‘otherwise than being/non-being got captured into the secularized postulates of the being/non-being that is the fantastic relation of the *Logos* of God-cum-Sovereign who consists of the relation of His different hypostases and that of his incarnated Son, Jesus-the-*oikonomos*-cum-self government who manages the contingency produced in this ‘relation.’ It is by analogy that in secular liberal western-liberal thought individual and collective autonomy defines the ‘human’ and the commonwealth and emerges in the ‘relation’ and distinction of ‘negative’ and ‘positive’ freedom. Thus, autonomy is a *procedural principle*, and not an ontological or substantive feature of the subject: it delimits the ‘necessary’ condition for the enactment of the ethics of freedom. Likewise “[I]n the relationship between ruler and ruled sovereignty belongs to neither but the relationship itself.”⁶

1.b When thinking our togetherness in terms of Levinasian ‘pre-reflexive,’ anarchic, responsibility we are supposed to mistrust both our personal sentiment *and* the objectivity of so-called ‘public reason.’ For example when looking from within ‘fortress Europe’ to those who – forced by necessity and seduced by Europe’s universalist appeals regarding human equity and dignity – perish as they are prevented from seeking sanctuary on European soil, we must avoid all theatre and representation; when the cries a Palestinian refugee girl embarrasses the German Chancellor who had just given the child a televised lesson in Kantian morality, and warned by Habermas that in her treatment of the Greeks she has set back Germany’s reputation, she decides to suspend the Dublin Treaty and not repel refugees back to the frontier EU states of entry. When the dead body of a white Syrian baby washes on millions of screens via a Turkish shore PM Cameron makes an overnight pro-refugee u-turn and pledges to host some provided they have not set out to join us. Hundreds of thousands have previously drowned political theology is

5 See: G. Agamben 1998 D. Heller-Roazen trans. *Homo Sacer: Sovereign Power and Bare Life* (Stanford University Press); Id. 2005 trans. Kevin Atell, *State of Exception* (University of Chicago Press); Id. 2011 *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government* (Stanford University Press); Id. 2014 *L'uso dei corpi* (Vicenza, Neri Pozza Editore).

6 M. Croce, cited in M. Loughlin *The Idea of Public Law* (Oxford UP, 2003) , p. 83.

instructive here more than ethics, I fear. We have to remember that already the first Christian sovereigns – the Eastern Roman Emperors – were no longer appearing in the hippodrome holding the *mappa* the cloth used to start the races at the hippodrome but the *akakia* (Gr: ἀκακία, literally “guilelessness”) a cylindrical purple silk roll containing dust, symbolizing the mortal nature of all men. Power has had a long time to learn that pastoralism, a show of conscience, measured charity and selective compassion are also vital. What, for example, is the insistence on not wearing a tie of Greek PM Tsipras even after he adopted the neo-liberal policies he decries, but a form of *akakia* worn before Greece’s new-poor?

The Levinasian caution vis-à-vis the ‘theaters’ of law and justice is especially important today when the two modern *deus ex machina* credited for unifying humans – the rule of law and democratic sovereignty – no longer seem able to put an end to the drama of near permanent crises and bring the emerging world society to order and restore natural justice, or at least commercial peace. In these circumstances, the ethical sense of the Face, might be recuperated if only we stop averting our eyes from the anonymous processes which account for the constitution and governance of post-subjective word society, ridiculing the aspiration of law and politics to be sovereign. As the subject ceases to be seen as autonomous and the social loses the correlative anthropomorphic image and dissolves into Capital and impersonal networks of functionally differentiated communicative systems and administrators of populations and resources, Levinas’s strange ideas on anarchic responsibility could help us gauge the contemporary situation otherwise than as a tragedy or comedy – both genres that centre on the relations between characters. Our situation is more akin to watching an absurdist play in which nothing helps identify with the characters – sovereign states, the Rule of Law – and no resolution comes to ‘frame’ the theatrical experience. The public, thus, is forced either to ‘sleep off’ the nonsensical spectacle (the hypocrisy of democracy and rule of law; consumerism; drug abuse; racism. But also the display of rebellious impulse which can give rise to actions at the expense of humans who are relegated to the status of the proverbial eggs that must be broken before a revolutionary omelet is made). Or else each spectator must invent her own response to the *presence of each of the actors* staged as unique (the absurdist ‘plot’ does not allow us to ‘judge’ the characters and, for this reason, it is the closest ‘plastic’ depiction of the ‘face-to-face’ I can think) and take full responsibility for doing so without any authorization in the guise of universal principle of action, Kantian, utilitarian, Hegelian or other. Alas, it transpires again and again, that people prefer to close their eyes and fantasize about a drama or a comedy in which their ego could, somehow, be a protagonist, often with tragic-comic results.

In crisis-struck Greece, for example, as the economy sank and the welfare state was dismantled both democratic sovereignty and constitutional law lost credibility; MPs are asked to ‘vote’ through super-emergency procedures huge texts drafted in Brussels and freshly translated into Greek. The *Conseil d’Etat* declares these ‘memoranda’ which have had drastic social, political and economic implications to be neither law nor policy documents but ‘complex technical frameworks’. Moreover, it declares, the ability for mere survival satisfies the constitutional requirement that

the state ensures the dignity of its citizens. In the ensuing crisis of the state-society relation two unusual features stand out. First, many Greeks indulged in non-revolutionary actions that were nevertheless subversive of the 'glory' of their state. When in one incident the president was heckled-off the Throne while attending the national independence day parade we should not only rely on the legal positivist view, endorsed by the Greek Courts, which is effectively that of Kantorowicz, i.e. that in politics shaped as the corporate body of Christ there can be no interregnum. Nor, should we only endorse the opposite, revolutionary, secular view, as in C. Lefort, that in agonistic politics there is always the possibility to occupy the throne anew since it is essentially empty, as endorsed by the various movements of protest that eventually coalesced into the SYRIZA party that won the elections and formed a coalition with ethno-religious nationalists. In the event, first, the Greek President's Throne was shaped as a Byzantine throne reminding us that, originally and for a thousand years, the Christian sovereign was openly seen as a usurper and for this reason no Christian government can be legitimate enough so as to ignore the need to govern *its own* with pastoral care and preferential treatment. Secondly, and most importantly, when a stray dog literally came to lay on the vacant throne it forced the participants to ponder upon the facticity of their intimacy beyond their state and society: as *inoperative* beings. Soon, however, such incidents were actively manipulated and appropriated by political parties and unions until, eventually, one would see only 'traditional' ideological or interest driven protests and violent riots. A second notable feature of the reaction of Greeks to the implosion of their social contract was the spontaneous rise of numerous grassroots solidarity initiatives that met some of the needs of newly impoverished Greeks *and* destitute refugees. Both the racist extreme Right and the internationalist radical Left, sought – successfully – to marginalize these initiatives. The populists' electoral gains were made, *inter alia*, by insisting, respectively, that such initiatives should be only for the benefit of Greek citizens, and, that they distract from the struggle against systemic world injustice by putting a 'human face' on neo-liberalism. Such pastoral populism – based, respectively on racism and the 'easy universalism' which conceives being merely in the horizon of need – seduces us into leaving the adventure of our anarchic togetherness as a tragedy or a comedy exemplified in Greece, respectively, by the rise of the neo-Nazi Golden Dawn party (in a country that suffered so much under Nazi occupation!) and the cooptation of so many radical anti-state, grassroots social movements by SYRIZA which promised salvation from the evils of austerity and domestic and international patronage (in a country that was *founded* through patronage) and delivered crucifixion without resurrection including by means of a farcical referendum in July 2015.

1.c. Levinas referred to our intimacy as humans in terms of each existent's 'obsession' with infinite responsibility without authority, to the point of persecution which destabilizes self-consciousness and shames identitarian closure (be it as 'Greece' or 'humanity' in the aforementioned example). In fact Levinas thought this obsession to be inescapable – hence, partly, the accusation that he is a quietist, depoliticizing obscurantist: he did not offer us a blueprint for engineering a better world. Yet, the accusation may be indicative of the degree to which Levinas is mis-

understood; e.g. his idea of “radical passivity” is distinct from inaction as absence of activity. It indicates how, in his ethical scheme, the importance of every action is gauged beyond its correlative intention: successful or failed our intentions and actions show us to be unable to ignore the Other who always finds a way to speak from within the “same.” This can be thought in conjunction with Foucault and Agamben, for whom, in any *passage à l’acte*, any actualization, both a ‘power-to-do’ and a ‘power-to-not-do’ are actualized. In turn, it can be opposed to the conceptual scheme that centers on self-same, ‘autonomous’ or ‘sovereign,’ self-constitution by means of an imaginary ‘power’ that is at once actual and potential. Indeed, if ancient Greek idealism and realism were at odds in their respective ontologies of constitutional power (respectively emphasizing *dynamis/energeia*), the appearance in the scene of the Stoic version of *Logos*, first, the Triune God and of god-like sovereign, secondly, made possible their cybernetic synergy. Levinas’s ethics-as-first-philosophy challenges the totalitarian character of such a *Logos*.

In this regard, it is significant that in the present historic juncture refugees drawn at the shores of European nation-states that are themselves ‘bankrupt’ in more senses than one: richer or poorer they are emptied of their formal glory and reduced, in the eyes of their citizens and the world, to not much more than police and tax collectors at the service of globalised financial capital. Those symbolic ‘bridges’ featured on Euro notes are not only inaccessible to the non-European: they also seem nearing collapse even inside this ‘union’ based primarily on economic freedom and law but all too easily revering to nationalism and acrimony and, in response, the economic suspension of the law (from giving Greece a ‘bailout’ prohibited by EU law to Germany suspending the Dublin Treaty and allowing in Syrian refugees *when* the post-world ‘friendly’ image of Germany was endangered). In the twentieth century we grew accustomed to accept controlled commercial passage between unquestioned segregated living spaces, as the only ‘peaceful’ alternative to isolation, unwelcome *ad hoc* migrations, or war. Society could be based on so many ideas except the idea of un-economic, obsessive, anarchic proximity with the other-as-Other. The metaphor of the artifice of bridges expresses the imaginary of social contractarianism, fascism and Marxism in all of which self-closure comes ‘naturally’ while ‘relation’ requires engineering. Medieval theological treatises over the ‘right’ division of spiritual and secular dominion over a ‘Europe’ that was, in fact, a series of small fiefdoms and cities, were underpinned by the Catholic principle of “unity without visible political unity.”⁷ The aim of the ‘sciences’ of public law and of politics since the sixteenth century has been to articulate the ‘relational’ nature of the ‘sovereign’ self-same closure which is taken as a given. It is no accident that the ‘bridges’ that feature on the Euro notes are imaginary (national governments could not agree which real European monuments should be depicted on the different value notes...). Bridges stand for the *fantasy* of the internationalized or cosmopolitan version of Locke’s bourgeois ‘civil

7 E. Rosenstock-Huussy *Out of Revolution – Autobiography of Western Man* (Providence/Oxford: Berg, 1993), 144.

society,' that is, a society of the economic traffic of information and goods between formally equal, selfsame propertied peers whose real inequalities are covered with the cloak of equally insatiable desire. This is what capitalism formally invites all people to be-come and Marxism to over-come, respectively. For Marxism, too, is all about engineering bridges: from the old to the new. The centrality of *homo economicus* in the liberal model by definition marginalizes the non-similar, the non-citizen, the poor and dispossessed who are, in the last instance, not much more than either instrumentalised property or human waste, destined to remain immobile, rooted and localizable by drones and sweatshop employers and human traffic merchant, or 'cannon fodder' for the 'revolution.' To give a minor example, when Greece is encouraged, by the Euro-Atlantic left elite, to bite the drachma bullet in order to escape the lender's hegemony, the calculus is that the cancer-patients who will remain without medicine the day after 'Grexit', are a price worth paying for dealing a blow to neoliberal hegemony.

Levinas was not a man of bridges. To bridges he preferred a model of permanent confrontation between each *actual* individual/collective self and each and every other that perpetually *shames* the self into questioning its properties, abstract and material, including its very right to occupy a conquered, inherited, or legally purchased 'spot under the sun' instead of another. It is as if one were *personally* responsible for everything, for history, for the blood-soaked earth where one's predecessors walked and toiled, and for the piece of land he or she contingently occupies instead of another. In causing me to question *my very right to be* – an impossible question to answer! – the Other causes me to have a conscience. Ethical conscience: a kind of consciousness that is not self-consciousness in the sense that the question of being's non-right-to-be is a question that arises infinitely as there is no justification. Here no bridges are crossed and no trip is undertaken, for 'the other' is recognized as not less but *more* entitled to what peace and bread I enjoy. In this way the self – despite its pretensions to innocence and its narcissistic outlook – is never quit rid of responsibility towards its other, a responsibility that goes infinitely further than what is necessary to keep a commercial piece i.e. 'war by other means,' or to bring about change as dictated by 'historical necessity.' In Levinas's account the neighbor need not do anything or display any particular characteristics for me to have a conscience. A European's conscience, for example, does not get 'awaken' by the image of the drowned refugee. Conscience already presumes and anticipates its violence by commission or omission, in the sense that Levinas, with Blaise Pascal, affirms that by taking "my place in the sun," I have pushed the other out into the cold. More than just an object of my intentions and a screen for my projections or mirror (as per phenomenology and psychoanalysis) the other affects – commands – *me* as site of conscience simply by means of her factual alterity – she is she and I am I, and we can neither enjoy nor suffer in each other's place. Thus, the neighbor's ethical significance does not *depend* on his or her social status or natural situation.

It is unfair to call Levinas a 'beautiful soul' in the Hegelian derogatory sense, namely a moralist who criticizes reality from a comfortable distance, ignoring the way he is part of it. In fact, this 'compliment' could extend to those neo-Hegelians

who, equipped as it were with intuition and absolute thought power – a variation of the medieval visitation by the Holy Spirit – are able to speak on behalf of History and, with their ideas and leadership, ‘unstuck’ us from our contemporary impasses. If anything Levinas acknowledged that the social order is “neither human nor inhuman”⁸ and that anti-humanist theory is right to assume the ‘purely operational and provisional role of man in the unfolding and manifestation of a set of terms that form a system.’⁹ He added, however, that as the crisis of humanism entails the singular experience of “witnessing the ruin of the myth of man [as] an end in himself”¹⁰ “we see man being born again out of the inanity of man-as-principle, the inanity of principles, out of the putting into question of freedom understood as origin and the present.”¹¹ Hence, Levinas set us the task to “find man again in this matter and a name in this anonymousness,”¹² a task that entailed an abuse of language (a form of “foolish excellence”¹³). To the existentialist truth that existence precedes essence Levinas added his peculiar materialist meta-physics’ whereby being and becoming have a ‘hither side’, a ‘reverse side’, which is ‘pre-originary’, a ‘passivity more passive than the passivity involved in receptivity’ and which designates a subject ‘outside of being’, but ‘in itself.’¹⁴ Ethics, in this scheme, stands for the impossibility of resolving the above-described dilemma: it points out that as ethical subject the human injects ‘inefficacy’ in the midst of efficiency. Consequently, just as we cease to refer to agency in favor of entirely impersonal processes that describe either the material constitution of our bodies or our institution in a symbolic universe, Levinas brings the concept back to describe the existent as the irreplaceable site of “useless suffering”¹⁵ symbolized by the infinitely destitute Face *and* of a strange counter power – a *power in relation to its own privation*, which he terms ‘counter-intentional affectivity’ for the absurdly suffering Other, symbolized by the hand that caresses: the caress and the face infinitize the situation. Levinas’s subject of ethical responsibility is thus unlike the subject of ‘absolute’ Will power which must be self-limited according to the positive law, Kantian or other morality, an Idea of History, or a ‘natural’ inclination towards empathy and compassion (e.g. in M. Nussbaum’s account¹⁶ which forgets how compassion can be abused with horrendous consequences such as

8 E. Levinas, ‘Humanism and An-Archy’ in *Collected Philosophical Papers*, trans. A. Lingis (Pittsburgh: Duquesne University Press, 1998), p. 130.

9 *Ibid.*, p. 130.

10 *Ibid.*, p. 129.

11 *Ibid.*, p. 132.

12 *Ibid.*

13 A foolish excellence!: “To be good is a deficit. Ethics is not a moment of being: it is otherwise and better than being, the very possibility of the beyond” (Levinas, ‘God and Philosophy’, *Collected Philosophical Papers*, pp. 164-65).

14 ‘Humanism and An-Archy’, p. 133

15 This refers to the fact that in suffering meaning dissolves but for the responsibility of the witness to offer succours. Levinas, *Entre Nous*, pp. 18-110.

16 M. C. Nussbaum, *Political Emotions – Why Love Matters for Justice* (Cambridge MA: Harvard University Press, 2015).

murderous ‘humanitarian wars’ that echo the medieval Catholic doctrine of ‘just war’. Here lies the secret to Levinas’s reformulated humanism. His ethics as first philosophy, with its existentialist view of the fundamental relationship of being to itself as hyperbolic counter-intentional affectivity (prior to intuition and concept, or the unconscious and consciousness) uniquely straddles this dilemma. His concept of ‘ethical subjectivity’ ingeniously explains the persistence of the human ethical vocation for incalculable responsibility (whence individuation proceeds in the form of a ‘me’ subject to accusation and ‘hostage’ to the other) just as we now know, more than ever before, that the ‘I’/‘we’ of Kantian or Hegelian agency is eclipsed as it were by the primacy and abundance of our *means* for acting.

It is, further, equally unfair to call Levinas’s ethical subjectivity ‘depoliticized’ because ‘paralyzed by guilt.’¹⁷ As was the case with other terms, the term “guilt” in

17 Even for S. Critchley, who more than most understands Levinasian ethics, an ethics of infinite responsibility towards the other-as-Other is unhealthy. For him the ‘price’ of a permanently bad conscience is too much for the subject to remain healthy and it cannot lead to anything politically valuable. Using Freudian categories, he recently diagnosed the Levinasian ethical subject as a “traumatic neurotic,” “split” between itself and a demand that it cannot meet and marked by an experience of “hetero-affectivity.” (S. Critchley *Ininitely Demanding – Ethics of Commitment, Politics of Resistance* (Verso: London, 2007), p. 61) The “internalization” of this is “nothing other than the experience of conscience,” but, we are cautioned, “without the experience of sublimation, conscience cruelly vivisects the subject.” (*Ibid.*, 87) Critchley further suggests that commitment to justice-politics is needed to ‘sublimate’ the Other’s infinite demand on the subject. This really means a call for transformation of in the subject from obsessing about responsibility to a particular other-as-Other into a political subject “...identifying a particularity in society and then hegemonically constructing that particularity into a generality that exerts a universal claim” – mentioning, by way of example, the case of indigenous identity which is “a political achievement and not an accident of birth or an extra-political cultural given.” (*Ibid.*, 91) In this regard, I am of the opinion that ‘sublimation’ is a term that is just too bourgeois and prudent to be taken as the ultimate yardstick of the potential political value of Levinasian anarchic ethics even in the case that it is put in the service of a “politics of resistance” by Critchley. In chemistry sublimation means turning something solid into gas without the intermediate messy, fluid state, and I believe something similar is what postmodernism (and Lacanian psychoanalysis) aims for: go from the rigid conception of the self in onto-metaphysics (“I am...”) to a super flexible account of becoming (“who/what can I become?”) and avoid the disorderly, messy, state of bad-conscience that lies in-between (‘is it righteous that I am? Who/what can I become for-my-other?’). By devaluing the disorder of bad conscience (in favor of the transformation of dangerous impulses directly into something less harmful, something symbolisable) psychoanalysis may be underestimating the politically productive repercussions of conscience. Critchley is perhaps too quick to equate Levinasian conscience with submission to a moral law/God who torments us into paralysis. Far from being paralysed the person of bad conscience – that would be all of us – persists in responding to the demands of particular others even after having experienced time and again the degree to which her intentions have unintended and usually disastrous consequences for herself and others. To act on conscience is to have the guts, time and again, to dive in the deep troubled waters of meaninglessness just to save a particular drowning other – as we always do when we comfort another – without a thought for just how bad things might turn up for me and/or her or how unjustified my preference for this other will inevitably appear to the third; for this reason I will have to turn to each of them and attempt, in vain, to retrospectively authorize my action by reference to some false God who supposedly I was obeying. But the truth is that when helping others we are obeying no one. Who prevents us from disappearing in the

Levinas's texts – e.g. when he quotes Fyodor Dostoyevsky's line from *The Brothers Karamazov*, "Each of us is guilty before everyone, for everyone and for every thing, and I more than the others"¹⁸ – must be understood as an abuse of language and, specifically, of the same term in modern psychology. While 'guilt' as meant in psychology concerns the solipsism of the subject, a guilty conscience for Levinas is *at once* a subjective experience, that is to say, it takes place within the self, *and* relational for it stems from my encounter with the other. It could be thought that since we are speaking of a 'relational' phenomenon, the Other can be made guilty for the guilt he or she places on me. Yet, 'pre-reflexive proximity' is not strictly speaking an inter-subjective relation; It is, rather, the unilateral effect of exteriority *in* the self. Hence the Other is totally absolved of my guilt. If my other were to share in my guilt, even in a relational sense, than the self knows the guilt of the Other, and the proximity is no longer a relation of alterity but an instance of reciprocity within the Same. Rather, "The primordial experience of conscience is the discovery of one's being guilty of having taken away the other's possibilities of existence; it is not the mere discovery of my being the ground of ontological negativity..."¹⁹ Conscience designates a mode of *being disorderly before the other as Other* which is irreducible to the contents of unitary consciousness –singular or collective- but also the apparent structures of the 'unconscious' – whence 'guilt' – both of which are orders in which the same and the other are presumed to be already co-present, forming a totality of context that allows for no surprises. In fact, far from leading to paralysis, Levinas has inspired several theorists, often via Derrida, often without a direct acknowledgment, as they try to think of a polity that is centred, rather than on an identity obtained by means of productive sovereign 'power' and scrutinized my means of legal/political morality, on human powerlessness combined with gratuitous responsibility. These include: (a) The rejection of democracy's messianic promise that religious—political identity can be critiqued, neutralized, improved, and changed, and the reconsideration of our ethical-political legacies not as problems, but as *aporias* in the Derridean sense – that is, as contradictions or impasses incapable of resolution;²⁰ (b)) Adopting a political ethos that is attentive to how calculative thinking limits our responsibility and turning towards a 'responsible politics' where 'responsibility' is understood as something that cannot be quantified and discharged and goes beyond the guilt cultivated by moralism.²¹

abyss of meaninglessness? Neither God nor prudence but our constitutive inability to ignore the call of conscience and decline a call from another human.

18 E. Levinas, *Basic Philosophical Writings*, ed. A. Peperzak, S. Critchley, R. Bernasconi (Bloomington: Indiana University Press, 1996), p. 144.

19 A. Peperzak, *To The Other* (West Lafayette IN: Purdue University Press, 1993), p. 116.

20 A. Abeyakara, *The Politics of Post-secular Religion – Mourning Secular Futures* (New York: Columbia University Press, 2008); J. de Ville, *Jacques Derrida: Law as Absolute Hospitality* (London/New York: Routledge, 2011).

21 S. Satkunanandan, *Extraordinary Responsibility: Politics beyond the Moral Calculus* (New York: Cambridge University Press, 2015).

2. Western Political Theology

2.a. Levinas once recounted a war-time episode whereby, somewhere between Paris and Alençon, a half-drunk barber used to invite soldiers who were passing on the road to come and have a free shave (*raser gratis*) in his shop.²² For Levinas the significance of this is that in the harshness of war, as the commercial peace was interrupted and no new revolutionary shift had yet taken place, the idiomatic French phrase ‘*Demain on rase gratis*’ (akin to ‘That’ll be the day’ or ‘It’s jam tomorrow’) acquired a non-ironic, non-utopian sense: that barber was actually shaving for free ‘today not tomorrow’: “Il rasait gratis et ce fut aujourd’hui.” Procrastination was re-absorbed into the present. But Levinas should not be spared the obvious question he did not pose: were these soldiers ‘the other as Other’? The ‘Other,’ means the irreducibly ethical dimension of the experience of sociality which the daily confrontation with any empirical others’ face epitomizes. The face has no identity, essence or meaning; it signifies nothing apart from the situation of my proximity to what – in the here and now of every encounter with any other being – commands my responsibility as if it were irreducibly unique even if I know her him to be comparable and interchangeable. Thus, the ‘I’ is relational not only in a dialectical sense but ethically, since in my exposure to another’s face ‘I’ am *me (moi)*, in the accusative “as if I were devoted to the other man before being devoted to myself.” It is on this basis that Levinas analyzed human society in terms of the face-to-face as “primary sociality”²³ “...whose whole intensity consists in not presupposing the idea of community.”²⁴ This is quite distinct from “constructing a community out of an egocentric perspective or, alternatively, an ego out of a conventionalist or social point of view” and from a master-slave type dialectic. Because of this, Levinasian ethics is at odds with any ontology of the state or any other political association since it exposes the contingency of sociality and demystifies/denaturalizes any existing bonds. Who is my neighbor? Anyone with a face! Including Bobby the dog!²⁵

Yet, Levinas also mentions, the anecdotal barber was calling the French soldiers ‘the lads’ using patriotic language. This, here, is not an appeal to the Other but to the Same, as the particular person (or collective entity) whom we know and represent – be it consciously or unconsciously – by virtue of our similarities and differences. This is the other as object of intentionality namely the other ‘filtered’ through the context our habits and knowledge. In this case visibility, representation and knowledge act as ‘bridges’ over our separateness. This is not ‘the Other’ who commands ethical responsibility and awakens my conscience, but merely “...someone co-opted into the world of the solitary ego which has no apparent relationship with the other-qua-Other, for whom the other is an alter ego known by sympathy, that is, by a return to oneself.”²⁶ This, I wish to argue, is the realm of *religion* the task of which, social anthropology

22 E. Levinas, *Noms Propres* (Montpellier: Fata Morgana, 1976), p. 83.

23 E. Levinas, *Totality and Infinity*, trans. A. Lingis (Dordrecht: Nijhoff, 1969), p. 304.

24 S. Hand, *The Levinas Reader* (Oxford: Blackwell, 1989), pp. 83-84.

25 *Supra* n. 2.

26 E. Levinas, *Existence and Existents*, trans. A. Lingis (Dordrecht: Nijhoff, 1978), p. 85.

informs us, is to establish inter-subjective trust and a spirit of collective belonging by capturing the idea of infinity into unquestionable metaphysical postulates that survive secularization and with which particular social groups identify.²⁷ This is also, consequently, the domain of political theology which informs our legal and political imaginaries, be it the social contract-as-Covenant or the dialectics of class struggle leading to, say, Balibar's 'equaliberty' as the secular equivalent of St. Paul's revolutionary promotion of equality. In religion and theology the ideas of infinity and anarchic responsibility, dear to Levinas, are thus collapsed into transcendence and duty, namely ideas *produced by* the subjects themselves as they become identified with particular metaphysical postulates which authorize, by 'sanctifying', our approach to the other as same/different than I/us or as friend/enemy. Thus, as the barber gives free shaves to French soldiers, we must interrogate the ethics of proximity from the perspective of *religion* and political theology: in particular, I will presently argue, the *economic-political* theology of the West, whose postulates include the imagining of state sovereignty according to the image of a glorious Triune God sitting on a Throne built before the world (so that government is imagined as a *sine qua non* of society rather than the other way around!) and overseeing the economic administration of beings and things – even beings as things. Could Levinas's barber have been 'economic' in excluding the non-French soldier from his generosity? If so then it would appear that when commercial peace is interrupted a 'paradigm shift' is not guaranteed to occur (after all Thomas Kuhn, the very father of the term 'paradigm shift,' was not keen on its use in relation to the humanities). Crises do not only give rise to anarchic proximity. They are also expressed and understood in ways that reify religion. In the words of Claude Lefort "Can we not admit that, despite all the changes that have occurred, the religious survives in the guise of new beliefs and new representations, and that it can return to the surface, in either traditional or novel forms, when conflicts become so acute as to produce cracks in the edifice of the state?"²⁸

2.b. At this point I want to expose Levinas to Agamben's thinking. Despite their entirely different projects they share two important commonalities. First, they concur in their criticism of the enlightenment fantasy of human individual autonomy/collective sovereignty based on the assumed primacy and universalism of morality that is determined by reason, logic and knowledge and which begins from and ends with the same subject: either the moral interest of the transcendental cogito or the objective historical necessity of praxis that realizes the (Hegelian) Idea which is posited as being prior to the existence of things and as equivalent to Truth, always to the same end: the eventual absolute coincidence of concepts and objectivity. In this respect both Levinas and Agamben are able to see how it may well be true that the apparent triumph of democracy and the rule of law are illusions concealing the impersonal processes that shape society. Secondly, however, neither Levinas

27 See above n. 9.

28 Claude Lefort, 'The Permanence of the Theological-Political?' in his *Democracy and Political Theory*, trans. D. Macey (Cambridge: Cambridge University Press, 1988), pp. 213-255, at p. 215.

nor Agamben are willing to concede that subjectivity has no meaningful function in the constitution of society. Levinas replaces the autonomous thinking 'I' with 'ethical subjectivity' understood as 'hostage' to the idea of infinity via the other's Face; Agamben, with the idea of reflexive in-operativity and valorization of plural forms of life through the free uses of the body.²⁹ As such, in very distinct ways, these two writers continue to valorize a reformulated humanism. In undermining the fantasy of self-constitution Agamben joins other writers on political theology in highlighting just how over-determined by pre-modern (Christian) metaphysics our modern legal and political imagination remains notwithstanding the erosion of sovereignty by administrative mentality. Levinas, by contrast, developed an ethical-philosophical discourse, which tries to persuade us logically of the vanity of any attempt to equate human freedom with self-mastery. Can Levinas's logic detach us from the metaphysical tradition Agamben describes in which no sovereign decision is ever vain enough to be seen as idiotic? After all, as every public law student must learn, legal or political sovereignty 'is absolute.'

The site for the comparison of the merits of the two thinkers will, here, be the contemporary crisis of modern constitutional imagination central to which is the postulate of a supreme power of self-constitution – sovereignty – in its conjoined versions: as based of individual (legal) autonomy and popular (democratic) self-determination. Indeed in both liberal and Marxist accounts of sovereignty the capacity, respectively, of 'humans' and of 'humanity' to be masters of their fate is almost a sacred – in the sense of 'unquestionable' – postulate. In Kant as in utilitarianism (i.e. the dominant influences in liberal jurisprudence and political theory) the universality of morality proceeds from a maxim of action conceived by the thinking being which is seen as a-historical autonomous subject. In turn, in Hegelian philosophy (the dominant influence in leftist jurisprudence and political philosophy) universal morality proceeds from the self-consciousness of humanity – the subject of universal history – in which subjective intuition and objective spirit together act as the motor of history. Today, the political and legal "constitutional imagination" that has sought to re-shape the world in the aftermath of the great European revolutions and the constitutional settlements that followed them is at a critical juncture. On the one hand it triumphs. More and more people speak the languages of both democratic sovereignty and social justice (thus the dissent against managerialism, neo-liberalism etc.) and of legal sovereignty (thus the defense of the rule of law and the spread of constitutionalisation³⁰/juridification³¹). On the other hand,

29 Agamben, *L'uso dei corpi*.

30 Constitutionalisation involves the attempt to subject all governmental action within a designated field to the structures, processes, principles, and values of a 'constitution'. Although this phenomenon is having an impact across government, its prominence today is mainly attributable to the realization that the activity of governing is increasingly being exercised through transnational or international arrangements that are not easily susceptible to the controls of national constitutions. See Martin Loughlin 'What is constitutionalisation?' in Petra Dobner and Martin Loughlin (eds.) *The Twilight of Constitutionalism?* (Oxford: Oxford University Press, 2010), pp. 47-72.

31 The term refers to the perception of increased juridical limitations of democratic politi-

it flounders as the simple idea that the social world is relentlessly constructed by powers beyond our control neutralizes the liberal notion of self-legislating through voting and consent but also humiliates would-be revolutionaries.³² Everywhere (say, in Greece) events belie both democracy and the rule of law as it becomes apparent that neither can account for the direction the world is taking, one which is increasingly about permanent crises management. In the words of the Marxist political theorist: “[C]ontinued belief in political democracy as the realization of human freedom depends upon literally averting our glance from powers immune to democratization, powers that also give the lie to the autonomy and primacy of the political upon which so much of the history and present of democratic theory has depended.”³³ In turn, in the words of the liberal constitutional lawyer: “We live today in an age simultaneously marked by the widespread adoption of the idea of constitutionalism, of ambiguity over its meaning, and about its continuing authority far from being an expression of limited government; constitutionalism is now to be viewed as an extremely powerful mode of legitimating extensive government. Where this form of constitutionalism positions itself on the ideology-utopia axis...has rarely been more indeterminate...notwithstanding the liberal gains...at the significance of the idea of the constitutional imagination has never exhibited a great degree of uncertainty.”³⁴ Faced with these contradictory phenomena the public in core western states responds with hypocrisy, dissent or cynicism. We vote or seek judicial review without belief in democracy and the rule of law. As is the case with all ‘empty rituals’ we validate as a true social fact the democracy and rule of law we do not believe in. In the post-colony, in turn, the hypocrisy and cynicism sanctified by the western civil religion are responded to with tragic or comic attempts to revive other traditional gods. In sharp contrast to both liberal legalists and revolutionary radicals, post-subjectivist social theory appears able to explain the constitution of the global society without the fantasy of sovereign power as it leaves behind it both the agency of the ‘human’ and ‘humanity’ in its approach to the question of the collective constitution. For example, despite their otherwise entirely different methodologies, both Foucaultian bio-political outlooks and systems theory-informed “societal constitutionalism”³⁵ emphasize the impersonal,

cal decision making e.g. by extensive legal regulation of new social fields, increase in (often broadly framed) individual rights, delegation of decision-making power away from democratic bodies and processes in favour of courts, the penetration of judicial ways of thinking and acting into new areas, and framing of struggles between interests as legal claims. This has given rise to fierce debates on the implications for democracy. Critics include Ran Hirschl and his aptly titled *Towards Juristocracy The Origins and Consequences of the New Constitutionalism* (Cambridge MA: Harvard University Press).

32 See for example Alexander Somek, ‘Administration Without Sovereignty’, in Dobner and Loughlin (eds.), *The Twilight of Constitutionalism?*, pp. 267-87, 273.

33 W. Brown, ‘We Are All Democrats Now...’, in A. Alen et al., *Democracy in what State?* (New York: Columbia University Press, 2011), p. 54.

34 M. Loughlin, ‘The Constitutional Imagination’, *Modern Law Review*, 78, 2015, 1, p. 25.

35 E.g. G. Teubner, *Constitutional Fragments Societal Constitutionalism and Globalization* (Oxford: Oxford University Press, 2012); M. Neves, *Transconstitutionalism* (Oxford: Hart Publishing, 2013).

anonymous, character of world-making processes in which the idea of individual or collective autonomous subjectivity and agency is ‘dead weight’ merely plaguing our understanding. ‘Societal constitutionalism’ in particular emphasizes the fragmentary character of the government of global society and the ever-growing autonomy of each of the impersonal ‘communicative’ social systems (law, politics, economy, religion, science, art etc.) and, at most, advises against one system dominating the other.

Now, if Levinas is right in anything he wrote, permanent crisis should, in principle, lead to an explosion not only of administrative management of ‘bare life’ but also of obsession with the Face and individuated responsibility without authority: an excess of sociality. Europeans should defy the authorities and take in their homes the refugees; Greeks should turn to solidarity networks instead of pinning their hopes on revolution or law. Indeed: *both these things do happen*. If they are not politically meaningful, I argue below, it is perhaps because *religion* trumps Levinas’s *religare* when it comes to public discourse. In particular the enduring influence of occidental *economic political theology* trumps Levinas’s anarchistic ethics. For reasons explained below western theology is particularly well equipped to help those whose legal and political imagination it structures to negotiate flexibly and ‘economically’ as a ‘relation’ the gap of alterity between human and Face, is and ought, said and saying, law and justice and, finally, justice and ethics; namely it is able to structure the gap or *differance* in connection with which, for Levinas, the ethical subject remains unsettled, ill-at-ease in itself and, hence, open to the other to the point of obsession and persecution.

2.c. If our togetherness has become totalized – via Christian/post Christian political theology – as at once a sovereign gift and a continuous administrative task, Levinas rebelled against all epistemological sovereignty over face-to-face proximity by defending the primacy of face-to-face pre-reflexive proximity over legal and political ontologies. Thus, in *Totality and Infinity*, Levinas re-launched the term ‘religion’ – whose etymological meaning is often understood as coming from the Latin verb *religare*, to connect – as part of his ethical opposition to the (Kantian, Hegelian or other) philosophical view of totality. The core of his ‘religion’ is the metaphysical idea of infinity, which “is transcendence itself” (p. 80), in the sense that *it is an idea that cannot be produced by the subject but which is experienced in the encounter with the other as wholly Other*. In this sense, bringing together the Same and the Other without constituting a totality, “[R]eligion, where relationship subsists between the same and the other despite the impossibility of the Whole...is the ultimate structure“ (*Ibid.*). This strange ‘relation’ *is not in fact a relation*, however, and Levinas talks paradoxically by writing of “relation without relation.” What Levinas tried to do was to launch a ‘religion of alterity’ that evades the totalizing duo private/traditional religion and civic religion. At its center lies the ‘disincarnate Face’ which concerns us not as meaning or representation but as signification without meaning, by way of the a stranger’s appeal or demand or summoning, In other words, “the face to face remains an ultimate situation” because “inevitably across my idea of the infinite the other faces me” (*Ibid.*, p. 81).

The trouble is, I think, that while Levinas could very well be right that the idea of infinity comes to each existent through the face-to-face encounter, in the collective imagination produced in the public sphere of any particular society this idea is, perhaps inevitably, represented in the form of some or other unquestionable “ultimate sacred postulate” underlying a metaphysical ‘fantasy’ about the universal. If, for Levinas, the subject’s ‘relation’ to the idea of infinity is ‘not in fact a relation’ but an experience of alterity, Agamben’s investigations of the *economic* character of western political theology show that the latter is exceptionally adept at colonizing the public discourse that this ‘strange’ relation gives rise to, because it takes as its ‘object’ a series of metaphysical *dualisms* which it keeps ‘locked’ together in a ‘relation’ without ever fusing or separating them. Agamben’s complex, multi-volume, *Homo Sacer* series examines the intricate links between pre-modern and modern legal, political, and theological western thought and theorizes an enduring occidental tradition of metaphysics of government that brought together, in a mutually reinforcing manner, Greek metaphysics, Roman institutionalism and Christian/post-Christian “economic-political theology” (discussed below). His overall philosophical thesis is that the human animal is fundamentally not defined by power – in either the sense of actual or potential power as Plato or Aristotle would respectively have it – but powerlessness: it is primarily ‘inoperable’ and contemplative or, in the Hebraic lexicon, it is sabbatical.³⁶ Agamben as an archaeologist of ideas, moreover, explains how this ‘inoperability’ has been portrayed in the ‘western juridico-political’ imagination as the indistinction between a thing-like animal or slave life (*zoe*) on the one hand and civilized or free life (*bios*) on the other. As imagined by Christians and post-Christians the world is ‘household,’ or *oikos*, in which inoperativity has no place. The world as *oikos* consists only of productive *zoe* and *bios* – living things and proper beings – which are thought to require constant administration or *oikonomia*. The enduring success of this fantasy is the result of synergy between the dominant tradition of Greek philosophy – in which the human is thought in the form of a binary articulation of *zoe/bios* – that ‘captures’ said inoperability and only allows it to signify outside of the distinction in the form of ‘abandoned’ or ‘naked’ life – and Christian Trinitarian “economic-political” theology that, as it were, sanctified this model. In sum, the western political and legal imagination relies on the fantasy of a ‘glorious’ machinery of government by *oikonomia* that perfectly captures human inoperativity and relies on it ‘as its fuel.’³⁷ On the one hand, the classical metaphysical postulate that the meaning of humanity is apparent in the conceptual difference between ‘passive’ biological

36 “Man is the Sabbatical animal *par excellence*...He has dedicated himself to production and labour, because in his essence he is completely devoid of work [*opera*]...” (G. Agamben, *The Kingdom and the Glory – For a Theological Investigation of Economy and Government*, trans. L. Chiesa et al. (Stanford: Stanford University Press, 2011) p. 246). Aristotle skirts this issue, Agamben notes, while, for example, the Jewish tradition of a creator God who rested on the seventh day, through the associated rituals of the Sabbath, put man’s *inoperativity* at the heart of its metaphysical understanding of the world.

37 “...inoperativity is the political substance of the *Occident*, the glorious nutrient of all

zoe and ‘active’ political *bios* effectively proscribes the possibility of understanding agency as based on the ‘uses of the body’ in ways that disengage it from natural and social destiny (it is precisely this philosophically proscribed sense that writers from Foucault to Butler to Agamben try to recuperate). On the other hand, the theological postulate of an all-encompassing, anarchic Divinity who created humans and asked them to obey His law but, after some hesitation, sent His Son on earth to act as *oikonomos* and liberate humans from the strictures of the very law God had imposed, collapsed *zoe* and *bios* into the notion of a subject that is imagined at once as law-bound *bios* and *zoe*, occupying a zone of in-distinction allowing for their economic depiction now as animal life now as human. Agamben specifically attributes the historical success of this model on the basis that sovereignty obfuscates the anomic treatment of inoperable life with reference to the ideological function of Christian political/economic theology in which “The throne is not a symbol of [finite] regality but of [immortal] glory.”³⁸ Conceived in the image of the Triune God who is postulated as a cybernetically closed set of relations of His three hypostases, sovereignty qua relationality contains every possible difference, everything that was, is and will be, or as a mysterious “circle in which the transcendental and the immanent perpetually bounce off each other.” In sum, if ancient Greek idealism and realism were at odds in their respective ontologies of constitutional power (*dynamis/energeia*), the appearance in the scene of the Stoic *Logos*, first, and the Triune God-like sovereign, secondly, made possible their cybernetic synergy:

God’s being as a unified difference of persons already contains every possible difference, including the difference of a created, ‘exterior’ world iornng the difference of a created, ce, *Logos*, first, and the Triune God-like sovereign, secondly, made possible their cybernetic synergy:cal constituent pocendent end. ‘*Ordo ad finem*’ and ‘*ordo ad invicem*’ refer back to one another and found themselves on one another. The Christian God is this circle in which two orders continuously penetrate each other.³⁹

According to this fantasy, within the divine ‘circle’ are found, ‘locked’ together without ever fusing, the particular and the universal – that the ancient philosophers had sought to distinguish (Platonic idealism), or collapse (Aristotelian realism) – and also the transcendental and the immanent – originally correlating respectively to the inflexible and commanding rule of the old Testament’s God and the flexible and dispensatory rule of the Son of Man – in a perennial, unfalsifiable dialectic which at once requires and produces eschatological faith in messianic, ever-deferred, redemption. Their tangential friction generates the “Glory” of God’s Throne on which the sovereign throne is modeled and which, per Agamben, survives the loss of regality (so that, pace C. Lefort, the killing of the monarch, which left the throne open to be occupied by competing interests in a

power” and the “internal-motor” of the machinery of government (*The Kingdom and the Glory*, p. 245).

38 *Ibid.*

39 *Ibid.*, p. 87

modern democracy, did not liberate us from political theology in so far as we kept the throne). Now in modern constitutional legal and political theories we readily recognize the “paradoxical” character of the notion of collective sovereignty as being at once constitutive and constituted. Following Agamben we could see this ‘relational’ account of sovereignty not as a genuine paradox but, rather, as a secularized account of this economic-political theological view of sovereignty as a self-same ‘relation.’ In the *State of Exception*, Agamben teaches us that ‘sovereign’ power is nothing more than the attempt to annex the anomie to which ‘bare life’ is subject through the legal fiction of ‘exception, namely by *establishing an artificial relation between anomic violence and law where no such relation truly exists*.⁴⁰ Moving on to contemporary affairs, Agamben characterizes our post-sovereignty era as one of pure administrative mentality, the epitome of *oikonomia*. In search for an adequate model for the state the world society is currently in, one of normalisation (relentless application) of the state of exception, Agamben, focuses not on the problematic of sovereignty as legislation or exception, but on the Roman institution of *justitium* or the suspension of public business and the rise of governance without government by anonymous bureaucracies. Whereas dictatorship refers to the ‘need’ to appoint a new, uniquely powerful magistrate to ‘restore order,’ during *iustitium* power remains in the hands of the existing magistrate not because of the augmentative dictatorial mandate but from the suspension of the laws that restricted action; whereas dictatorship suggests a fullness of powers *iustitium* stands for an emptiness and standstill of the law.

Returning to Levinas: did he underestimate how his re-launch of the term ‘religion’ (in the sense of *religare* and face-to-face) would have to compete, secularization notwithstanding, with the still operative political theology that still binds us to the very totalizing Western *logoi* he opposed? As we saw the totalizing character of these *logoi* over the truly universal ‘inoperative’ human animal has a major metaphysical pedigree including the Greek metaphysical conceptual distinction between *zoe-bios* included in the Christian metaphysical image of an all encompassing ‘humanity’ – and ecclesia of Christ – within a world imagined as a common household that requires acclamation/doxology of God/the sovereign as all powerful and Good/right as well as obedience to those who administer the divine economy on earth. Moreover, as Agamben explains, it was only in the context of Christianized-secular power that, in order to dispel the notion that God or the emperor may be willingly responsible for evil, theologians developed and canonized the view that God/the sovereign’s being is split from His praxis and the divine Logos corresponds to a mysterious and anarchic *oikonomia* that humans cannot fathom but which must be trusted as leading to humanity’s salvation. It is within this paradigm of theo-political economy that inoperative life became dispensable ‘naked life’: *Homo Sacer* a term signifying all those forms-of-life that are arbitrarily rejected from within the zone of indistinction between *zoe* and *bios*, nature and logos, body and soul, animality and humanity etc. Levinas, whose abstract thought

on the Face was occasionally grounded in Talmudic anecdotes but never with reference to the Christian parables, did not appreciate how what he described – being otherwise than being or not being in the form of being for the other as other – has been superseded in the dominant western-Christian paradigm by the figure of Christ who is at once being and non-being. The ‘other genus’ that Levinas in *Time and the Other* sought in femininity and later, in *Otherwise than Being or Beyond Essence*, called ‘the face’ of the ‘naked’ other as Other has been eclipsed by the neo-platonic religious figure of Christ the *ageneologitos* – without genealogy – which became the model for modern individuals hitherto understood as either born free or/and able to rupture their natural and social predeterminations on their own provided a God-like sovereign ensures the same degree of freedom for all. The anarchic right to be for the other as other, hence became the authorized right to be/become provided it is in accordance with the legal and economic plans of the sovereign Leviathan.