

ENNOBLED COLONIALISM AND COUNTER-REVOLUTION: THE THERMIDORIAN THRUST OF LEGAL POSITIVISM IN KANT AND TOCQUEVILLE

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QUID JURIS? PROLEGOMENA TO THE KANTIAN DRAMA OF SOVEREIGNTY

*I am no traitor's uncle; and that word 'grace'
in an ungracious mouth is but profane.
Why have those banisht and forbidden legs
Dared to touch a dust of England's ground?
...Why have they dared... to march
frighting her pale-faced villages with war
And ostentation of despised arms?
Why foolish boy, the King is left behind
And in my loyal bosom lies his power.
Duke of York to Henry Bolingbroke, thereafter Henry IV,
W. Shakespeare's *King Richard II*, Act II, Scene III¹*

*Great Duke of Lancaster...
Ascend his Throne, descending now from him
And long live Henry, fourth of that name!
Duke of York to Henry IV, Act IV, Scene I*

The conceptual core of positivism, regardless of its historical forms and astonishing varieties, may be defined by a stubborn adherence to established facts. What, in fact, happens, however, is that facts are objectified by the positivist impulse to establish certainty about them. My use of the term in this essay extends beyond its original sense which indicates a situation of observation, experiment and deduction of law and may be traced back to Francis Bacon and Auguste Comte. Moreover, it addresses a geopolitical and constitutional context outside the range of logical empiricism whose formal foundations were laid by the Vienna Circle in the 1920s and 1930s. In other words, I am not concerned with the logical structure of legal propositions but with law as *posited* and *enacted*. In this case, I am interested in the intellectual authority it elicits and the speculative justifications propounded in its name. What is implicated in this is, I will argue, a passionate zeal for the preservation of

order which incorporates the censorious outlook of the Counter-Enlightenment. In fact, this paradoxical pattern tends to repeat itself. Auguste Comte, himself the high priest and popularizer of Positivism who grew up in the aftermath of the French Revolution and lived through its utmost consequences, reached the point at the end to advocate a new ceremonial religion of humanity with its own clergy conducting its mysteries. What I will try to unpack is precisely this paradoxical symptom which manifests an enthusiasm for social reform, human dignity, liberty, eternal peace, etc., while, at the same time, being dogmatically attached to the disciplinary apparatus of existing legality, thus introducing uncanny rationalizations which invalidate any supposed claims of reason.

What this points to is an obstinate will to preserve what is given or posited as *law and order* without, however, arriving at this conclusion by reasoning (which would be the logical outcome of the spirit of Enlightenment and its professed outlook as the Age of Reason). Instead, it betrays incomprehensible sympathies with the spirit of counter-revolution, appeals without hesitation to censorship, and justifies colonialism. Regardless of the differences between Immanuel Kant and Alexis de Tocqueville, this is more or less a shared assumption which is animated by what Alain Badiou calls “Thermidorian subjectivity.” Thermidor is the name of that month of the French revolutionary calendar which extends from mid-July to mid-August. It describes a tempered sequence of supposed social and political moderation during which, however, George Couthon, Robespierre and Saint-Just were guillotined. This Thermidorian figure who “rescues” the revolution by terminating it, who renounces his revolutionary enthusiasm and retails his political capacity to the order of proprietors “is more persistently French than our admirable insurrections,” Badiou argues.² This Thermidorian shift, I would further claim, designates positivism as the condition of *law and order*. More to the point, positivism in this essay is addressed broadly in terms of its legal and political sense, especially as it is typified by Montesquieu, accepted pragmatically by Kant and acted upon by Tocqueville.

For instance, Tocqueville explains in volume II of *Democracy in America* (Chapter 21) why the state form of a democratic society is incompatible with revolutionary breaks that depose the existing legality. Insofar as revolutions threaten the existing legal structures of property and trade as the mainstays of democracy, citizens will be disinclined to take the risk. Tocqueville elucidates the sociological underpinnings of legal positivism as follows: “Daily they change, alter and renew things of secondary importance, but they are very careful not to touch fundamentals. They love change, but they are afraid of revolutions. Although Americans are constantly modifying or repealing some of their laws, they are far from showing any revolutionary passions.”³ In the same vein, Kant defended legal continuity, while Montesquieu was more interested in the enduring spirit of positive law rather than the subject of justice.

One major shortcoming of either positivist theories of law or political theories of freedom is that they fail to account for the expedient, makeshift and opportunistic reduction of law and politics respectively. This tacticist bearing of law, as well as the diplomatic and maneuverable quality of conventional politics, point to an inherent aporia attending any theoretical endeavor to insulate them from possible distortions and instrumental appropriations which are immanent in the process of their exhaustion. Politics, law, morality, peace as Kantian ends in themselves are constantly exposed to the possibility of being inverted to their opposite. Tyranny, illegitimacy, immorality, colonialism, censorship and cretinism are not merely possible outcomes of an end in itself distorted unexpectedly or unintentionally in the process. Rather, as Alain Badiou argues, these Thermidorian aberrations are the strictly immanent effect of exhausted capacities.⁴ The transition from a presumed private opinion to a publicly coordinated judgment by spectators is not necessarily immune to influence or unhampered by partiality, fear, loyalism and prejudice.

Kant’s watchfulness against civil dissension overshadows inconsistently both his defense of the French Revolution as well as his professed anticolonialism. But it also discharges an air of smugness, unscrupulous legalism and even opportunism characteristic of the free-rider. With all the necessary changes made, Kant’s attitude appears to reflect the neuter grace of the Duke of York in Shakespeare’s *King Richard II*.⁵ The latter’s is not simply a paradigmatic embodiment of the inviolability of sovereignty. It is also an undeviating fidelity to its continuity, to the divine right of the law not only to overrule any other right (including that of rebellion) but to outweigh all

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other duties (including the affective loyalty between relatives) as well. In a striking anticipation of the Kantian subjectivity as a positivist predicate of legal sovereignty, the Duke of York does certainly reflect on the limits of his patience to endure the suffering of wrong and disgrace, yet what takes precedence at the end is nothing else than “fair sequence and succession” (104). In addressing King Richard, he counsels that wrongful seizure of rights will “pluck a thousand dangers on your heal, | you lose a thousand well-disposed hearts, | and prick my tender patience to those thoughts, | Which honor and allegiance cannot think” (Act II, Scene I, 179-182). However, the farthest this Kantian intuition can go is a ministerial acknowledgement of the critical situation of revolt: “Well, well, I see the issue of these arms; I cannot mend it... because my power is weak... but if I could... I would attach you all and make you stoop unto the sovereign mercy of the King. But since I cannot, be it known to you, I do remain as neuter. So fare you well;” (Act II, Scene III, 151-158); “or it may be I will go with you: but yet I’ll pause; For I am loth to break our country’s laws. Nor friends, nor foes, to me welcome you are: things past redress are now with me past care” (Act II, Scene III, 168-171).

Shakespeare through the Duke of York stagecrafts the drama of sovereignty and its continuity in a way which fully anticipates the Kantian emphasis on the sanctity of obedience and dutifulness. So much so that, after the enthronement of Henry IV, not only is the Duke of York disposed to absolve the new authority of any offences, not only is he cunningly prudent to become an advocate of its legality, but he rushes, moreover, to report his son to the King, exposing thus his plot to restore Richard to his former seat: “Thou fond mad woman, wilt thou conceal this dark conspiracy? A dozen of them here have ta’en the sacrament, And interchangeably set down their hands, to kill the King of Oxford... Away fond woman! Were he twenty times my son, I would appeach him” (Act V, Scene II, 99-106). This scene, which also dramatizes inexorably the affective stakes of sovereignty, received by Kant an honorable place and an outstanding treatment, becoming, that is, the foundation stone of his constitutional theory of legality. In discussing the relationship of theory to practice in political right, Kant qualifies his conclusion with the following critical caveat: “There is no *casus necessitatis* except where duties, i.e. an *absolute duty* and another which, however pressing, is nevertheless *relative* come into conflict. For instance, it might be necessary for someone to betray someone else, even if their relationship were that of father and son, in order to preserve the state from catastrophe. This preservation of the state from evil is an absolute duty, while the preservation of the individual is merely a relative duty... The first person might denounce the second to the authorities with the utmost unwillingness, compelled only by (moral) necessity.”⁶

In thinking beyond the Kantian logic of state security, of pacification and the exaltation of a strictly regulated publicity within the existing limits of constitutional and cultural legality, I would argue that love of public freedom without the love of a truth capable of puncturing the inexorable propaganda of fixed opinion and the operational influence of police, cannot motivate any inquiry into the foundations of a persisting political order.

In this sense, a positivist, self-referential logic of politics calls our attention to a philosophical lacuna. For instance, Clement Rosset demonstrates this self-referential logic by adducing the following hypothesis: there comes a moment when the evidentiary ground of an argument recedes impotent, stumbling on the thing itself which can be validated only by itself. At this very moment all deliberation ends and philosophy is interrupted ingloriously: *adveniente recessat argumentum*.⁷ That is, philosophy torn between the real and its double, between rationalization and the unthought. My contention is that Clement Rosset’s reasoning encapsulates in condensed form both Kant’s controversial defense of the French Revolution, which arbitrarily terminates any further inquiry about the event itself on positivist grounds, but also Tocqueville’s equivocal anticolonialism, which was consistent with French imperialism. In my view, both share a profound ambivalence on the issues of revolution, constitution and the colonial question. Consequently, the deficient treatment of these issues corrupts judgment, depriving it of any moral or legal foundation.

In light of this perspective I proceed by rethinking Carl Schmitt’s reading of Kant in the *Nomos of the Earth*,⁸ which, despite its self-serving interest and evident opportunism, remains self-defeatingly revealing beyond the critic’s intention. Moreover, I argue that, although Kant appears as a reticent but astute spectator of the revolution, his Thermidorian defense of legality at the expense of justice reflects his wavering attitude on the

colonial question.⁹ Finally, despite differences, there also appear striking similarities with the subsequent dilemmas faced by Alexis de Tocqueville. These, I argue, make better sense if we integrate them in the mindset, the institutional practices and the foreign policy inaugurated by what Badiou designates as the “Thermidorian subjectivity.”

This is then a critical sequence of reflections on how philosophical reason accommodates itself almost socio-logically to time than to truth. What I suggest is a rethinking of the Thermidorian condition which induces a reduction of reason to the prevailing opinion of an expedient rationalism. This process will hopefully disclose what all post-colonial peoples know as a plain fact of survival; namely, that the prevailing consensus over the necessity of the civilizing process of imperialism is not simply an embarrassment to the inquiring reason; it is in itself a Thermidorian backlash against the very possibility of thought. Unavoidably any anti-imperialist opening of thought takes the form of an inquisitive hubris.

LEGAL POSITIVISM AND THE NORMATIVE CONTRADICTIONS OF IMPERIAL ANTI-COLONIALISM: KANT AFTER SCHMITT

In addressing the insoluble aporias and deeper limits of peace-making as an imperial craft, it is advisable to reckon with Kant’s anticolonialism and its paradoxes. At first sight, anticolonialism is the Kantian vocation par excellence. Consider, for instance, the following unequivocal statement:

If we compare with this ultimate end (i.e. the public law regulating relations between nations) the inhospitable conduct of the civilized states of our continent, especially the commercial states, the injustice which they display in visiting foreign countries and peoples which in their case is the same as conquering them, seems appallingly great. America, the negro countries, the spice islands, the Cape, etc. were looked upon at the time of their discovery as ownerless territories; for the native inhabitants were counted as nothing. In East India foreign troops were brought in under the pretext of merely setting up trading posts. This led to oppression of the natives, incitement of the various Indian states to widespread wars, famine, insurrection, treachery and the whole litany of evils which can afflict the human race.

China and Japan, having had experience of such guests, have wisely placed restrictions on them. China permits contact with her territories but no entrance into them, while Japan only allows contact with a single European people, the Dutch, although they are still segregated from the native community like prisoners. The worst thing about all this is that the commercial states do not even benefit by their violence, for all their trading companies are on the point of collapse. The sugar islands, that stronghold of the cruellest and most calculated slavery, do not yield any real profit. They serve only the indirect (and not entirely laudable) purpose of training sailors for warships, thereby aiding the prosecution of wars in Europe. And all this is the work of powers who make endless ado about their piety and who wish to be considered as chosen believers while they live on the fruits of inequity.¹⁰

Yet, this pious advocacy for an anti-imperialist Enlightenment makes room for contradictory prescriptions regarding perpetual peace such as the following:

But man (or an individual nation) in a mere state of nature robs me of any such security and injures me by virtue of this very state in which he coexists with me. He may not have injured me actively (*facto*), but he does injure me by the very lawlessness of his state (*statu iniusto*), for he is a permanent threat to me, and I can require him either to enter into a common lawful state along with me or to move away from my vicinity.¹¹

Kant’s reasoning proceeds from the premises of a state legality which identifies the force of civilization with constitutional sovereignty vis-à-vis lawless, stateless and hence “uncivil” societies founded solely on ethos and virtue which, as of necessity, have to be coerced out of the threatening state of nature. In this sense, Kant’s legal

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philosophy brings to a conclusion a line of reasoning typical of the humanistic jurisprudence of the 16th century which prescribes maxims of justice applicable only to public wars, involving sovereign belligerents who are mutually recognized as equals. This non-discriminatory concept of a public war involving just enemies based on parity, hence entailing a just war on both sides—*bellum utrimque justum*—establishes the essence of *hostis* upon the principle of *aequalitas*.

In other words, the legitimacy of European state wars was grounded on the premise of an armed confrontation between *hostes aequaliter justi*. These, according to Alberico Gentili were predicated on sovereignty (as *ordo ordinans*, ordering order) and not on the justice or injustice of the reasons for war offered by either side.¹² A non-state war, therefore, was considered non-public, i.e. it did not correspond to state legality, hence its illegitimacy.

In consequence, revolutionaries, robbers, pirates, etc. were not considered *justi hostes* (just enemies) but mere objects to be rendered harmless and/or prosecuted as criminals.¹³ That was the core concept which regulated the *jus publicum Europaeum*. Kant appended a conspicuous maxim to the concept of *justus hostis* which, although implied by the *jus publicum Europaeum*, was not elaborately conceptualized in terms of discriminatory war: “There are no limits to the rights of a state against an *unjust enemy* (no limits with respect to quantity or degree, though there are limits with respect to quality); that is to say, an injured state may not use any means whatever but may use those means that are allowable to any degree that it is able to in order to maintain what belongs to it.”¹⁴ This criminalization of the non-sovereign as *hostis injustus* obtained operational status in the 20th century which countenanced total wars of annihilation. Kant’s identification of the *hostis injustus* with the criminal, despite cautious prescriptions, counsels of prudence and alarmist provisos, makes allowances for discriminatory wars and crusades as a legal method of eliminating effectively the enemy.

Consider also the following fragment from Kant’s oversubtle reasoning. Triumphant constitutional states

are not called upon to divide the territory (of the vanquished) among themselves and to force the state, as it were, to disappear from earth, since that would be an injustice against its people, which cannot lose its original right to unite itself into a Commonwealth, *though it can be coerced to adopt a new constitution that by its nature will be unfavorable to the inclination for war.* (Kant, *MM*, 155, par. 60)

Kant does not specify whether the imposed constitution is meant to forestall anticolonial war. Yet, the degree and intensity of coercion implied by such constitutional engineering pertains only to protectorates. Such method remains as equivocal and obscure as is the concrete specification of the *hostis injustus*. Kant provides paradoxical answers which, not surprisingly, can be interpreted in any direction at will. The nebulous ground regarding the status of land appropriation, colonial constitutionalism and the unjust enemy can be further ascertained if we follow closely Kant’s reasoning, framed as it is by the contradictions of imperialist legality which it attempts to accommodate. In discussing the right of state after colonial war, Kant concedes that

...a defeated state or its subjects do not lose their civil freedom through the conquest of their country. ...A colony or a province is a people that indeed has its own constitution, its own legislation, and its own land, on which those who belong to another state are only foreigners, even though this other state has supreme executive authority over the colony or province. The state having that executive authority is called the mother state, and the daughter state, though ruled by it, still governs itself (by its own parliament, possibly with a viceroy presiding over it) (*civitas hybrida*). (Kant, *MM*, 154-155, par. 58)

Despite all due hesitation and benevolent discretion with regard to the legitimacy of constitutional legality under colonial guardianship, Kant’s reasoning cannot rationalize away the pastoral¹⁵ logic of imperial trusteeship as a method of extracting spatial surplus value. This kind of protectoral constitution-making by the curators of international law anticipates the fate of condominiums that was to be decided by the 19th and 20th century

treaty legality. Moreover, this form of imperial legality reduced colonies into daughter states, client states, etc. It marked the beginnings of a geopolitical species of biopower exercised by the caretakers of modernity cum trustees of international law. The distinction itself between mother and daughter states already implies colonial bonds and constitutional patronage within the unfolding family romance of imperialism.

A vivid illustration of such an underlying biopolitical mandate attendant on Kantian exceptions to the rule of justice could be the case of the second Preliminary Article of a Perpetual Peace between states. This postulates that no independent state, large or small, may be acquired by another state by inheritance, exchange, purchase or gift: “For a state, unlike the ground on which it is based, is not a possession (*patrimonium*). It is a society of men, which no one other than itself can command or dispose of. To terminate its existence as a moral personality and make it into a commodity contradicts the idea of the original contract without which the rights of people are unthinkable.” However, Kant qualifies this with the following caveat: “in the case of the second article, the prohibition relates only to the mode of acquisition, which is to be forbidden henceforth, but not to the present state of political possessions. For although this present state is not backed up by the requisite legal authority, it was considered lawful in *the public opinion* of every state at the time of the putative acquisition”.¹⁶ Although these irregularities are not considered by Kant as an exception to the rule of justice, he does concede that they “allow some subjective latitude according to the circumstances in which they are applied (*leges latae*)”.¹⁷

In order to elucidate this oddity it is advisable to bring into play Kant’s disquisition on property right in the *Metaphysics of Morals*. Articles 14 and 16 corroborate in pedestrian fashion Carl Schmitt’s alarming assertion that “the History of International Law is a history of land appropriation, land occupation, embargoes and blockades as a constitutive process for every commonwealth and empire”.¹⁸ Of course, it is more than a reasonable probability that Schmitt’s animus and motive is to provide those sufficient grounds of legitimation that will absolve Nazi philosophy of any perceivable charges regarding expansionist claims. It is plausible that Schmitt’s *nomomachy* petitions the recognition of Nazism within the sanctionable technicalities of a strictly state legality, namely, an *aequalitas hostium* (equality of enemies) that will yield Hitler and National Socialism a status of *justus hostis*. Despite Kant’s fear that the exception eventually becomes a rule, Schmitt is able to trade upon the former’s antinomies of imperial favoritism as well as on his inconsistent qualification of the odd concept of constitutional condominium which sequentially rationalizes land acquisition. Kant writes:

...There can be two complete owners of one and the same thing, without its being both mine and yours in common; they may only be possessors in common of what belongs to only one of them as his. This happens when one of the so called joint owners (*condomini*) has only full possession without use, while the other has all the use of the thing along with possession of it. So the one who has full possession without use (*dominus directus*) only restricts the other (*dominus utilis*) to some continual performance without thereby limiting his use of the thing.” (Kant, *MM*, 90, par. 17)¹⁹

We may recall that for Kant *possession of territory* (according to the second preliminary article of perpetual peace) is compatible with his pacifist imperium, unlike the *state* itself which *cannot be possessed*, therefore enjoying conditional constitutional autonomy (which certainly can be revoked by the *condomini*, according to circumstances). Thus, the constitutive process of land appropriation is not just tacitly assumed but precedes explicitly any legal order. These maxims produce the constitutional logic of colonial *condominia* in terms of world ordering cum biopolitical adjustment, not immeasurably far off from the 20th century racial geopolitics espoused by Schmitt’s *Grossraumtheorie*, i.e. the transition from small space (*Kleinraum*) to large spatial spheres (*Grossraum*). Land acquisition, therefore, along with the relative autonomy of colonial states, becomes the condition of possibility for the peace-building of the federal imperium. Protectorship in this *Grossraum* sense of geopolitical discipline (i.e. protection, security, custody, guardianship) specifies a juridical condition that conjoins reformist superpower politics with the right to discipline within an inexorable spatial logic of influence. Imperialism re-places to all purposes and intents universality with an apparatus of influence. The protectorate, then, is what is disposed by the spatial economy of the imperial apparatus. It is simply the terminal disposition of the spatial logic of governmentality. In other words, even a protectorate striving to assert its

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quasi-stateness, needs first to be induced as a biopolitical inscription in the disciplinary continuum of spatial spheres of influence. There is nothing outside this spatial apparatus²⁰ of security and juridical governmentality except the ungovernable counter-point of anti-colonial revolution.

What is posited in this analysis is the notion of concurrent dominions or overlapping sovereignties invigilating over internationalized territories and sub-political joint agencies such as condominiums, protectorates, etc. What is actually exposed are zones of indistinction and juridical thresholds at the intersection of a) modern state biopower which operates globally by regulating, constituting and channeling nations cum populations and b) biopolitical techniques which work through this global demographic biopower with the disciplinary force of local normalization. In this analysis, therefore, biopower and biopolitics appear as complementary and not antithetical as it may possibly be inferred from the work of Foucault. The Kantian discoursing over condominiums is already suggestive of such a joint articulation of geopolitical biopower and disciplinary biopolitics as overlapping spatializations of the exception.²¹

THE THERMIDORIAN CLOSURE OF KANT'S LEGAL POSITIVISM

Schmitt's contribution as a reader of Kant is, in my view, not so much his assertion about the urgency and intensity of the political. What emerges amorphously from Schmitt's reading is Kant's preoccupation with rescuing the political from the state of nature in the context of a reformist biopolitical imperium. This very gesture, however, seems to defeat the purpose insofar as republican reformism achieves the political by doing away with it, i.e. by transforming itself into Thermidorian imperialism which neutralizes any probing into its origins. Schmitt's contribution lies precisely in the foregrounding of the decisionistic nature of pastoral imperialism which overshadows Kant's republican thought. Schmitt as a reader of Kant enables one to trace the state of exception in the self-exemption of reason, although Schmitt does not pursue this any further. Kant, however, is alert to this disquieting homology which voids claims to rationality of all pretension. In the sixth proposition of the "Idea for a Universal History with a Cosmopolitan Purpose" Kant is undecieving:

And even though as a rational creature, he desires a law to impose limits on the freedom of all, he is still misled by his self-seeking animal inclinations into exempting himself from the law where he can. He thus requires a master to break his self-will and force him to obey a universally valid will under which everyone can be free. But where is he to find such a master? Nowhere else but in the human species. But this master will also be an animal who needs a master... Nothing straight can be constructed from such warped wood as that which man is made of. Nature only requires that we should approximate the idea.²²

But even an approximation of the idea is hard to attain because any reckoning with the *pouvoir constitué* (power to be constituted) presupposes, according to Kant, prior accomplishments, skill and good will, factors which are not easily found in conjunction, except after numerous and unsuccessful attempts. The answer which Kant provides to the question of mastery and sovereignty in terms of self-exemption, goes at the heart of modernity's intractable tension between founding origins and normativity.²³

Neither pole is explainable by referring one to the other. Constitutional founding typifies the originary character of modernity and foregrounds the interrogative gesture of critique as integral to beginnings. This alone explains the persistence of the political through the impossibility of terminating sustained inquiries regarding origins without at the same time violating truth procedures and fidelity to modernity's revolutionary event, in Badiou's sense. But even in accordance with Kantian protocols of reason, any suspension of the principle of investigation would be a self-incurred error closing off the possibility of further critical enlightenment. The paradox of proscribing inquiry lies in modernity's self-awareness that its beginnings may grow into an affliction of messy complications, restive dilemmas and unruly "passions for the real." Thus, closure remains an ever present temptation.

Yet, however modern this interdiction is, in its Kantian version, it embodies an archetypical anxiety which perennially haunts the Platonic thought about law and politics. After having experienced a terminal disappointment at Syracuse, Plato writes down no less than twelve books of *Laws*, still in search for a pliable tyrant but also for an ideal state which, he thought, would be a synthesis of the legal codes of Sparta, Crete and Athens. What is surprisingly missing from Plato's probing in the *Laws* is not the dialogical form (although the Cretan Clinias and the Spartan Megillus are rather uninspiring listeners) but Socrates himself and in particular the method of Socratic inquiry. The *Laws* maintain the dialogical form but eliminate dialectical investigation per se which opposed both the unpatriotic sophistic that criticized all being and non-being, as well as communitarian ignorance and imprudence.

The *Laws* do not simply override the Socratic method, they rather reject it wholesale in what appears to be one of the most astonishing and tragic inversions in the history of philosophy. This overturning of tables takes place fifty years after the writing of *Gorgias*, of *Phaedo* (whose dramatic setting is Socrates in prison) and the thrilling speech in *Apology*. Thus, Socrates was delivered to posterity as the leading philosopher of thought and justice, executed in the name of an abject fidelity to law. Only that Plato came to adopt the standpoint of his accusers, thus ceding the good life of the just and the beautiful to the order of legal instruction.

On the verge of this inglorious counter-event which amounts to the self-effacement of philosophy, Plato (in the name of the Athenian stranger) states the following: "For in your case (your laws being wisely framed) one of the best of your laws will be that which enjoins that none of the youth shall inquire which laws are wrong and which right, but all shall declare in unison, with one mouth and one voice, that all are rightly established by divine enactment, and shall turn a deaf ear to any one who says otherwise".²⁴ Of course, Plato suggests a combined method of law-making which tempers compulsion with persuasion. Only that this labor comes through a quite rudimental and uncomplicated manner. In order to enhance consent, Plato introduces a prelude to each legal statement. By prefacing each enactment with a proem, i.e. an introductory discourse predisposing citizens to obedience, Plato expects to avert any inquisitive hubris regarding the origins of law.²⁵ Hence legal enactment is not only the state's jurisdiction; it is also invested with an inscrutable authority. In this positivist sense, late Plato abandons the ideal of a new Republic in favor of the second best rule of law. Evidence of Plato's positivist default is also present in his seventh *Epistle* where he urges not only the youth but also the intellectual of sense (*dianooumenon emfrona*) not to interfere with city affairs, even when he disapproves certain policies or when he finds that the city itself is ill-governed. Because all this is "*mataios erein*," fruitless speech which leads to a pointless death.²⁶ But rather than this being a political withdrawal from the cacophonous and unprincipled logomachy of the marketplace, it is meant by Plato to be a cynical act of deference to expediency and the deceptive imperium of *raison d'état*.

My argument is that there are strong resonances of this Platonic uneasiness and even cynicism in Kant's perspective on the French Revolution. Being a reluctant enthusiast of the French Revolution, and by virtue of this improbable confounding of law and affect, Kant comes to embody the quintessential ambivalence of modernity between the will to revolution and constitution, interrogation of the law and unquestioning conformity to its rule, the quest for truth and the pursuit of profit, politics and property. In his extensive general remark "On the Effects with Regard to Rights that Follow from the Nature of the Civil Constitution," Kant warns austere (and with strikingly Platonic overtones) about procedures of sustained agitation: "A people should not inquire with any practical aim in view into the origin of the supreme authority to which it is subject; that is a subject ought not to rationalize for the sake of action about the origin of this authority, as a right that can still be called into question (*ius controversum*) with regard to the obedience he owes to it" (*MM*, 129-30). For a people already subject to constitutional law such a sequence of inquiries into origins which keeps the dialectic of truth and knowledge from rigidifying "are pointless and, moreover, threaten a state with danger." It is evident that the constitution of modernity engenders a logic of origins not in terms of causality but in terms of novelty which thrusts the executive rationality of the state into crisis.

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Kant's distrust of origins betrays a profound fear of the plebeian multitude. The latter is viewed as a source of happiness which can be accomplished only in a state of nature, not in a civil state. Hence it is considered as a factor of disorder. He treats origins as entirely deceptive. By driving the normative pole of modernity against its originary foundations, Kant forecloses any critical investigation of the sources of legality:

If a subject, having pondered over the ultimate origin of the ruling authority, wanted to resist this authority, he would be punished, got rid of, or expelled (as the outlaw, *exlex*) in accordance with the laws of this authority, that is, with every right. A law that is so holy (inviolable) that is already a crime even to call it in doubt in a practical way, and to suspend its effect for a moment, is thought as if it must have arisen not from men but from the highest, flawless lawgiver; that is what the saying "all authority is from God" means. This saying is not an assertion about the historical basis of the civil constitution; instead it sets forth an Idea as a *practical principle of reason*: the principle that the presently existing legislative authority ought to be obeyed, whatever its origin. (*MM*, 129-30)

Over and again, we come across a divine economy of authority, with God being figured as an apparatus.²⁷ Due to the insufficiency of human virtue, existing legality be that revolutionary or counter-revolutionary is thus sanctified irrespective of origins. Whether constitutional monarchy or parliamentary oligarchy, it remains inessential for the utility of sovereignty. The apparatus of positive legality cum divine economy is above regimes. In this sense, Kant constitutionalizes the necessity of the apparatus as a disposition of rationality. That reflective judgment is assigned to a public authority which branches out into the legislature and the executive does not entail any limit to sovereignty whatsoever. For the republican constitution, according to Kant, cannot contain any provision that would entitle any sectional authority or jurisdiction within a state "to resist the supreme commander in case he should violate the law of the constitution, and so limit him" (*MM*, 130). Hence the supposedly moderating function of a constitution intended to limit the sovereign command is an absurdity for Kant because the act of containing sovereignty belongs to *prudence*, not *right*. It follows that people should restrain the task of politics to the mode of government by representation, a task which is incomparably more beneficial in Kant's view than investigating the sources of sovereignty. Kant is alarmed at the randomness of origin myths. Inexplicable and miraculous as they are, they become resources of a plebeian fantasmagoria, spectral meaning and fanaticism.

On the other hand, judgment as the augmented rationality of the executive estate is posited as an anti-populist antidote. This prescription was devised as a remedy for plebeian adventurism, i.e. modernity's delusory obsession with the realization of origins and the initiation of new beginnings. Yet, in the end it undermined the very principle of publicity. Kant's distrust of the revolutionary public of the commons echoes the intensity which engulfed the French Revolution, i.e. a split between the Jacobin appeal to the people as the grounding source for further originary action and the Thermidorian terror which effectively terminated the revolution as a political sequence.

In sum, the Thermidorian apparatus reduced law to the protection of property, security and peace with universality relegated entirely to a secondary concern.²⁸ Boissy d'Anglas, the quintessential Thermidorian, according to Badiou, invokes the pacifying power of law as a medium for suppressing revolutionary movements in the supposedly "sleepy colonies." The three maxims of Thermidorian legality (which in modified and amended version figure in Kant's "Doctrine of Right" and "Perpetual Peace") stipulate firstly that the colonies belong to France precisely because of land ownership there. Secondly, Law compels pacification of the anti-colonial movement because it threatens *property*. Thirdly, direct administrative control of the colonies is desirable because the security of the French Republic is at stake.²⁹

My argument is that when all is said and done, and despite extenuating circumstances, Kant's legal positivism is already strategically predisposed to compromise the principle of publicity, to adjust the faculty of practical reason to *raison d'état* and to turn over political judgment to the juridical imperium of the Thermidorian apparatus. Thus, the *sensus communis* unravels under the exception revealing the *sensus privatus* cum Thermi-

dorian providence: “the head of state has only rights against his subjects and no duties (that he can be coerced to fulfill). Moreover, even if the organ of the head of state, the ruler, proceeds contrary to law, for example, if he goes against the law of equality in assigning the burden of the state in matters of taxation, recruiting and so forth, subjects may indeed oppose this by complaints but not by resistance” (*MM*, 130).

Expectedly, Kant proscribes the right to revolution and by implication any right to resistance: “for a people to be authorized to resist, there would have to be a public law permitting it to resist, (that is) a provision that makes the people by one and the same judgment sovereign over the ruler,” which is self-contradictory because “the people wants to be the judge in its own suit” (*MM*, 130). Insofar as obedience to prevailing law takes precedence and overrules all other obligations, revolution can never be sanctioned on sufficient rational grounds or be defended in the name of just causes. However imperfect a sovereign is, he ought to subsist since regime law is a sacrosanct embodiment of reason. Positive law is upheld not by subordinating morality to politics but by reference to the divine rights of rulership, however autocratic they are.³⁰

We should recall that the French monarchy rested on the prescription of a constitutional paradox. A presumably absolute monarchy could not encroach on the existing body of rights and immunities enshrined by a medieval constitution without imperiling its rule. Given the impotence of the King to levy higher taxes, he proceeded undoubtedly in accordance with constitutional protocols by convening the Estates General, the nearest thing to a representative institution at the time. By assuming the mandate of reform from the sovereign, however, the Estates General triggered the formation of parties and soon afterwards it claimed sovereignty for itself, i.e. advocating representation of all Frenchmen without distinction, ending the feudal order, expropriating Church lands, terminating censorship restrictions, obliterating age-old administrative and provincial divisions and ultimately by drafting a new constitution.

According to Kant, however, this sequence amounted to less than a revolution. As the King’s act of summoning the Estates General in 1789 was practically an act of resignation and voluntary abdication of the throne, it follows that legal continuity was not disrupted. If that was a revolution then the King was the “first revolutionary” in a plausible scenario of legal change of rule in terms of continuity, despite the storming of the Bastille. And that is precisely the reason for Kant’s staunch condemnation of the execution of the King. His status was an embodiment of legal continuity (*MM*, 132). A defective constitution can be amended only by the initiative of the sovereign, that is, by reform from above and not by initiative from below which amounts to revolution. Resistance is warranted only by proxy, i.e. by people’s representatives and not by the people’s direct involvement, “combining at will to coerce the government to take a certain course of action, so itself performing an act of executive authority” (*MM*, 133). Once the revolution prevails, however, and a new constitutional order consolidates, Kant prescribes blind obedience to the new revolutionary legality.

This explains to a great extent why Kant’s oddly peculiar enthusiasm for the French Revolution remains on principle strictly confined to that of a more or less free rider’s disinterested sympathy and not in the least entailing any practical assistance and solidarity. Absent of any spirited predisposition for solidarity and militant vigor, lacking, in other words, a strong motivational component, this impartial viewpoint of the spectator secures a mannerly and urbane impersonality in judgment, but entails no morally required assistance. What is important for Kant’s impartialist justification of revolution is not the militant will and fidelity of revolutionaries to the realization of the latent possibilities of a situation but the retrospective viewpoint of the spectators who do not give in to the supposed fanaticism of the actors.

Kant appears to stake too much on the distinction between spectator enthusiasm and actor fanaticism. Although in fact he concedes that “any affect is blind either in the selection of its purpose or (if that were to have been given by reason) in the manner of achieving it.”³¹ Kant acknowledges that without the rapturous joy of enthusiasm, nothing great can be accomplished. Enthusiasm strains our forces by ideas which impart to the mind mightier and more permanent effects than impulses produced by sense. Such a moral agency cautiously animated by a well-proportioned spectator enthusiasm resonates, however, with an opportunism of sorts insofar as

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it remains risklessly bystander, refraining from action and tending the void between a singular, local decision and a universal truth until the singular can achieve to be universally predicated and postulated by an altered legality or situation. The spectator's enthusiasm, therefore, warranted as it is by a safe distance, is qualified by reason to engage in sanctioned transgressions without yielding to fanatic "delusions beyond all bounds of sensibility." Kant appears to discern between unbridled imagination and madness which he considers "a passing accident that presumably strikes even the soundest understanding on occasion" as opposed to "mania, a disease that deranges it".³² Yielding to the latter is like attributing divine purpose to nature by way of determinate rather than reflective judgment.

This is consistent with Kant's reasoned respect for the French Revolution which of course does not add up to approbating its revolutionary origin. In Badiou's terms, had Kant displayed fidelity to origins he would be affirming subsequent work done in the name of the event. That would also be a commitment to renaming processes carried out by interveners, who are the only ones able and willing to know if something ever had taken place. Kant is mistrustful of origins because of the fateful propensity of one generation after another to perceive themselves as a probate court authorized to authenticate a political will to origins. This, he fears, will release an ever renewable passion for perpetual rethinking and revalidation of beginnings by way of an apprenticeship in revolution. Instead, Kant aspires to channel revolutionary enthusiasm to republican reformism before the former escalates to a revolution in permanence.

It is evident that there can only be Kantian spectators, not Kantian actors. In consequence, the space of the political is purged of the dialectic between revolution and constitution, with all hopes for reform placed in the executive patriotism of the administrative staff. In this way, even a monarchy ruling without representation can qualify as republican government. Dieter Henrich commenting on Kant and "The Meaning of Rational Action in the State" argues forcefully that it is lamentable indeed to expect the general welfare and progress of humanity "through actions which Kant himself regards supremely unjust from the standpoint of reason and legality, toward which the very unfolding of progress is oriented!".³³

However, in so far as the revolution is not simply dismissed but emphatically condemned as a radical evil and fanatic derangement, one wonders whether what is involved in the privileging of the spectator is a failure of perception of the situation. Short of affective insight, a moral agent understandably can never perform acts of intervention. A duty-bound reason adopting spectator judgment and impartial maxims affectively indifferent to the situation are sure to fail in application because of a lack of discernment. Holding universal and rational maxims at hand cannot and will not tell actors when and where people are suffering, precisely because impartial judgment may not regard the situation as presenting a political issue or moral challenge. On this issue Arendt's commentary is unerring. Impartiality as a viewpoint of framing judgments "does not tell one how to act. It does not even tell one how to apply the wisdom, found by virtue of occupying a 'general standpoint' to the particulars of political life. ...Kant does tell one how to take others into account; he does not tell one how to combine with them in order to act".³⁴

Learning to be an intervener may prescribe actions not considered to be options before the event, hence perceptual shifts appear necessary in order to pierce through the reified *sensus communis* which animates the existing state of the situation. This is *volens nolens*, an act of moral and political unbinding which extends the situation beyond the bounds of common sense. In Badiou's glossary, it subtracts itself from the representative fiction of commonsensical accounts, by revealing its discursive inconsistencies, seeking instead consistency of acts and maxims which affirm the singularity of the event.

TOCQUEVILLE'S THERMIDORIAN POSITIVISM AND ITS DISCONTENTS: THE MORAL CALCULUS OF ENNOBLED COLONIALISM

*But now, become oppressors in their turn,
Frenchmen had changed a war of self-defence*

For one of conquest, losing sight of all they had struggled for.
W. Wordsworth, *Prelude*

In unraveling the knot between the colonial quest of the West and its underlying positivist presumption, it is necessary to elucidate the *Thermidorian hypothesis*. The Thermidor, according to Badiou, “marks the passage from a principled and defensive Republican war to a war of rapine and conquest and the trafficking of army supplies. But above all, there are the close ties with the colonialists and slave traders...”³⁵ Badiou, however, conceptualizes the Thermidorian question by focusing on the political incapacitation of *virtue* and its identification with *terror*. This operation is carried out by a counter-revolutionary order consisting of the colonial lobby, financial speculators and pillaging generals which undertakes to couple the state to sheer interest, property and colonial war. In other words, the Thermidorian turn signals the termination of the political sequence that was inaugurated in 1792 and lasted until 9 Thermidor 1794, effected by the state-processing of political subjectivity and its attachment to calculated interest and colonial speculation. Colonialism in this sense is coextensive with the Thermidorian order. Insofar as the centre of gravity is no longer the revolutionary situation itself but the *state of the situation*, the only subjective trajectory that counts is the one which plunges in colonial speculation and situational placement: “As a subject, the Thermidorian is constitutively *in search of a place*,” Badiou argues.³⁶

But, why is this Thermidorian operation in itself so important for understanding the positivist disarticulation of politics from any inventive principle, maxim or critical sequence? Because, Badiou argues, the institutionalization of the formal features of Thermidor (i.e. the self-aggrandizing activism and enterprising parliamentarism which thus effectively privatize legality) “invariably signifies the concurrent eviction of thought, specifically from the political field...”³⁷ Otherwise put, this persistent Thermidorian pathology renders principled politics at home unintelligible and anti-colonial revolt abroad unthinkable. Both are reduced to a seriality of violent convulsions which threaten imperial grandeur and the pursuit of private enrichment.

Alexis de Tocqueville is that political and intellectual figure who (by virtue of this combination) epitomizes and sublimates the long-term consequences of the Kantian logic of imperial constitutionalism that circumscribes the moral limits, the cognitive horizon and legal bounds of a revolutionary sequence. Like Kant, Tocqueville considered political stability indispensable for the survival and greatness of the republic, hence his opposition to constitutional change at will. Interestingly, while being a radiant illustration of the consequences of the Thermidorian dispensation, especially with regard to its imperial adventurism, Tocqueville nonetheless registered quite vocally his discontent with and despair over the state of depravity and corruption it brought about.

Let us recall that Tocqueville had forcefully argued that the French Revolution was an unnecessary and pointless bloodshed, as the Ancient Regime was heading through successive reforms in the same direction of equality and administrative centralization anyway.³⁸ Like Kant, Tocqueville yielded to the aftereffect of the revolution but dismissed the event itself. Unlike Kant, however, he proceeded to dissect the afflictions induced by the subsiding of the event, namely, indifference, apathy, docility, selfishness and lack of political will which he considered to be the new civic disorders of democratic despotism. For Tocqueville equality was not a static state but a long term process that was initiated by the *ancien regime* and culminated in the French Revolution. This process was irreversible and consistent with modernity and its democratic thrust toward the condition of equalization. Militating against it would be vain and meaningless.

Yet, Tocqueville, as the canonical and normative Thermidorian par excellence, was also fully aware of the vicious pathologies which progressed and multiplied under the new order as they undermined its legitimacy. Tocqueville was farsighted but still a desperate positivist. He admonished the disaffected dignitaries and notable families still attached to the old regime and secretly aspiring to the restoration of the Bourbon monarchy, to settle down in the new order and strive confidently to redirect its institutions from within. His vision was to rescue the aristocratic freedoms enjoyed under the old regime and reproduce them through the constitutional regulation of equality and the decentralization of authority in the post-revolutionary republic.

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All the same, Tocqueville assaulted the liberal government of François Guizot who considered as its primary task precisely the pacification of a country convulsed and confused by revolutions, wars and counter-revolutions. Tocqueville was alerted to the fact that the Thermidorian long term was virtually becoming the vanishing point of politics itself. This was undermining, in his view, the republican premises of the post-revolutionary order. Being the spiritual trustee of aristocratic republicanism, Tocqueville was quick to realize that the supplanting of principles by the distribution of favors and political privileges misused for economic advantage was ultimately privatizing public life and depoliticizing the parliament itself. Thus, Tocqueville felt he was “vegetating in a shadow-boxing parliament” while “the lack of great political debates and clashes that could lead to the formation of political groupings” condemned citizens into passive franchise.³⁹ He thus forewarned the political class comfortably accommodated by the Thermidorian system that it was sleeping on a volcano: “any government which sows vice will sooner or later reap revolutions.”⁴⁰

However, Tocqueville’s discontent with the unfreedom of an atomizing condition of progressive equalization and its attendant self-seeking politics—which fused with Bonapartist nationalism and the empire of spoils—should not be viewed as an anti-imperialist critique of the centralized state. For instance, his vision with regard to the state form of French colonial rule in Algeria was in accord with a sufficiently strong civilian state able to subdue and tranquilize the population by manipulating nothing but interest: “it would not be very wise to believe that we can succeed in binding the natives to us by a community of usages, but we may hope to do so by building a community of interests. Already in many places this type of tie is coming into existence.... Everywhere the natives receive higher prices for their crops and labor because of our presence. On the other hand, our farmers willingly employ indigenous population. The European needs the native to increase the value of his land; the Arab needs the European to obtain a higher salary. Thus interest may bring together two men otherwise far apart.”⁴¹

Tocqueville, then, was not immune to tactical as well as strategic uses of self-interest when it came to the consolidation of French colonial rule. His undertaking to synchronize liberalism with colonialism by making both profitable to all, presupposes a Bonapartist state apparatus, i.e. a precarious balancing between corporatist interests which Tocqueville so vehemently despised as an agency of centralization inimical to liberty. However bewildering and insoluble Tocqueville’s self-contradictions⁴² are, it is more than probable that he did associate the moral vitality of aristocratic liberty with the Frankish genealogy of conquest and the Germanist tradition of monarchy. The latter was aggregated in the forest assemblies by the nobility, in contrast to the absolutist monarchy that was despotic and of Romanist bourgeois inspiration.⁴³ The lineage of this prerogative of conquest lays open interesting elective affinities between the existential norms of Tocqueville’s republican liberalism and the moral calculus of his commitment to colonialism.

Tocqueville’s pledge to aristocratic liberty was not a sort of idiosyncratic inclination. In fact, this singular form of egalitarian liberty was the sustaining force behind the imperial drive of medieval Germanism which laid the social and political foundations of the making of Europe. In particular, Tacitus early on had thoughtfully considered the constitution of Germanic peoples and the structure of their kingship, emphasizing the fact that their kings were elected (although noble by birth) and that consequently they exercised no absolute arbitrary power. If there ever was an invariable of *Germanentum*, that was it. Not “*Blut und Boden*” but the “union of the free,” “Frank and Free.” In the assembly the state-chief or king was given a hearing not because of his power to command but because his advice carried weight: “if a proposal displeases them, the people shout their dissent; if they approve, they clash their spears. To express approbation with their weapons is their most complimentary way of showing agreement. ...On matters of minor importance only the chiefs debate; on major affairs, the whole community.”⁴⁴

This fundamental quality of the Germanic constitution which combines a combative egalitarianism with liberty, contrasts sharply with the Roman tradition. Although the constitution of the Roman Empire was identified as republican, the emperor exercised supreme authority as the chief of military command, held tribunal power, was personally inviolable, could convene the Senate and initiate legislation, had power to intervene at

his discretion in the provinces, run his own treasury, he was *pontifex maximus* of the state religion and even supervised public morals.⁴⁵ The Roman people were thus effectively reduced to the functional enslavement of breads and circuses, Roman soldiers served only for a salary, while Roman generals were flashing out their status and wealth. In contrast to this sumptuous republic of appearances and sophisticated corruption, the value system which underpinned the Germanic constitution was sustained by the nobility of honor, valor, courage, fidelity and the esteem of peers in a folk assembly of equals. These communal enclaves of egalitarian liberty which lasted through the medieval age “were basically a Germanic inheritance, survival of the original rural systems of the forest.” Likewise, the legal and constitutional system of the medieval synthesis entailed “folk justice of a popular character and a tradition of formally reciprocal obligation between rulers and ruled within a common tribal community.”⁴⁶

And yet, this folk condition of forest egalitarianism, which ensured to landlord nobility and ordinary warriors their liberty, was founded on a colonial frontier of immense peregrinations, demographic diffusion and conquest. This expansion of pioneering colonial aristocracies through conquest determined not only the subsequent evolution of Western feudalism but also the imperial map of medieval Europe through the creation of overseas crusader states and colonial societies. The pre-existent imperial structure of invader communities directed by a colonial thrust from the Frankish north, generated “a slow process of fusion, integrating both Germanic and Roman elements into a new synthesis that was to supersede both of them”.⁴⁷ Charlemagne brought this process to maturity and completion by reviving the empire which effected the political, military and cultural unification of the West.

The above necessary digression on the diffusion of the Frankish aristocratic diaspora throughout Europe and the Eastern Mediterranean provides, in my view, a long missing but enabling genealogical framework for the reassessment of Tocqueville’s liberal-aristocratic defense of imperialism. Far from constituting an anomalous exception in the making of his intellectual profile, Tocqueville’s imperialist propriety could be viewed in terms of hereditary conformity to a persistent Frankish ethos characteristic of conquest lordship. Many aspects of the aggressive dynamism and acquisitive expansionism conspicuously displayed on the Frankish frontier of conquest and colonization figure strongly in Tocqueville’s writings on empire and slavery.

The “crusading tournament” of the Frankish aristocracy, which had pursued the gamble of foreign conquest and had established dynasties from Scotland to Cyprus, obeyed the logic of a forced complex of inherited conquest characteristics. That was a kind of *mentis ambitio*, a transferable birthright of the desire to rule, i.e. “a psychological striving that surpassed simple economic need.”⁴⁸ But, more precisely, what really was the *differentia specifica* of this medieval type of ennobled imperialism?

In the first place, according to Bartlett, it was a process of replication rather than differentiation. In other words, this specimen of imperial expansion followed a logic of cellular multiplication of homeland norms and legal procedures rather than a core-periphery schema of hierarchical subordination of the latter to the former. Interestingly, the prime actors of the imperial system that distinguished the Middle Ages were not state formations but *consortia* of “entrepreneurial associations of Frankish knights, Latin priests, merchants, townsmen and as non-voting members, peasants.”⁴⁹

The standard case exemplifying such a freelance, stateless imperialism—although monarchical direction was still important—which sustained a successful expansionary movement in the eleventh and twelfth centuries, was certainly the crusading enterprise that transformed the political landscape of the Levant. For instance, the crusading consortium which conquered Cyprus and the entire Eastern Mediterranean was not driven by imperial statecraft but “by a curious assemblage of Western magnates and knights, ecclesiastics of both a papalist and an independent bent and Italian merchants, impelled by motives as diverse as their status and origins. Contemporaries remarked how the armies of the First Crusade were ‘without lord, without prince’ or how they ‘fought without King, without emperor’”.⁵⁰ What was then so outstanding in this imperial formation of eclectic *consortia*? Certainly the diverse and divergent interests that constituted its drive for conquest do not

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carry exceptional value. Rather, it was the absence of statecraft and political masterminding. What precisely distinguished medieval colonialism was a kind of *voluntarium inter fratres*, an almost autopoetic, self-regulated lay-clerical *consortium*.

By and large, the generic features of this Frankish specimen of civic-corporatist imperialism and colonial settlement are reflectively reinforced and reclaimed by Tocqueville in the case of French Algeria. “We must count principally,” Tocqueville argues, “on the free, passionate, and energetic actions of individuals” for colonial success.⁵¹ The colonists’ freedom to act is less restrained than in the mother country: “we should learn from this fact” (*WES*, 91).

That is the reason Tocqueville was so opposed to the subjection of the colonial society of French Africa under a permanent state of exception: “All right. But it is still necessary to indicate in advance and permanently what the exception should consist in and where the rules apply” (*WES*, 106). And yet, he goes on wondering in the typical form of an impeccable positivism which legitimizes the state of exception: “why could we not establish through law what had been founded on organic ordinances (that is those relative to the creation and the division of powers)?” (*WES*, 106). In fact, he argues “I am not opposed to allowing the case of emergency to remain. This is necessary, but instead of saying that decrees made in cases of emergency must be ratified by the government, which means nothing, we must fix a time after which the decree is nullified, and not rightful law, if it is not ratified” (*WES*, 106). The officialdom of the war ministry as well as the military governor of Algeria “are the least appropriate men to organize and even to imagine a colonial civil society” (*WES*, 106). Insofar as the colonial society of French Africa rests on the arbitrary authority of ministerial decrees which substitute civil justice, then its foundations “rest on nothing solid.”

But why is Tocqueville so forcefully emphatic on the virtues of a civil and rational colonial legality instead of simply accommodating his positivism within the circumstances of exceptional powers and summary proceedings that will eventually be naturalized? Because, he argues, we cannot confide to a military man “the work of colonization, which is our greater task” (*WES*, 108). Because “what matters most when one wants to create and develop a colony quickly is to ensure that those who arrive there feel exiled as little as possible, and that they encounter, if possible, a *perfect image of their homeland*. All the colonizing peoples have done that” (*WES*, 110; emphasis added). The Greeks and the Romans had sustained this municipal liberty in their colonial ventures of the past while the English gave us their own modern counterpart with the American colonies. Tocqueville envisioned the same fortune for Algeria. He, of course, forgot to mention the medieval consortium of Frankish colonialism that was almost homegrown. In all, Tocqueville appeared to be normatively committed to a model of colonialism which ought to replicate, as Bartlett argued above, rather than differentiate. In effect, he concluded that the French colony of Algeria should not be kept as a dependency but as an ideal replica of the home nation, approximating constitutional perfection as possible.

Short of this vision, however, which ran aground on the harsh realities of colonialism, Tocqueville adjusted his legal positivism to a second order civilian rule. Although that was a shorthand version, lacking much of the egalitarian splendor of the canonical Frankish model of colonialism initiated by imperial brotherhoods, Tocqueville’s proposals for colonial reform retained much of its vital ethos. That may or may not be a paradox, but Tocqueville, we should be reminded, had delicately acclimatized his “precious liberties” to the state of exception of the colonial situation: “In any case, we can say in a general way that all the political liberties must be suspended in Algeria. But, for almost all the rest, I maintain that there are only advantages and no inconveniences in faithfully reproducing in Africa what exists among us” (*WES*, 112). By these, Tocqueville means corporatist, intermediary bodies of manufacturing and commercial councils “not elected, but chosen by the governor allowed under certain circumstances to make their wishes known” through forms of indirect representation (*WES*, 112).

The background medieval vision which contrasts with Tocqueville’s watered-down colonial corporatism is of course the nobilitarian maxim of Frankish expansion: “*All colonies began as communes*; in antiquity as in our

own time, they have almost all owed their birth and their development to the communal spirit” (WES, 112; emphasis added). Hence, in order to sustain a semblance of credibility for the reflexive continuation of medieval corporatism, Tocqueville needed to call urgently and without further postponement for the reconstruction of the destroyed communal spirit of municipal power. Yet, the heterogeneity of the Algerian population made election a disadvantage to functional colonial rule: “So do not have any elected municipal bodies. But at least have appointed ones and give back to these bodies, from whom you have nothing to fear, as they come from you and are dependent on you, the responsibility of making use of the municipality’s resources.... An active municipal power is at the same time more necessary and less dangerous (in Algeria) than elsewhere: more necessary because a social life that does not yet exist must be created there; less dangerous because *there is no need to fear that municipal liberty will degenerate into political license*” (WES, 113; emphasis added).

This subtraction of the political nerve of municipal liberty (which was precisely what qualified the Frankish imperium) along with Tocqueville’s preparedness to sacrifice medieval immunities in the name of property, consigns his colonial agenda to the Thermidorian folder: “Who does not see that one moves to a colony to make money and not to make war?” Apparently, no one will come if they know in advance that their property will be subject to requisition “by the unlimited jurisdiction of the administrative court” (WES, 114). In other words, Tocqueville’s reformist colonialism agonizes with the discontents of the colonizers who paradoxically are dominated by their domination, as they themselves are the victims of their own instruments of colonization.⁵² Tocqueville, who even considered becoming himself a colonist by purchasing land in Algeria,⁵³ was at great pains coping with the moral and political strains of what may be called a *self-inflicted colonialism*. What Tocqueville evidently underestimated was that the colonial apparatus of the Thermidor presupposed a certain functionalist invariant in terms of which administrative rules fused indiscriminately with legislative and executive power. This he correctly understood as a state of exception, only that the latter could only be installed as an *apparatus* of counter-insurgency and not as a *field* of competing norms and concepts of reform.⁵⁴

But even in the case of the abolition of slavery, of which Tocqueville was a cunning and prudent advocate, the essential stake was not so much slave emancipation itself but the hegemonic and pre-emptive maneuver to retain the Thermidorian colonies in exchange. For this reason, Tocqueville suggested an orderly and disciplined emancipation of the slaves.⁵⁵ His proposal included not only sufficient subsidies and compensation for the plantation owners but also a training of the former slaves into “free wage labor” through the enforcement of legislation against landownership and vagabondage, i.e. moratorium on the freedoms of movement, property and residence that would force the emancipated slaves to remain in the plantations as wage earners. These measures, Tocqueville argues, are not only “the most effective but also in reality the least oppressive of all the *exceptional measures* to which we could have recourse” (WES, 221; emphasis added).⁵⁶

By transplanting the pastoral ethos of slavery into capitalism, Tocqueville inaugurates in principle the first biopolitical mutation of imperialism that was destined to become the axiomatic rationality of *preventive counter-insurgency* in the second half of the panoptic 20th century. “What are we exactly doing?” Tocqueville asks and responds thus: “We are placing them artificially in the position in which the European worker finds himself naturally. Assuredly, that is no tyranny, and the man on whom only this obstacle is imposed as he leaves slavery, would not seem to have any right to complain” (WES, 221).

That was indeed the absolute *renovatio imperii*. Nonetheless, the passage from the old empire to the new and to modernity proper was marked indelibly by the reflexive medievization of biopower, not by the universal consciousness of a common humanity. Only one thing remains emphatically unambiguous in this shift. By embracing both *right* and *non-right*, the new spirit of imperialism fixates itself pragmatically to the *no thing* as its object. Hence, although positively existing, it becomes at the same time a virtual impossibility. A contemporary of Tocqueville in 1851, Melville charted the contours of this incalculable positivity of nothingness in literary form. Captain Ahab, of course, shall always calculate the drifting of the elusive Moby Dick, ascertaining seasons for hunting him in particular latitudes. Waged slavery, this new dreadful force of being, conjured, anatomized and potentiated by Marx as an Epicurean swerve, fixated temporarily by Tocqueville’s imperialist

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humanism and imagined by Melville as an errant dread-provoking white whale, is the nothing that promises to become all by reminding Ahab of his unconscious thrownness in the deadly waters of modernity.

EPILOGUE

What I hope I have accomplished in this essay is to have traced the tensions and irresolvable aporias between the making of Empire, the professed liberty advocated by two outstanding connoisseurs of the French Revolution and the spurious attempts at colonization. Yet, by examining the complicity of “philosophical refinement” with the extraction of geopolitical surplus value, commerce and the overseas expropriation-redistribution of land, I was not simply interested in elucidating authorial intent by reference to historical context. Rather, what I attempted was to think the philosophical antinomies of the imperial mind as a critical background for rethinking a) the intricate knot binding the notions of ennobled colonialism and Enlightenment pacifism to the willpower of counter-revolution at home and b) the terminal discontinuity between revolution and empire, universal emancipation and national Thermidor. Ultimately, my principal aspiration was to think the imperial process as a Thermidorian negation of the emancipatory promise of thought.

The motivating force for this reassertion of spirit is the present situation on the island of Cyprus, indelibly marked by the long duration of interlocked histories of successive empires. The legacy of this serial and infinitely immobilizing imperialism on the moral and political fabric of the island has been devastating. Presently, it amounts to an intellectual servitude of sorts. Indeed, this essay was written in response to the spiritual desolation of the present, as a means of testing our intellectual nerve against the sprawling of a new volunteering empire of NGO’s staffed by little biopolitical Jacobins, fanciful peace-makers, conflict-managers, political middle-men, dealers and traffickers of the latest imperial Thermidor. Besides inventing new techniques of making a quick fortune, the intellectual contribution of the new Thermidorians begins and ends with sophistic rationalizations about the consequences of colonialism, its progressive role and civilizing mission in bringing diverse communities together, enhancing communication and understanding, ostensibly “exposing” the supererogatory character of anti-imperialism as the testing ground for a meticulous assessment of the critical possibilities of universality. Such rhetorical vindications of imperial overseas operations induce a postcolonial anesthesia which attends colorful (but untrue to life and politics) visions of expanding, multi-ethnic, porous, elusive and precarious frontiers of empire. That these pacifist squads of opinion (sustained by ambassadorial encouragement and overseas subsidy) occasionally appeal to Kant in order to gain a minimum of philosophical respectability is both an amusingly vulgar paraphrase of the internationalist mainstream of imperialism and a terrifying sign of the new civil power of imperial purpose in our age.

Indeed, for the Neo-Ottoman Turkey, the current occupier and colonizer of Northern Cyprus, the small island republic figures today as the intractable counterpart of Tocqueville’s *Algérie Française*. Mutatis mutandis, Cyprus operates as a *das ding* which sharpens the biopolitical edge of Neo-Ottomanism to the same extent that Algeria operated as the Thermidorian sublime for imperial France or the American colonies for Great Britain or Kashmir for the Greater India. The failure of philosophy to provide compelling critical accounts for contemporary forms of imperialism operating in terms of infinite geopolitical biopower, amounts to the elimination of politics as one of its creative conditions, hence, forcing its universalist aspirations into yet another terminal crisis. Philosophy’s singular prescription in this case cannot be other than the quest for a political process that will interrupt the measureless *biocracy* of imperial power. In this sense, Badiou’s philosophy which calls for interventions and inquiries that will suspend and disband this quasi-divine, indeterminate and errant super-biopower remains the only possibility for anti-imperialist politics under whose condition philosophy thinks.

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NOTES

1. This and all parenthetical references are taken from William Shakespeare, *King Richard II* in *The Complete Works* (New York: Barnes & Noble, 1994), 359-87.
2. Alain Badiou, *Polemics*, trans. Steven Corcoran (London: Verso, 2006), 85.
3. Alexis de Tocqueville, *Democracy in America*, ed. J. P. Meyer, trans. George Lawrence (New York: Perennial Library, 1988), 638.
4. Alain Badiou, *Metapolitics*, trans. Jason Barker (London: Verso, 2005), 127. Henceforth cited as *M*.
5. This apt comparison is also made by Andrew Cutrofello, who provides bright insights on the issue in *Continental Philosophy* (New York: Routledge, 2005), 217-18. Nonetheless, Hannah Arendt reminds us of Kant's profound confusion of revolution with a *coup d'état*. In other words, Kant, Arendt argues, "conceives action only as acts of the powers-that-be. Any action from the side of the subjects could consist only in conspiratorial activity, the acts and plots of secret societies." Hannah Arendt, *Lectures on Kant's Political Philosophy*, ed. Ronald Beiner (Chicago: University of Chicago Press, 1982), 60; henceforth cited as *LK*. Shakespeare's play reflects this reduction of revolt to a *coup d'état*.
6. Immanuel Kant, *Political Writings*, ed. H. S. Reiss, trans. H. B. Nisbet (Cambridge: Cambridge UP, 1970), 81. Henceforth cited as *PW*.
7. Clément Rosset, *Le réel et son double. Essai sur l'illusion* (Paris: Gallimard, 1984 [1976]). Greek translation by Zoe Antonopoulou-Trechli (Athens: Armos publications), 176.
8. Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*, trans. G. L. Ulmen (New York: Telos Press, 2003 [1950]). Henceforth cited as *NE*.
9. For an opposing view which considers the Enlightenment as an anti-imperialist movement without, however, coping with the contradictions and inconsistencies of Kant which make allowances for exceptions to the rule of justice, see Sankar Muthu, *Enlightenment against Empire* (Princeton: Princeton UP, 2003).
10. Kant, *PW*, 106-107.
11. Kant, *PW*, 98.
12. Schmitt, *NE*, 156-159.
13. Schmitt, *NE*, 153.
14. This and all parenthetical references are taken from Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge UP, 1991), 155, paragraph 60. Henceforth cited as *MM*.
15. My hypothesis here about a "pastoral logic" of imperialism elaborates on Foucault's understanding of the state "as a modern matrix of individualization," i.e. as a source of pastoral care, protection and security against accidents, natural disasters, epidemics, revolutions, etc. Michel Foucault, "The Subject and Power," trans. Leslie Sawyer, afterword to Dreyfus Hubert and Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics* (Chicago: U of Chicago P, 1982), 215. This pastoral logic of imperial power is precisely what weighs on the Enlightenment's quest for reason, maturity, etc. Foucault's insights into the pastoral operations of power anticipate in general terms the present state of biopolitical imperialism. What I am rethinking here is Foucault's critique of a kind of Comtean humanism cum positive religion of man as an axiomatic principle for a critique of deterritorialized imperialism in the present. Pastoral power in this perspective is an ingenious concept, as it shifts the emphasis from technics of territorial control to the "government of souls," i.e. the biopolitical alignment of populations (collectively) and inhabitants (individually). What this practically means is the progressive substitution of nations, tribes, recalcitrant identities, etc. with benevolent communities and malleable population flows. The tragic irony with Foucault's bright insight is the implication of pastoral power within the production of counter-memory, dubiously projected as the ideal state of freedom in the present age of biopolitical reason. Insofar as memory, according to Foucault, designates a condition of captivity that restricts freedom and binds us to the ontological obligation of identity, the dissociation of the self from this confinement through the creation of a counter-memory may be "a sign of superior culture," liberating "countless spirits." In fact, Foucault argues, "the purpose of history, guided by genealogy, is not to discover the roots of our identity but to commit itself to its dissipation." *Language, Counter-Memory, Practice: Selected Essays and Interviews*, ed. Donald F. Bouchard, trans. Donald F. Bouchard and Sherry Simon (Ithaca, NY: Cornell UP, 1977), 161-162. Foucault does, of course, provide a necessary caveat: "Nietzsche reproached critical history for detaching us from every real source and for sacrificing the very movement of life to the exclusive concern for truth" (164). This is well taken, yet it is insufficient, in my view, to presently counteract the Empire's diabolical implication within the massive production of counter-memory as the privileged trope of biopolitical domination in the post-colonies.
16. Kant, *PW*, 97.
17. Kant, *PW*, 97.
18. Schmitt, *NE*, 48.
19. The expulsion of Greek-Cypriots by the invading Turkish troops in 1974, the expropriation of property and its subsequent appropriation by mainland Turkish settlers present a Kantian case whereby the current users of the occupied Northern territory of Cyprus enjoy unlimited use and continual performance without ownership of the land. Could this business of state-

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sponsored usurpation of occupied land elevate the current user to the status of a joint owner? How then could the Kantian hypothesis concerning the universal disposition of mankind for constitutional self-founding through revolution (*PW*, 182) be justified on the contradictory ground of territorial usurpation as the material basis of imperial pacifism?

20. My concept of apparatus is drawn from Foucault, but relies also on Agamben's current retrieval of this notion. See Giorgio Agamben, *What Is an Apparatus? and Other Essays*, trans. David Kishik and Stefan Pedatella (Stanford: Stanford University Press, 2009). Certainly, Agamben is not engaging imperial apparatuses in his discussion. Nonetheless, he deduces the Foucaultian notion of governmentality from the divine economy of providential sovereignty which operates as an apparatus that assigns duties and strategic functions of incarnation, redemption, salvation, etc. Agamben perceptively names the functions of such divine economy "positivities" and intersects them etymologically with "dispositions" or *dispositif* which is Foucault's term for apparatus. I, therefore, extend his analysis of the concept of apparatus in the direction of an imperial economy whose spatial logic designates positivities by disposing protectorates. The imperialist function of the biopolitical apparatus as discussed in this essay is, in fact, implied in the Latin term *dispositio* which denotes operations of placement, arrangement, management, ordering and direction. Its meaning ranges from the arranging of everyday affairs to the distribution of a body of men and the setting up of a military guard, including functions of forming, fashioning and setting in order. In this sense, biopower and biopolitics are co-implicated.

21. Here I concur with Jacques Rancière: "I do not believe that it is possible to extract from the notion of biopower... a notion of biopolitics as a specific mode of political subjectivation". See *Dissensus: On Politics and Aesthetics*, trans. Steven Corcoran (London: Continuum, 2010), 96.

22. Kant, *PW*, 46-47.

23. For insightful and masterly accounts on this issue see Hannah Arendt, *On Revolution* (New York: Penguin Books, 1977 [1965]), and *Lectures on Kant's Political Philosophy*; Michel Foucault, "The Art of Telling the Truth," trans. Alan Sheridan, in *Politics, Philosophy, Culture: Interviews and Other Writings, 1977-1984*, ed. Lawrence D. Kritzman (London and New York: Routledge, 1988); Dick Howard, *From Kant to Marx* (New York: SUNY Press, 1985), and *The Politics of Critique* (Minneapolis: U of Minnesota P, 1988); and Dieter Henrich, "On the Meaning of Rational Action in the State," in *Kant and Political Philosophy: The Contemporary Legacy*, ed. Ronald Beiner and W. J. Booth (New Haven: Yale UP, 1993); henceforth cited as *MRA*.

24. Plato, *Laws*, Book I, Loeb Classical Library X, trans. R. G. Bury (Cambridge, Massachusetts: Harvard University Press, 2001), 634e.

25. Plato, *Laws*, Book IV, Loeb Classical Library X, trans. R. G. Bury (Cambridge, Massachusetts: Harvard University Press, 2001), 722-723.

26. Plato, "Epistles" in *Timaeus, Critias, Cleitophon, Menexenus, Epistles*, Loeb Classical Library IX, trans. R. G. Bury (Cambridge, Massachusetts: Harvard University Press, 2005), VII, 331c-d.

27. See endnote 20.

28. Badiou, *M*, 129.

29. Badiou, *M*, 131.

30. For a more sympathetic view which explains Kant's excessive prudence by stressing extenuating circumstances such as the paternalistic surveillance and the enlightened despotism of Frederick the Great, see Dana Villa, *Public Freedom* (Princeton: Princeton UP, 2008), 130. This apologetic view, however, fails to explain Kant's admittedly self-contradictory defense of the will to Revolution as a universal sign of mankind's openness and inclination to constitutional self-founding. For an exemplary elaboration of this view see Foucault, "The Art of Telling the Truth." In other words, Dana Villa wards off the paramount Kantian question, namely, how to make "political domination rational within the framework of a philosophy of history." Ironically, this entailed the necessity to terminate public inquiry by irrational means. On this issue see Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger (Cambridge, MA: MIT Press, 1989), 130.

31. Immanuel Kant, *Critique of Judgment*, trans. Werner S. Pluhar (Indianapolis: Hackett Publishing, 1987), 132. Henceforth cited as *CJ*.

32. Kant, *CJ*, 136.

33. Henrich, *MRA*, 110.

34. Arendt, *LK*, 44.

35. Badiou, *M*, 130.

36. Badiou, *M*, 133.

37. Badiou, *M*, 136.

38. See *The Old Regime and the French Revolution*, trans. Stuart Gilbert (New York: Anchor Books, 1955), chapters 6-9.

39. Michael Hereth, *Alexis de Tocqueville: Threats to Freedom in Democracy*, trans. George Bogardus (Durham, NC: Duke UP, 1986), 111-118. Henceforth cited as *AT*.

40. Quoted in *AT*, 120.

41. Quoted in Melvin Richter, "Tocqueville on Algeria," *The Review of Politics* 25, no. 3 (July 1963), 395.

42. For an updated, comparative and even-handed account of this dimension in Tocqueville's engagement with the colonial question see Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton: Princeton UP, 2005), the comprehensive chapter 7. Earlier, pioneering statements on this issue include Melvin Richter's "Tocqueville on Algeria" as well as Michael Hereth's *Alexis de Tocqueville*. It should be noticed that this critical dimension concerning Tocqueville in his capacity as an imperialist is glaringly missing from Raymond Aron's otherwise authoritative assessment of Tocqueville as a sociologist, *Main Currents in Sociological Thought*, vol. 1: *Montesquieu, Comte, Marx, Tocqueville, and the Sociologists and the Revolution of 1848*, trans. Richard Howard and Helen Weaver (New York: Anchor Books, 1968).
43. Max Weber's "Sociology of Law" still remains a classical account of law-finding by the folk assembly. "Economy and Law (The Sociology of Law)," trans. Edward Shils and Max Rheinstein, in *Economy and Society*, vol. 2, ed. Guenther Roth and Claus Wittich (Berkeley and Los Angeles: U of California P, 1978), esp. 768-774. It is also noteworthy that Foucault himself has dedicated considerable time of research on the discursive controversy over this imperial form of right examined in conjunction with the Frankish culture of invasion. See especially lectures six and seven in *Society Must Be Defended: Lectures at the Collège de France, 1975-76*, ed. Mauro Bertani and Alessandro Fontana, trans. David Macey (New York: Picador, 2003), 115-166. Louis Althusser provides an excellent synopsis of the genealogical self-understanding of feudal nobility in chapter six of his outstanding book on Montesquieu who is a cunning and tenacious Germanist. *Politics and History: Montesquieu, Rousseau, Marx*, trans. Ben Brewster (London: Verso, 2007). What is missing in contemporary bibliography, in my view, is precisely a retracing of Tocqueville's engagement with the colonial question in terms of great power policy and national honor back to the Germanist tradition of a noble-minded and "impartial imperialism," i.e. an imperialism which combined the enduring liberty of the nobility qua assembled monarchy (personified, for instance, by Charlemagne) and the right of conquest. This prerogative of conquest is also absent from contemporary accounts which record some kind of association or influence by Montesquieu on Tocqueville. See, for instance, George Kelly Armstrong, *The Humane Comedy: Constant, Tocqueville and French Liberalism* (Cambridge: Cambridge UP, 1992) and Sheldon Wolin, *Tocqueville Between Two Worlds: The Making of a Political and Theoretical Life* (Princeton: Princeton UP, 2001).
44. See Tacitus, *The Germania*, in *The Agricola and The Germania*, trans. Harold Mattingly (London: Penguin, 1970), chapters 7 and 11.
45. See Harold Mattingly's introduction to Tacitus' *Germania*, 42-43.
46. Perry Anderson, *Passages from Antiquity to Feudalism* (London: Verso, 1978), 130-1. Henceforth cited as *PAF*.
47. Anderson, *PAF*, 122.
48. For an instructively focused and updated account of the medieval imperialist energy in association with the Frankish *élan vital* "which changed the rules and expectations of warfare," see Robert Bartlett, *The Making of Europe: Conquest, Colonization and Cultural Change, 950-1350* (London: Penguin, 1994). Henceforth cited as *ME*. For an earlier pioneering account of the atavistic "will to conquest" in terms of a sociology of imperialisms see Joseph Schumpeter, *Imperialism and Social Classes*, ed. Paul M. Sweezy, trans. Heinz Norden (Philadelphia: Orion Editions, 1951).
49. Bartlett, *ME*, 307.
50. Bartlett, *ME*, 308.
51. This and all parenthetical references are taken from Alexis de Tocqueville, *Writings on Empire and Slavery*, ed. and trans. Jennifer Pitts (Baltimore: Johns Hopkins UP, 2001), 91. Henceforth cited as *WES*.
52. See Pierre Bourdieu, *Sociology in Question*, trans. Richard Nice (London: Sage Publications, 1993), 50-1. Henceforth cited as *SIQ*.
53. See the prolific introduction by Jennifer Pitts in *WES*, xii.
54. On the conceptual difference between *apparatus* and *field* see *SIQ*, 88. The appearances of the state as an apparatus, however, mask a field of antagonisms and tensions which may or may not be successfully exploited for its own stabilization.
55. For the context of Tocqueville's moral logistics see "The Emancipation of Slaves" (*WES*, 221-224). My view here is consistent with Samir Amin's insight that capitalism not only integrates but also creates archaic, i.e. pre-capitalist, modes of exploitation of labor. Samir Amin, *Delinking: Towards a Polycentric World*, trans. Michael Wolfers (London: Zed Books, 1990). I even go further in the development of this pivotal idea by arguing that modern imperialism not only integrates but also creates new biopolitical forms of pre-capitalist states and politics. The integration of Cyprus in the legal apparatus of imperialism as a protectorate is one such case.
56. Amazingly, the ex-UN Secretary General Kofi Annan in 2004, acting in concert with the local collaborationist elites, Turkey, and Greece, subjected the population of Cyprus to a compulsory referendum in which he proposed a constitutional scheme with similar provisions that imposed restrictions on fundamental freedoms of residence, settlement, movement, etc., to the benefit of the Turkish settler population and the occupying armed forces. Greek-Cypriots rejected it by 76% branding it as constitutional legitimization of a new form of slavery.