NATURAL LAW AND POLITICAL ONTOLOGY:

A HISTORICO-PHILOSOPHICAL OUTLINE OF A MAJOR *HUMAN* TRANSFORMATION

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ABSTRACT

The article explores the possibility of comprehending natural law, together with an alternative to the Schmittean political, through an inquiry into the layers of professional philosophy with a special focus on epistemology and analytic philosophy. The starting point of the research is the controversy surrounding the ideas of Carl Schmitt, in which it is unclear what lies at the origin of law and the political — sovereign decision or the situation (Part I)? The latter possibility directs the inquiry to the conceptual field related to natural law and epistemology. Proceeding via both diachronic and synchronic perspectives, the inquiry further analyses what has happened to natural law in modernity, and what its current status is, theorizing both streams of inquiry under the concept of *political exile* (Part II). The Schmittean political happens to be very much at home in this context, opening up the coherent ideological framework that may be called *modern political ontology*, which at first

appears to camouflage Schmittean antagonistic political praxis (Part III). However, through inquiry into ideas mostly attributable to analytic philosophy (or philosophy of language), this ontology is also shown to function as an 'anti-onto'-logy — that is, as a direct (i.e. open, not hidden) ideological basis for modern political praxis. The analysis here also discloses the rivalry inside professional philosophy in relation to 'anti-onto'-logy, the latter finding its disciplinary origin(s) in language itself. It shows that at the level of professional philosophy there is a general trend that could be helpful in the attempt to revive natural law (Part IV).

INTRODUCTION

The article proceeds from the claim that Carl Schmitt's thought is 'contaminated' with the specter of natural law. This starting point confirms doubts in his allegedly indubitable decisionist thinking. But it is not only important that this [contra]-version—this evidence of undecidabiltiy—"blows up" the decisionism from the inside. It also has greater significance beyond Schmitt's apparent hesitations. The Schmittean modern world appears to be doomed. We are losing it, but have no alternative (and) vision. It is like a case of philosophical Alzheimer's disease. Modernity appears to be dying and with it any ideology built upon it, including post-modernity. The conceptual or metaphorical erosion has reached the very outskirts of conceptology or metaphorology, including the concept "concept", which has no concepts to conceptualize it, and the concept "metaphor", which has no metaphors to metaphorize it. Sometimes it is called "madness", although this description itself pretends to avoid being mad; or other times it may be called "truth-less-ness", although this descriptor still suggests the pretense to truth[1]. We are losing all grounds to proceed in thinking and speaking, and instead just play at will with conceptual exchanges. It is like an Orwellian nightmare, or as if Wittgenstein's 'philosophical investigations' themselves appeared (and this way disappeared) as the language game.

Furthermore, today there is much discussion that we are living in the era of fundamental changes in the fields of politics, law, and economics, or, at least, that those changes are necessary. For example, reasonably well-known figures (from Mark Anielski to Ben Bernanke) say that we need economics (and a corresponding legal-political environment) aimed not so much at the growth of GDP but more strategically directed towards an increase of happiness. And some occasionally add that a change in thinking is necessary as well. But there is no clear direction offered as to how to proceed with the change and what exactly is wrong with today's thinking, apart from the rather naïve and usually metaphorically rich rhetorical statements (for example, that contemporary economic thinking is contaminated by the virus of materialism; that money, if we look closer, has no value in itself and is only a mechanism of indebtedness; and so on). But this kind of grandiose metaphorical usage is weak medicine against this mental ailment, as it were. What we will try to show in the short outline-style analysis here is that serious work dedicated to curing the illness—i.e. changing our thinking—has already been done at, what we may call for now, deeper layers of philosophy. In some sense, the cure

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[1] *See*, for example, John Gray, *Straw Dogs; Thoughts on Humans and Other Animals* (London: Granta Books, 2003), p. 24-29.

had already been found, or almost found, a rather long time ago. The only problem is that it was found, but still lays undivulged, unnoticed. Why?

In this context we should pose the following questions: what is the relation, for example, between phenomenology and politics/economics/law (as theory and, especially, practice), and between analytic philosophy and politics/economics/law (once again as theory and, once again especially, practice)? At first glance, obvious connections here are absent: neither phenomenology nor analytic philosophy has political/economic/legal significance (especially practical one). They are purely academic, enclosed, and distant fields of thinking unrelated to economic or political matters/praxis, and even, as some philosophers say, unrelated to each other. But is this correct? For now, in simple terms: if the world consists only of phenomena, can we really *own* some-"thing" in such a world? Everybody understands, in traditional economic thinking, that we can own things—but can we own phenomena? Or, if the world is a totality of facts but not things (*cf*. Wittgenstein; and for now we may disregard that "things" later appear in this Wittgensteinian world), may we own or accumulate facts as some kind of property in this world? And then what about the fundamental right to property in such a world—could it exist there, could it be conceivable at all? The problem is that the political/economic/legal significance of those philosophical schools has not been recognized yet, at least sufficiently and, especially, practically. In light of this, a great deal of attention in this text is devoted to epistemology and analytic philosophy; phenomenology is essentially left aside and may be the focus of further research in the same vein.

We should recall that in one place Schmitt writes about "the degeneration of the concept of law".[2] Is the regeneration of what has degenerated possible? If so, then how? In addition, might this regeneration be the cure to our—modern people's—aforementioned apparently deadly illness? All of this is not unrelated to the Orwellian crisis of conceptuality—that is, it is precisely a degeneration of the *concept* and, therefore, it is a matter of mind, including the thinking of Carl Schmitt.

1. SCHMITTEAN CONTROVERSIES REVISITED

Despite the apparent clarity of the anthropocentrism inherent to the overall position of Schmitt, there are still instances in his ideology where it is unclear what he prefers as the focal point of the origin of law and the political—the natural situation or sovereign decision, thus demonstrating a remaining oscillation between *juspositivism* and *jusnaturalism*. His preferred decision in critical instances appears

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[2] Carl Schmitt, *Legality and Legitimacy*, ed., trans. Jeffrey Seitzer (Durham & London: Duke University Press, 2004), p. 79.

to be rather arbitrary, even mysterious.[3] One of the most important paragraphs of his *Political Theology* reveals exactly that:

> All law is "situational law." The sovereign produces and guarantees the situation in its totality. He has the monopoly over this last decision. Therein resides the essence of the state's sovereignty, which must be juristically defined correctly, not as monopoly to coerce or to rule, but as the monopoly to decide. The exception reveals most clearly the essence of the state's authority. The decision parts here from the legal norm, and (to formulate it paradoxically) authority proves that to produce law it need not be based on law.[4]

The paragraph preceding this one ends with another very important statement: "he is sovereign who definitely decides whether … a normal situation actually exists"[5]. The first question that we should ask in this context is the following: may the sovereign decide *that* the situation exists even if it is *still* not true (i.e. the situation does not exist)? In other words, may he really *produce* the situation (make it exist) by virtue of his decision?[6] What comes first here—the situation or the decision? If it is decision, how can it be completely un-caused, un-influenced, independent—a solely man-made decision at the same time producing the situation? Furthermore, analytical rigor requires also differentiating between the decision to make law, which comes first, and the actual making of law (the sovereign is otherwise called the *law-maker* by Schmitt), which is secondary. What are the conditions of this *first* decision to make law, which is strictly outside law (or parted from the legal norm)? Is it completely contingent and made solely in/by the mind of the sovereign or somehow situation-dependent? That is the bifurcation point of Schmitt's ideology, where, as ironic as it may sound, Schmitt made his own sovereign (or arbitrary) decision[s].

Further we will try to show that a more careful reading of Schmitt's theory(s) (in this specific case especially the one in *Legality and Legitimacy*) reveals that his decision to prefer president's law-giving (authoritarian dictatorship) over the parliament's law-giving (elective dictatorship) is sometimes based on themes for which we would be more inclined to think that his original decision is not so favorable to the anthropocentric paradigm, i.e. that the natural situation is considered to be at the origins of law.

The key question is *why* Schmitt prefers the president's (one person's) law-giving and the administrative state form? The answer is fundamentally related to

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[3] *See*, for example, Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago & London: The University of Chicago Press, 2005), p. 13.
[4] *Ibid*.
[5] *Ibid*.
[6] Or, in other well-known phrasing, may he do things with words?

idea of the "degeneration of the concept of law".[7] There is something wrong with law in the other forms of a state, especially the parliamentary state or governmental state. Some instances in *Legality and Legitimacy* suggest that in the parliamentary or governmental state, law is arbitrary, even authoritarian, but not in the administrative/presidential state, which seems perhaps paradoxical at first glance. As Schmitt states, there is something very different in the administrative state, even from "the governmental state, which finds its characteristic expression in the exalted personal will and authoritative command of a ruling head of state."[8] The administrative state is "another conceivable state type, … in which command and will do not appear authoritarian and personal, and which, nevertheless, does not seek the mere application of higher norms, but rather only objective directives."[9] The administrative state is the one that "can call on factual necessity, the condition of things, the force of circumstances, the necessity of the moment, and other non-normative, situation-specific justifications."[10] And the important thing is that administrative state requires "'bureaucracy' [which] often exhibits the neutrality of a mere technical instrument", which is "a professional cadre", and there is only one "slight" thing that it is incapable of: namely, "the ability and willingness to risk the political".[11]

Therefore, there is something fundamentally apolitical in the administrative state. Bureaucracy, i.e. the administrative apparatus, is reluctant to make political, man-made and friend/enemy-differentiating decisions; instead, bureaucrats wish only to make those decisions that could be based on factual necessity or the condition of things. An administrator or bureaucrat is in this sense a completely extraordinary lawgiver, extraordinary to the extent that he is not even the law-giver in the precise sense. He does not give law by his sovereign will, but his "given" law remains always dependent on something stemming from outside that will (it is *ratione necessitatis*). In this sense this law is, we may say for now, *objective*—the same characteristic as related to *law* is cultivated in the field of science (in the broad sense).

It is important to note that this other (extraordinary) vision of law-giving presupposes a critique of the whole apparatus of the parliamentary state being precisely an authoritarian apparatus—the real dictatorship/rule of men. This apparatus presupposes *separation* of the dictation/giving of law as a de-naturalized process from the application of law, where law "meets" nature/*physis*, which in a

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[7] Carl Schmitt, *Legality and Legitimacy*, *supra* note 2, p. 79. *See* also *ibid.*, p. 29 (legal neutrality programmed by the parliamentary legislative state "first of all, is neutrality toward the difference between justice and injustice").
[8] *Ibid.*, p. 5.
[9] *Ibid.*
[10] *Ibid.*, p. 8-9.
[11] *Ibid.*, p. 11, 12, 13.

more stereotypical way is expressed in the cliché 'the *separation* of powers'. That is how the ordinary (modern) law-making is instituted. But in this context the extra-ordinary law-making presupposes the neutralization (or rendering meaningless) of this apparatus:

> While the ordinary legislature of the parliamentary legislative state is only permitted to pass statutes and, according to the nature of the legislative state, is separated from the apparatus for applying law, the extraordinary lawmaker of Article 48 is able to confer on every individual measure he issues the character of statute. [It] renders practically meaningless the entire system of legal protections that was built up with great artistry to counter the orders of the executive. With its organizational separation of law and legal application, the parliamentary legislative state forms all its protective institutions that are linked to and distinctive of the Rechtsstaat with a view of defending against the executive. But for the extraordinary lawmaker of Article 48, the distinction between statute and statutory application, legislative and executive, is neither legally nor factually an obstacle. The extraordinary lawmaker combines both in his person.[12]

What we must first accept here is that the apparatus of the separation of law-making and the application of law in the parliamentary legislative state is analogous to the apparatus of deductive epistemology. It presents the image of the created law as the first step and, as a second step, law applied or tested in a concrete factual situation. As will be discussed later, this configuration preprograms a kind of anarchical "anything goes" type of process at the level of law.

In this context the stereotypical conception of Schmitt's extraordinary law giver (dictator or sovereign) for whom, as a matter of law, "anything goes", becomes debatable. Following the stereotype it should appear that here we are confronted with just two candidates to the throne of Schmittean sovereignty – parliament and executive. Nevertheless, in the aforementioned context another interpretation (although probably a secondary one[13]) of Schmitt's decisionism is possible. This executive/administrator here could be understood acting not in a deductive manner but, in some sense, as an apolitical scientist in a more traditional sense, having no room for "anything goes" when confronted with autonomously appearing facts. This "sovereign" has no choice at his discretion: he has to decide what is inevitable (therefore his decision is also only a "decision"); he has to be the Schmittean sovereign and at the same time understand that he is not—although still masquerading as such.

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[12] *Ibid.*, p. 70-71.
[13] The Schmittean concept of the *political* is especially to be blamed for this non-primary position.

This is the picture of the absolutely other type of "sovereignty", which presupposes the other perspective of Schmitt's theory—not as political decisionism but as political (or "political") naturalism. Through the mechanism of the state of exception *physis* is perhaps not what is excluded in order to be reintegrated as a human-regulated state of affairs. *Physis* is posited by this mechanism to remain inside, as a regulator of life. The problem then is the following—how is this possible? How is it *possible* in all possible senses—possible to be, to live-with, to conceive, to explain?

In moving further here, we will concentrate on this idea of the incomprehensibility, if not loss, of natural law. How exactly was it *lost*? What is the scale of this *loss*? First of all, it appears to be lost in our minds—as inconceivable. And there may be more to it than that. At least in some cases—for instance, in Lithuanian—it might be lost from the conceptual field in the Orwellian sense (especially if facts/*physis* may really have some kind of autonomy). In Lithuanian *natural law* is translated by the phrase *prigimtinė teisė*, which literary means *in-birthed law*. But even in English *nature* almost always now is understood as *human nature*, especially if natural law is related to human rights.

But even if this concept is approached more accurately—i.e. where *nature* is equivalent to *physis*—the outcome is nothing more than a puzzle, an *aporia*. For example, Giorgio Agamben alleges that the Schmittean "state of necessity is … a space without law [,] … even though it is not the state of nature."[14] However, in this space there is *some kind* of law, but it is something more like a quark in physics—it is impossible to, in some sense, separate it from *physis*, separate in a rationalistic sense, i.e. to rationalize this separation. For Agamben, a state of exception—being already something other than a state of mere/pure nature—is one where "*factum* and *ius* fade into each other"[15] and, we should add, without any possibility to *decide/know* what comes first and when *ius* would reward us with its appearance even as a "shadow side" of *factum*. Law just happens to contingently "come out" as something known, or, perhaps we might say it is "cached" by decision. But the fundamental underlying problem here is precisely this matter of our *knowing* and/or (?) *deciding*, in many respects starting from epistemology through ontology up to our political-legal condition. Poetically speaking, that is the divaricating "hidden tunnel" in the Schmittean castle of decisionism and therein we now will proceed.

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[14] Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago & London: The University of Chicago Press, 2005), p. 51.
[15] *Ibid*., p. 39.

2. NATURAL SCIENCE AS THE POLITICAL EXILE OF NATURAL LAW

Post-fascist jurisprudence is marked by a concern for the loss and possible restoration of the conception of natural law. The phenomenon of fascism disclosed the real face of positivism—its camp-building and anarchistic potentials. However, until now the restoration of natural law in the domain of jurisprudence appears to be a complete failure—it is still "lost in jurisprudence".

But this does not mean that it is completely lost in our minds. Natural law exists and has always existed *in a kind of exile* in the form of natural science. To articulate the significance and newly developing perspectives of this situation, we should turn to the politically significant caesuras of modernity: the caesuras (1) *in* law and (2) *of* law. We must explore how these caesura-mechanisms, through the paths of modern epistemology and pro-idealist, pro-positivist and pro-anarchist trends therein, push natural law to the outskirts of its political exile.

The caesura *in* law refers to marking off the domain of nature in the more general domain of law initially understood as the ontological unity of natural law. The result is total conceptual dis-function—an incapacity to conceive and conceptualize natural law. The Hobbesian[16] and post-Hobbesian separation of the planes of [the state of] nature and [the state of] law made such a tremendous impact through the evolution of modernity that post-modernity woke up to a complete incapacity to conceive natural law. The result is that the state of nature with its (natural) law (or, perhaps we could also call it the state of natural law) does not appear to us as a real historical epoch.[17] We can conceive the state of *state* but the state of nature—and especially any law therein—is beyond the capabilities of the brainwashed mind of the modernity.

But what happens as a consequence of this separation of two states is that the anthropological and with it the political-dialectical[18] machine is set into motion. The mechanism of the subsumption[19] of [the state of] nature through/in the institution[20] of the human sovereign, first of all, means nothing more or less than the human mastery of nature in its totality which, as a conception, first appears as a purely political one in the Schmittean sense of politics. It is the mastery of nature as bare life (or pure existence). In other words, if our bare life is constituted by

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[16] The Humean parallel in epistemology should also be kept in mind.

[17] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), p. 35-36.

[18] Dialectics was always a political matter.

[19] That is one of the meanings of the "marking off" which happens as the purification of the domain of law from nature the latter being subsumed into the figure of a sovereign.

[20] This word here could be conceived as a verbal noun (then adjective "through" should be used) and as a substantive noun (then adjective "into" should be used).

senses[21]—i.e. it is *physis*—then the mastery of nature is firstly conceived as mastery of bare life. The sovereign may let us exist and, by that, *physis* may remain or be negated. From a more analytical perspective, when we stop sensing—when we die—*physis* also stops existing; the continuation of what is left of *physis* after we die is, as a hypothesis, no different from the Humean hypothesis that the Sun will rise tomorrow.

On a broader scale, the human mastery of nature is possible only when it is ideologically marked-off from the human world (initially regarded as the world of the human multitude) which afterwards takes the form of a society and a political-legal state. We are today so prone to conceive of the human world as a society that we even depict the corresponding ideological configurations of the pre-modern, primitive times in our modern phraseology, which is also the effect of a conceptual dis-function. For example, it may be alleged that for the primitive mind natural law was akin to (or indistinguishable from) humanitarian law, thus meaning that nature was socialized and in this way made part of a society.[22] In our modern mutated phraseology, at best pre-modernity can be described as the epoch of nature-human symbiosis in *socium*.

But, at the dawn of modernity, nature was "thrown out" of a human world and a [new] society was born—a society after the social contract, which was a contract not only to end up with the state of nature but to end up with nature as part of a human world (i.e., in a way, to exclude nature from this world). Moreover, simultaneously, natural science was born. The question is: what exactly was *born* or *made anew*? Natural science is the matter of the laws of nature or, in other words, natural laws. The novelty was that those laws were no longer political; they lost their political significance. Therefore, what arose as "natural science" may also be regarded as the place of the political exile of natural law.

This birth was followed by the fundamental caesura *of* law—the division of law into the humanitarian and the scientific sectors,[23] although, according to the new paradigm, only the humanitarian (or human-made) should have remained. The latter event did not happen because, as simple as it is, natural law is difficult (if not impossible) to eliminate. By his free will and through the force of his decision the sovereign cannot change the law that "fire is hot". But, because of this immunity

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[21] In this paper two words could be chosen in this place – *sense* and *perception* (also, very rarely, the word *experience* could be used). Here the priority will be given to the former, although sometimes the latter could be used. *Perception* has more logocentrical connotations, while *sense* (especially as a verb) more clearly expresses this activity/process without any relation to mind activity.

[22] *See*, for example, Hans Kelsen, *Pure Theory of Law*, trans. Max Knight (New Jersey: The Lawbook Exchange, Ltd., 2009), p. 82–84; F. A. Hayek, *Law, Legislation and Liberty: A New Statement of the Liberal Principles of Justice and Political Economy* (London & New York: Routledge, 2013), p. 76-77 ("To the primitive mind no clear distinction exists between the only way in which a particular result can be achieved and the way in which it ought to be achieved. Knowledge of cause and effect and knowledge of rules of conduct are still indistinguishable").

[23] See *ibid.*, p. 70-71.

from sovereign will and decision, natural law—now known as science—has gained a lot of prestige; and yet it was thrown into political exile while a new puppet law-giver was created: humans and their *state*[24]. Through the use of science and the development of weaponry Schmittean politics arrived at the condition of the possibility of its perfection—i.e. the possibility of a Third World War—as the total elimination of *physis*, in which no one would be able to escape it in relation to his or her own *physis*.

But even though the anthropological machine never finally succeeded in fully neutralizing natural law at the level of the practice of science, such attempts were undertaken at the level of modern epistemology. It is as though nature, which in modernity has been given other names, such as "objects", "facts", "phenomena", "reality", etc., had undergone an attempt to wipe out of the scene of the play called "science", or at least to be provided with a secondary role in it while human or human reason should remain in the lead role. This attempt *apparently* was realized by an inversion of the inductive/empiricist paradigm of science with the deductive/logocentric one, thus paving the way for an anarchistic epistemology. The explicit "founding fathers" of this development are Hume and Kant, but here we will linger on the ideas of Popper and Feyerabend as the "perfect ends" of this reasonably coherent evolvement.

In Popper's approach we witness how the secondary role is given to nature/*physis* and in that of Feyerabend we see how it is thrown out of the scenario altogether. Nevertheless, in both cases the dialectic is not brought to a standstill, as the human mastery of nature by the Feyerabendian formula "anything goes" should be drawn to its perfection in the same way as the human/sovereign mastery of nature should be totalized by the Kelsenian normativity of empty variables for which any content counts.[25] In Feyerabendian science, nature is totally excluded from the domain of law in order to be totally included into what now appears as the domain of the omni-potent human who may even discover/unearth new facts and in this way give birth to them.[26] But facts may not decide, they "alone are not strong enough for making us accept, or reject, scientific theories."[27] A human here

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[24] Here the complexity of the word *state* should be kept in mind: *state* could be conceived as a *political unit*, or just as an abstract term, synonymous to the term *condition*. This ambiguity is sometimes left deliberately in this article.

[25] The generative development in epistemology from idealism or deductivism to anarchism is paralleled by the development in jurisprudence from positivism to nihilism. In fact, the distinction between them is only a historical matter; epistemological anarchism in its origin is epistemological idealism or deductivism; legal nihilism (or we may even call it analogously – legal anarchism or, at least, political anarchism) is in its origin legal positivism. These all ideologies as their ideological core have the same anthropological machine of the exclusionary-inclusion of *physis* under the domain of the mastery/sovereignty of a human.

[26] Paul Feyerabend, *Against Method* (London: Verso, 1975), p. 39.

[27] *Ibid.*, p. 303.

is one who masters his physical surroundings by the use of all ideas and methods.[28] According to Feyerabend, "on closer analysis we even find that science knows no 'bare facts' at all but that the 'facts' that enter our knowledge are already viewed in a certain way and are, therefore, essentially ideational."[29] However, facts, in their traditional conception, never enter our knowledge: imagine (apart from maybe being a poet) a fact *really entering* our knowledge. They remain excluded from this "place" as bare facts in the same way as bare life is excluded from the domain of *human* law. Otherwise we change the whole concept of *fact*, thus entering the domain of (what for now may be called) *conceptology*, leading to conceptual dis-functions.

But, to partly repeat something already stated, it is not easy to completely throw facts out of the scenario of the play called "science", even through the application of *conceptology*. At the beginning of his *Against Method*, Feyerabend writes about the so-called "relative autonomy of facts, or the autonomy principle"[30] and, in this way, admits some connection between facts and theories. Of course, for Feyerabend, "facts and theories are much more intimately connected than is admitted by the autonomy principle",[31] but for us it is enough that they are also connected at least somehow by the autonomy principle. What is this connection (although not particularly intimate)? Does it mean that facts should now be autonomous from human mastery, or maybe now we can speak about the mastery of facts over humans? No, not really—nature may not be conceived as a master in the human sense. When facts are declared autonomous they do not become sovereign in the human sense. Facts simply "are available"[32] whether or not there is some ideological development "on the other side of the margin". There is nothing decided here but only inevitably given. This relation is so un-intimate that it is equivalent to the relation of non-relatedness. Poetically speaking, facts are absolutely *ignorant* (i.e. they have no mastery) of what happens "on the other side of the margin"; even if they are unearthed facts, their appearance to existence was also autonomous, as also their disappearance from existence will be autonomous. To continue the poetics, if they would decide to disappear, human could do nothing. It is not for the human to *decide* (but only to guess) which fact may appear or become available.[33] However, later in *Against Method*, Feyerabend more intimately

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[28] *Ibid.*, p. 306.
[29] *Ibid.*, p. 19.
[30] *Ibid.*, p. 38.
[31] *Ibid.*, p. 39.
[32] *Ibid.*, p. 38.
[33] To continue the poetics—the more dramatic situation happens in quantum mechanics, where quarks/facts appear whenever they want and wherever they want. What we have here is the "anything goes" situation "on the other (to the other) side of the margin", and human "mastery" of the un-earthment of facts stops here completely. He can do nothing with his theoretical "anything goes": whatever goes here – whatever goes there. Facts here escape *all* possible theories that can hold them at least for

"connects" facts and theories with the aim of advancing the anarchistic propaganda of the human omni-potent law-giver in the domain of epistemology.

This Feyerabendian approach originated from Popper's ideas in *The Logic of Scientific Discovery*[34]. Popper was more careful about the autonomy of facts, although he paved the way for the Feyerabendian critique and approach. In other words, Popper left just one step for Feyerabend to take: to declare human the absolute law-giver; exactly in the same way as Kelsen[35] left just one step for Schmitt to take: to ask who the sovereign is ("he who decides on exception"[36], i.e. he for whom anything goes according to the primary interpretation of his ideas). Popper came very close to the thesis "anything goes", because, following his ideas, any theory may be formulated as the first step in a deductive scheme, thus making epistemological idealism the foundation of epistemological anarchism.

On the other hand, his conception of *experience* (taking the place of Feyerabendian *facts*) is vague. At first sight, according to Popper, empirical science[37] is "intended to represent … 'world of our experience'"[38], but quickly it appears as "a world of *possible* experience"[39], i.e. not actual experience and not even that of experience at all. At the end of the book, with the help of Weyl, he considers his famous refutation by experience[40] to be "a decisive *No*" of Nature to theories.[41] But before that he: (1) clearly separates subjective experiences (not those "right" experiences) and so-called objective logical relations, paving the way for the inter-subjective testing of theories[42]; (2) relates the falsification to the acceptance of the basic statement,[43] and the latter to the "vague expression of 'occurrence' [which] is perhaps open to criticism"[44]; and (3) states that his basic statements that have the power of falsification of the theory "*have the form of singular* existential *statements*"[45]. However, before that he refuses Carnap's conception of protocol sentences which "describe … 'the contents of immediate

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a moment. On the other hand, theoretically, as a matter of hypothesis, facts (any facts) may always "go mad".

[34] *See*, generally, Karl Raimund Popper, *The Logic of Scientific Discovery* (New York, 1965).

[35] Feyerabend's dream-world where any-thing goes and Kelsen's world of a dreamed *Grundnorm* and any content of all other norms are very much analogous, apart from the deficiency in Kelsen's approach pointed out by Schmitt, namely, the negation of the problem of sovereignty (Carl Schmitt, *Political Theology*, *supra* note 3, p. 27).

[36] *Ibid.*, p. 5.

[37] This is the other name for natural science (or science of nature) in his approach. Although, it should be noted, that he rejects positivistic naturalism (Karl Raimund Popper, *The Logic of Scientific Discovery*, *supra* note 34, p. 35); for him, empirical science is different from positivistic naturalism essentially in the same way as deductivism is different from inductivism.

[38] *Ibid.*, p. 39.

[39] *Ibid.* [italics—author].

[40] *See*, for example, *ibid.*, p. 41.

[41] *Ibid.*, p. 280.

[42] *Ibid.*, p. 44.

[43] *Ibid.*, p. 86.

[44] *Ibid.*, p. 88.

[45] *Ibid.*, p. 102 [non-italics—author].

experience, or the phenomena; and thus the simplest knowable facts'"[46] and Wittgenstein's conception of "elementary (or atomic) propositions, which he characterizes as descriptions or 'pictures of reality'"[47]. Finally, at the end of the book he rhetorically states that "we have to 'make' our experiences"[48], which essentially means that we also have to be the masters of falsification, not only of theorizing. This makes evident two things: (1) that Popper's epistemology is the perfect foundation for the Feyerabendian one; and (2) that, once again, it is not easy to take facts (or experience) from the scene of the play called "science".

But the discussion of inductivity in Popper's conception, especially in his contemplation of analytic philosophy (Wittgenstein, Carnap, etc.), unveils one more important aspect, namely, that inductivity is also not so easy to remove from the scene, which *thus* has to be re-named, shifting from "science" to "ontology". Inductivity (also as a matter of our contemplative life) *firstly* is an ontological conception, which only *afterwards* acquires epistemological contours and may be related to political philosophy.[49]

First of all, inductivity *may* be conceived as deactivating the anthropocentric machine and, as concerns the first step (so-called simple observation or pure experience), halting the dialectic. At this very first moment in an inductive scenario "dialectic [is] at a standstill"[50], but the same does not happen at the first step in a deductive scheme, where human law-giving is always directional, always intentional, striving to unearth some facts, to 'make' experiences or to disallow this to happen (or, more poetically, to silence Nature).[51] But the first step in an inductive scenario presupposes the world as a *totality* of facts[52]. There is no human understood as some unique fact therein (anthropocentric machine is deactivated); the human is undifferentiated from facts, and, conversely, all facticity is a human/world; it is a plane of pure immanence—a plane of pure-*physis*. The first inductive step completes the onto-logy of this scene. In the second step nothing that *is* or *exists* separates or experiences separation. There is no other ontology there besides that of the first step. Therefore, essentially all is left there, in this plane of pure immanence. The second step, if it implies the separation of something that *is* (i.e. non-natural law), is already condemned to being the first step in the deductive scenario, and it also implies the "creation" of the plane of non-existence

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[46] *Ibid.*, p. 96.
[47] *Ibid.*, p. 36.
[48] *Ibid.*, p. 280. If we understand the words precisely, they mean that one day we should be able to directly sense ultraviolet.
[49] *See* Giorgio Agamben, "Absolute Immanence": 239; in: *idem.*, *Potentialities*, ed., trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1999).
[50] Giorgio Agamben, *The Open: Man and Animal*, trans. Kevin Attell (Stanford: Stanford University Press, 2004), p. 83 (there Giorgio Agamben talks about the corresponding Benjaminian model).
[51] *See* also Karl Raimund Popper, *The Logic of Scientific Discovery*, *supra* note 34, p. 280.
[52] Ludwig Wittgenstein, *Tractatus Logico-Philosophicus*, trans. Brian McGuinness & David Pears (London and New York: Routledge, 2001), p. 5.

(non-*physis*), the plane of meta-*physis*.[53] Therefore natural law is law which remains *immanent* to *physis*; to use Wittgensteinian phraseology ("language *is* used"[54]), this law *is* 'fact-ed'—it *is* only as a fact and in no other way. Genuine natural science never attempted to annihilate this paradigm as the foundation of its praxis. And this paradigm is only ontological—it does not matter here what the first step is and what follows as the second. Instead it is about what the ontological status of the law is. Law *is* [a matter of] *physis*, but not [of] meta-*physis*.

Here we could turn our attention to the co-founder of modernity (together with Hobbes). Although not typically understood as a philosopher, nevertheless he was a philosopher. He is Isaac Newton. In his fundamental work, *Mathematical Principles of Natural Philosophy*[55], the core philosophical part is the very beginning of Book Three: "The Rules of Reasoning in Philosophy". What comes after those rules may be considered mathematical phenomenology, and what is laid down before can be understood as a mathematical philosophy of nature (or, in other words, the mathematical but not philosophical principles of natural philosophy)[56]. But the whole project of the mathematization of nature and phenomena is conducted on the basis of a few preconditions of reasoning which, firstly, should be understood as ontological statements, although they appear to be epistemological. According to Rule IV:

> *In experimental philosophy we are to look upon propositions inferred by general induction from phenomena as accurately or very nearly true, notwithstanding any contrary hypotheses that may be imagined, till such time as other phenomena occur, by which they may be made more accurate, or liable to*

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[53] In some sense, there is no such thing as inductivity at all, i.e. with the first and, especially, the second step; thus completed inductivity is only an ideological tool to produce a logocentric basis for deductivity. If we would make the opposite and turn the vector from deductive back to the inductive, at the very initial moment of the turn only facts in their autonomy would remain, thus opening the plane of absolute immanence, and the law shall be left therein as fact-ed. The inductive nexus between facts and laws is impossible. If the proper scheme of deduction *might be* this:
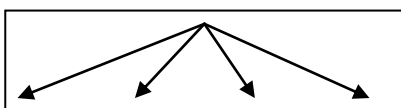
Then the proper scheme of induction is this:
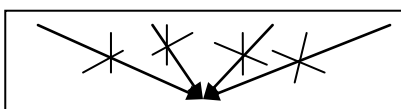
[54] *See*, for example, *ibid*., p. 19 (rule 3.328).
[55] *See*, generally, Isaac Newton, "Mathematical Principles of Natural Philosophy"; in: Robert Maynard Hutchins, ed., *Great Books of the Western World* (Chicago, London, Toronto: William Benton, Encyclopedia Britannica, Inc., 1952).
[56] *Ibid*.: 269.

exceptions. This rule we must follow, that the argument of induction may not be evaded by hypotheses.[57]

First of all, this argument can easily be tilted in favor of Popperian deductivism; i.e. it is essentially not contradictory to that approach, because propositions can be "nearly true" and because "other phenomena" (i.e. falsifying experiences) may occur that require reconsidering those propositions. However, in a broader context, it should be understood as an essentially ontological statement. In other places Newton uses the word "deduced", keeping in mind what he has here as "inferred by general induction".[58] Therefore, for him it does not matter whether we have induction or deduction in an epistemological sense: the statement that *propositions/laws have to be inferred/deduced/induced from phenomena/nature* is purely ontological statement: it is only about the ontological primacy and one-ness of nature.[59] The founder of physics, who never had meta-physical pretenses, should be the philosopher of the one/pure plane of immanence. But everything changes when the *second* plane "is born", the scene (which at first appears as induction with all of its duality) is very quickly and inevitably inverted and, probably most important, this new initially epistemological configuration starts acquiring modern ontological and political contours.

3. THE ONTOLOGY OF MODERN POLITICS

In this epistemological context the other scenario (the deductive/transcendental one), through the transformation into modern ontological one, finally becomes a political one in the Schmittean sense. In the end it turns into an existential annihilation as *physical* killing, as disposing of the *physical* life of the human.[60] The ontology of this scenario is anti-onto-logical and meta-physical.[61]

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[57] *Ibid*.: 271 [italics—original].

[58] For example, *see*: "for whatever is not deduced from the phenomena is to be called a hypothesis" (*ibid*.: 371).

[59] Of course, there is much naivete in Newton's philosophy, especially as related to conception of God and Nature itself, and he is not so innocent with respect to the anthropological machine (the whole format of the formulation of the rules of reasoning—that we are to admit … , we must assign … , we are to look up …—is the key indicator of that). But there is no room for "anything goes" in his approach; it is much more the world of natural "things" that appear (see *ibid*.: 270 (Rule I)) and, by the same token, laws of nature come into existence.

[60] Carl Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago, London: The University of Chicago Press, 1996), p. 33, 48.

[61] *See ibid*., p. 49 ("… all this has no normative meaning, but an existential meaning only. There exists no rational purpose, no norm no matter how true, no program no matter how exemplary, no social ideal no matter how beautiful, no legitimacy nor legality which could justify men in killing each other for this reason. If such physical destruction of human life is not motivated by an existential threat to one's own way of life, then it cannot be justified"). Schmittean politics is a meta-physical play of a total scale. One *anti-* replaced by other *anti-*, one *meta-* responded by other *meta-*; it is "politics, whose method must be called nihilism" (Walter Benjamin, "Theologico-Political Fragment": 313; in: *idem*., *Reflections: Essays, Aphorisms, Autobiographical Writings*, ed. Peter Demetz, trans. Edmund Jephcott (New York: Schocken Books, 1986)), politics which strives after nature (as passing away) and "even those stages of man that are nature" (*ibid*.).

Meta "completes and preserves the overcoming [or annihilation] of animal *physis*."[62] Metaphysics is impossible without this relation to *physis*. It is either the cause of the Schmittean political praxis or this praxis itself. Furthermore, if an anthropological machine "produces" a human as non-*physis*, it "produces" him in history: a human "is" in history or he just "is" history – a permanent not-now[63]. The human is non-existent by being historical[64]. *Meta* is the "production" of nothing[65] as a metaphysical Human, a human, to use Schmittean terminology, physically killed and, to use historical-theological terminology, resurrected in a transcendental "world". This is the place to turn to the third part of Schmitt's *Political Theology*.

The primary moment of the secularization of theological concepts by making them the concepts of the modern theory of the state is the turning of the omnipotent God into an omnipotent Human, especially as a lawgiver.[66] All other moments of the secularization process are of secondary importance. Two questions should be raised in relationship to this primary moment: (1) Which theology? It is the Christian tradition which already has the anthropocentric machine "engined-up";[67] and (2) What is law-giving in terms of the political? Or, what decision undergirds this law-giving? It is the decision that has an existential (or, more precisely, an anti-existential) meaning.

In pursuit of the first answer, Christian theology is not only concerned with metaphysics and the transcendental plane and not only with the articulation of the law-giving/law-giver (as God) on this plane. It is in a special ideological relation with the human as *physis* and natural law. Christ is, first of all, human as *physis*, sensed and sensing (as Benjamin would say, the stage of man that is nature)[68]; however, he is also human as God/meta-*physis*. He embodies human *meta*-ability, ability for the human to be beyond *physis*. In some sense, Christ must annihilate his "stage that is nature" if he wants to be (or just is) God. The main symbol of Christianity is the crucified, dying, purely physical Christ, necessary in order to be resurrected as meta-physical Human (God). This image itself is proof of the necessity to annihilate *physis* for the human-animal to become a Human and, afterwards, for this Human to replace God as a law-giver. This way the anthropocentric machine is already "engined-up" in Christianity.

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[62] Giorgio Agamben, *The Open: Man and Animal*, *supra* note 50, p. 79.

[63] In other words, human is potentiality, which, as some say, is not only inactual, but also inactualizable (Brett Neilson, "*Potenza Nuda*? Sovereignty, Biopolitics, Capitalism," *Contretemps* No. 5 (2004): 73 (here Neilson heavily relies on Paolo Virno)).

[64] Giorgio Agamben, *The Open: Man and Animal*, *supra* note 50, p. 79-80.

[65] More precisely, the word no-*thing* is incorrect here—being one more exponent of conceptual dis-function—as it is exactly thing-ness that is non-existent; the more correct word here would be no-*fact.*

[66] Carl Schmitt, *Political Theology*, *supra* note 3, p. 36.

[67] In some sense, the relationship between Christian and political theologies is analogous to the one between Popperian and Feyerabendian epistemologies—it is of a generative kind; second is already programmed in the first.

[68] Walter Benjamin, "Theologico-Political Fragment," *supra* note 61: 313.

Because of the aforementioned necessity, the Schmittean decision undergirds the new (non-natural) law-giving. Because of this new law-giving, based on the transcendental apparatus, law-giving in the domain of natural law—i.e. law-giving based on immanent relations—has to be suppressed, moved into political exile (or de-politicized). This exile is even deepened as a place of exile by the aforementioned transcendentalisation of epistemology. At best, natural law starts being conceived as reachable by a human in the form of "an intellectual love ('*Einfühlung*')"[69]. Nevertheless, this is the "intellectual love ('*Einfühlung*') of the objects of experience"[70], demonstrating that it was not easy even for Einstein as a modern man to get rid of the image of nature's ontological primacy (or, more precisely, oneness).

However, despite that this image is still lost for some, it might appear that what happens is exactly the opposite. At the end of the third part of *Political Theology*, Schmitt expresses his concern that, by arriving in the nineteenth century, the transcendental apparatus in the domain of the political is more and more replaced by an apparatus of immanence.[71] This is caused by democracy, with its "thesis of the identity of the ruler and the ruled", and "most educated people, who … settle for either a more or less clear immanence-pantheism or a positivist indifference toward metaphysics".[72] Here Schmitt is wrong. Political theology still flourishes today and is even strengthening its positions. First of all, regarding positivism: as demonstrated many times over, positivism is far from being indifferent towards metaphysics; it is itself a fundamentally metaphysical ideology. With respect to democracy and "the identity of the ruler and the ruled" as related to the turning of the human[73] into an omni-potent law-giver: democracy is not the key factor leading to a move towards immanence. Instead, here we are confronted with only one of the facets of Schmittean sovereignty, which presupposes the hybridization of the planes of immanence and transcendence.[74]

With respect to the main idea—i.e. that the transcendental apparatus in the domain of the political is more and more replaced by an apparatus of immanence—it can be said that it is not replaced but more and more appears to be stripped bare. But the more it (i.e. the transcendental apparatus) is bare, the more we are

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[69] Karl R. Popper, *The Logic of Scientific Discovery*, *supra* note 34, p. 32.
[70] *Ibid*.
[71] Carl Schmitt, *Political Theology*, *supra* note 3, p. 48-51.
[72] *Ibid*., p. 49, 50.
[73] Or "mankind … substituted for God", as Schmitt writes later (*ibid*., p. 51).
[74] For Schmitt, who the law-giver is—one man/person or a mankind/people as represented through the apparatus of the democratic mechanism—is a critical, essential difference. But for the positivist theory of law, with which the Schmittean one shares the same germ and which has an exclusionary-inclusion machine (with norms as empty variables being its gears) of a total scale at its ideological core, essentially it does not matter who the machinist is—whether man or people.

affected by it.[75] There are already many disclosures of this "naked king" in contemporary philosophy. However, the key to the final disclosure[76] lies in the conception of language. Before concentrating on this aspect in Part 4, we must linger a bit longer on the idea that modern political ontology is 'anti-onto'-logy as the *logos* for 'anti-onto'-praxis. This praxis is usually camouflaged. First of all, it has its 'anti-onto'-logy in the exact sense of the word, i.e. it is the *rationale* of 'anti-onto'-praxis; it is its rational foundation and, in some sense, leads to and enables 'anti-onto'-praxis. But, it also represents this praxis in a very different light: as though it is praxis *for the sake of* existence.

The annihilation of existence is, as a matter of rule, based not on *direct* negation of existence—all is presented as it (i.e. elimination) is for the sake of its preservation. In other, more poetic words, evil is done by allegedly doing good. This mode of modern *logos* pervades the modern organizations of our life. Everything appears to be the positive affirmation of existence. For example, today everyone is concerned with the environment (otherwise called *nature*) and its preservation. However, how is this concern and preservation demonstrated? For example, one of the legal forms and processes employed is the creation of so-called natural parks or *reserv*-oirs, where the environment has to be exactly p-*reserv*-ed as it is. But what happens through the institution of the protected areas is that the *other institution* happens at the same time—all other areas are made and legitimized as unprotected or, at least, less protected.[77] The logical form of this environmental regulation/politics is only this: that some areas may remain as they are, while others may not. And, still more important, this regulation may be exploited by keeping in mind precisely this logical form. It is a convenient tool for the politics of existential annihilation (i.e. annihilation of what is as-it-is in the unprotected areas), convenient also because it allows for the creation of the visibility of its very opposite activity.

Another key example is more Schmittean, as it concerns the friend-enemy and peace/neutrality-war/conflict distinction(s). According to Schmitt, politics is always (i.e. as a matter of definition) about enmity and war; but it always represents itself as a relation of friendship and peace. The images of the absolute revolution, leading to the absolute friendship or the absolute peace, are self-contradictory and self-eliminating. If all of us are friends then, by that fact, there will be no friends; there has to be an enemy, for a friend to be— "these two

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[75] It is like approaching a source of radiation by losing the layers of defense.

[76] Or, in other words, it is like the elimination of the final layer of defense.

[77] In this context we may ask why we are not allowed to live in protected areas or, at least, why is our activity is so limited there? It is a human paradox in itself to protect (and, this way, to distance) nature from a human. Also—how is the tree outside our window different from the tree in the nature park? By creating protected areas we make all the remaining earth an unprotected or, at least, less protected area. Otherwise, every tree should be equally important and protected.

concepts co-determine one another"[78]. Or, we could ask, what is the sense of peace if there is no possibility of war? And, by the same token, "the very concept of neutrality ... is swept away by its own possibility; it contradicts itself and is destroyed in itself."[79] That is why all the "Peace" or "Friendship" banners of the Soviet times were, in some sense, a lie. They could have been re-written as "War" or "Enmity". There could be no politics of friendship without, at the same time, the politics of enmity, and no politics of peace/neutrality without, at the same time, the politics of war. Finally, a 'politics of friendship or peace' is only a matter of the representation of politics, while the politics of enmity or war is a matter of its reality and praxis, having an anti-existential vector. 'Friends' are instituted only to delineate, in this adverse manner, the existential scope of 'enemies'—those to be annihilated.[80]

The third and final example is the most grandiose and related to the social contract theories that provide the fundamental and sole design of modern politics. Firstly, we have to understand that any social contract theory is, in its essence, *teleology*. It is a theory of purposiveness. The modern state[81] is a venture (or otherwise called "corporate association") instituted for the purpose of *salus populi*.[82] That means that the fundamental and even existential necessity of a modern state and its government is the environment of the society as not existing in a condition of *salus populi*. An unhappy, sick, ailing society is the existential necessity of this (i.e. modern) form of government and state to the extent that this form of government and state needs to make society unhappy or sick in order to exist. Otherwise, what is the purpose of government if society is already in the condition of *salus*? Therefore, rather paradoxically, the social contract theories and the forms of government they propose or initiate are the main causes of the spread of social ills. In some sense, modern government not only has to prove that something is wrong with/in the society—*it has to make it wrong*. Otherwise modern states and governments have only one way out: to disband themselves. Either way, the outcome is the same in all cases: *society as-it-is must not remain as-it-is*. If it is not in the condition of *salus* (really or allegedly, the latter being the more likely case), then it must be changed; if it is in the condition of *salus*, it also must be changed. In other words, it must be changed perpetually and not remain as-it-is.

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[78] Jacques Derrida, *Politics of Friendship*, trans. George Collins (London, New York: Verso, 1997), p. 122.
[79] *Ibid*., p. 126.
[80] Tomas Berkmanas, "Images of the Crown: Depersonified Governmentalities, a New Multitude, and Primitive Thinking": 131; in: Leonidas Donskis and J.D. Mininger, eds., *Politics Otherwise; Shakespeare as Social and Political Critique*, Value Inquiry Books Series, A Volume in Philosophy, Literature, and Politics (Amsterdam, New York: Rodopi, 2012).
[81] Here we agree with the idea that *state* is *only* modern, i.e. there is no "state" (as something having this name and meaning) before the modernity (*see* Martin Loughlin, *The Idea of Public Law* (Oxford: Oxford University Press, 2003), p. 5-6).
[82] See *ibid*., p. 17 (there Loughlin also relies on Michael Oakeshott).

That is why the well-known, clichéd slogan of the modern politician may be expressed in one word—"change"[83]. Modern politics is fundamentally that of change as annihilation of the society/world as-it-is; preservation of the society/world as-it-is is inconceivable to modern political thinking. But the purpose (as *logos*) of this change represents it in a different color. It appears that all annihilation (as praxis) of existence is built up on its opposite at the *logos* side, i.e. *affirmative logos*. It is as though we affirm existence by allowing/legitimizing its annihilation.

So what exactly is the *logos* of this teleo-*logy*? First, we should remember some details of the social contract theories. The modern state with its government is instituted in order to preserve the *self* (Hobbes) and *property* (Locke). But the question is much more deeply philosophical and ontological: to preserve *what*? What *is* the "self" and what *is* "property"? *Are* they at all or do they, in some sense, negate existence? Furthermore, is there a *logos* of a negative (not affirmative) kind for the annihilation of existence? It should also be added that this affirmative *logos* is not the *logos* of this annihilation in a real sense. It is just camouflage, *logos* as/of camouflage. This is related to the other fundamental question: where or how exactly does the negation of existence (as the real *logos* of the annihilation of existence) happen, thus predetermining its annihilation? It happens in and through language.

4. THE DIMENSIONS OF MIND AND THE MISSION OF PHILOSOPHY

The function of language is to fragment sense (or perception)[84] or, in other words, to provide forms of sense. But to fragment sense is not to *make* sense, and not even to correspond to some-'thing' in sense. Instead, at the most fundamental level the function of language is to create a non-sense (more usually named as *no-thing* or *no-thing-ness*), a non-sensed fragmentation.

> The simplest syntactic form available to speakers of English for the linguistic (re-)presentation of the event is in the form 'the boy moves'. Its simplicity seemingly mirrors an equivalently simple event. The event is presented as having the two-part structure of nominal participant + physical process. *This division … corresponds to nothing in the percept itself*. Thus, in the act of linguistic presentation a crucial change has been introduced, which is facilitated by the simplicity of the syntactic form. The linguistic form constitutes a model, which strongly influences the interpretation of such precepts, since it requires the event be analysed into these two parts before it can be communicated. *Such*

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[83] For the sufficiency of this one word it is enough to remember the US President's Obama logo in his first presidential campaign (*see* http://www.moonbattery.com/archives/2008/03/obama_campaign_1.html).

[84] *See* note 21.

> *classification becomes so automatic that it seems to inhere in the percept itself*.[85]

This fundamental fragmentation of sense "gives birth" to a fundamental philosophical differentiation between *thing* and *fact*, which corresponds to the linguistic differentiation between *noun* and *verb*. Lithuanian here is more convenient, because in this tongue a noun is called "daiktavardis" (literally *thing-name*) and a verb is called "veiksmažodis" (literally *action-word*). What it shows in itself is that facts/actions cannot be named; they have no (or cannot have) names. In some sense, if there is a name automatically there is a thing.[86] Facts cannot be "reached"/shaped by naming; figuratively speaking, they always slip away from names and can only be satisfied with words.[87]

In this context it is easy to understand that the very beginning of Wittgenstein's *Tractatus*[88] is purely ontological—it provides an ontological minimum and then, apparently insensibly (especially moving from statement 2.01 to 2.011) and very soon, it turns into a philosophy of language and history where the only "ontology" possible is that of language. The main ontological statements are: "the world is the totality of facts, not of things"[89] and "the world divides into facts"[90]. But further on he alleges that "it is essential to things that they should be possible constituents of states of affairs [atomic facts]"[91] and this is the place where the philosophy of language and history begins. A/the thing is not easily conceived as a fragment of life, just as a fact is about present and thing is about history. A noun re-presents a thing or, in other words, "makes a thing in present", but, apparently, there is no-thing (in the) present. Things "are" in history and, in this respect, world should be exactly the totality of facts but not things.

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[85] Gunther Kress, Robert Hodge, *Language as Ideology* (London: Routledge & Kegan Paul, 1979), p. 38 [italics – author].

[86] In other words, we name what passes away, what *continues* to be, and in this way name is a thing itself. Naming corresponds to thingification in the exact sense. This also means that thing, together with name, is a matter of mind or, as otherwise stated, discourse, and that is also testified to by the etymology of the word *thing*. As Heidegger states: "The Old High German word *thing* means a gathering, and specifically a gathering to deliberate on a matter under discussion, a contested matter. In consequence, the Old German words *thing* and *dinc* become the names for an affair or matter of pertinence. They denote anything that in any way bears upon men, concerns them, and that accordingly is a matter for discourse. The Romans called a matter for discourse *res.* The Greek *eiro* (*rhetos*, *rhetra*, *rhema*) means to speak about something, to deliberate on it. *Res publica* means, not the state, but that which, known to everyone, concerns everybody and is therefore deliberated in public" (Martin Heidegger, *Poetry, Language, Thought*, trans. Albert Hofstadter (New York: HarperCollins Publisher, Inc., 2001), p. 172).

[87] Conversely, when we try to "reach" what passes away we *verb*-alize. When Heidegger tries to "reach" the thingness of a thing, he actually tries to "reach" what *is* beyond a thing, and for that he has only one way out—to *verb*-alize what is originally *noun*-alizable. That is why he provides us with expressions as "thing things" (*ibid.*, p. 172.) or "world presences by worlding" (*ibid.*, p. 177). *See* also *ibid.*: "As soon as human cognition here calls for an explanation, it fails to transcend the world's nature, and fells short of it. The human will to explain just does not reach to the simpleness of the simple onefold of worlding."

[88] *See*, generally, Ludwig Wittgenstein, *Tractatus*, *supra* note 52.

[89] *Ibid.*, p. 5.

[90] *Ibid*.

[91] *Ibid.*, p. 6.

However, the precise wording should read: thing is not, just as history too is not. Thing, if it *is*, "is" only a linguistic fragment of life. Even if we conceive verbs as names of facts, then they are also, in this respect, things. When we taste some-"thing", we taste and, together, name the taste (for example, "sweet"), i.e. we make taste a thing. And in this moment language is used in Wittgensteinian terms; however, the name/thing of the taste "comes" from the linguistic past. Therefore, we could clarify the aforementioned statement even more: thing "is" just as history too "is" when language is used and when language is not used thing is not and history too is not. Once again, figuratively speaking, things are like the maps of the world/experience but not the world/experience itself.

Additionally, things (as linguistic 'beings') are a distinctive part of the human *Umwelt*[92]. The hypothesis that in an animal *Umwelt* there are no things is viable even though, as a matter of Uexküllian logic, the *Umwelten* of living-beings should be totally separated from and inaccessible to each other. To understand this idea and its importance we should concentrate on the word "*Welt*/world".

First of all, *world* is a convenient linguistic tool to impute the ideology of (1) synchrony and (2) spatiotemporal totality to the diachrony and finitude of sense. World *appears* as one and only and the same for all: human beings, animals, things, etc. Uexküll presented a very different perspective by his apparently slight conceptual change—adding of the suffix *Um*-. But, apart from the presupposed/hypothesized plurality of worlds (one world belongs to humans, another to dolphins, another to the tick, etc.), we should understand that *worldification* in itself is part of the human *Umwelt*. *World* is merely a convenient linguistic (or conceptual, rational) tool to explore our (i.e. human) senses; all that explains rule 1.13 of the *Tractatus*: "the facts *in logical place* are the world"[93]. Only by turning senses and sense experience into *world* was the human being able to advance in exploring them and this advancement may be considered natural science in as much as the ontological priority of senses is not negated. Through science the senses are explored as world. Scientific interplay between senses and language constitutes advancement in exploration of the senses—the opening of the horizon of the world. After that opening it became possible to find that world, for example, could bend, although the senses do not directly inform us about that. This approach to the senses is so rooted in us that we would rather say that *we live in the world*, instead of stating that *we live as we sense*. But the latter phrase is also

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[92] This concept and conception is taken from the ideology of the zoologist Jakob Johann von Uexküll as analyzed by Agamben (*see* Giorgio Agamben, *The Open*, *supra* note 50, p. 39 *et seq*.) and also touched upon by Heidegger (Martin Heidegger, *The Fundamental Concepts of Metaphysics: World, Finititude, Solitude*, trans. William McNeill and Nicholas Walker (Bloomington and Indianapolis: Indiana University Press, 1995), p. 192, 261-264).
[93] Ludwig Wittgenstein, *Tractatus*, supra note 52, p. 5 [italics—author].

incorrect, because we live as we sense *and speak*; language enables us to spatialize otherwise purely temporal sense, figuratively speaking, to "transform it to some place to live in"—the world.

But sense never loses its characteristic of pure temporality. World, and also space, is a consequence of our lingua-ability. Animals hypothetically do not live in world and space; paradoxically, there are no such *things* in their *Umwelten* (or their *Umwelt* is without *Welt*). They live only as they sense; figuratively speaking, they live only "in time" and would never recognize change in the world as they are not in as such and are not able to be in as such. We could also figuratively say that animals do not have a sense of world and space.[94]

In this context we could undertake an imaginative experiment. When I look at and sense the redness of an automobile standing nearby and imagine a man in/from ancient Greek looking at and sensing the redness of the petals of the roses growing near his house, what might be the difference in our senses? There is none in terms of essence. In this respect and with some reservation concerning the use of the word *world*, we can say that the world has not changed at all; it is absolutely the same world in ancient Greece and in our times. But *we know* that it has changed dramatically; however, this change is constituted not by our senses but by our mind. Let us continue the imaginative experiment. If we would take an ancient Greek man from his environment and throw him into today's environment, he would surely be in complete shock and would definitely state that the world has

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[94] This conception, of course, could be compared to that of Heidegger's ("the animal is poor in world" (Martin Heidegger, *The Fundamental Concepts of Metaphysics*, *supra* note 92, p. 176 *et seq*.) where being poor means being deprived of a world (*ibid*., p. 195 *et seq*.); however, of course, it is also very different. Heidegger's conception is founded on a tri-partite scheme of a distinction between thing (stone), animal and man, where all parts are codetermined by each other and this way (i.e. as a matter of ideology) dependent on each other. The distinctions between those three parts are articulated in a complicated and unique manner. It appears that the most complicated part for Heidegger is that of an animal as such and as different from a man. There he relies on very subtle ideas: distinction between doing and acting as human behavior different from that of an animal as a driven performing (*ibid*., p. 237), conceptions of *disinhibiting ring*, within which animal is surrounded (*ibid*., p. 255), and "*profound boredom* as a fundamental attunement of human Dasein" (*ibid*., p. 282).
Here everything is related to different and perhaps simpler ideas. First, a world together with a thing here is explained as not existent (therefore, it would be not a precise statement that world here corresponds to *No-thing*; it is exactly Thing of all things which is-not). Being worldless or world poor here could be explained as exactly the mode of existence – *what-is* is worldless or world poor and, if we want to add some ethical chilly here, there is nothing bad in all that, only that animal *Umwelt* is, more exactly, Um-'welt'; 'Um' here signifies the margin of the world. However, that also does not mean that we are now on the side of Gray, with his rather rough negation of Heidegger's approach (*see* John Gray, *Straw Dogs*, *supra* note 1, p. 48-52). The problematic nature of Gray's attack on Heidegger's idea ushers from methodology, which Heidegger himself unintentionally points out at the very beginning of his corresponding passage, but then somehow strangely passes by: "*by what path* can and should we gain access to the living character of the living being in its essence? In what way should life, the animality of the animal … be made accessible to us?" (Martin Heidegger, *The Fundamental Concepts of Metaphysics*, *supra* note 92, p. 179). In other words, how can an animal *Umwelt* be reached by us and conceived as it is in its totality? This simple insight of a primary problem makes all the conceptions of animal (including the one developed here) mere hypotheses and, if analytical rigor is our guide, no single one of them, including Gray's, could be treated as being totally un-humanistic.

changed dramatically.[95] But we have just stated that, in some respects, the world has not changed at all: the redness of/in ancient Greece and redness of/in our times is still the same. We are still today unable to see ultraviolet rays or to hear the ultrasound; there is nothing absolutely new or different from what an ancient Greek could sense. This unchanged world is the world of our senses, which is revealed to us in the same way as it was revealed three or more thousand years ago.

Now let us imagine a cat from ancient Greece, which we would take from that environment and would throw into a contemporary environment. Would it be in shock? Would it notice (if not conceive) that the world has changed dramatically, that it is absolutely a different world? Would it notice that there is a tremendous difference in the redness of a rose and the redness of an automobile? Although the world (i.e. *Umwelt*) of a cat is, in some respects, not accessible to us, the external behavior of it would probably show that the cat will not be in shock, and certainly not experiencing the same shock as an ancient Greek human. It is highly probable that a cat would just run in the same second to some shelter, maybe to a forest, to some place where it could catch a mouse and would *not care at all* about the dramatically changed world. *For a cat the two worlds would be essentially the same; in fact, it would be the same world*. Probably the same could be said about all animals. Ticks would be an even better example, because it is even more absurd to state that the tick would notice any difference in the worlds. In this hypothetical context and poetically speaking, being an animal is something like being totally submerged in water, which is the metaphor of sense. Only human beings, if even in water—even if through the pressure of water—"sense world". Animals have such a pressure of sense generally that through this pressure world does not appear to them; they just "exist in the blind ocean of sense", "move in the dark-end tunnel of sense". Or, at least, their abilities to surpass this pressure and open-up the World that we know are even more hypothetical than the aforementioned hypotheses about their *Umwelt*.

But language does not enable the sense of world and space because, to be precise, such sense is impossible. Language enables space and world themselves, not their sense. World and space are purely linguistic matters. And, as previously noted, worldification itself is part of our *Umwelt*. Wittgenstein expressed this idea through the thesis of the incorporation of language into the human organism: "everyday language is a part of the human organism and is no less complicated

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[95] Also, for example, an automobile, in some sense, was just *near to* an ancient Greek—it was "lying" in the same potentiality of being made as it is "lying" now; the ancient Greek man *only* had to know what to do with what he sensed.

than it"[96]. However, this *in-corporation* does not exactly mean that language becomes identical to sense delimiting our corpus; it is the part of the *organism* where the organization happens through the interplay between sense and language-use.[97]

Of course, in this context the problem of metaphysics may be conceived as persisting, but has it ever ceased to be this way? Let us consider Wittgenstein a bit more: "language disguises thought"; it is the outer form of thought, and does not inform about the [inner] form of thought; "silent agreements on the conception of the common language are very complex".[98] This text implies the distinction between language/outer form and thought/inner form, but this first component (outer form) *is not language*—it is merely what is sensed as *language*. We could say that these are senses through which language is expressed and language may pick up whatever sense "it wants" to be expressed through. Language in this respect is *completely silent or soundless*, i.e. it is not a part of *physis*, or, we might even say it "is" what-is-not (non-existence).

That is the fundamental problem of analytic philosophy: what (i.e. as *language*) does it speak about and what is it in itself (once again, as *language*)? What is the referent for the word "language"? Analytic philosophy remains metaphysical even when it "eliminates" metaphysics.[99] Wittgenstein (at least the early one) understood this problem; this way he was a rare and unusual analytic philosopher, because he was a coherent one. His metaphor of *a ladder*[100] refers to analytic philosophy. Or, to the very least, it is a metaphor for what it (i.e. analytic philosophy) should turn into at the end of the analysis. In paradoxical relation to Carnap, in the end analytic philosophy itself should turn into "the Nothing [that] itself nothings"[101], "Nothing" witnessing "Nothing" by itself. With the metaphor of *throwing away the ladder* the appearance of the analysis in analytic philosophy as non-existent (or meta-physical) is metaphorized. This appearance may be called the elucidation of the analytic philosopher to the extent that it turns him into an

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[96] Ludwig Wittgenstein, *Tractatus*, *supra* note 52, p. 22 (rule 4.002).

[97] Such a conception may be understood as an alternative to those who preprogram transcendental apparatus. In this context it could be convenient to use the metaphor of a diving-dress (*le scaphandre*). For example, when I see some-"thing" we may say that this "seeing" does not coincide with the "I". This is the maneuver of inside-al transcendence leading to Cartesian *cogito ergo* and turning senses into a kind of a diving-dress for the mind/language-use/subject/"I". Or, otherwise, it is exactly the latter that may be turned into a kind of a outside-ly transcendetal diving-dress (or otherwise depicted by the metaphor of "glasses" as done by Kant) for the sensing. In our context human is understood as constituted by the continuous interplay (or inversion) of those alleged diving-dresses both *this way* opening-up the plane of pure immanence/existence (not to be mixed with total immanence; see further in the text).

[98] *Ibid*.

[99] *See*, generally, Rudolf Carnap, "The Elimination of Metaphysics through Logical Analysis of Language"; in: A.J. Ayer, ed., *Logical Positivism* (New York: The Free Press, 1959).

[100] Ludwig Wittgenstein, *Tractatus*, *supra* note 52, p. 89 (rule 6.54).

[101] Rudolf Carnap, "The Elimination of Metaphysics," *supra* note 99: 69 (here Carnap cites a famous statement of Heidegger's).

existentialist. In this way Wittgenstein may appear to be, although in a somewhat cloaked manner, an existentialist—an ally of Heidegger.

This entire situation with great philosophers, which is paradoxical in the context of academic stereotypes, explains a lot about philosophy itself. Sometimes in academic philosophical circles the question is posed about what the first philosophical school is and who the first great teacher (or as sometimes, with the reference to Meister Eckhart) of philosophy is. The stereotypical answers are: the school is that of ancient Greece, and the teacher is Socrates. These are wrong answers. The first philosophical school is language itself, and a lot of the so-called professional philosophy, which truly finds its origins in ancient Greece, is anti-philosophy. This explains Wittgenstein's thesis that "all philosophy [i.e. anti-philosophy or professional philosophy] is a 'critique of language'"[102]. By learning language (and here it does not matter much who the teacher is) and starting to speak, humans start being philosophers. Learning language, learning the noun-verb structure which corresponds to *nothing* in perception is at the same time learning to differentiate *substantia* and *accidentia* and then to speak of *nothing* or, more exactly, speak of things which (i.e. as all things) are-not. In this context the function of professional philosophy may be two-fold: (1) to uphold the first philosophy, and in this way turning into transcendentalism; or (2) to elucidate and dismantle first philosophy, and by this turning into existentialism, which has many other names (e.g. *naturalism*, *realism*, *Medieval* or some other *mysticism*, *phenomenology*, etc.). The latter one is the anti-philosophy considered part of professional philosophy.

One of the problems of existentialism is that it was unable to show Nothing as just: *Nothing*. That is because the prefix *No-* in *Nothing* is correct and incorrect at the same time. It is correct because, as previously noted, things are-not. It is incorrect because *No/Not* is already the necessary predicate of every *thing*; therefore, the addition of one more *No-* is either superfluous or is an attempt to make a tricky-'thing' that may be called a 'Yes-thing', a thing-which-is.[103] Therefore, existentialism as the elucidation of first philosophy is always on the edge of proving not only the existence of *existence*, but also the *existence* of what-is-not. In this context we should differentiate between *total* existentialism and *pure* existentialism, both being rather different philosophies. Also, and now correctly, we

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[102] Ludwig Wittgenstein, *Tractatus*, *supra* note 52, p. 23 (rule 4.0031). In this Wittgensteinian context we could consider *all* philosophy to be anti-philosophy.

[103] In some sense, here the language itself, i.e. English, is at fault, because it has a "thing" component in the concept – No-*thing*. This situation allows at least some part of an analysis made here but also it makes the analysis at the conceptual level rather difficult in the sense that it is hard to maintain coherency. In German or, for example, in Lithuanian, the situation is very different—"Nothing" is called "Nichts" or "Niekas" respectively.

should differentiate between Heidegger's and Wittgenstein's existentialist approaches: the former is a total existentialist; the latter is a pure existentialist.[104]

Both approaches are in a special relationship with transcendentalism. Total existentialism tries to dispose of it by showing that what allegedly belongs to the transcendental sphere also exists and, therefore, ceases to be *transcendental* in the exact meaning of this word; the transcendental sphere 'as-it-is' must be eliminated. Therefore, rather paradoxically, total existentialism is always on the verge of turning into transcendentalism, especially if it starts proving what is transcendental, i.e., in some sense, proving its 'existence'. Pure existentialism, on the other hand, tries to leave what belongs to the transcendental sphere 'as-it-is' and to disallow any blending of the transcendental and immanent spheres; both spheres must remain pure in relation to each other.[105] That explains the message of the last sentence in *Tractatus*: that "we must pass over in silence" "what we cannot speak about".[106] This does not mean that what we cannot speak about is, in Carnap's terms, a matter of eliminated (more exactly, made to exist) metaphysics. The function of this passing over in silence is to avoid starting to speak about (or, in other words, anxiety about) the necessary and generally hidden predicate of *a thing*—to speak about *No-* of [No]thing and, in this way, to try to show it (i.e. a thing) in existence, thus totalizing it (i.e. existence).

To consider the political consequences of this ideo-historical configuration, a return to the problem of natural law is necessary. Total existentialism eventually turned into a fiercer upholder of first philosophy than transcendentalism itself. The political form of total existentialism is materialism as transformed spiritualism. This historical configuration is necessary, since materialism is impossible without spiritualism. Hegelianism programs Marxism not by providing it with a dialectical scheme that it will later invert, but by the attempt to prove the existence of *Geist*. Both Hegel and Marx were total existentialists, but only one totalized existence as *Geist*; the other totalized existence as *materia*. But both have spoken of Nothing (i.e. *No-* of [no]thing) without showing it as *Nothing*.

All this is simply the cultivation in the extreme of first philosophy, in itself demonstrating what a dangerous situation anti-philosophy participates in; it may

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[104] More precisely, one should be called totalizing existentialism, and the other purifying existentialism. The latter was always a form of analytic philosophy—analysis (usually having the form of skepticism) always aimed at the ideological purification of what-is from what is superfluous to it. But analysis was always tempted to step into the domain of synthesis which, in this case, was possible only at the expense of the existential expansion.

[105] Therefore the relation of the pure existentialism with transcendentalism is very specific. It is as though pure existentialism only cares about what-is and totally ignores what-is-not, thus being, in some ways, 'unreachable' for transcendentalism. It does not surrender to the temptation of *transcendental* anxiety but not by being, in some sense, antagonistic to transcendentalism. It is neither foe nor ally of transcendentalism but totally ignorant towards it. And that is even worse for the always tempting transcendentalism to have the ignorant alien than the anxious one, as it is with the total existentialism.

[106] Ludwig Wittgenstein, *Tractatus*, *supra* note 52, p. 89 (rule 7).

always turn into its total antipode—pro-philosophy. It was not an easy task for Wittgenstein to remain a pure existentialist. In some sense, the function of pro-philosophy is to make the dream (i.e. *nothing* in perception) of first philosophy true/real, which, in itself, is a political function. The function of anti-philosophy is to show the dream as *the dream*, and we should also start conferring the political function to it.

Why is the function of pro-philosophy in itself a political function? The answer to this question lies already in first philosophy. By starting to speak or by the sole *first* act of speech (i.e. naming) we already create the conditions for the ideology of property as thinghood. We cannot have/own facts—that is impossible. We can only own things. Thingification of sense today has far overstepped the traditional one. But for the pure existentialist (or anti-philosopher) what-is is enough. Conversely, totalization of existence can only be done at the expense of its expansion beyond itself—to the spheres of what-is-not. These are the spheres not only of death in a political sense but also of, for example, property (things) accumulation. These are the modern and, by that, political modes of the totalization of existence provoked by the anxiety towards the not-enough-ness of what-is. In this respect, there are two dimensions/modes of mind: (1) producing what-is-not and, in this way, *turned* to itself; and (2) content with what-is and open (or *re-turned*) to what-is.

However, the concept of *mind* may appear somewhat questionable here. Still, we cannot escape that our *Umwelt* is at least specific in the use of language—thinking. Our life consists of thinking and sensing, both hand-in-hand (therefore both concepts—*mind* and *sense*—sometimes are used interchangeably especially through translation as with *common sense* (Eng.) and *sveikas protas* (Lith.)) opening the world for us—our *Umwelt* which we only know for sure while other *Umwelten* always remain at least partly hypothetical for us.

The hypothesis advocated therein is that in an animal *Umwelt* there are no things. This hypothesis may be reinforced by the mere fact that there is no evidence of any animals accumulating things in the same way as we accumulate property. In other words, there is no such activity as *ownership* or, in other more juridical words, *property relations* in that *Umwelt*. That should be related to the fact that in an animal *Umwelt* there is just no-*thing* (in the exact sense) to accumulate/own—animals live in the continuum of facts.

The same could be said about privacy. What is *private*? What can be conceived as *private*? Life? No, there is no such "thing" as privacy of life in itself or, more exactly, privacy of life is in itself some kind of a thing, i.e. what-is-not. Life delimited by what-is is never private. We are always *open* to senses—there may no privacy there. We cannot own sense or make it private (as my private redness or

my own sweetness; it is just redness that I sense at the moment or the same with sweetness). In the same way there is no privacy in the animal *Umwelt*.

Still, even though our *Umwelt* is specific because of this first school of philosophy which none of us can escape, this school is not exactly teaching us to produce what-is-not. It only sets up the conditions for the two different "lives of the mind"[107] corresponding to the two aforementioned dimensions/modes of mind. In other words, the school of First Philosophy, whether we want it to or not, opens up the World—our *Umwelt*. In a sense, after the impact of this school we simply cannot stop speaking/thinking. To stop that corresponds to the end of the World as we know it—Apocalypse[108]. Besides thinking of things we also start to remember the *past* and become anxious about the *future*[109], both also being what-is-not.[110] But important is how our mind lives with that or, more precisely, what it prefers to live with. As previously noted, mind opens up for us the thingified World. But, the tricky 'thing' is that mind may not care at all about it in the same way as the pure existentialist ignores what may "be" transcendental.

Finally, all this has a direct impact on the fundamental problem of law—of the gap between *is* (or what-is) and *ought*. The underlying idea at the opening of this gap is the one of the detachment of law and "is", the un-relatedness of law and "is" and, in this way, the inconceivability of natural law. Consequently, pure existentialism or anti-philosophy is exactly the 'place' where we should seek for the lost natural law, understanding all the political consequences of this undertaking. And for that it is not enough just to make new political slogans such as "we shall be satisfied with what-is without any anxiety to change the world but, rather, to sustain it as it is". The change (or, more exactly, return) of the dimension of mind must support the recovery; and the mission of philosophy—which here appeared to be anti-philosophy, always tempted by first philosophy to change its *anti-* position— is to cultivate the mind-environment for this change.

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[107] The concept of "life of the mind" is taken from Paolo Virno's work (Paolo Virno, *A Grammar of the Multitude: For an Analysis of Contemporary Forms of Life*, trans. Isabella Bertoletti, James Cascaito, Andrea Casson (Cambridge, London: The MIT Press, 2004), p. 37 *et seq.*). In parallel with the term "public life of the mind" he also uses these phrases: "public intellect" or "general intellect" (this latter one is taken from Marx's *Grundrisse*), therefore, a plausible substitute term for the "life of the mind" could also be just "intellect".

[108] The same could be said about the end of sensing—death is always Apocalypse.

[109] The learning of tenses is crucial in that case.

[110] On the problem of the temporal order or, in other words, chronology *see* also Brett Neilson, "*Potenza Nuda*? Sovereignty, Biopolitics, Capitalism," *supra* note 63: 73-75 (especially this statement: "the temporal order is *anachronistic*: out of step with actuality and extraneous to the 'now'" [italics— original]). There Neilson discusses the corresponding analysis of Aristotle by Virno.

CONCLUSIONS

The undecidability apparently inherent in Schmitt's decisionism hides the fundamental problem of the concept of law. Even if the sovereign decides whether a situation of entirely situational law exists, the question remains whether this situation may exist without or before his decision. Schmitt's ideas on the administrative state show that this decision—as something separate from the existence of the situation and as risking the political—may be the cause of the degeneration of law equal to the loss of natural law in modernity.

The revival of natural law is possible only through an inquiry into the deeper layers of professional philosophy. At the level of epistemology we may find that natural law was isolated from the political-legal domain by transforming it into natural science and, in the very end, attempting to show that the latter proceeds deductively and in this way advancing the anarchistic propaganda of the human omni-potent law-giver in the domain of epistemology. However, this attempt was not so easy to accomplish and the cause is an essentially inescapable relic of the autonomy of facts. Moreover, at a closer inspection, the "opposition" between inductivity and deductivity is not only the problem of modern epistemology, but also a coherent diachronically structured modern ontology. Inductivity—with its first and the *second* planes—is the prerequisite or fundament of deductivity therein. Otherwise law *is* 'fact-ed'—it *is* only as a fact and in no other way; there is no second plane there, especially in the form of law.

Modern epistemology has not only ontological but also political contours in the Schmittean sense, thus forming a coherent ideological and holistic unity. Modern political ontology, as a matter of *logos*, consists of the negation of existence; modern politics, as a matter of *praxis*, involves the annihilation of existence. However, being the ideological fundament of modern politics, modern political ontology is tricky. It tends to represent modern politics not as the annihilation but as the preservation of existence and thusly functions as an ideological camouflage of the zones of its praxis. This mode of *apparently* affirmative *logos* pervades modern organizations of our life. Parts of the environment are declared to be preserved by creating unpreserved zones. Friends are named by creating zones of enmity. And, at the most grandiose level, the state is instituted for the purpose of changing what-is (or annihilating existence) in the name of *salus populi*.

But besides the camouflage type of ontology, there is the direct *logos* of modern annihilatory political praxis—the real 'anti-onto'-logy, the real negation of existence. The originary "place" of this *logos* is in the basic structures of language. We start to negate existence (or to speak about what-is-not) while we start to use

language which itself is our first philosophical and metaphysical school. The separation of things from facts (or phenomena) and nouns (or names) from verbs has no correspondence in our senses. Thus we worldify and thingify our senses—we make our *Umwelt* which, in the very end, may be the only *Welt*. From the diachronic perspective, these formations of our senses enable the appearance of such "things" as property, privacy, self, and the corresponding legality of rights.

However, in relation to the first philosophical school (i.e. language), professional philosophy developed in a rather antagonistic way. There are pro-philosophical and anti-philosophical trends therein, the latter always tempted by the former to change its position. It is precisely in the *surviving* anti-philosophical trend, and by clearly distinguishing it (as in the case with total and pure existentialism), that we may find the *logos* (or the mode/dimension of mind) for the lost natural law and for the ontology which is in no way 'anti-onto'-logy.

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