

Dominus Mundi

Political Sublime and the World Order

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Master of the World and the Law of the Sea

I. The *Dominus*, Carl Schmitt and Beyond ...

A. Apocalyptic Politics and the Parable of the *Dominus*

In his theory on the *nomos* of the earth, Carl Schmitt declared that our times will witness the last round of the terrible struggle for a law of the planet, and the winner will become the master of the world.¹

The winner will take possession of the whole globe—land, air and sea—dividing and assigning it according to his will and pleasure. But the sea, vast and void, will not last in the new order. Schmitt himself links his theory to the theology of the *Revelation* (21:1):

Then I saw a new heaven and a new earth, for the first heaven and the first earth had passed away, and there was no longer any sea.

According to this vision, then, as long as the Leviathan is the Sire of the Sea, the definitive unit of the globe under its Lord will be eventually reached through its taming. And since the domain of Satan—Schmitt adds—is a unitary empire, as Jesus acknowledged speaking of the ‘Lord of Flies’, the new master will take in hands a globe already assembled by the Enemy.

In this way, Schmitt’s embarrassing theory of law is strictly connected to his theory of *political theology*, which in turn is directly linked to his conception of sovereignty and exception. If the ‘sovereign’ is he who decides on the state of exception, the latter represents in political theory the same thing as the miracle does in theology. At this point, the concept of the ‘political’ as a decision between friend and foe also assumes a theological and ontological trait, and we face a number of nested conceptions evoking the dark side of political philosophy.

But, we must question, are these ideas right or wrong? Where did they come from? What, indeed, were their origins? What is their genealogy? And where do they lead us to? What is, for instance, the sense in the insistence on the concepts of

¹ C Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (GL Ulmen trans, New York, Telos Press Publishing, 2006) 354.

‘Empire’ and the ‘state of exception’ rebooted by some of Schmitt’s contemporary epigones like Hardt and Negri,² or Agamben?³ And if this narrative is a form of knowledge about political and juridical forms, what kind of knowledge is it?

It is in the text of Justinian’s *Digest* (14.2.9)—never cited by Schmitt—that we find the ‘revelation’ of the existence of a *Dominus Mundi*. The original of this passage is in Greek, here followed by its traditional Latin version:

ἐγὼ μὲν τοῦ κόσμου κύριος, ὁ δὲ νόμος τῆς θαλάσσης⁴

Ego quidem mundi dominus, lex autem maris.

This can be translated into English in two rather different ways, as ‘*I am the lord of the world, and the law of the sea*’, or alternatively as ‘*I am the owner of the earth (lands), but the sea is governed by the law*’. This striking difference is due to the ambiguity of the original wording, the difference between the Greek term ‘*kyrios*’ and its Latin translation ‘*dominus*’, and by the more than astonishing variance between the Greek ‘*kosmos*’ and the Latin ‘*mundus*’.

What is at stake here is, of course, the ideal of a single, and legitimate, world rule. The everlasting nature of this ideal was well witnessed by Kissinger when he recently stated that our age is insistently—at times almost desperately—in pursuit of a concept of ‘world order’, and, as in the apocalyptic scenario envisaged by Schmitt, ‘chaos threatens side by side with unprecedented interdependence.’⁵

This grandiose prose marks an enduring paradigm of Western political thought, constituting a form of philosophical occultism that was cultivated by such different and influential authors as Schmitt, Kantorowicz⁶ and Bloch,⁷ and which is still haunting our political models. Their works point unequivocally to the mystical nature of sovereignty, the magic of monarchs, and the ‘miracle’ of exception. The comprehensive paradigm centred on this mystical idea is often referred to as ‘Political Theology’—a rather vague, and somewhat elusive and multifarious label constantly being reshaped,⁸ and quite certainly at the root of the ‘Italian Theory’⁹ based on the emergence of terms as ‘bare life’¹⁰ or ‘uses of bodies,’¹¹ and

² M Hardt and A Negri, *Empire* (Cambridge, Harvard University Press, 2001).

³ G Agamben, *State of Exception* (K Attel trans, Chicago, The University of Chicago Press, 2010).

⁴ A classical transliteration of Greek could be the following: ‘Egò mèn tòu kòsmou kýrios, ho dè nòmos tès thalàsses’.

⁵ H Kissinger, *World Order* (New York, Penguin Books, 2014) 2.

⁶ E Kantorowicz, *The King’s Two Bodies: A Study in Mediaeval Political Theology* (Princeton, Princeton University Press, 1998); E Kantorowicz, *Frederick the Second: 1194–1250* (EO Lorimer trans, New York, Frederick Ungar Publishing Co, 1957).

⁷ M Bloch, *Les Rois thaumaturges. Études sur le caractère surnaturel attribué à la puissance royale, particulièrement en France et en Angleterre* (Paris, A Colin, 1961).

⁸ PW Kahn, *Political Theology: Four New Chapters on the Concept of Sovereignty* (New York, Columbia University Press, 2013).

⁹ R Esposito, *Living Thought: the Origins and Actuality of Italian Philosophy* (Z Hanafi trans, Stanford, Stanford University Press, 2012).

¹⁰ G Agamben, *Homo Sacer: Sovereign Power and Bare Life* (D Heller-Roazen trans, Stanford, Stanford University Press, 2004) 55.

¹¹ R Esposito, *Persons and Things: from the Body’s Point of View* (Z Hanafi trans, Cambridge, Polity Press, 2015).

other intriguing investigations on the emblematic nature of the *flesh* of political entities;¹² a theory rendering the political discourse decisively theological in its own linguistic premises and practices. It is hard not to see at work in this paradigm a ‘fascination for the extraordinary’¹³ leading to prophetic-like questions such as ‘[a]re we facing a period in which forces beyond the restraints of any order determine the future?’¹⁴

This attitude has been perfectly captured by critical author Koskenniemi in describing our time as one in which even international lawyers are ‘losing faith in the secular’, and in which the ideal of the world order can always be described in the ‘messianic’ language of present imperfection merely highlighting the brightness of law’s promise: an international law as a self-correcting, secular project whose meaning would *nonetheless* be given by a horizon of transcendence.¹⁵

Our standpoint, here, lies on the need to investigate the origins of this paradigm, starting from its beginnings in the imperial Roman revelation of the presence of a universal ‘Master of the World’ that strongly influenced the *exotic* and *heterodox* evolution of political modernity. Our main theory is that, to a large extent, the intellectual and political history of the West has been seasoned with magic and occultism, which contributed to defining and developing the concept of sovereignty as we know it today. From the narratives of ancient Roman law to the specific emblems of the English Renaissance, and the famous frontispiece of Hobbes’s *Leviathan*, our investigation will unveil the occult prerogatives of the ‘political’. As far as the origins of theological and political modes of thought are concerned, it is precisely in the historical and ideological vicissitudes of the passage of the *Digest* on the *Dominus Mundi* that we may encounter the two most impressive icons of our political conceptions: on one side the continental land-based emperor, and on the other side the English sea monster, the Leviathan. On the one hand we face a *Dominus* that could also be an *Antichrist*¹⁶—a sovereign who could be at the same time within and without the law—and on the other hand we meet the Old Serpent, that could become a Saviour.

The double nature of the *Dominus Mundi* produced many romanticisations of the global power. The awing duplicity and ambiguity of the English Leviathan has never ceased to be at the heart of its spell, as the most influential and powerful image of the political. Our task will be to investigate these exotic ambiguities of the modern political discourse, starting from the very possibility of a legitimate world order, to eventually dismantle the Schmittian paradigm at its root.

The aim of this book is, then, to investigate the parable of the *Dominus Mundi*, from its beginning to its contemporary remnants. Now, the basic point in building

¹² EL Santner, *The Royal Remains: the People’s Two Bodies and the Endgames of Sovereignty* (Chicago, The University of Chicago Press, 2012).

¹³ G Frankenberg, *Political Technology and the Erosion of the Rule of Law: Normalizing the State of Exception* (H Bauer and G Frankenberg trans, Cheltenham, Edward Elgar, 2015) 114.

¹⁴ Kissinger, *World Order* 2.

¹⁵ M Koskenniemi, ‘International Law as Political Theology: How to Read Nomos der Erde?’ (2004) 11 *Constellations. An International Journal of Critical and Democratic Theory* 492–511.

¹⁶ Kantorowicz, *Frederick the Second* 385.

a model of world order and universal rule is to investigate the hegemonic devices by which the world is divided into spaces and jurisdictions.¹⁷ As it has brilliantly shown, the neoliberal paradigm is not purely an economic order or based on rational choice theory, but has many geopolitical aspects governing spaces through exception and exclusion.¹⁸ This contributes to defining a new, mutable experience of law that challenges traditional territorial boundaries and self-defined political entities in global times. As a consequence, a concept of a world order, making sense of global and anti-global movements, must cope with three basic elements: space, transcendence, and exception.

Accordingly, the plan of the book can be summarised as follows.

In the *Digest* we find stated that the Roman Emperor is the Master of the World and the Law of the Sea. This passage, though contested and in need of philological investigations, would imply that there is a single legitimate universal authority. Our first aim, then, would be that of investigating this proclamation, its problematic origins, its contested formulation, and the different and incompatible meanings that it acquired through the ages.

A pure model of the *Dominus Mundi* would, in theory, allow no fracture, resulting in a strong and compact spatial construct where there is no possible distinction between an inside and an outside, and the world is conceived of as a unique spatial entity whose government is concentrated in a single *locus* of authority. This model would be the icon of the frightening and sublime ideal of a united government extended to the whole *cosmos*. Undoubtedly the European world order became eventually fractured after the outburst of the Thirty Years' War (1618) and its end at the Peace of Westphalia (1648), a compromise inaugurating varieties of 'world order conceptions'.¹⁹ Modern sovereignty became grounded upon a widespread acknowledgement of the impossibility of world dominance by a single entity²⁰ and imagined the kings as Leviathans who did not recognise any legitimate superior authority. This *normative inversion* founded the legal theory upon which the sovereign territorial state of early modern times later developed. The main feature of Westphalia, according to many, including Kissinger,²¹ was the acceptance of 'political diversity' and the formal coexistence and equality of different sovereign powers. In this sense, with the rise of the new Westphalian order, the parable of the *Dominus Mundi* came to an end. But what is the most striking for us is the contemporary transformation of the Leviathan from a symbol of the Old Serpent

¹⁷ T Zarmanian, 'Ordnung und Ortung/Order and Localisation' in S Legg (ed), *Spatiality, Sovereignty and Carl Schmitt. Geographies of the Nomos* (London, Routledge, 2011) 294.

¹⁸ A Ong, *Neoliberalism as Exception: Mutations in Citizenship and Sovereignty* (Durham, Duke University Press, 2006).

¹⁹ Kissinger, *World Order* 23.

²⁰ See WG Grewe, *The Epochs of International Law* (M Byers trans, Berlin, Walter de Gruyter, 2000) 47; W Ullmann, 'The Development of the Medieval Idea of Sovereignty' (1949) 64 *English Historical Review* 1.

²¹ Kissinger, *World Order* 23.

into the emblem of the modern political saviour. As the Roman emperor, after the conversion to Christianity, changed from a figure of Satan into that of a representative of God, assuming a proper theological dimension, so conversely the modern sovereign assumed the form of a demonic monster incarnating the ideal of political salvation. From this standpoint Westphalia was a meeting of Leviathans, of heterodox monsters. These new creatures, so different from ancient empires, free cities, bishoprics, principedoms, and so on, started to share the common traits of all the Westphalian creatures: they came to possess a flag, an anthem, an army, a treasury, a police force, and a well-defined territory. They accepted the existence of other similar monsters on the earth, having the same right to legitimate jurisdiction and power, no matter how different they were, protestant, catholic, socialist, liberal or despotic. This was a peculiar and exotic European adventure, which universalised itself through the—now trembling—categories of international law and international politics. From this perspective, we can see this parable of the *Dominus Mundi* in its entirety, because we are experiencing the dissolution of its dissolution, in other words, the end of the Westphalian world order.

First of all, the world is becoming populated with non-Westphalian creatures: the European bloc is not purely Westphalian, the World Trade Organization and the World Bank are not at all Westphalian, and certainly Isis and other terror networks are completely different from the Westphalian state, whatever name they may claim for themselves.

Secondly and most importantly, the acceptance of political diversity is fading away. Both the theory of universal human rights and conceptions of a universal caliphate can no longer accept the idea of the legitimacy of political diversity, and so they are producing a global clash of ideas and a disruption of the formal legal categories of international law, causing a strong reaction and resistance. Humanitarian intervention is certainly the most striking example of a departure from the purely Westphalian international law, though it operates within its framework.²²

Our theory is, then, that the current context of globalisation represents the reappearance of the ghost of the *Dominus Mundi*, which lies dormant as a repressed political figure, a *refoulé*. The spectral reappearance brings with it the sublime and, at the same time, rotten nature of the Master of the World. From this standpoint, the clash that we are currently experiencing between populism and globalism could ultimately be seen as two sides of the same spectral form, since the *Dominus* was both a national sovereign and a global Lord. But what is more important is that the sublime-kitsch-rotten nature of the political has been left to wander about and must be 'recaptured' in its proper significance, superseding the neoliberal dream of a totally depoliticised world.

²² N Rengger, 'On Theology and International Relations: World Politics Beyond the Empty Sky' (2013) 27 *International Relations* 141–57; see also M Barnett, *Empire of Humanity: A History of Humanitarianism* (Ithaca, Cornell University Press, 2011).

Given this background, we shall articulate our aim in more detail in the next section. First, we shall give the reader an account of Schmitt's main theories, and their influential impact. Next, considering the demonological turn which brought the Leviathan into the place of the *Dominus*, we shall propose a model to cope with the global discourse on the origins of the sovereign with the precise aim of shedding new light into the 'intangible side of power'²³ which still inhabits our present political imagination in all its ineffability.

B. Messianism and the Theological 'Ghost' of Decision

Since one of our aims is to bypass the uncomfortable presence of Schmitt's thought, and undermine his, and his epigones' paradigm, we summarise here for the reader the major tenets of his conceptions, maintained by the structural connection that he posed between legitimacy, sovereignty and the exception, and that may be found closely compacted, on a global scale, in the grandiose figure of the *Dominus Mundi*.

One of Schmitt's most famous definitions is that of the 'concept of the political' as a choice, a decision between friend and foe. His formulation is probably derived from Álamos De Barrientos (1555–1640)²⁴ and is mainly a reflection on the Westphalian world and its existential characters. We mean here the birth of sovereign political units that could freely decide between war and peace against other parallel, identical, pure political units.²⁵ This paradigm is, in a way, 'existential' because Westphalia represented a real situation concerning political existence: the impossibility of terminating the lengthy religious conflict, and the reality of the power equilibrium between fighting units, realised in a legal compromise which gave birth to what we today call international law and international relations. Westphalia represented the outcome of a stalemate, and it is from the compromise reached to cope with this stalemate that the apparatus of modern juridico-political concepts was produced, *including* the concept of the political.

As Koskenniemi notes,

Schmitt modified his discussion about the limits of the 'political' between the first (1927) and the second (1932) editions of *Der Begriff des Politischen*. In the first edition, the 'political' had existed alongside such other realms as economy, morality, law, culture, etc. in an apparently equal position as one of the aspects of a community's life, distinct from

²³ HJ Morgenthau, *Politics among Nations: the Struggle for Power and Peace* (New York, AA Knopf, 1948) 121.

²⁴ G Maschke, "Amigo y enemigo": Kautilya y Álamos de Barrientos, anticipadores del criterio schmittiano' (2017) 1 *Carl-Schmitt-Studien* 111–20. Baltasar Álamos de Barrientos was a Spanish scholar and an important jurist of Salamanca who wrote *Tácito Español ilustrado con aforismos* and probably also *Discurso del gobierno*.

²⁵ M Fichera, 'Carl Schmitt and the New World Order: A View from Europe' in M Arvidsson, L Brännström and P Minkkien (eds), *The Contemporary Relevance of Carl Schmitt Law, Politics, Theology* (London, Routledge, 2015) 168.

its other aspects. In the second (and third) editions, the political stood out, however, from such delimitations so as to potentially encompass all of them. Now politics had no intrinsic limit: every aspect of life could manifest the friend-enemy opposition and thus transform itself into political struggle. Politics has no substance, it describes the 'intensity of association or dissociation of human beings'.²⁶

A second main theory developed by Schmitt is that of 'political theology'. It assumes that all the concepts of the general theory of the state have previously been theological concepts. In this way, he implied that the theological dimension decayed into the realm of pure politics, even if it is still operating and directing our thoughts implicitly—almost in a subliminal way. State and politics have then replaced God but not eliminated theology: we still live politically in a hidden theological setting.²⁷ Secularisation was, for Schmitt, concretely, the fading power of the pope to ex-communicate a king and transform him into a tyrant. Such papal jurisdiction transformed into the purely political practice of state recognition in international affairs.²⁸

The third main focus of Schmitt is on the 'state of exception'. This focus derives from his studies on Roman law and the difference between a commissarial and a constituent dictatorship. The point is that Roman law included the possibility of a suspension of the law for the *salus rei publicae*, the salvation of the state. In this respect, also extremely relevant in analysing Schmitt are the influences that these Roman models exercised on the French revolutionaries, and on Robespierre and Napoleon in particular, in creating the sequence: *état de siège*—*état de siège fictif*—*état de siège politique*,²⁹ that is to say, the passage from the actual situation of being assaulted by an enemy to the pure political decision of its occurrence. It is one thing to *declare* the state of exception in front of a real threat to the State; it is another to have the power to declare its occurrence independently from any real existential threat, as the pure power of decision about the political opportunity of using emergency powers for governmental purposes, which constitutes the basic ground for Agamben's analysis of the state of exception.

The fourth main enduring point is Schmitt's theory of the world order. He offered in his *Nomos der Erde*³⁰ a picture of the ending of the juridico-political order that regulated the world for the last 300 years. Of course, in our view this world law should be appraised as the bequest of the death of the *Dominus*. The term *Nomos* is adopted by Schmitt to signify not a simple formal frame of rules,

²⁶ M Koskenniemi, *The Gentle Civilizer of Nations: the Rise and Fall of International Law 1870–1960* (Cambridge, Cambridge University Press, 2004) 436.

²⁷ Santner, *The Royal Remains* 8.

²⁸ Fichera, 'Carl Schmitt and the New World Order: A View from Europe' 17; C Schmitt, *Dictatorship. From the Origin of the Modern Concept of Sovereignty to Proletarian Class Struggle* (M Hoelzl and G Ward trans, Cambridge, Polity Press, 2014) 35.

²⁹ F Saint-Bonnet, *L'état d'exception* (Paris, Presses Universitaires de France, 2001) 286.

³⁰ Schmitt, *The Nomos of the Earth*, 140. See also Koskenniemi, 'International Law as Political Theology: How to Read Nomos der Erde?' 493.

but a substantive or concrete spatial order derived from an original act of land-taking. Schmitt argued that this concrete order collapsed between 1890 and 1918 in the face of a sea-based, economically driven, Anglo-American universalism that was slowly doing away with earlier spatial distinctions and the centrality of sovereignty.³¹ For Schmitt, European lawyers had completely lost any consciousness about the concrete spatial order, starting to speak in increasingly abstract and universal terms to the point that international law had been reduced to an empty formalism of rules.³² Schmitt envisaged three alternatives for the coming global order. One was a universal empire under one great power—likely to be the United States. A second alternative was for the United States to take over England's place in the old territorial equilibrium as the 'balancer', the external guarantor of Europe's internal peace, accompanied by unquestioned primacy in the Western hemisphere, something as a revival of Mackinder's geopolitics of balance between sea-powers and land-powers.³³ The third alternative—clearly preferred by Schmitt and perhaps seen by him as the one most likely to emerge—was a structure of territorial division between a limited number of large blocs (*Großräumen*) that mutually recognised each other and excluded external intervention. Clearly a reinvention of a Westphalian compromise, no more between states but between great spaces. And clearly again, a solution strikingly parallel to that recently purported by Kissinger.³⁴

What unifies each of these theories?

The *nexus* is offered through a major *coup de génie* by Schmitt in his expression that 'the state of exception is to Jurisprudence what miracles are to theology'.³⁵ In this way, the political actions of Augustus or Robespierre are one with the sublime appearance of a super-human dimension in political affairs. If the parallel is to be taken seriously, they were *not* looking for supernatural justifications: they *represent* the intrusion of transcendence in world affairs. If the state of exception is a miracle, then the sovereign is a priest-king and the political is theological in itself. For us, the major point here is the revelation of a sublime side of politics, in the sense of a transcendent value of the political, that *in Schmitt* is captured *as* political theology. The bulk of Schmitt's theories consists of the creation of a specific paradigm which captures the ineffable, intangible side of law and politics within the theological framework as its background.

It is on these bases that we can try to grasp the intellectual performance of Agamben.

He moves from Foucauldian premises concerning bio-power and bio-politics to offer a theory of bare life (*homo sacer*) as produced in the paradigm of the

³¹ Koskenniemi, *The Gentle Civilizer of Nations* 416.

³² C Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (G Schwab trans, Chicago, The University of Chicago Press, 2010) 36.

³³ H Mackinder, 'The Geographical Pivot of History' (1904) 23 *The Geographical Journal* 421.

³⁴ Kissinger, *World Order* 371.

³⁵ Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* 36.

concentration camp, ie, the inclusion of life into the state of exception, and of the state of exception within the domain of the legal. In this respect, Agamben is uniting Foucault and Schmitt in a new scheme. His main critique is that, under the surface, liberal democracies are reproducing the paradigm of the camp and that this paradigm is inscribed from its beginning in the very structure of the law. In his theory, Western law, prevailing in modern liberal democracies, is centred upon the *void* space of the state of exception, and it is destined to become a killing machine, the opposite of a liberal democratic order. At the heart of the law lies a lawless space which tends to reproduce the paradigm of the camp:³⁶ a trap where ‘bare life’—a life divested of legal form—is subjugated to the direct discipline of pure domination. These lawless spaces of dominion are still *within* the legal framework, but are now—in his terms—legitimised places of *extra*-legal disciplinary powers.

Moreover, for Agamben, this is true not only where the theological apparatus is more evident, as in the law and the state, but also in the domain of economics as the production of a particular form of life, one that increasingly deprives life of its dress towards a final bareness. In his recent publications, Agamben showed a method for genealogical inquiry as applied to the notions of ‘office’ and ‘*oikonomia*’ which can hardly be ignored.³⁷ He reconstructs the deep layers of our modern words to their past archeology in order to activate a revolutionary messianism from below. If law is destined to be a killing machine, then only a messianic movement out of the law can save us.

In order to avoid the destiny inscribed in Western law and economics, he proposes the development of forms-of-life that can eventually disrupt such a frame and provoke an exit from the legal cage in which we are captured. A form of life, like, for instance, that of the medieval monks,³⁸ not regulated by the law but constituted as an *habitus*, a way of life so internalised that it does not need rules or enforcement and escapes the legal framework dominating our conceptions of the societal order. From our standpoint, Agamben’s claims seem to reactivate St Paul’s opposition to the Law (Romans 1:1–4). If without the law there could be no sin, then also without law there can be no state of exception. In other words, it is the law, by its device of inclusive exclusion that is producing the possibility of the state of exception. As a consequence, if we abolish the law we free ourselves from sin and if we dismantle the law we can overcome the exception. Only a move away from the law can assure salvation. The mission of the Messiah is, then, to fulfil the law in the sense of bringing the law to its end. In our secularised world this task can be performed by lay subjects transforming their forms-of-life to remain

³⁶ Agamben, *Homo Sacer: Sovereign Power and Bare Life* 166.

³⁷ G Agamben, *Opus Dei: an Archaeology of Duty* (A Kotsko trans, Stanford, Stanford University Press, 2013); G Agamben, *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government* (L Chiesa trans, Stanford, Stanford University Press, 2011).

³⁸ G Agamben, *The Highest Poverty: Monastic Rules and Form-of-Life* (A Kotsko trans, Stanford, Stanford University Press, 2013).

outside the reach of the law. This can be considered, indeed, as a messianic move to bypass the law *through* theology; but a theology from below against the theology from above which is sustaining it. In this way, Foucault's 'archeology' can happily marry Schmittian analysis in a revolutionary as well as a messianic stance.

C. Legitimacy, Hegemony and Transcendence

A vision of the *Dominus Mundi*, a unitary and legitimate world government, faces, as we said, three main questions concerning space, transcendence, and exception. Since these are terms strongly present both in Schmitt and his epigones, it is necessary to provide here an introductory clarification about these general concepts and the way in which they will be employed in the course of the next chapters.

For space and location we mean both the creation of an inside/outside dimension as well as a placement within the *locus* of authority and power. Such an inquiry into the *locus* of difference and power and its consequences may be needed to provide a different vision of the 'political', as well as a new arrangement of law and its categories.

Typically in the vision that can be associated with a *Dominus Mundi* there is no longer any outside, as the monarch is located within his city, or palace, as it operates directly or indirectly all over the world. The lack of an outside renders his instantiation even more inaccessible as it pervades all the territory under its rule.

By transcendence we mean that which goes beyond words, that which defies our lexicon, but to which reference is made to supply justification for legal or political action. There is no need here to presume that the term is religious; it can be mundane, as a kind of a *surplus* of immanence.³⁹ It vaguely represents what we feel when we say that 'there is more to it than that' in a legal text or in a political fact.⁴⁰ It is something like the hidden, never fully verbalised background notions, such as legitimacy or hegemony. It does not matter, of course, whether we believe in the existence of a transcendent plan in itself or not. It only matters whether it has been influential in political history, and as such remains in our time, even, and especially, in secularised discourse. It is not something metaphysical or superhuman. It is basically that which exceeds our *linguistic* capacities to cope with law and legitimacy.⁴¹ It is the unspeakable character of the law, its *uncanny* presence.⁴²

We cannot easily dismiss this presence in law and politics as long as we consider to what extent we are still coping with invisible but strongly operating forces. The

³⁹ Santner, *The Royal Remains* 27.

⁴⁰ Du Kennedy, 'Antonio Gramsci and the Legal System' (1982) 6 *ALSA Forum* 32.

⁴¹ G Watt, 'Hard Cases, Hard Times, and the Humanity of Law' in J Bate (ed), *The Public Value of The Humanities* (London, Bloomsbury Academic, 2011) 197.

⁴² See also RK Sherwin, 'Sublime Jurisprudence: On the Ethical Education of the Legal Imagination in Our Time' (2008) 83 *Chicago-Kent Law Review* 1157.

law itself is something invisible, which can be rendered visible only by its traces: fences, signatures, seals, courtrooms, etc, but which always supersedes its traces. Transcendence, in this context, is not identified with or equated to a belief in a superhuman entity or a god. Rather, it refers to the fact that human institutions have dimensions which cannot be completely captured in words, and which are actually giving a meaning to words and objects. After all, a corporation is also a metaphysical entity in this sense, without which a huge number of actions, meetings, and rooms would have no meaning at all. If the law did not have a transcendence of its own, a judge's gavel would merely be a little wooden hammer. The problem is where this uncanny transcendence can be located. In our theory, transcendence is part of the over-meaning of objects and institutions. It is the invisible part, connecting a given set of actual facts and objects and forming an institution. It would be simply absurd to support the idea that a corporation does not exist only because our social ontologies are too poor to give a good theoretical account of the fact that corporations really possess assets and operate in this world.⁴³ If we use the trivial formulation of John Searle for social ontology saying that x values as y in S , and that something assumes the quality or the substance of y in the cultural social system S ,⁴⁴ we can say that transcendence corresponds to the 'in' of his formula. After all, there is nothing so transcendent in transcendence. Rather, it is the never completely transparent side of an unlimited *semiosis* in the interaction of meanings in social communication. Theology is thus only one of the many possible places to locate the uncanny side of human institutions: that which is always beyond words, the 'more to it than that' which operates in political, as well as in economic or legal, institutions.

As used in this book, exception represents the *locus* of manifestation of this surplus of immanence as an exercise of 'bare power', as the expression of secret, unknown or undefined, unpredictable or unspeakable powers. In a state of emergency, the legal and moral ontology of the world collapses into exceptions, displaying the inner transcendence of the political as that which can never be completely ontologised, that is, something not made of fixed stuff. Moreover, the real matter is never exception *per se*, but the way it is located in the discourse and in a given political order.

This said, such an excessive nature of the law and the political leaves us with the problem of 'surplus of immanence' in the domain of legitimacy that *can* be developed under the rubric of political theology or in other forms. One form of this *surplus of immanence*, as far as international relations is concerned, may be traced back to Morgenthau's insistence on the 'intangible side of power politics' and his opposition to the pure scientific treatment of international affairs. Another

⁴³ G Watt, *Trust and Equity* (Oxford, Oxford University Press, 2016) 55: 'in the world of law there is no person more real than the corporation, for the corporate person is wholly law—it lives and breathes legality'.

⁴⁴ JR Searle, *Making the Social World: The Structure of Human Civilization* (Oxford, Oxford University Press, 2010) 42.

instance—as strange as it may appear at first glance—can be found in the field of economics in Hayek’s pro-market approach, in his theory of the ineffability of the overall global order of society, as something which is always superseding our capacities of verbalisation.⁴⁵

This approach reflects the limits of our language to cope with the law and its notions. If our language is limited in describing legal and political relations, it follows that there is an *excess* that our words cannot capture without a *residue*,⁴⁶ and that the political world remains partially unfathomable. Such a residue is that which is always beyond words: fear and awe as much as excitement and attraction. For these reasons alone this ‘too-muchness’ of the political can be defined as *sublime*. This is not a neutral label. Rather, it consciously represents the establishment of a parallel with the language of witchcraft, spell and magic. In this sense, the world has not been disenchanting, nor has theology survived in political and legal concepts. Rather, the old political theology has been reversed into the heterodox political form of modernity.

Through the vocabulary used by Agamben consisting of *signatures*, *captures*, *residues*, *thresholds*⁴⁷ and of the dialectic of visible/invisible that characterises the ambiguity pervading human institutions, we want, then, to highlight their ‘too-muchness’; in other words, to show that there is always more-than-that in law and politics, and that the semantics of political action *transcend* our capacity to capture it entirely.

The *Dominus Mundi* is the perfect paradigm of what could be defined as the inner ambiguity of human institutions, due to the encounter of classical political theory with the Christian revelation. The *Dominus Mundi* displays in its multifarious characterisations the unfathomable threshold of what is godly and what is demonic in the world order. The entire construction of the *Dominus Mundi*, with its claim to govern the whole world under the strict categories of law, hides a concrete ideological assumption that emerges from every attempt to actualise it. Indeed, the very idea of a legitimate world ruler can be seen, after all, as the hegemonic complex *par excellence*.

If Duncan Kennedy’s remarks on Gramsci’s theory of hegemony point in the right direction, then a model of understanding legitimacy in terms of the political sublime is grounded. As a consequence, the aesthetics of seduction may lie at the root of both hegemony and of political theology, as the two extreme opposite standpoints in the analysis of secularisation, power, and politics.

Our model points toward a reappraisal of an *imagery of the ineffable* which transcends time and geographical location and that can be captured only through a

⁴⁵ FA Hayek, *Law, Legislation and Liberty: A New Statement of the Liberal Principles of Justice and Political Economy*, vol 1 (Chicago, The University of Chicago Press, 1976) 10, 76.

⁴⁶ We use ‘residue’ as meaning that which is left over when we try to define something. In other words, that which supersedes our capacity to represent through language. See G Agamben, *The Time that Remains: A Commentary on the Letter to the Romans* (P Dailey trans, Stanford, Stanford University Press, 2005) 132.

⁴⁷ G Agamben, *The Signature of all Things: on Method* (L D’Isanto and K Attell trans, New York, Zone Books, 2010).

reconsideration of the sublime: an appreciation of that which is always beyond words, beyond the human capacity of expression; a paradigm that can be thought of as an ongoing element in Western culture, notwithstanding any rationalist effort to exorcise it. In a way, the 'sublime dimension' or, as we prefer to call it, the 'too-muchness' *device* operates in politics and the law as a remainder.

We could label this functioning as the logic of the ineffable, assumed at an explicit level by romantic aesthetics, but also operating implicitly at the level of philosophical investigations. In his approach to Gramsci's theory of legitimacy, Duncan Kennedy uses the concept of 'mystery' in order to describe its operation:

And it is how it all works that is the great mystery. It's all very well to say 'It is not just the national guard that prevents a revolution ... there is more to it than that' ... But if you want to figure out what the more to it than that is ... there is extraordinarily little sustained, serious discussion of what might be meant by an idea like ideological hegemony.⁴⁸

The parallel between the concept of 'too-muchness' and Kennedy's grasping of the great mystery of hegemony can be considered in terms of the 'more to it than that'. The fact that hegemony remains a mystery and that there is little sustained or serious discussion on what might be meant by it appears to be consistent with the assumption of a *hidden* device at work in the notion of legitimacy.

D. Two Models of Law, Global Sovereignty and Exception

In this vein, if we analyse the concept of universal legitimacy, two rather different models are made apparent.

The first is a 'compact' model of the *Dominus Mundi*, where the whole globe is under a unitary and uniform legitimate political authority. This world is without an inside or an outside because its sovereignty is all-encompassing. Some portion of the globe can be out of the actual control of the imperial sovereign, but this does not entail that he does not have a legitimate title to it. The limits of his or her authority are *factual*, not *legal*.

A totally opposite model may be represented by the 'fracture' of the space into different political sovereign units without any legally possible lordship over the entire globe. Such a world would be based on a variety of *disjunctures* between land and sea and between spaces, dominated by the binary of inside and outside. It would be a world of political diversity⁴⁹ not only from a purely factual point of view, but also from a *legal* one. It would be absolutely legitimate for every sovereign entity to try to be socialist, tsarist, liberal or capitalist, and any interference of an entity in the internal affairs of another sovereign would be *illegal*.

This partition of the world implies a mutual recognition of equality among sovereign units in a way in which substance diverges from form. One unit can be

⁴⁸ Du Kennedy, 'Antonio Gramsci and the Legal System' 33.

⁴⁹ Kissinger, *World Order* 365.

small or large, capitalist or radical, but none of them can claim any superiority to the other: they would be formally connected and formally equal also in time of war. War would be a form of legal relationship and would be legitimate. As long as this model remains 'pure', there could be no such a thing as an international crime, for there could be no judge superior to the alleged criminals. The world would not be a unitary 'thing' but a complex of separate 'things' connected through form.

It is rather evident that the Roman Empire, if our reading of it is correct, would represent the first model, and that international law as developed by the European powers represents the second model. It becomes also evident that the European system did not derive from the Roman model. Rather, it evolved as a major departure from it, a real *break* or rupture in political history. The Roman model is substantive and standardised, in the sense that there is one command and only one political uniform legitimation. The European one is formal and plural, as every political entity has the *right* to be different as it has the *right* to fight for existence and affirmation.⁵⁰

What we are experimenting with now, from the end of the Second World War onward, is a *mixture* of these two pure models. We still have differentiated political entities affirming sovereignty, and at the same time we develop the paradigm of a world substantive legitimacy based on liberal, or neoliberal, values and human rights. War is no longer a right, and there are rogue states. There is no longer a unique Master, but political diversity seems destined to disappear. A ghost of the *Dominus Mundi* is hanging over the complex spatial devices adopted to cope with a world having a mixed ontology: it is simultaneously one and many 'things' together. This evolution implies a strong clash which is no longer 'external' but 'internal' to the whole world. States could try to unite into *blocs* of continental dimensions to reach a state of equilibrium among great spaces. But this equilibrium would always be unstable as long as the goal of a global rule of law, or a global constitutionalism, and global values remain a world shared ideal. Though we are still experimenting with *blocs* of independent spaces, no space can really be independent if global jurisdictions or global instruments of management and policy are put into practice and their implementation is deemed legitimate and proper. In other words, we have entered a phase of revolutionary indeterminacy of *fact* and *law* on a world scale.

This is why *exception* has attracted so much interest in the last decade. As long as exception emerges in a *political liminality*, it becomes the main feature of a world still split into different spheres of sovereign control and at the same time made to provide a world governance and a world rule of law. Our beliefs—and our good intentions—can make us believe in the possible coexistence of the two models in a newer blend that we can invent in a proximate future. Although our hopes can be well founded, we actually live in a liminal space, which is the space created by the clashing nature of the two models. In our reading, then, independent

⁵⁰ Kissinger, *World Order* 11.

of particular facts—such as acts of terrorism, the use of torture or humanitarian crises—exception *is* our present form of political life, as long as we are captured in a liminality.

What we maintain is that this ontological exception is different from the previous form of exceptionality. In the pure *Dominus Mundi* model there is indeed no space for exception. If there is just one legitimate Master of the World how can there be exception to his rule? He is himself an exceptional and overwhelming presence. There can be factual crises internal to the *locus* of supreme and global legal authority, but they do not amount to a state of exception because there is no conceptual space for them within the lordship of the Lord. This space can only be created by a fracture of this lordship, as had happened in the West between the authority of the Church and that of the emperor.

Under the second model of political plurality, as we know from history, exception developed from the *état de siège*,⁵¹ the state of peril that originated from a mortal threat to those mortal entities which are the states. They can rise and disappear, and so there can really be the space for a modern state of exception, when the normal rule can be broken by the ruler himself for his own preservation against external or internal enemies.

Ancient exception, so to speak, was embodied within the exceptional and extraordinary nature of the universal Lord. Modern exception derived from the fractures of lordships into different spaces and spheres. It represented a *suspension* of normality, to be confined into a given time span, and to be resolved by *extraordinary* means.

Today, in the ‘hyper-modern’ age, exception possesses different traits. It is at the same time exceptional and ordinary. With respect to ancient exception, it became disincarnated from the existence of a real Master of the World, and with respect to modern exception, it escaped the inner boundaries of a state of peril of one of the various political entities composing the global community. It is no longer embodied within the *Dominus Mundi*, and it is no longer a purely political matter of survival of the mortal god which was the modern state. Exception is no more a locus within the political sphere, but *the* locus of the political, and the ordinary takes place within the exception.

In a way, that we shall try to understand, the modern political has been the *locus* of the exception, operating within the legal order as a governmental device, whereas hyper-modern exception became the *locus* of the political, which may happen only in the liminality of exception.

Exception is no longer a *miracle*. It is the ontological status within which political action can take its course. This is what we shall call the ‘demonological inversion’.

We had it before our eyes from the very birth of modernity, but we can only now completely grasp it as modernity comes to an end. Political theology is no

⁵¹ Saint-Bonnet, *L'état d'exception* 23.

longer attainable. The figure of the sovereign changed into the terrific and inexplicable figure of the Old Serpent. The *Dominus* left the world to Leviathan, and can return only as a ghost, as a haunting political spectre.

II. The *Dominus* and Its Several Meanings

A. A Close Reading of the *Digest*

We start our argument with a close reading of the assertion found in Dig 14.2.9 that the Roman Emperor is the legitimate Master of the World, and its actual relevance for the origins of contemporary theories of the world order.

Empires, of course, existed long before Rome,⁵² though the definition of what is an empire is rather controversial,⁵³ and certainly the Romans borrowed many of their political ideas from Egypt⁵⁴ or from the East, including previous conceptions of imperialism and its ideological justifications.⁵⁵ Anyway, our main interest here is *not* devoted to the general idea of empire, but to that *particular mention* of imperial domain—in connection with property and legitimate government—which occurred in the *Digest* with far-reaching consequences on Western political history.

The statement ‘I am Master of the World’ (*Dominus Mundi*) was presumably made by the Roman emperor Antoninus Pius (86–161 CE) in the middle of the second century CE in the context of a case of maritime law. It then became a cornerstone of the political theology of the Byzantine Empire in the East. This legal passage was also used in the West, to develop imperial ideology and jurisprudence of sovereignty during the twelfth and thirteenth centuries,⁵⁶ in the context of the struggle for supremacy between the pope, the emperor and the kings, assuming several incompatible political meanings. The main object of these concrete struggles has always revolved around a nest of conflicting sovereign prerogatives, with no precise bounds or defined limits. A second essential point concerned the sea. Does a Master of the World really have a paramount lordship over the entire globe,

⁵² SE Alcock, TN D’Altroy, KD Morrison and CM Sinopoli (eds), *Empires. Perspectives from Archaeology and History* (Cambridge, Cambridge University Press 2001).

⁵³ H Muenckler, *Empires: The Logic of World Domination from Ancient Rome to the United States* (Cambridge, Polity Press, 2007).

⁵⁴ J Assmann, *Herrschaft und Heil. Politische Theologie in Altägypten, Israel und Europa* (Frankfurt, Fischer Taschenbuch Verlag, 2002).

⁵⁵ See J Richardson, *The Language of Empire. Rome and the Idea of Empire from the Third Century BC to the Second Century AD* (Cambridge, Cambridge University Press, 2008); M Liverani, ‘The Ideology of the Assyrian Empire’ in MT Larsen (ed), *Power and Propaganda. A Symposium on Ancient Empires* (Copenhagen, Akademisk Forlag, 1979) 297.

⁵⁶ K Pennington, *The Prince and the Law, 1200–1600: Sovereignty and Rights in the Western Legal Tradition* (Berkeley, University of California Press, 1993) 8, 37.

5

Sublime Dissolution

I. The Collapse of Modernity

In the first chapter, we tried to delineate two models of law, one based on global sovereignty and the other on fracture and exception. Under the first ‘compact’ model, the whole globe could be thought to be under a unitary and *uniform* legitimate political authority, a world without an inside or an outside because the overall sovereignty of a *Dominus Mundi* would be all-encompassing. The second model, on the other hand, could be represented by the ‘fracture’ of the global space into different political sovereign units without any legally possible lordship over the entire planet. Such a world, as we said, would be based on a variety of disjunctures between land and sea and between spaces, dominated by the binary of inside and outside. It would be, as Kissinger has pointed out, a world of *political diversity*.¹

We have seen the extent to which the Roman Empire tried to affirm the first model through the transcendence of the emperor, seen as the most manifest of gods, especially in the Eastern part of the empire. Such model evolved into a real refined political theology in the Byzantine Empire, by the encounter of classical political thought with Christian revelation. The whole apparatus of imperial hegemony was then devised to express what we have called a ‘liturgy of the presence’, referring to the presence of the *Dominus* in the world as an *icon*, an ontological image of God. This model may be deemed to represent in its purest form that kind of expression of the transcendence of political power that Schmitt placed at the root of his conception of the law, and that still influences the paradigm of many of his epigones, including Agamben.

In addition, we have stressed that, according to Byzantine conceptions, since the royal presence is always miraculous, there is not really any room for the exception. As long as miracles are a suspension of the established order, if the order is already miraculous it is immaterial to speak of its miraculous suspension. This is a form of pure political theology where, in contrast to Schmitt’s theory, sovereignty does not need to be exceptionally connected with miracles, because its connection with the miracle is normal.

¹ H Kissinger, *World Order* (London, Penguin Books, 2016) 365.

A further consequence of this model is that there is no need for an eschatology of power in itself. In this model, the *Dominus Mundi*, as actually present, is the all-mighty parallel of God on earth. The sovereign is already God's political manifestation.

Our endeavour has then been to analyse the two major revivals of the notion of *Dominus Mundi* which marked the Western juridico-political tradition. The first occurred at the time of Frederick Barbarossa (1122–1190) and the second at the brink of the possibility of a real universal empire during the reign of Charles V (1500–1558). In this way, in the second chapter, we scrutinised how the Byzantine models came to be variously imitated in the West. A first key point was represented by the revival of the notion of *Dominus Mundi* in the context of the Diet of Roncaglia (1154–1158), when Frederick Barbarossa endeavoured to define the complex of his royal prerogatives, and as such, the nature of his global sovereignty.

Two different and contrasting conceptions could prevail. One we have called *legal Spinozism* and it was represented by the rise of legal studies in Bologna. If the world is completely legally defined, and social relations are completely legally framed, there is no longer any real room for a pure political decision: a solution to any problem will be found in the reasoning and the subtle distinctions of the jurists. From a theological perspective, this arrangement of human relations in pure legal terms always tends toward a kind of Spinozism in the sense of equating God with His own order. In such a logical universe, the space of exception tends to evaporate and disappear, as it becomes neutralised within the formal scheme of the law. In this case, the *Dominus Mundi* has no real power, as it is more of an abstraction, an entity almost nullified in its personality through its own assimilation into the legal order. A peak in this imagination of a personal but impersonal world order could be found in Dante's eagle, representing Justinian in paradise in the form of a corporate body of the souls of his subjects, where the very body of the emperor becomes the sublime political body of his subjects in an effort of legitimation and representation of a sanctified legitimate government.

Notwithstanding such a powerful, and enduring, ideology of empire and the law, a rather opposite direction was taken by Barbarossa in his assertion of being the Lord of the World. This was a rather stirring move that we have termed *imperial messianism*, as a special form of a Western eschatology of power. In this case, far from being nullified, the emperor becomes the active agent of salvation, but, contrary to the Byzantine model, he assumes the role of destabilising the world to reach the world's end. The sovereign is like one of the possible interpretations of Christ, who has to destabilise this world and bring it to an end to realise salvation. Now, if the *Dominus* is a Christ in this sense, then he must assume an eschatological stance politically, and exceptionalism starts to be embodied within the structure of a power which is at once sovereign and subversive.

This sovereign ambiguity and the clash of different models reached an apex in the reign of Frederick II (1194–1250). In a dramatic turn of events, Frederick II came to be condemned, excommunicated by pope Gregory IX and deposed by

Innocent IV as an Antichrist. Such a dramatic reversal of the *Dominus* effectively showed the possibility of the *exceptional* intervention of the pope in political matters. Thus, a theory of exception could develop within the disjuncture between the temporal and the spiritual dimension of sovereignty.

These vicissitudes offered Kantorowicz the possibility of a romanticisation of sovereignty and its mysterious characters. These same vicissitudes offered Saint Bonnet the basis for his historical interpretation of the birth and evolution of the theory of the state of exception within Western culture. This theory stressed the coexistence of two powers: the *potentia absoluta* (absolute power) and the *potentia ordinata* (the ordered or constituted power), the former being informal and never completely definable, the latter assuming the forms of apparent and publicly-exercised powers. The canonical theory of exception then points toward a supposed level of global sovereignty that remains in its state of pure potentiality up to the point when it can be triggered into action by some urgent state of necessity.

From these studies and interpretations can emerge a deeper uncanny layer of Western politics, especially if we consider them in parallel with Bloch's thorough study on the magic of kingship, in the proper aspects displayed by the 'royal touch' and other miracles, or wonders, that could be performed by the kings of France, England and Castille.

The circumstances surrounding Frederick II's deposition reveal the duplicity of imperial sovereignty, where the *Dominus Mundi* can be both a Christ and an Antichrist in the context of undefinable powers of emergency and an eschatological conception of politics and power. At the same time, from Bloch's considerations may emerge an atheological or heterodox feature of kingship.

This mystic of royal prerogatives resurfaced when the Spanish emperor Charles V possessed the practical means (fleets to navigate the oceans and gunpowder) to effectively realise a world rule and dominion. His attempt did not succeed and because of the Thirty Years' War (1618–1648) between Catholics and Reformers, the world space became divided into independent political units, the states. The Treaty of Westphalia (1648) represented a global form of compromise and coexistence in implying mutual recognition of states and the right for them to make war for the acquisition of new territories.

The tentative *Dominium Mundi* of Charles V also left other residues in the form of an occult philosophy of the political and in mystic considerations of the royal prerogatives. Such a philosophy of the political had to be filtered through a revision of the classical schemes of political theology. Thus we could encounter a Gelasian model of papacy and a Lutheran Augustinism.

The Gelasian solution allowed for a temporal sphere for law and justice independent from the spiritual, but subject to the *indirect* authority of the pope. In contrast, Luther maintained that as temporal laws cannot have any validity in the spiritual order, so too evangelical norms cannot be invoked against the prince's laws. Civil authorities have been instituted to preserve the peace by the sword, not by the gospel. The civil authority, whether an emperor, a king, a prince or a

parliament, is supreme for the very legal and technical reason that no action can be filed against it by a superior authority. If the real legal problem is always '*quis iudicabit?*', Luther's answer is that there is no judge to hear a case against the king. A political case is *never* justiciable. Since everything which is temporal is political, there cannot be a judgement over the political. The two realms are completely separated: politics cannot command the souls; spiritual powers cannot interfere in civil governments.

Amidst these classical controversies between Catholics and Reformers, we maintained that a newer kind of heterodox and ambiguous political theology emerged in England and France and brought us to the threshold of modernity. In a nest of complex speeches and acts, James I eventually elaborated a mystic of the absolute and ordinary power of kings based on what we have called a real *political occultism*, where it is impossible for the subjects, and even for parliaments, to discuss the nature and qualifications of the king's prerogatives. They become unspeakable.

Operating in a context of spiritual crisis provoked by the supposed spread of witchcraft, James came to develop the theory that the kings were divinely appointed guardians charged with combating the Devil and his servants. For him, rebellion was very much like witchcraft, the work of the Devil.

This parallel is of extraordinary importance, bypassing the usual analogy traced between the government of heaven and that of the earth, because it emphasises that it is the presence of the Devil that legitimises the prerogatives of the kings. Rebellion and witchcraft are equated, and as a consequence, witchcraft must fall under royal jurisdiction. Witchcraft was no longer a sin against the Church, but high treason against the king, acting as a spiritual and temporal lord.

We would emphasise this reversal of grounds transforming the classical political theological parallel into an almost demonological basis of royal legitimacy. But for the work of the Devil, the mysterious power of the kings would be dispensable. It is the Devil giving a sense to the world of politics.

Far from being an isolated case, James's evolution is paralleled in French political thought in the work of Jean Bodin. He too was deeply involved in witch trials, wrote extensively on the matter of witchcraft and is thought to have invented the modern notion of sovereignty as the locus of supreme power which cannot tolerate any superior power. Like James, Bodin also reached the conclusion that witchcraft had to be considered a *political crime*. That Bodin's elaboration of the modern notion of sovereignty was deemed heterodox is easily shown by the fact that the Church condemned his book on witchcraft, the *Daemonomanie*, as well as his books on the commonwealth.

We could then advance the theory that at the threshold of modernity there was a structural interconnection between the role of magic and the birth of the modern independent sphere of politics. It was in a sense the appropriation of the realm of souls and spirits that allowed the modern structures of power to emerge outside of the control of ecclesiastical authorities. For this reason, we have called this turn of events a *demonological* turn.

Thus, we argue, the sovereign became not he who could perform the *miracle* of the state of exception, but rather he who could command the spirits. The sovereign is he who can trigger the *magic* of the exception.

For these reasons, at the end of the previous chapter we needed to examine in detail that most impressive icon of modern political power that emerged in the emblem of the Leviathan portrayed on the frontispiece of Hobbes's work. How could he produce such an outstandingly new image of sovereignty? And most of all, how could the King of England, to whom the book was presented, accept being equated with the figure of the Old Serpent? Does this not entail a dramatic hidden turn in the conception of the political?

Our enquiry proceeded then to examine the interpretive tradition that framed the Leviathan in demonic terms. We could trace this tradition back to St Jerome, who translated the Bible into Latin, producing a version of it known in the Middle Ages as the *Vulgata*. According to this translation, the Leviathan is to be the sire of demons as it is not only the strongest creature on earth but also the 'king of the children of pride': '*Ipse est rex super universos filios superbiae*' (Job 41:25).

As such, in this orthodox line, Leviathan represented the unity of the wicked, the association of the evils. Its body is thick and cannot be hooked, thus reproducing the image of a corporate society of villains assembled in a unitary impenetrable body. For Bodin, the Leviathan, being a water monster, is associated with the image of the Great Crocodile of the Nile, the emblem of the tyrannical government of the Egyptian pharaoh.

On the other hand, Calvin developed an alternative heterodox, interpretation of the Leviathan as an agent of God. Based on the structure of the Book of Job and other passages, for Calvin, Leviathan represents the power of God. God is so powerful that He could even create such a huge and terrible creature. It is after the vision of the Leviathan that Job surrenders unequivocally to God's omnipotence and stops questioning God's justice. The importance of this interpretation is revealed if we revert to the Greek version of the Book of Job known as the *Septuagint*. Hobbes could have easily been acquainted with this version, given his knowledge of Greek displayed in his translations of Aristotle and Thucydides. In this version, we find that the Latin phrase cited by Hobbes on his frontispiece sounds very different in Greek, with no connection whatsoever with the sin of pride. In the Greek version, completely different from that translated by St Jerome, Leviathan is to be sported with by God's angels, it beholds every high thing (*omne sublime videt*) and it is *king over the water*. This last mention in particular makes rather evident a possible *positive* connection with English sovereignty, as it was to be exercised over the seas.

What remains of this philological discussion is then a reversal of imagery, from the corporate eagle of Dante as a representation of Justinian (the *Dominus Mundi*) in paradise, to the monstrous representation of the new state sovereign through the emblem of the corporate body of the sea serpent. Here the demonological turn in the representation of the modern political becomes apparent. A mystic eagle

flying in Heaven is one thing; the creeping body of a huge snake mounting a hill as the paramount lord of all is another.

To sum up our theory, the body of the *Dominus* collapsed and the world came to be inhabited by Leviathans, representing the states as new political units. Thus, the old political theology, with its unitary conception of the world legitimate government represented by the *Dominus*, faded in favour of an opposite imagery linked to the new international conditions of warring independent states, each with its own legitimation. We can then interpret modernity as the parable of the rise and fall of the *Dominus*, and our current times as those of its ghostly resurgence in the ideal of a global rule as vengeance against the state-Leviathans that had taken its place. What, then, must be our direction of enquiry going forward?

Our theory of the demonological origin of modernity can represent an alternative to Agamben's outline² of two opposing conceptions of secularisation in terms of disenchantment (Max Weber) or political theology (Carl Schmitt). For us, the political world did not cease to be enchanted, but the old scheme of political theology cannot be maintained any longer because of the demonological fracture that occurred at the beginning of modernity. Thus, the world of politics continues to be under the spell of its own too-muchness, its excess of signification, but this excess can no longer be captured by the categories of political theology. Our current world appears to be that of the ghost of the *Dominus* with an excess of transcendence that continues to operate, though no longer through the theological apparatus.

How can we name this intangible aspect of politics? If we truly think that the appearance of the Leviathan marked a new age in the history of politics, we can recall that the Leviathan can 'behold every high thing'; it can grasp the sublime. Is there a sublime side of the political world order that supersedes any disenchantment and remains irreducible to theological elements? Is there a too-muchness of hegemony that is not theological?

II. New Monsters and Good Feelings

David Kennedy's book on the dark sides of the human rights discourse³ becomes an essential feature in this part of our book, since it links the concepts of hegemony, human rights—as the new foundation of a possible legitimate world order—and the sublime. For Kennedy, human rights occupies the field of emancipatory possibility *through* its *hegemonic* character, and his claim is that this institutional

² G Agamben, *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government* (L Chiesa trans, Stanford, Stanford University Press, 2011).

³ D Kennedy, *The Dark Sides of Virtue: Reassessing International Humanitarianism* (Princeton, Princeton University Press, 2015) 3.