

Chapter 1

The Roman Model *versus* Foundational Cosmopolitanism's Respect of Sovereignty¹

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I will discuss the opposition between foundational and anti-foundational cosmopolitanism from a long term historical perspective. My goal is to suggest, in a provocative way, that there is no real foundational cosmopolitanism: on the political level, foundational cosmopolitanism (represented here by Kant) remains dependent on what it wants to emancipate, that is, sovereignty; the only bypass of the idea of sovereignty that it offers is trade or culture, that is to say not politics. Antifoundational cosmopolitanism's criticism necessarily fails by not sufficiently taking into account the respect of sovereignty presupposed by foundational cosmopolitanism, and its confidence in the spontaneous force of the market and culture. But a strong way to put the foundational cosmopolitical perspective can be searched upstream, in the Machiavellian interpretation of Roman history, around the problem of the expansivity.

The perpetual peace of Kant is frequently considered as the main example of a foundational cosmopolitanism, brought by a top down method. This is at least the opinion of the most antifoundational cosmopolitanism, such as defined by Bruno Latour or Isabelle Stengers (Latour, 2004; Stengers, 2010). From this last point of view, the Kantian tradition of cosmopolitanism depends

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on the recognition by all people of a universal and transcendental *jus cosmopolitanicum*, a kind of common rational and communicational nature that can, thereafter, always be exported. Against this idea of a common nature, and its imperialistic consequences, Bruno Latour and Isabelle Stengers would firstly underline that such an idea is based or constructed over a distinction between nature and society, between human and thing, between subject and object that needs to be rethought ((Latour, 2004; Stengers, 2010).). Second, they would suggest that the only credible cosmopolitanism would be a diplomatic activity that accepts an absence of a prior agreement about a common world: the common world is precisely what is put into play. Therefore, we need to negotiate that which binds each of the parties, in a situation of real “dissensus”, of real heterogeneity (Gutwirth, 2004: 77–88).

It seems absolutely impossible to deconstruct this criticism, to deconstruct this deconstruction of a modern construction. On the contrary, I think that one misunderstanding remains at the core of this criticism: the Kantian cosmopolitanism that it attacks had never been foundational. On the contrary, its mainspring is its refusal of any kind of attack against the idea of sovereignty. Antifoundational cosmopolitanism assumes that foundational cosmopolitanism is based on a suspension of sovereignty, on a definition of human nature which, for me, never occurs in Kantian cosmopolitanism. Let’s see how this is present in Kant’s text about perpetual peace, a text in which his principal concern is mutual trust between states: as usual in the modern *ius gentium*, the first danger is not war, but the perpetual war that can derive from the project of peace. Perpetual peace needs to be carried by:

- a republican constitution on the internal level (first definitive article: this point, which obviously respects the idea of sovereignty, does not interest me here);
- a federation of free and sovereign states at the level of the law of nations (second definitive article) : that is a “league of nations” and not an “international state”. Since we can-

not “apply the positive idea of a world-republic, we’ll have to settle for the negative idea of an alliance that averts war”. The main characteristic of this league, as “surrogate” of the world-republic, is that it does not “encroach on the power of the state”. This league will “spread” and “extend” gradually, imperceptibly (in German: *allmählig, nach und nach*, Kant, 2010: 9–11).

- a cosmopolitical law (third definitive article) is meant to be “limited” (“*eingeschränkt sein*”) to the conditions of universal hospitality, as a consequence of the Earth’s limits. Kant explicitly refuses the idea that hospitality implies a right of residence. It is nothing more than the “right of a visiting foreigner not to be treated as an enemy”. In this instance, it is very difficult to understand what is stronger: the proposition or its limitation. The problem is not that the Kantian text can be interpreted as refusing all kinds of migratory rights. Kant’s problem is located elsewhere: it is the imperialism that derives from the “inhospitable conduct of the civilized countries of Europe, especially the ones driven by commerce”, for which visit is conquest. The restrictive value of the right to hospitality is the essence of hospitality, so as to avoid the infringement of sovereignty by conquest, that is to say the mixture of trade interests and politics (Kant, 2010: 11–12).

I would like to emphasize this system of auto-limitation of the cosmopolitical program, not with the intention of keeping Kant away from antifoundational criticism, but rather to show how Kant always thought of perpetual peace by taking into account the danger of an imperialistic view of peace, carried by both an international state and an imperialistic conquest. The principle of sovereignty remained absolute and was never contradicted. How, then, is peace put into action, how does peace act, on the evoked gradual and insensible mode?

The answer is that peace acts on the outside and from the outside of the sphere of sovereignty, on the outside and from the outside of the sphere of political power, through the republic of letters and the market, as Kant precisely says it in two later additions.

In a very strange “secret article”, Kant says that the sovereign must listen to philosophers: only listen and not obey. Moreover, this relation between the sovereign and philosophers needs to be kept secret and tacit (which is strange in a text that had been fully organized around the principle of publicity). For, otherwise, it would transform philosophy into propaganda and it would be in contradiction with the sovereignty. Secrecy protects the distinction between the politics and the free, spontaneous reflections of philosophers (Kant, 2010: 18).

The market spirit is evoked by Kant to confirm that nature is working in direction of perpetual peace: at the level of international law, nature affirms the “separateness” of nations by the diversity of languages and religions, demonstrating the absurdity of a world republic: the “superpower” of a “universal monarchy”, i.e. “the “peace” that despotism (in freedom’s grave) produces” is counteracted by this natural diversity, that brings hatred and pretexts for war, but that can also “gradually” produce harmony without “sapping everyone’s energies” and actually engaging a “lively level competition among those energies”. Yet nature also unites what it “wisely separates” by the self-interest, by the market spirit: this spirit cannot “co-exist with war”. Without any “input from morality”, “the power of money” is the “reliable” lever to force the state into promoting peace. Thus, perpetual peace is a goal that is “not merely chimerical” (Kant, 2010: 17–18).

Both evoked forces – philosophy or culture and interest or trade – remain merely spontaneous, outside the political sphere: outside of political control *and* without any direct political authority. That is also why the cosmopolitical process can be gradual, insensible (that is: not political)... Both evoked forces require nothing more than the right of hospitality, “nothing more” means

that for all that remains the principle of sovereignty must be respected, leaving culture and market to take action outside the sphere of political power, without transforming them into political forces (propaganda, imperialism...). Both testify that hospitality needs to have a legal value, and that the cosmopolitical project of Kant is not “a legal flight of fancy”. Indeed, “the People of the earth have now gone a good distance in forming themselves into smaller or larger communities: this has gone so far that a violation of rights in one place is now felt throughout the world”. This “feeling”, that testifies to the cosmopolitical process, results from the *doux commerce* and of the *république des lettres*, and requires nothing but hospitality (that is typically European, if the core of Europe remains nothing more than the removal of trade barriers and the Erasmus project).

My second purpose will be to take a look at what has been denied, what has been avoided, hidden and covered by this foundational cosmopolitanism that is necessarily outside of politics. My aim here is not to propose an alternative to foundational cosmopolitanism; foundational cosmopolitanism does not accept any alternative: it integrates its alternative by developing it out of the political sphere. It is rather a regression in the direction of non-sovereign politics that we need attempt. Would the result not be the empire? It would certainly not be the empire, understood as an excess of sovereignty, which is explicitly avoided by the Kantian foundational cosmopolitanism. Yet, very close to this idea, we can search in the direction of a lack of sovereignty. This is what we can find in the Machiavellian interpretation of Roman power as based on the expansive and conflictual character of the freedom of the many.

In the second chapter of the *Discorsi*², Machiavelli presents different types of scenarios for a mixed constitution. First, he

² I cite the text of the *Discorsi sopra la prima Deca di Tito Livio* in Italian, and occasionally from my own extremely literal translation, based on the Mario

reports constitutions of cities such as Sparta, which had the fortune of possessing, since their founding, a perfect constitution which they need only to preserve. We will see what would become of such a scenario relying on the exceptional virtue of one good legislator and thereby on fortune (both of which could be qualified as extremely extrinsic): in a larger sense, these cities are condemned to conserve themselves. Facing this situation, Machiavelli suggests the Roman history, which had not benefited from the same original luck, with its presumed roll of the dice. On the contrary, Rome finds its fortune in a series of hardships and upsets. While Rome did not have Lycurgus, while Rome did not “run into” (*abbatuta*) a prudent legislator and was thereafter marked by *infelicità*, it benefited from another kind of *fortune* that had been maintained and kept at work (“*tanto le fu favorevole la fortuna*”) through the development and persistence of internal dissensions that never degenerated: the different forces drawing on these dissensions, were added to each other instead of mutually excluding one another (*Disc.* I, 2:81)³.

The difference between these two possible scenarios, with their different ties to the virtue/fortune duo (in one case written from the origin and in the other deferred) produces the major distinction that would never be outdated in the history of political thought, between a city, the luck of which had been decided since the beginning and a city, the luck and form of which are a product of history, of the *occorrenza degli accidenti* (*Disc.*: I, 2: 82). The former inevitably conceived itself as limited (closed) from the populational and institutional point of view, and had

Martelli edition (Niccolò Machiavelli, *Tutte le opere*, Firenze, Sansoni editore, 1971), which is referenced henceforth under the following form: *Disc.* Book, Chapter, Page of this edition.

³ “Nondimeno, furo tanti gli accidenti che in quella nacquero, per la disunione che era intra la Plebe ed il Senato, che quello che non aveva fatto uno ordinatore, lo fece il caso. Perché, se Roma non sorti la prima fortuna, sortí la seconda” (*Disc.* I, 2, p. 81).

certainly been peaceful but could only maintain itself and preserve its own form. The latter is populous, open from the point of view of its institutions, inhabited by conflict and could only expand (*Disc.*: I, 2–6).

Within the Roman example, a structural element should catch our attention: Machiavelli truly confronts the original moment of Roman history in chapter 9, after having only evoked it in a negative way in *Discorsi* I, 2 as not perfect, unlike the Lycurgian origin of Sparta. In Chapter 9, he plainly legitimates for the first time in the historiography of Rome the fratricide that crystallizes the Romulean episode (Berns, 2000: 4370.). Paradoxically, where the origin of the fortunate city of Sparta is entirely consumed by the *logos* (the *logos* of Lycurgus, to say it with Polybius) of its good legislator, with the simultaneous consequence of a political history that can only be understood as preservation, the origin of the Roman city is on the contrary always “deferred”, deferred on two levels. Deferred with regard to the structure itself of Machiavelli’s discourse: Machiavelli starts by determining the institutions of Rome from the conflictive Roman history on the basis of an initial indetermination, before following up on what had started this history; he can then entirely bear its violent character as it opens to this difference, to this deferred sense. But also deferred in its content: properly speaking, this originating violence, in the name of which the leap from Machiavelli to machiavellism could be taken, does not *determine* anything, nor is it endowed with any content; it remains absolutely undetermined, it only opens up to an ever deferred history. What we encounter here is something like the difference in the Derridian or Lyotardian sense: what is initial is a difference, and therefore deferred.

Let’s look at what Machiavelli says about this Roman model in another very precious passage, the one that opens *Discorsi* I, 4, and that will allow us to go to the question of arms, though reflected in a collective perspective (and not, as with the Romulean

episode, or as in the *Principe*, in a more individual perspective). The passage is well known, Machiavelli says to be willing to go “against the opinion of many that Rome was a tumultuous republic and full of so much confusion that, if good fortune and military virtue had not **compensated** these flaws, it would have stayed inferior to all other republics” (*Disc. I, 4: 82*).⁴

We know a fair amount about how Machiavelli deconstructs this providentialist reading of Roman history, which was commonplace since Origen, Eusebius of Caesarea, and Augustine; a reading which, in conceiving the Roman disorder as being a pure lack, an absence of order, has to seek an external force (the divine providence) to compensate the disorder and to explain its greatness (Berns, 2013)⁵. Machiavelli brings fortune back down to earth, not denying disorder, but seeing strength in it, linking it with Roman liberty and Roman expansivity. So, there is no passive matter in the equation between Roman disorder and Roman power. However, the providentialist and anti-roman reading hereby attacked, also carries with it (according to Machiavelli) the idea that the greatness of Rome could be explained by compensating its pure absence of order, not only by divine providence, but by armed force. Such reasoning, which both isolates force from that in which it is applied *and* makes arms (the same as Fortune) an exterior tool of the city, is just as equally undone by Machiavelli: there is no “military virtue” that is conceived in an extrinsic manner; the “military virtue” is the expression of the

⁴ My translation and emphasis “Contro la opinione di molti che dicono, Roma essere stata una republica tumultuaria, e piena di tanta confusion che, se la buona fortuna e la virtù militare non avesse **sopperito** a' loro difetti, sarebbe stata inferior a ogni altra republica”

⁵ This reading, that we can find for example in St. Augustine and that Machiavelli reverses here, is based on the same equation linking an originating violence (Romulus who kills his brother, who opens the doors of Rome to the brigands, the Rape of the Sabine women...) to the internal conflicts in the city and to the external wars. See T. Berns, « Penser le politique depuis le caractère expansif de la liberté », *Historia Philosophica*, 2013.

freedom of the many. Then, militia, power and disorder, as well as Fortune, in the case of Rome, come together.⁶ That is why Machiavelli can say, in the *Principe XII*, that he will speak only about “good arms”, and not about “good laws”: where the first is present, the second is inevitably present as well.

The distinction between Sparta and Rome acts, therefore, essentially on a qualitative level: if two possible plots are defined, there are two manners of thinking about order in the city. Machiavelli highlights the interest in considering the “Roman” plot with the series of relations that constitute it, as representing a model in and of itself, even though it seems, as he implicitly acknowledges, contradictory to the “true *vivere politico*” (*Disc.* 1. 6: 86) because of its conflictual existence. He somehow elevates a non-model to the rank of a model. These two models seem legitimate and choosing one of them depends only on whether we wish reasoning about “a republic that would give way to an empire” or about “a republic for which it is sufficient to be maintained” (*Disc.* I, 5: 84). Both appear constituted exclusively by series of relations. These are the magisterial equations drawn by Machiavelli: determined by its origins, closed, aristocratic, peaceful, limited and conservative *versus* determined by its own history, without origin (or with an origin that is always deferred), open, popular, tumultuous and expansive.

We could go further and consider that taking Rome as a model against the traditional model (and the traditional idea of what a model is) has the consequence of making it apparent that we are in front of two series of relations, perfectly impermeable

⁶ It seems to me that we can go further in the opposition between the link of compensation (the Augustinian approach of Rome), and the link of difference (the fact that a sense is deferred, and that what is initial is a difference), as evidenced by Machiavelli to understand Roman power: this relation between disorder and power, the sense of which is internal but necessarily deferred, is exactly opposite to the relation of compensation that we can find in the Augustinian reading of Roman history.

to one another. For what counts here is that these series of relations are undoable, and that we are in front of two impermeable possibilities. And this is what their confrontation, in chapter 6, allows us to think of no middle way (no intermediate position, in an Aristotelian way); no possible balance between these two models by keeping only what seems to be the respective advantages of each: peace of the aristocratic model and power of the Roman model.

Even worse, given the fact that history is a constant movement, given the fact that “necessity pushes you to things towards which reason has not” (Disc. I, 6: 86), Rome represents *in fine* the most interesting possibility upon which to reflect. The last word, with the qualitative advantage it expresses, is thereby given precisely by the impossibility of recovering any exteriority of form over matter or any priority of order even *a posteriori*: the real Fortune, or rather the most human link to which we can tie it, is immanent, and then always deferred, even if the occasion that brings this fortune must have always been immediately seized, as we can read in the *Principe*.

If Rome is the most interesting example upon which to reflect, it is because only in this case is Fortune absolutely immanent. In other words, it is because the sense of the Roman (non-) model is merely relational, without any external need, without any need of a providential act, without any need of the logos of a good legislator as Lycurgus. The Roman equation is more relational than the Lacedemonian equation; its necessity is absolutely intrinsic, but also always deferred (it is then a kind of relation that reflects a difference: the sense of what is in relation is always deferred).

Being merely relational, without any extrinsic input, this equation is also expansive: the Lacedemonian example, that requires the input of an extrinsic virtue, i.e. that presupposes that the form is outside the matter, is necessarily conservative. On the contrary, the Machiavellian Roman example is exceptional because it runs without external input, but rather by overflowing,

This overflowing is the freedom of the many (of the “most”, to say it in an expansive manner).

The relational consistency of Machiavellian thought about Roman history is then fundamental, because it allows one to think against any kind of form exterior to matter, not only of the link between disorder and order, but also against the classical way of rejecting the outside of the city as the condition to think of its inside, as the condition to think of what is politics, to think of the link between the inside (the domestic) and the outside (the external) of the city, that is the expansion. On the contrary, in the Machiavellian reading of Roman history, the outside becomes what expresses and reflects the political consistency of the inside.

The danger, the scandal of this thought of the expansive character of freedom of the many, that links order with disorder, and inside with outside, will be immediately covered by modern political thought. How could this be? First and foremost by the sufficiency of the principle of sovereignty, that unifies the inside that was divided by conflict in Machiavelli, and that separates once again the inside and the outside; that is quasi tautological! Secondly, by entrusting to trade, to the market (by interest), the role of caring not only for the unity of people *in* the nation, but also to act *outside* of it, caring for peace *between* nations, without damaging sovereignty: that is the tradition of political economy, since Montchretien and even since Botero (Berns, 2009 : 33–44 and 111–116), the idea of the *doux commerce*, and now the World Trade Organisation.

What does the Machiavellian thought teach us with its specific interpretation of Roman history and of what is usually understood as the empire, precisely that which is refused by Kant as an excess of sovereignty? It suggests that the core of the problem is rather a question of porosity between the inside and the outside of the city, the absence of borders between the inside and the outside when it comes to the liberty of the many. Conquest becomes the expression of the expansive character of the liberty of the many, a liberty that is also expressed by inner conflict (an

inner conflict that is not only disorder, but a disorder that produces an order). This porosity is what foundational cosmopolitanism was supposed to overcome: overcome by interpreting it as the empire's conquest—i.e. as an excess of sovereignty—and thereby leaving the cosmopolitical process in the hands of the *doux commerce* or of the *république des lettres*, that is to say, outside of politics.

Works cited

Abbreviations:

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