

## Church, State, Resistance<sup>1</sup>

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*This article problematizes a separation of Church and State that is nevertheless identified as constitutive of politics. Democracy has come to manifest a tension between the 'autonomy' of the political and a 'heteronomy' that, exceeding rationalist or social contractarian accounts of our co-existence, is here presented as an irreducible affect of our being together. Autonomy, it is argued, resists heteronomy through all representations of democracy; yet, by contrast, heteronomy resists autonomy, and does so with the force of this affect. So if civil religion is impossible – and if we know only too well where its realizations lead: by default, to republican celebration, or by excess, to fascism – then we must take up again, and from scratch, the question of the affect according to which we co-exist.*

### I

The separation of Church and State is the expression, linked in France to the dominant Catholic Church, for the complete distinction of competences, laws [*droits*] and powers between the religious order (be it ecclesiastical or otherwise constituted) and the political order. It is understood that in any civil or public matter the political order prevails; while in any religious matter – henceforth considered as private or as having to do with the intimacy of conscience – the authority exercised is defined by a religious body [*instance*] to which everyone is free to adhere.

Today this separation is recognized as a given of democracy, whatever the precise form of its enunciation in public law (and even where, as in England, there exists a very particular situation which may seem, but which is not really, one of non-separation). The constitutional and/or institutional affirma-

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tion and imposition of the consubstantiality of religion and State contravenes the general rules of democracy and the rule of law [*Etat de droit*] – since, precisely, law must establish among other things the independence of religions and the appropriate conditions to be placed upon this independence, in the same way that it must establish the conditions for freedom of thought and of expression.

We are used to considering this separation between Church and State as an achievement of modern democracy. This is not wrong in so far as the juridical inscription of this separation is indeed recent in history (notwithstanding certain details that we will encounter later). But it is still necessary to recall that this separation, or at least its principle and its condition of possibility, appear at the very beginning of politics: in Greece. It is necessary to recall this because, to go straight to the point, it means that the separation of Church and State is not one political possibility among others, but a constitutive element of politics as such – if we agree to give this term the sense derived from its Greek origin, rather than a vague and distended sense which would encompass any possible kind of organization of the collectivity.

## II

For sure, the *polis*, the city, has its own religion, celebrates its own rites and also makes room for other less public or less ‘civic [*citoyens*’] forms of worship [*cultes*]. Yet in its principle, in its very being as *polis*, the city supposes a fundamental rupture with any kind of theocracy, whether direct or indirect. From Aristotle, and even Plato, to Machiavelli and Bodin, without awaiting the more official and more modern forms of separation [between Church and State], this principle is verified: politics encompasses any kind of ‘-cracy’ except theocracy. Reciprocally, theocracy encompasses any kind of societal organization that rests on a religious principle, except politics – even where the latter seems to include a religious dimension. The stakes are high: in principle, what is the case for religion is not the case for freedom of thought. Religion is not first of all a *private* preference; it is a mode of representing and organizing both personal and collective existence. Therefore, religion is nothing but the other collective or communitarian possibility, besides that constituted by politics. The separation of Church and State should be considered as the only true act that gives birth [*acte de naissance*] to politics.

The *polis* rests firstly on the fact that it gives itself its own law [*loi*]. It can invoke a prescription or a divine guarantee for this law; but it is to the *polis* itself that the determined establishment, formulation, observation, and improvement of law belongs. In this respect, nothing is more instructive than, on the one hand, the displacement and progressive abandonment of various forms of trial by ordeal and, on the other hand, the development, which predates the *polis* itself (in Babylon in particular), of codes of property

and exchange (trade, inheritance, and so on) which themselves anticipate part of the general *auto-nomy* upon which the city will come to rely.

The political [*le politique*] – if we can use this [*masculin*] term to designate an essence or principle – is autonomy by definition and by structure. Theocracy, in the sense we have just given it as the other of politics – represents, on the contrary, heteronomy by definition and by structure. Manifestly, autonomy cannot but resist heteronomy, and reciprocally. In general, we can even say that any form of political or moral resistance implies a relation between an autonomy and a heteronomy; its most authentic form for us (perhaps even its only authentic form) being the resistance of autonomy – individual as well as collective – to any kind of heteronomy.

### III

Under these conditions, the religion – where there is one – that is proper to the city has a double aspect. On the one hand, it appears as a survival of and as a substitute for theocratic religion. Everything takes place here as if the *polis* did not yet know how to organize [*ordonner*] its relationship to the very principle of its institution – let us say to the founding authority – without the customary form, which in reality is not political, of a recourse to the divine. From this perspective, and whatever its precise form, the separation of Church and State is the logical outcome – however remote in time it is or may seem to be – of the political invention. As such, civil autonomy is separated without ambiguity from religious heteronomy.

On the other hand, the religion of the *polis* tends, on the contrary, to constitute itself as a specific religion, distinct from the ‘religion of the priests’, to use the expression through which Kant seeks to distinguish religion in the ordinary sense from that which he puts to work ‘within the limits of simple reason’. This religion purports to be political *and* religious, but religious in so far as political, and not the other way around.

In some respects at least, this is already the case with the religion of Athens, a city that does not bear the name of its tutelary goddess by chance. And this is even more visibly the case with the religion of Rome, which probably provides the most accomplished example in western history of a religion that is somehow consubstantial with the city and State – to the point that the Latin word *religio*, which we inherit to name a phenomenon that only Rome named as such, offers a sense which is consubstantially juridico-political and religious, whether we understand this according to the etymology of scrupulous observance or according to the more uncertain etymology of the establishment of a bond.

What does the Roman religion signify as a political, civic or civil religion? It signifies the inclusion of autonomy in a heteronomy which, without subverting this autonomy, gives it the double dimension of a transcendence and a fervour. ‘Rome’ transcends its own autonomous immanence; the

Roman body politic (*Senatus Populus Que Romanus*) is more and something other than the effective existence of the assembled Romans, of their laws and their institutions. Thus, for example, the Roman Republic is able to take up the legendary inheritance of the kings who preceded it: it is by virtue of the same truth – of ‘Rome’, precisely – that the Republic prides itself on having supplanted royalty, and that the kings are venerated as ancestors and precursors of the republican law.

Rome has at its disposal a heteronomy *of* its own autonomy, or a transcendence of its own immanent principle. Whether this Roman model does or does not strictly conform to the reality of history matters less here than the fact that Rome was able to create this image of itself and to leave its effigy to posterity, such that the exemplarity of the Roman model was regularly invoked by the French Revolution as much as by Italian fascism, to mention the most famous and the most representative cases. This model was characterized by the exemplarity of Roman civic virtue, of a tight combination of juridical observance and a patriotic cult, and of the representation of the Senate as an ‘assembly of Kings’ (Friedrich Schlegel), mixed with the exemplarity of an urban management that was as social as it was economic, of an army more national than ever before in antiquity, and finally with the *exemplum* par excellence, the magistrate-priest whose name – *pontifex* – carries a double meaning, a dual sacral and civil genius.

#### IV

The importance of the Roman example reveals how much we have wanted to associate with the image of Greek democracy – essentially represented by the agora and the free discussion on justice which, for Aristotle, constitutes the *politikon* character of the human *zôon* – the image of a religious reality of the public thing [*res publica*], anterior to any space and any articulation of relation. What does it mean that we have ‘wanted’ this ? Have we desired it, and why? Have we felt it as a need inherent to the public thing itself from the moment that it autonomizes itself – and where does this need come from? It is probably not possible – at least not now – to answer all these questions. But to broach the political question in all its breadth – as it is revealed to us today – it is necessary to underline the extent to which the image, idea or scheme of a ‘civil religion’ underpins more or less consciously our principal representations of the political.

This in fact is how one should understand the Schmittian motif of ‘political theology’. Even if Carl Schmitt does not himself ask the question of civil religion – irrespective of the fact that he felt entitled to find some suitable equivalent of his ‘theological’ model in Nazism – or perhaps exactly because he does not ask this question as such, his rigorous thought of sovereignty shows that recourse to the religious remains or obscurely returns at the horizon of the politics of the Moderns. Failing such recourse, which

the idea of a 'Republic', in its French form in particular, will have kept alive until yesterday (to say nothing here of the model of the United States of America, of Habermas's constitutional patriotism, of everything that could be analysed in the Japanese and Chinese realities, in the constitutional monarchies of Europe, and so on), it seems that the political is destined to withdraw [*retirer*] the essence we assumed it to have, leaving it to dissolve itself in 'management' and in the 'police', which henceforth appear to us as the miserable remnants of what politics could or should have done.

Marx was right to link the critique of religion to that of politics. The point for him, at least according to his first and founding inspiration, was to undo political specificity and suppress its separate existence ('the State'), much as the critique of religion should suppress the separation of heaven and earth: but it was in order to arrive at a world that would no longer be a world 'devoid of spirit and heart'. In other words, the true spirit and heart, the spirit and heart of the true human community at work in the production of man himself, were to substitute their immanent authenticity for the false transcendences of the political spirit and the religious heart.

As we see, politics and religion were to be sublated (*aufgehoben*) together, in the same and unique movement, itself arche-political and – by way of consequence – arche-religious; the movement of the real social being beneath and beyond its politico-religious representations.

So everything happens as if the great alternative of modernity had been: either definitively emancipate politics so that it is entirely separate from religion, or expel them both, outside the effectivity and seriousness of the autoproduct of humanity. So either politics is conceived as the effectivity of autonomy (personal as well as collective), or politics and religion together are represented as heteronomous, and autonomy consists in freeing oneself from them. Resistance of the political to the religious or resistance to the politico-religious (and in this case, resistance of what, of whom? Let us leave this question in suspense).

## V

This alternative had its condition of possibility in the second Roman event, the one which succeeded the Republic and the Empire in so far as it retained something of the *republican*. This event is none other than Christianity and, from the point of view that interests us here, Christianity brings nothing other than an essential separation between Church and State. In fact, this separation is so fundamental that it is even foundational: for it is in Christianity that this conceptual couple 'Church/State' is properly formulated. It is formulated with the constitution of the *ekklesia*, a term taken from the institutions of the Greek city and which now designates an 'assembly' and a specific mode of being together, as distinct from the social and political mode.

Already before the creation of the Church, or even the local churches, Christianity presented two major features: the distinction between two kingdoms and the correlative distinction between two laws. The Kingdom of God and the kingdom of Caesar, the law of Moses ('the law of sin' according to Paul) and the law of Jesus or the law of love ('the law of freedom' according to James). Heir to a dehiscence which appeared within Judaism, Christianity constitutes a major political event – or an event in relation to the political: in the same operation, it rigorously, ontologically separates the political from the religious (since there are two 'worlds', and for its part this division entails great religious consequences). And further, in a paradoxical gesture, it constitutes the religious itself on the political model of the kingdom or of the city ('kingdom' in the Gospels, 'city' for Augustine).

The origin of this entirely novel formation in the religious order is to be found in the meaning [*signification*] of Messianism: where the Messiah was expected to restore the kingdom of Israel, he becomes the instaurator of an entirely different Kingdom, which totally escapes nature and the laws of the human kingdom. Or rather: it is only in this way that the political is unveiled as a human order, only human and 'all too human'...

From then on civil religion is impossible. All manner of alliances will become possible between Church and State. And as we know, it is even by way of the conversion of the Empire to the new religion that a new age begins, an age that will know the double destiny of the Empire between the Orient and the Occident, according to a double articulation of the relation between the two kingdoms. Still, the fundamental principle of the heterogeneity of the two orders will never be fundamentally called into question.

(In passing here, this is also why an important aspect of the tradition or the diverse traditions of Islam has to do with the relation between temporal and spiritual authorities – a formulation which is only possible *stricto sensu* in a Christian terminology.)

The separation of Church and State that democracy came to produce is in a way the direct consequence of the double regime instituted by Christianity, a double regime that at the same time displaced the order of the city and the order of religion. This displacement itself intervened as the consequence – here again, in a way direct – of the precarious and always repeatedly destabilized situation in the ancient world of the city endowed with civil religion.

## VI

It is not surprising under these conditions that the modern thought of the political should have passed through two decisive stages with regard to the relationship between the State and religion.

The first stage is the invention of sovereignty. From Machiavelli to Bodin – and without wanting to over-valorize the motif of a certain continuity from one to the other – it is clear that the centre of gravity of the political problem has not ceased to move towards a profane, temporal and even atheist, to use Bayle's word about Bodin – condition of the State. The very notion of 'State', with its value of establishment and stability, testifies to the necessity of discovering a principle of grounding [*principe d'assise*] and of solidity where an absolute foundation [*fondement*] is definitively lacking. The expression 'absolute monarchy', although it is applied to regimes surrounded by ecclesiastical and theological guarantees, speaks for itself: the sovereignty of the monarch, that is, of the State, cannot by definition depend upon any authority other than itself, and its religious consecration does not, despite appearances, constitute its political legitimacy.

The sovereign State is the State that must derive its legitimation from itself. Without even emphasizing how essential the right to decide the state of exception (according to which Schmitt defines sovereignty) is in this context, we have to acknowledge that *autonomy*, as the principle of the political, here makes its major demand: it must or it should in one way or another found, authorize, and guarantee its own law by its own means. Is this possible in any other way than by invoking the necessities of security born of the weakness and the hostility of men? But can such necessities found more than an expedient – or even in some cases, more than a usurped authority for the sole good of some? Thus we see delineated the general scheme of the political problematic from the classical age onwards.

The second stage is none other than the demand for a civil religion as formulated by Rousseau. What is this about? To render 'perceptible to the hearts of citizens' all of the rules and conditions deduced from the transcendental deduction of the social contract. Why this need for a specific affectivity? Why, if not because the affect was excluded from the contract – the very notion of which implies rationality, but not fervour, nor desire, nor sentiment.

Despite appearances, Rousseau's civil religion is not something added in the manner of a more or less gratuitous ornament to the edifice constructed by the contract. On the contrary, it comes to try and repair the intrinsic flaw of the contract, which does not know how to bring about a regime of assembly [*régime d'assemblément*] other than on the basis of interest – even as this contract forms man himself at the same time as it forms the citizen. (As to the protestant source or provenance of this civil religion, it obviously deserves a development which will have to take place elsewhere.)

## VII

As we know, Rousseau's civil religion remained a dead letter. At least, give or take a few things, it remained a dead letter as to the execution of Rousseau's programme. It nevertheless left two traces that are both durable

and problematic, under the dual guises of ‘fraternity’ and ‘secularism’ [*laïcité*].

Like the ‘separation of Church and State’, the political senses of ‘fraternity’ and ‘secularism’ [*laïcité*] constitute a French specificity. Yet, as with ‘separation’, one must interpret them broadly and as designating notions of general value for the current representation of democracy. (I leave the task of justifying this affirmation in a more detailed way for another time.)

With ‘fraternity’, added as we know as an afterthought to the motto of the French Republic, we are faced with the residual minimum of the political affect. This is also to say with the minimal form of a latent question, more or less clearly resurgent, about the force of affect supposed by the simplest being-with. It is not that the idea of ‘fraternity’ necessarily accounts for it well – this is another debate, which Derrida reopened several times in opposition to Blanchot and myself. Even if we debate the term, what matters to me here is that it is in order to substitute other terms with an affective denotation or connotation: ‘friendship’, in Derrida’s case, or elsewhere ‘solidarity’ or even ‘responsibility’, terms which – as well as in the last analysis that of ‘justice’ if we think about it – cannot be entirely divested of an affective tone. To say it as briefly as possible, what resists with ‘fraternity’ is affect, and so something of affect resists, under one term or another, at the heart of the political order considered as an order of integral autonomy – supposing the latter to be thinkable without affect (or thinkable at all, which perhaps amounts to the same thing).

With ‘secularism’ [*laïcité*], another aspect of the same resistance manifests itself: namely, not the sole possibility of holding the politico-social order exempt from any religious interference, nor that of charging this order with organizing the free practice of worship [*cultes*] according to necessary conditions, but beyond that – and somewhat contradicting the two preceding propositions – the necessity of conceiving and practising something like the observance and celebration of the values, symbols, and signs of recognition which attest to everyone’s adhesion to the community as such.

For sure, the previous sentence cannot fail to produce the suspicion that what is being defined here is a kind of vague fascism ... but I would like precisely to point out that fascisms, and with them ‘real’ communisms as well as some types of dictatorship, have well and truly seized upon an unemployed desire for the celebration of community, and that if this desire remained unemployed – as it does today – it is because politics was not able to take it up. That is to say, because politics did not know how to or could not fulfil the intentions or expectations which the words ‘fraternity’ and ‘secularism’ [*laïcité*] designate as best they can. Or, to put this in an inverted form, because the general idea of tolerance, and of the State as a space of tolerance remains inferior or even foreign to what is rightfully expected of the political: namely, the taking up of a force of affect inherent in being-with.



## VIII

If autonomy resists heteronomy through all representations of democracy, by contrast, heteronomy resists autonomy with the force of affect. The affect is essentially heteronomous, and perhaps we should even say that affect *is* heteronomy.

Christianity put into effect a sharing that the Greek foundation of the political implied: the sharing of two orders and two cities; on the one side the order and the city of the useful and the rational (in the restricted sense that we more often than not give to this word), and on the other side the order and the city of a law which does not call itself the law of love by accident.

For the whole duration of the civilization known as Christian, love has not failed to return, at least as a question, exigency or concern – which is to say also and fundamentally as resistance – on the side of the political. Thus the subjects of kings were supposed to love their sovereigns; Hegel thinks love as the very principle of the State; fraternity, patriotism (up to and including Habermas's 'constitutional patriotism'), and national liberations; democracy itself or the Republic (European style) or the Nation (American style); and a number of generous representations of Europe: all these will have amounted to so many efforts to take up and reactivate something of this love. For the inventors of democracy, like Rousseau and in accordance with him, always knew that democracy could not abandon love to the other kingdom, and that it should perhaps even take it up for itself without leftover, since failing that it would be merely ... a democracy, that is to say, a simple order of the useful and rational management of a world in itself devoid of affect, which is also to say of transcendence.

Democracy is thus by birth (we could even say its double birth, Greek and Modern) too Christian, and not Christian enough. Too Christian because it fully assumes the separation between the two kingdoms, not Christian enough because it fails to re-find in its kingdom the force of affect that the other has reserved for itself. But at the same time, Christianity, deprived of the public positions through which it recovered with one hand the material power that it had abandoned with the other – and through which it also continued to instil a little bit of love or the pretence of love in the political order – this Christianity has dissolved itself as a social religion and because of this it has tended to dissolve itself as a religion *per se*, thus tending to take all religions with it.

Neither of the two kingdoms resists the other any more – except under the brutal form of fanaticisms, whether they be of Church or State. But in reality, this is not a relation of resistance, it is a relation of wills of domination and of the absorption of one kingdom by another, of a pure and simple conquering and destructive hostility.

We no longer live in [a time of] resistance, but in [one of] confrontation. We no longer live in [a time of] the different nature of two kingdoms, but in [a time of] the different force between empires. If it is certain that we will return neither to a Christian civilization [*chrétienté*], nor to the Roman republic, nor to the Athenian city, and if it is certain that it is not desirable in any way that we return to any of these forms, it is just as certain that we must now invent a new way to refigure [*rejouer*] the political institution itself, from now on by clearly formulating its exigency as that of the *impossibility of civil religion*. For if civil religion is impossible – and if we know only too well where its realizations lead, by default (republican celebration . . .) or by excess (fascist celebration), and that its ‘just measure’ is precisely the impossible itself – so we must take up again, and from scratch, the question of the affect according to which we co-exist. After this we will have to ask ourselves how we should truly separate Church and State – or rather how we should from now on renounce, just as much as the political hold of a given religion, the desire for a politics that would be able to take up this affect and its heteronomy. It seems that it is too much to ask for the two things together. Yet this is what we must give ourselves at least as an exploratory and heuristic rule.

We could start (again) as follows.

Being in common, or being together, and more simply still, or in a starker [*dénudée*] form, being several, is being in affect: being affected and affecting. It is being touched and touching. ‘Contact’ – contiguity, brushing together, encountering, and clashing – is the fundamental modality of the affect. For what the touch touches is the limit: the limit of the other – of the other body, because the other is the other body, that is to say the impenetrable (penetrable only through the wound, and not penetrable in the sexual relation where ‘penetration’ is only a touch that pushes the limit to its farthest point). What is at stake above all in being-with is the relation to the limit: how to touch, and to be touched, at the limit, without its violation? For we desire to violate the limit in so far as it exposes finitude. The desire for fusion or the desire for murder constitute the double modality of an essential trouble that agitates us in our finitude. To swallow or to annihilate others – and yet at the same time wanting to maintain them as others, because we also sense the horror of solitude (which is properly the exit from sense, if sense is essentially exchanged or shared). This said, the relation to the limit is dealt with or has been dealt with in two ways in [the history of] humanity: either by a given modality of the sacrifice, which consists in crossing the limit by establishing a link with the totality (more generally still, I would say: a modality of consecration, for the bloody sacrifice is not the only one at stake), or outside of consecration, as in the Occident, in politics and law, that is to say, essentially in the recourse to an autonomy of finitude. The city may want to be regulated according to some cosmic, physical or organic model,

but the very fact of this will and this representation indicates that it is the totality, the ‘consecration through wholeness [*consécration au tout*]’ which is experienced as lacking.

Thus the city establishes itself, if I can say so, in a problematic situation with respect to affect: the relation to the limits, the relation of limits between themselves, is no longer taken up by a virtually total ‘consecration’. The political emerges from the outset as a regulation of affects. It is not by chance that Christianity appears in a context where the city that will soon be named a ‘human city’ experiences itself as failing with regard to personal relations and where the empire testifies to a failure or a halting of the *polis* and of *autonomia* to the benefit of a model of domination (of the *imperium*) which, despite its efforts, does not succeed in capturing the affect (because it is no longer truly sacred: it itself emanates from civil law, from ‘dictatorship’ in the Roman sense). It is not by chance that Christianity – that is to say prophetic Judaism and the Judaism of the diaspora (I mean to say: the two figures of a certain separation between the kingdom of Israel and Israel as the people of God), having reached a decisive point of transformation precisely in the midst of and in the face of empire (in the same way as, in a converging mode, Stoic and Epicurian philosophy seeks a regulation of affect) – should respond with both the ‘law of love’ and the ‘kingdom of God’. At the same time, Christianity proposes the distinction between two kingdoms or two cities, and the distinction between the legal law and the law of love, that is also to say of the other of law or of its reverse. Christian love signifies above all the reverse of law: its inversion or its subversion, its hidden side also; that is to say, where the law comes from without being able to recognize it – namely, the very sense of being-with.

What resists in these conditions is no more the Church to the State than the State to the Church – but it is being-with itself which resists *itself* and which refuses to accomplish itself under any form of hypostasis, configuration, institution or legislation. What resists is being-with in its resistance to its own gathering [*rassemblement*]. This resistance touches the truth of being’s ‘with’, of this proximity of the *with* forever impossible to effectuate as a being and always resistant. Neither autonomous, nor heteronomous: but rather anomic in the mutual resistance of the autonomous and the heteronomous.