

THE RULE OF JUSTICE*

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I.

The exhaustion of critical thought in its moral defences of high art confirmed Lukács' worst fear: that the program of negative epistemology could not but lead to an aesthetics of (damaged) experience. This interest in private experience, with its celebration of the artistic construction of the self, promoted the complete democratization of dandyism (or the secularization of martyrdom). At the same time, it helped shift interest away from (critical or revolutionary) engagement to an alternative *minima moralia*, that of authenticity. Thus Adorno's work inadvertently endorsed what he had earlier denounced as metaphysical jargon. The tasks of praxis yielded to the experience of suffering, and the tongues of eschatology were confused not in the heights of collective liberation but in the depths of personal identity.

Initially it was determined that the revolution would not take place as a strike but as style. Before long, though, the project of critique was more and more eclipsed by questions of value and care. The new direction was clearly characterized by an aspiration to go beyond Hegel (by looking at possibilities left unexplored or thwarted by dialectical idealism) while preserving valuable Hegelian lessons about society and politics. As the work of Arendt, Gadamer, Foucault, Derrida, Castoriadis, Habermas, or Rorty indicates, Heidegger's views on history and language have been helpful here in proposing notions of responsibility that hope to survive Nietzsche's attack on morals. The quest for an authentic identity, even when it indulged in aesthetic experience, could not avoid issues of character and principle, ethical issues facing a world that could no longer invest in a redemptive future. Thus we gradually entered the present period, driven by a new project of ethics.

This new philosophical project has already explored many avenues of inquiry—universalist, pragmatist, feminist, communitarianist, deconstructionist, and others. It has produced major crises of intellectual conscience around the biographies of several writers (like de Man, Heidegger, Althusser, and Christa Wolf). It has also found strong expression in debates about sexual, ethnic, racial, linguistic, religious, as well as those concerning general biological and/or cultural orientation—debates involving issues such as human nature, decision, agency, identity, and social position. What holds all these discussions together is a broad quest for the ethics of the post-revolutionary world, a set of values for

post-critical thought. With so many ethical deliberations going on it may be time to ask a comprehensive question: How are we thinking of ethics today? What kind of ethics is the philosophy presently claiming our attention? It seems that in many important ways we are rediscovering aspects of the original meaning of the ethos in which ethics has been truly interested. *Ethos* was originally a tracking metaphor signifying an accustomed place, a dwelling, a familiar abode. Later it took on the meanings of “custom, usage; manners, customs”, especially in regard to the behaviour of the other, hence disposition, character (especially moral). These connotations show that ideas of place, familiarity, habit, and conduct are basic here. For example, the idea of familiarity leads to the area of relations with one’s own; hence the kindred meaning of a group as a unit, which is clear in *ethnos*, a word akin to ethos.

In general, ethos signifies a particular kind of dwelling—the dwelling in a familiar place that allows for the development of customs, character, and group identity. In this abode, which one calls one’s own, manners take on the quality of a characteristic spirit. Therefore the field of ethics concentrates on ethos as the kind of dwelling that is identifiable with characteristic conduct. Ethos is both the site and the custom, the habitat and the habit (of its inhabitants), the place and the dwelling shaping life in a society. But where can it be found? What does it abide by? “Abode” comes from the verb “abide”, which means not only to stay or remain but to stand fast. As indicated in the expression “abide by”, this particular way of residing requires living up to agreements, submitting to rules, and the carrying out of decisions. Ethical dwelling has an enduring, sustaining quality—that of residing steadfastly in one’s own accustomed place, which first creates the sense of collective identity associated with the *ethnos*. For an ethnic habitat to attain ethical dwelling, for a homeland to become a site, the *ethnos* needs to be differentiated into an abode. What is the way/odos to this abode/ethos? Aristotle specifies early in the *Nicomachean Ethics* that the exploration/methodos of the human good for the abiding collectivity/*ethnos* is the science of politics. *Ethnos* designates basic human groups distinguished by common characteristics (like the tribal societies which are based on race and kinship) but not pursuing deliberate organization. Politics is the course/odos to the site of the abode, which is none other than the polis, that is, the ethos (both place and conduct) that has transcended its ethnic character thanks to political considerations.

Political association is a structure of ethical community. If the site of ethical dwelling is the *polis*, then ethics, a science complementary to politics, explores the dwelling in the *polis*, the characteristic conduct in this particular abode. This connection also explains the strong interest of contemporary ethics in politics. What is more, an ethical approach/methodos to politics orients post-critical discussions away from concerns about a revolutionary future (utopia) and its dialectical reconciliation with history toward the originary topos of politics, namely, the polis itself, and its organizing principle, the political. Indeed the relation between abode/ethos and its site deserves further exploration, if we

are to discover the ways in which the polis makes an ethical dwelling possible, and consequently the study of ethics and politics interdependent. The root of polis refers to a high place, especially a fortified dwelling. The polis/independent city is first a fortress, an acro-polis/citadel. The collective notion of the polis (Latin *civitas*) refers to the fortress as civic body—to the civic body which rises high, rises to a fortress to defend and define the independence and identity of the town—the fighting civic body, the embattled one. Heraclitus has this notion of the polis in mind when he advises that the people must fight for the law/nomos as for their city wall (Fragment 44 in the Diels-Kranz edition¹). The historical identity of the polis is the civic body as political acropolis, fighting for its freedom and self-definition. This interpretation is further supported by *polemos*/war, an important cognate of “polis”.

If the polis is originally a civic acropolis, if its character as a dwelling is defined by the civic body struggling for self-definition, then the political is obviously a polemical principle: it expresses the fight for the acropolis and over the acropolis; it portrays the civic body fighting for its identity and creating it in this very fight. The political is the acropolitical institution of society. Heidegger rightly saw the polis not as just the city-state but as the essential abode of humanity, the essence of the historical settlement of the abode, the settling of the historical dwelling. But because of his ontological orientation he understood this place as the abode gathered into itself. Focusing too hard on its temple to see the embattled acropolis in its entirety, Heidegger believed that the “essence of power is foreign to the polis”.² Disturbed by Burkhardt’s account of the frightfulness and atrociousness of the polis, he sought to discover in it roots and bonds that hold it together, indeed that turn it from the site of polemos into a polos, a centre which collects around it the dispersion of human history: “The polis is the pole of pelein, the way the Being of beings disposes for itself a where in which the history of a human race is gathered.”³ If, however, the historical essence of the polis is the civic acropolis, then the history gathered in this dwelling is a polemical one, a history of power struggles. The real pole is not “the place around which all beings turn”,⁴ as Heidegger’s acrophobia would have it, but the dwelling as an embattled site. We must conclude that the idea of the acropolis defines the essence of the site of the polis: the acropolis is the abode/ethos of the political principle. Furthermore, the ethic of the polis is polemical. Dwelling as citizenship is a force and fortress. As it is recognized in the institution of the abiding collectivity/ethnos as acropolis, as civic body fighting for its autonomy, the political and the polemical are etymologically, historically, and philosophically cognates.

The political is the antagonistic contestation of authority, the most intense and pervasive form of antagonism. The question of the political is “the problem of the institution of the social, that is, of the definition and articulation of social relations in a field criss-crossed with antagonisms”.⁵ It is total strife, brutal fight over authority, struggle for absolute domination. The power it seeks is raw and

unlimited—complete authority over every facet of human life. Because the political is contention, it is not limited to a battle situation but expands into a polemical occasion. Neither can it be narrowly identified with the conduct of war (let alone with enmity or the enemy) because it is conflict, the cosmic order of warfare. Order depends on the antagonistic struggle which negates a given order and tests its limits. The meaning of the political is not “war” (the battle of *ethnos*) in general but “contention” (the struggle of/for *ethos*)—the entire Heraclitean statement “war/polemos is the father of all and king of all” (Fragment 53). The political is contention as the ruler of all—not the situation of battle, but a universal driving force occasioning power struggles, the force that moves and makes things happen by conflicting them.

Unlike battles or clashes, this war is not about victory but about authority, hence its character of antagonistic contestation. At the same time, far from being an objective relation, antagonism shows the limits of every presence and closure, and the impossibility of any final objectivity and transparency of authority. Antagonism, however, is not the negativity of the system, since no dialectic is involved here. Its primary impact, the fundamental way in which contention/polemos is felt, is opposition. The political is by nature oppositional. Furthermore, as the above Fragment explains, polemos “some he renders/shows as gods, others as men; some he makes slaves, others free”. The special quality of contention is not that it produces winners or losers but that it assigns gods and mortals their place. Therefore the political is the kind of conflict which indicates who is god and who is human, and which makes some humans slaves and others free. It is the polemical occasion where authority is fiercely contested and which establishes basic categories of life like divine or human, free or slave. The manner in which contention is the supreme ruler is designated in the way in which polemos brings forth, in an explosion of discord, what (order) is to be.

II.

The political, which is prior to politics, is war-like politics—the polemos over authority by all means necessary: not contest/*agon* but all-out antagonism, war to the knife. (That is probably why militants represent and dramatize it best.) Carl Schmitt was able to associate the political with polemos but could not distinguish struggle from combat or antagonism from battle. Because his ultimate concern was the legitimacy of the regime (and hence that the liberal system could not defend it), he understood relationships among forces antithetically and tried to resolve the enmity between *arche* and anarchy. This led him to take the side of sovereignty/*arche* in all disputes and, as his satanistic identification of foe with evil indicates, to seek reassurance for order in a theological view of authority/hierarchy. When Schmitt argues that the political is primary, he is referring to the political authority of the state, rather than to the contestation of authority. Hence his political is the supreme legitimation of authority, the one based not on law or

justice but on the simple fact that foes threaten the sovereign. This conspiratorial approach to power can only comprehend *polemos* as combat. But as we shall see, an alternative political approach, based on the idea of the friend/*philos*, can discover in antagonism elements of justice.

The only criterion Schmitt employs in his explanation of the political is the friend-enemy dialectic. He remains captive of this monolithic antithesis. Hence his political enemy is the other, the stranger, the alien. However, it is pointless to talk about “others” in the realm of the political, since in the situation of contention the notion of the other/stranger is superfluous. The *polemos* over authority is never against an “other”, an outsider, someone totally different, but against an insider, someone who has potential access to authority and hopes to contest it. If antagonism, rather than battle, is crucial for a polemical understanding of the political, then the struggle is between equal opponents, not enemies. The contradiction in which Schmitt’s argument is trapped becomes apparent in that, although he rightly stresses that all political concepts have polemical meaning, he is forced to leave war out by claiming that it is not the aim or content but the leading presupposition of politics, the most extreme case, while in fact the extreme case, if we want to be consistent with the polemical character of the political, is obviously defeat. What truly matters is not, as Schmitt claims, the possibility of war, since war is everywhere. Rather what matters is that in most wars one side is defeated and loses its freedom. What matters in an antagonism is not the possibility of conflict but the reality of confrontation, namely, the possibility of defeat. To put this possibility in properly Heraclitean terms, *polemos* makes some people slaves. This is the most extreme case.

Polemos, this unending strife between opposites, is itself a political rather than a natural concept. It determines who is friend or enemy but more importantly who is free or slave, who has authority and who does not. *Polemos* is not an origin or a cause. Hegel’s (dialectical) appropriation of war as violence can be equally misleading. *Polemos* is becoming, struggle that occasions order, discord leading not to concord/*homonoia* but to accord (mutual agreement). It is a particular understanding of war as a cosmic force, as a creative force of contention active in the cosmos, which also makes cosmos possible. The direction of the force is antagonistic, its strength creative. *Polemos* is the happening of the polis—a happening that takes place and a place that happens, a place/abode that occurs and maps time anew; a setting and an ethos, not an event or situation. The circulation of notions between geographical and strategic discourses noted by Michel Foucault has its origins in the polemical constitution of the polis. Different systems of geography represent different structures of authority. The first lesson of the history of the fortress/acropolis is that the polis is not an occupying territory but a fighting civic body; not the city or even its citizens but its citizenry/*civitas*, that is, its citizens as fellow-citizens; neither land nor command (or *imperium* = territory founded on commandments, according to Heidegger) but the strategic political setting/dwelling of a contending assembly.

Funeral orations commemorating those who died for their freedom refer to war as *agon*. The word *agon* means both assembly and contest. The *agon* is an assembly, a gathering of people; but it is a particular kind of gathering where the holding of contests is a basic social function. The *agon* assembles (a) people through competition. It also orders a place by holding a competition. It is the political agora (another cognate, meaning “gathering, place of assembly”)—the place of contest which assembles an assembly. Thus it assembles (a) people by acknowledging the political at the heart of the social—by recognizing that the political is the acropolitical institution of society. It also orders a place by acknowledging the fundamental polemical character of the political. Contention as *agon* puts together a *polis*. In this framework, *polemos* signifies the most drastic way of assembling a collectivity and a place for it—it means the ultimate occasion of order and, as Nietzsche stressed, the welfare of the political society. The emphasis on creative strength attempts to balance the vigour of antagonism. The English borrowings “action” and “agent” remind us of germane meanings like “to lead, to drive, to do” operative in the word “agon”.

Polemos is the condition, the possibility of ascending into the heights of the autarkic acropolis—the stronghold activity that assembled the contending Greeks (on and around acropoleis). *Polemos* is the Persian Wars of Herodotus that made, out of an array of *ethne*, the *ethos* Hellas happen, the *ethos* that took place not in Greece (territory) but as Hellenism (assembly)—the setting (apart)/dwelling of Greece. The same *polemos* assembled people from a variety of *poleis* as Greeks in athletic games, religious festivals, and dramatic contests. In order for beings to rise up from the material existence of the lower town to the civic unconcealedness of the acropolitical body, they have to emerge into *polemos* and assemble into *agons*. The meaning of *polemos* is not a history of campaigns and battles but a history of *agons*, of people assembling on and around acropoleis, and of people trying to become or stay free by fighting for their city walls and laws. This also explains why all history is a history of contentions—because it is a history of polemical/political freedom. “The relationship between power and freedom’s refusal to submit cannot ... be separated ... At the very heart of the power relationship, and constantly provoking it, are the recalcitrance of the will and the intransigence of freedom. Rather than speaking of an essential freedom, it would be better to speak of an ‘agonism’—of a relationship which is at the same time reciprocal incitation and struggle, less of a face-to-face confrontation which paralyzes both sides than a permanent provocation.”⁶ This mutual provocation is the elementary (dis)order of the political.

The political (which is *polemos* as the ruler of all, as cosmic struggle) is not antithesis, enmity, battle, but opposition, wrangle, antagonism. The antagonistic struggle over complete power gives it its distinct character as total conflict (not yet confrontation) over authority. However, the political may be primary but is not originary. It is neither a sphere/domain nor a tension/intensity among domains. It is not human nature or primordial energy. The political is the force

that first drives society, the polemos that takes place and gives place. It does not arrange or structure. The political assembles society by focusing its dynamic on questions of public power/dynamis and autarky, and organizes it by composing its internal divisions. This elementary institution of the social as antagonistic, the acknowledgment that society is born into struggle, is the way first things first happen in society. The political is the elementary disorder of society, the order of the human common. (We will see later what this common is.) The political is the regular, basic rule of social things—the rule of power/freedom.

Significantly, Schmitt, like Heidegger, has no concept of power/dynamis. This becomes an advantage when it allows him to recover a theoretical interest that has been abandoned for a long time, the issue of authority. The Age of Revolution understood power in terms of a dialectic between oppression and liberation, hegemony and resistance. The theory of that age, namely, critical philosophy, aspired to prevail, as it did, in the realm of culture, the “public sphere”, allowing governance to become the specialty of political science. Post-revolutionary thought, which, unlike its predecessor, has no reason to worry about legitimacy, has focused on power formations, gradually revealing that all talk about the demise of grand narratives is concerned with the bankruptcy of the ideal of emancipation. All grand narratives have been emancipatory. Schmitt, on the other hand, who rightly rejected them for their aesthetic character, and through his theory of the political conducted a critique of culture, concentrated, in reaction, on authority so exclusively that he never looked at it from the viewpoint of power. Furthermore, anxious as he was to protect authority from anarchy, he could not consider governance either. Unfortunately, in the end Schmitt opposes the Romantic theology of culture with his theology of authority. All he knows about politics is that man is evil by nature, therefore dangerous, and needs to be governed. Because he was committed to defending the interests of sovereignty at any cost, neither power nor governance attracted his philosophical attention.

III.

It might be interesting to approach the political through a different exploration/*metbodos*. Just because we accept its fundamentally polemical character does not mean that we have to limit our sense of polemos to that of attack. If all antagonistic struggle takes place between opponents, then the prior term is not the enemy, as in Schmitt, but the friend-in-contention, namely, the ally. It is worth explaining here that, because Schmitt intended his friend-foe antithesis as yet another affirmation of the supremacy of the political realm, he understood the two terms, unlike Hobbes, as referring to a political alliance and enmity respectively. In his military picture, the citizens of a state face those of another in a situation threatening their political independence. Furthermore, the idea of a shared citizenry later enabled him to abandon the depiction of the

foe as the other, only to replace it with the archetypes of the brother, Abel and Cain. The dialectical approach produced again difference in mimetic figures.

However, political strife occurs among competing associates. A telling example is provided by the internal political strife called *stasis*, which means “division” in both senses of the word: sharing and separation, apportioning and partition—both the separation from the whole and the existence of a new, separate unit. From its original meaning of “standing still, position, post”, it developed the sense of “standing apart, division”, therefore “dissent”, hence “faction for seditious purposes”. As the sense of “division” retains a necessary reference to a larger unit, *stasis* preserves its association with the civic body as a fundamental right, and even responsibility, of the fellow-citizens: it signifies not only faction but also the taking of sides (in a sedition), the conscious participation in division, the responsible choice between contending opposites. We see once again that *polemos* (in this case, civil strife) is acknowledged as indispensable to the function of the polis. (This is also reflected in the English double meaning of *stasis* as “state of equilibrium” or “stagnancy”, balance or stoppage of flow.) This recognition turns eruptions of contention and conflicts of interest (even internal ones, like *stasis*) from potential threats to the polis to stages in the continuous self-reconfiguring of the acropolitical institution of society. It also explains why the free people who constitute the citizen body, despite their internal dissent, division, and discord, never challenge the legitimacy of the polis itself: because they see their *ethos*/abode not as territory of station but as post and position, in a word, as state/*stasis*. One’s enemy is the opponent with whom solidarity is no longer possible. The occasion of *polemos* is a strategic formation (rather than assemblage) of allies and past allies.

In the same spirit, an examination of the political from the direction of the friend-as-ally would be based on the view of a person’s position in society and would consider reciprocal relations (including claims, interests, and duties) and their moral vocabulary. Instead of concentrating on sentiments of love or other personal feelings and general psychological notions, it must consider group membership and its relational values. If we look at tragedy, for example, we see that the recognition of friends helps define one person’s position in society. “Recognition scenes dramatize the reaffirmation of the legitimacy or obligations of a particular tie. Recognition is always of a *philos*, of a tie between *philos* and *philos*. *Philos* and *philia*, as they mark relations of reciprocity and respect, are constantly in play with the wider markings of the discourse of power and authority in society.”⁷ *Philos* means “one’s own” (it is even used for the possessive pronoun) and “dear, loved, beloved”. “*Philia*, the relationship of affection and commitment among persons ... carries the idea of genuine regard and loyalty and further implies a mutual knowledge of character, the sharing of words and deeds, and the responsible actions and emulation of virtue that sustain bonds of association.”⁸ We said earlier that one’s enemy is the opponent with whom solidarity is no longer possible. But now it is important to add that the reverse is

also true—that the friend is the enemy with whom *philia* has become possible. This happens through traditions of hospitality.

Before the abstract sense of *philia* began including sentiments of friendship, the word *philotes* denoted reciprocal and binding ties of agreement between combatants who are no longer enemies. There is neither stranger nor enemy as such: the only stranger I know is an enemy, and the enemy I fight is a stranger. The etymology of the compound *philo-xenos* shows that there is a special condition under which the stranger may become a friend, that of hospitality. “The behaviour expressed by *philein* always has an obligatory character and always implies reciprocity; it is the accomplishment of positive actions which are implied in the pact of mutual hospitality.”⁹ This pact turns the stranger into a guest/*xenos* who benefits by the laws of hospitality. “The free man, born into a group, is opposed to the stranger (Greek *xenos*), that is to say the enemy (Latin *hostis*), who is liable to become my guest (Greek *xenos*, Latin *hospes*) or my slave if I capture him in war.”¹⁰ When treaties (with their appropriate agreements, pledges, and rites) are reached and hostilities are suspended; when my enemy/*hostis* becomes my guest/*hospes*, an adversary may become temporarily an ally. Thus we conclude that the friend-foe dialectic is already operative in the notion of *philos/ally*, whose basic parameters are the interconnected positions of the stranger, the enemy, and the guest. The alliance of *philia/solidarity* can be achieved only among free strangers who, in strategic formations of contention, may choose to become each other’s guest, rather than enemy. The definition of allies is more important exactly because the *polemos* is primary, because the widest political context is by nature polemical. One does not choose *polemos*—one’s first choice is that of allies. That is why in the *Nicomachean Ethics* the best way to talk about ethics in the polis is through *philia*. Solidarity/*philia* as bonding alliance also becomes the preeminent civic obligation, the only moral obligation the polis recognizes. Thus the notion of the friend (in the sense of ally/*philos*), which is always implicated in political power/freedom, is a better way of studying the political than Schmitt’s enemy.

IV.

Recognizing the priority of solidarity in the study of the political enables us to see again contention as a creative force, a productive ordering. But what is the mode of operation of *polemos*? We saw that its major function is to show who people are—who is mortal and who is not, who is free and who is not, who is friend and who is not. The verb *edeixen* from Fragment 53, which we discussed earlier, is the past of *deiknumi* which comes from the root **deik-* meaning “to show, to make manifest or known, to declare”; also “to direct, to indicate” (from the same root via the Latin *dico* “to say”). The political strife declares who everybody is or deserves to be. *Polemos* indicates, makes known, basic qualities and positions. It seems that it not only declares but also decides:

it shows who everybody is in the strongest way possible, in a way that passes judgment on them. A feature in the range of **deik-* with strong normative implications is that it means to show what must be done, a “pronouncement which may take the form of a court judgment”.¹¹ In fact, the word for judgment, *dike*, is also a cognate and appears in another Heraclitean passage (Fragment 80) on polemos: “It is necessary to know that war is common and right is strife and that all things happen by strife/*eris* and necessity/*chreon*”. This amplifies the meaning of the earlier Fragment. Polemos is not only a ruling principle but also common/*xynos*, shared by all. Everybody is affected by it because this is how things occur in life. Everybody partakes of contention, everything is in a state of contention. Polemos is the order of the world (as viewed from the acropolis).

This view again turns contention into a creative force, one of inherent change, immanent creation. Above all, it turns it into a force of judgment and justice. The Fragment suggests that strife/conflict/*eris* = justice/right/*dike*. Contention as strife, as conflict, as fight between equal opponents (= past allies/*philoï* who may also become guests/*xenoi*), is *dike*. “Justice (fairness) originates between parties of approximately *equal power*”, as Nietzsche observed.¹² Here polemos becomes the just order of the world. It is the indicated way/*dike*, the way the cosmic force moves and indicates everybody’s place. *Dike* is what polemos *edeixen*/declared, what polemos is about; conversely polemos is the declaration not of war but of *dike*. If polemos rules by bringing forth what (order) is to be, *dike* is that judging and governing order. The proper term for this state of things, which integrates the moments of contention, is stasis—the equilibrium of balance and dynamism, of forces and charges producing flow and stoppage, motion and inertia, position and sedition, chaos and cosmos. *Dike* is the stasis *eris* of opposites. Conflict (the contest of equals) declares right, contention is the course/*odos* of justice, of just reciprocity, because justice (Latin *ius*) is the basic necessity, the principle of governing order, reciprocity/*philotes*, regularity that oversees measure. The relationship between polemos and polis can also reveal another connection. The state/stasis of *dike* and the abode of the polis are coterminous: the indicated way/*dike*, the way of the usage/custom, is the course/*odos* of politics, the essential ethos of the political order.

Before we explore strife further, we need to understand better the nature of the necessity/*chreon* that relates justice to measure, to the established rule of state/stasis. The meaning of *chreon* is closer to propriety (internal necessity) than to need (external necessity/*ananke*). “The terms *chre* and *chreon* do not import necessity in the sense of external obligation, compulsion, constraint, decree; but rather necessity in the sense of what is right, due, proper, appropriate, fitting, that is, what should or ought to be. War or strife settles accounts; it orders or measures things. This strife is *dike-justice*.”¹³ If the duty expressed by *chreon* is the requirements of each practice and case, *dike* is the judgment which establishes (just) order, measures as limits. In Fragment 94, Heraclitus warns that if the sun transgresses his measures/*metra*, “the Furies, ministers of

justice/*dike*, will find him out". Justice is cosmic propriety because it establishes limits, judges measures, and achieves the arrangement of chaos into cosmos. The emphasis here is not on balance or autonomy. Justice is cosmic propriety because it "fits things to their rightful proportions, to their internal limitations; it makes (cf. *poi-*) them precisely themselves ... This measuring-out or ordering is the inner law according to which all phenomena happen ... This law is common ... It is the common."¹⁴ This common is not the "oneness" of all—Heidegger's *polis* as polos or Being as collected presence. Neither is it *sensus communis*, Kant's common sense criticized by Gadamer for its depoliticization. This human common is *dike eris*, the measure whose double stasis is polemos and the political. *Dike eris* is the measure to which Heraclitus is referring in Fragment 114, when he advises that, if one wants to talk with understanding, one must strengthen himself with what is common/*xynon* to all, like a city with the law. Heidegger was closer to the mark/*skopos* when he took the word "common" here to mean "the *nomos* for the *polis*, the statute that constitutes or puts together, the inner structure of the *polis*, not a universal ... but the original unifying unity of what tends apart".¹⁵

The *xynon*, the common principle of order and measure, is based on the paradoxical unity of contraries rather than the identity of opposites. Its realm is not a higher level of resolution but their contentious relationship. There is never any identity or reconciliation because the character of unity is itself contrarial. Tendencies towards and away from unity coexist in a dynamic tension holding things together in their conflictedness and constituting the ultimate *harmonia* (from the root **ar-* = "to fit, to adapt, to harmonize"; compare *eirene* = "peace"; "art"). Harmony means integration and refers to disparate things fitting together well. The name of the god of solidarity among warriors, *Ares*, which comes from the same root, confirms that the order of the harmonious/contrarial arrangement is the building of bonding among contending friends—that the real common is the diaphoric character of the *xynon*. The god of war brings peace/*eirene*. Heraclitus may be alluding to *Ares* when he once gives to the common/god the conjoined attribute "polemos eirene" (Fr. 67): harmony (called *palintropos* in Fr. 51) is oppositional agreement. As Aristotle observed, the greatest possible unity of the polis is not the supreme good because a completely unified polis would lose its character as an agonal aggregation and an agora, and would cease to exist.

Once again we need to guard against an understanding of governing order/*dike* that portrays it as a religious or ontological necessity. Heidegger has rightly emphasized the fundamental dimension of governing structure and order. He has called it "the ordering and enjoining Order",¹⁶ while designating *adikia* not as injustice but disjunction and disorder. But in all his descriptions there is a strong theological understanding (comparable to Schmitt's) which tends to identify order with commandment and domination, defining *dike* as something "'assigned', as that which is ordained to man, in such a way that man

is delivered over to this and is ordered into it, and must abide in it, if his essence is to be in order.”¹⁷ The order of justice, though, is contentious: it is directly related to the common/measure (the unity of contraries) and has nothing to do with decree, assignment, ordainment, or predestination. Humans abide by dike, by the (common) ethos of their polis, which is what befits them because it is the proper measure, the law of common justice. “In concord with the orderliness of order or in discordance with it man can be *dikaios*, orderly or *adikos*, disorderly”.¹⁸ This is the essence of what I called earlier “accord”, the immanent arrangement of political order which is called dike because it indicates and constitutes the way to the abode/ethos of the polis.

Strife/conflict/*eris* functions as a major cause and definition of the human condition. *Eris* comes from the root *er-* which means “to rouse, to rise up, to set in motion” (compare “erethism”). The verb *erizein* means “to strive, to quarrel”; also “to rival, to vie with; to challenge, to contend”. The counterpart of *eris* is *eros* = love, passion, desire for a thing. The nature of *eris* (as well as *eros*) is double and socially ambivalent. Strife has two forms, the good one, which is worthy of praise, and the evil one, which is worthy of blame. *Dike* operates through either form, and this makes the movement of justice itself double (like the accounts/*logoi* which attempt to define and defend it), and sometimes even contradictory. The good strife is to be praised because it benefits people by inciting them to excel in their work. “We see here the ‘good’ *Eris* in her positive social function as the principle of competition, that fundamental aspect of most Hellenic institutions.”¹⁹ Burckhardt’s discovery of this principle, which Heidegger tried to reconcile with Winckelmann’s ideal of “serenity”, was a great source of inspiration for Nietzsche, who identified *eris* with contest. The *eros* of ambition and the *eris* over excellence bring about aristocratic ethics and the pursuit of merit/*arete*. However, the evil *eris* makes men fight each other and leads them to commit hubris. When people abandon the *agon* in their desire to be one and alone; when they refuse to participate in good *eris* because they want their superiority established forever, and therefore outside the contest, then they commit hubris, the worst crime, and are punished by *dike*, who restores the just order—the multiplicity of contending forces. It is the discord that undermines a balanced, widely accepted and perceived as fair distributing/apportioning (of roles and rules).

In the double nature and movement of conflict we see again that the opposed (aristo-cratic) categories strife/*eris*-solidarity/*philia* are complementary. *Polemos* is contention between former friends because strife erupts from within an alliance. This also explains the priority of friend over enemy. In the epic, strife disrupts a feast, a meal duly shared (by *philo* = people near and dear to each other). The name of the meal, *dais*, which means both portion and feast, comes from the verb *daiomai* = “to divide, to apportion, to allot”. What is challenged in this disruption is the prevailing accord—the established way of portioning out, the current holding of portions, “the formula which determines

one's lot and allocation"²⁰—*dike* as a norm. In general, strife rejects an allotment/*dike* (within a union) as unfair, and seeks a different, more just distribution; it divides because it demands a new division. Strife strikes in the name of justice. This strife over justice is *polemos*, contention as a creative force of judgment. Justice is the strife of becoming because it encompasses the *polemos* of just and unjust forces. (In addition, an understanding of *dike* that relates it to *polemos* sees justice as a total pattern that includes both crime and punishment.) Therefore, contrary to Schmitt's view that justice "does not belong to the concept of war", *polemos* is not alien to the forms and significations of *dike*. To say that contention is the ruler of all is to point out that everything is born out of the strife over fair apportioning. Division and antagonism are constitutive. The world (as viewed from the constitution of the civic body) is a cosmic contest/*agon* where the governing order of justice/*dike* (rather than any particular victor or ruler) prevails.

Thus the political may be prior to law, as Schmitt pointed out, but there exists a superior order that subsumes it. The distinct quality of the political that makes it such a pervasive force of power/freedom is that it is based on the distribution of *dike*. Therefore *dike* already inheres in the political. This brings us back to the task of ethics, which is the study of dwelling in the polis. This task can be described now with greater precision as an exploration of the interplay of reciprocity between just order and disorder, between *dike* and the political, between solidarity/*philia* and conflict/*eris*. This reciprocity is polemical (rather than dialectical). *Polemos* rules because it is discord-becoming-accord but never settling into concord. The polis is neither a settlement nor a territory. The object of ethics is political dwelling, the art of life in an abode where an accord about *polemos* has been reached and formalized under the overall structure of politics.

Politics is the governmental economy of *polemos*: it domesticates cosmic strife by regulating the political in a society. It puts the antagonistic contestation of authority in some order by instituting it socially. Thus politics is the formal institution of the political which channels its antagonistic, potentially anarchic elements from the pursuit of absolute domination into the exercises of government. It is what Cornelius Castoriadis would call the institution of "explicit power" in society. With politics, the political begins to acquire a tradition of its own. Politics is not, as it is sometimes carelessly claimed, everything: it is a particular social domain—the realm of governance, the dimension of explicit power. This crucial distinction is often forgotten in the modern era, which has been witnessing the politicization of almost all forms of social relations. The differentiation of public life into (bourgeois) society and (liberal) state, better known in Hannah Arendt's phrase "the rise of the social", has rendered the autonomous self-governing association of citizens extremely difficult. On the other hand, it is still uncertain whether social movements can be transformed into public ones (as opposed to autonomous publics), seeking not protest but sovereignty/*arche*. As Hegel argued, "sovereignty consists in the autonomy and

supremacy of political association over non-political practices, where this is achieved through a mode of ethical community distinguished by reflexivity and universality.”²¹ This community is the just state pursued by *Dikaio-polis*, the hero of *The Acharnians*. Even though they did not discuss the acropolitical constitution of the polis, both Schmitt and Castoriadis, from their entirely different perspectives, rightly saw politics as a separate domain—the system of political association fundamental to all other domains since it represents within society the political, its polemical foundation.

In itself, politics is not particularly interesting as a concept because it matters only as a specific social realm. It is not the overall institution of society (the undecidable openness of the political) but the closure and objectivity which establish and preserve explicit power relations. What is truly interesting is politics as governance, the conduct of rule in each society—namely, the practices of government prevailing in each polity/politeia (as opposed to the raw authority sought at the level of the political). It is a separate set of practices, of regulated activities, not a particular institution. Governance is not a question of creating laws but of disposing rules. Thus politics pertains to the definition and direction of the collectivity. It objectifies polemical strife into fight, quarrel, debate, dispute, and the like, depending on the political institution of each society. In all cases politics emerges when questions arise about the legitimacy of power, the grounds for authority. Politics provides such an institutional explanation, or better, exposition, of authority—it provides a set of norms of governance whose very regularity purports to make visible and plain why authority came to be the way it is (which in most cases means, why it is regulated according to certain norms).

In order to comprehend properly the realm of governance it is important to reconsider the meaning of the “art” that governmental rationality used to constitute before it became a “science” in the 18th century. “To govern” means “to exercise authority over” someone or something, but the semantic range of the practice is very wide: it includes “to rule, to administer, to control, to manage”. The central meanings, though, are “to guide” and “to direct”. This is confirmed by its ancient origin, the verb *kubernan*, “to steer, to act as helmsman or pilot, to drive”; metaphorically, “to guide, to govern”. Foucault had grasped this trajectory well when he described the exercise of power not in terms of ruling or oppressing but guiding and directing: “The exercise of power consists in guiding the possibility of conduct and putting in order the possible outcome. Basically power is less a confrontation between two adversaries or the linking of one to the other than a question of government. This word must be allowed the very broad meaning which it had in the sixteenth century. ‘Government’ did not refer only to political structures or to the management of states; rather, it designated the way in which the conduct of individuals or of groups might be directed: the government of children, of souls, of communities, of families, of the sick. It did not only cover the legitimately constituted forms of political or economic subjection, but also modes of action, more or less considered or calcu-

lated, which were destined to act upon the possibilities of action of other people. To govern, in this sense, is to structure the possible field of action of others. The relationship proper to power would not therefore be sought on the side of violence or of struggle, nor on that of voluntary linking (all of which can, at best, only be the instruments of power), but rather in the area of the singular mode of action, neither warlike nor juridical, which is government."²² We have already called the sphere of the governmental mode of action "politics".

V.

The strong interest of contemporary ethics in the political life is quite justifiable. John Rawls, for example, revised his initial understanding of his "theory of justice", presenting it as a contribution to political, rather than moral, philosophy. He also declared that the aim of political philosophy in a constitutional democracy is to propose "a political conception of justice", that is, a moral conception worked out for particular socio-political institutions, since no comprehensive (religious, philosophical or moral) conception of the good life can provide a generally recognized basis for a conception of justice in democracy. Ethics is rediscovering its indispensable political dimension and responsibility, especially the responsibility of freedom and decision (as opposed to style and dissent). Its main motivation has been the possibility of a just order in a world which does not defer to a redemptive future (a future promised by prophecy or history, revelation or revolution) for the fair apportioning of values but demands it here and now, and is presently divided, torn apart, by such demands. What is the kind of ethics that would provide a sufficient, if not comprehensive, account of the political life, striking a balance between the principles of justice and the requirements of governance, negotiating its peace with the double movement of *eris*? How can a polis endure its politics? Driven by its effort to move beyond the Hegelian view of society, a particular orientation in post-critical philosophy has been looking at Kantian morals and its practical, autonomous reason. This discussion, however, is repeatedly defeated by its eventual arrival at an aesthetic framework of values. It is the public sphere of taste and the market of artistic goods that provide the model for an enlightened life. Thus **this approach** can propose a politics based on the circulation of books and reviews, on the society of conversation and conversion, but it cannot recognize the polemical operations of the political, seeking instead solace in the promise of "perpetual peace".

Let us look at Rawls again. His political philosophy is derived from the public morality of rational deliberation and negotiation among private characters and interests. Its goal is to propose a moral code of contractual rules which can safely regulate the pursuit of private interests by differing individuals. His social vision is one of benevolent agreement and liberal ("overlapping") consent, where the damage of the disorder of the political is minimized. Order,

however, cannot be built on tolerance. Given its history as a religious principle, tolerance cannot operate beyond civil liberalism, the original politics of style and community. A political conception of justice must allow not only for a plurality of incommensurable pursuits but also for a conflict of interests. The central role of conflict/*eris*, antagonism, and power/*dynamis* must be openly acknowledged. State is stasis—how things stand in terms of their status and static. Political life is the agon that keeps reinventing the body politic—the contention of forces about what a polis should be. Justice cannot be reached through the mere rivalry of opinions. The governing order/*dike* acquires human value in the ethical transformation of polemos into agon, of power into polity/*politeia*, of the political into politics, of acropolis into polis. If ethics explores the dwelling in the polis, then its subject is not limited to morality but encompasses the supreme justice of the political “understood as collective participation in a public sphere where interests are confronted, conflicts sorted out, divisions exposed, confrontations staged, and in that way ... liberty is secured.”²³ In Foucault’s epigrammatic phrase: “Liberty is a *practice* ... The guarantee of freedom is freedom.”²⁴

An account of the political life more complex and productive than the Kantian return can be found in another orientation of contemporary philosophy, which may be called the Herodotean turn in analysis. Some of its aspects are better known as topics promoted by the school of cultural studies in current scholarship. Other aspects have become manifest in diverse philosophical as well as social and political trends. This new scholarly and intellectual orientation has a distinct Herodotean character in that it shares a surprising number of ideas with the project of the ancient writer, like his interest in the plurality of indigenous “histories”, in local custom as knowledge, in story-telling, in the experience of otherness, in a radical understanding of representation, in cultural geography, and in the ways traditions are constructed. Many writers today seem to use the “mirror of Herodotus” to examine both their subject and their own social position. The Herodotean turn in thought is, of course, much more related to broad developments in the geo-political world than to any explicit return to the historian.

Within the Herodotean turn we notice two main trends. The first concentrates on identity (sexual, ethnic, social, etc.) and subscribes to therapeutic politics, discussing such topics as selfhood, voice, and experience (with a strong preference for narratives of suffering). The other trend concentrates on discourse (again, sexual, ethnic, disciplinary, etc.) and subscribes to position politics, discussing such topics as hegemony, representation, reception, and collective imagining (with a strong preference for narratives of oppression). We might say, very schematically speaking, that the first trend deals more with (identity formation through) custom, while the second with (identity formation through) culture. They are obviously the two sides of the same coin, namely, post-critical ethnography. With its emphasis on local, indigenous, distinct, spe-

cific habits and habitats (*eibe*), most liberal arts scholarship has developed a remarkable array of ethnographic interests and approaches (and a correspondingly liberal attitude toward the toleration of differences). This expansive development is distinguished by a strong resistance to the totalizations of traditional human and social sciences, which sought to discover the essence of human phenomena. Instead, contemporary ethnography has the humbler, more partial aspiration (and sense of duty) to write (*graphein*) the ethnos, to record the collective distinctiveness of a particular abode. This aspiration to chronicle a community and its traditions in all their uniqueness makes ethnography today some kind of ethical enterprise, since it signals, across several disciplines, a renewed recognition of the importance of culture as abode/ethos, as both dwelling and conduct (as opposed to just another expression of the universal human mind, soul, or talent). Ethnography is exploration/*methodos* which openly acknowledges its ethical involvement with its object. At the same time, a comparison with the Herodotean project reveals a major dimension of ethnography lacking in its contemporary manifestation. As we saw earlier, the Herodotean turn has focused so far on custom and culture. The word for both (in Herodotus and many other authors) is *nomos*. The same word, however, has a third important meaning, “law as solemn usage”, which brings it very close to “type of government”, to “constitution”. Political law (as opposed to cultural custom) is not merely a matter of local tradition but of conscious design, founded on agoric scrutiny and agonistic debate. Although it often studies *nomos* as allotment (the setting of lots), ethnography lacks an interest in *nomos* as manner of constitution, an interest in the political conduct of authority—in short, politics as the realm of governance. The course/*odos* of ethnography today does not often lead to the site of the polis because the exploration of the abode stops at the study of *nomos* as cultural life alone. Humanist thought has identified itself with cultural studies because, despite its ethnographic turn, it is still committed to the view of culture advocated by critical thought, that is, culture as critique, as emancipatory practice, and therefore as counter-politics. Thus considerations of governance are by definition impossible, and approaches to justice reduce it to a question of rights. Instead, what so much ethnographic analysis favors is studies of community as identity, custom as resistance, otherness as authenticity.

The main reason for this neglect of governance and justice is that the supreme value attributed to culture over the last two centuries has always been the expressive difference of diversity—what Nietzsche called the “unity of style in all the expressions of the life of a people”.²⁵ The organic as well as moral advantage of this concept excludes ethical evaluation precisely because in this case ethnographic recognition (that is, acknowledgment of uniqueness) is assumed to place its object on higher moral ground. Thus the acropolis, the high ground of *dike eris* (justice), cannot be recorded, cannot be adequately written by present ethnography. Today we have theories of might and oppression but

not of authority/*kratos* or constitution/cosmos. *Kratos* does not denote mere or pure power but agonistic superiority, superior power earned in the major polemical occasions—the public contests of war and of the assembly. It is a relative term referring to “superiority in a trial of strength or skill”.²⁶ It involves all the (physical, spiritual, moral) characteristics of strength which confer political authority, especially the heroic quality to pass the test of a field of competing forces and become master. Schmitt was right in complaining that our understanding is still determined by conceptions of Romantic “immanence” and has forgotten the juristic ethical thinking of the Enlightenment or the arts of government that preceded it (e.g. the philosophies of authority proposed by Hobbes or Vico). We are still enthralled by the bourgeois ideal of the public sphere—either pursuing it (e.g. in tribal/ethnic articulations of community) or lamenting its demise. Ethnographic inquiries need a better focus: away from culture as organism, and difference as autonomy.

More recently, in reaction to Enlightenment universalism we have gone to the other extreme, celebrating separatism and cultivating story-telling as “weak thought”. The multiplication of “cultures” (tribal communities, territories, origins) is commonly attributed to the rise of the so-called “identity politics”—the use of social construction as a counter-essentialist strategy whereby the invention of style (that is, community status) serves to transform older (modernist) compensatory mechanisms into affirmative action. However, multiplicity is not a good in itself. Furthermore, explanation based on identity obscures the crucial transition from class struggle to minority wars and from mass to judicial power—in short, the preeminence that the language of rights and the site of the court acquired following the collapse of the revolutionary project. In light of this development, it is important to recognize in the history of “rights” their close connection with ideas of correctness and command. “In the essential realm of the ‘command’ belongs the Roman ‘law’, *ius* ... The command is the essential ground of domination and of *iustum*, as understood in Latin, the ‘to-be-in-the-right’ and ‘to have a right’. Accordingly, *iustitia* has a wholly different ground of essence than that of *dike*.”²⁷ In this sense, “justice” (from *iubeo* = “to command”) is the right command, the command that rightfully deserves obedience. What is right is what is decreed as straight, the line of the ruler and the regime directing from above, the regal control, the reign of the supreme direction. The language of rights applies to subjects, to people who are subject to a rule and seek power in terms of titles. Thus, when they demand “justice”, they pursue not *dike* but entitlement—the certainty of commands which include their justification, deserve obedience, and encourage not merit/*arete* but “righteousness”, the virtuosity of virtue/*arete*. “Justice” comes from above, from the regime of certainty. The search for rights (or of the rectitude of judgment) is the search for valid reasons, for grounds/territories of subjection. But comprehensive justice, justice for all, cannot be separate or weak. Neither can anomie be fought in the court of rights because the opposite of lawlessness/*anomia* is

not lawfulness (nomocracy) but either constitution/*nomos* or *dikaioσύνη* (fulfillment of *dike eris*).

VI.

We are now in a position to see *polemos* not as organized aggression or random violence but as the explosive, creative, political manifestation and operation of the governing order which turns chaos into cosmos. Through the agons of politics, through the exercise of government, through the political apportioning (as opposed to any custom or culture), people assemble and participate in this process by designing, deliberating their own rules of authority, their own laws, and defending them, together with the walls of their cities, against those threatening their abode/acropolis. This way of putting together a polis is best expressed by the verb “to institute” whose double meaning corresponds to that of its cognate “stasis”: “to set up” and “to start”, “to place” and “to introduce”, “to create” and “to initiate”. To institute is not to erect but to set in regulated motion, to organize a state/stasis, to change a society with the balance and dynamism of stasis. Instituting a polis is the indicated way/dike, the way which explicitly recognizes the institutive character of *dike eris*. It is based on the operations of the political principle, making authority and freedom, law and order, a matter of conscious, intense, agonistic scrutiny/*scopesis*.

An examination of *nomos* that would add the analysis of law/constitution to considerations of culture and custom would complete and strengthen the Herodotean turn of thought by restoring governance among the central topics of ethnography. We know how this integration operates in the *Histories*, where Herodotus weaves into his presentation of various Greek and non-Greek cultures indispensable elements of politics. It is precisely this innovation, the introduction of issues of governance, that made him the first (in the Greek language, at least) to move from geography to history. Herodotus is not telling stories—he is giving public edifying accounts/*logoi* about different peoples and their traditions, which include substantial considerations of the ways in which they institute explicit power and exercise authority/*kratos*. In his work, *logos* still retains its pre-Platonic meaning, local knowledge. Furthermore, it can make its modern borrowing, “law”, resonate with the meaning of their common root, **leg-* “to gather, to set in order”. Law is *logos*/account laid down—the order/regulation that prescribes by ruling authority. The effect of this broad understanding of *nomos* is to recover and honor at the basis of each human community the political as the operative principle which makes possible the transformation of *polemos* into *polis* through the recognition of the good *eris*, that is, creative and ordered antagonism.

By critically recording diverse kinds of *ethos* and *logos*, dwelling and knowing, practicing and instituting, Herodotus performs and offers, in a public demonstration/*apodeixis* (root **deik-* the same with “dike”), a comprehensive

exploration/methodos of investigation that can ably serve ethical thought. His performance itself is what Thucydides would later call dismissively a “competitive effort” (*agonisma*). I have called this method, this scrutiny/*scopesis*, “nomoscopy”. It is the method of public analysis and agonal judgment which serves ethical thought by investigating and supporting the order of dike, the just order, in any society which assembles itself through an explicit commitment to acropolitical contention, union/*philia* and freedom. We will understand the second component of nomo-scopy better after a brief comparison of *scopein* with another verb, *theorein*, which also has the general meaning “to view”. *Theorein* means “to view, to behold (especially with wonder, with astonishment); to inspect”. It is later applied to the mind and acquires the broader meanings “to contemplate, to consider; to judge, to compare; to speculate, to theorize”. An interesting derivative is the noun *theoros*, “the one who sees a vision (that is, something marvellous and astonishing)”, which refers to an emissary, an official delegate of a polis who is sent to consult the oracle, bring back the message, and deliver to the authorities the words of the god. Thus originally *theoria* is either the sending of envoys to the oracles or the sacred embassy itself. The *theoros* had special power because he both had access to an important, divine message and was the mediator between the oracle and his city. Officials were sometimes tempted to abuse this power and even seek tyranny. The privileged vision, the authoritarian access to revelation and interpretation, could lead to authoritarian rule. Another, egalitarian meaning of *theoros* refers to the spectator at the (always public) agon (be it theatre or game), the equal member of the assembly which reenacts, stages in dramatic representations its conflictual identity, the political at the heart of its politics. Finally, a later meaning of *theoros* refers to the one who travels to see people and things, to learn about the world, like Herodotus or the lawgiver Solon (or more recent examples like the 19th century travellers). This is the person who undertakes a journey abroad to broaden his vision and discovers wonder not in divine revelation (like that provided by the oracle) but in the first-hand exploration of, and engagement with, other worlds. In general, then, *theoria* is the marvelling gaze of the *theoros*, a broad view of wonderful things from the privileged perspective of the interpreter and the citizen-spectator. Husserl praised this perspective as the unpractical (disinterested and non-participatory) attitude of *thaumazein* which is gripped by the passion of pure world-view.

Scopeo has a comparable semantic range: it also means “to behold, to contemplate; to inspect, to consider”. The crucial difference is that, in contrast to *theoro*, it is used of particulars, rather than universals. This difference becomes clear in meanings like “to examine closely, to look into” or the later “to look out, to watch”. The root **spek-* means “to peer, to look carefully” (hence “to spy”); also “to see, to regard”. From this we get the noun *skope* or *skopia* = “lookout place, watch tower, observatory”. In general, it means a place at a certain height (often hill-top) from which one can be on the lookout. Thus we have

here again the sense of higher view but one that is committed to a particular task and purpose. Acropolis, for example, is a *skopia*. The noun later also means “spy” or “scout”. Another meaning, also related to the idea of targeting concentration, is “the mark or object on which one fixes the eye”, and metaphorically, “aim and end”, a now rare meaning of the English “scope”. The borrowing scope covers the same area, with meanings such as “outlook, purview, sweep or reach or sphere of observation or action.” Finally, the ending “scope” signifies an instrument for examination, while the ending “scopy” an examining.

Thus, in contrast to theory’s sense of broad view and privileged spectatorship (what Dewey called the spectator theory of knowledge), *scopesis* means close examination, specific scrutiny, consideration of the particular. *Scopesis*, like *abode/ethos*, like *polis*, like *account/logos*, like *prudence/phronesis*, is local knowledge consciously based not on contemplation but on perspective and on targeting concentration. Clausewitz calls it by the Idealistic term “*Kritik*” but otherwise provides an excellent description: “Tactics, according to Clausewitz, relate to the conduct of an engagement. Strategy looks to the *use* of the engagement. The instrument for judging such uses is *Kritik* ... *Kritik* is not dogma (*Lbere*). Nor is it theory ... *Kritik* moves simultaneously in two directions, down into the actual details of the engagement and up to the ever higher levels for judging that single clash. This rise to an ever higher *Standpunkt* is not an ascent into theory. Rather, it is the search for a vantage point from which to view larger *areas* of the actual. It does not desert particularity but takes in more of it. The metaphor ... is that of seeking ‘higher ground’ to see the army’s engagement in its total context. ... *Kritik* changes as it rises, and must therefore keep rising until no higher vantage point is reachable.”²⁸ The advantage of this description is that it places the felicitous comparison with theory in the context of *polemos*, in the specific environment of the engagement. While theory/observation descends from the mountain in order to deliver the special message to which only the theorist has access, *scopesis*/examination seeks higher ground in order to examine the engagement in all its particularity. *Scopesis* is the view from the acropolis, the political experience of *polemos*, the ethical approach to contention. Indeed, an important lesson of *polemos* is the impossibility of an a priori, universal theory of contention. *Scopesis* deals with the specific and the particular. Nomoscopy therefore is itself preparation for and engagement in stasis and contention, since engagement is the only course/odos of the political.

The exact scope of nomoscopy is *polity/politeia*, not politics, as indicated in the apt subtitle of the Platonic *Politeia*/Republic: *Peri dikaiou*—*politikos*, Of Justice—a Political [Dialogue]. As a political approach and an ethical exploration, nomoscopy examines government closely and contributes to the life of the polis the logos of justice. If thought today needs direction, we should derive criticism not from the modern sense of “crisis” but from “criterion”: criticism ought to be the definition and defence of criteria. *Krinein* comes from a root

referring to acts of distinguishing and discriminating, and means “to decide a contest, to judge”. *Criterion* is the standard of judging, the standing measure and test. Thus criticism is the use of standards (tests and measures of merit/*arete* and superiority/*kratos*) to judge contests. It is not the correct use of reason (Latin *ratio* = rectitude, correctness), of the faculty of self-assured judgment and adequate justification (critique), of the approximation and validation of truth. Rawls indirectly recognized this when he identified his standard of justice as fairness—a conception that is practical, situated, and political (and not metaphysical, universalist, and epistemological). Similarly, a nomoscopic conception of justice is based not on a theory of human nature but on an ideal of the governing order proper for a particular socio-political community—the one assembled in/by the civic ethos of the polis.

Nomoscopy examines the conduct of rule, the system and conduct of government prevailing in a society. Nomoscopic thought defends the integrity of constitutional rule by examining how existing codes, values, norms, and institutions govern and by initiating/instituting new ones. In Castoriadis’ plain words, it raises the question: “Which are the laws we ought to make?”²⁹ Its goal is to contribute to the formation of a system of government that is more representative of its society—to contribute to government the logos of political justice. Furthermore, it provides the proper skills for dealing with accounts/*logoi* of investigations/*istories*, and especially the just logos of things, the *orthos*/straight ahead (along the way of the view/scope and prospect toward the acropolis/*skopia*) logos which allows dike (that is, cosmos-begetting eris) to govern. Dike (that is, the agonistic ethos of the political order) is the supreme virtue of a polis, the cardinal principle of the instituting force of the political. Nomoscopy contributes to the political common (good and measure) the logos of justice (not the rule of law) by examining the specific conditions and criteria of dike, of order/contention, of polis/polemos. The responsibility of nomoscopy is judgment. It makes sure that the voice of justice is heard in the conduct of government so that the ethical character of agonistic dwelling (which defines and defends an acropolis) may be preserved and renewed.

The principle of justice is dike. Justice as dike (rather than *nomos* or morality), as an ethico-political ideal, judges agons, orders antagonisms, and turns polemical chaos into cosmos not by resolving it but by pointing out the question of limits, the danger of hubris, the standard/criterion of common measure. In the ongoing mutual provocation between power and freedom justice needs to retain its supreme authority by refusing to take sides and firmly holding the scales: “In truth, no one has a greater claim to our veneration than he who possesses the drive to and strength for justice. For the highest and rarest virtues are united and concealed in justice as in an unfathomable ocean that receives streams and rivers from all sides and takes them into itself. The hand of the just man who is empowered to judge no longer trembles when it holds the scales ... for he desires truth, not as cold, ineffectual knowledge, but as a regulating and punishing judge.”³⁰ Higher than the will to power stands the will to judge, the

will to defend what is right, what is ethical, what is collectively debated and instituted, what is common. “Only in so far as the truthful man possesses the unconditional will to justice is there anything great in that striving for truth which is everywhere so thoughtlessly glorified ... The truth is that few serve truth because few possess the pure will to justice, and of these few only a few also possess the strength actually to be just.”³¹ The strength to be just is the determination to go to the war of judgments to defend the political constitution of one’s self-governing ethos.

Notes

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