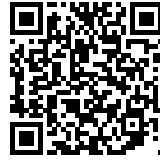




WHAT IS DICTATORSHIP?

Posted on September 1, 2023 by Jerónimo Molina Cano



In politics, whether we know it or not, we are always fighting against an enemy, whether stationed on our borders or camouflaged within the city. But there is also another form of enmity, much more subtle than the one that bubbles at ground level, incarnated by men who have an ideology or a culture, perhaps a religion or a barbaric anthropology, incompatible with our own. It is the enmity derived from political concepts, polemically handled and exploited against the "moral element," the criterion by which the true capacity of resistance to the hostility and offenses of the enemy is measured.

What I want to say, now by way of example, is that certain assumed definitions, transformed into taboos, enervate the will, having previously worked the intelligence by "brainwashing," an expression that, suspiciously, has ceased to be used at a time when political pedagogy is dedicated only to that. Some pontificate on the benefits of ethnic, religious and cultural pluralism—the pluralism of values, in short—and others suffer its consequences: loss of cultural identity, social conflict, babelization. Nor is it strange that the same people who praise "miscegenation"—vaguely in the legal system, but with more determination in public universities and in the Press and Propaganda Section of the mass media—then maintain that races (or cultures) do not exist. It has also become normal for the zealots of "defensive" pan-Melanism—Black Lives Matter is not new, it was previously invented in the 1920s—to promote as just and necessary an anti-white racism and to demand that we finance our own re-education.

War, even in its current "pacifist" variants, takes place in space, that is to say, on the earth, because to control it and to reasonably order life on it is the primary object of politics. The much more decisive and brutal quarrels over concepts are settled in time. The struggle for the meaning of words, for the "story" that obsesses all modern princely counselors—today called "political analysts" or "advisors," young people with no experience of life, generally coming, as Jules Monnerot used to say, from an educational system dedicated to "the mass production of artificial cretins": as opposed to those who are so by a natural disposition; those who flourish massively today are "cultivated cretins, like a certain type of pearl." Once the political logos and dictionary have been colonized, that is, the national "political imaginary," any capacity for resistance is radically diminished. Then, and only then, the defeat of the external or internal enemy can be presented as a victory or a political and cultural "homologation" with the executioners. Indeed, a few days ago we in Spain spoke, with a sense of opportunity, of the "afrancesados," Spanish archetype of a colonized political imaginary.

It is therefore necessary, in a certain sense, to "decolonize the imaginary" and give back to political concepts their precise meaning, which is neither invented nor developed in a Think Tank, but is part, however modest its aliquot, of the truth of politics. It is necessary, in order to know where we stand. I do

not know if "political realism" has a specific mission; perhaps, some would say, the elaboration of a "decalogue" or program that can be implemented by a political party, a faction or a movement, but I do know that its *raison d'être* lies in the demystification of political thought. One of the concepts that needs this mental cleansing is "dictatorship," a frightening notion about which the greatest confusion reigns—a self-interested Confusionism, exploited by those aspiring to power, presenting their rivals as vulgar supporters of authoritarian regimes and themselves as "democrats"—as if that term had a precise meaning beyond the mental tropisms that adorn the demo-liberal right.

Everything conspires against the reputation of political demystifiers. However, writing about the war-phenomenon does not presuppose a bellicose personality; probably only a meek man can write a theory or a sociology of war. A theory of decision... an indecisive one. And a theory of dictatorship is perhaps only within the reach of someone incapable of exercising it.

It is not easy to look "dictatorship" in the face, a highly inflammable political concept that gravitates over particularly intense political situations and which is entangled with legislation of exception, states of necessity and coups d'état. People believe that a dictatorship is what the "anti-Franco vulgate" teaches, but they do not lose sleep over a government that can illegally shut down Parliament and deprive the whole nation of freedom of movement. Anti-parliamentarism has many forms and those of today are nothing like those of a century ago. It would be very interesting to write a palingenesis of dictatorship, for it is periodically reborn and its singularity should be recognized. To turn one's back on its reality is to culpably ignore the momentary concentration of power, a reality that happens outside our moral or ideological prejudices, independently of our will. Not knowing what it consists of compromises our position vis-à-vis the enemy who does know what it is and how to use it.

Dictatorship is a fundamental institution of Roman public law. It consists of a lifting or suspension of the juridical barriers in order that the dictator, generally *pro tempore*, faces the exceptional political situation (sedition, civil war, foreign invasion) and restores the public tranquility to the city. Once restored the order or expired the foreseen period, the extraordinary powers of the dictator are cancelled, whose prototype is Cincinnatus. But there are also in Roman history examples of dictators of undefined undertaking (Sila) and those lifelong (Caesar), even *omnimodo* or, as we would say today, constituent (*lex de imperio vespasiani*).

Roman pragmatism had grasped the political essence of dictatorship: it is a concentration or intensification of power that opposes the pernicious effect of the impotence of the established power,

besieged by the enemy, generally internal. From a conceptual point of view, it is not strictly speaking a "political regime," but a "political situation," transitory by definition. Any manifestation of power always generates criticism from rival parties or factions, but in a particularly intense way criticism is aroused by dictatorship, secularly associated with the personal usufruct of command.

Every dictatorship constitutes a political fact, imperfectly subjected to a legal status. Jean Bodin's notion of sovereignty is, in this sense, the attempt to make normative a particularly intense moment of command. Such is the glory of Bodin and of the French legists of the 16th century.

During the 19th century, dictatorship gradually lost all its former respectability, as a consequence of the generalization of a new juridical ideology: constitutionalism. Liberal historiography, in its fight against the "enemy," the absolute monarchies, reworked the classical political tradition and generalized the denigration of the dictatorial institution, arbitrarily associated with tyranny and despotism.

However, the constitutional movement has always recognized, implicitly, that political necessity knows no law when it modulates states of exception, siege and war, denominations which push dictatorship into the background. Dictatorship became a political taboo after the coup of Louis Napoléon (December 2, 1851), the most important coup of the 19th century. But the technical meaning of dictatorship remained and developed in the constitutional states of exception. For the first time, the *raison d'être* of the classic dictatorship was legally enunciated, but without mentioning it by name: the suspension of law to allow its subsistence. Otherwise, liberalism, which at the time was never, to a certain extent, a "neutral and agnostic" doctrinarism—a legend spread by conservative illiberalism—would never have built the prepotent European nation-states.

Dictatorship formally denies the rule it wants to ensure materially, a doctrine established by Carl Schmitt in his research on the evolution of the institution: *Dictatorship* (1921), a book of conceptual history, diaphanous and without equivocation, whose non-readers (a very interesting intellectual fauna) figure, against all odds, that it is an apology for Nazism. According to the German jurist, "the essence of dictatorship from the point of view of the philosophy of law consists in the general possibility of separating the norms of law and the norms of the realization of law." At the same time, dictatorship also implies an effective suppression of the division or separation of powers. Schmitt, being in need of the necessary conceptual demarcation as a jurist, contrasts commissariat dictatorship with constituent dictatorship, categories currently received in the healthiest part of the theory of the State and constitutional theory. Jean-Jacques Rousseau's doctrine of the general will plays a crucial role in the

transition from one to the other.

Hermann Heller, a brilliant jurist, like Carl Schmitt, politicized by his leftist militancy and also committed to national socialism—but the opposite side of the other national socialism—was equally concerned about legal taxonomies. Less perspicacious than his colleague, rival and friend when political or juridical realism (concepts) come into conflict with ideology (positions), for Heller, dictatorship, condemned en bloc, is nothing more than a personalistic and corrupt government ("individuality without law") opposed to the rule of law ("law without individuality"); in short, "a political regime manifestation of anarchy." Simplifying a lot, this is the idea of dictatorship generalized among constitutionalists since 1945, the heyday of the "Potsdam democracies." Carlos Ollero Gómez explained very effectively the constitutional "archaism" that weighed down these regimes.

The commissariat type of dictatorship, an updated formula, at the beginning of the 20th century, of the Roman dictatorship, presupposes a prior mandate or commission, spontaneous (royal call or invitation of a parliament or national assembly to assume extraordinary powers), or forced (pronunciamiento, coup d'état). The commissioned dictator's mission is to restore the violated constitutional order without going outside the constitution or questioning its essential decisions (form of government). A good example of this is the Spanish dictatorship of Miguel Primo de Rivera, the "iron surgeon" expected by all. Have political and legal historians ever stopped to think why dictatorship got such a good press after World War I? They should read more Boris Mirkin-Guetzévitch, for example, a left-liberal constitutionalist, and think less about the [ANECA](#), cancer of the Spanish university.

Sovereign dictatorship, on the other hand, pursues the establishment of a new political order, using for this purpose a power without legal limitations and operating as a constituent power. Charles de Gaulle in 1958 (dictator ad tempus). This type of dictatorship is associated in the 20th century with totalitarian regimes (total states and popular democracies), while the commissariat dictatorship falls more into the field of authoritarian regimes (Boulangism, authoritarian states and, however bizarre the term may sound, "Catholic dictatorships"). The possible effects of revolution having been limited by the experience of the Paris Commune, the lessons of which led to a turning point in insurrectionary techniques, the alternative to violent subversion is from then on the surgical coup d'état or legal revolution.

In its modern (Baroque) meaning, coups d'état are "audacious and extraordinary actions that princes are forced to undertake, against common law, in difficult and desperate affairs, relativizing the established

order and legal formulas and subordinating the interest of individuals to the public good." Thus speaks, in a secret book, Gabriel Naudé, so mistreated by political ignorance. Naudé, a librarian by profession and a harmless spirit, considers coups legitimate and defensive. Their usefulness depends on the prudence of the prince and, above all, on his ability to anticipate, for "the execution always precedes the sentence": thus "the coup is received by the one who weighs to give it." The reputation of a coup d'état depends on those who exploit it: it will be beneficial if it is carried out by friends or allies (*salus populi suprema lex esto*) and disturbing if it is plotted by enemies (violation of the constitution, counter-coup). Judgment thus depends on the relative position of the observer and his commitments and objectives.

The contemporary sequel to Naudé's *Considerations politiques sur les coups d'Etat* (*Political Considerations on Coups d'Etat*), (1639), is Curzio Malaparte's *Tecnica Del Golpe De Estado* (*Technique of the Coup d'Etat*), (1931). Malaparte, on whom the opprobrium of the right and the left falls indiscriminately, discusses the nature of coups in order to teach how to defeat them with a paralyzing "counter-coup" (*coup d'arrêt*) and defend the State.

Triumphs like Mussolini's March on Rome (1922), wrapped in an aura of political romanticism, may never happen again... in the same way. After World War II the general impression was that the coup d'état is an infertile technique. All the more reason why, because of its congenital romanticism, the pronunciamiento can no longer have any effect. From all this we can only expect, as the theoretician of the State Jesús F. Fueyo used to say, an "acceleration of disorder."

The violence of the coup is logically unacceptable to public opinion in pluralist constitutional regimes. However, that same "public opinion," by inadvertence or by seduction, can willingly accept what Malaparte calls a "parliamentary coup," in the style of the one executed by Napoleon Bonaparte on the 18th Brumaire (1799). Carl Schmitt calls it "legal revolution" in a famous article of 1977, written against the non-violent and electoral strategy of the Western communist parties (the Eurocommunism of Santiago Carrillo, a senile disease of Marxism-Leninism, a political religion then beginning to decline, although they, the Western communists, do not yet know it). In reality, the same result can be reached without going through the "legal revolution." For this, it is necessary to count on the artful political strategy of occupying the constitutional courts—much more than a "negative legislator"—to turn them into the architects of an unnamed constitutional mutation, the greatest danger for the constitutions they are supposed to defend.

But it was not these communists, neither the Soviets nor those of the West, but Adolf Hitler, who, almost half a century before the publication of Eurocommunism and the State, set up the leverage to build a constituent dictatorship with totalitarian roots. Unlike dictatorships of the other species, the authoritarian, the totalitarian dictatorship pretends to have a mission not only political, but also moral, even religious: to give birth to the new man—Bolshevik, Aryan or Khmer Rouge—by disenfranchising the old.

The futility of the Munich coup of 1923 instructed Hitler on the tactical convenience of the electoral struggle and the possibility of legally attaining power in order to activate from the government the de facto abrogation of the constitution. It is a matter of exploiting the "legality premium" to revoke legitimacy. It is precisely against this process of constitutional subversion that Carl Schmitt warned, once again the Cassandra, in the summer of 1932.

The history of the Weimar system is well known and its last gasps have a name: the Authorization Law or *Ermächtigungsgesetz* (1933), a bridging constitution that suspended and emptied the Weimar constitution of content, opening the door to a constituent (totalitarian) dictatorship that ended up becoming a political oxymoron: a permanent regime of exception.

One of these bridge-constitutions, the Law for Political Reform of 1977, also served as a fuse for the "controlled explosion"—as it was called during [the Transition](#)—of the regime of the Fundamental Laws. The truth is that in Spain no one was fooled at that time; or, to be more exact, only those who allowed themselves to be fooled were fooled: "From the law to the law, passing through the law." It portrays a generation of constitutionalists that no one has dealt with that bridging constitution. In reality, these jurists have powerful reasons to avoid it, since in very few European constitutional processes its character of supreme political decision is so evident, beyond the Kelsenian supercherries and fictions about the Grundnorm or fundamental normal on which everything hypothetically depends. Another fantastic exception to constitutional normativism is found in De Gaulle, playing, for the love of France, the Solon of the Fifth Republic.

The same school as the German National Socialist law of 1933 has held the Hispanic American populism since the end of the 1990s. The case of Hugo Chavez is a paradigm that transcends Venezuelan politics: from the failure of his 1992 "coup d'état" to the success of the "legal revolution" that began with his victory in the 1998 presidential elections and his famous oath of investiture on "the dying constitution" by virtue of which he had been elected.

The politically neutralized constitutionalist has no answer to this political challenge exported to almost all Latin American republics. He is paralyzed by the paradox. It is the ankylosis of Karlsruhe.

Jerónimo Molina Cano is a jurist, historian of political and legal ideas, translator [and author](#). He is a corresponding member of the Real Academia de Ciencias Morales y Políticas in Madrid. This article appears through the kind courtesy of [La gaceta de la Iberosfera](#).

Featured: *Cincinato abandona el arado para dictar leyes a Roma (Cincinnatus Leaves the Plough to Dictate Laws to Rome)*, by Juan Antonio Ribera; painted ca. 1806.
