



## *Justice after the Law:* **Paul of Tarsus and the People of Come**

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**Abstract:** This is a commentary on “The Liberatory Event of Paul Tarsus” by Enrique Dussel (2009), a part of the third volume of Dussel’s *Politics of Liberation*. The article’s author seeks to show how Dussel reads Paul in a dialectical way, in what we can call a *prismatic hermeneutical* way, namely, first by attending to the *Sitz im Leben*, the historical-interpretative, context in which Paul produced his own texts, and how that existential and historical situation continues to disrupt the Pauline texts; second, by attending to ways in which this *Sitz im Leben*, has been excluded, concealed and negated when appropriating Paul’s texts; third, by reading Paul against our own contemporary problems and questions. It is by reading Paul against and through his *Sitz im Leben*, the author argues that Dussel is able to show how there are in Paul’s letters a series of “critical categories”—to use the expression he uses in our text (Dussel 2009:115)—that can and must be recovered for the sake of a critical, liberatory political philosophy. In a third and final part, the author turns to Dussel’s reading of Agamben, as is articulated in the text before us, in order to show that while Agamben is closer to Dussel than Dussel himself is willing to acknowledge, Agamben falls short of what Dussel’s prismatic hermeneutics accomplishes—namely to show the way in which Paul can indeed be read in a philosophical-political way that does not retreat behind to a political-theological reading that closes off both Paul as a “sacred” text to innovative readings, nor closes off our political reality to a religious critique. The philosophical-political reading of a religious text can yield a religious critique of fetishized political institutions and ways of thinking that in turn may generate new critical categories. A philosophical-political reading of sacred texts may also yield a political-economic critique, as Marx so eloquently illustrated (see Dussel 2007 [1993]).

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### **I. ON PRISMATIC HERMENEUTICS: HOW TO READ SACRED TEXTS IN ORDER TO SAVE THEM**

The text before us “The Liberatory Event of Paul of Tarsus” (Dussel 2009) is

part of a large project, the third volume of a *Politics of Liberation*, of which two have already appeared.

Volume one presented what is surely the first ‘critical’ world history of political philosophy. It is ‘critical’ because it places itself beyond the constitutive myths that

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have guided the production of histories of political philosophy and the very thinking of the political in the 'West.' In his prologue to volume one of the *Politics of Liberation* (2007), Dussel enumerates seven conceptual limitations that have hobbled and blinded contemporary political philosophy: first, Hellenocentrism; second, Occidentalism; third, Eurocentrism; fourth, a self-serving periodization of world history that skews the perception of history in favor of the formation of Europe; fifth, an obfuscating secularism that distorts the role of religion in the emergence of modern societies, be they Western or non-Western; sixth, the occlusion and negation of the theoretical, philosophical and conceptual contributions that non-Western societies have made to the evolution of both political institutions and their theoretical conceptualization and understanding; seventh, the devaluing and suppression of the pivotal role that the discovery of the New World had in the emergence of the modern world, and in tandem, the devaluing of the contributions produced in the Americas to modern political thought (see my foreword to Dussel 2008 for further discussion).

This entire first volume, as well as the entire trilogy that makes up *Politics of Liberation*, is not simply a critique. It is also a positive contribution to the writing of a different kind of the history of political philosophy that departs from a different locus than that enabled by those seven blinders, limitations, ideological distortions. In this *critical world history* we can encounter the well known figures in the history of Western political thinking: Hobbes, Locke, Machiavelli, Schmitt, Rawls, Habermas, but also a whole series of figures that have been as important, even if they have been neglected, at best, and entirely ignored, at worst: Ginés de Sepúlveda, Bartolomé de las Casas, Francisco de Vitoria, Felipe Guamán Poma de Ayala. This history culminates with the presentation of a history of political thought in Latin American in five periods, from the

Western "State of the Indies," through the colony, the early modern period, the period of "first Emancipation," the development of the new institutions and the emergence of the modern state, to the failure of the postcolonial state before the challenge of neo-imperialism. This history, thus, is a work that is suffused by prodigious generosity that is only matched by its critical reflexivity that prevents it from retreating to the safe theoretical bunkers of received ideological chronologies and self-serving histories.

For the moment, I want to foreground Dussel's critique of "secularism" as an ideological formation that has distorted the evolution of political thought in and outside the West. Even as *sui generis* as Dussel is among Latin American philosophers, he is part of a cohort of thinkers who have contributed to one of Latin America's most creative and generative religious and intellectual traditions, namely liberation theology. Dussel has contributed to the development of this tradition as a historian, as a philosopher, and as Marxologist of the first order. At the center of this movement, for it was and remains a social movement both within and outside the Catholic church, is the imperative to develop a religious critique of political systems of oppression while also developing a political critique of religion. Liberation theology means both the liberation of religious thinking and the religious thinking of liberation.

The religious critique of the world, about which the young Karl Marx wrote, was turned by liberation theologians into the theological, political and economic critique of neocolonial and neo-imperialistic servant states that pushed their military boots on the faces of the Latin American people. It would be a major mistake to think of Dussel's *oeuvre* as an appendage or extension of the liberation theology's corpus. But it would also be mistake not to see how that tradition and work has shaped some of Dussel's own orientations and problems. One of those is precisely the problem of how to ap-

proach the biblical texts that are source of the Christian faith. Secularism, as an ideology, is a way to cordon off, to isolate, to immunize Christian foundational texts from new, generative, transformative appropriation, and above all to render them ahistorical, or transhistorical. Secularism dehistoricizes the religious appropriation of sacred texts, and in this way, it also dehistoricizes the faith. By de-historizing the faith, the Christian doctrine, it closes off the future.

Secularism severs the umbilical cord that links a religious outlook, practice and form of life from its sacred texts. At the same time, secularism dissimulates and camouflages the ways in which these texts remain determining for the Western world. For this reason, to overcome secularism, to demystify its mythologies, means to approach the religious aspects of any culture in terms of its religious vitality, in terms of the ways in which "sacred" texts remain operative, generative, nourishing of that culture, while also recognizing the historicity of those very "sacred" texts. It may be said, then, that to overcome secularism is to be on the side of secularization, if by this latter term we understand a social, historical process that both secures and translates the religious meanings of a sacred corpus. It is secularization that has allowed the very preservation, protection and empowerment of sacred traditions, not against these very traditions, but for their own sake. If secularism may be conceived as anathema of religion, secularization may be thought as religion's offspring and protector; for it is secularization that shelters, while also empowering, the sources of a religious outlook. This is made most evident when we recognize that secularization is unleashed by the very relationship a faith or confession has to its texts and religious practices. Secularization is but the name of the process by which a religious tradition relates to its sources, its "sacred" texts.

Now, a "sacred" text becomes one, or rather it is so canonized, because it is thought

to contribute to the elucidation of a faith's core vision. A religious experience is always a hermeneutical circle—there are no religious events, brute facts of revelation, or sacred happenings. There is always the exegesis and interpretation in light of what a community takes to be its faith, its belief, its proclamation, its confession. A "sacred" text, in other words, is never found as a sacred text; rather, it is so interpreted. A "sacred" text is always already an interpreted text. Every "sacred" text is the remnant of a series of interpretative practices. As a product of interpretative practices, "sacred" texts are always being read in different ways, from different angles, with different aims and finalities in mind. A "sacred" text is thus always already a sacred text, that is, one that begs to be read differently precisely because it is the product of a plurality of interpretative enactments. In other words, a "sacred" text is one that is always de-sacralizing itself so that it can remain "sacred."

A sacred text is thus a prismatic text—a refracted and refracting text. Sacred texts are the history of their production as "sacred" texts and history of their reception as "sacred." If, as the famous saying goes, the Western philosophy is one long footnote to Plato, then we could say that Christianity is one long history of the appropriation of "sacred" texts into sacred texts. Evidently, this applies *mutatis mutandis* to other faiths, even if they are not grounded on a book, or group of books. Even oral traditions are caught in this hermeneutical circle of the production of the religious text through acts of interpretation. I take it that it is from the standpoint of the critique of secularism, for the sake of secularization, that Dussel is engaging Paul of Tarsus. Indeed, the history of Christianity is the history of the different ways in which Paul the Apostle has been read, not just by Christians, but by many others as well (secular Christians, Jews, non-non-Christians, non-non-Jews).

In the following I want to show how Dussel reads Paul in a dialectical way, in

what we can call a *prismatic hermeneutical* way, namely, first by attending to the *Sitz im Leben*, the historical-interpretative, context in which Paul produced his own texts, and how that existential and historical situation continues to disrupt the Pauline texts; second, by attending to ways in which this *Sitz im Leben*, has been excluded, concealed and negated when appropriating Paul's texts; third, by reading Paul against our own contemporary problems and questions. It is by reading Paul against and through his *Sitz im Leben*, I argue, that Dussel is able to show how there are in Paul's letters a series of "critical categories"—to use the expression he uses in our text (Dussel 2009:115)—that can and must be recovered for the sake of a critical, liberatory political philosophy. In a third and final part, I will turn to Dussel's reading of Agamben, as is articulated in the text before us, in order to show that while Agamben is closer to Dussel than Dussel himself is willing to acknowledge, Agamben falls short of what Dussel's prismatic hermeneutics accomplishes—namely to show the way in which Paul can indeed be read in a philosophical-political way that does not retreat behind to a political-theological reading that closes off both Paul as a "sacred" text to innovative readings, nor closes off our political reality to a religious critique. The philosophical-political reading of a religious text can yield a religious critique of fetishized political institutions and ways of thinking that in turn may generate new critical categories. A philosophical-political reading of sacred texts may also yield a political-economic critique, as Marx so eloquently illustrated (see Dussel 2007 [1993]).

## II. THE PARADOX OF PAUL: THE CRITICAL CONSENSUS OF A PEOPLE DIVIDED AGAINST ITSELF

Paul is a paradox, one that may reveal the truth of Christianity. Nietzsche's juxta-

position of Paul against Jesus articulates this paradox, but in the negative. Nietzsche's animus, diatribe, vile against Paul in his infamous *The Anti-Christ*, summarizes but also potentiates a whole interpretative tradition that thinks of Paul as the Jew that betrayed Jesus, the Jew that gave us the Catholic Church (Nietzsche 2005 [1888]). Nietzsche's Paul is the expression of exasperation with a paradox: Paul.

Paul's own letters, as well as the *Acts of the Apostles*, offer us ample material to sketch this paradox. For instance, in *Philippians 3* we have Paul's own candid autobiography: "...circumcised on the eighth day, of the people of Israel, of the tribe of Benjamin, a Hebrew born of Hebrews; as to the law a Pharisee, as to zeal a persecutor of the church, as to righteousness under the law blameless."<sup>1</sup> This zeal to be a persecutor of the church is repeated in other places in Paul's letter, but also in the *Acts 8*, where it is written: "But Saul was ravaging the church, and entering house after house, he dragged off men and women and committed them to prison" (*Acts 8.3*). In *Galatians 1.13* we have Paul's description of this zealotry in the following terms: "For you have heard of my former life in Judaism, how I persecuted the church of God violently and tried to destroy it; and I advance in Judaism beyond my own age among my people, so extremely zealous was I for the tradition of my fathers."

We could synoptically write that Paul or Saul of Tarsus came from the Jewish tribe of Benjamin, had been circumcised on the eighth day in accordance with Jewish tradition, and after a strict orthodox Jewish upbringing had joined the sect of the Pharisees. This means that Paul had been trained in the interpretation of the Jewish law and the Hebrew sacred texts. He thus knew Hebrew and very likely Aramaic. Additionally, born in Tarsus, capital of the Roman province of

1. When quoting from the New Testament, Paul and Acts, I am using *The New Oxford Annotated Bible with Apocrypha*, expanded edition of the Revised Standard Version (New York: Oxford University Press, 1973).

Cilicia, meant that Paul was a Roman citizen by birth, even if he later confesses to having bought Roman citizenship (*Acts*, 22.28-29). As Hans Küng put it, profiling the young Paul: "So we must imagine the young Paul as a reflective, deeply serious Pharisee of strict observance, influenced by contemporary Jewish apocalyptic, zealous for the law and the preservation of the traditions of the fathers. He was born probably at almost the same time as Jesus, but grew up in a Hellenistic environment in which Greek was the everyday language and therefore was his mother tongue" (Küng 2006:19).

Paul, very importantly, was not one of Jesus' direct apostles. He did not know Jesus in the flesh; nor was he directly related to any of the apostles who were charged by Jesus to bring the gospel to the world. As Paul confesses in *Galatians* 1.11: "For I would have you know, brethren, that the gospel which was preached by me is not man's gospel. For I did not receive it from man, nor was I taught it, but it came through a revelation of Jesus Christ." And then he adds after confessing his will to destroy the Church of God, "But when he who has set me apart before I was born, and had called me through his grace, was pleased to reveal his Son for me, in order that I might preach him among Gentiles, I did not confer with flesh and blood, nor did I go to Jerusalem to those who were apostles before me, but I went away to Arabia; and again I returned to Damascus." In *Acts* 9 we have the narrative of Paul's conversion, but also the confirmation that he was feared in the Christian communities because he was infamous for his zealous pursuit of the apostles and Christians. In fact, Anani'as responds to God's call to come to Saul thus: "Lord, I have heard from many about this man, how much evil he has done to thy saints at Jerusalem; and here he has authority from the chief priest to bind all who call upon thy name" (*Acts* 9.13—compare with *Acts* 22.1-22). The paradox of Paul, then, is that of a devout, doctrinaire Jew, a Pharisee, who becomes an apostle to the

gentiles through revelation and conversion. Küng expressed this paradox in the following way: "Did he ever give up his Jewish faith? That is the question for Jews. And did he really understand Jesus of Nazareth rightly, or did he make something else of him? This is the question for Christians" (Küng 2006:17).

Whether Paul was either too much or too little Jewish or Christian is of relevance to Jews and Christian alike, but it is also to all those who are addressed as gentiles. It is from this paradox, this too much or too little, that Christian universalism is elucidated. But, just as importantly, it is from the standpoint of a devoutly, even zealous, observant of the law, a Pharisee, that we get the paradox of one who abolishes the law through its observance. The law as such is not negated by Paul, but is revealed to be burdened with what Franz Hinkelammert has called "a curse" (Hinkelammert, 1998, 35). While Jesus critiques the law through his actions (such as, healing on the Sabbath, failing to condemn in accordance with the law), it is Paul who announces that the law is subordinate to the life of the community. The law is for life, not life for the law. Hinkelammert has eloquently articulated the paradox of Christianity's critique of the law as is articulated in Jesus and Paul's preaching:

Law is necessary for living. It consists in ceasing to treat the law as given for life. In legalistic terms, law destroys the human being when it eliminates human life as its source of discernment and reflexivity of law. This legalistic law is criticized by Jesus, which is followed in very faithful terms by Paul's critique of the law. According to Paul, a curse weighs over the law, which appears only when salvation is sought through the observance of the law. This curse makes the law kill. Law is violent, and behind the law threatens sin. It destroys the

human being and turns him into the great lie according to which the law saves as law of legalistic fulfillment. For this reason, when fulfilling the law an injustice is performed, and injustice is not itself the transgression of a law. Injustice is committed fulfilling the law. (Hinkelammert 1998:35)

Hinkelammert, Dussel, and Agamben coincide in focusing on this revolutionary, liberating, critical dimension of Paul's work, namely in seeing him as a critic of a legality that becomes necrophilic, but not so as to renounce the law, but to affirm the power of the law, so long as this never ceases to be guided by what Hinkelammert calls the source of its discernment and reflexivity. Agamben refers to this aspect of Paul's work in the following terms:

The caesura between constitutive and constituted power, a divide that becomes so apparent in our times, finds its theological origins in the Pauline split between the level of faith and that of *nomos*, between personal loyalty and the positive obligation that derives from it. In this light, messianism appears as a struggle, within the law, whereby the element of the pact and constituent power leans toward setting itself against and emancipating itself from the *entolê*, the norm in the strict sense. The messianic is therefore the historical process whereby the archaic link between law and religion (which finds its magical paradigm in *horkos*, oath) reaches a crisis and the element of *pistis*, of faith in the pact, tends paradoxically to emancipate itself from any obligatory conduct and from positive law (from works fulfilled in carrying out the pact). (Agamben 2005:118-9)

The cut, or diremption between a constituted and constituting power, the abyss between an established order and a new order, is the pivotal issue of fetishized law—a law that has become “for life” unchanging and unchanging, which commands that it be fulfilled, even if the world should perish: “*Fiat iustitia, et pereat mundus.*”

In Hinkelammert's terms: law for life (set in stone as a totem) is law against life. Law for life (at the service of life) is law that is guided by the life of the community. What is at stake is more than the conflict between legitimacy and legality, the norm and the law, authority and power, but precisely that there is a surplus, a remnant that is not encompassed by the co-determination of one by the other: norm and law. Dussel gets at this problem more directly and clearly than Agamben when he focuses his analysis of Paul through a reading of *Romans* in terms of six fundamental themes (Dussel 2009:120): first, the meaning of “justification” as a criterion of legitimation; second, the legitimation of a certain order with reference to the law; third, the collapse of legitimation due to the fetishization of the law; fourth, the development of a “new” justificatory criterion; fifth, the constitution of a messianic community that irrupts into the established order disrupting it; sixth, the creation of a new order beyond the defetishized law. The running thread in Dussel's analysis, however, is the ambiguity of the law; that is the inoperability and indiscernability of the law, or what Agamben calls the unobservability and unformulability of the law (Agamben 2005:105-6).

For Dussel, however, what is important in Paul is not simply the critique of fetishized law, but rather the project of developing a new “justificatory criterion.” How do we discover that the law has become fetishized, if every practice in a given order is guided by the norm that finds itself embodied in the law? How can we see what is destroyed and killed if it is allowed to be seen by the law? We must be situated outside or beyond the

law to see the nefarious consequences of a law blindly observed and performed. How is constituted power to be evaluated and judged if all that is legitimate is precisely what this constituted power permits to be said and seen? How is the law to be judged? This is what makes Paul so important for Christianity, for he lived by the law and from the law. A passage from *Romans* is key:

What then shall we say? That the law is sin? By no means! Yet, if it had not been for the law, I should not have known sin. I should not have known what it is to covet if the law had not said, "You shall not covet." But sin, finding opportunity in the commandment, wrought in me all kind of covetousness. Apart from the law sin lies dead. I was once alive apart from the law, but when the commandment came, sin revived and I died. The very commandment which promised life proved to be death to me. (*Romans* 7.7-10)

What Paul may have meant when he wrote "that by the law he knew sin, that by the very commandment that promised life, death came to him" may be deciphered in *Acts* where we read that "Saul" approves of the execution of Christians (*Acts* 7.54-60-8.1). The law, as such, is not enough to guide us away from sin. The law may guard us, be our custodian, as Paul puts in *Galatians* 3, but now it is by faith that God's righteousness is manifested. "For we hold that a man is justified by faith apart from work of law" (*Romans*, 3.28-29). Or, as it is written in *Galatians* 3.23-27: "Now before faith came, we were confined under the law, kept under restraint under faith should be revealed. So that the law was our custodian until Christ came, that we might be justified by faith. But now that faith has come, we are no longer under a custodian; for in Christ Jesus you are all sons of God, through faith." For Dussel, as for Agamben, the operative phrase is

"justified by faith." If law was our custodian, now we are free by faith—we experience God's justice through faith. We are justified in God's justice through faith. But what is this faith? What is faith for Paul? And why is specifically 'justified by faith' such a key critical concept for a "politics of liberation" in Dussel's analysis?

Faith, or *pistis* in Greek and *emunah* in Hebrew, refers to the credit one gives another, the confidence one places on another, and the trust that is placed upon someone or something. Faith, like trust, is relational. It has a passive and an active dimension, as well as a quasi-reciprocal aspect. To have faith, is a volitional act. I have faith. I place my confidence and trust. At the same time, I am at the mercy, at the disposition, of he on whom I have placed my faith. I am vulnerable before him on whom I place my faith. There is a potentiality to faith. It is a generation of power—a *potentia*, to use Dussel term (2008, paragraph 3.1.3). Faith expresses and generates a relational power. In faith, one grants a power, and by granting that power, one submits to it. There is power in faith. For this reason we say "by the power of faith," or "the power that faith grants us," and similar expressions. It is a power that emanates from this relational, even if not symmetrical, relation. Faith is a weakening strength, a disempowering power. It is an empowering vulnerability. A quote from Émile Benveniste can help us make clearer and stronger this tension in faith:

The one who holds the *fidês* placed on him by a man has this man at this mercy. This is why *fidês* becomes almost synonymous with *dicio* and *potestâs*. In their primitive form these relations involved a certain reciprocity, placing one's *fidês* in somebody secured in return his guarantee and his support. But this very fact underlines the inequality of the conditions. It is authority which is exercised at the same time

as protection for somebody who submits to it, an exchange for, and to the extent of, his submission. (Benveniste 1973:97-98)

Here Benveniste links faith to *fidês* to rule, domain, authority, and thus to *potestâs*, to power and sovereign rule. What Benveniste points out, additionally, is that while the relationship is *prima facie* one of “a certain reciprocity,” there is always a more fundamental inequality, asymmetry. The power we grant to the one on whom we place our faith can be betrayed. Yet, rather than foreground this asymmetry, I think we must underscore the proportionality of the power that is granted to that which one submits. Faith implies also “the extent” of one’s submission, the power and depth of one’s faith. This power, this *potestâs*, this “empowering vulnerability,” is the transformative and liberatory dimension of faith. Faith liberates precisely because of the *potestâs* that it generates, grants, bestows and that returns augmented to the one that grants it. This is why Paul’s “justification by faith” may be translated as “justified by the power that we entrust on the community of belief,” justified by the “empower vulnerability” of the confidence and trust we place on each other. Faith is, thus, a relational *potestâs* of the community of belief, in which the community empowers itself towards something. Dussel articulates it this way:

The messianic community, the *people*, confronting the immense power of the (Roman) empire, the temple (of Israel), and tradition (maintained by new Christians unable to overcome their ancient rites, customs, sacrifices, etc.) nevertheless dared to confront these powers from the *certainty* of possessing a conviction that can transform reality in its totality. That certainty—that *critical* consensus of the community itself—is what is called *emunáh* in Hebrew (אמנה) or *pístis*

(πίστις) in Paul’s Greek, and which could be described as the enthusiastic certainty of the *critical* community (whose source is to be found in the people itself). (Dussel 2009:125)

Faith, then, is the name for that “*critical* consensus” of messianic community that stands against the extant consensus in the name of a new order, a new law, a new legitimacy. Here faith is a messianic power, a critical transformative power that inaugurates a new order of justification. Faith, the reflexive *potestâs* of the critical community, another way to think of the messianic community, is the construction of a new legality. It is for this reason that for Dussel faith can be translated as “mutual *confidence* that is continuous through time as the intersubjective fidelity of the members of such a community, convinced of their responsibility to create a new agreement, contract, Alliance, or Testament. This new agreement would legitimize or *justify* (“judge as just”) the fearless praxis of the extreme danger of “messianic time” (of Walter Benjamin) as a source for the legitimation of the *future* system” (2009:125-6).

What would need to be commented on in Dussel’s formulation is the “fearless praxis of the extreme danger” of messianic time. Why fearless and why extreme danger? It is fearless because it must face a formidable contender, itself, with all the tools of power, and authority, on its side. The messianic community is still part of a community. It is a part of the community that has become “critical” of the hegemonic order. Faith empowers the critical community to challenge, resist and transform the established consensus and order. In this project of messianic transformation there is great danger. How does the critical community, with its critical consensus, know and have confidence that it is establishing a *justified* (“judged as just”) order? I will return to this question below; for it is in how this question is answered by Dussel and Agamben respectively that their

differences flare up brilliantly.

Now we are able to return to our point of departure, that is why the task of elucidating Dussel's project of reading Paul as a philosophical-political thinker of the first order, from whose work we can rescue "critical categories" for a politics of liberation. Most specifically, our point of departure was to try to understand why Dussel must read Paul of Tarsus politically as he elaborates a *politics of liberation*. The third volume of the *politics of liberation* aims to articulate the "critical," "emancipatory," "liberating" categories of a political philosophy. Volume two elucidated the architectonic of political philosophy in terms of four key principles, which I am summarizing in the present way so as to advance to my main argument.

First, there is *potentia*, which is the power of a community, in its most raw and unmediated sense. This power is an expression of a will to live. The power of a community is expression of its will to live. It is grounded in the material, corporeal needs of a community of needing, suffering, thirsting, and vulnerable living beings who gather precisely to survive.

Second, this raw power becomes *potestas* when it is institutionalized. The will to live of a community now becomes a set of articulating, transmitting, augmenting, distributing institutions that act as conduits of the power of the community. All *potestas* thus is always delegated, lent, or borrowed, but never transferred or alienated. There are two manifestations of *potestas*: what Dussel calls *obedential power*, and what he calls fetishized power. If the former commands obeying (precisely because it commands only through delegation), the latter commands commanding (fetishizing its power to command as if it were the source of its power, and not the people).

Third, *potentia* become *potestas* through a process of legitimation that emerges from a consensus or process of deliberation. All *potestas* rests on some sort of legitimacy. A more just, well ordered, polity is one in

which the legitimacy of its *potestas* is most reflexive of the source of its power. For Dussel, in fact, one of the greatest philosophical-political issues is that of the relationship between *potestas* and the participation of the political community in *obedential power*. The degree of justice of a polity is proportional to the way in which its legitimacy is reflexive of the will to live of the community.

Fourth, a *potentia* that through legitimacy takes on institutional form as *potestas*, is delegated to secure the life, preservation and growth of the life of the community. Political power has a futural dimension, but also an efficacy that is conditional on what can and must be accomplished. This securing, preserving and growing the life of the community is what Dussel calls feasibility. We can call it political efficacy. We can simplify these formulations with the following equation: a political community is organized for the sake of life, in order to guide its will to live, it must submit to some sort of deliberation, a process of justifying its decision about allocating resources, and the aims of its consensus have to be realistic, efficacious. In short: life, deliberative legitimation, and feasibility. A political community is not a suicide pact, but a life compact. A political community without some modicum of deliberation becomes either a tyranny or a regime of slavery. Finally, a political community that does not aim to secure its own ends in accordance with its wherewithal becomes an utopia, an anarchical community, or a tyranny.

There is no political community that is a perfect political community. Even an ideal *Kallipolis*, the beautiful, just city of Plato, is faulty, for even every imagined political community cannot but reflect the prejudices, interests, desires, needs, and wants of a particular community. But a particular community is never the entire human community. Even humanity as such is never itself completely. There is the supplement, the remnant of the humanity to come, the community to come. Most importantly, every

political community that empowers a certain *potestâs* cannot not produce victims. Every political community produces its victims. Evidently some political communities produce more victims than others, and some victimize their victims more severely. There are degrees, for certain. These victims, who suffer the inevitable material privations produced by a certain community, whether as insiders or outsiders, challenge the established legitimacy, or deliberative consensus. Inasmuch as it continues to perpetuate these victims and not allow for their voices, their suffering, their exclusion, to be voiced and expressed in the legitimation of a new order, a new legitimacy, then the system is inefficacious.

This is where the task of a *politics of liberation* properly begins, namely in the formulation of those principles that would guide the transformation of a system that has been shown to be necrophilic, illegitimate, and inefficacious. Dussel articulates this point of departure in the following way:

The discovery of the *non-truth* (as Adorno wrote), of the *non-legitimacy*, the *non-efficiency* of the system of domination is a moment of skeptical criticism with respect to that system, the moment of atheism toward the prevailing totality, as Marx correctly described it in accordance with prophets of Israel, who rejected the divinity of fetishes. (2008, paragraph 13.1.2)

By “non-truth” Dussel means that the hegemonic system negates life. Truth is practical. It is material. Truth is that which enables life. Its opposite is the negation of life. The non-truth of the system is discovered from the standpoint of the non-life of the victims of a system. They are the negation of the system, in the double sense that they are negated by the system, and in their negation, they negate the system. Those who discover themselves negated by the system, become the messianic community,

the critical community that de-legitimizes the established consensus. But in their negation of the establish consensus they prefigure, anticipate, decipher a new consensus, a new legitimacy, one that negate their negation. The critical community, which is part of the larger political community, sets itself apart and challenges the self-satisfied, self-enclosed, fetishized community. In setting itself a part the critical community unleashed a praxis of liberation: one that is fueled by the power of the certainty of the community in its righteous conviction. It believes justice is on its side. The justice of its project is shown by the extent of the injustice of the present system. This critical community with its critical consciousness of the non-truth of the system sets out to change the present order and establish a new one.

Dussel argues that this critical consciousness manifests itself as a *potentia* that gives birth to a new *potestas*. For this reason, the praxis of liberation has a deconstructive and a constructive moment. It deconstructs the hegemonic order, and gives birth to a new order. It is precisely in this transition between deconstructing and constructing a new order that Paul of Tarsus, the philosophical-political thinker becomes important for Dussel. For Dussel, Paul is the thinker of the new critical consensus that births new political orders. When Paul proclaims that we are justified by faith, and not by the law, or the flesh, or blood, or the apostles, he is proclaiming that we can establish a new order by virtue of the potestas we generate through belief, confidence, and trust in our conviction, in the justice of our judgment about the injustice of the present system. Justification by faith, then, means the inauguration of a new order after the law. Faith, the name of a political community’s “empowering vulnerability” is what also names what comes after the law—a new justice, a new justified, that is judged to be just, order.

### III. WHAT MAKES CRITIQUE CRITICAL? LIFE FOR LAW, LAW FOR LIFE.

At the V International Forum of Philosophy in Venezuela (July 7<sup>th</sup>-14<sup>th</sup>, 2010), at which Dussel received the *Premio Libertador al Pensamiento Critico* [Liberator of Critical Thought Prize] for volume two of the *Politics of Liberation*, I heard him explain some of these ideas with the following two formulations. First, “the people separates itself as a political agent from the larger political community in order to propose a new project that is articulated as a critique of the hegemonic community.” And then he added, “This is the problem of faith. Where faith is when the people [pueblo] believes in the people, when the people opposes the law and anticipates a new legality. This is faith: the opposition to the extant law.” Faith, thus, is not prophetic, but messianic. It is transformative in the here and now, by the agency of the power a critical community bestows on each other as members of a political community that is divided in its consensus. But what is the criterion of criticism? How do we know that the liberating praxis of a critical community is in fact “liberating”? Every critique is not always critical.

What makes critique critical? What makes faith liberating and not oppressive, transformative and not conservative? This is the question. Here Franz Hinkelammert can provide us with some guiding light, when he writes in his recent book *Toward a Critique of Mythical Reason* (2008):

Every thought that critiques something is not for that reason critical. The critique of critical thought is constituted by a specific point of view, under which it is undertaken. This point of view is human emancipation, which is therefore the humanization of human relations and the relation with the whole of nature. Emancipation is humanization, humanization turns into emancipation. (267)

The new critical consensus of the political community that sets itself apart in the name of the community that is not yet, for its sake, is guided by a criterion: does the law kill, or does it grant life? For Jesus as for Paul, the fundamental guiding criterion is life: “...the *new* criterion is Life, which in turn provides the *ultimate* foundation for the Law. Life is the *content* of the law; its *inversion* is what Jeshúa and Paul of Tarsus criticize” (Dussel 2009:123). The new critical consensus is developed from the standpoint of the negation of the negation, the negation of the untruth of the system, that is, positively, in light of the practical, material, truth: law is at the service of life, not life at the service of the law. At this moment, we are now in a position to clearly discern the difference between Agamben and Dussel, notwithstanding their agreement on some key points.

Throughout, I have flagged where I think Dussel and Agamben agree, mostly due to the fact that they converge on key exegeses of Paul. As serious and thorough scholars, they cannot but agree on certain interpretations. I have signaled at least three such agreements: first, both agree that we must understand Paul’s justification by faith as a reference to potestas, to a form of empowerment. Second, both agree that Paul’s inchoate references to the messianic community elucidate a diremption within the people. For Agamben, in fact, it is this elucidation that marks out Paul’s “political legacy.” Agamben puts it this way:

The people is neither the all nor the part, neither the majority nor the minority. Instead, it is that which can never coincide with itself, as all or as part, that which infinitely remains or resists in each division, and, with all due respect to those who govern us, never allows us to be reduced to a majority or a minority. This remnant is the figure, or the substantiality assumed by a

people in a decisive moment, and as such is the only real political subject. (2005:57)

It could be shown how Dussel and Agamben converge in understanding the people in the same way. For Dussel the *pueblo* is never itself, for the pueblo is always insurrected against itself, in the name of itself, itself in its mode of having been and not yet being. A people always has a messianic component, that which prevents it from ever being able to speak univocally in its name. Every avowal in the name of a “we the people” is always provisional and deferred. We the people—is something that can never be irrevocable and immediately intelligible. The people is always to come. When we thus speak in the name of the people we do so through delegation, or what Dussel calls “obediential power.” Third, and finally, Dussel and Agamben coincide in challenging the interpretation that Paul’s political inheritance has to do with universality. For Agamben, Paul’s messianic vocation disrupts every separation in the name of a diremption that is not a negation of a positive (see Agamben’s discussion, 2005:52-53). If for Agamben Paul is the philosopher of the diremption that qualifies every universal claim, for Dussel Paul is the political philosopher of a universality to come through a plurality of neutralizing divisions: victim-non-victim, orphan-non-orphan, widow-non-widow, gay-non-gay, etc. This universality is always deferred for we can only glimpse through the non-truth of its negations.

Where Dussel and Agamben differ substantively and tellingly, however, is on the criterion that guides the deconstruction and construction of the new order. Agamben uses Schmitt’s concept of the “state of exception” to explain Paul’s messianic *katargêsis*: the suspension and observance of the law (104-107). For Agamben, Paul’s notion of *katargêsis* makes reference to three moments: the moment of the indistinction between the

outside and inside the law. Like Schmitt’s state of exception, this outside the law is inside the law—it is the enactment of the law. For Paul, in as much as the law is suspended and observed, the law becomes unobservable—its enactment leads to sin, but not observing it is itself sin. Thirdly, in this situation of indiscernibility or indistinction and unobservability, the law becomes unformulatable—there is no possibility of formulating a law.

Evidently, given the way I reconstructed Dussel’s reading of Paul, with some help from Hinkelammert, it is clear that there is a justice that comes after the law that enables a political community to formulate a new law. The collapse of the law in light of its victims demands the establishment of a new order. After the collapse of the law, a new justice can be established. This justice to come is both discerned and established by and in the name of the people to come. Here we can use Agamben against Agamben, by showing how Dussel’s reading is more insightful and consequent.

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