



A DEFENCE OF ARMED ART/STRUGGLE

ÓSCAR GUARDIOLA-RIVERA

EDITORIAL
UTADEO

Guardiola-Rivera, Oscar Eduardo
A defence of armed art/struggle / Oscar Eduardo Guardiola-Rivera. -Bogotá: Universidad de Bogotá Jorge Tadeo Lozano. Facultad de Ciencias Sociales. Departamento de Humanidades, 2019.

292 pages : ilustraciones (algunas a color) ; 17 cm.

ISBN digital: 978-958-725-258-3

1. Political Philosophy – Latin America. 2. Populism-Latin America. 3. Politics - Ethics. 4. Political Sciences – Latin America. 5. Latin America – Politics and Government. I. Tít.

CDD 320.98

Fundación Universidad de Bogotá Jorge Tadeo Lozano
Carrera 4 n.º 22-61 – PBX: 2427030 – www.utadeo.edu.co

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ISBN digital: 978-958-725-258-3

PUBLISHING

Mary Lidia Molina Bernal

Layout and editorial revision

Luis Carlos Celis Calderón

General layout and photo editing

Panamericana Formas e Impresos S.A.

Print

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Impreso en Colombia - Printed in Colombia © Fundación Universidad de Bogotá Jorge Tadeo Lozano

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~~→ Dr. Julie - invisible~~
~~→ not flat - esp. not opt~~

Belker: kept -
pursue ult. &
- about. articles

Plasp. - Part → W. Mi. - Conf.
"depl." (upheld)

Anti-Hyp-ropl

~~⊗ Mike - not serious~~
~~- polit. edu.~~
~~Mike~~
~~⊗ 1981/82~~
~~W. Mi.~~
~~⊕ Progress - plid. - esp. Ind. vs~~
~~⊕ Frank - (wage?)~~

CPE? id. as 'in-bed'

Bestor - polit - out

outy. - Mulh - member

Manuscript by Slavoj Žižek.

A Brief Clarification About Populism

By Slavoj Žižek¹

A recent interview of mine, first published in Mexico and then reprinted in some other Latino-American countries and in *El País*, may have given a thoroughly wrong idea of where I stand towards the recent populist trend of radical politics.

Although the Bolivarian revolution in Venezuela deserves a lot of criticism, we should nonetheless always bear in mind that it is also the victim of a well-orchestrated counter-revolution, especially of a long economic warfare. There is nothing new in such a procedure. Back in the early 1970s, in a note to CIA advising them how to undermine the democratically elected Chilean government of Salvador Allende, Henry Kissinger wrote succinctly: “Make the economy scream.”² High

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- 1 Slavoj Žižek is the International Director of the Birkbeck Institute for the Humanities. I asked Slavoj to write this text in order to clarify his position on the subject, after Spanish and Latin American media misrepresented his declarations as a withdrawal of support for left-populist politics in the region in the specific context of intervention in Venezuela and elsewhere in the Americas. Originally published in various Latin American outlets, I’ve decided to include it here instead of the normal exchange of niceties in a formulaic foreword because of its current relevance, with added references to parts of my work that illuminated our conversations on these topics throughout the years. I’m grateful to Slavoj for his generosity [O. G. R.]
 - 2 See on this, O. Guardiola-Rivera (2013) 152-177 at 164 and 176. More accurately, on 15 September 1970 Kissinger, CIA Director Richard Helms and Attorney General John Mitchell met with Richard Nixon at the White House. President Nixon made it clear he wanted Allende out by any and all means necessary. The quote comes from Helms’s notes taken during the meeting. [O. G. R.]

US representatives are openly admitting that today the same strategy is applied in Venezuela; a couple of years ago, former US Secretary of State Lawrence Eagleburger said on Fox News that Chavez's appeal to the Venezuelan people "only works so long as the population of Venezuela sees some ability for a better standard of living. If at some point the economy really gets bad, Chavez's popularity within the country will certainly decrease and it's the one weapon we have against him to begin with and which we should be using, namely the economic tools of trying to make the economy even worse so that his appeal in the country and the region goes down. /.../ Anything we can do to make their economy more difficult for them at this moment is a good thing, but let's do it in ways that do not get us into direct conflict with Venezuela if we can get away with it."³

The least one can say is that such statements give credibility to the surmise that the economic difficulties faced by the Chavista government are not only the result of the ineptness of its own economic politics. Here we come to the key political point, difficult to swallow for some liberals: we are clearly not dealing here with blind market processes and reactions (say, shop owners trying to make more profit by way of keeping off the shelves some products), but with an elaborated and fully planned strategy – and is in such conditions a kind of terror (police raids on secret warehouses, detention of speculators and the coordinators of the shortages, etc.) as a defensive counter-measure not fully justified? When, on March 9 2015, President Obama issued an executive order declaring Venezuela a "national security threat," did he not thereby give a green light to a *coup d'état*? At a more "civilized" level, the same is happening with Greece.

We are today under a tremendous pressure of what we should unashamedly call enemy propaganda – let me quote Alain Badiou: «The goal of all enemy propaganda is not to annihilate an existing force (this function is generally left to police forces), but rather to annihilate an *unnoticed possibility of the situation*.» In other words, they are trying to *kill hope*: the message of this propaganda is a resigned

3 For contrast, see O. Guardiola-Rivera, "What has happened in Venezuela is a coup. Trump's denial is dangerous", in *The Guardian*, 20 January 2019, "The fire this time in the Americas", in *Novara Media*, 21 February 2019 and "Coup-by-media shows Guaidó's revolution to be little more than a PR campaign" in *The Independent*, 1 May 2019. [O. G. R.]

conviction that the world we live in, even if not the best of all possible worlds, is the least bad one, so that any radical change can only make it worse. This is why all forms of resistance, from Syriza in Greece and Podemos in Spain to Latino American « populisms,» should be fully supported. Yes, we should submit them to a severe critique where needed, but it should be strictly an internal critique, a critique of our allies. As Mao ze Dong would have put it, these tensions are «contradictions within the people,» not contradictions between the people and its enemies.⁴

An ideal is gradually emerging from the European establishment's reaction to the Syriza victory in Greece, the ideal best rendered by the title of Gideon Rachman's comment in *Financial Times* back in December 2014: "Eurozone's weakest link is the voters." So, in an ideal world, Europe gets rid of this "weakest link" and experts gain the power to directly impose necessary economic measures – if elections take place at all, their function is just to confirm the consensus of experts. The prospect of the "wrong" electoral result throws the establishment into panic: they paint the image of social chaos, poverty and violence... As is usual in such cases, ideological prosopopoeia has its heyday: markets started to talk as living persons, expressing their "worry" at what will happen if the elections will fail to produce a government with a mandate to continue with the program of fiscal austerity and structural reform.

German media recently characterized the Greek finance minister Yanis Varoufakis as a psychotic who lives in his own universe different from ours – but is he really so radical? What is so enervating about Varoufakis is not his radicality but his rational pragmatic modesty – no wonder that many radical members of Syriza are already accusing him of capitulating to EU. If one looks closely at the proposals offered by Varoufakis, one cannot help noticing that they consist of measures which, 40 years ago, were part of the standard moderate Social-Democratic agenda (in Sweden of the 1960s, the program of the government was much more radical). It is a sad sign of our times that today you have to belong to a radical Left

4 See O. Guardiola-Rivera (2009) on Latin America's "Pink Tide". Also, "Utopia's end? The persistence of politics in the Americas, 1970-2019", "Utopia interrupted: popular activism and aesthetic justice" and "A defence of armed art/struggle", all included in this volume. [O. G. R.]

to advocate these same measures – a sign of dark times but also a chance for the Left to occupy the space which, decades ago, was that of moderate Left Centre.

So, what will happen if the Syriza government will fail? The consequences will be catastrophic not only for Greece but for Europe itself: the eventual defeat of Syriza will add a new weight to the pessimist insight that the patient work of reforms is doomed to fail, that reformism, not a radical revolution, is the greatest utopia today (as Alberto Toscano put it). In short, it will confirm that we are approaching an era of much more radical violent struggle.⁵

5 At the moment of going over Slavoj's line for this book, a snap election has been called in Greece. Many expect Syriza to be defeated [O. G. R.]

Una aclaración con respecto al populismo

Por Slavoj Zizek⁶

Una entrevista que concedí hace poco, publicada primero en México y luego otra vez en la prensa latinoamericana y española, habría dado lugar a una idea por completo equivocada acerca de mi posición con respecto a la reciente tendencia populista de la política radical de izquierdas.

Si bien es cierto que la revolución Bolivariana en Venezuela puede ser objeto de muchas críticas, algunas de ellas merecidas, no deberíamos olvidar que también ha sido víctima de una campaña contrarrevolucionaria muy bien orquestada; en especial de una larga guerra económica.

No se trata de una táctica novedosa. Unos años atrás, durante los tempranos setenta, el entonces asesor de seguridad estadounidense Henry Kissinger aconsejó a la CIA sobre la mejor manera de desestabilizar el gobierno democrático del presidente Salvador Allende en Chile. Tras una reunión con Kissinger y el presidente Nixon el 15 de septiembre de 1970, el entonces director de la CIA Richard Helms escribió en sus notas la instrucción sucinta recibida de éstos: “¡Hagan que la economía chilena grite de dolor!”.⁷ Altos representantes del gobierno estadounidense han reconocido que el mismo procedimiento está siendo aplicado en Venezuela.

Hace apenas un par de años, el antiguo Secretario de Estado de los Estados Unidos, Lawrence Eagleburger, declaró ante el canal de noticias Fox que la relación

6 Este texto tuvo su origen en una petición de mi parte a Slavoj para que aclarase su posición sobre el tema luego de que la prensa latinoamericana corriente malinterpretase unas declaraciones suyas como un retiro de apoyo a las políticas populistas de izquierda esta y otras regiones. He decidido incluirla aquí en vez del intercambio usual de frases amables que se espera de un prólogo corriente por su relevancia a los debates actuales en nuestro medio, en especial en el contexto de intervención en Venezuela y el resto de las Américas, con referencias adicionales a trabajos míos que han iluminado nuestras conversaciones en estos años. Mi gratitud a Slavoj por su generosidad [O. G. R.].

7 En (2013) 164, hago esta cita documental y aclaro que se trata de las notas tomadas durante una reunión con Kissinger, el Presidente Nixon, y John Mitchell, por el entonces director de la CIA Richard Helms. [O. G. R.]

entre el presidente Hugo Chávez y el pueblo venezolano “funcionará solamente si la población de Venezuela continúa percibiendo en su gobierno alguna capacidad para mejorar sus estándares de vida. Si en algún momento la economía comienza a ir mal, la popularidad de Chávez comenzaría a decrecer. Estas son las armas que tenemos contra él, y que deberíamos estar usando. Es decir, las herramientas económicas para hacer que la economía venezolana empeore, de manera que la influencia del chavismo en el país y la región se vaya a pique ... Todo lo que podamos hacer para que la economía venezolana se encuentre en una situación difícil está bien hecho; pero hay que hacerlo de manera tal que no entremos en una confrontación directa contra Venezuela, si podemos evitarlo”.⁸

Lo menos que se podría decir acerca de afirmaciones como esta es que dan credibilidad al argumento según el cual las dificultades económicas que enfrenta el gobierno bolivariano no son simplemente el resultado de su ineptitud en materia de política económica.

Este es el punto clave, políticamente hablando, que los liberales no pueden digerir: con toda claridad, no estamos tratando aquí con fuerzas de mercado ciegas o con reacciones naturales. Digamos, por ejemplo, con los dueños de las tiendas y supermercados intentando obtener ganancias mayores mediante el acaparamiento, u ofreciendo sus productos en mercados más favorables. Antes bien, se trata de estrategias bien planificadas y muy sofisticadas. Si ello es así, ¿no se justifica entonces que el gobierno use la fuerza legítima –una suerte de terror, diríase– como medida defensiva? Por ejemplo, que la policía haga redadas en bodegas secretas, o detenga a los acaparadores y coordinadores de la guerra económica que causa escasez. Y cuando el 9 de marzo de este año el presidente Obama expidió una orden ejecutiva declarando a Venezuela una “amenaza contra la seguridad nacional” de los Estados Unidos, ¿no dio luz verde a quienes buscan “abreviar” el período del presidente Maduro, o llevar a cabo un golpe de estado? En un tono algo más moderado, más “civilizado”, es lo mismo que está ocurriendo con Grecia.

8 Para contrastar, véanse O. Guardiola-Rivera, “What has happened in Venezuela is a coup. Trump’s denial is dangerous”, en *The Guardian*, 20-01-2019, “The fire this time in the Americas”, en *Novara Media*, 21-02-2019 y “Coup-by-media shows Guaidó’s revolution to be little more than a PR campaign” en *The Independent*, 1-05-2019. [O. G. R.]

Nos enfrentamos hoy a la enorme presión de lo que deberíamos llamar sin vergüenza alguna “propaganda enemiga”. Según Alain Badiou, “el objetivo de la propaganda enemiga no es aniquilar a la fuerza adversaria existente (función que de manera usual le compete a la policía) sino antes bien, aniquilar una posibilidad aún no realizada, ni siquiera percibida, en la situación actual”. Dicho de otra manera, están intentando asesinar la esperanza. El mensaje que este tipo de propaganda intenta propagar es la convicción resignada de acuerdo con la cual si éste no es el mejor de los mundos posibles por lo menos es el menos malo, así que cualquier intento de cambio radical tan sólo haría que las cosas fuesen mucho peores.

Es por ello que todas las formas de resistencia, desde Syriza en Grecia a Podemos en España, pasando por los “populismos” latinoamericanos, deben contar con nuestro más firme apoyo. Ello no quiere decir abstenernos de la más férrea crítica interna cuando ello sea del caso, pero debe tratarse estrictamente de una crítica interna, una crítica entre aliados. Como diría Mao Tse Tung, este tipo de crítica es propia de las “contradicciones al interior del pueblo” y no contradicciones entre el pueblo y sus enemigos.⁹

La reacción del establecimiento europeo a la victoria de Syriza en Grecia está dando lugar, de manera gradual, a un ideal muy bien resumido en el título de una columna escrita por Gideon Rachman en el *Financial Times* en diciembre del 2014: “el eslabón más débil de Europa son los votantes”. Así que en un mundo ideal, Europa debería deshacerse de su “eslabón más débil” y dejar que los expertos asuman el poder para imponer de manera directa la política económica. Si acaso deban persistir las elecciones, su función sería tan sólo la de confirmar el consenso de los expertos.

La perspectiva de un resultado electoral “equivocado” provoca el pánico entre los miembros del establecimiento: tan pronto como esa posibilidad se asoma en el horizonte, nos pintan una imagen apocalíptica de caos social, pobreza y violencia. Y como resulta usual en tales casos, la prosopopeya ideológica hace su

9 Véanse al respecto, O. Guardiola-Rivera (2009) y también “Utopia’s end? The persistence of politics in the Americas, 1970-2019”, “Utopia interrupted: popular activism and aesthetic justice” y “A defence of armed art/struggle”, esta últimas incluidas en el presente volumen. [O. G. R.]

agosto: los mercados comienzan a hablar como si fuesen personas, expresando su “preocupación” acerca de lo que podría suceder si las elecciones no tienen como resultado un gobierno con mandato suficiente para continuar con los programas de austeridad fiscal y reforma estructural.

Recientemente, los medios alemanes caracterizaron al ministro de finanzas griego Yanis Varoufakis como un sicótico que vive en un mundo diferente al resto de nosotros. ¿Pero es él en verdad tan radical? Lo que les produce pánico no es tanto el radicalismo de Varoufakis sino su modestia pragmática y razonable. Por ello no es sorpresa que algunos sectores radicales de Syriza ya lo estén acusando de haber capitulado ante la Unión Europea. Pero si se observan con cuidado las propuestas de Varoufakis, resulta imposible pasar por alto que se trata de medidas que cuarenta años atrás habrían hecho parte de cualquier agenda social-demócrata. De hecho, el programa del gobierno sueco o el chileno en los sesentas y setentas era mucho más radical. Es un signo de la pobreza de nuestro tiempo el que hoy en día haya que pertenecer a la izquierda radical para abogar por medidas similares. Es un síntoma de la época oscurantista en que vivimos, pero también una oportunidad para que la izquierda pueda ocupar el lugar que en décadas anteriores ha venido ocupando la izquierda pacata y timorata de centro.

¿Qué sucedería si un gobierno como el de Syriza o la inspiración de Podemos fracasan? En ese caso sí sería cierto afirmar que las consecuencias serán catastróficas no solo para Grecia o España, sino para toda Europa: pues esa eventual derrota daría aún más peso a la opinión pesimista según la cual el trabajo paciente de las reformas está condenado a fracasar, y que el reformismo, antes que la revolución, constituye hoy la más inalcanzable de todas las utopías. En últimas, ello confirmaría que nos aproximamos a una era de lucha mucho más radical y violenta.¹⁰

Traducido por Óscar Guardiola-Rivera

10 Reviso este texto de Slavoj al momento de confirmar un llamado a elecciones anticipadas en Grecia, que se espera perderá Syriza. [O. G. R.]



Image from Tricontinental magazine, issue 10. Image by Alfredo Rostgaard.

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**Utopia's End? the
Persistence of Politics in The
Americas, 1970-2019**

1. Reconnecting Politics, Law and Ethics and Literature

“My standpoint is that politics and ethics are inseparable”, replied the Argentinean writer Julio Cortázar to the question posed by journalist Jorge Raventos. The question concerned the political and normative function of activism in general, and rights-based writers’ activism in particular, in the face of oppression and violence. Cortázar’s position stands as an example of the kind of radical investment in political technologies of liberation characteristic not only of Latin American philosophical, socio-historical, theological and literary cultural circles in the 1970s but also of a longer and much wider tradition that connects the global spirit of the 1927 Brussels World Anti-colonial Congress and the 1929 Buenos Aires Conference with 1955 Bandung, the Afrocriollo movement, the Harlem Renaissance and the aesthetic politics of Tricontinentalism. As Anne Garland-Mahler has recently argued, the legacy of the creolised tradition incarnated in Tricontinentalism informs many of the contemporary theories and practices of Global South political resistance.¹

1 J. Cortázar & J. Raventos, “Entrevista a Julio Cortázar”, *Revista Redacción*, June 1974. See, Anne Garland-Mahler (2018) 42-67. Also, Drucilla Cornell (Spring 2017) 195-215.

Such investment was radical, critical and creative. It was also institutional, in the sense that it directed its affect and analytical power not merely to dismantle but also to invent institutions. Building upon the example of an immediately previous generation that between the 1920s and 1940s had led the struggle against fascism, the criticism exemplified by Cortázar's concise yet substantive answer to Raventos's questioning was directed against what can be called one-dimensional law and morality in a sense that resonates with the Marcusean notion of one-dimensional man and challenges today's "ethical" and "neoconservative" turn in literary and cultural criticism in the Americas, mirrored by a supposedly non-ideological and apolitical conception of human rights and multiculturalism.²

The specific target of such criticism was this: a sense of morality or law and order characteristic of a constitutive yet contemporary paradoxical contradiction of formerly or actually colonised and capitalist societies, as a formation that "on the one hand, develops sublime sentiments and on the other, represses and irritates them, thus preparing a psychological misery as intense as the misery of desire", linked to but different from economic misery.³

This kind of criticism was voiced in parallel but related ways by Cortázar, Juan Breá, the Nardal sisters, Zora Neale Hurston, Richard Wright, Aimé and Suzanne Césaire, C. L. R. and Selma James, Frantz Fanon and Assia Djebar, Alejo Carpentier, Sun Ra and Gabriel García Márquez, himself a former law student who, unlike other writers of his generation, never fell for the kind of deadly pessimism that John Beverley calls "the paradigm of disillusion".⁴

Although such criticism was contextual, the creative radicalism of these critics did brake with the given context and is more relevant now than it may have been

2 J. Beverley (2011) 72-109.

3 P. Yoyotte, "Antifascist Significance of Surrealism", in Franklin Rosemont and Robin D. G. Kelley (2009) 42. It is telling that the work of this generation, many of whom were female and/or hailed from the Latin American Caribbean, which would include the *Légitime Défense* group, International Surrealists and Letterists, *Négritude*, *New Negro*, and dissenting cannibals, among others, remains submerged and half-forgotten.

4 J. Beverley (2011) especially 95-109. Also, G. García Márquez, "Gabriel García Márquez habla sobre Allende y Chile", video, available at <http://www.lanacion.cl/noticias/cultura-y-entretenicion/cultura/en-video-gabriel-garcia-marquez-habla-sobre-chile-y-allende/2014-04-17/173413.html>

back in the 1960s and 70s. To recover such criticism and elaborate upon it is the main aim of this chapter. This is so, among other reasons, because as I put it to *New Yorker* journalist Jon Lee Anderson during a conversation at a recent version of the Hay Literary Festival in Cartagena de Indias, the 1970s did not really end.

This provocation is meant to shift our gaze and imagination, on the one hand, towards the possibilities inherent to the events and interrupted projects of our immediate past, so as to make legible and make better sense of the present. Also, to dramatically intensify the affects attached to such events that are not exhausted but remain in a state of latency and, therefore, can be enacted once more as principles of future orientation and forward-looking action. In this respect, let's appeal to what some classicists and anthropologists have recently termed the retro-futuristic force of the performative in a sense that goes well beyond the Searle/Derrida (non)conversation on the linguistic performative.⁵

On the other hand, this provocation is also meant for us to take up the question of the construction of the people and the nation against empire, fascism and neo-fascism. Only that this time we must firmly locate that question in the context of late capitalism, populism and derivative finance. In other words, let's speak of the persistence not only of the nation but also and in spite of the most violent onslaughts of what I would like to call "archaic formations" in a sense that strongly resonates with the late Eric Hobsbawm's critical reading of Marx's lifelong admiration of the "primitive" commune or "type". I argue that this orientation is crucial to any genealogical investigation into our societies of standards, derivatives, and "types".

Put otherwise, we're done neither with the national question nor with the question of what happens when anti-systemic movements emerging outside of the state lend themselves to a process of hegemonic articulation that engages the state, as the recent debates on populism, the nation-state or nationalism and republicanism still ongoing in the Americas, Africa as well as Europe amply demonstrate.⁶

5 A. Appadurai (2016) 71-100 on "retro-performativity". Also, Alicia Garza, (2018) ix-xvi.

6 J. Beverley (2011) 26-42 and 110-126. Also, Eric Hobsbawm (1965) 9-66 at 51 on "archaic

2. Revolutions, Tribunals and a Latin American-Inspired Proposal

The kind of criticism exemplified by Cortázar and others was contextual insofar as it coincided with attempts to build in practice independent state and legal institutions in the climate of the 1960s and 70s, to liberate or decolonise such institutions and make them work in a non-stately mode, or to create a state of the people and a state that isn't a state. Historically speaking, by far the most influential of these experiments was the transformative use of legal and state institutions that took place after the election of socialist Salvador Allende and the Popular Union (*Unión Popular, UP*) to the government of Chile in 1971, known since then as the Chilean Revolution.

However, such criticisms gained intensity and became much more significant when these radical attempts to transform state institutions were violently interrupted after the coup d'état of 11 September 1973. In the wake of the coup, Julio Cortázar, Gabriel García Márquez, Juan Bosch and others joined the Second Russell Tribunal (Russell II, hereafter). Russell II was a successor to the one set up between 1966-67 by British philosopher and Nobel Prize winner Bertrand Russell together with French writer and philosopher Jean-Paul Sartre as well as others, including Cortázar, to investigate U. S. foreign policy and military intervention in Vietnam. It was a citizen's tribunal, tasked not only with finding out the "true criminals" behind it and to enquire about workable ways to remedy their injustices, but also and no less importantly, to create new ways of communicating them to "all sectors of the continent" so as to decisively change public opinion in an ethical and politically decisive manner.⁷

formation", and Oscar Guardiola-Rivera (2013) 330-402. See also, for a panorama of these debates in at least three continents: Santiago Castro-Gómez and Oscar Guardiola-Rivera (1999) 9-20 and (2002) 237-250, Gloria Elgueta & Claudia Marchant (2014), Carlo Formenti (2016), Marcelo Braz (2017), Valeria Coronel, Luciana Cadahia & Franklin R. Gallegos (2018), Valeria Coronel & Luciana Cadahia (Jan/Feb 2018), Samir Amin (June 2018), Paget Henry (2018), and Santiago Castro-Gómez (2019).

7 J Cortázar (2009) 463-465.

Almost forgotten for more than three decades, the example and ultimate fate of Allende's UP coalition, as well as that of Russell II, have returned to the public imagination in the wake of the electoral triumph and ulterior fate of Syriza in Greece, the possibilities of Spain's Podemos Party in the wake of its irruption in 2015, their "Latin American inspiration" and the critical challenges currently facing progressive or radical movements in Venezuela, Brazil and elsewhere in the Americas.⁸

In March 2015 during a "first report" on the fate of Greece's radical government at Birkbeck College, London, reporter Paul Mason, cultural critic and Hegelian thinker Slavoj Žižek, and legal philosopher Costas Douzinas warned against the likelihood of a "very European coup" against Syriza and other similar movements emerging in Europe and elsewhere, which could be carried out in the style of the Chilean coup forty years ago, or variations thereof. Mason went as far as to speak of Greece's leader, Alexis Tsipras, as a "postmodern Allende". As we now know, their fears turned out to be well founded.

On that occasion, Douzinas presented a proposal for a moral-legal "guerrilla tactic" to counter the likelihood or effects of such a coup. Chief among them, influencing public opinion in Europe to turn Greece's very real humanitarian crisis into a moral indictment against austerity measures in a way that could also touch upon issues of legal liability.

Douzinas's proposal raises at least two questions: the first one, more philosophical perhaps, concerns the proper relationship between the ethical and the variety of political-normative orders currently available. This question is similar to the one raised by Cortázar in his 1974 answer and commentary. The second one was more strictly legal or jurisprudential and action-oriented. It concerns the kind of legal order that would respond best to the political aims of Greece's Syriza or Spain's Podemos and other like-minded parties and movements in Europe, the Americas and elsewhere: not only to contain the coup, but to remedy the injustices committed in the global south.

8 For "Latin American inspiration" O. Guardiola-Rivera (2010) and (2013) for the Chilean Revolution.

In a nutshell, I believe that the best strategy is not the one that insists upon legal liability (personal harm or loss-based compensation) suggested by Douzinas, but one that views the injustices committed against peoples in the Global South as historical and as such (as transactions unjustly forced upon generations, whether legally or not) a suitable object for property-creating remedies. Successors in interest could lay claims to such rights *in rem*, even more so in the event of dramatic changes making the political landscape more volatile or in which the rate of heightened inequality would increase risks exponentially. The latter is, precisely, the situation in which southern European peoples, but also peoples in the UK and the US as well as in the rest of the Americas and elsewhere, are at present and the situation in which successive generations will be.

Which is why the right time to lay such claims is now. It is also the reason why the right people to make those claims and seek to stop that situation becoming permanent in the future are those who bear witness to the situation of humanitarian crisis taking place nowadays in southern Europe, which extends to the Mediterranean and Africa. Raising their collective voice to denounce that situation they get ready to struggle in the streets as well as in more or less formal tribunals and other institutions created by them (popular constitutional assemblies, *comunas*, etc.) thereby becoming the political subjects of an attainable utopia: an “uncontainable multitude” radically invested in justice as a realizable option, as Cortázar put it.⁹

3. In Search for A Different Form...

My inspiration for the proposal sketched above – that southern peoples constitute themselves as “uncontainable multitudes” bearing witness and forcing a

9 J. Cortázar (1975) 66.

restitution transaction as a property-creating remedy in a (global) tribunal or like institution, convened to that effect by their radical governments – takes stock of the application of modern finance option theory to the liquidation of historical grievances, recently developed by legal theorists like Ian Ayres and Bob Meister.¹⁰

Going into the detail of their sophisticated work would go well beyond the limits of this piece. Instead, on the one side, I shall limit myself to making use some of their insights while directing the reader to the appropriate sources. On the other, given the aims declared in the title of this chapter -to probe the relationship between rights discourses, revolutionary struggles and the persistence of the political in the Americas and elsewhere- it seems more relevant to emphasize the importance of Julio Cortázar's response to the problem that would occupy his attention in the wake of the testimonies and the findings made by Russell II in relation to the U. S. counter-revolutionary interventions in the Americas, initially posited in the "legalist" language of rights.

In short, the more legalistic form of the language of rights appeared insufficient. Another form and another approach to form were needed. Ditto, the legalistic format in which the testimonies and the findings of the tribunal concerning human rights and the rights of peoples were rendered, the verdict, seemed ill fitted to the goal of communicating the revolutionary proposal of the self-constitution of southern peoples into "uncontainable multitudes", in a way that could go beyond the limitations of rhetorical persuasion (including catharsis or pacification and psychological misery or 'interpassive relaxation") and instead provoke a shift in a much wider audience, a principled or even "prophetic" reorientation.

As I interpret Cortázar's attempt to find a different form and a different approach to form, it would entail moving beyond the commitment of legal rhetoric to seeing its publics or audiences as always-already constituted by shared meanings: "our values", morals or identifications, more often than not associated

10 R. Meister (2011) 232-259; and "Liquidity". See also, I. Ayres (2005). For a summary of legal restitution W. Seavey & A. Scott (1937). See also B. Ackerman & A. Alscott (2001), for endowment-based remedies; J. Lear (2006), J. Ralston Saul (2014) and A. Escobar (2014), for community-based and contingency-facing conceptions of attainable justice in the face of catastrophe. For the legal-economic basics see, Armen Alchian (2006).

to geo-psychological or racial demarcations. This commitment of mainstream legal rhetoric is part and parcel of a dominant view of rhetoric that marries the idea of the public to the question of persuasion, insofar as persuasion seems to offer the rhetorician or the orator (often identified with the father-like figure of the politician) unique access to the means by which meanings come to be shared.

If so, an attempt like Cortázar's would require a thorough reworking of the relationship between persuasion and its imaginary functions, which are largely prefigured by a symbolic economy. As said before, this not only a matter of searching for an alternative aesthetic, rhetoric or literary form but also, or rather, a search for a different approach to form.

In other words, Cortázar's job was not merely to inform an already constituted public about what had happened in Russell II. For instance, to chronicle and communicate in proper journalistic form (a form that has become since then a formula) the sentimentalism of the testimonials or the crude facts concerning the many rights violations that had taken place in Brazil, Chile or Colombia, which were the object of its judgment and the application of its norms and rules.

Rather, the job was to sway his readers and viewers toward an action-oriented or utopian (I prefer uchronic) vision, the achievement of which could not be guaranteed, thereby creating a public or making present and instituting one in an interval with neither firm grounds nor guarantees of success. That is, in the absence of proper hedging of actual or potential property or in a situation that is best expressed in the Spanish term *gratuidad del riesgo* (gratuity of risk) via an economy of trope and enjoyment and, therefore, without the mediating functions of context, probability, propriety, property or judgment.

Did Cortázar achieve such an aim? Did he do his job?

4 ...and a Different Approach to Form: the Utopian Novella

In true surrealist fashion, two fortuitous occurrences seemed to coalesce on a seemingly unsuitable plane, making possible an exploration of sense, conventional repetition and form at the limits of meaning, persuasion and the possible.

I am referring of course to Cortázar's modest law-and-literature experiment: his 1975 graphic novel *Fantomas Versus the Multinational Vampires. An Attainable Utopia*.

The first occurrence was Cortázar's participation from January 1975 in the Second Russell Tribunal (Russell II, hereafter) in Brussels. Outraged by the testimony he had heard and conscious of the limitations of the Tribunal's judgment or, more precisely, of its verdict form vis-à-vis its negotiating position in the larger symbolic economy, Cortázar was eager to find a different form which could not only express the true force of the tribunal's findings and testimonies but also provoke a convulsive, explosive effect. In this respect, his turn towards the explosive power of trope and image in the artwork's execution connects his graphic novella with the distinctive, pioneering mode of *métaphore filée* and data visualisation cultivated by Afro-descendent writers and thinkers in the Americas such as W. E. B. Du Bois, Étienne and Yva Léro or Aimé Césaire and Frantz Fanon between the 1900s and 1950s. Crucially, the pathbreaking work of these pioneers was from the very outset part and parcel of their political struggle against fascism, racism and global coloniality as well as "primitive" accumulation, economic poverty and the misery of desire.

The second occurrence was the publication in February 1975 of issue 201 of the Mexican comic book series *Fantomas, la amenaza elegante*. The issue's title "*La inteligencia en llamas*" (Intelligence on Fire) could be considered not only as a nod to Juan Rulfo's 1953 classic *The Burning Plain* and Ray Bradbury's *Fahrenheit 451*. But also, or rather, as a more or less direct reference to the explosive dynamics, dialectics, and struggles incarnated in and expressed by the community of ethical views which gathered the precursors named above together with the contemporary writers and artists who actually had cameo appearances in the comic, including Julio Cortázar.

The political and utopian spirit of trans-national solidarity at the heart of such a community is precisely what Cortázar expressed in his answer to José Raventos: “ethics and politics are inseparable”. Put simply, their community of ethical-political views was the opposite of a bureaucracy. In other words, an open realism and an awareness of reality which were embodied in an artwork that speaks directly to the intelligence, fires it up, and elicits enjoyment in a way that isn’t reducible to (legalistic, conventional or situational) context.

It can be argued, in this respect, that Cortázar’s *Fantomas* is a quasi-mathematical figuration of trope and enjoyment both in terms of its use of imagery (which references cybernetics and infographics) and its alternative use of the charts and photo-documented evidence that would fill the Russell tribunal’s report, underwriting the affective force of a symbolic address as if it were a *dérive* of the logic of derivation and derivatives characteristic of finance late-capitalist culture and its violence, explicitly signalled in the title of the novella (“the multinational vampires”).

Fantomas versus the Multinational Vampires has been called a meta-comic, an offbeat invention such that many readers assumed it must have been the result of Cortázar’s dream-work, a visual artwork made out of cut-up and recomposed found and poor images in the style of Third Cinema, *cinema imperfecto* and Santiago Álvarez’s rhythmic timing arrangement for his 1965 film *Now* as well as the visual aesthetics of Alfredo Rostgaard’s poster for the 1969 anniversary of the Havana Tricontinental Conference and the famous Black Panther Party posters created by Emory Douglas.

It has also been called “a melancholy book”. But the latter judgment not only makes the mistake of placing Cortázar in the vicinity of other writers of the Americas who would in time become disillusioned of their radical commitments, a company that the Argentinean writer would surely reject. It is one that also misses what matters most: the direct references, borrowings from and dialogue with the Afro-American voices that from *Légitime Défense* to *Tropicália* strongly set their art-as-philosophy aesthetics to the aim of making present a revolutionary public subjectivity not through the path of identification with Soviet dogma, but rather, through a different use of colour and the term “colour” (such as in “coloured

peoples”) to refer not necessarily to race or to skin colour but to one’s investment and position in alliance with Tricontinentalist anti-imperialist politics.

Moreover, in this respect, Cortázar’s *Fantomás* followed on the footsteps of the Black Surrealists’ reading of Hegel and Marx that propelled them toward an anti-dogmatic, open-ended Marxism, rather like that of the Léros, René Ménéil, Walter Benjamin, Pierre Klossowski, Juan Breá and Mary Low, Herbert Marcuse, Fanon or C. L. R. James.

As it happens in the game known as Exquisite Corpse, and in the wake of Tricontinental aesthetics, *Fantomás versus the Multinational Vampires* uses racially coded language and iterated images that resonate with the repeated vignettes of mostly Anglo-American looking policemen in riot gear ready to rain down their shit on African-American and Amerindian or poor *barrio* protesters. Professor Anne Garland-Mahler has correctly understood such use of colour and trope in art materials as metonymically employing the colonial and Jim Crow apparently simple binary categories to signify the expansion of such dividing lines through U. S. foreign policy and, therefore, also global imperial oppression.

It’s no coincidence that the final word in the novella belongs to “a clear Afro-Cuban voice”, which says: “The good thing about utopias...is that they’re attainable”. But to make it so “you have to be ready to fight”.¹¹

The struggle is both vertical and horizontal. It involves a double-twist or turn.

First turn, personal self-energising. Moving forward, your intelligence elicited by the light of utopia, looking backwards, to the unfinished projects of the past. Not because there’s some probability that the projects will be completed, but on the contrary, because in their incompleteness they point to the structural failures and feigned unicity of the normative orders of the present.

Call it the work of incompletion. Of course, every profound political protest is an appeal to a justice that is absent, “and is accompanied by a hope that in the future this justice will be established”. But this hope “is not the first reason for the protest being made”, as John Berger points out. We protest, by taking up

11 J. Cortázar ([1975] 2014) 68.

arms, building barricades, linking arms, occupying institutions, facing the police, writing, shouting and so on, not because we know our vision of future justice (the correction of historical injustice, fullness) is plausible or probable, but rather, because not doing so would reduce us to an enforced silence and deliver us on to death. We struggle to salvage something in the present that is close to our hearts and made present within the hearts of those who refuse the present's logic, a true form, whatever the future holds. In this respect, it is true what Berger says: a protest is not firstly and foremost a sacrifice made in the altars of some alternative or more just future; it is a useless or inconsequential joyful redemption of the present.¹²

Second turn, the collective dramatic intensification of a true form. As we know, the true form is a likely likeness. But what is a likeness? We will attempt to answer this question, which may have accompanied the historical route of philosophy from its very inception, in the following section. A caveat: our answer will surely be modest, experimental. Thus, we aim at nothing other than failure. A work of incompleteness.

5. What Is a Likeness? A Loose Analogy Between Art and the Political

Consider painting. To save the present moment, come what may, is what painters do. They describe feeling elated in the wake of a felicitous drawing of the face of their model. But as they would say, this affect, this feeling of elation comes not from the deed of a small drawing they may be pleased with. It comes from something else: "it came from the face's appearing -as if out of the dark", or from

¹² John Berger (2011) 79-80.

the fact that the face “had made a present of what it could leave behind of itself” as John Berger says.¹³

Hence his answer to our question, what is a likeness? “When a person dies, they leave behind, for those who knew them, an emptiness, a space” or an interval, which has contours or acquires a certain consistency -similar to the indelibility that the passing moment or event acquires when it is saved in the act of protest. “It passes, yet it has been printed out”, Berger observes. This space-time interval, this void with its contours and consistency is the person’s likeness and is what the painter or the artist (but also the protester) searches for when making a living portrait. “A likeness is something left behind invisibly”, Berger says.¹⁴

This is exactly what Cortázar was after. Also, those who struggle. Making Berger’s words ours let’s speak in this sense of the graphic revelation of the collaboration between model and painter (the artist, the protester). It’s a matter of receptivity and of the receptivity of materials, or what we’ve called before self-energising. Only that in this second twist the act is collective, or a dramatic intensification.

But a dramatic intensification that is not to be confused with some kind of intersubjective communion with the other in our “shared values”. Collaboration, in art as well as politics, is like sex or most public speech, rhetoric or drama: less consummated union than mutual masturbation. What we enjoy in public, what we come upon in art galleries or in the barricades is the objection, the alliance in conflict, much more than we take pleasure in the communicative action of the communion of bodies or signs.

Similarly, the presentation of a political subjectivity or the face that appears as if out of the dark may be less premised on classically defined political interest and more simply on the public pleasures of refusal (“I rather not”, to paraphrase Melville). This insight might help us making better sense of our age of spectacular failure, when alt-Right ideologues and so-called populists as well as the ideologues of the supposedly moderate “centre” simply refuse to see the basic intelligibility

13 J. Berger (2002) 18-9.

14 J. Berger (2002) 19 and (2011) 79-80.

of the other's public demands or historical claims, to say nothing of desire. We seem to enjoy more our failed and feigned unicity (the "blockages of eros", as Lacanians would say) more than the agape of consensual meaning making and habitual convention.

This insight may also help us move forward from our current fixation with refusal, the enjoyment of one's own demands, the fascination with taking to the streets to make our demands heard (by some big Other, the state for instance), the paralysis of asking "why is the public so stupid?"; fascination of abomination, fixated on sentimental communion, equivalential chains and consensus.

Berger explains after Shitao and Joseph Beuys (whom he calls "the great prophet of the second half of our century") that once the principle of collaboration is understood as something different from communion or consensus, it becomes a criterion for interpreting or "judging" works of any style. And because judgment actually has nothing to do with art (dear I say, nor with politics), it offers us an insight for seeing more clearly why painting (or political action) moves us.

In art museums and in the streets or the barricades we come upon not simply with what we share already or what makes us and our demands equivalent. Rather, we come upon "the visible of other periods and it offers us company. We feel less alone in face of what we ourselves see each day appearing and disappearing...in the realm of the visible all epochs coexist and are fraternal, whether separated by centuries or millennia".¹⁵

This is another way of saying that what we encounter in art museums or in the barricades of the peoples' war is the void of time, or the intervallic vortex of history, flush with yearnings and filled with the possibilities of what was, what could have been and what is not-yet, all coexisting and fraternal. Beuys's work was a demonstration of and an appeal for the kind of collaboration Berger is talking about. "Believing that everybody is potentially an artist, he took objects and arranged them in such a way that they beg the spectator to collaborate with them", or in other words, they beg us to cease to be mere spectators and instead become spect-actors, "not this time by painting, but by listening to what their eyes

15 J. Berger (2002) 21.

tell them and remembering". I believe the same could be said of Cortázar's work in general and his *Fantomas* novella in particular.¹⁶

Thus, having shifted towards the true form, a likely likeness, your eyes collaborate with those of others in the act of listening (to what your eyes tell you) and in the dramatic intensification of what the model shows you, firing up your intelligence and affect: the possibilities inherent to and coexisting in the void of the historical event, the emptiness of the ethical gathering, or the distance-interval between lack and fullness. To do this, as Silvia Wynter has taught us, a new ceremony is needed, a ritual drama or a social myth that would make present the idea of a beginning in all its power, not just a new but a different beginning, and at the same time can lead us and that beginning toward the future. This is the true meaning of the term "principle": it is a category that shows the direction to follow, a vector.¹⁷

In a similar way, anthropologists and their interlocutors all over the world, moving together not only across spatial but also historical dividing lines, call such demonstrations, such ceremonials and ritual lines of the horizon and vertical flight, "zero-value" or empty institutions. This means that, paradoxically, fullness must be made equivalent with emptiness (as Ernesto Laclau says) but also, in a further twist, that the emptiness of the spatiotemporal vortex or the historical route must be made equivalent not with the Newtonian idea of the void as a spatial frame of reference or the ultimate ground within and against which motion takes place -an idea which helped consolidate and provide with scientific credentials colonialist efforts to make claims on lands said to be devoid of persons or occupied by inhabitants impacted by climates and environs rendering them into non-beings.

As said before, instead, in a further twist, the void must be made equivalent with fullness. That is, with the idea of absence of ground that so strongly resonates with the enactive strand of the cognitive sciences or the principle of ontological indeterminacy in cutting-edge physics. In quantum field theory, for instance, the vacuum cannot be a generic nothing since it can't be determined as such given that

16 J. Berger (2002) 21-2.

17 See on this, Miguel Abensour (2017) 51, citing Ernst Bloch (1981) 171-174.

the indeterminacy principle allows for fluctuations of the quantum vacuum, which are like the indeterminate vibrations of a drumhead. If this modest analogy works, the void should be understood as far from empty. “For it is filled with all possible indeterminate yearnings of time-being; or in this drum analogy, the vacuum is filled with the indeterminate murmurings of all possible sounds: it is a speaking silence”, as Karen Barad observes.¹⁸

Pressing our loose analogy a bit further, onto Berger’s and Cortázar’s field, the void is like the realm of the visible in which all epochs coexists, or at least all possibilities, in apophatic fraternity. This means we must train our eyes to listen to the speaking silence of possibility. Emptiness or the void is, in this sense, equivalent with a flush of yearnings, or filled with possibility. This insight has political implications: Justice –as one of the names of social fullness– does not have a content of its own, just like the “zero-value” institutional divides identified by anthropologists in their interlocutions with Amerindians and other others. Therefore, needs to borrow it “from some of the normative proposals that present themselves as incarnations of justice”, as Laclau says. For example, “socialization of the means of production” or “excess profits” (the Chilean revolution’s proposal for calculating compensation in the wake of socialization of the means of production) not only signify what they more or less directly designate, but also “the end of all [historical] injustices present in society”.¹⁹

Laclau calls this the moment of the ethical investment in the normative, when a certain order fulfils the ordering function. Cortázar calls it the inseparability of the ethical and the political. It raises the question: why is it that one order or politics rather than another fulfils the ordering or vector-function function and plays such dramatic role? Laclau proposes that a first answer is availability. I interpret this to mean something similar to the receptivity of materials in the case of painting or visual artwork-making.

Recall that for Cortázar, the material medium of the law (the verdict, the positive technologies of courts and human rights tribunals, a certain form of

18 Karen Barad (2017) 77, citing Silvia Wynter (2003) 257-337.

19 Ernesto Laclau (2014) 135.

writing) was not receptive enough. It knew not how to listen to what eyes (eyes before the testimonies of the concrete voices and bodies erased, disappeared, made invisible) tell them. It knew not or had forgotten how to make visible or present the faces of those giving, as a gift or a present, their testimony, and knew not how to re-enact the realm of the visible in which they could appear as subjects.

Hence, a second answer is needed to the question posited at the beginning of this section. What is a likeness? The result of the receptivity of a material, for sure. But the openness of ink or oil in painting means the ink or the oil is open to the brush, which is open to the hand, and the hand is open to the heart: “all this in the same way as the sky engenders what the earth produces”. We’re talking cosmopolitics here. It isn’t merely the matter of a different form or a new particular medium, but a whole different approach to form or the material medium itself. Seeing nature and history as a whole.²⁰

Hegel, creolised by Martinican philosopher René Ménéil, may be our best guide here. The answer is demonstrative presentation, the dramatic intensification or the making visible of what seemed invisible before -the possibilities of the moment or the event. We need not hesitate to view the moment and listen to what our eyes tell us. For in the moment (or what Berger calls the realm of the visible) “is found all the previous instants to a particular action in the process of becoming -since, in any thing that exists ‘that which has been superceded [*sic*] is at the same time also preserved, and in losing its immediate and apparent existence, is not destroyed”.²¹

Ménéil is both citing Hegel and shifting the geography of the reasoning behind the quote in the direction of the Caribbean and what Karl Marx and Eric Hobsbawm called the capacity of “archaic formations” to develop “into a higher form of economy without prior destruction”.²²

20 J. Berger (2002) 20, citing Shitao.

21 R. Ménéil, “Poetry, Jazz & Freedom” in Franklin Rosemont and Robin D. G. Kelley (eds.) (2009) 84-5, citing Hegel. Also, Berger (2002) 21.

22 E. Hobsbawm in (1965) 51, referencing Charles Fourier and the early Marx on the visual illiteracy that contributed to the origination of the XVIIIth century fiction of “natural man”. Behind it, eyes better trained could rest “on the correct idea, that *crude* conditions are naïve paintings, as it were in the Dutch manner, of *true* conditions”. See also, Karl Marx, *Werke*, I, 78.

The point here is that the true genius of aesthetic, rhetoric or political work is to remember the half-forgotten or erased but latent historical paths of “that primitive happiness” (utopia, uchronies) in a way that would make them visible and available in the present conditions. In combat with what Laclau called “the realm of sedimented social practice”, what W. E. B. Du Bois termed “the Great near”, Ménil the poison of “our drugged existence”, and which Cortázar recognises in the silence of the papers that “don’t say anything about us”.²³

Here, the one who speaks the final lines of Cortázar graphic novella is a disembodied but clear Afro-Cuban voice. That is, a different subject embodying one political order which takes over the role of the ordering function from *Fantomas*, the superhero, playfully, like a kid putting the jacks together and tossing them down between his feet, after the hero acknowledges his failure and questions himself and the narrator (Cortázar): “I’m asking myself if you fucking intellectuals weren’t right...Days and days of international action and it looks like things are hardly changing at all”.²⁴

As it turns out, neither *Fantomas* was the solitary hero standing in for the solitary writer (supposedly, Cortázar) nor the intellectuals, including Cortázar himself in the role of the narrator were omniscient (also Susan Sontag, who makes a cameo appearance at this point in the novella; let’s also include Hegel). No superpowers in this superhero comic then, and no philosophical cure or the “solution” to all our problems. From this point onwards, where the novella leaves off in actual or apparent failure, and in the absence of grounds, we begin. Our eyes firmly set on what the Afro-Cuban voice in the novella calls “the dawn still ahead of us”, the truthful and trustworthy form, not its imitations.

Alas, Ménil proposes Jazz and rhythm as his (creolised) Hegelian antidote to the poison which drugs our existence at this point in time.

Cortázar, himself a lover of Jazz, would have agreed.

23 J. Cortázar ([1975] 2014) 67

24 Ibid.

6. A Different Beginning

Thus, we begin. We set our eyes on the dividing lines of the Jim Crow South, repeatedly drawn elsewhere through expansionism and intervention, from Indochina to the Caribbean and South America, and we listen. These lines function as a metonym not for a chromatist global colour line but for a (Tricontinental) power struggle in which all radicalised peoples, regardless of race, are implicated and “thus discursively colored” as Garland-Mahler says. This is no mere rhetorical move but, as I shall argue further in what follows, a move of the entire rhetoric apparatus itself: from its commitment to persuasion and the imaginary assumption of ready-made publics and their shared meanings to the staging of the spatiotemporal interval for a different public’s appearance of the subject (let’s play with words having to do with presentation and appearance: demonstration, de-monstration, demon-stration, demonic monstrosity, and so on). A subject becoming present through the self-energising force of prophetic, ornamental and protreptic rhetoric as well as the public work of world-making that “archaic” or territorial communities in struggle yesterday and today live as their cosmo-politics.²⁵

Of course, *Fantomás* is to be interpreted together with Cortázar’s posthumously published *Papeles Inesperados*, the arguments made at the Russell II in which he and García Márquez played a crucial role, and the legal tactics and strategies developed in Allende’s Chile. I believe the arguments of Russell II and the legal tactics of Allende’s era resonate very strongly with Douzinas’ suggestion for the case of contemporary Greece and Bob Meister’s take on historical injustice. Therefore, they may very well constitute the best inspiration to develop and perhaps go beyond them.

I also believe Cortázar’s humble graphic novella stands as a contemporary example of what used to be called the protreptic strand of rhetoric, which shifts the whole of rhetoric and philosophy from its location in the vicinity of technologies of persuasion to the seemingly distant one of utopic and uchronic (timekeeping)

25 J. Cortázar ([1975] 2014) 68. Also, Ernesto Grassi ([1980] 2000) 114.

technologies of play, especially in its alternative exploration of the graphic/tropological means by which discourse and image exert their effects.

Recently, a number of thinkers and rhetoricians have noticed an uncanny affinity between models of protreptic address, Jacques Lacan's proposal of a "science of rhetoric", and older venerable models of action and knowledge. That is, models of action and knowledge driven not towards the useful, finitude or needs-based production, but rather, towards a sense of play and enjoyment inherent to the very act, or *jouissance*. In Ernesto Laclau's political theory of hegemony *jouissance* is formally similar to Gramsci's hegemony. Here, however, we shall add the elements of structural failure and the view of the totality, including "observing the good as a whole" and thereby delivering principles for motion-orientation.

In other words, we find here the elements of a veritable cosmopolitics, which inspired by the rigour of astronomical timekeeping or math, for instance, focuses on the good as a whole rather than solely on the particular or the needs of the particular and issues paradigmatic views that can be treated as demonstrative proofs, prior or principled, truthful and trustworthy in themselves that shift our gaze and attention; as when the philosopher speaks of a figuration or a likely likeness of nature saying that "nature itself by itself is able to guide us to the principles".²⁶

The point is that rather than relying on the manipulation of appearances and mimetic perceptions, we can appeal to forms and formations that function as a metaphor for an organising principle that exists in advance or beyond what is currently perceptible or acceptable. For instance, beyond what is considered as legal and just at this or some point in time, or plausible, probable and "practical".

In a configuration that cannot distinguish between justice and what a particular society considers as just and legal at some point in time, the ethical is "entirely absorbed into the normative". The political import of this insight should be obvious: "...the reduction of politics to the contents of a certain normative order

26 See Christian Lundberg (2018) 188, quoting Aristotle from Hutchinson and Johnson (2010) 16.

and the identification of the ethical with the normative are inimical to democracy” and “the best prescription for totalitarianism”, as Ernesto Laclau says.²⁷

Laclau further explains that “it is only if justice functions as an empty term, whose links with particular signifieds are precarious and contingent, that something such as a democratic society becomes possible”. Furthermore, there is no democracy without a conception of the ethical as the distance, or as I prefer the interval, between the structural failures and limitations of current societies and the possibility of fullness, on the one hand, and on the other the recognition that such an interval is in itself void or empty in the sense that it has no fixed ultimate ground.²⁸

The key concepts here are absence of ground and possibility (not to be confused with potential). For it is precisely the absence of ground or an ultimate historical destination what allows us to conceive of the void interval as flush with yearning, with infinite possibilities and imaginings of what was, what could be, and what is but not yet, all coexisting. And, therefore, also to consider an act (prophetic and utopian, or uchronic) that can dramatically intensify the affects attached to the unfinished projects of the past, say the Chilean revolution, in the direction of a different beginning.

Crucially, the aim of such an act would not be restorative but a kind of remembering that makes life in society and everything in it, which is to say in concert with all entangled beings (“human” and “nonhuman”) who are desiring survivors and no longer mere demanding victims, worth it. We say that the aim of such an act is not restorative but demonstrative and performative in the sense that it opens up and makes present an option, a different beginning, rather than foreclosing or reducing all of them to the particular given order or inheritance.

In other words, the act makes visible vectors and orientations that would otherwise remain invisible, unattainable or in-variable according to context and produces enjoyment (among participants in the act of demonstration) in the form of demonstration itself, thereby eliciting intelligence to directly encounter

27 E. Laclau, “Ethics, Normativity and the Heteronomy of the Law” in (2014)127-137 at 133.

28 Ibid.

the option-form, firing intelligence up, and transforming the interval between structural failure or what is lacking in a given order or inheritance and the not-yet realised vision of fullness into a spatiotemporal milieu, which provides the option or possibility with its consistency (an infinity of infinities).

Put otherwise, the act does not produce something that is useful to the given context and order, restoring and maintaining it, but through care it gives way to a kind of useless enjoyment: what actors, the women of old rituals and stories, children and dreamers enjoy is not the pleasure of undertaking a pleasing action but rather the dramatic performance and intensification of their worth and status as actors, women, children, dreamers or human/nonhuman entanglements able to undertake such actions. Enjoyment is useless (as Lacan says) or the ethical is empty (as Laclau says) because in being distinguishable from given laws and orders, or from currency and what is current, it frees both the ethical and the political from their fixation to any prior all-embracing normativity or presumed destination of life. Then and only then, life becomes worth living and joyful, a matter of *inventio*, or a free-form just like jazz, the stars, the planets and mathematical topologic or poetic forms. The enjoyment evoked by such forms is the very opposite of pragmatic judgment over particular demands, a legal verdict or mediated consensus regarding probability and what is practical or “realistic” within a given context.

From what has been said in the previous paragraphs you may understand why I consider Laclau a thinker of possibility. One of the very few ones in the history of philosophy, in fact. And at least in that respect, he’s a worthy companion of Cortázar and the rest of the Latin American generation of writers of the marvellous and of contradiction or the uneven as a function of the useful.

However, it might be the case that we would have to part ways with Laclau and others like him from here onwards: for the conception of the political act as the chaining of particular demands that was so central to his political philosophy might not suffice. It may lead us to fixate our freer more joyful vision to the destiny of such demands, to their cathartic discharge, or their refusal by a state or authority pretending to stand for the global order and our counter-demands which run the limited and limiting risk of reaffirming the presumed representativity of such authorities and our supposedly peripheral

(or lacking) agency. The circularity of demands, refusals and counter-demands can in fact become vicious and viciously addictive, pushing us into paralysis toward institutional or stately politics or into a fixation with victimhood and marginality. Or even worse, to the kind of activist purity that often makes the perfect the enemy of the good and turns the stately and its normative orders into the exceptional representative of the totality of the political.

The latter (hysterical) attitude, which tends to be the attitude of the middle classes, burdened as they are with moral guilt (“reinforced against desire and mocked by money”, as Pierre Yoyotte once observed) can render us absolutely ripe for counter-revolutionary (re)action. To give credit where it is due, I believe this is precisely what Laclau and Cortázar detected and denounced as a totalitarian fascistic fixation.

I refer in this respect to the so-called “excess profits” doctrine as a principle rather than as a silver-bullet solution, a demand or merely as a particular reformist legal measure. Arguably, it aimed to construe historical injustices in connection with the ongoing benefits of foreign investors in Chile as a property-creating remedy that could be claimed by those on their way to transforming themselves from victims to survivors, who longed for another orientation or desired a different beginning, and against successors in interest. This principle is revolutionary.

It can be argued that Allende’s doctrine interpreted the normative order of property rules in a radical manner (as property-creating remedy rather than as personal liability) and in doing so came up with an ethically worthy way of reversing a historical injustice. One that is compatible with the idea that to approximate the political-normative and the ethical requires a radical investment on the part of disadvantaged groups, but also a cap on remedial justice. Moreover, the resulting creation of legal states in property for disadvantaged groups to counteract the ongoing wealth effects of historical injustice, gave the order of property rules an ordering function.

This is an instance of how the political-normative can be reimagined in an ethically radical manner, shifted to a different beginning, different from the more ubiquitous and not always effective recourse to constitutional change. Viewed from this perspective, Allende’s “excess profits” doctrine together with Frantz Fanon’s

reflections on restitutorial justice vis-à-vis (financial) violence in the international level, but also liberation philosophy's intertwining of denunciation and utopia as well as Cortázar's experimental law-and-literature shift towards the performative role of the witnesses at Russell II, is compatible with more and less recent efforts to provide the legal-political with a decisive critical momentum.²⁹

7. No Justice Without Speculation: From Policy to Utopia

Put simply, the “excess profits” policy and doctrine was elaborated as an answer to the question of the present valuation of past injustice. The core idea was simple: to come up with an explicit accounting that connects the gains of foreign investors (in this case copper multinationals Kennecott and Anaconda) to the losses of Chileans in a way that would supplement the separate accounts maintained by each. Importantly, the ability of law to trace assets in such a way (historically) means that restitutorial remedies that do not simply return property “can, instead, create a beneficial interest in an asset or fund that has grown in value owing to the original injustice or in close correlation with it”, in the shape of a constructive trust arising from said injustice.³⁰ When interpreted through the lens of the constructive trust formula of property law theory, it becomes apparent that

29 Marcuse, H., Neumann, F. & Kircheimer, O. *Sixty-Five Leading German Businessmen*, 28 June 1945, R&A 3020, USNA, RG 153, entry 135, box 14; and Marcuse, H. et al. (1978) 124-53 at 131, also quoted in F. Neumann, F., Marcuse, H. & Kircheimer, O. (2013). For a more recent attempt, part of the constellation put together in this paper, see Laclau, E. (2014) 127-137.

30 R. Meister (2011) 239. “Excess profits” policy considered the case of compensation after take-over or the nationalisation of the copper industry in 1970s Chile. As such, it pertains to the legal distinction between liability and property rules. Though often understood in terms of the former, the point here is that it may be better conceived in relation to the latter.

at stake in the particular example of Allende's excess profits doctrine is the more general issue of the proper valuation of the present claims that can be made by history's apparent losers.

Mainstream (liberal) legal theorists and practitioners often dismiss such arguments for restitution on the basis that the passage of time – decades, even centuries - makes it impossible to calculate the compounded value of such claims. There is a kernel of truth in the liberal warning against reversing a particular moment in the entire history of injustice, since such a prospect would raise impossible questions concerning when to begin the count, why not to continue tracing it back ad infinitum, and so on. But as Bob Meister has argued, there are good reasons to conclude this is the wrong perspective. For the value of settling unjust past history changes over time rather than compounding.

Arguably, an unexpected and dramatic change in political volatility, as was the case in Chile in the 1970s, and a dramatic variation in the rate at which socioeconomic inequality changes, as in the case of Greece today, raise the present value of an otherwise latent historical claim “and thus create a new opportunity to mitigate or profit from political risk”.³¹ Such dramatic changes actually affect the value of settling colonial history (Chile 1973) or the history of Europe's self-colonisation (Greece 2015). Once we recognise that injustice, as well as its correction, is not just interpersonal and intratemporal but also intertemporal and intergenerational, the question becomes one of what kind of asset would better incorporate the constructive trust such that it can be continuously valued over time. That question is political as well as normative and economic (for instance, are historical grievances a kind of “national debt” that could be swapped by bonds? If they're not a kind of debt, then what would be the just starting point to calculate ill-gotten gains? Would it be to calculate how well off would indigenous peoples have been if conquest never happened? What about Africa without slavery?)

This already confirms that justice and practical reasoning cannot be properly undertaken without taking recourse to speculation, or as Kant and Hegel would say, that we must move from the transcendental to the speculative. Critical theorists

31 R. Meister (2011) 248.

of the first Frankfurt School spoke of the utopian and against one-dimensionality in this sense. Chief among them, those who contributed with their reports on the responsibility of industrialists as beneficiaries of the injustices committed during WWII for the U.S. team at the Nuremberg Trials and their rightly successors and comrades such as Ernst Bloch or Walter Benjamin. Cortázar may be counted among them. Following on their footsteps, he wrote a novella (which is also a visual art-object) subtitled *An Attainable Utopia* in the wake of his experiences at Russell II. This artwork also resonates with the critical liberation philosophers and theologians who were reinventing notions of utopia and “prophetism” or witnessing more or less at the same time.

The speculative and utopia can be counterfactual, and in fact this is the way most people conceive and are dismissive of speculation and utopias. Ditto, there is a kernel of truth in the dismissal of this form of the speculative. Consider, for instance, the case of “what if” questions such as those asked above about how well-off indigenous peoples or Africa would be if neither conquest nor slavery had happened. In attempting to answer such questions, we run against unresolvable conceptual and practical paradoxes.

Warning against such kind of speculation, liberation philosopher and critical theorist Ignacio Ellacuría pointed out that when “utopia lacks the dimension of the witnessing and denunciation of actual historical reality” it is “practically unworkable; moreover, it avoids real investment”.³² His point was that utopia as counterfactual history provides us with unlikely moral images, incapable of engaging our desire. They would not move us towards real commitment and investment, thereby making utopia practically and conceptually unattainable. Or even worst, if linked to the kind of moral guilt that tends to be the burden of the middle classes everywhere, they can render such classes ripe for a counter-revolution of emotions and ideals. Thus, for instance, it would be foolish to conceive of modern liberty without slavery, or liberation without modern coloniality, or capitalism without labour and its exploitation. We know that to imagine a world in which such things

32 I. Ellacuría quoted by L. Alvarenga (2014) 71-101 at 95. Also Ellacuría (2011) and (1991) 393 ff.

never happened might leave us content, with a sense of catharsis, but confused in theory and unmoved in practice. Or worst, ready to condemn our actual world in general as a “bad” one full of evil-doers that must be dispensed with.

However, in order to remedy historical injustice, we do not have to imagine a world in which colonialism, dispossession, slavery or exploitation never happened. For it is the actual history of unjust inequality denounced by those who bear witness to it which makes its remediation an option, as Ellacuría and Cortázar contended in their separate but related efforts. “Utopia requires the prophetic to inspire it ... just as prophetism requires being animated by utopia”, as Ellacuría observed.³³ Cortázar spoke of an *attainable* utopia much in the same sense.

Crucially, what makes the ethical and the political-normative inseparable in this case is an *investment*. Firstly, let's understand this in the sense of an investment of the ethical into the political-normative; a passionate investment on the part of the witness that transforms the role of the political-normative as merely an order (by becoming an activist and giving to an available order a new and radical ordering function). But also, secondly, in the sense of a new asset that can appreciate in value and be claimed by and against successors in interest.

The next question is: If the action takes the shape of a radical investment, what then of its actor? In this case our focus should fall squarely on those who seek to invest given laws and normative orders with a superior ethical worth, those who behave as activists or, as I prefer, radical investors. These subjects denounce unjust situations and institutions affected by traumatic events (conquest, displacement, dispossession, austerity-related precariousness) more or less in the same way in which prophets raise their voice in the wilderness so as to avoid letting us off the hook. Their denunciation (prophecy) acts as a likely and powerful moral image calling us all to act against the perceived injustice. The point of such images is to shift our focus from the importance of the result and the verdict or the “solution” to the performative role of (prophetic, radically invested) witnesses. That is, towards the “principle” guiding their action, which is to make sure that a different beginning takes place even if there is no prior guarantee that their action will

33 I. Ellacuría, “Utopía y profetismo” (1991) 397.

achieve the “correct” result or destination. I argue this is precisely the point made by Cortázar’s law-and-literature experiment.

Throughout *Fantomas* we the readers are led to believe that the main protagonists are Fantomas the superhero and his arch-enemy Steiner. This is the typical comic-book structure upon which Cortázar based his novel. This Manichean ethical structure (good versus evil, us versus them) is well-known in popular culture, from dramas, movies and comic books to news narratives and increasingly also in political debates.

Crucially, these examples coming from popular culture share something in common with more formal confrontational institutions, such as the legal trial in a tribunal or parliamentary debates. What they have in common is not only their confrontational spectacular form but more importantly their organizational dual structure.

Organizational dual structures are in fact quite basic and foundational, as anthropologists suggest when they speak of them as the “zero-degree” of institutionality.³⁴ To speak of them in such manner helps explain their endurance as well as their hold on our imagination. We do indeed tend to focus more on any basic plot involving the battle between good and evil as well as its resolution. In law, for instance, the proverbial point of resolution (in time and space) is the moment of trial adjudication, the verdict. Law students are taught to focus on the verdict and the performance of judges, past and present, under the pretext that this is also what practitioners do. In general, the verdict is supposed to be both a resolution and a new unity, insofar as it reflects a neutral judgment on the history that preceded it. Each case is thereby represented as a new beginning, but one that peacefully reconnects the present with a long line of precedents, past and present. Furthermore, it is said that a “line of precedents” add up, thereby projecting the unity of the political community from the past and into the future that is thus conceived as more or less repeating a natural or established order. If so, a new beginning is not necessarily a different beginning. For all the loud talk

34 C. Lévi-Strauss, “Do Dual Organizations Exist?” (1963) 132.

of principles and balances in law and human rights adjudication, this practice may in fact be unprincipled, strictly speaking.

This is particularly evident in human rights cases involving political transitions after historical injustices, such as the South African Truth & Reconciliation Commission or the Argentinian post-dictatorship trials, and perhaps also in some of the debates concerning the peace process in Colombia, which were not just new beginnings but also produced “survivor stories”. In this respect “they are always about what the past will have been now that ‘we’ have changed, and what it would have been had ‘we’ changed sooner. Merely by occurring, political transitions thus instantiate a temporal reconstitution of the ‘we’”.³⁵ This ‘we’ is reconstituted as a collective subject already forgiven for the past evils we remember to confess. A “converted” subject who repudiates past violence by endorsing the exceptional violence of rescue and occupation (as in the so-called “Responsibility to Protect” Doctrine) against all claims by previous victims or their successors in interest (seen as vindictive), which could threaten the continuing gains of born-again beneficiaries of past injustice. Verdicts in transitional justice cases and the survivor stories told at Truth & Reconciliation tribunals have thus the same effect of a confession/conversion experience. Namely, catharsis. They produce a caesura in time and space that separates good from evil and the present from the past. In the good present there are no longer victims and perpetrators, but a “rainbow” unity. And those who continue to benefit from past injustices become bystanders, who by not identifying with perpetrators perpetually agonise over whether it is already too late or still too soon to act so as stop the past repeating ever again (as in the *nunca jamás* slogan of South American transitions). The conversion model of transitional justice thus serves as a poor substitute for prophetic denunciation, leaving beneficiaries off the hook and most of us as content as mere spectators or bystanders.

However, the more interesting fact about dual organizations is that the relation between the two terms involved cannot be properly described as Manichean – as two opposites out of which a harmonious unity is obtained - or

35 R. Meister (2011) viii.

as a conversion experience involving the complementarity of two halves. Rather, “dualism is ‘resolved’ into a triangularity in which the terms (the legs) and the relation (the hypotenuse) are ‘incommensurable’”. This means that their relation is not an addition but a multiplication, an inversion, “a repetition of itself by the other” turning each term into a function of the other. Also, the relation between the terms is “a continuous and involute entity, inward growing and properly interminable”. Neither unity nor mere duality, but properly speaking, radicality.³⁶

Applied to the additive and addictive property of verdicts and judge opinions in general, and to the repudiation/conversion model of transitional justice in particular, this entails a shift in perspective. From the contentment of converts and bystanders let off the hook as a “rainbow” unity by truth & reconciliation verdicts, to the radical investment of witnesses who prophetically name beneficiaries and denounce that beneficiaries cannot be let off the hook, here and now, and struggle to realise their claims in protest acts in the streets as well as creating their own more or less formal tribunals. Such an act of naming amounts to the isolation and dramatic intensification of a set of key terms as signifiers of a situation experienced as deficient being, lack, or historical injustice. But this lack or deficiency with which we are dealing is not simply an absence of content. It is itself a content. To denounce that the named beneficiaries cannot be let off the hook in the present is to point towards “a fullness that shows itself through its very absence”.), as Ernesto Laclau explains in relation to the connection between a given order and ethical action.³⁷

Notice that, as Laclau points out, we have left behind the positivity of a given legal order but not in order to arrive at some sort of (Kantian) ethical formalism. For as he says a formal determination is still a determination and, moreover, “abstraction and generality are inherent to any formalism”,³⁸ including the ethical formalism of the repudiation/conversion model of transitional justice and human rights culture. In contrast, the experience of the witnesses in an institution such as the Second Russell Tribunal is absolutely subjective and concrete. It can be

36 Eduardo Viveiros de Castro (2012) 21-2.

37 E. Laclau (2014) 130.

38 Ibid.

called “prophetic” in the sense given to that term by liberation philosophers like Ellacuría or Cornel West today. What Laclau says of mystics can also be said of more contemporary cases of prophetic witnessing such as Russell II. The important point is that the experience “leads those who have passed through it not to live the recluse life of an anchorite, but to engage themselves in the world in a more militant way, and with an ethical density other people lack”.³⁹ Utopia is, in this sense, the inverse of an experiential situation in which such a fullness is denied, and of the name that signifies the multiplicity of factors and actors complicit in producing that situation. That utopia becomes attainable through the radical investment of prophetic witnesses, who engage themselves in the world in a more militant, ethically dense way.

Put otherwise, in properly dialectical manner, this means to emphasize the impotence of verdicts as a function of their allegedly epoch-changing character in mainstream law, and to invert the position of witnesses as a function of their mainstream role as mere evidence-gatherers and informants. But also to contrast the impotence of the verdict against the multiplied potency of witnesses as radically invested activists rather than content bystanders.

I believe this is exactly what Cortázar does at the end of his law-and-literature experiment, while reflecting upon his own experience at Russell II, thereby recovering the radicality of the Chilean example (including the “excess profits” doctrine) and turning the tables on those let off the hook in the present by the Chilean coup as well as the transition. Indeed, the initially dual structure of the novel, setting Fantomas versus Steiner in properly pop-cultural Manichean manner, gives way in the end not to some new beginning, but rather, to a triangular relation in which multinationals are revealed as the real culprit whose “absence” has deceived the great hero himself. As suggested above, this isn’t the end. Just the beginning of a story that the novel calls for but ought to happen outside of its pages, in real life.

“Julio, Julio, who’s the real Steiner? Whom did the Russell Tribunal just condemn in Brussels?”, asks a fictional Susan Sontag to Julio Cortázar in the

39 Ibid.

novel. “They have a thousand, ten thousand, a hundred thousand names”, replies Cortázar, the narrator. “But above all they’re called ITT, they’re called Nixon and Ford, Henry Kissinger or CIA or DINA, they’re called Pinochet or Banzer or López Rega, they’re called General or Colonel or Technocrat or Fleury or Stroessner, they have those special names where every name means thousands of names, the way the word ant means a multitude of ants even though the dictionary defines it in the singular”.⁴⁰ The real culprit is revealed as multitudinous, and given a name that in its singular emptiness stands for the many fault-lines of society.

Ditto, this isn’t the end. The verdict is not the end. Readers may ask: what about the opposite side, the villain? “The problem is elsewhere”, says Susan Sontag to Cortázar near the end of the novella, “because our real adversary isn’t Steiner or some lose gang of criminals, as you well know. And until many other people understand this, and do their part in their way, we’re going to keep getting fried alive like the miserable tadpoles we are”.⁴¹ The inverse of the culprit named in Russell II, not the negative in general but the subject of a determinate negation, is the “many other people”. This is no Hardt & Negri-like “multitude”. In principle, it alludes merely to those who need to understand or learn the truth and do their part. The people outside of the novel, the addressees of the graphic novel, its readers. But it also the witnesses who appeared in Russell II and those who, like Cortázar himself, undertook the work of the tribunal and in doing so went through an experience that cannot be properly described as conversion. As I have suggested before, it would be best to describe it as prophecy or a becoming-prophet. Put otherwise, an experience of radical investment or alliance-becoming.

What is the role of prophets or activists as radical investors? Is it to lead and unify the people, in the usual sense of the vanguard-intellectual or the vanguard-party? No, at least according to Cortázar. When the fictional Cortázar of the novel, the narrator, attempts a further unification of opposites, Sontag stops him. “Of course I agree with you, Susan, if we could only unite and confront the vampires and the octopuses that are killing us, if we had a chief, a ... No, Julio, don’t say

40 J. Cortázar (1975) 42-3.

41 J. Cortázar (1975) 60.

'Fantomas' or any other name that pops into your head. Of course, we need leaders. It's only natural that they rise up and assert themselves, but the mistake ..."

At this point in the final exchange of the novella something stranger happens. Cortázar, the writer, introduces a device by means of which the singularity of the character Susan Sontag begins to transform into a multiplicity – like the Amerindian shamans and the jaguar of the myths about zero-degree institutions studied by anthropologists: "...was it really Susan talking? Other voices were mixing with hers now on the telephone, phrases in different languages and accents, men and women speaking from close by and far away – the mistake is to think we need a leader, to refuse to lift a finger until we have one, to sit waiting for this leader to appear and unite us and give us our slogans and get us moving. The mistake is to be content to let realities stare us in the face, realities like the Russell Tribunal's verdict (you were there, you know what I mean) and still to keep waiting until somebody else – always somebody else – raises the first cry".⁴²

This should not be confused with a paean for mere horizontality in political organisation. Rather, it is yet another result of the radical dualism at the heart of the novel. Triangulation: revealing a third party where there were two at the outset, results not in a new unity but in multiplication. A fourth party is revealed that is the inverse of the third, each a function of the other. Just as the multinational vampire-squid stands in its emptiness for all the ills of society, its lack, now Susan-the Many stands in its emptiness for the positive reverse of the lack at the heart of society. That is, justice.

Cortázar takes a further step here. He seems to acknowledge that there is no logical transition from (Unjust) Multinational Vampires to (Just) Susan-The Many. Which is why the paragraph shifts our focus from the verdict at Russell II to the activation of otherwise agonizing bystanders through close contact and alliance, a fusion of utopian investment and prophetic witnessing. The making of an alliance calls for the radical investment of the ethical participants into the political-normative, or their inseparability. It produces a community of ethical values. In other words, it makes justice an option for us, here and now, not because the harsh

42 J. Cortázar (1975) 60.

realities stated as facts in the verdict stare at us in the face (this is not an objective situation) but because activism is a risky business (the subjective transformation of a quiet situation into a volatile one that heightens the value of dormant claims).

Triangulation results thus not in a new unity or singularity but in multiplication. The singular names stand for multitudinous entities. Rather than evil-doer Steiner, the “Multinational Vampires” of the title. And instead of the deluded hero Fantomas, the radically invested many who connect the ethical with the political-normative through a few simple images capable of galvanizing their imagination and provide them with a different orientation. That’s the function of the visual part of Cortázar’s graphic novel. A proposal such as the Douzinas-Meister-Guardiola model for remedying historical grievances would be null without the tactics and the strategy of radical investment needed to galvanize our collective imagination.

Fantomas Versus the Multinational Vampires. An Attainable Utopia, as a vehicle for the Russell II experience, shows how this can be done. The radical governments of southern Europe and the global south could convene such a tribunal, which could be more effective than Russell II because of its quasi-formal character. It could be an event similar in significance to the Bandung Conference. They can also follow Cortázar’s example, conceptual as well as formal, in fashioning a new language-and-simple-images for law to recapture the imagination of the masses instead of contributing to numb them.

8. Conclusion: Inseparability and Radical Investment

This chapter focused on the inseparability of politics and ethics. The “inseparability thesis” put forward by Cortázar. It argued that the “inseparability

thesis” is characteristic of a specific form of speech and writing originated in practical instances of people’s activism such as the Russell Tribunals during the late 1960s and early 1970s but holds true ever since. It is in fact truer in the sense of having overcome its original context and demonstrate more explanatory power than its competitor nowadays. Not only in relation to the political comeback made by peoples subjected to the one-dimensionality of law and economics in Latin America and southern Europe, as they try to subvert and transform both law and economics from positions of state power. But also in relation to the fact that the multinational extraction and finance industry, which was the main addressee of the judgment issued by Russell II as well as the protagonist of Cortázar’s innovative writing of the period, continues to demonstrate how “the nexus of politics and capitalism leads invariably to violence and death” - nowadays threatening not only the lives of those deselected from humanity for genocide and epistemicide but the planet itself.⁴³

Historically speaking, this new form of speech and writing emerged against the backdrop of revolutionary attempts like the Cuban Revolution, the student mobilisations of the late 1960s, the Chilean Revolution, and the renewal of armed struggle that followed the events of 11 September 1973. It can be opposed to the merging of counterrevolutionary violence, law and order and “free” market culture that became the norm throughout the continent and elsewhere after the coup d’état in Chile in 1973, particularly in the 1980s and 90s.

Philosophically speaking, this new and truer form of speech and writing moves in the speculative direction suggested by the distinction between “traditional”, unilateral and one-dimensional theory, and “critical” or pluri-dimensional theory, made popular by the first Frankfurt school. Whereas the former views reality as consisting of a series of disperse elements lacking connectivity or relation, the “world without others” described by existential and structuralist anthropologists working in dialogue with Amerindian cosmologies in the 1970s, the latter appeals to the plurality of grammars and scripts that account for reality- a world with others

43 E. Vulliamy, “The global extraction industry has become hallmarked by plundering, violence and political corruption”, in *The Observer*, Sunday 22 March, 2015, 31.

- not in order to organise them hierarchically but to articulate a transcending or “liberatory” path to knowledge – dialectically as well as speculatively. That is to say, from the perspective of the totality in its concreteness.

This link between Frankfurt-style criticism and Latin American innovative forms of thought and writing has been noticed already, specifically in relation to the use of notions that entail the transcendence of the given and the posited, such as hope or utopia, and the idea of a new departure from a zero-degree (*partir de cero*, in Spanish). These notions were central to a series of interconnected attempts to break new ground, aesthetical as well as philosophical, legal and political in the Americas, starting in the 1960s and 70s. For instance, liberation theology and Cortázar’s utopian novels. Whereas a concept of hope mediated by Frankfurt-style criticism became central to the former, notions of utopia and practices of negation are notoriously apparent in the architecture of the latter. Héctor Schmucler’s now classical essay on Julio Cortázar’s main novel *Rayuela*, the aptly titled *Rayuela, or Literature on Trial*, focuses precisely on the author’s usage of negation and the speculative mode of thinking and writing.⁴⁴ Crucially, a notion of utopia very close to the one being elaborated by liberation philosophers and theologians in the Americas at the time, appears in the subtitle of the novella that Cortázar wrote as a means to reflect upon and communicate his experiences in the Second Russell Tribunal, *Fantomas versus the Multinational Vampires. An Attainable Utopia*.⁴⁵

Cortázar composed this aesthetic artefact in 1975, more or less a decade after the publication of *Rayuela* and Schmucler’s essay. In spite of the fame of its author, *Fantomas* went almost unnoticed and was not translated into English until 2014. The fact of *Fantomas*’ late comeback may have had something to do with the publication in Spanish of a series of as yet unpublished papers in 2009, under the title *Papeles Inesperados (Untimely Papers)*. Among such papers, his reflections

44 Schmucler, Hector (2014) 42, 53-58, especially 57 and 58 on Cortázar’s direct references to dialectics, including “broken dialectics” and “holes” in the dialectical architecture of reality meaning its incompleteness in relation to the dimension of the unconditioned future. For hope and utopia in the work of liberation theologians and philosophers and the link with Frankfurt criticism, see Tamayo, J. J. & Alvarenga, L. (2014).

45 J Cortázar (1975).

on the violation of rights in the wake of Russell II and the Chilean coup of 1973 and the “heterodox, amphibian, an illustrated” character of his *Fantomas* creation take centre stage.⁴⁶

But it is perhaps more elegant to explain it as a result of the spirit of the times. It is only now that we can appreciate the full significance and prescience of the work done by Cortázar and others at Russell II, as we enter into the highest and to some terminal phase of extractive-finance capitalism, “the age of shared austerity”, to use the terminology adopted by Salvadorean liberation philosopher and legal theorist Héctor Samour,⁴⁷.

Similarly, only now we can see the point of the unconventional form of writing exemplified by *Fantomas*: not just its genre-bursting format, but more importantly, its attempt to merge law and literature so as to integrate them dialectically and speculatively. If so, then *Fantomas* can be seen as a critical object rather than merely an object of critique. That is, a composition that transcends posited law as well as conventional literature in the direction of a renewed critical perspective. One running ahead of its time, more or less in the same sense in which liberation philosophy and theology would in time give way to the decolonial turn and the epistemologies of the south, as well as the ethnographic critique of twenty-first century plurinational constitutionalism applied to such novel phenomena as the emergence of Syriza and Podemos in Europe from the viewpoint of permanent decolonisation.⁴⁸

The crucial point to isolate here is the relationship between denunciation (or witnessing) and utopia, dialectical as well as speculative, which is common to the new form of writing emerging in Cortázar's Russell II/*Fantomas* and liberation

46 J Cortázar (2009) 460.

47 H Samour, “El concepto del ‘mal común’ y la crítica de la civilización del capital” in (2014) 104-122.

48 See on this. O. Guardiola-Rivera (2014a), (2014b) and (2015). On southern epistemologies see, B. de Sousa Santos (2014). Also, S. Schavelzon (2015). For Amerindian perspectivism see E. Viveiros de Castro, “The Untimely, Again”, introducing Pierre Clastres (2010) 9-51, especially his distinction between phenomenological-socialist and radical-materialist readings of “zero-degree” institutions, at 32-3.

philosophy and theology, precisely in the terrain of human rights. The point is made by liberation philosopher Ignacio Ellacuría: “Denunciation without utopia is, to a certain extent, blind, just as utopia without witnessing and denunciation is practically unattainable; moreover, it disavows real commitment and engagement”.⁴⁹

This formulation uncovers the link between critical theory and a radically materialist anthropology encompassing and surpassing theological-political notions of political spirituality and representation: the historical (not historicist) incarnation of the moral image, as well as the concept, the passion, and the force that animates spectators and consumers to perform and act in a transformative manner. This is also the key to unlock the central image in Cortázar’s *Fantomas*, that of an *attainable* utopia. What makes utopia attainable is the performative act of the witnesses and the participants in the tribunal.

This formulation also invites us to carefully distinguish between the specific form of speech and writing that corresponds to the inseparability between ethics and politics and a different form of cultural production that withdraws away from the national-popular question and into the ivory tower of its own values and ambitions in the formulation of models of identity, governability and development.⁵⁰ The ethics of this latter form of cultural production and social regulation consists of a celebration of the different roles allowed by “free” market culture. It entails a rejection of social conflict on the basis that individuals try to maximise their comparative advantages in the marketplace without obliging others to give up their own interests, and the canonization of values of moderation, consensus, and respect for the other, proper of a fractureless time defined by the protocols of democratic and legal formalism, governance, order, progress, and normalisation.⁵¹

In the situation created by this process of social normalisation, “law & order” acquire all the connotations of a default vitalist ideology subjecting individuals at their innermost level so that society’s conflicts are substituted by a personal defence

49 I. Ellacuría quoted by L. Alvarenga, in (2014) 85. Also I. Ellacuría (2001) 435-437.

50 J Beverley (2011) 71-94.

51 On the problems of the “ethical turn”, see B. Bosteels, “The Ethical Superstition”, in E. Graff Zivin (ed.) (2007) 11-23. Also, Bosteels, B (2011) 170-224, at 223; J. Beverley (2011) 43-94; and, N. Richard (2010) 54-68.

of the “homogeneity of essences and the transcendental purity of the categories God, Fatherland, and Family”, also Property.⁵²

As Nelly Richard has observed in relation to the exemplary case of contemporary Chile, in such a situation the norms usually associated with the maternal-familiar (the *oikos*, the economy, the protreptic production of the public) are taken over, in a historical re-enactment of the legendary episode between Penelope and her son Telemachus, and thereafter extended into *lo patrio* (a ritual restoration of the fatherland, instead of the national-popular state or society). This results in the configuration of a practice and rhetoric that is in fact patriarchal-militaristic, which elevates the national interest to the canonical role of a persuasive supreme good to be defended by the necessary sacrifice of some among the many against the risk of dissolution, anarchic violence, and revolution. The aim of such a practice and rhetoric would be to protect allegedly shared values, norms and conventions (the familiar, the interior) against signs of rupture, fracture, or catastrophe (the outside): these signs are oftentimes projected upon and embodied, more often than not in racializing manner, by the people and the masses and into the figure of the internal/external enemy that threatens to dissolve the inner purity of nation, family, and the economy.⁵³ The rhetorical practice that in this paper is distinguished from and opposed by the “inseparability thesis” espoused by Cortázar and others, is supplemented in this way by a sharp demarcation between positive and negative values, which serves the guardians of order to consolidate their benevolent ethics as their dogmatic basis and foundation.⁵⁴ Ultimately, what the “ethical turn” rejects is the need for struggle, political struggle in all its forms, to make society at all possible.

In the next chapter, we shall consider the “inseparability thesis” as both a recognition in theory and practice of struggle as a constructive condition of society, and the kernel of a specific form of speech and writing in Latin America

52 N. Richard (2010) 59. For my use of “norms” and “situation”, close to the work of ideology critique developed by Frantz Fanon and Louis Althusser, see P. Macherey (2012) 9-20.

53 See on this, J. A. Gordon & L. R. Gordon (2009).

54 For a critique of sentimentalism and benevolent tendencies in ethics, see T. Eagleton (2008).

(a *Latinamericanism*, as Beverley would put it) that goes beyond the strictures of territory and dogmatic geopolitical imagination, in fact freeing the latter in the direction of global justice and redemption, whatever the future may hold. In this respect, to recover the memory of this specific form of speech and writing committed to political practice and struggle does not correspond to a nostalgic affect, but rather, attests to and becomes part of the various “returns of politics” that in Latin America and elsewhere are attempting to build, once more, a society and a state that is at once egalitarian and diverse, a state of the people, especially after 2008 and 2011.⁵⁵

55 J Beverley (2011) 125. See also, O. Guardiola-Rivera (2010).



... It makes sense to speak
of art-as-philosophy and
of perpetual art/struggle,
as the never-ending search
for political allies.

This is also the truth
of peacemaking.

Published by Editorial
Utadeo, 2019.

“Será este el siglo latinoamericano? [...] Oscar Guardiola-Rivera piensa que sí y ha escrito un libro optimista que lo prueba”. Washington Post on *Si Latinoamérica gobernase al mundo*.

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