

Constitutional Crisis, Security and Democratic Resilience

Edited by

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Edizioni Scientifiche Italiane

International Mobility Programme – Assessing Constitutional Crisis impact and Security
IMP-ACCTS

Funded by the European Union - Next Generation EU, mission 4, component 1, investment 3.4 “Didattica e competenze universitarie avanzate”, sub-investment T4 “Iniziative transnazionali in materia di istruzione”.

CUP B61I24000450006 - Project Proposal TNE23-00057

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DEMURO, Gianmario; NINATTI, Stefania; PERINI, Mario; TONDI DELLA MURA, Vincenzo (*edited by*)
Constitutional Crisis, Security and Democratic Resilience
Naples: Edizioni Scientifiche Italiane, 2026
pp. 308; 29,7 cm
ISBN 978-88-495-6215-6

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80121 Napoli, via Chiatamone 7

Internet: www.edizioniesi.it
E-mail: info@edizioniesi.it

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POLITICAL THEOLOGY AND CONSTITUTIONALISM:
THE NEW KNOTS OF AN UNRESOLVED CONFLICT.
PRELIMINARY NOTES

VINCENZO TONDI DELLA MURA

KEYWORDS: Political theology; Democracy; Conflict; Social cohesion; Geopolitical instability

SUMMARY: 1. The Risk that “Democracy [May] Not Necessarily Be The Perfect Solution To Everything”. – 2. The Tumultuous Re-emergence of Political Theology. – 3. The “Enemy” and Democracy. – 4. Conflict, The “Art of Remedy” of Politics, and The “Political Nature” of The Constitution.

*Remota itaque iustitia
quid sunt regna nisi magna latrocinia?*

[Justice being taken away, then,
what are kingdoms but great robberies?]
(Agostino, *De Civitate Dei*, IV, 4)¹

1. *The Risk that “Democracy [May] Not Necessarily Be The Perfect Solution To Everything”*

Far from having been “definitively disposed of”,² the category of political theology thrives with renewed vigour on the international stage as a factor of fresh geopolitical instability and a cause of armed conflict. Moreover, unlike what occurred in the past, it now shapes the principal political choices of legal orders that are no longer exclusively autocratic, but also democratic and constitutional; it bursts into their respective decisions without encountering resistance,

¹ The passage from the Bishop of Hippo continues: “Indeed, that was an apt and true reply which was given to Alexander the Great by a pirate who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, ‘What do you mean by seizing the whole earth; because I do it with a petty ship, I am called a robber, while you who does it with a great fleet are styled emperor’”. As Pope Benedict XVI remarked in the encyclical *Deus Caritas Est*, 2005, 28, a): “Justice is both the aim and the intrinsic criterion of all politics. Politics is more than a mere mechanism for defining the rules of public life: its origin and its goal are found in justice, which by its very nature has to do with ethics”.

² The reference is to the rejoinder addressed in 1970 by Carl Schmitt, *Teologia politica II. La leggenda della liquidazione di ogni teologia politica*, Italian translation edited by Antonio Caracciolo (Milan: Giuffrè, 1992), to the attempt elaborated in 1935 by Erik Peterson, *Il monoteismo come problema politico*, Italian translation edited by Giuseppe Ruggieri (Brescia: Queriniana, 1983), 103-4, note 168, to “demonstrate the theological impossibility of a ‘political theology’”. In Schmitt’s view, Peterson’s critique had “in the meantime become a political legend”, a legend whose content was the “definitive liquidation of all political theology”, to the point

to the point of disregarding differences in their respective sources of legitimacy; it indiscriminately imposes axiological priorities, thereby shaping their options in equivalent terms.

Nevertheless, precisely the observed fungibility between legal orders of opposing legitimations³ raises questions about the actual capacity of contemporary constitutional democracies to remain steadfast in their founding rationale; it prompts the question of whether the axiological force of their underlying principles is sufficient to effectively contain the conflictual effects provoked by political theology, so as to absorb and rebalance the opposing centrifugal and disintegrating pressures. It is true, indeed, that these pressures are rooted in motivations and dynamics of a pre-political order necessarily prior to, and exceeding, the historical foundations of individual legal orders. Yet it is equally true that, in the absence of a firm capacity for axiological resistance and response – prior even to any prescriptive one – democratic legitimation itself risks being reduced to a merely formal cover for a legality whose substantive boundaries are essentially indiscriminate; thus, the provocative judgment pronounced by Pope Leo XIV would find confirmation: “if we look at many countries in today’s world, democracy is not necessarily the perfect solution to everything”.⁴

The issue certainly refers back to the long-standing question provoked by the end of social homogeneity and by the need to resolve the demand for political cohesion through new forms of justification of State authority. It is no coincidence that this problem was not identifiable in preceding systems, which were characterised by different founding presuppositions: the absolute State postulated obedience and only secondarily consent, thus managing to set aside the question under examination; the liberal State, likewise, resolved the problem of heterogeneity at its root by restricting the electorate along census-based lines and narrowing universal suffrage, thereby ensuring, as a matter of fact, the unity of the purposes of the legal order.⁵

It is with the transition to a multi-class society and with the ensuing loss of confidence in the ordinary legislature that the category of legality became incapable of justifying the manifestations of State authority. Legitimacy, in this way, rather than remaining confined beyond the normative boundaries of the legal order, became constitutive of it, rising to become the new justification for public power.⁶ Constitutions have been entrusted with the extraordinary

of having oriented the subsequent debate towards “wholesale liquidations” of the entire subject matter, encompassing the writings of the one and “even” of the other (*ibid.*, 3, 8, 11 and 89).

³ Applebaum Anne, *Autocracy. The Dictators Who Want to Run the World*, Italian translation by Tullio Cannillo, *Autocrazie. Chi sono i dittatori che vogliono governare il mondo* (Milan: Mondadori, 2024).

⁴ Iacopo Scaramuzzi, Leo XIV, “Nel mondo troppe disparità, guardiamo a Elon Musk. Democrazia non sempre perfetta,” in *La Repubblica* (September 14, 2025); Allen Elise Ann, *Papa Leone XIV. La biografia* (Milan: Mondadori, 2026). With regard to which, most recently, Loiodice Aldo, “Interpretazione costituzionalmente adeguata e il legato giuridico per Leone XIV (ausilio all’interpretazione giuridica per i diritti e le libertà costituzionali),” in *Studi in onore di Stelio Mangiameli* (Turin: Giappichelli, 2026).

⁵ Lombardi Giorgio Mario, *Contributo allo studio dei doveri costituzionali* (Milan: Giuffrè, 1967), 137 ff.; Lombardi Giorgio Mario, “Legalità e legittimità,” in *Novissimo Digesto Italiano* (Turin: Utet, 1963), 577 ff.

⁶ Baldassarre Antonio, “Costituzione e teoria dei valori,” *Politica del diritto*, (1991): 655; Baldassarre Antonio, “Interpretazione e argomentazione nel diritto costituzionale,” *Costituzionalismo.it*, (2007); Luciani Massimo, “Interpretazione conforme a Costituzione,” in *Enciclopedia del diritto. Annali*, IX (Milan: Giuffrè, 2016), 392 ff.; Mengoni Luigi, *Ermeneutica e dogmatica giuridica. Saggi* (Milan: Giuffrè, 1996), 122; Passerin d’Entrèves Alessandro, “Legalità e legittimità,” in *Studi in onore di Emilio Crosa*, II (Milan: Giuffrè, 1960), 1310 ff.; Zagrebelsky Gustavo, “Introduzione,” in *Costituzione e diritto costituzionale*, edited by Rudolf Smend (Milan: Giuffrè, 1988), 2; Zagrebelsky Gustavo, “Storia e Costituzione,” in *Il futuro della democrazia*, edited by Gustavo Zagrebelsky, Pier Paolo Portinaro and Jörg Luther (Turin: Einaudi, 1996), 79.

task of incorporating the specificities of individual State communities, identifying the values to be recognised as the permanent ends of the State. They have been accorded a legal toolkit designed both to consolidate a minimum degree of homogeneity among political forces and social groups, and to promote that cohesion which had by then disappeared from the social fabric. To this end, the said toolkit has been endowed with both a negative and a positive dimension: on the one hand, comprising guarantee institutions of both a formal nature (such as the regulation of the normative production process) and a substantive nature (such as the protection of constitutional freedoms); on the other, concerning principled norms, insofar as they are characterised by compromise formulas expressive of that minimum standard serving as both a point of arrival and a basis for future communal development.

Nevertheless, the linearity and completeness of a constitutional toolkit designed to sustain social cohesion do not diminish the difficulties of achieving its effectiveness. At the outset, indeed, such effectiveness concerns the reasons for ‘living together’, rests on pre-legal elements, pertains to the pre-political dimension of coexistence, and bears upon the boundary between being and ought, between the factual sphere and the legal order – a tension from which no legal order can do other than maintain, so to speak, an *engaged distance*. This holds true in the light of Arturo Carlo Jemolo’s masterly metaphor on the meta-legal nature of the family bond, as “an island that the sea of law should wash against but only wash against”.⁷ No positive legal order, indeed, is truly capable of guaranteeing its own foundation through the prescriptive and sanctioning instruments at its disposal; none is capable of securing those presuppositions – which can only be of a historical-cultural and political-social order – that enable and legitimise its validity and, therefore, its existence in the form proper to positive legal orders.

The problem is further compounded when one considers how legitimacy is not a static reality – that is, an acquired datum settled once and for all – but rather the result of a constant process that can never come to a halt. As Giovanni Pitruzzella has noted, the legitimation process follows a circular path, moving uninterruptedly from the governed to the governing, since it is the latter – as holders of political power – who adopt behaviours aimed at fostering, within society, those beliefs which they may subsequently invoke as the title to legitimacy of their power. It therefore becomes essential to understand how to maintain consensus around those values that are constitutive of the legal order, and how to actualise them by adapting them to changed historical circumstances.⁸

In this sense, the well-known Böckenförde dilemma is confirmed, according to which “The liberal secularized state lives by prerequisites which it cannot guarantee itself”⁹ – prerequisites, one must add, whose exhaustion cannot but entail an axiological recession of the force of constitutional principles in the face of opposing disintegrating tendencies. And this is precisely the problem. So much so that the President of the Russian Federation, Vladimir

⁷ Jemolo Arturo Carlo, “La famiglia e il diritto,” in *Pagine sparse di diritto e storiografia* (Milan: Giuffrè, 1957), 241.

⁸ Pitruzzella Giovanni, “Fiducia e legittimazione dei poteri,” in *Enciclopedia del diritto, I tematici, V - Potere e Costituzione*, edited by Marta Cartabia and Marco Ruotolo (Milan: Giuffrè Francis Lefebvre, 2023), 105 ff.

⁹ Böckenförde Ernst-Wolfgang, “La nascita dello Stato come processo di secolarizzazione,” in *Diritto e secolarizzazione. Dallo Stato moderno all’Europa unita*, edited by Geminello Preterossi, Italian translation by Mario Carpitella (Rome-Bari: Laterza, 2007), 52-3; Baldassarre Antonio, *Weimar: un costituzionalismo in mezzo al guado* (Soveria Mannelli: Rubettino, 2024), 332 ff.

Putin, drawing precisely from the observation of such exhaustion, has denounced the ensuing weakness of Western democracies and proclaimed their decline.¹⁰

This is sufficient to account for the tensions and questions provoked by the irruption of political theology into the current historical context in which, as Stelio Mangiameli has shown, Empires and States move within the same international space.¹¹ Precisely the axiological recession demonstrated by the principles of Western democracies in relation to opposing disintegrating tendencies reveals the epistemological limits of a conception of the Constitution suspended between *constitutional optimism and historical pessimism*: on the one hand, the claims of liberal principles deemed unstoppable in their *magnifiche sorti e progressive* axiological potential – to be understood without limits and freed from any opposing consideration of constitutional balancing and political mediation; on the other, the claims of the sustainability of a sovereignty now undermined by the collapse of its presuppositions on two levels: internally, with regard to a coexistence whose social compact struggles to be reaffirmed; externally, with regard to the geopolitical effects stemming from the end of the Yalta Agreement and the subsequent crisis of market globalization.¹²

It is no coincidence that Peter Thiel, one of the foremost interpreters of Donald Trump's United States Presidency, reflecting on the relationship between security and freedom, has placed upon Constitutions the responsibility for the inability of Western democracies to confront new geopolitical tensions. As one reads in the editor's introductory notes, after *the end* of history its *return* has lifted a curtain of blood: "It has finally been understood, even in the drowsy belly of political Europe, that a norm, a Constitution, a judicial ruling are effective only insofar as they rest on the geometric latitude of a tacitly accepted compact and, above all, on the removal of the great philosophical questions situated beyond the contingent: but when a force irrupts that has no awareness or willingness to respect that compact, the norm, the rule, the Constitution cease to have any utility whatsoever and revert to mere paper". So that "Debate, rights, fine academic words – in the absence of an apparatus capable of presiding over and guaranteeing their survival – are nothing but empty and weary simulacra with which to fiddle on the prow of a drifting ship, on the verge of sinking".¹³

This is why the question of effective social cohesion is bound up with that concerning the very integrity of popular sovereignty. The atomistic dissolution of society and the consequent depoliticisation of citizens do not produce effects only in themselves; they generate the further disintegrating outcome of preventing "ordinary popular sovereignty guaranteed

¹⁰ Putin Vladimir, "L'idea liberale è superata," interview by Lionel Baerber and Henry Foy, in *La Repubblica* (June 29, 2019), 6: "What is happening in the West? The ruling elites have distanced themselves from the people. There is also the so-called liberal idea, which has exhausted its purpose. [...] Thus, the liberal idea has become obsolete. It has come into conflict with the interests of the overwhelming majority of the population".

¹¹ Mangiameli Stelio, "Imperi e Stati e le nuove relazioni internazionali," *Diritto e società*, 2 (2022): 291 ff.

¹² Cintioli Fabio, "Sicurezza nazionale, concorrenza e aiuti di Stato," in *Aipda.it*. (2025); Draghi Mario, "Europe's goal: not looser cooperation, but genuine federation," in *Corriere.it* (February 2, 2026).

¹³ Venanzoni Andrea, "Tecnoteologia politica: note su Il momento straussiano," in *The Straussian Moment*, edited by Peter Thiel, Italian translation by Andrea Venanzoni, *Il momento straussiano, 2004-2005* (Macerata: Liberilibri, 2025): 10: "The illusion of the end of violence – pacified by reason, by the secularization of religion and its consequent incorporation into the mechanisms that produce the social pact and the transmission belt of constitutional charters, as well as by the inexhaustible rhetoric of the semantics of rights – has exacted a toll of death and blood upon a West now enfeebled and inert".

by democratic procedures [from] coping with the tremendous burden that empirical reality unloads upon our societies: lives gone wrong, failed life projects, ‘disfigured life contexts’¹⁴.

2. *The Tumultuous Re-emergence of Political Theology*

In order to better understand the extent of the risks weighing upon contemporary constitutional democracies as a result of the tumultuous re-emergence of the conditioning force of political theology, it is worth briefly outlining its underlying presuppositions. These have remained unchanged over the centuries, notwithstanding the frequent transition of their content from the politicisation of religion to the theologisation of politics.¹⁵

As regards the politicisation of religion, it suffices to consider the evolution of Augustine’s thought, the misreading of which has undoubtedly influenced the subsequent fortunes of this conceptual category. After having upheld religious tolerance and the protection of minorities in continuity with the provisions of the Edict of Constantine of 313,¹⁶ the Bishop of Hippo became briefly convinced of the contrary. Following the grave atrocities committed by a sect of heretics against Christians, he invoked the force of the empire in the service of the salvation of souls. The shift, however, was temporary, to the point of having been regarded not as “a necessary part of the system, but at most a particular moment in a life”.¹⁷ In the *De civitate Dei* he depicted two cities, the *civitas Dei* and the *civitas mundi*, confused (*perplexae*) and intermingled (*permixtae*) until the end of the world; such, therefore, as to preclude any forcible mutual predominance, all the more so since one lives within the other without ever being able to replace it. Hence the recognition of the State’s task of maintaining order and peace for the benefit of all human beings, pagans and Christians alike. This clarification, however, was not sufficient to defuse the weapon of that Manichaean, theocratic, or caesaropapist conception which shaped the fortunes of the conceptual category, succeeding in conditioning the subsequent history of Christian thought. Only with the Second Vatican Council (1962–1965) did the Church return to the protection of religious freedom for all, in accordance with the tradition of the early centuries, thereby closing the multi-secular parenthesis of the politicisation of theology.¹⁸ The solemn College recognised the personal and collective right to a twofold immunity – from both coercion and restriction – in the practice and dissemination of religious beliefs, embracing the doctrine of human rights, constitutionalism, and the principle of democracy.¹⁹

As regards the theologisation of politics, reference must be made to the thought of Carl Schmitt, who “introduced into the literature, as far as I know”, the concept of political the-

¹⁴ Bosetti Giancarlo, “Idee per una convergenza «postsecolare»,” in Jürgen Habermas and Joseph Ratzinger, *Ragione e fede in dialogo*, Italian translation by Giancarlo Bosetti (Venice: Marsilio Bosetti, 2005), 313.

¹⁵ Borghesi Massimo, *Critica della teologia politica. Da Agostino a Peterson: la fine dell’era costantiniana* (Milan: Marietti 1820, 2013); Tondi della Mura Vincenzo, “Il patto costituzionale fra teologia politica e teologia della politica,” *Quaderni costituzionali*, 2, 2015): 481 ff.

¹⁶ Eusebio di Cesarea, *Storia ecclesiastica*, II, Italian translation by Giovanni Lo Castro (Milan: Città Nuova, 2001), 242-5.

¹⁷ Cotta Sergio, *La città politica di Sant’Agostino* (Milan: Edizioni di Comunità, 1960), 95.

¹⁸ “*Declaration Dignitatis humanae sulla libertà religiosa 2*,” in *I documenti del Concilio Vaticano II* (Milan: Ed. Paoline, 2012), 679.

¹⁹ Böckenförde Ernst-Wolfgang, “La libertà religiosa e il contrasto tra Chiesa e Stato,” in *Cristianesimo, libertà, democrazia*, edited by Michele Nicoletti (Brescia: Morcellian, 2007), 67 ff.

ology.²⁰ In this case it is politics that, by totalising itself, becomes religion; it is the worldly that becomes theological, to the point of legitimising political decision. The modern State draws upon the theological to legitimise its own accomplished immanence, and “manages to stabilise itself only through the secularisation of theological concepts”.²¹ The resort to analogy thus serves to “imitate”²² the ecclesiastical model, with a view to introducing a transcendence other than the ecclesial one, capable of justifying the meta-legal superiority of political decision. Schmitt himself observes that “All significant concepts of the modern theory of the state are secularized theological concepts”;²³ that the *Rechtsstaat* corresponds to deism, because the latter, bound by the laws of nature, excludes the miracle – that is, the exception – which, when translated into political terms, corresponds to the direct intervention of the sovereign upon the legal order.²⁴ Political theology, from this perspective, requires the friend-enemy dialectic; it feeds on eternal conflictuality towards the rival, the “public enemy” who is the *hostis* and not the *inimicus*, whose identification concerns not a personal but a public assessment, falling within the purview of an entire people.²⁵ And so, as Jacques Maritain explained, it becomes essential for a political community to constitute itself against someone: “It is the principle of *against-the-other*, or of constitutive enmity”.²⁶ Hence the slide of political theology towards the Manichaean position, political antagonism, and the necessity of war as the sole social bond.

It is precisely this second meaning of political theology that has forcefully re-emerged over the last quarter of a century. The backdrop has been that of the *Clash of Civilisations* prophesied by Samuel Huntington in 1996,²⁷ which came to pass on 11 September 2001 with the attack on the Twin Towers. Against this backdrop, religion, civilisation, and politics fused once again, following the decline of universalist ideologies, the historical failure of the Marxist utopia, and the advent of globalisation and worldwide democracy – foretold in a de-ideologising and areligious vein by Francis Fukuyama in *The End of History*.²⁸ The emphasis on the totalising tendency of religious identity, as a factor of mobilisation that recognises no distinction between the sacred and the profane, highlighted a politicisation of religion and a resort to the friend-enemy dialectic characteristic of political theology; the result was a political instrumentalisation of religion, construed in functional terms relative to the powers of the world, which consolidated itself exponentially.

²⁰ Peterson Erik, *Il monoteismo come problema politico*, 103-4.

²¹ Galli Carlo, “Il cattolicesimo nel pensiero politico di Carl Schmitt,” in *Tradizione e modernità nel pensiero politico di Carl Schmitt*, edited by Roberto Racinaro (Naples: Edizioni Scientifiche Italiane, 1987), 15.

²² Galli Carlo, “Presentazione,” in Carl Schmitt, *Cattolicesimo romano e forma politica* (Milan: Giuffrè, 1986), 17.

²³ Schmitt Carl, “Teologia politica. Quattro capitoli sulla dottrina della sovranità,” in *Le categorie del ‘politico’*, 61. On which, most recently: Baldassarre Antonio, *Weimar: un costituzionalismo in mezzo al guado* (Soveria Mannelli: Rubettino, 2024), 262 ff., 287 ff., 324; Mangiameli Stelio, “Verità e certezza nell’esperienza costituzionale,” *Diritto e società*, 4 (2024): 627 ff.

²⁴ Silvestri Gaetano, “La parabola della sovranità. Ascesa, declino e trasfigurazione di un concetto,” *Rivista di Diritto costituzionale*, (1996): 28.

²⁵ Schmitt Carl, “Il concetto di ‘politico’,” in *Le categorie del ‘politico’*, 110.

²⁶ Maritain Jacques, “Il crepuscolo della civiltà,” in *Scritti e manifesti politici (1933-1939)*, edited by Giorgio Campanini (Brescia: Morcelliana, 1978): 28.

²⁷ Huntington Samuel Philips, *Lo scontro delle civiltà e il nuovo ordine mondiale. Il futuro geopolitico del pianeta*, Italian translation by Sergio Minucci (Milan: Garzanti, 2000).

²⁸ Fukuyama Francis, *La fine della Storia e l’ultimo uomo*, Italian translation by Delfo Ceni (Milan: Rizzoli, 2003).

In a first phase, this drift manifested itself in the various instances of the Christian-Occidental ideology that emerged in the aftermath of the events of 9/11,²⁹ extending as far as a radical and Manichaean critique of the pontificate of Pope Francis;³⁰ symmetrically, it surfaced in the “demands for the re-islamisation of the public sphere and the de-secularisation of legal orders, which characterised some of the ‘Arab Springs’”,³¹ also on account of the Muslim Brotherhood’s claim “to be the bearer of theological-political values” and to control the various forms of political participation.³²

In a second and current phase, this drift has consolidated itself on the international chessboard, overriding every procedure and decision of supranational bodies. As Luciano Violante has observed, “The part of the world in which we live must confront four authoritarian regimes, different from one another, but all dangerous for the West and for democracy. These are Trump, Putin, Netanyahu, and Hamas, all of whom claim a theocratic legitimation – explicitly biblical in the case of Trump and Netanyahu, Islamic in the case of Hamas, absolutist in the case of Putin. [...] The religious backgrounds confer upon the decisions of Trump, Putin, Netanyahu, and Hamas swiftness, enforceability, unquestionability, and a strong motivational impact, because they are legitimised by those matrices. One must not forget the extraordinary capacity of religious values to galvanise”.³³ All of this has come at the expense of the rules of international law and diplomacy, to the point that the ancient instrument of mediation has been displaced by the direct intervention of individual protagonists and by the will to power, which has once again begun to blow across the table of History.³⁴

It is evident that such a perspective bears upon the social cohesion of individual legal orders, cascading across the other Western democracies. The claim, advanced by former Trump adviser Steve Bannon, of an identity-based nation “built on the principles of the Judeo-Christian West” and projected “into a spiritual battle against Evil” is such as to push the boundaries of political struggle beyond constitutional dialectic. It is no coincidence that it was accompanied by the reassurance that *christian nationalism* would be incompatible with religious freedom, notwithstanding the contradictory conclusion that “no compromises can be made with this demonic and atheistic secular society”.³⁵

²⁹ Fallaci Oriana, *La rabbia e l'orgoglio* (Milan: Rizzoli, 2001); Pera Marcello, “Lettera a Joseph Ratzinger,” in *Senza radici. Europa, relativismo, cristianesimo, islam*, edited by Marcello Pera and Joseph Ratzinger (Milan: Mondadori, 2004), 84.

³⁰ Borghesi Massimo, *Il dissidio cattolico. La reazione a Papa Francesco* (Milan: Jaka book, 2022); Borghesi Massimo, *Francesco. La Chiesa tra ideologia teocon e “ospedale da campo”* (Milan: Jaka book, 2021).

³¹ Cantaro Antonio and Losurdo Federico, “Religione e spazio pubblico nel mondo arabo-islamico,” *Quaderni costituzionali*, 4 (2013): 996 ff.

³² Andò Salvatore, “Rivolte arabe, transizione democratica e partiti religiosi,” in *Scritti in onore di Aldo Loiodice* (Bari: Cacucci, 2012), 1538.

³³ Violante Luciano, “I pericoli delle teocrazie politiche,” in *Corriere della Sera* (September 25, 2025).

³⁴ Vittadini Giorgio, “La tela della diplomazia. Compromesso e realismo,” *Nuova Atlantide*, 16 (2025).

³⁵ Bannon Steve, “*Il nazionalismo cristiano non è mai stato così forte. Trump, come me, odia i nemici. Musk viene dalla stessa cultura che ha ucciso Kirk*,” interview by Viviana Mazza, in *Corriere della Sera* (September 24, 2025). Significant are the observations of: Fabbrini Sergio, “Tragedia teologica, Europa irrilevante,” in *Il Sole 24 ore* (September 28, 2025); Giovagnoli Agostino, “*Democrazia e cristianesimo sono dalla parte degli esseri umani*,” interview by di Francesca Sabatinelli, in *Vaticannews.va* (September 15, 2025); Magatti Mauro, “Dopo Kirk. E l’Occidente scopri che tra religione e sfera pubblica il discorso è aperto,” in *Avvenire* (September 27, 2025); Zagrebelsky Gustavo, “La libertà di parola è un diritto di tutti. Odio e orrore sono fratelli, dopo c’è solo la Guerra,” in *La Stampa* (September 28, 2025).

Nevertheless, precisely such a perspective confirms how the risks of the ‘clash of civilisations’ and of civil war are inherent in the civilisational crisis now underway. In 2024 alone, two films set in the United States dramatically captured, with great impact, the decline of Western civilisation and the possible alternative responses: civil war (Alex Garland’s *Civil War*) and utopia (Francis Ford Coppola’s *Megalopolis*). Conflict and utopia as the poles of a new, so to speak dialectical, Manichaeism, in which the opposites – good and evil, life and death – are the poles of the same totality, annihilating every other possibility in the human journey. As Massimo Borghesi critically explained, “without sin there can be no grace, Hegel seems to say; without death there can be no resurrection; without illness there can be no health; without darkness there can be no light; without the diabolical there can be no divine. Without war, moreover, there can be no peace, and there can be no progress. Conflicts are indeed useful to the preservation and maintenance of that political whole which is the State. And most useful of all are modern conflicts, which are fought with firearms: the latter allow one to kill the enemy in an impersonal and indifferent manner, without looking him directly in the eye. The step towards the idea that struggle is the motor of history is indeed a very short one”.³⁶

In the prevailing new Manichaeism, in short, what is lost is reality as a place of confrontation, construction, and compromise. It is therefore precisely the cultural unavailability of compromise that afflicts the current historical phase, to the detriment of social cohesion. Hence, indeed, the axiological recession demonstrated by one of the most consolidated constitutional democracies – that of the United States – in the face of the conditioning force of political theology.

3. *The “Enemy” and Democracy*

Political theology introduces a disruptive element into the democratic system, one that is destined to distort both the method and the substance of decisions, independently of the institutional safeguards specifically designed to prevent this. The category of the *enemy* is such as to overturn, in and of itself, the presuppositions of social cohesion and the grounds of legitimacy. As Giovanni Pitruzzella has observed, “independently of formal amendments to the Constitution and the institutions, a qualitative transformation is set in motion that undermines the foundations of pluralist democracy”.³⁷

This is not to say that the categories of enmity, conflict, and the enemy can ever be expunged from the social fabric and the dynamics of politics. As Julien Freund – a pupil of Carl Schmitt who sought to test the viability of the friend-enemy pair in the different context of the pluralist democracies of the post-war period – has shown, the very “idea of a politics without an enemy is quite simply no longer politics”.³⁸ The problem, consequently, is that

³⁶ Borghesi Massimo, *Il male necessario. L’etica del superuomo nel manicheismo romantico* (Naples: Ortothes, 2024).

³⁷ Pitruzzella Giovanni, “Il regime politico della Seconda Repubblica: il bipolarismo conflittuale,” in *Il bipolarismo conflittuale. Il regime politico della Seconda Repubblica*, edited by Vincenzo Lippolis and Giovanni Pitruzzella (Soveria Mannelli: Rubettino, 2007): 137.

³⁸ Freund Julien, “L’amico e il nemico: un “presupposto” del Politico,” in Julien Freund, *Il terzo, il nemico, il conflitto. Materiali per una categoria del Politico*, edited by Alessandro Campi (Milan: Giuffrè, 1995), 100.

of defusing conflict by weakening and ritualising it through pre-established rules capable of averting radical opposition between irreconcilable fronts, so as to acknowledge the enemy, admit its existence, and negotiate compromise solutions.³⁹ This involves the transition from the polemic-conflictual state to the agonal-competitive one: the former centred on a dual and inescapable opposition between contenders conceived as *enemies*, driven by hostile intent aimed at mutual annihilation; the latter centred on a rivalry mediated by common rules between contenders conceived as *adversaries*, driven by the intention to overcome the opposing resistance without, however, overriding its physical or moral integrity.⁴⁰ This, however, on the condition that no other factors come into play – no longer political, but moral, economic, religious, or ideological ones – liable to alter the connotation of the enemy and transform it into the *absolute and total enemy*: “When the religious motive is predominant – holy war, crusade, war of religion – the enemy is degraded to an infamous, infernal, and impious being: to an incarnation of the devil or of evil. When a racist ideology prevails, the enemy becomes a slave by nature. When a moral or humanitarian ideology holds sway, the enemy becomes an intrinsically guilty being, to such a degree that making him disappear is rendered a service to humanity. The fact is that all these ideologies contain an element that is foreign to politics [...], since from a strictly political standpoint there can be no absolute or total enemy, just as there can be no absolute political friendship or alliance”.⁴¹

This is why political theology operates in a disruptive manner, introducing a conflictual element so foreign to politics that it cannot find any viable space within pluralist democracies, whose system it destabilises and whose constitutional legitimacy it undermines.

On the political level, the transformation of the adversary into an absolute and total enemy is incompatible with the integrity of constitutional legality. It does not merely exacerbate the conditions of conflict elaborated by Freund, but alters their consequences with respect to the survival of the constitutional State. The dual and oppositional character of conflict no longer mediated by the rules of law is, in fact, merely theoretical and explanatory of a politological dynamic, not actual and clarificatory of a legal dynamic. And therein lies the problem. Within the constitutional system, positive legality cannot be disregarded and openly defied in the manner of the Schmittian state of exception, whereby the sovereign’s decision served to legitimately “suspend” positive legal norms. In such a system, by contrast, positive rules remain in force and retain their prescriptive force undiminished even in the event of a dual conflict. They are therefore destined to give rise to a second and more decisive conflict: this time no longer between irreconcilable enemies, but between the oppositional force of the contender – intent on pursuing hostility regardless of the mediating and dissuasive role of law – and the military force of the State, of whose legitimate monopoly the prescriptive force of those same rules is the direct expression. And it is in the conflict between these opposites that the very integrity of the constitutional State risks being consumed. Emblematic in this regard are the cases of the two assaults – not merely symbolic – on the seats of Congress of the United States and Brazil: that of 6 January 2021 on the Capitol in Washington, which occurred in the wake of outgoing President Donald Trump’s challenges to the outcome of his defeat in the 2020 presidential elections;

³⁹ Freund Julien, “Il riconoscimento del nemico ed il terzo,” in Julien Freund, *Il terzo, il nemico, il conflitto. Materiali per una categoria del Politico*, 206-7.

⁴⁰ Freund Julien, “Il conflitto: definizione e significati,” in Julien Freund, *Il terzo, il nemico, il conflitto. Materiali per una categoria del Politico*, 169 ff.

⁴¹ Freund Julien, “Il riconoscimento del nemico ed il terzo,” 137.

and that of 8 January 2023 on the National Congress in Brasília, which occurred in response to the defeat of outgoing President Jair Bolsonaro in the 2022 general elections.

On the level of the democratic system, the transformation of the adversary into an absolute and total enemy impinges upon the dialectic between majority and opposition and upon the entire decision-making process. The political *non-recognition* of the contender undermines every presupposition of homogeneity and inhibits every compromise solution, thereby depriving Parliament of the possibility of exercising its negotiating function. Once the decision-making process has thus been diverted towards the absolute imposition of the majority's will, an inevitable consequence follows: the intensified and disproportionately political burden placed upon the corresponding twofold function of oversight – both political, exercised by minorities, and legal, exercised by guarantee bodies.

On the level of constitutional legitimacy, finally, the transformation of the adversary into an absolute and total enemy produces the anachronistic effect of reactivating the limitations of pre-existing forms of State, pushing legitimacy back beyond the frontiers of the legal order and beyond the boundaries of positive legality. Social cohesion is no longer steadily and unstoppably recognised and fostered in the founding values of the Constitution – itself understood as the source of legitimacy of the overall legal order and the legal measure of legality. Rather, it is sought in a cohesive factor extraneous to politics, calibrated against absolute enmity, thereby devaluing the previous social bond and making the justification of public power conditional upon society's shared acceptance of this irreducible conflictuality.

This amounts to an unprecedented upheaval with unforeseeable consequences.

What is troubling is not only the effect of the exponential rise in electoral abstentionism observable across Western democracies. The entire system of representation risks, in such a case, being materially flattened onto the interests of the only voting – and often minority – portion of the population, with the attendant danger that unrepresented interests will remain outside the sphere of legislative protection, deepening popular distrust towards Parliament; a distrust, incidentally, comparable to that which gave rise to the crisis of the single-class liberal State, ultimately overcome with the advent of constitutional democracies through the recovery of the category of legitimacy.

More troubling still is the *perfect storm* that is taking shape. The resort to the category of radical enmity – both within and outside the State – as a social bond substituting the founding values of the Constitution can only lead to the outcome whereby intolerance towards positive legality is matched by an equal intolerance towards constitutional legitimacy.

4. *Conflict, The “Art of Remedy” of Politics, and The “Political Nature” of The Constitution*

From the features outlined above, it appears futile to place any confidence in the possibility of achieving social composition and pacification through the search for a perfect political-constitutional system capable of silencing every conflict.

Returning to the observations of Julien Freund, conflict constitutes a “normal social phenomenon”, much like the transgression of rules; indeed, it “may even be necessary,” insofar as it can reactivate recourse to “negotiation” and unlock prior “fractures”. Within conflict there “resides an invitation to freedom”, one denied by the anxiety of positive *hyper*-regulation: “Ultimately, in a society not everything can be regulated. Freedom consists precisely in this imperfection”. In this sense, even the Constitution ought once again to be regarded

as “a political instrument [whose] purpose does not consist in its own juridical perfection”.⁴²

From this follows a distrust of the so-called “government of judges”, which “tends to subordinate the entire life of individuals to laws or rules and to seek in judicial procedure the solution to rivalries or even political divergences, for example by granting priority to the constitutional court – composed of jurists not politically accountable – over the responsibility of governing authorities”. Such distrust, incidentally, had already been doubly emphasized by Carl Schmitt with regard both to the process of neutralizing conflict through technical rules⁴³ and to a judicialized form of politics in which rationality prevails over will and political authority.⁴⁴ All this, of course, calls into question not “the work, generally very prudent, of supreme courts”, but rather “the abusive tendency that would subordinate every political decision to judicial review”.⁴⁵

It is noteworthy that the forceful re-emergence of political theology in Western democracies has occurred precisely at the moment of the greatest exposure of such a form of conflict neutralization.

Recent developments concerning the democratic legitimacy of the European Union and of Italy are emblematic in this respect.

As regards the Union, for a very long time it has been reductively conceived as a community of law, if not as a juridical machine that lives through norms, interpretations, and judgments. As Giovanni Pitruzzella has observed, “every problem it has had to confront has been framed, addressed, and resolved as if it were a legal problem. Through the interpretation and reconstruction of treaty law and secondary law, a solution would be found to every issue and to the underlying conflicts. Highly significant conflicts [...] have been addressed as if they consisted solely in interpreting provisions of primary and secondary law, without the need to make a political choice among conflicting interests. The selection and reconciliation of such interests were presented as if they were the necessary consequence of applying technical rules”.⁴⁶ Yet a juridical machine of this kind follows its own internal logic, and since its decisions appear as legally necessary, it inevitably lacks the flexibility required to correct them.⁴⁷

As regards Italy, the long season of “endless” transition⁴⁸ following the collapse of the “First Republic” and the advent of globalization has produced a dual destabilizing effect. On the one hand, the most complex political decisions have been diverted to judicial bodies (the “government of judges”), as they lie outside the democratic-representative circuit; this has entailed a methodological shift from parliamentary mediation to judicial and constitutional balancing. On the other hand, the formulation of the resulting solutions has been influenced by the intense “traffic”⁴⁹ or “commerce”⁵⁰ of interpretative models and judicial decisions

⁴² Freund Julien, “Il conflitto: definizione e significati,” 176-78.

⁴³ Schmitt Carl, “L’epoca delle neutralizzazioni e delle spolitizzazioni,” in *Le categorie del ‘politico’*, 176 ff.

⁴⁴ Schmitt Carl, *Dottrina della Costituzione*, Italian translation by Antonio Caracciolo (Milan: Giuffrè Schmitt, 1984), 182.

⁴⁵ Freund Julien, “Il riconoscimento del nemico ed il terzo,” 200.

⁴⁶ Pitruzzella Giovanni, “Identità europea, identità costituzionali nazionali e il problema della “disconnessione democratica,” in *Ripartire dall’Europa. Ripensare l’Unione*, edited by Daniela Bianchini (Rome: Edizioni Studium, 2024), 55.

⁴⁷ Pitruzzella Giovanni, “Il problema della democrazia europea,” *Associazione deicostituzionalisti.it*, (2025).

⁴⁸ Elia Leopoldo, “Dinamica “esclusione/integrazione” e forma di governo,” *Giurisprudenza costituzionale*, (1999): 1487.

⁴⁹ Carozza Paolo, “Il traffico dei diritti umani nell’età post-moderna,” in *Il traffico dei diritti insaziabili*, edited by Luca Antonini (Soveria Mannelli: Rubettino, 2007), 81 ff.

within the global judicial network, leading to a decontextualization of the principles and rights involved, detached from their original legal systems and cultural frameworks.⁵¹ Thus, the deferral of politics to jurisprudential determinations – often receptive of foreign and supranational interpretative options – has tended to result in the *neutralization* of the former and the *politicization* of the latter.⁵²

It is therefore unsurprising that Luciano Violante has sounded the alarm following the re-emergence of political theology on the international stage: “Democracy is losing its driving force. It has lost its value-based foundation and has been reduced to proceduralism. We have remained silent because democracy has become pure procedure, technicality. It is therefore necessary to counter political theologies by forcefully reclaiming the values of equality and respect for fundamental rights”.⁵³

However, while acknowledging the essential nature of this warning, one must also ask whether the proposed solution is sufficiently adequate. In a secularized context, alienated by the absence of values, by social disillusionment, and by the erosion of popular participation, burdened by a permanent economic crisis, dominated by economically powerful private actors capable of deploying highly sophisticated technologies for pervasive and capillary surveillance through networks and traversed by national and international tensions, the insistence on values alone, however fundamental, risks postponing, if not diverting, urgent political responsibilities. As Stelio Mangiameli has added, it is not even sufficient to invoke a simple revival of the principles of the “rule of law” and the constitutionalisation of international processes.⁵⁴

At the same time, it is necessary to place confidence in the *political nature* of the Constitution and in the human capital required to sustain it. These are the conditions – paraphrasing Ronald Dworkin – for *taking seriously* the reasons of conflict, embracing its challenges and provocations, which are always expressive of the tensions inherent in every historical phase. Before the rationality of legal choices, there must prevail the realism of a politics capable of confronting conflict in the name – this time indeed – of the values that characterize constitutional legitimacy. Such a politics must necessarily remain open to the category of possibility⁵⁵ and, therefore, be grounded in realism, compromise, and negotiation, being structured – following the lesson of Niccolò Machiavelli – as an “art of remedy”.⁵⁶

According to the author of *The Prince*, the eminent function of politics was to provide remedies, repair breaches, and find provisional and always precarious equilibria; it consisted in the concrete capacity to identify and implement remedies for evils and ruins arising from the uncertainty and precariousness of human affairs. Given that society is marked by the use of force and instrumental reason, the dimension of conflict is ineliminable and cannot be

⁵⁰ Allard Julie and Garapon Antoine, *La mondializzazione dei giudici. Nuova rivoluzione del diritto*, Italian translation by Carla Maggiori (Macerata: Liberilibri, 2006), 4 ff.

⁵¹ Markesinis Basil and Fedtke Jörg, *Giudici e diritto straniero. La pratica del diritto comparato*, Italian translation by A. Taruffo (Bologna: Il Mulino, 2009), 90.

⁵² Tondi della Mura Vincenzo, “I rischi della competizione regolativa e valoriale fra i diversi poteri dello Stato (riflessioni a margine del «caso Englaro»),” *Associazione deicostituzionalisti.it*, (2009).

⁵³ Violante Luciano, “I pericoli delle teocrazie politiche”.

⁵⁴ Mangiameli Stelio, “Verità e certezza nell’esperienza costituzionale,” 658.

⁵⁵ Giussani Luigi, *Il senso religioso* (Milan: Jaka book, 1986), 72.

⁵⁶ Ferroni Giulio, *Machiavelli, o dell’incertezza. La politica come arte del rimedio* (Rome: Donzelli Editore, 2003).

abstractly expelled by means of an artificial structure capable of neutralizing and excluding disintegrative forces, as envisaged by Thomas Hobbes. Unlike the English philosopher, the Florentine Secretary maintained that the social body cannot be separated from the soul that unifies and governs it but constitutes a unified whole whose health derives from the relationship among its different parts.

Accordingly, the role of politics is to govern the conflictual tension that naturally arises from the various interests at stake, since without tension there can be no politics; and, as Roberto Esposito has observed, “the number of politics – when life is at stake – is not One, but Two”.⁵⁷ In a famous passage of the *Discourses*, it is written that “Nature created men in such a way that they can desire everything, yet cannot attain everything; thus, since desire always exceeds the power of acquisition, there results dissatisfaction with what one possesses and little satisfaction from it”.⁵⁸ From this state of nature – according to Machiavelli – derive both error in human judgment and the insecurity of every interpretation of reality. Hence the “anthropology of remedy” and the realism of a politics aimed at anticipating the moves of *fortuna*, seeking to avoid the worst and always preserving a hope of salvation; a realism, so to speak, practical in nature, as it is embedded in everyday practice and commensurate with its demands.

In sum, it is necessary to reconnect *the art of remedy* in politics with the *political nature* of the Constitution, abandoning the mirage of juridical perfection and embracing a “critical” conception of democracy: a democracy “that does not presume to possess truth and justice, yet does not consider their pursuit meaningless”; in short, a democracy of “possibility”⁵⁹ and of “dialogue”.⁶⁰

In the flourishing period of post-war democracies, scholarship was devoted – with great clarity – to investigating the correlations and mutual influences between forms of government and political systems, such as to produce equivalent functioning in constitutionally opposed models, such as the presidential and parliamentary systems.⁶¹ Today, rather, it would be necessary to inquire into the reasons why models grounded in opposite forms of legitimacy – namely autocratic and democratic ones – appear, in light of political theology, to display a tendentially and dramatically similar functioning. It would be necessary to understand why, as provocatively suggested by Leo XIV, “democracy is not necessarily the perfect solution to everything”.⁶²

⁵⁷ Esposito Roberto, *Pensiero vivente. Origine e attualità della filosofia italiana* (Turin: Einaudi, 2010), 47 ff., 55.

⁵⁸ Machiavelli Niccolò, “Discorsi sopra la prima Deca di Tito Livio,” I, in Niccolò Machiavelli, *Tutte le opere*, edited by Mario Martelli (Florence: Sansoni, 1971), 119.

⁵⁹ Zagrebelsky Gustavo, *Il «crucifige» e la democrazia* (Turin: Einaudi, 1995), 6.

⁶⁰ Barbera Augusto, “La laicità come metodo,” in *Il Cortile dei Gentili. Credenti e non credenti di fronte al mondo di oggi*, edited by Laurent Mazas (Rome: Donzelli, 2011), 110.

⁶¹ Amato Giuliano, “Forme di Stato e forme di governo,” in *Manuale di Diritto pubblico*, I, *Diritto pubblico generale*, edited by Giuliano Amato and Augusto Barbera (Bologna: Il Mulino, 1997), 30-31.

⁶² Leo XIV, “Nel mondo troppe disparità, guardiamo a Elon Musk. Democrazia non sempre perfetta”.

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LA BUONA STAMPA

This volume was imprinted
in may 2026
by Edizioni Scientifiche Italiane S.p.a.
Printed in Italy



Edizioni Scientifiche Italiane

www.edizioniesi.it info@edizioniesi.it



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