

BODY AND HEAD:
EQUALITY, PUNISHMENT, AND JUSTICE
IN THE DECAPITATION OF LOUIS XVI

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ABSTRACT: This essay examines three aspects of the beheading of king Louis XVI to show how it symbolized the transformation of the legitimacy principle of the body politic, and the development of modern formal and substantive justice. The beheading is seen as a metaphor of the transference of sovereignty from the king to the people. Louis Capet's is analyzed focusing on the speeches of Saint Just and Condorcet, and their opposing conceptions of legality and legitimacy. These two threads are considered as fundamentals of two of the trends developed as part of the legacy of the French Revolution: the modern approach to human rights and totalitarianism.

Keywords: Legality - Legitimacy - Punishment - Modern Justice - Sovereignty - French Revolution - Louis XVI

RESUMEN: El ensayo examina tres aspectos de la decapitación de Luis XVI para demostrar como ésta simbolizó una transformación del principio de legitimidad política, a la vez que impactó en el desarrollo de las concepciones modernas de justicia formal y justicia sustantiva. La decapitación es considerada una metáfora de la transferencia de soberanía del rey a la ciudadanía, y es analizada poniendo énfasis en los discursos convencionales de Saint Just y Condorcet, y sus distintas concepciones de legalidad y legitimidad. Estas dos líneas de pensamiento son posteriormente analizadas como el fundamento de dos de las tendencias surgidas de la Revolución Francesa: los derechos humanos y el totalitarismo en sus versiones modernas.

Palabras clave: Legalidad-Legitimidad-Castigo-Justicia moderna-Soberanía-Revolución Francesa-Luis XVI

INTRODUCTION

At eight in the morning, on January 21, 1793, Louis Capet, former king of France, left his prison in the old tower of the Temple and entered into a carriage in which he took his final trip. The National Guard was mobilized in its totality and the city of Paris was overcrowded with guards prepared to react against possible rebellions.¹ The «*dernier Louis*» got out of the carriage and walked toward the scaffold. According to contemporary accounts, he tried to address the crowd and said, «Gentlemen, I am innocent. I hope that my blood will cement the happiness of the French».² The sound of the drums stopped his short speech, and he was decapitated without further ceremony.³

When his head was shown, expressions of joy could be heard among the crowd gathered at the Place de la Révolution. After that, there was only silence. The royalists interpreted it as a mourning sign, the republicans, as an expression of the «maturity» of the Parisian people.⁴ Some of those witnessing the event even took the opportunity to obtain a precious relic by soaking handkerchiefs in the blood of the just-beheaded king. Others even drowned themselves, and there is one account of a woman who cut her throat, overwhelmed by the execution.⁵

The royalists immediately used his last words to portray Louis's death as Christ-like, and this gave rise to a long list of interpreters who saw the regicide as part of a second Passion, in which the king was sacrificed and died humiliated, in order to save his people. Even then, for many, Louis participated of the divinity and his rule had something of sacred.

1. ALBERT SOBOUL: *Le Procès de Louis XVI*, Julliard, Collection Archives, Paris 1966, 230.

2. This was at least the recall of Louis's execution according to one of the protagonists, Sanson, the executioner.

3. SUSAN DUNN: *The Deaths of Louis XVI: Regicide and the French Political Imagination*, Princeton University Press, Princeton NJ, 1994, 97.

4. DANIEL ARASSE: *La guillotine et l'imaginaire de la terreur*, Flammarion, Paris, Flammarion, 1987, 86-88.

5. JULES MICHELET: *Histoire de la Révolution Française, Vol. 2*, Gallimard, Paris, 1962, 187.



0018167 LOUIS XVI (1754-1793).
Credit: The Granger Collection, New York

In this paper the author will explore several issues that address the sacredness of the royal person and its fading, which made possible the public beheading of an anointed king. The author assumes that the decapitation of Louis XVI can be interpreted as a representation of the secularization process, and she understands that process to be a 'privatization' of religious beliefs and practices related to the emergence of the modern social order,⁶ the modern state, the modern sensibilities and forms of perception. In this sense, secularization may be understood as the historical process in which the «dualist system 'within this world' and the sacramental structures of mediation between this world and the other world progressively break down until the entire

6. JOSÉ CASANOVA: *Public Religions in the Modern World*, University of Chicago Press, Chicago, 1994, 15.

medieval system of classification disappears, to be replaced by new systems of spatial structuration of the spheres».⁷

In order to explore the fall of the sacred monarch, the author consulted several sources regarding the specific case of the beheaded king, as well as many other discussions that deal with the issue of the corporal punishment and the history of punishment in general.

Although twice in Western history consecrated kings were judged, convicted and executed in public, the author has chosen the French case and not the English one (of Charles I) because the trial and execution of Louis XVI were conducted with the explicit purpose of destroying the monarchy itself. In order to better assess the differences between the two cases, it is interesting to compare the final destinations of the remains of Louis XVI and Charles I. The former was buried in a mass grave, and two layers of quicklime covered his corpse in order to accelerate decomposition. The latter had a royal funeral and was buried at Windsor, his coffin marked with the inscription «King Charles 1648».⁸

The paper is divided into four sections. In the first one, the author addresses the issue of equality in punishment and the symbolic meaning of decapitation in that perspective. The second part deals with some of the symbolic consequences of the king's decapitation, in terms of the annihilation of the divine right of kings and the transformation of the legitimacy principle. The author relied, mainly, on Ernst Kantorowicz's work on the king's two bodies and on Michael Walzer's studies on regicide and revolution. This part unfolds into two arguments: the guillotine as equality in punishment, and the beheading as a metaphor of the dismemberment of the body politic and the transfer of sovereignty from the king to the people. The second section focuses on the trial of the king by the National Convention and the symbolic meanings of some of the discussions, following particularly, the perspectives of Saint Just on one side and Condorcet on the other. The third section considers two of the great modern trends, which the author's in view, have developed as part of the French Revolution's legacy: the first modern approach to human rights and the definition of the fundamentals of totalitarianism.

EQUALITY

A few years before Louis was executed at the Place de la Revolution, when he was still an absolute monarch and the Constitution of 1791 was not even a project, he started a process of reformation of the penal code, which had profound implications. A new system of criminal law was being developed

7. *Ibid.*, 41.

8. C.V. WEDGWOOD: *The Trial of Charles I*, N Penguin Books, New York, 2001, 204.

in France according to principles different from those that had characterized medieval justice.

The revolution continued and deepened this process, the most important transformation probably being egalitarianism, a new concept that made the upper classes subject to debate and attention in terms of the system of justice (before, the lower classes were the ones targeted by it most often, and, thus, the ones most frequently punished). This process, the process of democratizing punishment, reached its peak with the introduction of the guillotine.

Although several versions were reported as far back as the fifteenth century, the model used to execute thousands of people during the Reign of Terror was invented by Dr. Joseph-Ignace Guillotine in 1791, and French revolutionaries were the first to use the guillotine, or «Louissette,» as they called it, on such a massive scale.⁹

The death penalty was common and applied to at least 1,500 different crimes. However, before 1789, those regularly sentenced to capital punishment were neither aristocrats nor members of the elite.¹⁰ The reform of the Penal Code started in 1789 was actually intended to make punishments uniform and to diminish the number of crimes punishable by death.

During the Old Regime, punishment varied dramatically according to the status of the person condemned: decapitation was considered an aristocratic form of punishment, so one of the first measures taken by the National Assembly in 1791 was to abolish the inequity of the methods of execution; on June 3, the assembly voted that «all those condemned to death shall have the head cut off».¹¹ This symbolic movement towards equity made the guillotine a particularly humiliating form of punishment for those of the upper classes who were not used to being the subjects of penal sanctions involving corporal punishment, and had a clear and distinct sense of the elevated status they were born into. This is probably the first key to interpreting the decapitation of the king.

According to the political thought of the time, and in spite of the Enlightenment, Louis XVI still governed, following the divine right he had inherited from his grandfather; thus, one of the greatest revolutionary enterprises was the transformation of the king into a citizen, and the prevention of the old legitimacy principle's return. The guillotine made him equal to his people and thus became a symbol of the revolutionary ends.

This may also explain the long, bitter discussions regarding the need to try the king, after his failed flight to Varennes and the massacre of August 10, 1792, in the Tuilleries (the massacre ended with the king and his family asking the National Assembly for protection, and the abolition of monarchy.)

9. DANIEL GEROULD: *Guillotine: Its Legend and Lore*, Blast Books, New York, 1992, 25.

10. DORINDA OUTRAM: *The Body and the French Revolution: Sex, Class and Political Culture*, Yale University Press, New Haven, 1989, 108.

11. GEROULD, *Guillotine*, 28

Considered a traitor, he faced some kind of mandatory punishment, and it had to be the same mandatory punishment anyone else would face –but he was not like anyone else. Louis ruled because of the principle of divine right. Being a divine deputy made him –as all the other kings in the Christian tradition– somehow godlike and superior to his subjects, made from a different substance, essentially better than the rest of humankind.¹² As Ernst Kantorowicz and Michael Walzer affirm, there were two main «signs of Grace» that gave meaning to a king's claim of divine right. The first was the ceremony of consecration. Although the Gregorian modifications denied the anointing of the king by a bishop, which was a sacramental character, the liturgical meaning became part of the mythology surrounding monarchy, and it symbolized that «the Grace of God hath his day changed thee into another man, and by the holy rite of unction hath made thee partaker in its divinity».¹³

In Louis XVI's time, the unction had lost much of its religious charisma: since the sixteenth century, it was the royal blood itself and not the consecration, which made a king. The principles of dynastic continuity and hereditary succession made it possible to stabilize the realm, avoiding the dangerous interregnum, during which only «Christ reigned».¹⁴

The other sign of Grace is the power of healing, which kings were believed to have because of their participation of divinity. Thaumaturgy was one of the most important capacities of kings. It was believed to be the ultimate proof that kings partook in divine authority and were both images and deputies of God. As Marc Bloch has shown, the healing of scrofula in England and France was a popular and extended practice in which even Louis XVI took part.¹⁵ The day after his consecration, the last French absolute monarch touched some 2,400 men and women who hoped to be cured, and, according to Walzer, continued the practice until he was regarded as a constitutional monarch.¹⁶ Constitutionalism could not coexist with miraculous healing and the imposition of hands, so it replaced magic. No other king dared to heal his subjects after Louis, and in spite of the pathetic efforts made during the reigns of Louis XVIII and Charles XI to restore, power and political legitimacy to the kingship, they were lost forever, as was the belief in the closeness between kings and God.

12. MICHAEL WALZER: *Regicide and Revolution: Speeches at the Trial of Louis XVI*, Cambridge University Press, Boston, 1974, 17.

13. WALZER, *Regicide and Revolution*, 17

14. ERNST H. KANTOROWICZ: *The King's Two Bodies: A Study in Medieval Political Theology*, Princeton University Press, Princeton, 1981, 334-336

15. MARC BLOCH: *Los Reyes Taumaturgos*, Fondo de Cultura Económica, Mexico 1981, 184.

16. WALZER, *Regicide and Revolution*, 20.

THE BEHEADED BODY OF THE KING

The second important issue is the symbolic meaning of the beheading itself. The very act of the separation of body and head represents a re-creation of the idea of sovereignty, which is no longer inherent in the king. According to Regina Janes, by the period of the Revolution:

The display of severed heads had long been one of the commonest ways a European sovereign displayed his power to his subjects. As part of his responsibility to control public violence, he reserved to himself and his officials the right to take and to display head. ... When the sovereign displays a head, he displays it not to his equals, but to his people. They are the objects of that display, both as raw material and as an audience.¹⁷



Leviathan 1651, frontispiece; Bibliothèque Nationale de France

17. REGINA JANES: «Beheadings,» *Representations* 35, Special issue: Monumental Histories Summer 1991, University of California Press, Berkeley, 24.

As this classic image taken from the first edition of Hobbes's *Leviathan* suggests, in medieval political thought, the body politic was conceived in functional terms, society being a living organism. The idea of a body politic in which the king was the head was a common representation and a widely-used image. Walzer has noted that:

A wounded leg [*sic*] might ache, an empty stomach growl, but only the head could seek out the necessary dressing or the necessary food. Translated into political terms, all this meant in effect that the king was the only public person ... A wise prince would consult with his subjects and especially with those through whom he planned to act, but they had to political existence independent of his own.¹⁸

Therefore, the execution of the king had several highly symbolic connotations. This time, it was not the king alone, being killed, but the king, the monarchic principle, the very idea of the unity of the two bodies, and the incorporation of the body politic. As Michael Walzer also notes, several kings were assassinated before Louis XVI's execution. But only in the cases of Charles I of England and Louis XVI was it public and following a trial.

For the first time, the executed monarch was not replaced with another king. For the first time, the principle of legitimacy was broken, and divine right was not a valid claim to the throne.

Following Kantorowicz's notion of the king's two bodies, one may imagine that Louis XVI actually had two deaths. And it seems the first one occurred in June 1791, after Louis's failed flight to Belgium, which ended with the royal family's shameful return to Paris and their subsequent, *de facto* imprisonment in the Tuilleries.

Between 1791 and 1793, a deep transformation of the French mentality took place; political legitimacy was being reformed completely. However, the transformation had old roots, which could be traced back, even to Louis XV.¹⁹

As Annie Duprat pointed out in her study of political imaginaries, it was during this period that political caricatures referring to the person of the king increased in popularity, and broke down the lines of those against the monarch—who they frequently portrayed as a pig, stressing his human nature—

18. WALZER, *Regicide and Revolution*, 23.

19. According to Robert Darnton, the «... ruptures in the moral ties that bound the king to his people,» were partially-broken by the degradation of the monarchy related to the perception that Louis XV behaved in an improper manner. In 1744, after the death of one of his longtime lovers, Mme. De Châteaurox, the king never returned to Paris, except to attend a few ceremonies. He even ordered a road built around the city so he could avoid it. He had also ceased to touch the sick in the Great Gallery of the Louvre. This breakdown in ritual signaled, Darnton affirms, the end, or the beginning of the end, of the *roi-mage*, the sacred, thaumaturgic king. ROBERT DARNTON: *George Washington's False Teeth. An Unconventional Guide to the Eighteenth Century*, W.W. Norton & Company, NY 2003, 47.

and those who still deified him, and drew him as a Christ-like figure, literally nailed to the cross.²⁰



Matière à réflexion pour les jongleurs couronnés,
Villeneuve, 1793, Bibliothèque Nationale de France.

Being portrayed as a troglodyte (Louis XVI tended to enjoy his meals) re-presented, Duprat says, the beginning of a symbolic death.

After Louis XVI's execution, representations were mainly directed at recording the occasion, and several different representations of the scaffold and guillotine waiting for him could be found. Other drawings represent Sanson showing Louis' head to the crowd. However, there were also efforts to convey the symbolic transformation of the body politic. One is particularly striking.

20. ANNIE DUPRAT: *Le Roi Décapité: Essai sur les Imaginaries Politiques*, Editions du Cerf, Paris, 1992

The well-known stamp by Villeneuve, *Matière à Réflexion pour les Jongleurs Couronnés*, shows Louis's head, dripping blood and being lifted by a hand. And according to Duprat, who has studied the symbolic connotations of images from the Revolution, *Matière à Réflexion* constitutes a good example of the way in which religious iconography was used after Louis was beheaded. Its general lines of design are inspired by the traditional religious iconography of the Saint Face. But this time «...the profile of the head, distinct and dripping blood, is presented with long hair around the face and stiff tips behind the cranium». ²¹

The engraving is composed of verses from the Marseillaise and the phrase «*qu'un sang impur abreuve nos sillons.*» In Duprat's analysis, this phrase situates the execution of the king as a ritual sacrifice located somewhere between the ancient symbolic anthropophagi and the Christian sacrifice of the communion.

THE TRIAL

One of the most striking elements of the French Revolution was that the revolutionaries were clearly aware they were reaching a breaking point. And while discussing the king's destiny, the National Convention set some of the now-standard guidelines that all modern, secular states now follow. Louis did not have to die. Or did he?

According to the Jacobin Club, he did, because as Saint Just stated, nobody could «reign innocently.» Kingship and the divine right of kings were both disguises of tyranny, and Louis had to pay for the 300 years during which his family had reigned and thus usurped the natural sovereignty of the people. His death would be a public act of revenge in the name of the People. Therefore, a trial was not only absurd, but dangerous. As Robespierre later implied, the possibility of finding Louis innocent would have signified that the revolution was guilty.

On the other hand, the Girondins considered Louis's death unnecessary. After all, he was not a king anymore. There was no longer king nor kingdom, but people and republic. Quite naively, they asserted that the dethronement was enough, and that the main issue was to establish new principles of government based on a constitutional agreement, in which sovereignty was transferred from the body of the king to the body of the people. And this transfer could have been performed without the actual death of Louis Capet.

But others, more aware of the symbolic existence of the king and his legitimacy, regarded his death as a prerequisite for consummating the transfer of power. The Montaignards pushed first for a summary condemnation of the

21. «...la tête tranchée et dégouttante de sang se présente de profil, cheveux longs ordonnés autour du visage et raides à l'arrière du crane» in DUPRAT, *Le Roi décapité*, 52.

former king and, after the notion of a trial was accepted by the majority of the deputies, for a procedure in which Louis had to be found guilty of treason. A trial signified not only an adherence to new procedural rules, but a judgment by the current sovereigns of the previous; it was a condemnation of Louis XVI and the legitimacy of his rule. As we will see, they actively rejected the possibility of setting a trial in which the judiciary played a role.

Walzer has argued that absolutism was somehow the culmination of royal aspirations: That finally, it was true that, as Bishop Bossuet taught Louis XVI when he was still the Dauphin, «the state is in the person of the prince».²² As many have noted, absolutism was a belated and rather short-lived phenomenon, which in France took its definite shape under Louis XIV, only 150 years before Louis the Last was beheaded. In his detailed study of Louis XVI's trial, Jordan suggested that the monarchy could only be destroyed by putting to death both the natural body of the king and the king as embodiment of the body politic.²³

All these difficult issues arose during the trial. In order to explore them, the author has chosen to rely mainly on the speeches delivered by Saint Just and Condorcet because they sum up both the perplexities of the trial and some of the most acute problems of modern legitimacy admirably well.

Saint Just's speech on November 13, 1792 was a prodigious piece of political thought that veered sharply away from usual approaches toward confronting Louis's political legitimacy, and it radically changed the paradigm from that point on. In it, he denied both the possibility of treating Louis as a citizen (and judging him as an equal), and the possibility of regarding him as a king (and thus, not judging him at all). Until that moment, the Convention had been debating the possibility of ending the recognition and existence of sacred, royal figures.

The legal argument was that the Constitution of 1791 was still based on the monarchy and regarded the king's persona as unalterable. Others argued that new developments needed a different approach: Louis and the royal family betrayed the nation by attempting to flee to Belgium, so the former king should lose his special status, and be considered nothing more than an ordinary citizen, subject to the same laws as everybody else.

Saint Just's perspective was, however, that both principles were erroneous; the king, simply because of his kingship, should be considered an outsider of the body politic. Having no part in the contract that united the French people, domestic judicial procedures were useless for delivering justice. Louis was an enemy, an alien of France.

Saint Just's approach was brutally modern; by situating the king deliberately outside the body politic and willingly depriving him of any rights, he somehow

22. WALZER, *Regicide and Revolution*, 13

23. DAVID P. JORDAN: *The King's Trial. The French Revolution vs. Louis XVI*, University of California Press, Berkeley, 1981.

inaugurated what Hannah Arendt considered to be at the core of the totalitarian experience, a world in which people could even lose the right to have rights.

Saint Just's argument poses some of the perplexities of modernity. Being one of the points of departure for human rights, the French Revolution was also at the origin of their breakdown. One of the most impressive parts of his speech is his description of the Assembly as a representative body. It is not, he says, a judiciary tribunal. Judgment, therefore, cannot be made the way it would be in an impartial trial, without being unjust and false. Moreover, as Louis has never been a citizen, he is not a part of the polity either. Following a totalitarian argument *avant la lettre*, Saint Just affirms that, if judged according to the formal procedures of a legal trial, Louis would gain entry to the polity by the very crimes he committed. Both in *The Origins of Totalitarianism* and in *Eichmann in Jerusalem: A Report on the Banality of Evil*, Hannah Arendt stresses that totalitarian politics make crime one of the ways to gain access to legal rights because «the great paradox of Auschwitz» is that an individual whose actions are regarded as criminal is recognized as a juridical person by this very fact.²⁴

Saint Just makes his case for the exclusion of the king from the polity following two different and contradictory premises: that the king is guilty for what he did—he committed treason against the French people by promoting war and funding the enemies of the Revolution—and the king is guilty for what he is, a tyrant, as are all other monarchs. Nobody can reign innocently. And Louis must reign or die.

Thus, the speech stresses both substantive and formal justice,²⁵ and attacks, implacably, not only Louis but the principles on which his exceptionality before the law was based.

There is something truly majestic about the trial of the king. If Saint Just approaches the possible trial from the point of view of substantive justice and stresses principles over forms, Condorcet makes his case against capital punishment and stresses the legal procedures abhorred by the Jacobins and denounced by Saint Just as «form without principles».

Condorcet aims at guaranteeing formal equity, and has among his explicit purposes «curing other nations of whatever superstition in favor of monarchy.» His approach is that of a modern jurist who has grasped the disenchantment of the world which Max Weber would analyze more than a century later.

24. HANNAH ARENDT: *The Origins of Totalitarianism*, Harcourt, New York, 1994, 447-8.

25. The notions of formal and substantive justice are related to Max Weber's categories of formal and substantive rationality. In the first kind of justice, it is the rule of law and legal technique that prevails, parting from the generalization of abstract norms. In the second, it is the singularity of cases and an ethical orientation which interprets facts in a good versus evil dichotomist approach. At the same time, formal justice is inclined to establish ethical dilemmas under the opposition of fair versus unfair.

Condorcet's perspective underlines the necessity of consolidating formal justice. In this sense, the Girondins were much more «modern» than the Jacobins. It seems that the former were capable of actually seeing in Louis only a man, where the latter saw in him the haunting specter of monarchy, and still experienced the necessity of breaking the identity of the king's two bodies. They seem to have remained in the magical world of political theology, in which God was watching the king's back.

The Jacobins, as Camus has suggested, were rebels, precisely because they profoundly believed in the sacredness of the royal body and the need to complete the transmigration of the sacred principle from the king to the people.

The greatness of Condorcet's argument in his speech during the king's trial is evident in that he manages to free himself from «superstitious terrors»; he faces the issue of Louis' inviolability, and strips him of his powers, and effectively considers him a regular citizen, a traitor who should be given a fair trial, in which prosecution and judgment are carried out by different bodies. This is particularly important because by arguing this, he is actually questioning the competence of the National Convention to judge Louis. Condorcet is acutely aware of the enormous gap in legal theory, procedures, and institutions the French people faced while intending to judge their former king. But this awareness is somehow rejected by the Jacobins, who seem much more worried about just eliminating the king's physical body as a means to consolidate the Republic.



0082742 LOUIS XVI (1754-1793).
Credit: Rue des Archives / The Granger Collection, New York

Discussing the pertinence of conducting a public trial in which jurors must announce their verdicts instead of making their decisions secretly, Condorcet warns his listeners:

...it would furnish a dangerous example: no interest, no consideration can permit us to weaken a principle, a sacred guarantee of liberty and of the private safety of citizens. If it is violated with respect to a man who has been king, who can answer that a proposal will not be made to violate it equally for the head of a party who might be a threat to the state, for a citizen whose case, its importance swollen by his reputation or his talents, divided opinions in the whole nation? Who can answer that soon this same distinction will not be applied to a man who, neither dangerous nor well-known, has made only an empty claim to such qualities, a man whose enemies were eager to endow him with such fatal advantages, the more surely to ensnare him²⁶

The beheading of Louis XVI has usually been understood as the ultimate rejection of magical political authority.²⁷ However, the struggle between Jacobins and Girondins within the National Convention and their constant appeals to get the votes of the Marais deputies, suggests something different. Louis had to die precisely because he was dangerous for the Republic. If he had committed crimes, the worst of all was being a king, embodying the monarchy, and in doing so, calling the legitimacy of the people's authority into question. To exorcise that danger, he had to die. Thus, the legitimacy principle on which his reign was based was actually ratified and suppressed at the same time. Following Saint Just's approach, Robespierre depicted Louis as a kind of supernatural force, which could only be vanquished by a similarly supernatural power: «A people [...] does not hand down sentences, it hurls down thunderbolts: it does not condemn kings, it plunges them into the abyss». As Susan Dunn suggests:

The Jacobins spoke of regicide as if it were a form of purgation, of human sacrifice, that would cleanse France of its social problems as well as of its historical past. Implicit in the calls for Louis's death seemed to be a belief not only in his guilt and sole responsibility for the social and political crisis, but also in his power to end the crisis, through his own death.²⁸

Ernst Kantorowicz has brilliantly shown that medieval political thought was based in the unity of the two bodies of the king. The king as body natural and the king as body politic were considered a dual capacity, according to which the king as an individual could die and was subject to «all infirmities that come by Nature or Accident, to the Imbecility of Infancy or old Age, and to the like defects that happen to the natural bodies of other People.» But the body politic

26. WALZER, *Regicide and Revolution*, 139

27. DUNN, *The deaths of Louis XVI*, 4

28. *Ibid.*, 15.

was «a body that cannot be seen or handled, consisting of Policy and Government, and constituted for the Direction of the People and the Management of the public weal»²⁹.

The very idea of the crown implied that the sovereignty of the political body was actually based in and represented by the body of the king. On the contrary, the sovereignty of the people was based on the notion of the state as an impersonal representation of the people's will (contractualism) and the existence of basic rights above any political power and ethically superior to it.

In this sense, the very act of bringing the king to trial represented the existence of a new power superior to that of the divine right. It also represented the fact that human affairs were no longer controlled by God: that the people could actually judge and condemn the man they had considered God's deputy on earth.

A symbolic inversion operated during the discussions of the fate of Louis XVI. Daniel Arasse has explained how the will of the people and the Revolution became a *cause sacrée*: if the monarchical theory of the divine right gave the person of the king sacred attributes and made possible the usurpation of the natural sovereignty of the people, the holy aura became part of the ones that had recuperated sovereignty.³⁰

Thus, the Assembly was transformed into a sanctuary, a temple in which the regeneration of the people could only be realized by the actual separation of the king's two bodies. But the Revolution remained sacred and, as Arasse has also stressed, founded its own legitimacy and its own sacrality on the sacralization of the person of the king. It capitalized on his sacrilization and was established in his destruction.³¹

THE OUTCOME

In his classic work on the French Revolution, Alexis de Tocqueville stresses the fact that it should be considered as a «religious revolution».³² It is true, he says, that this great movement was ostensibly political in its origin, «but like all great religious movements it resorted to propaganda and broadcast a gospel».³³ The Revolution had its martyrs, its apostles, and its militants; it intended to give a comprehensive view of the world and a new meaning to every

29. KANTOROWICZ, *King's two bodies*, 7

30. ARASSE, *La Guillotine*, 69

31. «La Révolution fonde sa proper légitimité et sa proper sacralité sur la sacralisation de la personne du roi; elle la retourne à son profit et s'instaure en l'a anéantissant.» *Ibid.*, 67.

32. ALEXIS DE TOCQUEVILLE: *The Old Regime and the French Revolution*, Anchor Books, Massachusetts 1978.

33. *Ibid.*, 11

aspect of daily life. And it had a claim of universality: its approach to the problems of human existence was similar to that of the religious revolutions:

It viewed the 'citizen' from an abstract angle, that is to say as an entity independent of any particular social order, just as religions view the individual, without regard to nationality or the age he lives in. It did not merely aim at defining the rights of the French citizen, but sought also to determine the rights and duties of men in general towards each other and as members of a body politic.³⁴

This writer will not interpret the consequences of the French Revolution, but will mention two points that seem to be particularly important when discussing secularization processes in the modern world. They are the origin of the first political religion to be regarded as specifically modern (the cult of reason and the Supreme Being), and the invention of human rights, two sides of the same coin.

The process of sanctification of the sovereign will of the people and the idea of popular sovereignty as the ultimate source of political legitimacy, gave rise to a homogenization in the name of *ratio*. As Ferenc Fehér says, by abolishing estates and corporations, the Revolution also destroyed the framework in which «society» could organize itself. The very principle of civil society disappeared with the possibility of association.³⁵ Moreover, once the new sovereign was sanctified, a new dual body was also born:

The 'natural part' was embodied in the empirical existing citizens and their elected agencies which together constitute the 'body politic'. This body had both the advantage and the disadvantage of being a body only in the metaphorical. It had the great pragmatic advantage of being imperishable; it could not be decapitated like the king in his natural person. On the negative side, in the merely metaphoric body of the collective sovereign, its will was never unequivocal. It invariably transpired as the awkward aggregate of individual volitions and opinions which could only be summarized by a clumsy political arithmetic.³⁶

The beheading of the king and the political vacuum left by the absence of a clear and definitive mode of legitimacy remained at the core of modern political reality. In his works on totalitarianism, Claude Lefort has coined the metaphor of the «empty place» to characterize this form of political power in the Modern age. The empty place left by the death of the monarch has become the space in which democratic interplay is possible. But there is always the possi-

34. *Ibid.*, 12

35. FERENC FEHÉR: *The Frozen Revolution: An Essay on Jacobinism*, Cambridge University Press, 1987, 182.

36. FERENC FEHÉR (ed.): *The French Revolution and the Birth of Modernity*, University of California Press, Berkeley, 1990, 183.

bility that the space is filled by a segment of society through the identification between society and state.

The political and spiritual vacuum was filled during the Terror: one of Robespierre's leading principles was the idea that the new religion founded by the Revolution had to be political and not just civil, and that the cult of the Supreme Being belonged only to a Republic of Virtue.³⁷

Hence, the beheading of Louis XVI could be interpreted as the act of parricide, which Freud saw as the origin of authority. In the case of the cult of the Supreme Being, it became clear because the idea of the dual body of the king was replaced by a new political cult based in the sovereign will of people. But in the former case, having annihilated the metaphysical principle of authority, and having brought it to human hands, any possibility of new legitimization of the political principles could be challenged. That is the original sin of modernity and the seed of totalitarianism.

This is also a path Fehér explores in *The Frozen Revolution*. His argument, however, echoes the Arendtian approach to the French and American revolutions.³⁸ And opposing Walzer's argument, according to which both the trial and the execution of Louis XVI were necessary for the revolutionary movement to be able to consolidate the Republic, Fehér advocates against «the offering of symbolic sacrifices to new gods,» and considers the Jacobin approach as antithetical to republican justice (Fehér 1987, 103). His arguments are strong: the trial against Louis lacked the basic features regarded as necessary to be considered fair, even if—as Walzer remarks—the king had the opportunity to speak before his accusers in his own defense, an opportunity denied to the victims of the Terror in the following months. What both Fehér and Walzer overlook is the opposition between formal and substantial justice that permeates the discussions of the Conventionnels and sheds light on modern inquiries on the topic.

But this process also had a corollary that was totally different. In *The Origins of Totalitarianism*, Hannah Arendt regarded the *Declaration of Rights* as a turning point in history:

It meant nothing more nor less than that from then on Man, and not God's command or the customs of history should be the source of Law. Independent of the privileges which history has bestowed upon certain strata of society or certain nations, the declaration indicated man's emancipation from all tutelage and announced that he had now come of age.

37. *Ibid.*, 189.

38. In her analysis on the French Revolution, Arendt found the emergence of «the social,» and the inequalities in French society at the root of its failure to create solid and durable institutions. Arendt failed to notice, however, that the real danger was in the Revolution's radical approach to substantive justice.

Beyond this, there was another implication of which the framers of the declaration were only half aware. The proclamation of human rights was also meant to be a much-needed protection in the new era where individuals were no longer secure in the estates to which they were born or sure of their equality before God as Christians. In other words, in the new secularized and emancipated society, men were no longer sure of these social and human rights which until then had been outside the political order and guaranteed not by government and constitution, but by social, spiritual and religious forces.³⁹

It is not coincidental that the *Declaration of the Rights of Man and Citizen* (1789) was painted on a wall in one of the Temple rooms in which Louis XVI was imprisoned during his trial.⁴⁰ Human rights were hence a safeguard invented to protect humankind from itself.

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39. HANNAH ARENDT, *The Origins*, 290-291

40. DAVID JORDAN, *The King's Trial*, 81.

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