On Political Theology and the Possibility of Superseding It

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The analogies between religious and secular juridical arguments interest political theorists because they suggest a hidden link between religion and politics. However, merely describing analogies does not show that the link is significant. Why are there such analogies? The question matters because answering is a prerequisite for determining whether there can be a neutral political background to religion in the sovereign state. This paper argues that there are such analogies because arguments in theology and arguments in the juridical theory of the state share a common structure. This structure is such that the meaning of some concepts in the theory of the state, like political order and sovereignty, cannot be fully understood without reference to theology. This thesis -- Political Theology-- has become associated with Carl Schmitt, but the argument in this paper differs importantly from his. Unlike Schmitt, this paper claims that in the contemporary state political theology can be superseded. *(151 words)*

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In recent years the relation between religion and politics has come to the foreground of public and academic attention. Political theorists are especially interested in a peculiar feature of this relation: they have remarked that some secular political arguments and practices resemble religious arguments and practices. For example, many theorists have noticed that the idea of progress in political development resembles Christian eschatology (Haldane 2003; Löwith 1949; Voegelin 2000). Some have also noted that the language of many arguments justifying democracy resembles sacred language (Deneen 2005), and certain civic ceremonies resemble religious liturgies (Gentile 1990; Gentile 2006). Others point out that arguments supporting the separation of church and state resemble arguments for religious establishment, to the extent that one could talk of a secularist establishment (Walker 2000). But the analogies between religious and secular arguments that seek to legitimize the state are particularly interesting because they suggest a hidden link between theology and politics. Recently many scholars have explored this link (Davis, Milbank, and Zjizjek 2005; Laclau 2006; Lefort 1988; Margalit 2005; Meier 2006; Vries and Sullivan 2006). However, as suggestive as the analogies may be, describing them does not establish a significant connection between religious and secular arguments. Why are there such analogies?

It is important to explain why some secular arguments are so similar to religious arguments, specially those secular arguments that seek to legitimize the state in the West. If an explanation established that there is an internal connection between religious and political arguments, this would challenge the view that the separation between religion and politics is a distinctive mark of Western political thought and practice (Huntington

1996, p.70). Political theorists are ready to see the importance of this question, but it should also interest political scientists. Unless we answer the question we cannot know whether we should talk about "civic religion," whether we may describe fascism and communism as political religions (Berman 1982; Gentile 2006), or whether we may equate religion with ideology. More significantly, unless we answer this question, we are not entitled to a fundamental assumption of the current debates regarding the relation between religion and politics. These are the debate over how religion affects political identities, and how religious identity and ethnicity figure in the relations between states (Fox 2004; Fox 2005; Huntington 1993), the debate over how religion creates cleavages within countries (Green, Guth, and Hill 1993; Guth and Green 1991; Lipset and Rokkan 1967; Verba, Schlozman, and Brady 1995; Wald, Owen E., and Hill 1988), and the debate over how the neutral framework of the rule of law deals with religious pluralism, and whether political debates should include religious arguments (Audi 2000; Greenawalt 1988; Habermas 2006; McConnell 2000; Rawls 1993; Rosenblum 2000). These debates all assume that there is or ought to be a neutral political background which maintains a fundamental distance from religion within a state. For this reason, they can frame religion as a form of political identity. However, we can only presuppose such a neutral political background if the borders between the religious and the secular realms are settled and stable. For without settled borders we cannot frame religion in terms of secular politics. But what if these borders are unstable? The striking analogies between religious arguments and secular legitimizations of the state suggest that they are less stable than these debates assume, because the two kinds of arguments share features that overstep established borders. So, unless we clarify the origin of the analogies we are not entitled to

all the assumptions of the main debates regarding religion and politics in political science.

Why then are there analogies between religious arguments and the secular arguments that seek to legitimize the state? This paper argues that these analogies exist because most such arguments have theological roots. Specifically, it argues that in contemporary Western political theory, the most important arguments of this type share a common structure with arguments in theology; and this common structure depends on theological assumptions. This is the thesis of political theology.

The thesis of political theology has become associated with Carl Schmitt and his essay of the same name (Schmitt 1985), but the argument in this paper differs importantly from Schmitt's. According to Schmitt, all political activities and institutions necessarily depend on theological assumptions, or at least on assumptions that are functionally equivalent to theology. In contrast, this paper argues that in to fully understand some political concepts we need to remember their theological roots, but these theological assumptions are not a necessary feature of politics. In a word, political theology can be superseded.

Parts 1 and 2 directly argue for this thesis. Part 1 argues for the first part of the thesis. It expounds the argument that I call "political structuralism." It shows that there are striking analogies between the modes of argument in theology and the juridical arguments that seek to legitimize the state. It then claims that the analogies result from a structural similarity in theology and jurisprudence, and it warns against the "functional temptation" to use the function of the analogues as evidence of their equivalence. Part 2 argues for the second part of the thesis. It expounds the argument of "theological

ordering." It seeks to show that most juridical theories of the state depend on theology because they adopt a theological conception of order. We can trace this dependence to early modern political doctrines that drew heavily on theology. Part 3 argues for a particular conception of the thesis. Many contemporary theorists who accept the political theology thesis follow Schmitt, and believe that thesis entails that the theories of politics and theology have the same structure because such structure is necessary to politics (Agamben 1998; Derrida 1992; Schmitt 1970). Instead, this paper argues that political theology can be superseded. That is, the structure of theological assumptions is not a necessary feature of politics.

1.   The Structural Relation of Theology and Juridico-Political Theory

There are striking analogies between some religious concepts and arguments, and some political concepts and arguments. Analogies arise when there are similarities between two proportions. So, for example, just as Christians expect the second coming of Christ, so too do communists expect the state to wither away. Analogically, Christ's second coming is to the Christians what the state's withering away is to the communists. Many scholars take these analogies for granted. They confuse the similarities between proportions for evidence of equivalence between the analogues. Hence many argue that ideology is simply another form of religion; that political conviction is a type of faith; that historical grand narratives are Christian eschatology in disguise. However, noting the similarity in proportions is not enough to explain why the analogies arise, or whether there is a significant connection between the terms. Why are there such analogies?

The thesis of political theology gives a plausible explanation. But before giving it, we should distinguish our use of the term "political theology" from other common usages. There are at least five different meanings of the term in current discussions (Böckenförde 1983; Nicoletti 1991). "Political theology" can mean the subordination of religious to political authority: what Max Weber termed "caesaropapism"(Weber 1978, p. 1161). A second meaning refers to the theological reflection on political problems, and it has been used to describe doctrines such as liberation theology (Rowland 1999), other forms of catholic doctrine and islamist thought (Philpott 2007). A third meaning refers to a critical hermeneutics of theology that takes the political and social context into consideration (Metz 1997). A fourth sense of the term is the critical hermeneutics of political thought, understood as "the discovery of the transcendent in politics" (Davis, Milbank, and Zjizjek 2005). The fifth sense of the term—the sense used here— is sociological. It refers to the analysis of the structural relations between concepts in legal and political theory, on the one hand, and theology, on the other. Political theology, thus understood, was an abiding interest of such thinkers as Hans Kelsen and Carl Schmitt.

The thesis of political theology was first formulated by Carl Schmitt in 1922 in the third chapter of *Political Theology: Four Chapters on the Concept of Sovereignty* (1985), partly as a critical response to Hans Kelsen's "God and State" (Kelsen 1973). This thesis has been widely debated in the context of Schmitt's political and legal philosophy (Hollerich 2004; Kalyvas and Muller 2000; McCormick 1998; Meier 1998; Mouffe 1999), and some have analyzed the thesis in detail (Blumenberg 1983; Meier 2006). Although the third part of this paper critically evaluates some aspects of Schmitt's argument, it is not the goal of this paper to interpret Schmitt's essay. The paper considers

the gist of Schmitt's claim, and it follows the main lines of his argument. But the main goal is to establish the soundness and proper scope of the thesis, rather than to interpret it in the context of its author's oeuvre.

The thesis of political theology holds that the analogies between theological arguments and the arguments that seek to legitimize the state arise because theology and the theory of the state are historically and structurally related. The relation is such that political and legal concepts cannot be fully understood without reference to theological concepts (Schmitt 1985, p.36).The thesis claims that some of the most important concepts in the modern theory of the state such as *sovereignty, order,* and *person* only make full sense in relation to theology. This means that the concepts can be perplexing in the context of contemporary political thought, but they make full sense in the context of theology. For example, the idea of a "general will", may be perplexing in the context of contemporary accounts of voting (Riker 1988, p.11), but it may make sense from the perspective of its theological history (Riley 1986, p. 249). The concept of absolute sovereignty may produce invalid arguments from the standpoint of secular political thought (Hampton 1988), but the same arguments could make full sense in a theological discussion about divine omnipotence (Foisneau 2000).

There are two parts to the thesis of political theology:

1) The first part claims that there is a historical and a structural relation between theology and the juridical theory of the state, such that the two disciplines have a common structure. I call this claim *theological structuralism.*

2) The second part claims that this common structure depends on theological assumptions because it requires a theological conception of political order. I call this claim *theological ordering*.

To see if the thesis of political theology stands we need to argue for each of these sub-claims. Let us first defend theological structuralism.

Theological Structuralism

Theological structuralism claims that most concepts and arguments in the juridical theory of the state have a historical and structural relation with concepts and arguments in theology.

Few would deny that there is a historical relation between concepts in the theory of the state and theological concepts. In fact, is not hard to trace how politics and religion appropriated each other's terms and arguments. Since the early Middle Ages the Empire and the budding western state appropriated theological notions for use in political rhetoric, while the Catholic Church adopted political terms to fulfill its needs. As Ernst Kantorowicz claims in *The King's Two Bodies,* by the High Middle Ages, "the *quid pro quo* method—the taking over of theological notions for defining the state—had been going on for many centuries, just as, vice versa, in the early centuries of the Christian era the imperial political terminology and the imperial ceremonial had been adapted to fulfill the needs of the church" (Kantorowicz 1997, p. 19). It is hard to argue against the claim that there has been such a *quid pro quo* between the church and the state. Yet, this historical relation does not suffice to show that there are hidden religious assumptions in

modern secular political practices and institutions, because the past relation need not determine the development of political thought. It could be argued that in the West, a process of secularization purged political thought of all theological assumptions. One could also hold that secular thinkers asserted their ideas as a reaction against theology (Blumenberg 1983). Thus, in order to determine whether there now is indeed a connection between theology and juridical political thought we have to focus on the second part of the claim of political theology. Do political and religious arguments share a common structure?

The term "structure" refers to basic, enduring patterns that determine the arrangement and interrelationship of parts within a whole. The whole, in this case is a system. The term "a system," in turn, refers to a set of functions that maintain equilibrium in the face of external pressures. There are many such sets of functions. Systems can be organic, social, or linguistic, for example. Here, we are concerned with systems of theological and juridical *concepts*. These systems are determined by conceptual structures: the patterns that deploy concepts within arguments. (Note that the systems to which this paper refers are conceptual, because they do not necessarily impose patterns in political or social life. Neither do they mirror political and social relations.)

When two different conceptual systems show the same enduring patterns they share a common structure. Now, do the conceptual systems of theology and the theory of the modern state share a structure? To answer this question we must first determine whether concepts in theology and the theory of the state form coherent systems. If there are coherent systems, and these share the same structure, then we would expect to see structural analogies between juridico-political thought and theology.

Concepts in theology form a coherent system, and so do the concepts in jurisprudence. We know this because we can understand the meaning of a concept in one such system by its relation to other concepts in that system. Each concept acquires meaning when it fulfils a function within a whole that these concepts form together. For example, a theological concept such as evil, or sin, fulfils a particular function in an argument about salvation. We do not need to refer to concepts outside theology to understand a theological argument. The same happens in the case of the legal theory of the state. For example, the concept of legislator refers to the concept of law, and the concept of law refers to legal validity, and eventually to the origin of legislation. To understand the concept of the legislator we must refer to the concept of law. Juridical concepts then, are interrelated, and we can understand them without appeal to concepts from other disciplines. In sum, given that a coherent system is a set of functions capable of withstanding external pressures, we can say that the interrelated concepts in theology form a coherent system, and the interrelated concepts in jurisprudence form another.

Now we can determine whether the systems of theology and the theory of the state share the same structure. I argue that they do because both systems share an enduring pattern: both seek to harmonize reason and authority. Schmitt refers to Leibniz to argue this point in "Political Theology," and the reference remains relevant. In *Nova Methodus Discendae Docendaeque Jurisprudentiae* (Leibniz 1930, p. 294), Leibniz argues that the analogies between theology and jurisprudence arise because both disciplines have a double ground. This ground is part reason and part authority. Unlike medicine, philosophy, or mathematics, where reason and observation are enough ground to any argument, arguments in jurisprudence and theology must also refer to an

authoritative will embodied in written law. In theology, scripture is an authoritative basis for the knowledge of God and revelation. In jurisprudence a constitution or a compendium of written law embodies the source of authority.

Theology and jurisprudence, and with it the juridical theory of the state, resemble each other because they share this pattern: they try to harmonize reason and authority. Theologians seek to reconcile reason with the authority of scripture. Jurists and state theorists seek to reconcile reason and authority in the law and the constitution. This does not mean that reason and authority always harmonize in these disciplines. In fact, they do not. But the search for harmony produces similar patterns in the arguments of both disciplines. The harmony of reason and authority becomes an ideal or "absolute" reference that structures legal and theological arguments (Arendt 1990, p. 161). So, given that the concepts in theology form a coherent system, as do the concepts in the juridical theory of the state, we could say that theology and the juridical theory of the state have a common structure.

In conclusion, we can say that there is a structural relation between theology and the juridical theory of the state because they share an enduring pattern. They both seek to reconcile reason and authoritative will. We could call this pattern "*reason and will*."

Objections to Theological Structuralism

However, one could level at least two objections against the thesis of theological structuralism.

First: it could be objected that the argument for the thesis is not sound. For, the objector might say, reason suffices to legitimize the state. She could argue that contemporary secular legitimizations do not require authority. But is reason so sufficient? Even those theories of state's legitimacy that shun scripture and authoritative commands must appeal to authority. These theories need to harmonize the good reasons that justify government with the legal commands and social conventions that sustain the law of the state. For example, social contract theories try to harmonize reason with an authoritative popular will. In these theories, a state is legitimate only when the people's authoritative will coincides with good reasons, such that each individual can agree to rule and ensure that the state does not violate her autonomy. Another example are those modern versions of legal positivism that argue for the existence of instrumental, prudential, or coordination reasons that give the law its authority (Raz 1979). Even an anarchist would agree that we could ask an individual to obey a written law if there are good reasons all-things-considered for performing the actions that the law requires (Wolff 1970). So, there is in the modern juridical theory of the state a general pattern that tries to harmonize reason with factual political arrangements, that is, a pattern that seeks the harmonize reason and the authoritative "will" that posits a written law. In short, juridical theories of the state tend to look for the harmony between reason and written laws, and thus display the double principle that establishes a structural relation between jurisprudence and theology.

Second, it could also be objected that theology does not require a double principle, because many theological doctrines do not require a principle of reason. After all, natural theology is only one among many forms of theology. However, even if it does

not play a leading role, in theology a principle of reason always stands in tension with principles of faith, revelation, or religious experience. Even if reason cannot give satisfactory answers to theological questions, it is a prerequisite for formulating theological questions and arguments (Loomer 1958; critically Niebuhr 1960; Tillich 1967). Moreover, in theology reason seeks to conform to the harmony inherent in revelation (Tillich 1967), it seeks the harmony of reason with divine love and will. Even those theologies that do not rely on reason seek the harmony of reason and will. The same could be said of those theories of the state that do not rely on an authoritative source of legitimacy. All theological and politico-juridical doctrines share this pattern, which in turn establishes a structural relation between the two disciplines.

The Functional Temptation

We now can explain the analogies between religion and secular juridical arguments: They arise because theology and jurisprudence have a common structure. However, the structural relation alone cannot explain why secular political arguments look like theological arguments, rather than vice versa. In order to explain why theology is the dominant term in the relation we need a second step. We need to answer the question: Why does the common structure depend on theology? In this section I warn against "the functional temptation," that may arise when one bypasses the crucial second step. This type of functional explanation is a mistake that distracts from an adequate explanation of the analogies between theological concepts and juridico-political concepts.

The historical and structural relations between theology and jurisprudence are significant, but they do not tell the whole story of the relation. The common origins and close interrelation in the development of the disciplines is, of course, significant, but it does not show that secular arguments depend on theology. To illustrate: finding a common ancestor may establish that there is a relation between two families. It may explain why there is a resemblance among cousins. However, it does not establish that one branch of the family depends on the other. Theology and jurisprudence may share similar principles, but from such similarities we cannot argue to the dependence of juridical concepts on theological concepts, or establish equivalences between them.

Establishing equivalences is a particular weakness of many old and recent arguments in political theory. These arguments succumb to the functional temptation to make political terms and functions equivalent to religious terms and functions. For example, in Gentile's arguments political ceremonies become religious liturgy, and according to Agamben the religious outcast is equivalent to a political outcast (Agamben 1998; Gentile 2006). This is also a weakness in Schmitt's argument, who in "Political Theology" makes the political sovereign equivalent to the sovereign in theology (Schmitt 1985).

By "functional temptation," then, I mean the temptation to explain the analogies between politics and religion by misusing functional social theories of the relation between politics and religion, or giving bad functionalist explanations. The most notable functionalist theories of this relation are those of Weber (1997), Durkheim (1995), Löwith (1949), and Kelsen (1973). A bad functionalist explanation of the similarities between religious and political argument uses those theories to explain the similarities

between proportions [a:b::c:d] by substituting one term in the first proportion, with a term from the second proportion [a:b::c:*b*], because it performs a similar function. For example, a bad functionalist explanation would explain the similarities between the following proportions [Church: liturgy:: State:civic ceremonies], saying that because liturgy performs a social function, civic ceremonies substitute liturgy [Church: Liturgy:: State: Liturgy] . From these premises the explanation draws the invalid conclusion that there is liturgy in the state. For example, Sidney Verba once remarked: "The awe inspired by the ultimate power of the church in more pious times may be akin to the awe inspired in modern secular societies by the ultimate power of the state." And from the terms of this analogy he concluded that, "governmental institutions may have significance of a religious kind" (Verba 1965, p. 352). More recently Samuel Huntington claimed that "filling the vacuum left by the collapse of ideology, religious revivals have swept through […] from Albania to Vietnam" (Huntington 1996, p.96). The danger of this functionalist temptation is that it gives a bad explanation for the analogies, but more importantly, the temptation is dangerous because it is easy to jump to the conclusion that "civil liturgy" or the "awe inspired by the power of the state" are somehow "illegitimate," given that the secularized versions "usurp" the traditional ordering of society (Blumenberg 1983).

An interesting remark by Hannah Arendt illustrates the functional temptation. Arendt writes: "[Claiming the right to call ideology religion] is as though I had the right to call the heel of my shoe a hammer because I, like most women, use it to drive nails into the wall"(Arendt 1968, p. 102). Arendt justifiedly rejects the bad argument that substitutes ideology for religion because ideology is said to occupy the function of religion within a society. For example, in the 1950's it was common to argue that in the

Soviet Union communist ideology occupied the functional place of religion. Many also argued that political leaders, such as Hitler or Stalin, sought to occupy the place of God. However ideology is not religion and (thankfully) Hitler and Stalin were mortal.

The fact that ideology is not religion may be a platitude, however this mistaken functional equivalence deserves more careful attention from political scientists and political theorists. The relevance of political theology to contemporary political science and theory, is that it can show that the relation between religion and politics is not solely analogical: it is a relation of dependence, which can justify the equivalence of the terms of one set, to the other set of terms in an analogy [a:*b*::c:*b*]. In order to justify this equivalence, however, one must make explicit why the structural principles in juridical doctrines depend on theological tenets. The paper takes on this task in the next part where the argument of theological ordering is expounded.

2.   Theological Ordering: The Dependence of the Juridical Theory of the
        State on Theology

Theological ordering is the claim that most juridical theories of the state depend on theological assumptions. This part expounds the argument that backs this thesis and clarifies its premises.

We can trace the similarities between theology and the theory of the state to a common structural pattern in both disciplines. But, why do these patterns arise? Why do the theories of the state and theology need the double ground of reason and will? My claim here is that the pattern arises from a common idea of order. As I argue below, this

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idea of order conceives it as a lawful regularity. Such order requires the existence of a person who unifies reason and will, and dictates law—a sovereign. Theological arguments and the arguments in the theory of the state resemble each other because they both try to unify reason and will in a sovereign person who dictates the lawful order. And given that sovereignty is a theological concept we can say that the common structure depends on theology. More precisely, the common structure depends on a theological tenet holding that order depends on God's will, that God's will is law, and His will is always a good reason. Will and rationality only coincide in the commands of a divine sovereign.

The argument for the thesis of theological ordering is the following: Most juridico-political theories that seek to legitimize the state cannot be fully understood without appeal to theological concepts because they require a sovereign lawgiver to bring order to the state. The sovereign lawgiver is a concept that cannot be fully understood without theological assumptions. So, most juridical theories of the state depend on theological assumptions. In order to arrive at this conclusion, however, we need to clarify the premises. Why is the idea of a sovereign lawgiver required for understanding most juridico-political theories of the state?

The Sovereign Lawgiver

Most juridico-political theories of the state commit to the idea of state sovereignty. They assume that in a state there is an agent who has unsupervised and irrevocable authority over people in a territory to give, judge, and enforce compliance

with law, and there is no higher authority in that territory (Hinsley 1986; Philpott 1995; Pogge 1992, p. 57; Schmitt 1985) Many of these juridico-political theories try to justify the state. To do this, they seek to justify the sovereign lawgiver.

Juridical theory often appeals to one of two types of arguments to justify the sovereign. The first type argues that a sovereign will is justified whenever the state can back this will with good reasons. The reasons are good if all subjects could understand why they ought to agree with the sovereign. The second type argues that even if the sovereign's actions and decisions are arbitrary, there are good reasons to have such an arbitrary ruler because it guarantees political order in the state. The first answer is often associated with the social contract in the natural law tradition since and before Locke. The second answer is often associated with the social contract in the positive law tradition from Hobbes to Kelsen. However, regardless of the tradition, all these theories hold that in the legitimate sovereign state, reason and will coincide in the sovereign.

The idea of a sovereign territorial state dominates contemporary normative political and juridical thought. Most juridical theories of the state presuppose that there is a sovereign lawgiver. For this reason, the concept of a sovereign lawgiver who unifies reason and will is a prerequisite for understanding most juridical theories that seek to legitimize the state.

Theology and the Sovereign Lawgiver

The sovereign lawgiver is a concept that cannot be fully understood without theological assumptions. Intuitively, we can see this connection in a remarkable feature

of the sovereign. Sovereignty is "absolute." No one can supervise or revoke a sovereign decision. This feature makes apparent the analogy between the juridical sovereign lawgiver and a divine sovereign lawgiver. We may explain this analogy by pointing to the structural pattern common to theology and jurisprudence because both types of sovereign embody the coincidence of will and reason. But why do arguments in both disciplines adopt this common pattern? My claim is that it is because they both rely on a theological conception of order.

The juridico-political theory of the sovereign state depends on a theological idea of order: the willful and lawful regularity of the world. According to this idea, the order of the world accords with the laws of nature. Hence, it is a lawful regularity. But the order is also willful, because the creation of the world and the existence of these laws are the result of God's will.

The idea of order on which the common pattern of theology and juridical thinking depends can be traced to a view common in the seventeenth and eighteenth centuries. This view stands between theism and the mechanistic view of nature that predominates today.[1] In the seventeenth and eighteenth century, political thinkers hoped to apply

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[1] Schmitt's argument in "Political Theology" calls this view "Deism". His use of the term is misleading, because it only emphasizes two aspects of Deism: The existence of an omnipotent, omniscient and eternal, perfectly good Creator, and the prevalence of the order of nature according to causal laws, or mechanism. Schmitt's characterization of Deism allows for revelation and divine intervention, a position which was not common among the English thinkers traditionally recognized as Deists such as John Toland, Anthony Collins, Matthew Tindal. In this sense Schmitt's 'Deism' is closer to Hobbes's,

"mechanics" to religious and juridical questions. To do this, they used this idea of order and tried to understand the harmony of reason and divine will. On this view, the lawful regularity of the world arises from the principles of mechanical causality and the act of Creation that sets causality in motion. This means that theologians can seek to comprehend divinely decreed laws through reason. However, the idea of order as a lawful regularity implies a law and a lawgiver, and thus, the idea of order is also willful. On this view, the lawfulness of the world requires a will that transcends natural laws. Natural laws are a product of God's understanding, but they could be disrupted by God's will. For this reason, this idea of order presupposes God, conceived as a personal omnipotent lawgiver.

From this idea of natural order, juridical thinkers drew an analogous idea of the juridico-political order. In the case of political order, the lawfulness of the political world requires a will that transcends laws. Just as divine transcendence can break the lawfulness of the world through miracles, so juridico-political transcendence can break the lawful order of the state through states of emergency, or decisions in the exception. Thus, according to Schmitt "the exception in jurisprudence is analogous to the miracle in theology" (Schmitt 1985, p.36). The conception of God as a Creator generates the lawful order of the world, but God's will is its condition of possibility. Analogically, a constitution creates order in the state, but the sovereign's will is the condition of possibility of such order.

Locke's or Newton's conception of Religion than to that of Tindal, Toland and Collins. See Byrne, Peter. 1989. *Natural Religion and the Nature of Religion: The Legacy of Deism*. London: Routledge.

Juridical thinking influenced by this conception of order envisions the state as a realm of lawful regularity. Here arises an analogy: the sovereign's will is the condition for the lawful regularity of the state, just as the will of God is the condition for the lawful regularity of the world. However, there is a crucial disanalogy between these two propositions. A personal omnipotent God can sustain the lawful order of the world because He unifies will and reason in His commands. Yet the state lacks a unified will. To provide one, a jurist must construe the state as a juridical fiction. This fiction is a juridical person, a sovereign whose unified will is above the law. So, to adopt this idea of order, a juridical theory must introduce the personality of the state. One can see how this introduces a new difficulty: while it is easy to invoke the person of God in a theological rendition of the order of the world, it is not so easy to invoke the person of the state in a secular juridical rendition of political order. A jurist cannot justify a personal sovereign will unless she appeals to theological concepts. The source of the analogies between religious and politico-juridical is the idea of order that begets the personality of the state.

For jurisprudence, a man or woman is a person, a subject of rights. Jurisprudence constitutes the unity of the state analogically, making the state a sovereign juridical person. Yet the unification of this juridical "person" depends on religious belief, because a sovereign has features beyond those of a natural person, a subject of rights. We know that any person can harmonize will and reason: all that is required is that she wills something rational. However, only a *divine* person's will is by definition equivalent to a law. And this is precisely what is expected from a sovereign will. The unity of the juridical sovereign person depends on its similarity to God. The political sovereign must be a unified person in whom all reason and will coincide by definition. Hence, we can say

that all theological arguments that feature an omnipotent commanding God, and all juridico-political arguments that appeal to sovereignty, share a theological root.

There are analogies between religious arguments and secular political arguments because they share a theological root. Most juridico-political theories are committed to state sovereignty and order as lawful regularity. These commitments depend on a theological tenet: the unification of the person of the sovereign as a transcendent lawgiver. For this reason, we need theological assumptions to fully understand the juridico-political arguments that seek to legitimize the state. (We have arrived at this conclusion from the structural side, but we could have also found it from a historical perspective. Historians have studied the religious origin of the personality of the state (Gierke 1922; Runciman 1997). In the last decade, there has been much interest in how the idea of the state related to the idea of the person in the seventeenth century, especially in Hobbes's conception of the sovereign. (Skinner 2002))

Objections to Theological Ordering

Two objections could be leveled against the thesis of theological ordering (and hence against the thesis of political theology). First, it could be objected that the theological concepts that legitimized the state in early modernity are not relevant anymore. Jurists and political theorists may have developed secular justifications for sovereignty and the personality of the state, and these concepts may have become completely detached from theological presuppositions. Second, it could also be objected that there are many possible juridical arguments for the legitimization of the state. Many

of these do not require, nor do they appeal to, a sovereign lawgiver or the personality of the state. Without a sovereign lawgiver, the thesis of theological structuralism may still hold, but the thesis of political theology, as a whole, would be irrelevant.

The response to the first objection is that the idea of order that implies a sovereign is resilient and has become embedded in institutions. It may be true that the origins of this idea have been forgotten. Few care about an image of God that was influential in the seventeenth and eighteenth centuries. However, even if we forgot the origins, the idea of order still structures arguments and institutions. This is obvious in the most widely held conceptions of the international system, where states are sovereign and held to have moral personality. It is also apparent in the "sovereign" attributes of the executive power, including emergency powers, and the power of pardon and amnesty. It is of course debatable whether institutions have historical memory, but the conceptual structures of their justifications seem to perpetuate the structural connections between the juridical order and theology. The views inherited from the Enlightenment dominate contemporary institutions, and the deist conception of God and the order of the world is not an exception.

The second objection claims that many contemporary theories do not require, or desire, one absolute sovereign lawgiver. This is true. Yet, the theories that do appeal to theology are still dominant, and they often produce arguments resembling arguments in theology. These analogies can be traced to the dependence of jurisprudence on theology, regardless of whether there are other theories that do not rely on theology. Political theology, then, still seems to give a good explanation of why there are striking

similarities between religious arguments and those arguments that seek to legitimize the state using juridical thought.

3.   The Contingency of Political Theology

The thesis of Political Theology can explain analogies between theology and the juridico-political arguments that seek to legitimize the state. However it cannot explain other political phenomena. In this part, I show that theological views are not a necessary feature of modern politics. Against Schmitt and other authors who hold that these analogies stem from necessary features of politics, I claim that the analogies are a contingent feature of the modern state. Political theology can be superseded.

The sovereign state is a historical construction associated with an influential tradition in the modern state, but it is not the only possible one. We know that the idea of sovereignty may change eventually, because if sovereignty were a constant in human life, the only form of political order would be that of a sovereign state. Yet, we know of the existence of other forms of political organization beyond the modern West, and we know there are other ideas of political order. Order can be interpreted as peaceful stability instead of lawful regularity, for example. We can also conceive that there have been other ideas of order in other times and places, and that there could be other ideas of order in the future. We can, for example, conceive of non-sovereign political communities not defined by the law of the state but ruled by overlapping sources of authority (Pogge 1992).

The idea of order that structures the relation between religious arguments and juridico-political arguments could change in at least three ways:

1) If the idea of political order depends on an idea of God, the idea of political order could change to the extent that the idea of God changes. That is, if an idea of order as lawful regularity arises from the picture of an omnipotent sovereign lawgiving God, the idea of order in the state could change to the extent that this idea changes too. Different images of authority and command emerge from different images of God and divinity. But as argued above, this transformation depends on the rate at which institutions shed their historical habits.

2) Given that the idea of order that gives rise to the analogies depends on widely held metaphysical views, the idea of order could change to the extent that there is a substantial change in these widely held views. Political order could be defined in different terms if philosophy and cosmology were to change substantially. Metaphysical beliefs do not change easily, but they have done so in the past and there are no good reasons to expect that such a transformation will not occur again.

3) Finally, given that the analogies arise because political conceptions of order depend on theological concepts, the analogies would not arise if juridico-political arguments ceased to depend on theology. If the arguments that seek to legitimize the state did not require the unification of will and reason in the person of the state, the analogies would not arise.

These three possibilities imply a state without sovereign will. Sovereignty has been a resilient concept in the construction of the modern state, but there is no good reason that it could not cease to be the structuring concept of political order. In sum, the

structural relation of theology and juridico-political arguments can explain the analogies of political and juridical concepts in the modern state. However, the idea of order that grounds the relation is not essential to politics. It is historically contingent and it can eventually change.

However, this conclusion goes against the dominant view among those who accept the thesis of political theology. Many claim that the structural similarities with theology arise in all forms of political theory, and even in all forms of political organization. For Agamben, for example, the function of sovereignty "presents itself in every logical system, just as in every social system" (Agamben 1998, p.22). According to Meier, political theology claims to be "the pure and whole knowledge about the metaphysical core of all politics and provides the theoretical foundation for a battle in which only faith meets faith"(Meier 2006, p.82). Schmitt embraced this position towards the end of his life. In *Political Theology II*, he argued that the idea of the disposal of political theology was a myth (Schmitt 1970). According to Schmitt, the structural dependence of politics on theology (or something equivalent to theology) is essential to all political organizations.

In Schmitt's later writings, the relation between religion and politics does not stop at the level of analogy between the sovereign lawgiver and God. In his view, politics and religion owe their common conception of order to more fundamental principles. These are the principles that root all political order *essentially*. According to him, only a decisive will can establish political order (the exclusion of "anarchy and chaos"). This order requires the unification of the state. This type of order depends on God's will in the world, or the will of the sovereign in its realm, because only such wills are capable of

forcefully generating a type of stability that is also normative. They can generate political order because they establish legality extra-legally. Margalit argues that in Schmitt's picture of divine order, God "is paradoxically a normative brute force in the sense that it can bring about things without being constrained by any antecedent reasons, since acting for reasons would mean that independent reasons have power over God and thus undermine God's absolute authority" (Margalit 2005, p.41). This picture of God and the sovereign is attractive for Schmitt's theory because it actualizes the sovereign as the unified person whose will is law.

Schmitt's picture of order goes hand in hand with an unstated conclusion of his writings. The connection may explain the current appeal of the thesis of political theology. From reading Schmitt, we could conclude that all types of political arguments are essentially religious. This conclusion arises from combining two of his most famous claims. On the one hand, *Political Theology* claims that the sovereign, who structures all politics, is "he who decides on the exception" (Schmitt 1985, p.5). On the other hand, in *The Concept of the Political* (1976), Schmitt famously claims that the essence of politics is that which can be described through the criteria of friend and enemy. Combining these two claims, we could come to the conclusion that the distinction between friends and enemies must be determined by a decision in the exception, and for this reason the sovereign is essential to politics. If the sovereign is also essential to politics, then we must conclude that politics depends essentially on theological assumptions, because the idea of sovereignty depends on these assumptions.

Schmitt's view of the relation between politics and order may seem extreme. However, similar views are fairly common among those who believe that the purpose of

all legitimate political action is achieving order and stability, and those who hold that political order and stability require unity in the state. As we saw above, the unity in the state can be traced to a theological conception of personality. For Schmitt, order and stability in the modern state are constantly threatened by the fragility of personal unification. The unity of the person is always threatened in a secular (or perhaps atheistic) environment. Without the religious belief that grants the unification of the state, Schmitt believes, the state is constantly threatened with disintegration. This means that without sovereigns, the conceptual clarity that allows us to describe the world as a territory divided among states is also threatened. Without religious belief –or something equivalent to it-- the modern international political system constantly verges on chaos. In this view, a decisive political will is necessary to keep chaos at bay, and this will, according to Schmitt, is an essential feature of all instances of politics.

However, this metaphysical doctrine is contestable. (In fact, the doctrine is false, although this paper is not the place to make an argument for this claim.) Schmitt's metaphysical arguments are a red herring that take our attention from the problem at hand. Although it is true that political theories cannot do away with some assumptions about identity and order, it is false that all political doctrines must reflect *this* particular assumption. There is more than one metaphysical doctrine, of course. Schmitt's dialectical metaphysics cannot account for the structure of every conceptual system. The features that arise from his account of the legal order may not arise in other accounts. His assumptions are even more problematic when confronting empirical evidence from social and political systems. Eliminating sovereignty or the demand for a unified personality in the state does not always result in chaos. It is true that the theologico-political doctrine of

order and stability goes hand in hand with the theory of the sovereign state. But this does not make the doctrine a necessary feature of all instances of politics, or all theories of politics.

Conclusion

This paper has argued that there is a structural relation between theological arguments and central arguments in the juridical theory of the modern state. They both share an enduring pattern: they seek to reconcile reason and authoritative will. This structural relation can explain the analogies between theological arguments, and the juridical arguments that seek to legitimize the state. We can trace the origins of this structure to theology. But, given that the relation depends on a historically contingent idea of order, and not on essential features of politics, we can expect that it will change if the dominant idea of order in the state changes. Currently, the dominant idea of order in the state relies on the concept of sovereignty, so we can expect changes in the structural relation between theology and the theory of the state if the influence of the concept of sovereignty wanes or changes. These changes may occur even if these structural patterns been very resilient in the past.

Political theology is an interesting thesis that deserves attention. If tested empirically (for example, by comparing patterns of argument in different disciplines and different periods), we could determine whether some political arguments depend on theological claims. It may prove useful for tracing social secularization, substantial changes in conceptions of the state, or for understanding how different conceptions of

order bear on political theories and political institutions. It may also be a tool for comparing the relations between religion and politics in other cultures.

The thesis of political theology is also worth considering because it challenges the current treatment of the relation between religion and politics. Political theology highlights the deep connection between religious and political argument, and it challenges the most common notions of secular sovereignty and the religious neutrality of the state in the West. The latter is particularly important in International Relations where the idea of sovereignty is often taken for granted. The thesis of political theology could also highlight the limits of the separation between religious and political concepts and arguments, and help political theorists notice deeper entanglements than they presently acknowledge.

Finally, political theology is worth recovering because it reminds us of the importance of metaphysical assumptions in political theory. This is a consideration that political theory has neglected in the past few decades. The metaphysical sources of political concepts and arguments should be a concern for political theory because many of the concepts that we use when we talk about the state and the international order depend on metaphysical views that we often take for granted. Illuminating the underlying tenets of political theories can help us better understand arguments and doctrines, and perhaps even revise inadequate patterns of thought.

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