

«Dispositive» and «Subjectivity»

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1. Introduction

In this presentation we will try to show the problematic knot hidden behind the concept of «person». Firstly, supposing that it is not only a naive term but, and specially, that it is a «dispositive» which has its origins in archaic Roman law and that it still has consequences in our contemporary reality. Secondly, we will try to prove the movement of the person's dispositive towards a new idea of «subjectivity» in the light of a drawing by Leonardo Da Vinci. In this way, the first part is based on Roman law and the second one in *Battaglia degli Anghiari* by Leonardo. Both extra philosophical speeches have as a base Roberto Esposito's philosophical thought, from which I have taken and carried out the ideas.

The «dispositive» is one of the key concepts for contemporary philosophy. Broadly speaking, we can point out the central place that the thought of Michel Foucault and Gilles Deleuze occupy. In the same way, Giorgio Agamben and Roberto Esposito have analysed this concept in the Italian thought.

In this paper, we will work punctually on Esposito's position, because we think that it is urgent to resume aspects proposed by his work. What characterized the thought of Esposito lies precisely in the relationship between the concept of «dispositive» and «person». In fact, it is the intention of Esposito to contribute to the deconstruction of «person» -which has its origins in the archaic Roman Law and reaches our current days- as dispositive of power that encloses a series of problems on which we want to shed light. Together with Esposito, we have the impression that the concept of «person» in our current days takes a sudden force from the «Declaration of Universal Human Rights» of December 10th 1948 in Paris and a «dispositive» is created.

For these reasons, we truly believe in the urgency of the deconstruction of the «dispositive of the person». Due to that, we must dig into the heart of Roman Law and understand which are the juridical reasoning which, from II b.C. until today, has held a “dispositive” that has such an effect on the real.

2. 1. *Homo et persona sui iuris*

Starting with the archeological considerations, from Roberto Esposito's perspective, we state that Roman Law appears in Modern Law as a kind of persistence or unconscious anachronism in Juridical Philosophy. For this reason, we consider that the «dispositive of the person» is one of the most important knots that relates Archaic Law with Contemporary Law.

Our author investigates the category of «person» and considers a dispositive because of its performative character; that is to say, because of its capacity to produce effect on the real. For Esposito, Roman Law lays the bases of the separation between the artificial entity of the person and human as a natural being who can either have a personal status or not. This semantic distance between human and person is established for the first time and in an absolutely original way by Roman Law.

In paragraph 9 of Gayo's *Institutas*, the author clearly expresses the condition of humans: "With reference to the right of person, the widest division is the following: all human beings are either free or slaves".

In the *Digesto* (I, 1, 4), Florentino's words are resumed, another big jurist of Sabinian School, who defines freedom as the faculty that each man has to do what he pleases as long as the law or the force does not forbid him ("*Liberts est naturalis facultas Riis, quod cuique facere libet, nisi si quid vi, aut iure prohibetur*") and slavery as «an institution of *ius Pentium*, by which one is subject, against nature, to the domain of other people («*Servitus est constitutio iuris Pentium, qua quis domino alieno contra natura subiecitur*»).

In relation to Roman Law, we therefore state that the category of «person» has such a general condition that the rest of the juridical figures are interiorly disposed by games of bifurcations. From this perspective, the initial division between slave men and free men and those ones from which are deduced by it (*ingenuos* and *libertos*, etc.), it is clearly seen how through the thread of the person the law moves away from the concrete existence of the simple man to concentrate on the elaboration of abstract figures, such as *servi, filii in potestates, uxores in matrimonio, mulieres in manu, liberi in mancipio, addicti, nexi, auctoritati*. All these are types of human beings, they are *aliena iuris*; that is to say, subjected to an exterior *dominus* which turns them into objects of Law. So much so that depending on the *status* of each of these figures, the *dominus* could sell them, use them, free

them or kill them legitimately. The only type of human *sui iuris*, that is to say, who had the three status was the *pater familias*. Likewise, we would like to underline that the specific role of the Law is recognized in the articulation of categorical seizures that appear in the interior of a continuity. We mean, it is the knowledge that shapes the successive inclusions and exclusions creating an area of indistinctness or overlapping.

2.2. About the «dispositive of the person»

In *The person dispositive*, Esposito points out that in order to recognize the dispositive we have to understand its logical structure.

In this way, the conceptual and lexical distinction that Roman Law introduces in the interior of the person was not only cancelled in Modern Times, but it is the inscribed decisive element in Juridical language that up to date still keeps the distinction between *person* and *human being* implied in the *ius personarum* from Rome until our times.

On the other hand, we would like to point out that after the World War II, the personalist speech gathered an extraordinary strength in opposition to Nazism and the biological and anthropological philosophies that sought to smash the personal element –rational or spiritual- to the mere biological substance. After the atrocities of the WWII it was considered that the concept of person was able to offer resistance to the reduction of human beings to a purely biological subtract and to the consequent extermination of –at least- 6 million people in concentration camps or other similar death machines.

2.3. The problem of the category of «person»

As indicated before, being a person is not the same as being a human being, and this is the distinction that Roman Law introduces and which penetrates deeply in modern juridical, philosophical and political conception.

Inside the political modern juridical lexicon we find that the category of person transmutes into the concept of subject of Law and constitutes itself in its condition of intelligibility. From this perspective, revalidating the subjective rights of life, the well-being, and the dignity implies having previously entered the logic of the person.

The jurists find a strategic core in the category of person: its universal statute is the only semantic field of overlapping of the categories of Law and Humanity, which were separated by the national ideology of the citizenship. It is only as from this conceptualization that it is possible to think of the notion of human rights. The steps of two contemporary Italian jurists can be followed, which have certain theoretical differences but coincide in the importance of the person. Their names are Luigi Ferrajoli and Stefano Rodotà. For the former, the concept of person does not imply erasing the public citizenship or political right at all, but including them within a frame of a bigger universal reach which allows for the extension of the fundamental rights of all human beings. For Rodotà, the displacement from the concept of subject to the concept of person present in the contemporary juridical literature is the manifestation of the importance of the material conditions of the living over the abstraction of subject of Law. In fact, the category of person helps to shorten the distance between Humanity and Law.

As it can be seen, both for Ferrajoli and for Rodotà, the question is very contemporary and questions the effectiveness of the right of the citizen in a world engrained by the dynamics of globalization and where the confines of the national states are blurred.

However, it is important to remember that the distinction between humanity and citizenship was also reintroduced in 1948 by the “Universal Declaration of Human Rights”, in which the fulfilment of the fundamental rights for all human beings was sought. As we know, the reach of the right for everybody has been postponed in a big portion of the world population that is still exposed to hunger, misery and death.

In fact, the central thesis that Esposito holds in *Terza Persona* is the following: the substantial failure of human right –the impossible rebuilding of life with Law- resides precisely in the ideology of the person.

3.1. The *Battaglia degli Anghiari*: some precisions on Leonardo’s Work

To escape from the dialectic between personalization and de-personalization, we believe that it is fundamental to work on the deconstruction of the category of person in favour of a logic that privileges the multiplicity of the contamination. In this sense, Esposito in *Terza Persona* goes through different

concepts of Benveniste (theory of the pronouns), Blanchot (the literature), Kojève (the animal), Foucault (the outside) and Deleuze (the event).

From our perspective, nevertheless, our author also outlines his thoughts on the impersonal through the conceptualization of *persona vivente*, which brings him nearer to what we call *il pensiero italiano*, especially Niccolò Machiavelli's and Giordano Bruno's. The *persona vivente* is the *synolon* inseparable between the *bios* and the *zoé*. It is about a *unicum* which does not consist in being the non person inscribed in the person, but more in the person open to that which it has not yet been.

Three years after *the Terza persona* publication, Esposito publishes *Pensiero Vivente*. In this text, between chapter and chapter something called a *varco* is developed. That is to say, a kind of hinge or breach between the topics of each chapter. In "Varco II. Nel vortice della battaglia", Esposito takes Leonardo's drawing *Battaglia di Anghiari* as a symbolic representation of the intangible, full of vital energy, but that it is at the same time a dark threat. This sketch representative of the Italian Renaissance was drawn by Leonardo to be exhibited in the Sala Maggior di Palazzo Vecchio in Florence, but it was never finished. The *Battaglia di Anghiari* is a drawing that represents a scene of the battle of June 29th 1440 in Anghiari -near Arezzo- won by the Florentine against the Milanese. This painting was required together with Michelangelo's in memory of the battle of July 28th in 1364, in which Florentine troops defeated the Pisan's. Michelangelo's painting is called *Battaglia di Cassina*.

There is a famous story in which Machiavelli was one of the two witnesses at the moment of the contract's signature in which the Chancellor assigned Leonardo the task. In fact, if this was so, it is supposed that the assignment of the job has an even higher political relevance.

Before entering the analyses of the strokes of the drawing, it is interesting to propose a reading on the "destiny" of the work. In the first place, we have to say that Esposito considers the «raffigurazione simbolica nell'arte italiana del Rinascimento». The work was destined to be painted in the Sala del Maggiore Consiglio of Palazzo Vecchio in Florence. However, what needs to be underlined first is that the work was very early and definitely disappeared. Even so, before having disappeared, *The Battaglia* was abandoned by the author himself. It had to

be 70 meters and a half by 7, but Leonardo just drew the central scene and left the rest unpainted. Certainly, in 1506 Leonardo departed to Milano, but this does not completely explain the abandonment of a commissioned work and partially paid by Chancellery of the Republic of Florence.

Even having disappeared, or precisely because of this, it is one of the works that has the biggest number of reproductions. This lack of syntonie between the absence of the works and the quantity of reproductions acquires a bigger meaning even when one of the persons who relaunches the image is Rubens –to whom the most famous reproduction is owed.

We can suppose, therefore, that from the unfinished original painting, dissolved and dispersed, only copies of different value remain. However, there is a series of even previous sketches to the disappeared painting in which we can find the preparatory material to what must have been the mural. It is essentially about five drawings that are in the Galleria dell'Accademia of Venice, where the central scene can be seen; two studies of some horses running in the Royal Library of Windsor at the British Museum of London; drawings on the head of three of knights, which are in the Museum of Budapest; and finally a slim figure in the Institute of France. Esposito states the idea that all these dispersed paintings provide the sensation that it is about a type of lightning of what the painting must have been. In fact, the unstoppable horses, the fragility of the knights, the ferocity of the faces of the animals, are all multiple shapes that cannot be reduced to the composite unity of a simple subject.

3.2. Leonardo: relationship between painting and idea.

The unrepresentable highlighted by Esposito is that which none of the reproductions has managed to capture. It is about the secret that the unfinished painting contains, but that, at the same time, is present in some way in the sketches drawn by the hand of Leonardo and currently scattered in museums around the world.

The question of the impossible to be represented can be analysed from the perspective of the complex relation that the artist installs between the painting and the ideas. On the one hand, we know that the painting constitutes for Leonardo not only an expressive instrument but also the shape of the thought which, we

could add, characterized a big part of the Italian Classical Thought: from Machiavelli to Leopardi, passing by Galilei, Bruno, Campanella and Vico.

On the other hand, we know that the overlapping between painting and ideas is never perfect. From this perspective, therefore, we can infer that the unfinished of Leonardo's work consists precisely in this attempt to overlap images and words which, in the end, fails. In this sense, contrary to what Vallery states in his text about Leonardo, the extreme geniality of the artist lies precisely in the border in which painting and ideas, more than corresponding to each other perfectly, finally separate. In other words, Leonardo sees things that are impossible to think, or thinks things that are impossible to express. In depth, what we believe is that it is about a constant intention, or temptation, to represent the unrepresentable, that which is beyond all conceptualisation.

From his sketches stems the intention to represent the wind submitted to the dissolving pressure of water; a way to represent the final victory of energy over matter, we could say. What his fellow colleagues state by saying that Leonardo tried to represent what he imagined, but that it logically escapes the representation. It is about a step further in relation to his fellow colleagues. Neither Brunelleschi nor Alberti felt the impulse to dematerialise, dig and invert the figure itself. It is the Heraclitean fight between elements, the dissolution of the representation itself to what we feel tempted in the figuration.

3.3. The eye of cyclone

In *Battaglia*, therefore, we find ourselves in front of a natural law that puts, at the same time, the vital power and the death impulse in relation. Men completely lack heraldic emblems, in particular the ones that would indicate which ones are Florentines and which ones Milanese. The horses also lack the bridles, the reins and the knights lack the spurs. The absence of contextual references or of simple elements for the recognition increases the temptation to do a meta-historical analysis: a punctual event does not stem in memory, but something more archaic and important, which is precisely what is extended to our times. In the centre of the scene is not present the fight between Florentine and any other enemy, but fight in itself: an irreducible struggle without subject and object different from its unleashing. It is not an event in particular, even less about a clash

between clearly defined actors. What lies in the centre of the scene is a twirl, an eye of cyclone where men and horses fall absorbed to an endless abyss.

From any perspective where the scene can be observed, what can clearly be seen is precisely the reciprocity: the indistinction between attack and defence, between man and beast. Likewise, again, stems another classical topic of the Italian Thought, present in Machiavelli through the co-presence of the opposites and taken later by Bruno as the original source of life, but also the unstoppable compulsion towards death. Leonardo himself stated that “le curve della vita diventano le curve della morte”. In this way, the hidden authentic truth of the walls of the Palazzo Vecchio consists in what we do “nostra vita coll’altrui della morte”.

3.4. Towards another conceptualization of the “subjectivity”:

The fact that the conflict dominates the scene implies a redimensioning of the role of men in the interior of the drawing. As we have implicitly held so far, man is completely erased by nature’s strength. This is, in part, the formation of the most radically anti-humanist position in which it can clearly be seen that man does not dominate nature. Again Leonardo, and later Bruno and Leopardi, makes a strong criticism to the anthropocentric position and states at the same time a relationship of contiguity and contrast with the animal and vegetable world. Throughout Leonardo’s work –of literature and of painting- the strong attention directed to the animal dimension is registered. Men are assimilable, in our vital and mortal condition, to animals, we share nature with them in the deep sense of both being part of nature.

In the mechanical, physiological and anatomical studies, Leonardo concentrates all his attention on the middle segment, on the metamorphic cross between men and animal. Within the physiognomic examples may be the most significant ones are a lion head as a demonstration of the impossibility of control over reason. In this drawing we can recognize the beginning of a heterodoxical anthro-zoological culture, far away with respect to the spiritual line of theological humanism that seeks the divine trace of man as the ontological distance which essentially separates him from the animal world.

The relationships between man and beast are pointed out by Leonardo especially in the mix between man and horse. In *Battaglia* he compares the horse’s

legs with human legs and draws a member constituted by bones in part of man and in part of horse. In fact, he states: “per equiparare l’ossatura del cavallo e quella dell’omo farai l’omo in punta di piedi nella figurazione delle gambe”. In this way, the humanization of the beast appears at the same time of the bestialization of man. The figure centaur fighter redirects us to the only symbol present in *Il Principe* through which Machiavelli tries to represent the human beast’s double nature.

The centre would be, therefore, this sticistical representation of the main origin which precedes the distinction by opposition between man and animal. In this way, in the main origin there would be not only violence and destruction but also vitality and energy.

In this way, what *Battaglia* shows is the corruption of the animal by man. Through this homicidal craziness, it is man the monster with bestial connotations and not the beast itself.

4. Conclusions

In this text we have tried to show the movement of the concept of “person” understood as the concept of dispositive that lies its roots in the archaic Roman Law and reaches our days as a certain of “reminder”, towards a notion of “subjectivity” represented by Leonardo da Vinci’s drawings. In this sketch we have seen the way in which the seizure between man and person, and even the seizure in the *continuum* of living creatures is sewn in favour of a logic that bets on the multiplicity, the mix and the contamination.

Once, a philosopher friend asked me about the impact or about the implications that the notion of subjectivity has in politics, and my answer was definite: a subjectivity that does not separate between first and second class men and does not consider that living human beings are superior to other beings surpasses the dispositive of the person. But mainly and especially it surpasses to all possibility of thinking in terms of hierarchy, in terms of power as a substance that some have and some others do not. It is the possibility, and my bet, to think of a “subjectivity” that leads to a freer, more real and more equalitarian “democracy”.

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