

**Local Autonomy in Dante's Conception of World Order\***

Something over thirty years ago I dealt with Dante's ideas about law and justice as expressed in the doctrinal poem, *Tre donne intorno al cor mi son venute*.<sup>1</sup> Reconstructing the family tree of justice delineated in the poem, I concluded that eternal law (*lex aeterna*) gave rise to divine law (*ius divinum*, transmitted in the Old and New Testaments), and natural law (*ius naturale, lex naturae*). The latter was the source of *ius gentium*, which in turn originated *ius civile*. These two made up human law (*ius humanum*), consisting in *ius gentium* applying to single kingdoms and *ius civile* to towns, the *comune* plus the surrounding *comitatus* (countryside).

My analysis of *Tre donne* showed affinities and significant divergences between Dante's juridical philosophy and that of Saint Thomas, the major thirteenth-century authority in questions of legal theory, natural law, and related questions. What does not emerge from Dante's *canzone* is the role, in the judicial system of his ideal monarchy, he intended to assign to local statutes, and consequently how he posed the problem of autonomy for the towns in his empire. There is a passage in *Monarchia* which, while generic, indicates that his position, in contrast with the rigid centralism of the glossers of *ius commune*, was elastic enough to envision a decree of local autonomy and perhaps more popular government than the "*popolo*

---

\* Published originally in *Italiana VI. Essays in Honor of Nicholas Perella*, Victoria J.T. DeMara – Anthony Julian Tamburri (ed.s), 1994, copyright: "The Authors & The Editors", Bordichera Inc., West Lafayette, Indiana, ISSN 0897-2583.

1 *Dante's canzone, Tre donne intorno al cor*, in *Dante Studies*, XCVIII (1980), pp.123-144. The essay was rooted in my unforgettable 1965-67 years at Berkeley – Nicholas Perella (irradiating his passion for Leopardi and for scholarship), Arnolfo Ferruolo, Gustavo Costa, Arshi Pipa, Aldo Scaglione, Ruggero Stefanini (who directed my Ph.D. Thesis – *The Origins of the Erotic Ideology of the Bourgeois Era as Expressed in Medieval Italian Literature*, 1975), and Enrico De' Negri (who taught me Dante), as well as stimulating co-graduate students such as Suzanne Pollard and Robert Dombrowski, and many other graduate and undergraduate students I recall.

*grasso*" itself would have preferred to grant:

Propter quod sciendum quod illum est liberum quod «sui met et non alterius gratia est» [...]. Genus humanum solum imperante Monarcha sui et non alterius gratia est: tunc enim solum politie diriguntur oblique – democratie scilicet, oligarchie atque tyramprides – que in servitatem cogunt genus humanum, ut patet discurrenti per omnes, et politizant reges, aristocrati quos optimates vocant, et populi libertatis zelatores; quia cum Monarcha maxime diligit homines, ut iam tactum est, vult omnes homines bonos fieri: quod esse non potest apud oblique politizantes. [...] Et huiusmodi politie recte libertatem intendunt, scilicet ut homines propter se sint. Non enim cives propter consules nec gens propter regem, sed e converso consules propter cives et rex propter gentem [...]. Hinc etiam patet quod, quamvis consul sive rex respectu vie sint domini aliorum, respectu autem termini aliorum ministri sunt, et maxime Monarcha, qui minister omnium proculdubio habendus est (I/xii).

Per il che è da sapere che libero è ciò che «appartiene a sé stesso e non serve ad altro» [...]. Ma soltanto sotto la signoria del Monarca il genere umano appartiene a sé stesso e non ad altri; poiché solo allora son raddrizzati I governi obliqui – cioè le democrazie, le oligarchie e le tirannidi –, che costringono in servitù il genere umano, com'è chiaro a chi li esamina uno per uno; e ben governano i re, gli aristocratici che diconsi ottimati, e coloro che hanno a cuore la libertà popolare, poiché, siccome il Monarca massimamente ama gli uomini, com'è stato già accennato, egli desidera che tutti gli uomini diventino buoni; il che non può avvenire con governanti non retti. [...] E tali governi retti si propongono la libertà, sì che gli uomini abbiano da vivere per sé. Invero non i cittadini son per i consoli, né il popolo è per il re, ma al contrario I consoli son per i cittadini e il re è per il popolo [...]. Dal che è evidente, del pari, che, sebbene il console o il re sian signori degli altri per rispetto alla via, per rispetto alla mèta essi son ministri degli altri, e particolarmente il Monarca, che senza dubbio è da ritenere ministro di tutti.<sup>2</sup>

---

2 Dante, *Monarchia* (a c. di B. Nardi), in Dante, *Opere minori*, Tomo II (a c. di P.V. Mengaldo et al.), I/xii, R. Ricciardi, Milano-Napoli, 1979 (d'ora in poi *DOM*), pp.348-351. [“To be free one ‘must depend on self and not on another’ ... Only under the monarch does human kind depend on itself and not on another. In fact, only then are governments set straight that have degenerated - i.e., democracies, oligarchies and tyrannies - and reduce mankind into servitude, as is evident if one examines them all, and only then

I quote this well-known passage at length in the interest of clarity, since there is a tendency to read more democracy and local autonomy into it than there actually is.<sup>3</sup> In Dante, as in Saint Thomas, there is an overriding urgency to forge a synthesis that leaves nothing out, yet allows no element to crack the dialectical unity of the whole.

According to Saint Thomas there was government in Eden, the mythical earthly paradise where nature was defined once and for all. This was not mere antiquarianism on his part, since it was a medieval Christian way of saying that human government is a manifestation of nature and not, as Augustine had it, only a result of sin. In Adam's Edenic supremacy over Eve,<sup>4</sup> he ruled without coercion for the common benefit, not for his own.

After the Fall, servitude (*subiectio servilis*) becomes part of the lot of mankind, and rulers tend instead to rule sinfully for their own petty ends, using their subjects as means. In Thomas's words, "Duplex est subiectio. Una servilis, secundum quam praesidens utitur subiecto ad sui ipsius utilitatem: et talis subiectio introducta est post peccatum" (I, 92, 1, 2m).<sup>5</sup>

---

do kings, aristocrats (the so-called upper class) and the champions of popular freedom govern well. For, given that the monarch, as we have seen, loves mankind, he wants everyone to become good, and this could not come about under degenerated governments ... The rightful governments seek freedom, i.e., that men live for themselves. In fact, the citizens do not live for the consuls, nor the people for the king, but vice versa, the consuls for the citizens and the king for the people ... Hence it is clear that consuls and kings, as far as means are concerned, have authority over the others, but as far as ends are concerned administer to the others. All the more so the monarch, who must be considered the minister to all" (my translation).]

3 For example, L. M. Batkin, *Dante e la società italiana del '300*, Donato, Bari, 1970, Ch. I.

4 "Et sic ex tali subiectione naturaliter femina subiecta est viro: quia naturaliter in homini magis abundat discretio rationis" (I, 92, 1, 2m). Like many other ideologists before and since, Thomas here uses the subjection of women as a prototype and justification for other subjections.

5 In Eden the only form of "dominium homines ad hominem" Thomas excluded was the master-servant relationship. Government is natural since man is a social creature and society cannot exist "nisi aliquis praesideret qui ad bonum comune intenderet" (I,

Dante, instead, insists that just government is a viable ideal even after the Fall - "just" in the precise sense that the ruler would govern not for his own benefit but for that of his subjects.<sup>6</sup> How? All levels of government are subject to the imperial authority and thus are forced to administer in the interests of those beneath them. The emperor is not that figurehead to whom the fourteenth- and fifteenth-century "princes" would apply for *post factum*, paper legitimizing of their *de facto* power; Dante's emperor was not only to reign but to rule, as Bruno Nardi stresses. The emperor, possessing everything, wanting nothing, would be free from the taints of avarice, pride, and envy.

In the passage quoted above, Dante is not theorizing elective monarchy or some form of universal democracy. The *rex* is for the *gens* and the *consul* for the *cives* in the sense that they rule in their interests, but nothing in Dante's text implies (nor excludes, for that matter) that the body of the citizenry (*cives*) or of the people (*gens*) contribute to determining what these interests are and choosing the rulers who will fulfill them. Indeed, the question is not raised. In this sense, Saint Thomas, who theorizes popular government (democracy) as one of the possible sources of post-lapsarian law, is to the "left" of Dante.<sup>7</sup>

---

96, 3-4). It was only because the Jews had become so cruel and avaricious that they were given a fully empowered king, i.e., a tyrant: "Et ideo Dominus a principio eis [to the Jews] regem non instituit cum plena potestate, sed iudicem et gubernatorem in eorum custodiam. Sed postea regem ad petitionem populi, quasi indignatus, concessit" (I-II, 105, 1, 2m).

6 Dante's attitude toward rulers, whether ecclesiastical or civil, was never servile. He respected established authorities so far as their legitimacy went but no farther. For instance, he deferred to Emperor Frederic II's authority in laws governing marriage, vassalage, chivalric orders, social hierarchy, etc., but openly contested his opinion that nobleness depends on wealth as well as on personal merit (see *Convivio*, V/ix).

7 Various loci of the *Summa Theologiae* and other Thomistic works bear witness to his preference for a mixed form of government. For instance: "Talis enim est optima politia, bene commixta ex regno, inquantum unus praestet; et ex aristocratia, inquantum multi principiantur secundum virtutem; et ex democratia, idest potestate populi, inquantum ex popularibus possunt eligi principes, et ad populum pertinet electio

It is true that Dante's argumentation at this point of *Monarchia* takes human freedom as its starting point; however, he is not talking about political freedom in the bourgeois sense but of freedom of the will, and the will is free to the extent that it is not subject to the appetites:

Si ergo iudicium moveat omnino appetitum et nullo modo preveniatur ab eo, liberum est; si vero ab appetitu quocunque modo preveniente iudicium moveatur, liberum esse non potest [...].<sup>8</sup>

Se pertanto il giudizio muove in tutto l'appetito e non è per niente prevenuto da questo, allora è libero; se invece il giudizio è mosso dall'appetito che in un modo qualsiasi lo previene, non può essere libero [...].

Which is to say that man is free to the degree that he obeys God's will and that of the emperor who is God's viceroy.

Dante's theoretical considerations are by no means a passive reflection of a *de facto* situation but a polemical stand not only against the secular power of the Papacy (*Monarchia* remained on the Index until 1881) but – and this aspect is sometimes underestimated – against the tendency of the corporate towns ("politie ... oblique – democratie scilicet, oligarchie atque tyrampnides que in servitutum cogunt genus humanum"), especially rich, commercial centers like Florence, to undermine and reject imperial authority while formally expressing allegiance to it. The rejection or purely formal acceptance of Emperor Henry VII of Luxemburg by the Italian states was the distressing political experience behind Dante's position:

---

principum" (I-II, 105, 1). Elsewhere, when Thomas refers to a kingdom preferring it to other forms, he actually has the mixed form of government in mind: "... regnum inter alias politias est optimum regimen ... Ita tamen quod sub regnativa comprehendantur omnia alia regimina recta" (II-II, 1, 2m).

<sup>8</sup> Dante, *Monarchia*, I/xii, in *DOM*, pp.346-347. ["Thus, if judgement moves the appetite in all things and is in no way impeded by it, it is free; but if judgement is moved or in any way influenced by the appetite, it cannot be free" (my translation).]

de l'alto Arrigo, ch'a drizzare Italia  
verrà, in prima ch'ella sia disposta.  
La cieca cupidigia che v'ammalia  
simili fatti v'ha al fantolino  
che muor per fame e caccia via la balia.  
(Par. XXX, 137-141)

Dante's attempt was to infuse substance into forms of fealty to the Emperor that the new economic realities of capitalism's infancy had emptied of all real content, even though the new burgher class – bankers, merchants, and producers (including guild-masters turned capitalists) – was as yet unable to offer an alternative legitimation for law. *Monarchia* reflects a certain optimism with regard to the possibility of reinstating the emperor in effective control of his dominions.

The *Comedy*, with the invocation of a mysterious veltro who will set things aright, shows that the author, at the time of its writing, had been less sanguine in his political expectations than later in *Monarchia*.<sup>9</sup> After the death of Arrigo (Henry VII) in 1313, the poet's outlook suffers; his famous epistle of 1314 is not addressed to secular princes but to the Italian cardinals.

What we can state with certainty on the basis of *Monarchia* is that Dante envisioned his monarch as a vicar of God, capable of resolving within his own institutional person all the various conflicts of interest, jurisdiction, etc. that would arise between various lesser authorities, including the town governments – those very contradictions which, in the Poet's time, lacerated the imperial structure and, historically, were about to erase the idea itself of a universal monarch as a serious political ideal. When Dante was writing the *Comedy*, the *Monarchia*, and the *Convivio*,<sup>10</sup> works in which

---

9 See A. Passerin d'Entrèves, *Dante politico e altri saggi*, Torino, 1955, especially pp. 79-88, in partial correction of Nardi's tendency to perhaps distinguish insufficiently between the points of view expressed respectively in the *Monarchia* and the *Comedy*.

10 Cf. B. Nardi, *Tre pretese fasi del pensiero politico di Dante*, in Nardi, *Saggi di filosofia dantesca*, La Nuova Italia, Firenze, 1930, 1967.

the imperial ideal is projected with differing degrees of vigor and conviction as to its practicality and imminent realization, no contemporary would have contested the need for the reestablishment of the Holy Roman Empire. No lay intellectual, either of a medieval town or a secular monarchy, had forged the ideological weapons with which to theorize legitimation of a statute that excluded the presence of a supreme legislator whose authority was rooted in God. Even when the autonomy of certain rich and powerful medieval towns, such as Florence, had come *practically speaking* to signify almost total independence from external authority – both the emperor and the Papal court – bourgeois juridical *theory* had not yet made the leap which would permit it to invest sovereignty, not in the emperor, but in the people (however this latter term might be defined).

Subsequently, popular election and natural law gradually assumed more important roles in the legitimation of authority, a development which, albeit fostered by autocratic secular royalty (e.g., Ludwig the Bavarian) struggling against the Papacy, was a historically necessary condition for the development of bourgeois interests organized in autonomous nation states. The first major break in this direction comes with Marsilius of Padova's *Defensor Pacis* (1324), in which a purely temporal state is theorized, based on the sovereignty of the people ("not as the totality of all free and equal citizens but only as the *pars valentior*").<sup>11</sup> Similarly Gerson, almost a century later, in 1409, "reduced the will of the Church to the individual wills of the members of the ecclesiastical aristocrats who were assembled at the council" (loc. cit.), while Nicholas of Cusa goes further in his *De Concordantia Catholica* (1443). This tendency toward the affirmation of sovereignty from below is already enucleated in the practice of the medieval towns; if some laws of the town statutes are issued by the town nobility, without the need for the consent of

---

<sup>11</sup> Franz Neumann, *The Democratic and the Authoritarian State*, The Free Press, Glencoe (Ill.), 1957, p.27.

the governed, on the authority conferred from above, others are passed by more or less broadly representative assemblies responsive to the interests of the classes holding power (*Storia d'Italia*, op. cit., p. 346).

It is an interesting paradox that once the ideal of universal monarchy, embraced by Dante and other intellectuals of his time, had been rendered politically inoperative in the face of the rise of autonomous states, the *signorie* – which for a time had continued to depend, at least formally, on the popular assemblies to confirm their legitimacy – began to intensify the autocratic, anti-democratic aspects of their rule, and thus to seek the consensus of the current emperor. We find an early indication of this reduced conception of the universal emperor in Bartolo da Sassoferrato (1313/1314-1357), whose legal system is tailor-made for small states with some pretence of internal democracy. The *de iure* authority of the emperor is little more than a juridical construction, not a constitutional reality.

At first this purely formal, outside certification of the power of the *signorie* took the form of a *vicariato*, an ancient feudal institution which was resuscitated in this period. Even republics were granted diplomas of *vicariato* by the emperor. Subsequently, titles of nobility took the place of the *vicariati*, marking the transformation of the *signorie* into *principati*. Once a local ruler had been made into a duke or marquis, his power became hereditary and no further need existed for even a figleaf popular sovereignty. The result is a "singolare fenomeno di reviviscenza degli istituti feudali. Il popolo ridiventa suddito, la legislazione ritorna al vertice, riprendendo vigore la formula 'quod principi placuit legis habet vigorem'" (*Storia d'Italia*, op. cit., p.358). This transformation is accompanied by the waning importance of natural law doctrines. The prince is an absolute monarch, whereas in Saint Thomas' system he was *subject* to natural law (cf. *Summa Theologiae* I-II, 90, 1, 3m) and *represented* the collectivity and its interests ("gerentis vicem totius multitudinis" (*Summa Theologiae* I-II, 90, 3).



In *Tre donne intorno al cor mi son venute* Dante was able to refer with poetic allusiveness to the hierarchy of justice and expect to be understood by the intellectual "reading public" of his time. Whereas, for a reader of today an understanding of the poem presumes a knowledge of medieval theology and, specifically, of legal philosophy, that only specialists can pretend to, one imagines contemporary intellectuals as familiar with schemes of the sort alluded to in the poem. Well-educated readers of Dante would not have doubted the existence of eternal law, nor that both divine law and natural law sprang from it, albeit they might well have wondered at Dante's rooting positive law in natural law alone and not in Scripture (divine law) as well, thus theorizing the independence of positive law, the laws people and civil institutions had to obey day by day, from Papal control.

Furthermore, Dante's contemporaries shared his keen dismay and anguish over the state of the empire and his belief that once imperial authority had been reestablished, the tide of corruption and immorality, of greed and envy (the typical vices of capitalistic acquisitiveness and competitiveness), of violence and schism could be reversed. Even Dante's faith in Henry VII of Luxemburg, which modern readers are perhaps tempted to liquidate as the delusion of a desperate visionary, was shared by some of the foremost minds of the period, including Dino Campagni, Cino da Pistoia (an eminent jurist as well as a poet), Ferreto de' Ferreti, Giovanni da Cermenato, Alberto Mussato.<sup>12</sup> Dino believed Arrigo was God's imperial representative with the specific mission to free Lombardy and Tuscany from the tyranny of both the *popolo grasso* (wealthy merchants, producers, bankers) and the reactionary nobility:

Idio, onnipotente, il quale è guardia e guida de' prencipi, volle la sua [Arrigo's] venuta fusse per abbattere e gastigare i tiranni che erano per Lombardia e Toscana, infino a tanto che ogni tirannia fusse spenta.<sup>13</sup>

---

12 Cf. L. M. Batkin, *Dante e la società italiana del '300*, De Donato, Bari, 1970, pp.36-37.

13 *Cronaca* (a c. di G. Luzzatto), Einaudi, Torino, 1968, III, xxiv, p.170. See also Pier

O iniqui cittadini, che tutto il mondo avete corrotto e viziato di mali costumi e falsi guadagni! Voi siete quelli che nel mondo avete messo ogni malo uso. Ora vi si ricomincia il mondo a rivolgere addosso: lo Imperadore con le sue forze vi farà prendere a rubare per mare per terra.<sup>14</sup>

Cino da Pistoia celebrated Henry VII's death in a *canzone* that well documents the general despair following the failure of the imperial mission, which had aroused the hopes of so many in an imminent, universal *renovatio*:

Da poi che la natura ha fine posto  
al viver di colui, in cui virtute  
come in su' proprio loco dimorava,  
i' prego lei che 'l mio finir sia tosto,  
poi che vedovo son d'ogni salute.  
.....  
Ma quei son morti, i quai vivono ancora,  
ch'avean tutta lor fè in lui fermata  
con ogni amor, sì come in cosa degna.<sup>15</sup>

For Dante and the others who believed in Henry, he was the emperor *par excellence*, entrusted by God with the task of setting the world aright and ushering in an era of peace and good will. Along with the Pope, he was to furnish the vital missing link in the chain of command between God and man, creating the conditions in which the Church could fulfill its role in the salvation process, no longer corrupted by the wielding of secular powers Dante considered beyond the purvue of its authority.

Dressing his theory of law in the rich poetical robes of *Tre*

---

Giorgio Ricci, *Dante e Roma*, Firenze, 1965, esp. pp.141-145.

14 The sense would be: "The emperor with his army, he'll teach you to go seizing and stealing by sea and by land!" (my translation); *op. cit.*, III, xlii, p. 197.

15 Cino da Pistoia, *Da poi che la natura*, in *I rimatori del dolce stil novo*, Rizzoli, Milano, 1950, p.273. Cf. Fazio degli Uberti, *Il Dittamondo* (a c. di G. Corsi) Laterza, Bari, 1952, vol. I, p.174 and vol. II, xxx, pp.25-27.

*donne intorno al cor mi son venute*, Dante was working in the context of shared convictions as to the absolute necessity that positive law, including the *ius proprium* of the towns, be rooted in natural law and, through it, in eternal law. The institution guaranteeing this juridical hierarchy could only be the empire — "Hinc etiam iam innotescere potest quod Monarcha necessitatur a fine sibi prefixo in legibus ponendis" (*Monarchia*, I/xii)<sup>16</sup> — just as the institution to which divine law was entrusted could only be the Church. That these convictions were based on a grand illusion only became clear years later.

Historically speaking the situation was curious: the old guard, of which Dante was the foremost intellectual representative, expressed an ideology the substance of which no one had the theoretical expertise to gainsay, although it no longer corresponded to contemporary social, political, and economic reality. The rising capitalistic class, at Dante's time, had no juridical theories to set against the universal vision of *Monarchia*, being as yet unable to give theoretical expression to the new order it was creating and which was sweeping away the material bases of the old. During the waning of the Middle Ages, the conservatives, like Dante, won superb ideological victories in the struggle against the rise of capitalism; the *popolo grasso*, instead, won its victories in terms of the stark realities of economics and political power, although for quite some time it was incapable of theorizing its own legitimacy. The published opposition to *De Monarchia* was works the likes of Fra' Guido Vernani's *De Reprobatione Monarchiae Compositae a Dante Alighiero Florentino* (c. 1327) and Fra' Guglielmo di Sarzana's *De Potestate Summi Pontificis* (c. 1328), both of which defended the temporal interests of the Papacy, not certainly the cause of political independence of the towns.

During the first half of the fourteenth century there is a historical leap that formal continuity cannot hide. The main agents of

---

16 "Furthermore, it is clear that monarchy is required for the realization of the goal of all legislative activity" (my translation).

the "new world order", to use an ominous current phrase, are the progressive towns of Italy, with Florence in the forefront, but the effects of the revolutionary shift or overturning of values is felt all through the medieval world. In the course of a relatively few years the ideological community of spirit that had formed Dante, the existence of which his works presume, is shattered.

GORDON POOLE

**Local Autonomy in Dante's Conception of World Order**

**– Abstract –**

The author seeks to define the role Dante intended to assign to city-state statutes in the judicial system of his ideal monarchy, and consequently how he posed the problem of autonomy for the towns in his ideal empire. There is a passage in *Monarchia* which, while generic, indicates that his position, in contrast with the rigid centralism of the glossers of *ius commune*, was elastic enough to envision a decree of local autonomy and perhaps more popular government than the „popolo grasso“ itself would have preferred to grant.