

Machiavelli's Treatment of *Congiure* and the Modern Oath

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«In the plains of Lombardy, studying the classical examples of Sulla, Catiline and Caesar, Bonaparte prepared his attempt on the State. They were famous but to him useless examples. Catiline's conspiracy could have no practical interest for Bonaparte. Catiline just missed being a hero and he was a seditious politician far too scrupulous and lacking in boldness. Yet Cicero was a wonderful Prefect of Police. Catiline and his fellow conspirators were carefully drawn into his net and his powerful cynicism attacked them like a modern newspaper campaign. Cicero certainly knew how to reap the benefit of all his opponents' mistakes, of all the red tape procedure, the snares, the weakness, the ambitions and the lower instincts of the nobles and the plebs. In those days, Bonaparte willingly and freely gave vent to his scorn of police systems. He considered Catiline as a mere schemer, very unwary, obstinate and undecided, full of good resolutions and evil intentions, as a revolutionary who never could choose the hour, the place, or the means; who was unable to face the people at the right moment, a rebel wavering between barricades and conspiracy, losing precious moments while he listened to Cicero's "*quo usque tandem*," or organized the electoral campaign against the National Bloc. Catiline had the manner of a much slandered Hamlet, and seemed to be a prey both to the intrigues of a famous lawyer and to police traps. And Cicero was useless and at the same time necessary. One might say of him what Voltaire once said of the Jesuits: "*Pour que les jésuites soyent utiles, il faut les empêcher d'être nécessaires*". Although Bonaparte despised police methods, and the idea of a sudden police rising revolted him as strongly as a rough barracks revolution, he was fascinated by Cicero's cleverness. Such a man might have proved useful one day. One could never tell. The god of Chance, like Janus, faces two ways: one the way of Cicero and one the way of Catiline. Like all men who prepare to seize power by violent means, Bonaparte was afraid of cutting, in the eyes of France, the figure of Catiline who favored any means useful to his seditious plans, who was a dark horse in a darker conspiracy, ambitious, bold, capable of any excesses, a criminal ready to sack, to massacre and to burn but determined to win at any price even if he should be smothered together with his enemies beneath the ruins of his country. Bonaparte was aware of the fact that Catiline's reputation was made by legend and calumny. He knew that Cicero's judgment lacked any foundation and that the Ciceronian theory was a tissue of lies. He also knew that the case against Catiline was legally a crime and that the "criminal," or the "sinister conspirator," was none other than a very average politician, unskilled in political play and so unreliably obstinate that the police could easily get rid of him with the help of a few spies and agents provocateurs. Bonaparte recognized Catiline's great mistake in the latter's failure to win after letting the whole world know that he was preparing a *coup d'État* in great secrecy, which he never carried out. If he had only tried his luck!»¹

Curzio Malaparte, *Technique of Coup D'État* (1931)

¹ Cf. Curzio Malaparte, *Technique du Coup d'État / The Technique of Revolution*, Aristeus Books, 2014, pp. 57-58.

Introduction

The constitution and formulation of «conspiracy» as a first order problem in political philosophy is exclusively due to Machiavelli. It was him who for the first time brought this new subject into political order, and it is never too much to underline that fact.

Perhaps he had personal reasons for doing this. Indeed, he was accused of participating in the conspiracy of Pier Paolo Bosconi against the Medici in 1513, an accusation which led to his imprisonment and subsequent torture. However, Machiavelli's effort to sort out the intricate and elusive character of conspiracies, difficult to frame in a general and abstract formalization on account of their unpredictability and mutability, is due to entirely political reasons; acts of conspiracy in public life had certainly showed him the intimate relationship between conspiracy and war. All political conspiracy is a silent and undeclared means of war, being thus extremely difficult to anticipate and to fight. It was the nature of cunning, of strength and of political danger faced in conspirations which brought him to write about 65 conspiracies, being the materials not only from ancient origin (Herodotus, Livy, Tacitus, Plutarch, Sallust, Juvenal) but also modern one (namely, conspiracies against the Medici, the Sforza, Aragon, besides many conspiracies that Machiavelli himself witnessed along his experienced political life).

Ancient writers had already written some narratives about conspiracies; however these were never disposed and presented as a credible autonomous source of practical recommendations. To be sure, ancient and medieval writers, mostly the latter, had already reasoned about tyrannicide but always with the purpose of commenting morally on the justice and lawfulness of the act. With great political virtuosity, for the first time Machiavelli treats conspiracies in a fundamentally pragmatic and technical manner. About this aspect, one could say that Machiavelli's ambiguous teaching is twofold. On one hand, he warns princes of the risks and dangers involved; on the other he teaches tyrants how to found a tyranny. Before the publication within the *Discorsi* as a chapter, it is a well-known fact that Machiavelli read his small treaty about «congiure» (conspiracies) to the public of the Florence's Oricellari Gardens, amongst them philosophers and literate young man avid of ancient matters and Rome history, but, above all, young aristocrats, that is, potential conspirators in formation. The result of this «twofold character of Machiavelli's teaching»² is that his words about

² This expression became popular after Leo Strauss used it in his masterful and polemical book, *Thoughts on Machiavelli*, The University of Chicago Press, Chicago and London, 1958. About Strauss's polemical exegesis of Machiavelli's political thought and his hermeneutical doctrine of «esoteric writing», cf. António Bento, "Leo

conspiracy can be interpreted both according to republican or medicean keys, fitting in fact the political humours of his native city, Florence, which, according to Machiavelli, was never neither entirely a Republic nor entirely a Principality.

«Delle congiure»: this is the title of the *Discorsi* (III, 6) chapter that we shall analyse here. First though let us say a few words about the terms used to designate «conspiracy» in Machiavelli's time. If in political thought questions about terminology are so important as we think they ought to be, if political terminology is always the object of a concrete dispute or fight, then we are forced to conclude that Machiavelli's preference for the term «congiure», to the detriment of other possibilities, must have a political meaning in itself that one cannot disregard.

And because in the political domain terminology questions are never neutral, being intrinsically controversial, and thus radically political questions, let us first remind the reader that according to the first edition of *Vocabolario degli Accademici della Crusca* (Venice, 1612), by the time Machiavelli was writing his *Discorsi*, terms like «congiura», «cospirazione», «macchinazione» and «trattato», the latter one with the meaning of a «machination» to conquer the state with help from «outside forces», were already well attested and recognized. Noteworthy is also perhaps the fact that the word «complotto», of French origin, only came to usage in the Italian language latter, being completely absent from 16th century works³. The term and concept of «congiura» belongs to a political and semantic complex that includes terms and related expressions such as «trattato» (secret concert), «intelligentzia» (concerted actions of espionage against the state), «disegni» (designs or plans implicitly obscure), «lega» (league or association of political character assembled with the goal of a secret collaboration determined by the urgency of a common action), «nasconto inganno» (occult deception), «pratiche secrete» (secret action or practices), «pratiche contro lo Stato» (actions or practices against the State). Quite meaningful, in this same dictionary, the term «congiura» is defined as «union of several against he who dominates, almost to swear-together»⁴. Indeed, the notion of «congiura», as sharply observed by Paolo Prodi, still embraces the conceptual and semantic universe of Late Middle Ages (from second half of 13th

Strauss: *Filosofia Política e Arte de Escrever*” in *Teorias Políticas Contemporâneas* (org: J. G. André, J. M. Santos, B. P. Dias), Editora Assírio & Alvim, Lisboa, 2015, pp. 415-438.

³ For an analysis of the terms used in Italian to designate the political practice of conspiracies during Machiavelli's time, see the excellent essay of Elena Fasano Guarini, “Congiuri ‘contro alla Patria’ e congiuri ‘contro ad uno Principe’ nell’opera de Niccolò Machiavelli”, in *Complots et conjurations dans l’Europe Moderne*, sous la direction de Yves-Marie Bercè et Elena Fasano Guarini, École Française de Rome, Palais Farnèse, 1996, pp. 27-34.

⁴ Cf. *Id.*, *ibidem*, p. 33.

century to first half of 15th century) and cannot be separated from it⁵. For this reason, we believe that the translation of «congiura/congiure» for «conspiracy/conspiracies», as well as the translation of «congiurato/congiurati» for «conspirator/conspirators», are anachronisms that do no justice to Machiavelli's notion and use of «congiura». In addition, in any language which stems directly from Latin, still as of today it is impossible to dissociate the term used for «congiura» from a «joint oath». Consequently, the “English” translation «conspiracy» for «congiura» erases and leaves behind the original link between «congiurare» and the act of «swearing together» or of «associating and engaging with someone else by means of a common oath», for this is the proper meaning of the Latin word «conjuratio». On the contrary, the term «conspiracy», despite its Latin origin «conspirare» (to blow together), coming via French «conspirer» to English, does not hold in itself any explicit and intrinsic link to the act of making an oath or of swearing⁶.

That Machiavelli preferred the theological-political term «congiura», disregarding other possible terms available in the Italian of his time, is easily to check today thanks to the new informatics technologies. Indeed these techniques enable a quantitative and comparative analysis of the lexicon used by Machiavelli which was impossible until nowadays. Hence, the terms «congiura/congiure» occur 61 times in the *Discorsi*, 48 of which in the sixth chapter of the third book, being accompanied by 35 occurrences of the verb «congiurare», 32 occurrences of the substantive «congiurato/congiurati», of which 22 and 13 occur in the chapter in question respectively. In what remains of the *Discorsi*, «congiura/congiure» appears only 13 times. As far as *The Prince* is concerned, the terms spelt as *coniura/coniure* appear 5 times in chapter XIX together with the verb «coniurare» (5 occurrences) and the substantive «coniurante/coniuranti» (3 times). In the *Florentine Histories*, «congiura/congiure» occurs 27 times, «congiurate» 30 times and the verb «congiurare» 6 times. In *Vita di Castruccio Castracani* «congiura/congiure» occur 4 times, and in *Art of War* only once. Considering the bulk of all his writings, Machiavelli uses only once the term

⁵ Cf. Paolo Prodi, *Il sacramento del potere. Il giuramento politico nella storia costituzionale dell'Occidente*, Società editrice il Mulino, Bologna, 1992, pp. 161-225.

⁶ This is maybe the reason why the renowned north-american specialist and translator of Machiavelli, Harvey C. Mansfield, when referring to the famous conspiracy of Nelematus against the tyrant Aristotimus, observes the following: «This is the first and only literal conspiracy in the chapter, for Machiavelli uses the term *congiura*, a swearing-together, for the only time with regard to conspirators' swearing. Those who swear together should be contrasted with those who share knowledge of the conspiracy»⁶. Mansfield's explanation, forging an artificial distinction between swearing-together and sharing knowledge of the conspiracy, is misleading and unfounded precisely because informing somebody else of a conspiracy, the initial starting point of danger, is always done under a pact or under an oath of secrecy between the conspirators. Cf. Harvey C. Mansfield, *Machiavelli's New Modes and Orders. A Study of the Discourses on Livy*, The University of Chicago Press, Chicago and London, 1979, p. 327.

«conspirazione» – in chapter VII of *The Prince* –, a term which manifestly is not familiar to him and which, being attentive as he was to political language, he prefers not to use.

Consequently Machiavelli's option for «*congiura*» instead of other possibilities is in itself revealing. Besides the reasons already pointed out, this preference also means that Machiavelli chooses to integrate a classicist language (that is, linguistic materials and rhetoric models that belong to a consolidated and well-recognized tradition) in the realm of a lively language of communal tradition. By means of his unparalleled style, in one way or the other, he submits the first to the second. Fredi Chiappelli, in his analysis of the Florentine's language, affiliates the prose and style of Machiavelli with a «tradition of the 'practical' Tuscan who lives and flourishes in the communal civility», close to the «Latinising tradition fertilized by the humanists»⁷. Roberto Ridolfi, in turn, in what is considered the best documented biography of the Florentine secretary, takes due time in vivifying the innovative and creative language of the author of *The Prince*. Hence, in the use of suffixes and daring zeugmas, in the chirurgic placement of verbs in clauses, in the strength and penetration of his concision, in his epigrammatic and dilemmatic form of reasoning, in the haughty usage of satire and disdain, in the mix of plebeian and courteous expressions, in the mixture of Latin words with Florentine *idiotismus*, in the dramatic and poetic spirit, in all of these Ridolfi sees the signs of a literary greatness with no parallel. By considering Dante, Tacitus and Lucretius the masters of the Florentine writer, Ridolfi asserts that the peculiar fortune of Machiavelli's works also owe its greatness to his enormous qualities as a writer⁸.

Indeed, works about the problem of style and language used by Machiavelli are not exactly scarce as it is well known⁹. Diogo Pires Aurélio, in an effort to synthetize the question, characterizes in the following way the innovation and freshness introduced by Machiavelli in the political language and lexicon:

«Machiavelli does not want grand words or sterile ornaments. He also does not want to incorporate neologisms, neither of rhetoric nature nor from the traditional political lexicon. If any vestige from the past

⁷ Cf. Fredi Chiappelli, *Nuovi studi sul linguaggio del Machiavelli*, Firenze, Le Monnier, 1969, p. 7.

⁸ Cf. Roberto Ridolfi, *Vita de Niccolò Machiavelli*, Portuguese translation: *Bibliografia de Nicolau Maquiavel*, Editora Musa, São Paulo, 2003, pp. 290-291.

⁹ Cf. Federico Chabod, *Scritti su Machiavelli*, Einaudi Editore, Torino, 1964; J. G. A. Pocock, *Politics, Language, and Time: Essays on Political Thought and History*, The University of Chicago Press, Chicago and London, 1960; J. G. A. Pocock, *The Machiavellian Moment. Florentine Political Thought and the Atlantic Republican Tradition*, Princeton University Press, 1975; Quentin Skinner, *The Foundations of Modern Political Thought*, vol. 1: *The Renaissance*, Cambridge University Press, 1997; Maurizio Viroli, *From Politics to Reason of State: The Acquisition and Transformation of the Language of Politics 1250-1600*, Cambridge University Press, 1992; Jean Louis Fournel e Jean-Claude Zancarini, «Sur la langue du *Prince*: des mots pour comprendre et agir», postface a Machiavel, *De principatibus / Le Prince*, Paris, PUF, 2000, pp. 545-610; Helton Adverse, «Apresentação» e «Introdução» ao *Diálogo sobre nossa língua*, Belo Horizonte, Editora UFMG, 2010, pp. 9-26.

pulses in Machiavelli's lexicon [...] this one is the *lingua franca* from crafts, the common speech of the markets, the Latin of the solicitors and of chancelleries [...] Machiavelli's lexicon and problems stem directly from this daily rumor, from his experience as a diplomat who has to draft daily reports, and not from the codified Greek and Roman know-how that was resumed in the Middle Ages. Instead of traditional categories he prefers colloquial expressions, words of common usage understood by all, and hence, more adequate to think politics, intrinsically dialogic, and to translate the inherently mutable and conflicting human reality»¹⁰.

Machiavelli's *Congiure* – First Part

As known, conspiracies (*congiuri*) are treated by Machiavelli in chapter 6 of the third book of *Discourses on Livy*¹¹. Here one finds an authentic *typology* or, so to speak, meticulous *anatomy* of conspiracies which Machiavelli dissects with medical scrupulousness and clinic cold-blood.

The ironic manner with which he addresses his readers, by invoking «Tacitus's golden maxim»¹², that all men should accept and tolerate their princes as they are and not as they might or ought to be, is meaningful (at different levels), because it suggests, first of all, that it was history itself which became entrusted of demonstrating the non-applicability of such a rule, as Machiavelli discreetly but abundantly demonstrates while covering the subject.

Never completely eliminating the ambiguity of his position about the subject, the problems and subject-matters addressed by Machiavelli's are far from being exhausted in a safe linear equivalence between conspiracy and tyrannicide. The schematic division adopted by Machiavelli since the beginning of the chapter between the «*congiura*» against a prince and the «*congiura*» against the fatherland, indeed recaps, even if implicitly, the profound contraposition between the long standing tradition of «tyranny», on one hand, and the «*vivere libero*», on the other, this latter one proper of the civil and republican humanism. However, even if he occupies the bulk of the chapter (17 paragraphs) with conspiracies against princes, and just one paragraph with conspiracies against the fatherland, the problem which occupies

¹⁰ Cf. Diogo Pires Aurélio, *O Príncipe*, translation from Italian, Introduction and notes by Diogo Pires Aurélio, Círculo de Leitores & Temas e Debates, Lisboa, 2008, pp. 81-85.

¹¹ In this text, unless expressly stated otherwise, we shall use the English version under the charge of Harvey Mansfield and Nathan Tarcov: Niccolò Machiavelli *Discourses on Livy*, translated by Harvey C. Mansfield and Nathan Tarcov, The University of Chicago Press, Chicago and London, 1996. However, whenever necessary we shall use the original text in Italian, sometimes using translation options that are different from the English version. Cf. Niccolò Machiavelli, "Discorsi sopra la prima Deca di Tito Livio", in *Tutte le opere storiche, politiche e letterarie*, a cura di Alessandro Capata, con un saggio di Nino Borsellino, Newton Compton Editori, Roma, 2011.

¹² Cf. Niccolò Machiavelli, *Discourses*, p. 218; *Discorsi*, p. 206.

him is not the classic problem of tyrannicide¹³. The medieval formulation of the problem of tyrannicide – *Tyrannum licet adulari* (the tyrant is to be worshipped), *tyrannum licet decipere* (the tyrant is to be deceived), *tyrannum licet occidere* (the tyrant is to be struck down)¹⁴ – is not at all his problem. In his innovative manner of approaching the subject of the «congiure», Machiavelli adopts not only the tyrant's point of view when he wants to foil conspiracies but also that of the conspirators who wish to dethrone the tyrant at all cost. Thus, just as the policeman has to study the criminal and the criminal the policeman, a tyrant should as well step into conspirator's shoes and vice-versa, since the prudence that is required to put an end to conspiracies is akin to that required in managing or plotting them.

Concerning this aspect, an author like Leo Strauss, saw the problem rather well when he asserts: «the chapter on conspiracies, which is by far the most extensive of the *Discourses*, may be described as a *manual of tyrannicide*. [...] But Machiavelli discusses the failure of conspiracies in order to show how they might have succeeded»¹⁵. In the same direction of thought, Harvey Mansfield points out that the aim of this chapter is not only to discuss a topic disregarded by political philosophy for centuries, but also to discuss Machiavelli's own political conspiracy, receiving conspiracies thereby, for the first in history, the attention they deserved: «Conspiracy is discouraged directly, and with such detail that is thereby encouraged indirectly. This proves to mean that direct conspiracy is discouraged and indirect conspiracy encouraged»¹⁶.

This reading of Machiavelli's intention when he wrote about conspiracies explains what Leo Strauss called the «twofold character of Machiavelli's teaching» and raises one question that we merely refer in passing by which is whether the small Machiavelli's treaty about conspiracies could belong or not to the so-called «Reason of State» bulk of literature. To this question we answer affirmatively since the type of political prudence that simultaneously *prevents* and *represses* a conspiracy consists of a series of technical mechanisms able to ensure the preservation of the government and of the state. Under such paradigm of state conservation which results from a scrupulous anticipation and prevention of

¹³ About tyranny and tyrannicide in Antiquity, Middle Ages and Modern Age see the magnificent study of Mario Turchetti, *Tyrannie et tyrannicide de l'Antiquité à nos jours*, PUF, Paris, 2001. About the relation between tyrannicide in Antiquity and conspiracy in Renaissance, see Jacob Burckhardt, *The Civilization of the Renaissance in Italy*, Penguin Books, London, 1990, pp. 53-57. See also Manfredi Piccolomini, *The Brutus Revival. Parricide and Tyrannicide During the Renaissance*, Southern Illinois University Press, 1991; Ferruccio Martini, *Lorenzino De' Medici E Il Tirannicidio Nel Rinascimento*, Multigrafica Editrice, Roma, 1972.

¹⁴ Cf. John of Salisbury, *Policraticus*, edited and translated by Cary J. Nederman, Cambridge University Press, Cambridge, 2007.

¹⁵ Cf. Leo Strauss, *Thoughts on Machiavelli*, The University of Chicago Press, Chicago and London, 1958, p. 27.

¹⁶ Cf. Harvey C. Mansfield, *Machiavelli's New Modes and Orders. A Study of the Discourses on Livy*, The University of Chicago Press, Chicago and London, 1979, p. 319.

conspiracies, the prince is advised to remain alert in regard to all information coming to his ears, to make use of all kinds of secretcies, simulations and dissimulations, to be suspicious of the friendship of the closer ones, to weaken the greats by restricting their time of action, and, above all, to intervene with the necessary strength and in due time in order to smash, eradicate, and halt right at its onset all possible conspiracy¹⁷. One could say that he should kill the serpent still inside the egg. In this regard, a prince, or a republic, must be able to guess what Machiavelli calls the «quality» of a conspiracy, and once this one is uncovered, never to reveal it until sufficient forces and effective means are gathered to destroy it, for – Machiavelli says – «conspirators, seeing themselves exposed, are driven by necessity and work without hesitation»¹⁸.

Given the fact that the aim of a conspiracy is always to conquer the state power, or in the Florentine own terms, the introduction of «new modes and orders», Machiavelli's teaching could well be seen under the perspective of how to *maintain* the state and of how maintain oneself in the state. By warning princes of the risks and dangers of the «congiure», above all those managed by the great, Machiavelli instructs princes how to conserve their states. However, by exposing and analyzing well succeeded cases of conspiracy, Machiavelli also illustrates how conspiracies may be able to eliminate princes and change the form of republics, revealing the twofold meaning of his teachings. Thus, the same Machiavelli that condemns the greed and blindness that sizes the conspirators also somehow exonerates them when he affirms that «if they knew how to do this wickedness with prudence *it would be impossible that they not succeed*»¹⁹.

In the first paragraph of chapter VI of the third book of the *Discorsi*, the most extensive chapter of a work written somewhere between 1516 e 1519 and which for many commentators moved around in the form of a manuscript before its first edition in 1531, furthermore, being published in Paris in 1575 together with the *Histoire de la conjuration de Catiline* of Sallust under the meaningful exordium «*fort bonne instruction autant pour les princes que pour les sujets*»²⁰, Machiavelli begins by warning princes as well as «private»

¹⁷ Cf. Gianfranco Borrelli, «La necessità della congiura nelle scritture italiane della Ragion di Stato», in *Complots et conjurations dans l'Europe Moderne*, sous la direction de Yves-Marie Bercé et Elena Fasano Guarini, École Française de Rome, Palais Farnèse, 1996, p. 86-87.

¹⁸ Cf. Niccolò Machiavelli, *Discourses*, p. 234; *Discorsi*, p. 217: «Perché i congiurate, veggendosi scoperti, cacciati da necessità, operano senza rispetto».

¹⁹ Cf. Niccolò Machiavelli, *Discourses*, p. 222 ; *Discorsi*, p. 208: «Perché, se ei sapessono fare questa cattività con prudenza, sarebe impossibile non riuscisse loro».

²⁰ According to Elena Fasano Guarini, the Archive of di Stato di Firenze still preserves today copies of the original manuscript of the chapter VI of the third book of the *Discorsi*. Cf. *Idem, ibidem*, p. 12.

men about the extreme danger of a conspiracy and hence proposes to review some of the most notable cases for «learning» and profit of one and the other²¹.

In Machiavelli's understanding, if «to be able to make open war on a prince is granted to few», the possibility of plotting against him, in return, is potentially within reach of all, as anyone moved by the will of revenging «injuries against property, honor or blood» may, if in league with others, be the agent and executor of a conspiracy. Machiavelli repeatedly underlines the extraordinary temerarious and dangerous character of the conspiracy, warning his readers from *ab initio* that only in very few cases in history did conspiracies really reached their desired aim. As if he wanted to warn them that conspiracies conjoin all sort of negative humors resulting from hampered ambitions, oppressed interests, unresolved resentments, in one word, sick and paralyzing hopes of vengeance often plunging the political life in an endless sterility. After all, wasn't that the final result of Catiline's conspiracy narrated by Sallust, that infamous mother of all conspiracies? As observed by Elena Fasano Guarini: «the conspiracy appears to cast doubt upon itself, to denounce its own sterility as instrument of political fight»²².

Not by mere chance, in the language of jurists from XVI to XVII century, conspiracies appear formalized under the category of *crimen lesae majestatis*. In his work *Considérations politiques sur les coups d'État*, an important French disciple of Machiavelli such as Gabriel Naudé recommends that «criminals of lèse-majesté», a legal category that includes all those conspiring against the state or against the prince head of state, should be submitted to rapid and prompt execution. Here is an interesting eighteen century translation of the demanding French language of Naudé: «...bounding or ruining the too great power of a person that would abuse it to the prejudice of the State, or by the great number of his partisans and the cabals of his correspondents, has rendered himself formidable to his sovereign. [...] You may prosecute other crimes when they are perpetrated, but unless you prevent this before it happens, when it is once committed it will be vain to seek for judgment against the actors of it, as Cato said very well in his oration concerning Catiline's conspiracy in Sallust»²³.

²¹ Cf. Niccolò Machiavelli, *Discourses*, p. 218; *Discorsi*, p. 206.

²² Cf. Elena Fasano Guarini, *op. cit.*, p. 45.

²³ Cf. Gabriel Naudé, *Political considerations upon refin'd politicks, and the master-stroke of state*, translated into English by Dr. King, London, 1711, p. 109 e p. 114. Original French text: «... borner ou ruiner la trop grande puissance de celui qui en voudrait abuser au préjudice de l'État, ou qui par le grand nombre de ses partisans, et la cabale de ses correspondances, s'est rendu redoutable au souverain. [...] Poursuivez la punition des autres crimes quand on les a commis, mais pour celui-ci, si vous ne le prévenez avant sa naissance, quand il est arrivé en vain recherchez-vous d'en faire justice, comme disait fort bien Caton en discourant de la conjuration de Catiline dans Salluste». Cf. Gabriel Naudé, *Considérations politiques sur les coups d'État* [1639], édition établie para Frédérique Marin et Marie-Odile Perulli, précédée de *Gabriel Naudé*, par Sainte-Beuve

However, if Machiavelli is perfectly conscious about the inopportunity of the conspiracies he also knows, perhaps as no other author of his time, that these result from a political calculation and assessment which, in one way or the other, will render them not only inevitable but relatively unpredictable or even random. Thus, at same time as he underlines the fact that a prince should refrain from committing offences against «property» and «honor», warning «he can never despoil one individual so much that a knife to avenge himself does not remain for him, and he can never dishonour one individual so much that a spirit obstinate for vengeance is not left for him»²⁴, he also affirms that the courage and opportunity required to accomplish a conspiracy is missing not only to «weak man» but also to those «great men or those very familiar to the prince», precisely that very rare type of man whom history consecrated as well-succeed conspirator.

In the second paragraph of the chapter under appraisal, Machiavelli introduces the distinction between «conspiracies against the fatherland» and «conspiracies against a prince», the latter being resumed only by the end of the chapter to convey his readers that «republics are slower than a prince»²⁵, less suspicious, therefore less cautious, besides being more respectful towards their great citizens. Machiavelli also finds that «conspiracies that are made against the fatherland are less dangerous for the ones who make them than are those against the princes. For in managing them there are fewer dangers than in the latter; in executing them they are the same; after the execution there is not any danger»²⁶.

In the republics, men are slower because they think they have time to impose their «modes and orders», however as soon as they are moved by *necessity* they become rapid. It follows that if a prince discovers a conspiracy upon himself, he may take advantage of this finding by offering the conspirators the snare opportunity of giving them more time, i.e. making them believe they need *more time, more men* and *more opportunity*. Precisely this gives him the chance of getting rid of them, of killing or severely punishing them. To conceive, plan or execute a conspiracy thus requires more than simply a strong determination (*animo*), the intimate believe in the success of the conspiracy, it also requires an utmost

(édition de Maxime Leroy) et suivie par *Naudaena* (texte établi par Lionel Leforestier), Le Promeneur, Paris, 2004, pp. 138 e 140.

²⁴ Cf. Niccolò Machiavelli, *Discourses*, p. 219; *Discorsi*, p. 207: «Perché e' non può mai spogliare uno, tanto, che non gli rimanga uno coltello da vendicarsi; non può mai tanto disonorare uno, che non gli resti uno animo ostinato alla vendetta».

²⁵ Cf. Niccolò Machiavelli, *Discourses*, p. 232; *Discorsi*, p. 16.

²⁶ Cf. Niccolò Machiavelli, *Discourses*, p. 232; *Discorsi*, p. 215: «Le congiure che si fanno contro alla patria sono meno pericolosi, per coloro che le fanno, che non sono quelle contro ai principi: perché nel maneggiarle vi sono meno pericoli che in quelle; nello eseguirle vi sono quelli medesimi, dopo la esecuzione non ve ne è alcuno».

prudence (before, during and after its execution). If determination comes from faith and inner believe, prudence, on the other hand, is based on knowledge of *necessity* and *occasion*.

Subsequent to this distinction, a distinction that crosses all of chapter VI of the third book of the *Discorsi*, Machiavelli introduces the motivations or reasons for conceiving and perpetrating a conspiracy. At this point, Machiavelli reiterates and develops what he had already explained in chapter XIX of *the Prince*, namely that a prince should try not to exasperate the greats and to satisfy the people and keep them satisfied:

«As to subjects, when things outside are not moving, one has to fear that they may be *conspiring secretly*. From this the prince may secure himself sufficiently if he avoids being hated or despised and keeps the people satisfied with him; this is necessary to achieve, as was said above at length. And one of the most powerful remedies that a prince has against conspiracies is not to be hated by the people generally. For whoever conspires always believes he will satisfy the people with the death of the prince, but when he believes he will offend them, he does not get up the spirit to adopt such a course, because the difficulties on the side of the conspirators are infinite. And one sees from experience that there have been many conspiracies, but few have had a good end. For *whoever conspires cannot be alone*, but he cannot find company except from those he believes to be malcontents; and as soon as you disclose your intent to a malcontent, you give him the matter with which to become content, because manifestly he can hope for every advantage from it. So, seeing sure gain on this side, and on the other, dubious gain full of danger, he must indeed either be a rare friend, or an altogether obstinate enemy of the prince, to observe his faith with you. And to reduce this to brief terms, I say that on the part of the conspirator there is nothing but fear, jealousy, and the anticipation of terrifying punishment; but on the part of the prince there is the majesty of the principality, the laws, the protection of friends and of the state which defend him, so that when popular good will is added to all these things, it is impossible that anyone should be so rash as to conspire. For whereas a conspirator ordinarily has to fear before the execution of the evil, in this case (having the people as enemies) he must fear afterwards too, when the excess has occurred, nor can he hope for any refuge»²⁷.

In the third paragraph of chapter VI of the third book of the *Discorsi*, Machiavelli makes a distinction, by all means fundamental: he ponders and divides the dangers faced by conspiracies depending on whether conspirators are in the phase of *engendering*, *machinating* and *planning* the conspiracy, in the phase of *executing* it, or in the *aftermath* of its execution. This distinction is crucial since, according to Machiavelli, a conspiracy is only effectively a conspiracy, that is, an oath between a few against a third, whom the conspirators wish to kill, when done between more than one man, preferably between very few men: «Those who

²⁷ Cf. Niccolò Machiavelli, *The Prince*, translated and with an introduction of Harvey C. Mansfield, The University of Chicago Press, Chicago and London, 1985, p. 73. About this aspect, and differing from other Machiavelli's teachings, it should be emphasized that the Florentine retakes directly from Aristotle (*Politics*, 1312a) some of the main motives for a conspiracy: vengeance with respect to an insult, resentment against ill-treatment, fear, contempt, ordinary ambition and aspirations of glory.

conspire are either one individual or they are more. With one individual, it cannot be said that it is a conspiracy, but a firm disposition arisen in one man to kill the prince. [...] But let us drop these individual wishes and come to conspiracies among more»²⁸.

In the fourth paragraph of the chapter we are analyzing, Machiavelli brings to the question of «conspiracy» the fundamental element of sharing and maintaining secrecy until the moment of execution, a necessary condition, although not sufficient, for the success of the conspiracy. The conspiracy, let us remember, must be put into practice by a number as small as possible of conspirators, who must be able to dominate the polymorphous techniques of prudence and who, decisive condition, have to act in absolute secrecy. The success of a conspiracy depends a great deal on secrecy and the more impenetrable the secret the better this one is kept safe. «Congiurare» after all means *swearing together*, and as Cicero puts it, «whoever violates his oath violates trust (*Quis ius igitur iurandum violat, is fidem violat*)»²⁹. Consequently, the «congiura» is always a plotting scheme within the highest secrecy, demanding an accomplishment with determination and resoluteness. Just as with the «coup d'État» theorized by Gabriel Naudé one century later, in Machiavelli's «congiura» a matrix of action prevails that is induced and regulated by a paranoid political calculation. Machiavelli can thereby ironically claim that in the rare cases where a «private» alone decides to threaten the life of the sovereign he himself does not run the risk of his designs reaching the prince's ears, since him and only him – and rigorously nobody else – knows or implements the plan.

Therefore, the problem arises of knowing the “ideal number of conspirators”, if one could say so, if they want to be successful with their risky enterprise. In respect to this, Machiavelli establishes a curious but predictable equation which is: the highest the number of conspirators the biggest the probability of a betrayal by any one of them, whom by fear or imprudence will for sure jeopardize everything. This thesis, which experience and reason will tend to embrace as veracious and wise, is nevertheless laid out by Machiavelli in a somewhat ambiguous and aporetic manner: 1) «as they are enlarged to two *or* three persons they find an accuser and are ruined»; 2) «it is impossible to guard oneself from these causes of the exposure of conspiracies, so that through malice, imprudence, or levity it is not exposed at whatever time the knowers of it surpass the number of three *or* four»³⁰.

²⁸Cf. Niccolò Machiavelli, *Discourses*, pp. 220-22; *Discorsi*, p. 207: «Quegli che congiurano, o ei sono uno, o ei sono più. Uno, non se può dire che sia congiura, ma è una ferma disposizione nata in uno uomo di ammazzare il principe. [...] Ma lasciamo andare queste uniche volontà, e veniamo alle congiure intra i più».

²⁹ Cf. Cicero, *On Duties*, edited by M. T. Griffin and E. M. Atkins, Cambridge University Press, Cambridge, 1991, Book III, 104, p. 140.

³⁰ Cf. Niccolò Machiavelli, *Discourses*, p. 221 and p. 223; *Discorsi*, p. 208 and p. 209: «... come ei si sono allargati in dua o in tre persone, ei trovano lo accusatore e rovinano. [...] ... è impossibile guardarsi che, per

Concerning the extreme fragility and volatility of secrecy, it is appropriate to remind here the famous words of Benjamin Franklin pronounced half a century before the American Revolution: «Three may keep a secret if two of them are dead»³¹. In fact, the secrecy of a conspiracy is always, in a way or another, a swear-together. And if I evoke this sentence delivered by Benjamin Franklin it is because this one shows in a quite laconic way the limits of the *promise of secrecy* and of the extreme difficulty in keeping up a *secrecy oath* between conspirators. Hence, perhaps in accordance with a variant of that law of «secrecy concentration», which Elias Canetti defines as «the *ratio* between the number of those it concerns and the number of those who possess it»³², the secret, obeying to its nature, will have the tendency to be known and, with its revelation or publication, to cause a scandal which will inexorably drag the conspirators to their damnation. In fact, for Canetti «all secret is explosive and intensifies by itself in its inner heat: the oath that seals it is precisely what will re-open it»³³.

At this moment of our exposition, it is perhaps justifiable to interrupt Machiavelli's analysis about conspiracies and to make a brief commentary about the formation and decay of the legal institute of oath. Why is it that the oath sealing secrecy amongst conspirators is almost always doomed to treachery?

Intermezzo: The Modern Oath

What precisely is an «oath»? Briefly, an oath may be defined as the verbal act which tries to warrant the veracity of a promise or of an assertion. Since it calls for a correspondence between the spoken words and the acts to be accomplished, the institute of oath is intrinsically linked to a *fides* and a *credere*, to a *reliability* and *credibility* in the given and engaged word. Hence the Cicero's saying – mentioned above – «whoever violates his oath violates trust».

In an every respect exceptional work, Paolo Prodi investigates the decline and the usury of the legal institute of oath taken «as the basis of the political pact in the history of the

malizia, per imprudenza o per leggerezza, la non si scuopra, qualunque volta i conscii d'essa passono il numero di tre o di quattro».

³¹ Cf. Benjamin Franklin, *Poor Richard: The Almanacks for the Years 1733-1758*, July 1735, ed. Van Wyck Books, Heritage Press, New York, 1964, p. 30, quoted by Sissela Bok, *Secrets. On the Ethics of Concealment and Revelation*, Oxford University Press, 1986, p. 108.

³² Cf. Elias Canetti, *Crowds and Power*, translated from the German by Carol Stewart, The Continuum Publishing Corporation, New York, 1962, p. 296.

³³ Cf. *Idem, ibidem*, p. 296.

West»³⁴. According to Prodi, contemporaneity not only suffers from a profound political crisis in its institutional and constitutional mechanisms, but, which is more serious and decisive, also suffers from «a crisis in which the very being of man as a political animal is at stake». Such crisis is already evident in the slow but irreversible decline of the legal institute of oath since the beginning of the Modern Age: «Today, we are the first generation who, notwithstanding the presence of some forms and liturgies from the past [...], lives its collective life without the oath as a solemn, total, sacredly anchored bond of belonging to a political body»³⁵.

In fact, in the Western constitutional history, the development of oath and the associated institutes (pact, promise) are simultaneously presented as the political pact's foundation and justification. Oath, pact and promise are the instances in which the theological and political, legal and institutional realms of a specific political community intermingle and interact. They confront us with the fundamental social node that knots the political sphere to the sphere of consciousness, the power to law, the «*forum externum*», or positive law, to the «*forum internum*», or natural law³⁶. In oath, pact and promise some of the most effective instruments of social discipline and behavioural normalization can be found. However, the desacralization of these three pillars of the communities' political life has not evolved in a straightforward manner; on the contrary, it has done so with oscillations, progressions and regressions which have to do with a certain degree of cohesion between the legal system or the moral normalization of a given political community, on the one hand, and its system of theological-political beliefs, on the other. In their desacralized forms survives an inevitable political significance that is translated into a positive and natural duty of loyalty impossible to be alienated by whatever political community, incurring the risk of decline and death.

According to Prodi's study, such decline starts the modern no-return point exactly with Machiavelli's work, in contraposition to what the Late Middle Ages called the «“oath-bound” society» («*la società “giurata”*»), a society whose political order, resting on oath as a collective religious act, progressively, but definitely, entered in decline. Indeed, what Prodi called, in a conscious and judicious manner, «the sacrament of the political power» can no more be invested in the institute of oath. Indeed, Paolo Prodi describes and analyses, as perhaps no other author after him, the theological-political concept of «oath» and the way this

³⁴ Cf. Paolo Prodi, *Il sacramento del potere. Il giuramento politico nella storia costituzionale dell'Occidente*, Società editrice il Mulino, Bologna, 1992, p. 11.

³⁵ Cf. *Idem, ibidem*, p. 11.

³⁶ Cf. Nestore Pirillo (a cura di), *Il vincolo del giuramento e il tribunale della coscienza*, Società editrice il Mulino, Bologna, 1997.

legal institute changes progressively from Late Middle Ages until modern «sovereign State» institution and from here to oath rejection by means of what he calls the «radical Christianity». Now, Machiavelli, for Paolo Prodi, is the inflection point from which oath becomes historically replaced by perjury and by the opportune violation of the given word. Concerning the status of the «oath» in Machiavelli's thought, his judgment is as meaningful as laconic: «With the advent of humanism between XIV and XV centuries, a *mutation in consciousness* happens which is visible to the naked eye in Niccolò Machiavelli, also having repercussions not only in the political reflection but also in the *praxis* of the oath [...] The silence of *The Prince* regarding the oath seems to transform itself almost into noise: the new power does not know what to do with the religion of the oath and cannot have anything in common with it»³⁷.

In one word, given that scepticism and contingency sized the modern political thought, the *fides* or trust in the engaged word enters a generalized crisis. In this sense, the question raised above, of why the «oath» sealing a secret pact between conspirators is almost always doomed to treachery and failure, does not attempt so much to find the reason of why do men pledge themselves to an oath always and whenever they wish to be credible and trustworthy to their peers, but instead to find why the act of swearing – and nowadays perhaps more than in any other time – appears to constitutively imply not just the possibility of perjury but the “heteronomy” of perjury in face of the oath.

Giorgio Agamben, author of a recent study about the oath, thinks that this legal institute traces back to an indivisible unit of magic, religion and law. According to Agamben, the explanation for the modern weakening of the oath would consist of the following:

«It is possible, then, not only that what was originally at issue in the oath was the guarantee of a promise or of the truthfulness of an affirmation but that the institution that we know today by that name contains the memory of a more archaic stage, in which it was concerned with the very consistency of human language and the very nature of humans as “speaking animals”. The “scourge” that it had to stem was not only the unreliability of men, incapable of staying true to their word, but a weakness pertaining to language itself, the capacity of words themselves to refer to things and the ability of men to make profession of their condition as speaking beings»³⁸.

Despite being philologically interesting and appealing, Agamben's proposal seems to fail the target, especially when it comes to analyzing the reason of why oath fails with the advent of modern age. Our hypothesis is possibly somewhat more prosaic and

³⁷ Cf. *Idem, ibidem*, p. 234 and p. 236.

³⁸ Cf. Giorgio Agamben, *The Sacrament of Language. An Archaeology of the Oath (Homo Sacer II, 3)*, Stanford University Press, California, 2011, pp. 7-8.

predictable, but still based on classic texts such as those of Niccolò Machiavelli, Jean Bodin, Thomas Hobbes and Baruch Spinoza.

Before going to the analysis of the oath Institute according to the thought of those authors, let us first return back in time a few centuries to briefly recall the manner Cicero formulated the oath:

«One ought to understand not what *fear* there is in an oath, but what *force* [*non qui metus sed quae vis sit debet intellegi*]; for a sworn oath is a religious affirmation [*affirmatio religiosa*]; and if you have promised something by affirmation with the god as witness you must hold to it»³⁹.

In fact, to the ancient Romans non-compliance with the word solemnly engaged in the act of swearing implied an immediate political damnation upon whoever would break the pledge. Accordingly, whenever somebody uttered the false or whenever the word given was not kept, to swear meant, first and foremost, to curse which would bring upon the liar the eternal and inescapable stigma of a malediction and a vengeance, as can be seen in the famous verses of Homer's epic poem: «whichever host of the twain shall be first to work harm in defiance of the oaths, may their brains be thus poured forth upon the ground even as this wine» (*Iliad*, III, 299-300). In this particular matter, we cannot but agree with Giorgio Agamben when the Italian author asserts in the mentioned work «the co-originary of blessing and curse, which are constitutively copresent in the oath»⁴⁰.

Our brief political inquire about the legal institute of oath cannot, however, simply remain within the scope of the examples from antiquity, nor within the broad thesis which announces a general and accelerated impoverishment of the political language in contemporaneity. Bearing in mind that this inquire is made in the context of a reflection about the political concept of the «congiura» in Machiavelli, its purpose cannot but be an attempt to clarify the reasons why the oath lost its vigor, if not *raison d'être*, with the advent of Modern Age. Thus, first and foremost, we should start by analyzing the conditions that, coinciding broadly with the rise of Modernity, not only did allow, but also forced the historic decline of the oath as a «sacrament of political power»; and decline, above anything, of the power of political language. Can political language actually be separated from political acts? And in what measure does perjury, as an inverted image of oath, by its own existence, signals a political limit to a political act? To what extent can a political “chemically pure” act, without the downgraded language of perjury, unleash a Catilinarian chain reaction?

³⁹ Cf. Cicero, *On Duties*, edited by M. T. Griffin and E. M. Atkins, Cambridge University Press, Cambridge, 1991, Book III, 104, p. 140.

⁴⁰ Cf. Giorgio Agamben, *ibidem*, p. 36.

To move forward a bit, although certainly faster than desirable, it matters at this stage of our presentation to identify what happens with the secularization of the oath, which here simply takes the form of *perjuring the name of God*. Indeed, with the definitive secularization of the oath, understood both as a «religious promise» and as a «political sacrament», comes finally a phenomenon which Romano Guardini characterizes in the following way:

«Do structures lose their strength when considered just in their empirical reality? For instance, the State needs oath. It is the most binding statement when a man expresses his opinion about a fact or commits to certain behavior. That said, whoever takes an oath is solemnly and expressly referring his declaration to God. But what happens – this being the tendency in modern age – when the oath no longer contains this relation to God? Then this only means that whoever is taking an oath declares being informed of the fact that not telling the truth leads to forced labor penalization – which is a form both without meaning and without effect»⁴¹.

Centuries before Romano Guardini, already Machiavelli, both in the *Florentine Histories* and in the *Discourses*, had diagnosed the inevitable decline of the oath: first as an inevitable consequence of atheism of men, second as a loss of fear in violating an oath and third as a consequence of considering the oath as a payment which nobody witnesses:

«And because fear of God and of religion has died out in all, an oath and faith given are respected only insofar as being useful; so man make use of them not to observe them but to deceive others more easily. And the easiest and the safest the deceit, the bigger the glory and the praise received: by this, harmful man are praised as industrious and good man blamed as fools»⁴².

«Whoever reviews infinite actions, both of the people of Rome all together and of many Romans by themselves, will see that the citizens feared to break an oath much more than the laws, like those who esteemed the power of God more than that of men»⁴³.

«When it occurs to those republics [Machiavelli speaks about Germany] that they need to spend some quantity of money for the public account, they are used to having those magistrates or councils that have authority for it assess on all the inhabitants of the city one percent or two of what each has of value. When such a decision has been made, each presents himself before the collectors of such a duty according to the order of the town; and having first taken an oath to pay the fitting amount, he throws into a chest so designated what

⁴¹ Cf. Romano Guardini, *O fim da Idade Moderna*, Biblioteca de Filosofia Contemporânea, Edições 70, Lisboa, 2000, pp. 80-81.

⁴² Cf. Niccolò Machiavelli, “Istorie Fiorentini”, in *Tutte le opere storiche, politiche e letterarie*, a cura di Alessandro Capata, con un saggio di Nino Borsellino, Newton Compton Editori, Roma, 2011, pp. 532-533.

⁴³ Cf. Niccolò Machiavelli, *Discourses*, p. 34; *Discorsi* (I, 11), p. 78: «E chi discorrerà infinite azioni, e del popolo di Roma tutto insieme, e di molti de’ Romani di per sé, vedrà como quelli cittadini temevano più assai rompere il giuramento che le leggi; como coloro che stimavano più la potenza di Dio, che quella degli uomini».

according to his conscience it appears to him he ought to pay. Of this payment there is no witness except him who pays. Hence it can be conjectured how much goodness and how much religion are yet in those men»⁴⁴.

Contrary to what Cicero's formulation of oath let us guess, the modern authors, in their reflection about the limits of the institution of oath, as one can see in Machiavelli's passages mentioned above, warned precisely that an oath is only effective under fear.

Let us now analyze the positions of Jean Bodin, Thomas Hobbes and Baruch Spinoza about the oath, which in their thought appears almost exclusively associated to the problem of fulfilling the pacts and the covenants.

Jean Bodin addresses the problem of the oath within the framework of the new concept of sovereignty. The sovereign – according to Bodin's prerogatives for him – is not obliged to respect the laws of his ancestors nor those introduced by him; the limits to his sovereignty being just God's and Nature's laws. Perhaps for the first time in the history of modern political ideas, Bodin talks of an «oath onto oneself» made by the prince, becoming thus the institute of oath framed in a direct and, so to speak, subjective relation between the sovereign and God:

«Si le Prince *jure à soi-même* qu'il gardera sa loi, il n'est point tenu de sa loi non plus que du serment fait à soi-même, car même les sujets ne sont aucunement tenus du serment qu'ils font ès conventions, desquelles la loi permet [de] se départir, [encore] qu'elles soient honnêtes et raisonnables. Et si le Prince souverain promet à un autre Prince [de] garder les lois que lui ou ses prédécesseurs ont faites, il est obligé [de] les garder, si le Prince auquel la parole est donné y a *intérêt*, [quoiqu'] il n'eût point juré. Et si le Prince auquel la promesse est faite n'y a point d'intérêt, ni la promesse, ni le serment ne peut obliger celui qui l'a promis. Nous dirons le semblable si la promesse est faite au sujet par le Prince souverain, ou bien auparavant qu'il soit élu, car en ce cas il n'y a point de différence, comme plusieurs pensent. [...] Et pour les mêmes causes que le particulier peut être relevé d'une promesse injuste et déraisonnable, ou qui le grève par trop, ou qu'il a été circonvenu par dol, ou fraude, ou erreur, ou force, ou juste crainte, pour lésion énorme, pour les mêmes causes le Prince peut être restitué en ce qui touche la diminution de sa majesté, s'il est Prince souverain »⁴⁵.

⁴⁴ Cf. Niccolò Machiavelli, *Discourses* (I, 55), pp. 110-111; *Discorsi*, p. 132 : «Usono quelle repubbliche, quando gli occorre loro bisogno di avere a spendere alcuna quantità di danari per conto publico, che quelle magistrature o consigli che ne hanno autorità, ponghino a tutti gli abitanti della città uno per cento, o due, di quello che ciascuno ha di valsente. E fatta tale deliberazione, secondo l'ordine della terra si rappresenta ciascuno dinanzi agli riscotitori di tale imposta; e, preso prima il giuramento di pagare la conveniente somma, getta in una cassa a ciò deputata quello che secondo la coscienza sua gli pare dovere pagare: del quale pagamento non è testimone alcuno, se non quello che paga. Donde si può conietturare quanta bontà e quanta religione sia ancora in quegli uomini».

⁴⁵ Cf. Jean Bodin, *Les six livres de la République*, texte revue par Christiane Frémont, Marie-Dominique Couzinet, Henri Rochais, Librairie Arthème Fayard, Paris, 1986, pp. 193-194. For an actualized orthography see *Les six livres de la République*, édition et présentation de Gérard Mairet, le Livre de Poche, Classiques de La philosophie, Paris, 1993, p. 122.

We see thus, that the decisive criterion for oath's observation and consequent fulfilling of pacts is «interest»⁴⁶. In the several formulations of sovereigns' oaths that he analyzes, despite all sort of promised vows, Bodin finds, in addition, that princes do not have any obligation of complying with the laws unless law and justice so require. The concept of sovereignty in Bodin is, therefore, put simultaneously *out* and *above* the oath and of the pacts conveyed by the princes, not only with other princes, but also with their subjects. To substantiate his position, Bodin distinguishes between «law» and «contract»:

«Il ne faut donc pas confondre la loi et le contrat, car la loi dépend de celui qui a la souveraineté, qui peut obliger tous les sujets, et ne s'y peut obliger soi-même; et la convention est mutuelle entre le Prince et les sujets, qui oblige les deux parties réciproquement. Et ne peut l'une des parties y contrevenir au préjudice, et sans le consentement de l'autre; et le Prince en ce cas n'a rien par-dessus le sujet, sinon que cessant la justice de la loi qu'il a juré garder, il n'est plus tenu de sa promesse, comme nous avons dit, ce que peuvent les sujets entre eux, s'ils ne sont relevés du Prince. Aussi les Princes souverains bien entendus, ne font jamais serment de garder les lois de leurs prédécesseurs, ou bien ils ne sont pas souverains»⁴⁷.

Besides postulating that «the word of the prince is like an oracle» which will lose all of its dignity whenever good opinion about the prince only arises from his predisposition to swear, Jean Bodin completely denies the possibility of a *collective oath* arguing that oath only makes legal sense and becomes binding when done *by the lesser to the greater* – never in the opposite direction:

«Je dis donc que chacun en particulier faisait le serment, ce que tous en général n'eussent pu faire, attendu que le serment ne se peut faire, à bien parler, que *du moindre au plus grand*; et au contraire en la Monarchie chacun en particulier, et tout le peuple en corps, doit jurer de garder les lois, et faire serment de fidélité au Monarque souverain, qui ne doit serment qu'à Dieu seul, duquel il tient le sceptre et la puissance. Car le serment porte toujours révérence à celui *auquel*, ou bien *au nom duquel* il se fait, qui est la seule cause pour laquelle le seigneur ne doit point du serment au vassal, [quoique] l'obligation soit mutuelle entre l'un et l'autre»⁴⁸.

It was precisely this important fact – the primacy of the *to whom* over the *in the name of whom* one makes that oath, i.e., the primary asymmetry in the act of swearing – that

⁴⁶ The political principle of «interest», as an attempt to harmonize the destructive nature of passions and of the inefficacy of reason, has known, as a doctrine, its age of glory to which a certain messianic aspect is not negligible. The idea that «interest does not fool» or that «interest does not deceive», sublimated in the idea that «interest governs the world», had the virtue, according to Albert O. Hirschman, of drawing attention to a «modern objection of unpredictability being power». On the other hand, «interest» reduced to «greed», and this latter one to «love of money», a love which demands that accumulation is preferentially an end in itself, are other questions raised by Albert O. Hirschman in Albert O., *The Passions and the Interests: Political Arguments for Capitalism before Its Triumph*, Princeton University Press, Princeton, 1977

⁴⁷ Cf. Jean Bodin, *ibidem*, p. 195; pp. 123-124.

⁴⁸ Cf. Jean Bodin, *ibidem*, p. 206; p. 126

Émile Benveniste sagaciously remarked when, in his *Vocabulaire des institutions indo-européennes*, he underlined the existence of an asymmetry and inequality of conditions between whoever takes the oath, and so to speak, the creditor of the oath, in one word, when he drew attention to the inequality between he who rules and he who obeys:

«When we review the different liaisons types of the *fides* and the circumstances in which they are employed, we see that the partners of the “trust” are not in equal situation. Whoever trusts his *fides* upon a man has him at his mercy. For this reason *fides* becomes almost a synonym of *dicio* and *potestas*. In its primitive form, these liaisons implied certain reciprocity: trusting his *fides* upon someone meant, in exchange, a warranty and a support to this person. But it is precisely this fact which underlines the inequality of conditions. It is at the same time an authority and a protection over whoever submits himself, in exchange and to the exact measure of that submission»⁴⁹.

Under this perspective, an oath can only aspire to effectiveness when the one who swears is conditioned by or under the fear of punishment in general, and death fear in particular, or, at least, when the unfulfillment of the oaths is object of a severe punishment.

Being the object of the *fides* – as we tried to show – the conformity of words and actions between parties, the modern exercise of that *fides* had in fact to wait for the *Leviathan* of Thomas Hobbes to reach its sovereign formulation. In one word, the primordial constriction that founds Hobbes’s «*pactum subjectionis*» may be enunciated as a mutual relation between protection and obedience. The «“*protego ergo oblige*” – says Carl Schmitt in a quite impressive formula – is the “*cogito ergo sum*” of the State»⁵⁰. In fact, from the perspective of the political absolutism which Hobbes attempts to sustain, the primary meaning of the oath lies in the fact that whoever pledged his word before a sovereign must necessarily pay with his life for the untruthfulness of his words.

Indeed, with Thomas Hobbes, for reasons certainly different than those of Jean Bodin, the modern dismantling – started with Machiavelli – of oath’s institute becomes, so to speak, irrevocable. For *Leviathan*’s author, without the fear that comes from some kind of coercion, «the bonds of words are too weak to bridle men’s ambition, avarice, anger, and other passions»⁵¹. As a matter of fact, the sacredness or commitment of the political obligation does no longer stem from the contract but instead from the attempt of overcoming the permanent «*bellum omnium contra omnes*» which characterizes the «state of nature». Therefore, Hobbes

⁴⁹ Cf. Émile Benveniste, *Le Vocabulaire des institutions indo-européennes*, 1. *Économie, parenté, société*, Les Éditions de Minuit, Paris, 1966, pp. 118-119.

⁵⁰ Cf. Carl Schmitt, *Der Begriff des Politischen. Text von 1932 mit einem Vorwort und drei Corollarien*, Duncker & Humblot, Berlin, 1996, p. 53.

⁵¹ Cf. Thomas Hobbes, *Leviathan*, edited by Richard Tuck, Cambridge University Press, Cambridge, chapter XIV, 1996, p. 96.

thinks that the oath does not add anything to the political obligation of fulfilling pacts. The oath may possibly come as most useful only when it instills what Hobbes calls «the fear of that invisible power which everyone worships as God»⁵². However, not even in this way the legal relation which obliges the fulfillment of pacts is changed, neither before God, nor before the eyes of men:

«The force of words being too weak to hold men to the performance of their covenants, there are in man's nature but two imaginable helps to strengthen it. And those are either a fear of the consequence of breaking their word, or a glory or pride in appearing not to need to break it. [...] The passion to be reckoned upon is fear; whereof there be two very general objects: one, the power of spirits invisible; the other, the power of those men they shall therein offend. Of these two, though the former be the greater power, yet the fear of the latter is commonly the greater fear. [...] All therefore that can be done between two men not subject to civil power is to put one another to swear by the God he feareth: which *swearing, or oath, is a form of speech, added to a promise, by which he that promiseth signifieth that unless he perform he renounceth the mercy of his God, or calleth to him for vengeance on himself.* [...] By this it appears that an oath taken according to any other form, or rite, than his that sweareth is in vain and no oath, and that there is no swearing by anything which the swearer thinks not God. For though men have sometimes used to swear by their kings, for fear, or flattery; yet they would have it thereby understood they attributed to them divine honour. And that swearing unnecessarily by God is but profaning of his name: and swearing by other things, as men do in common discourse, is not swearing, but an impious custom, gotten by too much vehemence of talking. It appears also that the oath adds nothing to the obligation. For a covenant, if lawful, binds in the sight of God, without the oath, as much as with it; if unlawful, bindeth not at all, though it be confirmed with an oath»⁵³.

Whilst advocating the unfulfillment of the pledged word gains its most violent advocates, the proof of the modern weakening of the oath's institute, the sign that ultimately this institute relies on the effectiveness of fear and no longer on the fulfillment of a promise of a perfect coincidence between *dictum* and *factum*, can be found both in Machiavelli and in Spinoza. Indeed, in chapter XVIII of *The Prince*, the Florentine secretary observes the following:

«How praiseworthy it is for a prince to keep his faith, and to live with honesty and not by astuteness, everyone understands. Nonetheless one sees by experience in our times that the princes who have done great things are those who have taken little account of faith and have known how to get around men's brains with their astuteness; and in the end they have overcome those who have founded themselves on loyalty. [...] A prudent lord, therefore, cannot observe faith, nor should he, when such observance turns against him, and the causes that made him promise have been eliminated. And if all men were good, this teaching would not be

⁵² Cf. Thomas Hobbes, *ibidem*, pp. 99.

⁵³ Cf. Thomas Hobbes, *ibidem*, pp. 99-100.

good; but because they are wicked and do not observe faith with you, you also do not have to observe it with them. Nor does a prince ever lack legitimate causes to color his failure to observe faith»⁵⁴.

In turn, in the chapter XVI of his *Theological-Political Treatise*, Spinoza defends the non-observance of the faith given or the unfulfillment of pacts in light of his doctrine of natural right:

«It is a universal law of human nature that no one neglects anything that they deem good unless they hope for a greater good or fear a greater loss, and no one puts up with anything bad except to avoid something worse or because he hopes for something better. That is, of two good things every single person will choose the one which he himself judges to be the greater good, and of two bad things he will choose that which he deems to be less bad. I say expressly what appears to him the greater or lesser good when he makes this choice, since the real situation is not necessarily as he judges it to be. This law is so firmly inscribed in human nature that it may be included among the eternal truths that no one can fail to know. It necessarily follows that no one will promise without deception to give up his right to all things, and absolutely no one will keep his promises except from fear of a greater ill or hope of a greater good. To understand this better, imagine that a highwayman forces me to promise to give him all I have, at his demand. Since my natural right is determined by my power alone, as I have already shown, it is certain that if I can free myself from him by deceit, by promising whatever he wants, I may by the law of nature do so, i.e., I may fraudulently agree to whatever he demands. Or suppose that I have made a promise to someone in good faith not to taste food or any sustenance for a space of twenty days and only later realize that my promise was stupid and that I cannot keep it without doing myself a great deal of harm. *Since I am obliged by natural right to choose the lesser of two evils, I have a sovereign right to break the bond of such an agreement and render what was said to be unsaid.* This, I say, is allowed by natural right, whether I see it by true and certain reason or whether it is out of mere belief that I appear to grasp that I was wrong to make the promise. For whether I discern things truly or falsely, it is the greater harm that I shall fear and, by nature's design, strive by every means to avoid. We conclude from this that any agreement can have force only if it is in our interest, and when it is not in our interest, the agreement fails and remains void. For this reason, we also conclude that it is foolish to call for someone else to keep faith with oneself, in perpetuity, if at the same time one does not try to ensure that violating the agreement will result in greater loss than gain for the violator. This principle should play the most important role in the formation of a republic»⁵⁵.

The brief presentation of examples of modern decay of oath had the purpose of reintroducing and clarifying in a new perspective the concept of political «congiura» – literally the act of swearing together – in Machiavelli. This exposition will now resume the analysis of chapter IV of third book of *Discorsi*.

⁵⁴ Cf. Niccolò Machiavelli, *The Prince*, translated and with an introduction of Harvey C. Mansfield, The University of Chicago Press, Chicago and London, 1985, pp. 68-69.

⁵⁵ Cf. Spinoza, Baruch, *Theological-Political Treatise*, edited by Jonathan Israel, Cambridge University Press, Cambridge, 2007, Chapter XVI, pp. 198-199.

Machiavelli's *Congiure* – Second Part

In the fifth and sixth paragraph of his text, Machiavelli resumes his doctrine according to which the dangers of a conspiracy have a different nature at three times: before, during the deed, and after the conspiracy. In his view, it is extremely rare, if not impossible («it is impossible, or almost so»), to be successful at all of the three moments.

Concerning the dangers before conspiracy, Machiavelli believes that normally the conspiracy is uncovered either through «*report*» or through «*conjecture*». *Report* certainly is the most frequent danger as it requires a robust friendship between the conspirators, condition extremely difficult to observe, because the confidence each conspirator devotes to another would never seem to be as great as the fear of punishment: «If you measure faith by the discontentment that one individual has with the prince, you can easily deceive yourself in this; for as soon as you have manifested your intent to that discontented one, you give him matter with which to content himself, and to maintain him in faith it must indeed be either that the hatred is great or that your authority is very great»⁵⁶.

Regarding exposure of the conspiracy by *conjecture*, this one arises because conspirators talk indiscreetly and unwisely about the conspiracy and proceeds from traditional methods of interrogation and confront of suspect testimonies. Hence, Machiavelli cannot but observe: «when one conspiracy has been secret among many men a long time, it is held a miraculous thing»⁵⁷.

To avoid or to prevent the «*report*» by one or by several of the conspirators, the best «*remedy*», according to Machiavelli, in fact the «*only remedy*», is to avert «*repentance*»⁵⁸ and «not to give time to the conspirators to accuse you, and to communicate

⁵⁶ Cf. Niccolò Machiavelli, *Discourses*, p. 223; *Discorsi*, p. 208: «Se misuri la fede della mala contentezza che uno abbia del principe, in questo tu te poi facilmente ingannare: perché, subito che tu ai manifestato a quel male contento l'animo tuo, tu gli dà materia di contentarsi, e conviene bene, o che l'odio sia grande, o che l'autorità tua sia grandissima a mantenerlo in fede».

⁵⁷Cf. Niccolò Machiavelli, *Discourses*, p. 223; *Discorsi*, p. 209: «Quando una é stata infra molti uomini segreta lungo tempo, è tenuta cosa miracolosa».

⁵⁸ «Nelematus, unable to endure the tyranny of Aristotimus, tyrant of Epirus, gathered many relatives and friends in his house: and when he had urged them to free fatherland, some of them requested time to deliberate and order themselves. Then Nelematus had his slaves lock the house, and to those whom he had called in, he said: "Either you swear to go now to do this execution or I will give you all as prisoners to Aristotimus". Moved by these words, they swore, and having gone without lapse of time, they executed the order of Nelematus happily». Cf. Niccolò Machiavelli, *Discourses*, p. 224; *Discorsi*, p. 210: «Nelemato, non potendo sopportare la tirannide di Aristotimo, tiranno di Epiro, ragunò in casa sua molti parenti ed amici, e confortatogli a liberare la patria, alcuni di loro chiesono tempo a diliberarsi ed ordinarsi: donde Nelemato fece a' suoi servi serrare la casa, ed a quelli che esso aveva chiamati disse: " – O voi giurerete di andare ora a fare questa esecuzione, o io vi darò tutti prigione ad Aristotimo –. Dalle quali parole mossi coloro, giurarono; ed andati, senza intermissione di tempo, felicemente l'ordine di Nelemato eseguirono».

the thing to them when you want to do it, and not before»⁵⁹. In *Florentine Histories* (II, 32) Machiavelli underlines this point: «Inasmuch as dangerous actions the more considered they are the lesser the will to accomplish them, so it is with conspiracies that delay in execution, eventually they are discovered»⁶⁰.

It therefore follows that whenever the brain of the conspiracy – because, given the asymmetric nature of the oath, there will always be someone in charge of the operation – is confronted with any kind of hesitation by anyone of the conspirators he must encourage others doing something before they have time to refuse: «Thus the thing should never be communicated unless necessary and in deed; and if indeed you wish to communicate it, communicate it to one alone, of whom you have had very long experience or who is moved by the same causes as you»⁶¹.

Machiavelli insists: if by any chance there is the strict necessity of unveiling the plot to anyone moments before its onset then «it is prudence not to pass beyond one individual, where if there is some more danger, there is very much less of it than to communicate it to many»⁶².

In this respect, Machiavelli reminds his readers of the danger of communicating in writing anything related to the conspiracy: «Everyone should guard himself from writing as from a reef, for there is nothing that convicts you more easily than what is written by your hand»⁶³. Apparently, Machiavelli himself was a victim of the failed Pier Paolo Boscoli conspiracy in this manner: it appears that his name was incautiously written next to the name of other politicians being Machiavelli thereby accused of participating in the plot.

In paragraphs 11-16 of the chapter under appraisal, Machiavelli deals with the dangers in the course of execution⁶⁴. There is nothing less encouraging to conspirators than having to change plans at the last minute. Dangers here arise due to executors' lack of courage or lack of prudence. Machiavelli, treating the aborted conspiracy of the Pazzi against Lorenzo

⁵⁹ Cf. Niccolò Machiavelli, *Discourses on Livy*, p. 224; *Discorsi*, p. 210: «... è non dare tempo ai congiurati di accusarti; e comunicare loro la cosa quando tu la vuoi fare, e non prima».

⁶⁰ Cf. Niccolò Machiavelli, *Istorie Fiorentine* (II, 32), p. 121: «Ma perché i partiti pericolosi quanto più se considerano tanto peggio volentieri se pigliano, interviene sempre che le congiure che danno spazio di tempo alla esecuzione si scuoprono».

⁶¹ Cf. Niccolò Machiavelli, *Discourses*, p. 225; *Discorsi*, p. 210-211: «Debbesi, adunque, non comunicare mai la cosa se non necessitato ed in sul fatto; e se pure la vuoi comunicare, comunicarla ad uno solo, del quale abbia fatto lunghissima isperienza, o che sia mosso dalle medesime cagioni che tu».

⁶² Cf. Niccolò Machiavelli, *Discourses*, p. 226; *Discorsi*, p. 211: «...quando pure la comunichi, non passare uno; dove, se è qualche più pericolo, ve n'è meno assai che comunicarla con molti».

⁶³ Cf. Niccolò Machiavelli, *Discourses*, p. 225; *Discorsi*, p. 211: «.. e dallo scrivere ciascuno debbe guardarse como da uno scoglio, perché non é cosa che piu facilmente ti convinca, che lo scritto de tua mano».

⁶⁴ In various forms, the verb «to execute» occurs 40 times over the chapter. About Machiavelli as the modern executive power inventor, see Harvey C. Mansfield, *Taming the Prince. The Ambivalence of the Modern Executive Power*, The Johns Hopkins University Press, Baltimore and London, 1989, pp. 125- 149.

and Giuliano de Medici, concludes: «when the conspiracy was discovered, they bore the penalty for the evil that they were able and not willing to do»⁶⁵.

Thus, failed conspiracies are those that *do not kill the ones who ought to be killed*. Precisely because of this, whoever survives a conspiracy may «get out of it with additional power, and quite often being a good man becomes a harmful one, as conspiracies give ground for fear, and fear, in turn, to precaution; and taking precautions gives motive for grievances from whence hatred is born and often ruin. And if these conspiracies oppress first those who moved them, in time, they will also in some way cause harm onto whoever suffered them»⁶⁶. For this reason Machiavelli also says: «Princes therefore have no greater enemy than conspiracy, for when a conspiracy is made against them, either it kills them or it brings them infamy. For it succeeds, they are dead; if it is exposed, and they kill the conspirators, it is always believed that it was the invention of that prince to vent his avarice and cruelty at the expense of the blood and property of those whom he has killed»⁶⁷.

Henceforth Machiavelli deals with the question of having to interrupt the plan due to a «false imagination» or to an «unpredictable event» that foils the conspiracy. Machiavelli argues that «false imaginations» are extremely frequent:

«For whoever has a stained conscience easily believes that one speaks of him; one can hear a word, said for another end, that perturbs your spirit and makes you believe it was said about your case. It either makes you expose the conspiracy yourself by flight or confuses the action by hastening it out of his time. And this arises all the more easily when there are many to be aware of the conspiracy»⁶⁸.

«False imaginations» are, of course, often related to fear of being discovered, but they are predominantly linked to the moral problem of «conscience». Conscience in its traditional religious meaning entails a witness punishing guilty actions and thoughts. Nevertheless, sometimes «conscience» manifests itself as a mixed *pathos* of religious scruple,

⁶⁵ Cf. Niccolò Machiavelli, *Discours*, p. 228 ; *Discorsi*, p. 213: «Tanto che, scopertasi la congiura, portarono pena di quello male che potettono e non vollono fare».

⁶⁶ Cf. Niccolò Machiavelli, *Istorie Fiorentini* (VIII, 1), p. 665: «... saglie in maggiore potenza, e molte volte, sendo buono, diventa cattivo; perché queste, con lo esempio loro, gli danno cagione de temere, il temer de assicurarsi, l'assicurarsi di ingiurare: donde ne nascono gli odii, di poi, e molte volte la sua rovina. E così queste congiure opprimono subito che li muove, e quello contro a chi le son mosse in ogni modo con il tempo offendono».

⁶⁷ Cf. Niccolò Machiavelli, *Discours*, p. 234; *Discorsi*, p. 217: «Non hanno, pertanto, i príncipe il maggiore nimico che la congiura: perché, fatta che è una congiura loro contra, o la gli ammazza, o la gli infama. Perché, se la riesce, e' muoiono; si la scuopre, e quel principe, per isfogare l'avarizia e la crudeltà sua contro al sangue e la roba de quegli che egli ha morto».

⁶⁸ Cf. Niccolò Machiavelli, *Discours*, pp. 230-23; *Discorsi*, p. 214: «Perché chi ha la sua coscienza macchiata, facilmente crede che si parla de lui: puossi sentire una parola, detta ad un altro fine, che ti faccia perturbare l'animo, e credere chi la sia detta sopra il caso tuo; e farti o con la fuga scoprire la congiura da te, o confondere l'azione con acceleralla fuori di tempo. E questo tanto più facilmente nasce, quando ei sono molti ad essere conscii della congiura».

lack of spirit, imprudence, hesitation and cowardice which results from what Thomas Hobbes called the «fear of invisible spirits». It is this type of fear which renders ordinary conspirators incapable of extraordinary and bold actions such as those required to execute dangerous conspiracies. For this kind of weak man, always perturbed with what he sees as sinful thoughts and intentions, God is never a silent partner of his actions. This is the reason why he becomes paralysed by that kind of religious scruples that make a stained conscience.

In what concerns the «accidents», given their unpredictable and capricious nature, one cannot offer them a remedy. In fact, what this means is that a prudent case-by-case examination, notwithstanding its potential completeness, will never warrant the predictability and consequent success of the act.

Last, Machiavelli elaborates on the dangers undertaken by the conspirators «after the execution». The biggest one is that the murdered prince will have the people on his side.

In the last paragraph of the chapter under analysis, Machiavelli admits: «I have reasoned on those [conspiracies] that are done with steel and not with poison»⁶⁹. His argument for not speaking of conspiracies carried out with poison is that these are far more dangerous than those accomplished with a knife, for being even more dubious, since many conspirators don't have the possibility of administering themselves directly the poison to the person they wish to kill. But, as Machiavelli would say, delegating or entrusting death execution to someone else is an extremely dangerous risk that «you» should always avoid.

Having reached this point, we can now ask: what was the real reason for this omission? Why exclusion of conspiracies executed with poison obliges Machiavelli to apologize for the fact or, in any case, to give his readers a justification? Who knows: maybe Machiavelli could not or did not want to distinguish «poison» from «remedy»; perhaps all of the chapter that we have just analysed isn't but a long poisoned chalice that readers may (or may not) drink, may (or may not) vomit, depending on whether they are able (or not) to escape from Machiavelli remedies.

⁶⁹ Cf. Niccolò Machiavelli, *Discours*, p. 343; *Discorsi*, p. 216: «... io ho ragionato di quelle [congiure] che si fanno com il ferro, e non col veneno».

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