



Agents of the Father's law in a society of brothers: A philosophic and psychoanalytic perspective on legitimate use of violence



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ABSTRACT

This paper explores subjective processes of “Agents of Law” – individuals who the state grants the authority to use violence – and the dissonance stemming from the contradictory demands posed on them as legitimate users of violence despite the societal taboo against violence. A conceptual model will be offered based on two theoretical legs, Lacanian psychoanalysis and political theories of *legitimacy*. Specifically, psychoanalytic ideas would serve to examine unconscious processes, *subject position* and various identifications related to the question of “self-legitimacy” of Agents of Law. A central link between psychoanalysis and political thought is found in the image of the father and in the triad ruler-God-Father, which calls for an oedipal analysis. A psychoanalytic reading of two philosophical schools that elaborated on the question of legitimacy will be presented, and yield two analytic poles of a model for the understanding of possible subject positions of agents of Law: identification with a “Living Father” vs. identification with a “Dead Father”. The psychoanalytic reading will shed light on the limitations of the philosophical perspectives in reflecting on the various (im)possible psychological positions of agents of Law. Finally, then, it will be shown how psychoanalysis helps finding words to characterize different nuances in the coping of agents of Law with the contradictory demands posed on them in an age in which God is dead, the father was murdered and the king was beheaded.

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1. Introduction

The famous and influential statement of sociologist Max Weber (1919: 78) defines modern states as political entities, the rulers of which successfully claim monopoly over legitimate use of violence.¹ According to one of the formulations of this idea, the state's rule of law rejects the legitimacy of interpersonal violence and permits only state institutions and their agents the right to use violence in a regulated form.

The extensive literature brought about by this definition tended to focus on its institutional aspects and implications, and only rarely attention was dedicated to individuals who the state grants the authority to use legitimate, regulated violence, that is, the agents of Law. In this paper, we wish to shed light on this neglected area and

to present an integrative philosophical-psychoanalytic analysis of the subjective positions occupied by agents of Law. In the term “agents of Law”, we refer to members of institutions termed by the sociologist Norbert Elias the “executive organs” of the state monopoly of violence (Elias, 1989: 175), including military soldiers, workers of prisons and the correctional system, and policemen.

The contradictory demands posed on members of groups specializing in the use of physical violence under the legitimacy of the state were noted by Elias (1981, 1989). Elias is best known for the innovative link he drew between the historical-sociological processes described by Weber and the psychological processes described by Sigmund Freud (Elias, 1939). His short analysis of members of “executive organs”, taken from one of his late essays, is an exemplary application of such link. Elias refers to the training these agents of Law receive in order to become specialists in violence and use of physical force; furthermore, the acts of violence demanded of them are considered sanctioned, necessary and are even valued and reinforced – since, according to Weber's definition, they are perceived as the (almost) exclusive legitimate users of violence.

On the other hand, Elias shows – drawing on Freud – how the gradual consolidation of the idea of the state monopoly of violence over the course of the last few hundred years led to a historical change in the personality structure, and in particular a formation of

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¹ “Today, [...] a state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory. [...] The right to use physical force is ascribed to other institutions or to individuals only to the extent to which the state permits it. The state is considered the sole source of the ‘right’ to use violence” (Weber, 1919: 78).

a “taboo against violent acts” that is imprinted deep into the minds of the youth” (Elias, 1981: 180, 1989: 176). Thus, according to Elias, agents of Law – just like other members of society – grow up receiving messages that connect acts of violence with punishment and condemnation, leading people to develop a relatively strong reservation, and even anxiety, of using physical force. Elias writes that this results in situations of personal imbalance, discomfort and internal conflicts.

The exploration of how agents of Law cope with the dissonance involved in these contradictory demands posed on them as part of their duty requires consideration of both political and psychological aspects. However, both political contemplation and psychological literature usually tend to neglect the discussion of the use of violence in these cases. One of the reasons for this is that political theory usually does not attend to the subjective processes of individuals participating in the matrix of domination and subjugation, but focuses instead on its structural or conceptual aspects. Thinker Slavoj Žižek calls these aspects “objective violence” and considers their exploration to be much more significant than the researching of “subjective violence” executed by a concrete, identifiable agent (Žižek, 2008).

On the other hand, psychological discussion of users of physical force – psychoanalytic discourse included – focuses on subjective aspects, but tends to take for granted the transgressive nature of violence. In other words, it usually explores subjective aspects of violence that is perceived as unacceptable and illegitimate.² However, the current issue concerns subjects who execute socially accepted, mostly regulated and legal violence; as agents of Law, members of the state ‘executive organs’, the physical force they use is often perceived as legitimate and justified.³

We would like to argue that the exploration of this issue requires conceptual tools that challenge the dichotomous division into objective and subjective, and into the supposedly “external” social aspects and “internal” personal processes. The ideas offered by psychoanalyst Jacques Lacan, who presents an original reading of Freud, are particularly suitable for this task due to their unique integration of psychic and social aspects (Frosh, Phoenix, & Pattman, 2003; Hook, 2008). The term ‘subject position’, the use of which in this paper draws on Lacanian theory (Fink, 1997), refers to psychological patterns through which the individual copes with the position she occupies in the social matrix, including the unconscious components characteristic of identification processes, fantasy formations and so on.

In this paper, we would like to demonstrate the connection between political and psychological aspects of subject positions of agents of Law, to explore the space between these two perspectives, and to show how they can complement each other. In our view, Freudian psychoanalytic reading of political theories on the use of legitimate and legal state violence can clarify the implications of these theories for the subjective points of view of agents of Law; at the

same time, such psychoanalytic reading can reveal lacunas in the explanatory capacity of political theories regarding the inherent dissonance in the position of agents of Law resulting from the contradictory demands required of them.

The central concept that we would like to borrow from political thought concerns issues of *legitimacy*. In political philosophy, the question of the legitimacy of the governmental rule, or of the *sovereign*, is an elementary one; it concerns beliefs regarding the justification of the government and the entitlement of the sovereign and its agents to restrict the freedom of the governed and to use coercive force in demand of their obedience, and even to use violence against them in certain cases (Fabienne, 2014). Most of the discussions of legitimacy in philosophical literature take the point of view of the dominated, and revolve around the question why and whether one should obey the law; however, as emphasized by the political theoretician Rodney Barker (2001), the issue of legitimacy should be examined from the point of view of the possessors of power as well, and the question of “self-legitimacy” should not be ignored.

According to Barker, the set of justifications meant to establish the legitimacy for the ruling power influences not only its governed population – but also those holding power positions, who thus shape their self-identity as possessors of legitimate authority. These justifications have conscious components, of course, but in this paper, we would like to utilize psychoanalytic ideas in order to examine their unconscious aspects and the various identifications related to the question of the “self-legitimacy” of possessors of power. We will put our focus not on the amorphous figure of the “sovereign”, and not on individuals who are high on the governmental hierarchy, but on members of the “executive organs” of the modern state monopoly. It can be assumed that these agents of Law, being possessors of power, exert self-legitimation processes; however, it can also be assumed that since they are part of the ruled group, their identification with the sovereign law they represent and with the set of justifications it involves is complicated and requires a thorough analysis.

In order to understand the contribution of a set of justifications to the coping of agents of Law – the representatives of state power – with the contradictory demands posed on them as part of their role, and in order to trace relevant identification figures, it seems appropriate to look back on a set of justifications that was dominant before the establishment of the modern rule of law idea; before the conceptualization of the state monopoly of violence, when political rulership was constructed as authority of transcendental origin. This justification set was established on perceptions of divine authority, which was expressed in particular traditions or was granted to a particular ruler or a dynasty of rulers (Weber, 1919).

A clear example for this can be found in the influential essay “Patriarchy” from the 17th century; its author, the English theoretician Robert Filmer (1680) wished to validate the legitimacy of an absolute royalism and to base it on the “natural authority” of the father in the family, originating, in his view, in God’s will.⁴ Filmer, thus, adds to the transcendental link between the authority of the ruler and God’s authority a third component – the patriarchal authority of the father. A review of political literature throughout the years suggests that like Filmer, other philosophers who discussed the legitimacy of authority also made the triadic connection between the king, God and the father (Weineck, 2009, 2014).

In a psychoanalytic view, the patriarchal triad ruler-God-Father calls for oedipal analysis of political thought, drawing on the complex insights proposed by Freud regarding the centrality of the Father, the connection of the Father to the Law and the perception of the Father’s ruling

² Thus, for example, in a comprehensive paper on the contribution of psychoanalysis to the understanding of violent behavior (Yakeley & Meloy, 2012), the authors mention Franz Alexander, August Aichhorn, Karen Horney, Otto Fenichel and others who wrote on violent psychopathic patients. The paper also mentions the Association for the Scientific Treatment of Criminals established in Britain in 1931, the managing committee of which included, throughout the years, Freud, Ernest Jones, John Bowlby, Wilfred Bion and others. The association’s clinic accepted patients defined as psychopathic and perverse, who demonstrated violent behavior towards others. Yakeley mentions analysts who worked at the clinic, such as Glover (1960) and Glasser (1988), whose writings on violent and delinquent behavior were based on their work there, as important contributors to the psychoanalytic literature on violence. The review of Yakeley and Meloy suggests concepts such as psychopathy, perversion and personality disorders (Kernberg, 1992) as central to psychoanalytic understanding of violence.

³ Nevertheless, it is important to note that transgressive acts of violence executed by agents of Law, even when not formally authorized by the state monopoly, can be intimately connected to it: in many cases, agents of Law misuse their power and exert illegal violence, while the system implicitly encourages such behavior or at least does not do enough to enforce the law that prohibits it. We will go back to this issue further in the paper.

⁴ It should be emphasized that Filmer, who is presented here as a representative of a traditional position, wrote in the early days of the modern age. One of the signs for this is the mere attempt to legitimize the rule – even if the content of the justification is based on premodern themes (Weineck, 2009: 207–8).

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