



Instituto Universitario de
Investigación en Filosofía
Edith Stein
Universidad Católica de Valencia
San Vicente Mártir



Escuela de
Filosofía
del Ateneo

II Seminario de HISTORIA DE LAS IDEAS POLÍTICAS

2 La constitución de Justiniano

Relator: Prof. Dr. Antonio Lastra.

Ponente: Prof. Dr. Federico Martínez Roda

21 de noviembre de 2019, 19 h.

La constitución de Justiniano

Republicanism occidental y príncipe oriental: la transformación del constitucionalismo en la antigüedad. De Constantino a Justiniano: politeísmo, teocracia, monarquía. El monoteísmo como problema político: *“höher ist als alles Vernunft”*. La doble conducta de Eusebio de Cesarea y el fin de la historiografía clásica: πόλεις δεισιδαιμόνοι φόβω e Imperio. Idea de la jurisprudencia romana: el *Corpus Iuris Civilis* (528-535 d. C.). Justiniano cierra las escuelas de Atenas y deroga el consulado de Roma (529 d. C.).

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Texto 1

Beaucoup de choses finissaient; d'autres commençaient; l'école et les livres remplaçaient la tradition. Personne n'a plus la prétention d'avoir vu ni les apôtres ni leurs disciples immédiats. Des raisonnements comme celui que faisait Papias, il y a quarante ans, ce dédain du livre et cette préférence avouée pour les gens qui savent d'original, ne sont plus de mise. Hégésippe sera le dernier qui aura fait des voyages pour étudier sur place la doctrine des églises. Irénée trouve ces inquisitions inutiles. L'église est un vaste dépôt de vérité, où il n'y a qu'à puiser. Si l'on excepte les barbares qui ne savent pas écrire, personne n'a plus besoin de consulter la tradition orale.

On se met donc résolument à écrire; le docteur, l'écrivain ecclésiastique remplacent le traditionniste; l'époque créatrice des origines est finie; l'histoire ecclésiastique commence. Nous disons ecclésiastique et non pas cléricale. Le docteur, en effet, à l'époque où nous sommes, est très souvent laïque. Justin, Tatien, Athénagore, la plupart des apologistes ne sont ni évêques ni diacres. Les docteurs de l'école d'Alexandrie ont une place distincte en dehors de la hiérarchie cléricale. L'institution du catéchuménat servit au développement de cette institution. Des postulants, souvent gens instruits, préparés hors de l'église à l'acceptation du baptême, réclamaient un enseignement à part, plus précis que celui des fidèles. Origène est catéchiste et prédicateur avec la permission de l'évêque de Césarée, sans avoir de rang défini dans le clergé. Saint Jérôme gardera une situation analogue qui, déjà de son temps, est pleine de difficultés. Il était naturel, en effet, que peu à peu l'église absorbât l'enseignement ecclésiastique et que le docteur devînt membre du clergé, subordonné à l'évêque.

ERNEST RENAN *Marc Aurèle et la fin du monde Antique* XXIV

Texte 2

Justinian suppressed the schools of Athens and the consulship of Rome, which had given so many sages and heroes to mankind. Both these institutions had long since degenerated from their primitive glory; yet some reproach may be justly inflicted on the avarice and jealousy of a prince, by whose hand such venerable ruins were destroyed.

Athens, after her Persian triumphs, adopted the philosophy of Ionia and the rhetoric of Sicily; and these studies became the patrimony of a city, whose inhabitants, about thirty thousand males, condensed, within the period of a single life, the genius of ages and millions. Our sense of the dignity of human nature is exalted by the simple recollection, that Isocrates was the companion of Plato and Xenophon; that he assisted, perhaps with the historian Thucydides, at the first representation of the Oedipus of Sophocles and the Iphigenia of Euripides; and that his pupils Aeschines and Demosthenes contended for the crown of patriotism in the presence of Aristotle, the master of Theophrastus, who taught at Athens with the founders of the Stoic and Epicurean sects. The ingenuous youth of Attica enjoyed the benefits of their domestic education, which was communicated without envy to the rival cities. Two thousand disciples heard the lessons of Theophrastus; the schools of rhetoric must have been still more populous than those of philosophy; and a rapid succession of students diffused the fame of their teachers as far as the utmost limits of the Grecian language and name. Those limits were enlarged by the victories of Alexander; the arts of Athens survived her freedom and dominion; and the Greek colonies which the Macedonians planted in Egypt, and scattered over Asia, undertook long and frequent pilgrimages to worship the Muses in their favorite temple on the banks of the Ilissus. The Latin conquerors respectfully listened to the instructions of their subjects and captives; the names of Cicero and Horace were enrolled in the schools of Athens; and after the perfect settlement of the Roman empire, the natives of Italy, of Africa, and of Britain, conversed in the groves of the academy with their fellow-students of the East. The studies of philosophy and eloquence are congenial to a popular state, which encourages the freedom of inquiry, and submits only to the force of persuasion. In the republics of Greece and Rome, the art of speaking was the powerful engine of patriotism or ambition; and the schools of rhetoric poured forth a colony of statesmen and legislators. When the liberty of public debate was suppressed, the orator, in the honorable profession of an advocate, might plead the cause of innocence and justice; he might abuse his talents in the more profitable trade of panegyric; and the same precepts continued to dictate the fanciful declamations of the sophist, and the chaster beauties of historical composition. The systems which professed to unfold the nature of God, of man, and of the universe, entertained the curiosity of the philosophic student; and according to the temper of his mind, he might doubt with the Sceptics, or decide

with the Stoics, sublimely speculate with Plato, or severely argue with Aristotle. The pride of the adverse sects had fixed an unattainable term of moral happiness and perfection; but the race was glorious and salutary; the disciples of Zeno, and even those of Epicurus, were taught both to act and to suffer; and the death of Petronius was not less effectual than that of Seneca, to humble a tyrant by the discovery of his impotence. The light of science could not indeed be confined within the walls of Athens. Her incomparable writers address themselves to the human race; the living masters emigrated to Italy and Asia; Berytus, in later times, was devoted to the study of the law; astronomy and physic were cultivated in the musaeum of Alexandria; but the Attic schools of rhetoric and philosophy maintained their superior reputation from the Peloponnesian war to the reign of Justinian. Athens, though situate in a barren soil, possessed a pure air, a free navigation, and the monuments of ancient art. That sacred retirement was seldom disturbed by the business of trade or government; and the last of the Athenians were distinguished by their lively wit, the purity of their taste and language, their social manners, and some traces, at least in discourse, of the magnanimity of their fathers. In the suburbs of the city, the *academy* of the Platonists, the *lycaeum* of the Peripatetics, the *portico* of the Stoics, and the *garden* of the Epicureans, were planted with trees and decorated with statues; and the philosophers, instead of being immured in a cloister, delivered their instructions in spacious and pleasant walks, which, at different hours, were consecrated to the exercises of the mind and body. The genius of the founders still lived in those venerable seats; the ambition of succeeding to the masters of human reason excited a generous emulation; and the merit of the candidates was determined, on each vacancy, by the free voices of an enlightened people. The Athenian professors were paid by their disciples: according to their mutual wants and abilities, the price appears to have varied; and Isocrates himself, who derides the avarice of the sophists, required, in his school of rhetoric, about thirty pounds from each of his hundred pupils. The wages of industry are just and honorable, yet the same Isocrates shed tears at the first receipt of a stipend: the Stoic might blush when he was hired to preach the contempt of money; and I should be sorry to discover that Aristotle or Plato so far degenerated from the example of Socrates, as to exchange knowledge for gold. But some property of lands and houses was settled by the permission of the laws, and the legacies of deceased friends, on the philosophic chairs of Athens. Epicurus bequeathed to his disciples the gardens which he had purchased for eighty minae or two hundred and fifty pounds, with a fund sufficient for their frugal subsistence and monthly festivals; and the patrimony of Plato afforded an annual rent, which, in eight centuries, was gradually increased from three to one thousand pieces of gold. The schools of Athens were protected by the wisest and most virtuous of the Roman princes. The library, which Hadrian founded, was placed in a portico adorned with pictures, statues, and a roof of alabaster, and supported by one hundred columns of Phrygian marble. The public salaries were assigned by the generous spirit of the Antonines; and each professor of politics, of rhetoric, of the Platonic, the Peripatetic, the Stoic, and the Epicurean philosophy, received an annual stipend of ten thousand drachmae, or more than three hundred pounds sterling. After the death of Marcus, these liberal donations, and the privileges attached to the thrones of science, were abolished and revived, diminished and enlarged; but some vestige of royal bounty may be found under the successors of Constantine; and their arbitrary choice of an unworthy candidate might tempt the philosophers of Athens to regret the days of independence and poverty. It is remarkable, that the impartial favour of the Antonines was bestowed on the four adverse sects of philosophy, which they considered as equally useful, or at least, as equally innocent. Socrates had formerly been the glory and the reproach of his country; and the first lessons of Epicurus so strangely scandalized the pious ears of the Athenians, that by his exile, and that of his antagonists, they silenced all vain disputes concerning the nature of the gods. But in the ensuing year they recalled the hasty decree, restored the liberty of the schools, and were convinced by the experience of ages, that the moral character of philosophers is not affected by the diversity of their theological speculations.

The Gothic arms were less fatal to the schools of Athens than the establishment of a new religion, whose ministers superseded the exercise of reason, resolved every question by an article of faith, and condemned the infidel or sceptic to eternal flames. In many a volume of laborious controversy, they exposed the weakness of the understanding and the corruption of the heart, insulted human nature in the sages of antiquity, and proscribed the spirit of philosophical inquiry, so repugnant to the doctrine, or at least to the temper, of an humble believer. The surviving sects of the Platonists, whom Plato would have blushed to acknowledge, extravagantly mingled a sublime theory with the practice of superstition and magic; and as they remained alone in the midst of a Christian world, they indulged a secret rancour against the government of the church and state, whose severity was still suspended over their heads. About a century after the reign of Julian, Proclus was permitted to teach in the philosophic chair of the academy; and such was his industry, that he frequently, in the same day, pronounced five lessons, and composed seven hundred lines. His sagacious mind explored the deepest questions of morals and metaphysics, and he ventured to urge eighteen arguments against the Christian doctrine of the creation of the world. But in the intervals of study, he *personally* conversed with Pan, Aesculapius, and Minerva, in whose mysteries he was secretly initiated, and whose prostrate statues he adored; in the devout persuasion that the philosopher, who is a citizen of the universe, should be the priest of its various deities. An eclipse of the sun announced his approaching end; and his life, with that of his scholar Isidore, compiled by two of their most learned disciples, exhibits a deplorable picture of the second childhood of human reason. Yet the golden chain, as it was fondly styled, of the Platonic succession, continued forty-four years from the death of Proclus to the edict of Justinian, which imposed a perpetual silence on the schools of Athens, and excited the grief and indignation of the few remaining votaries of Grecian science and superstition. Seven friends and philosophers, Diogenes and Hermias, Eulalius and Priscian, Damascius, Isidore, and Simplicius, who dissented from the religion of their sovereign, embraced the resolution of seeking in a foreign land the freedom which was denied in their native country. They had heard, and they credulously believed, that the republic of Plato was realized in the despotic government of Persia, and that a patriot king reigned ever the happiest and most virtuous of nations. They were soon astonished by the natural discovery, that Persia resembled the other countries of the globe; that Chosroes, who affected the name of a philosopher, was vain, cruel, and ambitious; that bigotry, and a spirit of intolerance, prevailed among the Magi; that the nobles were haughty, the courtiers servile, and the magistrates unjust; that the guilty sometimes escaped, and that the innocent were often oppressed. The disappointment of the philosophers provoked them to overlook the real virtues of the Persians; and they were scandalized, more deeply perhaps than became their profession, with the plurality of wives and concubines, the incestuous marriages, and the custom of exposing dead bodies to the dogs and vultures, instead of hiding them in the earth, or consuming them with fire. Their repentance was expressed by a precipitate return, and they loudly declared that they had rather die on the borders of the empire, than enjoy the wealth and favor of the Barbarian. From this journey, however, they derived a benefit which reflects the purest lustre on the character of Chosroes. He required, that the seven sages who had visited the court of Persia should be exempted from the penal laws which Justinian enacted against his Pagan subjects; and this privilege, expressly stipulated in a treaty of peace, was guarded by the vigilance of a powerful mediator. Simplicius and his companions ended their lives in peace and obscurity; and as they left no disciples, they terminate the long list of Grecian philosophers, who may be justly praised, notwithstanding their defects, as the wisest and most virtuous of their contemporaries. The writings of Simplicius are now extant. His physical and metaphysical commentaries on Aristotle have passed away with the fashion of the times; but his moral interpretation of Epictetus is preserved in the library of nations, as a classic book, most excellently adapted to direct the will, to purify the heart, and to confirm the understanding, by a just confidence in the nature both of God and man.

About the same time that Pythagoras first invented the appellation of philosopher, liberty and the consulship were founded at Rome by the elder Brutus. The revolutions of the consular office, which may be viewed in the successive lights of a substance, a shadow, and a name, have been occasionally mentioned in the present History. The first magistrates of the republic had been chosen by the people, to exercise, in the senate and in the camp, the powers of peace and war, which were afterwards translated to the emperors. But the tradition of ancient dignity was long revered by the Romans and Barbarians. A Gothic historian applauds the consulship of Theodoric as the height of all temporal glory and greatness; the king of Italy himself congratulated those annual favorites of fortune who, without the cares, enjoyed the splendor of the throne; and at the end of a thousand years, two consuls were created by the sovereigns of Rome and Constantinople, for the sole purpose of giving a date to the year, and a festival to the people. But the expenses of this festival, in which the wealthy and the vain aspired to surpass their predecessors, insensibly arose to the enormous sum of fourscore thousand pounds; the wisest senators declined a useless honor, which involved the certain ruin of their families, and to this reluctance I should impute the frequent chasms in the last age of the consular *Fasti*. The predecessors of Justinian had assisted from the public treasures the dignity of the less opulent candidates; the avarice of that prince preferred the cheaper and more convenient method of advice and regulation. Seven *processions* or spectacles were the number to which his edict confined the horse and chariot races, the athletic sports, the music, and pantomimes of the theatre, and the hunting of wild beasts; and small pieces of silver were discreetly substituted to the gold medals, which had always excited tumult and drunkenness, when they were scattered with a profuse hand among the populace. Notwithstanding these precautions, and his own example, the succession of consuls finally ceased in the thirteenth year of Justinian, whose despotic temper might be gratified by the silent extinction of a title which admonished the Romans of their ancient freedom. Yet the annual consulship still lived in the minds of the people; they fondly expected its speedy restoration; they applauded the gracious condescension of successive princes, by whom it was assumed in the first year of their reign; and three centuries elapsed, after the death of Justinian, before that obsolete dignity, which had been suppressed by custom, could be abolished by law. The imperfect mode of distinguishing each year by the name of a magistrate, was usefully supplied by the date of a permanent aera: the creation of the world, according to the Septuagint version, was adopted by the Greeks; and the Latins, since the age of Charlemagne, have computed their time from the birth of Christ.

EDWARD GIBBON *Decline and Fall* 40

Texto 3

El monoteísmo, como problema político, surgió de la elaboración helenística de la fe judía en Dios. El concepto de la monarquía divina, en cuanto se amalgamó con el principio monárquico de la filosofía griega, cobró para el judaísmo la función de un lema político-teológico. La Iglesia, al expandirse a través del Imperio romano, asume ese concepto propagandístico teológico-político, que choca después con una concepción pagana de la teología política, según la cual el monarca divino reina, pero han de gobernar los dioses nacionales. Los cristianos, para poderse oponer a esa teología pagana cortada a la medida del Imperio romano, respondieron que los dioses nacionales no pueden gobernar porque el Imperio romano significa la liquidación del pluralismo nacional. En ese sentido se explicó luego la *Pax Augusta* como cumplimiento de las profecías escatológicas del Antiguo Testamento. Claro que la doctrina de la monarquía divina hubo de tropezar con el dogma trinitario y la interpretación de la *Pax Augusta* con la escatología cristiana. Y así no solo se acabó teológicamente con el monoteísmo como problema político y se liberó a la fe cristiana del encadenamiento al Imperio romano, sino que se llevó a cabo la ruptura radical con

una *teología política* que hacía degenerar al Evangelio en instrumento de justificación de una situación política [sondern auch grundsätzlich der Bruch mit jeder *politische Theologie* vollzogen, die die christliche Verkündigung zur Rechtfertigung einer politischen Situation mißbraucht]. Solo en un suelo judío o pagano puede levantarse algo así como una *teología política*. Pero el Evangelio del Dios trino cae más allá [jenseits] del judaísmo y el paganismo, y el misterio de la Trinidad es un misterio de la misma divinidad, no de la criatura. La paz que busca el cristiano es una paz que no garantiza ningún César, porque esa paz es un don de Aquel que está “sobre toda razón” [“höher ist als alles Vernunft”].

ERIK PETERSON *El monoteísmo como problema político* pp. 94-95