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C R O S S I N G A E S T H E T I C S

PILATE AND JESUS

Giorgio Agamben

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Crossing Aesthetics

Werner Hamacher

Editor

PILATE AND JESUS

Giorgio Agamben

Translated by Adam Kotsko

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PILATE AND JESUS

I.

The *symbolon*, the “creed” in which Christians summarize their faith, contains, alongside those of the “Lord Jesus Christ” and the “Virgin Mary,” a single proper name, completely extraneous—at least in appearance—to its theological context. What is more, this man is a pagan, Pontius Pilate: *staurothenta te huper hēmon epi Pontiou Pilatou*, “crucified for our sake under Pontius Pilate.” The “creed” that the Fathers had formulated at Nicea in 325 did not include this name. It was added in 381 by the Council of Constantinople, by all evidence in order to also fix the historical character of Jesus’s passion chronologically. “The Christian Credo,” it has been observed, “speaks of historical events. Pontius Pilate belongs there essentially. He is not just a pitiful creature who oddly ended up there” (Schmitt, 930/170).

That Christianity is a historical religion, that the “mysteries” of which it speaks are also and above all historical facts, is taken for granted. If it is true that the incarnation of Christ is “a historical event of infinite, non-appropriable, non-occupiable singularity” (ibid.), the trial of Jesus is therefore one of the key moments of human history, in which eternity has crossed into history at a decisive point. All the more urgent, then, is the task of understanding how and why this crossing between the temporal and the eternal and between the divine and the human assumed precisely the form of a *krisis*, that is, of a juridical trial.

2.

Why precisely Pilate? A formula of the type *Tiberiou kaesaros*—which one reads on the money coined by Pilate and which has in its favor the authority of Luke, who so dates John’s preaching (Luke 3:1)—or *sub Tiberio* (as Dante has Virgil say: “born *sub Iulio*,” *Inferno* 1.70) would certainly have been more in keeping with common usage. If the Fathers assembled at Constantinople preferred Pilate to Tiberius, the prefect—or, as Tacitus preferred to call him (*Annals* XV, 44), in one of the few extrabiblical testimonies that mention his name, “the procurator” of Judea—to Caesar, it is possible that over their undoubted chronographic

intention there prevailed the importance that the figure of Pilate has in the narrative of the Gospels. In the punctilious attention with which John above all, but also Mark, Luke, and Matthew describe his hesitations, his evasions and changing opinion, literally relating his words, which are at times decidedly enigmatic, the evangelists reveal perhaps for the first time something like the intention to construct a character, with his own psychology and idiosyncrasies. It is the vividness of this portrait that caused Lavater to exclaim in a 1781 letter to Goethe: "I find everything in him: heaven, earth, and hell, virtue, vice, wisdom, folly, destiny, liberty: he is the symbol of all in all." One can say, in this sense, that Pilate is perhaps the only true "character" of the Gospels (Nietzsche defined him in *The Antichrist* as "the only figure—*Figur*—of the New Testament who merits respect," §46), a man of whom we know the passions ("he was greatly amazed," Matthew 27:14; Mark 15:5; "he was more afraid than ever," John 19:8), the resentment and skittishness (as when he shouts at Jesus, who is not responding to him: "Do you refuse to speak to me [*emoi ou laleis*]? Do you not know that I have power to release you, and power to crucify you?"), the irony (at least according to some, in the notorious reply to Jesus: "What is truth?" John 18:38), the hypocritical scruples (testimony of which is found in the raising of

a question of competency with Herod as much as in the ritual washing of his hands, with which he believes he can purify himself of the blood of the just man he has condemned), and the anger (the peremptory “what I have written, I have written” to the priests who ask him to change the inscription on the cross, John 19:22). We even make a fleeting acquaintance with his wife, who during the trial sends word to him not to condemn Jesus, “for today I have suffered a great deal because of a dream about him” (Matthew 27:19).

3.

Mikhail Bulgakov, in the marvelous stories about Pilate that the devil recounts in *The Master and Margarita*, and Alexander Lernet-Holenia, in the grandiose theological farce inserted in *The Count of Saint-Germain*, both recall this vocation to become a character. But early on there is testimony, in the texts that we persist in calling New Testament “apocrypha” (the term, which has come to mean “false, nonauthentic,” in truth simply means “hidden”), to the presence of a true and proper Pilate cycle. This begins first of all in the Gospel of Nicodemus, in which the trial of Jesus is staged in a much more detailed way than in the synoptic gospels. When Jesus is introduced by Pilate, the banners that the standard bearers are holding in their

hands miraculously bow down before him. In the trial twelve proselytes also intervene who testify—against the accusation that Jesus was “a son of fornication”—that Joseph and Mary entered into a legal marriage, along with Nicodemus, who also testified in favor of Jesus. In general the whole trial is dramatically rendered here as a debate between the Jewish accusers, who are named one by one (“Annas and Caiaphas, Semes, Dathaes and Gamaliel, Judas, Levi, and Nephthalim, Alexander and Jairus”; Elliott, 170) and Pilate, who often appears to be beside himself and is almost openly on Jesus’s side, also because his wife “is pious and prefers to practice Judaism with the Jews” (Elliott, 172). The dialogue with Jesus on truth, which in the canonical gospels ends abruptly with Pilate’s question, here, as we will see, continues and acquires a completely different significance. It is all the more unexpected when Pilate finally yields to the insistence of the Jews and, struck by a sudden fear, orders that Christ be flogged and crucified.

4.

The legend of Pilate (the so-called *Acta* or *Gesta Pilati*) is constituted according to two divergent lines. First there is a “white” legend, attested by the pseudepigraphal letters to Tiberius and by the

Paradosis, according to which Pilate, together with his wife Procla, had comprehended Jesus's divinity and had only yielded to the insistence of the Jews through weakness. Tertullian testifies to this legend when he writes that Pilate had been forced to have Jesus crucified by the violent pressure of the Jews (*violentia suffragiorum in crucem dedi sibi extorserint*), but "now in fact a Christian in his own convictions (*pro sua conscientia christianus*)," he had informed the emperor with a letter about Jesus's miracles and resurrection (*Apology XXI*, 18–24). The *Paradosis* (something like the "handing over," but also the "tradition") of Pilate presupposes the writing of this letter (of which there exist numerous versions, obviously all false) and begins precisely with Tiberius's indignation after reading the message (Elliott, 208–11). He has Pilate taken to Rome in chains and asks him how he could have crucified a man whom he knew to be the author of such great wonders. Pilate justifies himself by accusing the Jews and declares himself persuaded that Jesus "is greater than all the gods whom we worship" (Elliott, 210). The white legend of Pilate thus presents him, paradoxically, in some way as a secret champion of Christianity against the Jews and the pagans. Testimony of this is found in the apology that Pilate addresses to Jesus when Tiberius decides to punish him with decapitation:

Lord, do not destroy me with the wicked Hebrews, for had it not been because of the nation of the lawless Jews, I would not have raised my hand against you, because they plotted a revolt against me. You know that I acted in ignorance. Therefore do not destroy me because of this sin, but pardon me, Lord, and your servant Procla, who stands with me in this hour of my death, whom you taught to prophesy that you must be nailed to the cross. Do not condemn her also because of my sin, but pardon us and number us among your righteous ones. (Elliott, 210–11)

And when a Pilate who is by this time Christianized finishes his supplication, we hear a voice from heaven that announces his salvation:

All generations and families of the Gentiles shall call you blessed, because in your governorship everything was fulfilled which the prophets foretold about me. And you yourself shall appear as my witness at my second coming, when I shall judge the twelve tribes of Israel and those who have not confessed my name. (Elliott, 211)

At this point Pilate is decapitated, but an angel picks up his chopped-off head. Procla, at the sight of the angel who bears the head into heaven, “was filled with joy, and immediately gave up the ghost and was buried with her husband” (ibid.).

The Christianization of Pilate reaches its peak in the Gospel of Gamaliel, preserved in an Ethiopian recension. Here we read that

Pilate and his wife loved Jesus as themselves. He had him flogged to satisfy the wicked Jews, so that their hearts would be more favorably disposed and they would let him go without condemning him to death. (Moraldi, 662)

The Jews had in fact deceived him, making him believe that, if he had him punished in that way, they would let him go. For this reason, after the crucifixion, Jesus appears to Pilate in a dream (“his splendor was greater than that of the sun and the whole city was illuminated by it, with the exception of the synagogue of the Jews”) and consoles him, saying, “Pilate, are you by any chance weeping because you flogged Jesus? Have no fear! What was written of him has in fact been fulfilled” (ibid., 673).

It has been observed that the justification of Pilate on the part of the Christians aimed to win the favor of the Romans and for this reason ceased with the end of the persecutions. What is certain, in any case, is that the absolution of Pilate in the legend coincides with the intention to attribute the responsibility for the crucifixion exclusively to the Jews. It is not surprising, therefore, that Pilate ends up becoming a saint in the Ethiopian Church and that his wife is celebrated in the Greek Church on October 26.

5.

The white legend of Pilate contrasts with much of what the extrabiblical sources hand down to us about him. Philo, who speaks of him in the *Legatio ad Gaium* (*Embassy to Gaius*, §§ 299–305) in relation to an action that the Jews felt to be sacrilege (he had set up in the palace of Herod some gilded shields dedicated to Tiberius), describes him as an “inflexible, obstinate, and cruel (*akamptos, authades, ameiliktos*)” man. A little further down, in a scene in which Pilate seems to be prey to fears and hesitations similar to those described in the Gospels, he is defined by “vindictiveness and furious temper.” It is a character of this type who is made into the protagonist in the dark legend of Pilate, which curiously intersects with that of the Veronica. According to this legend, in which both Jesus and the Veronica are notable for their thaumaturgical power, an ill Tiberius comes to learn that in Jerusalem there is a doctor by the name of Jesus, who cures all diseases with his word alone (Bulgakov must have known this version, because in his account Pilate persistently addresses Jesus as a doctor). He therefore sends one of his agents, Volusian, to Pilate with the orders to find Jesus and have him sent to Rome. When Volusian, having arrived at Jerusalem, explains to him the emperor’s request, Pilate, “very much

afraid, knowing that through envy he had caused him to be put to death,” responds to him that that man was an evildoer, and for that reason he had him crucified (Walker, 234). Volusian, returning to the inn, runs into a woman by the name of Veronica, asks her about Jesus, and explains the reasons for his mission:

And she began to weep, saying: “Ah, me! My lord, my God and my Lord, whom Pilate for envy delivered, condemned, and ordered to be crucified.” Then he, being exceedingly grieved, said: “I am vehemently grieved that I am unable to accomplish that for which my lord had sent me.” And Veronica said to him: “When my Lord was going about preaching, and I, much against my will, was deprived of his presence, I wished his picture to be painted for me, in order that, while I was deprived of his presence, the figure of his picture might at least afford me consolation. And when I was carrying the canvas to the painter to be painted, my Lord met me, and asked whither I was going. And when I disclosed to him the cause of my journey, he asked me for the cloth, and gave it back to me impressed with the image of his venerable face. Therefore, if thy lord will devoutly gaze upon his face, he shall obtain forthwith the benefit of health.” And he said to her: “Is a picture of such sort procurable by gold or silver?” She said to him: “No; but by the pious influence of devotion. I shall therefore set out with you, and shall carry the picture to be seen by Caesar, and shall come back again.” (Walker, 234–35)

Volusian then returns to Rome with Veronica and tells the emperor Tiberius that the doctor Jesus had

been handed over by Pilate and the Jews, out of envy, to an unjust death:

“There has therefore come with me a certain matron, bringing a picture of Jesus himself; and if you will devoutly look upon it, you shall immediately obtain the benefit of health.” Caesar therefore ordered the way to be strewn with silk cloths, and the picture to be presented to him: and as soon as he had looked upon it, he regained his former health. (Walker, 235)

Tiberius therefore orders that Pilate be arrested and taken to Rome. But at the moment when he appears before the furious emperor, Pilate, whom the legend always presents as a scoundrel, puts on the “seamless tunic” of Jesus (Walker, 235), which he had brought with him (it is the *tunica inconsutilis* or “seamless garment” of John 19:23, and the legend does not relate how it had come into his hands). Immediately Tiberius’s rage disappears, and he cannot manage to formulate his accusations. The scene is repeated many times, to general amazement: the man who, while he is absent, appears as a savage criminal, seems to him when present to be pious and meek. Finally, through divine inspiration or, perhaps, thanks to the counsel of some Christian, Tiberius orders that Pilate be stripped of the tunic. Immediately the incantation disappears and the emperor, regaining control of himself, has Pilate imprisoned and condemns him to a shameful

death. Having heard the sentence, Pilate kills himself by stabbing himself with a knife. His body is then tied to an enormous rock and thrown into the Tiber, but

malignant and filthy spirits in his malignant and filthy body, all rejoicing together, kept moving themselves in the waters, and in a terrible manner brought lightnings and tempests, thunders and hail-storms, in the air, so that everyone was kept in horrible fear. (Walker, 236)

The legend of Pilate becomes jumbled at this point with that of the migration of his demon-possessed body from grave to grave. The Romans extract the body from the Tiber and, as a sign of contempt, transport it to Vienne in order to throw it into the Rhone: “For Vienne is called, as it were, the way of Gehenna [*Via Gehennae*], because it was then a cursed place.” But here also the evil spirits throng, causing the same disorder. The body is then transferred to Lausanne, where, after the usual witch’s Sabbath, it is finally carried into the mountains and lowered into a deep well, from which, as the legend relates, “certain diabolical machinations are said to bubble up” (Walker, 236).

6.

The evangelists, who certainly could not have been present at the trial, do not concern themselves with indicating the sources of their narrative and

precisely this lack of philological scruples confers on the account its incomparable epic tone. The letters and the legends, with their dark or glorious outcome, were presumably invented to furnish a documentation for the trial and, at the same time, to account for Pilate's behavior. They explain both why the prefect of Judea sought in every way to avoid the condemnation of Jesus (he knows, as it emerges from the letter to Tiberius, that Jesus not only was innocent but worked miracles like a god), as well as his sudden yielding to the Jews (he was, in reality, envious and cowardly). In any case Pilate's behavior during the judgment needed to appear enigmatic; moreover, the fact that a judgment before the prefect had taken place was, for some reason, essential.

Judgment in Greek is *krisis* (from *krinō*, which means etymologically "to separate, to de-cide"). Along with this juridical meaning, there converge in the term both a medical meaning (*krisis* as the decisive moment in the evolution of an illness, when the doctor must "judge" whether the sick person will die or survive) and a theological one (the Last Judgment: *en hemerai kriseōs*, "in the day of judgment," is the admonishment that often recurs in Jesus's discourse; and in Paul: *en hemerai hote krinei*, "in the day in which God will judge" [Romans 2:16]).

In the narrative of the evangelists the term does not appear. The technical term for the function of

the judge here is *bēma*, the seat or platform on which the one who is to pass judgment sits (the *sella curulis* of the Roman magistrate). When Pilate rises to pronounce the sentence, he sits on the *bēma*: “Pilate led Jesus outside and sat on the judge’s bench at a place called The Stone Pavement” (John 19:13); thus in Matthew 27:19: “While he was sitting on the *bēma*” (this is, when he was exercising his function as judge; the Vulgate translates it as *sedente pro tribunali*), “his wife sent word to him.” In Acts (18:12) the term means simply “tribunal”: “the Jews made a united attack against Paul and brought him before the tribunal (*eis to bēma*).” No differently, in Paul, *bēma* designates by synecdoche the Last Judgment: “For all of us must appear before the *bēma* of Christ” (2 Corinthians 5:10). God’s judgment is, however, explicitly counterposed to that of humans, who must not pass judgment among themselves: “Why do you pass judgment (*ti krineis*) on your brother or sister? . . . For we will all stand before the *bēma* of God” (Romans 14:10).

In the trial that unfolds before Pilate, two *bēmata*, two judgments and two kingdoms seem to confront each other: the human and the divine, the temporal and the eternal. Spengler has expressed this contrast with characteristic vividness: “When Jesus is brought before Pilate, two worlds stand immediately and irreconcilably opposed: that of facts and that of truths, and

with more dreadful clarity than at any other time in the history of the world” (Spengler, 968/287).

And it is the world of facts that must judge that of truths, the temporal kingdom that must pronounce a judgment on the eternal kingdom. It is all the more necessary to carefully evaluate every detail of the chronicle of this decisive confrontation, this historical *krisis* that, in a certain way, is always under way.

7.

The narrative in John is, relative to the synoptics, so much fuller and more detailed as to appear completely independent of them. The dialogues between Pilate and Jesus, which the synoptics handle in a few lines, here acquire a density and meaning that are in every sense decisive. John dramatically articulates the account into seven scenes, each of them corresponding to a change of location, now outside the praetorium, now inside, each time (except for the fifth scene) introduced by stereotypical formulas: “Pilate went outside (*exēlthen*),” “he entered again (*eisēlthen palin*),” “he exited again (*exēlthen palin*).” Moreover, we know the duration of the drama, five hours, from the early morning (*proi*, John 18:28) to the sixth hour (19:14).

I. (OUTSIDE) In the first scene, since the priests who have taken Jesus into the praetorium do not want

to enter there in order not to be contaminated before the Passover, Pilate goes outside (*exēlthen . . . exō*) and says, “What accusation (*katēgorian*) do you bring against this man?” (18:29). The question is coherent with the Roman trial, which began with the inscription of the accusation, which had to be definite and not slanderous. The Jews do not formulate the accusation but limit themselves to declaring generically that “if this man were not a criminal, we would not have handed him over (*paradōkamen*) to you” (18:30). Pilate’s subsequent injunction to the Jews to take the accused and judge him “according to your law (*kata ton nomon humōn*)” (18:31), seems still to be following a trial logic: since the accusation had not been formalized, Roman law could not be applied. The Jews’ reply (“We are not permitted to put anyone to death” [18:31]) marks a turning point in Pilate’s behavior. John’s comment (the Jews have said this “to fulfill what Jesus had said when he indicated the kind of death he was to die” [18:32]) certainly cannot concern Pilate; nevertheless, it is as if the prefect interpreted the reply of the Jews as the formulation of an accusation of *lèse-majesté*. According to the *Digest*, in fact, “the crime of *lèse-majesté* (*maiestatis crimen*) is committed against the Roman people, or against their safety” (*Digest* 48.4.1.1). And the *lex Julia maiestatis* of 46 BCE established for this crime, according to the condition

of the guilty party, crucifixion, being handed over to wild beasts, or exile. Entirely unexpectedly, Pilate decides to interrogate Jesus.

II. (INSIDE) At this point the first vivid confrontation between Pilate and Jesus takes place:

Then Pilate entered again (*eisêlthen palin*) into the praetorium, summoned Jesus, and asked him, “Are you the king of the Jews?” Jesus answered, “Do you ask this on your own, or did others tell you about me?” Pilate replied, “I am not a Jew, am I? Your own nation (*to ethnos to son*) and the chief priests have handed you over to me. What have you done?” (18:33–34)

The syntagma “king of the Jews” (*basileus tôn Ioudaiōn*), which will have such a decisive function in what follows, appears here in the trial for the first time. To judge from his response, Jesus was not expecting the question: indeed, what does the Roman prefect have to do with a question internal to Judaism such as the expectation of the messiah? Pilate seems to read his thoughts: “I am not a Jew, am I?” Here begins that dialogue on the kingdom and on truth, on which innumerable pages have been written. Instead of answering the question “What have you done?” Jesus replies to the preceding one:

“My kingdom is not from this world (*Hē basileia emē ouk estin ek tou kosmou toutou*). If my kingdom were from this world, my followers would be fighting to keep

me from being handed over to the Jews. But as it is, my kingdom is not from here.” (18:36)

The response is ambiguous because it negates and, at the same time, affirms the regal condition. Ancient commentaries, from Augustine to Chrysostom up to Aquinas, insist unanimously on this point. Jesus, suggests Augustine, has not said “it is not *in* this world (*non est in hoc mundo*),” but “it is not *from* this world (*de hoc mundo*);” and Chrysostom explains: “‘My kingdom is not of this world’ means that it does not have its origin from worldly causes or from the choice of human beings, but comes from elsewhere, that is, from the Father.” And Aquinas says: “In saying that his kingdom is not here, he intends to say that it does not have its beginning from this world, and yet it is here, because it is everywhere (*est tamen hic, quia ubique est*).”

Pilate is thus right to ask: “So are you a king (*ouk-oun basileus ei su*)?” Jesus’s unexpected reply displaces the discourse from the kingdom to truth:

“You say that I am a king (*su legeis hoti basileus eimi ego*). For this I was born, and for this I came into the world, to testify to the truth (*hina marturesō tei alētheiai*). Everyone who is from the truth (*ek tēs alētheias*) listens to my voice.” (18:37)

And here Pilate pronounces what Nietzsche called the “most subtle witticism of all time (*die grösste*

Urbanität aller Zeiten)” (*Nachlass*, Frühjahr 1884, 25 [338]): “What is truth (*ti estin alētheia*)?” (18:38).

In reality Pilate’s question, traditionally interpreted as an ironic expression of skepticism (in this sense Spengler opposed the facts—*Tatsachen*—whose champion is Pilate, to the truth, represented by Jesus) and even scorn (the “noble scorn” with which, according to Nietzsche, a “Roman” had annihilated the New Testament; *The Antichrist*, §46), is not necessarily such. Neither is it necessarily a “foreign body” (Demandt, 86) in its context, which—we must not forget—is that of a trial. As Aquinas suggests in his commentary, Pilate, once it is clarified that the kingdom of Jesus does not concern this world, wants to know the truth and come to clarity on the kingdom of which the accused is testifying (*cupit veritatem scire ac effici de regno eius*): his question does not refer to truth in general (*non quarens quid sit definitio veritatis*) but to the specific truth that Jesus seems to intend and that he does not manage to grasp. Here it is perhaps not truth and skepticism, faith and incredulity that confront each other, but two different truths, or two different conceptions of truth. In the Gospel of Nicodemus the interrogation continues with Jesus’s reply: “Truth is from heaven,” and with Pilate’s new question: “Is there not truth upon earth?” Jesus’s response—“You see how those who tell the truth are judged by those who

have authority on earth”—concludes the interrogation (Elliott, 173). Earthly judgment does not coincide with the testimony of truth.

III. (OUTSIDE) Pilate at this point exits once again (*palin exēlthe*) from the praetorium (18:38). It has often been emphasized that he intentionally does not wait for Jesus’s response (Bacon has written ironically: “What is truth?, said jesting Pilatus and would not stay for an answer”; but Aquinas already observed that he *responsionem non expectavit*). The unexpected decision is explained with his apostrophe to the Jews: “I find no case against him. But you have a custom that I release someone for you at the Passover. Do you want me to release for you the King of the Jews?” (18:38–39). Not having found the accused culpable, Pilate would have had to deliver a verdict of innocence (the expected formula in the Roman trial was *absolvo* or *videtur non fecisse*) or else suspend the trial and call for a supplementary investigation (the expected formula was *non liquet* or *amplius est cognoscendum*). He instead thinks to resolve the case by making use of the Passover amnesty. Through the whole course of the trial—it is a fact on which we must reflect—Pilate seeks tenaciously to avoid the pronouncement of a verdict. Even at the end, when he yields to the tumultuous insistence of the Jews, the prefect does not, as we will see, pronounce a sentence: he limits himself

to “handing over (*paredōken*)” the accused to the Jews (19:16).

The Jews frustrate his plan by crying out: “Not this man, but Barabbas!” (as Matthew 15:7 informs us, Barabbas, literally “the son of the father,” was a rebel and murderer). (It is at this point that, in Matthew’s account, the episode of the washing of his hands is situated, about which John does not say a word: “So when Pilate saw that he could do nothing, but rather that a riot was beginning, he took some water and washed his hands before the crowd, saying, ‘I am innocent of this just man’s blood’” [Matthew 24:17]).

IV. (OUTSIDE) Having entered again into the praetorium—the text does not say it, but it is unequivocally clear from the following passage—Pilate makes one last attempt:

Then Pilate took Jesus and had him flogged. And the soldiers wove a crown of thorns and put it on his head, and they dressed him in a purple robe. They kept coming up to him, saying, “Hail, King of the Jews!” and striking him on the face. (19:1–3)

Flogging was an accessory punishment expected as preliminary to crucifixion: Pilate instead intends to make use of it, somewhat incongruously—but this in all probability forms part of his discretionary power (cf. *Digest* 48.2.6)—as punishment for an unspecified

minor misdemeanor. Luke has him say as much with clarity: “I have found in him no ground for the sentence of death; I will therefore have him flogged and then release him” (Luke 23:22).

V. (OUTSIDE) Again a change of location:

Pilate went out again and said to them, “Look, I am bringing him out to you to let you know that I find no case against him.” So Jesus came out, wearing the crown of thorns and the purple robe. Pilate said to them, “Behold the man (*idou ho anthrōpos*, Vulgate: *ecce homo*)!” When the chief priests and the police saw him, they shouted, “Crucify him! Crucify him!” Pilate said to them, “Take him yourselves and crucify him; I find no case against him.” The Jews answered him, “We have a law, and according to that law he ought to die because he has claimed to be the Son of God.” (19:4–7)

The accusation that, according to Leviticus 24:16, for the Jews merited capital punishment had already been mentioned in John 5:18 (“For this reason the Jews were seeking all the more to kill him, because he was not only breaking the Sabbath, but was also calling God his own Father, thereby making himself equal to God”) and Jesus had defended himself with these words:

“You say that the one whom the Father has sanctified and sent into the world is blaspheming because I said, ‘I am God’s Son.’ If I am not doing the works of my Father, then do not believe me. But if I do them, even though

you do not believe me, believe the works, so that you may know and understand that the Father is in me and I am in the Father.” (10:36–38)

VI. (INSIDE) From this moment on, Pilate’s conduct becomes—at least apparently—ever more incoherent:

Now when Pilate heard this, he was more afraid than ever. He entered (*eisēlthen*) the praetorium again and asked Jesus, “Where are you from (*pothen ei su*)?” But Jesus gave him no answer. Pilate therefore said to him, “Do you refuse to speak to me? Do you not know that I have power (*exousian*) to release you and power to crucify you?” Jesus answered him, “You would have no power over me unless it had been given you from above (*anōthen*); therefore the one who handed me over (*ho paradous*) to you is guilty of a greater sin.” (19:8–11)

The question “Where are you from,” by all indications, reconnects to the preceding dialogue, when Jesus had declared that his kingdom was not “from (*ek*) this world” and had evoked “the one who is ‘from the truth.’” Pilate’s questions therefore continue to follow, despite the apparent oscillations, a logic of assessing the truth. Jesus’s response, which has Pilate’s authority also coming “from above,” seems to further convince the prefect of his innocence, because “from then on Pilate tried to release him, but the Jews cried out, ‘If you release this man, you are no friend of

Caesar. Everyone who claims to be a king sets himself against Caesar” (19:12).

VII. (OUTSIDE) A final scene, out in the open:

When Pilate heard these words, he brought Jesus outside (*ēgagen exō*) and sat on the judge’s bench (*ekathisen epi tou bēmatos*) at a place called The Stone Pavement, or in Hebrew Gabbatha. Now it was the day of Preparation for the Passover; and it was about noon. He said to the Jews, “Here is your King!” They cried out, “Away with him! Away with him! Crucify him!” Pilate asked them, “Shall I crucify your King?” The chief priests answered, “We have no king but Caesar.” Then he handed him over (*paradōken*) to them to be crucified. (19:13–16)

Bickerman has rightly observed that the fact that only at this point does Pilate sit on the bench means that the entire preceding debate had not a procedural value but a private one: “According to the invariable rules of Roman procedure, capital crimes, such as Jesus’s was, could not be judged other than *pro tribunali*. . . . Pilate here acts as intermediary or arbiter and not as judge” (Bickerman, 223).

It is not an accident, moreover, that at the moment of Pilate’s unexpected capitulation, the question of Jesus’s kingship is once again evoked by Pilate. That is because the accusation that the Sanhedrin brings against Jesus is precisely the messianic pretense to kingship, which the Jews reject, but that Pilate, with

his question, seems to put back in play. The question of Jesus's kingdom, whether it be worldly or heavenly, remains in suspense up to the end. And it is precisely for this reason that the final argumentation of the Sanhedrin ("We have no king but Caesar") convinces Pilate to hand Jesus over.

The question of kingship returns forcefully in the inscription (*titulus*) that Pilate has put on the cross: "Jesus of Nazareth, King of the Jews" (John 19:19). In mentioning the reason why he was condemned (Matthew 27:37), it seems at the same time to affirm his kingship. The *titulus* in capital executions had to report the crime that was punished, but Bonaventure, in his commentary, instead places it alongside the insignia that listed the victories of the triumphant *imperator* and for this reason calls it a *titulus triumphans*, because "it is in praise of Christ and to the shame of the Jews, because, even though he had been condemned as a robber, he was indeed no robber, but a king" (XIX, 31). Even more arbitrarily, Cyril of Alexandria identifies the *titulus* with the chirograph of which Paul speaks (Colossians 2:14–15), "which the Lord nailed to the cross, triumphing and submitting the worldly powers to himself" (XII, 19, 19).

The ambiguity of the insignia does not escape the Sanhedrin, so they tell Pilate to change it: "Do not write, 'The King of the Jews,' but, 'This man said, I

am King of the Jews” (19:21). Here Pilate pronounces his second historical witticism, which seems to give the lie to the equally celebrated one on truth and, along with it, his previous evasions and any supposed skepticism: “What I have written I have written” (19:22).

8.

Through the whole narrative of the trial—and not only in John—a verbal form returns so obsessively that its repetition cannot be by chance: *paredōken* (“he handed over,” Vulgate: *tradidit*), in the plural *paredōkan* (“they handed over,” Vulgate: *tradiderunt*). One could say that the event that is in question in the passion of Jesus is nothing other than a “handing over,” a “tradition” in the proper sense of the term. All the verbal forms of the verb *paradidōmi* are mobilized to this end. The first act of this tradition is the scene in which Judas, by kissing Jesus, “hands him over” to the Jews (Mark 14:10). In the Vulgate of Matthew 27:1–3 they alternate almost like an internal rhyme or alliteration: *ut eum morti traderunt . . . et tradiderunt Pontio Pilato . . . Judas qui eum tradidit* (“in order to hand him over to death . . . and they handed him over to Pontius Pilate . . . Judas, who had handed him over”). In the Gospels, Judas is, par excellence,

“the one who hands over,” the “be-trayer [*tra-ditore*]” (*ho paradidous*, Vulgate: *qui tradebat eum* [John 18:5]); so also in Mark 3:19, “Judas Iscariot, who handed him over (*hos kai paredōken auton*),” and in Matthew 10:14, “Judas Iscariot, the one who handed him over (*ho kai paradous auton*).”

In their turn the Jews “hand over” Jesus to Pilate: “If this man were not a criminal, we would not have handed him over to you” (John 18:30; cf. also Mark 15:1 and Matthew 27:2) and, at the end of the trial, Pilate hands Jesus over to the Jews for them to crucify him.

Karl Barth was the one who noted that the “handing over” in truth had a theological significance. To the earthly “tradition” of Jesus there in fact corresponds at each point a preceding heavenly tradition, which Paul expresses in these terms: “God did not withhold his own Son, but handed him over (*paredōken*) for all of us” (Romans 8:32). Jesus is conscious of this tradition, which he explicitly evokes: “The Son of Man is to be handed over (*paradidotai*) into human hands, and they will kill him” (Mark 9:31); “For God so loved the world that he gave (*edōken*) his only Son, so that everyone who believes in him may not perish” (John 3:16). From this theological perspective the earthly “handing over”—the “betrayal [*tradimento*]”—of Judas and then that of the Jews and of Pilate appear as an execution of the divine

“handing over.” “The act of Judas cannot, therefore, be considered as an unfortunate episode, much less as the manifestation of a dark realm beyond the will and work of God but in every respect . . . as one element of the divine will and work. In what he himself wills and carries out, Judas does what God wills to be done. He—and not only Pilate—is an *executor Novi Testamenti*” (Barth, 502).

The drama of the passion, which John narrates with such a wealth of details, thus becomes a script inscribed from all eternity on that providential level that theologians call the “economy of salvation” and within which the actors do nothing but execute an already foreseen part. The final scene of this drama is once again a handing over: the moment when Jesus “hands over his spirit (*paredōken to pneuma*, Vulgate: *tradidit spiritum*)” (John 19:13).

9.

The word *paradosis*, “handing over,” is used in the New Testament in the metaphorical sense of teaching or doctrine that has been handed down. In this sense Jesus uses it in criticizing the oral traditions of the Jews. To the Pharisees who ask him why his disciples “do not walk according to the tradition of the elders (*kata tēn paradōsin tōn presbyterōn*)” (Mark 7:5),

he responds angrily, “You abandon the commandment (*tēn entolēn*) of God and hold to human tradition (*tēn paradōsin*)” (7:8). And a little further down, “You make void the word of God through your tradition that you have handed on (*tēi paradōsei hē paradōkate*)” (7:13). The same opposition of *entolē* and *paradōsis*, divine command and human tradition, is found in Matthew 15:3.

To this negative valuation of the term there corresponds the messianic meaning of the “handing over” in the passion of Jesus. Apart from the instructions for everyday life that Paul refers to while reminding the Corinthians to “maintain the traditions (*paradōseis*) just as I handed them on (*paredōka*) to you” (1 Corinthians 11:2), there is only one authentic Christian tradition: that of the “handing over”—first on the part of the Father, then of Judas and the Jews—of Jesus to the cross, which has abolished and realized all traditions.

10.

It is in the perspective of this “handing over”—so Barth seems to suggest—that the episode of Pilate must also be inscribed. Many elements, however, prevent us from seeing in the prefect of Judea only an “executor.” If he was, like Judas, only this, why not limit himself simply to ratifying the decision of the

Sanhedrin? Why stage a trial (or a simulacrum of a trial) and why these evasions, these subterfuges, these declarations of the defendant's innocence? And what does his wife's dream, which Luther was forced to explain as a demon's intervention seeking to impede the crucifixion, have to do with the divine economy? That Pilate's behavior follows different reasons from those of Judas is attested beyond any doubt by the fact that while Jesus says to Judas, "Do quickly what you are going to do" (John 13:27), he instead pauses to discuss with Pilate and seems up to the end to want to convince him of his own innocence. The role of the prefect of Judea and of the judgment, the *krisis* that he must pronounce is not inscribed into the economy of salvation as a passive instrument but as a real character in a historical drama, with his passions and doubts, his caprices and scruples. With the judgment of Pilate history bursts into the economy and suspends its "handing over." The historical *krisis* is also and above all a crisis of "tradition."

This means that the Christian conception of history as the execution of the divine economy of salvation—or, in its secularized version, a realization of the unbreakable laws immanent to it—must be, at least in our case, revised. As a Roman magistrate, Pilate must exercise his judgment and does exercise it in his own way without taking account of that economy of "handing over" of

which he is ignorant and to which he will yield in the end only because he seems to be convinced that a king of the Jews is in some way politically problematic. Certainly he is in a position to understand that there could be—at least for this young Jew whom he has before his eyes—a level that transcends history (otherwise he would not have replied “then you are a king” when Jesus told him that his kingdom is not from this world); and yet he knows that, as prefect of Judea, he must also judge this level, because it could provoke—and has already provoked—factual consequences (the uprising among the Jews to which the mob that stands before him testifies). The representative of the earthly kingdom is competent to judge the “kingdom that is not from here” and Jesus—it is important not to forget this—acknowledges his authority, which comes to him “from above.” Whether it happens, as Pascal maintained, to increase the ignominy (“Jesus Christ did not want to be killed without the forms of justice, because it is much more ignominious to die justly than through an unjust sedition,” Pascal, §790) or for some other reason, it is certain that he did not want to escape judgment.

II.

The judgment at which Pilate officiates [*celebra*] is not, however, properly a judgment. Historians of law

have attempted to examine the trial of Jesus from the point of view of Roman law. It is not surprising that the conclusions are not unanimous. If the trial, as a great jurist, Salvatore Satta, has written, is a “mystery,” here the ambiguities of this mystery come to light with an exceptional obviousness. All the scholars converge on the competence of the Roman procurator to judge a crime that calls the security of Rome into question and on the applicability of the *lex Julia*. Pilate, as two passages of Flavius Josephus seem to attest, was moreover invested with the *ius gladii*, that is the right to inflict capital punishment, which the Jews demanded against Jesus.

Opinions diverge, however, as to the regularity of the trial. According to some, not one of the procedural formalities was observed: neither the inscription and determination of the accusation nor the verification of the facts nor the pronouncement of a clear sentence of conviction. From the point of view of law, “Jesus of Nazareth was not condemned, but murdered: his sacrifice was not an injustice, but a homicide” (Rosaldi, 407–8). Someone else has objected that Roman law applied solely to Roman citizens and that, over a noncitizen like Jesus, the procurator exercised not *iurisdictio* but simple *coercitio*, all the more so in the provinces, where the clear distinction between ordinary procedure and *cognitio extra ordinem*, which

did not have to respect the formal norms of the trial, disappeared (Romano, 313–14).

A first-rate expert in the two juridical traditions, both Jewish and Roman, has observed that the difficulty of delineating a coherent picture of the unfolding of the trial derives from the fact that the scholars seek to fit together the evangelists' accounts procedurally, while each of them most likely followed a different presentation of the passion for theological ends (Bickerman, 228–29). It is probably due to a defect in perspective of this kind that a historian of Roman law of undoubted competence, Pietro De Francisci, believed he was able to exclude the correctness of Jesus's trial. He has recalled the existence of norms that entail that the magistrate not allow himself to be influenced by *voces populi* and in fact to punish vigorously those who organized a seditious uprising, as by all indications not Jesus but the Sanhedrin had done. Pilate, through lack of courage, had thus "disregarded the norms of law that it was his duty to apply; he had abdicated his own authority by not repressing the subversive mob; and he had turned his back on justice by abandoning a man, whom he maintained to be innocent, to the preordained vengeance of his declared enemies" (De Francisci, 25).

(Dante must have come to an analogous conclusion when, in *Inferno* III, 60–61, he evokes Pilate, with-

out naming him, among the indolent—if it is true, according to the profound intuition of Pascoli, that in “the coward spirit of the man who made the great refusal” one should see not Celestine V, but Pilate, who through indolence renounced the exercise of his authority as judge.)

12.

The ambiguity inherent in every interpretation of sacred texts here appears with full clarity. Should the Gospels be considered historical documents, or is what is in question in them above all a genuinely theological problem? Already a pagan observer, Porphyry, had observed that “the evangelists are inventors (*epheurotas*) and not historians (*historas*, ‘witnesses’) of the events concerning Jesus. Each of them in fact writes in disagreement and not in agreement with the others, above all as regards the account of the passion” (Bickerman, 231).

With respect to Pilate as well, the interpreters pass without interruption from one level to the other, from historical character [*personaggio*] to theological “persona,” from juridical hermeneutics to the economy of salvation, from a nominal empty shell to the abysses of psychology. Thus one level is used to interpret the other, and cowardice, indolence, and envy explain

the hesitations, errors, and yieldings that, on the level of the providential economy, have no meaning. One author can thus evoke, with regard to Pilate's imprudent discussions with the Sanhedrin, "the unpardonable tactical error that has driven Pilate into a situation from which he cannot escape" (Blinzler, 283), and another can observe that we do not understand for what reasons Pilate did not have recourse, as was provided by the Roman procedure, to an adjournment of the trial.

The hermeneutical canon that we will maintain is, rather, that only as historical character does Pilate carry out his theological function and, vice versa, that he is a historical character only insofar as he carries out his theological function. Historical character [*personaggio*] and theological persona, juridical trial and eschatological crisis coincide without remainder and only in this coincidence, only in their "falling together" do they find their truth.

13.

It is precisely at this point, however, that everything becomes complicated. In the final scene of the trial, the conventional translation reads: "Pilate led Jesus outside and sat on the judge's bench (*ekathisen epi tou bēmatos*; Vulgate: *sedit pro tribunali*)" (John

19:13). But an exegetical tradition that draws its authority from Justin (*Apology* 1, XXXV, 6) and, among modern authors, from Harnack and Dibelius, understands *ekathisen* in a transitive sense: “He led Jesus outside and sat him on the judge’s bench.” In the same sense the *Evangelium Petri* (3:7) relates that “the Jews dressed him again in purple and sat him on the judge’s bench (*ekathisan auton epi tou bēmatos kriseōs*), crying, ‘Judge justly, O King of Israel (*dikaios krinē, basileu tou Israel*)’” (Elliott, 155). The objection according to which, in order to have a transitive meaning, the verb would have to have an object complement (*auton*) fails, if one considers that *ekathisen* can be referred without difficulty to the “Jesus (*Iesoun*)” that immediately precedes it. And that Jesus was made to sit on the *bēma* accords with the narratives of Mark and Matthew, according to which, immediately before the crucifixion Jesus was dressed in a purple robe and, holding a reed for a scepter, is hailed as king of the Jews. In Justin as well, the Jews, after having made Jesus sit on the *bēma*, scornfully invite him to exercise the function of judge that belongs to a king: “Judge!” And that Pilate does not sit on the bench is completely coherent with the fact that he does not give a verdict but limits himself to “handing over” Jesus. If this is true, then not only—as Bickerman has noted—would the debate in the five preceding hours not have the value of a trial

judgment, but neither would what happens in the sixth hour.

Here two judgments and two kingdoms truly stand before one another without managing to come to a conclusion. It is not at all clear who judges whom, whether it is the judge legally invested with earthly power or the one who is made a judge through scorn, who represents the kingdom that is not from this world. It is possible, in fact, that neither of the two truly pronounces a judgment.

14.

That Jesus would not judge is completely coherent not only with his position as the accused but also with his words. The radical critique of every judgment is an essential part of Jesus's teaching: "Do not judge (*mē krinetē*), so that you may not be judged" (Matthew 7:1), to which the words of Paul in the Letter to the Romans give echo (14:3): "Do not judge (*mē krinetō*)!" Nowhere as in the Gospel of John itself is the theological foundation of this prohibition affirmed with such clarity: "God did not send the Son into the world to judge (*hina krinē*) the world, but to save it (*hina sōthē*)" (John 3:17). The warning "Do not judge!" (repeated in John 3:18, "those who believe in him do not judge") finds its rationale here: the eternal does not want to

judge the world but to save it; at least until the end of time judgment and salvation mutually exclude one another.

If this is true, why must the one who does not judge be submitted to the judgment of a judge, the eternal kingdom be “handed over” to the judgment of the earthly kingdom?

15.

Dante names Pilate in *De monarchia* (II.13). He does so in order to reconcile the divine level of salvation with the judgment of the representative of Caesar, the spiritual kingdom of Christ with the temporal kingdom of Rome. His argumentation must, for this reason, affirm the legitimacy, both juridical and theological, of Pilate’s judgment. “If the Roman Empire was not legitimate,” he writes, “the sin of Adam was not punished in Christ.” For humanity to be ransomed from sin, that is to say, it was necessary that Christ be submitted to judgment and punished by a judge who had legitimate jurisdiction over the entire human race:

Let it be understood that punishment is not simply penalty visited upon the doer of wrong, but penalty visited upon the doer of wrong by one having penal jurisdiction. Wherefore unless punishment is inflicted by a lawful

judge (*ab ordinario iudice*), it is no punishment; rather must it be called a wrong. . . . If therefore Christ did not suffer under a lawful judge, his penalty was not punishment. Lawful judge meant in that case one having jurisdiction over the entire human race, since all humanity was punished in the flesh of Christ, who, as the Prophet says, "has borne our griefs and carried our sorrows." And Tiberius Caesar, whose vicar was Pilate, would not have possessed jurisdiction over the entire human race had not the Roman Empire been legitimate (*de iure*).

Dante here indissolubly links the realization of the economy of salvation to the legitimacy of Pilate's judgment, insofar as he is a representative of the Roman Empire. Christ's crucifixion is not a simple "penalty," but a "legitimate punishment (*punitio*)," inflicted by an ordinary judge who, as representative of Caesar, had jurisdiction over the entire human race, which could be ransomed from sin only in this way.

16.

It thus appears to be sufficiently proven that Jesus had to be submitted to Pilate's judgment. For Dante, by all appearances, it is a matter of a theological-political thesis, which is to legitimate the empire with respect to the Church. The Roman Empire is inscribed into the divine level of salvation, but it is inscribed there precisely insofar as it is autonomous

and acts as such. History takes part in the economy of salvation but takes part in it as a reality in all respects and not as a puppet show. For this reason Pilate is not only an *executor Novi Testamenti* but a historical actor with all his ineliminable contradictions.

These contradictions are not, however, only of a psychological order. In them a more profound contrast comes to light, which concerns the antithesis of economy and history, of temporal and eternal, of justice and salvation, that Dante's doctrine seeks in vain to reconcile. Pilate *is* this contradiction. And Christ, insofar as the word in him has been made flesh, is this contradiction par excellence. But through the disputes that, in the fifth and sixth centuries, profoundly divided the Church by opposing monophysites and diphysites, theologians succeeded—or believed they had succeeded—in resolving the contradiction thanks to the doctrine of two natures and two wills, divine and human, distinct and at the same time hypostatically united in one person.

Pilate does not have this privilege; in his confrontation with the Eternal he has only human nature. He is merely human. He does not have, like Christ, two wills, thanks to which he can say, "Let this cup pass from me," and at the same time, "Not what I want, but what you want" (Matthew 26:39); he has only one, with which he seeks, in his way, justice and truth.

17.

The doctrine of the two wills, if transferred onto the level of ethics, includes an element of hypocrisy. A subject who has two wills, with one of which he pretends to justify what he wants or what he does with the other, immediately leaves the sphere of ethics. When Jesus tells Pilate that he has come into the world to testify to the truth, he certainly does not mean to say that he has two natures and two wills, one of which—the human—bears witness to the other—the divine (or vice versa). The task would then be much too simple. Even if one accepts the dogma of the two natures and two wills, it can only mean that the one cannot invoke the other to affirm or justify itself. While Jesus is human, he is merely human, exactly like Pilate. For this reason his testimony is paradoxical: he must testify *in* this world that his kingdom is not from this world—not that he is *here* a simple human being but *elsewhere* is a God.

Jesus's affirmation on the testimony of truth has often been considered enigmatic or in any case something that Pilate could not understand. The phrase, if restored to its context, in reality has nothing enigmatic about it. Jesus finds himself in a trial before a judge who is interrogating him, and testifying to the truth is what one would expect from every accused and every

witness. Immediately after the episode of the adulteress (whom Jesus refuses to condemn), speaking to the Jews who objected to him: “You are testifying on your own behalf; your testimony is not true (*hē martyria sou ouk estin alēthēs*),” he had after all replied:

“Even if I testify on my own behalf, my testimony is true because I know from whence (*pothen*) I come and where (*pou*) I am going. You judge according to the flesh; I judge no one (*egō ou krinō oudena*).” (John 8:13–15)

Now he finds himself before a judgment, that is, in the place best suited to prove the truth of his testimony. Yet what is enigmatic and arduous is not the testimony in itself but the truth to which he must testify, namely the paradoxical fact that he has a kingdom but that it is not “from here.” He must attest *in history and in time* to the presence of an extrahistorical and eternal reality. How can one testify to the presence of a kingdom that is not “from here”?

18.

In his polemic against Martensen, who in his eulogy had defined Bishop Mynster as a “witness to the truth,” Kierkegaard explains what he means by “testifying to the truth.” Referring to the letter of the Gospel text, he writes that “a witness to the truth, one of the authentic witnesses to the truth, is a man who

is flogged, mistreated, dragged from one prison to another . . . then finally he is crucified or beheaded or burned or broiled on a grill, his lifeless body thrown in some out-of-the-way place by the executioner's assistant, unburied" (qtd. in Garff, 732). But it is in the short speech "On the Difference Between a Genius and an Apostle" that Kierkegaard truly tries to think what constitutes the authority of a testimony. This has nothing profound or ingenious about it, nor can it furnish proof from itself, because it would be nonsense "to demand *physical* certainty that God exists" (Kierkegaard, 98). The authority of a word does not depend on its semantic content, which everyone can repeat exactly, but on the place of its enunciation, which must be elsewhere: "Authority is that specific quality that enters from somewhere else and qualitatively asserts itself precisely when the content of the statement or act is made a matter of indifference" (ibid.).

Even Kierkegaard does not manage here to get to the bottom of the contradiction between human and divine, historical and eternal. His thesis is, in fact, both false and true. False, because it affirms that the content is indifferent, while the testimony to truth is, precisely to the contrary, what exhibits *eo ipso* the truth of what it says. True, because precisely this singular self-evidence causes testimony to

shoot out beyond the level of facts; this constitutes its special authority and, at the same time, its weakness.

19.

Pilate and Jesus, the vicar of the worldly kingdom and the celestial king, stand before one another in the same, unique place, the praetorium in Jerusalem, the same one of which archaeologists have believed they could identify the improbable site. To testify to the truth, Jesus must affirm and, at the same time, deny his kingdom, which is far away (“it is not from this world”) and, at the same time, the very closest, indeed, at hand (*entos humōn*; Luke 17:21). From the point of view of law his testimony can only fail and end in a farce: the purple robe, the crown of thorns, the reed for a scepter, the screaming: “Judge!” He—who has not come to judge the world but to save it—finds himself, perhaps precisely for this reason, having to respond in a trial, to submit to a judgment, which his *alter ego*, Pilate, in the end will not pronounce, cannot pronounce. Justice and salvation cannot be reconciled; every time, they return to mutually excluding and calling for each other. Judgment is implacable and at the same time impossible, because in it things appear as lost and unsavable; salvation is merciful and

nevertheless ineffective, because in it things appear as unjudgable. For this reason, on the “Stone Pavement” called Gabbatha in Hebrew, neither judgment nor salvation—at least as far as Pilate is concerned—take place: they end up in a common, indecisive, and undecidable *non liquet*.

To testify, here and now, to the truth of the kingdom that is not here means accepting that what we want to save will judge us. This is because the world, in its fallenness, does not want salvation but justice. And it wants it precisely because it is not asking to be saved. As unsavable, creatures judge the eternal: this is the paradox that in the end, before Pilate, cuts Jesus short. Here is the cross; here is history.

Glosses

8. The crossing between the temporal and the eternal has assumed the form of a trial, but of a trial that does not conclude with a judgment. Jesus, whose kingdom is not from this world, has accepted being submitted to the judgment of a judge, Pilate, who refuses to judge him. The debate—if it is a matter of a debate—lasted six hours, but the judge in the end did not pronounce his sentence, simply “handed over” the accused to the Sanhedrin and the executioner.

On the fact that a sentence was not pronounced, the narrative of the Gospels does not seem to leave any doubt. Matthew (27:26), Mark (15:15, 19:16), and John speak unanimously only of a “handing over.” The formula is identical in all three cases—*paredōken*, “handed over.” The verb *epikrinō*, which appears in Luke 23:24, is never used in a trial-related sense and means simply that Pilate “judged it opportune to

accede to their demand (*epekrinen genesthai to aitēma autōn*; Vulgate: *adiudicavit fieri petitionem eorum*); immediately after, the formula is once again the same: “He handed over (*paredōken*) Jesus to their will” (23:25), where the will is therefore that of the Sanhedrin and not his own, which has not been expressed. Among ancient commentators, only Augustine seems to notice the curious conciseness of the formula “handed over,” and by doing violence to the text, he seeks to interpret it as if it implied a judgment on the part of Pilate: “It was not said: ‘He handed him over to them so that they may crucify him,’ but ‘so that he may be crucified (*ut crucifigeretur*),’ that is, that he might be crucified by the judicial sentence and power of the governor. But it is for this reason that the evangelist has said that he was delivered to them, that he might show that they were implicated in the crime from which they tried to hold themselves aloof; for Pilate would have done no such thing, save to implement what he perceived to be their fixed desire” (116.9). It is superfluous to observe that the passive “that he may be crucified” does not permit any inference either with respect to a judgment on the part of Pilate or about the identity of the responsible parties.

The traditional interpretation of Jesus’s trial must thus be revised. A trial—even if, perhaps, in the irregular forms of the *cognitio extra ordinem*—has taken

place, but the judge has not handed down a sentence; there has not been any judgment in a technical sense.

But what is a trial without a judgment? The trial, jurists remind us, is always and only *processus iudicii*; it coincides with the judgment, with the *krisis* in which it is necessarily resolved. “The judgment,” a great scholar of trial law has written, “is not a goal external to the trial, because the trial is nothing other than a judgment and a formation of a judgment.” A trial without judgment is therefore a contradiction in terms. This is so true that modern codes of law, beginning with article 4 of the *Code Napoléon* (“The judge who shall refuse to judge under pretext of the silence, obscurity, or insufficiency of the law, shall be liable to be proceeded against as guilty of a refusal of justice”), unanimously confirm the obligation of the judge to pronounce a judgment.

✱ The trial of Jesus is thus not properly a trial but something that remains for us to define and for which it is likely that we will not manage to find a name. The awkwardness is the same as far as the crucifixion is concerned. If there cannot be a trial without judgment, even less can there be, without judgment, a punishment (*nulla poena sine iudicio*). Dante’s argument in the *De monarchia*—according to which it was necessary that Christ submit himself to Pilate’s judgment,

because otherwise, without the judgment of a legitimate judge, his punishment would not have been a penalty but a crime—seems to waver here. If Pascoli's hypothesis that recognizes Pilate in "the coward spirit of the man who made the great refusal" (*Inferno* III, 60–61) is correct, this would mean that, in the *Divine Comedy*, Dante has changed his opinion on the trial of Jesus, which is plausible (according to the majority of scholars, the *De monarchia* was written years before the *Divine Comedy*). Pilate refused, through cowardice or for some other reason, to exercise judgment and hence the crucifixion that follows, though provided by law for the crime of *lèse majesté*, is not technically a punishment. In the Roman trial formulas *condemnatio* was the part of the formula in which, on the basis of the trial results—*si paret, condemnato; si non paret, absolvito* ("if it appears, he is condemned; if it does not appear, he is absolved")—the judge was given the faculty of condemning or absolving, but the term ends up becoming synonymous with *damnatio*, "penal conviction." Here, however, "nothing appears": after a trial without a judgment there follows a capital punishment without a conviction.

There has been, however, a "handing over," and although the text says clearly that the consignees were the Jews, it seems, at least in Matthew, that the ones to execute the sentence were Roman soldiers ("the

soldiers of the prefect” [Matthew 27:27]; it is possible, however, that they had only been lent to the Sanhedrin); significantly, in Luke there is not a word about the soldiers. As there had been a semblance of a trial, so what follows is presented, at least in appearance, as the execution of a *capitis damnatio*, of a capital punishment.

Even Pascal’s quite apt affirmation, according to which Jesus wanted to be killed according to the forms of justice because it is the most ignominious death, is here proven wrong. Even more ignominious is death by means of a trial without any judgment. And this is the death that Jesus has chosen. Just as shameful is the death that will befall the protagonist of Kafka’s *Trial*—a book that is not without relationship with the narrative of the Gospels: here as well the capital punishment does not follow on a sentence of conviction, and, for this reason, while the executioner’s knife is penetrating into Joseph K.’s heart, “it seemed as though his shame was to outlive him” (Kafka, 231).

✠ That there is a trial but not a judgment is, in reality, the most severe objection that can be raised against the juridical order, if it is true that the juridical order is in the last instance trial and the latter is, in its essence, judgment. The one who has come to fulfill the law, who has been sent into the world not to judge

it but to save it, must submit himself to a trial without judgment.

It is possible that Paul, when he elaborates his critique of the law in the Letter to the Romans, may be aware of narratives of Jesus's trial that are later brought together in the Gospels. His peremptory thesis—no one can be justified through the law but only through faith—corresponds point by point with the fact that Jesus could not actually be judged. Just as the law cannot justify anyone, so also can it judge no one. And Jesus clearly affirms as much in John 3:18–19:

Those who believe in him are not judged (*ou krinetai*); but those who do not believe are already judged (*kekritai*). . . . And this is the judgment, that the light has come into the world and people loved darkness rather than light.

There can truly be no judgment, because it has always already happened. *Autē de estin hē krisis*: this, and nothing else is, in the eyes of Jesus, the judgment. The trial of Jesus—every trial—begins when judgment has already happened. The judge can only hand the accused over to the executioner; he cannot judge him.

✠ In 1949 Salvatore Satta published a study, *The Mystery of the Trial*, which is perhaps the most acute reflection that a jurist has ever carried out on his

own material. It is entirely misleading, he writes, to assert that the trial has as its goal the fulfillment of law, justice, or truth: if this were true, one could not comprehend the *force of judgment* that belongs to a sentence independently of its being just or unjust. If one wants to assign a goal to the trial, this can be nothing other than the judgment. The pronouncement of a judgment, the *res iudicata*, with which the sentence is substituted for truth and justice, is the ultimate end of the trial. But the judgment, as we have seen, is not a goal external to the trial: it coincides entirely with its implacable unfolding, which is thus in a certain way an act without goal. And this, according to Satta, is the “mystery” of the trial, which is the mystery of life itself, which proceeds and unfolds without goal and without pause, until in an instant it comes to a standstill in order to be submitted to judgment:

For this moment of arrest is precisely judgment: an act, therefore, contrary to the economy of life, which is all movement, all will, and all action, an antihuman, inhuman act, an act that is truly—if one considers it properly, in its essence—without goal. Humans have intuited the divine nature of this act without goal and they have handed their whole existence over to its power. More than that, they have constructed their whole existence on this unique act. According to our creed, when life is finished, when action is concluded, One will come, not

to punish, not to reward, but to judge: *qui venturus est iudicare vivos et mortuos*. (Satta, 25)

It is this conception of judgment that the trial of Jesus calls into question—because in it the mystery of judgment and the mystery of life just barely touch, and then they are separated forever.

✠. *Mystery* originally does not mean “secret and inflexible doctrine” but “sacred drama.” The Eleusian mystery was a dramatic action, a sort of pantomime accompanied by songs and formulas that represented the history of the abduction of Kore, her descent into the underworld, and her return to the earth at spring-time. Those who attended there felt that a human experience had been made the vehicle of a divine happening, that their life itself had become, for this reason, a mystery.

The trial that unfolds before Pilate in the praetorium of Jerusalem is, in this sense, a mystery. And nevertheless, the divine and the human, the temporal and the eternal, which here encounter one another, are not superimposed on one another as at Eleusis, but remain tenaciously separate. Hence the anguished hesitation of Pilate; hence the impassible gentleness of Jesus. Judgment and salvation remain up to the end unrelated and incommunicable. There remains the drama, the quasi-theatrical action with its “inside” and

“outside,” its labored and interrupted dialogues, its cruel remarks, its ineffective haste toward an outcome that is lethal but that remains unresolved. Here there is never anything like an Archimedean point beyond life that allows it to be arrested. Perhaps for this reason what the Latins called *actio* or *causa* over time takes on a name that designates a continuous and implacable course, an incessant passing and progress through time (*processus morbi* is the development of a disease). But that in which the “process” is supposed to result—the definitive “crisis,” the judgment—has disappeared. Unless the judgment coincides with the unarrestable course—unless, that is to say, the trial is not dissolved into judgment but judgment into the trial.

✠. Why must the decisive event of history—the passion of Christ and the redemption of humanity—take the form of a trial? Why must Jesus deal with the law and contend with Pilate—the vicar of Caesar—in a struggle that he ultimately does not seem to bring to a conclusion? Dante sought to answer this question, and not evasively, in the *De monarchia*, even if what he was concerned with above all was the legitimation of the Roman Empire. He interprets the notorious line in Luke 2:1 on the census at the time of Jesus’s birth (“In those days a decree went out from Caesar Augustus that all the world should be registered”)

as the recognition that the jurisdiction of Rome over the world corresponded to the divine judgment (*de divino iudicio prevaluit* [*De monarchia* II.8]). Christ, he argues, wanted to be born and have himself registered under Caesar's edict because in this way his humanity would be sanctioned with the seal of the law:

Now Christ willed to be born of a Virgin Mother under an edict of Roman authority, according to the testimony of Luke, his scribe, in order that the Son of Man, made man, might be numbered as a man (*homo conscriberetur*). . . . It would perhaps be more reverent to believe that the divine will caused the edict to go forth through Caesar, in order that God might number himself among the society of mortals who had for so many ages awaited his coming. (*De monarchia* II.12)

Dante here again takes up the idea of a parallelism between the universality of the Roman Empire and the incarnation of the one God, the census of Augustus and the birth of Christ, which had already been elaborated starting from Eusebius, John Chrysostom, Jerome, and Ambrose and is found clearly expressed in the historical work of Orosius. What was in question was the theological justification of imperial power and of the alliance that the Church had concluded with it. For this reason, as well, the name of Pilate was included in the Constantinopolitan *Symbolon*.

If Pilate, however, has not handed down a legitimate judgment, the encounter between the vicar of Caesar and Jesus, between the human law and the divine, between the earthly and celestial cities, loses its *raison d'être* and becomes an enigma. At the same time, every possibility of a Christian political theology or of a theological justification of profane power turns out to fail. The juridical order does not allow itself to be inscribed so clearly into the order of salvation nor the latter into the former. Pilate, with his irresoluteness—like the Baroque sovereign according to Benjamin, who is incapable of deciding—has forever divided the two orders—or at least rendered their relationship unfathomable. In this way he has condemned humanity to an incessant *krisis*—incessant because it can never be decided once and for all.

8. The insolubility implicit in the collision between the two worlds, between Pilate and Jesus, is attested in the two key ideas of modernity: that history is a “process” or “trial” [*processò*] and that this process or trial, insofar as it does not conclude in a judgment, is in a state of permanent crisis. In this sense the trial of Jesus is an allegory of our time that, like every historical epoch with respect to itself, should have the eschatological form of a *novissima dies* but has been deprived of this by the tacit, progressive exhaustion of the

dogma of the Universal Judgment, which the Church no longer wants to hear about. In the medical tradition as much as in the theological tradition, which have come together in the modern meaning of the term, the term *krisis* is inseparable from the connection to a determinate moment of time: the “decisive days (*krisimoi hemerai, dies decretorii*)” in which the doctor “judged” whether the sick person will survive, and the last day that coincides with the end of time or of what must be judged. As Aquinas writes:

Judgment belongs to the term, wherein things are brought to their end. . . . Judgment cannot be passed perfectly upon any changeable subject before its consummation. . . . Hence, there must be a final judgment at the last day, in which everything concerning every person in every respect shall be perfectly and publicly judged. (*Summa theologiae*, Supplement, q. 88, art. 1; and III, q. 59, art. 5).

Like trauma in psychoanalysis, crisis, which has been removed from its terrifying place, reappears in pathological forms in every sphere and at every moment. It is separated from its “decisive day” and transformed into a permanent condition. Consequently, the faculty of deciding once and for all disappears and the incessant decision properly decides on nothing. Or else, as happened to Pilate, it suddenly reverses into catastrophe. The indecisive one—Pilate—keeps on deciding; the decisive one—Jesus—has no decision to make.

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Where translations are available, works are cited according to the page number of the original text, followed by the page number of the translation, or else by a standard textual division that is consistent across translations and editions. Where no English translation is given, the translations are my own. Translations are frequently altered to conform to Agamben's usage.

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