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***Kairós* and *Clinamen*: Revolutionary Politics and the Common Good**

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Abstract This article sets out to offer a new reconceptualisation of the common good as the mechanism providing the temporal coordinates for revolutionary politics. The first section investigates the pairing of commonality and goodness, revealing its nature as a synthesis of apparently irreconcilable opposites. The second section examines how this irreconcilability is overcome, advancing the argument that to heal the divide, a double movement of definition and concealment is necessary, whereby the process of definition of what constitutes the common good is accompanied by an expropriation, or hollowing out, of meaning. The third section offers a proposal for overcoming this epistemological impasse about the nature of the common good, by contrasting *chronos* and *kairós*, chronological time and what in English can be translated as 'opportune time', and offering *kairós* as the chance to create, within the fissures of the totalitarianism of chronological time, the *timescape* for revolutionary politics. This proposal is carried on in the second part of this article, starting with '*Chronos and Kairós*' section, where the concept of *kairós* is expanded upon and coupled with the Epicurean and Lucretian idea of the *clinamen*, the swerve of the atoms that introduces the element of chance against Democritean determinism. With the support of Antonio Negri's reading of *kairós* and *clinamen*, the article argues in '*Alma Venus: Love, Desire and Revolution*' section that these two concepts provide the spatial and temporal coordinates for revolutionary politics, in tension and critical engagement with Ackerman's idea of constitutional moments, to conclude in '*Conclusions: Kairós and Revolutionary Politics*' section, that the common good is to be defined as that which takes place and is identified/identifiable within these coordinates.

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Dipinte in queste rive
son dell'umana gente
le *magnifiche sorti e progressive*.¹

Introduction

The idea of the common good has been around for a long time, and as all ancient objects, it has assumed an almost naturalised status, a feature of our intellectual landscape. As such, debates about the common good tend to be internal discussions about its content rather than challenges to its existence. This article sets itself the difficult task of re-politicising what has been effectively depoliticised in this process of naturalisation, of making again contingent the very essence of what is at stake in any discussion about the common good. In order to do this, the article starts with a stripping down, 'denaturalisation' process of excavation of the terms. As part of this process, the first section will investigate the pairing of commonality and goodness, in order to reveal it as a synthesis of apparently irreconcilable opposites, as a signifier and example of several distinctions that are introduced in the article—common good/common goods; spatiality/temporality; democracy/market, etc.—and as providing a key to interpretation of those pairings. The second section examines how this apparent irreconcilability is overcome, advancing the argument that to heal the divide between commonality and goodness, a double movement of definition and concealment is necessary—definition of what is good, concealment of the inherent conflictuality of the process of definition, which goes against any possibility of commonality—and that this double movement is only possible if the appropriation of value, in the process of definition of what constitutes the common good, is accompanied by an expropriation, or hollowing out, of meaning. It is also argued that this process is very firmly *spatially* situated, in the first instance as one to take place in the market, the locus providing the coordinates for any contestation.² The third section opens with a modest proposal for overcoming this epistemological impasse about the nature of the common good. In order to do so, the pairing of *chronos* and *kairós*, chronological time and what in English can be translated as 'opportune time', is proposed.³ Against the

¹ 'Charactered in these shores/we may behold mankind's *magnificent and progressive destinies*' from Giacomo Leopardi's 'The Broom, or the Flower of the Wilderness' (Singh 1990, p. 321). Of Leopardi, Schopenhauer said: 'But no-one has treated this subject [the misery of our existence] as thoroughly and exhaustively. He is entirely imbued and penetrated with it; everywhere his theme is the mockery and wretchedness of this existence.' (Schopenhauer 1958, vol II, p. 588).

² With reference to Hayek's argument about competition in markets as an epistemological tool of discovery precisely in function, or better a replacement, of the common good (Hayek 1944).

³ This article has a long history and when I started writing, I could find little on these two crucial chronological categories to situate the space for political action, especially on *kairós* in its non-theological acceptance (for which see Tillich 1936). Since then, Kimberly Hutchings's contribution (Hutchings 2008) has been published, to which the reader is directed for a much more in-depth and comprehensive analysis of these concepts in the development of world-political time.

all-encompassing power of capitalism to make everything into its image while lending its powers of reproduction to the goods themselves, as a modern-day *Alma Venus* of Lucretian memory,⁴ against the power of law to reach into the future, *kairós* is presented as the chance to create, within the fissures of the totalitarianism of chronological time, the space—the *timescape*—for political action.⁵ In this way, the value of political and indeed revolutionary action as a meta-value, and a common good, is reaffirmed. This proposal is carried on in the second part of this article, starting with ‘*Chronos and Kairós*’ section. Here, the concept of *kairós* is expanded upon and coupled with the Epicurean and Lucretian idea of the *clinamen*, the swerve of the atoms that introduces the element of chance, and therefore freedom, against Democritean determinism. With the support of Antonio Negri’s reading of *kairós* and *clinamen*, the article moves on to propose that these two concepts provide the spatial and temporal coordinates for revolutionary politics. In the ‘*Alma Venus: Love, Desire and Revolution*’ section, an attempt is made to better define what revolutionary politics are, in tension and critical engagement with Ackerman’s idea of constitutional moments and the kind of politics that takes place in such moments, to argue, finally, in ‘*Conclusions: Kairós and Revolutionary Politics*’ section, that the common good is to be defined as that which takes place and is identified/identifiable within these coordinates.

Commonality and Goodness

The common good as a philosophical concept, social ideal or political slogan resists easy definitions and generalisations. Over time, several competing accounts of the common good have been developed, from the Aristotelian ideal of the people pursuing the common good of all in a community of equals (Aristotle 1990, Book III) to utilitarian conceptions of maximisation of happiness for the greatest number of people (Bentham 1907) to the Rawlsian concept of the common good as ‘certain general conditions that are...equally to everyone’s advantage’ (Rawls 1971, p. 217). This article intends to strip back the concept to its constituent parts, as a first step towards its reconceptualisation as a temporally open binary association of dissonant ideas. The adjective ‘common’ has amongst its meanings the one which seems most apposite here of ‘belonging to or affecting the whole of a community’, with a significant overlap between ‘common’ and ‘community’. That is to say, a community is defined by the fact of sharing something, which is said to be common insofar as it belongs or affects the whole of a community. ‘Common’, as a noun and an adjective, refers both to something of an undifferentiated nature as well as denoting something that allows the distinction

⁴ The conceptual value of the *Alma Venus* will be analysed in more detail in the ‘*Alma Venus: Love, Desire and Revolution*’ section, including its ‘revolutionary’ facet. Here it is only intended to convey the feeling, as expressed in the *incipit* of the *De rerum natura* (On the Nature of Things), Lucretius’ major poetic work and compendium of his Epicurean philosophy, of nature’s awesome and totalising powers of reproduction as a metaphor of capitalism’s equally totalising powers (Lucretius 2008).

⁵ I am using this term simply to refer to a landscape of time, with no necessary implications as to the multidimensionality of time, quite apart from the discussion of the binary distinction between *chronos* and *kairós*.

between those who are in, and share in a commonality (of values, culture, ideas), and those who are out, and do not share such commonality, or are not affected by it. The drawing of this distinction, between those who belong to a community and those who do not, is accompanied by an equally drawn distinction between what the community considers to be good or not. If common is what belongs or affects a community, what definition of the good can truly belong to the whole of the community? Defining what is good inevitably creates a fissure, where members of that community find themselves in disagreement on what constitutes the good. This pairing then reveals a first paradox, or *aporia*, where the adjective, 'common', contains the idea of something of a universal or undifferentiated nature, and the noun, 'good' (because in this pairing good is to be taken as the noun), refers to what can only be evinced through a qualitative judgment, in an intrinsically political exercise of attribution of value. But I have already noted that to the extent that common refers to a community, there has already been a separation, a differentiation, necessary in order to recognise a community as such. Now, if a community can be said to be a *polis*, or more specifically a political community, it can be said to be so only if its members disagree on the common good. So there is a double differentiation, at the level of commonality—at the existential level itself—and at the level of goodness—more properly defined as political, or contingent. The ensuing conflict at the level of contingency is also an existential conflict, creating a community that is a *polis*, and in turn introduces a second order distinction between those who support one conception of the good and those who oppose it. The winners in this conflict will be in, the losers will be out; even if the first order distinction put both groups within the community, the second order, political, distinction divides the group and creates exclusions within the inclusion. The distinction between contingent and existential conflict, as well as first and second order distinction, is in itself contingent; in other words, the risk that the conflict quotient will make the coalescing of a community impossible is ever present, so that the contingent political conflict around the definition of the common good is always open to the risk of transformation into an existential conflict on the very existence of the *polis*.

If both commonality and goodness presuppose an inside and an outside, it is legitimate to ask if these spaces overlap or are to be seen in opposition to each other. It might seem that what is common is bound to precede what is good, to the extent that a community defines itself according to more than its values. There is a certain haphazard, incidental nature to the making of a community, and a lot of retroactive work in community-making exercises of a mythopoeic nature. Many of these exercises are precisely attempts at a definition of a common nature by exclusion of difference. However, even if one posits that the making of a community precedes its definition through entrenching of common good values, there is a double movement nonetheless: as soon as a community defines itself, it starts defining its values, and then this definition becomes part of what it means to be in that community.

At the meta-level of definition of the common good, the double movement characterises a community as 'democratic' if a positive value is conferred to the very process of definition. Conversely, a non-democratic community is recognisable not only because the definition of what is good is imposed, or because community belonging is

restricted according to unjustifiably discriminatory criteria,⁶ but also because at this meta-level, no positive value is assigned to the process of definition itself.⁷

But we need to move one extra step: I have posited that there is an inherent tension between commonality and goodness: a community cannot easily hold together once the issue of definition of what is good is introduced, no matter how tightly that community is organised, and this tension is inversely proportional to the democratic index of that community: in other words, the more democratic the community, the less it is likely to coalesce around a single definition of the common good, unless the community is defined by its agreement on such a definition (a community of values, as it were). The only possible commonality in a democratic community can happen at the meta-level of the process of definition itself: the community can agree that there is an inherent goodness in being able to define what is good for itself, but the result of this process will be the emergence of different and competing definitions of the good, which have the potential of disintegrating the very community that expressed them. Madison, in his *Federalist Paper No. 10* (Madison 2008, p. 50), acknowledges the disintegrating power of competing claims to the common good:

A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; ... have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to cooperate for their common good.

Since disagreements on the definition of the common good are inherently political acts, and since the only agreement can be found at the meta-level, the political inevitably seeps into this meta-level. As in other areas of human interaction, politics is *the field* and *in the field* at the same time. But it is my argument that a double movement of expropriation and appropriation deprives the political of its main thrust, which is the capacity to use conflict in a productive way; further, I advance the argument that the *marketisation* of politics as normally intended, i.e. the collapse of politics unto market preferences, is better suited to explain how this is so *in the field* of politics, but not necessarily, or not only, at the meta-level, where politics or, better, the political,⁸ is *the field*.

Appropriation and Expropriation

If politics is about conflict, it is also about conflicts of attribution of meaning. We arrived, in the previous section, at the inherent tension between the apolitical

⁶ This definition might seem excessively simple and generalised, but for the sake of convenience it is adopted here as a 'rough and ready' distinction between, let us say, a theocratic or ethnically cleansed state and a multi-cultural democratic one.

⁷ Again, these seem to be uncontroversial assumptions on the value of democracy as process rather than as result.

⁸ This distinction might appear a bit awkward in English which, as often, does not distinguish semantically between the abstract and the concrete, or the general and the particular as, for example, French or Italian would.

character of 'common' in the sense of 'undifferentiated', and the intrinsic political nature of 'good', insofar as this term can be defined only as an outcome of an evaluative process, fraught with subjectivity and imbued with values and standards of judgment. The distinction between common-as-apolitical and good-as-political can be reversed, as commonality presupposes exclusion and therefore potentially conflict. If one distinguishes between exogenous and endogenous conflicts, the first order distinction between insiders and outsiders will typically give rise to exogenous conflicts, while the second order distinction between competing claims to the common good will give rise to endogenous conflicts. Equally, one could argue that first order conflicts are inherent, while second order ones are contingent, or potential. This in turn reiterates the political character of conflicts of attribution of meaning, if one accepts, as one should, the inextricably contingent nature of politics. To this extent, the reversibility of the political/apolitical distinction will only work in one direction, and there would seem to be no way to cancel out the political nature of any exercise on the attribution of meaning for the common good: assuming that what is good is the 'common good', is a way of negating the political nature of the attribution, and it is then intrinsically an 'undemocratic' move, because it tries to conceal what is political in the name of what is good: in other words, it assigns a negative value to the process of definition, denying the very possibility of conflict.

We have seen how this double movement of definition and concealment is necessary to heal the divide between what is good and what is common. But in this way, the political nature of the process of definition is hollowed out, in a profoundly undemocratic turn. This double movement of definition of what is good and attribution of a common value to this definition is in itself denied, as the democratic nature of the process is presented as a good in itself, in the very moment in which it is emptied of meaning. How does this happen? I argue that the process can be characterised as one involving both an *appropriation of value* and an *expropriation of meaning*. As noted in the previous section, the colonisation of the 'good' is a necessary step in the establishment of a community, which then organises itself around that value.⁹ The least problematic way to accomplish the colonisation of the good is to characterise, and limit, the common good as ownership and fruition of common goods, non-rival and non-excludable goods from which the whole community is supposed to benefit. This semantic shift engenders a fundamental rationalisation, concretisation and reduction, and introduces another one of the binary pairings, in this case common good/common goods, around which the main argument of this article is constructed.

Regardless of how one assigns value to these goods (do they include immaterial goods, such as education and health, or are they restricted to material goods, such as water and land?), the welfare economies of the West in the post-war era agreed in principle that these common goods constituted a 'minimum standard of treatment'

⁹ I do not engage here with the distinction between a rational conception of the good as an object of knowledge and one grounded on its conceptualisation as an object of desire, or indeed on the formation of a community of values beyond (or below) a conscious, reflexive rationalistic approach to the definition of a community. This decision is dependent on an evaluation of the axiological trajectory of a community at its conclusion, rather than throughout the process of definition.

for their citizens.¹⁰ Their commonality is more easily understandable and shared and therefore less problematically accepted as carrying this value for the whole of the community.¹¹ However, any assumptions on the non-contested value of this commonality are better left behind. It is easier to coalesce a community on the goodness intrinsic to common goods, as opposed to the common good, and that precisely this process of community building around these common goods happened with the welfare state. But this is not to say that the very same process of exclusion within inclusion cannot take place at this level as well. It is sufficient to remind ourselves of the exclusion of women from the position in the labour market they acquired during the war years, the exploitation of guest workers and immigrants (required to pay pension contributions and taxes, but mostly excluded from the higher level of benefits they helped provide for full citizens), or the way in which distribution of resources is constitutionally excluded in those very same instruments that are supposed to guarantee that sense of community belonging. In all these examples, supposedly common goods (labour rights, welfare rights, resources, essentially land), are not apportioned equally or indeed generally in society, even when their value as common goods is reinforced.

However one interprets globalisation, a seemingly inevitable component has been the privatisation of an ever-increasing number of goods, tangible, intangible, and biologic or genetic. This privatisation has decoupled ownership from fruition and transformed us from owners to consumers of (formerly) public goods. In fact, if common goods have value in the definition of the common good, this value derives both from the fact that they can be enjoyed by the community (fruition) and that there is a public ownership of them (control). However, when these goods are privatised, the value derived from public ownership disappears, and the fruition has to do all the conceptual work of defining what is good for the community and how the community can coalesce around this fruition as the only common good to be had. The privatisation of common goods has left the common good as a floating intangible, uncoupled from its object and 'up for grabs', a concept that can be appropriated exactly as common goods are, a virtual *terra nullius*.

¹⁰ It would be better to consider these experiments in social democracy as short-lived exceptions rather than as models (apart from their strategic value as counter-weapons to full-blown socialism). This is said in no way as a criticism, more as a recognition that history seen in its *longue durée* might have a different view of this phenomenon than we do, living as we are in its immediate aftermath. Or maybe that is another trick of capitalism, of having made the social part of the *histoire événementielle*, as disposable as the media that convey it.

¹¹ The commonality can be established provided these goods are those for which there is a recognised common need. The quality of common goods as needs has to do with their basic value, which admits in principle no exclusions. Another way to recognise them as common needs is the fact that their social value and their individual value will tend to coincide. For example, an individual's need for water fulfils the same basic need as a group's need for water. This characteristic makes needs different from desires, in which social value and individual value may normally differ. Several consequences derive from this basic distinction, the main one being that while needs can/should be regulated according to social and political criteria, desires should not be. This categorisation is consciously in opposition to Hannah Arendt's exclusion of basic bodily needs from the political (Arendt 1958, p. 10). The consequent dangers of a depoliticisation of needs are to be seen also in the context, I believe, of the corresponding expansion of the 'politics of desire', in both facets, repression and of expression of desire.

It is precisely in this sense, and to go back to what was said at the beginning of this section, that the appropriation of value is accompanied by an expropriation of meaning. In practical terms, the appropriation that accompanies privatisation renders the concept of public ownership meaningless, with terms like consumers and stakeholders as poor substitutes. Theoretically, the value attributed to the common good, through the concretisation of common goods as value, i.e. the creation of a sense of community through sharing of resources, is rendered meaningless in the very moment in which it is used to describe the opposite process of a passive fruition of resources (fruition is a powerless [f]act, if we are not in control of the way in which resources are made available to us). This same process of expropriation of meaning, which results in this powerless fruition of 'not-so-public' goods, renders any political claim about the value of democracy meaningless. The appropriation of value has to be read in the context of the underlying expropriation of meaning. We have seen how the process of definition of the common good is presented as a good in itself, a signifier of democratic legitimacy, and coincidentally how this appropriation of value, this imbuelement of positivity, is hollowed out and rendered meaningless. If the conflict over the meaning of the common good is to be avoided, it either has to be eliminated at its source, by eliminating politics from the community, or in its effects, by eliminating meaning from politics. The first solution is the totalitarian turn that covered a good part of the twentieth century; the second is the current procedural turn (Habermas 1996, pp. 83–84). It could easily be argued that the space left empty by the evisceration of meaning from politics is filled with market values, of 'politics as product'. The struggle over the ownership of common goods is an inherently political struggle. It is a struggle over ownership but, to the extent that common goods (land, water, energy, education, health) are privatised, the market becomes the framework into which the struggle is confined. At this level, one can easily refer to the transformation of politics into market politics, subject to market forces. But this is not all that is being argued here. There is no denying that the market has a role in determining the common good, by collapsing the political and substituting it with market choices, which guarantee commonality through exclusion while 'democratically' placing us in the position of arbiters of the good. However it is argued here that the process is more complex than that. Let us go back to the concept of the common good. What is good as an abstract concept escapes a definition that can be extended to the community and therefore be truly 'common'. We have seen how politics can act both to expose the inherent conflict of rationalities intrinsic to any process of definition, and conceal it by imposing a definition of what is good on the whole of the community. Ackerman, in his Storrs Lectures, famously proposed that in some *constitutional moments*, politics reaches an exalted state of higher meaning in pursuance of the common good (Ackerman 1984, pp. 1022–1023):

One form of political action—I shall call it constitutional politics—is characterized by Publian appeals to the common good, ratified by a mobilized mass of American citizens expressing their assent through extraordinary institutional forms. Although constitutional politics is the highest kind of

politics, it should be permitted to dominate the nation's life only during rare periods of heightened political consciousness. During long periods between these constitutional moments, a second form of activity—I shall call it normal politics—prevails. Here, factions try to manipulate the constitutional forms of political life to pursue their own narrow interests. Normal politics must be tolerated in the name of individual liberty; it is, however, democratically *inferior* [emphasis in the original] to the intermittent and irregular politics of public virtue associated with moments of constitutional creation.

This point, which is crucial to our temporal-spatial situating of the common good, will be reprised later. For now it will suffice to note that normal politics is about exposing competing interests, and constitutional politics about 'papering over them' in the name of the common good, and this surely is not as positive a reading of these mythical constitutional moments as Ackerman might wish.¹²

I posited how the market can appropriate this process of attribution of value while expropriating its meaning and disguising its exclusionary nature by masquerading it as a democratic free choice. Furthermore, we have seen how true democracy imbues meaning in the very process of definition, and it accepts the inherent value of the struggle over the meaning of good, which at a meta-level, is also the struggle over the meaning of politics. If politics is a product subject to market forces, at which level does the marketisation happen? At the level of attribution of meaning to what is 'good' undoubtedly, but can it be argued that this happens also at the meta-level of conflict over the meaning of politics? To answer this question, and explore the relationship in the pairing market/democracy, it is necessary to step back and reconsider how the terms *democracy* and *democratic* have been employed so far contextually to the process of definition of the common good. Openness, reflexivity and incompleteness are supposedly democracy's distinguishing qualities: to paraphrase Luhmann (1986, p. 71), just like love, democracy exists in the 'not yet': or does it? At its etymological root, it is a combination of *demos*, the people, and *kratein*, to rule, therefore the rule of the people, often interpreted as the rule of the majority. But these two concepts are 'closed concepts'. In its meaning as people, or community, or majority, a *demos* presupposes a distinction and exclusion, as we have seen in the previous section. Of course, contained within this exclusion is the possibility of openness and inclusion of what has been excluded before. And indeed, the democratic process is described as one of progressive inclusion, theoretically until the *demos* coincides with the community that contains it and expresses it. This correspondence is however never complete, as every inclusion creates new exclusions that have yet to be remedied. It is maybe not wrong to say that this mechanism is built into what we think of democracy; in other words, *the point of democracy is exclusion, not inclusion*, and this is precisely to displace conflict, to turn it inwards rather than outwards (so that, for example, the conflict over resources becomes a conflict over representation). The second part of the word is even more problematic: *kratein*, to rule, or the exercise of power; an intrinsically closed concept, which allows no reflexivity, no incompleteness, no indecision. Power is

¹² As Kalyvas put it, 'Ackerman deradicalizes the moment of constitutional politics' (Kalyvas 2008, p. 169).

final, perfect (in the grammatical sense), unreflexive. Are we then not labouring under the erroneous assumption that democracy is something that it is not? Does the intrinsic closeness of its etymological root point to its true nature?

At this point, the departure from what is a common view of democracy is at its widest. It is usually accepted that democracy allows for the openness that constitutions limit and hedge.¹³ I argue against this openness on two levels: there is a stronger claim to be made and a weaker one. The stronger conceptual claim is that democracy is not absolutely an open system but a closed one, only so in a more sophisticated way. While non-democratic power systems openly limit the possibility for change, and are therefore *openly closed* as it were, democracy conceals its closeness in the very possibility for openness and its presumptively open nature. To explain this, I employ the weaker, procedural, claim, which has to do with the concepts of expropriation and appropriation. It was said previously that to avoid conflict, political systems either have to eliminate politics from the community (non-democratic systems work this way) or, crucially for this argument, eliminate meaning from politics. If we accept that democratic systems are premised on this assumption, we can understand how the presumptively open nature of democracy rests on the misconceived assumption that this openness has a substantive value, a fullness of meaning that implies, at the very least, that every inclusion has substantive consequences. Instead, what is argued here is that the strong claim on the closed nature of democracy is based on the hollowing out of meaning, the expropriation discussed above, so that *any inclusion is rendered meaningless in the moment in which it is obtained*.¹⁴

Chronos and Kairós

In the previous sections, we have seen how a democratic community can only ever agree on the value to be attributed to the common good at the meta-level of attribution itself, and not on its substantive content. However, there is no guarantee that an agreement can be reached at this level either, unless the attribution is the criterion that distinguishes a democratic *polis*, in which value is given to the process of attribution of value, from an undemocratic one, where this value is negated, or where the process of attribution is not allowed. But maybe this is another way of saying that democracy as a common good cannot escape the meta-level and be

¹³ Neil Walker argues that democracy suffers from 'empirical incompleteness' and 'moral or normative incompleteness' and that this accounts for the 'contingent necessity' of constitutionalism (Walker 2010, p. 206). This of course means that constitutionalism, and constitutionalisation processes, far from being in tension with democracy, have been seen as acting as enablers of democracy. Walker questions the continued validity of this relationship under the conditions of globalisation and transnational legal networks. This debate has seized the international legal community (see most recently Teubner 2012), and goes beyond the scope of this article.

¹⁴ In a sliding scale of importance, where constitutionalism informs and normatively underpins democracy at one end, or at the other simply allows the procedural functioning of democracy, this reading of the relationship between democracy and constitutionalism sits uneasily at the procedural end. Uneasily because the expropriation process outlined in this article makes any such locating exercise quite pointless.

considered a substantive good, but only a procedural one.¹⁵ Alternatively, it means that the more democratic the process at a procedural level, the lower the chance of a democratic outcome at a substantive level, in the shift between apparent openness and underlying closure that has been outlined in the previous section. How can democracy be considered a common good under these conditions? Conflicts of attribution are transformed into conflicts of appropriation, where common goods substitute the common good, over which agreement is impossible. But we have seen how globalisation and privatisation have rendered conflicts of appropriation futile as well. We can all agree that there is a 'human right to water', but what good is this agreement supposed to grant us, if we do not own collectively (if there is no public ownership of) the water to which we have a right? The same disconnect between substantive and procedural repeats itself chronologically: it seems that we either can claim rights that have been emptied of any substantive meaning, or over what we have already lost.¹⁶ Is this only a case of politics being out of step with the reality it seeks to control? Or is there something more at play here?

It is proposed here that this chronological disconnect may have a positive outcome: the lack of coincidence between claims and results, desire and satisfaction, can create the space for democratic or indeed revolutionary politics, a space that has not yet been colonised and appropriated. This is a slightly different claim from what was said previously, about the process of attribution of value to the common good. In that case there was no disconnect to be healed, no lack of coincidence. The displacement of values allowed the conflict over attribution of meaning to be elevated to the level of the common good. There is much to be said for this; however, the problem remains that it seems impossible to preserve this positive value without emptying it of meaning, with the movement of appropriation/expropriation outlined before. However, this lack of coincidence can be interpreted also as a temporal disjuncture, in which *chronos* can become *kairós*.¹⁷ As opposed to *chronos*, time seen as a continuum, *kairós* represents the 'right or opportune moment' disrupting the continuity. In Walter Benjamin's words (Benjamin 1968, p. 253 and 255) 'History is the subject of a structure whose site is not homogeneous, empty time, but time filled by the presence of the now [*Jetztzeit*]' and '[the historian] establishes a conception of the present as the "time of the now" which is shot through with chips of Messianic time'.¹⁸ Importantly, it is argued here that this disjuncture is necessary not only to uncouple the present from the past but, also, and especially, *from the future*.¹⁹ It is only, one cannot stress this enough, a potentiality. In reality, it is often politics to be left behind, and spaces and times are appropriated by

¹⁵ Theorists of the procedural, minimalist, nature of democracy and constitutionalism, include Schumpeter (1942, ch. 22).

¹⁶ One thinks of the right to a clean environment as paradigmatic in this sense.

¹⁷ An interesting, if customarily obscure, discussion on *kairós* in Negri (2000).

¹⁸ The parallel between *kairós* in its acceptance as Messianic time and *Jetztzeit* has been suggested (Agamben 2005, p. 215) and dismissed (Löwy 2005, p. 134, note 161). See also Arendt (1958, p. 208), where she talks about new events 'breaking into the continuum, the sequence of chronological time', in the context of her preoccupation with political freedom.

¹⁹ Arendt's rejection of absolute beginnings can be elegantly side-stepped by a concentration on the kairoic moment's capacity to provide a break from the future, i.e., creating the possibility of a different trajectory from that designated by the past. An insightful summary of Arendt's argument in Kalyvas

capitalism/globalisation before the possibility for a different outcome is realised. I consciously want to maintain a minimalist reading of *kairós* as a discontinuity in temporality, the mechanics of which are explored in this section. But there are obviously theoretical implications which will not escape the reader, especially one interested in temporality as a interpretative key for history.²⁰ Rather, this article engages more basically with the practical implications of this temporal disjuncture, both as a frame for action and as a mechanism of discovery.²¹

The very possibility of this temporal disjuncture is highly dependent on the constraints imposed by market capitalism's powers of co-option; in order to be successful, *kairós* has to precede this co-option, not be its residual element. Temporality is central here, and not only because it is the category ordering this distinction. Capitalism works by saturation, so every 'residuality' is bound to fail, as disclosing itself as such, it makes itself evident and therefore vulnerable to capitalism's powers of reproduction; equally, law, which contains its own temporal mechanism, works by stabilising normative expectations against experiential and empirical disappointment, and therefore its reach is intrinsically future-oriented. How can the form of *kairotic* politics that I am advocating create a space that is also a *timescape*? This is a very difficult question to answer; to take just one example, the hollowing out of the political process has left a void in our social life that has been filled by the human rights discourse at both the national and international level; the implications of this phenomenon in political and legal theory are too immense to tackle in this context. Nonetheless, this discourse serves the purpose of exemplifying a classic movement 'from law to politics' whereby politics receives its legitimation and impetus for action from the law. This transformation of the political field by way of juridification results, it is submitted, in a form of sterile residuality that is inimical, indeed antithetical, to *kairotic* politics.²² For the possibility of the temporal disjuncture to be fruitful, the movement must be from politics to law.²³

Alma Venus: Love, Desire and Revolution

The poem *De rerum natura* (On the nature of things) by Lucretius has been mentioned already in the Introduction. In its *incipit*, Lucretius provides a breathless, almost

Footnote 19 continued

(2008, p. 223 ff). Benjamin's 'time of the now' was equally past-oriented, as the possibility of a rupture, and at the same time a completion, of the past (Agamben 1999, p. 267).

²⁰ I direct the reader for this to Hutchings (2008).

²¹ An excellent treatment of revolutionary politics that takes into account the notion of the extraordinary in Kalyvas (2008).

²² This misguided appropriation of residuality by the human rights discourse was described by Pasolini as the ultimate betrayal of the marxist dialectic of struggle, which the democratic intellectual turns into a 'regressive civil war' (Pasolini 1987, p. 120).

²³ There is not the space here to deal comprehensively with this complex relationship and it is mentioned only to stress the possibility of a *kairotic* moment of revolutionary or progressive politics bringing into being a change in the law or a counter-hegemonic reading of the law. An example of this is given at note 33.

cinematic description of the awesome powers of nature: the passage is worth quoting in full, even if the beauty of the original is somewhat lost (Lucretius 2008, pp. 10–11):

Mother of Aeneas and his Rome, and of gods
and men the joy, dear Venus,²⁴ who underneath the gliding
heavenly signals busies the seas with ships and makes
earth fruitful (for only through you are living things conceived
and because of you they rise up to bask in the light of the sun):
from you the harsh winds flee and the skies' black storm clouds scatter
at your approach; for you the intricate earth sprouts flowers,
wide ocean roads subside into gentle smiling, and furthest
reaches of heaven glow serene in response to your prompting.
In the Spring's first days, the nurturing western breezes breathe
free again, and birds in the air, smitten by you,
warble the news of your coming, as beasts of the woods and fields
cavort in the meadows and splash through brooks—and all for love.
Under your spell, all creatures follow your bidding, captive,
eager even. Look to the teeming seas, the mountains,
the fast-flowing streams, the treetops, or rolling gorse where birds
flutter and dance the reel of lust as earth once more
renews itself as you have ordained, for you alone
govern the nature of things, and nothing comes forth to light except by you.

It is especially in the last lines that the Latin version gives meaning to this reproductive power with tremendous efficacy, where Lucretius, addressing the goddess directly (the *Alma Venus* of the opening verses), writes: *efficis ut cupide generatim saecla propagent [...]*. And it is in that adverb, *cupide*, which the translator gives us as 'dance the reel of lust' and in a few lines above, as 'eager', that the meaning is enclosed, powerfully and evocatively.²⁵ Literally translated the quote reads: 'you make all species reproduce through the generations with greed (or lust)'. There is a sense of powerlessness that accompanies this all-powerful thrust, of being caught in a cycle beyond one's control, being driven by lust, a Schopenhauerian inevitability of desire as the basic motor of our actions.²⁶ It is easy to compare this *Alma Venus* with the awesome powers of reproduction unleashed by capitalistic entropy, and indeed this article opened with this metaphor. But there is also scope to move beyond this metaphor, and overcome its inevitability, again using Lucretius as our point of departure and taking advantage of Antonio Negri's and others' reading

²⁴ This is the *Alma Venus* of the Latin text; the translation 'dear' does not convey at all the etymological meaning of the adjective *alma*, derived from the verb *alère*, to nourish. The whole passage is replete with terms referring to renewal and reproduction, and with references to nature's rebirth in the Spring.

²⁵ Etymologically, the adverb derives from the adjective *cupidus*, in itself to be derived from Cupid, the god of desire and erotic love, equivalent to the Greek Eros.

²⁶ Quoting the opening of this poem, Schopenhauer described this force [sex-relation] as the 'invisible central point of all action and conduct' (Schopenhauer 1958, p. 513).

of Lucretius' concept of the *clinamen* (Negri 2000).²⁷ Lucretius, following Epicurus, believed that everything in nature was made up by atoms, and that these combined to create life forms as we know them; however, what he termed *clinamen*, the 'swerve' of these atoms, introduced the element of chance, and freedom, in their necessity-bound movement. In Book II of his work, he explained it as follows (Lucretius 2008, p. 60):

But the mind and its freedom fend off the necessity of actions
And keep us from being determined and dominated, enduring
And suffering merely, and not imposing our own desires –
That minute swerving of atoms, beginning at no fixed place
And occurring in no particular pattern of space of time.²⁸

Negri picks up beautifully on this hint to the 'minute swerving of the atoms', in the following passage (Negri 2000, p. 292):

In classical materialism, the theme of innovation or change is both central and unresolved. From Democritus to Epicurus, the atomistic construction of the world is immersed in eternity. As for freedom, it is the conduct of life in accordance with the metaphor of the cosmos.²⁹ In this flattening-out, freedom fades away and innovation becomes incomprehensible. It is only with Lucretius that freedom strives to break with the meaninglessness of metaphor so as to act independently of the physical totality of atomism, and tear the fabric of eternity asunder. Yet Lucretius poses his *clinamen* on the tip of his tongue, *sotto voce*, almost hoping to cancel out the violence of the tear coming from this barely perceptible deviation that lets the world change, and lets it grasp the singular and along with it the meaning of freedom. A tiny yet enormous glow shines through the rainfall of atoms; thereby, poetry is exalted, philosophy humiliated, and the problem posed. Modernity inherits the problem unresolved.

It is this idea of the *clinamen* and the little space for freedom it creates that I wish to adopt and add to the concept of *kairós* intended as the interruption in the orderly unfolding of time.³⁰ I am purposely not engaging with the problem of the subject—and the receptacle of this freedom—as much as individuating the temporal and spatial coordinates for action. It is again Negri (1999) who gives words to my intuition of the disruptive powers of *kairós* when he outlines and couples the

²⁷ Others have mentioned the *clinamen*, not necessarily in order to build upon it; De Beauvoir for example remarks on its 'stupidity' and 'absurdity', an expression of 'pure contingency' and therefore, counterfactually, of necessity (De Beauvoir 1948, ch. 1. See also Badiou 2009; Deleuze 1994, p. 184).

²⁸ In the Lucretian text, the *exigum clinamen principiorum/nec regione loci certa nec tempore certo* (Book II, 292–293).

²⁹ An immense undertaking in itself, even if circumscribed to investigations on the 'collective subjects', from 'we the people', to the European *demos*, to the 'multitude'. An essential bibliography would certainly include Ackerman (1991), Habermas (2001), Hardt and Negri (2005).

³⁰ Löwy notes how Benjamin's conception of history, as outlined in his *Theses*, 'rejects the pitfalls of 'scientific prediction' of the positivist type and brings within its purview the *clinamen* rich in possibilities, the *kairos* pregnant with strategic opportunities' (Löwy 2005, p. 109).

distinction between the constituent power of *kairós* expressed in the multitude and the constituted power of the state (*chronos*, we might suggest). While I experience a certain unease in a too-straight equivalence of these pairings—*kairós*/multitude especially—I nonetheless remain intrigued by the constituent/constituted distinction in this conjuncture in which it has become, I argue, more crucial than ever to individuate the de-constitutionalisation processes and their tipping points, rather than insist on the constitutionalisation thrust of globalised systems of *eco-legal* control.³¹ *Kairós*, in this context, can be conceptualised as the tipping point, the beginning of the unravelling of these more or less tightly woven processes of constitutionalisation.

To summarise, *kairós* is the 'opportune time' disrupting the continuity/tyranny of chronological time, and the chance for a new, revolutionary constituent power to take charge of time itself. One should remain alive to the dangers of appropriation of the double movement identified by Polanyi (1944) and therefore of the forces of capitalism to colonise the opportunities offered by *kairós*. There are several examples of this that we can take from our everyday lives, and the reader is invited to make his/her own list, which would otherwise suffer from almost immediate obsolescence. How can we extricate ourselves from this possible impasse? In the ever-accelerating world of modern communication, where one is always already present and available to external forms of control, there is an Italian word that seems condemned to desuetude. When one was held up and could not make an appointment in time or complete a task, or wanted a good excuse to avoid an appointment or task, resort could always be made to this beautiful word, *contrattempo*. Literally meaning 'against time', it conveyed the idea of something happening against the opportune time: a treble movement, so to speak, a time against *kairós*, itself against chronological time, as well as meaning something against chronological time or ordinary time. So we have to think of *kairós* as an extreme form of *contrattempo*, constantly ahead of itself, not residual but creating its own excess. Only thus, the possibility of political action might be retained. In the next and final section, I will go back then to the categorisation of political action offered by Ackerman, and its relationship with *kairós*.

Conclusion: *Kairós* and Revolutionary Politics

It is in this conjuncture that the concept of 'constitutional moments' is worth reconsidering. Strategically, it seems wise to *constitutionalise on a high and fight on a low*; in other words, not to be trapped in the rigidity of a constitutional structure in a downturn (be that economic or political, or, most likely, both) but to maintain the fluidity of a revolutionary impetus. It is a difficult interplay of tactical and strategic choices (and how often the two are confused and mistaken for one another). If moments of 'heightened political consciousness', as Ackerman put it, have

³¹ For lack of a better term, the organicism of economic and legal regimes acting in concert. The literature on constitutionalism and constitutionalisation is vast and growing, and not feasible to reproduce in this article, which does not wish to engage in this debate; see also note 13.

constitutional effects, one had better assess carefully their consequences. Furthermore, and as has been noted by many, the very idea of these constitutional moments cannot be separated from the problem of defining what these are, and who gets to identify them, and when? Again, the temporal element comes back to haunt us. Any identification *ex post facto* runs the risk of being just another example of those mythopoeic exercises mentioned at the beginning of the article. When, then? Can one decide to enter into a constitutional moment to break the very container of the political struggle, and what makes that struggle a constitutional one in the first place? Famously, Ackerman argued for the a-legality/il-legality of these moments to be healed by their very constitutional nature and the higher purpose they embodied (Ackerman 1984, p. 1017, note 6).³² But this goes beyond what interests me here, which is still the framing. I argue that, in any event, *kairós* politics is not constitutional politics, precisely because it breaks that container that is the constitution. Now, this claim might side-step the definitional question, but not the temporal one: how do we recognise that we are in a *kairós* moment? I have argued that in order for this temporal disjuncture to be fruitful, there cannot be a movement from law to politics, as paradigmatic in the field of human rights, but from politics to law.³³ It follows that temporally, the political has to precede the legal, not be its residual element. Therefore, the uselessness of the law to provide an answer can be seen as a signifier of a *kairós* moment. It is a double process of recognition and opportunistic action, whereby the negation/rejection of the law as the available and suitable tool for the resolution of the conflict is seized upon in a moment of *kairotic* action fastening itself on that negation.³⁴ If, in constitutional moments, the constitutional guarantees are always already present, in a *kairós* moment, it is precisely those constitutional guarantees that are questioned, in a more fundamental way than that proposed by Ackerman. It is, to reprise a metaphor originally employed by David Kennedy, thinking (and acting) *against* the box, rather than *outside* it (Kennedy 2000) to the extent that the outside is actually always inside, in a constitutional moment of higher politics, because the constitutional framework is not as much rejected as it is challenged.³⁵ The iterative, necessary co-dependency that Neil Walker identified between democracy and constitutionalism is broken by

³² There he articulates the distinction between the right of proposal and of revision of a constitution; at pp. 1057–1069 the implications of this distinction are further explored; for Ackerman, it is precisely the 'anomalous' character of the constitutional Convention to be 'the sign not of defective legal status, but of Revolutionary possibility' (p. 1061).

³³ It is difficult to declare with ease what a *kairós* moment might look like; for an historic example, I am thinking of the Italian *Statuto dei lavoratori* (Workers' Statute) Legge 20 Maggio 1970 No 300, which was passed after the industrial action of Autumn 1969 (*autunno caldo*, 'hot autumn', as it was called), in itself the culmination of at least 10 years of political struggle. This is a piece of legislation of constitutional breadth and aspiration. The political mobilisation to guarantee the continued applicability of its Article 18 (unfair dismissal) to the present day, testifies to the symbolic importance that this legal instrument has acquired in Italy.

³⁴ I owe to Emiliios Christodoulidis the wording of this sentence, clarifying what the uselessness of the law means in this context.

³⁵ This process of discovery of the common good against the framework provided by the constitution finds a parallel in the Schmittian localisation of the constituent people *next* to the constitution; see Kalyvas, note 19, 175.

kairós politics in a way that defies healing and papering over. *Kairós* politics rejects the inevitability of the trajectory set out by constitutional politics; as I remarked above, beyond the Benjaminian rupture from the past, it is most of all, *rupture from the future*. It is the *clinamen*, the swerving that frees us from necessity, even of a constitutional nature, to provide the spatial coordinates for the *kairotic* event to take place.

What of the common good, then? We saw that the common good is identifiable as that which takes place within the *kairós/clinamen* coordinates, but maybe this will not take us very far. It might be that the procedural value is the only value left, the common good as the process of discovery itself;³⁶ I offer the qualification that the framing is the crucial element: it might be not enough, but it is something.

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³⁶ Far away from the 'procedural turn' and the discursive practices criticised in the preceding sections.

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