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The Genealogy of Jaime Guzmán's Subsidiary State

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Carlism and subsidiarity

Following the death of King Ferdinand VII, his daughter Isabel was proclaimed Queen of Spain. Don Carlos, Ferdinand's brother, denounced the illegitimacy of this succession and proclaimed himself as the legitimate heir to the throne. After exhausting peaceful means to support his demand, he declared himself in rebellious contempt against the rule of Isabel. This led to the First Carlist War (1833–1840), to a Second (1846–1849), and a Third (1872–1876). After three decisive defeats, the Carlist leaders decided to participate in parliamentary politics, but as Martin Blinkhorn (1975, 38) notes 'a renewal of rebellion never ceased to be the goal of many, perhaps most, of the Carlist rank and file.'

The political definition of Carlism was determined by Don Carlos's hostility toward liberalism, constitutionalism and parliamentarism. He sought fully to restore the influence of the Church and traditional

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monarchy, which he modeled after feudal monarchy and its institutions—organic representation, corporate privileges, regional exemptions (the so-called *fueros*), and particularly the Inquisition. The modern state became its main enemy. The state was seen as having altered the natural, spontaneous order of things, as having imposed an artificial social order constrained by liberal and democratic ideals. Carlism was defined by its counterrevolutionary attitude and its legitimist claims against illegitimate governments. It became a conspiratorial movement with a propensity toward military coups d'etat, known among its adherents as *pronunciamientos*.

As a political mass movement, Carlism was able to survive due to the support of the landed aristocracy and the clergy, particularly in Navarra and Andalucía. In 1923, Carlism celebrated the military *pronunciamiento* of General Miguel Primo de Rivera. Its political leaders, Juan Vásquez de Mella and Víctor Pradera, collaborated with the dictatorship but soon realized that Primo de Rivera endorsed the liberal program of King Alfonso XIII, their arch enemy. In 1931, the demise of constitutional monarchy and the rise of the Second Republic were celebrated by Carlism as an opportunity to unite all conservative forces on the basis of a counterrevolutionary monarchist program. As Blinkhorn (1975, 3) sees it, 'at a time when Carlism was at its weakest ever, their seemingly tired and absurd prophecy had been suddenly, and surprisingly fulfilled. … [Carlism] now embarked upon a new phase of counter-revolutionary activism which was to culminate in its playing a crucial role in the destruction of the Second Republic and the creation of the regime that succeeded it.' According to Blinkhorn, the Spanish Civil War should be seen as the Fourth Carlist War.

The first to bring some systematic order to Carlist traditionalism was Juan Vásquez de Mella. In 1889, he wrote about the need to overcome the image of Carlism as 'a kind of crow lurking in the crevices of feudal keeps, disposed to damn every scientific discovery and condemn all the marvels of industry' (cited by Blinkhorn 1975, 21). Inspired by the encyclical *Rerum novarum*, Vásquez produced a political philosophy along corporatist lines which he called 'societal hierarchy' or '*sociedalismo jerárquico*' (cf. González Cuevas 2000, 201).

Vásquez based his philosophy on the distinction between political and social sovereignty with the aim of denying the state a monopoly over the sources of law. There are natural hierarchical associations (families, guilds, regions) which embody human sociability and safeguard social liberty. The state, as a higher centralized organization, ought not to arrogate to itself functions which may be performed by lower social bodies. Vásquez derived this idea from the encyclical *Rerum novarum*. First introduced by Pope Leo XIII in 1891 this idea was baptized 'subsidiarity' 40 years later. The term was used by Oswald von Nell-Breuning, the Jesuit who redacted Pius IX's *Quadragesimo anno* in 1931.[1]

The encyclicals *Mater et magistra*, *Laborem exercens*, and *Centesimus annus* employed the notion of subsidiarity to delimit the Catholic doctrine from the centralization demanded by socialism and welfare state policies. In *Centesimus annus*, John Paul II wrote that 'the principle of subsidiarity must be respected: a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions.' He charged that by 'intervening directly and depriving society of its responsibility, the Social Assistance State leads to a loss of human energies and an inordinate increase in public agencies.' In the hands of conservative Catholics in America, subsidiarity evolved, particularly during the Bush administration and the plea for a more compassionate conservatism, toward devolution. Intermediate associations were seen as bulwarks against government interference. The market spontaneous order should trump government (cf. Vischer 2001, 103–104). John J. DiIulio (1999), a George W. Bush advisor who in 2001 served as head of the White House Office of Faith-Based and Community Initiatives, wrote that 'compassionate conservatism is "subsidiary conservatism" derived from a Judeo-Christian doctrine … that sets limits to state intervention.' He added: 'subsidiarity teaches that charity begins at home.' He noted that Bush was speaking in the spirit of subsidiarity when he said: 'In every instance where my administration sees a responsibility to help people, we will look first to faith-based organizations, charities and community groups.'[2]

In Chile, the principle of subsidiarity was embraced by Catholics much earlier. In the 1940s, conservative Catholics applied that principle to oppose the socialist tendencies of the Popular Front government elected in 1938. In 1942, Osvaldo Lira published *Nostalgia de Vásquez de Mella*, in which subsidiarity played a central role. Father Lira had left Chile in 1939, exiled by his congregation for engaging in subversive activities against the Popular Front. He resided in Franco's Spain until 1952. There he forged links with Carlist intellectuals for whom subsidiarity was central to their social and political agenda. When allowed to return to Chile, Lira started teaching philosophy and law at the Catholic University in Valparaiso and, in 1959, he founded the journal *Tizona*, aimed at propagating Carlist ideas among Navy officers.[3]

During his visits to Santiago, he would celebrate Mass at the house of his cousin Rosario Edwards Matte. Her grandson, Jaime Guzmán, then only seven years old, served him as acolyte when he celebrated mass. Very soon Lira was also privately instructing Guzmán in the principles of his Carlist political philosophy, which revolved around two key notions: legitimacy and subsidiarity. Lira wielded legitimacy to undermine democracy, and subsidiarity to minimize the state and enact devolution.[4] In the early 1960s, Guzmán, inspired by Lira and Carlism, founded a student movement at the Catholic University of Chile, which he called '*gremialismo*.' In 1967, he campaigned against the agrarian laws enacted by President Frei; and in the 1970 presidential election, he served as political adviser for Jorge Alessandri, the right-wing candidate.

The defeat of Alessandri at the hands of Salvador Allende prompted Guzmán to apply his Lira's Carlist teachings in order to mount a political campaign whose ultimate aim was a military *pronunciamiento*. He challenged the legitimacy of Allende's government and organized a massive movement of opposition which virtually paralyzed the country. This prompted the military coup of Pinochet which, as its first measure, abrogated Chile 1925 Constitution which Guzman denounced as illegitimate. In this manner, Guzmán, at 27 years of age, became the *éminence grise* of the new regime. In 1980, a new Constitution, redacted principally by him, was approved in a spurious plebiscite which received worldwide condemnation.

Hayek in Chile

In 1947, a group of economists, philosophers and politicians met in Switzerland to launch an organization aimed at promoting capitalism and at extolling the virtues of monetarism, supply-side economics, privatization and minimal government (cf. Mirowski and Plehwe 2009). This marked the birth of the Mont Pèlerin Society (MPS). Friedrich Hayek and Milton Friedman were among its founders. The genealogy of this neoliberal agenda derived from ancestral roots in classical liberalism. There were undoubtedly many similarities between these two currents of thought. But there was also one 'crucial difference' that made it difficult to attain the total assimilation sought by Hayek (cf. Hoffman 2008, 77). Classical liberalism affirmed liberty, but it also affirmed equality. The historical context of thinkers like Hobbes, Locke and Kant indicates that their main adversaries were the oppressive hierarchies of the feudal system which postulated that inequality was a natural given. In contrast, the historical adversary of neoliberalism was socialism. In *The Mirage of Social Justice*, Hayek (1976, 85) opposed the notion of equality of opportunity because that would mean placing in the hand of the state an unlimited controlling power over all the circumstances that determine the welfare of individuals. 'Attractive as the phrase equality of opportunity at first sounds, once the idea is extended beyond the facilities which for other reason have to be provided by government, it becomes a wholly illusory ideal, and any attempt to realize it is apt to produce a nightmare.'

MPS members became key officials in Margaret Thatcher's government. In 1980 Ronald Reagan won the United States presidential election: 22 of the economic advisers of his 1980 campaign staff were MPS members. Their economic policies were modeled after Hayek's anti-egalitarianism. His advocacy of freedom of choice implied a minimal state. To safeguard freedom of choice the state ought not to interfere with the spontaneous order generated within society. For Thatcher this meant, among other things, affirming the right to be unequal. On October 10, 1975, in a programmatic speech to the Conservative Party Conference at the Winter Gardens in Blackpool, Thatcher said: 'We are all unequal. No one, thank heavens, is like anyone else, however much the Socialists may

pretend otherwise. We believe that everyone has the right to be unequal but to us every human being is equally important.'

Hayek visited Chile in April 1981 in his capacity as Honorary President of the MPS. On April 24, he attended a planning session for a regional meeting of the MPS that would take place in Viña del Mar later that year. His attendance may have given the final seal of approval for the choice of Viña de Mar (cf. Caldwell and Montes 2015). Earlier, on April 20, he met with the leading members of Centro de Estudios Públicos (CEP) and officially accepted becoming Honorary President of that think-tank. Armen Alchian, Ernst Mestmäcker, Chiaki Nishiyama and Theodore Schultz were also in attendance. Two days later, CEP organized a conference titled *Foundations of a Free Social System* at the Sheraton Hotel in Santiago that marked the inauguration of CEP (Cristi and Ruiz 1981; Caldwell and Montes 2015). The conference was attended by distinguished guests that included Pinochet's ministers, members of the judiciary, university professors and armed forced officers. Jaime Guzmán was also present.

Hayek and subsidiarity

Pinochet's dictatorship has become a case study for understanding 'the role of neoliberal ideas in economic and social engineering.' According to Theodore Schultz, a Chicago economist, Chile was a laboratory for neoliberal economic policies (Fischer 2009, 307). Members of the MPS were active in Chile since the late 1950s. An agreement signed between the University of Chicago and the Catholic University allowed hundreds of business and economics students to pursue graduate studies at Chicago. In 1970, a number of these Chicago graduates participated as economic advisers in Jorge Alessandri's campaign staff. When they clashed with those who opposed opening the economy to foreign competition, Guzmán successfully mediated between the radical neoliberal faction and the more traditional economists. Karin Fischer (2009, 317) observes that Guzmán had already mounted a defense of capitalism in his early writings, a defense that 'was coupled with strong antistatism rooted in a traditional Catholicism.' Fischer adds: '[Guzmán] strongly invoked the principle of subsidiarity … to protect society against the state.'[5]

Hayek visited Chile in 1977 personally to meet with Pinochet. In an interview with *El Mercurio* Hayek (April 19, 1981) declared: 'a dictatorship may impose limits on itself, and a dictatorship that imposes such limits may be more liberal in its policies than a democratic assembly that knows of no such limits.' The aim of his visit was to defend the legitimacy of Pinochet's economic policies and his democratic intentions. During Hayek's 1981 visit he agreed to meet personally with Guzmán. In a long, detailed interview conducted by Guzmán, and then published in *Realidad*, Hayek (1981, 28) re-affirmed his support for Pinochet whom he described as an 'honorable general.' He also re-affirmed the idea that inequality was an indispensable incentive for capitalist productivity. 'As I have maintained before, if redistribution were egalitarian there would be less to redistribute, for it is precisely income inequality what permits the present level of production.' I can only image the surprise and satisfaction felt by Guzmán on hearing Hayek say that he was aware of the principle of subsidiarity. This principle, together with the associated distinction between political and social sovereignty, was the lynchpin of Pinochet's dictatorship which Guzmán consecrated in the Constitution of 1980.

In *The Mirage of Social Justice*, Hayek (1976, 7) reinforced the idea that the state serves only as a pre-condition for the success of the spontaneous order generated within society.[6] The government may offer its services to promote collective social good, but those services merely supplementary of subsidiary:

> The services which the government can render beyond the enforcement of rules of just conduct are not only supplementary or subsidiary to the basic needs which the spontaneous order provides for. … [T]hey are services which must be fitted into that more comprehensive order of private efforts which government neither does nor can determine.

In a footnote, Hayek (1976, 154, n6) referred to the principle of subsidiarity and acknowledged that this principle was 'much stressed in the social doctrines of the Roman Catholic Church.' But it is not clear to me how can Hayek maintain that his view of subsidiarity is equivalent to the Catholic version. If those subsidiary or supplementary services must be fitted, as Hayek determines, into the 'more comprehensive order of

private efforts,' and those private efforts cannot be interfered or meddled with by the government, this leaves very little room for those services to be rendered. For Hayek, the spontaneous order of the market is self-sufficient which does not coincide with what the Catholic understanding of the principle of subsidiarity which it balances with the principle of solidarity. Catholic subsidiarity seeks to limit government intervention but it leaves enough room for the possibility of the exercise of solidarity. As opposed to Hayek, the Church has always acknowledged the social nature of human beings.

Jaime Guzmán and subsidiarity

An editorial published anonymously by Guzmán (1982) titled 'Institucionalidad Universitaria: Avances Sustantivos entre Contradicciones,' appeals to the principle of subsidiarity to justify the educational reforms enacted by the military junta a year earlier. These reforms allowed the creation of private higher education institutions and established a new funding system that would apply equally to public and private universities. With exceptional clarity and articulation, Guzmán justifies this project and the ideological grounds that support it. This justification has two aspects: one of a conceptual nature and the other strictly political, both of them related to subsidiarity.

First, the principle that theoretically sustains his whole argument is the idea of a subsidiary state. Guzmán (1982, 8) attributes to the state the duty to 'contribute to the funding of educational initiatives that emanate from the national community.' This is so because the state has the obligation to 'restore the resources extracted' from the national community. The notion of subsidiarity implies that public universities may exist only in the case that private initiative cannot fully satisfy the requirements demanded by higher education. The state, therefore, is responsible for stimulating private initiative. Its aim is basically to ensure that 'the direct exercise of the educational task of universities be discharged mainly by private concerns.' Guzmán recognizes that indirect public funding is a 'shrewd device' to favor the ultimate aim of the reform, namely, to contribute 'to the gradual privatization of the structure of our higher education.'

The norm is then the subordination of higher education to the logic of the market, and the exception is public higher education. The principle of subsidiarity requires that an instrumental state assumes momentarily functions that it must give up when the logic of the market may be operative on its own. The subsidiary state proposed by Guzmán (1982, 8) is presented as opposed to a plundering state that unduly 'extracts' resources, and which it should be forced to 'restitute' to its rightful owners.

With this Guzmán breaks ranks with the Church's social teachings. It is true that the pontifical encyclicals proposed a subsidiary role for the state, but it equally emphasized the principle of solidarity. In this way, the Church rendered legitimate capacity of the state to identify, defend, articulate and promote collective interests. By upsetting the balance the Church struck between solidarity and subsidiarity. Guzmán, faithful to his Carlist and neoliberal roots, unilaterally underscored the logic of the market. But markets by themselves are not conducive to the enhancement of civic virtues and patriotism. When profits become the supreme good, capitalism lacks the capacity to impose ethical restrictions on its agents.

Guzmán thereby distanced himself from the republican tradition which in Chile could be traced back to the moment of its Independence. This tradition envisaged universities and public education as institutions that imparted civic education, just as it was done historically with military institutions. These were not subsidiary institutions, but places where the solidarity among young Chileans of diverse social origins, diverse religious backgrounds and different ethnic communities were taught. Civic education was not taught and transmitted in the form of lectures and courses, but was inculcated through the practice of mutual responsibility, the loyalty to their institutions and the disposition to sacrifice private aims for the sake of the common good (cf. Sandel 2009).

Second, aside from this theoretical appeal to subsidiarity Guzmán (1982, 9) advanced political reason to justify the need to dismantle public higher education. In his opinion, the monopoly that the state maintained over higher education made of universities 'centres of political power and agitation.' This concern was motivated by what he experienced as a university student at the Catholic University of Chile. Guzmán noted that the university reform, enacted in 1967 during the presidency of Eduardo Frei, introduced democracy as a form of government which he thought

seriously challenged the autonomy of those institutions and did away with their traditional hierarchical order. This experience, which clashed with his own political convictions, led him to assume the leadership of the '*gremialista*' movement at a university level. Later, during Jorge Alessandri's 1970 presidential campaign he was able to deploy *gremialismo* at a national level. In 1981, the military government was able to successfully reverse the politicization of students and give back to the true 'managers or owners' of universities the high responsibility they owned and their function as the 'natural source of legal authority.' This, in Guzmán's (1982, 10, 11) opinion, would prevent 'adopting the formulas that define the democratic electioneering for the sake of the masses … a tendency that inevitable politicicizes[sic] university affairs.'

Guzmán's editorial article shows that the overall structure of Chile's educational system for the last 35 years has been defined by the neoliberal policies imposed by Pinochet's military government. During their tenure in office, the four governments of the Concertación (1990–2010) were unable to alter the educational structure put in place in 1981, which was defined by the principle of subsidiarity as interpreted by Guzmán. All attempts at reforming the system run against an unassailable obstacle—the subsidiary state entrenched in the 1980 Constitution. In 2011, a vast, country-wide student mobilization demanded drastic changes to the educational system and demanded specifically the abrogation of the 1980 Constitution to facilitate the overhaul of the subsidiary educational system. In January 2014, Congress approved the first three partial reforms of the system which promise to reverse the privatization of educational institutions in Chile. Beyond this, the government of President Bachelet has announced the promulgation of a new constitution which promises to dismantle the subsidiary state as defined by Guzmán, the *Kronjurist* of Pinochet's dictatorship.

Notes

1. According to Martin O'Malley (2008, 32–34), the principle of subsidiarity, key to *Quadragesimo anno*, was introduced to the Catholic world by Wilhelm von Ketteler (1811–1877). As a student of Friedrich Karl von

Savigny, founder of the historicist school of thought, Ketteler made contact with Romantic jurisprudence which privileges localism, rejects the rationalism of *Begriffsjurisprudenz* and opposes state centralization.

2. In 2012, Republican Congressman Paul Ryan (2012) wrote: 'We need a better approach to restore the balance, and the House-passed budget offers one by reintroducing subsidiarity, which the Holy Father has called "the most effective antidote against any form of all-encompassing welfare state."'
3. An important link between the Carlist movement and neoliberalism was Carlos F. Cáceres, a disciple and close friend of Lira. He was one of members of *Tizona*'s editorial board and was involved in the organization of Hayek's two visits to Chile in 1977 and 1981 (Caldwell and Montes 2015). In 1973, Cáceres (1973) wrote an article for *Tizona* extolling the virtues of a market economy. In 1978, he wrote a letter to Hayek thanking him for his lectures in Valparaiso and informing him that 'in several occasions, the President of the Republic [Pinochet] … made public statements acknowledging your [Hayek's] comments about the Chilean economy' (Caldwell and Montes 2015, 280 n71). During the dictatorship, Cáceres would become President of the Central Bank and also Finance and Interior Minister.
4. This minimization of the state does not mean that Lira (1942, 73) sought to weaken the state. He clarifies this point in his *Nostalgia de Vásquez de Mella*, where he distinguishes between two meanings of sovereignty: political and social. He defines political sovereignty as 'a strong, vigorous power able to imprint clear aims on society,' and social sovereignty as 'an equally vigorous limitation, which in restraining and resisting political sovereignty, leaves society wide freedom of action within its own domains.' Lira (1942 134, 135) follows Vásquez and 'concentrates political sovereignty in the hands of a monarch,' who, in opposition to Montesquieu, gives the monarch 'the three functions that inhere in all power: legislative, administrative y judicial.' The monarch's sovereignty is not without its limits. It is limited by 'social sovereignty, that is, the set of rights belonging to subordinate associations brought together by national unity.'
5. Fischer (2009, 317) rightly observes that 'in the social doctrine formulated by Pope John XXIII, Guzmán perceived private property rights and private enterprise as timeless and permanent values.' In this respect, one should observe that the principal redactor of Pope John XXIII's encyclical *Mater et magistra* was Monsignor Pietro Pavan. Luca Sandonà (2011) has observed the intellectual affinity and close professional collaboration

between Pavan and the Italian economist Francesco Vito. During the 1930s, Vito was a student of Hayek at the London School of Economics and of Frank Knight at the University of Chicago (cf. Guidi 2002).

6. Hayek (1960, 400) agrees with a number of conservative thinkers, among them the Spanish Carlist political philosopher Juan Donoso Cortés, with respect to their appreciation of spontaneous orders: 'However reactionary in politics such figures as Coleridge, Bonald, De Maistre, Justus Möser or Donoso Cortés may have been, they did show an understanding of the meaning of spontaneously grown institutions such as language, law, morals and conventions that anticipated modern scientific approaches and from which the liberals might have profited.' Guzmán's intellectual formation owes a lot to Domoso Cortés's social and political philosophy.

References

Blinkhorn, M. 1975. *Carlism and Crisis in Spain: 1931–1939*. Cambridge: Cambridge University Press.

Cáceres, C. 1973. Economía de mercado: una alternativa para Chile. *Tizona* November 47: 12–19

Caldwell, B. and Montes, L. 2015. Friedrich Hayek and His Visits to Chile. *Review of Austrian Economics* 28.3, September: 261–309.

Cristi, Renato and Carlos Ruiz. 1981. Hacia una moral de mercado. *Revista Mensaje* 30: 241–244

DiIulio, J. 1999. Compassionate Conservatism: The Right Course, the Right Time. *Orlando Sentinel* 26 September.

Fischer, K. 2009. The Influence of Neoliberals in Chile before, during and after Pinochet. In Mirowski, P. and Plehwe, D. (Eds.) *The Road from Mont Pelerin, The Making of the Neoliberal Thought Collective*. Cambridge, Mass.: Harvard University Press: 308–346.

González Cuevas, P. E. 2000. *Historia de las derechas españolas de la Ilustración a nuestros días*. Madrid: Biblioteca Nueva.

Guidi, M. E. L. 2002. Corporative Economics and the Italian Tradition of Economic Thought: A Survey. *Storia del pensiero economico* 40: 31–58.

Guzmán, J. 1982. Institucionalidad Universitaria: Avances Sustantivos entre Contradicciones. *Revista Realidad* 32: 6–10.

Hayek, F. 1960. *The Constitution of Liberty*. Chicago: Regnery, 1972.

Hayek, F. 1976. *Law, Legislation and Liberty*, *Volume 2 The Mirage of Social Justice*. Chicago: University of Chicago Press.

Hayek, F. 1981. La fuerza de la libertad: entrevista efectuada en Santiago, 24 de abril de 1981. *Realidad* (mayo) 24: 27–35.

Hoffman, J. 2008. *John Gray and the Problem of Utopia*. Cardiff: University of Wales Press.

Lira, Osvaldo. 1942. *Nostalgia de Vásquez de Mella*, Santiago: Difusión

Mirowski, P. and Plehwe, D. (Eds.) 2009. *The Road from Mont Pelerin. The Making of the Neoliberal Thought Collective*. Cambridge, Mass.: Harvard University Press.

O'Malley, M. 2008. Currents in Nineteenth-Century German Law, and Subsidiarity's Emergence as a Social Principle in the Writings of Wilhelm Ketteler. *Journal of Law, Philosophy and Culture* II: 23–53.

Ryan, P. 2012. Applying Our Enduring Truths to Our Defining Challenge. *National Catholic Register* 25 April.

Sandel, M. 2009. *Justice. What's the Right Thing to Do?* New York: Farrar, Straus & Gigoux.

Sandonà, L. 2011. Communitarian Personalism and Social Economics. The Contribution of Cardinal Pietro Pavan and Francesco Vito to the Development of Catholic Social Doctrine in the Sixties. *Subsidiary and Institutional Polyarchy* Milan: Centri Studi.

Vischer, R. K. 2001. Subsidiarity as a Principle of Governance: Beyond Devolution. *Indiana Law Journal* 35: 103–142.