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*Christopher Smith*

The Gift of Sovereignty: Kings from Mauss to Sahlins and Graeber

# The Gift of Sovereignty: Kings from Mauss to Sahlins and Graeber

by *Christopher Smith*

## 1. *Rethinking Sovereignty*

There is a powerful and popular view of sovereignty which would locate the emergence of the concept in the early modern period, between Bodin and Hobbes, and closely associated with the emergence of the nation state<sup>1</sup>. This notion of a fairly defined period of time in which the idea of an abstraction of authority within a bounded area came into existence is strongly in place in the history of political and legal thought, but there are two problematic consequences. It follows that this is an idea which is contingent on the circumstances of its creation and secondly that is supposedly an idea which has no prehistory.

I will spend little time on the first. Notions of a post-sovereign world have become increasingly common, the suggestion being that for instance as the nation-state loses traction in a more connected and complex global environment, the associated idea of sovereignty may itself become redundant. There are various versions of this argument and it is far from universally accepted<sup>2</sup>. However it is not the argument on which I wish to focus today.

Rather I would like to think a little about the absent prehistory of sovereignty. It is not of course the case that there were no sovereigns before Bodin – rather the issue is the absence of the abstraction of sovereignty and it is that which I wish to interrogate. This is a not uncommon problem for the ancient historian and perhaps for translation more generally; if the notion of something does not exist precisely in the language of another culture, does that mean that the culture did not have the concept? Or that they expressed it in different ways?

This rather banal conundrum gains salience when we think harder about the notion of power in archaic societies, and especially in the context of current anthropological discussions. I am thinking in particular of the provocative and important volume by David Graeber and Marshall Sahlins *On Kings*<sup>3</sup>.

\* This paper was first presented in the context of a workshop organised by Mark Somos at the Max Planck Institute for International Law in Heidelberg; I am grateful to the participants and also to Ahuvia Kahane and Benjamin Straumann, for helpful comments. All errors remain my own. The work was conducted during a Leverhulme Trust Major Research Fellowship, which I also acknowledge with gratitude.

<sup>1</sup> The literature here is abundant, but for an introduction see Prokhovnik 2008.

<sup>2</sup> See the essays in Kalmo, Hent and Quentin Skinner 2010.

<sup>3</sup> Graeber and Sahlins 2017.

The challenge of this volume it seems to me lies partly in a revivification of old debates about what it is that is conferred upon a king or queen to mark them out. And that takes us across terrain which is precisely one of the areas of contention amongst those who would argue that a notion of sovereignty existed, albeit in somewhat different guises, before the early modern period<sup>4</sup>. What is at stake in the argument is exactly what is at stake when we imagine the possibility of the continuous revision of sovereignty, which is that it is not and never was a concept independent of its time and circumstance. In the context of debates which are current at the moment, it is of course interesting to think about how one can give up, take back or reclaim something which is constantly changing. If the point of sovereignty is that it does not stay the same, but is flexibly redefined by stakeholders, we may have argued ourselves, or been argued, into an unnecessary cul-de-sac.

However, this paper seeks to do slightly more than to make a point about conceptual transformation, re-description or intellectual genealogy<sup>5</sup>. Rather in looking for power and its affordances in archaic societies, I want to develop at least a notion of how one might integrate anthropology, law and the emergence of politics. My case study is early Rome, by which I mean the period up to the production of the Twelve Tables, Rome's first codification of law, written in the middle of the fifth century BC<sup>6</sup>.

First I want to situate early Rome in a broader context, that of the study of archaic society more generally. I want to do this in two ways: first, by making a methodological point about the relationship of antiquity to modernity; and second by comparing early Rome with other societies which have been mined for studies of early law and politics. This will bring me to a critical consideration of Jasper's idea of the Axial Age. From there, I will look at the economy of archaic societies, which will include a consideration of the gift economy. Finally I will argue that Roman kingship can be thought of in the context both of giftgiving and lawmaking, and of the crises of legitimation which are often simultaneous with struggles towards abstraction.

My process of argument will be slightly unusual. We need to acknowledge that the evidence for Roman kingship is exiguous. We know the institution existed from two sixth century inscriptions which use the word *rex*, but the historical accounts which have survived, the best known of which is Livy, are potentially entirely worthless as narratives of what happened. They were written long afterwards, and in a context of vigorous imaginative retelling of stories based on Greek models. Modern legal reconstructions, such as that of Mommsen, which neatly position the king as the untrammelled holder of power which is then fractioned out to a number of individuals who are in one way or another constrained are likely to be equally unreliable. This evidence has been worked over endlessly, but cannot escape its own limitations. In order to make progress, and in particular to address questions which come from

<sup>4</sup> Sturges 2011; Bourke and Skinner 2016.

<sup>5</sup> Redescription is Quentin Skinner's helpful phrase.

<sup>6</sup> For two somewhat contrasting introductions, see Cornell 1995 and Forsythe 2006.

outside the internal dialogues of the evidence, such as the ones addressed in this volume, require a different approach. My experiment in this paper is to come to Roman kingship through comparison and association. Some of the arguments I introduce are uncommon in modern debate over early Rome, but give us the chance to reposition the discourse. I should stress that I am using them very much as heuristic devices to pose questions which allow us to proceed at a different level from the traditional narrative.

## 2. *Axiality*

Let us start with an intellectually familiar figure, Giambattista Vico. Much has been written about Vico and he remains in some ways an elusive figure<sup>7</sup>. One of Vico's most interesting ideas emerges from the complex argument over the continuity and evolution of human institutions. Vico was a natural law theorist, even if an unusual one. He believed in providence and he believed that the fundamental shock which broke humanity from self-interest and barbarism was religious, a sort of theophany. What characterises progress is the reflection on practice, the development of reason, but underpinning this are the imaginative universals which are expressed by poetic wisdom. Just as children work by imitation, and humans use analogy to grasp what they do not understand, so human society proceeds to search out the equitable and the right by imagination, comparison and ultimately reason. Lapses back into barbarism relate to moments where the individual's interests are exalted over the communal.

Vico's observation that at different stages, humans thought about and expressed universal ideas in different ways is important and part I suppose of an Enlightenment project to trace a historical development from 'primitive' humanity to our own times. The simple point I wish to make is that this stands in some contrast to the prominent idea that we stand now at some profound distance from the past, not least because of the processes of rationalization and disenchantment which accompanied modernism, in Weberian terms. The spectrum of approaches to human history includes at one end an argument for strong continuity and at the other an argument about sequential ruptures which redirect it at a fundamental level.

Of late, an old idea of Karl Jaspers has re-entered this debate, and that is the concept of an Axial Age<sup>8</sup>. This idea stems from the observation that between about 800 and 200 BC, there is an observably similar set of transformations across several major civilizations, which has been described as the age of the emergence of the idea of transcendence, which is then definitively differentiated from a mundane sphere.<sup>9</sup> This distinction operates across a range of

<sup>7</sup> See Robertson 2005.

<sup>8</sup> Jaspers 1951. My reading of Jaspers has been influenced by the excellent and balanced critique Boy and Torpey 2013.

<sup>9</sup> The civilizations include Persia, Greece, Rome, Israel, India and China, depending on the author, and is sometimes stretched to include the origins of Islam.

conceptual areas, and Shmuel Eisenstadt emphasised the desacralization of political domination, and the emergence of critiques of divine commandments and notions of authority<sup>10</sup>.

The Axial Age has been taken up again, most notably by Robert Bellah and Hans Joas<sup>11</sup>. For my purposes one of the most interesting aspects of this research project is precisely the way it has to navigate this problem of continuity and rupture, and for the most part it does so by reference to Bellah's lapidary statement 'nothing is ever lost,' which is taken to help explain the ways that the archaic survive through into the modern. One of the characteristics of axiality is in fact a profound ambivalence about whether our contemporary world is more shaped by the advance represented by the Axial Age, or by the more negative processes consequent on that 'disembedding,' but on either reading, it seems to me to offer paths towards an argument which would at least nuance any sense of a rupture in processes of human thought<sup>12</sup>.

The edited volume which Bellah and Joas produced is exceptional in range and quality, but nevertheless operates on an almost Vichian scale of historical abstraction. There is a danger that these grand theories of history disintegrate on contact with the messy details of individual human action, and especially since the breakthrough is characterized sometimes in very precisely elitist terms – if Plato heralds the Axial Age through his allegory of the cave, one fears that the Axial Age was not very axial for the majority of people. Jaspers himself acknowledged that his theory was in the 'great individuals' line of thought.

The notion of axiality, as Boy and Torpey note, is highly problematic<sup>13</sup>. Although the theory of the Axial Age had the virtues of going outside Europe to locate a broader sense of global historical development, its original chronological extent was problematic. But as it has been stretched to cover a wider and wider set of circumstances, it runs the risk of becoming vacuous, 'universality on the cheap'. My rereading of axiality attempts to retain the advantages of its general applicability, and the focus on conceptual change, but to broaden the scope of what that means and to read into it consequences for wider society. Jaspers, and it is clear many of those who have followed him, see the Axial Age theory as deeply rooted in commentary on contemporary society. It was after all very much the product of the aftermath of the Second World War, and Jaspers' own urgent desire for a unifying theory. For me, the salient features of the Axial Age as a heuristic tool have to be revised.

However the general idea of a conceptual transformation which abstracts a principle of hierarchy and consequently causes what Habermas calls a legitimization crisis seems to me to be an appropriate way of thinking about how

<sup>10</sup> Eisenstadt 1986

<sup>11</sup> Bellah and Joas 2012. The idea has had considerable purchase also in popular works such as Morris 2010 and Armstrong 2006. My account as will be evident will distance itself from some of these appropriations of Jaspers' thesis.

<sup>12</sup> This is particularly clear in Taylor 2012.

<sup>13</sup> Boy and Torpey 2013.

sovereignty emerges from the sovereign<sup>14</sup>. One might prefer to argue that this move, in the time of Bodin and Hobbes, was the effect rather than the cause of a legitimization crisis but cause and effect are often imprecise in intellectual history. In other words, I am suggesting that the idea of the Axial Age, as currently defined, coupled with what Matthias Jung calls a 'holistic difference with continuity scheme', that is, a dynamic and ongoing conversation between the newly discovered transcendent element and older embodied relationships to the world, which are continuously reintegrated, is an intriguingly persistent model for intellectual history<sup>15</sup>.

This argument raises for me the possibility that we are looking at an almost Hegelian dialectic, with increasing abstraction on the one hand and legitimization crises on the other, which then reintegrate embodied and embedded actions in new permutations, only for the cycle to repeat. If the Axial Age has any real purchase, it may be that it was a period in which the intensity of repeated reconceptualizations, the frequency of temporary syntheses, was particularly high, and the grounds of the arguments were unusually similar. This is not a period in which a single discovery is made in several cultures, but rather a period in which (for whatever reason), the same sorts of questions are being asked across a number of cultures and with a high degree of persistence.

It follows that we are not obliged to consider the Axial Age as a single moment in history (even one that lasts six centuries). It might be better to see it as a widespread disposition to questioning received wisdom, which re-emerged on a more or less widespread basis time and again. What is specific to this questioning is that the notion of transcendence creates an abstraction which operates at what might call a religious level, but which also engenders critique. It would seem likely that law, even customary law, and the practice of writing and codification, are key potential consequences. We usually assume that customary law reaffirms, but at the same time, as is often noted, the process of decision-making operates as a mechanism for deciding between alternatives, creating in other words the spaces for a kind of critical thinking, which we may also see in the development of religion.

For many of the authors in the Bellah and Joas volume, it is the religious element that is central, and this raises the most significant questions. The focus on religion as the specific outcome of the processes of disembedding, distancing and claims for validity tends to drive at least some of the essays towards the problem of monotheism versus polytheism.<sup>16</sup> But as Arnason argues, we need to be more nuanced than this, and allow for different factors to take their place<sup>17</sup>. Changes in the conceptualization of religion have an impact on legitimization of power, but one should perhaps allow that economic and political processes are critical here. The problem of the insistence on monothei-

<sup>14</sup> Habermas 1975; Bellah 2012.

<sup>15</sup> Jung 2012.

<sup>16</sup> Assmann 2012 emphasises the importance of the monotheistic revolution, but then allows for a more diverse and looser sense of axiality. The inclusion of Athens is an obvious problem for an over-emphasis on monotheism.

<sup>17</sup> Arnason 2012.

sm is significant. It effectively excludes the Graeco-Roman period unless one stretches that to include the rise of Christianity, and probably underplays significant levels of practiced polytheism even in supposedly monotheistic religion. It also underplays the extent to which the emergence of ever sharper notions of abstraction are part of the way that arguments towards monotheism may have emerged; it reflects the outcome rather than the process. The Axial Age in its purest form is rather like Vico's emphasis on the theophanic origin of human reflection. We can step to one side of that characterization and retain some of the more important consequences of the discussion about the recurrent development of abstraction.

Arnason helpfully divides axiality into five characteristics:

1. world articulation as such (the development of a concept of the cosmic order, which becomes more structured and reasoned over time);
2. recentering of the world (Arnason specifically identifies this as a move away from the archaic center par excellence, sacral kingship and a 'new vision of power as situated in the midst of a multipolar political field');
3. world negation (the development of a sense of renunciation or indifference to mundanity);
4. world extension (the discovery and / or imagination of other human forms of life and a growing grasp of historical depth);
5. humanization (an enhanced sense of human responsibility in ordering the world).

How does all this work when we come to the Roman period? Interestingly, Jaspers looked to the Roman king Numa, who is said to have championed a development of religious thought in Rome in the late eighth and early seventh centuries BC, according to the later Roman sources. My sense is that contributors to Bellah and Joas's book are more interested in the late Republic and early Empire. Can we explain this?

The two critical issues are that the sources for Numa (and all of early Roman history) are late and unreliable, whereas the sources for and from the late Republic and early Empire (which include much of the most important information we have for early Rome) are abundant and evidently highly considered. In other words, what we have is sources which amongst other things construct images of early Rome in order to reflect upon their own time<sup>18</sup>.

Secondly, as we have become significantly more sceptical about early Rome, Jaspers' equation of what is often thought to be a rather primitive community with the glorious achievements of Athens has seemed less persuasive. Hence looking towards a later period, where the evidence is better, seems to offer a more fruitful comparison.

However, this is not a necessary conclusion. First, as I have argued, axiality need not reside in a single moment, but in a quickening of the critical spirit. Secondly, we now actually know a good deal about archaic Rome, and it is more

<sup>18</sup> For a brilliant account, see Fox 1996.

impressive the more one sees of it.<sup>19</sup> Conversely, as argued above, if the mark of axiality is the emergence of a Plato, the bar is set high and this becomes an argument about a tiny proportion of elite culture. Of course, that can be said about a lot of classical scholarship, but a theory which claims to be about changes in world view needs to be more inclusive.

This section of my paper has sought to achieve two goals. I have used the concept of the Axial Age, with modifications of my own, to suggest that the intensification of discourse around the abstraction of notions of transcendence, and accompanying legitimation crises, is an observable phenomenon, that it is a recurrent process rather than a single moment, and that we should probably see philosophical change and political crisis as intertwined and not as one being the cause and the other effect. If we do not want to rely on a Vichian theophanic moment however, how do we make sense of the drivers which lead to such shifts in discourse?

### 3. *Archaic economies*

We have already invoked Hegel, and it is time to call on Marx. Bellah and Joas's volume is light on economic drivers. Yet the Axial Age is not only significant in terms of the development of religious thinking, it is also marked in all the relevant civilizations by significant economic change and growth<sup>20</sup>. To be more precise, since economic growth is a complex and slightly thorny issue, we see changes in values, issues around commodification and potential commodity fetishism, increased flow of goods and changes in expenditure patterns including around luxury and status items. In short, at precisely the moment that the notion of the transcendent is being developed, we also see the emergence of complex markets.

It is important to be careful about scale. For Weber, Polanyi and for many others, the transformation of the economy and the market is a phenomenon of the early modern or modern period. There are important moves in classical scholarship to apply notions of new institutional economics to antiquity to demonstrate degrees of economic rationality and Smithian growth, but hardly anyone is suggesting that the ancient world was capitalist<sup>21</sup>. But things were changing and this is another reason to look harder at archaic Rome, because some of the phenomena which are identified occurred at the level of the polis, not only at the level of the Hellenistic monarchies or advanced Roman imperial system, although they may be more visible in the context of large networked markets.

The Marxist response to Hegel was famously to insist on inverting the Hegelian concentration on ideas by developing the notion of the material con-

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<sup>19</sup> Cornell 1995; Carandini 2000; Hopkins 2016; Lulof and Smith 2017; Lomas 2017.

<sup>20</sup> A point made forcefully by Graeber 2011. For an interesting non-Eurocentric account which has much in common with the idea of the Axial Age, but which refocuses attention on the economy, and is also looser in its chronological boundaries, see Amin 2011.

<sup>21</sup> Scheidel, Morris and Saller 2007; Scheidel 2008.

ditions which distort human relations and present as natural a life which is estranged from true values and human flourishing<sup>22</sup>. It is not surprising that Jaspers owed a good deal to Hegel<sup>23</sup>. If we turn the Hegelian analysis on its head, the evidence of economic change necessarily becomes an important element in the analysis.

Balancing some economic change with an acknowledgement that the economies of the Axial civilizations even at their most advanced were constrained by social and political factors takes us directly to Polanyi's brilliant notion of the embedded economy<sup>24</sup>. Polanyi identified advanced capitalism as representing the great transformation in which economy became disembedded from society, and values became independent. The embedded market was one in which the value of something was bound up in the rituals and persons involved, in the whole social hierarchy and potentially its cosmological beliefs, whereas the modern commodity market was a product of rational choices and calculations<sup>25</sup>.

Behind Polanyi lies the hugely significant work of Marcel Mauss, and the idea of the gift<sup>26</sup>. Mauss saw the gift as a key to understanding early society, but not only that. The gift is simply the beginning of an effectively holistic account of archaic society, a conceptualization of the whole realm of value and exchange, personal and economic, familial and political, which starts from and is inextricably linked with moments of reciprocity. However, Mauss was also determined to argue that there was no sharp distinction between an archaic mode and a market economy. The gift is not a characteristic of a primitive mindset which does not understand the developed conception of state economy. Rather the roots of the modern economy are deeply entangled in and one might even say nourished by the archaic forms of interaction, which persist.

David Graeber has argued that we need to understand Mauss' subtle critique of the dichotomy between free gifts and self-interested markets. 'What Mauss is arguing, however, is that the first agreements that could be described as economic contracts were agreements not to act in accord with one's economic self-interest, since if one is simply speaking of material gain, then obviously it is in the interest of the giver to demand an immediate return, and even more obviously, in the interest of the recipient to simply take the goods and keep them, rather than waiting for a discrete interval and making a dramatic counter-gift'<sup>27</sup>.

<sup>22</sup> Marx 1990, pp. 1:102-103.

<sup>23</sup> Wittrock 2012.

<sup>24</sup> Polanyi 1957. Polanyi's work has recently been the subject of a broader reinterpretation of 20<sup>th</sup> century economic thought in Rogan 2017.

<sup>25</sup> Goldman 2017.

<sup>26</sup> Mauss 2016.

<sup>27</sup> Graeber 2002, p. 154. This is of course only one of many interpretations of the rich and complex world which Mauss opened up. More detailed ethnographies have inevitably added nuance. However, what remains clear is that the notions of gift and reciprocity, which Mauss has made such a helpful way for us to interpret other societies, were also in one way

Now this sense of continuity has something to say about the personal engagement in exchange. As Graeber goes on to argue, 'In every case, the most valuable objects in gift economies are valued primarily because they embody some human quality, whether this be the creative potential of human action, or fertility, or the like, or particular histories and identities that have already been achieved'<sup>28</sup>. How this happens varies enormously, and in reality, reciprocity is rarely perfectly achieved. What is successfully negotiated through the gift is an element of trust, fragile, temporary and revocable. The theory is often bound with notions of something abstract and – in certain circumstances – one might argue to be transcendent ('the *hau* of the gift')<sup>29</sup>. But the reality is a negotiation of social relationships.

At this stage I want to make some explicit links with the first part of the paper and to locate this specifically in the early Roman context, in preparation for the third and final section on sovereignty. My first section was in part an attempt to break down some of the rigid distinctions between primitive and modern societies which is common to many accounts of intellectual history, including those around sovereignty. I used a revised model of the Axial Age to suggest instead a continuum of questioning and abstraction, with periods of greater intensity, and also to suggest that the idea that 'nothing is ever lost' implies that ruptures are never complete. In Polanyi's account of markets and Mauss' analysis of the gift we find an account of archaic society which is at least as far-reaching as Jaspers's historical synthesis, and perhaps even more so, but both, at least as interpreted here, share the notion of continuities across time.

The first section of my paper also shifted the notion of transcendence away from a focus on monotheism and towards a notion of abstraction, suggesting that the capacity to see something which perdures beyond the individual's lifespan and has a value that is close to absolute is the key issue. In thinking about the gift, and exchange more generally, it is clear that ideas of fairness, balance, reciprocity and so forth existed, as well as the notion of something inhering in the gift over time. There has been a long debate about what precisely is inalienable in the gift process, and this may be as important as what is alienable, but there are suggestions that in some anthropological case studies, there is a clear indication of elements of personality within the gift (which means that it always to some extent belongs to the giver) or that, as in a kind of blockchain, the object retains the history of its transitions. In other words the gift is not only an object but also a history<sup>30</sup>.

In the second part of the paper I have connected Polanyi and Mauss to insist, as Mauss did, that gift economies are economies, but perhaps more embedded in social relations. Exchange is one of the ways in which trust is

or another structuring discourses in those societies, that is, there is a powerful interplay between social discourse and interpretive frameworks, and this is where Graeber's analysis is useful.

<sup>28</sup> Graeber 2002, p. 211.

<sup>29</sup> Mauss 2016, pp. 69-73.

<sup>30</sup> Appadurai 1988.

formed or broken, and potentially across significantly distributed networks in societies where mobility is high<sup>31</sup>. Mauss, who was deeply influenced by Marx, was indeed drawing conclusions about the real and moral economy of his time. The further exchange moves from the embedded economy, the more problematic the relationships which are constructed – and indeed one might argue, the less they are actually relationships. Mauss was after all Durkheim's loyal nephew, and the solidarity of society was a key concern for him and the wider team which took forward the publication of *L'Année Sociologique* in which *The Gift* first appeared<sup>32</sup>.

The usual context in which the gift and reciprocity are located in the classical world is through Homer and subsequent Greek society. The Homeric epics clearly have a concept of gift exchange, which has been well studied, and although the period described and maybe the period in which the poems were originally composed was in the late Bronze Age, they formed a critical part of the social imaginary of the archaic period, and concepts of reciprocity continued into the classical period<sup>33</sup>.

For the reasons I outlined earlier, it is harder to speak about central Italian society in the same way; we have no early epic, no literature to guide us reliably and richly to the *mentalités* of the archaic period, as we have in the Greek context. However, there is good reason to suppose that the world of the gift operated quite as effectively in archaic central Italy. In essence, our evidence is the substantial absorption of Greek art and models of living which were imbued with the Homeric ethos; the significant evidence of banqueting and possession of luxury goods especially in the late eighth to early sixth centuries BC; and the construction of peer polity networks and port sites across the western Mediterranean which show evidence of elite interactions as well as a broader trading ethos<sup>34</sup>.

In the Greek context, John Papadopoulos has called this 'a real search for structuring commodities of value that ultimately led to an economic system of exchange not limited to elites'<sup>35</sup>. The same can be said of central Italy. The eighth to sixth centuries BC were without question a period of social, political and economic transformation in much of the Mediterranean, and there are indications again that this affected mechanisms of rulership. The iconography of power changes. The possibilities for aristocracies are transformed by the economic possibilities of exchange. The tension between oligarchy and sole rule becomes intense.

<sup>31</sup> For a parallel and helpful account see Johnstone 2011.

<sup>32</sup> For an excellent account of Mauss' life and debt to Durkheim see Fournier 2006.

<sup>33</sup> Gill, Postlethwaite and Seaford 1998.

<sup>34</sup> See recently Manning 2018. For an account of the development of society in Etruria, see Riva 2010, and for the general problems of the period Riva, and Vella 2010.

<sup>35</sup> Papadopoulos 2014.

#### 4. *Sovereignty and law*

This brings us directly and specifically to the third part of my argument, which is about sovereignty and law. I want to begin with Graeber's reconsideration of Bloch's classic account of kingship rituals in Madagascar. Bloch identified a quality called *hasina*, which he defined as a kind of ineffable grace, or intrinsic superiority: 'power, vigor, fertility, efficacy or even sainthood'<sup>36</sup>. By virtue of this, the people honoured the king by giving a coin, which was effectively a version of tributary activity. Graeber found that there was a much more human element to *Hasina*, that it was a conscious act. His provisional conclusion is that «Hasina is not, in fact, inherent in the nature of the world. Human beings create it. By giving unbroken coins, representatives of the kingdom are effectively creating the power that unifies them as a kingdom, thus engaging in a form of collective action that, in effect creates them (as subjects) at the same time as it creates the king (as king)»<sup>37</sup>. Moreover this was clearly understood; a Merina proverb that stated that it is really the giving of coins that makes a king a king'. It might appear therefore that the awareness of the gift of power undercuts the claim that the kind possessed *hasina*, a quality which was then honoured by the people.

Graeber goes on to argue that the truth may lie somewhere in the middle; that the magical elements of the exchange are part of the ways in which the contingency of royal power is both acknowledged and hidden. It is not irrelevant however that the magic inheres in an at least symbolic monetary transaction<sup>38</sup>. What I take from this comparative example is that kingship can be both highly ceremonial and invested with authority and also an artifice which all conspire, and that the repetition of this apparently contradictory situation is cloaked by what Graeber calls magic, and which might in other contexts be called ritual.

My contention is that the reciprocity involved in kingship is around the flow of the conferment of power and the return of protection. Another circle is the tension between the authorizing divinity of the king and the restrictions placed on the king by sacralisation. In the first, sovereignty is the co-production of king and assembly and in the second the king's power is at once exalted by association with divinity and limited because being divine has consequences negative to one's freedom (the most obvious being the trope of the dying or sacrificed king)<sup>39</sup>.

Increasingly archaeologists and anthropologists have focused on consent and coproduction of power in addition to coercion<sup>40</sup>. Moreover it is precisely our axial age societies in which crises of legitimation forced more complex communicative strategies to sustain individual power and operating within

<sup>36</sup> Bloch 1977, p. 125.

<sup>37</sup> Graeber 2002, p. 236.

<sup>38</sup> Graeber 2002, pp. 239-47.

<sup>39</sup> This is explored in Graeber and Sahlins 2017.

<sup>40</sup> Blanton and Fargher 2008; 2016.

increasingly stable landscapes of authority. The city itself is an important resource for spectacle and persuasion, but it is also a resource which by its size permits heterarchic organization and offers the potential for usurpation and challenge<sup>41</sup>.

In the context of Rome, immense physical labour was expended over nearly two centuries to create and establish a public space in the centre of the city which towards the end of that period, in the later sixth century BC, was marked by an inscription which refers to both a king and the herald of an assembly. This central place, the *comitium*, was part of a wider piazza, the Forum, which was a site for public display including aristocratic housing, monumental temples or public performative pronouncements<sup>42</sup>. Whilst no-one would claim that Rome was without a strong coercive element, it equally makes little sense to assume that the community (even if narrowly defined to the male elite) was to some extent willingly implicated in the processes by which sovereignty was crystallised in the community.

Although the tradition is late, it is interesting that Romans assumed that the appointment of the kings was sanctified by a popular vote and required religious assent through augury (observation of patterns of birds in flight)<sup>43</sup>. We do not hear of restrictions on the king as such (though they did apply to the *rex sacrorum* who is often seen as a sort of vestigial king)<sup>44</sup>, but it is notable that almost all of the Roman kings were stranger kings and/or dying kings. We see here at least a story of the kinds of reciprocities that I have outlined above.

My final point is that one area in which we see kingly figures operating is the marketplace. The Forum was a commercial area as well as a political and sacred area. It seems to be a royal prerogative to announce the days of markets<sup>45</sup>. One of the Roman kings, Servius Tullius, is closely associated with the Forum Boarium, Rome's riverine port, and at Caere in Etruria, a figure called Thefarie Velianas was both holding extraordinary power and active in Caere's port site of Pyrgi. We lack evidence of a king at Gravisca, the port site of Tarquinia, but we do have a fascinating inscription on an amphora which says 'fair measure' and is clearly an authoritative guide. And in each of these ports, we also find clear evidence of shrines and sanctuaries<sup>46</sup>. As Blanton has said, there is no place better to see co-operation than a marketplace, since whatever advantage is being sought has still to be sought by peaceful rather than aggressive means.<sup>47</sup> The marketplace is precisely the place where piracy is converted to trade<sup>48</sup>.

<sup>41</sup> On Rome as a resource, see Terrenato 2014; more generally, Bell 2004.

<sup>42</sup> Coarelli 1984-1988; Gorski, Gilbert and Packer 2015.

<sup>43</sup> For a reconstruction of the kinds of arguments and institutions which may have led to the idea of election of kings, see Smith 2006. Good recent account of augury, Mignone 2016.

<sup>44</sup> Glinister 2017.

<sup>45</sup> On the ceremonies around the Roman calendar, see Rüpke 2011.

<sup>46</sup> *Servius Tullius* and the *forum Boarium*: Coarelli 1988. On Pyrgi see Xella, and Bellelli 2016; Baglione and Michetti 2015. On Gravisca see Fiorini 2005.

<sup>47</sup> See Blanton, Fargher 2016.

<sup>48</sup> See Tandy 1997 for an interesting account of archaic Greece.

We should also note that the transformation of exchange is also relevant to relations between city states and their leaders. Processes of gift-giving between members of the elite are of course well-attested in the Greek world, and we assume operated also in central Italy. The presence of nearly identical luxury objects in a pair of graves in Latium and Etruria suggests perhaps a dowry; and we have evidence of social mobility amongst the elite. A piece of ivory with an inscription, found in the Forum Boarium, has been interpreted as a *tessera hospitalis*, a token to be matched with its pair to confirm a relationship. The presence of Phoenicians at the dedication of the port shrine in Pyrgi mentioned above again implies some combination of exchange and elite interaction. The extent to which personal gift-giving becomes marketized remains unclear, but it is nonetheless clear that the production and exchange of surplus was increasingly evident. So aristocrats may have given gifts to aristocrats, but ports and traders were also creating spaces in which regulated exchange took place, and the two often coincided<sup>49</sup>.

It is possible that some of the mechanisms for the conduct of trade were specified and in particular it is likely that there was a mechanism for redress in case of dispute. The legal capacity for trade between non-citizens (*commercium*), and the distinctions between objects which could be exchanged by *mancipatio* and those which could not (*res Mancipi* and *res nec Mancipi*) appear to be early. The latter is in the Twelve Tables, and is at least potentially applicable beyond the Roman citizenship, and the former has been thought to be a founding element of the relationship between Romans and their neighbours as early as the sixth century BC. For *mancipatio*, the critical issue is that the object is of sufficient value that the exchange demands to be witnessed. This is in a sense an illustration of the principle of marketplace co-operation (which does not of course mean an environment of perfect trust, but a principle whereby trust can be co-operatively created to defer dispute, or provide remedy)<sup>50</sup>.

## 5. Exchange, religion and time

At this point I want to close the circle of the argument. I wish to argue for the following contentions.

One of the key roles of the king is as a broker in times of dispute; the very name *rex* implies someone who puts things straight, and it is interesting that the Romans preserved an office of interrex, which lasted far beyond the period of the kings<sup>51</sup>. This office itself implies the existence of kings and also perhaps the expectation that a king might be a more occasional office than the sources imply. The counter to this is usually located in the assumption of the absolute necessity of annual warfare, but it may be that the Roman army mustered as

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<sup>49</sup> For recent reflections on Etruscan trade, see Riva 2018, and for the evidence for economy more generally, see Smith 1996.

<sup>50</sup> On *mancipatio* see the provocative account in Watson 2004, and on the Twelve Tables more generally, Watson 1976; Capogrossi Colognesi 2014.

<sup>51</sup> Benveniste 2016.

a whole rather rarely, with more localised conflicts as a more normal occurrence<sup>52</sup>.

The reciprocal act to the conferral of sovereignty is theoretically the maintenance of community. This seems to me to be the consequence of the collocation of king and assembly, and also the evident importance of the mechanism of conferral of authority<sup>53</sup>. It is also interesting that one of the earliest oaths that we hear of, the oath *per Iovem lapidem*, is an oath taken by an individual, which if broken results in their being expelled from the community<sup>54</sup>. Similarly, one of the powers which the king may have had was to make someone or something *sacer* which is to hand them over to the gods. For an area of land for instance, this involves inviolability; for a person, it removes from them any human connection, including warmth and sustenance, effectively a sentence of exile or death<sup>55</sup>.

One of the key mechanisms for maintaining community is through primitive legislation. This is one of the most difficult aspects to prove because the so-called *leges regiae* are usually thought to be an invention and they cannot be reconstructed with any certainty at all. It is certainly unreasonable to construct regal period laws from the constitutional inventions we find in later sources. In fact one of the very few texts which seems to be a likely clause is a requirement for any prostitute who touches the altar or shrine of Juno to sacrifice a lamb with her hair let down; another declares *sacer* anyone who moves a boundary<sup>56</sup>. These are customary regulations, like much of the Twelve Tables; they develop the *mores* which grew over time. Some of these are likely to emerge from brokerage, and as Alan Watson points out the notion of *res Mancipi* and *res nec Mancipi* bears the hallmarks of invention<sup>57</sup>.

One of the key arenas is in the notion of exchange itself. The later kings are associated with stories about value, and in the case of Servius Tullius the introduction of coinage<sup>58</sup>. This is premature (coinage came later) but I am tempted to wonder if these stories should be put alongside the association with trade and ports as distorted memories of the importance of the role of the king in arbitrating (at an almost abstract level, like a god) the notion of fair trade.

The discovery of a transcendent value of fairness and authority elsewhere in the Axial Age created the sorts of legitimisation crises which drove

<sup>52</sup> Armstrong 2016.

<sup>53</sup> The key evidence for the king and assembly is a sixth-century BCE inscription found at the heart of the Roman forum, the so-called *Lapis Niger* inscription. For a controversial but stimulating account see Palmer (1969); Patricia Fortini and Elena Tassi Scandone are preparing a new account of the subject.

<sup>54</sup> Richardson 2010, with a slightly different emphasis.

<sup>55</sup> Fiori 1996. The idea was taken up by Giorgio Agamben. The idea that this capacity belonged to the king arises from the presence of the word *sacer* on the *Lapis Niger* inscription (above n54), and the assumption that the king combined religious and military power.

<sup>56</sup> Fest. sv. *paalex.*; cf. Gell. 4. 3. 3; D.H. *Ant. Rom.* 2.74.2-3; Fest., sv. *Termino*.

<sup>57</sup> Watson 2004.

<sup>58</sup> Plin., *nat.* 18.12, 33.43. The family of the *Servilii* were said to own a coin which grew or diminished according to their fortunes; Plin. *nat.* 34.13. For a sophisticated reading of archaic economic thought at Rome, see Viglietti 2011; 2017.

change. Now a king was not the only possible arbiter, and we need to factor in other components of a more heterarchic Rome than the sources portray. Religious figures are key, as shown by Tarquinius Priscus' battle with the augur Attus Naevius, and the emergence of the pontificate<sup>59</sup>. My argument however has been precisely that the king should be seen not as a permanent fixture of archaic Roman society but rather as one mechanism which was produced by and responded to the intense intellectual and conceptual ferment of the archaic period. This ferment was to a substantial extent, I would argue, driven by: transformations in the notion of exchange which include the reciprocal relations between leaders and people; the expected return for the conferral of sovereignty and its limitations; and the transformation of value in exchange which we say frequently taking place within a religious context.

It is worth making explicit two connected themes here, international relations and religion. First, I have systematically downplayed so far the role of the king in war. As indicated above, I am concerned not to be driven into a vision of kingship that is predicated on unprovable assumptions about the nature of early Roman warfare. However it is noteworthy that the mechanism of declaring war and peace is associated with the kings, and from what we know comes from the same intellectual world of law and religion. The officials are the college of fetial priests whose work is set in terms of reparation. In case of provocation, they make a highly formal demand, swearing by the gods, and committing Rome to carry out the necessary acts of recovery. The entire principle of the process is about the restoration of due exchange, combined with a clear statement of Rome's rights and obligations, under the protection of the gods – the fetials are even responsible for giving up Romans who have offended. The logic of the process binds the king and the community; even as it masks belligerence, it also subordinates it to an abstract process of law<sup>60</sup>.

This leads us to say a little more about the role of religion. Any opposition between a primitive religious world and a more rational economic one runs counter to Polanyi's notion of an embedded economy. At the same time, we also need to ensure that we embed Roman religion in its relevant social economic and political contexts. Roman religion is often expressed by or invoked in the context of contractual language. That does not mean it is simply instrumental or that it was not intensely experienced, but it does indicate that it operates at a profoundly relational level; it defines relations between people and people, people and gods, people, gods and property. The Roman narrative expresses this through the description of the work of their second king Numa in stabilizing the Romulean foundation through the introduction of religious observance, an opinion which Machiavelli also expressed in the *Discorsi*. However even leaving this narrative aside, the institutional process

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<sup>59</sup> *Attus Naevius*, see Liv. 1.36. The Pontifices were traditionally founded by Livy, but their role was augmented by record-keeping from the early Republic; see Frier 1999).

<sup>60</sup> On the fetials see the comprehensive account Rich 2011.

whereby the formal authority of a leader, *imperium*, is doubly confirmed by election and auspices expresses the complex interplay of agreement and trust which underlies the assent to be ruled, and especially to be led in times of war<sup>61</sup>. We cannot of course exclude violence, corruption and intimidation as factors in the assertion of power, but I would argue that the Roman account allows for a more complex story.

Returning to Arnason's five characteristics, we may note the following changes in eighth to sixth century BC central Italy. It is likely that we see the development of Etruscan religion, which deeply influenced Rome, and in which there does seem to have been an adoption of a Greek polytheistic system together with a complex view of the way the cosmic order could be interpreted via haruspicy, augury and so forth<sup>62</sup>. We have suggested that the notion of kingship and power may have been under scrutiny as the world became recentered away from simple small scale models of big men and so forth, as may perhaps have operated in the late Bronze Age. The increasing attraction of house society as a model for central Italy is entirely relevant here; this was Lévi-Strauss' own suggestion for an interval between primitive society and the state. In its heterarchic complexity house society recenters society towards multipolarity<sup>63</sup>. Arnason's third category of world negation is derived from the concentration of Axial Age scholarship on monotheistic religions, but if we turn instead to Ian Morris' arguments about middling society, we do indeed see limitations on luxury expenditure and constraints on aristocratic power<sup>64</sup>. In two societies, Sparta and Rome, I think these were acute<sup>65</sup>. At the same time, both Rome and Sparta were expansionist, and in the case of Rome and probably Etruria more generally, the shift away from kingship heralded a new conception of annual timekeeping which is itself a reformulation of history<sup>66</sup>. Finally, I would argue that in reforms to the army, to divisions of the citizen body, and in the demands by the plebs for access to power we see a version of what Arnason acknowledged to be a rather vague category of humanization. Taken however as a distinction between a human and a non-human world, the importance of the notion of what is *sacer* and what is not precisely fits this, and similarly the creation of a calendar with days of business and days of ritual suggests a similar carving out of the human world. These are all changes which are likely to have a precedents in what the Romans regarded as an age of kings, and are then located very much in the successive Republican period.

<sup>61</sup> Recently, Drogula 2015; Vervaet 2014.

<sup>62</sup> Simon and De Grummond 2006 offers an introduction to a complex topic.

<sup>63</sup> González-Ruibal and Ruiz-Gálvez 2016.

<sup>64</sup> Morris 1996.

<sup>65</sup> Spartan austerity is well-known; the evidence for Rome comes from the disappearance of luxurious grave goods from the archaeological record, which is reflected in sumptuary legislation in the Twelve Tables. See Eder and Ampolo 1990; *Crise et transformation* 1990.

<sup>66</sup> Purcell 2003.

## 6. Conclusion

This is a highly speculative argument, especially in the Roman context. I have joined a modified concept of the axial age, a notion of the embedded economy, and the centrality of the gift, to offer a different kind of explanation for what kings at Rome may have done, and how kingship may have been a contingent and possibly temporary solution to intractable problems. One of those problems was perhaps the recognition that as the purposes for which kingship was conferred became more complex, and more abstract, the use of kingship was less fit for purpose. One of the clear outcomes of social and political battles now too dim for us to understand in full was the division across several time-limited offices of the prerogatives of power, with military, religious, political and legal power becoming more distinct<sup>67</sup>. Separation then heightened the need for definition and so the crises of legitimation continued, arguably until they were resolved by the reintroduction of a much more sophisticated monarchy under the emperor Augustus.

The importance of the economic transformation of society is clear. It was the search for 'structuring commodities of value' and the impact and outcomes of that search for society which led to the need to redefine values and the society in which those values operated. This increased the size of communities and the extent to which they operated as a resource for power, which transformed the exchange between people and leaders, and which made the codification of law all the more necessary. My suggestion here is that co-produced mechanisms of sovereignty reflected and enshrined broader notions of reciprocity and exchange, which were themselves increasingly given abstract force.

My final contention is that if this account sounds very modern, it is not because it is a retrojection of modern concerns into the distant past, but because the argument is recurrent and requires to be repeatedly resolved in new ways. Whilst this version of intellectual history makes past solutions of essential interest, it does not make them canonical in the face of new challenges. In fact, the most evident conclusion is the essential contingency and fluidity of a concept such as sovereignty. The prehistory of sovereignty underlines the possibility for it to have a different future.

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<sup>67</sup> See Raaflaub 2008.

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### Abstract

Kingship has been of particular interest to anthropologists from Fraser to Graeber and Sahlins. This paper will join three concepts: gift-giving, law-making and kingship in a reflection on the possible proto-economic roots of sovereignty. I am particularly interested in the reciprocity which existed between the king and the people, a space created and policed by law even in its earliest normative and communicative forms,

but constituted through models of exchange. This takes in the notion of sovereignty at the level of the household and its role in the developing economy.

**Keywords:** Kingship - Anthropology - Roman Monarchy - Sovereignty - The Axial Age.

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