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## CULTURE AND POLITICS IN CARL SCHMITT

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## Introduction

In the 1987 *Telos* special issue devoted to Carl Schmitt, G. L. Ulmen and Paul Piccone asked “Why Schmitt? Why Now?”—attempting to respond to the outrage sparked by this journal’s serious engagement with a thinker associated with Nazi Germany. In the intervening two decades, the censorious resistance to Schmitt has not subsided, but the urgency of his ideas has dramatically increased. With the replacement of the Cold War by the War on Terror and the ICBM with the suicide bomber, game-theory calculations and the realism of missile counts have given way to efforts to understand the enemy.<sup>1</sup> Culture precedes politics, life precedes law, theology precedes order. *Ergo* Schmitt.

Cultural issues lie at the heart of Schmitt’s concept of the political. This centrality of culture has been difficult to recognize, though, because culture always lies in a space that is essentially inaccessible to political calculations, discussable only in terms of such ideas as the decision or the state of exception. The trajectory of Schmitt’s work therefore consists of a series of incomplete attempts to understand the foundations of the decision and of the political in a mythic-theological-cultural dimension. He analyzes the theological foundations of current political forms in *Political Theology* and *Roman Catholicism and Political Form*. He examines extraparliamentary movements as the shapers of politics: Nazis in *Staat, Bewegung, Volk* and Communists in *Theory of the Partisan*. He looks to traditional bases of law in *The Three Forms of Juristic Thought* and posits a kind of mythic relation to the land as the basis of order in *The Nomos of the Earth*.<sup>2</sup> Although he never achieved a conclusive account of the cultural basis of law and political order, he recognized the inadequacy of considering a political order as a self-sufficient system. The intensity of his engagement with this problem and the variety of solutions that he offers generated a conceptual toolbox for understanding the cultural and theological structures that drive politics today.

This issue of *Telos* addresses the relation between culture and politics in Schmitt’s work from differing perspectives. Benjamin Arditi begins by presenting Schmitt as a “post-foundational” thinker of political and cultural identity. Schmitt defines the political as an “intensity” of some previously existing antagonism. Culture, be it in the form of conventions or institutions, permeates the political, and Arditi, building on Leo Strauss’s critique, uncovers a hidden substantive

1. Michael M. Phillips, “In Counterinsurgency Class, Soldiers Think Like Taliban,” *The Wall Street Journal*, November 30, 2007.

2. Mika Ojakangas has a good summary of this development in his “Philosophies of ‘Concrete’ Life: From Carl Schmitt to Jean-Luc Nancy,” *Telos* 132 (Fall 2005): 25–45.

morality in Schmitt's defense of the state that belies his formalism. Similarly, an individual's willingness to take risks for a particular system depends on cultural representations that make sacrifices credible. Michael Marder describes this link between representation and the political by examining Schmitt's idea of the *complexio oppositorum*: A culture that is internally heterogeneous can still remain coherent by retaining opposing figures without trying to impose a synthesis. Rather than concepts and abstract ideas, figures and rhetoric are the primary constituents of political form. Marder links this cultural model to a vision of multiculturalism that maintains cultural difference within a political entity in a way reminiscent of the federal populism that Piccone described in the 1990s. Yet Schmitt's differential concept of the enemy gets muddled when Marder designates liberal universalism as the ultimate enemy of cultural diversity. While Marder locates plurality within a political entity, Schmitt clearly focuses on difference between states and only to the extent that each individual state is internally homogeneous.

David Pan explores politics as representation—rather than as violence—by identifying the ethical context and popular support for decisions. The state of exception involves competing conceptions of culture, among which the sovereign must decide, and the validity of this decision depends upon the ability of the national community to act as a viable political entity. The decision establishes values by creating a unique and substantive form that translates the popular will—which preexists the decision and therefore constrains the sovereign—into an institutional framework. Therefore, a cultural and partially aesthetic representational aspect precedes the foundational moment of politics.

Far from subordinating aesthetics to politics, Schmitt develops a dialectical model in which, first, art's lacunae are identified as the place of the political and, second, art plays a political role by influencing political thinking through its specifically aesthetic mode of representation. Though Johannes Türk does not attempt to elaborate this connection between Schmitt's aesthetics and his political theory, his innovative reading of *Hamlet oder Hekuba* points out how Schmitt's concept of representation includes a nuanced theory of the specific difference between art and politics, on the one hand, and their points of conversion, on the other.

Both Hans Sluga and Christian Emden demonstrate Hannah Arendt's borrowings from Schmitt. For Emden, Schmitt's analysis of the state of exception and the underlying importance of sovereignty for stability provide an accurate depiction of how Weimar constitutionalism failed to resist extraparliamentary movements because it could not make an effective appeal to substantive values, relying instead only on proceduralism. He claims that Arendt adopts this critique of liberalism in her *Origins of Totalitarianism* and follows Schmitt by seeking a prepolitical foundation for legal order. Her focus on political action in *The Human Condition* turns out to be a version of Schmitt's insistence on the importance of concrete life in *Political Theology* and *The Concept of the Political*. Similarly, Sluga argues that in *The Origins of Totalitarianism*, Arendt accepts Schmitt's

conclusion in *Staat, Bewegung, Volk* that the political movement has become the new model of political organization in the twentieth century. For Arendt, the main danger to the political involves the so-called “social realm,” the infiltration into the political sphere of economic considerations and of methods of control taken from the realm of work.<sup>3</sup> This cultural-pessimistic critique of political decline resembles Schmitt’s own concerns with the impact of technological modernity and his concomitant defense of the political, without, however, a corresponding sense for the cultural foundations of the political and thus also of the regenerative element that culture provides.

Astrid Deuber-Mankowsky shows how Foucault, like Schmitt, develops a theory of state power that links the internal order of a state to the character of its external relations. Yet instead of pursuing the similarities, she attempts to differentiate Foucault from Schmitt. However, she may not be able to “save” Foucault from proximity to Schmitt. In fact, her essay effectively demonstrates the extent to which Foucault’s theories merge very well with Schmitt’s concepts of sovereignty. Where there are significant discrepancies, for instance in Foucault’s notion of a decline of sovereignty or in his diminishment of representation in favor of mechanisms of biopower, Schmitt’s theories offer a useful corrective to Foucault’s overly mechanistic account, which discounts the influence of individuals and representation in politics. On this last point, Deuber-Mankowsky’s critique of Schmitt’s formalism as a “victory over formless matter” that eradicates the concrete underestimates Schmitt’s idea of substantive form, so well described by Marder. Moreover, the focus on concrete practices also links Schmitt and Foucault, leading in both to some of their most notorious misjudgments: Schmitt’s support for extraparliamentary movements, such as the Nazis, and Foucault’s support for the Iranian revolution, not out of any particular ideological commitment to its goals, but as an irresponsible endorsement of any situation in which “people rebel,” regardless of content. Presumably a lynch mob would qualify as well.

Theo de Wit focuses on a Schmittian element in Alain Finkielkraut’s critique of a humanist ideology that, eager to outlaw inhuman behavior, introduces the enemy of humanity as an absolute enemy condemned to eradication.<sup>4</sup> Where Schmitt criticized the supporters of the League of Nations, Finkielkraut directs his critique at what he terms a “radical politics” of the Left that establishes racism and xenophobia as the new absolute enemy. As de Wit argues, Finkielkraut’s critique of the idea of humanity develops out of his commitment to a notion of the transcendence of the human individual, which he sets against “the seduction of immanence.”

3. Cf. James Barry, “The Growth of the Social Realm in Arendt’s Post-Mortem of the Modern Nation-State,” *Telos* 138 (Spring 2007): 97–120.

4. Cf. Dan Edelstein, “*Hostis Humani Generis*: Devils, Natural Right, and Terror in the French Revolution,” *Telos* 141 (Winter 2007): 57–81.

These themes of the absolute enemy and the idea of transcendence are also central in Paul Gottfried's review of books by Massimo Maraviglia and Alain de Benoist. Extending the Schmittian suspicion of liberal humanism that Finkelkraut foregrounds, Benoist criticizes U.S. foreign policy for pursuing the kind of demonization of enemies that Schmitt excoriated in his critique of humanism. Though Gottfried points out that the excesses of the United States cannot be compared to Nazi Germany or the Soviet Union, he nevertheless agrees that contemporary neo-Wilsonianism derives from certain aspects of the political and religious culture of the United States. This hypothesis of the cultural foundation of foreign policy is the same Schmittian insight that drives Benoist's thinking and which is partly explained by Maraviglia as the consequence of Schmitt's Catholicism. As both Gottfried and Maraviglia affirm, far from a theorist of pure power, Schmitt developed a critique of a purely immanent, mechanistic understanding of history on the basis of the Christian idea of the *katexon*: "a transcendent force sent from outside of history but also one who penetrated human events."

The political events of the last two decades have demonstrated the failings of both an abstract universalism and a narrow-minded realism. The Schmittian thesis of a cultural basis of politics presents a compelling alternative. Gorbachev's decision that the West was no longer an enemy was a sovereign termination of a state of exception. Ending the discourse of enemy—which Putin is apparently trying to resurrect—ended the Soviet Union. Ethnopolitics returned. The 1990s confusion in NATO also followed a Schmittian dynamic as the dissolution of an enemy led to an identity crisis among friends, until a new enemy volunteered. September 11 proved that the dream of the end of history had ignored how political conflicts are grounded in cultural differences, not rational calculations. Most recently, the conflicts in Iraq have been a painful reminder of the Schmittian idea that a political entity requires a degree of homogeneity—shared values—grounded in a popular will. Schmitt's theories, developed in a similar situation of violently warring factions within Weimar Germany, seem to be especially suited to deciphering the situation in Iraq as a state of exception involving a conflict between multiple political-theological frameworks, all vying to establish sovereignty by defining the "real" enemy. The proposals to impose a trisection of Iraq on the basis of ethnic and religious segregation unwittingly echo the Schmittian ideal of homogeneous communities. What is clear, however, from Schmitt's cultural-political perspective is that the decision over a liberal democratic (and presumably Iraqi nationalist), a Sunni, a Shiite, or a fragmented situation of sovereignty will not be decided by military force alone but through developments of popular will to power, when specific cultural commitments become so important that enough Iraqis decide to risk their lives defending them.

*David Pan and Russell A. Berman*

## *On the Political: Schmitt contra Schmitt*

Benjamin Arditì

### *Enmity, War, Intensity*

Norberto Bobbio once gave a minimal definition of politics, characterizing it as the activity of aggregating and defending our friends, and dispersing and fighting our enemies.<sup>1</sup> We know that the instigator of this definition is Carl Schmitt, although his critics have often misunderstood the reference to enmity. What resonates most is the claim that friend-enemy oppositions constitute the basic code of the political and that such oppositions can lead to the extreme case of war. This might explain why part of the debate on *The Concept of the Political* has revolved around the status of the enemy and on whether Schmitt aestheticizes violence and ultimately glorifies war and death. His would be a bellicose thought, contrary to the pluralistic and democratic political ethos dominant in the West.

There is some truth to this charge, as there is with the suspicion that for him the true subject of politics is the state. Schmitt tries to avoid subsuming the conflictive reality of the political under the aegis of war by positing the latter as a precondition and real possibility of the former. Yet, he singles out friend-enemy oppositions as the most intense, because they alone are capable of escalating into war. If economic, ethnic, or other oppositions lead to war, it is because they have already ceased to be merely economic, ethnic, etc. and have become political by virtue of acquiring the necessary intensity to group people as friends and enemies.

Jacques Derrida has shown that Schmitt's focus on intensity introduces an unexpected telos into his concept of the political: war turns out to

1. Norberto Bobbio, "Política," in *Diccionario de política*, ed. Norberto Bobbio, Nicola Matteucci, and Gianfranco Pasquino (Mexico City: Siglo XXI, 1982), 2:1247–48.

be the essence and not the precondition of the political.<sup>2</sup> This is because if one places absolute peace or complete absence of conflict at one end of the spectrum and war at the other, the intensity of an opposition will increase as we move away from peace. Political oppositions—those structured around the friend-enemy relation—are unthinkable in the case of zero conflict, because then there would be no enmity and therefore no possibility of grouping people as friends or enemies. Yet, once you move away from pure stasis, the political can be anywhere in the scale of intensity. The problem is that economic, ethnic, religious, and other oppositions will be part of that spectrum too, so what is it that makes political oppositions so special? Schmitt simply affirms that they are the most intense of all. But the measurement of intensity is notoriously tricky, and if the intensity—and therefore the political nature—of an opposition increases as it moves closer to war, then war would turn out to be the quintessence rather than the extreme or exceptional manifestation of the political. This, of course, contradicts Schmitt's desire to avoid conflating the political and war. The simplest solution is to keep war as a real possibility—as the most extreme possibility—and drop the criterion of intensity as a means to distinguish political oppositions from others.

A second way of dealing with this is to examine what Schmitt might mean by war. It is obvious that he is thinking of it in the strict sense of confrontations that involve the loss of life: the enemy poses an existential threat, and this authorizes us to fight and kill him for political reasons.<sup>3</sup> This is partly because he draws his inspiration from the Westphalian state system, where politics was the high politics of interstate affairs and war was a regular fixture. But we know that Schmitt understands the possibility of war as a presupposition of the political and not as its content or its aim, and he defines the political enemy as *hostis* rather than *inimicus*.<sup>4</sup> The focus on the mutual hostility at work in political oppositions is useful in that it allows us to speak of a double link between war and the political: war is the extreme manifestation of a hostile disposition, but hostility may or may not lead to actual battles and the concomitant spilling of blood. This might be a peculiar way of looking at war, but on scrutiny it is not

2. Jacques Derrida, *Politics of Friendship*, trans. George Collins (London: Verso, 1997), pp. 131–32, 139

3. Carl Schmitt, *The Concept of the Political*, trans. George Schwab (1932; Chicago: Univ. of Chicago Press, 1996), pp. 32–33, 48–49.

4. *Ibid.*, p. 34.



particularly unusual. One can trace it back to a passage in *Leviathan*, where Hobbes says that “Warre consisteth not in Battell only, or the act of fighting, but in a tract of time, wherein the Will to contend by Battell is sufficiently known. . . . So the nature of War, consisteth not in actual fighting; but in the known disposition thereto, during all the time there is no assurance to the contrary.”<sup>5</sup> War, then, refers to actual battles *as well as* to the lack of assurances that our adversaries will not attack or try to harm us in some way. Without the possibility of understanding war in this second sense, as a *disposition* to fight, how could we account for something like the *Cold War*, which pitted adversaries against one another without their armies ever actually shooting at each other? So, even when killing and dying remain within the structure of possibilities of the political, there are political “combats” where friends and enemies size each other up without a drop of blood being shed.

The possibility of a war without killing, or, more precisely, the absence of a causal relation between the disposition to fight and the physical elimination of adversaries, is important because it extends the scope of Schmitt’s reflection on the political. It makes it easier to unlock it from the domain of interstate relations—which is where he thought it made most sense—and apply it to the domestic scene of friend-enemy oppositions, without necessarily leading to civil war or denying the decision-making force of the state, as he feared it would. I will say more on this later.

A third way of deflecting the criticism and bypassing the complicity between war and politics consists of going along with Chantal Mouffe and sanitizing Schmitt by morphing antagonism into agonism and transforming enemies who must be destroyed into adversaries to be confronted.<sup>6</sup> This would suspend the reference to war and make the Schmittian concept of the political fit for thinking legitimate dissent and politics in democratic polities—particularly liberal ones—where her “agonistic pluralism” is supposed to rule.<sup>7</sup> Mouffe’s normative assumption about the types of

5. Thomas Hobbes, *Leviathan*, ed. C. B. Macpherson (Middlesex: Penguin Books, 1968), pp. 185–86.

6. Chantal Mouffe, ed., *The Challenge of Carl Schmitt* (London: Verso, 1999), pp. 4–5; also in Chantal Mouffe, *The Return of the Political* (London: Verso, 1993), p. 4.

7. A possible source for Mouffe’s “agonistic pluralism” is Connolly’s “agonistic respect”: neither pure combat (gap) nor a mode of reconciliation (bridge), but “a bridge with a gap.” See William E. Connolly, *Identity/Difference: Democratic Negotiations of Political Paradox* (Ithaca, NY: Cornell UP, 1991), pp. 166–67. This agonism allows Mouffe to define democratic consensus as a conflictual one. For Mouffe, a self-styled “left

enmity and conflict compatible with pluralist democracy has its merits, and there are many who are happy to endorse it. Yet, it is not very convincing or particularly useful.

There are two reasons for this, or perhaps even three if we were to press Mouffe by asking her how this will occur, how does she envision the actual process of transforming enemies into adversaries and antagonism into agonism without having to appeal to a universal voluntary agreement, an authoritative imposition, or a Kantian regulative idea like the one informing Habermas's communicative ethics. But I am more interested in other problems. One is that the proposal to move from enemy to adversary is not a true innovation, because Schmitt himself tried to extricate his concept of enmity from war—not always successfully, as we have just seen—by distinguishing the political enemy from the deadly foe.<sup>8</sup> He fine-tunes the distinction in *Theory of the Partisan* by specifying three types of enemies—conventional, real, and absolute—and by arguing that only the third one falls outside his criterion of the political. This is because the absolute enemy knows of no limitation and thus has absolute war as its correlate, whereas Schmitt takes the relativized enmity of the *jus publicum Europaeum* as the model for his political enemy.<sup>9</sup> This is a way of avoiding

liberal” (*The Challenge of Carl Schmitt*, p. 5), “enemy” is a category restricted “to those who do not accept the democratic ‘rules of the game’ and thereby exclude themselves from the political community” (*The Return of the Political*, p. 4), and antagonism is a frontal struggle between enemies who have no common symbolic ground between them (*The Challenge of Carl Schmitt*, pp. 4–5). Enmity and antagonism are therefore inappropriate for pluralist democracy, so taking on Schmitt's challenge means transforming antagonism into agonism (*The Challenge of Carl Schmitt*, p. 5) and enemies into adversaries who adhere to the principles of liberal democracy. Yet she is ambiguous about antagonism. Sometimes it is a quasi-transcendental condition of possibility and impossibility for the realization of democracy (*The Return of the Political*, p. 8), so it is hard to see how or why one could transform it into agonism without destroying its quasi-transcendental status. On other occasions, Mouffe sees it as an ontological component of politics that can be diffused but not eradicated; but she is not always consistent about this, because she also speaks of the “antagonistic *potential* present in human relations” (*The Challenge of Carl Schmitt*, p. 4, my emphasis). If antagonism could happen or not, then it is not a fixture but a simple possibility of politics. For a lucid critique of Mouffe's agonistic pluralism from another angle, see John Dryzek, “Deliberative Democracy in Divided Societies: An Alternative to Agonism and Analgesia,” *Political Theory* 33:2 (2005): 220–22.

8. Carl Schmitt, “Corollario 2: Sulla relazione intercorrente fra i concetti di guerra e di nemico” (1938), in Gianfranco Miglio and Paolo Schiera, ed., *Le Categorie del ‘Politico’* (Bologna: Il Mulino, 1972), p. 196.

9. Carl Schmitt, *Theory of the Partisan*, trans. G. L. Ulmen (New York: Telos Press, 2007), pp. 88–90. For a discussion of Schmitt's three types of enemy, see Gabriella Slomp,

the semantic overlap between war and the political or of reducing the latter to killing and dying. It involves a claim about what kind of enemy is acceptable and brings Schmitt's understanding of the enemy close to Mouffe's adversary, as long as the latter does not turn into a mere competitor in the market or a discussant in intellectual matters.

The second problem in Mouffe's reading of Schmitt is that it overlooks the fact that identifying an opponent that is neither a competitor nor a discussant was not Schmitt's last word on the political. It was only its normative aspect: groups must distinguish their friends from their enemies in order to count as political entities. This is perfectly meaningless for Schmitt without the existential angle, for a group that identifies its adversaries and is not prepared to confront them in some way is not a political group at all. People might nod approvingly whenever someone says that we must draw the line in the case of racism. It is the right thing to say and do. Doing, however, happens to be more relevant than saying, because it poses the question of whether something will follow from a principled stance against racism. If those who claim to oppose racism fail to speak up when confronted by it, one may conclude that they have a morally and ethically decent view of things but not that they are political in the Schmittian sense of the word. Without putting existential risk into the equation—that is, without the willingness to engage opponents and the awareness that doing so might put one in harm's way—Mouffe's call to replace enemies with adversaries and antagonism with agonism is a flawed solution. This is not because "existential risk" applies to matters of life and death alone, for if it did, war is once again the truth of the political and the entire effort to avoid the conflation of war and the political is pointless. The sociological recasting of late modernity as "risk society"—as in the work of Ulrich Beck—shows that risk entails the possibility of harm that might or might not lead to a loss of life.<sup>10</sup> I mentioned something about this in the discussion of hostility and the Hobbesian take on war. Whether in its restricted or more extended sense, existential risk is ineradicable from the political and irreducible to its normative aspect.

We then have three possible lines of flight from a bellicose account of the political: dropping the intensity criterion, seeing war as a disposition to

"Carl Schmitt on Friendship: Polemics and Diagnostics," *Critical Review of International Social and Political Philosophy*, 10:2 (2007): 203–4, 209.

10. Ulrich Beck, *Risk Society: Towards a New Modernity*, trans. Mark Ritter (London: Sage, 1992).

fight and not simply as an actual battle, and, less satisfactorily, transforming enemies into adversaries and opting for a normative criterion without an existential supplement. None of these can fully dispel the fear of a purely adversarial politics and of worrisome links between enmity and war-like scenarios found in Schmitt's theory of politics. This is because war remains an extreme case of the political and is therefore part of the structure of possibilities of the latter. But in the absence of a causal link between the possibility and the actuality of war, the switch from one to the other is not governed by a principle of necessity. We *can* have enmity without war, in which case Schmitt's account offers us at least a referential criterion—"a theoretical framework for an incommensurable problem"<sup>11</sup> and not an exhaustive account, as he himself warned—of what passes for politics with and without the spilling of blood.

It is worth noticing that the friend-enemy distinction bears the traces of a rather productive paradox with regard to political friendship. It is that the same oppositions that pit groups against each other also contribute to *unite* a collectivity. On the one hand, the separation of people into camps of "us" and "them" brings them together, even if only to confront each other, to cut a deal to reduce tensions, or to settle their controversies. On the other hand, divisions generate communities of friends that did not exist prior to the designation of adversaries and the willingness to confront them. A clear enemy can give a sense of political purpose to an assortment of states, parties, or movements, and, conversely, the loss of such enemy might weaken the understanding of who they are and what they are fighting for.

One simply needs to recall the disorientation among Western states in the immediate aftermath of the Cold War and the dissolution of the Soviet Bloc. They experienced relief and elation after its chief enemy for most of the twentieth century simply disbanded, but they also came to realize that what held them together as a community of purpose was partly fear of their adversary. The military and political alliance NATO created to counteract the threat of the Warsaw Pact longed for a well-defined enemy to recast its identity and sense of mission. Things only began to change when a somewhat Hobbesian ideology of security took hold of governmental reasoning and public opinion after 9/11. This tells us that the moment of

11. Carl Schmitt, "Premessa" [introduction to the German edition of 1963], in Miglio and Schiera, *Le Categorie del 'Politico'*, p. 89.

victory—assuming that victory is the right word here—can be as lonely and disheartening as the Hegelian “loss of the loss,” which Slavoj Žižek depicts as “the experience that we never had what we were supposed to have lost.”<sup>12</sup> What we never had—what we can *never* have—is a positive or purely self-referential political identity blossoming in the absence of an enemy. Enemies are our *pharmakon*; they alternate between being poison and cure, a threat to our way of life (or, less dramatically, an obstacle to our will to power) and something that helps us to become what we are. Henry Staten has a name for such a paradoxical outside that partakes in the configuration of the inside: he calls it a *constitutive* outside.<sup>13</sup> That is why enemies are not a pure and simple moment of negativity; they function as a constitutive outside by endangering our identity and nonetheless making up one of its conditions of possibility. Former U.S. President Bill Clinton spelled it out in more practical terms by saying: “The painful lesson is that you define yourself by who you fight” (as quoted in Bob Woodward’s *The Agenda*). For Schmitt too, politics is all about how you define yourself in the face of a friend-enemy grouping.

### ***The Double Inscription and the Never-ending History of Political Forms***

We can now move on to explore other possibilities that arise from Schmitt’s thought and bring him closer to contemporary critiques of liberalism and to the strategic concerns of post-foundational perspectives. The very first sentence of *The Concept of the Political* is symptomatic of this proximity. In saying that “[t]he concept of the state presupposes the concept of the political,” Schmitt is not so much establishing the causal precedence of the political as its excessiveness in relation to the state. Rather, he is advancing a claim that in a way mirrors the ontological difference in Heidegger and brings to mind Claude Lefort’s claim that we should not confuse the political with its historical modes of appearance.<sup>14</sup> This, in turn, dovetails with Nietzsche’s affirmation of the excess of becoming over being, which Eugen Fink describes as “negative ontology”: there are no things in themselves

12. Slavoj Žižek, “Beyond Discourse Analysis,” in Ernesto Laclau, *New Reflections on the Revolution of Our Time* (London: Verso, 1990), p. 252.

13. Henry Staten, *Wittgenstein and Derrida* (Lincoln: Univ. of Nebraska Press, 1984), pp. 15–19.

14. Claude Lefort, *Democracy and Political Theory*, trans. David Macey (Cambridge: Polity Press, 1988), p. 11.

since “thingness,” or being, consists of a temporary domestication of the endless flow of becoming.<sup>15</sup> Similarly, the political in Schmitt will always be excessive vis-à-vis its concrete manifestations, as no particular sphere and no historical form of politics will ever exhaust friend-enemy oppositions. This runs counter to the efforts of mainstream liberal-democratic thought to enclose the political within the bounds of state institutions and political parties. One can draw from Schmitt in order to expose this as either ideological or reductionist.

The opening line of *The Concept of the Political* also encapsulates the celebrated distinction between *politics* and the *political* that I have introduced without pausing to discuss it in any detail. Schmitt uses politics as a noun to indicate the institutional location of politics. It can refer to the state, as in the case of absolutism and the Westphalian state system generally, or to “the political sphere” or “political sub-system,” expressions used to designate the statutory site of politics in liberal democracies. In contrast, the definite article denotes the nounal or substantivized form of the adjective “political,” which Schmitt uses to describe a class of phenomena independently of their location.

The theorization of the “political” and how it overflows from politics is Schmitt’s key innovation. Like Lefort, he refuses to tie down the political to a particular sector of life; liberalism, in contrast, has no problem in speaking of various autonomous spheres of activity. Yet, the “political” in Schmitt differs from the way Lefort conceives *le politique*, because Schmitt does not see it as the principle or set of principles that shape society or perform its *mise-en-forme* but as a type of relationship in which groups connect with one another as friends or enemies. Unlike politics, which has a proper place in the political system or sub-system, the political is improper because it lacks a space of its own and in principle can appear anywhere. For Schmitt, the political is unconcerned about the type of actors, the object of dispute, the nature of the struggle, or the terrain of confrontation, and is furthermore insensitive to the democratic or authoritarian orientation of a given opposition. It does not matter much if those who carry out what Bobbio calls the activity of aggregating friends and dispersing enemies are political parties, social movements, interest groups, or sovereign states. It is unimportant if the activity revolves around elected positions or the control of territory, or if it takes place

15. Eugen Fink, *Nietzsche’s Philosophy*, trans. Goetz Richter (London: Continuum, 2003), pp. 148–49.

within the institutional setting of the political system or in more informal spaces outside this setting. All that counts for Schmitt is that people group themselves as friends to face designated enemies. The definition does not raise the question of scope either, of whether these constellations presuppose an all-encompassing totality or can occur in the discontinuous spaces of a political microphysics, even when he would like it to apply solely to sovereign states and therefore conventional political totalities. Schmitt also takes for granted that our friends might eventually become enemies, and vice-versa, so the actual contours of the political are inevitably mobile as they follow the changing fortunes of friend-enemy oppositions. Moreover, he wishes to strip the political of an origin and a telos, to sever all links to a model as well as to any presumed laws of motion of politics, and to position political activity firmly in the terrain of contingency. So, contrary to the credo of the end of history, Schmitt's double bind, like Lefort's, indicates that the relation between the political and politics will be played out to infinity and will prevent the former from being hijacked by a particular form of the latter.

Two relatively straightforward conclusions follow from this. One is that the specificity of the political does not refer to the constitution of a new autonomous domain but to a type of relation—the friend-enemy relation—that can arise anywhere. The other is that politics and the political are two registers of political matter: they coexist and intertwine, but they are irreducible to one or the other. Schmitt returns to this distinction many years after the publication of *The Concept of the Political*. In the preface to the Italian edition, he writes:

The classical profile of the state vanished when its monopoly on politics decreased and a diversity of new subjects entered political struggle with or without reference to the state, with or without a “statal” content [*Staats-gehab*e]. This marks the emergence of a new phase for political thought. People began to distinguish politics from the “political,” and the issue of new bearers and new subjects of political reality gradually becomes the central theme of the entire complex problematic of the “political.” This is both the starting point and the meaning of all the efforts to distinguish the multiple new subjects of the “political” that become active in the political reality of politics, whether it is statal reality or not, originating new types of “friend-enemy” groupings. . . . Our question concerning the new subjects of politics—whether statal or otherwise—remains: the criterion of the “political” that I have outlined—the distinction between

friends and enemies—is indeed an approach [*Ansatz*] that acknowledges this political reality.<sup>16</sup>

Schmitt obviously overplays the novelty of this phase, as the distinction between politics and the political holds in the case of the absolutist state, too, albeit indirectly. One can see this in his own writings. He claims that in the classical European states there was an identification between “statal” and “political,” as only the state could make political decisions—basically, whether to treat other states as friends or enemies, or to remain neutral in conflicts between other states. The political—with its divisions and oppositions—was banished from the domestic scene, because actors below the governmental level were denied the possibility of identifying their enemies; only the state had the authority to make the sovereign decision on this matter. Conflicts among domestic actors—palace intrigues, conspiracies, the rebellions of the discontent—were simply a matter of public order and classified as “disturbances” to be dealt with by the police.<sup>17</sup> Schmitt admits that these were sometimes called “political,” but he is unhappy to apply that label to them. This hesitation is a symptom of another tension in his thought. Derrida identifies it very well. He says that Schmitt oscillates between the desire for conceptual purity and the awareness of the contested status of political concepts.<sup>18</sup> That is, he wants a clear-cut distinction between political and non-political (or war and peace, combatant and civilian, public and private, and so on) while insisting that political concepts are polemical, so their actual valence is up for grabs and therefore cannot aspire to discursive purity. Schmitt cannot have it both ways.

The point is not to force a choice between these alternatives or to look for a consensual middle ground between them but to show how the tension plays out in Schmitt’s reticence to accept the persistence of the political in the pacified order of the absolutist state. Rebellions, conspiracies, and other disturbances might not be “political” in the strict Schmittian sense of the term, but they are traces of the political that remind us that the given is always exposed to challenges because it is never fully given or given

16. Carl Schmitt, “Premessa all’edizione italiana,” in *Le Categorie del ‘Politico’*, pp. 24–25, my translation.

17. Carl Schmitt, “Premessa” [introduction to the German edition of 1963], pp. 90–91. Hence, his claim that the early modern state was characterized more by “police” than by “politics.” See Schmitt, *The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol* (1938), trans. George Schwab (Westport, CT: Greenwood Press, 1996), p. 31.

18. Derrida, *Politics of Friendship*, pp. 113–17.



definitively. It does not really matter if these disturbances constitute the return of the repressed or a proof of the failure of the absolutist project to fulfill its own promise of a fully pacified domestic domain. What counts is that palace intrigues and rebellions contradict the presumed effacement of the political. The corollary is clear: absolutism is a format of politics that wishes to circumscribe the political to friend-enemy relations amongst states, but only manages to hegemonize it because it fails to banish those relations from the domestic scene.

This excess of the political over politics gives us an angle to introduce the theme of the double bind or double inscription mentioned by Žižek. In his reading of Lefort—the argument also applies to Schmitt—the political dimension is doubly inscribed; it is both “a moment of the social Whole, one among its sub-systems, *and* the very terrain in which the Whole is decided—in which the new Pact is designed and concluded.”<sup>19</sup> We should be cautious about this reference to a capitalized “Whole,” because it suggests a strong notion of totality at odds with the double inscription. *Objectivity* is a better term. Hence one may simply say that the political is inscribed as a gentrified domain of normalized or institutional political exchanges (politics) and as the negativity of decisions and actions that put objectivity into question (the political), whether at the local or macro levels, within or outside the political sub-system.

There are, however, two potential misunderstandings about the double inscription. One is the temptation to model the relation between politics and the political around something like a Hobbesian distinction between the civil state and the state of nature, respectively, as if the terms faced each other in a relation of pure and simple exteriority. There would then be a good politics that takes place in its designated or proper space of appearance and a disruptive or improper politics of the political that threatens—or could threaten—the civility of the instituted order. The other misunderstanding is the assimilation of politics and the political to the standard distinction that political scientists make between mainstream and alternative politics. We would then have something like a political politics of the establishment and a politics of the political of radicals who cannot operate successfully in the mainstream or who dislike the idea of doing so. Both views are misleading. Politics and the political interpenetrate because there is a *double* coding, not two alternative codes or modes of inscription.

19. Slavoj Žižek, *For They Know Not What They Do* (London: Verso, 1991), p. 193.

Most of the arguments about the interpenetration of politics and the political refer to how the “political” is present in “politics.” This is what Žižek tries to do when he speaks of the double inscription. We must show that the reciprocal is true, too. Let me first examine how the negativity of the political remains lodged in the bounded political sphere or gentrified space of politics. Exchanges within institutional settings have very little in common with the embellished image of a debating society, where the best argument wins the day and the rules remain untouched by the discussion. Quite the contrary, they put objectivity to the test quite regularly; constituted power retains a constituent capacity because the political sphere is a site where negativity—the disruption of the given and the possibility of founding it again—has not been neutralized or banished but simply gentrified. This is not an oblique reference to Giorgio Agamben’s interpretation of the Schmittian state of exception as a zone of indistinction between constituent and constituted power. I have something much more mundane in mind, namely, that legislators change laws and amend the constitution or even create one anew, a vote of no confidence brings the government down, citizens engage in civil disobedience by refusing to comply with a law, conflicts between the executive and legislative branches can paralyze the business of government, and so forth. That is partly why Michel Foucault can speak of politics as the continuation of war by other means and why Žižek says that negativity is not an exception in the passage from one positivity or normality to another but rather that normality itself is “the aftermath, the ‘gentrification’ of a forgotten excess of negativity.”<sup>20</sup>

If we now turn our attention to the political, we will see that politics also intertwines with it. We can interpret Schmitt’s contention that the political is the fundamental status of man as a claim about human nature, in which case the political has an ontological status and is impervious to modification or contamination by an ontic register of politics. But this need not be the case, or at least it doesn’t have to be only that. I can think of two ways of conceiving the presence of politics in the political, or of claiming that the negativity of the political is not only negativity. One is outlined by Schmitt when he says that the absolute or unlimited enemy falls out of his notion of the political. The enemy is a legitimate, even a

20. Michel Foucault, “War is the Filigree of Peace,” *Oxford Literary Review* 4:2 (1980): 16; more fully developed in his *Society Must be Defended: Lectures at the Collège de France, 1975–1976*, trans. David Macey (New York: Picador: 2003); Žižek, *For They Know Not What They Do*, p. 195.

limited adversary in a combat, in which case the enemy is different but not wholly different: it is simply another fighting collectivity and thus also similar to us.<sup>21</sup> And he also tells us that a foreign enemy is not a criminal. This is why wars can be limited and circumscribed through international law and can end with a peace treaty that often includes a clause guaranteeing the amnesty of the defeated or at least their protection from abuse by the victors—even if the latter often disregard such niceties in the way they treat the vanquished armies and the civilian population of the conquered countries.<sup>22</sup> These references to the recognition of similarities with the adversary, the construction of enmity in international law, and, broadly speaking, the refusal to confuse political enemies with absolute or deadly foes confirm that the “political” is never in a pure *status naturalis* or that its nature is always already partly *civilis*.

There is a second way of identifying the traces of politics in the political. It revolves around the very idea of the political as the possibility of grouping people according to whether they are friends or enemies. The keyword is “grouping,” the activity of bringing together a friendly “us” and identifying those who will be treated as our adversaries, which immediately tells us that the two poles of the political distinction must be constructed and that both are bound to change continuously.<sup>23</sup> This dynamics of creation and transformation is unthinkable without symbolic and other forms of exchange. Bonds of friendship develop over time and involve culturally mediated relations of reciprocity, the investment of affects, the specification of interests, reaching agreements, honoring obligations, and entering into polemics about how to do all this. Similarly, identifying an enemy requires all sorts of representations to persuade people to treat another group as such and rally against it if needed. Those who partake in friend-enemy oppositions outside the gentrified space of the political sphere—like those involving social movements, trade unions, or guerrillas—and even

21. Schmitt, *The Concept of the Political*, p. 28.

22. Schmitt, “Premessa” [introduction to the German edition of 1963], p. 92. See also Schmitt, *Theory of the Partisan*, p. 9.

23. This parallels what Andreas Kalyvas says about the constituent sovereign in “Popular Sovereignty, Democracy, and the Constituent Power,” *Constellations* 12:2 (2005), namely, that “the constituent power points at the collective, intersubjective and impersonal attributes of sovereignty, at its cooperative, public dimension.” By reminding us that *constituere* or to constitute means to create jointly, he is implying that sovereign power is not an ontological category emerging from a metaphysical ether but is instead the outcome of cooperative efforts not unlike those involved in crafting political friendships.

as cross-border actors and coalitions often appeal to a discourse of rights by invoking the rights of citizens, the universality of human rights, or the Arendtian “right to have rights.” If all these symbolic, cultural, legal, and practical codes permeate the political, then the conclusion is quite obvious: conventions and institutions contaminate friend-enemy oppositions, even when these take place outside their “proper” or designated spaces of appearance.

Schmittians might object to this and argue that politics does not permeate the political because once the friend-enemy opposition is in place, all other motives—religious, moral, economic, and so on—disappear. I find this unconvincing, because it arises from either a terminological confusion or a disingenuous claim. All Schmitt says about this is that once they become the decisive friend-enemy constellation, “the relevant antithesis is no longer *purely* religious, moral, or economic, but political” and “at precisely the moment at which it becomes political, *pushes aside and subordinates* its hitherto purely religious, purely economic, purely cultural criteria and motives.”<sup>24</sup> The terms I have italicized are quite eloquent. On the one hand, if an opposition is no longer *purely* religious because it has become political, one has to accept that it remains religious in *some* respect rather than in no way whatsoever. Hence the purity of the political is a bogus notion, as the supposedly autonomous code bears the mark of a hybridity of sorts. Kam Shapiro helps us to shore up this claim when he says that Schmitt’s friend-enemy opposition is in a way “parasitic” because it draws its force from other, non-political distinctions and commitments.<sup>25</sup> We can identify a similar parasitism in Schmitt’s claim that all significant concepts of the state are secularized theological concepts.<sup>26</sup> What he is saying here is that these secular concepts have a theological birthmark and thus that there is no relation of pure exteriority between them. This is another way of acknowledging that the political is penetrated by traces of the non-political. On the other hand, if non-political motives—that is to say, religious, moral, and others—are *subordinated* to the political, then they will play second fiddle to the political rather than bow gracefully and abandon the scene when it arrives. Likewise with conventions and institutions: they

24. Schmitt, *The Concept of the Political*, pp. 36, 38 (my emphasis).

25. Kam Shapiro, *Sovereign Nations, Carnal States* (Ithaca, NY: Cornell UP, 2003), p. 107.

26. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Cambridge, MA: MIT Press, 1985), p. 36.

are not the silent props of friend-enemy constellations because they partly configure them. The forms and rules of engagement—and by implication, the shape of friendship and enmity—change depending on whether the political opposition unfolds in authoritarian or democratic settings, in civil or international wars, in parliamentary debates, or in the streets. To cut to the chase, politics contaminates the political and reconfirms the claim about the double bind, coding, or inscription of the political.

### ***Formalism and the Normative Claim in Schmitt's Decisionism***

This is, of course, an exciting yet disenchanting view of politics. Schmitt is either unconcerned about emancipation, social justice, and the handling of wrongs in general, or he sees these as ineffectual noises, rhetorical distractions from what really matters, namely, the gravitas of the friend-enemy code. It is also a somewhat formalistic account that puts him a stone's throw away from endorsing an endless, aimless, or cynical confrontation between friends and enemies. The oxymoronic formula of "invariable change" describes its temporality. It is invariable because it rests on the friend-enemy code, yet it changes either because today's friends may be tomorrow's enemies or because the political has various historical modes of appearance—absolutist and liberal democratic states, for example, but also wars and revolutions—that modify the way the friend-enemy opposition will be played out.<sup>27</sup> One could also say that the political is governed by what Gilles Deleuze describes as repetition and what Derrida calls the law of iterability—the paradox of a self-identity that incorporates a differential element whenever it is cited or re-enacted. Schmitt embraces this sense of repetition when he describes the trajectory of European modernity from the seventeenth to the twentieth century as a succession of spheres that functioned as matrices of meaning for the ideas, activities, and aspirations of each century. These spheres have been structured around different concerns, from the moral-theological of the seventeenth century to the humanitarian, economic, and technical ones of subsequent centuries; but what governs the succession from one to the other is the desire for a neutral and depoliticized domain that can function as a terrain where compromises can be reached.<sup>28</sup> As all desire, this one will never be fulfilled, because for Schmitt the political is constitutive of the human

27. Benjamin Arditi, "Tracing the Political," *Angelaki* 1:3 (1995): 24–25.

28. Carl Schmitt, "The Age of Neutralizations and Depoliticizations" (1929), *Telos* 96 (Summer 1993): 130–42. See also the very good introduction to Schmitt's text by

condition and will return despite our best efforts to deny, contain, repress, or neutralize it. Political history might never end, but it will always have a taste of déjà vu.

Critics such as Jacques Rancière distance themselves from Schmitt partly because of this. Like any other theorist, he seeks to formalize political phenomena in a conceptual grid; but for him politics does have “content”: equality is its measure, even if it appears only indirectly through the handling of a wrong.<sup>29</sup> Politics is dissensus, the interruption of the given by the noisy demos or part of those who have no part in the existing order.<sup>30</sup> This moves him away from Schmitt’s formalism by placing his understanding of politics under the aegis of emancipation. One way of undermining this formalism is to say that friend-enemy confrontations have a situated referent. It is whatever stands as the object of a dispute—an elected position, the control of a territory, the resignation of a corrupt official, the passing of a law, and so on. This breaks with the entropy of a purely binary coding of friend-enemy relations by introducing an excluded third into the basic kernel of the political. Schmitt might not be happy with this solution, but it allows us to retain his bare-bones concept of the political without falling into formalism. The reference to the excluded third also reinforces our claim about the double inscription, because it is another way of saying that politics is also present in the political.

Another option is to go along with Leo Strauss, an equally conservative critic of liberalism, who identified an underlying normative claim in Schmitt’s rendering of the political. While Schmitt saw the political as the *status* of man, as the fundamental human condition,<sup>31</sup> Strauss showed that Schmitt’s pursuit of a purely political take on politics was a moral endeavor in disguise. It rested on the belief in the goodness of the status quo over the insecurity of a chaotic state of nature, and thus privileged decisions capable of upholding the existing order or, if the latter was

John E. McCormick, “Introduction to Schmitt’s ‘The Age of Neutralizations and Depoliticizations,’” *Telos* 96 (Summer 1993): 119–29.

29. Jacques Rancière, “The Thinking of Dissensus: Politics and Aesthetics,” paper presented at the conference *Fidelity to the Disagreement: Jacques Rancière and the Political*, Goldsmiths College, London, September 16–17, 2003; and Jacques Rancière, “Post-democracy, Politics and Philosophy,” interview in *Angelaki* 1:3 (1995): 173.

30. Jacques Rancière, “Ten Theses on Politics,” *Theory & Event* 5:3 (2001).

31. Leo Strauss, “Notes on Carl Schmitt, *The Concept of the Political*,” in Heinrich Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue*, trans. J. Harvey Lomax (Chicago: Univ. of Chicago Press, 1995), p. 99.

threatened, favored a decision capable of restoring the normal situation as a whole. The goodness of order was the unsaid moral judgment present in his work. The desire for order—for *any* order, regardless of what kind—is the absent *ultima ratio* of his political reasoning. That is why he contends that the real objective of the Schmittian affirmation of the political—his claim that friend-enemy oppositions are ineradicable—is not so much a polemic with liberalism as it is an effort to justify the moral need for government. Schmitt actually seeks to vindicate the Hobbesian demand for an instance capable of providing security by curbing the conflictive reality of the political, that is, by containing our own dangerousness and suppressing the dissociating effects of the political on the existing order. In the final analysis, says Strauss, Schmitt’s affirmation of the political against the liberal drive to negate or neutralize it is an affirmation of the moral and therefore turns out to be an inverted form of liberalism, liberalism with an opposite polarity.<sup>32</sup>

The cost of fending off the charge of formalism would be to embrace a moral claim—the goodness of an order that guarantees security—that turns Schmitt into a liberal in disguise, a closet liberal of sorts. Others would simply call him a conservative, which he was. Heinrich Meier makes a great deal out of Strauss’s critique, suggesting that Schmitt tacitly admitted that Strauss was right and that this explains his subsequent reassessment of Hobbes in the (infamous) 1934 edition of *The Concept of the Political*.<sup>33</sup> There, Schmitt—now a member of the Nazi party and Hitler already Chancellor of the Reich—adds the opportunistic qualifier “Jew” when he speaks of an intellectual adversary like Harold Laski. No wonder he chose to use the earlier 1932 edition when his work was reissued in Germany in 1963. It is, of course, surprising to identify a moral prescription in the conceptual architecture of someone who never tired of extolling the virtues of decisionism in his polemic with Hans Kelsen and other neo-Kantian thinkers during the Weimar Republic. This weakens the purity of Schmitt’s decisionism, which is more of a problem for him, who cherished clear-cut distinctions, than for us, who take for granted that contamination is close to being the rule.<sup>34</sup> The moral slant of his reasoning does more, too.

32. *Ibid.*, pp. 113, 117.

33. Meier, *Carl Schmitt and Leo Strauss*.

34. In truth, pure decisionism is also absent in the Schmittian account of politics for other reasons. We have seen how normative claims seep into his arguments about the political, either when he asks us to exclude absolute enemies or when he contends that the political nature of a group rests on its capacity to decide on its own who are its friends

It shows that he, like Hobbes and the liberals he despised, wished to suppress—or more precisely in the case of Schmitt, to contain—the disruptive force of the political, to overcome the possibility of a state of nature that, as Strauss describes it, is not so much bellicose as it is insecure.<sup>35</sup>

The suppression of conflict did not trouble Hobbes, who was happy to invoke the fable of an original state of nature and to endorse a zero-sum game between the *status naturalis* and the *status civilis*, or at least who thought that such a scenario was desirable albeit not necessarily attainable. For those of us who are suspicious of ruptures without residues, the belief that one can put an end to insecurity smacks of metaphysics or a convenient half-truth. Hobbes stops short of proposing such a rupture. This is either because we never surrender the right to self-preservation, in which case the rule of any absolute sovereign is bound to be n-1 or imperfect absolutist rule, as it were, or because our dangerous human nature never changes and will eventually disrupt the best regulated order. Either way, an all-powerful Leviathan would have to be a fixture of the civil state if we want to prevent a relapse into the state of nature. Schmitt does not endorse this suppression openly but performs a remarkable double act of rejection and celebration of Hobbes. He affirms the political through the transmutation of the war of all against all into the inevitability of friend-enemy oppositions (a peaceful stasis is unthinkable), but he pairs this with an unspoken goal of containing the insecurity of the political through the agency of a strong government that functions as shorthand for the state (a pacified domain is possible). This places the political in a register where the desire for closure (the goodness of order in the name of the containment of the political) overlaps with Schmitt's efforts to disengage himself from this possibility through the lucid theorization of the double inscription of the political. He oscillates continually between these positions, which is why the actual meaning of the signifier "Schmitt" will vary according to whether one focuses on the desire for stability or the excessiveness of the political and what one does with the tension between these strands in his work.

and who its enemies (and then be prepared to defend the former and confront the latter). Commentators usually underline the sovereignty of the decision about the enemy. I want to draw attention to the fact that the distinction might break with value judgments about the enemy, but never fully, if only because we often see our enemy as self-serving and ourselves as the just and righteous party. Hence my earlier reference to Shapiro's claim about the "parasitic" aspect of the political vis-à-vis non-political distinctions in Schmitt's thought.

35. Strauss, "Notes on Carl Schmitt, *The Concept of the Political*," p. 115.



Nowhere is this ambivalence more notorious than with regard to the state. To put it crudely, his reasoning reveals a conventional notion of political totality that overlaps with the territory of the sovereign state, and of scope, which takes the state as the desired field and object of politics. As we have seen, he acknowledges the loss of the state's monopoly over politics and the emergence of new subjects of politics, but he also regrets the decline of the high politics of the Westphalian state-system and the type of certainties that accompanied it. Something similar happens with his theorization of sovereignty. Schmitt's account sidesteps the need for a formally designated bearer of sovereignty—the state, a class, the people. He does this by stating that it resides in whoever can decide, on their own accord, if the situation has become exceptional and is able to restore normality, be it the state, a political party, or another grouping. This means that the location of sovereignty or the determination of who is the bearer of sovereignty is not fixed but is an effect of the play of the political. Yet, Schmitt undermines this situational account through his bias for the state as the decisive political unit. Being a critic of the liberal neutralization of the political—liberals postpone the moment of the decision by engaging in endless discussion—he wanted to restore the dignity and preeminence of the state. He was no doubt moved by a longing for the strong decisionism that prevailed in the times of the *jus publicum Europaeum*, or more likely among the few states that had the will and resources to be decisive in their affairs.<sup>36</sup> States had been the key units engaging in the activity of aggregating friends and combating enemies, and he finds it desirable that they should remain the decisive political units given that they stabilize the political game within a governable entity. New political subjects can operate in a political microphysics of sorts as long as they do not dispute the preeminence of the macro space of the state.

### ***With and Despite Schmitt***

Schmitt is thus willing to admit that the democratic revolution has dealt a major blow to the pretension of endowing politics with a privileged subject and/or model. Yet he wavers. He is not prepared to accept the more radical consequences that follow from this, because in the final analysis he is unwilling to let go of the decisiveness of states. Had he done so, his

36. On this see Hauke Brunkhorst, "The Right to War: Hegemonial Geopolitics or Civic Constitutionalism?" *Constellations* 11:4 (2004): 515ff.; and Martti Koskenniemi, "International Law as Political Theology: How to Read *Nomos der Erde*?" in the same issue of *Constellations*, 497ff.

theorization of the political would have come close to what Derrida calls the structurality of structure, the acknowledgment that the center is part of the play of the structure and not a transcendental referent that governs it from outside, as it were.<sup>37</sup> The state may well function as the center, but if it does, this is an effect of the play of forces rather than an a priori privilege—and of course, its centrality does not prevent it from being a site for the play of forces, too. Schmitt does not dare make this move; he fails to accept the absence of an ultimate ground of the political and hence misses the structurality of political structure. He ends up recognizing and fearing the contingency of objectivity ensuing from the double bind, which ultimately renders him a reactionary modernist or a conservative revolutionary of political thought, as Jeffrey Herf described Schmitt together with the likes of Jünger, Spengler, and Sombart.<sup>38</sup>

Does this turn him into a mere commentator or contemporary emulator of Hobbes? Schmitt certainly admires Hobbes, whom he describes as “truly a powerful and systematic political thinker.”<sup>39</sup> We have seen that both affirm the dangerousness of man or the inevitability of friend-enemy oppositions; and they do so in order to justify the need for government, one that will curb our dangerousness and therefore contain the centrifugal effects of the political. They also see domestic turmoil not as a nightmarish memory of times past but as an ever-present possibility that threatens the political order from within; the impossibility of (transcendental) closure is thus immanent. Yet, Schmitt differs from Hobbes in at least one respect. His state of nature knows of enemies *as well as* friends, so instead of an individualistic war of all against all where there are only enemies, there is a “war” that confronts groups, *organized* collectives. Strauss was the first to notice this. Hobbes conceives organized groups as sovereign states, but Schmitt’s thought of the political is not restricted to these agents because for him friend-enemy constellations precede the state and define the human condition.

This is not a minor difference. Three consequences follow from it. First, if the oppositions of the political define the human condition,

37. Jacques Derrida, “Structure, Sign and Play in the Discourse of the Human Sciences,” in *Writing and Difference*, trans. Alan Bass (London: Routledge, 1993), pp. 278–82.

38. Jeffrey Herf, “Reactionary Modernism. Some Ideological Origins of the Primacy of Politics in the Third Reich,” *Theory and Society* 10:6 (1981): 813.

39. Schmitt, *The Concept of the Political*, p. 65.

Schmitt has to conceive groups of friends and enemies as pre-statal realities. He concedes this by saying that the concept of the state presupposes that of the political; the latter is prior to and more encompassing than the state, which means that the state is one historical form or phase of the political among others and not its crowning moment. Second, if this is true, then Schmitt must also admit that there are or can be intra-statal groupings, such as political parties. He does so when he speaks of a new phase for political thought in the long passage quoted earlier. And once political parties become part of the political, there is no reason to exclude social movements and other groups either. Finally, by implication, there is nothing in his reasoning that prevents us from applying it to new non-statal groupings of friend and enemies that are developing outside the physical territory of the nation-state. That is to say, one can use Schmitt's criterion of the political to examine political opposition in a post-Westphalian order, whether among states or involving actors who seek to modify the rhythm and direction of global processes from below the governmental level.

The refusal to equate politics with the political and the concomitant claim concerning the ubiquity and deterritorialization of friend-enemy oppositions open up a way of thinking politics that is not restricted to the sovereign state and which is unencumbered by a strong notion of totality. They are key aspects of Schmitt's work worth keeping and developing, although, like other things in his writings, often in a direction he did not realize was possible to go or simply did not want to go. This is because Schmitt, the admirer of the Westphalian state system, perceived this development very well but also sought—or at least wished—to arrest it. For him, friend-enemy oppositions become a rough operational criterion to identify the political within or outside its designated, “proper” sites of appearance, which clearly amounts to an admission of the impropriety of the political—it can appear uninvited anytime, anywhere—but he nonetheless regrets this because he worries that it will be the undoing of the privileged place of the state. This impropriety amounts to a democratization of the decision on the exception, which he feared. This explains Schmitt's efforts to contain the dissemination of the political. He did this, as a matter of practical judgment, when he encouraged the government to invoke Article 48 of the Weimar Constitution in 1932 in order to stop the NSDAP and the KPD from disputing sovereignty with the state. He also proposed it conceptually when he sought to limit legitimate partisan

warfare to the “telluric” or territorial type that existed prior to the ideological planetary guerrilla warfare inaugurated by Lenin and Mao.<sup>40</sup> Yet, as mentioned, by theorizing the impropriety of politics—the possibility of friend-enemy groupings appearing anytime and anywhere—he already provides us with conceptual tools to undo the laces of the statal corset he would have liked to wrap around the political.

On balance, the advantages of Schmitt’s de-territorialized view of the political offset the difficulties it may have. It also provides us with an opening to catch a glimpse of something that goes further than a family resemblance between his thought and the post-foundational assertion of the structurality of political structure, even if he ultimately pulls back from acknowledging the full consequences of this.

Two questions remain, and I can only mention them briefly. One is whether there is or can be something in between friendship and enmity, that is to say, whether this basic criterion suffices or needs something else to account for political performances that are not clearly or not necessarily classifiable in these terms. Symbolic gestures, such as a march against corruption in public life, a candlelight vigil for victims of racism, or the Live 8 concerts of the Make Poverty History campaign, may be deemed political without identifying a particular enemy or raising the possibility of war in any obvious way. Those who participate in such actions are friends in the political sense of constituting a community of like-minded people who defend a way of life but do not necessarily perceive politics in terms of friends and enemies. The other problem is how to avoid a formalistic account of antagonism, as my proposal that one should refer to an absent term—the excluded third or object of dispute—as a situational referent for political engagements between friends and enemies is perhaps only an ad-hoc solution. It is nonetheless a beginning.<sup>41</sup>

40. I thank Kam Shapiro for pointing out the connection with *Theory of the Partisan*.

41. I thank four careful readers of Schmitt—Javier Franzé, David Pan, Gabriella Slomp, and Kam Shapiro—for their comments on an earlier draft of this article. Their many fine observations pinpointed weaknesses I wouldn’t have perceived without their eye for detail.

# Carl Schmitt's "Cosmopolitan Restaurant": Culture, Multiculturalism, and *Complexio Oppositorum*

Michael Marder

## ***Disentangling Complexio Oppositorum***

Carl Schmitt's *Roman Catholicism and Political Form* (1923) features a term, the importance of which political philosophy has yet to fathom. This notion is *complexio oppositorum*, describing Catholicism as "a complex of opposites": "There appears to be no antithesis it [Roman Catholicism] does not embrace. It has long and proudly claimed to have united within itself all forms of state and government. . . . But this *complexio oppositorum* also holds sway over everything theological."<sup>1</sup> The striking depth and breadth of the complex are already evident in this brief passage. Broadly speaking, its elastic form—and more needs to be said on the subject of the exceptional, miraculous features of this *form*—seems to know no exceptions, since it embraces every antithesis within itself. In fact, Schmitt's very first sentence performatively inaugurates a *complexio oppositorum* where the loving connotations of the "embrace" coexist with the antagonistic sphere of the antitheses it welcomes. The inclusion of mutually exclusive entities does not synthesize them into a Hegelian unity but leaves enough space for them to retain the tension of oppositionality, which ought to be rigorously distinguished from the temporary torsion of a contradiction awaiting its resolution.

In his model of the *complexio*, Schmitt refrains from invoking a higher third that would mediate between the thesis and its antithesis. Rather, he shows how it occasions a breakdown of dialectics that routinely nullifies

1. Carl Schmitt, *Roman Catholicism and Political Form*, trans. G. L. Ulmen (Westport: Greenwood Press, 1996), p. 7.

the very contradictions that constitute it and positivizes negativity.<sup>2</sup> Instead of neutralizing antagonisms, the complex of opposites nurtures and accentuates them; instead of totalizing or inserting the particulars under the umbrella of a single concept, it permits them to clash and derives its political energy from this enduring standoff. When in eighteenth-century metaphysics, God “became a concept and ceased to be an essence,” He “was removed from the world and reduced to a neutral instance vis-à-vis the struggles and antagonisms of real life [*des wirklichen Lebens*].”<sup>3</sup> Conceptualization, therefore, idealizes the actuality of life, prompting an increasingly abstract epistemology to supplant practical ontology. Only the complex’s rejection of the neutralizing and, by implication, deadening subsumption of antagonisms in a conceptual unity preserves that of which they are but meager symptoms: within itself, it maintains life’s actuality (*Wirklichkeit*). (Let us note, parenthetically, that Schmitt himself is quite unambiguous with regard to his anti-Hegelian position,<sup>4</sup> in light of which the gloriously Hegelian language utilized by many of his commentators is all the more surprising.<sup>5</sup> Be this as it may, the promise of a form that embraces all antitheses without extinguishing them is nothing less than the promise of the political as such.)

The reference to the becoming-conceptual of God intimates the complex’s profundity, or the dimension of depth. Not only does it perpetually revitalize the political *dunamis* inherent in unalloyed oppositions, but it also “holds sway over everything theological.” Now, according to an earlier premise of *Political Theology*, “[a]ll significant concepts of the modern theory of the state are secularized theological concepts.”<sup>6</sup>

2. One could express this breakdown with the help of Walter Benjamin’s phrase “dialectics at a standstill,” except that, in Schmitt, the halt of dialectics is not equivalent to the Messianic cessation of all activity, but to its political unfolding outside the confines of resolvable contradictions.

3. Carl Schmitt, *The Concept of the Political*, exp. ed., trans. George Schwab (Chicago: Univ. of Chicago Press, 2007), p. 90.

4. “Out of a spiritual promiscuity which seeks a Romantic or Hegelian brotherhood with Catholicism, as with so many other ideas and individuals, a person could make the Catholic *complexio* into one of many syntheses and rashly conclude that he had thereby construed the essence of Catholicism” (*ibid.*, pp. 8–9).

5. For example, “The Church’s *complexio oppositorum* thus incorporated a boundless adaptability. . . . The Church was a model of balance and moderation. It could allow the widest and most varied expression of ideas and forms, since it was assured of an absolute unity at its apex.” Renato Cristi, *Carl Schmitt and Authoritarian Liberalism: Strong State, Free Economy* (Cardiff: Univ. of Wales Press, 1998), p. 91.

6. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Cambridge, MA: MIT Press, 1985), p. 38. One is tempted to note

*Complexio oppositorum* is, at the same time, one of such concepts and a more general link in the transition from the theological to the political signaled in the very title of the 1923 text that combines a singular religious doctrine with the universality of political form. Indeed, if books aspire to live up to their titles, Schmitt's *Roman Catholicism and Political Form* is a superb example of this aspiration, in that it announces, as though *a priori*, the unmediated conjunction of the theological and the political, the singular and the universal, which itself becomes possible within the framework of the religion it names and the form generated by this religion.

Despite the proviso that *complexio oppositorum* envelops all oppositions without exception, the form of the institution that embodies it—Roman Catholicism—is exceptional: “From the standpoint of the political idea of Catholicism, the essence of the Roman Catholic *complexio oppositorum* lies in a specific, formal superiority over the matter of human life [*in einer spezifisch formalen Überlegenheit über die Materie des menschlichen Lebens*] such as no other imperium has ever known.”<sup>7</sup> I would like to defer the discussion of this extraordinary form for yet another moment, but will return to it after pointing out the consequences of the special status of the Catholic *imperium*. It is well known that, for Schmitt, the sovereign is “he who decides on the exception.”<sup>8</sup> But the relation of *complexio oppositorum* to sovereignty complicates this definition, given that it is an exceptional arrangement that, like the Platonic *khora*, receives everything without exception. The complex politicizes its contents not by singling them out and, in a sovereign manner, decisively bestowing upon them the status of an exception, but by drawing out of them a uniquely political form. In other words, thanks to the mere incorporation of all antagonisms into this *imperium*, their political nature comes to the fore.

The theological analogue to the juridical concept of exception (*Ausnahme*) is a “miracle” (*Wunder*),<sup>9</sup> and *complexio oppositorum* is nothing short of miraculous. One cannot help but experience a sense of wonder in the face of the unmediated way in which it brings together mutually

here that another famously “programmatically” statement of Schmitt is that “all political concepts, images, and terms have a polemical meaning” (Schmitt, *The Concept of the Political*, p. 30). After putting the two statements side-by-side, we cannot help but witness a spectacular *complexio oppositorum* in Schmitt’s own understanding of the political both as enchainment to a transfigured theological content and freed for the indeterminacy of polemics.

7. Schmitt, *Roman Catholicism*, p. 8, emphasis added.

8. Schmitt, *Political Theology*, p. 5.

9. *Ibid.*, p. 36.

exclusive ideas and institutions. Yet, the evidence for its extraordinariness is not exhausted with this im-mediation. As Samuel Weber reminds us, the origins of the term that “in Schmitt’s lifetime was employed by the great Protestant historian Adolf von Harnack, who used it to explain, if not justify, the ‘anti-Roman affect,’” go back to alchemy.<sup>10</sup> Schmitt’s polemical cooptation and re-coding of a syntagma used by a Protestant thinker who shared the antagonistic “affect” diagnosed in the first line of the 1923 text is a telling methodological exercise consistent with the emphasis on the polemical possibilities of all political concepts. What interests me in the genealogy of the *complexio*, however, is its alchemical origin, which, I believe, is neither an idle curiosity nor a sign of the nostalgia for the irrational that is said to haunt Catholic thought. Schmitt himself staunchly resists all romanticizing views of Roman Catholicism and the “dubious honor” of serving as a temporary shelter from the iron cage of modernity frequently conferred upon it. Why, then, even mention the (perhaps dis-avowed) alchemical roots of a crucial Schmittian concept that goes the greatest distance toward describing his political and theological ideal?

If we could designate a companion book to *Roman Catholicism*, no other candidate would stand out more than Carl Jung’s *Mysterium Coniunctionis*, which, as a supplement to Schmitt, has the potential of investing with new significance the classical psycho-politics that Plato formulates in *The Republic*. At the cusp of alchemical, psychological, and Christian symbolism, Jung corroborates Schmitt’s insights on the equal inclusion of masculine and feminine authority figures in Roman Catholicism that “is already a *complexio oppositorum*.”<sup>11</sup> Furthermore, both thinkers insist that the oppositions constitutive of the psychological and political domains alike must be concretely personified. Personification of the psychological forces is at the heart of Jungian “archetypes” (the *complexio* is explicitly mentioned in the chapter titled “Rex and Regina” [“King and Queen”]), just as the subjectivization of sovereignty furnishes

10. Samuel Weber, *Targets of Opportunity: On the Militarization of Thinking* (New York: Fordham UP, 2005), p. 28.

11. Carl G. Jung, *Mysterium Coniunctionis: An Inquiry into the Separation and Synthesis of Psychic Opposites in Alchemy*, trans. R. F. C. Hull (Princeton, NJ: Princeton UP, 1977), p. 374. Cf. Schmitt’s statement: “The pope is called the Father; the Church is the Mother of Believers and the Bride of Christ. This is a marvelous union of the patriarchal and the matriarchal, able to direct both streams of the most elemental complexes and instincts—respect for the father and love for the mother—toward Rome” (Schmitt, *Roman Catholicism*, p. 8).



the basis for Schmitt's rethinking of "representation." For the latter, the art of politics entails an ability to juggle the abstract and concrete elements included in any representation without sacrificing one of them for the sake of the other. The idea that the "pope is not the Prophet but the Vicar of Christ" reveals that, "[i]n contradistinction to the modern official, his position is not impersonal, because his office is part of the unbroken chain linked with the personal mandate and concrete person of Christ. This is truly the most astounding *complexio oppositorum*."<sup>12</sup> In a vicarious relation of power, the abstract and the concrete, the same and the other, are not mediately reconciled; they, rather, enter into a permanent standoff that generates the form of a personified representation, which, in the secularized political realm finds embodiment in the figures of the sovereign, the enemy, and the friend.<sup>13</sup>

### *The Living Form of Politics*

We are now ready to face the marked "alchemical" origin of *complexio oppositorum*. My contention is that what motivates Schmitt to introduce this notion is a search—in which, arguably, the philosophical tradition has failed—for a *living form* that he will identify, first, with the remarkable "elasticity" of Roman Catholicism and, second, with the political as such. To reiterate, a living form is neither *a posteriori* imposed onto dead contents in a sort of dialectical magic that infuses inert matter with spirit, nor does it mirror the disquietude of life from a contemplative standpoint external to it. The "alchemical" moment bypasses all mediate and mimetic necessities and demonstrates that the Catholic *complexio oppositorum*, "despite its formal character, retains its concrete existence at once vital and yet rational to the *n*th degree [*die trotz ihres formalen Charakters in der konkreten Existenz bleibt, lebensvoll und doch im höchsten Maße rational ist*]."<sup>14</sup> The miraculous and exceptional character of this form hides in the

12. *Ibid.*, p. 14.

13. This is the point that Sarah Pourciau misses when she writes that "[t]o propound an alternative theory of *qualitative* representation, he [Schmitt] draws on a Roman Catholic tradition of political theology which grounds the relation between a sovereign Church and a subject people in a Christian concept of mediation. The concept takes its energy from the paradigm of redemptive reconciliation—between human matter and divine form, earthly body and heavenly spirit—accomplished by Christ in the moment of the Word made flesh." See Sarah Pourciau, "Bodily Negation: Carl Schmitt and the Meaning of Meaning," *MLN* 120 (2005): 1066–90; here, p. 1082.

14. Schmitt, *Roman Catholicism*, p. 8.

fact that it *is* life itself and, simultaneously, a concrete representation of life in excess of what it represents.<sup>15</sup>

The elusiveness of the living form whose existence is (from the perspective of modern philosophy) as tenable as that of the alchemical “philosopher’s stone” is not unrelated to the historical tendency toward an abstracting neutralization of all substantive concepts. From Kant’s transcendental philosophy to Max Weber’s “sociology of law,” the hollowing out of form presents itself as a necessity to Western thought.<sup>16</sup> This notion has been rendered procedural, calculable, transcendental, rationalized, “pure,” culminating in the organizational formality of democracy that, like technicity itself, comes to lack any “normative” content: “. . . if one regarded it from the perspective of some political program that one hoped to achieve with the help of democracy, then one had to ask oneself what value democracy itself had *merely as a form*.”<sup>17</sup> The answer to this question is that, as a mere, emptied out—hence, dead—form, democratic political organization possesses only the instrumental value of pure means devoid of any ends. As a result, it faces two options: either a lapse into complete opportunism and populism, or a ruthless imposition of its voided form onto the contents that would not have assumed it otherwise. More often than not, these alternatives are combined in the Machiavellian fashion, in which the Empire currently endeavors to globalize this most inflexible of abstractions.

Such is the backdrop against which Schmitt’s recovery of the living form must assert itself. In *Political Theology*, its specifically living character is construed as a counter-thrust of the full and thick “form in its substantive sense [*der Form im substanziellen Sinne*]”<sup>18</sup> that defies its modern “emptying out.” While Schmitt undertakes to fill out the political form with reference to the state, one could adapt his methodological insights to other institutions, such as culture, which is what I propose to do in the

15. In his early perceptive analysis of Schmitt in *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford, CA: Stanford UP, 1998), Giorgio Agamben writes: “Life. . . can in the last instance be implicated in the sphere of law only through the presupposition of its inclusive exclusion, only in *exceptio*” (p. 27). A more radical possibility would be that life itself is born of its exclusive inclusion in the *complexio oppositorum*, a form that falls on the same side as the exception from the norm, or from the “sphere of law.”

16. Schmitt, *Political Theology*, pp. 26–28.

17. Carl Schmitt, *The Crisis of Parliamentary Democracy*, trans. Ellen Kennedy (Cambridge, MA: MIT Press, 1996), p. 24, emphasis added.

18. Schmitt, *Political Theology*, p. 26.

subsequent sections of this essay. Still in the context of a discussion of the state, substantiveness immediately connotes something living, namely, that the "state thus becomes a form in the sense of a living formation [*Der Staat wird also zu einer Form im Sinne einer Lebensgestaltung*]." <sup>19</sup> Qua formation (*Gestaltung*), the static form (*Form*) is set in motion, such that this setting-in-motion itself becomes the definitive moment of life. The process of forming is to be understood as the act of shaping the materials on which it works without ignoring the peculiarity of their content and the ineluctable oppositions dwelling in it. Indeed, "shaping" should be interpreted as the determination of oppositions, which is acutely aware of their substantive particularities and through which they get their first political bearings.

The distinction between the two forms of "form" prepares for a juxtaposition of the violent imposition of political order to the arrangement that unfolds from a certain way of living-together: "The state is the original power of rule, but it is so as the power of order, as the 'form' of national life [*Form' des Volkslebens*] and not an arbitrary force applied by just any authority."<sup>20</sup> It is, perhaps, unavoidable that the word *Volksleben*, "the life of the *Volk*," should sound alarm bells, especially in light of the place and the year of *Political Theology's* publication: Munich and Leipzig, 1934. Yet, this is not reason enough to dispose of the fruit of Schmitt's work, which bears the traces of, but is not limited to, its tragic historical context. The point is that the substantive form inherent to a particular sociality will warrant the vitality of its political organization in a manner that will be incomparably more effective than the application of "an arbitrary force" synonymous with the imposition of an empty, external form indifferent to its contents. Thus, the form of *complexio oppositorum* will encompass, among other things, the opposition between content and form, which will imbue it with substantiveness and liveliness.

In light of the problematic of the living form, a number of questions arise that are crucial to our understanding of Schmitt's concept of the political: What is life and how to conceive of its opposite? What is the meaning of coming to life, or being "enlivened"? How does the process of "deadening" occur in the sphere of the political? Most recently, Samuel Weber's *Targets of Opportunity* has resonated with these questions, and the answers are worth summarizing here. His most poignant suggestion is that what

19. *Ibid.*, p. 27.

20. *Ibid.*, p. 25.

appears to be the opposite of life—a “death-bearing enemy”—is, indeed, its condition of possibility, the guarantor of the tense vitality proper to the (at least) bipolar political world of friends and enemies.<sup>21</sup> At the same time, however, he chides Schmitt for falling back on a traditional opposition of “man versus machine, which he also associates with the opposition of life versus death.”<sup>22</sup> For Weber, then, Schmitt’s approach to the question of life is simultaneously nuanced and crude, veritably exemplifying his subject matter, *complexio oppositorum*.

Even though these observations are helpful, they leave undisturbed the meaning of life in Schmitt’s (early) writings, where to enliven is, in a certain sense, to formalize, to draw out the form that was already implicit in the “messy” and inexact content, all the while minimizing opportunities for the betrayal of their “messiness” and inexactitude. Yet, the pulsion of drawing *out* is, by the same token, tantamount to drawing these contents *into* the embrace of *complexio oppositorum*. The mechanism that, at once, does the work of externalization and internalization is concrete representation and, in particular, its rhetorical manifestations: “On the contrary, the power of speech and discourse—rhetoric in its greatest sense—is a criterion of human life. . . . It moves in antitheses. But these are not contradictions; they are the various and sundry elements molded into a *complexio* and thus give life to discourse.”<sup>23</sup> Here, Schmitt is not praising the deliberative empty talk of an infinite parliamentary discussion, which he denounces in *The Crisis of Parliamentary Democracy*, but what Heidegger might refer to as the deeply buried power of “primal words.” Their formal potency lies in the antithetical movement that circulates in the complex of determinate oppositions, from which the life of discourse derives. Concrete representation remains faithful to the polemical ground of discourse and to life itself.

On the other hand, de-formalization deadens; it amounts to a depoliticization, deformation, and neutralization of all determinate oppositions.

21. Weber, *Targets of Opportunity*, p. 40. The reliance of the category of life on a “death-bearing enemy” stands in contradiction to Weber’s assertion that the “model of the *creation of life out of nothing* will assume a subtle but decisive importance” in Schmitt (p. 35). To account for this contradiction, it would be necessary to examine the particular perspective from which life is created *ex nihilo*, the perspective that does not recognize the exception, that synthesizes opposites, and that depends on the principles of abstract representation.

22. *Ibid.*, p. 32.

23. Schmitt, *Roman Catholicism*, p. 23.

As always in Schmitt, de-formalization that effectuates the disbanding of the *complex* of opposition portends a double danger: a reversion into the absolute difference of atomized, formless content that cannot be mustered into an oppositional arrangement *and* a conversion of a living form into the absolute indifference of a purely abstract form or concept, such as "humanity."<sup>24</sup> Where "[u]niversality at any price would necessarily have to mean total depoliticization,"<sup>25</sup> particularity at any cost produces the same effect because it dissolves political oppositions into mere difference.<sup>26</sup> Death, therefore, also arrives in two ways: (1) the *rigor mortis* of abstract contradiction, hyper-formalism, and hyper-determination; and (2) decomposition into pure difference and complete indeterminacy.

It follows that Schmitt's conception of life is non-vitalist and non-organicist. Life is not an impersonal force of sheer immanence that sweeps all organic entities into its midst. That which is most living in it is *complexio oppositorum*, which is to say that the most fateful, the most potent standoff transpires between life and death *within the living life itself*.<sup>27</sup> Any living form worthy of the name holds in itself this constitutive finitude, regardless of the occasional Schmittian rhetoric against mechanization and its external relation to death, aired by Samuel Weber. It is enough to take a glance at "The Age of Neutralizations and Depoliticizations," an influential essay written in 1929 and appended to *The Concept of the Political* in 1932, to realize that what Schmitt calls "the pluralism of spiritual life [*Pluralismus des geistigen Lebens*]" is nothing other than the secularized *complexio* capable of accommodating both life and death: "it is wrong to

24. John McCormick, in "Transcending Weber's Categories of Modernity? The Early Lukács and Schmitt on the Rationalization Thesis," *New German Critique* 75 (Autumn 1998): 133–77, exhibits high theoretical sensitivity when he describes the formality of Schmitt's Roman Catholicism with a double negative: "Roman Catholicism is a form *not* indifferent to content, nor is it an irrational elevation of content to an exalted level" (p. 163). This non-indifference and non-elevation are the hallmarks of the form that is living.

25. Schmitt, *The Concept of the Political*, p. 55.

26. According to Derrida's reading of Schmitt, the discrimination between a friend and an enemy "cannot be reduced to mere difference. It is a determined opposition, opposition itself." See Jacques Derrida, *Politics of Friendship*, trans. George Collins (London: Verso, 1997), p. 85.

27. Thus, the ending of "The Age of Neutralizations and Depoliticizations," in which Schmitt writes, "life struggles not with death, spirit not with spiritlessness . . . ; spirit struggles with spirit, life with life" (*The Concept of the Political*, p. 96), could be interpreted as a rejection of the formally empty view that opposes pure life to pure death in favor of the approach that situates the life-death opposition within the "struggling lives" themselves.

solve a political problem with the antithesis of organic and mechanistic, life and death. A life which has only death as its antithesis [*Ein Leben, das gegenüber sich selbst nichts mehr hat als den Tod*] is no longer life but powerlessness and helplessness.”<sup>28</sup> Life does not face death and mechanization as external possibilities but, in the capacity of a living form, harbors its opposites within itself.<sup>29</sup> The political quest for such a form cannot disregard the mechanistic and the inorganic, much less exclude them from the “pluralism” defined by the welcome that it extends to all determinate oppositions.

We might project these existential theses back onto Schmitt’s refusal to romanticize Roman Catholicism by allying it with the “soulful polarity” of the fictitious “dichotomy between a rationalistic-mechanistic world of human labor and a romantic-virginal state of nature.”<sup>30</sup> However monstrous or deadening it might be, the “rationalistic-mechanistic world,” taken to be a metonymy for modern culture, is an offshoot of life, perhaps, one that defines life’s very liveliness. Likewise, the striving toward the paradisiacal “state of nature” is a product of the same culture that it desires to evade. Taking this dual insight into account will allow us to rethink “culture,” which, throughout the history of Western philosophy, has been equated with death, and to reconsider its contemporary avatar, “multiculturalism,” in terms of a mutation of *complexio oppositorum*.

### ***A Virtuous Circle: The Mutual Invigoration of Culture and Politics***

In keeping with the stages of neutralization where the political intensity ebbs away from the institutions it previously sustained, the emptiness of

28. Schmitt, *The Concept of the Political*, p. 95. A few pages earlier, Schmitt has written: “A result of human understanding and specialized knowledge, such as a discipline and in particular modern technology, also cannot be presented as dead and soulless any more than can the religion of technicity be confused with technology itself” (pp. 93–94). His point, then, is that culture and technology (the contemporary incarnation of the latter) do not stand on the side of pure death.

29. Jacques Derrida, in *The Postcard: From Socrates to Freud and Beyond*, trans. Alan Bass (Chicago: Univ. of Chicago Press, 1987), has eloquently called this irreconcilable, non-dialectizable tension “*la vie la mort*” or “*life death*” (p. 259).

30. Schmitt, *Roman Catholicism*, p. 10. “The Church is neither the mechanically formalistic entity scorned by Protestants nor the haven of unconquered nature and irrational expression lauded by Romantics” (McCormick, “Transcending Weber’s Categories,” p. 163). Yet, to say, as McCormick does in the following sentence, that the Church “stands above such antinomies, absorbs, maintains, and transcends them” is to equate the operations of the *complexio* with the Hegelian *Aufhebung*.

abstract form is a historical by-product of every depoliticized domain, be it theology, metaphysics, or the state. But the cumulative effects of this hollowing out ultimately threaten culture itself: "Once everything had been abstracted from religion and technology, then from metaphysics and the state, everything appeared to have been abstracted above all from culture, ending in the neutrality of cultural death [*die Neutralität des kulturellen Todes*]." <sup>31</sup> For Schmitt, absolute neutrality is tantamount to nihilism, or to what, on the next page of the 1929 essay, he calls "the fear of cultural and social nothingness [*die Furcht vor dem kulturellen und sozialen Nichts*]." <sup>32</sup> It appears, then, that an effective response to this fear does not consist in the individual recuperation of formerly politicized domains, but in enlivening the cultural form that has been gradually eroded at every successive stage of depoliticization. In other words, the goal is to politicize culture *in toto* by allowing cultural life, in the sense of the antagonistic *complexio oppositorum*, to flourish in the place claimed by the neutrality of death.

Two obstacles that arise before any attempt to rehabilitate this form are Schmitt's ostensibly dismissive attitude to culture in *The Concept of the Political* and the traditional association between culture and death deeply ingrained in the history of Western thought. First, in imagining the complete disappearance or leveling of enemy-friend distinctions, "[w]hat remains is neither politics nor state, but culture, civilization, economics, morality, law, art, entertainment, etc." <sup>33</sup> The open-ended list of remainders is by no means haphazard or accidental, since the depoliticized culture translates seamlessly into a kind of civilization where the false dilemma of choosing between economic rationality and a legally codified morality is the only "serious" supplement to the danger-free and light (but, ultimately, boring and bored) human existence in a perpetual search for new sources of entertainment. At the extreme, culture *is* entertainment, which is to say, something hopelessly inadequate to the task of breathing new life into the political.

Nonetheless, as Leo Strauss's astute analysis makes clear, Schmitt paints an image of the impoverished culture that, as such, does "not *have* to be entertainment, but . . . *can* become entertainment." <sup>34</sup> The uncomplicated depiction of cultural bankruptcy is not a definitional necessity,

31. Schmitt, *The Concept of the Political*, p. 93.

32. *Ibid.*, p. 94.

33. *Ibid.*, p. 53.

34. Leo Strauss, "Notes on Carl Schmitt, *The Concept of the Political*," in Schmitt, *The Concept of the Political*, p. 116.

but only a possibility that hinges upon its empty formalization throughout the recent stages of neutralization. Entertainment gains an upper hand when the “pluralism of spiritual life” is greatly reduced to a one-dimensional monoculture disseminated on the mass scale. The position Strauss champions is probably predicated on an elitist valorization of high over low culture that relegates all seriousness to the former and an empty, “nauseating” curiosity to the latter. Despite this predication, the institution in question is not necessarily diversionary and non-political—a reality to which the very standoff between its high and low varieties testifies. Thus, in and of itself, culture is not allergic to politics.

The second problem staring us in the face is that, up to the present, philosophy has insistently identified culture with death.<sup>35</sup> Already for Hegel, culture as “self-alienated spirit” is instituted thanks to “the true sacrifice of *being-for-self* . . . that . . . surrenders itself as completely as in death.”<sup>36</sup> Transpiring in the medium of language, the self-sacrifice of consciousness results from a desire to make sense for the other, the desire whose fulfillment indicates that my “*real existence dies away*.”<sup>37</sup> More recently and more explicitly, Jacques Derrida has maintained that “[t]here is no culture without a cult of ancestors, a ritualization of mourning and sacrifice. . . . The very concept of culture may seem to be synonymous with the culture of death, as if the expression ‘culture of death’ were ultimately a pleonasm or a tautology.”<sup>38</sup> The stakes of the identification of culture with death are high; if, as Derrida proposes, the two terms are synonymous, then culture connotes pacification and dissolution of all contradictions—in a word, depoliticization.

Nonetheless, upon closer scrutiny this conclusion proves to be unwarranted. In Hegel as well as in Derrida, death is not a finality abstractly opposed to life, but a part of the concrete, living life itself. The “culture of death” that ritualizes mourning cares for the double survival (the excess

35. A notable exception to this general rule is Nietzsche, who foreshadows Schmitt in his emphasis on a living unity of content and form in any given culture: “a people to whom one attributes culture has to be in all reality a single living unity and not fall wretchedly apart into inner and outer, content and form.” Friedrich Nietzsche, *Untimely Meditations*, trans. R. J. Hollingdale (Cambridge: Cambridge UP, 1997), p. 80.

36. G. W. F. Hegel, *Phenomenology of Spirit*, trans. A. V. Miller (Oxford: Oxford UP, 1977), p. 308.

37. *Ibid.*, p. 309.

38. Jacques Derrida, *Aporias*, trans. Thomas Dutoit (Stanford, CA: Stanford UP, 1993), p. 43.



of life over and above itself) of those whose memory is institutionally monumentalized and of those who cultivate this very memory. Neither is the dying away of "real existence" in language the last word of the subject who acquires a new life in the discursively mediated intersubjective relation. Cultural life is, thus, transformed by its intimate relation to death and is lived on a different plane than mere biological existence.

More pertinently, commenting on Schmitt's work, Strauss experiments with a more decisive break with the philosophical equation of culture and death: "'culture' always presupposes something that is cultivated: culture is always the *culture of nature*. This expression means, primarily, that culture develops the natural predisposition . . . ; it thus *obeys* the orders that nature itself gives."<sup>39</sup> In Strauss's rendition, culture is the instantiation of a living form that is not imposed on its contents but grows out of them, "*obeys the orders*" of what it cultivates. The uncanny resemblance between this definition of culture and the way of communal life that, according to Schmitt, plays a key role in the upsurge of statehood hinges on the fact that both are salient examples of the living, substantial formation of *complexio oppositorum*. Just as the state determines the oppositions that are already present in any given mode of living together, so culture shapes the materials of nature entrusted for its cultivation. In the last instance, the cultivation of the human and non-human, organic and inorganic nature is the arche-political act that determines the internal form of oppositions and sets them in motion as a living formation (*Lebensgestaltung*). Conversely, the creation of cults may be conducive to the ossification of a static cultural form (*Form*), sanctioning an arbitrary imposition of abstractions that are foreign to the content, to which they attach themselves.

Culture, therefore, becomes animated by virtue of its participation in the logic of living forms that sketches out the outlines of *complexio oppositorum*. Differently put, in its substantive manifestations, it is always already politically charged. But Schmitt is, above all, a thinker of the crisis of the political that adversely affects or rarefies the substantive dimension. A form of forms victimized to the greatest extent in the age of neutralizations and depleted to the point of merging with entertainment, culture holds the highest potential among the other "shipwrecks" of depoliticization

39. Strauss, "Notes on Carl Schmitt," p. 104. Admittedly, this language may be excessively organicist, but it is in sync with the Schmitt of *Roman Catholicism*, who categorically states that the attitudes of mastery and domination are alien to the Catholic conceptions of nature. See Schmitt, *Roman Catholicism*, pp. 9ff.

(economics, morality, technicity, etc.) to resist this dominant trend and to give a new impetus to the political. How can this double bind be resolved concretely? I turn to multiculturalism for an answer.

### ***Multiculturalism: A New Complexio Oppositorum?***

At first glance, multiculturalism embodies everything Schmitt has found to be reprehensible about liberalism. It coincides with an ideal type of administrative politics that pretends to abandon enemy-friend distinctions in favor of a much more indeterminate “cultural difference” as long as it poses no real threat to the regime. Historically, however, the reasons behind adopting multiculturalism as an official policy have been political in the distinctly Schmittian sense. For example, in Canada, the precursor of the 1988 Multiculturalism Act was promulgated by Pierre Trudeau’s government in 1971, with the tacit strategic aims not only of luring the votes of the increasing “New Canadian” immigrant population, but also of thwarting the aspirations of Quebec nationalists, whose assertion of the province’s unique status was diluted with reference to the cultural specificity of other ethnic communities.<sup>40</sup> As a result of the “Policy of Multiculturalism within the Bilingual Framework,” the separatist movement was indirectly designated as the abstract enemy of “cultural diversity,” masking its status as the concrete adversary of the federal state.

I cite the Canadian example in order to illustrate the political possibilities of multiculturalism that surpass its stated objectives as avowed by a liberal polity. Although a Schmittian reading of this historical instance is plausible, it will be necessary to elaborate a more general way of politicizing the term that has become something of a catchword in the contemporary politically-correct discourse. Asking a patently philosophical question, “What is multiculturalism?” will lead us to a realization that it is the truth of culture knowing itself as such, that is, as a plurality. Let me unpack this polemical definition with an eye to Schmitt’s work.

In 1929, he writes: “All concepts in the spiritual sphere, including the concept of spirit, are pluralistic in themselves [*sind in sich pluralistisch*] and can only be understood in terms of concrete political existence. Just as every nation has its own concept of nation and finds the constitutive

40. Cf. Enoch Padolsky, “Multiculturalism at the Millennium,” *Journal of Canadian Studies* 35, no. 1 (Spring 2000): 138–61; Danielle Juteau, “The Sociology of Ethno-National Relations in Quebec,” in *Deconstructing a Nation: Immigration, Multiculturalism and Racism in ‘90s Canada*, ed. V. Satzewich (Halifax: Fernwood, 1992), pp. 323–42.

characteristics of nationality within itself, so every culture and cultural epoch has its own concept of culture."<sup>41</sup> Like "all concepts in the spiritual sphere," culture is not a totalizing synthesis of diverse, often antithetical, moments. The unstated negative reference to Hegel in this passage is rather blatant, given that his philosophy of history, precisely, hypostatizes a particular culture raised to the dignity of the concept and, therefore, to the status of a yardstick for its counterparts. Schmitt's radical historicism, on the contrary, operates with the non-synthesizable pluralism, which inheres in every "spiritual concept" and generates its form based on the particular historical content of "concrete political existence." Therefore, to affirm that multiculturalism is the truth of culture is not to make a transcendental metaphysical assumption. Quite the opposite is the case: this affirmation implies that no one culture can legitimately posit itself as the golden standard of Culture, since it must negotiate its living form with the internal resources and constitutive characteristics at its disposal. In the epoch of multiculturalism, the plurality of "culture" comes into its own.

Nevertheless, one should neither overlook nor dismiss the institution's popular and trivializing underside. Commenting on the Janus-faced structure of multiculturalism, Gayatri Spivak draws from it a lesson for postcolonial strategy: "If the multiculturalists' many cultures cannot be captured by some notebook definition, nor can Rorty's Enlightenment culture. . . . Our task is to look at the two strategies: culture as a battle cry against one culture's claim to Reason as such, by insider as well as outsider; and culture as a nice name for the exoticism of the outsiders."<sup>42</sup> This succinct formulation is political in the best of Schmittian traditions. Spivak acknowledges the existence of two cultural modalities, one of which retains a certain substantive and political richness of the "battle cry," while the other, presumably depoliticized in the capacity of "a nice name for the exoticism of the outsiders" and trimmed down to entertainment, pursues politics by other means. Furthermore, she echoes Schmitt's criticism of a totalized concept of culture ("captured by some notebook definition") put forth in the name of Reason. But it is at this point, which seems to reach the apogee of the political, that Spivak both continues and ceases to follow Schmitt. To be sure, she overtly identifies the enemy—"one culture's claim to Reason as such," in other words, an institution that presents itself as the

41. Schmitt, *The Concept of the Political*, p. 85.

42. Gayatri C. Spivak, *A Critique of Postcolonial Reason: Toward a History of the Vanishing Present* (Cambridge, MA: Harvard UP, 1990), p. 355.

dispassionate arbiter of all conflicts—in a gesture that remains indispensable to any political practice. Yet, the enemy is not an external foe or an internal adversary, but a unilateral (in this case, Eurocentric) usurpation of the cosmopolitan idea,<sup>43</sup> against which insiders fight shoulder-to-shoulder with outsiders. The enemy is not an abstraction, but those who promulgate an abstract, albeit contextually specific, cultural form in the guise of a de-contextualized universal.

The alliance of insiders and outsiders is indebted to the multicultural predicament, where the living forms of various cultures must be co-negotiated, considering that they necessarily coexist within the same political space. While such co-negotiation should not be linked, in a rushed manner, to the emergence of a consensus, cultural coexistence means incalculably more than “ensuring every citizen the opportunity to grow up within the world of a cultural heritage . . . without suffering discrimination because of it.”<sup>44</sup> What liberal minimalism fails to recognize in its discussions of the “politics” of recognition is that the only path toward rendering multiculturalism politically relevant passes through the recoding of the cultural sphere into a playground for antagonism. In this recoding, the figure of the enemy needs to be sharply outlined, and I hurry to reassure the liberal skeptics that the outlines of this figure will not capture a particular demonized cultural sub-group.<sup>45</sup> Rather, the enemies are those who practice a blown-up and standardized projection of particularity that, under the cover of Reason, endeavors to impress itself if not on the other cultural particulars, then on the ground upon which antagonisms surface and get resolved. To confront such cunning “tolerance,” which masks an intransigent totalitarianism, it

43. In response to the counterargument that European thought could not have usurped the cosmopolitan idea since it enunciated this idea in the first place, I would say that this enunciation itself (which marked the subsequent history of the concept) was deployed in the context of colonial usurpation and exploitation that furnished the background for the first cultural encounters.

44. Jürgen Habermas, “Struggles for Recognition in the Democratic Constitutional State,” in *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutmann (Princeton, NJ: Princeton UP, 1994), pp. 131–32.

45. The first practical obstacle standing before such recoding is that, outside of the quasi-Schmittian discourse of the current administration in the United States, it is politically incorrect to pinpoint the enemy. A further complication is that this pinpointing must be performed on the neutralized ground of “tolerant” liberalism that is covertly totalitarian. As a consequence, the current attempt will be brought to fruition only when the general political climate becomes more avowedly political, in the Schmittian sense, and therefore less allergic to non-reactionary identifications of the enemy.

will not be enough to debunk the myth of the neutrality of abstract rationality used by its practitioners stealthily to pursue their political objectives. The antagonism it fuels will obstinately persist because, to invert Bacon, it is one of the most durable "idols of the cave" that cannot be decisively smashed once and for all.

The features of *complexio oppositorum* come through in this portrayal of multiculturalism, as though in a photographic negative.<sup>46</sup> Unlike its liberal counterpart, which cleverly passes totalitarian rigidity for the tolerance of "otherness" and "diversity," the proposed Schmittian multiculturalism does not pre-delineate the terrain for political engagements, nor does it project culturally specific attitudes and beliefs onto the contrived sphere of universality. Akin to the complex, it embraces the sometimes contradictory cultural particularities in a non-totalizable fashion, keeps open the space for political antagonism, functions as a radically pluralistic living form, and non-transcendentally expresses the truth of culture. As a result, the correlation between the *complexio* and a revised multiculturalism allows the two terms to join in the long list of theological concepts and their secularized political incarnations.

Of course, it could be objected that the ascription of these revolutionary features to an institution so steeped in the rhetoric of depoliticization and neutralization is an outcome of wishful thinking that bears little resemblance to its liberal instantiation and risks deteriorating into the very totalitarianism it criticizes. I offer two retorts to this objection. First, even if the above description refers to a hopelessly untenable utopian ideal, the sheer contestation of the predominant version of multiculturalism already contains some of the characteristics of this very utopia. In proposing an oppositional multicultural strategy, as Spivak does, one challenges its ossified institutionalized form and provokes an enduring standoff irresolvable on the old procedural grounds. In other words, regardless of its empirical existence or nonexistence, a rigorously theorized multiculturalism informed by Schmittian political concepts re-politicizes a stale keyword of liberal discourse by identifying the figure of the enemy in its midst. It

46. In *Roman Catholicism and the Political Form*, the secular paradigm of the *complexio* is jurisprudence: "In the social world, secular jurisprudence also manifests a certain *complexio* of competing interests and tendencies" (p. 29). Thus, a more detailed extension of the argument on multiculturalism could benefit from thinking the conjunction between it and the juridical domain, for instance, in the constituting documents of the doctrine, such as the Canadian Multiculturalism Act and its predecessors.

roughly accomplishes what Schmitt himself has achieved with the notion of *complexio oppositorum*, which he polemically inherited from an anti-Catholic thinker for the purpose of positively describing the innermost essence of Roman Catholicism.

My second retort is not unrelated to the first. We should unlearn the chief ideological lesson of liberalism that presents totalitarianism as the sole alternative to its own “tolerant” and “representative” approach. Neither the re-politicization of multiculturalism nor the complex of opposites that governs it is compatible with totalitarian politics. According to Schmitt, the demand for a total state “which potentially embraces every domain” arises in response to the great neutralizations and depoliticizations of the nineteenth century.<sup>47</sup> Although the same verb—“embraces [*ergreifende*]”—crops up here to describe the activity of the total state as that of *complexio oppositorum*, the gap between the two is unbridgeable. Whereas, presuming an erroneous equation of state and politics, the former intensifies the process it reacts against,<sup>48</sup> the latter wrests intense oppositions from neutralized domains and dispenses them to the realm of the political. This is to say that the reinvigorated conception of multiculturalism launches a critique against its liberal double from a perspective far removed from totalitarianism, which will never espouse a *living* form.

### ***Conclusion: On Dining in Schmitt’s “Cosmopolitan Restaurant”***

On the threshold of spelling out the meaning of *complexio oppositorum*, Schmitt relates the frustrations of Catholic nationalists, notably the Irish, with the belittlement of their national particularity in the context of Roman universality. In a highly ironic prose, he writes: “An Irishman, reflecting the embitterment of his Gaelic national consciousness, opined that Ireland was ‘just a pinch of snuff in the Roman snuffbox’ (he would have rather said: A chicken the prelate would drop into the caldron which he was boiling for the cosmopolitan restaurant).”<sup>49</sup> At the same time, Schmitt warns his readers that “[d]espite the allusion to the peculiarities of universalism, the political idea of Catholicism has as yet not been defined.”<sup>50</sup> The warning implies that, insofar as the yet undefined idea hinges on the notion of *complexio oppositorum* (which will give it a certain substance

47. Schmitt, *The Concept of the Political*, p. 22.

48. Ibid.

49. Schmitt, *Roman Catholicism*, p. 6.

50. Ibid.

and definition), the Irishman's apprehensions are unfounded. The *complexio* leaves enough breathing space for particularity not to be subsumed in the non-striated indifference of the universal. Therefore, in the cosmopolitan restaurant of Roman Catholicism, "Gaelic national consciousness" will not be devoured as readily as the chicken the prelate has prepared.

And yet, isn't the cosmopolitan restaurant an apt metaphorization of multiculturalism? Doesn't it cater to all tastes, save for the predilections of those who prefer the spiciness it is unable to supply—the spiciness of the political—and of those who end up as the main dishes it serves? Don't the "outsider" cultures benefiting from liberal recognition simply render the menu more exotic? We would have to answer these questions in the affirmative, with the proviso that the political idea of multiculturalism has as yet not been defined. The image of the cosmopolitan restaurant describes a compound whose constituent parts have been depoliticized in light of an arcane political strategy that reduces all culture to mere entertainment. Conversely, the other multiculturalism founded on the tenets of *complexio oppositorum* would retain the element of the indigestible not just for the "customers" but also for its mainstream political counterpart. This indigestibility refers to the antagonisms implicit, simultaneously, in any cultural life, in the co-negotiation of the living forms proper to various cultures, as well as in the enunciation of the enemy—a forcibly universalized particular rationality—that culminates in mainstream multiculturalism. Guided by the logic of the exception, which is not inconsistent with the tense framework of the living form, the *complexio* nourishes these antagonisms in the contemporary incarnation of the "truth" of culture.

# *Carl Schmitt on Culture and Violence in the Political Decision*

David Pan

Though he has become known to his detractors as a theorist who has replaced rational discourse with pure power in his theory of the decision, Carl Schmitt's notion of politics is, on a fundamental level, culturally and ethically based. This cultural and ethical conception of politics permeates his work, not only in texts about explicitly cultural issues, such as his 1916 study of Theodor Däubler's Expressionist *Nordlicht* or his meditation on the connection between politics and art in Shakespeare in *Hamlet oder Hekuba*,<sup>1</sup> but also in *Political Theology*, one of the key texts of his theory of decisionism. While commentators have tended to focus on his understanding of how violence has a determining role in structuring society, he understands this role within a framework in which values and ideas mediate the human relation to violence. He develops a complex understanding of the ways in which both culture and ethics, the realm of symbolic meaning and the determination of ultimate values for guiding human action, shape political structures.

1. Carl Schmitt, *Theodor Däublers "Nordlicht": Drei Studien über die Elemente, den Geist und die Aktualität des Werkes* (Munich: Georg Müller, 1916); Carl Schmitt, *Hamlet oder Hekuba: Der Einbruch der Zeit in das Spiel* (Düsseldorf: E. Diederichs, 1956), partially translated into English as "The Source of the Tragic," *Telos* 72 (Summer 1987): 133–51. His early interest in Expressionism was no isolated event but was significant for his later work to the extent that he continued throughout his career to emphasize the spiritual concerns also crucial to this movement. For a discussion of his engagement with German Expressionism, see Ellen Kennedy, *Constitutional Failure: Carl Schmitt in Weimar* (Durham, NC: Duke UP, 2004), pp. 38–47. On his reading of Shakespeare, see Johannes Türk, "The Intrusion: Carl Schmitt's Non-Mimetic Logic of Art," in this issue of *Telos*; and David Pan, "Political Aesthetics: Carl Schmitt on Hamlet," *Telos* 72 (Summer 1987): 153–59.



Commentators who overlook the centrality of the cultural and ethical element in Schmitt's theories inevitably take a hostile stance toward his work. Jan-Werner Müller, for instance, regards Schmitt's decisionism as a type of thinking that understands the world in terms of pure and unmediated violence and leaves out any ethical component, thus paving the way for the rise of the Nazi dictatorship.<sup>2</sup> Müller supports his critique by referring to the stark pronouncements about the foundational power of the decisionist act described in *Political Theology*. Similarly, John McCormick indicates that the particular decisionism of this text established the idea of a "sovereign dictatorship" in Schmitt's thinking, a dictatorship that was not meant to be a temporary measure for restoring the constitution but a more permanent situation that seeks to establish a dictatorial order.<sup>3</sup> Slavoj Žižek considers the Schmittian decision to be "an abyssal act of violence (violent imposition) which is grounded in itself" and emphasizes that the decision "is not a decision for some concrete order, but primarily the decision for the formal principle of order as such." Consequently, for Žižek, the content of the resulting order is arbitrary, and Schmitt's conservatism depends upon a dissolution of traditional values and authorities.<sup>4</sup>

Yet, Schmitt's work leads inexorably to the idea that cultural and ethical ideals are inseparable from the decisionist moment. The sovereign violence that suspends an entire legal order is not just a pure, mechanical violence but is based on spiritual ideals. Though Schmitt's key statement in *Political Theology* that the sovereign makes the decision on the state of exception is indeed framed as a purely political insight in which no other cultural or ethical considerations play a role, Schmitt's critics have been mistaken in assuming that he takes unmediated violence to be the basis of order. Though specific power relations define the circumstances of the political decision, these power relations cannot be "pure." Rather, they are always expressed in terms of cultural assumptions about the final goals of a society.<sup>5</sup> Even if violence and power relations provide the limiting factors that determine the parameters for a decision, the ultimate decision

2. Jan-Werner Müller, *A Dangerous Mind: Carl Schmitt in Post-War European Thought* (New Haven, CT: Yale UP, 2003), pp. 22–23.

3. John P. McCormick, *Carl Schmitt's Critique of Liberalism: Against Politics as Technology* (Cambridge: Cambridge UP, 1997), pp. 121–56.

4. Slavoj Žižek, "Carl Schmitt in the Age of Post-Politics," in *The Challenge of Carl Schmitt*, ed. Chantal Mouffe (London: Verso, 1999), pp. 18–19.

5. Kennedy gestures in this direction when she writes that for Schmitt "the political is the existential" (Kennedy, *Constitutional Failure*, p. 8).

is not an example of arbitrary power but is in fact overdetermined by the context given by a culture's self-understanding of its values. This fuller understanding of decisionism links it back into a cultural context and an ethical framework for determining the enemy. Far from reducing politics to unmediated violence, the political decision for Schmitt is founded on the underlying ethical assumptions that predominate within a particular people.

### ***Order vs. Chaos as Background to the Decision***

Schmitt provides many indications that he does not adhere to a reductive idea of decisionism in which it is simply an expression of violence. In arguing that the theological origins are not just important because of their historical development "but also because of their systematic structure" and that "the exception in jurisprudence is analogous to the miracle in theology,"<sup>6</sup> Schmitt emphasizes that his understanding of decisionism includes a notion of legitimacy that grounds the decision within a larger political and theological tradition. Schmitt never adheres to the idea of decisionism as violence, as proposed by Giorgio Agamben. Instead, he distinguishes his idea of decisionism, which establishes the legitimacy of the sovereign, from an alternative "absolute" decisionism that would be completely unmediated. In attributing the idea of "an absolute decision created out of nothingness" to Joseph de Maistre and Juan Donoso Cortés, Schmitt further notes that "this decisionism is essentially dictatorship, not legitimacy" and is the product of a withering of monarchy rather than its revival.<sup>7</sup> Schmitt's form of decisionism, by contrast, is an attempt to explain monarchy as a form of government that is based not on arbitrary violence but on some type of popular consent.<sup>8</sup>

6. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago: Univ. of Chicago Press, 2005), p. 36.

7. Schmitt, *Political Theology*, p. 66. Tracy Strong also points to Schmitt's differentiation in order to argue that "the point of the analysis of the centrality of the exception for sovereignty is precisely to restore, in a democratic age, the element of transcendence that had been there in the sixteenth and even the seventeenth centuries." See Tracy B. Strong, "The Sovereign and the Exception: Carl Schmitt, Politics, Theology, and Leadership," in Schmitt, *Political Theology*, p. xxv. Though he is correct in pointing out that Schmitt's interest was to understand legitimacy in a democratic age, it is important to remember that Schmitt also distinguished between monarchy and dictatorship in terms of their forms of legitimacy.

8. This reading is consistent with Joseph Bendersky's reading of Schmitt's efforts during the final days of the Weimar Republic as an attempt to support the constitution

Schmitt is reticent in *Political Theology* about the cultural and ethical framework within which this decision stands. However, he describes this dimension more explicitly in a text published one year later, *Roman Catholicism and Political Form*. Here he states quite emphatically that politics is not about violence but about ideas: “No political system can survive even a generation with only naked techniques of holding power. To the political belongs the idea, because there is no politics without authority and no authority without an ethos of belief.”<sup>9</sup> If, as G. L. Ulmen points out, the arguments in this text are intimately connected to those of *Political Theology*,<sup>10</sup> then Schmitt’s decisionism does not reduce law and politics to a mechanics of violence. Rather, since the political is fundamentally linked to the idea, the decision is also founded on both an idea and an ethos of belief, which together form the basis of political authority.

This emphasis on the idea as the basis of politics provides the key to understanding Schmitt’s arguments in *Political Theology*. Schmitt develops his theory of the decision in this text as a counter to the idea of the norm, and the centrality of the state of exception is a result of its importance for understanding the mechanism embedded in the decision. Schmitt differentiates between decision and norm as two opposing ways of coming to a judgment on a particular issue: “The assertion that the exception is truly appropriate for the juristic definition of sovereignty has a systematic, legal-logical foundation [*systematischen rechtslogischen Grund*]. The decision on the exception is a decision in the true sense of the word. Because a general norm, as represented by an ordinary legal prescription, can never encompass a total exception, the decision that a real exception exists cannot therefore be entirely derived from this norm.”<sup>11</sup> Schmitt here describes a fundamental difference between an assertion with “a systematic legal-logical foundation” and a “decision,” laying out

against the threat of a Nazi seizure of power through the use of a temporary state of exception that would allow a later reinstatement of the constitution. See Joseph W. Bendersky, *Carl Schmitt: Theorist for the Reich* (Princeton, NJ: Princeton UP, 1983), pp. 145–91. Yet, Schmitt’s willingness to grant the popular will such a central place also explains his willingness to support Hitler’s rule once Schmitt felt that this rule had gained popular support.

9. Carl Schmitt, *Roman Catholicism and Political Form*, trans. G. L. Ulmen (Westport, CT: Greenwood, 1996), p. 17.

10. G. L. Ulmen, introduction to Schmitt, *Roman Catholicism and Political Form*, p. xiv.

11. Schmitt, *Political Theology*, pp. 5–6. Schmitt, *Politische Theologie: Vier Kapitel zur Lehre von der Souveränität* (1934; Berlin: Duncker & Humblot, 2004), p. 13.

the two situations in which each mode of justification is appropriate. The former mode explains *why* the state of exception is suited for defining sovereignty. But this legal-logical reasoning, in which logical arguments can accurately describe the functioning of political processes, has to do in this case with the recognition of those situations in which such logical reasoning is useless. The state of exception lies outside the purview and capacities of a general norm, and, as a result, the decision on whether a state of exception exists cannot itself be grounded through legal-logical foundations. This decision is then a pure decision, without a norm to which it refers and without a logical and systematic framework to guide it.<sup>12</sup>

As Paul Hirst points out, however, the unsystematic nature of the decision does not mean that it is totally arbitrary.<sup>13</sup> It has its own form of legitimacy that is the foundation for the validity of the norm as well. This ordered character of the decision is the key idea that sets Schmitt's theory apart from Agamben's interpretation of the decision. The latter argues, for example, that the state of exception is a situation of anomie and pure violence without order, and he uses this argument to reject Schmitt's invocation of the state of exception as the place of a decision that prefigures law:

The state of exception is not a dictatorship (whether constitutional or unconstitutional, commissarial or sovereign) but a space devoid of law, a zone of anomie in which all legal determinations—and above all the very distinction between public and private—are deactivated. Thus, all those theories that seek to annex the state of exception immediately to the law are false; and so too are both the theory of necessity as the originary source of law and the theory that sees the state of exception as the exercise of a state's right to its own defense or as the restoration of an originary pleromatic state of the law ("full powers"). But fallacious too are those theories, like Schmitt's, that seek to inscribe the state of exception indirectly within a juridical context by grounding it in the division between norms of law and norms of the realization of law, between

12. Schmitt's distinction between legal-logical reasoning and the decision recalls Max Weber's understanding of objectivity in the social sciences, in which the values that define a research project cannot be determined objectively but can only be arbitrarily decided. Rational methods are limited to providing information about the likely consequences of particular choices. Max Weber, *The Methodology of the Social Sciences*, trans. and ed. Edward A. Shils and Henry A. Finch (Glencoe, IL: Free Press, 1949), pp. 1–5, 18, 21, 61.

13. Paul Hirst, "Carl Schmitt's Decisionism," *Telos* 72 (Summer 1987): 20.

constituent power and constituted power, between norm and decision. The state of necessity is not a “state of law,” but a space without law (even though it is not a state of nature, but presents itself as the anomie that results from the suspension of law).<sup>14</sup>

Agamben argues against Schmitt’s idea that the state of exception already contains the preliminary order out of which a legal order is established. Instead, Agamben wants to define the state of exception as a “space without law” and a “space devoid of law.” He does not offer any alternative to the two poles of command or anomie because he remains committed to concepts based on norms, whose only opposite is a total lack of order. By contrast, Schmitt’s critique of the norm is not an affirmation of the primacy of chaotic violence but of a type of legitimacy that precedes laws and norms.

The difference between Agamben’s focus on an opposition between norm and anomie, on the one hand, and Schmitt’s attempt to think through how legitimation functions in the absence of norms, on the other hand, becomes evident in Agamben’s comparison of Schmitt with Walter Benjamin. As Agamben points out, they both see the state of exception as the moment of an undecidability. But whereas Benjamin affirms the ultimate undecidability of the situation, Schmitt attempts to imagine how this situation then leads to a final decision that reintroduces a legal order. Agamben’s critique of Schmitt, then, is that he forecloses the anomie of the situation by means of a sovereign decision without precedent:

The sovereign violence in *Political Theology* responds to the pure violence of Benjamin’s essay with the figure of a power that neither makes nor preserves law, but suspends it. Similarly, it is in response to Benjamin’s idea of an ultimate undecidability of all legal problems that Schmitt affirms sovereignty as the place of the extreme decision. That this place is neither external nor internal to the law—that sovereignty is, in this sense, a *Grenzbegriff* [limit concept]—is the necessary consequence of Schmitt’s attempt to neutralize pure violence and ensure the relation between anomie and the juridical context. And just as pure violence, according to Benjamin, cannot be recognized as such by means of a decision (*Entscheidung*), so too for Schmitt “it is impossible to ascertain with complete clarity when a situation of necessity exists, nor can

14. Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago: Univ. of Chicago Press, 2005), pp. 50–51.

one spell out, with regard to content, what may take place in such a case when it is truly a matter of an extreme situation of necessity and of how it is to be eliminated"; yet, with a strategic inversion, this impossibility is precisely what grounds the necessity of sovereign decision.<sup>15</sup>

Agamben argues, first, that Benjamin's idea of divine violence is also "Benjamin's affirmation of a wholly anomic human action"<sup>16</sup> and, second, that this divine violence (which Agamben refers to here as "pure violence") brings with it an ultimate undecidability. From this perspective, Schmitt's emphasis on the decision in spite of a fundamental undecidability seems to be a defense of an arbitrary sovereign will in a situation of chaotic violence.

But Agamben's interpretation is flawed in two ways. First, he is mistaken in ascribing to Benjamin the argument that divine violence occurs as "anomic human action." Though Benjamin's divine violence does have this "anomic" element, he also insists that it is based on justice: "Justice is the principle of all divine end making, power the principle of all mythical lawmaking."<sup>17</sup> He designates divine violence as "pure immediate violence" when he distinguishes it as a political and revolutionary violence from violence based on existing law.<sup>18</sup> But then he also emphasizes immediately afterward that this pure divine violence provides an access not to chaos but to eternal forms: "Once again all the eternal forms are open to pure divine violence, which myth bastardized with law."<sup>19</sup> Agamben's reading smooths over these tensions in Benjamin's argument in order to make him into a defender of the value of this "anomie" as such.

Agamben is indeed correct in pointing out that both Benjamin and Schmitt agree that it is difficult to decide when this type of violence is taking place. But Schmitt's response to this undecidability—the affirmation of the importance of the sovereign decision—is not simply a violent, unprecedented gesture. Rather, Schmitt's recognition of the lack of clarity

15. *Ibid.*, pp. 54–55.

16. *Ibid.*, p. 54.

17. Walter Benjamin, "Critique of Violence," in *Reflections: Essays, Aphorisms, Autobiographical Writing*, trans. Edmund Jephcott (New York: Schocken, 1978), p. 295.

18. Writes Benjamin: "But if the existence of violence outside the law, as pure immediate violence, is assured, this furnishes proof that revolutionary violence, the highest manifestation of unalloyed violence by man, is possible, and by what means" (*ibid.*, p. 300).

19. *Ibid.*

concerning the existence of and the reaction to a state of exception is also a recognition that the response to this situation is not an affirmation of chaos but a decision about ultimate values. The undecidability in both Benjamin's and Schmitt's arguments arises from the situation that such ultimate values that determine the foundations of an entire culture cannot be conceptually predetermined nor legally prescribed. Instead, there is an element of Kantian "reflective judgment" (which Agamben recognizes but reduces to a "merely logical operation"<sup>20</sup>) in which the decision contains a type of judgment that has an aesthetic form.<sup>21</sup> As William Rasch points out, sovereignty "involves the generalization and extension of the domain of reflective judgment beyond the system (aesthetic) in which it first found its theoretical articulation. A political judgment—a *decision*—is called for precisely at the moment where 'knowledge' fails."<sup>22</sup> In contrast to the anomie of the state of exception for Agamben, Schmitt sees the state of exception as the sphere in which reflective judgment must play a crucial and defining role. If Schmitt emphasizes the need to make a decision in the face of undecidability, he is not necessarily contradicting Benjamin at this point, but extending Benjamin's insight that the decision is indeed one about eternal forms.

### ***Forces in the State of Exception***

The linking of Schmitt's decision to reflective judgment is based partly on its epistemological value in determining for the political community its situation within a broader complex of forces that can affect its survival. The exception lurks behind the rule, according to Schmitt, because it makes clear the lines of force that also exist in the normal situation. The exception thus provides information about the political situation out of which the rule develops. Rather than being an apparatus "whose purpose," according to Agamben, "is to make the norm applicable by temporarily suspending its efficacy,"<sup>23</sup> the state of exception brings into clear relief the lines of political force that exist in the normal situation and serve to

20. Agamben, *State of Exception*, p. 39.

21. Though the decision is based on a type of judgment without "legal-logical foundations" and is thus similar to Kant's idea of reflective judgment, Schmitt is also careful to distinguish legal form from aesthetic form, because the latter contains no decision. See Schmitt, *Political Theology*, p. 35.

22. William Rasch, "Conflict as Vocation: Carl Schmitt and the Possibility of Politics," *Theory, Culture, and Society* 17, no. 6 (2000): 9.

23. Agamben, *State of Exception*, p. 58.

legitimate the rule but are hidden from clear view because there is no concrete threat. The content and stability of the norm depend, for Schmitt, on the political forces that only emerge into the foreground during the state of exception, though they are always present as the underlying guarantors of a state of affairs: “The exception is more interesting than the rule. The rule proves nothing; the exception proves everything: It confirms not only the rule but also its existence, which derives only from the exception. In the exception the power of real life breaks through the crust of a mechanism that has become torpid by repetition.”<sup>24</sup> In this passage, often cited to demonstrate Schmitt’s irrational and reactionary belief in the basic violence of reality, Schmitt relates the state of exception to a Nietzschean realm of forces that governs life and establishes the basis upon which the normal situation exists. He then sees the normal situation as the solidification or stabilization of a certain constellation of forces. The stability of the normal situation only continues as long as the set of forces determining it remains stable. Once there is a change in this constellation of forces, the stability of the normal situation breaks down, giving way to the state of exception in which those forces enter into open conflict, leading eventually to a new constellation of forces and the resultant revised order.

The difficulty here is that Schmitt designates these forces as the “power of real life” and suggests thereby that they form part of an irrational, primal reality that is inaccessible to normal life yet determining for it. He wants to set normal life against the seriousness of the state of exception by indicating that this state involves existential decisions rather than superficial ones. But in this passage, he has not developed any criterion except a note of violence and disaster in order to understand what this seriousness could mean. These forces of “real life” cannot be an expression of naked violence, however, if one follows the logic of Schmitt’s conception of the state of exception. Schmitt’s portrayal of the state of exception contradicts his reference to a kind of primal violence of forces, because his state of exception understands these forces as existing within a certain order. He insists that the state of exception is not a situation of total chaos, but one in which normal order and the law can recede even though the state remains: “What characterizes an exception is principally unlimited authority, which means the suspension of the entire existing order. In such a situation it is clear that the state remains, whereas law recedes. Because the exception is different from anarchy and chaos, order in the juristic sense still prevails

24. Schmitt, *Political Theology*, p. 15.



even if it is not of the ordinary kind.”<sup>25</sup> The state of exception, for Schmitt, is not simply anarchy or chaos. Instead, there is still an order, even if it is not a legal order.

The continuing existence of order in the state of exception indicates for Schmitt that laws are not the source of order. Rather, there is an alternative basis for order that derives from the decision:

The existence of the state is undoubted proof of its superiority over the validity of the legal norm. The decision frees itself from all normative ties and becomes in the true sense absolute. The state suspends the law in the exception on the basis of its right of self-preservation, as one would say. The two elements of the legal order are then dissolved into independent notions and thereby testify to their conceptual independence. Unlike the normal situation, when the autonomous moment of the decision recedes to a minimum, the norm is destroyed in the exception. The exception remains, nevertheless, accessible to jurisprudence because both elements, the norm as well as the decision, remain within the framework of the juristic [*im Rahmen des Juristischen*].<sup>26</sup>

In attempting to explain this aspect of the decision, Schmitt designates the norm and the exception as two independent elements of the legal order. While each of the elements has its own particular sphere, there is an imbalance in their range of influence. In the normal situation, the norm predominates while the exception recedes. In the state of exception, however, the norm is destroyed while the decision “frees itself from all normative ties and becomes in the true sense absolute.” This absolute dominance of the decision with the disappearance of the norm in the state of exception is not just an expression of the arbitrary violence of the sovereign. Since Schmitt insists that both the norm and the decision still remain “within the framework of the juristic,” the “superiority” of the state over the “validity of the legal norm” is an indication of the type of order that prevails in the state of exception.

But because Schmitt’s invocation of the state does not provide a clear sense of the form of this order within the state of exception, Agamben can interpret the political forces that manifest themselves in the state of exception as forces of violence, in which the force of law acts as a kind of legal “mana” or in which there is a permanent state of exception where rule and

25. *Ibid.*, p. 12.

26. *Ibid.*, pp. 12–13; Schmitt, *Politische Theologie*, p. 19.

exception cannot be distinguished. In this situation, in which “violence without any juridical form acts,” there is no law, but only “civil war and revolutionary violence, that is, a human action that has shed [*deposto*] every relation to law.”<sup>27</sup> Agamben imagines here a total disappearance of law at the same time as violence is completely unbridled and chaotic. The basic problem, as Agamben sees it, is that, in spite of the total anomie and chaos of the state of exception, the juridical order still wants to try to maintain a relation to it: “On the one hand, the juridical void at issue in the state of exception seems absolutely unthinkable for the law; on the other, this unthinkable thing nevertheless has a decisive strategic relevance for the juridical order and must not be allowed to slip away at any cost.”<sup>28</sup> The key point for Agamben is that the state of exception is a state of total anomie, while for Schmitt this state, though a suspension of law, is still a political space and, therefore, a cultural space, one that is still defined by cultural ideals. Agamben denies the existence of such ideals in the state of exception and instead postulates a “force-of-law” that constitutes a kind of free-floating violence that is released from any type of specific determination: “The idea of a force-of-law is a response to this undefinability and this non-place. It is as if the suspension of law freed a force or a mystical element, a sort of legal mana . . . that both the ruling power and its adversaries, the constituted power as well as the constituent power, seek to appropriate.”<sup>29</sup> This “legal mana” becomes a “mystical element” without any conceptual or linguistic determination and must be “appropriated” in order for some agency to establish order through command and control.

Yet, if human action had really shed every relation to law, then the type of ideological conformity necessary for drawing up sides in a civil war would not exist. Instead, unbridled violence and total lawlessness would result in an outbreak of criminal or mob violence that could not be aligned with any specific political agenda.<sup>30</sup> Whereas Agamben does not seem to believe that a government needs to have the consent of public opinion in order to establish order and rule, Schmitt points out that the process of building this consent is as much a part of the decision as the ability to enforce the decision against detractors. What Schmitt perceives

27. Agamben, *State of Exception*, p. 59.

28. *Ibid.*, p. 51.

29. *Ibid.*

30. On this distinction between political violence and criminal violence, see Carl Schmitt, *Theory of the Partisan*, trans. G. L. Ulmen (New York: Telos Press, 2007), pp. 14–15.

in the state of exception, and what Agamben ignores, are the lines of political force that come to the fore as clear expressions of specific ideological and political commitments that people must make explicitly in times of war and which are the hidden basis of law in times of peace. By insisting on the existence of a mystical “legal mana,” Agamben obscures the social and cultural commitments that lie at the foundation of what he sees as an independent “force-of-law.”

### *The People’s Sense of Right*

Schmitt explains the hidden source of order underlying the forces at work in the state of exception when he describes the link between the decision and the collective will in his discussion of the form of law. He begins this discussion by citing Hugo Krabbe’s argument about the source of law in public opinion: “The basis, the source of the legal order, is ‘to be found only in men’s feeling or sense of right.’ He [Krabbe] concludes, ‘Nothing can be said further about this foundation: It is the only one that is real.’”<sup>31</sup> Schmitt points out here that in Krabbe’s conception the form of law is limited to the “declaratory but by no means constitutive act of ascertaining” the “people’s feeling or sense of right.”<sup>32</sup> Though Schmitt is ultimately critical of Krabbe, he accepts the argument that the source of law lies in this popular dimension of a people’s “sense of right.” Schmitt’s critique only concerns the process by which law is able to integrate this sense of right into its structure. As Schmitt points out, for Krabbe, “it is not the state but law that is sovereign,” for the state “does nothing but ascertain the legal value of interests as it springs from the people’s feeling or sense of right.”<sup>33</sup> Schmitt objects here, not because he is insisting *a priori* on a state’s monopoly on violence, but because he sees a problem of form or of representation where Krabbe assumes a direct and transparent translation of the people’s sense of right into the law. At this point, Schmitt turns to Kurt Wolzendorff’s development of Krabbe’s idea of the law itself as sovereign, in which Wolzendorff argues that the “state should preserve law” and act merely as a “guardian, not master.” In subordinating the state to the law yet still keeping the state as the “ultimate guarantor” of the law, Wolzendorff is forced to delegate to the state a mediating authority

31. Schmitt, *Political Theology*, p. 22. Citation from Hugo Krabbe, *Die moderne Staatsidee*, 2nd ed. (The Hague: M. Nijhoff, 1919), p. 39.

32. Schmitt, *Political Theology*, p. 23.

33. *Ibid.*, pp. 21, 23.

between the people's sense of right and the law.<sup>34</sup> It is in this mediation that Schmitt sees the problem of form: "The authority of the order is valued so highly, and the function of guarantor is of such independence, that the state is no longer only the ascertainment or the 'externally formal' transformer of the idea of law. The problem that arises is to what extent, with legal-logical necessity, every ascertainment and decision contains a constitutive element, an intrinsic value of form."<sup>35</sup> The argument here depends, first, on the assumption that the source of law is in the people's sense of justice but also, second, on the consequence that this sense cannot attain form through a direct and immediate translation into law because the people in general cannot directly make a decision in a particular time and place. This process of attaining form will always require some kind of mediating element, that is, a person or specific group of people who will make a particular decision. This mediation cannot be neutral because, in constituting the form of law, the agent who creates the form of law must also make a decision about the specific effects of law in the world, a decision that is grounded in the people's sense of justice but that necessarily incorporates a representational supplement to this popular grounding, even in the case of the most democratically constituted legislative body. The translation of popular feeling into law contains a moment of constitutive form, which must have an agent, the sovereign, to carry it out. The pre-judicial order is grounded then in the combination of the people's sense of right and the sovereign's decision as the representation of this sense. This representation is the aesthetico-political source of law.

Krabbe's and Wolzendorff's vision of sovereignty sees the law itself rather than the state as both originary and sovereign and does not recognize a constitutive moment in the translation of popular feeling into legal decisions. This understanding obscures the role of an agent in creating juridical form. Instead, both Krabbe and Wolzendorff rely on a schema in which law is simply the natural and uncriticizable direct expression of popular

34. On this point, Wolzendorff's argument prefigures Jürgen Habermas's similar arguments about the state's proper use of a monopoly of violence to support a legal system whose ultimate justification lies in a universal morality. But where Wolzendorff and Krabbe refer to the people's sense of right as the ultimate authority, Habermas, in appealing to a universal morality as an authority that is higher than popular judgment, maintains a liberal, yet undemocratic element in his theory. See Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, MA: MIT, 1996), pp. 30–32, 37.

35. Schmitt, *Political Theology*, p. 26.

will. It is for this reason that Schmitt accuses Wolzendorff of harboring a hidden “dictatorial” impulse when he sees the law as sovereign yet maintains that the state should be the guarantor of this sovereignty.<sup>36</sup> Because the state is supposedly carrying out the sovereign will of the people as it is objectively and unequivocally manifested in law, there can be no disputing either the law or the state’s role in enforcing the law. By contrast, if the decision on the state of exception that constitutes the state is deemed to have a constitutive formal moment that supplements the people’s sense of right but does not replace it, then the sovereign retains both a moment of freedom and, as a consequence, a measure of responsibility that allows for legitimate criticisms.

In this sense, the state of exception is just an extreme example of the type of judgment that occurs in all legal decisions. According to Schmitt, the legal decision will always be an independent, determining moment, whose functioning cannot be reduced to a deduction from a set of prior principles: “Every legal thought brings a legal idea, which in its purity can never become reality, into another aggregate condition and adds an element that cannot be derived either from the content of the legal idea or from the content of a general positive legal norm that is to be applied. Every concrete juristic decision contains a moment of indifference from the perspective of content, because the juristic deduction is not traceable in the last detail to its premises and because the circumstance that requires a decision remains an independently determining moment.”<sup>37</sup> Because the circumstances requiring a decision will always be unique, the law itself can never fully determine its application. It will always be necessary for a particular judge to make a decision about how to apply the law in each particular case, and this decision will always contain a supplement to the letter of the law. However, the legal idea does not say anything about who is to apply the law, even though, Schmitt insists, “[w]hat matters for the reality of legal life is who decides.”<sup>38</sup> The question of which individual person or concrete office can claim this authority to decide is essential for Schmitt, not because of the primacy of violently imposed order over justice, but because the authority’s ability to maintain order in the normal situation depends upon the formal element in the constitution of law. The presence of the authority that can make judgments is, for Schmitt, not just

36. *Ibid.*, p. 23.

37. *Ibid.*, p. 30.

38. *Ibid.*, p. 35.

a manifestation of violence but an indication of the unity of public opinion and its support of the legal authority, on the one hand, and the formal, representational moment of judicial decision, on the other hand. As a result, the question of who decides is both the question of whether one can speak of a collective will at a particular moment and the question of who has the implicit authority to carry out the final forming of popular feeling into a concrete decision.

### *Decisions and Values*

There is a certain optimism in Schmitt's account to the extent that for him justice is a possibility in every legal system, whose very existence is a testament to the grounding of its authority in a unified popular will. This optimism about the popular support required for the continuation of any legal order also leads, however, to a justification for the legitimacy of any legal order, as long as it exists. Schmitt's willingness to accept the authority of any sovereign able to consolidate the people's will led him, on the one hand, to accept the legitimacy of Nazi rule in the 1930s and, on the other hand, to admire the genius of Lenin and Mao in *Theory of the Partisan*.<sup>39</sup> Given his tendency to accept the authority of a ruling power, it is all too easy to interpret the priority of the decision as evidence that Schmitt believed that laws are subject to the whims of the sovereign and that he was therefore undermining the rule of law in his decisionism. Richard Wolin writes, for instance, that "the emphasis on the exception to the exclusion of all normativism, proceduralism, and institutional checks allows him to degenerate into an advocate of charismatic despotism."<sup>40</sup> While Schmitt, in designating norm and decision as two essential elements, each with its own sphere, is clearly not excluding all normativism, he certainly privileges the decision as the more fundamental element: "After all, every legal order is based on a decision, and also the concept of the legal order, which is applied as something self-evident, contains within it the contrast of the two distinct elements of the juristic—norm and decision. Like every other order, the legal order rests on a decision and not on a norm."<sup>41</sup> Yet, in spite of Wolin's view that the "non-normative nature of decisionism" means that "the decision must be made *ex nihilo*—in total disregard of the dominant

39. Schmitt, *Theory of the Partisan*, pp. 48–61.

40. Richard Wolin, "Carl Schmitt, Political Existentialism, and the Total State," *Theory and Society* 19, no. 4 (August 1990): 399.

41. Schmitt, *Political Theology*, p. 10.

value paradigms,”<sup>42</sup> Schmitt’s privileging of the decision actually results from his focus upon values as the key motivator in politics. If the decision is primary, it is not because a dictator should exercise despotic rule, but because values, though primary, cannot be decided once and for all but are subject to a dynamic in which different value systems can end up confronting each other.<sup>43</sup> The decision in this situation is not one that imposes an arbitrary will, but one that decides in favor of one value system over other competing ones.

In contrast to a perspective in which the state should be based on a set of universal norms and values, Schmitt begins with the idea that any political entity, including the state, must establish itself in a situation of competing value systems. The state then becomes the embodiment not just of norms but of a particular set of norms that are to be differentiated from an alternative set of norms. If order in the modern world, for Schmitt, is based on the continuing existence of a state, this is not so much because the state embodies power rather than truth, but because the state establishes a specific perspective on morality and metaphysics, which is then formalized and institutionalized in a set of norms once the sovereign has made the decision for a particular understanding of order. Consequently, if the sovereign suspends the law in the state of exception by the force of a right to self-preservation, what is being preserved is not the life of the individual, not bare life itself, but a particular set of ideals around which the state is built. In contrast to both those, such as Wolin, who would criticize him for privileging “human existence in its brute factivity,” and Agamben, who argues that modern politics is indeed grounded in this “factivity” of bare life, Schmitt argues for the primacy of values in political conflicts. His admiration for Donoso Cortés is based upon the conviction that, instead of being either a philosophical deduction of the one true good or an existentialist issue of survival and the body, politics is about morality and theology as contested terrain: “Donoso Cortés always had in mind the final consequences of the dissolutions of the family resting on the authority of the father, because he saw that the moral vanished with the theological, the political idea with the moral,

42. Wolin, “Carl Schmitt,” p. 394.

43. G. L. Ulmen describes how Schmitt’s understanding of a conflict of values arose as a reaction to the nineteenth-century nihilism debate and especially to Weber’s theory of values. G. L. Ulmen, *Politischer Mehrwert: Eine Studie über Max Weber und Carl Schmitt* (Weinheim: VCH Acta Humaniora, 1991), pp. 259–90.

and all moral and political decisions are thus paralyzed in a paradisiacal worldliness of immediate natural life and unproblematic ‘corporal’ity [einem paradiesischen Diesseits unmittelbaren, natürlichen Lebens und problemloser ‘Leib’haftigkeit].”<sup>44</sup> Schmitt designates here the realm of “immediate natural life” and “corporal’ity” as incapable of containing the political. Rather, politics develops as a consequence of moral ideas, which are in turn based on a particular theology. This theological aspect of the political means that the political is opposed to the purely biological. That is, politics only develops when symbolic systems oppose each other, as in theological disputes. Without the symbolic dimension, conflicts could not constitute themselves into political oppositions but would remain on the level of biological survival, without any type of ethical distinctions around which political conflicts could develop. When he argues that the state “suspends the law in the exception on the basis of its right of self-preservation,”<sup>45</sup> Schmitt seems to be invoking a realm of existential violence and bare survival in order to demonstrate the seriousness of the situation. Yet, his arguments about the central role of values and ideals in politics contradicts this appeal to bare survival. Accordingly, it is important that he does not refer to the people’s survival but rather to the *state’s* “right of self-preservation.” The state does not seek in the first place to preserve the lives of its citizens, for Schmitt, but to preserve *itself* as a particular symbolic order grounded on one specific theology that is in active competition with one or more other theological perspectives.<sup>46</sup>

It is from this specifically political-theological orientation that Schmitt develops his specific understanding of the state of exception. Contrary to an interpretation of the state of exception that sees it as a realm of pure violence in which every party is seeking to defend its own interests against the interests of others, Schmitt denies that the issue of self-interest even comes up. Instead, he sees the *bellum omnium contra omnes* as a

44. Schmitt, *Political Theology*, p. 65, translation modified; Schmitt, *Politische Theologie*, p. 68.

45. Schmitt, *Political Theology*, p. 12.

46. Although Alexandre Lefebvre recognizes, in citing Schmitt’s *The Concept of the Political*, that “[w]hat is at risk here appears not to be ‘life’ itself, but *lifestyle*, a way of life under siege and not necessarily brute annihilation,” he prefers to see this symbolic aspect as just an attenuation of the primary argument by Schmitt that “the fundamental purpose of the political entity—its necessary condition—is the protection of its members.” Alexandre Lefebvre, “The Political Given: Decisionism in Schmitt’s Concept of the Political,” *Telos* 132 (Fall 2005): 95, 97.



struggle to determine what the general interest is: “Everyone agrees that whenever antagonisms appear within a state, every party wants the general good—therein resides after all the *bellum omnium contra omnes*.”<sup>47</sup> If every party wants the *general* good in this conflict of all against all, then the core of the conflict is the definition of this general good. Assuming that the issue of self-interest is not a legal or political issue at all, Schmitt contends that “sovereignty (and thus the state itself) resides in deciding this controversy, that is, in determining definitively what constitutes public order and security, in determining when they are disturbed, and so on.”<sup>48</sup> Because the sovereign must decide when order is disturbed (i.e., it is not self-evident), the main issue is to define and defend what the general interest should be and thus when this general interest is threatened. The decision of the sovereign concerning the state of exception is not an attempt to violently establish personal rule, but rather to decide between competing conceptions of the general good, and the political decision is a decision for one particular theological perspective. Because there is no rational way to decide on a set of ultimate values, a particular notion of order and morality can only establish itself against competing notions in a decision: “Public order and security manifest themselves very differently in reality, depending on whether a militaristic bureaucracy, a self-governing body controlled by the spirit of commercialism, or a radical party organization decides when there is order and security and when it is threatened or disturbed.”<sup>49</sup> The decision on when order has been threatened or disturbed is at its foundation a decision about what ultimate values are embodied in a particular political order in contrast to other possible orders.

Without theological disputes, politics would never arise, because there would be no competing notions of the good but rather just one true way. Since Schmitt assumes an agnostic stance toward what would constitute the general good, he insists that law is not an objective and absolute truth but a contingent and relative one, which results from the victory of one value system. The state of exception becomes central for Schmitt, because it is a situation in which the conflict of values is unresolved and there are multiple value systems that are competing against one another. As a consequence, the state of exception for Schmitt is not characterized by a

47. Schmitt, *Political Theology*, p. 9.

48. *Ibid.*

49. *Ibid.*, pp. 9–10.

lack of order but by a surplus of orders: the state of exception begins when there is a multiplicity of orders that are in conflict.

### *Decision as Constitutive of Law*

Schmitt describes the connection between politics and theology as a congruence of metaphysical image with political form: “The metaphysical image that a definite epoch forges of the world has the same structure as what the world immediately understands to be appropriate as a form of its political organization.”<sup>50</sup> Though it is sometimes inferred from such statements that Schmitt sees a subjugation of morals and metaphysics to particularistic political interests and thus a destruction of morality, his understanding of the political in fact excludes this possibility. If Schmitt’s decisionism is not at all about self-interest but about establishing the outline and possibility for the general good, then this construction of the general good as a political issue means that the good will have a different structure in every distinct metaphysical/political order. When Schmitt argues that “the legal order rests on a decision and not on a norm,”<sup>51</sup> he recognizes this contingent character of norms and the foundational character of decisions in establishing a legal order and the morality that goes with it. The basis of morality and theology will not have an absolute and universal foundation, and the sovereign must decide which competing notion of the general good will serve to define the presence of order and security. As a result, morality and theology, on the one hand, are the foundation of politics but, on the other hand, can only establish their political significance once the sovereign has made a decision between competing value systems.

This insight into the link between metaphysics and politics leads to a new way of understanding metaphysics based on the reversal of the roles of exception and norm. The logic of a political system is not determined by some preconceived absolute ideal that is constructed outside of this system. Rather, it is the political decision on the exception that establishes the ultimate values in terms of which the norms of a particular polity will unfold. The decision is not a violent and chaotic act that negates order, but the constituting *form* of law that establishes the first set of distinctions and value judgments upon which the law itself is based. In arguing for the primacy of the decision, Schmitt also establishes the framework for thinking

50. Ibid., p. 46.

51. Ibid., p. 10.

about the origins of values, while recognizing competing metaphysical standpoints.

When Schmitt claims that the decision precedes the norm, he is establishing a new approach to values and meaning that begins from the assumption that any metaphysical system will always be a specific one and not a universal one. As Sarah Pourciau lays out, instead of adhering to an Aristotelian understanding of identity and difference that “presupposes a bird’s eye” view and results in an objective, universal hierarchy of categories, Schmitt insists on the “realities of human rootedness” and “the necessarily fictional nature of the objective standpoint.” Beginning with the assumption of the perspectival nature of human existence, Schmitt creates a reversal of the universalist approach, “so that, in place of an initially undifferentiated universe parceled into ever-smaller territories by the negative power of difference, he offers a confrontational event, which first makes thinkable the notion of relational, divisible space. Negation precedes identity as the precondition for all substance, and familial similarity becomes the consequence of the oppositional relation with an external other.”<sup>52</sup> Difference precedes identity in Schmitt’s schema, because identity can only be established within the bounds of a particular perspective on the world. Identity cannot exist until this perspective has been established in the decision that creates difference.

Schmitt demonstrates this primacy of the legal decision before the law by pointing to the example of a faulty decision, which, because of its falsity, becomes independent of the legal idea. To the extent that it still has a binding effect in spite of its falsity, this faulty decision demonstrates that every legal decision also has a constitutive moment:

The decision becomes instantly independent of argumentative substantiation and receives an autonomous value. The entire theoretical and practical meaning of this is revealed in the theory of the faulty act of state. A legal validity is attributed to a wrong and faulty decision. The wrong decision contains a constitutive element precisely because of its falseness. But what is inherent in the idea of the decision is that there can never be absolutely declaratory decisions. That constitutive, specific element of a decision is, from the perspective of the content of the underlying norm, new and alien. Looked at normatively, the decision

52. Sarah Pourciau, “Bodily Negation: Carl Schmitt on the Meaning of Meaning,” *MLN* 120 (2005): 1074–75.

emanates from nothingness. The legal force of a decision is different from the result of substantiation. Ascription is not achieved with the aid of a norm; it happens the other way around. A point of ascription first determines what a norm is and what normative rightness is. A point of ascription cannot be derived from a norm, only a quality of a content.<sup>53</sup>

The validity of the faulty decision can only hold if the judge still maintains the authority to pass judgment and if the people accept this authority in spite of the bad decision. In this case, however, the faulty decision is an extreme case that demonstrates that all decisions are independent and defining. The decision establishes an initial “point of ascription” from which normative rightness can then flow. If the decision is faulty, this can only be corrected by another decision in the future. That is, in the event that the faulty decision leads to unwanted consequences, future decisions would have to be adjusted to avoid a repetition of the bad decision. Alternatively, if it turns out that the faulty decision is later on generally acclaimed to be a good one, even though it may contradict the law or earlier decisions, the “faulty” decision would then lead to a revision of law and a new precedent for future decisions. In either case, the decision is not calculated with the help of a norm. Rather, the opposite is the case. Each decision is independent and defining and becomes the initial point of ascription from which the norm can be derived. The sequence of specific decisions can then establish a tradition upon which a more or less stable set of norms can be based.<sup>54</sup>

At the time of the first edition of *Political Theology*, Schmitt had not yet developed this understanding of the significance of decisions for the building of a tradition as opposed to their purely “decisionistic” quality. However, he does emphasize this distinction in his preface to the 1934 edition, where he distinguishes the political decisionism of the sovereign from the institutional legal thinking that “unfolds in institutions and organizations that transcend the personal sphere.”<sup>55</sup> In the political decision in the state of exception, there is no clear tradition in cases where the sovereign

53. Schmitt, *Political Theology*, pp. 31–32.

54. This understanding of decisions as the basis of a tradition would be Schmitt’s response to Jacques Derrida’s critique of Schmitt’s lack of consideration for the continuity of identity in a tradition. See Jacques Derrida, *The Politics of Friendship*, trans. George Collins (London: Verso, 2005), pp. 92–100.

55. Schmitt, *Political Theology*, p. 3. See also Carl Schmitt, *On the Three Types of Juristic Thought*, trans. Joseph Bendersky (Westport, CT: Praeger, 2004), pp. 60–61.

must choose from a variety of competing metaphysical standpoints. It is in this case that all law must flow from a decision that establishes a particular understanding of an ultimate political value that must establish itself in competition with alternative understandings. This state of competition between value systems, rather than a state of anomie, is what comes to the fore in the state of exception, and the end of this state of exception can only arrive when competing notions of order have been ruled out in the decision.

This decision is primary in that no determination about the character of a system can be made until it has been founded on the particular decision that establishes the common basis upon which law can function. The homogeneity that Schmitt sees as the prerequisite for the rule of law is then the inner consequence of the fact that the decision establishes the specific perspective from which a particular set of values can make sense: “The norm requires a homogeneous medium. This effective normal situation is not a mere ‘superficial presupposition’ that a jurist can ignore; that situation belongs precisely to its immanent validity. There exists no norm that is applicable to chaos. For a legal order to make sense, a normal situation must exist, and he is sovereign who definitely decides whether this normal situation actually exists. All law is ‘situational law.’ The sovereign produces and guarantees the situation in its totality. He has the monopoly over this last decision.”<sup>56</sup> As this passage’s linking of homogeneity to the “situational” character of law attests, homogeneity within a legal order is the flip side of the possibility of maintaining differences of perspective in the world. This homogeneity does not have to be a totalizing homogeneity that eradicates all difference, but rather only a homogeneity from the perspective of the one crucial point that structures political identity and provides the basis for order. For example, we can understand the Bill of Rights in the United States as the basis for a political homogeneity that is required of all citizens, even though they may be heterogeneous with respect to other aspects of their identity. It is on the basis of this one element of political homogeneity, however, that U.S. foreign policy has tended to define its enemies and thereby its own specific difference in the world.<sup>57</sup>

56. Schmitt, *Political Theology*, p. 13, translation modified; Schmitt, *Politische Theologie*, p. 19.

57. Though Schmitt does not develop this argument with respect to the United States, he sets it up in his insistence that the constitution of Weimar Germany required a substantive aspect in addition to its formal, procedural aspect. See Carl Schmitt, *Legalität und Legitimität* (Berlin: Duncker & Humblot, 1988), pp. 97–98.

### **Conclusion**

The cultural significance of Schmitt's decisionism has both an external aspect and an internal aspect. The external aspect concerns the way in which a particular legal order must establish itself against competing legal orders in the state of exception. A legal order only gains legitimacy once order has been established in the decision, not because order is imposed by force but because, for Schmitt, order is not neutral but implies a particular way of understanding order, as opposed to alternative ways. Otherwise, there would be no need to decide when order and the normal situation are present.

Though the decision to defend one particular understanding of order comes from the sovereign, Schmitt emphasizes that this is the only capacity of sovereignty: "Therein resides the essence of the state's sovereignty, which must be juristically defined correctly, not as the monopoly to coerce or to rule, but as the monopoly to decide."<sup>58</sup> The role of the sovereign is only to decide on whether there is a normal situation and not to violently impose it. But if the sovereign only has a monopoly on the decision rather than on violence, then the sovereign's authority must be based on an implicit support from those who would agree with and carry out the decision. Because the sovereign only decides on the state of exception and does not in fact have a monopoly on violence or domination, the sovereign decision that establishes ultimate values is constrained by the capacity of the political entity to embrace this decision.

Herein lies the internal aspect of culture in Schmitt's decisionism, which is not a justification for the sovereign's dictatorial domination of the people, but rather an argument for how a collective constitutes the metaphysical foundation of its identity out of the decision. According to this argument, every collective must make a decision as a group about its identity in order to exist as a political entity. This decision is not one about self-interest but about the values that define the general good. As a consequence, such a decision cannot be objectively or rationally justified but must be established as a choice between competing value systems. Finally, this decision cannot be a direct translation of the collective will. Instead, any such translation will include a formative moment, and Schmitt's emphasis on the role of the sovereign takes into account the representational aspect of the decision.

58. Schmitt, *Political Theology*, p. 13.

Though it may be objected that the sovereign's decision is not an adequate reflection of a popular will, this objection does not touch on the basic premises of decisionism but only on the mechanics of how the popular will can be translated into specific decisions and actions. Schmitt's insistence on the sovereign's active role in this translation indicates a consciousness that this process of translation will never be a transparent and immediate one. In any case, an alternative schema for understanding the building of a collective will must still face the question of the metaphysical grounding of a political system in a world that includes various and conflicting political/metaphysical perspectives.

While we can criticize Schmitt for assuming that any existing stable order is justified by the mere fact of its ability to establish and maintain itself, this criticism is facile if it does not confront the issue of the plurality of metaphysical systems that exist in the world as the result of fundamental cultural differences. Schmitt's concept of the decision, therefore, remains compelling as a way of understanding how the foundations of a political order begin as the manifestation in the world of a particular idea of the general good that must establish itself against competing ideas. Though his own politics may have been fatefully guided by his ideological and metaphysical preferences, Schmitt's decisionist framework remains valuable to the extent that, in spite of its implicit bias toward a nation-state perspective on the political,<sup>59</sup> it still provides tools for approaching the contingent character of political identity in a world of conflicting cultures.<sup>60</sup>

59. Since Schmitt focuses on seeing the political as divided up into nation-states, each with its own territory, his understanding of the state of exception as a situation of competing systems can be read as part of his own polemic (made clear, for instance, in his objections to liberalism in *The Concept of the Political* and to Leninism and Maoism in *Theory of the Partisan*) against anti-nationalist understandings of the political that would privilege a universalist ideology (based for example on religion or economics or morality) cutting across territorial divisions.

60. I would like to thank Russell Berman, Kai Evers, and Eva Geulen for their very helpful comments on earlier versions of the ideas presented here. I would also like to thank the German department at Duke University, in particular Peter McIsaac, Ann Marie Rasmussen, and James Rolleston, for granting me the opportunity to present an earlier draft of this article in their lecture series in November 2004, and for their insightful comments on that occasion.

## *The Intrusion: Carl Schmitt's Non-Mimetic Logic of Art*

Johannes Türk

The facts are known: The death of the queen seems imminent, while the decision on her successor has not yet been made. And while Queen Elizabeth's end, and with it the transition of power, is anticipated, political complications arise: the most apt successor of the childless heir is the Scottish prince James, whose great-grandmother was a daughter of Charles VII of England. But his mother's lover, the Earl of Bothwell, has killed James's father, Lord Darnley. And Maria Stewart has married her husband's assassin three months later. It is a story that is known to all and that puts considerable pressure on the question of succession. Shakespeare's theater company, two of whose supporters—the Earl of Southampton and the Earl of Essex—are close to James, leaves the capital London for a long period of time after the execution of Essex and the condemnation of Southampton. During this period, which stretches from 1600 to 1603, Shakespeare writes and performs the play *Hamlet*. That the play's plot—Hamlet's father has been murdered by Claudius, who subsequently marries Hamlet's mother, and after a period of hesitation and ambivalence Hamlet eventually becomes an avenger—resonates with the historical reality of the period in which it originates is clear, yet it is precisely the relationship between aesthetic form and political reality that is less visible.

How is it possible to think the complex relationship of the tragedy with what lies outside of it, without turning to concepts such as imitation and representation in order to understand how historical forces shape artistic creation? It has been widely overlooked that this is the question at the heart of Carl Schmitt's interpretation in *Hamlet oder Hekuba*. And



critics have often rushed to the conclusion that the legal scholar does little more than claim the supremacy of the political as the sphere of sovereign decision. Yet the fascination of Schmitt's small book lies in its attempt to formalize the relationship between artistic representation and political decision outside the domain of mimesis. What is at stake seems less the emergency of the interregnum than the intrusion of historic temporality into the aesthetic game or "The Intrusion of the Time into the Play" ["Der Einbruch der Zeit in das Spiel"], as the subtitle suggests. It is here that Schmitt discovers deviation and deformation as the presence of an absence that limits imagination and turns mere play into tragedy.

Although the facts about both the history of James's ascension to power and the genetic sources of Shakespeare's play are known, they are only known as facts within specific academic fields that do not meet. Aesthetics and politics each read a different history, and to ask for the relationship between aesthetics and politics means asking for interdisciplinary concepts: "Owing to an extreme division of labor, academic fields and disciplines have become overly specialized. Literary historians work with different materials and from different approaches than political historians. . . . Consequently, Hamlet and James encounter each other only with great difficulty. The rift is too deep. Literary historians consider the source of the drama to be a literary source, either a precursor or a book which Shakespeare used."<sup>1</sup> Schmitt's answer to the question introduces a relationship that does not rely on identity, but rather on the idea of a similarity grounded in difference. The encounter between Hamlet and James, aesthetics and politics, is not convergence but a series of formal phenomena of distortion in which the existential political situation manifests itself. The result is a disjunction. What Schmitt's book thus proposes is not one more argument confirming his political theology, but a hermeneutic key to read the power of the political in its effects on the sphere of the aesthetic that is distinctly separate from the political. Only as such can the aesthetic be of political relevance.

The non-mimetic character of these phenomena has led critics into an involuntary affirmation of the supremacy of the political and of Schmitt's characterization of this sphere as guided by the distinction between friend

1. Carl Schmitt, *Hamlet oder Hekuba: Der Einbruch der Zeit in das Spiel* (Düsseldorf-Köln: Eugen Diderichs, 1956), p. 34. Further references will be documented parenthetically within the text of the article. One of the chapters, "The Source of the Tragic," was translated by David Pan and appeared in *Telos* 72 (Summer 1987): 133–51. Where possible I use this translation and include a second page number. The above quotation is on p. 134.

and enemy. Precisely because they assume that Schmitt reduces the aesthetic to political conflict and the allegiance of Shakespeare to James, the battle cries do not cease and a war of interpretations has turned readings into political and ideological combats. In an essay that tries to read harbingers of democratic choice into Shakespeare's plays, Julia Reinhard Lupton writes: "As for Schmitt and Arendt as our interlocutors? It's best to keep the first as our enemy, and the second as our friend, but to employ both in researching the genealogies and destinies of these positions."<sup>2</sup>

### *Vicissitudes of Neutrality: The Aesthetic*

As one of the first thinkers to separate the various spheres of human activity, Schmitt takes great care to differentiate politics, economy, morals, and aesthetics from each other. One can read this as a response to Max Weber's concept of modernity as a process of rationalization, in which specialization plays a significant role.<sup>3</sup> Weber's talk in Munich, which formed the basis for *Politik als Beruf*, has especially influenced Schmitt. Yet whereas Weber is more concerned with negotiating the tension between normative values, human aspirations, and the logic of politics as a profession—between vocation and profession—Schmitt's interest lies in the basic distinction ("letzte Unterscheidung" in German indicates that it is a basic distinction because it has a relation to a state of exception) that underlies and structures these specific fields.

Each of the spheres follows its own rationale, and the logic of each sphere has its own notions: "Let us assume, that in the sphere of ethics the last distinctions are good and evil; in the aesthetic beautiful and ugly; in the economic the useful and the detrimental or for example profitable and non-profitable. The question is then, if there is also a specific distinction—not similar and analogous to those but autonomous and independent—that could serve as a simple criterion for the political and what it consists in."<sup>4</sup>

Yet these spheres do not merely have a synchronous dimension; they also have a diachronic dimension. At different historical points, each of

2. Julia Reinhard Lupton, "Hamlet among Friends and Enemies: Shakespeare and Schmitt," p. 19, available online at the Thinking With Shakespeare website, <http://www.thinkingwithshakespeare.org/index.php?id=16>.

3. See John P. McCormick, "Transcending Weber's Categories of Modernity? The Early Lukács and Schmitt on the Rationalization Thesis," *New German Critique* 75 (Fall 1998): 133–77.

4. Carl Schmitt, *Der Begriff des Politischen* (Berlin: Duncker & Humblot, 1963), p. 26 (translation mine).

them has played the role of a neutralizing force. In *Das Zeitalter der Neutralisierungen und Entpolitisierungen*, Schmitt argues that there is a sequence of steps in which European history is organized according to different central spheres that replace each other. Historical generations experience the world in different terms because according to Schmitt their leading elites change, and with them the conceptual frame in which a time understands itself. What changes is “the evidence of their convictions and arguments,”<sup>5</sup> and whenever the sphere shifts, the crucial problems and their solution are sought in a new central field. The shifts that determined the last four hundred years have led “from theology to the metaphysical and the moral to the economic.”<sup>6</sup> The sphere that is no longer a central sphere is subsequently neutralized—the Lisbon earthquake of 1755, for example, led to a flood of moralistic publications, whereas today only an economic catastrophe would have a similar impact. The movement from one sphere to the next is motivated by the search for a solution and for the end of conflicts. But Schmitt sees a dialectic at work, in which each new sphere, instead of providing a solution and a neutral ground for consensus, turns out to be yet another battlefield, in which conflicting interests are at war.<sup>7</sup>

From this perspective, Schmitt’s equation between neutralization and de-politicization reveals its critical weight against both capitalism and Marxism: to search for solutions in the sphere of economics carries political conflicts into a sphere where genuine politics is not relevant. Thus, politics as the institutional logic of existential conflict is robbed of its essence, and conflict mutates into forms outside the sphere of communal decision and legal forms.<sup>8</sup> This is why the liberal theory of the “*pouvoir neutre* and the *stato neutrale*” are such forceful adversaries: Schmitt’s thinking evolves around the idea of a containment, or “Hegung,” of conflicts, which can only be attained in politics.

In this sequence of spheres, the aesthetic only appears as a short period of transition between the humanitarian-moralistic eighteenth century and the economic nineteenth century, as the aestheticization of the world prepares for consumption. What does the aesthetic mean for Schmitt? In his

5. Carl Schmitt, “Das Zeitalter der Neutralisierungen und Entpolitisierungen,” in Schmitt, *Der Begriff des Politischen*, pp. 79–95; here, p. 82 (translation mine).

6. Ibid, p. 88.

7. See *ibid.*, p. 89.

8. See Mika Ojakangas, “Philosophies of ‘Concrete Life’: From Carl Schmitt to Jean-Luc Nancy,” *Telos* 132 (Fall 2005): 25–45.

book on political romanticism, Schmitt had criticized romantic philosophy that sees in the concrete historical world only an occasion for the expression of the genius's subjectivity.<sup>9</sup> The tradition of aesthetic theory from Baumgarten and Kant to Schiller that the Romantics inherit assumed that the aesthetic sphere is the location of a pleasure beyond individual existential interests, in which all faculties of man engage in the free play of the imagination. And the genius creates and expresses in the artwork its own rules. In the aesthetic the individual experiences its faculties in the state of free yet harmonious play. It is here that the pedagogic legacy of aesthetic theory lies: the free play of the faculties in the aesthetic experience affirms the harmony between man and the world, pity opens the audience's mind to others suffering and thereby to ethics, and in the sublime the individual is made aware of its freedom and morality.<sup>10</sup> Friedrich Schiller translated this into an educational program that formed the basis of a social utopia: the beautiful leads man to the development of political rationality and form, and from there it leads back into the now formed concrete life.<sup>11</sup> This concrete life resembles the utopian figure of a dance—the metaphor frequently used to describe it—in which the individual movements do not interfere because of their “aesthetic formalization.”<sup>12</sup> The promise of aesthetic formalization seems to be the solution that aesthetics has to offer and that shifts the central sphere away from the humanitarian and ethical universe of the eighteenth century. Aesthetic theory promised to solve the tensions and struggles inherent in life by translating it into the program of an aesthetic education capable of circumventing the political.

Against this aesthetic ideology, which was the dominant voice of the time and in particular of its academic institutions, Schmitt reads *Hamlet* as a play shaped by the intrusion of historical time into the sphere of free play: “Philosophers of art and teachers of aesthetics tend to understand the work of art as an autonomous creation unrelated to historical or sociological reality—something to be understood in its own terms” (34/134). In

9. See Carl Schmitt, *Politische Romantik* (1919; Berlin: Duncker & Humblot, 1998).

10. See Immanuel Kant, *Kritik der Urteilskraft*, in *Werke in Sechs Bänden*, vol. 6 (Frankfurt am Main: Suhrkamp, 1983).

11. Friedrich Schiller, *Über die Ästhetische Erziehung des Menschen in einer Reihe von Briefen*, in *Werke und Briefe in zwölf Bänden*, vol. 8 (Frankfurt am Main: Klassiker 1992).

12. For the critique of the aesthetic utopia, see Paul de Man, “Aesthetic Formalization: Kleist's *Über das Marionettentheater*,” in *The Rhetoric of Romanticism* (New York: Columbia UP, 1984), pp. 263–90.

contrast to the conception of aesthetic autonomy, Schmitt argues that there are two taboos that open the play *Hamlet* to the political situation of the early seventeenth century. As recently as in 2004, Stephen Greenblatt has diagnosed a “strategic opacity” in the play that “had been at least partially blocked or contained by familiar, reassuring explanations.” By “taking out a key explanatory element,” Greenblatt claims, “he [Shakespeare] could provoke . . . a particularly passionate intensity of response”<sup>13</sup> and reinvent his aesthetic around 1600. Although numerous elements in the play could be pointed out as lacking motivation or explanation—beginning with the reason for which Hamlet rejects Ophelia and reaching to the question of whether Hamlet claims the right of succession or not—Schmitt focuses on two opaque spots: Queen Gertrude’s guilt and the deviation of the figure of the avenger. In spite of hints that seem to support either of the interpretations, the play avoids a decision for or against the queen’s guilt: neither does Hamlet follow the model of Greek tragedy and kill his mother with Claudius, nor does he unite with his mother against the murderer, as is the case in the Nordic saga *Amlet*, one of the play’s sources. The refusal to explicitly free Gertrude from guilt is, according to Schmitt, a significant sign of a taboo. He concludes:

Who exposes himself to the drama in its concrete form and in its existing text without preconceived notions will realize soon that something is veiled and circumvented here, be it for factual and given considerations, for reasons of tact or resulting from some kind of awe. In other words: we are standing in front of a *taboo*, that the author of the piece simply respects, and that forces him to bracket the question of the guilt or not-guilt of the mother, although morally and dramatically it belongs to the core of the drama of vengeance. (17)

Schmitt uncovers a *political reality* that could be mirrored in the play’s plot and that consequently *needs to be avoided*. He repeatedly insists on the fact that what is avoided is a concrete and existential situation. The form that these historical intrusions assume in the play—and it is the play the text is concerned with—is therefore outside the realm of mimesis. Schmitt subsequently develops a typology of signs through which a play can refer to an exterior reality: The first type is the *allusion*: for example, the dunes close to Ostende, mentioned in *Hamlet* IV.4.18ff., that were defended by the English against Spain in 1601. Then there are the *reflections*, such as

13. Stephen Greenblatt, *Will in the World: How Shakespeare became Shakespeare* (New York: Norton, 2005), pp. 323–24.

the last words of Essex, which Shakespeare quotes in the last scene of the play (26–27). Yet, what matters for Schmitt is the third form, the *intrusion*, the “highest kind of impact” that for him “determines the structure” (*strukturbestimmend*) of the play (28). Despite the fact that Essex is mirrored, it is James who is in the center of the intrusions. Although they are called intrusions, they are not translations or transpositions of the political situation into the sphere of art, but points where its space is indented by something that precisely does not appear as such but whose avoidance is constitutive of the particular form. James, the embodiment of the conflicts of its time, is not represented in the play. The presence of the political is suppressed and becomes a latent content. This content can only be read if we perceive the *resistance*, in the psychoanalytic sense, that forces the play to circumvent it and becomes constitutive of its structure. Therefore, Schmitt’s reading technique is informed by psychoanalysis.

### ***Which Existentialism? Displacing Freud’s Mythopoiesis***

Although aestheticism and Marxism are the positions against which Schmitt argues—at times by borrowing their terminology, for example “surplus value” (46/142)—it is Freud whose interpretation of *Hamlet* secretly informs Schmitt’s reading. His essay explicitly asks its reader to follow its author onto a terrain that is not psychological, because “from the excess of psychological interpretations, a labyrinth without exit has emerged” (9, 12). What the text—another Ariadne—offers is a thread that promises to lead us outside. Nevertheless, the main argument in *Hamlet oder Hekuba* has a similar structure to Freud’s interpretation of the play.

Like *Hamlet oder Hekuba*, Freud’s reading in his *The Interpretation of Dreams* is centered on an existential situation that does not appear as such in the play. This situation is not political, but psychological and personal: the death of Shakespeare’s father in 1601, which preceded the writing of the play, and the subsequent period of mourning. Like Schmitt, Freud sees in the passivity of the hero who does not manage to become an active avenger the result of an inhibition. In contrast to the German tradition of reading Hamlet’s passivity as the expression of a philosophic mind unable to act, the reason for his belated revenge is very specific for the psychoanalyst: “The play is built up on Hamlet’s hesitations over fulfilling the task of revenge, that is assigned to him.”<sup>14</sup> Why is it, Freud

14. Sigmund Freud, *The Interpretation of Dreams*, in *Standard Edition of the Complete Psychological Works of Sigmund Freud*, ed. James Strachey (London: Hogarth, 1953), 4:264.

asks, that Hamlet sent two people to their death and kills another without any problem, yet he cannot take revenge? In Freud's convincing reading, the inhibition expresses the suppression of the Oedipal desire to kill his father that is activated by the murder of Claudius and not by a political taboo. Because the murder enacts and realizes an infantile wish that is suppressed, Hamlet is unable to feel the disgust and anger that could motivate the revenge. He replaces them by scruples and reproaches himself for someone else's deed: "It can of course only be the poet's own mind which confronts us in Hamlet. I observe in a book on Shakespeare by Georg Brandes a statement that Hamlet was written immediately after the death of Shakespeare's father (1601), that is, under the immediate impact of his bereavement and, as we may well assume, while his childhood feeling about his father had been freshly revived."<sup>15</sup> Freud therefore explains Hamlet's hesitation, what Schmitt calls the bending of the figure of the avenger, through the assumption of a neurotic inhibition that is induced by the enactment of his buoyant infantile wish through the actual murder of his father by someone else. The political reality therefore is subordinate to the psychological, and the passivity is the result of Shakespeare the artist's bad conscience.

Unlike Freud, Schmitt does not see the concrete existential situation in the personal scene of mourning; rather, he shifts the center of force that causes the deformation of the plot to the political, thereby externalizing it. Shakespeare appears in his text as an artist who is less a psychological figure than an ally of political forces, or at least someone who is implied in and affected by the political situation of his day. In order to achieve this, he shifts the emphasis to a reading that is no longer concerned with representation but with a different relationship between the political and the aesthetic. Not in *what the play represents*—be it a historical reality or a suppressed desire—but in *what it cannot touch* lies the index of the real. Schmitt nevertheless does not completely leave the Freudian universe behind. Freud had sketched a theory of the origin of Greek tragedy in his *Totem and Taboo* from 1913. He had interpreted the very early tragedies in which a single actor is surrounded by the choir as a repetition of the scene of the murder of the primal father and his elimination by his sons. But this time, the individual takes upon himself the guilt of the whole community—this is, according to Freud, the origin of tragic guilt and suffering. The scene is a form of hypocrisy: "The scene upon the stage was derived

15. Ibid., 4:265.

from the historical scene through a process of systematic distortion—one might even say as the product of a refined hypocrisy.”<sup>16</sup> Freud reads in tragic representation a repetition and symbolic solution to a conflict that is linked to the origin of the community of sons and therefore the origin of the political as such. But this collective psychography in which Freud locates the mythopoetic forces is again displaced by Schmitt through a taboo that does not result from the guilt but from an actual political situation in which both Shakespeare and the London audience for which he wrote were immersed. Schmitt leads the critical attention away from the “subjectivity of the writer” and to the “objective situation” (23) in which the play was written and finds here the origin of myth.

### *An Audience “Not Yet Political”*

Both of the central intrusions of time into the play—the guilt of the mother as well as the bending or deviation of the figure of the avenger—are motivated by the taboo of the succession that lies at the heart of the political reality: “[A] piece of historic reality reaches into the drama and determines the character of Hamlet, a contemporary figure, that simply existed for Shakespeare, his patrons, his actors and for his audience and that was present for them deep into the play. In other words: the character of Hamlet does not become identical with his mask” (23). The audience saw a contemporary reality behind the scenes and the characters of the play together with these characters. Schmitt constructs a “seeing with” that captures a figure that is precisely not identical or similar to the represented characters but that is only present in the deviation or deformation of the characters and the plot on stage. For them, what is avoided becomes visible. The sign functions as an index pointing to a political situation that is shared by the audience. This sign triggers something analogous to what Freud called the “buoyancy of the subconscious.” Again, Schmitt formulates this insight in psychoanalytic vocabulary: “Because such plays are a kind of ‘dream-frame,’ as Egon Vietta has said. Like in a dream where people and realities blend into each other, images and characters, events and situations are interwoven in a dreamlike way on stage” (27). In order to see these interwoven scenes of the political situation, the audience and the playwright need to be informed by the same knowledge and have shared assumptions. These shared assumptions are formulated in Freud’s terms and point to the artwork as something expressing a collective psyche: “Even the

16. Sigmund Freud, *Totem and Taboo*, in *Standard Edition*, 13:156.



dreams the dramatist weaves into his play must be those that could be dreamed by the spectators, with all the condensations and displacements of the recent events” (38/136, translation modified). They form a common sensibility that ‘feels’ or ‘perceives’ what is avoided and the constant pressure exerted by the taboo. The resulting sensitivity constitutes what Schmitt calls a “public sphere”: “An author of plays to be immediately performed before a familiar audience not only stands in psychological and sociological relation to this audience, but also within a common public sphere. The assembled audience establishes through its concrete presence a public sphere, which incorporates the author, the director, the actors, and the audience itself.” Far from signifying the transparency of a shared space separate from the private, the public sphere is constituted by individual sensitivity formed by an existential relation to the common.

Therefore, “an intentional referencing of contemporary events and persons arose quite naturally,” and on the other hand “deviating too much from the audience’s knowledge and expectations makes the process incomprehensible and meaningless” (38/136). For the concrete public that is united by a shared “horizon of expectations”—like so many other, if not most, metaphors of historicist literary criticism, it could have its origin in Schmitt’s reading—the play becomes transparent and opens onto an existential reality determined by the question of the anticipated succession to Queen Elizabeth. It is this reality that limits Shakespeare’s imagination. Critics usually assume that Schmitt therefore claims the primacy of the political, which eclipses the aesthetic: be it that the play’s attention to the taboo equals “self-censorship”<sup>17</sup> or that Shakespeare is himself a supporter of a political party. The text, though, seems to claim something else. As much as it is true that Schmitt constructs an opposition between aesthetic play and the political state of exception as a limiting force, it seems to insinuate that Shakespeare’s audience was one in which the aesthetic was endowed with political relevance through its difference from the political.

On a first level, he confirms the simple opposition between art and politics, associated with the opposition between play and seriousness: “Even so, in play lies the fundamental negation of the serious situation, the state of emergency. The tragic ends where play begins, even when this play is melancholic” (42/139). This passage indicates the interruption of

17. David Pan, “Political Aesthetics: Carl Schmitt on *Hamlet*,” *Telos* 72 (Spring 1987), p. 155.

the play by the political and suggests their separability. But the passage continues: "Less than elsewhere, with respect to Shakespeare's *Trauerspielen*, whose character as play appears also in his so-called 'tragedies,' we can ignore the unplayability [*Unverspielbarkeit*] of the tragic" (42/139, translation modified). The tragic—and this is the second sense of "Unverspielbarkeit des Tragischen"—cannot be "gambled away" or "played away." Therefore, the tragic effect does not consist in the interruption of the aesthetic by the political; rather, the tragic is a zone where the situation of an *existential conflict insists in the aesthetic play itself* in the form of a manifest absence. The playfulness contains and excludes its opposite, the serious situation. This mutual inclusion of excluded opposites—the interregnum insists in the play, and the play as a play has an effect on the interregnum it avoids—is the origin of myth. Just as the tragic is not lost in play, the theatricality of the Baroque does not dissolve the existential seriousness of political action, as Walter Benjamin had suggested.<sup>18</sup> This theoretical scenario complicates the relationship between aesthetics and politics and endows art with a political power lacking in Benjamin. For Benjamin, the Baroque signifies a retreat of transcendence: the sovereign becomes creaturely, whereas the last residue of transcendence manifests itself in the playfulness and reflection dissolving the political situation.

Schmitt locates the society Shakespeare wrote for in a time period in which the separation of the spheres as we understand them has not yet taken place, before the emergence of classical sovereignty: "In Shakespeare's Elizabethan England the baroque theatricification of life was still unfounded and elementary—not yet incorporated into the strict framework of the sovereign state and its establishment of public peace, security and order, as was the theater of Racine and Corneille in the France of Louis XIV. In comparison with this classical theater, Shakespeare's play in its comic as well as melancholic aspects was coarse and elementary, barbaric and not yet 'political' in the sense of the state at that time... a theater which did not for this reason oppose the situation of the play to the concrete political situation" (43/140). Although the aesthetic and the political differ, they do not form the spheres we know today. While the aesthetic is not the sphere beyond interest, the political has not yet assumed the form of classical sovereignty. It would be a retrospective projection to read Shakespeare's

18. Horst Bredekamp reads *Hamlet oder Hekuba* as a response to Walter Benjamin. See Bredekamp, "From Walter Benjamin to Carl Schmitt, via Thomas Hobbes," *Critical Inquiry* 25, no. 2 (1999): 247–66.

work through the lens of aesthetic theory developed in romanticism. This argument is again directed against Benjamin's claim that the baroque play is the first of a series of steps that develop the concept of play, culminating in Romanticism: "In the drama the play-element was demonstratively emphasized, and transcendence was allowed its final word in the worldly disguise of a play within the play. The technique is not always transparent, as when the stage itself is set up on that stage, or the auditorium is extended onto the stage-area." It is here that Benjamin sees the "power of salvation and reflection in the paradoxical reflection of play and appearance" at work.<sup>19</sup> Instead of the salvation in the aesthetic, Schmitt conceives of the play as an immanence that develops a political significance and efficacy in what it does not say about the existential situation.

### *The Stained Mirror and the Relief*

What sets Benjamin and Schmitt apart is their notion of representation. Whereas for Benjamin artistic representation as an "intense preoccupation with the absolute"<sup>20</sup> de-potentializes the seriousness of life, for Schmitt the play cannot gamble away this very seriousness. It is perceived as an intensification of the immanent existential reality.<sup>21</sup> Again, the reason for this is not Schmitt's attempt to eclipse the aesthetic through the political, but that in Elizabethan England the aesthetic is still untamed and part of the existential dimension of life. Schmitt therefore values and does not devalue the aesthetic: "As rudimentary theater it was all the more intensely integral to its current reality, a part of the present in a society which largely perceived its own action as theater—a theater which for this reason did not oppose the situation of the play to the concrete contemporary situation. . . . The play on stage could potentialize itself as play without severing itself from the present reality. Even a double potentialization became possible: the play within the play, which found an astonishing realization in Act III of Hamlet" (43/140, translation modified). The sphere of art is—at least in Shakespeare's time—not a sphere of mere "illusion" and "play" but

19. Walter Benjamin, *The Origin of German Tragic Drama*, trans. John Osborne (London: Verso, 1985), p. 82.

20. Ibid.

21. See Jennifer Rust, "The *Spiel im Spiel* of Sovereignty: Schmitt, Benjamin," p. 4, available online at the Thinking With Shakespeare website, <http://thinkingwithshakespeare.org/Shakespeare/Schmitt/Schmitt-Home.htm>: "The force of the present expands exponentially the more it is divided into multiple reflective surfaces, a tendency that is especially evident in the 'triplcation' of the meta-drama in the mousetrap."

“illusion” and “play” are themselves an integral part of reality endowed with the power to intensify rather than dissolve reality. The direction of the traditional concept of mimesis is inverted: the imitation is not a minor representation of something that precedes it but a part of the real itself. It is not the weakened counterfeit of the true, but a real participation in it.

In his book on Roman Catholicism, Schmitt developed a theory of representation that seems close to the concept of mimesis underlying the intensification of conflict through play: “The idea of representation is so governed by the thought of personal authority, that the representative as well as the represented have to maintain a personal dignity. . . . Only a person can represent in the eminent sense, and more specifically—in contrast to a simple ambassador or deputy [*Stellvertreter*—an authoritarian person or an idea that as soon as it is represented also personifies itself.”<sup>22</sup> What endows the representation with the power to represent is the authority of an institution that embodies a transcendent sphere in personal representation. It is this conviction that ultimately accounts for the reversal of perspective: in the universe constituted by this transmission of authority, there is no form of representation, be it playful or serious, that is released of responsibility for the concrete existential situation of the day.

In *Hamlet*, the play within the play therefore becomes an agent, an active part of the existential conflict and its solution. And it does so as an artwork, as play, and therefore precisely because it is different from the political decision. Schmitt makes clear that the play within the play is neither a situation in which “the stage itself is set up on the stage,” nor is it the case that “the auditorium is extended onto the stage-area,” as Benjamin claimed. Instead, it prolongs the difference between the political and the aesthetic into the audience and implies both in the existential situation: “In Shakespeare’s *Hamlet*, the play within the play in Act III is no look behind the scenes. One might consider Hamlet’s meeting with the actors in Act III as such—the conversation with them, their declamations, and the advice Hamlet gives to them could be the prelude of a genuine actor’s play. But together these two acts are in fact the opposite” (45/141). What is the opposite of an actor’s play? In contrast to the actor’s play, which reveals the fabrication of art, it would have to demonstrate the non-fabrication of existential life. Instead of representing the process of representation, it would show that this process is an existential

22. Carl Schmitt, *Römischer Katholizismus und politische Form*, 2nd ed. (1925; Stuttgart: Klett, 1984), pp. 35–36 (translation mine).

dimension of life. In the place of the *mise en abîme* of reflection with its mirror-effect, art is a *mise en relief* that intensifies rather than weakens the existential conflict. The surface of the play becomes opaque and pastose. For us, this is only readable in the stains on the mirror, the spots where the reflection of the familiar image is distorted and our expectations to find a resemblance to the historical moment of the play's first performance are disappointed.

The *mise en relief* relies on the complicated difference and *the disjunction of the aesthetic and the political within the play* rather than on the eclipse of the aesthetic. This becomes clear in Schmitt's interpretation of act II, scene 2, where Hamlet realizes his own political inaction and passivity when faced with an aesthetic reception that is intended by the play and considered the pivotal emotional effect of tragedy, namely pity. This affective response to the tragic action relies on identification, and since Aristotle it has been understood as a supplement of anxiety. We pity what we would fear either for us or for one of our relatives. In classical theories, the emotional involvement in the aesthetic resulting in pity was perceived as the educational core of the drama. The aesthetic ideology saw it as an involvement that changes subjects and turns them into reasonable citizens. In contrast to these theories, Schmitt reads Hamlet's reaction to the actor's tears as the becoming aware of the difference between the play and his mission. The political relevance of tragedy does not lie in the emotions it produces, but in the possibility that through these emotions we learn that there is a realm in which they are of limited significance. Seeing the actor cry when he plays Hecuba, the Trojan king Priam's wife—witnessing her husband's dismemberment and killing after the Achaians had conquered Troy, she begins to shout terrifyingly—Hamlet says:

Tears in his eyes, distraction in his aspect,  
A broken voice, and his whole function suiting  
With forms to his conceit? And all for nothing!  
For Hecuba!  
What's Hecuba to him, or he to her,  
That he should weep for her? What would he do,  
Had he the motive and the cue for passion  
That I have?<sup>23</sup>

23. William Shakespeare, *Hamlet*, Arden ed. (London: Thomson Learning, 2000), 2.2.568–75.

In contrast to the assumption, underlying the classicist theory of drama in Lessing and Schiller, that it is pity that involves the spectator and moves him to action, Schmitt reads in Hamlet's realization a disjunction between the aesthetic and the political decision: "Hamlet does not weep for Hecuba. He is astonished that there are people who, in the performance of their duties, weep over something which does not concern them and has no impact on their actual existence or situation. From this realization he is strongly admonished to concentrate on his own situation and compelled to take action to fulfill his vow of vengeance" (45/141). In the above passage from act II, scene 2, it is clear what effect the play within the play has: Hamlet does not identify with the actor, nor does he identify with Hecuba. He does not cry. Instead, the crying of the actor motivates him to act. He asks himself what the actor would do in his place, and therefore he perceives a difference between himself and the actor, just as the play as a whole intensifies the existential reality because it makes a difference perceptible and precisely not a similarity between the political context and the play. The political message would be that politics is different from art, and it is art and art alone that can reflect this difference. This is Schmitt's version of the aesthetic education: tragedy is a sphere in which other spheres can be reflected in their difference. The result is a privilege of art over other spheres. But it is an *exorbitant art* that no longer abides by the Romantic and idealist notions that tried to contain it.

It is possible to perceive Schmitt as "lacking aesthetic sensibility,"<sup>24</sup> but in this scene at least one can only do this at the price of the assumption that aesthetic sensibility equals falling prey to the emotional manipulations of the artwork. The second underlying assumption is that pity is an ethical emotion. Yet pity is not necessarily a positive reaction, last but not least because many caring professions, such as the medical profession, rely on a dispassionate relation to the patient—for example, during an operation. And it is a part of the challenges of the time of mass media that it constantly forces us to pity in the wrong place and for the wrong reason. This does not, of course, mean that the decision between Hamlet and Hecuba, reflected action and emotional response, imposed by the title, is historically innocent and not an abused alternative. Schmitt frequently regrets that his time has forgotten who Hecuba is.<sup>25</sup> Bismarck famously

24. Cf. Victoria Kahn, "Hamlet or Hecuba: Carl Schmitt's Decision," *Representations* 83 (2003), p. 69.

25. See the letter dating from March 6, 1956, in *Ernst Jünger, Karl Schmitt: Briefe 1930–1983*, ed. Helmuth Kiesel (Stuttgart: Klett-Kotta, 1999).

used the alternative “Hamlet oder Hekuba” in a speech at the Reichstag, to express contempt for the pathetic support for an independent Bulgaria not long before the Congress of Berlin that renegotiated the distribution of power on the Balkans. It became a popular saying during the Empire. In his speech, Bismarck says:

When I first read these declamations—they are partly whining, partly pathetic—I could not help being reminded of the scene from “Hamlet,” in which the actor declaims and sheds tears over the destiny of Hecuba—real tears—and Hamlet says—I don’t know, does he apply the expression that has gained parliamentary citizenship, the expression “rogue”—: “What rogue am I?” or does he use a different one?—in short he says: “What’s Hecuba to him?”—that is what came to my mind immediately. What are those declamations supposed to mean? What is Bulgaria to us? It is completely indifferent to us who governs Bulgaria and what becomes of Bulgaria—I repeat this here.<sup>26</sup>

We can now clearly see what seems so attractive to Schmitt: in Bismarck’s speech, Hecuba becomes the representation of the threat that emotional reactions aligned with the aesthetic pose for politics. Politics is understood as action in one’s own interest—guided by the distinction between friend and enemy—and it is the play as mere aesthetic play that would make decisions impossible, because emotions obliterate political interests. In order to be political, one needs to have the choice between interest and disinterest, according to the relevance of one’s agenda and irrespective of the *parti pris*. Against this neutralization of politics through the aesthetic, Schmitt discovers a play that is a play in front of the scene: If we look at *Hamlet* not in our own terms but in those of his time, Schmitt claims, then it reveals itself as a powerful form that makes the aesthetic effective in the political realm before aesthetic and political become what they are to us. Its effectiveness lies in its difference from the political. If art can be *political*, then by *staging the difference between political life and aesthetic form*. And the mistake would consist in a politics that follows aesthetic guidelines. In today’s world, hardly any war is not led under the cover of humanitarian reasons, accompanied with the folkloric story lines asking for pity and related emotions. There is, however, not necessarily

26. Otto von Bismarck [18. Sitzung des Deutschen Reichstags], January 11, 1887, in *Die Gesammelten Werke*, ed. Wilhelm Schützler (Berlin: Otto Stollberg, 1930), 13:211–12 (translation mine).

an inherent political position in Schmitt's reading, and the critique of his political positions does not want to accept the analytic merits of his writings. Liberal or left politics is not automatically aligned with aesthetic values, and it is the analytic kernel in Schmitt's theory that can still be of value.

The choice that Schmitt's title—Hamlet or Hecuba—proposes does not really imply an either/or alternative, as the two characters are not on the same level. Hamlet becomes aware of his own interests both in relation to and in contrast to the aesthetic reaction of an actor to a mere play. He makes the distinction between his existential interests and his emotional implication, and he makes it within a play and as a character in a play, gaining prominence and surpassing the realm of aesthetics within the aesthetic. Whereas Hecuba is merely a role assumed by an actor who sheds real tears as an agent without a position taken, Hamlet discovers that the aesthetic must be surpassed by someone who has a political mission. Yet he does not leave the aesthetic behind, because it is, first, a medium for the experience of this difference. The political is grounded in the difference from the aesthetic that is itself a part of the aesthetic. Second, the political is an intensification of the aesthetic, the point where it surpasses itself. It becomes exorbitant and includes and articulates the difference to its own sphere. If the actor sheds real tears, what is the appropriate reaction for us, the engaged readers? The line that separates the purely aesthetic from the political difference within the aesthetic separates the two characters, and choosing one over the other implies a decision for or against the neutralization of the existential dimension of being, not for or against the aesthetic as some might want to suggest. Neither does Hecuba mirror the spectator's relationship to the play *Hamlet*. There are two lines separating the hero from the play within the play and the spectator from the play. They are differences that the work of art produces. Hecuba is not the title of Shakespeare's play. And *Hamlet* is not a mere play.<sup>27</sup>

27. I would like to thank Julia Hell and the University of Michigan for their generous invitation to present an early sketch of this essay.



# *The Pluralism of the Political: From Carl Schmitt to Hannah Arendt*

Hans Sluga

We can pinpoint almost to the day the moment at which Hannah Arendt became a political theorist, and we can name with precision the experiences that made her one. Born in 1906, she had led a substantially apolitical life until Hitler gained power and she fled Germany in 1933. In Paris, she became an activist, busy in Jewish refugee affairs but with little time for abstract reflection. The end of the war and her book on *The Origins of Totalitarianism* marked a new but still only transitional phase in her life. The work is best understood as a piece of speculative history seeking to draw the phenomena of anti-Semitism, imperialism, National Socialism, and Soviet Communism together in a single narrative, but at the same time it hinted at more philosophical ambitions. Those had to wait, however, until the book was completed; it was then, and then only, in the spring of 1950, that Arendt finally launched into political theory.

We can follow her next moves from a diary begun at that time, in which she was to record her thoughts for the next twenty-three years.<sup>1</sup> Her first entries in June 1950 still hark back to the book she had just finished. Two months later, though, in August, her thought took a new and surprising turn when she asked herself—out of the blue so it seems—the provocative question “What is politics?”<sup>2</sup> And the remarkable thing is that what she wrote at the time in answer to this question was to occupy her

1. Hannah Arendt, *Denktagebuch: 1950–1973*, ed. Ursula Ludz and Ingeborg Nordmann (Munich: Piper, 2002).

2. *Ibid.*, p. 15. The note had previously been published in *Was ist Politik?* ed. Ursula Ludz (Munich-Zurich: Piper, 1993), and it has since appeared in English translation in Hannah Arendt, *The Promise of Politics*, ed. Jerome Kohn (New York: Schocken, 2005).

philosophically for the rest of her life. This diary entry thus signals the beginning of Arendt's career as a political thinker. That she had embarked on a new course is evident also from a letter to Karl Jaspers, on October 4, 1950, in which she confided to her old teacher and friend that, having just finished the proofs for *The Origins of Totalitarianism*, she was having "the most wonderful time" reading Plato's political dialogues (*The Laws*, *The Statesman*, and *The Republic*).<sup>3</sup> Her diary records that she went on to study Aristotle and Cicero, Kant and Hegel, Marx and Nietzsche, Hobbes, Montesquieu, Locke, and Rousseau. She read these authors with care but was also from the start highly critical of them and indeed of the entire tradition of political philosophy. In December 1950, she would write to Jaspers accordingly that she had been "thinking a lot about the affinity between philosophy and tyranny or rather the preference of the philosophers for a rational tyranny which is always, of course, the tyranny of reason."<sup>4</sup> She did not specify her charge at the time but later identified Plato and Heidegger, in particular, as two philosophers who had succumbed to the lure of tyranny. In December 1950, she may also have been thinking of Carl Schmitt, whose work and involvement with the Nazis had been much on her mind while writing *The Origins of Totalitarianism*.

In "What is Politics?" Arendt had roundly attacked the philosophers for failing to get at the deepest problems of politics: "The difference in quality between the political philosophy of the great thinkers and their other work is startling—even in Plato. Politics never reaches the same depth."<sup>5</sup> The problem was that "for all scientific thinking—in biology and psychology as well as in philosophy and theology—there is only Man," whereas politics, she added, "rests on the fact of human plurality." This observation led her to a multifaceted indictment of political thought: (1) The political philosophers had generally assumed that Man is by nature a political being, when in reality "Man [as either a species or an individual] is apolitical," since "politics originates in the In-between-men and thus, of course, *outside* Man." (2) The belief that Man was created in the image of God had reinforced this neglect of human plurality, and that doctrine had to be dismissed as unqualified "nonsense." Later, Arendt would add that according to the biblical text, God had created both a man and a woman,

3. Hannah Arendt and Karl Jaspers, *Briefwechsel: 1926–1969* (Munich: Piper, 1973), p. 195.

4. *Ibid.*, p. 196.

5. Arendt, *Denktagebuch*, p. 15.

and thus a plurality. (3) Philosophers had also often sought to conceive of politics in terms of the family but this was its “ruination” and “perversion,” because, in yet another way, it “obliterates the fundamental quality of plurality or, rather, forfeits it through the introduction of the concept of relatedness.” (4) Western thought, specifically in its Hegelian and Marxist forms, had tried to turn politics into history. Through envisaging a world-historical process determined by a set of necessary laws, such thinking has reduced the plurality of human beings to a single, undifferentiated humanity. “Hence the monstrous and inhuman character of history which only at its end comes to prevail fully and brutally in politics,” Arendt wrote in her note, with an eye to her just finished book. Asserting that freedom exists only in the peculiar In-between area of politics, she accused Hegel and Marx of an “escape from this freedom into the ‘necessity’ of history. A detestable absurdity.”

Margaret Canovan has rightly argued that Arendt’s analysis of modernity is most fruitfully treated “as a context for the interesting things she has to say about the fact that politics goes on among plural persons with space between them.”<sup>6</sup> But she overstates her case when she insists that Arendt “‘augmented’ the world by one word: the word plurality.”<sup>7</sup> From Aristotle to Schmitt, political philosophers have, in fact, never been unaware of the pluralism of the political. If they are, nevertheless, to be criticized for failing to grasp that politics rests on human plurality, it must be because they have not properly taken this fact into account. This, indeed, is Arendt’s charge.

Arendt was certainly aware from early on that Aristotle had lambasted Plato for his failure to recognize the pluralism of the political.<sup>8</sup> Against Plato’s assertion that there is no greater evil for a city “than that which tears it apart and makes it many instead of one,”<sup>9</sup> Aristotle had emphasized in his *Politics* that “the polis consists of a certain multitude” and “not only of a number of people, but of people of different kinds.”<sup>10</sup> And where Plato’s *Republic* had envisaged the abolition of individual property and a socialization of human reproduction in the name of political unity,

6. Margaret Canovan, *Hannah Arendt: A Re-Interpretation of her Political Thought*, (Cambridge: Cambridge UP, 1992), p. 281.

7. *Ibid.*

8. Arendt, *Denktagebuch*, p. 232, where she criticizes Plato on grounds put forward in Aristotle’s *Politics*.

9. Plato, *Republic*, 462a.

10. Aristotle, *Politics*, 1261a.

Aristotle had protested that “to make the polis too much of a unity is not a better policy.”<sup>11</sup> If Aristotle was nevertheless not a pluralist in Arendt’s sense, that was first and foremost because he held that man is political by nature. On Arendt’s reading, this formula excluded a proper appreciation of the fact that politics arises only in between human beings. Aristotle’s recognition that a polis is necessarily constituted of people of different kinds would also have been insufficient for Arendt. Her kind of pluralism postulates, rather, “that the world opens up differently to every man, according to his position in it,” that “every man has his own *doxa*, his own opening to the world,” and that when men talk together from their different standpoints, they articulate a common world and also define themselves and their own positions more clearly.<sup>12</sup> According to this conception, the outstanding virtue of the statesman is not a unique grasp of the idea of the good or of the ideal of political justice but “consists in understanding the greatest possible number and variety of realities—not of subjective viewpoints, which of course also exist but which do not concern us here—as those realities open themselves up to the various opinions of citizens; and, at the same time, in being able to communicate between the citizens and their opinions so that the common-ness of this world becomes apparent.”<sup>13</sup> Where Aristotle recognized that a polis will necessarily contain people who are objectively of different kind, Arendt’s pluralism requires human beings with a plurality of understandings of their reality.

In trying to assess Arendt’s take on the pluralism of the political it is still more illuminating to contrast it to Schmitt’s concern with pluralism. It was after all in renewing his question “What is politics?” that she turned herself into a political theorist; and it was in trying to answer this question that she came up with the conclusion that politics rests on the fact of human plurality. In relating Arendt and Schmitt in this manner, we must, however, keep in mind that their real and substantive affinities are always qualified by equally real and substantial disagreements. We need to avoid, therefore, both Martin Jay’s view that Arendt uncritically accepted Schmitt’s decisionism and Dana Villa’s counter-claim that she can in no way be put in Schmitt’s company.<sup>14</sup> Careful scrutiny reveals that

11. *Ibid.*, 1261b.

12. Hannah Arendt, “Philosophy and Politics,” *Social Research* 57 (1990): 80, 81.

13. *Ibid.*, p. 84.

14. For the first claim, see Martin Jay, *Permanent Exiles: Essays on the Intellectual Migration from Germany to America* (New York: Columbia UP, 1985), pp. 240–42; and

Arendt was certainly familiar with many of Schmitt's writings and that she regarded him highly as an outstanding scholar, a jurist with ingenious theories, and a most able defender of his views. But we must not overlook her constant qualifications of such praise. Schmitt was for her an outstanding scholar but one who did his "utmost to supply the Nazis with ideas and techniques."<sup>15</sup> He was a jurist "whose very ingenious theories about the end of democracy and legal government still make arresting reading"—even if his conclusions need to be rejected.<sup>16</sup> He was "the most able defender of the notion of sovereignty"—a doctrine that must be utterly resisted.<sup>17</sup> Despite such qualifications, we cannot fail to notice that references and allusions to Schmitt are strewn throughout Arendt's work. In her essay "What is *Existenz* Philosophy?" (1946), she drew, for instance, on Schmitt's *Political Theology* in arguing that we must take the word "existential" to mean "what Kierkegaard illustrated in the category of the exception."<sup>18</sup> In the same essay, she used Schmitt's *Political Romanticism* to criticize the political Heidegger as "really (let us hope) the last Romantic—an immensely talented Friedrich Schlegel or Adam Müller, as it were, whose complete lack of responsibility is attributable to a spiritual playfulness that stems in part from delusions of genius and in part from despair."<sup>19</sup> Later on, in *The Human Condition*, she relied on Schmitt's *The Nomos of the Earth* in characterizing law as being originally the boundary line between households. Following Schmitt almost word for word, she explained that "the Greek word for law, *nomos*, derives from *nemein*, which means to distribute, to possess (what has been distributed), and to dwell." And, in a further allusion to Schmitt, she characterized politics as a hedging of conflict and the public realm as something that cannot exist "without a fence to hedge it in."<sup>20</sup>

for the second, see Dana Villa, *Arendt and Heidegger: The Fate of the Political* (Princeton, NJ: Princeton UP, 1996), p. 115.

15. Hannah Arendt, "The Image of Hell," in *Essays in Understanding, 1930–1954* (New York: Harcourt, Brace & Co., 1994), p. 201.

16. Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt Brace Jovanovich, 1973), p. 339n65.

17. Hannah Arendt, *Between Past and Future: Eight Exercises in Political Thought* (New York: Penguin Books, 1993), p. 296n21.

18. Hannah Arendt, "What is *Existenz* Philosophy?" repr. as "What is Existential Philosophy?" in *Essays in Understanding*, p. 174.

19. *Ibid.*, p. 187n2.

20. Hannah Arendt, *The Human Condition* (Chicago: Univ. of Chicago Press, 1958), pp. 63 and 64.

Arendt agreed specifically with Schmitt's critique of the normativist tradition in political philosophy. Both called, instead, for giving priority to the analysis of political concepts. Thus, Arendt's concern became, as she put it in 1959, to provide a "critical examination of the chief traditional concepts and conceptual frameworks of political thinking" and to engage in a "more systematic examination of those spheres of the world and human life which we properly call political."<sup>21</sup> Her goal was not, of course, a purely formal analysis of the concepts in question but, as she also wrote in 1959, to examine "the concrete historical and generally political experiences" that gave rise to those concepts, since "the experiences behind even the most worn-out concept remain valid and must be recaptured and re-actualized if one wishes to escape certain generalizations that have proved pernicious."<sup>22</sup> This required, in turn, an exploration of "the various modi of human plurality and the institutions which correspond to them." Her methodology in analyzing concepts was thus to be historical and critical in tone and always driven by practical and political ends. In all of these respects, her work recalls identifiable motivations in Schmitt's analyses of political concepts.

Arendt shares in particular Schmitt's concern with the concept of the political. In summary of a projected book on political philosophy, she asks in 1959, just as Schmitt had done, "What is it in the human condition that makes politics possible and necessary?"<sup>23</sup> I want to argue here that the roots of her concern with the pluralism of the political can be traced back to her critical discussion of Schmitt's 1934 essay *Staat, Bewegung, Volk*.<sup>24</sup> In *The Origins of Totalitarianism*, Arendt agrees in essence with Schmitt's diagnosis that the political movement (National Socialist, fascist, or communist) is the decisively new phenomenon of twentieth-century politics and that the political movement has replaced the parliamentary party system of the nineteenth-century nation-state. She commences her account of this transition in *The Origins of Totalitarianism*, in fact, with a quotation from Schmitt's essay, and she concludes it with another quotation from that essay, according to which "the Movement . . . is State as well as

21. This and the following quotations are taken from Elisabeth Young-Buehl's biography *Hannah Arendt: For Love of the World* (New Haven, CT: Yale UP, 2004), pp. 325–26.

22. *Ibid.*

23. Arendt, *Denktagebuch*, p. 523.

24. Carl Schmitt, *Staat, Bewegung, Volk: Die Dreigliederung der politischen Einheit* (Hamburg: Hanseatische Verlagsanstalt, 1935).

People, and neither the present state . . . nor the present German people can even be conceived without the Movement.”<sup>25</sup> Characteristic for the movement, so conceived, Arendt comments, is its lack of concern with political platforms and programs. “For the only thing that counts in a movement is precisely that it keeps itself in constant movement.”<sup>26</sup> She writes of totalitarianism accordingly as a system “where the essence of government itself has become motion” and where “all laws have become laws of movement.”<sup>27</sup> This development leads, so she thinks, to an undermining of all political institutions, the eventual destruction of the entire public-political sphere, and “the total elimination of spontaneity itself, that is of the most general and most elementary manifestation of human freedom, at which only totalitarian regimes aim.”<sup>28</sup> Given such radical outcomes, Arendt concludes that totalitarianism must be distinguished from all previous forms of government and thus from both a traditional form of authoritarianism with its restriction of freedom and from traditional forms of tyranny and dictatorship with their abolition of political freedom.

Arendt agrees, thus, with Schmitt’s thesis in *Staat, Bewegung, Volk* that we are faced with a new model of political organization “characteristic for the state of the twentieth century,” which is implemented in different forms in Nazi Germany, fascist Italy, and the Soviet Union.<sup>29</sup> Schmitt had anticipated this development in writings from the pre-Nazi period when he had spoken of a historical transformation of our entire social reality, whose outcome was an inevitable intermingling of society and politics, a loss of identity of the traditional political institutions, and increasing confusion about the distinctive meaning of the political. “This awesome transformation may be constructed as part of a dialectical evolution which runs through three stages,” he had written in 1931, “from the absolutist state of the 17th and 18th centuries, through the neutral state of the liberal 19th century, to the total state of the identity of state and society.”<sup>30</sup> Schmitt thus characterized the new kind of state with a term he had adapted from

25. Arendt, *The Origins of Totalitarianism*, pp. 251, 266.

26. *Ibid.*, p. 260.

27. *Ibid.*, pp. 466, 463.

28. Hannah Arendt, “What is Authority?” in *Between Past and Future* (Harmondsworth: Penguin Books, 1993), p. 96.

29. Schmitt, *Staat, Bewegung, Volk*, p. 13.

30. Carl Schmitt, “Die Wendung zum totalen Staate,” in *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles: 1923–1939*, 3rd ed. (Berlin: Duncker & Humblot, 1994), p. 173.

Ernst Jünger's notion of "total mobilization."<sup>31</sup> It is here, then, in Schmitt's work, where we find the roots of Arendt's totalitarianism thesis according to which National Socialism and Soviet communism are varying expressions of the same historical phenomenon.

For Schmitt, this development created at the same time an urgent new problematic. Like Arendt, he was convinced of the pluralistic character of the human condition. "The world of the objective spirit," he had told the Kant Society in 1929, "is a pluralistic world: pluralism of races and nations, of religions and cultures, of languages and legal systems."<sup>32</sup> The political world, too, he had added, was inherently pluralistic in that it required always the existence of various competing political entities. And the state itself was also internally "always complex and in a certain sense in itself pluralistic."<sup>33</sup> But, at the same time, Schmitt was keenly aware of a need for political unity. He rejected, therefore, the "pluralistic theory of the state" advanced by G. D. Cole and Harold Lasky, according to which the state is only one among many associations and he stressed instead the overarching need for "the political unity of a people." Where such unity is absent, he feared, the will of the individual, far from being liberated to its own autonomous needs and interests, would, in fact, be submerged in a plurality of competing obligations and relations of loyalty. The individual would thus become the plaything of competing social groupings and interests. Such confusions could be overcome only when the state, in its unity, provides a "concrete order" and framework for the contending social forces. In the 1931 essay "The Turn Toward the Total State," he had written accordingly: "The state is now, as one says, the self-organization of society, but the question is how this self-organizing society achieves *unity* and whether this unity appears real as the result of 'self-organization.'"<sup>34</sup> And this question, he thought, was thus "the most difficult question of contemporary constitutional law."<sup>35</sup>

In the writings that follow, Schmitt concerns himself, therefore, again and again, with what he perceives to be the perils of a political pluralism. In *Staat, Bewegung, Volk*, he denounces political liberalism accordingly for promoting forms of pluralism that can lead only to "antithetical ruptures"

31. Ibid.

32. Carl Schmitt, "Staatsethik und pluralistischer Staat," in *Positionen und Begriffe*, p. 160.

33. Ibid., p. 158.

34. Schmitt, "Die Wendung zum totalen Staate," p. 176.

35. Ibid., p. 178.



and to “the destruction or at least the relativizing of the political whole.”<sup>36</sup> He inveighs equally against multi-party democracy, since in such a state “the parties that oppose each other lack any unifying political will and can meet each other at best only at a political null-point.”<sup>37</sup> This kind of state, he believes, must end in an “anarchic pluralism of social forces.”<sup>38</sup> He opposes in addition any form of federalism, and he insists finally even on the need for a racial homogeneity of the state and its population. While the state of old had been built on various sorts of unstable bipartite divisions, such as the king and the people or, alternatively, the state and the individual, the new total state had to be tripartite in organization if it was to succeed in maintaining a balance between the conflicting demands of pluralism and unity. As long as different elements of the state stand dualistically opposed to each other, as they still do in the liberal system, the resulting structure would always be unstable. A third, mediating element was required to bind the other two together into a real unity. Schmitt proposes a new German state built out of three complementary systems: (1) the old administrative, bureaucratic, and military apparatus; (2) the Party or movement with its hierarchical order; and (3) the people with their traditional civic and social organizations. In Schmitt’s words: “Each of the three words state, movement, people can be used for the whole of the political unit. Each refers at the same time to a specific aspect and a specific element of the whole. Thus, we may look at the state in the narrower sense as the political and static part, the movement as the political and dynamic element, and the people as the un-political aspect which flourishes under the protection and in the shadow of the political decisions.”<sup>39</sup> Drawing on essentially theological considerations, Schmitt thus seeks to give the new total state a Trinitarian structure. Where the traditional state may be considered to play the role of God the Father and the people that of the Son, the political movement (of the Nazi, fascist, or communist type) is meant now to take the place of the Holy Spirit in uniting the two. It should not surprise us that Schmitt finds the roots of this conception in “the great tradition of German thinking on the state that was inaugurated by Hegel,” since Hegel’s dialectic is itself, of course, indebted to the Trinitarian schemata of Christian theology.<sup>40</sup>

36. Schmitt, *Staat, Bewegung, Volk*, pp. 16, 12.

37. *Ibid.*, p. 9n.

38. *Ibid.*, p. 27.

39. *Ibid.*, p. 12.

40. *Ibid.*, p. 13.

In describing the structure of the new German total state, Schmitt sought to maintain a fine balance between the reality of the pluralism of human life and the need for political unity. If the unity of the state demanded now a leader capable of making sovereign decisions, his leadership (*Führertum*) was at the same time meant to be strictly distinct from “commanding, dictating, from centralizing-bureaucratic governing or any other kind of arbitrary domination.”<sup>41</sup> While it was the task of the political movement to hold the people and the state apparatus together, Schmitt recognized, of course, also that the Nazi party consisted concretely once again of a plurality of formations. Hence, he considered it necessary that there should be a hierarchical order within the party at whose head stood the leader whose decisions must be irrevocable and final. Schmitt declared, indeed, that “the strength of the National Socialist state lies in the fact that from the top to the bottom and in every particle of its existence it is dominated and pervaded by the thought of leadership.”<sup>42</sup> But he understood at the same time that this hierarchical order might disturb once again the balance between the natural pluralism of the political and the need for political unity. He proposed therefore a “leadership council [*Führerrat*]” that was to provide the leader with “advice, suggestions, and reports.”<sup>43</sup> But for the sake of political unity, this council could not be elected but would have to be, in turn, appointed by the leader in order to preserve the unity of the system. Schmitt suggested as a model the “imaginative and paradigmatic form” of the Prussian State Council—“that great constructive work of the Prussian Prime Minister Göring”—of which he himself was a founding member and as which he also signed his 1934 essay.<sup>44</sup> But this still left the question of what constraints there could be for preventing the leader from becoming a mere dictator. Schmitt found a final and most disturbing answer in “the unconditional rational identity between the leader and his followers.” But such identity demanded, in turn, a “homogeneity” in the people—i.e., an identity in their form of life and, presumably, also in their racial makeup.

Political unity, it appeared, could be assured only by abolishing or minimizing human plurality. It is clear in retrospect that Schmitt had failed to solve the problem of the balance between plurality and unity. His proposals for the Nazi state remained, in any case, without echo. The *Führerrat*

41. *Ibid.*, p. 41.

42. *Ibid.*, p. 33.

43. *Ibid.*, p. 35.

44. *Ibid.*, p. 36.

never came into being, and those in power evinced no interest in the triadic form of the state that Schmitt was envisaging. If we follow Arendt's distinction between authoritarian government, tyranny or dictatorship, and totalitarianism, we must conclude that Schmitt was attempting to put the Nazi state on an authoritarian footing and that he was thus thoroughly out of tune with the totalitarian tendencies of a regime that believed only in the unconstrained power of the *Führer* and the absolutely dominating role of the Nazi movement. Schmitt's essay tells us thus in the end less about National Socialism than about his own struggle with the demands of pluralism and political unity. That struggle had had its roots, no doubt, in Schmitt's experience with the divisions of the Weimar Republic between monarchists and republicans, landed conservatives and industrial liberals, between the extreme left and the extreme right—divisions that made regular government impossible in the end and became impassible obstacles to solving the economic and social problems of postwar Germany.

Arendt, who was twenty years younger than Schmitt, grew up in that same disturbed and disturbing political climate. But her own political experience took her thinking about politics in a very different direction. As a Jew in Germany, as a stateless person in Paris, and finally as a European in New York, Arendt found herself confronted in ever new ways with the fact of human plurality. These experiences made her aware that we as modern humans can live together politically only if we accept our plurality and learn to treat it not as a problem to be overcome but as an opportunity to be exploited. In her diary, she spoke of "the fundamental problem of all political philosophy in the West" as the question "how one can make a singularity out of a plurality," to which, she added, Rousseau had given "perhaps the most murderous solution."<sup>45</sup> In a skeptical tone she called the various theoretical efforts to solve this problem attempts at squaring the circle and thus essentially futile. She never explicitly addressed Schmitt's attempts to deal with it. However, already in "What is Politics?" she spoke of Hobbes—to whom Schmitt considered himself close—as the only significant political thinker who had understood the plurality of the human condition.<sup>46</sup> But he had done so, as she noted somewhat later, only by "disempowering all in favor of one," and thus had resolved the problem of human plurality only in a negative fashion.<sup>47</sup>

45. Arendt, *Denktagebuch*, p. 242.

46. *Ibid.*, p. 17.

47. *Ibid.*, p. 81.

Arendt never concerned herself with the question of political unity in the same sustained manner as Schmitt. Her most detailed examination of the issue is perhaps to be found in her essay “What is Authority?” She describes there what she considers to have been the Roman understanding of politics as based on the “trinity of religion, tradition, and authority.”<sup>48</sup> The resulting authoritarian form of government, she argued, is one typically bound by laws. “Its acts are tested by a code which was made either not by man at all, as in the case of the law of nature or God’s commandments or the Platonic ideas, or at least not by those actually in power”—as for instance the founders of the state or the ancestors. “The source of authority in authoritarian government is always a force external and superior to its own power.”<sup>49</sup> The appropriate image for authoritarian government, Arendt suggests, is the pyramid—a structure rising from and resting firmly on some external foundation. Authority understood in this way, provides “permanence and durability” to the public-political realm, it constructs a “groundwork” for our “Protean universe”; it offers “permanence and reliability.”<sup>50</sup> And, in doing so, it lends our political institutions their identity and unity. But Arendt is, of course, by no means committed to the authoritarian form of politics. She wants to convince us, rather, that “authority has vanished from the modern world”—which does not signal for her the end of politics, only the end of one variety of it.<sup>51</sup> It forces us, however, so she concludes, to confront anew “without the religious trust in the sacred beginning and without the protection of traditional and therefore self-evident standards of behavior, . . . the elementary problems of human living-together.”<sup>52</sup> In “What is Authority?” Arendt remains silent on the question of what this living-together will look like, what coherence, what permanence, what reliability, what unity it will have.

Elsewhere she speaks of “acting in concert” as the distinctive characteristic of politics. “Power,” she writes in her essay *On Violence*, “corresponds to the human ability not just to act but to act in concert. Power is never the property of an individual; it belongs to a group and remains in existence only so long as the group keeps together. When we say of someone that he is ‘in power’ we actually refer to his being empowered by a certain number

48. Arendt, “What is Authority?” p. 140.

49. *Ibid.*, p. 97.

50. *Ibid.*, p. 95.

51. *Ibid.*, p. 91.

52. *Ibid.*, p. 141.

of people to act in their name. The moment the group from which the power originated to begin with . . . disappears, 'his power' also vanishes."<sup>53</sup> And, in *On Revolution*, she writes in a similar sense:

In distinction to strength . . . power comes into being only if and when men join themselves together for the purpose of action, and it will disappear when, for whatever reason, they disperse and desert one another. Hence, binding and promising, combining and covenanting are the means by which power is kept in existence; where and when men succeed in keeping intact the power which sprang up between them during the course of any particular act or deed, they are already in the process of foundation, of constituting a stable worldly structure to house, as it were, their combined power of action.<sup>54</sup>

While these passages are suggestive, they also reveal that Arendt was little concerned with explaining how human beings actually succeeded in the endeavor of acting in concert, how they managed to keep together in groups, how they joined themselves together and under what conditions they might disperse, how binding and promising helped to maintain acting in concert, how a stable, worldly structure was founded and kept intact. She thus never fully addressed the worry that propelled Schmitt: how, in an increasingly pluralistic world, there could still be unifying political structures, how concerted political action was possible under conditions of ever growing diversity. Both Arendt and Schmitt were familiar with the problem from having lived through the last turbulent days of the Weimar Republic, at a time when no government could keep itself in power for long, when no consensus seemed possible anymore on the measures that needed to be taken to save the state and the economy, when the political parties were becoming more and more extreme and more unyielding in their demands, when civil war was raging in the streets. Such experiences motivated Schmitt to call for an authoritarian order in which political decisions would be laid in the hands of a sovereign leader. Arendt, on the other hand, was putting her hopes on the power of concerted action, on the capacity of plural men to overcome their differences.

Where Schmitt, like Hobbes, perceived human plurality as something to be constrained, Arendt continued to think of it as opening up the possibility for exchange and communication across the abyss of difference

53. Hannah Arendt, *On Violence* (New York: Harcourt Brace, 1970), p. 44.

54. Hannah Arendt, *On Revolution* (New York: Viking Press, 1963), p. 174.

that divides us, and as the positive condition of all things political. To the question “What is politics?” her initial response had been that politics “rests on the fact of the plurality of human beings,” and that human beings “organize themselves politically . . . out of an absolute chaos of difference.” And from this idea she did not diverge later on. In *The Human Condition*, she wrote of plurality accordingly as “the condition . . . of all political life.”<sup>55</sup> This plurality meant, paradoxically, that “we are all the same, that is human, in such a way that nobody is ever the same as anyone else who ever lived, lives, or will live.”<sup>56</sup> Such plurality manifested itself for Arendt first and foremost in human action. Already in the note “What is Politics?” she had connected the idea of plurality to two further claims that were to remain important for her entire subsequent thinking. The first was that politics is an arena in which we can and must be “genuinely free” and “neither driven by ourselves nor dependent on given material,” and that the political domain owes its reality to free human creation. Her second claim was that politics organizes “that which is at first absolutely different in respect of a relative equality,” and that it creates in this way “a voluntary guarantee and recognition of a legally equal claim” for everyone. Human equality, in other words, is not a given at the outset of the political process, and it does not consist in the possession of an innate and inalienable right, but it is a political achievement.

In asserting the primacy of action in politics, we can see Arendt once again as close to Schmitt. But their different assessments of the pluralism of the political led them to disagree very deeply over the exact nature of political action. For Schmitt, the paradigmatic political action is the activity of decision-making, and the primary political act is the one by which we initially distinguish between political friend and political enemy. It is by means of such acts that, according to Schmitt, the whole machinery of our political institutions is ultimately set in motion. What makes an action political for Schmitt is the formal characteristic that it serves to discriminate; its political character determines, however, the basis upon which the distinction between friend and enemy is made. That may, indeed, vary from one historical context to another. Schmitt’s characterization of the political is thus, we might add, formalistic in character, in contrast to Arendt’s which has precisely a substantive meaning.<sup>57</sup> And formally

55. Arendt, *The Human Condition*, p. 7.

56. *Ibid.*, p. 8.

57. In “Staatsethik und pluralistischer Staat,” Schmitt castigates “the persistent error that the political signifies a substance of its own” (p. 159).

speaking, a political act for Schmitt is most fundamentally an act by which we assure political unity in a pluralistic universe. But the same act that is meant to establish the internal unity of the state also affirms once more the pluralistic character of the political. For whatever the internal unity of a state will be, it is defined externally by a distinction between us and the existentially other, and this friend-enemy division thus acknowledges the inevitably pluralistic structure of the political space. Arendt, by contrast, is nowhere concerned with such a pluralism of foreign politics. She thinks about political action as the interaction of those within the public, political realm. Such action aims for her at self-disclosure, it is communicative in nature, and in it the parties strive to interpret themselves, their differentiated positions in the world, and each other. Political action is thus a direct realization of human plurality. Arendt would surely have rejected Schmitt's characterization of political action (if she had ever addressed the topic) as insufficiently cognizant of the pluralism of the human condition. There is, we must grant, indeed something one-directional in Schmitt's acts of decision-making. Such acts treat others always only as objects of action, not as actual participants in an interactive engagement. Where Schmitt's primary political act thus separates and discriminates, political action in Arendt's sense is meant to be cooperative and unifying. These distinctions produce, in turn, further differences. The first is that political action contains for Schmitt an essentially antagonistic element, whereas for Arendt political action may or may not have an agonistic character but it is not essentially either. Arendt recognizes, for instance, that ancient Athens was a city "whose life consisted of an intense and uninterrupted contest of all against all." But, in contrast to Schmitt, she believes in the possibility of positive forms of political friendship not built on the division between friend and enemy.<sup>58</sup> Arendt's second disagreement with Schmitt's conception of political action is an adjunct of the first. Since political action for her is free interaction with others, there consequently exists a natural link between freedom and action—an insight that she summarized in the formula that "the *raison d'être* of politics is freedom, and its field of experience is action."<sup>59</sup> No such inherent connection between freedom and political action is, on the other hand, to be found in Schmitt. The decisive acts of political sovereignty that Schmitt envisages are fully compatible with authoritarian rule and the exercise of dictatorial power.

58. Arendt, "Philosophy and Politics," p. 82.

59. Hannah Arendt, "What is Freedom?" in *Between Past and Future*, p. 146.

Schmitt's and Arendt's differing conceptions of political action generate, in turn, two very different views concerning the relation of politics to other productive spheres of human life. For Schmitt, economic and productive matters can, like everything else, become the content of politics, though even then they are conceptually distinct from the essence of the political, contained for him in the formal structure of the friend-enemy schema. For Arendt, on the other hand, political action is free interaction and, as such, essentially differentiated from any other activity, such as human labor and work. As early as July 1950, at the very beginning of her philosophical diary and before she had even penned the note on the nature of the political, Arendt had in fact already distinguished political action sharply from production or work, that is, the making of artifacts. "Producing belongs naturally just as much as acting to the essence of man," she had written. "But producing is a particular kind of activity whereas acting, like thinking, is life itself."<sup>60</sup> That distinction was to resurface again in *The Human Condition* in the tripartite division of labor, work, and action. Labor, Arendt insisted, was the activity that takes care of our vital, recurrent, daily needs: "Labor is the activity which corresponds to the biological process of the human body, whose spontaneous growth, metabolism, and eventual decay are bound to the vital necessities produced and fed into the life process by labor." As such it must be distinguished from work that corresponds to "the unnaturalness of the human condition" and provides us with "an 'artificial' world of things, distinctly different from all natural surroundings."<sup>61</sup> Neither of these two activities, however, should be considered political in character. Only action, understood as the pure, unmediated interaction of human beings, is political in character. "Action, the only activity that goes on directly between men without the intermediary of things," Arendt wrote in *The Human Condition*, "corresponds to the human condition of plurality. . . . While all aspects of the human condition are somehow related to politics, this plurality is specifically *the* condition . . . of all political life."<sup>62</sup>

Much of *The Human Condition* was devoted to drawing out the consequences of this division of human activities. Both labor and work, of course, she recognized to be constituent elements of the human condition. But labor was for her most obviously a matter of necessity and was

60. Arendt, *Denktagebuch*, p. 10.

61. Arendt, *The Human Condition*, p. 7.

62. *Ibid.*



therefore intrinsically different from the pursuit of political freedom. Work, too, was a different matter from politics. To regard politics as a creative art and the state or government as “a kind of collective masterpiece” was, indeed, a “common error.”<sup>63</sup> Still, work had for her a more direct relation to politics than labor. For action on its own, she recognized, was a precarious and problematic thing. Human beings needed an organized space in which to act, a world, a public domain in order to act freely and politically. This public realm had the function of gathering human beings together and of separating them at the same time, and thus it served to maintain human plurality. It was human work, the fabrication of human hands that created such a space, and work was thus instrumental in making genuine and unmediated political action possible. It is possible to see here once more certain affinities between Arendt and Schmitt. For Schmitt, political order is made necessary because of the uncertainty of our pre-political relations. The possibility of uncontrolled conflicts forces us to establish political distinctions, borders, and boundaries. For both Arendt and Schmitt, political action was haunted by uncertainty and this necessitated its containment in an established order. But the uncertainties surrounding action were of course not necessarily the same for them, and hence the kind of order and political unity they envisaged were also different.

Schmitt’s and Arendt’s thinking about politics and political action certainly differed profoundly, but their motivations for asking the question of what politics is or how we should think about the concept of the political were much the same. They both saw the possibility that politics might disappear altogether from the world, and they both conceived of this possibility as catastrophic. Schmitt thought of the history of modern Europe as a process of increasing disillusionment with politics, of a growing de-politicization of all spheres of human life, and of the emergence of a technological state of mind that promised relief from the agonistic character of human politics. Arendt couched her story in terms of the distinction between labor, work, and action. In a somewhat idealizing fashion, she saw the classical Greek polis as the paradigmatic—and possibly the only—embodiment of a genuine politics in which human beings interacted freely in the public space of the agora. In the Greek polis, she argued, labor and work had been relegated to the household while the public domain was reserved for action. But even in this privileged place, the possibility of genuine political action had been endangered. Philosophers

63. Arendt, “What is Freedom?” p. 153.

from Plato and Aristotle onward had argued that legislating and the execution of decisions by vote were the most legitimate political activities because in them men “act like craftsmen.” However, according to Arendt, this was “no longer or, rather, not yet action (*praxis*), properly speaking, but making (*poiesis*),” which the philosophers preferred because of its greater reliability. It was as though they had said, “if men only renounce their capacity for action, with its futility, boundlessness, and uncertainty of outcome, there could be a remedy for the frailty of human affairs.”<sup>64</sup> Arendt thus discovered in Plato a turning-point in man’s relation to himself and to the world. Genuine politics had actually come to be endangered with the rise of political philosophy. In 1954, Arendt spoke memorably of “Plato’s despair of polis life” as a result of the death of Socrates at the hands of his fellow citizens.<sup>65</sup> Political philosophy had thus emerged at a moment of alienation from politics. Plato had concluded that politics could only be judged by means of philosophically grounded, non-political standards. But since actual politics could never conform to such standards, the philosophers had eventually been led to think of politics as an unethical business and as something reflecting only the wickedness of human nature. Plato’s critique of political praxis, his belief in the power of poiesis, and his profound desire to substitute the certainties of the ideas for the uncertainties of ordinary opinion had thus constituted the beginning of a process that has ended in modern technology, modern bureaucratic society, and the totalitarian state—conditions in which the desire for genuine political self-realization, for freedom and action, and for the acceptance of human plurality are overwhelmed by the productive urge.

The final stages of this process could be understood only if one saw also that with the rise of modernity human beings had increasingly come to conceive of themselves as laboring animals. The philosophers had once sought to replace action by work, but the modern age had, in turn, replaced work by labor. This development was most evident in the thought of Karl Marx. The process had led to the dissolution of the distinction between the sphere of the household, where labor and work had their proper place, and the public realm, in which political action was possible. A new formation had emerged, society, which had “an irresistible tendency to grow, to devour the political and the private.”<sup>66</sup> There was, for Arendt, “conformism

64. Arendt, *The Human Condition*, p. 195.

65. Arendt, “Philosophy and Politics,” p. 73.

66. Arendt, *The Human Condition*, p. 45.

inherent in every society,” which “excludes the possibility of action” and hence of politics. “Behavior” had, indeed, now “replaced action as the foremost mode of human relationship.”<sup>67</sup> The result was “conformism, behaviorism, and automatism in human affairs,” the reduction of state and government to bureaucracy and “pure administration,” the rise of “mass society” and the “rule of nobody”—a process that involved human “leveling” and “can at the same time threaten humanity with extinction.”<sup>68</sup>

Schmitt was perhaps not as pessimistic about the future of politics as Arendt. He had concluded *The Concept of the Political* on the hopeful note that state and politics will not be abolished. But he, too, was anxious over the rise of a purely technological culture, and like Arendt he saw the possibility of a genuine politics endangered. Such overlapping agreements and disagreements remind us that Schmitt and Arendt belonged more or less to the same time and came more or less from the same culture, and they consequently struggled with similar questions. Both concerned themselves, in particular, with the question of how politics should be understood, not for reasons of scholastic clarification but because they saw our political world coming apart. For Schmitt, the problem presented itself in the form of the question of how political unity could be maintained in the midst of an increasingly pluralistic struggle of interests and ideas. Arendt hoped to bring us back to a political form of existence by reminding us of the value of human plurality and the possibility of coming together in our differences. In retrospect, it appears that neither of them may have resolved the conundrums that concerned them. Faced with the rifts and conflicts generated by human plurality, Schmitt sought refuge in the idea of political unity; appalled by the potential for totalitarian oppression, Arendt strove to conceive of politics in terms of plurality. Is there a stable midpoint between the demands of human plurality and political unity? We still do not know.

67. *Ibid.*, pp. 39, 40, 41.

68. *Ibid.*, pp. 43, 45, 46.

## *Carl Schmitt, Hannah Arendt, and the Limits of Liberalism*

Christian J. Emden

There can be little doubt that, over the last decade or so, the work of Carl Schmitt has emerged as a central point of reference, in both positive and negative terms, for many debates within contemporary political theory. Despite Schmitt's notoriously controversial and complex position within the intellectual field of modern political thought, a growing interest, for instance, in his critique of parliamentary democracy and his conceptualization of partisan warfare can be felt not only among political movements with revolutionary agendas, but it can also easily be observed in mainstream political thought on both sides of the Atlantic.<sup>1</sup> With the end of the Cold War and with the seeming decline of the relevance of the modern state within the context of global governance, Schmitt's political and legal thought—as uncomfortable as it often is—has returned to the forefront of current debates within political theory. A post-revolutionary understanding of the political that seeks to distance itself from the tradition of philosophical liberalism is openly indebted to Schmitt, while the latter can also serve as the starting point against which it is possible to examine the fragile state of international order and human rights law after 9/11.<sup>2</sup>

1. On Carl Schmitt's reception and legacy, see Jan-Werner Müller, *A Dangerous Mind: Carl Schmitt in Post-War European Thought* (New Haven, CT.: Yale UP, 2003), especially pp. 194–243.

2. See Chantal Mouffe, *On the Political* (London: Routledge, 2005), pp. 8–34; William E. Scheuerman, “Carl Schmitt and the Road to Abu Ghraib,” *Constellations* 13 (2006): 108–24; William Rasch, “Human Rights as Geopolitics: Carl Schmitt and the Legal Form of American Supremacy,” *Cultural Critique* 54 (2003): 155–88. See also Herfried Münkler, *Gewalt und Ordnung: Das Bild des Krieges im politischen Denken* (Frankfurt am Main: Fischer Taschenbuch Verlag, 1992), pp. 71–78 and 111–26.

Given this re-emerging interest in Schmitt, we should expect that another political theorist who also focused on the presumed autonomy of the political vis-à-vis the modern state would also return to the forefront of transatlantic debate: Hannah Arendt. Leaving aside the somewhat hagiographical discussion of Arendt's legacy in Germany, the reception of her writings in the Anglo-American world indeed has had a considerable impact on contemporary political thought, from debates surrounding the nature of political action and the relationship between law and feminism to questions of democratic citizenship.<sup>3</sup> Despite the seemingly obvious differences between Schmitt and Arendt, it is interesting to note that much of the renewed interest in their understanding of the political has been triggered by a growing skepticism with regard to liberal political thought, such as John Rawls's theory of justice and Kantian models of communicative action and discourse ethics, which both Jürgen Habermas and Ulrich Beck have sought to establish as models for a deliberative democracy with cosmopolitan reach.<sup>4</sup> But this interest in Schmitt and Arendt is, without doubt, also closely related to a reexamination of the nation-state as a central reference point for policy-making and governance, which has emerged almost immediately after the end of the Cold War.<sup>5</sup> Against this background, the central question would have to be whether Arendt's commitment to the pluralism and autonomy of the political can be considered as an alternative to Schmitt. Since the theoretical approaches to the status of the political developed by Schmitt and Arendt have been adapted to positions across the political spectrum, it might be reasonable to expect structural similarities between their thinking. Indeed, Schmitt and Arendt share much common ground in that they distance themselves from a Kantian tradition of liberal political thought and its practical consequences, such as the modern

3. See, for instance, Bonnie Honig, "Towards an Agonistic Feminism: Hannah Arendt and the Politics of Identity," in Honig, ed., *Feminist Interpretations of Hannah Arendt* (University Park, PA: Pennsylvania State UP, 1995), pp. 135–66; Dana R. Villa, *Arendt and Heidegger: The Fate of the Political* (Princeton, NJ: Princeton UP, 1995); Seyla Benhabib, *The Reluctant Modernism of Hannah Arendt* (Thousand Oaks, CA: Sage, 1996), pp. 172–220.

4. See John Rawls, *A Theory of Justice* (Oxford: Oxford UP, 1972); Jürgen Habermas, *The Postnational Constellation: Political Essays*, trans. Max Pensky (Cambridge, MA: MIT Press, 2001); Ulrich Beck, *The Reinvention of Politics: Rethinking Modernity in the Global Social Order*, trans. Mark Ritter (Cambridge: Polity Press, 1997).

5. See, for instance, Andrew Schaap, "Political Theory and the Agony of Politics," *Political Studies Review* 5 (2007): 56–74; William E. Scheuermann, "Cosmopolitan Democracy and the Rule of Law," *Ratio Juris* 15 (2002), 439–57; Saskia Sassen, *Losing Control? Sovereignty in an Age of Globalization* (New York: Columbia UP, 1996).

legislative state.<sup>6</sup> Schmitt's and Arendt's emphasis on the autonomy of the political as a realm of experience prior to legal norms in many ways needs to be distinguished from a deliberative form of politics and a procedural understanding of democracy based on neutrality and normative constitutional principles.<sup>7</sup>

### *Elective Affinities*

Despite Arendt's and Schmitt's common distance to this Kantian tradition of liberalism, it has become customary to distinguish between their respective relations to this tradition: Arendt's notion of the political is widely understood as advocating an alternative vision of political pluralism that seeks to counterbalance the technocratic realities of the modern state, while Schmitt's vehement criticism of Weimar constitutionalism, together with his attack on the legislative state, promotes concepts of sovereignty and political decision that have clear tendencies toward totalitarianism. Schmitt seems to hold precisely the position that Arendt seeks to reject in her first major contribution to political thought, *The Origins of Totalitarianism* (1951). At the same time, however, Schmitt's and Arendt's work is marked by affinities that run deeper than generally assumed—affinities that might be bewildering to Schmitt enthusiasts and uncomfortable to Arendt's commentators. Already a first glance at *The Origins of Totalitarianism* shows that Arendt's account of the disintegration of the modern state mirrors Schmitt's *The Crisis of Parliamentary Democracy* (1923), which itself reflects a much wider unease with regard to the real possibilities of democratic participation in the first half of the twentieth century. Although there are few direct indications that Schmitt read Arendt's work in much detail, he does occasionally quote from her, as in the opening pages of his essay "Nomos—Nahme—Name" (1959), where he refers directly to the British edition of *The Origins of Totalitarianism*, which was published under the title *The Burden of Our Time*.<sup>8</sup> More interesting, however, is Arendt's reception of Schmitt from the 1940s onward.

6. See Ingeborg Maus, *Zur Aufklärung der Demokratietheorie: Rechts- und demokratietheoretische Überlegungen im Anschluß an Kant* (Frankfurt am Main: Suhrkamp, 1992).

7. See Rawls, *A Theory of Justice*, pp. 54–117 and 195–257; and Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge, MA: MIT Press, 1998), pp. 118–30, 151–93, and 287–328.

8. See Carl Schmitt, "Nomos—Nahme—Name," in *Staat, Großraum, Nomos: Arbeiten aus den Jahren 1916–1969*, ed. Günter Maschke (Berlin: Duncker & Humblot,

Most political theorists, public intellectuals, and constitutional lawyers who had emigrated from Nazi Germany to the United States held Schmitt directly responsible for the disintegration of the Weimar Republic's constitutional framework.<sup>9</sup> Seen from this perspective, Schmitt's role as a prominent public commentator on constitutional law, together with his forays into political theology and his vehement criticism of Hans Kelsen's liberal constitutionalism, merely prepared the ground for his direct involvement with the Nazi regime from 1933 onward. Indeed, considering Schmitt's professional publications between 1933 and 1935, such as "Der Führer schützt das Recht" (1934) and "Nationalsozialistisches Rechtsdenken" (1934), they clearly continue and radicalize an understanding of law that was already present in his earlier work.<sup>10</sup> Leaving aside the arguments he presented in *Political Theology* (1922) and *The Concept of the Political* (1932), it was especially Schmitt's characterization of the role of the Reichspresident in *Der Hüter der Verfassung* (1931) that foreshadowed his legitimation of the *Führerstaat* and which rightfully triggered a critical response by Hans Kelsen.<sup>11</sup> Kelsen's suspicion that a personalization of sovereignty in the Reichspresident would stand in sharp contrast to the principles of constitutionalism were indeed not unfounded, since Schmitt—unbeknownst to Kelsen, of course—had argued for the primacy of power over law already in his early diaries from December 1912: "The time is ripe for dictatorship [*Die Zeit ist reif für die Diktatur*]." <sup>12</sup>

As an observer of the political culture in Weimar Germany, Arendt will have been aware of Schmitt's position, at least from a distance, and living in exile in Paris between 1933 and 1941, she would have been able to follow Schmitt's rather stellar career between 1933 and 1936 as Prussian Staatsrat involved in the reorganization of the administrative framework of

1995), p. 573.

9. See Dirk van Laak, *Gespräche in der Sicherheit des Schweigens: Carl Schmitt in der politischen Geistesgeschichte der frühen Bundesrepublik* (Berlin: Akademie Verlag, 1993), pp. 29–30.

10. See Carl Schmitt, "Der Führer schützt das Recht: Zur Reichstagsrede Adolf Hitlers vom 13. Juli 1934," *Deutsche Juristen-Zeitung* 39 (1934): 945–50; and "Nationalsozialistisches Rechtsdenken," *Deutsches Recht* 4 (1934): 225–29.

11. Compare Carl Schmitt, *Der Hüter der Verfassung* (Tübingen: J. C. B. Mohr, 1931), and Hans Kelsen, "Wer soll der Hüter der Verfassung sein?" *Die Justiz* 6 (1931), pp. 576–628.

12. Carl Schmitt, *Tagebücher: Oktober 1912 bis Februar 1915*, ed. Ernst Hüsmert (Berlin: Akademie Verlag, 2003), pp. 60, 64.

the National Socialist state.<sup>13</sup> Disappointed by the ease with which some of her teachers and friends—including, of course, Martin Heidegger—positioned themselves vis-à-vis National Socialism, Arendt's turn to political thought was triggered by the events of 1932–33 and, as such, she should have been wary about Schmitt's position. Nevertheless, in *The Origins of Totalitarianism*, Arendt presents us with a tentatively positive account of Schmitt. Agreeing with Schmitt's assessment that the state's traditional "monopoly" on politics had run out, she also quotes from Schmitt's notorious *Staat, Bewegung, Volk* (1933) in order to highlight the way in which extraparliamentary movements throughout continental Europe contributed to the demise of the modern state.<sup>14</sup> Given Arendt's own biographical as well as intellectual situation, it is indeed noteworthy that she refers here directly to a book in which Schmitt argues for the primacy of the *Führerstaat* above legal norms—a book whose language also betrays Schmitt's anti-Semitic convictions.<sup>15</sup> But merely lamenting Schmitt's fate from 1933 onward as an example for the way in which even first-rate scholars, who volunteered to support National Socialism, ultimately failed, Arendt notes: "Most interesting is the example of the jurist Carl Schmitt, whose very ingenious theories about the end of democracy and legal government still make arresting reading; as early as the middle thirties, he was replaced by the Nazi's own brand of political and legal theorists."<sup>16</sup>

While in the following years Arendt might increasingly disagree with Schmitt and, for instance, reject the vision of international law that Schmitt presented in *The Nomos of the Earth* (1950), there is no real indication that she completely distanced herself from Schmitt's position.<sup>17</sup> In fact, her own

13. On Schmitt's involvement with Nazi policy decisions, see especially Dirk Blasius, *Carl Schmitt: Preußischer Staatsrat in Hitlers Reich* (Göttingen: Vandenhoeck & Ruprecht, 2001), pp. 104–41. On Schmitt's impact on legal thought in Nazi Germany, and the importance of administrative law within the total state, see Michael Stolleis, *A History of Public Law in Germany, 1914–1945*, trans. Thomas Dunlap (Oxford: Oxford UP, 2004), pp. 340–43 and 373–408.

14. See Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt, Brace and Company, 1951), pp. 250, 265.

15. See, for instance, Carl Schmitt, *Staat, Bewegung, Volk: Die Dreigliederung der politischen Einheit* (Hamburg: Hanseatische Verlagsanstalt, 1933), p. 52. On Schmitt's language in this context, see Raphael Gross, *Carl Schmitt und die Juden: Eine deutsche Rechtslehre* (Frankfurt am Main: Suhrkamp, 2000), pp. 60–74.

16. Arendt, *Origins of Totalitarianism*, p. 332.

17. See Hannah Arendt, *Denktagebuch 1950 bis 1973*, ed. Ursula Ludz and Ingeborg Nordmann (Munich: Piper, 2002), 1:217, 243.



discussion of *nomos* as an alternative to the Roman understanding of law as a system of legal norms (*lex*), which can be found in both *The Human Condition* (1958) and her notes “Introduction into Politics” (c. 1963), seem indebted to Schmitt or at least continue a Schmittian theme.<sup>18</sup> Likewise, in her essay “What is Freedom?” (1961), she points to Schmitt as “the most able defender of the notion of sovereignty” and, referring to the latter’s *Constitutional Theory* (1928), notes: “He recognizes clearly that the root of sovereignty is the will: Sovereign is he who wills and commands.”<sup>19</sup> Even while staying in Israel to report on the Eichmann trial in 1961, she describes the assistant to Eichmann’s defense team, Dieter Wechtenbruch, as “very intelligent” since—after all—he was a “student of Carl Schmitt,” even though two years later, in her published account *Eichmann in Jerusalem* (1963), she criticized Wechtenbruch as insensitive to the nature of Eichmann’s crimes.<sup>20</sup>

Despite Arendt’s relatively clear appreciation for Schmitt, albeit not for his role in the demise of the Weimar Republic and his involvement in National Socialist policy-making, most scholars are quick to distance Arendt from Schmitt and to characterize any criticism of Arendt’s writings as leaning toward a decisionist stance as intellectually lazy and unsophisticated.<sup>21</sup> While we do not entirely need to agree with Martin Jay’s and, more recently, Richard Wolin’s arguments that Arendt’s political thought lacks any normative ethical commitments, the affinities between Arendt and Schmitt are more profound than is commonly assumed.<sup>22</sup> It is indeed

18. See Hannah Arendt, *The Human Condition*, ed. Margaret Canovan, 2nd ed. (Chicago: Univ. of Chicago Press, 1998), p. 63. See also Arendt, “Introduction into Politics,” in *The Promise of Politics*, ed. Jerome Kohn (New York: Schocken, 2005), pp. 180–81 and 186–87.

19. Hannah Arendt, *Between Past and Future: Six Exercises in Political Thought* (New York: Viking, 1961), p. 240n21.

20. See Hannah Arendt and Heinrich Blücher, *Briefe 1936–1968*, ed. Lotte Köhler (Munich: Piper, 1996), p. 526; and Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, rev. and enl. ed. (New York: Penguin, 1994), pp. 145–46. Wechtenbruch’s notes in the case files can now be found in the Bundesarchiv Koblenz (Sig.: BArch All Proz 6).

21. See Maurizio Passerin d’Entrèves, *The Political Philosophy of Hannah Arendt* (London: Routledge, 1994), pp. 85–89; Villa, *Arendt and Heidegger*, pp. 115–16; George Kateb, “Political Action: Its Nature and Advantages,” in Dana Villa, ed., *The Cambridge Companion to Hannah Arendt* (Cambridge: Cambridge UP, 2000), pp. 131–33.

22. See Martin Jay, “The Political Existentialism of Hannah Arendt,” in Jay, ed., *Permanent Exiles: Essays on the Intellectual Migration from Germany to America* (New York: Columbia UP, 1985), pp. 237–56; Richard Wolin, *The Politics of Being: The Political*

possible to argue that Arendt's political thought is just short of that political realism that can be found in the work of Schmitt, even though Arendt explicitly seeks to emphasize the role of deliberative argument over the role of power within the political. But precisely because Arendt seems unaware of the possible implications of her arguments, I would also suggest that her political thought does not lack normative commitments; rather, it lacks political realism. To put it more pointedly, if Arendt did not assume the concreteness of political action, she either has to artificially ignore the substantive issues of social life or she has to downplay the importance of power and violence within the political.<sup>23</sup>

### *The Limits of Constitutionalism*

Much of Arendt's legacy within contemporary political thought is based on essentially three publications: *The Human Condition* (1958), *Between Past and Future* (1961), and *On Revolution* (1963). Surprisingly, her first major contribution to political thought, *The Origins of Totalitarianism*, has largely been relegated to the background and is often reduced to an explanatory account of the rise of anti-Semitism and the logic of totalitarian regimes. Although there are profound problems with regard to Arendt's line of argument—not least because her historical contextualization remains somewhat vague and some of her conclusions do not help with a more nuanced understanding of the emergence of anti-Semitism<sup>24</sup>—we should not underestimate that much of her later political thought during the 1950s and 1960s develops against the background of what she describes as the disintegration of the modern state. It is precisely here that she shares much common ground with Schmitt. But because Arendt's account remains rather diffuse from a historical point of view, and because she seems to lack a truly detailed understanding of the constitutional failure that contributed to the fall of the Weimar Republic, it might be best to focus first on Schmitt, especially on his *Legality and Legitimacy* (1932).

Repeating some of the central themes of his earlier writings, in *Legality and Legitimacy*, Schmitt points to the imminent “collapse of the parliamentary legislative state” and the increasing transition of a highly complex

*Thought of Martin Heidegger* (New York: Columbia UP, 1990), p. 191n3, and Wolin, *Heidegger's Children* (Princeton, NJ: Princeton UP, 2001), pp. 30–69.

23. See Hanna Pitkin, “Justice: On Relating Private and Public,” *Political Theory* 9 (1981): 342, 346; and Keith Breen, “Violence and Power: A Critique of Hannah Arendt on the ‘Political,’” *Philosophy and Social Criticism* 33 (2007): 343–72.

24. See Steven E. Aschheim, “Nazism, Culture and *The Origins of Totalitarianism*: Hannah Arendt and the Discourse of Evil,” *New German Critique* 70 (1997): 17–39.

administrative democracy to a total state.<sup>25</sup> For Schmitt, it is precisely the “formalism and functionalism” of the legislative state—its necessary reliance on administrative organization through civil service structures and its presence as a “pluralist *Parteienstaat*”—that contributes to the demise of the state itself.<sup>26</sup> Indebted to Max Weber’s account of bureaucracy and the importance of rationalized administrative structures for political associations, Schmitt holds the constitutionally grounded parliamentary legislative state, the *Rechtsstaat*, responsible for its own demise—which is, of course, not what Weber suggested.<sup>27</sup> Following Weber’s account in *Wirtschaft und Gesellschaft* (1922), Schmitt regarded the emergence of the civil service in both France and Germany as a necessary part of political modernization, but he also suggested that the formation of such an elite detached the latter both from “the entirety of national unity” and from “parliamentary representation,” since it lacked “the ability and willingness to risk the political,” that is, since it avoided political intervention out of the rational interest for self-preservation.<sup>28</sup> It was, however, against the background of the constitutional gridlock of the final years of the Weimar Republic, Schmitt continued, that the civil service could gain a new authority within the context of administrative law and the organization of the state according to technocratic principles.

On the one hand, Schmitt’s assessment of the position of the civil service accurately reflects the rise of administrative law, which can be observed in Weimar Germany—after all, as a *Rechtsstaat*, the Weimar Republic required a practice and theory of administrative law that was fundamentally different from its precursor in Imperial Germany.<sup>29</sup> On the other hand, Schmitt regarded the central role of administrative organization for public policy as a development that tended to undermine the political foundations of the legislative state:

25. Carl Schmitt, *Legality and Legitimacy*, trans. and ed. Jeffrey Seitzer, (Durham, NC: Duke UP, 2004), pp. 3, 6. See also Carl Schmitt, “Die Wende zum totalen Staat,” in *Positionen und Begriffe im Kampf um Weimar-Genf-Versailles, 1923–1939* (Hamburg: Hanseatische Verlags-Anstalt, 1940), pp. 146–57.

26. Schmitt, *Legality and Legitimacy*, pp. 10, 12–13.

27. *Ibid.*, pp. 7, 11–13. Schmitt refers here to Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, ed. Guenther Roth and Claus Wittich, trans. Ephraim Fischhoff (Berkeley: Univ. of California Press, 1978), 1:220–23 and 2:956–1005. For Schmitt’s relationship to Weber, see Rune Slagstad, “Liberal Constitutionalism and Its Critics: Carl Schmitt and Max Weber,” in Jon Elster and Rune Slagstad, eds., *Constitutionalism and Democracy* (Cambridge: Cambridge UP, 1988), pp. 103–30.

28. Schmitt, *Legality and Legitimacy*, pp. 12–13.

29. See Stolleis, *A History of Public Law in Germany*, pp. 198–248.

[G]iven the absence of another authority, the individual parts of the German civil service could become a focal point of the strong need for a tendency toward an authoritarian state, and the civil service on its own could attempt to “produce order” in an administrative state. . . . In the peculiar, though practical, alliance of legality and technical functionalism, the bureaucracy in the long run . . . transforms the law of the parliamentary legislative state into the measures of the administrative state.<sup>30</sup>

Schmitt thus regarded rationalized administrative structures as expressing an increasing “technicity” (*Technizität*) that stood at the heart of the legislative state and that, already in *Political Theology*, he also saw as reflecting a neo-Kantian and purely formal understanding of law.<sup>31</sup>

Embodied in the work of public lawyers such as Hans Kelsen and Hugo Preuß, who both had first-hand experience in drafting constitutional documents, and in the work of political scientists like Hugo Krabbe, who sought to depersonalize the concept of sovereignty, neo-Kantian formalism represented that tradition from which Schmitt sought to distance himself during the early 1920s in his decisionist theory of sovereignty and executive power.<sup>32</sup> Indeed, Schmitt’s attack on a formal understanding of law was mainly directed against Kelsen’s grounding of law in normatively valid and neutral formal principles. Against the background of Weber’s sociology of law, such a normative understanding of law seemed unrealistic to Schmitt since it transformed the state, including its political life, into a “purely juristic” and “normatively valid” entity and ultimately led to a “negation of the state vis-à-vis law.”<sup>33</sup> For Schmitt, then, the question was whether real political interests could be both articulated and negotiated within a system of legal norms that explicitly sought to exclude conflict

30. Schmitt, *Legality and Legitimacy*, pp. 13–14.

31. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago: Univ. of Chicago Press, 2005), p. 28.

32. *Ibid.*, pp. 18–25. Schmitt refers here mainly to Hans Kelsen, *Der soziologische und der juristische Staatsbegriff: Kritische Untersuchung des Verhältnisses von Staat und Recht* (Tübingen: J. C. B. Mohr, 1922); and Hugo Krabbe, *Die moderne Staats-Idee*, 2nd ed. (The Hague: Nijhoff, 1919).

33. Schmitt, *Political Theology*, pp. 18, 21. On Kelsen’s position, see in more detail Stanley L. Paulson, “The Neo-Kantian Dimension of Kelsen’s Pure Theory of Law,” *Oxford Journal of Legal Studies* 12 (1992): 311–32; and Peter C. Caldwell, *Popular Sovereignty and the Crisis of German Constitutional Law: The Theory and Practice of Weimar Constitutionalism* (Durham, NC: Duke UP, 1997), pp. 85–118.

over substantive claims by adopting a value-neutral stance.<sup>34</sup> Was it possible, in other words, for a concept of law rooted in the Kantian tradition of liberalism to defend real political interests?

For Schmitt, in 1922 as in 1932, the answer to this question was simply: no. Neo-Kantian formalism and the technicity of the state merely represented “a mechanism that has become torpid by repetition” and that sought “to repress the question of sovereignty by a division and mutual control of competences” unable to cope with the exceptional situation of an emergency, that is, with “the suspension of the entire legal order” in which legal norms needed to be created anew through the sovereign decision of real power within the state.<sup>35</sup> It was also in this respect that, for Schmitt, the “essence” of the state was not “the monopoly to coerce or to rule,” as Weber and classical German state law theory held, but “the monopoly to decide.”<sup>36</sup> Indeed, after 1925 when the Reichspräsident was elected directly, thus circumventing the parliamentary authority of the Reichstag, such decisionism, in the form of a growing number of emergency decrees, seemed to become an increasingly common feature of the Weimar Republic—although the constitutional courts were not always convinced about the necessity of such decrees.<sup>37</sup>

From Schmitt’s perspective, one of the central problems of normative legal formalism was that it could not successfully conceptualize the special nature of emergency powers. As a consequence, whenever the legislative state employed such emergency powers within a normative framework, the latter were not exceptional anymore, but emergency decrees became part of the normative framework itself: “The tendency

34. By viewing Schmitt’s rejection of Kelsen’s “pure theory of law” as exclusively rooted in Schmitt’s anti-Semitism, Gross, *Carl Schmitt und die Juden*, pp. 79–80 and 310–12, tends to underestimate that central issues in political and legal theory were also at stake—issues that are entirely unrelated to Schmitt’s anti-Semitic convictions.

35. Schmitt, *Political Theology*, pp. 11–12, 15.

36. *Ibid.*, p. 13. On Schmitt’s understanding of the state, see John P. McCormick, *Carl Schmitt’s Critique of Liberalism: Against Politics as Technology* (Cambridge: Cambridge UP, 1997), pp. 249–89. On the development of German state law theory as the background to Schmitt’s—and Weber’s—approach, see Duncan Kelly, *The State of the Political: Conceptions of Politics and the State in the Thought of Max Weber, Carl Schmitt, and Franz Neumann* (Oxford: Oxford UP, 2003), pp. 79–108.

37. See Peter Blomeyer, *Der Notstand in den letzten Jahren von Weimar: Die Bedeutung von Recht, Lehre und Praxis der Notstandsgewalt für den Untergang der Weimarer Republik und die Machtübernahme durch die Nationalsozialisten—eine Studie zum Verhältnis von Macht und Recht* (Berlin: Duncker & Humblot, 1999).

of liberal constitutionalism to regulate the exception as precisely as possible means, after all, the attempt to spell out in detail the case in which law suspends itself.”<sup>38</sup> Against this background, it is not surprising that, ten years later in *Legality and Legitimacy*, the normative commitments of the parliamentary legislative state remained for Schmitt the problematic constitutional manifestation of Kantian legal thought. Although Kelsen is mentioned only in passing, and Schmitt has shifted his line of attack to Gerhard Anschütz’s commentaries on Weimar constitutional law, his characterization of the parliamentary legislative state as an essentially Kantian construct based on “a purely formal concept of law” and “independent of all content” remains intact.<sup>39</sup> The presumed value neutrality of legal formalism, which is central to the pluralist parliamentary state and which is also stressed in Rawls’s and Habermas’s more recent accounts, was ultimately responsible for the disintegration of the *Rechtsstaat*: in contrast to “substantive constitutional guarantees,” formal value neutrality, devoid of any specific social commitments, necessarily meant “absolute neutrality toward itself and offers the legal means for the elimination of legality per se.”<sup>40</sup> The consequences were all too obvious:

When this form of value neutrality is the dominant and “traditional” theory, there are no unconstitutional goals. Any goal, however revolutionary or reactionary, disruptive, hostile to the state or to Germany, or even godless, is permitted and may not be robbed of the chance to be obtained via legal means.<sup>41</sup>

Seen from Schmitt’s perspective, the absolutism of formal legal norms was particularly detrimental to the integrity of the legislative state, when such neo-Kantian formalism was connected to a literal understanding of democratic majority rule. The formal principle of majority rule indirectly introduced substantive questions about the legitimacy of power that ultimately would undercut the presumed value neutrality of the modern state: “the abstract, empty functionalism of pure mathematical majority determinations,” Schmitt noted, “is the opposite of neutrality and objectivity,”

38. Schmitt, *Political Theology*, p. 14. On Schmitt’s understanding of emergency powers, see McCormick, *Carl Schmitt’s Critique of Liberalism*, pp. 121–56; and Lutz Berthold, *Carl Schmitt und der Staatsnotstandsplan am Ende der Weimarer Republik* (Berlin: Duncker & Humblot, 1999), pp. 32–77.

39. Schmitt, *Legality and Legitimacy*, p. 20.

40. *Ibid.*, p. 47.

41. *Ibid.*, p. 48.

because “the principle that there is an unconditional equal chance for all conceivable opinions, tendencies, and movements to achieve a majority” would “already come to an end after the first majority is achieved, because that majority would immediately establish itself as the permanent legal power.”<sup>42</sup>

### **“The Legal Order Rests on a Decision”**

Schmitt’s pessimism about majority rule seems rather out of touch with regard to the possibilities of popular sovereignty, especially since other public lawyers, most notably Hans Kelsen and Hugo Preuß, were able to develop a more comprehensive notion of a “*parliamentary* majority principle.”<sup>43</sup> But his radical claim with regard to the self-elimination of the legislative state was not entirely groundless, albeit not in the way he intended it to be.

Schmitt was by far not the only public lawyer to argue that the Kantian, or positivist, tradition of legal thought directly contributed to the collapse of the Weimar Constitution, but already before the Weimar Republic finally disintegrated he was accused, for good reason, of directly contributing to the legal side of this disintegration.<sup>44</sup> In any event, Schmitt’s position in the years 1932–33 goes far beyond the common reluctance by many legal scholars, especially in the early years of Weimar, to accept democratic government.<sup>45</sup> His most direct intervention at the interface between law and politics presented itself in the aftermath of the failed Prussian elections of 1932, when the case *Prussia v. Reich* was heard at the Staatsgerichtshof in Leipzig.

After the Prussian elections in April 1932, the NSDAP could have entered into a coalition with the Deutschnationale Volkspartei and the

42. *Ibid.*, pp. 28–29.

43. In contrast to Schmitt, see Hans Kelsen, “On the Essence and Value of Democracy,” in Arthur J. Jacobson and Bernhard Schlink, eds., *Weimar: A Jurisprudence of Crisis* (Berkeley: Univ. of California Press, 2000), pp. 100–4. On Preuß, see Detlef Lehnhart, *Verfassungsdemokratie als Bürgergenossenschaft: Politisches Denken, Öffentliches Recht und Geschichtsdeutungen bei Hugo Preuß* (Baden-Baden: Nomos, 1998), pp. 265–314.

44. See Peter C. Caldwell, “Legal Positivism and Weimar Democracy,” *American Journal of Jurisprudence* 39 (1994): 273–301; and Joseph Bendersky, *Carl Schmitt: Theorist for the Reich* (Princeton, NJ: Princeton UP, 1983), pp. 167–71.

45. On the early reaction to the Weimar Constitution, see Stolleis, *A History of Public Law in Germany*, pp. 64–70. On Schmitt in 1932–33, see Blasius, *Carl Schmitt*, pp. 15–70; and David Dyzenhaus, *Legality and Legitimacy: Carl Schmitt, Hans Kelsen and Hermann Heller in Weimar* (Oxford: Calrendon Press, 1997), pp. 17–37.

Catholic Zentrum, which together would have achieved a majority of 260 out of 432 seats. But since coalition negotiations failed and no real majority could be established, the Social Democrats remained as a caretaker government that derived its necessary legitimacy from constitutional norms and not from the principle of majority rule, thus protecting the legality of the Prussian state. Leaving aside the details of the so-called “coup against Prussia,” Hindenburg’s and Franz von Papen’s attempt to replace the Social Democratic caretaker government in Prussia by commissarial rule provided constitutional scholars with a “hard case” that exemplified the issues that Schmitt had just raised in *Legality and Legitimacy*.<sup>46</sup>

In October 1932, the Staatsgerichtshof partly overruled the Reich in that it confirmed the status of the Social Democratic minority government, thus representing an increasing reluctance to accept emergency decrees.<sup>47</sup> But at the same time, the decision also justified commissarial rule by the Reich as guaranteeing social order. It is, however, interesting to note that, although Schmitt took the side of the Reich in his personal appearance before the court, while Kelsen represented the opposite position in his written testimony, *Legality and Legitimacy* was quoted on both sides and should have been particularly useful for defending the Social Democratic caretaker government.<sup>48</sup>

Needless to say, in *Legality and Legitimacy* Schmitt regarded the substantial claims of power as more relevant than the question of legality and proceeded to justify the existence of emergency decrees “that are not only *praeter*, but also *contra legem*” and that allowed the Reichspräsident to unite “in himself lawmaking and legal execution” and to “enforce directly the norms he establishes.”<sup>49</sup> Continuing his earlier argument, in *Political Theology*, that “the legal order rests on a decision and not on a norm,”

46. See “Verordnung des Reichspräsidenten, betreffend die Wiederherstellung der öffentlichen Sicherheit und Ordnung im Gebiet des Landes Preußen,” *Reichsgesetzblatt* 1 (1932): 377.

47. See Caldwell, *Popular Sovereignty*, pp. 160–70.

48. See *Preußen contra Reich vor dem Staatsgerichtshof, mit einem Vorwort von Ministerialdirektor Dr. Bracht: Stenogrammbereich der Verhandlungen vor dem Staatsgerichtshof in Leipzig vom 10.–14. und vom 17. Oktober 1932* (Berlin: Dietz, 1933). See also Carl Schmitt, “Die Verfassungsmäßigkeit der Bestellung eines Reichskommissars für das Land Preußen,” *Deutsche Juristen-Zeitung* 37 (1932), cols. 953–58; and Hans Kelsen, “Das Urteil des Staatsgerichtshofs vom 25. Oktober 1932,” *Die Justiz* 8 (1932): 65–91. On the entire case, see Gabriel Seiberth, *Anwalt des Reiches: Carl Schmitt und der Prozeß “Preußen contra Reich” vor dem Staatsgerichtshof* (Berlin: Duncker & Humblot, 2001).

49. Schmitt, *Legality and Legitimacy*, p. 71.



and that this exceptional decision “reveals most clearly the essence of the state’s authority” above legal norms,<sup>50</sup> he argues in 1932 that emergency decrees, as a necessary administrative tool of the legislative state, equally necessarily limit constitutional foundations of the state. The legislative state, thus, exhibits clear “tendencies toward the ‘authoritarian state.’”<sup>51</sup>

Although many public lawyers and philosophers in the Kantian tradition—from Hans Kelsen to Rawls and Habermas—would disagree with Schmitt’s assessment that, by neglecting the problem of sovereignty, the constitutional state provides the means for its own elimination, at least in the case of Weimar Schmitt was not entirely incorrect, especially since state law theory itself proved unable to provide a realistic alternative to the rise of extraparliamentary movements, such as the National Socialists.<sup>52</sup> Although, as Michael Stolleis has argued, “there was no one-way street that led inexorably to National Socialism,” Schmitt’s detailed reflections on the impasse of the legislative state in 1932 highlight at least that Weimar had the potential to undo itself.<sup>53</sup> As we shall see with regard to Hannah Arendt, the potential of constitutional pluralism to undo itself has much to do with the latter’s tendency to underestimate the nature of power and the close relationship between politics and violence.

### ***“The Prelegal Basis of a New Legal Structure”***

Schmitt’s Hobbesian account of the problem of sovereignty, legitimacy and power within the modern state was in many ways based on the assumption that *auctoritas, non veritas facit legem*.<sup>54</sup> As such, Schmitt also outlined the uncomfortable limits of a Kantian understanding of the *Rechtsstaat* and, *ex negativo*, the practical limits of philosophical liberalism. It is quite remarkable that Hannah Arendt, barely twenty years later, was to put forward a similar argument about the, as it were, self-elimination of the modern state. Although largely unaware of the intricacies of constitutional debate, and writing from the perspective of a different political position, in *The Origins of Totalitarianism*, she argues much like Schmitt

50. Schmitt, *Political Theology*, pp. 10, 13.

51. Schmitt, *Legality and Legitimacy*, p. 90.

52. See Stolleis, *A History of Public Law in Germany*, pp. 196–97 and 332–35.

53. *Ibid.*, p. 139.

54. Schmitt, *Political Theology*, p. 33. See chap. 26 of Thomas Hobbes, *Leviathan, with Selected Variants from the Latin Edition of 1668*, ed. Edwin Curley (Indianapolis, IN: Hackett, 1994), pp. 172–89. On Schmitt’s reception of Hobbes, see McCormick, *Carl Schmitt’s Critique of Liberalism*, pp. 249–65.

that the disintegration of the modern state is itself rooted in the development of liberalism, which she understands not so much as a constitutional commitment or in terms of administrative “technicity,” but as a primarily economic development connected to the rising middle classes of the nineteenth century.<sup>55</sup>

Outlining a fundamental tension between the state and the rising bourgeoisie, Arendt suggests that the political expansion and social growth of the bourgeoisie is not an authentically political, but a predominantly economic phenomenon, which results in what she describes as the “expansion of political power without the foundation of the body politic.”<sup>56</sup> As such, it is extraparliamentary movements operating beyond, or in opposition to, the legislative state that—mainly due to their appeal to majority rule, “exploiting a deep popular hatred for those institutions which were supposed to represent the people”—increasingly begin to undermine the state’s monopoly on politics.<sup>57</sup>

It is especially within the context of the continental European party system, which Arendt seeks to differentiate from an “Anglo-Saxon” tradition, that the pluralist party state, because of its need for a complex administrative framework, begins to provide the means for its own elimination:<sup>58</sup>

It appears... plausible that the mythification of power inherent in the [extraparliamentary] movements should be more easily achieved the farther removed the citizens are from the sources of power—easier in bureaucratically ruled countries where power positively transcends the capacity to understand on the part of the ruled, than in constitutionally governed countries where the law is above power and power is only a means of its enforcement...<sup>59</sup>

Much like Schmitt, then, Arendt points out that the increasing “technicity” of the state, that is, formalized rule through administrative organization and measures, not only limits the space of politics but also opens the door for a shift toward authoritarian rule.

The more complex and fragmented the party-political landscape becomes, and the more political parties predominantly represent specific

55. One of the very few authors to discuss the affinities between Schmitt’s and Arendt’s views of the modern state is Hauke Brunkhorst, *Hannah Arendt* (Munich: C. H. Beck, 1999), pp. 62–68.

56. Arendt, *Origins of Totalitarianism*, pp. 123–26, 135.

57. *Ibid.*, p. 251.

58. *Ibid.*

59. *Ibid.*, pp. 255–56.

“class interests,”<sup>60</sup> the more obvious becomes the demand for totalitarian rule, or so Arendt argues in 1951. At the same time, the failure of the “Continental” party system is seen as the result of a lack of historical experience with democratic rule—an experience that Arendt clearly believes to be much longer in the United States and Britain:

When one considers the extraordinarily rapid decline of the Continental party system, one should bear in mind the very short life span of the whole institution. It existed nowhere before the nineteenth century, and in most European countries the formation of political parties took place only after 1848, so that its reign as an unchallenged institution in national politics lasted hardly four decades.<sup>61</sup>

Of course, Arendt’s historical perspective remains questionable precisely because she clearly overestimates the democratic commitment of government in eighteenth-century America and seventeenth-century Britain. Most importantly, however, extraparliamentary movements, purporting to represent a wider majority and thus to act in the national interest, are able to mobilize an increasing section of the population, so that their substantive claims to legitimacy take precedence over the framework of legal norms provided by the state.<sup>62</sup>

Arendt’s focus on the claims of an extraparliamentary opposition acting on behalf of a distinct majority—a majority, of course, that does not need to exist in practice, or that does not need to be aware that it is co-opted into the political process—echoes Schmitt’s argument in 1932 that the substantive claims of majority rule, once it comes into existence, would tend to threaten the value neutrality of the legislative state. Seen from the perspective of both Arendt and Schmitt, real majority rule—popular sovereignty in the narrow sense of the term—was ultimately a democratic illusion. In reality, as Arendt noted herself, the rise of extraparliamentary movements actually showed that “a democracy could function according to rules which are actively recognized by only a minority” and that “the politically neutral and indifferent masses . . . constituted no more than the inarticulate background setting for the political life of the nation.”<sup>63</sup>

60. *Ibid.*, p. 255.

61. *Ibid.*, p. 264.

62. *Ibid.*, p. 274.

63. *Ibid.*, p. 306. See Margaret Canovan, *Hannah Arendt: A Reinterpretation of Her Political Thought* (Cambridge: Cambridge UP, 1992), pp. 35–36; and Phillip Hansen,

Within the modern state, then, rule did not really rely on political participation, and thus the diffusion of sovereignty, as Kelsen and Krabbe had hoped, but rule was necessarily based on a concentration of political power that Arendt saw expressed most clearly in Hobbes: “power” is “accumulated control” and the “individual” is “deprived of political rights” and “excluded from participation in the management of public affairs.”<sup>64</sup> Arendt’s interpretation of Hobbes in 1951 seems highly problematic since she stresses the totalitarian character of the Leviathan without realizing that, for Hobbes, such sovereignty is inevitably limited by positive rights.<sup>65</sup> But her reference to Hobbes runs parallel to Schmitt’s account of political authority as preceding legal norms, and perhaps it is even the case that, when Arendt speaks about Hobbes, she actually refers to Schmitt. In this respect, it would also make sense that, during the later 1950s and early 1960s, with increasing distance to the National Socialist state, she begins to correct her initially negative assessment of Hobbes, for instance, in her unfinished “Introduction *into* Politics.”<sup>66</sup>

Surprisingly, there is a further turn in Arendt’s argument. Although critical of the modern state’s grounding in an extra-legal, and thus unconstitutional, notion of power that she saw in Hobbes, Arendt herself increasingly begins to adopt the view that an alternative to the failure of the modern state, and to the failure of a functionally oriented liberalism, needs to be situated outside the sphere of legality. Despite the fact that she does not share Schmitt’s enthusiasm for the authoritarian state, toward the end of *The Origins of Totalitarianism* she indeed begins to sketch out an alternative to the modern state that closely resembles Schmitt’s own demand for an extra-legal foundation of political order and legal norms, favoring legitimacy over legality:

The Rights of Man can be implemented only if they become the pre-political foundation of a new polity, the prelegal basis of a new legal structure, the, so to speak, prehistorical fundament from which the history of mankind will derive its essential meaning in much the same way Western civilization did from its own fundamental origin myths.<sup>67</sup>

*Hannah Arendt: Politics, History and Citizenship* (Cambridge: Polity Press, 1993), pp. 134–35.

64. Arendt, *Origins of Totalitarianism*, pp. 139, 141.

65. See Hobbes, *Leviathan*, p. 189. On Arendt’s idiosyncratic reading of Hobbes, see Brunkhorst, *Hannah Arendt*, pp. 63–65.

66. Arendt, “Introduction *into* Politics,” p. 95.

67. Arendt, *Origins of Totalitarianism*, p. 439.

This alternative to the total state of modernity has largely been read in a positive light because of its emphasis on the restoration of the “Rights of Man”—rights that were initially safeguarded by the state, but that were increasingly abandoned in the turn toward the total state.<sup>68</sup> In contrast, I would suggest that Arendt’s demand for a prelegal foundation of political order follows the structural logic of Schmitt’s metaphysical construction of decision and sovereignty. Arendt, in other words, presents us here with the need for a metaphysical foundation of the political, which she was to outline in much more detail in *The Human Condition*, but which also led to a set of lasting contradictions and tensions within her political thought.

### ***Political Action and Revolution***

Much has been made of Arendt’s notion, in *The Human Condition*, of political action as a manifestation of freedom and equality within a pluralist public realm, which is occasionally even read as a direct challenge to Schmitt’s decisionism. On the other hand, it is necessary to emphasize the general direction of Arendt’s argument in *The Human Condition*. In much the same way as Schmitt, in both *Political Theology* and *The Concept of the Political*, seeks to fundamentally break with what he regards as the Kantian tradition of legal normativity and value neutrality, Arendt seeks to correct what she describes as “the enormous weight of contemplation” by shifting the attention of political thought from *theoria* to the practice of political action, thus focusing on what Schmitt termed a “philosophy of concrete life.”<sup>69</sup> In both Arendt and Schmitt, then, political action precedes the establishment of legal norms and institutional political order. The freedom inherent in political action creates for Arendt the possibility of the new, unpredictable and unforeseen: political action is “the capacity of beginning something anew.”<sup>70</sup> Likewise, for Schmitt sovereignty only exists in a moment of emergency, or exception, that does not conform to previous experience and, as such, cannot be administered technically within the framework of existing law.<sup>71</sup> Indeed, Schmitt’s claim that “the

68. Ibid., pp. 287–98. Kimberly F. Curtis, “Aesthetic Foundations of Democratic Politics in the Work of Hannah Arendt,” in Craig Calhoun and John McGowan, eds., *Hannah Arendt and the Meaning of Politics* (Minneapolis: Univ. of Minnesota Press, 1997), p. 28, has described such proclamations as a necessary “ontological reassurance” for democracy.

69. Arendt, *The Human Condition*, p. 17; Schmitt, *Political Theology*, p. 15.

70. Arendt, *The Human Condition*, p. 9. See also Hannah Arendt, “What Is Freedom?” in *Between Past and Future*, pp. 153, 170.

71. Schmitt, *Political Theology*, p. 6.

legal order rests on a decision and not on a norm” mirrors Arendt’s claim for the primacy of political action over any legal or institutional order—it is, after all, through action that freedom comes into existence in the public realm.<sup>72</sup>

Of course, we should not ignore that there are fundamental differences in the way in which Arendt and Schmitt conceive of the basis of political action. While for Arendt the freedom of political action is anthropologically grounded in the concept of “natality” as an absolute beginning,<sup>73</sup> for Schmitt political action derives from the possession of real power, exemplified either by the sovereign or, in practical terms, by the executive authority to issue emergency decrees and act as an extraordinary lawgiver. It is easy to see that, against the background of this difference, Arendt’s notion of power *qua* political action can be presented as a more democratic and less violent alternative to the state’s monopoly on violence and political authority. Indeed, in *The Human Condition*, Arendt is quite explicit in detaching freedom and public discourse from violence and sovereignty: while “force and violence” might be justified in a private realm marked by “necessity,” the latter is always counterbalanced by a public realm within which violence and force are necessarily absent and which she defines as “the organization of the people as it arises out of acting and speaking together.”<sup>74</sup> While in the tradition from Hobbes to Schmitt power remains concentrated in the position of the sovereign—despite the latter’s possible limitation through positive rights, as in the case of Hobbes—Arendt’s notion of power seems intentionally diffuse and emerges in the public interaction between individuals: in the sense that action “goes on directly between men without the intermediary of things or matter,” it also “corresponds to the human notion of plurality,” which Arendt regards as “the condition—not only the *conditio sine qua non*, but the *conditio per quam*—of all political life.”<sup>75</sup> If, therefore, political action “demands the plurality of men,” power “applies solely to the worldly in-between space by which men are mutually related.”<sup>76</sup>

72. *Ibid.*, p. 10; Arendt, *The Human Condition*, pp. 198–200. See also Arendt, “What Is Freedom?” p. 146. On the relationship between freedom and action in Arendt, see Bonnie Honig, *Political Theory and the Displacement of Politics* (Ithaca, NY: Cornell UP, 1993), pp. 77–84.

73. Arendt, *The Human Condition*, p. 247.

74. *Ibid.*, pp. 31, 198.

75. *Ibid.*, p. 7.

76. Hannah Arendt, *On Revolution*, 2nd ed. (New York: Viking, 1965), pp. 173, 175.

It is, of course, tempting to conclude from this emphasis on plurality that, for Arendt, politics is necessarily groundless and that power rests merely in “binding and promising, combining and covenanting.”<sup>77</sup> It is also possible to take Arendt’s remarks quite literally, when she notes, for instance, that in the public realm of freedom “people are *with* others and neither for nor against them” and that political action takes place exclusively in performative speech acts that suggest the content of politics to be deliberation, or at least the creation of an atmosphere for deliberation.<sup>78</sup> The close relationship between action and power, however, suggests a more ambivalent picture, since it becomes most visible in the moment of revolution:

Power is what keeps the public realm, the potential space of appearance between acting and speaking men, in existence. The word itself, its Greek equivalent *dynamis*, like the Latin *potentia* with its various modern derivatives or the German *Macht* (which derives from *mögen* and *möglich*, not from *machen*), indicates its potential character. . . . While strength is the natural quality of an individual seen in isolation, power springs up between men when they act together and vanishes the moment they disperse.<sup>79</sup>

This moment of acting together is ultimately directed toward political change, but the revolution that, for Arendt, serves as a model for such change is not the French Revolution but the American Revolution. While the former is a “combination of the old Roman enthusiasm for the foundation of a new body politic with the glorification of violence as the only means for ‘making’ it,” the latter is represented as a non-violent acting together of men for political change.<sup>80</sup>

Arendt’s vision of a non-violent revolution has exerted considerable influence on the conceptualization of constitutional thought in the United States, especially after the relatively peaceful political transitions in Eastern Europe that came with the fall of the Berlin Wall. Drawing on this background, and following Arendt, Bruce Ackerman has thus defined revolution as “a self-conscious effort to mobilize the relevant community

77. *Ibid.*, p. 175. See, for instance, Villa, *Arendt and Heidegger*, pp. 144–70.

78. Arendt, *The Human Condition*, pp. 28, 180. See Kateb, “Political Action,” pp. 133–34.

79. Arendt, *The Human Condition*, p. 200.

80. *Ibid.*, p. 228.

to reject currently dominant beliefs and practices in one or another area of social life.”<sup>81</sup> But if, as Arendt notes in *On Revolution*, “power comes into being only if and when men join themselves together for the purpose of action,” and if revolution itself should indeed be the most direct and expressive form of political action, the question remains whether revolution can really be detached from violence, or rather: the potential for violence.<sup>82</sup> Perhaps, then, the potentiality of power always entails the potential for violence—even the Glorious Revolution of 1688 does not proceed entirely without violence. Although Arendt is correct in assuming that, before the late eighteenth century, *revolutio* is not necessarily seen as linked to violence, the history of the concept of revolution cannot entirely be detached from a history of political violence.<sup>83</sup> Indeed, the possibility of violence, as uncomfortable as this might be, should be part of any discussion of the political; otherwise our understanding of the political would not only remain limited, but it would also be difficult to formulate a notion of legitimate violence.

The ambivalence of Arendt’s account of power and revolution is also the reason why she immediately seeks to compensate the more radical claim that political action is necessarily boundless and unpredictable<sup>84</sup> by introducing “promising” and “forgiving” as modes of political action that seek to limit the possibly violent consequences of freedom.<sup>85</sup> The act of promising, or forgiving, is always in danger of being undercut, however, by the contingent nature of the public realm within which it is supposed to take place, so that any new political action, including its possibly violent consequences, restricts the usefulness of promising and forgiving as mediating acts.<sup>86</sup> It is precisely in this respect that Arendt’s attempt to detach political action, on the one hand, from “motives and intentions,”

81. Bruce Ackerman, “Revolution on a Human Scale,” *Yale Law Journal* 108 (1999): 2279–2349; here, p. 2283.

82. Arendt, *On Revolution*, pp. 175, 262.

83. See Reinhart Koselleck, “Revolution (Rebellion, Aufruhr, Bürgerkrieg),” in Otto Brunner, Werner Conze, and Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe: Historisches Lexikon zur politischen Sprache in Deutschland* (Stuttgart: Klett-Cotta, 1972–97), 5:653–788.

84. Arendt, *The Human Condition*, pp. 233, 239.

85. *Ibid.*, pp. 236–47. See Passerin d’Entrèves, *The Political Philosophy of Hannah Arendt*, pp. 80–83; and Honig, *Political Theory*, pp. 84–87.

86. Canovan, *Hannah Arendt*, pp. 132–33, 137–38, and 141, stressed the ambivalent nature of Arendt’s account of action in *The Human Condition*. When related to her unpublished manuscripts of the same period, Arendt’s understanding of political action shows



and on the other, from “aims and consequences,”<sup>87</sup> ironically leads to what Max Weber describes as an “ethic of principled conviction” that always exhibits a tendency to resolve itself from the consequences of political action.<sup>88</sup> Although Weber accepts the relevance of convictions in the realm of politics, his preference is clearly for an “ethic of responsibility, which means that one must answer for the (foreseeable) *consequences* of one’s actions.”<sup>89</sup>

Of course, every political action generates consequences that cannot possibly be foreseen, but precisely by emphasizing the radical openness of political action Arendt seems to exclude the question of responsibility: “He who acts never quite knows what he is doing, that he always becomes ‘guilty’ of consequences he never intended or foresaw, that no matter how disastrous and unexpected the consequences of his deed he can never undo it.”<sup>90</sup> Although, in *The Human Condition*, she still seems hesitant to draw this conclusion fully, in “Introduction into Politics” she states more clearly that political action is set in motion by a “principle of action” that needs to be understood as “the fundamental conviction that a group of people share.”<sup>91</sup> As soon as convictions are in play, however, the idealized form of the public realm as a pluralist site of deliberation and negotiation is no longer marked by freedom and what she describes, in *The Origins of Totalitarianism*, as “the law of equality.”<sup>92</sup>

It is certainly true that Arendt’s public does not constitute a distinctive institutional realm of political order.<sup>93</sup> But if we were simply to take her appeal to pluralism literally such a public would ultimately refer to anything that is considered from different perspectives,<sup>94</sup> which would indeed

a much clearer tendency to include violence and thus cannot be restricted to a merely deliberative model of the political.

87. Arendt, *The Human Condition*, p. 205.

88. Max Weber, “The Profession and Vocation of Politics,” in *Political Writings*, ed. Peter Lassman and Ronald Speirs (Cambridge: Cambridge UP, 1994), pp. 359–60.

89. *Ibid.*, p. 360. Weber’s distinction between “conviction” and “responsibility” continues a line of argument that can also be found in Nietzsche’s *On the Genealogy of Morality* (1887). See Christian J. Emden, *Friedrich Nietzsche and the Politics of History* (Cambridge: Cambridge UP, 2008), pp. 248–60.

90. Arendt, *The Human Condition*, p. 90.

91. Arendt, “Introduction into Politics,” pp. 194–95.

92. Arendt, *Origins of Totalitarianism*, p. 297.

93. See Craig Calhoun, “Plurality, Promises, and Public Spaces,” in Calhoun and McGowan, eds., *Hannah Arendt and the Meaning of Politics*, p. 237.

94. Arendt, *The Human Condition*, pp. 50–52.

be a rather vague concept of the political. Indeed, given the importance of convictions over consequences, even for Arendt the law of equality has its limits and human plurality is connected to distinction.<sup>95</sup> Such distinction does not merely constitute difference but entails radical distinction, that is, in Schmitt's terminology, "exception." As such, it should not be surprising that Arendt's notion of political action in the public realm involves a decisionist element that, much like Schmitt's concept of the "exception" in *Political Theology*, transcends any given norms, legal or otherwise:<sup>96</sup>

[A]ction can be judged only by the criterion of greatness, because it is in its nature to break through the commonly accepted and reach into the extraordinary where whatever is true in common and everyday life no longer applies because everything that exists is unique and *sui generis*.<sup>97</sup>

Homer and Pericles, and the greatness of Greek tragedy, are the reference points of such political action *sui generis*—not the pluralist "togetherness" in the public realm. Indeed, as Arendt notes in "Introduction into Politics" with regard to more recent times, such political action *sui generis* is to be found, above all else, in revolution, be it the French, the American or the Hungarian uprising of 1956—none of which occurred without violence.<sup>98</sup> Indeed, revolution, or the possibility thereof, is the true essence of political action for Arendt. As such, it requires an understanding of political relationships in what Schmitt thought of as their "concrete and existential sense," that is, in the event of revolution the plurality of the public is transformed into a more distinct set of relationships of clashing convictions.<sup>99</sup>

Less like the liberal tradition, and more like Schmitt, the autonomy of the political in Arendt's sense culminates in "the most intense and extreme antagonism, and every antagonism becomes that much more political the closer it approaches the extreme point, that of the friend-enemy grouping."<sup>100</sup> It is precisely in this sense that political action, much like Schmitt's concept of the political, entails a concrete danger: "Whoever enters the political realm," Arendt notes in *The Human Condition*, "had first to be

95. *Ibid.*, p. 175.

96. Schmitt, *Political Theology*, p. 6.

97. Arendt, *The Human Condition*, p. 205.

98. Arendt, "Introduction into Politics," p. 142.

99. Carl Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago: Univ. of Chicago Press, 1996), p. 27.

100. *Ibid.*, p. 29.

ready to risk his life, and too great a love for life obstructed freedom.”<sup>101</sup> Along similar lines, Schmitt notes that part of the autonomy of the political is “the ever present possibility of combat” and “the real possibility of physical killing.”<sup>102</sup> What for Schmitt, then, is the “ever present possibility of combat,” is for Arendt the ever present possibility of revolution.

There is, however, also a notable difference between Schmitt’s position during the 1920s and early 1930s and Arendt’s position during the 1950s and 1960s. Schmitt extends the possibility of violence, much like Weber, predominantly to the state: “To the state as an essentially political entity belongs the *jus belli*, i.e., the real possibility of deciding in a concrete situation upon the enemy and the ability to fight him with the power emanating from the entity.”<sup>103</sup> Arendt, on the other hand, locates the concrete political action or revolution in opposition to the state. Although government merely should be understood as “essentially organized and institutionalized power,” any increase in government—in terms of a functional administration that tends toward the total state—leads to a decrease in real power in terms of free political action.<sup>104</sup>

Despite this difference, Arendt’s account of the autonomy of the political in the public realm closely resembles Schmitt’s broad attack on liberal constitutionalism, the “technicity” and normative legality of the legislative state: what ultimately threatens the public realm is not violence, but “rules,” the attempt to “normalize” political differences, the technicity of “industrialization,” “mass society,” “consumer society,” functionalism, and economic calculation.<sup>105</sup> It is interesting to see that both Schmitt’s and Arendt’s complaints about the rationalizing effects of modernity seem to exhibit a cultural pessimism, which is marked by a nostalgic longing for an authenticity of political action and which, in the course of the Weimar Republic, took a more conservative turn.<sup>106</sup> Ironically, Arendt and Schmitt share this attitude with many representatives of the Frankfurt School during their American exile, such as Max Horkheimer and Theodor W.

101. Arendt, *The Human Condition*, p. 36.

102. Schmitt, *The Concept of the Political*, pp. 32–33.

103. *Ibid.*, p. 45.

104. Hannah Arendt, “On Violence,” in *Crises of the Republic* (New York: Harcourt, Brace, Jovanovich, 1972), pp. 150, 154.

105. Arendt, *The Human Condition*, pp. 40, 52, 56, 126–35, 230–31.

106. See Georg Bollenbeck, *Tradition, Avantgarde, Reaktion: Deutsche Kontroversen um die kulturelle Moderne, 1880–1945* (Frankfurt am Main: S. Fischer, 1999), pp. 221–62.

Adorno.<sup>107</sup> Perhaps it is this nostalgia, then, that stands in the background of the affinities between Schmitt's and Arendt's demands for an autonomy of the political.

Indeed, the tensions within Arendt's political thought are a direct result of a broad argument against the Kantian tradition of philosophical liberalism, without wishing to admit that, as a consequence, she comes increasingly close to Schmitt's position vis-à-vis the Weimar Constitution in 1932. On the one hand, then, Arendt's political thought is characterized by ostensibly democratic commitments; on the other, she grounds these commitments in arguments whose implications, at least partially, stand in opposition to these commitments.<sup>108</sup> In a certain sense, this tension makes her position appear to be less realist than Schmitt's—that is, less alert to the actual realities and possible consequences of political action. If there are indeed any lessons to be learnt from Arendt and Schmitt, and from their enduring presence in contemporary political thought, it is that within the practice of political life—both within the state and in political associations beyond the state—freedom and rule, pluralism and violence are more closely related than we would like to assume. Arendt and Schmitt, thus, serve as reminders that the limits of liberalism need to be part of any serious discussion of liberalism itself—and ignoring these limits will either lead us to Schmitt's rejection of legality or, as in the case of Arendt, make us blind to the problem of rule.

107. Consider for instance the remarks in Max Horkheimer and Theodor W. Adorno, *Dialektik der Aufklärung: Philosophische Fragmente*, in Horkheimer, *Gesammelte Schriften*, ed. Alfred Schmidt and Gunzelin Schmid Noerr (Frankfurt am Main: Fischer Taschenbuch Verlag, 1985–1997), 5:20, 52, and 147.

108. This has also been emphasized, albeit from a slightly different perspective, by Margaret Canovan, "The Contradictions of Hannah Arendt's Political Thought," *Political Theory* 6 (1975): 5–26.

*Nothing is Political,  
Everything Can Be Politicized:  
On the Concept of the Political  
in Michel Foucault and Carl Schmitt\**

Astrid Deuber-Mankowsky

I.

In a 1979 memo about governmentality, Michel Foucault establishes that the analysis of governmentality as a “singular universality” implies that everything is political.<sup>1</sup> Foucault explains his conclusion by “de-constructing” the phrase “everything is political.” This leads to the set of questions that he introduces when he talks about the terms biopolitics and biopower, whose meaning provides a new perspective regarding the history and development that shaped modern forms of government. I will characterize these problems in detail before I return back to the aforementioned passage.

These problems pertain to the question of the status of the political raised by the term “biopolitics,” which leads us to the center of the question posed in the passage. Foucault coined the term “biopolitics” in the 1970s in order to describe a technology of power developed in the eighteenth century that “constitutes masses”; that is, it does not address individuals but rather directs itself toward a collection of living beings. Biopolitics is,

\* Translated from the German by Jennifer Bierich and David Pan.

1. This refers to a manuscript without a title, a bundle of eleven numbered pages. The lines quoted here were transcribed and reproduced in the “Situierung der Vorlesungen” by the publisher of the lectures from 1978–79, Michel Sennelart. According to Sennelart, the manuscript is difficult to understand, and therefore he only published this section. Michael Sennelart, “Situierung der Vorlesungen,” in Michel Foucault, *Die Geburt der Biopolitik: Vorlesung am Collège de France 1978–1979*, vol. 2 of *Geschichte der Gouvernementalität* (Frankfurt am Main: Suhrkamp, 2004), pp. 486f.

as Foucault defined it in a summary of lectures from 1979, in the second part of the *History of Governmentality*, with the subtitle “The Birth of Biopolitics,” “the way that one has tried since the eighteenth century to rationalize the problems that were posed to governmental practice by the totality of living beings constituted as a population; health, hygiene, birth-rate, lifespan, races.”<sup>2</sup> In summary, biopolitics is the entirety of disciplinary techniques and regulatory methods that optimize the population while at the same time constituting it as a new reality.<sup>3</sup> And what is biopower? Foucault describes biopower as the technology that, on the one hand, refers to the discipline of the body while, on the other hand, refers to the rule over this new entirety of the population constituted by specific mechanisms of regulation and knowledge. In this context, Foucault discusses a technology of power directed at “bodily capabilities” and the “processes of life.”<sup>4</sup> If biopolitics and biopower are based on technical and system-theoretical terms, such as rationalization, regulation, discipline, governance, standardization, apparatus, and homeostasis, then the question arises of how biopower and biopolitics are to be differentiated from one another,<sup>5</sup> and, more importantly, if it is appropriate in this context to use the notion of politics at all, at least when one links the concept of politics to questions of decision-making, will, self-determination, and public interest,<sup>6</sup> as well

2. Paul Rabinow and Nikolas Rose, eds., *The Essential Foucault: Selections from the Essential Works of Foucault, 1954–1984* (New York: The New Press, 2003), p. 202.

3. Cf. Michel Foucault, *Sicherheit, Territorium, Bevölkerung: Vorlesung am Collège de France 1977-1978*, vol. 1 of *Geschichte der Gouvernementalität* (Frankfurt am Main: Suhrkamp, 2004), p. 43. A population originates where the milieu becomes a determinant of nature.

4. Michel Foucault, *The History of Sexuality*, vol. 1, *An Introduction*, trans. Robert Hurley (New York: Vintage Books, 1980), p. 139.

5. Petra Gehrig refers to biopolitics as a concept that is “more phenomenological,” “narrower,” and “less well-differentiated” than the idea of biopower.” Petra Gehrig, *Was ist Biomacht: Vom zweifelhaften Mehrwert des Lebens* (Frankfurt am Main: Campus, 2004), p. 14. As a result, she prefers the term biopower as the more analytic category. Martin Stingelin points out that Foucault himself did not properly distinguish between the terms and suggests that biopolitics should be reserved for the “power of resistance and the freedom of the individual” to “resist the demands of the power-knowledge complex through a self-determination that is different from the one that is being imposed.” Martin Stingelin, “Einleitung: Biopolitik und Rassismus,” in *Biopolitik und Rassismus* (Frankfurt am Main: Dems, 2003), pp. 7–25; here, pp. 15f.

6. Foucault analyzes the concept of interest as a form of the public will within the context of the development of the *homo oeconomicus*. It is important that the subject of public interest, as he writes, has to do with the subject of a “more or less purified interest

as to the question of agents and the sovereign. What Foucault seems to present with his analysis of biopower as the technology of power accruing to the modern state is, to put it bluntly, nothing less than the meaning of the political, encompassed by the concepts of the will, the sovereign, and the decision. This is, at first, all the more jarring because the concept of the political, in interplay with notions of public sphere and critique, presents a historical accompaniment to the history of the modern state.

Now this crisis of the political in Foucault's analysis of biopower is connected to the crisis into which the emergence of biopower has displaced the sovereign and the entire area of the legal. The well-known thesis, according to which sovereign power has been displaced by biopower,<sup>7</sup> constitutes only one side of the story. The flip side consists of a fundamental change in the relationship of history to life that accompanies the implementation of biopower. Modern man is, as Foucault writes, no longer a "living animal" that is capable of a political existence, but rather an "'animal' whose life as a living being is at stake in its politics."<sup>8</sup> What does this mean? It means that the development of knowledge about life, the improvement of agricultural techniques, the observations and measurements of the living, and the use of statistics and probability have led to the result that life has become manipulable and that the optimization of this manipulability of life has become the object of politics. As Foucault thoroughly discussed in his lectures on the history of governmentality, politics has been transformed into political economy. The blurring of the division between the space of economy—as the space where reproduction was managed—and the space of politics, as it existed in the ancient *polis*, is both the expression and the flip side of the process in which the life of the human, understood in a universal and abstract way as a living being, has become the object of politics.

that has become calculating and rationalized." Foucault, *Die Geburt der Biopolitik*, p. 375. For Foucault the concept of the "public interest" is to be understood within the context of utilitarianism and the idea of the calculability of desired goods and therefore belongs to the biopolitical apparatus. The action of the subject of interests—as opposed to the action of the legal subject—does not occur within the dialectic of renunciation, transcendence, and an arbitrary commitment to the contract, but rather under the sign of an intensification of interest.

7. This process has to do with the transformation of the legal mechanism and the mechanism for discipline. As Foucault stresses, the three regimes of power do not supersede each other in stages, but rather presuppose each other and are interwoven with each other. Cf. Foucault, *Sicherheit, Territorium, Bevölkerung*, p. 26.

8. Foucault, *The History of Sexuality*, 1:143.

“The introduction of the economy into the execution of politics is,” in Foucault’s words, “the primary mission of governance.”<sup>9</sup> To govern the state, is, in other words, to apply economics on “the level of the state as whole” and therefore to the inhabitants, the resources, and the conduct of all and of every single individual. In doing so, one can note that economy shall be understood here as a scientific discipline. According to Foucault, it is “an atheistic discipline,” “a discipline without God,” and a “discipline without totality.” Economy becomes the starting point for both the rationalization of governmental practices—and thus of politics itself—and the deterioration of sovereign power: “economics is a discipline that not only manifests the uselessness but also the impossibility of a sovereign perspective, the perspective of the sovereign on the totality of the state that is governed.”<sup>10</sup>

At the beginning of the first volume of his lectures on the history of governmentality, Foucault describes his project as the investigation of the “rationalization of governmental practices in the exercise of political sovereignty.”<sup>11</sup> Governmentality describes, accordingly, a governmental practice that is situated between the poles of rationalization and political sovereignty, and in a certain way links the two. Yet, a balance between both poles does not exist. The result is that the rationalization of governmental practice in the exercise of political sovereignty transforms the latter from within—structurally—and empties it out. The rationalization of governmental practice began in the second half of the seventeenth and eighteenth centuries in the course of a process in which the security apparatus transformed a multiplicity of individuals into a population. In contrast to sovereignty, which capitalizes on a territory, and in contrast to discipline, which architectonically sketches out a space and poses the problem of the functional and hierarchical ordering of elements in this space, security, as Foucault characterizes this new discursive formation, attempts to deploy a series of events and possible elements as a “milieu.”<sup>12</sup> In this milieu, the series of events must be regulated within a multivalent and malleable framework. The secured space refers to a “series of possible events,”<sup>13</sup> and thus to the “temporal and aleatory.”<sup>14</sup>

9. Foucault, *Sicherheit, Territorium, Bevölkerung*, p. 144.

10. Foucault, *Die Geburt der Biopolitik*, p. 387.

11. Foucault, *Sicherheit, Territorium, Bevölkerung*, p. 14.

12. *Ibid.*, p. 40.

13. *Ibid.*

14. *Ibid.*



It is not difficult to recognize in the background the thoughts on probability developed by mathematicians and philosophers, such as Blaise Pascal (1623–62), Pierre Fermat (1607–65), and Gottfried Wilhelm Leibniz (1646–1716). Now, however, the future series of events, whose possibility has become calculable, must be inscribed into a space in order for them to be able to be regulated. This inscription occurs, as Foucault makes clear, by making the “milieu” into a determinant of nature that connects the “nature” of physics<sup>15</sup> and later the “nature” of biology with the “nature of the human,”<sup>16</sup> and consequently with the population. The concepts of life and the living being, as becomes clear, are connected, from the moment that economy determines politics, with the technical discursive apparatus of the natural sciences.<sup>17</sup> The tensions that result also determine the concept of biopolitics.

The modern State, as Foucault further emphasizes, is no leviathan, nor is it a monster or a mortal God. It is much more like a body without a head, and functions, as such, more like an organism conceived as a living system that must survive by means of its feedback mechanisms. So it is not astonishing that Foucault characterizes the concept of governmentality, with which he designates this new form of governmental action linked to the modern State, using the metaphor of a ship as a combination of maneuver and communication: “What does it mean to pilot a ship [*gouverner*]? It certainly means to lead the sailors, but it also means to take over responsibility for the ship and its cargo; to pilot a ship also means to take heed of the winds, the cliffs, the storms, and the changing weather. It is this construction of a relationship between the sailors and the ship that must be saved and the cargo that must be brought into harbor and their relationships to all those events, such as the winds, the cliffs, and bad weather, that characterize the piloting of a ship.”<sup>18</sup>

The art of governing linked to biopolitics stands in a hidden relation, as is clear here even in the choice of metaphors,<sup>19</sup> to that “experimental

15. Lamarck first introduced the concept of milieu into biology. However, the term was also used in Newtonian physics, to which Foucault alludes. In this context it means, “that which is necessary to report on the distance effect of one body on another body” (Foucault, *Sicherheit, Territorium, Bevölkerung*, p. 40). Thus, the milieu is the carrier and the circulatory element of an effect.

16. *Ibid.*

17. *Ibid.*

18. Foucault, *Die Geburt der Biopolitik*, p. 146.

19. The term governmentality is related here to the English word “governor,” which can also be used in the sense of centrifugal governor.

epistemology<sup>20</sup> that Norbert Wiener calls cybernetics:<sup>21</sup> the science of the communication, control, and regulation processes in machines and animals.<sup>22</sup> Biopolitics shares with cybernetics not just the universalization of the statistical point of view,<sup>23</sup> but also the point of view of a consistent immanence. “I searched,” as Wiener recalls the naming of cybernetics, “first for a Greek word that meant ‘messenger’, but knew only *angelos*. In English it specifically refers to an ‘angel,’ or a messenger of God, and was therefore dismissed. Then I looked for a specific word from the domain of control and regulation. The only word that occurred to me was the Greek word for pilot, which was *kybernetes*. From this I created the word ‘cybernetic.’ Later I learned that an equivalent had been used since the begin of the nineteenth century by the French physicist Ampère in a sociological context; but I did not know this at the time.”<sup>24</sup>

As the theorist of science Donna Haraway stresses, the cybernetic mechanization that changed the world so radically in the second half of the twentieth century represents, after the Copernican revolution, Darwin’s theory of evolution, and Freud’s psychoanalysis, the fourth major slight to mankind’s narcissism.<sup>25</sup> Admittedly this is again only one side of the story. The other side, which history itself has sufficiently demonstrated, is that cybernetics is fully compatible with a forced anthropocentrism. Haraway, in referring to sociobiology, which investigates the social behavior of apes as emblematic for the functioning of human societies as command-control communication systems, even talks about a hyperhumanism.<sup>26</sup>

20. Cf. Heinz Foerster, “Circular Causality: The Beginnings of an Epistemology of Responsibility,” in Claus Pias, ed., *Cybernetics—Kybernetik: The Macy-Conferences 1946–1953* (Zürich: Diaphanes, 2003), 1:14.

21. She likewise bases governmentality on the universal point of view of statistics. Cf. Norbert Wiener, *Mathematik—mein Leben* (Frankfurt am Main: Fischer, 1962), p. 267.

22. *Ibid.*, p. 220.

23. As Wiener describes in his autobiography, “the statistical point of view, as it clearly manifested itself in my early research,” not only forced him toward “a new perspective on order and regularity” but will influence, by way of cybernetics, “already existing sciences” and “the philosophy of science itself,” especially in the areas of “scientific methods of epistemology.” *Ibid.*, p. 267. Cf. Astrid Deuber-Mankowsky, *Praktiken der Illusion. Kant, Nietzsche, Cohen, Benjamin bis Donna J. Haraway* (Berlin: Vorwerk 8, 2007), pp. 71ff.

24. Wiener, *Mathematik—mein Leben*, p. 63.

25. Joseph Schneider, *Donna Haraway: Live Theory* (New York: Continuum, 2005), pp. 114–57; here, pp. 139f.

26. Donna Haraway, *Primate Visions: Gender, Race, and Nature in the World of Modern Science* (New York: Routledge, 1989), p. 110.

What distinguishes this cybernetic hyperhumanism is the combination of control and communication, of systematic and hierarchical thought, of functional regulation and representational rule. These associations, as is clear even in the literal sense of the word, also apply to the concept of governmentality. Thus, the French word *gouverneur* is related to the English word *governor*, which can mean regent or president but also, in a technical sense, centrifugal governor. One uses the word centrifugal governor to designate the technical apparatus that holds the speed of steam engines in a constant state by means of a negative feedback mechanism. This ambiguity of the word *governor*, which links president and centrifugal governor, reflects a fundamental ambiguity that results from the overlap between balance and control, technical functionality and hierarchy, communication and the politics of representation that is linked to the regime of sovereignty. This ambiguity determines both the ruling practices of governmentality and biopolitics simultaneously; it results in a structural instability in the regime of governmentality. In other words, one cannot dismiss the possibility that the regime of governmentality and biopower can lead to excessive control, to a torpid hierarchy, and to a deadly “excess of rule.”<sup>27</sup> Foucault cites, as extreme instances, the war regime of Nazism<sup>28</sup> but also the “state socialism” that he calls “a dirigist economics and planned economy that arose out of the period of 1914–18 and its general mobilization of resources and people.”<sup>29</sup>

One can assume that Foucault was aware of the origins of the term “biopolitics” in National Socialist vocabulary, a link that Jörg Marx meticulously traces in his essay “‘The Will for a Child’ and the Controversy about the Physiological Infertility of Woman.”<sup>30</sup> While Marx, like many others, pleads for a separation of politics from nature and politics from biology, and insists on the right of each individual over his or her own body and life, Foucault warns against the belief that one could undermine the regime of biopower by appealing to the life and the rights of humans as

27. Foucault, *Die Geburt der Biopolitik*, p. 441.

28. Cf. the lecture on March 17, 1976, where Foucault explicitly and thoroughly deals with National Socialism and state-imposed racism. Michel Foucault, *In Verteidigung der Gesellschaft: Vorlesungen am College de France (1975–76)* (Frankfurt am Main: Suhrkamp, 1999), pp. 276–93.

29. Foucault, *Die Geburt der Biopolitik*, p. 441.

30. Jörg Marx, “‘Der Wille zum Kind’ und der Streit um die physiologische Unfruchtbarkeit der Frau: Die Geburt der modernen Reproduktionsmedizin im Kriegsjahr 1942,” in *Biopolitik und Rassismus* (Frankfurt am Main: Suhrkamp, 2003), pp. 112–59.

living beings. For this life, as well as the human as living thing, can only “assume office” through biopower itself.<sup>31</sup> Even when one takes the installation of life as political theme “at its word,” as Foucault says, and uses it against the system that has taken control over life, one is still engaging in biopolitics. As he summarizes, life, rather than law, in the course of the nineteenth century, became the object of political struggles, even when they are articulated in terms of legal demands.<sup>32</sup> As opposed to humans and human rights, Foucault talks about legal subjects<sup>33</sup> and the rights of the governed.

He himself became actively involved in support of these rights in numerous struggles since May 1968, in different locations around the world and in a variety of media forums. Along the way he consistently avoided speaking in the name of some person or thing, such as, for example, human rights. Against the representative intellectual, who seeks to form the political consciousness of others, and against the sovereign of whatever provenance, Foucault sets up the “specific intellectual”<sup>34</sup> who should exercise the truth. For Foucault, the task of this intellectual is, first, “to develop analyses within her field of expertise, reexamine ostensible certainties and postulates, and reevaluate rules and institutions,” and, second, “to participate in the cultivation of a political will.”<sup>35</sup> The intellectual, as Foucault remarked in a 1973 talk with a Renault employee in the newspaper *Libération*, is linked to the information apparatus, not to the production apparatus: he can write in newspapers, speak on the radio, and make himself generally understood. Furthermore, he is tied to the “old apparatus of information”<sup>36</sup> and possesses knowledge conveyed by reading books.

Foucault sought to apply this knowledge in his political struggles in order to create public spheres for those people who were excluded from

31. Foucault, *The History of Sexuality*, 1:143.

32. Ibid.

33. On the concept of the legal subject with respect to the state and in contrast to the subject of interests, cf. Foucault, *Die Geburt der Biopolitik*, pp. 375ff.

34. Michel Foucault, “Die politische Funktion des Intellektuellen,” in *Dits et Ecrits*, vol. 3, 1976–1979, ed. Daniel Defert and François Ewald (Frankfurt am Main: Suhrkamp, 2003), pp. 145–52.

35. Michel Foucault, “Interview mit François Ewald,” in Mona Winter and Wolfgang Zängl, *Michel Foucault: Eine Geschichte der Wahrheit* (Munich: Raben, 1987), p. 58.

36. Michel Foucault, *Libération*, May 26, 1973. Cited in Didier Eribon, *Michel Foucault: Eine Bibliographie*, trans. Hans-Horst Henschen (Frankfurt am Main: Suhrkamp, 1991), p. 361.

the information apparatus. In 1971, Foucault formed the working group for information about prisons (Groupe d'information sur les prisons, or GIP) and supported the establishment of the press agency, Agence de Presse Libération, that played a decisive role in the launch of the newspaper *Libération*.<sup>37</sup> The GIP set itself the task of collecting and disseminating information. As Foucault stressed: "Information must circulate so that individual experience can become collective knowledge. And this means political knowledge."<sup>38</sup> The desired information does not refer to theories, but rather to the factual living circumstances of those who are excluded from the apparatus of information. This information led, in the case of the prisoners supported by the GIP, to the recognition that their "complete lack of rights"<sup>39</sup> was the biggest problem that they faced. "The justice system," as Foucault summarizes, "sends a person to prison, and this person has no chance to defend his rights against this system."<sup>40</sup> This lack of rights corresponds to the exclusion from the public sphere, and for this reason it is important to create a public domain for those who have no rights.

Foucault's political opposition is directed against excessive state control, against the excesses of the government, and against the politics of representation—even within one's own ranks. His political struggle is a struggle for the public word. As he said in his well-known interview with Gilles Deleuze: "When discourses such as those of prisoners and prison doctors become struggles, they become so because they, at least for a moment, appropriate the power to speak about the prison."<sup>41</sup>

Foucault is insistent that it is not an issue of opposing one theory in the name of another theory,<sup>42</sup> yet this demand was itself a conclusion that he drew from his analyses of power and the history of struggles for power.

37. Eribon, *Michel Foucault*, p. 356.

38. Foucault, *Dits et Ecrits*, 2:216.

39. *Ibid.*, 2:219.

40. *Ibid.*

41. Michel Foucault, "Interview mit Gilles Deleuze," in *Von der Subversion des Wissens* (Munich: Hanser, 1974), p. 130.

42. Foucault aims the criticism of combating one theory in the name of another at the endless debates of left-wing movements in France in the 1970s. Foucault distanced himself from this form of a politics of truth in his first lecture on the history of governmentality on January 11, 1978, with this provocative formulation: "In this regard I would suggest one single imperative to be used categorically and absolutely: never do politics" (Foucault, *Die Geburt der Biopolitik*, p. 17). Against this "politics of truth," he set up his own political engagement as a personal, physical, and real engagement that casts the issues in concrete, precisely defined terms within a particular situation.

His political struggles, in particular his consistent avoidance of both a representative speaking for others and a formation of parties, but also the meaning that he imputes to the public word and to the circulation of information about the “actual life circumstances” of those that have no rights, are the result of his methodological nominalism. Though Foucault did not develop his own theory of the public sphere, his public engagement corresponds to a description of the functions that belong to the public sphere in the regime of governmentality.

In his 1978 lectures entitled, “Security, Territory, Population,” Foucault links the origins of the public sphere at the end of the sixteenth century to the population and to the modern state. Referring to the former, he writes that the public sphere is the population “seen from the perspective of its opinions, of its manner of doing things, of its conduct, its customs, its fears, its prejudices, [etc.]”<sup>43</sup> and concludes from this that “[t]he population is therefore everything that extends from biological rootedness through the species to the open space offered by the public sphere.”<sup>44</sup> The population, considered in terms of its status as human species and as public sphere, should be understood as a new reality to the extent that both “are for the mechanisms of power the relevant elements and the relevant space within which and with respect to which action can take place.”<sup>45</sup> Government action can accordingly relate to the population in different ways. For the relationship between the public sphere and the modern state, it is decisive that Foucault links the constitution of the antithesis between the public and the private sphere with the “problematization of the conduct of conduct and the specification of the different forms of conducting the conduct.”<sup>46</sup> The public sphere is not only one of the spaces through which government action is directed toward the populace. It is, at the same time, the space within which individuals constitute themselves as legal entities and in turn criticize the government.

Foucault links the formation of the public sphere with the dissolution of pastoral power, which, in contrast to governmentality, follows a theological model and the example of God, and legitimates itself through this theological model. Governmentality does not differentiate itself from pastoral power by modeling itself on something else; rather, it distinguishes

43. Foucault, *Sicherheit, Territorium, Bevölkerung*, p. 115.

44. *Ibid.*

45. *Ibid.*

46. *Ibid.*, p. 335.

itself, after the “degovernmentalization of the cosmos,” by the fact that it must manage without a model and without divine authority.<sup>47</sup> In place of such a model, the *res publica* is constituted, according to Foucault, as the place for the public problematization of questions of governmental and the conduct of conduct. Religious heretics, the dissidents of the Middle Ages, were replaced in the transition to the seventeenth century by people who were called “les politiques,” or the politicians. They were, as Foucault writes, “tied to a certain type of thinking . . . , to a certain way of imagining what a government must do and upon which forms of rationality it can be based.”<sup>48</sup> Politically it was a particular mode of interrogating and problematizing the government. “In contrast to the juridical-theological problem of the foundations of sovereignty,” as Foucault states, “the politicians are the ones who attempt to think through for themselves the form of rationality of government.”<sup>49</sup> It is this question of governance that constitutes the *res publica*, namely, as a public form of reflection on the art of governance. It is finally through this *res publica* that, according to Foucault, the state enters into the field of human practices and thought.<sup>50</sup> From its origin, the modern state, as Foucault’s genealogy suggests, must be understood as a questionable governmental practice. Inscribed within this practice is not only the *res publica* as the public problematization of the art of governance, but also the question of whether and to what extent the limitation of government is also a part of the art of government. In this sense, the sentence referring to the transition from politics to political economy needs a correction. For the limitations on governmental action do not arise just from economics but also, insofar as liberalism can be analyzed as the principle of governmentality, from the public sphere: “the birth of economists, the birth of publicists are,” according to one conclusion of the genealogy of governmentality, “the two correlative elements of the field of reality” of government.<sup>51</sup>

## II.

How can one interpret Foucault’s deconstruction of the sentence “everything is political” in light of this “crisis” of the political in the context of biopower and biopolitics? To begin with, let us follow Foucault’s train of

47. *Ibid.*, p. 343.

48. *Ibid.*, p. 357.

49. *Ibid.*

50. *Ibid.*, p. 359.

51. *Ibid.*, p. 114.

thought. He begins by ascertaining that the term “traditionally”<sup>52</sup> draws upon two meanings. The first comes from the state and indicates that the political is defined by the entire sphere of intervention of the state. To say that everything is political would mean, accordingly, that the state is everywhere, directly or indirectly. In order to develop the second meaning, Foucault refers to Carl Schmitt’s definition of the political and adds the following as a supplement: “The political is defined by the omnipresence of the struggle between two enemies . . . this additional definition is that of K. Schmidt.”<sup>53</sup>

Carl Schmitt elaborated this definition of the political in *The Concept of the Political* (1932), and then again in *Theory of the Partisan* (1963), which added a further differentiation of the concept of the enemy. Schmitt’s goal was first to establish the political as an independent sphere—and therefore to revoke or reverse the mixing of the political with the economic. To that end, he delimits it from the already existing spheres of the aesthetic, the moral, and the economic in order to establish the architecture of the political according to their example. How do these domains distinguish themselves? According to Schmitt, they arise out of their own specific “final distinctions.”<sup>54</sup> In the next step, he declares these final distinctions to be in turn criteria.<sup>55</sup> The aesthetic arises, according to Schmitt, out of the opposition between beautiful and ugly, the moral out of the opposition between good and bad, and the economic out of the opposition between harmful and useful, or profitable and unprofitable. By analogy to the simple criteria of the aesthetic, moral, and economic, Schmitt locates the criterion for the political in the distinction between friend and enemy. It is crucial for an understanding of the central function played by this distinction for the concept of the political that it be understood as the *final* distinction: as the *ultimate* difference. Its true content is nothing less than the act of positing, the fact of distinction itself. The distinction between friend and enemy denotes, according to Schmitt, “the utmost degree of intensity of a union or separation, of an association or dissociation.”<sup>56</sup>

The determination that a “final distinction” could be a “simple criterion” turns out from this perspective to be a move that is itself already

52. Ibid.

53. Ibid.

54. Carl Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago: Univ. of Chicago Press, 2007), p. 26.

55. Ibid.

56. Ibid.



political. Schmitt's political criterion, the distinction between friend and enemy, wants to be understood as a political concept, and in Schmitt's terms this means as a polemical concept. Schmitt's concept of the political consequently reveals itself to be a self-referential concept, whose goal is the establishment of order, which is to say the "possibility of unambiguous, clear distinctions" between "inside and outside, war and peace."<sup>57</sup> Schmitt sees this order as ideally embodied in the continental plurality of states, together with the state unity pertaining to it, within which the modern state emerged after the Treaty of Westphalia. The reinstatement of the political is, for Schmitt, synonymous with the restoration of the unity of the state and the continental plurality of states.

This becomes clear with the differentiation of forms of antagonism that Schmitt undertakes in *Theory of the Partisan*. Schmitt introduces here the difference between the conventional, the real, and the absolute enemy.<sup>58</sup> Schmitt understands the conventional enemy as the enemy state that is fought "regularly" by another state, which is to say, according to the rules of war, with an army in a declared war. The *real* enemy is the enemy of the partisan. Though the partisan does not use a regular army and does not represent a regular state, he fights, as Schmitt explains, on the side of "[t]he old European continental states," now on the defensive, whose regularity had turned to "convention and play . . . . Old regularity no longer was any match for the new, revolutionary, Napoleonic regularity."<sup>59</sup> The partisan had, according to Schmitt, thereby renewed the seriousness of war.<sup>60</sup> It is not coincidental here that he is using the example of the Spanish guerillas against the invasion by the French army. Schmitt's partisan proves to be a supporter of Metternich. As such, he fought on the side of the Restoration for the territorial order of the sovereign against Napoleon's imperialism and against the disintegration of the old, territorial order, in short, against the French Revolution. This makes him for Schmitt into a true hero. "The partisan, who defended the national soil against the foreign invader, became the hero, who actually [*wirklich*] fought against a real [*wirklichen*] enemy."<sup>61</sup> By using the term "real" (*wirklich*) twice in this

57. Carl Schmitt, *Der Begriff des Politischen: Text von 1932 mit einem Vorwort und drei Corollarien* (Berlin: Duncker & Humboldt, 1963), p. 11.

58. *Ibid.*, p. 17.

59. Carl Schmitt, *Theory of the Partisan: Intermediate Commentary on the Concept of the Political*, trans. G. L. Ulmen (New York: Telos Press, 2007), pp. 88–89.

60. *Ibid.*, p. 88.

61. *Ibid.*, p. 89.

sentence, Schmitt emphasizes the intensity that he attributes to the friend/enemy distinction and thus to the political. According to Schmitt's logic, the "final distinction" of the political is at the same time the most real, because it demonstrates the decision to differentiate. One can define it as a performative speech act, as a recursion, or, like Schmitt, as a decision. Because Schmitt associates the leap into real, concrete life with the exclusion of ambiguity, doubt, and division, the friend/enemy distinction, in this thinking formed by both Kierkegaard's existentialism and life philosophy, is not only unequivocal but also existential. This becomes clear in that well-known dictum according to which the enemy, as Schmitt formulates it in the same passage, is "the shape of our own question."<sup>62</sup> This dictum is preceded by his rhetorical question, "Is it not a sign of inner conflict to have more than one real enemy?"<sup>63</sup> This means, conversely—and this is Schmitt's main point—that to have one real enemy is the sign of inner unity, which is in turn the precondition for inner security. "The enemy," Schmitt continues, "is on the same level as am I. For this reason, I must fight him to the same extent and within the same bounds as he fights me, in order to be consistent with the definition of the real enemy by which he defines me."<sup>64</sup>

For Schmitt, the *absolute* enemy is, in contrast to the real enemy, an enemy without a fixed form. The absolute enemy is not the equal enemy who is defeated in combat. Rather, he is the morally condemned enemy and is declared to be the enemy of humanity and must therefore be destroyed.<sup>65</sup> The absolute enemy in 1963 is, according to Schmitt, an accompaniment and an expression of the disorder of the technical atomic age and the atomic threat. The expression of this disorder is the Cold War and its potential for annihilation. The making absolute of the enemy seems for Schmitt to be "immanent to the existing reality of the nuclear age."<sup>66</sup> Schmitt's distinction between the conventional, the real, and the

62. *Ibid.*, p. 85, translation altered.

63. *Ibid.*

64. *Ibid.*

65. As Raphael Gross emphasizes, Schmitt differentiates already in *The Concept of the Political* between the enemy in the sense of the stranger and the enemy in the sense of the other, who later on becomes the absolute enemy as the enemy of the political. This enemy in the sense of the other was embodied for Schmitt in the 1930s by the Jews; they became the domestic enemy. Cf. Raphael Gross, *Carl Schmitt und die Juden: Eine deutsche Rechtslehre* (Frankfurt am Main: Suhrkamp 2000), pp. 310ff.

66. Schmitt, *Theory of the Partisan*, p. 93, translation altered.

absolute enemy has acquired a new—and uncanny—timeliness against the backdrop of U.S. foreign policy and its aim for a new world order, particularly, however, after the war in Iraq and George W. Bush's crusade against the axis of evil. To take one example, the political scientist Chantal Mouffe has borrowed Schmitt's friend/enemy distinction and his defense of the model of the old continental states in order to apply them to the war against international terrorism.<sup>67</sup> From her point of view, the imperialistic foreign policy of the United States appears as the reflex of an inadequate differentiation between the political and the moral, and international terrorism, together with its accompanying rhetoric of evil, appears as the product of that foreign policy, or rather as the shape of its own question. With reference to the Schmittian differentiation of enemies and his model of the plurality of states, she subsumes terrorism under the category of the absolute enemy and interprets international war against this enemy as an unlimited war, that is, as a war without a fixed form that, as Schmitt explains, is directed towards the annihilation of an opponent who has been designated as the enemy of mankind.

Even if it seems plausible to apply the Schmittian distinction of enemies to current affairs, one should not forget the other side of Schmitt's classical model of the plurality of states: it reduces domestic policy to the formula "peace, security, and order."<sup>68</sup> The restoration of the exalted time of the old continental states does not just occur under the sign of a return to the plurality of states and to limited war, but also under the sign of a return to the unlimited work of the police. The old European continental states declared by Schmitt to be the classical model did not exist, as the limited perspective of the theoretician of the state suggests, before or beyond the rationalization of governmental practice and the economization of politics. Rather, they originated, as Foucault extensively shows, in the course of this rationalization of governmental practice in the development of the security apparatus and the police. "The limitation of the international goals of governance according to reasons of state, this limitation on international relations corresponds," as Foucault comments, "to a boundlessness in the deployment of the police state."<sup>69</sup> Schmitt himself writes: "Within such a state there was indeed only police and no more politics, unless one were to

67. Chantal Mouffe, "Schmitt's Vision of a Multipolar World," *South Atlantic Quarterly* 104 (2005): 245–51.

68. Schmitt, *Der Begriff des Politischen*, p. 10.

69. Foucault, *Die Geburt der Biopolitik*, p. 21.

designate as politics such things as court intrigues, rivalries, frondes, and attempts at rebellion on the part of malcontents, in short, ‘disturbances.’” Arguing here against such an expansion of the concept of politics, he states: “It must be remembered that both words, politics and police, are derived from the same Greek word, *polis*. Politics in the large sense, high politics, was at that time only foreign affairs, which a sovereign state, facing other sovereign states that it recognizes as such, carries out on the basis of this recognition to the extent that it makes decisions concerning mutual friendship, antagonism, or neutrality.”<sup>70</sup>

Schmitt’s concept of the political refers solely, as becomes obvious, to that political action that he calls “high politics,” or foreign affairs. He has as little to say about an analysis of the political dimension of the police at the origins of the modern state as about the analysis of the significance of economic relations for the origins of a plurality of states. Only under the condition of these omissions can he link the model of the plurality of states with the restitution of sovereignty in such a way that he is able to declare, in the first sentence of *Political Theology* (1922), that “Sovereign is he who decides on the exception”<sup>71</sup> and, at the same time, can characterize the ideal state as “a political entity that maintains a peaceful cohesiveness within and a cohesiveness of sovereignty without in the confrontation with other sovereigns.”<sup>72</sup> Schmitt’s concept of the political is not only based on an ideal model of the plurality of states, but also on a simplified and mythologized model of the state and of sovereignty.

In this way, Schmitt sidesteps the very dimension of the political that Foucault discerns as a politicization of life in the context of biopolitics and biopower and in the interplay of reasons of state with the police. The politicization of life, and with it the transformation of numerous individuals into a population, is the task that falls to the police as it is constituted in the seventeenth century. Foucault demonstrates this, more clearly than in his 1978 lectures, in a lecture entitled “*Omnes et Singulatim: Toward a Critique of Political Reason*,” given at Stanford University in October 1979.<sup>73</sup> Here, Foucault develops the thesis that the police—whose function is described in contemporary texts as the surveillance of religion, health,

70. Schmitt, *Der Begriff des Politischen*, pp. 10–11.

71. Carl Schmitt, *Politische Theologie: Vier Kapitel zur Lehre von der Souveränität* (Berlin: Duncker and Humboldt, 1990), p. 11.

72. Schmitt, *Der Begriff des Politischen*, p. 11.

73. In the following, I refer to the French translation that appeared in *le débat* 41 (1986): 5–36.

the welfare of the population, trade, the workforce, and the poor—transformed the Christian pastoral power that had developed in late antiquity out of a Christian adaptation and a Hebrew concept of God as a shepherd that cares for his people like a shepherd cares for his herd. As Foucault describes it, this model of government became, in the course of its adaptation through Christianity in late antiquity, the basis of pastoral power. In contrast to the situation with pastoral power, the individualization by the police was not carried out under the sign of the pastor who provided for the Christian salvation of each individual member of his flock, but, rather, under the sign of the optimization of life. In this way, the police did not focus on religion in terms of the question of Christian salvation or truth, but instead in terms of guaranteeing the quality of moral life. With health and provisioning, its main concern was insuring survival, and with transportation, commerce, and the poor, it improved the quality of life overall. As Foucault summarizes, the task of the police was to secure the survival of the population in general and to improve life. Just like the pastoral power, the police government did not aim its efforts at legal subjects but rather at “living individuals.” This government subordinated these individuals to the regime of governmentality in order to strengthen the nascent state. As the German term *Polizeiwissenschaft* (police science) makes clear, the work of the police stood in connection with science and statistics. In order to maintain the equilibrium between states, each state, as Foucault explains, had to secure its own powers as well the powers of the other states. To that end, a “principle for the decipherment of the constituting powers of a state”<sup>74</sup> had to be developed. This principle is statistics, which was understood in the literal sense as the theory of data about the state or theory of the state (*Staatslehre*). Statistics, according to Foucault, became “a necessity as a result of the police, but was also made possible by the police.”<sup>75</sup> The police represent, Foucault argues, a “circle” that “begins with the state as a rational and calculated power of intervention over individuals and then returns to the state as a totality of growing or increasing powers.”<sup>76</sup> The answer that Foucault gives to the question of the trajectory of this circle describes precisely the connection between biopower and biopolitics: “through the life of individuals, which now becomes valuable as mere life for the state.”<sup>77</sup>

74. Foucault, *Sicherheit, Territorium, Bevölkerung*, p. 454.

75. *Ibid.*, p. 455.

76. *Ibid.*, p. 470.

77. *Ibid.*

What Schmitt suppresses (or, as the case may be, sidesteps) with his one-sided determination of the political through foreign policy is the interdependence of the reason of state with the continental equilibrium between states and the police. He misses the fact that the state is predicated upon the transformation of sovereign power into biopower and the interdependence of various governmental rationalities. This becomes clear when one compares his concept of the old continental states with Foucault's short summary of the results of his genealogy of the modern state system after the end of the Thirty Years' War and the 1648 Peace of Westphalia:

Thus, apart from the theories that formulated and justified it, *raison d'État* takes shape in two great assemblages of political knowledge and technology: a military-diplomatic technology that consists in securing and developing the state's forces through a system of alliances and the organization of an armed apparatus; the pursuit of a European equilibrium, one of the guiding principles of the treaties of Westphalia, was a consequence of this political technology. The other assemblage is that of "police," in the sense this word had at that time, that is to say, the set of means for bringing about the internal growth of the state's forces. At the point where these two great technologies meet we should place commerce and monetary circulation, their common instrument: it was expected that from enrichment through commerce one would have the possibility of increasing the population, manpower, production, and export, and of equipping oneself with strong and large armies.<sup>78</sup>

While Schmitt speaks of sovereigns who face sovereigns, Foucault uses the concept of a competition between states.<sup>79</sup> That which Schmitt imagines as an inner unity and peace is for Foucault the effect of a historically new security apparatus that appears with the rationalization of governmental practice. While Schmitt ultimately bases his concept of the political on foreign affairs and the politics of representation, Foucault seeks the political in the resistance against governmentality.

He summarizes the two meanings of the phrase "everything is political" in the following sentence: "Stated succinctly, two formulations: everything is political through the nature of things; everything is political

78. Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977–78*, ed. Michel Senellart, trans. Graham Burchell (New York: Palgrave Macmillan, 2007), p. 365.

79. Foucault, *Die Geburt der Biopolitik*, p. 21.

through the existence of enemies,”<sup>80</sup> and concludes by saying, “what is at issue is to say: nothing is political, everything can be politicized, everything can become political. Politics is nothing more or less than that which arises out of the resistance to governmentality, the first uprising, the first confrontation.”<sup>81</sup>

### III.

Foucault’s concept of the political is, however, also political. Yet, it is not self-referential in the same way as Schmitt’s concept of the political. It does not align itself with reference to a situation of decision, nor does it depend on a mythical notion of the state or the sovereign. The transformation into the political begins in Foucault rather with the analysis of that form of “singular universality” in which governmentality implies that everything is political. A singular universality, as Foucault writes, has “in the end an eventful reality.”<sup>82</sup> Governmentality is, as Foucault defines it in his *Hermeneutics of the Subject*, “the strategic field of moving, changing, and reversible power relationships.”<sup>83</sup> Governmentality does not designate here a structure, nor a “relationship between . . . variables,” but in effect a “singular universality,” whose variables—as Michael Sennelart elaborates in his excellent contextualization of the 1978–79 lectures—“respond to the circumstances through their aleatory interaction.”<sup>84</sup> From this perspective, the state appears neither as a unity nor as sovereign, but rather as the “mobile effect of a system of many governmentalities”<sup>85</sup>

This deconstructive interpretation of governmentality corresponds to the method chosen by Foucault. He develops it out of the decision to speak of governmental practice and, at the same time, “to leave aside a certain number of concepts—such as, for instance, sovereign, sovereignty, people, subjects, state, middle-class society—treating them as primary, primitive, or given objects.”<sup>86</sup> Instead of beginning with these “universals” used by sociological and historical analysis as well as political philosophy,

80. *Ibid.*, p. 486.

81. *Ibid.*

82. Foucault, *Sicherheit, Territorium, Bevölkerung*, p. 67.

83. Michel Foucault, *Hermeneutik des Subjekts: Vorlesung am Collège de France 1981–1982* (Frankfurt am Main: Suhrkamp, 2004), p. 314.

84. Sennelart, “Situierung der Vorlesungen,” in Foucault, *Die Geburt der Biopolitik*, p. 484.

85. Foucault, *Die Geburt der Biopolitik*, pp. 115 and 17.

86. *Ibid.*, p. 15.

Foucault wants to do the opposite: “to start with practice, as it presents itself, but also as it reflects upon and rationalizes itself, in order to see from there how particular things, about whose status one would naturally ask questions, can really constitute themselves: state and society, sovereign and subjects.”<sup>87</sup>

Foucault also uses the concept of the real, he is also critical of rationalization, and he also wants more reality. In contrast to Schmitt, however, he does not begin with an ideal or a “classical model” of the state, nor with universals, but rather he consistently bases his analysis on “concrete practices” in order, as he formulates, to integrate “universals into the pattern of these practices.”<sup>88</sup> Thus, instead of trying to subsume practices under a universal schema or pattern, Foucault tries to integrate universals, such as state, population, sovereign, etc., into the pattern of concrete practices. This consistent, specifically Foucauldian nominalism allows the deconstruction of the formulation “everything is political” to deconstruct at the same time the mythical discourse of the state and to transform finally the scientific analysis into something political.

While Schmitt also turns against the hypostatization of concepts, he is no nominalist. A consistent nominalism would threaten or destroy “good jurisprudence” and could have at most a certain latitude in civil traffic law, as he writes in his essay “On the Three Types of Juristic Thought.” “Genuine juristic thought,” he surmises, “at least in public law, is conceptually realistic.”<sup>89</sup> This conceptual realism does not only lead to the commitment to Roman Catholicism as the political form that “has succeeded in constituting a sustaining configuration of historical and social reality that, despite its formal character, retains its concrete existence at once vital and yet rational to the *n*th degree,”<sup>90</sup> but also to the affirmation of representation as a process in which form is the origin of true substance, or the concrete. This means, for the question of the relationship between state and sovereignty, that the sovereign state requires for its concrete manifestation a personification—and thus the figure of the legislator. The legislator represents, in a strong sense of the word representation, “the decision inherent to law,” which, “normatively speaking, is born out of

87. Ibid.

88. Ibid.

89. Carl Schmitt, *On the Three Types of Juristic Thought*, trans. Joseph W. Bendersky (Westport, CN: Praeger, 2004), p. 44.

90. Carl Schmitt, *Roman Catholicism and Political Form*, trans. G. L. Ulmen (Westport, CN: Greenwood, 1996), p. 8.



nothing.”<sup>91</sup> The extent to which this decision born out of nothing, which is by definition a decision between friend and enemy, interferes with the Schmittian reading of Roman Catholicism becomes clear in the following sentence, which precedes the above quoted commitment to Roman Catholicism as a political form: “From the standpoint of the political idea of Catholicism, the essence of the Roman-Catholic *complexio oppositorum* lies in a specific, formal superiority over the matter of human life such as no other imperium has ever known. It has succeeded in constituting a sustaining configuration of historical and social reality that, despite its formal character, retains its concrete existence at once vital and yet rational to the *n*th degree.”<sup>92</sup> The figure of the sovereign, and thus the figure of the legislator, achieves for Schmitt a victory over formless matter, which reveals itself to be the true, original enemy.<sup>93</sup>

As will become clear in the following, it is precisely this extremely ambiguous idea of the decision that demonstrates the decisive difference between Schmitt’s concept of the political, based on the figure of the legislator, and Foucault’s concept of politicization.

The real is not located for Foucault in a decision for differentiation, which must from his nominalist point of view appear to remain abstract, nor in a distinction between two ideal spheres, such as the political and the economic, but rather in the tension between the universal and the historical, between the general and the singular, or, as he writes in his 1978 homage to the historian of science Georges Canguilhem, between the *concept of life* and the *living*. “Phenomenology sought the original meaning of every act of cognition in ‘experience.’ But is it not rather to be found in the living being itself?” The knower is in this phenomenological scene the biologist, who attempts to ascertain “what it is that turns something in life into a specific object of cognition and, at the same time, what can lead to the circumstance that, amongst living things, because of the fact that they are living things, there can be entities who can attain understanding and in the end can understand life itself.”<sup>94</sup> Foucault expands the replacement

91. Schmitt, *On the Three Types of Juristic Thought*, p. 23.

92. Schmitt, *Roman Catholicism and Political Form*, p. 8.

93. This corresponds to the meaning that original sin takes in Schmitt’s concept of the political. See Gross, *Carl Schmitt und die Juden*, pp. 314ff.

94. Michel Foucault, “Das Leben: die Erfahrung und die Wissenschaft,” in *Der Tod des Menschen im Denken des Lebens: Georges Canguilhem über Michel Foucault, Michel Foucault über Georges Canguilhem*, ed. Marcelo Marques (Tübingen: Ed. Diskord, 1988), p. 67.

of “experience” with “the living” to a Nietzschean affirmation of the thinking of evolution as the thinking of a radical historicity of life. What links evolution with the historicity of thinking is, as Foucault describes in numerous texts, the meaning that accrues to chance, and thus to error, in the thinking of evolution. “For at the most fundamental level of life, the play of coding and decoding makes room for a randomness which, before leading to sickness, deficiency, or deformation, is something like a disturbance in the information system, something like an ‘oversight.’ In the end life is, and therein lies its radical character, that which can err.”<sup>95</sup> And the circumstance that living things exist that can recognize life and thereby recognize life as that which can err would itself be the consequence of an error, of chance.

Foucault’s methodological approach, as the concepts of variation, series, randomness, population, etc. make clear, borrows theoretically informed concepts from synthetic evolutionary biology in order to then turn them critically (for example in his 1976 review in *Le Monde* of Jacques Ruffié’s *De la Biologie à la Culture*) against both humanistic, anthropocentric political theories and the critiques of racism based upon them that condemn racism categorically while tolerating it practically. In the face of an evolutionary-biological definition of the concept of race that leads to a deconstruction of the belief in the existence of race, Foucault, in this review, with the significant title “Bio-history and Bio-politics,” commits himself in support of a process of “racialization” that he describes as follows: “One must imagine a humanity in which races do not stand next to each other but which rather consists of population ‘clouds,’ which are interwoven with each other and blend a genetic field that becomes more valuable the more accentuated its polymorphism becomes.”<sup>96</sup> The historicity of this synthetic theory of evolution results from the fact that populations are not defined by prototypes but through the collection of variations that ceaselessly develop and dissolve. Foucault draws from this the conclusion: “It is history that delineates these collections before it allows them to disappear; one cannot look there for crude and final biological facts which would impose themselves from the core of nature outside of history.”<sup>97</sup> He presents thereby a “bio-history” in which biology does

95. *Ibid.*, p. 69.

96. Michel Foucault, “Will Klaus Croissant be Extradited?” in Foucault, *Dits et Ecrits*, 3:128.

97. *Ibid.*

not determine history but rather history determines biology. And from this he develops a biopolitics that tries to retrieve the political from out of this radical historicity.

Let us return then to his history of governmentality and ask, first, whom he is addressing with his continual hints and references to a currently prevailing and recurring phobia of the state, from which he is at pains to distance himself with his de-mythification of the state. The answer leads us to Foucault's apology for liberalism and to his affinity with neo-liberal ideas, which is no less radical than what is implied by his proximity, described above, to the thinking of evolution and the commitment to a thinking of radical historicity.

The references to a currently prevailing phobia of the state are an allusion to the ideological struggles and differences that were being fought out, also in France, in the second half of the 1970s in relation to the politics of the Red Army Faction (RAF). Michel Sennelart points out in his contextualization of the lectures on the history of governmentality that "'the German question' as it was posed in an urgent way by the debate on terrorism" was for Foucault, one of the "essential keys to understanding contemporary politics."<sup>98</sup> Sennelart recalls as well the meaning that attached to the Klaus Croissant affair in terms of Foucault's political engagement as well as in terms of its theoretical implications. Klaus Croissant was the lawyer for the Baader-Meinhof Group and in July 1977 had requested political asylum in France in order to avoid possible imprisonment in Germany. He was extradited to Germany after the death of the Baader-Meinhof prisoners and the kidnapping and murder of Hans-Martin Schleyer on November 16, 1977, and was sentenced there to two and a half years of prison for supporting a terrorist organization. Foucault supported his request for asylum by referring to the "rights of the governed" to mount a defense in a court of law. He took part in many demonstrations against the extradition and even broke a rib at one of these demonstrations. Yet, he also made clear that his support only related to the defense of the rights of the lawyer and not the political goals of the RAF. In contrast to Foucault, Deleuze and Guattari signed a petition in which West Germany was described, in accord with the RAF, as a potential police state. Foucault broke off contact with Deleuze after this; they no longer spoke to one another.<sup>99</sup>

98. Foucault, *Die Geburt der Biopolitik*, p. 454.

99. Cf. Eribon, *Michel Foucault*, p. 372.

One must keep these public appearances in mind in order to be able to understand Foucault's apology for liberalism, particularly German "ordered liberalism" (*Ordoliberalismus*), as well as his strident critique of the socialist model, which, he writes, lacks an "intrinsic governmental rationality."<sup>100</sup> In contrast to the socialist model, liberalism does not have to be true or false: "One asks whether a liberalism is pure, radical, consistent, mild, etc. This means that one asks which rules it sets itself and how it implements the compensation mechanisms and control measurements that it has established within its governmentality. I believe that when one has, by contrast, such a strong desire to pose to socialism this indiscreet question concerning truth, which one never poses to liberalism—namely the question, 'Are you true or false?'—it is because socialism lacks an intrinsic governmental rationality and this [lack of a] governmental rationality, which is essential to it, has, as I believe, up to the present day not been overcome, and one ends up replacing this problem of an inner governmental rationality with the relationship of conformity with a text."<sup>101</sup> One must, however, add at this point that Foucault understands the governmental rationality of liberalism to be that "critical governmental reason" that formulates the condition of its own limitation in the question of how one can manage not to govern too much.<sup>102</sup> Political economy is, as Foucault subsequently maintains—against Schmitt's rejection of liberalism and the mixing of the political with the economic—"a kind of general reflection on the organization, distribution, and limitation of power in society."<sup>103</sup> Liberalism is, as Foucault summarizes, "no dream that collides against reality and fails to inscribe itself there"; it constitutes an "instrument of reality critique: the critique of an earlier governmentality from which one seeks liberation."<sup>104</sup> And it is precisely for this lack of a general reflection on the question of the limitation of power in society that Foucault rebukes socialism.

Foucault prefaces his eighth lecture in 1979 with some general comments concerning the methodological reach of his analysis of micropower in order to then formulate on this basis a radical critique of the recurring phobias of the state and the resulting inflationary critical commonplaces.

100. Foucault, *Die Geburt der Biopolitik*, p. 136.

101. *Ibid.*

102. *Ibid.*, p. 29.

103. *Ibid.*, p. 30.

104. *Ibid.*, p. 438.

In support of his critique of leftist positions that claim a continuity between different state forms (such as the welfare state, the administrative state, the bureaucratic state, the fascist state, and the totalitarian state) in order to blame the state in general for a proximity to totalitarianism, Foucault presents three reasons: “First, because I think that this thematic increases the interchangeability of the analyses, and does this ever more rapidly. In the end, for example, an analysis of social security and the administrative apparatus upon which it depends, beginning with a few displacements and based on a few words with whose meaning one can play, will point to the analysis of concentration camps.”<sup>105</sup> The second, related reason is that this inflationary critique follows a logic that Foucault describes very accurately as a “general disqualification through the worst case.”<sup>106</sup> The third, and possibly most serious, reason for Foucault is, finally, that this sort of analysis allows one “to avoid the price of the reality of the present.”<sup>107</sup>

The reality that these positions miss is that, as Foucault already underlined in the late 1970s, the present is not characterized by the increasing power of the state but by the expansion of a neo-liberal governmental-ity and, as a consequence, by the disappearance of the state. Foucault’s attitude to these developments, as his remarks concerning both a possible neo-liberal penal law and a neo-liberal social policy show,<sup>108</sup> is not necessarily a critical one, or at least not a judgmental one. He does not demand more state, but rather he attempts to test out the critical potential of the neo-liberalism that he analyzes. He presents a thoroughly surprising image on the horizon of his analysis. This image does not present the ideal of a totally disciplinary society nor the society of a general normalization and exclusion of the non-normalizable, but rather the “programmatic theme of a society in which there would be an optimization of the systems of differences, in which one would allow adequate space for fluctuating processes, in which there would be a tolerance for individuals and the practices of minorities, in which there would be no possibilities of influencing the players of the game but only the rules of the game, and in the end in which there would be interventions that would not lead to the inner subordination of individuals but to their interaction with their environment.”<sup>109</sup>

105. *Ibid.*, p. 263.

106. *Ibid.*

107. *Ibid.*, p. 264.

108. Cf. *ibid.*, p. 346.

109. *Ibid.*, p. 359.

For Foucault, the political originates in the confrontation between varying governmentalities, varying forms of the art of governance, to which the art of de-subjection and the art of self-government also belong.<sup>110</sup> His own political engagement was carried out under the sign of this art of de-subjection.<sup>111</sup> It involved a consistent engagement in the rights of the governed, an engagement for the right of de-subjection, within an international or global space. He thus defended his support for the Iranian revolution—upon which he commented in a series of intellectual reportages for the *Corriere della Sera*—in a May 1979 article entitled, “Does it Make Sense to Rebel?” in which he points to the necessity of reconstituting history against the totalizing and individualizing tendencies of biopower:

People rebel, that is a fact. In this way subjectivity (and not just that of great men but of any given person) enters into history and blows its life into it. A prisoner sets her life against an excessive punishment. A mentally ill person does not want to be incarcerated and robbed of rights. A people sets itself against a regime that oppresses it. In this way, the prisoner does not become innocent, the mentally ill person does not become healthy, and the people do not take part in the promised future. And no one must show solidarity with them. No one must believe that these voices might sing more beautifully than others and pronounce the final truth. It is enough that they are there and that everything attempts to silence them in order that it becomes meaningful to want to listen to them and understand what they say. A question of morality? Certainly a question of reality. All the disappointment of history will not change that. Because such voices exist, the era of humans does not have the form of evolution, but of history.<sup>112</sup>

110. Michel Foucault, *Was ist Kritik? Vortrag gehalten am 27.5.1978 in Paris*, trans. Walter Seitter (Berlin: Merve, 1992), pp. 12, 15.

111. The intensive occupation with an ethics or aesthetics of the self that was taken up after the lectures on the history of governmentality stands under the sign of this art of self-government in the sense of an art of de-subjection or an art of critique. Foucault describes the connection between a resistance against governmentality and an ethic of the self (which cannot be discussed here due to space limitations) in a lecture of February 17, 1982, on the hermeneutics of the subject: “While the theory of political power as institution normally refers to a juridically conceived legal subject, it seems to me that the analysis of governmentality—that is, the analysis of power as an ensemble of reversible relationships—must be based on an ethics that is defined by the relationship of the self to itself” (Foucault, *Hermeneutik des Subjekts*, p. 314).

112. Foucault, *Dits et Ecrits*, 3:991.

To politicize means to lead biopolitics into history. And this is, as Foucault continues,

implacably linked to another principle according to which the power that one person exercises over another is always dangerous. I do not say that power is in its essence an evil. I say that it is in its mechanisms endless (which does not mean, however, that it is all-powerful, on the contrary). The rules for limiting power cannot be too strict. The universal principles that deny it opportunities that it would take advantage of cannot be too stringent. Power must always be opposed by untransgressible laws and unlimited rights.<sup>113</sup>

113. Ibid.

*Scum of the Earth:  
Alain Finkielkraut on the Political Risks  
of a Humanism without Transcendence*

Theo W. A. de Wit

*I. The Seduction of Immanence*

The vocabulary of humanism—in which concepts such as “man,” “humane,” and “humanity” figure prominently—has always been contentious. The sarcasm of the nineteenth-century Catholic conservative thinker Joseph de Maistre with regard to the abstraction-tainted works of revolutionary thinkers, has become famous: “In my life I have met Frenchmen, Italians, and Russians, but Man, I solemnly declare, I have never met before; perhaps he exists, but not to my personal knowledge.”<sup>1</sup>

These concepts acquire a practical, political, and even polemical meaning when acted upon in the name of man, human rights, and finally humanity against “inhuman” practices such as “crimes against humanity.” As we shall see, humanity itself can become an entity whose interests are being taken care of or whose destiny is being fulfilled by a representative agent, the “party of humanity”—in opposition to those who obstruct humanity or deflect her from her destiny. “Humanity” then ceases to be a descriptive term (“everyone with a human countenance”) and becomes one that discriminates between humans and unhumans. The pretence of acting in the name of humanity, or to use a more current expression, in the name of the “international community,” can become a kind of quasi-religious

1. Joseph de Maistre, *Œuvres Complètes* (Lyon, 1884), 1:75. Please refer to Robert Legros, *L'idée d'humanité: introduction à la phénoménologie* (Paris: Bernard Grasset, 1990), for an overview of the concept human(ity). Also refer to Hans Erich Bödecker et al., “Menschheit, Humanität, Humanismus,” in Otto Brunner, Werner Conze, and Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe: Historisches Lexikon zur politisch-sozialen Sprache in Deutschland* (Stuttgart: Klett-Cotta, 1982), pp. 1063–1128.



intoxication, the self-deception of a philosophy of history, necessary in order to gain—in Hegelian terminology—absolution from the World Spirit for its deeds and misdeeds.

In the context of a philosophical appraisal of the political light and dark sides of humanist concepts, such as man and humanity, the work of the French philosopher and essayist Alain Finkielkraut over the last two decades, is in my opinion, quite instructive. When one compares his earlier work with his more recent writings, a certain impression of development, of a process of shifting, seems undeniable. The reader of *La défaite de la pensée* (1987)—the essay that made him known outside the Franco-phone world—encounters a cosmopolitan humanist and a republican in defense of universal Reason and human rights against the particularism of *Volksgeist*-thinking, that phenomenon which has been developing since the nineteenth century in opposition to the Enlightenment. At the heart of the romantic particularism that attributes a collective soul to every nation, Finkielkraut demonstrates, lies a totalitarian element, which first became visible during the Franco-Prussian War (1870–71), and subsequently fully revealed itself during the Nazi-era and Germany’s “total war.” In essence, universalistic concepts such as “man” and “mankind” are abrogated in favor of a set of unflinching and potentially mutually hostile essences such as nations and races.<sup>2</sup> And this threat, according to Finkielkraut, is also given with the contemporary ideal of “multiculturalism,” be it that *Volksgeist* is no longer defined in terms of the now objectionable idea of “race,” but rather in terms of a “culture” and identity. As a consequence, precisely in the name of respect for the other’s culture, “the operational sphere of human rights has become limited to Westerners.”<sup>3</sup> Amidst all this respect, we have forgotten that “the spiritual foundation of Europe resides in a critical stance toward traditions.”<sup>4</sup>

Fifteen years later, however, he warns against a “fever of boundlessness” and an “unfettered subjectivism” that, by using universal human rights as leverage, manages to triumph over the state’s prerogative to determine boundaries and to differentiate between the permissible and the forbidden.<sup>5</sup> More recently, he even polemically refers to a humanist

2. Alain Finkielkraut, *La défaite de la pensée: essai* (Paris: Gallimard, 1987).

3. *Ibid.*, p. 130.

4. *Ibid.*, p. 129.

5. Alain Finkielkraut and Benny Lévy, “Séminaire préparatoire 17 février 2002,” in *Cahiers d’Etudes Lévinassienses* 2 (2003): 213–32; here, p. 225. See also Alain Finkielkraut

“religion of humanity.”<sup>6</sup> Today, Finkielkraut no longer believes in the post-political idyll of a regime of Reason and has gained appreciation for the value and vulnerability of national traditions and symbolic realms.

Nevertheless, even in *Défaite*, this delimitational subjectivism was a target of criticism along with the fetishism of national and cultural difference. The postmodern consumer of culture, he establishes in the last section of the essay, cannot abide nationalists and populist jingoists, but is also left cold by the mature and elitist formative ideal of the Enlightenment. For somebody like that, culture has become a radically private matter. Culture is a package that one assembles for oneself out of the overwhelming array of identities, styles, and products on offer in a reality where a myriad of cultures intersect. Such a person champions hybridization, “multi-culturalism,” and especially a frank brand of hedonism that wants “unrestricted movement between a Chinese restaurant and an Irish pub, between pizza and tacos, between literature and kite surfing.”<sup>7</sup> For these eternally youthful “airheads”—as Finkielkraut terms them—even the mere differentiation between culture and amusement already smacks of authoritarianism and old-fashionedness.

Thus, already in 1987, Finkielkraut actually had two adversaries, although it is only in more recent times that it would appear that he considers subjectivism no less of a redoubtable opponent than the cult of the own. He is undoubtedly no longer the “obstinate child of the Enlightenment” from the time of *Défaite*. Rather, he has become inclined to appraise the modernist project of a regime of Reason as a post-political illusion. In line with this, he recently recommended that Europe embrace a “militant humanism” as a means of gaining real protection in a dangerous world.<sup>8</sup>

In this essay, I will show that Finkielkraut’s intellectual restlessness has similarly remained constant over the years. This restlessness is brought about by what I will here term *the seduction of immanence*: a denying and averting of every form of transcendence. A number of very different, even mutually completely incompatible, modern attitudes and ideologies (such as nationalism, a universalistic belief in human rights, and subjectivism)

and Benny Lévy, *Le livre et les livres: entretiens sur la laïcité* (Paris: Éditions Verdier, 2006).

6. Alain Finkielkraut, “Les juifs face à la religion de l’humanité,” *Le Débat* 131 (2004): 13–19.

7. Finkielkraut, *La défaite de la pensée*, p. 136.

8. Alain Finkielkraut and Peter Sloterdijk, *Les battements du monde* (Paris: Fayard, 2003), p. 186.

are susceptible to this seduction, and especially the notions of agnostic and atheist humanism.

Thus, in *Défaite*, we read that “in a world bereft of transcendence, cultural identity is being used to cover for barbaric traditions which God is no longer able to justify.”<sup>9</sup> In a godforsaken world, a culture-based justification of human barbarity (an anthropodicy) threatens to replace the traditional justification through God (theodicy). Against this, Finkielkraut defends the transcendence or universal dignity of the human individual. The dangerous inversion of this anthropodicy is the individual consumer of culture, who denies all forms of transcendence. Through the imperatives of productive growth and the optimal utilization of free time, a hedonism is being encouraged which “should remain unfettered by any transcendental value or even tied to any conditions.”<sup>10</sup> By comparison, Finkielkraut assesses our enlightened forbears, to whom culture precisely formed a counterweight to the tyranny of instrumental reason, to be superior. While in *Défaite* this criticism is still rooted in the formative ideal of the Enlightenment and the transcendence of Reason, in more recent times, as we will see, Finkielkraut has become particularly apprehensive toward the ultimate political *telos* of contemporary subjectivism.

As is apparent from the examples given above, Finkielkraut’s use of the word “transcendence” should be conceived of not in purely religious terms, but also in terms of the profane meaning of the German noun *Gegenüber*: that which opposes, responds, resists. This may entail that form of opposition or resistance given by the other or another party to our plans, feelings, wishes, and aggressions; or that of resistance evoked by an event (political or religious) from the past or present; of the recalcitrance of a literary or philosophical body of writing, or of the *déjà la* of a preexisting world (institutions, cities, works of art, buildings) entrusted to our care.

“God,” the religious person’s *Gegenüber* par excellence, is missing from this set. Finkielkraut considers himself an unbeliever, but, he adds, not so much in the sense of someone who has been “emancipated” from faith (as with self-confident or pedantic humanists), but rather as someone who is “without consolation.” This remark is in reference to a statement made by Gershom Scholem, an authority on Jewish mysticism: “Where God once used to dwell, we now find melancholia.”<sup>11</sup>

9. Finkielkraut, *La défaite de la pensée*, p. 129.

10. *Ibid.*, pp. 147 and 142.

11. Finkielkraut and Lévy, *Le livre et les livres*.

The restiveness that permeates Finkielkraut's work may also be formulated in different terms. In his writings, he continuously attempts to withdraw from two diametrically opposite conclusions—mirror images—of a philosophical-historical narrative: on the one hand, from the splendid isolation of a history in which the past, the dead, and the own *Volksgeist* reign supreme;<sup>12</sup> on the other, from the conceit of an unfettered liberal notion of progress, which holds that we have nothing to learn from our ancestors, and that *they*, on the contrary, “should rather be the pupils of our contemporary school of co-existence.”<sup>13</sup> On the one hand, the cocoon of the own; on the other, a world without borders, conceived of as a Peter Stuyvesant cigarette advertisement: in a sense, both ensure that one *does not have to encounter anyone*. And one should no longer feel compelled to choose between universalism and particularism, between (cosmopolitan) “tourism” and (nationalist) “barbarity.”

What makes Finkielkraut's work interesting, in terms of a dialogue between humanism and religion, is the fact that the persuasiveness of his humanism is by and large not based in a polemical relationship toward religion, as is so often the case. Such forms of polemical humanism frequently boil down to nothing but sterile inversions of religious affirmations. They play off autonomy against heteronomy, self-realization and one's own creativity against providence and the ways of the Lord, and, in general, man against God. In contradistinction, Finkielkraut's work rather bears testimony to a *self-examination* of the necessity and strength, but also of the wrong turnoffs taken by, and derailments of, a modern humanism that thinks in terms of universalistic categories, such as man and mankind—especially where this gains political significance and becomes more than an individually cherished “outlook on life.”

Presentation below will initially focus on a discussion of Finkielkraut's critical interpretation of the modern ideology of humanity and how it has gained a totalitarian character during the course of the twentieth century. The counterpart to this criticism is a *redemption* of the concept humanity, as has been undertaken since after the Second World War in elaboration of the category of “crimes against humanity.” However, this concept also lends itself to being employed by an ideology of humanity. Finally, the ideology of humanity is also present in well-meaning discourses against

12. This represents the critical import of *La défaite de la pensée*.

13. Alain Finkielkraut, *L'ingratitude: conversation sur notre temps* (Paris: Gallimard, 1999), p. 210.

racism and in a subjective radicalization of modern democracy. Whichever way, what this discourse of humanity generates, is a category of humans who become situated outside of humanity. The “scum of the earth” is both the product of, and waste matter generated by, such an ideology.

## *II. A Radical “Ideology of Humanity”*

Throughout his writings, Finkelkraut stubbornly keeps on returning to the totalitarian adventures of twentieth-century European history, and he raises the question of whether we have actually succeeded in liberating ourselves from totalitarian modes of thinking. In *L’humanité perdue* (1997), he argues that the concept of the *equal dignity* of all humans, established at such great pains in Western history and philosophy, was made subservient to, and eventually sacrificed on the altar of, universalistic humanist ideologies. It is in this context that Finkelkraut broaches the topic of “radical politics.”<sup>14</sup> What is radical politics? From his descriptions, it becomes obvious he has a certain potentiality of the *modern* world in mind: assumed is a transition to secular conceptions of man, the world and democratically legitimized political power. Finkelkraut illustrates this transition in different ways. The traditional Christian notion of *original sin* is abandoned by radical politics in favor of the notion of an original *crime*; the notion of *evil* as something mysterious becomes transformed into a *problem* which is soluble in principle. The notions of quasi-unchangeable human *nature* and of human tragedy are replaced by the scenario of a *battle* between forces of good and evil; a conflict between oppressed and oppressors—to the extent that what used to be more or less durable *tensions* are transformed into historical *contradictions* that history itself will abolish. That, in so far as not the *coexistence* of those differing with one another, but *happiness*, is conceived of as the ultimate goal of politics.

In its radical conception, democratic politics are no longer concerned with “the common discussion of all matters” held in common,<sup>15</sup> but with the fulfillment and conclusion of the essential logic of the history of the people, or even that of humanity brought to its destiny. The political realm is therefore not conceived of as a relatively self-reliant and delimited

14. Alain Finkelkraut, *L’humanité perdue: essai sur le xxe siècle* (Paris: Le Seuil, 1996).

15. Alain Finkelkraut, *L’imparfait du présent: pièces brèves* (Paris: Gallimard, 2002), p. 192.

domain, but rather as an all-encompassing collision of opposing wills and powers. These politics are “radical,” especially in so far as their protagonists are of the opinion that “the problem of man can be solved.”<sup>16</sup> Human action is justifiable through science, and this enables the substitution of work for action—or, phrased in Aristotelian terminology, of *poiesis for praxis*.

Conspicuous in this description is, on the one hand, the strong *dynamism* of the radical conception of politics, and, on the other, precisely the *closed nature* of the outcome of the political process. The script has been written, and nothing remains for politics but its acting out through History. Radical politics does not consider “leaving open the question of what represents a good society”—a consideration that, according to Finkelkraut, lies precisely at the heart of a well-conceived notion of democracy.<sup>17</sup> Hence, the fundamental “ambiguity” of a democracy that ties itself to radical politics: on the one hand, it is a *system of government* for which everything becomes a topic of debate, without any guaranteed results or conclusion; on the other, democracy practiced as a universal *process* with a sense of destiny, which at the very most only has to take obstacles, obstructions, and delays into consideration.

The totalitarian adventures of the twentieth century, associated with massive carnage and the terror of totalitarian states, are frequently interpreted as relapses into barbarity, or even into “nature.” This interpretation itself pays tribute to a (humanistic) narrative of progress that describes the acknowledgement of an equality of human dignity, or even—as in Diderot and Rousseau—a positing of a universal “sentiment of mankind” (*sentiment d’humanité*) as a kind of learning process that mankind had to go through. Finkelkraut is especially suspicious of interpretations (for instance, as proposed by Sartre) that equate Nazism and anti-Semitism with a relapse into (biological) nature and natural hierarchies—precisely because they leave intact the humanistic notion of teleological history, of progress.

He essentially proposes that both communism and fascism should not be understood *from within* the frameworks of humanism, but rather as a problem *of* humanism itself, that is, as the result of certain tensions within the central humanistic concept of “humanity.” In the twentieth century, according to the central thesis of *L’humanité perdue*, we have

16. Finkelkraut and Lévy, “Séminaire préparatoire,” p. 238.

17. Finkelkraut, *L’imparfait du présent*, p. 91.

not so much been witness to a regression of civilization, but rather to a collision between two elements of the modern concept of humanity, that is, between that of the dignity of man and of (philosophical-historically conceived) History, a struggle that has resulted in History's bloody triumph over dignity.<sup>18</sup>

According to Finkelkraut, understanding the twentieth century in terms of such a "collision" is valuable in order to broach the question of the relationship, the affinity, between National Socialism and Stalinism. Hannah Arendt already raised this issue in *The Origins of Totalitarianism*—for which she has until recently received very little gratitude. Understandably so, for how is it possible that any affinity can exist between two movements that have waged total war against one another? How can Nazism, the antithesis of European humanism, have anything in common with communism, which professes to be the culmination of humanity? According to Finkelkraut, this relationship is bound to remain opaque as long as Nazism is conceived of purely in terms of a reactionary and racist particularism, and is being denied the status of a modern ideology of progress with a pretense at universality.

In order to bring to light these aspects of Nazism, it is in the first instance necessary to establish that it represents a break with the tradition of nineteenth-century conservatism, which, at the time, was still opposing humanism from theological premises: humanistic man has forgotten the Fall of man and has usurped the place of God as the architect of history. National Socialism, on the other hand, dispensed with the notion of sin and replaced it with that of the *conspiracy of evildoers*, Jews. Evil and suffering were no longer theologically conceived of as punishments from God or as penance for our sins, but as aggression leveled at us by an immanent force. Within National-Socialist ideology, the Jew is not only different and ethnically inferior, not only an "alien," but also a harbinger of the ominous: invisible, omnipotent, and globally omnipresent. In the second place, this transformation of evil goes hand in hand with the coming into being of a new, universal explanatory framework and different conceptions of politics and the enemy. It is the task of politics—that is, of the *Führer*—to interpret the laws of nature and to bring them to fruition, and hence to lead humanity and evolution *to the fulfillment of their destinies* by ridding them of the Jewish menace. Politics then ceases to be the art of the possible that has to take into consideration objective limits (such

18. Finkelkraut, *L'humanité perdue*, p. 86.

as historically evolved relationships or national and parochial peculiarities), and becomes the uncompromising fulfillment of a task, a necessity and universal destiny, only coming up against subjective resistances and obstacles.

Hence—and thirdly—the almost puritanical and ascetic aspects that characterized the evil perpetrated by the Nazi instigators of carnage. Evil and the use of violence as such were not seductive to Hitler's followers, nor were prospects of sadistic pleasure or the considerations of utilitarian necessity; rather, it was the dear and exalted duty that represented the corollary of the will to toil in service of humanity's history and the future. Compassion with victims then becomes dangerous—because he who makes exceptions no longer *acts*, but *dithers*, and thereby risks compromising the purity of the operation.

“Everything is possible” was the creed of Hitler's radical voluntarism, and every setback was sure to be the work of the enemy, an enemy who is coincidentally also the enemy of mankind. Here, we encounter that central figure that is, as we will see, according to Finkielkraut, generated by every kind of radical politics as the “scum of the earth,” and in need of elimination: *the enemy of mankind*.

By means of this interpretation of National Socialism as a voluntarist ideology of progress with universal pretensions, Finkielkraut is easily able to demonstrate the relationship of this form of totalitarianism with Stalinism. That in as far as Stalinist communism has often been described as the ultimate consequence of a universalistic philosophy of history and of thinking in terms of historical necessity.

Stalinism also conceives of social phenomena as processes, reduces reality to a conflict of opposing wills, and consequently, conceives of politics as the domain of omnipotence. Hence, the title of *L'humanité perdue*'s third chapter, in which Finkielkraut deals with totalitarianism in both its forms: “The triumph of will.” As a result of the humanistic origin of communism, tensions between compassion and the power of reason, between emotion and duty, between man and humanity are more apparent in communism than in Nazism. Nevertheless, the result remains the same. “Ultimately I plead guilty to having put the concept of man above that of mankind,” says the communist who has fallen prey to one of Stalin's purges in Arthur Koestler's famous novel *Darkness at Noon*. Also, Stalinism is dominated by the paranoid motive of a struggle between humanity and an Enemy that hinders humanity's progress and prevents it from fulfilling her destiny.



“God is dead: everything is hostile” (*Dieu est mort: tout est ennemi*) lies, according to Finkielkraut, at the heart of both Stalinist and Nazi forms of immanence thinking, thinking which is no longer able to ascribe misfortune and human finiteness to God or the Devil, but has to triumph over these, that is, to deny them through History. That is what Finkielkraut, in following Hannah Arendt, terms “ideology”; that is, the refusal to give due to that which withdraws from our grasp—the encounter, the event, or that which we find to already exist (*déjà la*). Ideology is the replacement of the uncertainty and unpredictability of human affairs with a historical drama scripted for two characters only: humanity and its obstacle.

That which Finkielkraut and his philosophical guide Hannah Arendt propose in contrast, is nothing but an alertness and presence of mind, intimately rooted in the assumptions of the unpredictability of human action and the resulting inevitable “risk(iness) of politics.”<sup>19</sup> Or, in Milan Kundera’s formulation, human action as inevitably a “continuing in the fog.”<sup>20</sup> This fog and this unpredictability, according to Arendt, can be traced back to the basic given that is also at the essence of the activity that we call “politics”: the “plurality” of humankind. “Politics is based on the given of the plurality of humans, . . . and concerns itself with the coexistence of and interaction between those who differ.”<sup>21</sup> From this point of view, radical politics represents the “metaphysical disappearance of varied multiplicity into the One.”<sup>22</sup>

### ***III. “Crimes against Humanity” as Employed by Ideological and Sentimental Humanism***

A second example of Finkielkraut’s philosophical dismantling of radical humanistic politics can be found in his essay on the juridical category of “crime against humanity,” in response to the trial of Klaus Barbie in 1987—the first trial in French history where an accused was indicted on this charge.<sup>23</sup>

19. Alain Finkielkraut, “Le risque du politique,” in Catherine Chalier and Miguel Abensour, eds., *Cahier de l’Herne: Emmanuel Lévinas* (Paris: L’Herne, 1991), pp. 559–71.

20. Finkielkraut, *L’humanité perdue*, p. 134.

21. Hannah Arendt, *Was ist Politik?: Fragmente aus dem Nachlass*, ed. Urzula Ludz, (Munich: Piper, 1993), p. 3.

22. Finkielkraut, *L’humanité perdue*, p. 111.

23. Alain Finkielkraut, *La mémoire vaine: du crime contre l’humanité* (Paris: Gallimard, 1989).

In Finkelkraut's opinion, the introduction of the concept "crime against humanity" at the Nuremberg trials, represents a juridical event of enormous importance. This, after all, implied the creation of a legal entity that transcended the "absolute sovereignty of the state," the political reality that in the past had provided a check against all universal norms. Crime against humanity introduced the definition of a "culpable exercise of state sovereignty," in contradistinction to both the "culpable exercise of personal sovereignty" (or "common" crimes) and crimes of war. The purpose of this new concept was to reestablish a relationship between "crime" and its human "perpetrator," a relationship that was severed by the Nazi regime in so far as the perpetrators disappeared as mere cogs into the machinery of a National-Socialist totalitarian state.

A further consideration was the resolve to once and for all imbue "the laws of humanity" with a binding authority, and not to yield to political realism, and in doing so, to reply adequately to the equally global dimension of Nazi plans to exterminate the entire Jewish people. For the Nazi regime made pretence to the authority to "determine who should and who should not live in this world."<sup>24</sup> In *La mémoire vaine*, we already find a kernel of the thesis that Finkelkraut would elaborate in *L'humanité perdue*: that National Socialism should not be understood as a regressive particularism, but rather as a modern, future-orientated ideology with pretensions toward universality. After all, her subjects held the absolute conviction that "through the eradication of parasites they are contributing toward the perfection of the human race."<sup>25</sup>

Thus, according to Finkelkraut, the most important underpinning of the concept of "crime against humanity" is the ubiquitous realization in the immediate aftermath of the War that "humanity *too* is mortal."<sup>26</sup> This realization of the fragility and mortality of the human race implied a radical departure from the modern metaphysical conception of humanity as absolute value: "Prior to Hitler there was trust: man did not believe that humanity could perish. . . . From the evolutionist or revolutionary perspective, the conviction existed that, even though human rights may be subject to sporadic infringement, these lamentable incidents would never be able to compromise the positive progression of civilization. Even should humanity be overcome by a loss of juridical and moral self-restraint, viewed

24. Ibid., p. 31.

25. Ibid., p. 59.

26. Ibid., p. 52.

from a historical perspective, she will continue in fulfilling her destiny, continue with indefatigable energy in pursuit of absolute knowledge and greater prosperity. What appears as an unjustifiable scandal through the eyes of the compassionate beholder, appears, as soon as it is viewed from that which is coming into being, as a trivial incident, even a ruse of Reason which, from within concealment, governs the order of things.”<sup>27</sup>

Nuremberg spelled the end to the consolation that this philosophical interpretation of history offered, and with that of the dogma of the self-realization and progress of humanity, of Ernest Renan’s assertion that humanity is “an immense army marching toward the conquest of perfection.”<sup>28</sup> Not only the realization that it is impossible to conceive of concentration camps as unfortunate industrial accidents in the glorious progression of civilization, but also the fact that this industry of death was made possible precisely by the march of humanity—nothing was as civilized, as methodical, and as modern as the *final solution*—served to divest this humanist metaphysics of all standing. As we have seen, this presumption that history obeys a knowable “scientific law of movement,” and can be explained as “one single coherent process” aimed at the perfection or progress of humanity, has been termed “ideology” by, for instance, Hannah Arendt. Or, in Finkelkraut’s terminology, as “radical politics.”

At Klaus Barbie’s trial in Lyon (which he attended), Finkelkraut however diagnosed amongst those parties present a *return* to the ideological conception of humanity, and thus to radical politics, albeit in new forms. First of all, among Barbie’s defenders. In setting themselves up as representatives of non-white humanity (two out of his three defense lawyers were from Third World countries), they reduced the *final solution* to an event amongst “white scoundrels” and “white henchmen.” Inflating the status of this “domestic quarrel” to that of a global struggle and perennial crime could be equated, in their eyes, to nothing but a “narcissist lament,” and then one mainly aimed at distracting attention from Western imperialism and the peoples of the South’s relentless persecution (for instance, by the Americans in Vietnam, the French in Algeria, and the Israelis against the Palestinians).

In this anti-imperialist account of events, the true Nazis were not Barbie and men like him, but Western imperialists and racists. By branding

27. *Ibid.*, pp. 52 and 54.

28. Ernest Renan, quoted in Alain Finkelkraut, *Le mécontemporain: Peguy, lecteur du monde moderne* (Paris: Gallimard, 1991), p. 129.

the latter as the *true enemies of humanity*, and by viewing the victims of National Socialism as mere symptoms of the “criminal essence” of the West, they, according to Finkelkraut, once again introduced an ideological and metaphysical concept of humanity. In their version, the conflict between North and South appears as a “historical law,” and humans are either the instruments (anti-colonial liberation movements) of, or opponents or obstacles (Western imperialists) to, its realization. Thus, the “lesson of Nuremberg”—that the human race is not tied to any law of movement, but is characterized by varied multiplicity—is erased by Barbie’s defense team.

A further important implication of this line of argument, was the considerable expansion of the juridical concept “crime against humanity.” For Barbie’s defense team, this category not only encompassed planned genocide as perpetrated by a criminal civil service, but all “inhuman” practices, past and present. Also, various representatives of the prosecution at Lyon, Finkelkraut noted, allowed themselves to be seduced into endorsing this expanded concept, this dilution of “crimes against humanity” into “crimes against *the virtue of humanity*.” In this they not only lent tacit support to Barbie’s defense, which was aimed at dislodging the term “Nazi” from its concrete context and applying it to all kinds of practices of white oppression—inclusive of those perpetrated by the state of Israel. They furthermore embraced a return to radical politics and an ideology of humanity. Because they also endorsed a subjection of humanity to the laws of progression: the moral and sentimental “law of the hearth.” According to this logic of the heart, “it is due to a lack of sensitivity, due to the fact that humanity is not yet humane enough, that certain lowly deeds still succeed in escaping from the definition of ‘crimes against humanity’: the broader the terrain encompassed by this definition of legal transgression, the closer the human race comes to an ideal situation where, united against crime, it is finally able to proclaim that everything inhumane is alien.”<sup>29</sup>

In this Finkelkraut perceives a remarkable paradox. That, in as far as a moral and sentimental interpretation of the concept “crime against humanity,” as it came to the fore during Barbie’s trial, represented both a reaction to as well as a continuation of the ideological conception of humanity! For both entail forms of radical politics. Common to both sentimental and ideological forms of political thinking, is the promise of a united, happy humanity and, with that, a longing for *the end of politics*. To

29. Finkelkraut, *La mémoire vaine*, p. 84.

this end, both are happy to reduce the existing political multiplicity to one huge “Manichaeian collision” between *fraternal humanity* and the *enemies of humanity*, the obstacle to universal affection. This “folk tale” should be treated with fundamental suspicion, because “the worst forms of violence do not spring from the conflicts between men, but from the firm conviction that humanity can be rid of them once and for all.”<sup>30</sup>

#### ***IV. To Dance with Anti-Racists?***

Thus, already in the 1989 essay on Barbie, one encounters a suspicion that our democratic outrages over racism, imperialism, and Apartheid still do not safeguard us from “radical politics” or from what I have termed the humanistic seduction of immanence. When this outrage is, for instance, *celebrated* in major trials, such as that of Barbie, or during massively attended pop concerts against racism, “the conviction becomes rife that were it not for the Nazis and their spawn, humanity’s various parts would become fused into one huge musical embrace”—the dream of all forms of radical politics.<sup>31</sup> The danger is then that we become unable to conceive of division in any other but exclusively moral terms, as between Cain and Abel, and that “to us politics becomes equated with anti-racism.”<sup>32</sup>

Almost fifteen years later, in a pamphlet dealing with a new brand of anti-Semitism currently raising its head in France (but also elsewhere in Europe), Finkelkraut once again diagnoses a tendency toward anti-racist radical politics. Once again, a well-meaning democratic anti-racism lies at the root. An anti-racist humanism is the true, albeit negative, foundation of democratic Europe, he establishes in *Au nom de l’Autre*.<sup>33</sup> Thus, not so much a humanism, which proudly and admiringly refers to the cultural and literary heritage of Europe (*humanisme admiratif*), as for instance expressed in the motto of the Dutch University of Humanistics, “the most beautiful discipline is that of Man.” But, rather, European anti-racism as a dismayed humanism (*humanisme révolté*), rallied around the watchword “This never again!”: no more imperialist power politics, warmongering, nationalism, racism, or Auschwitz.

Auschwitz should serve to remind democratic man that he is the absolute and universal antithesis of the Nazis. For, as we have seen, as

30. *Ibid.*, pp. 81–82.

31. *Ibid.*, p. 102.

32. *Ibid.*, p. 103.

33. Alain Finkelkraut, *Au nom de l’Autre: réflexions sur l’antisémitisme qui vient* (Paris: Gallimard, 2003), pp. 12ff.

*Herrenvolk* in proclaiming its right to purge the world of harmful people, National Socialism attacked *humanity* itself. This *homo democraticus* is Human Rights' universal Man, and the target of Joseph de Maistre's sarcasm in the opening quotation of this essay; *it is immaterial who he or she is*, whatever his or her nationality, race, merits, class status, or talents may be.

This identity of the European democrat suddenly, dramatically appeared to be in jeopardy, when in the French 2002 presidential elections, the Socialist candidate, Lionel Jospin, was defeated by the Front National's Jean-Marie le Pen. Thousands of agitated, mostly young people took to the streets in a partly serious, partly cheerful and proud demonstration in defense of democracy and democratic Man against the threat of the New Right. But just as in 1989 he was unable to abandon himself to the intoxication of anti-racist pop concerts, Finkielkraut now found himself unable to join these dancing crowds, even though he basically shared their political conviction (no Le Pen for president!).

Why this reservedness? *Au nom de l'Autre* is, in a sense, Finkielkraut's attempt to explain this, both to himself and to us. His explanation is: I find it difficult to join in the dance, because nowadays it is paradoxically no longer the narrow-minded petit bourgeoisie and ethnocentric supporters of Le Pen, but rather the fun-loving, cosmopolitan defenders of respect as well as the multi-colored society that makes life bitter for a Jew. At present, their self-confident anti-racism is also directed against Jews and feeds into a new brand of anti-Semitism. The fact that one, again, needs courage to wear a yarmulke in certain "rough" urban areas and cities, he asserts, is partly the result of a new form of radical politics which was made possible by contemporary anti-racism, and which exonerates violent actions by French Muslims against Jews. It is because the "Other"—the victims of Nazism and racism—now has a new name. The Other is now the Palestinian people, and, according to anti-racists, the role of the Nazis has been taken over by the Jews (or the state of Israel, acting on their behalf), and that of Hitler by Sharon.

Finkielkraut suspects that, in psychological terms, the mechanism of "disappointed love" has come into play here. European anti-racists discover that the Jews have ceased to correspond to their own smug moral conception of the world. While they themselves embrace post-nationalist, cosmopolitan values, these seem betrayed by the Jewish idolization of place, territory, and sovereignty; while the whole world (churches, nations, states, peoples) is currently expressing contrition over past crimes, the

Jews are a nation lacking all sense of “*mea culpa*” when it comes to what they do to other peoples; they may represent our super-ego, but do they themselves actually have a conscience? In short, do they not show a striking resemblance to the anti-Semites of yesteryear?<sup>34</sup>

Disillusioned by the moral standards of flesh and blood Jews, the anti-racist humanist returns to the archetype of radical politics: a demonic power is at work (paradigmatically, the Nazis), pursuing and oppressing its victims. The “religion of man,” which used to see the persecuted Jew as “symbol of innocence, nowadays declares the Jewish state guilty because of its Jewishness.”<sup>35</sup> Nowadays, the Israelis are the incarnation of this demonic power. They are—as may be read in writings of the political scientist Emmanuel Todd—“unable to see the Arabs as human beings.”<sup>36</sup>

According to Finkelkraut, what is here blurred and erased is the *complexity* of the conflict between Israel and the Palestinians, a complexity that was done justice by Michael Walzer when he distinguished between *four kinds of war* in the Israeli-Palestinian conflict: (1) the war waged by Palestinians to destroy the Jewish state; (2) the Palestinian struggle to establish an independent state in coexistence with Israel; (3) Israel’s war in the interest of self-defense and internal security; and (4) Israel’s war to reinforce existing settlements and annex as much territory gained during the Six Days War in 1967 as possible.<sup>37</sup>

Essentially, for Finkelkraut, radical politics has always been an erasure of “transcendence”: of recalcitrant and complex givens, facts, and events. Radical politics are a gesture of “taking out the garbage” (*comme on enlève la poussière*), of removing a disturbance—just as one removes dirt—in favor of an uncomplicated basic moral framework. Such a basic framework always entails a dichotomy between good and evil forces or powers: “tolerance” versus “stigmatization,” “solidarity” versus “segregation,” “openness” versus “ethnocentrism,” etc.

But radical politics’ reduction of complexity has yet another consequence. The asymmetrical moral encoding of contradictions and conflicts between groups of people also blurs the context to which these are traditionally seen to belong, and where they may find resolution: the sphere of

34. Ibid., pp. 21–24.

35. Finkelkraut, “Les juifs face à la religion de l’humanité,” p. 16.

36. Finkelkraut, *Au nom de l’Autre*, p. 24.

37. Michael Walzer, “The Four Wars of Israel/Palestine,” in *Arguing about War* (New Haven, CT: Yale UP, 2004), pp. 113–30.

*politics*, in which political friends and enemies are possible, as are wars, but also the conclusion of compromises and peace treaties. The anti-racist variation on radical politics is under the spell of the “never again” to such an extent that it is no longer able to recognize any political reality whatsoever. Instead it has become fixated on seeing everywhere a reenactment of the Ur-narrative of Nazi and victim.

### V. *Lightweight Democrats*

As we have seen, already in *Défaite* Finkielkraut announced a last variation on humanist radical politics. However, only in the last few years has its political significance become recognized: contemporary democratic subjectivism. In a more recent work,<sup>38</sup> we are reminded that the march of democracy as an uncontrollable process toward complete equality within mankind was already described by De Tocqueville. Supporters of radical politics are convinced that they themselves are *par excellence* the subject of this movement, the “universal party” that locks horns with those who retard or obstruct the democratic movement. The carrier benefits from occupying a certain moral high ground, in so far as the democratic debate is construed as a clash between the representatives of the future and the remnants of an outdated past. What is the terminus of this movement? Democratization means that everyone is my equal, and it is therefore a departure from the hierarchical principle; radical politics are the notion that all distinctions and boundaries that still have the appearance of being natural should be subjected to discussion, should be politicized. Finkielkraut here mentions the distinctions between adults and kids, lecturers and students, the own population group and foreigners. In this sense, democracy means that *everything becomes politics*, that “the institution has triumphed over origins,” that “the spirit of humanity has triumphed over parochial sentiment, . . . and that the division of humanity into compatriots and foreigners has become outdated.”<sup>39</sup> Formulated in political-polemic terms, *whoever (still) sets boundaries, falls outside of democracy as a process*, and is consequentially its enemy. For the only ones who, according to this logic, may—nay, must—be excluded, are those who themselves exclude, set boundaries.

Whatever derives validity from the transcendence of origins, tradition, authority, and heteronomy, are, to the radical democrat, matters in need

38. Finkielkraut, *L'imparfait du présent*.

39. Finkielkraut, *L'humanité perdue*, p. 60.



of transformation through autonomous decisions. But ultimately also the *promise* made in the past does not escape from this dynamic. The promise and the commitment, in enlightened thought still characteristic of autonomy, may present themselves as a liability or an obstacle. For after all, in a sense the promise makes me into a prisoner of my earlier commitment. And does one not have the right at any desired moment to take back one's freedom? Why should I be tied to my earlier self? Writes Finkelkraut: "Within me, 'I' am nothing but my current desires, passions, and moods. My old self and my old promises have as little right over my life as God or my father."<sup>40</sup> Here, the *dissoluteness* and the immediate consumption of a world without boundaries is the actual goal of history: the democrat has become liberated from the heteronomy and weightiness of tradition, even *enlightened* from the promises of an earlier ego, an identity without (transcendent) "ipseity."

The following question from Finkelkraut's *L'imparfait du présent* should be understood against the background of this perspective of a world utterly lacking in transcendence. Is, he asks himself, this "entry of the entirety of existence into the sphere of consumption," which has yielded us this identity without ipseity, really to be welcomed as the progress of civilization? And where would this humanity lacking in ipseity "find the resources of moderation and conscientious objection, when the realization dawns that this exhausted planet is no longer adequate to its desires?"<sup>41</sup>

## **VI. Conclusion: The Enemy and the Scum of the Earth**

The conclusion that Finkelkraut draws from his diagnosis of modern and contemporary radical-political humanism—ever more explicitly so in recent publications—may sound surprising, but it is not new, either in his own work or in twentieth-century political philosophy. This conclusion reads: in order to avoid becoming inhuman, political humanism should defend the figure of the political "enemy." In his essay on crimes against humanity, as we have seen, he established that through both ideological and sentimental readings of this concept, a "folk tale" comes into being around a fraternal humanity locked in a heroic struggle against humanity's enemies. This enemy is no longer a political one, but a "repulsive monster."<sup>42</sup> By means of conclusion, he adds that "humanity ceases to be

40. Finkelkraut, *L'imparfait du présent*, p. 40.

41. *Ibid.*, p. 142.

42. Finkelkraut, *La mémoire vaine*, p. 104.

human as soon as its conception of self and its own destiny ceases to leave room for the figure of the enemy.”<sup>43</sup>

In *L’humanité perdue*, he came to the same conclusion with regard to Stalinist and Nazi universalism. According to these twentieth-century ideologies, a power is at work that diverts humanity from its destiny, and which should therefore be eliminated: the enemy of humanity. And in his recent pamphlet on neo-anti-Semitism, one reads: “Where morality has evacuated the space of the enemy, the enemy returns in the demonic form of the enemy of the Other, that is, the enemy of humanity. From this moment onward, negotiation is no longer possible. Here, irreconcilability dictates its law.”<sup>44</sup> After all, one does not negotiate with a Nazi or a racist. They deserve nothing but punishment.

Finkielkraut’s statement with regard to anti-racist’s radical politics boils down to a dispiriting paradox, for it is precisely the memory of Auschwitz that clears the way for a new demonization of the enemy. The injunction to remember the Holocaust, in this form of radical politics—as he formulates it with characteristic pathos—”virtuously (rolls) out the red carpet to the hell of ideology.”<sup>45</sup>

The cherishing of a “folk tale” lies at the heart of all the examples mentioned by Finkielkraut. The world becomes a stage for the struggle between, respectively, the oppressed and oppressors, between a sensitive, humane type of person and clumsy, violent folk; between cosmopolitan democrats and narrow-minded xenophobes, between free and unfettered enjoyers of life and old-fashioned fogies stuck on their loyalties.

The fact that in radical politics a problem of humanism is specifically at issue, is related to the inviolable universalism of humanist speaking. It is aimed at the human being, humanity in its totality and at cosmopolitan values. Its power lies in the defense of transcendence or *equal dignity* of every human being, irrespective of his or her attributes, functionality, or usefulness. But just as an appeal to the collectivity “humanity” in political terms can degenerate into the elimination of the “inhuman” or scum of the earth, the idolatry of the private self-determining individual can lead to the moral disqualification and persecution of “fundamentalists,” of those who still pay allegiance to loyalties that they are unwilling to relinquish.

43. Ibid., p. 100.

44. Finkielkraut, *Au nom de l’Autre*, p. 27.

45. Ibid.

Ironically, and for some perhaps even upsetting, is that besides this, Finkelkraut's warnings not to substitute morality for politics, and the unhuman for the enemy, may be encountered *in extenso* in the work of a German jurist and political thinker who, due to his support of Hitler's version of the "folk tale" and his anti-Semitic remarks, for a long time could only be referred to by way of chastisement: Carl Schmitt (1888–1985). In one of his most recent books, Finkelkraut also frequently refers to this theorist.<sup>46</sup>

As is known, for Schmitt, "the distinction between friend and enemy" is that specific political distinction from which political actions and motives are derived. To this he immediately adds that conflicts and wars with the political enemy are possible, in so far as he "represents in an especially intensive sense something different and alien," but that he is not necessarily "morally bad" or "aesthetically ugly."<sup>47</sup> Women in the West who have recently dared to remark publicly that Osama bin Laden was far from unattractive, have been subjected to fierce criticism. Is that perhaps because their remarks have upset a contemporary "folk tale"?

In relation to politics, the enemy is therefore not inhuman, and a recognition of the enemy is even possible in the form of international treaties that set certain limitations on war. This changes, according to Schmitt, as soon as, in the name of humanity, one takes up the struggle and declares war against the "enemy of humanity." To be sure, the terminology used in this context may be peaceable or even pacifistic: wars are no longer being waged, only punitive expeditions and appeasements are undertaken, sanctions carried out, existing treaties defended, or measures carried out to secure the existing order. Nevertheless, warns Schmitt, precisely these wars are "especially intensive and inhumane wars, for in going beyond the political, they simultaneously degrade the enemy in moral and other aspects, and need to make him into an inhuman abomination that must not only be repulsed, but must be destroyed in a definitive way."<sup>48</sup>

In a certain sense, Schmitt's admonitions with regard to universalistic and historic-philosophical pretenses in the realm of (world) politics, find a modern translation in the work of Finkelkraut. In both thinkers, one also finds a certain *nostalgia* for the symmetrical, conventional enemy, the

46. Finkelkraut and Sloterdijk, *Les battements du monde*.

47. Carl Schmitt, *Der Begriff des Politischen: Text von 1932 mit einem Vorwort und drei Corollarien* (Berlin: Duncker & Humblot, 1932), p. 27.

48. *Ibid.*, p. 37.

honourable dueling partner that was imbedded in an international system founded upon the mutual recognition of a multiplicity of sovereign entities. The problem however is that the shift—as Schmitt and later many contemporary theorists have established—from *symmetrical* to *asymmetrical* wars (for instance, partisan wars or international terrorism) has made obsolete the state-centred conception of international law that had developed since the seventeenth century, and with it also the concept of the conventional political enemy.<sup>49</sup>

Finkelkraut here seems to become entangled in his double loyalty. His attachment to the traditional concept of the enemy is hardly compatible with his frequently professed support for Israel's war with the Palestinians and America's war in Iraq. Both of these states wage asymmetrical wars against parties that attempt to compensate for their military and technological inferiority by means of terrorist partisan tactics, heroic values, and dogged perseverance. Moreover, President Bush is of the opinion that he is justified in making an appeal to *humanity*, and as a result the "radical political" mode of thinking is never far removed from his war rhetoric.

Is it possible to restore to the world a symmetry or a balance of power in some form or another? Is it possible to restore the enemy to his *honor*? Or should asymmetrical wars be met in asymmetrical fashion? The current controversy between the United States and Europe certainly revolves in part around these issues.

49. See Herfried Münkler, *Die neuen Kriege* (Hamburg: Rowohlt, 2002), and "Symmetrische und asymmetrische Kriege," *Merkur* 58 (2004): 649–59.

*Gloomy Observations  
about the Political Present*

Paul Gottfried

Alain de Benoist, *Carl Schmitt Actuel: Guerre Juste, Terrorisme, État d'Urgence, Nomos de La Terre*. Paris: Éditions Krisis, 2007. Pp. 162. Massimo Maraviglia, *La penultima Guerra: Il catechon nella dottrina dell'ordine politico di Carl Schmitt*. Milan: Edizione Universitarie, 2006. Pp. 314.

A heavily documented case for Carl Schmitt's theological preoccupations can be found in a recent work by the Italian philosopher Massimo Maraviglia, *La penultima guerra: Il catechon nella dottrina dell'ordine politico di Carl Schmitt*. Maraviglia, an eminent bibliographer of philosophical writings and the editor of the scholarly website *Ekpyresis*, sets out to disprove that Schmitt was an amoral positivist who seized on religious thinking as a fig leaf for his fixation on power. According to some interpreters, Schmitt lost interest over time in fitting his political theory into a religious framework, despite his longtime identification with the Catholic Zentrumspartei. Maraviglia demonstrates how deeply Catholic corporatist conceptions of society and economics influenced Schmitt's work from his earliest published tracts onward. He locates streaks of Catholic social thought in such unlikely sources as *Staat, Bewegung, und Volk: Dreigliederung der politischen Einheit* (1935) and *Über die drei Arten des rechtswissenschaftlichen Denkens* (1934), works that have been generally presented as efforts by Schmitt to buy credibility with the Nazi regime.

Maraviglia also maintains that Schmitt's most explicit defense of the Church, *Römischer Katholizismus und politische Form* (1923), which stresses Catholicism's ingrained tendency to be both worldly and otherworldly at the same time, was not a one-time vindication of the Catholic faith. This tract developed themes that were already explored in Schmitt's writing during the First World War, and it strikes notes that came up in Schmitt's post-World War II diaries and in a dispute that he later pursued with the Catholic convert Eric Peterson about whether Christianity possesses a "political theology."

It is necessary, even at the price of oversimplification, to sum up in only a few paragraphs Maraviglia's extensive research, which not only covers all of Schmitt's

writings from 1917 onward but also examines the biblical texts and the patristic commentaries that shaped Schmitt's thinking. Essential for this overview is Maraviglia's detailed discussion of the concept of the "katexon," which one encounters in Paul's Second Letter to the Thessalonians (2 Thess. 1–8) and to which Schmitt continued to refer back, particularly after World War II. The "katechon," as Maraviglia explains to us, is the force that St. Paul indicates would precede the arrival of the Antichrist. In Greek it is the participle form for "he who is holding back," and according to the conventional textual reading, "the restrainer will reveal himself in his own time. By then the mystery of Lawlessness (*mysterion des anomias*) will already have been set loose. But he who restrains will prevail until he departs from the midst. Then the *anomos* (lawlessness or, as the phrase is usually rendered, the Antichrist) will be revealed, which the Lord Jesus Christ will thereafter remove by the breath of his mouth" (translation mine).

Maraviglia, and before him in less detail Schmitt himself, offers an overview of how the understanding of the *katexon* changed from the primitive church into the fourth and fifth centuries, going from merely a deferral of the end tribulations into a positive force preventing anarchy from overwhelming the world. A succession of patristic writers, including Tertullian, Augustine, and John Chrysostom, came to view the "restrainer" not as the perpetuator of an essentially pagan empire, or as the prolongation of the last of the monster-like Kingdoms foretold in the Book of Daniel. In the later interpretation, the *katexon* represented a bulwark against the disorder that announced the end times. This became particularly the tradition once Christianity had triumphed in the Roman Empire, and it was no longer possible to view the Roman polity as hostile to the true faith.

Although, according to Maraviglia, there were alternate readings of the text under consideration in Second Thessalonians, e.g., St. Jerome associated the *katexon* with the return of the dead tyrant Nero, the prevalent interpretation of the passages favored the notion of the good restrainer. In succeeding centuries, this restrainer was identified first with the Roman Emperor, later with the Holy Roman Emperor, and then finally with various European Christian monarchs. A Swiss-German scholar, Wolfgang Trilling, has explored this topic with particular thoroughness in an exhaustive study dealing with Second Thessalonians. But there are available interpretations of this act of holding back the Antichrist that had nothing to do with earthly dominion. Thomas Aquinas, who entered the political debates of the thirteenth century as a Papalist advocate, applied the concept of the *katexon* to the "spiritual dominion" of the Catholic Church. Later, the Protestant reformer John Calvin presented the great restrainer as a conversionary process, the spread of God's word that would precede the end of earthly time.

For Schmitt, Maraviglia stresses, the *katexon* became an object of continuing fascination, and this became particularly the case after the Second World War. In that struggle, Germany had lost population, territory, and moral status, and the

war had ended with Schmitt's plummeting from a position of professional respectability into a social marginality from which he would never recover. While being kept in custody by the Americans as a suspected Nazi collaborator in 1945 and 1946, Schmitt underlined in his then composed memoir, *Ex Captivitate Salus*, his sense of the world collapsing around him, and he brings up Second Thessalonians as fitting food for thought in this time of tribulation. The same reference comes up again in Schmitt's published collection of thoughts, *Glossarium 1947–1951*, in an essay produced in the 1950s on the Spanish counterrevolutionary Juan Donoso Cortés, and in his scattered remarks about Hegel, Alexis de Tocqueville, and the first president of the Czechoslovak Republic, Thomas Masaryk. In these writings, the *katexon* operated in several ways, which were not seen as mutually exclusive. The legendary restrainer was a transcendent force sent from outside of history but also one who penetrated human events. The *katexon* also had a direct experiential meaning, a theme to which Schmitt continued to come back, as someone or something whose function was to keep the present age from sinking into chaos or intolerable tyranny. Schmitt sometimes exaggerated the conservatism of his subjects, a tendency that was particularly apparent in his view of Tocqueville as an aristocratic opponent of democracy. But this should not blind us to his effort to express a larger truth, namely, that certain individuals function as restrainers of moral and social collapse. Maraviglia treats this Schmittian perspective as an "immanentist-historical interpretation," and he contrasts it to a "transcendental" focus embracing the grand sweep of human history as the unfolding of Providence.

Among the restrainers who come up within this "immanentist" perspective is Savigny, whose jurisprudence Schmitt had treated in the above-cited essay. Savigny's great achievement, we are told, was to have held back the "drift into the integral functionalization" of human life, a development that Schmitt identified with bureaucratic procedure and manufactured laws. Schmitt not incidentally linked the "mysterion tes anomias," the descending reign of Antichrist, to certain signs of the time, which the *katexon* would heroically resist, namely democratic centralization and the cult of technique. The restrainer as conceived by Schmitt would do his work not as a warrior but as a thinker, who would seek to limit social disintegration.

Looking back at the past, Schmitt saw the breakdown of unifying legal frameworks as part of a dissolution that he feared. He also warned against the temptation of constructing ready-to-wear international or post-national codes of law that had no real roots in the previous history of peoples. He pointed to the older European state-system and to the role of canon law derived from Roman sources, as legal authorities that had worked as stabilizing forces. Such precedents avoided the utopian conceit of forcing patterns of social existence into an ideal direction. Schmitt praised the operation of the proper kind of historical positivism

in Savigny. This nineteenth-century historian of ancient Roman law had examined how long-standing communities institutionalized through custom, which finally became written law, their sense of the Good. Savigny had taken a leading role among German thinkers in arguing against “contrived constitutions.” Such innovations, Savigny had insisted, did violence to what “had developed over time” and what had “an organic relation” to a particular people. It might be pointed out that Savigny was addressing his argument to Western and Central Europeans and not to the Taliban.

My one quibble with Maraviglia’s otherwise brilliantly researched volume is his attempt to make Schmitt’s political theory fit together, perhaps all too easily, with Catholic theology and social teachings. Although Maraviglia dutifully discusses the critics of his own reading, he never entirely convinces me that Michele Nicoletti, the early Leo Strauss, and Gary Ulmen are not correct in the questions they raise about the non-Catholic sources for Schmitt’s worldview. Nicoletti, who is a close friend of Maraviglia, demonstrates at least to my satisfaction in *Trascendenza e Potere: La theologia politica di Carl Schmitt* that the Danish Protestant existentialist Søren Kierkegaard heavily influenced Schmitt’s definitions of the “exception” and “decisionism.” Schmitt read much of the work of Kierkegaard, the engrossing *Papers* of whom include one thought in particular that might have gone into *Political Theology*: “the entire modern mentality reduces itself to the caricature of religion that is the world of politics.”

Nicoletti shows that Schmitt was willing to combine in his reflections the statements of Catholic counterrevolutionaries de Maistre and Donoso Cortés with markedly Protestant theology. He may also, according to Nicoletti, have been influenced by Heidegger’s *Being and Time*, a philosophical classic that came out in 1927 while Schmitt was doing his own theoretical scholarship. Heidegger’s emphasis on the dynamic nature of the decision properly understood, moving its subject toward “existential determinateness” out of the chaos of indeterminacy, is not far removed from the role of the sovereign as defined by Schmitt. Despite the fact that *Being and Time* was published after Schmitt had written his early studies on political theology, he and Heidegger were drawing from a shared world of ideas; and it was not an identifiably Catholic one. One also finds in Schmitt favorable references to Hobbes as the thinker who had “completed the Reformation,” in the sense of having defended the post-medieval nation-state. And Strauss was justified in seeing in Schmitt’s tribute to Hobbes in *The Concept of the Political* “a criticism of liberalism that never left the horizons of liberalism.”

Gary Ulmen has examined *Roman Catholicism and Political Form*, a work that he has translated and copiously commented on, as something less or more than a defense of Catholic religious and social life. Ulmen has laid emphasis on Schmitt’s dialectical relation to the Protestant sociologist Max Weber, whom he came to know briefly after World War I. In his work on Catholic social forms,



Schmitt was setting off the Catholic, mostly rural world he knew against the Calvinist mercantile one that Weber had described and even celebrated. But Schmitt's short work was intended as a sympathetic description and not as a statement of faith. Ulmen also notes that unlike Weber, Schmitt was more concerned about the "political" than he was about social forms; and it is hard to ignore his preference for the emphatically Protestant, anti-papal political thinker Hobbes in relation to most other writers on politics.

One could easily imagine the forces that would have led Maraviglia to bestow on Schmitt a respectable Catholic intellectual lineage—and to contend in passing that his thinking was compatible with that of the Italian Christian Democracy that developed after the fall of Mussolini. Following the Second World War, Christian Democratic leaders in Germany and Italy, who had generally had exemplary records as opponents of the Nazis, came down hard on Catholic dignitaries who had collaborated with Hitler (and to a lesser extent Italian fascism). Schmitt became *persona non grata* in these circles. His critics pointed to his politically embarrassing record as a *Mitläufer*; and from all accounts, Catholic anti-Nazis were outraged by his collaboration, however limited it may have been. The subsequent attacks on him were not only about his (largely futile) effort to curry favor with the Third Reich. They also focused on his non- and even anti-Christian thinking about political morality and the nature of human community. The Catholic magazine *Hochland* inveighed against Schmitt and his "positivist" tracts that had supposedly caused him to ignore the Church's teachings about natural law. And his stress on enmity as the basis of political relations and political friendship went against the Catholic scholastic view that human fellowship was based on affection and duty rather than friend-enemy distinctions. Although such Catholic scholars as Hans Barion, Piet Tommissen, and Nicoletti have tried to argue that Schmitt's thinking is at least partly congruent with Catholic social and political values, Maraviglia has undoubtedly gone the farthest in undertaking such a fit. Needless to say, his impressive scholarship can be fully appreciated even if one does not accept the attempted fit entirely.

His work is also admirably free of a certain gratuitous anti-Americanism that one frequently encounters in European disciples of Schmitt. Note that I am making this observation not because of any unqualified American boosterism but because of the unseemly anger that anti-American Schmittians typically bring to their work. Here I must cite the latest book on Schmitt and the *pax Americana* sent by its author, the highly erudite and astoundingly prolific Alain de Benoist. There is nothing in Benoist's treatment of Schmitt's views on peace and war, the differences between landed and naval powers, and the suggested perils of world government with which I could conceivably take exception. Benoist is obviously familiar with the relevant literature, and as a leading bibliographer of Schmitt, he knows which sources to cite.

Moreover, it is hard for me to claim that Benoist has misquoted our president or his former speechwriter Michael J. Gerson when Benoist brings up the now standard American rhetoric about carrying American democracy and American human rights to every earthling. There are in fact even more egregious passages from Bush's Second Inaugural that Benoist could have cited in support of his accusation but fails to. Lastly there would be no difficulty in showing that America's global democratic foreign policy aims directly or indirectly at the kind of world control that Schmitt deplored. It was also one that he warned against repeatedly in his post-World War II writings, as likely to aggravate the tendency toward war being waged as a moral crusade against an absolute enemy.

The problem is that, save for some preliminary chapters on Schmitt, which I highly recommend, Benoist's book turns into a screed against American imperialism. Further, the charges in his brief are overstated or simply inaccurate. As someone who in the United States has been second to none as a critic of Wilsonianism and its neoconservative derivatives, I feel especially well qualified to speak to this problem. And one does not change minds by exaggerating the evils that flow from the United States' "Manichean worldview." The United States is not responsible for every charge made against it by Third World dictators and Islamic theocrats. And despite the unfortunate missionary rhetoric of its present leaders, the United States on the whole has behaved less, and not more, aggressively than other recent candidates for global hegemony, e.g., the Third Reich, Stalin's Russia, Mao's China, or the Japanese Empire during the Second World War. That we fought past wars, even those with moral justification, with excessive, destructive zeal flowing at least partly from our disfiguring righteousness seems to me undeniable. But our behavior in Iraq, unless I am mistaken, does not look like a replay of the firebombing of World War II or General Sherman's devastation of Southern civilians during the Civil War. To point out, as James Kurth and other anti-Wilsonian foreign policy analysts have done, that the war of choice in Iraq, even against a loathsome tyranny, was ill-advised is not the same as comparing it to the most unspeakable atrocities of all time. When he writes about the United States, Benoist, who has suffered grievously as a right-wing maverick, seems to be taking his idiom straight out of the French far left.

One series of related charges struck me with particular force in reading through this *cahier de doléances*. From pages 57 through 59, we are told that although the United States signed the Kellogg-Briand Pact (in August 1928, banning war as an instrument of international relations), the American government refused to join the League of Nations. Viewing ourselves as a *pays d'exception*, "the United States reserved for itself the right to judge what constituted a war of aggression and what justifies the recognition or non-recognition of a state." In line with its claim to national sovereignty, the United States renounced the 1972 treaty limiting the deployment of defensive missiles, withheld its adherence to the Kyoto

Accords on the environment, and refused to sign the 2001 treaty banning the use of land mines, to which 123 other countries agreed. Benoist also cites the French jurist Jean-Claude Paye to the effect that the United States has “established a double juridical system, a state under law for its own nationals and an empty state under law for foreigners.” Thus, the United States considers its own nationals subject to its jurisdiction when abroad but does not view foreign nationals as subject to the laws of their country when in the United States.

There are elements of these charges that ring true, e.g., the unilateralism that the United States as the only superpower claims for itself and the insufferably pious rhetoric that has accompanied such unilateralism under the present administration. But certain qualifying considerations that Benoist conveniently omits are all-important for understanding what is happening. The United States does not simply refuse to recognize the laws of other countries as they pertain to American citizens. In most circumstances, they do apply, e.g., if an American drug-dealer tries to do business in Singapore or if a tourist murders someone in France. Where they do not apply, however, is in dealing with foreign accomplices in terrorist threats, American Christians who are jailed for carrying a Bible into a Muslim theocracy, and other situations where the United States is right to insist on its own standards of justice. They are of course in-between areas in which Benoist and I would agree that our government should stay out even if some reckless fool chooses to tread there, e.g., if an American coed exposes her body in downtown Riyadh or if a gay activist visits the same place to plead publicly for his cause. It is also unclear why Benoist holds it against the United States that we did not join the League of Nations, particularly after quoting Carl Schmitt’s critique of that institution as a collective security arrangement intended to hold down the defeated powers of World War I. The United States rightly (in my opinion) decided to let the Europeans settle their own disputes after our bloody crusade for democracy, which Benoist also casts ridicule on, had led to a vindictive postwar treaty. We did, however, spread funds among the former European belligerents, and we did everything possible, short of becoming legally entangled, to encourage them to mend their fences.

Benoist also seems bothered that although Secretary of State Frank Kellogg helped draft the agreement that became the Pact of Paris (which Schmitt, unlike Benoist, attacked as a threat to the principle of national sovereignty), the U.S. Senate subsequently amended the wording to make allowances for American self-defense. But it might be asked whether the American government has the same right to uphold its sovereignty that Schmitt insisted belonged to the Germans in the 1920s and 30s? Admittedly we are not consistent in recognizing this right to our “allies” and to others, but that inconsistency does not mean that the right that it is under discussion, to consult our national interest, is not a fair one for us as well as for others. There is also the further consideration that the United States

feels constrained by the treaties it signs. Does Benoist really believe that every country that signed the land mine treaty and the Kyoto Pact is faithfully observing them? He is too intelligent to make this naïve assumption.

Having got this off my chest, let me also observe that there is much in Benoist's volume that is worth reading. His treatment in the introductory chapter of the relation or non-relation between the Straussians and the ideas of Carl Schmitt was researched with great care, and his conclusions about the vastly exaggerated connection under discussion are on the mark. Lastly, Benoist is right, just as I was once wrong, in stressing the compatibility between neoconservative appeals to Wilsonianism and a distinctly American political and religious culture. Contrary to what I had once believed, there is no way that one could explain the recent successes of neoconservative policies and rhetoric in capturing the Republican Party and the conservative movement without assuming a prior predisposition. By now a growing literature, perhaps best typified by Richard Gamble's *America's War for Righteousness*, lays out the stages by which this global democratic mind-set emerged and came to dominate our WASP society.