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SAUL NEWMAN

Political Theology: An Anti-Authoritarian Perspective

ABSTRACT - Starting from the debate raised by Giorgio Agamben's comments on the management of the pandemic crisis, in this contribution the author reviews some fundamental concepts of Schmittian thought such as sovereignty, constitution, state of exception and political theology, and then assesses their resilience and usefulness in the contemporary debate.

KEYWORDS - Schmitt, Sovereignty, Political Theology, Covid, State of Exception

SAUL NEWMAN*

Political Theology: An Anti-Authoritarian Perspective**

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1. *Schmitt in the time of Covid*

In a series of interventions following the coronavirus lockdowns imposed by the Italian government in early 2020, philosopher Giorgio Agamben invoked Schmitt's notion of the sovereign state of exception to characterise the unprecedented restrictions on freedom and social life and the extraordinary powers accrued by governments: «The other thing, no less disturbing than the first, is that the epidemic is clearly showing that the state of exception, which governments began to accustom us to years ago, has become an authentically normal condition»¹. Such measures, he argued, were not only disproportionate, but indicated a worrying tendency of governments to exploit emergency situations to extend their power. The state of exception was becoming the normal paradigm of governing. Agamben's intervention sparked a fierce controversy, with a number of interlocutors accusing him of downplaying the seriousness of the virus and even indulging in conspiracy theories about the way that governments manipulate emergencies and deliberately provoke a state of fear². Yet, there is much to agree with in Agamben's analysis. The measures and restrictions that have been imposed by governments around the world are indeed unprecedented and seem to blur the line between liberal democracies and authoritarian regimes. That governments have been able to consign their

* Professor of Political Theory nel Dipartimento di Politics and International Relations della Goldsmiths University of London.

** Contributo sottoposto a valutazione anonima.

¹ G. AGAMBEN, *Clarifications*, 17th March 2020, in M. FOUCAULT, G. AGAMBEN and S. BENVENUTO, *Coronavirus and philosophers*, in *European Journal of Psychoanalysis*, <https://www.journal-psychoanalysis.eu/coronavirus-and-philosophers/>.

² See S. BENVENUTO, *Forget about Agamben*, 20th March 2020, in M. FOUCAULT, G. AGAMBEN and S. BENVENUTO, *Coronavirus and philosophers*, cit., <https://www.journal-psychoanalysis.eu/coronavirus-and-philosophers/>; A. BERG, *Giorgio Agamben's Coronavirus Cluelessness*, 23rd March 2020, in *The Chronicle of Higher Education*, <https://www.chronicle.com/article/giorgio-agambens-coronavirus-cluelessness/>; J-L. Nancy, *Viral Exception*, 27th February 2020, <https://www.lacan.com/symptom/philosophy-the-coronavirus/>.

entire populations to a form of house arrest, to severely limit public gatherings – everything from funerals to protests – and to disrupt normal social life and interactions to the extent that they have, with very little public debate or accountability, is an extraordinary development and one that should give cause for concern. Moreover, one year on at the time of writing, it would appear that many of these supposedly temporary restrictions and emergency powers will become an everyday feature of life, to say nothing of new surveillance measures and technologies that have been deployed such as contact tracing apps and digital vaccine passports. The fact that this has been largely accepted without complaint shows the degree to which the biopolitical imperative is dominant. In the contemporary biopolitical era, in which biological life must be preserved at all costs, even at the cost of everything that makes life worth living, freedom is readily sacrificed to public health. As Agamben says, life in modern societies is increasingly reduced to bare life, that is, life stripped of any of the essential qualities that make a human life distinctive.

However, is Carl Schmitt's theory of the state of exception, in which the sovereign suspends the constitutional order in times of emergency, really the most appropriate way of theorising the problem of state power today? Certainly, as seen with the current pandemic, governments use crises to justify emergency measures that would be otherwise unacceptable, bypassing constitutional constraints and parliamentary accountability and drastically limiting individual rights and freedoms³. Such actions would seem to reveal the very core of sovereignty – the ultimate prerogative of the state to exert its authority over society without the legal constraints that would normally apply. At the same time, what is striking about the current situation is the way that governments have to constantly defer to medical and scientific authorities to justify their decisions. The scenes of government ministers holding news conferences flanked by their chief medical officers and referring to the advice of scientists, health experts and epidemiologists, is indicative of the way that power in the modern biopolitical age is not unilaterally applied in the way that Schmitt had in mind, but is, rather, shared between the political sovereign and scientific authorities. Decision-making power, which Schmitt believed was the sole prerogative of the political sovereign, is today diffused and mediated through a variety of bodies, institutions and discourses that derive their

³ As an example of this, Hungary's Viktor Orban used the pandemic crisis as a pretext for introducing emergency powers that would allow him to bypass parliament and to effectively rule by decree.

authority from scientific knowledge. To speak in Lacanian terms, the “Big Other” today, that which underpins and legitimises the symbolic order, is not the exceptional authority of the sovereign but the epistemological authority of the scientist. That governments have to appeal to “expert opinion” and scientific guidance points to the way that in the modern age of biopolitics, the purely political power of the sovereign has been displaced by other sites of power and knowledge, new sources of epistemological authority. As Agamben himself put it, «science has become our time’s religion, the thing that people believe that they believe in»⁴. When governments are obliged to justify their decisions and policies by appeals to the technocratic expertise of scientists and doctors, there is very little of the genuine Schmittian sovereign decision in evidence.

For Schmitt, sovereignty is defined by the right to make the ultimate and final decision. Decision-making authority is at its very core. However, what is immediately apparent with contemporary sovereigns is their inability to make genuine decisions. Decisions that are made do not issue directly from themselves and from their own authority, but, on the contrary, derive their legitimacy from external and more anonymous sources of authority and expertise. There is nothing of the *person* of the sovereign that Schmitt saw as being encapsulated in the moment of decision. Today’s political leaders often appear incapable of acting decisively and taking responsibility for their decisions: decisions are endlessly deferred or reversed in a chaotic way, as we have seen in the often confused and incompetent response on the part of many governments to the pandemic. Today’s sovereigns are rather more like the Baroque sovereign of Walter Benjamin’s *The Origin of German Tragic Drama (Ursprung des deutschen Trauerspiels)*. So far from the decisive, heroic sovereign imagined by Schmitt, Benjamin describes the absolutist sovereigns of the Baroque era as «being almost incapable of making a decision», as always changing their minds, subject to wild inconsistencies and volatile emotions that cause them to «sway about like torn and flapping banners»⁵. In the Baroque world described by Benjamin, no longer guided by firm theological coordinates – a world of contingency, insecurity, and the ever-present spectre of catastrophe, much like our experience of the world today – the sovereign must be able to effectively respond to emergencies and to act decisively. Yet

⁴ G. AGAMBEN, *Medicine as religion*, in ID., *Where are we now? The Epidemic as Politics*, Rowman & Littlefield, Lanham, 2021, 49.

⁵ W. BENJAMIN, *The Origin of the German Tragic Drama*, introduction by G. Steiner, Verso, London, 1998, 71.

he proves himself utterly inadequate to the task. The sovereign is an impotent ruler who can neither reign nor govern. Much in the same way, sovereignty today comes across as highly dysfunctional and disordered. If the current situation can be described as “state of exception”, it is more like an *administrative* state of exception, and a chaotic, incompetent, and directionless one at that.

2. Schmitt and the Weimar crisis

To consider the relevance and salience of Schmitt’s theory of sovereignty, we must understand the context in which he was writing and the challenges he was responding to. Schmitt was responding to a similar crisis of political legitimacy, that of the post-war German Weimar Republic of the 1920s and early 30s. This was a constitutional order threatened by economic and political instability, weakened by parliamentary dysfunction, and assailed on all sides by the radical left and the right. The instability of the Weimar Republic was emblematic of the broader trends of the modern period. Schmitt saw the world around him as characterised by nihilistic drift and disorder brought on by the combined forces of technology, bourgeois individualism, philosophies of immanence, and revolutionary politics. He depicts a flattened-out world without meaning or substance, without any coherent image to unify it, lacking a transcendental point of order and authority that could stabilise it. Schmitt is essentially describing the modern condition of secularism, where the metaphysical structure once provided by religion was absent. Without this sacred, transcendental dimension, there was nothing to guarantee the legitimacy and authority of the political order. Political authority was entirely subsumed by technological and economic imperatives. Rather than being genuinely sovereign and standing above society, bestowing upon it order and meaning, the modern state had become the servant of society, a mere technical instrument and an administrative machine, its authority reined in by rules, procedures, and constitutional constraints.

Schmitt’s solution to the nihilism of modernity and the problem of political neutralisation was to affirm the idea of strong sovereignty. It is only a strong, decisive sovereign that can give order and meaning to society and provide its legal and political institutions with legitimacy. The sovereign decision is what authorises the law. It defines borders, boundaries, and limits, distinguishing inside from outside, friend from

enemy. It imposes order on society and defines the contours of the political community. Just as for Hobbes, the sovereign must reside outside the law in order to guarantee its authority, the Schmittian sovereign must reserve for itself an exceptional space outside normal constitutional constraints in order to preserve the political order. Schmitt is, above all, a theorist of order. In a time of disorder and crisis, the only way to restore the legitimacy of the constitution was to invoke a moment of decision-making authority that was not bound by its rules. Yet, Schmitt's authoritarian and decisionist understanding of sovereignty ended up undermining the very order it was intended to protect. The state of exception, based on various articles of the Weimar constitution (such as 48 and 76) which allowed the Chancellor to rule by decree, was exploited by the Nazis to declare a state of emergency and assume absolute power under the Enabling Act of 1933 – a measure Schmitt approved of. In Schmitt's eyes, such a usurpation of an exhausted and weakened constitutional regime was the only way of preserving political order. In order to protect the political order, its constitutional baggage must therefore be cast off. Schmitt saw the Nazi state of exception as a legitimate (counter)revolution, and a genuine expression of the constituent or law-making power.

It should not surprise us that Schmitt's conservatism was perfectly reconcilable with his endorsement of the Nazi revolution and its wholesale destruction of the legal order. The notion of the "conservative revolution" – associated with figures like Schmitt, Junger, Spengler – finds its modern expression today in the form of conservatives like Steve Bannon, Trump's former political adviser, who talked about tearing down the "administrative state", or Dominic Cummings, Johnson's former political adviser, who spoke in similar tones. Far-right populist politicians routinely declare war on the rule of law and independent judiciaries, which they accuse of hampering executive power. *To destroy in order to conserve* is the mantra of today's conservative revolutionaries.

3. Schmitt's political theology

To understand this peculiar response to the legitimation crisis, we must come to terms with Schmitt's political theology and its preoccupation with the themes of order, authority, and representation. These themes are reflected in three closely interlinked texts which he wrote around the same time – *Political Theology I* (1922), *Roman Catholicism and the Political Form*

(1923) and *The Crisis of Parliamentary Democracy* (1923) – and which form a kind of triptych. They reveal a consistent core in his thinking, which is the idea that if order is to be preserved a radical decision must be made.

The idea of the sovereign decision is central to *Political Theology I*. The text begins with the famous lines, «Sovereign is he who decides on the exception»⁶. For Schmitt, what really defines sovereignty, what is at its core as a political and juridical concept, is the right to decide unilaterally on exceptional situations – that is, to determine what actually constitutes an emergency of the state (*Ausnahmezustand*) and to decide what to do about it. In response to serious emergencies, the state must have the authority to suspend the constitutional order and rule by decree. The central claim here is that the sovereign state has to be able to act outside the normal constitutional rules and constraints if it is to protect the constitution from various threats. The very survival of the constitution depended on the sovereign right to suspend it. This was something that liberal political theorists and positive legal theorists, who insisted that political sovereignty be subject to the rule of law and constitutional limits, simply did not grasp.

Schmitt's theory of the sovereign decision emerges on the basis of two earlier texts. In *Political Romanticism* (1919) Schmitt distinguished between genuine conservatives, who were able to take real decisions, and political romantics, who were not. Genuine conservatives – counter-revolutionary figures like Edmund Burke, Joseph de Maistre and Louis Bonald – opposed the French Revolution, siding with the old order and seeking to preserve traditional institutions. They were prepared to take a side in this conflict. By contrast, those of a romantic temperament, like Adam Müller, were “occasionalists” who lacked the capacity for action or genuine decision. Their inconstancy rendered them impotent and led to a romantic detachment from the affairs of the world. Romantics of this kind were also conservatives, but only in a half-hearted and politically inconsequential way⁷. Real conservatism, for Schmitt, involved choosing a side and taking responsibility for that decision, even resorting to authoritarian means to preserve the existing political order. A similar theme is pursued in *Dictatorship* (1921), in which the counter-revolutionary decision takes on the more distinctive shape of legal dictatorship. Here Schmitt addressed the infamous article 48 of the Weimar constitution of 1919 which allowed the Reich President to suspend the constitution. Schmitt drew a distinction

⁶ C. SCHMITT, *Political Theology: Four Chapters on the Concept of Sovereignty*, Chicago University Press, Chicago, 2005, 5.

⁷ See ID., *Political Romanticism*, MIT Press, Boston, 1986.

between *commissarial dictatorship*, in which the constitution was merely suspended for a limited period of time in a temporary state of emergency, and *sovereign dictatorship*, where the constitution was permanently abolished and a new one established. This really refers to the distinction between *constituted* and *constituting* power: that is, the power to defend and enforce the existing constitution, even if that means suspending it temporarily; and the power to overthrow and replace the constitution. Yet, this distinction is less significant than it seems. We have seen from the history of revolutions that the destruction of the old order always results in the construction of a new one, which in turn needs to be defended against new revolutionary enemies. Thus, there is a continual oscillation between constitution-making and constitution-preserving power. In a similar sense, the distinction that Schmitt seeks to establish between commissarial and sovereign dictatorship ultimately collapses and becomes meaningless: just as the commissarial dictator risks destroying the constitutional order he seeks to defend, the sovereign dictator, in abolishing the constitutional order, will only put a new one in its place. As Walter Benjamin⁸ showed in *Critique of Violence* from 1921 – a text that Agamben maintains was the provocation for Schmitt's *Political Theology* – what remains intact in the constant oscillation between *law-making* and *law-preserving* violence, between revolutionary destruction and political-legal consolidation, is sovereign power itself, in all its potential and actual violence.

This idea of the sovereign state of exception is fully developed in *Political Theology I*. According to Schmitt, the sovereign decision on the exception is defined in law and derives its authorisation from it, but at the same time exceeds it; sovereignty is, as he puts it, a «borderline concept»⁹. The sovereign exception cannot be wholly accounted for by the norm, nor does it derive from it; at the same time, the sovereign exception only has meaning in relation to the legal norm it transgresses. Sovereignty is a liminal concept – it inhabits a “grey zone”, being inside and outside the law at the same time. This paradoxical logic emerges as part of a critique of liberal constitutionalism, and, more specifically, of neo-Kantian positive law theorists like Hans Kelsen, who sought to identify the state with the law and developed a theory of positive law as wholly derived from a self-contained, self-referential series of norms. The problem with these theories, for Schmitt, was that in trying to rule out the exception, they failed to

⁸ See W. BENJAMIN, *Critique of Violence*, in ID., *Reflections: Essays, Aphorisms, Autobiographical Writings*, Schocken Books, New York, 1986, 277–300.

⁹ C. SCHMITT, *Political Theology*, cit., 5.

acknowledge the way that legal norms and rules actually presuppose an exterior that grounds them, that constitutes their limit, and which has the authority to apply them to specific situations. In other words, sovereignty was the authority to decide when and how a norm is applied. It is the sovereign exception that therefore guarantees the totality of law¹⁰. Moreover, unlike the norm, the exception embodies a certain contingency and vitality and should therefore be seen as prevailing over the rule. It has an existential quality that is lacking in the norm¹¹. As Schmitt says: «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»¹².

In insisting on the supremacy of the exception over the norm, and in showing that the authority and efficacy of the legal order is reliant upon a sovereign decision that exceeds its limits, Schmitt is not only defining juridical and political concepts but actively defending the idea of strong, authoritarian sovereignty as a solution to the weakness of the existing constitutional order.

This is also reflected in the other major theme of the essay, which is that of political theology itself. In a secular world that lacks religious sources of authority, which no longer believes in God or recognises the legitimacy of the church, new sources of order and authority must be found. However, if the political sovereign is to play this role, it must take on a kind of theological illumination. Schmitt is not advocating a theocracy or some kind of return to the old doctrine of divine right; such a return would be impossible. Yet, the political sovereign must fill the void, the place of the sacred left vacant by religion. It must have the transcendental properties of God. This is why Schmitt seeks to understand the modern state through theological categories: «All significant concepts of the modern theory of the state are secularized theological concepts not only because of their historical development – in which they were transferred from theology to the theory of the state, whereby, for example, the omnipotent God became the omnipotent lawgiver – but also because of their systematic structure, the recognition of which is necessary for a sociological consideration of these

¹⁰ See *ivi*, 13.

¹¹ See also M. MARDER, *Groundless Existence: The Political Ontology of Carl Schmitt*, Continuum, New York, 2010.

¹² C. SCHMITT, *Political Theology*, cit., 15.

concepts. The exception in jurisprudence is analogous to the miracle in theology»¹³.

There is a structural parallel between the God who transcends the world and the sovereign state that transcends social relations; and just as God can suspend the laws of the universe through the miracle, so the sovereign can suspend the constitutional order through the exception. The actions of God and the actions of the sovereign are a form of creation *ex nihilo*; they are both self-founding, self-determining, autonomous concepts, producing themselves out of nothing. In drawing these analogies between theological and political categories, Schmitt is doing more than simply proposing, as he puts it, a “sociology” of political and juridical concepts, following his “teacher” Max Weber. Weber, of course, was also concerned with the question of legitimacy in modern secular societies that were characterised by an experience of “disenchantment” and the breakdown of traditional sources of authority. Schmitt accepted Weber’s secularisation thesis but rejected its liberal conclusions. Rather, the sovereign state, if it is to provide a source of legitimacy and stability, must be invested with God-like powers. As a radical Hobbesian, Schmitt wanted to create a modern Leviathan, a new mortal God that would tower over society and unilaterally determine law¹⁴. Central to Schmitt’s political theology is a kind of secular political absolutism or even monotheism¹⁵.

Schmitt’s radically conservative political commitments are further sharpened in the later parts of *Political Theology*. The final chapter stages a kind of polemic between reactionary Catholic legitimists like Donoso Cortes, whom Schmitt clearly admires, and revolutionary anarchists like Mikhail Bakunin and Pierre-Joseph Proudhon, whom he detests but also fears. Schmitt’s somewhat oblique and subterranean dialogue with anarchism is not very much remarked upon. Most commentators tend to focus on Schmitt’s critique of liberalism. However, it is the debate with anarchism that can be seen as constituting the hidden core of his political

¹³ *Ivi*, 36.

¹⁴ This is made clear in Schmitt’s discussion of the political theology of Hobbes’ Leviathan, in which it is argued that Hobbes gives us a decisionist theory of sovereignty; see C. SCHMITT, *The Leviathan in the State Theory of Thomas Hobbes. Meaning and Failure of a Political Symbol*, foreword and introduction by G. Schwab, Greenwood Press, Westport, 1996.

¹⁵ This was the basis of Erik Peterson’s critique of Schmitt, who queried the theological basis for Schmitt’s monotheistic account of sovereignty, arguing that it was incompatible with the Christian Trinitarian doctrine, and accusing Schmitt of a kind of political heresy; see E. PETERSON, *Theological Tractates*, ed. by M. J. Hollerich, Stanford University Press, Redwood City, 2011.

theology. It is the revolutionary anarchist, rather than the liberal, who emerges as Schmitt's genuine political enemy and whom he regards as the greater threat to state sovereignty and political order. While Schmitt saw liberalism as a vapid philosophy, based on endless equivocation and deliberation – one that sought to neutralise the political domain by pretending it didn't exist or imagining that political conflicts could be resolved through rational dialogue – he saw in anarchism a political extremism that was implacably opposed to political authority. If liberalism occupied the middle ground in the ideological (and politico-theological) conflict, Schmitt's revolutionary conservatism, and Bakunin's materialist, atheist anarchism, were at the extreme opposite ends. Schmitt's hostility to anarchism is articulated through the figure of Cortes who was writing in the wake of the 1848 revolutions. Like Schmitt, Cortes saw the monarchical order as threatened on all sides by atheism and revolution, and the only way to preserve moral authority and political legitimacy was through sovereign dictatorship. Moreover, unlike liberals, for whom he had nothing but contempt, Cortes regarded the anarchist as his true enemy, one for whom he at the same time had a certain sort of respect, even admiration, as if recognising his own reverse mirror image:

What the counterrevolutionary conservative and the revolutionary anarchist shared was a certain extremism and absolutism, particularly with regard to the sovereign state. The reactionary defended the principle of state absolutism *absolutely*, while the anarchist – who also regards the state as absolutist in principle – *absolutely* rejected it and sought to abolish it. In other words, for the reactionary, the sovereign state, which can only ever be absolutist, is an absolute good, or at least an absolute necessity; while for the anarchist, for whom it can also only ever be absolute, the sovereign state is an absolute evil and an unnecessary encumbrance upon otherwise freely formed social relations. «To him, [Cortes] every sovereignty acted as if it were infallible, every government was absolute – a sentence that the anarchist could pronounce verbatim, even if his intention was an entirely different one»¹⁶. Moreover, such was their hatred of the state and the church, and of the theological doctrine of original sin that led to man subordinating himself to authority, that anarchists like Bakunin appealed to Satan as a figure of emancipation. It was perhaps this employment of the Satanic trope that led Schmitt to conclude that anarchism could not escape its own politico-theological dilemma. According to Schmitt, the absolute hostility of the anarchist to both God and the State would lead him into

¹⁶ C. SCHMITT, *Political Theology*, cit., 55.

another kind of absolutism; his materialism becomes another kind of anti-theological theology: «and this results in an odd paradox whereby Bakunin, the greatest anarchist of the nineteenth century, had become in theory the theologian of the antitheological and in practice the dictator of the antidictatorship»¹⁷.

Schmitt's enmity towards anarchism is continued in his subsequent text, *Roman Catholicism and the Political Form*, in which the figure of Bakunin looms up again. Bakunin is characterised here as the barbarian from the Russian steppes, representing the demonic forces of socialism and atheism, and posing an existential threat to political authority and to European Christian civilization. In the past, the Roman Catholic church had played a counter-revolutionary role in the defence of the old order. Schmitt now calls upon the church to resume its role in this conflict, to take up the defence of Western European civilization against the forces of revolution. Again, a radical decision must be made: «There is, nevertheless, a type of decision the church cannot avoid – a type of decision that must be taken in the present day, in concrete situations, in every generation»¹⁸. Schmitt is describing a kind of “culture war” between the right and the left, one that bears some resemblance to our contemporary culture wars, even if the stakes were much higher for Schmitt. The terms of this conflict define a political role for the church in modern society, one that would fill the void left vacant by the collapse of the old theological order. The church is suited to this role because it is, as Schmitt puts it, a *complexio oppositorum* – a complex of opposites, which can adapt itself to different circumstances, incorporate opposing ideological and political positions, and even different and conflicting theological tendencies, without losing its identity. Despite its ideological and theological promiscuity, the church has retained a coherent image of itself. In its internal consistency, Roman Catholicism has the capacity for *representation*; it can provide a unifying idea of the social order, once embodied in the person Christ and in papal *auctoritas*, but now in the political form of the church itself. Therefore, like sovereignty itself, the church can have the function of representing society as a coherent whole, providing it with a point of stability and identity otherwise lacking in secular modernity. And it is only through decisive action in entering the fray of political conflict that it can once again fulfil its historical role.

However, can the church really play this role today? Even before Schmitt's time, the authority of the Roman Catholic church had been

¹⁷ *Ivi*, 66.

¹⁸ *Ivi*, 38.

severely diminished under formally Protestant Prussian state and later under the secular order of Weimar. The Second Vatican Council in the 1960s and its repudiation of the doctrine of papal infallibility, was a further acknowledgement of the church's waning authority in secular modernity. In more recent times, however, and in a number of different political contexts, religious institutions have regained their political prominence – for instance, the increasing influence of the Catholic church in Poland under the current socially conservative government, not to mention the excessive influence of Protestant evangelical churches in US politics and their growing power in Latin America. Right-wing populists often appeal to traditional religious beliefs and mobilise religiously conservative constituencies, in a way that is sometimes purely instrumental but nevertheless empowering to organised religion. While church attendance steadily declines, at least in many Western democracies, religious identity is increasingly politicised, co-opted into conservative and nationalist political agendas and weaponised in the current “culture wars”. Nevertheless, there is little to suggest that organised religion can become once again a point of authority and legitimacy today, or that religious institutions can somehow provide a unifying image for our highly pluralised societies, as Schmitt imagined. The politicisation of religion that we see today is much too disorganised and contested for that, contributing only to divisiveness and ideological polarisation rather than to social order and unity.

If political legitimacy can no longer be grounded in religious institutions, can it be grounded in the sovereign will of the people? This is a question that Schmitt takes up in a subsequent text, *The Crisis of Parliamentary Democracy* (1923), in which he argues that constitutional authority derives ultimately from the sovereign law-making will of the people, rather than from parliamentary institutions. It was only the unified, singular will of the people, as an extra-constitutional, extra-parliamentary force that could bestow legitimacy on the constitutional order. By contrast, parliament, in Schmitt's eyes, was nothing more than a chamber of deliberation, a forum for political parties, factions and sectional interests; in its pluralism it could not represent the singular will of the people. Here we see perhaps the most radical attack on liberal representative democracy. Not only were parliamentary mechanisms dysfunctional and unable to act decisively, particularly in emergency situations, but they were, for Schmitt, incompatible with democracy itself: «The belief in parliamentarism, in government by discussion, belongs to the intellectual world of liberalism. It

does not belong to democracy»¹⁹. Indeed, liberalism and democracy themselves were distinct and opposing concepts. Whereas liberalism was about the rule of law and the representation of a plurality of interests, democracy was always the expression of the unified will of the people. Moreover, while democracy was an egalitarian concept, it was an egalitarianism of a particular kind, one that presupposed a homogeneous identity, and which therefore excluded other identities and interests. Democratic equality, for Schmitt, was therefore premised on *inequality* and the privileging of one group over another²⁰. On Schmitt's account, then, the modern crisis of parliamentary democracy results from the failure to recognise this identitarian basis of democratic equality: «As democracy, modern mass democracy attempts to realize an identity of governed and governing, and thus it confronts parliament as an inconceivable and outmoded institution. If democratic identity is taken seriously, then in an emergency, no other constitutional institution can withstand the sole criterion of the people's will, however it is expressed».

Schmitt's solution to this crisis of legitimacy was once again an authoritarian one. Because the people is a homogeneous identity, its will can only be represented in the singular person of the leader (the Führer). This was why Schmitt claimed that some form of plebiscitary dictatorship (democracy through acclamation) was compatible with democracy and, indeed, was a more meaningful and effective way of articulating the will of the people than parliamentary institutions and voting in elections.

It is tempting, perhaps, to see Schmitt's authoritarian, populist model of democracy in terms of *constituting power* – that is, the will of the people as force of democratic renewal which is external to the constitutional order and as having the power to remake it²¹. Antonio Negri, for instance, has invested much in this distinction, emphasising the revolutionary constitutive power of the multitude as a kind of continuous opposition to any established order²². This idea goes back to the French Revolution and to Abbe Sieyès' notion of *pouvoir constituant*, the pre-constitutional revolutionary force, embodied in the people or "nation" and existing in a natural state, which had the power to recompose the established political

¹⁹ ID., *The Crisis of Parliamentary Democracy*, MIT Press, Cambridge (Mass.)/London, 2000, 8.

²⁰ See *Ivi*, 9.

²¹ See A. KALYVAS, *Democracy and the Politics of the Extraordinary. Max Weber, Carl Schmitt and Hannah Arendt*, Cambridge University Press, Cambridge, 2008.

²² See A. NEGRI, *Insurgencies: constituent Power and the Modern State*, University of Minnesota Press, Minneapolis/London, 1999.

order and therefore could not be bound by its rules and procedures²³. Indeed, Schmitt himself draws on Sieyès' theory of constitution-making power in his *Constitutional Theory* from 1928. However, the democratic and revolutionary potential implicit in this notion of the "will of the people" is at the same time reined in within Schmitt's analysis, and confined to a politico-theological framework in which the idea of constituting power originates from God²⁴. The constituting power of the People is ultimately the constituting power of God; it is therefore a power and authority that cannot be exercised directly or democratically by the people, but rather through a sovereign representative. In other words, Schmitt's politico-theological conception of the constituting power of the people relies on a transcendental and hierarchical relationship between the people and the sovereign; it cannot be based on the equivalence between the government and the governed, as modern democratic theory would suggest²⁵.

Moreover, Schmitt has little interest in a broader conception of social democracy. Indeed, according to Renato Cristi²⁶, Schmitt's politics might be seen as a form of authoritarian liberalism, summed up in the formula of strong state, free economy. In other words, Schmitt was hostile to *political* liberalism – the idea of public reason and constitutional government – but not necessarily to *market* liberalism. Like Hobbes, Schmitt's concern was for a strong political sovereign that would stand above society, being relatively indifferent to the private sphere of the market; indeed, a market economy presupposed an authoritative state that would secure the conditions in which it could operate. This is very close, of course, to the contemporary neoliberal model, in which the state is largely reduced to its security functions, and where authoritarian measures are sometimes required to enforce the discipline of the market and to crack down on dissent. Like Schmitt, neoliberals do not fear a strong state so much as the democratic public space and the extension of democratic controls over the economy. Given that the contemporary crisis of legitimacy is partly the result of the breakdown of the social welfare state and the excesses of a deregulated

²³ See E-J. SIEYÈS, *Qu'est-ce que le Tiers état?*, 1789.

²⁴ See C. SCHMITT, *Constitutional Theory*, ed. by J. Seitzer, Duke University Press, Durham, 2008, 126.

²⁵ See *ivi*, 266.

²⁶ See R. CRISTI, *Carl Schmitt and authoritarian liberalism. Strong State, Free Economy*, University of Wales Press, Cardiff, 1998. See also H. HELLER, *Authoritarian Liberalism?*, in *European Law Journal*, XXI-3, 2015, 295-301 (first published in *Die Neue Rundschau*, 44, 1933, 289-298).

market economy, the formula of «strong state, free economy» would seem to only perpetuate the problem.

4. *Evaluating Schmitt*

In considering these early writings of Schmitt's in response to Weimar crisis, we can conclude by saying that while they have a certain diagnostic value in understanding the terms of a legitimation crisis, they offer little in the way of a solution that is normatively compelling: an authoritarian sovereign unencumbered by constitutional constraints; a politically empowered church weighing into cultural wars; and a highly reductionist, exclusionary and authoritarian model of democracy based on a narrow form of identity politics, from which democratic deliberation and the extension of social democracy are largely ruled out.

Given this, it is perhaps surprising that Schmitt has over the last decades been taken up so enthusiastically by some thinkers on the left, not only as a way of critiquing the liberal global order and the "war on terror", but also as a way of renewing the idea of democracy. Andreas Kalyvas, for instance, draws on Schmitt's distinction between the *constituting* and *constituted* will of the people – the people *outside* the constitution with the authority to change it, and the people as constituted by this act of authorisation – to highlight what he sees as the "extraordinary" side of democratic politics, an experience of direct political engagement, creativity and participation where the people collectively determine the shape of the constitutional order. However, as we have argued, this would only apply if in Schmitt's theory of democracy, the people were somehow immanent to itself and spoke for itself, in the manner of Rousseau's *volonté générale*. However, Schmitt makes it clear that the sovereign constitution-forming will of the people does not speak for itself, but is spoken for and always represented in the figure of the leader (as in populism). Rather than any genuine participation in democratic decision-making, the role of the people is simply reduced to acclaiming the leader in public gatherings, much like the acclamations of Mussolini in Italian fascism, and similar to the entirely hierarchical relationship of representation that we find in the contemporary phenomenon of populism.

In a similar vein to Kalyvas, Gopal Balakrishnan²⁷ has argued that Schmitt's theory of the constitutive power of the people offers a welcome antidote to the stifling politics of the liberal consensus and a way of radicalising democracy in way that might be appealing to the Left. This claim is unconvincing. As we have argued, not only are Schmitt's theories irretrievably oriented to the politics of the conservative right, and in a much more systematic way than Balakrishnan seems to think²⁸, but his critique of liberal democracy is not in the interests of expanding the democratic project – and certainly not in the direction of social democracy or socialism – but, on the contrary, of reigning it in through a sovereign dictatorship.

A similar point could be made in relation to Chantal Mouffe's attempt to incorporate Schmitt into a theory of political pluralism and "agonistic" democracy. Mouffe has drawn on Schmitt's critique of liberal parliamentarianism, as well as his friend/enemy opposition, to arrive at an understanding of the political based on contestation and antagonism, and on the acknowledgement of irreducible differences. As an alternative to rational deliberative models of public reason employed in liberal political theory, Mouffe has proposed a model of political engagement based on democratic "agonism"²⁹. Here, Schmitt's figure of the enemy, the one with whom one is prepared to go to war, is transformed or sublimated into an adversary, a worthy opponent, one with whom one can have a respectful – if radical – disagreement. In utilising Schmitt in this way, Mouffe was responding to the liberal consensus model of politics, in which it is supposed that differences can be resolved through a process of rational deliberation, an assumption which ended up marginalising and suppressing ineluctable differences. There had to be a place for passionate disagreement in public debate, she argued. Indeed, the problem with the liberal response to populism is that it simply dismisses it as "irrational", thereby adding fuel to the fire.

I do not necessarily disagree with this analysis. The response of the liberal left to the rise of populism has been largely ineffective and counter-productive. Moreover, there must certainly be room for the expression of passionate forms of discourse within the public sphere – and here I believe

²⁷ See G. BALKRISHNAN, *The Enemy: An Intellectual portrait of Carl Schmitt*, Verso, London, 2000.

²⁸ See *ivi*, 5 f.

²⁹ See C. MOUFFE (ed.), *The Challenge of Carl Schmitt*, Verso, London/New York, 1999; EAD., *The Democratic Paradox*, Verso, London/New York, 2000; EAD., *Agonistics: Thinking the World Politically*, Verso, London/New York, 2013.

that public theology has a particular value in providing a language for passionate commitments and emotional affects not otherwise accommodated within the liberal discourse of secular reason. What I find unconvincing, however, is Mouffe's attempt to reconcile Schmitt with a theory of political pluralism. Schmitt is a thinker fundamentally hostile to pluralism – that is, to the idea of a diversity of viewpoints, interests, and perspectives that a democratic society should find ways of representing. Indeed, Schmitt's one-dimensional view of democracy, in which the sovereign will of the people is reduced to a narrow, authoritarian, homogeneous and nationalist form of national identity politics that deliberately and necessarily excludes other identities, is fundamentally inhospitable to difference, much more so than the liberal consensus model that Mouffe is critical of. Furthermore, I am somewhat sceptical of Mouffe's attempt to "gentrify" Schmitt's model of enmity and antagonism into the more polite form of "agonism". As Schmitt makes clear in his text *The Concept of the Political* from 1932, the friend/enemy opposition – which is central to his understanding of the political relationship – cannot be mediated, and always presupposes the possibility of war, of killing one's enemy: «The friend, enemy, and combat concepts receive their real meaning precisely because they refer to the real possibility of physical killing»³⁰. It is difficult to see how this kind of antagonistic disposition could be somehow tamed or safely integrated into the democratic public space in the manner that Mouffe proposes.

My point in regards to these various left wing appropriations of Schmitt is that they sanitise, in way that is wholly unconvincing, a set of ideas and normative political commitments that remain hostile to any substantive notion of democracy – which might for example also include respect for human rights and constitutional checks and balances – let alone being reconcilable with any left-wing emancipatory political project. No doubt, the existing liberal democratic model of politics is flawed and limited, and has perhaps reached a point of exhaustion. However, the solution to its current crisis of legitimacy surely cannot be to turn to a decisionist account of sovereignty or an authoritarian populist model of democracy. The appeal of Schmitt in the eyes of some left-wing thinkers is that he offers an autonomous experience of the political as a domain of contestation irreducible to liberal normative commitments and constitutional frameworks. However, this "pure" concept of the political –

³⁰ C. SCHMITT, *The Concept of the Political*, Expanded Edition, University of Chicago Press, Chicago, 2007, 33.

which Schmitt wants to evoke in the moment of decision – is hinged to a theological framework from which it derives its energy and authority. Here it is hard not to agree with Habermas when he says: «Against Carl Schmitt, we might ask: why shouldn't the political find an impersonal embodiment in the normative dimension of a democratic constitution?»³¹. In other words, in the modern secular period, Schmitt's theologically-charged conception of sovereignty is simply an inappropriate basis of political legitimacy (Hans Blumenberg makes a similar critique of Schmitt in his *Legitimacy of the Modern Age*); and that other sources of legitimacy, such as the normative framework provided by a democratic constitution, might be more effective and binding, especially in a pluralised world³².

The contemporary crisis of political legitimacy is real. It was real in Schmitt's time, and it is real in ours. Schmitt provides a powerful diagnosis of the situation, and there are elements of his analysis of secular liberal modernity that one can agree with – particular his critique of technological domination. There is a need to establish new sources of legitimacy in a world without a unifying principle, a world that is increasingly unstable and that seems to be fragmenting before our very eyes. There is no question that the liberal democratic political order – once pronounced to be the highest stage of rational human development, the “end of history” as Fukuyama put it – is in deep trouble. However, Schmitt's political theology is limited in being able to offer any viable solution to this crisis of legitimacy. Today, the desire for sovereignty, hinged to an aggressive and authoritarian politics of nationalist populism, appears more as an accelerator of the

³¹ J. HABERMAS, “The Political”: *The Rational Meaning of a Questionable Inheritance of Political Theology*, in E. MENDIETA and J. VANANTWERPEN (eds.), *The Power of Religion in the Public Sphere*, Columbia University Press, New York, 2011, 21. See also Habermas' critique of Schmitt's idea of politics in J. HABERMAS, *The Horrors of Autonomy: Carl Schmitt in English*, in ID., *The New Conservatism. Cultural Criticism and the Historians' Debate*, ed. by S. W. Nicholse, Polity Press, Cambridge, 1989, 128-139.

³² A similar critique of Schmitt was made by Hans Blumenberg, who argued that the sovereign state of exception as an expressing the “primacy” of the political, was simply out of step with modernity: «When it is no longer possible to believe that the decision between good and evil is going to occur in history and is immediately impending, and that every political act participates in this crisis, the suggestiveness of the 'state of emergency' [Ausnahmezustand] as the normal political state disappears», H. BLUMENBERG, *The Legitimacy of the Modern Age*, MIT Press, Cambridge (Mass.), 1985, 91. Blumenberg also questioned Schmitt's use of the secularization thesis to justify the importation of theological categories into modern conceptions of politics. Rather, for Blumenberg, the legitimacy of the modern era stood on its own terms, and consisted in a radical innovation and self-assertion that displaced the old theological world.

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coming disorder, leading to increasing geopolitical tension, rather than being a force for stability. This does not mean that political theology no longer has any relevance. On the contrary, the nexus between theology and politics might be reconstituted in more radical and democratic ways through a more emancipatory reading of political theology.