

# The Revival of Carl Schmitt in International Relations: The Last Refuge of Critical Theorists?<sup>1</sup>

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This article seeks to question the ‘critical’ readings of Carl Schmitt’s understanding of international law and the use of force in international relations, particularly the approaches taken by many critical cosmopolitan theorists and many post-structuralists who have used Schmitt to distance themselves from, and to critique, American foreign policy, especially under the Bush administrations. I suggest that these critical theorists engage in a highly idealized understanding of Schmitt, focusing on his contingent political conclusions, using his work descriptively rather than analytically. It is argued that the idealist approach to Schmitt stems from these commentators’ concerns to describe their work as critical rather than from any attempt to use Schmitt’s underlying ontological framing of the relationship between law, ethics and the use of force to develop analytical insights into the practice and jurisprudence of the international sphere today. The revival of Schmitt in international relations therefore tells us more about the crisis of critical theorizing than the relevance of Schmitt’s analysis to today’s world.

Keywords: Carl Schmitt, critical theorists, ontology

## Introduction: Reading *Nomos der Erde*

The superficial nature of current uses of the work of Carl Schmitt, in substantiating critical approaches to the international sphere, is particularly apparent when he is used in relation to debates on humanitarian intervention and criticism of the global war against terrorism. In this respect, there is substantial common ground between the critical,

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1. With apologies for adapting the subtitle of Paul Mattick’s excellent book, *Marxism: The Last Refuge of the Bourgeoisie?* (London: Merlin Press, 1983).

normative and cosmopolitan theorists, who have mounted a defence of their position against so-called 'Schmittian' perspectives, and the critical post-Marxist and post-structuralist opponents of liberal internationalism, who have asserted that they have found much of value in Schmitt's work. Both treat Schmitt in an idealist manner, through the focus on his work at the contingent level of his political conclusions rather than at the more fundamental level of his geo-political grounding of the limits of international law and its relation to sovereign power.

In his authoritative 2004 review of *Nomos*, in the journal *Constellations*, Martti Koskenniemi noted the power and influence of Schmitt's work:

Whatever Schmitt's political choices, readers have been struck by the expressive force of his critiques when applied to contemporary events: the war on terrorism as a morally-inspired and unlimited 'total war', in which the adversary is not treated as a 'just enemy'; the obsolescence of traditional rules of warfare and recourse to novel technologies – especially air power – so as to conduct discriminatory wars against adversaries viewed as outlaws and enemies of humanity; Camp Delta in the Guantánamo naval base with its still over 500 prisoners from the Afghanistan war as a normless exception that reveals the nature of the new international political order of which the United States is the guardian – the source of the normative order, itself unbound by it.<sup>2</sup>

Schmitt's nightmare vision of the fall of *jus publicum Europaeum*, commonly understood as the pluralist framing of international law based on the Westphalian doctrines of sovereignty and non-intervention, appears to have been played out in the post-Cold War rise of wars of humanitarian intervention and especially in the post-9/11 war on terror; both of which have been justified on the basis of universal values. Many critical political theorists have turned to Schmitt to assist in the process of critiquing the current situation where political contestation and traditional collective political agency appear to be in retreat in the face of the emergence of a new, potentially more universal, post-state, post-sovereign international order.<sup>3</sup>

Koskenniemi outlines a number of ways in which Schmitt's *Nomos* has been read in terms of alternative legal framings of the international

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2. Martti Koskenniemi, 'International Law as Political Theology: How to Read *Nomos der Erde?*', *Constellations* 11, no. 4 (2004): 492–511. Available at: <http://www.constellationsjournal.org/MKosk11%5B1%5D.4.pdf>.

3. See, for example, William Rasch, *Sovereignty and its Discontents: On the Primacy of Conflict and the Structure of the Political* (London: Birkbeck Law Press, 2004) and for a broader collection on the critical use of Schmitt to critique the claims of universal liberalism, Chantal Mouffe, ed., *The Challenge of Carl Schmitt* (London: Verso, 1999). As John McCormick noted in 1998: 'Carl Schmitt is fast becoming recognized as the twentieth century's foremost critic of liberalism', 'Review: Political Theory and Political Theology: The Second Wave of Carl Schmitt', *Political Theory* 26, no. 6 (1998): 830–54, 830.

sphere,<sup>4</sup> however, my interest here is in the use of Schmitt by ‘critical’ International Relations (IR) theorists. By ‘critical’ I wish to group many of those who oppose and wish to distance themselves from the liberal internationalism associated with the broad neo-conservative project seen to drive US foreign policy and held to be often associated with writers such as Robert Cooper, Robert Kagan, Anne-Marie Slaughter, Michael Reisman and Fernando Tesón.<sup>5</sup> I wish to divide these ‘critical theorists’ into two broad camps; this is more of a heuristic device to draw out my theoretical points than a statement that such a clear or fixed division exists. For sake of simplicity, I shall distinguish these as ‘critical cosmopolitans’<sup>6</sup> and ‘critical post-structuralists’<sup>7</sup> though there is no doubt that many of the individuals included would possibly balk at the labelling.

The desire to distance critical IR theory from the exercise of US power has been driven by the similarities of the post-sovereignty frameworks used by political elites and by radical academics.<sup>8</sup> ‘Critical cosmopolitans’

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4. Koskenniemi, ‘International Law’, 505–6.

5. For example, Michael Reisman, ‘Sovereignty and Human Rights in Contemporary International Law’, in *Democratic Governance and International Law*, eds. G. H. Fox and B. R. Roth (Cambridge: Cambridge University Press, 2000); Anne-Marie Slaughter, *A New World Order* (Princeton: Princeton University Press, 2004); Robert Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-first Century* (London: Atlantic Books, 2004); Robert Kagan, *Paradise and Power: America and Europe in the New World Order* (London: Atlantic Books, 2003); Fernando Tesón, ‘Ending Tyranny in Iraq’, *Ethics and International Affairs* 19, no. 2 (2005): 73–89.

6. By ‘critical cosmopolitans’ I refer to theorists who are critical of the state-based UN Charter norms of equal sovereignty and non-intervention and favour, to some extent at least, a liberal internationalism based on upholding the rights of individuals. These theorists would argue that their position is very different to the policies pursued by the US, especially in the war on terror, which is often seen as an attempt to reimpose divisive, exclusivist, ‘statist’ frameworks legitimized by the idea of ‘friend’ and ‘enemy’. A clear example of this position is laid out by Mary Kaldor. Kaldor counterposes her cosmopolitan approach to the allegedly ‘Schmittian’ frameworks of both opponents of interventionism and neo-conservative advocates for intervention, see, for example, Kaldor, *Human Security: Reflections on Globalization and Intervention* (London: Polity, 2007), 10.

7. By ‘critical post-structuralists’ I refer to those who see the US-led war on terror as a global, unlimited and unending war in pursuit of the interests of the global liberal order. These critical post-structuralists are likely to be much less sympathetic to liberal internationalist claims and more suspicious of any universal claims for the cosmopolitan enforcement of human rights. Schmitt is often a key theorist used to critique these liberal universal claims and reveal the interests of political power which lie behind them. This approach is clearly articulated, for example, in many of the essays in the edited collection of Louiza Odysseos and Fabio Petito, *The International Political Thought of Carl Schmitt: Terror, Liberal War and the Crisis of Global Order* (London: Routledge, 2007).

8. On this, see Christopher J. Bickerton, Philip Cunliffe and Alexander Gourevitch, ‘Introduction: The Unholy Alliance against Sovereignty’, in *Politics*

are put on the defensive by the accusation that their support for human rights claims and humanitarian intervention has lent legitimacy to American military adventurism, particularly the war in Iraq. They therefore seek to legitimize their radical, or less militaristic, universalism through tarring their critics with the brush of Schmitt. 'Critical post-structuralists' use Schmitt to overcome the problem that their critiques of liberal democratic views of sovereign power and democratic frameworks of law can tend to leave them without a clear critical position from which to oppose US power and the restrictions on civil liberties domestically. Rather than confront the dilemmas involved in their blanket critique of the liberal frameworks of international and domestic law, critical post-structuralists use Schmitt to argue that the undermining of these legal frameworks is, in fact, an example of the dangers of liberal universalism.

In both cases the use of Schmitt is largely rhetorical rather than as an analytical tool of analysis. This article seeks to demonstrate that the revival of Schmitt's work, especially by critical theorists working in the discipline of IR, has less to do with an appreciation of Schmitt than it has with the weakness and defensiveness of critical theoretical positions themselves. This is why the title poses the question of whether Schmitt is the last refuge of critical theorists. The clarity and cause of the critical position is becoming increasingly uncertain as the clear frameworks of state-based international relations are undermined, not by progressive movements constituting new collectivities beyond the state, but by leading western states and international institutions which claim to be operating beyond the sphere of national interests and in the interests of the emancipatory subject.<sup>9</sup> I suggest that in the face of this lack of clarity, Schmitt is used symbolically or rhetorically to reassert clear lines of political division, demarcating the 'purity' of the critical theorist from those alleged to be serving the interests of power. Therefore, the aim of this article is not primarily to emphasize the value of Schmitt's approach for understanding international relations in the present. However, because most of the substantive recent engagements with Schmitt's work have concerned his political and legal theory rather than his geo-political ontology,<sup>10</sup> there is a need to restate and clarify Schmitt's fundamental ontological and

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*without Sovereignty: A Critique of Contemporary International Relations*, eds. Bickerton et al. (London: UCL Press, 2007), 1–19.

9. For discussions of the implications of this shift see, for example: Mark Duffield, *Development, Security and Unending War: Governing the World of Peoples* (Cambridge: Polity, 2007); Vivienne Jabri, *War and the Transformation of Global Politics* (Basingstoke: Palgrave, 2007); David Chandler, *Empire in Denial: The Politics of State-building* (London: Pluto, 2006).

10. See, for example: Renato Cristi, *Carl Schmitt and Liberal Authoritarianism: Strong State, Free Economy* (Cardiff: University of Wales, 1998); Ellen Kennedy, *Constitutional Failure: Carl Schmitt in Weimar* (London: Duke University Press, 2004); Gopal Balakrishnan, *The Enemy: An Intellectual Portrait of Carl Schmitt* (London:

political concerns in this field. Those who employ the work of Schmitt, positively or negatively, seek to polarize the framework of understanding to demarcate and substantiate their position as a 'critical' one. This use of Schmitt has little to do with the application of his work to analyse the present. It is particularly important to highlight that Schmitt's ontological framework of grasping the grounding of law in sovereign power would result in a very different view of the present than those who seek to appropriate him. The management of inter-imperialist rivalry, the fundamental theme of Schmitt's *Nomos*, is not the predominant concern of the present. In this respect, there is little reason to see changes in the international order as necessarily reflecting a crisis comparable to that of the interwar years and the Second World War. From a Schmittian perspective, it could, in fact, be argued that today there is little gap between sovereign power and legal content.

The legal question mark over sovereign equality for the postcolonial state and frameworks of intervention reflects the breakdown of the Cold War balance of power and the removal of barriers to, once again, 'drawing a line' between the imperial powers and the 'colonial' world.<sup>11</sup> In other words, the changing articulation of international legal and political norms cannot be assumed to be the product of a clash of grand political subjects, resulting in the politicizing of law and the undermining of the framework of international order.<sup>12</sup> The revival of Just War theorizing – and its reflection in 'The Responsibility to Protect' or the International Criminal Court and the revival of ad hoc tribunals for former Yugoslavia

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Verso, 1999); John McCormick, *Carl Schmitt's Critique of Liberalism: Against Politics as Technology* (Cambridge: Cambridge University Press, 1997).

11. See Chandler, 'International Justice', *New Left Review* 2, no. 6 (2000): 55–66. The new hierarchical order is reflected in the questioning of the juridical and political equality of the postcolonial 'pre-modern world', now alleged to be populated by unequal 'quasi-states' seen to be 'failed' or 'failing'. The classic text framing post-Cold War IR as a challenge to views of universal sovereign equality is Robert Jackson's *Quasi-states: Sovereignty, International Relations and the Third World* (Cambridge: Cambridge University Press, 1990), but see also: Anne-Marie Slaughter, 'International Law in a World of Liberal States', *European Journal of International Law* 6, no. 4 (1995): 503–38; David Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Cambridge: Polity, 1995), 232; and, for the reassertion of great power prerogatives, the concluding chapters of Gerry Simpson's *Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order* (Cambridge: Cambridge University Press, 2004). See also, Cooper's *Breaking of Nations*, which explicitly asserts the need for 'double standards' when dealing with 'pre-modern' states. The limited controversy over the broader shift away from formal relations of sovereign equality, in fact, reflects the limited nature of inter-imperialist rivalry.

12. Even Kagan swiftly moderated his celebrated 'Mars vs. Venus' view of the US–Europe divide: Kagan, 'America's Crisis of Legitimacy', *Foreign Affairs* 83, no. 2 (2004): 65–87.

and Rwanda or the denial of Geneva convention rights to 'unlawful combatants' at Guantánamo – reflects a more divisive and hierarchical international legal order but there is no reason to see this shift as a fundamental crisis of international spatial ordering. While the language of 'global war' and the crisis of international law may resonate today, it needs to be remembered that, as his recent biographer Gopal Balakrishnan notes, the political context of Schmitt's time was 'nearly the exact opposite' to that of ours.<sup>13</sup>

## Critical Cosmopolitans and Schmitt

Richard Devetak has recently defended critical cosmopolitanism against 'statist' Schmittian theorists who suggest that liberal cosmopolitanism provides a blank cheque for US military interventionism.<sup>14</sup> Liberal critical theorists are aware of the dangers of being tainted as apologists for Western militarism, as Devetak describes the problem:

While so many controversial wars are waged under the banner of liberal ideals associated with Kant, the Enlightenment and cosmopolitanism, critical international theory will need to ensure that its arguments are not co-opted by or aligned with such war-mongering.<sup>15</sup>

The unease of critical theorists about the implications of their support for military intervention was initially articulated by Ken Booth in his 'Ten Flaws of Just Wars', in the wake of the Kosovo war. The Kosovo war was seen as a litmus test for a new cosmopolitan international order but several commentators argued that the approach NATO states took undermined the chances of constructing a new global constitutional order on the basis of human rights.<sup>16</sup> In the wake of the post-9/11 global war on terror, critical cosmopolitan theorists were quick to condemn the resort to war, rather than law, in dealing with both the Taliban and Saddam Hussein.<sup>17</sup>

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13. Balakrishnan, *The Enemy*, 264.

14. Richard Devetak, 'Between Kant and Pufendorf: Humanitarian Intervention, Statist Anti-Cosmopolitanism and Critical International Theory', *Review of International Studies* 33 (2007), 'Special Issue: Critical International Relations Theory after 25 Years': 151–74, 156.

15. *Ibid.*, 152.

16. Ken Booth, 'Ten Flaws of Just Wars', in *The Kosovo Tragedy: The Human Rights Dimensions*, ed. K. Booth (London: Frank Cass, 2001), 314–24; see also Jürgen Habermas, 'Bestialität und Humanität', *Die Zeit*, 54, no. 18, 29 April 1999. Franz Solms-Laubach trans available at: <http://www.theglobalsite.ac.uk/press/011habermas.htm>.

17. See, for example, Habermas' 2001 interviews with Giovanna Borradori in Borradori, *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida* (Chicago: Chicago University Press, 2003); Kaldor, *Global Civil Society: An Answer to War* (Cambridge: Polity, 2003).

Nevertheless, critical cosmopolitans are aware that they are caught in a quandary in their attempts to base a critique of power on the same universalist discourse used in Washington and London to justify and legitimize it. While Schmitt famously argued that ‘whoever invokes humanity wants to cheat’,<sup>18</sup> the critical cosmopolitans argue that while this may be true of the neo-conservatives in the White House they themselves only have pure intentions.<sup>19</sup> Critical theorists want to preserve the power of moral frameworks of political theory but without being accused of justifying arbitrary power on the basis of universal norms.

There is a second and related point, which more reflective critical cosmopolitans, such as Devetak, raise. That: ‘[i]f statist anti-cosmopolitans are right, critical international theory is anti-political (for its moral critique of politics)’; ‘[t]he inference is that contemporary exponents of critical theory, notwithstanding claims of secular rationalism, merely continue “religion by other means”’.<sup>20</sup> While Schmitt argued that political power and interests were concealed in the appeal to abstract universals such as ‘humanity’, the critical cosmopolitans, of course, want to argue that their use of abstract universal claims to ‘human rights’ are innately political and seek to challenge and disrupt the practices and ideological justifications of power.<sup>21</sup>

Some critical cosmopolitans are sensitive to the problems opened up by the desire to found a ‘new nomos’ on the basis of the universalism of the rights-based individual in a context where there is no constituted political framework to give content to those rights. Given this problem of grounding rights, they are aware that Schmitt poses a powerful critique, but they are also attracted to the possibility of critiquing Schmitt (read as the extreme anti-normative theorist with Nazi leanings) in order to substantiate their position. The most insightful normative theorists talk up the importance of Schmitt, the better to restore their radical credentials as critical theorists of international politics.

Schmitt is read defensively as arguing that there is no difference between the critical cosmopolitans and the neo-conservative liberal interventionists. The defence is then to equate Schmitt with the

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18. Carl Schmitt, *The Concept of the Political* (Chicago: University of Chicago Press, 1996), 54.

19. Of course, it could be argued that there is a sense of ‘cheating’ in that instead of focusing on the collective political subject that could potentially be an agent of emancipation – and thereby materially grounding the critique of the present – there has been an increased tendency towards idealism. See the excellent critique of critical theory on these grounds by Beate Jahn, ‘One Step Forwards, Two Steps Back: Critical Theory as the Latest Edition of Liberal Idealism’, *Millennium: Journal of International Studies* 27, no. 3 (1998): 613–41.

20. Devetak, ‘Between Kant and Pufendorf’, 160, 166.

21. For an influential statement of this claim see Booth, ‘Security and Emancipation’, *Review of International Studies* 17, no. 4 (1991): 313–27.

neo-conservatives in his own alleged inability to overcome the divide between ethics and politics. While the critical cosmopolitans accuse neo-conservatives of using liberal ethics to submerge and pervert the discussion of politics, Schmitt is held to totally ignore the importance of the ethical and normative in his extreme position of the 'autonomy' of the political sphere of 'friend and enemy'. Devetak, for example, argues that Schmitt's desire for the quarantining of the political from the ethical, in the autonomy of the political, is an impossible one. That, in fact, Schmitt was just as idealist or normative as those who seek to submerge the political in ethical universals. The result is that Schmitt is held to have a metaphysical conception of the state, immunizing state power against critique on the basis of the legitimacy of national interests, in a way which is no different to the use of abstract universals. Devetak brings this home, stating: 'parodying Schmitt we might say, "Whoever invokes the national interest wants to cheat."'22

In this reading, Schmitt's position is fundamentally the same, but in mirror-image form, as that of the neo-conservatives who advocate US imperialism dressed up as a 'war for humanity'. First, Schmitt's position is held to be as blind to the victims of state violence, in the name of 'national interests', as neo-conservatives are to the victims of inter-state violence in the name of 'human rights'. Secondly, while the neo-cons might argue that humanitarian intervention against sovereignty is always right, Schmittian anti-cosmopolitans are held to argue that it is always wrong – the position of both is then equated and seen to be equally anti-political; that is, not based on political debate or upon the needs of the people concerned. The correct solution, for Devetak, is the context-based, case-by-case approach based on critical Habermasian dialogue, rooted in the politics of civil society. Eschewing the dogmatism and idealism of either side of the 'for and against intervention' debate, and engaging in political dialogue on the specifics of the case, critical cosmopolitanism is held to come away with its ethics and its political radicalism intact.

Chris Brown similarly seeks to defend an ethical interventionism from accusations of uncritical universalism. He pursues a similar approach to Devetak, arguing, in this case, that Schmitt poses the most theoretically grounded and fundamental critique of ethical justifications for war and against the revival of Just War theory.<sup>23</sup> To quote Brown:

In short, from Schmitt's perspective, Just War has been turned into an archetypically liberal notion: the political basis of decisions to use force that was characteristic of the *jus publicum Europaeum* is replaced by a legalistic and moralistic account of the justification for force... This is, I believe, a quite compelling argument, and it defines the task for anyone who wishes

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22. Devetak, 'Between Kant and Pufendorf', 167.

23. Chris Brown, 'From Humanized War to Humanitarian Intervention: Carl Schmitt's Critique of the Just War Tradition', in Odysseos and Petito, *International Political Thought*, 56–69.

to continue to use Just War notions in thinking about international relations, which I do.<sup>24</sup>

Brown wants to avoid normative theory being discredited by the use of Just War justifications for militarism. Like Devetak, he seeks to draw Schmitt into the same camp as the neo-cons and to distinguish his position from them both. To do this, Brown argues that Schmitt stood opposed to any external or international attempts to limit war;<sup>25</sup> and that therefore his approach was similar to that of the neo-con position that there should be no limits to the use of force. Both Schmitt and the neo-cons are implicitly seen to be evading political and ethical responsibility. Marking out a ground for a morally informed practical political approach, Brown draws on the neo-Aristotelianism of Stephen Toulmin.<sup>26</sup> Again, a case-by-case approach is advocated, introducing ethical justification without ceding to universal ethical claims and thereby allegedly recognizing the inseparability of politics and ethics.

For these international political theorists, wishing to defend international intervention on moral grounds while distinguishing themselves as 'critical' in relation to US moral justifications for military intervention, Schmitt is talked up as a great theorist but then condemned as the logical end product of any rejection of liberal attempts to tame power through law and ethics. Schmitt's role here is as the whipping boy; as a warning to those who seek to highlight the limits of critical, liberal and normative international relations theorizing.

In fact, it would not be going too far to say that there is here an implicit threat that to use Schmitt uncritically would be to fall into the far greater error of being an apologist for the crimes of sovereign states against their own people. As evidence of this, Schmitt is condemned for condoning or marginalizing the Holocaust by arguing that the key crime of the Second World War was the undermining of the European order in the Allied aerial bombing of German cities to force an unconditional surrender.<sup>27</sup> Schmitt is used defensively here, to limit critiques of the cosmopolitan position and to close down or narrow discussion.

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24. *Ibid.*, 65.

25. Habermas makes a similar point with regard to Schmitt: 'it was Schmitt's opinion that the substance of the political, the self-asserting of the identity of a Volk or of a movement, will not let itself be tamed by norms, that every attempt at domestication through law, must accrue to moral savagery', in Habermas, 'America and the World (interview)', *Logos*, 3, no. 3 (2004). Available at: [http://www.logosjournal.com/habermas\\_america.htm](http://www.logosjournal.com/habermas_america.htm).

26. See Stephen Toulmin, *Cosmopolis: The Hidden Agenda of Modernity* (Chicago: University of Chicago Press, 1990).

27. This comes across strongly in Michell Dean, 'Nomos: Word and Myth', in Odysseos and Petito, *International Political Thought*, 242–58, esp. 253–4; and in Brown, 'From Humanized War', 63.

This is done by privileging the ethical need for an alternative, in the spirit of 'something must be done', and downplaying the political poverty of their evasive position of 'case-by-case' consideration. The more that critical cosmopolitan theorists have been forced on to the defensive, over the gap between their normative aspirations and the real world of American military and political dominance, the more they have revived an interest in Schmitt (and the critique of his work).

### Critical Post-structuralists and Schmitt

Schmitt's post-structuralist advocates seek to use Schmitt just as opportunistically as the critical cosmopolitans; using Schmitt as both a prop for the weakness of their critical case and as a cover for the indistinctness of their theoretical position. Critical post-structuralist theorists face similar problems to critical cosmopolitan theorists in differentiating their critique of the Westphalian order, founded on sovereign rights, from that of neo-conservative thinkers. If critical post-structuralists oppose the concept of sovereignty and oppose the state-based international law which reifies and legitimizes sovereign statehood, it is difficult to find a clear alternative position from which to critique an alleged US imperial order (especially when the universalism of an alternative, cosmopolitan, human rights based order is seen as equally oppressive).

Instead of emphasizing universalist alternatives (at least explicit in the critical theory tradition), the post-structuralist position tends to describe the 'how' – the mechanisms of power and US or global neoliberal hegemony – focusing on description rather than critical analysis. Schmitt tends to be used descriptively, to argue that liberal practices of power must inevitably be dehumanizing and oppressive whether practised at the level of the state or in the global arena. Their use of Schmitt helps to add urgency and power to their description of, and opposition to, an apocalyptic project of global hegemony. Whether this is described as a 'liberal project' or as an American project, the focus describes today's war on terror as a new 'global war' or a 'total war' against a dehumanized foe: a deterritorialized war without end. This is a war where traditional 'Westphalian' distinctions between 'inside and outside', war and peace, combatant and civilian, and army and police, become eroded: where international law and civil liberties are sacrificed to a permanent state of exception.<sup>28</sup> The global war on

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28. See, for example, the majority of the papers in the *Odysseos* and *Petito* collection, *International Political Thought*, especially, Alain de Benoist, 'Global Terrorism and the State of Permanent Exception: The Significance of Carl Schmitt's Thought Today', 73–96; Gary L. Ulmen, 'Partisan Warfare, Terrorism and the Problem of a New *Nomos* of the Earth', *ibid.*, 97–106; Linda S. Bishai and Andreas Behnke, 'War, Violence and the Displacement of the Political', *ibid.*, 107–23; *Odysseos*, 'Crossing the Line? Carl Schmitt on the "Spaceless Universalism" of Cosmopolitanism and the War on Terror', *ibid.*, 124–43.

terror '(re)creates fearful and disciplined subjects both inside and outside liberal polities'.<sup>29</sup> As Linda Bishai and Andreas Behnke proclaim:

liberal war is ultimately an ontological war, a war against a different form of being, rather than a war against a strategic enemy... [L]iberalism identifies violence as the by-product of the continued presence of 'otherness' in the international system. Consequently, instead of limitation, its goal is elimination.<sup>30</sup>

Schmitt becomes reread as a pluralist post-structuralist warning against the dictatorial hegemonic power of American or global neoliberal empire.<sup>31</sup> The post-structuralist critique of sovereign power is transferred to a critique of America as the hegemonic sovereign of the international sphere. Extensions of, and, more often, the undermining of international legal agreements are seen, therefore, as sovereign acts of deciding upon the exception and of normalizing the power of exception.<sup>32</sup> Paradoxically, Schmitt, the founding theorist of a 'geo-political' framework of international relations, is essentially conscripted to fight a moral critique of 'power', 'empire' or 'the liberal project', which is seen as steamrolling over resistance on the grounds that it is not valid; that those who resist should be 'eliminated' as 'inhuman' or 'criminal'.<sup>33</sup>

## Schmitt Versus the Epigones

Major problems arise in the use of Schmitt's work by 'critical' theorists seeking to demarcate their moral critiques of the status quo as theoretically and substantially grounded in the face of the moralization of

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29. Odysseos, 'Crossing the Line?', 138.

30. Bishai and Behnke, 'War', 117, 120.

31. See, for example, Mouffe, 'Carl Schmitt's Warning on the Dangers of a Unipolar World', in Odysseos and Petito, *International Political Thought*, 147–53; Fabio Petito, 'Against World Unity: Carl Schmitt and the Western-Centric and Liberal Global Order', *ibid.*, 166–84; and for more extreme versions, Mika Ojakangas, 'A Terrifying World without an Exterior: Carl Schmitt and the Metaphysics of International (Dis)order', *ibid.*, 205–21; Sergei Prozorov, 'The Ethos of Insecure Life: Reading Carl Schmitt's Existential Decisionism as a Foucauldian Ethics', *ibid.*, 222–41.

32. The current fashion for finding the 'exception' makes the 'exception' another word for power and presents the description of power as an implicit critique of its exercise, see, for example Jabri, *War*, 95, 99. While, for Schmitt: 'not every extraordinary measure, not every police emergency measure or emergency decree, is necessarily an exception. What characterizes an exception is principally unlimited authority, which means the suspension of the entire existing order.' See Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: Chicago University Press, 1985), 12.

33. See further, Jan Selby, 'Engaging Foucault: Discourse, Liberal Governance and the Limits of Foucauldian IR', *International Relations* 21, no. 3 (2007): 324–45, for an excellent critique of the global liberal ontology at the centre of many critical post-structuralist IR frameworks. Through the use of Schmitt, this global ontology is at the same time descriptively constructed and normatively critiqued.

international politics and the transition of the international discourse of power from that of national interests to human-centred, victim-centred, practices of empowerment in the face of the barriers of sovereign statehood. Both critical post-structuralists and critical cosmopolitans provide highly idealist readings of Schmitt. Critical post-structuralists tend to downplay Schmitt's ontological view of the relationship between sovereign power and legal rights, taking his presentation at the superficial level of contingent descriptions, portraying Schmitt as an idealist anti-universalist. Critical cosmopolitans provide an even more contingent reading of Schmitt, highlighted by the fact that they swing from reading him as an uncritical statist, anti-interventionist and arch defender of sovereignty to being the theorist of unlimited intervention, having a *laissez-faire* approach to political violence and conflict, and arguing against the possibility of its restraint.<sup>34</sup> These readings of Schmitt would appear to stem from the defensiveness of these critical theorists regarding their existing positions, rather than from any attempts to develop their own framework of understanding through the use of Schmitt's work. First, I will address the critical post-structuralist reading of Schmitt, beginning with highlighting the need to separate Schmitt's ontological framework in *Nomos* from the contingent political conclusions which he draws from it, I then turn to the critical cosmopolitan approach which has an equally superficial approach to his work.

### *The Idealism of the Post-structuralists*

Schmitt was writing during the intense inter-imperialist rivalry of the interwar period and *Nomos* was published in the wake of the destruction of the Second World War. His writing was essentially a call for peace among western powers and agreement on a division of the world:<sup>35</sup> a call for the restoration of the moral authority of imperialism, with *Nomos* being an elegy for, and renegotiation of, a lost past. It is for this reason that Schmitt continually highlights the problematic and divisive nature of inter-imperialist rivalry, sharpened by clashes over universal moral claims, which made it impossible to legitimize a working arrangement. His call for a restoration of the political is for an honest 'pact amongst thieves' focused on clarity of interest in maintaining world order rather than having to defend themselves against imperial 'equals'.

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34. They draw out the problematic nature of critiques of 'realism' in contemporary IR, which is paradoxically condemned for both defending sovereignty and non-intervention and for defending war and militarism, reflecting the way in which moralizing has tended to be substituted for political theory within the discipline.

35. In many ways, *Nomos* reproduces the assumptions behind Karl Kautsky's September 1914 article, 'Ultra-Imperialism', in the possibility of an inter-imperialist alliance sustaining world peace and evading 'the colonial danger'. Available at: <http://www.marxists.org/archive/kautsky/1914/09/ultra-imp.htm>.

There is a tendency to see America as undermining European unity, which is a one-sided reappraisal of the past. European decline was already manifest in the playing out of the First World War within Europe and the breaking down of the European 'amity lines' that were racially as well as territorially institutionalized.<sup>36</sup> Schmitt is correct to argue that European inter-imperialist rivalries were ameliorated through the ability to recognize the special territorial status of European soil in distinction to the 'free soil' of the non-Europeanized world which was 'open for European land-appropriation'.<sup>37</sup> It was the territorial closing off of Africa and the impossibility of German imperial expansion 'beyond the line' which broke the unity of Europe. The unlimited war that had been 'bracketed off' came to Europe, literally, in the British and French use of colonial troops. His focus on America closing down this space, rather than on internal European divisions is therefore somewhat one-sided.<sup>38</sup> In truth, America was as much the benefactor as the cause of European decline. Of course, it suited European elites to focus on the role of this 'upstart' power in the post-war peace settlements and the shaping of a new international order, rather than look for failings closer to home.<sup>39</sup>

Schmitt's contingent political perspective is apparent in his tendency to see American claims to universalism as responsible for the unlimited nature of conflict in the 20th century. Clearly, the barbarism and destruction of the First and Second World Wars were not caused by a dispute over jurisprudence. In fact, it was the extent of the destruction and loss of life which led the victorious powers to seek to legitimize their case through attempts to bring law into war retrospectively with the public indictment of the former German Kaiser, Wilhelm II, and the inclusion of the war guilt article, Art. 231, in the Versailles Treaty, and later the Nuremberg and Tokyo tribunals. 'Total war' of the 20th century was the

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36. Schmitt, *The Nomos of the Earth: In the International Law of the Jus Publicum Europaeum* (New York: Telos, 2003), 219.

37. Schmitt, *Nomos*, 148; see also 183. A strikingly similar point about the importance of colonial expansion was made by Vladimir I. Lenin, *Imperialism: The Highest Stage of Capitalism* (London: Martin Lawrence, 1933).

38. Although he does implicitly make the point that the collapse of the European order after the 1885 Congo conference was essentially a matter of European division: 'Toward the end of the 19th century, European powers and jurists of European international law not only ceased to be conscious of the spatial presuppositions of their own international law, but had lost any political instinct, any common power to maintain their own spatial structure and the bracketing of war.' Schmitt, *Nomos*, 224.

39. This sense of loss of the old world of the unity of European peoples, often seen as undermined by American power, can be seen in much of the international relations and political theorizing of the period; see, for example, the early work within the English School and for an example of how this division was held to make more difficult the negotiation of European imperial decline, John Plamenatz, *On Alien Rule and Self-Government* (London: Longmans, 1960).

product of inter-imperialist rivalry, a product of war between technically and industrially advanced states, which meant that the destructiveness of war on the European continent was qualitatively different from war in the past.

Part of the key to Schmitt's modern appeal is the fact that this past is redescribed in terms of the problem of America. At the descriptive level, European power is often seen as undermined by the universal claims of American power. It has been at this descriptive level, where the enemy is demonized as 'inhuman' and war is unlimited because it is fought under the framework of 'universal liberalism', that most attention has been focused. The inability of the Westphalian peace to hold in Europe was a reflection of the social and economic tensions which could not be contained within the existing territorial boundaries. As Lenin argued, once the world was divided up, inter-imperialist rivalry could only take the much more destructive form of the redivision of the world.<sup>40</sup> What the critical theorists take from Schmitt is the contingent reading that universalist claims lead to unlimited war and the transformation of the enemy into a 'criminal'. Many critical post-structuralists read Schmitt idealistically in this way, without linking his ontological framing of the context to his specific conclusions.

Without these mediations, Schmitt is read as arguing against universalism *per se*, as if universal claims automatically equated with barbarism while claims based on particularist national interests were somehow more civilized. This is a superficial reading of Schmitt's work, focusing on his contingent conclusions, neglecting the ontological grounding of the relation between sovereign power and law, which does not itself distinguish between universal and particular claims in this idealist way. Schmitt is ill-suited, apart from descriptively, to the essentially descriptive, critical post-structuralist 'critique' of empire, understood as US hegemonic sovereignty, equipped with 'decisionist' power and the normalization of the state of exception. Schmitt's ontological focus does not lead to a critique of US ethical and legal universal claims on the basis that they constitute a new US global order, but precisely because they do not constitute a new global order or *nomos*. Schmitt's *Nomos* is about order based on the realities of power; about the sovereign content which gives meaning to law as an institution of territorial ordering. Without a global sovereign, law and the ordering of (inter-imperialist) power relations must be based on pluralism rather than universalism. Schmitt's concern is not whether power or universalism, in themselves, are bad or good but that the separation of international law from power-political relations is destructive of order. Like Schmitt's theoretical descendants in the political realist and English School approaches, Schmitt's concern is order, and therefore

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40. Lenin, *Imperialism*.

about conflict and its management. He argues that politics is at heart about conflict (the distinction between 'friend and enemy') and how to handle it. For Schmitt, the management of conflict becomes easier the more transparent the relations of power are and the more 'objective' our understanding of them. His critique of liberal universalism is materially, objectively, grounded in the fact that there is no political unity of mankind; there is no world unity and therefore attempts to achieve such a unity through 'ideological short-circuits' can only suggest 'fictional unities'.<sup>41</sup> His critique of liberalism (both in the domestic and the international realms) is that it artificially seeks to abolish conflict without being able to practically contain it.<sup>42</sup> Of course, at some future point conflict might be eliminated:

A world in which the possibility of war is utterly eliminated, a completely pacified globe, would be a world without the distinction of friend and enemy and hence a world without politics... For the definition of the political, it is here even irrelevant whether such a world without politics is desirable as an ideal situation.<sup>43</sup>

However, in a world where states exist as autonomous political subjects (i.e. where more than one state exists) there is always the possibility of conflict and of war. In which case, any claim to represent the 'interests of humanity' could only be an ideal, contingent, one, that would be dependent on there not being a disagreement; that is, on there not being the politics of friend and enemy. Once politics returns, 'humanity' disappears; by definition: 'Humanity is not a political concept'.<sup>44</sup>

Schmitt seeks to make similar points about international law. That beyond administrative matters, where there is the possibility of a genuine global consensus, international law can only be contingent unless there is a global sovereign capable of enforcing it; in which case, it would not take the form of international law but of domestic law. Schmitt recalls Hobbes' fundamental political ontology, reflected in the injunction that there can be no law without a sovereign.<sup>45</sup>

Schmitt's critique of the revival of Just War theory was not that it presaged a new empire of America, although he was clear that it served US policy-interests in promoting its ambitions,<sup>46</sup> but that it created and reflected a sphere of international disorder rather than one of order. Just War approaches could not bring order unless there was a global sovereign capable of ruling on and giving content to the

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41. Schmitt, *Nomos*, 335.

42. See his critique of liberal parliamentary democracy, Schmitt, *The Crisis of Parliamentary Democracy* (Cambridge, MA: MIT Press, 1988), esp. 12.

43. Schmitt, *Concept of the Political*, 35.

44. *Ibid.*, 55.

45. *Ibid.*, 67.

46. Schmitt, *Nomos*, 118.

concept. In a world with no global sovereign and no consensus over 'justice' and law, approaches based on 'justice' institutionalized disorder and conflict rather than order and the mitigation of conflict. Just War assumptions made negotiation between equals impossible and prevented limited war.<sup>47</sup>

Therefore, Schmitt's critique of universal claims was not based on a moral critique of power or of sovereignty, but on a materialist understanding of the divided nature of global politics. If America had the power to territorially ground sovereign global power this would not be problematic. The point is precisely the opposite, that this universalistic version of international law was abstract and, in fact, powerless to create order. As the Italian theorist Alessandro Colombo notes, with regard to Just War: 'In comparison to its medieval precedent, it lacks reference to a concrete institutional order, an adequate bearer of such an order (as the Church was before the civil wars of religion) and also a substantive idea of justice.'<sup>48</sup> Schmitt was not against universalism per se, but illegitimate or fictional universalism, as an idealized form without material content.

His point was not that there was a new *nomos* of American hegemony but that America was strong enough to undermine the old European order but not strong enough to found a new global one. The world was still divided, but with no agreement on methods of international regulation. The interwar order of the League of Nations may have proclaimed a global order but it reflected merely the destruction of the old spatial order into 'spaceless universalism, [while] no new order took its place'; the League conferences could not create genuine enforceable law 'because they had neither the content of the old, specifically European spatial order nor the content of a new global spatial order'.<sup>49</sup> The US could undermine the old order, but the League, excluding the main powers, America and the Soviet Union, could not give content to a new one.<sup>50</sup>

It was this disjunction between universal form and territorially limited power to rule that divorced law from politics and prevented law from facilitating and institutionalizing international order. Instead, law became a political tool and shared imperialist interests in stability were sacrificed as war became potentially arbitrary and unlimited. Schmitt's critique was that international law, as a mechanism for institutionalizing a consensus among the Great Powers, was destroyed in its reduction to a political weapon, as an ethical statement or wish to 'abolish war'.

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47. *Ibid.*, 321.

48. Alessandro Colombo, 'The "Realist Institutionalism" of Carl Schmitt', in Odysseos and Petito, *International Political Thought*, 21–35, 32–3.

49. Schmitt, *Nomos*, 192.

50. *Ibid.*, 245.

*The Idealism of the Critical Cosmopolitans*

Where critical cosmopolitans tend to read Schmitt in an idealist manner is in seeing him as an advocate for the defence of state sovereignty in the abstract rather than in the concrete. Schmitt consistently pointed out in his work that he was not interested in abstract concepts but 'the concrete application':<sup>51</sup>

all political concepts, images and terms ... are bound to a concrete situation ... and they turn into empty and ghostlike abstractions when this situation disappears. Words such as ... sovereignty ... are incomprehensible if one does not know exactly who is to be affected, combated, refuted, or negated by such a term.<sup>52</sup>

Schmitt was interested in sovereignty not as an abstract principle but as a specific political content capable of ordering society. This makes Schmitt no more likely to defend sovereignty in the abstract than to defend individual rights of political equality in the abstract. He makes the point that rights of citizenship, to be meaningful, have to depend on having a pre-existing content of equality:

Universal and equal suffrage is only, quite reasonably, the consequence of a substantial equality within the circle of equals and does not exceed this equality. Equal rights make good sense where homogeneity exists ... Matters that are dealt with by the methods of an empty equality would also become insignificant. Substantive inequalities would in no way disappear from the world and the state; they would shift into another sphere.<sup>53</sup>

The granting of rights of citizenship, or of sovereignty, where there is not the content to guarantee autonomy, for Schmitt, undermines the legal and political order and creates a fictional order without substantive content. Schmitt was not in favour of the extension of the rights of sovereignty beyond the European powers. To read the *Jus Publicum Europaeum* as a defence of the post-1945 order of sovereign equality and non-intervention is to read Schmitt for the purposes of portraying him as an idealist and principled non-interventionist.

Schmitt was opposed to the extension of the European order, where international law was the property of 'civilized states', beyond the inevitable recognition of the rise of Japan as an Asiatic 'Great Power'.<sup>54</sup> He argued that the extension of international law to recognize non-European states as sovereign equals towards the end of the 19th century was a sign that Europe 'had lost the consciousness of the spatial structure of its former order', destroying the old order:<sup>55</sup>

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51. For example, Schmitt, *Political Theology*, 6.

52. Schmitt, *Concept of the Political*, 30–1.

53. Schmitt, *Crisis of Parliamentary Democracy*, 10, 12. See also the discussion in Jan Müller, 'Carl Schmitt – An Occasional Nationalist?', *History of European Ideas* 23, no. 1 (1997): 19–34.

54. Schmitt, *Nomos*, 230–1.

55. *Ibid.*, 233.

What appeared in its place was no 'system' of states, but a collection of states randomly joined together by factual relations – a disorganized mass of more than 50 heterogeneous states, lacking any spatial or spiritual consciousness of what they once had in common, a chaos of reputedly equal and sovereign states and their dispersed possessions, in which a common bracketing of war no longer was feasible, and for which not even the concept of 'civilization' could provide any concrete homogeneity.<sup>56</sup>

For Schmitt, it was clear that the concept of equality was being extended where there was no substantive equality of relations. While the equality of the Great Powers was seen as essential to the imperial order, the extension of formal equality could only destabilize this order. One example Schmitt gives is of the League of Nations' impotence when Italy invaded and annexed Ethiopia, a League member and recognized sovereign state. The League initially applied but then lifted sanctions against Italy; for Schmitt the problem was in extending sovereign equality 'beyond the line' rather than with Italian imperialist aggression.<sup>57</sup>

Schmitt was interested in sovereignty as the concrete content of the law and of territorial order domestically and internationally, not as merely the legal form of these relations. Where there was a gap between legal form and political content he argued that jurisprudence and policy-making based on the legal form could only be destructive of order. The extension of the rights of sovereignty and of sovereign equality beyond the Great Powers, therefore, indicated the breakdown of order based upon the *Jus Publicum Europeaum*. It is for this reason that the 1823 Monroe Doctrine is seen as a fundamental break; in effect the law became the subject of, and reflection of, inter-imperialist rivalry, as the rights of sovereignty were extended to the states of the western hemisphere under US power. The sovereignty of the Latin American states was a fictional sovereignty, sovereignty in form but not content, as this sovereignty was contingent on US power:

Territorial sovereignty was transformed into an empty space for socio-economic processes. The external territorial form with its linear boundaries was guaranteed, but not its substance, i.e., not the social and economic content of territorial integrity.<sup>58</sup>

For Schmitt, the Monroe Doctrine was a challenge to the European legal order but was not a fatal one. Even though law and politics became formally separated, underlying this was a settled framework of power relations. The mediation between form and content, through US power, was still clear: the US was capable of giving the doctrine a political content. The doctrine was not merely an idealist wish or aspiration, it was a reflection of the balance of power. While not being problematic for international

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56. *Ibid.*, 234.

57. *Ibid.*, 242–3.

58. *Ibid.*, 252.

power relations, the Monroe Doctrine demonstrated the liberal logic of extending international law and the rights of sovereignty in ways that would increasingly become problematic. Schmitt's principal concern was over the extension of the rights of sovereignty to European colonial possessions overseas. He sought to balance European Great Power rivalries through the amicable division and redivision of overseas territories in ways which could avoid inter-imperialist rivalry leading to European war.

Far from supporting the rights of sovereignty and of non-intervention in the abstract, Schmitt opposed the fictional grants of sovereignty to colonial and overseas territories, fearing that the struggle over colonial possessions would automatically involve the 'European motherland' in inter-imperialist conflict within Europe.<sup>59</sup> This is precisely what happened, and, of course, Schmitt, writing in hindsight in 1950, is seeking to explain the inability of European imperialist powers to avoid 'total war' in terms of failed jurisprudence (as discussed above). Nevertheless, it is clear that Schmitt is no defender of state sovereignty against US or any other kind of 'imperialism'. To read Schmitt in these terms would be to totally ignore the fundamental ontological framework of Schmitt's focus on the relations between law and politics at the international level. In fact, as is much more widely understood, his stance that aggressive war should not (and could not) be made an enforceable crime, makes it clear that he stood fundamentally opposed to any liberal legal formalism, which could only be a moral judgement on the operation of power relations.

Schmitt was the forerunner of political realism, as exemplified in the work of Hans Morgenthau, E. H. Carr and Hedley Bull.<sup>60</sup> Like all three of these later writers, he appreciated that while power relations could not be legislated or wished away, they could be managed. Chris Brown, however, seeks to read Schmitt so as to conflate his rejection of legal idealism with the rejection of any attempt to manage and limit conflict:

His account of the *jus publicum Europeum* and the notion of war as a duel, something that can be bracketed as between *justis hostes*, is specifically based on the notion that the use of force does not have to be justified to any external authority or to oneself. This is an essential feature of the 'humanized war' that Schmitt endorses as an alternative to the horrors of Just Wars. Although he does not put the matter in this way, he is effectively offering us a devil's bargain; accept that violence is simply part of human existence – forget the attempt to require that violence be justified – and in exchange you

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59. *Ibid.*, 219–21.

60. See, for example, Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (London: Palgrave-Macmillan, 1995); E. H. Carr, *The Twenty Years' Crisis, 1919–1939: An Introduction to the Study of International Relations* (Basingstoke: Palgrave, 2001); Hans J. Morgenthau, *Politics among Nations: The Struggle for Power and Peace* (New York: Knopf, 1978).

will have a world where violence will actually be more controlled and less dangerous ... [i.e.] that the attempt to control and limit the role of violence in human affairs is necessarily futile and counter-productive ... a normative position that deserves to be rejected.<sup>61</sup>

Here (as discussed above), Schmitt is seen as the mirror-image of the neo-conservative view that unlimited violence is ethically grounded, arguing that unlimited violence cannot be ethically limited. Brown uses the same framework as Devetak but reads Schmitt as the advocate of intervention rather than of non-intervention.<sup>62</sup> Nevertheless, the conclusion is the same: Schmitt provides no basis for normative judgement or for the external political management of the use of violence.

Schmitt was against Just War doctrine and argued that its use, in the current context, threatened to draw Great Powers into conflict with each other. Clearly, portraying an inter-imperialist rivalry in terms of absolute values of right and wrong, good and evil, could lead to an intensification of the struggle and the undermining of negotiations and the possibility of unleashing terrible levels of destruction.<sup>63</sup> This, however, is a merely contingent point: for example, the Cold War rivalry was fought in terms of absolute values but still had a negotiated nature,<sup>64</sup> fought out in third world states, very much in the manner normatively advocated in Schmitt's *Nomos*.

Schmitt's fundamental ontological critique of Just War doctrine was that in a divided world who decides what is just? Justice could have no meaning outside power relations. For Schmitt though, unlike for post-structuralist theorists, this was not a critique of the concept of justice but a way of understanding how law could either operate to maintain order or to undermine it. Schmitt's concern was reading the development of international law in the context of inter-imperialist conflict. Like Hedley Bull he had a fine and balanced grasp of the distinctions between the contexts in which Vittoria and Grotius developed Just War approaches to limit war and the 20th-century revival of their work in a context which extended the possibilities of conflict.<sup>65</sup>

Schmitt was not concerned with limited colonial wars or limiting the destructiveness of proxy rivalries fought out overseas but with the bigger picture of global order between Great Powers, where he normatively

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61. Brown, 'From Humanized War', 66–7.

62. The sharp disjunctions in opportunist readings of Schmitt indicate that those who use Schmitt as a 'straw man' to legitimize their positions have little concern with Schmitt's actual analysis.

63. Schmitt, *Nomos*, 321.

64. The contingent nature of these points are addressed in Brown's critique of Booth's 'Ten Flaws of Just Wars', in Brown, 'From Humanized War', 58.

65. Hedley Bull, 'The Grotian Conception of International Society', in *Diplomatic Investigations: Essays in the Theory of International Relations*, eds. Herbert Butterfield and Martin Wight (London: George Allen & Unwin, 1966), 51–73.

hoped for the emergence of an imperial balance of power.<sup>66</sup> Clearly, Just War ideals could only be a barrier to any new pluralist order in which there were conflicting interests. Nowhere does Schmitt suggest that violence or conflict will always find their own solution which will be the least disruptive or that the use of force does not have to be justified. In the wake of the two world wars and the destruction of the 'civilized' European order, this would be an untenable reading of his work. On the contrary, war could only be understood and possibly ameliorated by understanding conflict in political terms: 'it would be senseless to wage war for purely religious, purely moral, purely juristic, or purely economic motives'.<sup>67</sup> For Schmitt: 'The justification of war does not reside in its being fought for ideals or norms of justice, but in its being fought against a real enemy.'<sup>68</sup> Schmitt's rereading of the 20th century considers that Germany was not the 'real enemy' of the US and that the US had undermined traditional mechanisms of Great Power ordering of the world.<sup>69</sup>

## Conclusion

Ironically, while there has been a notable increase in the interest and use of Schmitt in contemporary IR, the analysis above suggests that very little of this work has been focused on how Schmitt's methodological approach can help us understand the world today. The critical theorists who have driven the Schmitt 'revival' have been drawn to Schmitt's descriptive power and have focused on his contingent descriptions rather than his ontological framing. Whether Schmitt is portrayed as a universalist or a particularist, as an advocate of empire or of sovereignty, of intervention or of non-intervention, the readings have been based on selective descriptive appropriations of his work with very little regard to his underlying ontological focus on the relation between power and meaning, the legal form and the underlying power-political content.

The superficiality of the readings of Schmitt within much of critical IR, suggests that the grounds for the revival of interest in Schmitt's work should be sought not so much in his analytical strengths as in the analytical weaknesses of those who seek to use him. Driven by the 'cultural' and 'normative' turns, many of the 'critical' critics of sovereignty or of the 'socially constructed' divide between the 'domestic' and the 'international' have been engaged in a form of critical theorizing which has become increasingly normative and divorced from any existing

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66. Schmitt, *Nomos*, 355.

67. Schmitt, *Concept of the Political*, 36.

68. *Ibid.*, 49.

69. For an excellent analysis of Great Powers and international law see Simpson, *Great Powers*.

progressive or emancipatory forces. For 'critical cosmopolitans', the normative claim that the state-based framework of IR needs to be overcome to enable emancipatory frameworks of external intervention has been increasingly revealed to be a hollow one, while 'critical post-structuralists' have equally been thrown on the defensive by the fact that the Cold War 'binary divides' have been deconstructed by ruling elites rather than challengers to their hegemony.

Normative and abstract frameworks can often affirm an author's critical approach to the world, in terms of making a personal ethical statement, but are less likely to stand up as approaches which provide insight or understanding. As the limits of these critical critiques become clearer, the articulation of these positions has often tended to become shrill and desperate as many critical theorists seek to declare that opposing principles and grand visions are at stake. Schmitt has been revived to evade confronting the difficulties of those who seek to ground their radical claims either in ethical universals or in their deconstruction. In doing so, it is little surprise that Schmitt's ontology of the relations between sovereign power, the use of force and international legal order has been pushed aside. Schmitt, however, cannot provide a refuge for today's critical theorists. In emptying Schmitt's work of its analytical content they highlight the exhaustion of their own critical perspectives and the fact that even a political and legal theorist explicitly hostile to an emancipatory perspective has more to offer than they do themselves.

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