

The Anti-Political 'Concept of the Political': The Political Economy of Carl Schmitt

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'When I use a word,' Humpty Dumpty said in rather a scornful tone, 'it means just what I choose it to mean – neither more nor less'.

'The question is,' said Alice, 'whether you can make words mean so many different things.'

'The question is,' said Humpty Dumpty, 'which is to be master – that's all.'

Lewis Carroll, *Through the Looking Glass*

Introduction

The German jurist Carl Schmitt has once again taken the spotlight in discussions about the role of state in the epoch of capitalist market-driven globalisation as well as in contemporary constitutional theory. Schmitt's political thought has often been interpreted either as a Nietzschean cultural critic that glorifies will to power as autonomous values and condemned technology to be demonic perpetuating meaninglessness in the world (e.g., McCormick 1997) or as a fascist conservative constitutional theory critical of the threat of liberal triumphalism to destruct traditional order (e.g., Ahmad 1997; Dyzenhaus 1998). Against this stream of criticisms, which all aimed at unpacking the core sensibility in Schmittian thought of 'the concept of the political' through an investigation of the logic of Schmitt's works as well as an interpretation of his personal and political life, I offer an alternative reading not only of Schmitt's political thought but his broader idea of political economy as well.

Schmitt is often cited for his critique of liberalism as a response to the general crisis of European civilisation which was manifested in the growing secularisation and feeling of meaninglessness in the world and which was a result of the intensification of science and technology (see, for example, McCormick 1997). In contrast to this conventional understanding of his works, I argue that a broader project, a deeper logic underpins Schmitt's critique of liberalism. It is the project to creatively destruct liberal institutions so as to establish an order that is more likely to secure the hegemony of authoritarianism and free market capitalism. In a word, Schmitt's target was not liberalism qua liberalism, it was democracy at large understood as popular power over both the political and the economic spheres of the society. To this end, I reveal the anti-political character of Schmitt's political-economic thought in the terms set out in his concept of the political.

This essay develops the argument in three inter-related sections. First, I present a case that Schmitt's 'the concept of the political' is a prescriptive ideology for a strong state intolerant of popular democratic politics and hence dominating all the spheres of society and human life itself. Second, I highlight the organic link between 'the political' and 'the economic' in Schmittian thought so as to paint a picture of the broader project of Schmitt in political economy characterised by 'authoritarian liberalism', a form of state in which a capitalist liberal economy is embedded in an authoritarian political framework. And, finally, I conclude with a remark on the pressing need to re-conceptualise a democracy as a 'social relation'.

‘The Concept of the Political’: An Anti-Political Politics

'The concept of the political' is central to Schmitt's political and constitutional thought. For a prominent intellectual actively involved in the politics of his time, we could safely assume that for Schmitt 'the concept of the political' is not simply a passive concept created only to be enclosed within the ideational halls of the academia. For Schmitt, 'the concept is political'. That is to say, the concept of the political is a conscious project. Or, in other words, 'the political' is a process, not merely a form, towards a pre-determined goal. [1] Against this premise, we can now examine Schmitt's idea of the state.

'The concept of the state presupposes the concept of the political,' wrote Schmitt as the first line in *The Concept of the Political* (Schmitt 1976, in Sartori 1989). The essence [*Wesen*] of 'the political' suggests *the intensity of the relationship* between friends and enemies. The political is thus seen in relational terms based on the oppositional character of two conflicting groups: friends and enemies. [2] This realm of the political subsumes under all the other social spheres:

Every religious, moral, economic, ethical, or other antithesis transforms into a political one if it is sufficiently strong to group human beings effectively according to friend and enemy The political does not reside in the battle itself ... but in ... being able to distinguish correctly the real friend and the real enemy (Schmitt 1976: 37-8).

Yet, the political is situated within the larger society; and as such the former may influence and/or may be influenced by the latter:

The political can derive its energy from the most varied human endeavors, from the religious, economic, moral and other antitheses. It does not describe a substance of its own [eigenes Sachgebiet] but only the intensity of an association or dissociation of human beings (Schmitt 1976: 37-38).

But in the final analysis, the shaping of relations in the society all boils down to the political – in particular, to the question of political will 'the state' is able to wield among its people:

The real friend-enemy grouping is existentially so strong and decisive that the nonpolitical antithesis, at precisely the moment at which it becomes political, pushes aside and subordinates its hitherto purely religious, purely economic, purely cultural criteria and motives That grouping is always political which orients itself toward this most extreme possibility [Ernstfall] Whenever such an entity [the decisive human grouping, the political entity] exists it is always the decisive entity, and it is sovereign in the sense that the decision about the critical situation [massgebenden Fall], even if it is the exception [Ausnahmefall], must always necessarily reside there' (Schmitt 1976: 37-8).

Politics is therefore not simply a reflexive form but a proactive process. Specifically, it is an identity-

forming process through which friends and enemies are defined. Here, friends and enemies do not refer to individuals but to groups, to a 'decisive human grouping'. The defining entity is 'the state': the entity which 'presupposes the concept of the political', draws the line between friends and enemy, and enjoys sovereignty over exceptional and critical decisions.

A known critic of the Weimar Republic that attempted to safeguard liberal freedoms in times of moral uncertainties, Schmitt is perhaps the leading theorist of the idea of 'state-sovereignty-under-exceptional-conditions' that made a strong link between sovereignty and the power to decide exception. [3] 'Sovereign is he who decides on the exception' (Schmitt 1985: 4, in Sartori 1989). As such, sovereignty is a precondition in the regime of exception. Accordingly, exception is not absolutely constrained by preset 'rule of law' (or normative laws) constitutive in liberalism, but one that suggests the capacity of the sovereign to decide based on political will. Exception is thus '... codified in the existing legal order, can at best be characterized as a state of peril, a danger to the existence of the state, or the like. But it cannot be circumscribed factually and made to conform to preformed law' (Schmitt 1985: 6, in Jayasuriya 2000: 1-2).

The Schmittian thought on state sovereignty is in the first instance oriented towards the *Ernstfall*, the most extreme possibility, and that has in the end the decisive power to determine the *Ausnahmefall*, the 'exception' (see Schmitt 1976 quoted text above). This is, in fact, nothing new. Schmitt basically reproduces the (absolutist) ideas of pre-Lockean modern political theory associated with Machiavelli, Bodin, and Hobbes in the defence of the indivisibility and unity of state power. The central absolutist argument against liberalism rests on the latter's imposition of limit to the sovereign's exceptional and executive prerogative, resulting in the emasculation of the 'democratic' regime's power to govern effectively and assert its primacy in the face of growing social conflict and instability. By limiting the sovereign's decisive power amidst *massgebenden* Fall (critical situations), a liberal constitutional order is therefore unfit to maintain unity of the state and secure its survival.

Schmitt thus gives intellectual justification to state's exercise of exceptional executive power in the name of public order and national unity, allowing for the suspension of civil and political rights - even if these rights are protected in the constitution - and activating the use of (police and military) coercive force during times of *massgebenden* Fall. This Schmittian regime of exception provides far-reaching powers to the state not only by suspending normal political and legal processes, but also by enabling the reorganization and centralisation of its (coercive) apparatus of power. [4] This then implies Schmitt's hostility to one of the cornerstones of liberalism: political pluralism. His antagonistic attitude towards political pluralism is not only based on the thought that it is a threat to social unity and order, but on a particular notion of citizenship based on the friend-enemy distinction. Citizens are viewed as *Freund*, as 'friends', with shared fundamental values and goals toward a common state. The state is therefore the political unity of the people upon which association or dissociation to the political community is founded. And, as such, the only legitimate, let alone constitutional, political project is 'to create homogeneity and to shape the will of the people with methods uncommon in the liberal tradition of the past century' (Schmitt 1992, in Kalyvas 1999: 98). Here then lies Schmitt's anti-political stance on politics, or to use the phrase of Jayasuriya (2001: 8): 'a politics of anti politics'. The politics in the spirit of political pluralism is easily dismissed as disruptive to the presumed political unity that is embodied in the state.

In sum, Schmitt's concept of the political is anti-political. First, Schmitt's politics recognises no legitimate opposition, and thereby insulating key political institutions from political criticisms. Any dissent and opposition is treated disloyalty to the state, and at worst, enemies of the state. Second, Schmitt redefines the notion of citizenship between the individual and the state in terms of duties and responsibilities, rather than rights. And, third, Schmitt rationalises politics as the exclusive practise and monopoly of the state. This includes the important issue on collective will-formation in constitution-making. While Schmitt (1992) addresses this vexing issue and asserts that 'everything

depends on how the will of the people is formed', his proposal for collective-will formation is telling about his stance in favour of a monopolising strong state that shapes the will of the people, rather than the former being the embodiment of the latter. He asks the important question: 'who has control over the means with which the will of the people is to be constructed?' And then he proceeds to enumerate: 'military and political force, propaganda, control of public opinion, through the press, party organizations, assemblies, popular education, and schools' – in short, apparatuses and institutions identified with, and within the (coercive) arm of, the state (Schmitt 1992: 27-9, in Kalyvas 1999: 98-9). [5] Therefore, Schmitt's 'concept of the political' is profoundly an anti-democratic manifesto founded on an anti-political ideology.

Authoritarian Liberalism: A Curious Blend of Illiberal Politics and Liberal Economics

A strict political reading of Schmitt does not suffice to substantially grapple with the anti-political and anti-democratic framework he advances. An essential link, often broken in most discussions about Schmittian thought, is between 'the political' and 'the economic'. In this inseparable link lies yet another contradiction: Schmitt's illiberal politics is matched by his liberal economics, forming a curious blend in defence of capitalism, a social system of private appropriation that does not carry any public responsibility.

Recognising the fragmented nature of the state, Schmitt proposes an alternative to the customary two-fold distinction between the state and the individual. This alternative draws a three-way distinction between the economy, the state, and the private sphere. In this distinction, the sphere of economic activity is non-state, yet public. An autonomous economic administration is proposed:

an economic sphere that belongs to the public interest and should not be seen as separate from it. Still, this is a non-state domain that can be organised and administered by these same business agents, as it happens in any genuine autonomous administration (Schmitt in Cristi 1998: 225-6).

Schmitt then asserts that the establishment of an autonomous economic administration, which is an intermediate sphere between economic activity and public interest, is indispensable in the creation of a new order.

The proposal of Schmitt for the establishment of an economic administration is an attempt for an 'economic constitutionalism' that treats the market as a constitutional order with rules, institutions and procedures and with the principal purpose of insulating a range of economic institutions and activities from democratic politics (cf. Hayek 1944). [6] But, at the same time, all extra-economic institutions are to be mobilised to sustain this constitutionalised system of private appropriation immune from any democratic accountability. This was Schmitt's anti-political project in response to the imminent threat of mass democracy at the end of the 19th century when the economy was getting politicised and hence the state was weakening due to the increasing capture of it by private interest groups. 'In other words, the main purpose of economic constitutionalism was to protect the economy from these political pressures, and as such, it is anti political jurisprudence. ... [I]t is a jurisprudence which attempts to ground law not in a political process but in terms of the values of the institutional order which are of course perceived as "natural" and consequently disembedded from the play of politics and power' (Jayasuriya 2001: 9-10). [7]

Ernst Fraenkel (1941), a jurist like Schmitt albeit in a social democratic bent, describes the emergence of what he calls the 'dual state' (i.e., the coexistence of a 'prerogative state' and a 'normative state') during the period of Nazi Germany in the 1930s. This dual state is founded on the

Schmittian notion of the state's exceptional and extraordinary prerogative powers which is functional to the arena of private economic laws that is regulated by 'normal' law. The 'prerogative state' refers to the system of government which exercises tremendous exceptions unchecked by any legal constraints. The 'normative state' refers to the administrative body with elaborate powers that is tasked to safeguard legal order through statutes, court decisions, and other administrative orders. Fraenkel notes that the interdependence of these state forms is both logical and necessary. More importantly, this dual state succeeded in combining exceptional scope of arbitrary state power with capitalist organisation; in particular, the capitalist economy's demand for rational calculation is guaranteed within the framework of a strong authoritarian state.

Fraenkel's dual state idea of the 'normative state' simultaneously coexisting with the 'prerogative state' is by no means incompatible with Schmitt's idea of *norms*. Conventional reading suggests Schmitt's hostility to the 'rule of law' on grounds of his general critique on liberalism and his thought on exceptions. But Schmitt's institutional jurisprudence suggests that norms are only as desirable so long as they preserve the political unity of the state. As Dyzenhaus (1997) points out, and to which Kalyvas (1999) concurs:

[W]hile the vitality of the exception looms large as the theme of Political Theology, it is important to keep in mind that Schmitt was not arguing for the total negation of normality. Indeed, in other works of this period, he seemed to argue for the desirability of legally established normality. For he did not reject the idea of a society comprehensively governed by legal norms, on condition that the political decision that underpins that legal order is made explicit (Dyzenhaus 1997: 46, in Kalyvas 1999: 101).

For the jurist Schmitt then, 'rule of law' – in the sense of *Rechtsstaat* in the German tradition in the context of authoritarian system [8] – is a *normative* juridical-constitutional-legal order; and as such, must guarantee the preconditions of exception and the conditions of the possibility of exception. Norms must be embodied in the 'rule of law', based on political will and derived from political decision. In this sense, Schmitt is not entirely critical of legality or constitutionalism in particular and of liberalism in general. He regards the constitution not simply as a formal text of neutral procedures but a positive document that embodies the norms, the 'way of being', in a political community (Dyzenhaus 1997). His fundamental issue against legality rests on its capacity to protect the political order amidst the threat of a social breakdown. This reading suggests that Schmitt was actually concerned on a seeming creative destruction of liberal institutions that are more likely, and even better, to secure political order and indeed capitalism. When especially applied to the economic order, this implies the existence of institutions such as Schmitt's 'economic administration' with a high degree of autonomy to protect the economy from politicisation. This institution could no less be authoritarian. And as such, the project of economic constitutionalism within the framework of authoritarianism can only be realised through the construction of a dual state that embodies and practices 'illiberal politics, liberal economics'.

In addition, it must be noted that Schmitt deems it important that the *zeitgeist* must be in place before undertaking the process of constitution-making (see Caldwell 1997). What was then the supposed founding moment upon which the ideas of Schmitt were being proposed? It was the historical moment when radical democratisation was intensifying and the traditional political structures and institutions of a relatively neutral, liberal minimalist state were getting dysfunctional to capitalist hegemony and elite rule. It was when mass democracy was encroaching upon independent boundaries traditionally reserved for political and economic elites – depicted in the politicisation of the economy, formation of organised labour movement, emergence of mass parties with *deviant* values, instrumentalisation of the parliament and its reduction to party-politics interests, pluralism, fusion of state and society, recognition of universal suffrage, rise of radical left parties, and so forth (see Cristi 1998). These were thus signs of the times that a new popular democratic order was foreboding and that classical liberalism was failing.

Schmitt was uneasy with the continuous progress of democracy threatening bourgeois hegemony and rights to property. Against this background, Schmitt proposed a creative destruction of liberalism, rather than its complete destruction. Schmitt's enemy was not liberalism, but democracy. Cristi (1998) refers to this Schmittian brand of liberalism as 'authoritarian liberalism', a rapprochement of authoritarianism with liberalism, as well as the marriage between authoritarianism and conservatism. In particular, Schmitt provided for an intellectual framework of a 'strong state, free economy'. For Schmitt, the crisis of the Weimar Republic signalled a *zeitgeist* for the *creative destruction* of liberalism so as to completely overwhelm the *destructive destruction* popular democracy was bringing to both elitist and capitalist order.

Conclusion

Numerous literatures have been written to interpret Carl Schmitt's social, economic, and political thought since the mid-20th century. Long out of fashion because of his association with the rise of Nazism, Schmitt's ideas have recently been propelled to the centre of discussion in theories of politics, democracy, constitution, governance, and political economy. A survey of literature on the works of Schmitt showcases varying interpretations coming from the whole range of the political spectrum: right, centre, left and their respective variants (for an insightful review, although from a liberal orientation, see Kalyvas 1999). The above analysis offered a critical reading of Schmitt by revealing the 'anti-political' character of his 'concept of the political', which in the final analysis was designed as an intellectual framework for an anti-democratic and anti-political politics for a 'strong state, free economy'.

Schmitt must have learned his Lewis Carroll well. When he talked about 'the political' or democracy or liberalism it meant what he chose it to mean and 'can mean so many different things'. Perhaps a reader of Schmitt must also turn to Humpty Dumpty to help resolve the conundrum underlying Schmitt's thought and politics: 'The question is...which is to be master - that's all'. I would then hasten to assert: truth is to be the master.

It may be harder to reveal than to conceal Schmitt's anti-democratic and anti-political thought. However, if by truth we mean nothing but reality, the reality of Schmitt's adherence to Nazism is now a recognised historical fact. This is not to totally refute the entirety of Schmitt's concept of the political based merely on grounds of his being a Nazi apologist or of the polemics of his past. This is to simply highlight my disagreement in the terms which Schmitt's ideas were made. Schmitt might have used the concepts 'democracy' and 'constitutionalism' in a variety of ways. But this begs the question: democracy and constitutionalism *for whom*? It is a kind of democracy and constitutionalism within the bounds of elitism and capitalism, the kind that enables authoritarian politics and liberal economics to thrive and survive.

The pressing need now given the present state of the world where gross forms of oppression and exploitation have become commonplace is to re-conceive democracy as a social relation in which 'the political', 'the economic', 'the cultural', 'the ecological', 'the gender dimension', and all the other spheres of social life are not separated from, or merely reflective of, one another. Rather, these spheres are *organically connected* to one another. In this sense, political democracy does not only mean the enjoyment of liberal freedoms and equally weighted votes among enfranchised citizens, it also means the rule of the *demos* and its original signification as 'popular power'. Cultural democracy is about *being* and not about *having*, in which every human being is respected for who one is and not for what one owns. Economic democracy is not simply about equitable distribution of wealth, but democracy as *the driving mechanism* of the economy. In a word, democracy is an ideal in complete opposition to political elitism and economic liberalism.

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Notes

1. Compare, for instance, Schmitt's proactive political project with that of the critique on democracy of intellectual conservatives such as Erik von Kuenehl-Leddihn (1972, 1988, 2000), a monarchist who passively draws from Aristotle's dichotomy of a good/bad form of constitution where monarchy, aristocracy, and polity are regarded to be good forms of the constitution, on the one hand; and tyranny, oligarchy, and democracy as bad forms, on the other.
2. Some scholars like Sartori (1989) present Schmitt's approach to concepts as simply based on 'pair of constitutive oppositions', or in the post-modern parlance 'binary oppositions'. Following this line of thought, the fields of ethics, aesthetics, economics, and politics are thus understood as binary oppositions depicting good/bad, beauty/ugly, useful/damaging, and friend/enemy, respectively. I argue that this simplistic approach does not go far enough to understand the complexities and intricacies not only of the intellect but also of the very politics of an intellectual in the stature of Schmitt. Hence, I suggest a reading of Schmitt's concept to be something profound with purposive political project.
3. In fact, some readers of Schmitt categorically conclude that it was his illiberal predisposition and his obsession with the 'exception' that made him embrace Nazism. For example, Sartori (1989) is straightforward along this argument: 'Schmitt joined nazism because his anti-liberalism made it easy, and because the exception bewitched him' (p. 71; also, see Bendersky 1987).
4. This regime of exception has become an all too familiar situation in recent politics. As Jayasuriya (2000) observes in the case of East and Southeast Asia: 'regimes of exception have become the norm', rather than being supposedly temporal and effective only in times of national emergency (also, for the Latin American case, see Loveman 1993).
5. My reading of Schmitt's idea on collective-will formation is in complete contrast with Kalyvas (1999), who cites the specific passage from Schmitt (1992) to substantiate his argument that Schmitt's idea of a 'constituent power' is a 'powerful conceptual tool' intrinsic in collective-will formation in constitution-making and hence 'in accordance with democratic theory' (see Kalyvas 1999: 98-9; cf. also, for a re-conceptualisation and revitalisation of Schmitt's notion of a 'constituent power' as 'a democratic and revolutionary concept ... that belongs to the context of a democratic constitutional theory', see Bockenforde 1986 and Klein 1996).

6. I think that in *The Road to Serfdom* (1944), F.A. Hayek's label of Schmitt as 'socialist' simply because of his proposal for extensive economic regulation is misleading.

7. In this specific quotation, Jayasuriya (2001) examines the political economic thought of Schmitt in his *Verfassungslehre* (1965).

8. Berman (1991) provides an interesting discussion on the concept of 'rule of law' based on historical and temporal-spatial contexts. He distinguishes the differences between English conceptions of the rule of law and the German positivist notions of law. He argues that the concept of *Rechtsstaat* in the German tradition may be regarded as '*Gesetzesstaat*, that is, a state that rules by laws' (p. 3). The notion of a *Rechtsstaat* is different from the 'the rule of law' in the English tradition, which enshrines the ideas of parliamentary sovereignty. *Rechtsstaat* was born out in the context of an authoritarian and non-participatory political system.

P.S.

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