Schmitt’s ‘international thought’

The ‘arrival’ of Schmitt as an object of interest to those engaged in the mainstream study of international political theory is hardly a surprise. Chris Brown notes that ‘it is striking that there are so few good studies of “the state and IR”’.¹ It is precisely this nexus that dominates Schmitt’s political thought as a whole. His interest in the historically conditioned nature of the state, the theoretical grounds of political interaction, the social meaning of warfare and the philosophical basis of political obligation all point towards a basic consideration of the theory of the state. It is impossible to give a full overview of Schmitt’s political thought as a whole within these pages, and besides, numerous studies of that nature already exist. Our purpose instead is to sketch out the meaning of ‘Schmitt’s international thought’ and to locate the key concepts and historical interpretations that characterise Schmitt as an international theorist.

In the non-German-speaking world, Schmitt’s reputation is largely founded on his work of 1932, The Concept of the Political. Although this small, brilliant, polemical work is arguably the most important distillation of Schmitt’s political theory, the prominence of this one volume tends to distract from the huge quantity and range of his work over time. As interest in Schmitt has grown, the range of literature available in English has continued to grow, and the recent translations of The Nomos of the Earth and Theory of the Partisan by Gary Ulmen, and the reissue of George Schwab’s translation of Political Theology by MIT Press are to be welcomed.² In addition, Telos Press continues to publish translated essay pieces by Schmitt, thereby making up for the absence of English translations of Schmitt’s collected works such as Staat, Großraum, Nomos and Positionen und Begriffe. Nevertheless, serious gaps remain in the resources

¹ C. Brown, Understanding International Relations, p. 63.
available to English-speaking scholars, and this chapter will attempt to range broadly across Schmitt’s oeuvre as a whole in emphasising the key elements of his vision of international order.3

Schmitt must be read, of course, as part of a German political tradition centred on Herder’s notion of the national community, and Hegel’s ethical concept of the state. Yet Schmitt is more apocalypse to, than apotheosis of, this tradition. Schmitt is interested in the problematic aspects of good and stable concepts of state and international law under the conditions of late modernity. This intellectual milieu is, of course, important, and we shall return later in the chapter to consider Schmitt’s broad intellectual heritage. However, it is suggested that an attempt to sketch Schmitt’s antecedents, and to frame Schmitt in the context of his intellectual heritage should be abandoned for the time being in favour of a straightforward typology of Schmitt’s core concepts. Whilst this typology is, to some extent, arbitrary and artificial, such simplification is a necessary prelude to a more detailed consideration of Schmitt’s theory of history.

The phrase ‘Carl Schmitt’s “international thought”’ used in the title of this chapter requires explanation. In contrast to certain other twentieth-century political philosophers, who sought to relate theories of the state to issues of international order, it is impossible to point to Schmitt’s international work as located in some identifiable source.4 Whilst The Nomos of the Earth is undoubtedly the most important single source of Schmitt’s thoughts on world order, it is by no means a distillation of a theory of international order. ‘International’ concerns are present in Schmitt’s political theory from the outset, and his political theory consistently refers itself to the problematic nature of modern global politics. For Schmitt, politics is, by definition, a ‘pluriverse’ and hence international (or inter-something).

As such, our overview of Schmitt’s ‘international thought’ must take account of the inter-penetration of his various fields of investigation. The conjunctive nature of the work under examination is both a source of richness, but also a challenge to the process of sketching an overview. It is therefore proposed to isolate several manageable ‘segments’ of Schmitt’s thought. We will thereby consider the way in which Schmitt’s concepts of the political, his account of political theology, his concern for the tension

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4 One might think here of Rawls’ Law of Peoples as an example of a deliberate ‘international’ counterpart to a prior theory of the domestic.
between juridical and moral categories, and notions of territoriality interrelate. The greater objective of this work as a whole will then be to examine how Schmitt’s experience of time related to this amalgam.

Aside from the breadth of the literature, several secondary problems attach to this process. The first relates to the conjunctive nature of Schmitt’s thought. We have no choice but to follow the contours of Schmitt’s thought as accurately and honestly as possible. Yet it is beyond dispute that the connections and intellectual parallels that Schmitt draws are often highly idiosyncratic. One might say that this idiosyncrasy threatens to pass the initiative to Schmitt. There is no choice but to confront Schmitt on his own territory, in the complex amalgams he draws. The challenge is to do so without succumbing to ‘Schmittitis’ (a seemingly common affliction among Schmitt scholars), the principal symptom of which is a rather sycophantic awe for the breadth that his work represents.

The second principal problem to be borne in mind is in the varieties of form that might be termed ‘international order’. Schmitt sees world order as problematic, changing and historically conditioned. Such united concept as exists is therefore fairly dynamic in Schmitt’s thought. The closest we come to a stable international order composed of like units and possessing a thin, common normative content is the *jus publicum Europaeum* depicted at length in *The Nomos of the Earth*. As depicted in *Nomos*, this is clearly an international society of sorts. But the point of Schmitt’s work is that neither does it consist of international society in its entirety (i.e., the society as a whole has a necessary ultimate exterior), nor is it stable over time. Imperial systems, spatial orders based on the premise of trade, *Großräume* and aerial spaces also feature as aspects of a complex global (dis-)order.

Both the ‘international’ and the ‘order’ of ‘international order’ are continually problematised. ‘Order’ has a particular resonance for Schmitt, who certainly does not associate the concept with peace and security. By contrast, stable order is characterised by the security of the concept of the political. Good enmity makes good stability, with all of the attendant need for strong concepts of public association, particularism and legitimated violence. The ultimate hope that Schmitt holds out is the simultaneous achievement of order and the political, such that the modern state system had come so close to achieving.

The book as a whole concludes with an overview of the reception of Schmitt into contemporary international relations (IR) theory. This is a useful exercise both in highlighting the potential uses to which Schmitt’s work is currently being put, and in highlighting the complexities of Schmitt’s reception more broadly. The peculiar paths via which this reception has taken place centre on Schmitt’s critique of the hypocrisy
and dangers of global liberal hegemony. As such, Schmitt’s work has constituted a theoretical resource to those on both the Left and the Right who seek to challenge the logic of a global economic, political and ethical system that, in their view, denies the possibility of local freedom and moral seriousness. As this work as a whole will attempt to show, however, the basis of Schmitt’s critique of liberalism has idiosyncratic origins that extend beyond the mere affirmation of the political against universalism, calling into question the validity of attempts to construct a contemporary Schmittian vision of world politics.

The political

Schmitt is most strongly associated with *The Concept of the Political* and the basic definition of politics as enmity. It is no exaggeration to describe this insight as Schmitt’s basic theoretical position from which the remainder of his political theory flows, and, as such, we must give due consideration to the true meaning of this observation. The following, oft-repeated remark from *The Concept of the Political* is the essence of Schmitt’s definition of politics:

The specific political distinction to which political actions and motives can be reduced is that between friend and enemy.5

This theoretical starting point invites several observations. Firstly, this represents politics as a contingent category that reflects the nature of a relationship, and is not a self-referential concept. It defines politics in a sociological or historical sense, and does not represent an attempt to find a basic philosophical account of politics rooted in concepts of the public good. The key referents to this concept of politics are community, power (that can contain and mobilise a community) and war. Schmitt is actively hostile to normative or theoretical definitions of enmity since ‘only the participants can correctly recognise, understand and judge the concrete situation and settle the extreme case of conflict’.6

Whilst contingent on confrontation, however, Schmitt also regards the political as immutable. He draws sociological assumptions about group behaviour that are reminiscent of questions of the nature of man in classical political theory. Whilst there are men, there will be collectivities of men. Whilst such collectivities exist, war will remain as a basic human possibility. War is the very logic of group existence, since existence would be meaningless without the possibility of existential affirmation. In the extreme instance, this affirmation will involve killing and dying in defence

of the conceptual validity of the group. For Schmitt there is no other possibility, and life will be much easier if we accept and manage these uncomfortable effects of collective life.

Marcuse derided Schmitt’s basic political position as ‘justification by mere existence’, but doubtless Schmitt would have responded by questioning the relevance of ‘justification’ to his analysis of politics. Schmitt does not claim to be representing a political ideal, but is rather attempting a description of the way the world is. The language of justification in relation to the political only makes sense as an existential, and not a moral assertion: ‘There exists no rational purpose, no norm no matter how true, no programme no matter how exemplary, no social ideal no matter how beautiful, no legitimacy or legality that could justify men killing each other in this way.’ In short, Schmitt’s is a world in which existence is the sole political category. As The Concept of the Political makes clear, other disputes that lead to war are mere window dressing for the basic, existential confrontation of one group against another. Once a substantive division is sufficient to create a watershed, and to divide men into ‘potentially fighting [collectivities] of men’, one has the political.

The category of enemy is thus an existential one, and cannot be reduced to any pre-existing category or norm. Whilst the parameters of enmity will often fall to be realised along, inter alia, national, religious, cultural or other such lines, such concepts are autonomous from the fact of enmity:

The distinction of friend and enemy denotes the utmost degree of intensity of a union or separation, of an association or dissociation. It can exist, theoretically and practically, without having simultaneously to draw upon all those other moral, aesthetic, economic or other distinctions. The political enemy need not be morally evil or aesthetically ugly; he need not appear as an economic competitor, and it may even be advantageous to engage with him in a business transaction. But he is, nevertheless, the other, the stranger; and it is sufficient for his nature that he is, in an especially intense way, existentially something different and alien, so that in the extreme case conflicts with him are always possible.

A political world is a world with divisions that have genuine meaning, and which might ultimately result in the requirement to fight or die on the basis of nothing more than the fact of belonging on one side or other of the dividing line. That is not to say that ‘the political’ emerges only where there is actual war. The essence of the political lies in its potentiality – in the latent potential of the social world to take sides and to fight: ‘War is neither the aim nor the purpose nor even the very content of politics. But

7 H. Marcuse, Negations (Boston, MA: Beacon, 1968).
8 Schmitt, The Concept of the Political, pp. 26–7.
as an ever present possibility it is the leading presupposition which deter-
mines in a characteristic way human action and thinking and thereby
creates a specifically political behaviour.9 The basic position of enmity
as politics is modified by several ancillary observations. Firstly, Schmitt
stresses the importance of a public dimension to that enmity. Private hate-
red, or an agonal confrontation between two private citizens will not
amount to politics: ‘An enemy exists only when, at least potentially, one
fighting collectivity of people confronts a similar collectivity. The enemy
is solely the public enemy, because everything that has a relationship to
such a collectivity of men, particularly to a whole nation, becomes public
by virtue of such a relationship.’10 The political enemy is hostis and not
inimicus, and Schmitt draws on Plato’s distinction between the public
and private enmity and the corresponding distinction between true war
between Hellenes and Barbarians, and mere internal discords between
private enemies. Schmitt reads Plato as expressing the thought that ‘a
people cannot wage war against itself and a civil war is only a self-
laceration and does not signify that perhaps a new state or even a new
people is being created’.11

Schmitt arguably enters difficult conceptual territory here, since he
appears to be prejudging the subject matter of the divisions that, according
to the view expressed above, cannot be reduced to anything less than the
mere fact of adversity. Schmitt has in mind the confrontation of collectives
of men who thereby separate the physical existence of the individual from
the existential identity and interests of the group.12 The problem remains,
however, of how to determine the stability and continuation of the group-
ings that give the political its specific character. Why should it be, for
instance, that the expression of private hatred in civil war cannot give rise
to ‘a new state or even a new people’?

This problem of political origins is acute in Schmitt, and nowhere more
so than in trying to fit his thought into contemporary international politi-
cal theory. Leo Strauss dismissed Schmitt’s attempt theoretically to
separate the political from the theory of the state as a mere polemical
device to serve Schmitt’s immediate critical goals. ‘Following [Schmitt’s
own general principles], the sentence “the political precedes the state” can
manifest the desire to express not an eternal truth but only a present
truth … Thus Schmitt’s basic thesis is entirely dependent upon the
polemic against liberalism; it is to be understood only qua polemical,

9 Ibid., p. 34. 10 Ibid., p. 28. 11 Ibid., p. 28 n. 9.
12 This distinction between the respective interests of the individual and the political unit
is explored in greater depth in the following chapter in the context of Hobbes’ concept of
the state.
only “in terms of concrete political existence”.\textsuperscript{13} The precise problem Schmitt encounters is in how to separate logically concepts of the state from concepts of the political, whilst simultaneously retaining his attachment to the state as the sole bearer of, following de Maistre, ‘public morality and national character’.\textsuperscript{14}

We will return later to the precise relevance of this public content to Schmitt’s definition of the political, in the context especially of external recognition of the sovereign decision, and the legal aspects of political identity. For the time being it is sufficient to highlight that politics as conflict need not be inconsistent with a legal framework. On the contrary, true politics will be better sustained by a clear legal recognition of conflict as the basic defining aspect of political life, and a re-emphasis of the existential nature of group life. Such conceptual clarity will allow for a stable Nomos, that is to say, stable political units that can act as the locus for political division.

Consideration of these questions takes us beyond the basic political definition, however. It would be a mistake to read Schmitt’s definition as advocacy of a belligerent state system. The political could give rise to potentially limitless means of expression. \textit{The Concept of the Political} opens with the assertion that the ‘concept of the state presupposes the concept of the political’.\textsuperscript{15} Over time, Schmitt moved away from the intimate association of the political with the modern state, and always recognised that the state was a historically contingent form of political expression. In the 1940s and 1950s, Schmitt dedicated considerable energy to contemplating future social configurations that might supersede the state as the dominant basis of public enmity. In this sense, the political is a wholly independent category that seeks to express the most basic manifestation of man in society.

\textbf{States and their system}

For Schmitt, the Westphalian state is the most successful and stable manifestation of the political in world history. That said, in \textit{The Concept of the Political}, the state is not a necessary political concept, and its existence in history is contingent and ephemeral. ‘The concept of the state presupposes the concept of the political’, and hence is subordinate

\textsuperscript{13} L. Strauss, ‘Notes on Carl Schmitt: \textit{The Concept of the Political}
\textsuperscript{15} Schmitt, \textit{The Concept of the Political}, p. 13.
to and dependent on the primary friend–enemy distinction. Schmitt has an historical understanding of the state that correlates fairly well with the standard IR interpretation of the emergence of several functioning states at or around the time of the Treaty of Westphalia in 1658. He considers that ‘the significance of the state consisted in the overcoming of religious civil wars, which became possible only in the sixteenth century, and the state achieved this task only by a neutralization’.

The precise historical achievement of the state was to achieve the unity of auctoritas (traditionally claimed by the emperor) and the potestas that had been the preserve of the Papacy throughout the Middle Ages. In achieving this unity, the state perfected its own sovereignty, which, in raw political terms, meant that the state achieved a monopoly of the power to decide on the exceptional situation, and so to name the public enemy. Or, put another way, the precise quality of sovereignty lies in its competence to determine when the normal functions of positive law are inadequate to the circumstances at hand. It is the sovereign who both creates and solves the exceptional situation through the imposition of its will. The essential characteristic of the modern state is that it should form the watershed of the friend–enemy distinction, and so maintain an external–internal divide. After the chaos of the Thirty Years’ War, the triumph of the state consisted of its ability to neutralise and overcome civil war. In terms of the basis of conflict, it substituted raison d’état for the interminable struggles of religious righteousness.

The two theoretical heroes in the achievement of this neutral concept of sovereignty, Bodin and Hobbes, are again the familiar conceptual ‘originators’ of the state in IR theory. Schmitt’s following account of the historical-theoretical achievement of sovereignty is worth quoting in full:

At least since Bodin, a true jurist would confront [a] sceptical and agnostic disposition with a decisionist formulation of the question that is immediately given with the concept of state sovereignty: who then is in a position to decide authoritatively on all the obvious, but impenetrable questions of fact and law pertinent to the question of justa causa? The asserted juridical right and moral legitimacy of one’s own cause and the alleged injustice of the opponent’s cause only sharpen and deepen the belligerent’s hostility, surely in the most gruesome way. That we have learned from the feuds of the feudal age and from the creedral civil wars over theological truth and justice. But state sovereigns ended such murderous assertions of right and questions of guilt. That was the historical and intellectual accomplishment of the sovereign decision ... A simple question was raised with respect to the interminable legal disputes inherent in every claim to the justa causa:

Who decides? (the great *Quis judicabit?*). Only the sovereign could decide the question, both within the state and between states.\(^{18}\)

The authority of the sovereign state is therefore Janus-faced. Internally, the state confers to itself the right to determine all matters of public truth and so denies the potential for internecine struggles over questions of universal truth and justice.\(^{19}\) Externally, there can be no higher authority than the state, since it must be the state itself that determines the public enemy. As we have already seen, identification of the enemy cannot be subject to any pre-existing norm, and can only be determined in the concrete situation. Therefore, a necessary condition of the truly political state is that it has unfettered discretion to choose whichever enemies, on whatever basis, as it may wish from time to time. The international achievement of the modern state lies in its capacity to recognise and challenge the just enemy.

In intellectual terms, therefore, Schmitt regards the rise of the state as a reaction to the intertwined problems of truth and authority in the Middle Ages. There is an additional spatial dimension to the rise of the state that is less intimately connected to Schmitt’s basic theory of decision on the exception, and is rather a matter of historical accident (i.e. the spatial origins of the state do not appear to be logically necessary in order for the state to possess a specifically political character). Whereas the Greeks had envisioned a political world based on twin poles of *polis* and *cosmopolis*, and the Middle Ages had been characterised by religious-intellectual lines of political ordering, the organising logic of the state was its territoriality.\(^{20}\)

Territory became the dominant basis of the continental state, and the state itself developed a monolithic and absolute notion of a single territorial status. Thus the exercise of legality internally, and the assertion of sovereign right externally, became referable to the territorial possession or extent of a particular state. The process of ‘land appropriation’ became the very logic of the European state, and with it came the identification of law and authority with the territorial space in which it was exercised. As such, ‘the restriction of law to the land and to one’s own territory has a long tradition in legal history’. As a result of this, ‘it is historically more correct to focus on the relation between order and orientation, and on the spatial context of all laws’.\(^{21}\)

The precise importance of this territoriality is difficult to quantify, and Schmitt is at pains to ensure that the territorial strengths of the state do not


\(^{19}\) See Chapter 3 for a fuller discussion on Schmitt’s reading of Hobbes and the nexus between *auctoritas*, *potestas* and *veritas* in the concept of the modern state.

end up qualifying the basic political category.\textsuperscript{22} Nevertheless, certain advantages of a territorial ordering concept are quite evident. Firstly, territory is consistent with the neutrality of the state vis-à-vis questions of religious truth, ideology or other matters of universal importance. Secondly, and especially in the context of the land battles of modern warfare, territory allows for the unambiguous conduct of hostilities in a regularised, public and self-affirming manner. Furthermore, when looking externally, the concept of territory provides an innate limiting factor to the political ambitions of the state. The ultimately defensive imperative to confront the enemy is strongly affirmed by the identification of the state with a particular, ‘telluric’ space.\textsuperscript{23}

‘The ability to recognise a justus hostis [just enemy] is the beginning of all international law’, Schmitt asserts.\textsuperscript{24} The self-assurance of the state with respect to its internal authority creates, in turn, stability in its external visage. The state is allowed the space and moral freedom to examine the external world with a cool and independent eye, and can ‘choose’ to act in whatever manner it sees fit.\textsuperscript{25} The consequence is the Westphalian system of co-existing sovereign states that together mutually create and recreate the terms of the \textit{jus publicum Europaeum}. This is the thin international law that amounts to the mutual recognition of existence that, in Schmitt’s scheme, is essential for the validity of the state.

As such, the legal status of sovereign equality is a fact, not a norm. The exercise of sovereignty is the international status of the state. Without sovereignty, there can be no state, and so no ‘participation’ as an international actor. With sovereignty, there is no way to avoid or

\textsuperscript{22} See Chapter 4 for fuller consideration of the effect of this question of territoriality on Schmitt’s historical consciousness and, in particular, the contrast he draws between continental and oceanic concepts of space in \textit{Land und Meer}, Stuttgart: Klett–Cotta (1954).

\textsuperscript{23} The loss of the state’s basic territorial orientation is one of the elements of the modern malaise with which Schmitt is concerned. In Chapter 6 we consider his \textit{Theorie des Partisanen}, and the idea that modern partisan fighters retain the fundamental link with territory (C. Schmitt, \textit{Theorie des Partisanen: Zwischenbemerkung zum Begriff des Politischen}, Berlin: Duncker and Humblot (1963)).

\textsuperscript{24} Schmitt, \textit{Nomos}, p. 52.

\textsuperscript{25} In considering the behaviour of the state, Schmitt largely glosses over the question of agency. Perhaps the agency of the state is supposed to be defined in reverse by answering the question \textit{Quis iudicabit?} Schmitt is, of course, concerned with the legal possibility of decisive and personal decision making, as evidenced by his advocacy of direct presidential rule under Article 48 of the Weimar Constitution, and his critique of parliamentarism (See C. Schmitt, \textit{The Crisis of Parliamentary Democracy} (trans. E. Kennedy), Cambridge, MA: MIT Press (1985)). Schmitt did develop an early theory of sovereign dictatorship (see C. Schmitt, \textit{Die Diktatur}, Berlin: Duncker and Humblot (1921)), but the decision-making capacity of the state externally is related only implicitly to the need for a single source of internal political authority.
prevent participation as an international actor (and, therefore, membership of the international system/society/jus publicum Europaeum), since the logic of sovereignty is a latent capacity to exercise the powers of justus hostis. A state unable to exercise the power to declare an enemy has ceased to be a state. If there is some other authority capable of making that declaration on behalf of the purported state, then sovereignty has been displaced into the hands of that other party. If no public decision is conceivable, then the politico-legal capability of that group for sovereignty has been displaced, and presumably civil war ensues.

The unfettered power of the territorial state thus gives rise to a historically distinct system of international law that would be recognisable from realist textbooks on international relations, albeit via an alternative reasoning. International law is the de facto collective status of various states that have each reached a comparable settlement of the question of balancing potestas and auctoritas, each having settled on a territorial orientation. The functional similarities of these states give rise to a comparatively stable collective condition that can be descriptively characterised as the system of public international law.

The state had become independent with respect to the question of whether the given state authority was legitimate or illegitimate. Just as state wars became independent of the question of the justice or injustice of the grounds of war in international law, so, too, did the question of justa causa become independent in international law. All law came to reside in the existential form of the state.26

The overall effect, albeit only in a conditional and contingent way, was the limitation of the worst excesses of violence in inter-state war, and the establishment of nominal, social ‘rules of the game’ in the conduct of relations between sovereigns. By jealously protecting the right to make war, states ended up regularising the conduct of war and, by comparison with the messianic violence of the Thirty Years’ War (and the analogous violence of the French Revolutionary Wars), inter-state warfare became increasingly humane.27 Indeed, ‘war in form’ is held up as ‘the strongest possible rationalisation and humanisation of war’. Both belligerents had the same political character and the same rights; both recognised each

26 Schmitt, Nomos, p. 204 (emphasis in the original).
27 Schmitt describes this limitation of warfare as Hegung des Krieges. Ulmen translated this as the ‘bracketing of war’ which is the use we will generally adopt throughout. Hegung, however, is a difficult word to translate, and Schmitt’s use of it in this context is idiosyncratic. Hegung is suggestive of a form of benign and protective management of something by a superior and disinterested outsider. Its most natural usage is in the context of forestry, whereby a forester will cultivate, nurture, protect, fell and replant a particular, defined piece of woodland.
other as states. As a result, it was possible to distinguish an enemy from a criminal.\textsuperscript{28}

Anarchy is the key characteristic of this modern European state system, and Schmitt celebrates the existence of such anarchy as the necessary evidence that the political remained intact. Schmitt’s account of the ordered world of European politics stresses that anarchy and order are not mutually exclusive categories. In a formulation that Hedley Bull could surely have subscribed to, Schmitt castigates the sloppy conflation of anarchy and disorder: ‘… [such] use of the word “anarchy” is typical of a perspective not yet advanced enough to distinguish between anarchy and nihilism. For this reason, it should be stressed that, in comparison to nihilism, anarchy is not the worst scenario. Anarchy and law are not mutually exclusive.’\textsuperscript{29} For most of its history, the anarchy of the state system has been productive of a form of quasi-legal order. Schmitt’s great fear is that the twentieth-century assault on the state system will result in precisely the form of violent chaos that ‘liberal’ critics erroneously attribute to the state.

The perfectly functioning European state system forms, therefore, something of an historical and conceptual ideal for Schmitt. The fact that the realisation of the European state form, its multiplication, and the style of co-existence were achieved as a result of historical chance does not dent Schmitt’s admiration for such achievements. In a fashion typical of his use of historical example, Schmitt paints an idealised notion of the \textit{jus publicum Europaeum} as a system in which the choice between war and neutrality rests with the sovereign, and a proper political dynamic exists unthreatened by universal claims. As such, the state system is worthy of our attachment, and should be defended against rival claims that will dismantle and obstruct this cool functionalism. Although state and politics are not commensurate, the state has done a worthy job, in Schmitt’s account, of ensuring the stability and continuation of the political.

\textit{Nomos}

The modern state exists within a global order that has developed a certain character of its own. The state has generated this order, in Schmitt’s account, precisely because the state form so enshrines the ‘fundamental process involved in the relation between order and orientation’.\textsuperscript{30} Schmitt adopts the word \textit{Nomos} to describe the fundamental territorial ordering of the world. ‘[N]omos is the immediate form in which the political and social

\begin{footnotesize}
\begin{enumerate}
\item Schmitt, \textit{Nomos}, p. 142.
\item Ibid., p. 187.
\item Ibid., p. 67.
\end{enumerate}
\end{footnotesize}
order of a people becomes spatially visible ... Nomos is the measure by which the land in a particular order is divided and situated; it is also the form of political, social and religious order determined by this process.31

Schmitt's Nomos is a challenging concept precisely because it is taken to encapsulate the fact of a particular set of orientations, and the effect of those orientations on the nature of order. Nomos describes the essence of any particular order in its entirety. As such, and as Schmitt makes clear in his consideration of the word's etymology, Nomos is a 'fence-word’ that can mean ‘dwelling place, district, pasturage.'32 The ‘Nomos of the earth’ is therefore intended to convey the conditional and temporally fragile order of things in the world, which, despite this sense of contingency, nevertheless exists as a concrete reality.

The existence of a concrete Nomos, whatever its origins and constitutive parts, is a necessary precondition for the possibility of order. Modern Europe, with its constitutive parts and its common awareness of the concrete fact of a jus publicum Europaeum constituted just such a Nomos. Other Nomoi based on different concrete spatial realities are theoretically possible, but advocacy of a Nomos misses the point that such order and orientation is a reflection in fact of a concrete order, and not an ideal type that adheres to rules of any kind:

As long as the Greek word Nomos in the often cited passages of Heraclitus and Pindar is transformed from a spatially concrete, constitutive act of order and orientation – from an ordo ordinans [order of ordering] into the mere enactment of acts in line with the ought and, consistent with the manner of thinking of the positivistic legal system, translated with the word law – all disputes about interpretation are hopeless and all philological acumen is fruitless.33

The Nomos exists as a constitutive act that is already apparent by the time that anyone could conceive of its outlines. ‘The original act is Nomos.’34 Any Nomos can be either the fulcrum of history, or subject to historical undermining on its own terms. Whereas the continuing validity of the state depends on the continuing capacity for sovereignty, change in the Nomos is determined at a less defined conceptual level. ‘All subsequent developments are either results of and expansions of [the original act] or else redistributions (anadasmoi) – either a continuation on the same basis or a disintegration of and departure from the constitutive act of the spatial order …’35

31 Ibid., p. 70 (my emphasis).
32 Ibid., p. 75. Schmitt gives a pointed overview of the origins and misuses of the term Nomos, and claims to be recovering the Aristotelian meaning from confusion (pp. 67–79).
33 Ibid., p. 78. 34 Ibid. 35 Ibid.
One possible rendering of Nomos would be ‘law’ in the sense of international law. In The Nomos of the Earth, it is clear that the putative international law of the jus publicum Europaeum was a Nomos – the first global Nomos. Alessandro Colombo argues that there is a distinct similarity between Schmitt’s notion of common social mores in the jus publicum Europaeum, and English School ideas on international society. Far from being an extreme realist with a belief in power politics, Schmitt saw that ‘the jus publicum Europaeum places international anarchy in a societal and, more importantly, juridical web’ and does so via institutions that ‘[change] the nature of the players, the extent of the playing field, and the rules of the game’. Colombo therefore regards Schmitt as a ‘realist institutionalist’.37

In the case of the jus publicum Europaeum at least, Nomos can be meaningfully compared to an idea of international law in the sense of a shared framework of understanding – a shared field in which politics takes place. But the concept of Nomos cannot be reduced to law, especially in the way that the latter term has come to be understood. Schmitt specifically rejects the translation of Nomos as law because of the array of misunderstandings that would inevitably ensue.38 The Nomos cannot be viewed as a set of rules or norms that somehow ‘govern’ or ‘regulate’ the conduct of states. But it does represent a basic level of commonality such that the pluriversal basis of politics can be sustained.

Thalin Zarmanian argues that the concept of Nomos is better understood when read in the context of Schmitt’s domestically oriented views on the meaning and function of law.39 He suggests that Schmitt’s entire project is motivated by ‘the search for an answer to the problem of the Rechtsverwirklichung (actualization of the law)’.40 At the domestic level this search focussed on the tension between a universal principle of law, and the application of principle to the concrete situation. As Zarmanian puts it, Schmitt was searching for ‘an Archimedean point – the legal order – in which the tension between the idea of law (die Rechtsidee) and empirical reality could converge’.41

38 ‘In an age such as this, it is inexpedient to Germanize Nomos as “law”.’ Schmitt, Nomos, pp. 71–2.
40 Ibid., p. 44.
41 Ibid., p. 48.
In the domestic context, the most obvious instance in which this tension between norm and concrete reality comes to light is in the state of emergency. The fact that law as a normative set of rules cannot solve the state of emergency is evidence of the fact that the actual content of law as order cannot be determined *a priori*, but is instead a constitutive act rooted in the decision by the sovereign. It is the sovereign decision, in the concrete situation, that produces a legal order, and it is the ability to create order that lends legitimacy to the sovereign decision. In Zarmanian’s words, ‘legal order is, therefore, according to Schmitt, a particular shape given to empirical reality through a sovereign decision’.\(^{42}\)

If the sovereign decision is the latent ‘solution’ to the problem of pluralism in Schmitt’s domestic context, the concept of *Nomos* offers a parallel solution to the broader problem of the political pluriverse of groups. The international setting cannot be constituted by an abstract set of rules, since, in the absence of a single culture and a single political community, there will be no means to apply such rules to the concrete situation. What we have instead is the particular arrangement by which the particular political unit is reconciled and embedded in the universal context. In Schmitt’s own parlance, any *Nomos* represents the accepted ‘structuring combination’ of *Ordnung* (order) and *Ortung* (localisation or (in Ulmen’s translation) ‘orientation’).\(^{43}\) For Schmitt, this is an explicitly spatial accommodation between the particular territory of the political unit, and the widest spatial horizon in which the validity of that political unit is implicated. Following Zarmanian, this use of space is vital for Schmitt’s schema in that it ‘accounts for the existence and for the co-implication of empirical reality, law, and the political’, and secures an environment in which the diverse political units can survive as bearers of specificity or *Lebensmöglichkeit*.\(^{44}\)

Thus *Nomos* represents a complex mediation between the particular and the universal, through which various political units gain recognition and the ability to project and protect their own concept of collective life. In a similar vein to Zarmanian, Sergio Ortino illustrates the nature of the parallel between *Nomos* and the sovereign decision in a domestic context (*Entscheidung*):

Entscheidung and Nomos share the same substance, because each of them represents the true core of an historical legal event characterized by an absolute and concrete nature capable of founding a new system of law. Entscheidung and Nomos differ from each other because the former refers to a specific legal community, [that] decides to create a new political system upon new principles and new legal norms, while the latter refers to the new way in which humanity decides

\(^{42}\) Ibid., p. 50.  \(^{43}\) See *ibid.*, p. 55.  \(^{44}\) Ibid., p. 57.
in a specific epoch of [its] evolution to organize itself into new forms and with new values and principles. When a new holder of the constituent power takes a fundamental decision in favour of a new legal order, we are witnessing a political revolution. When humanity accepts the new Nomos of an emerging new epoch, we are witnessing a space revolution.\(^{45}\)

The collapse of one Nomos and the rise in its place of another seems, therefore, to be nothing less than the transformation of global reality. Only in modern times, of course, is it logically necessary (or even possible) that a Nomos would be global. ‘[N]omos is a matter of the fundamental process of apportioning space that is essential to every historical epoch.’\(^{46}\)

The Greek Nomos would have consisted of the Mediterranean world. As Schmitt amply illustrates, the Nomos of the modern European state system is, by definition, Eurocentric. A conceptual fence exists around the Nomos beyond which there is no social reality, no commonality, no order.

The pre-eminent international problem for Schmitt, therefore, is the attempt to ascertain what will be the new Nomos of the earth. Thinking through this task was a breathtaking personal challenge, given that the identification of a new Nomos required nothing less than establishing the locus of the political, the determination of the question of orientation, and the unknowable question of the form of order that such orientation would produce. ‘Every new age and every new epoch in the coexistence of peoples, empires, and countries, of rulers and power formations of every sort, is founded on new spatial divisions, new enclosures, and new spatial orders of the earth.’\(^{47}\)

Assuming that the old international Nomos was witnessing terminal decline, the challenge Schmitt set for himself and for those who subscribed to his basic contention was to observe and theorise the shape of the new Nomos.

### Style and polemic

Undoubtedly, much of Schmitt’s renewed appeal in political theory generally lies in the clarity of the concepts he delivers (his Begriffsmagie), and the gently emphatic method of their delivery.\(^{48}\) In a predictable analogy, the polemical effect of Schmitt’s work has been described as akin to Blitzkrieg. Ernst Jünger’s famous description of Schmitt’s thought as a ‘mine that explodes silently’ neatly encapsulates the dual effect of Schmitt’s persuasive style, and the strange intellectual romance that


\(^{46}\) Schmitt, Nomos, p. 78.  
\(^{47}\) Ibid., p. 79.

attached to his enforced isolation from post-war intellectual life.\textsuperscript{49} Given a general consensus on the literary and polemical impact of Schmitt’s work, it is all the more remarkable that a comprehensive study of the aesthetic-polemical nature of Schmitt’s work is yet to emerge.\textsuperscript{50} More broadly, those who seek to adopt Schmitt in support of contemporary political visions face the tricky task of separating the substance of Schmitt’s theory from the aesthetic talent with which he was undoubtedly blessed.

Whilst improving the accessibility of his work to a wider audience, Schmitt’s hypnotic style has probably hampered the prospects for temperate and considered reception of his work. His combination of intellectual accessibility, underplayed erudition and sheer readability disturbs Schmitt’s critics as much as it delights his fans. Too often, those who seek to criticise Schmitt display an apparent fear of being led into dark labyrinths of mind via a serious engagement with his thought, and this fear results in a reverse polemic of condemnation. The ‘dangerous mind’ is to be prodded from a distance, avoiding the danger of contagion from those who engage without first ‘knowing their Schmitt’. Even William Scheuerman’s generally temperate analysis contains the warning that ‘it would be a mistake to let Schmitt off the hook too easily even when his analysis seems most impressive’ (my italics).\textsuperscript{51}

The obverse effect of Schmitt’s slippery style is that he has been able, as Jan-Werner Müller puts it, to mean ‘so much and so many seemingly contradictory things to so many’, such that arguably ‘no twentieth-century thinker has had a more diverse range of readers.’\textsuperscript{52} This broad appeal and theoretical pliability brings its own dangers, not least the very real possibility that the conceptual core provided by Schmitt is transmogrified by his disciples to the point that putative ‘Schmittianism’ can have no meaning. This peculiar process of adoption was doubtless aggravated by Schmitt’s meddling hand in his supposed years of isolation in Plettenberg after 1947.

\textsuperscript{49} Andrew Norris takes Jünger’s phrase as the title for his review essay ‘A Mine that Explodes Silently: Carl Schmitt in Weimar and After’, \textit{Political Theory} 33:6 (December 2005), 887–98.
\textsuperscript{50} David Pan’s short study ‘Political Aesthetics: Carl Schmitt on Hamlet’, \textit{Telos} 72 (Summer 1987), 153–9 provides a good if esoteric point of departure for consideration of Schmitt as an aesthetic thinker. See also Kateb, ‘Aestheticism’; S. Pourciau, ‘Bodily Negation: Carl Schmitt on the Meaning of Meaning’, \textit{Modern Language Notes} 120:5 (December 2005), 1066–90.
It goes without saying that Schmitt represents a style of academic writing as far removed from the arcane and intricate forms of typical ‘academic German’ as it is possible to imagine. Most commentators have engaged at some level with the problematic question of how to comprehend the ‘method to Schmitt’s stylistic magic’.\footnote{Ibid., p. 9.} The process by which Schmitt self-consciously achieves this ‘magic’ can be described as distillation. He constantly presents the image of a complex and dynamic reality that can be reduced in some instances to a radically pure theoretical proposition, and in other instances is expressed by means of a radically pared down semiotic device. In this vein, the essence of politics is the encounter of between enemies. All of the complexity of non-state violence can be understood through the figure of the partisan. We are asked to believe that these precise, simple, comprehensible devices are the intense residue that remains once all complexity and detail have evaporated away.

The most trite conclusion to all of this is that the attempt to encapsulate such a complex reality with such stylistic precision threatens to render the theory itself inarticulate. All political and social theory is, of course, vulnerable to a charge along these lines. And the fact that theory by its very nature involves the taming of nuance and the ironing out of empirical creases does not, of itself, render theory meaningless. We must often simplify in order to comprehend. But there is little doubt that Schmitt takes this process to extremes. He is driven always to generalise and conceptualise, and to the extent that he relies on empirical research or theoretical insights of others, such extraneous sources are invariably used in order for Schmitt to make a precise and premeditated point, rather than for the purposes of detailed scholarly analysis.

The truth, of course, is that Schmitt was far more than simply an aphorist. The political and social ‘reality’ that Schmitt posits is developed with ever deeper insight and layers of theoretical and empirical detail. But in terms of Schmitt’s style (if not the actual genesis of his ideas), such detail follows on from the basic, pure theoretical device. As such, it transpires that ‘enemies’ must be ‘public’. The enmity between them must resemble\textit{ hostis} and not\textit{ inimicus}. Such enmity may be latent or overt and its contours may not be obvious at any one time. There are numerous factors that impact on the strength and validity of these relationships of alterity. And these relationships exist within a framework, the\textit{ Nomos}, which in turn brings a multitude of theoretical historical factors into the mix. But from a stylistic point of view, all of Schmitt’s readers start with the purest, most precise and most persuasive distillation of all this complexity. Rather than reading with
Schmitt as he moves towards his conclusions, challenging the turns he takes and the interpretations he makes, we instead start at the end, and develop a vested interest in the process of organising reality to fit with the beguiling theoretical starting point.

The problem with Schmitt’s style is less that he creates stylish and simple theoretical propositions. The danger lies with his narrative style, which makes critical evaluation of his argument a more than usually onerous task. Many political theorists fear Schmitt because he is widely regarded as a polemnicist. But rather than being of concern as a polemnicist for some dubious Nazi cause, it is more realistic to fear Schmitt for his polemic in the service of his own theoretical conclusions. Isolating and critiquing Schmitt in a fair and impartial way is by no means impossible. But in order to do so, one must penetrate the narrative and isolate the precise and logically distinct choices and intellectual commitments that Schmitt makes in reaching his concepts. One such task that remains decidedly tricky, and that might serve by way of illustration of Schmitt’s style, is trying to place Schmitt into intellectual context, both within Germany in the middle of the twentieth century, and more broadly within the context of European political thought.

Schmitt and European political ideas

Earlier in this chapter we remarked on Schmitt’s ambiguous relationship to recognisable traditions in German political thought. Indeed, Schmitt has become one of the most persistently difficult figures in twentieth-century political thought to place into an intellectual habitus. It would be an understatement of epic proportions to remark that assembling a credible study of Schmitt’s influences, antecedents and intellectual debts would be a mammoth undertaking. Reading Schmitt contextually is an almost uniquely difficult prospect. To be sure, many of the barriers to such an approach are part of the normal process of contextual examination. That Schmitt fails to acknowledge intellectual debts; that his reading is broad, esoteric and ill-disciplined; that he makes random points of connection between ideas and schools of thought; all this is a normal part of any academic endeavour. But Schmitt’s is an extreme case in each regard.

Naturally, the fact that this would be a very challenging undertaking does not make it any the less worthwhile. Quite the contrary, in fact. But it is a challenge that must be left to another work. This book will not attempt to provide a comprehensive and detailed contextual reading of Schmitt. In part that is a methodological choice, sacrificing the richness of detail for the sake of clarity of exposition and argument. In part, it is a statement of
purpose. Where it is necessary to illuminate shifts in Schmitt’s thought, or to highlight themes that clearly derive along certain paths of influence, we will take deep cuts into Schmitt’s intellectual milieu. But this is, of course, a fundamentally different exercise from that undertaken by historians of ideas of the Cambridge School. We will start from the text, and look to influence in reverse, rather than isolating the man and building the text alongside him. Indeed, given the very intense interest in Schmitt the man, it may even be refreshing for our starting point to be taking Schmitt at his word.

Nevertheless, before commencing with our substantive study of Schmitt’s ideas on world order, it is necessary to make a few general remarks about context. This is obviously a dangerous and awkward exercise, since such remarks must remain general and poorly substantiated. Readers should by all means challenge this overview, and not feel bound by these preliminary conclusions in reading the remainder of the book. Indeed, they are more than welcome to disregard the brief remarks that follow as a facile aside. The intention is to give a brief introduction to the intellectual milieu in which Schmitt operated, and to point out some of the peculiarities that one might not expect of a man in his circumstances. We will focus in turn on Schmitt’s relationship with his contemporaries during the course of his long career, before turning to situate Schmitt in the wider and longer context of European political ideas.

Schmitt started his career as a lawyer and a political theorist in the immediate aftermath of the First World War. The first twenty years of Schmitt’s career were squarely dominated by themes of legal and political crisis. If the Weimar Republic never attained meaningful stability, it did at least provide a platform for some of the most energetic and open-ended theory about the meaning of political order and the relationship between law and politics. Schmitt’s position in this great debate centred around two poles. Firstly, he was committed to concepts of direct and personal authority against those who believed that legal positivism offered a path to neutral and efficient modes of authority. Secondly, in concrete debates about the exercise of power under the constitution, Schmitt argued forcefully for the exercise of presidential power as a means to remedy the indecision of parliamentary politics. As such, Schmitt developed his theory of the exercise of political sovereignty and his concrete arguments


55 Schmitt was committed to the exercise of direct presidential power from the outset, as made clear in his 1921 work *Die Diktatur*. 
about the state of Weimar politics in tandem. The theory of sovereignty that we explore in the following chapter was part and parcel of a practical search to answer the question, ‘Who has the power to decide in the emergency situation?’

The political context of Germany forced Schmitt, in other words, to become very comfortable with the question of political emergency as a central fact of political life. Yet there are several other themes of broadly conservative inter-war thought that are far less prominent in Schmitt’s thinking than one might have expected. For instance, in contrast to the fervent themes of *ressentiment* that were commonplace at the time, it is rather difficult to make a case for Schmitt as a German nationalist. His study *Political Romanticism*, first published in 1919 and reissued in 1925, constitutes a ferocious attack on the characteristically German failure to solidify an idea of politics in favour of a whimsical, playful idea of the individual spirit and the cultural community. It is a more or less explicit denial of a commonplace nineteenth-century idea of Germany as a land of cultural anti-politics, and shows a rather determined effort to mark a discontinuity with the traditions of Herder and German Romanticism.

If Schmitt is peculiar for his firm rebuttal of unthinking German nationalism, he also stands out in his sensitivity to and admiration for Latin Europe. Although Schmitt was passionately opposed to liberalism, concepts of rights and legal positivism, he never took the step many German theorists before and after took in irretrievably coupling these concepts with France. As we shall explore later, Schmitt had a very nuanced understanding of France. France interested Schmitt for its ambiguities. He often depicts it as grappling between rival destinies: between the religious and the profane, between authority and rights, between land and sea.  

Schmitt was also very engaged in the politics of Spain, Portugal and Italy, and developed an early admiration for the development of Mediterranean forms of fascism, with their blend, as he saw it, between classical dictatorship, religious renewal and the nudity of their political decision. To a quite remarkable extent, Schmitt retained a very clear perspective on the problem of political power as urgent and, in the sense of being replicated severally, universal to continental Europe.

Infamously, Schmitt rose to the heights of his career in tandem with the ascent and consolidation of Nazi power. There can be no doubt that Schmitt’s longstanding advocacy of direct, unaccountable power, his commitment to the exercise of presidential veto, and his visceral dislike of parliamentarism made it predictable that both he and others would see

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56 See especially Chapters 4 and 7 below.
this as, in some sense, his moment. So much has been written on this nexus, and on Schmitt’s status as ‘crown jurist’ of the Third Reich, that little more need be added in a superficial study such as this. One might say that the mid 1930s offer a classic tale of hubris and nemesis. Schmitt’s greatest fame was followed very rapidly by a slide into political, intellectual and personal insecurity. As we explore in Chapters 5 and 6, the wartime years in particular provoke a loss of clarity and listlessness in Schmitt’s writing.

For better or worse, Nazism had come to dominate Schmitt. It became the master of his intellectual productivity and the arbiter of his reputation. This is not to say that such an outcome was not deserved. It is even possible that Schmitt himself recognised that this is the price to be paid for a concept of the political that advocates the fierce restriction of a zone of personal freedom. It is in this respect that Schmitt’s relationship to Nazism is most interesting. It is not Schmitt’s moral failure, or his enthusiasm for Nazism itself, but rather what the relationship between Schmitt’s ideas on the necessary silhouette of politics and his own concrete political choices can tell us.

After 1945, Schmitt would never be rehabilitated within the established intellectual circles of the Federal Republic. What he became, instead, was a cuckoo in the nest of European radicalism. With all the arrogance of his youth, and the recklessness of a man who had already lost more than his disciples would ever possess, Schmitt became a grand political seer for radical thinkers who shared his discontent with what they saw as the emptiness of post-war politics. Schmitt’s pessimism of the earlier years blossomed into a sense of the grand twilight of politics as we know it. With his intellectual gamble in favour of Nazism behind him, Schmitt became ever more convinced that the failure to grasp the nettle of political authority left little hope of political renewal from within the horizon of Cold War politics. Although he tried to envisage ways in which the state system could recover its political vitality, the overall sense was one of impending doom.

What follows is an attempt to sketch out Schmitt’s own understanding of the historical realisation of this looming disaster, and the way that this historical consciousness affected his ability to theorise beyond the state. It is only by considering Schmitt’s specific and idiosyncratic understanding of history that we can begin to understand the uniqueness of

57 The leading such study is Andreas Koenen’s meticulously researched Der Fall Carl Schmitt: Sein Aufstieg zum ‘Kronjuristen des Dritten Reiches’, Darmstadt: Wissenschaftliche Buchgesellschaft (1995).

58 For more on this, see Chapter 5 below.
the crisis of the state in Schmitt’s mind, and the hefty consequences he ascribed to this. Realisation of Schmitt’s peculiar pessimism may well leave room for others to develop a Schmittian concept of world order in his stead. To ignore, however, the theological and historiographical aspects of Schmitt’s account of modern international relations would be to engage in the kind of selective reading of which Schmitt himself was all too fond.