

Carl Schmitt and anti-Semitism

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Abstract: *The paper is concerned with one of the most problematic aspects of the political thought of Carl Schmitt. It shows that to evaluate Schmitt's anti-Semitism, which became prominent in his work after 1933, one needs to take into consideration the German Catholic milieu at the end of the 19th and the beginning of the 20th centuries. Thus defined, the anti-Semitism cannot be seen as racially-based. The paper also shows that the works created during the period of the Weimar Republic can be regarded as implicitly anti-Semitic, especially in view of the theory of the partisan and the critique of normativism. It is from these viewpoints that Schmitt's controversial involvement in Nazi Germany can be interpreted.*

Keywords: *Carl Schmitt, Catholicism, anti-Semitism, the theory of the partisan, friend, enemy, normativism*

Studies focused on Carl Schmitt are currently considered a standard part of the research of 20th century political thought. The academic preoccupation with Schmitt has thrived on an unending renaissance wave as of the 1990s. This has not only been the case in German speaking countries, where Schmitt's silent presence following his release from the Nuremberg prison in 1947 has up until the present been a source of

controversy, but also in the USA, France, Spain and Italy.¹ The focus on Schmitt is only logical as research into both his work and life story reveal unusual perspectives on formative moments of European history prior to the fall of the Iron Curtain. These perspectives are twofold, disclosing views of history's informed partaker as well as its interpreter whose undeniable influence has often been subject to suppression.² In his early works, dating up until 1918, Schmitt deals with the consequences of secularization, critically analysing the deplorable situation of the so-called modern man — a concept that will remain his negative point of reference. In the Interwar Period, Schmitt formulates his iconic theories of the concept of political and state sovereignty that serve as a ground plan for further elaboration of his criticism of secularization. He consequently applies the results of this research in his attack on the idea of the legal state (*Rechtsstaat*) and liberalism, according to Schmitt represented in particular by Hans Kelsen the Prague born Jewish author of *The Pure Theory of Law*. He is also a fierce opponent of the Treaty of Versailles and the Weimar Constitution which, in his view, is an expression of the political will of the victors and their “legality.” He represented the Reich in the case Reich against Prussia in 1932, drawing up a theoretical defence of presidential dictatorship based on paragraph 48 of the Weimar constitution and warning against antiparliamentary parties and their possible legal usurpation of power. Following the Nazi rise to power, he joins on 1 May 1933 the ranks of the NSDAP, promoting the purge of the German jurisprudence from Jewish influence and conceiving the controversial idea of *Grossraum*, clearly reminiscent of the disreputable *Lebensraum*. In the post-war era, he endeavours to present himself as a victim of the course of history in the first half of the 20th century and, following his ban from university education, establishes a semi-enclosed, mostly mail-based association at Academia Moralis which sees itself as an original European alternative to both liberal-democratic and socialist associations. His focus shifts to historical-philosophical questions with *katechon*, *nomos* and partisan as key terms. Schmitt never expressed regret over his membership in the NSDAP other than that induced by self-pity. In addition, his post-war reflections on the phenomenon of the Holocaust range from ice-cold to offensive.

Two basic perspectives can be defined within the above-mentioned extensive academic focus on Schmitt: the apologetic and the critical. The apologetic perspective has been marginalized since the 1990s due to the publishing of Schmitt's correspondence and notes following his decease. It argues that Schmitt's membership in the NSDAP (1933–1936) and his subsequent efforts to legitimize the German conquests and anti-Semitism from a historical and philosophical point of view are not relevant in the judgement of his political thinking, the core of which is political theology, the theory of the political, the concept of sovereignty or diagnostics of modernity and liberalism. The apologists view the unflattering circumstances as an unpleasant, yet non-representative episode embedded in the life conditions

from 1933 to 1945 and provoked by Schmitt's undeniable opportunism and fear of persecution.³ A seemingly pertinent argument of the apologetic standpoint is based on Schmitt's numerous contacts with the Jewish community, among these being his close friendship in his youth with Fritz and Georg Eisler.⁴ It is important to point out that such an interpretation is in line with Schmitt's self-promotion following 1945. Similarly, the critical perspective on Schmitt's work endeavours to define key elements in his work. In contrast to the apologetic standpoint, it does not view his membership in the NSDAP and, even more importantly, his explicit anti-Semitism, as random occurrences, symptoms of an opportunist mind or the shared world view of an early 20th century German intellectual, but rather as a logical result of Schmitt's inclinations and tendencies, traceable in his work even prior to 1933, despite their prudent and evasive nature.⁵

In the following text, the issue under scrutiny is the nature of Schmitt's standpoint to the so-called Jewish question and anti-Semitism. In the wake of the posthumous publication of *Glossarium* (Schmitt's notes from 1947–1951) in 1991, in which he explicitly labels Jews as the “true enemies,”⁶ the publication of his diaries dating up until 1933 and part of his personal correspondence and archives, the standpoint in question has revealed itself as irrefutable.⁷ In this respect, the present text shall deal with three essential questions: 1. What were the roots of Schmitt's anti-Semitism? 2. Was Schmitt's political thinking directly embedded in his anti-Semitic views (and vice versa)? 3. Was the nature of Schmitt's anti-Semitism theological or instead political-theological? The objective of the text is to demonstrate that Schmitt's anti-Semitism cannot be explained exclusively as the common judgement equipment of an intellectual prior to World War I nor as traditional Christian theological hatred against the architects of Jesus' death but rather as a rationalized form of de-theologized stereotype enhanced with fierce anthropological pessimism. The present paper also intends to demonstrate that Schmitt's supposed anti-Semitism is not of a racial or biological nature.

Schmitt's Catholicism and its relation to Christianity: Schmitt's legacy of Catholic anti-Semitism

Schmitt was born in 1888 in Plettenburg on the Moselle River in North Rhine-Westphalia. His Catholic family represented a religious minority in the Plettenburg Protestant enclave, unusual in the predominantly Catholic Rhineland.⁸ Schmitt himself would occasionally refer to himself as a Mosellian with a slightly negative stance to Protestant Prussia and Berlin in particular.⁹ He received a classical education at a religious school in Attendorn, residing for several years in an Augustinian monastery from which he was expelled for reading the works of the liberal Protestant

theologian David Friedrich Strauss. Schmitt can therefore be considered a member of the Catholic generation that still underwent the process of socialization under the German Empire, to which Schmitt held a particularly ambivalent view.¹⁰

If one were to briefly limit the scope of this analysis to the Catholic milieu of the late 19th century, one of its core features and an essential constitutive moment is its fierce anti-Semitism, this being distinct from racially motivated anti-Semitism; the latter was perceived by Catholics as yet another symptom of secularisation.¹¹ The consolidation of Catholic anti-Semitism, anchored in more than just an ensemble of folk prejudice and popular religiosity based on the traditional charges of Christ's death and ritual murders, occurs as late as the second half of the 19th century as a result of its reglementation and rectification, or, in other words, application. The first anti-Semitic riots in Germany that ushered in acts of violence against the Jewish community in the town of Dormagen in 1819 were in fact brought about by accusations of abductions and ritual murders. Similar acts only became more organized in 1881 with the publication of *Civiltà Cattolica*, a taxonomic account of ritual murders based on 15th century processes. From this time on, the anti-Semitism can no longer be viewed as exclusively rooted in the popular as it is strictly determined by the religious revolt against liberalism, modernism and the Jewish emancipation that goes in line with it. The Catholic population views the processes of modernization and secularization as a threat, culminating in the 1870s with Bismarck's failed Kulturkampf, an anti-Catholic German agenda.¹²

The disadvantaged position of Catholics in Germany brought about two consequences determining their relation to the Jewish population. Firstly, their fear of survival grew more intense in the overwhelmingly Protestant environment, resulting in the awakening of a sense of unity as well as the development of an inferiority complex. Secondly, in the Catholic view, the Jewish population had managed to successfully adapt to the modernization process, seemingly even better than the Protestants, which held them co-responsible for those processes in the eyes of Catholics. These two consequences triggered the pollicisation of Catholic anti-Semitism, characterised by its homogenization as well as anti-modernist function. In addition, Catholic anti-Semitism provided a simplified interpretation of the ever more complex world as well as compensation for the inferiority complex. In the end, it also served well in the political ambitions of the Catholic Zentrum party composed of opponents of the *Juden Liberalen*.

Schmitt's affinity with this anti-Semite milieu was extremely strong not only due to his origin but also in relation to his activities and work in the 1920s, at the core of which lies his analysis of the consequences of modernization in relation to law and state.¹³

Schmitt's relationship to Catholicism is ambiguous, however, and must be understood as the elementary base which left indisputable traces on Schmitt's thinking

and which may have served as the framework for his prospective career, particularly in the Interwar era.¹⁴

The religious roots of Catholic anti-Semitism also played their role in the postwar efforts of non-authentic self-presentation.¹⁵ Of major importance for the context of the present research is that the functionalist anti-Semitic complex of German Catholicism in the late 19th and early 20th centuries may shed light on the ease with which Schmitt stood against the Jews in the Nazi era along with his endurance in this respect in the post-war era, particularly apparent in his diaries published under the title *Glossarium*. This may also account for the reason why Hitler's political regime should have eventually become acceptable for Schmitt, he being otherwise an extremely civilized and sophisticated man.¹⁶

Schmitt claims in *Glossarium* that Catholicism is the faith of his ancestors,¹⁷ yet he backgrounds the true contents of the Catholicism in question. It is the very relationship between Catholicism and its content which has been crucial for an understanding of both Schmitt's writings and his anti-Semitic standpoint, particularly because Schmitt disguises his anti-Semitism in his works in religious or theological camouflage, thus misleading the reader.¹⁸

The issue of Schmitt's Catholicism or, more precisely, the role of Christianity in his life and work poses a most complex dilemma, embedded to a large extent in the overall approach to the interpretation of his work. Nonetheless, there seem to be reasons to argue that Schmitt was not a Christian political theorist, despite the impression he wants to make in his texts, particularly in *Roman Catholicism and Political Form*, *Political Theology I* and *II* and the already mentioned *Glossarium*.¹⁹ The underlying argument in favour of this statement is not only the most recent research on the relationship between Schmitt's thinking and Catholic theology²⁰ but also the biographical information on his excommunication from 1926–1950 and a life story alienated from the notion of godly devotion.²¹ The scope of analysis in this text shall be limited to the relationship between Christianity and Schmitt's political theology as it has been viewed as the cornerstone of his political thinking not only by his peers, among them Hugo Ball and Leo Strauss, but also by a more recent influential author H. Meier.²²

Political theology, reintroduced into the discourse of political theory by Schmitt himself, is a broad term.²³ In the most general sense, any relationship between theology and politics²⁴ or between theology and philosophy in respect to political theory can be understood as political theology.²⁵ Within the framework delimited by theology on the one hand and politics on the other hand, more specific agendas can be diagnosed. Should the politics and its goals, within which one can include the effort of self-legitimization, be determining in respect to the theological subject matter then such a relationship falls within the definition of political theology in the Classical

sense, in other words within political religion. In contrast, if the theological subject matter did not depend on politics then this consists of political theology as a theory of politics which respects, whether for purely religious or philosophical reasons, the theological subject matter as determining or at least limiting.²⁶

Political theology as determined by religious and philosophical polarity is based on the assumption that the elementary premises of politics are always of a theological and not a philosophical nature. Analogically, in the case of Schmitt, the definition would apply to elementary sources of decision-making.

Political theology has acquired yet another meaning, that of a sociology of political notions, based on the assumption that all articulate political notions are simply secularized theological notions. Attention shall be momentarily diverted from this form of political theology, understandable among other things as a diagnostic tool, although it shall be shown at a later point that it is one of the key elements of Schmitt's anti-Semitism as presented within his political theories.²⁷

The difference between Classical political theology and Christian, or more precisely Catholic, political theology is therefore constituted by the presence or absence of the utilitarian relationship to the theological subject matter. Schmitt's political theology can thus be considered along these lines based on whether it respects this subject matter or not. Despite the impression brought about by Schmitt's frequent use of religious motifs, whether in his work proper or his reflections on it, there are compelling reasons to argue that Schmitt's political theology is closer to classical political theology, or so-called political religion. There are multiple arguments in favour of this claim: Schmitt's unorthodox interpretation of the Bible, uncontrolled by the Catholic Church, which is reflected in his negativist anthropology and his evaluation of the implication of Christianity on the political order and, in the end, his historical-philosophical application of the Biblical motif of *katechon*.²⁸ With Schmitt, however, none of these motifs are neutral as far as the relationship to the Jewish population is concerned. Schmitt applies negative anthropology in order to oppose the Enlightenment positive view of the human being as an entity endowed with reason and thus capable of constructing its political and social space, hence opening the door to the Jewish emancipation. Schmitt also views Christianity with its imperative of charity as a destructive force in regards to the political, defined by him in the iconic text "The Concept of the Political" through the essential categories of the friend and the enemy. Schmitt's writings and his activity under the National-Socialist regime are enough to suggest that it is the Jews whom Schmitt sees as the enemy against which the German nation needs to stand united. Last but definitely not least, the concept of *katechon*, i.e. that which impedes the Antichrist to end history, provides Schmitt with a historical-religious concept legitimizing any political power able to suppress anarchy, whether such power is represented by a modern state, a political party, the Reich or an important individual.

The key to Schmitt's Catholicism may be found in the above-mentioned text *Roman Catholicism and Political Form* dating to 1923 in which the author praises Roman Catholicism, specifically in terms of its aesthetics, power and the legal system. He further distinguishes between the Catholic, Protestant and Jewish perception of space. The only aspect Schmitt happens to omit is faith as such: it being, in general, marginal in his writings. Such a selective evaluation of Catholicism parallels and builds upon the French movement *Action Française* which Schmitt felt very close to and which thus may be considered his philosophical role model.²⁹

Action Française was a French Catholic, nationalist, anti-Enlightenment and anti-Semitic movement ardently opposing the 1789 Enlightenment ideas, the notions of equality and citizenship in particular. The movement was banned from 1928 to 1939 and its anti-Semite agenda had a considerable influence on the Vichy regime. For Charles Mauras, however, the leading figure of *Action Française*, Catholicism was merely a tool to perpetuate the status quo, shattered by the ideas of the Enlightenment. Mauras opposed the citizenship of universalism, drawing heavily on Enlightenment positive anthropology with the notion of a human being determined primarily by reason, with the notion of France as an almost metaphysical entity. The question of minorities was interpreted by *Action Française* within a general nationalist perspective, particularly explicit and strict towards the Jewish population for whom the road to citizenship unconditioned by origin only opened with the French Revolution. Schmitt in the 1920s not only takes up the above-specified utilitarian relationship to Catholicism but also the mistrust of the Enlightenment concept of citizenship and reason as sources of legal legitimacy. In his view, the only solid basis of the unity of the state is homogeneity in terms of nationality profile and all legal systems and constitutions are in the end anchored in irrational decisions determined by the sovereign.

Schmitt's relationship to Catholicism can thus be judged as utilitarian and idiosyncratic.³⁰ The anti-Semitic animosity, of which Schmitt was indeed fully aware, may be rooted in the Catholic milieu. It is truly moulded, however, with different sources, most importantly with the analysis of modern European history, the history of secularization or, to use Schmitt's proper words, the history of "neutralization and depolitization," in which the capacity to distinguish between a friend and an enemy is diluted.

The political and its enemies (Decisionism and normativism, two types of legal thinking)

Schmitt gained a certain reputation in political theory and jurisprudence in the Interwar era. His critics have claimed that his position was not achieved through

methodologically meticulous constructions but rather through his talent for unusual and seemingly piercing formulations open to a wide array of interpretations. One of his memorable quotes from *The Concept of the Political* (1932) reads as follows: “The concept of the state presupposes the concept of the political.” The concept of the political can also help us understand one of the criteria applied by Schmitt in his analysis and evaluation of modern history as well his own political and historical setting.

The theory of the political is also important for the sake of this text for two specific reasons: a) at the core of Schmitt’s theory of the political lies the distinction between the public friend and the public enemy. Schmitt argues that the ability to discern one from the other is more than a mark of sovereignty; it is a crucial condition of political unity. Hence, it is easy to hypothesise its application against any social group or minority and Schmitt’s writings from the Third Reich era only corroborate the hypothesis. Schmitt also applied the paradigm of the political in his analysis of the situation in the Weimar Republic, a political entity that could not have been further from sovereign decision-making, both in terms of constitutional and international law; b) Schmitt distinguishes between two types of political thinking. The first may be described as a political thinking rooted in anthropological pessimism, traceable in the Bible and in Hobbes’ account of the nature of human beings: *homo homini lupus*. It is also present in the works of the Catholic anti-revolutionary thinkers of the 19th century, among them Bonald, de Meistre and Donoso Cortes, all of whom were a major inspiration to Schmitt who discovered them through *Action Française*. The second approach needs no enemy figure as defined by Schmitt, hoping for a cultivation of humankind as it is determined by anthropological optimism which foregrounds reason in the general sense of the word as well as the rational potential to solve conflicts. Schmitt denounces the second type as normativism and views Jews as its major proponents, arguing that it is caused by the fact that the Jewish population is confined by laws disconnected from a specific land and thus disconnected from the inevitability of decisions. Schmitt considers it no coincidence that the Weimar constitution, in his view a document not reflecting the German people’s decision on their own political form, was written by Hugo Preuß. It is nonetheless Hans Kelsen whom Schmitt views as the most important representative of this type of political and legal thinking. It is important to note that Schmitt’s post-war text *Der Nomos der Erde* is primarily dedicated to the delimitation of *nomos* and its relation to space. Schmitt views the political as the authentic territory of human existence, delimited by the distinction between the friend and the enemy. In the 1932 release of *The Concept of the Political*, the political is defined through the above-mentioned categories as a relatively independent realm of human thought and action. Things change, however, with the 1933 release which was a taboo for Schmitt after the War, for obvious reasons. In this version of the text, the political turns more intense

and Schmitt's criteria undergo a major transformation. The political ceases to be a relatively independent realm for human thought and action, such as the economic, moral or religious: the demarcation line between the friend and the enemy runs much deeper and the other realms of human thought and action are only referred to implicitly, through new terminology designed for the realm of the political. This is, however, by far not the only transformation. In the 1932 release, the distinction between a friend and an enemy translates the highest intensity of connectedness and disconnectedness. One year later, Schmitt changes the characteristics (and not the definition as he claims): as of now, the criteria of a friend and enemy refer to "the highest intensity of difference and unity."

The enemy who fulfils the unifying role is, in Schmitt's view, always a public enemy or an enemy in the *inimicus* sense, not an enemy in the personal meaning of *hostis*, as the delineation of the latter depends on personal or psychological motives. With such a demarcation, Schmitt seemingly avoids the transgression of the Biblical imperative not to kill, excluding the political from its scope. In his view, the imperative not to kill is not binding in the case of the public enemy, an agent incarnating the severity of the human situation. The enemy is viewed as the embodiment of the "*utter fundamental denial of our existence.*"

Schmitt's theory of the political is often criticized on the grounds of vagueness. As Jacob Taubes has argued, it can be applied in order to legitimize any authority in power. Schmitt's own application of the theory of the political after 1933, with its aspect of political unity, corroborates such judgements, at least to a certain extent.

Schmitt held a conference entitled *The Jews in German Jurisprudence (Das Judentum in der deutschen Rechtswissenschaft)* on 15 October 1936. Its goal, as Schmitt asserts in his opening speech, is to refine the German jurisprudence from the Jewish influence, this on the basis of several "theoretical and legal" or cultural presumptions, all of them explicitly referring to his works prior to 1933. Firstly, Schmitt claims that the Jews are an issue to him not as such but only to the extent to which their character determines the form and identity of the German people.³¹ Secondly, Schmitt discusses the specifics of Jewish legal thinking. This stance was in fact foreshadowed by Schmitt as early as 1933 in his text *Staat, Bewegung, Volk. Die Dreigliederung der Politischen Einheit*:

"There are people who only exist 'in law' (Gesetz), with no land, no country, no church: for them, the normative thinking is the only legal thinking acceptable. Any other means is unimaginable, mystical or derisory to them."³²

If the political constitutes an adequate realm for a human being, made of legal and political plurality, it contains the criterion of friend and enemy within. More specifically, it is appropriate to ask the question who the enemy is. According to Schmitt, the enemies of the political effort to eliminate the decision as well as the delimitation

of the friend and the enemy by turning a political conflict into a discussion, a competition or a technical matter. This modernization process is triggered by universalist political and legal thinking, represented in the first place by Hans Kelsen and his Pure Theory of Law. This is a theory which eliminates the notion of the sovereign and reduces the state to a legal system. Schmitt argues that Kelsen's Pure Theory of Law and the Jewish legal thinking in general contain multiple assault lines against the European political. The idea of the Jews as essentially different is overtly articulated by Schmitt in his commentary on Hobbes' Leviathan as published in 1938. Schmitt depicts the Jews here as a nation scavenging the remains of a fratricidal struggle between the nations. Although not declared explicitly, such a description of the Jews seems even more radical than the traditional accusation of parasitism:

“Im besonderen kämpft der Leviathan, das sind die Seemächte, gegen die Landmächte, den Behemoth. ... Die Juden aber stehen daneben und sehen zu, wie die Wölker der Erde sich gegenseitig töten; für sie ist dieses gegenseitige, Schächten und Schlachten‘ gesätzmäßig und ‚koscher‘. Daher essen sie das Fleisch der getöteten Völker und leben davon.”³³

Rechtsstaat – The anti-Semitic context of Schmitt's criticism of the “legal state”

While Schmitt focused up until 1918 on the theory of law and cultural criticism, in the Interwar period, his major issues were sovereignty, the state, legitimacy and legality. His writings of the time are typified by ardently confrontation of the neo-Kantian tradition of political and legal thinking, a mainstream discourse in Germany prior to World War I. His works may be considered an anti-thesis to the neo-Kantian thinking formulated by the Marburg school and its representative H. Cohen and later H. Kelsen. Schmitt's perspective on neo-Kantian thinking can be viewed in a double perspective. Firstly, in the wake of the War, optimistic Enlightenment political and legal thinking declines. The atrocious events of the Great War and the post-war situation in Germany are in major contrast with the optimistic and formalist view of the law and human beings who, according to Kant and his followers, are capable of determining their social reality through reason. In this respect, Schmitt's thinking reflects the overall trend of the 1920s. Secondly, however, Schmitt's criticism of neo-Kantian political and legal thinking is deeply rooted in the Jewish question. In his confrontation with neo-Kantian political and legal thinking, Schmitt tries to demonstrate that it is alienated from authentic German or European thinking and that it is symptomatic of the Jews that they apply it in order to promote their particular agendas. He argues, in other words that the Jews took up the philosophical legacy of the modern era in an effort to apply its universalism in order to promote their particular agendas at the expense of German sovereignty.

It has been explained above that Schmitt's theory of the political is interconnected with his definition of sovereignty. The sovereign is defined by Schmitt as the authority who announces a state of emergency and defines the friend and the enemy. Such decisions are either in the hands of an individual or the entire nation. In the second chapter of his *Political Theology (Politische Theologie)*, Schmitt addressed H. Kelsen and the neo-Kantian tradition of political and legal thinking.³⁴ He accuses it of a characteristic effort to eliminate the notion of the sovereign by expelling it to the realm of the metaphysical, beyond the scope of the legal. That Kelsen should argue in favour of such an approach is only logical and in line with Kant's concept of freedom, a cornerstone category of his political philosophy. Kant defined freedom as the absence of constraints or repression on the part of an individual or a group of individuals. The Kantian idea of freedom implies that the implication of laws that are conceived by reason is not in conflict with individual freedom, but on the contrary, it is its elementary condition as it protects the citizens of a state from arbitrary interference in their life from the part of an individual or a group of individuals. This definition of freedom is crucial for Kant and his followers as it implies what conditions have to be fulfilled for a political power to be considered legitimate. In this respect, the essential condition is that it abides by laws and/or respects the constitution. Schmitt's sovereign, an inceptor of laws in the sense of *non veritas, auctoritas facit legem*, is eliminated and its role is taken up by laws equalled to the state in Kelsen's Pure Theory of Law.

The above-explained account of Schmitt's political clearly suggests that it could not be more distant from the neo-Kantian paradigm of Kelsen's. The discrepancies between the two may be further specified: e. g., Schmitt considers a constitution no more than a decision of what form a particular state shall take, while it is constitutive for Kelsen in the proper meaning of the term — it constitutes a state.³⁵ Along similar lines, in Kelsen's view, a constitution cannot take any form possible: it must abide by general principles endowed to rational beings, to free citizens. Kelsen's concept of the state is also not based on national homogeneity: citizenship is defined by the constitution and not by a preliminary affinity to a nation or a people. Lastly, it is important to state that Kelsen's legal system ignores all historical and sociological determinants, which turns it into an unacceptable and infeasible reductionism in Schmitt's eyes.³⁶ His revolt against such universalist thinking is expressed in his political theology as a sociology of political notions. The neo-Kantian ideas then materialize in the so-called legal state, criticized ardently by Schmitt up until the 1920s.

The above-described discrepancies can be found in Schmitt's texts from before 1933, although they do not contain explicit anti-Semitic statements. Nonetheless, it should be taken into account that even in these more restrained works, Schmitt's charges mostly concern Jewish theoreticians. In this respect, R. Gross argues that

this discretion of Schmitt's should be understood as a logical calculation and opportunism: if he wanted to achieve a reputation in the academic realm of the Weimar Republic, this is an milieu where particularly in the field of jurisprudence numerous important offices were held by Jews and he could not allow himself any explicit anti-Semitism. Nevertheless, the list of names which he finds most controversial clearly refers to the Jewish environment. It is hence crucial in evaluating Schmitt's anti-Semitism whether there is a continuity between this pre-1933 polemic and his explicit anti-Semitic assaults after 1933.

In Schmitt's view, the Weimar Republic was an attempt at the realization of a legal state. In article 109 of its constitution, equality before the law was granted to all citizens, regardless of their origin. This Enlightenment-based principle of citizenship began to gain ground in Europe after 1789 and was in absolute concordance with the neo-Kantian standards of citizenship. From the perspective of Schmitt's polemics as described above, it turns out that Schmitt applies it fully as early as 1933. Only a few weeks later, following his joining the NSDAP, he writes an article for the National-Socialist *Deutsche Beobachter*³⁷ entitled *Das gute Recht das deutsche Revolution*. This is an account of the revival process of the German people, a process within which the Germans become fully aware of their idiosyncratic identity (*Artgleichheit*).³⁸ The process is hindered, however, by interventions from those who do not share this identity and who dilute it in the notion of equality before the law (*Gleichheit*). In Schmitt's views, equality before the law is nothing but a tool in the hands of foreigners, liars and their legality.

A thorough analysis of the text reveals three findings: a) the principle of equality is negated with reference to the presupposed existence of an original character of the German people; b) proponents of the principle of equality, Kelsen in the first place, are labelled as obstructers of the "growth" of German political unity; c) this difference of theirs is viewed as permanent. The very context of the article also speaks for itself, this being, on the one hand, a commentary on the Aryan paragraphs (*Die Wiederherstellung des Berufsbeantentums*) and, on the other had, a report on book burning at universities. If one takes into account Schmitt's relationship to his Jewish colleagues in academia, then neither his defence articulated within the interviews with the investigator Kempner, nor his Nuremberg text *Ex Captivitate Salus* in which he presents himself as a non-engaged scholar, can be taken seriously. For the sake of this work, however, the crucial criterion presented by Schmitt is the distinction between different perspectives of legitimacy and legality. Hence, Schmitt clearly refers to the legal state and its theoreticians, most of them Jewish, who, after the destruction of the second temple, had to resort to the non-personal laws of the transcendental God.³⁹

Conclusion

Schmitt's anti-Semitism is undeniable, yet it is hard to diagnose. Its function, as viewed in the context of Schmitt's works before the end of World War II, is to define the enemy and this on multiple levels: a) the Jews are enemies of the political; b) the Jews are a threat to the idiosyncrasy and unity of the German nation. A racial motive is not present in any of the arguments. The core of the problem then lies in their manner of thinking and way of life, disconnected from a territory of their own. In this respect, Schmitt's anti-Semitism may be viewed as anchored in his political thought. Its cornerstones are his theory of the political, as opposed to normativist thinking, and a political theology that can be interpreted as a political theology of the *theologia civilis* type. In this respect, all religious allusions are merely utilitarian, veiling Schmitt's distrust of the individual and his inclination to a political power that, in itself, is threatened by abstract laws allowing the individual too much freedom. It is this distrust of the individual and the modernisation processes which run parallel with it that disclose a connection between German Catholicism of the late 19th century and the determinants of Schmitt's thinking. In both cases, anti-Semitism is a political tool, to a large extent or even entirely, ignoring the dimension of faith.

Notes

- ¹ For an overview of more recent work see Cadwell, Peter C. (2005) 'Controversies over Carl Schmitt: A Review of Recent Literature', *The Journal of Modern History* 77, 2: 357–387.
- ² For Schmitt's influence, particularly in the Post-War era, see Müller Jean-W. (2003) *A Dangerous Mind. Carl Schmitt in Post-War European Thought*. New Haven and London: Yale University Press. Laak, Dirk van (2002) *Gespräche in der Sicherheit des Schweigens. Carl Schmitt in der politischen Geistesgeschichte der frühen Bundesrepublik*. 2. Unveränderte Auf. Berlin: Akademie Verlag.
- ³ Compare Quaritsch, Helmut (1989) *Positionen und Begriffe*. Berlin: Duncker & Humblot, pp. 13–16; Quaritsch, Helmut (1988) 'Einleitung: Über den Umgang mit Person und Werk Carl Schmitts', in Helmut Quaritsch (ed.) *Complexio Oppositorum*. Berlin: Duncker & Humblot, p. 13. Bendersky, Joseph (1983) *Carl Schmitt, Theorist for the Reich*. Princeton: Princeton University Press, p. 242. Maschke, Günter (2012) 'Zum "Leviathan" von Carl Schmitt', in Carl Schmitt, *Der Leviathan in der Staatslehre des Thomas Hobbes*. 4. Auf. Stuttgart: Klett-Cotta, pp. 179–215.
- ⁴ The network of Schmitt's Jewish friends and acquaintances comprised such names as Ludwig Feuchtwanger, Moritz Julius Bonn, Herman Heller, Erich Kaufmann, Hans Kelsen, Karl Löwith, Alexandr Kojève, Leo Strauss, Jacob Taubes and Raymond Aron. His essential work *Verfassungslehre*, dating from 1928, is dedicated to Fritz Eisler who was killed in the first months of World War I. Despite this fact, Jewish soldiers who fell as heroes for their country were labelled so-called *Ehrenarier* in the eyes of the nationalist German people. This view was even reflected in the first versions of the Nuremberg laws as they were not legally binding for veterans. Concerning

this account, R. Gross adds that Schmitt's reluctance to overtly present his anti-Semitic views was also due to the fact that the Jewish intellectuals held important positions, particularly in the field of jurisprudence. For further details, see Gross, Raphael (2005) *Carl Schmitt und die Juden. Eine deutsche Rechtslehre*. Frankfurt am M.: Suhrkamp, pp. 9–11.

- ⁵ For essential reading on Schmitt's anti-Semitism, see above all Mehring, Reinhard (2009) *Carl Schmitt. Aufstieg und Fall*. München: C. H. Beck. Mehring, Reinhard (2011) *Carl Schmitt zum Einführung*. Hamburg: Junius. Motschenbacher, Alfons (2000) *Katechon oder Großinquisitor. Eine Studie zu Inhalt und Struktur der Politischen Theologie Carl Schmitts*. Marburg: Tectum Verlag. Gross, Raphael (2005) *Carl Schmitt und die Juden. Eine deutsche Rechtslehre*. Frankfurt am M.: Suhrkamp. Balakrishnan, Gopal (2002) *The Enemy: An Intellectual Portrait of Carl Schmitt*. London and New York: Verso. Zarka, Charles Y. (2005) *Un détail nazi dans la pensée de Carl Schmitt. La justification des lois de Nuremberg du 15 septembre 1935*. Paris: Presses Universitaires de France.
- ⁶ Schmitt, Carl (1991) *Glossarium. Aufzeichnungen der Jahre 1947–1951*. Berlin: Duncker & Humblot, p. 18: "Denn Juden bleiben immer Juden. Während der Kommunist sich bessern und ändern kann. Das hat nichts mit nordischer Rasse usw zu tun. Gerade der assimilierten Jude ist der wahre Feind. (...)"
- ⁷ Hüsmert, Ernst (2005) *Carl Schmitt Tagebücher. October 1912 – Februar 1915*. 2. korr. Auf. Berlin: Akademie Verlag. Hüsmert, Ernst (2005) *Carl Schmitt. Die Militärzeit 1915 bis 1919. Tagebuch Februar bis 1915. Aufsätze und Materialien*. Berlin: Akademie Verlag. Hüsmert, Ernst (2010) *Carl Schmitt, Tagebücher 1930 bis 1934*. Berlin: Akademie Verlag. For proof of Schmitt's anti-Semitism going far beyond mere verbal forms, see Gross, Raphael (2005) *Carl Schmitt und die Juden*, p. 48–50.
- ⁸ The demographic profile of Plettenberg in terms of religion was as follows in 1888: 3700 Protestants, 875 Catholics and 50 Jews. See Hüsmert, Ernst (1997) 'Carl Schmitt in Plettenberg', *Archiwpflege in Westfalen und Lippe* 6: 3–6. Schmitt regarded the position of the Catholics in Plettenberg as marginalized and, to a certain extent, even stigmatized. He described it in the following wording: "Das bedeutet: konfessionelle Minderheit in einer intensiv evangelischen, zum Teil auch protestantisch-sektiererischen Umgebung." See Carl Schmitt im Gespräch mit Dieter Groh und Klaus Figge, in Tommissen, Piet (1975) *Over en in zake Carl Schmitt*. Brüssel, p. 92.
- ⁹ The bond to one's place of origin (Ort) is far more than a sentimental notion to Schmitt, is it the subject-matter of his political theory and jurisprudence research, a fact which has reverberations on his judgement concerning the Jewish influence on European history. Schmitt is extremely articulate about his territorial and confessional determination in his apologetic and self-promotional text *Ex Captivitate Salus*. Such a strong tie to a specific territory (Ort) can be viewed as one of the cornerstones of Schmitt's thinking, partly articulated in his early text *Der Wert des Staates und die Bedeutung des Einzelnen* from 1914 and also in the two essential post-war works *Der Nomos der Erde* and *Theorie des Partisanen*.
- ¹⁰ Schmitt's generation was fully established in 1933 and with the advent of Nazism its representatives witnessed the disappearance of yet another second political order. For this reason, the Nazi period only had a minor influence on the formation of their political views. The role of this generation in the Post-War era was twofold: on the one hand, they were judged as those who did not prevent Hitler from seizing power, on the other hand they were viewed as the experienced generation who could help build the new Federal Republic. In this regard, Schmitt was an exception as his connection to the Nazi regime was never forgotten or tabooed, this being a common case with other academics. For a detailed reading on Schmitt's generation, see Laak, Dirk van (2002) *Gespräche in der*

- Sicherheit des Schweigens*, p. 19. For more information on the development of the German intellectual elite after 1945, particularly within academia, see Gross, Raphael (2005) *Carl Schmitt und die Juden*, p. 14–18.
- ¹¹ The Catholic reluctance to view racism as a product of secularisation shall play an important role with Schmitt and his disputes on the concept of *Grossraum* with the ardent racial ideologists of *Lebensraum*.
- ¹² For more on the formative processes of German Catholic anti-Semitism, see Blaschke, Olaf (1997) *Katholicismus und Antisemitismus im Deutschen Kaiserreich*. Göttingen: Vandenhoeck & Ruprecht.
- ¹³ Schmitt's Bonn activity in particular saw him in close contact with the theologians Wilhelm Neuß, Erik Peterson and Karl Eschweiler. The last mentioned introduced Schmitt to the neo-Thomist theologian and political philosopher Jacques Maritain: the two even met in person. For more details see Mehring, Reinhard (2009) *Carl Schmitt*, p. 140–150.
- ¹⁴ Schmitt was very well aware of this ambiguity as the notes in his diaries from 11 June 1922 and 15 May 1922 prove. See Mehring, Reinhard (2009) *Carl Schmitt*, p. 145.
- ¹⁵ For example in *Glossarium*, Schmitt addresses the issue of the Holocaust in a manner which was most uncommon in the postwar era.
- ¹⁶ Despite the fact that Schmitt's testimonies after 1945 reveal an effort to defend his collaboration with National Socialism, his answer to the investigator Kempner seems trustful. It is, by any means, complementary with the disdain Hitler expressed for intellectuals. For more on the role of intellectuals, and lawyers in the first place, see Steinert, Marlis (1994) *Hitler*. München: C. H. Beck, p. 175–220.
- ¹⁷ Schmitt, Carl (1991) *Glossarium*, p. 131: "Für mich ist der katholische Glaube die Religion meiner Väter. Ich bin Katholik nicht nur dem Bekenntnis, sondern auch der geschichtlichen Herkunft, wenn ich so sagen darf, der Rasse nach."
- ¹⁸ Religious allusions and overlappings are typical of Schmitt's work. What is problematic though is their function and source, see Mehring, Reinhard (1994) 'Geist gegen Gesetz', in Bernd Wacker (ed.) *Die eigentlich katholische Verschärfung*. München: Wilhelm Fink Verlag, p. 243.
- ¹⁹ Schmitt's "empty" utilitarian Catholicism was first overtly named by Schmitt's student Waldemar Gurian who was exiled in Switzerland and became one of Schmitt's most ardent critics. See Mehring, Reinhard (1989) *Pathetisches Denken. Carl Schmitts Denkweg am Leitfaden Hegels: Katholische Grundstellung und antimarxistische Hegelstrategie*. Berlin: Duncker & Humblot, p. 52: "Die Form ist bejaht, allein es fehlt der Glaube."
- ²⁰ For the most recent works on the question, see the work of A. Motschenbacher who scrutinized Schmitt's work through the paradigm of Catholic theology. He analyses Schmitt in the following words: "Die Berufung auf Kirche und Katholicismus bleibt rein äußerlich, so daß festgestellt werden muß: Im Zentrum von Carl Schmitts Denken stehen nicht Kirche und Christlicher Glaube, sondern allein die Macht des Staates, die es zu rechtfertigen gilt. Die Kirche kann hier letztlich Konkurrenz sein. Dem Staatsrechtler geht es einzig und allein um den starken Staat und dessen Einheit, sprich um die Wiederherstellung einer ursprünglichen Einheit von Religion und Politik, wie sie die Heidnische Antike noch kannte, das Christentum jedoch notwendig zerstören mußte." See Motschenbacher, Alfons (2000) *Katechon oder Großinquisitor*, p. 360.
- ²¹ In the Interwar era, Schmitt struggled to obtain a reputation as a Catholic thinker. His efforts were in vain when he separated from his first wife Carita Dorotic. The Church would not accept the divorce because the reason for it – Carita Dorotic lied concerning her noble origin – was not related to marriage as such. Despite this refusal, Schmitt married once again and was therefore excommunicated. The most detailed account of Schmitt's

- biography thus far is available in R. Mehring's *Carl Schmitt. Aufstieg und Fall* dating to 2009. The work mentions a number of details from Schmitt's life which, at least partially, elucidate the nature of Schmitt's relationship to religion.
- ²² See Ball, Hugo (1924) 'Carl Schmitts Politische Theologie', *Hochland* 2: 261–286. Strauss, Leo (1995) *Notes on Carl Schmitt. The Concept of the Political*, in Heinrich Meier, *Carl Schmitt and Leo Strauss. The Hidden Dialogue*. Chicago and London: The University of Chicago Press, p. 91–119.
- ²³ For a detailed reading of Carl Schmitt's political theology, see Slováček, Petr (2015) 'Carl Schmitt a politická theologie', *Reflexe* 49, 2: 47–64.
- ²⁴ Assmann, Jan (2003) 'Monotheismus als Politische Theologie', in Jürgen Brokoff (ed.) *Politische Theologie. Formen und Funktionen in 20. Jahrhundert*. Wien: Ferdinand Schöningh, p. 13.
- ²⁵ Meier, Heinrich (2006) 'Was ist Politische Theologie?', in Jan Assmann (ed.) *Politische Theologie zwischen Ägypten und Israel*. 3. Auf., München: Carl Friedrich von Siemens Stiftung 2006, pp. 7–22.
- ²⁶ Political theology in the Classical sense has a long tradition, traceable back to Varron who, in his work *theologia tripartita* distinguished between political (*theologia civilis*), mythical and natural theology. Koslowski, Peter (1983) 'Politischer Monotheismus oder Trinitätslehre', in Jacob Taubes (ed.) *Religionstheorie und Politische Theologie. Der Fürst dieser Welt. Carl Schmitt und die Folgen*. München: Wilhelm Fink Verlag, pp. 26–43; Assmann, Jan (2003) 'Monotheismus als Politische Theologie', p. 13; Lieberg, Godo (1982) 'Die Theologia Tripartita als Formprinzip antiken Denkens', *Rheinisches Museum für Philologie. Neue Folge* 152, 1: 25–53.
- ²⁷ Böckenforde, Ernst-Wolfgang (1983) 'Politische Theorie und Politische Theologie', in Jacob Taubes (ed.) *Religionstheorie und Politische Theologie. Der Fürst dieser Welt. Carl Schmitt und die Folgen*. München: Wilhelm Fink Verlag, pp. 16, 19.
- ²⁸ For readings on the distant stance of Catholic theology to C. Schmitt, see Wacker, Bernd (1944) 'Carl Schmitts Katholizismus und die katholische Theologie nach 1945', in Wacker, Bernd (ed.) *Die eigentlich katholische Verschärfung. Konfession, Theologie und Politik im Werk Carl Schmitts*. München: Wilhelm Fink Verlag, p. 279–295. Laak, Dirk van (2002) *Gespräche in der Sicherheit des Schweigens. Carl Schmitt in der politischen Geistesgeschichte der frühen Bundesrepublik*, pp. 227–229. A special case of criticism of C. Schmitt is embodied by J. B. Metz who distanced himself from the political theology because he found it compromised by Schmitt's activity in the NSDAP and his apologetic relationship to Nazism. Metz consequently preferred to establish what he called "the new political theology" which he understood as a criticism of political power. On "the new political theology", see Metz, Johan B. (2006) *Memoria passionis. Ein provozierendes Gedächtnis in pluralistischen Gesellschaft*, Freiburg – Basel – Wien: Herder, pp. 252–257.
- ²⁹ R. Mehring, *Carl Schmitt*, pp. 144, 585.
- ³⁰ Balakrishnan, Gopal (1983) *The Enemy: an Intellectual Portrait of a Enemy*, p. 203.
- ³¹ "Uns beschäftigt der Jude nicht seiner selbst wegen. Was wir suchen, und worum wir kämpfen, ist unsere unverfälschte eigene Art, die unversehrte Reinheit unseres deutschen Volkes. 'Indem ich mich des Juden erwehre', sagt unser Führer, 'kämpfe ich für das Werk des Herrn.'"
- ³² Schmitt, Carl (1933) *Staat, Bewegung, Volk. Die Dreigliederung der Politischen Einheit*. Hamburg: Hanseatische Verlagsanstalt, p. 9: "Die verschiedenen Völker und Rassen sind verschiedenen Denktypen zugeordnet, und mit der Vorherrschaft eines bestimmten Denktypus kann sich eine geistige und damit politische Herrschaft über ein Volk verbinden. Es gibt Völker, die ohne Boden, ohne Staat, ohne Kirche, nur im »Gesetz« existieren; ihnen

- erscheint das normativistische Denken als das allein vernünftige Rechtsdenken und jede andere Denkart unbegreiflich, mystisch, phantastisch oder lächerlich. Das germanische Denken des Mittelalters dagegen war durch und durch konkretes Ordnungsdenken [...].”
- ³³ Schmitt, Carl (2012) *Der Leviathan in der Staatslehre des Thomas Hobbes. Sinn und Fehlschlag eines politischen Symbols*. 4. Auf. Stuttgart: Klett-Cotta, pp. 17–18.
- ³⁴ Schmitt, Carl (2004) *Die Politische Theologie*. Berlin: Duncker & Humblot.
- ³⁵ Schmitt, Carl Schmitt (2003) *Verfassungslehre*. 9. Auf. Berlin: Duncker & Humblot, p. 9: “In wahrheit gilt eine Verfassung, weil sie von einer verfassunggebenden Gewalt (d.h. Macht oder Autorität) ausgeht und durch deren Willen gesetzt ist. Das Wort ‘Wille’ bezeichnet im Gegensatz zu bloßen Normen eine seinsmäßige Größe als der Ursprung eines Sollens. Der Wille ist existentiell vorhanden, seine Macht oder Autorität liegt in seinen Sein.”
- ³⁶ In this respect, the roots of Schmitt’s thinking are in the German historicism of the 19th century, as formulated by Droysen and, later even more radically, by Treitschke. The historicism was radicalized in Germany after 1918.
- ³⁷ Schmitt, Carl (1933) ‘Das gute Recht der deutschen Revolution’, in: *Westdeutscher Beobachter*, Amtlicher Organ der NSDAP, 12. März.
- ³⁸ C. Schmitt, Das gute Recht der deutschen Revolution: “Ein Volk erwacht zum Bewusstsein seiner eigenen Art und besinnt sich auf sich selbst und seinesgleichen.”
- ³⁹ G. Balakrishnan, *The Enemy*, p. 206.

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