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## 7 Crossing the line?

### Carl Schmitt on the ‘spaceless universalism’ of cosmopolitanism and the War on Terror<sup>1</sup>

*Louiza Odysseos*

#### Locating the line

In 1955 Martin Heidegger contributed an essay, ‘Concerning (or about) “the line”’ [*Über die Linie*], to a *Festschrift* commemorating the sixtieth birthday of novelist and essayist Ernst Jünger (Heidegger 1998 [1955]). Heidegger’s essay, formulated as a letter, was a response to Jünger’s own essay ‘Across the line’ [also *Über die Linie*], in which the author used the metaphor of ‘the line’ to meditate on the question of nihilism in the modern age and the possibilities of its overcoming (1950; see also 1991). Jünger had suggested that overcoming nihilism could only be possible by *crossing* the line that constituted ‘the border between two world eras’ (Heidegger 1998: 294). Crossing the line, he maintained, would enable the exiting ‘from the zone of consummate nihilism’ and move humanity ‘to the realm of a “new turning of being”’ (ibid.). Jünger’s meditation concerned the transgression of the line, the ‘across’, and what came after this crossing. Heidegger, however, challenged this view as misguided: one had to discuss the line, the distinction or boundary, and try to understand its meaning and implications: ‘you look across and go across the line; I simply take a look at the line that you have represented’ (ibid.). Heidegger wanted, rather, ‘to think ahead to this locale of the line and thus *locate* the line’ (ibid.; emphasis added). In other words, Heidegger argued that thinking about world eras, and modernity in particular, required meditation ‘about’ or ‘concerning’ the line, rather than a call to cross it.

This exchange about the ‘the line’ between Jünger and Heidegger was also contemporaneous with Carl Schmitt’s reflections in his seminal book, *Der Nomos der Erde*, on the genesis and demise of the first spatial order, which was uniquely ‘global’ in scope and which he called the *nomos* of the earth (Schmitt 2003 [1950]). In International Relations we refer to this same order as the ‘Westphalian system’, designating in this way the system of relations among ‘sovereign’ states in an anarchical environment, commonly understood to have been established by the Peace of Westphalia of 1648. It is used more broadly to refer to the ontology of international politics where the state is the primary sovereign actor (see Brown 2002; Teschke 2003). Schmitt’s account, however, is much richer than the one found within the mythology of International Relations:

he traces the creation of this spatial, or 'nomic', order (Surin 2005: 191) to the unrepeatable event of the European 'discovery' of the New World and analyses it in terms of its international law, the *jus publicum Europaeum*.

Importantly, Schmitt's analysis of Westphalia as a '*nomos* of the earth' argues, unlike its IR counterpart, that it was predicated on a set of distinctions, or *lines*, drawn between European soil and the so-called 'free space' of non-European soil. Schmitt also suggests that one of the main purposes of the *jus publicum Europaeum*, was the facilitation of the colonial (political, military and economic) land appropriation of this 'New World'. Drawing lines, which divided and distributed the entire earth, was made possible by what Schmitt called 'global linear thinking', an integral part of the emerging spatial consciousness of modernity, in which he situates Westphalia (see Schmitt 2003: 87ff.; and Odysseos and Petito, Introduction to this volume, on the concept of *nomos*).<sup>2</sup> Moreover, in acknowledging the emergent patterns of limited interstate warfare in Europe, on the one hand, and struggles for power and land appropriation in the non-European world, on the other, Schmitt's *Nomos* also recounts the ways in which this order had achieved *eine Hegung des Krieges* in Europe; how, in other words, it had succeeded in 'bracketing', that is in limiting, rationalising and, in a sense, humanising war, precisely on the basis of drawing such lines.

The *Nomos* is also, at the same time, an elegy for the collapse of this order and its international law at the beginning of the twentieth century. Indeed, the history of the legal and spatial order of *jus publicum Europaeum* is narrated and evaluated in light of its demise but also in light of Schmitt's concerns about the re-emergence of a new kind of universalism in world politics with inescapable effects on the conduct of war and the management of enmity. Such a universalism aimed at the denigration of lines and distinctions, of the erasure of 'inside' and 'outside', in favour of the realisation of the cosmopolitan ideal of a universal humanity. For Schmitt, erasing the line which the *nomos* of the earth had drawn between Europe and the rest of the world signalled the dissolution of this order, on which European jurisprudence was founded, into the legal positivism of the post-First World War (and, therefore, *post-Westphalian*) era. He argued that the subsequent 'spaceless universalism' was unable and unwilling to draw lines and spatial distinctions. It was wanton idealism, however, to think that the unwillingness or inability to draw concrete lines would actually mean their total dissipation and lead to a world of boundless inclusion: '[f]or it is not that exclusions are miraculously made absent once distinctions are not formally drawn' (Rasch 2005: 256). Rather, he suggested that spatial distinctions, much like conflict itself, were inevitable (Rasch 2000). Quite the contrary, he feared that lines and distinctions in a 'spaceless universalism' would be drawn conceptually, without explicit reflection on their concrete spatial implications, precipitating a crisis both in the peculiar statist-institutional character of world politics and in the treatment of enemies (see Colombo, Chapter 1 in this volume; Odysseos and Petito 2006).

In the *Nomos*, but also in earlier works such as *The Concept of the Political*, Schmitt had criticised the political discourse of humanity that characterised such

universalism, and that still describes much cosmopolitan thinking today, as pretending to cross, or even erase, the line between self and other (Schmitt 1996). Schmitt argued, however, that the discourse of humanity merely draws a different, more dangerous line than the one that had been drawn spatially between European and non-European space during the era of the *jus publicum Europaeum*. Those who use the discourse of ‘humanity’ politically designate themselves arbiters of ‘humanity’, drawing a line between who is human and who is inhuman, who is good and who is evil, who is ‘freedom-loving’ and who is ‘freedom-hating’, to borrow from the vocabulary of US foreign policy since the terrorist attacks of 11 September 2001.

I argue in this chapter that Schmitt’s insistence on locating ‘the line’ is fruitful for reflecting *politically* on recent claims made by cosmopolitan thinking about its own ability to erase the lines drawn by the ‘Westphalian order’ through the idea of a universal and absolute humanity. What is important, I argue with Heidegger, is not to erase the line, but to *locate it in the claim of its transgression* and to reflect on what purposes it served or still serves. The line deserves reflection while the assumption of its erasure often leads to new forms of domination and ever more violent wars. Examining the relevance of this cosmopolitan claim regarding the dissipation of lines and relating it to the master discourse of humanity which motivates and grounds it illuminates significant relationships between cosmopolitanism and the War on Terror pursued by the United States and its ‘coalition of the willing’ since 2001.

Next, the chapter briefly discusses Schmitt’s claims of the achievements of the *jus publicum Europaeum* regarding war and enmity and highlights their dissipation with the arrival of a ‘spaceless universalism’ based on the discourse of humanity, which still forms the basis of much cosmopolitan thinking today. The third section provides a critique of the discourse of a universal humanity, while the fourth part examines the relationship of cosmopolitanism to the War on Terror, interrogating the assumption that the two are antithetical and suggesting, instead, that there are a number of ways in which they are intricately connected.

### **Bracketed war and just enemies in the *nomos* of the earth**

Schmitt’s alternative account of ‘Westphalia’ gives pride of place to the achievements – almost peculiar from our twenty-first century perspective – of this *nomos* order (for a longer treatment see Rasch 2005; and Odysseos and Petito, Introduction to this volume). Here I revisit two of these achievements: first, the evolution of bracketed war and, second, the development of the notion of a *justus hostis*, a just enemy. Both are worth examining, I argue, precisely because they offer a diagnosis of contemporary world order.

The first achievement concerns the aforementioned ability of the Westphalian order to bracket and regulate war: the lines or distinctions (the so-called ‘amity lines’) drawn between European soil and the ‘free space’ available for appropriation facilitated the bracketing of war on European soil. The amity lines set aside two distinct areas considered ‘open spaces’ (Schmitt 2003: 94–95): on the

one hand, the landmass of the New World, whose belonging to the native populations was not recognised, and on the other, the newly mapped and navigable seas. In both types of 'open space', force could be used freely and ruthlessly as these were areas 'designated for agonal tests of strength' amongst European powers (ibid.: 99). In other words, Schmitt argues that the sharp distinction drawn between Europe and the rest of the world made it possible for states to find ways in which to gauge their opponents' strength, usually by striving for appropriation of lands in the New World or by fighting limited wars on European soil. Schmitt does not deny that this spatial distinction 'presupposed the consignment of unrestrained violence to the rest of the world' (Rasch 2005: 258), and, in part, this is why his understanding of Westphalia is so much more interesting than the one commonplace in International Relations, although it might appear shocking to readers expecting the wholesale condemnation of violence and war, while being, at the same time, cynical about the veracity of such condemnations.

In this peculiar way, therefore, the interstate order which existed until 1914 had sought, through the spatiality of its international law, 'to prevent wars of annihilation, i.e. to the extent that war was inevitable, to bracket it' (Schmitt 2003: 246). It is important to distinguish such 'bracketing' from attempts to abolish or banish war, that is, to end war *as such*, which are characteristic of both classical and contemporary liberalism (Joas 2003). The *jus publicum Europaeum* recognised that 'any abolition of war without true bracketing resulted only in new, perhaps even worse types of war, such as reversions to civil war and other types of wars of annihilation' (Schmitt 2003: 246). It accepted war as an inevitable occurrence of international political order and in doing so laid a foundation for 'a bracketing of war': '[t]he essence of such wars was a regulated contest of forces gauged by witnesses in a bracketed space. Such wars are the opposite of disorder' (ibid.: 187).

The acceptance of this type of regulated but limited warfare also enabled the recognition of the opponent as an enemy on equal grounds. This development of the notion of *justus hostis*, associated with the denigration of *justa causa* (just cause), in the commencement and waging of war, is the second achievement of this order. The concept of an 'equal and just enemy' evolved alongside the emergence and consolidation of the modern state as the predominant political entity (see Teschke 2003 for a contrary account), as well as the weakening of the moral authority of the Church. Under these conditions, warfare became divorced from substantive causes of justice. Since war was the means by which land could change ownership status, 'war came to be judged in terms of its outcome' and, indeed, became a type of political relation amongst states (Schmitt 2003: 100). Any enemy which had the form of a state was a just enemy and war could be waged against it. This avoided wars of conviction, creed and religion (that is, based on a *justa causa*) which had historically taken war to an extreme, seeking the enemy's annihilation. For Schmitt, whose belief was that war was an inevitable part of political life, this regulation of war without substantive cause meant a 'rationalization, humanization and legalization' of war; regarding an

enemy as both just and as an equal partner meant that peace could be made with that enemy. His ultimate destruction was not sought, but conflict with him was possible and regulated by established norms and rules. The development of the notion of *justus hostis* and the elimination of just cause, moreover, also indicated an order of relations and a system of war which recognised the enemy's 'right' to resistance and self-defence.

Schmitt associates the '*nomos* of the earth' with the emergence of limited and regulated wars that sought balance and the avoidance of preponderance, rather than the extermination of the enemy in the name of a just cause. William Rasch explains that the 'medium' of Westphalian

self-organization was violence (war); yet, by virtue of mechanisms of reciprocity, by virtue, that is, of a similarly emergent self-regulation of violence called international law (the *jus publicum Europaeum* of which Schmitt sings his praises), the conduct of warfare among European states was restrained and controlled.

(2005: 257)

It is important to reflect on Schmitt's alternative account of the achievements of the Westphalian order, not in a celebratory denial of its drawbacks and repercussions, especially seen in its colonising of the non-European world, but because today we are still confronted with the effects of its dissolution, discussed below and in the subsequent section. In the context of the War on Terror, such dangerous effects can be seen clearly in the re-emergence of unlimited war and just cause in international politics, as well as the renewed designation of enemies as unjust.

### ***The collapse of the Westphalian spatial order***

Schmitt had identified the *jus publicum Europaeum* with the advent of modernity, which he associated with the rise and dominance of the nation-state in European politics and jurisprudence. The collapse of this order, then, signalled the end of modernity and brought about epochal changes in the conduct of politics and war (Schmitt 1996; Zarmanian 2006). While he did ponder what new political forms would emerge from the ruins of the old order (see Schmitt 2003: 354–355; Luoma-aho, Chapter 2 in this volume), at the time of writing the *Nomos* Schmitt believed that international politics was still caught up in a 'spaceless universalism', a term which is still useful in capturing the current global situation today, despite claims that the end of the Cold War has meant a victory for the US leading to an American Empire (Cox 2003, 2004; see also Reid 2005). I would like to explore this 'spaceless universalism' under the heading of today's cosmopolitanism and discuss some of the repercussions of its claim to 'erase' the lines or distinctions drawn by Westphalia and to promote the political idea(l) of a universal humanity.

Schmitt had argued vehemently against the 'spaceless universalism' which



followed the *jus publicum Europaeum*. The major public actors of the post-First World War order were unable and unwilling to draw lines and spatial distinctions, espousing instead normative and institutional ideals of a universal and absolute humanity.<sup>3</sup> For Schmitt, the era of a 'spaceless universalism' transformed the notion of *nomos* 'from a spatially concrete, constitutive act of order and orientation ... into the mere enactment of acts in line with the *ought*' (Schmitt 2003: 78), in other words, into a normativism that hesitates to draw distinctions and which is, as a result, unable to humanise war and enable (an albeit limited) peace despite its reliance on the discursive practices of 'humanity'.

Schmitt's concern was that the political ideal of a common or universal humanity, first promoted by the League of Nations and subsequently by the United Nations (despite the UN Charter's precarious compromise between promoting human rights and affirming state sovereignty and non-intervention), would not rid the world of exclusions. Schmitt's analysis in the *Nomos* led him to argue that a certain "'dialectic" of inclusion and exclusion' operated in each historical era; similarly, apportioning and dividing the earth served to concretise each political epoch, and was, therefore, at the basis of political order. Such exclusions and divisions should not be ignored or could not be easily rescinded, as was believed by the League of Nations (Rasch 2003: 121). The hesitation of the post-First World War era, and presumably our current reluctance, to draw such distinctions could be seen to be misguided, therefore: '[e]very 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' (Schmitt 2003: 79). Rather, the unwillingness or inability to concretely draw lines would not entail their permanent erasure but, rather, might indicate the return of substantive conceptual distinctions that could lead to even more horrendous 'otherings' and exclusions, as is arguably occurring within the current environment of the War on Terror.

Below, I examine certain cosmopolitan discourses particularly prevalent in international politics since 1989 and the ways in which the discourse of humanity perpetuates the aforementioned dialectic of inclusion and exclusion. Subsequently, I reflect on whether, and how, the War on Terror functions according to a similar dialectic: the creation of unity in the Western world, which is threatened and needs securing, and which excludes those whose assumed fundamentalist tendencies motivate them to act against 'freedom'. The new lines drawn by this 'spaceless universalism' are conceptual and are only now, perhaps, finding their spatial expression. Conceivably, just as non-European space (and practices within this space) 'functioned as the "environment" that guaranteed the overall unity and identity of the internally differentiated "system" that was Europe' (Rasch 2003: 121), today lands which harbour 'global terrorism' might well begin to function as that 'environment' which maintains the overall unity of the 'West', mobilised by the fear of terror and its just war against it. Under these conditions, lines between self and other are, nevertheless, just as exclusionary and have, possibly, just as grave repercussions as did the lines drawn between self and other under the *nomos* of the earth.

### **Cosmopolitanism: erasing lines?**

Historically, much of cosmopolitanism's critique had been directed towards the Westphalian system whose emphasis on state-centricity and sovereignty had arguably prevented the emergence of cosmopolitan law and world peace (see Kant 1991; Linklater 1998). Since 1989, however, a year iconic for the fall of the Berlin Wall and the velvet revolutions in Eastern Europe, a newly revived cosmopolitanism has heralded an ethical and political perspective promoting global inclusivity, based on the claim of a universal humanity. The Cold War had reached its conclusion and the geopolitical imperatives that had mocked such a cosmopolitan perspective as utopian were assumed to have dissipated with the discrediting of statism (in the form of really existing communism) and of ethnic particularisms. Moreover, the nation-state's control of its economy appeared to be under threat by processes of financial and economic globalisation. This allowed cosmopolitan thought – at once a theoretical outlook, a diagnosis of the ills of the current epoch and a universalist normative perspective (Fine 2003: 451) – to articulate hybrid political alternatives to the international state system, particularly in the form of global liberal governance and cosmopolitan law. The new cosmopolitanism, appealing to both academics and policy-makers, could now be seen as a necessary analytical perspective responding to the demands of this new age and as a political project erasing lines and making porous the boundaries of the exclusionary territorial interstate order.

The overcoming of the sovereign nation-state is one of the keystones of cosmopolitan thinking: its centrality in the Westphalian order, as well as its tendency towards war and self-interested behaviour, has been considered one of the main obstacles to greater international cooperation and integration. Liberal cosmopolitanism, therefore, encourages the 'crossing of the line' for people, capital, commerce and justice, arguing that '[w]e no longer live, if we ever did, in a world of discrete national communities' (Held 2002: 74). A second tenet of cosmopolitanism is the promotion of the individual. Recognising that globalisation was intimately connected with 'individualization', Ulrich Beck proclaimed that we were now living in the 'second age of modernity', an age that had at its centre, not the state, but the individual. Beck advanced a view of cosmopolitanism which turns on its head the staples of the pluralist international society. This second 'cosmopolitan' stage of modernity, Beck suggests, is distinct from the modern statist order of international law, where 'international law (and the state) precedes human rights' (Beck 2000: 83). This cosmopolitan second stage involves the construction of a legal, ethical and political order that properly reflects the centrality of the rights-bearing individual, who is no longer grounded in community and state, but rather that *itself* grounds a new order, in which 'human rights precedes international law' (ibid.) Such a cosmopolitan order seeks the denigration of distinctions, such as 'war and peace, domestic (policy) and foreign (policy)' which had supported the Westphalian system (ibid.). This order, moreover, 'goes over the heads of the collective subjects of international law [states] to give legal status to the individual subjects and justifies their

unmediated membership in the association of free and equal world citizens' (Habermas 1997: 128). It presupposes, in other words, that politics, law and morality ought to converge and be explicitly grounded on 'a legally binding world society of individuals' (Beck 2000: 84).

Within the contemporary literature it is often acknowledged that there are at least two distinct strands of cosmopolitanism. The first maintains a critical attitude towards some 'run-away' or negative processes of globalisation and promotes 'human rights' and desirable standards by which global capitalism has to abide (see, for example, Falk 1995). The second strand of cosmopolitanism 'run[s] parallel to the discourse of globalisation and rhetorically complement[s] it' (Gowan 2003: 51), being neo-liberal in its ideological orientation. Moreover, it considers the Westphalian principles of sovereignty and non-intervention as conditional, in that they 'can be withdrawn should any states fail to meet the domestic or foreign standards laid down by the requirements of liberal governance' (ibid.: 52). State sovereignty, in other words, becomes restricted by 'the simple but uncontested sovereignty of liberalism itself' (Rasch 2003: 141). This neo-liberal cosmopolitanism claims to promote human rights *against* sovereignty but often betrays an 'arbitrary attitude towards enforcing of universalist liberal norms of individual rights' despite its resting on the argument of a humanity that is 'finally on the verge of being unified in a single, just world order' (Gowan 2003: 52).

While this distinction is partly useful, the two strands of cosmopolitanism tend to reinforce each other and, more importantly, rely heavily on the political discourse of humanity for their justification. This discourse calls forth, and justifies, a (re)ordering of international politics: towards global governance, in the first strand, or as a result of 'just', 'humanitarian' interventions and other such militarised responses, in the second strand. Next, I examine important concerns articulated about the discourse of humanity before turning to the relationship between cosmopolitanism and the War on Terror.

### ***The political discourse of 'humanity'***

Despite the attractiveness of the new cosmopolitanism in the academy and policy circles, the cosmopolitan perspective has been frequently criticised, for example, as an elite and Western theory masking materialist and ideational inequalities through its ideals of humanity and inclusion (Calhoun 2003: 88); as arising from historical projects of colonialism (Brennan 2003); and as containing imperialist projects within its visions of world government through the construction of disciplinary regimes (Gowan 2003). While such critiques are certainly worth exploring, I provide here a critique of the idea of a universal humanity, examining the cosmopolitan claim about the erasure or crossing of exclusionary lines, which is enabled by the spreading of a specific understanding of modern subjectivity around the globe. In particular, meditating on the line as *erased and redrawn* by cosmopolitanism's discourse of universal humanity illuminates important concerns about politics, war and enmity in the phenomenon of liberal

cosmopolitanism today. Furthermore, it highlights the ways in which this discourse relates to the War on Terror as initiated after the terrorist attacks of 11 September 2001, explored in the following section.

In *The Concept of the Political* Schmitt had already indicted the increased usage of the terminology of 'humanity' by both theorists and institutional actors such as the League of Nations (1996). This initial critique allows us to articulate four distinct criticisms of contemporary cosmopolitanism's recourse to the discourse of humanity. The first objection arises from the location of this discourse in the liberal universe of values. By using the discourse of humanity, the new cosmopolitanism reverberates with the nineteenth-century 'ringing proclamations of disinterested liberal principle' (Gowan 2003: 53) through which 'liberalism quite successfully conceals its politics, which is the politics of getting rid of politics' (Dyzenhaus 1998: 14). For Schmitt, the focus of liberal modernity on moral questions aims to ignore or surpass questions of conflict altogether: it is therefore 'the battle against the political – as Schmitt defines the political' in terms of the friend/enemy distinction (Sax 2002: 501; Rasch 2000).

The second criticism has to do with the imposition of a particular kind of monism: despite the lip-service to plurality, taken from the market (Kalyvas 1999), 'liberal pluralism is in fact not in the least pluralist but reveals itself to be an overriding monism, the monism of humanity' (Rasch 2003: 136). Similarly, current cosmopolitan perspectives, while praising 'customary differences', think of them 'but as ethical or aesthetic material for a unified polychromatic culture – a new singularity born of a blending and merging of multiple local constituents' (Brennan 2003: 41). In fact, one might go as far as to suggest that there are two ways in which the discourse of a 'universal humanity' has a disciplining effect on peoples and polities. The first, noted by a number of commentators, is that, politically, cosmopolitanism shows little tolerance for what it designates as 'intolerant' politics, which is any politics that moves in opposition to its ideals, rendering political opposition to it illegitimate (Rasch 2003: 136). Liberal cosmopolitan discourses are also defined by a claim to their own exception and superiority. They naturalise the historical origins of liberal societies, which are no longer regarded as 'contingently established and historically conditioned forms of organization'; rather, they 'become the universal standard against which other societies are judged. Those found wanting are banished, as outlaws, from the civilized world. Ironically, one of the signs of their outlaw status is their insistence on autonomy, on sovereignty' (ibid.: 141).

The second disciplining effect of the discourse of humanity can be discerned in the tendency to normalise diverse peoples through 'individualisation'. The paramount emphasis placed on legal instruments and entitlements such as human rights transforms diverse subjectivities into 'rights-holders'. '[T]he other is stripped of his otherness and made to conform to the universal ideal of what it means to be human', meaning that 'the term "human" is not descriptive, but evaluative. To be truly human, one needs to be corrected' (Rasch 2003: 140, 137; see also Young 2002; Hopgood 2000). The international human rights regime, which cosmopolitanism champions as a pure expression of the centrality

of the individual, can therefore be seen as the exportation of modern subjectivity around the globe.

Third, in Schmitt's own words, 'humanity is not a political concept, and no political entity corresponds to it. The eighteenth century humanitarian concept of humanity was a polemical denial of the then existing aristocratic feudal system and the privileges accompanying it' (1996: 55). Outside this historical location, where does it find concrete expression but in the politics of a politically neutral 'international community' which acts, we are assured, in the interest of humanity? The 'international community is coextensive with humanity ... [it] possesses the inherent right to impose its will ... and to punish its violation, not because of a treaty, or a pact or a covenant, but because of an international need', a need which *it* can only determine as the 'secularized "church" of "common humanity"' (Rasch 2003: 137, citing James Brown Scott).<sup>4</sup>

Finally, and most importantly, there is the relation of the concept of humanity to the other, and to war and violence. In its historical location, the humanity concept had critical purchase against aristocratic prerogatives; yet its utilisation by liberal discourses within a philosophy of an 'absolute humanity', Schmitt feared, could bring about new and unimaginable modes of exclusion (1996, 2003).

By virtue of its universality and abstract normativity, it has no localizable polis, no clear distinction between what is inside and what is outside. Does humanity embrace all humans? Are there no gates to the city and thus no barbarians outside? If not, against whom or what does it wage its wars?

(Rasch 2003: 135)

'Humanity as such', Schmitt noted, 'cannot wage war because it has no enemy' (1996: 54), indicating that humanity 'is a polemical word that negates its opposite' (Kennedy 1998: 94). In *The Concept of the Political* Schmitt argued that humanity 'excludes the concept of the enemy, because the enemy does not cease to be a human being' (1996: 54). In the *Nomos*, however, it becomes apparent that, historically examined, the concept of humanity could not allow the notion of *justus hostis*, of a 'just enemy', who is recognised as someone with whom one can make war but also negotiate peace. Schmitt noted how only when 'man appeared to be the embodiment of absolute humanity, did the other side of this concept appear in the form of a new enemy: the inhuman' (Schmitt 2003: 104). Without the concept of the just enemy associated with the notion of non-discriminatory war, the enemy had no value and could be exterminated. The concept of humanity, therefore, reintroduces substantive causes of war because it shatters the formal concept of *justus hostis*, allowing the enemy now to be designated substantively as an enemy of humanity as such. In discussing the League of Nations, Schmitt highlights that, compared to the kinds of wars that can be waged on behalf of humanity, the

interstate European wars from 1815 to 1914 in reality were regulated; they were bracketed by the neutral Great Powers and were completely legal

procedures in comparison with the modern and gratuitous police actions against violators of peace, which can be dreadful acts of annihilation.

(Schmitt 2003: 186)

Enemies of humanity cannot be considered ‘just and equal’. Moreover, they cannot claim neutrality: one cannot remain neutral in the call to be for or against humanity or its freedom; one cannot, similarly, claim a right to resist or defend oneself, in the sense we understand this right to have existed in the *jus publicum Europaeum*. Such a denial of self-defence and resistance ‘can presage a dreadful nihilistic destruction of all law’ (ibid.: 187). When the enemy is not accorded a formal equality, the notion that peace can be made with him is unacceptable, as Schmitt detailed through his study of the League of Nations, which had declared the abolition of war, but in rescinding the concept of neutrality only succeeded in the ‘dissolution of “peace”’ (ibid.: 246). It is with the dissolution of peace that total wars of annihilation become possible, where the other cannot be assimilated, or accommodated, let alone tolerated: the friend/enemy distinction is no longer made with a *justus hostis* but rather between good and evil, human and inhuman, where ‘the negative pole of the distinction is to be fully and finally consumed without remainder’ (Rasch 2003: 137). With this in mind, I turn in the next section to the War on Terror and its relation to the discourse of humanity and cosmopolitanism.

### **A ‘modernity without violence’? Cosmopolitanism and the War on Terror**

The terrorist attacks of 11 September 2001 at first appeared to have ‘struck a blow’ against the cosmopolitan perspective, because the ‘renewal of state-centred politics and a “war on terror” seeking military rather than law enforcement solutions to crime’ were contrary to both its worldview and its privileged means of dealing with conflict (Calhoun 2003: 86–87). Rather than be swept to the sidelines of the debate, however, the cosmopolitans quickly emerged as some of the staunchest critics of the War on Terror, US unilateralism and the curtailment of civil liberties in liberal polities more generally (see Held 2004; Ignatieff 2004). Indeed, one might go as far as to say that the War on Terror has replaced the nation-state as their subject of critique.

Cosmopolitan thinkers such as Jürgen Habermas, Richard Falk, David Held and others saw the War on Terror and the international politics of the US since 9/11 as a direct affront, not only to cosmopolitan aspirations, but also to the existing multilateral order and international law. Falk and David Kreiger, for example, while commenting on the demonstrations against the pre-emptive war in Iraq noted that, ironically, many of the protesters ‘do not yet realize that they are also fighting to retain an international order based on multilateralism, the rule of law and the United Nations itself’ (Falk and Krieger 2002). Jürgen Habermas lamented the damage that was inflicted on the UN in early 2003, in the aftermath of the failed UN Security Council negotiations and the US



decision not to seek a second resolution authorising the war in Iraq. He feared that a dangerous precedent was set by avoiding the customary justification of war through the UN. For cosmopolitan thinking, he argued, '[t]he crucial issue of dissent is whether justification through international law can, and should be replaced, by the *unilateral, world-ordering politics of a self-appointed hegemon*' (Habermas 2003: 368; emphasis added). David Held, moreover, is concerned that such a 'security doctrine of unilateral and pre-emptive war' contradicts both the achievements of liberal internationalism with its belief in progress, war avoidance and negotiation amongst parties in conflict, *and* also power politics with its emphasis on balancing power and threat amongst states in the international system (Held 2004: xii).

After the fall of Saddam Hussein's monument in Baghdad in April 2003, Habermas further condemned the US for relinquishing the moral high ground it had held since 1945, by pursuing this illegal pre-emptive war in Iraq: '[f]or half a century the United States could count as pacemaker for progress on this cosmopolitan path. With the war in Iraq, it has not only abandoned this role; it has also given up its role as guarantor of international rights' (Habermas 2003: 365; see also Byers 2003). More recently, Held has protested even more vehemently against the political choices of the Bush administration, which he sees as both politically dangerous but also as missing opportunities to 'building bridges between its geo-economic and geopolitical interests and the priorities of political and social justice', thereby strengthening the cosmopolitan political project whose trajectory had seemed so assured in the 1990s (Held 2004: xiii). Held regards the choices made by the US after 9/11 as a backward step indicating a return to a 'Hobbesian state of nature' and the weakening of rule-based multilateral governance to which states incrementally submitted themselves after 1945. He disavows the possibility, entertained by Habermas, that we are now in an era in which the liberal cosmopolitan project might be actualised through the explicitly hegemonic project of the US (*ibid.*: xv).

That the cosmopolitans are outraged is obvious and sincere. Indeed, many scholars of politics, in this volume and elsewhere, share their disquiet about US political choices and the political environment created by the War on Terror. Increasingly, however, there has emerged a different sort of uneasiness, arising from a historical as well as theoretical/philosophical critique of liberal modernity in which the cosmopolitan promotion of universal humanity, and its vision of the erasure of lines, is situated. Furthermore, even cosmopolitans themselves acknowledge that it is important to locate the cosmopolitan perspective and the War on Terror within the philosophical trajectory that forms their condition of possibility, rather than continue to protest that the War on Terror is the very antithesis of cosmopolitanism (see Fine 2006).

Of course, questions about the relationship between war and liberalism/cosmopolitanism have been historically posed either from a traditional political realist perspective or, alternatively, from a historical materialist perspective (as evaluated by Reid 2004). More recently, moreover, scholars have offered an understanding of liberalism 'as a *strategy* for the gradual dissemination of

principles that derive from war within the power relations that pervade the societies it governs' (ibid.: 67). This section, therefore, examines the claim that the War on Terror does not indicate a crisis in cosmopolitanism but, rather, is the quintessential liberal cosmopolitan war. It suggests that, despite the prominent sense in which the War on Terror is portrayed as the antithesis of cosmopolitan orientations and aspirations, there are arguably two relationships between cosmopolitanism and the pursuits of the War on Terror. These are examined in turn below.

### *Liberalism and violence*

The first relationship arises from their joint location in a long line of thought and policy offering both a worldview and a political programme of modernity in which violence and war dissipate, in which war is gradually replaced by rules and principled behaviour (see Held 2002; Joas 2003). One might say, in other words, that both the War on Terror and liberal cosmopolitanism are located within the modernist vision of the end of war. Hans Joas has eloquently called this 'the dream of a modernity without violence' (2003: 29). That cosmopolitanism seeks 'perpetual' peace is often acknowledged through cosmopolitanism's intellectual debt to Immanuel Kant (1991). That the War on Terror is located in this understanding of modernity is less obvious, perhaps, but becomes increasingly apparent when one examines the rhetorical framing and understanding of the War on Terror as a fight that will not be abandoned until terrorism is rooted out. The terrorist acts of 11 September 2001 in the seat of this dream, the United States of America, were an unforgivable affront to this modernist and liberal cosmopolitan vision of perpetual peace.

At the same time, modernity's dream to end war has repeatedly had the opposite effect, signalling a much neglected paradox, that '[a] political project based concretely upon an ideal of "peace" has continually produced its nemesis, war' (Reid 2004: 65). It is not only that the search for peace has time and again led to war – it is the very intensification of war within the horizon of liberal modernity that is worth investigating. Schmitt's own assessment in the *Nomos* of prior liberal attempts to abolish war, such as those undertaken by the League of Nations, suggests that 'any abolition of war without true bracketing [has historically] resulted only in new, perhaps even worse types of war, such as reversions to civil war and other types of wars of annihilation' (2003: 246). Reid, more recently, echoes this insight:

Not only does the recurrence of war throughout modernity serve to underline its paradoxical character. But the very forms of war that recur are of such increasing violence and intensity as to threaten the very sustainability of the project of modernity understood in terms of the pursuit of perpetual peace.

(2004: 65)



The War on Terror, therefore, is an exceedingly exemplary manifestation of the paradox of liberal modernity and war: of the occurrence of ever more violent types of war within the very attempt to fight wars which would end 'war' as such. Moreover, it is an example of how the cosmopolitan order's emphasis on the erasure of geopolitical lines through universal humanity fails not only to end war, but even to bracket and limit it, causing not its humanisation but its intensification and dehumanisation.

With Schmitt, we might recall that a new type of war also requires a new type of enemy: 'it is an apparent fact', Rasch argues, 'that the liberal and humanitarian attempt to construct a world of universal friendship produces, as if by internal necessity, ever new enemies' (2003: 135). As discussed above, the discourse of humanity enables the creation of 'a category of political non-persons, since those who fall outside of these delineations become . . . subject to a demonization which permits not simply their defeat, but their elimination' (Bellamy 2000: 85). In the case of the War on Terror, the 'freedom-hating' recalcitrant others, those subjects of other 'modernities' entangled with the liberal one (Therborn 2003), become those to be excised from the global liberal order. The War on Terror denies any rationality or justice to its enemies and, perhaps, to those who oppose its practices. Schmitt's argument in the *Nomos* reminds us that the unlikely, but significant, achievement of the Westphalian order was the development of the notion of *justus hostis*, alongside the concept of non-discriminatory war, which allowed war to become limited in nature but also peace to be considered possible with one's enemies. Nowadays, when enemies are denied this procedural kind of 'justness', peace cannot be made with them, nor are they allowed a right to differ, resist or defend themselves. Importantly, cosmopolitans and their critics are now jointly faced with the incessant usage of the notion of an *unjust* enemy in the War on Terror, which relies on the re-introduction of just cause for one's own side and points to an 'other' who has to be fought until there is no more resistance.

### ***Spreading the modern subject: the War of Terror as a disciplining environment***

The second relationship between the War on Terror and cosmopolitanism is their common commitment to the production and spreading of modern liberal subjectivity. This commitment is explicitly made in the case of cosmopolitanism and more implicitly in the case of the War on Terror, understood as a set of biopolitical and military practices. Given the centrality of the individual, war in the present stage of liberal modernity becomes an activity that spreads modern subjectivity and subjectivist socio-political practices (cf. Beck 2000). The types of war and violence that become possible in a liberal cosmopolitan age are those which promulgate modern subjectivity, which make incrementally real the ideal of a universal humanity, which abstract human political diversity from its local constructions and retain only its cultural and aesthetic spectre (cf. Brennan 2003). The War on Terror might be seen, in this way, as the latest (violent) form

of a longer project intent on subjectivising peoples, who have only partially been subjectivised through colonialism, through the expansion of global capitalism, through the international biopolitical operations of the UN system in the last half of the twentieth century (cf. Reid 2005) and through other kinds of ‘humanitarian’ wars prominent since the end of the Cold War.

As to the means of spreading the modern liberal subject, the War on Terror contains what were traditionally recognisable as ‘war practices’, but also newly comprises ‘peace practices’ among its operations. Peace and war ‘must be understood in accordance with a substitutive value that makes the two terms absolutely contemporary with one another, starting with the inversion both of their functions and of their “classical” relations’ (Alliez and Negri 2003: 110). The War on Terror, in reinforcing the distinctions between ‘us’ and ‘them’, between good and evil, between just war and unjust enemies, also erases the lines, once so evident, between war and peace.

In one way, then, Held is correct to claim that the War on Terror is a return to a ‘Hobbesian state of nature’ (2004). If we understand the ‘state of nature’ to be an ‘educational’ tool or environment employed by Thomas Hobbes in order to restrain the unruly participants in the English civil war, then we can see its function as a disciplining device, helping to convince

imperfectly domesticated subjects that they, in their present state, should consent to remain there and should commit themselves more fully to the habits and principles that ensure the stability of their condition, even though that condition does and must carry many ‘inconveniences’.

(Connolly 1988: 27–28)

Just as the device of the ‘state of nature’ was able to achieve results for classical liberalism by exalting the need and desire for the Sovereign, the War on Terror can be understood to serve a similar purpose and to entail, therefore, a similar relationship with liberal cosmopolitanism. The War on Terror is, in part, that environment which (re)creates fearful and disciplined subjects both inside and outside liberal polities. It reminds citizens, as Hobbes’s construct of the ‘state of nature’ did, that the Sovereign is needed and ought to be strengthened. Inside the polity – let us take the US as an example – the practices of the War of Terror, such as its constant raising of colour-coded terror alerts, its advice to citizens on cultivating readiness to deal with disaster, its general logistical manipulation of citizens (Reid 2004, 2005; Department of Homeland Security 2006) – all these practices discipline and control the subjects of liberal societies by suggesting that the distinction between inside and outside no longer holds; that the line between a domesticated inside and anarchic outside has been blown up along with the Twin Towers; and that the danger, which the Hobbesian solution had banished to the outside, *beyond the line*, has almost certainly returned. For, as soon as liberal citizens stop being afraid, they may begin to question more persistently the weakening of their civil liberties. Moreover, the internal disciplining of liberal publics dissuades citizens from seeking reasons for pre-

emptive wars and occupations outside their own polities, from requiring justifications for the undertakings of the War on Terror in the world outside liberal states.

Outside the liberal polity, the War on Terror endeavours to rid us of the scourge of global terrorism, and the singular way of achieving this is to spread modern subjectivity and its attendant liberal political institutions around the globe. Recall the emphasis of the Bush administration on the desirability of a newly democratic Iraq, whose liberated citizens can participate in promoting a safer and more peaceful Middle East:

[the war] can be won by spreading freedom. It can be won by [*sic*], if the United States continues to lead the world and encourage those who long for freedom to seek freedom, and to work with governments to put institutions in place that allow women to have rights and honor human dignity and human rights.

(CNN 2004)

Outside the liberal polity, moreover, the threat entailed in dichotomous determinations of 'with us or against us' is intended to shape peoples, only partly subjectivised through other means, into subjects, however incomplete or imperfect the results.<sup>5</sup> The second relationship of the War on Terror to cosmopolitanism, then, pertains to the rise of modern subjectivity and the institutions that it makes possible, as well as their global exportation. When threatened, the apparatus of liberal cosmopolitanism responds by radicalising its normal mode of operation (which is the spread of modern subjectivity through commerce, cultural exchange and other biopolitical modes) and attempts to impose a liberal order by spreading modern subjectivity through military means. Norms of sovereignty and non-intervention, and international law more broadly, cannot be understood as serious obstacles to this kind of war because, as Habermas notes regretfully, in the age of the War on Terror 'wars that make the world better ... need no *further* justification' (2003: 367).

This relationship cannot be easily dismissed as a conspiratorial fantasy of anti-liberals: it is attested to by cosmopolitans themselves. Habermas, for example, acknowledges the liberal origins of the US policy since 9/11 and the War on Terror: 'the neoconservatives make a revolutionary claim' he argues: 'if the regime of international law [based on an interstate order] fails then the hegemonic imposition of a global liberal order is justified even by means that are hostile to international law' (ibid.: 365).

Habermas is not suggesting that this is a desirable way of creating a cosmopolitan order. Indeed, he is concerned about the prudence of such choices and the potentially dire consequences of undermining international law, but he does not *doubt* the liberal, even cosmopolitan, credentials of the War on Terror. The neo-conservative vision of a global political order, he argues, 'while not betraying liberal goals ... is shattering the civil limits that the UN Charter – with good reason – had placed on their realisation' (ibid.).

The dissatisfaction and concern that Habermas and other cosmopolitans feel about the War on Terror cannot be denied nor should it be misrepresented. It is important, however, to offer such an analysis of the relationships between cosmopolitanism and the War on Terror precisely in order to understand and respond to them more fully.

## Conclusion

Responding to the processes of current world ordering is a potentially ceaseless task for academics, citizens and policymakers alike. In this chapter I turned to Schmitt's insights about the political specificity of Westphalia as the *nomos* of the earth and drew upon its peculiar 'achievements' in order to highlight certain ways of thinking about current cosmopolitan claims about crossing and erasing lines, about unifying and ordering 'humanity', and the world political processes of subjectivisation which ensue from such a project. In particular, I examined the designating and managing of enemies within the political discourse of humanity and suggested that there are, contrary to commonly held views, two relationships between cosmopolitanism and the War on Terror as a set of subjectivising practices. Using Schmitt's account of the bracketing of war and the development of the notion of *justus hostis* within the *jus publicum Europaeum*, I highlighted the dangers of the present political re-emergence of unjust enemies and, indeed, of the 'inhuman', as well as discriminatory and increasingly violent forms of war.

The usage of the *Nomos* is not a denial of the problematic aspects of Westphalia or the limits in Schmitt's account of this order (see, for example, Brown, Chapter 3, Dean, Chapter 14, and Burgess, Chapter 11, in this volume). The emphasis on bracketed war and just enemies, therefore, should not be read as inviting 'a reassertion of the lines of enmity and their attendant nomic underpinnings' (Surin 2005: 194); nor should it forgo the necessary effort to further situate such insights in contemporary world politics, beyond the discussion above (see Zolo, Chapter 9, Mouffe, Chapter 8, and de Benoist, Chapter 4, in this volume). It is, however, a reminder that the transgression of lines evoked by the political discourse of universal humanity is not an assured path to a modernity without violence; rather, seeking to end war has historically led, not to its limitation and humanisation, but to its ever more intensified and violent occurrence. Therefore, one initial response, as offered above, might lie in relinquishing prevalent assumptions about the antithesis of cosmopolitanism and the War on Terror so as to recast concerns about current world orderings more productively by recalling the *Nomos*'s emphasis on limiting war and on avoiding the precipitous consequences of unjust enmity.

## Notes

- 1 This chapter is a much shorter version of a paper entitled 'Über die Linie? Carl Schmitt and Martin Heidegger on line(s) of cosmopolitanism and the War on Terror' presented at the Fifth Pan-European International Relations Conference, The Hague, 9–11 September 2004.

- 2 Schmitt documents how, in fact, there were three lines drawn at different historical junctures and resulting in distinct spatial orders: the distributive *rayas* (2003: 90–92, 287), agonal *amity lines* (2003: 92–99, 287) and the final global line of the Western Hemisphere (2003: 99–100, 281ff.), which did not concern land appropriation as did the previous two lines but which displaced Europe, the old West, with a new, truer and more just West.
- 3 With the exception of the Western Hemisphere that functioned as a ‘new global line’: see Schmitt (2003: 281–294).
- 4 Scott was a jurist and prominent political figure in the United States at the beginning of the twentieth century.
- 5 I thank Martin Shaw for highlighting the incomplete nature of such subjectivisation. See also Mouffe, Chapter 8 in this volume.

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