

**“US” AND “THEM”:  
THE POLITICS OF AMERICAN  
SELF-ASSERTION AFTER 9/11**

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**Abstract:** In the Aristotelian tradition, politics is a matter of public deliberation over questions of justice and injustice. The Bush administration’s response to the terrorist attacks of September 11, 2001, has been uniformly hostile to this notion, and it has instead promoted a jingoistic politics of self-assertion by an America largely identified with the executive branch of its government. This is doubly disturbing, as the executive branch has sought to free itself from international law, multinational commitments, and domestic judicial regulation, even as it has sought to validate itself by demonizing its enemies. This essay draws out the disturbing echoes here of Carl Schmitt’s work of the 1920s, in particular of Schmitt’s conception of the sovereign as the ungrounded ground of the law and the political as the site of mortal conflict between friend and enemy. The essay argues that Schmitt’s position in the twenties, for all of its evident problems, is superior to that of Bush, Wolfowitz, and Ashcroft in at least two senses: Schmitt condemns the idea of waging war for profit and recognizes that such wars will often be disguised as moral crusades waged against the “inhuman”; and he acknowledges that claiming to fight a war for humanity denies one’s enemies their humanity, leaving them open to torture and even extermination.

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The war is then considered to constitute the absolute last stand of humanity. Such a war is necessarily unusually intense and inhuman because, by transcending the limits of the political framework, it simultaneously degrades the enemy into moral and other categories and is forced to make of him a monster that must not only be repulsed but also utterly destroyed. In other words, he is no longer an enemy who must only be compelled to retreat into his borders.

—Carl Schmitt

Either you are with us, or you are with the terrorists.

—George W. Bush

What is the meaning of 9/11? To ask that question in the United States today is immediately to call forth images of the destruction wrought by the terrorist attacks of 2001, first of the collapse of the World Trade Center and then perhaps of the simultaneous attack upon the Pentagon, or even of the plane commandeered by terrorists that crashed that day in a field in western Pennsylvania. But there is no question in anyone's mind *which* September 11 is being referred to. Almost no one will even momentarily recall that September 11 is the anniversary of the 1973 U.S.-supported military coup in Chile, in which the democratically elected government of Salvador Allende was overthrown by General Augusto Pinochet, whose fifteen-year military dictatorship became notorious for its extraordinary human-rights abuses.<sup>1</sup> Though hardly surprising, on reflection this fact is perhaps even more striking than the idea that what is widely seen as an assault upon the United States is more closely associated with the destruction of a symbol of international capitalism than it is with an attack upon the actual center of operations for the American military; for it illustrates how profoundly disconnected the American people are from the history of what has been done with their money and in their name. It is not that "our" trauma has blotted out the memory of "theirs," along with our complicity in it, but that there was little there to blot out to begin with. It is in part this disconnect that makes possible the deep sense of victimization that has gripped the United States in the wake of the attacks of September 11, 2001. Far too few asked—or ask—*why* these attacks took place, what *reasons* could be given for them. Instead of an attempt to understand what had happened and how it might be averted in the future, there was a rush to demonize the attackers and those who either supported or condoned them.

This was, no doubt, easy enough: the people who committed these terrible deeds had demonstrated an utter disregard for human life and for many of the values that make life worth living. But, precisely because these were political acts rather than isolated criminal deeds, no understanding of the private personal motivations and character of the terrorists in the planes and the people who gave them material aid could fully account for these deeds. Not every murder is a political assassination, least of all a terrorist deed that, as one is told again and again, forever changed the world. For it to be a political assassination, the act must resonate with many people other than the perpetrators, it must find at least tacit support elsewhere, and it must spring from conditions other than those of personal pathology. (If, for instance, Jackie Kennedy had killed JFK in a fit of jealous rage, it would not have been a political

<sup>1</sup> As late as June 1976 Henry Kissinger was assuring Pinochet, "In the United States, as you know, we are sympathetic with what you are trying to do here" (Kornbluh 1999). About as many will remember this sordid history as will recollect that the 11th is Theodor Adorno's birthday. Perhaps they will even be the same people.

assassination, or even a political act, but a private, criminal act with enormous political repercussions.) That one of the conditions that made possible the attacks of September 11, 2001—one of the reasons for this attack—might be a widespread resentment of the United States’ subversion of democracy abroad and its casual disregard of the standards to which it holds other nations accountable, as in the example of Chile, is a possibility that has not been widely enough considered in the United States.<sup>2</sup>

This is particularly true of the second Bush administration, which has responded to the attacks in a moralistic and deeply unhelpful manner, calling for a “war” to “rid the world of evil.”<sup>3</sup> It is not difficult to see how this approach undermines any attempt to respond with anything other than violence. Indeed, Elaine Tyler May has argued convincingly that the Bush administration’s rhetoric of war succeeded in cutting off whatever self-reflection had been provoked by the attacks. And it did so with the aid of hysterical media that reported as facts mere speculations about what “we” felt (righteous anger) and what we needed (revenge, blood) in the wake of the attacks, which only helped to make them so (May 2003, 36–37 and 45). It is only in retrospect that this process could appear to be an instantaneous one, as in George Weigel’s hyperbolic and somewhat silly claim that, “in less than two hours, between the first attack on the World Trade Center and the crash of the fourth hijacked airliner in rural Pennsylvania, Americans discovered, or rediscovered, moral absolutes. . . . There was good, and there was evil. We could tell the difference again, and we could use those words again” (Weigel 2002, 14). Americans have always used those words, though not perhaps so easily and so often as they do now, or as their leaders and spokesmen in the government and the press do. Even this is not, however, so positive a development as Weigel suggests in his defense of the relevance of the Catholic tradition of the just war. War calls for combat, not self-scrutiny; and one does not reason with evil or seek to compromise with it—one does not, as Noam Chomsky has put it, “consider realistically the background concerns and grievances, and . . . try to remedy them, while at the same time following the rule of law to punish criminals” (Chomsky 2002, 62–63; compare

<sup>2</sup> David Campbell argues that “the idea that US foreign policy alone offers an explanation for the event is questionable. With no clear statement of grievances or claim of responsibility from anyone on behalf of those who undertook the suicide hijackings, Christopher Hitchens rightly observes that acting as a ‘self-appointed interpreter for the killers’ is rather rash” (Campbell 2002, 4). But one need hardly claim to be a privileged “interpreter” for the dead hijackers to ask what might motivate such people or lead their acts to be anything but universally condemned, any more than claiming that U.S. foreign policy is an important part of what produces the conditions for such actions and such support (however qualified) amounts to claiming that U.S. foreign policy “alone offers an explanation for the event.” To suggest otherwise is to attack straw men.

<sup>3</sup> I quote here Bush’s address at the National Cathedral on September 14, 2003, but this has been a recurrent theme of his and his cabinet’s.

123). Evil is not a crime but a sin; its origin is a mystery of theology, not poverty or political oppression, and one *fights* it; if one is lucky, one destroys it.

This makes the use of the rhetoric of evil extremely problematic for those who would otherwise resist the Bush administration's Manichean impulses, as is evident in William Schulz's generally fine book, *Tainted Legacy: 9/11 and the Ruin of Human Rights*. Schulz, the executive director of Amnesty International U.S.A., begins his first chapter by agreeing with Bush that the terrorists who acted on 9/11 were "evil." But since he wants to argue that their acts must be "punished" (Schulz 2003, 15–16), as if evil were a violation of positive law, rather than stamped out as instances of the demonic, Schulz is driven to splitting hairs among forms of evil, as when he asks rhetorically, "If something is considered *overwhelmingly, irredeemably, incomprehensibly* evil, the very embodiment of the Satanic, then may we not be justified in using virtually any means to eradicate it?" (21, emphasis added). Presumably we shall not be justified if we can see the terrorists as *less than overwhelmingly, redeemably, and comprehensibly* evil—an evil, in short, with which we could live. The retreat from the agreement with Bush on the simple evil of the terrorists is completed when Schulz admits that "we do not punish them for *being* evil; we punish them for committing specific, identifiable crimes" (22), which more or less puts "evil" into a black box of irrelevance. This allows Schulz to say that it is wrong—which it surely is—to suggest that "those whose humanity we can question—those who are part of the 'world of evil' in the president's words, or, more graphically, 'barbarians,' in the vice president's—have forfeited their rights by forfeiting their humanity" (121). "In order to inflict torture, you must on some emotional level understand your victim to be subhuman and therefore not eligible to claim human rights. 'Barbarians,' Vice President Cheney's word, does nicely" (121). Given Schulz's rejection of this, and given the fact that he ultimately agrees with many of the criticisms of Bush I shall advance here, his initial agreement may have as much to do with his attempt to draw in as wide an ideological array of readers as possible as it does with any substantive commitments on his part. However, the difficulties this involves Schulz in point to the dangers of a moralistic, comic-book account of a battle of "good guys" against evil. Especially given the nature of the "good guys" in question, it is surely more helpful to begin by setting aside such simplistic terms and oppositions.

This point does not apply just to moral or theological language but to any that might do the same work. Consider in this regard Schulz's definition of "terrorism" as "non-state actors . . . committing acts of violence against 'non-combatant targets,' involving violations of those targets' human rights, for some larger political or religious purpose" (Schulz 2003, 178). Why, one wonders, should it be possible only for "non-state actors" to commit acts of terrorism? Sharon's Israel and Bush's America are surely guilty of "committing acts of violence against

‘non-combatant targets,’ involving violations of those targets’ human rights, for some larger political or religious purpose.” Schulz’s response to this is to describe it as an attempt at “sidetracking” the real issue and to claim, with no argumentative support whatsoever, that “if we are to keep the use of the word ‘terrorism’ within manageable boundaries, it makes sense to limit its application to groups separate from the state (except of course where a state is so closely identified with terrorists or acquiescent in terrorism, as Libya was in the Lockerbie bombing, that it is impossible to tell the state and the terrorists apart, in which case we can properly speak of ‘state-sponsored terrorism’)” (82). But this is only more “manageable” if we find it difficult or inconvenient to see our government as engaging in the sort of “evil” conduct it attacks. In this context it is helpful to recall the U.S. cold-war policy of Mutually Assured Destruction, or MAD, which required threatening the populations of the Soviet Union, and indeed the world at large, with the most terrifying destruction so as to ward off any nuclear attack upon the United States or its client states. As Michael Walzer puts it, “It is immoral to make threats of this kind. . . . [It is] an immorality we can never hope to square with our understanding of justice in war. Nuclear weapons explode the theory of just war” (Walzer 1977, 278 and 282).<sup>4</sup> Likewise, the Allied “terror bombing” of German cities during World War II and, more to the point, Clinton’s bombing of the El Shifa pharmaceutical plant in Sudan are accurately described as acts of terror that slaughtered, maimed, or indirectly killed thousands (Walzer 1977, 255–63 and 323; Shaw 1988, 78–79; Mahajan 2003, 35ff.). To acknowledge the United States’ own use of terror in such cases would automatically make it impossible to rally the nation to fight “evil” in the name of “the war on terror.” The point being not to play tit for tat but to resist moralistic oversimplifications of complex political phenomena.<sup>5</sup>

It is not easy to do this in a society in which the main forum for public debate is televised programs. As the sociologist Zygmunt Bauman observes, the mass media, particularly television, the dominant medium in our time, are naturally drawn to the presentation of *narratives of individual actors*, as these adapt themselves easily to visual presentation: a battle between individuals can be shown on television as a careful analysis of differences; complex policies cannot. Bauman cites Martin Esslin’s

<sup>4</sup> That Walzer immediately adds “we move uneasily beyond the limits of justice for the sake of justice” does nothing to deny that this use of terrifying threats is unjust or immoral.

<sup>5</sup> One is reminded of George Orwell’s comment, “Political language has to consist largely of euphemism, question-begging and sheer cloudy vagueness. Defenseless villages are bombarded from the air, the inhabitants driven out into the countryside, the cattle machine-gunned, the huts set on fire with incendiary bullets: this is called *pacification*” (Orwell 1962, 153). Or *Operation Iraqi Freedom*, conducted by a military which keeps no count of the number of Iraqis it kills and for which Iraqi lives, in this setting at least, literally don’t count.

pithy summation, “Drama is always action; its action is that of human beings. In drama we experience the world through personality” (Esslin 1973, 20). The consequences of this structural feature of the medium help to determine a large part of what will be said about politics in the forum that dominates political discussion in our time: “Among things left outside [“the media world,” the world as presented by the mass media] is a large part of politics: . . . all the more abstract, principal matters of policy choices or historical trends which pertain to the systematic rather than the personal dimension of human life, and for this reason do let themselves be easily translated into images, passion dramas, personal interest stories” (Bauman 1988, 80).<sup>6</sup> This structural drive toward the celebration of personalities, characters, and plotted narratives that move either backward or forward, toward victory or defeat, favors the politician who demonizes his opponents and presents his struggle against them ready packaged for the medium, with an easily understood and clearly delineated plot and a stark, dramatic choice. It thus encourages a moralistic politics, if not a moral politics, a simplistic politics of good versus evil in which shades of gray are washed away, either in the course of the “show” or, for those with weaker skills or interests, before the program has even begun.<sup>7</sup> As Bush put it soon after the attacks, “You are either with us or against us.”<sup>8</sup>

No doubt this is only a tendency. That other modes of evaluation and responses are possible even in our televised world, and even in the face of horrible acts of terror, is made plain by the U.S. response to the destruction of the Oklahoma City Federal Building. While the initial assumption that this was the work of Middle Eastern terrorists led to widespread calls for a violent response, when it was proven to be the work of domestic rightwing zealots this reaction quickly died down and “there was no call to obliterate Montana and Idaho” (Chomsky 2003, 24; and see May 2003, 37–38). Instead, it became a criminal matter and was dealt

<sup>6</sup> For an excellent complementary account of the way the structural conditions of the private, corporate ownership of the mass media produce both a formal and a substantive subsumption of culture, political deliberation, and the general “marketplace of ideas” under the capitalist mode of production and hence corporate interests, see Jhally 1989. It is precisely this sort of structural account as opposed to individually motivated action that Bauman and Esslin argue television silently discourages.

<sup>7</sup> For a good account, by a journalist, of the ways journalism serves the state by dividing the world between “the forces of light and the forces of darkness,” an attack upon authentic moral consciousness that amounts to “the destruction of culture,” see Hedges 2003, 62ff. and 144.

<sup>8</sup> As Richard Falk notes, “The president’s good-versus-evil rhetoric also denies shades of gray,” and “implies too much clarity in a world that’s much messier than that.” “It shows a lack of respect for the sovereignty of other countries and may place them between contradictory pressures.” Cited in Jordan 2001. Jordan quotes a South American diplomat as saying, “If you ask whether we condemn the Sept. 11 attack, we’re with you. But is more violence the best answer? The Americans don’t leave room for alternative opinions. When will countries speak out: after 1,000, 100,000, or 1 million more are killed?”

with by the courts. One reason for this quite different outcome has to do with the difference in status accorded to what have been widely described as varieties of fundamentalism, the “foreign” Islamic variety and the domestic Christian one. The difference in status is in part a matter of the dominance of conservative ideology in the United States, where a terrorist who threatens international capitalism will always be more terrifying than one who does not. But part of the difference is a more fundamental matter of maintaining a common identity. To treat abortion-clinic bombers as soldiers fighting in a war, as Bush almost does members of Al Qaeda, would be tantamount to fighting a civil war.<sup>9</sup> The Bush administration seeks to take the country in precisely the opposite direction, making use of 9/11 to forge a new unity, as if the only alternative to civil war were submersion in a common identity. (That this is a matter of this particular administration’s overall strategy explains why the earlier attack on the Twin Towers in 1993 did not generate a similar mobilization of the nation.) As Attorney General John Ashcroft has put it, any criticism of the administration’s decisions or its handling of “the war on terror” only serves to “aid terrorists [and] erode our national unity and diminish our resolve” (cited in May 2003, 49). Such a stark and on the face of it utterly unreasonable attempt to defend a democratic nation by squashing public debate about its government and policies will hardly be adequately challenged by a citizenry sporting “United We Stand” bumper stickers in the windows of their SUVs.

Both the leaders and the led seem to be adopting a Hobbesian logic that poses the sacrifice of plurality and argumentative deliberation as the cost of heading off perpetual civil war and dispersed impotence in the face of threats from abroad.

The only way to erect such a Common Power, as may be able to defend them from the invasion of Forraigners, and the injuries of one another . . . is, to conferre all their power and strength upon one Man, or one Assembly of men, that may reduce all their Wills, . . . unto one Will: which is as much to say, to appoint one man, or Assembly of men, to beare their Person; and every one to . . . submit their Wills, every one to his Will, and their Judgements, to his Judgement. This is more than Consent, or Concord; it is a real Unitie of them all, in one and the same Person. [Hobbes 1968, 227]

So much for the Aristotelian idea that human beings are political animals because they can and must speak with one another about questions of justice and injustice (Aristotle 1978, 10–11)! For Ashcroft as for Hobbes, the teaching of such doctrines as Aristotle’s only produces “a habit (under a false shew of Liberty), of favouring tumults, and of licentious controlling of the actions of their Sovereigns” (Hobbes 1968, 267). In the United

<sup>9</sup> I say “almost” because, as I shall discuss further below, Bush won’t grant prisoners in Guantánamo and other such holding facilities accused of being “enemy combatants” the rights due soldiers under international law.

States today the need to avoid anything that hints at civil war or fundamental disagreements about what our common identity might be (Christian? pro-“life”? pro-“choice”?) dovetails with the creation of a personality that might star in a narrative drama. This fits well with Hobbes’s account of sovereignty, in which the sovereign “personates” the community, and where “person” plays upon its theatrical roots as the mask that identifies a play’s character: “A multitude of men, are made *One* Person, when they are by one man, or one Person, represented. . . . For it is the *Unity* of the Representer, not the *Unity* of the Represented, that make the Person *One*” (Hobbes 1968, 220; see 228). “We” see ourselves in the person who represents us. In America, only the president represents all Americans. Thus far the separation of powers has meant that the executive is not the sovereign, but that may be changing, as the assertion of the person who “we” are unfolds in the drama that is its struggle against evil. As Bush has put it too, “Either you are with us, or you are with the terrorists.”<sup>10</sup>

The expert in Islamic law Khaled Abou El Fadl has noted the irony that this reactive posture is also typical of a large current of the contemporary Islamic world. A “siege mentality” has set in, whereby many Muslims in the postcolonial world accept the binary oppositions which defined that world, the West versus its “Other,” the orientalist’s East. On Abou El Fadl’s account, the results have been remarkably similar to those we see in America under Bush: questions of power have usurped questions of principle, whose “universalism” is too often cast as a “Western” colonial imposition.

Therefore, instead of Islam being a moral vision given to humanity, it becomes constructed into the antithesis of the West. In the world constructed by these groups, there is no Islam: there is effectively only opposition to the West. This type of Islam that the radicalized groups offer is akin to a perpetual state of emergency where expediency trumps principle and illegitimate means are constantly justified by invoking higher ends.

He goes on to note that even in this state of mutual siege one can hardly speak of a clash of civilizations à la Samuel Huntington: “Considering the numerous cultural interactions and cross-intellectual transmissions between the Muslim World and Europe, it is highly likely that every significant Western value has a measure of Muslim blood in it” (Abou El Fadl 2003, 79, 80, 81).<sup>11</sup> Given the role that Islam, and Baghdad in

<sup>10</sup> <http://www.suntimes.com/terror/stories/cst-nws-main21.html>.

<sup>11</sup> From a somewhat different angle, Noam Chomsky also points out that speaking of a clash between Islam and the West “makes little sense” in this context: “The most populous Islamic state is Indonesia, a favorite of the United States ever since Suharto took power in 1965, as army-led massacres slaughtered hundreds of thousands of people, mostly landless peasants, with the assistance of the U.S.”; “the most extreme Islamic fundamentalist state, apart from the Taliban, is Saudi Arabia, a U.S. client state since its founding”; and, most



particular, played in the recovery and preservation of the Greek philosophical heritage, this is hardly an exaggeration.

Moreover, as Abou El Fadl notes, both of these “worlds” are quite diverse. Jews and Christians do not agree about everything, the recently developed notion of the Judeo-Christian heritage notwithstanding; even in the extraordinarily religious and largely Christian United States there are millions of atheists, not to mention Buddhists, Hindus, and so on. And the Islamic world—part of which lives in New York, and Philadelphia, and London—is also extremely diverse. Abou El Fadl does an excellent job of laying this out, as well as drawing attention to the way that the legacy of postcolonialism has encouraged an exaggerated role for the unitary state or nation that is foreign to Islam. Not coincidentally, reactionary developments in Islam, such as Wahhabism, have been profoundly influenced by such themes.<sup>12</sup> It is little wonder that some have concluded that that what 9/11 has been used to bring about—what it now means for those living in a world structured by responses to it—is a battle between forces that deeply resemble one another, even a two-sided fundamentalist Jihad (e.g., Hedges 2003, 4).

The moralistic oversimplifications central to each “side” are all the more to be resisted given the fact that the rhetoric of a war against evil does not just condemn one’s enemy to the status of the inhuman but, as many have pointed out, also presents the enemy of evil—Bush, Ashcroft, “us”—as necessarily “good,” an insinuation that has not helped Americans think clearly about the Patriot Act, the war in Iraq, or the use of torture in offshore holding facilities like Guantánamo Bay (which the U.S. government either engages in or gets done by its proxies, such as Egypt, and which according to some polls 45 percent of the population

pertinently perhaps, “in the 1980s the U.S. and the U.K. gave strong support to their friend and ally Saddam Hussein—more secular, to be sure, but on the Islamic side of the ‘clash’—right through the period of his worst atrocities, including the gassing of the Kurds” (2002, 78–79).

<sup>12</sup> As the Saudi example makes plain, even the most reactionary “Islamic” regimes will not simply mirror the United States, if only because they have to appease reactionary and potentially subversive forces in their own population that respond—quite understandably—with rage to the combination of impotence in domestic politics, where democratic institutions are weak and compromised, and humiliation abroad, where the United States flaunts its power and its indifference to the effects it might have on others. Even the Indonesian government now has second thoughts about the Bush response to 9/11. In a December 8, 2003, speech, Indonesian Foreign Minister Hassan Wirajuda acknowledged, “The situation in Iraq today shows that smart bombs and air cover cannot turn the tide against terrorism. Terrorists have no fixed addresses that can be obliterated once and for all with surgical strikes.” “An arbitrary pre-emptive war has been waged against a sovereign state—arbitrary because it is without sufficient justification in international law. Does that mean that any state may now individually and arbitrarily decide to use force pre-emptively against any other state perceived as a threat?” (*New York Times*, December 8, 2003).

now supports, given the proper conditions).<sup>13</sup> “The enemy of my enemy is my friend” is a dangerous adage, and it is both a paradox and an inevitability that, in a struggle to rid the world of evil, one will end up with friends and clients like Pinochet, as the Bush administration’s alliance in its “war on terrorism” with antidemocratic forces throughout the world reminds us. It is not an inevitability that the same government would, in the service of this struggle, publicly embrace political assassination in the absence of any trial (so-called “extra-judicial executions”), but this is not particularly surprising.<sup>14</sup> Indeed, the announcement of this policy has not led to any widespread expression of outrage or shame in the United States. Moralistic rhetoric and immoral deeds seem here to call each other forth, and, for all of the evident fundamentalist religiosity of leading members of the Bush administration, the meanings of the political terms in play—*terrorist*, *freedom fighter*, *liberation*, *prevention*, even *war*—seem to be determined less by objective or even simply enduring criteria than by the exigencies of a conflict between “us” and “them.”<sup>15</sup> Our acts are reactions, and as such they are determined by what they oppose. In ordinary circumstances, no doubt, constitutional prohibitions against torture, wars of aggression, and violations of privacy and so on apply. But in the extraordinary circumstances of the war on terror—a war that Cheney for one has suggested may never end—these prohibi-

<sup>13</sup> Schulz 2003, 154–70, provides an excellent and thoughtful discussion of the moral and pragmatic issues surrounding the renewed debate on torture (see also Zizek 2002, 102–4). But Schulz also, as above, provides a good model of someone who does not adequately criticize the broader context of such debates. I noted above his compromising use of the rhetoric of evil. This is matched by his suggestion that “the World Trade Center victims . . . were good people. . . . Theirs was an honorable legacy” (Schulz 2003, 17–18). With all due respect for the dead, what might possibly justify such a sweeping claim? Are all innocent victims for that reason good or honorable people? Schulz does not even try to answer this, announcing instead that “when those 3,000 [*sic*] people died on September 11, 2001, the meaning of their individual lives was immediately transposed in the minds of hundreds of millions of people around the world into something larger, a symbol of the best of the American tradition, a proud legacy of liberty, generosity, freedom, and respect for human rights” (Schulz 2003, 197–98). This is simply the flip side of the demonization not just of the terrorists but of all who fail to understand their deed as anything but an attack on this “proud” and “honorable” legacy—and understand it instead as, say, a case of political actors engaged in a struggle with an empire.

<sup>14</sup> “CIA Told to Do ‘Whatever Necessary’ to Kill Bin Laden; Agency and Military Collaborating at ‘Unprecedented’ Level; Cheney Says War Against Terror ‘May Never End,’” Bob Woodward, *Washington Post*, October 21, 2001. Cited in Mahajan 2003, 197. As Kennedy’s well-known plans to assassinate Castro testify, U.S.-sponsored assassination is not a new idea, but it has not been so openly proclaimed in the past. As with the “war on terror,” which every repressive regime in the world now uses as a cover for its violence, U.S. public acceptance of the idea of political assassination will only encourage this practice by others. Israel, for instance, has long practiced assassination of suspected terrorists, with U.S.-provided gunships; but it has only recently publicly floated the idea of assassinating Arafat himself.

<sup>15</sup> For a deeply religious man, Bush was profoundly unconcerned by the resistance of so many church leaders to his planned war on Iraq.

tions must be relaxed. In this perhaps permanent state of emergency, more Machiavellian principles apply, and the defense of legality and morality will require extralegal if not immoral acts. The responsibility for this is that of the original actor, who has forced this devil’s choice upon us.<sup>16</sup> This takes popular form in the widespread notion that terrorists attack the United States because they envy us. Here, as in our blissful ignorance of our own history, we are passive: we are simply enjoying our economy and our freedom; it is the others who observe us with envy and then act to tear us down.

Bush is on record as claiming that Jesus Christ is his favorite political philosopher. Given the Machiavellian nature of the compromises he insists upon, there is reason to doubt whether he has read his favorite philosopher’s words as carefully as one might hope. But one might well argue that even a careful reading of the Gospels that focused on Christ as a teacher of either good deeds or love would not be the most helpful place to look for a political as opposed to a moral lesson. Indeed, the distinctively moral lesson to be learned here is one that would still encourage precisely Bush’s drive toward an American community of unity and common identity. As Hannah Arendt argues in *The Human Condition*,

The one activity taught by Jesus in word and deed is the activity of goodness, and goodness obviously harbors a tendency to hide from being seen or heard. Christian hostility toward the public realm, the tendency of at least early Christians to lead a life as far removed from the public realm as possible, can also be understood as a self-evident consequence of devotion to good works, independent of all beliefs and expectations. For it is manifest that the moment a good work becomes known and public, it loses its specific character of goodness, of being done for nothing but goodness’ sake. [1958, 74]

This not only encourages a turning away from the public realm, which is the site of public deliberation not just in Arendt but in the Aristotelian tradition as a whole; it also leads to an excessive emphasis upon actors’ *intentions*. Consider in this regard the contrast mentioned in my opening paragraphs above, between the personal motives of the terrorists and the

<sup>16</sup> In his Web-site “testimony” of his faith ([www.pray4bush.com](http://www.pray4bush.com)), Bush declares: “My faith frees me. Frees me to put the problem of the moment in proper perspective. Frees me to make decisions that others might not like. Frees me to try to do the right thing, even though it may not poll well. . . . The death penalty is a difficult issue for supporters as well as its opponents. I have a reverence for life; my faith teaches that life is a gift from our Creator. In a perfect world, life is given by God and only taken by God. I hope someday our society will respect life, the full spectrum of life, from the unborn to the elderly. I hope someday unborn children will be protected by law and welcomed in life. I support the death penalty because I believe, if administered swiftly and justly, capital punishment is a deterrent against future violence and will save other innocent lives.” Here, as in the war, it is not Bush himself who fails to respect life when he takes it, or orders it taken, but those whom he condemns to death. It is because they, and perhaps “our society” at large, do not respect life that he must take it.

underlying causes of terrorism, such as domestic political oppression in countries like Saudi Arabia that are supported by the United States (Schulz 2003, 26–27); if terrorism is seen as entirely a moral matter, the latter will readily appear as little more than a distraction from questions concerning the goodness of one's will and the categorical nature of moral imperatives.<sup>17</sup> (The language here is of course Kantian, but the Christian roots of this mode of moral thought should be equally obvious.)

Love is similarly at odds with an appreciation for the nature of distinctively political action: "Love, by virtue of its passion, destroys the in-between which relates us to and separates us from others. . . . Love, by its very nature, is unworldly, . . . not only apolitical but antipolitical" (Arendt 1958, 242). A community of good Christians who love one another is one opposed in principle to a public realm that celebrates plurality and diversity of perspectives. "The unpolitical, non-public character of the Christian community was early defined in the demand that it should form a *corpus*, a 'body,' whose members were to be related to each other like brothers of the same family" (53). Unity here, as in Hobbes and as in Ashcroft's vision of a united front against terror, is achieved at the cost of the diversity that makes public deliberation possible and worthwhile. On the one hand we have the body of Christ that is the church, and on the other we have the body politic (Norris 2000a). Where all are the same, and none occupies a different perspective, there is no need for discussion. "Being seen and being heard by others derive their significance from the fact that everybody sees and hears from a different perspective. This is the meaning of public life" (Arendt 1958, 57). "United we stand" is the slogan for a group that *asserts itself*, rather than a group of people who ask what *they* want and who *they* are—where they are characterized by internal differences as well as commonalities.<sup>18</sup> And in the absence of public discussion and public deliberation such self-assertion can be directed only in a hierarchical, authoritative mode that allows for the achievement of a single voice that might speak for the

<sup>17</sup> Arendt's own alternative to such moral evaluation of the individual will is her account of political space as an arena in which principles and public persons reveal themselves in an audience's judgments. According to Arendt, principles are distinct from motives just as private selves are distinct from public persons: "Action, to be free, must be free from motive on the one side, from its intended goal as a predictable effect on the other. . . . Action insofar as it is free is neither under the guidance of the intellect nor under the dictate of the will—although it needs both for the execution of any particular goal. . . . Unlike the judgment of the intellect which precedes action, and unlike the command of the will which initiates it, the inspiring principle becomes fully manifest only in the performing deed itself." This principle is what the audience responds to, and it is only in the judgments of the audience that the political act is completed and the principle revealed and understood. Failing to evoke their judgment, the behavior of private individuals never rises to the level of the act of a public person (1968, 151–52).

<sup>18</sup> I sketch one way of understanding this model of a reflective community in Norris 2002.

political unit, where the rest “submit their Wills, every one to his Will, and their Judgements, to his Judgement.” Little wonder that 9/11 has produced a resurgence of the executive branch’s power in America (Arato 2002) and the public’s willingness to trust it (May 2003, 40).

So even on a sympathetic interpretation Bush’s stated commitments in political philosophy are of a piece with the disastrous push for unity and submission being carried forward by his administration. But given how little Bush, Ashcroft, and Wolfowitz have concerned themselves with either love or good deeds, it seems unlikely that a sympathetic interpretation will best bring out the real picture of this administration’s attempts to translate 9/11 into a political form. Indeed, the political philosopher most readily brought to mind by the Bush administration’s language of reactive decisions taken in exceptional circumstances and in the context of a larger struggle between friends and enemies is not Jesus Christ but rather the lapsed Catholic and erstwhile Nazi Carl Schmitt. It will repay our time to consider this comparison in some detail.

Schmitt’s most famous book, his 1927 *Concept of the Political*, argues that the political is distinguished from other spheres of human activity by virtue of its guiding concept. Where the economic is a matter of profit and loss, the moral a matter of good and evil (*Böse*), and the aesthetic a matter of beautiful and ugly, “the specific political distinction to which political actions and motives can be reduced is that between friend and enemy. This provides a definition in the sense of a criterion, and not as an exhaustive definition, or one indicative of substantial content” (Schmitt 1996a, 26).<sup>19</sup> The “friend” in question is neither the sentimental companion of modern life nor the Aristotelian *philos* but one with whom one shares membership in a hierarchical mode of association in which the voice of the unified political entity (*Einheit*) alone possesses “the *jus belli*, i.e., the real possibility of deciding in a concrete situation upon the enemy,” as well as “the right to demand from its own members the readiness to die and to kill enemies” (45 and 46). Conversely, the “enemy,” as Schmitt repeatedly emphasizes, but as too many of his readers have failed to note, “is not merely any competitor or just any partner of a conflict in general. He is also not the private adversary whom one hates. An enemy exists only when, at least potentially, one fighting collectivity of people confronts a similar collectivity. The enemy is solely the public enemy” (28). Individual citizens have neither the authority nor the responsibility to declare war against the public enemy, the declaration of which is a sovereign decision.

Schmitt does not concern himself in *The Concept of the Political* with the criteria of the legitimacy of the sovereign. But he does make clear, if only indirectly, that sovereignty is a necessary condition of the political as he understands it. In the absence of a sovereign voice that might declare

<sup>19</sup> I modify the translation of Schmitt’s texts throughout when accuracy demands.

war and command the citizenry to fight, the unified political entity would be unable to defend itself. The political mode of association is distinguished from other modes of association by virtue of that central concern with the *survival* not of the individual, whose life may be sacrificed in war, but of the way of life of the collectivity (Norris 1998). Such questions cannot be answered, according to Schmitt, by appeal to either impartial judges or abstract norms, such as international law: “Only the actual participants can correctly recognize, understand, and judge the concrete situation and settle the extreme case of conflict. Each participant is in a position to judge whether the adversary intends to negate his opponent’s way of life and therefore must be repulsed or fought in order to preserve one’s own form of existence [*die eigene seinsmäßige Art von Leben*]” (Schmitt 1996a, 27; 1932, 15). The political way of life is *seinsmäßig*, measured by the standard of its own being, and not any standard it might share with a political enemy that by definition “is, in a specially intense way, existentially something different and alien” (1996a, 27).

The decision the sovereign makes in naming the threat and the enemy is one that declares a state of emergency. As Schmitt puts it in his earlier *Political Theology*, “The Sovereign is he who decides on the (state of) exception [*Ausnahmezustand*],” and

the exception appears in its absolute form when a situation in which legal prescriptions can be valid must first be brought about. Every general norm demands a normal [*normale*] everyday frame of life to which it can be factually applied and which is subjected to its regulations. The norm requires a homogenous medium. . . . For a legal order to make sense, a normal situation must exist, and he is sovereign who decides whether this normal situation actually exists. [1985, 5; 1996b, 13]

In the latter volume, this claim is repeated, in essentially the same language, in the context of a discussion of “the decision emanating from the political entity” to fight for its existence, independence, and freedom:

The endeavor of a normal state consists above all in assuring total peace within the state and its territory. To create “tranquility, security, and order” and thereby establish the normal [*normalen*] situation is the prerequisite for legal norms to be valid. Every norm presupposes a normal situation, and no norm can be valid in an entirely abnormal situation. [1996a, 46]

If the sovereign takes the view that the normal situation does not obtain, then he must impose order in an extralegal fashion: “The decision frees itself from all normative ties and becomes in the true sense absolute. The state suspends the law in the exception [*Ausnahmefall*] on the basis of the right of self-preservation [*Selbsterhaltungsrechtes*]” (1985, 12; 1996b, 18). The sovereign decision determines whether what counts as a normal situation for a given unified political entity obtains; or, conversely,

whether there is a state of exception or emergency. The question of the norm and that of the exception are in truth one question, with two sides. This is the reasoning that underlies Schmitt's dismissal of international law. On his account, international law would have to be founded in the constituting power of a sovereign decision. But the existence of a plurality of nation-states belies the existence of any such sovereign. “A world state which embraces the entire globe and all of humanity cannot exist” (1996a, 53). This means that international relations are more or less in a constant state of crisis, in which only one side of the two-sided coin of law or exception is revealed. As Locke, Hobbes, Hegel, and many others agreed, international affairs remain in a state of nature.

What is particularly striking in the present context is the way Schmitt emphasizes this and relates it to domestic politics. It is in its ability to maintain order and to protect the polity from external and internal threats that the sovereign fulfills its existential function. “The *protego ergo sum* is the *cogito ergo sum* of the state” (Schmitt 1996a, 52). This effectively identifies the domestic enemy (46) and the external political enemy: “For to the enemy concept [*zum Begriff des Feindes*] belongs the ever present possibility of combat” (1996a, 32; 1932, 20). It is in part for this reason that Schmitt describes sovereignty as “a borderline concept [*Grenzbegriff*]” (1985, 5; 1996b, 13). The sovereign decision on the state of exception determines what will count as normal for the polity, and this will determine the identity of the group: what it will mean here to be political friends, and hence who is a friend and who is either a domestic or an external political enemy. The decision, the *Entscheidung*, separates (*scheiden*) who belongs from who does not: it establishes the border, the *Grenze*. In doing so, and in determining the condition for law as such, the sovereign's decision “must necessarily be unlimited [*unbegrenzte*]” (1985, 5; 1996b, 13; cf. Norris 2000b). Straddling the limits of law and community identity, “the sovereign . . . stands outside the normally valid legal system, [but] nevertheless belongs to it, for it is he who must decide whether the constitution needs to be suspended in its entirety” (Schmitt 1985, 7).

The sovereign thus functions as a potential or actual sovereign dictator. By virtue of his union of the law (as constituted power) and the sovereign decision (on the state of exception as constituting power), Schmitt effectively undermines the authority of the law: being an effect or expression of the sovereign decision, the law is by its nature subservient to it. As many have noted, this violates Schmitt's own insistence in his book on dictatorship (written only a year before *Political Theology*) on the importance of distinguishing between sovereign dictatorship and the Roman model of commissarial dictatorship (McCormick 1997, 121ff.) In stark contrast to the sovereign dictator, the Roman commissarial dictator was appointed by a body other than himself for a limited amount of time to address a specific crisis (such as a plague, invasion, or rebellion)

identified by the appointing body, not by the dictator's own sovereign decision. Norm governs exception, rather than vice versa.<sup>20</sup>

We are less concerned here with Schmitt's own reasons for violating his strictures on the necessity of not conflating these types of dictatorship than we are with how his position in *Political Theology* and *The Concept of the Political* might compare with the Bush administration's posture since 9/11. The resemblances are many, and striking: the emphasis upon the necessity of exceptional measures in reaction to a perceived threat to the very existence of the political way of life;<sup>21</sup> the demand that these measures require a mode of authority that precludes the active participation and explicit prior consent of the governed; the denial that the governed can in principle identify the normal situation or a threat to it, and hence judge and regulate the executive or sovereign; the suggestion that the state of emergency is permanent, if only latently so; the rejection of international law (manifest in the Bush case both in its denial that the prisoners in holding facilities, such as those at Guantánamo Bay, are protected by the Geneva Conventions and in its rejection of the International Criminal Court, or ICC); the emphasis upon the unity of the community, in America the "homeland" since September 11, 2001,<sup>22</sup> and the bellicose, militaristic nature of that posited community.<sup>23</sup>

<sup>20</sup> In characteristically counterintuitive fashion, Žižek argues that it is precisely the commissarial form of dictatorship or emergency powers that is to be condemned: "There is one feature common to all reactionary proclamations of a 'state of emergency': they have all been directed against popular unrest ('confusion') and presented as a decision to restore normality. In Argentina, in Brazil, in Greece, in Chile . . ." (Žižek 2002, 108). Following Walter Benjamin's distinction in the eighth of his "Theses on the Philosophy of History" between the "real" and the unreal state of emergency, Žižek proposes "a radical political Act" that will break us out of our current "deadlock" rather than restoring us to the grip of global capital (2002, 152). Interesting as this is, Žižek's enthusiasm for Lenin is in this regard troubling, to say the least.

<sup>21</sup> In ways this central rallying cry is the most open to criticism. It is patently obvious that, terrible as attacks such as those of 9/11 may be, they will threaten the *way of life* of the American people only in their indirect effects on the way the American people, their government, or their press behave.

<sup>22</sup> For a brilliant discussion of the nuances of the rhetoric of "the homeland," see Kaplan 2003.

<sup>23</sup> In a thoughtful consideration of the rise of rule by presidential fiat, Rudi Teitel also draws our attention to the Schmittian premises of these developments (2003, 204). Teitel also argues, however, that the state of exception in which the administration pictures itself acting is an international as opposed to national one: "The current administration's paradigm regarding law is really a form of 'law of the exception' and that . . . is associated with the regime's conception of the itself as the 'sovereign police.' It sees the role of the United States in the world as that of the one and only 'superpower.' In this world vision, the United States has sovereign power over the 'law of the exception'" (2003, 198). This would mark a break with Schmitt in ways that Teitel does not note; as I argue above, Schmitt can dismiss international law because law for him is coextensive with sovereignty, and there is no world sovereign. In a similar way, the current administration establishes a state of exception for aliens and, ultimately, citizens that it exposes to executive fiat; but it does not propose itself to be the world state or the world sovereign. This is not to say that the United States does not



Even more ominous than all of this is the way the Bush administration echoes Schmitt’s “borderline concept” of sovereignty. To some extent this is a matter of the administration’s taking advantage of weaknesses and lapses in the U.S. Constitution, which does not establish a well worked out institutional framework for identifying and addressing states of emergency and constituting a commissarial as opposed to sovereign dictator to meet it. Andrew Arato rightly argues this would require that the dictator, for lack of a better word,

not be self-appointed, and that emergencies be declared and ended by a body he does not control. . . . [A]ll such devices are merely technical and procedural, and . . . behind them “must stand an alert people, a real constituent power.” But it is also true that well-designed rules would provide road signs for coming dangers for an alert citizenry and its organizations. . . . In the United States today, however, none of these principles are satisfied. The rules for emergency powers are extraordinarily flexible; they are determined without consultation, and are subject only to judicial scrutiny that usually comes too late. The president declares the emergency in which he alone exercises its powers. While Congress could end emergencies without fear of veto, and there are no statutory time limits, these provisions are mostly a dead letter. There are thus no legal signposts for public scrutiny of emergencies, and opposition is mostly driven into the inevitably mistaken, fruitless, and unpopular track of condemning all restrictions on civil liberties even in genuine emergencies. [2002, 471]<sup>24</sup>

The president can thus with seeming legitimacy present himself as acting lawfully, or at least not in violation of explicit Constitutional provisions, when he claims extraordinarily sweeping emergency powers for himself. (Though this is of course hotly contested.) The Schmittian nature of this comes out even more clearly when one considers “unlawful combatants,” the most striking objects of Bush’s emergency measures after 9/11. Prisoners have been held incommunicado, without being formally charged, without access to counsel, and without any judicial review, potentially subject to courts established at the command of the president in which the executive branch claims the right to play judge, jury, and executioner. As David Cole rightly notes, “If another country were to lock up and try hundreds of people in secret, we would not hesitate to call the detainees ‘disappeared’” (Cole 2002–2003). It is hardly a coincidence that Guantánamo Bay is itself a case of what Amy Kaplan describes as “legal limbo,”

try to act in the name of humanity and in ways that undermine the sovereignty of other states, only that it does not by so doing establish itself as a police force that as such enforces law or anything like it. It does not intervene everywhere, only where its interests are at stake.

<sup>24</sup> Arato is quoting Carl Friedrich’s *Constitutional Government and Democracy*. For a thoughtful account of the general guidelines that would allow for a constitutional state of emergency that escapes the dangers of Schmitt’s state of exception, see Schulz 2003, 183ff.

a geographical area in which both national and international laws are suspended, leaving it hovering in a realm that is neither domestic nor foreign. The United States has total jurisdiction over this space that the [federal appeals court that denied a writ of habeas corpus on behalf of a prisoner in March 2003] considers extraterritorial; Cuba has nominal sovereignty but no jurisdiction over the same territory it has leased in perpetuity to a foreign power with which it has no diplomatic relations. [2003, 65–66]

Although the administration has made token amendments to its sweeping claims to executive discretion in order to mollify the public, it is in principle committed to an extreme version of what seems to amount to a permanent state of exception in which U.S. citizens as well as aliens are subject, among other things, to indefinite detention at the command of the president without the right to consult a lawyer (Teitel 2003, 203).<sup>25</sup> I say “permanent” here because the administration has openly suggested that this war against evil and terror—which, like all wars fought by the United States since 1945, is one that the U.S. Congress did not even declare—may never end.

This declared state of exception mirrors the ambiguous nature of Schmitt’s, where the sovereign and his actions define a border that is neither within nor without the constitutional order. While, as I have argued above, we are better off viewing the terrorist attacks as violations of national and international law than as acts of war committed by nonstate actors, this is not to say that the matter is completely unambiguous. And this ambiguity opens itself up to the sort of arguments we have seen Schmitt making about the state’s responsibility to establish a state of exception so as to develop the “homogenous medium” that makes possible the application of norms (Schmitt 1985, 13). As law professors Christopher Eisgruber and Lawrence Sager observe in a thoughtful piece on “the blurred boundary between domestic law and foreign affairs after 9/11,” the attacks of 9/11 were in one sense a domestic criminal matter and in another a matter of foreign affairs. This is difficult terrain for U.S. law, as “judges have traditionally granted Congress and the presidency almost complete discretion over questions about immigration, the military, espionage, and many other aspects of foreign affairs” (Eisgruber and Sager 2003, 163). As I have emphasized, the Bush administration has made heavy and effective use of the language of war in this regard; but its practice has been considerably less straightforward, and it has not consistently treated these attacks and the defense against future such attacks as a matter of foreign affairs rather than domestic law. Instead, “the Bush administration has created a third track for detention of suspected terrorists and enemy agents, one that features neither the

<sup>25</sup> As I write this early in 2004, there are promising signs from federal appeals courts in Manhattan and California that the judiciary will not allow this to go unchallenged.

protections of the ordinary criminal process nor the protections of ordinary prisoner-of-war status” (172).

Eisgruber and Sager suggest that the courts should not in response to this abandon their responsibilities, and that they cannot give the executive branch as much leeway here as they have allowed in the past in matters unambiguously concerned with foreign policy.

Courts might . . . not only play a gatekeeping function with regard to prisoner-of-war status, but also insist that the government choose between the criminal law track and the prisoner-of-war track. Such a doctrine would demand that in order for the government to hold people as prisoners of war, it must specify conditions that, if satisfied, would constitute an end to the “war” and hence entitle the prisoners to release. If the government were unwilling to do that, and wanted the power to incarcerate people indefinitely on the basis of the dangerous plots in which they had been engaged, then it would have to try them for crimes. [2003, 172]

In its open resistance to such judicial oversight, the Bush administration comes dangerously close to establishing itself as a Schmittian creature of the border, one that is neither within nor without the constitutional order, and that places “enemy combatants” and others in a permanent state of exception in which they are subject neither to domestic legal norms nor to the rules of international law but only to its sovereign decision.<sup>26</sup>

If the comparison to Schmitt is helpful because of the starkness and clarity with which he expresses positions he shares with Bush and Ashcroft, it is also helpful for the limits he proposes to these dangerous views. The administration has made it plain that wars such as that being fought in Iraq are in large part at least a matter of spoils to be won and shared by the victors. Wolfowitz’s memo appealing to national security as the grounds on which those nations, such as France, Germany, and Russia, who did not support the United States’ preemptive war in Iraq will be barred from bidding for reconstruction contracts is only the most shameless expression of this. The more general problem concerns the privatization of the war business in America. As Chalmers Johnson makes painfully clear, the outsourcing of “every conceivable kind of service except firing a rifle or dropping a bomb” has produced a situation in which “the potential for private profit in U.S. warmaking has become . . . almost impossible to exaggerate. The war [in Iraq] has been a bonanza, for instance, for both Halliburton, the energy holding company, and for Bechtel, the number-one construction contractor in the United States. Dick Cheney was CEO of Halliburton from 1995 to 2000. George Shultz was Bechtel’s president for eight years before becoming Ronald

<sup>26</sup> For an interesting if somewhat excessive account of accused enemy combatants as the objects of a sovereign decision, see Giorgio Agamben’s forthcoming *State of Exception*. I discuss Agamben’s use of Schmitt in my 2003. A more measured if equally disturbing account of the treatment of “unlawful combatants” can be found in Schulz 2003, 93ff.

Reagan's secretary of state." With such a revolving door between companies that profit from war and the occupation of defeated lands and the government, particularly the executive branch, it is not to be expected that wars will cease any time soon. As Johnson puts it, "When war becomes the most profitable course of action, we can certainly expect more of it" (2003, 57, 54, and 58). Schmitt's probable response to this is indicated by his bitter comment in *The Concept of the Political* that "to demand seriously of human beings that they kill others and be prepared to die themselves so that trade and industry may flourish for the survivors or that the purchasing power of the grandchildren may grow is sinister and crazy" (1996a, 48). Schmitt himself may not give us much help in resisting this or any other encroachment of the market upon political matters (Marcuse 1968), but he at least reminds us of the impropriety of what is fast becoming business as usual.

But, of course, the demand to kill and die is never put in these harsh terms to the largely underprivileged men and women serving in the U.S. military. In a remarkably prescient moment in *The Concept of the Political*, Schmitt observes how the sinister lunacy of slaughter and military sacrifice for financial gain leads inexorably to its opposite extreme, that of a war fought in the name of humanity. "A war waged to protect or expand economic power must, with the aid of propaganda, turn into a crusade and into the last war of humanity" (1996a, 79). To fight in the name of humanity does not eliminate enmity, it only makes one's enemy the representative or embodiment of the inhuman. "Evil," "barbarian," "inhuman": such an opponent is worthy of no respect, and can justly be tortured or even exterminated.<sup>27</sup>

For all of the danger of many of his doctrines, even Schmitt recognizes that

humanity as such cannot wage war because it has no enemy, at least on this planet. The concept of humanity excludes the concept of the enemy, because the enemy does not cease to be a human being. . . . To confiscate the word humanity, to invoke and monopolize such a term probably has certain incalculable effects, such as denying the enemy the quality of being human and declaring him to be an outlaw of humanity; and a war can thereby be driven to the most extreme inhumanity. [1996a, 54]

Schmitt mentions in this regard the extermination (*ausrotten*) of the indigent North Americans, and he speculates that, "as civilization progresses and morality rises, even less harmless things than devouring human flesh could perhaps qualify as deserving to be outlawed in such a manner. Maybe one day it will be enough if a people were unable to pay

<sup>27</sup> Schmitt does maintain in *The Concept of the Political* that "all genuine political theories presuppose man to be evil [*böse*]" (1996a, 61; 1932, 49). But Schmitt, in contrast to Bush, is talking about *all* human beings, not just those in the enemy camp. And immediately he goes on to specify, "i.e., by no means an unproblematic but a dangerous and dynamic being."

its debts” (1996a, 54). The irony is heavy here, in the reference to a moral progress that demands outlawing a people and their way of life “in such a manner,” that is, by extermination. Gopal Balakrishnan puts the matter well when he says that Schmitt’s response to this is to propose for politics “a minimal ethic: not love your neighbor, but respect your enemy” (2000, 108).

No doubt it will be hard indeed to respect anyone who does not join us in wholeheartedly condemning the attacks of September 11, 2001. And the fact that this is a struggle against terrorists will make it impossible to end the “war” by compelling the enemy “to retreat into his borders,” as the epigraph from Schmitt to this essay puts it (1996a, 36). The terrorists have no state of their own—indeed, as John Gray has argued, “unconventional warfare of the kind practiced by Al Qaeda has its breeding grounds in the zones of anarchy that flow from failed states,” such as are found in “much of Africa, parts of post-communist Russia, in Afghanistan and Pakistan, in Latin American countries such as Columbia and Haiti and in regions of Europe such as Bosnia and Kosovo, Chechnya and Albania” (2003, 73–74). This argues against conceiving of the struggle against terror as a war. It should also remind us that we shall have to help the people in these sites of chaos give themselves borders and states if we want them to feel anything but victimized and righteously angry—if, in other words, we want them to have political alternatives to terrorism, alternatives that will allow them the autonomy and security enjoyed by those of us who, by an odd coincidence, do not feel driven to self-destructive acts of terror, those of us who are not yet “evil” (Schulz 2003, 26–27). This will require the nation building (or, better, state building) that Bush initially condemned and now practices in a unilateral and opportunistic fashion. And that will in turn require international cooperation and perhaps even some compromises in the United States’ own sovereignty. But sovereignty is not necessarily safety, nor is it justice. And it is a fool’s gamble to seek safety in injustice—just as it is a fool’s gamble to assume that one’s enemy is wholly irrational, and not motivated by an anger and frustration that one might share, and that one might help alleviate. This will no doubt be difficult. But it is not as hopeless a task as ridding the world of evil, nor is it as likely to undermine our own legal and moral order.

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