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The West as Rationality and Representation: Reading Habermas's Structural Transformation of the Public Sphere through Schmitt's Theory of the Partisan

David Pan

First published in 1962, Jürgen Habermas's *Structural Transformation of the Public Sphere* has had a seminal impact on the way that we conceive of the public sphere as a political space defined by rational discourse and the exclusion of violence from political decision-making. His analysis is founded upon the argument that economic developments engendered the movement from a feudal form of representation connected with hierarchy and violence to a modern state in which politics is located in a public sphere of discussion and debate. As Nancy Fraser points out, however, this story of the origins of the public sphere grounds "the structure of public sphere subjectivity in the very same vernacular literary forms that also gave rise to the imagined community of the nation,"¹ and the nation-state remains the implicit political form within which the theory of the public sphere makes sense. Consequently, public sphere theory in general "has been implicitly informed by a Westphalian political imaginary: it has tacitly assumed the frame of a bounded political community with its own territorial state."² In order to address this limitation, Fraser attempts to revise the notion of the public sphere for a transnational context by expanding the participants in public debate to all who are concerned, regardless of citizenship,³ and to "create new transnational public powers that possess

1. Nancy Fraser, "Transnationalizing the Public Sphere: On the Legitimacy and Efficacy of Public Opinion in a Post-Westphalian World," *Theory Culture Society* 24, no. 4 (2007): 10.

2. Ibid., p. 8.

3. Ibid., p. 22.

the administrative capacity to solve transnational problems.”⁴ These suggestions, in thematizing the definition of political identity as well as the structure of sovereignty in a global order, indicate not just the possibility for expanding public sphere theory but a fundamental lacuna in its conceptions.⁵ In failing to thematize the nation-state presuppositions for his model of the public sphere, Habermas ignores the way in which this model is beholden to a Westphalian form of sovereignty and political representation. As a result, Habermas can have no effective response to Kimberly Hutchings’s argument that “the political imaginary embedded in specific understandings of the relation between past, present and future is also crucial to the enabling conditions of any public sphere.”⁶ In fact, Habermas’s story of a rationalizing development from monarchical representation to bourgeois debate is constructed upon the premise that the entire issue of political representation can be superseded by rational debate. To address the issue of the relationship between the political imaginary and the public sphere, then, we must turn to Carl Schmitt’s alternative conception of this same development as a particularly European one that involves not the end but the transformation of older forms of sovereignty and representation. Whereas Habermas speaks of the public sphere in general, as if it were a single, universal phenomenon, Schmitt’s discussion in *The Nomos of the Earth* (1950) considers the Treaty of Westphalia as the establishment of a particular structure of sovereignty and designates the ensuing Western order of politics as a *jus publicum europaeum* and consequently as a specifically European phenomenon that has gained global significance but whose time may be at an end. Later on, Schmitt also discusses the public sphere in his *Theory of the Partisan* (1963), in which the key stake in the struggle of the partisan is the attempt to define the structure of the public sphere by enforcing an alternative representational basis for sovereignty. Schmitt thereby puts in question the idea that the public sphere is a unified phenomenon, suggesting instead that its structure is always dependent on representational forms.

The key issue in this debate is the role of political representation in establishing the structure of sovereignty that determines the parameters

4. Ibid., p. 23.

5. Amy Allen, “The Public Sphere: Ideology and/or Ideal?” *Political Theory* 40 (2012): 826.

6. Kimberly Hutchings, “Whose History? Whose Justice?” *Theory Culture Society* 24, no. 4 (2007): 63.

for the public sphere. While Habermas seeks to limit the effect of political representation on the public sphere, Schmitt recognizes a fundamentally representational dynamic in the establishment of a public sphere. Schmitt's focus on representation leads to a theory of the enemy in *Theory of the Partisan* that sees the phenomenon of partisan warfare, including rebellion, guerilla warfare, and terrorism, not so much as the breakdown of the public sphere but as the originary violence that founds every stable public sphere.

Rationality and Representation

Habermas's argument is built around the thesis that economic developments have led to the establishment of rational discourse as a replacement for representational authority as the basis of political order. He provides both an account of the representational aspect of the public sphere and a history of the dynamic relationship between public and private since the Middle Ages. Whereas the republics of ancient Greece and Rome were built on a separation between the private household and the public realm, in medieval Europe there was no space into which the feudal lord could enter into political debate. As a consequence, the feudal order knew no distinction between private and public, and the medieval form of representational publicity was not a sphere but a status symbol.⁷ Rather than a sphere of political communication or a kind of delegation in an electoral sense, this feudal form of representation is connected to aura and authority and excludes public debate.⁸ Habermas cites Schmitt's *Constitutional Theory* to affirm that "words like excellence, highness, fame, dignity, and honor seek to characterize the peculiarity of a being that is capable of representation."⁹ Feudal representation establishes a hierarchy rather than a space of debate between equals, and it was only with its decline that a public sphere of freedom could develop.

Habermas explains this decline of feudal representation and the rise of a bourgeois public sphere as a consequence of the development of commodity and news networks. The increasing importance of a commodity

7. Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger with the assistance of Frederick Lawrence (Cambridge, MA: MIT Press, 1989), pp. 5–7.

8. Ibid., p. 7.

9. Cited in ibid. See also an alternative translation in Carl Schmitt, *Constitutional Theory*, trans. and ed. Jeffrey Seitzer (Durham, NC, and London: Duke UP, 2008), p. 243.

economy meant that the sources of production and wealth were no longer concentrated in agrarian households, and the economic activities that used to remain within a household sphere became increasingly distributed across trade, manufacturing, and communications networks. In explaining the rise of the bourgeois public sphere as a phenomenon driven by technological and economic modernization, Habermas describes a fundamental shift in human history from a situation in which representation and authority determine events to one in which both technological change and rational discussion become much more important, effectively ending the influence of representation and hierarchy.¹⁰

The shift that would signal the end of representational processes comes in Habermas's argument with the rise of the bourgeois form of publicity that replaces representation with rational debate. He cites in this context Goethe's *Wilhelm Meister's Years of Apprenticeship* as a description of this decline of representational authority itself, focusing on Wilhelm's choice between a career in the theater and the pursuit of business opportunities in his letter to Werner in Book 5 of the novel. As Habermas points out, Wilhelm sees how the aristocrat is still deemed to be the place of representational authority. Wilhelm, as a bourgeois, cannot partake of this representation of himself as himself, and therefore must try to recreate this representational authority in the theater. For Habermas, Wilhelm's theatrical project fails because the public has already become the carrier of a new kind of public sphere that is no longer a form of representational authority.¹¹ Wilhelm's turn toward entrepreneurial activity that bypasses the entire sphere of representation embodies for Habermas the mode by which bourgeois forms of production and commodity exchange undercut aristocratic authority. The result is a world driven by a dispersed form of economic production that can dispense with representation. Rather than depending upon hierarchy and authority for power, the bourgeois can turn to production and wealth on the one hand and rational debate on the other as more objective sources of power. Wilhelm's development proceeds not through a direct engagement in the public sphere of the aristocracy or the theater but as a cultivation of his abilities in the private sphere, by both presenting himself favorably in polite society and pursuing business opportunities.

10. For a similar story of the decline of representation, see Claude Lefort, *Democracy and Political Theory*, trans. David Macey (Cambridge: Polity, 1988), p. 31.

11. Habermas, *The Structural Transformation of the Public Sphere*, pp. 12–14.

The difficulty with this account is that Wilhelm's turn away from the theater and integration into the tower society is in fact an abandonment of the entire project of acting within a public sphere. The secret nature of the society and the focus on entrepreneurial projects lead Wilhelm away from any kind of public or political action. Rather, his subsequent development is marked by his focus on his family and the private sphere, and his further travels are performed in a private capacity that avoids political action. This is not to say that the bourgeois do not have any politics, but that these politics and bourgeois intervention in the public sphere cannot be equated with economic activity or private conversation. Even if this activity provides the material means to become political actors, the entrance of the bourgeois into the public sphere cannot begin until they are able to establish a new order of politics. This does not happen in German territory in the eighteenth and early nineteenth centuries, at least until the beginnings of German nationalism in the Napoleonic Wars, and the example of Wilhelm Meister demonstrates the difference between the private sphere of good society and economic activity, on the one hand, and an entrance into the public sphere of political activity, on the other.

Habermas attempts to avoid this difficulty, however, by focusing his attention on the development of the bourgeois private sphere as a training ground for the public use of reason.¹² However, this account of a new form of discourse based on universal principles runs into difficulties due to Habermas's neglect of the precise mechanisms of representation. The focus of his argument at this point is on the development of a discourse and practice of literature in the seventeenth and eighteenth centuries that shaped the way in which the public sphere would eventually function. He argues that the shift of the public sphere from the aristocratic court to the town enabled the move from mere conversation to criticism. English coffee houses, French salons, and German orders and academies created spaces for critical debate, ignited by works of literature and art, which extended to economic and political disputes with possibly real consequences due to the people present.¹³ For Habermas, the literary public sphere created a kind of

12. *Ibid.*, pp. 27–29.

13. *Ibid.*, pp. 29–36. Habermas notes in this context that the need for secrecy was important to preserving the public use of reason from relations of domination, but that once the public was able to use reason, the secret societies were no longer necessary (*ibid.*, p. 35). Yet, the example of secret societies is instructive because it describes the need for a political change in the definition of private vs. public that would be necessary for the secret

social intercourse in which status was disregarded in favor of the strength of the better argument, establishing the idea of a “common humanity.”¹⁴

In focusing on how the development of a bourgeois private sphere prepared this move from representational authority to critical reflection and argument, Habermas predicates this shift on the rise of literary practices connected with letter writing and the epistolary novel. But Habermas does not characterize this shift as a move to a new form of representation. Instead, even though he describes the rise of a literary genre, he sees this process as one that overcomes the opposition between literature and reality and thereby puts an end to representation itself. His goal is to describe the public sphere as a space that is free of the hierarchy that accompanies the aura of representation. His solution is to argue that the participants in the literary public sphere entered it out of their private life of the bourgeois family, in which letter writing and novel reading established the parameters of a space in which individuals viewed themselves “as persons capable of entering into ‘purely human’ relations with one another.”¹⁵ While Habermas is careful to point out how the perceived autonomy of the private sphere was an illusion,¹⁶ he also affirms that “the ideas of freedom, love, and cultivation of the person that grew out of the experience of the conjugal family’s private sphere were surely more than just ideology. As an objective meaning contained as an element in the structure of the actual institution, and without whose subjective validity society would not have been able to reproduce itself, these ideas were also reality.”¹⁷ Rather than taking the aesthetically mediated self-conception of the bourgeois family as a representation, Habermas treats it as reality. Yet, by attributing this reality to a set of literary practices, he is grounding reality in the representation. “The psychological novel fashioned for the first time the kind of realism that allowed anyone to enter into the literary action as a substitute for his own, to use the relationships between the figures, between the author, the characters and the reader as substitute relationships for reality.”¹⁸ The claim here is that the letters and novels of the bourgeois private sphere were unique in their ability to merge reality

societies to come out of hiding. That political change would be precisely a change in the structure of representational authority.

14. *Ibid.*, p. 36.

15. *Ibid.*, p. 48.

16. *Ibid.*, pp. 46–47.

17. *Ibid.*, p. 48.

18. *Ibid.*, p. 50.

and representation so that there was no longer any opposition between the two. Both formed “the public sphere of a rational-critical debate in the world of letters within which the subjectivity originating in the interiority of the conjugal family, by communicating with itself, attained clarity about itself.”¹⁹ In this conception, the hierarchy of representation has been superseded by the universal equality of the human, and this concept of a universal humanity grounds a new literature that is now an extension of reality rather than an illusion. By eliminating representation, the bourgeois literary public sphere sets up a situation in which there is no longer a hierarchy that can be supported by representation, and public opinion can express itself purely in order to become the basis of law. As a result, laws can claim substantive rationality based on the tie to public opinion: “intrinsic to the idea of a public opinion born of the power of the better argument was the claim to that morally pretentious rationality that strove to discover what was at once just and right.”²⁰

In order to understand how Habermas’s attempt to collapse representation with reality leads to a new form of representation, we can turn to Hans-Georg Gadamer’s *Truth and Method*, which Habermas cites but then drops in the course of his description of the characteristics of representation. As with Schmitt’s earlier characterization of the representation as something that establishes a higher order of being, Gadamer describes the representation as something that on the one hand is to be distinguished from reality and on the other hand has a transformative effect on reality. As opposed to Habermas’s attempt to set up literature as the basis for a critical attitude, Gadamer emphasizes how drama functions by creating in the spectator an experience of total absorption. This experience subordinates the spectator to a structure of representation in a process that Gadamer calls transformation into structure. “Thus the action of a drama—in this respect it still entirely resembles the religious act—exists as something that rests absolutely within itself. It no longer permits of any comparison with reality as the secret measure of all verisimilitude. It is raised above all such comparisons—and hence also above the question of whether it is all real—because a superior truth speaks from it.”²¹ To the extent that

19. Ibid., p. 51.

20. Ibid., p. 54.

21. Hans-Georg Gadamer, *Truth and Method*, 2nd rev. ed., translation revised by Joel Weinsheimer and Donald G. Marshall (London and New York: Continuum, 2004), pp. 111–12.

the drama becomes meaningful, it does not simply recreate reality but in fact establishes a truth that restructures the spectator's view of reality. In this sense, the representation is for Gadamer an event in itself that has ontological significance. The representation transforms the world. "The transformation is a transformation into the true. It is not enchantment in the sense of a bewitchment that waits for the redeeming word that will transform things back to what they were; rather, it is itself redemption and transformation back into true being. In being presented in play, what is emerges."²² The representation is not simply a copy of reality that could either be a faithful copy or an ideological falsification. Representation describes the very process by which human history moves as a succession of events through which reality emerges. So while Habermas seeks to equate reality with the representation in order to protect an authentic reality from falsification through representation, Gadamer ultimately grants to the representation more reality than the so-called original. "From this viewpoint 'reality' is defined as what is untransformed, and art as the raising up (*Aufhebung*) of this reality into its truth."²³ If the original is the past conception, the representation is the new conception that builds upon the past to create the future. The movement of representation constitutes human action as a historical process and forms the content of the public sphere.

Gadamer uses as an example of this process the phenomenon of political representation. When the ruler presents him- or herself in the picture, this image attains a reality that the unrepresented ruler did not previously have.²⁴ This new reality established by the representation then has a structuring effect on the ruler. "When he shows himself, he must fulfill the expectations that this picture arouses." Consequently, there is no self-identical ruler. Instead, the ruler "can no longer avoid being represented by the picture and, because these representations determine the picture that people have of him, he must ultimately show himself as his picture prescribes."²⁵ The ruler's self-presentation becomes subordinated to the representation in the picture, and the very reality of the ruler is constituted by the representation. Rather than being an example or a copy of reality, the representation has an ontological status as that which structures reality

22. Ibid., p. 112.

23. Ibid.

24. Ibid., p. 136.

25. Ibid., pp. 136–37.

and creates the meaning with which the “original” can then be judged and perceived. The movement of representations is in fact the movement of human history.

From Gadamer’s perspective, then, Goethe’s *Wilhelm Meister* is not a copy of reality but a representation that attempts to establish the universality of the bourgeois, and Habermas’s reading of the novel does not uncover the reality behind the novel but follows the novel’s project of interpreting the bourgeois conception of itself as a universal humanity. This project is indeed new, but not because it does away with the process of representation. Rather, its novelty lies in the way that it rejects the ruler’s status as a representational embodiment of the unity of the people. By insisting on the priority of a genuine and universal humanity that expresses itself in the private sphere, Goethe’s novel imagines that the people can enact its identity directly without representational mediation. This dream of a self-identical and unmediated humanity then motivates Habermas to argue that the law-making guarantor of the bourgeois sphere is not any kind of ruler but a self-identical common humanity. “The bourgeois public’s critical public debate took place in principle without regard to all preexisting social and political rank and in accord with universal rules.”²⁶ The universal rules replace the structures of representation, and, without a ruler, public opinion could express itself as a natural order, unencumbered by the irrationalities of representation.

Though Habermas claims that a universal humanity can naturally present itself without representation, he must still refer to letters and novels as the purveyors and mediators of this conception. Yet, if this idea of a self-identical humanity that directly expresses a universal nature is itself based on a representation, then the idea of a universal humanity is itself a representation rather than an underlying reality. Rather than establishing a universal merging of reality with representation, the bourgeois private sphere establishes a particular vision of the people as a self-identical collective, one that no longer needs representation because it enjoys a natural identity with itself. If this vision is itself a representation, then, like every representation, it has ontological being and real consequences. One of the primary consequences is that people can no longer be content to be represented by the ruler. Instead, the people must now continually represent itself to itself as self-identical. But if any collective includes a

26. Habermas, *The Structural Transformation of the Public Sphere*, p. 54.

diversity of identities, the presumption of self-identity leads to a new kind of representational practice, one that is no longer content to allow for the heterogeneity of the people to be subsumed under the identity of the ruler. Instead, the presumption of self-identity leads to the enforcement of an imagined homogeneity.

The Partisan Character of the Public Sphere

It is at this point, however, that we suddenly find ourselves in the world of the partisan. The partisan claims to be the embodiment of the people, that is, public opinion, against that which is foreign, and in fact the partisan is Schmitt's designation for the same people that Habermas calls the bourgeois. While Habermas sees the bourgeois as the true representatives of a public opinion that would provide a rational basis for law,²⁷ Schmitt describes these same bourgeois as the first partisans because they are the first to claim to embody the people as a self-identical entity rather than a represented one. But if, as Gadamer argues, the original only constitutes itself as such as a consequence of the representation, then the self-identical character of the people is itself the product of the conception that the partisan has of this people. Because this conception is in fact only a representation, the defenders of the representation are not part of a universal humanity but in fact partisans, defenders of a particular perspective.

This identification of the partisan with the bourgeois does not constitute a replacement of rationality with representation, however, but rather a recognition of the role that each plays in a political order. As Richard Bernstein points out, Hannah Arendt's 1963 *On Revolution* also focuses on the debate, deliberation, and critical discussion that Habermas describes as the "normative core" of the public sphere, but she locates the preeminent examples of this kind of debate in revolutionary moments such as the American Revolution, specifically, "the public discussions and debates that *culminated* in the writing and ratification of the Constitution."²⁸ The place of rational discussion is primarily in situations when a partisan group has agreed on a set of collective goals and there is a debate on how to achieve them. The establishment of these goals as the ones that define a community and a political order, however, does not depend on

27. See also, Lefort, *Democracy and Political Theory*, pp. 34–35.

28. Richard J. Bernstein, "The Normative Core of the Public Sphere," *Political Theory* 40, no. 6 (2012): 771, emphasis in original.

a universal, deliberative process but a partisan, revolutionary one, and Arendt's *On Revolution* provides the connection between Habermas and Schmitt, indicating that the structure of the public sphere itself is never neutral and cannot be determined through rational discussion, but through the representational and violent actions of revolutionaries.

In contrast to Habermas's focus on the rise of the bourgeois and of commodity exchange as the drivers of the movement toward the modern public sphere, Schmitt draws our attention to the French Revolution and the Spanish guerilla fighters that fought against Napoleon. In *Theory of the Partisan*, Schmitt in fact lays out his alternative to Habermas's account of the transformation of the representational processes of the feudal age into the bourgeois public sphere. While Schmitt agrees that the dynastic houses of Europe maintained a structure of representation that maintained sovereignty over the individual states, he does not see the upsetting of this order as a rationalizing process. Rather, he sees the system of dynastic houses as a European system of political order, the *jus publicum europaeum*, whose key accomplishment was to have put an end to the kind of total war that resulted from confessional conflicts. For him, a change in the public sphere does not occur until the French Revolution actually challenged the older representational forms directly and politically. By putting into question the conventions and ideological assumptions embedded in the dynastic system, the French Revolution threatened to overturn the *jus publicum europaeum*.

Consequently, Schmitt designates Napoleon as an enemy for this older political order, and with this kind of enmity comes the possibility for partisan war. The irregularity of the partisan was not just the irregularity of the skirmisher nor of the criminal. While the skirmisher simply conducts a different type of tactical warfare along with a regular army, the criminal only seeks personal gain without any ideological agenda.²⁹ In contrast to these two forms of irregularity, the partisan attacks the structure of political order and thus of the public sphere. Schmitt notes the centrality of the attack on the very existence of a particular public sphere: "The regular fighter is identified by a soldier's uniform, which is more of a professional garb, because it demonstrates the dominance of the public sphere. The weapon is displayed openly and demonstratively with the uniform. The

29. The conception of the partisan that focuses on the criminal character is one that does not understand the partisan's conception of order and sees it only as disorder. See Gil Anidjar, "Terror Right," *The New Centennial Review* 4, no. 3 (Winter 2004): 58–59.

enemy soldier in uniform is the actual target of the modern partisan.”³⁰ The distinction between regularity and irregularity lies in the regular soldier’s domination of the public sphere. If the soldier in uniform is the target of the modern partisan, it is because this partisan is fighting to establish an alternative public sphere with different rules for determining who the legitimate political actors are. It is only in the contrast to regularity that irregularity gains meaning.³¹ The parties to this struggle to determine the public sphere are consequently enemies for Schmitt because their disagreement is a fundamental one in which the result cannot be a plurality of conceptions but the establishment of a single set of rules for the public sphere. Since there can only be one organization for the public sphere in a particular time and place, a disagreement about its structure can only be resolved if one of the parties becomes excluded from the public sphere or if the parties are able to eventually come to an agreement about its structure.

Schmitt dates the birth of the partisan to the Napoleonic wars because Napoleon’s armies themselves attacked the structure of the public sphere that dominated the previously existing order of European public law.³² The French Revolution transforms war from something that takes place between ruling families within a single organization of the public sphere into something that is carried out in order to establish a new public sphere based on bourgeois and Enlightenment values. These values could be exported all over Europe, and consequently, during the French occupation of Spain, as Schmitt notes, “the educated strata of the nobility, the high clergy, and the bourgeoisie were mostly *afrancesados*, i.e., they sympathized with the foreign conqueror.”³³ Similarly, in Germany “the great German poet Goethe wrote hymns to Napoleon’s glory, and the German educated elite never was certain about where it belonged.”³⁴ While this Enlightenment conception of order gained adherents all over Europe, it was only a partisan conception that still had to contend with defenders of the old order. The resulting conflicts in Spain and Germany were as much civil wars as anti-Napoleonic ones. This internal uncertainty about whom to support in these wars meant that the Spanish guerillas claimed to

30. Carl Schmitt, *Theory of the Partisan: Intermediate Commentary on the Concept of the Political*, trans. G. L. Ulmen (New York: Telos Press Publishing, 2007), p. 14.

31. *Ibid.*, p. 3.

32. *Ibid.*

33. *Ibid.*, p. 6.

34. *Ibid.*

embody the self-identical Spanish people, but in doing so were also partisans, defenders of a particular faction who fought against both internal and external enemies.³⁵ Partisan war was not a simple case of a local defense against a foreign invader, as Schmitt contends, but an attempt to establish a particular *interpretation* of what the proper basis of order should be.

This increasing role of interpretation was in fact a consequence of the logic of self-identity that Habermas describes as the achievement of the bourgeois mode of literary life. The increasing ideological importance of individual sentiment allowed Napoleon to create a link between war and individual sentiment in order to forge his large citizen armies (in contrast to the aristocratic focus of the officer corps in previous wars and in other armies). In doing so, Napoleon's armies gave birth to the partisan to the extent that, once the link was forged between war and individual sentiment, this sentiment could become the basis for defining or redefining a political collective based on various representations that define the self-identity of the people. Partisans are linked to each other based on their convictions about the identity of the people, but this focus on the self-identity of the people is already a key part of Napoleon's army. If Schmitt identifies the Spanish guerillas opposing Napoleon as the first partisans, their appearance is a result of their acceptance of Napoleon's focus on the people as the locus of political identity.³⁶

The key conflict in the Napoleonic wars was consequently between a public sphere organized around aristocratic hierarchies, on the one hand, and the new republican structures created through the French Revolution that defined political identity in terms of the "people," on the other. From this republican perspective, the military structures of the *ancien régime* could be interpreted as a system designed to defend the dynastic system of sovereigns all across Europe against opposing conceptions of order. In this context, the wars between ruling houses were fought as limited ones, because none of the parties to war sought to overturn the system of order.

35. Teodoro Klitsche de la Grange, "The Theory of the Partisan Today," *Telos* 127 (Spring 2004): 170.

36. On this point, see Rodolphe Gasché, "The Partisan and the Philosopher," *The New Centennial Review* 4, no. 3 (Winter 2004): 13–15; and David A. Bell, *The First Total War: Napoleon's Europe and the Birth of Warfare as We Know It* (Boston: Houghton Mifflin, 2007). By contrast, Gabriella Slomp passes over Napoleon in order to argue that the first partisans in Schmitt's argument are the Spanish guerillas opposing Napoleon. Gabriella Slomp, "The Theory of the Partisan: Carl Schmitt's Neglected Legacy," *History of Political Thought* 26, no. 3 (Autumn 2005): 510–11.

As a revolt of the bourgeois against this entire system of order dominated by the European monarchies, the French Revolution was an attack on the regularity of the *ancien régime* and therefore a kind of all-out war that did not obey the rules of the dynastic order and indeed sought to destroy those rules. The partisan character of Napoleon's campaigns was a consequence of the ideological situation of French republicans fighting against a form of regularity that was grounded in an older, dynastic order of politics. Napoleon was not simply engaging in a war within this earlier mode of politics, but was attempting to do away with this mode of politics entirely. Therein lay the partisan character of his situation, which then led to the irregular military tactics. As Schmitt notes, "A Prussian officer from that time saw Napoleon's whole campaign against Prussia in 1806 as merely 'partisan warfare on a grand scale.'"³⁷ This conflict about the structure of political order, rather than about a particular military technology, creates the possibility of the partisan, who does not recognize the regular order as a legitimate one, even when the partisan wins the regular war.

The difficulty that Napoleon eventually encountered was that his redefinition of war as a war of the people against the aristocratic order was so successful that it established the idea of the people as the basis of political identity all over Europe. But in order for the people to become the locus of political identity, there needs to arise a new form of regularity, that is, a new organization of the public sphere. The people cannot exist as an abstract entity nor as a kind of self-evident ground. The destruction of the *ancien régime* could not result in a kind of pure humanity without representation but meant the establishment of a new order with a new representational structure. Partisan war resulted from the need to determine the character of this new representational structure.³⁸ To the extent that bourgeois Enlightenment values established a notion of the self-identity of the people, Napoleon tried to present his conquests as the triumph of a universal humanity. If, however, the vision of a universal humanity was itself a representation, and not shared by his enemies, then these enemies would perceive Napoleon's conquests not as victories for the benefit of a universal humanity but as part of an expansion of a French nationalist

37. Schmitt, *Theory of the Partisan*, p. 4.

38. Banu Bargu also points to the importance of this representational aspect in emphasizing the importance of myth in the creation of the partisan. Banu Bargu, "Unleashing the Acheron: Sacrificial Partisanship, Sovereignty, and History," *Theory & Event* 13, no. 1 (2010): n.p.

ordering of the public sphere and, by extension, a nation-based understanding of political identity. These two alternative interpretations of Napoleon's armies as representatives of either a universal humanity or the French nation resulted in two opposing notions of the structure of the public sphere and of the *nomos* of the earth.

Both Napoleon's armies and their enemies acted then as partisans, each side defending a specific interpretation of the terms of the conflict. The birth of the partisans who fought against Napoleon was predicated on his success in defining political identity in terms of the people, but in which the interpretation of the idea of the people began to vacillate between universal humanity and national identity. When Schmitt writes that "[t]he new art of war of Napoleon's regular army originated in the new, revolutionary form of battle,"³⁹ he is describing the change in the representational basis of political identity in terms of the consequences for military organization, in which the new armies are no longer hierarchical structures in which officers are opposed to common soldiers but rather citizen armies that are motivated by a popular spirit. If Napoleon tried to define this popular spirit as part of a universal humanity, his establishment of republican procedures to embody this universality falls prey to the same representational dynamic that undermines Habermas's attempt to establish neutral procedures for regulating the public sphere. The republican procedures that Napoleon set up in the conquered territories established a specific order with representations and customs that could not be universal but always particular in their embodiment. Since the idea of the self-identity of the people could then be seen as itself a representation, Napoleon's armies were not always accepted as the representatives of a universal humanity, but could be interpreted to be the army of a foreign nation in Spain and in Germany once Napoleon succeeded in occupying them. This difference of interpretation of the meaning of Napoleon's conquests as either the triumph of a universal humanity or the expansion of the French nation created the factions that led to partisan war.

The possibility of partisan war is consequently dependent on the emergence of a conflict between diverging interpretations of order.⁴⁰ It is in this

39. Schmitt, *Theory of the Partisan*, p. 4.

40. The issue of interpretation creates the connection between political order and the friend/enemy distinction that Alberto Moreiras finds lacking in Schmitt's theory of the enemy. Alberto Moreiras, "A God Without Sovereignty. Political *Jouissance*. The Passive Decision," *The New Centennial Review* 4, no. 3 (Winter 2004): 80. Because a difference in the interpretation of political order creates the enemy relationship in partisan war,

way that the partisan always must be linked in some way, either through military support or through a vision of the future, to a regular order. As Schmitt writes, “the armed partisan remains dependent on cooperation with a regular organization.”⁴¹ The dependence on a regular organization is not just the result of a need for supplies and weapons,⁴² but arises out of the need for a connection to a vision of order that provides ideological legitimacy.⁴³ The tie to regularity is a tie to an alternative vision of the public sphere that would then be the basis of the regularity that is being envisioned by the partisan. Without the tie to regularity, the partisan does not represent an alternative order and thus cannot make any claim to ideological legitimacy. The partisan only avoids becoming a mere criminal to the extent that s/he represents an excluded notion of the public sphere that either already exists in some other place or can be imagined for the future. Without this alternative vision, there would be no way for the partisan’s violence to open onto a new order. Violence and representation must combine in order to create the parameters for a new structure of the public sphere.

The rise of the partisan is then the symptom of a conflict of interpretations over the structure of the public sphere. “A commonwealth exists as *res publica*, as a public sphere, and is challenged if a non-public space develops within it, which actually repudiates this public sphere. Perhaps this explanation is sufficient to demonstrate that the partisan, who displaced the technical-military consciousness of the 19th century, suddenly reappeared as the focus of a new type of war, whose meaning and goal was destruction of the existing social order.”⁴⁴ If the meaning of the new type of war is the conflict over the structure of the social order as it is institutionalized in a public sphere, then we must revise our notion of the public sphere to see it not as the single normative space based on rational debate that Habermas describes but rather as a specific organization of

each order does not produce political divisions within itself but rather establishes its own interpretation of order that then must be in a position of enmity with regard to competing conceptions of order.

41. Schmitt, *Theory of the Partisan*, p. 17.

42. Slomp, “The Theory of the Partisan,” p. 515.

43. Eva Horn, “‘Waldgänger,’ Traitor, Partisan: Figures of Political Irregularity in West German Postwar Thought,” *The New Centennial Review* 4, no. 3 (Winter 2004): 140; Tarik Kochi, “The Partisan: Carl Schmitt and Terrorism,” *Law Critique* 17 (2006): 281.

44. Schmitt, *Theory of the Partisan*, p. 72.

representational forms that structure debate and discourse in a particular way and within a particular order.

This conception of the public sphere as a specific representational form for the structure of law and order allows Schmitt to categorize different public spheres based on the types of enemies that each structure of the public sphere engenders. Citing the pronouncement by Theodor Däubler that the “enemy is the figure of our own question” (“der Feind ist unsere eigene Frage als Gestalt”),⁴⁵ Schmitt differentiates between the limited enemy, the real enemy, and the absolute enemy as the different enemy conceptions that result from three different structures of the public sphere that have existed in Europe. The limited enemy is the enemy of the dynastic order that sought to limit the virulence of wars between European sovereigns, who all recognized each other’s rank and standing. As opposed to the notion of order of the medieval *respublica Christiana*, the “state was a unified, self-contained area of European soil that became recognized as a *magnum homo* [great man]; only now it was in form a legal subject and a sovereign ‘person.’ Only with the clear definition and division of territorial states was a balanced spatial order, based on the coexistence of sovereign persons, possible. The new *magni homines* had equal rights that were mutually recognized as such.”⁴⁶ Because the different opponents in the wars of the eighteenth century all belonged to the same European system of political order and “European sovereigns remained personally a close-knit family, through consanguinity and succession,”⁴⁷ the wars could be carried out on the model of duels rather than as total wars. “Owing not only to the public character of each sovereign person, but also, and above all, to the fact that this order was a true spatial order, it was a ‘public legal’ (*publici juris*) order.”⁴⁸ This public sphere of the *jus publicum europaeum* continued to shape European conflict until challenged by the idea of the self-identity of the people announced by the French Revolution.

This new public sphere based on the idea of the nation inaugurated the real enemy, which Schmitt designates as the enemy that is proper to

45. Theodor Däubler, “Sang an Palermo,” in *Hymne an Italien* (Munich: Georg Müller, 1916), p. 58; quoted in Carl Schmitt, *Theorie des Partisanen: Zwischenbemerkung zum Begriff des Politischen* (Berlin: Duncker & Humblot, 1963), p. 87. Ulmen translates this passage as “the enemy defines us” (Schmitt, *Theory of the Partisan*, p. 85).

46. Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*, trans. G. L. Ulmen (New York: Telos Press, 2003), p. 145.

47. Ibid.

48. Ibid.

the nation-state form of public order.⁴⁹ With the demise of the interstate *jus publicum europaeum*, Schmitt privileges the nation-state order because he sees it as the most stable, allowing for a dividing up of the earth into separate territories, each with its own local population. A key characteristic of the partisan for Schmitt is therefore the partisan's telluric character, that is, the relationship to the land that makes the true partisan always a defender of local territory rather than an attacker or invader. By contrast, the new "motorized partisan" who is motivated by an ideology such as communism knows no bounds and is no longer purely defensive but rather seeks to totally obliterate the enemy. This ideological focus creates total wars and an absolute enemy that Schmitt seeks to distinguish from the defensive "real" enemy of the local partisan.

But as we look closely at the rhetoric that Schmitt employs in making this distinction, we see that he engages in the same kind of myth-making that he otherwise attempts to uncover. When describing communist partisans, he denigrates them as motorized partisans and as part of a kind of machine. "Such a motorized partisan loses his telluric character and becomes only the transportable and exchangeable tool of a powerful central agency of world politics, which deploys him in overt or covert war, and deactivates him as the situation demands."⁵⁰ By contrast, Schmitt uses a romantic imagery to describe the telluric partisan: "Yet, his [Czesław Miłosz] love for his Lithuanian homeland and its forests does support us in adhering to the telluric character of the partisan."⁵¹ Though Schmitt insists on the telluric character of the genuine partisan, his use of a mechanical metaphor as opposed to a romanticized image of forests indicates that the difference is in fact a representational one. That is, the telluric status of the partisan is simply part of the representational mythology of a specific type of land-oriented partisan as opposed to the representational mythology of an ideology-oriented partisan. The orientation toward the land is itself a form of ideology that implies a particular organization of the public sphere around national identity. Consequently, the difference between the telluric

49. While Gabriella Slomp argues that "the protagonist of conventional [limited] enmity is the nation-state" (Slomp, "The Theory of the Partisan," p. 510), Schmitt clearly distinguishes between interstate war of the *jus publicum europaeum* and the national war introduced by the French Revolution and then suppressed with the Congress of Vienna: "They [the Jacobins] replaced purely state war with national war and the democratic *levée en masse*" (Schmitt, *The Nomos of the Earth*, p. 150).

50. Schmitt, *Theory of the Partisan*, p. 22.

51. Ibid., p. 22, note 33.

and the motorized partisan tends to dissolve into the difference between two visions of the *nomos* of the earth, one that locates sovereignty in each separate nation-state and another that sees an overarching universal basis for sovereignty in an idea, such as materialism (in the case of communism) or a monotheistic religion (in the case of political Islam).

Conclusion

Schmitt's understanding of the relationship between enemy conceptions and the structure of the public sphere results in an alternative way of understanding the problem of plurality. Critiques of Habermas's notion of the public sphere have tried to make it more open to plurality by allowing it to include more adversarial relationships. Chantal Mouffe, for example, in her critique of Habermasian deliberative democracy, outlines a critique that recognizes that, according to Wittgenstein, "to have agreement in opinions there must first be agreement on the language used and this, as he points out, implies agreement in forms of life."⁵² She uses this insight in order to argue that the seemingly neutral procedures that Habermas lays out for organizing the public sphere are in fact not neutral but imply a particular set of practices that require loyalty and commitment. As a consequence, she recognizes that there are certain antagonisms that cannot be resolved through rational discussion. Yet, the solution she offers is to create a situation in which "the 'other' is no longer seen as an enemy to be destroyed, but as an 'adversary,' i.e., somebody with whose ideas we are going to struggle but whose right to defend those ideas we will not put into question."⁵³ By transforming enemies into adversaries, Mouffe's conception of a pluralist democratic practice attempts to recognize conflict but defuse it by maintaining mutual recognition of the "other." The Schmittian description of enemies implies, however, that, while conflicts between limited and real enemies might be amenable to a reduction and even elimination of violence, there also exist absolute enemies that are separated by a fundamental incompatibility in their visions of order and consequently in their understandings of the prerequisites for communication. While Mouffe's conception may work for the limited and perhaps even the real enemies that Schmitt describes, they would fail to provide a solution for conflicts between absolute enemies.

52. Chantal Mouffe, "Deliberative Democracy or Agonistic Pluralism?" *Social Research* 66, no. 3 (Fall 1999): 749.

53. *Ibid.*, p. 755.

If each public sphere is based on a specific set of representational structures that authorize the procedures that make up a particular form of life and corresponding political order, Schmitt's typology of enemies corresponds to three different modes of conflict between public spheres based on the degree of compatibility between representational forms and allows us to determine the possibilities for reconciliation and conflict inherent to each type of enemy relationship. The limited enemy is one in which there is a basic compatibility between enemies in their representations of order and their practices and procedures for resolving conflict. Because of their agreement on the basis of order, relations between limited enemies are the ones that are most amenable to the kinds of reforms of procedures that Habermas envisions for replacing violence with discussion. Schmitt's example here is the structure of conflict between European dynastic houses established after the Treaty of Westphalia and lasting to the beginning of the French Revolution. The limited quality of these conflicts was a consequence of a shared understanding of the overarching basis for order in the traditions of the European dynastic houses.

By contrast, real enemies are those that do not recognize a single basis for order but are willing to recognize territorial limits to their own conceptions of order. While it may not be possible for them to replace violence with discussion, there is the possibility of peace based on a mutual recognition of the other's existence and a mutual recognition of the territorial basis for global order. Here, the primary example would be the differences between separate representations of the political unity of a people that entail different organizations of the public sphere between different nation-states in the nineteenth and twentieth centuries. World War I would be an example of the kind of possible, but also avoidable, conflict between real enemies that can arise between nation-states, each with its own representational basis for order within the bounds of a specific territory.

Finally, the distinction between telluric and motorized partisans lays out an even more fundamental conflict that makes them into absolute enemies. Such enemies are those whose visions of global order are so incompatible that they exclude each other, each seeking to universalize a particular conception of global order that would necessitate the destruction or the transformation of the other. In Schmitt's terms, the conflict between absolute enemies embodies a conflict between incompatible understandings of the *nomos* of the earth. This kind of conflict is not confined to partisan war in Schmitt's analysis, and Peter Uwe Hohendahl points out

that in the end Schmitt “merges partisan warfare and interstate nuclear warfare.”⁵⁴ Consequently, the key issue is not the difference between state and non-state actors but the competing existence of incompatible conceptions of order. While the French Revolution gave birth to a republican mode of order that became an absolute enemy for the dynastic houses, both international communism and militant transnational Islamism present a fundamental challenge to the nation-state ordering of global relations. The alternatives in these situations are either the elimination or, more likely, the transformation of one or both sides of the conflict. This has happened in both the case of European monarchies and international communism, both of which have become marginalized as representational forms for structuring political identity.

Since the nation-based conception continues to structure the international order, and its territorial boundaries establish a possible limit to wars, we still live within a *nomos* of the earth that originated out of the Treaty of Westphalia. In spite of the movements of transnational migrations and economic relations, the system of nation-state distinctions still underlies this global ordering. To the extent that plurality can exist within a system of nation-states, this global ordering is not necessarily a Western-centric one, even though it traces its roots to a Western development. At the same time, alternative structures of representing political unity based on ideologies such as communism and Islamism that subordinate national identity to an overarching theological framework continue to challenge the Westphalian order, leading to absolute enemies that seek to overturn the entire nation-state system and replace it with an alternative conception of international order, in which an overarching religion rather than nationality provides the defining representational basis for political identity. Such absolute enmity does not have to end in destruction, though previous examples indicate that the outcome will mean transformation. If this result might include the adoption of the idea of a global Islamic community in the “re-formation of the public sphere as a transculturally open secular space,”⁵⁵ this would not occur as an innocuous expansion of the public sphere but only as part of a new structure of sovereignty.

54. Peter Uwe Hohendahl, “Revolutionary War and Absolute Enemy: Rereading Schmitt’s *Theory of the Partisan*,” *Constellations* 18, no. 4 (2011): 540; Schmitt, *Theory of the Partisan*, pp. 93–94.

55. Armando Salvatore, “Secular Formations and Public Spheres in a Transcultural Perspective,” *Journal of Intercultural Studies* 30, no. 3 (August 2009): 300.