

EX CAPTIVITATE SALUS

Carl Schmitt (2017). *Ex Captivitate Salus: Experiences, 1945-47*. (A. Kalyvas & F. Finchelstein, Eds., M. Hannah, Trans.). Cambridge: Polity.

Ex Captivitate Salus is a strikingly unique book in the canon of Schmittian works. Presented as an introspective reflection by Schmitt on his life and position within world history, it was— unlike *Glossarium* and the other diaries being published – deliberately prepared for publication, as a sort of public justification. At the same time, it is – unlike most of Schmitt’s works on political or legal theory – presented through personal experiences and recollections, above all the experience of his internment after the Second World War. Despite this personal tone, the intellectual significance of *Ex Captivitate Salus* should not be discounted, as it contains crucial reflections on the role of enmity, resistance, and the trajectory of world history, as well as reinterpretations of earlier arguments and prefigurations of later turns in Schmitt’s work. In this new translation, Matthew Hannah (the translator), Andreas Kalyvas and Federico Finchelstein (the editors) introduce this neglected work by Schmitt to the Anglophone public in an excellent, clear, and well-contextualised version that should cement the central place of *Ex Captivitate Salus* in Schmittian scholarship.

Ex Captivitate Salus contains seven short texts in which Schmitt seeks largely to portray Germany – and himself – as victims of world history. Each text carefully builds on this self-interpretation – laid out in Chapter 1, “Conversation with Edward Spranger” – as a victim of “the *small* tragedy of human righteousness” and of “the *great* tragedy of human dogmatism,” before which he considers himself as “defenseless but in no sense destroyed.” (15) Throughout the book, Schmitt draws on the images of the “Christian Epimetheus” (15) and of Benito Cereno (22), a powerless trapping for the evils of others, which he enabled against his intentions and his will.

Schmitt acknowledges his silence in the face of the Nazi regime, but claims in Chapter 2 – “Remarks in Response to a Radio Speech by Karl Mannheim” – that this silence indicated not agreement but freedom from totalitarian conformity. In a rather surprising reversal from his argument in the *Leviathan in the State Theory of Thomas Hobbes* – in which Schmitt attributed the failure of the liberal state derived from the Leviathan to Hobbes’ granting of private freedom of conscience (as long as this free thought remained hidden) – Schmitt here uses this very claim to free conscience to exculpate himself. In his words, “the mind has once again outmaneuvered the Leviathan” (19) through Schmitt’s “withdrawal to private interiority” (20). Here, as Schmitt reverses his argument from 1938, one runs into the complexity of having to decide whether to accept as genuine either Schmitt’s defense of the total qualitative state or his claim that “the mind is in essence free and brings its own freedom with it” (21). Despite Schmitt’s claims to seek transparency of essence (13-15) in this work, one certainly gets the sense of a carefully constructed and scripted apologia.

The other overarching justification in this chapter is an appeal to the “eternal link between protection and obedience.” (21) Schmitt claims immunity from judgment by those who did not experience “the danger of those twelve years: the difference between a genuine and a false public sphere, and the counteracting force of silence and quiet.” (23) Prefiguring concerns that reappear later in the *Theory of the Partisan*, Schmitt addresses here for the first time the right and duty of rebellion against the state. When one is faced with a breakdown of protection and obedience – when obedience ceases to guarantee protection – then “he must determine the boundaries of his loyalty himself, namely when the situation becomes so abnormal that one no longer knows where even his closest friend really stands.” (22) Partisan resistance is therefore not an absolute duty, but an independent judgment that each must make alone when the state cannot be relied upon to identify friend and enemy. Just as, in the *Theory of the Partisan*, resistance occurs when the state abdicates its monopoly on the political decision in the face of defeat (Schmitt, 2007, p. 6), here the failure of the state to establish political order and regularity opens a space for the individuation of the definition of friend and enemy. Most importantly, however, as he argued in *The Concept of the Political* and again in *Theory of the Partisan*, Schmitt insists that judgment from outside is impossible – only those having “recorded and experienced” (Schmitt, 2017, p. 15) this exceptional situation can adequately judge the validity of the decision to resist or not.

More generally, this work by Schmitt continues a significant trend throughout all his work, namely the opposition to universalism and legal positivism – in other words, to principles which are valid in all situations and can be judged externally. The exception, the political, the nomos, and the theory of the partisan all rely on an appeal to situational norms (Schmitt, 2005, p. 13) (or “concrete” norms), and Schmitt’s opposition to the criminalization of collaboration with the Nazi regime continues in this vein. Thus, in Schmitt’s view, Spranger claims “superiority” (Schmitt, 2017, p. 14) due to his being on the side of “all that was right, all that rightness could provide, *iusta causa* and *res iudicata*.” (15) Against this, Schmitt argues that one cannot understand the decision to resist or remain loyal if one does not experience the conditions which make this choice necessary.

Even further, Schmitt claims to be “the last knowing representative of *ius publicum Europaeum*, its last teacher and researcher in an existential sense.” (60) This assertion, as well, can be related to Schmitt’s defense in *Ex Captivitate Salus* of the need for experiential knowledge. Schmitt, through his self-identification with the position of the vanquished – as made evident by his self-identification with Tocqueville in Chapter 3 – purports to be in a unique

position to diagnose the collapse of the *ius publicum Europaeum*: “Through all of this I have passed, / And all has passed through me. / I know the many forms of terror, [...] I know them all and I know their grip.” (73) Schmitt claims, like Bodin and Hobbes, to be “entirely formed by civil wars,” (53) in his case the global civil war which followed the end of the *ius publicum Europaeum*. He likens this context to the confessional wars prior to the Treaties of Westphalia (16) which – he argues – led to the rise of jurisprudence as an independent discipline constraining the political (57-58); this global civil war, conversely, is predicated on the collapse of jurisprudence, which is transformed “into means and methods of annihilation.” (48) Schmitt thus positions himself as completely defeated: as a German, as an individual, and as a jurist.¹

Chapters 5 – “Ex Captivitate Salus” – and 6 – “Wisdom of the Cell” – revert to a more traditional Schmittian style, rather discursive and academic. Chapter 5 discusses the fate of the juridical profession, particularly the influences of Hobbes and Bodin. Drawing on the origins of modern jurisprudence in the secularization of the political – “Silete, theology, in munere alieno!” (56), Schmitt equates the disappearance of neutral jurists (as he considers himself) with the disappearance of the *ius publicum Europaeum*. In Chapter 6, Schmitt revisits the concept of the enemy from an existentialist perspective. Real enmity, in his view, “is an objective power [which] will not let itself be deceived.” (70) This enmity, however, relies on mutual acknowledgment: “the other proves to be my brother, and the brother proves to be my enemy.” (71)

This English edition of *Ex Captivitate Salus* is preceded by a comprehensive introduction which situates this work within its context. Kalyvas and Finchelstein emphasise Schmitt’s absolute belief in order – “Any order is better than disorder” (6) – as well as his fear of increasing prevalent civil wars (11) – global and domestic – as dominating trends in his work, particularly exacerbated in *Ex Captivitate Salus*. They argue that this work “represents such an evocative and unique statement of Schmitt’s own self-understanding,” (4) although they do not supply much evidence or arguments why Schmitt should be taken to be absolutely truthful in this work (as I noted above, there are certainly inconsistencies between *Ex Captivitate Salus* and earlier works such as *The Leviathan in the State Theory of Thomas Hobbes* that deserve examination); that being said, the editors do not shirk away from noting the big omission by Schmitt in this work, namely any mention of the Holocaust, of Nazi atrocities, or of his own relationship or involvement with these crimes.

Furthermore, this edition ought to be commended for the quality of its translation. Matthew Hannah renders Schmitt’s words with clarity and attention to conceptual precision, citing the original wherever ambiguity could arise. As a potent example, Hannah renders “die Escavassaden des Schicksals” in the first line of the “Song of the 60-year Old” as “destiny pulling on the reins” (73), a translation that aptly renders Schmitt’s obscure equestrian metaphor. Only André Dorémus, in the French edition, adopts a similar translation (Schmitt, 2003, p. 171; 282); Gary Ulmen, in his translation of the poem for *Telos*, rendered it inadequately as “tribulations of fate” (Schmitt, 1987).

This long-overdue edition of *Ex Captivitate Salus*, while it will likely not have the reorienting impact on Schmitt studies that *The Nomos of the Earth* had fifteen years ago, should lead

¹ Kalyvas and Finchelstein describe Schmitt as being defeated as a German, Jurist, European, and Fascist (5).

to the questioning of significant assumptions in Schmittian scholarship, notably on the question of enmity, of protection and obedience, and on the trajectory of Schmitt's thought. *Ex Captivitate Salus* provides a uniting thread between pre-war, wartime, and post-war Schmitt, and is well deserving of a place in the English canon of Schmittian texts.

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