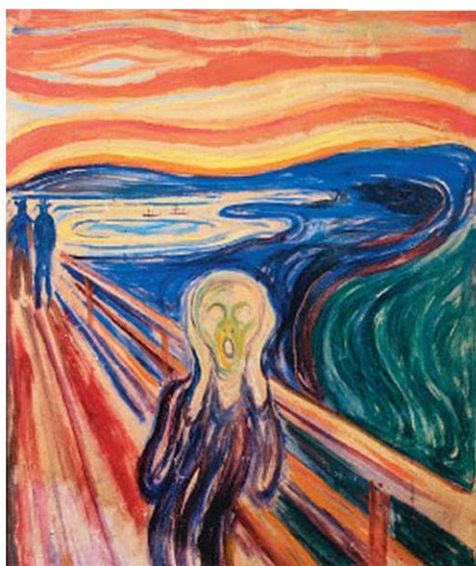


# FILOSOFIA DO DIREITO e contemporaneidade



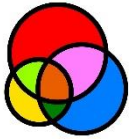
$\Phi$  editora fi

Leno Francisco Danner  
Marcus Vinícius Xavier de Oliveira  
(Orgs.)



O livro que o leitor tem em mãos é fruto de um trabalho coletivo levado a efeito pelos autores que acolheram o desafio proposto pelos organizadores de pensar a filosofia do direito a partir de diversos contextos e problemas, mas que tem um, por assim dizer, núcleo comum: a contemporaneidade. É certo que os conceitos, quando dissociados de seu necessário contexto, são nada mais do que chavões que não cumprem a função para as quais aqueles existem: orientar o pensamento e tornar possível a compreensão dos problemas aos quais se buscou, ao fim e ao cabo, responder. Posto isso, o que devemos entender por contemporâneo? A seguir as lições de Roland Barthes no Colège de France, “[...] contemporâneo é o intempestivo” [contemporaneo è l’intempestivo]. Trata-se, como se pode perceber, de um conceito interessante, quase um paradoxo: se geralmente pensamos o contemporâneo como aquilo que nos é atual, no tempo e no espaço, para Barthes ele significa aquilo que é extemporâneo, aquilo que chega atrasado, e por isso é imprevisível, mesmo inoportuno; e por assim ser, contemporâneo é o que “[...] diven[e] storico e non cessa di operare [...] como l’embrione continua a agire nei tessuti dell’organismo maturo e il bambino nella vita psichica dell’adulto [...]”. Nesse sentido, todos os trabalhos aqui reunidos se preocupam em dar respostas a problemas contemporâneos/extemporâneos da filosofia jurídica, sejam eles relativos à relação entre religião, estado e sociedade, o (nem sempre enfrentado) conceito de político em Carl Schmitt a partir da tríade estado-movimento-povo, o da superação do jusnaturalismo pelo juspositivismo ou o lugar da Grundnorm no pensamento do Kelsen internacionalista, assim como os demais trabalhos.





Série  
Filosofia & Interdisciplinaridade

30

Leno Francisco Danner  
Marcus Vinícius Xavier de Oliveira  
(Orgs.)

# Filosofia do Direito e contemporaneidade

Porto Alegre  
2015

|  $\Phi$  editora fi

# *The curious case of the ambiguous constitution of the political in Carl Schmitt*

---

Agemir Bavaresco  
Danilo Vaz-Curado R. M. Costa

## **Introduction**

The following study aims at presenting the concept of the *political* and the ambiguities found in its use, parting from the reflections about the *political unit* and its triple division, as they are exposed in the text *Staat, Bewegung, Volk* by Carl Schmitt. In order to achieve its aim, this text will be divided in three parts.

The first part of the text will reconstruct the notion of the political in the work *Concept of the Political*, showing its structure, its aim and its conceptual determinants. In this part, we hope to delimit the ordinary and common pattern in Carl Schmitt's argumentations about the concept of the *Political*, thus preparing the conditions for the central thematization to be developed in the present text.

In the second part, the present paper will explain how this concept of the *Political* is organized, and will show its constitution as having in its genesis a triadic structure, the same structure which is exposed in *State, Movement, People*,

trying to determine its structure, proposal and conceptual determinants.

In the third part, a comparison will be made of the conceptual perspectives of the *Political* as they are shown in *Concept of the Political* and *State, Movement, People*, to argue, in the following part, in terms of an ambiguity of the concept of the political shown in *State, Movement, People*, without having to assume with this a rupture in the order of concepts in Schmitt's thinking.

### 1. The Political in *The Concept of the Political*

The first question that imposes itself is: why begin a text about the ambiguity of the political in the work SBV<sup>97</sup> with another work, namely *The Concept of the Political*? The answer seems to be extracted from the proper development of concepts in Schmitt's thinking, because if in BP<sup>98</sup> the political emerges as consubstantial of the State and the crisis of this relationship is the focus of the essay, in the general context of the scientific production, the *Political* will be a theme that will not enjoy any other explanatory corpus until approximately 1969 with the new edition of *Political Theology*.

There are several reasons which could explain this absence of the thematization of the question of *the political*, but we admit that this absence is mainly due to the clarity and maturity which this subject assumes already in *The Concept of the Political*<sup>99</sup>, a maturity which should be re-evaluated in consideration of the troubled times before World War II.

---

<sup>97</sup> Staat, Bewegung, Volk [State, Movement, People].

<sup>98</sup> From now on, every time the work *Concept of the Politician* is mentioned, the abbreviation BP will be used.

<sup>99</sup> In this context, Sandrine Baume's *Carl Schmitt penseur de l'Etat* makes useful reading.

Carl Schmitt declares in his afterword of the BP of 1932 that the concept of the *political* is an immeasurable one, which differs from the usual concepts of political theory in general and political science specifically, on which quantitative methods of measurement concerning its valor and potential of diagnosis are applied, for example: *participation of the people*, political Party etc.

This immeasurable character resides in the vitality status of the object to which it refers itself, because since life itself generally is dynamic, and the *political* is one of the essential dimensions specifically of human life, its field cannot be delimited by definitions *ad extra*<sup>100</sup>. All definitions, which appeal to a concept that does not belong to the argumentative sphere in appreciation, are understood as *ad extra*, for example, discussing the state parting from a playful principle, etc.

To understand the *Political*, apart from this necessary comprehension of the field of the political, the phenomenon's repeated re-incursions in history, in its always renewed formation, cannot be let escape from view. One of the principal conclusions Schmitt arrives at in his introductory reflections about the delimitations of the political *field* in BP<sup>101</sup> is that: the concept of the State is extensible to the Political, and there has happened the State's dethronement as detainer of the monopoly of the political.<sup>102</sup>

---

<sup>100</sup> Carl Schmitt, *Der Begriff des Politischen*. p. 9 „Das Beziehungsfeld des Politischen ändert sich fortwährend, je nach den Kräften und Mächten, die sich miteinander verbinden oder voneinander trennen, um sich zu behaupten“.

<sup>101</sup> *Der Begriff des Politischen [the concept of the political]*

<sup>102</sup> Carl Schmitt. *Der Begriff des Politischen*. p.10 „Der Staat als das Modell der politischen Einheit, der Staat als der Träger des erstaunlichsten aller Monopole, nämlich des Monopols der politischen Entscheidung, dieses Glanzstück europäischer Form und occidentalen Rationalismus, wird entthront.“

Such an observation belongs to the level of the historical configurations of the determination of the field of the political as a condition of the destitution promoted by liberalism in the area of the State, taking away from the state-owned being the primacy and capacity to coalesce the dimension of the political<sup>103</sup> which promotes order.

Schmitt points out that liberalism and its analytical tendency of quantifying reality and subsuming the space of decision to calculation, deliberation to interest, public affairs to private desire, disarticulated the *Political* as a dimension of the State and dissolved it into civil society.

In the light of his reflection about the incapacity of the State, at the time of Liberalism, to constitute, coalesce and be the space of the *Political*, Carl Schmitt comes to the conclusion that “the concept of the State presupposes the concept of the political”<sup>104</sup>, but that the association of the *state-owned* and the *political* is not legitimate anymore<sup>105</sup>, because, if the State constitutes itself as the peculiar condition of a people that provides the means of decision, at the same time in Schmitt’s time, as it seems to be the case in our time, such decisions were put in the merely practical-scientific field of deciding depoliticized institution, emptying the polemical dimension of the political.

According to Schmitt, this trajectory of dissociation between the *Political* and the *State* begins at the time of the Absolutist State in the 18<sup>th</sup> century and is consummated with the Neutral State of the 19<sup>th</sup> and 20<sup>th</sup> centuries. With their

---

<sup>103</sup> For an ample vision of this theme, see Bernardo Ferreira, *O risco do político*.

<sup>104</sup> Carl Schmitt. *Der Begriff des Politischen*. p.13 „So lautet gleich der erste Satz: »Der Begriff des Staates setzt den Begriff des Politischen voraus.“

<sup>105</sup> Carl Schmitt. *Der Begriff des Politischen*. p.24 „Dagegen wird die Gleichung Staatlich = Politisch in demselben Masse unrichtig und irreführend, in welchem Staat und Gesellschaft sich gegenseitig durchdringen [...]“.

principles of representativeness, Parliament, equality, individualism, the State under the Rule of Law, among other things, democracy and liberalism abolished the unity between the state and the Political by depoliticizing the sphere of action of the political inside the state.<sup>106</sup> In Schmitt's opinion, there has happened a rupture of the relationship between human life and the institutionalized forms of its realization itself, delivering human action to the field of tendency, instrumental action and privatization of the world of life.

With liberalism occurs a false politicization of the intermediary social instances through the disappearance of the distinctions between the various levels of organization of sociability (for example religious, cultural, economic, juridical, and scientific). By eliminating the distinction which marked these meta-levels, liberalism ends up erasing the distinction between *State* and *Society* itself, thus leading to the state's incapacity of putting itself as the *detainer of the monopoly of the Political*.

By delimitating the constituting dimensions of sociability, which determine the political, depoliticizing them, and nullifying their limits, democracy and liberalism neutralize the agonism that nurtures and vivifies the relationship between: State and Society, State and the Political etc. By doing this, instead of suppressing the *political*, they allowed that in the face of the displacement of the State as place of the *Political*, the political emerged in its most immediate form, as it shows itself in civil society. In conducting the dislocation of the *political* from the *state* to its intermediate organizations, the dispersion of political space conducted its loss of autonomy. Civil society not only

---

<sup>106</sup> The perspective developed here stands exactly opposite to that of Sandrine Baume in *Le talon d'Achille de la distinction schmittienne Du politique*, where there is a error of the political as localized in the state in an obvious devaluation of explicit hints of Carl Schmitt against such a localization.



subsumed the place of the political, but it neutralized the state's action.

Before we establish the distinctive criterion of the political, it is necessary to line out the use of the expression to avoid inconsistencies, because the political is the central concept of Schmitt's reflection until the Second World War, and is substituted only after the fall of National Socialism by the notions of *Nomos*, *Grossraum* and *concrete order*, even when taking into consideration the established record in *BP*.

As paradox as may be an affirmation like this, the political constitutes itself in various dimensions<sup>107</sup>, like the one where it has a (i) **saving pretention**, which is that of remaking the spiritual texture of an entire people and specifically the German people, in other words restore to the institutions the lost political unity; in the same way, the political can assume a (ii) **transcendental dimension**, by constituting itself as the condition of possibility for legal and political order in contemporary society; and finally, a (iii) **technical dimension**, where the *political* is object of study of a specific science, political science, among so many other possible uses.

Therefore, in the eyes of Schmitt, *the Political* constitutes itself in the condition of communal organization, any kind and any way of communal organization, which underlies that same organization, without submitting to the rational criteria of its self-comprehension.

The political is a concept from an extreme sphere, in other words, it does not allow or let itself be seized by the conceptual outlines of the science which approaches it, but passes over them. An example of this is the text *Political Theology*. There, the *political* is studied in the light of its theological realization. Another example is *State, Movement, People*, where it emerges in the light of its realistic condition.

---

<sup>107</sup> Here, we follow in general the reflections of H. G. Flickinger in *Social Movements and the Construction of the Political*, p. 13f.

None of these ways of reading, however, is condition for the other, they are complementary.

With this previous clarification, we can approach the way of outlining the notion of the *political* in the work *Concept of the Political*, referring to the antinomy *friend – foe*. The first question that comes to mind is why Schmitt uses a dualistic criterion to circumscribe the notion of the political. The answer certainly lies with the foe itself that Schmitt puts in front of himself, liberalism, and its capacity to neutralize all dimensions with which it relates by distinguishing and depoliticizing them.

The use of the criterial dualism possesses the dynamic character of separating and distinguishing the spheres to be established by its use, without reducing them to this criterion. Such a distinction promoted by the criterion *friend – foe* is conceptual, but not defining, in other words, it permits its conceptual seizure without having to enclose it within the limits of a definition. In this way, such a criterion can relate to any specifically political action, without submitting it to a model of a normative kind. Remember, the political is a concept from an extreme sphere.

Concerning his criterion, Schmitt remarks

The specifically political distinction, to which political actions and motives can be related, is the discrimination between friend and foe. It provides a conceptual determination in the sense of a criterion, not of an exhaustive definition or specification of contents.<sup>108</sup>

---

<sup>108</sup> Carl Schmitt, *Der Begriff des Politischen*. P. 26 [trans. 51] „Die spezifische politische Unterscheidung, auf welche sich die politischen Handlungen und Motive zurückführen lassen, ist die Unterscheidung von Freund und Feind. Sie gibt eine Begriffsbestimmung im Sinne eines Kriteriums, nicht als erschöpfende Definition oder Inhaltsangabe.“

It is important to accentuate here that the present distinction does not place itself among the clear opposites like good and bad, morally proper, or beautiful and ugly. While typical of an esthetic judgment, such an opposition is put there as a *criterion* and not a valorizing judgment in itself. Schmitt believes that in this way his criterion has objectivity,<sup>109</sup> because it is capable of confronting other differentiations without reducing itself to them, summing up, to be understood as something independent.

The opposition *friend-foe* [Freund-Feind] just indicates the grade of intensity in a relationship with view to an associative, communitarian, and thus to a political end! Schmitt's admonition is fundamental, because the foe is not necessarily immoral, esthetically ugly or economically the rival.

The foe is the stranger [*Der Fremde*], the one who denies what presupposes my concept of the State, by extension denying me as existentially the carrier and consignee of the political.

The *stranger as foe* is all that carries the antagonistic principle to my existential concretization of the political, where the possessive pronoun *my*, of course, is not understood as the first person singular of a concrete subject, but that of a concrete community.

It must still be registered that the foe is the *public*, *hostis*, and never *inimicus*; all the tension of the concept lies in *polemos*, so as not to fall back into the liberal argument of the foe as rival. Foe is what is seen as the greatest political antagonism, as the most extreme contraposition.

---

<sup>109</sup> Carl Schmitt, *Der Begriff des Politischen*. P. 28 [trans. 53] „Die seinsmässige Sachlichkeit und Selbständigkeit des Politischen zeigt sich schon in dieser Möglichkeit, einen derartig dpezifischen Gegensatz wie Freund-Feind von anderen Unterscheidungen zu trennen und als etwas Selbständiges \u0026u0026 begreifen.“

In the words of Flickinger, Schmitt “[...] recognizes the sphere of the political as the last and insurmountable resort for the legal-rational legitimization”<sup>110</sup> of communitarian life, and he has to be understood in the terms of this explanation.

## **2. The *Political in State, Movement, People***

First, an explanation has to be given for the choice of such a controversial text. Why? The *first* justification lies in a certain forgetfulness that it was submitted to because of the irreparable errors Schmitt committed in his personal choices; a *second* justification lies in the polemic character in which it is constituted, delimitating, describing and explaining in an immediate way and without prevarications the concept of the political as it arises in a *state of emergency*, in which Carl Schmitt falls when he edits the text; and the *third* justification is that the ambiguity, which will be argued as being present in the text and constitutive of the notion of the political, is what confers its internal coherence in Schmitt’s entire work.

*State, Movement, People* is a little text which is generally associated with Schmitt’s opportunism in the face of the ascension of National Socialism, which is divided in three parts: (i) The actual constitutional situation<sup>111</sup>, (ii) the tripartite linkage of the political unity<sup>112</sup>, (iii) the bipartite construction of the liberal-democratic State and the actual state of public service<sup>113</sup> and, last, (iv) authoritarianism and

---

<sup>110</sup> H. G. Flickinger in *Social Movements and the Construction of the Political*, p. 16.

<sup>111</sup> Carl Schmitt, *Staat, Bewegung, Volk*, pp. 5-10.

<sup>112</sup> Carl Schmitt, *Staat, Bewegung, Volk*, pp. 11-22.

<sup>113</sup> Carl Schmitt, *Staat, Bewegung, Volk*, pp. 22-32.

homogeneity of race as fundamental concepts of national-socialist law<sup>114</sup>.

As an introduction, the question has to be asked why Schmitt adopts, in *State, Movement, People*, a triadic structure as hermeneutic constituent of the *Political*, and not the antinomian dualism of *BP*. Two reasonable hypotheses can be established. The first refers to the political-constitutional state of affairs itself at the generative and formative moment of the text, which changed brutally, getting out of a State under the rule of liberal law into the resignation of a State of total exception. The second is linked to the necessary reconfiguration of the political, because of the entrance of a reorganizing, mediating element into its structure <sup>115</sup> by the substitution of the liberal state.

Concerning the new constitutional situation of Germany as basic element of Schmitt's reflections, it is necessary to always point out that the ascension of National Socialism happened by the ways provided by juristic positivism, which finds in Law the ultimate criterion of legitimacy, something that goes strictly against Schmitt's thesis at the time.

A second mentioning has to be made of the innovative character to which was alluded before, concerning the conformation of pre-Nazi<sup>116</sup> National Socialism in its role as driving element of the energetic forces

<sup>114</sup> Carl Schmitt, *Staat, Bewegung, Volk*, pp. 32-46.

<sup>115</sup> We do not join here theses like that of Reinhard Mehring, who regard Schmitt as a pathetic Hegelian, as if the triadic option hides an old Hegelian thesis which had already been exposed in his book *Orbit of the Planets* that "Quadratum est lex naturae, triangulum, mentis", the square is nature's law, the triangle the spirit's. Meaning that the triadic structure corresponds to the law of the Spirit itself which constitutes the world.

<sup>116</sup> I call the ascension of National-Socialism, until the change of the total state into the racist state and the first enactments violating the rights of the first order like liberty, life, property, opinion etc., in short, the liberal rights, pre-Nazi.

at that time. They can be translated into a phrase of Schmitt's in *State, Movement, People* that "The primacy of the political leadership assumes the function of a fundamental, positively valid law of the present State."<sup>117</sup>

Through which is deduced that the relationship between National Socialism and Schmitt's thinking, or the thesis that Schmitt was National Socialisms ideologist, must be put into context in a better way and not just assumed, as does, for example, Zarka.<sup>118</sup>

This new thing is the appropriation of the political by one of its constituting dimensions, something unknown to liberalism which dissolved the political, neutralizing it. This new data which presents itself in *State, Movement, People* will reveal itself as the internal point of coherence of Schmitt's work, namely, the essential character of the political and its necessary assumption as legitimizing condition for the juridical.

It is notable that even where Schmitt's thinking accesses to the horrors of a political understanding of the world like that of National Socialism, it has no opportunist character and is no mere access, but the belief in the *Political* as fundamental dimension of the political existence.

What is this new structure of the political and what is its function towards *State, Movement, People*, which determinate it?

Beginning with the determining factors, we affirm with Schmitt that there is a primacy of the *Movement* over State and People<sup>119</sup>, so that the *Movement* is the binding element which pervades, leads and structures the unity of their political constitution.

---

<sup>117</sup> Carl Schmitt, *Staat, Bewegung, Volk*, p. 10.

<sup>118</sup> ZARKA, Yves, Charles, *Um détail nazi dans La pensée de Carl Schmitt*. Paris: PUF, 2005.

<sup>119</sup> Carl Schmitt, *Staat, Bewegung, Volk*, p. 12.

Schmitt professes that they connect and relate in a transversal manner. They also have different notes and distant constituents; there is a kind of *conformatio oppositorum* between them. Each word – *State*, *Movement*, *People* – as delimitating nucleus of the semantics of its constitution, has the ability to represent the differentiated and the differentiating, as well as the political unity,<sup>120</sup> without promoting the discontinuity which is constitutive of them.

The elements *State*, *Movement*, *People* are arranged as follows:

- The State corresponds to the political element in its *static dimension*.
- The movement carries out the political element in its *dynamic dimension*.
- The people, in its turn, reveals itself as element of the *apolitical dimension* [*unpolitische*].

There is no true opposition amongst them, and this leads to Schmitt's rupture with the antinomian model of Weimar and the dualism used in *BP*, because such a presupposition would imply assuming that the new (National Socialism) has to use the old (liberalism), thus restoring the liberal rips, and relativizing the constitution of the political.

Concerning this point, Schmitt is peremptory enough, affirming that "The living cannot legitimize itself from what is dead, nor does strength have to legitimize itself

---

<sup>120</sup> Carl Schmitt, *Staat, Bewegung, Volk*, p. 12. „Jedes einzelne der drei Worte Staat, Bewegung, Volk kann für das Ganze der politischen Einheit gebraucht werden. Es bezeichnet aber gleichzeitig auch eine besonder Seite und ein spezifisches Element dieses Ganzen.“

from weakness”<sup>121</sup>. At first view, such a perspective seems a kind of transposition of violence to political language, but, on the contrary, Schmitt wants to emphasize the inseparable, agonized character of the *Political*.

Already at this point in Schmitt’s work, there are signs of ambiguity structuring the Political, because if in *BP* the political was a concept of extreme sphere not to be submitted to a scientific-instrumental logic, to a *definition*, Schmitt tries, in *State, Movement, People*, to establish an enclosure to the political, denying its proper meta-rational or pre-rational origin which cannot be reduced to the logical-metaphysical or descriptive discourse of science, by identifying it with the movement and describing it with scientific pretensions of a functional type.

But where is the enclosure of the Political in *State, Movement, People*? To Schmitt, the answer is clear and can be found in the identification of the movement with the political and the restoration of the thesis that the political *presupposes the State*, which had already been proclaimed in *BP* and was implemented in *State, Movement, People* as an ideological excuse for the national socialist movement.

If, in *BP*, the State is the *field of the political*, in *State, Movement, People* the political will be localized in the *movement*. There is, in *State, Movement, People*, a spacial-temporal determination and a conceptual localization of the *political in the movement*, while in *BP*, the field of the political was only determined in space, not in time.

Because of this difference of the *space of the political* in the works *BP* and *Staat, Bewegung, Volk*, it is possible to argue that there is an initial sense of coherence in Schmitt’s analysis of the *political* in the two works, because the *political is not static*, while at the same time proposing its ambiguity.

---

<sup>121</sup> Carl Schmitt, *Staat, Bewegung, Volk*. P. 8. „Das Lebendige kann sich nicht am Toten und die Kraft braucht sich nicht an der Kraftlosigkeit zu legitimieren.“



---

In Schmitt's words:

Especially the movement is as much the State as it is the people; and neither the present State (in the sense of political unity), nor the present German people (as subject of the political unity *German Reich*) could be imagined without the movement.<sup>122</sup>

In this way, Schmitt connects the structure of the concept of the political in *State, Movement, People* with its identification with the movement. Where in *BP* there was a criterion of visualization of the political, in *State, Movement, People* there is the proper hypostasized identification of the *Political* with one of its constituting dimensions.

In this perspective developed by Schmitt, the movement plays a logical role of mediation [*Vermittlung*] between the dimensions which, because of the political-liberal organization, remained lost in their extremes (the state and the people), and reconnects them.

In this way, the party or the movement is as much the people, where it belongs to the party's political project, as it is the State, where it is constituted of the body of organs and divisions of the State which are linked and reunified by the movement<sup>123</sup>, which realizes its political essence in the technical-bureaucratic dimension.

In this way, the *Political* loses its polemic character, and its new constitution empties its agonizing character so that it ceases to be a concept from an extreme sphere which cannot be reduced to a data of reality, and identifies directly with reality itself, reducing itself to one of reality's constituting moments.

---

<sup>122</sup> Carl Schmitt, *Staat, Bewegung, Volk*, p. 12.

<sup>123</sup> It is necessary to remember here that National Socialism instituted the suppression of party plurality and instituted the reign of one party alone.

Schmitt affirms that “The tripartite articulation [...] does not transpire only in those cases, where people try to overcome the dead ends of the liberal-democratic system [...]”<sup>124</sup>, in other words, the new constitution of the political proposed by Schmitt possesses as one of its constituting dimensions the overcoming of the crossroad posed by liberalism to understand the State as rule of law, dissolving it into the normative molds of universals like: right to education, right to liberty, right to equality, renouncing its political-existential dimension, which advocates no right to [...], but the unity between *Being* (the political) and its normative pretensions (the must-be).

And the dead end to which Schmitt alludes is the fact that, before national-socialism, the State had lost the primacy and the monopoly over the Political, dissolving, dispersing and diffusing it in the spheres of morals, economy, law, religion etc. The political is now, however, *enclosed* in one of the vectors through which it should become effective, the *movement*.

Flickinger adduces that “The valorization of the national-socialist movement [by Schmitt] feeds on the complaint that the democratic-representative system neglects or even represses the true space of the political as place of the public struggle for the common good of the community as a whole.”<sup>125</sup> Such an assertion is only partly true, because in the last instance it would imply the argument of Schmitt’s opportunism and his pathetic character professed by Mehring.

In *State, Movement, People*, coherent with what was exposed in *BP*, Schmitt replaces the assumption of the State by the Political not in a theoretical programmatic way, but in a definitive way, adducing that

---

<sup>124</sup> Carl Schmitt, *Staat, Bewegung, Volk*, p. 13.

<sup>125</sup> H. G. Flickering in *Social Movements and the Construction of the Political*, p. 19.

In our time, it is impossible to determine the political parting from the State; on the contrary, the State has to be determined parting from the Political. Consequently, the constitution of the State, constructed since the 19<sup>th</sup> century by this State, and the legality deduced from it, move from the centre of the community to a different place of political life.<sup>126</sup>

In *State, Movement, People*, the political dislocates from the **State** as dimension which, following the liberal road, structured itself in a static way, to the **Movement** as dimension which, emerging as liberalism's foe, structured itself as carrier of social dynamics and owner of a kind of authority that, due to the circumstances of the time, legitimized itself in a self-referring way.

In Schmitt's view, movement, as originating dimension of the political, will promote the political vivification of the static dimension, giving it life and dynamics, and will include in the agonizing processes of making effective the communitarian whole, the apolitical dimension of the people, outside its essential dimension.

The movement, in entering between the apathy of the people and the stagnation of the State, has claimed the space of the political for itself, enclosing it and transferring to the normative apparatus of the State the agony that is part of the movement as structure above and for the State.

In this way, the passage in Schmitt of a bipolar criterion or model of the comprehension of the political, based on the distinction friend-foe, internalizes itself in a partition into three of the dimension of the political, creating

---

<sup>126</sup> Carl Schmitt, *Staat, Bewegung, Volk*, p. 15. In the original: „Heute kann das Politische nicht mehr vom Staat her, sondern muss der Staat vom Politischen her bestimmt werden.“

the ambiguity in this concept which is central to his works, as we will now explain.

Such internalization corresponds to the appropriation of the German State, and consequently of the criterion and field of the political, by National Socialism, conducting the internalization of the answer to the liberal proposal in *BP* as legitimizing model of the process of the emptying of the political antagonism itself.

And it is here that emerges at full strength the ambiguous character of the political in *Staat, Bewegung, Volk*, because by internalizing the bipolar model inside of a triadic structure, localizing the political inside the *movement*, Schmitt replaced the political as originator of the institutions at the price of the fact that the criterion of the political of *BP* becomes an instrument of the realization of the *national socialist* project itself.

Schmitt turns his comprehension of the Political in *State, Movement, People* ambiguous in the exact measure in which, by not renouncing from the conceptual field of the Political of *BP*, but localizing it as an internal part of the National Socialist State, he has to restructure the *Political* according to the new determinations as exposed in the *movement*, creating an internal antagonism between the internal bipolarity of the state-owned political and the monochrome of the movement.

Where before, the friend-foe relationship described the sphere of the political, after the arrival of National Socialism, the space of the political is described by the friend-foe relationship as it is understood within the limits of the movement, because according to Schmitt

“The movement, in a specific sense, is the political element of the community, the dynamic motor in front of the static element of the public apparatus which resorts to the political standardizations and decisions which it contains; it also guarantees

---

politically the de-politicization of municipal and syndical auto-administration.”<sup>127</sup>

### 3. Of the Ambiguous Character of the Political in Schmitt

First it will be necessary to advise that ambiguous in this case is used of a concept that has several meanings and cannot, therefore, be reduced to a definition, imprisonment or scientific reductionism. Up to a certain point, any concept that cannot be defined is, therefore, ambiguous.

In this case, the evaluation of the ambiguity in the concept of the political in *State, Movement, People* can be resumed in some key points like: The loss of autonomy of the political field, the scientific explanation of its object, the improper identification of *the whole* of the phenomenon *with one* of the ways in which it comes into being, the dislocation of the political to politics, among other data of ambiguity which could be ventilated here.

In *State, Movement, People*, Schmitt dislocates the field of the political to the field of politics, describing in terms of instrumental, strategic action a concept, which is of pre-rational basis and therefore irreducible to an empirical or historical dimension of its coming into being.

By doing this, Schmitt fell into the same drift as liberalism, although in the opposite sense, meaning: if liberalism depersonalizes, neutralizes and depoliticizes the autonomous space of the political by falling back on the impersonality of the normative order and the identification of the State as addressee of the political with the coldness of the ‘it has to be legal’, Schmitt, in the opposite sense, structures the political in a modal hyperrealism, where the movement categorically excludes the other spheres (State and People) as dimensions which carry the political.

---

<sup>127</sup> Carl Schmitt, *Staat, Bewegung, Volk*, p. 17.

In this bias of identifying the *Political* with the *Movement*, Schmitt suppressed the autonomy of the political by identifying it directly and without mediation with the movement, and the movement with the national socialist party, taking away all the potential of the diagnosis exposed once in *BP*, and turning the political into a descriptive, empirical concept.

By describing in empirical terms the phenomenalization of the *Political* with functional data and descriptions, like the regulation, structure and even the dynamics of the movement, Schmitt included a new deficit in the loss of autonomy of the political, when with the attempt of making a science out of its object, after the enclosure followed its standardization.

During the process of turning his object into something scientific, Schmitt commits a second error, that of taking a part for the whole in a clear argument *pars pro toto* which he puts and which inappropriately universalized a concrete fact.

On the other hand, would these identifications in Schmitt's proposal in *State, Movement, People* not have the opposite effect to that claimed in this text, that is, would not they take away the ambiguous character of the political?

Not exactly, because it is argued in the present text that there is continuity between *BP* and *State, Movement, People* in the sense that the criterion of the political exposed in *BP* was internalized in *State, Movement, People*.

In this way, when the movement became the carrier of the truth about the friend-foe dimension, it turned the concept of the *Political* into an ambiguous concept, because it became the carrier of two opposed hermeneutical dimensions, that of the *Political as political* which belongs to *BP*, and this other one of the *Political as Politics* which belongs to *Staat, Bewegung, Volk*.

In this interpretative context, Carl Schmitt's moderate realism as it is exposed in *BP*, succumbs to the

hyper-realism of *State, Movement, People*, and the *political*, in all its perplexity, reveals the incapacity to be imprisoned, turning Schmitt slave to his own work, because when he tries to turn the invisible visible and to think of describing the phenomenalization of his concept, he really describes a *simulacrum*.

## References

BAUME, Sandrine. *Carl Schmitt, penseur e l'État – Gènese d'une doctrine*. Paris: Press Sciences PO, 2008.

\_\_\_\_\_. *Le talon d'Achille de la distinction schmittienne du politique*. in Carl Schmitt: Nomos, Droit et conflit dans le relations internationals. Org. Ninon Grangé. Rennes: Press Universitaires de Rennes, 2013.

FERREIRA, Bernardo. *O risco do Político*. Belo Horizonte: Ed. UFMG/IUPERJ, 2004.

FLICKINGER, Hans-Georg. *Movimentos sociais e a construção do Político*. Civitas – Revista de Ciências Sociais v. 4, n° 1, jan.-jun. 2004.

HOOKER, William. *Carl Schmitt's International Thought Order and Orientation*. New York: Cambridge University Press, 2009

MEHRING, Reinhard. *Pathetisches Denken: Carl Schmitts Denkweg am Leitfaden Hegels: katholische Grundstellung und antimarxistische Hegelstrategie*. Berlim: Duncker & Humblot, 1989.

MEHRING, Reinhard. *Carl Schmitt, Der Begriff des Politischen: ein kooperativer Kommentar*. Berlim: Akademie Verlag, 2003

SCHMITT, Carl. *Staat, Bewegung, Volk: die Dreigliederung der politischen Einheit*.

Hamburg: Hanseatische Verlagsanstalt, 1933.

\_\_\_\_\_. *Der Begriff des Politischen*. Berlim: Duncker & Humblot, 2002. Siebente Auflage.

\_\_\_\_\_. *O Conceito do político*. Trad. Álvaro Valls. Petrópolis: Vozes, 1992.

\_\_\_\_\_. *Der nomos der Erde - im Völkerrecht des Jus Publicum Europaeum*. Berlim: Duncker & Humblot, 1974. Zweite Auflage.

ZARKA, Yves Charles. *Um détail nazi dans la pensée de Carl Schmitt*. Paris: PUF, 2005.