

HOSTILITY AND HOSPITALITY

Panu Minkkinen

Every time new lands and seas come into the sight of collective human consciousness through a new thrust of historical force or through an outflow of new energies, the spaces of historical existence also change. New scales and dimensions of politico-historical activity are born, new sciences, new orders, new lives of new or reborn nations. The expansion can be so profound and surprising that not only the measure and scales or the external human horizon are changed, but even the very structure of the concept of space. (Schmitt 2001, 56–57.)

According to *Lewis and Short* – the standard Latin dictionary used in classical studies – the etymologies of the words ‘hostility’ and ‘hospitality’ share a common root which has to do with food. The root of the word *hostis* is the Sanskrit *ghas* meaning ‘to eat’, ‘to consume’, or even ‘to destroy’. And even though it is unclear as to who eats and what, a *hostis* is a stranger and a foreigner. Only later did it come to mean the object of hostility, an ‘enemy’. Now *hospēs* on the other hand, is thought to have originally been a compound, a union of *hostis* and the prefix *pa-* from *pasco* meaning ‘to cause to eat’, ‘to feed’, ‘pasture’. Hence *hospēs* as ‘he who entertains a stranger, a host’.

The words ‘hostility’ and ‘hospitality’ are far from unknown in legal thinking. In his short treatise on international law from 1795, Immanuel Kant notably defined hospitality as a precondition of what he thought would represent ‘eternal peace’, a world rid of hostilities. So in addition to individual states adopting a republican constitution and coming together in a state union, universal hospitality was to be understood as a right pertaining to all men. Hospitality, then, is a question of law, not of philanthropy:

[...] *hospitality* means the right of a stranger not to be treated as an enemy when he arrives in the land of another. One may refuse to receive him when this can be done without causing his destruction, but so long as he peacefully occupies his place, one may not treat him with hostility. [...] it is only a right of *temporary sojourn* that all men have as a right to associate by virtue of their common possession of the surface of the earth, where, as a globe, they cannot infinitely disperse and hence must finally tolerate the presence of each other. Originally, no one had more right than another to a particular part of the earth. (Kant 1923, 357–358.)

Kant's conception of hostility and hospitality is built on a spatial metaphor. Men, i.e. human beings, enjoy a universal right to hospitality because they share a space, the 'surface of the earth'. But sharing does not imply friendship, merely tolerance. As global beings, we are obliged to tolerate the other if she 'peacefully occupies her place'. Even if we all have 'our own places' – I 'my place', you 'your place' – the other is my likeness in that she shares with me an all-encompassing surface, a world. Even if 'our own places' imply borders and limits that are both crossed and trespassed – *transpassare*, 'to go beyond', even 'to die' – all this happens in a shared world that, however, we 'possess', i.e. that we claim ownership to (see also Derrida 1997a).

The word 'trespass' is also most intimately related to law. The general meaning of the word given by the *Oxford English Dictionary* is 'to commit a transgression or offence, to offend, to sin'. The common association to space and boundaries is a later specification that had more to do with land understood as property, as 'possession'. So trespassing was originally more a violation of property rights than crossing the boundaries of a specified space.

Perhaps Kant's dilemma here could be described in the following way. The other dwells in her 'own place', her private encapsulated domain, through 'occupation', peaceful or otherwise, whereas her universal relation to the world is defined as 'possession', as something resembling a property right. 'Occupation' is the foundation of the other's unique existence, whereas her right to be tolerated – for Kant, hospitality does not really go beyond this – is based on a co-ownership of the world.

It would seem, then, that the 'occupation' of individual places in a shared world already constitutes a trespass of sorts. That the other stands out as a unique and singular being with a place of her own violates the terms of one contract or another, but she is allegedly spared of open hostility because of a shared ownership. The other, a trespasser in her very singularity, is worthy of tolerance only because she is a likeness.

Many may have already noted some familiar themes in the foregoing speculation: the other, singularity, ethics, likeness, totality, and so on. But instead of pursuing these themes as such, I would like to develop the spatial metaphor implied through the work of Carl Schmitt.

For Schmitt, human existence is thorough and through political. But what would such a declaration mean? Schmitt namely argues that the word 'political' is used loosely and without proper distinction, and mainly in a negative way by setting it against something that is definitely not political: religion, culture, society, law, science, etc. But if we wish to give any proper definition to the word 'political', Schmitt insists that we must conceptualise it 'positively' by finding categories that

are specific to it. Schmitt conceptualises the political with the help of a particular distinction:

The specific political distinction that enables us to infer political agency and motives is the distinction of *friend* and *enemy*. The distinction furnishes a conceptual determination in the sense of a criterion and not as an exhaustive definition or description of content. The distinction cannot be deduced from other criteria, and so it plays a similar role for the political as the relatively independent criteria of other oppositions: good and evil for the moral, beautiful and ugly for the aesthetic, etc. (Schmitt 1991, 26–27.)

In Schmitt's meaning, an enemy cannot be a common rival or a private opponent that one detests with feelings of antipathy. An enemy signifies the real potential of conflict and war within human existence. An enemy is always public, it is a *hostis*, not an *inimicus* in the more general sense (*īnīmīcus*, *in-amicus*, 'unfriendly'). Consequently, Schmitt argues, all political concepts, expressions and words are by nature polemical and aim at defining concrete oppositions:

Words like state, republic, society, class and, further, sovereignty, rule of law, absolutism, dictatorship, plan, neutral or totalitarian state, etc., they are all incomprehensible unless one knows who specifically one wants to point out, to clash with, to deny and to disprove with such a word. (Schmitt 1991, 31.)

It should be more or less obvious by now that Schmitt's distinction between friend and enemy does not come about by itself. It is not an opposition that would exist as such. Quite the contrary, it requires a decision that both identifies and nominates (makes public) a particular enemy. Hence the philosophical undertow of Schmitt's thinking is called decisionism. And as the world is politically divided into friendly or hostile entities, the ultimate consequence of this division is open conflict. Conflict, strife and war are, then, the ultimate possibilities, and what specifies human life within these possibilities is a constant political tension.

So much for hostilities. In fact, Schmitt says preciously little about the friend, something that e.g. Jacques Derrida has pointed out in his *Politiques de l'amitié* (see Derrida 1997b, 131–157). A friend, someone that would be worthy of (at least) our hospitality, seems to merely exist as the left-overs of what we have in our decision declared as hostile. But the important thing to note here is the inherently tense nature of human existence relentlessly exposed to the danger of a possible conflict with a hostile enemy.

How, then, does this tension display itself within a spatial metaphysics?

Schmitt dedicated the time of his isolation after the war mainly to texts that, at least on the surface, deal with international law. I would, however, claim that this particular period in his work, and especially his last proper book *Der Nomos der Erde* from 1950 (Schmitt 1988), constitutes a spatial metaphysics that goes far beyond mere international law. Even in his shorter and less well known writings from the same period, Schmitt dedicates much time to the analysis of what he calls ‘fundamental words’ (*Urwörter*). Schmitt’s metaphysics is not:

[...] a vocabulary of a given philosophical system applied to juridical questions but the development of concrete concepts from the immanence of a concrete legal and social order. (Schmitt 1958a, 427.)

We are, then, not talking about a particular metaphysics applied to law, but, indeed, of a metaphysics that is built on law. Law as the unity of localisation and order is, then, primary in relation to metaphysics.

Human history is for Schmitt a sequence of worlds or of orderly spaces that he conceptualises with the help of the elements as ‘fundamental words’: land, water, air and fire. As a spatial order, the world that man inhabits has gradually expanded from a merely terrain existence on land in a succession of conquests and occupations. And in this ever-expanding appropriation of the world, the stars are, indeed, the ‘final frontier’.

However, any consecutive occupation of an element must by necessity be grounded on an original appropriation of land, a decision not unlike the decision designating the enemy that is, according to Schmitt, the foundation of all politics. Even if the concrete and successive orders that Schmitt designates in his legal metaphysics are established in individual decisions, the overall decisionist framework must be founded on an original appropriation of land that precedes all consequent orders. What is common to all consecutive orders including the terrain order that we started off with is that they are all ordered as law, that they are dispositioned as *nomos*. The original order of *nomos* is:

[...] the immediate form in which the political and the social order of a nation becomes visible as having space, the first measure and distribution of the pasture, that is, the appropriation of land [*Landnahme*] and the concrete order that lies in it as well as follows from it [...] (Schmitt 1988, 39–40.)

Space and law as *nomos* are, then, coexistent. Space represents the orderly aspect of *nomos*. In working out further the notion of space, Schmitt makes an indirect reference to the philosophy of Martin Heidegger:

Only today is a certain thought possible for us, a thought that would have been impossible in all other epochs and that a German philosopher of the present has articulated: the world is not in space but space is in the world. (Schmitt 2001, 106.)

What Schmitt here adopts from Heidegger is an understanding of space and spatiality as an order that contains within itself the elementary tensions of human existence. Man takes her place in an orderly world by occupying a locality through an original occupation, an appropriation of land.

Schmitt emphasises the terrain character of man's locality, its relationship to land. Man's inclination to appropriate the world is evident in the tension between her terrain locality and an outside, between 'land and sea'. Space is, however, not a closed order. *Raum* is a fundamental German word, an *Urwort*, Schmitt continues to speculate. The diphthong 'au' represents the first and the last vowels of the German alphabet, the alpha and the omega, the beginning and the end. But beginning does not enfold in end:

The *R* forms [...] the active adjunct, and *M* is an end coming together at the horizon, surpassing the horizon. *Raum* is, then, not a closed circle nor a domain but a *world*, and this world is not an empty space, nor is it *in* an empty space, but our *Raum* is a world filled with the tension of different elements. (Schmitt 1995, 492–493.)

From the elements of land and sea Schmitt develops his notion of *nomos* as the unity of localisation and order (a play on *ēthos* meaning 'abode' and *ethos* meaning 'custom'). Man is a terrain creature bound to the earth in three ways. Firstly, in its crop, the earth indicates how human toil, i.e. work, is transformed into the crop of the land. This is clearly a reference to Hegelian phenomenology where the slave, through his work for the master, transforms nature into history. Secondly, tillage marks firm boundaries for the distribution and the division of the land. Limits and boundaries are set up, and a primitive sense of ownership as a rudimentary distinction of the 'mine' from the 'thine' develops (Kant). And finally, through the cycle of harvest, the earth supplies a solid foundation for the unity of localisation (*Ortung*) and order (*Ordnung*), that is, for *nomos*:

Nomos is the *measure* that distributes and localises the ground and the soil of the earth into a specific order as well as the figure of the political, social and religious order that follows. Thus measure, order and figure form a concrete, spatial unity. (Schmitt 1988, 40.)

By way of contrast, the sea represents a point beyond the order of the land, a free zone open for trade and conquest. As early as the 17th century, the Dutch lawyer Hugo Grotius described the sea as something that was beyond the reach of man's terrain empires. Sovereignty over land was possible because a legal title (a recognised occupation) could be complimented with a factual dominion resembling the basic requirements of ownership. But because the sea was, like the air, without clear limits and boundaries and could not, therefore, be appropriated by a claim and protected, the sea was to remain free (Grotius 1845, 683–684). But Grotius's *mare liberum*, defending Dutch interests against declining Portuguese influence in the East Indies, was quickly to be challenged by the doctrine of *mare clausum*, the sea that was 'closed' by the sheer force of English naval power (Selden 1636).

For Schmitt, human existence is by nature terrain. Therefore the origin of all subsequent claims and conquests is the appropriation of land. The expansion from land to sea (*Seenahme*) of the great maritime powers represents the extension of the *nomos* of the land to the sea. The relationship between the appropriated land and the sea understood as the possibility of expansion and colonisation marks the tension of an orderly human existence in *nomos*.

But the appropriation of land, what Schmitt calls the 'great historical event', is the *Ur-grund*, the ultimate foundation in which space and law originally come together as localisation and order.

In its epochal successions, the order of *nomos* is eventually extended from a global conception of the world in which the distinction between land and sea sustains the required tension to a planetary conception of the world. A planetary conception is, of course, established from an aerial position, that is, by appropriating the element of air. And, finally, fire – in the 1930s, Schmitt still associates fire with the rocket-engine – represents the ultimate nuclear threat of a world entirely submitted to technology.

All *nomoi*, all successive orders of *nomos*, are established in a three-fold process that, according to Schmitt, corresponds with the three dimensions of the Greek verb *nemein*, the root verb behind the noun *nomos*. Firstly, there is the appropriation of the land in an original occupation (*Nahme*), secondly, the distribution of the occupied land (*Teilen*) and the order that is thus established, and, lastly, the grazing or the pasturing (*Weiden*), the exploitation of the crop of the land (Schmitt 1958b, 490–492). Schmitt's austere critique against the conventions of liberal thinking is that it has forgotten the original appropriation by consistently mistranslating *nomos* as rule or law, as order without foundation:

In its original sense, [...] *nomos* is the full immediacy of a juridical force that is not mediated by laws; it is a constitutive historical event, an act of *legitimacy*

[*Legitimität*] that makes the legality [*Legalität*] of mere laws meaningful in general. (Schmitt 1988, 42.)

The epochal successions of new *nomoi* that appropriate the elements one by one will eventually conclude in a closure of the world, in an all-encompassing existence that annuls the original distinction between land and sea fundamental in relation to the terrain existence of man. The division between land and sea, between an occupied position and a designated outside open for occupation and colonisation, also stands for Schmitt's notion of the enemy.

Permit me to finally return to my point of departure.

According to Kant, 'originally, no one had more right than another to a particular part of the earth.' This is, it would seem, an original partnership of men where all had equal rights to existence within a particular space, namely on the surface of a limited globe. But as space has finally run out and the 'land of another' has come to border mine, this original equality compels me to treat the other with tolerance. My obligation to tolerate is coupled with the other's right to hospitality.

However, even for Kant, the other is from the outset defined by a certain enmity. The obligation to tolerate and the right to hospitality both imply that the other is originally regarded with feelings of animosity that a set of laws is now meant to pacify. If we review Kant's position from a Schmittian perspective, the enmity arises as the original partnership of likenesses dissolves, and the dissolution has taken place when the other has made its own claim to the land, i.e. in its original appropriation of land. Simply by doing so and by claiming its unique existence, the other has defined itself as my enemy, as both the occupier of a space to be conquered and the possible aggressor threatening mine.

Bibliography

- Derrida, Jacques: *Cosmopolites de tous les pays, encore un effort!* Galilée, Paris 1997a.
Derrida, Jacques: *Politiques de l'amitié. Suivi de L'oreille de Heidegger.* Galilée, Paris 1997b.
- Grotius, Hugo: *De la liberté des mers.* In *Annales maritimes et coloniales.* Imprimerie Royale, Paris 1845, 654–717.
- Kant, Immanuel: *Zum ewigen Frieden. Ein philosophischer Entwurf.* In *Kant: Gesammelte Schriften. Erste Abtheilung: Werke. Band VIII. Abhandlungen nach 1781.* Herausgegeben von der Königlich Preussischen Akademie der Wissenschaften. De Gruyter 1923, Berlin/Leipzig, 341–386.
- Schmitt, Carl. *Die Lage der europäischen Rechtswissenschaft.* In *Schmitt: Verfassungsrechtliche Aufsätze aus den Jahren 1924–1954. Materialien zu einer Verfassungslehre.* Duncker & Humblot, Berlin 1958a, 386–429.

- Schmitt, Carl: Nehmen/Teilen/Weiden, p.. In Schmitt: Verfassungsrechtliche Aufsätze aus den Jahren 1924–1954. Materialien zu einer Verfassungslehre. Duncker & Humblot, Berlin 1958b, 489–504.
- Schmitt, Carl: Der Nomos der Erde im Völkerrecht des Jus Publicum Europaeum. 3. Aufl. Duncker & Humblot, Berlin 1988.
- Schmitt, Carl: Der Begriff des Politischen. Text von 1932 mit einem Vorwort und drei Corollarien. 3. Aufl. der Ausgabe von 1963. Duncker & Humblot, Berlin 1991.
- Schmitt, Carl: Raum und Rom – Zur Phonetik des Wortes Raum. In Schmitt: Staat, Großraum, Nomos. Arbeiten aus den Jahren 1916–1969. Duncker & Humblot, Berlin 1995, 491–495.
- Schmitt, Carl: Land und Meer. Eine weltgeschichtliche Betrachtung. 4. Aufl. Klett–Cotta, Stuttgart 2001.
- Selden, John: Mare clausum seu de Dominio maris. Libri duo. Londinense: Will, Stanesbeii 1636.