

SCHEIT, Gerhard, *Der Wahn vom Weltsouverän. Zur Kritik des Völkerrechts* [Delusion of World Sovereign: Critique of International Law], Freiburg: Ça ira, 2009, 300 pages.

“Whole world is waiting for the saviour, yet many are unaware they are fundamentalists.”— Thus begins the book of Austrian philosopher and musicologist Gerhard Scheit on delusion of world sovereign.—

“Those who are aware, believe in the Messiah, Christ or Mohammed. Hence, they differ from each other at least as much as from those who are unaware, and who put their hopes in unification of Europe as prelude to unification of world, in centralized control of banks and stock markets, and in world peace to be reached through the United Nations. The states, the Catechism of the Seculars claims, must finally come to a worldwide agreement not only on harmful substances, but common tax rates and unified wages as well, so that no capital shall be able in future to exploit, by flowing from one country to another, public servants and employees against each other, and just exchange becomes realized in the end. But what is the origin of power”—the main argument of the study put in a nutshell— “which guarantees property of means of production, and is indisputably to be maintained, at least, as far as the ‘creative’ (*schaffendes*) capital in contrast to the ‘reaping’ (*raffendes*), or ‘greedy’ one, as they prefer to call it today, is concerned, the organization Attac bothers this just as little as the community of believers troubles to ask, why, after all, salvation has not occurred yet.” (p.13)

Scheit’s book analyzes the notion of world sovereignty, of a ubiquitous, global power entity, “imagined either as already given *in nuce*, or partially already operating, or to be installed at one fell swoop,” (ibid.) haunting political philosophies, who aim at radical critique of contemporary society and its political order, yet turn out political theologies themselves. Delusional idea about world sovereign brings forth, the author argues, deceitful unity of politics, which makes an appeal to international law possible without reflecting upon the actual political power required to enforce it.

Currently, Scheit points out in his introduction drafted in 2009, it is the president of the United States, Barack Obama, who is the primary projection object of a world sovereign, hence fulfilling a part similar to the one played by Mikhail Gorbachev in the 1980’s internationally. Although referring to the European context of political ideas among the German-speaking left, the study’s thoughts can be easily applied to political debates beyond it. Invested with extraordinary charisma,

Obama was called upon to “finally end the excesses of the United States in international arena, more so, to take over immediate leadership of the European Union, of the World Bank, even become the Secretary General of the UN itself, so that the interests of the United States once and for all dissolve into these international organizations” (ibid.) An omnipresent longing was reaching its apex in demand, reinvigorated in the aftermath of Obama’s Nobel Prize for Freedom, of the world to be free of nuclear weapons.

However, none of this happens, Scheit underlines; no nuclear bombs disappear. The US and Russia rather merely negotiate to reduce their number, in accordance to particular policy conjunctures of the two nation states. But why the persistence and omnipresence of this yearning for a global sovereign, who could, as it were, change the nature of state, and turn it immediately to fulfillment of the human good? Scheit’s answer of a materialist implies at the same time a critique of the traditional Marxist understanding of state. Traditional Marxism assumes the state is but an instrument of domination controlled by a particular ruling class, reduplicated as such in every particular nation state. Scheit’s argument is closer to the results of the so-called West-German “state derivation debate” of the 1970’s. Drawing on Russian Marx scholar Eugen Pashukanis’s critique of bourgeois law in *The General Theory of Law and Marxism* (1924),¹ it was argued that the state is a social form mediated by modern law: it is an entity resulting from social relation of value as such. Modern state is not an epiphenomenal element of superstructure, but rather an actual extra-economic sphere, stemming from value which has become total. It is the ‘state of capital,’ not the ‘state of capitalists.’ While modern state is a historical result of immediate power of personal domination being replaced by impersonal domination mediated by value and capital, within any such modern state, violence becomes concentrated to form the monopoly over the use of force, controlled by state apparatuses—in order to truly realize legal form of the exchange relation between commodity proprietors, irrespective of their class position. The contract between commodity proprietors—both means of production owning capitalists and workers selling their labor power—as well as bourgeois law as such,

¹ See E. B. PASHUKANIS, *The General Theory of Law and Marxism*, New Brunswick: Transaction Publ., 2007; on the “state derivation debate”, see B. BLANKE, U. JÜRGENS, H. KASTENDIEK, “Zur neuen Marxistischen Diskussion über die Analyse von Form und Funktion des bürgerlichen Staates. Überlegungen zum Verhältnis von Politik und Ökonomie”, *Probleme des Klassenkampfes* 14, 1974, 51-102.

are not merely an instrument of manipulation. Rather, the domination comes to be mediated through law, and to the same extent the relations within the states are mediated by law, however, relations amongst them, their outward interaction, remain those of immediate violence, albeit possibly suspended under partial agreements of military alliances and economic partnerships. There is no global monopoly over the use of force to guarantee the realization of international law. World police and global court remain a virtuality, in contrast to the actual monopoly over the use of force inside modern states.

Hence, all the invested enthusiasm notwithstanding, president Obama, too, can be merely this: a more or less good president of the United States, an opposite of a global sovereign. And according to Scheit, at least by the time of writing his book, Obama was one of the worst. For the United States is merely the hegemonic power of the West. Similarly to every other nation state, the US is itself subject to relation of capital as global market, rather than subjecting relation of capital to itself. The US, too, can only pursue its own particular state interests, even though—and this distinguishes its politics from those calling for a global sovereign—they imply realization of conditions for global market. And because this is so, Scheit claims, anti-American resentment common in different degrees both among the left and the right of Europe, would have sooner or later re-emerged with a new vigor. This resentment is a modern anti-modern disposition of hate: Isolating to an object-for-itself a particular element of the totality constituting contemporary society, this it dismembers this totality arbitrarily. Excluding from criticism the so-called decent, positive, productive capital, the resentment attacks merely that “raffendes,” purportedly negative, so-called ‘money-destroying’ financial capital; it derives from irrational disjunction of the circulation from the production sphere. The delusion Scheit refers to, associates financial capital, by falsely personifying this abstract social relation in concrete, be it real or imaginary, agents, with both political and economic liberalism, traditionally regarded as embodied by the United States, and in the last instance, by the Jews fancied to stand ‘behind it.’ A peculiarity of modern antijudaism is to pathologically picture Jews as personification of the abstract ‘power of money,’ to imagine them as omnipresent agents of equally omnipresent circulation sphere, united in an alleged ‘global conspiracy’ as ultimate enemies of all righteous working people of this world. “Irrespectively, whether the United States acts heedlessly in its own interests, or purportedly as a global poli-

ceman in the name of international law: both false friends of Perpetual Peace and true supporters of Holy War regard the United States, insofar as it remains the actual hegemon, as a mere subsidiary of a negative world power, which is already present, albeit invisible. To them, this power itself can be grasped only in one single spot on earth, in form of a singular, very small state: Israel personifies global conspiracy of the Jews” (p.15). This is the form in which the anti-Jewish propaganda already present in National Socialist ideologues such as Alfred Rosenberg in the 1930’s, who claimed that the financial power of world Jewry was ostensibly consolidating, and striving to establish its center in Jerusalem, re-emerges transformed at the core of the contemporary delusion about a world sovereign.

A world sovereign relates to a hegemonic state as obsessive image does to actual power. With its ongoing efforts to maintain the position of such a hegemon, Scheit stresses, the United States demonstrates simultaneously, what international law actually is: a virtual law, a mere convention which can be executed only by military force of a state, or state alliances; and these very same efforts demonstrate too, what international law is not: a substitute for one’s own military power. The US, Scheit argues, is actual evidence that no world sovereign exists over against and beyond global economic relations; that, moreover, each attempt to realize it, ultimately, is directed against the Jews, as the penetrant delusional personifications of the abstraction of value and—primarily financial—capital, because it denies the Jews the national sovereignty, which is their last defense in the event of an earnest threat in today’s world after Auschwitz.

Rather than to attempt a comprehensive explanation of the emergence of such delusion of world sovereignty, Scheit criticizes its elements in contemporary political philosophy. The author, however, has addressed this issue previously in other studies dealing with its particular aspects: *Suicide Attack: Toward Critique of Political Violence* (2004), *Masters of Crisis: On Interrelation of Destruction and People’s Wealth* (2001), and *Hidden State, Living Money: On Dramaturgy of Anti-Semitism* (1999).² This study consists of a series of essays on major authors of modern political philosophy, Kant as well as Hobbes and Hegel in separate chapters, which connect to the works of more contemporary theoreticians of international law Franz Neumann, Ernst

² G. SCHEIT, *Verborgener Staat, lebendiges Geld. Zur Dramaturgie des Antisemitismus*, Freiburg: ça ira, 1999; *Meister der Krise. Über den Zusammenhang von Menschenvernichtung und Volkswohlstand*, Freiburg: ça ira, 2001; *Suicide Attack. Zur Kritik der politischen Gewalt*, Freiburg: ça ira, 2004.

Fraenkel, and Leo Strauss. But in particular Scheit's critique is targeted at the 20th century German political philosophy, and it is most incisive in regard of theories of sovereignty by Hans Kelsen and Carl Schmitt, and, in connection with the latter, Martin Heidegger.

The fundamental relevance of these authors is demonstrated, however, by Scheit's initial analysis of his contemporary principal witnesses, who follow in the footsteps of those "German ideologues" (p.16) today. To pick out Jürgen Habermas and his "Oriental double" (ibid.) Tariq Ramadan here is not a coincidence. From the outset, Scheit stresses, the aim of German ideology has been to dismantle the western notion of sovereignty. But in its present form, he claims, it finally declines to even declare itself German, and is being formulated mostly outside Germany as well. If in Kelsen and Schmitt, political sovereign explicitly plays a central role, in contemporary authors its function has been taken over by "global domestic politics" and "global governance," – "or, to put it in other words: 'deconstruction of sovereignty'" (ibid.). In jargon to which these terms belong, Scheit claims, the blindness about the present state of affairs and notion of politics in general, finds its most vivid expression. Without questioning, whether domination and governance deprived of sovereign and monopoly over the use of force can be possible, every theoretical means are applied to corroborate such belief, be it the Kantian notion of "perpetual peace," or "'the Holocaust as culture' by the Nobel laureate Imre Kertész" (ibid.). Hence the "German ideology" of today incorporates "destruction of civilization" into historical narrative as well as philosophical conceptions of history in such a manner that this destruction becomes an inalienable part of history: "a moment in its continuity" (ibid.). The global state sought after is then granted the "honorary status of the morale deduced from past history" (ibid.).

For Germany especially as well as Europe—Germany and France remain two leading countries of the European Union—one can but agree with Scheit that this role is manifest in case of Habermas. By virtue of his "ongoing interventions in German and European public debates since the end of the Cold War, [Habermas] has assumed the role of the European 'teacher of nation'" (p.17). As Habermas writes in his essays on *The Divided West* (2004), Scheit points out, the negative experiences are the ones "we learn from the most."³ However, the experiences in Habermas's

³ See J. HABERMAS, *Der gespaltene Westen. Kleine politische Schriften X*, Frankfurt a. M.: Suhrkamp

account, lose all their singularity. Homogenized, they wipe out each other as such. All comes to be commensurable: “religious wars, confessional and class distinctions, destructive power of nationalism, as well as the Holocaust,” – and so do the opportunities, as Habermas writes, which can be gained from reflecting upon these homogenous events. (Habermas quote, *ibid.*) Habermas legitimizes the European Union itself as a response to Europe’s warmonger past, declaring, that if this “project” succeeds, it could serve as a model for other types of governance beyond national states. What this “project” is reduced to, however, Scheit hints, is sending public servants to governance academies to learn and internalize new rights and legal regulations, forms of “communicative” discourse. Thus instead of party elite, the vanguard now is unitarian bureaucracy.

Scheit claims, that the failure to be found in Habermas, however, is typical for ratiocinations on international law³: It consists of transposing individual rights into relations among the states. For, he underscores, if states cannot embody same rights borne by individual citizens, then violence exercised by the states can be released from its bond with law. Such reasoning suppresses that the hegemon, who comes into being only in nexus of violent relations among multiple states, is not an exclusive monopoly over the use of force, which could control these relations between states in the same manner sovereign of a nation state can indeed control its citizens. If “global governance” and “global domestic politics” are conceived of as governance without sovereign, and monopoly over the use of force, the only political actors remaining are “rackets of direct violence” (p. 40).

Contrary to Habermas, however, “this ideologue of the European Union, who turns away his glance in horror from America’s neoconservatively enlightened politics, and in shame from Israel’s resolute one,” (*ibid.*) Kant, to whom Habermas nevertheless refers, in his *Perpetual Peace* had preserved the insight that the states, even while maintaining civil states within themselves, have a lawless reciprocation externally.⁴ Peace between nations appealed to by Kant remains a normative claim, a pipe dream. No sovereign possesses actual power to enforce unified international law. As the particular states do not wish to succumb to public laws binding for all peoples of world, Scheit stresses, Kant replaced a positive idea of world republic with a surrogate of an alliance merely preventing the wars. But in Kant too the idea

2004, 56.

⁴ See I. KANT, *Werkausgabe*, Bd. 8, Frankfurt a. M.: Suhrkamp, 1982, 478.

that the states relate to each other as individuals do, already prevails. States act in the same manner as do the citizens, who obey their sovereign, and understand laws executed by it. "Only Horkheimer takes the Kantian notion of enlightenment literally, presupposing anytime and under any circumstances, that only the individual can use his own reason and express solidarity. Only concrete individuals can be bound by a common goal of struggle against suffering, of living in freedom, and of realizing the truth." (p.43). Yet for Kant, on the other hand, the motivation of a particular citizen comes to be the movens of entire people, with whom the individual identifies himself. Scheit shows, that this Kantian idea is central for German philosophy of law at the turn of the century. It is on this threshold that one of the leading theoreticians of international law, and major jurists of the German Weimar republic, Hans Kelsen, already explicitly argues for the primacy of international law.

Kelsen, a legal positivist and an adept of "theory of pure law," although criticizing Kant's transcendentalism, radicalizes and consummates the Kantian notion of identity between individual and state rights and action. Kelsen, Scheit indicates, omits altogether the question, whether a world sovereign is possible as such. This is, according to the author, exemplary for theory of law after the experience of the World War I. "In the aftermath of its horrors, as if falling from skies of dreams, philosophy of law declared that Immanuel Kant's fantasy had long ago become reality, and it always had been. Only the states are not aware of it yet." (p.45) It is necessary to radically suppress the idea of sovereignty, writes Kelsen in *The Problem of Sovereignty and the Theory of International Law* (1920).⁵ And the sovereign is substituted by international law. Kelsen, in an already common manner, identifies states with individuals, based on his notion of "human conduct." This notion allows him, Scheit argues, to abstract from violence between the states, while the state is explicitly reduced to legal relations. Kelsen insists on "theory of state which is stateless." "The analogy between citizens and states, between individuals and peoples, is the basic element of all conceptions of international law. But it is the task of ideology critique to reveal, how a mere analogy is raised to the assertion of identity." (p.49)

⁵ See H. KELSEN, *Das Problem der Souveränität und die Theorie des Völkerrechts. Beiträge zu einer reinen Rechtslehre*, Tübingen: Mohr, 1921.

Kelsen abstracts from concrete humans, in order to declare priority of legal person as “nexus of responsibility.” The idealist expression “human conduct” is applied to designate basic human material; it dissolves the concrete human being and its body, allowing one simultaneously, as Scheit underlines, “to feel oneself a perfect humanist,” “completely irrespective of who or what acts, the individual or the state” (ibid.). Hence, a juridical standpoint of primacy of international law is reached, combined with delusion of world sovereign, “which like the Kantian transcendental subject shall be able to accompany all my representations” (p. 50). Kelsen interprets the legal unity of humanity—“only temporarily, by no means permanently, divided into more or less contingent states” (ibid.)—as *civitas maxima*, a world super-state. This political nucleus of juridical hypothesis about primacy of international law is, according to Scheit, the founding element of pacifism, conceived of as an opposite to imperialism. But in contrast to Kelsen, he stresses, the enlightening potential of philosophers such as Hobbes lays in the fact that in Hobbes’s determination of interrelation between state and law the particular, the individual, commodity proprietor is the starting point. In Kelsen, on the other hand, “the community of states with equal rights [...] immediately subordinates the individual to the community within state, for the community, as subject of the state, [...] becomes the actual legal person” (p.54).

It is this logical moment which is adopted by political theology of Carl Schmitt, the leading National Socialist jurist and theorist of law. It was not coincidental that, as Scheit recalls, that while Kelsen helped Schmitt to acquire his professoral chair, Schmitt later retorted with an anti-Semitic campaign, in which Kelsen was assigned the role of the principal enemy of German jurisprudence. Schmitt’s initial point was to identify law and state as in theory of pure law. But he defined the notion of power beyond the limits of law. In other words, he introduced a concept of power characterized by properties of unmediated personal domination. Schmitt openly rejects opinions of individuals, the sum total of which for him constitutes democracy. Instead he demands a power, which goes beyond the individual. And this power is the state, which is legal subject in the utmost sense. The state mediates law and right of the individual, but in such a manner that the individual disappears. In Schmitt’s *The Value of State and the Meaning of Individual* (1914)⁶ one

⁶ See C. SCHMITT, *Der Wert des Staats und die Bedeutung des Individuums*, Berlin: Ducker & Humblot,

still encounters the judge, the preliminary form of the later dictator. The judge makes “decisions,” which are thus far situated within the boundaries of laws of the Wilhelmian state, and guarantees the commensurability of particular actions. This commensurability, Scheit shows, later vanishes from Schmitt’s theory, because he ignores the reciprocation of multiplicity of individual states. The state is always taken in isolated form and in singular number. Schmitt, too, refers to “nexus of responsibility,” and contrary to Kelsen, he does not omit the individual’s body. But, Scheit stresses, Schmitt conceives of this body as something contingent, “an arbitrary accumulation of atoms, completely subordinate to state power.” “The aim of this power is the diminution of the individual to the extent that its extermination becomes possible” (ibid.). In this context, Scheit outlines the metamorphosis of the Hegelian theory of state in Schmitt. For Schmitt, contrary to Hegel, the absolute idea is realized only in religion, whereas state merely functions to preserve it. The absolute idea exists solely within the religious horizon. This lays the groundwork for Schmitt’s theory of *Volksgemeinschaft*, the racial “community of people,” as cornerstone of the statehood. In *Political Theology* (1922),⁷ although the relation between the state and international law is still described along the lines of Kelsen’s argument, Schmitt already explicitly objects to the abolishment of the sovereign. Here Schmitt provides his definition, according to which sovereign is he who decides about the state of emergency. This definition, Scheit explicates, amounts to the intrusion of “state of nature” into state, which, nevertheless, according to Hegel, is necessarily given only in relations between the states. Schmitt is an advocate of violence inside the state. And his sovereign is situated simultaneously inside and outside the law, because the sovereign is he who can determine the total abolition of constitution; in other words, the state of emergency cannot be established by the acting law. Scheit draws a parallel to the notion of “law which is not controlled by law,” to be found already in legal theories of Schmitt’s predecessors Jellinek and Lasson. According to these theories, state power cannot be derived from a higher power; it knows no higher force above it. (p.64) In contrast, Schmitt, reconstructing the Hobbesian *Leviathan* in his argument against Locke and Kelsen, ultimately reduces the state to the moment of the “decision *ex nihilo*.” (ibid.) The apparent

2004.

⁷ See C. SCHMITT, *Politische Theologie. Vier Kapitel zur Lehre von der Souveränität*, Berlin: Ducker & Humblot 2004.

problem is thereby, as Scheit stresses, that such decision *ex nihilo*, presumably unrelated to other states, on the contrary, presupposes existence of multiplicity of actual states. Similarly, an individual decision to buy or to sell, to exchange money for commodities or *vice versa*, made '*ex nihilo*,' structurally presupposes the relation of capital. "If Schmitt asserts that it is the sovereign, who creates and guarantees 'the situation in its completeness and totality,' because he possesses the monopoly over the last decision, then what one witnesses here is an existential turn in the theory of state" (ibid.). —Georg Lukács, Scheit underscores, had demystified in his *History and the Class Consciousness* (1923)⁸ the Hegelian idea of totality to the extent that it became possible to grasp it as the totalization of value. The next step could have been, he stresses, to carry out a critique of the state, which Lukács did not undertake, instead following the Leninist party. Critique of the state is, according to Scheit, a necessary precondition to grasp the modern national sovereign as that entity which "creates and guarantees" the relation of capital as a whole and in its totality. Yet this sovereign exists only in plural, only in form of interrelation between the multiplicity of the states. And it is only within this relation—according to Hegel, the "state of nature," relation of violence—that the sovereign incarnates the value as well.

Contrary to it, Schmitt, Scheit stresses, substitutes the capital with "situation," while totality becomes its variable. "Hence, Schmitt opens up the possibility to isolate the sovereign: the possibility to abstract the sovereign from its nexus with other states. All one encounters on the face of the earth, is the sovereign and his decisions; humans are merely material in which this decision is actualized. But inasmuch as individuals identify themselves with the sovereign, inasmuch as they can and are allowed to do so, they themselves assume the position of sovereign. And this position demands from them that they perceive their own bodies merely as material. It requires the readiness to sacrifice one's own body to the sovereign." (p.68) The readiness to sacrifice—for which the German term *Volksgemeinschaft* stands—is interpreted by Scheit as the identification without contradiction, that is, without the non-identical. This identification is the embodiment of that *nihil*, from which the sovereign is assumed to emerge. Schmitt's distinction of friend and enemy, as well as the notion of law itself, Scheit argues, are merely the means

⁸ See G. LUKÁCS, *Geschichte und Klassenbewußtsein. Studien über marxistische Dialektik*, Berlin: Luchterhand, 1968.

through which the idea of *Volk*, people, is placed prior to the state. Thus the fundament is laid for the basic distinction which Schmitt already openly introduces in the 1933 edition of *The Concept of the Political*: the distinction between Germany and the Jews. Quoting Schmitt in his seminar on Hegel (1933/1934), Martin Heidegger too, claims that the actual political is constituted by the self-affirmation of the historical being of *Volk*.⁹ And the distinction of friend and enemy is merely derived from it. The individual is abolished. "The political theologian proclaims himself to be an advocate of the sovereign—only to dissolve it. He takes the sides of Leviathan, in order to pave the way for Behemoth." (p.70)

Scheit's book provides a detailed critique of influential German political theories on international law, which implicitly or explicitly base on the delusional idea of world sovereign. His discussion of Franz Neumann's *Behemoth. The Structure and Practice of National Socialism* (1941/1944),¹⁰ which he plausibly qualifies as the most advanced analysis of National Socialism and the state by critical theory of the immigrated Frankfurt Institute for Social Research, is remarkably fruitful. *Behemoth* overcomes limitations of the traditional Marxist notion of fascism as an immanent effect of modern liberal state in the age of the so-called monopolist capitalism. It is often enough that the critique of the state, unlike the one presented by Scheit, terminates in affirmation of a negative dissolution of state—in last analysis, in favor of an analogue of that barbaric *Unstaat* (anti-state), as which Neumann characterizes the Nazi German 'state.' Under National Socialists, the unity of law in the state was dissolved to be subordinated to the competing interests of interdependent "rackets," the leaders of which, in Neumann's words, were constantly forced to get along after permanent fights with each other. The "anti-sovereign" (Manfred Dahlmann)—or the Jewish "anti-race," delusionally perceived as the final enemy of the German *Volk*—was the sole unifying principle of this anti-state. The political delusion of a world sovereign pursues the same wish of abolition of nation state without criticizing the relation of capital constituting national states. Hence, in truth, it affirms interests of particular states under the banner of international law,

⁹ See E. FAYE, *Heidegger. The Introduction of Nazism into Philosophy in Light of the Unpublished Seminars of 1933-1935*, New Haven - London, 2009, 113-150.

¹⁰ See F. NEUMANN, *Behemoth. Struktur und Praxis des Nationalsozialismus 1933-1944*, Frankfurt a. M.: Fischer, 1993, 554.

and it is ultimately directed against the sovereignty of the Jewish state of Israel as “the Jew among the states,” as called by Léon Poliakov.

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