

## **Constitution and political power. Carl Schmitt's and the concept of 'enemy' revisited**

In my paper I will propose a revision of Carl Schmitt's famous concepts of "enemy" in what can be defined as a "pragmatist" sense. By means of this I will describe the typology of Constitution which is most consistent with a non-ideological pursue of a community's well-being and I will recognize an example of it in the Italian Constitution or, at least, in its 1948 version. Despite the contradictions characterizing his figure, Carl Schmitt remains an essential author when one needs to go to the root of the foundation of a sovereign political power and of the form which such a power ought to take. We accept the axiom that a political power is only justified by consensus. One can say that it occurs when accepting such a power is seen as coincident with the preferable way to fulfill needs and desires or, in other words, to fulfill a potential naturalness – with such a definition fitting a natural law, and a contractualist and a dialectical conception of political power. But, in order to really fulfill its end of maximizing its community's consensus and well-being, a political power must strictly focus its decision on the "existential" aim that is achievement of life satisfaction. It does not have to base its actions on any other self-referential category, such as the pursue of "good" or "bad" in a moral sense, of "beauty" or "ugliness" in an aesthetic sense or of "profitable" or "unprofitable" in an economic sense. Following these kinds of values – which constitutively result from contingent cultural convictions or distribution of power among citizens, above all the vision of what is most economically 'advantageous' – would be a deceiving distraction, an alienation fruit of moral or class ideologies. Schmitt's criticism to the liberal bourgeois political practices seems to stem from a similar preoccupation, since these practices are disapproved of as consisting in endless technical discussions over ways of managing existing socio-economic rules and axioms, without any concern for putting their overall existential sense into question. In this sense, liberal practices are seen as "politically neutral", because they can easily be founded on the pursuit of some of the other listed categories without taking an "authentic" political decision. This latter would correspond, instead, to the very focus on the recalled maximization of the existential well-being of a community, a focus which needs a new methodological category: the enemy, as any structure of forces which disturb the path to this achievement. In this pragmatic sense, the enemy is not necessarily the "other" in a physical or geographical sense, but any value or behavior absolutely attached to the reach of some of the other categories. It is what the politician – and the interest of the people - can and should conceivably annihilate. The Italian Constitution was originally written in a language which put any institutional or economic instrument in function of the realization of every citizen's happiness. It was a "formal" Constitution which was ideologically "neutral" in economics but explicitly favored the achieving of collective well-being over individuals' liberties. No particular form of technical economic procedure was privileged per se. Everything has changed since the introduction of the Communitarian rules in the Italian law. Balanced budget amendment, prohibition of State subsidies and of nationalization of enterprises (including of banks and credit institutions), free movement of goods and persons have become axioms to pursue a priori, indifferently to the context. They are functioning as self-referential values. Some of them have been inserted into the Constitution itself, others have been ratified by Italian national and international laws, depriving the Constitution of its political role. A formal Constitution, similar to the 1948 Italian one, which imposes the management of credit distribution, savings, wage levels and trade control with the objective of maximizing social happiness and not in order to apply contingent self-justifying rules, has the merit of acting itself as a wake-up call in what Schmitt would name as "states of exceptions". That is to say, it would remind the parties

involved of the real role of the sovereign politician, devoid of any merely technical attitude, in the situations in which the structural contingency of reality makes any accepted legal and technical norm completely unsuitable.

In *The Concept of the Political*, Schmitt claims that all true political attitudes are based on a view whereby Man is by nature evil. Thus, it needs to be kept in check by a strong political authority capable of drawing a friend-enemy distinction in order to ensure social harmony.<sup>1</sup> The awareness of the possibility of an absolute existential enemy and, therefore, of an absolute clean break decision not mitigated by current economic or moral conventions appears to be the only feature of the true politician. I wish to demonstrate how the Schmittian concept of absolute enemy is crucial today, but not in the sense in which it may come natural to interpret this assertion given the recent political events.

In fact, current European political trends seem to be discovering again the appeal of the national and ethnic identity as the main guarantee of the «utmost degree of intensity of a union»<sup>2</sup> and of the «intensity of an association»,<sup>3</sup> as Schmitt would say. In Germany *Alternative for Germany*—which was previously unrepresented in the Bundestag—described as a German nationalist, right-wing populist party became the third party in the Bundestag. The rise of Trump has been supported by a continuous reference to America's original characteristics. In France the *Front National* is at an all-time high, like the nationalist party *Lega Nord* in Italy, where neo-fascists are also enjoying a new consensus at a local level.

However, we need to examine in depth the conditions of possibility of the very distinction between friend and enemy, even if this implies using Schmitt's concepts to disavow his philosophical or political conclusions. If we do so, we lay bare the fact that the existential drives which explain the current recourse to these concepts can more sensibly be channeled in a criticism against the dysfunctional socio-economic ideology imposed in the Eurozone rather than in cultural and ethnic issues. These latter will appear to be overstated and unnecessary in comparison with institutional structures which today can be univocally outlined as representing “enemy values” if “enemy” is described as a figure which disregards the Other.

In order to outline the distinction between friend and enemy as the proper political distinction, Schmitt is primarily concerned with differentiating it from other categories of values such as good and evil, beautiful and ugly, legal and illegal, profitable and unprofitable. These categories, in fact, can be the expression of a certain typology of human reciprocal attraction, association or dissociation. And yet, the presence of these kinds of relationships between two human groups might as well coexist with the first group's awareness that the features of the other group are a real threat or damage to what would be its authentic preferences in the way of living.

As Schmitt says: «The political enemy need not be morally evil or aesthetically ugly; he need not appear as an economic competitor, and it may even be advantageous to engage with him in business transactions. But he is, nevertheless, the other; and it is sufficient for his nature that he is, in a

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<sup>1</sup> CP, 58-68

<sup>2</sup> CP, 26

<sup>3</sup> See CP, 59

specially intense way, existentially something different and alien, so that in the extreme case conflicts with him are possible».<sup>4</sup>

The sentence whereby «it may even be advantageous to engage with the enemy in business transactions» is crucial, because it puts in the foreground the possibility of a contrast between a full, ‘real’ reciprocity which occurs among *friends* and implies the full harmony of each other’s existential demands, and a so called abstract reciprocity. This latter, in a pragmatic sense, can be described as a kind of relationship which is built up in a certain way not because it is existentially the best, but because it *appears to be the best* within a distribution of reciprocal forces and values already determined and accepted. Economic convenience, in other words, can also consist in the acceptance of an outrageously low wage from a monopolist in the case of a lack of alternatives. In this case such an acceptance appears to be the best scenario for both the actors, but only if we forget that an alternative allocation of reciprocal power can be imagined and examined in the first place. Such an agreement can be perceived as the best one only if we believe that this immediate, circumscribed perception of what is convenient is *per se* sufficient to establish the overall best kind of reciprocal relationship.

We need firstly to meet the enemy in a social circumstance in order to know about its existence. This means that we are at least bound to experience a certain “abstract reciprocity” with him, be it of an economic, cultural, moral, aesthetic or legal kind, if only to decide whether to go into a conflict with him.

In this sense, we can say that each time a figure makes a group of people abide by such an abstract perception of improvement rather than engaging in an achievement of full reciprocal advantages and attachment there is a possible existential conflict with an enemy. This achievement would go beyond the circle of power constrained by a previous contingent allocation of forces and that is not to say that such an achievement is always possible. The point is that a lack of research of this achievement ensures that there is an enemy according to Schmitt’s definition, while to engage in a similar research can produce the intensity of association proper of friendship.

The structure of the enemy, in other words, is what negates a fulfillment of a fundamental and genuine sentiment of well-being in a cohabitation of the same area, area which can also be considered the entire planet today. The decision to engage in the research of such a fulfillment is what Schmitt considers a “political action” as opposed to a merely economic one.

In effect, Schmitt defines the “political” as «the decisive human grouping»,<sup>5</sup> as the highest feeling of alignment among different individuals, as opposed to the enemy which he depicts, quoting Hegel, as «negated Otherness».<sup>6</sup> And a negation of Otherness occurs, according to the conceptual framework I have described, each time the pursuit of an agreement is limited by an already established distribution of forces instead of being driven by the will to fully recognize the Other’s demand.

I have just said that «the structure of the enemy is what negates an authentic research of a fundamental and genuine sentiment of well-being in cohabitation». But who is the enemy, in an empirical and material sense? Once the structure of the enemy has been described as an “consequence of a system of powers”, how much is it useful to identify our enemy with a specific

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<sup>4</sup> CP, 27

<sup>5</sup> CP, 38

<sup>6</sup> CP, 63

person or group of people which is constitutively enemy and which will be maybe never able to transform its status, because of its physiologically incompatible political goals? Carl Schmitt antisemitism seems to push the identification of the enemy toward such a direction. And yet, the «negation of the Otherness» is easily described as a “fault of the system”, as a system giving an economic actor, for instance, the opportunity to have an upper hand over another one. Above all, the set of relationships which privilege “abstract reciprocity”, masking the inconvenience of having to do with an enemy without properly asserting ones rights can be devoid of any cultural, ethnic or nationalistic connotation. What I called an “abstract reciprocity” can coincide with the economic convenience of the poorest bracket of the population to accept to pay a rent to of landlord families. Schmitt himself reminds us that the recognition of an enemy can develop within the same national community. He says that «also a social class ceases to be something purely economic and becomes a political factor when it reaches this decisive point for example, when Marxists approach the class struggle seriously and treat the class adversary as a real enemy and fights him either in the form of a war of state against state or in a civil war within a state».<sup>7</sup>

The recognition of an enemy can inherently arise anytime there is a moral, legal or economic contrast between classes of individuals which is so strong to make at least one of them concern for the authenticity of its own existence. It is structural, therefore, that what Schmitt calls “liberal” tendency to forget the distinction between friend and enemy can be shaped by moral or economic conventional social connections which are proper of any community, which can be internal to any community. If any economic calculation may structurally be constrained by a set of arbitrary reciprocal forces, so to hide the presence of something which prevents the achievement of full reciprocal advantages and attachments, the presence of an enemy is always possible.

But here is the thing: an enemy can constitutively arise within any community and each time a contingent relation of forces changes, which makes the existence of friendship itself always precarious. So, if we prefer the «intensity of association» typical of political friendship to the tension of a state of things where a conflict between people and all kinds of people is *always* possible we need to do something more than hoping to reach an agreement with our possible “domestic” enemy, incarnated in a physical group of people. What we have to do is to culturally and intellectually move the figure of the enemy from the persons who embody it to the value system which is the material *condition* of the arise of the enemy, and try to adjust it in order to “create”, literally “create” friends. Our fight against the enemy should be our fight against the economic dogmas which underpin the arbitrariness of reciprocal powers, with the aim of maximizing reciprocal benefits and attachment. A fight against or a bargain with a physical enemy cannot help but correspond to a simple update of the preceding arbitrary set of forces.

Now I would like to outline the features of what can be considered the major value-system which today in Europe puts the material and institutional condition of the negation of a full reciprocity among individuals. What I call «the structure of the enemy» is today incarnated in the common-sense interpretation of the concept of *money*, an interpretation which is also typical of neo-classical theories but which, as I will discuss now, is above all reflected in the European Union Treaties which determine almost entirely EU members’ monetary and market policies.

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<sup>7</sup> CP, 37

I will first list the five pillars on which the economic philosophy of the European Treaties are built and I will explain the peculiar concept of money which supports them afterward.

The Treaty on the Functioning of the European Union establishes

1 – Limits in government spending, which are 3 % for the ratio of the planned or actual government deficit to gross domestic product and 60 % for the ratio of government debt to gross domestic product at market prices.<sup>8</sup> The recent focus on structural deficit, a very arbitrary measurement, has changed very little.

2 – that any aid granted by a Member State or through State resources in any form whatsoever which distorts competition by favoring certain undertakings, included protectionism, shall be incompatible with the internal market.<sup>9</sup>

3 – that overdraft facilities or any other type of credit facility with the European Central Bank or with the central banks of the Member States in favor of Union institutions, bodies, offices or agencies, central governments are prohibited.<sup>10</sup>

4 - Moreover, in the documents of the European Central Bank it is established that «to maintain price stability is the primary objective of the Eurosystem and of the single monetary policy for which it is responsible».<sup>11</sup>

5 – And finally, obviously, the institution of a single currency is the main pillar of the EU project.

To summarize the gist of these pillars, we can say that European Union economic philosophy is to minimize facilitations to any economic agents, class or community which would go beyond the plain mechanism of market competition. Except for borderline cases, nobody should take excessive advantage of the wealth redistribution which is, in part, deficit spending. Nobody should run the slightest risk not to give back the money borrowed to enjoy services, that is what happens with too much public debt or with the laxity often identified with public credit facilities. Nobody should have the advantage or disadvantage of high inflation, which may favor the class more able to adjust its income. And, lastly, nobody should use devaluation as a device to be more competitive.

Even if these represent guidelines and tendencies of the European project rather than policies applied in a scientific way, we can assert that the shift in attitude in comparison with the preceding periods has been substantial. In Italy this shift has been clamorous, and it began in the period of preparation for the setup of the Eurosystem: only from 1992 to 2000 the Italian government went through more than 70 disinvestments from industrial, energy and credit societies which had been considered “strategic” for the country<sup>12</sup> and it was allowed to the Bank of Italy not to act as a lender of last resort. Most of all, despite the appearances, from 1992 to today Italian public finances has always been in positive primary balance except for one year.

All this framework is founded on a precise conception of money. Such a conception is crucial not because is the origin of the overall economic ideology within which it works – it is, in fact, rather the practical symptom of certain utilitarian and laissez-faire ideas. It is crucial because management of money creation, sale, uniformity and distribution can be considered the ultimate pragmatic tool

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<sup>8</sup> TFEU protocol 12

<sup>9</sup> TFEU, art 107.

<sup>10</sup> TFEU, art. 123

<sup>11</sup> <https://www.ecb.europa.eu/mopo/intro/objective/html/index.en.html>

<sup>12</sup> LE PRIVATIZZAZIONI IN ITALIA DAL 1992 33-35

useful to intervene on the economic philosophy recalled above. Our interpretation of money is therefore exactly the interpretation of our socioeconomic motivations.

According to this conception, money is simply a medium of exchange, as well as a scarce commodity. That is, it is the symbol by means of which two individuals who already have a product to exchange are able to go through their transaction without resorting to barter. If it is necessary it can become “credit” which corresponds, at a social level, to a simple temporal deferment of the above mechanism. This same mechanism presupposes the existence of a borrower who already owns the resources which ensure herself about the success of the future product and, of course, the existence of a lender willing to “sell” its money to the agent who needs liquidity before the production. Any transaction has as its condition, namely, the existence of an even trade and an immediately calculable return to the individual. Otherwise, it would be to some degrees a gift and not a monetary exchange. Even the commitment to a public balanced budget implies that a people needs to immediately pay for the services it enjoys.

With a repression of relevant redistributive or solidarity policies, the conception of money as a simple medium of exchange adopted by the European Union implies that any progress evolves within the limits of an already established distribution of reciprocal power. This would be enough to conclude that the presence of such limits prevents any research driven by the will to fully embrace the Other’s demand. But at a moral and pragmatic level the preference for a kind of money which is only a neutral, a posteriori medium of exchange has been often justified, since the ages of Jean-Baptiste Say, by means of the classical utilitarian approach. According to this, any attempt to comprehend and compare subjective human existential feelings and states – the ones which are most responsible for an authentic political action according to Schmitt - is read as impossible and arbitrary. Not only, therefore, any attempt to understand the “intensity of association” between individuals in the status quo is overtly abolished. The willingness to engage in a research for an achievement of full reciprocal advantages and attachment is limited to the observation of the reciprocal advantage which any kind of agreement within the status quo ensures. Such a reduction is the result of the impossibility of comparing the subjective degree of existential reciprocal satisfactions. As Hunt and Lautzenheiser point out, «Utilitarianism can thus be seen as an extraordinarily restrictive or narrow philosophy that permits judgments only where unanimity exists. If one accepts the existing distribution of wealth and income, then market exchange is one of the only social situations where such unanimity exists. Both parties to an exchange desire what they are getting in the exchange more than what they are giving up in the exchange».<sup>13</sup>

Money as simple medium of exchange and its utilitarian background reveal themselves to be manifestations of what Schmitt accuses for being non-political values. The abstract reciprocity they rely on is in fact the narrow economic calculation which Schmitt ascribes to liberalism, such a reciprocity appears to be the best within a distribution of reciprocal forces and values already determined.

But, contrary to Schmitt, as already said, I do not propose to get rid of liberalism in order to recognize the enemy and have a clash with him: this would always result in an institution of another arbitrary set of reciprocal forces, arbitrary in comparison with an attempt to maximize human well-being. I want instead to recover the conditions for a research of full reciprocal advantages and attachment, for an attempt to create “friendship” as much as possible.

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<sup>13</sup> P. 164

These conditions correspond to the willingness to investigate the human and existential aspects of economic agents interactions which the philosophy of money as mere medium of exchange and classical utilitarianism rejects as non-scientific. We need to recover, in other words, the *holistic* view of the economic values and dynamics which only, according to Carl Schmitt, transform simple contextual economic demands constrained within the possibilities of the status quo to real political demands which concern the wellness of the subject's entire existence.<sup>14</sup>

In order to recover this holistic and existential view, I propose three steps:

1 – Consider the concept of money as a neutral and scarce medium connecting exchanges within the existing distribution of wealth and income. Its justification presupposes, as said, the unanimity on the agreements proper of any current and past economic exchange. Such a unanimity, to be really significant in regard to the subjects' existential self-determination, presupposes in turn these subjects' total control over the full realization of their inner intentions, the total control over their putting into practice and their consequences. In a holistic perspective, though, there is no essence which can ensure its maintenance throughout time without facing the possibility of being completely transformed by the "external" elements which come to build it along its iteration in different time and space. As J. Derrida says, «the consequence is that the intention will never be entirely present to itself».<sup>15</sup> This means that we need to take into account things such as the real balance between an individual's "disutility" in her producing a certain product or in her carrying out a career choice and this individual's utility obtained by exchanging her product. Often degrees of efforts do not correspond to equally proportional degrees of compensation in all individual. Here the factors of luck and contingency prevail, and it also included the initial distribution of instruments among individuals.

2 – Unanimity in agreements supposed by the idea of money as simple medium of exchange has, as its postulate, the idea of their linear progress towards well-being. But within a holistic scenario an economic agent's willingness and capacity to produce useful stuff is not self-determined. These are determined by the level of the other individuals' ability to reciprocate and by these latter's ability to force the economic agent to develop a certain bargaining power to achieve a good agreement. This means that this agent's disposition to be productive needs both adequate demand expectations and adequate competition and bargaining constraint. This is why the presence of excessive low consumption, oligopolies and low paid worker depresses innovation and production in the long run. If we consider this state of facts within the contingency we recognized as proper of a holistic reality, we can state that the existence of inequality in bargaining power and an unpredictably tangled and fluid web of human relationships has as its structural possibility the spread and contagion of both lower stimuli and lower expectations. This can result in a general drop of growth and well-being, as happens during economic slumps, often forerun by an increment of wealth polarization. The bad influence of economic power asymmetries has obviously been observed by several economists, such as Keynes, Kalecki, Minsky, Stiglitz. But it is rarely systematically observed in a humanistic and existential perspective as consequences of the conditions of a transaction within a holistic structure.

3 – The third step is to recognize that the absence of significant unanimity in economic exchanges and the destabilizing effects of inequality make what utilitarianism neglects as indeterminate subjective states *necessary* to be examined for our lives. Not only the level of reciprocal existential

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<sup>14</sup> CP, 38

<sup>15</sup> Limited inc 28

satisfaction and expectation cannot be dismissed as a psychological, unimportant detail. This factor should actually be at the center of our examination if we want to construct a successful and happy society in a political sense. If we want to get rid of the enemy, if we want to remove what negates a fulfillment of genuine sentiment of well-being in a cohabitation and try to build a friendly community, we need to commit ourselves to calculate the best allocation of reciprocal power. In order to do that, we need institutions able to implement policies of deficit spending, State subsidies, commercial protection, public credit and currency flexibility at a level necessary to maximize and equalize everybody economic potential. The real, authentic political act we can realize is to push for the adoption of European Constitutions which contemplates a concept of money not as a mere medium of exchange and a scarce commodity but as a potentially infinite social energy which can be conveniently redistributed or obtained without any related social cost, not always and not necessarily by taxation, so that it can be allocated to the economic agents most useful to optimize aggregate incentives and expectations.

The crisis of private debts first and sovereign debts afterwards which have hit peripheral Eurozone still imposes its strong aftermath. This is for the very reason that the solutions performed to soften the gap of power between those who need monetary expansion or to devalue its currency and those who do not have either been only a fake attenuation of the use of money as scarce commodity, in the QE, or an irrational confirmation of it, in the austerity policies. In this way, the dominant conception of money is continuing to impose changes which are limited within the already established distribution of reciprocal power.

I want to conclude my talk by briefly recalling the principles of the Italian Constitution proclaimed in 1948 and, by now, totally unapplied as its principles are jarringly at odds with the concept of money fostered by the European Treaties. The peculiarity of the Italian Constitution is that, contrary to the European Treaties, it does not dictate any economic rule. It only expose political principles, in function of which all macroeconomic decisions should be made. In the Constitution of 1948, no borrowing or spending limit is explicitly recalled, subsidies or protectionist policies are not explicitly forbidden, no macroeconomic objective, as the control of inflation, is explicitly named. The one and only preoccupation of the Constitution founding fathers was political in a Schmittian sense, but depurated from any ethnic temptation: their only demand was to build a society where the feeling of reciprocity and cohabitation was maximized. To achieve this task, the legislator is not bound to a conception of money as scarce commodity. Money is implicitly likely to assume any social function, included that of a socially manageable instrument to reach power harmony. It is no accident that among its few economic references the Constitution recalls the necessity to publicly «discipline, coordinate and control credit activity», in the Article 47, the possibility of nationalizing strategic industries in the Article 43, the necessity to avoid private initiatives which contrast with public well-being, in the Article 41, the obligation to guarantee public schools, universal health treatments and workers' protection through trade unions. While according to the Treaties social solidarity and economic growth cannot succeed without following their macroeconomic gospel, the Constitution put the functioning of any economic institution in function of the free political calculation of collective satisfaction.

A formal Constitution, similar to the 1948 Italian one, is the model I hope will replace the current European Rules. It would have the merit of acting itself as a wake-up call in what Schmitt would name as “states of exceptions”. That is to say, it would remind the parties involved of the real role of the sovereign politician, devoid of any merely technical attitude, in the situations in which the

structural contingency of reality makes any accepted legal and technical norm completely unsuitable.