

The Extremes of Contemporary Politics

A Philosophical Address in Honour of an Imprisoned Turkish Lawyer*

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The war on terror as planetary state of exception

The war on terror was and is a planetary state of emergency. Although it might - and should in fact - sound as a commonplace by now to most of us, it is good to repeat and remember it¹. A state of emergency (also called 'state of exception' or martial law) is the (partial) suspension of law to defend the state against its internal enemies. The so-called *Patriot Act*, which took effect shortly after 9/11, contained (apart from an expansion of presidential powers) a series of decrees establishing the state of emergency on American soil: home searches without search warrants, unauthorized interceptions of information, eavesdropping, wiretapping, access to email and financial traffic, unlimited provisional detentions and deportations of immigrants, and broad powers to monitor political activists.

Together with this martial law came Guantánamo: the reappearance of the concentration camp opened the Nine-Eleven Era. A concentration camp is a space that embodies the state of exception, that is: a space outside the law (as the Italian philosopher Giorgio Agamben thought us). Well, Guantánamo is such a space outside the law. *The Military Commissions Act* of 2006 created a new category for these detainees. This new category was called: *unlawful enemy combatant*. Subjects given this designation are detained outside of every legal protection. President Obama promised to shut down Guantánamo within the first year of his presidency, but it is not an easy operation to abolish such a place outside the law in a legal fashion. In short, the twenty-first century started with the reappearance of the concentration camp.

Allegorical as it may sound, Guantánamo was only the tip of the iceberg. Let's not forget the *enhanced interrogation techniques* – another word for torture – with water boarding as its most notable practice. It was openly advocated by many Western liberal politicians and intellectuals. In addition, there were the *extraordinary renditions*, which

* The 'Vereinigung Demokratischer Juristinnen und Juristen' (VDJ), member of the European Association of Lawyers for Democracy and World Human Rights (ELDH) awarded the HANS-LITTEN-PRIZE 2014 to Selçuk KOZAĞAÇLI, in his capacity as President of the ÇHD - Çağdaş Hukukçular Derneği – (Contemporary) Progressive Lawyers Association. For more than a year, together with four other ÇHD colleagues Selçuk KOZAĞAÇLI was held in pre-trial detention, released and apprehended again. Altogether 22 lawyers, all members of ÇHD are accused of alleged membership in the DHKP/C. The first hearing took place from 24th to 26th December 2013 in Silivri near Istanbul. The award ceremony took place in Berlin 17 May 2014. This lecture was a philosophical contribution to this event. see: <http://www.eldh.eu/events/event/hans-litten-prize-awarding-2014-195/>

¹ This text is based on material from my book *Entropic Empire, On the City of Man*, NAI010publishers, Rotterdam, 2012. It contains however some new insights.

meant the illegal extradition of prisoners to nations that are known to apply torture. Europe cooperated in these *extraordinary renditions* and adopted a whole package of exceptional measures under American pressure. In Belgium, the spirit of the *War on Terror* was translated into the antiterrorism law and the so-called BIM- and BOM-laws: respectively, special intelligence methods and special investigation methods. There was hardly a parliamentary, let alone a public debate about it. Media and public opinion looked the other way. A federal attorney was installed with the posture of an anti-terrorism war. One of the side effects of this local war on terror – or, more accurately, direct consequences and perhaps even objectives – was a large-scale criminalization of activism. All over the world.

We have seen this in Europe, even in Belgium. Turkey supplies an extreme case: the war on terror as pretext for imposing and enhancing a totalitarian state of repression and fear. I have documented that in many opinion pieces and actions in Belgium, and I have had the sad honour to visit a trial at Silivri, as member of an international delegation observing the KCK trial in 2012, in which apart from some 200 members of the pro-Kurdish party BDP were apprehended also activists like the publisher Ragip Zarakolu, professor Busra Ersanli and Ayse Berkday were trialled (– I honour them in passing). My respect for all those journalists, lawyers, intellectuals and activists who are imprisoned and on trial in Turkey. The jail and courthouse at Silivri makes a horrendous ‘Theater of terror’. To honour our prize-winner who is in jail (out of jail since recently, in jail again since yesterday²) in Turkey, here a long quote from my text *Guantánamo Bay Istanbul*:

“The court is a hangar in the middle of the fields outside Silivri, a seaside resort of sorts at the outskirts of sprawling Istanbul. The location is officially called: ‘The Camp of the Institution for Punishment Execution in Silivri’. The ‘jandarma’ was heavily present with helmets, shields, armoured vehicles and all, I even saw some tanks. This setting gives it all away at once: the state of emergency and the rhetoric of high security and repression. The theatre of terror. It was very difficult to even reach the court. Getting into court itself was also difficult; some family members had to stay outside. Most people are arrested and on trial here based on the antiterrorism law. All sorts of wild and far-fetched accusations are used to criminalize activism, outlaw elected parties, based on arrests without evidence, illegal evidence as telephone tapping, etc. The logic of it all is culpability by association. Even people who defend the arrested can be apprehended. The aim is to spread fear and silence all democratic opposition. Some forty lawyers have been arrested so far. This is really undermining the legal process itself. It is giving up the last semblance of democracy and the state of law. It is a scandal for the Turkish judicial system and for the Turkish state (...)”³

² When I delivered my speech Selçuk KOZAĞAÇLI was in prison again since a day, since a few hours really, because of his heavily supporting the protest against the conditions in the mines after the mining accident (that happened a few days before) was and for being in a forbidden manifestation against it. He had broken an arm during his violent arrest. (Google Selçuk KOZAĞAÇLI for an update, no doubt.

³ See: <http://www.dewereldmorgen.be/blogs/brussels-tribunal/2012/07/03/guantanamo-bay-istanbul-kafkaesque-trial-in-middle-nowhere>.

Politics as thanatopolitics

We have found that the idea of the state of emergency, as internal uprooting or even warfare (war on terror) against an internal enemy, is crucial to understand our epoch. But it is not sufficient. I propose to add another extreme to it: the state of nature. It is the other pole of politics and it is today back with a vengeance. The concept of the state of nature, belonging to the classical concepts of political philosophy and, forever linked to the names of Hobbes and Rousseau, does not figure prominently in today's discourses on politics.

The state of nature may well turn out as one of the most significant concepts for understanding the geopolitical and the politico-anthropological situation in the twenty-first century. Somalia and many other imploding or failed states in Africa are proof of this. The possibility of 'a latent glocal civil' war on the other hand is demonstrated by a city like Beirut. And most importantly in neoconservative politics, 'state ending' has become a new form of imperial rule in Iraq and Afghanistan. The slogan, 'we will bomb them back to the stone age', should be taken seriously. 'Civil war engineering' is now part of Empire. Syria might prove the latest example of this rule by enhancing (self)destruction of a state.

As it is less obvious and well known, allow me to dig this state of nature up in a more philosophical way. The state of nature and the state of emergency relate to each other as opposites, which may be outlined as follows: the state of emergency is a top down excess of sovereignty (tyranny, dictatorship), the state of nature is a bottom up implosion or absence of sovereignty (anarchy, lawlessness, chaos, civil war). Is it possible to reinstate the concept of the state of nature and to absorb it in current political theory, as a supplement to Agamben's concept of the state of emergency? We will try to shed some light on this question by examining Schmitt's *The Concept of the Political* (first edition 1927, reprinted in 1932) and the commentary of a then young Leo Strauss (the godfather of the neocons), which he articulated in 1928.

In *Der Begriff des Politischen*, translated as *The Concept of the Political*, Carl Schmitt defines the concept of the political, as is well known, on the basis of the distinction between friend and foe. The concept of an enemy in politics is that of a public enemy. Schmitt stresses that we cannot talk about metaphorical enemies; opponents in party politics or a debate, or competitors, like in economy, are not relevant here. Contrary to these innocent forms of conflict, politics is always rooted in a battle of life and death. Schmitt insists on making the point that the possibility of death invests politics with a specific significance: 'The friend, enemy, and combat concepts receive their real meaning precisely because they refer to the real possibility of killing'. The battle, war or civil war, with the stakes of killing or being killed, is the existential foundation of politics. A world without war, without 'hostilities', would be a world without politics. 'Hostility' is the essence of politics. For Schmitt, the true political dimension appears only in the extreme possibility of the battle of life and death: 'From this most extreme possibility human life derives its specific political tension'. In even more graphic terms he states that the 'definition of politics' is rooted in 'the meaningful antithesis whereby men can be required to sacrifice life, authorized to shed blood, and kill other human beings'. This conception of politics one could call *thanatopolitics*,

politics based on death (in opposition to biopolitics politics based on the caring and catering for life⁴).

All true politics is, for Schmitt, thanotopolitics. The ultimate political act is violence: war, revolution, or civil war. The political grouping is ultimately and in all respects the decisive authority: the one which, given the possibility of war and civil war, decides on all other groups and institutions in society. Here the link with the *Politische Theologie* is unmistakable: sovereign is he who decides on the exception. Sovereignty is not so much about making the law, but about deciding, when it really matters, to suspend the law,.

The affirmation of politics as the state of nature

In his commentary of Schmitt's *'The concept of the Political'*, Leo Strauss makes this remarkable statement: 'The affirmation of the political is the affirmation of the state of nature'. One has to keep in mind that Schmitt and Strauss mostly point to international politics, to the relationship between sovereign states. Internal pacification on the part of the state has rendered this tension between friend and enemy virtually obsolete. But we could say that the state of exception or state of emergency is meant for the internal public enemy (the terrorist and the activists as terrorists). Relative to this, one may offer the suggestion that this proposition should be taken as an analogy, in a metaphorical sense. The true relationship between sovereign states is *like* that of the sovereign subjects in Hobbes' philosophical fiction of the state of nature. What does it mean to hold that the affirmation of the political implicates the affirmation of the state of nature? In the first place that politics is rooted in and always based on the possibility of war, because there is no higher authority than the sovereign state itself. And that's the Hobbesian premise: without sovereignty there is a state of war. When everybody is sovereign it leads to conflict.

This conception of international politics as a state of nature, as a war without laws, has been very influential since the end of the cold war in the circles of the American neoconservative, many of whom are self declared Straussians. The PNAC, the *Project for the New American Century* was the think tank (with members like Paul Wolfowitz, Dick Cheney and Donald Rumsfeld) which has written the program for

⁴ In 1976, Foucault, concluding the first volume of *The History of Sexuality*, introduced the concept of biopolitics. He further developed his thoughts on it, in the last lecture of his series at the Collège de France, that same year, posthumously published as *Il faut défendre la société (Society Must Be Defended)*. The old form of sovereignty (the monarchy, till the American and French Revolutions) allowed the sheer existence of its subjects, but included the power to *take* life; in other words, sovereignty was the right to decide on death. The new sovereign power, which emerges with the modern state and with the idea of 'government' and '*gouvernementalité*' (which came to be known in English as 'governementality'), and which Foucault, sees as an addition to 'disciplining', basically *gives* life. Through demographic politics, rules for hygiene, public health care, campaigns on family planning, urban planning, and the like, the state will interfere with the biological life of its subjects (seen as 'population'), rather than the bringing to death of its subjects. He calls this technique of exercising power, characteristic for the emerging modern state and more so for the welfare state, 'biopower' or 'biopolitics'. He opposes biopolitics (politics of life) to the old sovereignty with its politics of death, and calls it at some point thanatopolitics. However, since thanatopolitics belongs to the old sovereignty, the focus has recently been on the concept of biopolitics (Agamben, Virno, Negri & Hardt, and a stack of secondary literature).

‘shock and awe’ and ‘full spectrum dominance’⁵. After Nine-Eleven they even came to power with the first Bush junior administration. The neocons have pushed for an ‘American exceptionalism’, which is another word for lawlessness. They have trampled almost every international law of warfare and human rights, including the Geneva conventions. The subversion, or simple putting aside of the UN and international law was not collateral damage of the invasions of Afghanistan and Iraq, but really the hard core of the program. It is very important to remember that too. Civil war engineering in Iraq is another strategy that has the state of nature as basic paradigm, as paradigm for international politics.

Conclusion

How do state of emergency and state of nature relate? In a sense they are as old as politics: the extremes of anarchy and tyranny, lawless chaos and ruthless dictatorship. But they are not simply symmetrical extremes or the poles of politics, they have also something of asymmetry. We have already hinted at it: the state of nature is for *international* politics: the external enemy to make war with and base your politics on, like in the cold war, *politics as war with other means, or just straight forward war (with drones for instance)*. We are in a sense in an eternal low intensity war. The state of exception serves for *internal* politics: the war on terror as a fight against an internal enemy. In the vision of the neocons and American Empire, the whole planet had to become internal politics, *politics as policing*. The state of exception is always used against an internal enemy. That is very clear these days in the US, and extremely clear in Turkey, I would almost dare to say ridiculously clear, if it would not be so tragic. The public enemy is called terrorist or does illegal activities, is against the state, or he is an activist who is guilty by association, or who is called member of a criminal organisation: intellectuals, journalists, even lawyers...

With the affirmation of the state of Nature as the basis of international politics and the state of emergency as paradigm for internal policing and ‘warfare’ inside the state or inside American Empire, we have a graphically clear vision of both extremes, the true poles of our contemporary political condition. For the wars in Afghanistan and Iraq the international legal order was suspended and trampled (illegal invasions are the highest crimes against peace) and for the internal war on terror the constitutional rights are suspended by state of emergency regimes that become the rule. This archaic polarity between anarchy (lawlessness) and tyranny (state of exception) is back with a vengeance and constitutes the great danger of our times. Avoiding and fighting these extremes is the ‘core business’, the definition itself of democratic politics!

⁵ See on this several texts in my book *The Capsular Civilisation* and *The Tyrant as Messiah in Entropic Empire*, see also www.Brusselstribunal.org.