
Letters to the Editors

Cancelling Schmitt

Dear Editors,

I write in response to Joseph Weiler's thoughtful Editorial on Carl Schmitt (<https://www.ejiltalk.org/cancelling-carl-schmitt/>). What struck me was your note that Schmitt and Heidegger never expressed remorse. This made me think of Vladimir Jankélévitch and his struggle with forgiveness. I would hold with Jankélévitch that the actions of Schmitt and Heidegger are unforgivable whether or not Schmitt and Heidegger had expressed remorse. And yet engage with them we must. We must engage with them not because we must engage with every aspect of our collective past (certainly, Schmitt and Heidegger feature prominently in Europe's intellectual past, at least). Rather, we must engage with them because in precisely the core part of their work that is so unforgivably tainted, they have also glimpsed certain truths at the heart of a far bigger project – the European humanist tradition.

The European humanist tradition has always favoured human action. Fortune favours the brave is a motto that might well be programmatic. In fact, it is in its call to action and action in society that humanism distinguishes itself from medieval ideals of prayer, contemplation and withdrawal. Schmitt and Heidegger both recognize the existential dimension of this drive for action and make it a core

part of thought itself. In *What Is Called Thinking*, Heidegger makes thinking an act of daring, not of reflection. For Schmitt, the final thought of decision is unbounded daring, too. But if humanism depends upon this kind of thought and this kind of decision, deliberation becomes increasingly impossible. There are only those who think (that is, act) and those who do not. And those who are 'unthinking' would be deeply suspect to most humanists. Here, then, social engagement that initially drove humanism is again dissolved into the individual and her genius.

One of the big problems for law in a humanist tradition is to engage with this interpretation of our tradition. We know that this interpretation of our tradition leads to unforgivable actions. And yet, it is difficult to exclude or 'cancel' Heidegger and Schmitt. Both men are too obviously members (it is indeed difficult to outdo Heidegger in his love of Greek and German classical literature).

More dangerously, though, to 'cancel' Schmitt and Heidegger does little to disarm their thoughts. These thoughts remain tempting from within a humanist frame. And they remain tempting precisely in times of turmoil, uncertainty and indecision. When all is orderly, thinking can be a pastime. We can take an 'interest' in philosophy. But things are not orderly. Climate change, Covid-19 and geo-political

pressures again tempt us right back into Schmittian and Heideggerian action ('only a totalitarian state can address climate change' is no longer odd to hear). So to defend deliberation, pluralist societies and respect for human beings in all their frailties, we must humanize action, thought and decision. And for this, we must engage with Schmitt and Heidegger. To see the unforgivable in them is to recognize it in us, too. And that even Heidegger might deem a thought worth thinking.

Yours sincerely,

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Dear Editors,

Citations and textual engagement are political acts. They convey to scholars and students who we value in public discourse, even in our disagreements. As such, Joseph Weiler's question in a recent Editorial [vol. 32:2] about whether to 'cancel' Carl Schmitt (<https://www.ejil-talk.org/cancelling-carl-schmitt/>) is one of our individual and communal values.

Schmitt does not raise serious concerns about whether we are toeing a line of undue cancellations. Weiler acknowledges this. Yet, Weiler does what many others do when they wish to utilize Schmitt but are uncomfortable with who he was. He condemns Schmitt's explicit support for genocide by pointing to some key critical texts while arguing some of

Schmitt's other work – some of Schmitt – should be valued despite this. Weiler's approach rests on parsing Schmitt's intellectual contributions so as to deem only some of his work unacceptable. But, Schmitt did not wake up on 1 May 1933 and become a white supremacist. His identity was built on and into years of intellectual development. It exists in framing, linguistic and other scholarly choices that predate his Nazi identity and that do not explicitly justify Nazi ideology. His core beliefs were written into his scholarship and his scholarship carried a purpose. Any attempt to engage Schmitt is a choice to forgive these sins and find value in him.

Should we offer Schmitt such salvation?

I think not.

Had Schmitt looked differently or been based in a different place, he and his scholarship would have long been written out of our discourse. 'Cancelling' is a term generally reserved for white, (culturally) European men. For anyone else, 'cancelling' is what regularly happens to our scholarship when our work and ideas are usurped and regurgitated without acknowledgment, or when we are conveniently forgotten on course syllabi, in journal articles, conference panels and books. Almost every woman, person of colour and Global South scholar I know has had this happen to them. Just like 'cancelling', the practice of 'forgetting' is the result of intentional choices. It is intentional when scholars limit their literature reviews to certain Western journals, when they consider TWAIL and CRT to sit 'beyond the scope' of their research and when they fail (or refuse) to ensure a diversity of authorship in their citations. Those are intentional acts, but they are