Enemies of All Humankind

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Published by Dartmouth College Press

Schillings, Sonja.
Enemies of All Humankind: Fictions of Legitimate Violence.
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CONCLUSION

WHAT IS LEGITIMATE VIOLENCE?

This is a question that the hostis humani generis constellation helps to simultaneously address and circumvent. As this book has shown, the constellation has lasted for centuries precisely because it does not rely on timelessly definitions of (il)legitimate acts, committers, or victims of violence. Instead, the constellation enables writers of texts across the disciplines to treat historically specific conflicts “as if” they captured a fundamental drama of essential allegiance, and representative figures “as if” their use of violence reflected timeless and universal principles of justice. This potential has led to two only seemingly contradictory uses of the constellation in modern text: either as a way to reinforce—indeed, naturalize—existing claims of legitimate violence, or as a way to challenge these prevailing concepts by claiming the same “natural” justice for a rival concept. In such rival concepts, one often sees the universalization of previously marginal elements, as in the categorical development of the notion of land cultivation discussed in part 2.

This book has traced the history of hostis humani generis to demonstrate the centrality of this constellation to an understanding of modern Anglo-American conversations about legitimate violence. The study of constellations allows a nuanced presentation of the problem of legitimate violence. In the case of hostis humani generis, the problem of legitimate violence is specified as a problem of defensive agency.

It is notoriously difficult to disentangle a righteous claim to self-defense from an abusive (or, at least, unfounded) claim. For example, we encounter as one end of the spectrum the unambiguous act of self-defense against direct attack, as exemplified by the pure woman who defends herself against a physical assault on her person. Such an act of self-defense has been recognized as legitimate violence for centuries, even when cultural constructions of inherently passive womanhood rendered that recognition paradoxical. In
contrast, there is the example of a consciously false allegation, and the ensuing illegitimacy of so-called defensive violence based on such allegations. This danger is exemplified by the “man who persistently insults another man until everybody knows that the latter is his enemy, so that he can, with some plausibility, go and kill him in self-defense” (Arendt, *Totalitarianism*, 424). This spectrum of (un)sustainable claims to self-defense is well-known from the legal consideration of what I have called relational crimes (such as piracy and rape), but it also indicates a much more fundamental problem of claims to legitimacy in general.

As part 1 in particular has shown, any modern Western claim to legitimate violence can be considered strategic and abusive if compared with the traditions that preceded modernity. After all, the accumulative, expansionist interpretation of legitimate defense already constitutes a quite generous interpretation of the concept of defense. On the least abstract level, then, the hostis humani generis constellation helps pinpoint as well as navigate the gray zones in cultural constructions of defensive violence and helps smooth out inconsistencies or problematic implications. Thus, in modernity, an important second function of the constellation comes to the fore: the ability of the constellation to absorb contradictions and to retain categorical flexibility within the overarching framework of Anglo-American modernity.

The historicized analysis of the constellation helps us appreciate the constellation’s ability to narratively integrate, for instance, a generous range of different analytical understandings of the communities to be represented and defended. In this study, the most important of these communities were the imperial civilization that claims a duty to transform the world in its own image; a national community in Frederick Jackson Turner’s sense; and the abstract cosmopolitan community of innocents represented by the scholar-activist that was developed as central to the contemporary moment in part 4. Hostis humani generis contributes to an analysis of the unspoken but powerful discursive continuities that specify such diverse concepts as variations of each other via the conceptualization of the spaces inhabited, and Others encountered, by a civilizational “us.”

Simultaneously, it has become apparent that widespread critical use of the constellation is, in fact, an excellent benchmark of cultural change. When the constellation undergoes significant change that is enthusiastically accepted by people at the time, it is likely that a significant shift in the conventionally accepted basis of legitimate violence is occurring. An accepted understanding of the role of violence in a culture is not easily changed. The most obvious interpretive breaks and shifts in the history of the constellation thus correspond with massive cultural paradigm shifts: the oceanic revolution, the shift from plunder-based colonialism to trade-based colonialism, the rise of
industrialization and urbanization, the beginning of the postwar atomic age, and the globalized War on Terror. It makes sense to suggest, therefore, that the use of the constellation is indicative of cultural change simply because that is when legitimate violence is discussed most urgently and explicitly. In such situations, the constellation operates on a self-reflexive analytical level and provides a way to bridge the gap between old and new claims of legitimate violence.

Some moments of cultural change even had an impact on the basic interpretation of the hostis humani generis constellation itself. Until the mid-eighteenth century, the properties of hostis humani generis were developed mainly in the context of pirate law. In its early modern usage, hostis humani generis was employed to assess the margins of empire and to help formulate a claim to legitimate expansion. Violence outside of the sovereign realm was legitimated, for instance, by reference to the treasonous conversion of the renegade described in the Barbary captivity narrative. To legitimate colonialist expansion into the Atlantic region, Golden Age pirates were constructed as spiritually isolated outcasts who required European empires to end their lawless use of the wilderness.

After William Blackstone’s influential definition of hostis humani generis, which constructed the pirate as only one variation of the more general figure of the Lockean invader, hostis humani generis was increasingly both actively and deliberately used as a constellation. The construction of praedo and pirata as complementary enemies of the law of nature, which then had to be defended by a representative of civilization on behalf of the innocent, were abstracted into a constellation that organized these elements into stable and enduring relations. Sea space became the model for the in-between zone, and the intertwined notions of race and space helped formulate the properties of sea space as the generalized properties of any space in which praedo and pirata were encountered (for example, precolonial, urban, and planetary space).

By the early nineteenth century, hostis humani generis was so fully formed as a stable constellation that, even as a legal fiction, it could begin to describe crimes which violated humanity in ways fundamentally different than those of piracy. Rather than merely describing the random attack of the piratical outsider on the law, hostis humani generis in law began to refer to a fundamental violation of human nature that had to be countered with legitimate violence.

These nineteenth-century innovations found their strongest expression in the United States, where the constellation was further developed in reaction to a variety of charges of US illegitimacy, originating, for instance, in the US conquest of Native American land or the nation’s mutinous abandonment
of the European motherland. To refute charges and challenges such as these, the United States was claimed (by Americans) to have created an order whose spirit of law corresponded directly with the law of nature: national institutions were deemed inherently capable of protecting humans from the state of war in Locke’s sense. These institutions then had to be defended against subversion by praedones who distorted these institutions’ inherently benevolent function. The main objective of the constellation’s use in the United States, in other words, has become the actualization of the civilized essence of national institutions.

This conflation of national institutions and the idea of civilization was established by the US frontier model’s wholly new arrangement of figures within the constellation. The pirata became a foundational figure rather than a renegade condemned to spiritual exile. The representative of civilization ceased to be a chivalrous avenger and became the retrospective interpreter of violence who relegated his own violent potential to institutions and who invited institutions to retrospectively absorb the pirata’s violence as well. The praedo, rather than remaining the representative of a barbarous Other culture that dared to claim sovereignty, became an institutional interpreter in his own right, but one characterized by the totalitarian subversion and abuse of institutional structures. The innocent ceased to be defined as naturally passive and helpless and instead was cast as the broken victim of the praedo’s oppressive violence.

In short, while the original, essentialist interpretation of hostis humani generis legitimated the expansive transformation of wild territories into civilized space, the frontier model of civilization served to narrate a perpetual purification of national structures into institutions of a perfectly civilized society. This rearrangement had unintended but far-reaching consequences.

The representative of civilization was an interpreter who relegated the commission of violence to institutions, but he also demanded that these institutions follow a coherent, accountable interpretation of legitimate violence (and, not least importantly, that these institutional interpretations of violence harmonized with his own interpretation). If a representative of civilization’s interpretation of violence did not resonate within institutional structures, institutional representatives and even institutional structures themselves could find themselves characterized as un-American praedones. Examples range from the interventions of the counterculture movement in the 1970s to contemporary concepts of inherently totalitarian institutional landscapes (most notably, in the work of Giorgio Agamben). Historically a vehicle to strengthen and legitimate sovereign uses of violence, hostis humani generis was increasingly seen as enabling a critique of acts of institutional force themselves as the invasions of illegitimate impostors. The institutions
of the nation-state could be made credible as deeply problematic entities by critics who expressed their disagreement by assuming the position of a representative of civilization that exposes praedones on behalf of the legitimate actualization of universalist values.

Such critics (who can be politically diverse) are enabled by one of the greatest strengths of the constellation, which is to make new thoughts defensible as serious. Hostis humani generis does not necessarily help create new thoughts, in the sense of a genuine development of new perspectives on the world. Hostis humani generis is designed, rather, to integrate such new impulses into existing patterns of thought. The constellation has become a narrative resource to formulate abstract or unpopular concerns and values in a culturally resonant way. When a conventional claim to legitimate violence is under attack, the narrative use of the hostis humani generis constellation helps make categorical problems visible, and the constellation’s formal variations can open up ways to overcome them. For example, the pure woman paradox had been considered a puzzling act of legitimate violence for centuries—until, with the help of the hostis humani generis constellation, an argument that capitalized on the postulated singularity of this event reread the pure woman’s violence as an act of foundational violence. Rather than being a paradoxical event without any accessible meaning, the event then began to signify a foundational purification of the law that could constitute a centerpiece of new constructions of representative agency. In Gail Bederman’s words, the constellation enables the formulation of “unwelcome but unmistakable” alternative ways of seeing the world and the role of violence in it (Manliness, 2).

Because hostis humani generis allows new concepts to become defensible, one might leap to the conclusion that the constellation could even serve to develop the idea of implementable revolution. Indeed, revolutionary rhetoric is often linked to a narrative structure that relies on the constellation, but the forms of revolution that it makes conceivable include certain cultural assumptions that qualify the scope of thinkable innovation.

When we contemplate the question of revolution and radical overthrow, the origin of hostis humani generis as a legal fiction becomes meaningful in a more nuanced sense. Even though hostis humani generis does not operate like a conventional legal fiction in law—meaning that it is not a transitional vehicle to integrate new phenomena into the language of the law—its main function is still integration. The constellation absorbs new perspectives on meaningful belonging (and the normative limits of belonging) into a tradition of conceptualizing violence as an act on behalf of the community. The use of hostis humani generis demands a perspective that is just as invested in maintaining cultural continuity as it is in challenging selected traditional
elements of a prevailing interpretation. Three cultural assumptions premised by the hostis humani generis constellation deserve to be highlighted here.

First, there is the premise that legitimate violence must correspond with a claim to represent innocents. As this book has emphasized, “the innocent” is by no means a neutral term but itself includes certain hierarchies of authority that have to be perpetually reproduced, lest the derived claim to legitimate violence becomes void. Even when the notion of natural innocence is rejected, this book’s discussions of the homo sacer and related concepts of innocence produced by violence suggest that the required representation of innocents constitutes a serious analytical qualification to any claim to legitimate violence that is based on hostis humani generis.

The status of the innocent means that innocents absolutely, inherently, and permanently lack a voice within representative institutions. According to the logic of the constellation, the typical options available to the innocent (usually, a very heterogeneous group) are thus to accept their lot as passive and voiceless nonagents or to commit extreme acts of violence in the hope of becoming a variation of the pirata who, though usually an illegitimate agent, is at least accepted as an agent. When we consider such a monstrous choice, it becomes fundamentally questionable whether a claim to legitimate violence made on behalf of innocents can ever in fact be in those innocents’ best interest. It is at this point that the unique feature of hostis humani generis among legal fictions—namely, its claim to a permanent rather than a transitional characterization of a given conflict—assumes a problematic quality, as the static premises of the constellation prevent an inclusion of the voices of the (alleged) innocent as the primary correctives for any claim to legitimate violence committed on their behalf. Even in uses of the constellation that foreground the voice of the excluded and oppressed, there are some innocents whose subjection to violence is decidedly not constructed as an actual violation of their bodies or, in Hooker’s term, their dignity. Instead, violence against them is abstracted as the symbolic violation of an illegitimate order. In Native Son, for example, acts of rape and murder of women somehow emerge as defensive, legitimate acts on behalf of an integrated, truly just rule.

This leads to the second point. The inclusion of innocent voices to test a claim to legitimate violence is made unnecessary, according to the logic of the constellation, by the basic assumption that legitimate violence has a universalist dimension. Hostis humani generis always serves to formulate a general principle of justice that, once universally implemented, will automatically lead to a world that is just. The claim to represent universally applicable values is inherent to all claims to legitimate violence that rely on the hostis humani generis constellation. The claim to universal applicability is
why, when the constellation is used, legitimate violence is almost by default understood as expansive in modern texts. Apart from the obvious problems of such an expansive worldview, the claim to universal legitimacy constitutes a problem with regard to a phenomenon as uneven and complex as violence.

The gray zones of violence that hostis humani generis helps cut across with a clear legitimacy construction in texts never cease to exist as gray zones and will never be made fully subsumable, or explicable, by the use of the constellation. Hostis humani generis acknowledges the fact of violence’s insubsumability and unknowability with the inclusion of the pirata figure—yet the constellation considerably reduces the complexity of violence as a phenomenon by its bold claim that realms of inherent legitimacy and illegitimacy exist, and that experiences of paradox and inner contradiction are primarily caused by the lawless nature of the in-between zone. The constellation encourages the use of only the most sweeping claims to legitimate violence, actively discouraging the formulation of nuanced, situation-specific claims.

Third, these qualifications do not apply only to relations among humans; they apply to spaces as well. The constellation premises that, as soon as the legitimacy of violence is fiercely contested in a space, that space can be constructed as an in-between zone characterized by general lawlessness. This points to an analytical abstraction of space that necessitates the denial of its complexities outside the context of violent interaction—and, no less importantly, of human interaction. Indeed, the constellation renders it extremely difficult to include nonhuman figures in any discussion of legitimate violence. For example, Naomi Klein’s popular book on climate change, *This Changes Everything*, which makes extensive use of the hostis humani generis constellation, is able to make a convincing argument only because Klein does not write about the planet at all. Instead, she uses the notion of climate change as a historical backdrop that necessitates a call for political transformation and new standards for judging the legitimacy of violence among humans. The constellation does not, in other words, easily allow a contemplation of the human being within a world that is more than a stage for interhuman relations.

These three elements alone—the facts that hostis humani generis is universalist, and that it requires the representation of innocents as well as the premise of a space without any relevant material properties of its own—firmly situate hostis humani generis in a tradition of thought that renders its usefulness for radical models of cultural change questionable. At the same time, they also point toward some of the directions of critical analysis that may indeed profit from the consideration of this constellation, if only to help circumvent unspoken core assumptions such as these.
At the same time, there is a certain instructive irony in calling for a reconsideration of the ground of legitimate violence outside of the parameters of hostis humani generis at this point of the study. The three points just made are, in essence, simply a logical development of part 4’s analysis of a planetary in-between zone, and the observation of a potential new beginning—or rather, a potential structural revision of the constellation’s fixed relations—at the present historical moment.

Today, we again live in a time of change and upheaval, notably including a revision of the role of institutions in Anglo-American nation-states. In many different ways, prevailing interpretive traditions of legitimate violence are currently under fundamental review. The points just raised therefore do what theorists of legitimate violence have always done with the constellation—draw attention to limits and gaps of contemporary interpretations of it and point toward realms that the existing discourse of legitimate violence still needs to charter. Such a construction of a critical outside perspective, because it is itself derived from hostis humani generis, can formulate and defend the abovementioned calls for a more nuanced treatment of legitimate violence—but it cannot escape the categorical connections made between violence and identity, transformation and legitimacy, or humanity and justice that the constellation helps establish as meaningful.

Perhaps it must suffice to conclude that hostis humani generis helps translate historically specific challenges and their historically specific analyses into actionable strategic essentialisms, which in turn are designed to make sense of violent situations that involve many unknown parameters. To study the constellation across time, space, and categories of belonging requires the tacit acceptance of a modern “condition of the subject caught up in structural repetition,” to use the words of Lee Edelman (quoted in Dinshaw et al., “Queer Temporalities,” 194). In the case of hostis humani generis, this structural repetition pertains to the perpetual necessity to renegotiate the nature of legitimate violence and the structural conditions that are in place to address the question. Any contemporary text that raises questions of legitimate violence is contextualized by a discursive history of the answers that hostis humani generis has helped formulate as persuasive. As long as one speaks of legitimate violence in Anglo-American modernity, one must reckon with the hostis humani generis constellation as a central cultural resource for meaning making.