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A Revolutionary State of Exception:
Munich, 1918/19

State of Exception – An Overview

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4 1. Introduction

5 “Of all people it is me!”¹, the young jurist Carl Schmitt complained in
6 1915 to his diary when the Bavarian deputy High Command asked
7 him to draft a paper on the legal boundaries of the state of siege
8 (Belagerungszustand) in times of peace. Initially forced by his
9 superiors, Schmitt began thinking about what was going to be a
10 leitmotif of his legal thought: including the exception. Two years later,
11 his ideas on the subject resulted in two articles. While one of them is
12 rather conventional and mainly underlines the importance of an
13 independent jurisdiction in the wartime,² the second one is far more
14 interesting.³ Here, Schmitt sets himself the task of explaining the
15 difference between dictatorship and state of siege. Instead of limiting
16 himself to a formal legal analysis, he argues at the intersection of
17 legal, philosophical, and political thought.

18 First, Schmitt describes the development of the two phenomena in a
19 historic perspective, starting with the French Revolution and ending
20 with the Bavarian regulations from 1912. His main argument is that
21 while both dictatorship and state of siege lead to a concentration of
22 executive power within one institution—be it the head of state or the

1 See Mehring, Reinhard, Carl Schmitt. *Aufstieg und Fall*, München, C. H. Beck, 2009, p. 88. All translations by the author.

2 Schmitt, Carl, 'Die Einwirkungen des Kriegszustandes auf das ordentliche strafprozessuale Verfahren', in: *Zeitschrift für die gesamte Strafrechtswissenschaft*, vol. 38, no. 1917, pp. 783-797. Held as a lecture in front of judges at the university of Strasbourg this argumentation is not very surprising. See Scheuerman, William E., 'States of Emergency', in: Meierhenrich, Jens und Simons, Oliver (ed.), *The Oxford Handbook of Carl Schmitt*, New York, Oxford University Press, 2016, pp. 547-569.

3 Schmitt, Carl, 'Diktatur und Belagerungszustand. Eine staatsrechtliche Studie', in: *Zeitschrift für die gesamte Strafrechtswissenschaft*, vol. 38, no. 1917, pp. 138-161.

23 military high command—only within the latter the separation of
24 legislative and executive power is maintained. The dictator on the
25 other hand both dictates the law and oversees its execution at the
26 same time.⁴ This line of thought clearly foreshadows what Schmitt
27 would later define as the difference between “temporary”
28 (kommissarisch) and “sovereign” (souverän) dictatorship.⁵
29 Consequentially, one might think, the state of siege may be justified
30 as legitimate institution of the modern state under the rule of law,
31 while the dictatorship should be considered a dangerous deviation
32 from the principle of separation of powers.

33 But in a second step, Schmitt deconstructs this clear distinction by
34 calling it a “mechanistic juxtaposition” (“mechanistische[n]
35 Gegenüberstellung”) and argues that the separation of legislative and
36 executive power is not the foundation but rather the consequence of
37 modern statehood. In the beginning, there was no separation of
38 power at all, there was just administration. The state of siege may
39 therefore be described as a return to this “primordial order”
40 (Urzustand).⁶ Here, the actual situation reveals a rupture between
41 constitutional theory and practice. In exceptional times, such as
42 uprisings or war, even though existing laws are not nullified, they are
43 suspended. The practical consequences of this suppression, though,
44 do not differ from an annulment at all. The state of siege, thus,
45 defines a legal space outside the law: even though the power of
46 creating and applying law theoretically still lies in the hands of two
47 different institutions, he who has extraordinary executive power may
48 take every necessary measure that serves a certain purpose
49 (Zweck). The state of siege therefore is an institution characterized
50 not by positive but negative freedom, meaning that no additional laws
51 come into force, but existing laws are suspended. Now, only the

4 Ibid., p. 156.

5 Ibid., Die Diktatur. Von den Anfängen des modernen Souveränitätsgedankens bis zum proletarischen Klassenkampf, München/Leipzig, Duncker und Humblot, 1921.

6 Ibid., Einwirkungen, p. 157-158.

52 “actual condition of a concrete danger” (tatsächlichen Zustandes
53 einer konkreten Gefahr) determines the action of those in charge.⁷

54 In sum, it is remarkable and yet confusing that Schmitt’s rather
55 unknown article from 1917 does not distinguish between different
56 semantic layers or dimensions of state of exception. As an aspiring
57 jurist, he starts by discussing the technical aspects of the German
58 law on the state of siege. But when he deconstructs the law by
59 confronting it with the “actual” order of things, his argumentation
60 seems to revolve around a cultural and philosophical rather than a
61 juridical problem. And yet, although he recalls the gap between the
62 law and its application, the practical consequences of his
63 observations remain somewhat unclear.

64 Especially because Schmitt confuses these different dimensions of
65 the state of exception, his article serves as a perfect starting point for
66 distinguishing them in a historic perspective. As I will argue, there is
67 always a legal, a discursive and a practical dimension to exceptional
68 situations in the past. The legal dimension comprises the set of laws
69 and decrees that form the material basis for regulating these
70 situations and thereby codify the phenomenon of exceptionality
71 within the law. While the question remains the same—how can the
72 exception be included in the rule? —the terms used in different
73 constitutions varies. If “state of exception” is used in the following, the
74 concept refers to the abstract phenomenon of exceptionality, while
75 terms such as “state of siege” refer to the concrete legal fact. The
76 discursive dimension on the other hand consists of the act of
77 speaking about the exceptionality of the situation. That is, how was
78 the state of exception described, legitimized, or disputed? And in
79 what way did it result in a kind of exceptional thinking? Finally, the
80 way exceptional measures are used or misused, accepted or
81 contested in everyday situations may finally be described as the
82 practical dimension of the state of exception. Without a doubt, both
83 size and content of these three layers change, as does the relation

7 Ibid., *Einwirkungen*, p. 159.

84 between them. Seldom they are easily to identify and separate but
85 they may serve as a useful tool to historicize the state of exception
86 without being influenced by ahistorical assumptions. In the following,
87 I will use this threefold heuristic model to analyze the German
88 Revolution in Munich after the end of the First World War.

89 **2. Legal Basis**

90 Before World War I two laws regulated the state of exception in the
91 German Empire.⁸ First, according to article 68 of the Constitution
92 from 1871, the Emperor in his capacity as highest military
93 commander could declare the state of war (Kriegszustand) in any
94 part of the Reich if the “public security within the federal territory”
95 (öffentliche Sicherheit in dem Bundesgebiete) was threatened. Since
96 the article did not define the exact measures that might be adopted, it
97 referred to the Prussian law on the state of siege from 1851. There,
98 more specific regulations can be found regarding both the case of
99 war and uprisings. In any case, once the state of siege was declared
100 in a certain part of the Reich all executive power were transferred to
101 the military authorities. Furthermore, the military had the right to
102 suspend a series of constitutional rights such as the freedom of
103 speech or press. But since the Kingdom of Bavaria was not included
104 in the military jurisdiction of the Reich it had his own law on the state
105 of exception which came into force in 1912. While in Prussia even
106 local authorities could declare the state of siege in Bavaria only the
107 King could. His declaration resulted in a transfer of executive power
108 to the military commanders as well but not in their extension as in
109 Prussia and the rest of the German Reich.

110 On July 31, 1914 both in the German Reich and in Bavaria the state
111 of war was declared.⁹ Although initially it should only guarantee the
112 smooth mobilization of the army, it soon became the legal basis for

8 Boldt, Hans, Rechtsstaat und Ausnahmezustand. Eine Studie über den Belagerungszustand als Ausnahmezustand des bürgerlichen Rechtsstaates im 19. Jahrhundert (=Schriften zur Verfassungsgeschichte, vol. 6), Berlin, Duncker & Humblot, 1967, pp. 195-222.

9 For the following see Hürten, Heinz, Reichswehr und Ausnahmezustand. Ein Beitrag zur Verfassungsproblematik der Weimarer Republik in ihrem ersten Jahrfünft (=Vorträge, vol. G 222), Opladen, Westdeutscher Verlag, 1977.

113 the German military's massive expansion of power during the war,
114 eventually resulting in a military dictatorship under General
115 Ludendorff, head of the German High Command. After four years of
116 war, the civilian administration had lost a great part of its autonomy
117 while the population suffered heavily from the severe oppressive
118 measures adopted by the military administration. Although in 1916
119 some minor legal changes were made to limit the military's power
120 they had no practical outcome. Consequentially, one of the first
121 actions of the Council of People's Representatives was the
122 annulment of the state of siege on November 12, 1918. Practically,
123 though, this had very little if no effect at all neither in Munich nor in
124 the rest of the Reich: in Bavaria the state of siege was in force until
125 November 4, 1919 due to its partially autonomous legislation. And
126 even before it was suspended, the Bavarian government under
127 Prime Minister Hoffmann had passed another law on "exceptional
128 measures to protect the Free State" (Gesetz über außerordentliche
129 Maßnahmen zum Schutze des Freistaates) at the end of July. It
130 stated that the government could name "special commissioners"
131 (besondere Beauftragte) with extraordinary executive power into
132 those parts of the country where the public order was in danger.
133 Furthermore, it allowed that some of the regulations based on the
134 former law on the state of siege could be maintained. In other parts
135 of Germany, the situation was similar. Already in mid-April 1919
136 Chancellor Ebert declared the state of war in Braunschweig once
137 again, thereby making use of the former imperial constitutional rights.
138 The Prussian government on the other hand declared the state of
139 siege no less than fifty times between spring and autumn 1919 in
140 different parts of its territory. In sum, when the Weimar Constitution
141 finally came into force in August 1919 its infamous article 48 was a
142 well-established instrument of government action both on a local,
143 regional, and national level rather than a novelty. Its 4th paragraph
144 stated that in case of "imminent danger" (Gefahr im Verzuge) even a
145 State government might temporarily adopt measures to restore public
146 order with the help of the armed forces.

147 There has always been an intense debate on the question of
148 continuity among scholars of the German Revolution.¹⁰ Regarding
149 the legal dimension of the state of exception it is evident that the
150 years 1918/19 must not be interpreted as revolutionary at all. In fact,
151 the revolution accelerated the development of an exceptional law that
152 simplified and amplified the possibility of regulatory police and
153 military interventions on a national, regional, and local level.

154 **3. Discourse**

155 To understand the importance of the state of exception, though, we
156 must not limit our considerations to the sphere of public and criminal
157 law. To an even greater extent, the state of exception was a powerful
158 discursive and therefore cultural phenomenon in the aftermath of
159 World War I—especially in Munich. That is, with different aims and
160 nuances the exceptionality of the situation was evoked by both right-
161 wing and left-wing politicians, by journalists, by philosophers, and by
162 artists. In the following I will examine some writings of prominent
163 figures of the Revolution in Munich that adopted this kind of
164 exceptional thinking, each time with different political aims.

165 In a first step, we must return to the writings of the notorious Schmitt.
166 He experienced the revolution as a young man in the Bavarian
167 capital, still rather insecure about his professional future and
168 struggling with private problems.¹¹ Since 1915, he was employed by
169 the Bavarian high command military on the home front in Munich, as
170 a part of the military administration he thereby carried out those
171 measures that had been made possible by the state of siege. His
172 decisionistic legal thought has its origins in this experience of the war
173 and its revolutionary aftermath between November 1918 and May
174 1919: the abrupt end of the monarchy, Kurt Eisner's short presidency
175 which ended with his assassination by an extremist nationalist in

10 See Kluge, Ulrich, *Die deutsche Revolution 1918/1919. Staat, Politik und Gesellschaft zwischen Weltkrieg und Kapp-Putsch* (=Edition Suhrkamp, vol. 1262), Frankfurt am Main, Suhrkamp, 1985, pp. 10-38.

11 See Mehring, Reinhard, *Kriegstechniker des Begriffs. Biographische Studien zu Carl Schmitt* (=Beiträge zur Rechtsgeschichte des 20. Jahrhunderts, vol. 78), Tübingen, Mohr Siebeck, 2014; *ibid.*, Schmitt, 78-83; Schmitt, Carl, *Die Militärzeit 1915 bis 1919*, Berlin, Akademie Verlag, 2005.

176 February, the rise to power of the communists in spring, and, in the
177 end, their outrageously violent defeat by Free Corps and the German
178 Reichswehr. It was this period of military struggle, radical political
179 changes, social turmoil, and violence that shaped Schmitt's ideas on
180 the exception. Rather than analyzing their contemporary relevance,
181 we must locate them within the specific context of the revolutionary
182 moment after World War I in Munich. So instead of trying to describe
183 his understanding of the state of exception entirely, I will focus on
184 three aspects within Schmitt's analysis that connect directly to his
185 situation in Munich.

186 First, as the passages from 1917 cited above have already shown,
187 Schmitt's reflections on the state, its constitution, and its sovereignty
188 do not revolve around codified law, that is, written norms and rules
189 but rather the "actual" state of things: "The legal order, just like every
190 order, is based on a decision and not a norm,"¹² he states in 1922.
191 His writings from the interwar period, thus, can be read as an attempt
192 to intellectually catch up with the actual political and social order, in
193 other words, with "real life"¹³ in a city that had been turned upside
194 down by the revolution.¹⁴ Eventually, this focus on the actual
195 situation resulted in his explicit turn towards the "concrete-order
196 thinking" (konkretes Ordnungsdenken) in 1934.¹⁵ Secondly, Schmitt
197 positions the state of exception outside the relation between cause
198 and effect, thereby eliminating any possibility of grasping the
199 phenomenon by conventional legal terms. Following his
200 argumentation, neither exist unequivocal characteristics of an
201 exceptional situation nor well-defined measures that may be adopted
202 in such a situation.¹⁶ The Prussian laws on the state of siege from
203 the 19th century were formulated according to a conditional logic: if a
204 certain exceptional fact is given then a certain measure is the legal

12 Ibid., *Politische Theologie. Vier Kapitel zur Lehre von der Souveränität*, Berlin, Duncker und Humblot, 92009 [1922], p. 16.

13 „wirklichen Lebens“, *ibid.*, p. 21.

14 See Geyer, Martin H., *Verkehrte Welt. Revolution, Inflation und Moderne. München 1914-1924 (=Kritische Studien zur Geschichtswissenschaft, vol. 128)*, Göttingen, Vandenhoeck & Ruprecht, 1998.

15 See Hofmann, Hasso, *Legitimität gegen Legalität. Der Weg der politischen Philosophie Carl Schmitts*, Berlin, Duncker und Humblot, 21992 [1964], p. 180.

16 Schmitt, *Politische Theologie*, p. 14.

205 consequence, even if it is not part of the normal course of action.
206 Schmitt, however, moves well beyond these traditional justifications
207 of exceptional measures. In his eyes, the exception itself possesses
208 an ontic quality, that is, it is legitimized by its very existence: it is no
209 coincidence that the first part of his "Political Theology" ends with an
210 extended quote by existentialist theologian Soren Kierkegaard.

211 In the end, this way of including the exception is only consequential
212 and reflects the shortcomings of those pragmatic and less
213 metaphysical attempts to constitutionally include the exception made
214 in the 19th century.¹⁷ Nonetheless, if the whole investigation comes
215 down to the result that in view of the concrete situation the state of
216 exception exists and therefore matters not much is won in terms of
217 analytical insight. But if connected, thirdly, with Schmitt's
218 considerations on the nature of the political it becomes evident that
219 his concept of the exception is meant to be a powerful discursive
220 strategy rather than an objective examination.

221 As is known, for Schmitt "every political term is a polemical term" and
222 therefore "defined by its enemy"¹⁸. Politics on the other hand is not
223 limited to a certain area within society but an omnipresent possibility
224 of dividing the world into friend and foe. Consequentially, a state's
225 primary task is to maintain the balance of power between potentially
226 hostile groups. Should the state fail to do so the result is civil war.¹⁹
227 Jens Meierhenrich and Oliver Simons have recently argued that the
228 best way to understand Schmitt is to interpret his entire work as a
229 search for order in times of disorder.²⁰ This holds especially true for
230 the situation in Munich where every legal order had ceased to exist
231 among competing revolutionary and counter-revolutionary forces.
232 The state of exception, thus, was the last possible instrument of

17 See Boldt, Rechtsstaat.

18 Schmitt, Carl, Hugo Preuß. Sein Staatsbegriff und seine Stellung in der deutschen Verfassungslehre (=Recht und Staat in Geschichte und Gegenwart, vol. 72), Tübingen, Mohr Siebeck, 1930, p. 5.

19 Ibid., p. 26, footnote 1.

20 See Meierhenrich, Jens and Simons, Oliver, "A Fanatic of Order in an Epoch of Confusing Turmoil." The Political, Legal, and Cultural Thought of Carl Schmitt, in: Meierhenrich, Jens und Simons, Oliver (ed.), The Oxford Handbook of Carl Schmitt, New York, Oxford University Press, 2016, pp. 3-70.

233 maintaining order within a situation of potential or even actual civil
234 war. With this argumentation, Schmitt inserted himself in a very
235 prominent line of thought among interventionist right-wing political
236 forces, as I will show in the third part of this paper.

237 But first, I will turn the attention to two figures on the other side of the
238 political spectrum: the anarchist, poet, and politician Gustav
239 Landauer, and the journalist, philosopher, and first Prime Minister of
240 the Bavarian Free State, Kurt Eisner.²¹ Despite all differences
241 regarding their ideas both were united by their position outside the
242 traditional social-democratic party structures. In 1918, Eisner was the
243 head of the rather small branch of Bavarian minority socialists. This
244 suddenly changed on November 7, when he managed to turn a
245 regular anti-war demonstration into a revolutionary march and
246 managed to overthrow the Bavarian government in a surprising coup
247 d'état. Inspired by Eisner's actions and his immediate instalment as
248 Prime Minister, Gustav Landauer became engaged in the newly
249 formed Revolutionary Workers Council and thereby one of Eisner's
250 collaborators and advisors. After Eisner's assassination and the later
251 proclamation of the (first) Republic of Worker's Councils
252 (Räterepublik) on April 7, Landauer became the commissioner for
253 enlightenment and public instruction. Against the advice of his friends
254 and family, he refused to escape from Munich during the fights in late
255 April and was beaten to death by a group of counter-revolutionary
256 soldiers. Although neither Eisner nor Landauer developed any theory
257 on the state of exception—in fact, they basically did not publish on
258 jurisdictional matters at all—they did think in similar categories of
259 exceptionality, as I will argue in the following.

260 In the preface to the second edition of his "Call for Socialism",
261 Landauer writes on January 3, 1919 in Munich: "The socialism must
262 be built, amongst the collapse, out of the conditions of necessity, out

21 On Eisner and Landauer see Grau, Bernhard, Kurt Eisner, 1867-1919. Eine Biographie, München, C. H. Beck, 2001; Mendes-Flohr, Paul and Mali, Anya (ed.), Gustav Landauer. Anarchist and Jew, Berlin/München/Boston, De Gruyter Oldenbourg, 2015.

263 of crisis, out of temporary measures it must be put into practice.”²² In
264 Landauer’s eyes, the revolution was first and foremost a period of
265 crisis and fundamental rupture with the past. But instead of looking
266 back at the military defeat he demands the creation of socialism “out
267 of the greatest hardship, out of the work within a state of necessity
268 (Notstandsarbeit) in times of crisis and provisional arrangements
269 (...)”²³ The diagnosis of crisis and defeat, thus, implied an urgent
270 call for action, a call eventually answered by Eisner. His successful
271 intervention on behalf of the socialist revolution led to the
272 proclamation of the republic even before the same happened in
273 Berlin. This unstoppable “will to action” (Ernst Toller) was an
274 essential part of Eisner’s self-conception.²⁴ Just like Schmitt on the
275 right, both left-wing politicians experienced the revolutionary state of
276 exception as disorder which opened the possibility of establishing a
277 new order.

278 A second similarity can be found in the way they spoke about the
279 times of change, that is, the beauty and the poetic quality of the
280 exceptional situation. Without a doubt, the revolutionary beauty is
281 nowhere as pronounced as in the writings of the romantic
282 anarchist²⁵ Landauer: “ (...) may the new, creative spirit reach the
283 people out of their new tasks, the new conditions, out of the ancient
284 eternal and unconditioned (...); may religion be born out of
285 revolution, religion of action, of life, of love (...).”²⁶ But the same train

22 „Der Sozialismus also muß gebaut werden; mitten im Zusammenbruch, aus den Bedingungen der Not, der Krise, der Augenblicksvorkehrungen heraus muß er ins Werk gesetzt werden.“ Landauer, Gustav, *Aufruf zum Sozialismus*, Köln, F. J. Marcan, 19.-21. Tsd.1925 [1911], p. XIV.

23 “Wie wir aus der größten Not die größte Tugend, aus der Notstandsarbeit der Krise und des Provisoriums den anhebenden Sozialismus zu machen haben, so soll uns auch unsre Schmach zu Ehre gereichen.”, *ibid.*, p. 16.

24 Eisner, Kurt, 'Wahlrede vor den Unabhängigen (1919)', in: Dorst, Tankred (ed.), *Die Münchner Räterepublik. Zeugnisse und Kommentare*, Frankfurt am Main, Suhrkamp, 1967, pp. 23-44, here pp. 29, 34.

25 See Lunn, Eugene, *Prophet of Community. The Romantic Socialism of Gustav Landauer*, Berkeley et al., University of California Press, 1973.

26 „Das Chaos ist da; neue Regsamkeit und Erschütterung zeigt sich an; die Geister erwachen; die Seelen heben sich zur Verantwortung, die Hände zur Tat; möge aus der Revolution die Wiedergeburt kommen; mögen, da wir nichts so sehr brauchen als neue, reine Menschen, die aus dem Unbekannten, dem Dunkel, der Tiefe aufsteigen, mögen diese Erneuerer, Reiniger, Retter unserm Volke nicht fehlen; möge die Revolution lange leben und wachsen und sich in schweren, in wundervollen Jahren zu neuen Stufen steigern; möge den Völkern aus ihrer Aufgabe, aus den neuen Bedingungen, aus dem urtief Ewigen und Unbedingten der neue, der schaffende Geist zuströmen, der erst recht neue Verhältnisse

286 of thought may be found when Schmitt evokes the “power of real life
287 which breaks the crust of a rigid mechanic of repetition”.²⁷ To be
288 clear, these similarities hold true only if we let alone the ideological
289 superstructure of their argumentations. And regarding one point,
290 there is an fundamental difference between Schmitt’s concept of the
291 exceptionality of the revolutionary moment on the one hand and
292 Landauer’s or Eisner’s on the other: while the former never even
293 thought about integrating the individual as a valid entity into his
294 considerations, the entire political thought of the latter revolves
295 around the liberation of the individual: “The new world shall not be
296 built because of man, but with them,” Landauer writes.²⁸ Eisner,
297 deeply influenced by neo-Kantian philosophy, named the “self-acting
298 of the totality” (Selbsttätigkeit der Gesamtheit) the “deepest sense of
299 socialism” and never ceased to underline the importance of individual
300 self-determination.²⁹

301 **4. Practice**

302 In a third step, I will look at the state of exception as a factor of
303 political mobilization and performing the revolutionary situation,
304 thereby exploring the practical dimension of the exception. Following
305 Alf Lüdtke and Michael Wildt, the state of exception can be
306 understood as an „arena of possibilities, and of self-empowerments”.
307 The state itself, thus, is “a moment of governance that is not ordered
308 by the constitution rather than being constantly created by manifold
309 actors, neither ‘top-down’ nor ‘bottom-up’.”³⁰ In other words, on a
310 practical level and in the daily revolutionary life the distinction
311 between abstract legal order and concrete situation vanishes: once

erzeugt; möge uns aus der Revolution Religion kommen; Religion des Tuns, des Lebens, der Liebe, die beseligt, die erlöst, die überwindet. (...) Nichts lebt als die Tat ehrlicher Hände und das Walten reinen wahrhaften Geistes.” Landauer, Aufruf, p. XVII.

²⁷ Schmitt, Politische Theologie, p. 21.

²⁸ “(...) nicht mit den Ursachen der Menschen soll die neue Welt aufgebaut werden, sondern mit ihnen selbst.” Landauer, Aufruf, p. XIV.

²⁹ Eisner, Wahlrede, pp. 33-34, 44.

³⁰ Lüdtke, Alf and Wildt, Michael, ‘Einleitung’, in: Lüdtke, Alf und Wildt, Michael (ed.), Staats-Gewalt. Ausnahmezustand und Sicherheitsregimes. Historische Perspektiven (=Göttinger Gespräche zur Geschichtswissenschaft, vol. 27), Göttingen, Wallstein, 2008, pp. 7-38, here p. 23.

312 again, we are left with the factual order of things, understood not in a
313 Schmittian metaphysical way but in an empirical perspective.

314 As Bavaria's political, economic, and cultural center, Munich's urban
315 space had become one the Reich's "sensitive political stage[s]"³¹
316 during the war. Just like in Berlin, politics consisted in the constant
317 interplay between the institutions of the state and the street.³² The
318 revolutionary leaders' first and maybe most difficult task after their
319 rise to power, was to occupy the urban space and to become visible.
320 The new order had to be communicated, that is, the difference and
321 exceptionality of the situation had to be performed. This began with
322 the change of those names that reminded of the old system. The
323 former "Residential" and "Court" Theatres for instance were baptized
324 "Great" and "Small" Theatre, while the Councils' Republic from April 7
325 insisted on the spelling Baiern instead of Bayern.³³ It continued with
326 the removal of the royal family's statues and busts in public places
327 (which sometimes were quickly reinstalled in hope of a sudden
328 counterrevolution) and a different dress code adopted by the
329 revolutionary soldiers. Suddenly, every royal insignia on the uniform
330 might become an object of fierce dispute,³⁴ while sometimes just a
331 red ribbon was sufficient to be part of the Red Army. By dressing up
332 as outlaws, decorating their weapons with feathers, and keeping their
333 grenades ready at hand, mostly young supporters of the revolution
334 not only freed themselves from the severe disciplinary system of the
335 trenches.³⁵ Even more, they communicated that since the old rules
336 had become null and void they were ready to fight for the new ones.
337 Often, though, these attempts of establishing new rules resulted in

31 Jones, Mark, 'The Crowd in the German November Revolution 1918', in: Weinbauer, Klaus, McElligott, Anthony und Heinsohn, Kirsten (ed.), *Germany 1916-23. A Revolution in Context* (=Histoire, vol. 60), Bielefeld, Transcript, 2015, pp. 37-57, p. 37.

32 See Lindenberger, Thomas, *Straßenpolitik. Zur Sozialgeschichte der öffentlichen Ordnung in Berlin 1900 bis 1914*, Bonn, Dietz, 1995.

33 Hofmiller, Josef, *Revolutionstagebuch 1918/19*. Aus den Tagen der Münchner Revolution (=Josef Hofmillers Schriften, vol. 2), Leipzig, Rauch, 21938 [1938], p. 46, 72.

34 Kreis, Julius, *Der umgestürzte Huber. Bilder aus der bayerischen Weltrevolution*, München, Müller, 1920, p. ?.

35 „Die Münchner Revolutionäre gaben sich noch weit malerischer. Hinab bis zum Gürtel, dem mit drei bis vier langstieligen Handgranaten gespickten, baumelten breite feldgraue Schals, in denen Patronenrahmen staken. Es gab auch in jedem Trupp nicht wenige Soldaten, die den Gewehrlauf nach oben gekehrt trugen, um einen Federschmuck darin zur Geltung zu bringen.“ Klemperer, Victor, *Man möchte immer weinen und lachen in einem*. *Revolutionstagebuch 1919*, Berlin, Aufbau, 2015, p. 131-132.

338 violent confrontations with opponents of the revolution who tried to
339 preserve the old order by underlining the importance of traditional
340 symbols.

341 Naturally, the revolution had to be communicated not only in this
342 implicit manner but also by means of official statements. The radio
343 had yet not been invented and newspapers—the only mass media at
344 the time—were published on a very irregular basis due to paper
345 shortages, especially in spring 1919.³⁶ Therefore posters were the
346 most reliable instrument of communication. Soon the city was
347 wallpapered with announcements, regulations, and orders, with
348 „giant posters as colorful as a Punch and Judy show. “³⁷ Often,
349 though, their materiality lasted longer than their content and they
350 called for something that had already become insignificant in view of
351 the rapid succession of those in charge. Apparently, posters were a
352 highly dysfunctional method of communication, resulting in an
353 everlasting confusion about the current state of affairs: “No one
354 knows who is currently in power.”³⁸

355 This massive insecurity and lack of order created opportunities for
356 practices of on-the-spot-mobilization, as described by Oskar Maria
357 Graf: „Christians preached during meetings, nudists distributed their
358 pamphlets, individualists and bible scientists [...] strange Darwinists
359 and theorists of race, theosophists and spiritualists were plying their
360 dreadful and yet harmless trade.”³⁹ At the same time, the
361 unreliability of all communication created an atmosphere of constant
362 nervousness and mistrust.⁴⁰ Paired with the hardship of food
363 shortages, the flu pandemic, and the lack of coal and gas in the
364 winter, the collective expectation of the unexpected was maybe one
365 of the most significant features of the practical dimension of the

36 Hofmiller, Tagebuch, p. 195

37 „Riesenplakate scheckig wie eine Kasperlgaudi“, *ibid.*, p. 139, see also pp. 66, 71.

38 „Wer eigentlich in diesem Augenblick die Macht hat, weiß kein Mensch.“ *ibid.*, p. 190.

39 „Christenmenschen predigten in Versammlungen, Nacktkultur-Anhänger verteilten ihre Kundgebungen, Individualisten und Bibelforscher, [...] eigentümliche Darwinisten und Rassentheoretiker, Theosophen und Spiritisten trieben ein harmloses Unwesen.“ Graf, Oskar Maria, *Wir sind Gefangene. Ein Bekenntnis*, Berlin, 32013 [1927/2010], p. 424. See also Linse, Ulrich, *Barfüßige Propheten. Erlöser der zwanziger Jahre*, Berlin, Siedler, 1983.

40 See Hofmiller, Tagebuch, pp. 54, 65, 203-204.

366 revolutionary state of exception. In his “Revolutionstagebuch”, high
367 school teacher Joseph Hofmiller wrote in 1919: “I fear that we are
368 moving towards damn interesting times. If we are still alive next year
369 we can tell that we took part in something extraordinary.”⁴¹ Both the
370 revolutionary forces and the Reichswehr and Free Corps, sent to put
371 an end to the “spartacist uprisings” in late April 1919, took advantage
372 of this situation: pretending to act in the name of the Councils
373 Republic, men searched private homes to find any remaining food.⁴²
374 Similar practices on part of the counterrevolutionary forces induced a
375 general of the Reichswehr give out the order that “under all
376 circumstances (...) it must be avoided that (...) the state of siege is
377 misused to satisfy personal feelings of revenge”. Neither should its
378 measures bother those “parts of the population standing on the
379 ground of the government.”⁴³ And after the fights in Munich had
380 ended and the leader of the communist party, the chief of the
381 Bavarian Deputy High Command was still worried that the troops
382 might “overstep their authority.”⁴⁴

383 To sum up, the years 1918 and 1919 in Munich can be best
384 described as a period of intensified exceptionality:⁴⁵ legal
385 boundaries turned out to be insufficient to cope with the actual order
386 of things, advocates and opponents of the revolution both exploited
387 the discourse on the exceptionality of the situation to mobilize for
388 their political and social aims. On a practical level, this interplay

41 „Ich fürchte, wir gehen einer verdammt interessanten Zeit entgegen. Wenn wir heute in einem Jahr noch leben, können wir erzählen, daß wir etwas mitgemacht haben, das nicht alltäglich ist.“ *ibid.*, p. 185.

42 *ibid.*, p. 203

43 “(...) verlange ich, [daß] unter allen Umständen vermieden wird, [daß] durch Förderung des Denunziantenunwesens und durch leichtfertige Handhabung der vollziehenden Gewalt seitens der unteren Dienststellen der Belagerungszustand zur Befriedung persönlicher Rachsucht mißbraucht wird. Dergleichen darf diese militärisch notwendige Maßnahme zu keiner Belästigung der ordentlich und auf dem Boden der Regierung stehenden Volkskreise führen, unbeschadet der Unbequemlichkeiten, die auch ihnen im Interesse des Vaterlandes nicht erspart werden können.” Quoted in Hürten, Heinz, *Zwischen Revolution und Kapp-Putsch. Militär und Innenpolitik 1918-1920* (=Quellen zur Geschichte des Parlamentarismus und der politischen Parteien, vol. II,2), Düsseldorf, Droste Verlag, 1977, p. 63.

44 *ibid.*, p. 136

45 See Geyer, Martin H., 'Grenzüberschreitungen. Vom Belagerungszustand zum Ausnahmezustand', in: *Erster Weltkrieg. Kulturwissenschaftliches Handbuch*, ed. by Werber, Niels, Kaufmann, Stefan und Koch, Lars, Stuttgart/Weimar, J. B. Metzler, 2014, pp. 341-384.

389 accelerated the dynamics of the revolution, eventually leading to the
390 massive outburst of violence in spring 1919.⁴⁶

⁴⁶ See Jones, Mark, *Founding Weimar. Violence and the German Revolution of 1918-1919*, Cambridge, Cambridge University Press, 2016, pp. 288-323.

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