Against Politics: Walter Benjamin on Justice, Judaism, and the Possibility of Ethics

CHARLES H. T. LESCH   *Harvard University*

*I*s politics compatible with the moral life? Recent attempts to revivify democracy have stressed the lived experience of political activity, the democratic character of the spontaneous moment and the popular movement. This article raises some concerns about such agonistic enthusiasm via an original reading of Walter Benjamin's political thought. For Benjamin, politics corrodes our everyday lives and moral conduct. His response is to envision a space for ethics wholly apart from the violence (Gewalt) that sustains propertied political order, a purified version of the Kantian kingdom of ends that he calls the "state of justice." Yet deprived of the coercive instrumentality of politics, there is no action that could lead humanity directly to such a state. To surmount this paradox, Benjamin culls from sources in Jewish political theology, and in particular, Jewish ideas about justice and the community of the righteous. In so doing, he offers a new and radical ethical critique of politics that may hold special relevance in our politics-saturated age.

"Human actions form a whole. A space can be saved with great effort for ethically relevant actions. Saved from what? From violence, which can be termed 'myth.' Almost all realms of human action are subject to mythical categories, from which fate alone attributes meaning. Justice is the elimination of fate from action. The righteous act has neither fate nor meaning."

— *Gershom Scholem on Walter Benjamin's "Theses on the Concept of Justice"*

The spirit—or demon—of politics," writes Max Weber, "lives in a state of inner tension with the god of love." "This is a tension," he continues ominously, "that may erupt at any moment into irresolvable conflict" ([1919] 2002, 366, translation modified). One important way of theorizing the friction between morality and politics examines the so-called "problem of dirty hands," raising vital questions about when it is appropriate to violate moral norms for the sake of a greater communal good (Thompson 1987; Walzer 1973, 1977). Another important but neglected way to understand this tension, however, inquires not into the ethics of high political leadership but the politics embedded in our own ethical relationships.

Such theorizing attends to the impact of ideological and instrumental forms of thinking on our everyday moral judgment (Halbertal 2012, 63–78), what Weber calls the "significance of political action within our conduct of life as a whole" ([1919] 2002, 309). The "political" is here taken to be one component of our lived experience, offering a reservoir of concepts and categories—power, conflict, authority, strategy, performance, hierarchy—from which we might draw as we navigate our interactions with others. But if our ethical relationships also contain elements that are political, it should stir us to interrogate the normative status of politics, to inquire about its impact on the self. In short, we might wonder: Is politics compatible not only with ethical decision-making, but ethical *life*?

A prominent tradition in the history of political thought has responded to this question by sidestepping ethical concerns in order to extol the activity of politics. From Aristotle's "magnanimous man" to Machiavelli's *virtù*, Arendt on action, Gramsci, and perhaps even Nietzsche, such thinkers have promoted the life spent in responsibility, persuasion, decision, and deed. Without minimizing their differences, what theorists of this kind offer is a certain image of human flourishing: A life that is active and enterprising, inventive and resourceful—and, at the same time, deeply enmeshed in realities of interpersonal power. A person in this mold is a shrewd and artful fashioner of her world, and the wellspring of her invention is politics. Indeed the political itself is here taken to be that mode of life that redeems humanity from its creaturely state, according it meaning and purpose. For some of these thinkers, it is a significant part of what makes us uniquely human. "Exploiters or slaveholders" may be unjust, writes Arendt, "but they are certainly human"; yet "a life without speech and without action"—one characterized, that is, by a kind of moral quietism—"is literally dead to the world" (Arendt 1958, 176).

In recent years, a number of theorists seeking to revivify democracy have looked to recover aspects of this strain of thinking, identifying what is genuinely "democratic" with a form of action or activity rather than a type of regime. Democracy, on this view, makes

Charles H. T. Lesch is a Ph.D. candidate in political theory in the Department of Government at Harvard University. In 2013–14, he will be a Graduate Fellow at Harvard's Edmond J. Safra Center for Ethics. (lesch@fas.harvard.edu) 1737 Cambridge Street Cambridge, MA 02138.

its authentic appearance in spontaneous "moments" and popular "movements."[1] Sharing, on the one hand, a Weberian fear of an apathetic and bureaucratized society, and on the other, a concern about the normative strictures of political liberalism, some of these thinkers have cautioned against the so-called "displacement of politics," the attempt to foreclose humanity's expressive horizon by setting in advance the boundaries of the political. "To accept and embrace the perpetuity of contest," writes Bonnie Honig, "is to reject the dream of displacement, the fantasy that the right laws or constitution might free us from the responsibility for (and, indeed, the burden of) politics" (1993, 210–11).

Theorizing of this kind gives rise to important reflections about the adequacy of our own political institutions. It productively challenges us to rethink many of our assumptions about the meaning of democracy and self-governance. Yet its enthusiasm for political activity also raises an ethical worry. Does a more frankly adversarial vision of politics—one that seeks to highlight rather than mitigate interpersonal relations of power—still permit the development of the moral self? In this article, I argue that this anxiety demands more urgent attention via a new interpretation of Walter Benjamin's early political thought. Political theorists, I think, have good reason to be troubled by the possible moral consequences of a more expansive role for politics in everyday life.

At the same time, Benjamin's argument also calls into question one of modern political theory's most important premises. At least since Kant, liberal and democratic thought has largely assumed that coercive political authority is not only compatible with ethics, but is its necessary prerequisite. According to this view, the state is justified in using the force of law in order to produce an orderly civil sphere, for under its aegis, people will be free to make autonomous moral decisions and cultivate individual virtue.[2] For Benjamin, however, political order of any kind necessarily entails—in Weber's words—"a relation of men dominating men" (311, translation modified). Any movement seeking to harness the power of the state for its own ends and interests will, consequently, be implicated in its foundational violence. Benjamin's response to this dilemma is to propose his own theory, rescuing the possibility of ethics by reworking Kant's moral and juridical philosophy through the prism of Jewish theology. In so doing, he offers a new and radical vision of the relationship between ethics and political life that may hold special relevance in our politics-saturated age.

At first blush, Benjamin might appear an unusual thinker to which to turn for insights into politics. An important literary and cultural critic who wrote in continental Europe prior to the Second World War, he has long been influential for theorists in many disciplines, sparking important developments in fields as diverse as history, anthropology, comparative literature, architecture, and film studies. Even so, it is only in the past few years that he has been recognized as an innovative political thinker. Three facets of his thought have been particularly influential. First, his antihistoricist "On the Concept of History," besides spawning a voluminous interpretive literature, has also been an important resource for theorists of nationalism (Anderson 1983) and subaltern studies (Scott 2009, 35). His impact has also been felt in modern legal theory, especially since the appearance of Jacques Derrida's well-known lecture on law and authority that was framed explicitly as a commentary on Benjamin (Derrida [1989] 1992, cf. Hamacher 1991, Menke 2010, Morgan 2007). Most recently, the swell of interest in political theology and the concept of sovereignty has spotlighted the central—and controversial—relationship between religion and violence in his writings, particularly his notoriously difficult concept of "divine violence" (Agamben [1995] 1998). In the process, two dominant understandings of Benjamin's thought on religion, politics, and violence have emerged, both of which this article sets out to reverse.

First, the consensus in contemporary political theory is that Benjamin does not advance a normative theory of ethics. Jürgen Habermas has expelled Benjamin from ethics entirely, linking him to Carl Schmitt's theory of sovereignty, the aesthetics of violence, and a strand of reactionary antiliberalism. In his eyes Benjamin, with Schmitt, sought nothing less than "the violent destruction of the normative as such" (Habermas 1992, cf. [1972] 1991 and Benhabib 1986, 327–9). A more recent treatment by Giorgio Agamben has again stressed the link to Schmitt, particularly on the concept of "violence" (*Gewalt*). Benjamin, he argues, fundamentally shares Schmitt's conception of sovereign violence, differing only in transposing its application from the juridical to the revolutionary sphere (Agamben [2003] 2005, 53–4, 59). Even so, others, such as Beatrice Hanssen, have identified an ethical filament running through all of Benjamin's writings (Hanssen 1998). And, on some occasions, he passes us hints of his own, suggesting in an early critical essay that his task is nothing less than to transform the "entire context of ethics" (Benjamin 2004, "On the Program of the Coming Philosophy," 105).[3]

A second scholarly conviction that has prevailed until quite recently was that Jewish ideas had little

---

[1] See, for example, Sheldon Wolin's (1996, 43) association of democracy with the *experience* of political action rather than institutions of political order, as well as Jason Frank's discussion of "constituent moments" in theorizing the concept of "the people" (2010). Without minimizing their differences, many like-minded theorists have been influenced by canonical thinkers who in some way lionize forms of action or activity that we would call political. For example, Laclau and Mouffe (1985) have taken inspiration from Gramsci (and Gramsci himself from Machiavelli); Honig (1993) from Nietzsche; Mouffe (2005) from Schmitt; and Markell (2006) from Arendt.

[2] Perhaps the best known contemporary neo-Kantian model of coercive authority and moral development is John Rawls' ideal of the "well-ordered society" (1971, especially at chap. 69).

[3] Benjamin's writings appear primarily in the form of essays, and therefore when citing from the English translation of Walter Benjamin's *Selected Writings* (Vols. 1 and 3, Belknap of Harvard, 2004 and 2006), I have also included the name of the essay for clarity. Where providing or modifying translations of Benjamin's works, I have consulted the *Gesammelte Schriften* (7 vols., 1972–1989) and *Gesammelte Briefe* (1995).

or no impact on the most important facets of Benjamin's work. And not without reason: Benjamin had no religious education, repeatedly failed in his attempts to learn Hebrew, and, by all accounts, knew very little classical Jewish philosophy.[4] Unlike his intellectual companion Gershom Scholem, with whom he shared a deep if difficult friendship over many decades, he never flirted with traditional observance. Yet this leaves us at a loss to explain Benjamin's own words. "If I ever have a philosophy of my own," he insisted as a young man, "it will somehow be a philosophy of Judaism" (Scholem 2008, 138). And there is no question of how he saw his own writing as his career neared its abrupt and tragic end. "My thinking is related to theology as a blotting pad is related to ink" he writes in his unfinished *Passagen-Werk*. "It is saturated with it" (Benjamin 1999, 471).

In this article, I draw upon newly uncovered material to contest both of these views, offering a reading of Benjamin as an innovative theorist of ethics, Judaism, and the relationship between politics and the moral life. I argue that Benjamin, far from working to destroy the normative, was in fact a deep theorist of ethics, one who sought nothing less than the complete subordination of the political to the ethical. His project aimed to create a space for ethics wholly apart from violence (*Gewalt*) and instrumental reason, to delineate the conditions whereby a purified version of the Kantian kingdom of ends, a "state of justice," could be realized. Yet deprived of mechanisms of coercion, there is no action, no imperative for action even, that could lead humanity directly to such a state. To surmount this aporia, Benjamin culls from the Jewish sources known to him, and in particular, Jewish ideas about justice, the community of the righteous, and that aspect of divinity that binds them together: *Shekhinah*, the "divine presence." It is thus precisely where these two neglected strands of Benjamin's thought are joined that we find his most original contribution to political theory: a radical ethics, one combining a total allegiance to the Kantian moral system with a wholesale rejection, on Jewish theological grounds, of its political counterpart.[5]

My reevaluation of Benjamin's thought draws primarily from two recent developments. The first was the publication of the diaries of Gershom Scholem, which offer an intimate window into the friends' discussions and shared concerns (Scholem 2008). The second was the discovery, in the Scholem archive at Hebrew University in Jerusalem, of two previously unknown works: "Notes to a Study on the Category of Justice," authored by Benjamin around 1916, and "Theses on the Concept of Justice," a restatement of Benjamin's thought by

Scholem.[6] My focus here will therefore be on the so-called "early" Benjamin, before his turn, in the mid-1920s, to Bertolt Brecht and materialist aesthetics (R. Wolin 1982, xii–xv).[7] At the same time, what we find in these early writings has the potential to ramify. The theological dimension of Benjamin's thought, far from diminishing with time, returns unmistakably, and with great fervor, in his later work (Buck-Morss 1977, 139–146). Thus in the final portions of this article I make use of these new sources to offer an original reading of what has, until now, been regarded as Benjamin's most explicitly political work, *Zur Kritik der Gewalt*, "Toward a Critique of Violence/Authority."

I conclude by suggesting that contemporary theorists should take seriously Benjamin's insights into the relationship between politics and ethics. Even as recent strands of agonistic philosophy champion the cacophony of politics, Benjamin's thought signals a note of caution, a warning that certain facets of human experience may be threatened by a more power-laden social intercourse. Set against this backdrop, Benjamin's concern is not mainly with high politics. Indeed he shows little interest in politics as such. Instead, the political surfaces as a kind of negative category in his philosophy, germane at those moments when it brushes up against other categories—when it threatens to colonize further realms of thought and experience. His worry is the indelible imprint that power makes on our everyday lives and moral conduct. Benjamin, in short, was *against politics*. In his view, it is not to the violence of social revolution but to the fashioning of an ethical community, set apart from politics, that humanity must look for its principal task.

KANT'S TWO COMMONWEALTHS

Benjamin's critique of politics has two interrelated components. First, he contests Kant's view of the normative status of politics and its relation to ethics. Whereas Kant regards the coercive force of juridical authority as not only congruent with, but indeed necessary for, ethical practice, Benjamin, entirely

---

[4] The precise nature of Benjamin's debt to Judaism has been an ongoing question for scholars. See Jacobson (2003), Rose (1993), Scholem (1976, 1981), and Wohlfarth (1992) .

[5] Kant's influence on Benjamin has been considered from a number of angles, including aesthetics and cognition (Rosen 1996, 234–253), phenomenology (Fenves 2006), and the concept of "purity" Salzani (2010). Even so, the impact of Kant's political theory on Benjamin remains less well explored.

[6] Citations of the essays, which were discovered by Eric Jacobson, will refer to their rendering and translation in Jacobson (2003). "Notes to a Study on the Category of Justice" ["Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit"] (pp. 166–169) will be abbreviated as "Notes," and "Theses on the Concept of Justice" ["Thesen über den Begrif der Gerechtigkeit"] (pp. 174–180) as "Theses." As the first part of the "Theses" essay is a restatement of Benjamin's ideas based on oral and written material, I reference it as such throughout the essay. The second part is treated as a reflection of Scholem's own theory of justice.

[7] Theorists have sometimes cited Benjamin's discussion of the "politicization of art" to argue the exact reverse of what I do here: that Benjamin sought to inject the political into *all* spaces, including the ethical and aesthetic. Benjamin's remark can be found in his well-known essay "The Work of Art in the Age of Its Technological Reproducibility" (Benjamin 2006, 122). This was a work written while Benjamin was at the height of his flirtation with Marxist philosophy and materialist aesthetics and before, to paraphrase Adorno, his "Brechtian sun had finally sunk beneath its exotic waters" (Adorno and Benjamin 2001, 132). Consequently, I follow both Adorno and Scholem (1981) in regarding his politics of this period as an inaccurate reflection of either his early or mature political thought.

rejects this compromise, regarding political order of any kind as morally suspect. Second, Benjamin refashions Kant's moral-eschatological vision. Kant all but rejects the perfect ethical community as a practicable program, seeing it instead as a kind of regulative moral ideal. This rejection, in turn, allows him to argue for the temporal permanence of politics. For Benjamin, however, such a community is a genuine—if difficult—historical possibility, one whose realization becomes practicable through the prism of an alternative, specifically Jewish, eschatology. I begin here with his treatment of Kant.

As Kant continued to develop his critical philosophy during the 1790s, he theorized an essential compatibility, even symbiosis, between coercive political order and autonomous moral development. In his 1793 work *Religion within the Bounds of Bare Reason*, he illustrated this idea through the image of two "commonwealths" (Kant [1793] 1960, 86). The first of these, a "political commonwealth" serves as the basis for secular order. As citizens of a "juridico-civil society," people obey external, coercively enforced laws designed to keep the peace, protect property, and safeguard external liberties. As members of the "ethico-civil society" or "ethical commonwealth," by contrast, individuals deepen their moral virtue while motivated by nothing other than the internal force of duty itself. While Kant regarded ethico-civil society as universal, in principle accessible to all rational beings and thus unconstrained by state boundaries, he nonetheless saw life in the political commonwealth as an absolutely necessary condition for the ethical commonwealth's actualization (86). Kant, in short, thought political order—and the violence it entails—was a prerequisite for ethical life.

Consequently, Kant emphasizes that submission to the laws of the state is itself not only a juridical but moral duty, as "obedience to it, as to all injunctions of duty, *can be drawn into religion*" (7, emphasis added). He clarifies this further on in a lengthy footnote discussing the duty of individuals when confronted by conflicting legal and moral demands. In such a case, the task to obey any law of the state, even if imposed by "arbitrary will," is automatically not only an obligation, but a "divine command" (90). The only situation in which one is free to disobey the laws of the state is when they are "directly opposed to the law of morality." What this means is that, for Kant, the juridical structure must be shown to have some kind of moral-metaphysical foundation. At the very least, it must be shown to not conflict directly with morality. Demonstrating this is a task Kant took up directly in his *Metaphysics of Morals*, which appeared four years after his *Religion* essay in 1797.

Benjamin's critique centers around Kant's answer to the fundamental question of political violence: Under what circumstances, if any, may the use of force be legally authorized (Kant [1797] 1996)? Kant's answer takes on new urgency in the context of property rights. An important concern, for Kant, is whether it is possible to establish a metaphysical justification of possession, one that does more than simply equate superior force with justified authority. Kant's question, in other words, is: Is a genuine *right* to a thing possible (39)? His answer is that it is, and, consequently, that it is compatible with right (*Recht*) to authorize legal force, backed by violence, to secure their protection. Further, and critically, it is entirely appropriate to use the term "justice" (*Gerechtigkeit*) to refer to a state of affairs in which *Recht* is correctly applied. One consequence of this is that a world saturated with violence may also be a world of perfect justice; indeed, in Kant's formulation, bloodshed may often be *demanded* by justice (105–6). The linchpin in his system is the concept of *Gewalt*, often translated, at different points, as "control," "violence," "force," and "authority." It is through *Gewalt* that Kant is able to do the seemingly impossible: to make the leap from the physical to the metaphysical, from raw might to justified right, brute possession to legitimate control.

Benjamin finds Kant's reasoning deeply problematic, and his argument unfolds in two parts. First, in "Notes to a Study on the Category of Justice," he rejects Kant's justification of lawful possession:

> Every good, limited by structures of time and space, has a possessive character trait that is an expression of its ability to pass away. Possession that is trapped by the same finitude, however, is unjust. For this reason, there is no system of possession, regardless of its type, that leads to justice [*Gerechtigkeit*]. . . .There is, namely, the entirely abstract right of the subject to every good on principle, a right that is not based on needs but rather on justice and whose last inclination will not possibly concern the right to possession of the individual but a right to goods of the good. (Benjamin 2003, "Notes," 166)

Similar reasoning also appears, in a slightly different form, in "Theses on the Concept of Justice":

> It is impossible to arrive at a concept of justice from the realm of the *theory of goods*. Regardless of its form, justice in the distribution of goods cannot be realized, even as an idea. *Every good* in the perceivable world has a possessive character trait as an 'index of its temporality,' as an expression of its ability to pass away. The possessive character trait of all goods is *objective*, meaning that there is an *absolute* right of *each* individual to *every* good. (Benjamin 2003, "Theses," 174)

Later in the first essay, Benjamin signals that in rendering "justice" he is deliberately *not* following Kant's usage. In this area, at least, he is offering not an immanent critique, not arguing against Kant on his own terms, but innovating, establishing a "new ethical category" ("Notes," 166). Whereas for Kant the concept of justice gives rise to *duties*, demanding enforcement by a public, juridical, and ultimately coercive authority (Kant [1797] 1996, 21), Benjamin, in the second part of his critique, wants to entirely detach the concept of justice from all logic of means-ends. Justice, he insists, is a *state of being*, and, more, one whose essence entirely resists producing demands of any kind:

> Justice refers to the ethical category of the existing, virtue the ethical category of the demanded. While virtue can be demanded, justice, in the end, can only be the state of the world or the state of God. ("Notes," 166)

Finally, Benjamin emphasizes that it is impossible to equate justice merely with a particular set of material conditions, no matter how equitable. "There is no system of possession," he asserts, "that leads to justice" (166).

The precise meaning of Benjamin's argument, as well as his new category of justice, are obscure, and my task here and in the sections that follow will be to elucidate both. I turn first to his critique of Kant's reconciliation of ethics and politics. Benjamin, I contend, follows Kant into the teeth of an antinomy on the metaphysical justification for political violence. But whereas Benjamin will choose to face this antinomy head on and embrace its radical consequences, Kant withdraws and turns his back, hiding his philosophy behind a new myth: *Gewalt*.

In his *Metaphysics of Morals*, Kant introduces the concept of *Gewalt* as part of a longer discussion concerning the justifiability of possession prior to the advent of the civil state:

> The principle of external acquisition is as follows: that is mine which I bring under my *control* [*in meine Gewalt bringe*] (in accordance with the law of outer *freedom*); which, as an object of my choice, is something that I have the capacity to use (in accordance with the postulate of practical reason); and which, finally, I *will* to be mine (in conformity with the idea of a possible united *will*). (Kant [1797] 1996, 47)

At the same time, a study of Kant's usage of the term throughout the work reveals a more troubling lineage. As noted by John Ladd in his translator's introduction, *Gewalt* is deployed to refer to both illegitimate *and* legitimate uses of coercion (1999, xxxv). Thus we are told that each force in the state of nature contains a "degree of *Gewalt*" [*bloßen Maße seiner Gewalt*], locked in brutal struggle with the others (90); that it is humanity's "maxim of *Gewalt*," its "malevolent tendency," that necessitates the coercion of public law (89); and that men who break their word of honor—who trick their opponents or butcher defenseless prisoners—are characterized by "*wilden Gewalt*," a savage violence (86, note). In spite of this, Kant finds little trouble in converting the *Gewalt* of illegitimate bloodshed to the *Gewalt* of justified right. He defines a "civil condition" as one "under an authority [*Gewalt*] giving laws publicly" (44). It is *Gewalt*, as in the example above, that he repeatedly uses to describe how "control," in the sense of lawful possession, is rightfully taken over objects (42, 43, 47, 52). And his term for describing the different sources of authority within the state (sovereign-legislative, executive, and judicial) is *Gewalten*: powers, each inviolable in its sphere and irresistible in its force (90–1).

It would seem, therefore, that what we now need is a means to distinguish a violence we would want to claim as unlawful and that to which we would want to accord sanction. What we need, in other words, is precisely what Benjamin will himself provide: a critique of *Gewalt*, an investigation into the circumstances of legitimate coercive authority. But Kant instead opts for a shortcut. He attempts to demonstrate a means by which we can get *directly* from power to author-

ity. In the process *Gewalt* persists, its savage violence reborn—or sublimated—as right.

At this point it is worth recalling Kant's aim in the work. The function of the civil state *vis-à-vis* property is not, in Kant's view, primarily to *legitimate* the "laws concerning what is mine or yours," but rather to "provide the conditions under which these laws are put into *effect*" (90, emphasis mine). It is therefore essential that there be some form of justifiable possession already extant in the state of nature, prior to the advent of the state. Lacking this autochthonous legitimacy of possession, the civil state itself would be in danger of lacking legitimacy: There would be little to separate its use of coercive authority from groundless violence, its claim to uphold "distributive justice" [*distributiven Gerechtigkeit*], from the raw *Gewalt* of the natural state (90). In short, it would have no moral basis for using violence to protect private property.

Given the stakes involved, one puzzle is why Kant did not simply adopt Locke's "labor theory of appropriation" and say, with his predecessor, that property can be legitimately acquired through industry (Locke [1689] 1988, chap. 32, p. 291). His reason for rejecting this path is revealing: The labor theory errs, he asserts, in suggesting that rights involve "a direct relation to things rather than to persons" (Kant [1797] 1996, 49). A right to an object, for Kant, can only be conceived of in terms of a person's *use* of that object as against another's, not to the object itself: "Speaking strictly and literally," he writes, "there is no (direct) right to a thing (50)." In other words, as Mary Gregor has noted, the labor theory, though championed by empiricists, actually requires a flight into metaphysics (1988, 783). A person, having worked on an object, can be said to continue to possess that object at a distance only if it is somehow established that she has left a trace of herself—what Kant derisively calls a "guardian spirit" (49)—in that object. For Kant, such a step is both theoretically necessary and clearly indefensible.

In place of the labor theory, Kant offers a drastic alternative: Prior to the civil state, *all* objects are potential possessions. He frames his argument as a requirement internal to the logic of possession itself. "A maxim," he writes, "by which, if it were to become a law, an object of choice would *in itself* (objectively) have to *belong to no one* (*res nullius*) is contrary to rights" (40–41). In other words, it would be impossible to place "useable objects beyond any possibility of being used," for this would "annihilate them in a practical respect" (41 cf. Gregor 775). This "postulate of practical reason with regard to rights" (42) in hand, Kant further clarifies the distinction between having something in one's *power* versus under one's *control*:

> But in order to *think of* something simply as an object of my choice it is sufficient for me to be conscious of having it within my power. – It is therefore an *a priori* presupposition of practical reason to regard and treat any object of my choice as something which could objectively be mine or yours. (41)

Every object thus contains a latent possessive character, the potential of being treated as "mine or yours."

This eliminates the problem of *res nullius*. However it raises a further difficulty: Why should any particular object be considered a single individual's exclusive possession? Gregor has argued that Kant's expansion of rightful possession beyond the body takes the form of a "concept of reason," a "pure concept of 'having'" (1988, 777). The result is a paradox: If we are to follow Kant's reasoning, it would seem that every person now has, in principle, a claim to *every object*. As Susan Shell has observed, this would make Kant's position much closer to that of Hobbes, where in the state of nature there is a natural right of every individual to all things (1978, 81). This is Benjamin's pithy formulation: "The possessive character trait of all goods is *objective*, meaning that there is an *absolute* right of *each* individual to *every* good" ("Theses," 174). Kant has given us possession, to be sure—but of a kind that is universal, infinite, and, most critical of all, lacking interpersonal distinction.

Here Kant might appeal to an argument that resurfaces throughout the text: That land may be rightfully acquired based on humanity's "innate possession in common [*Gemeinbesitze*] of the surface of the earth" (Kant [1797] 1996, 40 note i, 41, cf. 51). As members of such a *communio fundi originaria*, persons may assert their right, not to the object itself, but against other persons as "first takers," provisionally acquiring a tract and rightfully defending it against others with a view to the eventual conclusive acquisition that will take place in the civil state (40 note i, 54). In this way, the universality of original possession, in the charge of a nascent human community, guarantees the establishment of provisional right.

Yet the problem persists. For even with such a common possession, the puzzle of how to rightfully divide tracts *between* individuals remains unsolved. As human beings have "by nature the *will* to use [the earth] (*lex iusti*)," Kant writes, they would find its effective exploitation impossible "if this will did not also contain the principle for choice by which a *particular possession* for each on the common land could be determined" (54).

It is thus on the concept of *Gewalt* itself that the validity of Kant's theory of possession now depends. "It is possible," he writes, "for an external object of my choice to be reckoned as rightfully mine if I have control [*Gewalt*] over it (and only in so far as I have control over it) *without being in possession of it*" (42, emphasis mine).[8] While enlarging the domain of right cannot be grouped straightforwardly with *Recht*, it can be considered part of the "permissive law (*lex permissiva*)," functioning to provide "an authorization that could not be got from mere concepts of right as such" (41, cf. Kant [1795] 2003, 97–8 and Gregor 776). In other words, right cannot proceed *directly* from might,

but can do so by passing through an intermediate stage; it is not, in the long run, barred from right altogether.

In practice, however, the results are identical: If a person can claim—"choose"—a thing and effectively defend it, that thing thereby becomes hers—not only *de facto*, but *de jure*. In violation of his own principle, deployed against the labor theory of property, rightful title is again obtained by entering into a direct relationship with an object. Kant blithely quotes the saying "Happy are those who are in possession" to encapsulate the first principle of natural right: The very fact of one's initial control over an object—however arbitrary—provides nothing short of "a rightful basis for acquisition on which every first possessor can rely" (41, note i). But the legitimacy of such possession is dubious from the start, birthed in a tenebrous zone between legitimate control and groundless power. Or, in Benjamin's language, "Every good, limited by structures of time and space, has a possessive character trait that is an expression of its ability to pass away. Possession that is trapped by the same finitude, however, is unjust" ("Notes," 166).

In a telling passage from his *Religion* essay, Kant had deployed the metaphor of communing with an "evil spirit [*bösen Geist*]" to warn against acting according to any maxim other than the moral law ([1793] 1960, 52). Foremost among such "spirits," Kant tells us through a deliberate misquotation of Christian scripture, are "powers"—"*Gewaltigen*." Yet in the *Metaphysics of Morals'* new formula, ownership is secured precisely through partnership with such nonmoral maxims, that is, with power [*Gewalt*] itself. Kant's emphases on the divide between legitimate and illegitimate uses of coercion not withstanding, then, it is by no means clear whether *Gewalt* can sustain its dual significations, its paradiastolic refashioning from unjustifiable violence to rightful authority. The *Metaphysics of Morals* violates Kant's own principle from *Religion*: Not only the state's laws, but its very moral-metaphysical foundation, stand directly opposed to the law of morality.

It is at this point that Benjamin steps in, facing the antinomy head-on and refusing Kant's new mystification based on *Gewalt*. For Kant, the existence of worldly justice is a condition of human worth: "For if justice [*Gerechtigkeit*] goes, there is no longer any value in human beings' living on the earth" (Kant [1797] 1996, 105). For Benjamin, if there is no genuine foundation to the state's legitimacy, there is nothing to separate the blood of *Gerechtigkeit* from the blood of *Gewalt*: Right is made compatible with might, justice with violence. The two "commonwealths" cannot coexist, for such a reconciliation is built not on sound metaphysics but on a novel mythology. "For this reason," Benjamin concludes, "there is no system of possession, regardless of its type, that leads to justice [*Gerechtigkeit*]" ("Notes," 166).

BENJAMIN'S CATEGORY OF JUSTICE

Yet Benjamin's immanent critique is only half the story. Having undermined Kant's logic on its own terms, the

---

[8] Kristian Kühl has usefully divided Kant's principle for obtaining rightful possession over an object into three conditions: First, bringing an object under one's power; second, having the ability to make use of it as an object of one's "choice"; and finally, having the will that this object be one's own (2009, 233).

meaning of the new standard he sets against his predecessor, "the Category of Justice," remains undefined. What is clear is that it reflects Benjamin's utter refusal to accept the path of reconciliation. "Law and justice," he argues, cannot be reconciled by any "system of possession." They remain separated by a "great impasse [*ungeheure Kluft*]," one beyond the reach of any human attempt at social and political engineering, any mechanism of coercion ("Notes," 167). It is "for this reason," he continues, that "every socialist or communist theory falls short of its goal" (166). But if justice cannot be encapsulated by a just system of redistribution but "lies in the conditions of a good that cannot be possessed" (166), what does it look like? If "the responsibility for the world that we share is shielded from the instance of justice" (167), what is our responsibility? And if justice is an ontological category—a "state of the world" or "state of God" (166)—set beyond the reach of humanity's instrumental rationality, how is it attained? What bridges the impasse?

For an answer I turn now to the second component of Benjamin's "Justice" essays: his innovative understanding of justice itself, drawn from Judaism's messianic and iconological traditions. In them, he finds alternatives to politics with regard to both ends and means. On the one hand, accounts of the divine image furnish a concept of utopia which, while the subject of speculation and longing, contains a concept of justice wholly beyond human apprehension. On the other hand, Jewish eschatology, rather than taking the path of Kant's "ethical commonwealth" and renouncing the utopian society as a practical possibility, identifies the mechanism for its realization in noninstrumental, and especially righteous, behavior. The resulting worldview retains a utopian outlook while minimizing the temptation to make a particular vision of human flourishing the goal of worldly political activity.

At the conclusion to his "Notes to a Study on the Category of Justice," Benjamin suggests that the "great impasse" between law and justice has been "captured by other languages." By means of example, he offers three sets of paired concepts: "*ius/fas*," "*themis/dikē*," and, lastly, in Hebrew script, "*mishpat/tzedek*" (167).[9] Scholem's diary entry from a discussion around this period helps to clarify Benjamin's meaning:

> In mythological idolatry right [*Recht*] is supreme, in Judaism justice [*Gerechtigkeit*]. Most critical is that in Hebrew *mishpat* and *tz'dakah* have completely different roots. *Mishpat* does not disclose itself (Isaiah 58), only *tz'dakah* does. Right and justice are two completely different things. *The nature of Judaism is justice.* A divine category (Scholem 1995, 1:392, my translation).[10]

---

[9] *Mishpat* and *tzedek* are foundational concepts in Jewish theology. Both are often translated as "justice," though *tzedek* more precisely means "righteousness," and refers specifically to individual ethical behavior. For a more detailed discussion, see Weinfeld (1995).

[10] The source for Scholem and Benjamin's interest in the *mishpat-tzedek* distinction is very likely Samson Raphael Hirsch's commentary on the Torah, which both were actively reading at the time. See Hirsch ([1867–78] 2006, commentary on Genesis, specifically at 15:6, 1:357).

What differentiates "idolatrous" right from true justice, then, is the role played by *myth*. Any actually existing system of right, in order to defend its *Gewalt*—its authority *vis-à-vis* property rights—must conceal itself behind a veil of unreal concepts and categories. It must, in other words, claim that it acts *justly*. True justice, by contrast, requires no such mystifications, for its authority, untied to possession, is not rooted in violence. It is something else entirely—a "divine category" set beyond the domain of the secular. "Justice is not a virtue," Benjamin writes, "where virtue defines the ethical category of the *demanded*." Instead, it is the category of the "ethically existing," and for this reason "All virtue takes on the form of justice in God" (Benjamin "Theses," 175).

The problem with extant theories of justice for Benjamin is twofold. First, if we refuse to ground legitimate possession in the concept of *Gewalt*, we are still stuck with the consequences of Kant's previous move: Namely, a world in which all people have the right to all objects, "the entirely abstract right of the subject to every good on principle, a right that is not based on needs" (166). Various socialist and communist attempts have been made to rectify this situation, to "eliminate the possessive character of goods," either "through the fictitious anonymity of its possessor" or by positing a "foundationless theory of the 'justified needs' of the individual" ("Theses," 174–5). Yet both of these attempts fail to bring about justice for a shared reason: their reliance on myth, and, by extension, violence. To repudiate notions of "justified needs," Benjamin culls from Marx: "Theoretically no measure of justification can be proposed which would not be incidental (one which would not be arbitrarily linked to a particular level of consciousness)" (175). Needs, historically constructed, cannot be *a priori* determined. Against collective ownership, in which possession is dissolved by inventing a kind of totalizing Leviathan state, Benjamin's argument is more original. Such an entity will, under these conditions, assume an obligation to actualize justice by means of redistribution, accomplished, once more, through coercion. This is Benjamin's concise formulation: "Justice as a demand is the virtue of violence" (175). But in elaborating, he makes a revealing move:

> Justice as a demand is the virtue of violence—the most revolutionary and catastrophic of all demands. Virtue has, in particular, an *individual* subject; the humble have a clear, uncomplicated relationship to humility. The subject of *violence*—which is a more complex phenomenon than virtue—is however as an individual *only* symbolic; the true, nonsymbolic proprietor of violence is anonymous: society. The demand, which is *necessarily* directed to the proprietor of violence, thus expects a virtue in justice, which, from the viewpoint of ethics, *has no subject*. (175)

Justice, according to Benjamin, cannot be conceived of as a "virtue" in the Kantian sense because it lacks a Kantian *subject*. It cannot, in other words, be translated into an obligation, as no duties issue from it. However—and critically—this does not spell the end of *individual* virtues. That is to say, the fact that the ontological state of the world we call "justice" cannot in

itself issue demands for its realization through politics does not thereby imply that we live in a world bereft of individual responsibilities—or ethics.

This leads to Benjamin's second critique: That justice cannot be conceived of merely through a materialist theory of goods (*Güterlehre*). He communicates this through an inventive play on words. German grants some flexibility in rendering the term "good," applicable to "goods" in the material sense and "good" in the ethical sense. For the former, both the singular *das Gut* and the plural *die Güter* are possible, while for the latter, we have at our disposal *das Gute* and *die Guten*.[11] This in mind, we suddenly see the possibility of reading his essay's opening quite differently:

> "Jedem Gute, als in der Zeit- und Raumordnung eingeschränktem, kommt Besitzcharakter als Ausdruck seiner Vergänglichkeit zu."
> ("Every good [in an ethical sense], limited by structures of time and space, has a possessive character trait that is an expression of its ability to pass away.") ("Notes," 167).

Whereas previously Benjamin appeared to be doing little more than reproducing Kant's move in *The Metaphysics of Morals*, now it becomes clear that he is speaking of goods in an *ethical* sense (*das Gute*). Hasty readers, eyeing the middle part of the essay which concerns *das Gut*, are liable to miss the change.

This is not to say that Benjamin is contradicting his earlier meaning—far from it. In fact, his cleverness has an ancient exegetical precedent: *Pardes*, the foundation of Jewish scriptural hermeneutics.[12] Benjamin, having offered us his *peshat*—his "simple" meaning—invites us to formulate a *remez*, a "hinted" meaning. In so far as ethical goods remain bound to possessions, they retain a trace of their *Besitzcharakter*, their "possessive character trait" (Benjamin "Notes," 166). And insofar as possession itself cannot be justified, ethics, in this form, must also be considered unjust. For such an ethics will remain tainted by the mystification of *Gewalt*, the coercive force behind possession. It will be implicated in violence. This reasoning, in turn, helps to lift the fog from the statement that comes after: "This [justice] lies in the conditions of a good [*eines Gutes*] that cannot be possessed—a good [*das Gute*] through which all goods [*die Güter*] become propertyless" (166). And so Benjamin now also spurs a *derash*, a search for comparative meaning. Its finding is revealing: The good that reflects the conditions of a just world is not of a material but an *ethical* nature. "Justice," he declares later on in the essay, "is the ethical side of the struggle" (167).

But the paradox remains. If ethics establishes the conditions for justice, how can it not *realize* a just world? What does it mean that ethics both does and does not bridge the "great impasse" between law and justice, *tzedek* and *mishpat*? The answer lies in Benjamin's appropriation of ideas from Jewish messianic thought. Scholem himself hints at how he does this in a diary entry dated November 3, 1917:

> The greatest image [*Bild*] of history is to be found in the idea of the messianic realm. (History's endlessly deep relationship to religion and ethics arises out from this thought.) Walter once said that *the messianic kingdom is always present*, which is an insight of great importance—though on a plane which I think no one since the prophets has achieved. (Scholem 2008, 192)

Benjamin gleans two crucial resources from messianic thought for his evaluation of politics: The contrast between the secular and divine as arenas of human thought and action; and an ability to deploy the category or concept of the kingdom of God *without* expressing a will toward its establishment—the ability, in other words, to have an *end* that is at the same time not a *goal*.

By 1921, five years after the appearance of his "Justice" essays, Benjamin's interest in Jewish eschatology had crystallized to the point of his penning a short commentary on the subject. The so-called "Theological-Political Fragment" offers the clearest expression of the conceptual resources he found in messianic thought:

> Only the Messiah himself completes all history, in the sense that he alone redeems, completes, creates its relation to the messianic. For this reason, nothing that is historical can relate itself, from its own ground, to anything messianic. Therefore, the Kingdom of God is not the telos of the historical dynamic; it cannot be established as a goal. From the standpoint of history, it is not the goal but the terminus [*Ende*]. *Therefore, the secular order cannot be built on the idea of the Divine Kingdom*, and theocracy has no political but only a religious meaning. (Benjamin 2006, "Theological-Political Fragment," 305, emphasis added)[13]

The critical political question here is the role of human agency: Does the messiah *accomplish* the messianic process himself, entirely apart from human activity? Or does he *initiate* the divine state, the leader of a human race that is itself busily working toward this end? As Eric Jacobson has suggested, Benjamin here sets himself between two traditions in Jewish eschatology. The first and older of these saw no particular task for humanity in the redemptive process. By the 16th century, however, the tenor of eschatological thought had radically changed, emphasizing, under the influence of the mystic Isaac Luria, the active part the species could

---

[11] I am indebted to Eric Jacobson (2003, 169) for this observation, though I do not share his conclusions about its implications.

[12] "*Pardes*" is an acronym for a form of Jewish exegesis involving four hermeneutic "modes," moving from the simple, intuitive reading to the most esoteric: *Peshat*, a plain meaning; *Remez*, a symbolic or hinted meaning; *Derash* a comparative meaning; and *Sod*, a secret or mystical meaning. It is given an important treatment by Maimonides in his *Mishneh Torah, Yesodei ha-Torah* ([1170–80] 1989, 4:13). See Halbertal (1997, 105–6). It is conceivable that Benjamin had access to this idea either through Scholem or through his familiarity with Maimonides.

[13] The precise dating of this short work is not known, and has been the subject of some controversy. While Adorno insists that Benjamin showed him the "Fragment" for the first time in the winter of 1937–8 in San Remo, Italy, Scholem firmly held that the language and thinking of the passage dates it to some time around 1920–1, parallel to his *Critique of Gewalt*. For reasons that will become clear below, I side with Scholem's view.

play in hastening the messianic event (Jacobson 2001, cf. Scholem 1961, 255–86).

At first glance, it would appear that Benjamin is siding straightforwardly with the older view. "The Kingdom of God," he claims, "cannot be established as a goal," and "nothing that is historical can relate itself, from its own ground, to anything messianic" ("Fragment," 305). In part, what is at stake is humanity's ability to visualize God, to imagine utopia. Jewish theology strictly proscribes facsimiles of God, linked to concerns over idolatry and the diminution of the deity (Halbertal and Margalit 1992). The *Bilderverbot* ("image ban"), then, would seem to find a direct parallel in Benjamin's thought, tracking his strict separation of the divine and profane in the sphere of political action. Yet closer attention to his language yields a different conclusion. It is true that for Benjamin "the secular order cannot be built on the idea of the Divine Kingdom." That is to say, we are barred from transforming utopian dreams directly into political ends and means: "Theocracy," he insists, "has no political but only a religious meaning" ("Fragment," 305).

What this means, however, is not that the *idea* of the theocratic is incapable of motivating human behavior, but rather that the *form* of behavior it motivates lies outside of the realm of politics—beyond the domain of law, coercion, and instrumental rationality. As he writes in his "Epistemo-Critical Prologue" to his dissertation project, even a fragment of thought, like the tile of a mosaic, retains some residue of the "transcendent force of the sacred image" (Benjamin 2003, 28–9). It preserves a power, in other words, to unsettle us, to disrupt our condition of apathetic reconciliation. Though arriving in a form that is fractured it contains within itself a force to wipe away the "mystical conception of history" that masks the coercive institutions of the profane world ("Fragment," 305). What the idea of the divine reveals, then, is the possibility of an "end" that is not a goal, one that is not set within a Hegelian horizon but *immanent*, hidden somewhere in the world but beyond our immediate perception (Benjamin 2004, "On Language," 71–2). To repeat Benjamin's words to Scholem: "The messianic kingdom is always present" (Scholem 2008, 192).

We are now in a position to better understand Benjamin's thoughts on ethics, justice, and their interconnection. As a "state of the world" or "state of God," justice is an ontological category that, like the divine image (*tzelem*), resists any attempt to be apprehended immediately, and, like the divine kingdom (*ha-'olam ha-ba*), refuses any effort to be realized directly. It cannot be actualized though the force of law, equitable redistribution, or any Hegelian "world spirit on horseback." Yet, far from diminishing our responsibility to the world, these facts serve instead to emphasize the depth of our obligation—not to an instrumental logic of politics, but toward an ethical community set within a nimbus of religious experience. Even as justice is disbarred from the stratagem of means-ends, it does remain in some sense an object of desire. And this leaves us with a paradox. "Justice," Benjamin writes, "is the striving to turn the world into the highest good";

yet "the responsibility for the world that we share is shielded from the instance of justice" (Benjamin "Notes," 167). I now offer a way we might resolve this puzzle. Benjamin's meaning materializes when his thoughts on justice are read alongside a particular Jewish theological concept, one that was the subject of much attention by Scholem and Benjamin but so far has attracted scant interest from Benjamin scholars: *Shekhinah*.

THE POSSIBILITY OF ETHICS

What links the "category of justice" to the "kingdom of God"? In this section, I begin by offering an answer to this question, illustrating Benjamin's second major departure from Kant—on the question of eschatology—before turning to Benjamin's "Critique of *Gewalt*" and full assessment of politics.

Scholem, who received a copy of his friend's essay in November, 1916, quotes Benjamin in his diary before offering a helpful suggestion:

> Benjamin writes that Judaism's concept of Justice is essentially the "striving to turn the world into the highest good," which comes out clearly in the extraordinary (and *entirely* untranslatable) Words of the Wise in Genesis 24:1. [Samson Raphael] Hirsch's translation goes, 'The righteous [*tzadikim*] will prepare the land for the coming of the *Shekhinah*'". . . .it sounds as if Benjamin knew this passage. (Scholem 2008, 148, translation modified)

Shekhinah is a name for the divine with origins in the ancient Israelite temple cultus, where it signified the divinity's immanence in the *Kodesh Hakodashim*, the inner sanctum.[14] More important for understanding Benjamin's thought, the concept of *Shekhinah* came during the early Rabbinic period to be associated with the connection between Jewish ethics and the arrival of the messianic age—that is, the age of perfect justice. Recalling Benjamin's use of the Hebrew *tzedek*, a Talmudic discussion connected to eschatology employs a play on words to suggest that one who gives *tz'dakah* [charity]—a *tzadik*, or "righteous person"—is worthy of "*kabbalat pnei ha-Shekhinah*," of "receiving the face of the divine presence [*Shekhinah*]" (Talmud Bavli, Tractate Bava Batra, 10a). Scholem, continuing his entry on Benjamin, explains what he is getting at:

> The definition of justice is to make the earth into a dwelling place of the *Shekhinah* by drawing the *Shekhinah down* to us. The phrase 'the head of the *Shekhinah* is in the earthly realm' can sensibly be applied to justice. . . .The essence of the *Shekhinah* is justice. As a result, an increase in justice is in truth only the increase in the revelation of justice, and in increase in the divine power on earth, which is the *Shekhinah*. Justice is hence the highest form of God's revelation and the highest form of reverence we can give him. The *righteous* ones cry out for the Messiah, and for him alone. (148)

---

[14] A much older Gershom Scholem offers readable discussions of *Shekhinah* in a number of places (1961, 229–233; 1965, 104–8, 147–151; 1971, 205–219; 1991, 140–196).

As Scholem surmised, the concept of *Shekhinah* occupies a critical, if subterranean, place in Benjamin's thinking.[15] For with it he is able, at last, to heal the antinomy that opened with his critique of Kant, the "great impasse" separating right and justice, secular and sacred, collective *Gewalt* and individual responsibility ("Notes," 167). As Hirsch writes, "The *tzadikim* (righteous) will cause the *Shekhinah* to reside on earth" (Hirsch 2006, 1:510, translation modified). Thus we come to see how justice itself—the "head of the *Shekhinah*," "the state of the world or the state of God"—can be attained: Not through the instrumental violence of *Gewalt*, but in *tz'dakah*, an ethics of the everyday, a moral program evacuated entirely of *Gewalt*. *Shekhinah*, as the manifestation of the divine in the world and within the human being, is also the manifestation of justice. Through it, Benjamin is able to articulate a new ethical program for humanity, directed toward an idealized community, but set apart from politics. The concept of *Shekhinah*, in other words, expresses our mediated relationship to utopia.

Benjamin thus appropriates the central tenet of Lurianic messianism while staying true to the *Bilderverbot* ("image ban"). Humanity cannot make the kingdom of God a goal, cannot picture or work toward the utopian society: "The responsibility for the world we share is shielded from the instance of justice" (Benjamin "Notes," 167); "theocracy has no political meaning" ("Fragment," 305). To think otherwise would bring the "catastrophe of violence" that attends revolutionary politics ("Theses," 175). The community of the righteous on earth is consequently barred from striving directly for the messianic age—it cannot, in other words, work instrumentally to bring about the "state of justice." But even if "truth is not a mover," "justice," he insists, "is the ethical side of the struggle" ("Notes," 167). As Scholem writes, humanity can draw the divine presence downward—move the world closer, if in a roundabout way, to justice—through the practice of righteousness.

---

[15] The idea was clearly a source of excitement for Benjamin and Scholem. In August 1916, just prior to his friend's arrival in Munich, Scholem identifies *Shekhinah* as a bridge linking one's everyday religious experience to remotest reaches of the supernal (Scholem 2008, 131–2). *Shekhinah* subsequently surfaces twice more in late October, first when Scholem cites an article on the subject by Hillel Zeitlin, and again with reference to Samson Raphael Hirsch's Torah commentary (145, 146). Then, in a letter from early November, 1916, Benjamin thanks Scholem for sending him both Hirsch's *Neunzehn Briefe über Judentum* and Zeitlin's essay: they "are *always very* welcome," he writes, "precisely in view of my current project" (Benjamin 1994, 82). It was after receiving this letter that Scholem linked Benjamin's "Justice" essay to *Shekhinah*. In letters from May and June of following year, Benjamin reveals that he had been actively scouring the work of the 19th century Catholic Kabbalists Franz Joseph Molitor and Franz von Baader for references to *Shekhinah*, and that it was at the center of his research (86). Finally, in his notes, Scholem writes that there is an earlier, hidden reference to Baader's version of *Shekhinah* in a letter from Benjamin to Herbert Blumenthal from late 1916 (Benjamin 1995, 1:348–50), suggesting an ongoing preoccupation with the concept.

Scholars have recognized Scholem and Benjamin's interest in the term, but none, at least to my knowledge, have sought to explain its place in Benjamin's thinking. See, for example, Mertens (2007, 81); Jacobson (2003, 182); and Pecora (2006, 80–1).

The concept of *Shekhinah* also helps Benjamin accomplish his second major departure from Kant: on the relationship between politics, morality, and eschatology. In his *Religion* essay, Kant notes that Christian scripture distinguishes between good and evil not through the imagery of heaven and earth but rather heaven and *hell* (Kant [1793] 1960, 73). This metaphor, he suggests, is indicative of the "immeasurable impasse [*unermeßliche Kluft*]" separating good from evil, of the fact that the two domains never pass over into one another. The philosophical product of this metaphor is drastic: a total rupture of the divine and secular realms, an end to the possibility for a fully purified vision of justice in this world. "The distance separating the good which we ought to effect in ourselves from the evil whence we advance," Kant writes, "is *infinite*, and the act itself, of conforming our course of life to the holiness of the law, is impossible of execution *in any given time*" (60). For Kant, the truly good society lies beyond the world. Politics, therefore, is permanent, a necessary palliative for a species beyond the reach of redemption.

For Benjamin, by contrast, a bridge *does* exist linking our activity in this world to a state of true justice. He demonstrates this through a subtle modification of Kant's language. Benjamin, too, speaks of an ethical "impasse," but in his writings it ceases to be "immeasurable [*unermeßliche*]" and becomes merely "great [*ungeheure*]" (Benjamin, "Notes," 168). Here again we find Benjamin's debt to Jewish thought. The Torah's vision of a just world, however difficult to actualize, is nonetheless "not in the heavens. . .not beyond the sea" (Deuteronomy 30:12). Instead it is always potentially present on earth, its accessibility dependent on the deepening of ethical experience. What was for Kant an insurmountable division between heaven and hell becomes, for Benjamin, a traversable one between heaven and earth. And so we see that Benjamin's invitation to Jewish hermeneutics (*pardes*) also contains—in his eyes, at least—the highest level of exegetical procedure, a *sod*, or "mystical meaning" that bridges our world with that of perfect justice: *Shekhinah*.

At the same time, the content of Benjamin's ethics remains undefined to say the least. To propose "righteousness" as a social program is uncontroversial, even banal, but does little in the way of grounding a "new ethical category." But he does, I think, have his sights set on a more ambitious end, one that becomes clear in the most overtly political, and controversial, of his works: *Zur Kritik der Gewalt*, "Toward a Critique of *Gewalt*."

"Critique of *Gewalt*," which like the "Theological-Political Fragment" appeared in 1921, begins with a clarity of purpose that is unusual for Benjamin. "The task of a critique of *Gewalt*," he writes, "can be summarized as that of expounding its relation to law and justice [*Recht und Gerechtigkeit*]" for "the meaning of the distinction between legitimate and illegitimate *Gewalt* is not immediately obvious" (Benjamin 2004, "Critique of *Gewalt*," 236, 238). Needless to say, the essay is presented in the same straightforwardly Kantian terms as his "Justice" pieces, building on what can be made of the "great impasse" between justice and

right. Recall that for Kant, *Gewalt,* mere might becomes rightful title through the act of "choice" authorized by the permissive law. In "Critique of *Gewalt*," Benjamin refers to this process as "military *Gewalt*" [*Kriegsgewalt*], linking it to a foundational violence occurring before the advent of the civil state (240). There is "inherent in all such *Gewalt*," he notes, a "law-making character," a likely allusion—as his passing reference to Kant's *Perpetual Peace* reveals—to the permissive law (240, cf. Kant [1795] 2003, 97–8). Benjamin, as we have seen, wholly rejects the legitimacy of this move, and in this work, he extends his critique of Kant to include not only conditions of original title but also the reverse condition, one in which *all* objects have juridical owners. In such a situation, a legal and ideological system has been created to legitimate the extant order of possession, which is almost always to the asymmetrical benefit of the very few. As Benjamin reminds us through the words of Anatole France: "Poor and rich alike are equally forbidden to spend the night under the bridges" ("Critique," 249).

Perhaps fearing that future readers would reach precisely this conclusion, Kant had not only discouraged but expressly forbidden citizens from investigating their polity's foundations. "A people," he wrote, "should not *inquire* with any practical aim in view into the origin of the supreme authority [*obersten Gewalt*] to which it is subject" (Kant [1797] 1996, 95). If this were not enough evidence of how tenuous Kant saw the link between possession and right, his next argument leaves no doubt: All disagreements about acquisition should be set aside, for citizens of the present day should in no way be concerned whether "power came first and law arrived only afterward." It is a "principle of practical reason" that "the presently existing legislative authority ought to be obeyed, whatever its origin" (95). Laws are "holy" and "inviolable"—to call them into doubt with any thought toward their dismemberment is tantamount to sacrilege. "This," Kant concluded, "is what the saying 'All authority is from God' means" (95).

Benjamin affirms this statement but reverses its conclusion. All authority is indeed from God; but in his view this serves not to sanctify but to demystify state power. Benjamin's term for such authority is "divine" or "pure *Gewalt*"—another Kantian echo, this time to the postulate of "pure practical reason" ("Critique," 249). Practical reason is pure, for Kant, when human beings choose actions because they are good in themselves; it is impure when its inner form is overtaken by an external purpose (Kant [1788] 2003). By the same token, *Gewalt* is pure, for Benjamin, only when it remains in the province of the divine; it is impure when it is put in the service of any end other than itself, when it professes to function in service of *Recht*. Benjamin's tone here is thick with anti-Kantian irony: The heterogeneity of *Gewalt* is precisely its intersection with the category of justice, precisely its alleged ethical quality. And secular *Gewalt* knows no power greater—more naked, more brutal—than the "highest violence" of the legal system: the power over life and death: "In the exercise of violence over life and death, more than in any other legal act, right [*Recht*] reaffirms itself" (242). Yet Ben-

jamin, in introducing this power, hints at the same time of a countervailing force, "a pure immediate *Gewalt* that might "be able to call a halt to mythic *Gewalt*." "Just as in all spheres God opposes myth," he writes, "mythic *Gewalt* is confronted by the divine" (249).

In one sense, Benjamin returns to the theological motif to emphasize a claim made earlier: the stark divide between right and justice. Recalling his previous conceptual-linguistic pairings—"*ius/fas*," "*themis/dikē*," "*mishpat/tzedek*—he connects the futile efforts of "evolving languages" to authentically conceptualize ethics to the "stubborn prevailing habit" of confusing legal means with just ends (247). Yet as he makes clear in "Right to use Force [*Gewaltanwendung*]," an essay from the same period, he intends more than this:

> An exposition of this standpoint is one of the tasks of my moral philosophy. . . . a theory that denies moral right not to *Gewalt* as such, but to every human institution, community, or individuality that either claims a monopoly over *Gewalt*, or in any way claims that right for itself from any point of view, even if only as a general principle, instead of respecting *Gewalt* as a gift bestowed by a divine power (Benjamin 2004, "The Right to Use Force," 233)

In their discussions on Judaism a few years earlier, Scholem reported that Benjamin was drawn to one idea in particular: the application of the death penalty in Rabbinic law (Scholem 2008, 302, cf. 1995–2000, 2:337 and Jacobson 189–90). In Jewish law (*Halakhah*), capital punishment, while technically on the books, is never used in practice; a Talmudic opinion calls a high court (*Sanhedrin*) that exercised the power only once in 70 years extremely bloody (Talmud Bavli, Tractate Makkot, 7a). What this apparent paradox demonstrates for Benjamin, then, is a transformation in the ambitions of politics. Whereas Israelite theocracy understood itself as a mere viceroy to a higher power, the modern state attempts to monopolize *Gewalt*, to neutralize completely the impact of divine authority on worldly affairs ("Critique," 239). If *Gewalt* was once understood to lie in the sphere of the supernal, it is now plainly in the hands of humanity's *imitatio dei*, the "mortal god" of the state.[16]

Yet mythology's victory is not total, and in the providence of divine power Benjamin discerns a glimmer of hope, a force that can confront mythic violence. In the sphere of "pure *Gewalt*," we see the possibility of a new kind of politics—"the politics of pure means":

> Nonviolent [*Gewaltlose*] agreement can be found anywhere a culture of the heart [*Kultur des Herzens*] has given humankind the use of pure means of agreement.

---

[16] Benjamin's understanding of the classical Jewish attitude toward politics thus resembles and anticipates Martin Buber's ([1936] 1967) vision of premonarchic Judaism as a kind of "holy anarchy." At the same time, as Menacham Lorberbaum has shown (2001), the medieval Rabbinic commentators adopted a more nuanced and nonuniform position regarding the exercise of earthly political authority, with some suggesting that human beings had significant latitude with which to determine how to govern their affairs outside the boundaries of formal religious law.

Legal and illegal means of every kind—all those implicated in violence [*Gewalt*]—may be confronted with nonviolent ones as pure means. (244, translation modified)

Here we find a second Kantian echo. Kant, in his second formulation of the categorical imperative, introduces an important nuance to his doctrine of "means": "Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never *merely* as a means" (Kant [1785] 1993, 36, emphasis mine). For Kant, the "mere" is an absolutely necessary addition to his theory. For without it, he will soon find his system entirely incompatible with the existent world of politics, power, and possession. Ethics must therefore be detached, given a separate category of activity that somehow permits these deviations: the "mere." For Benjamin this is an unacceptable giving of ground. "One might doubt," he writes, "whether this famous demand does not contain too little—that is, whether it is permissible to use, or allow to be used, oneself or another as a means *in any respect whatsoever*" ("Critique," 252 note 2).

If Kant has already sullied the sphere of justice with the pollution of *Gewalt*, here he is sullying the sphere of morality with the contamination of instrumental reasoning. Kant, in his fervent desire to construct a theory capable of reconciling the ethical and the political—the two "commonwealths"—has instead created a world in which each annihilates the other. Politics, Benjamin insists, is in its "true" form nothing but violence, baseless authority cloaked by the myth of metaphysical possession. Kant in fact uncovered this essential mythology through his philosophical inquiries, but instead of accepting its consequences, opted to give politics a modicum of moral authority. He permitted might to become right. But most importantly, he committed great heresy, crowning his system with a designation that was not rightfully his to use: "justice." In doing so, Benjamin contends, Kant not only distorted politics, but also forced himself to accept a corrupted vision of ethics, the only vision that could make an orderly society, as he conceived of it, possible.

Benjamin's response is nothing short of his own version of the categorical imperative, a "new ethical category," a kingdom of ends more Kantian than Kant: Act in such a way that you employ humanity *always* as an end, *never* as a means. Here we have the clearest expression of his "higher order of freedom": A restoration of the concept of justice to its rightful position, and a new ethics, one cleansed entirely of *Gewalt*. Whereas Kant legitimates a form of intersubjectivity stained by violence, Benjamin seeks an arena of human activity set entirely against the barbarity of means-ends. Borrowing from the Jewish writer Ahad Ha'am, his is a "culture of the heart" [*Kultur des Herzens*], a community of freely acting individuals in which the human being itself is elevated, raised out of the dust of the "mere."[17]

And, unlike for Kant, such a community represents a genuine historical possibility: Scholem, commenting on Benjamin, cites Maimonides' rejection of the claim that the world to come "is not yet here, that it will come only after the decline of this world." "This is not the meaning," he insists, but rather that "the world to come is continuously becoming" ("Theses," 176, cf. Jacobson 2003, 222). Benjamin, who would later reference Maimonides in his article for *Encyclopedia Judaica*, emphasizes that justice cannot be achieved through revolutionary violence (Benjamin 1995, 2:807). If "Mythical *Gewalt* is bloody *Gewalt* over mere life for its own sake," he writes, then "divine *Gewalt* is pure *Gewalt* over all life for the sake of the living" ("Critique," 250). The state cannot be anything but a reservoir of power and interest; it is to the individual and the ethical community that any hope for metamorphosis may be sought. The change will come in the institution of a new way of acting, a new form of being—in the possibility, in other words, of a genuine ethics. What will be different is the availability of a sphere of life in which we might treat one another always as ends, never as means.

Pace Habermas, then, Benjamin plainly does *not* seek the "violent destruction of the normative as such" (Habermas 1992, 137). His end is not the perfection of the Schmittean project, not a species-being saturated by politics, but precisely the opposite: A complete diminution of the political, a liquidation of all *Gewalt* as the ethical swells in scale and scope. *Pace* Agamben, this end cannot be achieved through political means—not through a revolutionary vanguard, not through social democracy—not, in other words, in the world of the secular (Agamben [2003] 2005, 53). Benjamin quotes Kurt Hiller's "Anti-Cain" to represent the position of those who would justify killing in the divine name: "If I do not kill, I shall never establish the world dominion of justice…that is the argument of the intelligent terrorist" ("Critique," 252 note 8). For Benjamin such reasoning is an abnegation of humanity itself, a reduction of the circumstances of human existence to base material possession—to profane violence—and a rejection of a true striving toward justice in the form of ethics. "Man," he insists, "cannot, at any price, be said to coincide with the mere life in him" ("Critique," 251). Politics must set fully apart of all its moral conceits, revealed for its mystifications and stripped of all of its utopian pretensions. The "revolution" Benjamin seeks through pure divine *Gewalt* is not political but ethical: Through righteousness—the ethical "good" (*das Gute*)—questions of possession are diminished, as "all [material] goods [*die Güter*] become propertyless" in a domain of experience purified of myth. Justice—that "not-yet-attained condition of the just human being"—is drawn down to earth. And humanity, retaining itself *as* humanity, inches a few steps closer to bringing back that which has been exiled.

---

[17] Ahad Ha'am is the pseudonym of Asher Ginzberg (1856–1927), whose collection of essays on ethics, Judaism, and Zionism Benjamin and Scholem read and frequently discussed. One of his writings

is "Die Lehre des Herzens" ("The Teachings of the Heart"), and speaks of freely acting individuals living in a kind of messianic ethical community. At one point, Scholem notes how close he believes Benjamin's thinking to be to Ha'am (Scholem 2008, 136).

AFTER THE *SHEKHINAH*

"Cneius Pompeius was the first of our countrymen to subdue Jerusalem. Availing himself of the right of conquest, he entered the Temple. Thus it became commonly known that the place stood empty with no similitude of gods within, and that the shrine had nothing to reveal."

—*Tacitus,* Histories (1964, 5.9)

"The Hassidim *tell a story about the world to come that says everything there will be just as it is here. Just as our room is now, so it will be in the world to come; where our baby sleeps now, there too it will sleep in the other world. And the clothes we wear in this world, those too we will wear there. Everything will be as it is now, just a little different."*

—*Walter Benjamin to Ernst Bloch, 1934*
(cited in Agamben 2003, 52)

This article has offered a new interpretation of Walter Benjamin's early political thought. Drawing upon recently discovered early essays, as well as diaries and correspondence, I have argued that his ideas represent an innovative synthesis of Kantian moral philosophy and elements of Jewish theology. I began by locating his work in the philosophical tradition of immanent critique. Benjamin was a close reader of Kant, and he uncovered a logical flaw in the *Metaphysics of Morals*: the integration of violence into juridical authority, facilitated by the concept of *Gewalt*, is based on a groundless theory of possession and justice. The result is that Kant's synthesis of ethical and political life as presented in *Religion within the Bounds of Bare Reason* is without moral-metaphysical foundation. I then reconstructed Benjamin's own theory of justice, locating its intellectual origins in Jewish messianic and iconological traditions. Benjamin radically disjoins the achievement of a just world from the coercive methods of politics. At the same time, he hints at other means for attaining justice. This apparent paradox, I suggested, has a solution that is also rooted in Jewish theology, specifically the idea of the *Shekhinah* or "divine presence." Through the concept of *Shekhinah*, he can retain an absolute and inviolable category of justice, one to be achieved noninstrumentally through ethics. In the last part of the article, I filled in the contours of Benjamin's moral theory by offering a new reading of his "Toward a Critique of *Gewalt*." Contrary to past interpreters, I argued that the work does not advocate for violent, totalizing revolution but just the opposite: a new ethical ideal, one utterly divorced from violence, power, and politics.

In the *Phenomenology of Spirit*, Hegel introduces a figure whose unbending faithfulness to the Kantian system makes any meaningful activity in the world impossible, for fear that he would fail at conducting himself with absolute moral purity. This is the quietist self *par excellence*, the "beautiful soul," and in light of the above, it would be tempting to call Benjamin the most beautiful of all souls (Hegel [1807] 1977, 383–4). Yet this would be a mistake, and not only because he speaks approvingly of the tactics of nonviolent resis-

tance and the proletarian general strike ("Critique," 245–6). Richard Wolin has suggested that Benjamin, despite his "innate distrust of politics as a solution to the failings of humanity," was nonetheless "political in a roundabout way" (1982, 12). It might be more accurate to describe Benjamin as a theorist not of politics as such, but instead of the capital-p Political, especially in relation to its permanent foil, the Ethical. Rather than a fully systemized theory, what he offers us in his thoughts on justice is a new way of conceiving of these two categories themselves. His most urgent question is, *How must politics be conceived, and how must the self be oriented toward politics, in order for a genuine ethics to be possible?* In answering, he furnishes an image of an ethical sphere evacuated entirely of the brutal logic of politics, and of a politics "purified" of its pretensions to genuine ethics. The result is radical, nothing less than a re-imaging of the concepts of justice, utopia, and the ethical itself.

Anthropologist Alexei Yurchak, writing on everyday life in late Soviet Russia, identifies a lived orientation of this kind that he calls "being *vnye*" (Yurchak 2006, 126–157). Those practicing *vnye* eluded binary categorization: Neither nihilistic nor apolitical, neither quiescent nor partisan, they sought to cultivate forms of moral life away from the demands of politics. Confronted with the brutality of the Soviet state and a culturally impoverished public sphere, *vnye* individuals formed for themselves a "whole universe of meaning," not against but *apart from* politics. As they gently pushed away both dissidents and collaborators, they read books, recited poetry, produced music, and discussed physics. Faced with a world drained of all human personality they carefully rebuilt their humanity. Affirmation of their society meant slavery and self-abnegation. But, in a different way, so too did resistance. And so they refused a reconciliation of ethics and politics, fleeing the political so that they might live once again as full persons.

At the same time, in spite of Benjamin's critical attitude toward politics, there is a case to be made that his own writing contains agonistic elements.[18] Never arranged in systematic form, it represents an uneasy melding of Jewish, Kantian, Marxist, and many other modes of thought. His pointed refusal to invent his own philosophical vocabulary guaranteed that each of his carefully chosen words—drawn from a remarkable range of literary, aesthetic, theological, and philosophical sources—arrived on the page charged with history, depth, and, more often than not, ambiguity. And there is no question that his philosophy remained in flux throughout his life, to the bafflement of colleagues and friends.

Yet on another level, Benjamin's thought is not agonistic, and certainly never haphazard. It is purposeful, suffused with a radical moral hope, a loftier vision of humanity. It is set, in short, in the service of a category of justice: One that is demanding and absolute—what

---

[18] I am grateful to an anonymous *APSR* reviewer for this observation.

he would call divine. As Benjamin reminds us, the saturation of the political is not innocent, and among its victims may be the spheres of existence and forms of experience necessary for ethical life. Politics has a certain viscosity: it seeps into our relationships and leaves behind a residue. If its essence is the use of law, backed by power, for the ordering of society, then any realm of experience caught up in the political must also be implicated in structures of rule. It will be complicit in the mastery of one human being over another. To emphasize the ineluctability of power is also to renounce the quest for a different, higher form of social relations, one purified of violence. It should be no surprise, then, that among Benjamin's favorite metaphors is the constellation: an eidetic reflection of inspired tension, a moment of awareness that arrives in the form of an impression, however fragile, of a radically transformed reality. And yet like a constellation itself, such a reality was, in some sense, always there.

As I have tried to show here, it would be a mistake to press Benjamin into any procrustean category. He was no more a "Kantian-Marxist" than a "Marxist-Rabbi." Even so, it is an argument of this article that to ignore the impact of Judaism on his thought would be to miss something important. To see only the "mere life" of the human being is to enter the Holy of Holies in the manner of Pompey—and find nothing within but an empty room. Benjamin's community of the righteous thus lives with its back turned toward the state, disengaged from politics, committed fully to its moral project. Yet we need not turn with them in order to learn from their example. The so-called "Oldest System Program of German Idealism" begins with a cryptic statement of purpose: *Eine Ethik*," "An Ethics" ("Oldest Systematic Programme," [1797] 1996). To secure a space for the possibility of genuine ethics—as Benjamin reminds us, this too can be a project, if not for politics, then perhaps for political theory. In a world apparently empty of God, fought over by mortal gods, saturated by violence, we might still set ourselves after the *Shekhinah*.

REFERENCES

Adorno, Theodor W. [1938] 2006. "Exchange with Theodor W. Adorno on 'The Paris of the Second Empire in Baudelaire,'" in *Walter Benjamin, Selected Writings: Volume 4*, eds. Marcus Bullock and Michael W. Jennings. Cambridge, MA: Belknap of Harvard University Press.

Adorno, Theodor W., and Walter Benjamin. 2001. *The Complete Correspondence*, ed. Henri Lonitz. Trans. Nicholas Walker. Cambridge, MA: Harvard University Press.

Agamben, Giorgio. [1995] 1998. *Homo Sacer: Sovereign Power and Bare Life*. Trans. Daniel Heller-Roazen. Stanford: Stanford University Press.

Agamben, Giorgio. [1990] 2003. *The Coming Community*. Trans. Michael Hardt. Minneapolis: University of Minnesota Press.

Agamben, Giorgio. [2003] 2005. *State of Exception*. Trans. Kevin Attell. Chicago: The University of Chicago Press.

Anderson, Benedict. [1983] 2006. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. New York: Verso.

Arendt, Hannah. 1958. *The Human Condition*. Chicago: The University of Chicago Press.

Arendt, Hannah. [1970] 1995. *Men in Dark Times*. New York: Harcourt Brace & Company.

Beiser, Frederick C., ed. and trans. [1797] 1996. "The Oldest Systematic Programme of German Idealism." In *The Early Political Writings of the German Romantics*. Cambridge, England: Cambridge University Press, 1–5.

Benhabib, Seyla. 1986. *Critique, Norm, and Utopia: A Study of the Foundations of Critical Theory*. New York: Columbia University Press.

Benjamin, Walter. 1972–1989. *Gesammelte Schriften*. 7 Vols., eds. Rolf Tiedemann and Hermann Schweppenhäuser. Frankfurt am Main: Suhrkamp.

Benjamin, Walter. 1994. *The Correspondence of Walter Benjamin, 1910–1940*, eds. Gershom Scholem and Theodor Adorno. Trans. Manfred Jacobson and Evelyn Jacobson. Chicago: The University of Chicago Press.

Benjamin, Walter. 1995. *Gesammelte Briefe*. 6 Vols., eds. Christoph Gödde and Henri Lonitz. Frankfurt am Main: Suhrkamp Verlag.

Benjamin, Walter. 1999. *The Arcades Project*. Trans. Howard Eiland and Kevin McLaughlin. Cambridge, MA: Belknap of Harvard.

Benjamin, Walter. 2003. *The Origin of German Tragic Drama*. Trans. John Osborne. London: Verso.

Benjamin, Walter. 2004. *Selected Writings: Volume 1, 1913–1926*, eds. Marcus Bullock and Michael W. Jennings. Cambridge: Belknap of Harvard University Press.

Benjamin, Walter. 2006. *Selected Writings: Volume 3, 1935–1938*, eds. Marcus Bullock and Michael W. Jennings. Cambridge, MA: Belknap of Harvard University Press.

Buber, Martin. 1967. *Kingship of God*. Trans. Richard Scheimann. Amherst, NY: Humanity Books.

Buck-Morss, Susan. 1977. *The Origin of Negative Dialectics: Theodor W. Adorno, Walter Benjamin, and the Frankfurt Institute*. New York: The Free Press.

Derrida, Jacques. [1989] 1992. "Force of Law: The 'Mystical Foundation of Authority.'" In *Deconstruction and the Possibility of Justice*, eds. Drucilla Cornell, Michael Rosenfeld, and David Gray Carlson. New York: Routledge, 3–67.

Fenves, Peter. 2006. "Über das Programm der kommenden Philosophie." *Benjamin-Handbuch: Leben – Werk – Wirkung*, ed. Burkhard Lindner. Stuttgart/Weimar: Verlag J. B. Metzler.

Frank, Jason. 2010. *Constituent Moments: Enacting the People in Postrevolutionary America*. Durham: Duke University Press.

Gregor, Mary. 1988. "Kant's Theory of Property." *The Review of Metaphysics*. Vol. 41, No. 4, 757–87.

Ha'am, Ahad, 1901. *Am Scheidewege*. 2 vols. Berlin: Jüdischer Verlag.

Habermas, Jürgen. [1972] 1991. "Walter Benjamin: Consciousness-Raising or Rescuing Critique." In *On Walter Benjamin: Critical Essays and Recollections*, ed. Gary Smith. Cambridge, MA: MIT Press, 90–128.

Habermas, Jürgen. 1992. "The Horrors of Autonomy: Carl Schmitt in English." In *The New Conservatism*. Cambridge: MIT Press, 128–39.

Halbertal, Moshe and Avishai Margalit. 1992. *Idolatry*. Trans. Naomi Goldblum. Cambridge, MA: Harvard University Press.

Halbertal, Moshe. 1997. *People of the Book: Canon, Meaning, and Authority*. Cambridge, MA: Harvard University Press.

Halbertal, Moshe. 2012. *On Sacrifice*. Princeton: Princeton University Press.

Hamacher, Werner. 1991. "Afformative, Strike." *Cardozo Law Review*. 13, 1991–1992, 1133–57.

Hanssen, Beatrice. 1998. *Walter Benjamin's Other History: Of Stones, Animals, Human Beings, and Angels*. Berkeley: University of California Press.

Hegel, G. W. F. [1807] 1977. *The Phenomenology of Spirit*. Trans. A. V. Miller. Oxford: Oxford University Press.

Heine, Heinrich. [1834] 1951. *Zur Geschichte der Religion und Philosophie. Gesammelte Werke*. 6 vols. Berlin and Weimar: Aufbau Verlag, Vol. 5.

Hirsch, Samson Raphael. [1867–78] 2006. *The Hirsch Chumash*. 5 Vols. Trans. Daniel Haberman. Jerusalem: Feldheim, Vol. 1.

Honig, Bonnie. 1993. *Political Theory and the Displacement of Politics*. Ithaca: Cornell University Press.

Jacobson, Eric. 2001. "Understanding Walter Benjamin's Theological-Political Fragment." *Jewish Studies Quarterly*. Berlin, Vol. 8, No. 3, 205–47.

Jacobson, Eric. 2003. *Metaphysics of the Profane: The Political Theology of Walter Benjamin and Gershom Scholem*. New York: Columbia University Press.

Kant, Immanuel. *Gesammelte Schriften (Akademie-Ausgabe)*, I-XXIII. Electronic edition. *Band 6. Die Religion innerhalb der Grenzen der bloßen Vernunft, Die Metaphysik der Sitten*.

Kant, Immanuel. [1785] 1993. *Grounding for the Metaphysics of Morals*. Trans. James W. Ellington. Indianapolis: Hackett Publishing Company, Inc.

Kant, Immanuel. [1788] 2003. *Critique of Practical Reason*. Trans. and ed. Mary Gregor. Cambridge, England: Cambridge University Press.

Kant, Immanuel. [1793] 1960. *Religion within the Bounds of Bare Reason*. Trans. Theodore M. Greene and Hoyt H. Hudson. New York: Harper and Brothers.

Kant, Immanuel. [1795] 2003. "Perpetual Peace: A Philosophical Sketch." In *Kant: Political Writings*, ed. H. S. Reiss. Cambridge: Cambridge University Press.

Kant, Immanuel. [1797] 1996. *The Metaphysics of Morals*, ed. and trans. Mary Gregor. Cambridge, England: Cambridge University Press.

Kühl, Kristian. 2009. "On How to Acquire Something External, and Especially on the Right to Things (A Commentary on the *Metaphysics of Morals* §§10–17). In *Kant's Moral and Legal Philosophy*, ed. Karl Ameriks and Otfried Höffe. Trans. Nicholas Walker. Cambridge, England: Cambridge University Press, 231–45.

Laclau, Ernesto, and Chantal Mouffe. 1985. *Hegemony and Socialist Strategy*. London: Verso.

Ladd, John. 1999. "Translator's Introduction." In *Immanuel Kant: Metaphysical Elements of Justice*. 2nd Ed. Indianapolis: Hackett.

Locke, John. [1689] 1988. "Second Treatise." In *Two Treatises of Government*, ed. Peter Laslett. Cambridge, England: Cambridge University Press, 265–428.

Lorberbaum, Menachem. 2001. *Politics and the Limits of Law: Secularizing the Political in Medieval Jewish Thought*. Stanford: Stanford University Press.

Markell, Patchen. 2006. "The Rule of the People: Arendt, *Archê*, and Democracy." *The American Political Science Review* 100 (1): 1–14.

Maimonides, Moses. [1170–80] 1989. *Mishneh Torah, Volume 1: Hilchot Yesodei HaTorah*. Trans. Eliyahu Touger. New York: Moznaim.

Menke, Christoph. 2010. "Law and Violence." *Law and Literature* 22 (1): 1–17.

Mertens, Bram. 2007. *Dark Images, Secret Hints: Benjamin, Scholem, Molitor and the Jewish Tradition*. New York: Peter Lang.

Morgan, Benjamin. 2007. "Undoing Legal Violence: Walter Benjamin's and Giorgio Agamben's Aesthetics of Pure Means." *Journal of Law and Society* 34 (1): 46–64.

Mouffe, Chantal. 2005. *On the Political*. London: Routledge.

Pecora, Vincent. 2006. *Secularization and Cultural Criticism: Religion, Nation, & Modernity*. Chicago: The University of Chicago Press.

Rawls, John. 1971. *A Theory of Justice*. Cambridge: Harvard University Press.

Rose, Gillian. 1993. "Walter Benjamin: Out of the Source of Modern Judaism." In *Judaism and Modernity: Philosophical Essays*. Oxford: Blackwell, 175–210.

Rosen, Michael. 1996. *On Voluntary Servitude: False Consciousness and the Theory of Ideology*. Cambridge, MA: Harvard University Press.

Scholem, Gershom. 1961. *Major Trends in Jewish Mysticism*. New York: Schocken Books.

Scholem, Gershom. 1965. *On the Kabbalah and Its Symbolism*. Trans. Ralph Manheim. New York: Schocken Books.

Scholem, Gershom. [1969] 1991. "The Feminine Element in Divinity." In *On the Mystical Shape of the Godhead: Basic Concepts in the Kabbalah*. Trans. Joachim Neugroschel, ed. Jonathan Chipman. New York: Schocken Books, 140–96.

Scholem, Gershom. 1971. *The Messianic Idea in Judaism and Other Essays on Jewish Spirituality*. New York: Schocken Books.

Scholem, Gershom. 1976. *Jews and Judaism in Crisis: Selected Essays*, ed. Werner J. Dannhauser. New York: Schocken Books.

Scholem, Gershom. 1981. *Walter Benjamin: The Story of a Friendship*. Trans. Harry Zohn. Philadelphia: The Jewish Publication Society of America.

Scholem, Gershom. 1995–2000. *Tagebücher, nebst Aufsätzen und Entwürfen bis 1923*, ed. Karlfried Gründer, Herbert Kopp-Oberstebrink, and Friedrich Niewöhner, in association Karl Grözinger. 2 vols. Frankfurt am Main: Jüdischer Verlag.

Scholem, Gershom. 2008. *Lamentations of Youth: The Diaries of Gershom Scholem, 1913–1919*, ed. and trans. Anthrony David Skinner. Cambridge: Belknap of Harvard University Press.

Scott, James C. 2009. *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*. New Haven: Yale University Press.

Shell, Susan Meld. 1978. "Kant's Theory of Property." *Political Theory* 6 (1): 75–90.

Tacitus. 1964. "The History." In *The Complete Works of Tacitus*, ed. Moses Hadas. New York: The Modern Library.

Talmud Bavli, Masechet Bava Batra. 2011. Jerusalem: Oz Vehadar.

Talmud Bavli, Masechet Makkot. 2011. Jerusalem: Oz Vehadar.

Thompson, Dennis. 1987. *Political Ethics and Public Office*. Cambridge, MA: Harvard University Press.

Walzer, Michael. 1973. "Political Action: The Problem of Dirty Hands." *Philosophy and Public Affairs* 2 (2): 160–80.

Walzer, Michael. 1977. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. New York: Basic Books.

Weber, Max. [1919] 2002. "The Profession and Vocation of Politics." In *Weber: Political Writings*, ed. and trans. Peter Lassman and Ronald Speirs. Cambridge, England: Cambridge University Press, 309–69.

Weinfeld, Moshe. 1995. *Social Justice in Ancient Israel and in the Ancient Near East*. Jerusalem: The Hebrew University Magnes Press.

Wohlfarth, Irving. 1992. "On Some Jewish Motifs in Benjamin." In *The Problems of Modernity: Adorno & Benjamin*, ed. Andrew Benjamin. London: Routledge, 157–215.

Wolin, Richard. 1982. *Walter Benjamin: An Aesthetic of Redemption*. New York: Columbia University Press.

Wolin, Sheldon. 1996. "Fugitive Democracy." In *Democracy and Difference: Contesting the Boundaries of the Political*. Princeton: Princeton University Press.

Yurchak, Alexei. 2006. *Everything Was Forever, Until It Was No More: The Last Soviet Generation*. Princeton: Princeton University Press.