

## A REDEMPTIVE CONCEPTION OF JUSTICE

Der Prophet versteht den Prophetismus nicht;  
er treibt letzten Endes Politik.

*Scholem on Jonah*

### ON THE ORIGINS OF EVIL

In Benjamin's *Theological-Political Fragment* and in some of the earliest documents on the notion of the Messianic, we were able to detect an attempt on his part to arrest the elements of messianic fate in the figure of the tragic hero. But as soon as the tragic hero appears, tragedy is confined to a prison of muteness that sets the hero apart from the sphere of judgment. The silence which he is forced to undergo severs expression from a language ripe with genestic insignia, expression from its own genestic code. Isolated from a transformed conception of tragedy and its delineation of time in the word, the notion of character remains unreflected at the intersection between divine intention and the self-constitution of the individual. In this way, the ethical imperative of messianic action remained at odds with the image of tragic decline. Yet as redemption unfolds in the unintentional will of "free humanity," as Benjamin states, the concept of character is in need of a reappraisal in the context of justice.

If we are able to define character as the sum total of the ethical constitution of the individual, then it may also serve as a counterpoint to divine intention.<sup>317</sup> The formation of the tension between the character of an individual and divine intention is the history of its first tension which Benjamin proposes as the fall from paradise. Thus the notion of responsibility only takes on meaning following a hypothesis of original sin. Such a view adds a temporal dimension to responsibility, extending beyond the responsibility of a particular individual to the collective responsibility of each individual. But this collective dimension which Benjamin brings to the character of the individual must first be freed from an *Irrtum* (a mistake) which has plagued the discussion hitherto: the false assignment of collective responsibility to a collection of individuals, rather than the collective responsibility of each individual. This mistaken assignment was determined to be the *Verschuldung* of the Jews to holy tragedy and, for this reason, to be banned from the discussion, along with a truth-seeking discussion of character and divine intention which was banned by its own assertion - an assertion neither true nor religious.<sup>318</sup> In questioning the nature

<sup>317</sup> "Der Charakter nämlich wird gewöhnlich in einem ethischen, wie das Schicksal in einen religiösen Zusammenhang eingestellt." [II:173]

<sup>318</sup> See the chapter on *Trauerspiel* and tragedy in section one.

of responsibility for original sin, Benjamin follows a line of reasoning set out by Kierkegaard in his call for a reevaluation of the ethical notion of character.<sup>319</sup> As Kierkegaard proposes in *Der Begriff Angst*: "Die neue Ethik setzt die Dogmatik voraus und mit ihr die Erbsünde, und erklärt nun aus ihr die Sünde des einzelnen,"<sup>320</sup> "The new ethic requires dogma, and with it, original sin. From them it explains individual sin," Rather than seeking to hang collective responsibility on eternal events of the past, the character and fate of the individual is placed here at the center of the discussion:

Der Begriff Sünde und Schuld setzt eben den Einzelnen als den Einzelnen. Es ist von keinerlei Verhältnis zur ganzen Welt, zu all dem Vergangenen die Rede. Nur davon ist die Rede, daß er schuldig ist, und doch soll er durch das Schicksal werden, mithin durch alles das, davon nicht die Rede ist, und er soll dadurch etwas werden was den Begriff Schicksal gerade aufhebt, und dies soll er werden durch das Schicksal. [ba:100]

The concept of sin and responsibility is premised on the individual as individual. It has nothing to do with the world as a whole or with talk of the past, and is only concerned with the responsibility of individuals. It is rather through fate, in everything which it does not entail, that the individual becomes something which the concept of fate transcends. This is what the individual is meant to become through fate.

Sin and responsibility are not formulated in relation to worldly history but directed to the fate of the individual. Through the transformation of fate to decisive character and the lifting of the attribution of sin, an ethic can be formulated free from partiality. Proceeding from the ethical and religious, the dogmatic position on the origin of sin is deeply embedded in the notion of Jewish responsibility and the decline of the Messiah, a full repudiation which still hangs in the balance.<sup>321</sup> Similar to Benjamin, Kierkegaard explores the origins of sin and evil from the first crisis in the relationship of divine and profane intention. Kierkegaard's speculations on Genesis are also formed from a notion of creation as origin, not with respect to the origin of history but to the idea, more specifically to the problem of good and evil. For this reason, the questions can certainly not be solved by a dogmatic *Irrtum*. Rather, the origins of responsibility must begin anew with the idea of sin by which

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<sup>319</sup> The relevance of Kierkegaard to Benjamin can be seen in the final section on his essay on language [II:153]. The editors cite Kierkegaard's *Kritik der Gegenwart* [II:936] as Benjamin himself lists Kierkegaard as number 463 in his tally of books read. [VII:437] We are also aware of Kierkegaard's influence through the work of commentators such as Peter Fenves, "Chatter," *Language and History in Kierkegaard*, Stanford University Press, 1993. See also the discussion in section two.

<sup>320</sup> Søren Kierkegaard, *Gesammelte Werke, Der Begriff Angst*, Band 11/12, Düsseldorf: 1965, 18 (Hersch trans.). Henceforth [ba:18].

<sup>321</sup> Only very recently has the Church been capable of repudiating the principle without a serious attempt to evaluate the suffering it has caused for centuries.

its original character and its character-forming aspects are metaphysically exhumed from its genesic beginnings.<sup>322</sup> Genesis is therefore at the center of a new ethical conception of responsibility:

Die Erzählung der Genesis von der ersten Sünde ist sonderlich in unsrer Zeit ziemlich unachtsam als ein Mythos betrachtet worden. [...] wenn der Verstand auf das Mythische verfällt, so kommt selten etwas anderes als Geschwätz heraus. Jene Erzählung ist die einzige dialektisch-folgerichtige Auffassung. Ihr gesamter Gehalt sammelt sich eigentlich in dem Satze: *Die Sünde ist durch eine Sünde in die Welt gekommen.* [ba:29]

Unique to our age, the story of original sin in Genesis is mistaken for myth. . . .if the understanding of the mythical is lost, it is rare that anything other than idle chatter is the result. The story is the only dialectically consistent version, its entire content can be expressed in the sentence: sin had entered the world through a sin.

Genesis is read here as a single metaphysical statement on the nature of truth, just as it appears in Benjamin. In seeking to move beyond the historically lineal or numerical with regard to the question of creation in favor of a philosophical line of inquiry, we also witness a protest against the mystical or even mythical elements in such an undertaking; with Benjamin, we only need to recall his statement at the outset of the linguistic essay where he puts forward the notion that the truth of Genesis should not be taken a priori as "offenbarte Wahrheit" "revealed truth" but as truth "discovered" in the "nature of language."<sup>323</sup>

The collective, character-forming aspects of responsibility have a relationship to the notion of evil, more specifically to evil intention, which, as sin, brings us to the problem of the origin of sin, or original sin. Once idle chatter [Geschwätz] is dispensed with, one can explore the principal statement of genesic evil: that sin made its appearance through the first moment of sin.<sup>324</sup> Sin occurs here in the same way that the protagonist of original sin is understood as both individual and collective: since "Adam ist der erste Mensch, er ist zu gleicher Zeit er selbst und das Geschlecht," "Adam is the first man, he is both himself and the species," it is therefore possible to view Adam as both an individual, a generation and, up until his creation, all generations - thus an absolute individual and collective in one.

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<sup>322</sup> Since this undertaking seeks to move beyond dogma and places truth as its highest goal, it may perhaps even justify the term metaphysics.

<sup>323</sup> Discovered is rendered here from *aufgefunden*. See section two, chapter one, for a discussion of whether Benjamin indeed puts forward what amounts to mystical speculation despite his disclaimer to the contrary and Scholem's reply in chapter twelve.

<sup>324</sup> The notion of idle talk was to also capture Scholem's concern with a new political direction in his farewell letter to politics. See "Abschied" [B I:463] and the discussion in chapter ten, section one.

[ba:26] This is, in a sense, the means by which Kierkegaard addresses the question of single momentary beginning and eternity in original sin. The difference between Adam and us, however, makes itself apparent in the degree to which his sin is the "Sündigkeit als ihre folge bedingende" "iniquity as determining its own consequences" [ba:27] which anticipates and precedes human sin. It is not that Adam created his own, first sin - which would take him out of the sphere of the profane altogether - but that with his act, "einen Anfang außerhalb seiner selbst" "a beginning independent of himself" was revealed. [ba:27]

By circuitous route of Adam's mortality, Kierkegaard comes to the conclusion that a beginning which occurs before original sin is bound to the question of knowledge: "Die Erzählung der Genesis," he asserts again, "gibt nun auch die richtige Erklärung der Unschuld. Unschuld *ist* Unwissenheit. Sie ist keineswegs das reine Sein des Unmittelbaren, sondern sie ist Unwissenheit." "The story of Genesis also presents us with the proper definition of innocence. Innocence is ignorance. It is not the pure being of immediacy but ignorance." [ba:35] Adam's responsibility for introducing sin into the world is to be understood by the question of whether it was his intention to contradict divine decree. The supposition of willful knowledge here separates divine immediacy from human innocence. The inability to access immediacy, in the genesic immediacy of language, is the profanity of human activity. As such, it is the dividing point for the first human to be trapped within the profane, to have, in fact, engendered the profane. But at the same time as providing its imprisonment, it provided a transition from innocence to knowledge.<sup>325</sup>

Despite the boost which Kierkegaard was to give to this pursuit, he was only partially able to clear the way for a new ethics and it is fairly clear at the outset that Benjamin must part ways with him. Like many other German-Jewish thinkers at the turn of century, Benjamin was no less accosted than Scholem by the three directions which his generation was forced to confront: conversion, assimilation or Zionism. His rejection of all three meant that he was also unable to embark on Kierkegaard's universalization of the suffering Messiah, "Der Einzige, der unschuldig über die Sünde Leid getragen [hat]." "The only one who took blame for sin out of innocence." He continues here in detail on suffering and divine tragedy:

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<sup>325</sup> This dialectical transition is considered by Kierkegaard to be that which breaks "alle katholischen Phantasterien von Verdienst." [ba:39]

er trug über sie Leid nicht als über ein Schicksal, in das er sich finden mußte, sondern trug Leid als der, welcher es frei erwählte der ganzen Welt Sünde zu tragen und für sie die Strafe zu leiden. [ba:36]

he took the blame for sin, not in the sense of a fate which he had to discover, but as freely-chosen blame for the sin of the whole world and suffer its punishment.

In contrast to each individual forming the contours of all sin, Benjamin proposes an entirely different conception of character and responsibility. His *Schuldzusammenhang* was not a collective guilt linking future generations to Adam's failure to understand God, for this would only mean that a linguistic fall from divine grace preceded original sin.<sup>326</sup> Rejecting the first particular view which Kierkegaard frees from dogma, Benjamin is not tempted to embrace a second partiality which sees the origin of good and evil in language. [ba:44] On the contrary, he quite explicitly takes up the notion of evil existing before knowledge.<sup>327</sup> Before the fateful decision, the tree of knowledge stood in Eden with the distinction of good and evil intact: "Diese ungeheure Ironie ist das Kennzeichen des mythischen Ursprungs des Rechts." "This incredible irony is the distinguishing feature of the mythic origins of law. [II:154] Benjamin is not satisfied with the argument that a rejection of the universal-suffering thesis is to be understood as a Jewish "Angst vom Schuld" "fear of responsibility" [ba:106] as Kierkegaard states: "Der Jude nimmt seine Zuflucht zum Opfer, aber es hilft ihm nichts, denn was eigentlich helfen soll, wäre, daß das Angstverhältnis zur Schuld aufgehoben und ein wirkliches Verhältnis gesetzt würde." "The Jew falls victim to flight for what would help would be to transcend the relationship of fear for a real relationship." [ba:106] The rejection of a collective responsibility of the individual is deemed a 'Jewish' avoidance of collective responsibility. For Kierkegaard, Judaism appears here merely as a repeated act of citation rather than a particularity which cannot be subsumed. [ba:73] Benjamin too sought a transformation of the notion of responsibility but not one understood as Jewish fear for which the Jew must reform himself and take on a "true relationship" to the question.<sup>328</sup> In contrast to the

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<sup>326</sup> "Wenn es somit in der Genesis heißt, daß Gott zu Adam sprach: 'Allein von dem Baum der Erkenntnis des Guten und Bösen sollst du nicht essen', so versteht es sich ja von selbst, daß Adam dies wort eigentlich nicht verstanden hat; denn wie sollte er wohl den Unterschied von Gut und Böse verstehen, da diese Unterscheidung doch erst mit dem Genuß sich einstellte." [ba:42]

<sup>327</sup> "Gut und böse nämlich stehen als unbenennbar, als namelos außerhalb der Namensprache [...] Denn - noch einmal soll das gesagt werden - Geschwätz war die Frage nach dem Gut und Böse in der Welt nach der Schöpfung. Der Baum der Erkenntnis stand nicht wegen der Aufschlüsse über Gut und Böse, [...] sondern als Wahrzeichen des Gerichts über den Fragenden." [II:154]

<sup>328</sup> It is interesting to what degree Kierkegaard advocates a similar solution to the "Jewish question" as the young Hegelian Bruno Bauer in his call to the Jews to adopt Christianity before giving up religion altogether for socialism. Bauer's "Jewish" program is, in this respect, perhaps only half as

universalization of suffering which Kierkegaard proposes, Benjamin universalizes the Jew. "- Dem Dogma," Benjamin writes, "von der natürlichen Schuld des Menschenlebens, von der Urschuld, deren prinzipielle Unlösbarkeit die Lehre, und deren gelegentliche Lösung den Kultus des Heidentums bildet, stellt der Genius die Vision von der natürlichen Unschuld des Menschen entgegen." [II:178] "Against the dogma of the natural responsibility of human beings, of original responsibility, whose principle and unsolvable state is constituted by the teachings (doctrine) and its temporary solution, the ritual of hedonism, genius proposes a vision of the natural innocence of humanity." [ref:310]

A messianic vision of a humanity in a condition of natural innocence is put forward by Benjamin in place of a fate determined by suffering.<sup>329</sup> He was to try to offset the partiality which Christianity was to impose on ethical reason in a reappraisal of the relationship of responsibility to the individual. Collective responsibility was now to be drawn into a process of re-sanctification such that the individual's role was not determined by the parameters of free choice and suffering, not immersed in dread but a *Schuldzusammenhang*, a connection to responsibility rather than collective responsibility, embedded in divine intention which was to span the length of responsibility until a messianic cancellation of the debt of *Schuld* [responsibility] would take place.<sup>330</sup> Although the Messiah releases the enslaved from their chains (as the Jewish morning prayer promises), *Schuld* is not viewed here as the dialectical opposite of innocence,<sup>331</sup> for human activity exists before the on-set of messianic time. The unexpected suspension of all activity causes Benjamin to dispense with the notion of necessity between fate and fear. Like Rosenzweig's interpretation of neighborly love,<sup>332</sup> choice and divine intention are integrated such that a freedom-fear dynamic in the concept of *mitzvah* (an obligation/an act of goodness) does not enter the picture.<sup>333</sup> Not fear but judgment provides the messianic transition in Benjamin's theory:

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ridiculous as Marx's reply, attempting to make use of anti-Semitic myths on behalf of Jews against the Christian atheistic socialists.

<sup>329</sup> See also the observations of I. Wohlfarth, "On Some Jewish Motifs in Benjamin," on the notion of "natural" innocence in *The Problem of Modernity: Adorno and Benjamin*, ed. by Andrew Benjamin, London: 1989, 157-215.

<sup>330</sup> "Der Schuldzusammenhang is ganz uneigentlich zeitlich, nach Art und Maß ganz verschieden von der Zeit der Erlösung." [II:176]

<sup>331</sup> I am referring to the prayer which the Sabbatians were to turn into their calling card, transforming the traditional *Matter Assuriam* (Blessed is He who frees all slaves) to *Matter Issuriam* (Blessed is He who permits the forbidden). See the chapter of cataclysmic anarchism in section one. On Kierkegaard's dialectic of responsibility, see [ba:111].

<sup>332</sup> See the discussion in the first section, chapter two on Rosenzweig's *Nächstenliebe*.

<sup>333</sup> "Es gibt also einen Begriff des Schicksals [...] welcher vollkommen unabhängig von dem Charakters ist und seine Begründung in einer ganz andern Späre sucht." [II:176]

Eine Ordnung aber, deren einzig konstitutive Begriffe Unglück und Schuld sind und innerhalb deren es keine denkbare Straße der Befreiung gibt [...] - eine solche Ordnung kann nicht religiös sein, so sehr auch der mißverständene Schuldbegriff darauf zu verweisen scheint. Es gilt also ein anderes Gebeit zu suchen, in welchem einzig und allein Unglück und Schuld gelten, eine Waage, auf der Seligkeit und Unschuld zu leicht befunden werden und nach oben schweben. Diese Waage ist die Waage des Rechts.[II:174]

But an order whose sole intrinsic concepts are unhappiness and responsibility, and within which there is no conceivable road to liberation . . . such an order cannot be religious, no matter how the misunderstood concept of responsibility appears to point to the contrary. Another sphere must therefore be sought in which unhappiness and responsibility alone carry weight, a scale on which bliss and innocence are found to be too light and float upward. This scale is the scale of law." [ref:307]

This *Ordnung* [order] which corresponds to a liberation from irreligious partiality, impairing responsibility and its relationship to happiness, is not merely the internal decision of the individual, however much the figure of the tragic hero puts forward the vision of a self-initiated decline. An external, even divine dimension is brought into the picture with the image of a scale of law. Law introduces messianic judgment into the equation of character, providing an endpoint from which the latitude of the responsibility of the individual can be measured.<sup>334</sup> The messianic moment would then reveal the natural innocence of the individual, allowing a state of blessedness to return to worldly affairs. Law stands for more than merely the imposition of responsibility and administration of debt here. In its active form, as judgment, it provides a link from law to the "Reiche der Gerechtigkeit." [realm of justice] [II:174] It is the *Ordnung* of law which is, at this point, intertwined with the state of inequity of humanity, albeit intact with distinct identity. Like Kierkegaard, injustice here is also exposed as "demonic," serving as a radical antithesis of the messianic. It is this "Ordnung des Rechts" which casts the very force which "den Sieg über die Dämonen inaugurierte." "order of law which inaugurates the victory over the demons." [II:174] It is not that law establishes a kingdom of justice on earth but that true law or right, "sich über die Zeit hinaus erhalten," "maintains itself beyond time," initiating the pre-stages of a messianic era in that, by its virtue, it determines its "Verhältnis zu den Göttern," "relationship to the gods." [II:174]

As we have seen in the last section on language, Benjamin formulates a linguistic history of the expulsion from paradise, recovering the insertion of

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<sup>334</sup> "An der Fixierung der besonder Art der Zeit des Schicksals hängt die vollendete Durchleuchtung dieser Dinge." [II:176]

paradisical truth in the purity of the judging word. In this history, another side of the messianic drama was emphasized. In addition to character, judgment itself bore responsibility for the imposition and restitution of the state of bliss.<sup>335</sup> Judgment was the product of the magic of the judging word which existed before the expulsion from the garden of God. Adam was therefore, in a sense, fooled by the mythical "Ursprungs des Rechts," "origins of law," [II:154] for although he had no knowledge of the sort, the meaning of good and evil existed before his disobeying divine intention. In fact, a distinction which could have been embodied within the fruit of the tree, implies a divine judgment on the difference between good and evil preceding profane knowledge. The outcome of this judgment took the form of the decline of immediacy in language.

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<sup>335</sup> See chapter seven entitled "Judgment" in section two on language.

## WORLDLY AND DIVINE RESTITUTION

A newly discovered text from Benjamin casts new light on the importance of the concept of justice for the early political theology. Like many of Benjamin's early texts, "Notes for a Study on the Category of Justice," is only to be found in Scholem's hand.<sup>336</sup> With each text he was to receive from Benjamin, Scholem was to diligently make a copy for himself, often transcribing it directly into his journal. On the 8th and 9th of October 1916, he was to do the same with Benjamin's notes on justice.

Following the chronology of the journal, it seems that discussions on justice took place when Scholem and Benjamin met in August 1916 in Munich, specifically in Seeshaupt where Scholem visited Benjamin and his future wife, Dora Pollak. Their discussions in Seeshaupt spanned a wide spectrum of topics including the intellectual journals of the day, (*Das Ziel, Der Reich*), Benjamin's letter to Buber rejecting his offer to participate in *Der Jude*,<sup>337</sup> on Friedrich Schlegel, a Pindar ode (which Benjamin read aloud in the original), Plato's Symposium, Hegel - all mentioned in detail in Scholem's journals.<sup>338</sup> But perhaps most important were the discussions which took place on Judaism. In connection with their emerging critique of Buber's *Erlebnis* mysticism, they began to concern themselves with a broad discussion on the questions of Judaism, Zionism and justice.<sup>339</sup> The impact on Scholem was substantial, as he records that evening in his journals:

Wir haben während unseres ganzen Zusammenseins ungeheuer viel über das Judentum gesprochen: einmal über das Nach-Palästina-Gehen und den 'Ackerbau Zionismus', über Achad Haam und die 'Gerechtigkeit', am meisten aber über Buber von dem nach diesen vier Tagen so gut wie nichts mehr übriggeblieben ist. [...] Schon hier ist klar, wie nahe Benjamin Achad Haam steht, was nachher noch an einem zentralsten Punkte deutlich werden wird, der Auffassung der Rolle der 'Gerechtigkeit' im Judentum. [tag I:386]

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<sup>336</sup> Benjamin, "Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit," [tag I:401-2]. As with pieces such as the "Metaphysics of Youth" and "the Journal," Scholem received either a type-written copy from Benjamin to read or was given Benjamin's notebook for safe-keeping or transcription. See the "Anmerkungen" in [II:915-949, VI:625-638, VII:527-531] and Hermann Schweppenhäuser, "Benjamin über Gerechtigkeit, ein Fund in Gershom Scholems Tagebüchern," 43-51.

<sup>337</sup> A copy of the letter is reproduced in [briefe I:125-8]

<sup>338</sup> [tag I:382-402]. See also the description of the meeting with some discrepancy in [freund:33].

<sup>339</sup> Scholem returns to this evening in August in his book on Benjamin: "Benjamin sprach schon damals in diesem Zusammenhang von dem Unterschied zwischen Recht und Gerechtigkeit, wobei das Recht eine nur in der Welt der Mythos begründbare Ordnung sei. Er hat diesen Gedanken dann vier Jahre später in seinem Aufsatz *Zur Kritik der Gewalt* näher ausgeführt." [freund:45] On the discussion of myth, see Scholem's understanding in [tag I:389] and the footnote below, as well as the discussion in chapter six on judgment and violence.

During our time together, we spoke at great length on Judaism: on not going to Palestine, "Agro-Zionism," Achad Haam, "justice," and especially Buber, of whom little remains after the last four days [of criticism] . . . It is already clear to me how close Benjamin is to Achad Haam, which will become clearer with respect to a central point: the conception of the role of "justice" in Judaism.

The discussions during those four days in August were to concern many of the central issues which were to move young German Jewry at the time: whether Zion is a metaphor or a realizable goal,<sup>340</sup> on Martin Buber and the cultural Zionist Achad Haam as well as the devotion expressed in the idea of *kiddush hashem*.<sup>341</sup> A day after this first remark on Benjamin and Achad Haam, he mentions again how "außerordentlich nahe," "incredibly near" Benjamin was to Haam "vom geistigen Zentrum," "from a spiritual core." "'Ackerbau kann goijisch sein,'" "'agriculture can be goyish,'" Scholem quotes (as if originating from Benjamin).

In the aftermath of these discussions, Scholem appears somewhat unsettled by the depth of concern which Benjamin was to show for Judaism. Rather than underestimating this concern beforehand, he seems surprised at the intensity, interpreting Benjamin's words here as expressing a shared conviction. Perhaps the following synopsis is able to capture the centrality as well as the radical nature of Benjamin's occupation with Judaism at this time, in Scholem's perception:

Benjamins Geist kreist und wird noch lange kreisen um den Mythos,<sup>342</sup> an den er von den verschiedensten Seiten heran will. Von der Geschichte, wo er von der Romantik ausgeht, von der Dichtung, wo er von Hölderlin ausgeht, von der Religion, wo er vom Judentum ausgeht, und vom Recht aus. "Wenn ich einmal meine Philosophie haben werde" - sagte er zu mir - "so wird es irgendwie eine Philosophie des Judentums sein."<sup>343</sup>

Benjamin's spirit revolves around myth - and will continue to do so - which he seeks to approach from various sides; from history, which begins for him with the Romantics, from poetry which starts with Hölderlin, from religion in

<sup>340</sup> See the discussion in section two entitled "Zion: anarchist praxis or metaphor?"

<sup>341</sup> The discussion of the "sanctifying of the name" and role which this concept was to play in Jewish martyrdom was an ever-recurring theme in Jewish circles. Take, for example, Hugo Bermann's essay entitled "Kiddush Haschem" in the influential anthology *Vom Judentum*, published by the Bar-Kochba circle in Prague (1913). The influence of this collection is often mentioned in the first years of Scholem's journal entries. Benjamin returns to this book in a letter to Scholem from 1920-21. See [freund:133-134].

<sup>342</sup> On his understanding of Benjamin's conception of myth, Scholem recorded the following entry that same evening: "Er ließ *nur* den Mythos als 'die Welt' gelten, sagte, er wisse selbst noch nicht, was der Zweck der Philosophie sei, da der 'Sinn der Welt' nicht erst aufgefunden [zu] werden brauche, sondern im Mythos schon da sei. Der Mythos sei alles, alles andere (Mathematik und Philosophie) sei nur eine Verdunkelung in ihm selber, ein Schein." [tag I:389-390] A late summary of this discussion can be found in [freund:44] with, again, a slightly different reading.

<sup>343</sup> [tag I:391]. Scholem reproduces this journal entry in [freund:45].

which his starting point is Judaism and with law. "If I ever form my own philosophy," he told me, "it will surely be a philosophy of Judaism."

Scholem himself could not believe the devotion of his friend to the same questions which were to move him so deeply: "Aber all das, was er hier sagte, werde ich in Berlin noch einmal mit ihm besprechen müssen," "But everything he said, I'm going to need to talk about it with him once more in Berlin." [tag I:391] In retrospect, one might be inclined to question the passion that Benjamin expressed on that summer evening of 1916, knowing full well that he was to never truly consummate these passions in a philosophy of Judaism. If this statement was perceived by Scholem as something of an oath to a common-goal, it might just point to the basis upon which Scholem was convinced that Benjamin would ultimately turn his attention to Judaism and make good on his promise. Naturally, he was not to question the integrity of such a statement. In fact, he was not only to overlook the tensions in Benjamin's commitment to Judaism but was rather to question his own convictions in this regard:

Über all das, was wir in unseren ausführlichen Gesprächen zu zweien oder dreien behandelt haben, könnte ich mehr als den ganzen Winter nachdenken: das ganze Leben lang den Zionismus neu aufbauen. Denn ich darf mich doch nicht belügen: Wenn ich wirklich mit Benjamin gehe, müßte ich ungeheuer revidieren.<sup>344</sup>

Everything that we have we discussed extensively together, or as a threesome, leaves me with enough to think about for the whole winter - for my whole life, to construct Zionism anew. And I shouldn't fool myself: if I really want to join Benjamin, I've got to revise things tremendously.

Nearly six weeks after this fateful encounter, Scholem was to make the following entry into his journal: "Abends mit Benjamin gemeinsame Lektüre von Achad Haam 'Al shetei haseipim,'" "Evening with Benjamin, read together Achad Haam *al sh'nay ha-sayfim* (Am Scheidensweg)." Afterwards, he received Benjamin's notebook with the "Notes to a Study on the Category of Justice."<sup>345</sup> The following is the full text:

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<sup>344</sup> [tag I:392]. This statement appears to contradict the later recollection of these meetings which appeared only in the Hebrew version of Scholem's autobiography in full: "Gewiß spielte gerade meine leidenschaftliche Bindung an das Jüdische in deren Entwicklung eine zentrale Rolle. Benjamin hat diese Bindung, so paradox das bei seiner ziemlich totalen Unwissenheit in jüdischen Dingen scheinen möchte, niemals in Frage gestellt. Er war weit davon entfernt, mich von diesen Neigungen abbringen zu wollen, fand sie im Gegenteil sehr interessant, ja tendierte dazu, mich darin noch, wenn man so sagen dürfte, zu bestärken, da ich seine Adresse für alle Fragen aus diesem Gebiet wurde." The record from the period reveals a perspective on Scholem which is far more active in the formation of his earliest views. See [von berlin:75].

<sup>345</sup> Benjamin, "Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit," [tag I:401].

## Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit

Jedem Gute, als in der Zeit- und Raumordnung eingeschränktem, kommt Besitzcharakter als Ausdruck seiner Vergänglichkeit zu. Der Besitz aber, als in der gleichen Endlichkeit befangen, ist immer ungerecht. Daher kann auch keine wie immer geartete Besitzordnung zur Gerechtigkeit führen.

Vielmehr liegt diese in der Bedingung eines Gutes, das nicht Besitz sein kann. Dies ist allein das Gute, durch das die Güter besitzlos werden.

Im Begriff der Gesellschaft versucht man, dem Gut einen Besitzer zu geben, welcher seinen Besitzcharakter aufhebt.

Jede sozialistische oder kommunistische Theorie verfehlt ihr Ziel deshalb, weil der Anspruch des Individuums A ein Bedürfnis z vor, das durch das Gut x befriedigt werden kann, und glaubt man daher, ein Gut y, welches gleich x ist, einem Individuum B zur Stillung des gleichen Bedürfnisses gerechterweise geben zu sollen und zu dürfen, so irrt man. Es gibt nämlich den ganz abstrakten Anspruch des Subjekts prinzipiell auf jedes Gut, ein Anspruch, der keinesweges auf Bedürfnisse, sondern auf Gerechtigkeit sich zurückführt, und dessen letzte Richtung möglicherweise nicht auf ein Besitzrecht der Person, sondern auf ein Guts-Recht des Gutes geht.

Gerechtigkeit ist das Streben, die Welt zum höchsten Gut zu machen.

Die angedeuteten Gedanken führen zur Vermutung: Gerechtigkeit ist nicht eine Tugend (Demut, Nächstenliebe, Treue, Tapferkeit), sondern sie begründet eine neue ethische Kategorie, die man vielleicht nicht einmal eine Kategorie der Tugend, sondern eine der Tugend gleichgeordnete andere Kategorie wird nennen müssen. Gerechtigkeit scheint sich nicht auf den guten Willen des Subjekts zu beziehen, sondern macht einen Zustand der Welt aus, Gerechtigkeit bezeichnet die ethische Kategorie des Existenten, Tugend die ethische Kategorie des Geforderten. Tugend kann gefordert werden, Gerechtigkeit letzten Endes nur sein, als Zustand der Welt oder als Zustand Gottes. In Gott haben alle Tugenden die Form der Gerechtigkeit, das Beiwort all in all-gültig, all-wissend u. a. deutet darauf hin. Tugendhaft kann nur Erfüllung des Geforderten, gerecht nur Gewährleistung des Existenten (durch Forderungen *vielleicht nicht* mehr zu bestimmenden, dennoch natürlich nicht eines beliebigen) sein.

Gerechtigkeit ist die ethische Seite des Kampfes, Gerechtigkeit ist die Macht der Tugend und die Tugend der Macht. Die Verantwortung gegen die Welt, die wir haben, bewahrt vor der Instanz der Gerechtigkeit.

Die Bitte des Vaterunser: Führe uns nicht in Versuchung, sondern erlöse uns von dem Übel, *ein Reich werde[,] [zwei Wörter unleserlich]*, ist die Bitte um Gerechtigkeit, um den gerechten Weltzustand. Die empirische einzelne Tat verhält sich zum Sittengesetz irgendwie als (undeduzierbare) Erfüllung des formalen Schemas. Umgekehrt verhält sich das Recht zur Gerechtigkeit, wie das Schema zur Erfüllung. Die ungeheure Kluft, die zwischen Recht und Gerechtigkeit dem Wesen nach klafft, haben andere Sprache bezeichnet.

ius	themis	mishpat
fas	dike	tzedek

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Das Problem der historischen Zeit ist bereits durch die eigentümliche Form der historischen Zeitrechnung gestellt. Die Jahre sind zählbar, aber zum Unterschied von den meisten Zählbaren, nicht numerierbar.

Benjamin opens his treatises on justice with a statement which explores the proximity of the word "good" in an ethical sense to the word "goods" in a material sense.<sup>346</sup> Every ethical good or good (e), to the degree that it is an earthly good, a profane good, and not of the divine, contains within itself its earthly limitation: it exists within a temporal and physical framework. This is the possessive character of its worldly existence, its *Besitzcharakter*, a quality which is embodied within the concept of a profane good. Because it is limited to the finite, it is constituted to decline like all mortal things. It is therefore a profane good within time and not beyond it. Should however the quadrants of history come to an end, should this good (e) no longer be restrained by temporal and physical limitations, then it can no longer remain a good (e) in a worldly, civic sense.

This possessive character which was described as part of every ethical good (e) is a part of it by nature of its profane existence. Thus because possession is trapped by the very same limitations as the notions of property in the material world (as it would be absurd to speak of possession in the divine world), all things profane are deemed by their nature unjust. It must also be assumed in this definition that justice is an attribute of the divine, for only then would the divine appear as the image of pure justice, and possession - as essentially profane - unjust. "Property is theft!" is perhaps the boldest of statements which a French parliamentarian was to declare.<sup>347</sup> The injustice of the profane is inherent in the unjust distribution of possession. For this reason, there can never truly be a relation of property which is just or which can lead toward justice. This is the nature of a good (e) which cannot be identified with possession, beyond its possessive character, which can neither possess or naturally be possessed.

Benjamin presents here a notion of "a good (e) through which all goods (m) become property-less," a good (e) which is able to unleash property from possession and rescind the ownership of all things. At this stage in the text, we do not have a

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<sup>346</sup> German permits the term "goods" in the singular, *das Gut*, or in the plural, *die Güter*, as it does the term for an ethical good, *das Gute*, and its plural (in regard to those who are good), *die Guten*, not to speak of the word *die Güte* for "kindness" or "goodness." However, there are also many examples of *das Gut* and *das Gute* being used interchangeably. In an attempt to maintain the reflective play on words here but, at the same time, to carve out the definitive meanings in each word, I have created a term for material goods in the singular, "good (m)," as well as a term for an ethical good, "good (e)." What this may lack in style, it may hopefully make up for in clarity.

<sup>347</sup> This is the renowned phrase of Pierre-Joseph Proudhon. See his *Système des contradictions économiques, ou philosophie de la misère* in *Oeuvres complètes*, I:2, Paris: Riviere, 1959, 158-255, esp. 212.

messianic calling but rather an ethical good which is able to renounce ownership for itself. However, the renunciation of the possessive character of all profane things is, in fact, an ethical good which is able to return all things to their rightful "divine" owner. If one is to understand by this an ethical good which is to usher in a "spiritual restitutio in integrum,"<sup>348</sup> we would then actually be dealing with a good which, in its fulfillment, plays a role in the unfolding of a messianic era.

In social and worldly terms, one would seek, by this messianic good, a "possessor" capable of lifting off its own possessive character and allow its own transcendence with regard to the material. But every socialist theory hitherto has been unable to identify this pursuit, says Benjamin, and in this way, failed to achieve its goals. This failure is due to a critical misunderstanding: that the claims of the individual to a particular good cannot be defined merely by the needs of a given individual but must be understood in such a way as that each individual has a rightful claim to every good. This can be seen in the example of an individual whose needs are satisfied by a good which is unable to satisfy a second individual, even in the case where the needs appear to be the same. If a rightful claim of every individual can be made to every good (m), then the relationship of a good (m) to a good (e) would point to property relations beyond property itself, where the whole nature of possession finds itself suspended indefinitely. As the last example suggests, the equation of individual needs cannot prove to supersede rightful claims which are, in themselves, a priori "abstract" claims of every individual to every good, claims which are not based on needs but on a concept of justice beyond worldly domain and abstract in divine intention.

Justice for which one can strive is here seen not only as the striving for the highest ethical good but also for the highest material good. This is phrased simply as: "Justice is the striving to turn the world into the highest good." If there is an allusion to a scholastic *summum bonum* in this phrase, it would be based on the notion of an abstract and divine good in contrast to a worldly and concrete good for which a conception of a complete, abstract good would serve as a model. It is in this context that Benjamin moves to the question of ethical categories in order to distinguish justice from other virtues such as humility, neighborly love, loyalty and bravery. More than the quality of character, justice is to be seen as constituting "a new ethical category" comparable to virtue. This new virtue not based simply on the "good will" of the individual but rather the condition of the world.

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<sup>348</sup> As we have seen in the "Theologisch-Politisches Fragment" [II:204]. See the discussion in chapter ten, section one.

Here Benjamin draws a distinction between justice and virtue. If justice is to refer to the ethical category of that which *is existing*, of worldly affairs, then virtue would stand for the ethical category of those or that which *is demanded*. Justice would here be conceived in the profane, while virtue strives for the abstract good in the category of the existing, as a demand of the living or a challenge to the divine. Whether justice is that which forms the ethical category of the living because of its abstractness or because of, say the contested number of righteous people which prop up the entire world through their *mitzvot*, embedded in the profane, is difficult to determine.<sup>349</sup> Certain here is that justice represents being, either reflecting the "state of the world or the state of God." Virtue - in contrast to the metaphor of matter - can be created and *can be destroyed* and is therefore a matter of demands, of those or that which pushes something forward, [gefordert] most likely those supporting a certain trajectory, seeking worldly redemption and repentance; certainly all the qualities which make up "the profane order of the profane in the coming of the messianic kingdom,"<sup>350</sup> as virtuous action concerns the profane world.

In the divine realm, in God, all virtue takes the form of justice (whereas if one says 'all virtuous actions,' one is left with the question of whether there is any motion in the divine kingdom). Justice is thus the byword for the "all" in the terms "all-knowing," "all-righteous," says Benjamin.<sup>351</sup> Virtue, by contrast, remains in the realm of demands, of ethical work of the profane, justified by the defense of the living and the fulfillment of pure, worldly demands. Justice is the ethical dimension of this worldly "struggle." It is the "power of virtue and virtue of power." The shared responsibility in relation to the world, is preserved in the moment of judgment, the application of the power of justice.

The last section of this text begins with an example of a call to justice, for a righteous state of the world, drawn in explicitly Christian terms: Our father, do not

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<sup>349</sup> Some argue 36 hidden righteous, others argue for more. We will return to the figure of justice in the chapter entitled "The Righteous, the Pious, the Scholar" in this section. See also "Drei Typen jüdischer Frömmigkeit" (1973) in [j4] and "Die 36 verborgenen Gerechten," in *Der jüdischen Tradition in Theater-Wahrheit und Wirklichkeit. Freundesgabe für Kurt Hirschfeld*, Zürich, 1962.

<sup>350</sup> Theologisches-Politisches Fragment. [II:204] See the first section for a discussion of profane praxis.

<sup>351</sup> If Benjamin is here to enter upon the ground which Rosenzweig was to cultivate several years later in his *Stern der Erlösung* with the category of *das All*, he was to do so with much foresight. This may support Stephane Mosès' claim that Benjamin precedes Rosenzweig. See his article "Walter Benjamin and Franz Rosenzweig," in *Walter Benjamin: Philosophy, History, Aesthetics*, ed. by Gary Smith, Chicago, 1989, 228.

lead us into temptation, redeem us from evil.<sup>352</sup> The single, empirical act is related to moral law as an irreducible completion of its formal schema. There could not be moral law without its fulfillment in action. The opposite is the case with law or right to justice. Right is related to justice as a schema to its fulfillment in the sense that justice is the completion of a plan embedded in right. But this, nevertheless, still leaves us with an abyss between right or law on one side and justice on the other. The essence of this difference is expressed in many languages, says Benjamin, giving the following examples without an explanation:

ius	themis	mishpat
fas	dike	tzedek

In this initial comparison, we see a lineage of trouble in the distinction of divine and profane.<sup>353</sup> Just as the word "law" is often confused with "justice" in colloquial usage, we see in these words the unmediated integration of divine judgment and profane right, profane law and divine justice. It is highly probable that Benjamin sought to address the correlation of terms in this linguistic schema at some point in the future. However, his notes on justice conclude here without further explanation.

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<sup>352</sup> This statement is unfortunately followed by a sentence which have yet to be deciphered. In its proximity to Christian terminology, thus raises many questions. To juxtapose temptation and redemption, one does not necessary need the Trinity, especially if we are to read this independent of a dogma. Was this merely a harmless example or was Benjamin trying to reveal (or hide) something with overt Christian reference? Kambas suggests a proximity to Christian anarchism of *Das Ziel*, which perhaps might correspond to the praise of Tolstoy and the early Christians in "Das Leben der Studenten." See [II:79-80] and Chryssoula Kambas, "Walter Benjamin liest Georges Sorel" in *Aber ein Strum weht vom Paradiese her*. *Texte zu Walter Benjamin*, ed. by Michael Opitz and Erdmst Wizisla, Leipzig: 1992. On the other hand, it may also hide the Judaic discussion, being deemed too overtly "Jewish" for a discourse on justice.

<sup>353</sup> The correlation of these terms is not self-evident. The first term, *ius*, could be defined as right or law. It takes place in the civil area and is clearly concerned with worldly affairs. Its diametrical opposite is *fas*, from which we have the word fate. Divine command and divine right is expressed in *fas*, as is destiny. The term is used, however, for that which is allowed, which is right and lawful and thus establishes the very sphere which *ius* requires in order for there to be authority in human law. *Fas* thus appears to be better linked to the Greek term *themis* than *dike* (if we are to understand by Benjamin's list a repeated divine-profane tension in each ancient language). *Themis* is that which is laid down or established, not by fix statue, but by customary right; law formed by custom. It has a divine component which offers sanctity and penitence as *themis* can also be used to refer to the decrees of Gods, oracles or ordinances handed down by kings. Custom and usage, is expressed as *dike*, even a moral path, a way to right, justice or judgment. It can be distinguished from *themis* by the fact that it is used to refer to proceedings instituted to determine legal rights and thus has the connotation of trial and those things related to a worldly lawsuit: plead, atonement, consequence of an action, and penalty. The last categories of *mishpat* and *tzedek* we shall return to a bit later.

Following the treatise on justice, a final paragraph appears to have been added to the main body.<sup>354</sup> Whether it concerns the problem of historical time and its relationship to justice or to the previous linguistic analysis is not clear.<sup>355</sup> Its connection appears to lie in Benjamin's study of messianic time: the problem of historical time, he states, is already present in the standard measurement of time itself. While years are indeed countable, in contrast to most countable things, they are not numerical; in short, while the messianic is temporal, it is not lineal. To this final statement, we have confirmation from Scholem on the nature of the discussion from August 1916:

Über einer sehr schwierigen Bemerkung verbrachten wir einen ganzen Nachmittag: die Reihe der Jahre is wohl zählbar, aber nicht numerierbar. Was uns auf Ablauf, Zahlenreihe und vor allem als letzten Ausgangspunkt auf die Richtung führte. Gibt es eine Richtung ohne Ablauf? "Richtung ist das verschiedene Maß zweier Geraden" [...] Die Zeit ist wohl ein Ablauf, aber ist die Zeit gerichtet? Denn es ist doch eine durchaus metaphysische Behauptung, daß die Zeit gleichsam eine Gerade sei; [tag I:390]

We spent a whole afternoon on one difficult remark: although a range of years may be countable, it is not numerical. This brought us to counting [in the sense of time], number sequence, and especially as a final cause leading in a direction. Is there direction within counting? "Direction is two objects of different lines" . . . Time is surely passing, but is it directed? For it is a completely metaphysical assumption that time is, as it were, straight;

Scholem was to formulate the question in mathematical terms: if the definition of a direction is based on two masses extending upon the same line, then time would have a direction as a straight line. However, if time proves to have pockets and loopholes, disjointed moments and repeated fragments, then years may lend themselves to be strung together such that they bear coherence but not necessarily numerical order. In fact, we regularly formulate time-tables of various sizes and meanings which count time in non-numerical ways.<sup>356</sup>

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<sup>354</sup> In contrast to the published version, Hermann Schweppenhäuser has noted that the main text is divided from the remarks on time and two further citations (which I have not included) by a double-dividing line, indicating that the text probably ended with the list of terms. Nevertheless, I have included the paragraph on time due to its immanent connection to Scholem, as we shall see. See Hermann Schweppenhäuser, "Benjamin über Gerechtigkeit, ein Fund in Gershom Scholems Tagebüchern," 43-51.

<sup>355</sup> It appears to be related to this fragment in the sixth volume of the complete works: "Die historischen Zahlen sind Namen/ Reihe der historischen Zahlen/ Das Problem der historischen Zeit muß in Korrelation zu dem des historischen Raumes (Geschichte auf dem *Schauplatz*) gefaßt werden." Fragment 62 [VI:90,682]. See also [freund:45].

<sup>356</sup> An example of this might be a range of sequential dates such as 1936, 1919, 1871, 1848, 1789, 1776, 1648 which exist in a countable but non-numerical political continuum.

The restitution of the division of the divine and profane begins to take form in Benjamin's initial formulation on justice: first in material goods and the highest ethical good, then between individual needs and the collective needs of each individual and finally the ambiguity of a fallen language in law and justice, where justice is ultimately ascribed to the divine. Scholem's own speculations on the meaning of the latter itself begins with the following notes of the discussion with Benjamin:

Zu lesen ist Baader: *Theorie des Opfers*. Verschiedener Sinn des Opfers und der Übertretung in Mythologie und Judentum. Dort wird die Gemeinde Gottes unmittelbar, die der einzelnen wird getötet, im Judentum nur der einzelne, *die "Umkehr" hebt an*. Im mythologischen Heidentum ist das Höchste das Recht, im Judentum die Gerechtigkeit. Äußerst wichtig ist, daß im Hebräischen *mishpat* und *zedaka* ganz verschiedene Stämme sind. *Mishpat* kann sich nichts offenbaren (Jesaija 58), sondern nur seine *zedaka*. Recht und Gerechtigkeit sind zwei vollkommen verschiedene Dinge. *Das Wesen des Judentums ist die Gerechtigkeit*. Eine göttliche Kategorie. Das Christentum hat den *Raum*, der das Judentum ist, noch einmal schaffen wollen durch die drei Koordinaten Glaube, Liebe, Hoffnung; durchdringt das Judentum wie ein Punkt den Raum durchdringt, bleibt immer auf niederer Dimensionstufe. Im Judentum glaubt man nicht, sondern ist gerecht. In diesem Sinne ist die jüdische "*Tat*" als das Raumerfüllende zu nehmen.<sup>357</sup>

To be read, Baader: *Theory of Sacrifice*. Different meanings of sacrifice and infringement in mythology and Judaism. In the former, the congregation of God is immediacy for which the individual will be killed. In Judaism, only the individual *begins the "turn."* In mythological hedonism, law is the highest form, in Judaism, it is justice. What is most important is that, in Hebrew, *mishpat* and *tz'daka*, come from totally different roots. *Mishpat* does not reveal itself (Isaiah 58) but only *tz'daka*. Law and justice are two completely different things. *The essence of Judaism is justice*. A divine category. Christianity wanted to remake the space which Judaism is, through three coordinates: belief, love, hope; if Judaism can be penetrated like a point penetrates space, it is always relegated to a lower dimension. In Judaism, one does not believe, one is simply righteous. In this sense, the Jewish "act" is to be taken as completing space.

While a close reading of Baader's *Theorie des Opfers* seems to offer less than Scholem hoped for in terms of the concept of sacrifice, (far less than Kierkegaard for example), the discussion here of Judaism, of the distinction in the concept of the

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<sup>357</sup> [tag I:392]. The later report of this period in his book on Benjamin gives a somewhat different account of events: "Bei einem Gespräch über die Schriften Franz von Baaders, das wir in der Schweiz hatten [...], versuchten wir uns auszumalen, wie das Niveau einer Hörschaft gewesen sein müsse, welche Vorlesungen dieses Geistesfluges und dieser Tiefe zu folgen imstande war. Ich hatte damals gerade Baaders *Vorlesungen über die Theorie des Opfers nach Jacob Böhme* gelesen und brachte das zur Sprache. Baader imponierte Benjamin mehr als Schelling, von dem er in seiner freistudentischen Periode [...] nur die *Vorlesungen über die Methode des akademischen Studiums* gelesen hatte." [freund:32-3] Perhaps the most interesting aspect of this discrepancy is the degree to which the memory of influence becomes completely intertwined.

individual in the face of divine justice, apparently led the discussion. Whereas in hedonism, worldly right is understood as the highest good, justice is the highest state in this conception of Judaism. The division of *mishpat* from *tzedek* (or *tz'daka*) comprises the corner-stone of Scholem's views on justice as we shall see in the next chapter. Here, *mishpat* is associated with law, *tz'daka* with prophetic justice, originating from up high. Divine *tz'daka* reflects the essence of Judaism, worldly *tz'daka* as the act which is contrasted to the Christian call to faith. And the link between the act and the messianic era is suggested in the fulfillment of the spatial realm in the act of *tz'daka* in the profane.<sup>358</sup>

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<sup>358</sup> After some consideration, my findings on a categorical distinction between *mishpat* and *tzedek*, are inconclusive. Bible commentators also appears to be at odds with each other on this question. See D. Cox, "Sedaqa and Mispat: The Concept of Righteousness in Later Wisdom," in *Studii Biblici Franciscani, Liber Annus, XXVII*, (Jerusalem), 1977, 33-50; N. Bosco, "La nozione di 'Giustizia' nell'antico testamento" in *Filosofia*, Anno XVII, no. IV, Oct. 1966, 475-494; "Recht und Gerechtigkeit" in *Jüdisches Lexikon*, volume IV/1, Berlin:1930, 1275-1277; Hermann Cohen, "Liebe und Gerechtigkeit," "die Nächstenliebe im Talmud," in *Jüdische Schriften* volumes II- III, Berlin: 1924; B. Johnson, "*mishpat*," in *Theologisches Wörtertuch zum Alten Testament*, volume 5, Berlin: 1986, 93-107; Hans Heinrich Schmid, *Gerechtigkeit als Weltordnung. Hintergrund und Geschichte des alttestamentlichen Gerechtigkeitsbegriffes*, Tübingen: J.C.B Mohr, 1968.

## THESES ON THE CONCEPT OF JUSTICE

In addition to the notes that we have on the discussions on justice from 1916, an unbound, hand-written text from the Scholem archives in Jerusalem may help shed light on the concept of justice in these early debates. The unpublished document, entitled "Thesen über den Begriff der Gerechtigkeit," [Thesis on the Concept of Justice] is divided into two parts, with the first appearing to be a direct commentary on Benjamin's notes on the category of justice, following rather systematically the formulations and propositions in Benjamin's text. The first part appears to have been written in conjunction with the transcription of Benjamin's text in October 1916;<sup>359</sup> the second part is somewhat more difficult to date and may have been written many years later.

In Scholem's first thesis, we find him attempting to pin-point the school of thought from which Benjamin's discussion originates. A short review of the concept of justice however seems to suggest once again to what degree Benjamin drew only marginally from other sources. The *Güterlehre* [theory of good] beginning with the ancient Greeks appears to provide only the most basic groundwork for a notion of justice: *The Republic* here offers the most general definitions in the *techne* of justice and injustice leading to a discourse on the state; Aristotle's *Nicomachean Ethics* may set the stage to the degree that he establishes the question of whether justice is the practice of perfect virtue and its determination through the categories of distributive and remedial (or corrective) justice.<sup>360</sup> However, Scholem's attempt to locate Benjamin's text in the tradition of *Güterlehre*<sup>361</sup> may more likely reflect

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<sup>359</sup> Being the editor-in-chief of Benjamin's *Gesammelte Schriften*, along with Adorno, one has to wonder why Scholem failed to discover this text among the other early texts of Benjamin found solely in his journals. One can hardly imagine that it consisted of pure oversight, not only because of his fastidious attention to detail, but for the very fact that he was to review his own journals at least twice: once for copies of lost manuscripts of Benjamin and a second time to write his biographical and autobiographical studies *From Berlin to Jerusalem* and *Walter Benjamin - the Story of a Friendship*. It also seems highly unlikely that Scholem would simply forget this text, being that he himself was to write a direct and hitherto unpublished commentary to it, one of the few texts of its kind which reveals such an intimate tie to Benjamin's early work, while making direct reference to it in [freund:93].

<sup>360</sup> While distributive justice does deal with the distribution of goods and the problem of inequality (i.e. a man who takes more than his share), it does not present a conception of absolute right, nor does remedial or corrective justice, perhaps the closest to "ius," bear a messianic link to the divine judgment. See book five of the *Nicomachean Ethics* and Ernst Tugendhat, "Gerechtigkeit," in *Vorlesungen über Ethik*, Frankfurt:Suhrkamp, 1993, 364-392.

<sup>361</sup> The more "recent" treatments of Kant, Schleiermacher and Fichte may also have contributed to the general framework of the discussion but not in any singular or uniform way.

the enthusiasm of the younger discussion partner rather than any immanent or pivotal connection.<sup>362</sup>

Next Scholem moves to the difference between the concept of justice and the distribution of goods. He remarks that it is impossible to arrive at justice through the theory of what is good [Güterlehre]. A concept of justice cannot be reduced to the fair distribution of goods - the distributive cannot approach the abstract "idea" of justice itself. Thus every material good in the profane world can be read as having embedded within it a temporal index which functions as an insignia, expressing the finite quality of worldly goods. Here it seems that whereas Benjamin attempts to bend the meaning of the words "good" and "goods," Scholem's commentary can be understood as a more linear discussion of the material dimension of goods rather than the ethical. For Scholem, the "possessive character" of every material good is "objective" to the degree that its objective nature justifies the rightful claims of every individual to every material good. He identifies the objective nature of the possessive character of things as that which insures the right of each individual to every thing. Possession is that which signifies their objectivity despite the fact that it becomes actual only in its individuality i.e. the collective possession of each individual. And the emphasis on the singular aspect of this objective claim is key, for it is deemed the dominant problem in the notion of justice in socialist or communist systems. While their notions of justice concentrate on the attempt to universalize the distributive notion, justice wanders into the oblivion of possession. While the task of transcending the possessive character of goods is either hoisted onto "society" as such or upon the individual based on a figurative needs structure, neither plan is ultimately able to address the possessive character of material goods, nor the abstract idea of justice, he states. A formulation of the distributive notion continues in the second thesis, where the concept of "relative" justified needs is refused as an ethical category: while the right of ownership is measured by its relation to time, the possessive character cannot be transcended through a "practical economic theory." This is due to the fact that the possessive character of things are objective-individual and not relative, needs-based universal. The nullification of its possessive character can therefore only be sought outside the framework of the profane.

Justice is not a virtue but a call or demand of the ethically existing, echoes Scholem in Benjamin's terminology. But Scholem introduces a variation on this call

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<sup>362</sup> The enthusiasm of the young Scholem was to lead several scholars to trace a possible link between Benjamin's and Humboldt's linguistics with little success. We are therefore unable to treat Scholem's phrase in [briefe II:526] as a reference to sources.

or demand, one which can be described in the variation of the word for justice in Hebrew, from *tzedek* to *tzadik* and *tz'daka*. If *tzedek* is first to represent justice, with the meaning of a state of righteousness linked to divine intention, the second, *tzadik* would be the practice of right i.e. he or she who practices worldly justice or the righteous practice of *tz'daka*. From divine *tzedek* to *tz'daka*, the practice of the righteous (righteousness/charity), is a lineage of divine to profane. While *tzedek* is found in absolute form in God, *tz'daka* is the practice of worldly agency, conceived in the image of the divine. Virtue here finds its absolute model as divine justice in a theory of attributes.

Although Scholem has yet to articulate this lineage here, he does take up the debate with Benjamin on *mishpat* and *tzedek* in his journals, as we have seen above. [tag I:392]. Here he enters into a discussion of the absolute divine in contrast to worldly agency in the form of revolution. Justice is to be coupled with truth to the degree that it is not a virtue which one practices. Truth, like justice, does nothing; at best, it just is. Truth is "deeply unrevolutionary," he writes. Revolutionary is something which causes or aims to cause a radical, worldly transformation; in a critical moment, its perspective is formally "absurd" but at the same time "illuminating." It is truth which portrays the ironic in the limiting movement of all revolutionary forces while the absolute is that which indeed makes revolution possible: "truth limits through its ironic presentation (which has the effect of moving for all)."<sup>363</sup>

Scholem turns here to the means of revolution: *Gewalt* [authority/violence].<sup>364</sup> Scholem treats the latter in the context of Benjamin's formulation of the virtue of power and the power of virtue. He understands by this the means of justice as a demand i.e., *tz'daka* as a worldly goal, is the virtue of *Gewalt*. Justice is therefore "the most revolutionary and catastrophic" of all demands. The catastrophic emerges from the fact that the will to divine justice in the profane seeks an immanent revolutionary transformation of the world through the messianic act. On one hand, the redemption of the world is its virtue; on the other, its revolutionary, cataclysmic vision demands *Gewalt*. Virtue itself is carried by individuals in the self-assured image of the *tzadikim*. It is they who stand in an uncomplicated relationship to humility and are implicitly the symbol of virtue. Their relationship to those who demand authority/violence, however, is purely "symbolic" just as authority/violence is to the demands of the individual. While the

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<sup>363</sup> "die Wahrheit durch deren ironische Darstellung (die allem *bewegend* wirkt) limitiert."

<sup>364</sup> For a qualification of the term, see chapter six on judgment and violence in this section.

application of revolutionary authority/violence must have a claim to virtue at its disposal, its claim can never be absolute so long as it is attributed to the individual. The only true possessor of authority/violence, concludes Scholem, is the collective.

Thus there are two paired-categories which remain abstract to the individual and his or her actions: authority/violence which are retained in the collective as well as truth/justice which are represented symbolically in the profane. From this tension, the demands and actions of the individual for justice are, in effect, calls for virtues which are attributes of an ethical authority and therefore, in a word, an ethics. This new ethics calls for a justice that can only be established through authority/violence just as authority/violence is the very force which determines revolutionary politics. In the final thesis of part A, it is no longer sufficient to define justice from the perspective of ethical behavior, from virtuous action in which the world is transformed to the *summum bonum*, the highest good in and of itself. The good is dependent on truth which, like justice, requires a divine and a symbolic form.

The second section of the theses moves slightly beyond the themes outlined in Benjamin's notes and Scholem's commentary to them in part A. In part B, the implications of a theory of justice is brought into the realm of the philosophy of religion through the categories in the first section. But whereas part A takes the idea of the abstract-divine for granted, the second section explores the implications of such an assumption, comprising a further ten theses. It is very possible that this second section was written several years after the first, even possibly late in life.<sup>365</sup> For this reason, we shall break off from the text at this stage in order to first introduce ideas which appear to have exerted influence upon it, only to rejoin with a short synopsis in the final chapter.

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<sup>365</sup> The discussion in the second part reflects a more mature author. The ideas are more refined, suggesting a period of reflection, and there are several which Scholem could not have been aware of at the time of transcribing Benjamin's "Notes on the Category of Justice." These include his own text on Jonah (1919) and Benjamin's "Critique of Violence" (1921) which both represented in part B. In this regard, part B may very well be an attempt to summarize their political theology at a later period. M. Löwy also believes in a later date, suggesting 1925: "La curieuse datation de ce Texte ("Thesen über den Begriff der Gerechtigkeit" — "1919 und 1925" — rend impossible de savoir s'il a été écrit avant ou après l'essai "Zur Kritik der Gewalt" de Benjamin (1921), avec lequel il present des analogies évidentes (mais aussi des différences indéniables)." *Esoterica-Metaphisica*, unpublished manuscript, 6.

## PROPHETIC JUSTICE

Another unpublished text in Scholem's archival papers is a short essay entitled "Über Jona und den Begriff der Gerechtigkeit," [On Jonah and the Concept of Justice]. Written more than two years after the transcription of Benjamin's "Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit," [Notes to a Study on the Category of Justice] it appears that Scholem continued to formulate a notion of justice which drew and expanded upon Benjamin's initial, materialistic reflections on the relationship between good and goods. A portion of the text may have in fact been read by Scholem to Walter and Dora Benjamin in Switzerland.<sup>366</sup> In this text, Scholem turns to a prophetic notion of justice, informed in particular by Jonah, Isaiah and Job, as well as the juridical precepts of the Psalms. Like in part A of his "Thesen über den Begriff der Gerechtigkeit," [Theses on the Concept of Justice] Scholem concludes "Über Jona und den Begriff der Gerechtigkeit" [On Jonah and the Concept of Justice] with twelve theses on prophetic justice that appear to form the foundation of part B of the former text, itself written no earlier than January 1921 and perhaps many years later.<sup>367</sup> Several of the statements in part B of the "Thesen über den Begriff der Gerechtigkeit" [Theses on the Concept of Justice] appear to be transcriptions with slight changes of the theses which conclude the discourse on Jonah.<sup>368</sup> Moreover, the Hebrew categories which form a central part of the discussion - *tzedek* and *mishpat* - not only correspond to Benjamin's speculation toward the end of his text but were to appear again in Scholem's late essay "Die Lehre vom 'Gerechten' in der jüdischen Mystik," thus pointing again to Scholem's life-long commitment to the early political and theological ideas.<sup>369</sup>

In the discourse on Jonah, justice is understood as the central concern of the prophets. But in contrast to the others, the story of prophet Jonah is deemed the

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<sup>366</sup> In a discussion on the ten commandments, Scholem read aloud his "Aufzeichnung über den Begriff der Gerechtigkeit als 'Handeln in Aufschub' vor, die bei Benjamin ein starkes Echo fanden." To the question which was posed to him, why he did not maintain religious observance, Scholem replied that he "müsse den anarchischen Suspens aufrechterhalten." [freund:93]

<sup>367</sup> Part B of "Thesen über den Begriff der Gerechtigkeit" [Theses on the Concept of Justice] was written after Scholem was well acquainted with Benjamin's ideas from the *Kritik der Gewalt*, ["Critique of Violence"] first formulated in a letter to Scholem dated January 1921. See letter 94 in [briefe I:251] as well as the conclusion of the previous chapter.

<sup>368</sup> Specifically theses one, eight, nine and eleven of the text "Über Jona und den Begriff der Gerechtigkeit" [On Jonah and the Concept of Justice] reemerge in part B of the "Thesen über den Begriff der Gerechtigkeit" [Theses on the Concept of Justice] with very slight modification. For all intensive purposes, they are reformulated versions of the same ideas.

<sup>369</sup> "Die Lehre vom 'Gerechten' in der jüdischen Mystik" first appeared in the *Eranos Jahrbuch* 27, 1958 and was published thereafter in *Von der mystischen Gestalt der Gottheit*.

"Schlüssel zum Verständnis der prophetischen Idee" "key to the understanding of the prophetic idea" itself.<sup>370</sup> Both the major and minor voices of the prophets are either articulating the word of God, imploring for repentance or prophesying the meaning of time. Fulfilling these tasks with both pedagogical and didactic meaning, Jonah attempts to circumvent the "Unendlichkeit des göttlichen Wortes," "immortality of the divine word" [2] as the text seeks to transcend the finite expression of divine prophecy. The prophets offer the ultimate form of Jewish instruction in that their prophetic teachings reveal a glimpse of the true nature of "die Ordnung des Gerechten," "the order of the righteous," says Scholem. Didactic itself is thus deemed a prophetic category. [2] But the pedagogical ensues not from the word of the prophet, as is the case with the others, but from "das grössere Problem, eben das des göttlichen Aufschubes, inauguriert [wird]," "the greater problem which divine postponement inaugurates." [10] For this reason, the prophecy of Jonah plays a crucial, liturgical role in Judaism, Scholem explains, due to the revelation of divine postponement which transpires.<sup>371</sup>

The turning point in the concept of justice in the story of Jonah occurs at the outset, at the moment when the city of Nineve heeds the words of the prophet and repents.<sup>372</sup> Rather than rebelling against the prophet, we find the congregation repenting before his prophecy which explains that God's wrath will fall upon them if they do not heed His messenger. But as the congregation complies, the reaction of God follows a most unusual course. In the words of Psalms 94:15, God will not forsake his people for he "wandelt das Recht zur Gerechtigkeit" "turns law to justice" (*key al tzedek yashuv mishpat*).<sup>373</sup> Both the transformation of Nineve and of God's judgment gives rise to metaphysical speculations on the nature of judgment and divine providence. The greatest inquiries are conducted by the prophets themselves and in this way, Jonah bears a special linguistic affinity to Job. Both are overwhelmed by the linguistic meaning and implications of divine justice which become the central question in the idea of justice.<sup>374</sup>

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<sup>370</sup> Scholem Archive 4<sup>o</sup> 1599/277.36. Page numbers of the original manuscript are given in brackets. This citation corresponds to ms. page one.

<sup>371</sup> The story of Jonah is given immense importance on Yom Kippor (the day of atonement) where it is read as the Haftorah portion in the final *mincha* (evening) prayers.

<sup>372</sup> [Jonah 3]

<sup>373</sup> [3]. So far, Scholem has interpreted *mishpat* as law (or judgment) and *tzedek*, justice, but here it appears in the inverse. The Jerusalem Bible also translates the sentence in the same way: "For the Lord will not cast off his people, nor will he forsake his inheritance. But judgment shall return to righteousness: and all the upright in heart shall follow it." Psalms 94:14-15

<sup>374</sup> Scholem writes: "Die Setzung der Sprache ist der Spruch der Gerechtigkeit [...] Das Buch Jonas schleisst mit einer Frage." [6] The word *Sprache* is crossed out in the manuscript and replaced by *Frage* thus pointing to the proximity of the concept of language to the idea of the question in Scholem's thinking on prophecy.

Beide Bücher sind selbst Fragen, beide geben keine Antwort, sondern die Frage selbst ist die Lösung. Jona schliesst mit einer Frage, der Frage, durch die Geschichte ins Leben gerufen wird gegenüber dem Recht der Natur. - Hiob ist als Ganzes eine Frage, die in jener einzelnen "Wo warst Du . . ." (Kap.38), der kosmogonischen Fragen, permanent wird. [4]

Both books are themselves questions. They both offer no answers: the question itself is the solution. Jonah concludes with a question which, in contrast to the law of nature, is brought to life through history. Job is, in its entirety, a question, a cosmogonical question which becomes permanent in each individual "where were you . . ." (chapter 38).

"Where were you when I laid the foundations of the earth?" God asks Job, setting the stage for God to throw everything into question after the relentless suffering which was forced to bear. Even his existence hangs in the balance. Job's presumption emerges from God's catechism in a state of permanent inquiry in relation to the divine plan, while unintentionally contemplating his suffering as a divine attribute. But in the end, when God finally appears to determine fate, He does so not by way of rectifying divine conception but worldly misconception. Error is found to reside not in the divine but in the nature of the question. God does not deliver comprehensible answers to cosmological questions, Scholem states, he rectifies the question. The "Jewish question," he writes, cannot mediate answers for Judaism knows no answers at its very core: "das heisst ihre Antwort muss wesensmässig wieder eine Frage sein," "this means its answer is essentially another question." [5] And in this way the irony of the fate of both Job and Jonah come to the fore. Job asks a question and receives only questions in reply, questions far more disconcerting than even his own, while Jonah suffers prophetic irony and is therefore unable to achieve the task before him. "Another forty days" and the great city "Nineve shall be overthrown," says Jonah. [3:4] But just as the modern revolutionary loses the pure certainty of dialectical necessity, "Der Prophet versteht den Prophetismus nicht; er treibt letzten Endes Politik," "The prophet does not understand his own prophecy. In the end, he is only making politics." [4]

The irony of the prophets is the politics to which they are compelled, in forging answers to an answer-less state. Their irony lies in the shards of the divine in the profane. The Torah too embodies equivocation, he says, for it neither asks questions nor returns answers. Scholem places emphasis here on the word *t'chuvah* which he translates as "Erwiderung, Umkehr, der Frage nämlich, die ein neues Vorzeichen bekommt und so gleichsam zurückkehrt." [5] It is both an answer, with accent on *reply*, as it is an act of righteousness. In the same way, Jonah receives his sign from God but tries to circumvent it and ends up prophesying a future which

does not actually come about. His prophecy is meant as a warning but Jonah understands it as history. He carries the message of judgment as law [Recht]. God, however, transforms judgment to justice, as the Psalms instructs:

Jona steht auf dem Standpunkt des Rechtes, von dem aus er ja auch im Recht ist, Gott auf dem der Gerechtigkeit; Gott leugnet das Recht<sup>375</sup> in der Geschichte. In der Bekehrung wird das Recht überwunden und das Urteil nicht vollstreckt [...]. Denn dies und nichts Anderes bedeutet Gerechtigkeit im tiefsten Sinne: dass zwar geurteilt werden darf, aber die Exekutive davon völlig unterschieden bleibt. Die eindeutige Beziehung des richterlichen Urteils auf die Exekutive, die eigentliche Rechtsordnung, wird aufgehoben im Aufschub der Exekutive. [5]

Jonah stands for law, from which he is in the right, whereas God stands for justice; God denies law [mystical law] in history. In the return, law is overcome and judgment is not executed . . . for this alone implies justice in the deepest sense: judgment can be made but its execution must remain completely separate. The clear relationship between the judicial judgment and its execution, its true legal order, is transcended in the postponement of execution.

Jonah delivers his message as if by prophetic judgment of the future. The dispatcher of the message, however, is not limited to the message. In this sense, Scholem concludes that God denies a definitive notion of historical law. In the relation between *tzedek* and *mishpat*, all normative meanings are set aside. The linguistic relations between ends and means are suspended just as an executive notion of law as *Recht*. Justice itself, the postponement of punishment after judgment, becomes a lifting of sin rather than its attribution. Divine violence is understood here in a similar manner as Benjamin describes God's administration of justice in the *Kritik der Gewalt* ["Critique of Violence"].<sup>376</sup> *Aufschub* becomes the means by which God manifests divine justice in the profane.

At this stage, Scholem begins with a string of twelve theses which are meant to capture not only the idea of justice in Jonah but "in weitestem Umfange eben das ganze Judentum," "but also, to the greatest extent, Judaism in its entirety."<sup>377</sup> Justice is defined here as the annihilation of God's judgment in time and place as history. Just is that which is able to neutralize divine judgment, which is indifferent to divine wrath and which provides a sphere in itself in which the Last Judgment is

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<sup>375</sup> It is possible that Scholem wanted this to read "das mystische Recht." The adjective is handwritten addition to the typed manuscript.

<sup>376</sup> See Benjamin [II:200-1] and the discussion in the final part of chapter six on "Violence and Justice" in this section.

<sup>377</sup> [6]. The first thesis is nearly identical to theses three and four in part B of the "Theses on the Concept of Justice," save for a few minor changes and a footnote of considerable interest.

permanently "aufgeschoben" [postponed]. The meaning of this eternal postponement is clear: it is the making way for the entrance of the messianic kingdom. There is a footnote to this passage which concerns the concept of "Tod als Bewegung" "death as motion" [6] in monotheism, explained by way of divine *Aufschub*. In the *Aufschub* which God oversees between judgment and its implementation, he is, in effect, ruling over life and death. The notion of the transmigration and rejuvenation of the souls as bloodless, which in Benjamin's interpretation constitutes the basis of God's destruction in Numbers 16:31,<sup>378</sup> emerges in Jonah 3 as reprieve: "Das in dieser Ordnung erfüllte Leben ist das Gericht; die Idee des Jüngsten Gerichtes ist die absolute Setzung einer zeitlichen Ordnung, deren reines Leben Tod ist," "Filled-life in this order is judgment [Gericht]; the idea of a Last Judgment is the establishment in absolute of a temporal order for which death is its pure life." [6] The difference between law or judgment [Recht] and divine justice [Gerechtigkeit] is manifested in the temporal cleft between life and death. Whereas a just life in worldly affairs is the application of what is right (or even what is law), the abolition of life itself is the Last Judgment in this world, onward to a just one. Ironically, death is the worldly outcome of both the just and the unjust, the pure and the impure. In the same way, an eternal life in this world is hardly a gratifying reward for the righteous. Therefore only an eternal life, which is lodged in the integrity of the soul, is able to distinguish between the two in this world and present the meaning of the idea of death as motion in the next. Once beyond the idea of a temporal limitation caused by death, the Last Judgment loses its meaning, being set to define the temporal order of the world of injustice. Where a just life is reached, the Last Judgment is necessarily eliminated, he concludes.

"Tod als Bewegung" [death as motion] in the pursuit of justice is thus incumbent upon a notion of righteous character because it is "Tod als Bewegung [...] in die andere Welt," "death as motion . . . in the other world." [6] Death must form the center of the "religiösen Topographie" [religious topography] of all monotheisms, says Scholem, and thereby begins with an idea of prophecy whose essential characteristic is expressed by distance. This accounts for the nature of the *just/Gerechte/tzadik* - the righteous personifying the nearness of divine postponement. Distance is perhaps better expressed as proximity, as the Psalms explain: "the nearness of God is my good."<sup>379</sup> Since the character of the *tzadik* is encapsulated in his proximity to the divine, the distance between judgment and its

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<sup>378</sup> [II:199]. This is discussed in more detail under the rubric of 'mythical violence' in chapter six of this section.

<sup>379</sup> Psalms 73:28.

execution, or simply length, is therefore "das *Sein* der Gerechtigkeit," "the *being* of justice." [6] The highest characteristic of righteousness, both in the divine and the profane, is therefore postponement: the existence of justice is manifested in its divine *Aufschub*.

Divine judgment is therefore its own execution. Scholem denotes the proximity of "Vollstreckung" [execution] to "Urteil" [judgment] to show that just as there is no linguistic partition between thought and act, a division between judgment and execution in God is also inconceivable. God actively intervenes in fate in the postponement of Jonah's prophecy. Justice, as a manifested postponement, is dependent upon the implementation of its postponement in the actualization of judgment. Divine judgment establishes the relationship first of all through the fact that it is its own execution. Postponement of punishment in Jonah's prophecy must then signify an ultimate link to fate as divine intention. But proximity does as much to establish a link to the divine as destroy it, in its need to annihilate the distinction altogether. This is envisaged as an execution which neutralizes the Last Judgment: divine judgment, which has no temporal index itself, "anticipates" that which its *Aufschub* denies i.e., the Last Judgment, which concludes profane existence. [6] And while divine judgment is an eternal-now, it is constantly anticipating judgment. This occurs, for example, in prophecy. But in the act of anticipating the end, prophecy "neutralisiert und anihiliert" [neutralizes and annihilates] the idea of continuous divine judgment. [6] Justice is, in this sense alone, manifested as an "indifference to the Last Judgment" in the sign of postponement.

Divine resolution of the profane in the form of *tz'dakah*, according to Scholem, is the just act which both establishes and denies justice: it is "Gerechtigkeit als Tat," "justice as act," which, through its action, is "der zur Handlung gewordene Aufschub," "postponement which has become action." [7] An example of this is to be found in the divine inequality of *tz'dakah*, for although both rich and poor are to be judged equally, "dieses Urteil darf nicht vollstreckt werden; [denn] der Arme untersteht Gott," "this judgment is not to be executed [because] the poor are answerable to God."<sup>380</sup> While there may be an impartiality of judgment,

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<sup>380</sup> [7] As well as a formulation on justice, we have in this statement a reference to Scholem's revolutionary ideas drawn from the emergence of Bolshevism. Take, for example, his description of the debate with Benjamin on the dictatorship of the impoverished which he tended to support at the time: "Jedenfalls hatten wir Auseinandersetzungen über die Diktatur, bei denen ich der Radikalere war und den Gedanken der Diktatur, den Benjamin damals noch vollkommen verwarf, verteidigte, soweit es sich um eine 'Diktatur der Armut' handeln würde, die für mich nicht *eo ipso* mit der 'Diktatur des Proletariats' identisch war." [freund:100-101]

justice reflects the partiality of postponement. The redemption of the poor is not the cause of love, not a "culture of the heart" as Benjamin suggests, but divine partiality.<sup>381</sup> While love of the poor means the "annihilation des Urteils, Gerechtigkeit ist die [Liebe] der Vollstreckung," "annihilation of judgment, justice is the [love] of execution." [7] a love supreme. Where judgment is eternally suspended by the postponement of the execution of judgment, an execution emerges which is administered only by love, perhaps better said, neighborly love. Scholem bases his notion of *tz'dakah* on Hirsch: "die Wohltat, zum Beispiel das Almosen als diejenige Leistung, auf die Arme im Namen Gottes, nicht mehr im Namen des Rechtes, Ansprache haben, (S. R. Hirsch), ist Aufschub einer Exekutive durch eine andere," "The good deed, for example charity, as the act to which the poor lay claim, not in the name of law but in the name of God (S. R. Hirsch), is the postponement of execution through another execution." [7] In the substitution of divine *Gewalt* for the right of law, another form of execution emerges as postponement, which is engendered by a form of execution symbolized in *tz'dakah*.

Scholem here turns to the meaning of the righteous act in Proverbs 10:2 which promises that "righteousness delivers from death" [*utz'dakah tatzil mimavet*]. Scholem renders righteousness here as postponement: "Im Aufschubhandeln errettet vom Tode," "postponement-action rescues from death." [7] The division of life and death here emerge as death and Talmudic postponement in Benjamin's discussion of the "Judaic" conception of the death penalty and the state in the *Critique of Violence*.<sup>382</sup> Scholem's approach is slightly more reserved, focusing rather on the difference between the Torah and Talmud in the understanding of death. While the Torah "knows" the death penalty, Scholem states, the Talmud only knows its *Aufschub*. Here a divine abstract is manifested in its postponement. The idea of righteousness remains constant, on one hand, its actualization in the world unattainable on the other, for "das Urteil ist möglich, die Vollstreckung ist nicht möglich. Das menschliche Gerechtsurteil ist seiner Vollstreckung transzendent, Gerechtigkeit füllt den Abgrund zwischen ihnen aus," "judgment is possible, execution is not. Human legal judgment transcends its execution [as] justice fills the abyss between them." [8] The gap between judgment and execution is encompassed in the possibility of transcendence, in the transformation of profane judgment to justice. Only justice alone, however, can make this possibility real.

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<sup>381</sup> Benjamin [II:191]. See chapter six on Benjamin's "critique of violence" and the discussion of a "culture of the heart."

<sup>382</sup> See the discussion on mythical violence in [II:200] and the footnotes in chapter six on this subject.

Having articulated a notion of eternal postponement within the cancellation of prophecy, Scholem attempts to move to a theory of action. Seeing in postponement, symbolic punishment, "die gerechte Tat" [the just act] is defined as the "symbolische Tat" [symbolic act]. [8] If "Aufschub handeln," "postponement-actions" in the sense of the active postponement of *tz'dakah*, connotes the cancellation of the implication of judgment, it also insinuates the elimination of the meaning of judgment, purging meaning from action itself. And if "die bedeutende Tat ist die mythische und untersteht dem Schicksal," "the meaningful act is a mythical act which is subject to fate," as Scholem states, we are therefore able to understand the statement that "Gerechtigkeit eliminiert das Schicksal," "justice eliminates fate." [8] This phrase is then reformulated in the "Thesen über den Begriff der Gerechtigkeit" [Theses on the Concept of Justice] such that justice is understood as "die elimination des Schicksals aus den Handlungen" "the elimination of fate from action" altogether.<sup>383</sup> Fate here is not unlike the tragic conception, in which the active individual achieves his or her fate in free will, in a decline in the act of "reine Mittel" "pure means".<sup>384</sup> To eliminate the realm of fate is associated with the elimination of the mythical entirely - the point at which the messianic enters the profane: "Jesaja 65:19-24 bedeutet nicht nur die Elimination des Schicksals in der messianischen Zeit, sondern gibt zugleich den Methodos dieser Elimination an in der Idee des Aufschubes," "Isaiah 65:19-24 does not only mean the elimination of fate from messianic time but also presents the method of this elimination in the idea of postponement."<sup>385</sup> A theory of action of postponement is messianic action which makes its appearance here in a most intricate metaphysic: it promises a means of postponement which does not tally before the on-set of a messianic age but, at the same time, appears to offer little by way of the profane. It corresponds to the "eternal-now" of the historical idea of the Torah, he states.

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<sup>383</sup> See the discussion in chapter seven in this section

<sup>384</sup> For the tasks of the "Kultur des Herzens" which has given humanity the "reine Mittel" of action, see Benjamin's "Kritik der Gewalt" [II:191] and the discussion of a politics of pure means in chapter six in this section.

<sup>385</sup> [8]. "And I will rejoice in Yerushalayim, and joy in my people: and the voice of weeping shall be no more heard in her, nor the voice of crying. There shall be no more there an infant who lives a few days, nor an old man that had not filled his days: for the youngest shall die a hundred years old; and the sinner being a hundred years old shall be deemed accursed. And they shall build houses, and inhabit them; and they shall plant vineyards, and eat the fruit of them. They shall not build, and another inhabit; they shall not plant, and another eat: for as the days of a tree shall the days of my people be, and my chosen ones shall enjoy the work of their hands. They shall not labour in vain, nor bring forth for confusion, for they are the seed of the blessed of the Lord, and their offspring with them. And it shall come to pass, that before they call, I will answer; and while they are yet speaking, I will hear." Isaiah 65:19-24

Just as the canonical forms tradition in Judaism, so too justice in Judaism. But although we are readily able to articulate "tradition," the canonical has us at a loss. Scholem sees this stemming from the paradox of a "practicality" of the written Torah which "kann nicht angewandt werden," "cannot be applied."<sup>386</sup> [8] The Torah is the "idea of tradition" which, like judgment, "ist des Recht Gottes, das noch nicht Gerechtigkeit ist, vielmehr dazu sich wandelt, in dem unendlichen Aufschub der Tradition. Offenbarung und messianische Zeit sind in ihr unzertrennlich verbunden," "pertains to divine law, which is yet to be justice, transforming itself in the infinite postponement of tradition. In tradition, revelation and messianic time are inseparably linked." [8] The process of transformation is that from the divine law to justice, *key al tzedek yashuv mishpat*.<sup>387</sup> Revelation does not take place in time, for time in line with a messianic epoch has no constitution, no spatial dimension. Prophetic time, as with prophecy itself, is therefore an "ewige Gegenwart" [eternal-now] [9] - an idea which Jonah did not harbor and which unleashed the ironic dimension in his story: "Es ist klar, er verwechselt die ewige und die nichtewige Gegenwart. Er soll in Ninive über die ewige Gegenwart weissagen, aber er selbst betrachtet diese Weissagung als eine über die andere," "It is clear that he mistakes the eternal-now for momentary presence. He is to prophecize the eternal-now in Nineve but he himself considers this prophecy as one above the others." [9] The ironic or perhaps better expressed, paradoxical, reflects an eternal time which admits change. In this atmosphere, the rather miraculous postponement of execution could take place. There must therefore be an eternity, if not a bad infinity, in a justice which requires redemption just as much as a redemption which requires justice. Justice therefore cannot serve as a "Grenzbegriff," nor as a "mechanische-unendliche, annäherungsfähige regulative Idee," [a "bordering idea" nor as a "mechanistically infinite, regulative idea which is approachable." [8] It is not mechanistically infinite but an eternal state, both infinite and finite. It cannot serve as a border to the profane, just as redemption or revelation cannot merely serve as a limit to the world or worldly knowledge. It is worldly by the fact that it is the hidden dimension of the divine in the profane, for justice is the "Ordnung der Welt (*tikkuno shel olam*) und das messianische Reich die Welt der Ordnung (*olam hatikkun*)," "the order of the world (*tikkuno shel olam*) and the messianic kingdom is the world of order (*olam hatikkun*)." [9] The eruption

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<sup>386</sup> Here one is able to detect the embryo of what Scholem was to formulate as "religious anarchism." I have attempted to qualify the notion of "religious" in this phrase in chapter seventeen, section one, on critical anarchism.

<sup>387</sup> Psalms 94:14-15. It is often remarked how the words *tzedek* and *mishpat* are identical in the Torah but this very difference forms a key aspect of Scholem's linguistic analysis. He sees this as Jonah's error, of mistakenly substituting one for the other. For "was identisch ist, verwandelt sich nicht," Scholem claims, "und was sich verwandelt, ist nicht identisch." [10]

of an order of justice, redemption and revelation in this world are to be broached by an arriving messianic on the actions of the righteous:

Gleichwie die kommende Welt besteht, besteht die kommende Gerechtigkeit. Dieses Kommen ist ihre Entfaltung, *z'dakah* wird nicht, sondern offenbart, entfaltet sich (Jesaja 56:1).<sup>388</sup> Ihr Kommen ist nur das Durchbrechen des strahlenden Mediums durch eine Verdunkelung. Darum auch ist der *Zadik*, der Gerechte (im Chassidismus etwa) nur "*mithgaleh*". Keiner kann *Zadik* werden, er kann es nur sein. Der "*verborgene Gerechte*" aber ist die Kategorie, in der der Prophetismus den Begriff der Überlieferung entfaltet. Sie ist das lebendige Erbe des Prophetismus, in der Mitte des jüdischen Volkes. Der *Mitmensch* ist der verborgene Gerechte; er überliefert die namenlosen Dinge. [9]

In the same way that a coming world exists, there exists a coming justice. This coming is its unfolding. *Tz'dakah* does not become, it reveals, it unfolds (Isaiah 56:1). Its coming is only the penetration of a radiating means in darkness. For this reason, the *tzadik*, the just (in Hasidism) is only a "*mitgaleh*" [the one who reveals]. No one can become a *tzadik*, only be one. Yet the "*hidden righteous*" is a category through which prophecy develops the idea of tradition. Tradition is the living heritage of prophecy in the middle of the Jewish people. The communalist [*Mitmensch*] is the hidden righteous. He recounts the nameless things.

A theory of postponed action is expressed here in the figure of the *tzadik* who is able to embody "*ethisch-differenten Handlungen*" "*ethically determined actions*" [9] which unintentionally transform law to justice. Justice is not enacted by the righteous but unfolds in his or her character. This is the nature of the "*coming*" of justice in the form of ethical action. As self-revelation, it sunders the darkness of profane ignorance in its unintentional act of redemption. It cannot be willed or desired. It can only be there, hidden, intention-less transpiring in the spirit of prophecy, the center of the congregation, in history. The *Mitmensch*, the collectivist dimension of the ethical character of the righteous, is a redemptive figure which is able to unify all the aspects of redemption in response to the suffering of a fellow human being, but doing so, all the while, as a hidden agent.

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<sup>388</sup> "Thus says the Lord, Keep judgment, and do justice: [*shimru mishpat va'a'su tz'dakah*] for my salvation is near to come, and my righteousness [*tzeedkati*] to be revealed." Isaiah 56:1

## JUDAISM AND REVOLUTION

No other period was more crucial for Scholem's political thought in the early years than the point at which he joined Benjamin in the highly-resigned atmosphere which characterizes their discussions in Switzerland in 1918.<sup>389</sup> This moment of transition in Scholem's thinking, which culminated in the reevaluation of his earliest political activities, led to a phase which I have already termed here a form of anarchist nihilism.<sup>390</sup> The raging war and the disappointment in the Zionist and youth movements had brought their contact with the outside world to a near halt.<sup>391</sup> Yet something was to suddenly disrupt these intimate discussions in their sanctuary of practical resignation: the Russian revolution. As we have seen in a letter to Werner Kraft from Bern: "In meinem Leben habe ich noch keine so menschliche ergreifenden und wahren politischen Schriftstücke gesehen wie die Dokumente der maximalistischen [Bolschewisten] Revolution," "I have never in my life seen a more humanist and politically sincere text than the documents of the maximalist [Bolshevik] revolution." [B I:125]

This emphatic observation was not the only reflection Scholem was to make on the events taking place in Russia. Among the unpublished papers in the Scholem archive is a text written in 1918 entitled "On the Bolshevik Revolution." In it, Scholem articulates his views on revolution in relationship to his earlier anarchist Zionism and emerging nihilistic politics. As in the "Theses on the Concept of Justice," he also here raises the question of authority and justice in the context of a messianic perspective, independent but fully intertwined with Benjamin's own. Anarchism, if implicit, is nevertheless one of the key themes of the paper. Like other anarchists of his period, Scholem launches a critique of Bolshevism and its revolution which, in his own messianic terms, falls far short of the kingdom of God on earth.

The voracious tone of this text gives one the distinct feeling of a political congress. But if Scholem had such a gathering in mind as he hammered out his position on revolution, it would have been a society constituted by two: himself and

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<sup>389</sup> An atmosphere of resignation with "nihilistische(n) Züge(n)" (Scholem's description of Benjamin) is best captured in [freund:69-72]. Scholem's own letters to Werner Kraft from this period also testify to his own immersion in the worldly selection of their 'grand chalet' at the edge of the abyss in the town of Muri.

<sup>390</sup> See chapter ten on revolutionary nihilism in the first section.

<sup>391</sup> Scholem's descriptions of the evenings he spent the Benjamin's testifies to this. See [freund:69-70,76].

Benjamin. It seems the key to Scholem's fascination with the events in Russia, and with the idea of revolution in general, is well summarized in the first two lines: "Bolshevism has a central idea which lends magic to its movement. This is: the messianic kingdom can only unfold in the dictatorship of poverty." [1] Scholem attributes a prophetic element to Bolshevism, an idea, he writes, which fills its ranks with a magical force. This magical idea is that only the dictatorship of the impoverished will open the floodgates of redemption. If we are to understand magic here in terms of the linguistic magic embedded in the transition from a creating word to profane expression, in which the redemptive aspects of the creating word is understood to be magical, being lodged in the profane, then the ability of a class which has been promised its restitution in the world to come is no unlikely candidate for the initiation of the coming world in the here and now [*Yesha'yahu*].<sup>392</sup> And should the gap between these two worlds encompass the tension between the divine and profane, then its merger would necessitate the existence of a fragment of the divine a priori in the profane as its "magic."

The impoverished class which has been promised its restitution could very well be capable of initiating redemption through the revolutionary authority of its judgment. But Scholem immediately draws a distinction between the class itself redeeming itself within itself and the restitution in which it participates under revolutionary conditions: "The great historical paradox put forward is that exactly where poverty reigns, it remains poverty nonetheless." [3] Paradox ensues when the very condition which is poised to be transformed is actually institutionalized, such that impoverishment and disenfranchisement forms the basis of a class which seeks the preservation of its authority in the administration of justice. In this respect, he expresses marvel at the authenticity of the Russian revolutionary attempt to establish the kingdom of God on earth - an attempt which, save for France, far outweighs the German "pseudo-revolution" of 1848, as he calls it, with its unyielding notion of progress.<sup>393</sup> In contrast to the attempt to transform redemption by a progressive notion of reform: "The messianic kingdom, the eternal-now of history, cannot be reached gradually [*allmählich*]." [1] But while redemption of the impoverished is the vital aspect of the Bolshevik revolution - the recognition of

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<sup>392</sup> Take, for example, the prophecy of Isaiah concerning the rewards of the suffering righteous: "The people that walked in darkness have seen a great light: they that dwelt in the land of the shadow of death, upon them has the light shone. Thou hast multiplied the nation, and increased their joy: they joy before thee according to the joy in harvest and as men rejoice when they divide the spoil. For thou hast broken the yoke of his burden, and the staff of his shoulder, the rod of his oppressor, as in the day of Midyan." [Isaiah 9]

<sup>393</sup> It is interesting to note here how Scholem totally overlooks the very basis of the Bolshevik teachings which ultimately rest on a notion progress.

which brought many a religious anarchist to the movement under the teachings of Tolstoy, says Scholem, - redemption does not take place within a revolutionary agent but before society as a whole. If those who are weak are to be made strong, it is not to be achieved by the rotation of the master but by the complete rupture of slavery altogether.<sup>394</sup> For this reason, the cardinal dilemma of the Bolshevik revolution is the collapse of justice into impoverishment, since in this world, the impoverished are then the bearers of absolute injustice. His critique is thus that although impoverishment is unjust, it does not necessarily form the basis of justified authority/violence: "The impoverished may not be just but can never exist as unjust," say Scholem. "Poverty, even where dictatorial, is not *Gewalt*" [1] In lining up the bourgeois class before judgment, Bolshevism neutralizes the task of the divine, reversing the Last Judgment. Recalling Marx's famous claim regarding the flawed premises of the Hegelian system, Scholem writes: "Bolshevism is the attempt to stand divine judgment on its head." Unlike divine *Gewalt*, however, its task is executed with the barrel of a gun.

In the application of revolutionary violence to achieve messianic ends, great importance is placed on the meaning of redemption. Not only must the agent of revolution extend beyond the universalization of an internal redemption, says Scholem, redemption itself must be bound to a *Lehre*, a teaching or tradition. In its neutralization of the divine, revolution is itself an attempt to establish a radical kingdom of God without God. It therefore does not appear as a "redemptive" act, nor correspond to an anarchistic conception of the return to Zion that was to capture Scholem's imagination at the time. For him, the "Jewish revolution has to be reconnected to the teachings," meaning the teachings of the Torah. [2] Without such a connection, a revolution for the Jews as Jews would be impossible, he claims.

Scholem proposes here an interpretation of messianic events which reflects the apocalypse of the prophets: that the kingdom of God is not to be achieved through evolutionary measures but by a sudden breach in the flow of worldly events. Thus the Bolshevik revolutionary act is an attempt at an "eternal-now of history" ascribed to redemption. It is precisely the place in which redemption is initiated without teachings. Its Messianism stands in contrast to the liberalism of the revolutions of 1848, which may have neutralized divine judgment, but spawned in its place a bad eternity from the task of redemption. Liberalism itself reflects a "conforming imitation of the messianic" [2] which loses its link to Messianism, in

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<sup>394</sup> A messianic revolution must expressly destroy the basis of worldly power itself. In the prophecy of Isaiah: "his burden shall be taken away from off thy shoulder, and his yoke from thy neck, and the yoke shall be destroyed because of the fatness." [Isaiah 10:27]

severing justice from redemption and placing it in the realm of reform. In this respect, liberalism is for Scholem a political failure just as much as a theological one.

Yet revolutions also fail. If there is something which frees them from the bad eternity of liberalism, this would be the transposition of the legacy of redemption: "Revolutions repeatedly convey the silent teachings of the unambiguity of history." [3] In this respect, the Bolshevik revolution, as in "every legitimate revolution," [3] is capable of generating its own *Gewalt* - its authority/violence - as a convolute of order in the neutralization of the divine in which the impoverished class becomes the norm rather than teachings, tradition, the Torah. In contrast to liberalism which loses its intimate connection to messianic transformation in the unending continuity of reform, paradox is the only constant of revolution. In this way, liberalism never truly establishes a just and non-contradictory means to redemption, he states, being prone to circuitous reasoning. In that paradox inevitably turns to compulsion and failure, revolution is also unable to provide an answer. "True mysticism," however, "which considers circular reasoning a legitimate, fundamental idea," is able to answer the question. [3] How this might occur is left open to interpretation.

The final part of Scholem's treaties on Bolshevism is divided into two final paragraphs on the historical role of its revolutionary force, its relationship to history taking place around it and a more subtle and authentic messianic response. The Bolshevik revolution may end in bloodshed, Scholem asserts in 1918, but a bloodshed which is not its own. Thus the revolution may be the final act of the First World War evoking a messianic response:

Die bolschewistische Revolution wird in Blut erstickt werden (und eben daß sie in ihren eigenen Blut nicht erstickt, scheint das Wunderbar an ihr zu sein) aber sie wird dennoch als der eigentliche Höhepunkt der Geschichte des Weltkriegs und die ihm entsprechende (und angemessen, so traurig das Wort durch sein mag) messianische Reaktion gegen ihn wirken. [4]

Even though the Bolshevik revolution will get caught up in bloodshed (and precisely the fact that it will not drown in its own blood is the miraculous thing about it), it will nevertheless serve as the only high-point of the history of the world war and, however saddening it may be, the messianic reaction against it.

A bloody end to a purposeless war could hardly be deemed "wunderbar" by any account and Scholem surely does not mean to imply by this a belief in the necessity of Bolshevik violence. Rather, he appears to suggest just the opposite in an

interpretation of the Bolshevik revolution as a messianic reaction. His vision of an anarchic Zionism will have nothing to do with the war nor the salvaging of its ruins. In this sense, a Bolshevik messianic reaction is directed at the war which, although conjuring up images of salvation, can nonetheless never be truly messianic. One senses here an attempt to define a political and practical Messianism in response to an apocalypticism in the impossibility of worldly barbarism as a means to redemption. "Wer die heutige Geschichte aber bejaht," argues Scholem, "muß dem Bolschewismus anhängen, muß in ihm die zukünftigste und in Blut und Untat reinste Gestalt der Gegenwart erblicken," "Whoever affirms the history of today, has to be a Bolshevik, seeing in it the futuristic and purest form of the present in blood and misdeed." Unlike Messianism in this respect, the Bolshevik revolution comes to represent the history of the future. Out of the bloodshed of an utterly meaningless war, it is able to project itself as a futurist form of the present. It may not reach an "eternal-now" of redemption, nor suffer the bad eternity of liberalism, but it is a force heralding the profane future in the historical moment.

Scholem's comments seem to attribute to Bolshevism a historical force which it has always been prone to assert about itself. But here he essentially asks if it is possible to divide the historical from the quotidian. If so, revolution would mean to act "mit dem legitimen Bewußtsein [...] im Angesicht der Geschichte," "with a legitimate consciousness . . . in the face of history." But this implies the capacity of knowing history in order to transform it through revolution. Bolshevism, however, does more than this. It does not merely act in a consciously historical way but "in einem präzisen Sinne *zukünftig*," "*futurist* in a specific sense." It is futuristic but, at the same time, unable to judge its own actions or have its own acts tried by a court of the future. This means that while promising a justice of the future, Bolshevism can only deliver a justice of a here and now. The permanence of its "*Gewaltpunkte*" [point of violence/authority], which makes it necessary to appear as the historical future to come, is the very force which makes it "ungerecht" "unjust" and "die Wurzel seiner Verwerflichkeit," "the root of its reprehensibility."

In transcending the question posed by the tension between the divine and profane in Messianism, Bolshevism initiates its downfall in injustice. Its futuristic judgment, with all its claims to historical necessity, is the only basis of its authority/violence and not the legitimacy of a messianic eternal-now. It remains trapped within the profane world, in the conditions which it sought to overthrow from within itself. The dictatorship of its historical futurism — Scholem predicts in

last life of this text, itself written less than a year after the Russian Revolution — is constituted to end in demise.

## JUDGMENT AND VIOLENCE

Given the title of Benjamin's "Critique of Violence," it would appear to be the most expressly political of the early writings. But despite the fact that it concerns the question of justified violence in the pursuit of revolutionary goals, there is surprising little by way of politics here. His analysis of general strikes, ethical action, the principles of anarchism - even the notion of violence itself - is not written to rally for one party or another, nor is it concerned with distributive justice like the "Notes to a study on the Category of Justice," where the interests of each person is recognized in the interests of humanity.<sup>395</sup> It appears more directed at a politics of "reine Mittel" [pure means] and a "Kultur des Herzens," [culture of the heart] directed once again at the activities of the individual. [II:191-2] More than a political analysis of violence, all these aspects together indeed best seem to be described as a metaphysical discourse on justice.<sup>396</sup> And like many pieces which form the early writings, there is, in fact, a very distinct movement in this work to articulate an authentic theology of messianic redemption.

The essay revolves around the juxtaposition of various juridical, political and theological categories. These include: the mediation of ends and means, natural and positive law, law-forming and law-maintaining violence, the divine and profane, laws and rights, and finally violence/non-violence. Violence is articulated by the word *Gewalt*, a term which cannot be rendered easily in any language.<sup>397</sup> *Gewalt* represents both the role of authority and the application of violence. Here the linguistic ambiguity which finds expression both in constitutional law as well as in common parlance harbors a political uncertainty concerning the nature of justice. Benjamin thus asks the question: how is it possible to determine and implement what is just, which is to say, how is it possible to implement justice justly? In this sense, determining the idea of violence has to be one of the foremost aims of any attempt to clarify the meaning of justice itself, seen in terms of language. This would initially require a discussion of the ambiguity of the word *Gewalt*.

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<sup>395</sup> We see this idea reemerge in the "Kritik der Gewalt" [II:187]. A discussion will follow in this chapter.

<sup>396</sup> To suggest, however, that the "critique of violence" is a metaphysical work and not a political one is not to imply, first and foremost, that the essay simply fails to deliver concrete political goals and therefore resorts to the form of an abstract treaties.

<sup>397</sup> Such an orientation to the problem is perhaps the most interesting aspect of the study by Derrida. See the expanded German edition of the lecture he first delivered in English in: Jacques Derrida, *Gesetzeskraft: Der "mystische Grund der Autorität,"* Frankfurt: Suhrkamp, 1996. The English edition, "Force de loi. Le 'fondement mystique de l'autorité'/Force of law. The mystical foundation of authority," first appeared in: *Cardozo law review* 11, 1990, 919-1045.

Benjamin proposes an initial series of suppositions which attempt to define *Gewalt* by the notion of law in contrast to justice. His first proposition is that *Gewalt* can only be defined meaningfully in the context of an ethical realm, constituted by law. Law itself is here reflected in the question of 'what is right' as expressed by the word *Recht*.<sup>398</sup> While law is first to be determined in the context of the relationship of means to ends, justice is taken out of this framework altogether. Benjamin assigns justice purely to sphere of ends; it is a state, not a means, and therefore cannot be understood from the perspective of that which is applicable. To this degree, law distinguishes itself from justice in that its existence is its applicability. Without the possibility to view law as a means, the ends of a particular act could never be completely subscribed to justice. If justice, however, is to be viewed as a state in which only ends are known, then justified means would have little to do with its condition, for neither means nor ends have a role in an order made solely of ends or, in the same way, an order which has no concept of means or ends which, for example, in a divine order would be the case. Justice is therefore to be reserved for a later moment in favor first of a discussion of means.

If law is therefore a means, is *Gewalt* a means as well? If so, can it be applied justifiably toward certain ends? By asking this, *Gewalt* is identified by its application and not by principle. Yet if we define it as a means to a justified end, *Gewalt* itself would have to be an ethical category. It is therefore necessary to divide means from ends such that applicability and justifiability are not presented as one and the same, which is reflected in the difference between a philosophy of right [Rechtsphilosophie] and natural law [Naturrecht].<sup>399</sup>

From the perspective of natural law, the relation between a violent [gewaltsamer] means to justified ends is a matter of application like the science of propulsion.<sup>400</sup> There is no ethical conception of means in natural law.<sup>401</sup> *Gewalt* is here conceived as "ein Naturprodukt, gleichsam ein Rohstoff, dessen Verwendung

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<sup>398</sup> For this reason, a German discussion of *Gewalt* is not automatically required to define the relationship between the ethical good and juridical law. The term *Recht* covers both the true and the actual definition of what is good and, in this sense, Benjamin begins the discussion with categories no less determined by Hegel than from other, more general sources of jurisprudence.

<sup>399</sup> [II:180] Here the question turns to a negative determination of the natural and the need for it to be distinguished from a philosophy of justice.

<sup>400</sup> Such a principle of *Gewalt* might be expressed as: where there is energy, there is motion.

<sup>401</sup> For an initial definition of positive and natural law, I have consulted the *Deutsches Staats-Wörterbuch* where natural law is defined, in contrast to positive law, as: "das Recht, welches durch die Vernunft erkannt und auf die menschliche Natur begründet wird, im Gegensatz zu dem Recht, welches von einem bestimmten Staate anerkannt und zur Geltung gebracht wird." *Deutsches Staats-Wörterbuch*, Achter Band, Stuttgart und Leipzig, 1864, "Gegensätze innerhalb des Rechtsbegriffs."

keiner Problematik unterliegt, es sei denn, daß man die Gewalt zu ungerechten Zwecken mißbrauche." [II:180] "a product of nature, as it were a raw material, the use of which is in no way problematical, unless force is misused for unjust ends." [ref:278] The application of natural law to a philosophy of right is easily transformed into a philosophy of state i.e. positive law. One only has to think of a Hegelian *Rechtsphilosophie* in order to view *Gewalt* as the submission of the individual to the state, to conceive of the subject exercising the capacity for violence for the purposes of state.<sup>402</sup> While natural law attempts to justify means via the justice of ends, positive law seeks to "guarantee" the justice of ends through the justification of means. In the form of Darwinian biology (which Benjamin refers to as Darwinian "Popularphilosophie"), violence is not only deemed natural in the pursuit of ends, but justified as well.<sup>403</sup> Both positive and natural law share the same dogma: "Gerechte Zwecke können durch berechtigte Mittel erreicht, berechtigte Mittel an gerechte Zwecke gewendet werden." [II:180] "just ends can be attained by justified means, justified means used for just ends." [ref:278] The inherent dichotomy between ends and means cannot be resolved as long as just goals are met with justified means and justified means are applied to just goals. A critique of violence must in this sense transcend a search for a justified application of violence and reflect on violence itself. [II:181] But while natural law theory appears hermetically guarded against a critique in its conception of naturalized *Gewalt*, positive law distinguishes between various types of *Gewalt* and attempts to establish an autonomous norm for *Gewalt*, independent of its application. In this sense, it offers a possible starting point for a critique. Positive law is law which is executed by the state. Where the power of the state is concerned, the relevant categories of a critique are located in the difference between sanctioned and non-sanctioned violence, which means, in fact, the realm of the "historically recognized." The discussion turns here to two examples of sanctioned and non-sanctioned *Gewalt*: the police and the general strike.

The institution of the police is an example of a non-natural, sanctioned *Gewalt* in the institution of state. It is a form of *Gewalt* in legal means with the authority to determine the boundaries of the means themselves. At the same time, it conceives of itself as powerless in the face of the state: "Im Gegensatz zum Recht, welches in der nach Ort und Zeit fixierten 'Entscheidung' eine metaphysische

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<sup>402</sup> Benjamin's reference here is thought to be, however, to Spinoza's *Theologisch-Politischer Traktat*, Chapter 16: "Über die Grundlagen des Staates, über das Natürliche und das bürgerliche Recht des einzelnen und über das Recht der höchsten Gewalten." See [II:945].

<sup>403</sup> He is referring, more precisely, to Social Darwinism. For a critique of social Darwinism, see the first part of chapter twelve in the first section for Scholem's views and the corresponding footnote on Kropokin's *Mutual Aid: a Factor of Evolution*, London: 1972.

Kategorie anerkennt, durch die es Anspruch auf Kritik erhebt, trifft die Betrachtung des Polizeiinstituts auf nichts Wesenhaftes." [II:189] "Unlike law, which acknowledges in the 'decision' (determined by place and time) a metaphysical category that gives it a claim to critical evaluation, the institution of the police cannot be considered anything essential." [ref:287] Benjamin conceives of police *Gewalt* as a means of managing an already decree-organized existence with outright brutality, and in comparison to the metaphysical determination of right within temporal and spatial dimension, it is a vacuous expression of *Gewalt*.<sup>404</sup> Here one is confronted with the ambiguity of omnipotence and impotence at the heart of the monopoly of state violence. In applying the law of the state, police apply *law-maintaining Gewalt* in order to put law into action, maintaining law as enforceable. But at the same time as maintaining law, law is being applied within a temporal and spatial arena and therefore is being formed in the moment of its application. The application of law is therefore also achieved through *law-forming Gewalt*.<sup>405</sup> *Gewalt* is either law-forming or law-maintaining. When it claims neither of these two, then it is no longer *Gewalt*, for it is no longer applicable. In effect, the distinction between law-forming and law-maintaining *Gewalt* falls apart in the institution of the police. If law-forming *Gewalt* is required to establish authority, then it is based on the limitations of law-maintaining (and state-maintaining) *Gewalt*. But it is actually free from the restraints of both spheres: it is law-forming through the regulation of exemption and law-maintaining by the fact that it has complete access to ends. The ends of police violence and that of law however cannot be seen as identical. Benjamin argues that the law or right of the police is in fact determined at the very instant where the state is unable to protect the rule of law:

das 'Recht' der Polizei [bezeichnet] im Grunde den Punkt, an welchem der Staat, sei es aus Ohnmacht, sei es wegen der immanenten Zusammenhänge jeder Rechtsordnung, seine empirischen Zwecke, die er um jeden Preis zu erreichen wünscht, nicht mehr durch die Rechtsordnung sich garantieren kann. [II:189]

the 'law' of the police essentially marks the point at which the state, whether from impotence or because of the immanent connections within any legal system, can no longer guarantee through the legal system the empirical ends that it seeks to attain at any price. [ref:287]

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<sup>404</sup> The anarchist flavor of this statement is not to be overlooked: "wenn sie [die Polizei] nicht ohne jegliche Beziehung auf Rechtszwecke den Bürger als eine brutale Belästigung durch das von Verordnungen geregelte Leben begleitet oder ihn schlechtweg überwacht." [II:189]

<sup>405</sup> Benjamin cites here Erich Unger's *Politik und Metaphysik*, Berlin: 1921 But with respect to both Unger and Sorel, Benjamin's own views appear to overlap only tangentially. Manfred Voigts's recent redaction of Unger's lectures (which Benjamin apparently attended) did not convince this author of a more profound connection. See Erich Unger, *Von Expressionismus zum Mythos des Hebräertums: Schriften 1909 bis 1931*, Würzburg: Königshausen und Neumann, 1992. On Benjamin and Unger, see XVI, 61-75.

The state is unable to ensure the rule of law because of its powerlessness in light of the "immanent" structure of every law, in the violence which lies behind its structure as well as its inherent link to divine justice. And this violence, when applied, is not purely determined by right but by its own force. Thus in the application of law and of right, the law-forming aspect of violence is always at work, determining the meaning of the rule of law at any given moment and particularly the moment of its application.

In terms of sanctioned violence, Benjamin here asserts the most principal element of political theology: that power is the main force behind law-maintaining *Gewalt*: "Rechtsetzung ist Machtsetzung und insofern ein Akt von unmittelbarer Manifestation der Gewalt." [II:198] "Law-making is power-making and, to that extent, an immediate manifestation of violence." [ref:295] In this form, *Gewalt* is self-perpetuating. The law-maintaining act is done as the establishment and preservation of power itself. In the name of Sorel, Benjamin cordons off these observations from the cultural or historical sphere; they are, he says, metaphysical in nature. In contrast to a state of justice, this world knows no equality save the equalities of the powerful: "unter dem Gesichtspunkt der Gewalt, welche das Recht allein garantieren kann, gibt es keine Gleichheit, sondern bestenfalls gleich große Gewalten." [II:198] "from the point of view of violence, which alone can guarantee law, there is no equality but, at the most, equally . . . violent forces." [ref:296] Only the ability to apply violence is the measure of worldly equality. This is the law of states, in which all rights reside in the possession of the powerful.<sup>406</sup>

### *The strike as a revolutionary means*

A strike is another example of *Gewalt* which plays a distinctly oppositional role to the power of the state. Despite the fact that it does not necessarily rely on action, it is *Gewalt* nevertheless: unlike rights which exist only when they are actualized, a strike is by definition the cessation of action. Moreover, the paradox of

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<sup>406</sup> Even contractual agreements are based on a potential *Gewalt*, says Benjamin. Law-forming *Gewalt* does not need to be present in every moment of a contract to prove that it is represented in it. It may appear as the origins of a contract, at the end or merely as a potential, but it is always present. In the case that a contract is broken, there is a guarantee of the right of the application of *Gewalt*: The initiation and termination of contractual relationship is based on *Gewalt* or the threat thereof: "wie der Ausgang, so verweist auch der Ursprung jeden Vertrages auf Gewalt." [II:190] Should a legal institution lose its precarious connection to *Gewalt*, it is in danger of collapsing. In the context of the uproar taking place in 1920-21, the German parliament failed to understand the meaning of law-forming *Gewalt*, he writes. It is for this reason that they have no idea to which ends *Gewalt* is appropriate and therefore conclude every arrangement in compromise. [II:191]

the *Gewalt* of a strike is that, in its non-action, it is often held to be quintessential nonviolence.<sup>407</sup> It is this conception of the strike as nonviolent, non-action which facilitated the sanctioning of the right to strike by the state. But where the state does not recognize the right to strike, the strike is deemed *Gewalt*; we may also say moreover that it thereby has a right to *Gewalt*. As a non-sanctioned right, what form of *Gewalt* can the strike apply? If a strike is the employment of *Gewalt* and right in an active form, it either takes the form of active disruption of the legal order or passive disruption in the form of blackmail. The strike is therefore actually a fulfillment of a right, although its *Gewalt* may contravene legal order at the same time: "Und in diesem Sinne bildet nach der Anschauung der Arbeiterschaft, welche der des Staates entgegengesetzt ist, das Streikrecht das Recht, Gewalt zur Durchsetzung gewisser Zwecke anzuwenden." [II:184] "Understood in this way - from the perspective of the labor union which is opposed to that of the state - the right to strike constitutes the right to use force in attaining certain ends." [ref:282] The right to strike means in this case the right to apply *Gewalt* in the fulfillment of certain ends in which the interests of the working class are conceived as fully contrary to that of the state. According to Benjamin, the working class in the form of class conflict is the only "Rechtssubjekt" [legal subject] outside of the state which has a right to *Gewalt*, thereby legitimizing the concept of the *revolutionary general strike*.<sup>408</sup>

In a revolutionary general strike, the working class is called into action as the state contests the right to strike as an abuse of right altogether. But from the perspective of the right to strike, there is nothing which would preclude it from taking place in all forms of industry at the same time, regardless of whether this expression of the right to strike has been sanctioned. This reveals a contradiction in the legal basis of the state that guarantees a right which, if the state is to maintain the sole right to the monopoly of rights, it must fully oppose, while the right is itself

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<sup>407</sup> On the strike as a means of non-violent action, see Gene Sharp, *The Politics of Non-Violent Action*, Philadelphia: 1971, 900pp., particularly the first chapter. (Center for Strategic Studies, Harvard University)

<sup>408</sup> [II:185]. In addition to a kind of metaphysical analysis of the various forms of sanctioned and unsanctioned *Gewalt*, the empirical events of the day could have easily formed the impetus for a discussion of what is "historically recognized" *Gewalt*. [II:181] From this perspective, the discussion of the general strike, as well as the notion of the strike itself, cannot be separated from the series of general strikes that gripped Berlin in 1919 to 1920. From the general strikes of the SPD to those called by Independent Socialists and the Spartacus, to the general strike that "saved the republic" (Crook) from the Kapp Putsch, Berlin was overwhelmed by the idea of the general strike at this time. Even someone completely isolated from world events (as Benjamin was at this time) would have been forced to sit upright and take notice. On the history of the general strike in this period, see Wilfred Harris Crook, *The General Strike*, Chapel Hill, N.C.:1931, 496-527; on the Kappists, see A.J. Ryder, *The German Revolution of 1918*, Cambridge:1967, 237-255.

achieved at the expense of legal order: "Als Gewalt nämlich ist, wiewohl dies auf den ersten Blick paradox scheint, dennoch auch ein Verhalten, das in Ausübung eines Rechtes eingenommen wird, unter gewissen Bedingungen zu bezeichnen."<sup>409</sup> "For, however paradoxical this may appear at first sight, even conduct involving the exercise of a right can nevertheless, under certain circumstances, be described as violent." [ref:282] *Gewalt* makes its appearance therefore as a right. In *Gewalt*, a right is expressed as such; it may exist without *Gewalt* but only takes on form with it.

*Gewalt* appears, in this example, as a mere means and therefore as thieving, purloin *Gewalt*.<sup>410</sup> The right of the subject to sanction *Gewalt* is relegated to "natural" means and falls easily into conflict with the question of what is natural. If purloin *Gewalt* is the normative, "ursprünglichen und urbildlichen" "original and reflecting an original image" [ref:283] and thus reflects "natural means," *Gewalt* takes on law-forming character [Rechtsetzender]. [II:186] Law-forming *Gewalt* would then be definable as purloin violence. This is the tendency of modern law which accepts the "Naturzwecke gerichtete Gewalt [...] der Einzelperson" "violence directed at natural ends of the individual" [ref:283] as the subject bearing rights - only in the application of violence sanctioned as "natural." [II:186] The state responds to law-forming crime the same way as it does to purloin rights and the right to strike: great crimes threaten to be law-forming acts.

Sorel distinguishes between two forms of the general strike: the political and the proletarian.<sup>411</sup> But only the revolutionary general strike is able to use the proletarian strike in the "Aufgabe der Vernichtung der Staatsgewalt." [II:194] "task of destroying state power." [ref:291] One form of strike rallies for an altercation in labor conditions, the other for a pure *gewaltlose* means. Far beyond its appearance and reference to Sorel, the concept of the revolutionary general strike is anything but syndicalist here. With regard to the question of the working class, Benjamin's interest is clearly limited to the ability to define it as a "Rechtssubjekt" [legal

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<sup>409</sup> In regard to the question of the origins of the concept of political theology, one has to view here the notion put forward by the Nazi theorist Carl Schmitt on the exception determining the authority of law as not altogether "exceptional." Cf. [II:184] and Carl Schmitt, *Politische Theologie*, Berlin: Duncker und Humblot, 1923, 1990.

<sup>410</sup> [II:185]. The arbitrary nature of warring, purloin *Gewalt* and the legal conventions of war are based on the same technical contradiction as the right to strike.

<sup>411</sup> These two forms of strike are contradictory. The political strike is a parliamentary strike, formed from political opposition. Rather than the violence of the revolutionary general strike, it is the political strike in the form of doctor's blockades and the strikes of other professional classes which have shown the greatest expression of unethical practice, where *Gewalt* turns to unscrupulous violence. [II:195]

subject] for the purposes of analysis of non-sanction *Gewalt*. His conception has, in fact, little to do with the question of labor nor the capitalist means of production. It does not seek new labor relations but a complete transformation of labor itself. This form of strike does not merely create the conditions for a political cataclysm, it aims to induce a complete historical rupture. Whereas the strike that transforms working conditions actually upholds the ruptured state of existence, the revolutionary general strike messianically abolishes it. A messianic conception of labor is therefore a:

gänzlich veränderte Arbeit, eine nicht staatlich erzwungene, [...] ein Umsturz, den diese Art des Streikes nicht sowohl veranlaßt als vielmehr vollzieht. Daher denn auch die erste dieser Unternehmungen rechtsetzend, die zweite dagegen anarchistisch ist. [II:194]

wholly transformed work, no longer enforced by the state, . . . an upheaval that this kind of strike not so much causes as consummates. For this reason, the first of these undertakings is lawmaking but the second is anarchistic. [ref:292]

The revolutionary general strike rejects all forms of plans, programs and even utopian projects of a revolutionary society. It purposefully goes beyond parliamentary revolutionaries and professional intellectuals alike in an anarchist critique of the state. In Benjamin's estimation, Sorel's vision is beyond the politics of the profane; his revolutionary general strike is taken as messianic politics. Others might very well read Sorel's anti-intellectualism and his vision of proletarian revolution rather differently, questioning the notion of the divine embedded in his model of the world to come.<sup>412</sup> He interprets Sorel's vision as one of moral integrity and, despite its cataclysmic consequences, is not to be understood as advocating violence for its own sake. Violence, both in an everyday sense and in that which erupts in a transitory moment is not caused by the means used to end a state of violence. For this reason, the *Gewalt* of revolution as well as the *Gewalt* of redemption cannot be evaluated through their existence as events, effects or even less as ends, but rather only through an inner determination, "nach dem Gesetz ihrer Mittel." [II:195] "from the law of its means." [ref:292]

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<sup>412</sup> For a Nazi anthology of Sorel's anti-Semitic and anti-intellectual quotes, see Georg Sorel, *Der Falsche Sieg*, Berlin: Duncker und Humblot, 1944. Quite to the contrary, Benjamin even argues for Sorel's ethical integrity. He claims that Sorel was well aware of the violence to which the revolution would be susceptible: "Dieser tiefen, sittlichen und echt revolutionären Konzeption kann auch keine Erwägung gegenüberstehen, die wegen seiner möglichen katastrophalen Folgen einen solchen Generalstreik als Gewalt brandmarken möchte." [II:195] Kambas was to show how Benjamin was to become more critical in the late 1930s toward Sorel. See Chryssoula Kambas, "Walter Benjamin liest Georges Sorel" in *'Aber ein Strum weht vom Paradiese her' Texte zu Walter Benjamin*, ed. by Michael Opitz and Erdmüst Wizisla, Leipzig: 1992, 261, 267-8.

*Punishment and fate*

We have seen how a revolutionary notion of the strike bears greater resemblance to the idea of messianic redemption than the transformation of the ownership of the means of production. In much the same way, we have also seen how Benjamin's interpretation of the idea of fate reveals a distinctly theological approach. In the sphere of *Gewalt*, the idea of fate returns again in the form of the temporal and spatial meaning of death and immortality in the realm of punishment.<sup>413</sup> Fate represents the structure of a particular life-span and, at the same time, the interests of humanity within each individual. In the case of punishment, it is determined by external factors as the notion of a criminal achieving his *fate* implies. Nowhere is this more the case than with the death penalty which is the ultimate realm of *Gewalt* in the form of law:

Ist nämlich Gewalt, schicksalhaft gekrönte Gewalt, dessen Ursprung, so liegt die Vermutung nicht fern, daß in der höchsten Gewalt, in der über Leben und Tod, wo sie in der Rechtsordnung auftritt, deren Ursprünge repräsentativ in das Bestehende hineinragen und in ihm sich furchtbar manifestieren. [II:188]

For if violence, crowned by fate, is the origin of law, then it may be readily supposed that in cases where the highest violence occurs in the legal system - that of life and death, - the origin of the legal system is representative in that which exists and which manifests itself in awe. [ref:286]

The determination of life and death is the deliverance of crowned sovereignty to the state. Firstly, state-*Gewalt* is based on the neutralization of divine *Gewalt* for it is ultimately divine authority which sanctions life and administers death, just as it guarantees immortality. From a theological-metaphysical analysis of life and death, the power to authorize one over the other is a divine task. The origins of that sovereignty defines precisely how the transgression of law will be addressed. In the neutralization of divine authority, the purpose of the death penalty is not "den Rechtsbruch zu strafen, sondern das neue Recht zu statuieren,"<sup>414</sup> "to punish the infringement of law but to establish new law." [ref:286]

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<sup>413</sup> "Den tiefsten Sinn in der Unbestimmtheit der Rechtsdrohung wird erst die spätere Betrachtung der Sphäre des Schicksals, aus der sie stammt, erschließen. Ein wertvoller Hinweis auf sie liegt im Bereich der Strafen. Unter ihnen hat, seitdem die Geltung des positiven Rechts in Frage gezogen wurde, die Todesstrafe mehr als alles andere die Kritik herausgefordert." [II:188]

<sup>414</sup> Here the discussion returns to the notion of *Gewalt* as law-forming at the same time as law-maintaining. The power of this new law is manifested in the law-forming/state-maintaining relationship, between law and fate which would otherwise appear to have little to do with one another. [II:188]

The fateful aspect of law necessitates a divine source which itself points to a possibly original but also 'double' meaning of the notion of law; power is drawn from an idea of how it is ultimately revealed: in the unmediated, if not symbolic, manifestation of God. He writes: "Gerechtigkeit ist das Prinzip aller göttlichen Zwecksetzung, Macht das Prinzip aller mythischen Rechtsetzung." [II:198] "Justice is the principle of all godly formation of ends, power the principle of all mythical formation of laws." [ref:295] Righteousness is the general principle of all divine manifestation, such that manifestation itself is God's existence in the profane and not the manifestation of His goals as such. If myth is the origins of the theological, then power might well be the principle of all mythical application of law: "Hiermit tritt in furchtbarer Ursprünglichkeit dieselbe mythische Zweideutigkeit der Gesetze, die nicht 'übertreten' werden dürften." [II:198] "Here appears, in the awe of origins, the same mythical two-fold nature of laws that may not be 'infringed.'" [ref:296] Although law is based on justice which is divine, it is never able to arrive at its origins and is limited to the profane. Fate makes reference to divine origin but comes to reflect the mythical generation of worldly right.

### *Pacifism, Anarchism and Violence*

The focus of Benjamin's comments on the idea of pacifism in the context of the politics of the First World War are two-fold in nature. He criticizes absolute non-violence based on a fundamental rejection of the ends and the means of war while, at the same time, recognizing the passionate critique of *Gewalt* to which the pacifist movement gave voice, a critique that extended into the heart of positive law. Central to their argument was the rejection of compulsory military service: "Militarismus ist der Zwang zur allgemeinen Anwendung von Gewalt als Mittel zu Zwecken des Staates." [II:186] "Militarism is the compulsory, universal use of violence as a means to the ends of the state." [ref:284] Benjamin expresses himself in complete accord with the pacifists here, not only abstractly, but in the actual fact that both he and Scholem successfully avoided the trenches.<sup>415</sup> Militarism, as they articulated it, rests in the hands of the state to apply *Gewalt* as it sees fit in reaching its ends with any means. As the only party who opposed the war from the

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<sup>415</sup> Several personal antics were retold by Scholem helped to achieve this goal. For instance, staying up all night drinking coffee with Benjamin before the day of his medical examination, [freund:27] Scholem's own performance of psychosis at the military barracks in Alleenstein [briefe I: 77-91, von berlin:108] and the collective plan, which they achieved, to move to Switzerland as "invalids," all to avoid the draft.

perspective on violence and who took this compulsory aspect to task, the pacifists were able to arrive at a critique of the application of *Gewalt* itself, says Benjamin. *Gewalt*, in their analysis, has another function: not only the fictive application of "natural means" but the application of natural means as a "means of legal ends" [Rechtzweck]. [II:186/ref:284] The submission of the citizen to law, particularly in compulsory military service, is an example of such "legal ends."

Yet where *Gewalt* is law-forming, in the form of the submission of a population to law, compulsory military service is law-maintaining. Rather than the source of all *Gewalt* as the "pacifists and activists" believe, it is merely an example of its law-maintaining form i.e. a law of violence. [II:187] This notion also forms the second aspect of Benjamin's critique. In that the pacifists proclaim a "kindischen Anarchismus [...] daß man keinerlei Zwang der Person gegenüber anerkennt, und erklärt 'Erlaubt ist was gefällt,'" "childish anarchism . . . by refusing to acknowledge any constraint toward persons and declaring 'what pleases is permitted.'" [ref:284] they fail to account for a dimension of action which would be "sittlich-historisch," "moral and historical."<sup>416</sup> In the rejection of compulsion altogether, they overlook an objective structure of justice which immanently negates a theory of private needs in favor of a more compelling view of freedom. In this respect, Benjamin returns to the notion that the interests of humanity are to be recognized in the interests of each individual and visa versa, just as he does in the notes on the category of justice.<sup>417</sup> Fate is the measure of this interest for it forms the moment where it is linked by choice to humanity. In the establishment of individual actions as justified within the framework of interests, the structure of fate is maintained: "Es erblickt dieses Interesse in der Darstellung und Erhaltung einer schicksalhaften Ordnung." He continues:

So wenig dieser, die das Recht mit Grund zu wahren behauptet, eine Kritik erspart bleiben darf, so ohnmächtig ist doch ihr gegenüber jede Anfechtung, die nur im Namen einer gestaltlosen 'Freiheit' auftritt, ohne jene höhere Ordnung der Freiheit bezeichnen zu können. [II:187]

It sees this interest in the representation and preservation of a fateful order. While this view, which claims to preserve law in its very basis, cannot escape criticism, nevertheless all attacks that are made merely in the name of a

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<sup>416</sup> [II:187]. Benjamin launches a minor critique of the categorical imperative here. If the integrity of another is guaranteed not to be used as a means, it does not exhaust the possibility of the use of the self or another to maintain a general principle. This may therefore revert the main clause of the categorical imperative to the justification of the reduction of the individual to a means. See also G. Figal, H. Folkers, (ed.), *Zur Theorie der Gewalt und Gewaltlosigkeit bei Walter Benjamin*, Heidelberg: 1979, 9, 30-57.

<sup>417</sup> Benjamin, "Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit," [tag I:401]. See chapter two in this section.

formless 'freedom' without being able to specify this higher order of freedom, remain impotent against it. [ref:285]

Action which is ethical must also point to a higher notion of freedom beyond the mere atomization of single ethical acts existing for all time. This extends an anarchist critique to the anarchists' call for a "formless freedom" which remains unable to articulate even the contours of such a demand. It fails to recognize the abstract as such, allowing the collective aspect of fate, otherwise expressed here in the form of the tragic hero, to wander into the realm of the satisfaction of private needs. Extended to a notion of law, right would serve the protection of power in the preservation of single laws, either the power of the given or the "threat" as law-maintaining *Gewalt*.

While Benjamin uses the term anarchism to launch a critique of pacifism, he apparently maintained a two-fold conception of the term. Compare this positive statement on the anarchists which follows shortly after:

-Bezeichnenderweise hat der Verfall der Parlamente von dem Ideal einer gewaltlosen Schlichtung politischer Konflikte vielleicht ebensoviele Geister abwendig gemacht, wie der Krieg ihm zugeführt hat. Den Pazifisten stehen die Bolschewisten und Syndikalisten gegenüber. Sie haben eine vernichtende und im ganzen treffende Kritik an den heutigen Parlamenten geübt. [II:191]

Significantly, the decay of parliaments has perhaps turned away as many minds from the ideal of a non-violent resolution to political conflicts as were attracted to it by the war. The pacifists stand in contrast to the Bolsheviks and Syndicalists. They have articulated a devastating, and on the whole, apt critique of present-day parliaments." [ref:288]

In this way, the fall of the idea of a *gewaltlose* [non-violent] solution to political conflict was thrown in contradiction by the war, not to speak of the fact of the absurdity of parliamentary political agreement without original, implicit or terminal *Gewalt*. Only the pacifists were able to maintain a solid critique of parliamentary politics in Benjamin's estimation.

A similar sentiment is to be found in Benjamin's notes on the right to the use of violence, "Das Recht zur Gewaltanwendung," [the right to the use of violence], written in response to an article of the same name published in the *Blätter für religiösen Sozialismus* (September 1920) [*Journal for Religious Socialism*].<sup>418</sup> The

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<sup>418</sup> The *Blätter für religiösen Sozialismus* (Berlin:1920-1927) was a largely Protestant, social democratic journal edited by Carl Mennicke with contributions by Paul Tillich and Martin Buber among others. Mennicke, in discussion with Tillich on use of violence and the Kapp-Putsch, asked the author of the text, a legal scholar by the name of Herbert Vorwerk, to prepare a juridical analysis

author of the article, H. Vorwerk, begins with the statement that only the state has the right to the use of violence. In reply, Benjamin considers three positions on authority: (1) the state is the highest legal institution, (2) power is the source of authority from its own or another source i.e. the notion of a self-contained, perfect form of power [*Machtvollkommenheit*], (3) authority is established through "worldly theocracy." To these possibilities, he matches the following conclusions: the use of violence is or should be (A) denied for both state and individual, (B) sanctioned for both state and individual, (C) justified for the state, or (D) justified for the individual. Vorwerk puts forward his argument specifically against what he terms ethical anarchism. Benjamin, however, takes up the term as the most appropriate description of his own political views:

Diese Anschauung, deren sachliche Unmöglichkeit dem Referenten so sehr ausgemacht scheint, daß er sich nicht einmal ihre logische Möglichkeit als eines eigentümlichen Standpunktes klar macht, sondern sie eine inkonsequent einseitige Anwendung des ethischen Anarchismus nennt, muß vertreten werden wo einerseits zwar (im Gegensatz zu A) kein prinzipieller Widerspruch zwischen Gewalt und Sittlichkeit, andererseits aber (im Gegensatz zu C) ein prinzipieller Widerspruch zwischen Sittlichkeit und Staat (bezw. Recht) erblickt wird. Die Darlegung dieses Standpunkts gehört zu den Aufgaben meiner Moralphilosophie, in deren Zusammenhang der Terminus Anarchismus sehr wohl für eine Theorie gebraucht werden darf, welche das sittliche Recht nicht der Gewalt als solcher, sondern allein jeder menschlichen Institution, Gemeinschaft oder Individualität abspricht[,] welche sich ein Monopol auf sie zuspricht oder das Recht auf sie auch nur prinzipiell und allgemein in irgend einer Perspektive sich selbst einräumt, anstatt sie als eine Gabe der göttlichen Macht, als *Machtvollkommenheit* im einzelnen Falle zu verehren. [VI:107]

This view, whose material impossibility appears to have disturbed the author so greatly that he fails to establish its logical possibility as a distinct position, referring to it instead as an inconsequential, one-sided application of ethical anarchism. This view has to be represented in the case where, on the one hand (in opposition to A), he sees no principle contradiction between violence and morality and, on the other hand (in contrast to C), he sees a principle contradiction between morality and the state (or law). The exposition of this position is one of the tasks of my moral philosophy in which the term anarchism can surely be used. It calls for a theory which does not reject a moral right to violence in itself, but rather in every human institution, community or individuality which accords itself a monopoly of violence, or reserves the right to violence on principle, in general, or from some other perspective, rather than revere violence as the providence of divine power — as perfect power in a single moment.

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of the right to violence. The article, "Das Recht zur Gewaltanwendung," appeared in the September 1920 edition of the journal (Jg. I, Nr. 4). This incidentally makes the date of April 1920 (which the editors of the *Gesammelte Schriften* gave to Benjamin's "Critique of Violence") rather improbable. For the comments of the editors, see [VI:691].

Benjamin defends the idea of an ethical anarchism which takes as its goal a neutralization of the paradox of the moral application of violence while recognizing, at the same time, an unending paradox of morality and the state. In this way, he follows from an analysis which the pacifists were first to articulate, as well as the debate on violence which a series of general strikes in Berlin were to engender.<sup>419</sup> Benjamin was to develop theoretically a political form concerning the abolition of *Gewalt* through moral, humanistic institutions, societies and individuals themselves. The right to such a human state is insured and guaranteed by nothing less than divine power. No profane institution is able to match divine *Gewalt*.

*Messianic intensity of the individual: a politics of pure means*

Benjamin's interest in an ethical anarchism which would be based on morally acting individuals and social institutions but whose authority would ultimately rest on divine *Gewalt*, led him to speculate on a politics of such an anarchism in the "Critique of Violence." The focus on his concern is the elimination of *Gewalt* altogether from the worldly realm. He asks: is it possible to solve human problems through pure, *gewaltlose* means? Indeed like many of the anarchists, it appears that Benjamin too sought a measure of utopian behavior in the social realm of private individuals:

Gewaltlose Einigung findet sich überall, wo die Kultur des Herzens den Menschen reine Mittel der Übereinkunft an die Hand gegeben hat. Den rechtmäßigen und rechtwidrigen Mitteln aller Art, die doch samt und sonders Gewalt sind, dürfen nämlich als reine Mittel die gewaltlosen gegenübergestellt werden. [II:191]

Non-violent agreement is possible wherever a culture of the heart has given humanity the use of pure means of agreement. Legal and illegal means of every kind that are all forms of violence, may be confronted with non-violent ones as a pure means. [ref:289]

It is important to note that it is not in the political sphere but within society that a model for conflict resolution is to be sought. In this respect, the "Nächstenliebe," edict of the Psalms to love thy neighbor is perhaps the force which is able to construct a "Kultur des Herzens" [culture of the heart].<sup>420</sup> We have already

<sup>419</sup> This was ostensibly the reason for the article. See footnote above.

<sup>420</sup> Benjamin's call to a "Kultur des Herzens" "culture of the heart" remains rather indeterminate. However, if we take Achad Ha'am's essay "Die Lehre des Herzens" "The Teachings of the Heart," *Am Scheidewege*, which Benjamin and Scholem read together, we have something on the order of a Judaic categorical imperative in the words of Hillel: "Was dir selber verhaßt ist, das füge auch deinem Nächsten nicht zu — darin ist die ganze Lehre Enthalten" (b. Sabbath fol. 31b). This

identified such a culture with worldly activity of "messianische Intensität" [messianic intensity from the "Fragment"] of mutual recognition and cooperation. Benjamin names the other virtues which form the basis of a culture of the heart as "Herzenshöflichkeit, Neigung, Friedensliebe, Vertrauen," "courtesy, sympathy, peaceableness, trust" as the elements of *pure means*. [II:191] From his analysis of the state, we are able to envisage a political realm dominated by the powerful, seeking to establish rules and rights to serve their own interest. He appears to place all hope, therefore, in a messianic transformation of society and the individual. That these qualities or virtues take shape in society defines the "law" of their objective character, he argues. Such pure means are therefore immediate means.<sup>421</sup>

One arena of pure means is initiated by the idea of material goods existing in an ethical matrix, similar to his notes on justice: "In der sachlichsten Beziehung menschlicher Konflikte auf Güter eröffnet sich das Gebiet der reinen Mittel." [II:192] "In the material connection in human conflicts to goods, the realm of pure means is opened." [ref:289] The relationship between good and goods is articulated as a politics of technique, of civilized agreement, which functions under the principle of the exclusion of *Gewalt*. But how would one attempt to exclude *Gewalt* from civil society when active, acoustic fraudulence is unremittingly tolerated by the state, existing shoulder to shoulder with truth, he says. Since there has never been such a thing as due process in language, the origins of fraudulence i.e., the lie, has never been dealt with in connection to judgment. It is therefore "daß es in dem Gerade gewaltlose Sphäre menschlicher Übereinkunft gibt, daß sie der Gewalt vollständig unzugänglich ist: die eigentliche Sphäre der 'Verständigung', die Sprache." [II:192] "that there is a sphere of human agreement that is nonviolent to the extent that it is wholly inaccessible to violence: the true sphere of 'understanding' [is] language." [ref:289] Where the lie is expressed, it remains uncontested, having largely been removed from juridical consideration in a worldly sense and deemed unattainable in its language. It is the very opposite of an understanding; it is, in fact, a purposeful misunderstanding. By the time that law intervenes in language to address the lie, it is too late. It has already become professional deceit. Nevertheless, because the legal order assumes its ability to

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mutuality was to be the cornerstone of a rejuvenation of Judaism beyond mere soil, penetrating into the "heart" of social relations. Benjamin's "culture of the heart" sought to extend this maxim of cultural Zionism, with its clear disdain for the dominance of practical goals of the colonialist mentality, to a general maxim. In this, he sought to apply the demands of the cultural Zionists to all culture. See Achad Ha'am, *Am Scheidewege*, Berlin, 1913, 99.

<sup>421</sup> If it is not implicit in the notion of a non-threatening *Gewalt*, it is certainly the case that even in utopian, social relations between individuals, one would never be blind to the *Gewalt* of distopic relations. Therefore, fear alone is enough to show an implicit *Gewalt* in an ideal society as well.

destroy lawlessness as it appears and because fraudulence is not considered a part of the realm of *Gewalt*, law is unable to address the origins of deceit, says Benjamin.<sup>422</sup> Just as in the case of the strike, fear is the instrument which lies behind the lawful action of the state, all the while remaining powerless to the true, linguistic origins of fraudulence.

Benjamin therefore rejects the notion of positive law being able to resolve the very thing that it promises to insure. Nor is there a political solution to the problem of *Gewalt*. The only answer can be found in the divine as it makes its entrance into the social realm. The social realm is radically transformed by a messianic general strike, on the one hand, and a daily politics of pure means on the other. This vision of a worldly form of justice is to be found in the "natural" rapport of individuals - a series of utopian relationships in a broader social context. For Benjamin, this politics of pure means would be established on the "friedlichen Umgang zwischen Privatpersonen" "peaceful intercourse between private persons" [ref:291] which is able to solve conflicts much like diplomacy where "private personal" conflict resolution is transcribed onto worldly, political dimensions based on individual virtues such as honesty. [II:193] Where a politics of pure means is envisioned in an individual form, it is not to be reduced to merely the private realm. On the contrary, the pure means of all individuals are to be claimed by every individual.

### *Violence and redemption*

Even within a culture born from a politics of pure means, the difficulty to conceive of a society completely removed from the problem of violence is contingent on an appropriate concept of rights and laws. There is no worldly realm which is, in and of itself, free of *Gewalt*:

Da dennoch jede Vorstellung einer irgendwie denkbaren Lösung menschlicher Aufgaben, ganz zu geschweigen einer Erlösung aus dem Bannkreis aller bisherigen weltgeschichtlichen Daseinslagen, unter völliger und prinzipieller Ausschaltung jedweder Gewalt unvollziehbar bleibt, so nötigt sich die Frage nach andern Arten der Gewalt auf, als alle Rechtstheorie in Auge faßt. [II:196]

Since, however, every conceivable solution to human problems, not to speak of redemption from the tracks of world-historical existence hitherto, remains

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<sup>422</sup> "Denn in Verbot des Betruges schränkt das Recht den Gebrauch völlig gewaltloser Mittel ein, weil diese reaktiv Gewalt erzeugen könnten." [II:192]

impossible if violence is totally excluded in principle, the question necessarily arises as to other kinds of violence other than all those envisaged by legal theory. [ref:293]

To be sure, a principled culture of pure means would not be able to isolate every aspect of the profane which contains a realm of *Gewalt*, since *Gewalt* is manifested in almost every sphere of existence. However, when existence itself is freed by an "Erlösung aus dem Bannkreis aller bisherigen weltgeschichtlichen Daseinslagen," "redemption from the tracks of world-historical existence hitherto." [above] *Gewalt* would no longer be tied to ends, determined neither by justified nor unjustified means, but drawn in an entirely new direction, says Benjamin. This direction would be able to apply violence as "schicksalsmäßiger Gewalt, wie sie berechtigte Mittel einsetzt, mit gerechten Zwecken an sich in unversöhnlichem Widerstreit liegen würde," "fateful violence, which using justified means, were of itself in irreconcilable conflict with justified ends," a *Gewalt* which would not act as a means to an ends but "vielmehr irgendwie anders, sich verhalten würde." [II:196] "would act in some other way." [ref:293] A magical connection? Certainly this "Unentscheidbarkeit aller Rechtsprobleme" [II:196] "insolubility of all legal problems" [ref:293] in the material world is only solvable in a divine one, being that the only force capable of ruling on rights and laws appears to be God alone. The idea of pure violence of a supreme judge enables Benjamin to provide his own categorical imperative in this regard:

Entscheidet doch über Berechtigung von Mitteln und Gerechtigkeit von Zwecken niemals die Vernunft, sondern schicksalhafte Gewalt über jene, über diese aber Gott. [II:196]

For it is never reason that decides on the justification of means and the justice of ends, but fateful violence on the former and God on the latter. [ref:294]

Benjamin's model for a determinate, historically rupturing *Gewalt* is formed from God's ultimate authority/violence which is able to penetrate any moment of the profane with neither ends nor means but through divine *Gewalt* which constitutes itself for ends which are "allgemeingültig" "valid in all cases."

### *Mythical violence*

Just as in a culture of pure means, the transformation of worldly *Gewalt* is expressed as unmediated, everyday experience of the individual. Anger and fright, for example, are not so much the means of planned ends but interpreted here as

"manifestations." Manifestation is assigned to the purest form of *Gewalt* in the image of the divine in which divine justice is capable of thoroughly piercing worldly experience and permeating all aspects of human intention and justification. Ends must appear, in short, as manifestations of the divine rather than any concrete effort on the part of God within the profane. Benjamin concludes, therefore, that the only objectively realizable manifestation of *Gewalt* is manifested in the profane as myth. Seen from the perspective of the profane, the only objective of divine manifestation appears in the form of mythical violence: "Die mythische Gewalt in ihrer urbildlichen Form ist bloße Manifestation der Götter. Nicht Mittel ihrer Zwecke, kaum Manifestation ihres Willens, am ersten Manifestation ihres Daseins." [II:197] "Mythical violence in its original form is a mere manifestation of the gods. Not a means to their ends, scarcely a manifestation of their will, but first of all a manifestation of their existence." [ref:294] We have already seen in Benjamin's work how references to mythical Gods have rendered themselves equally valid for a monotheistic God and as such, have led to the suspicion that the Greeks may have lent an acceptable face to "oriental" speculation.<sup>423</sup> Like divine intervention in the life of the righteous - for example, the idea of justice manifested in Job's fate - mythical violence is bound to the fate of the tragic hero:

Wie wenig solche göttliche Gewalt im antiken Sinne die rechterhaltende der Strafe war, zeigen die Heroensagen, in denen der Held, wie z. B. Prometheus, mit würdigem Mute das Schicksal herausfordert, wechselnden Glückes mit ihm kämpft und von der Sage nicht ohne Hoffnung gelassen wird, ein neues Recht dereinst den Menschen zu bringen. [II:197]

How little such divine violence meant to the ancients [in relation to] the law-preserving violence of punishment is shown by the heroic legends in which the hero - for example, Prometheus - challenges fate with dignified courage, fights it with varying fortunes [Glück], and is not left by the legend without hope of one day bringing a new law to humanity. [ref:294]

The hero brings a new right to humanity and breaks the weak, law-maintaining violence of the gods. The unmediated, divine *Gewalt* which Benjamin presents here in mythical form appears to us as divine manifestation in which heavenly, purloin violence falls back on a law-maintaining world. But as worldly manifestation of myth is ultimately juxtaposed to a true and ultimately divine manifestation, a contradiction in myth is exposed. In this process, myth must rescind on the claim to delineate fate, for even though an intimate and necessary relationship between myth and God exists, both are ultimately opposed to one another:

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<sup>423</sup> References to Greek myth under the context of the "orient" is to be found in several places in Benjamin's early writing. See, for example, the discussion of "Geist des Orients" in *Über das Mittelalter* [II:132] and the discussion in chapters nine and ten in section one.

Weit entfernt, eine reinere Sphäre zu eröffnen, zeigt die mythische Manifestation der unmittelbaren Gewalt sich im tiefsten mit aller Rechtsgewalt identisch und macht die Ahnung von deren Problematik zur Gewißheit von der Verderblichkeit ihrer geschichtlichen Funktion, deren Vernichtung damit zur Aufgabe wird. Gerade diese Aufgabe legt in letzter Instanz noch einmal die Frage nach einer reinen unmittelbaren Gewalt vor, welche der mythischen Einhalt zu gebieten vermöchte. Wie in allen Bereichen dem Mythos Gott, so tritt der mythischen Gewalt die göttliche entgegen. [II:199]

Far from inaugurating a purer sphere, the mythical manifestation of immediate violence shows itself fundamentally identical with all legal violence, and turns suspicion concerning the latter into the certainty of the decay of its historical function, the destruction of which thus becomes obligatory. The very task of destruction poses again, in the last instance, the question of a pure immediate violence that might be able to call a halt to mythical violence, just as in all spheres of God against myth, mythical violence is confronted by the divine. [ref:297]

The mythical manifestation of *Gewalt* takes on the specter of legal violence as unmediated *Gewalt*. But if mythical *Gewalt* is law-maintaining, divine *Gewalt* is the destruction of law, for whereas mythical law establishes borders, divine recognizes no borders;<sup>424</sup> if the mythical attributes blame, the divine revokes blame. Consequently, mythical violence legitimizes the sanctioning of state violence (Rechtsgewalt) as it does responsibility and sin.<sup>425</sup> In this sense, the law of violence, state of violence and right of violence are all tied to the origins of sin and the attempt to attribute sin to humanity. A jettison of the mythical manifestation of *Gewalt* requires a return to the question of the origins of sin, states Benjamin again here.<sup>426</sup>

In contrast to feudal barons for whom power forms the only definitive stakes of worldly barriers, the origins of *Gewalt* knew no boundaries in an original state; neither the meaning of *Gewalt* in the sense of power, nor the meaning of the

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<sup>424</sup> However, it appears to this author that the destruction of borders might actually be the formation of divine borders.

<sup>425</sup> At this moment, the mythical form of law enters into the picture as the only form of the symbolic divine that humanity will be able to encounter in the profane: "Denn nur die mythische, nicht die göttliche, wird sich als solche mit Gewißheit erkennen lassen, es sei denn in unvergleichlichen Wirkungen, weil die entsöhnende Kraft der Gewalt für Menschen nicht zutage liegt. Vom neuem stehen der reinen göttlichen Gewalt alle ewigen Formen frei, die der Mythos mit dem Recht bastardierte." [II:203] Thus the mythic enters history as messianic means, opening up a new historical age within the already existing history. *Gewalt*, in the introduction of this age, can never be mythical *Gewalt*, never law-maintaining myth - the "die verwaltete Gewalt" [II:203] - but rather the "höchste Manifestation reiner Gewalt durch den Menschen." [II:202] From this, Benjamin concludes that it is critical to decided where true "revolutionäre Gewalt" is possible [II:202] and when such violence can be applied in the introduction of the world to come.

<sup>426</sup> I have sought to explain this notion of sin in the first chapter of this section.

transgression of law. Transgression before expulsion was not prohibited but prohibitive - the lack of knowledge made not only prohibition but punishment nonexistent. The origin of the first sin was therefore the consequence of such a transgression, not a punishment. The fall from paradise thus introduced an element of choice as Benjamin understands it and it is this choice which made the entrance of humanity into the domain of law a matter of necessity: "Ihr Eintritt ist im Sinne des Rechts nicht Zufall, sondern Schicksal." [II:199] "Its entrance is, in the sense of law, not chance but fate." Just as the fate of the tragic hero is embedded in the will to decline, so too is fate embedded in will in the decline from Eden. This decline opened up the reality of the profane. In a true, natural human condition, humanity was not capable of being guilty of sin, nor suffering the slavery of law: "Denn mit dem bloßen Leben hört die Herrschaft des Rechtes über den Lebendigen auf." [II:200] "The dominion of existence under law ends with mere life." [ref:297] Only in a return to a natural state will law cease to dominate everything living: "Die mythische Gewalt ist Blutgewalt über das bloße Leben um ihrer selbst, die göttliche reine Gewalt über alles Leben um des Lebendigen willen." [II:200] "Mythical *Gewalt* is the blood-*Gewalt* against mere life for its own sake, divine *Gewalt* is pure *Gewalt* over all of life for the sake of the living." [ref:297]

The *Gewalt* of God is of a different caliber than that of myth. While God's conflagration of things and people is unmitigated and exhaustive, it is not punishment but purification. Resistance to the will of God may define sin but divine *Gewalt* comes as rectification through destruction. An example of this is the fact that God's destruction is bloodless, says Benjamin.<sup>427</sup> This reveals "ein tiefer Zusammenhang zwischen dem unblutigen und entsühnenden Charakter dieser Gewalt." [II:199] "a deep connection between the lack of bloodshed and the expiatory character of this violence." [ref:297] God destroys without spilling blood - blood itself considered here the "Symbol des bloßen Lebens" [symbol of mere life] - because His violence is propelled out of the sphere of violence altogether. He can therefore destroy profane forms and rectify sin at the same time. Just as the sinners no longer remain, neither does sin. Blood and sin are both aspects of the profane world, expressed here as "mere life."<sup>428</sup> Divine *Gewalt* is thus manifested in the profane world and not solely as tradition:

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<sup>427</sup> See Numbers 16:30-33 where Qorah fails to heed the prophecy of Moses: "But if the Lord creates a new thing, and the earth opens her mouth, and swallows them up, [...] then you shall understand that these men have provoked the Lord. And it came to pass, as he had made an end of speaking all these words, that the ground split beneath them: and the earth opened her mouth, and swallowed them up, and their houses, and all the men that appertained to Qorah." See also [II:946].

<sup>428</sup> Benjamin's concept of *das bloße Leben* serves as the basis of Giorgio Agamben's compelling study on the individual in relation to the power of the state. See his *Eche Sacher: la potere nuda vita*,

Diese göttliche Gewalt bezeugt sich nicht durch die religiöse Überlieferung allein, vielmehr findet sie mindestens in einer geheiligten Manifestation sich auch im gegenwärtigen Leben vor. [II:200]

This divine *Gewalt* makes itself evident not only through religious tradition but also appears in present-day life in at least one sanctified manifestation. [ref:297]

Within the profane world, a repaired manifestation emerges within history but, at the same moment, ends history altogether. Divine *Gewalt* is not merely a manifestation for its own sake but enters worldly affairs to cleanse humanity and destroy evil, not "daß Gott selber unmittelbar [Erscheinungsformen] in Wundern ausübt, sondern durch jene Momente des unblutigen, schlagenden, entsühnenden Vollzuges." [II:200] "that God Himself works miracles in unmediated appearances but through the moment of bloodless overwhelming, sin-less execution." [ref:297] God is Himself whole in His actions. He does not send down a manifestation of Himself as a miracle such that one would ask why a correction in His divine plan was needed. God's manifestation comes rather as the sanctifying, redeeming, completion of worldly affairs, "Endlich durch die Abwesenheit jeder Rechtsetzung," [II:200] "finally through the absence of all legal formation as relief and liberation from the suffering of administrative law." [ref:297]

Although divine *Gewalt* is destructive in relation to things, rights and life, it is not in terms of "souls of the living." [II:200] In this regard, action preceding sin initiates the final stage of the discussion and concludes this chapter of the critique of violence. Benjamin asserts here, perhaps in contrast to Kierkegaard,<sup>429</sup> that if action did not take place, judgment itself would be impossible. The reality of an act like murder, however, conceived of as an event which God would be unable to predict or prevent, would make the conception of God improbable. The commandment prohibiting murder must therefore be seen not as a means of judgment but rather as an ethical norm which reflects the "Heiligkeit des Lebens" "divinity of life."<sup>430</sup>

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Torino: Einaudi, 1995. His movement into the French thinkers, particularly Foucault, may however inadvertently lead away from the unique theological dimension of this idea.

<sup>429</sup> See chapter one in this section.

<sup>430</sup> On pages 200 to 201, Benjamin leads a small discussion on the justification for murder and the relationship to its prohibition in the Torah. He argues that while the commandment cannot be read as a measure of judgment, of whether a particular murder is just or unjust, it serves as a measure of action: "So verstand es auch das Judentum, welches die Verurteilung der Tötung in der Notwehr ausdrücklich abwies." [II:201] It is not law which condemns murder but the structure of the action of a society to confront the ethical isolation of the individual. However, from a more critical point of view, the notion of the commandments being truly comprehensible without the framework of the oral Torah is highly questionable indeed. Scholem, however, may have been the source for

Ethics becomes the means of the "divinity of life" as the search for an ethical theorem in the process of the sanctification en route toward the divine. For a world to appear to match the "Nochnichtsein des gerechten Menschen," "not-yet-attained condition of the just man," [ref:299] the real-existing world, with its limitation and material suffering, would have to decline:

So heilig der Mensch ist (oder auch dasjenige Leben in ihm, welches identisch in Erdenleben, Tod und Fortleben liegt), so wenig sind es seine Zustände, so wenig ist es sein leibliches, durch Mitmenschen verletzliches Leben. [II:201]

Just as much as man is holy (or the life in him which is identical in worldly existence, death and afterlife), there is little sacred in his condition, in his corporal, vulnerable life in the collective. [ref:299]

There is something divine embedded in mere living, something of an original, natural state. What is divine in humanity is profane beyond mortality, something bound to worldly affairs but which, in a precise moment, is able to transcend the limitations of the body and also the collective. Hence the divine potential in the individual is its ability to overcome death in choosing fate. In this respect, it appears that Benjamin did not consider the divine aspects of the living as formed experience but as original embodiment. Concerning an "Ursprung des Dogmas von der Heiligkeit des Lebens," he writes, "daß, was hier heilig gesprochen wird, dem alten mythischen Denken nach der gezeichnete Träger der Verschuldung ist: das bloße Leben." [II:202] "origin of the dogma of the divinity of life. . . . what is here pronounced sacred was according to ancient mythical thought the marked bearer of the attribution of guilt: mere life." [ref:299] Here it seems rather apparent that the beginning of a search for the origins of the divine within the profane would start with the notion of a natural humanity as "mere life" which preceded the concept of sin. He draws his attention to the attribution of guilt to mere life in the form of the fall from paradise and the attempt to liberate it from eternal responsibility. Just as in this initial discussion of the origins of evil in this section, Benjamin states that if there was no true concept of sin before sin, there equally can never be a proper attribution of guilt to the former residents of Eden. God's judgment cannot be understood as punishment but only cleansing. In cleansing rather than revenging, God preserves the natural and divine aspects of humanity from the damage which was to occur in the relocation from Eden. The revelation of pure humanity, its release from eternal sin, is therefore a messianic task:

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Benjamin's speculation in his treatment of Talmudic jurisprudence in theses seven of "Über Jona und der Begriff der Gerechtigkeit." See the succeeding chapter on prophetic justice.

Auf der Durchbrechung dieses Umlaufs im Banne der mythischen Rechtsformen, auf der Entsetzung des Rechts samt den Gewalten, auf die es angewiesen ist wie sie auf jenes, zuletzt also Staatsgewalt, begründet sich ein neues geschichtliches Zeitalter. [II:202]

On the breaking of this cycle maintained by mythical forms of law, on the suspension of law with all the forces on which it depends as they depend on it, finally therefore on the abolition of state power, a new historical epoch is founded. [ref:300]

DIVINE POSTPONEMENT AND THE QUESTION OF VIOLENCE

With the "Critique of Violence," Benjamin introduced into the discussion a range of new formulations in the difficult relationship of worldly injustice to divine providence. Beginning with a philosophy of right, we saw him apply the discussion on justice to a debate on the justification of ends and means. He takes up the problem of the administration of worldly rights through the institutions and counter-institutions of power, violence being the measure of these competing claims to rights and means. Events of the day such as the general strike and anti-war pacifism form the background for a discussion of the notion of the fate of the individual and the meaning of justice in the divine realm. Ultimate *Gewalt* appears as the true manifestation of God in the world that redeems the profane, as the critique concludes with an attempt to articulate a politics of pure means which offer the terms for constructing a new ethical dimension.

In the second section of Scholem's "Thesen über den Begriff der Gerechtigkeit" [Theses on the Concept of Justice], it is possible to see several aspects of this debate. Here Scholem breaks out slightly from Benjamin's "Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit" [Notes to a Study of the Category of Justice] and points to a larger commentary on his early works as a whole, particularly his studies of violence and authority beginning in the early essay on language and culminating in *Kritik der Gewalt* [Critique of Violence]. Referring back to the *Kritik der Gewalt*, Scholem announces at the outset of part B that the contextual basis of the concept of justice is to be sought within the framework of the philosophy of right, not with regard to the tension between law-forming and law-maintaining violence but rather to its border with religion. For Scholem, the question of justice is first and foremost a pillar of the philosophy of religion.

Scholem begins his analysis with the possibility of judgment. As it appears in the conclusion to Benjamin's early speculations on language, judgment is here discussed in terms of its existence in the profane. In defining justified judgment as resting on postponement, the question of whether judgment is possible refers back to its worldly execution. Scholem reiterates the notion that judgment is dependent on the juridical application of *Gewalt*. The effectiveness of judgment is therefore linked to the jurisdiction which the authority of judgment is able to establish, namely its power of execution. But between judgment and execution, a contradiction is to emerge which only God can solve, the only force capable of both

divine judgment and its execution simultaneously: "Zwischen Urteil und Exekutive besteht ein fundamentaler Abgrund," "Between judgment and execution, a fundamental impasse exists," says Scholem. The contradiction of worldly judgment, which attempts to transcend the problem of postponement, is what he here defines as the "Mythologie der Rechtsordnung" "mythology of the legal system." This leads Scholem to the thesis that every human action exists in God's awareness and by His judgment, and just as every human judgment must be sanctioned by divine judgment, the judging attribute of God rests alone on His judgment regarding the profane which is manifest in His Last Judgment. In this final form, there is a tallying of all human action in a divine administration.<sup>431</sup>

Just as Benjamin in his discussion of fate and justice, Scholem also postulates God permitting human activity through His judgment: "*Jede Handlung des Menschen existiert mit absoluter Sicherheit ein Gottesurteil über sie,*" "For every human act, there exists (with absolute certainty) a divine judgment," says Scholem, introducing a new problem in the notion of justice: justice on earth, i.e. the execution of profane judgment as justice, implies the full negation of divine judgment. If that which is just is capable of *annihilating* the notion that every human action necessitates a divine judgment, it institutes in its place a postponement. The idea of justice in Jonah's prophecy is manifested in the annihilation of God's judgment against the great city and thus turning His own prophet and prophecy on its head. But if worldly justice is the elimination of divine judgment, the question naturally turns to the existence of God, which Scholem claims never to have doubted.<sup>432</sup> While Scholem does appear to lay the groundwork for the exclusion of the divine, he appears not to be referring to the complete neutralization of God from the sphere of justice but rather the "historical annihilation of divine judgment" in its manifestation. It is here that Scholem formulates the eternal suspension of His judging as constituting the messianic, for that which is able to postpone the Last Judgment, introduces divine justice into worldly affairs and thereby neutralizes the tension between the divine and profane. Scholem formulates this in his fourth thesis: "Messianic is the kingdom that is not followed by a Last Judgment." The prophets are deemed messianic precursors in their call for justice because they sought the elimination of the Last Judgment. Jonah may in fact be the best example of this, first in his attempt to avoid prophecy,

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<sup>431</sup> The link from the Last Judgment to eternal, continuous judgment can also be made by the attribute that God tallies i.e. forms judgment on human action.

<sup>432</sup> Scholem writes that both he and Benjamin were so confirmed in their belief on God that the subject of His existence never one came up in their discussions. [freund:33] On his own views, see the interview with Irving Howe in *Present Tense*, Autumn 1980, (New York) American Jewish Committee, 53-7; and [jjc:35].

then in the reversal of his delivered prophecy. Just actions imply therefore the "immediate" establishment of the messianic. This means the transformation of time from the historical to the eternal-present and justice from abstract to concrete.

Justice is therefore not merely a conceptual "border," as one might be lead to see it in Benjamin's formulations, but a living, breathing, realizable cornerstone of Judaism. Maimonides, whom Scholem draws on in his fifth thesis on the continuous coming of the future world, who, if lacking a penchant for the revolutionary, apocalyptic politics of immanent redemption, still articulates an "eternal-presence" of the messianic kingdom. Maimonides proscribes a kingdom which is always coming, a "beständig daseind," or always becoming. Prophecy is therefore a vision of the eternal-presence, "Die Welt, die ständig kommt," "The word that is always coming." "Darum fordern die propheten Gerechtigkeit: um das j[üngstes] G[ericht] unendlich zu eliminieren. In den gerechten Handlungen wird das messianische *unmittelbar* aufgerichtet." "This is why the prophets demand justice: in order that the Last Judgment is eliminated eternally. In the just act, the messianic is established immediately."

Postponement is the "all" of divine attributes of justice. Scholem now turns to agency in modeling this attribute, postulating the role of human activity in the establishment of a just realm. The mitigating factor in achieving justice is not abstract power but *Gewalt*, he states, drawing on the *Kritik der Gewalt*. In the latter, we are able to identify both the terms authority and the force to establish authority, as in violence, threatening or actual. Here Scholem takes up the mythical dimension of violence, which Benjamin formulates as the symbolic manifestation of the divine.<sup>433</sup> Revealing its contradiction, we have seen how a "mythische(r) Ursprung des Rechts" [II:154] "mythical origins of law" in Benjamin's essay on language gives way to a divine conception of *Gewalt* in the *Kritik der Gewalt*. [II:197] Here Scholem adopts Benjamin's categories concerning myth, drafting human activity in the image of the profane, locked in a battle with worldly, mythical violence: "Fast alle Bezirke des menschlichen Handelns unterstehen (noch) immer den mythischen Kategorien, allen voran dem Schicksal, das Bedeutung verleiht." "Almost all realms of human action are (still) subject to mythical categories, from which fate alone attributes meaning." Scholem places emphasis here on Benjamin's ideas on fate and character, attempting to carve out a sphere of human behavior leading beyond the sphere of myth, which is, in a sense, the mimicry of divine *Gewalt*. At the same time, he seeks to move beyond the fate of profane destination based on a will to

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<sup>433</sup> See Benjamin [II:197-200] and the discussion on mythical violence in chapter six in this section.

decline which itself is a mere symbolic form of the "eternal-now." In his theory of postponement, "*Gerechtigkeit ist die Elimination des Schicksals aus den Handlungen.*"<sup>434</sup> "Justice is the elimination of fate from action." Justice is therefore not only an eternal annihilation of divine activity in the realm of judgment, it is also the complete elimination of the myth of the tragic hero while moving into a kingdom beyond fate. The righteous act, Scholem explains, is "schicksalslos" "has no fate." Thus postponement and transformation, like the act of righteousness, both point beyond the world of injustice.

The final, two concluding theses are perhaps Scholem's most prescriptive. In seeking some form of mediation between a radical transcendence of the profane through active postponement, that is through the *transformation*,<sup>435</sup> *elimination*, and *annihilation* endemic of an apocalyptic revolution and a Maimonidian conviction that the messianic world will appear exactly the same as this one, "nur ein ganz kein wenig anders,"<sup>436</sup> "just a little different," Scholem arrives at a thesis of messianic action. He writes: "Die messianische Welt hervorbrechen zu lassen, die Perspektive der Erlösung erfordert nur eine *virtuelle* Verschiebung."<sup>437</sup> "To allow the messianic world to break through requires only *virtual* postponement of the perspective on redemption." A vision which enables the eruption of the messianic world requires "virtual" postponement and substitution. But this moderate, virtual moment is radically contrasted to an apocalyptic, cataclysmic one which he defines in thesis five as the real politics of Judaism. We can detect here two strands of messianic tension: on the one hand, a Messianism of the act, initiated by violence and, on the other, the quietistic acquisition of a vision of redemption. It is the former which draws closer to the scheme of transcendence in Benjamin's *Kritik der Gewalt* in Scholem's estimation: "Die apokalyptische Ausmalung des messianischen Reichs hat den Wert und die Wahrheit revolutionärer Propaganda - sie sucht den letzten Konflikt der Gewalt hervorzurufen, in der der Mythos untergeht." "The apocalyptic vision of the messianic kingdom has the value and truth of revolutionary propaganda - it seeks to provoke the final conflict of *Gewalt* where myth declines." Taking the form of revolutionary propaganda, the apocalyptic scenario is able to bring to a head a final battle of *Gewalt* in which mythical forms finally disappear. The ironic figure of the Messiah enters here, a non-figured but also non-figurative figure of the cataclysmic. His character

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<sup>434</sup> Scholem's emphasis.

<sup>435</sup> Scholem here uses the term *Verwandlung*, calling on the meaning of the transformation of law to justice which he interprets in Psalm 94:14-15 in the phrase "key al tzedek yashuv mishpat."

<sup>436</sup> Scholem quotes Maimonides again here without citing him.

<sup>437</sup> Scholem's emphasis.

represents the power of a life without fate, the same *schicksalslos* "without fate" which Benjamin describes in the words of Hölderlin in his "Fate and Character." [II:174] It is the personality of the Messiah which forms the ironic dimension of Messianism - an individual who represents the impersonal. It is however the only figure of the messianic which Scholem claims is able to break through this "dämonische Schicksal," [II:175] "demonic fate." Only in the introduction of the ironic Messiah into the "Weltzeitalter," "world epoch" itself categorized here by Scholem as the "Katastrophale" "catastrophic", can the redemptive power "des schicksalslosen Lebens dargestellt [werden]" "of a life without fate be presented" in a historical epoch beyond history.

In part B of Scholem's "Thesen über den Begriff der Gerechtigkeit" [Theses on the Concept of Justice], he aims to incorporate the postponement of the divine in the profane, seeking justice as the bridging of the abyss between judgment and its execution. He works to articulate the messianic act as both action and the reception of divine providence in a unity of thought and action, which we first observed in his linguistic analysis of the name of God. Such a messianic thought-action would be capable of pointing to a messianic "history" beyond a theory of attributes and the problem of the physical aspects of God, a state of open revelation where "die Stimme Gottes" "the voice of God" would ring freely in the sound of justice, the unmoving, eternal being of a just life. The good life would be audible in the silent voice of God emitting the "unmetaphorischen Gegenstand(es) des gerechten Lebens," "unmetaphorical object of the just life."

## THE RIGHTEOUS, THE PIOUS, THE SCHOLAR

A penchant for the science of redemption is perhaps one of the most enduring aspects of the early political theology which served Scholem in his life-long research in Judaism. The incipient constitution of a practical Messianism in the early intellectual exchange with Benjamin was in many ways to form the greatest impetus for this pursuit. Although it is not possible here to analyze every instance of this on-going dialogue in connection with Scholem's later work, I would like to conclude this final section on justice with a glimpse into Scholem's later conception of justice in order to explore just how these ideas continue to form the basis for much speculation. Scholem's essay, "Die Lehre vom 'Gerechten' in der jüdischen Mystik," "The Teachings of the 'Just' in Jewish Mysticism," was first published in 1958 in the *Eranos Jahrbuch* and was again presented as the third chapter in *Von der mystischen Gestalt der Gottheit* under the title "Zaddik; der Gerechte."<sup>438</sup> [in English: *On the Mystical Shape of the Godhead*, "Tsaddik; the righteous one"] Following the early speculations, the notion of justice is expressed here in the form of an ideal character. But whereas in the earlier text on Jonah the embodiment took place only in the category of the righteous, Scholem resumes the same line of investigation by distinguishing this time between three ideal types in Jewish society: the righteous, the pious and the scholar - *tzadik*, *hasid* and *talmid chacham*. [ges:82/mys:88]

First, in following out the line of analysis in the discussion of prophetic justice, the notion of *tzedek* is drawn from a divine exemplar. The relationship between "Gerechtigkeit und ihre Träger" [justice and its bearers] and "Gottes Gerechtigkeit" [divine justice] is one which is informed by the association between subject and attribute.<sup>439</sup> It is expressed in a linguistic association of the name of God between *tzedek* and *tzadik* (justice and the righteous). In this way, the Torah is able to refer to God as the righteous of the world or the righteous who lives eternally (*tzadiko shel 'olam*, *tzadik chai 'olamim*). [ges:87/mys:91] The standard of justice is measured by divine wisdom, the knowledge of good and evil, the ability to judge and refrain from execution (Jonah) - in short, to do that which is beyond the capacity of mortals. This ideal status forms the basis for further speculation on the

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<sup>438</sup> *Von der mystischen Gestalt der Gottheit*, Zürich: 1962, henceforth [ges]. This version is mildly edited and I have made use of the original version where necessary.

<sup>439</sup> "Die Lehre vom 'Gerechten' in der jüdischen Mystik," *Eranos Jahrbuch* 27, 1958, 237.; I also found helpful L. Jacobs, "The Concept of Hasid in the Biblical and Rabbinic Literatures," in *The Journal of Jewish Studies*, Vol. VIII, No. 3 and 4, 1957, 143-154.

manifestation of justice, more specifically, in ideal prototypes of just behavior or worldly personifications of justice. The *tzadik*, the *hasid* and the *talmid chacham* are the redemptive figures contrasted to this notion of *tzedek*. All three form ideal character types in a "religiösen Gesellschaft" [religious society] and although it is somewhat difficult to form a definitive picture of the three amid various traditions, Scholem is able to articulate a few primary features.<sup>440</sup>

Whereas the scholar (*talmid chacham*) sees it as his most important task to be the bearer of the tradition of the divine word and its interpretation, the *tzadik* and *hasid* are less concerned with exegesis than with the absolute fulfillment of tradition. Intellectual prowess is not the cardinal feature of their identity but rather a "moralische and religiöse Macht," "moral and religious power" in the fulfillment of obligation. [ges:84] In searching for a distinction between the *tzadik* and *hasid*, the righteous and the pious, Scholem marks the *hasid* as being somewhat higher than the *tzadik*. He does so on the grounds that the difference between that which is required of the devoted and that which is beyond the realm of demands, reminding one of the distinction which Benjamin introduces in his "Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit," [Notes to a Study on the Concept of Justice]. The *tzadik* is motivated by the fulfillment of moral obligations. Should he succeed in this task, he is prepared to take his rightful place as a *tzadik*. In this sense, it is a rank of self-achievement open to all who are devoted and not a question of leadership or political charisma. [ges:85] The *hasid*, on the other hand, is motivated by a real and compelling zeal which transverses the ordinary boundaries of religious obligations. If one is able to point to the *tzadik* as a state of accomplishment, it is a merit deserved in a somewhat ordinary sense. The *hasid*, however, is a truly extraordinary figure. In Benjamin's notes on justice, we encountered a distinction between two figures, circulating around the unusual phrasing of a *Geforderte* [that or the one in demand]. In this text, he stipulates that virtue is the ethical category "des Geforderten." While virtue is the true achievement of the worldly demands of the *Geforderte*, "gerecht" [just] preserves existence. Here the righteous could be identified with the preservation of the world, a nondescript or "hidden" righteous rather accidentally preserving the worldly.<sup>441</sup> These are individuals who stand

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<sup>440</sup> For an analysis of the treatment of the righteous and pious as synonymous in the late Kabbalah, see section 4 of [ges:272]. In a later 'monopolization' of the term *hasid*, the movement of Israel Baalshem was to loosen the distinction further with the notion of a "chassidischen Zaddik." See [ges:274-5].

<sup>441</sup> "Tugendhaft kann nur Erfüllung des Geforderten, gerecht nur Gewährleistung des Existenten (durch Forderungen *vielleicht nicht* mehr zu bestimmenden, dennich natürlich nicht eines beliebigen) sein." Benjamin, "Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit," [tag I:401-2].

nearest to God and His divine justice.<sup>442</sup> Drawing from this formulation, Scholem conceived of the pious *hasid* as the *Ungeforderte* [undemanded]:

Der Fromme tut nicht das Verlangte und Geforderte, sondern das Ungeforderte, und auch wo er einer Forderung des Gesetzes nachzukommen sucht, tut er es mit solchem Radikalismus des Überschwangs und der Subtilität, daß sich ihm in der Vollziehung des nüchtern Gebotenen eine ganze Welt offenbart, für die ein Leben gerade ausreichen würde, ein Gebot richtig zu erfüllen. [ges:85]

The pious does not perform that which is required or demanded but that which is not. Even when carrying out a prescription of law, he acts with such radical exuberance and subtlety that an entire world is revealed to him in the fulfillment of a commandment, and an entire lifetime may be needed to carry out just one commandment properly.<sup>443</sup>

All three figures, the scholar, the righteous and the pious, exercise discrete roles in Jewish society. While the scholar fulfills his role through study, the righteous goes about the completion of moral duties, both with distinguished excellence. However, in this "religiösen Gesellschaft" [religious society], the *hasid* exhibits a revolutionary quality marked by extremity. His pursuit is not the mere fulfillment of obligation but to comply with the very root of moral law. Thus the term radical discerns between the other two figures most appropriately. A political dimension is consequently invoked within religious society, one characterized by the charismatic leadership of the *hasid*:

Er ist der radikale Jude, der, indem er seiner Bestimmung zu folgen sucht, ins Extrem geht. Dieser Extremismus, der vom Wesen des Frommen ebenso unabtrennbar ist, wie er dem Typus des Gerechten ganz fremd ist, kann die verschiedensten Formen annehmen. [...] Er verlangt von anderen nichts and von sich alles, und es ist eben diese Radikalität, die ihn von der ausgeglichenen Figur des Gerechten abhebt, der einem jeden gibt, was ihm zukommt. In diesem nie im Ausgewogenen bleibenden Extremismus lebt ein anarchisches Element. [ges:85]

He is a radical Jew who goes into extremes in attempting to realize his destiny. This extremism - as inseparable from the nature of the pious man as it is alien to that of the righteous - may assume the most diverse forms . . . He demands nothing of others, and everything of himself, and it is just this radicalness which set him apart from the sober figure of the just, who gives to each what is due. In this lingering extremism, which never reaches a point of equilibrium, an anarchist element resides. [mys:90]

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<sup>442</sup> Closer to God in the sense of Psalms 73:28: "the nearness of God is my good."

<sup>443</sup> [mys:90]. The published English version, drawing from the Hebrew manuscript, replaces the word "subtlety" with "exaggeration."

It is certain from these reflections on the character of the *hasid* that Scholem is drawing on various aspects of his political theory. Anarchism here, by the nature of its intensity, has a cataclysmic tone, reminding one of the Sabbatian model from which such a notion was to emerge. Scholem's formula of an apocalyptic or cataclysmic anarchism comes to the fore once again as critical inquiry. The charismatic aspect of the *hasid* appears to draw on the analysis of the Frankist - even the description of character brings to mind Scholem's often psychological sketches of these leading figures. To be sure, the character-type of this pious anarchist offers a quasi-messianic ideal to those seeking revolutionary leadership. Particularly in regard to a desired neutralization of the more cataclysmic aspects of the messianic wish, the radically ideal piousness of an equally radical conservatism (in respect to rites and obligations) were to avail themselves of the political and religious turmoil which was left in the wake of the Sabbatianists.<sup>444</sup> But in addition, the pious anarchist was to represent a more primary aspect of the cause. A deep-seated dismissal of worldly affairs marked the *hasid* with "etwas Absurdes und oft auch im bürgerlichen Sinn Anstößiges an sich." [ges:86] "something absurd and often offensive to bourgeois mentality." [mys:90] Scholem comments that hardly a paradoxical act exists from which the pious would shy away if it meant the fulfillment of the true meaning of moral obligations.<sup>445</sup>

Scholem's analysis of divine postponement in the case of Jonah's prophecy led to a string of conjectures on the meaning of justice. *Aufschub* became the most apparent sign of the manifestation of justice, typified by the notion of divine judgment suspending its execution. The nature of this suspension is not only momentary, as with Nineve, the redeemed city, but the divine connotation of all time and place. Scholem resumes this earlier course of thought in which the idea of justice in Jewish mysticism is depicted as the "Eliminierung des Elements des Gerichts," "the elimination of the element of judgment:"

Der Gerechte ist nicht mehr der gerechte Richter, und auch Gott als Richter stellt in der Welt der Kabbala einen ganz anderen Aspekt der Gottheit dar denn Gott als der Gerechte. Das Recht und die Gerechtigkeit, oder Gott als Träger dieser Gerechtigkeit, sind zwei verschiedene Seiten an Gott. Das Neue

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<sup>444</sup> Scholem articulates a neutralization thesis here such that Hasidism was to overtake the euphoric dimensions of Sabbatian Messianism: "In der Geschichte der späteren Kabbala treten immer wieder, besonders im Verfolg der großen messianischen Erschütterung von 1666, Gruppen von *Chassidim* auf, die sich solchem natürlichen Enthusiasmus und Extremismus verschrieben und von der radikalen Verfolgung solchen Weges auch charismatische Gaben erhofft haben dürften." [ges:113]

<sup>445</sup> The radical nature of the *hasid* led Scholem to formulate a derivative of the neutralization thesis: radicalism and the theory of paradox, not to speak of the "Forderung [...] 'gefährlich zu leben,' die der ursprünglichen Gestalt des *Zaddik* im Chassidismus ihren horvorstehendsten Zug liefert," came to logical fruition in Sabbatianism. See pages [ges:119-121].

in dieser Auffassung tritt gerade da hervor, wo nicht von irdischen Gerechten, sondern von Gerechten als einem Aspekt der Gottheit die Rede ist, als einem Symbol eines Status in Gott. [ges:87]

The righteous is no longer the righteous judge; in the Kabbalah, God as judge also presents an entirely different aspect of divinity than that of God as the righteous. *Law and justice or God as the bearer of justice are two different sides of God.* The uniqueness of this concept is most evident when the Kabbalists discuss not the earthly righteous but the just as an aspect of divinity, as a symbol of a status in God.<sup>446</sup>

The *tzadik*, like his forefather Job, is the righteous servant of God. The measure of his just character is not qualified by his actions as a judge but by the abandonment of its execution. But unlike the course of prophetic justice pursuant to the early speculations, Scholem states that the judging character of God is given a different configuration in the Kabbalah. Be that as it may, the linguistic focus remains constant. The distance from *Recht* [law] to *Gerechtigkeit* [justice] which forms the cornerstone of both of Benjamin's main texts presented in this section, is taken up again categorically: "*Din und Mischpat sind von Zaddik und Zedek geschieden, "din and mishpat [law and judgment] are different from tzadik and tzedek [righteous and righteousness],"* remarks Scholem tersely in a footnote to the above citation.<sup>447</sup> The emphasis here lies in the idea of justice as a facet of the divine and not the culmination of moral activity. Judgment and law form one side of this embankment, justice and the righteous the other. The distance rather than the "nearness" of the Psalms expresses their rapport.<sup>448</sup> But despite the proximity of *tzadik* to *tzedek*, there still remains an abyss which the righteous may not pass.

The categorical distinction between the righteous and the pious is transformed again in the Kabbalah, says Scholem. In reference to the 13th century Kabbalist Joseph Gikatilla and his book *Sha'are Tzedek* (the Gates of Justice), Scholem writes: "Der Gerechte, das ist der Hauptaspekt seiner Betrachtungen, ist der Herr des Lebendigen, wenn er als mystisches Symbol verstanden wird."<sup>449</sup> "The main focus of the perspective of the just is the master of the living, if he is to be understood as a mystical symbol." Quoting from *Sha'are Tzedek*, Scholem draws

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<sup>446</sup> [mys:92]. The italicized section was edited out of the Hebrew edition.

<sup>447</sup> Scholem's relationship to these categories continue to remain somewhat ambiguous in the later years. While the first two German versions bear this sentence, the Hebrew version attributes the distinction to "Kabbalistic symbolism." What remains unsettled in the early political theology is here rediscovered in the Kabbalah. See [mys:284 n.13].

<sup>448</sup> Psalms 73:28

<sup>449</sup> [ges:97]. This conception of justice is connected to the notion of God as *elaycha elohim* as in Psalms 42:3: "My soul thirst for God, for the living God."

upon the aspect of redemption that we have seen Benjamin attempt to formulate as the *restituto in integrem*:

"Denn darum werden die Gerechten so genannt, weil sie alle inneren Dinge an ihren Ort im Inneren und alles Äußere an seinen Ort im Äußeren stellen, und nichts tritt aus den ihm gesetzten Grenzen, und darum heißen sie Gerechte." Hier haben wir die erste wichtige neue Bestimmung des Sinnes der Idealfigur des Gerechten, wie sie auch die Ethik der Kabbala beherrscht. Der Gerechte stellt alles in der Welt an die ihm zukommende Stelle. Die Einfachheit dieser Definition sollte uns nicht über die geradezu messianische Implikation und die utopische Sprengkraft täuschen, die ihr innewohnt. Denn eine Welt, in der alles an seinem richtigen Orte steht, wäre im Sinne des Judentums eine erlöste Welt. Die Dialektik des Gerechten mündet in die des Messianischen ein. [ges:99-100]

"Know that for this reason the righteous are called righteous (*tzadikim*): because they set all the inner things in their place within, and all outer things in their place without, and nothing leaves the boundary set for it. And that is why they are known as the righteous." [Scholem:] We find here the first major definition of the new understanding of the ideal figure of the *tzadik*, as it was later formulated in Cabalistic ethical literature: the righteous is the one who sets everything in the world in its proper place. But the simplicity of this definition should not deceive us as to the messianic significance and utopian explosiveness which resides within it, for a world in which everything is in its proper place would be, considered from the point of view of Judaism, a redeemed world. The dialectic of the righteous merges with the dialectic of the messianic. [mys:105]

The focus of a messianic *restituto in integrem* is a type of distributive justice which is able to return every disturbed thing and being to its rightful place. The distinction between material goods and the ethical good is no longer significant here as both are objects which have lost their original purpose. This presents a paradigmatic example of ethical behavior of the worldly righteous, first and foremost, in this world.<sup>450</sup> Nevertheless, the messianic implications of such activity are made explicit in a "dialectic" which begins with the restoration of the worldly and discovers within it a rushing, messianic current leading beyond itself.<sup>451</sup> In referring to a dialectic, this lengthy citation is followed thereafter by one of Scholem's most cherished phrases: "die Ruhe des Organischen in seiner Bewegung." "The repose of the organic within its movement." The sentence from Hegel's *Phänomenologie des Geistes* [Phenomenology of Spirit] actually reads "Das Nervensystem hingegen ist die unmittelbare Ruhe des Organischen in seiner Bewegung" and was first to come

<sup>450</sup> Scholem also presents Bachya ben Ascher who claimed that the completely righteous embody within themselves all the goodness of the world in their "nearness" to God. At the same time, he expects of the righteous a perfect self-control in face of the ways of evil. [ges:111]

<sup>451</sup> Should Gikatilla have much to do with this or with the dialectic as Scholem claims is a serious question which deserves attention in its own right. It lies however beyond the framework of this study.

to Scholem's attention in discussion with Benjamin on a Saturday in the summer of 1916.<sup>452</sup>

The concept of justice as completion appears again in this essay following a rather lengthy reference to Franz Joseph Molitor. [mys:110] Scholem places emphasis here on the messianic aspect of justice, in which the "gerecht" [just] are endowed with the task of the "Gewährleistung des Existenten,"<sup>453</sup> "preservation of the living," leading into a discussion of term *shalom*:

Das Wesen des Gerechten besteht im Sinne dieser Symbolik des Lebendigen und Leben erhaltenden also in der Herstellung der Harmonie oder des Friedens, Begriffen, die in dem hebräischen Wort *Schalom* ja ineinanderfließen. Bedeutet doch *Schalom*, genau verstanden, stets einen Zustand der Vollständigkeit oder Integrität, in dem sich etwas befindet, und erst von da aus Friede. [ges:105]

The essence of the righteous, according to the symbolism of the living and sustaining life, consists in the establishment of harmony and peace - conceived in the Hebrew word *shalom* where the two merge. Strictly speaking, *shalom* represents a state of completeness or integrity, and it is only in these terms that it also refers to peace. [mys:110]

In the Hebrew script, both *shalom* and *scholem* are visually undifferentiated, the former being the Hebrew pronunciation and the latter Yiddish. This reinterpretation here of a linguistic analysis of the term harkens back to earlier considerations on the idea of perfection and its redemptive dimension. In one of his early journal entries, Scholem is apt to read into his own name a messianic calling: "Ich will auch die Name nicht ändern, die mir als natürliche Folgen meiner Beschäftigung über die Lippen kamen, ungerufen und doch willkommen, [...] Verkünder der Erlösung." "Wer von uns jungen Juden hat wohl nicht den gleichen Königstraum gehabt und sich als Jesus gesehen und Messias der Bedrückten. [...] Ich habe den Erlösertraum so recht gedacht als möglich [...] " [tag I:115-6] "I will not alter the name which came across my lips as the natural consequence of my activities, uninvited and yet welcome, . . . harbinger of redemption." "Who among us young Jews<sup>454</sup> has not had the same dream and seen himself as Jesus and the Messiah of the oppressed . . . I've considered this dream so real as to be possible." Scholem concludes these speculations on his own innate, redemptive qualities with a return to the name:

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<sup>452</sup> G. W. F. Hegel, *Phaenomenologie des Geistes*, Berlin:1832, 245. See [tag I:389].

<sup>453</sup> This is again Benjamin. See Scholem [tag I:401-2].

<sup>454</sup> The terms "jung Juden" could also be seen in relation to the young, anarchist-Zionist group that Scholem participated in, "Jung Juda."

Der Weg der Einfältigen ist der Weg der Erlösung. Und der Träumer - den sein Name schon als den Erwarteten kennzeichnete: Scholem, der Vollkommene - rüstete sich für sein Werk und begann gewaltig zu schmieden an den Waffen des Wissens [tag I:120-1]

The way of the naive is the way to redemption. And the dreamer - whose name has him marked as the awaited: Scholem, the perfect - equipped himself for his work and began to act furiously to forge his weapons of knowledge.

It is perhaps slightly ironic that in the first analysis, the term *shalom* is interpreted as the peaceful, messianic reconciliation of all that is misplaced and in the second, the call to arms of a young man who ponders his own Messiahship.<sup>455</sup> There is a definite interweaving of the concept of justice as a peaceful event, as a messianic battle and as the redemption of society. All three faces of justice are public. They are conducted on an open, historical plane in relationship to humanity. Scholem's own early tendencies in this regard, as I tried to convey in the chapter on his early theological politics, cannot be categorized as wild flights of fancy. Despite the abandonment of his own messianic calling, he remains, in fact, true to the contours of such a calling in his theoretical analysis: the terms and conditions of a true, divine conception of justice secures in time a messianic moment for humanity.

The radical nature of this calling is always at the forefront of Scholem's consciousness. In the tradition of the Baalshem, says Scholem, the "Kinder der künftigen Welt" "children of the world to come" [mys:129] are among the children in the open markets of this world. Asked their role in this world, the children reply: "wir sind Possenreißer. Ist jemand traurig, so suchen wir ihn aufzuheitern, und sehen wir Leute streiten, so suchen wir Frieden zwischen ihnen zu stiften." [285] "We are jesters. If someone is feeling sad, we try to cheer him up, and if we see people fighting, we try to make peace between them." [mys:129] These "Spaßmacher," [clowns] as Scholem calls them, are the true righteous in the eyes of the Baalshem: "Sie sitzen nicht zu Haus und denken an ihr eigenes Heil. Sie arbeiten auf dem Marktplatz, wie er selbst zu tun liebte. Ihre Kraft zur Gottesgemeinschaft, wie er es sieht, bewährt sich in der Aufgabe, die Materie zu durchdringen und sie zum Geistigen zu erheben." [ges:123] "They do not sit at home thinking about their own salvation, but work in the dirty bustling marketplace,

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<sup>455</sup> Four months after these initial thoughts, and perhaps a slight bout with suicidal ideation, he realizes that he has indeed not been chosen for this task. See section one, chapter twelve, on Scholem's theological politics and [tag I:158] for the discussion of suicide. Elsewhere, in an unpublished fragment, he writes: "Die zionistische Verzweiflung führt *niemals* zum Selbstmord, der ihren Ordnungen entgegengesetzt ist." "Die zionistische Verzweiflung" 19 June 1920, Scholem arc. 4o 1599/277.47, last line. Unless an addressee for this text can be found, its tone of ironclad conviction appears to be addressed to himself alone.

as he himself loved to do. The strength of their communion with God is proved in their ability to permeate coarse matter and raise it to the level of spirituality." [mys:129] In contrast to Scholem's own messianic desires, these clowns appear not only to reflect the perfect form of the righteous in the eyes of the Baalshem but in Scholem's own anarchist conception of justice as well.<sup>456</sup> The private, intensive communion with God is transformed into a religiosity of the "Mitmenschen," the collectivists, drawn from a profound concern with the redemption of the profane world. The purity of this first "nearness" is naturally compromised by the distance to the profane world. In the proximity of this world to the next, lies a paradox which the *hasid* inherited from the anarchism of the Sabbatians:

Der Gerechte betritt die soziale Sphäre ursprünglich, um sie zu vergeistigen, um das aktive Leben auf seine kontemplativen Wurzeln zurückzuführen. Während er dies tut, wird er selbst verwandelt. Der wahre Freund Gottes wird zum wahren Freund der Menschen, und unmerklich verschiebt sich der Akzent. [ges:124]

The righteous enters the social sphere originally in order to spiritualize it and to restore active life to its contemplative roots; in doing so, however, the righteous is himself transformed. The true friend of God becomes the true friend of humanity, as the accent shifts imperceptibly. [mys:129]

The transformation of the redemptive task to the ethical task of the revolutionary "Mitmensch," [collectivist] who seeks worldly redemption in the aspirations of the divine, injects a degree of ambiguity into the paradoxical Messianism of this transformation. To be sure, the *tzadik* here is a public figure, a political activist working towards the "justification" of the public sphere. Publicity is his messianic dominion and his "Einsamkeit" (an "isolation" we also encountered in Benjamin's "Fragment") is the mark of his radical "Mitmenschlichkeit," his collectivity [ges:125/mys:131] The righteous are no longer measured by the divine but rallied by the just character of the wandering preachers. In this way, justice undergoes a "dialectical" transformation which extends beyond textual justice into a trans-historical realm determined by the public sphere:

die chassidischen Autoren [haben] sehr wohl verstanden, daß die Beziehung des Gerechten zu seinen Mitmenschen eine eigene Dialektik hat. [...] Indem er seine Mitmenschen zu erheben sucht, wird er selbst erhoben, und je mehr er seine Funktion als das Zentrum der Gemeinde erfüllt, desto mehr wächst seine einige Statur. [ges:133-134]

The Hasidic authors well understood that the relationship of the just to his fellow human beings has its own dialectic. . . . By attempting to lift up his

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<sup>456</sup> This description of just in the eyes of the Baalshem is perhaps the best explanation that I have encountered as to why the Marx brothers should probably be counted among the hidden righteous.

fellow human beings, he himself is raised; the more he fulfills his function as the center of the community, the more his own stature grows. [mys:139]

The charisma of the righteous figure, the *hasidic tzadik*, becomes the determinate of his own redemptive powers. He is engaged in a process of rising and falling from a realm of blessedness to that of quotidian commonality and material suffering. The paradox of his transgressive nature is embodied in his connection to society. But despite a clear relationship to a heretical Sabbatian legacy, the paradox of this *hasidic tzadik* is able to acquire for itself a "konstruktiven Sinn." [constructive meaning]. "Denn es handelt sich nun nicht mehr um Verrat, Abfall und dämonische Verstrickung ins Böse hinein, sondern um die Erfüllung einer für den Bestand der Gesellschaft selber wesentlichen Aufgabe." [ges:132] "It is no longer a matter of treachery, apostasy, or demonic preoccupation with evil; instead, it involves the performance of a task essential to the survival of society." [mys:138]

A righteous figure who is capable of intervening in the profane with his or her "nearness" to the divine, able to rectify both material displacement as well as the origin of sin, who can unleash the power of language as well as bridge the chasm between intention and action - this figure embodies the meaning of Benjamin's and Scholem's early political theology as they conceived of it together in the first decade of the twentieth century and which was to spread and permeate the corpus of Scholem's work, the study of Judaism, as well as have a lasting effect on philosophy and cultural history at the end of the twentieth century. In a word, this is the idea of the Messiah.