



Editorial

Dan Diner

Diaspora is a Greek word for a Jewish condition. It is Greek, because in late Hellenic classical antiquity, Jews who were largely living dispersed had adopted that language and embraced the associated culture. Sprung from the constellation of dispersion at that time, the Jewish condition of Diaspora thickened into a kind of paradigm. It has come to signify similar circumstances in analogous life worlds, the existence of population groups living scattered beyond their previous original locations. Today, in an age of mounting social acceleration, of mobility and migration, the concept of Diaspora has become a commonplace of discourse. Now it serves essentially to help describe or qualify a demographic or sociological fact. The associated discursive inflation leads to a situation where its configurations distinctive to and anchored in Jewish historical experience increasingly recede into the background and are lost. The original former religious, if not to say political-theological latent aspects inscribed in those configurations undergo neutralization.

The very description of the existential condition of the Jews living scattered in dispersal as 'Diaspora' itself has a neutralizing effect. By contrast, the equivalent Hebrew terms present a whole spectrum of signification – ranging from a topographical-geographical descriptor of their situation (*tfutza*, *psura*) to terms loaded with a sacral semantics and imbued with eschatological meaning. The terms *galut* or *golah* are of central interest in this connection. On the whole, their signification is identical with the meaning of *exile*. And exile has itself here several significations: proceeding from the assumption of an exile of the Jews by force from their native land, there is an associated claim to eventual return. This is represented in prototypical form in the Babylonian Exile of the Jews, associated with the loss of their 'sovereignty,' and symbolized by the First Destruction of the Temple. Memorialization of this type of exile is principally effected in and through liturgy. That is also true to a certain degree for the Second Destruction of the Temple, and the subsequent emergence of a narrative of repeated dispersion.

Not until the age of nationalism and the conception of history associated with it, oriented to territorial statehood, did such a view undergo secularization, where a seemingly causal nexus was conceived between the loss of the land by forcible expulsion and its later repossession. Nonetheless, even in the modern, secularly framed meaning of a nationally conceived immigration or arrival in the land, we find the continued presence of sacral elements. Thus, the immigration of Jews to the land regarded as 'promised' or to the State of Israel is termed in Hebrew *aliyah*, 'ascent' in both a factual and metaphysical sense, an ascent up to Jerusalem. Thus the term of 'ascending' is infused in turn with a liturgical significance of a pilgrimage in Jewish tradition.

The term exile insists on designating a condition that presses for its termination. It is after all inscribed with a dimension of the temporary. And here far more central is probably the aspect of a temporary temporality, a space in time, not a temporary location. Exile in this sense is conceived as a condition whose final termination is projected onto a tran-

scendental plane as it were. The lexeme exile bears within itself the meaning of its opposite: the advent of Messianic time. Exile and Messianic fulfillment thus form a binary constellation, containing in its folds the tension of futurity.

The present volume seeks, from diverse perspectives and sites of interrogation, to relate the Jewish conception of Diaspora to differing readings of political-theological understanding of the world. Of less interest is the demographic-topographic signification of the term, of greater interest its infusions with sacrality. This anthology of studies attempts to explore their validity and impact in a kaleidoscopic fashion. The essays gathered together here are best viewed as fragments of a larger project for the future, aimed at generating interactive dialogue within a comparative frame between fundamental concepts in political theory of differing, principally monotheistic worlds of faith. Ultimately, the question of the universal validity of the worlds of political conceptuality that constitute our order is probably among the most pressing fundamental questions in a rapidly globalizing world.

The question about the origins of political semantics, their meaning and scope are what is increasingly emerging as a fundamental problem for the future. It touches not only on problems of law, the state and various institutions, themselves with diverse foundational rationales, but also and primarily on the conception of a good and proper ordering of human affairs as challenged by an array of intercultural correlation. Here and for this purpose, it is specifically the question of the Jewish Diaspora, or more precisely: Jewish exile, its concepts, forms of thought and law that are investigated. That is due in large part to that often overlooked significance of Judaism in its *diasporic configuration*, sited between Christianity and Islam. Judaism, like Islam a religion of the Law, takes on the significance of an intermediary role by dint of its diasporic condition; by contrast, the secularizing concepts of what is political, and the forms of law springing from them, emerging from both Christianity and Islam in differing density, are evidently more powerfully infused with a praxis of the exercise of power likewise in the more modern era, and more particularly precisely there.

It is *exilic* to live the Jewish diasporic experience spatially *external* to its political-theological canon, while at the same time being regulated by the 'civil' spheres of its largely sacred law. Such an exilic experience still lies in the offing for other sacrally impregnated cultures.

The first contribution in this volume deals with a critique of Carl Schmitt's understanding of the figure and meaning of biblical Leviathan. By juxtaposing it with the image of Ahasver, the Wandering Jew, *Galit Hasan-Rokem* (Jerusalem) shows to what extent Schmitt was informed in his theological-political iconography by an anti-Jewish reading. While Leviathan embodies rational political order – Ahasver, although a concealed figure in Schmitt's writing, represents its very disruption. Through a textual and contextual reading of Martin Buber's "Königtum Gottes" (1932), *Paul Mendes-Flohr* (Chicago/Jerusalem) discerns it as a critique addressed to his friends who participated in the Bavarian Revolution of 1918/19, as well as political-theological trends of his time, including Jewish Messianism and currents within Zionism. *Sylvie Anne Goldberg* (Paris) elaborates on the notions and concepts of Jewish diasporic existence, considering the purely theological and particularly Jewish meaning of the concept. She gives special attention to the legal configuration of the Aramaic term *dina de-malkhuta dina*, a mode of privileging the law of the land to a certain extent in Jewish legal thought. In her contribution, *Régine Azria* (Paris) universalizes the Jewish condition of Diaspora by exposing its nature as a dynamic concept. She shows how the diasporic conditions among Jews differ according to the diasporic topographies, their lexicon and their geographical semantics.

Yotam Hotam (Jerusalem) scrutinizes into the Zionist discourse of the first half of the 20th century by juxtaposing the works of Jakob Klatzkin and Hans Jonas. He illuminates how Gnosticism was for both a common denominator, however a reason for intellectual separation as well. *Martin Yaffe* (Denton) considers the recent attempt of Eugene Sheppard's "historicist" interpretation to understand the meaning of "exile" in Leo Strauss's Jewish thought less in terms of the philosopher's biographical experience of exile, and more in the deeper layers of a politico-theological understanding of the Jewish diasporic venture.

The introduction to this volume of *Behemoth* cannot be concluded without expressing my deep gratitude to Ottfried Fraisse of the *Simon-Dubnow-Institute* (Leipzig). Without his skills, his precise editing and dedicated commitment to the project, this collection would not have been possible. Last but not least deserves William Templer our compliments for his devoted editing of the english-language.

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Carl Schmitt and Ahasver. The Idea of the State and the Wandering Jew

Galit Hasan-Rokem

Abstract

In this article the cultural effects and the specific reverberations in Carl Schmitt's work of two literary figures emerging in vastly different cultural contexts in the 16th century, Leviathan and the Wandering Jew, are analyzed using a pair of discursive concepts – political theology and Midrash.

Whereas Leviathan is an explicitly discussed figure in Carl Schmitt's work, Ahasver the Wandering Jew is a concealed figure in his writing – but, however, one that conceivably was in the range of cultural associations that he and especially the recipients of his work were exposed to. My aim is to show that whereas Schmitt was informed by the kind of stereotypical thinking embodied in the legendary and very popular figure of Ahasver, the figure itself was suppressed and replaced by a seemingly rational political discourse addressing Leviathan.

Keywords: Leviathan; Ahasver; Wandering Jew; Hobbes; Schmitt; Midrash; political theology

Midrash and Politico-theological Discourse

The title of this article has two parts. In the first line two figures, Leviathan and Ahasver, are characterized using a pair of discursive concepts – political theology and Midrash. Both figures of the first line originate in the Hebrew Bible: Leviathan is apparently a mythical beast, with some relationship to Behemoth (Kinnier Wilson 1975), and Ahasverus is the Persian king of the Book of Esther. In the second part of the title, the suggested relationship of two other well-known figures is described in terms of an ideological conflict. Some readers may instantly discern the connecting link between the two lines of the title: Ahasver or Ahasverus is also the most popular name for the legendary figure of the Wandering Jew in Central European, especially German traditions (Anderson 1965; Daube 1955). I hope to illuminate the initially perhaps somewhat enigmatic relations between the different figures – which I by no means intend to present as analogical – in the following discussion.

Whereas Leviathan is an explicitly discussed figure in Carl Schmitt's work, especially (but not only) in his *The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol* (Schmitt 1996; orig. 1938), Ahasver the Wandering Jew is a concealed figure in Schmitt's writing, however one that conceivably was in the range of

cultural associations that he was exposed to.¹ My aim is to show that whereas Schmitt was informed by the kind of stereotypical thinking embodied in the legendary and vastly popular figure of Ahasver, the figure itself was suppressed and replaced by a seemingly rational political discourse addressing Leviathan, and the sentiment that it roused, channeled into multiple expressions of outright anti-Semitism as well as more or less subtle anti-Semitic hints and slurs.

Schmitt's *Leviathan*, a less explicitly theoretical and less well-known work than e.g. his *Political Theology: Four Chapters on the Concept of Sovereignty* (Schmitt 2005; orig. 1922) or *The Concept of the Political* (Schmitt 2007; orig. 1927), parallels the major conceptualizations of his work in an attempt to introduce a specific historical perspective to his claims. Whereas Schmitt sympathizes in general with the Hobbesian understanding of human nature and its relationship to questions of sovereignty and state, he strongly criticizes the use Hobbes has made of the symbol of Leviathan. But whereas Hobbes was demonstrably well-versed in the various religious and literary traditions regarding Leviathan and thus interpreted the figure with greater versatility, Schmitt's lesser erudition – and especially lesser understanding – in these traditions, as well as his suspicion – indeed aversion – against everything Jewish lead to a misreading of Hobbes and a too narrow interpretation of the Leviathan figure, consequently dismissed largely on the basis of the – in itself correct – identification of the cultural meanings of Leviathan with Jewish sources.

The theoretical and methodological standpoint from which this discussion opens is somewhat different than of philosophy, political science, legal history, modern history or even *Geistesgeschichte*, all highly relevant approaches to Schmitt's work including his *Leviathan* (certainly not to be confused with its namesake written by Hobbes). Much of the immensely rich discussion on Schmitt's conception and misconception of Hobbes delineates his genealogy mainly in the terms of the books he read and the philosophers and theologians that he studied. My intention is to show that some of the peculiarities of his approach may be additionally understood if we take into account the cultural influences and associations on both elite and popular level that he may very well have acquired in the particular milieus to which he belonged. It is thus the method of cultural semiotics as a mapping of cultural associations that I will apply.²

Moreover, I am proposing to discuss 20th (and 17th) century discourse in terms of the textual mode of Midrash inherited from antiquity, seen here not as some have suggested, as a figurative description of post-modern literary theory and interpretation (Hartman and Budick 1986, xi–xiii), but as a historically manifest tradition in European culture partly shared by Jews and Christians. A fuller historical description of the common European midrashic creativity would demand a separate article, if not more (e.g.: Levenson 1998; Shoulson 2001). This commonality of textual mode and production also emphatically

1 The correlation was first suggested to me by Dan Diner whose deep inspiration is embedded in the following discussion. David Nirenberg, Freddie Rokem and Na'ama Rokem have critically and lovingly read the text and generously contributed from their wisdom and creativity. The mistakes and misconceptions that remain are entirely mine. I thank Ottfried Fraisse for extremely well-informed and patient editing. Very special thanks to Regina Bendix.

2 Towards the end of this paper I shall engage in a short exchange of ideas with Étienne Balibar's introduction to the French translation of Schmitt's *Leviathan* (Balibar 2002b), which in addition to its philosophical approach also employs cultural semiotics.

marks the common discursive roots of these two religious traditions' philosophical and cultural orientations from the earliest periods of their entanglement and co-emergence (e.g.: Yuval 2006; Boyarin 2004; Hasan-Rokem 2003). Midrash has been poetically described as an "urge to connect one's world with the world of Scripture, to find some way of dwelling, as it were, in biblical reality" (Kugel 1986, 78). More straightforwardly, it can be characterized as a genre of scriptural interpretation straddling a wide range of exegetical, rhetorical, figurative and narrative methods and techniques, producing compilations structured according to varying editorial principles related to many of the books of the Hebrew Bible (most famously the Pentateuch and the "Five Scrolls" – Song of Songs, Ruth, Lamentations, Ecclesiastes and Esther) or passages of the same genre in works mainly devoted to other genres such as legal and ritual discourses, notably the Talmudic compilations. Midrash is historically traced to Rabbinic literature of Late Antiquity (ca. 1st – 7th centuries CE), however more than latently present already in the Hebrew Bible that serves as the dominant frame of reference for the Rabbis (Fishbane 1986) it also continues as an oral and written creative mode to the present.

While historically not all Midrash has been politico-theological discourse, and not all politico-theological discourse has been Midrash, a considerable part of Midrash is characteristically politico-theological – and thus vice versa, some politico-theological discourses are Midrash. Furthermore: by correlating Midrash and one of the overriding terms of Carl Schmitt's political philosophy – or possibly philosophical politics – I want to underline the sheer impossibility, by now widely recognized, of his exclusionist urge in some instances to almost clinically separate Jewish cultural practices from the mainstream of European cultural creativity, especially with regard to matters of state, sovereignty and politics, with which they were apparently not supposed to meddle, and where Schmitt, some of his likes and some worse than him, could decide and rule. Reading Schmitt himself – as well as Hobbes whose *Leviathan* he discusses in the essay devoted to that topic (Schmitt 1996) – as midrashic exegetes of biblical texts and pointing out the kinship of their writings with one of the dominant textual modes of classical Judaism, especially in its Rabbinical formation, i.e. Midrash, I shall elaborate on a central theme of my own work, namely the Jewish and Christian co-production of culture in elite as well as popular spheres. Needless perhaps to say, I have likewise considered Midrash that emerged as a central literary genre in late antiquity, albeit a characteristically Jewish genre, also a site of multifarious cultural interactions between Jews, Christians, philosophers, polytheists and possibly others (Hasan-Rokem 2000; 2003).

Let us now consider the second of the discursive terms. The first chapter of Schmitt's *Political Theology: Four Chapters on the Concept of Sovereignty* (Schmitt 2005; orig. 1922) opens with the almost ominous, now so famous statement: "Sovereign is he who decides on the exception" (Schmitt 2005, 5). Since I believe it is partly a midrashic construct, political theology clearly associates with interwoven Jewish and Christian discursive modes. Baruch Spinoza, who with all the complexity of his identity and fate reinforces the commonality of some major European intellectual enterprises, plays a specific role in this case. The term political theology itself, nowadays associated emphatically with Schmitt's legacy, ironically resonates loudly with "the Jew" (Schmitt's sobriquet) Spinoza's *Tractatus Theologico-Politicus* (Spinoza 1862; 1951). This is a fact that

Schmitt never discloses in his essay with its almost identical title.³ Although elsewhere included in the list of the luminaries of the 17th century (Schmitt 2007, 83), here Spinoza is robbed of his apparent copyright.⁴

However, the term political theology itself is explicitly parsed in another sentence in the relevant book by Schmitt, the opening of chapter 3 that also has by now achieved the status of a well-known maxim: “All significant concepts of the modern theory of the state are secularized theological concepts ...” Notably the ensuing bifurcation of this sentence separates historical development from the systematic character of the said theological concepts: “... not only because of their historical development – in which they were transferred from theology to the theory of state, whereby, for example, the omnipotent God became the omnipotent lawgiver – but also because of their systematic structure, the recognition of which is necessary for a sociological consideration of these concepts” (Schmitt 2005, 36). Creating an almost a priori hiatus between the religious history of sacred language and the present, Schmitt proposes that the systematic character of theology may be extracted of its meaning and transposed as a structural principle to a different domain altogether. It is this presumed birth of modern politics from the dead spirit of religion that produces the following interesting analogy: “The exception in jurisprudence is analogous to the miracle in theology.” The sovereign of the first sentence has thus been elevated to a maker of miracles, according to Schmitt, possibly a god of sorts. Congruently, Schmitt has elsewhere also repeated the Frazerian perception whereby religious concepts of magic are transformed in modernity into scientifically based technology (Schmitt 2007, 85). This does not, however, substantiate the presumed hiatus any more than the above opening sentence of chapter 3 does.

Turning by comparison to Benjamin’s variation on the theme of exceptional states in his ‘theses’ “On the Concept of History,” claiming that the states of emergency are not to be considered exceptions but rather the regular course of events (Benjamin 2003, 390), one can discern a vibrating tension between his almost desperate sense of continuity – albeit a continuity of recurring breaks – and Schmitt’s forcefully pronounced discontinuity by which modernity seems to take a shortcut behind the back of the Enlightenment to earlier times.⁵ Whereas Benjamin’s historical poetics may thus allow for an exegetical discourse, particularly in the midrashic mode, as a discursive parallel to the consecutive

3 Cf. “Needless to say, Schmitt’s indirect criticism of the Nazis – if it is that – was perfectly compatible with anti-Semitism, which is registered in this text by Schmitt’s displacing the historical responsibility for the destruction of the Hobbesian state onto the Jewish people. As part of this argument, it is not Hobbes but “the Jew” Spinoza who makes the state into a technological instrument” (Kahn 2003, 77).

4 I wish to thank Guy Stroumsa, Martin Buber Professor of Religious Studies at the Hebrew University of Jerusalem, for sharing the search of earlier uses of the term. Despite consultations with a number of well-informed persons, we have not found any yet and will be grateful for further advice.

5 I am aware of the slight variance between my suggestion and Horst Bredekamp’s article that addresses Jacob Taubes’ various somewhat inconsistent claims about the weight of Schmitt’s influence on Benjamin: “In this idea, [Benjamin] saw the disparity between continuity and uniqueness expanded to include a concept of time that sought to distinguish between normality and exception” (Bredekamp, Hause and Bond 1999, 252). Cf. also Giorgio Agamben’s discussion of the “debate between Walter Benjamin and Carl Schmitt on the state of exception” (Agamben 2005, 52-64). However, the present claim seems in agreement of Groh’s understanding of the contrasting views of Schmitt and Hans Blumenberg (Groh 1998, 158), a fascinating topic that cannot be treated here, as well as with Pardes on the persistence of religion in post-Enlightenment culture (Pardes 2008, 6).

states of emergency, one senses why Hobbes' Leviathan becomes a failed revelation in the eyes of Schmitt.

Hobbes' Midrash of Leviathan and Schmitt's (Mis-)Use of It

The first stage of my discussion will address the connections of political theology and Midrash in Carl Schmitt's thinking with (or rather against) Leviathan as a symbol for the body politic at large in the wake of Thomas Hobbes' work, while also investigating some of the exegetical range of Leviathan in Jewish traditions that relate to the same biblical sources that had inspired Hobbes' use of this particular figure of thought in his Leviathan (Hobbes 1994).

The figure of Leviathan seems to have occupied the imaginations of creative Jews far more than their Christian contemporaries and neighbors (Drewer 1981, 151). Schmitt seems to have a relatively wide range of references to Jewish elaborations on the Leviathan theme although he seldom mentions exact sources.⁶ However, even if one assumes that he had access to some of the sources, although he does not account for them clearly, what characterizes his approach towards the Jewish sources is a total misunderstanding of their genres and discursive modes. Whereas the epistemology of midrashic creativity, if you wish "the midrashic mind," excels in fragmentation, indeed seems to celebrate multivocality, even inconsistency – Schmitt extracts from his information (which he appears to know largely from secondary sources) a seemingly consistent narrative that he projects on the Jews, thus in his view a "Jewish narrative" (cf. Groh 1998, 27; 57; 89). The smallest semantic unit of the Talmudic discourse, namely the discord between two interlocutors, is not acknowledged by him anywhere. Analyzing the narrative that he thus conjures in this book, one must conclude that it is a story constructed to fit the narrative he bears in mind about the Jews, a narrative, which as I shall later try to show has much to do with the popular figure of the Wandering Jew. Schmitt imagines and constructs a Jewish counter-narrative to the Christian narrative for which the Jews are now responsible and even have to bear the responsibility, and indeed the punishment.

The appearance that the figure of Leviathan makes in the first chapter of the second part of Hobbes's mighty book with the same name, published in 1651, the essay "Of Commonwealth" – following the first part "Of Man" – that is chapter xvii of the entire book (Hobbes 1994, 109) is no less than astounding (Stillman 1995, 793 records some contemporaries' shocked reactions). It is not the biblical reference per se that creates this effect, since already earlier in the book, the author resorted to ample citations from the biblical canon, the Hebrew as well as the Christian, and it is a well-known fact that the Hebrew Bible is the foundational text on which Hobbes weaves his political and indeed theological argument, thus not replacing the theological with the political – as Schmitt would have it – but indeed building a continuity and interdependence between the two realms. A quote of a longer passage from the text itself may convey some of the power of the image from Job and the way it is introduced in the book:

6 Moreover, when he does – he seems unsystematic, as where the editor-translator in Schmitt 1996, 12, note 2 points out the absence of a reference to Behemoth that Schmitt quoted on the page indicated.

“[13] The only way to erect such a common power as may be able to defend them from the invasion of foreigners and the injuries of one another, and thereby to secure them in such sort as that by their own industry, and by the fruits of the earth, they may nourish themselves and live contentedly, is to confer all their power and strength upon one man, or upon one assembly of men. That may reduce all their wills, by plurality of voices, unto one will, which is as much as to say, to appoint one man or assembly of men to bear their person, and every one to own and acknowledge himself to be author of whatsoever he that so beareth their person shall act, or cause to be acted, in those things which concern the common peace and safety, and therein to submit their wills, every one to his will, and their judgments, to his judgment. This is more than consent, or concord: it is real unity of them all, in one and the same person, made by covenant of every man with every man, in such manner as if every man should say to every man I authorize and give up my right of governing myself to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorize all his actions in like manner. This done, the multitude so united in one person is called a COMMONWEALTH in Latin CIVITAS. This is the generation of that great LEVIATHAN, or rather (to speak more reverently) of that Mortal God to which we owe, under the Immortal God, our peace and defence. For by this authority, given him by every particular man in the commonwealth, he hath the use of so much power and strength conferred on him that by terror thereof he is enabled to conform the wills of them all to peace at home and mutual aid against their enemies abroad. And in him consisteth the essence of the commonwealth, which (to define it) is one person, of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all, as he shall think expedient, for their peace and common defence.

[14] And he that carrieth this person is called SOVEREIGN, and said to have Sovereign Power, and every one besides, his SUBJECT.” (Hobbes 1994, 109)

The ceremonial almost ritual tone of the event of “the generation of that great Leviathan” associates strongly with biblical scenes of covenant, mentioned by Hobbes, such as God’s with Abraham (Gen. 15, see also Hobbes 1994, xxvi:41, 197; xxv:3, 272–273). Due to the emphasis in the “generation of Leviathan” scene on the collective dimension of the covenant as well as its legal implications, it reverberates even stronger with the covenantal scene at the foot of Mount Sinai where the Israelites all as one receive the sacred laws and as a result are proclaimed a people (Ex. 19–31).

In *The Biography of Ancient Israel: National Narratives in the Bible*, Ilana Pardes has highlighted the *communitas* of the event in Victor Turner’s terms as a moment of the suspending of social hierarchies (Pardes 2000, 71–73). Even though Moses seems to grow to something very similar to “that Mortal God,” the monotheistic taboo prevails, while the “Immortal God” reveals himself briefly to the chosen man who represents the chosen people, but the power of revelation remains contained in its temporal and territorial limits and the sovereignty of God is reconfirmed.⁷ Indeed, whereas the Israelites’ covenant is based on vocal participation of each individual in the covenantal vow, Hobbes denies the ability of individuals to make a direct covenant with God (Hobbes 1994,

7 The famous absence of the figure of Moses from the ritual-epic text of the Haggadah read at the celebration of the Exodus on Passover (Pessah) confirms the same.

xiv:23, 85). And while Hobbes' ideal commonwealth is supposed to succumb, tremblingly, to the terror of Leviathan, the Israelites famously move on from the solemn covenantal scene to the, pace Pardes, playful carnival of the Golden Calf (Ex. 32). At least one of the implications of the Golden Calf transgression is to establish the status of the Israelites as a "hard necked people" (Ex. 32:9),⁸ who will not succumb totally to any authority, not even the divine. Foreshadowed by the wrestling of patriarch Jacob with God's angel (Gen. 32:25–30), the Golden Calf incident serves as another proper introduction to the saga of wrestling with God throughout the narrative sequence constructed in the canonical Hebrew Bible and beyond. However, Hobbes' explicit interest in the Sinai revelation focuses on the one hand exactly on the disciplinary perspective "If you will obey my voice indeed, and keep my covenant, then ye shall be a peculiar people to me" (Hobbes, 1994, xxv:5, 272–273, quoting Ex. 19:5–6; see also: xxv1:41, 188 quoting Ex. 19:12–13; 168, xxv:10; xlii:37 quoting Ex. 20:19), or, on the other hand, on the administrative perspective of extending authority to officers (Hobbes 1994, xl:7, 319 quoting Ex. 24:1–2), whereas the chorus-like poetical effect of the people's speech at Sinai is reflected in the quoted passage by implication. With all the variations, the solid exegetical basis of Hobbes' political philosophy is also well attuned with other midrashic enterprises of his contemporary compatriots, notably Milton's *Paradise Lost* (1667).⁹

But one cannot deny that it is with some perplexity that the reader is confronted with Leviathan in the above-mentioned grandiose scene. His contemporaries too were perplexed and so according to some it had attained its provocative purpose (Stillman 1995, 794; 802). Why Leviathan? And what is the ensuing effect of the choice of that mythical figure for the symbolical figure of the sovereign? Whereas Hobbes in other cases brings ample biblical proof for his suggestions and claims, the explanation of the choice of Leviathan is postponed many chapters after the covenantal scene itself in the final passage of chapter 28 "On Punishments and Rewards:"

"Hitherto I have set forth the nature of man, whose pride and other passions have compelled him to submit himself to government, together with the great power of his governor, whom I compared to Leviathan, taking that comparison out of the two last verses of the one and fortieth of Job, where God, having set forth the great power of Leviathan, calleth him King of the Proud. "There is nothing," saith he, "on earth to be compared with him. He is made so as not to be afraid. He seeth every high thing below him, and is king of all the children of pride." [Job 41:33–34] But because he is mortal and subject to decay, as all other earthly creatures are, and because there is that in heaven (though not on earth) that he should stand in fear of, and whose laws he ought to obey, I shall in the next following chapters speak of his diseases and the causes of his mortality, and of what laws of nature he is bound to obey." (Hobbes 1994, xxviii:27, 210)¹⁰

8 Also: Exodus 33:2; 33:5, 34:9; Deuteronomy 9:6; 9:13.

9 For a midrashic perspective on Milton, see Shoulson 2001.

10 In an oral presentation on Hobbes at the Zentrum für Literaturforschung in Berlin in July 2007, Carlo Ginzburg most illuminatingly emphasized the role of awe in Hobbes' moral philosophy in general and in the *Leviathan* in particular. Having heard the lecture, I quote the following information from an informal recording of Ginzburg's lecture: "Incidentally, in a chapter dealing with contemporary Jews and their messianic expectations, [Samuel] Purchas spoke at length of the two huge animals mentioned in the Book

The passage provides the motivation of the choice of the biblical symbol following the verse “king of all the children of pride,” which in the biblical context is not necessarily a compliment. Hobbes also communicates quite clearly that the project of overcoming the laws of nature by establishing the commonwealth will never entirely succeed, since the personified sovereign is himself subject to the laws of nature, and as the next chapter of the book shows, also to human weaknesses both physical and spiritual. One may suppose that the somewhat vague comparison is due to what one editor of the *Leviathan* has suggested in another instance that “here, as in many other places, Hobbes shows himself to be a man who knows his Bible well, but who cites from memory, and whose memory is selective” (Hobbes 1994, xxiv:7, note 3). However, placing Hobbes in a midrashic paradigm allows for a more generous suggestion, since Midrash always makes selections in the traditional repertoire of exegeses regarding any specific Bible passage and permits a high level of creativity outside the already established range of meanings. The midrashic act is tested by the success of the selection and the new combination to create new meanings in new contexts. Hobbes’ *Leviathan* has certainly made it in that sense. In addition to his sheer anti-Semitic sentiment, it is thus also his blindness to Hobbes’ intimacy with the midrashic paradigm that leads to Schmitt’s misunderstanding of the function of the image of the *Leviathan* in his forerunner’s oeuvre.

My doubt regarding some of Schmitt’s interpretations, based on my critique of his lack of sensitivity to traditional Jewish genres and modes of expression – particularly Midrash – is supported by criticism from a poetic and rhetorical perspective, e.g. by Victoria Kahn in her fine essay revealing what she calls Schmitt’s “blindness to the aesthetic dimension of ... early modern texts and early modern politics” and his “insensitivity to literary form [that] skews his reading of the foundational texts of the early modern period ... above all, Thomas Hobbes’s *Leviathan* and Shakespeare’s *Hamlet*” (Kahn 2003, 69). Kahn proposes that: “[u]ltimately, Hobbes failed to establish an adequate model of state power, according to Schmitt, because he chose the wrong myth. Hobbes [according to Schmitt] failed to realize that the image of the *Leviathan* was ambiguous: in the Bible, *Leviathan* is a powerful sea monster, but also one hated by the Jews” (Kahn 2003, 77). I argue that Schmitt’s misreading of Hobbes is rooted exactly in that blindness that Kahn herself revealed which accounts for his inability to perceive the degree of ambiguity that the biblical text and later Jewish Bible exegesis accommodates. More precisely: Schmitt’s inability to perceive Hobbes’ integration of a midrashic epistemology and aesthetic, accounts for his misconstruction of the complexity of Hobbes’ *Leviathan*.¹¹ Moreover, Schmitt seems to have totally missed the way in which Hobbes’ textual creativity aims at the assumed gap between metaphor and scientific discourse that was being probed and ingeniously bridged by various thinkers in the seventeenth century, who thus integrated rather than obliterated the monstrous aspects of metaphor (Stillman 1995, 792–793),

of Job, *Leviathan* and Behemoth.” I wish to thank Dr. Amnon Raz-Krakotzkin for lending me his notes and for salient discussions of some of the themes of this article.

- 11 Some Christian traditions have integrated similar epistemologies and textual strategies. Cf. Preus’ reference to Henry Lukin (1628–1719), clergyman and ejected minister “who reinforced the Puritan obsession with trivia by comparing it with Jewish exegesis: ‘The Jews have a saying,’ he reports, ‘that there is not a tittle in the Law, but mountains hang on it.’ The Jews too recognize that ‘small particles are of very great moment, and much depends on a right understanding of them’” (150). Preus adds in note 31: “Exactly so does Harold Fisch ... characterize Midrash, as it proceeds the “opposite” way from Christian typology” (Preus 1991, 454).

similar to the integration and reinterpretation of the figurative and mythical aspects of biblical discourse by the midrashic mode rather than abjuring them in the name of monotheism.

Thus the perceived notion that “[o]ne of the great paradoxes of the 17th century intellectual tradition, and part of the strangeness of Hobbes's title, is that a book setting out so mathematically to destroy metaphorical language should present itself as an extended trope, a Leviathan” (Stillman 1995, 795) should also be understood as based on the lack of awareness of the rhetorical and epistemological modes of Midrash in which any given two trains of thought do not necessarily produce a paradox, but rather polysemy and multiple layers of interpretation. The seeming contradiction between Hobbes' theory and practice is thus obliterated, without necessarily resorting to Victor Turner's anthropological concept of liminality – which, although it definitely is ingeniously applied by Stillman (Stillman 1995, 797), still seems much less in tune with Hobbes' world than Midrash.¹² It is exactly in its capacity of not eradicating the metaphysical and mythical aspects of the biblical text that the midrashic mode of interpretation differs radically from allegory, in which the primary meaning of the text is transcended – rather than retained and amplified as in Midrash – as the final step of the allegorical process (Boyarin 1990, 108–110; Stern 1991, 11–12). Stillman's own beautiful definition of what he in tacit agreement with Schmitt sees as Hobbes' “failure” – ultimately for both a discursive rather than an epistemological or ethical failure – verges on a possible definition of one of the aspects of Midrash: “The textual proliferation of metaphor is comprehensible only in terms of the inevitable contradictions of such a project. The desire to erase desire, the urgent quest to discover laws for what has already been defined as the lawless, itself generates metaphors as traces of the desire that cannot be effaced” (Stillman 1995, 810).

In order to clarify this further, we need to proceed along two separate axes: looking at some of the biblical references to Leviathan that were not explicitly included by Hobbes, and reviewing some of the Jewish commentaries and interpretations of various biblical Leviathan passages. Let us first examine the Bible passages regarding Leviathan that Hobbes has not included in his explicit interpretation of the symbol, but which are present in the mind of the versed reader, some of them apparently known to Schmitt. Mentioned a few times only in the Hebrew Bible, the most detailed passage on Leviathan is the one explicitly referred to by Hobbes where the description of the enormous sea monster is staged as God's own speech chastising Job (Job 40:25–41:26).¹³ In a concise synopsis of the diatribe, Leviathan is great, but God is greater; Leviathan is creature, but God is Creator. Thus, in characteristically hyperbolic terms Leviathan's enormity points in all biblical references to the monster to state the much more impressive enormity of God, measuring His size by the size of the mythological opponents that He controls. Without my taking sides in the questions whether Hobbes was a believer or a heretic, royalist or subversive, the figure of Leviathan contains the message of the subjugation of any earthly ruler under God. In that sense, it is hard to consider his work as the origin for the above-mentioned

12 Notably Stillman admits that “[t]he monsters of metaphor are not easily banished, and as a consequence, Leviathan is a far less comfortable text than my partial account suggests, especially in those moments when its claims to mathematical certainty appear challenged by epistemologically loaded contradictions” (Stillman 1995, 805), and in my terms the midrashic mode mines metaphors for meaning rather than ironing them out into rational statements.

13 See also: Isaiah 27:1; Psalms 74:14; 104:26; Job 3:8.

political theological claim of Schmitt rooted in the idea of substituting religious language with political discourse, as Hobbes' text emphatically maintains the double character of the language of sovereignty as political and religious.

The narrative of the primordial monster or dragon has been reconstructed as an Ancient Near Eastern mythical epic of theomachia, war of the gods, the remnants of which in the Hebrew Bible presumably refer to an ideological move from polytheistic to monotheistic view in the text itself.¹⁴ From the beginning, the relationship between God and Leviathan has thus modeled the representation of the clash of authorities, the clash of cultures – polytheism vs. monotheism – and the clash of creative imaginations about the sacred. We shall try to briefly investigate how much of these ancient associations have indeed remained related to the figure of Leviathan in the later stages of its appearance in the cultural discourses of Europe, in particular in the trajectory leading from Hobbes to Schmitt. Moreover, arguing the inseparability of Jewish culture from the general European, we shall suggest that the Jewish treatments of the topic can widen our understanding of these discourses.

The earliest rabbinic literature (ca. 1st – mid-3rd centuries CE) is relatively reticent about Leviathan, characteristically providing a ritual rule about its purity as food (Tosefta Hullin 3, 27; Sifra Shemini, 3), a consideration that later enabled the widespread vision of Leviathan's (or his mate's) meat as the delicacy served to the righteous in Paradise or in the world to come in general (e.g. Leviticus Rabbah, Palestine ca. 5th century CE, 13, 3, 277-278; Babylonian Talmud ca. 6th century, Bava Bathra 75a). Likewise, Leviathan's skin will also serve as a tent for the righteous in their afterlife (BT, Bava Bathra 75a; Midrash Tanhuma, Vayiqra 8). All the above of course in addition to the biblical role of serving as God's plaything, repeated numerous times by the Rabbis.

Midrash literature abides by the concept of the unity of the canon of the Hebrew Bible, synchronically read by the Late Antique Rabbis of Palestine and Babylonia – who created the Talmud and Midrash literature – rather than in a linear fashion. Verses appearing later in the text were frequently applied for enlightening and widening the meaning of earlier verses. One of the few verses in the Hebrew Bible on the Leviathan outside the Job passage mentioned above is Isaiah 27:1 “In that day, the LORD will punish with his sword, his fierce, great and powerful sword, Leviathan the gliding serpent, Leviathan the coiling serpent; he will slay the monster of the sea.” The parallelism such as “Leviathan the gliding serpent, Leviathan the coiling serpent” is famously one of the stylistic characteristics of the poetry of the Hebrew Bible, but in Rabbinic literature parallelisms were often interpreted as adding “surplus meaning,”¹⁵ diversifying the meaning of the canonical text and projecting into it the Rabbis' own mythologies and beliefs (Hasan-Rokem 2000, 45–46). In this case, the parallelism was interpreted early on to refer not to one Leviathan but to two, indeed a couple, like the following passage from the Targum Jonathan,¹⁶ read-

14 There is no general agreement about this primordial epic. A major proponent of the thesis was M.D. (Umberto) Cassuto in his writings about the ancient Canaanite epics with reference to the Hebrew Bible (Cassuto 1972–1979). For two opposed views of prominent contemporary Bible scholars, see: Talmon 1993; Zakovitch 1997.

15 Paul Ricoeur's term that describes well the midrashic explication of texts (Hasan-Rokem 2000, 31).

16 An Aramaic translation of the historical and the prophetic books of the Hebrew Bible, extant among the Rabbis of Babylonia but historically considered of Palestinian origin.

ing the parallelism of the Isaiah verse as a key to the creation of Leviathan by extrapolating the verse through Genesis 1:21:

“‘So God created the [two]¹⁷ big monsters of the sea’,¹⁸ Leviathan and its partner that are assigned for the day of solace ‘and every living and moving thing with which the [clear]¹⁹ water teems, according to their kinds’, pure kinds and impure kinds, ‘and every winged bird according to its kind’, pure kinds and impure kinds. ‘And God saw that it was good.’”

An important mythological theme underlying much of Jewish thinking about Leviathan is conveyed here and connects the image of Leviathan ultimately to power. The doubling of the monster not only accumulates more meat for the ‘days of solace’, but also preempts Leviathan’s claim of uniqueness and oneness, asserting them as the privilege of the monotheistic Creator.²⁰ Another interpretation of the Isaiah verse that seems also highly inductive for the Hobbesian symbol of sovereignty, in a way imparted also in Schmitt’s Leviathan repertoire, is the following medieval Hebrew rendering of Gen. 1:21 by Rashi:²¹ “The tanninim: big fish in the sea, and a legend narrates about the Leviathan and its mate (here both masculine, but:) that were created (by God) male and female, and (He) killed the female and salted it for the righteous in the future (the next world), since if they will be fertile and multiply, the world will not survive because of them.”²²

Although Rashi’s version focuses on the culinary preparation of Leviathan, its thrust lies in the ancient motive for God’s wish to separate the Leviathan couple as an act of His power, namely the enormous destructive potential that the two of them would hold for the entire world (e.g. Babylonian Talmud, Bava Bathra 74b). I have chosen to highlight Rashi’s version, since it was continuing as well as reshaping the tradition in Europe, where it may have entered into various interactions with other, non-Jewish discourses. Rashi quotes another earlier source for a rendering of Isaiah 27:1 that may illuminate our discussion: “Leviathan the gliding serpent – a king who was bragging like the first king Pharaoh, or a king who was haughty like the second king Sanherib.” In this text, Leviathan is

17 The italicized text represents Genesis 1:21 in its “pure” version, the word “two” is an addition to the quote provided by the Targum as are all the other non-italicized words in the cited passage.

18 The Aramaic word is *tanninaya*, possibly referring to crocodiles or dragons cf. Psalms 74:14. The English translation of the New International Version has the strictly non-mythological “great creatures of the sea,” which is not necessarily supported by any parallel, biblical or other. The King James Version opts for a mythological alternative: “In that day the LORD with his sore and great and strong sword shall punish leviathan the piercing serpent, even leviathan that crooked serpent; and he shall slay the dragon that is in the sea.”

19 The word “clear” is an addition of the Targum, not mentioned in Genesis.

20 On the one hand, Leviathan(s) is singled out as a uniquely named and created creature, unlike the others who are listed in the Creation narrative in much broader, generic terms. On the other hand, its character inherently encompasses the end of Creation as well as the end of days, and thus associates with human death, that in narrative terms will be ‘created’ three chapters later in Genesis chapter four.

21 Rabbi Shlomo Itzhaqi (1040–1105) of Troyes, France, the most influential Jewish Bible exegete and Talmud commentator of all times.

22 This source, based on a number of earlier Rabbinic sources (Babylonian Talmud, Bava Bathra 74b, explicitly mentioning the castration of the male Leviathan to preempt multiplication; *ibid.* 75b has detailed descriptions of the repast of the righteous) widens the apocalyptic perspective of the Leviathan myth already mentioned in the Aramaic translation.

directly linked with the figure of a concrete sovereign.²³ Another exegete's comparison of Leviathan to earthly monarchs seems to possibly hint at the narrative potential materialized in the plot suggested by Schmitt, where he characterizes the Jewish view of Leviathan as a gloating on the destruction of the kingdoms of the gentiles: "Leviathan, a parable on the strong kings of the idolaters (Christians)."²⁴ A daring and somewhat surprising suggestion arises in the following kabbalistic commentary that seems to attribute divine power to Leviathan: "Leviathan who is called the partner of the Shekhina."²⁵

The diversity of Jewish Leviathan materials is further enhanced by a few other themes, some of which are ostensibly known to Schmitt, all of which indeed address power and violence and the struggle for it. Most important of those is the fight between Behemoth and Leviathan (e.g.: Leviticus Rabbah, 13, 3; Midrash Tanhuma Shemini, 7; *ibid.* Nitsavim, 4; Aggadat Bereshit, 76). What for the Rabbis, initially probably served as a means of slaughtering the two enormous monsters for the apocalyptic meal (a popular scene in 13-14th century Western European Jewish manuscripts, Drewer 1981, 153)²⁶ becomes for Schmitt a Jewish reveling on a mutual destruction of two mighty powers.

"Behemoth and Leviathan are the hunting game (Aramaic: *kenigin*; Greek: *κυνήγιον*)²⁷ of the righteous in the future, and whoever did not watch the hunting games of the nations of the world (*ummot ha-'olam* = heathens, or even more often Christians) is entitled to see them in the world to come. How are they slaughtered? Behemoth attacks Leviathan with its horns and Leviathan attacks Behemoth with its fins and tears it apart. And the righteous say: this is an approved (*ksherah*) slaughter." (Leviticus Rabbah, Palestine ca. 5th century CE, 13, 3, 277–278)²⁸

The Rabbinic author typically and cleverly plays with the double meaning of the Greek term *kynegeion* referring both to the, for the Jews, tabooed circus games of the Romans and to the formidable feast of afterlife. The concrete culinary meaning is consequently reinforced within the context of the particular chapter whose overriding theme is

23 Rashi repeats the interpretation of Leviathan as Pharaoh also in his rendering of Psalms 74:14, correlating that to the destruction of the serpent in the Isaiah verse.

24 Rabbi David Kimhi (Provence 1160–1235) in his commentary to Isaiah 27:1, *Miqra'ot Gedolot* 1959, 43a–b.

25 Rabbi Menahem Recanati's (Italy 1250–1310) exegesis for the verse on the creation of light (Gen. 1:3), Shekhina being the female side of the divine in the myth of Kabbalah, with few early prefigurations in late antique Rabbinic literature (Scholem 1952; Patai 1964; Hasan-Rokem 2000, 128) Recanati positions Leviathan in this exegesis as the male side of the divine – the source of absolute sovereignty.

26 Drewer also suggests that the apocalyptic banquet scene was transmitted from Jewish textual tradition to Christian already in 5th–6th centuries (Drewer 1981, 155), roughly paralleling the date of the editing of Leviticus Rabbah and the earliest strata of the Babylonian Talmud.

27 This is a late form according to Liddell and Scott's Greek-English Lexicon. Notably the term also referred to animal fights in the amphitheater.

28 Cf. Schirmann 1970; N.B. Rabbi Shmuel son of Meir's (French exegete of Ramerupt, near Troyes, ca.1085–1174; grandson of Rashi on his mother's side) comment on the Babylonian Talmud version of the apocalyptic feast: "Could you assume that Moses was a *kenigi* or *balistri*? (warrior or fighter)" projecting the non-belligerent self-image at least partly dominating medieval Jewish thought as well as the image of Jews among Christian contemporaries.

ritual kosher slaughtering,²⁹ granted that the politics of ritual slaughtering are about imposing God's laws specifically given to Israel. With all my trust in Hobbes' erudition, it is notable that whereas the Rabbinic Leviathan is consumed by humans – albeit only the righteous ones and in a future state of being – according to the famous frontispiece of his book, Hobbes' Leviathan consists of an entity that has “devoured” all humans under its sovereignty.³⁰

Schmitt's reading of the Leviathan texts that may indirectly be inspired by the above-mentioned Rabbis' texts (or the secondary renderings of them) is ignorant of the dominant ethnographic everyday life aspect that often surprises novice readers of midrashic texts who expect a consistently “religious” text probably more familiar from Christian theological texts. Another misreading is Schmitt's ascribing of the devilish traits amply known from Christian medieval sources on Leviathan (cf. also Milton's Satan as Leviathan),³¹ to the Jewish understanding of the figure (Schmitt 1996, 7–10). The contrast with Jewish tradition becomes even stronger with reference to some of the narrative texts – obviously unknown to Schmitt – in which Leviathan, king of the fish, serves as a wise judge with a mock Salomonic mien and bearing, and sometimes as the embodiment of the folktale motif of the knowledge of animal languages (e.g. Steinschneider 27b–28b; Bin Gorion 1990, nr.3, 5–7 and Steinschneider 4b–6a; Bin-Gorion 1990, nr. 242, 451–453; Noy 1971). The numerous manuscripts and printings of those entertaining texts demonstrate the fact that they were no less influential on Jewish imagination and mentality, if we necessarily have to pinpoint such an entity, than the texts that Schmitt indirectly refers to.

Another mystical tradition engendered in the medieval period in Europe is the cosmology portrayed in the following fragment from a longer portion in which Leviathan is actually paralleled to a saint with direct connection to divine power:

“... and the whole world stands on one pillar and its name is tsaddiq (the saint, or the righteous) as it is said (Proverbs 10:25): ‘but the righteous is an everlasting foundation’ which is that pillar, and the whole world is standing on one fin of Leviathan and Leviathan lives in the Lower Waters as a small fish in the water and the Lower Waters on the Primordial Waters like a spring on the shore of the ocean ...” (Batei Midrashot I, Seder Rabbah de-Bereshit, 17)

29 “The Holy One Blessed Be He will prepare a great meal (Heb.-Aram. *ariston*, Gr. *ἀριστον*) to his righteous servants in the future and everyone who did not eat carcasses and impurities in this world will be entitled to eat in the future world.” (ibid. 279)

30 Cf. Carlo Ginzburg's treatment of the illustration mentioned above in note 10.

31 This is even further reinforced by Stillman's notion that “there does appear to have been, as John Steadman argues, “a minor exegetical tradition” that links the Leviathan with prince and king, just as my own research has uncovered connections between the Leviathan and political absolutism in Puritan sermons, in: “Leviathan and Renaissance Etymology,” *Journal of the History of Ideas* 28 (1964): 576. For the Leviathan as an icon of political absolutism, see Cornelius Burges and Stephen Marshall, *Two Sermons Preached to the Honorable House of Commons Assembled in Parliament, Nov. 17, 1640* (London: By T.B. and I.O. for S. Man, P. Stephens, and C. Meredith, 1641), 42–45. But neither tradition is sufficiently strong to have prevented the vast majority of Hobbes's readers from associating the Leviathan's “dreadful Name” with the evil and the monstrous” (Stillman, 795, note 19).

A peculiar example of a confrontational scene with Leviathan is Jonah's display of 'Abraham's covenant,' i.e. his circumcised male member to ward off Leviathan from swallowing the big fish that had swallowed the prophet – in a scene that clearly distinguishes between the two huge water creatures (Pirkei de-Rabbi Eliezer chapter 9). The mystical corpus known under the name Zohar (Book of Splendor) also includes some hints to apocalyptic clashes, mainly in repetition of what was already quoted above from late antique Rabbinic literature (e.g.: Zohar, Midrash ha-ne'elam [the Book of Concealment] I, Genesis).³²

From the relatively detailed account above, it thus seems that Schmitt's interpretation of the Satanic intentions embedded in the Jewish Leviathan traditions is an exaggeration based largely on preconceived ideas and misreadings of secondary sources. One need not delve here into Schmitt's anti-Semitic views and his pragmatic as well as discursive politics, that have been amply attested already (e.g. Gross 2007), nor the odd suggestion that his book on Leviathan could actually be interpreted as a critique of the Nazi regime (McCormick 1998, 841). The last passage here will instead briefly investigate the figure of Ahasver as yet another source of information that must be taken into account as a possible influence on Schmitt's politico-theological imagination and the discursive ramifications of that influence. The total absence of the figure from Schmitt's references is, as we have already learned from his selective citing practices, not really a proof for its absence from the relevant spheres of information. In order to substantiate the possibility of the presence of the Wandering Jew image in Schmitt's associative repertoire as well as in the knowledge of his prospective readers, I shall henceforth briefly summarize the immense distribution and influence of the figure in European and especially German culture. The emphatic presence of the Wandering Jew tradition exactly from the seventeenth century onwards posits it as a popular counterpart and opposite to the contemporary emergent imaginary Leviathan.

The Pervasive Presence of Ahasverus in German Culture

One of the major creative modes of Jewish post-biblical texts is the rewritten Bible, known from Hellenistic Jewry onwards (e.g. Feldman 1998; Segal 2007). Christian authors applied the genre, adding to the rewritings of the Hebrew Bible also rewritings of the New Testament that was early on accompanied by apocryphal versions of the Gospel narratives. Oral traditions abounded with similar retellings. One of the latest to join as a folk literary version of the canonized accounts of the crucifixion is the tale known as the legend of the Wandering Jew, Ahasver (Anderson 1965; Hasan-Rokem and Dundes 1986).

The rewritten Bible has also been one of the major sources for Midrash and as such an ongoing inspiration for both Jewish and Christian authors in their midrashic creativity. Following my earlier argument here and some of my earlier work on the Wandering Jew, I shall argue that the presence of the figure in the European imagination reinforces the view by which Jewish creativity must be seen as a vital part of European culture (Hasan-

32 However the relative unimportance of the motive in medieval Jewish mysticism is proven by the absence of the term "Leviathan" from the indices of some central works in the field (Scholem 1961; Scholem 1965; Idel 1988; Idel 2002).

Rokem 1986; 1999; 2001). Consequently Schmitt's involvement in a politico-theological discourse – as I shall claim – very possibly inspired also by this figure, demonstrates Schmitt's own deep entanglement in European Jewish creativity. But more important for the present discussion is the demonstrable ubiquity of the figure of Ahasver the wandering cobbler from Jerusalem in Central and North European popular culture especially after the Reformation of Luther.

Whereas the legend of the Wandering Jew was not initially a German invention and seminal motifs have been recorded earlier from Southern Europe, especially from Italy, it was in Germany that it gained its fullest and most detailed form and was most frequently distributed from the beginning of the seventeenth century onwards, that first century of modern Europe for which Carl Schmitt also developed a special interest. For not only the 1938 book on Leviathan relating to a major seventeenth century thinker, Hobbes, but also his post WW-II essay on Shakespeare (Schmitt 1985; orig. 1956) addresses the years of the emergence of the Ahasver tradition in the German Volksbuch, chapbook, revealing the seventeenth century as a formative stage in shaping Europe's languages of modernity. As far as we now know, the first edition of what I have called in general terms "the Legend of the Wandering Jew" was first printed in northern Germany, probably not very far from Luther's Wittenberg, in 1602.³³

The narrative opens with an event that was supposedly told to the author by the bishop of Schleswig Paulus von Eitzen, a well-known historical figure from among Luther's associates in Wittenberg. Von Eitzen told how in the winter of 1542 he met a strange figure in a church in Hamburg, a man whose mournful visage drew his attention during the sermon. The man said that his name was Ahasverus, and he had been born in Jerusalem, where he lived as a shoemaker when Jesus was driven on the Via Dolorosa to the Golgotha to be crucified. Bearing the cross He leaned on the wall of the shoemaker's house, and as Ahasverus cruelly forbade him to rest there, Jesus said to him: "I shall find rest, but you shall wander until I come again." Since then he had been wandering and could not stay in one place. The story was told to explain the heavy sighing uttered by the stranger every time the name of Christ was mentioned by the preacher. His knowledge of languages was amazing and his almsgiving generous.

It is not difficult to understand how the characterization of Ahasverus' visit in the North German church could well serve Reformation tendencies, being a live first-hand eye witness of the life of Jesus, and more importantly, of his crucifixion, a direct messenger of the very experience of revelation independent of the mediation of generations of clerics. Moreover, his behavior was heavily marked with signs of messianic fulfillment typical of popular Christianity of the period, especially the one of the conversion of the Jews that was supposed to herald the Second Coming of Christ. It seems that managing the Jews by uprooting them, as happens in the narrative of the Wandering Jew, and by making their exemplar convert, was a sign for converting them all as one possible solution, and not the worst thinkable. It was this potential of conversion and the consequent emergence of the Jewgreek (to quote Joyce's Ulysses) that seemed to have unsettled Schmitt's mind the most, as did the unbounded transgression of political borders characteristic of Ahasverus and to a certain degree practiced by the real Jews of Europe.

33 What follows is a necessarily abbreviated version of several discussions about the Wandering Jew by various scholars (Anderson 1965; Hasan-Rokem 1986; 1999; 2001; Hasan-Rokem and Dundes 1986).

During its first century, the seventeenth, the Wandering Jew became an amazingly popular chapbook, in German, second in its popularity only to the bestselling *Faustbuch* (Neubaur 1912). The appearances of the Wandering Jew as a highly context-sensitive cultural product are linked to major historical, mainly military, events of each period, and to crossing borders and frontiers. The rumors about his approach would travel along with rumors regarding disasters and great changes. The distribution of the theme of the Wandering Jew was however limited neither to Germany nor to the chapbook genre and it spread fast to the Netherlands, France, England and Scandinavia. The figure also wandered in the cultural genre poly-system in painting, songs, drama, poetry and finally also novels. German and English Romanticism embraced him as an embodiment of ideals of the *Aufklärung* and secularization, especially of individualism – after all he wandered all alone – and somewhat surprisingly an embodiment of rebellion and critique of the religious establishment as well as other establishments.

The transformations of the Wandering Jew in the literary cultural milieu of modernity point to the extreme versatility that the theme had developed, one could claim in correlation with the capacity of the symbolical reference, namely the European Jews, to adapt to changing times in addition to their proverbial mobility in space. From the mid-nineteenth century onwards, a new phenomenon is discernible: Jewish writers too take up the figure of the Wandering Jew in their texts (Hasan-Rokem 1986), and from Schmitt's point of view a new stage of border crossing is initiated.

It is necessary here to recall that the historical research on the Wandering Jew theme (Anderson 1965) has shown that the figure was not an entirely new invention of the end of the sixteenth century. Quite the contrary: Ahasver was a sophisticated amalgam of earlier religious, literary and folklore motifs. Thus, even a cursory analysis of the components of the Ahasver figure will reveal the forceful ambivalence of its sources that later contributed to the internal contradictions in his characterization and made him a highly functional sign for the ambivalent relationship of Christian Europeans to Jews, and as mentioned above, of the European Jews with regard to themselves. One should thus not overlook the Jewish elements that served the compositional process of the Wandering Jew figure in European culture. The prophet Elijah, who underwent in post-biblical Jewish tradition a transformation from the zealous fighter against the heathen priests to an itinerant helper figure frequent in folk narratives as well as in written texts, has often been pointed out as a Jewish forerunner to Ahasver. The biblical verse that most probably served as the textual point of departure for the growth of the post-biblical itinerant Elijah figure is Malakhi 4:5–6: “See, I will send you the prophet Elijah before that great and dreadful day of the Lord comes. He will turn the hearts of the fathers to their children, and the hearts of the children to their fathers; or else I will come and strike the land with a curse.” Ahasver's figure was deeply infused with the selfsame mission of proclaiming the end of the days, in the Hebrew Bible reinforced by: “Remember the law of my servant Moses, the decrees and laws I gave him at Horeb for all Israel” (Malakhi 4:4), while the Christian tradition consistent with its own millenarian vision made him into the herald of Christ's second coming.

Not the least among the sources of information for the literary shaping of Ahasver was the actual process of Jews moving from one place to another, usually, but not only, as a result of frequent expulsions and harassments, also including collective murders. The history of the beggars and the peddlers of Europe accounts for the considerable number of Jews among them (Fontaine 1996). Their massive presence within the instable populations of Europe of the late Middle Ages well into the Early Modern period has among

other things resulted in the substantial Hebrew and Yiddish components in the language of these itinerants, “Landstreicher,” the Rotwelsch.

Modernity too embraced the figure of the Wandering Jew in various functions, partly making him the very emblem of modernity,³⁴ most masterfully embodied in James Joyce’s protagonist of his Ulysses, Leopold Bloom who encompasses Odysseus as well as Ahasverus.

Leviathan and Ahasverus

With this ubiquity of the Wandering Jew figure in German and Central European imagination as well as the amazing upsurge of German literary works of all genres – novels, dramas, epical and lyrical poems – bearing the name Ahasver towards the end of the nineteenth and the beginning of the twentieth century, one can hardly imagine the development of an anti-Semitic intellectual of Schmitt’s capacity who was totally oblivious of its existence.³⁵ The last section of this discussion will suggest that the mighty figure of Leviathan hides in his work the much less imposing Ahasver and that Leviathan presents a possible antidote to the Wandering Jew as a social and ideological problem.

Leviathan as designed by Hobbes stands for the communal responsibility and the overriding authority of the state. Ahasver as articulated in the legends signals the ability to cross borders of states and maintain an identity the source of which lies elsewhere than the state. He is the very embodiment of the “outrage” of an identity not predicated on an unambiguous territorial definition. In a system of thought such as Schmitt’s, whose ultimate proposal is to sort out enemies and friends as the great achievement of the state, the eternal border-crosser cannot be anything but anathema. Thus, the very audible anti-Semitic sentiment suffusing Schmitt’s text has to be complemented first with a clear vision of his theoretical rejection of the cultural position of Jews as the imaginary itinerant. Moreover, informed by the tradition of the Wandering Jew, Schmitt as many other modern Europeans was not able to integrate the unambiguous yearning of the emerging modern Jew to stop the wandering – be it by the fulfillment of communism (Kautsky 1914)³⁶ or as too many Zionists to quote have expressed it, by the “return home,” or by turning conventionally bourgeois. This explains why the worst enemies in Schmitt’s eyes were those Jews who thought to embark on the journey towards a more undifferentiated European identity by performing the ultimate act of annihilating their Ahasverus-ness, by converting to Christianity and by changing their Jewish names (cf. Funkenstein 1979, 26). With the legendary Ahasverus in mind, Schmitt like his other contemporaries knew very well that the fact that the Wandering Jew appeared in the church (in Hamburg ... or elsewhere), recited pious prayers and distributed generous alms did not relieve him of the curse of eternal wandering and did not buy him a place among the burghers of the city.

34 For an especially consistent analysis of the Jew as an emblem of modern mobility, see Slezkine 2004.

35 Considerations of space do not allow for the necessary documentation, thus only a reference to a concise anthology (Körte and Stockhammer 1995) and some casual names of authors (Diehl, Jens, von Kahlenberg = pseudonym of Helene Kessler) have to suffice.

36 “Ahasuerus, the Wandering Jew, will at last have found a haven of rest. He will continue to live in the memory of man as man’s greatest sufferer, as he who has been dealt with most severely by mankind, to whom he has given most.” (my emphasis G.H.R.)

Noticing that “[i]t should be a permanent concern, [...] to resist the polarization of the world into the mimetic figures of Leviathan (the world-monopoly of ‘legitimate’ violence) and Behemoth (the ubiquitous power of subversion based on ‘fundamentalist’ religious creeds)” Étienne Balibar has also drawn the attention to another symbolical figure “that can be called the figure of the vanishing mediator. This is the figure (admittedly presented in speculative terms) of a transitory institution (or force, community, or spiritual formation) that creates the conditions for a new society and a new civilizational pattern, albeit in the horizon and the vocabulary of the past, and by rearranging the elements inherited from the very institution that has to be overcome” (Balibar 2002a). Claiming that “without this ‘vanishing’ mediation no transition from the old to the new fabric of society would have been possible” Balibar delineates some of the familiar traits associated with the Wandering Jew, such as the knowledge of many languages and an extra-national identity: “The idea of the vanishing mediator is probably not so different from the idea of the translator, the intermediary, or the traveler that I have associated with the essential function of the intellectual” quoting Eco about the practice of translation as the only genuine “idiom of Europe.” It is thus not surprising that Balibar raises the tone of his voice to the utopian register, characterizing Europe as the interpreter of the world, translating languages and cultures in all directions” somehow identifying Europe with the “political function of intellectual,” making intellectuals, in the best of worlds, necessary and characterized as “borderlines themselves.” Balibar sets this utopian ideal as a clear contrast to the Huntingtonian clash of civilizations which he again reads as a legacy of Schmitt’s “friend-foe” dichotomy. Reminiscing the numerous instances in which the Jew and especially the Wandering Jew has been set as the exemplar of modernity (e.g.: Joyce in *Ulysses*; Slezkine 2004) reinforces the parallel with Balibar’s typological image of the intermediary.

Another possible configuration of the Leviathan-Ahasver correlation can be discerned in Victoria Kahn’s suggestion that Schmitt himself projected a counter-myth to Hobbes’ Leviathan – of which as we have seen he was critical – on Shakespeare’s Hamlet as embodying “a pre-Hobbesian world in which heroism and tragedy are still possible ... in the context of the historical shift from medieval theology to the secular nation-state” (Kahn 2003, 83–84). Kahn points out that Schmitt thus reactivated the debate about tragedy and sovereignty that emerged between Benjamin and himself. But she proceeds to reject the myth of Schmitt’s choice – Hamlet – as inadequate for his needs (thus echoing Schmitt’s own dismissal of Hobbes’ choice of the Leviathan myth), noting that “[i]n Hamlet, the title character is incapable of sovereignty; in Leviathan the sovereign is monstrously effective” (Kahn 2003, 86). At the same time, she somewhat ironically ponders on how Schmitt appropriated Hamlet’s tragedy to illuminate his own situation during the Nazi period as “tragic.” Kahn could have but did not correlate the above-mentioned incapability to reign with the affinity of Hamlet to another figure incapable of sovereignty, the Wandering Jew, both sharing the locale of Wittenberg, where the fictional Hamlet was educated and where the Reformation teleology embodied in the legendary Ahasverus’ was formed (Hasan-Rokem and Rokem forthcoming).

Moving from the imaginary Wandering Jew to a real one, it should be mentioned that Bredekamp, Hause and Bond have aptly reacted to Schmitt’s melancholic “Unfortunately, my attempt to respond to Benjamin by examining a great political symbol (the Leviathan...) went unnoticed” by suggesting that “[a]t first glance, it may seem questionable whether Schmitt really had Benjamin in mind when he wrote his critique of Hobbes. It is possible that he, looking back in 1973, was seeking some share in Benjamin’s fame. He may have welcomed this as a welcome opportunity to disguise the book’s open anti-

Semitism by describing it as a veiled answer to a Jewish emigrant, in this way appearing to take him seriously and even honor him” (Bredekamp, Hause and Bond 1999, 261). If we accept their reading a contradiction into the relationship between Schmitt’s critique of Jewish thinkers like Spinoza as contributing to the corrosion of the state, and on the other hand his own sympathy for pirates and interest in guerillas, and the dominance of the state of exception even above the principle of state sovereignty (Bredekamp, Hause and Bond 1999, 262), that would mean that there are signs of the collapse between a would-be Leviathan and a rejected Ahasver in Schmitt’s own discourse.

Reading both Leviathan – Hobbes’ own and consequently Schmitt’s quite distorted one – and Ahasver – both the immensely popular one and the one suppressed by Schmitt – as traces of politico-theological Midrash, I hope to have shown the futility of Schmitt’s efforts to erase Jewish culture and discursive practices from his attempts to historicize European political theory, or even from his own mindset. I shall thus conclude with a somewhat edited version of a known saying of Jews about themselves: “It is possible to force out the Jew from Europe (is it?), but it is impossible to force out Europe from the Jews.”³⁷

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37 The Jewish proverb is: “It is possible to force the Jew out of exile (galut), but it is impossible to force exile out of the Jew.”

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The Kingdom of God. Martin Buber's Critique of Messianic Politics

Paul Mendes-Flohr

Abstract

Through a textual and contextual analysis of Martin Buber's scholarly disquisition, *Königtum Gottes* (1932), the article focuses on his critique of political Messianism. This critique is addressed to his friends who participated in the Bavarian Revolution of 1918/19, the political theology of Friedrich Gogarten and Carl Schmitt, and given trends in Zionism. With regard to the latter, Buber's religious and social anarchism is particularly manifest as it is in his study of the biblical origins of Messianism, *Königtum Gottes*. The article concludes with a discussion of the affinities of Buber's critique of political Messianism with that of Max Weber who like Buber called for a political and ethical re-valorization of the everyday. This call is contrasted with Walter Benjamin's political Messianism, whose dialectic in effect endorses a similar ethos.

Keywords: apocalyptic Messianism; eschatology; Kingship of God; political Messianism; political theology

“As soon as JHWH and Israel encounter one another in history, the kingship of God as such emerges. It dares to embody historically a tendency toward the actualization [of the encounter] that can be no other than a political one.”
(Buber 1990, 118)

Between the Academy and Political Engagement

In the winter of 1932 Martin Buber published the first volume of what was to be a trilogy on the biblical origins of “Messianic faith.” The other two volumes never came to fruition.¹ Entitled *Kingship of God* (*Königtum Gottes*), this volume was the fruit of many years of prodigious research.² For one familiar with Buber's writings hitherto, the book's densely philological and exegetical arguments were surely disarming. Indeed, it was intended to demonstrate his scholarly credentials. Although he had been teaching at the

1 The general title of the trilogy was to be entitled: *Das Kommende. Untersuchungen zur Entstehungsgeschichte des messianischen Glaubens*. “The second volume entitled *Der Gesalbte* was half finished in 1938 and had already been set in type when the Schocken Press, Berlin [...] was officially dissolved [by the Nazis]. For many years external and internal causes hindered continuation of the work.” Buber's note to the English translation of *Kingship of God*, 13.

2 Buber 1932, Preface to First Edition, translated in: Buber 1991, 13f.

University of Frankfurt since the autumn of 1923, he lacked a scholarly profile, at least one that would be recognized as such by the accepted academic standards. At the university he was engaged only as an adjunct lecturer (*Lehrbeauftragter*) in *Jüdische Religionswissenschaft und Ethik*, for which he was awarded a modest stipend by the Jewish community.³ In 1930 the appointment was upgraded to an “honorary” professorship in comparative religion, which was still an adjunct position, bearing little academic prestige and but a symbolic salary.⁴ What was standing in his way to a full professorial position was not only high-total the lack of scholarly publications but also the so-called *Habilitationsschrift*, which would have qualified him for a *bona fide* university appointment.⁵ In April 1933 he was dismissed from the faculty of the University of Frankfurt – in Nazi parlance “vacationed” (*beurlaubt*) – under the civil service law banning non-Aryans from holding a position in state institutions.⁶

The expulsion from the ranks of the German professoriate thrust Buber back into the liminal space between the academy and the life of a public intellectual that by disposition he seemed to prefer.⁷ He immediately assumed a leading role in what was called “the spiritual resistance” to the Nazi program systematically to defame the Jews and to rescind their civil and human rights.⁸ Within the bounds of ever shrinking possibilities he established a network of educational institutions to provide his disinherited people a knowledge of Judaism and the spiritual legacy that many had lost through assimilation and their concerted efforts to become members of Germany’s educated middle class (*Bildungsbürgertum*). He himself would travel the length and breadth of Germany lecturing and conducting seminars. Under the watchful eye of the Gestapo he adopted in these lectures as well as in his written work an Aesopian style, with a strong political message often hidden between the lines, but nonetheless audible to the attentive ear.⁹ A political

3 See Franz Rosenzweig to Martin Buber, letter dated January 12, 1923, in: Buber 1991, 293f.

4 As a honorary professor Buber earned an annual salary of 2,400 Reich Marks, while the yearly salary of a full professor (Ordinarius) was over 20,000 Reich Marks, in addition to benefits. See Willy Schottroff 1985, vol. 1, 65, n. 5.

5 Buber’s decision to pursue Habilitation seems also to have been prompted by his overall strategy of securing a position at the Hebrew University of Jerusalem. The first chancellor of the university, founded in 1925, was eager to appoint Buber to the fledgling institution, but his recurrently reformulated recommendations failed to attain the approval of the pertinent academic committees. The major stumbling block seemed to be Buber’s lack of Habilitation and a clear scholarly profile. Was he a philosopher, a biblical scholar, a historian of Jewish mysticism and Hasidism? Or was he perhaps a scholar of comparative religion (Religionswissenschaft)? In a letter from September 1929 to Shmuel Hugo Bergmann, who was the first appointment in philosophy at the Hebrew University, Buber expressed his understanding of the situation and indicated that he had thus begun to devote himself to a scholarly project: “I have started my scholarly work late [at the time Buber was 51 years old]. [...] My ideas and my methods diverge considerably from those customary in the present-day study of religion. I can only let them be represented by my work itself [i.e., *Kingship of God*]. [...] I have no idea, however, whether it will be recognized by official [sic] scholarship despite its ideas and methods, and if so when.” Buber to S.H. Bergmann, September 11, 1927, Buber 1991, 354. Several years after having earned his doctorate (in 1904), he commenced research on a Habilitationsschrift in art history, but soon abandoned the project.

6 Buber’s lack of Habilitation was one of the factors that hindered his professorial appointment at the Hebrew University of Jerusalem. See Hans Kohn 1961, 418f.

7 Buber’s ambivalent attitude towards the protocols of academic scholarship are discussed extensively in Mendes-Flohr 2002, 1–24.

8 On Buber’s ramified activities on behalf of the “spiritual resistance” see Simon 1959, 2.

9 On the language of resistance, see *ibid.*, *passim*, and Urban 2009, 165–191.

and social activism refracted through learned lectures and essays was his calling. Hence, as he confided in a letter to one of his friends, who had been pushing for his appointment to the faculty of the Hebrew University, “*ich bin kein Universitätsmensch*,” explaining that he would join the faculty of the Jerusalem center of higher learning only reluctantly and would remain a “stranger,” a self-conscious outsider, to the institution, for he would continue to resist conforming to its academic expectations and demands (Buber to S.H. Bergmann, April 16, 1936, in: Buber 1973, 589). Indeed, he remained at the margins of the institution and actively engaged in the public and political life of the *yishuv* and later the State of Israel, advancing positions that were decidedly to the “left” of the community’s consensus.¹⁰

The Tragedy of Messianic Politics

Despite its formal scientific character – more than a quarter of its 260 pages are devoted to footnotes – *Kingship of God* was informed by an overarching ideological concern, namely, political theology. His initial interest in the nexus between politics and religious conviction seems to have been spurred by what he referred to as the tragedy of messianic politics, the exuberant desire to change the world in one fell, revolutionary swoop and to rush the gates of paradise here and now.

Telling is his letter to the poet Ludwig Strauss, written a day after the assassination of Kurt Eisner, the leader of the Bavarian revolution who in November 1918 who became the president of the short-lived independent socialist state of the Bavaria. Buber had just returned from Munich where he met with Eisner and his revolutionary associates, a high proportion of whom were Jews. His letter to Strauss, dated February 22, 1919, was penned just after he learned that Eisner had been assassinated on the previous day. He told Strauss, who several years later was to become his son-in-law, that he had just returned from Munich where he met with Eisner and his revolutionary comrades:

“The deepest human problems of the revolution were discussed with utmost candor: in the very heart of events I posed questions and offered replies and there were nocturnal hours of apocalyptic gravity, during which silence spoke eloquently in the midst of discussion, and the future became more distinct than the present. And yet for all but a few it was nothing but mere bustle, and face-to-face with them I sometimes felt like a Cassandra. As for Eisner, to be with him was to peer into the tormented passions of a divided Jewish soul; nemesis shone from his glittering surface; he was a marked man. [Gustav] Landauer, by dint of the greatest spiritual effort, kept up his faith in him, and protected him – a shield-bearer terribly moving in his selflessness. The whole thing is an unspeakable Jewish tragedy.” (Buber to L. Strauss, February 22, 1919, in: Buber 1991, 242)

Ten weeks after Buber posted this letter Landauer was brutally bludgeoned to death by counter-revolutionary troops. Buber was deeply shaken by the murder of his dearest friend. In a memorial address he portrayed Landauer as a martyred messianic prophet, as a latter-day Christ:

10 Buber’s political activities in the *yishuv* and the State of Israel are documented in Mendes-Flohr 2005.

“Gustav Landauer had lived as a prophet of the coming human community and fell as its blood-witness. He went upon the path on which Maximus Tyrius – whose words Landauer used as the motto of his book, *Die Revolution* [1906] declares: ‘Here is the way of the Passion, which you call disaster (*Untergang*), and which you [falsely] judge according to those who have passed upon it; I, however, deem it salvation, since I judge it according to the result of what is still to come.’ In a Church at Brescia I saw a mural whose entire surface was covered with crucified individuals. The field of crosses stretched until the horizon, hanging from each, men of varied physiques and faces. Then it struck me that this was the true image of Jesus Christ. On one of the crosses I see Gustav Landauer hanging.” (Buber 1919, 291)

For Buber Landauer’s death was “apocalyptic horror” that marked the tragedy of “messianic politics,” of a noble but ultimately misguided desire to hasten the advent of a world redeemed of injustice and human suffering.

Though he had celebrated Messianism as “the most deeply original idea of Judaism” (Buber 1911, 91), Buber was now profoundly perplexed by tragic implications of efforts to expedite redemption through revolutionary action. In conversation, epistolary exchange, essays and lectures he sought to clarify the spiritual and ethical dialectics of messianic expectation. He even tried his hand at writing a novel to explore the issues raised by messianic politics. Projected on the image of the apocalyptic struggle between Gog and Magog described in the biblical Book of Ezekiel (38–39), the novel sought to explore alternative ways of working for redemption. In a letter to Franz Rosenzweig, dated 1923, he apologized for not making a promised visit, explaining that he was preoccupied with the initial drafts of the novel:

“‘Gog’ is crowding in on me, but not so much in an ‘artistic’ sense. Rather I am becoming aware, with a cruel clarity that is altogether different from any product of the imagination, of how much ‘evil’ is essential to the coming of the Kingdom. In thinking about this I had a flash of insight about Napoleon, something I had previously not understood. On the Island of Elba, he once said that his name would remain on earth as long as *le nom de l’Eternal*. That is how he translated the Word that the three heard in the fiery furnace of the Hebrew year 5574 [1814] and which caused his death in 5575 [1815]. *Nostra res agitur* [it is a matter of our concern].” (Buber to Rosenzweig, January 18, 1923, in: Buber 1991, 298)

The “three in the fiery furnace” is an allusion to Daniel 3 which Buber applied to three Hasidic masters, contemporaries of Napoleon, who would chant theurgic prayers to influence God to hasten the redemption by employing the French tyrant, who was about to invade Poland with his armies, to serve as His messianic agent.

Buber’s messianic novel had a prolonged and anguished gestation. After two false starts, countless drafts, and more than twenty years later, he finally completed the novel, published first in Hebrew in 1944 (*God u’Magog: Megilat Yamim*) and then in German in 1949 (*Gog und Magog: Eine Chronik*). Both the Hebrew and German title captured the apocalyptic drama depicted in the novel: *Gog and Magog: A Chronicle*. The English translation, which appeared in 1958, somewhat obscured the drama by rendering the title *For the Sake of Heaven* (Buber 1958).

It was actually an anti-apocalyptic tale meant to highlight the folly of attempts to usher in the Kingdom of God with one grand stroke – in the case of Buber’s Hasidic rabbis, through magical prayer and mystic practices intended to promote that one last apocalyptic

battle of Gog from the Land of Magog. To Buber this was the road of false Messianism leading inexorably not only to inconsolable disappointment, but also to nihilism, a rejection of our ethical and political task *within* history and the laborious – most often humble and unnoticed – work of spiritual and moral transformation of society and the political order. Redemption, as Buber understood biblical and Jewish teachings, is not as the apocalyptic vision has it, “the end of history,” but rather its perfection that is the “sanctification” of the world within history.

Hence, Buber declared in an essay of 1930, “we can only work on the Kingdom of God though working in all the spheres allotted to us” (Buber 1974, 137). No sphere, he hastened to add, is more valid or more effective than the other. “One cannot say, we must work here and not there, this leads to the goal and that does not.” Accordingly, he concluded, there is “no legitimately messianic, no legitimately messianically-oriented politics” (ibid.).

Although politics is invariably compromised and tainted by the imperious realities of the mundane order, it is not to be disdained or rejected. In an essay of 1936, he criticized Søren Kierkegaard precisely because in order to achieve spiritual purity and to be alone with God, the Danish philosopher renounced marriage and any relationship with what he called “the crowd.” Buber cites Kierkegaard, “‘The Single One’ is the category of the spirit, of spiritual awakening and revival, and is sharply opposed to politics as much as possible” (Buber 1965, 59). Buber protests: “‘The Single One,’ is not the man who has to do with God essentially, and only unessentially with others, who is unconditionally concerned with God and conditionally with the body politic. The Single One must [...] take his world, what of the world that is extended and entrusted to him in his life, without any reduction into his life of devotion. [...] He must put his arms round the vexatious world, whose true name is creation” (ibid., 65). Nor is one to regard oneself “at liberty to select” what of the body politic suits one, “for the whole cruel hour is at stake,” the “whole claims” one, and one “must answer – Him” (ibid., 66).

Nor is politics to be consigned to the cynical realism recommended by Carl Schmitt. According to this Nazi-affiliated professor of constitutional law, politics is not accountable to any principle or authority other than its own immanent logic. In a seminal essay, he identified politics as a specific domain of interest – comparable to other distinct spheres of activity, aesthetics, religion, economics or ethics – that is guided by its own autonomous criteria (Schmitt 1996). Whereas aesthetic judgment is determined by beauty versus ugliness, ethics good and evil, religion sacred and profane, Schmitt averred, politics is to distinguish between friend and foe. All other considerations are not only alien but also actually inimical to politics. As Buber points out, Schmitt’s dichotomy allows only the defeat, if not utter elimination of one’s foes. “There is no reconciliation, no mediation, no adequate expiation. [...] Every classic duel is a ‘masked judgment of God’” (Buber 1965, 73f.) Politics is ultimately a Manichean, apocalyptic struggle against one’s foe. Buber faults Schmitt on methodological grounds. The Nazi jurist, who incidentally also introduced the concept of “political theology” (Schmitt 1922). Buber contends Schmitt derives his foe-friend formula from rare, extreme situations of conflict, situations in which there is an imminent threat from outside or from alien forces within one’s society,¹¹ whereas

11 Buber forcefully objects to Schmitt’s facile conflation of outside and inner foes. Cf. “The [outside] foe has no interest in the preservation of the [political] formation, but the rebel [that is, the inner foe] has – he

political life is generally far more fluid. Further, by setting the binary opposition of friend-foe alongside the distinction between, in Schmitt's words, "good and evil in the moral sphere, and beautiful and ugly in the aesthetic," Schmitt is confounding normative categories with attitudinal perceptions engendered by extraordinary situations (Buber 1965, 74).

Schmitt found, Buber observes, an improbable ally in the Lutheran theologian Friedrich Gogarten, the author of a volume entitled *Politische Ethik* of 1932 (Gogarten 1932). Examining political life from the perspective of dialectical theology, which posits the absolute distinction and, therefore, an unbridgeable distance between God and humans, Gogarten argues that ethical problems are, in essence, political and thus emphatically worldly. Hence, Buber observes, Gogarten in effect severed politics from religion. "If ethical problems receive their relevance from the political realm, they cannot also receive them from the religious, even if the political has a religious basis" (Buber 1965, 76). At bottom, what Schmitt and Gogarten share is a dismal view of human nature: humanity is incorrigibly evil. The theologian and the legal scholar meet on the plane of a Hobbesian view of the state. As Gogarten concludes, it is the ethical task of the state to ward off "the evil to which men haven fallen prey by its sovereign power and by its right over the life and the property of its subjects." Citing this proposition, Buber biting remarks, "this is a theological version of the old police state idea" (ibid., 77). The political order, so Gogarten, can at most control human sinfulness; redemption comes from God alone, as an act of unearned grace.

Buber's response to Gogarten and Schmitt is pointedly brief: "Man is not 'radically' this or that" (ibid., 77). Humans have the potential for both good and evil. "Man is not good, man is not evil; he is, in a pre-eminent sense, good and evil together" (ibid., 77–78). The state is not an abstract, ontological given, but a labile historical formation, whose political character depends on how individuals realize their moral potential. If political power is understood as an ethical responsibility, that is taken "theologically and biblically seriously", it becomes an expression of profound religious faith (ibid., 78). Indeed, one cannot fully and "legitimately" establish a relation with God "without a relation to the body politic"¹² (ibid., 76). Echoing the thesis articulated in *Kingship of God*, Buber explains that this relation is fully in accord with the testimony of the Hebrew Scriptures:

The Old Testament records, in the history of the kings of Israel and the history of the foreign rulers, the degeneration of legitimacy into illegitimacy and of full power [that is, fully authorized power] into antagonistic power.¹³ As no philosophical concept of the state, so likewise no theological concept of the state leads beyond the reality of the human person in the situation of faith. None leads beyond his responsibility – be he servant or emperor – for the body politic as man in the sight of God (ibid., 79).

wants to 'change' it: it is precisely it he wants to change. Only the former is radical enough to establish the import of [Schmitt's] formula" (Buber 1965, 74). This is clearly an oblique defense of the post-war revolutionaries, often cast as a Jewish cohort, whom Schmitt and his ilk condemned as Germany's foes, a fifth-column.

12 Ibid., 76.

13 The German is a play on words: "... der Abartung ... der Vollmacht in Wiedermacht ..." (Buber 1979, 262).

This is the gist of Buber's political theology: Our responsibility before God is realized *inter alia* in the political realm.¹⁴ Redemption is not to be sought beyond history and its political imperatives. But if political action is the road to Redemption, it must be pursued *in pianissimo*, in soft, even imperceptible, incremental steps, and not in a flash, in one frenzied dash to the *eschaton*. Buber elaborated this thesis with scholarly detail in the *Kingship of God*.¹⁵

The Destructive Apocalyptic Logic of Messianism

Upon reading Buber's monograph, Gershom Scholem penned him an appreciative letter, and approvingly highlighted what he discerned to be its *leitmotif*: the presentation and varied formulations about "theocracy and anarchy". Scholem was particularly pleased to have read Buber's discussion of this theme because, as he put, "I have come to the same conclusion in my own studies [...]. The significance of this connection for every stratum of Jewish reality is incalculable, and I deem myself fortunate to have found confirmation in your testimony of this in such a prominent place" (Scholem to Buber, June 22, 1932, in: Buber 1991, 224f.). He refers Buber to a newspaper article he had published on Rosenzweig in which he criticizes the then recently deceased religious philosopher for ignoring the anarchic impulses inherent in Messianism, or rather shrewdly domesticating it to accommodate bourgeois sensibilities. Though Rosenzweig is rightly celebrated for retrieving for an assimilated Jewry Judaism as "theocratic mode of life" in which one bears the yoke of the Torah and its commandments as an intense anticipation of redemption, he is to be faulted for removing its anarchic dialectic. Messianic longing cannot but beget apocalyptic defiance of history and the regnant political order. Rosenzweig chose to ignore "the truth that redemption possesses not only a liberating but also a destructive force – a truth which only too many Jewish theologians are loath to consider and which a whole literature takes pains to avoid" (Scholem 1971, 323). Scholem thus praises the *Kingship of God* as a striking and welcome exception to this rule. For in this work, Buber acknowledges head-on the dialectic tension between theocracy and the anarchic, apoca-

14 Cf. "The political sphere is not to be excluded from the hallowing of all things" (Buber 1974, 137).

15 A polemic with the Christian eschatological understanding of Messianism also looms large in Buber's study. Explaining why he undertook this study, Buber noted: "Of most importance to me [...] was the question of the origin of 'Messianism' in Israel. It touched on another, concerning which I begun more than twenty years ago, a slowly growing, subsequently postponed, essay-project and which now – in a special connection, but supplementing these investigation – begged to be taken up again, the Christological question." Preface to the First Edition of *Königtum Gottes* (Buber 1990, 13f.). Also see Buber's early exchange with the philosopher S.H. Bergmann on the Jewish and Christian conceptions of the Messiah, in which the seeds of his political theology are already found. Cf. "Now, I grant it is apparent that in the primitive Christian community the psychological process that took place was – in its 'projection' – regarded as the eventuated redemption in the world, in fact even as the eventuated redemption of God [...]. But the persistent experience with the unredeemed world, the – as you say – continuing history of mankind, which goes its way with all its confusions, forced the believers to divined Christ into he who had come and he would come, and to wait for the Paraclete as the real completer of the redemption, the one who would make redemption visible. This meant the splitting of the temporal aspect of existence into something within and something without. Such a splitting is at odds with the Jewish faith in the Messiah, which regards the messianic function of man to be, in addition to absolute fulfillment, an indissoluble blending of within and without, 'rising the sparks' and raising of humanity [...]" (Buber to S.H. Bergmann, letter dated December 4, 1917, in: Buber 1991, 224f.).

lyptic impulse that invariably issues from “the recognition of the catastrophic potential of all historical order in an unredeemed world” (ibid.).

Scholem and Buber shared a more basic religious and political anarchism that inflected not only their respective understandings of Messianism and its place within Jewish spiritual history but also their conception of the Zionist project. In a time when the *Endziel* of Zionism was still debated,¹⁶ they doubted the wisdom of pursuing the establishment of an independent Jewish state, and not only because, in their judgment, it would gravely exacerbate the conflict with the Arabs. They feared that the pursuit of sovereign Jewish rule in Palestine would thrust the Zionist movement on the mistaken path of political nationalism, thus endangering its supreme spiritual and cultural objectives. Hence, they both endorsed the program of *Brit Shalom*, founded in 1925 to advance the vision of a bi-national state in which Jews and Arabs would exercise co-dominion over Palestine. Buber's reservations about Jewish political sovereignty found expression in *Kingship of God*. In tracing the origins of the messianic idea, he turns to ancient Israel's “pre-state history” (Buber 1990, 117). Not only do the roots of Judaism's conception of God's rule lie in the age of patriarchs, but it was the period before the Children of Israel settled in the Land of Israel that witnessed the most pristine expression of the people's relationship to God. Under the leadership of patriarchs and later Moses, Israel came to understand that it had one sovereign and that was God alone. And divine kingship entails the unconditional demand that all aspects of the people's existence be brought under his rule:

“The unconditioned claim of the divine Kingship is recognized at the point when the people proclaims JHWH Himself as King, Him alone and directly (Exodus 15:18), and JHWH Himself enters upon the kingly reign (Exodus 19:16). He is not content to be ‘God’ in the religious sense. He does not want to surrender to a man that which is [His], the rule over the entire actuality of worldly life: this very rule He lays claim to and enters upon it; for there is nothing which is not God's. [...] *The separation of religion and politics which stretches through history is here overcome.* [...]” (Buber 1990, 138, italics added)

The comprehensive compass of God's directives meant that Israel's faith was perforce “religio-political” (ibid., 117).

The wandering tribes of Israel thus discovered the true meaning of theocracy, one that would in the course of time be corrupted once they entered the Promised Land and established a state. Since theocracy is usually misunderstood to belong typologically to a state, and thus to avoid unnecessary confusion Buber declared that he would gladly “surrender” the term and “rather call what I mean kingship of God” (ibid., 20). Buber further distinguishes Israel's theo-political relationship to God from state-sponsored theocracy by characterizing the former as a “direct theocracy,” for it is mediated neither by the rule of clerical class nor by governmental decree. Indeed, grounded in the existential reality of faith, it is an expression of free will (ibid., 18, 138, 141). But the “anarchic psychic foundation” (ibid., 161) of Israel's pre-state theocracy unleashed a dialectic that threatened to lead to its degeneration into “empty anarchy” (ibid. 139) and “aggressive disorder” (ib-

16 On the ramified debates in the pre-state period of the Zionist movement's *Endziel*, see Halpern 1961, ch. 1.

id.), and eventually “in to an indolent or brutalized subordination” (ibid., 138) to a purportedly stabilizing leader. Due to the inevitable abuse of the “anarchy” (that is, the absence of a ruler) supporting direct theocracy there are those who long for “divine rulership against that of ‘history’” and “experience therein the first shudder of eschatology” (ibid.). The crisis of direct theocracy is thus ultimately one of faith, of the faltering trust of the Children of Israel in “a world that does not want to be God’s, and to a God who does not want to compel the world to become His” (ibid.). The “purely charismatic” leadership of Moses, alas, failed to prevent a “disenchantment of faith” (ibid.). His authority held sway solely by virtue of divine *charis*, a supernal grace that “stands superior to every enchantment as well as law” (ibid., 140). In time it was destined to wane, for, as Max Weber noted, “the duration of charismatic authority” is inherently unstable and ephemeral (cited in ibid.),¹⁷ and the charismatic leader is, therefore, obliged by his adherents to transform *charis*, in Buber’s words, “into stable political reality, into permanent presuppositions of political life and action” (ibid., 140). Accordingly, theo-politics is no longer to be based on merely “covenant and statue” (ibid., 141). This process did not begin with Moses and Joshua who resisted the call to establish the mechanisms to render, as Weber would put it, “charisma into a perennial institution” (cited in ibid.). The failure of Moses and Joshua to ensure the transference or continuation of charismatic leadership left a vacuum. “The problem of charismatic succession in pre-state Israel” is manifest in the longing of the people, again Buber cites Weber, “for the epiphany of a successor who personally demonstrates his qualifications” to lay claim to “*charis*” (ibid., 158).

The desire to give charismatic leadership institutional and presumably perdurable expression eventually yielded a process leading to the selection of a human king for Israel. Out of the crisis of theocracy emerged a human king of Israel, “the follower of JHWH, as His anointed, the Messiah, the *Messiah* or Messiah of Israel [...]” (ibid., 162). The anointing and crowning of Saul as the King of Israel marked a decisive – and to Buber’s mind a profoundly lamentable – turning-point in the spiritual history of Israel and in general the theistic religious imagination. The establishment of the monarchy had far-reaching consequences. The longing for a divinely appointed King-Messiah that was to follow in the wake of the ultimate failure of the earthly kings of Israel was foreign to the very spirit of the direct theocracy of pre-state Israel. “Messianism,” Buber emphatically states, “cannot be derived, even in the form of the messiah from primitive theocracy” (ibid., 40). Consequent to anointing an earthly king – and the attendant founding of an hierocracy or priestly rule, which Buber sharply distinguishes from a genuine theocracy (ibid., 22, 30) – was the separation of religion from politics and the affirmation of history as the arena of divine service. The divorce of religion from politics ineluctably entailed the removal of the Kingship of God from the quotidian “political” realities of everyday life to an eschatological realm in eternity. Hence, Buber concludes, the path from Messianism to eschatology was determined by a dialectic logic. The shift of the horizon of

17 Buber warmly acknowledged his indebtedness to Max Weber for his analysis of the sociological dynamics of charismatic leadership. See the Preface to the first edition of *Königtum Gottes* in Buber “thankfully” mentions: “The *Aufsätze zur Religionssoziologie* by Max Weber, together with his book *Wirtschaft und Gesellschaft* offer in the way of supplementary general insights and pertinent matters which were expanded upon in conversation with the extraordinary man. In the last chapter of this volume I have made use of Weber’s concepts and ideas for the presentation of a view essentially different than his I profess, however, I have done no injustice to his intention [...]” (Buber 1990, 19f.).

religious meaning and hope from history to the *eschaton*, to an age beyond the mundane and often exasperatingly tedious political tasks of the here and now, perforce begets the apocalyptic idealism that has led so many well-meaning people astray.¹⁸

Buber's insistence that the Kingship of God is to be realized within history, in response to the demands of the everyday, echoes the words with which Max Weber concluded his critique of the messianic idealism that fired the ill-fated Bavarian revolution of 1918. Speaking before an audience in Munich comprised largely of students who "share in the intoxication signified by this revolution" (Weber 1968, 127; Roth/Schluchter 1979, 66f), he solemnly observed:

"It would be nice if matters turned out in such a way that Shakespeare's Sonnet 102 should hold:

Our love was new, and then but in the spring,
When I was wont to greet it with my lays;
As Philomel in summer's front doth sing,
And stops her pipe in growth of riper days.

But such is not the case. Not summer's bloom lies ahead of us, but rather a polar night of icy darkness and hardness [...]. When this night shall have slowly receded, who of those for whom spring apparently has bloomed so luxuriously will be alive?" (Weber 1968, 128)

Weber challenged his youthful audience to prepare themselves for the disillusionment that would surely follow in the heels of the Revolution's inevitable failure to usher in Paradise. They would then have to measure up to "the world as it really is *in everyday routine*." Should they meet the challenge, one could then say that they "experienced the vocation of politics in its deepest meaning." And if not, "they would have done better in simply cultivating plain brotherliness in personal relations. [...]" (ibid., italics added).

Buber endorsed Weber's realism, although he gave it a theological twist that the former, given his religiously "unmusical ear," would surely not have countenanced. Aside from the Kingship of God and related biblical studies, Buber was wont to refract his critique of messianic politics through his representations of Hasidic lore and teachings. Recoiling from the apocalyptic frenzy engendered by the ultimately delusional messianic hopes attached to the ill-fated eschatological escapades of Shabbatai Tzvi, the Hasidim adopted, according to Buber, a decidedly non-eschatological conception of Messianism that focused on the redemptive power of pious and ethical deeds in the seemingly profane landscape of everyday life. Although critical of Buber's scholarship and interpretation of Hasidism as an existentialist ethic, Scholem concurred with his reading of the movement as neutralizing Messianism (Scholem 1971b, 176–202, esp. 178f, 181), and, correspondingly, teaching that redemption is to be sought in the here and now. But unlike Buber, Scholem held that Messianic hopes cannot be utterly expunged from the Judaic imagination, for the apocalyptic vision of a miraculous advent of an otherworldly Redeemer breaking the hold of history is too deeply lodged in the human psyche to be utterly dis-

18 Buber contrasts "apocalyptic politics" to "prophetic politics," guided by an non-messianic theo-political ethos. See Buber, *Prophecy, Apocalyptic, and the History Hour*, in: Buber 1968, 172–187.

loded.¹⁹ Walter Benjamin gave this understanding of the apocalyptic impulse a dialectical rendering that, in effect, sanctions Buber's (and Weber's) call to work for the Kingdom of God in the everyday.

Benjamin's Messianic Hope and the Re-Valorization of the Everyday

Identifying the "malaise of modernity" with the myth of progress, or the belief in history's inexorable march toward absolute happiness and human well-being, Benjamin held that this chimerical and thus delusory vision degrades and corrupts the immediacy of the human and objects alike. Apparently inspired by his friend, Scholem's insight that the traditional Jewish longing for a Messiah, miraculously dispatched by God, implies a radical disjunction between history and redemption, Benjamin discerned in this hope-beyond-hope a dialectical affirmation of existence on this, the quotidian-side of the *eschaton*, and thus the revalorization of the everyday and the insignificant. The apocalyptic vision of the imminent coming of the Messiah illuminates the here-and-now and the profane with the light of redemption:

"For histrionic or fanatical stress on the mysterious side of the mysterious side or the mysterious takes us no further; we penetrate the mystery only to the degree that we recognize it in the everyday world, by virtue of a dialectic optic that perceives the everyday as impenetrable, the impenetrable as everyday. The most passionate investigation of telepathic phenomena, for example, will not teach us half as much about reading (which is an eminently telepathic process) as the profane illumination of reading will teach us about telepathic phenomena [...]" (Benjamin 1999, 216)

The Messianic vision illuminates the ephemeral, the insignificant moments and events that define our day-to-day existence with the light of Redemption:

"A chronicler who recites events without distinguishing between major and minor ones acts in accordance with the following truth: nothing that has ever happened should be regarded as lost for history. To be sure, only a redeemed mankind receives the fullness of its past – which is to say, only for a redeemed mankind has its past become citable in

19 Scholem faulted Buber for attempting "in vain [...] to minimize or obliterate altogether" Messianism from the Hasidic worldview (ibid., 195). Cf. "The magnitude of the Messianic idea corresponds to the endless powerlessness in Jewish history during all the centuries of exile, when it was ill prepared to come forward onto the plane of world history. [...] For the Messianic idea is not only consolation and hope. Every attempt to realize it tears open the abysses which lead each of its manifestations ad absurdum. There is something grand about living in hope but at the same time there is something profoundly unreal about it. [...] Precisely understood, there is nothing concrete that can be accomplished by the unredeemed. This makes for the greatness of Messianism, but also for its constitutional weakness. Jewish so-called Existenz possesses a tension that never finds true release; it never burns itself out" (Scholem 1971, 35).

all its moments. Each moment it has lived becomes *a citation a l'ordre du jour* – and that day is Judgment Day.” (Benjamin 1968, 254)²⁰

The negative dialectic driving Benjamin's Messianic politics thus spins a course that surprisingly intersects with the trajectory of Buber's critique of apocalyptic, meta-historical fantasies as deflecting one from the biblical political imperative of “hallowing the everyday.”

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20 My reading of Benjamin is indebted to the elegantly insightful essay by Cheryl Beaver, Walter Benjamin's Exegesis of Stuff, in: *Epoché: The University of California Journal for the Study of Religion*, vol. 24 (2006): 69–87.

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Common Law and Jewish Law. The Diasporic Principle of *dina de-malkhuta dina*

Sylvie Anne Goldberg

Abstract

Medieval rabbis conceived of a legal framework for the relations between Jews and non-Jews according to a principle: *dina de-malkhuta dina*, 'the Law of the Kingdom is Law.' This framework depended on the fact that Jews were living in Galut, Diaspora. Thus, the notion of Diaspora, which in the last century came to be used to refer to the fate of migrants in general, bears a dual legal connotation in Judaism. This article tries first, by tracing back the origin of the word "galut" or "golah" (translated as "exile") in Antiquity, to demonstrate how it is related to the core of Jewish definitions of the "present" as construed by Rabbinic Judaism. It then ventures across the boundaries of time and place to question the purely theological and particularly Jewish evolution of this concept. It is an attempt to apprehend the ways in which the evolution of the notion of Diaspora bears witness to the transformation of the history of the Jews.

Keywords: Jerusalem; Diaspora; Exile; Jewishness; Law; *dina de-malkhuta dina*

"And I spoke [...] saying: 'Bring your necks under the yoke of the king of Babylon, and serve him and his people, and live. Why will ye die, thou and thy people, by the sword, by the famine, and by the pestilence, as the LORD hath spoken concerning the nation that will not serve the king of Babylon? And hearken not unto the words of the prophets that speak unto you, saying: Ye shall not serve the king of Babylon, for they prophesy a lie unto you. For I have not sent them, saith the LORD, and they prophesy falsely in My name; that I might drive you out, and that ye might perish, ye, and the prophets that prophesy unto you.' [...] serve the king of Babylon, and live; wherefore should this city become desolate?" (Jer. 27, 12–17)¹

The remembrance of the ancient kingdom of Israel, which lasted only for a short period during Antiquity, posed a completely new and unfamiliar dilemma for the Jews of the 20th century. If, on the one hand, they had to re-strengthen ties between all the scattered communities to give shape to a national entity, on the other, they also had to question the meaning of "who is a Jew" according to the conception of the modern laws of

1 Tanakh, Jewish Publication Society 1917. http://www.biblekeeper.com/Jewish-1917/jeremiah_27.php.

states and long-established Jewish Law.² To enact new rules in the State of Israel, the Israelis had to scrutinize their political and social history of the past two centuries to understand both the place they could claim amid nations as well as the diversity of Jewish identities in a new framework to be constructed between both membership of a religious denomination and membership of a new state. In addition, they had to ultimately make a choice between staying in “diaspora” or leaving their country of residence to join the newborn state in Palestine.

By reinstating the former sovereignty of the Jews in their ancient homeland, the State of Israel has revived what seemed to be an age-old dialectic between Jews from Israel and Jews from Diaspora, reopening the question of the relationship between a centre and its periphery. In light of the present tangled political situation, it is very tempting, since it was also at the beginning of the struggle for the political legitimacy of Zionism, to seek similarities between the past and the present, even if both situations were quite different. Furthermore, the unceasing repercussions upon Jewish life outside Israel emanating from the conflict raging in the Middle East harshly highlights the complexity of the meanings given to the notions of Jewish Diaspora or Exile, in Hebrew *Galut* – the situation of exile or *Golah* – being abroad, which are used in modern attempts to describe the history and the nature of the so-called “Jewish phenomenon” to account for the persistence of the Jewish people during history in spite of their lack of a homeland.

This article seeks to explore the relevance of similarities between ancient and modern connotations of the term “diaspora.” I will examine some of the characteristics of the ancient Diaspora, in its time and place, and will discuss the meanings of some of these related terms, such as “galut” and “golah,” in light of the cultural and religious evolutions as expressed in the contemporary sense given to the word “diaspora.” At the same time, I will present some remarks on the supposed uniqueness of Jewishness, which can be seen as a purely theological convention springing from history.

There is much historical evidence showing that no reasonable analogy can be drawn between the present-day situation of the State of Israel and the Judean Roman Province. Nevertheless, if one holds that Judaism does have roughly the same essential components at its very core, and that the same kind of relationship prevails now between the Jews living outside of Israel and those who then chose to move – or were sent – far away from Palestine, a series of questions can be raised. First, one can ask whether the conceptions and contents of the term “diaspora” have changed or not over time? Second, one can wonder whether the longevity and extensions of the word “diaspora” are a challenge to the present reshuffling of the Jewish political world or not? Third, one can question the dialectic between Israel and the Diaspora, asking whether it has ever been really so unambiguous? Moreover, one can properly ask: were all the *clichés* conveyed by the bulk of theological meanings attached to the words “diaspora,” “galut,” and “exile” truly grounded in history, or were they rather invented piecemeal over the course of the centuries? Even if this article appears to be – and surely is – nothing more than a provocative venture to answer these questions, I hope to argue convincingly that these points are worth serious discussion.

2 See the crisis and the debate opened at the Knesset in 1958 on the question in Dromi 2005, especially 96–162. See also Ben Raphael 2002.

The Galut as Seen by Theology and the Social Sciences

Since the term “diaspora” has become a universal lexeme based on a Greek etymon, and coined in the vernacular languages, to signify the fate of migrants wherever their actual place of residence was located, it is useful to recall its original meaning to identify its semantic transformations. According to an etymological dictionary, the term “diaspora” stems from the Septuagint translation of the Hebrew Bible. Taken from the ancient Greek, the term was intended to describe, in essence, the condition of the Jews scattered all over the world, outside the Land of Israel, as was written “and shalt be dispersed (*di-aspeirein*) into all the kingdoms of the earth” (Dtn 28, 25; Van Unnik 1993). Used for at least 2,000 years, and most probably even since the first exile of the Jews to Babylonia (586 BCE), the term came to illustrate the Divine decision to punish the people of Israel by banishing it from the Promised Land. Thus, for centuries, it became associated with a religious sense of exile. Even if the Hebrew word for exile, “galut,” does not originally mark any difference between simple dispersion and theological exile (Milikowsky 1997, 265–295), it was constantly imbued with numerous theological interpretations. Grounded in Judaism, e.g., the threat of banishment prophesied by Jeremiah and mentioned earlier in this article, and the concept of punishment mentioned elsewhere in the Book of Ezekiel, it was further promoted by Christianity. It saw in the Jewish Diaspora its true sanction for not having recognized Jesus as the son of the Lord. Islam endorsed the same position, but added to it the refusal of the Jews to hear Muhammad’s call.

From its early Greek etymological origin, the term expanded widely as it entered the realms of modern scholarship. Coined around 1880 to describe the spread of populations and groups into foreign countries, it has since come to pervade the ordinary specialized vocabulary of the social sciences and become an archetype actually deprived of any theological significance.³ The archetype of the Jewish Diaspora became the common label for all other displaced communities (Eleazar 1997, chap. 5; Shmueli 1980), though Herodotus (Godley 6,119) recalls the same phenomenon for Eretrians taken captive by Darius and Diodorus Siculus for other “barbarians” (Godley 34–35; 4,1–2). In fact, many a testimony from Antiquity indeed attests to the fact that Jews from all over the Hellenistic world preserved the ancient custom to journey to *Eretz Israel* on the three pilgrimage festivals, the solemn celebrations occurring in autumn and spring. Sources also relate that the largest cities in the Diaspora sent delegates to represent them, who brought offerings and attended the sacrifices in the name of all the Jewish inhabitants of the colonies. Ancient sources note that Jews living outside Palestine kept on paying their tithes and duties to the Holy Temple (Mendels 1992)⁴ as long as the Temple still stood in Jerusalem (Grüen 2002, 244). However, it is interesting to note that in the wake of the Temple’s destruction, the war indemnity, *fiscus iudaicus*, was levied solely on an ethnic religious basis: namely, Jews who had once paid taxes to the Temple were now forced to contribute, through mandatory taxation, to the war effort,⁵ but such involuntary assessment was

3 See, for example, O.G. Bailey, M. Georgiou, & R. Harindranath (eds.), *Transnational Lives and the Media: Re-imagining Diaspora*. London: Palgrave Macmillan 2007.

4 Cicero relates that when economic conditions resulted in a prohibition to export gold, Asia Minor was forbidden from sending gold to the Temple, which provoked disorder not only in that province but also in Rome, and led Flaccus, the Governor, to be sentenced for extortion (Grüen, 244).

5 But it was in reality for the Roman Temple.

only imposed on those who were somehow associated with the Holy Temple or had been, in some way, part of the revolt. To understand the concept of Jewishness in use at that time (which will be described at greater length below), it must be pointed out that this tax retaliation had no national or racial component; the taxes did make an exemption for Diaspora Jews, as well as those who did not undertake a complete Jewish life, but were instead strictly imposed on the members of the Pharisaic and rabbinic trends, which were most obviously groups involved in the revolt (Mendell 1984). Further, when Domitian (81–96 CE) took power, he reinforced the Jewish poll tax by expanding its classification whereby the burden of such tax would now fall upon a vast number of those who had previously been exempted from having to bear it: namely: part-time or full followers of Jewish practices, apostates, and Diaspora Jews were now all included in the *fiscus* (Leon 1960; Goodman 1989). During this period, the former definition of what it meant to be Jewish briefly shifted to a much more global, ethnic religious identity, regardless of loyalty to the cause or even to the degree of the person's religious practice.

Who is a Jew?

Distinctly defined as an “ethno-religious community,” Jews were at the same time forming a kind of autonomous polity, with a centre located in Palestine and a periphery dispersed amidst other peoples. One may also recall that there are other objections to the supposed singularity of this Diaspora. First, however, a preliminary distinction must be made regarding the term *Jew*: that an individual adheres to Judaism, be it through religious observance and/or descent, is a late phenomenon unknown in the ancient period. It is well known that this appellation was coined during the first exile in Babylonia: the earliest occurrence of the term *Yehudi* is to be found in the Scroll of Esther, where the main male protagonist, Mordecai, is called *ha-Yehudi*, “the Jew,” living in a main city of the Persian empire. The occurrence of this word is not incidental at this time and place. As Josephus explained:

“So the Jews prepared for the work: that is the name [*ioudaios*] they are called by from the day that they came up from Babylon, which is taken from the tribe of Judah, which came first to these places, and thence both they and the country gained that appellation.” (*Antiquities of the Jews*, 1999 L. XI, 6, 7, 173)

This simple clarification helps to understand that *Ioudaios*, *Ioudaia*, *Iudeus*, *Iudea*⁶ could have shared a whole range of definitions beyond adherence to the Jewish religion. Moreover, the Judean Roman province was inhabited by all kind of peoples, some having been displaced there by the Romans, some others having lived there since time immemorial. The term “Jew,” designating a person belonging to the tribe of Judah or residing in the Kingdom of Judea, which was in the Hebrew Bible the only referents and significations of this term, changed its meaning during the Hellenistic period: it became a geo-

6 During the Hellenistic period, the term *Ioudaios*, literally “member of the tribe of Judah,” became by extension the common name for any inhabitant of the Judean province and thereafter for all those who affirmed either Jewish religion or culture or were simply allies of the Jews in some fashion or another. See Cohen 1999.

graphical indicator of one's origins. At the same time or later, it also became an ordinary designation for those living in Judea or not, who had some degree of adherence to Jewish practices or who simply sympathized with Jews, politically or religiously. Very puzzling is the relatively late assertion of Dio Cassius (2nd–3rd CE) saying that Josephus was a "Jew by birth;" he added, "this title [Jew] is also borne by other persons who, although they are of other ethnicity, live by their laws" (Kraemer 1989). Thus, the accepted conception of Jewishness at the time looked much more variegated and expansive than what it is thought of now: being Jewish, either according to our times restricted through birth or conversion, or because one lived or was born in the Judean Roman province, being a proselyte or a pagan only circumcised, were all integrated into the definition of *Ioudaios*.

Considered as the quintessential singularity of the Jewish people, their particular experience of its exile, or *Galut*, its persistence without a homeland, is perceived as reflective of its exceptional status in the course of "mainstream" history. When Jerusalem was razed half a century after the destruction of the Second Temple following the suppression of the Great Palestinian Rebellion, the periphery did not disaggregate, but was somehow able to retain a kind of coherent polity for over 2,000 years. Yet, the dispatching the remaining combatants and survivors into slavery, as well as prohibiting the Jews from approaching the crumbling city of Jerusalem, did not, by any means, empty Palestine of its Jews. Forbidden from ever re-settling in Jerusalem, the spiritual and political heart of the Jews was indeed nonetheless kept alive through the autonomy of the Jewish self-government in the Roman province. The development of authoritative Academies in Galilee like Tiberias or Sepphoris, and the central one at Yabne became the refuge shelter of the Pharisaic spirit, which was later illustrated by the production of the Palestinian Talmud, called the "*Yerushalmi*," to show that the sanctity of Jerusalem extended over the whole of the Land of Israel. The ongoing movement of migration that emptied the land was voluntary, independent of any Roman decision or law.

For one, since the destruction of the Second Temple, the Jewish meaning of Diaspora would gradually change to supplement the mystical Hebrew term *Galut*, transporting it to a new meaning replete with the theological sense of punishment. Filled with longing and despair, the image of the "Wailing Wall" illustrates and reinforces its evocative power as a space of desolation in the desecrated place of the Holy City. However, this dramatic figure of Jews weeping and lamenting over their incommensurable loss should be counterbalanced by the heritage of the Talmudic view that now, the physical Temple would have to be supplanted by good deeds, prayers and fulfilment of the commandments (Talmud Bavli *Berakhot* 26b and *Sanhedrin* 98b). And in a sense the Rabbis' attempt to elevate the sanctity of the Torah over the land of Israel in giving precedence to the sanctification of commandments over Eretz Yisrael (*Midrash Rabbah*, Gen. 1, 5; Rawidowitz 1998, 208) was a sheer adaptation to a new historical context. Nonetheless, the concept lurking behind this attempt was amplified and circulated by Jewish philosophers during the Middle Ages, and later by Jewish literature since the 19th century: Jews do not need any concrete or territorial centre or a built sanctuary. On the contrary they had a portable spiritual territory and topography: they carried with them, embedded in the expanded Scriptures,⁷ the system of laws required to establish their specific ways of social life. The

7 By this I mean not only the Hebrew Bible and the Talmudic corpus, but also all subsequent interpretations of Jewish literature.

Jews were the “People of the Book.” Accordingly, their real sanctuary is a text, which is in itself a “movable” Temple (Patai 1947; Oppenheimer 1999), incorporating its spirit, prescribing the performing of commandments, rituals, practices and inspiring the daily liturgy.

From this vantage point, it is no surprise to note that thinkers of the Exile were both legislators and mystics: to give only a few examples, Saadia Gaon emphasised the adequacy of “galut” to “present time” (Rosenblatt 1976, chap 8), Maimonides saw exile as “coercion” and put its responsibility to “our ancestors” (*Epistle to Yemen*, Halkin 1993); Nahmanides, understood exile as a crisis of the Divine and elevated it to the most mystical and religious degree: “Exile is meted out for the delay of Justice, the perversion of justice [...] and for the nonobservance of the *shemittah*, the Sabbath of the land, for her repudiator repudiates Creation and the Future World” (on *Lev*; Henoch 1997, 382). In that sense, and in contrast to other nations, Jews do not require a homeland in order to persist as a nationally and religiously organized people. In addition, since the Enlightenment and the integration of the Jews into the nations, a new approach grounded on the idea of the mission of the Jewish Diaspora was developed.

According to this conception, two opposite visions of the interdependence of the Jews to their land have competed with one another in the innermost core of Jewish discourse since long before the Common Era: the power of Diaspora to repair the sin of the ancestors with the fulfilment of the Torah or maintaining the sacred inherent to Eretz Yisrael. Both signal one of the most lasting conflicts at stake during the entire history of the Jews: the messianic struggle for hastening the Redemption which would bring the exile to its end, while expediting the return of the “remnants of Israel” back to their original homeland (Silver 1927).

Survival of the Jewish Nation by Departing into Diaspora: Jeremiah’s Argument

No other example can better illustrate this conflict at work in Judaism between the pre-eminence accorded to living in Palestine to maintain residence in the Promised Land versus the readiness to abandon it than in three chapters of the Book of Jeremiah.

Mandated by God to warn the Jews about their imminent deportation to Babylon and the threat of destruction of the City and the Temple, Jeremiah caused such great hostility amidst the Jews that when he announced his prediction, not only was he almost murdered by his Jewish brethren, but his prophecies engendered further predictions from other so-called “prophets” (Jer. 28), proclaiming that the reign of Nebuchadnezzar would not last very long and that all the sacred belongings and vessels of the Temple would be returned to the Holy Land after a very short time.

Especially interesting for our purpose are the sayings of Jeremiah and the admonition he delivered to the people. At first, when the discussion was opened with Hananiah, the rival pretender to prophecy, Jeremiah could not convince the people of his own predictions, for they preferred his rival’s optimistic visions. Reluctant as they were to accept to leave voluntarily, the Jews had no alternative but to face the reality of defeat. Fighting to their death would be hopeless, and the King of Babylon’s victory was inevitably God’s decision. His punishment of the Jews was mandated for not having paid attention earlier to the warnings Jeremiah had given to them. Once the divine decision was made, Jeremiah sent his famous letter to the prisoners in Babylonia. Even if its content is well known, it is useful to quote one passage:

“This is what the Lord Almighty, the God of Israel, says to all those I carried into exile from Jerusalem to Babylon: ‘Build houses and settle down; plant gardens and eat what they produce. Marry and have sons and daughters; find wives for your sons and give your daughters in marriage, so that they too may have sons and daughters. Increase in number there; do not decrease. Also, seek the peace and prosperity of the city to which I have carried you into exile. Pray to the Lord for it, because if it prospers, you too will prosper.’ Yes, this is what the Lord Almighty, the God of Israel, says: ‘Do not let the prophets and diviners among you deceive you. Do not listen to the dreams you encourage them to have.’” (Jer. 29, 4–8)

The message Jeremiah has transmitted is lucid, without any ambiguity: even though a king has vanquished you, you have to be aware of the fact that it is Divine retribution, which falls upon you. You have to remember that He is the God of History, and as His chosen people, nothing would happen to the Jews unless it is His decision. Holding kings and emperors in His hand, He uses them as instruments. Thus, fighting to the death against the kings would be a mockery of God’s will and it is better to admit your fate and surrender than to dare defy God’s will. However, this surrender – which means submission to God’s will – was to ensure the Jews survival as a nation. This meant to dwell far from *Eretz Israel*, to build new homes for the families they would produce. As heads of households, the displaced in Babylon should cultivate gardens, plant fruits and vegetables to feed them, and grow vineyards to perform the Divine commandments. They should find wives, spouses for their daughters and sons, in order to bear new children and preserve His people. Compellingly, the last verse is illuminating for our purpose: be faithful to the kingdoms wherever you settle and seek peace and prosperity there. For the future of Jewish history, the words Jeremiah sent to the captives were taken to be a firm commitment.

The Making of Judaism Between Common and Jewish Law: A Creation of Diaspora

Since this very first experience of collective displacement,⁸ the phenomenon of dispersion became one of the driving forces behind later evolutions of Judaism. The books of Ezra and Nehemiah make us aware of certain facts: the elite displaced to Babylonia forged particular ways of conduct to maintain for themselves a strong sense of their Jewish identity. When they were permitted to return to their land, some generations later, they brought new rules back to Israel.⁹ This updated Judaism, with the laws at its core (Neh. 10), pervaded the ordinary ways of Jewish observance.

However, two crucial events happened during the 70 years of sojourn in Babylon. First, in the absence of the Temple and thus unable to perform sacrifices,¹⁰ the Jews had to conceive of new ways to be Jewish. Second, when Jews were able to finally come back

8 There is no record about the fate of the “lost” tribes, which existed long before.

9 Circumcision, strict observance of the Sabbath, endogamy, synagogues, name of the months and lunar-solar calendar are the most notorious.

10 Nonetheless, there is evidence of the existence of, at least, two other Jewish temples in the course of the history. The first one was the temple of Elephantine, during the reign of Darius (444 BCE) and the second was the Egyptian temple of Onias which stood for two centuries in Leontopolis (166 BCE–73 CE).

to Palestine to reconstruct the land and build the Temple anew under the command of Ezra and Nehemiah the Scribe, the majority of them stayed in Babylonia (Neusner 1997, 222), where they purposefully chose to perpetuate their form of Judaism. While both the books of Jeremiah and Ezekiel bear witness to the newly theological importance accorded to the meaning of the term “exile”, the books of Ezra and Nehemiah especially attest to the emergence of the messianic impulse given by Zerubabel and Joshua with the rebuilding of the Temple and the proclamation of the Law. This theological movement which constantly grew in intensity since the Maccabean revolt, continued during the Hasmonean period, until the first century, and culminated in the last war led by Bar Kokhba (132–135 CE).

However, it is striking to contrast this with the Scroll of Esther, written at some imprecise time during the Persian period,¹¹ for it shows neither any form of yearning for the Land nor any messianic impulse. It does not even envision the idea of taking advantage of the favourable situation in which the Jews found themselves vis-à-vis the Persian rulers to bring back the Jews from Persia to Palestine. On the contrary, the text seems to draw attention to the importance of Jewish life in “diaspora.” However, the Pseudepigraphical literature, written in Palestine between the third and the first centuries BC, describes, through the voice of the Psalmist, the classical theological picture of the Jewish destiny: “among every nation are the dispersed of Israel accorded to the word of God” (Ps. 9, 2). Other verses from the Third Sibyl share the same ethos: “And even thou, forsaking thy fair shrine, shalt flee away when it becomes thy lot. To leave the holy ground, and thou shalt be carried to the Assyrians, and shalt see wives and young children serving hostile men. All means of life and wealth shall be destroyed, and every land and sea be filled with thee ...” (Syb Or. 3, 315–320). Curiously enough, this is historically echoed by Strabo, the Greek geographer, who lived at the time of Augustus:¹² “There were four classes of men among those of Cyrene; that of citizens, that of husbandmen, the third of strangers, and the fourth of Jews. Now these Jews are already gotten into all cities; and it is hard to find a place in the habitable earth that hath not admitted this tribe of men, and is not possessed by them ...” (*Antiquities of the Jews* XIV, 7).

All the same, even when the diverse meanings of the term *Ioudaios* in the Greek Roman world are taken into account, Jews were in considerable proportions, sometimes even in greater numbers, more outside than inside their homeland (Safrai 1974). Thus, as is already known, the huge Alexandrian, Roman and Antioch Jewish communities represented the most legendary instances of remote Jewish centres, inasmuch from the perspective of demography, than from the perspective of cultural life, power, and influence.

Philo of Alexandria (1st cent.) explains this situation in his own terms:

“For no single country can contain the Jews because of their multitude, and for this reason they inhabit the most extensive and wealthiest districts in Europe and Asia both on islands and on mainlands, and while they regard the Holy City as their mother-city, in which is founded and consecrated the temple of the most high God, yet they severally hold that land as their father-land.” (Pearce 2004)

¹¹ For a recent tentative date of Esther’s Scroll, see Friedberg 2000.

¹² 63/64 BCE – ca. 24 CE.

Does this mean that Philo made a sharp distinction between the ancestor's land and the place where Jews actually lived? Is he expressing the centrality of the city in the sense of loss, or even the opposite, as that as of a place of exile? Sarah Pearce observed that, excepting biblical mentions from the Greek text, Philo never used the term "diaspora" to be associated with a means of punishment mentioned above, and used instead *Apoikiai*, meaning, bluntly, "colony." According to her, it is more likely that he was not differentiating between a "mother-city" (*metropolis*) and a "father-city" (*petropolis*): both would be cities, the first one being a city with a temple, just as other "mother-cities" of the Hellenistic world. Moreover, from the testimonies of both Josephus and Philo, it appears that Jews were not only a constitutive part of the Hellenistic world, but were dispatched to all its parts, benefiting every place they inhabited, as Philo explained. However, when he had to clarify the relationship of the Jews to Jerusalem he states:

"Concerning the holy city [...] is my native country, and the metropolis, not only of the one country of Judaea, but also of many, by reason of the colonies which it has sent out from time to time into the bordering districts of Egypt, Phoenicia, Syria in general, and especially that part of it which is called Coelo-Syria, and also with those more distant regions of Pamphylia, Cilicia, the greater part of Asia Minor as far as Bithynia, and the furthest corners of Pontus. And in the same manner into Europe, into Thessaly, and Boeotia, and Macedonia, and Aetolia, and Attica, and Argos, and Corinth and all the most fertile and wealthiest districts of Peloponnesus." (Legatio, 281–282)

As it may be understood, the Jews, dispatched all over the territories of the Hellenistic world, were integral actors in the social fabric of their respective locality. They were involved in both economic and political spheres, and often enjoyed many civic rights in the cities where they had come to settle. Philo, evoking his city, said "our Alexandria" (Grüen 2002, 242). In addition, one who tried to seek any expression of longing or being torn away from their homeland in his writings would hardly be able to find it.

The Essence of Galut: The Inner Contradictions of Being Under Foreign Laws

"How much did Jews in the Diaspora care about the catastrophic defeat of their brothers in Judea in A.D. 70? [...] Jews in the cities around Palestine, as also in Antioch and in Alexandria by Egypt were dragged into the conflict by the attacks of their gentile neighbours, but they singularly failed to flood to the rescue of Jerusalem [...]." It is by asking this harsh question that Martin Goodman opens his article recounting the reactions of the members of the Diaspora with respect to the destruction of the Temple (Goodman 1989). His smoothly nuanced answer opts for overconfidence rather than indifference. Probably he is right! However, perhaps the answer should be even more balanced as far as the widespread conceptions at this time are concerned. Furthermore, the absence of a unified Jewish politics makes it impossible to discern exactly the extent of support the uprising against the Romans had raised among the Jews dispersed throughout the Empire, which stretched from Rome to the far reaches of Europe and around the entire Mediterranean

Basin. The absence of any reported turbulence in the ancient sources might reinforce this (Goodman 1989, 30).

In regard to the extreme diversity of Jewish cultural or religious trends,¹³ beliefs and practices at this time, and considering in addition, the unavailability of Jewish norms until the emergence of the rabbinical literature, it is hardly possible to gain an appreciation of the ways in which the word “galut” was understood. Our current system of references, inherited from centuries-long interpretations about the meanings and computations of its foreseeable end, deeply obscures our understanding of how it could have been perceived exactly at this time.

Judaism commemorates the destruction of the two Temples on the same day, the 9th of Av. By doing this, both events are integrated and understood as one and the same disaster, which links Jewish history to the harsh exile prophesied in the Bible. According to Chaim Milikowsky, it was not so easy for the rabbis to impose the 9th of Av as the exact date of the burning of the First Temple (Milikowsky 1993). Skipping over this insolvable problem of establishing a precise date for the events described in the Bible, one might point out that Josephus, already in his time, stated that both disasters occurred on the same day.¹⁴ It means that an oral tradition relating to the destruction of the First Temple was already circulating quite some time before the redaction of the Talmud (Talmud Bavli *Ta’anit* 3,9). Furthermore, in yet another article, Milikowsky (1997) has shown that the trilogy – conquest, destruction of the Temple, exile – which serves as the basic motif for Jewish traditional construal of disaster, was indeed actualized to integrate the tragic events of the first century in the same scheme as the Babylonian one. Only later, in the following centuries, did the rabbis introduce the notion that both situations, the conquest by the Babylonians and the conquest by the Romans, were to be understood in light of the same prophesies and would also have the same ending: the return of the exiled and the reconstruction of the Temple. It certainly does not mean that close contemporaries made light of the tragedy. On the contrary, one should consider the fact that a new era was established then (Goldberg 2000), and the Jews perceived it as an unknown or unpredictable event in their history. Moreover, as follows from Milikowsky’s analysis (1997), this scheme fused into Jewish motifs only centuries later, and the historical sources that attest to the inclusion of both events into the same notion of Galut did not materialize until the situation had lasted for so long – or even worsened – and the feeling arose that it could endure endlessly.

So what was at stake in these sources? Milikowsky has shown that “galut” was understood partly as subordination to a foreign power and partly as eradication of an entire people from their land. But Roman Palestine, *Eretz Yisrael*, was still inhabited by Jews, and in the absence of the Temple, the sanctity of Jerusalem was extended to the whole country through the presence of the Sages and their vibrant activity in the academies. Moreover, pilgrimages and visits to Jerusalem were maintained after the fall of the Temple (Safrai 1974, 211).¹⁵ Therefore, the phenomenon of this dispersion, which was more or less voluntary and partial, was nothing compared to the absolute state of emptiness accorded to the land during the Babylonian Exile. So, this dispersion was no reason to

13 For whom there is only the testimony of Josephus and the mention made by Philo.

14 It was actually burnt on the 10th if we rely on Josephus, *The Jewish War*, VI, 5.

15 See *Cant Rabba* 4.

account for the perception of the notion of exile the closest contemporaries had!¹⁶ By contrast, when the rabbis of the Talmud, some four to six centuries later, tied the Babylonian and the Roman exiles together to locate their present position in the course of history, these difficulties were already solved: Jews had massively fled Palestine in quest of more welcoming places. Eventually, they indeed were all submitted to the rules of foreign powers, be they Christian-Byzantine or Persian.

The Exile as an Everlasting Fate: The Legal Response to Diaspora

In biblical times, Jeremiah posited the argument of exile as a condition of survival: to persevere as a people, Jews would have to dwell in peace and multiply in whichever place they resided. At the time the Talmud was compiled, two separated branches of Judaism, so to speak, were located in two different empires.¹⁷ While the Palestinian Talmud had been concluded in the 4th or 5th centuries in a particular territorial space under the domination of the newly born Christian empire, the Babylonian Talmud was completed much later, in the 6th century under Persian rule. Whether incidental or not, it is in the Babylonian corpus that the political principle which had governed Jewish life since that time is to be found: the “Law of the Kingdom is Law,” *dina de-malkhuta dina* (Shilo 1974).

The paternity of this Talmudic formula is attributed to the Amora Mar Samuel, who lived in the 3rd century. Its main use was to ensure that the rabbinical decisions complied with the common law of the state, whenever such a decision questioned or contradicted particular points of the *Halakha*, such as regarding taxes or decrees. It was intended to allow in each pending case to suspend any decision and to apply the rule of *dina de-malkhuta dina* (Walzer, Lauberbaum & Zohar 2000).

Proud to be the supposed direct heirs of the First Exile, the Babylonian Jews might have obeyed the admonition of the prophet better than their brethren in Palestine. Hence, it is no surprise to notice that while the Palestinians would not stop rebelling and fighting against the foreign powers subjugating them, Babylonians would seek peacefully to abide by external power rules. More importantly, the Babylonians seem to have founded the notion of exile on a mystical principle and conceived Diaspora as a standard for Jewish life, enacted by God to perpetuate his people as long as He would not reverse His decision.

It is striking that while this principle is cited six times in the Babylonian corpus, there is not even a single mention of it in the Palestinian one. Without real legal contents at its inception, the formula, which might only have been a simple motto, would eventually constitute a part of the full theory of politics produced by rabbis who turned themselves into law theorists (Landman 1968). We find in the literature of the *responsa* the same legal developments, which are, in essence, part of general laws of normally constituted

16 “Early rabbinic literature [...] did not perceive the events surrounding the Roman conquest of Jerusalem at the time of the destruction of the Second Temple as including a mass exile of the Jewish people [...]. Only as the period of the Temple’s nonexistence lengthened, and as the population of the Jews who lived in the Land of Israel became less and less, were these two unrelated phenomena conceived as both deriving from the Roman conquest of Jerusalem in 70 CE.” (Milikowsky 1997, 280)

17 It is generally admitted that the Talmudic compilation, assembling the oral law, began in parallel under Roman and Neo-Persian rule in the first part of the 3rd century.

states imposed in their land: relations to divine right, to popular assent, to admitted custom, to feudal laws, etc. More generally speaking, the corpus of the Law of the Kingdom's rules specially addresses the realm of legal conduct concerning the relations between Jews, on the one hand, and between Jews and Gentiles on the other.

Ironically enough, it turned out to be the burden of those who claimed to be the direct heirs of the Palestinian legacy (Yuval 2006; Goldberg 2008) to work out these legal theories. Between the 11th and the 13th centuries, the Ashkenazic rabbis of medieval Europe elaborated the main lines of the inner structure of the Jewish administration of the community, the *Kahal* (Schwarzfuchs 1986; Grossman 2004), and at the same time they defined the relations to an external State. Furthermore, one may notice that in Ashkenaz, the Jewish community's leadership was divided into secular and spiritual bodies, according to a divide founded on the recognition of the individual's capacity and knowledge, and was then submitted to legal rabbinic ordination – as was the case in Palestine (Agus 1969). In contrast with Spain, not only did the State appoint the leaders of the *Aljama*, Jewish community, but to perform as religious leaders, rabbis did not need to obtain the position through rabbinic ordination, as was the case in Babylonia (Goldberg 2004). Thus, in some ways, whereas the Sephardic Diaspora prolonged the legal and integrative conception of the Babylonian Galut – almost entirely submitted to the will and decision of the external state, the Ashkenazic Diaspora perpetuated the Palestinian attitude to the Roman occupation. Galut was understood as coercion and perceived as a continuum of violence against its self-government. Indeed Ashkenaz maintained its judicial frame of internal autonomy inherited from the Palestinian pattern until the abolishment of the Community in the wake of emancipation, during a process which started with the French Revolution and lasted down to the Russian Revolution.

The here and now

To conclude this precarious attempt to draw a thread between past and present, current and well-known approaches, by trying to revive a former largely unknown world which has left scarce traces, the question remains open: is it really possible now to portray somehow a picture of what might have been a common law opposed to a Jewish law? Examples of such cases are numerous throughout the long history of the Jews, as is the case with familial or personal status, marriage and divorce, inheritance, judgment, oath, commercial practice and extending all the way to taxes. The most illustrious case was Napoleon's call for a new "Sanhedrin" in 1806, which was supposed to impose on the rabbis the lofty goal of demonstrating that Jewish Law was compatible and adjustable to the whole framework of the legal status of individuals and legal general laws of the State. It was the first attempt to find a way to solve the absolutely puzzling problem of the division between religious and civil laws intrinsic to the nuclear conception of Judaism, conceiving it as an everlasting frame to be applied in any foreign state where Jews might live, forming as it was often said "a state in a state."

Leaving aside for a moment the fact that "diaspora" is a word used to refer to a situation shared by many other peoples, I have tried to recall that the Jewish theological notion of Galut has little to do with geographical dispersion, and to describe how rabbinical Judaism discovered in this notion the expression of the unique fate of the Jewish People, bound to live according to the laws enforced in its alien (Christian) environment (Yuval 2006). I have suggested that, on that basis, a Jewish way of life derived from a single principle *keli golah asse lekha* – literally "Do for yourself a tool (*keli*) for exile" (Jer. 46,

19).¹⁸ And I still contend that this is what gives its specificity to the meaning of Diaspora in Judaism. To put it differently, and leaving the last word to the great Isaiah Horowitz (SHeLaH), I would like to recall a passage from his magnificent opus, *Shenei luhot ha-berit – The Two Tables of the Covenant* – (Horowitz 1649, fol 349), where he describes his astonishment at his contemporary Jews: “When I saw in this world the children of Israel building for their own use houses like princely palaces, building permanent houses made of stones in a land of impurity [...] it was as if they had renounced redemption.”

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18 There is no English translation to render exactly the Hebrew meaning of this verse. See for example. The King James version has: “furnish thyself to go into captivity” and New King James International: “Prepare yourself to go into captivity!;” the New Standard American Bible has the more modern phraseology: “Make your baggage ready for exile.” The closest would be the JPS: “Equip yourself for exile,” see <http://biblebrowser.com/jeremiah/46-19.htm>.

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Exile and Diaspora. Jewish Concepts of Dispersion

Régine Azria

Abstract

The Jewish experience of Diaspora can be seen as a condensation of the diasporic condition more universally because of the breadth of its dispersion over space and time and the changing circumstances which compelled the Jews to permanently adjust their frames of living and thinking down to the present. The present paper intends to illustrate this paradigmatic (albeit atypical) imprint of Diaspora, in processes subject to dynamic change, using two examples: (1) the place of the exile/return topic in religious and modern representations, moving from a center/periphery paradigm to one of circulation and mobility; (2) the confrontation between the Jewish traditional lexicon of Diaspora, which retained a traditional diasporic geography (*Ashkenaz*, *Sefarad*, *Mizrah*), dissociated from its territorial substratum, and real geography.

Keywords: community; Diaspora; identity; Israel; Judaism; representations

The Jewish Diaspora: A Paradigmatic Though Atypical Case-Study

Diasporas spread all over the world. This demographic phenomenon, though largely uneven in its occurrence and scope, raises questions among political and social scientists. Wherever their place of origin, men and women who are swept along in these large spatial redistributions are destined to live as migrants, no matter whether they are willing to assimilate, to share the way of life and speak the language of the surrounding people, or whether they prefer to live according to their own cultural and/or religious agenda. The phenomenon is not new but its scope seems to be unprecedented. This process affects the very texture of our societies and weakens their foundation of beliefs and certitudes (Azria 2002; Shain 2007).

The present paper looks at one such Diaspora, perhaps its classic instantiation: the Jewish Diaspora, which is situated squarely within this global context. One of the challenging issues of this essay is to determine the possible extent to which the Jewish example can serve as a paradigmatic case. Can it assist us to understand other diasporic situations, since the particular Jewish experience of Diaspora can be seen as a condensation of the diasporic condition at large, its historical epitome and prime exemplar. The breadth of its dispersion over space and time, the changing historical and political circumstances which compelled the Jews to permanently adjust their frames of living and thinking to their condition as a minority, imbue the Jewish experience of Diaspora with a structural and paradigmatic dimension, however atypical. As a paradigm of transterritorial, transnational existence, the Jewish Diaspora can serve as a lens through which to view other Diasporas, each very different: the Roma/Gypsy Diaspora, part of the broader Indian

Diaspora; the Chinese Diaspora; the myriad Diasporas today and in the past driven by economic factors behind migration.

Except for the Greeks, the Jews represent the first acknowledged example of prolonged existential Diaspora in history. They appear to be the sole group systematically associated with the notion of Diaspora.¹ This although unlike most diasporic groups which could share their identity and fate with a “center,” i.e. a metropole, the Jewish Diaspora was not a limited nor a marginal phenomenon, involving only a segment of the Jewish population; neither was it a temporary phenomenon, a short-term event in Jewish history. It was a global and lasting historical phenomenon. Global, because the Jewish world as a whole was involved with it, and it was lasting: it first appeared in ancient times and still is a reality today. Therefore Diaspora should be considered an essential constituent of Judaism: it composes the frame within which the Jews invented Judaism and within which Judaism later found a chance to experience the concrete world. While exhausting its many levels of meaning – social, cultural, theological, religious, ideological, political – Diaspora was not just an external condition of Jewish life. In my view, Diaspora is a major structuring dimension of Judaism. Or phrased a different way: Judaism is a product of Diaspora. In this respect, the Jewish Diaspora is unique. As far as is known, no other diasporic group ever united all these features within their notion of Diaspora. Consequently, if the Jewish Diaspora appears atypical owing to its uncommon features, it at the same time appears paradigmatic due to the abundance of essential diasporic features.

Yet should the Jewish Diaspora simply be taken for granted? Was there *a priori* evidence of a diasporic fate for Jews? Were they forced to leave the land they had conquered after their tribes of origin had finally joined their forces to form one nation gathered around its king, its Law, and its Temple? The fact is that one of the main concerns for the Jews during the following two thousand years was to perceive, construct and represent themselves as a dispersed people sent into exile. From that time on, the idea of return became a shared expectation strong enough to serve as a religious and political binder. One may assume that other groups in similar situations could lose their specific national features in the long run and could have disappeared through assimilation. Therefore, during their sojourn over centuries in the gentile world, Jews were determined to protect their cultural and religious particularism. They were eager to cultivate relationships with the local Jewish environment as well as to weave long-distance networks with their fellow Jews beyond the borders. Under different circumstances, on different scales and using different means, other groups and communities did the same, but differently, as for instance, Christians via evangelization, missions and military conquests; or Muslims via establishing the *dar-al-islam* (the house of Islam). Both groups succeeded in becoming the devotees of transnational worldwide organizations. But the conditions the Jews had to face were quite different: contrasting with Christians and Muslims, they formed separate groups everywhere, isolated within an alien if not hostile world; they claimed to observe strict endogamy and were not fired with enthusiasm for proselytism. In order to survive as Jews and to preserve Judaism, they had to invent new inner strategies aimed at their own fellow Jews rather than at the outside world. Their leaders had to keep them conscious of their belonging to a large but scattered family, each of its members, segments or

1 The presence of Jews beyond the borders of Ancient Israel is attested very early, long before the Christian era.

communities having to be kept aware it was part of a larger network system, connected to others via the Law and a common ancestral language (Hebrew), via a common past and shared expectations, via diverse exchanges and solidarity links (family, economic, religious). Less rational and understandable though is the persistence of the link with the lost place, an imaginary *elsewhere*, which ages ago, had been the land of their remote Hebrew ancestors. How can one explain that Jews living today in Sydney, Moscow, Teheran, New York or Paris still view themselves as exiled from Zion, whereas in the time spans in between so many concrete and painful exiles punctuated their tormented history? They are indeed a group repeatedly pushed into exile. That would suggest that Diaspora is not a mere factual historical phenomenon, but also and perhaps primarily a subjective construct, a self-representation as well as a representation of the other, the core of a national-ethnoreligious imaginary.

At this point, an ultimate argument for the persistence of Jewish Diaspora should be added to those already mentioned: Jews not only incorporated the diasporic dimension of their history into their collective memory, they also included it into their religious representations and gave it a theological dimension. Far from considering the Diaspora/exile event as fortuitous and marginal, Jewish scholars tended to interpret it as part of a divine plan within which it was to play a major role with regard to the messianic process of redemption. However, referring to Messianism and redemption should not give rise to a misunderstanding. It does not suggest that the religious sages were willing to postpone redemption and the end of exile somewhere beyond the frontiers of human history. Quite the contrary, they did insist on the fact that its drama is being performed here below, in this world, that it closely follows the very folds and contortions of history, and merges into its breakings and upheavals, as the messianic turmoil generated by Sabbatai Tsvi in the 17th century illustrates (Scholem 1973). In contrast to this particular dramatic event, the Rabbis also stressed that although the end of history is supposed to be known, its paths and the precise date of its coming are not. The tortuous course of history, full of pitfalls, unfolds according to a process the Scriptures compare to the pangs of childbirth and delivery:² the return of the Jews to their ancestral land is the expected end they are hoping for since ages, but like the childbirth, this expectation is experienced with awe and tremor.³ Neither modernity nor the process of rationalization and secularization, even political Zionism and the implementation of its project of return for the Jews, ever seriously damaged this eschatological theological aspect. The religious argumentation regarding exile and Diaspora still keeps its relevance today, except that it can no longer lay claim to a monopoly and has gained ground on the political field. The present context of globalization and of unprecedented technological achievements in communication means abolishing the very notion of distance with regard to space and time. However, rather than to examine Diasporas as they disappear and undergo recomposition in their concrete forms and modes of self-representation, I intend to show that over against the center/periphery and exile/return paradigms, still relevant in popular conception and representation, a circulation/mobility paradigm is juxtaposed. Its effects are palpable, in the Jewish case and among other things, in the shift of the words and concepts used to de-

2 Isaiah 37, 3; 51, 6; 66, 8; Hosea 13, 13.

3 Jewish mystical texts compare the times prior to the coming of the Messiah to the labor pains of childbirth.

scribe and frame the diasporic Jewry, from the traditional lexicon to a universalist lexicon.

The Diaspora Paradigm in Jewish Traditional Representations and the place of the State of Israel⁴

Rabbis and scholars have assigned a two-fold connotation to Diaspora: negative and positive. Negative as a synonym for exile and divine punishment;⁵ positive as the mission assigned to Jews. In both cases, the notion of Diaspora is heavily infused with Messianism. As the bearer of an expectation, it removes Jews from their wretched existential condition, pressing them to overcome their narrow perspective, while setting a double goal: 1) the return to Zion, which means putting an end to exile; 2) to be “a Light unto the nations” (Isaiah 49,6), this mission being viewed as the ultimate destination of the Jewish dispersion. Judaism was shaped and molded by its artisans, i.e. its Rabbinical and secular elite, to fit history from this permanent tension between the singular fate of a particular people and the universal call proper to biblical monotheism.

Ideally speaking, the Diaspora paradigm accounts for this situation of a group, physically rent across vast spaces and scattered, whose sacralized memory of its mythical past and the idealized vision of its messianic future point to the same and unique ‘elsewhere’ in space and time; a group whose awareness to be a people is nourished with the thought of this elsewhere, this thought being itself nourished with the narrative of its origin, as written in Scripture, commented by tradition, codified in the ritual, theatrically performed in liturgy. In other words, a people in the eyes of which the very thought of a ‘elsewhere’ constitutes the memory and the horizon, the ferment and the reason for hope and perseverance.

Among the questions raised by this theological construct, the concern with the focal point and center of Diaspora requires particular attention, at least on a political level. According to conventional political categories, the center usually refers to the representative body/bodies of a legitimate power or authority: monarchy, state, nation, territory, church, party. Therefore, since the creation of a Jewish State, the Jewish center, concretized in the State of Israel, was territorialized and politicized.

Israel is a complex figure. In its traditional approach: rather than as a center, it is viewed as a totality. The polysemy of the word – referring to the people (*am yisrael*), the Law (*torat yisrael*), the land (*eretz yisrael*) – bears witness to this multiplicity of meanings. Yet it is evident that this broad semantic spectrum, which assigns Israel a plurality of levels of meaning – human, religious, normative, ethic, geopolitical – largely goes beyond the notion of the existing State confined within borders, whatever their extension.

In addition, far from being an affirmation or the expression of something to be taken for granted, the invocation of the central character of Israel remains an open question, an invitation to ask what the center means for Jews, past and present. What does a center actually mean to a people, for which the historical experience has consisted in recurrent de-centerings, in the multiplication of places and sources of power and authority? What

4 This section is based in part on a previous paper, see Azria 1999.

5 Christian defenders of the theology of substitution consider exile as God’s will, as the demonstration of the lapse of the Jews and the victory of the Church. See Simon 1948.

sort of a place – place taken as concrete spot and as metaphor – is Israel supposed to be the center of? Is Israel a religious, a historical, a political, or a territorial center? One should not forget that since Sinai, despite (or owing to) their numerous migrations and the polycentrism resulting from the fragmentation of Jewish Diaspora, the idea of an exclusive center was always crucial: embodied as book, the Torah, and the Law. No doubt that Jews owe their historical survival as a collective entity to this atypical way of imagining a center in their own national imaginary.

Yet, to contemporary Jews and Gentiles, “Israel” refers primarily to the State. Owing to the historical circumstances of its birth in the aftermath of the judeocide, this State holds a special place in their consciousness. Due to the abiding legacy of a religious tradition, the restorationist dimension of a “return to Zion” was never totally abandoned in spite of its political reinterpretation. Among other things, the choice of Hebrew as the official language demonstrates it: the categories of thinking used in everyday life and the modern recycling of old words belonging to the traditional religious lexicon with the polysemy of the word “Israel,” joined its mythical toponymy together with its legendary topography. As for the rituals, the liturgy, the mystic tradition, they substantially contributed to spiritualizing and sacralizing the figure of Israel, as well as the longing for “next year in Jerusalem” repeated by Jews since the Babylonian exile. In their dynamic aggregate, each of these elements contributed to keeping the map, image and idea of a restored Israel alive, in the absence of a real present one.

However, these contemporary and traditional motives are inadequate to readily identify the State of Israel with the meaning of centrality in Jewish Diaspora tradition. In Jewish diasporic discourse, there is no necessity and ineluctability of a Jewish restoration specifically on the territory of the ancient biblical kingdom.

The question of the center has been much debated in Jewish tradition and it seems that Jewish history is still concerned with this problematic question. As a matter of fact, a non-dogmatic, non-ideological approach to this complex would show the absence of a center, the permanent and recurrent interrogation of whether it was necessary to be realized. De-centering/decentralization and transterritoriality would better describe the contours of Jewish historical experience, which can be readily read and interpreted as a series of de-centerings. Actually, Israel is more frequently presented as a goal to be reached, an ideal to be fulfilled than as a real and concrete territorial, political or religious entity. If Israel is embodied in any of these modalities of reality, soon it fails: neither the Kingdom nor the Temple nor the Land were able to prevail in the face of reality and history. We can thus ask whether Israel is not doomed to remain the repeatedly promised and desired land. In that event, Israel would be the expected reward at the end of history in a millennial account, once the Promise is accomplished and Jews have fulfilled their mission in conformity with the Law. In other words, Israel would be the opposite of a *hic et nunc* reality. Israel would prove equal to what it represents only in so far as it remains a yearning after something. Israel would be doomed to remain a utopia. Rather than a center, Israel would be a horizon to reach out for.

Given the constraints of their human existence, Jews had difficulties in their efforts to meet their expectations. Nevertheless, they may answer the call, like Abraham, the son of an idolatrous father, born and raised outside *eretz yisrael*, in exile before time, in a spatial and spiritual exile, whose life was totally devoted to the pursuit of the center. That was a spiritual center when looking for and meeting God and his Law, *torat yisrael*, but also a territorial center when searching to enter the Promised Land, *eretz yisrael*, and became a national center when Abraham was chosen as the father of a holy nation, *am yisrael* (Gen. XII, 1–3). Abraham, the mythical patriarch of Israel, comes from the matrix of exile. It

suggests that the center makes sense only when related to some other elusive “elsewhere” – which makes this center all the more desirable because, situated as it is on a distant horizon, it is not within reach. One could reiterate the demonstration and apply it to the whole people, the collective consciousness of which was forged in the Egyptian exile before it became self-aware thanks to its wandering through the desert. That people’s self-consciousness was to be strengthened later on, in the subsequent dispersions from Babylonia to Alexandria, Djerba, Warsaw, Berlin.

In so far as it mingles with the notion of a center holding the exclusive control of legitimacy, the center, as a concrete entity, turned out to be eminently fluid and unsteady, even unsustainable over the course of Jewish history. Supported as a principle, it was contested and abused in reality. The political center embodied in the Hebrew Kingdom split up soon after it was established, through the schism between Judah and Israel. Already during the Talmudic era, the religious center was unable to resist the pressure of the competition between Babylonia and Jerusalem. As for the territorial center in Palestine, it was unable to resist the centrifugal forces of history with the dispersion. One could multiply the examples. Actually, the present global push toward diasporization should probably bring us to question anew the relevance of the “center paradigm” and suggest the “circulation and mobility paradigm” as its substitute, applicable to many peoples and vast communities of migrants seeking a more viable life.

The Words of Diaspora: Exilic Lexicon and Real Geography

Neither the existence of the State of Israel nor the de-dramatization (i.e. comparative ‘normalization’) of the Jewish condition outside of Israel succeeded in eroding the structuring power of the diasporic imprint. It remains quite deep and pronounced in Judaism down to the present.⁶ Since this imprint is particularly palpable in the language, its durability and effectiveness can be measured in different ways, including paying attention to discourse. If one agrees that the words we use are not neutral, that they are meant to give a shape to and express our thoughts, it is evident that the words we choose in order to describe, identify or name facts and things contribute to the building of reality as well as to its representation, to the representation we wish to emphasize or share with others. The “Temple Mount” (*har ha-bait*) or the “Esplanade of the Mosques” (*haram esh-Sharif*) are two very different designations for the same space and structure. That is also true with the lexicon of Jewish dispersion. The Hebrew words used for the Jewish narrative about its Diaspora, frame and outline a diasporic geography totally congruent with the traditional view of the Jewish collective fate, though dissociated and far removed from its territorial substratum. This Hebrew lexical geography of exile, evolved over millennia, became obvious and natural for Jews and a triple-branched structure: *Ashkenaz*, *Sefarad*, *Mizrah*. The word Diaspora itself is an incorrect rendering in Greek of the Hebrew *gola/galut*, the true meaning of which is *exile* rather than *dispersion*.

Considering this geography and the discourse that constructs and shapes it is illuminating, both for what it reveals and what it conceals. It is an integral part of Jewish history and of Jewish self-representation: while drawing on the map of the barriers, bifurca-

6 This de-dramatization can be attributed in part to the fact that since decolonization and the end of Soviet Union, most Jews live under liberal and democratic regimes.

tions and divisions within the Jewish world, it names the concrete entities. By doing so, it defines the cultural shapes of Jewish identities and highlights Judaism's inner diversity. Despite later wanderings that blurred the original territorial arrangement, this discourse and its lexicon have endured over centuries and borders.

This Jewish toponymy within the notion of Diaspora, including its lacunae and approximations, is very instructive. For instance, it forgets quite a few diasporic areas: Ethiopia, Cochin, Kaifeng, the Caucasian Mountains, and others. These blanks are neither accidental nor intended to consciously exclude. They are simply the price to be paid by the concerned populations for their demographic insignificance, for their remoteness and insulation from the centers of Jewish life, for their more peripheralized and barely transmitted cultural capital. Such a situation, replete with marginality, was to cut short any claim by these diasporic enclaves to play a significant role beyond the limits of their local communities and environment. Being labeled neither *Ashkenaz*, nor *Sefarad* or *Oriental*, having no available resources enabling them to form and be considered in generic categories of their own, these diasporic places remained the forgotten territories of Jewish history for centuries. Some, like the Caucasian Mountains, were simply annexed to one of the previously mentioned categories.⁷

Yet the *Ashkenaz /Sefarad /Oriental* categories prevailed. Their identity was shaped in terms of two differing dimensions, two logics: territorial and cultural. In accordance with territory and with areas characterized by religion and language, the latter two would reinforce the former: the cultural matrix was the element supposed to cement the cohesion and durability of group identity should the territorial matrix fail.

Ashkenazic Jewry arose in Europe in the space including northeastern France, Germany (*Ashkenaz 'proper'*) and Lotharingia long before the Jews had migrated eastward, and then much later in the late 19th century to the United Kingdom and across the Atlantic. Ashkenazic Jewry owes its durable cultural particularism to Yiddish, the Jewish language Jews from Ashkenaz proper (the German-speaking core of Central Europe) elaborated and carried eastward in their subsequent moves (and then to the New World). Yiddish was to form the tool and cement of their culture. Sefarad Jewry, born in the Iberian peninsula, experienced a similar process. After their expulsion from Spain in 1492 and Portugal in 1498, Sefardi Jews met the identity challenge raised by their geographical dispersion thanks to the intellectual, literary and spiritual tradition they had cultivated on the soil of Sefarad, thanks to the shared Judeo-Spanish language they carried in their cultural luggage as they relocated to other host countries.

As for Oriental Jews, the presumed but distant heirs of ancient Jewry, their origins go back to the exile that followed the destruction of the First Temple. Scriptures relate that after their deportation to Babylon in 586 B.C., only some of the exiled Jews took up the invitation of Cyrus, the Persian ruler, to move back to their country. Most of them chose to stay. In doing so they actually substituted an expatriate status for their exiled identity. Babylonia (present-day Iraq) became the major Jewish diasporic center in the process. Later on, the Hellenized Jews of Alexandria and other Jews followed their example, settling along the Oriental and African coasts of the Mediterranean sea. Besides their religious particularism, their major unifying features were the Arabic language – and its Jew-

7 The Central Bureau of Statistics in Israel has included Jews in Central Asia and the Caucasus in the category *edot ha-mizrah* (oriental communities).

ish versions – and their immersion in societies, which had converted to Islam. The Oriental haven maintained its intellectual and religious influence over the Jewish world for some 1,500 years (486 B.C. – 1099 A.C.) until its decline. The Hebrew term – *edot ha mizrah* (“Oriental communities”) – may sound somehow amazing if one realizes that the Orient here covers an area that stretches from eastern Iran (Mashrek/Orient) to the Atlantic coast Morocco (Maghreb/Western), i.e. it covers the Mediterranean Basin from West to East and reaches far beyond its Asiatic confines, extending to the Caucuses. This term, not free from a certain condescension, sheds light on the way Western Jews used to consider and represent their *other self*, the “Oriental Jew.”⁸

As much as the extension of Ashkenaz and the splitting up of Sefarad, the spatial expansion of this diasporic Orient blurred the relevance of the territorial characteristics. Whereas in the 8th century, the division of Europe in two major geopolitical blocs (Spain and the Roman-German Empire) framed two distinct Jewish civilizational areas – Ashkenaz and Sefarad – leaving the exclusiveness of Maghreb and Mashrek to Oriental Jewries, further political disorders led to a new deal and to the redistribution of labels. Thus, after the Jews of Spain banished by the Inquisition had crossed the Mediterranean and settled in North Africa, Jewish indigenous populations were progressively absorbed by their Sefardi co-religionists so much so that the Sefarad label changed. It was no longer solely the name used for the Jews from Spain, but referred to the totality of the Jews established in Islamic countries. Despite the large migrations that occurred later on, two geocultural entities thus remained in modern minds and representations regardless of their changing outlines: an Ashkenazic Jewry identified with the Christian West (Europe and the Americas); a Sefardi Jewry identified with the Arabic-Islamic world (Maghreb & Mashrek), and the original Sefardi Jews of the Mediterranean (Italy and the Balkans) in between.

Historical distance permits the historian to question these distortions of concrete reality brought about by lexical customs and labels. While linking the labeled populations to concrete places and areas – Germany, Spain, Orient – toponymy could suggest a sort of writ of sedentary life. Though toponyms survived, history defeated territorial links. While setting them in motion, history swept up populations carrying them away from the places they had long been associated with. These collective entities that had been mistakenly considered as permanent residents bound to their place, owing to their labels, split into an infinite number of diasporic fragments. In keeping their original names though, each of these fragments in motion now had the duty to insure the future of rootless identities, to become the keeper of a language and of a culture, the depositary of the memory of a place, the witness of an absence. For a long time, Ashkenaz, Sefarad, Mizrah have hardly anything in common with Germany, Spain, and the Orient in their cartographic sense. These names refer to a geographic imaginary disconnected from geographical reality. However, if these labels are freely used with regard to maps and geography books, the spaces they call to mind draw another type of geography, a geography of time and memo-

8 As unsatisfying as it may appear, the choice of the term *edot ha-mizrah* intended to aggregate within one statistical category the Jews from Asia, Africa and Arab-Islamic countries, in other words populations supposedly little or not affected by modernity and western influences. Thereby, in applying it to its own co-religionists, the Israeli Administration (the Central Bureau of Statistics) was enforcing the well-accepted Western orientalist approach brought from colonial expeditions. For a critical analysis of this issue, see Shohat 1999; 2001. On Orientalism, see Saïd.

ry that makes sense with regard to genealogies, cultures, practices of transmission (languages, rituals, customs, gastronomy).

Moreover, Ashkenaz never claimed to be the name for Germany as such, nor for a broader German-speaking space. One can hardly imagine a German or Austrian native claiming to be an Ashkenaz. Ashkenaz was always a Jewish term, for a Jewish cultural space. A space within which Jews invented a particular way of life, developed a language anchored in local German vernaculars, also borrowing from Hebrew and Aramaic, from the Roman and Slavic languages spoken in the countries they wandered through. This was a space within which religious study and culture achieved great excellence thanks to the broad and deep knowledge of their spiritual masters and the quality of their Talmudic academies. Sefarad never claimed either to be the name for Spain nor for its inhabitants, even less for the Ottoman Empire or the Mediterranean coast. Like Ashkenaz, Sefarad designated only Jewish cultural spaces, within and between which Jews used to circulate and exchange goods and ideas among their communities and beyond. Here they developed their idiom of Judeo-Espanol, composed works in philosophy, mystics, poetry, excelled in the art of translation.

This particular way of living is proper to any diasporic group. As well as other sources of confusion springing from the decentering with regard to identity and origin, where, for instance, family names like Tedeschi (which means “German” in Italian) replaced the original Hebrew surname Ashkenazi, as a consequence of Ashkenazi family migrations to Italy. This type of otherness, through migrations and decenterings, is expressed by words, through the migration of names from one language to the other, as much as by deeds and gestures or ways of life.

The history of Jews in Diaspora was a succession of moves, a chronicle of migrations. The initial Founding Exile that marked the collective foundational narrative and memory as a veritable structural dimension of Judaism, was followed by many other expulsions and smaller exiles, more limited regarding their amplitude and effects but not less traumatic for those who experienced them. These alternations of migratory movements and periods of sedentary life reoccurring eventually blurred the very meaning of exile and Diaspora, shifting its focus and imaginary. *Galut* came to mean something different for the Ashkenazic Jews, different for the Sefardim. When the Inquisition expelled the Jews from Spain and Portugal, Sefardi Jews were forced into a new exile, the exile from Iberia. From then on, the *elsewhere* that dwelt in their collective memory and nostalgia in their new host countries were Spain and Portugal as much as the Jerusalem of the Psalmist.⁹ As Danielle Rozenberg writes (Rozenberg 2006, 27):

“It is the memory of the forced leaving, first, ‘My ancestors were sorrow-stricken when they had to leave their Spanish dwelling, dreams of Spain ...’ as the Judeo-Spanish romance says. From Morocco to Turkish Orient, the poets of exile chant the splendour of Sefarad and the regret for the lost homeland: ‘Beloved Spain, we call you mother, and all our life-long the music of your language escorts us. Whereas you expelled us from your bosom, cruel mother, we still love you, holyland where our fathers buried their fathers and the ashes of thousands of beloved kins.’”

9 See Psalm 137: “If I forget thee, O Jerusalem, ...”.

The same was true for Ashkenazic Jews in Germany, Poland or Russia, for the Jews expelled from England in 1290 by decree of Edward I, for Sefardic and Oriental Jews in North Africa, Egypt, Greece, Turkey or Iraq, for other uncategorized Jews dwelling in Ethiopia, Cochin or other lands. All had, at least once in their history, the experience of exile, the experience of being forced to leave the country where their ancestors had dwelled for centuries. Each time, exile affected only one limited segment of the entire Jewish world, but still it was kept in particular and collective memory. These fragments of memories “merged into the global religious and national memory of the original exile” (Rozenberg 2006, 51). These small-scale replicas of the original scenario contribute to the increase of the global Diaspora, the common fate of Jews in their dispersion, and at the same time they participate in its splitting into a multitude of fragments, each involving only a small part of the whole.

The Reversal: The ‘Diasporising’ of the State of Israel

Moreover, Diaspora Jews settling in Israel by choice accepted their relocation into a predominantly Jewish state, loosening or terminating former ties with places and people in their countries of origin. One may assume that some of them experienced the “return to Zion” with ambivalent feelings: as a positive achievement on the one hand, as a painful break, a sort of exile, on the other. This reversal of the original traditional spirit of exile may border on something seemingly scandalous in the perception of some. One should not minimize the fact that the places the newcomers left behind were often their birth-places, the very places where they had grown up and spent much of their young formative years. In contrast with the immaterial and spiritualized promised land of religious memories and prayer books, these diasporic countries remain the concrete places of their origin, where their parents and forbears were born and buried. Although these places cannot pretend to compete as a “promised land,” yet as time passes and distance grows they may rank among many other lost paradises in a kind of imagined community founded on exile. Their imprint in the mind helps keep the longing for return to these native places alive. If inaccessible for some reasons, it keeps nostalgia alive and becomes a major issue in family narratives transmitted from generation to generation.

Even more disconcerting is the fact that immigrants to Israel who had suffered stigmatization because they were labeled Jewish in the Diaspora, soon after their arrival in Israel have to endure being labeled “Russians,” “Poles,” “Moroccans,” “Ethiopians” by their new Israeli compatriots. This seems paradoxical. In other words, indigenous and old-timer Israelis seem to be in a hurry to identify the newcomers with a nationality which the immigrants were prepared to cast aside or jettison totally once in Israel, if by chance they had not already been denied it in their countries of origin (Khanin 2002). Beyond anecdote, what can we say about these exchanges of identity labels?

In demonstrating, sometimes harshly, their diversity of origins, Israeli Jews have reintroduced the reality of Diaspora, with its disparities and its cultural shocks, into the very center of Israel. Thus the whole country is being transformed into a concentrated mosaic of Jewish Diasporas within which anybody can feel free to claim their particularism and derive concrete or symbolic profits from it by means of societies or *Landsmannschaften*, lobbies, political or media channels. The modern State of Israel that was supposed to be the cure for the Jewish pathology represented by Diaspora, has become not only the heir to those realities reconstituted, but also the guardian and the caretaker of diasporic modalities of being Jewish that are now threatened and endangered in Diaspora.

These distinctions and identifications based on national or geographic origins have effects: they reintroduce and update within Israel the logic of fragmentation that was proper to Diaspora. One additional aspect to be noticed is that this inner diasporization of Israel is no longer being carried out at the sole traditional conceptual and lexical levels – Ashkenaz, Sefarad, Mizrah – but also at the level of political modernity, including the use of categories borrowed from the universal lexicon (Russian, Pole, Moroccan, Ethiopian, French). This inner fragmentation based on countries of origin and nationalities comes in addition to the traditionally well-known diasporic categories. For if the practice of Russian, Polish, English or French languages replaced the use of Yiddish, Judeo-Spanish or Haketyiah¹⁰ most of the time among young generations or late newcomers, the legacy of the diasporic origin of modern Israel and of its early waves of immigrants did not disappear at all. It is still vibrant, especially through the use of immigrant languages, and has its place in collective representations and public institutions. For instance, the Ashkenaz *versus* Sefarad-Oriental (*edot ha-mizrah*) binary still remains the most commonly used indicator when analyzing the socio-economic and cultural divisions between wealthy and poor, bourgeois and workers, secular and religious, modern and traditional, etc. These divides have fissured Israeli society since its inception. The same binarism can be found at the pinnacle of the Central Rabbinate institution, where an Ashkenaz and a Sefarad Chief Rabbi share the title and the function of Chief Rabbis of Israel. The political sphere also reflects this bipolarization. It was already noted in sociological analysis: more liberal and left-liberal progressive secular parties are believed to attract a more Ashkenazic constituency, whereas nationalist right-wing parties tend to be attractive primarily to Sefaradic and/or oriental voters. This bipolarization is still present in political and ideological representations, even though the electoral map of Israel, like Israeli society at large, is much more complicated than before. In this respect, the creation of the *Shass* party in 1984 was a turning point for Israeli democracy and parliamentary life. For the first time, a party was created on an explicit Jewish ethnic anchoring rather than on a political or ideological one. The taboo that had prevailed for the sake of national unity of the “Jewish people” was jettisoned. For the first time, a Jewish political party claimed its *ethnic* character and was willing to support the cause of a specific Jewish ethnic group.¹¹ The example was followed in subsequent years to such an extent that by now new divisions have been added to the pre-existent left/right and Jewish/Arab ones: intra-ethnic divisions opposing Ashkenazic Jews to Sefaradi Jews¹² in keeping with the traditional diasporic lexicon, and the divisions according to countries of origin¹³ in conformity with the modern geopolitical lexicon (Khanin 2002).

10 A variant of Judeo-Spanish spoken in Morocco.

11 Shass was created by Sefardi religious leaders after their secession from the historically Ashkenaz religious party Agudat Israël.

12 The Ashkenazi parties Agudat Yisraël and Degel ha-Torah (united within Yahadut ha-Torah) stand in opposition to the Sefardi party Shass.

13 Israël ba-Aliyah (N. Chtcharanski, 1995); Israël Betenu (Avigdor Liberman, 1999) which is a right-wing party of Russian immigrants; Lev Olim (1999) is a non-politically affiliated party of immigrants from Central Asia (former SU); Leader (1999) is a liberal democratic party of Russian immigrants; Atid Ehad (“One Future,” 2005) is a party of the Ethiopian community.

Conclusion

Alleging that Jews have had too much history and not enough geography is a meaningless assertion: from its inception, Jewish history has been a great lesson in the human geography of Diaspora, i.e. the map of the world.

Even though the Jewish condition has been de-dramatised, one should still be aware that all over the world men and women are permanently confronted with the violence of history. Nobody knows in advance what will come of it. Yet being a victim is not a fatality; history remains open and Diasporas retain the possibility of continuing their long-term history.

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Nationalized Judaism and Diasporic Existence. Jakob Klatzkin and Hans Jonas

Yotam Hotam

Abstract

This article characterizes the modern Jewish debate around Zionism as a profound political theological controversy by juxtaposing the works of two significant twentieth-century Jewish scholars, Jakob Klatzkin (1882–1948) and Hans Jonas (1903–1993). The article demonstrates that, for these scholars, the Zionist political venture was informed by a Gnostic theological message. While Klatzkin campaigned for Zionism as Gnosticism, Jonas critically challenged this link in his writings from the 1950s and 1960s. In presenting a theological reading of modern Jewish secular thought, the article transcends the political controversy between Zionists and Post-Zionists that dominated the literature in recent decades. It proposes a new horizon in the study of Jewish modern-secular thought.

Keywords: Zionism; Diaspora; Gnosis; Life Philosophy; Political Theology; Secular-Theology

Introduction

In the last twenty years, Zionism has stood in the center of an academic controversy between protectors of Jewish nationalism such as Anita Shapira and Yosef Gorny, and critics of its very legitimacy as a form of European colonialism, such as Benny Morris, Amnon Raz Krakotzkin and Avi Shlaim.¹ A debate between Zionists and Post-Zionists, this profound controversy not only polarised research in favor of one ideology or the other; it also corrupted it. More acutely, the debate took the form of a kind of trench warfare between two rival political camps. As such, the debate literally brought the study of Zionism to a state of virtual stagnation, since the field of study by and large became a kind of ideological zero-sum game.

This article seeks to transcend the present state of affairs in the study of Zionism. For this purpose, unlike former studies, Zionist or Post-Zionist, which usually treated the social, military, economic, practical, ethnic, and recently gender aspects of Zionism, this

1 This article is based on a paper presented at the international conference “Life Philosophy and Zionism” which took place on May, 21–22, 2008 at the Van Leer Institute in Jerusalem. In the paper I revisited some aspects of my recent book (Magnes 2007), which is forthcoming in German, with the publication series of the Simon Dubnow Institute, Leipzig and the V&R publication house. I thank my colleagues Ofer Nur, and Adi Eyal from the Hebrew university of Jerusalem, and Dirk Moses from the University of Sydney for their enlightening remarks on an earlier version of the paper.

article considers the theological character of Jewish national-secular thought; it will illustrate Zionism as a specific form of political theology (Schmitt 1923). The question whether Zionism was a “good” or “bad” historical venture – a liberation movement or an oppressing colonial force – does not stand at the heart of this examination of the theological character of Zionism. Instead, it is an inquiry into the metaphysical and imaginary foundations of this historical phenomenon.

To this end, the article argues that at the heart of the Zionist political theology lies a connection between a concept of modern (i.e. a secularized form of) Gnostic theology, and the Zionist political argumentation. By juxtaposing the works of two Jewish scholars, Jacob Klatzkin (1882–1948) and Hans Jonas (1903–1993), the article demonstrates this connection between (Gnostic) theology and (Zionist) politics from the perspective of modern secular Jewish thinkers themselves. Interestingly, Klatzkin and Jonas wrote their major works concomitantly in Germany in the 1920s and 30s, when both were committed Zionists. Nonetheless, to the best of my knowledge, they were not acquainted with each other. Nor did they have any direct intellectual relations. Not surprisingly, then, these scholars have not been studied together. Yet, for precisely this reason, juxtaposing Klatzkin and Jonas can illuminate how modern Jewish minds think alike, namely how for these distinct thinkers the Gnostic specific theological message informed the national Jewish secular argument for which Klatzkin campaigned and which Jonas, in his postwar critique, wished to amend.

The juxtaposition proceeds as follows: first Jacob Klatzkin’s early twentieth-century Zionist thought will be analyzed, followed by a discussion of Hans Jonas’ reaction to the Zionist argument in his writings from the 1950s and 1960s. It is important to introduce Hans Jonas’ re-evaluation of the Zionist political theology from this period, because those writings demonstrate a conscious turn from his own early commitment to Zionism to what I call a post-Holocaust reformulation of ethical Judaism.

Jacob Klatzkin’s Secular Theology

Born in 1882, Jacob Klatzkin was a dedicated active Zionist from the early twentieth century until his death in 1948 in Switzerland. He was a student of Herman Cohen, a close friend of Albert Einstein, and contributed to numerous Jewish scholarly enterprises such as the *Encyclopedia Judaica*, *Bulletin Juif* in Switzerland, and the *Eshkol* publishing house in Berlin. His remarkable Hebrew translation of Spinoza (1923) was the first and until recently the only translation available. Major scholars such as Franz Rosenzweig and Gershom Scholem, for example, acknowledged the importance of Klatzkin’s translation of Spinoza, albeit critically, regarding it as a key example for the secularization of a sacred essence of Hebrew (Schmidt 2000, 86).

Klatzkin’s two central publications were his 1925 philosophical work *The Decline of Life* (*Shki’at ha-Hayim*) which he published in Hebrew, and *Probleme des modernen Judentums*, a work which detailed Klatzkin’s political worldview and that Klatzkin republished between 1918 and 1930 in a number of German and Hebrew variations. Alongside these two works, in the 1920s and 1930s, he published a number of books in Hebrew, such as *Thumim*, *Zutot*, a Hebrew philosophical dictionary, and *Der Erkenntnistrieb als Lebens- und Todesprinzip*.

Shki’at ha-Hayim provided Klatzkin with the philosophical framework for his political argument. As such, it demonstrates Klatzkin’s full reliance on Life Philosophy (*Lebensphilosophie*) – a post-Nietzschean philosophical approach that proliferated in the Ger-

man-speaking sphere at the turn of the 19th and the first decades of the 20th century. As a product of life philosophy, Klatzkin's work held an element of "life" (*Leben/hayim*), to be the benevolent essence and the cause of being, and the opposing element of "spirit" (*Geist/ruah*) as the malevolent force that created the world. It further argued for a dualistic rift between the original element of life on the one hand, and the world as a creation of the spirit on the other (Klatzkin 1925, 178). In other words, Klatzkin's work maintains that in creation the world was simply divorced from the original element of life as an outcome of the intrusion of the spirit. From that point on, the history of the world is the history of ongoing detachment, alienation and decline of life, a process in which "life eradicated itself" (Klatzkin 1925, 178).

For Klatzkin, as a life philosopher, this dualistic split between life and spirit characterizes human reality in particular. Divided between original emotional and derivative rational contesting spheres, human reality is a paradigm for the cosmic process of the decline of life and the triumph of the spirit. Thus, he maintains that "with the progression of man, and the advance of knowledge, reason moves ever closer to its origin, the divine spirit of nothingness." This process, according to Klatzkin, "ends in possessing the power over the human soul, controlling it to the extent of destroying the world of the human being, the world of beings, cooling human life and killing life with the kiss of nothingness" (Klatzkin 1925, 117).

Here it is interesting to note that Klatzkin's argument does not refute a notion of historical progress in which the spirit reveals itself through world history, as Hegel for example asserted; rather, it affirms this process, but sees in it a regression (rather than progression) in which life continuously declines. Consequently, Klatzkin's tone is deeply apocalyptic, since at the end of this process lies the triumph of the spirit that is "the end of all life." Thus: "In the hour in which reason rises, being is shattered, and life is lost" (Klatzkin 1925, 180).

The theological implications of this metaphysical argument are fleshed out by Klatzkin himself. Klatzkin explicitly points to the fact that his metaphysics actually contemplate the divine. Within this context, it is important to note that Klatzkin points specifically to the Gnostic theological character of his worldview. It is essential not to regard the term Gnosis as belonging exclusively to a remote history of Western religion or Antiquity but to see it as an important element of modern discourse. Gnosis reemerged within the German intellectual milieu in the early 20th century as an important and rather common concept, when major theologians such as Adolf von Harnack, Rudolf Bultmann, and Karl Barth published their works on the Gnostic theology, and contemplated the relations between Gnosis and secular-modernity. Jewish scholars such as Martin Buber, Gershom Scholem and, of course, Hans Jonas himself took a central part in the discussion of Gnosis. Klatzkin, therefore, was not an exception, but rather aware of the intellectual trends of his time.

There are three points to be made here to better understand the connection between Klatzkin's argument and Gnosis. First, life/*Leben/hayim* as the essence of being is what Klatzkin refers to as "the other, estranged God" (*ha-el ha-aher, ha-zar*) (Klatzkin 1925, 61). This is the Gnostic theological concept of a transcendent and hidden benevolent power, which lies beyond the world as we know it, and is divorced from that world. Second, according to the Gnostic theological approach, the world was created not by this benevolent estranged God, but rather by an opposing evil creating force. Klatzkin therefore refers explicitly to this evil creator. For Klatzkin, this is a "violent" force, which brought "animosity into chaos." For Klatzkin then, "the world is created with the power of hostility and dividedness." Finally, in Gnosis cosmic dualism is especially patent in

human reality, which is divided between the human being as part of the world and the human hidden and true godly essence, which is alienated from the world. As Mark Lilla recently argued, alienation from the world is one of the central aspects of the Gnostic theological message and was therefore one of the central issues which preoccupied modern thinkers (Lilla 2007, 164-165). For Klatzkin, then, the human being, more than anything else, reflects the cosmic state of affairs in being simply a split entity between spirit and life, between being as part of the world, and entailing a hidden true divine spark. For Klatzkin being as part of the world means rational understanding of the world, and engagement with the surroundings through reason. The hidden, true, and divine spark is, conversely, mediated through vivid emotions, intuition, or impulses. In the last and concluding part of his *Shki'at ha-Hayim*, Klatzkin indeed discusses the need for human liberation from the world of reason and rationality and a return to the original godly element through counter-rational emotions and intuitions – no less than an heretic revolt against the laws of the creator which governs the world, for the purpose of numinous unity between the human being and God. This numinous unity, in terms of time, is the present-eternal moment advocated by Gnostic mystic thought, in which a human instant of forgetfulness of time becomes one with the Godly eternal. Klatzkin terms this present-eternal moment as *kfitzat ha-derekh* (literally “a leap of the road”) – that is the aptitude to leap beyond space and time, advocated within the Jewish mystical tradition.

I referred to Klatzkin's metaphysical approach as Gnostic, yet I would also like to point to its modern and thus secular character. Characterized as “Life,” Klatzkin's Godly power is natural, i.e. Klatzkin's God is immanent nature.² This is not nature as we perceive it around us; rather, it is a hidden elemental force, which is not part of the surrounding world. The hidden benevolent power is pure immanence, whereas the world as we know it is a product of a spiritual transcendent God, as defined by the Judeo-Christian religious tradition. Interestingly, in Klatzkin's theological approach, immanence and transcendence exchange places: true and original transcendence is, actually, immanence, whereas the traditional Judeo-Christian transcendent God is identical with the world around us, i.e. is immanent. The essential outcome of this crossover between immanence and transcendence is that Klatzkin's Gnostic transcendent hidden and estranged God is secularized, because it is transformed into an omnipotent, immanent force of life. Here, secularization does not mean ‘emancipation’ from theology, but rather a transfiguration of a theological worldview into modern context. Accordingly, Klatzkin's secular approach should be seen as a “secular-theological,” as termed by the historian Amos Funkenstein (Funkenstein 1986, 12–22).

Klatzkin's True and False Existence: Zionism versus Life in Exile

How then did this type of secular theology inform Klatzkin's Zionism? Klatzkin's *Probleme des Modernen Judentums* demonstrates the connection. For Klatzkin, the mod-

2 It is important to note that here Klatzkin's argument is also made in order to come in terms with Spinoza. Klatzkin relates to Spinoza's Theologico-political Treatise in which he recognized a basis for his own philosophical and eventually political-theological approach, while rejecting some elements in Spinoza's philosophy he relates to him as a pillar of Jewish revival.

ern Jewish predicament lies in a dualistic rift, represented by two types of Jewish existence. On the one hand, Klatzkin argues for a true and ‘authentic’ Jewish essence. This essence is for Klatzkin national i.e. political, and is represented by two aspects: “life on the land” (Hebrew: *hayei aretz*) and the use of the native language (Hebrew). The metaphysical term “life” is here patent in the Jewish political existence of “life on the land.” Historically, Klatzkin refers here to the times in which, according to the Jewish tradition, ‘Israelites’ lived in one territory, before being exiled and misplaced. According to Klatzkin, this allegedly original Jewish way of life is rooted in the performance of what he termed “ancient natural religion,” in which “man and nature” are one (Klatzkin 1918, 15). To the extent that Gnosis represents for Klatzkin the theology of the unity between the human being and nature (i.e. “life”), Jewish national existence (i.e. “life on the land”) stands for its political (i.e. particular) realization.³ I.e., for Klatzkin, national Jewish existence represents the political realization of his secular theology because it transforms his general claim regarding “life” into a particular existence of “life on the land.” From a theological perspective, this genuine Jewish reality is equivalent to what he labeled a “religion of life” (Hebrew: *dat hayim*). Authentic Judaism is *dat hayim*; national existence is the political articulation of Judaism as *dat hayim*, which unties the Jewish person and God.

On the other hand and in opposition to the Jewish national existence, life in exile represented for Klatzkin a false Jewish existence. This false ‘Diaspora’ existence is informed by the deceitful spiritual God and this deity's devious laws. From the specific Jewish point of view, the Jewish Halakhah, which is according to Klatzkin the legal and moral codex of diasporic life, reflects the laws of the cunning spiritual God. In the internal Jewish context, this view is, naturally, an utter revolt, or heresy. Klatzkin’s approach radically disconnects an almighty biblical God from the God of the Jewish halakhic interpretive venture. Within these settings, he argues for example that *Torat Moshe* (The Teaching of Moses) was *Torat Hayim* (The Teaching of Life), which was corrupted, meaning “spiritualized” by the Halakhah. Thus, the halakhic laws do not represent the true essence of Jewish life under God, but rather the detachment and alienation from such original and true Jewish life. Klatzkin refers to this as a process of reshaping the Jewish existence from a genuine “Volkreligion,” through the emergence of “Weltreligion,” and ending with the founding of the “Sittengesetz” in which spiritual religion and law are identical (Klatzkin 1918, 15–16). For him modern Jewish secular existence, as long as it does not represent a return to a “life on the land,” merely represents the continuation of this process (Klatzkin 1924, 191–197).

One central outcome of this approach – which radically distinguishes between two types of Jewish existence – is that the enemy of the “true” national “Jew” is a “false” exile Jew. Indeed, the “false Jew” is a sheer enemy of life, along the lines advocated by the life philosopher and radical anti-Semite Ludwig Klages (1872–1956) for example; on the other hand, a “true Jew” is the pure cosmic entity that Klages himself was looking for. The Jew thus represents both sides of the theological coin. Klatzkin’s Zionist approach differentiates at this point between two types of political theologies. The Halakhah and

3 Also see for example his Thumim, Berlin: Eschkol 1925, 27, and idem “An Essay on Judaism With Respect to Ancient Religions” (Hebrew Original: Ma’amar al ha-Yahadut legabei ha-Datot ha-Kadumot), unpublished text, in: Zionist Archive, Jerusalem, A:40 22/29.

eventually, the modern secularization of the ethics and moral codes of the spiritual God represent a false political theology. Conversely, the Jewish national existence, the political realization of the theological numinous unity between Jewish existence and God, represents a true political theology.

Furthermore, it is important to note that for Klatzkin the “true Jew” is only conceivable as a national, i.e. political being. This being was lost during exile, because exile, or diasporic existence means for Klatzkin a Jewish reality alienated and detached from the original (national) “life on the land.” This absent political being is the essence to which Jewish existence **should** return. Zionism therefore means, for Klatzkin, a mere **return** to what was forgotten during exile: namely a return to a genuine national Jewish existence. Klatzkin terms this true Jewish national existence “secular” (Hebrew: *hagdarat hulin*). Klatzkin’s “secular” nonetheless is a dialectical concept: heretic with respect to the God of creation and the Jewish political existence under this God, but at the same time theological in its reliance on a modern Gnostic worldview. This does not mean that Klatzkin’s Zionism is not secular; rather, it demonstrates secular thought as a type of transfigured theology. Accordingly, Klatzkin’s Zionism can be seen – in a play on Gershom Scholem’s words – as ‘conversion through heresy’ (Scholem 1937, 347–392).

Klatzkin’s concept of a national Jewish existence, though defined as a return to ‘original’ Jewish nature, is in itself an example for the absence of such original Jewish essence. Or polemically: Klatzkin’s call for a return to the original Jewish life is anything but originally Jewish. The best way to illuminate this last point is to refer to Eric Voegelin’s analysis of the Aristotelian concept of “mature man” (*spoudaios*). In his seminal *New Science of Politics* published in 1952, Voegelin, a Catholic political- philosopher, claimed that Aristotle’s “mature man” is the person who can reveal **universal** truth out of his own **subjective** experience (Voegelin 1952, 64). What is important for Voegelin is not whether Aristotle held to concepts such as “universal” and “subjectivity” as we understand them within the modern context; rather, he was interested in making a point regarding the connection between the human person and truth. For Voegelin therefore, the Aristotelian “mature man” symbolizes the connection between acute subjectivity (of the human person) and universality (truth) (Voegelin 1952, 65–70). For Klatzkin, the Jewish subject represents the acknowledger of universal (hidden) truth out of its own subjective national essence. Thus, based on Voegelin’s analysis, this subject echoes the Aristotelian concept of “mature man.” To put it bluntly, Klatzkin’s ‘authentic’ national Jew is a Hellenistic ideal person. In the same vein, it is possible to see in Klatzkin’s theological revolt against the halakhic law the continuation of the theological revolt commonly attributed to Paul. Yet, Klatzkin turned against Christianity the same way it rebelled against the Jewish Halakhah. After all, according to Klatzkin, both Christianity and halakhic Judaism follow the authority of a devious spiritual God. Klatzkin fiercely argued against the Pauline theology, and yet at the same time adapted a Pauline revolt against what Freud, Lacan and others have labeled “the law of the father.” The outcome of this complexity is a paradox in which Klatzkin held to an anti-Pauline approach, which regarded itself as originally Jewish, and yet this approach is unthinkable without the Pauline theological revolution – a revolution which, according to Klatzkin himself, is anything but authentically Jewish.

The Theology of Hans Jonas: Transcendence within Immanence

Born in 1903, Jonas was a generation younger than Klatzkin. In the 1920s, he was one of Heidegger's prominent students. Under Heidegger's (and Rudolf Bultmann's) supervision, Jonas presented a pivotal study of the Gnostic theology of late Antiquity, which is still considered to be authoritative today. At the same time, like many of his German-Jewish contemporaries, such as Hannah Arendt, Leo Strauss and Gershom Scholem, Jonas was a devoted Zionist. There is a lot to be said about the complex connections between Heidegger, Zionism, and Gnosis in Jonas' work from these early years. Especially in the light of the fact that historians such as Richard Wolin for example, overlooked the relations between these three issues (Wolin 2001). And yet, the fact that these three issues were connected in Jonas' own eyes is even more obvious when we turn to look at his postwar work, since this work was designed to distance Jonas equally from Heidegger, Gnosis and Zionism. Also sprouting from Jonas' reaction to the Holocaust, his postwar endeavors to reassess his early thoughts were mainly visible in his formulation of a new philosophy of life, which he characterized as a philosophy of the organic life form.

The following demonstrates a core concept in Jonas' postwar philosophy of life, and how it illuminates his rework of Gnosis and of Zionism. I start with Jonas' 1966 publication *The Philosophy of the Organic Life Form*. This book presents Jonas' thoughts from the 1950s and 1960s, a suitable point of departure.

In this work, Jonas was interested in reflecting philosophically on what the astrophysicist Martin Rees has labeled the universe's progression "from Big Bang to Biospheres", meaning from the moment of creation to the emergence of life (Rees 2007, 3). Jonas was interested not only in reflecting on the emergence of life out of the cosmic chain of events in general but also (and more profoundly) in elaborating on the appearance of human rationality out of the organic (and unconscious) life forms. Like Klatzkin, then, Jonas starts with a speculation concerning the *cosmogonic* moment of creation. Thus, Jonas takes on a central issue of early 20th century life philosophy that is the leap from the distinct elemental force of life to the appearance of reason, or from monistic cosmic point of departure in which there is only a single force of life, to a dualistic cosmos, which is characterized by the struggle between life and reason.

Here, as in Klatzkin's case, theology appears to be essential to Jonas' philosophical speculations concerning the moment of creation. According to Jonas, "in the beginning, for unknowable reasons, the ground of being, or the Divine, chose to give itself over to chance and risk and endless variety of becoming." It is in this moment that for Jonas God has entered "the adventure of space and time" (Jonas 1966, 275).

The question is, of course, what does it mean that God has entered the adventure of space and time? Obviously, it means a rejection of Gnostic dualism, in which God and the world are disconnected in creation. At the same time, however, it does not mean that Jonas returned here to monism in any simple sense. Rather, Jonas' speculation concerning God's entering the world, aimed at intertwining dualism and monism together, integrating contesting worldviews into one master theological theory. For Jonas, such a master theological theory represents "a third road [...] one by which the dualistic rift can be avoided and yet enough of the dualistic insight saved to uphold the humanity of man" (Jonas 1958, 340).

For this purpose, Jonas presents a twofold theological speculation. On the one hand, and following Gnosis, Jonas asserts that in creation, the world is indeed abandoned by God, to maintain its existence with no divine providence. Thus, he argues that "no un-

committed or unimpaired part [of God] remained to direct, correct, and ultimately guarantee the devious working-out of its destiny in creation” (Jonas 1966, 275). In the “Big Bang,” the moment of creation, world and God were disconnected. From that point on, the worldly matter, once created, is guided by its inner (immanent) forces and physical laws, with no divine supervision. God became exiled from the world. This is a Gnostic conclusion that could also be seen as Jonas’ version of Nietzsche’s “death of God,” as well as Jonas’ play on the Jewish mystical approach in which God created the world through self-diminution (*tzimzum*).

On the other hand, and in following monism, Jonas argues for a particular presence of God within the world. This godly presence is not characterized by a simple dominance over the world (monotheism), or unity with it (pantheism); it is also not disclosed in the form of a hidden spark exclusive to the human being (Gnosis). Rather, this presence according to Jonas is manifested in God’s *message* encoded into the world, that is, into nature as such. More of a godly desire, hope and trust invested into the world, than a divine control and influence over it, God’s message is ingrained into the world in the form of “Cosmogonic Eros” – a concept that Jonas adopted in a later article in the 1980s from the writings of Ludwig Klages (Jonas 1986). Nature operates according to its immanent, indifferent, physical laws, and organic self-guidance, and yet these nonetheless echo God’s desire. In this approach, natural law is imprinted by godly law, but with no godly control, guidance, or authority – a theological concept of godly presence, devoid of divine providence. I.e. though God is detached from the world, the godly “Eros” which Jonas adopts from life philosophy still acts in the world through “the unconscious drift of immanence.” It is in this specific sense that Jonas’ God is not only transcendent, but concurrently immanent within the world.

In this theological model, Jonas simply fixed the presence of transcendence within the world, or of transcendence within immanence. This combination certainly reflects Jonas’ specific postwar reaction to Heidegger’s philosophy. It also demonstrates his reworking of the Gnostic dualism, which he upholds and negates concurrently. God is absent from the world, yet as a vital force of “life,” it is present at the same time. It is a kind of a “present-absent” divinity – a notion that stood in the focal point of postwar thought in general – which for Jonas is informed by the Gnostic theology only in order to amend it. The outcome is characterized not by a tension between monism and dualism, as for example in Klatzkin’s case, but rather by the integration of the two together.

It is interesting to note that a divinity, which has no control over the world, can not be regarded as ‘omnipotent’ in the fullest sense of the word. Indeed, Jonas argues in his famous lecture *Der Gottesbegriff nach Auschwitz* that his new concept of God refers to a ‘non omnipotent’ God (Jonas 1984). It is a type of transcendent power which is present in the world not in monotheistic notions of commandment and providence, but rather in existential terms of openness and care. According to Jonas, this deity did not prevent Auschwitz “not because he did not want to, but because he could not” (Jonas 1984). It is also interesting to note that a present-absent God, though articulated in order to respond to Gnostic mysticism, is a paradoxical union of oppositions characteristic of the same mystical tradition of thought which informed Klatzkin’s worldview, for example. For how can ‘being’ be detached from the world, and yet ingrained into it at the same time? In a play on Max Weber’s concept of secularization as disenchantment of the world, Jonas’ own secular approach might thus be labeled an opposite re-enchantment, i.e. mystification, of the world.

Finally, it is important to recall that Klatzkin’s approach accepted the Hegelian scheme which referred to the revelation of the spirit through world history, yet inverted

the approval of this process to a disapproval of its end result (the decline of life). Jonas' approach can be seen as a double play on Hegel and Klatzkin. It argues favorably for a Hegelian concept of progression through history, but what is revealed through this process is the Eros of *Lebensphilosophie*. In this way, Jonas' approach inverts Klatzkin's *Lebensphilosophie* pessimism to a kind of optimism in which Life does not decline, but rather has the potential to be realized.

Jonas' Ethical Judaism: Diaspora as the Universal Essence of Judaism

We have gained an understanding of how Jonas' postwar reworking of life philosophy is intertwined with his conscious response to Gnostic theology. How then did Jonas' postwar speculations also reflect his reaction to Zionism, or what I label as his swing from National Jewish identity to a new formulation of ethical Judaism, which favors a Jewish Diasporic existence.

The answer to this question lies in the fact that Jonas himself explicitly connected between his theological speculations and Judaism. As Jonas' biographer Christian Wiese has argued "one can not ignore the Jewish dimension without missing a significant share of Jonas' own biographical experience and philosophical intentions" (Wiese 2007, xxiii). Wiese shows how Jewish religious concepts such as *rotze ba-hayim* ("he who wills life") which accentuated the importance of life within the Jewish tradition were of major importance for Jonas. Though not mentioned by Jonas himself, I would like to add that the Jewish concept of *pikuah nefesh* – the suspension of all laws, in a case of life-threatening "state of emergency" – is another concept that may have served Jonas' argument. Be that as it may, according to Jonas, "some equivalent of the meaning" of the Jewish traditional concepts "must be preserved if we are still to be Jews and, beyond that special concern of ours, if there is still to be an answer to the moral quest of man" (Jonas 1968, 15).

For sure, in looking for what he termed as "an equivalent meaning" of the Jewish traditional concepts, Jonas means a modern secular interpretation. Within this framework, Jonas argues that these Jewish concepts reflect that Judaism, in its core element, is *dat hayim*. Which means: a religion of Life dedicated to the perseverance of life as such. Consequently, being a modern secular Jew means a return to Judaism as *dat hayim*. Here, then, Jonas and Klatzkin truly agree on the essence of Judaism. Yet, Jonas' concept of *dat hayim* is not anchored in a modern Gnostic theological message, but rather in its reformulation; the political outcome is that at this point Jonas turns from Zionism to pro-diasporic ethical Judaism, from national Judaism to Diasporic existence. *Dat hayim*, a religion of life, to which a Jew must return, means for Jonas, an ethical rather than particular national essence. Accordingly, it does not command an alleged 'return' to original Jewish national existence, as Zionism argued, but rather an uncovering of the universal quest for ethical responsibility towards life as such. Such a 'universal' message can be maintained only within the context of Jewish Diasporic existence. More particularly, the 'universal' message is the essence of the Jewish being in Diaspora. Naturally, Jonas' theology of the presence of the absent God, whose message is ingrained within life, bears on his ethical imperative of preserving life. Judaism simply provides Jonas with the original theological message for which he argued, since for him the essence of the Jewish tradition is universal morality, and the object of this morality is the preservation of life. For Jonas, it is Judaism that "can help us restore a sense of reverence and awe towards nature" (Wiese 2007, 115). Being in the Diaspora fulfils the Jewish theological message, since it reflects

the ‘universal’ character of the Jewish essence. For Jonas, therefore, Diaspora is the political articulation of the universal essence of Judaism; the Cosmogonic Eros commands a Jewish diasporic way of life.

It is noteworthy that as in Klatzkin’s argument, the true Jewish essence for Jonas is not defined by following the laws of Halakhah – a heretic approach, if read within the Jewish specific religious context. Yet, unlike Klatzkin, who pinpointed this non-halakhic essence of the Jew in the return to a national political way of life, Jonas terms this essence responsibility towards the future. We can then say that unlike Klatzkin’s approach which integrated an Aristotelian ideal person into a new concept of Jewish authentic reality, Jonas’ approach adapted the Heideggerian concepts of time within the reformulation of Judaism. Yet, more importantly, Jonas’ approach consciously revisits the 19th-century venture by “ethical Judaism” of grounding universal ethics in Jewish religion. Consequently, Jewish ‘original’ identity for Jonas is not national; it is ethical universal, ‘diasporic’ in essence, exactly the same way 19th-century ethical Judaism argued.

These ethical speculations provided Jonas with the foundations for the postwar ‘environmental’ ethics for which he campaigned in his 1977 publication *Das Prinzip Verantwortung*. At the heart of Jonas’ new ethical approach was his formulation of the modern human responsibility toward the planet. More specifically, Jonas argued for human accountability toward the environment, as a result of the human aptitude to recover the ethical (transcendent) truth that is ingrained in the (immanent) world. As such, Jonas’ postwar anthroposophic environmentalism expressed a wish to save modernity from its nihilistic fate in what he called “the age of technology.” His tone was apocalyptic: “All this holds on the assumption made here that we live in an apocalyptic situation, that is, under the threat of a universal catastrophe if we let things take their present course.” (Jonas 1984, 140) This apocalypse in turn supported the rise of postwar European environmental politics, the type of which still inspires political activists today, who talk rather apocalyptically about global warming. Jonas’ specific environmentalism is nonetheless based on ethical Judaism; it therefore could be termed a specific attempt to ground ‘the religion of environmentalism out of the origins of Judaism.’

Conclusion

“A general state of insecurity” and “intractable and essential for any genuine account of Jewish existence” (Shepperd 2006, 18). With these somewhat opposing statements, Leo Strauss reflected on Jewish ‘diasporic’ reality – expressing the critique, characteristic of early twentieth century Zionist thinkers, and yet, concurrently, refusing to completely ignore the significance of the ‘Diaspora’ for Jewish existence. To some extent, Strauss’s statements, put together, flesh out the central political issue that preoccupied 20th-century Jewish scholars: an ethical, indeed metaphysical justification of the Jewish national impulse, or conversely, of sustaining Diaspora.

In juxtaposing these Jewish scholars, Jakob Klatzkin and Hans Jonas, this article discusses the dilemma that also perplexed the young Strauss; it does so by demonstrating this dilemma as a political-theological one, as both scholars argued theologically in favor or against one of the two possible Jewish political realities. In a way, both scholars use self-defeating arguments. They argue for some kind of an authentic or original essence of Jews, and yet in integrating Hellenistic, Pauline, or Heideggerian concepts, they show how the condition for the modern Jewish quest for authentic or original Jewish essence – national or diasporic – is the absence of such an authentic or original essence. Here it is

noteworthy that the concepts ‘Diaspora’ and ‘Exile’ are analogues for Klatzkin, since both represent the antithesis of Jewish national life as defined by Zionism. For Klatzkin, ‘home’ and ‘exile’ contradict each other and ‘Diaspora’ is merely ‘exile’ in disguise. Jonas’ approach is somewhat more nuanced. For him, Diaspora represents a political reality within which genuine Jewish existence can be maintained. Which is to say: for Jonas, Diaspora maintains that for Jews, ‘home is exile.’

Moreover, Jonas’ postwar reflections fleshed out the manner in which the Holocaust challenged the Zionist political theology, as revealed through Klatzkin’s arguments. I emphasize this specific point because the Holocaust is commonly treated – in particular within the Israeli political and cultural discourse – as evidence in favor of the Zionist political argument. In the same vein, Jonas and Klatzkin demonstrate the compound connection between Zionism and environmentalism, a rather surprising connection that many Zionists and environmentalists today would probably find rather provocative, if not outright offensive. Yet, more importantly, Jonas’ postwar reaction to the Zionist political theology demonstrates that saving Jewish modernity or modernity as such from its errors and self-annihilation called for the *return* of a previously absent God. This conclusion is rather surprising if the modern world is understood in terms of secular progression – a progression that originated, say, from a belief in an almighty power, and ended with the final disappearance and death of this Godly power – as for example many scholars today still argue. Indeed, not a stillborn God, but rather the presence of the absent one re-emerged in Jonas’ late modern thought, at the threshold of post-modernity. No doubt a concept of a present-absent divinity still affects diverse political and cultural phenomena today.

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“Exile” as a Theologico-Political Principle in Leo Strauss’s Jewish Thought

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Abstract

I consider the recent attempt by Professor Eugene Sheppard to follow the development of Strauss’s thought within the parameters of Strauss’s biographical circumstance as a German-Jewish “exile.” I begin by mentioning two key points in Strauss’s critique of historicism. I then sketch Sheppard’s approach to Strauss in a preliminary way so as to bring out something of its historicist character. After that, I test the soundness of Sheppard’s approach by looking at a statement of Strauss’s on “exile” which is found in his most autobiographical writing. Since this statement is only a small part of Strauss’s larger argument in that writing, I comment on it in terms of its place in his argument as a whole. My purpose in doing so is to discover whether Strauss’s statement when understood in its own terms warrants being placed within Sheppard’s historicist parameters.

Keywords: exile; historicism; political philosophy; Spinoza; Zionism

Introduction

A few intellectual historians have recently tried their hand at reversing the tables on the twentieth-century political philosopher and Jewish thinker Leo Strauss (1899–1973). What draws their attention and provokes their opposition is, among other things, Strauss’s elaborate critique of historicism (e.g., Strauss 1953, 9–34; 1959, 25–27, 56–77).¹ Instead of facing Strauss’s critique directly, however, the historians try to merge it with the overall drift of his thought as they understand it – that is to say, in an avowedly historicist manner (Myers 2003, 106–129; Sheppard 2007, 5, 121; Aschheim 2007, 102). Unfortunately, they thereby end up making misleading or downright counterfactual statements about Strauss.

To illustrate the foregoing and perhaps offer a corrective, I plan to consider the recent attempt by Professor Eugene Sheppard to follow the development of Strauss’s thought within the parameters of Strauss’s biographical circumstance as a German-Jewish “exile” (Sheppard 2007). I begin by mentioning two key points in Strauss’s critique of historicism. I then sketch Sheppard’s approach to Strauss in a preliminary way so as to bring out

1 There is also the contemporary American “neoconservatism” that Strauss is said to have inspired; see, e.g., Sheppard 2007, 1–2. For fuller (and more articulate) treatments of Strauss on political philosophy and American constitutional democracy, see Pangle 2006, Smith 2006, 156–201, and Zuckert 2008.

something of its historicist character.² After that, I test the soundness of Sheppard's approach by looking at a statement of Strauss's on "exile" (*galut* in Hebrew), which is found in his most autobiographical writing (Strauss 1965, 6). Since this statement is only a small part of Strauss's larger argument in that writing, I comment on it in terms of its place in his argument as a whole. My purpose in doing so is to discover whether Strauss's statement when understood in its own terms warrants being placed within Sheppard's historicist parameters. I find that it does not. I therefore conclude by pointing out how Strauss, having anticipated in principle the difficulty to which Sheppard's approach is exposed, also anticipates how to correct it.

Strauss's Critique of Historicism

Historicism – or historical relativism – amounts to the view that, historically speaking, any "philosophy" is to be understood, not in terms of the "trans-historical, trans-social, trans-moral, and trans-religious" insights a particular thinker understands himself to be aiming at (Strauss 1953, 89), but rather in terms of the passing political and cultural setting in which his thought occurs. Strauss has at least two criticisms of this view.

First, historicism is inherently self-contradictory (Strauss 1953, 24–25).³ The historicist claims for himself a trans-historical insight – namely, the very impossibility of trans-historical insights. In that way, however, he rules out in advance, that is, unhistorically, the possibility that any of the historical figures he investigates may, as a matter of historical fact, have arrived at trans-historical insights that warrant consideration in their own, trans-historical terms. Admittedly, Strauss goes on to find this criticism inadequate, since historicism in its most radical version (namely, Martin Heidegger's)⁴ holds that, owing to the impossibility of seeing beyond the horizon of one's own time, the basic philosophical riddles remain forever insoluble (Strauss 1953, 29, 35). The radical historicist, then, avoids gross self-contradiction by claiming that what discloses that insolubility is not philosophy so much as history itself, or more exactly the history of the historicist's own time. This disclosure, being essentially unpredictable and for all we know unrepeatable, is a unique and mysterious gift of unfathomable fate. In short, the historicist draws from the historical experience and/or intellectual trends of his own time the standards for interpreting the philosophers of the past. Strauss's criticism that historicism is self-contradictory thus gives way to the more basic criticism that it is inherently parochial or idiosyncratic.

Second, historicism has a dubious historical pedigree (Strauss 1953, 11–19, 26–31). According to Strauss, historicism originated as a scholarly overreaction to the social and political upheaval caused by the French Revolution. It differs, then, from the mere conventionalism, or moral relativism, of the ancient sophists (who, unlike modern historicists, did not deny the possibility of philosophy). Historicism's immediate historical back-

2 Sheppard acknowledges scholarly debts to both Myers and Aschheim (Sheppard 2007, ix, 84, 139n8, 144n74, 144n80, 164n14, 174n48; cf. Myers 2003, 213n43).

3 This paragraph and the next have been adapted from Yaffe 2008, 115–17.

4 Strauss limits himself here to analyzing Heidegger's argument without so much as mentioning Heidegger's name. If we consider this striking rhetorical fact together with the further fact that Strauss does not provide a once-and-for-all refutation of radical historicism, but limits himself to investigating its principles at some length, we may say that his intent is rather to awaken a presumption in favor of (non-historicist) philosophy – by showing *ad oculos* that it is possible to separate the principles of an argument from its historical setting, at least in the case of Heidegger.

drop is the historiography of those 19th historians who, as conservatives, sought to redress the damage done from the promulgation of abstract and universal principles concerning natural right which underwrote the Revolution, by emphasizing instead the uniqueness of the various epochs of human history and the irreducibility of human life to such principles. Strauss suggests that those historians were hoping that history itself, or what would come to be called the "experience of history," could generate alternative norms for understanding human life; but this did not happen, and, conservatives though they were (or that they were), they ended up sharing the same assumptions as their revolutionary predecessors and bequeathing them to subsequent historicists. Strauss spells out those assumptions as follows:

"It seems to us that what is called the "experience of history" is a bird's-eye view of the history of thought, as that history came to be seen under the combined influence of the belief in necessary progress (or in the impossibility of returning to the thought of the past) and of the belief in the supreme value of diversity or uniqueness (or of the equal right of all epochs or civilizations)." (Strauss 1953, 22; Kennington 1991, 233–34)

In other words, the aforementioned school of historians, like the revolutionaries who preceded and the historicists who followed, assumed uncritically the (dubious) abstract and universal principles supplied by the philosophical founders of modern Enlightenment – men like Descartes, Hobbes and Locke (Strauss 1937, lxiii–lxiv; 1953, 165–251) – concerning the irreversibility of historical progress and the unassailability of human individuality. Stated most succinctly: historicism according to Strauss accepts dogmatically the premises of modern individualism bestowed by the Enlightenment.

As we shall see in passing, Sheppard's approach to Strauss is unfortunately exposed to both these criticisms.

Sheppard's Historicist Methodology

Sheppard's aim is, in the words of the subtitle to his book, to trace "the making of [Strauss as] a political philosopher." He divides Strauss's intellectual development into four stages (Sheppard 2007, 7): Strauss's youthful Zionist and other Jewish writings during his Weimar Republic years (1921–1932); the philosophical reorientation during his years of as a political refugee in France and England (1932–1937); the studies of "persecution and the art of writing" (in his eventual book by that name; Strauss 1952) and related topics during his immigrant years in New York (1938–1948); and "his mature speculations and reassessments of his intellectual journey and on the Jewish question in particular" during his Chicago years (from 1948 on). At each of these stages, Sheppard discerns a "sense of unease or not-being-at-home" in Strauss's writings. On the premise that this sense is expressed in an increasingly complex way during the course of Strauss's development, Sheppard infers that the notion of "exile" is at the heart of Strauss's "intellectual personality" (Sheppard 2007, 4, 7).

Now it is enough for me to have outlined Sheppard's approach to Strauss in the most general way in order to bring out the following methodological point. To give direction to his four-stage intellectual biography, Sheppard appeals to a number of pre-set notions concerning Strauss's mature thought. Thus in the Introduction to his book, during a brief assessment of Heinrich Meier's Strauss scholarship, he speaks of "the dogmatism of Strauss's mature work," with its "overdeveloped binary oppositions ... such as Jerusalem

and Athens, Reason and Revelation, Ancients and Moderns” (Sheppard 2007, 3–4).⁵ In a subsequent statement concerning the theme of his book, he describes Strauss’s work as having “developed into an enigmatic orthodoxy” – by which he means “all of the pieces that define the intellectual movement known as Straussianism” (Sheppard 2007, 4).⁶ And when summarizing what he takes to be the overall tendency of Strauss’s thought, he asserts that “Strauss regarded exile as the natural condition of all political societies” and that “exile” was “the subject with which Strauss held the deepest and most sustained engagement of his career” (2007, 7–8). Since each of these claims occurs in Sheppard’s Introduction, it is perhaps not surprising that none of them is actually documented or explained there. Nor, however, do I find adequate documentation or explanation for them elsewhere in his book. But I must leave it to the rest of my argument to indicate that none of those claims is warranted on the basis of what Strauss himself actually says. My point here is that, in his method as historian, Sheppard starts out with and holds to a (dubious) set of prior notions concerning Strauss – or, more exactly, “Straussianism” – which is, strictly speaking, independent of the immediate evidence to which he then looks to mirror those notions. In this way, Sheppard’s approach to his subject illustrates what I have said Strauss says about the parochial or idiosyncratic character of historicism.

Strauss’s Quasi-Autobiographical Statement on “Exile”

In a Preface to the English translation of his Spinoza’s Critique of Religion (Strauss 1930; 1965, 1–31), Strauss says the following about “exile” (galut) as understood by modern Zionism:

“The establishment of the state of Israel is the most profound modification of the Galut which has occurred, but it is not the end of the Galut. Finite, relative problems can be solved; infinite, absolute problems cannot be solved. In other words, human beings will never create a society, which is free from contradictions. From every point of view it looks as if the Jewish people were the chosen people, at least in the sense that the Jewish problem is the most manifest symbol of the human problem [insofar] as [it is] a social or political problem.” (Strauss 1965, 6)⁷

5 For a more informative account of these “oppositions” etc., see my remarks on Meier 2006 (Yaffe 2007, 659–66).

6 Nathan Tarcov points out how Strauss himself differentiates his own thought from so-called “Straussianism,” understood (as Sheppard also appears to understand it) as “the error and danger of applying classical political philosophy as the solution to modern political problems” (Tarcov 1991, 9). Tarcov quotes *inter alia* Strauss 1964, 11: “We cannot reasonably expect that a fresh understanding of classical political philosophy will supply us with recipes for today’s use. For the relative success of modern political philosophy has brought into being a kind of society wholly unknown to the classics, a kind of society to which the classical principles as stated and elaborated by the classics are not immediately applicable. Only we living today can possibly find a solution to the problems of today. But an adequate understanding of the principles as elaborated by the classics may be the indispensable starting point for an adequate analysis, to be achieved by us, of present-day society in its peculiar character, and for the wise application, to be achieved by us, of these principles to our tasks.”

7 These sentences are also found in Strauss’s republished version of the Preface (Strauss 1968, 230), which contains some minor editorial changes (only), including the addition of the words I have put in square brackets, as well as a splitting up of several paragraphs of the earlier version such that the republished version has 54 paragraphs instead of the original forty-two. Sheppard misdescribes the republished ver-

This statement occurs at an important juncture in Strauss’s Preface. As Strauss says in a private letter, his Preface aims “to bridge the gap between 1930 Germany [the publication date of the German original of his Spinoza book] and 1962 U.S.A.” (to Alexandre Kojève, May 29, 1962; Strauss 1991, 309). The Preface is thus a deep-backgrounder on the theological and political issues animating Strauss’s *Jugendschrift* and, at the same time, an author’s retrospective designed to bring out what Strauss now sees as the philosophical shortcoming of its overall argument.

Broadly speaking, Strauss’s Preface covers three topics, with an added conclusion. Approximately the first quarter of the Preface recalls the precarious situation of the Jews in Weimar Germany and considers the theologico-political options readily available to them then and there – including “individual assimilation, political liberalism, communism, fascism, political Zionism, cultural Zionism, religious Zionism, and the personal return to Orthodoxy” (Sheppard 2007, 119; Strauss 1965, 1–7). The rest of the first half or so of the Preface considers, as a further option, the Jewish neo-orthodoxy underwritten by the “new thinking” of Franz Rosenzweig and Martin Buber, which Strauss also compares with Heidegger’s atheist version of the “new thinking” (Strauss 1965, 7–15).⁸ The Preface’s second half then revisits the option of the personal return to traditional Jewish orthodoxy, by asking whether this option would be “compatible with sheer consistency or intellectual probity,” given the attack on orthodoxy by Spinoza – “the greatest man of Jewish origin who had openly denied the truth of Judaism and had ceased to belong to the Jewish people without becoming a Christian” – along with the counterattack on Spinoza by Hermann Cohen – “a Jew of rare dedication, the faithful guide, defender and warner of German Jewry, and at the same time, to say the least, the one who by far surpassed in spiritual power all the other German professors of philosophy of his generation” (Strauss 1965, 15, with 15–29). Finally, the Preface’s last three paragraphs connect what Strauss now sees as the philosophical shortcoming of his Spinoza book with (his own) “intellectual probity” (Strauss 1965, 28–31). This notion runs through the Preface like a scarlet thread (Strauss 1965, 7, 12, 15, 30). At any rate, the statement about “exile” which I have quoted above is found toward the end of the first quarter of the Preface and is the pivot of Strauss’s critiques of political and cultural Zionism. These critiques are what lead him to consider, in contrast, the option of the personal return to orthodoxy, an option that Strauss keeps open throughout the remainder of the Preface.⁹

Strauss’s critiques of political and cultural Zionism are as follows (Strauss 1965, 4–7).¹⁰ The young Strauss, like a considerable minority of German-Jewish university students who were his contemporaries, first turned to political Zionism out of dissatisfac-

sion as a “shortened ... posthumous edition” (Sheppard 2007, 176n4). In any case, I follow Sheppard in citing the earlier version.

8 Among other things, Strauss criticizes Buber for attributing what amounts to Heidegger’s atheistic view of divine providence to the biblical prophets, and Rosenzweig for his deliberately idiosyncratic, “wholly individual” approach to reading the Torah (Strauss 1965, 10–13, 14–15; cf. Yaffe 1991, 35–38; 2007, 661–63; 2008, 119–22).

9 Strauss’s Preface as a whole may therefore be described from a strictly philosophical point of view as an ongoing confrontation between Jewish orthodoxy and intellectual probity. The philosophical shortcoming that the mature Strauss sees in his earlier book has to do with its inadequate attention to intellectual probity, that is, its merely taking for granted that intellectual probity ought to be the basis for judging the merits and/or drawbacks of Jewish orthodoxy. More generally stated: Strauss’s Preface is his philosophical confrontation with the intellectual probity of his youth. In the language of Plato’s Socrates, it is Strauss’s “second sailing” (Plato, *Phaedo* 99d).

10 The following four paragraphs have been adapted from Yaffe 1991, 33–35.

tion with the situation of the Jew in the modern German state. Most German Jews before Hitler, the mature Strauss recalls, assumed that the state was or ought to be liberal, that is to say, “neutral to the difference between non-Jews and Jews” (Strauss 1965, 4). In speaking of the “Jewish problem,” they meant that the sufferings of the Jews owing to their millennial exile and persecutions could in principle be overcome by purely human means, namely, by religious tolerance as spelled out in the teachings of modern political liberalism. Yet the founders of political Zionism, Leon Pinsker in his *Autoemancipation* of 1892 and Theodor Herzl in his *The Jews’ State* of 1896, saw otherwise. They pointed out that the non-Jewish German majority did not share the assumption that German Jews were their social, not just legal, equals: “Who belongs and who does not belong,” Strauss quotes Herzl as saying, “is decided by the majority; it is a question of power” (*ibid.*). Pinsker, Herzl et al. did not abandon liberalism’s understanding of the Jewish problem as a purely human problem, however. Instead, according to Strauss, they radicalized it. If Jews as Jews were denied more than bare legal equality with non-Jews in the modern liberal state, Jews as a nation could still win equality with all other nations by establishing their own state, one that would be equally modern, liberal and secular. Political Zionism thus concentrated its efforts on raising Jewish political consciousness in order to recover Jews’ long lost political pride. The eventual result, the establishment of the modern state of Israel – which Strauss in retrospect calls “a blessing for all Jews everywhere regardless of whether they admit it or not” (Strauss 1965, 5) – he nevertheless found inadequately understood in political Zionism’s own terms.

For one thing, as the young Strauss saw, political Zionism could not be effective all alone. It had to join with traditional Jewish hopes for a divinely authorized end to the Exile and a return to the land of Israel, which would come with the long-awaited arrival of a Messianic age. That political Zionism was too much bound up with the given emergency and had neglected to reconcile itself with Jews’ traditional self-understanding as a nation, Strauss learned from the writings of Ahad Ha’am, the founder of political Zionism’s rival movement, cultural Zionism (Herzberg 1959, 249–77). Cultural Zionism aimed to add historical perspective to what would otherwise be an empty exercise in power politics. It traced the so-called Jewish national mind or “culture” from its roots in the Jewish heritage. Yet here Strauss saw a further difficulty. Did not the Jewish heritage in its most authoritative layer understand itself to be a divine gift, based on revelation, rather than a “culture” or product of the autonomous human mind? If so, then in light of that heritage must not the claim of modern Zionism to have solved the “Jewish problem” appear not only blasphemous, but grossly overstated? Strauss remained receptive to cultural Zionism’s argument that the state of Israel was the most important event in Jewish history since the completion of the Talmud, but drew the line at equating it with the arrival of the Messianic age. Rather – as he says in the passage I have quoted above – given that only finite or relative problems are humanly soluble whereas infinite or absolute problems remain insoluble, it follows that human beings, Jews included, will never create for themselves a contradiction-free society. To Strauss, the insolubility of the Jewish problem thus implies the humanly understandable truth of the traditional doctrine of the chosenness of the Jewish people – at least in the sense that the Jewish people is “the most manifest symbol of the human problem [insofar] as [it is] a social or political problem” (Strauss 1965, 6).

In addition, the insolubility of the Jewish problem taught Strauss something about the limitations as well as the virtues of liberalism. Liberalism, Strauss says, “stands or falls by the distinction between state and society,” that is to say, between a public sphere that must be regulated by law and a private sphere that must not be regulated but only pro-

tected by law (*ibid.*). Still, liberalism's placing Judaism or any other religion within the private sphere does not wholly solve the problem at issue. To protect the private sphere from the intrusion of the law is not only to allow the private exercise of a given religion, Judaism included, but by the same token to allow private discrimination against that religion – and so in fact to foster private discrimination! No liberal state could try to solve the Jewish problem by making laws to protect against anti-Jewish discrimination, moreover, without destroying itself in the process by abolishing the distinction between public and private. Nor would abolishing that distinction solve the Jewish problem anyway, as Strauss observes in the case of the Soviet Union, whose anti-Jewish policies he finds dictated by the unprincipled expediency, which the Communist state both permits and encourages.

At any rate, for all its limitations, Strauss finds the liberal state to be preferable to the available alternatives, since it allows Jews to solve one aspect of the Jewish problem that is amenable to a purely human solution, namely, *teshuvah*, or return to the Jewish faith and the Jewish way of life. Here Strauss seems to have in mind the contemporary Jewish (or ex-Jewish) intellectual, whom he describes as "the Western individual who or whose parents severed the connection with the Jewish community in the expectation that he would thus become a normal member of a purely liberal or of a universal human society, and who is naturally perplexed when he finds no such society" (Strauss 1965, 7). Yet Strauss is forced to consider a philosophical objection that is likely to be raised by such an individual, even if he admitted from a practical point of view that returning to Judaism would solve his "deepest problem" and satisfy "the most vital need." Is not the return to the Jewish way of life impossible on the grounds that the Jewish faith has been refuted? In Strauss's expression: Is not such a return forbidden by "intellectual probity"? Strauss's immediate reply – a provisional reply, to be sure – is that a "vital need" may well induce someone "to probe [*sic*] whether what seems to be an impossibility is not in fact only a very great difficulty." In order to see whether the argument from intellectual probity is correct in claiming that the return to Judaism is impossible rather than just very difficult, then, Strauss goes on to examine (in the second quarter of his Preface) Rosenzweig's "new thinking" and (in the second half of his Preface) Spinoza's claim to have refuted the Jewish faith.

Now having said this much about the immediate context of Strauss's statement on "exile," let us look at what Sheppard says about it, so as to be able to consider afterwards whether Strauss's statement warrants what Sheppard says.

Sheppard on Strauss's Statement

According to Sheppard, Strauss's statement has a purely political point. It is to "promot[e] acceptance of the contradictions inherent in the liberal state" (Sheppard 2007, 127). Certainly Sheppard's claim here is consistent with his initial premise that everything Strauss says adds up to "the intellectual movement called Straussianism" (Sheppard 2007, 4). That is to say, here as there Sheppard identifies political philosophy as Strauss understands it with political ideology. But how does Sheppard then arrive at the particular ideological content of the Straussian statement in question? Here too, as in his Introduction, Sheppard spells out his premise in advance. Noting that Strauss's critiques of unsatisfactory solutions to the Jewish problem "appear" to culminate in a call for a return to Jewish orthodoxy (Sheppard 2007, 119), he nevertheless denies that Strauss's words should be taken at face value. Strauss's call for an unqualified return to orthodoxy, he

says, is not meant for “intellectuals.”¹¹ It is only for “the many.” For “the select few”, Strauss instead “points toward the continuation of the political project initiated by the prophets in the Hebrew Bible ... of creating or sustaining a community in which a moral code of conduct is obeyed by all its members.” To Sheppard this means that Strauss identifies the role of a latter-day prophet with a “philosophical elite who can properly respond to the challenge of knowing that providence does not guide the unfolding of history.” However all this may be, Sheppard’s premise here is that the plain meaning of Strauss’s statement on “exile” (as I have outlined it in the previous section) is to be trumped by how Strauss “uses” that statement for the purpose of the political project just outlined (Sheppard 2007, 127).

Now Sheppard’s account of the political project he attributes to Strauss depends on his reading of what Strauss says about prophets and philosophers in *Philosophy and Law*, the Maimonides book Strauss published during his refugee years (Strauss 1935; 1995; Sheppard 2007, 69–73). According to Sheppard, Strauss “came to see the thought of Maimonides as a promising alternative to the liberal configuration of Judaism.” “Strauss’s Maimonides,” he explains, “contemplated Jewish exilic existence and ultimately arrived at a compelling, sophisticated, and prudent understanding of the relationship between the ideal political regime and existing ones” (Sheppard 2007, 69). That is to say, as Sheppard recognizes, Strauss in *Philosophy and Law* attempts to recover the political-philosophical component of Maimonides’ thought as a live option in modern times. The key insight on Strauss’s part is that Maimonides followed his Islamic philosophical predecessors in assimilating lawgiving prophets like Moses or Mohammed to Plato’s philosopher-lawgiver. Maimonides is thus said to view the Torah – which Jewish orthodoxy takes to be a legal code revealed through a prophet by a perfectly just Lawgiver – as the religious counterpart to Plato’s perfectly just society founded by a philosopher-ruler. The only difference here is that whereas Plato’s perfectly just society is “hypothetical” (Sheppard 2007, 72), the society mandated by the Torah according to Jewish orthodoxy has actually existed in the past and its restoration is to be hoped for in the future. The Torah, then, is (as we might say) a utopia – a utopia that was, but even so a utopia. Sheppard therefore summarizes the significance of the argument of *Philosophy and Law* for the eventual development of “Straussianism” as follows:

“... Plato’s political doctrine became a philosophic foundation of the revealed law, offering a solution [*sic*] to the ancient question about the ideal state and its possibility of becoming a reality.” (Sheppard 2007, 72)

The “solution” to the question of the ideal society, which Sheppard attributes to Strauss is, again, a political one. Given that the Torah’s utopia is, like Plato’s, “hypothetical,” it is also, like Plato’s, unlikely to be realized ever, not in full anyway. The practical lesson, then, is for “the select few” who understand this unlikelihood to keep their expect-

11 Sheppard treats “intellectuals” as coterminous with “philosophers.” Consider, however, Strauss’s calling attention to their difference in the following remark about Maimonides’ *Treatise on the Art of Logic* (Strauss 1959, 158f.): “We are tempted to say that the *Logic* is the only philosophic book which Maimonides ever wrote. One would not commit a grievous error if he understood by ‘we’ [in Maimonides’ statement on political science in that book] ‘we men of theory’, which term is more inclusive than ‘we philosophers’ and almost approaches in comprehensiveness the present-day term ‘we intellectuals.’”

tations low – that is, to doubt the future restoration of the Torah's utopia even as they meanwhile acknowledge its desirability. Yet there is a further difficulty. The notion of the realizability of the Torah's utopia shows up in traditional Jewish piety, indeed is inseparable from it, as faith in a divine providence leading to a Messianic age. For the sake of preserving Jewish piety and its morally desirable teachings, then, "the select few" will defer outwardly, or in "appearance," to that piety. At the same time, as a practical matter they will reserve judgment inwardly concerning what political proposals are both consistent with the Torah's utopian moral standards and humanly realizable here and now. Such, at any rate, is the putatively Straussian view that Sheppard finds reflected in Strauss's statement on "exile" in the Spinoza Preface.

More exactly, what attracts Sheppard's attention in the statement in the Spinoza Preface is Strauss's remark that "*human beings will never create a society which is free of contradictions*" (2007, 126–27, quoting Strauss 1965, 6; Sheppard's italics). Sheppard infers the meaning of Strauss's remark as follows:

"... if the Jewish people come to this recognition and see that humans are unable to accomplish the task of creating a perfectly free and just society, they may be identified as "the chosen people in the sense, at least, that the Jewish people is the most manifest symbol of the Jewish problem as a social or political problem."

Now Sheppard's inference differs from what Strauss actually says in two important details. Whereas Strauss's statement identifies the chosenness of the Jewish people with their symbolizing – by virtue of the insolubility of the Jewish problem – the human problem as a social or political problem, Sheppard instead makes chosenness for Strauss contingent on the Jewish people's recognizing that insolubility as their historical task.¹² Also, by imputing to Strauss himself the view that the Jewish people must recognize that humans are unable to "creat[e] a perfectly free and just society," Sheppard overlooks the competing view that Strauss has introduced a few sentences earlier when saying, in his critique of cultural Zionism, that "the foundation, the authoritative layer, of the Jewish heritage presents itself, not as a product of the human mind, but as a divine gift, as divine revelation"; that is to say, Sheppard neglects Strauss's possible openness to the orthodox view that "a perfectly free and just society" may be brought about with divine help. To be sure, as I have already pointed out, Sheppard has alerted his reader in advance that the meaning he finds in what Strauss says is not necessarily its plain meaning. The question I am raising at the moment, however, is simply whether or how Sheppard is warranted in amplifying or reducing the plain meaning of Strauss's statement to fit his historicist parameters. In what follows, I divide this question into three sub-questions: whether Strauss's statement when understood in its own terms *invites* being placed within those

12 Sheppard's formulation of Strauss's view of the chosenness of the Jewish people is an inadvertent mirror-image of Hermann Cohen's messianism. Cf. Strauss 1965, 21–22, with Pelluchon 2005, 222f.: "Cohen is a man of the modern Enlightenment because he has confidence in man and in reason and believes in progress, the progress of history, as is obvious in his interpretation of messianism. ... Cohen understands messianism as socialism: it suggests the moral progress that we shall make in the future. Cohen, who has not experienced the shocks of Communism and Nazism, is a man of the nineteenth century, says Strauss, because he believes that man is good and that history is the history of the progress of wisdom." The quasi-parallel with Cohen in Sheppard's formulation recalls Strauss's critique of historicism to the effect that it assumes uncritically the premises bequeathed by the (modern) Enlightenment.

parameters, whether it *fits smoothly* when placed there, and whether it *gains in clarity* by being placed there.

Does Strauss's Statement Invite Sheppard's Historicist Parameters?

In order to illuminate what I have already pointed out about the general difficulty of seeing how one gets from what Strauss actually says to what Sheppard says he says, let me introduce the following example of something that Strauss says about “exile” in another writing (Strauss 1959), to see whether or how it may be said to invite being placed in Sheppard's historicist parameters:

“... we would seem to be compelled to understand Maimonides' statement [to the effect that the books of the philosophers on politics are useless for ‘us’ ‘in these times’] as follows: not the Jews as such, but the Jews in exile, the Jews who lack a political existence, do not need the books of the philosophers. The Torah is not sufficient for the guidance of the political community. This would imply that the political books of the philosophers will again be needed after the coming of the Messiah, as they were needed prior to the exile.” (Strauss 1959, 158, with 156f.)

Certainly the reader will notice Strauss's preoccupation with the question of “exile” here and, like Sheppard, may be attracted by the possibility of relating it to Strauss's intellectual development. Admittedly, there are some difficulties in reconciling what Strauss says in this example with Sheppard's particular version of that development. The obvious difficulty is that Strauss here seems to be saying that the Jews in exile, lacking a political existence, do not need the books of the philosophers, whereas Sheppard, as we have already seen, imputes to Strauss in his Spinoza Preface the opposite view. But perhaps this difficulty can be removed by appealing to the distinction between what Strauss appears to be saying and what he actually means as Sheppard understands it – such that Strauss in this example may be said to be keeping up the “appearance” (for “the many”) that the Torah is a sufficient guide for the Jews in exile, even if it is not a sufficient guide for the “elite” Sheppard understands him to have in mind.

Then again, I must apologize for having introduced this example in the way that I have, since it involves a certain ruse. Namely, in the original context in which the statement I have just quoted is found, Strauss's point is that the hypothesis he is putting forward (sc., that Maimonides holds that the books of the philosophers are not needed for the Jews in exile) is – as he goes on to show – untenable.¹³ But to make that point effectively, and to be able to qualify it further as needed, Strauss first had to spell out the untenable view in its own terms and without necessarily prejudging it, for his own and his reader's consideration. My own poor excuse for having done likewise by quoting that statement is similar. It is this: How, I wonder, can the reader who is attracted to the biographical possibilities to be found in Strauss's statements tell whether a statement on, say, “exile” is something Strauss himself believes, or perhaps something Strauss believes with some qualification (as Sheppard is in effect saying about Strauss's statement in the Spi-

13 An important part of Strauss's argument are the sentences I have quoted in note 11, above.

noza Preface), or, finally, something Strauss is merely considering for a moment or more (as I am suggesting here)? My point is that the same words of Strauss's, by themselves, might well point in any of these three directions. What is needed in order to determine Strauss's true meaning, then, is not only adequate corroboration from further first-hand evidence in Strauss's writings (a principle that Sheppard too acknowledges), but also or especially an openness to the third of the three possibilities I have just outlined – namely, that sometimes (and maybe more often than not) Strauss is spelling out a point, say, about "exile," for the purpose of considering it philosophically. The difficulty I am calling attention to in Sheppard's argument, however, is that it does not seem to leave room for this last possibility.¹⁴

Does Strauss's Statement Fit Smoothly Within Sheppard's Historicist Parameters?

I have already said enough to indicate my doubts about whether Sheppard's interpretation of Strauss's statement on "exile" in the Spinoza Preface fits smoothly with its immediate context there. Yet Sheppard's reply, as I have also indicated, might well be that his interpretation fits smoothly with the argument of *Philosophy and Law*, as Sheppard understands that argument anyway. But what if Strauss turns out to have changed his mind in important respects between writing *Philosophy and Law* and the Spinoza Preface? This likelihood is not taken into account in Sheppard's argument. To show the reason for my misgiving here, I need only cite two other intellectual biographers of Strauss, whom Sheppard happens to mention with approval (2007, 2–4).

According to Daniel Tanguay,¹⁵ Strauss in *Philosophy and Law* combines the features of the philosopher and the prophet in Maimonides' thought in such a way as to "hesitate" over how to separate the two, since the philosopher depends on the insights of the prophet to guide both his political praxis and his philosophical theorizing. This view, if it were Strauss's own final view, might lend support to Sheppard's way of formulating the mature Strauss's putative political project as that of raising up a "philosophical elite" for the sake of "the continuation of the political project initiated by the prophets in the Hebrew

14 A small case in point is Sheppard's hasty (as it seems to me) consideration of the opening sentences to the Spinoza Preface (Strauss 1965, 1; Sheppard 2007, 118–19): "This study of Spinoza's Theologico-Political Treatise was written during the years 1925–28 in Germany. The author was a young Jew born and raised in Germany who found himself in the grip of the theologico-political predicament." Sheppard takes these sentences to mean that Strauss "found himself," practically speaking, in a perplexing historical situation. He overlooks the further possibility that Strauss "found himself" – that is to say, came to important discoveries about who or what he was – while following out philosophical questions prompted by that situation.

15 "... the prophet is to be considered the founder of a new theologico-political order. He is the philosopher-king of Plato's city. While in *Philosophy and Law* Strauss seeks to interpret Maimonides within this Platonic horizon, ... he hesitates to do so altogether. The reason for this hesitation is that Maimonides' concern with revelation is based, according to Strauss, on the following thesis: "... the philosopher needs the teaching of the prophet in order to guide his life and to know certain truths that he cannot discover due to the insufficiency of his understanding." After *Philosophy and Law*, Strauss abandoned this way of conceiving the relation between the philosopher and the prophet in Maimonides. Henceforth he insists on the commonality of the views held by Maimonides and the Islamic Aristotelians, especially Farabi. ... Through Farabi, Strauss came into contact with the tradition of genuine Platonism that constitutes his fundamental philosophical position." (Tanguay 2006, 52–53)

Bible” – that is to say, as a synthesis of philosophy with biblical prophecy where philosophy is a means to a quasi-prophetic goal. But Tanguay goes on to say that Strauss after *Philosophy and Law* came to a deeper appreciation of Maimonides’ receptiveness to the “genuine Platonism” of Farabi and other Islamic philosophers. Tanguay thus speaks of Strauss’s “Farabian turn,” by which he means that after 1935 (the publication date of *Philosophy and Law*), Strauss like Farabi et al. “resolutely followed the path of genuine Platonism,” rather than continuing to combine Platonic philosophy with biblical prophecy in the way that Sheppard suggests.

Similarly, according to Kenneth Hart Green,¹⁶ there is a post-*Philosophy and Law* development whereby Strauss subsequently gives more weight to Maimonides’ receptiveness to the genuine Platonism of the Islamic philosophers than he did in *Philosophy and Law*. Green differs from Tanguay mainly in raising the further question of “whether there remains any unique teaching or position which Strauss discovers in Maimonides” (Green 1993, 128). He answers that there does, in that Maimonides according to the mature Strauss departed from his Islamic predecessors somewhat in finding grounds for remaining open to the claims of Jewish orthodoxy.¹⁷ Still, whatever the final differences between Green and Tanguay, both hold that the Maimonideanism of the mature Strauss differs markedly from that of *Philosophy and Law*.

Now if there is a defense of Sheppard’s having taken a position to the contrary here despite his high regard for Tanguay and Green, it would have to be that his own view – namely, that Strauss’s Maimonideanism in *Philosophy and Law* is consistent with the Maimonideanism of the Spinoza Preface – nevertheless fits with what he takes “Straussianism” to be in his book’s Introduction. That is, Sheppard’s overall argument has a perhaps valid claim to what Strauss in his Spinoza Preface calls “sheer consistency or intellectual probity” (Strauss 1965, 15). I will say more about this feature of Sheppard’s argument in what follows.

Does Strauss’s Statement Gain in Clarity Within Sheppard’s Historicist Parameters?

To see in general what gain in clarity might be found in Sheppard’s argument – and at what cost – consider, by way of analogy, Strauss’s critique of Spinoza’s *Ethics* in the Spinoza Preface:

16 “... Strauss seems virtually to retract the position on Maimonides’ resolution [between philosophy and prophecy] which had been propounded in *Philosophy and Law*. ... [H]e seems to presuppose in this final stage that Maimonides is primarily a philosopher rather than a theologian. In Strauss’s final estimation of Maimonides, Maimonides appears in the guise of a Jewish theologian because, besides his genuine love for things Jewish which he loves because they are his own things, he is also fully alert to what Strauss represents as ‘the precarious status of philosophy in Judaism,’ and hence he needs to vindicate his life as a philosopher who is also a Jew. What ‘was done . . . in and for Judaism by Maimonides’ had already been done in and for their respective cities and communities by the likes of Plato, Cicero, and Alfarabi.” (Green 1993, 122, 127f., quoting Strauss 1952, 21, and 1991, 205–206)

17 Strauss, Green argues, “understood what was at stake” for Maimonides in not ruling out a philosophical openness to the biblical view in its own terms – namely, “a sharpened alertness which has been formed by the biblical world view to the cognitive conditions necessary for the survival in any society of the absolute morality made possible by the Bible, together with an awareness of the vital centrality of morality in human life, and an attentiveness to philosophy’s frailty in the face of the biblical God” (Green 1993, 132).

“The *Ethics* starts from explicit premises by the granting of which one has already implicitly granted the absurdity of orthodoxy and even of Judaism as understood by Cohen or Rosenzweig; at first glance these premises seem to be arbitrary and hence to beg the whole question. They are not evident in themselves but they are thought to become evident through their alleged result: they and only they are held to make possible the clear and distinct account of everything; in the light of the clear and distinct account, the Biblical account appears to be confused. The *Ethics* thus begs the decisive question, the question as to whether the clear and distinct account is as such true and not merely a plausible hypothesis.” (Strauss 1965, 28)

According to Strauss, Spinoza vindicates the (dubious) premises he spells out at the start of the *Ethics*, by deriving clear and distinct consequences from them in a logically consistent way. But he ends up accounting only for things that fit that argument, and meanwhile simply disregards competing accounts, especially the Bible’s, as “confused.” Spinoza’s argument thus begs the crucial question of whether the confused accounts may, in their way, be truer than the clear and distinct account. His argument suffers from what we might call tunnel vision. By contrast, in the *Theologico-Political Treatise* he “starts from premises that are granted to him by the believers in revelation; he attempts to refute them on the bases of Scripture, of theologoumena formulated by traditional authorities, and of what one may call common sense” (Strauss 1965, 28). In other words, Spinoza in the *Treatise* engages the competing, albeit putatively confused accounts with a view to leading their devotees to consider the truth of the *Ethics*’ clear and distinct account. My point here is that Sheppard’s argument resembles that of the *Ethics* rather than the *Treatise*. For all its “sheer consistency or intellectual probity” – in this case, its clarity and distinctness in tracing what it takes to be Strauss’s Maimonideanism on the basis of its proffered notions concerning “Straussianism” – it pays the price of excessive narrowness of focus, or tunnel vision, vis-à-vis its subject-matter.

Coincidentally, Strauss in the concluding paragraphs of his Spinoza Preface ascribes a similar shortcoming to his original argument in *Spinoza’s Critique of Religion*. He also indicates how he corrected it. Let me conclude by briefly describing how.

Strauss’s Self-Correction

In his original book, Strauss showed how the *Treatise*’s critique of religious orthodoxy can be countered by denying its tacit presupposition. Spinoza’s argument, Strauss pointed out, presupposes that orthodoxy claims to *know* that its teachings are true. These include the teachings that the Bible was divinely revealed and divinely inspired, that Moses wrote the Pentateuch, that the biblical miracles really happened – and, we may add here, that divine providence will eventually end the exile of the Jews in a Messianic age. But what if orthodoxy only *believes* those teachings? Would not belief in them be consistent, at least, with the “irrefutable premise that the omnipotent God whose will is unfathomable, whose ways are not our ways, who has decided to dwell in the thick darkness, may [*sic*] exist”? (Strauss 1965, 28) If so, then the only way to “refute” orthodoxy would be to show that its teachings are unnecessary – by “proof that the world and human life are perfectly intelligible without the assumption of the mysterious God,” by “success of the philosophic system” whereby “man would show himself theoretically and practically as the master of the world and the master of his life,” hence by replacing the “merely given” world with “the world created by man theoretically and practically” (1965, 29). All this

Spinoza's "system" claims to do. Strauss, however, showed that it does not succeed, if only since, for the reasons we have just seen, its "clear and distinct account" remains "fundamentally hypothetical." Philosophically speaking, then, Spinoza and orthodoxy remain at a stand-off. From this point of view, the choice "between Spinoza and Judaism, between unbelief and belief" is therefore "ultimately not theoretical but moral."

In retrospect, however, Strauss could not leave things at that. It is not that he found the argument of his Spinoza book to be unclear or inconsistent, that is, lacking in "probity" (1965, 30). It is that he became aware of the inadequacy in principle of arguments from probity. Among other things, even though Strauss's own argument from probity ended up vindicating orthodoxy to a considerable extent against Spinoza's attack, it nevertheless did so at the cost of "the self-destruction of rational philosophy" (*ibid.*). Nor, Strauss adds, did it quite vindicate Jewish orthodoxy anyway, since "Jewish orthodoxy based its claim to superiority to other religions from the beginning on its superior rationality (Deut. 4:6)." I must leave a fuller discussion of Strauss's critique of probity in his Spinoza Preface for another occasion (cf. Green 1993, 26, 42, 166n119, 178n57, 189n29; Meier 2006, 45–51; Yaffe 2007, 661–63). I limit myself to calling attention to how his turning to Maimonides et al. is, among other things, a corrective to the argument from probity. "The present study," he says of his Spinoza book, "was based on the premise, sanctioned by powerful prejudice, that a return to pre-modern philosophy is impossible" (Strauss 1965, 31). An argument from probity, an argument whose chief merit is its "sheer consistency," is not designed to deal with "premises" or "powerful prejudices" – that is to say, with authoritative theological and/or political opinions – as such or in their own terms. For that, one needs the sustained philosophical consideration of authoritative opinions (including the various opinions about "exile") of the sort found in Strauss's Spinoza Preface itself.

A Final Word

Strauss's statements on exile in his mature writings are few and far between.¹⁸ All the same, his statement in the Spinoza Preface, when looked at in its "logographic" context (Plato, *Phaedrus* 264b), may well invite the inference that his personal experience of exile provided him with a lifelong inducement to philosophize in the way that he does, even if it did not end up supplying the rubric for his philosophizing. Certainly Strauss's statement invites us to consider the same theologico-political options he himself considered as a young man – assimilation, political and cultural Zionism, religious orthodoxy, etc. – and to review their merits and shortcomings philosophically, both with him and for ourselves. I doubt, however, whether we are helped in that task by starting with the "Straussianism" that is alleged to underlie the surface meaning of Strauss's words. I have instead been guided by Strauss's own indications of how he wished to be read, before

18 Besides the two statements about "exile" quoted and commented on earlier, there is his penetrating description of the addressee of Maimonides' Guide of the Perplexed (Strauss 1952, 49; Sheppard 2006, 109–10). There is also his empathetic description of Moses Mendelssohn's psychological reaction to F.H. Jacobi's ruthless literary attack during the so-called Pantheismusstreit in pre-Emancipation Germany (Strauss 1937, liii–liv). Then too, there is his unpublished lecture of 1962 to the B'nai B'rith Hillel Foundation at University of Chicago on "Why We Remain Jews" (Strauss 1997, 311–56; Sheppard 2006, 119–20, 128–29).

going on to arrive at any interpretation or explanation of what he is saying (cf. Strauss 1952, 142–44). As the mature Strauss says elsewhere: "The problem inherent in the surface of things, and only in the surface of things, is the heart of things." (Strauss 1958, 13; Yaffe 2007, 652f.)

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Pat O'Malley (Hg.): *Governing Risks*. Aldershot: Ashgate 2005.

Das Thema *Governing Risks* ist durch, alles ist gesagt. Dies jedenfalls suggeriert die gleichnamige von Pat O'Malley zusammengestellte Textsammlung, die auf den ersten Blick das schwergewichtige Finale einer ausgeschöpften Forschungsperspektive zu sein scheint – und dies nicht nur deshalb, weil der für die Reihe *The International Library of Essays in Law and Society* typische, dunkelrote Hardcover-Einband mit goldener Schrift an eine Bibel-Ausgabe erinnert. Nach einem Blick in das Inhaltsverzeichnis steht fest: Das knapp 600 Seiten umfassende Buch versammelt viele Autoren mit Rang und Namen, die sich zur Frage der „Risiken“ in ihrer Disziplin zu Wort gemeldet haben. Die Beiträge sind allerdings allesamt Zweitverwertungen und stammen aus renommierten Zeitschriften wie *Economy and Society*, *Journal of Law and Society* oder *Theoretical Criminology*.

Die von Pat O'Malley verfasste Einleitung sagt leider wenig über die theoretischen und analytischen Bezüge und den Kontext der zentralen Begriffe aus, sondern stellt jedes Kapitel und am Ende sogar jeden Text einzeln vor. Dies könnte „ungeübten“ Lesern und Leserinnen Probleme bereiten, da gerade die Schlüsselbegriffe wie *risk*, *uncertainty* oder *governing* in den Beiträgen auf unterschiedlichen analytischen bzw. theoretischen Ebenen ins Spiel gebracht werden. So werden „Risiken“ mal als relational und an einen spezifischen Diskurs gebundene Wissenstechniken verstanden (bspw. O'Malley, Hannah-Moffat, Rose). An anderen Stellen werden sie als systematische Positivitäten vorgestellt oder als faktische Größen ‚hinter‘ ideologischen Effekten entdeckt, die jeweils (veränderte) politische bzw. staatliche Handlungsnotwendigkeiten implizieren (bspw. Abraham/Liebman, Lowi, Stapleton). Oder der Risikobegriff wird im Kontext von rechtswissenschaftlichen bzw. rechtspraktischen Implikationen diskutiert (bspw. Priest).

O'Malleys eigene, relationale Definition des „Regierens“ hilft hier zumindest indirekt weiter: „By government, then, I mean those practices whereby life is programmatically shaped by various bodies in coordinated ways, following similar rationales, with similar ways of identifying problems and ways of going about solving them“ (xi). Sie gibt der Auswahl einen Rahmen, auch wenn nicht alle Texte diese analytische Konzeption teilen: Obwohl O'Malleys Einleitung über die analytische Heterogenität hinweggeht, leistet sie zumindest implizit eine Aufbereitung der versammelten Beiträge aus diesem Blickwinkel, indem die Dichotomien und Spezifika verschiedener risikorelevanter Sphären inhaltlich herausgearbeitet werden. O'Malley begründet mit seinem regierungsanalytischen Fokus nicht nur den weit über den Rahmen der Reihe (Law and Society) hinausführenden, breit gestreuten inhaltlichen Fokus der einzelnen Beiträge, sondern arbeitet anhand dessen auch die an den Analysen ablesbaren Verschiebungen und Veränderungen des „governing risks“ heraus. Hier wiederum wäre eine explizite Rahmung der analytischen Heterogenität der Beiträge äußerst hilfreich gewesen.

Aus regierungsanalytischer Perspektive werden weder das Recht noch der Staat oder seine Institutionen als solche in den Blick genommen. Das jeweilige Auftauchen von „Risiken“ in den untersuchten Kontexten dient vielmehr als Ausgangspunkt der Suche nach jenen Wissensfeldern und Praktiken, Institutionen und Regulationen, die den Begriff

zum Leben erwecken, in spezifische Kontexte einbinden, ihn technisieren, operationalisieren und so zu einer Bedingung des Regierens werden lassen. Das Anliegen von Pat O'Malleys Zusammenstellung besteht fraglos darin, den Risikobegriff und zugleich seine Kehrseite – die Unsicherheit – als *politische* Begriffe auszuweisen, die nur innerhalb einer spezifischen diskursiven Problemkonstellation zum Tragen kommen und Auswirkungen auf die Strukturen und Mittel von *governance* und *governmantality* haben. Risiken sind in diesem Sinne nicht einfach gegeben und harren ihrer Bewältigung. Sie sind vielmehr konstruierte Phänomene, die eine auffällige Verschiebung von Regierungstechniken und Subjektivierungsweisen provoziert bzw. mitgetragen haben.

Sicher ist, dass alle Artikel für solch eine übergreifende Fragestellung interessante Aspekte beleuchten. Aber es erklärt sich nicht bei allen Beiträgen von selbst, dass sie für die Auswahl eines „governing risks“ in O'Malleys Sinne prädestiniert sind. Zwar spiegeln Zuordnung und Diskussion der einzelnen Beiträge den Fokus des Bandes wider und auch der Zusammenhang aus Einleitung, Kapitelüberschriften und Beiträgen erscheint nach O'Malleys Diskussion schlüssig: *Politics and Inequality, Private Law and Justice, Criminal Law and Justice, Uncertainty and Economic Life, Health and Technology*. Aber gerade weil sich die Effekte des jeweiligen Risiko-Begriffs nach dem Kontext seines Einsatzes richten, interessiert im Zusammenhang des Bandes weniger die allgemeine Frage nach Regierungsformen oder der allgemeine Rekurs auf „Risiken“ in einem bestimmten Feld, sondern die Spezifika der Regierungseffekte des jeweiligen Risikobegriffs. Daran muss man sich beim Lesen jener Texte, die aus dieser Analytik herausfallen, immer wieder selbst erinnern – wobei sich der Umstand, dass weder die Gliederung noch einzelne Texte im Seitenlayout des Buches berücksichtigt wurden (die Texte verbleiben im Satz der jeweiligen Zeitschrift) als Verbildlichung dieser unentschlossenen Konzeptionalisierung heranziehen lässt.

Im Allgemeinen zeigen sich – implizit oder explizit – in den einzelnen Beiträgen zwei Verschiebungen und Brüche (resp. Versionen) des Regierens durch Risiko: Einerseits wird der Kontrast zwischen einer wohlfahrtsstaatlichen (fordistischen) „Demokratisierung des Risikos“ und der neoliberalen Individualisierung von Risikofaktoren (und der damit verbundenen Anforderung zu privater Vorsorge und permanenter Achtsamkeit) offen gelegt. Andererseits wird das Risiko als eine moralisierende Instanz, die ein Regieren im Futur II ermöglicht, von einem Risiko-Begriff unterschieden, der als ökonomische Ressource einen Innovationsmotor darstellt und deshalb im kapitalistischen System zwingend notwendig ist.

So spiegeln die Beiträge des ersten Abschnitts (*Risk, Politics and Inequality*) die Diskrepanz zwischen der mathematisch-technisch vermittelten „Neutralität“ von Risikokalkulationen und ihren moralisierenden und politischen Effekten wider. Deutlich wird dies vor allem an einer Verschiebung der Ebene, auf der gesellschaftliche Risiken reguliert werden. Während *Theodore Lowi* die gesellschaftliche Minimierung individueller Risiken im Wohlfahrtsstaat thematisiert und herausarbeitet, dass der Fehler der US-Amerikanischen Politik darin besteht, sich zu stark dem systematischen Phänomen Risiko untergeordnet und dabei das Moment der „Regulation“ als Staatsaufgabe aus den Augen verloren zu haben, stellen sowohl *Lealle Ruhl* als auch *Jonathan Simon* den „ideologischen“ Effekt des Risikodiskurses in den Vordergrund. In diesem Zusammenhang erscheint Risiko weniger als statistisch modellierter Effekt, denn als Element neo-liberaler Subjektivierung. Wenn überall Risiken lauern, bedarf es permanenter Achtsamkeit und konsequenter Vorsorge. Das Subjekt kann es sich nicht mehr im warmen Nest wohlfahrtsstaatlicher Vorsorge bequem machen, sondern muss permanent beweglich bleiben und auf der Hut sein, um die eigenen (ökonomischen, sozialen und gesundheitlichen)

Risiken „managen“ zu können. Der Effekt des Regierens fokussiert in diesem Kontext nicht die Gegenwart als vielmehr das, was passieren könnte resp. gewesen sein wird, falls die entsprechenden präventiven Maßnahmen ausbleiben.

Die Verknüpfung von Risikokonstruktionen und Vorbeugung zeitigt auch Effekte, wenn es um zivilrechtliche (Kapitel II *Risk, Privat Law and Justice*) beziehungsweise strafrechtliche (Kapitel III *Risk, Criminal Law and Justice*) Belange geht. Im Kontext eines Risikodiskurses befindet sich das kodifizierte Recht immer im Nachteil, da es nur nachsorgend eingreifen und deshalb zur Kontrolle des Risikos nur bedingt beitragen kann. Was im Fahrwasser der Risikodebatte auftaucht, ist eine neue Zielstellung rechtsstaatlicher Intervention, die in den Diskussionen als „new penology“ bezeichnet wird: „*This new penology sees crime as a problem of managing high-risk categories and sub-populations, not normalizing individuals to community norms*“ (279). Das Risikomanagement wird hier entweder als effizientere Form der Ausübung des Rechts – welches noch einer entsprechenden Anpassung bedarf (*George L. Priest*) – gefeiert oder als „*political program*“ (255) überführt, womit die Autonomie des Rechts unterminiert und einer Kontrollgesellschaft Vorschub geleistet wird.

Im vierten Kapitel (*Risk, Uncertainty and Economic Live*) werden die sozialen und ökonomischen Folgen eines einflussreichen Risikodiskurses diskutiert. Mit dem Risikobegriff geht eine permanente (wenngleich konstruierte) Unsicherheit einher, die soziale Interaktionsmuster grundlegend verändert hat. O'Malley argumentiert beispielsweise, dass eine auf viele gesellschaftliche Felder übergreifende versicherungsmathematische Risikogesellschaft (*risk-society*), die mit allen Mitteln den Teufel der Unsicherheit (*uncertainty*) austreiben will, auch und gerade im Kontext neo-liberaler Ökonomie nur einen begrenzten Einfluss erlangen kann, da das Moment der Unsicherheit konstitutiver Bestandteil des Liberalismus ist: „*It is concluded that the place of uncertainty is central to liberalism and thus unlikely to be marginalized by 'risk society' developments*“ (349).

Im fünften und abschließenden Kapitel (*Risk, Health and Technolgy*) finden sich Texte, die die Bedeutung des Risikodiskurses auf den Feldern Medizin und (Bio-)Technologie diskutieren und dabei ähnliche Ambivalenzen und Verschiebungen konstatieren, wie in den Kapiteln zuvor. Nikolas Rose hat sich in diesem Zusammenhang mit dem Risikobegriff und seiner (bisweilen redundanten) Verwendung in der Psychiatrie beschäftigt und kommt zu dem Schluss, dass dieser spezifische Diskurs mit seiner Konstruktion permanenter Gefahr ein „governing through madness“ provoziert: „*Contemporary politics of mental health has come to be structured in terms of the questions of security and public safety*“ (499).

Nach diesem Blick auf ausgewählte Details und Unterschiede der Analysen verschiedener Risiko-Diskurse lässt sich für den Band abschließend feststellen: Das Ganze ist in diesem Fall nicht mehr als die Summe seiner Teile. Das Fehlen einer ausführlichen „Anleitung zum richtigen Gebrauch“ (eine theoretische Einführung) hat zwar den Vorzug, dass die wissenschaftlichen Befunde selbst zur Geltung kommen und nicht von einer allgemeinen Darstellung der theoretischen Perspektive sublimiert werden. Letztlich hätte man sich für Einleitung und Aufbau aber eine Entscheidung gewünscht, die aus dem Band mehr gemacht hätte, als eine bloße Zusammenstellung einzelner Analysen. In der Einleitung hätte sich eine kritische Bestandsaufnahme angeboten, die nicht nur beschreibend die Zusammenstellung des Bandes vorträgt, sondern auch die Schwierigkeiten und Entwicklungsmöglichkeiten einzelner Forschungsstränge diskutiert. In jedem Fall hätte die Diskrepanz zwischen analytischer Heterogenität der Beiträge und ihrer inhaltlichen Auswahl entlang einer regierungsanalytischen Fragestellung in der Einleitung mehr Beachtung finden können.

Der Band ist insofern nicht mehr und nicht weniger als ein Service, der einen einfachen Zugang zu einigen zentralen Ansätzen und Arbeiten in diesem weiten und heterogenen Forschungsfeld ermöglicht. In diesem Sinne handelt es sich um eine hilfreiche Textsammlung. Wer sich jenseits der deutschen Risiko-Ikone Ulrich Beck mit dem Thema beschäftigen will, hat entweder die Möglichkeit, sich durch unzählige *Journals* zu arbeiten, um die entsprechenden Schlüsseltexte zu finden, oder aber diese mit einem Preis von 250 US-Dollar eher als Verleihvariante konzipierte Textsammlung zur Hand zu nehmen. Was in den Themen Risiko, Vorsorge, Unsicherheit, Kontrolle und vor allem Regierung (governmentality) theoretisch und empirisch noch steckt, wird sich allerdings erst anhand der Publikationen der nächsten Jahre erweisen lassen und bleibt auch nach der mit diesem Band vorliegenden Übersicht offen. **Robert Feustel/Mathias Rodatz**

**Sally Engle Merry: Human Rights and Gender Violence.
Translating International Law into Local Justice. Chicago:
The University of Chicago Press 2006.**

UN-Menschenrechtsdokumente fordern von ihren LeserInnen einige Geduld: Sie sind oft abstrakt, sprachlich sperrig und redundant formuliert. Ihr Geltungsanspruch ist universal und ihre politische Bedeutung liegt v.a. in der Legitimität internationalen Konsenses und der daraus resultierenden Wirksamkeit politischen Drucks. Die Staaten, die Menschenrechte garantieren sollen, sowie nationale und lokale Menschenrechtsgruppen sind hingegen konfrontiert mit komplexen lokalen Realitäten und Fällen von Menschenrechtsverletzungen, die in spezifischer Weise durch Ungleichverteilungen von Ressourcen und Macht geprägt sind. Vielfältige soziale Kategorien, wie Rasse, soziale Klasse, Gender und ethnische Zugehörigkeiten, politische und ökonomische Verhältnisse sowie Glaubens- und Wertesysteme spielen dabei eine Rolle. Die Wechselbeziehungen zwischen universalen Normen und spezifischen lokalen Strukturen bzw. Kulturen sind dementsprechend spannungsreich und es stellt sich die Frage, welche Rolle lokales Wissen bei der Produktion von Menschenrechtsnormen spielt und was diese Normen lokal bewirken bzw. wie sie wirken.

Sally Engle Merry untersucht in ihrem Buch *Human Rights and Gender Violence* wie – d.h. durch welche Akteure, Institutionen, Diskurse und Prozesse – die Räume, in denen transnationales Recht geschaffen wird und lokale Räume, für die es geschaffen wird, miteinander verbunden sind. Am Beispiel der internationalen Menschenrechtsbewegung gegen Gewalt in Geschlechterverhältnissen (gender violence) beschreibt sie einerseits, wie in transnationalen Diskursen an den Standorten der UN neue Bedeutungskategorien entstehen (Gewalt an Frauen als Menschenrechtsverletzung und eine Form der Diskriminierung) und andererseits, wie diese Bedeutungen weltweit von Staaten sowie nationalen und lokalen AktivistInnen aufgegriffen und in soziale Praktiken übersetzt werden, um spezifische Situationen zu beschreiben und Menschenrechtsverletzungen zu bekämpfen.

Ergebnis ihrer Feldforschungen, die sie im Zeitraum von 1999 bis 2004 durchführte, ist eine ethnographische Studie, deren Ort der Untersuchung keine territorial abgrenzbare Einheit darstellt – Merry beschreibt ihr Vorgehen als „deterritoralisierte Ethnographie“ – sondern in der sie die LeserInnen mitnimmt in drei soziale Räume, innerhalb derer Menschenrechtsnormen geschaffen und ihre Umsetzungen verhandelt werden.

Sie beginnt mit dem transnationalen Raum der UN und führt ihre LeserInnen zu Debatten und Anhörungen, auf internationale Konferenzen und Treffen von UN-Kommissionen, bei denen UN-, Regierungs- und NGO-VertreterInnen aus aller Welt zusammentreffen und wo transnational konsensfähige Menschenrechtsnormen produziert und in ihrer Implementierung verfolgt und kommentiert werden (Kap. 2). Am Beispiel der *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW) gewährt Merry detaillierte Einblicke, wie in diesem Raum ein gemeinsames kulturelles Verständnis von persönlicher Autonomie, Sicherheit und gleichen Rechten entsteht (Kap.3), das als UN-Konvention universelle Geltung beansprucht, jedoch in der Praxis nicht selten mit lokalen Kulturen in Konflikt gerät.

Insbesondere in diesem ersten Teil des Buches wird Merrys im Hintergrund immer präsente Frage bedeutsam, ob die Verbreitung universeller Menschenrechte als westlicher Kulturimperialismus gesehen werden muss. Dabei arbeitet sie die Parallelen zum essentialistischen Kulturbegriff der einstigen Kolonialmächte Europas und Nordamerikas heraus und zeigt, dass auch im UN-Diskurs Kultur tendenziell als monolithisch, rückständig und traditionell verstanden und als Gegensatz zur scheinbar kulturlosen, zivilisierten Moderne konzipiert wird. Merry ist es ein Anliegen zu zeigen, dass die Art und Weise der Konzeptionalisierung von Kultur in einflussreichen Settings wie der UN hochpolitische Implikationen hat. An unterschiedlichen Beispielen stellt sie dar, wie der Kulturbegriff die Vorstellungen der Möglichkeiten sozialen Wandels und letztlich das Policymaking prägt: So wird Kultur im essentialistischen Sinne entweder als grundsätzlich förderlich oder hinderlich für die Umsetzung von Menschenrechtsstandards betrachtet und dementsprechend im Ganzen gewürdigt oder abgelehnt. Demgegenüber ermöglicht ein Verständnis von Kultur als offen, in sich hybrid und widersprüchlich eine komplexere Vorstellung der Interaktionsmöglichkeiten zwischen lokaler und transnationaler Kultur.

Eine derartige Auffassung von Kultur, so zeigt Merry, ist insbesondere in den beiden folgenden von ihr untersuchten Räumen zu finden, innerhalb derer Menschenrechtsideen lokal übersetzt werden. Im Gegensatz zu den Debatten auf UN-Ebene wird Kultur hier meist als Set von Ressourcen betrachtet, die eingesetzt werden können, um Menschenrechtsideen an lokale Kontexte anschlussfähig zu machen.

Zunächst beschreibt Merry den Raum, in dem globale Menschenrechtsdiskurse Teil sozialer Bewegungen werden (Kap. 5). Sie führt ihre LeserInnen an sehr verschiedene Orte (nach Delhi, Peking und Hongkong sowie auf Hawaii und die Fidschi-Inseln) und zeigt am Beispiel von Rechtslobbying und Sozialarbeit, wie dort jeweils durch lokale AktivistInnen transnationale in lokale Diskurse und Praktiken übersetzt werden. An allen fünf untersuchten Orten findet sie erstaunlich ähnliche Muster vor – ein Ergebnis, das sie als Hinweis dafür interpretiert, dass die Kernideen der Menschenrechte in den Implementierungsprozessen nicht nivelliert werden. Besonders aufschlussreich ist in diesem Zusammenhang Merrys Untersuchung der Rolle lokaler AktivistInnen, die als eine Art Mittler zwischen Sprache und Inhalten des UN-Rechts und der Umgangssprache fungieren, in der Menschen ihre Alltagssituationen rahmen. Das Buch macht hier deutlich, dass und wie Menschenrechte durch ihren universellen Anspruch und internationale Legitimierung lokalen AktivistInnen neue Deutungsmöglichkeiten für lokale Probleme wie Gewalt in Geschlechterverhältnissen eröffnen und einen neuen politischen Raum für Reformen schaffen.

In ihrem vorletzten und empirisch anschaulichsten Kapitel (Kap. 6) analysiert Merry auf Grundlage zweier Fallstudien die Veränderungen, die sich durch Menschenrechtsdiskurse und -aktivismus im Selbstverständnis derer ergeben, die den Schutz der Menschenrechte in Anspruch nehmen, und vertieft damit die Einsichten in die komplexen Prozesse

des lokalen Wirkens und Adaptierens transnationaler Menschenrechtsnormen. Dies stellt vielleicht das eindrucklichste und im Kontext der Menschenrechtsliteratur bisher wenig beachtete Thema des Buches dar. Merry führt die LeserInnen nach Hawaii und Hongkong, in den dritten, örtlich stärker begrenzten Raum zwischen lokalen AktivistInnen und Opfern von Menschenrechtsverletzungen bzw. von Gewalt gegen Frauen. Den Prozess, in dem lokale Subjekte sich selbst als Menschenrechtssubjekte interpretieren lernen, beschreibt sie als kontingent, widersprüchlich und als individuell riskant. Alte Subjektivitäten, z.B. als Mütter, Ehefrauen und Familienangehörige, die von ihren Verwandten schlecht behandelt werden, geraten in Konflikt mit neuen Selbstverständnissen als (Menschen-)Rechtssubjekte und Klägerinnen gegenüber den Tätern. Diese neuen Selbstbilder werden oft erst einmal versuchsweise im Prozess lokaler politischer Kämpfe angenommen, bisweilen parallel zu alten Subjektivitäten ausprobiert und nicht selten auch wieder verworfen, wenn sich die Opportunitätskosten als zu hoch erweisen. Recht, so wird auch hier deutlich, bietet für die von Gewalt im Geschlechterverhältnis betroffenen Frauen *eine* Möglichkeit, Gewaltsituationen in neuen Begriffen zu rahmen – andere Möglichkeiten bleiben jedoch daneben bestehen. Und es sind insbesondere staatliche Akteure, die – indem sie Menschenrechtsforderungen ernst nehmen – (Menschen-)Rechtssubjekte wesentlich schaffen.

Merry gelingt es in ihrem Buch sehr facettenreich, das Panorama einer transnationalen Bewegung und ihrer Kämpfe gegen Gewalt in Geschlechterverhältnissen zu skizzieren, die in unterschiedlichen Arenen geführt werden; von transnationalen Menschenrechtsdiskussionen an den Standorten der UN bis hin zu den individuellen Subjektivierungsprozessen der von Gewalt betroffenen Frauen. Diese Bewegung zeigt in ihrem Selbstverständnis, ihrer Sprache und ihren Praktiken an den untersuchten Orten erstaunliche Ähnlichkeiten. Und dennoch, so macht Merry deutlich, werden Menschenrechte nicht im Sinne eines westlichen Kulturimperialismus den Ländern des globalen Südens aufoktroiert, sondern international im Konsens beschlossen, lokal übersetzt und, wenn auch nicht konfliktfrei, angenommen. Sally Engle Merrys methodischer Ansatz einer „deterritorisierten Ethnographie“ fordert dabei die gängigen Erwartungen an ethnographische Feldforschung als dichte Beschreibung weniger Fälle heraus. Dabei entsteht jedoch bisweilen der Eindruck, dass Merry zu viele Schauplätze gleichzeitig aufmacht, so dass die Struktur des Textes, die Schärfe der Argumentation sowie die Eindrücklichkeit der Darstellung darunter leiden. Neben dem gelungenen Gesamteindruck sind die stärksten Momente des Buches eindeutig jene, in denen Merry einen oder zwei Fälle herausgreift und so das kontingente und spannungsreiche Zusammenspiel lokaler und globaler Deutungsmuster und Praktiken exemplarisch beschreibt. **Ulrike Froböse/Connie Stitz**

Jonathan Simon: Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear. Oxford: Oxford University Press 2007.

Fear is ubiquitous in family life, though, as Jonathan Simon is arguing in his *Governing through Crime*, fear of the spouse has been replaced in the US by fear of the monstrous stranger without – or within – the household. This has had dramatic repercussions on the forms of self-governance that have dominated middle-class lifestyles in the 20th century. The (suburban) family guards against threats from without through its retreat to

gated communities; its consumption of private security services, technologies and expertise; its displacing itself in “safe” SUV vehicles that place it far from the madding crowds. But the family is also guarding against threats from within through unprecedented surveillance and control of children. Families monitor children through the purchase of home drug testing kits, home surveillance technology, and if all else fails, by sending adolescents to “boot camps” to help them sort themselves out.

Parents are compelled to invest heavily in disciplinary technologies. If children were found to engage in criminal acts, the effects of the resulting exclusion can be devastating to the entire family who risk to lose public housing, eligibility for college loans or private insurance. But monitoring of children is not confined to private spaces: children are also subject to surveillance technologies in their schools, where norm enforcement by teachers has been superseded by private security companies intervening against disruptive students in classrooms, children being subjected to mandatory drug tests, metal detectors, and searches, being barred from leaving during school hours, subject to in-school detentions and disbarred from school if their behaviour is found wanting. Thus, American children are ubiquitously being reframed as a population of potential victims (of attacks by fellow classmates, of child abusers, of drug peddlers) and potential perpetrators (drug dealers, vandals or bullies). The pervasive, and palpitating, fear of crime has meant that punishment and policing have become one – if not *the* – dominant mode of private and public socialisation (210).

Jonathan Simon shows in this book that the victim-perpetrator rhetoric has become pervasive in the past three decades, and he uses the family as one locus in which these changes are most visible. His other examples are prisons and the workplace. In the wake of a demise of worker representation and the hopes for affirmative action, the moralisation of social relations – and thus their depoliticisation – have the advantage of recreating an useful scheme to vet the good from the bad: good people are victims, bad people are perpetrators. Good people are taxpayers, bad people receive – and probably abuse – welfare. So Americans are potential victims of crime in a two-fold manner. Firstly, they are victims as taxpayers; that is, victims of “the high costs of welfare for poor, minority, urban residents – the same communities blamed for crime” (109). And secondly, they are potential victims of violent crimes perpetrated by male members of those same populations. This implies that while the victim has become the new idealized subject of much political action, this new subject is racialized and gendered. For victims are white, suburban and middle-class, and are contrasted to a popular catalogue of “monsters” who are not. The standard image of criminals is of gang members, drug kingpins, violent crime recidivists and sex offenders. Upper class, or white, perpetrators of environmental or white-collar crime are not demonized in the same way. And as the victim is the fulcrum of legal change, any attempts to occasion change necessitate a self-presentation of the lobby group as potential victims of crimes – by co-workers, employers, customers, etc.

The racialization of the perpetrator has a long history. As the former education Secretary William Bennett facetiously said in a radio interview in September 2005, “if you wanted to reduce crime, you could, if that were your sole purpose, you could abort every black baby in this country, and your crime rate would go down.” According to Simon, indeed, there is a correlation between the diminution of low-skilled work, the dire living conditions and poor opportunities in some neglected urban areas and criminogenic behaviour; these conditions are only further exacerbated by the penal system into which so many African American men disappear for so long. Thus, there is a double racialization process: first, African Americans often live in neglected urban areas in social conditions

that (according to Simon) are more likely to lead to criminal behaviour. Second, as the possibility of exercising discretion in arresting, prosecuting, and punishing a person is often used to the *detriment* of African American men, these are more likely than other citizens to spend a segment of their life in jails or prisons, where “prisonization” occurs, that is, its inhabitants learn a macho prison culture that will not help towards integration into working life afterwards. But this in turn means that Simon unwittingly admits that the racialization of the perpetrator/victim distinction is not entirely unfounded. What he quite rightly – though this is not novel – points out is that the *conditions* under which a segment of the populations lives lead to greater crime rates.

What could be added to this are details not of the causes, but of the *effects* of classifications of populations into ethnic groups. Anthropologists have shown that widespread assumptions about “the other” produce behaviours at a micro-level that when compounded can have striking impacts on a global scale. Thus, a recent ethnographic study of taxi drivers profiling their customers (Diego Gambetta and Heather Hamill, *Streetwise: How Taxi Drivers establish their Customers’ Trustworthiness*) shows how taxi drivers know that their lives may depend on the right sort of prejudice. New York taxi drivers face a very high likelihood of being killed. They have established a set of rules concerning the *prima facie* trustworthiness of customers: women are safer than men, adults safer than teenagers, individuals safer than groups, well-dressed people more so than scruffy ones, known passengers preferred to strangers, calm people safer than agitated ones. And “white” people are deemed safer than “black” people. These judgments as individual judgments are still sexist, ageist, and racist, among other things, but within the rights of the security-conscious taxi driver. They merely lead to micro-level decisions concerning which passengers can safely be picked up, and who is better avoided. On a compounded scale, such individual judgments are aggregated to a system that is racist.

Private life has thus taking on a new form, dominated by logics of security, by a continual attendance to and fear of crime, by constant vigilance against victimisation, and by a privatised and moralised fear of Black men. This “ecology of fear” (a term coined by Mike Davis) has political and institutional ramifications.

On the one hand, the ecology of fear has taken up some issues of 1970s liberal politics, as Simon can show. The increased state intervention in the family, for example, is a direct result of successful feminist politics. Feminists had worked for decades in the 1960s and 1970s to establish stricter prosecuting and sentencing guidelines for spousal abuse – and were successful. Many US states have since implemented mandatory arrests for any accusations of domestic abuse; specialist prosecutors are to investigate the defendant’s history; specialist courts see no other cases; and some legislatures have put mandatory jail terms for first offences into practice. Women’s claims of domestic violence are taken seriously in an unprecedented manner. But as this attention to women’s issues has occurred within a cultural change of “governing through crime,” in which violent crime come to be seen *the* threat to personal safety (to the virtual exclusion of older fears of social insecurity, distributive injustice, environmental threats, violent social and political change, unemployment, overpopulation, retreat of the state, famine and war), the resulting changes in the institutional logics have served to exacerbate some of the problems feminists were concerned with to begin with. Not only have families changed their ways of governing themselves and their younger members, their consumption and living habits, their range of motion, willingness to engage with strangers, and general mobility. But this has served to decrease the range of options for women caught in the system of mandatory rules. The clear priority of criminal victimization over other kinds of risks or social inequities has meant that “virtually any increase in security for the public, no matter how

small or speculative, suffices to justify virtually any increase in risk for criminal offenders” (196).

In an era in which crime in general, and violent crime in particular, has been falling, more people are incarcerated for longer sentences, in harsher conditions, with less likelihood of being paroled and greater likelihood of being barred from exercising their civil rights, as well as from college loans and public housing. Prisons have in short become “waste management systems,” overcrowded, boring, unsafe, unhygienic and with little regard to the people incapacitated through them. And that is just the way they are meant to be. After two hundred years of humanitarian reforms of the penal system, populist politics have turned prisons into holding pens, especially for ethnic minority males. These populist politics show a weariness of “experts” who are seen to “privilege the criminal” and of a judicial system “unwilling to protect the people,” have stressed a “simple system of rules” that eliminate the possibility of anyone exercising their discretion in managing criminals. The success of this new is measured not in terms of recidivism rates, deterrence of crime, or production of any other social good, but (in keeping with the logics of the new penology) in terms of the efficiency of the system in removing people from the streets, or, in the words of California governor George Deukmejian, removing “an additional 52,000 convicted felons from neighbourhoods to send them to state prison” (158). This populist logic has been embraced by governors, presidents, lawmakers and courts, who have implemented 3-strikes laws, zero tolerance, an incarceration binge and a general vulnerability of all sectors of society to a crime control mentality that leaves no room for more measured perspectives on the characteristics of security. And this is what Simon deplores in this book, pleading for a return of another politics, another style of family and school life, a new social movement “ready to break the hold of crime on American governance” (282).

Governing through crime does not focus on the lives of the poor, huddled masses either within the penal system or without it that fears the criminal – this he has done previously. In fact, the narratives offered in this book are not altogether new or surprising, but Simon has put together an unremitting wealth of detail concerning institutional, cultural and private life-world changes. Some of the editing has been inattentive (quite a few references are missing from the bibliography), sometimes the tone is a little moralising, some of the arguments could have benefited from more pith, but all in all this is a fascinating perspective on the new American order. **Rebecca Pates**

Jennifer Wood/Clifford Shearing: Imagining Security. Col-lompton, UK: Willan Publishing 2007.

“How should security be governed at the beginning of the twenty-first century?” (1) This is the question that Jennifer Wood and Clifford Shearing seek to answer in *Imagining Security*. They thus follow an explicitly political agenda, built on an analysis that relies on an account of ‘nodal governance’ – a concept that the authors have developed over recent years. Although much of what they present does not seem to be especially new or even groundbreaking at first sight, and although there is good reason to criticize several inconsistencies in the structure of their argument, the application of a ‘nodal governance perspective’ presents a fresh and surprisingly viable approach to analyzing governance processes in ways that take the empirical role of state agencies in governance

seriously, while avoiding methodological state-centricism. Also, it leads to some thought-provoking, albeit controversial proposals regarding the governance of security, mainly because it takes the authors' own assumptions seriously and does not rely on state authorities to ensure democratic mechanisms in the field of production of security.

In the first three chapters, the authors develop the concept of 'nodal governance' and apply this perspective in a review of literature in different fields of security discourses and security governance. The last two chapters consist of "*an explicitly normative discussion of how a nodal governance perspective might inform efforts to enhance the power of weak actors [...] in reshaping the security field towards possibly new and different ends, both in instrumental and normative terms*" (96). Thus the analytical first half of the book serves as the basis for the development of the normative program.

In developing their concept of 'nodal governance', Wood and Shearing begin from the observation that, especially in the field of security, it is not only state authorities but a wide array of different non-state actors that engage in the governance of security, be it at the local, national or international level (3).

However, Wood and Shearing are skeptical of accounts which see this tendency towards a privatization of security issues as a pure effect of a neoliberal project that follows a program of 'responsibilization' (David Garland) and 'ruling at a distance' (Bruno Latour), and within which 'the state' delegates the 'rowing' (i.e., the realization of certain tasks) but stays with the 'steering' competences (i.e. the formulation of political programs); rather, they see processes of mutual 'enrolment,' in which state and non-state actors are structurally equal in principle. "*Today, ways of imagining and realizing security governance in the business sector as well as the 'third sector' (e.g. community groupings, non-governmental organizations) shape and influence the thinking of state institutions and vice versa. This is the essence of nodal governance.*" (13) Thus, they claim, the picture of security from a nodal governance account is more ambiguous than a perspective informed by a critical account of neoliberalism would suggest: "*What one has in practice is not a single model of governance, but a complex of hybrid arrangements and practices in which different mentalities of governance as well as very different sets of institutional arrangements coexist*" (21).

The idea of enrolment goes back to a concept Wood and Shearing borrow from Bruno Latour: an actor is powerful only to the degree to which she is able to enlist others in order to carry out her projects.¹ This is possible only by alignment and persuasion (which might include the use of pressure or force, but cannot be built exclusively on coercion nor is coercion a necessary component), and entails a process of 'translation': while carrying out their tasks, the enrolled actors 'translate' their part in the governance project according to their own goals and logics of operation – which, more likely than not, changes the nature of the whole process. Governance, from this perspective, becomes the art of alignment. Powerful actors manage to impose their logics onto those they enroll, and/or they manage to enroll a large number of others, thus forming governing nodes: "*Nodes are sites of knowledge, capacity and resources that function as governance auspices or providers. These sites are often institutional (expressed in an organizational form), but can also be located within informal groupings*" (27).

1 Latour, B. (1986) The powers of association. In: Law, J. (ed.), Power, action, and belief. A new sociology of knowledge? London: Routledge.

The strength of the nodal governance perspective lies in this combination of a broad but clear concept of governance, on the one hand, and a conceptual openness that avoids *a priori* assumptions about where governing nodes are to be found, on the other hand. It easily avoids methodological state-centricism, and neither does it assume *a priori* that certain other forces (money/the business sector) are the ‘real powers’ behind the scene, ruling the world. Rather, it remains an empirical question where governing nodes lie and who or which groups are part of them and dominate them.

Following this conceptual outline (backed up by some empirical examples), the reader might expect an application of the approach. This expectation is only partially fulfilled in the rest of the book. The second chapter concentrates on a classical discourse analysis of various waves of thinking in policing at the level of communities. The authors show that different waves of thinking in the field of policing have influenced each other and, over time, have been combined in several ways. Wood and Shearing then go on to jump to another plane: that of *practices* of nodal governance. Here, they don’t make their analysis explicit, but simply claim (as those working with a ‘governmentality approach’ generally do) that what they have shown for “waves of thinking” (i.e. at the level of thought, or concepts) translates into actual governing arrangements and practices. More exactly, the authors state that throughout all of these waves, at least since the middle of the twentieth century, police agencies have attempted to establish partnerships with others – be it with community groups, individual residents, other public authorities or private for-profit actors – and that the governance of security increasingly has become a field of nodal governance, while police have made sure to remain the central player. A more detailed description of such nodal arrangements would have strengthened the argument considerably.

Another field of security discourses that, according to the authors, have a strong nodal governance character and have been heavily influenced by non-state actors (both non-profit and business-oriented) are human security approaches. “A *human security approach seeks to decentre the state as referent object while examining security threats that arise from nodes and networks of people and activities that defy traditional state boundaries. From this standpoint, coercive capacity exercised by or on behalf of states is simply one among a plethora of capacities required in securing people.*” (63–64)

Departing from this assumption, an examination of human security discourses (and governing nodes and networks arranged through and around such approaches) makes perfect sense in the context of a nodal governance account. Unfortunately, in dealing with this the authors become somewhat inconsistent with regard to their first object of examination, community security. While with respect to the latter they concentrate on *discourses* and *mentalities* of governing crime and (almost casually) the governing nodes and networks that emerge out of that, when it comes to human security the authors repeatedly leave this plane and talk about what they perceive as the actual threats to human security. These threats, the argument goes, arise from actors that are organized in networks and de-centered nodes have thus a polycentric, network-like structure. Wood and Shearing refer here to very different threats, from terrorist networks over Kaldor’s ‘new wars,’ to the private provision of military services, human rights violations in Argentina and post-Apartheid South Africa, and economic want (while in the context of community policing it seems to be taken for granted that the imagined threats are more or less of the same nature for all waves of policing discourses). Accordingly, they describe reactions and strategies that aim at these diverse perceptions of human security threats. This is logical considering the broadened meaning of ‘security’ in human security discourses, but it also leaves the impression that the choice of subjects that are discussed here is quite arbitrary.

trary. A good example is in the chapter on community security, where the nodal governance account is applied in a fairly superficial way, without taking full advantage of its conceptual strengths. Rather, the accounts on human security seem primarily to serve the purpose of proving that the heterogeneous and decentralized security threats call for polycentric governance structures that need not necessarily be dominated, or even exclusively carried out, by actors of the international state system. The examples suggest that local knowledge as well as political, democratically organized participation of citizen groups are an adequate and at the same time effective means of dealing with issues of crime and (in-)security.

The basic assumption is therefore that nodal, polycentric governance arrangements carry the potential for new solutions to old problems of imbalance in power relations and representations, and that a nodal account of governance helps to better detect ways and strategies for weak actors who want to influence and shape governance practices. Wood and Shearing can make this assumption precisely because they have a more optimistic view on de-centered governance and ruling-at-a-distance than many critics of so-called neoliberal governance strategies: At least theoretically, their conception of power (as based on enrolment) and governance (as polycentric and concentrated in nodes) allows weak non-state actors to assume an active role in governing security and shaping policies in this field. This becomes especially clear when they talk about their research on Community Peace Centres in South Africa – community groups that engage in security issues: *“As the police have sought to enrol the Peace Committees, the latter have, in turn, used their power to enrol the police in furtherance of their governance objectives. [...] The Community Peace Centre project is not simply a neo-liberal partnership where the police are ‘responsibilizing’ community members to do their bidding”* (102 f.).

Building heavily on the work of John Braithwaite and complementing this with examples from their own empirical research, Wood and Shearing go on to propose a number of principles which might be summed up as the idea that ‘weak actors’ should concentrate on their abilities and assets (local or otherwise specific knowledge, manpower, persuasive power) and organize themselves in existing nodes of governance or – even better – build their own nodes. Thus, according to Wood and Shearing, they gain bargaining power, are able to set agendas, and form policies, i.e. to take a ‘steering’ position.

The question of how weak actors gain greater bargaining power has to be separated from the question of how this bargaining, or the attempts to influence governance projects, is to be regulated in a way that assures compliance with certain ‘democratic values’ (which the authors take for granted as something most people agree on, without specifying further the contents of such values). In contrast to many writers concerned with issues of social justice and political equality, Wood and Shearing do not blindly confide in ‘the state’ as the appropriate instance to assure such democratic rules. They do not postulate *a priori* *“that the best or exclusive way to respond to the problems we have identified is to create better Leviathans either at state or supra-state levels [...] there may well be other, and perhaps better, ways of creating both effective and democratic governance”* (99).

Accordingly, their answer to the problem of ‘governing governance’ rests in a hybrid mix of checks and balances (115). In chapter 5, they present some possible strategies, which they take from control mechanisms in public and private policing, and show that a traditional perspective limited to questions of (legal and political) accountability fails to see a whole range of other technologies of regulating governance, including licensing (both in the commercial sense and in the sense of a political ‘branding,’ as done in human rights or ecological campaigns), contracts, rules for insurance markets and self-

governance, generally based on a ‘marketization’ of security goods, which needs to be shaped in a way that that these markets produce socially just results. If this is successful, it presents what Wood and Shearing call “smart regulation” (136) and which they see happening in several fields where actors from the ‘third sector’ such as human rights activists, ecological non-profit-organizations or poor neighborhood groups manage (via shaping public discourses) to shape the behavior of corporations or public administrations.

In other words: the authors, like so many others, pin their hopes on actors based in civil society. In their view, non-state nodes “*possess or have the potential to possess the requisite knowledge, capacities and resources to monitor, and even to create, normative standards that guide them in their mix of governance functions. The virtue of the global civil society perspective, which we see in action with human rights NGOs, is its emphasis on local actors and their situated knowledge of regulatory nodes and networks. In simple terms, what seems to matter in the design of optimal regimes for the governance of governance is the right mix of ‘upwards’, ‘downwards’ and ‘horizontal’ processes (Scott 2000) that links up the activities of state and non-state nodes in ways that compensate for the weaknesses of each process on its own (see Goodin 2003²)*” (142).

The *really* interesting point would be: what would these governance designs look like? From what the authors have presented, it is clear that the answer to this question always has to be tailor-made to a specific situation. Wood and Shearing give some examples, or tentative answers, and generally demand that “appropriately deliberative structures” be implemented to allow for equitable and open articulation of normative goals. This is the logical consequence of the approach, but unsatisfying for the reader. The problem lies in the clash of the nodal governance perspective and the global analyzes of security discourses Wood and Shearing present: the very account of nodal governance argues that it doesn’t make sense to draw global pictures and look for global solutions. If they had followed their own thinking in this point, Wood and Shearing would have stuck to some concrete examples, analyzing them in detail and taking lessons from it, and would not have tried to draw the big picture – developing the argument in this way may very likely have served their purpose better than the sometimes arbitrary looking accounts on human security and communal policing discourses they give in ‘Imagining Security,’ which do not make full use of the potential the nodal perspective on governance processes provides. **Anne Dölemeyer**

- 2 Goodin, R.E. (2003) Democratic accountability: the distinctiveness of the third sector. In: European Journal of Sociology 44(3): 359–396.



Pat O'Malley (Hg.): *Governing Risks*. Aldershot: Ashgate 2005.

Das Thema *Governing Risks* ist durch, alles ist gesagt. Dies jedenfalls suggeriert die gleichnamige von Pat O'Malley zusammengestellte Textsammlung, die auf den ersten Blick das schwergewichtige Finale einer ausgeschöpften Forschungsperspektive zu sein scheint – und dies nicht nur deshalb, weil der für die Reihe *The International Library of Essays in Law and Society* typische, dunkelrote Hardcover-Einband mit goldener Schrift an eine Bibel-Ausgabe erinnert. Nach einem Blick in das Inhaltsverzeichnis steht fest: Das knapp 600 Seiten umfassende Buch versammelt viele Autoren mit Rang und Namen, die sich zur Frage der „Risiken“ in ihrer Disziplin zu Wort gemeldet haben. Die Beiträge sind allerdings allesamt Zweitverwertungen und stammen aus renommierten Zeitschriften wie *Economy and Society*, *Journal of Law and Society* oder *Theoretical Criminology*.

Die von Pat O'Malley verfasste Einleitung sagt leider wenig über die theoretischen und analytischen Bezüge und den Kontext der zentralen Begriffe aus, sondern stellt jedes Kapitel und am Ende sogar jeden Text einzeln vor. Dies könnte „ungeübten“ Lesern und Leserinnen Probleme bereiten, da gerade die Schlüsselbegriffe wie *risk*, *uncertainty* oder *governing* in den Beiträgen auf unterschiedlichen analytischen bzw. theoretischen Ebenen ins Spiel gebracht werden. So werden „Risiken“ mal als relational und an einen spezifischen Diskurs gebundene Wissenstechniken verstanden (bspw. O'Malley, Hannah-Moffat, Rose). An anderen Stellen werden sie als systematische Positivitäten vorgestellt oder als faktische Größen ‚hinter‘ ideologischen Effekten entdeckt, die jeweils (veränderte) politische bzw. staatliche Handlungsnotwendigkeiten implizieren (bspw. Abraham/Liebman, Lowi, Stapleton). Oder der Risikobegriff wird im Kontext von rechtswissenschaftlichen bzw. rechtspraktischen Implikationen diskutiert (bspw. Priest).

O'Malleys eigene, relationale Definition des „Regierens“ hilft hier zumindest indirekt weiter: „By government, then, I mean those practices whereby life is programmatically shaped by various bodies in coordinated ways, following similar rationales, with similar ways of identifying problems and ways of going about solving them“ (xi). Sie gibt der Auswahl einen Rahmen, auch wenn nicht alle Texte diese analytische Konzeption teilen: Obwohl O'Malleys Einleitung über die analytische Heterogenität hinweggeht, leistet sie zumindest implizit eine Aufbereitung der versammelten Beiträge aus diesem Blickwinkel, indem die Dichotomien und Spezifika verschiedener risikorelevanter Sphären inhaltlich herausgearbeitet werden. O'Malley begründet mit seinem regierungsanalytischen Fokus nicht nur den weit über den Rahmen der Reihe (Law and Society) hinausführenden, breit gestreuten inhaltlichen Fokus der einzelnen Beiträge, sondern arbeitet anhand dessen auch die an den Analysen ablesbaren Verschiebungen und Veränderungen des „governing risks“ heraus. Hier wiederum wäre eine explizite Rahmung der analytischen Heterogenität der Beiträge äußerst hilfreich gewesen.

Aus regierungsanalytischer Perspektive werden weder das Recht noch der Staat oder seine Institutionen als solche in den Blick genommen. Das jeweilige Auftauchen von „Risiken“ in den untersuchten Kontexten dient vielmehr als Ausgangspunkt der Suche nach jenen Wissensfeldern und Praktiken, Institutionen und Regulationen, die den Begriff

zum Leben erwecken, in spezifische Kontexte einbinden, ihn technisieren, operationalisieren und so zu einer Bedingung des Regierens werden lassen. Das Anliegen von Pat O'Malleys Zusammenstellung besteht fraglos darin, den Risikobegriff und zugleich seine Kehrseite – die Unsicherheit – als *politische* Begriffe auszuweisen, die nur innerhalb einer spezifischen diskursiven Problemkonstellation zum Tragen kommen und Auswirkungen auf die Strukturen und Mittel von *governance* und *governmantality* haben. Risiken sind in diesem Sinne nicht einfach gegeben und harren ihrer Bewältigung. Sie sind vielmehr konstruierte Phänomene, die eine auffällige Verschiebung von Regierungstechniken und Subjektivierungsweisen provoziert bzw. mitgetragen haben.

Sicher ist, dass alle Artikel für solch eine übergreifende Fragestellung interessante Aspekte beleuchten. Aber es erklärt sich nicht bei allen Beiträgen von selbst, dass sie für die Auswahl eines „governing risks“ in O'Malleys Sinne prädestiniert sind. Zwar spiegeln Zuordnung und Diskussion der einzelnen Beiträge den Fokus des Bandes wider und auch der Zusammenhang aus Einleitung, Kapitelüberschriften und Beiträgen erscheint nach O'Malleys Diskussion schlüssig: *Politics and Inequality, Private Law and Justice, Criminal Law and Justice, Uncertainty and Economic Life, Health and Technology*. Aber gerade weil sich die Effekte des jeweiligen Risiko-Begriffs nach dem Kontext seines Einsatzes richten, interessiert im Zusammenhang des Bandes weniger die allgemeine Frage nach Regierungsformen oder der allgemeine Rekurs auf „Risiken“ in einem bestimmten Feld, sondern die Spezifika der Regierungseffekte des jeweiligen Risikobegriffs. Daran muss man sich beim Lesen jener Texte, die aus dieser Analytik herausfallen, immer wieder selbst erinnern – wobei sich der Umstand, dass weder die Gliederung noch einzelne Texte im Seitenlayout des Buches berücksichtigt wurden (die Texte verbleiben im Satz der jeweiligen Zeitschrift) als Verbildlichung dieser unentschlossenen Konzeptionalisierung heranziehen lässt.

Im Allgemeinen zeigen sich – implizit oder explizit – in den einzelnen Beiträgen zwei Verschiebungen und Brüche (resp. Versionen) des Regierens durch Risiko: Einerseits wird der Kontrast zwischen einer wohlfahrtsstaatlichen (fordistischen) „Demokratisierung des Risikos“ und der neoliberalen Individualisierung von Risikofaktoren (und der damit verbundenen Anforderung zu privater Vorsorge und permanenter Achtsamkeit) offen gelegt. Andererseits wird das Risiko als eine moralisierende Instanz, die ein Regieren im Futur II ermöglicht, von einem Risiko-Begriff unterschieden, der als ökonomische Ressource einen Innovationsmotor darstellt und deshalb im kapitalistischen System zwingend notwendig ist.

So spiegeln die Beiträge des ersten Abschnitts (*Risk, Politics and Inequality*) die Diskrepanz zwischen der mathematisch-technisch vermittelten „Neutralität“ von Risikokalkulationen und ihren moralisierenden und politischen Effekten wider. Deutlich wird dies vor allem an einer Verschiebung der Ebene, auf der gesellschaftliche Risiken reguliert werden. Während *Theodore Lowi* die gesellschaftliche Minimierung individueller Risiken im Wohlfahrtsstaat thematisiert und herausarbeitet, dass der Fehler der US-Amerikanischen Politik darin besteht, sich zu stark dem systematischen Phänomen Risiko untergeordnet und dabei das Moment der „Regulation“ als Staatsaufgabe aus den Augen verloren zu haben, stellen sowohl *Lealle Ruhl* als auch *Jonathan Simon* den „ideologischen“ Effekt des Risikodiskurses in den Vordergrund. In diesem Zusammenhang erscheint Risiko weniger als statistisch modellierter Effekt, denn als Element neo-liberaler Subjektivierung. Wenn überall Risiken lauern, bedarf es permanenter Achtsamkeit und konsequenter Vorsorge. Das Subjekt kann es sich nicht mehr im warmen Nest wohlfahrtsstaatlicher Vorsorge bequem machen, sondern muss permanent beweglich bleiben und auf der Hut sein, um die eigenen (ökonomischen, sozialen und gesundheitlichen)

Risiken „managen“ zu können. Der Effekt des Regierens fokussiert in diesem Kontext nicht die Gegenwart als vielmehr das, was passieren könnte resp. gewesen sein wird, falls die entsprechenden präventiven Maßnahmen ausbleiben.

Die Verknüpfung von Risikokonstruktionen und Vorbeugung zeitigt auch Effekte, wenn es um zivilrechtliche (Kapitel II *Risk, Privat Law and Justice*) beziehungsweise strafrechtliche (Kapitel III *Risk, Criminal Law and Justice*) Belange geht. Im Kontext eines Risikodiskurses befindet sich das kodifizierte Recht immer im Nachteil, da es nur nachsorgend eingreifen und deshalb zur Kontrolle des Risikos nur bedingt beitragen kann. Was im Fahrwasser der Risikodebatte auftaucht, ist eine neue Zielstellung rechtsstaatlicher Intervention, die in den Diskussionen als „new penology“ bezeichnet wird: „*This new penology sees crime as a problem of managing high-risk categories and sub-populations, not normalizing individuals to community norms*“ (279). Das Risikomanagement wird hier entweder als effizientere Form der Ausübung des Rechts – welches noch einer entsprechenden Anpassung bedarf (George L. Priest) – gefeiert oder als „*political program*“ (255) überführt, womit die Autonomie des Rechts unterminiert und einer Kontrollgesellschaft Vorschub geleistet wird.

Im vierten Kapitel (*Risk, Uncertainty and Economic Live*) werden die sozialen und ökonomischen Folgen eines einflussreichen Risikodiskurses diskutiert. Mit dem Risikobegriff geht eine permanente (wenngleich konstruierte) Unsicherheit einher, die soziale Interaktionsmuster grundlegend verändert hat. O'Malley argumentiert beispielsweise, dass eine auf viele gesellschaftliche Felder übergreifende versicherungsmathematische Risikogesellschaft (*risk-society*), die mit allen Mitteln den Teufel der Unsicherheit (*uncertainty*) austreiben will, auch und gerade im Kontext neo-liberaler Ökonomie nur einen begrenzten Einfluss erlangen kann, da das Moment der Unsicherheit konstitutiver Bestandteil des Liberalismus ist: „*It is concluded that the place of uncertainty is central to liberalism and thus unlikely to be marginalized by 'risk society' developments*“ (349).

Im fünften und abschließenden Kapitel (*Risk, Health and Technolgy*) finden sich Texte, die die Bedeutung des Risikodiskurses auf den Feldern Medizin und (Bio-)Technologie diskutieren und dabei ähnliche Ambivalenzen und Verschiebungen konstatieren, wie in den Kapiteln zuvor. Nikolas Rose hat sich in diesem Zusammenhang mit dem Risikobegriff und seiner (bisweilen redundanten) Verwendung in der Psychiatrie beschäftigt und kommt zu dem Schluss, dass dieser spezifische Diskurs mit seiner Konstruktion permanenter Gefahr ein „governing through madness“ provoziert: „*Contemporary politics of mental health has come to be structured in terms of the questions of security and public safety*“ (499).

Nach diesem Blick auf ausgewählte Details und Unterschiede der Analysen verschiedener Risiko-Diskurse lässt sich für den Band abschließend feststellen: Das Ganze ist in diesem Fall nicht mehr als die Summe seiner Teile. Das Fehlen einer ausführlichen „Anleitung zum richtigen Gebrauch“ (eine theoretische Einführung) hat zwar den Vorzug, dass die wissenschaftlichen Befunde selbst zur Geltung kommen und nicht von einer allgemeinen Darstellung der theoretischen Perspektive sublimiert werden. Letztlich hätte man sich für Einleitung und Aufbau aber eine Entscheidung gewünscht, die aus dem Band mehr gemacht hätte, als eine bloße Zusammenstellung einzelner Analysen. In der Einleitung hätte sich eine kritische Bestandsaufnahme angeboten, die nicht nur beschreibend die Zusammenstellung des Bandes vorträgt, sondern auch die Schwierigkeiten und Entwicklungsmöglichkeiten einzelner Forschungsstränge diskutiert. In jedem Fall hätte die Diskrepanz zwischen analytischer Heterogenität der Beiträge und ihrer inhaltlichen Auswahl entlang einer regierungsanalytischen Fragestellung in der Einleitung mehr Beachtung finden können.

Der Band ist insofern nicht mehr und nicht weniger als ein Service, der einen einfachen Zugang zu einigen zentralen Ansätzen und Arbeiten in diesem weiten und heterogenen Forschungsfeld ermöglicht. In diesem Sinne handelt es sich um eine hilfreiche Textsammlung. Wer sich jenseits der deutschen Risiko-Ikone Ulrich Beck mit dem Thema beschäftigen will, hat entweder die Möglichkeit, sich durch unzählige *Journals* zu arbeiten, um die entsprechenden Schlüsseltexte zu finden, oder aber diese mit einem Preis von 250 US-Dollar eher als Verleihvariante konzipierte Textsammlung zur Hand zu nehmen. Was in den Themen Risiko, Vorsorge, Unsicherheit, Kontrolle und vor allem Regierung (governmentality) theoretisch und empirisch noch steckt, wird sich allerdings erst anhand der Publikationen der nächsten Jahre erweisen lassen und bleibt auch nach der mit diesem Band vorliegenden Übersicht offen. **Robert Feustel/Mathias Rodatz**

**Sally Engle Merry: Human Rights and Gender Violence.
Translating International Law into Local Justice. Chicago:
The University of Chicago Press 2006.**

UN-Menschenrechtsdokumente fordern von ihren LeserInnen einige Geduld: Sie sind oft abstrakt, sprachlich sperrig und redundant formuliert. Ihr Geltungsanspruch ist universal und ihre politische Bedeutung liegt v.a. in der Legitimität internationalen Konsenses und der daraus resultierenden Wirksamkeit politischen Drucks. Die Staaten, die Menschenrechte garantieren sollen, sowie nationale und lokale Menschenrechtsgruppen sind hingegen konfrontiert mit komplexen lokalen Realitäten und Fällen von Menschenrechtsverletzungen, die in spezifischer Weise durch Ungleichverteilungen von Ressourcen und Macht geprägt sind. Vielfältige soziale Kategorien, wie Rasse, soziale Klasse, Gender und ethnische Zugehörigkeiten, politische und ökonomische Verhältnisse sowie Glaubens- und Wertesysteme spielen dabei eine Rolle. Die Wechselbeziehungen zwischen universalen Normen und spezifischen lokalen Strukturen bzw. Kulturen sind dementsprechend spannungsreich und es stellt sich die Frage, welche Rolle lokales Wissen bei der Produktion von Menschenrechtsnormen spielt und was diese Normen lokal bewirken bzw. wie sie wirken.

Sally Engle Merry untersucht in ihrem Buch *Human Rights and Gender Violence* wie – d.h. durch welche Akteure, Institutionen, Diskurse und Prozesse – die Räume, in denen transnationales Recht geschaffen wird und lokale Räume, für die es geschaffen wird, miteinander verbunden sind. Am Beispiel der internationalen Menschenrechtsbewegung gegen Gewalt in Geschlechterverhältnissen (gender violence) beschreibt sie einerseits, wie in transnationalen Diskursen an den Standorten der UN neue Bedeutungskategorien entstehen (Gewalt an Frauen als Menschenrechtsverletzung und eine Form der Diskriminierung) und andererseits, wie diese Bedeutungen weltweit von Staaten sowie nationalen und lokalen AktivistInnen aufgegriffen und in soziale Praktiken übersetzt werden, um spezifische Situationen zu beschreiben und Menschenrechtsverletzungen zu bekämpfen.

Ergebnis ihrer Feldforschungen, die sie im Zeitraum von 1999 bis 2004 durchführte, ist eine ethnographische Studie, deren Ort der Untersuchung keine territorial abgrenzbare Einheit darstellt – Merry beschreibt ihr Vorgehen als „deterritoralisierte Ethnographie“ – sondern in der sie die LeserInnen mitnimmt in drei soziale Räume, innerhalb derer Menschenrechtsnormen geschaffen und ihre Umsetzungen verhandelt werden.

Sie beginnt mit dem transnationalen Raum der UN und führt ihre LeserInnen zu Debatten und Anhörungen, auf internationale Konferenzen und Treffen von UN-Kommissionen, bei denen UN-, Regierungs- und NGO-VertreterInnen aus aller Welt zusammentreffen und wo transnational konsensfähige Menschenrechtsnormen produziert und in ihrer Implementierung verfolgt und kommentiert werden (Kap. 2). Am Beispiel der *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW) gewährt Merry detaillierte Einblicke, wie in diesem Raum ein gemeinsames kulturelles Verständnis von persönlicher Autonomie, Sicherheit und gleichen Rechten entsteht (Kap.3), das als UN-Konvention universelle Geltung beansprucht, jedoch in der Praxis nicht selten mit lokalen Kulturen in Konflikt gerät.

Insbesondere in diesem ersten Teil des Buches wird Merrys im Hintergrund immer präsente Frage bedeutsam, ob die Verbreitung universeller Menschenrechte als westlicher Kulturimperialismus gesehen werden muss. Dabei arbeitet sie die Parallelen zum essentialistischen Kulturbegriff der einstigen Kolonialmächte Europas und Nordamerikas heraus und zeigt, dass auch im UN-Diskurs Kultur tendenziell als monolithisch, rückständig und traditionell verstanden und als Gegensatz zur scheinbar kulturlosen, zivilisierten Moderne konzipiert wird. Merry ist es ein Anliegen zu zeigen, dass die Art und Weise der Konzeptionalisierung von Kultur in einflussreichen Settings wie der UN hochpolitische Implikationen hat. An unterschiedlichen Beispielen stellt sie dar, wie der Kulturbegriff die Vorstellungen der Möglichkeiten sozialen Wandels und letztlich das Policymaking prägt: So wird Kultur im essentialistischen Sinne entweder als grundsätzlich förderlich oder hinderlich für die Umsetzung von Menschenrechtsstandards betrachtet und dementsprechend im Ganzen gewürdigt oder abgelehnt. Demgegenüber ermöglicht ein Verständnis von Kultur als offen, in sich hybrid und widersprüchlich eine komplexere Vorstellung der Interaktionsmöglichkeiten zwischen lokaler und transnationaler Kultur.

Eine derartige Auffassung von Kultur, so zeigt Merry, ist insbesondere in den beiden folgenden von ihr untersuchten Räumen zu finden, innerhalb derer Menschenrechtsideen lokal übersetzt werden. Im Gegensatz zu den Debatten auf UN-Ebene wird Kultur hier meist als Set von Ressourcen betrachtet, die eingesetzt werden können, um Menschenrechtsideen an lokale Kontexte anschlussfähig zu machen.

Zunächst beschreibt Merry den Raum, in dem globale Menschenrechtsdiskurse Teil sozialer Bewegungen werden (Kap. 5). Sie führt ihre LeserInnen an sehr verschiedene Orte (nach Delhi, Peking und Hongkong sowie auf Hawaii und die Fidschi-Inseln) und zeigt am Beispiel von Rechtslobbying und Sozialarbeit, wie dort jeweils durch lokale AktivistInnen transnationale in lokale Diskurse und Praktiken übersetzt werden. An allen fünf untersuchten Orten findet sie erstaunlich ähnliche Muster vor – ein Ergebnis, das sie als Hinweis dafür interpretiert, dass die Kernideen der Menschenrechte in den Implementierungsprozessen nicht nivelliert werden. Besonders aufschlussreich ist in diesem Zusammenhang Merrys Untersuchung der Rolle lokaler AktivistInnen, die als eine Art Mittler zwischen Sprache und Inhalten des UN-Rechts und der Umgangssprache fungieren, in der Menschen ihre Alltagssituationen rahmen. Das Buch macht hier deutlich, dass und wie Menschenrechte durch ihren universellen Anspruch und internationale Legitimierung lokalen AktivistInnen neue Deutungsmöglichkeiten für lokale Probleme wie Gewalt in Geschlechterverhältnissen eröffnen und einen neuen politischen Raum für Reformen schaffen.

In ihrem vorletzten und empirisch anschaulichsten Kapitel (Kap. 6) analysiert Merry auf Grundlage zweier Fallstudien die Veränderungen, die sich durch Menschenrechtsdiskurse und -aktivismus im Selbstverständnis derer ergeben, die den Schutz der Menschenrechte in Anspruch nehmen, und vertieft damit die Einsichten in die komplexen Prozesse

des lokalen Wirkens und Adaptierens transnationaler Menschenrechtsnormen. Dies stellt vielleicht das eindrucklichste und im Kontext der Menschenrechtsliteratur bisher wenig beachtete Thema des Buches dar. Merry führt die LeserInnen nach Hawaii und Hongkong, in den dritten, örtlich stärker begrenzten Raum zwischen lokalen AktivistInnen und Opfern von Menschenrechtsverletzungen bzw. von Gewalt gegen Frauen. Den Prozess, in dem lokale Subjekte sich selbst als Menschenrechtssubjekte interpretieren lernen, beschreibt sie als kontingent, widersprüchlich und als individuell riskant. Alte Subjektivitäten, z.B. als Mütter, Ehefrauen und Familienangehörige, die von ihren Verwandten schlecht behandelt werden, geraten in Konflikt mit neuen Selbstverständnissen als (Menschen-)Rechtssubjekte und Klägerinnen gegenüber den Tätern. Diese neuen Selbstbilder werden oft erst einmal versuchsweise im Prozess lokaler politischer Kämpfe angenommen, bisweilen parallel zu alten Subjektivitäten ausprobiert und nicht selten auch wieder verworfen, wenn sich die Opportunitätskosten als zu hoch erweisen. Recht, so wird auch hier deutlich, bietet für die von Gewalt im Geschlechterverhältnis betroffenen Frauen *eine* Möglichkeit, Gewaltsituationen in neuen Begriffen zu rahmen – andere Möglichkeiten bleiben jedoch daneben bestehen. Und es sind insbesondere staatliche Akteure, die – indem sie Menschenrechtsforderungen ernst nehmen – (Menschen-)Rechtssubjekte wesentlich schaffen.

Merry gelingt es in ihrem Buch sehr facettenreich, das Panorama einer transnationalen Bewegung und ihrer Kämpfe gegen Gewalt in Geschlechterverhältnissen zu skizzieren, die in unterschiedlichen Arenen geführt werden; von transnationalen Menschenrechtsdiskussionen an den Standorten der UN bis hin zu den individuellen Subjektivierungsprozessen der von Gewalt betroffenen Frauen. Diese Bewegung zeigt in ihrem Selbstverständnis, ihrer Sprache und ihren Praktiken an den untersuchten Orten erstaunliche Ähnlichkeiten. Und dennoch, so macht Merry deutlich, werden Menschenrechte nicht im Sinne eines westlichen Kulturimperialismus den Ländern des globalen Südens aufoktroziert, sondern international im Konsens beschlossen, lokal übersetzt und, wenn auch nicht konfliktfrei, angenommen. Sally Engle Merrys methodischer Ansatz einer „deterritorisierten Ethnographie“ fordert dabei die gängigen Erwartungen an ethnographische Feldforschung als dichte Beschreibung weniger Fälle heraus. Dabei entsteht jedoch bisweilen der Eindruck, dass Merry zu viele Schauplätze gleichzeitig aufmacht, so dass die Struktur des Textes, die Schärfe der Argumentation sowie die Eindrücklichkeit der Darstellung darunter leiden. Neben dem gelungenen Gesamteindruck sind die stärksten Momente des Buches eindeutig jene, in denen Merry einen oder zwei Fälle herausgreift und so das kontingente und spannungsreiche Zusammenspiel lokaler und globaler Deutungsmuster und Praktiken exemplarisch beschreibt. **Ulrike Froböse/Connie Stitz**

Jonathan Simon: Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear. Oxford: Oxford University Press 2007.

Fear is ubiquitous in family life, though, as Jonathan Simon is arguing in his *Governing through Crime*, fear of the spouse has been replaced in the US by fear of the monstrous stranger without – or within – the household. This has had dramatic repercussions on the forms of self-governance that have dominated middle-class lifestyles in the 20th century. The (suburban) family guards against threats from without through its retreat to

gated communities; its consumption of private security services, technologies and expertise; its displacing itself in “safe” SUV vehicles that place it far from the madding crowds. But the family is also guarding against threats from within through unprecedented surveillance and control of children. Families monitor children through the purchase of home drug testing kits, home surveillance technology, and if all else fails, by sending adolescents to “boot camps” to help them sort themselves out.

Parents are compelled to invest heavily in disciplinary technologies. If children were found to engage in criminal acts, the effects of the resulting exclusion can be devastating to the entire family who risk to lose public housing, eligibility for college loans or private insurance. But monitoring of children is not confined to private spaces: children are also subject to surveillance technologies in their schools, where norm enforcement by teachers has been superseded by private security companies intervening against disruptive students in classrooms, children being subjected to mandatory drug tests, metal detectors, and searches, being barred from leaving during school hours, subject to in-school detentions and disbarred from school if their behaviour is found wanting. Thus, American children are ubiquitously being reframed as a population of potential victims (of attacks by fellow classmates, of child abusers, of drug peddlers) and potential perpetrators (drug dealers, vandals or bullies). The pervasive, and palpitating, fear of crime has meant that punishment and policing have become one – if not *the* – dominant mode of private and public socialisation (210).

Jonathan Simon shows in this book that the victim-perpetrator rhetoric has become pervasive in the past three decades, and he uses the family as one locus in which these changes are most visible. His other examples are prisons and the workplace. In the wake of a demise of worker representation and the hopes for affirmative action, the moralisation of social relations – and thus their depoliticisation – have the advantage of recreating an useful scheme to vet the good from the bad: good people are victims, bad people are perpetrators. Good people are taxpayers, bad people receive – and probably abuse – welfare. So Americans are potential victims of crime in a two-fold manner. Firstly, they are victims as taxpayers; that is, victims of “the high costs of welfare for poor, minority, urban residents – the same communities blamed for crime” (109). And secondly, they are potential victims of violent crimes perpetrated by male members of those same populations. This implies that while the victim has become the new idealized subject of much political action, this new subject is racialized and gendered. For victims are white, suburban and middle-class, and are contrasted to a popular catalogue of “monsters” who are not. The standard image of criminals is of gang members, drug kingpins, violent crime recidivists and sex offenders. Upper class, or white, perpetrators of environmental or white-collar crime are not demonized in the same way. And as the victim is the fulcrum of legal change, any attempts to occasion change necessitate a self-presentation of the lobby group as potential victims of crimes – by co-workers, employers, customers, etc.

The racialization of the perpetrator has a long history. As the former education Secretary William Bennett facetiously said in a radio interview in September 2005, “if you wanted to reduce crime, you could, if that were your sole purpose, you could abort every black baby in this country, and your crime rate would go down.” According to Simon, indeed, there is a correlation between the diminution of low-skilled work, the dire living conditions and poor opportunities in some neglected urban areas and criminogenic behaviour; these conditions are only further exacerbated by the penal system into which so many African American men disappear for so long. Thus, there is a double racialization process: first, African Americans often live in neglected urban areas in social conditions

that (according to Simon) are more likely to lead to criminal behaviour. Second, as the possibility of exercising discretion in arresting, prosecuting, and punishing a person is often used to the *detriment* of African American men, these are more likely than other citizens to spend a segment of their life in jails or prisons, where “prisonization” occurs, that is, its inhabitants learn a macho prison culture that will not help towards integration into working life afterwards. But this in turn means that Simon unwittingly admits that the racialization of the perpetrator/victim distinction is not entirely unfounded. What he quite rightly – though this is not novel – points out is that the *conditions* under which a segment of the populations lives lead to greater crime rates.

What could be added to this are details not of the causes, but of the *effects* of classifications of populations into ethnic groups. Anthropologists have shown that widespread assumptions about “the other” produce behaviours at a micro-level that when compounded can have striking impacts on a global scale. Thus, a recent ethnographic study of taxi drivers profiling their customers (Diego Gambetta and Heather Hamill, *Streetwise: How Taxi Drivers establish their Customers’ Trustworthiness*) shows how taxi drivers know that their lives may depend on the right sort of prejudice. New York taxi drivers face a very high likelihood of being killed. They have established a set of rules concerning the *prima facie* trustworthiness of customers: women are safer than men, adults safer than teenagers, individuals safer than groups, well-dressed people more so than scruffy ones, known passengers preferred to strangers, calm people safer than agitated ones. And “white” people are deemed safer than “black” people. These judgments as individual judgments are still sexist, ageist, and racist, among other things, but within the rights of the security-conscious taxi driver. They merely lead to micro-level decisions concerning which passengers can safely be picked up, and who is better avoided. On a compounded scale, such individual judgments are aggregated to a system that is racist.

Private life has thus taking on a new form, dominated by logics of security, by a continual attendance to and fear of crime, by constant vigilance against victimisation, and by a privatised and moralised fear of Black men. This “ecology of fear” (a term coined by Mike Davis) has political and institutional ramifications.

On the one hand, the ecology of fear has taken up some issues of 1970s liberal politics, as Simon can show. The increased state intervention in the family, for example, is a direct result of successful feminist politics. Feminists had worked for decades in the 1960s and 1970s to establish stricter prosecuting and sentencing guidelines for spousal abuse – and were successful. Many US states have since implemented mandatory arrests for any accusations of domestic abuse; specialist prosecutors are to investigate the defendant’s history; specialist courts see no other cases; and some legislatures have put mandatory jail terms for first offences into practice. Women’s claims of domestic violence are taken seriously in an unprecedented manner. But as this attention to women’s issues has occurred within a cultural change of “governing through crime,” in which violent crime come to be seen *the* threat to personal safety (to the virtual exclusion of older fears of social insecurity, distributive injustice, environmental threats, violent social and political change, unemployment, overpopulation, retreat of the state, famine and war), the resulting changes in the institutional logics have served to exacerbate some of the problems feminists were concerned with to begin with. Not only have families changed their ways of governing themselves and their younger members, their consumption and living habits, their range of motion, willingness to engage with strangers, and general mobility. But this has served to decrease the range of options for women caught in the system of mandatory rules. The clear priority of criminal victimization over other kinds of risks or social inequities has meant that “virtually any increase in security for the public, no matter how

small or speculative, suffices to justify virtually any increase in risk for criminal offenders” (196).

In an era in which crime in general, and violent crime in particular, has been falling, more people are incarcerated for longer sentences, in harsher conditions, with less likelihood of being paroled and greater likelihood of being barred from exercising their civil rights, as well as from college loans and public housing. Prisons have in short become “waste management systems,” overcrowded, boring, unsafe, unhygienic and with little regard to the people incapacitated through them. And that is just the way they are meant to be. After two hundred years of humanitarian reforms of the penal system, populist politics have turned prisons into holding pens, especially for ethnic minority males. These populist politics show a weariness of “experts” who are seen to “privilege the criminal” and of a judicial system “unwilling to protect the people,” have stressed a “simple system of rules” that eliminate the possibility of anyone exercising their discretion in managing criminals. The success of this new is measured not in terms of recidivism rates, deterrence of crime, or production of any other social good, but (in keeping with the logics of the new penology) in terms of the efficiency of the system in removing people from the streets, or, in the words of California governor George Deukmejian, removing “an additional 52,000 convicted felons from neighbourhoods to send them to state prison” (158). This populist logic has been embraced by governors, presidents, lawmakers and courts, who have implemented 3-strikes laws, zero tolerance, an incarceration binge and a general vulnerability of all sectors of society to a crime control mentality that leaves no room for more measured perspectives on the characteristics of security. And this is what Simon deplores in this book, pleading for a return of another politics, another style of family and school life, a new social movement “ready to break the hold of crime on American governance” (282).

Governing through crime does not focus on the lives of the poor, huddled masses either within the penal system or without it that fears the criminal – this he has done previously. In fact, the narratives offered in this book are not altogether new or surprising, but Simon has put together an unremitting wealth of detail concerning institutional, cultural and private life-world changes. Some of the editing has been inattentive (quite a few references are missing from the bibliography), sometimes the tone is a little moralising, some of the arguments could have benefited from more pith, but all in all this is a fascinating perspective on the new American order. **Rebecca Pates**

Jennifer Wood/Clifford Shearing: Imagining Security. Col-lompton, UK: Willan Publishing 2007.

“How should security be governed at the beginning of the twenty-first century?” (1) This is the question that Jennifer Wood and Clifford Shearing seek to answer in *Imagining Security*. They thus follow an explicitly political agenda, built on an analysis that relies on an account of ‘nodal governance’ – a concept that the authors have developed over recent years. Although much of what they present does not seem to be especially new or even groundbreaking at first sight, and although there is good reason to criticize several inconsistencies in the structure of their argument, the application of a ‘nodal governance perspective’ presents a fresh and surprisingly viable approach to analyzing governance processes in ways that take the empirical role of state agencies in governance

seriously, while avoiding methodological state-centricism. Also, it leads to some thought-provoking, albeit controversial proposals regarding the governance of security, mainly because it takes the authors' own assumptions seriously and does not rely on state authorities to ensure democratic mechanisms in the field of production of security.

In the first three chapters, the authors develop the concept of 'nodal governance' and apply this perspective in a review of literature in different fields of security discourses and security governance. The last two chapters consist of "*an explicitly normative discussion of how a nodal governance perspective might inform efforts to enhance the power of weak actors [...] in reshaping the security field towards possibly new and different ends, both in instrumental and normative terms*" (96). Thus the analytical first half of the book serves as the basis for the development of the normative program.

In developing their concept of 'nodal governance', Wood and Shearing begin from the observation that, especially in the field of security, it is not only state authorities but a wide array of different non-state actors that engage in the governance of security, be it at the local, national or international level (3).

However, Wood and Shearing are skeptical of accounts which see this tendency towards a privatization of security issues as a pure effect of a neoliberal project that follows a program of 'responsibilization' (David Garland) and 'ruling at a distance' (Bruno Latour), and within which 'the state' delegates the 'rowing' (i.e., the realization of certain tasks) but stays with the 'steering' competences (i.e. the formulation of political programs); rather, they see processes of mutual 'enrolment,' in which state and non-state actors are structurally equal in principle. "*Today, ways of imagining and realizing security governance in the business sector as well as the 'third sector' (e.g. community groupings, non-governmental organizations) shape and influence the thinking of state institutions and vice versa. This is the essence of nodal governance.*" (13) Thus, they claim, the picture of security from a nodal governance account is more ambiguous than a perspective informed by a critical account of neoliberalism would suggest: "*What one has in practice is not a single model of governance, but a complex of hybrid arrangements and practices in which different mentalities of governance as well as very different sets of institutional arrangements coexist*" (21).

The idea of enrolment goes back to a concept Wood and Shearing borrow from Bruno Latour: an actor is powerful only to the degree to which she is able to enlist others in order to carry out her projects.¹ This is possible only by alignment and persuasion (which might include the use of pressure or force, but cannot be built exclusively on coercion nor is coercion a necessary component), and entails a process of 'translation': while carrying out their tasks, the enrolled actors 'translate' their part in the governance project according to their own goals and logics of operation – which, more likely than not, changes the nature of the whole process. Governance, from this perspective, becomes the art of alignment. Powerful actors manage to impose their logics onto those they enroll, and/or they manage to enroll a large number of others, thus forming governing nodes: "*Nodes are sites of knowledge, capacity and resources that function as governance auspices or providers. These sites are often institutional (expressed in an organizational form), but can also be located within informal groupings*" (27).

1 Latour, B. (1986) The powers of association. In: Law, J. (ed.), Power, action, and belief. A new sociology of knowledge? London: Routledge.

The strength of the nodal governance perspective lies in this combination of a broad but clear concept of governance, on the one hand, and a conceptual openness that avoids *a priori* assumptions about where governing nodes are to be found, on the other hand. It easily avoids methodological state-centricism, and neither does it assume *a priori* that certain other forces (money/the business sector) are the ‘real powers’ behind the scene, ruling the world. Rather, it remains an empirical question where governing nodes lie and who or which groups are part of them and dominate them.

Following this conceptual outline (backed up by some empirical examples), the reader might expect an application of the approach. This expectation is only partially fulfilled in the rest of the book. The second chapter concentrates on a classical discourse analysis of various waves of thinking in policing at the level of communities. The authors show that different waves of thinking in the field of policing have influenced each other and, over time, have been combined in several ways. Wood and Shearing then go on to jump to another plane: that of *practices* of nodal governance. Here, they don’t make their analysis explicit, but simply claim (as those working with a ‘governmentality approach’ generally do) that what they have shown for “waves of thinking” (i.e. at the level of thought, or concepts) translates into actual governing arrangements and practices. More exactly, the authors state that throughout all of these waves, at least since the middle of the twentieth century, police agencies have attempted to establish partnerships with others – be it with community groups, individual residents, other public authorities or private for-profit actors – and that the governance of security increasingly has become a field of nodal governance, while police have made sure to remain the central player. A more detailed description of such nodal arrangements would have strengthened the argument considerably.

Another field of security discourses that, according to the authors, have a strong nodal governance character and have been heavily influenced by non-state actors (both non-profit and business-oriented) are human security approaches. “A *human security approach seeks to decentre the state as referent object while examining security threats that arise from nodes and networks of people and activities that defy traditional state boundaries. From this standpoint, coercive capacity exercised by or on behalf of states is simply one among a plethora of capacities required in securing people.*” (63–64)

Departing from this assumption, an examination of human security discourses (and governing nodes and networks arranged through and around such approaches) makes perfect sense in the context of a nodal governance account. Unfortunately, in dealing with this the authors become somewhat inconsistent with regard to their first object of examination, community security. While with respect to the latter they concentrate on *discourses* and *mentalities* of governing crime and (almost casually) the governing nodes and networks that emerge out of that, when it comes to human security the authors repeatedly leave this plane and talk about what they perceive as the actual threats to human security. These threats, the argument goes, arise from actors that are organized in networks and de-centered nodes have thus a polycentric, network-like structure. Wood and Shearing refer here to very different threats, from terrorist networks over Kaldor’s ‘new wars,’ to the private provision of military services, human rights violations in Argentina and post-Apartheid South Africa, and economic want (while in the context of community policing it seems to be taken for granted that the imagined threats are more or less of the same nature for all waves of policing discourses). Accordingly, they describe reactions and strategies that aim at these diverse perceptions of human security threats. This is logical considering the broadened meaning of ‘security’ in human security discourses, but it also leaves the impression that the choice of subjects that are discussed here is quite arbitrary.

trary. A good example is in the chapter on community security, where the nodal governance account is applied in a fairly superficial way, without taking full advantage of its conceptual strengths. Rather, the accounts on human security seem primarily to serve the purpose of proving that the heterogeneous and decentralized security threats call for polycentric governance structures that need not necessarily be dominated, or even exclusively carried out, by actors of the international state system. The examples suggest that local knowledge as well as political, democratically organized participation of citizen groups are an adequate and at the same time effective means of dealing with issues of crime and (in-)security.

The basic assumption is therefore that nodal, polycentric governance arrangements carry the potential for new solutions to old problems of imbalance in power relations and representations, and that a nodal account of governance helps to better detect ways and strategies for weak actors who want to influence and shape governance practices. Wood and Shearing can make this assumption precisely because they have a more optimistic view on de-centered governance and ruling-at-a-distance than many critics of so-called neoliberal governance strategies: At least theoretically, their conception of power (as based on enrolment) and governance (as polycentric and concentrated in nodes) allows weak non-state actors to assume an active role in governing security and shaping policies in this field. This becomes especially clear when they talk about their research on Community Peace Centres in South Africa – community groups that engage in security issues: *“As the police have sought to enrol the Peace Committees, the latter have, in turn, used their power to enrol the police in furtherance of their governance objectives. [...] The Community Peace Centre project is not simply a neo-liberal partnership where the police are ‘responsibilizing’ community members to do their bidding”* (102 f.).

Building heavily on the work of John Braithwaite and complementing this with examples from their own empirical research, Wood and Shearing go on to propose a number of principles which might be summed up as the idea that ‘weak actors’ should concentrate on their abilities and assets (local or otherwise specific knowledge, manpower, persuasive power) and organize themselves in existing nodes of governance or – even better – build their own nodes. Thus, according to Wood and Shearing, they gain bargaining power, are able to set agendas, and form policies, i.e. to take a ‘steering’ position.

The question of how weak actors gain greater bargaining power has to be separated from the question of how this bargaining, or the attempts to influence governance projects, is to be regulated in a way that assures compliance with certain ‘democratic values’ (which the authors take for granted as something most people agree on, without specifying further the contents of such values). In contrast to many writers concerned with issues of social justice and political equality, Wood and Shearing do not blindly confide in ‘the state’ as the appropriate instance to assure such democratic rules. They do not postulate *a priori* *“that the best or exclusive way to respond to the problems we have identified is to create better Leviathans either at state or supra-state levels [...] there may well be other, and perhaps better, ways of creating both effective and democratic governance”* (99).

Accordingly, their answer to the problem of ‘governing governance’ rests in a hybrid mix of checks and balances (115). In chapter 5, they present some possible strategies, which they take from control mechanisms in public and private policing, and show that a traditional perspective limited to questions of (legal and political) accountability fails to see a whole range of other technologies of regulating governance, including licensing (both in the commercial sense and in the sense of a political ‘branding,’ as done in human rights or ecological campaigns), contracts, rules for insurance markets and self-

governance, generally based on a ‘marketization’ of security goods, which needs to be shaped in a way that that these markets produce socially just results. If this is successful, it presents what Wood and Shearing call “smart regulation” (136) and which they see happening in several fields where actors from the ‘third sector’ such as human rights activists, ecological non-profit-organizations or poor neighborhood groups manage (via shaping public discourses) to shape the behavior of corporations or public administrations.

In other words: the authors, like so many others, pin their hopes on actors based in civil society. In their view, non-state nodes “*possess or have the potential to possess the requisite knowledge, capacities and resources to monitor, and even to create, normative standards that guide them in their mix of governance functions. The virtue of the global civil society perspective, which we see in action with human rights NGOs, is its emphasis on local actors and their situated knowledge of regulatory nodes and networks. In simple terms, what seems to matter in the design of optimal regimes for the governance of governance is the right mix of ‘upwards’, ‘downwards’ and ‘horizontal’ processes (Scott 2000) that links up the activities of state and non-state nodes in ways that compensate for the weaknesses of each process on its own (see Goodin 2003²)*” (142).

The *really* interesting point would be: what would these governance designs look like? From what the authors have presented, it is clear that the answer to this question always has to be tailor-made to a specific situation. Wood and Shearing give some examples, or tentative answers, and generally demand that “appropriately deliberative structures” be implemented to allow for equitable and open articulation of normative goals. This is the logical consequence of the approach, but unsatisfying for the reader. The problem lies in the clash of the nodal governance perspective and the global analyzes of security discourses Wood and Shearing present: the very account of nodal governance argues that it doesn’t make sense to draw global pictures and look for global solutions. If they had followed their own thinking in this point, Wood and Shearing would have stuck to some concrete examples, analyzing them in detail and taking lessons from it, and would not have tried to draw the big picture – developing the argument in this way may very likely have served their purpose better than the sometimes arbitrary looking accounts on human security and communal policing discourses they give in ‘Imagining Security,’ which do not make full use of the potential the nodal perspective on governance processes provides. **Anne Dölemeyer**

- 2 Goodin, R.E. (2003) Democratic accountability: the distinctiveness of the third sector. In: European Journal of Sociology 44(3): 359–396.



Pat O'Malley (Hg.): *Governing Risks*. Aldershot: Ashgate 2005.

Das Thema *Governing Risks* ist durch, alles ist gesagt. Dies jedenfalls suggeriert die gleichnamige von Pat O'Malley zusammengestellte Textsammlung, die auf den ersten Blick das schwergewichtige Finale einer ausgeschöpften Forschungsperspektive zu sein scheint – und dies nicht nur deshalb, weil der für die Reihe *The International Library of Essays in Law and Society* typische, dunkelrote Hardcover-Einband mit goldener Schrift an eine Bibel-Ausgabe erinnert. Nach einem Blick in das Inhaltsverzeichnis steht fest: Das knapp 600 Seiten umfassende Buch versammelt viele Autoren mit Rang und Namen, die sich zur Frage der „Risiken“ in ihrer Disziplin zu Wort gemeldet haben. Die Beiträge sind allerdings allesamt Zweitverwertungen und stammen aus renommierten Zeitschriften wie *Economy and Society*, *Journal of Law and Society* oder *Theoretical Criminology*.

Die von Pat O'Malley verfasste Einleitung sagt leider wenig über die theoretischen und analytischen Bezüge und den Kontext der zentralen Begriffe aus, sondern stellt jedes Kapitel und am Ende sogar jeden Text einzeln vor. Dies könnte „ungeübten“ Lesern und Leserinnen Probleme bereiten, da gerade die Schlüsselbegriffe wie *risk*, *uncertainty* oder *governing* in den Beiträgen auf unterschiedlichen analytischen bzw. theoretischen Ebenen ins Spiel gebracht werden. So werden „Risiken“ mal als relational und an einen spezifischen Diskurs gebundene Wissenstechniken verstanden (bspw. O'Malley, Hannah-Moffat, Rose). An anderen Stellen werden sie als systematische Positivitäten vorgestellt oder als faktische Größen ‚hinter‘ ideologischen Effekten entdeckt, die jeweils (veränderte) politische bzw. staatliche Handlungsnotwendigkeiten implizieren (bspw. Abraham/Liebman, Lowi, Stapleton). Oder der Risikobegriff wird im Kontext von rechtswissenschaftlichen bzw. rechtspraktischen Implikationen diskutiert (bspw. Priest).

O'Malleys eigene, relationale Definition des „Regierens“ hilft hier zumindest indirekt weiter: „By government, then, I mean those practices whereby life is programmatically shaped by various bodies in coordinated ways, following similar rationales, with similar ways of identifying problems and ways of going about solving them“ (xi). Sie gibt der Auswahl einen Rahmen, auch wenn nicht alle Texte diese analytische Konzeption teilen: Obwohl O'Malleys Einleitung über die analytische Heterogenität hinweggeht, leistet sie zumindest implizit eine Aufbereitung der versammelten Beiträge aus diesem Blickwinkel, indem die Dichotomien und Spezifika verschiedener risikorelevanter Sphären inhaltlich herausgearbeitet werden. O'Malley begründet mit seinem regierungsanalytischen Fokus nicht nur den weit über den Rahmen der Reihe (Law and Society) hinausführenden, breit gestreuten inhaltlichen Fokus der einzelnen Beiträge, sondern arbeitet anhand dessen auch die an den Analysen ablesbaren Verschiebungen und Veränderungen des „governing risks“ heraus. Hier wiederum wäre eine explizite Rahmung der analytischen Heterogenität der Beiträge äußerst hilfreich gewesen.

Aus regierungsanalytischer Perspektive werden weder das Recht noch der Staat oder seine Institutionen als solche in den Blick genommen. Das jeweilige Auftauchen von „Risiken“ in den untersuchten Kontexten dient vielmehr als Ausgangspunkt der Suche nach jenen Wissensfeldern und Praktiken, Institutionen und Regulationen, die den Begriff

zum Leben erwecken, in spezifische Kontexte einbinden, ihn technisieren, operationalisieren und so zu einer Bedingung des Regierens werden lassen. Das Anliegen von Pat O'Malleys Zusammenstellung besteht fraglos darin, den Risikobegriff und zugleich seine Kehrseite – die Unsicherheit – als *politische* Begriffe auszuweisen, die nur innerhalb einer spezifischen diskursiven Problemkonstellation zum Tragen kommen und Auswirkungen auf die Strukturen und Mittel von *governance* und *governmantality* haben. Risiken sind in diesem Sinne nicht einfach gegeben und harren ihrer Bewältigung. Sie sind vielmehr konstruierte Phänomene, die eine auffällige Verschiebung von Regierungstechniken und Subjektivierungsweisen provoziert bzw. mitgetragen haben.

Sicher ist, dass alle Artikel für solch eine übergreifende Fragestellung interessante Aspekte beleuchten. Aber es erklärt sich nicht bei allen Beiträgen von selbst, dass sie für die Auswahl eines „governing risks“ in O'Malleys Sinne prädestiniert sind. Zwar spiegeln Zuordnung und Diskussion der einzelnen Beiträge den Fokus des Bandes wider und auch der Zusammenhang aus Einleitung, Kapitelüberschriften und Beiträgen erscheint nach O'Malleys Diskussion schlüssig: *Politics and Inequality, Private Law and Justice, Criminal Law and Justice, Uncertainty and Economic Life, Health and Technology*. Aber gerade weil sich die Effekte des jeweiligen Risiko-Begriffs nach dem Kontext seines Einsatzes richten, interessiert im Zusammenhang des Bandes weniger die allgemeine Frage nach Regierungsformen oder der allgemeine Rekurs auf „Risiken“ in einem bestimmten Feld, sondern die Spezifika der Regierungseffekte des jeweiligen Risikobegriffs. Daran muss man sich beim Lesen jener Texte, die aus dieser Analytik herausfallen, immer wieder selbst erinnern – wobei sich der Umstand, dass weder die Gliederung noch einzelne Texte im Seitenlayout des Buches berücksichtigt wurden (die Texte verbleiben im Satz der jeweiligen Zeitschrift) als Verbildlichung dieser unentschlossenen Konzeptionalisierung heranziehen lässt.

Im Allgemeinen zeigen sich – implizit oder explizit – in den einzelnen Beiträgen zwei Verschiebungen und Brüche (resp. Versionen) des Regierens durch Risiko: Einerseits wird der Kontrast zwischen einer wohlfahrtsstaatlichen (fordistischen) „Demokratisierung des Risikos“ und der neoliberalen Individualisierung von Risikofaktoren (und der damit verbundenen Anforderung zu privater Vorsorge und permanenter Achtsamkeit) offen gelegt. Andererseits wird das Risiko als eine moralisierende Instanz, die ein Regieren im Futur II ermöglicht, von einem Risiko-Begriff unterschieden, der als ökonomische Ressource einen Innovationsmotor darstellt und deshalb im kapitalistischen System zwingend notwendig ist.

So spiegeln die Beiträge des ersten Abschnitts (*Risk, Politics and Inequality*) die Diskrepanz zwischen der mathematisch-technisch vermittelten „Neutralität“ von Risikokalkulationen und ihren moralisierenden und politischen Effekten wider. Deutlich wird dies vor allem an einer Verschiebung der Ebene, auf der gesellschaftliche Risiken reguliert werden. Während *Theodore Lowi* die gesellschaftliche Minimierung individueller Risiken im Wohlfahrtsstaat thematisiert und herausarbeitet, dass der Fehler der US-Amerikanischen Politik darin besteht, sich zu stark dem systematischen Phänomen Risiko untergeordnet und dabei das Moment der „Regulation“ als Staatsaufgabe aus den Augen verloren zu haben, stellen sowohl *Lealle Ruhl* als auch *Jonathan Simon* den „ideologischen“ Effekt des Risikodiskurses in den Vordergrund. In diesem Zusammenhang erscheint Risiko weniger als statistisch modellierter Effekt, denn als Element neo-liberaler Subjektivierung. Wenn überall Risiken lauern, bedarf es permanenter Achtsamkeit und konsequenter Vorsorge. Das Subjekt kann es sich nicht mehr im warmen Nest wohlfahrtsstaatlicher Vorsorge bequem machen, sondern muss permanent beweglich bleiben und auf der Hut sein, um die eigenen (ökonomischen, sozialen und gesundheitlichen)

Risiken „managen“ zu können. Der Effekt des Regierens fokussiert in diesem Kontext nicht die Gegenwart als vielmehr das, was passieren könnte resp. gewesen sein wird, falls die entsprechenden präventiven Maßnahmen ausbleiben.

Die Verknüpfung von Risikokonstruktionen und Vorbeugung zeitigt auch Effekte, wenn es um zivilrechtliche (Kapitel II *Risk, Privat Law and Justice*) beziehungsweise strafrechtliche (Kapitel III *Risk, Criminal Law and Justice*) Belange geht. Im Kontext eines Risikodiskurses befindet sich das kodifizierte Recht immer im Nachteil, da es nur nachsorgend eingreifen und deshalb zur Kontrolle des Risikos nur bedingt beitragen kann. Was im Fahrwasser der Risikodebatte auftaucht, ist eine neue Zielstellung rechtsstaatlicher Intervention, die in den Diskussionen als „new penology“ bezeichnet wird: „*This new penology sees crime as a problem of managing high-risk categories and sub-populations, not normalizing individuals to community norms*“ (279). Das Risikomanagement wird hier entweder als effizientere Form der Ausübung des Rechts – welches noch einer entsprechenden Anpassung bedarf (*George L. Priest*) – gefeiert oder als „*political program*“ (255) überführt, womit die Autonomie des Rechts unterminiert und einer Kontrollgesellschaft Vorschub geleistet wird.

Im vierten Kapitel (*Risk, Uncertainty and Economic Live*) werden die sozialen und ökonomischen Folgen eines einflussreichen Risikodiskurses diskutiert. Mit dem Risikobegriff geht eine permanente (wenngleich konstruierte) Unsicherheit einher, die soziale Interaktionsmuster grundlegend verändert hat. O'Malley argumentiert beispielsweise, dass eine auf viele gesellschaftliche Felder übergreifende versicherungsmathematische Risikogesellschaft (*risk-society*), die mit allen Mitteln den Teufel der Unsicherheit (*uncertainty*) austreiben will, auch und gerade im Kontext neo-liberaler Ökonomie nur einen begrenzten Einfluss erlangen kann, da das Moment der Unsicherheit konstitutiver Bestandteil des Liberalismus ist: „*It is concluded that the place of uncertainty is central to liberalism and thus unlikely to be marginalized by 'risk society' developments*“ (349).

Im fünften und abschließenden Kapitel (*Risk, Health and Technolgy*) finden sich Texte, die die Bedeutung des Risikodiskurses auf den Feldern Medizin und (Bio-)Technologie diskutieren und dabei ähnliche Ambivalenzen und Verschiebungen konstatieren, wie in den Kapiteln zuvor. Nikolas Rose hat sich in diesem Zusammenhang mit dem Risikobegriff und seiner (bisweilen redundanten) Verwendung in der Psychiatrie beschäftigt und kommt zu dem Schluss, dass dieser spezifische Diskurs mit seiner Konstruktion permanenter Gefahr ein „governing through madness“ provoziert: „*Contemporary politics of mental health has come to be structured in terms of the questions of security and public safety*“ (499).

Nach diesem Blick auf ausgewählte Details und Unterschiede der Analysen verschiedener Risiko-Diskurse lässt sich für den Band abschließend feststellen: Das Ganze ist in diesem Fall nicht mehr als die Summe seiner Teile. Das Fehlen einer ausführlichen „Anleitung zum richtigen Gebrauch“ (eine theoretische Einführung) hat zwar den Vorzug, dass die wissenschaftlichen Befunde selbst zur Geltung kommen und nicht von einer allgemeinen Darstellung der theoretischen Perspektive sublimiert werden. Letztlich hätte man sich für Einleitung und Aufbau aber eine Entscheidung gewünscht, die aus dem Band mehr gemacht hätte, als eine bloße Zusammenstellung einzelner Analysen. In der Einleitung hätte sich eine kritische Bestandsaufnahme angeboten, die nicht nur beschreibend die Zusammenstellung des Bandes vorträgt, sondern auch die Schwierigkeiten und Entwicklungsmöglichkeiten einzelner Forschungsstränge diskutiert. In jedem Fall hätte die Diskrepanz zwischen analytischer Heterogenität der Beiträge und ihrer inhaltlichen Auswahl entlang einer regierungsanalytischen Fragestellung in der Einleitung mehr Beachtung finden können.

Der Band ist insofern nicht mehr und nicht weniger als ein Service, der einen einfachen Zugang zu einigen zentralen Ansätzen und Arbeiten in diesem weiten und heterogenen Forschungsfeld ermöglicht. In diesem Sinne handelt es sich um eine hilfreiche Textsammlung. Wer sich jenseits der deutschen Risiko-Ikone Ulrich Beck mit dem Thema beschäftigen will, hat entweder die Möglichkeit, sich durch unzählige *Journals* zu arbeiten, um die entsprechenden Schlüsseltexte zu finden, oder aber diese mit einem Preis von 250 US-Dollar eher als Verleihvariante konzipierte Textsammlung zur Hand zu nehmen. Was in den Themen Risiko, Vorsorge, Unsicherheit, Kontrolle und vor allem Regierung (governmentality) theoretisch und empirisch noch steckt, wird sich allerdings erst anhand der Publikationen der nächsten Jahre erweisen lassen und bleibt auch nach der mit diesem Band vorliegenden Übersicht offen. **Robert Feustel/Mathias Rodatz**

**Sally Engle Merry: Human Rights and Gender Violence.
Translating International Law into Local Justice. Chicago:
The University of Chicago Press 2006.**

UN-Menschenrechtsdokumente fordern von ihren LeserInnen einige Geduld: Sie sind oft abstrakt, sprachlich sperrig und redundant formuliert. Ihr Geltungsanspruch ist universal und ihre politische Bedeutung liegt v.a. in der Legitimität internationalen Konsenses und der daraus resultierenden Wirksamkeit politischen Drucks. Die Staaten, die Menschenrechte garantieren sollen, sowie nationale und lokale Menschenrechtsgruppen sind hingegen konfrontiert mit komplexen lokalen Realitäten und Fällen von Menschenrechtsverletzungen, die in spezifischer Weise durch Ungleichverteilungen von Ressourcen und Macht geprägt sind. Vielfältige soziale Kategorien, wie Rasse, soziale Klasse, Gender und ethnische Zugehörigkeiten, politische und ökonomische Verhältnisse sowie Glaubens- und Wertesysteme spielen dabei eine Rolle. Die Wechselbeziehungen zwischen universalen Normen und spezifischen lokalen Strukturen bzw. Kulturen sind dementsprechend spannungsreich und es stellt sich die Frage, welche Rolle lokales Wissen bei der Produktion von Menschenrechtsnormen spielt und was diese Normen lokal bewirken bzw. wie sie wirken.

Sally Engle Merry untersucht in ihrem Buch *Human Rights and Gender Violence* wie – d.h. durch welche Akteure, Institutionen, Diskurse und Prozesse – die Räume, in denen transnationales Recht geschaffen wird und lokale Räume, für die es geschaffen wird, miteinander verbunden sind. Am Beispiel der internationalen Menschenrechtsbewegung gegen Gewalt in Geschlechterverhältnissen (gender violence) beschreibt sie einerseits, wie in transnationalen Diskursen an den Standorten der UN neue Bedeutungskategorien entstehen (Gewalt an Frauen als Menschenrechtsverletzung und eine Form der Diskriminierung) und andererseits, wie diese Bedeutungen weltweit von Staaten sowie nationalen und lokalen AktivistInnen aufgegriffen und in soziale Praktiken übersetzt werden, um spezifische Situationen zu beschreiben und Menschenrechtsverletzungen zu bekämpfen.

Ergebnis ihrer Feldforschungen, die sie im Zeitraum von 1999 bis 2004 durchführte, ist eine ethnographische Studie, deren Ort der Untersuchung keine territorial abgrenzbare Einheit darstellt – Merry beschreibt ihr Vorgehen als „deterritoralisierte Ethnographie“ – sondern in der sie die LeserInnen mitnimmt in drei soziale Räume, innerhalb derer Menschenrechtsnormen geschaffen und ihre Umsetzungen verhandelt werden.

Sie beginnt mit dem transnationalen Raum der UN und führt ihre LeserInnen zu Debatten und Anhörungen, auf internationale Konferenzen und Treffen von UN-Kommissionen, bei denen UN-, Regierungs- und NGO-VertreterInnen aus aller Welt zusammentreffen und wo transnational konsensfähige Menschenrechtsnormen produziert und in ihrer Implementierung verfolgt und kommentiert werden (Kap. 2). Am Beispiel der *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW) gewährt Merry detaillierte Einblicke, wie in diesem Raum ein gemeinsames kulturelles Verständnis von persönlicher Autonomie, Sicherheit und gleichen Rechten entsteht (Kap.3), das als UN-Konvention universelle Geltung beansprucht, jedoch in der Praxis nicht selten mit lokalen Kulturen in Konflikt gerät.

Insbesondere in diesem ersten Teil des Buches wird Merrys im Hintergrund immer präsente Frage bedeutsam, ob die Verbreitung universeller Menschenrechte als westlicher Kulturimperialismus gesehen werden muss. Dabei arbeitet sie die Parallelen zum essentialistischen Kulturbegriff der einstigen Kolonialmächte Europas und Nordamerikas heraus und zeigt, dass auch im UN-Diskurs Kultur tendenziell als monolithisch, rückständig und traditionell verstanden und als Gegensatz zur scheinbar kulturlosen, zivilisierten Moderne konzipiert wird. Merry ist es ein Anliegen zu zeigen, dass die Art und Weise der Konzeptionalisierung von Kultur in einflussreichen Settings wie der UN hochpolitische Implikationen hat. An unterschiedlichen Beispielen stellt sie dar, wie der Kulturbegriff die Vorstellungen der Möglichkeiten sozialen Wandels und letztlich das Policymaking prägt: So wird Kultur im essentialistischen Sinne entweder als grundsätzlich förderlich oder hinderlich für die Umsetzung von Menschenrechtsstandards betrachtet und dementsprechend im Ganzen gewürdigt oder abgelehnt. Demgegenüber ermöglicht ein Verständnis von Kultur als offen, in sich hybrid und widersprüchlich eine komplexere Vorstellung der Interaktionsmöglichkeiten zwischen lokaler und transnationaler Kultur.

Eine derartige Auffassung von Kultur, so zeigt Merry, ist insbesondere in den beiden folgenden von ihr untersuchten Räumen zu finden, innerhalb derer Menschenrechtsideen lokal übersetzt werden. Im Gegensatz zu den Debatten auf UN-Ebene wird Kultur hier meist als Set von Ressourcen betrachtet, die eingesetzt werden können, um Menschenrechtsideen an lokale Kontexte anschlussfähig zu machen.

Zunächst beschreibt Merry den Raum, in dem globale Menschenrechtsdiskurse Teil sozialer Bewegungen werden (Kap. 5). Sie führt ihre LeserInnen an sehr verschiedene Orte (nach Delhi, Peking und Hongkong sowie auf Hawaii und die Fidschi-Inseln) und zeigt am Beispiel von Rechtslobbying und Sozialarbeit, wie dort jeweils durch lokale AktivistInnen transnationale in lokale Diskurse und Praktiken übersetzt werden. An allen fünf untersuchten Orten findet sie erstaunlich ähnliche Muster vor – ein Ergebnis, das sie als Hinweis dafür interpretiert, dass die Kernideen der Menschenrechte in den Implementierungsprozessen nicht nivelliert werden. Besonders aufschlussreich ist in diesem Zusammenhang Merrys Untersuchung der Rolle lokaler AktivistInnen, die als eine Art Mittler zwischen Sprache und Inhalten des UN-Rechts und der Umgangssprache fungieren, in der Menschen ihre Alltagssituationen rahmen. Das Buch macht hier deutlich, dass und wie Menschenrechte durch ihren universellen Anspruch und internationale Legitimierung lokalen AktivistInnen neue Deutungsmöglichkeiten für lokale Probleme wie Gewalt in Geschlechterverhältnissen eröffnen und einen neuen politischen Raum für Reformen schaffen.

In ihrem vorletzten und empirisch anschaulichsten Kapitel (Kap. 6) analysiert Merry auf Grundlage zweier Fallstudien die Veränderungen, die sich durch Menschenrechtsdiskurse und -aktivismus im Selbstverständnis derer ergeben, die den Schutz der Menschenrechte in Anspruch nehmen, und vertieft damit die Einsichten in die komplexen Prozesse

des lokalen Wirkens und Adaptierens transnationaler Menschenrechtsnormen. Dies stellt vielleicht das eindrucklichste und im Kontext der Menschenrechtsliteratur bisher wenig beachtete Thema des Buches dar. Merry führt die LeserInnen nach Hawaii und Hongkong, in den dritten, örtlich stärker begrenzten Raum zwischen lokalen AktivistInnen und Opfern von Menschenrechtsverletzungen bzw. von Gewalt gegen Frauen. Den Prozess, in dem lokale Subjekte sich selbst als Menschenrechtssubjekte interpretieren lernen, beschreibt sie als kontingent, widersprüchlich und als individuell riskant. Alte Subjektivitäten, z.B. als Mütter, Ehefrauen und Familienangehörige, die von ihren Verwandten schlecht behandelt werden, geraten in Konflikt mit neuen Selbstverständnissen als (Menschen-)Rechtssubjekte und Klägerinnen gegenüber den Tätern. Diese neuen Selbstbilder werden oft erst einmal versuchsweise im Prozess lokaler politischer Kämpfe angenommen, bisweilen parallel zu alten Subjektivitäten ausprobiert und nicht selten auch wieder verworfen, wenn sich die Opportunitätskosten als zu hoch erweisen. Recht, so wird auch hier deutlich, bietet für die von Gewalt im Geschlechterverhältnis betroffenen Frauen *eine* Möglichkeit, Gewaltsituationen in neuen Begriffen zu rahmen – andere Möglichkeiten bleiben jedoch daneben bestehen. Und es sind insbesondere staatliche Akteure, die – indem sie Menschenrechtsforderungen ernst nehmen – (Menschen-)Rechtssubjekte wesentlich schaffen.

Merry gelingt es in ihrem Buch sehr facettenreich, das Panorama einer transnationalen Bewegung und ihrer Kämpfe gegen Gewalt in Geschlechterverhältnissen zu skizzieren, die in unterschiedlichen Arenen geführt werden; von transnationalen Menschenrechtsdiskussionen an den Standorten der UN bis hin zu den individuellen Subjektivierungsprozessen der von Gewalt betroffenen Frauen. Diese Bewegung zeigt in ihrem Selbstverständnis, ihrer Sprache und ihren Praktiken an den untersuchten Orten erstaunliche Ähnlichkeiten. Und dennoch, so macht Merry deutlich, werden Menschenrechte nicht im Sinne eines westlichen Kulturimperialismus den Ländern des globalen Südens aufoktroziert, sondern international im Konsens beschlossen, lokal übersetzt und, wenn auch nicht konfliktfrei, angenommen. Sally Engle Merrys methodischer Ansatz einer „deterritorisierten Ethnographie“ fordert dabei die gängigen Erwartungen an ethnographische Feldforschung als dichte Beschreibung weniger Fälle heraus. Dabei entsteht jedoch bisweilen der Eindruck, dass Merry zu viele Schauplätze gleichzeitig aufmacht, so dass die Struktur des Textes, die Schärfe der Argumentation sowie die Eindringlichkeit der Darstellung darunter leiden. Neben dem gelungenen Gesamteindruck sind die stärksten Momente des Buches eindeutig jene, in denen Merry einen oder zwei Fälle herausgreift und so das kontingente und spannungsreiche Zusammenspiel lokaler und globaler Deutungsmuster und Praktiken exemplarisch beschreibt. **Ulrike Froböse/Connie Stitz**

Jonathan Simon: Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear. Oxford: Oxford University Press 2007.

Fear is ubiquitous in family life, though, as Jonathan Simon is arguing in his *Governing through Crime*, fear of the spouse has been replaced in the US by fear of the monstrous stranger without – or within – the household. This has had dramatic repercussions on the forms of self-governance that have dominated middle-class lifestyles in the 20th century. The (suburban) family guards against threats from without through its retreat to

gated communities; its consumption of private security services, technologies and expertise; its displacing itself in “safe” SUV vehicles that place it far from the madding crowds. But the family is also guarding against threats from within through unprecedented surveillance and control of children. Families monitor children through the purchase of home drug testing kits, home surveillance technology, and if all else fails, by sending adolescents to “boot camps” to help them sort themselves out.

Parents are compelled to invest heavily in disciplinary technologies. If children were found to engage in criminal acts, the effects of the resulting exclusion can be devastating to the entire family who risk to lose public housing, eligibility for college loans or private insurance. But monitoring of children is not confined to private spaces: children are also subject to surveillance technologies in their schools, where norm enforcement by teachers has been superseded by private security companies intervening against disruptive students in classrooms, children being subjected to mandatory drug tests, metal detectors, and searches, being barred from leaving during school hours, subject to in-school detentions and disbarred from school if their behaviour is found wanting. Thus, American children are ubiquitously being reframed as a population of potential victims (of attacks by fellow classmates, of child abusers, of drug peddlers) and potential perpetrators (drug dealers, vandals or bullies). The pervasive, and palpating, fear of crime has meant that punishment and policing have become one – if not *the* – dominant mode of private and public socialisation (210).

Jonathan Simon shows in this book that the victim-perpetrator rhetoric has become pervasive in the past three decades, and he uses the family as one locus in which these changes are most visible. His other examples are prisons and the workplace. In the wake of a demise of worker representation and the hopes for affirmative action, the moralisation of social relations – and thus their depoliticisation – have the advantage of recreating an useful scheme to vet the good from the bad: good people are victims, bad people are perpetrators. Good people are taxpayers, bad people receive – and probably abuse – welfare. So Americans are potential victims of crime in a two-fold manner. Firstly, they are victims as taxpayers; that is, victims of “the high costs of welfare for poor, minority, urban residents – the same communities blamed for crime” (109). And secondly, they are potential victims of violent crimes perpetrated by male members of those same populations. This implies that while the victim has become the new idealized subject of much political action, this new subject is racialized and gendered. For victims are white, suburban and middle-class, and are contrasted to a popular catalogue of “monsters” who are not. The standard image of criminals is of gang members, drug kingpins, violent crime recidivists and sex offenders. Upper class, or white, perpetrators of environmental or white-collar crime are not demonized in the same way. And as the victim is the fulcrum of legal change, any attempts to occasion change necessitate a self-presentation of the lobby group as potential victims of crimes – by co-workers, employers, customers, etc.

The racialization of the perpetrator has a long history. As the former education Secretary William Bennett facetiously said in a radio interview in September 2005, “if you wanted to reduce crime, you could, if that were your sole purpose, you could abort every black baby in this country, and your crime rate would go down.” According to Simon, indeed, there is a correlation between the diminution of low-skilled work, the dire living conditions and poor opportunities in some neglected urban areas and criminogenic behaviour; these conditions are only further exacerbated by the penal system into which so many African American men disappear for so long. Thus, there is a double racialization process: first, African Americans often live in neglected urban areas in social conditions

that (according to Simon) are more likely to lead to criminal behaviour. Second, as the possibility of exercising discretion in arresting, prosecuting, and punishing a person is often used to the *detriment* of African American men, these are more likely than other citizens to spend a segment of their life in jails or prisons, where “prisonization” occurs, that is, its inhabitants learn a macho prison culture that will not help towards integration into working life afterwards. But this in turn means that Simon unwittingly admits that the racialization of the perpetrator/victim distinction is not entirely unfounded. What he quite rightly – though this is not novel – points out is that the *conditions* under which a segment of the populations lives lead to greater crime rates.

What could be added to this are details not of the causes, but of the *effects* of classifications of populations into ethnic groups. Anthropologists have shown that widespread assumptions about “the other” produce behaviours at a micro-level that when compounded can have striking impacts on a global scale. Thus, a recent ethnographic study of taxi drivers profiling their customers (Diego Gambetta and Heather Hamill, *Streetwise: How Taxi Drivers establish their Customers’ Trustworthiness*) shows how taxi drivers know that their lives may depend on the right sort of prejudice. New York taxi drivers face a very high likelihood of being killed. They have established a set of rules concerning the *prima facie* trustworthiness of customers: women are safer than men, adults safer than teenagers, individuals safer than groups, well-dressed people more so than scruffy ones, known passengers preferred to strangers, calm people safer than agitated ones. And “white” people are deemed safer than “black” people. These judgments as individual judgments are still sexist, ageist, and racist, among other things, but within the rights of the security-conscious taxi driver. They merely lead to micro-level decisions concerning which passengers can safely be picked up, and who is better avoided. On a compounded scale, such individual judgments are aggregated to a system that is racist.

Private life has thus taking on a new form, dominated by logics of security, by a continual attendance to and fear of crime, by constant vigilance against victimisation, and by a privatised and moralised fear of Black men. This “ecology of fear” (a term coined by Mike Davis) has political and institutional ramifications.

On the one hand, the ecology of fear has taken up some issues of 1970s liberal politics, as Simon can show. The increased state intervention in the family, for example, is a direct result of successful feminist politics. Feminists had worked for decades in the 1960s and 1970s to establish stricter prosecuting and sentencing guidelines for spousal abuse – and were successful. Many US states have since implemented mandatory arrests for any accusations of domestic abuse; specialist prosecutors are to investigate the defendant’s history; specialist courts see no other cases; and some legislatures have put mandatory jail terms for first offences into practice. Women’s claims of domestic violence are taken seriously in an unprecedented manner. But as this attention to women’s issues has occurred within a cultural change of “governing through crime,” in which violent crime come to be seen *the* threat to personal safety (to the virtual exclusion of older fears of social insecurity, distributive injustice, environmental threats, violent social and political change, unemployment, overpopulation, retreat of the state, famine and war), the resulting changes in the institutional logics have served to exacerbate some of the problems feminists were concerned with to begin with. Not only have families changed their ways of governing themselves and their younger members, their consumption and living habits, their range of motion, willingness to engage with strangers, and general mobility. But this has served to decrease the range of options for women caught in the system of mandatory rules. The clear priority of criminal victimization over other kinds of risks or social inequities has meant that “virtually any increase in security for the public, no matter how

small or speculative, suffices to justify virtually any increase in risk for criminal offenders” (196).

In an era in which crime in general, and violent crime in particular, has been falling, more people are incarcerated for longer sentences, in harsher conditions, with less likelihood of being paroled and greater likelihood of being barred from exercising their civil rights, as well as from college loans and public housing. Prisons have in short become “waste management systems,” overcrowded, boring, unsafe, unhygienic and with little regard to the people incapacitated through them. And that is just the way they are meant to be. After two hundred years of humanitarian reforms of the penal system, populist politics have turned prisons into holding pens, especially for ethnic minority males. These populist politics show a weariness of “experts” who are seen to “privilege the criminal” and of a judicial system “unwilling to protect the people,” have stressed a “simple system of rules” that eliminate the possibility of anyone exercising their discretion in managing criminals. The success of this new is measured not in terms of recidivism rates, deterrence of crime, or production of any other social good, but (in keeping with the logics of the new penology) in terms of the efficiency of the system in removing people from the streets, or, in the words of California governor George Deukmejian, removing “an additional 52,000 convicted felons from neighbourhoods to send them to state prison” (158). This populist logic has been embraced by governors, presidents, lawmakers and courts, who have implemented 3-strikes laws, zero tolerance, an incarceration binge and a general vulnerability of all sectors of society to a crime control mentality that leaves no room for more measured perspectives on the characteristics of security. And this is what Simon deplores in this book, pleading for a return of another politics, another style of family and school life, a new social movement “ready to break the hold of crime on American governance” (282).

Governing through crime does not focus on the lives of the poor, huddled masses either within the penal system or without it that fears the criminal – this he has done previously. In fact, the narratives offered in this book are not altogether new or surprising, but Simon has put together an unremitting wealth of detail concerning institutional, cultural and private life-world changes. Some of the editing has been inattentive (quite a few references are missing from the bibliography), sometimes the tone is a little moralising, some of the arguments could have benefited from more pith, but all in all this is a fascinating perspective on the new American order. **Rebecca Pates**

Jennifer Wood/Clifford Shearing: Imagining Security. Col-lompton, UK: Willan Publishing 2007.

“How should security be governed at the beginning of the twenty-first century?” (1) This is the question that Jennifer Wood and Clifford Shearing seek to answer in *Imagining Security*. They thus follow an explicitly political agenda, built on an analysis that relies on an account of ‘nodal governance’ – a concept that the authors have developed over recent years. Although much of what they present does not seem to be especially new or even groundbreaking at first sight, and although there is good reason to criticize several inconsistencies in the structure of their argument, the application of a ‘nodal governance perspective’ presents a fresh and surprisingly viable approach to analyzing governance processes in ways that take the empirical role of state agencies in governance

seriously, while avoiding methodological state-centricism. Also, it leads to some thought-provoking, albeit controversial proposals regarding the governance of security, mainly because it takes the authors' own assumptions seriously and does not rely on state authorities to ensure democratic mechanisms in the field of production of security.

In the first three chapters, the authors develop the concept of 'nodal governance' and apply this perspective in a review of literature in different fields of security discourses and security governance. The last two chapters consist of "*an explicitly normative discussion of how a nodal governance perspective might inform efforts to enhance the power of weak actors [...] in reshaping the security field towards possibly new and different ends, both in instrumental and normative terms*" (96). Thus the analytical first half of the book serves as the basis for the development of the normative program.

In developing their concept of 'nodal governance', Wood and Shearing begin from the observation that, especially in the field of security, it is not only state authorities but a wide array of different non-state actors that engage in the governance of security, be it at the local, national or international level (3).

However, Wood and Shearing are skeptical of accounts which see this tendency towards a privatization of security issues as a pure effect of a neoliberal project that follows a program of 'responsibilization' (David Garland) and 'ruling at a distance' (Bruno Latour), and within which 'the state' delegates the 'rowing' (i.e., the realization of certain tasks) but stays with the 'steering' competences (i.e. the formulation of political programs); rather, they see processes of mutual 'enrolment,' in which state and non-state actors are structurally equal in principle. "*Today, ways of imagining and realizing security governance in the business sector as well as the 'third sector' (e.g. community groupings, non-governmental organizations) shape and influence the thinking of state institutions and vice versa. This is the essence of nodal governance.*" (13) Thus, they claim, the picture of security from a nodal governance account is more ambiguous than a perspective informed by a critical account of neoliberalism would suggest: "*What one has in practice is not a single model of governance, but a complex of hybrid arrangements and practices in which different mentalities of governance as well as very different sets of institutional arrangements coexist*" (21).

The idea of enrolment goes back to a concept Wood and Shearing borrow from Bruno Latour: an actor is powerful only to the degree to which she is able to enlist others in order to carry out her projects.¹ This is possible only by alignment and persuasion (which might include the use of pressure or force, but cannot be built exclusively on coercion nor is coercion a necessary component), and entails a process of 'translation': while carrying out their tasks, the enrolled actors 'translate' their part in the governance project according to their own goals and logics of operation – which, more likely than not, changes the nature of the whole process. Governance, from this perspective, becomes the art of alignment. Powerful actors manage to impose their logics onto those they enroll, and/or they manage to enroll a large number of others, thus forming governing nodes: "*Nodes are sites of knowledge, capacity and resources that function as governance auspices or providers. These sites are often institutional (expressed in an organizational form), but can also be located within informal groupings*" (27).

1 Latour, B. (1986) The powers of association. In: Law, J. (ed.), Power, action, and belief. A new sociology of knowledge? London: Routledge.

The strength of the nodal governance perspective lies in this combination of a broad but clear concept of governance, on the one hand, and a conceptual openness that avoids *a priori* assumptions about where governing nodes are to be found, on the other hand. It easily avoids methodological state-centricism, and neither does it assume *a priori* that certain other forces (money/the business sector) are the ‘real powers’ behind the scene, ruling the world. Rather, it remains an empirical question where governing nodes lie and who or which groups are part of them and dominate them.

Following this conceptual outline (backed up by some empirical examples), the reader might expect an application of the approach. This expectation is only partially fulfilled in the rest of the book. The second chapter concentrates on a classical discourse analysis of various waves of thinking in policing at the level of communities. The authors show that different waves of thinking in the field of policing have influenced each other and, over time, have been combined in several ways. Wood and Shearing then go on to jump to another plane: that of *practices* of nodal governance. Here, they don’t make their analysis explicit, but simply claim (as those working with a ‘governmentality approach’ generally do) that what they have shown for “waves of thinking” (i.e. at the level of thought, or concepts) translates into actual governing arrangements and practices. More exactly, the authors state that throughout all of these waves, at least since the middle of the twentieth century, police agencies have attempted to establish partnerships with others – be it with community groups, individual residents, other public authorities or private for-profit actors – and that the governance of security increasingly has become a field of nodal governance, while police have made sure to remain the central player. A more detailed description of such nodal arrangements would have strengthened the argument considerably.

Another field of security discourses that, according to the authors, have a strong nodal governance character and have been heavily influenced by non-state actors (both non-profit and business-oriented) are human security approaches. “A *human security approach seeks to decentre the state as referent object while examining security threats that arise from nodes and networks of people and activities that defy traditional state boundaries. From this standpoint, coercive capacity exercised by or on behalf of states is simply one among a plethora of capacities required in securing people.*” (63–64)

Departing from this assumption, an examination of human security discourses (and governing nodes and networks arranged through and around such approaches) makes perfect sense in the context of a nodal governance account. Unfortunately, in dealing with this the authors become somewhat inconsistent with regard to their first object of examination, community security. While with respect to the latter they concentrate on *discourses* and *mentalities* of governing crime and (almost casually) the governing nodes and networks that emerge out of that, when it comes to human security the authors repeatedly leave this plane and talk about what they perceive as the actual threats to human security. These threats, the argument goes, arise from actors that are organized in networks and de-centered nodes have thus a polycentric, network-like structure. Wood and Shearing refer here to very different threats, from terrorist networks over Kaldor’s ‘new wars,’ to the private provision of military services, human rights violations in Argentina and post-Apartheid South Africa, and economic want (while in the context of community policing it seems to be taken for granted that the imagined threats are more or less of the same nature for all waves of policing discourses). Accordingly, they describe reactions and strategies that aim at these diverse perceptions of human security threats. This is logical considering the broadened meaning of ‘security’ in human security discourses, but it also leaves the impression that the choice of subjects that are discussed here is quite arbitrary.

trary. A good example is in the chapter on community security, where the nodal governance account is applied in a fairly superficial way, without taking full advantage of its conceptual strengths. Rather, the accounts on human security seem primarily to serve the purpose of proving that the heterogeneous and decentralized security threats call for polycentric governance structures that need not necessarily be dominated, or even exclusively carried out, by actors of the international state system. The examples suggest that local knowledge as well as political, democratically organized participation of citizen groups are an adequate and at the same time effective means of dealing with issues of crime and (in-)security.

The basic assumption is therefore that nodal, polycentric governance arrangements carry the potential for new solutions to old problems of imbalance in power relations and representations, and that a nodal account of governance helps to better detect ways and strategies for weak actors who want to influence and shape governance practices. Wood and Shearing can make this assumption precisely because they have a more optimistic view on de-centered governance and ruling-at-a-distance than many critics of so-called neoliberal governance strategies: At least theoretically, their conception of power (as based on enrolment) and governance (as polycentric and concentrated in nodes) allows weak non-state actors to assume an active role in governing security and shaping policies in this field. This becomes especially clear when they talk about their research on Community Peace Centres in South Africa – community groups that engage in security issues: *“As the police have sought to enrol the Peace Committees, the latter have, in turn, used their power to enrol the police in furtherance of their governance objectives. [...] The Community Peace Centre project is not simply a neo-liberal partnership where the police are ‘responsibilizing’ community members to do their bidding”* (102 f.).

Building heavily on the work of John Braithwaite and complementing this with examples from their own empirical research, Wood and Shearing go on to propose a number of principles which might be summed up as the idea that ‘weak actors’ should concentrate on their abilities and assets (local or otherwise specific knowledge, manpower, persuasive power) and organize themselves in existing nodes of governance or – even better – build their own nodes. Thus, according to Wood and Shearing, they gain bargaining power, are able to set agendas, and form policies, i.e. to take a ‘steering’ position.

The question of how weak actors gain greater bargaining power has to be separated from the question of how this bargaining, or the attempts to influence governance projects, is to be regulated in a way that assures compliance with certain ‘democratic values’ (which the authors take for granted as something most people agree on, without specifying further the contents of such values). In contrast to many writers concerned with issues of social justice and political equality, Wood and Shearing do not blindly confide in ‘the state’ as the appropriate instance to assure such democratic rules. They do not postulate *a priori* *“that the best or exclusive way to respond to the problems we have identified is to create better Leviathans either at state or supra-state levels [...] there may well be other, and perhaps better, ways of creating both effective and democratic governance”* (99).

Accordingly, their answer to the problem of ‘governing governance’ rests in a hybrid mix of checks and balances (115). In chapter 5, they present some possible strategies, which they take from control mechanisms in public and private policing, and show that a traditional perspective limited to questions of (legal and political) accountability fails to see a whole range of other technologies of regulating governance, including licensing (both in the commercial sense and in the sense of a political ‘branding,’ as done in human rights or ecological campaigns), contracts, rules for insurance markets and self-

governance, generally based on a ‘marketization’ of security goods, which needs to be shaped in a way that that these markets produce socially just results. If this is successful, it presents what Wood and Shearing call “smart regulation” (136) and which they see happening in several fields where actors from the ‘third sector’ such as human rights activists, ecological non-profit-organizations or poor neighborhood groups manage (via shaping public discourses) to shape the behavior of corporations or public administrations.

In other words: the authors, like so many others, pin their hopes on actors based in civil society. In their view, non-state nodes “*possess or have the potential to possess the requisite knowledge, capacities and resources to monitor, and even to create, normative standards that guide them in their mix of governance functions. The virtue of the global civil society perspective, which we see in action with human rights NGOs, is its emphasis on local actors and their situated knowledge of regulatory nodes and networks. In simple terms, what seems to matter in the design of optimal regimes for the governance of governance is the right mix of ‘upwards’, ‘downwards’ and ‘horizontal’ processes (Scott 2000) that links up the activities of state and non-state nodes in ways that compensate for the weaknesses of each process on its own (see Goodin 2003²)*” (142).

The *really* interesting point would be: what would these governance designs look like? From what the authors have presented, it is clear that the answer to this question always has to be tailor-made to a specific situation. Wood and Shearing give some examples, or tentative answers, and generally demand that “appropriately deliberative structures” be implemented to allow for equitable and open articulation of normative goals. This is the logical consequence of the approach, but unsatisfying for the reader. The problem lies in the clash of the nodal governance perspective and the global analyzes of security discourses Wood and Shearing present: the very account of nodal governance argues that it doesn’t make sense to draw global pictures and look for global solutions. If they had followed their own thinking in this point, Wood and Shearing would have stuck to some concrete examples, analyzing them in detail and taking lessons from it, and would not have tried to draw the big picture – developing the argument in this way may very likely have served their purpose better than the sometimes arbitrary looking accounts on human security and communal policing discourses they give in ‘Imagining Security,’ which do not make full use of the potential the nodal perspective on governance processes provides. **Anne Dölemeyer**

- 2 Goodin, R.E. (2003) Democratic accountability: the distinctiveness of the third sector. In: European Journal of Sociology 44(3): 359–396.



Pat O'Malley (Hg.): *Governing Risks*. Aldershot: Ashgate 2005.

Das Thema *Governing Risks* ist durch, alles ist gesagt. Dies jedenfalls suggeriert die gleichnamige von Pat O'Malley zusammengestellte Textsammlung, die auf den ersten Blick das schwergewichtige Finale einer ausgeschöpften Forschungsperspektive zu sein scheint – und dies nicht nur deshalb, weil der für die Reihe *The International Library of Essays in Law and Society* typische, dunkelrote Hardcover-Einband mit goldener Schrift an eine Bibel-Ausgabe erinnert. Nach einem Blick in das Inhaltsverzeichnis steht fest: Das knapp 600 Seiten umfassende Buch versammelt viele Autoren mit Rang und Namen, die sich zur Frage der „Risiken“ in ihrer Disziplin zu Wort gemeldet haben. Die Beiträge sind allerdings allesamt Zweitverwertungen und stammen aus renommierten Zeitschriften wie *Economy and Society*, *Journal of Law and Society* oder *Theoretical Criminology*.

Die von Pat O'Malley verfasste Einleitung sagt leider wenig über die theoretischen und analytischen Bezüge und den Kontext der zentralen Begriffe aus, sondern stellt jedes Kapitel und am Ende sogar jeden Text einzeln vor. Dies könnte „ungeübten“ Lesern und Leserinnen Probleme bereiten, da gerade die Schlüsselbegriffe wie *risk*, *uncertainty* oder *governing* in den Beiträgen auf unterschiedlichen analytischen bzw. theoretischen Ebenen ins Spiel gebracht werden. So werden „Risiken“ mal als relational und an einen spezifischen Diskurs gebundene Wissenstechniken verstanden (bspw. O'Malley, Hannah-Moffat, Rose). An anderen Stellen werden sie als systematische Positivitäten vorgestellt oder als faktische Größen ‚hinter‘ ideologischen Effekten entdeckt, die jeweils (veränderte) politische bzw. staatliche Handlungsnotwendigkeiten implizieren (bspw. Abraham/Liebman, Lowi, Stapleton). Oder der Risikobegriff wird im Kontext von rechtswissenschaftlichen bzw. rechtspraktischen Implikationen diskutiert (bspw. Priest).

O'Malleys eigene, relationale Definition des „Regierens“ hilft hier zumindest indirekt weiter: „By government, then, I mean those practices whereby life is programmatically shaped by various bodies in coordinated ways, following similar rationales, with similar ways of identifying problems and ways of going about solving them“ (xi). Sie gibt der Auswahl einen Rahmen, auch wenn nicht alle Texte diese analytische Konzeption teilen: Obwohl O'Malleys Einleitung über die analytische Heterogenität hinweggeht, leistet sie zumindest implizit eine Aufbereitung der versammelten Beiträge aus diesem Blickwinkel, indem die Dichotomien und Spezifika verschiedener risikorelevanter Sphären inhaltlich herausgearbeitet werden. O'Malley begründet mit seinem regierungsanalytischen Fokus nicht nur den weit über den Rahmen der Reihe (Law and Society) hinausführenden, breit gestreuten inhaltlichen Fokus der einzelnen Beiträge, sondern arbeitet anhand dessen auch die an den Analysen ablesbaren Verschiebungen und Veränderungen des „governing risks“ heraus. Hier wiederum wäre eine explizite Rahmung der analytischen Heterogenität der Beiträge äußerst hilfreich gewesen.

Aus regierungsanalytischer Perspektive werden weder das Recht noch der Staat oder seine Institutionen als solche in den Blick genommen. Das jeweilige Auftauchen von „Risiken“ in den untersuchten Kontexten dient vielmehr als Ausgangspunkt der Suche nach jenen Wissensfeldern und Praktiken, Institutionen und Regulationen, die den Begriff

zum Leben erwecken, in spezifische Kontexte einbinden, ihn technisieren, operationalisieren und so zu einer Bedingung des Regierens werden lassen. Das Anliegen von Pat O'Malleys Zusammenstellung besteht fraglos darin, den Risikobegriff und zugleich seine Kehrseite – die Unsicherheit – als *politische* Begriffe auszuweisen, die nur innerhalb einer spezifischen diskursiven Problemkonstellation zum Tragen kommen und Auswirkungen auf die Strukturen und Mittel von *governance* und *governmantality* haben. Risiken sind in diesem Sinne nicht einfach gegeben und harren ihrer Bewältigung. Sie sind vielmehr konstruierte Phänomene, die eine auffällige Verschiebung von Regierungstechniken und Subjektivierungsweisen provoziert bzw. mitgetragen haben.

Sicher ist, dass alle Artikel für solch eine übergreifende Fragestellung interessante Aspekte beleuchten. Aber es erklärt sich nicht bei allen Beiträgen von selbst, dass sie für die Auswahl eines „governing risks“ in O'Malleys Sinne prädestiniert sind. Zwar spiegeln Zuordnung und Diskussion der einzelnen Beiträge den Fokus des Bandes wider und auch der Zusammenhang aus Einleitung, Kapitelüberschriften und Beiträgen erscheint nach O'Malleys Diskussion schlüssig: *Politics and Inequality, Private Law and Justice, Criminal Law and Justice, Uncertainty and Economic Life, Health and Technology*. Aber gerade weil sich die Effekte des jeweiligen Risiko-Begriffs nach dem Kontext seines Einsatzes richten, interessiert im Zusammenhang des Bandes weniger die allgemeine Frage nach Regierungsformen oder der allgemeine Rekurs auf „Risiken“ in einem bestimmten Feld, sondern die Spezifika der Regierungseffekte des jeweiligen Risikobegriffs. Daran muss man sich beim Lesen jener Texte, die aus dieser Analytik herausfallen, immer wieder selbst erinnern – wobei sich der Umstand, dass weder die Gliederung noch einzelne Texte im Seitenlayout des Buches berücksichtigt wurden (die Texte verbleiben im Satz der jeweiligen Zeitschrift) als Verbildlichung dieser unentschlossenen Konzeptionalisierung heranziehen lässt.

Im Allgemeinen zeigen sich – implizit oder explizit – in den einzelnen Beiträgen zwei Verschiebungen und Brüche (resp. Versionen) des Regierens durch Risiko: Einerseits wird der Kontrast zwischen einer wohlfahrtsstaatlichen (fordistischen) „Demokratisierung des Risikos“ und der neoliberalen Individualisierung von Risikofaktoren (und der damit verbundenen Anforderung zu privater Vorsorge und permanenter Achtsamkeit) offen gelegt. Andererseits wird das Risiko als eine moralisierende Instanz, die ein Regieren im Futur II ermöglicht, von einem Risiko-Begriff unterschieden, der als ökonomische Ressource einen Innovationsmotor darstellt und deshalb im kapitalistischen System zwingend notwendig ist.

So spiegeln die Beiträge des ersten Abschnitts (*Risk, Politics and Inequality*) die Diskrepanz zwischen der mathematisch-technisch vermittelten „Neutralität“ von Risikokalkulationen und ihren moralisierenden und politischen Effekten wider. Deutlich wird dies vor allem an einer Verschiebung der Ebene, auf der gesellschaftliche Risiken reguliert werden. Während *Theodore Lowi* die gesellschaftliche Minimierung individueller Risiken im Wohlfahrtsstaat thematisiert und herausarbeitet, dass der Fehler der US-Amerikanischen Politik darin besteht, sich zu stark dem systematischen Phänomen Risiko untergeordnet und dabei das Moment der „Regulation“ als Staatsaufgabe aus den Augen verloren zu haben, stellen sowohl *Lealle Ruhl* als auch *Jonathan Simon* den „ideologischen“ Effekt des Risikodiskurses in den Vordergrund. In diesem Zusammenhang erscheint Risiko weniger als statistisch modellierter Effekt, denn als Element neo-liberaler Subjektivierung. Wenn überall Risiken lauern, bedarf es permanenter Achtsamkeit und konsequenter Vorsorge. Das Subjekt kann es sich nicht mehr im warmen Nest wohlfahrtsstaatlicher Vorsorge bequem machen, sondern muss permanent beweglich bleiben und auf der Hut sein, um die eigenen (ökonomischen, sozialen und gesundheitlichen)

Risiken „managen“ zu können. Der Effekt des Regierens fokussiert in diesem Kontext nicht die Gegenwart als vielmehr das, was passieren könnte resp. gewesen sein wird, falls die entsprechenden präventiven Maßnahmen ausbleiben.

Die Verknüpfung von Risikokonstruktionen und Vorbeugung zeitigt auch Effekte, wenn es um zivilrechtliche (Kapitel II *Risk, Privat Law and Justice*) beziehungsweise strafrechtliche (Kapitel III *Risk, Criminal Law and Justice*) Belange geht. Im Kontext eines Risikodiskurses befindet sich das kodifizierte Recht immer im Nachteil, da es nur nachsorgend eingreifen und deshalb zur Kontrolle des Risikos nur bedingt beitragen kann. Was im Fahrwasser der Risikodebatte auftaucht, ist eine neue Zielstellung rechtsstaatlicher Intervention, die in den Diskussionen als „new penology“ bezeichnet wird: „*This new penology sees crime as a problem of managing high-risk categories and sub-populations, not normalizing individuals to community norms*“ (279). Das Risikomanagement wird hier entweder als effizientere Form der Ausübung des Rechts – welches noch einer entsprechenden Anpassung bedarf (*George L. Priest*) – gefeiert oder als „*political program*“ (255) überführt, womit die Autonomie des Rechts unterminiert und einer Kontrollgesellschaft Vorschub geleistet wird.

Im vierten Kapitel (*Risk, Uncertainty and Economic Live*) werden die sozialen und ökonomischen Folgen eines einflussreichen Risikodiskurses diskutiert. Mit dem Risikobegriff geht eine permanente (wenngleich konstruierte) Unsicherheit einher, die soziale Interaktionsmuster grundlegend verändert hat. O'Malley argumentiert beispielsweise, dass eine auf viele gesellschaftliche Felder übergreifende versicherungsmathematische Risikogesellschaft (*risk-society*), die mit allen Mitteln den Teufel der Unsicherheit (*uncertainty*) austreiben will, auch und gerade im Kontext neo-liberaler Ökonomie nur einen begrenzten Einfluss erlangen kann, da das Moment der Unsicherheit konstitutiver Bestandteil des Liberalismus ist: „*It is concluded that the place of uncertainty is central to liberalism and thus unlikely to be marginalized by 'risk society' developments*“ (349).

Im fünften und abschließenden Kapitel (*Risk, Health and Technolgy*) finden sich Texte, die die Bedeutung des Risikodiskurses auf den Feldern Medizin und (Bio-)Technologie diskutieren und dabei ähnliche Ambivalenzen und Verschiebungen konstatieren, wie in den Kapiteln zuvor. Nikolas Rose hat sich in diesem Zusammenhang mit dem Risikobegriff und seiner (bisweilen redundanten) Verwendung in der Psychiatrie beschäftigt und kommt zu dem Schluss, dass dieser spezifische Diskurs mit seiner Konstruktion permanenter Gefahr ein „governing through madness“ provoziert: „*Contemporary politics of mental health has come to be structured in terms of the questions of security and public safety*“ (499).

Nach diesem Blick auf ausgewählte Details und Unterschiede der Analysen verschiedener Risiko-Diskurse lässt sich für den Band abschließend feststellen: Das Ganze ist in diesem Fall nicht mehr als die Summe seiner Teile. Das Fehlen einer ausführlichen „Anleitung zum richtigen Gebrauch“ (eine theoretische Einführung) hat zwar den Vorzug, dass die wissenschaftlichen Befunde selbst zur Geltung kommen und nicht von einer allgemeinen Darstellung der theoretischen Perspektive sublimiert werden. Letztlich hätte man sich für Einleitung und Aufbau aber eine Entscheidung gewünscht, die aus dem Band mehr gemacht hätte, als eine bloße Zusammenstellung einzelner Analysen. In der Einleitung hätte sich eine kritische Bestandsaufnahme angeboten, die nicht nur beschreibend die Zusammenstellung des Bandes vorträgt, sondern auch die Schwierigkeiten und Entwicklungsmöglichkeiten einzelner Forschungsstränge diskutiert. In jedem Fall hätte die Diskrepanz zwischen analytischer Heterogenität der Beiträge und ihrer inhaltlichen Auswahl entlang einer regierungsanalytischen Fragestellung in der Einleitung mehr Beachtung finden können.

Der Band ist insofern nicht mehr und nicht weniger als ein Service, der einen einfachen Zugang zu einigen zentralen Ansätzen und Arbeiten in diesem weiten und heterogenen Forschungsfeld ermöglicht. In diesem Sinne handelt es sich um eine hilfreiche Textsammlung. Wer sich jenseits der deutschen Risiko-Ikone Ulrich Beck mit dem Thema beschäftigen will, hat entweder die Möglichkeit, sich durch unzählige *Journals* zu arbeiten, um die entsprechenden Schlüsseltexte zu finden, oder aber diese mit einem Preis von 250 US-Dollar eher als Verleihvariante konzipierte Textsammlung zur Hand zu nehmen. Was in den Themen Risiko, Vorsorge, Unsicherheit, Kontrolle und vor allem Regierung (governmentality) theoretisch und empirisch noch steckt, wird sich allerdings erst anhand der Publikationen der nächsten Jahre erweisen lassen und bleibt auch nach der mit diesem Band vorliegenden Übersicht offen. **Robert Feustel/Mathias Rodatz**

**Sally Engle Merry: Human Rights and Gender Violence.
Translating International Law into Local Justice. Chicago:
The University of Chicago Press 2006.**

UN-Menschenrechtsdokumente fordern von ihren LeserInnen einige Geduld: Sie sind oft abstrakt, sprachlich sperrig und redundant formuliert. Ihr Geltungsanspruch ist universal und ihre politische Bedeutung liegt v.a. in der Legitimität internationalen Konsenses und der daraus resultierenden Wirksamkeit politischen Drucks. Die Staaten, die Menschenrechte garantieren sollen, sowie nationale und lokale Menschenrechtsgruppen sind hingegen konfrontiert mit komplexen lokalen Realitäten und Fällen von Menschenrechtsverletzungen, die in spezifischer Weise durch Ungleichverteilungen von Ressourcen und Macht geprägt sind. Vielfältige soziale Kategorien, wie Rasse, soziale Klasse, Gender und ethnische Zugehörigkeiten, politische und ökonomische Verhältnisse sowie Glaubens- und Wertesysteme spielen dabei eine Rolle. Die Wechselbeziehungen zwischen universalen Normen und spezifischen lokalen Strukturen bzw. Kulturen sind dementsprechend spannungsreich und es stellt sich die Frage, welche Rolle lokales Wissen bei der Produktion von Menschenrechtsnormen spielt und was diese Normen lokal bewirken bzw. wie sie wirken.

Sally Engle Merry untersucht in ihrem Buch *Human Rights and Gender Violence* wie – d.h. durch welche Akteure, Institutionen, Diskurse und Prozesse – die Räume, in denen transnationales Recht geschaffen wird und lokale Räume, für die es geschaffen wird, miteinander verbunden sind. Am Beispiel der internationalen Menschenrechtsbewegung gegen Gewalt in Geschlechterverhältnissen (gender violence) beschreibt sie einerseits, wie in transnationalen Diskursen an den Standorten der UN neue Bedeutungskategorien entstehen (Gewalt an Frauen als Menschenrechtsverletzung und eine Form der Diskriminierung) und andererseits, wie diese Bedeutungen weltweit von Staaten sowie nationalen und lokalen AktivistInnen aufgegriffen und in soziale Praktiken übersetzt werden, um spezifische Situationen zu beschreiben und Menschenrechtsverletzungen zu bekämpfen.

Ergebnis ihrer Feldforschungen, die sie im Zeitraum von 1999 bis 2004 durchführte, ist eine ethnographische Studie, deren Ort der Untersuchung keine territorial abgrenzbare Einheit darstellt – Merry beschreibt ihr Vorgehen als „deterritoralisierte Ethnographie“ – sondern in der sie die LeserInnen mitnimmt in drei soziale Räume, innerhalb derer Menschenrechtsnormen geschaffen und ihre Umsetzungen verhandelt werden.

Sie beginnt mit dem transnationalen Raum der UN und führt ihre LeserInnen zu Debatten und Anhörungen, auf internationale Konferenzen und Treffen von UN-Kommissionen, bei denen UN-, Regierungs- und NGO-VertreterInnen aus aller Welt zusammentreffen und wo transnational konsensfähige Menschenrechtsnormen produziert und in ihrer Implementierung verfolgt und kommentiert werden (Kap. 2). Am Beispiel der *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW) gewährt Merry detaillierte Einblicke, wie in diesem Raum ein gemeinsames kulturelles Verständnis von persönlicher Autonomie, Sicherheit und gleichen Rechten entsteht (Kap.3), das als UN-Konvention universelle Geltung beansprucht, jedoch in der Praxis nicht selten mit lokalen Kulturen in Konflikt gerät.

Insbesondere in diesem ersten Teil des Buches wird Merrys im Hintergrund immer präsente Frage bedeutsam, ob die Verbreitung universeller Menschenrechte als westlicher Kulturimperialismus gesehen werden muss. Dabei arbeitet sie die Parallelen zum essentialistischen Kulturbegriff der einstigen Kolonialmächte Europas und Nordamerikas heraus und zeigt, dass auch im UN-Diskurs Kultur tendenziell als monolithisch, rückständig und traditionell verstanden und als Gegensatz zur scheinbar kulturlosen, zivilisierten Moderne konzipiert wird. Merry ist es ein Anliegen zu zeigen, dass die Art und Weise der Konzeptionalisierung von Kultur in einflussreichen Settings wie der UN hochpolitische Implikationen hat. An unterschiedlichen Beispielen stellt sie dar, wie der Kulturbegriff die Vorstellungen der Möglichkeiten sozialen Wandels und letztlich das Policymaking prägt: So wird Kultur im essentialistischen Sinne entweder als grundsätzlich förderlich oder hinderlich für die Umsetzung von Menschenrechtsstandards betrachtet und dementsprechend im Ganzen gewürdigt oder abgelehnt. Demgegenüber ermöglicht ein Verständnis von Kultur als offen, in sich hybrid und widersprüchlich eine komplexere Vorstellung der Interaktionsmöglichkeiten zwischen lokaler und transnationaler Kultur.

Eine derartige Auffassung von Kultur, so zeigt Merry, ist insbesondere in den beiden folgenden von ihr untersuchten Räumen zu finden, innerhalb derer Menschenrechtsideen lokal übersetzt werden. Im Gegensatz zu den Debatten auf UN-Ebene wird Kultur hier meist als Set von Ressourcen betrachtet, die eingesetzt werden können, um Menschenrechtsideen an lokale Kontexte anschlussfähig zu machen.

Zunächst beschreibt Merry den Raum, in dem globale Menschenrechtsdiskurse Teil sozialer Bewegungen werden (Kap. 5). Sie führt ihre LeserInnen an sehr verschiedene Orte (nach Delhi, Peking und Hongkong sowie auf Hawaii und die Fidschi-Inseln) und zeigt am Beispiel von Rechtslobbying und Sozialarbeit, wie dort jeweils durch lokale AktivistInnen transnationale in lokale Diskurse und Praktiken übersetzt werden. An allen fünf untersuchten Orten findet sie erstaunlich ähnliche Muster vor – ein Ergebnis, das sie als Hinweis dafür interpretiert, dass die Kernideen der Menschenrechte in den Implementierungsprozessen nicht nivelliert werden. Besonders aufschlussreich ist in diesem Zusammenhang Merrys Untersuchung der Rolle lokaler AktivistInnen, die als eine Art Mittler zwischen Sprache und Inhalten des UN-Rechts und der Umgangssprache fungieren, in der Menschen ihre Alltagssituationen rahmen. Das Buch macht hier deutlich, dass und wie Menschenrechte durch ihren universellen Anspruch und internationale Legitimierung lokalen AktivistInnen neue Deutungsmöglichkeiten für lokale Probleme wie Gewalt in Geschlechterverhältnissen eröffnen und einen neuen politischen Raum für Reformen schaffen.

In ihrem vorletzten und empirisch anschaulichsten Kapitel (Kap. 6) analysiert Merry auf Grundlage zweier Fallstudien die Veränderungen, die sich durch Menschenrechtsdiskurse und -aktivismus im Selbstverständnis derer ergeben, die den Schutz der Menschenrechte in Anspruch nehmen, und vertieft damit die Einsichten in die komplexen Prozesse

des lokalen Wirkens und Adaptierens transnationaler Menschenrechtsnormen. Dies stellt vielleicht das eindrucklichste und im Kontext der Menschenrechtsliteratur bisher wenig beachtete Thema des Buches dar. Merry führt die LeserInnen nach Hawaii und Hongkong, in den dritten, örtlich stärker begrenzten Raum zwischen lokalen AktivistInnen und Opfern von Menschenrechtsverletzungen bzw. von Gewalt gegen Frauen. Den Prozess, in dem lokale Subjekte sich selbst als Menschenrechtssubjekte interpretieren lernen, beschreibt sie als kontingent, widersprüchlich und als individuell riskant. Alte Subjektivitäten, z.B. als Mütter, Ehefrauen und Familienangehörige, die von ihren Verwandten schlecht behandelt werden, geraten in Konflikt mit neuen Selbstverständnissen als (Menschen-)Rechtssubjekte und Klägerinnen gegenüber den Tätern. Diese neuen Selbstbilder werden oft erst einmal versuchsweise im Prozess lokaler politischer Kämpfe angenommen, bisweilen parallel zu alten Subjektivitäten ausprobiert und nicht selten auch wieder verworfen, wenn sich die Opportunitätskosten als zu hoch erweisen. Recht, so wird auch hier deutlich, bietet für die von Gewalt im Geschlechterverhältnis betroffenen Frauen *eine* Möglichkeit, Gewaltsituationen in neuen Begriffen zu rahmen – andere Möglichkeiten bleiben jedoch daneben bestehen. Und es sind insbesondere staatliche Akteure, die – indem sie Menschenrechtsforderungen ernst nehmen – (Menschen-)Rechtssubjekte wesentlich schaffen.

Merry gelingt es in ihrem Buch sehr facettenreich, das Panorama einer transnationalen Bewegung und ihrer Kämpfe gegen Gewalt in Geschlechterverhältnissen zu skizzieren, die in unterschiedlichen Arenen geführt werden; von transnationalen Menschenrechtsdiskussionen an den Standorten der UN bis hin zu den individuellen Subjektivierungsprozessen der von Gewalt betroffenen Frauen. Diese Bewegung zeigt in ihrem Selbstverständnis, ihrer Sprache und ihren Praktiken an den untersuchten Orten erstaunliche Ähnlichkeiten. Und dennoch, so macht Merry deutlich, werden Menschenrechte nicht im Sinne eines westlichen Kulturimperialismus den Ländern des globalen Südens aufoktroziert, sondern international im Konsens beschlossen, lokal übersetzt und, wenn auch nicht konfliktfrei, angenommen. Sally Engle Merrys methodischer Ansatz einer „deterritorisierten Ethnographie“ fordert dabei die gängigen Erwartungen an ethnographische Feldforschung als dichte Beschreibung weniger Fälle heraus. Dabei entsteht jedoch bisweilen der Eindruck, dass Merry zu viele Schauplätze gleichzeitig aufmacht, so dass die Struktur des Textes, die Schärfe der Argumentation sowie die Eindrücklichkeit der Darstellung darunter leiden. Neben dem gelungenen Gesamteindruck sind die stärksten Momente des Buches eindeutig jene, in denen Merry einen oder zwei Fälle herausgreift und so das kontingente und spannungsreiche Zusammenspiel lokaler und globaler Deutungsmuster und Praktiken exemplarisch beschreibt. **Ulrike Froböse/Connie Stitz**

Jonathan Simon: Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear. Oxford: Oxford University Press 2007.

Fear is ubiquitous in family life, though, as Jonathan Simon is arguing in his *Governing through Crime*, fear of the spouse has been replaced in the US by fear of the monstrous stranger without – or within – the household. This has had dramatic repercussions on the forms of self-governance that have dominated middle-class lifestyles in the 20th century. The (suburban) family guards against threats from without through its retreat to

gated communities; its consumption of private security services, technologies and expertise; its displacing itself in “safe” SUV vehicles that place it far from the madding crowds. But the family is also guarding against threats from within through unprecedented surveillance and control of children. Families monitor children through the purchase of home drug testing kits, home surveillance technology, and if all else fails, by sending adolescents to “boot camps” to help them sort themselves out.

Parents are compelled to invest heavily in disciplinary technologies. If children were found to engage in criminal acts, the effects of the resulting exclusion can be devastating to the entire family who risk to lose public housing, eligibility for college loans or private insurance. But monitoring of children is not confined to private spaces: children are also subject to surveillance technologies in their schools, where norm enforcement by teachers has been superseded by private security companies intervening against disruptive students in classrooms, children being subjected to mandatory drug tests, metal detectors, and searches, being barred from leaving during school hours, subject to in-school detentions and disbarred from school if their behaviour is found wanting. Thus, American children are ubiquitously being reframed as a population of potential victims (of attacks by fellow classmates, of child abusers, of drug peddlers) and potential perpetrators (drug dealers, vandals or bullies). The pervasive, and palpating, fear of crime has meant that punishment and policing have become one – if not *the* – dominant mode of private and public socialisation (210).

Jonathan Simon shows in this book that the victim-perpetrator rhetoric has become pervasive in the past three decades, and he uses the family as one locus in which these changes are most visible. His other examples are prisons and the workplace. In the wake of a demise of worker representation and the hopes for affirmative action, the moralisation of social relations – and thus their depoliticisation – have the advantage of recreating an useful scheme to vet the good from the bad: good people are victims, bad people are perpetrators. Good people are taxpayers, bad people receive – and probably abuse – welfare. So Americans are potential victims of crime in a two-fold manner. Firstly, they are victims as taxpayers; that is, victims of “the high costs of welfare for poor, minority, urban residents – the same communities blamed for crime” (109). And secondly, they are potential victims of violent crimes perpetrated by male members of those same populations. This implies that while the victim has become the new idealized subject of much political action, this new subject is racialized and gendered. For victims are white, suburban and middle-class, and are contrasted to a popular catalogue of “monsters” who are not. The standard image of criminals is of gang members, drug kingpins, violent crime recidivists and sex offenders. Upper class, or white, perpetrators of environmental or white-collar crime are not demonized in the same way. And as the victim is the fulcrum of legal change, any attempts to occasion change necessitate a self-presentation of the lobby group as potential victims of crimes – by co-workers, employers, customers, etc.

The racialization of the perpetrator has a long history. As the former education Secretary William Bennett facetiously said in a radio interview in September 2005, “if you wanted to reduce crime, you could, if that were your sole purpose, you could abort every black baby in this country, and your crime rate would go down.” According to Simon, indeed, there is a correlation between the diminution of low-skilled work, the dire living conditions and poor opportunities in some neglected urban areas and criminogenic behaviour; these conditions are only further exacerbated by the penal system into which so many African American men disappear for so long. Thus, there is a double racialization process: first, African Americans often live in neglected urban areas in social conditions

that (according to Simon) are more likely to lead to criminal behaviour. Second, as the possibility of exercising discretion in arresting, prosecuting, and punishing a person is often used to the *detriment* of African American men, these are more likely than other citizens to spend a segment of their life in jails or prisons, where “prisonization” occurs, that is, its inhabitants learn a macho prison culture that will not help towards integration into working life afterwards. But this in turn means that Simon unwittingly admits that the racialization of the perpetrator/victim distinction is not entirely unfounded. What he quite rightly – though this is not novel – points out is that the *conditions* under which a segment of the populations lives lead to greater crime rates.

What could be added to this are details not of the causes, but of the *effects* of classifications of populations into ethnic groups. Anthropologists have shown that widespread assumptions about “the other” produce behaviours at a micro-level that when compounded can have striking impacts on a global scale. Thus, a recent ethnographic study of taxi drivers profiling their customers (Diego Gambetta and Heather Hamill, *Streetwise: How Taxi Drivers establish their Customers’ Trustworthiness*) shows how taxi drivers know that their lives may depend on the right sort of prejudice. New York taxi drivers face a very high likelihood of being killed. They have established a set of rules concerning the *prima facie* trustworthiness of customers: women are safer than men, adults safer than teenagers, individuals safer than groups, well-dressed people more so than scruffy ones, known passengers preferred to strangers, calm people safer than agitated ones. And “white” people are deemed safer than “black” people. These judgments as individual judgments are still sexist, ageist, and racist, among other things, but within the rights of the security-conscious taxi driver. They merely lead to micro-level decisions concerning which passengers can safely be picked up, and who is better avoided. On a compounded scale, such individual judgments are aggregated to a system that is racist.

Private life has thus taking on a new form, dominated by logics of security, by a continual attendance to and fear of crime, by constant vigilance against victimisation, and by a privatised and moralised fear of Black men. This “ecology of fear” (a term coined by Mike Davis) has political and institutional ramifications.

On the one hand, the ecology of fear has taken up some issues of 1970s liberal politics, as Simon can show. The increased state intervention in the family, for example, is a direct result of successful feminist politics. Feminists had worked for decades in the 1960s and 1970s to establish stricter prosecuting and sentencing guidelines for spousal abuse – and were successful. Many US states have since implemented mandatory arrests for any accusations of domestic abuse; specialist prosecutors are to investigate the defendant’s history; specialist courts see no other cases; and some legislatures have put mandatory jail terms for first offences into practice. Women’s claims of domestic violence are taken seriously in an unprecedented manner. But as this attention to women’s issues has occurred within a cultural change of “governing through crime,” in which violent crime come to be seen *the* threat to personal safety (to the virtual exclusion of older fears of social insecurity, distributive injustice, environmental threats, violent social and political change, unemployment, overpopulation, retreat of the state, famine and war), the resulting changes in the institutional logics have served to exacerbate some of the problems feminists were concerned with to begin with. Not only have families changed their ways of governing themselves and their younger members, their consumption and living habits, their range of motion, willingness to engage with strangers, and general mobility. But this has served to decrease the range of options for women caught in the system of mandatory rules. The clear priority of criminal victimization over other kinds of risks or social inequities has meant that “virtually any increase in security for the public, no matter how

small or speculative, suffices to justify virtually any increase in risk for criminal offenders” (196).

In an era in which crime in general, and violent crime in particular, has been falling, more people are incarcerated for longer sentences, in harsher conditions, with less likelihood of being paroled and greater likelihood of being barred from exercising their civil rights, as well as from college loans and public housing. Prisons have in short become “waste management systems,” overcrowded, boring, unsafe, unhygienic and with little regard to the people incapacitated through them. And that is just the way they are meant to be. After two hundred years of humanitarian reforms of the penal system, populist politics have turned prisons into holding pens, especially for ethnic minority males. These populist politics show a weariness of “experts” who are seen to “privilege the criminal” and of a judicial system “unwilling to protect the people,” have stressed a “simple system of rules” that eliminate the possibility of anyone exercising their discretion in managing criminals. The success of this new is measured not in terms of recidivism rates, deterrence of crime, or production of any other social good, but (in keeping with the logics of the new penology) in terms of the efficiency of the system in removing people from the streets, or, in the words of California governor George Deukmejian, removing “an additional 52,000 convicted felons from neighbourhoods to send them to state prison” (158). This populist logic has been embraced by governors, presidents, lawmakers and courts, who have implemented 3-strikes laws, zero tolerance, an incarceration binge and a general vulnerability of all sectors of society to a crime control mentality that leaves no room for more measured perspectives on the characteristics of security. And this is what Simon deplores in this book, pleading for a return of another politics, another style of family and school life, a new social movement “ready to break the hold of crime on American governance” (282).

Governing through crime does not focus on the lives of the poor, huddled masses either within the penal system or without it that fears the criminal – this he has done previously. In fact, the narratives offered in this book are not altogether new or surprising, but Simon has put together an unremitting wealth of detail concerning institutional, cultural and private life-world changes. Some of the editing has been inattentive (quite a few references are missing from the bibliography), sometimes the tone is a little moralising, some of the arguments could have benefited from more pith, but all in all this is a fascinating perspective on the new American order. **Rebecca Pates**

Jennifer Wood/Clifford Shearing: Imagining Security. Col-lompton, UK: Willan Publishing 2007.

“How should security be governed at the beginning of the twenty-first century?” (1) This is the question that Jennifer Wood and Clifford Shearing seek to answer in *Imagining Security*. They thus follow an explicitly political agenda, built on an analysis that relies on an account of ‘nodal governance’ – a concept that the authors have developed over recent years. Although much of what they present does not seem to be especially new or even groundbreaking at first sight, and although there is good reason to criticize several inconsistencies in the structure of their argument, the application of a ‘nodal governance perspective’ presents a fresh and surprisingly viable approach to analyzing governance processes in ways that take the empirical role of state agencies in governance

seriously, while avoiding methodological state-centricism. Also, it leads to some thought-provoking, albeit controversial proposals regarding the governance of security, mainly because it takes the authors' own assumptions seriously and does not rely on state authorities to ensure democratic mechanisms in the field of production of security.

In the first three chapters, the authors develop the concept of 'nodal governance' and apply this perspective in a review of literature in different fields of security discourses and security governance. The last two chapters consist of "*an explicitly normative discussion of how a nodal governance perspective might inform efforts to enhance the power of weak actors [...] in reshaping the security field towards possibly new and different ends, both in instrumental and normative terms*" (96). Thus the analytical first half of the book serves as the basis for the development of the normative program.

In developing their concept of 'nodal governance', Wood and Shearing begin from the observation that, especially in the field of security, it is not only state authorities but a wide array of different non-state actors that engage in the governance of security, be it at the local, national or international level (3).

However, Wood and Shearing are skeptical of accounts which see this tendency towards a privatization of security issues as a pure effect of a neoliberal project that follows a program of 'responsibilization' (David Garland) and 'ruling at a distance' (Bruno Latour), and within which 'the state' delegates the 'rowing' (i.e., the realization of certain tasks) but stays with the 'steering' competences (i.e. the formulation of political programs); rather, they see processes of mutual 'enrolment,' in which state and non-state actors are structurally equal in principle. "*Today, ways of imagining and realizing security governance in the business sector as well as the 'third sector' (e.g. community groupings, non-governmental organizations) shape and influence the thinking of state institutions and vice versa. This is the essence of nodal governance.*" (13) Thus, they claim, the picture of security from a nodal governance account is more ambiguous than a perspective informed by a critical account of neoliberalism would suggest: "*What one has in practice is not a single model of governance, but a complex of hybrid arrangements and practices in which different mentalities of governance as well as very different sets of institutional arrangements coexist*" (21).

The idea of enrolment goes back to a concept Wood and Shearing borrow from Bruno Latour: an actor is powerful only to the degree to which she is able to enlist others in order to carry out her projects.¹ This is possible only by alignment and persuasion (which might include the use of pressure or force, but cannot be built exclusively on coercion nor is coercion a necessary component), and entails a process of 'translation': while carrying out their tasks, the enrolled actors 'translate' their part in the governance project according to their own goals and logics of operation – which, more likely than not, changes the nature of the whole process. Governance, from this perspective, becomes the art of alignment. Powerful actors manage to impose their logics onto those they enroll, and/or they manage to enroll a large number of others, thus forming governing nodes: "*Nodes are sites of knowledge, capacity and resources that function as governance auspices or providers. These sites are often institutional (expressed in an organizational form), but can also be located within informal groupings*" (27).

1 Latour, B. (1986) The powers of association. In: Law, J. (ed.), Power, action, and belief. A new sociology of knowledge? London: Routledge.

The strength of the nodal governance perspective lies in this combination of a broad but clear concept of governance, on the one hand, and a conceptual openness that avoids *a priori* assumptions about where governing nodes are to be found, on the other hand. It easily avoids methodological state-centricism, and neither does it assume *a priori* that certain other forces (money/the business sector) are the ‘real powers’ behind the scene, ruling the world. Rather, it remains an empirical question where governing nodes lie and who or which groups are part of them and dominate them.

Following this conceptual outline (backed up by some empirical examples), the reader might expect an application of the approach. This expectation is only partially fulfilled in the rest of the book. The second chapter concentrates on a classical discourse analysis of various waves of thinking in policing at the level of communities. The authors show that different waves of thinking in the field of policing have influenced each other and, over time, have been combined in several ways. Wood and Shearing then go on to jump to another plane: that of *practices* of nodal governance. Here, they don’t make their analysis explicit, but simply claim (as those working with a ‘governmentality approach’ generally do) that what they have shown for “waves of thinking” (i.e. at the level of thought, or concepts) translates into actual governing arrangements and practices. More exactly, the authors state that throughout all of these waves, at least since the middle of the twentieth century, police agencies have attempted to establish partnerships with others – be it with community groups, individual residents, other public authorities or private for-profit actors – and that the governance of security increasingly has become a field of nodal governance, while police have made sure to remain the central player. A more detailed description of such nodal arrangements would have strengthened the argument considerably.

Another field of security discourses that, according to the authors, have a strong nodal governance character and have been heavily influenced by non-state actors (both non-profit and business-oriented) are human security approaches. “A *human security approach seeks to decentre the state as referent object while examining security threats that arise from nodes and networks of people and activities that defy traditional state boundaries. From this standpoint, coercive capacity exercised by or on behalf of states is simply one among a plethora of capacities required in securing people.*” (63–64)

Departing from this assumption, an examination of human security discourses (and governing nodes and networks arranged through and around such approaches) makes perfect sense in the context of a nodal governance account. Unfortunately, in dealing with this the authors become somewhat inconsistent with regard to their first object of examination, community security. While with respect to the latter they concentrate on *discourses* and *mentalities* of governing crime and (almost casually) the governing nodes and networks that emerge out of that, when it comes to human security the authors repeatedly leave this plane and talk about what they perceive as the actual threats to human security. These threats, the argument goes, arise from actors that are organized in networks and de-centered nodes have thus a polycentric, network-like structure. Wood and Shearing refer here to very different threats, from terrorist networks over Kaldor’s ‘new wars,’ to the private provision of military services, human rights violations in Argentina and post-Apartheid South Africa, and economic want (while in the context of community policing it seems to be taken for granted that the imagined threats are more or less of the same nature for all waves of policing discourses). Accordingly, they describe reactions and strategies that aim at these diverse perceptions of human security threats. This is logical considering the broadened meaning of ‘security’ in human security discourses, but it also leaves the impression that the choice of subjects that are discussed here is quite arbitrary.

trary. A good example is in the chapter on community security, where the nodal governance account is applied in a fairly superficial way, without taking full advantage of its conceptual strengths. Rather, the accounts on human security seem primarily to serve the purpose of proving that the heterogeneous and decentralized security threats call for polycentric governance structures that need not necessarily be dominated, or even exclusively carried out, by actors of the international state system. The examples suggest that local knowledge as well as political, democratically organized participation of citizen groups are an adequate and at the same time effective means of dealing with issues of crime and (in-)security.

The basic assumption is therefore that nodal, polycentric governance arrangements carry the potential for new solutions to old problems of imbalance in power relations and representations, and that a nodal account of governance helps to better detect ways and strategies for weak actors who want to influence and shape governance practices. Wood and Shearing can make this assumption precisely because they have a more optimistic view on de-centered governance and ruling-at-a-distance than many critics of so-called neoliberal governance strategies: At least theoretically, their conception of power (as based on enrolment) and governance (as polycentric and concentrated in nodes) allows weak non-state actors to assume an active role in governing security and shaping policies in this field. This becomes especially clear when they talk about their research on Community Peace Centres in South Africa – community groups that engage in security issues: *“As the police have sought to enrol the Peace Committees, the latter have, in turn, used their power to enrol the police in furtherance of their governance objectives. [...] The Community Peace Centre project is not simply a neo-liberal partnership where the police are ‘responsibilizing’ community members to do their bidding”* (102 f.).

Building heavily on the work of John Braithwaite and complementing this with examples from their own empirical research, Wood and Shearing go on to propose a number of principles which might be summed up as the idea that ‘weak actors’ should concentrate on their abilities and assets (local or otherwise specific knowledge, manpower, persuasive power) and organize themselves in existing nodes of governance or – even better – build their own nodes. Thus, according to Wood and Shearing, they gain bargaining power, are able to set agendas, and form policies, i.e. to take a ‘steering’ position.

The question of how weak actors gain greater bargaining power has to be separated from the question of how this bargaining, or the attempts to influence governance projects, is to be regulated in a way that assures compliance with certain ‘democratic values’ (which the authors take for granted as something most people agree on, without specifying further the contents of such values). In contrast to many writers concerned with issues of social justice and political equality, Wood and Shearing do not blindly confide in ‘the state’ as the appropriate instance to assure such democratic rules. They do not postulate *a priori* *“that the best or exclusive way to respond to the problems we have identified is to create better Leviathans either at state or supra-state levels [...] there may well be other, and perhaps better, ways of creating both effective and democratic governance”* (99).

Accordingly, their answer to the problem of ‘governing governance’ rests in a hybrid mix of checks and balances (115). In chapter 5, they present some possible strategies, which they take from control mechanisms in public and private policing, and show that a traditional perspective limited to questions of (legal and political) accountability fails to see a whole range of other technologies of regulating governance, including licensing (both in the commercial sense and in the sense of a political ‘branding,’ as done in human rights or ecological campaigns), contracts, rules for insurance markets and self-

governance, generally based on a ‘marketization’ of security goods, which needs to be shaped in a way that that these markets produce socially just results. If this is successful, it presents what Wood and Shearing call “smart regulation” (136) and which they see happening in several fields where actors from the ‘third sector’ such as human rights activists, ecological non-profit-organizations or poor neighborhood groups manage (via shaping public discourses) to shape the behavior of corporations or public administrations.

In other words: the authors, like so many others, pin their hopes on actors based in civil society. In their view, non-state nodes “*possess or have the potential to possess the requisite knowledge, capacities and resources to monitor, and even to create, normative standards that guide them in their mix of governance functions. The virtue of the global civil society perspective, which we see in action with human rights NGOs, is its emphasis on local actors and their situated knowledge of regulatory nodes and networks. In simple terms, what seems to matter in the design of optimal regimes for the governance of governance is the right mix of ‘upwards’, ‘downwards’ and ‘horizontal’ processes (Scott 2000) that links up the activities of state and non-state nodes in ways that compensate for the weaknesses of each process on its own (see Goodin 2003²)*” (142).

The *really* interesting point would be: what would these governance designs look like? From what the authors have presented, it is clear that the answer to this question always has to be tailor-made to a specific situation. Wood and Shearing give some examples, or tentative answers, and generally demand that “appropriately deliberative structures” be implemented to allow for equitable and open articulation of normative goals. This is the logical consequence of the approach, but unsatisfying for the reader. The problem lies in the clash of the nodal governance perspective and the global analyzes of security discourses Wood and Shearing present: the very account of nodal governance argues that it doesn’t make sense to draw global pictures and look for global solutions. If they had followed their own thinking in this point, Wood and Shearing would have stuck to some concrete examples, analyzing them in detail and taking lessons from it, and would not have tried to draw the big picture – developing the argument in this way may very likely have served their purpose better than the sometimes arbitrary looking accounts on human security and communal policing discourses they give in ‘Imagining Security,’ which do not make full use of the potential the nodal perspective on governance processes provides. **Anne Dölemeyer**

- 2 Goodin, R.E. (2003) Democratic accountability: the distinctiveness of the third sector. In: European Journal of Sociology 44(3): 359–396.