

JUDAISM,
LIBERALISM,
&
POLITICAL
THEOLOGY

EDITED BY
RANDI RASHKOVER
&
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LIBERALISM, AND
POLITICAL THEOLOGY

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9 The Patient Political Gesture Law, Liberalism, and Talmud

Zachary Braiterman

VEERING OVERTLY INTO religion after 9/11, recent critical theory steers further and further from "Judaism." The fact that this discourse and its contributors have made almost no impact upon Jewish thought before this publication stands in stark contrast to the saturation by Jewish categories of postmodern theory in the 1970s and 1980s, which in turn inundated Jewish thought.¹ The postmodernism of "the Jews," "shibboleth," "midrash," "textuality," and "ethics" gives way in more radical works by Giorgio Agamben, Alain Badiou, and Slavoj Žižek to the alleged universalism of Saint Paul and to the cautionary case of Carl Schmitt, an ultra-conservative German political thinker who made his mark in the 1920s and who, despairing of the chaos threatening the liberal Weimar Republic, then sought to curry favor with the Nazis. Tracking the movement of theological concepts and religious energies into secular politics, the interest in political theology in critical theory explores a transposition first opened up by German philosophers writing before and after World War II. Paul's faith in Christ is shown to limit or even break the force of law; while for Schmitt and those who turn to him from the ideological left, the state's power to make political decisions and distinctions, and to exempt itself from the law, bears the power and authority once ascribed in Christian theology to God and miracle.²

The general resistance to political theology in this essay and the alternative I pose to the radical political gesture exemplified in Žižek's thought in particular signal what I believe to be a stubborn political and religious liberalism basic to most forms of modern and contemporary Judaism. Even as it rhetorically rejects what it purports to be abstract Enlightenment universalism and atomistic liberal individualism, modern and contemporary Jewish thought (from Mendelssohn to Buber to Borowitz and Plaskow) has always remained bourgeois to the extent it seeks out home or a semblance of home in the type of form-making *nomoi*, the patterns and prisms that more radical critical theorists seek to shatter. "Out of the sources of Judaism," the core, under-theorized liberalism I want to articulate in this paper consists of three features. These are (1) commitment to law and structure, (2) refusal to cede absolute authority to any single center, figure, or

57. Badiou, *Saint Paul*, 4–15.

58. Badiou, "Saint Paul: Founder of the Universal Subject," in *Saint Paul among the Philosophers*, 37.

59. Jacques Derrida, *Archive Fever: A Freudian Impression*, trans. Eric Prenowitz (Chicago: University of Chicago Press, 1996), 78.

60. Yosef Hayim Yerushalmi, *Freud's Moses: Judaism Terminable and Interminable* (New Haven: Yale University Press, 1991).

61. Jacques Derrida, "Abraham l'autre," in *Judités: Questions pour Jacques Derrida*, ed. Joseph Cohen and Raphael Zagury-Orly (Paris: Galilée, 2003), 22.

62. Levinas, *Difficult Freedom*, 232.

63. Levinas, *Difficult Freedom*, 233.

64. See Sarah Hammerschlag, *The Figural Jew*, 159–62; and Howard Caygill, *Levinas & the Political* (London and New York: Routledge Press, 2002), 170–71.

65. Maurice Blanchot, *The Infinite Conversation*, trans. Susan Hanson (Minneapolis: University of Minnesota, 1993), 126.

66. Jacques Derrida, "Abraham l'autre," 22.

67. Derrida, "Force of Law," in *Acts of Religion*, 252.

68. *Ibid.*

69. Franz Kafka, *Parables and Paradoxes*, bilingual ed. (New York: Schocken Books, 1961), 44.

70. Derrida, "Abraham, l'autre," 2.

71. Derrida, "Abraham, l'autre," 34.

72. Emmanuel Levinas, *In the Time of the Nations* (Bloomington: Indiana University Press, 1994), 101.

source, and (3) realization that dynamic political and religious *nomoi* are open, corrigible, and fragile.

In part, the confrontation with radical critical theory in this chapter is meant to reposition Jewish thought out of Germany and away from theoretical contexts specific to the Weimar period. I hope to do this by suspending those theoretical points shared in common by early and mid-twentieth-century Jewish thought and contemporary critical thought: a lingering modernist-cum-prophetic conception of revelation as overwhelming force that breaks through the hard shell of human subjectivity and social reification; a revelation whose only content is revelation, the revelation of its happening; and, more recently, fidelity to an event, the undestructible, messianicity without messianism, traumatic realism, the impossible, etc.³ The thought of Martin Buber and Žižek will be paradigmatic. I will claim that in his argument against state power in the political theology of Schmitt, Buber fell prey to the trap of absolutism he himself wanted to reject. By granting absolute sovereignty to God, Buber was rendered powerless to undo, theoretically, the inevitable slippage from divine violence into the political violence exercised by a human sovereign. In contrast, the enthusiastic affirmation of political violence embraced by Žižek presumes a naïve belief in the power of a militant gesture to transform human society and culture.

Instead of prophetic religion and the absolute, I will set up “rabbinic parsing” as a formal prototype for a type of transcendental gesture essential to liberal politics and religion. The rabbis avoid the traps set by competing images of absolute power, divine or human, insofar as they understand the hedging of sovereign power, both human and divine. Two sets of texts from the Babylonian Talmud will be used to make this point. The first is a group of texts underscoring the limits of power, the power of God *vis-à-vis* the rabbis and the limits of the power of the rabbis *vis-à-vis* Jewish secular power. All forms of sovereign power, human and divine, are hedged within competing lines of force. The second text is an odd “legal” text concerning the prismatic structuring and restructuring of a vegetable garden in which the law regarding “diverse seeds” as defined in the book of Leviticus is redefined in the rabbinic imagination. The rabbinic text indicates what is theoretically possible inside the four ells of law when the limits of law are recognized as fungible—just as much as it is recognized elsewhere what might not be practicable or possible outside the limit of the divine law of a self-enclosed *paideic* community.

Between radicalism and conservatism, I will have made the rabbis of the Babylonian Talmud cohabit with liberalism. The cohabitation is a virtual one, not a real one. A theoretical alternative to this or that “militant gesture” and the absolute in recent critical theory, the gesture marked out in these reflections represents a logic of the penultimate. It enlists what I would call a more “patient gesture” than the one marked out by Schmitt and those theoretical critics who

have enlisted him from the left in order to tar liberalism with the brush of totalitarianism. I do not intend to draw any political consequences as to the politics of the Bavli. The Babylonian Talmud is not a workable political blueprint.⁴ The focus on space construction is instead interpreted as *meta*-political, marked by an expansive sense of structural possibility. In this formal gesture, modern liberal theorists might see a possible model for the design of a more inclusive political place than the ones envisioned in the Bavli itself.

In terms of strict political *contents*, next to nothing connects Talmud and liberalism. Just a cursory look at the deliberations whose ostensible contents are political and legal, especially those that touch upon relations between men and women, Jews and non-Jews, rabbis and common people (*amei ha'aretz*), normativity and heresy will provide next to zero resource for theorists seeking to ground a coupling of individual rights and cultural pluralism. Despite this or that ethical dictum claimed by liberal readers (“these and these are the words of the living God”), the only genuine equality in the Babylonian Talmud is internal to an elite circle of scholars.⁵ To bring the rabbis into conversation with modern liberalism would require tugging Talmud away from legal positivism toward a meta-halakhic conception that pays more attention to the foundational gestures at work in the arrangement of theoretical systems and virtual worlds. As indicated below, the more genuinely liberal gesture in Talmud is meta-political, observed in the intensive freedom ascribed to the *formal* unfolding internal to a Talmudic discussion. Attention goes not to any halakhic “end product,” but to dialectic as pure process.⁶ The limiting of human desire through divine law is its more conservative thrust, the making room for desire in law its more liberal impulse.⁷

The Sovereign State of Exception (Schmitt-Agamben)

As conceived in this chapter, liberal order demands patience. Pure artifice but never arbitrary, it builds upon a careful system of constitutional arrangements meant to establish, maintain, and renegotiate lines between public and private, the common good and individual right. The creation of these lines in a liberal constitutional order depends upon the separation of powers, the declaration of individual rights, and limits placed on the exercise of sovereign power. Lacking the hierarchies that lock ancient political models, the tensions that define liberal order are open-ended. The liberal values that generate its constitution (tolerance and pluralism, prudence and common sense) preserve and perpetuate tension. In both its procedural and value-laden aspects, liberal order resists the theopolitical. This is true even in the United States, that most religious of modern post-industrial powers, where God as a political figure remains generic. “His” symbolic mention presides at special occasions over the system without, typically, interfering in its day-to-day operation. Attempts both successful and unsuccessful to

bring God into the public square on a more proactive and less ceremonial basis, in order to structure and operate that system, threaten liberal order as usually conceived.

Contemporary discussions of theopolitics shy away from the defining practical tensions that compromise liberal system building. This movement explains Schmitt's presence in works by Žižek and Badiou (less strange because works by the latter are explicitly steeped in the totalitarian traditions of Leninism and Maoism). As seen by Žižek, the Nazis mobilized those very fierce energies, the powerful decision between enemy and friend theorized by Schmitt, which Žižek would claim for the left. In his view, the Nazis were "not radical enough," directing this violence at the Jews instead of at the edifice of modern capitalism.⁸ For Agamben and Jacques Derrida, who reject the friend/enemy distinction, Schmitt is a cautionary case, because they conclude that all forms of sovereignty always bear the absolutist character identified by Schmitt. In their own writing against the friend/enemy distinction, the decision posed by Agamben and Derrida is the one between the absolutist embrace of sovereign authority advanced by Schmitt and the radical renunciation of sovereign power *per se*. Presenting an all-or-nothing choice, both the radical and the more humane lines of thought ignore liberal forms of limited sovereignty. How to both exercise and limit sovereign power demands a calculation that Derrida, for instance, does not try to calculate in his meditations on "the incalculable," the aesthetic and metaphysical energies of which are transposed in critical theory into radical politics.

It was Schmitt who introduced the term "political theology" into contemporary theoretical lexicons, and the core question identified by him that he sought so desperately to resolve has, in fact, no sound or complete resolution. How are liberal democrats supposed to respond to those extreme emergencies when the entire political order is about to topple? Schmitt's solution to this crisis remains indelibly marked by the dysfunction of Weimar Germany. He defined the sovereign as the one who has the power to declare those states of exception in which the law is suspended by the law itself in order to maintain the existence of social order. It is this conception of sovereignty that continues to distort contemporary critical debates, the notion of indivisible sovereign power invested with unlimited authority in order to make the types of decision required by nation-states to survive under extremis. With Kierkegaard as Schmitt's model, the sovereign is likened to God, conceived of as wholly other and omnipotent whose acts in history appear as a miracle to the eye of faith. In this example of analogical thinking, the power of God transfers over to the power of the political sovereign, whose power and interventions take on the same "essential" theological cast and color.

Deconstructing the conceptual opposition supported by Schmitt between authoritarianism and liberalism, Agamben asserts that the state of exception justifying the former now articulates the norm in the latter. On sketchy histori-

cal evidence, Agamben claims that the state of exception now constitutes the paradigm of society today in the liberal West, whose denizens are held to inhabit unwittingly the totalitarian polis established, theoretically, by Schmitt and, practically, by the Nazis. So the "enemy combatants" captured by the American military in Afghanistan and incarcerated at Guantanamo Bay can "only" be compared "[to] the legal situation of the Jews in the Nazi *Lager* (camps)," a comparison that marks an *essential* contiguity between all forms of sovereign power to the state of exception. In Agamben's reading of Schmitt, anomic drive determines all forms of *nomos*, while sovereign power brings the state of exception, which stands outside the law, back into juridical order.

In making this claim, Agamben's theory is intended to undermine distinctions basic to liberal theory and political order, dissolving the difference between violence and law, law and life, the exception and the political, the exception and the rule, life and death.¹⁰ The tightening link between totalitarianism and liberal democracy is meant to undermine conceptually the latter. It obscures the possible liberal counterclaim that, historically, the citizens of only one parliamentary embraced totalitarianism in the twentieth century; and it obfuscates the difference between ideologies of blood-and-death versus mass consumerism, between the Nazi euthanasia program and the removal of life support for the critically ill, between an extermination camp and an (American) internment camp.¹¹

Agamben's alternative to the state of exception is to renounce the national-state form of sovereignty. This includes both the one theorized by Schmitt and the liberal forms of sovereignty whose difference with totalitarianism he seeks to upend. He finds this alternative in the anarchic, eschatological redemption offered by Walter Benjamin. Refusing to inscribe the state of exception into legal order, Agamben posits instead a form of law without application. This would entail a law that is studied, but no longer practiced. People play with such a law as with a disused object. It is a law without force for a world that cannot be made juridical.¹² Almost the same unconditional renunciation is posed by Derrida. More subtle than Agamben, Derrida announces "a certain unconditional renunciation," only then to toy briefly at the end of the essay with "a certain affirmation" of national sovereignty in the face of "certain ideological, religious, or capitalist hegemonies that are more global in character."¹³

Opposite sides of the same coin, the unconditional rejection of sovereignty is as philosophically absolutist as Schmitt's assertion of it. By allowing Schmitt to define all forms of sovereignty on the basis of a caricature of divine omnipotence and miracle in medieval Christian theology, Agamben and also Derrida stack the deck against liberal democracy and liberal religion.¹⁴ With an eye set upon the more radical project of "a democracy to come" and "religion without religion," they seek to undo the rigid binaries and arbitrary violence that they reject and that Schmitt affirms as marking all forms of sovereign power. In the process, a

the law itself, with nothing "behind" it. Ignoring for the moment the trace of the divine echo, the *bat kol*, in rabbinic literature, it remains true that in Talmud, if not in Kabbalah, there is no "obscene fantasmatic background," which for Žižek means that "the Jews" are free in their cosmopolitan rootlessness from the *superego*.²⁴

Christianity

Wanting to expose Judaism to the real, Žižek ascribes a freedom to Jewish law that, in the end, is only negative. In this, he follows Hegel, who saw in Judaism the freedom over against nature, the sublime, penultimate truth superseded by the Christian revelation, in which the divine becomes incarnate in human form. Ultimately, Judaism does not stand a chance in this scheme, because there are, for Žižek, two types of freedom, hierarchically arranged. There is the negative act of unplugging that cuts the link with reality. Then there is the Nietzschean moment, free eros of "boundless expansion," "a Yes! to life in its mysterious synchronic multitude."²⁵ Unlike Judaism, where God is said to be emptied of jouissance, Christianity is energized by both types of freedom. The crucified Jesus stands in for the traumatic real, the excremental remainder. But then, Christianity trumps Judaism by cutting the Gordian knot binding law and trauma. Christianity stands for the truth of spontaneous goodness, ethereal lightness, and mystical staidness.²⁶ For Žižek, Christianity represents both an unplugging from the social body, the suspension of social hierarchy as well as the active work of love, "the creation of an *alternative* community."²⁷

The issue to consider with Žižek from the perspective of "Jewish philosophy" is not law per se. About this, it is not worth arguing because there is no resolution. Indebted to the Christian tradition, Žižek makes that Pauline break, if not with the content of law, then with its form, in favor of grace. But for Žižek that foundational gesture is always so radically violent that it calls into question the alternative type of subjectivity and political community that he hopes to advance by means of it. Quoting Brecht at the end of his book *On Belief*, he can only say this to the good liberal: "You are our enemy. This is why we shall / Now put you in front of a wall . . . / With a good bullet from a good gun and bury you / With a good shovel in the good earth."²⁸ This suspension of the ethical takes more and more bizarre shape when Žižek works to reclaim the form of lost causes represented by Stalin and Pol Pot.²⁹

Žižek has privileged violence because he has already positioned "the real," both psychoanalytically and pre-ontologically, as originally traumatic; and he privileges the traumatic, he says, because of human finitude, which does not seem like a good answer because human finitude is overdetermined and might, as such, call for solidarity and kindness, not violence, as it does in works by Butler and Nussbaum.³⁰ One suspects an aesthetic choice has been made. Instead of

new binary opposition is produced between absolute sovereignty and absolute (or a "certain absolute") renunciation of sovereignty. Depending upon a religion of miracle, gift, and grace, what theorists on either opposite extreme fail to consider is the dull, middle place subjecting sovereign form and even the power of God to the imperfect vicissitudes of law. In search of the ultimate, they neglect penultimate, quotidian places.

Radical Gesture (Žižek)

Enmeshed in rhetorical violence and in sync with psychoanalytic claims about the formation of "the real," the political gesture par excellence in Žižek's thought is "militant,"¹⁵ based on the presupposition that negativity (the death drive, the abyss, violence and trauma, the impulse to wipe a slate clean) is prior to and conditions any positive construct, "mere" substance, or truth. The militant gesture is that by which one severs any link with ontology, with the world of ordered Being as pressured by a fantasmic big Other. In order to create new beginnings, one must be ready to wreck symbolic order.¹⁶ The political is traumatic, which means that, unlike Derrida, Žižek accepts as the cost of political power the cruelties and terror that necessarily ensue in any revolutionary act.¹⁷ A self-declared Leninist, Žižek takes aim at capitalism, liberalism, multiculturalism, the smooth running of a global economic machine, attempts to delimit political action, the positing of faked identities.¹⁸ The radical gesture unplugs the subject.¹⁹ Like the real that it mimics, this gesture is abysmal, unconditioned, refuses contextualization. Militant politics is the power of the negative to restructure ontology and to suspend liberal neutrality, the neutral space of the law.²⁰

Judaism

Given this approach to symbolic law, one would have expected Žižek immediately to identify Judaism with the big Other, as Law backed up by monotheism. In fact, he does not, because he sees in Jewish law acts that require no symbolic supplement. Many will no doubt be confused by the discussion in *The Fragile Absolute* where it is argued that Judaism does not integrate its violent founding event (the assertion of its stubborn particularity as the true traumatic kernel of the universal) into a symbolic world.²¹ More self-evident is the notion that Judaism represents an unplugging from paganism. In its own foundational break with established order, Jewish revelation can be embraced by Žižek as *externally imposed, contingent, and traumatic*. A corollary is the neighbor, whom we are commanded to love, who appears as a traumatic hystering figure, "an inert, impenetrable, enigmatic presence."²² Such traumatizing figurations are for Žižek marks of truth. At the same time, Žižek also knows that Jewish law is free from guilt, since Jewish law allows one to stick to the law and realize desire at the same time.²³ "The Jews" are able to tweak the law because the sole purpose of law is

Cézanne or Matisse, Kandinsky or Klee, Žižek's picture of the world prior to its encrustation into image and symbol is the nightmare world of Bosch, surrealism, and other variants of modernist and contemporary anti-aesthetics.³¹ Again, the problem lies less with the contents of this or that particular picture-world and more with the methodological turning to and around acts of destruction as default position and point of origin.

Theodicy

From a liberal perspective, the problem is not skepticism about structure or provocative claims regarding the death of a god who stands behind structure. The problem is that Žižek has too much *faith*, believing too much in the redeeming power of radical negation. Convinced that radical evil opens the space in which to create good, for Žižek, "a negative gesture corrosive of the given (social) substantial order [grounds] a higher, more rational order."³² Evil is thus no longer radical, not if it contributes to the instrumental formation of a good or takes on the appearance of that good when cast in a different, parallax light. To see Žižek's thought as theodicy opens it to the criticism of those who do not believe that from radical evil can come anything except more evil.³³

Failing to see with Levinas that some types of suffering are truly useless, Žižek's is a naive faith. If, in the end, nothing changes, and if there is no way to unplug from the imaginary and from symbolic law in this life, then trauma and hysteria do not "break" symbolic order. They only aggravate it. At the most, one structure will collapse in the face of another one, as power "shifts," slips, and slides from one imaginary or symbolic constellation into the next. Understanding this dynamic, Žižek wants nonetheless to "tarry with the negative," to sustain a position in the intermediate passage between symbolic orders before one Master-Signifier has been replaced by another one.³⁴ The break, however, between one screen and the next may not even be infinitesimal. To unplug is to have already re-plugged. And even if one could hold on to a moment between imaginary and symbolic orders, the end result returns the human subject back to law. The exchange is not law for grace. In the best possible case, one law (a bad one) is replaced by new law (better law or good law). Understanding that if there is no life outside law, "if righteousness," even if it is a semblance of righteousness, "comes through the law, then Christ died in vain" (Galatians 2:21, NKJV).

Patient Gesture (Liberalism, Talmud)

If Christ died in vain, then there is no need to force an unhappy choice between God or grace, on the one hand, and law, on the other. Theopolitics would in that case look different from within the framework of "Judaism" and its post-traditional interpretive traditions—from within the Bible, as mediated in modern Jewish thought, and then from the rabbis, as mediated in postmodern thought.

This is, first, because biblical theology can be seen to resist Schmitt's conception of political theology. The notion of divine kingship circumscribes the legitimate rule of human kings, while prophetic moral absolutism subverts the slippage of categories that so many works on political theology take for granted (namely, the assertion that these categories do in fact transfer over from religion into politics). However, it will be the "Judaism" of the Babylonian Talmud that can be seen to invert Schmitt's conception of theopolitics in a much more fundamental way. Projecting the limits of their own political station onto God, the Babylonian rabbis in their canny deliberations dissolve more completely the radical, uncompromising gestures that motor extreme affirmations and renunciations of political sovereignty.

Presented by Martin Buber in the 1930s, the primary governing trope of biblical Jewish political theology—*malkhut shamayim* (the kingdom of heaven)—represents an absolute refusal of the political theology theorized by Schmitt, a political theology in which theological concepts and energies slip into the secular and state authority. Buber resisted this slippage, privileging instead the anti-monarchical strata composing Hebrew Scripture. In his 1932 book *Kingship of God*, the biblical hero Gideon from the book of Judges stands out as the leader who, beating back the Philistine enemy, declines any claim to hereditary kingship. What Buber reads as a genuine, unconditional "no" to political sovereignty rests on an unconditional "yes" affirming the absolute kingship of God (Judges 8).³⁵ Against the theory staked out by Schmitt, the assertion that God alone is sovereign means that God's authority is non-transferable to any human head or political institution.³⁶ The implication is to preserve the notion of divine sovereignty over against the forms of state apparatus and authority rejected by Buber, no less than by Agamben and Derrida.³⁷

While rejecting Schmitt's conception of political theology, Buber's political schema remains bogged down by his own longstanding commitments to the unconditional and to the absolute. These go back to his early writings on community and religiosity and can also be found in *I and Thou*. To be sure, the political contents that drew Buber are radically distinct from those that drew Schmitt (the kingship of God versus political dictatorship; anarcho-primitivism versus modern state-totalitarianism). However, in their absolutism, Buber and Schmitt shared a family resemblance. Buber never integrated into his conception of exclusive divine kingship his own realization of a notion perhaps unique to Judaism—that the Sinai covenant also binds God, the sovereign principle, into an order of law.³⁸ What Buber offers instead is a robust, divine violence that recognizes no realm untouched by it, one in which "realm after realm" is conquered for God.³⁹

A second problem: the exclusive kingship of God, as theorized by Buber in the 1930s, reflects no clear political or historical reality. Buber privileged pure, preliminary, primitive forms of anarchic invisible government, insisting that

genuine "theocracy" is not a form of government, but rather a striving against the political tide.⁴⁰ No "theological art-product," the messianic ideal of divine kingship is presented as a reliable memory-image, Buber maintaining that once upon a time God was, in fact, the exclusive folk-king of the people.⁴¹ But Buber knew that he was unable to posit this for certain and so proceeded to admit that the image reflects not a historical actuality that we can know, but only a historical possibility.⁴² Even in the Bible, the kingship of God thus remains a virtual phenomenon, not a real one. As a virtual image, it begins to resemble the type of theological "art-product" that made Buber nervous, intent as he was to match the hard realism that marked almost all forms of German thought and culture in the 1920s and 1930s.⁴³

For their part, the Babylonian rabbis can, under certain conditions, seem free from the absolutism binding both statist and anti-statist conceptions of political theology. It is to them that I therefore turn, knowing that the image of the rabbis reconstructed here will, in the end, come to resemble the type of theological art-product rejected by Buber: a possible reality, not a historical one.

In contrast to Schmitt and Buber, the Babylonian rabbis would seem to recognize God's authority without, however, absolutizing it as a political principle. Theologically, they understand that God is king. This is one lesson drawn from the famous aggadic story in the Babylonian Talmud, tractate (B. Menahot 29b), about God, Moses, and the great Mishnaic-era tanna R. Akiva. Refusing to reveal the reason why, it is God who decides to give the Torah to Moses despite the fact that his comprehension lags behind the comprehension of R. Akiva (a sage who knows how to interpret even the ornamental crowns in Hebrew script), and it is God who decides to let the Romans butcher Akiva and sell his flesh in the marketplace. These are divine decrees that brook no explanation, and God tells Moses to be silent. There is a neat division of labor in this story. The same tale that speaks theologically to God's sovereign decision to determine *history* simultaneously indicates how, ideologically, the rabbis consistently privilege their own ability to determine *law* over against the direct authority of God or, in God's place, Moses.

The other most famous instance of this type of ideological tale is the oven of Akhnai, a staple of twentieth-century Jewish thought.⁴⁴ This is a Babylonian tale about another Mishnaic-era giant, the tanna R. Eliezer. The most brilliant sage of his generation, Eliezer argues against the majority of his colleagues about the ritual purity of an oven. To support his ruling, Eliezer invokes little miracles (a carob tree uproots itself, a river runs backward), and then finally a diminutive heavenly voice, a *bat kol* (literally, "the daughter of a voice") declares that the halakha always follows Eliezer. The majority of sages, however, recognize no right, not even a divine right, to enforce such a state of exception. Led by R. Joshua, they quote Torah to insist against Eliezer that "the Torah is not in heaven," that the hal-

akha always follows the majority, and that the rabbis do not pay attention to heavenly voices. Asked about this by another sage, the prophet Elijah reports that God laughed, "My children have vanquished me, my children have vanquished me."

For liberal Jews, the story highlights the value of human autonomy, while for the orthodox it supports the particular power of the rabbis. As Jeffrey Rubenstein and others have noted, however, the story is not so simple. As the tale continues, Eliezer's colleagues proceed to burn in public all the objects ruled by him as pure and then vote to excommunicate him. In vengeance, every place upon which Eliezer set his eye burnt up in flame. The life of Rabban Gamliel, the patriarch of the Jewish people in the Land of Israel, is protected only by the intervention of his sister Imma Shalom, who is Eliezer's wife. She keeps her husband from falling to his face in prayer, knowing that the power of her husband's prayer will kill her brother. Rabban Gamliel drops dead only when she turns for a brief instant to provide alms to a supplicant. A terrible tale, the epilogue supports the halakhic discussion in the text preceding the story of God's defeat by the rabbis, which considers the damage caused by words and the humiliation of persons.⁴⁵ What links the halakhic ruling against humiliation and Eliezer's revenge, on the one hand, and Joshua's bold declaration against divine miracle, on the other hand, is the power of human dignity—the dignity of human persons, the dignity of the majority of sages *vis-à-vis* the power of God and miracle, and the dignity of the humiliated individual sage over against the majority. In the right before God, the rabbis are in the wrong against Eliezer.

At any rate, R. Joshua's response to the heavenly voice is not exceptional. It fits into a larger pattern in which the law is decided by a majority; in which God consistently, although never constantly, defers to a rabbinic authority on this or that fine point in the interpretation of law; in which other rabbis imagine biblical personae standing up against the strict judgment of God to demand justice and mercy for Israel—despite the fact that, practically, biblical law (*de'oraita*) is almost always applied more stringently than their own law (*de-rabbanan*), except in those extraordinary cases in which rabbinic law overrides biblical law. As for those cases in which rabbinic law limits biblical law, these are not so exceptional.⁴⁶

The Babylonian rabbis believe that God created and rules the world and that God will one day reward the righteous and punish the wicked measure for measure. Yet this sovereign power seems not to threaten their own place in the world as both subjects and shapers of law, a privileged and protected place that the rabbis reserve in the interim for themselves (and for themselves alone) as the place of freedom, not constraint. This theological, legal, and political worldview is foreign to the one identified by Žižek in his own gloss to the oven of Akhnai, where he comments, "To cut a long story short, what happens here is already the death of God."⁴⁷ As if it were ever a good idea to cut long stories short, it would seem that, for Žižek, the stark choice for God is either to dominate or to die.

This is not a choice the rabbis felt forced to make. For them, God remains God, but Torah is Torah; as for the rabbis, they remain who they are. Is it a Mona Lisa smile that God laughs at the end of the story or a more toothy laugh? Unlike the model of theopolitics propounded by Schmitt, the rabbis move more patiently in the middle ground rejected by the radical either/or choice upon which Žižek and others insist. Neither uncanny nor weak, their God is a canny character in the exercise and non-exercise of sovereign power.⁴⁸

The same absolutism distorts another reading of Jewish source material by Žižek. Turning to the revelation at Sinai to affirm the reality of violent encounter in the monotheistic traditions, Žižek sees Sinai as signifying the imposition of law, contingent, traumatic, "ethical violence at its purest."⁴⁹ This account omits the protracted negotiation in Exodus 19, noted by Bonnie Honig in her critique of Schmitt, between three albeit unequal partners—God, Moses, and the community of Israel—in which "even absolute divine power can be resisted and engaged."⁵⁰ Recounting the revelation at Sinai, the rabbis in tractate Shabbat identify the violence of revelation only in order to subvert God's sovereign right to it. Interpreting the scriptural verse describing Israel "at the foot of" the mountain as Israel stood *under* Mount Sinai (Rashi comments: "really under," *taht masht*), the rabbis claim this to mean that God held Mount Sinai like a vat over the people, threatening, "If you accept the Torah, good. But if not your burial will be here."

In good illiberal fashion, that would seem to put an end to the discussion. And that is where Žižek's analysis stops. But this part of the rabbinic telling about divine violence and the absolutization of divine command is immediately inverted, as the text goes on to reject any contract based on force, including the extraordinary covenant between God and Israel at Sinai. Refusing to concede any state of exception, Rav Acha bar Jacob declares about the Torah, "From here are strong grounds for a 'notification of coercion'" (i.e., a technical procedure permitting human persons to void transactions made under coercion).⁵¹ On these terms, God's Torah would be null. Citing a verse from the book of Esther, Rava, one of the most important of the Babylonian amoraim, builds on this point to claim that Israel freely entered into the covenant in the days of Mordechai, which, as per Rashi, is when the Jews re-accept Torah. According to the Gemara, "They established then that which they had already accepted" (Shabbat 88a).⁵²

Critical readers will suspect that the rabbis have in fact illustrated Schmitt's point about God's absolute authority transferring down to a human institution, in this case the rabbinic majority. About majoritarian tyranny, Daniel Boyarin has expressed great suspicion in a recent reading of the Akhnai legend. He registers discomfort with the rabbis under R. Joshua for disrupting dialectic by means of an arbitrary political authority. Boyarin is right to note that the story does not end well, but it would have ended even worse had R. Eliezer prevailed against the

democratic majority.⁵³ It is more likely, however, that the Babylonian rabbis were not so interested in sovereign power outside the study hall. Certainly, the authority they claimed for themselves is a far cry from the one prescribed by Schmitt for the modern state. The Babylonian rabbis recognize no single titular head, no one human authority and not even God, privileged by right to force a state of exception. The rabbis would seem to anticipate the argument made by Honig against Schmitt that a state of emergency should provoke more law, here the expansion of law and there the narrowing of law, not its abrogation, by means of discretionary powers, technicalities, and other legal loopholes.⁵⁴

Regarding the power of kings, a Mishnaic *political* theory might perhaps have looked like the one proposed by Schmitt. No one is above the king except God (B. Horayot 10a). In the Mishnah, that first redacted strata forming both the Babylonian and Jerusalem Talmuds, the rabbis are intent on preserving the awe of the king. According to the ruling in Mishnah Sanhedrin, kings may neither judge nor be judged (unlike the High Priest, who may judge and be judged). This would seem to release the king from the power of law. But this unequivocal ruling in the Mishnah is then limited by Rav Yosef in the Babylonian Gemara. The rule exempting a king from being judged applies only to "kings of Israel." In the parsing of the Babylonian rabbis, it does not apply to Davidic kings. Of David's house, it states in Scripture, "Execute judgment" (Jeremiah 21:12). And since the idealized Davidic king can execute judgment, it means that he is therefore subject to judgment, subject to the law, which is sovereign, at least according to this Babylonian amora (B. Sanhedrin 18a, 22a).

As for the kings of Israel not being judged, this is not granted to them by right, as that which defines the essential feature of sovereignty, as per Schmitt. It is conceded with great reluctance, a concession traced back by the Babylonian rabbis to a story about King Yanai, a Hasmonean-era king. The king's slave has just killed someone, and the sages call both the slave and King Yanai himself to court, since the king is responsible for the act of his servant. The king is forced to stand, not allowed to sit, before the court, as if standing before the presence of God. The sages, however, are too afraid to judge him. Appalled by their cowardice, it is their leader Shimon ben Shetach, not King Yanai, who conjures the angel Gabriel to strike them dead (B. Sanhedrin 18a, 19a-b).

As for the majority ruling in Mishnah Sanhedrin (18a) that a king may not humiliate himself, the legal reference is to the refusal of levirate marriage, an act that requires an aggrieved childless widow to spit in the face of her late husband's brother who refuses to sire with her a child in his late brother's name. The Babylonian sage Rav Ashi rules that a king is not allowed to renounce his honor, whereas, in the Mishnah, R. Yehuda permits this because, he argues, the performance of a mitzvah makes such an exception possible. In his view, a point of Jewish law trumps rules regarding the awe of the king. And even in this mish-

nah's majority view, we see law trump the desire of a king. If the king wants to perform either the levirate marriage or its release, the sages do not listen to him, thus upholding the law of the king over against the wish of the king. On the rights of a king and the limits set upon the king there is no one single answer. In the Bible, the prophet Samuel warned the people about the type of powers that kings will accrue at their expense. Rav Yehuda reports in the name of Samuel that the king is, in fact, permitted to exercise such power, whereas, according to Rav, he is not, it being his view that the prophet Samuel merely wanted to warn the people (B. Sanhedrin 20b).

About their own political authority, the Babylonian rabbis will seem free before God in their determination of divine law, but not before "man" or before human law. They recognize the secular authority exercised by gentile kings and Jewish secular leadership, namely the Jewish kings of old and the exilarch of their own time (Heb. *resh galutha*, literally "chief or head of the exile," namely, the civic head of the community in Babylonia).⁵⁵ As a rule, the rabbis seem to have shunned political office, even the burdens of their own juridical authority. Rav Huna would bring ten scholars to sit with him at the study hall, and Rav Ashi would bring ten butchers to help adjudicate laws of slaughter, so that each would "share a chip of the beam" (B. Horayot 3b). Hedged in by doubts regarding the ever present possibility of mistakes in determining law, the rabbis work in tandem with each other, or they fight with each other in back-and-forth rabbinic dialectic (B. Sanhedrin 24a).

In short, it might be the case that neither divine nor human sovereignty is ever absolute in the Judaism of the Babylonian rabbis, because there are too many competing authorities dispersed across too wide a field: divine, secular, and scholarly. The rights of a single sage are limited by other rabbis, local custom, non-rabbinic Jews (the simple *am ha'aretz*, as well as civil-communal Jewish authorities, the exilarch most preeminently); and also by non-legal factors, at least in the later strata of the Talmud's redaction, most notably by the almost exclusive interest in Torah, which seems as if it was primarily theoretical, not practical or political per se.

Schmitt had noted the unremarkable fact that political and theological concepts mimic each other. His more dubious claim is that in the *modern* period, theological concepts and energies are secularized, transferred over into the political. Reading from the European tradition, Schmitt claims that absolute divine authority empties out in a trickle-down movement to a human sovereign. The reverse, however, might probably be more precise. As recognized by Ludwig Feuerbach and Karl Marx, political energies provide the structure upon which the superstructure of theology builds. The power that a sovereign takes is given to God. In rabbinic texts, by way of contrast, the politics of exile generated a unique grouping of theological ideas. For the rabbis, who never exercised sov-

ern power, limits placed on the exercise of their own authority are transferred over to God in a trickle-up motion. In the Babylonian Talmud, this impedes the transfer of absolute authority to God in relation to human politics, even rabbinic politics, because Jewish politics and divine authority are always already mediated by other compelling centers of value (Torah and Israel) and extenuating circumstances (history and gentile rule).

"Accepted" under constraint, the law is only "established" on the basis of freedom. The Babylonian rabbis resist the traumatic intervention of a sovereign into the order of being, the absolutism embraced by Schmitt and Žižek, and the tendency toward absolutism that rightly worries Agamben and Derrida, not because the rabbis were liberal democrats, but because they were powerless and therefore understood the limits of power and because they were not a little perverse, as befits the self-seclusion of scholarly elites. The presence of God in these texts may overwhelm the world (as it clearly overwhelms Israel at Sinai), but not these halakhic men. In the protected and protective space of law, it is possible to imagine a more loose theological-political form of sovereign presence in which fundamental limits and freedoms are recognized as virtually constitutional.

The system of the Babylonian rabbis presumes a human subject-position already finding itself as both a social and individuated point ensconced by fluid lines in a plastic frame. This is the synthetic image rejected by Žižek, the articulation and re-articulation of component parts, "an engaged agent caught in the finite life-world context."⁵⁶ For the rabbis cited in tractate Shabbat, skeptical about God's commanding presence at Sinai, law depends upon no event apart from its own construction and reconfirmation. This image too is rejected by Žižek, who insists upon the difference between an "event" and its "naming" (the inscription of an event into synthetic images and readable symbolic language).⁵⁷ Against Žižek (and also Buber, who drew the same distinction in his book *Moses*), the event is never not inscribed in the imaginary-symbolic at the instant of its own event.⁵⁸

Meta-political Gardens

One set of possible implications for contemporary debates about theopolitics is that an alternative to the radical gesture of grace and revolution might take shape as a patient meta-political gesture, which binds together and builds up structure. There is no traumatic, traumatizing kernel at some putative center of this operation, in part because there is no one clear figure there at the center, since "the center" in rabbinic thought is shared between three figures: God, Torah, and Israel (or is it the rabbis standing in for Israel?). Driving rabbinic discourse is a more complex, delicate, and durable type of gesture whose emergence and dissemination take place under God's indirect jurisdiction. Under these meta-political conditions, law takes on a lush, surreal growth of its own that departs

from the real world of ordinary objects. Take for example something that only seems simple and straightforward—the law prohibiting mixed seeds (*kilayim*) in the biblical book of Leviticus—as it is picked up by the rabbis in tractate Shabbat of the Mishnah and Babylonian Talmud. Consider also the crude diagrams of garden plots that appear in the printed editions of the Babylonian Talmud in order to see more clearly the rabbis' stake not in the "real" but in the synthetic imagination.⁵⁹

In the relative un-freedom of Leviticus, a clear prohibition forbids mixing a field with diverse seeds. The law prohibiting the mixed seeding of a field would, at first glance, evoke the restrictive image of a single black box, representing one patch or field with one crop, homogenous and block-like, permitting no variety to the desire that wants it. For their part, the rabbis in the Mishnah experiment with an alternative arrangement, a possibility that makes little real practical sense but is theoretically sound. How to make room in a single field or patch for more than one plant? The solution provided in this Mishnaic text (Figure 9.1) is an image consisting of one box, representing the plot, and five plants, the box divided into grids, with a circular planting area in the middle and rectangular planting areas running all along most of each edge. Square gaps are opened at the corner, and a large empty space in the middle maintains a gap between each edge and the central circle. Its image is strong, a singular and grid-like form with simple defined edges, clear corners, and a firm center.

No single, self-evident distribution limits our garden. The next image from the Gemara (Figure 9.2) intensifies the look: nine boxes, a serial multi-form lined up in rows. Along the top line of each horizontal series of boxes, the Talmud has now staggered our rectangles: vertical, horizontal, vertical, horizontal, vertical, horizontal. Along the bottom of each horizontal series of boxes the rectangles are arranged this way: horizontal, vertical, horizontal, vertical, horizontal, vertical. The serial system maintains visual difference. In this staggered arrangement, the adjacent rectangles retain their *visual* integrity, instead of fusing back into one homogenous block, as they would were a vertical rectangle to sit immediately opposite another vertical rectangle. The visible pattern is meant to preserve difference. But now the rectangular forms that represent the plantings occupy even less space than they did in the image from the Mishnah. The process of visual experimentation continues (Figure 9.3). Instead of a box marked by a small circular center and four rectangles placed one way or another along the edge, this alternate arrangement reflects R. Yohanan's more sensible suggestion for one who wants to fill almost the entirety of one's garden with a single vegetable: a circle within a square bordered by a clear perimeter. Other possibilities suggest themselves, including a triangular form jutting down from its base in the upper left side of one box down into a point nestled in the lower right corner of an adjacent box (Figures 9.4–9.5).

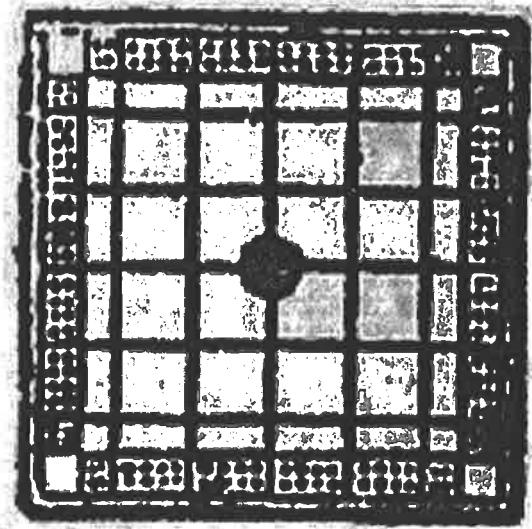


Figure 9.1. B. Shabbat 84b (detail), from the Vilna Shas edition of the Talmud (Vilna: Romm, 1880–86). Source: *Tractate Shabbos*, ed. H. Goldwurm et al. (Brooklyn: Mesorah, 1996).

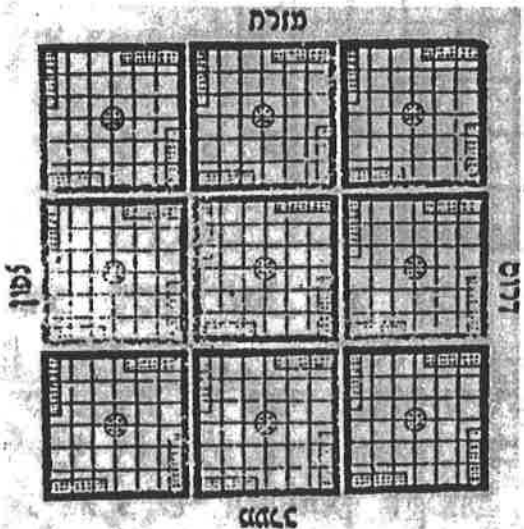


Figure 9.2. B. Shabbat 85a (detail), from the Vilna Shas edition of the Talmud (Vilna: Romm, 1880–86). Source: *Tractate Shabbos*, ed. H. Goldwurm et al. (Brooklyn: Mesorah, 1996).

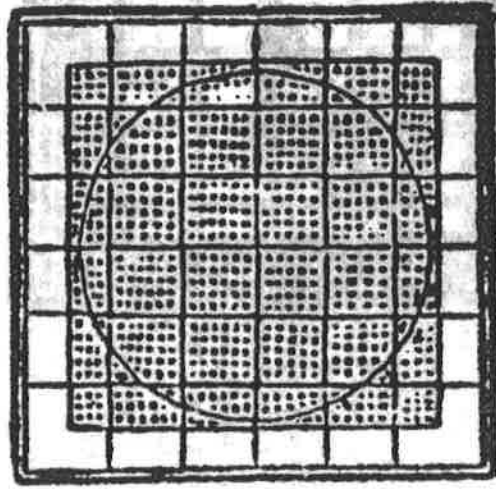


Figure 9.3. B. Shabbat 86a (detail), from the Vilna Shas edition of the Talmud (Vilna: Romm, 1880-86). Source: *Tractate Shabbos*, ed. H. Goldwurm et al. (Brooklyn: Mesorah, 1996).

Figure 9.4. B. Shabbat 85a (detail), from the Vilna Shas edition of the Talmud (Vilna: Romm, 1880-86). Source: *Tractate Shabbos*, ed. H. Goldwurm et al. (Brooklyn: Mesorah, 1996).

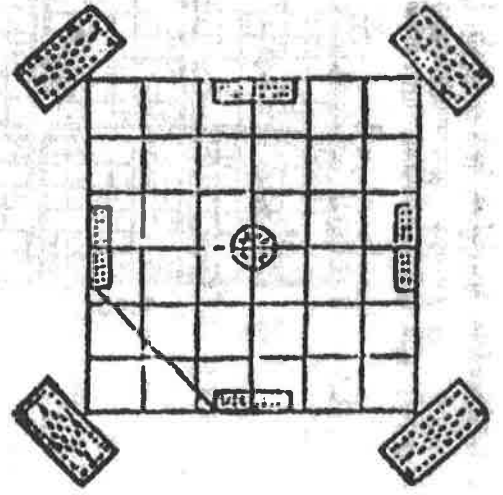


Figure 9.5. B. Shabbat 85b (detail), from the Vilna Shas edition of the Talmud (Vilna: Romm, 1880-86). Source: *Tractate Shabbos*, ed. H. Goldwurm et al. (Brooklyn: Mesorah, 1996).

The law takes shape in imaginary space. It looks like something, although not something mimetic and representational per se. It experiments with its own order of squares, rectangles, circles, lines, the form of a relation, to create surprising possibilities. The iconic thinking inscribed within the Talmudic diagram articulates a point basic about the law, and something about revelation as the eye is drawn over the icon to observe the creation of an increasingly complex set of possible patterns and counter-patterns. Revelation is the creation of circles and triangular forms jutting from one box into an adjacent one.

With its sharply articulated diagonals, the vertical rectangular frame and the sharp triangular motion that appears in the diagram at the bottom of the printed page of the Babylonian Talmud anticipates a kind of modernity, as it were, that disrupts the neat, more classical order exhibited in the previous diagrams. The images start with a box-like order that grows increasingly complex, externally homogenous, internally variegated, from squares to the juxtaposition of multiple squares, to the insertion of a circle within a square. In each image, the individuated figures are contained, except in our final image, where the motion of a triangle whose head descends down into the adjacent domain, leaving one space so as to extend its own space into a new domain.

On the political difference between Jewish and Christian iconicity: Christian icons are luminous, two-dimensional shapes. As theorized by Jean-Luc Marion, they are a physical presence "saturated" by an infinite meaning that is surplus to it. In contrast, Judaism lends itself to a model of iconicity without icons. Politically, this implies the organization of being around a specialized, spatial configuration with no visible image, object, or person, with no undeconstructible principle or void positioned at its center. Not the figure of God, not the image of God, not God as "authority" or "object of worship," it is rather the architectural frame, a three-dimensional "place of worship" rendered into a "place of law" and other such settings that constitute the icon. These diagrams clarify the politics potentially at stake in Talmudic discourse. It is not the subject itself as a content that stands out, since there is no single purpose apart from the law itself; just the form of a relation, a free system of compossibility, a thinking together that occupies the mind.⁶⁰

For the rabbis, as I have sought to reconstruct their thought, the place of freedom is in law, understood in relation to the patient work of the synthetic imagination. The rabbis are here uninterested in the symbolic, in mythic gardens or mystical orchards. They do not seem too interested in traumatic encounters or empirical gardens. Their focus in this discussion is carried on by displaced synthetic images of a "simple" vegetable garden whose configuration they determine in their own free, sovereign practice. The possible configurations of a garden space imagined by the rabbis reflect the queer possibilities assumed by them as basic to Torah. Combining desire and technique, these gardens have nothing

immediately to do with politics, God, or any grand narrative. At first glance, they refer only to their own internal autonomy. Like a modern work of art, pure process, these “fake farms” are meta-political.⁶¹

By “meta-politics” I follow Jacques Rancière to mean a type of organizing gesture that has less to do with political contents *per se* than with the formal distribution and redistribution of sensible parts and positions within any given system, and those acts of redistribution in which new subjectivities are brought into fluid centers of more democratic political orders.⁶² Meta-politics is a type of “scene switching” away from political contents to “the infra-scene of underground movements and the concrete energies that comprise them.”⁶³ The conflicts that interest Rancière in his recent work on aesthetics and politics, and us in this chapter on the rabbis, are not those between an inside and an outside, between art and politics or between the rabbis and politics. The conflicts are internal to art and rabbinic discourse alike. As theorized by Rancière, both forms are closed in on themselves and therefore radically unavailable to the subject who contemplates them from outside. At the same time, this unavailability paradoxically bears the universal “promise of a new world and free community.”⁶⁴

Like the art that interests Rancière, the culture of the Babylonian rabbis is simultaneously insular and expansive.⁶⁵ The more expansive it grows, the more insular it becomes as it brings more and more phenomena (persons, fields, irrigation canals, urban settings, ritual places, roads, streets, courtyards, material objects, bodily fluids, etc., etc.) into a tightly compressed frame. Pure Torah, it contains almost no flour. As a laboratory space or image place or performance place, the Babylonian rabbis provide theoretical frames with which to create and test alternative conceptions of law, politics, and theology. This means, however, that on its own this space is politically untenable. Its constructs remain completely theoretical at the most recondite levels of study, a point raised most artfully by Joseph Soloveitchik in the twentieth century. It may be the case then that rabbinic practice can only breathe when conditioned by and subordinated to external political boundary markers (gentile rule, Jewish secular authority) able to limit the effects of its practice.

In his celebrated essay “Nomos and Narrative,” Robert Cover drew a fundamental distinction between “imperial” and “paideic” nomoi. Imperial nomoi constitute political systems in which norms are objective and heteronomous. They are also non-sectarian and non-coercive, based on interpersonal relations that are weak and minimal. These latter qualities make their operation open, loose, and flexible, a point not insisted upon by Cover himself. In contrast, paideic communities, such as the ones inhabited by the rabbis, are the places in which norms are taught. They are works of pure imagination, characterized by an unreal image, an illusion of legal meaning marked by the appearance of dazzling transparency, immediacy, and unity. To follow Cover is to see the system of law in the Babylonian Talmud built up out of “crystals completely pure.” Cover’s

hope was that from these, new nomoi might emerge to challenge arbitrary power and violence.⁶⁶

The attention to make-believe, artificial qualities that define paideic nomoi, to these “fake farms,” will leave unsatisfied critics who desire more strong stuff from religion, not the refracted echo of a *bat kol* but the immediate apprehension of truth, reality, revelation, and direct divine command. Aspiring to philosophical certainty and political tough-mindedness, the realist critic assumes there to be a radical disjoint between the appearance of an image and the apprehension of truth, whereas it might well be the case that there is no truth as an object of possible experience that is not always already embedded into an image-matrix. Iconic thinking enjoys what C. S. Pierce called “the living character of truth.” “The Icon does not stand unequivocally for this or that existing thing, as the Index does. Its Object may be a pure fiction, as to its existence. . . . But there is one assurance that the Icon does afford in the highest degree. Namely, that which is displayed before the mind’s gaze—the Form of the Icons, which is also its Object—must be *logically possible*.”⁶⁷

As for Cover, while he casts light on the imagistic quality of paideic nomos, he does not indicate the destructive dynamics unleashed when members of paideic nomoi set out to “redeem” imperial space. A virtual world built up on fantastic possibilities assumes explosive force when brought into worlds that subsist outside its place. Observed by Haym Soloveitchik in a famous essay on rupture, reconstruction, and the transformation of contemporary orthodox Judaism, one effect of this is to collapse the once supple, porous gap or overlap between law-as-taught-in-texts versus law-as-actually-practiced, reducing the entire system ad absurdum by creating an illusion of tradition coupled with real rupture in the delicate fabric of lived religious life.⁶⁸

The political character of a religious nomos will ultimately not depend upon factors internal to its own constitution, because the elaboration of such constitutions remains radically overdetermined. The decisive intersection will be with external forces in control of the larger world-system in which these religious nomoi operate and whether adequate hedges are in place to contain “the kingship of God.” These hedges reflect the sovereign power that liberal authority grants to itself, while setting limits to this power and committing constitutionally to the free exercise of religion. In an open society, Talmud can take on a free appearance, forced to sit under the authority of liberal conceptions that are broad-minded, pragmatic, “imperial” in the sense intended by Cover. Under different conditions, the paideic nomos assumes the paraphernalia of state authority. About this, the Babylonian rabbis might themselves have warned. Perhaps because, as glossed by Rashbam, a medieval commentator, scholars engrossed in study tend to neglect communal affairs, or perhaps simply because they are too engrossed in insular, theoretical constructs, the Babylonian rabbis imagine Akiva advising his son, “[D]o not live in a city whose leaders are Torah scholars” (B. Pesachim 112a).⁶⁹

Notes

1. Cf. Daniel Boyarin, *Intertextuality and the Reading of Midrash* (Bloomington: Indiana University Press, 1990); Jacques Derrida, "Edmond Jabés and the Question of the Book," in *Writing and Difference* (Chicago: University of Chicago Press, 1980). See also Derrida's "Shibboleth" and the essays collected in Geoffrey Hartman, *Midrash and Literature* (New Haven: Yale University Press, 1986); Robert Gibbs, *Correlations in Rosenzweig and Levinas* (Princeton, NJ: Princeton University Press, 1992); Susan Handelman, *The Slayers of Moses: The Emergence of Rabbinic Interpretation in Modern Literary Theory* (Albany: State University of New York Press, 1982); Jean-François Lyotard, *Heidegger and "the Jews"* (Minneapolis: University of Minnesota Press, 1990). For a recent study of this period in French philosophy, see Sarah Hammer-schlag, *The Figural Jew: Politics and Identity in Postwar French Thought* (Chicago: University of Chicago Press, 2010).
2. Alain Badiou, *Saint Paul: The Foundation of Universalism* (Stanford, CA: Stanford University Press, 2003); Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 2006). For reference to works by Žižek, see the citations below. On the radicalization of "critical postmodern" theory against the "liberal postmodernism" of Baudrillard, Lyotard, Vattimo, and Rorty, and the "marginal resistance postmodernism" of Agamben and Derrida, see Antonio Negri, *The Porcelain Workshop: For a New Grammar of Politics*, trans. Noura Wedell (Los Angeles: Semiotext[e], 2008), esp. 25–28, see also 84–88.
3. See the critique of revelation and redemption in Michael Morgan, *Interim Judaism: Jewish Thought in a Century of Crisis* (Bloomington: Indiana Press, 2001), chaps. 2–3.
4. See Seth Schwartz, "The Political Geography of Rabbinic Texts," in Charlotte Elisheva Fonrobert and Martin S. Jaffee, *The Cambridge Companion to the Talmud and Rabbinic Literature* (Cambridge: Cambridge University Press, 2007).
5. Jeffrey Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore: Johns Hopkins University Press, 2003); Richard Kalmin, *Jewish Babylonia between Persia and Roman Palestine* (Oxford: Oxford University Press, 2006).
6. Menachem Fisch, *Rational Rabbis: Science and Talmudic Culture* (Bloomington: Indiana University Press, 1997), 6, 12, 53, 112.
7. On the characterization of certain prominent rabbis from the town of Mahoza as "persianized elites," see Elman, "Middle Persian Culture and Babylonian Sages," in *The Cambridge Companion to the Talmud and Rabbinic Literature*, 173–76.
8. Slavoj Žižek, *The Ticklish Subject: The Absent Centre of Political Ontology* (London: Verso, 1999), 227–28; cf. 138–39, 199–200.
9. Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago: University of Chicago Press, 2005), 4.
10. *Ibid.*, 31–32, 52–53, 65, 122, 164.
11. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1998), 10, 165, 166, 174.
12. Agamben, *State of Exception*, 63–64.
13. Jacques Derrida, *Rogues: Two Essays on Reason*, trans. Pascale-Anne Brault and Michael Naas (Stanford, CA: Stanford University Press, 2005), 158.
14. On the origins of political theology in the nominalist anti-Aristotelianism in thirteenth-century Christian scholasticism, when the absoluteness of divine will is established as prior to divine reason, see Francis Oakley, *Omnipotence, Covenant, and Order: An Excursion in the History of Ideas from Abelard to Leibniz* (Ithaca, NY: Cornell University Press, 1984), esp. 47–60, 80–88. I am grateful to Carson Webb for this reference.
15. At play here are the three building blocks of Lacanian theory: the imaginary, the symbolic, and the real. Žižek posits two types of imagination. There is in the image world of Hieronymus Bosch and twentieth-century surrealism a wild pre-synthetic imagination, whose negative power dissolves slick wholes into ragged parts (Žižek, *Ticklish Subject*, 29–30). Opposed to this stands the imaginary proper, thematized as the synthetic imagination, a screening device superimposed over the real, by which a subject identifies itself with a single fixed image, like the infant in Lacan's famous case who identifies with its own image of itself in a mirror as something unified (*ibid.*, 39, 52). The symbolic then comes to intensify the imaginary by structuring it around fictions and fantasy-narrative frames (Žižek, *Tarrying with the Negative: Kant, Hegel, and the Critique of Ideology* [Durham: Duke University Press, 1991], 11). It binds subjectivity around the demand of a big other (superego, law, God) that backs up that subjectivity from behind as its signified in a system of intersubjective exchange before which the subject has to give way in order for it to be subject (Žižek, *Tarrying with the Negative*, 72–73; Žižek, *Interrogating the Real* [London: Continuum, 2006], 262–63). The real, like the imaginary, is ambiguous. On one hand, it is never encountered outside of the dream or as presented by the pre-synthetic imagination. It reflects a radical negation of pure subjective spontaneity prior to law, which cannot be integrated into synthetic imagination or into a symbolic apparatus. As such, it constitutes wild primordial space, something left over, excremental, and formless (Žižek, *The Sublime Object of Ideology* [London: Verso Books, 1989], 47; *Ticklish Subject*, 52, 155). On the other hand, Žižek still posits the existence of a pre-logical world that is not a human construct of the imagination, as if the insufficiency of our knowledge signals us to assert something insufficient about reality itself (*Ticklish Subject*, 55, 60).
16. Žižek, *Ticklish Subject*, 154, 159.
17. *Ibid.*, 230–39.
18. *Ibid.*, 171, 210–15.
19. Žižek, *The Fragile Absolute or, Why Is the Christian Legacy Worth Fighting For?* (London: Verso, 2001), 149.
20. Žižek, *Ticklish Subject*, 162, 222.
21. Žižek, *Fragile Absolute*, 97–99.
22. *Ibid.*, 109–10 (emphasis in the original).
23. *Ibid.*, 142–43.
24. Žižek, *On Belief* (London: Routledge, 2001), 127.
25. Žižek, *Fragile Absolute*, 103.
26. *Ibid.*, 109, 100–103.
27. *Ibid.*, 129–30 (emphases in the original).
28. Žižek, *On Belief*, 150–51.
29. Writing about Rosenzweig and Freud, Eric Santner adopts the notion of unplugging only to soft-pedal the violence that is innate to the gesture pursued to logical perfection by Žižek. See Eric Santner, *On the Psychotheology of Everyday Life* (Chicago: University of Chicago Press, 2001), 63–64.
30. Žižek, *Ticklish Subject*, 32, 164.
31. See Žižek, *Ticklish Subject*; from the angle of modern and contemporary art history, see Hal Foster, *The Return of the Real: The Avant-garde at the End of the Century* (Cambridge, MA: MIT Press, 1996).
32. Žižek, *Tarrying with the Negative*, 95; Žižek, *Ticklish Subject*, 239.
33. Lawrence Langer, *Holocaust Testimonies: The Ruins of Memory* (New Haven: Yale University Press, 1991); Zachary Braiterman, *(God) After Auschwitz: Tradition and Change in Post-Holocaust Jewish Thought* (Princeton, NJ: Princeton University Press, 1998).
34. Žižek, *Tarrying with the Negative*, 1–2.

35. Martin Buber, *Kingship of God*, trans. Richard Scheimann (Atlantic Highlands, NJ: Humanities Press International, 1967), chap. 1.
36. *Ibid.*, 58, 119, 136.
37. For the critique of Schmitt, see Martin Buber, "The Question to the Single One," in *Between Man and Man*, trans. Ronald Gregor Smith (New York: Collier Books, 1965), 73-76. For two opposite interpretations of Buber and theopolitics, see Paul Mendes-Flohr, "The Kingdom of God: Martin Buber's Critique of Messianic Politics," in *Behemoth: A Journal on Civilisation* 2 (2008): 26-38; and Nitzan Lebovic, "The Jerusalem School: The Theopolitical Hour," *New German Critique* 105, vol. 35, no. 3 (Fall 2008): 97-120.
38. Buber, *Kingship of God*, 124.
39. *Ibid.*, 109; cf. Lebovic, "The Jerusalem School."
40. *Ibid.*, 75, 64.
41. *Ibid.*, 14-15.
42. *Ibid.*, 63.
43. Cf. Zachary Braiterman, *The Shape of Revelation: Aesthetics and Modern Jewish Thought* (Stanford, CA: Stanford University Press, 2007), conclusion.
44. The oven of Akhnai appears in at least these many places, spanning the orthodox-liberal divide of modern Jewish thought: Gershom Scholem, "Revelation and Tradition as Religious Categories in Judaism," in *The Messianic Idea in Judaism: And Other Essays on Jewish Spirituality* (New York: Schocken Books, 1971); Eliezer Berkovits, *Not in Heaven: The Nature and Function of Halakha* (New York: KTav, 1983); Joseph Soloveitchik, *Halakic Man*, trans. Lawrence Kaplan (Philadelphia: Jewish Publication Society of America, 1983).
45. Jeffrey Rubenstein, *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore: Johns Hopkins University Press, 2003), chap. 2; Rubenstein, *Culture of the Babylonian Talmud*, 70-73.
46. On "anti-theodicy," see Braiterman, *(God) After Auschwitz*.
47. Slavoj Žižek, *The Monstrosity of Christ: Paradox or Dialectic?* (Cambridge, MA: MIT Press, 2011), 268.
48. On the character-like figure of God in the Babylonian Talmud, see Jacob Neusner, *The Incarnation of God: The Character of Divinity in Formative Judaism* (Philadelphia: Fortress Press, 1988), esp. parts 4-5. Forceful in a physical way, ineffable at times, this character is understood by Neusner as also answerable to human beings and bound by rules and procedures.
49. Slavoj Žižek, Eric Santner, and Kenneth Reinhard, *The Neighbor: Three Inquiries in Political Theology* (Chicago: University of Chicago Press, 2005), 140.
50. Bonnie Honig, *Emergency Politics* (Princeton, NJ: Princeton University Press, 2009), 21, cf. 100.
51. On "notes of coercion," see B. Bava Batra 48b-49a and the commentary in the Schottenstein-*Artscroll* elucidation, at 88n27.
52. In *Mekhilta de Rabbi Ishmael*, a tannaitic midrash, Mount Sinai is described as having been pulled up from its place; the people came near and stood under. The scriptural reference is to the Song of Songs: "Oh my dove in the cranny of the rocks" that are in the clefts of the rock (Song 2:14). See Emmanuel Levinas, "The Temptation of Temptation," in *Nine Talmudic Essays*, trans. Annette Aronowicz (Bloomington: Indiana University Press, 1990), 30-50. For a more expert opinion, see Lawrence Kaplan, "Israel under the Mountain: Emmanuel Levinas on Freedom and Constraint in the Revelation of the Torah," *Modern Judaism* 18, no. 1 (1998): 35-46.
53. Daniel Boyarin, "Hellenism in Jewish Babylonia," in *The Cambridge Companion to the Talmud and Rabbinic Literature*, 354-56.
54. Honig, *Emergency Politics*, 70-76.
55. On the office and authority of the exilarch, see B. Sanhedrin 5a; David Novak, *The Jewish Social Contract: An Essay in Political Theology* (Princeton, NJ: Princeton University Press, 2005), chap. 4; Jacob Neusner, *History of the Jews of Babylonia*, vol. 4 (Leiden: E. J. Brill, 1965-1970), 45-60.
56. Slavoj Žižek, *The Ticklish Subject*, 16.
57. *Ibid.*, 141.
58. Martin Buber, *Moses: The Revelation and the Covenant* (New York: Harper Torchbooks, 1946), 13-19.
59. As explained to me by Martin Jaffee in private correspondence, many of these diagrams are associated with Rashi, whose manuscripts were presumed to have included "his" drawings. This remains speculative, as we have no autographs of Rashi's commentary, all of "his" drawings being the work of copyists and printers. The same is true of the drawings and diagrams in the Romm Talmud and Mishnayot, which are all based on earlier editions and, ultimately, manuscripts, all of which are lost, as far as Jaffee knows. They appear in the earliest Soncino editions of the Bavi from the fifteenth century.
60. The distinction between an "object of worship" and the "place of worship" is from Jennifer Klein, an architecture student at Syracuse University in a paper for me on Hermann Cohen.
61. The term "fake farms" is Martin Kavka's. Reflecting my own aesthetic and philosophical judgment, I do not consider "fake" to be in the least bit pejorative.
62. Jacques Rancière, *The Politics of Aesthetics: The Distribution of the Sensible*, trans. Gabriel Rockhill (London: Continuum, 2004), 12.
63. Rancière, *Aesthetics and Its Discontents*, trans. Steven Corcoran (Cambridge: Polity Press, 2009), 33.
64. *Ibid.*, 34-35.
65. Rubenstein, *Culture of the Babylonian Talmud*, 33.
66. Robert Cover, "Nomos and Narrative," *Harvard Law Review* 97, no. 4 (1983): 13-15, 67-68.
67. C. S. Pierce, "Prolegomena to an Apology for Pragmatism," in *Pierce on Signs*, ed. James Hoopes (Chapel Hill: University of North Carolina Press, 1991), 252.
68. Haym Soloveitchik, "Rupture and Reconstruction: The Transformation of Contemporary Orthodoxy," *Tradition* 28, no. 4 (1994): 67-68.
69. Rashbam's gloss is cited in the Artscroll-Schottenstein commentary to this passage, at 112n27.