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Soundings: An Interdisciplinary Journal, Volume 95, Number 1, 2012,
pp. 47-71 (Article)

Published by Penn State University Press

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Can Jews Be Radical Theologians?

MARTIN KAVKA

Abstract

In its first half, this essay recapitulates the history of the relationship between Christian radical theology (sometimes called “God-is-dead theology”) and Judaism from the 1960s onward, in order to hypothesize that this relationship has not yet become a productive dialogue, since Jewish philosophical theology has understood itself to be fundamentally opposed to the Hegelian elements on which Christian radical theology depends. If God is immanent in history, as God was for Hegel, wouldn’t a Jewish radical theology be obscene after the Holocaust? Taking up a productive line of inquiry in the work of the author’s teacher, the late Edith Wyschogrod, the second half of the essay claims that a non-obscene Jewish radical theology is possible once it centers around law as a site of kenosis, in which the authority of God as lawgiver becomes subordinate to the development of the freedom of the members of the community. Classical rabbinic texts about the so-called “Yavneh reforms” are analyzed in support of this claim.

The question posed in the title of this essay by no means affords a quick answer. One would hope that it did have one, that one could say that Jews *can be* radical theologians because Jews *have been* radical theologians in the past. But the Jewish response to the radical-theology movement in Protestant thought that began in the 1960s with the writings of William Hamilton, Thomas Altizer, and Gabriel Vahanian is, at best, ambivalent. The story of why this is the case is complex. One version of this narrative has been

told in Timothy Bennett and Rochelle Millen's "Christians and Pharisees: Jewish Responses to Radical Theology" (1999, 111–30). It dances around its main point that the Jewish response to radical theology could never quite see that movement as a genuinely theological one. But to the extent that it was theological, it was necessarily supersessionist. As a result, there could be no Jewish response to radical theology; for Bennett and Millen, "the rupture to thought that we name Auschwitz undermines Jewish-Christian dialogue on radical theology" (126). In the course of laying out what the parameters of a Jewish radical theology can and might be, I plan in this article to show that both of those claims are overstated. But first, a brief reminder of why "Jewish radical theology" has been such an elusive category is in order.

The sudden popularization of radical theology in late 1965, thanks to articles in the *New York Times* and *Time* magazine, caught the attention of several figures among the American Jewish intelligentsia (see McCullough 2004, xxvii n8). Three important essays by American Jews appeared in the first months of 1966, and what these essays have in common is their insistence in interpreting the death of God as only a sociological phenomenon; their authors refused to allow social facts to have any theological consequences.¹ In February of 1966, Arthur Hertzberg published a brief essay in *Christianity and Crisis* entitled "Jews and the Death of God"; it was reprinted the following year in Jack Ice and John Carey's edited collection, *The Death of God Debate*. In response to William Hamilton's "Radicalism and the Death of God," which had appeared in *Christianity and Crisis* at the end of 1965, Hertzberg interpreted the radicalism of Hamilton and other death-of-God theologians as lying in the seriousness with which they took the apparent fact that Western culture was now post-Christian. Thus their work became, for Hertzberg, an "affirmation of a cultural Christianity" parallel to the cultural Zionism of Ahad Ha'am and other authors that had been developed over fifty years earlier (1967, 120). Indeed, Hertzberg's somewhat positive impression of death-of-God theology was contingent upon his understanding of it as a primarily sociological phenomenon. If it were to be truly theological, Hertzberg would have wanted no part of it. He took issue with the claim made by Hamilton near the end of his essay that there was a "formal kinship" between the death-of-God theology and contemporary Judaism, in which "the believing Jew is the man with God and without the Messiah [while] the death of God Protestant is the man without

God but not without something like the Messiah" (1966, 7). Because of the ways in which Hamilton's logic opened up a mission to the Jews, Hertzberg feared that radical theology was simply a new example of "religious coercion" or "cultural imperialism" (1967, 121). Only if it were taken as *not* God-talk could Hertzberg see this possibility as foreclosed.

Within a month or so, two other articles appeared: Eugene Borowitz's "God-Is-Dead Theology," in the winter issue of *Judaism* (the magazine of the American Jewish Congress), and Norman Lamm's "God Is Alive," in the March/April issue of *Jewish Life* (the title at that time for the magazine of the Union of Orthodox Jewish Congregations of America). Both of these essays were also later collected in readers devoted to radical theology.² Like Hertzberg, Lamm claimed that post-theistic culture is simply "a result of the nature of the times" (1967, 167). Yet although the possibility of using theology to defend faith seemed in 1966 to have disappeared—for the radical theologians were "preaching atheism, pure and simple," in Lamm's eyes—Lamm thought that the proper response was for Jews to double down on nonradical theological language (164). Therefore, the closing pages of his essay were a summation of the writings of the Rabbi Hayyim of Volozhin (1749–1821), for whom the observance of the mitzvot was a path to a rich personal relationship with God in which God turns his face to the believer.³ If this account were as persuasive as Lamm undoubtedly hoped it would be for his readers, who would have any need for radical theology? Why would radical theologians be interesting? As for Borowitz, he did not write of radical theology as if it possessed the same threat to Jewish life that Hertzberg and Lamm saw in it. He was just nonplussed by the whole affair, concluding, "I confess that I do not see much for Judaism to learn from the current Protestant discussions." Like Hertzberg, Borowitz noted that "it all sounds so familiar," since Jews had been wrestling with the same issues of God's apparent absence from history since emancipation (1967, 106). The foremost radical theologians—Gabriel Vahanian, Harvey Cox, Hamilton, and Thomas Altizer—were more interesting to Borowitz for the currents in contemporary culture that they represented (and saw) than they were for any theological analysis.

But what remains notable about Borowitz's essay is that it offered, as far as I can tell, what seems to be the first appearance in print of a line of argument against Thomas Altizer that typifies later Jewish reactions to radical theology.

The concern here is with Altizer's Nietzscheanism and the impression it gives of being an obscene post-Holocaust theodicy. Borowitz quoted the last paragraph of Altizer's *Mircea Eliade and the Dialectic of the Sacred*, in which Altizer/Zarathustra/Nietzsche—the boundaries blur in that book—called upon humankind to affirm the death of God and the “nightmare of nightmares” that it had unleashed. To this, Borowitz responded, “But what shall a sensitive human being, much less a Jew, say of this boundless affirmation of whatever history brings?” (1967, 97).

None of these three articles mentioned the work of Richard L. Rubenstein. This was somewhat surprising. Some months earlier, the *New York Times* had published an article on Altizer's talk at a theological conference, held in November 1965 at Emory University in Atlanta, that spent four paragraphs summarizing Rubenstein's response to him (“Theologian” 1965).⁴ (Even if one were to take into account the possibly sizable lag time from when a journal is sent to press to its publication, Rubenstein had been publicly grouped with the Protestant death-of-God theologians in early 1965, when William Hamilton published “The Death of God Theologies Today.” Rubenstein had written on the death of God in an essay that appeared in *The Reconstructionist* in 1959.)⁵ In his remarks in Atlanta, which appeared in print in 1967 in the volume of conference proceedings as “Thomas Altizer's Apocalypse,”⁶ Rubenstein proclaimed that he found himself “drawn to the death-of-God theologians.” But this was only because he too found himself unable to take the side of orthodox theology. Altizer stated in his remarks at Emory that

Apocalyptically envisioned, the Kingdom of God dawns at the end of history; its triumph is inseparable from the disintegration of the old cosmos, and it calls for the reversal of an established law and the collapse of all previous religion. . . . [W]e are now living in a time when the whole inherited body of our theological language is disappearing into the past [and] a new history is dawning in our midst before which theology is increasingly becoming speechless. (1967, 21)

But Rubenstein could only agree that the old religious models had disintegrated. He refused to take what he saw as only a “cultural fact” as the basis for any theological statement. This placed him more in line with Hertzberg,

Lamm, and Borowitz than one might at first expect. All four used the contemporary situation as a proof-text for whatever eternal truths they offered their readers, while the quote from Altizer above shows that radical Christian theology saw the contemporary situation as verification for the hypothesis that theology should not be about eternal truths in the first place. The set of eternal truths proffered in Rubenstein's case was grounded in the creation myth popularized by the sixteenth-century Kabbalist Isaac Luria (although he also saw verifying secular analogues in Freud and Tillich).⁷ In answering the question of how finite and contingent things can proceed from a God (*Ein Sof*) that is infinite and no-thing, Luria postulated a divine self-contraction (*tzimtzum*) that leaves a void from which the world was created. The created world, for Rubenstein, is therefore constituted by its alienation from God; the necessary "price we pay for existence is pain, suffering, anxiety, hopelessness, and evil" (1970, 130). Any and all eschatology or apocalypics that seeks to relieve this primordial existential fact, such as Altizer's, is "a sickness" (133). Rubenstein's deep sense of finitude and its concomitant tragedy had hardly abated by the time the expanded version of "Thomas Altizer's Apocalypse" was published in 1970; in his additional remarks, his tone had only become somewhat more snide, as he dismissed Altizer's eschatological focus as a "pathetic falsification of reality" (135).

In Altizer's response to Rubenstein, published alongside the expanded version of "Thomas Altizer's Apocalypse," he pled guilty to this charge of falsification. But in so doing, he also spun Rubenstein's derision into an argument that Christian theology cannot help but engage in this falsification, and indeed that all Christians were called to falsify in this manner. A truly Christian faith for Altizer is always eschatological, for it was such a faith for the early Christians, and therefore must be predicated on the "dawning of the Kingdom of God" (1970b, 145). If this description of faith is axiomatic for the Christian, then the affirmation that a new life is coming must be bound up with a denial of the current (or "old") way of life, and view it as false: "[T]he affirmation of a new and eschatological prophetic faith is possible only on the basis of a thoroughgoing negation of the faith and religion which has preceded it" (Altizer 1970a, 63).

One might minimally conclude from this that only an eschatological—or, to use the more radical language to which Altizer shifts after 1970,

apocalyptic—Christian faith is able to see the death-world of the Holocaust as something relevant to Christian life. While decadent forms of faith refuse to take history seriously and end up thinking of salvation solely as a matter of the heart, the radical Christian theologian takes the world of the camps seriously, as a culture based on falsehood. But Altizer went further. For him, the concept “redemption” cannot be thought on its own; “redemption” always means “redemption from Hell,” that immanent fallen order of the flesh that was shown to be the path toward the eschaton by virtue of the incarnation (see 1970a, 120–32; 1993, 89–113). Because there is no redemption without hell and no God without godlessness in Altizer’s reading of the philosophical and theological tradition, Hell—whether one wants to name it “secularization” or “man-made mass death”—is part of the divinely ordered destining of human culture (1970a, 129ff.). Therefore, when Altizer responded to Rubenstein by saying that Rubenstein could “teach the Christian that the God who stands aloof from the history of nations is the God who stands aloof from Auschwitz” (Altizer 1970b, 141), this was not a compliment. Such a privileging of the interior and spiritual realms was what radical theology denied; on Altizer’s reading, the essays collected in Rubenstein’s seminal volume *After Auschwitz* were evidence that God did not stand aloof from either history or Auschwitz. However, such a claim, with its assumption that God was involved with Auschwitz as a historical event, was at the core of the obscene view that Rubenstein ascribed to Dean Heinrich Grüber in the famous article “The Dean and the Chosen People,” originally published in 1962. Such a view was (and remains) obscene because it placed the Holocaust in the context of *Heilsgeschichte*; no such view could avoid the implication that Hitler was an agent of God (Rubenstein 1992, 1–13). Altizer’s reading of *After Auschwitz* was at best an inelegant masking of philosophical differences and at worst a willful insult.

The temptation to choose the latter of these options grew in the mid-1990s, when Altizer, at a conference commemorating Rubenstein’s seventieth birthday, gave a paper entitled “God as Holy Nothingness,” which argued that Rubenstein’s Luria-inflected concept of God as holy nothingness became dialectically actualized in history as the nihilistic world of the Holocaust, and drew parallels between the crucifixion of Jesus and the mass murder of the “sons of the covenant.” The Holocaust was most aptly described, for Altizer, as a “Divine Infanticide” and, because God is the God of life and death, the Holocaust

became a way for Jews to cognize the presence of God “in and as Death itself” (1995, 347–56, esp. 353 and 356).⁸ This essay—again, by Rubenstein’s standards, an obscenity—was only retained in the published version of Rubenstein’s *Festschrift* at his own insistence. (“I felt strongly that the dialogue should continue,” he wrote later [1999, 48].) The editors added a prefatory note to the Altizer piece to inform the reader that Rubenstein’s invocation of the category of the “death of God” at various points in his career had never been meant as a theological move, but only as a sociological “comment on the absence of God in contemporary culture” (Altizer 1995, 347).⁹ So once again, the conversation between radical theology and Jewish theology failed to begin. With the lack of a genuinely theological conversation, Jewish–Christian dialogue could only become a trade in offense. This was shown most recently in 1999, when Rubenstein published the essay “Radical Theology and the Holocaust.” Although he claimed to ascribe no malice to Altizer, such a claim seems disingenuous. The latter half of the essay interprets the Holocaust as a “Christian Holy War” necessitated by the Christian belief that Jews are God-killers, a belief that Rubenstein assumes is essential to Christianity.¹⁰

Luckily, the trajectory of Jewish responses to radical theology was not doomed to end in an identitarian *frisson* of name-calling that was more suitable for cable-television news than the ivory tower. This was largely due to the work of Edith Wyschogrod, who was the first scholar of Judaism to take radical theology seriously *as theology*. Nevertheless, her response continued the ambivalent tradition of Jewish responses to radical theology. An article based on a conference presentation given in 1996 was mostly focused on correcting William Hamilton’s “disquieting” claim that survivor testimonies had no unique force. Its opening paragraphs, however, took up the work of Altizer. While expressing a “worry about that dimension in Altizer’s writing that acclaims the Dionysian Nietzsche” for reasons similar to those Borowitz had laid out thirty years earlier, Wyschogrod nevertheless briefly suggested that Altizer’s work contained good descriptive tools that could lead us to see how apocalypse perdures in the contemporary high-tech virtualized world in a way that “speaks to the ultimacy of suffering” (1999, 58).¹¹ She expanded somewhat on these claims in a later essay that sought to read the work of Altizer and Emmanuel Levinas through each other (2004, 89–103). There, she argued that Altizer’s focus on the kenotic self-emptying of God into the person of Christ

could be profitably read as an example of Levinasian substitution. Indeed, Levinas invokes kenosis as a category for Jewish thinking—grounded in Biblical and rabbinic texts, as well as Hayyim of Volozhin’s *Nefesh Ha-ḥayyim* (*The Soul of Life*)—on at least two occasions in his writings (Levinas 1988, 133–51, 189–95, esp. 190; 1994, 114–32, 161–66, esp. 162).¹² But what made this comparison truly exciting was her hint that Levinas, like Altizer, might very well be a more dialectical thinker than the scholarship usually admitted. Wyschogrod described the self who suffers for others in substitution, when proclaiming the grounds for her action in prophetic speech, as rendering the glory of the infinite immanent on earth (2004, 100). The death of the self would thus also mark the birth of the infinite on earth.

The history of the Jewish response to radical theology ends here just as Jewish radical theology itself seemed to be beginning. But whether it can continue down this Altizer-inflected path is unclear. Levinas himself seemed to deny the possibility: “That shattering of the system because of the Other is not an apocalyptic image, but the very impossibility . . . of reducing the Other” (1996, 73; original 1976, 107). Nevertheless, Levinas’s use of “apocalyptic” does not have the fully dialectical sense that it has in Altizer, for whom apocalypse is always also dialectically its opposite, namely genesis. This simple difference hints that if the direction of Jewish radical theology is to be a Levinasian one, it must first—before proceeding any further—deal with the vexing issue of dialectic. In other words, for Jewish thought to take up radical theology, it must come to terms with the ideas that, in its recent history, have been referred to in shorthand as “Hegel.”

It is now widely assumed that Hegel and Jewish thought mix like oil and water, or perhaps more sinisterly, like fire and gasoline. For Hegel, Judaism, having similar properties to the “unhappy consciousness” described in the *Phenomenology of Spirit* and sublated by Christianity, has no independent role to play in world history (see Yovel 1998, 54–59; O’Regan 1994, 194; Hyppolite 1974, 36). And in the wake of Franz Rosenzweig’s 1921 *Star of Redemption*, Jewish philosophical theology has interpreted itself as oriented against any philosophical system that smacks of universal cognition, or even attaining the universal. For Rosenzweig, this is explicitly an anti-Hegelian orientation (1976, 5–8; 2004, 11–14). Indeed, Jewish philosophy since the 1920s has regularly emphasized the singular person, exterior to the claims of systematic

reason, who—because she is a singularity—is unrecognizable to others. In Levinas's *Otherwise than Being*, the ethic of substitution is explicitly offered as a denial of a putatively Hegelian recovery of oneself in another, a point that would seem to put a damper on reading Levinasian and Hegelian accounts of kenosis alongside each other (1974, 146; 1991, 115).¹³ Furthermore, Jewish philosophy has not only emphasized the singularity of individuals, but also the singularity of cultures. In Rosenzweig's *Star*, redemption's need for both Judaism and Christianity never becomes *wirklich*, never has any actual effect in society; the eternal hatred for the Jew prevents a relationship of recognition between the two that a real lived mutuality between Christian and Jew would embody (1976, 461–62; 2004, 437–38).

Radical theology cannot abide the category of an unrecognized, and unrecognizable, singularity. It rests on the Hegelian ground of the recognition of interior self in exterior substance, and of heaven in earth. This has been clear since Altizer's first books in the early 1960s. If modern human existence is experienced as anxiety and dread, for Altizer this results from a decision to posit the sacred in a realm absolutely transcending that in which humans exist. Anxiety can be relieved only when transcendence and immanence are reconciled, and the symbol of this reconciliation in the history of religions has been that of the *coincidentia oppositorum*, the co-inciding of correlative opposites that occurs in every hierophany, but most notably for Altizer in the incarnation and crucifixion of Christ (1963, 81ff.). To think through what is at stake in embodying the incarnation in practice—in living the Christian life as *imitatio Christi*—both flesh and spirit must be transformed: “each must dialectically move into its own other, as Spirit moves kenotically and historically into flesh, and flesh is transposed into a new and final form of Spirit” (Altizer 1966, 48).

Because of the constant dynamic of transformation in Altizer's work, there are problems with a strategy in which a Jewish radical theology would be centered around a Levinasian kenosis. It is simply not dialectical enough. This can be seen by returning to Wyschogrod's work on radical theology, which I believe is profitably read as an attempted solution to a problem that bedevils Altizer in the last chapter of his 1997 book, *The Contemporary Jesus*. There, he takes up the suggestion found in Wyschogrod's 1996 paper that the contemporary age is characterized by a new facelessness, a Pythagorean

reduction of the self to number.¹⁴ The “abyss of total nothingness” that he sees in the anonymity of Western culture can only be understood, in the context of radical theology, as “released by a total self-negation or self-emptying.” The anonymity of humankind would be mirrored in the anonymity/emptiness of the transcendent God. Nevertheless, this move places Altizer in a dilemma. On the one hand, if this recognition exists, then humankind cannot be completely anonymous, for the age would be marked by the presence of Christ as the figure of divine kenosis. On the other hand, if Christ is “anonymous,” then there is no truly dialectical form of revelation by which culture could see any “new light that shines on [our] devastation,” to borrow a phrase from Lissa McCullough (Altizer 1997, 185–204, esp. 198ff.; McCullough 2004, xxvi). Wyschogrod’s invocation of the Levinasian prophet as a kenotic site moves some distance past this problem, because the one who sacrifices himself for the Other—or makes him- or herself anonymous—also performs, in the moment of witnessing or “sincerity,” the simultaneous-coming-to-pass-and-passing-away (*se passer*, what Lingis translated as “passing itself”) of the infinite (Levinas 1974, 192; 1991, 150). There are moments both of apocalypse and genesis, end and beginning, here. The infinite comes to pass as the ground of prophetic speech but is not present in that speech itself, and so it also makes sense to speak of the infinite as passing away in prophecy, for the ground is not cognizable by consciousness except very thinly—that is, only as ground. Insofar as prophetic speech announces the infinite as its ground, it endows it with a certain honor and so glorifies the infinite in the customary sense of the word. But insofar as prophetic speech takes place only in ethical sincerity, it glorifies the infinite as it performs the lexical intimacy in Hebrew between *kavod* (glory) and *kaved* (weight), the burden that leads the Levinasian ethical agent to exteriorize him- or herself toward another.¹⁵ As a result, I think that it is not precise to say, as Wyschogrod did, that “the exteriority of the infinite is interiorized” (2004, 100). This phrasing can give the reader the impression that the infinite and the finite are achieving a greater interweaving in history as there come to be a greater number of Levinasian prophets. Such an impression would be close to Altizer’s *coincidentia oppositorum*, but it would not be Levinasian, because any such manifestation of the divine presence in history would assume a human ability to cognize the divine that Levinas thought to be impossible.

So what to do, then? I would like to hold in reserve the implication in Wyschogrod's account that the nature of the Levinasian *se passer* might be aptly communicated in the context of an argument that every religious act encompasses moments of both apocalypse and genesis, and that end and beginning constantly repeat themselves along points in time. In the meantime, one can at least say that the Hegelian problem underlying the category of "Jewish radical theology," if such a category is to be more than a scholar's fantasy, requires a text from the Torah that testifies to the immanence of God in Jewish life. The firm opposition between heaven and earth must be shown to be only a putative one. Indeed, it is this move that underlies not only Wyschogrod's attraction to kenosis, but also similar immanentizing moves in the work of Marc Ellis and Gillian Rose.¹⁶ But it is not only a move that modern scholars make. It is a classical move. One of the obvious texts to cite in this regard is from the Babylonian Talmud, tractate Berakhot 8a:

R. Hisda spoke in this manner: "What is the meaning of 'The Lord loves the gates of Zion more than all the dwellings of Jacob' (Ps. 87:2)? The Lord loves the gates that are distinguished [*metzuyanim*, from the same *tz-y-n* root as *Zion/tziyon*] through halakha more than the synagogues and houses of study." And this conforms with the following saying of R. Hiyya b. Ammi in the name of 'Ulla: "Since the day that the Temple was ruined, the Lord, blessed be He, has no [place] in the world except for the four cubits of halakha."

It appears that God dwells in the limited and bounded realm of *law*. One might complain that I have emended my translation of the Hebrew phrase *'en lo le-haqadosh barukh hu be'olamo* in order to make it about dwelling, and that one might just as literally translate the text as "The Lord has nothing except . . ." Nevertheless, the Temple was not the Lord's possession; it was the Lord's dwelling place (*mishkan*); in order for the causal clause beginning with "since . . ." to link up with the rest of Rabbi Hiyya's statement, it seems to me that this is clearly part of a conversation about where and how God resides with the people Israel after the destruction of the Temple. In addition, one might hastily think that this text says nothing about divine immanence, because "law" is an abstract concept, and thus, while it may be contradistinct

from the concept of God, it is certainly not its contrary opposite. However, Rabbi Hiyya's saying only comes into the full fruit of its meaning when paired with Rabbi Hisda's dictum. The assertion about where God dwells is playing a role in an argument about the best kind of Jewish life. Is it the life spent in the house of study—*bet ha-midrash* refers to the place where nonlegal texts are studied—or is it the life spent trying to learn and determine the proper applications of halakhic law? This is anything but abstract, then. Rabbi Hiyya's assertion testifies that God is encountered in the legal avenues of human life (similar to the ways in which God had been encountered through the cultic system before the destruction of the Temple). God dwells, then, in the *legal acts* of Jews, and not simply in some transcendent sphere.

At this point, one might continue to wonder how this approach is helpful. If radical theology is about kenosis and dialectic, and therefore about *Hegel*, how can it be about law when transposed into a Jewish context? Law was never a sign of the strength of Judaism for Hegel. Even if one disregards the rhetorically inflated remarks that Hegel made in his early writings about Jewish religion, there still remain sentences such as the following, from the 1831 version of the lectures on the philosophy of religion: "The laws do not yet appear as laws of reason but as prescriptions of the Lord" (1996, 2:742).¹⁷ This means that, for Hegel, Jews could not recognize divine law as human law (i.e., as rationally defensible). This is a side effect of the emphasis on transcendence that Hegel found in Judaism, which prevents Judaism from sharing in the kenotic framework that he saw in Hindu and Greek cosmologies (2:672). The view that Jewish law is bound up with irrationality is also bound up with the view of Jewish law as heteronomy. Because, for Hegel, Jews cannot recognize divine law as human law, they cannot be fully free. If freedom involves the self's determination of its own will, then this requires that the norms according to which the self acts be chosen independently, and for Hegel, this meant that the range of choices for the self cannot be artificially delimited by another agent. So on one of the frequent occasions in *Elements of the Philosophy of Right* when Hegel described the free will as *bei sich* or at home with itself, this is opposed to "every relationship of dependence on something other than itself" (1990, 54). The self must recognize its choice as determined by reason, but it must also act so as to will richer determinations of freedom for the members of its community in the future. When Hegel wrote that "the

abstract concept of the Idea of the will is in general the free will which wills the free will" (1990, 57), this refers both to the way in which self-conscious freedom multiplies qualitatively over time into a richer palette of applications to various situations, and also to how it multiplies quantitatively—the rational self wills the freedom of others. Thus, the view of Jewish law as merely immutable prescriptions, "eternally and firmly posited" (1996, 2:686), and which do not lie in harmony with human nature—as suggested by Hegel's evocation of "this longing of spirit for the right, for conformity to the will of God" as the dominant tone of the prophetic writings and the Book of Psalms (2:682)¹⁸—prohibits the development of the idea of right in Jewish culture. This is the case because Hegel (at least in his systematic philosophy, if not necessarily in his life) saw the Jewish will as willing not freedom, but conformity; this prohibits any development of freedom in a Jewish culture because the nature of the law makes it impossible for one to make one's will actual in the world. On Hegel's reading, the Jewish self qua Jewish is broken, and the Jewish religion that undergirds that self is broken as well.

I introduce all of this background only to say that if a Jewish radical theology were to focus on law as a kenotic site, it would have to focus on law as a structure that supports and creates freedom understood as a rich determination of a self's sense of itself as a subject. This is how Hegel himself thought of the sociopolitical realm. Political proceedings are to be held in public—what Frederick Neuhouser has referred to as "public transparency"—not only so as to give reasons for a legal body's decisions and justify their universality, but also to show that the interests an elected deputy represents are included within the universal. Deliberation, the game of giving and taking of reasons in which "participants instruct and convince one another," accomplishes a relationship in which the individual and the governing body recognize each other (Hegel 1990, 348–52; Neuhouser 2000, 138ff.). In addition, this dynamic conception of law allows it to change over time; the game of giving and taking of reasons can lead to "new and further determinations" of law (Hegel 1990, 336). This is not simply true insofar as law can be applied to new situations, but also insofar as Hegel claims that the constitution of a people should seek to further the harmony of the spirit of a constitution and its individual laws by periodically "casting off the old shell and rejuvenating the constitution" in accordance with the determination of a nation's pattern of reasoning at a given time (1995, 141).

At this point, it becomes possible to refine the call for a Jewish radical theology even further. If law is to be the site of kenosis in Judaism, then there must be a set of revealed texts that subordinates the form of law as command to the development of freedom of the members of the community. It must articulate, to borrow a phrase from Jeffrey Rubenstein, “the inescapable intertwining of interpersonal relations and legal processes” (1999, 45). This means that, for Jewish radical theology, law in Judaism must exist for the sake of Jews’ recognizing their own projects within the range of possibilities afforded by universal law, thereby being able to find God through their own legal acts in which God dwells. In addition, it must acknowledge that legal systems can be rejuvenated through shifts in social structure that mirror changes in Jewish self-understanding.

To illustrate that this is not foreign to the classical Jewish tradition, I want to analyze a couple of well-known passages from the Talmud concerning the so-called “Yavneh reforms.”¹⁹ Yavneh was the coastal town in Palestine where the rabbinic academy was established after the destruction of the Jerusalem Temple. There are several legends that illustrate what prompted such reforms, namely the tensions in the academy between rabbinic scholars and the Roman-installed patriarch (*nasi*), Rabban Gamaliel (sometimes referred to as Gamaliel II), at the end of the first century CE.²⁰ One such passage is the following, from Mishnah Rosh Hashanah 2:8–9. The context here has to do with judging when the first sliver of the waxing crescent of the new moon has appeared in the land of Israel at the beginning of the month of Tishri, in order to ensure that the festivals of Rosh Hashanah (on the first day of the month) and Yom Kippur (on the tenth) are observed on the proper days. Once the rabbinical court had validated the testimony of at least two witnesses to the presence of the new moon, messengers would then go into the diaspora communities to announce the new moon.

On one occasion a pair [of witnesses] came and said, “We saw it [the waning sliver of the old moon] in the morning in the east and [the waxing sliver of the new moon] in the evening in the west.” R. Yohanan b. Nuri said, “They are witnesses of falsehood [because the moon disappears from sight for twenty-four hours before the sliver of the new moon appears].” But when they came to Yavneh

Rabban Gamliel accepted them [i.e. their testimony]. And still [on another occasion] a pair [of witnesses] came and said, “We saw it [the new moon] at its proper time, but on the night of its intercalation [i.e., the night that would allow us to proclaim that the month just passed had been one of only thirty days, and not twenty-nine]²¹ it was not seen,” [yet] Rabban Gamaliel accepted them. R. Dosa b. Harkinas said, “They are false witnesses. How can they testify that a woman has given birth when the next day her belly extends to her teeth?” R. Yehoshua said to him [R. Dosa], “I see your point.” [Then] Rabban Gamaliel sent [word] to him [R. Yehoshua]: “I decree that you come to me with your staff and money on the day on which Yom Kippur would fall, in your account.”

Here we have a description of lawmaking that adheres quite closely to the negative account that we find in Hegel. Law here is indeed correlate with power. In this case, it is not the power of God but that of the office of the patriarch, who refuses to engage in rational discourse with the members of the rabbinic academy about how to apply the law. In the Mishnaic account, Gamaliel accepts testimony that seems to be *prima facie* false. The Talmudic commentary (the *gemara*) following on the Mishnaic text amplifies the account of Gamaliel’s actions. But it explains them without justifying them, by giving two examples in which Gamaliel shows that he is in the habit of making judgments on the basis of traditions that have the authority of “the house of my father’s father” (B. Rosh Hashanah 25a).²² Returning to the Mishnaic text quoted above, Gamaliel then seeks to humiliate another sage, Rabbi Yehoshua, by forcing him to act in such a way that Rabbi Yehoshua will believe that he is violating the laws on carrying and handling money that apply to Yom Kippur. Both the Mishnah and the *gemara* texts continue, and end this story by depicting the meeting between Gamaliel and Rabbi Yehoshua in a way that separates public reason from all authoritative status. In the Mishnah, Gamaliel acknowledges that Rabbi Yehoshua is “my teacher in wisdom”—that is, in knowledge of Torah—but also that he is “my disciple, for you have accepted my rulings.” The *gemara* adds the following statement by Gamaliel: “Happy is the generation in which the greater defer to the lesser, and all the more so the lesser to the greater”; the Talmudic editor glosses this as “because

the greater defer to the lesser, the lesser carry [this responsibility of deference] all the more so by themselves [i.e., willingly].”

This is the bargain, then, that the court at Yavneh has made: the rabbis are recognized for their traditional learning by the office of the patriarchate, but this wisdom is not allowed to have any effect—to be actual/*wirklich*—in the social realm. The rabbis such as Yehoshua who fall on the wrong side of Gamaliel’s high-handed behavior are certainly not free, and insofar as Gamaliel’s authority rests only on the deference of the collegium of rabbis, his freedom lies in their hands. What the Talmud has offered in this text, then, is a parody of Hegelian recognition. On the one hand, the text wants to persuade that Rabbi Yeshoshua and Rabban Gamaliel recognize each other as both teacher and student. But there is no coincidence of opposing forces here: wisdom is recognized as wisdom (but has as little power as an unmoving mover), and power is recognized as power (but has no publicly testable wisdom). Power and wisdom do not recognize themselves in each other. This legal framework cannot possibly be a kenotic site. For while kenosis marks a change in nature or status—a sacrifice of divine transcendence in the incarnation, or a sacrifice of divine power in God’s suffering alongside Israel—it is also a repetition, in which the “lower” status of creature/humanity shows itself to have the same status as the “higher.” But in this text there is no such transfiguration of the commanded: the independence of God does not repeat itself in either the patriarch or the other rabbis.

Nevertheless, there is also an element in this text—not necessarily in the Mishnah, but definitely in the gemara—that begins to press against the reduction of law to force. In both the Mishnah and the gemara, Rabbi Akiba finds Rabbi Yehoshua in distress at the prospect of having to violate halakha on Yom Kippur, and comforts him with Biblical interpretation. In the Mishnaic account, Rabbi Akiba cites Leviticus 23:4 (“These are the festivals of the Lord [*mo’adey YHVH*], convocations of holiness which you shall proclaim”) as a prooftext for the conclusion that festivals gain their holy status only through the court’s proclamation of them. They have no holiness in and of themselves. Therefore, argues Rabbi Akiba, whether or not they are proclaimed at their correct, or prearranged times (*bizmanan*) is immaterial. Rabbi Akiba’s words in the gemara, which he presents as a reminder of Rabbi Yehoshua’s own teachings, share in this spirit: “It says, ‘you,’ ‘you,’ ‘you,’ three

times [at Lev. 22:31, 23:2, and 23:4] — ‘you’ [may fix the festivals] even if you err inadvertently, ‘you’ even if you are fully conscious of your error, ‘you’ even if you are being misled.” The argument in this version is somewhat complex. Like other midrashim that appear in the Talmud, the scriptural interpretation is intended to explain apparently unnecessary duplications in the scriptural text; such duplications threaten the text’s holiness, for a text that is divine cannot have been written carelessly. But here, Rabbi Akiba has also revocalized the root *’t-m*. In the three verses, this root appears as *’otam*, “them” — in Leviticus 22:31, “you shall observe them,” and in the verses from Leviticus 23, “you shall proclaim them.” Akiba has read this not as the object of the preceding verbs, but as their subject, *’atem*, “you” — “you shall observe,” “you shall proclaim.” This shifts the emphasis of the verse from the festivals to be proclaimed and the commandments to be observed to the collectivity that makes decisions on how to apply the concepts that form the building blocks of Jewish law.

What is it in these words that leads Rabbi Yehoshua to be comforted? I suggest that there are at least two points that Rabbi Akiba is implicitly making. First, Akiba is affirming that Jewish law puts forth a broadly pragmatic theory of truth, insofar as the meaning of a concept such as “festival” is not pinned down by any standards of correctness that would exist outside human minds.³³ The concept has no essential properties; its meaning exists only within its use in the community. Therefore, because the festival of Yom Kippur only exists as a festival from the moment that Rabban Gamaliel has decided that it has begun, Rabbi Yehoshua does not need to worry that he will be violating the law in when he carries his staff and his money on the day on which he thought Yom Kippur fell. Private decisions as to what a concept such as “festival” means are invalid. To be sure, however, this point must still acknowledge that in certain contexts communal use need not be actually communal, as evidenced by Rabban Gamaliel’s refusal to engage other rabbis in debate over the beginning of the new year. For this reason, Rabbi Akiba’s second point, embedded in the verses chosen as prooftexts in his words of comfort, is equally important, if not more so. The meaning of the festival is not linked to its proclamation by a singular community, but by its plural members, as evidenced by the “which you shall proclaim” (*tigre’u*) that Rabbi Akiba cites in the Mishnaic account, and Akiba’s triple mention of the plural you (*’atem*) in the gemara’s rereading of the three verses from Leviticus. All the members

of the community should recognize themselves in the various applications of law to their lives; there is no law without the community. While such unanimity may be an ideal, Rabbi Akiba's words comfort because they get across that there is no need for Rabbi Yehoshua to exclude himself from the processes by which the community constructs and applies norms for itself. While being on the losing side does not doom Rabbi Yehoshua (and the entire community) to incorrect observance of the law, neither does it bode a permanent split between the wisdom of the sages and the power of the patriarch. Wisdom can seek to have an effect, to be actual/*wirklich*, and recognize itself in power.

This is what happens in a legend set a year after these events (B. Berakhot 27b). In an assembly in the study house dealing with the issue of whether the evening prayer is obligatory or optional, deciding between Rabban Gamaliel's opinion (obligatory) and Rabbi Yehoshua's opinion (optional), Gamaliel continues his grandstanding attitude toward Yehoshua, whom he knows disagrees with him on this legal issue:

Rabban Gamaliel said [to the person who asked for a resolution on this legal issue], "It is compulsory." To the sages, Rabban Gamaliel said, "Is there any person who opposes in this matter?" R. Yehoshua said to him, "No." He [Gamaliel] said to him, "Isn't it in your name that they said to me that it was optional?" He [Gamaliel] said, "Yehoshua, stand on your feet and let them be called as witnesses [against you]!" R. Yehoshua stood on his feet and said, "If I were alive and he [the witness] dead, the living could contradict the dead. But now, I am alive and he is alive. How can the living contradict the living?" Rabban Gamaliel was sitting and [continued to] lecture on the issue, and R. Yehoshua [continued to] stand, until a hum rose amidst all the people [*ad sherananu kol ha'am*] and they said to Hutzpit, [Gamaliel's] spokesman, "Stop!" and [Gamaliel] stopped. [The people] said, "How long will [Gamaliel] go on distressing [Yeshoshua]? On Rosh Hashanah, last year, he distressed him; in the matter of the firstborn, with R. Zadok, he distressed him; even now he is distressing him. Come, let us depose him. Whom shall we install in his place?"

The nature of the insult is not completely clear from the text; it seems most likely that Rabbi Yehoshua's refusal to engage in debate is a sly acknowledgment

that the decision will be Rabban Gamaliel's whether anyone objects to the decision or not. Neither Yehoshua's disagreement, nor his lying about his disagreement, makes a difference in the way halakhic decisions are made; the law is Gamaliel's and Gamaliel's alone. But it is Rabban Gamaliel's attempt, in effect, to place Rabbi Yehoshua on trial for disagreeing with him that propels the collegium of rabbis to oust Gamaliel as their head.

As the story continues (B. Berakhot 27b–28a), the collegium decides to install Rabbi Eleazar b. Azariah as patriarch instead, and the Babylonian Talmud is explicit that part of the reason he is chosen is because of his wisdom (in addition to his lineage, which qualifies him for the position).²⁴ There are, for the purposes of this essay, three important effects of the deposition. First, “on that day [on which Rabbi Eleazar became patriarch] many benches were added,” referring to the seats for the students—the Talmud records divergent opinions that four hundred, or seven hundred benches were added—who were no longer excluded from the process of deciding communal norms. (On the basis of a belief that students' characters were unsuitable for the process, Rabban Gamaliel had locked them out of the meetings of the academy.) Here we have a public legal process for the first time. Second, this process becomes oriented around the give and take of rabbinic reasoning: in a debate portrayed as occurring later that day about whether an Ammonite (non-Jewish) man could marry a Jew, Rabbi Yehoshua's well-sourced reasoning for the conclusion that this is indeed legitimate prevails over Rabban Gamaliel's less successful reasoning. Finally, majority rule is reinstated in all cases; elitism such as Rabban Gamaliel's is banished from the collegium (M. Eduyot 3:12).

Even though Rabban Gamaliel is partially reinstated (leading the academy on a rotating basis with Rabbi Eleazar) after apologizing to Rabbi Yehoshua and coming to the realization that he has withheld Torah from Israel, the fact that these stories about his tyrannical attitude are, for religious Jews, *revealed* stories—no matter what their relationship is to historical truths about rabbinic culture in the first century CE—tells all that is necessary about the deep seriousness with which one should take their portrait of the role of public reason (both as public, and as reason) in the processes by which the contents of Jewish norms are articulated and applied to various situations. For if there is no dialectical resolution of the opposition of power and wisdom so that wisdom can be *wirklich*, there can be no resolution of the opposition

between the people and the institutions that ground their normative lives by way of recognition. And if that is lacking, the divine will not even have the four cubits of the halakha in which to dwell among humankind.

As a result, the answer to the question “Can Jews be radical theologians?” is indeed, “Yes, Jews can be radical theologians because in the past Jews have been radical theologians.” But those who first articulated a radical Jewish theology lived long before the twentieth century. Insofar as their *coincidentiae oppositorum* are due to a robust sense of norm-making as oriented around the giving and taking of reasons in conversation, one can also speak of rabbinic culture in the language of apocalypse and genesis. For this is what conversation is: the end of one speaker as another begins. Conversation is, as Levinas saw, the phenomenon that discloses the primordially of alterity and the ethico-religious thrust of the conceptual realm. Because we are naturally linguistic beings, apocalypse and genesis are natural facts. What rabbinic culture does, through both its practice of norm-making and its stories of the significance of that practice, is express these natural facts in theological terms. This is not to say that theology is the handmaiden of culture, however. Norm-making in Judaism is not simply an act of interpretation that leaves God so hidden behind multiple interpretations that Jewish law would seem to have a purely human origin, and thus to be completely indistinguishable from so-called “secular” law. It is what makes God manifest in the life of a Jewish community, so that God can be said to dwell in its legal acts. The rabbis, at least in the stories cited above, did not see and could not see the distinction between public reason and religious reasoning that currently bedevils American discourse. Religious reasoning is necessarily public, open to others who can show that the current inferences that law makes are invalid. Public reasoning is necessarily religious, grounded in a realm that is other than that of any individual subject or collectivity of subjects. This argument is all that is needed to reconcile transcendence and immanence; the deposing of Rabban Gamaliel for his autocratic ways shows that they are already reconciled in conversation. This should not be understood as a premise for a broader claim that, if they are reconciled in conversation, so are they reconciled in the larger warp and woof of history. The Talmud teaches that it is *only* in conversation that they are reconciled. As a result, while historical situations in which a refusal of ideology-critique gains power and uses it to kill may appear on the surface to have reconciled transcendence

and immanence, such an appearance is deceptive. In all situations in which power and wisdom remain opposed, that which transcends remains absent from history. And so Jewish radical theology need not become an obscenity itself, but can let the Shoah be the obscenity that it is.

Notes

For my predecessors at Florida State University, Richard Rubenstein and Marc Ellis.

1. To be sure, some of the earliest texts in radical theology were also trenchant sociological analyses—Vahanian (1961) is the clearest example of this—but they engaged in these analyses in the service of constructive theology.
2. Lamm's essay was reprinted in Christian and Wittig (1967); Borowitz's in Murchland (1967).
3. The insistence on theology was not simply a result of Lamm's Orthodoxy. In 1968 Rabbi Arthur J. Lelyveld (who was president of the American Jewish Congress at the time) made the same move on the liberal side, arguing that the personalism of Buber and Heschel made the challenge of death-of-God theology moot. See Lelyveld (1968, especially 143–200).
4. Rubenstein's big splash in the *New York Times* occurred almost a year later; see Fiske (1966).
5. For Rubenstein's mention that Hamilton saw him as a death-of-God theologian, see R. Rubenstein (1966, 244) and R. Rubenstein (1992, 249). The 1959 essay appeared as "The Symbols of Judaism and Religious Existentialism," in *The Reconstructionist* (R. Rubenstein 1959), reprinted as "The Symbols of Judaism and the Death of God," in *After Auschwitz*, 1st ed.
6. For further remarks by Rubenstein on the 1965 conference, see R. Rubenstein (1966, 247–49) and R. Rubenstein (1992, 251–53).
7. For Rubenstein's first articulation of the link between Luria, Freud, and Tillich, see R. Rubenstein (1959, 230ff.).
8. In a milder form, Altizer makes the same claim at the end of "The Death of God and the Holocaust": "Is the Holocaust an embodiment of such [an alien, negative, absolutely self-emptied] Godhead? And must the Christian give witness to that Godhead in accepting the reality of the Holocaust? Is that, in fact, what the Christian confession of God is in our world?" (1999, 22). The entire paragraph preceding these sentences—too long to quote here—establishes that the only possible answer to these questions is a positive one.
9. See also Richard Rubenstein's preface to the second edition of *After Auschwitz*: "The language of religion was used more to make a statement about humanity and the secular culture of modernity than about God" (1992, xii); and Ellis (1994, 18).
10. "Insofar as the perception of absolute Jewish otherness was and is widespread, it is confined solely to Christianity, for no other religion identifies Jews as deicides" (R. Rubenstein 1999, 52).

11. See also Wyschogrod (2001).
12. These articles, in addition to Wyschogrod's, are serious challenges to Bennett and Millen's claim that the emphasis on kenosis renders radical theology "radically Christocentric" (1999, 113).
13. In addition, Levinas draws back from the implication that there would be some commonality between the divine and the human. Even the kenotic outpouring of God that we see in Hayyim of Volozhin's *Nefesh Ha-hayyim* only leads to the conclusion that it is "as if through that responsibility, which constitutes man's very identity, each one of us were similar to Elohim" (1988, 144; 1994, 125).
14. Because *The Contemporary Jesus* was in press at the time that Wyschogrod delivered her paper on radical theology, it is likely that both Wyschogrod and Altizer were influenced by the publication of Taylor (1994).
15. I have given a fuller version of this argument in Kavka (2004b, 157–88, esp. 186–88), in the context of a discussion of Levinas's relationship to Husserlian phenomenology.
16. For Ellis's dialectical reading of exile and divine presence, see Ellis (2007, 167). For Rose's general Hegelian orientation against abstraction, see Rose (2009, 48, 167–69); for a good secondary account, see Lloyd (2009, 13–19; 2011, 19–20, 32–34). For Rose's application of this orientation to Jewish philosophy, see Rose (1993, 11–24), and most of the other essays in that volume.
17. Hegel's relationship to Judaism is vexed. If Judaism was simply a theological signifier early in his career, Hegel's favorite student in the 1820s, the jurist Eduard Gans, was Jewish (although he converted to Christianity in 1825 for social reasons). In the months before Hegel's death in late 1831, his relationship with Gans had soured, in part because Gans had proven himself to be a far more popular lecturer than Hegel. For more on the Hegel–Gans relationship, see Pinkard (2000, 530–41, 655–56). My thanks to Jeffrey Stout for reminding me that Hegel's take on Judaism is as thoroughly historical and unfixed as everything else in Hegel's thought.
18. Both this quotation and the preceding one come from the 1827 version of the lectures.
19. The following paragraphs expand on points I have made in a comment published in *Journal of Religious Ethics* (Kavka 2004a). I am deeply indebted to Menachem Fisch's analysis of the Yavneh reforms in *Rational Rabbis* (1997).
20. For an argument that the Mishnah as a whole is a negotiation between the authority of the patriarchate and that of the collegium of rabbinic sages, see Neusner (2004).
21. The word *'ibur*, used here for "intercalation," can also mean "pregnancy," explaining Rabbi Dosa's later response.
22. The fact that Rabban Gamaliel may be correct—one of the traditions he invokes mentions a length of the lunar month that diverges from contemporary calculations of the synodic lunar period by less than two seconds—is beside the point. The problem in the text is that Gamaliel refuses to justify his rulings by anything other than heritage and the power of his office; how are the other rabbis to know that he is correct?
23. For a version of this claim that is more thoroughly grounded in rabbinic sources, see Halberstam (2010, esp. chaps. 3–4).

24. With respect to the focus on wisdom, the Babylonian Talmud differs from the version of Rabbi Eleazar's election that appears in the Palestinian Talmud. See J. Rubenstein (2003, 97–98).

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