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Introduction

Intellectuals and power: the relationship has always been fraught with tensions, dangers and disappointments. A certain enlightenment utopia imagined a world ruled by reason as a formula for universal peace and prosperity. If only the brightest—who, in this account, are identical with the best—could hold the reins of power, their intelligent schemes could banish the benighted habits of humanity. This aspiration to empower intellectuals took on various shapes during the past century, from the Leninist party, whose mission it was to lead the backward working class, treated as never class-conscious enough to act on its own, to the allegedly post-ideological technocracy of bureaucrats, constantly issuing new regulations on the lives of the rest of us. The mishaps are many. Intellectuals, finding themselves at a distance from political centers, succumb to a will to power, a desire to control. Should they succeed, their efforts to impose their plans on to the social world often take a repressive turn. More likely, they do not succeed but fool themselves about their own significance, projecting categories onto power only to facilitate systematic misunderstanding. Such is the fate of intellectuals who draw close to power or who participate in movements, deluding themselves about their import or having to come to grips with their own disillusionment.

Yet this is not only about the intellectuals themselves; it is also about the reason that they, purportedly, carry into political debate. Through its modern history, reason loses suppleness, growing every more instrumental, oriented toward the pursuit of scientific solutions rather than a reflective investigation of the world. Catastrophic outcomes ensue, as with the self-described sciences of race for Nazi Germany and economics for Soviet Russia. Arendt wrote about the “logicality” of this degraded rational thought; for Horkheimer and Adorno, it represented the dialectic reversion of enlightenment reason into the mythic consciousness it thought it had long before overcome. The question of the relationship of intellectuals to power is inseparable from this fate of reason: the more instrumental reason grows through the process of modernity, the more technocratic intellectual empowerment becomes.

Beyond the historical transformation of intellectuals, there lies a deeper question that echoes concerns since antiquity regarding the specialized standing of reason (and its representatives) in relationship to other forms of mental life. In *Phaedrus*, Plato inquires into the status of writing and, therefore, of intellectuals; yet the dialogue takes place explicitly outside the walls of the *polis*, highlighting the tenuousness of the intellectual’s claim on political power. Moreover, Socrates

concludes by shifting from philosophical language into prayer, bringing another element into play: faith, as both corrective and counterpoint to reason. *Telos* has recently discussed the question of religion and politics; this issue continues with the corollary: reason and politics. But religion is not the only alternative to reason (nor are religion and reason necessarily alternatives). Another option is tradition. While expert reason typically sees itself as superior to tradition and convention, social life depends on inherited cultural resources to sustain community and allow for the very sort of transformations that reason imagines but often inhibits. The traditionalist nature of communities can have more humane flexibility than the logicity of a reason dependent on the violence of the state.

Common sense is a third alternative to reason. Whether intellectuals prove deficient in this category because they have their heads in the clouds (as Aristophanes suggested of Socrates) or because they fall prey to their own narratives of utopian reason—and there may not be much difference between those two answers—it is here that the theoretical abstractions of conceptual reason collide with a facility for everyday life. From the standpoint of theory, common sense is merely unexamined opinion and inefficient habit. Still, common sense also implies practical capacities and ways of life, which benefit from inherited experience, at odds with the abstractions of planning and power. A common sense, as commonly shared, comes close to a democratic wisdom, in contrast to elite narratives of reason. That particular argument became important for this journal when, appropriating criticisms of the role of intellectuals in Soviet communism, *Telos* transposed them as elements of an analysis of bureaucratic western society in order to develop accounts of a new class, opposed to traditions and community.

This issue examines intellectuals and power in several familiar venues with important new material. In 1947, just sixty years ago, Carl Schmitt underwent several interrogations in Nuremberg for his role in the Third Reich, and twenty years ago, *Telos* published the transcripts. A new archival find has come to light: the transcript of an additional—chronologically, the second—interrogation, and it is published here, with an extensive reassessment by Joseph Bendersky. The material starkly presents the problems of intellectuals and power: what is the responsibility of the authors of ideas? Can one sustain a distinction between theory and policy formulation? How do we evaluate the points when intellectuals and political movements go their separate ways?

The Italian case is different. The Mussolini regime ended in July 1943, and by the end of the war, Italy had become an allied co-belligerent. There was little pressure to investigate Fascist intellectuals, and certainly nothing like the efforts to marginalize former Nazis in Germany. The postwar Communist Minister of Justice Togliatti paid little attention to revising Fascist laws, and Fascist prisoners, including many who had committed brutal crimes, benefited from an amnesty: this might surprise those who still think of Communism and Fascism as antithetical,

but as we saw in *Telos* 133, a special issue on Italian Fascism, Communists like Togliatti had long tried to reach out to the Fascist cadre. The two movements had more in common than previously imagined. The Italian transition into postwar democracy therefore took place without a national examination of collaboration. This silence has now been broken, thanks to the 2005 publication of Mirella Serri's book *I Redenti*, which shows how a generation of Fascist intellectuals could be "redeemed" after the war, primarily through the good graces of the Italian Communist Party, and therefore reappear as left-wing intellectuals. This special section includes an introduction by Frank Adler, two pieces by Serri herself, a critical review by Ruth Ben-Ghiat, and Giorgio Israel's analysis of the significance of Serri's thesis for a specific evaluation of the memory of Fascist racial politics.

Richard Golsan provides a parallel account of collaboration in France by the author Jean Giono, whose celebration of rural life against modernity slid into a pacifist refusal of national defense against Nazi Germany. Through a reading of Giono's *Journal de l'Occupation* (first fully published in 1995), Golsan traces Giono's indifference to suffering, his contempt for the resistance, his vocal anti-Semitism, and this intellectual's fascination with the power of the occupiers. Aryeh Botwinick continues his exploration of negative theology in an essay on Avicenna, in pursuit of a philosophy of reason within Islam, a tradition that—had it not been truncated—might have provided an alternative model for reason and power in the Muslim world. This foray into medieval thought is accompanied by Elizabeth Coggeshall's treatment of Islam in Dante: an Islam that is more familiar than exotic, even when it is subject to condemnation. Jean-Claude Paye's discussion of dictatorship examines the iterations of anti-terrorism law in light of Schmitt's categories. Paye's book, *Global War on Liberty*, has just been published by Telos Press Publishing. At stake, ultimately, is the repressive character of an unchecked process of police power in the expansive state. Walter Block and Llewellyn H. Rockwell, Jr., provide a corollary critique of the state, albeit from the standpoint of Austrian economics, in their analysis of the predicament of New Orleans in the wake of Katrina. More bureaucracy is hardly a promising formula. The issue concludes with Andrew Bieszad's diligent review of the recent conference on Secular Islam, which gathered many intellectual advocates of liberal democratic reform from the Muslim community. The red thread through these contributions is the relationship between intellectuals, reason, and philosophy, on the one hand, and political power on the other.

Russell A. Berman

Carl Schmitt's Path to Nuremberg: A Sixty-Year Reassessment

Joseph W. Bendersky

2007 marks the sixtieth anniversary of Carl Schmitt's interrogations at Nuremberg. It has also been twenty years since *Telos* published the transcripts of what was presumed to be the complete three interrogations of him conducted by the prosecutor Robert M. W. Kempner in April 1947.¹ Through the vicissitudes of research, these historical and scholarly milestones have coincided with the discovery of new archival documentation on Schmitt and Nuremberg. Among the most surprising of these new discoveries is the transcript of a "fourth" interrogation of Schmitt that occurred on April 11, 1947, which apparently even Kempner had forgotten.² The uncovering of this interrogation prompted research into other promising collections with even more fruitful results. While this transcript completes the documentary record, the other sources necessitate a major reassessment and elaboration of the discussion of long-standing questions concerning the various arrests and internments of Schmitt, culminating at Nuremberg. Given the persistent disputes over Schmitt's Nazi past, Schmitt's Nuremberg experience clearly retains its historical significance.

Over the past half century, the reasons why Schmitt was brought to Nuremberg and the expectations of those responsible for this have never been satisfactorily explained. The general historical narrative emanated from the various, and in retrospect unreliable, versions told by Kempner

1. Joseph W. Bendersky, "Carl Schmitt at Nuremberg," *Telos* 72 (Summer 1987): 97–107.

2. See the "The 'Fourth' (Second) Interrogation of Carl Schmitt at Nuremberg," in this issue of *Telos*.

in publications and interviews into the 1990s. According to Kempner's first accounts, Schmitt was interrogated as part of the trials of the state secretaries to begin in 1947, following the conclusion of the trials of the major war criminals in October 1946. The initiative supposedly came from the Legal Division of the Military Government (OMGUS) under General Lucius Clay, with pressure from both Americans and Germans. Schmitt was of special interest, owing to his numerous and world-renowned publications. There also existed a widespread desire to include in the process not only perpetrators but the "intellectual instigators" of crimes against peace and humanity. "Why haven't you indicted Schmitt? He is under automatic arrest here in Berlin and we will send him right over to Nuremberg," Kempner quoted the Legal Division.³ That is also the version Kempner related to me during my interview with him in 1973, which left me with the distinct impression that, though Kempner supposedly had been approached by Germans and Americans, the decision to seek an indictment of Schmitt had come from the American Military Government.⁴ Years later, Kempner stated that it was a telephone call from William Dickmann, an émigré lawyer in the Legal Division, that instigated Schmitt's transfer to Nuremberg. That was one of the few cases, Kempner recalled, in which the Military Government was of the view that a person must eventually be prosecuted.⁵ In another account, Kempner stated that Dickmann had on several occasions sent him special instructions on the trials, and that one day he appeared with Schmitt in order to have him investigated as a potential war criminal.⁶ In his article on Schmitt's death, Kempner wrote that he brought Schmitt to Nuremberg on "order from General Lucius D. Clay."⁷ Elsewhere, Kempner stated that Ossip Flechtheim, an émigré working on Kempner's staff in Berlin, had sent Schmitt

3. Robert M. W. Kempner, *Ankläger einer Epoche: Lebenserinnerungen* (Frankfurt: Ullstein, 1983), p. 129; and *Das Dritte Reich im Kreuzverhör: Aus den unveröffentlichten Vernehmungsprotokollen des Anklägers* (Munich: Becthle Verlag, 1969), p. 293.

4. Interview with Robert M. W. Kempner, Frankfurt, May 7, 1973.

5. Claus-Dietrich Wieland, "Carl Schmitt in Nürnberg (1947)," *1999: Zeitschrift für Sozialgeschichte des 20. und 21. Jahrhunderts* 2 (January 1987): 101–102.

6. Robert M. W. Kempner, "Preussens Ende," *Frankfurter Allgemeine Zeitung*, April 29, 1991.

7. Robert M. W. Kempner, "Zum Tode von Professor Carl Schmitt," Robert M. W. Kempner Papers, U.S. Holocaust Memorial Museum Archives, Washington, DC, RG 71.001.01, General Correspondence, box 10.

to him in Nuremberg. In Flechtheim's corresponding account, the question had been posed to him why the *Kronjurist* of National Socialism, had not been arrested and convicted.⁸ In yet another version, Flechtheim presents Schmitt as already under "automatic arrest" and in a Berlin internment camp.⁹

The inconsistencies and factual inaccuracies of these narratives and recollections are meticulously critiqued by Helmut Quaritsch in *Carl Schmitt: Antworten in Nürnberg*.¹⁰ Among other significant errors, Quaritsch points out that Schmitt had never been under automatic arrest; in fact, he had been not only already cleared by both American and German authorities but freed from internment by October 1946. Contrary to the Kempner-Flechtheim accounts, he was again living in his apartment in Berlin when initiatives began to re-arrest and send him to Nuremberg. Quaritsch also refutes such claims by Kempner that Schmitt had been responsible for the removal of a Jewish assistant at the University of Cologne. Quaritsch ultimately concludes that Kempner's case against Schmitt was legally so untenable and his interrogations of Schmitt so amateurish and ill-prepared that Kempner must have had other motives than the justifications for alleged criminality presented at the time and in his historical accounts. Perhaps more importantly, Quaritsch notes that Kempner surely knew that the Nuremberg trials had already legally established that in order to be charged with criminal conspiracy a defendant's acts "must not be too far removed from the time of decision and action," which would certainly preclude indictment of Schmitt even as a *Schreibtischtäter*. To Quaritsch, Kempner actually sought not to prosecute Schmitt but to pressure him into becoming an expert and prosecution witness in the *Wilhelmstrasse-Prozess* of German state secretaries that Kempner was now heading.¹¹ And later in these trials, Kempner's well-known interrogation techniques (e.g., threatening to turn a reluctant witness over to the Russians) would create an open-court scandal, which the rest of the prosecution team feared would discredit the entire Nuremberg process.¹²

8. Jörg Wollenberg, ed., *Von der Hoffnung aller Deutschen: Wie die BRD entstand 1945 bis 1949* (Cologne: Papyrossa Verlag, 1991), pp. 105–106.

9. Wieland, "Carl Schmitt in Nürnberg," pp. 108–109.

10. Helmut Quaritsch, ed., *Carl Schmitt: Antworten in Nürnberg* (Berlin: Duncker & Humblot, 2000), pp. 11–47.

11. Ibid.

12. Norbert Frei, *Adenauer's Germany and the Nazi Past: The Politics of Amnesty and Integration* (New York: Columbia UP, 1997), pp. 108–109.

In addition, Kempner did request, and Schmitt provided, a written analysis of the position of the state secretaries in the Third Reich.¹³

Although Quaritsch's impressive scholarly critique is generally correct, the new evidence strongly suggests that Kempner and others held deep convictions that Schmitt must be and could be prosecuted as a war criminal. The extant evidence also indicates that the impetus for the various arrests and internments of Schmitt, as well as the push for his prosecution, emanated from German émigrés serving with OMGUS in Berlin or with prosecuting teams in Nuremberg. At each stage, they took the initiative and persisted in action against Schmitt. All knew him personally, or of him professionally, as a colleague, student, and/or political opponent in Weimar and early stages of the Nazi regime.

The Path to Internment

After occupying Berlin, the Russians questioned and released Schmitt in April 1945, and during the next half year Schmitt lived in his apartment in the American zone. In June, he completed the required Fragebogen from which one's classification status and potential legal culpability could supposedly be determined. During that time Schmitt was well aware of the legal discussions and ramifications of the approaching Nuremberg trials. In the summer, he had been engaged by lawyers for Friedrich Flick to write a *Gutachten* (legal opinion) on the crime of aggressive wars in the context of international law and the principle "*Nullum crimen, nulla poena sine lege.*" Flick belonged to those major industrialists who, as a designated class, faced trials as war criminals. While Schmitt's controversial interpretation of *ex post facto* law is beyond the scope of this article, it is important to realize that he strongly encouraged the punishment of those responsible for the crimes of Hitler and his associates, particularly the SS and Gestapo. He coined the term "*scelus infandum*" to describe the crimes of the regime as something so unspeakably monstrous and unholy that their magnitude requires especially harsh punishment and execution.¹⁴ It remains unknown whether those seeking his prosecution were aware of this *Gutachten*, which never surfaced in any of the documents or discussions regarding his

13. Carl Schmitt, "Beantwortung der mir gestellten Frage 'Warum sind die deutschen Sekretäre Hitler gefolgt?'" in Quaritsch, *Antworten in Nürnberg*, pp. 102–14.

14. Carl Schmitt, *Das internationalrechtliche Verbrechen des Angriffskrieges und der Grundsatz "Nullum crimen, nulla poena sine lege,"* ed. Helmut Quaritsch (Berlin: Duncker & Humblot, 1994), pp. 16–17, 80–81, 86–87.

case. In fact, ten days before Schmitt submitted his work on August 25, 1945, Karl Loewenstein, an émigré in OMGUS's Legal Division in Berlin, wrote the first known memo regarding his arrest.¹⁵

Loewenstein, who had assumed this position only a few weeks before, knew Schmitt and his Weimar work quite well. A Max Weber student who spent the 1920s in private practice, Loewenstein had joined the law faculty at the University of Munich in 1931.¹⁶ In 1925 he had called Schmitt's *Crisis of Parliamentary Democracy* an "ingenious treatise"; and Loewenstein's book on constitutional change was substantially an engagement with Schmitt's interpretation of amending powers through Article 76 of the Weimar constitution.¹⁷ After emigrating in September 1933, Loewenstein eventually became a professor of government at Amherst College, publishing prolifically on the politics, law, and history of the Third Reich. Through lectures, publications, and political opinions, he also emerged as a relentless crusader for "militant democracy." Convinced that a "formalistic notion of mechanical equality before the law" had allowed Hitler's "legal" subversion of Weimar, he urged abandonment of such "neutrality" in favor of strong legal restrictions to deny democratic rights to politically extremist individuals and groups. Ironically, without any attribution, these were actually variations of Schmitt's theories critical of the "equal chance" and liberal neutrality, which were the hallmarks of his political and constitutional defense of the Weimar Republic against subversion by legal democratic means. Also reminiscent of Schmitt's distinction between

15. Karl Loewenstein, "Office Diary, August, 1945–August 1946," Karl Loewenstein Papers, Amherst College Archives, Amherst MA, box 40/16, p. 4.

16. See Robert Chr. Van Ooyen, "Ein moderner Klassiker der Verfassungstheorie: Karl Loewenstein," *Zeitschrift für Politik* 51 (2004): 68–86; Markus Lang, "Juristen unerwünscht? Karl Loewenstein und die (nicht-)Aufnahme deutscher Juristen in der amerikanischen Rechtswissenschaft nach 1933," *Politisches Denken* (2003): 55–84; "Karl Loewenstein zwischen den 'Ideen von 1789' und den 'Ideen von 1914'," in Manfred Gangl, ed., *Linken Juristen in der Weimarer Republik* (Frankfurt: Peter Lang, 2003), pp. 217–45; and "Politikwissenschaft als 'amerikanisierte' Staatswissenschaft: Zur politischen Intention der Amerikastudien von Karl Loewenstein," in Michael Dryer, Markus Kaim, Markus Lang, eds., *Amerikaforschung in Deutschland: Themen und Institutionen der Politikwissenschaft nach 1945* (Stuttgart: Franz Steiner Verlage, 2004), pp. 137–60.

17. Karl Loewenstein, *Minderheitsregierung in Grossbritannien: Verfassungsrechtliche Untersuchungen zur neuesten Entwicklung des britischen Parlamentarismus* (Munich: J. Schweizer Verlag, 1925), p. 1; and *Erscheinungsformen der Verfassungsänderung: Verfassungsrechtsdogmatische Untersuchungen zu Artikel 76 der Reichsverfassung* (Tubingen: J. C. B. Mohr, 1931).

liberalism and democracy, Loewenstein championed inviolable individual human rights against violations by popular democratic forces.¹⁸ However, Loewenstein argued that in retrospect Schmitt's theories of institutional guarantees rather than individual rights had caused the "progressive dilution of the bill of rights" toward the end of Weimar.¹⁹ Furthermore, Loewenstein argued that the defense of individual rights should, if necessary, entail the denial by international bodies of the sovereignty of nations as well as democratic decisions by their people.²⁰ At other points, Loewenstein appears as a leftist for whom fascism is a manifestation of the defense of capitalism.

While Schmitt was collaborating with the Third Reich into the mid-1930s, Loewenstein's writings depict him as essentially an opportunist. Here was a prominent and influential constitutional lawyer who had eagerly served the Republic, but whose "versatility" now transformed him into a foremost legal defender of the Nazi regime. His corruption had reached the point where contrary to his own constitutional theories, he now defended the Enabling Act and the blood purge of the SA. This "change of colors" was so apparent that Loewenstein called his Nazi legal writings "naïve."²¹ As Loewenstein wrote to Schmitt's Nazi nemesis Otto Koellreutter, "no one here takes seriously Carl Schmitt's wishy-washy general positions."²² And Loewenstein referred to no other theorist in such belittling terms as "Herr Carl Schmitt." Through personal letters into the mid-1930s, Loewenstein carried on a very respectful intellectual discourse with Koellreutter on politics and law in the Third Reich. It was soon clear, however, that Koellreutter was a committed National Socialist. As the aspiring regime crown jurist, Koellreutter launched a campaign denouncing Schmitt as a

18. Karl Loewenstein, "Legislative Control of Political Extremism in European Democracies I" and "Legislative Control of Political Extremism in European Democracies II," *Columbia Law Review* 38, no. 4 (January 1938): 591–622, and no. 5 (May 1938): 725–74.

19. Karl Loewenstein, "Dictatorship and the German Constitution: 1933–1937," *Chicago Law Review* 4 (1937): 542.

20. Karl Loewenstein, *Political Reconstruction* (New York: Macmillan, 1946), pp. 12–13. See also, Markus Langer, "Souveränität: Hürde oder Baustein der internationalen Beziehungen nach 1945?" *Mittelweg* 36 (June 2004): 24–40.

21. Loewenstein, "Dictatorship," pp. 542–44, 554–55; "Law in the Third Reich," *Yale Law Journal* 45 (1935–1936): 811, 813–14.

22. Loewenstein to Otto Koellreutter, February 8, 1935, Loewenstein Papers, box 8, Correspondence 1934–1936 (Scientific).

neo-Hegelian conservative whose political theory lacked a racial foundation and contributed nothing substantial to National Socialism. Koellreutter eagerly contributed to the SS attacks on Schmitt that led to Schmitt's purge from the party in 1936.²³ Later, Loewenstein would never mention Schmitt's purge. But Loewenstein's last prewar work dealing with Third Reich jurisprudence eschews Schmitt completely, citing only Koellreutter and others as "Nazi dogmatists."²⁴

While advocating "militant democracy" Loewenstein nonetheless manifested a severe unease, even distrust, of modern mass society. He had a particularly low estimation of the Germans. Next to the true Nazis were the self-serving opportunists and masses, who, though disliking the party and its excesses, had been co-opted. "Knowing the German middle class as I do, its herd instincts, its adoration of success, its lack of individuality and independent thinking, I have no illusions about this group."²⁵ There were exceptions among those older than forty-five; and he always truly worried about the welfare of Marianne and Alfred Weber, the wife and brother of his former professor. He proposed promising the Germans that after their defeat the aloof masses would be spared while there would be "merciless retribution" for "all members" of certain categories (Gestapo, SS, Nazi party) and for military men who committed crimes.²⁶ Nonetheless, he realistically expected a horrible reckoning for the German people:

I am a believer in retributive justice, since the essence of justice is retributive. The Germans cannot be spared accounting and German blood will run in streams in the waters of the Elbe, the Meuse, the Vistule, the Danube. It just cannot be helped. We have to allow the raped nations their field day of revenge. Much as we may detest the appalling results no humanitarian reasoning can prevent it.²⁷

23. See, for example, Otto Koellreutter, *Volk und Staat in der Weltanschauung des Nationalsozialismus* (Berlin, 1935), pp. 6–11, 19; *Deutsches Verfassungsrecht: Ein Grundriss* (Berlin, 1938), pp. 3–4, 26; and *Der Deutsche Führerstaat* (Tubingen, 1934), p. 16. On Koellreutter's role in the SS assault on Schmitt, see Joseph W. Bendersky, *Carl Schmitt: Theorist for the Reich* (Princeton, NJ: Princeton UP, 1983), pp. 221–27, 234, 248–49.

24. Karl Loewenstein, "Germany and Central Europe," in *Governments of Continental Europe*, ed. James T. Shotwell (New York: Macmillan, 1940), pp. 566–67.

25. Karl Loewenstein, Memorandum to War Department, "On Methods for Lowering the Morale of the German People and for Decreasing the Fear of an Allied Victory Among Them," July 30, 1942, Loewenstein Papers, box 29/6, p. 10.

26. *Ibid.*, p. 21.

27. *Ibid.*

A month before he left for Germany, Loewenstein wrote to his close friend Thomas Mann that he had abandoned hope that the Germans “could in his lifetime be won back to humanitarian civilization.” He proposed that for an “incalculable period of time” they must remain under “political guardianship . . . without decision-making power, without government, without sovereignty.” Moreover, their economy must be held to the level necessary for minimum existence. Although he remained pessimistic that this would occur, it was what he had tried to teach those officers and men training to staff OMGUS.²⁸ And from the time he arrived in postwar Germany until years after he returned to the United States, Loewenstein was frustrated with American military and civilian members of OMGUS. Eventually he felt isolated from all important consultations and decisions, to the point of being ignored. The Americans, he complained, did not understand the Germans (who easily manipulated them). OMGUS was moving too quickly and in the wrong way toward the political and economic reconstruction of Germany. Insufficiently interested in denazification, American procedures for it were ill-conceived and counterproductive.²⁹ Into the postwar years, his vocal criticisms led to serious public and private confrontations with former OMGUS colleagues.³⁰

On August 16, 1945, the day after he wrote his memo on Schmitt, Loewenstein went to the Public Safety Division to have him arrested. The officers displayed little to no interest but said they would arrest him for Loewenstein if he made trouble for the occupation. To which Loewenstein replied: “You need not arrest him for me, but for the de-nazification of Germany.”³¹ A month later, Loewenstein had a conference with Colonel McLendon on the investigation of Schmitt and studied material concerning his case.³² And on September 21, his list of important things to do included pursuing Schmitt. Five days later Schmitt was arrested without

28. Loewenstein to Thomas Mann. June 4, 1945, Loewenstein Papers, box 58/14.

29. See the repeated pessimistic notations to this effect throughout Loewenstein’s “Office Diary.”

30. The harsh anti-German attitudes and recommendations for that country’s immediate and long-term treatment of Loewenstein and others who pursued Schmitt were not universally shared by émigrés serving in OMGUS or the Office of Chief of Counsel for War Crimes. For a contrasting, much more understanding perspective, see the reports to friends from Hans Lamm, Office of the Chief Counsel, Nuremberg, August 17, November 18, 1946, Ludwig Feuchtwanger Collection, Leo Baeck Institute, New York, reel 11.

31. Loewenstein, “Office Diary,” August 16, 1945.

32. *Ibid.*, September 13, 1945.

charges.³³ Thus began Schmitt's twelve months of internment at various American camps in Berlin. His insecurity about his future, anxiety for his wife and daughter, and harsh treatment and deprivation pervade his correspondence and writings during this long uncertain interlude. "The Leviathan in whose claws I now sit," he wrote to his wife Duschka, "is a heartless, merciless beast."³⁴

On October 4, Loewenstein and Captain Fearnside visited Schmitt's apartment in Schlachtensee to examine his library, for which Loewenstein's report reveals two basic motives.³⁵ Over 5,000 volumes, the library constituted the most complete collection on German law and political science Loewenstein could imagine. Given the destruction of most German libraries, he advised impounding it as an invaluable source for the occupation government. Equally important, Loewenstein noted, it provided "instruments of confrontation" in the event that Schmitt denied his Nazi past. As key pieces of evidence, Loewenstein took a 1940 edition of Schmitt's "famous essay" on *Grossraum* and his 1934 "ill-reputed article" "Der Führer schützt das Recht." Loewenstein made extraordinary, though erroneous, claims about the first work: "This is the foundation of the policy of aggrandizement of the Third Reich, the scientific incorporation of expansion by might into what the Nazis considered international law." His depiction of the second, though incomplete on crucial aspects, accurately captivated its impact: "a defense of the assassinations committed by Hitler in which more than one thousand persons were illegally killed . . . tries to justify Hitler's acts by pseudo-legal methods. The article had aroused widespread horror in the legal world as a token of the perversion of German legal thinking." Loewenstein's conclusion reveals that he intended far more for Schmitt than a denazification that would keep him out of public service in the postwar era:

In the opinion of this writer Schmitt qualifies as a war criminal. He is one of the intellectual instigators of Hitler's acts of aggression and aided and abetted them by his intellectual authorship. I hardly know of any individual person who has contributed more for the defense of the Nazi

33. *Ibid.*, September 21, 1945.

34. Carl Schmitt to Duschka Schmitt, February 1, 1946, Carl Schmitt Nachlass, Nordrhein-Westfälischen Hauptstaatsarchiv, Düsseldorf, RW 265-13469/1. See also Carl Schmitt, *Ex Captivitate Salus: Erfahrung der Zeit 1945/47* (Cologne, 1950).

35. Loewenstein, "Office Diary," October 4, 1945.

regime than Carl Schmitt. I suggest that the case be submitted to the War Criminals Commission for further action.³⁶

The tone of the one-page military intelligence interrogation report on Schmitt of October 18 was more sober and matter of fact. It clearly detailed his Nazi affiliations, while including Schmitt's crucial claim that after the SS attack on him in 1936 his influence was limited to his teaching and writing. It added, however, that after 1936 "he continued to publish works advocating totalitarianism and a European control system dominated by Nazi Germany"; and that he had lectured abroad in 1943–44.³⁷

Meanwhile, Schmitt's wife started a year-long effort to free him. She wrote a pleading petition for "protection and justice" to the director of military intelligence in Berlin. Emphasizing her husband's international scholarly reputation, she argued naively that his unjust arrest, like the seizure of his library, would attract world attention. For reasons of health, and innocent of war crimes, he should be released and the library returned. She asked for the same protection that they had received from Russian commanders.³⁸ In response, Loewenstein wrote a detailed report based upon, he asserted, three decades of "close familiarity" with Schmitt and his work. Although introduced as information that might be "useful in determining" Schmitt's continued detention as well as his status as a "war criminal," it was written as a forceful indictment. It was also skewed and contained significant inaccuracies and omissions. Schmitt appears as truly brilliant but personally and morally flawed, self-serving, and legally culpable for the destruction and crimes wrought by the Hitler dictatorship and its wars of conquest.³⁹

Although factually inaccurate on the details of Schmitt's Weimar academic career, Loewenstein did note that his path to professional success was slowed by "fossilized and reactionary academicians . . . distrustful of his superior talents." Indeed, Loewenstein wrote one of the most intellectually laudatory appraisals Schmitt had ever received, describing him as:

36. Loewenstein to Colonel McLendon, "Library of Professor Carl Schmitt," October 10, 1945, Loewenstein Papers, box 28/1.

37. Preliminary Interrogation Report of Carl Schmitt, Berlin, October 18, 1945, National Archives, College Park, MD, RG 238.

38. Duschka Schmitt-Todorvic to General Conrad, Director of Intelligence, November 2, 1945, Schmitt Nachlass, RW 265-13757/2.

39. Karl Loewenstein, "Observations on Personality and Work of Professor Carl Schmitt," November 14, 1945, Loewenstein Papers, box 28.

... the foremost political scientist and one of the most eminent political writers of our time, comparable in influence on world opinion perhaps only to Harold Laski... a man of near-genius rating. He possesses not only a vast and by no means sterile erudition, drawing from an immense store of factual information such constructive conclusions as have greatly contributed to the shaping of the things to come in the past. He is one of those rare scholars who combine learning with imagination; book knowledge with a realistic sense of what is possible in politics; scientific training with political versatility. Without doubt Carl Schmitt is the most prominent personality in the field of public law and political science Germany has produced since Georg Jellenik.⁴⁰

Loewenstein made an equally astonishing acknowledgement on Schmitt's relationship to Weimar democracy. Contrary to certain postwar scholarly interpretations (and Kempner's accusations of Schmitt at Nuremberg), Loewenstein did not portray him as the intellectual underminer of Weimar democracy but as one whose ideas might have actually saved it. Though critical of the new Republic, "his criticism was constructive in that it pointed out defects of its political structure which, if remedied in time, might have led to its preservation." In this regard, Loewenstein cited *Die Diktatur* and *Verfassungslehre* as "outstanding contributions," with the latter "probably the best treatise on democratic constitutional law written in Germany." Moreover, Schmitt deserved credit for recognizing "much earlier than most of his colleagues the dangers inherent in Article 48 of the Weimar constitution emergency power of the Reichpraesident... which later led to the overthrow, by legal methods, of the Weimar Republic by Hitler."⁴¹

The source of Schmitt's ultimate culpability, however, was an intrinsic opportunism in his personality and an authoritarianism in his thought. Thus, he "abused his gifts for evil purposes."⁴² His authoritarianism stemmed from his Catholicism, with the nineteenth-century Spanish thinker Donoso Cortes affecting him most. Predictably, after the Nazi takeover, Schmitt suddenly became the "most influential of all German writers who enthusiastically joined the Hitler Government." He became an "ardent supporter" of a dictatorship "which seemed to him the fulfillment and climax of his intellectual desires and for which he had prepared himself and his public

40. Ibid., p. 1.

41. Ibid., pp. 1–2.

42. Ibid., p. 1.

by his scientific research and writings.” But Schmitt’s equally sudden turn to anti-Semitism truly surprised Loewenstein, who had never detected any predilections of such attitudes. Still, Schmitt had become an integral part of the Nazi system and benefited significantly from it. Göring appointed him a *Staatsrat* (member of his newly formed Prussian State Council); and Schmitt received the Chair of Public Law at the University of Berlin, “the highest honor obtainable for any German scholar.” Possibly with an eye toward prosecution, Loewenstein added that his payment as *Staatsrat* exemplified the corruption of the Nazi state for personal benefit.⁴³

Loewenstein used the two works he had taken from Schmitt’s library to illustrate his intellectual influence upon, and responsibility for, the domestic and international crimes of the Hitler regime. “Der Führer schützt das Recht” justified Hitler’s 1934 purge that murdered 1,077 people, including numerous innocent victims. Here again, Schmitt had supported the regime more “than most other people.” But in arguing that Schmitt’s reputation as an “eminent legal authority” convinced many lawyers abroad of the “justice of Hitler’s act,” Loewenstein contradicted his October assessment of its impact as revealing abroad the “perversion” of law under Nazism.⁴⁴ But more relevant to war crimes, Loewenstein asserted that Schmitt’s *Grossraum* theory had “provided the regime with the theoretical foundations of its drive for world power.” With pseudo-scientific and speciously convincing arguments, Schmitt had supposedly defended the “aggrandizement of Germany at the expense of weaker powers.” In the “interests of large-scale planning,” he justified violating the sovereignty and independence of countries and the “right” of Germans to impose “their form of life and government” on them.⁴⁵ Furthermore, as “the significant propagator of fascism and totalitarianism,” he worked assiduously to convert other countries into Hitlerian satellites. He is the internationally “recognized authority on German law and political philosophy,” especially in France, Spain, and Latin America, where his works had tremendously affected the emergence of fascism. “Hardly any contemporary writer can claim for himself to have influenced his time to such an extent as has Carl Schmitt.”⁴⁶

43. Ibid., pp. 2–3.

44. For a more accurate description of Schmitt’s “Der Führer schützt das Recht” and the circumstances under which he wrote it, see Bendersky, *Carl Schmitt*, pp. 212–18.

45. Loewenstein, “Observations on Carl Schmitt,” p. 3. For what Schmitt actually argued, see *Völkerrechtliche Grossraumordnung mit Interventionsverbot für raumfremde Mächte: Ein Beitrag zum Reichsbegriff im Völkerrecht* (Berlin, 1939).

46. Loewenstein, “Observations on Carl Schmitt,” pp. 3–4.

Loewenstein believed that if allowed to return to public life, the opportunistic Schmitt could easily become a “successful and ardent” defender of democracy. But the fact of the matter is that Schmitt had been an intellectual pillar of the “Hitler state who has actively prepared and promoted [its] acts of aggression.” Indeed, Schmitt’s unique case entailed enormous broader significance for postwar developments:

His arrest will be considered—and is so considered—by responsible Germans as an act of justice on the part of Military Government. His release, if such is contemplated, would constitute a blow to incipient democracy in Germany and to public opinion abroad. Particularly in such countries where Carl Schmitt is considered the standard authority of totalitarianism, his immunity from punishment will be rated as a victory of Nazism over Military Government.⁴⁷

Loewenstein had correctly identified Schmitt’s opportunism and the fact that his scholarly reputation had contributed an aura of respectability and legitimacy to the regime during its emerging years. But otherwise Loewenstein’s assessment was flawed by the complete neglect of Schmitt’s actual relationship with the Third Reich, intellectually and institutionally from beginning to end. Despite his compromises with it, Schmitt did not consider the Third Reich the culmination of his thought and political aspirations for Germany. Through his publications and political affiliations with the Presidential System between 1930 and 1933, he had tried to preempt the Nazi seizure of power, which he did not welcome enthusiastically but rather with which he gradually compromised. Among the most glaring and significant of Loewenstein’s omissions is any inkling of the Nazi rejection of him, culminating in his 1936 rebuke and purge from the party. Despite an initial welcoming of his name in 1933, the Nazis did not regard him as an intellectual progenitor or incorporate his ideas into their regime. He soon came under criticism from Nazi true believers as an opportunistic former opponent of their movement with strong Roman Catholic and Jewish affiliations. His thinking contradicted the racial political-biological foundations of the ideology driving its domestic and foreign policy. And as shameful as some of his compromises were, he had no involvements with the Nazi state after 1936. His subsequent *Grossraum* theory had no impact on the motivation, planning, or execution of World War II; it was explicitly rejected by Nazi theorists and neglected by even those decision-

47. *Ibid.*, p. 4.

makers aware of it, such as Werner Best.⁴⁸ Any survey of the Nazi journals in Schmitt's library would have revealed this indispensable part of the story. It surely would surface in any public airing or trial. Such omissions on the part of Loewenstein, who claimed such intimate familiarity with Schmitt and Nazism, are indeed puzzling.

Loewenstein immediately brought Schmitt's case (including his report) to the attention of Colonel Charles Fairman in the Judge Advocates Office for advice before pursuing it further. He inquired whether American authorities anticipated prosecuting as war criminals those "responsible for the nazi-system and its outrages as intellectual instigators or promoters, without having been involved personally in any specific war crimes?" This question held particular relevance because Schmitt was the "most influential legal author of the present German generation." Loewenstein certainly urged so, as he believed that "those who laid the spiritual and moral foundations are as guilty and more so than those who were only performers of policies mapped out by the intellectual instigators."⁴⁹ It was a presupposition that surfaced later in Kempner's questioning of Schmitt, particularly during the fourth interrogation published here.

Although the reception of Loewenstein's reports and memos are unknown, he remained interested in Schmitt's and similar cases. He soon proposed revising denazification policies to sweep clean the professions of even nominal Nazis. New policies should also cover "all persons who without being employed by state, party, etc. actually disseminated nazi-fascist ideology. This would permit inclusion of university professors who without having been formal party members supported the regime directly or indirectly by their teaching and research."⁵⁰ Months later, he welcomed a proposal for mandatory arrest and removal from official positions of former members of the Prussian *Staatsrat*, because this would make the return of men like "Schmitt impossible."⁵¹ Over these months, Loewenstein

48. On the Nazi rejection of Schmitt's *Grossraum* theory, see, for example, Werner Best, "Völkische Grossraumordnung," *Deutsches Recht*, Jg. 10, Heft 25 (June 22, 1940), pp. 1006–1007; Roger Diener, "Reichsverfassung und Grossraumverwaltung im Altertum," *Reich, Volksordnung, Lebensraum*, Band Im Jg. I (1941), pp. 177–229; Günther Küchenhoff, "Grossraumgedanke und völkische Idee im Recht," *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, Band XII, no. 1 (September 1944), pp. 34–82.

49. Karl Loewenstein to Colonel Charles Fairman, November 15, 1945, Loewenstein Papers, box 28/2.

50. Karl Loewenstein to Director, Legal Division, "Denazification Policy," November 30, 1945, Loewenstein Papers, box 28/4, pp. 6–7, 10.

51. Loewenstein, "Office Diary," February 20, 1946.

worked with other figures relevant to Schmitt at Nuremberg: Dickmann in his own Legal Division in Berlin; and Kempner and his prosecuting team from Nuremberg.⁵² It would be highly improbable that Schmitt was not a subject in their discussions.

Although it is not clear whether Loewenstein personally ever interrogated or talked with Schmitt, the latter's later diary entries suggest that they had met during this time.⁵³ Nonetheless, the brief references to Loewenstein in Schmitt's correspondence with his wife indicate they both regarded Loewenstein as a key individual in his internment or release. Several German officials were now volunteering to speak on Schmitt's behalf. And in January, Schmitt's lawyer had discussed the return of his library with Loewenstein.⁵⁴ The following month, Friedrich Carl Sarre, a lawyer working with OMGUS who wanted Schmitt released, spoke with Loewenstein, who distrusted him because he considered Sarre too pro-Russian and an opportunist.⁵⁵ But Schmitt's wife remained optimistic, because she "still believed in the special humanity of the Americans, just as Melville had written in his books."⁵⁶ In May, her attorney informed her that new procedures for "automatic arrest" would soon end in the release of the non-guilty. With Schmitt's case supported by copies of the *Schwarze Korps* SS attack on him, reinforced by depositions from prominent figures in the Berlin legal profession, a German court cleared him on June 27, and on August 2, Americans certified his release because he presented no security threat and no other grounds existed for his incarceration.⁵⁷ He was finally released on October 10, 1946, and returned to his Berlin home.

Before leaving Germany in September, Loewenstein wrote a final memo criticizing American and German authorities for not vigorously

52. Ibid., September 21 and December 24, 1945; January 31, February 14, and April 10, 1946.

53. See Carl Schmitt, *Glossarium: Aufzeichnungen der Jahre 1947–1951* (Berlin: Duncker & Humblot, 1991), p. 264.

54. Duschka Schmitt to Schmitt, January 17, 1946, Schmitt Nachlass, RW 265-13786.

55. Loewenstein, "Office Diary," February 25, 1946.

56. Duschka Schmitt to Carl Schmitt, March 1, 1946, Schmitt Nachlass, RW 265-13793. For Schmitt's interest and wide reading in Melville during the war, see Helmut Kiesel, ed., *Ernst Jünger-Carl Schmitt Briefe, 1930–1983* (Stuttgart: Klett-Cotta, 1999).

57. Duschka Schmitt to Carl Schmitt, January 17, March 1, March 24, May 17, and June 11, 1946, RW 265-13786, 13793, 13796, 13802, 13806. See also Quaritsch, *Antworten in Nürnberg*, pp. 11–16.

pursuing denazification and prosecution of war criminals.⁵⁸ Upon his return to the United States, he took these attacks public, accusing the Military Government of “palpable failure” and the Germans of rejecting “collective guilt.” In the *New York Times*, he wrote that the “German people with some notable exceptions, are impervious to moral scruples, if not wholly unregenerate. They realize in the midst of their misery that they have lost the war; but they do not regret having been Nazis. This failure to de-Nazify themselves does not augur too well for democratization.”⁵⁹ He was particularly critical of a “person of integrity [who] lends his name, for selfish and opportunistic reasons, to a party which he professes to have despised all the time, [and] contributed to entrenching the regime . . .”⁶⁰ Over the next few years, Loewenstein was assisted in this cause with information and urging from émigré colleagues working for the U.S. government in Berlin, Nuremberg, and Washington.⁶¹ As late as 1970, Loewenstein condemned denazification based solely upon party membership as a failure of German self-justice. He cited Schmitt and Koellreutter as examples of those causing enormous harm despite their disassociation from party affiliations.⁶²

Schmitt at Nuremberg

Among those with whom Loewenstein stayed in touch were two figures involved in bringing Schmitt to Nuremberg: Kempner and Dickmann.⁶³ By early 1947, Kempner was appointed chief of the prosecuting team for the war crimes trials of German state secretaries and other high officials.⁶⁴

58. Karl Loewenstein to Alvin J. Rockwell, “Trials of War Criminals before German Courts,” August 20, 1946, Loewenstein Papers, box 28/3; and Loewenstein, “Office Diary,” August 20, 1946.

59. See p. 6 of copy of letter to the editor attached to James A. Pollock to Loewenstein, January 3, 1947, Loewenstein Papers, box 35.

60. Loewenstein to Alvin Johnson, Chairman, Editorial Board, Social Research, May 8, 1947, Loewenstein Papers, box 35, p. 4.

61. See John H. Herz to Loewenstein, January 13, 1947, and Loewenstein’s unpublished letter to the editor of the *New York Times*, January 16, 1947, Loewenstein Papers, box 35.

62. See Karl Loewenstein, “Entnazifizierung: Das Fehlen einer deutschen Selbstjustiz,” notes prepared for a television interview, May 11, 1970, p. 1, Loewenstein Papers, box 74 (Foreign 1971–72).

63. See Loewenstein-Kempner Correspondence November 1947–May 1948, Loewenstein Papers, box 35.

64. On Kempner’s concerns about post-war Germany see his “Recommendations: Internal-Security Program for Occupied Germany,” where he emphasized “the political

Kempner expected to indict approximately fifty high Nazi officials for murder, genocide, and such war crimes as killing Allied paratroopers and prisoners of war.⁶⁵ Throughout this process, Kempner leaked information and reports to his close friend Kurt R. Grossmann in a concerted effort to secretly affect both public opinion and government policies. Until 1933, Kempner and Grossmann had worked together in the German League for Human Rights; since 1939 Grossmann was an executive assistant with the World Jewish Congress. Seriously concerned that the American interest in war crimes prosecutions was rapidly dissipating and German courts were allowing war criminals to go free, they urged the World Jewish Congress and journalists such as Walter Winchell to pressure the government “against any leniency.”⁶⁶

As early as May 1945, Grossmann had mentioned to Kempner that among those “responsible for the Nazi theories...the creators of the blunders [were] people like Carl Schmitt, Gottfried Feder, etc.”⁶⁷ That Schmitt would be cited in the same classification as Feder, an original founder of the Nazi Party and quack economic theorist, is astonishing. It reflects ignorance not only of Schmitt’s ideas but of the nature of the Third Reich, especially of the foundations and dynamics of its policies and its decision-making. Kempner had not met Schmitt personally before he interrogated him in 1947. However, as a lawyer for the Prussian state in Weimar, Kempner surely knew of the lead jurist who, before the Supreme Court in 1932, defended the Reichpresident’s imposition of martial law in Prussia. And Kempner did claim that he knew of Schmitt’s involvement in the removal of a Jewish professor from the University of Cologne. As noted above, Schmitt must have been mentioned in discussions with Loewenstein; and Kempner was probably aware of Loewenstein’s report

significance of the possible and probable misuse of restored civil liberties in the future.” He warned that the “nucleus of the new secret movement” would emanate not only from old party ranks but from “political, economic, and scientific propagandists who camouflage their activities as preservers of European culture.” See Robert M. W. Kempner, “Blueprint for the Nazi Underground—Past and Future Subversive Activities,” *Research Studies of the State College of Washington* 13, no. 2 (June 1945): 51–153.

65. Robert M. W. Kempner to Kurt Grossmann, February 12, 1947, Kurt Grossmann Collection, Leo Baeck Institute, New York, reel 13.

66. See the relevant correspondence between Grossmann, Kempner, Winchell, and World Jewish Congress, 1947–1948, Grossmann Collection, reel 13.

67. Grossmann to Kempner, May 8, 1945, Grossmann Collection, reel 13.

on the jurist, as Kempner later noted his familiarity with Schmitt's library.⁶⁸ Moreover, as early as January 1947, someone on the staff in Berlin or Nuremberg had already requisitioned information on Schmitt and the Jewish Question, which became a part of Kempner's case book on him.⁶⁹

Flechtheim, who was working on Kempner's staff in Berlin at this time, did know Schmitt. In June 1933, Schmitt had refused to direct Flechtheim's doctoral dissertation at the University of Cologne. Flechtheim later claimed that Schmitt's rejection of him could only have been due to his "racial heritage." However, Schmitt's letter to him suggested his reservations were scholarly and interpretive.⁷⁰ Moreover, until 1932, Flechtheim had been a member of the German Communist Party. In this regard, it is quite interesting that someone with Flechtheim's political background would seek out Schmitt as a *Doktorvater* at the very point at which the Cologne Nazi party paper praised the beginnings of Schmitt's collaboration with the new regime. During World War II, Flechtheim worked in the OSS with people quite familiar with Schmitt, including Otto Kirchheimer, Schmitt's former student, and Franz Neumann.⁷¹

As already explained, there are contradictory and inconsistent accounts of who initiated the re-arrest of Schmitt in spring 1947, and he was certainly not, as later asserted, under automatic arrest or in a Berlin internment camp. On March 17, 1947, Flechtheim sent a letter to Schmitt's home address in Schlachtensee requesting him to appear for an interrogation on March 24.⁷² No transcript either was made or survived of Flechtheim's interrogation, and his later recollections are suggestive but unreliable. They appear to be a collage of information and stories about

68. "Interrogation of Carl Schmitt by Robert Kempner III," *Telos* 72 (1987): 107.

69. See January 16, 1947, requisition for reproduction of "Das Judentum in der Rechtswissenschaft: Eine Hochschullehrer-Tagung," *Jüdische Rundschau*, December 7, 1936, Kempner Papers, U.S. Holocaust Memorial Museum Archives, RG 71.005.05, Prosecution Document Case Books, case XI, box 187.

70. Wieland, "Carl Schmitt in Nürnberg," p. 109. See Schmitt to Ossip Flechtheim, June 7, 1933: "After my experience with Peter Rohden's book about 'de Maistre,' I would consider a dissertation on this thinker or a related political philosopher only under very well-defined pre-conditions, which I cannot assume you meet." Schmitt Nachlass, RW 265-12972/2.

71. Ernst C. Stiefel and Frank Meeklenburg, *Deutsche Juristen im amerikanischen Exil (1933–1950)* (Tubingen: J. C. B. Mohr, 1991), pp. 79–80, 152, 183.

72. Ossip K. Flechtheim to Carl Schmitt, March 17, 1947, Schmitt Nachlass, RW 265-3681/1.

Schmitt circulating over the decades and affected by problems of memory. Fleichtheim stated that he had the dubious satisfaction of questioning Schmitt, but that their discussions were quite friendly. Schmitt wrote a *Lebenslauf* and told them a great deal but “naturally attempted to cover up his participation in the murderous regime.” Schmitt declared himself a devout Catholic more interested in religion than in politics or other material matters; and he compared himself to Hobbes, who had also served various regimes. Schmitt avoided the subject when Flechtheim reminded him of his dissertation proposal rejection at Cologne in 1933. Schmitt also supposedly requested to be released from the internment camps where he was at that time kept among horrible SS men with whom he never had anything to do.⁷³ In the end, Flechtheim believed that Schmitt should be denied his pension but that criminal prosecution was doubtful since he had not acted directly against specific people, “but had merely provided the theoretical foundations” for such acts.⁷⁴

Within a week Schmitt was in a cell in Nuremberg. Kempner’s newly discovered prosecution case books contain several documents collected for Schmitt’s interrogation and prosecution. Kempner had a copy of Schmitt’s book on *Grossraum*, probably the one Loewenstein seized from his library; Schmitt’s 1933 piece “Five Principles of Legal Practice”; and a 1936 *Jüdische Rundschau* article on the conference Schmitt had held on “Jews in Jurisprudence.”⁷⁵ On the surface, these documents seemed clearly to implicate Schmitt as influential player in the Third Reich, complicit in its crimes. *Grossraum* could supposedly implicate him in wars of aggression. And not only had the three-page “Five Principles” argued that the administration of justice should be National Socialist, but its visual impact was equally damaging. The imposing cover (with a swastika symbol of Nazi justice) identified Professor Dr. Carl Schmitt as *Staatsrat* and Director of the University Teachers Group of the National Socialist League of German Jurists.⁷⁶ And the three paragraph summaries of the article on

73. Wieland, “Carl Schmitt in Nürnberg,” pp. 108–109.

74. Wollenberg, “Von der Hoffnung aller Deutschen,” pp. 101–106.

75. Kemper Papers, box 187.

76. Carl Schmitt, *Fünf Leitsätze für die Rechtspraxis* (Berlin: Deutsche Rechts- und Wirtschafts-Wissenschaft Verlag, 1933). Questioned later about this publication, Schmitt responded that “The National Socialist League of German Jurists extracted it, so to speak, from my mouth. At that time there was a dictatorship with which I was not yet familiar.” *Telos* 72 (1987): 106–107.

Jews and German law had Schmitt supporting Reich Justice Minister Hans Frank's condemnation of Jewish influences and referring to Jews in German law as parasitic and unproductive.⁷⁷

In addition, Kempner had three supplements to his Fragebogen that Schmitt had written sometime during this previous internment or after his re-arrest by Flechtheim. These related to his offices and duties, publications, and travels abroad during the Third Reich. Schmitt's elaborations regarding official functions in the Nazi party and state were brief, specific, and accurate but not always as revealing as they might have been. His caution might be attributed to his juristic sensibilities where candidness would be necessarily counterbalanced by the potential intricacies and vicissitudes of a forthcoming legal process. He merely listed the two laws with which he had been involved (both in the first year of the new regime) and noted that with each it was Finance Minister Johannes Popitz who requested his participation. He also added that he had been constitutional adviser to the Schleicher government until Hitler's appointment as chancellor on January 30, 1933. These personal and political associations, though quite accurate, were also helpful to Schmitt's case, as both Popitz and Schleicher were paradigmatic victims of the Third Reich. Schleicher, who had attempted to prevent Hitler's seizure of power, had been ruthlessly murdered by the Nazis during the bloody Night of the Long Knives in 1934. Popitz was executed in 1944 as a conspirator in the July 20 plot to assassinate Hitler. He did not mention that the "Law for the Coordination of the States with the Reich" (*Reichsstatthaltergesetz*) was a crucial step in Hitler's consolidation of power. Although this law was unrelated to the material charges that he might face at Nuremberg, it was damaging to his general image. In contrast, he devoted a paragraph to the SS assault on him that resulted in his resignation from party offices in 1936 and his difficulties at the university thereafter.⁷⁸

The information on his publishing and editorships followed a similar pattern. His activities as a professor and scholar from the 1920s through 1944 had been conducted in public and were thus accessible and open to examination, including those affiliated with Nazi institutions and

77. It is unclear why Kempner eventually did not pursue Schmitt's relationship to the Jewish Question even though this had constituted a major component of his first forceful interrogation.

78. Carl Schmitt, *Anlage A. Ergänzungen*, Kempner Papers, box 187.

publications. He insisted that his writings and lectures were always of a purely scholarly nature. Except where they involved positivistic law, his arguments constituted solely juridical, historical, or sociological explorations.⁷⁹ But by specifically listing only his major works, he avoided article publications such as “Der Führer schützt das Recht” and “Die deutsche Rechtswissenschaft im Kampf gegen den jüdischen Geist.” And though again not evidence of legal culpability in crimes, these pieces he published before his purge in 1936 have, then and since, been among the most detrimental to his reputation.

The self-image that Schmitt wanted to project at this time was religious. He concluded this section by stating that among his writings only *Römischer Katholizismus und politische Form* involved more than scholarly argumentation. That short but widely discussed book was in part, he declared, a reflection of his personal existential identity as a Catholic.⁸⁰ He had made similar religious identifications in his yet unpublished *Ex Captivitate Salus*, secretly written during his long internment, where he explained his Nazi collaboration before 1936 as “a wretched, shameful and yet authentic case of a *Christian Epimetheus*.”⁸¹ In classical mythology Epimetheus (Afterthought) ignored the warnings of his brother Prometheus (Forethought) by accepting Pandora as a gift from the gods; thus her jar of evils was unleashed on the world. Such religious affirmations were no mere convenient postwar tactical maneuvers of disassociation with Nazism intended to acquire understanding and perhaps leniency from his captors. Both sincere and conveniently newly acquired Christian identity was an emerging postwar phenomenon of the German *Bildungsbürgertum* in the West.⁸² As early as 1942, Loewenstein had predicted this would occur after the Nazis collapsed.⁸³ The evidence in the Schmitt *Nachlass*, however, strongly suggests that Schmitt had been pursuing this interest in the interrelationship of Christianity and Western Civilization with increasing intensity since (and perhaps before) the outbreak of war.⁸⁴

79. Schmitt, *Anlage B (Frage 118)*.

80. *Ibid.*

81. Schmitt, *Ex Captivitate Salus*, pp. 10–12.

82. Jerry Z. Muller, *The Other God that Failed: Hans Freyer and the Deradicalization of German Conservatism* (Princeton, NJ: Princeton UP, 1987), pp. 335–39.

83. Loewenstein, “On Methods for Lowering the Morale,” pp. 15–17.

84. This observation, however, does not suggest agreement with those who argue that Schmitt had always been a *Reichstheologen*, or that his political and legal philosophy were essentially political theology in a truly religious eschatological sense. See, for example,

Schmitt contextualized the information on his foreign lectures within a similar framework of Nazi repudiation of him and his own disassociation from their ideas and policies in his work. An explanation for these travels held particular significance given Kempner's forceful assertion that they demonstrated continued influence in the Third Reich after 1936 and even a potential involvement with Nazi espionage and propaganda. Schmitt emerges in this document as a scholar of international repute, whose legal analyses were highly respected over decades across the continent. Major foreign law faculties sought his views, while the breadth of his personal associations abroad was impressive: Hermann Hesse, Primo de Rivera, Ortega y Gasset, Jacques Maritain, Gaetano Mosca, and the French Jewish philosopher Pierre Linn. His Holy Week visits to Rome corroborated his religious identification. The gap in his lecture travels from the mid-thirties until late 1941 reinforced his image as an outcast not allowed to accept invitations abroad. And Schmitt could candidly state that his lectures were completely scholarly without "a single word of propaganda."⁸⁵ Some of these (e.g., Vitorio) became components of *The Nomos of the Earth*.⁸⁶ Regarded as major intellectual contributions, *Donoso Cortes in gesamteuropäischer Interpretation* and *Die Lage der europäischen Rechtswissenschaft* were published after the war.⁸⁷ Schmitt's attempt to publish the latter in a Festschrift for Popitz in the summer of 1944 was prevented after Popitz's arrest following the July 20 plot against Hitler.⁸⁸

Schmitt's answer to Kempner's skepticism that someone supposedly so chastised by a regime would suddenly be allowed to represent it abroad has been basically confirmed. In the disquisitions he would write for Kempner in coming weeks, Schmitt claimed that as Himmler's circle became uncertain about these countries, they began to encourage such cultural interaction. The German Foreign Office had itself created German Scientific Institutes in several countries in order to elicit greater sympathy for Germany among foreign intellectual elites. Not Nazism

Andreas Koenen, *Der Fall Carl Schmitt: Sein Aufstieg zum "Kronjuristen des Dritten Reiches"* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1995); and Heinrich Meier, *Carl Schmitt and Leo Strauss: The Hidden Dialogue* (Chicago: Univ. of Chicago Press, 1995).

85. Schmitt, *Anlage C (zu Frage 125–129)* (Übersicht über Auslandsreisen).

86. Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*, trans. G. L. Ulmen (New York: Telos Press, 2003).

87. Carl Schmitt, *Donoso Cortes in gesamteuropäischer Interpretation: Vier Aufsätze* (Cologne, 1950); and *Die Lage der europäischen Rechtswissenschaft* (Tubingen, 1950).

88. See Schmitt, *Anlage B*; and Schmitt, *Verfassungsrechtliche Aufsätze*, pp. 426–29.

but the internationally respected traditional German science, scholarship, and culture would be conveyed through lectures and personal scholarly interactions.⁸⁹ Schmitt lectured at one in Paris and twice at the institute in Budapest headed by his conservative intellectual friend Hans Freyer. But as Jerry Muller's study of Freyer has shown, the story was far more complex. These institutes sought a more effective type of propaganda in the form of "non-propaganda" that focused purely on "scholarly accomplishments" that would be more conducive to foreign intellectuals unsympathetic to Nazis or Germany. And Freyer's position also required collecting intelligence on Hungarian intellectuals.⁹⁰ Although Schmitt remained aloof from such intelligence activities, and as much as possible avoided contact with German officials,⁹¹ it remains subject to interpretation whether his pure scholarship represented a disassociation from the regime or served as an instrument of its new type of "non-propaganda."

At the start of first interrogation of April 3, Schmitt asked Kempner about the accusations against him, and later in their discussion whether he was a defendant. To which Kempner responded: "your participation, direct or indirect, in the planning of wars of aggression, of war crimes and of crimes against humanity." Schmitt's potential status as a criminal defendant was yet to be determined. Kempner pursued three lines of questioning: did Schmitt provide the intellectual foundations for Hitler's conquests; where did he stand on the Jewish Question; and had he served in a decision-making capacity as the leading jurist of the Third Reich. Schmitt denied that one would find anything in his work advocating war or the establishment of an international Hitlerian legal order. His works also contained very little on the Jews; he considered the Nazi handling of the Jewish Question as a major misfortune. And, Schmitt argued, anyone who was publicly defamed by the SS as he was in 1936 could not be considered an influential figure in Nazi legal thought or policies. But Kempner remained unconvinced. He had trouble, he told Schmitt, reconciling the apparent contradiction between Schmitt the Nazi outcast after 1936 and the fact that the regime had sent him on lecture trips abroad during the war. Kempner expressed particular interest in Nazi financing

89. Carl Schmitt, Appendix I, "Response to the Question: 'To what extent did you provide the theoretical foundation for Hitler's Grossraum policy?'" *Telos* 72 (1987): 109–110.

90. Muller, *Other God that Failed*, pp. 305–315.

91. Schmitt, *Anlage C*.

of such trips and Schmitt's involvement with the "notorious espionage and propaganda" German Institutes in various countries. To Kempner, this could prove active participation in the regime's policies. At the end of the first interrogation, Kempner suggested that perhaps Schmitt would like to write down his responses.⁹²

On April 9, Schmitt requested another discussion with Kempner. And at the start of the newly discovered second interrogation two days later, Schmitt stated that he wanted to avail himself of Kempner's offer to handle in written form the questions of his intellectual relationships to wars of expansion, war crimes, and crimes against humanity. These ultimately became the Schmitt disquisitions that *Telos* published in 1987.⁹³

The interrogation of April 11 establishes that Kempner was not using these interrogations or threats as prosecutorial instruments. He truly believed that Schmitt was legally culpable, and he was determined to prosecute him. Throughout all of the interrogations, but particularly in this newly discovered one, Kempner questions, probes, and asserts with the conviction of someone who finally has the *Kronjurist* of the Third Reich in his grasp. In Kempner's mental paradigm, Schmitt was the theorist of dictatorship, who through his writings and political activities had undermined democracy long before the Nazis seized power. He had assaulted democratic ideals throughout his whole career. And in 1932 he was the one who had provided, before the Supreme Court, the legal defense of the removal of the democratically elected Prussian state government by the Hindenburg-Papen emergency decrees. Subsequently, Schmitt supposedly enthusiastically greeted the Enabling Act of March 24, 1933, as the dawn of a new era. In Kempner's mind there was no doubt that the Hitler dictatorship was the fulfillment of Schmitt's "scholarly dreams." More importantly, Schmitt had been quite influential and thus responsible. Indeed, his ideas were so consequential that "Without men like you Nuremberg would not be laying in ruins." Thinkers like Schmitt were, Kempner exclaimed, more significant in causing the momentous catastrophe of the Third Reich than

92. "Interrogation of Carl Schmitt by Robert Kempner (I)," *Telos* 72 (1987): 97–101.

93. Carl Schmitt, Appendix I; Appendix II, "Apropos the question of the position of Reich Minister and Chief of the Reich Chancellery: Observations from the standpoint of constitutional law"; and Appendix III, "Reply to the accusation: 'You collaborated in the preparation of wars of aggression and therewith were party to criminal offenses at decisive points,'" *Telos* 72 (1987): 107–129.

was the leading Nazi racist, the anti-Semitic propagandist and demagogue Julius Streicher.⁹⁴

Kempner's primary concern, though, was with culpable involvement with wars of aggression and war crimes. And here Kempner was more definitive than in the previous or subsequent interrogations: "You can assume that everything you have written is well known and these show that you have theoretically established the foundations for war crimes, wars of aggression."⁹⁵ But moral outrage and unwavering confidence aside, Kempner's questions and assertions thereafter indicate how ill-informed he was not only about Schmitt's actual predicament and activities during the Third Reich, but of his ideas as well. The most threatening accusations that Kempner directed at Schmitt were actually those without merit; certainly they were without evidence. They appeared based upon a hodgepodge of traditional rightist German theories of expansion, Nazi foreign policy doctrines and slogans, and real war crimes committed across Europe, all interspersed with suspicions of Schmitt.

Although Schmitt had only introduced his ideas on *Grossraum* in the late 1930s, Kempner accused him of promoting this doctrine for thirty years. Here, as in other interrogations, Kempner misunderstood that Schmitt's *Grossraum* and Hitler's *Lebensraum* were quite distinct theories. To Kempner, no matter what precise term was invoked, Schmitt was the theorist of the aggressive war and expansion across Europe, responsible for the unparalleled destruction of civilization and millions of lives. In his abridged and inaccurate publication of his interrogations with Schmitt published in 1969, Kempner portrayed Schmitt as someone who "poisoned the young."⁹⁶ The scenario that emerges in this interrogation is one in which Schmitt had for decades taught his students about the enticement of warfare and imbued them with the striving for the *Drang nach Osten*. Through such a triumphal war of aggression, Schmitt would ultimately emerge as a legal theorist in a German Institute in London or Moscow. Moreover, the dangerous ideas in Schmitt's writings extended beyond invasions of foreign countries to prompting murder by SS men. And Kempner attempted to explicitly associate Schmitt with a particular

94. Interrogation of Professor Karl [*sic*] Schmitt by R. M. W. Kempner, April 11, 1947, Kempner Papers, box 187.

95. *Ibid.*

96. Kempner, *Das Dritte Reich im Kreuzverhör*, p. 293.

war crime when he attributed to him the justification for executing Allied pilots.⁹⁷

Of all the accusations and innuendoes thrust at him, Schmitt found the last accusation particularly disturbing. Not because of its criminal implications but rather because it would be made at all: “Aber ich bitte Sie.” Either he was in a totally hopeless and helpless predicament, where facts were immaterial, in which he could be prosecuted and sentenced accordingly no matter what the case. Or, as he would point out in a subsequent interrogation, the Carl Schmitt whom the prosecutors thought they were rightfully pursuing was “pure myth” or a “composite” of other figures. He had become acutely aware of this during his discussions with Flechtheim. To Schmitt, a case against him could not be sustained in any honest legal process. In accusing him of providing the intellectual foundations for wars of aggression and war crimes, prosecutors could point to nothing but his published works, which he knew would yield no evidence to substantiate such charges. Prepared to defend his works, he immediately denied each of Kempner’s accusations, and that any such things could generally be found in his writings or verbal utterances. Kempner interpreted such rebuttals as attempts to legally finesse his way out of culpability through intellectual somersaults; but he allowed Schmitt to make his case in writing.⁹⁸

In the third interrogation of April 21, Schmitt submitted his written response distinguishing his *Grossraum* theory from Hitler’s expansionism. Kempner queried whether Schmitt had reconciled himself to participating in Nazi wars of aggression and other criminal offenses “at the point of decision-making.” Kempner balked when Schmitt denied that he ever held a decision-making position or participated in planning a war of aggression. Kempner then invoked the “theory” on which the pursuit of Schmitt’s original arrest had rested: “is not one of the leading university professors in this field at least as important in the decision-making process as other high state or party officials?” To Schmitt, this was definitely not so in a totalitarian state, nor had he even been involved in the manner of these accusations. As the discussion digressed to the role of intellectuals such as Rousseau and Hobbes, Schmitt described himself as an “intellectual adventurer,” who is willing to bear the consequences of pursuing knowledge in that way. With an eye towards the Wilhelmstrasse Trials, Kempner

97. Schmitt Interrogation, April 11.

98. Ibid.

then devoted the final segment of this interrogation to questioning Schmitt about the role of the Reich Chancellery in a totalitarian state, and asked Schmitt to compose an essay on the subject.⁹⁹

Schmitt submitted that essay to Kempner during the final interrogation of April 29, together with a disquisition refuting charges that he collaborated in wars of aggression and criminal offenses at decision-making points. Kempner then pressed Schmitt on whether he belonged to, collaborated with, or was the intellectual idol of the SS. Again Schmitt easily rejected these absurd accusations, reiterating that he had been an opponent of that organization that had secretly spied on him. Asked why he had written what he did on National Socialist law before 1936, he responded that he felt intellectually superior to Hitler and tried to give that law his own meaning. Was he now ashamed of what he had written? Schmitt replied: "Without question, it was unspeakable. There are no words to describe it." Whereupon, Kempner said he would arrange for Schmitt's return home. Seven days after his last interrogation, Schmitt was released but not allowed to return home directly.¹⁰⁰ Kempner transferred him to a residence for witnesses in upcoming trials until he wrote his piece on the state secretaries in the Third Reich. Sometime shortly thereafter Schmitt left Nuremberg.¹⁰¹

Without having read Schmitt's most recent written arguments, Kempner had already reluctantly concluded, perhaps in consultation with others, that he could not make a legal case against Schmitt, as much as he had been originally determined to do so. Kempner remained convinced of Schmitt's moral and intellectual responsibility and complicity in the crimes of the regime. But an earlier court ruling in the trials of the major war criminals had established that in order to be charged with criminal conspiracy, a defendant's act "must not be too far removed from the time of decision and action."¹⁰² It is highly improbable, however, that even without that

99. "Interrogation of Carl Schmitt by Robert Kempner (II)," *Telos* 72 (1987): 101–105.

100. "Interrogation of Carl Schmitt by Robert Kempner (III)," *Telos* 72 (1987): 105–107.

101. For a critical examination of Kempner's various claims about his solicitation and use of information from Schmitt in the trials of the state secretaries, as well as the situation of the German Jurist Erich Kaufmann, see Quaritsch, *Antworten in Nürnberg*, pp. 31–50.

102. *Trial of the Major War Criminals before the International Military Tribunal* (Nuremberg, 1948), pp. 414, 467–68.

ruling Schmitt could have been successfully prosecuted on the grounds of an accurate airing of the facts of his actual relationship to a regime in which he was a figurehead for a few years. He never had decision-making influence in a dictatorship that soon rejected him personally as well as theoretically and ideologically.

The Nuremberg Legacy

After the interrogations, Schmitt told Kempner that he would now retreat into the “security of silence.” However, sixty years later, despite the stigma of Nazism and Nuremberg, Schmitt is hardly a silent discussant in the legal, philosophical, and political discourses around the world where his ideas still resonate in broad and opposing intellectual circles. But it is an intellectual discourse still conducted under the dark shadow of Schmitt’s Nazi experience, in which, for some, Nuremberg should have been the culminating moral and legal reckoning. In general, this case again highlights the question of whether one can separate certain ideas (and thus find them incisive and useful) from the personal failings and complex biographies of the thinkers who generated them. More specifically, however, it relates to properly and realistically understanding and judging intellectuals in oppressive and dictatorial regimes, particularly those of a totalitarian and murderous nature. This does not exempt such thinkers from responsibility or from being judged accordingly. There are always choices. Nonetheless, such choices must be viewed in context of available alternatives, personality, and even of conflicting obligations of family and society. Heroes do surface—but not many.

In the postwar atmosphere created by the unprecedented misery, destruction, and death perpetrated by the Nazi regime, moral outrage against its accomplices was quite natural. This led some who felt betrayed by Schmitt in particular to pursue him without actually analyzing what he wrote or seeking to accurately identify his actual activities and influence with the Nazis. For the rest of his life, Schmitt complained that he had become the scapegoat for Germany. The exaggerated dimension of this self-designation notwithstanding, the importance attached to him by those who sought his prosecution strongly suggests that, to them, it involved much more than his personal culpability. In their minds and perhaps gut-feelings, his intellectual stature had made him a symbol for much of Germany. His reckoning would be considered a barometer of expectations for the transformation of that country. Thus, the new historical documentation on

Schmitt and Nuremberg also illuminates the context of his own attitudes and reactions into the postwar decades. One cannot understand the depth of his personal musings in *Ex Captivitate Salus* or the bitter commentaries in *Glossarium* without the context of his arrests, long internments, and the nature of his interrogations.

On the other hand, whether Schmitt ever came to terms with, or even fully grasped, the extent of his involvement with the Third Reich for which he might legitimately be held morally accountable is an open question. In this regard, one could read Schmitt's inscription on a guest copy of his "Die legale Weltrevolution" as remorseful or apologetic.¹⁰³ However, in the context of history, including the half century since Nuremberg, it remains, with few heroic exceptions, quite appropriate to the actual (though perhaps not hoped for) behavior of men in real situations:

Wer kennt sich selbst? Wer weiss, was er vermag?
Und was Du tust, sagt erst der andere Tag.¹⁰⁴

103. Carl Schmitt, "Die legale Weltrevolution: Politischer Mehrwert als Prämie auf juristische Legalität und Superlegalität," *Der Staat*, Heft 3 (1978), pp. 321–39.

104. "Who really knows himself? Who knows of what he is capable?/Only the next day will tell what it is you actually will do."

The “Fourth” (Second) Interrogation of Carl Schmitt at Nuremberg

Historiographical and Documentary Context

The documentary history of the transcripts of Carl Schmitt’s interrogation at Nuremberg is indeed an interesting and continuing one. Since Robert M. W. Kempner, who conducted these interrogations, published a version of them in *Das Dritte Reich im Kreuzverhör* in 1969, it had been assumed by scholars that only three took place.¹ Kempner insisted that this was the case, and archival searches by various scholars identified only the interrogations of April 3, 21, and 29, 1947. Even those like myself and Helmut Quaritsch, who suspected, with justification, that Kempner held more documentation relevant to Schmitt than he admitted, did not consider the possibility of other interrogations. When I interviewed Kempner in Frankfurt in May 1973, he said his recently published transcript excerpts were accurate and almost complete, excluding only irrelevant and unimportant small talk.² My acquisition of copies of the original transcripts from the National Archives in 1975, however, showed that the published version was unreliable as it spliced together questions and answers from all three days out of sequence and excluded contextual information.

In 1987, Claus-Dietrich Wieland published the National Archives documents, adding the brief interrogation report of Schmitt on October 18, 1945, following his arrest in Berlin. Wieland also included excerpts from his interview with Kempner and a slightly shortened version of a letter in which Ossip K. Flechtheim recounted his interrogations of Schmitt on

1. Robert M. W. Kempner, *Das Dritte Reich im Kreuzverhör: Aus den unveröffentlichten Vernehmungsprotokollen des Anklägers* (Munich: Bechtle Verlag, 1969), pp. 293–300.

2. Interview with Robert M. W. Kempner, Frankfurt, May 7, 1973.

March 27, 1947.³ Although Wieland provides some interesting commentary, at the time I questioned the use of the interview and letter without subjecting them to critical historical examination. Subsequently, Quaritsch and the documentation in the accompanying article on Schmitt at Nuremberg in this issue now confirm the Kempner and Flechthelm accounts as unreliable.⁴ Equally problematic, Wieland places his documents in a very misleading framework with the objective of proving the significant continuity in constitutional law from the Third Reich into the Federal Republic: "The most important professors of constitutional law who exercised a decisive influence on the interpretation of the Bonn Basic Law (1949), and therefore on its implementation, had already proven themselves to be outspoken supporters of the state (and of the *Führer*-state) during the era of Nazi Dictatorship."⁵ To this end, he merely lists Schmitt's various Nazi institutional affiliations, without critical analysis, leaving a one-sided, erroneous image of Schmitt and Nazism. He also interjects highly selective quotes in which Schmitt uses Nazi jargon, disregarding both context and the actual arguments in Schmitt's writings.

In 1987, *Telos* also published translations of the National Archives' copies with appendices of the three disquisitions that Schmitt wrote upon request from Kempner, who excluded all reference to these in his version, and which were never addressed by Wieland.⁶ But it was not until 2000 that Quaritsch provided a rigorous and thorough examination of the issues and sources related to Schmitt and Nuremberg. Quaritsch extended his research into the Schmitt *Nachlass* in Düsseldorf and Kempner's in the Bundesarchiv. The authoritative contribution on the subject, Quaritsch's book provides, among other things, incisive analyses and editorial commentary. And though I disagree with his interpretation of Kempner's motives for

3. Claus-Dietrich Wieland, "Carl Schmitt in Nürnberg (1947)," 1999: *Zeitschrift für Sozialgeschichte des 20. und 21. Jahrhunderts* 2 (January 1987): 96–122.

4. See Joseph W. Bendersky, "Carl Schmitt's Path to Nuremberg: A Sixty-Year Reassessment," in this issue of *Telos*; and Helmut Quaritsch, *Carl Schmitt-Antworten in Nürnberg* (Berlin: Duncker & Humblot, 2000).

5. Wieland, "Carl Schmitt in Nürnberg," pp. 96–100.

6. The following were published under the general heading "Carl Schmitt at Nuremberg," *Telos* 72 (Summer 1987): 91–129: "Interrogation of Carl Schmitt by Robert Kempner (I), (II), (III)"; Appendix I, "Response to the question: 'To what extent did you provide the theoretical foundations for Hitler's Grossraum policy?'" Appendix II, "Apropos the question of the position of the Reich Minister and Chief of the Reich Chancellery: Observations from the standpoint of constitutional law"; Appendix III, "Reply to the accusation: 'You collaborated in the preparation of wars of aggression and therewith were party to criminal offenses at decisive points.'"

bringing Schmitt to Nuremberg, Quaritsch's questions and inklings about this historical event foreshadow the newly uncovered sources. He also predicted that important Schmitt material, unacknowledged by Kempner, remained in that portion of his papers in the United States.

The recent acquisition of the rest of Kempner Papers by the U.S. Holocaust Memorial Museum proved Quaritsch right. Among this vast collection, invaluable for numerous historical aspects of Nazi Germany and the Holocaust, Kempner's Prosecution Document Books, Case XI, relate to Carl Schmitt. Boxes 187–188 contain original documentation that so far has not been located in any private or government archive in Germany or the United States.⁷ Why Kempner kept this documentation, which should have belonged to individuals or the U.S. government, is open to speculation. When I questioned him about whether he had any relevant documents, he admitted that he was saving some for his memoirs.

Most truly surprising in the Kempner papers was the transcript of a fourth interrogation of Schmitt that occurred on April 11, 1947, which makes it the second in the sequence. Kempner's files, in fact, contain copies of the original transcripts of all four interrogations (April 3, 11, 21, and 29, 1947).⁸ For historical and research purposes, a translation of the April 11 interrogation is published below. And its nature and importance are analyzed in the accompanying article. This is apparently the only surviving copy of that document. Why the transcript of this particular interrogation was not filed with the others stored in the National Archives is as much a mystery as why over the years Kempner insisted that only three existed. This is especially puzzling since Kempner added articles on Schmitt to his files into the 1980s.

Kempner's files also hold some of the preparatory material gathered with an eye toward establishing Schmitt's supposed influence on National Socialist law, actions on behalf of the regime abroad, and involvement with persecution of the Jews. This material, which was intended to facilitate his prosecution, includes Schmitt's three-page pamphlet "Fünf Leitsätze für die Rechtspraxis" as well as "Das Judentum in der Rechtswissenschaft," the long article in the *Jüdische Rundschau* (Berlin 1936) on the conference Schmitt had held on Jews and German Law. The fate of another

7. Robert M. W. Kempner Papers, U.S. Holocaust Memorial Museum Archives, Washington, DC, RG 71-0005.05 Prosecution Case Books, Case XI, boxes 187–188. See also RG 71.001.01, General Correspondence, box 10.

8. *Ibid.*, boxes 187–188.

crucial document that was originally part of this prosecution case book, Kempner’s copy of Schmitt’s book on *Grossraum*, remains unknown.⁹

In terms of identification and preservation of significant original historical documentation, however, the most valuable material in the Kempner files are those penned by Schmitt himself. These consist of the handwritten originals of four disquisitions that Kempner had requested of Schmitt. The first three were written in his Nuremberg cell: “Beantwortung der Frage: Wie weit haben Sie die theoretische Untermauerung der Hitlerschen Grossraumpolitik gefördert?” (completed April 18); “Beantwortung des Vorwurfs: Sie haben an der Vorbereitung von Angriffskrieges und der damit verbunden Straftaten an entscheidender Stelle mitgewirkt” (completed April 28); and “Staatsrechtliche Bemerkungen zu der Frage: Die Stellung der Reichsminister und Chef der Reichskanzlei” (completed April 28). The fourth disquisition was written by Schmitt on May 13, not in his cell but in a residence for trial witnesses in Nuremberg: “Beantwortung der Frage: Warum sind die Staatssekretäre Hitler gefolgt?” These are essentially identical to the published versions of these four documents, though the originals show Schmitt’s minor editing and corrections.¹⁰

Also important in Kempner’s files, for their content as well as historic preservation, are Schmitt’s hand-printed originals of three supplements to his Fragebogen, which are a combination of factual information and brief but revealing commentary. *Anlage A* (1 page) deals with his Nazi offices, institutional affiliations, and participation in law-making. *Anlage B* (2 pages) concerns his writings and editorships. And *Anlage C* (6 pages) details his foreign travels, lecturing, and contacts from the Weimar Republic through 1944.

Taken together, these sources not only help to complete the documentary record, but also add important new information and perspectives on Schmitt as well as on those determined to pursue his prosecution at Nuremberg.

Joseph W. Bendersky

9. Carl Schmitt, *Völkerrechtliche Grossraumordnung mit Interventionsverbot für raumfremde Mächte: Ein Beitrag zum Reichsbegriff im Völkerrecht* (Berlin, 1939).

10. For German versions see Quaritsch, *Carl Schmitt-Antworten in Nürnberg*, pp. 68–114; for English translations of the first three, see *Telos* 72: 107–29. Schmitt also published “Staatsrechtliche Bemerkungen zu der Frage: Die Stellung der Reichsministers und Chef der Reichskanzlei” as “Der Zugang zum Machthaber, ein zentrales verfassungsrechtliches Problem (1947),” in *Verfassungsrechtliche Aufsätze aus dem Jahren 1924–1954: Materialien zu einer Verfassungslehre* (Berlin: Duncker & Humblot, 1958), pp. 430–39.

Interrogation #.....
Interrogation of Professor, Karl [*sic*] Schmitt
By Mr. R. M. W. Kempner
Present Miss Rentelen
April 11 1947 afternoon
Stenographer: Irmtrud Maurer-Lang

Kempner: It was very kind of you to write to me, Professor Schmitt.

Schmitt: I had wanted to avail myself of the opportunity you gave me and ask whether I might possibly submit a few of the points in writing. I would have the time to formulate and define them precisely. Here, I again and again end up digressing and lecturing. I was a professor for 30 years. Therefore, I would prefer to discuss in writing the question which you posed to me: "To what extent did you provide the intellectual foundations for war crimes, crimes against humanity, and the extension and expansion of *Grossraum* by force?" One would then obtain a picture of my activity as having played such a minute part that one could only judge it by means of some published writings. On the other hand, there is nothing being brought against me other than what I have written.

Kempner: Didn't you speak at several conferences with key personalities?

Schmitt: I don't remember doing so. Was that during the war?

Kempner: Before 1936.

Schmitt: Are you referring to my activity in the League of German Jurists?

Kempner: It concerns the theoretical foundation of aggressive warfare. You surely know that it was an aggressive war?

Schmitt: I wrote a work on the discriminatory concept of war.¹¹

Kempner: You can assume that everything you have written is well known and that these demonstrate that you have theoretically established the foundations for war crimes, wars of aggression.

Schmitt: No, that is not correct.

11. Carl Schmitt, *Die Wendung zum diskriminierenden Kriegsbegriff* (Munich, 1938).

Kempner: Would you not admit that your influence in this area is much more significant and much more dangerous than when, on the basis of your work, some members of the SS ultimately invade foreign countries and shoot people en masse?

Schmitt: That is taking things too far. I would very much like to address that matter. That is a complicated subject.

Kempner: From a criminal perspective it is straightforward. Aren't you engaging in metaphysical somersaults?

Schmitt: I'm not denying anything. The problem of the responsibility for ideologies doesn't require any metaphysical somersaults.

Kempner: Did you sermonize for 30 years in order to bring about the ideal of democracy? You sermonized 30 years in order to bring about "Grossraum."

Schmitt: That doesn't necessarily follow from my writings either.

Kempner: Of course it does. Without men like you Nuremberg would not be laying in ruins.

Schmitt: That's another topic.

Kempner: In comparison to you isn't Streicher a harmless sermonizer?¹²

Schmitt: On an entirely different level. I am an advocate of free scholarship.

Kempner: On another occasion you have said that you compare yourself to someone who diagnoses a plague. But didn't you yourself spread a plague?

Schmitt: That was not my intention.

Kempner: Did you submit a legal opinion before the Supreme Court in 1932?¹³

12. Julius Streicher (1885–1946), Gauleiter of Franconia, was among the most extreme Nazi racist ideologues. Founder and editor of *Der Stürmer*, perhaps the most vile and vicious anti-Semitic publication in history, Streicher was condemned to death and executed by the Nuremberg Military Tribunal.

13. See *Preussen contra Reich vor dem Staatsgerichtshof: Stenogrammbereich der Verhandlungen vor dem Staatsgerichtshof in Leipzig vom 10. bis 14. und vom 17. Oktober 1932* (Berlin, 1932). See also Hennig Grund, "Preussenschlag" und Staatsgerichtshof im Jahre 1932 (Baden-Baden, 1976); Jürgen Bay, *Der Preussenkonflikt 1932/33: Ein Kapitel aus der Verfassungsgeschichte der Weimarer Republik* (Erlangen, 1967); Earl R. Beck,

Schmitt: Yes, as representative of the Reich government. For me the Schleicher government offered the only option to stem the chaos.

Kempner: You did however enthusiastically welcome the Enabling Act.¹⁴

Schmitt: That is a provisional constitution.

Kempner: Of a great new era?

Schmitt: That relationship is not causal.

Kempner: Didn't you enthusiastically welcome the dictatorship as the fulfillment of your scholarly dreams?

Schmitt: No, in 1928 I published a work, "Legality and Legitimacy," an affirmation of the parties of the Weimar Coalition.¹⁵

Kempner: Then you got involved with Nazi affairs and then distanced yourself again. "Hiking is the miller's dream."¹⁶

Schmitt: Hiking is the miller's dream. That is in reality the satisfaction in the realization that one is experiencing something new. Like the satisfaction an ethnologist derives when he sees a new tribe of Kaffirs. In this respect I am guilty. Intellectual curiosity is a characteristic of my very essence. I observe everything and everywhere; that is part of my nature as a scholar.

Kempner: As a criminologist, I also have a continual interest in identifying new types of criminals.

Schmitt: Are you referring to me?

The Death of the Prussian Republic: A Study of Reich-Prussian Relations, 1932–1934 (Tallahassee: Florida State Univ., 1959).

14. That act of March 24, 1933, granted the new Conservative-Nazi cabinet extraordinary powers that proved crucial in Hitler's elimination of opposition, consolidation of dictatorial power, and subsequent Nazification of Germany. For Schmitt's analysis see "Das Gesetz zur Behebung der Not von Volk und Reich," *Deutsche Juristen-Zeitung*, Jg. 38, Heft 7 (April 1, 1933), pp. 455–58. See also Carl Schmitt, *Das Reichsstatthaltergesetz* (Berlin, 1933), p. 9.

15. Although Schmitt's book *Legality and Legitimacy* was an attempt to prevent the Nazi seizure of power by force or legally through democratic means, it was not published until summer 1932. And this book did not directly relate to the Great Coalition of Catholics, Social Democrats, and moderate democrats that came to power in 1928 but had already collapsed in 1930, before Schmitt became a constitutional adviser to the Brüning Presidential Government and General Kurt von Schleicher.

16. "Das Wandern ist des Müllers Lust."

Kempner: That remains to be seen. Did you not continually tell your students how enticing warfare is, the *Drang nach Osten*?

Schmitt: Such banalities have never crossed my lips.

Kempner: Wasn't it your dream to teach as a professor of legal theory at a German college in London?

Schmitt: That was not my dream.

Kempner: Or at a German college in Moscow?

Schmitt: Of course not, I love the Russians. My wife is Serbian, a native Serbian. I love the Slavic peoples.

Kempner: There are several things I would like to know about your trip to Paris.

Schmitt: That trip was very interesting; I can tell you key things about that.

Kempner: What kinds of things?

Schmitt: In what regard is my trip to Paris related.

Kempner: Please write down everything.

Schmitt: Then I still have a few questions and requests which are of a general nature. I have neither a chair nor a desk, only a crude bed. I cannot write like that. May I request paper and ink? May I write to my wife that she should send me my work on international law and *Grossraum* order and the one on the discrimination of wars? May I write to her that I have been interrogated?

Kempner: It is alright for you to write to her that you have been interrogated and that we are interested in particular questions.

Schmitt: My library has been confiscated and I can only receive packages twice a month.

Kempner: Your spouse can write to the American prosecution authorities—to me. Are you aware how antithetical our opinion is?

Schmitt: Yes, I am in the habit of taking everything as more complicated and problematic than it really is. I am an advocate of the right of free scholarship.

Kempner: We are the last ones who would deny that right. But we will not allow democracy to be attacked with the apparent means of democracy and have men murdered.

Schmitt: The finest articulation of precisely that concept originated with me.¹⁷

Kempner: Did you take over the editorship of the *Deutschen Juristenzeitung* after Liebmann.¹⁸

Schmitt: After Baumbach.¹⁹

Kempner: Didn't the doctrine that one should shoot allied pilots derive precisely through men like you?

Schmitt: But, please. You will not find a single word in anything I've written about marching into Poland and about such things.

Kempner: Would you be so kind and write down everything that is of interest from the standpoint of the criminologist. Don't focus on the metaphysical. It is not a question of the responsibility for ideological expressions and theses. It concerns war crimes. After we have finished discussing everything, we can decide how to proceed.

17. See Carl Schmitt, "Legality and the Equal Chance for Achieving Political Power," in *Legality and Legitimacy*, trans. and ed. Jeffrey Seitzer (Durham, NC: Duke UP, 2004), pp. 27–36.

18. Otto Liebmann, a co-founder with the famous Jurist Paul Laband of the *Deutsche Juristen-Zeitung*, relinquished its editorship in December 1933.

19. Adolf Baumbach, German jurist and editor of *Deutsche Juristen-Zeitung* until June 1934, when Schmitt became editor.

On Mirella Serri, Fascist Culture, and Redeemed Intellectuals

Frank Adler

During the Spring of 1925, a major fissure opened within Italian political and cultural life, one that not only divided the nation's two greatest philosophers (Giovanni Gentile and Benedetto Croce), who had once been close friends and collaborators, but even more profoundly lacerated the nation's entire intellectual class. The year had begun with a dramatic speech by Mussolini to the Chamber of Deputies on January 3, 1925. He assumed full responsibility for the assassination of Giacomo Matteotti, a Socialist representative who had argued that the Spring 1924 elections should be invalidated because of the atmosphere of intimidation that made fair competition impossible, assuring Mussolini certain victory. The Matteotti assassination precipitated a six-month legitimation crisis that threatened the compromises Mussolini had made with the traditional liberal elites, compromises upon which their cooperation and support had been predicated. The January 3rd speech brought this crisis to a definitive end: Mussolini proclaimed his intention to bury the traditional liberal state and introduce a new authoritarian one based exclusively on Fascist principles. At the request of Mussolini, Giovanni Gentile organized the first Conference on Fascist Culture, which culminated in a Manifesto of Fascist Intellectuals, signed by those who enthusiastically embraced the new order (including Pirandello, Ungaretti, Soffici, and Pizzetti). A month later, in the May 1st edition of *Il Mondo*, Benedetto Croce published the famous response, an anti-Fascist manifesto signed by an impressive list of far more prestigious names (including Einaudi, Ferrero, Fortunato, Mosca, Salvemini, Salvatorelli, Jemolo, Ruffini, and Calamandrei), to which four hundred others pledged their adherence. Croce's anti-Fascist manifesto

found strong resonance not only in Italy, but as well among major European intellectuals, finding outspoken support by the likes of Ortega y Gasset, Julien Benda, and Thomas Mann.

By October 1931, six years later, the situation had fundamentally changed. Without public opposition of any sort, in Italy or abroad, Mussolini imposed an oath of fidelity to the Fascist regime that was refused by only twelve university professors in the entire country. Moreover, practically all university professors among the four hundred intellectuals who had signed Croce's anti-Fascist manifesto not only took this loyalty oath, but also ended up collaborating, to one degree or another, with the regime. Those who refused, such as Italy's most celebrated mathematician, theoretical biologist, and physicist, Vito Volterra, were marginalized and lost their posts. (Volterra, with an international reputation that almost rivaled Einstein's, was targeted first as an anti-Fascist, then, in 1938, as a Jew.) In her recent autobiography, *La Ragazza del Secolo Scorso*, Rossana Rossanda expressed surprise that her mentor, the famous Marxist philosopher Antonio Banfi, had signed Croce's anti-Fascist manifesto, yet later accepted the loyalty oath. She had been too embarrassed to ever discuss this with him. Rossanda neglects to add that Banfi, in a similar manner, signed forms swearing he had no Jewish blood, after the racial legislation of 1938, and published extensively in Fascist journals until the fall of the regime in 1943. The loyalty oath became a fixture of Italian academic life after 1931; those who refused simply could not hold academic posts. The young literary critic Leone Ginzburg refused in 1934 and brought to a premature end what indisputably would have been a brilliant academic career. Norberto Bobbio, his best friend—yes the very same Norberto Bobbio who after the war emerged as the anti-Fascist intellectual *par excellence*, the iconic conscience of anti-Fascism—took the loyalty oath and later attested, as well, to the fact that he had no Jewish origins. Bobbio certainly was no worse than the others; he never published in avowedly Fascist journals, as did such other high profile left-wing intellectuals as Enzo Paci and Galvano Della Volpe, or liberal intellectuals such as Luigi Salvatorelli. The only person of note who refused to declare his non-Jewish status was Croce. Everyone else did, including future presidents and prime ministers of the postwar Italian republic, high public officials, and university professors. Amintore Fanfani, perhaps the most influential Christian Democratic leader after the war, supported the Racial Manifesto of 1938. At the time

he was a professor of economic history at the Catholic University of Milan, headed by the anti-Semitic cleric Agostino Gemelli (who also supported the racial manifesto and subsequent racial legislation). Similarly, there was no shortage of intellectuals who later became communists who not only attested to their pure “Aryan” status, but supported the abrupt racial turn of the regime in 1938 as well.

Though the postwar Italian intellectual community always resisted recognizing the fact that only a handful of intellectuals took a forthright moral and political stance against Fascism before Mussolini’s regime collapsed in July 1943, recent scholarship has amply demonstrated that Italian intellectuals, in the main, had been “Fascist” so long as the regime endured, and then became “anti-Fascist” (if not communist) only after July 1943, or, in many cases, only after May 1945, when the Second World War ended and anti-Fascism definitively emerged as the founding creed of the new republic. They did so quietly, with little or no reflection regarding what this transition from “Fascism” to “anti-Fascism” really signified, either personally or as a generalized phenomenon. Unlike Germany and Japan, Italy was no longer an enemy by the end of the war, but, under the post-Mussolini Badoglio government, an allied co-belligerent. Thus, there was no external pressure for a war crimes tribunal or extensive defascistization, and no sufficient internal demand for a serious confrontation with the Fascist past either, especially after the painful civil war drew to a close and national unity appeared a far more pressing imperative. Apart from a few neo-Fascist authors, totally ignored by the larger intellectual community, who took special delight in exposing the Fascist past of noted anti-Fascist intellectuals and politicians,¹ very few serious studies were devoted to intellectual and cultural life under Fascism until the mid-1980s. Prior to this, there had been an unquestioned consensus behind Bobbio’s classic position that Fascism was “anti-culture,” that Fascism, as such, had no culture. Accordingly, Fascist culture was not something that merited serious investigation; it was viewed as little more than irrational gibberish that gave ideological cover for a brutally coercive, right-wing dictatorship.

We know better today. First, Fascism never was unambiguously a right-wing phenomenon; in fact, there was a serious and durable Fascist left that grappled, as did Gramsci, with the unredeemed promises of the

1. The best book in this genre is Nino Tripodi, *Intellettuali sotto due bandiere* (Rome: Ciarrapico, 1981).

Risorgimento and with the contradictory basis of the traditional liberal State.² Indeed there was a Fascist left that saw in corporatism a “third way” (*terza via*) between communism and liberalism, and that viscerally detested both capitalism and bourgeois culture.³ This Fascist left had deep roots in the labor unions and among organized youth, especially university students in the GUF (Fascist University Youth). In fact, many trade union leaders and intellectuals later recruited by the PCI (Italian Communist Party) came of age during the 1930s and actively participated in these debates. Some, like Pietro Ingrao and Alessandro Natta, were prominent in the GUF and knew little or nothing of Marxism at the time they were recruited. They were not alienated outsiders who had kept their distance from the organizational structure of the regime or from Fascism itself. By no stretch of the imagination could they have been considered committed anti-Fascists before switching sides so late in the game. Second, as Gramsci and Togliatti recognized, Fascism was not simply a manifestation of dictatorial, unrelenting coercion, but had engendered a new form of consensus as well. Long before Renzo De Felice was pilloried for suggesting that Mussolini by the mid-1930s had generated a “consensus” of sorts, both Gramsci and Togliatti had used the term in acknowledging the fact that Fascism was the first regime in Italian history that was “popular,” where—unlike the traditional liberal order—the masses found multiple points of contact with a qualitatively new State intent upon fully integrating them. To be sure, Fascism was hardly “pluralist” in the democratic sense (though neither was Gramsci’s communism), and Mussolini’s “consensus” was heavily steered from above. Yet, as De Felice polemically asserted, Italian Fascism had neither the large-scale, efficient coercive agencies nor the great number of political prisoners found in the classic “totalitarian” cases: Hitler’s Germany and Stalin’s Russia. As Juan Linz famously noted, there are important differences between “authoritarian” and “totalitarian” types, the most relevant here being the presence of “limited pluralism” in the former. In any case, Italian Fascism was less coercive and violent during the “consensus” years of the 1930s than it had been during the 1920s,

2. See my reviews of Pietro Neglie, *Fratelli in Camicia Nera: Comunisti e fascisti dal corporativismo alla CGIL*, and Giuseppe Parlato, *La Sinistra Fascista: storia di un progetto mancato*, in *Telos* 119 (Spring 2001): 181–88.

3. See Paolo Buchignani, *La rivoluzione in camicia nera: dalle origini al 25 luglio 1943* (Milan: Mondadori, 2006), and Gianpasquale Santomassimo, *La terza via fascista: il mito del corporativismo* (Rome: Carocci, 2006).

when Mussolini methodically eliminated, co-opted, or tamed all sources of anti-Fascist opposition. As it developed after the 1920s, Italian Fascism became less coercive and more consensual, and intellectuals became both subjects and objects of this process.

By the mid-1930s, it had become clear that joining the GUF and participating in GUF annual competitions (the *Littoriali*), conferred elite status, insured upward mobility, and gained entry for ambitious aspirants into networks of power and influence in the universities, cultural institutions, State administration, and, of course, the Fascist Party (PNF). Those who joined the GUF automatically became party members, whether or not they were “Fascists” by conviction. For this reason, literally all of those who became prominent after the war in academia, culture, journalism, and public administration had, like Norberto Bobbio, passed through the GUF. Enrollment in the GUF jumped from 8,854 in 1927 to 75,436 in 1936, to 105,883 in 1939, and had reached 164,667 by the time the regime collapsed in 1943.⁴ Moreover, the ascent in membership was constant and linear; neither the presumably “unpopular” racial laws, the alliance with Germany, nor entrance into the Second World War precipitated any reversal. For this reason, one should not be surprised that GUF membership included most notables, including those not at all associated with Fascism after the war. For example, noted economists such as Paolo Sylos Labini and Guido Carlo (future Governor of the Bank of Italy and President of Confindustria), writers such as Pier Paolo Pasolini and Elio Vittorini, philosophers such as Enzo Paci and Antonio Banfi, historians such as Carlo Morandi and Luigi Salvatorelli, filmmakers such as Roberto Rossellini and Michelangelo Antonioni, and journalists such as Enzo Biagi and Indro Montanelli. Aldo Moro, the Christian Democratic Prime Minister slain by the Red Brigades in 1978, had participated in a GUF competition on Fascist doctrine. Galvano Della Volpe in 1940 wrote how beautiful German tanks appeared rolling down the streets of Calais. He also praised the “glorious humanism” of Goethe, Nietzsche, and Mussolini, lamenting the degree to which Jews had corrupted modern thought. This past might have been buried, but it could not go away. Whoever conducts even preliminary research on Fascist culture during the 1930s, will find without great difficulty incriminating membership lists, published articles, and altogether

4. Tracy H. Koon, *Believe, Obey, Fight: Political Socialization of Youth in Fascist Italy* (Chapel Hill: Univ. of North Carolina Press, 1985), p. 190.

embarrassing photographs. The noted archeologist Ranuccio Bianchi Bandinelli, who later became a communist and director of the Istituto Gramsci, was photographed in full Fascist regalia guiding Mussolini and Hitler through the sites of ancient Rome during the latter's visit in 1938. Anti-Semitic articles were written by the journalist-historian Giorgio Bocca when he was active in the GUF; Bocca was among the 329 signatories to a statement of support for the Racial Manifesto of 1938, alongside such vile official racists as Giovanni Preziosi and Telesio Interlandi.⁵ To be sure, Bocca, born in 1920, was little more than a teenager at the time. Five years later, in 1943, he joined the Resistance for which he fought with great courage and was highly decorated. Nevertheless, Bocca has never given a forthright account of his early anti-Semitism, and when confronted with some of these GUF-era statements, he merely recalled that on the day that racial measures were put into effect, he went out with some of his Jewish friends for a few glasses of Fernet Branca.

In light of these issues, closely related to the themes highlighted in the special issue of *Telos* devoted to new research on Italian Fascism (number 133, Winter 2005), Mirella Serri's book *I Redenti* merits special consideration. No other single text deals as exhaustively with the activities and affiliations of young Italian intellectuals during the thirties and early forties. It was published during the Fall of 2005, and became a runaway bestseller, going through four printings in a matter of weeks. It is highly unusual for an academic monograph, replete with detailed footnotes, to elicit such a response in Italy. Beyond sales, the book became a phenomenon in its own right, generating heated polemics in the press and on nightly television programs. Despite its non-polemical tone and academic style, Serri's book, stirring up waters that for too long had remained placid, clearly touched a raw nerve. Unlike previous scandals that concerned the "Fascist" past of prominent left-wing individuals such as Norberto Bobbio, or the publisher of the influential left-wing newspaper *La Repubblica*, Eugenio Scalfari, Serri's book focused not on one or a few famous individuals, but rather on a whole class of "Fascist" intellectuals who were "redeemed" and "reborn" after the war, mostly through the agency of the PCI.⁶ Granting such absolution was a small price to pay in exchange for

5. Franco Cuomo, *I Dieci: chi erano gli scienziati italiani che firmarono il Manifesto della razza* (Milan: Baldini Castoldi Dalai, 2005), pp. 202–207.

6. In the June 21, 1992, issue of *Panorama*, the journalist Giorgio Fabre revealed a servile letter that Bobbio had written to Mussolini in 1935, assuring the dictator of his

the potential contribution these critics, filmmakers, scholars, and journalists might make in forging the party's political and cultural hegemony in postwar Italy. Fascist hegemony had collapsed in disgrace, while an alternative anti-Fascist one had yet to be articulated and disseminated.

The communists had been almost totally isolated during Fascism, and were out-pollled by the Christian Democrats and Socialists in the first postwar election. Under Togliatti's leadership, the PCI sought to become a mass party overnight, and in a competitive situation where aggressively punitive positions toward former Fascists risked alienating a majority of Italians voters who, of course, had longstanding Fascist pasts. Togliatti wanted to recuperate as many of these as possible, certainly not shut them out of a party that needed to dramatically expand its base. How else could a mass party be quickly formed, when the masses, until yesterday, had been Fascist? In this light, the "redeemed" Fascist intellectuals, the *redenti* (to use Serri's term), were of greater value to the PCI as cultural mediators than doctrinaire Marxist-Leninists who not only spoke a language intrinsically "wooden," but used an idiom almost totally alien to a nation that had experienced twenty years of Fascism.

As Minister of Justice in the first postwar government, Togliatti did conspicuously little to revise Fascist laws or to make good on promises of an *epurazione*. Important Fascist leaders went unpunished, as were lower-level operatives who had committed horrible crimes during the regime and the subsequent civil war. The traditional institutional order, especially the judiciary, police, and state bureaucracy, went largely untouched. Worse, an amnesty was passed that literally emptied the jails, setting free even those Fascist prisoners who in their official capacities had tortured, raped, stolen, and actively collaborated with the Germans against anti-Fascist partisans and Jews.⁷ In the face of repeated entreaties by other members of

Fascist family background, his membership in the GUF, and his Fascist faith. Bobbio feared his academic career was jeopardized by an arrest for having been at the periphery of the Justice and Liberty group. This revelation led immediately to polemics regarding Bobbio's conduct, especially for having kept his Fascist past hidden. Bobbio handled the affair with exemplary honesty in his 1997 autobiography, and in interviews, especially one published in *Il Foglio* on November 12, 1999. As for why he had never mentioned his Fascist past, Bobbio repeatedly used the term *vergogna* (shame), for emphasis actually spelled "ver-gogna." Scalfari would give the same reason for his silence.

7. For details, see the new, comprehensive account, Mimmo Franzinelli, *L'Amnistia Togliatti* (Milan: Mondadori, 2006). Commenting on the amnesty, the historian Paul Ginsborg writes: "Under its provisions even Fascist torturers escaped justice. A most

the governing anti-Fascist coalition for the PCI to postpone its conspicuous recruitment of Fascists and allow for a tranquil period of reflection and political re-education, Togliatti not only persisted, but went on to directly subsidize left Fascists such as the “Il Pensiero Nazionale” group, led by Stanis Ruinas, which opposed the newly formed neo-Fascist MSI. For Togliatti and party subordinates charged with such confidential operations, these were kindred spirits, referred to in such terms as *fascisti rossi*, *ex fascisti onesti*, and *rivoluzionari sconfitti* (defeated revolutionaries), not *imbecilli traditi* (betrayed imbeciles).⁸

Mirella Serri, remarkably enough, is not a specialist in the history and politics of Fascism. She is a professor of Italian literature at the University of Rome “La Sapienza.” Nevertheless, it is perfectly understandable how her earlier work on Giaime Pintor led Serri to study the cultural and institutional milieu, with all its contradictions and ambiguities, that framed Pintor’s brief but exemplary life. At the age of twenty-four, Pintor fell as an anti-Fascist partisan in one of the first battles of the civil war (December 1943). With a degree in political science, he became a diplomat. Already an accomplished translator of Rilke, Pintor joined the editorial board of the “anti-Fascist” Einaudi publishing house. Almost immediately after his death, Pintor was held up as a hero by the PCI, a model for anti-Fascist youth. Indeed, the final letter he wrote to his younger brother Luigi (future founder of *Il Manifesto*) immediately became an iconic statement of moral commitment and anti-Fascist struggle. And yet there were ambiguities that could not be easily reconciled with this image. Giaime Pintor was hardly a convinced anti-Fascist, or at least one of long standing. Together with Vittorini, he had attended a Nazi-sponsored conference on European intellectuals at Weimar in October 1942, little more than a year earlier, a conference at which none other than Minister of Propaganda Joseph Goebbels participated as well. Mirella Serri belatedly edited Pintor’s diary

unfortunate and grotesque distinction was drawn between ‘ordinary’ tortures and ‘tortures that were particularly atrocious.’ Using this formula the courts were able to pardon the following crimes: the multiple rape of a woman partisan; a partisan tied to the roof who was punched and kicked like a punchbag; electric torture on the genitals applied through a field telephone. On this last case the Corte di Cassazione (Italy’s highest court at the time) ruled that the tortures ‘took place only for intimidatory purposes and not through bestial insensibility.’” Paul Ginsborg, *A History of Contemporary Italy: Society and Politics, 1943–1988* (London: Penguin, 1990), p. 92.

8. Such operations are extensively covered in Paolo Buchignani, *Fascisti Rossi* (Milan: Mondadori, 1998).

manuscripts in 1978, and wrote a book on this trip to Nazi Germany, which was published in 2002. Pintor, it turns out, was far less interested in authors of the left than, for example, Ernst Jünger and Carl Schmitt, whose works he proposed translating for Einaudi. He even contemplated serving with the German army on the Eastern Front. Coming from a prominent family with branches in both Fascist and anti-Fascist camps (through an uncle, he was on personal terms with Croce), Pintor was at home on either side and certainly was well-positioned no matter who won the war. He was close to Giuseppe Bottai and wrote for important Fascist journals, such as *Primato* and *Roma Fascista*. The more Mirella Serri grappled with the case of Giaime Pintor, the clearer it became that Pintor's contradictions and ambiguities were by no means idiosyncratic. They were more or less typical of his similarly situated friends and associates. The question then was to identify and analyze the general class of which Pintor was a representative type, the general class for which she names her new book, the *redenti*.

Without a doubt, the central figure in Serri's book is Giuseppe Bottai, who befriended, sponsored, and protected the *redenti*. He was the pivotal point around which practically all cultural activity revolved, especially that of the younger generation. In many respects, Bottai could be considered the "Fascist Gramsci," not so much as a profound thinker in his own right, but rather as an "organic intellectual," Fascist rather than communist. Just as the most central political question for Gramsci was how the communist party might cultivate a new *classe dirigente*, Bottai imagined the Fascist party as precisely that regenerating force. Bottai, like Gramsci, viewed politics as a mixture of coercion and consensus, and underscored the importance of culture in creating a new form of hegemony. Just as Gramsci valued the contribution of traditional culture and traditional intellectuals, as well as non-Marxist culture, Bottai's concept of Fascism built upon the most favorable aspects of tradition, while also engaging non-orthodox and even non-Fascist culture. To the degree that Fascist culture never became dogmatically monochromatic, that it preserved some measure of dynamism, diversity, and pluralism, Bottai can be credited more than any other Fascist leader. He was ill at ease with uncultivated bumpkins in the party, and had relatively poor relations with more boorish leaders, such as Farinacci and Starace. In turn, Bottai was not especially liked by party militants and especially *squadristi*. His files at the Archivio Centrale dello Stato are replete with anonymous denunciations, claiming

Bottai was a Jew, a self-interested Fascist, and even an anti-Fascist. Bottai held two important posts that mirrored his two overriding concerns: corporatism and culture. He headed the Ministry of Corporations from 1926 to 1932 (though his formal title was Under Secretary), and was the Minister of National Education from 1936 until the collapse of the regime in 1943. Beyond government service, Bottai founded the most important cultural journals of the time, *Critica Fascista* and *Primato*, the former in 1923, the latter in 1940. Bottai and the Einaudi publishing house had a close working relationship, despite the latter's highly suspect "Fascism" and interest in publishing literature from such hostile countries as Russia, France, and the United States. Indeed, Bottai protected Einaudi from Farinacci and others whose concepts of culture were narrowly nationalist and Fascist. In fact, Bottai had been so supportive of young intellectuals, particularly those whose "Fascist" commitments were suspect or minimal, that a focal point of polemics against Serri was her purported over-emphasis of Bottai's role in the racial turn of 1938. Bottai, it was claimed, should also be remembered for his contributions to Italian culture, and, according to some, for having provided a bridge beyond Fascism, indeed nurturing and protecting those *redenti* who crossed that bridge from Fascism to anti-Fascism. It should be recalled that in 1995, the left-wing mayor of Rome, Francesco Rutelli (currently vice-premier of the left-center government headed by Romano Prodi), announced his intention to name a street or piazza after Bottai. Rutelli relented only when, among other opponents, the Jewish community of Rome reminded the mayor that Bottai's contributions to Italian culture also included the total removal of Italian Jews from cultural life, expelling teachers and students from public schools, and removing books by Jewish authors from university libraries. Bottai's spirited leadership in State-sponsored anti-Semitism was neither an impediment to his relations with the *redenti* after 1938, relations which became evermore amiable, nor for many, apparently, an indelible stain on his legacy thereafter. In response to such pro-Bottai polemics, Serri appropriately held her ground, insisting that the racial turn of 1938 was hardly a minor issue, but rather a point of major normative reference.

Bottai's embrace of racism has never found satisfactory explanation in the voluminous literature devoted to him. From his teenage years at the celebrated liceo classico Tasso in Rome until 1938, he had many Jewish friends and no record whatsoever of anti-Semitism. The other co-founder of *Critica Fascista*, Gino Modigliani, was a Jew, as were some of his best

friends and collaborators (e.g., Enrico Rocca and Gino Arias). Throughout the 1920s, Bottai had very cordial relations with Margherita Sarfatti, Mussolini's Jewish mistress, who played a dominant role in early Fascist culture as a proponent of modernism. Bottai tended to side with Sarfatti against partisans of Fascist kitsch, such as Farinacci. Bottai, like Mussolini, initially was unsympathetic to National Socialism, a view reflected in *Critica Fascista* as well. In 1933–34, together with Giovanni Gentile, he went so far as to support the establishment on Italian soil of private German schools (*Landschulheime*) for German Jewish students.⁹ Clearly, Bottai was no anti-Semite by upbringing or strong conviction. My own view, to be argued in a forthcoming essay, is that Bottai became convinced after 1937 that Fascism had reached a dead end, and nothing short of Mussolini's belated "anthropological revolution" (to create New Fascist Man) could salvage the regime.¹⁰ The racial turn of 1938 was the last and most extreme stage of Mussolini's *anti-borghese* campaign. Jews, accordingly, were attacked less on biological grounds than for being the principal bearers of anti-Fascist, anti-proletarian bourgeois values (*lo spirito borghese*). Jews became the demonized "other," the primary obstacle to an anthropological revolution through which a qualitatively new historical subject would be born. Whether or not Bottai really believed this to be substantively true, or whether he supported the racial campaign for purely instrumental reasons, to help jump-start a regime that had run out of gas, cannot be determined on the basis of the evidence at hand. In any event, Bottai never recanted the major role he played in racial policy, despite criticisms he would make of Fascism and of Mussolini in the period after the war until his death in 1959.

As Serri underscores in her book, the racial turn against Italy's Jews in 1938 did little to place in jeopardy the pattern of collaboration that had been set earlier. In fact the *redenti* drew even closer to Bottai than before, despite the fact that most had close Jewish friends and colleagues. Jews had constituted almost eight percent of the professoriat, and their expulsion opened thousands of posts in the universities and related cultural institutes. Bottai filled hundreds of these directly, outside the framework

9. Klaus Voigt, "Le scuole dei profughi ebrei in Italia (1933–1943)," in *Storia contemporanea* 19:6 (December 1988): 1153–88.

10. I have dealt with the racial turn of 1938 in two essays: "Why Mussolini turned on the Jews," *Patterns of Prejudice* 39:3 (September 2005): 285–300; and "On Mussolini and the Jews: a Critical Response to Cabona," *Telos* 133 (Winter 2005): 120–30.

of traditional competitions, and often with individuals who lacked the requisite academic training and degrees. Such appointments presumably were made on the basis of recognized cultural standing (*per chiara fama*), though Bottai himself, not traditional and autonomous collegial bodies, made the determination. Recipients of such posts included those who later became communists, such as Alfonso Gatto and Salvatore Quasimodo. Expressions of concern and solidarity for their expelled Jewish colleagues were few and far between. Of all Italians, intellectuals perhaps were the most opportunistic and cowardly, acting as if the racial legislation simply happened one day, as if it were something totally external to them and their world, as if it were a natural disaster of some sort. Giaime Pintor's closest friend in the world was a young Russian Jew named Mischa Kamenetzky, who left Italy for the United States after the racial legislation. Kamenetzky's son, Alexander Stille, incidentally, became a noted journalist and author of *Benevolence and Betrayal*, a moving account of five Italian Jewish families under Fascism. Nowhere in Pintor's diary can one find any reflection on the racial legislation or the forced departure of Kamenetzky, though Pintor had time for breezy comments on matters far more trivial. Nor are there any reflections on the fate of another friend and fellow member of the Einaudi editorial board, Leone Ginzburg. Norberto Bobbio was undoubtedly the most prolific intellectual of his generation, but one would be hard pressed to find in his voluminous work any serious reflection on the racial legislation and its effect on Italian cultural life. This despite his close friendship with Ginzburg, Vittorio Foa, and so many other Torinese Jews Bobbio considered himself, in the 1984 volume *Maestri e compagni*, an "honorary Jew."

After Mussolini's fall, the Holocaust came to Italy with German occupation. Though Jews had been, as the saying went, "discriminated, not persecuted," now census data and other relevant information collected by the Fascist State was used by the Germans to round up Jews and transport them to concentration camps in Poland. Under these circumstances, the myth of the "good Italian" was born, as thousands of Jews were protected and saved. Once the war ended, however, Fascist policy toward the Jews was a topic that few wanted to raise, not only because the earlier phase of persecution would be viewed, rightly or wrongly, retrospectively, through the lens of Nazi extermination, but also because it had become clear that the treatment of Jews had been the ugliest stain on the Fascist legacy. Moreover, as Serri suggests, discussion of Jewish discrimination would

illuminate precisely the collaboration with Fascism that the *redenti* sought to hide and forget. In essence, Italian Jews paid the price of such “redemption.” The reintegration of Jews into public life was an incredibly long and difficult process, especially the regaining of property and jobs that had been lost. When Jews sought to reclaim their university posts, they were treated with little generosity or understanding. As one of the best authorities on this subject, Roberto Finzi, put it, they went from victims to alleged usurpers.¹¹ There were some especially grotesque instances where famous Jewish professors who had been expelled in 1938, regained their teaching posts after the war, only to be expelled once more, this time for having been Fascists. Giorgio Israel, in his essay for this issue, deals with the case of the noted biologist Tullio Terni. To this one could add the even more notorious case of Giorgio Del Vecchio, rector of the University of Rome and a major philosopher of law. Such Jewish intellectuals, already victimized as Jews in 1938, were now victimized as Fascists, despite the fact that almost none of the non-Jewish university professors who had also been Fascists, *virtually the entire professoriat*, were subjected to comparable treatment. For the most part, they became nominal anti-Fascists, without ever having renounced Fascism, and continued in their posts as if nothing had happened. Nothing substantial on the general subject of Jews under Fascism was written until Renzo De Felice’s book in 1965, and nothing specifically on the difficult reintegration of Italian Jews until the 1980s. Jews who had lived through war were too traumatized to raise the issue, which is why the Jewish community actually solicited De Felice to write their history, giving him full access to their own archival materials. That no doctoral dissertations were written on the subject is not at all surprising. University professors who had received their posts during Fascism were hardly willing to supervise research on such an embarrassing subject, as even those who were not themselves anti-Semitic or directly implicated in the expulsion of Jewish colleagues nevertheless benefited indirectly from the absence of traditionally highly qualified Jewish competitors for the limited number of university positions. Interestingly, dissertations on the subject, as well as several fine scholarly monographs, began to be written only after a newer generation of professors replaced the old.

As for the *redenti* themselves, Jews as such became melded into a more general category, victims of Fascism, as if they had been targeted for

11. See Dianella Gagliani, ed., *Il difficile rientro: il ritorno dei docenti ebrei nell’università del dopoguerra* (Bologna: Clueb, 2004).

discrimination primarily because they were “anti-Fascists” rather than “Jews.” Jewish particularity, even when speaking of the notorious concentration camps, was suppressed. Einaudi, for example, rejected the manuscript for *Survival at Auschwitz*, though Primo Levi himself was Torinese and a personal friend of Bobbio and other editors. Nevertheless, Einaudi had no moral qualms about hiring Giulio Cogni in 1949 as a consultant and translator for a series on religion and ethnography. Cogni had been a high-profile proponent of German or “Nordic” racial theory; in fact, he passed most of the war in Nazi Germany. Cogni’s 1936 book *Il razzismo* strongly influenced Internlandi, the venomous editor of *Difesa della Razza*, the official racist journal of the regime, strongly promoted by Bottai. One may well ask what someone like Cogni was doing in Italy’s most prestigious publishing house, the same one that rejected Primo Levi’s classic account of Auschwitz.

Before ending, I would like to note briefly those who contributed to this special section on Mirella Serri’s *I Redenti*. Ruth Ben-Ghiat is a professor of Italian Studies at New York University and author of *Fascist Modernities*. Giorgio Israel is a professor of Mathematics at University of Rome “La Sapienza” and co-author of *Scienza e razza nell’Italia fascista*. We are profoundly grateful to Professor Kenneth Lloyd-Jones of Trinity College for translating the essays of Mirella Serri and Giorgio Israel.

*The Redeemed:
Intellectuals Who Gained a Second Life
(1938–1948)**

Mirella Serri

In the years immediately following the Second World War, Carlo Muscetta—one of the founders of the publishing house of Einaudi—would recall that, on account of his years spent as a Blackshirt, Velio Spano had rechristened him a “redeemed” Fascist.¹ A scholar of Italian literature, a “critical Marxist”—for that is how Spano liked to define himself—the teacher of Avellino had, from the second half of the 1930s on, taken part in the *Littoriali*, the regime’s cultural festivals, contributed to numerous periodicals including *Oggi*, *La Ruota*, and *Primato*, and, while not yet in his thirties, been admitted into the pantheon of the most esteemed critics, essayists, and advisers to the major publishing houses.

In characterizing Muscetta with the unusual label of “redeemed” Fascist, Spano was acting not out of nostalgia for the previous two decades, but rather as a preeminent personality of the Italian Communist Party and the antifascist conspiracy. He had been a collaborator of Antonio Gramsci, he had been condemned by the special Tribunal in 1927, and once his five-year sentence had been completed, he had succeeded in leaving the country clandestinely, and had earned his laurels as a vigorous combatant in Spain during the Civil War. He had thus spent half his life in hard labor, exile, and struggle.

For years, the militant Communist had devoted himself single-mindedly to fostering propaganda to keep internal opposition alive, by means of frequent party missions in Italy.² Fully acquainted with the status of the

* Translated by Kenneth Lloyd-Jones.

1. Carlo Muscetta, *Dialoghi con...* (Valverde: Il Girasole, 2002), p. 35.

2. For more on Spano, see *ibid.*, ch. 20.

conspiracy in the peninsula, with the aim of world conflict in mind, he detected in Muscetta an exponent of that cadre of young scholars, artists, journalists, and writers who, while subsequently having been welcomed into the ranks of antifascism and the Resistance, had been extensively bound to the dictatorship and its representatives by a subtle but durable series of interwoven threads. Furthermore, he considered this cadre to be quite extensive. According to Spano, in the case of Muscetta, who had worked until May 1943 for the periodical *Primato*, as in the case of so many other intellectuals who continued to support the regime with their writings and their qualified participation in juridical, cultural, journalistic, and artistic circles, one might speak of the regime's disastrous collapse not in terms of the antifascism in favor during "the black years," but rather in terms of "rejected Fascism."

Muscetta, who in the 1940s had joined the prestigious group of "senators" from the firm of Einaudi (the board of directors of the Turin-based publishing house, comprising Leone Ginzburg, Norberto Bobbio, Cesare Pavese, Mario Alicata, Massimo Mila, Giaime Pintor, and others), rejected the label of "Redeemed," recalling that in the mid-1930s he had been made to drink "a glass of castor oil" for having delivered "a defeatist speech" at the *liceo* of Molfetta.³ In 1937, however, he had sought membership in the PNF: from that time on, he had obtained new teaching duties and opportunities for journalistic collaboration, and later on for gaining a toehold in the periodical of the most highly qualified circles of the Italian intelligentsia, *Primato*, the brain-child of Giuseppe Bottai, a hierarch and the Minister of National Education. Notwithstanding this entry into the Fascist world, don Carlo had not forgotten—again according to his own testimony—the opposition to the regime, maintaining clandestine contacts with the Communists and the Liberal-Socialists, who were at this point "extremely cautious."⁴ But contrary to what Spano maintained, *Primato* itself would make clear the actual extent of his contribution to the opposition against Mussolini. Muscetta practiced a so-called "loyal dissemblance," and expressed it by concealing his own opinions "because they were not orthodox." This key was essential, he added, "for those who wish to understand Fascism."⁵

3. Muscetta, *Dialoghi con . . .*, p. 35.

4. Carlo Muscetta, *L'erranza: Memorie in forma di lettere* (Valverde: Il Girasole, 1992), p. 78.

5. Aldo Grandi, *I giovani di Mussolini: Fascisti convinti, fascisti pentiti, antifascisti* (Milan: Baldini & Castoldi, 2001), p. 61. See the insightful remarks of Claudio Pavone,

Thanks to this key to our understanding of the black-shirted lapses of Italian intellectuals at a time of civil war and in the immediate postwar period, we can discern a dramatic split that tears apart the vitality of the antifascism of the actionist and Communist left. It stems directly from an evaluation of the conduct of the latest arrivals among the ranks of antifascist resistance on the part of old guard antifascists, like Spano, who regarded with scepticism and bafflement the recent history of the “newcomers,” the Redeemed. A large part of the new antifascism had espoused the cause after the fall of the regime, after July 25 or toward the end of 1943, or had adhered directly to the Resistance in 1944. The new driving force behind antifascism was made up of writers, politicians, economists, jurists, philosophers, artists, literary historians, journalists, men of the theater—all having great cultural and political power, and who, in the years after the civil war, were beginning to play principal roles in the press, the cinema, the legal system, the economy, and the art of the new Italy. On the other hand, those politicians and intellectuals who had found themselves leading a clandestine struggle, been subjected to the vicissitudes of emigration,⁶ or suffered internal exile and withdrawal from public life during the “black years,” looked with suspicion upon this active intelligentsia—antifascist, but freshly minted—which had taken part in the *Littoriali*, worked for the institutions and structures of the regime, accepted financing for Mussolini’s cinema, and written for the dictatorship’s reviews. Often, furthermore, the “newcomers” were made up of groups of young men who had turned up on the outer limits of public life toward the end of the 1930s. Among the ranks of the actionists, the Christian Democrats and significant sectors of the Communist old guard, there was thus a call for a period of quarantine, a pause for stepping back and for “re-education,” before the antifascists of more recent vintage could start to join in the leadership of a country endeavoring to map out its own future.

Those Italian intellectuals active within Italy in the latter half of the 1930s—the Spanish Civil War and the racial laws were identified by those

Una guerra civile: saggio storico sulla moralità nella Resistenza (Turin: Bollati Boringhieri, 1994), pp. 567ff., on the reconstruction of memory with regard to the two “black decades” in both popular and intellectual circles, particularly in a time of civil war.

6. Giancarlo Pajetta, in the years immediately after the Second World War, was to maintain that “the party had been shaped in two ways: by prison and by exile.” The Communist leader stirred up in this manner some fiery reactions among the youngest in the group, and among those who alleged they had practiced clandestine militancy in Italy throughout the black years. On this testimony, see Fabrizio Onofri, *Esame di coscienza di un comunista* (Milan: Milano-Sera, 1949), pp. 33ff.

who pointed the finger of blame as the term-limits for the period in which it was necessary to adopt antifascist scruples—would find, in the years during which the debate on re-education was to rage ever more ruthlessly (1944–1946), that their own lives were tormented and ripped apart. They had lived a first life “lacking in authenticity,” and a second life, this one an “authentic” life (a figure of speech identified with the Norberto Bobbio years). In both lives, this intelligentsia retained similar roles as guides and leaders, and did so within a very short period of time in totally different cultural and political arenas—in an era of totalitarianism as well as in the ranks of the antifascist Left after July 25.

The history of this segment of the intelligentsia centers on the vicissitudes of the publication that succeeded in welcoming among its ranks the greatest numbers of those intellectuals who had transferred out of an “inauthentic” life and into one of “authenticity,” namely *Primato*.⁷ This periodical welcomed onto its pages practically the entire world of Italian culture, including among others: Sibilla Aleramo, Mario Alicata, Giovanni Battista Angioletti, Corrado Alvaro, Riccardo Bacchelli, Gabriele Baldini, Piero Bargellini, Bruno Barilli, Arrigo Benedetti, Silvio Benco, Carlo Bernari, Carlo Betocchi, Romano Bilenchi, Arnaldo Bocelli, Alessandro Bonsanti, Massimo Bontempelli, Anton Giulio Bragaglia, Vitaliano Brancati, Dino Buzzati, Vincenzo Cardarelli, Emilio Cecchi, Giovanni Comisso, Gianfranco Contini, Carlo Cordié, Beniamino Dal Fabbro, Dino Del Bo, Libero De Libero, Giuseppe De Robertis, Giuseppe Dessì, Enrico Emanuelli, Giansiro Ferrata, Enrico Falqui, Leo Longanesi, Carlo Emilio Gadda, Alfonso Gatto, Francesco Jovine, Mario La Cava, Carlo Linati, Nicola Lisi, Manlio Lupinacci, Mario Luzi, Carlo Muscetta, Giovanni

7. Anthologized selections of *Primato* have been published: see Luisa Mangoni, ed., *Primato, 1940–1943: Antologia* (Bari: De Donato, 1977); and Vittorio Vettori, ed., *Antologia di Primato* (Rome: De Luca, 1968); Luisa Mangoni, *L'interventismo della cultura: Intellettuali e riviste del fascismo* (Rome and Bari: Laterza, 1974); Luisa Mangoni, “Il fascismo,” in *Il letterato e le istituzioni*, vol. 1 of *Letteratura italiana*, ed. Alberto Asor Rosa (Turin: Einaudi, 1982), pp. 521–48; Luisa Mangoni, “Le riviste del Novecento,” in *ibid.*, pp. 945–81; Giuseppe Langella, *Il secolo delle riviste: Lo statuto letterario dal “Baretti” a “Primato”* (Milan: Vita e Pensiero, 1982); Angelo Cicchetti and Alberto Asor Rosa, “Roma,” in *L'età contemporanea*, vol. 3 of *Letteratura italiana: Storia e geografia*, ed. Alberto Asor Rosa (Turin: Einaudi, 1989); Giulio Ferroni, *Il Novecento*, vol. 4 of *Storia della letteratura italiana* (Milan: Einaudi scuola, 1991); Robert Dombroski, “The Rise and Fall of Fascism (1910–1945),” in *The Cambridge History of Italian Literature*, ed. Peter Brand and Lino Pertile (Cambridge: Cambridge UP, 1997), pp. 493–530. See the facsimile edition of *Primato* with a preface by Pia Vivarelli (Rome: Editalia, 1993).

Macchia, Eugenio Montale, Vito Pandolfi, Pier Maria Pasinetti, Giorgio Pasquali, Pietro Pancrazi, Ercole Patti, Cesare Pavese, Enrico Pea, Camillo Pellizzi, Sandro Penna, Giaime Pintor, Guido Piovene, Vasco Pratolini, Mario Praz, Salvatore Quasimodo, Giuseppe Raimondi, Vittorio Sereni, Adriano Seroni, Leonardo Sinisgalli, Mario Socrate, Sergio Solmi, Giani Stuparich, Bonaventura Tecchi, Mario Tobino, Pietro Paolo Trompeo, Giuseppe Ungaretti, Nino Valeri, Orio Vergani, Glauco Viazzi, Giorgio Vigolo, Giancarlo Vigorelli, and Cesare Zavattini.

These were joined by anthropologists, such as Ernesto De Martino; philosophers, such as Nicola Abbagnano, Galvano Della Volpe, Antonio Banfi, Cesare Luporini, Enzo Paci, Guido Manacorda, and Sebastiano Timpanaro; and teachers and ecclesiastics, such as Luigi Volpicelli and don Giuseppe De Luca (disguised under the pseudonym of Disma).⁸ There were also artists, urbanists, architects, and art critics, such as Giulio Carlo Argan, Amerigo Bartoli, Renato Birolli, Giuliano Briganti, Massimo Campigli, Domenico Cantatore, Giuseppe Capogrossi, Carlo Carrà, Arnaldo Ciarrocchi, Felice Casorati, Filippo De Pisis, Pericle Fazzini, Riccardo Francalancia, Michele Guerrisi, Renato Guttuso, Mario Mafai, Mino Maccari, Mirko Basaldella, Giacomo Manzù, Giuseppe Migneco, Luigi Montanarini, Giò Ponti, Marcello Piacentini, Domenico Purificato, Ottone Rosai, Bruno Saetti, Aligi Sassu, Angelo Savelli, Toti Scialoja, Scipione (the pseudonym of Gino Bonichi), Gino Severini, Giovanni Stradone, Antonello Trombadori, and Orfeo Tamburi.

Among these collaborators we also find historians, politicians, and journalists, such as Enzo Biagi, Enzo Forcella, Carlo Morandi, Paolo Monelli, Indro Montanelli, Manlio Lupinacci, Franco Rodano, Giorgio Spini, and Luigi Salvatorelli; musicologists, such as Gianandrea Gavazzeni; literary historians, such as Walter Binni and Luigi Russo; directors, producers, and experts in the cinema and the theater, such as Michelangelo Antonioni, Enrico Fulchignoni, Gianni Puccini, and Francesco Pasinetti.

It was not by chance that Spano and Muscetta were to consider Bottai's fortnightly publication as the yardstick by which to measure the Fascist past, although from contrary perspectives. *Primato*, the showpiece of Fascist culture, seemed to be, in the eyes of the antifascists abroad, a treacherous terrain on which no opponent of the regime should ever set foot—a temptation to which no one should ever yield. But for those “cautious”

8. Giuseppe Bottai and Giuseppe De Luca, *Carteggio: 1940–1957*, ed. Renzo De Felice and Renato Moro (Rome: Edizioni di storia e letteratura, 1989).

or disguised antifascists like Muscetta, who extended his collaboration to the very limit, right up until the days immediately preceding the collapse of the regime, or for militant Communists like Alicata, actively writing for the periodical until just a few days before his arrest, this publication would come to be remembered, on the contrary, as a basic instrument for antifascist training exercises, detailed argument, and communiqués.

Its fortnightly publication by a hierarch who adored surrounding himself with artists, writers, and journalists—he has been nicely characterized as a man who viewed intellectuals as if he were a “raptor” and they his prey⁹—was conceived by its creator as a high-profile operation to draw together every “living force” in Italian culture, with the aim of reconciling the “culture of the test-tube” and “the culture of action.” It came into being in March 1940. Conceptualized so as to give voice and depth to the new governing class that would be required to pick up the country’s reins once the war was over, it thus constituted an absolutely exceptional phenomenon, one that is indeed unique in the history of modern Italian culture.¹⁰ Overriding distinctions of political tendency and generation, it gathered into one place the whole of “Italian institutional culture,” with over 250 signatories—writers, journalists, philosophers, architects, urbanists, and cineastes.¹¹ *Primato* gave credence to a powerful sense of continuity: the writers, artists, and journalists active among the progressive forces from 1943 on were to a large degree exactly the same intellectuals whose names appeared alongside one another in Bottai’s publication, which was thus to feature a cross-section of the political and cultural life of the majority of those who stood for the intellectual and ruling class, and which did so in an uninterrupted line from the end of the 1930s to the postwar period.¹² It

9. Norberto Bobbio, “La cultura e il fascismo,” in *Fascismo e società italiana*, ed. Guido Quazza (Turin: Einaudi, 1973), p. 235.

10. Asor Rosa, *Il letterato e le istituzioni*, pp. 565–69.

11. Niccolò Zapponi, “I miti e le ideologie,” in *Cultura e società, 1870–1975*, vol. 7 of *Storia dell’Italia contemporanea*, ed. Renzo De Felice (Naples: Edizioni Scientifiche Italiane, 1981), p. 187. Giordano Bruno Guerri, *Giuseppe Bottai, fascista* (Milan: Mondadori, 1996), pp. 163ff.

12. Cf. Nicola Tranfaglia, *Dallo stato liberale allo stato fascista: Problemi e ricerche* (Milan: Feltrinelli, 1973); Nicola Tranfaglia, *Uno scomodo passato: Fascismo e postfascismo* (Rome and Bari: Laterza, 1996). Ernesto Galli della Loggia remarks that “while in the realm of politics, insofar as this denotes an ideological sphere, there occurred dramatic fractures, in the realm of politics proper—that is, purely as an exercise in power-brokering—it represented the designated locus for guaranteeing the all-inclusive continuity of

has been regarded as a spill-over from those preliminary indications of a culture of resistance that were the prelude to an intellectual and national sense of unity and cohesion, represented by the antifascist aspects of the CLN and by democratic forces in the postwar period. It has thus been held to be an instrument of significance not so much for the history of the Fascism in which it was born and flourished, as for the history of antifascism itself.

It is to the historian Michele Sarfatti that we must turn for elucidation of the equivocal impression that we feel, time and again, on leafing through the pages of *Primato*, and so many of the other reviews born in the Fascist period, in that they were publications marked by multiple indicators of opposition and of the development of the resistance. He has underscored how the anti-Jewish laws represented “a transformation of considerable importance, as much for the history of Italian anti-Semitism as for the actual institutional, juridical and social history of the homeland.”¹³ Such a transformation was “complex . . . in that it had yet to be scrutinized under the magnifying glass of historiography . . . it remains little known other than through self-serving exorcism.”¹⁴

Primato, along with so many other publications operating between 1938 and 1943, served as the regime’s instrument for ensuring that the anti-Jewish laws were implemented and took root—laws that, as Sarfatti has stressed with a lone voice in pointing out this historiographic perspective, “were intended and implemented as a progressive reform and as a fact not open to further discussion. This last feature is of noteworthy importance: if the procedures and institutions promulgated earlier had been ‘simply’ aryanized—and such was not always the case—those introduced later

the Italian ruling classes, and their constant recomposition as a unified whole.” Galli della Loggia, *L’identità italiana* (Bologna: Il Mulino, 1998), p. 152.

13. Michele Sarfatti, *Le leggi antiebraiche spiegate agli italiani di oggi* (Turin: Einaudi, 2002), p. 7. Sarfatti’s affirmations have provoked polemical reactions: cf. Duccio Trombadori, “Perché *Primato*, la rivista di Bottai, non può essere definita antisemita,” in *Foglio*, December 9, 2003. Cf. Michele Sarfatti, *La Shoah in Italia: La persecuzione degli ebrei sotto il fascismo* (Turin: Einaudi, 2004). On the problem of how to engage in debate on the anti-Jewish laws, Gabriele Turi underscores the importance of “understanding not only the characteristics, but also the origin and the heritage of a persecution that was for a long time expunged from the memories of the antifascists and of the Jews themselves.” Turi, *Lo stato educatore: Politica e intellettuali nell’Italia fascista* (Rome: Laterza, 2002), p. 123. Cf. Pierre Milza et al., *Dizionario dei fascismi* (Milan: Bompiani, 2002).

14. Sarfatti, *Le leggi antiebraiche*, p. 43.

(from Giuseppe Bottai's *Primato* to the so-called Italian Social Republic) were, in a programmatically totalitarian manner, aryan and anti-Semitic."¹⁵ After the promulgation of those laws that cut into custom and society, the domain of culture was also to be caught in the iron grip of an educational project aimed at the creation of a new "racial awareness," concomitant with the "new Fascist man," both of which ideas were to receive considerable impetus from the *Carta della scuola* (the doing of Bottai himself) and from the provisions for the defense of the race, to which the hierarch was not only a signatory but which he upheld as actively as he could.¹⁶

The epithet of "the Redeemed," which may be preferable to that of "the dissimulators," was in fact born out of the idea of a wholly distinct second life, with a "before" and an "after." The Redeemed—in point of fact, intellectuals already in a state of crisis, or critics in confrontation with the dictatorship—were to be put to use to bring credit to discussions of the war, autocracy, racial discrimination, imperial conquests, and the like.¹⁷ *Primato*, intended to be the flagship of the Fascist propaganda flotilla, marked by elevated theoretical and analytical ambitions, and created for the elaboration of theory and to develop basic proposals for the New European Order, would uphold with the greatest intensity a racist point of view that set forth and developed juridical and institutional questions, as well as topics in international politics and problems in the high schools (where *Primato* was distributed for free) and the universities.¹⁸

The Redeemed—who have virtually nothing to do with the converted, or turncoats, as they effectively came to be called by the neofascist Right in order to sully the image of antifascist resistance—were made up of restless intellectuals of varying cultural and political penchants. They were "cautious" people, sincerely opposed to the dictatorship, eager for

15. Ibid., p. 7.

16. Nazario Sauro Onofri, *I giornali bolognesi nel ventennio fascista* (Bologna: Editrice moderna, 1972), pp. 160ff.

17. Valentina Pisanty, *Educare all'odio: La difesa della razza* (Rome: Edizioni Unità, 2004), in the introduction to which Umberto Eco asserts: "We are talking about thought, a thought that for sure has nothing directly to do with the extermination camps, but one which (in fact) justifies them, and in some respect prepares the ground for them and allies itself to them, even if it fell to others to make them operational."

18. Adrian Lyttelton, "La dittatura fascista," in *Guerre e fascismo 1914–1943*, vol. 4 of *Storia d'Italia*, ed. Giovanni Sabbatucci and Vittorio Vidotto (Rome and Bari: Laterza, 1997). Renzo De Felice, *Mussolini il duce: Lo Stato totalitario, 1936–1940* (Turin: Einaudi, 1996), p. 730.

nothing more than its downfall, but who continued to write and to collaborate without ever giving public voice to their own dilemmas. They were double-dealers like Mario Alicata, a militant revolutionary among the ranks of the regime in order to proselytize for the Communist cause. While enjoying the trust of Bottai, Alicata became the driving intellectual force for consensus, both alongside Bottai (even if the Communist party, which went unheeded, advised him against making a career out of it), and among Fascist circles.¹⁹ In his writings, he does not even skim over—nor could he—the racial question.

Among the lists of the Redeemed identified as such in the post-war years, there were also intellectuals who were committed supporters of Fascism, but who despised the arrogance of the hierarchy, the “shark attacks,” the corruption and the internal “anomalies” of the regime. Also considered among the Redeemed were all of those who nurtured doubts about Fascism but who supported the cause and obeyed “the reasons of war,” as Enzo Forvella put it, because they identified with the pain and the torment of “the homeland at arms.” Notwithstanding the vast range of positions that only became entirely clear after the fall of the regime, the Redeemed, on account of their own authority and their own writings, ended up consolidating the “justification” of the regime, since even for its most convinced opponents, when they were acting in public, the shadowy delineation was softening and disappearing, and the distinction between those who were working for the conspiracy and those who were operating out of sincere and profound conviction was becoming increasingly fluid.²⁰

On the very eve of the downfall of the regime, even the memory of the Redeemed was destined to turn into that vexed political unraveling that would characterize the activities of the postwar intellectuals. The PCI was fully conscious of its own absence from the peninsula over the twenty

19. Mario Alicata and Carlo Muscetta, *Avventure e scoperte: Nuove letture per la scuola media* (Florence: Sansoni, 1941).

20. Eugenio Garin asserts that the antifascist combatants mimicked one another so well as to be unrecognizable: “The history of Italian culture under the Fascists was not made up of great battles. It was not in its essence an action-filled war. It consisted, on a daily basis for the most part, of digging in along a filthy and loathsome trench, punctuated by skirmishes and reconnoitering forays, between combatants who mimicked each other so well that distinguishing between friend and foe was often the greatest ambush to be expected.” In Garin, *Intellettuai italiani del XX secolo* (Rome: Editori Riuniti, 1974), p. 81.

years in question. Availing itself of the authority of its secretariat, the party was ready as of September 1943 to welcome with open arms those intellectuals who had turned their backs on the dictatorship, without fussing too much over their lapses.

In contrast to a section of the old directorship and in disagreement with the actionists, who would have preferred a period of “quarantine” or of re-education for all of those who had suckled at the bosom of the dictatorship, the PCI undertook a vast political operation of “recuperation” of the “ex-Fascists.” They were impelled moreover by the profound awareness (which the *Migliore* [i.e., Palmiro Togliatti] had been fostering since the 1930s) that Fascism had been not a dictatorship of the few, but a deep-rooted regime of the masses.²¹ The PCI thus ended up retaining under its own control the task of re-baptizing, as Paolo Mieli has put it.²² It took upon itself the onus and the honor of “absolving” those sins committed in the previous life, with neither quarantine nor re-education, but by the simple act of opening up its ranks in welcome. The cost of admission for the intellectual leadership and for a democratic Italy would thus require a dip in the baptismal font of the party that had provided a guiding role in the Resistance, and which characterized itself as “possessing the keys of legitimization...and [as being] able to select from among the ‘political sinners’ who was worthy of admittance into the community and who was not.”²³

This involved an operation of such magnitude that, between 1944 and 1945, it alarmed even the Allies, who denounced the Communist party as being the most readily available to welcome the ex-Fascists. This constituted a further vital crossroads in the history of the Redeemed: compelled in its turn by the need to shield itself from the inconvenient image of a welcoming haven for the ex-Fascists, the PCI itself would now need to assert ever more vigorously what until 1943 it had denied: that

21. Cf. Palmiro Togliatti, *Sul fascismo*, ed. Giuseppe Vacca (Rome: Laterza, 2004); Gianni Oliva, *Le tre Italie del 1943* (Milan: Mondadori, 2004), p. 13. Oliva raises the question of whether Fascism, in addition to being an exercise in violence and an “empty church” (i.e., a structure of corruption, rhetoric, belloyed proclamations, and so on), had not also been “an efficient machine for the promotion of propaganda, of ritual and of large-scale assemblage, designed to manipulate the consensus of the masses and to instigate among them a generalized form of politicization which Italians had never experienced prior to that time.”

22. Paolo Mieli, *Le storie la storia* (Milan: Rizzoli, 1999), p. 312.

23. *Ibid.*

in Italy, black-shirted antifascism had indeed enjoyed a large margin of maneuverability.

The sense of culpability, however, continued to grow ever fainter. In the years leading up to the end of the World War, both the PCI and the publications, editorial houses, and intellectuals connected with it would carefully avoid anything that could cast a shadow over the process of “purification” now underway. By way of priority, they completely skirted any memory of the racial laws and the Shoah, which had become by this time a disturbing taboo, the cost of which was to be borne not only by historical truth but also by the victims of persecution themselves, who happened to be making their own peace with the alteration of memory.

The history of the Redeemed has not yet exhausted its ability to foment discord and divisiveness. The re-examination of the actions of those individuals who lived a duplicate existence leads to burning debate. It foments equivocation among those for whom the period of the storm-tossed arrival in the haven of democratic Italy of those intellectuals who had dissembled—something that nevertheless served to bind up the various elements of national cohesion—has been wrongly taken to be the complete story, with regard to antifascist resistance. In the long run, the lapses of the Redeemed have not been acknowledged by the entirety of the protagonists. Few are those who have exposed these lapses to the light of day, with the aim not only of reliving a harrowing set of personal experiences, but also of restoring to the collective patrimony those tenuous yet all-pervasive “meshes” (as the philosopher De Ruggiero called them) with which the totalitarian regime ensnared its intelligentsia.²⁴

24. Gian Enrico Rusconi, *Cefalonia: Quando gli italiani si battono* (Turin: Einaudi, 2004). Historical myth, for all that (as Rusconi has explained), “is not synonymous with fable, legend, or—even worse—deception: the myth is a narrative which, on the basis of certain factual elements, transfigures the historical event, assigning to it meanings which transcend these elements, in the sense that they anticipate and foretell a future founded on values different from those of the past”—a myth that “deteriorates into something commonplace, if not actually manipulative, often at the service of one political force arrayed against another.” Cf. Paolo Mieli, “Cefalonia: Quando la storia deve fare i conti con un mito,” in *Corriere della Sera*, June 24, 2004.

*From the Odeon to the Odeon:
The Experience of Roberto Rossellini
From Fascism to Antifascism**

Mirella Serri

Thanks to his discussion of the “Bildungsroman” of the so-called “generation of the *Littorio*,” and indeed his whole manner of confronting the trajectory of maturation and the growth of political consciousness among his contemporaries, and then their ensuing antifascist swing, Enzo Forcella had coined the notion of a “dialectical pattern” made up of three phases: “Error—Disarray—Redemption.”

“The error,” as the journalist and writer explained it, “consisted in a more or less committed adherence to Fascism; the disarray was brought about by September 8, followed by the awareness of a political engagement that brought in its wake redemption through participation in the Resistance.”¹ In this “dialectical pattern,” a wide range of experiences is reflected among those intellectuals engaged in intense competition for some form of redemptive rebirth.² Even the great master of neo-realism, Roberto Rossellini, was to follow this “dialectical pattern.” The shift from Fascism to antifascism occurred with lightning rapidity in the case of the “redeemed” Rossellini: the director, at the apex of his sudden turnabout, was actually to succeed in presenting the Resistance with a movie masterpiece in *Roma, città aperta* [*Rome, Open City*], the planning for which, along with the drafting of the screenplay, took up the summer and fall of 1944.³ The film, which was inspired by Teresa Gullace, murdered by the

* Translated by Kenneth Lloyd-Jones.

1. Enzo Forcella, *La Resistenza in convento* (Turin: Einaudi, 2000), p. 231.

2. A more specific case is provided by Pintor. See chap. 18 [of *I Redenti*] and Mirella Serri, *Il breve viaggio: Giaime Pintor nella Weimar nazista* (Venice: Marsilio, 2002).

3. Giani Rondolino, *Rossellini* (Turin: UTET, 1989), p. 78. See also Roberto Rossellini, *Quasi un'autobiografia* (Milan: Rizzoli, 1987).

Germans in the Viale Giulio Cesare in front of the barracks of the 81st Infantry, had at its center Don Giuseppe Morosini, shot by the Germans for his operations among the disbanded military, and for having acquired weapons to be used in the struggles of the Partisans.⁴

In the summer of 1944, Rossellini had set himself to making a film that was a milestone in the history of antifascism. Yet only a few months earlier, in June 1943, putting his own extraordinary abilities at the service of the regime, he had presented Mussolini's Italy with one of the most significant films of wartime propaganda. On June 16, in the Odeon cinema in Milan, *L'Uomo dalla Croce*⁵ had its premiere—the third and final section of Rossellini's wartime trilogy, composed also of *La nave bianca* [*The White Ship*], which had made its appearance on screen in October 1941, and *Un pilota ritorna* [*A Pilot Comes Home*], which premiered on April 17, 1942. *Roma, città aperta*, the cinematographic epic of the Resistance, emblemized in the execution of Don Morosini one of the most dramatic aspects of the antifascist and anti-Nazi resistance.⁶ Similarly, *L'Uomo dalla Croce*, in its turn the epic presentation of the Fascist war waged on the Russian front, with everything from frozen limbs to missionary zeal, focused for its principal character on a man in holy orders, destined however to sacrifice himself for the homeland and for Mussolini. In both films, the moments of climax center on a man of the cloth.

The film, intended for Italian Blackshirts and focusing on the emotional impact of the figure of the chaplain so as to portray the great heroism of the troops engaged on the Russian front, was based on a theme by the former Fascist squad member Asvero Gravelli, editor-in-chief of *Gioventù fascista*, and director of the ultranationalist and racist *Antieuropa*. Rossellini wished in this manner to pay homage to the Dominican friar Father Reginaldo Giuliani, a military chaplain who had fallen in the war. He therefore made a reconstruction of the Russian campaign, with a kolkhoz put together in the neighborhood of Ladispoli, and he basked in the mystico-religious character of Fascism in its declining stages. He had as an

4. Rondolino, *Rossellini*, p. 75.

5. [This movie is more accurately known in Italy as *L'Uomo della Croce: Man with a Cross*.—Trans.]

6. Aurelio Lepre, *Via Rasella: Leggenda e realtà della Resistenza a Roma* (Rome-Bari: Laterza, 1966). The historian takes issue with *Roma, città aperta*, accusing the director of having romanticized the real nature of resistance in the capital, and of having sought in this manner to reposition himself as a participant “amid the sense of displacement with regard to his personal experience.”

ulterior motive the wish to describe the cruelty and the cynicism of the Communists, in contrast to the figure of the priest who, while the battle is raging, loses his life in a gesture of complete selflessness. With this film, whose first take had been shot in July 1942, Rossellini would crown his activity as a director for the regime and for its bellicose ideology. The film was not widely screened after its release about a month before July 25, but that did not save it from the criticism of Giuseppe De Santis, who noted that the dialogue of the Communist political commissioner and of the Russian peasants belonged to “a terminology perfected for the most part by shabby popular romances like *The Mysteries of Paris* or *Two Little Orphan Girls*.”⁷

The war trilogy had started out with *La Nave bianca*, welcomed with considerable enthusiasm by the entire press, particularly by *Primato* and its film critic Enrico Fulchignoni (who after the war became a contributor to *Fiera letteraria*). Shown at the 9th International Festival of Cinematographic Art in Venice, it obtained the jury’s special award and the cup of the National Fascist Party: Bottai’s publication noted, over and above the film’s aesthetic values, its ruthlessly ferocious polemic against the enemies of Fascism. Fulchignoni would refer to the coherence “of a certain style, which, after *Uomini sul fondo*, this director had drawn to the public’s attention. . . . Bearing this in mind, it can [now] be understood how gratifying the lesson of *Uomini sul fondo* seemed to us in its time, and what joy we felt at the official recognition conferred on *La nave bianca*, in which—over and above its artistic values—we were affected by the indirect return to polemic, and by the indirect revalorization of an openly cinematographic poetics.”⁸

Shooting began on *La nave bianca* in April 1941. Speaking both of this film and of *L’Uomo dalla croce*, Luchino Visconti, from the very early 1960s, argued strenuously that both were “Fascist movies of Fascist propaganda.”⁹ *La nave bianca* is the story of a sailor wounded in combat, treated on a hospital ship in spite of Mussolini’s slogan that “he who stands still is lost.” With the dialogue punctuated by ludicrous outbursts such as “All hail to the Duce!” or “Here’s to us!” amid arms raised stiffly in salute and much military heel-clicking, the film strongly emphasizes the maritime virtues of an Italy at war. The young seaman, with martial declamations

7. Rondolino, *Rossellini*, p. 62.

8. Enrico Fulchignoni, “Ricerca di uno stile,” in *Primato*, October 1, 1941.

9. Rondolino, *Rossellini*, p. 74.

and surges of heroic exaltation, embarks on a bashful idyll with a nurse. The movie brings out the importance of the Italo-German bonds that are strengthened by the events of the war, whereas the English distinguish themselves with acts of barbarism and cover themselves in ignominy. Rossellini would first describe this particular film of his as “anthem-like,” and later as being rich in “religious values.”¹⁰ The future auteur of *Germania anno zero* had begun his involvement in militaristic movie-making even before *La nave bianca*. In an earlier period, with, as he would later explain by way of self-justification, “a wife and a son, with ever-growing financial difficulties, and with war coming—or rather with the war already started—the need for steady employment was growing increasingly compelling.”¹¹ Rossellini had collaborated with Goffredo Alessandrini on *Luciano Serra pilota*, a movie supervised by the duce’s son Vittorio Mussolini (a friend of Rossellini’s), and which had won the Mussolini Cup at the Venice Film Festival. This laurel wreath was shared with *Olympia*, a documentary on the Berlin Olympic Games, shot by the former actress and now director Leni Riefenstahl, who had enraptured the public with suggestive views of colonnades from Hellenic times, and of naked young women whose function it was—so noted *Il Corriere padano*—to “embellish” the toil of the athletes.¹²

Rossellini’s vision of martial heroism continued with *Uomini sul fondo* [*Men at the bottom of the sea*], a documentary/feature film conceived by Francesco De Robertis, director of the Center for Cinematography set up by the Ministry of Naval Affairs.¹³ This movie opened at the Odeon cinema

10. Ibid., p. 51.

11. Ibid.

12. M. Gastone, *Il Corriere padano*, August 27, 1938.

13. Rondolino, *Rossellini*, p. 45. De Robertis writes as follows: “At the beginning of 1939, a tragic event greatly affected public opinion in a world not yet inured by five years of war: the loss of the English submarine *Thetis*—along with its entire crew—which occurred not far off shore and in spite of desperate rescue efforts. Public curiosity and general interest in methods of submarine rescue persuaded the Ministry of Naval Affairs to welcome an idea of mine concerning a film that would illustrate the application of these methods. It was out of this plan that *Uomini sul fondo* was born. But it was only after months of opposition and of struggle that we started to make the movie. . . . Nobody believed that real sailors could successfully take the place of actors. Nobody believed that a naval officer could at one stroke appoint himself scriptwriter, scenarist, director, and everything else (when I say that ‘nobody believed,’ I mean the General Film Directorate of that time, the various production companies, and the relevant sections of the movie industry). On the other hand, I received the highest degree of intelligent understanding from the Navy, and without its specific support, the film would never have reached the screen.”

in Milan, and screenings continued there for a further two weeks or so. *La nave bianca* lasted for much longer on the screens in Rome and Milan, however, even gaining for itself a place in the honor roll of “best movies.” In formal session, the Committee for Political War Films expressed its pleasure at “the success gained by the first truly spectacular war film.” Nor was praise lacking from Luigi Freddi, general director of cinematography and president of the ENIC (*Ente nazionale industrie cinematografiche* [National Board of Film Industries]), who enthusiastically noted the director’s singularity, given that he had been “the only one who turned his direct attention to films of political and war propaganda.”¹⁴ In light of the brilliant success of this spectacular form of propaganda, Freddi announced that in the course of October there would immediately be launched a series of nine films devoted to the war. This was a triumph for Rossellini and the acknowledgement of his efforts as a creator of war films.

Work then began on the second film in the trilogy, *Un pilota ritorna*, with Massimo Girotti. The production was once again the work of the author of *Paisà* (a series film that would be made in 1946, and based on the American advance up the peninsula), and the story line was by Vittorio Mussolini (who signed himself Tito Silvio Mursino). Marcella De Marchis, Rossellini’s wife, recalled that there was “a huge struggle with Vittorio. . . . Roberto used to innovate and improvise, and there were ferocious discussions because he didn’t deliver the production all wrapped in one neat package.”¹⁵ The production company was ACI (*Anonima cinematografica italiana* [Italian Films Ltd.]), whose president was in fact no less than the duke’s son. De Santis however took the liberty of writing a review of the movie in the periodical *Cinema*, whose director was the same Vittorio—Mussolini’s offspring himself—in the course of which he expressed his regret that the film had not totally fulfilled its purposes as a genuine work of propaganda.

Among others, Michelangelo Antonioni and Massimo Mida joined the production team. Mida was a contributor to the periodical *Cinema*, where he had hoped to develop rigorous links between Fascist and Nazi film-making: “It can in fact be argued that the German film industry, directly at the service of the state and of Nazi ideologies, was moving closer and closer toward a leveling-down of traditional values, adopting as its theme and central credo a tendency to bring to light the unitary nature of the ideology

14. Rondolino, *Rossellini*, p. 60.

15. *Ibid.*, p. 55.

underlying National Socialism—an ideology that contained within itself a new vision, as a function of the concepts and doctrines henceforth shaping the spirit of the nation.”¹⁶

Antonioni, on the other hand, a young critic for the *Corriere padano* and destined later to transmigrate to the pages of *Primato*, where he would be writing in May 1943, had thrown his weight in no uncertain manner behind Provolini’s proposal for a “State Theater.”¹⁷ He defended the need for such an institution in order to enhance the artistic education of the people: “We can certainly not accept the notion that, as long as the people—as is currently the case—shows signs of the penury of their education in artistic matters, we should lower the standards of art as being beyond the reach of the lower classes.”¹⁸ Moreover, he had gone on to reaffirm the importance of the “intellectual aristocracy,” which should assert itself over the people through the superiority of its “whimsical and fanciful mindset.”¹⁹ Antonioni had gone on to make his contribution to *Cinema*, in which he published a highly positive review of Augusto Genina’s *Assedio di Alcazar* [*The Siege of the Alcázar*], a work that had won the Mussolini Cup as the best Italian movie at the Venice film festival in 1940. The movie dealt with the 1936 defense of the Spanish fortress of the Alcázar by Franquists and Italian Fascists. Amid interwoven love stories—with the famous actress Maria Denis as the female lead—the film featured the arrival of “our side,” that is, the Falangists, who saved the antidemocratic combatants among the ruins of the fortress. The filmmaker, soon to be famous, stressed with abundant enthusiasm “the epic scope of the work,”²⁰ and then praised, as did the Fascist *Roma* along with the bulk of the national press, the racist film *L’ebreo Süss* [*The Jew Süss*].²¹ This last film had also earned fervid appreciation among the columns of *Primato*, where, in an article signed by Luigi Chiarini, its linguistic merits had been

16. Massimo Mida and Fausto Montesanti, “La produzione estera,” in *Cinema*, December 25, 1941.

17. Michelangelo Antonioni, “Commento a un’emigrazione,” in *Primato* 9–10, May 15, 1943; and Antonioni, “Per un teatro dello Stato: Pavolini e la sua proposta,” in *Corriere padano*, February 18, 1937.

18. Michelangelo Antonioni, “Dell’educazione artistica,” in *Corriere padano*, March 2, 1937.

19. Michelangelo Antonioni, “Elzeviri a passo ridotto,” in *Corriere padano*, July 23, 1938.

20. Michelangelo Antonioni, “La sorpresa veneziana,” in *Cinema*, September 1940.

21. *Ibid.*

noted, i.e., “the search for, and the securing of, a cinematographic idiom, in that absolute form without which we cannot speak of art.”²² Meanwhile, Sandro De Feo, in the *Messaggero*, noted the film’s spectacular character, the polemical qualities, and the “passionate coloration” with which the director had succeeded in depicting “that unerring instinct of the Hebrew race that enables Süß to find out where the money is to be found, and what must be done in order to ferret it out.”²³

Antonioni, in producing *Un pilota ritorna*, had made his own contribution to this state art, something that in his role as a critic he hoped to see established on a much firmer footing. The film was made in part on the airbase in Viterbo and partly in Tirrenia. In the vicissitudes of a young pilot who, shot down with his plane over Greece and finding himself handed over by the English to the Greeks, manages to escape from the concentration camp and to rejoin the Italian lines, we witness in fact the history of Italian aviation, all-conquering and undefeatable. As soon as it came out in the spring of 1942, *Un pilota ritorna*, under Rossellini’s direction, received a totally positive welcome from the film-going public. It was to obtain the first prize, category A, in the international competition of the GIL (*Gioventù Italiana del Littorio*). The production company of ACI would win the national prize for cinematography. “This time once again thanks to the influence of Vittorio Mussolini and his role as producer, this was the apotheosis both of Roberto Rossellini as a director, and of what might be termed the Italian school of fictionalized documentary-making.”²⁴

Between September 1943 and June 1944, Rossellini was busy directing and supervising *L’Invasore* [*The Invader*], having been caught up in the summer of 1943 with working on *Scalo merci* [*Freight Station*] (whose title he later changed to *Rinuncia* [*Renunciation*]), in the Titanus compound at the Farnesina.²⁵ When American bombs destroyed the San Lorenzo neighborhood, where there was a freight railroad depot that was supposed to serve as a background for the film, shooting was interrupted and the script had to be modified. The setting was no longer to be that of railroad workers, but rather that of foresters. Rome was to be replaced with a little village in the Abruzzi. What was the purpose of this transfer? This is how De Santis explains it: “He said he wanted to get on with the film far

22. Luigi Chiarini, “Ritornare alla forma,” in *Primato*, October 15, 1940.

23. Sandro De Feo, *Messaggero*, September 7, 1940.

24. *Ibid.*, p. 58.

25. Rondolino, *Rossellini*, p. 64.

from the tumult of war, with a different story line appropriate to the new setting. But he never shot even a foot of film in those mountains, because in reality the whole operation was carried out (I don't think I am revealing any secrets here) in order to be nearer the Allied armies in the event of a sudden breach of the Nazi defenses by the English and the Americans. I did not feel up to following him, either in my role as an assistant director or in that of a citizen."²⁶

While thus awaiting the arrival of the Allied troops, Rossellini—with a complicated family situation, including his wife Marcella De Marchis, his two children, and his new companion, the ballerina Roswita Schmidt, who had played the lead in *L'Uomo dalla Croce*—moved to Avezzano, and then back to Rome, to a *pensione* in the Piazza di Spagna where he took up residence with Schmidt. The director was later to say, “In June 1943, I crossed to the other side of the barricades, and joined the Resistance,” adding that in the eleven months preceding the liberation of Rome, he had lived “a dark and complicated life, in which the sublime merged with the grotesque.”²⁷ Therefore, to survive, he began dealings with the German troops, as evidenced by an intercepted phone call in March 1944.²⁸ His biographer goes on to specify: “It is a fact that he was never a militant in the Resistance, at least according to the evidence to hand. Nevertheless, he kept in touch with the antifascist militants, and he took part in a number of very impassioned political meetings.”²⁹ Out of this “keeping in touch with the antifascists” and out of these meetings and his relationship with Sergio Amidei, there would be born the idea of *Roma, città aperta*. Not even a year had passed since his last production in celebration of Fascism, and yet Rossellini was now busy planning the film that would make him into the maestro of Italian neo-realism. In spite of wartime complications, he began rehearsals in January 1945. The movie, no sooner than it was released in the fall of that same year, received the positive accolade of *Popolo*, the organ of the Christian Democrats. *L'Unità* published a short review by Umberto Barbaro, in which he stressed that “carefulness of depiction and political purpose are cleverly woven into the plot, and embedded into it in such a way as to inspire suspense and pathos among the spectators.” Indro Montanelli, in the *Corriere d'informazione*, wrote

26. Ibid., p. 65.

27. Rossellini, *Quasi un'autobiografia*, p. 68.

28. Mauro Canali, *Le spie del regime* (Bologna: Il Mulino, 2004), p. 185.

29. Ibid.

that “out of the two hours of the movie, only ten minutes fail to gratify: the torture scenes, which we would prefer to have seen indirectly hinted at. For the rest, Rossellini has directed the film with an unrelenting hand, without ever allowing the actors to orate, without ever surrendering anything to propaganda.”³⁰

By an unusual coincidence, however, the film would have its first screening at the Odeon cinema in Milan, where, on June 16, 1943, *L’Uomo dalla croce* had had its first release—the movie with which Rossellini had signed off on the last component of his war trilogy.³¹ “To walk out of cinemas such as the Diana, the Filodrammatici, the Meravigli, and the Corso, where American productions are showing this week, and once again to happen across the Odeon, where for a few days now *Roma, città aperta* has been showing—an Italian film—is one of our main sources of satisfaction these days: such a wonderful source of satisfaction as to constitute in and of itself, perhaps, the primary and indubitable signification of the actual film.”³² Such were the comments of some spectators. The great artist had known how to grasp hold of the political realities, as his friend Amidei would point out, rather shrewdly, after his death: “He was at bottom a realist who knew how to survive in political realities.”³³ From one Odeon to the other, it had been but a short step.

30. Ibid.

31. Rondolino, *Rossellini*, p. 83.

32. Ibid.

33. Ibid., p. 77.

Contested Memories: Mirella Serri's I Redenti

Ruth Ben-Ghiat

Over the last fifteen years, a series of political and intellectual events has changed the Italian cultural climate and with it the conditions for the writing and reception of works on Italian Fascism. The dissolution of the Italian Communist (PCI) and Christian Democrat parties, the advent of center-right governments under Silvio Berlusconi, and the mainstreaming of rightist visions of politics and history are only the most important developments that have given fuel to attempts to legitimate rightist visions of Fascism and the war at the left's expense. The drawing of equivalencies, based on a normalizing logic of Italian patriotism, between the war dead of the Resistance and those of the Republic of Salò; the dilution of the category of "resister" and the apologetics surrounding the category of the "collaborator"; and the minimization of Italian Fascist violence and repression by Berlusconi and other public figures all testify to an attempt to shift the parameters of collective memory.

Yet this same period has seen an enormous amount of new Italian and foreign research on the topic of Italian Fascism that has underscored precisely how violent and repressive this regime was. A slew of groundbreaking works, made possible by dogged and imaginative research and a lessening of practices of archival obstructionism, has clarified the pervasive collaboration of the world of culture and the intellectuals with Mussolini's every initiative, the atrocities incurred by Italian colonial and wartime occupations, the scope and nature of Italian domestic spying, and the ideology and implementation of Italian racism in both its colonial and anti-Semitic articulations.

Not surprisingly, many of these new works have been given a hostile reception in the Italian press, with newspapers across the political spectrum often seeking to discredit their authors as scandalmongers, shoddy researchers, and, in the case of foreign scholars, as interlopers who do not have the credentials or the right to critique Italians.

As a book about the many ways in which Italian intellectuals publicly supported the Fascist regime, *I redenti* (*The Redeemed*), by the literary scholar Mirella Serri, has received its own share of critiques and polemics.¹ Yet *I redenti*, more than many of these other works, seems to have been conceived very much as a work of contemporary history, as a frontal intervention in these conflicts between competing narratives of Fascism and its memory. By this I do not mean to imply that *I redenti*, which makes ample use of archival and period sources, is lacking as a work of historical research. Rather, its framing and tone seem designed to invite discussion and debate, both from the custodians of that configuration of memory that hinges on the trope of *Italiani brava gente* (Italians as humane people, even in dictatorship and war), and from her fellow scholars. In this sense it is a very salutary book.

The full title of Serri's volume, which translates in English as *The Redeemed: The Intellectuals Who Lived Twice, 1938–1948*, sets out her different agenda with respect to the body of work about Fascism and intellectuals upon which she draws. She departs from a well-known fact: that as soon as Fascism ended, Italian intellectuals divided their existences into two parts—during Fascism and after Fascism (i.e., after the fall of Fascism in July 1943 and the start of the Resistance later that year)—and constructed a kind of psychological firewall that permitted little reflection about loss, continuity, and moral or other lessons that might have been drawn from the long years of living with dictatorship. The resulting “laceration” (10) of life-stories set the stage for a collective “omission of the fascist past” (21) that put the subject of collaboration with the regime into a kind of quarantine, into “a large zone of the unsaid and the unexplained,” as the historian Mario Isnenghi has put it.² The contradiction presented by the perseverance of this zone of silence into the twenty-first century, in the face of so much information about what intellectuals actually did during

1. Mirella Serri, *I redenti: Gli intellettuali che vissero due volte, 1938–1948* (Milan: Corbaccio Editore, 2005). Page references will be given parenthetically within the text.

2. Mario Isnenghi, *L'Italia del fascio* (Florence: Giunti, 1996), p. 143, cited in Serri, *I redenti*, p. 21.

that Fascist past, is the departure point for Serri's book. She concentrates on the years of state anti-Semitism, Axis alliance, and war, and on those intellectuals who may have been uncomfortable with or opposed to the dictatorship, "but who continued to write and to collaborate without ever making public their own perplexities" (17). After the war, these private doubts and the eventual anti-Fascism of many came to dominate the historical record, while their support of Fascist anti-Semitism and the Axis war was mostly elided.

Serri's chosen case study is Giuseppe Bottai's review *Primato* (1940–43), which disseminated blueprints for Italian Fascist cultural dominance within the new Europe, but which, according to Serri, has been remembered mostly as a laboratory of dissent, with the pro-Fascist writings of many contributors merely a cover for or dissimulation of anti-Fascist sentiments. And those who could not claim dissimulation simply elided their pro-racist, pro-Axis contributions from their personal histories, a collective practice that helped to wipe clean the memory of the widespread support that Mussolini enjoyed in the era of Fascism. Against these revisionist histories, Serri's volume has an air of wanting to set the record straight: her book reads at times as a compendium of compromising activities by intellectuals who chose to let themselves "be utilized" (16) for the promotion of racial discrimination, war, and autarchy, rather than be cut off from Fascist patronage and contemporary Italian intellectual life.

Although the exegesis of Fascist-era writings occupies most of the book, Serri's ultimate aim is to reconstruct the immediate postwar years, when by collective and tacit will these Fascist activities were removed from memory. She focuses her narrative here on the elaboration after 1945 of historiographical models, such as that advanced by Ruggero Zangrandi in his 1947 book *Il lungo viaggio attraverso il fascismo* (*The Long Voyage Through Fascism*), in which the Fascist years have meaning merely as a rehearsal for anti-Fascism. Serri singles out the PCI as bearing responsibility for the legitimation of such strategies of historical manipulation: a desire to attract and empower intellectuals led the initially cautious PCI leadership to undertake a "political operation of 'recouping' ex-fascists" (19) that mitigated against the assignation of culpability for their prominence within the culture of the regime. Although this stance met with consternation from former anti-Fascist exiles, it provided the PCI with its next generation of ideologues and cultural operators, since those targeted by the PCI for "redemption" were of that generation that came of

age under the regime. Collectively courted by the Communists as they had been by the Fascists, and given “analogous leadership roles” (11) by both parties, this generation, Serri concludes, gave little thought to the idea that they had incurred a moral debt through the floods of words they penned in support of the regime.

I redenti continues Serri’s recent work on Giame Pintor and the cultural politics of wartime Fascist Italy. *Il breve viaggio: Giame Pintor nella Weimar nazista* (2002) rehearsed her ideas about the difficulties of interpreting this generation’s ambiguous words and actions in the dramatic final years of the regime.³ Yet *I redenti*’s tone is that of a *libro a tesi*, or thesis-driven book, since its twenty-two brief chapters (on individual intellectuals, on “double-gaming” anti-Fascist groups, on racism, and, of course, on Bottai and *Primato*) return doggedly to the same point: that many intellectuals traveled through Fascism’s final years on a *doppio binario*, or double track, acting as protagonists of the regime’s intellectual enterprises in public, and as skeptics or even antagonists of those same enterprises in private. The book’s episodic structure surely has contributed to its commercial success in Italy. Readers can dip into a chapter on the filmmaker Roberto Rossellini, or one on the artist Renato Guttuso, and see the peccadillos of anti-Fascist icons laid bare. Such readers will probably not be bothered by Serri’s failure to integrate recent research in some of these chapters (research that often anticipated her revelations). This tendency is especially marked in her chapter on Rossellini, which is based on one secondary text from the 1980s plus a few period sources, and lacks both profundity and contextualization.

Yet Serri also shows an ability to dramatize the contradictions that marked these intellectuals’ lives in those years. I am thinking of a neat point she makes about the artist Renato Guttuso—“militant Communist and simultaneously an artist who dedicated many works and writings to Fascism” (222)—who went into hiding in Quarto early in 1943 in order to avoid investigation by the Fascist police, but who continued to send his contributions to *Primato* from his hiding place until the very end of the regime. The chapter on the literary scholar and future PCI cultural leader Mario Alicata is also very strong and enlightening in this regard. Although Alicata has consistently backdated his anti-Fascism “conversion” to the years 1938–39 (he was a fan of “universal Fascism” in the early 1930s),

3. Mirella Serri, *Il breve viaggio: Giame Pintor nella Weimar nazista* (Venice: Marsilio, 2002).

Serri catches him praising the war as heroic and humane in early 1940 (before Italy entered) and discusses a 1941 scholastic literary anthology he co-authored (with fellow “dissimulator” Carlo Muscetta) that gave much space to Mussolini’s prose. After the war, Alicata proved to be among the most recalcitrant to admit any hint of collusion or compromise; as Serri shows, he harshly attacked anyone who raised the issue of his past, his defensiveness being proportionate to what he could potentially lose as a major player in the PCI hierarchy.

As I see it, the merits of this book, especially for a larger audience, are two. First, it devotes much space to the collective enthusiasm for Italian anti-Semitism, which is still denied by many in Italy today. While there are now many monographs that document the theory and practice of Fascist racism, Serri shows how racism was a “normal” rather than exceptional component of later Fascist culture. Second, the book brings together the examples of so many individuals—who are linked by their career-boosting associations with *Primato*—and argues its points so tenaciously, with so much period evidence, that it will be difficult for all but the most resistant Italian readers to deny that many intellectuals were much more complicit and pro-Fascist than previously believed, or, at the very least, pragmatic and cautious to the point of living the Fascist side of their “double-gaming” life with unbelievable zeal.

And here we arrive at the first of a number of conceptual problems that muddy Serri’s argument. Judging from the rhetoric she presents us with, these intellectuals consistently “over-performed,” in that the quality of their enthusiasm for Fascist causes, and the quantity of writings they produced to show this enthusiasm, greatly exceeded the believable and the necessary. Serri never resolves the question raised by the gap between the condition of allowing oneself to be utilized, by writing on topics dear to Fascism, and writing with great fervor on topics dear to Fascism. She is skeptical of the idea that intellectuals used Fascist journals like *Primato* to send coded messages to one another, but she does not really develop her own position about what these individuals were doing, beyond living their possible double existence. In a few chapters, such as that on Alicata, she points out that his activities went way beyond those necessary for his position as a “double agent,” so much so that the PCI found them unseemly and asked him to leave the editorial collective of *Primato*. But too often she is content to marshal her considerable evidence of Fascist collaboration and compare it to the post-1945 explanations of that collaboration, or

to let others speak for her, as when she quotes Renzo De Felice's idea that the process of "redemption" was made easier due to a "notable cultural and psychological affinity between their Fascism of before and their successive anti-Fascism and Communism."⁴

This issue is, in part, a product of the fuzziness of her conceptual framework, starting and ending with the vague definition she gives of the *redenti*. As she states at the outset, these were individuals who came from "various cultural and political inclinations" (17), but who were "already in crisis or critical of the dictatorship, and who let themselves be utilized to legitimate the themes of war, autarchy, and racial discrimination" (16). But this definition is contradicted by others that she gives elsewhere in the book, so that the category of *redenti* loses much of its analytical efficacy. They are intellectuals "intimately opposed to the regime" (8), but also individuals who believed in Fascism but disliked its corruption, as well as individuals who doubted Fascism but still supported its major causes. Yet Serri's ambitions in this book are worthy ones, and one can agree with her that the dramatic trajectories of these intellectuals "take us into the very heart of Fascist totalitarianism" (24). They also take us into the realm of contested memories about its legacies, which continue to shape the study of Fascism more than sixty years anon.

4. Renzo De Felice, *Mussolini l'alleato: L'Italia in Guerra* (Turin: Einaudi, 1996), p. 847n2, cited in Serri, *I redenti*, p. 186.

*Redeemed Intellectuals and Italian Jews**

Giorgio Israel

Historiographical Themes

The publication of Mirella Serri's *I Redenti* unleashed a number of intemperate reactions.¹ In the course of several book presentations, the author found herself obliged to confront hostile criticisms, centering on the accusation that she had profaned, through the defamatory accusation of anti-Semitism, the names of personalities who were sacred to the political and intellectual life of the Italian left, such as the Communist leader Mario Alicata and the literary critic Carlo Muscetta. It might seem surprising that a book denouncing the compromises made by many of the most distinguished Italian intellectuals, with regard to the Fascists' racial campaign, has been received with so much distrust, even with so much hostility, precisely among those circles of the left which by tradition have been viewed as the most sensitive to the cause of defending Jews against the anti-Semitism of the right.

The most obvious explanation for this attitude is that these personalities, "those who were redeemed," were among the front ranks of those on the left who had been transported from the right, thanks to their experience with the review *Primato*, and this is the theme of Serri's book. But not even this explanation is fully adequate, unless it is further recognized that this process of crossing over to the left of personalities who had been compromised by their adherence to racist policies had been, in effect, a mass phenomenon. Furthermore, it must be understood that this process went unaccompanied by any admissions of guilt or submitted to any

* Translated by Kenneth Lloyd-Jones.

1. Mirella Serri, *I Redenti* (Milan: Corbaccio, 2005).

critical examination. In sum, no adequate explanation for the attacks on Serri could be advanced unless it confronted the fact that the question involved a phenomenon of such proportion, and had been so carefully concealed, that any open avowal would have cast a heavy shadow over a considerable number of Italian left-wing intellectuals, especially among the Communists.

Indeed, the phenomenon did have such macroscopic features. From it have emerged three historiographical themes that only recently have become objects of critical study, and not without generating lively expressions of resistance. The first topic is the nature and degree of compromises made by Italian intellectuals with Fascism's racial program and its policies. The enormity of this accommodation had already been signaled, forty years earlier, by Renzo De Felice, when he spoke of an anti-Semitic public campaign "as widespread as can possibly be imagined." De Felice underscored the fact that, while the great mass of the Italian people had kept its distance from the racist anti-Jewish campaign, "Italian culture, whether Fascist or pro-Fascist," had "joined sides on an enormous scale with anti-Semitism."² Even so, De Felice did not focus his attention on anti-Semitic publicity, which only recently has been exhumed and analyzed.³ Mirella Serri's book concentrates partially on this theme, since it casts light on one aspect of this campaign, and partially on the second topic, the process whereby a large number of Italian intellectuals, formerly Fascists, who had compromised themselves with the racial campaign, were silently "cleansed" of their guilt and were ferried over to the Communist and Catholic shores. Careful examination would make evident that the Communist political world was the one most capable of attracting the "redeemed" intellectuals, thereby laying the foundation for a cultural hegemony that has remained in place to this day. Most instrumental in the "ferrying over"

2. Renzo De Felice, *Storia degli ebrei italiani sotto il fascismo* (Turin: Einaudi, 1961), pp. 442–44.

3. Regarding the scientific world, see my book: Giorgio Israel, *Scienza e razza nell'Italia fascista* (Bologna: Il Mulino, 1998); see also my "Science and the Jewish Question in the Twentieth Century: the case of Italy and what it shows," in *Aleph: Historical Studies in Science and Judaism* 4 (2004): 191–261; "Italian Mathematics and Fascist Racial Policy," in *Mathematics and Culture I*, ed. Michele Emmer (Berlin-Heidelberg: Springer-Verlag, 2004), pp. 21–48; and without forgetting the first essay on the topic, Giorgio Israel, "Politics of Race and anti-Jewish persecution in the Italian Political community," in *Le legislazioni antiebraiche in Italia e in Europa: Atti del Convegno nel cinquantenario delle leggi razziali (Roma, 17–18 Ottobre 1988)* (Rome: Camera dei Deputati, 1989), pp. 123–62.

and in the “redemption” was an amnesty regarding the disposition of those who had engaged in crimes considered “not particularly heinous” under the reign of Fascism, an amnesty that was principally the work of the Minister of Justice immediately after the war, Palmiro Togliatti, general secretary of the Italian Communist Party. As mentioned previously, those who had been “redeemed” entered either into the ranks of the Catholic party (the Christian Democrats), or into those of the Communist Party, with the clear majority joining the latter category. A serious historical investigation of this amnesty had been avoided for many years, and only recently has it started to be the object of publications of any substance.⁴

Out of these two themes emerges a third, one which we might identify by asking a question: in what manner has the concealment of the responsibilities of a vast stratum of personalities—for the most part intellectuals—influenced the perception of the extermination of the Jews and of Fascism’s racial policies in the political conscience and in the historical memory of Italians? I shall focus my attention on this third topic, not with the intent of developing a detailed historical analysis—something that could not be developed within the limits of a single essay—but rather to suggest a few starting points and some lines of inquiry that might shed light on the larger question.

For many years, the topic of Fascism’s racial policies had been virtually unrecognized by Italian historiography and political literature. This silence was broken, and then—as mentioned above—only partially, by Renzo De Felice’s volume. While there existed a diffuse awareness of the drama of the Nazi concentration camps and of the *Shoah*, the greater part of the Italian population hardly knew that in Italy there had been racial laws that, for many years, had oppressed the Jewish population. An indirect proof, although highly indicative, of this state of affairs is provided by the fact that the process of abrogating the laws (*delegificazione*)—in other words, the suppression of the enormous complex of Fascist racial legislation—began in 1943, and was completed only in 1987!⁵ Naturally, it was in the interest of so many of those who had been “redeemed” to preserve a veil of silence covering the misdeeds in which they had collaborated to a

4. See the recent publication of Mimmo Franzinelli, *L’amnistia Togliatti, 22 giugno, 1946: Colpo di spugna sui crimini fascisti* (Milan: Mondadori, 2006). On the purifications, see Hans Woller, *Die Abrechnung mit dem Faschismus in Italien* (Munich: Oldenbourg, 1996).

5. See *L’abrogazione delle leggi razziali in Italia, 1943–1987*, vol. 1 of *Problemi e profili del nostro tempo* (Rome: Servizio Studi del Senato della Repubblica, 1989).

greater or lesser degree. Their prominent positions in both the intellectual and the political spheres could only be retained in this manner. In Catholic circles, this conspiracy of silence contributed to keeping alive the venom of that traditional anti-Jewishness that has its origins in religion. But the most deleterious effects were to be found among the left, and in particular among the Communists, who contracted an epidemic of deafness when confronted with the topics of the *Shoah* and the racial persecutions. The Marxist-Leninist tradition was structurally incapable of grasping the Jewish problem, and particularly the nature of Zionism.⁶ It would be interesting to explore, by means of detailed and precise analysis, the degree to which the “Redeemed” might have contributed to reinforcing a lack of sensitivity in facing up to the Jewish problem, precisely because of this Marxist-Leninist tradition. This remains true even today, though, as we shall see, in a curiously inverted manner.

A Defining Event and a Polemic

In keeping with the chosen approach, suggesting a few lines of inquiry through the use of significant examples, let me recount an episode and a polemic that together illustrate the forms and roots of this deafness that, when confronted with the topics of anti-Semitism and Nazi and Fascist racial policies, afflicted certain intellectuals circles of the Italian left.

We are in 1961. In a cinema in the center of Rome (the Quattro Fontane)—which, by a singular coincidence, housed on the floor above the headquarters of the neo-Fascist political movement, the Movimento Sociale Italiano (MSI)—a documentary film on the history of Fascism was being shown. The title of the film was *All’armi siamo fascisti* [To Arms, We are Fascists], and it was the work of three famous left-wing directors, Lino Del Fra, Cecilia Mangini, and Lino Micciché. The screenplay was by Franco Fortini, one of the most well-known among the intellectuals (of Jewish origin) among the Italian Communist left. It is worth noting that the film is still being screened today, and that it was touted in May 2006 by the Cineteca Nazionale (in the context of the 5th International Festival of Roman Cinematography) as “one of the foremost treatments of Fascism in documentary form.” We are thus talking about a particularly significant

6. See in particular Giorgio Israel, *La questione ebraica oggi* (Bologna: Il Mulino, 2002); and ch. 4 of Giorgio Israel, *Il giardino dei noci: Incubi postmoderni e tirannia della tecnoscienza* (Naples: Cuen, 1998).

example, because despite the polemics that this movie has provoked, it continues to be acclaimed as a valid and timely production.

The cinema was packed beyond belief by young people who drew attention to each appearance of the Nazi-Fascist dictators by means of derisive whistling, and who got to their feet and frantically applauded the sight of detachments of partisans and the armor-plated columns of Stalin's Red Army. Leaving the cinema, the spectators, still dazzled by the sublime images and by the sunlight, found themselves greeted by a hail of furniture thrown from the windows of the headquarters of the MSI above. The police intervened and dispersed the anti-Fascists by beating their clubs against their shields, with unmistakably hostile intent. It was a difficult moment for the country. It was not long before these events that the right-wing government of Tambroni had fallen, thanks to street riots during which there had been a large number of victims. Political life was turning, not without a certain degree of difficulty, toward a timid opening to the left. For its part, the left had chosen to encourage, by all means possible, the emergence of a new generation of anti-Fascists. With the screening of *All'armi siam fascisti*, this new anti-Fascist generation was symbolically born. A new association named *Nuova Resistenza* [New Resistance] was formed, initially unaligned with any political party, but it later came under the ever-increasing control of the Communist Party. It was certainly no accident that one of the Communist leaders who steered *Nuova Resistenza* in this direction was one of the most famous of the "Redeemed," Mario Alicata.

It is not surprising, having had that experience as my first form of political activity, when I was a just little over fifteen years old, that I should recall that day and that film as an almost mythic memory. All the more bitter, then, was my disillusionment when, on April 25, 1994 (the anniversary of the Liberation), I had the opportunity to see the film again, this time when it was shown on a national television network. I immediately wrote about it in *Shalom*, the monthly publication of the Roman Jewish community. I do not believe I can express myself any better here, than by reproducing below some passages from that article:

I will not dwell on the political or historical thrust of the film, given that its authors (interviewed on this occasion) conceded their ideological subordination to the Communist party, in those days still imbued with Stalinism. Therefore, I shall not spend time trying to explain in terms of

a class struggle all the vicissitudes of the various European varieties of Fascism, or the tacit exoneration of the Molotov-Ribbentrop pact, considered a necessary consequence of the politics of the capitalist-imperialist powers. However, it is appropriate to underline one consequence of this ideological stance: the devaluing of the role played by the Western powers in the rout of Nazi-Fascism. Anyone unfamiliar with other sources would learn from this film that the role played by the partisans was at least equal to that of the Anglo-American forces in the liberation of Italy. But above all, it is important to underscore the manner in which the film treats the anti-Jewish persecutions.

There certainly appear pictures of the extermination camps, but anyone who had not learned about their existence from some other source would have no means of understanding just what is going on. The pictures of Hitler, frolicking with Eva Braun in the peace and quiet of their villa in the Bavarian highlands, alternate with ghastly images: corpses of soldiers ripped apart, people dressed in striped pajamas behind barbed wire (who are they?), prisoners of war, columns of refugees, mounds of cadavers. Everything is presented pell-mell, blurred, impossible to understand, in a confusion that had been ideologically programmed. The ideological bent of this confusion, or “reduction,” of the *Shoah* to “something else” is clearly explained by the commentary that accompanies the only explicit acknowledgement of anti-Jewish persecutions (with images of the *Kristallnacht*): “He who seeks to rule has need of serfs. The serfs will wear a token of their condition: the star of David. *Class-hatred is disguised as race-hatred.*”

This unbelievable phrase provides us with the key to the current somnolence regarding the capacity of “the left” to remember. And let us not undervalue the fact that this film is an emblematic expression of the ruling ideology of the left at that particular moment, that stratum of Italian politics that, more than any other, felt itself called upon to defend anti-Fascist values and to defend historical memory. With considerable brutality, that specific sentence was saying to all those Jews who had adhered at that time to the parties of the Communist left: “Your struggles have value only to the degree that they can be absorbed into the sacrifices of class warfare. And they have a place—you have a place—as a part of the struggle for progress, only to the extent that your Jewishness is *dissolved* as you become members of the army that is carrying out this struggle.” The historico-political consequences of this “dissolving” are obvious: the banalization of anti-Semitism, its partial reduction, or characterization as part of a further problem: the disappearance of the fact that anti-Jewish persecution was a *constitutive* element, and not some marginal component, of Nazism. It is, in the final analysis, a legitimization

of anti-Fascism only insofar as it represented one moment in the class struggle for progress.

This film, *which does not contain one single reference to the Fascist racial laws*, enables us to understand why the sensitivity of anti-Fascist culture, particularly regarding the memory of anti-Semitic racism, remains so debilitated in our country. This has been because anti-Fascism is presented exclusively as the patrimony of the left, as an expression of the left, understood, of course, in contradistinction to the right (whether Fascist or not, let it be noted).

The seeds from the fruit of anti-Semitism germinating today *also* include the long campaign of anti-Zionism conducted by the left during the past two decades, a campaign in which there have been typically Fascist anti-Semitic motifs in abundance, such as the depiction of Israel as the spearhead of imperialist American capitalism. . . . And what has the left been doing? Was it not incumbent upon it to cultivate, to develop, and to transmit anti-Fascist awareness and a knowledge of history? The poisoned fruits of today are also the results of what re-showing *All'armi siamo fascisti* reveals: not merely an incidental mistake, but a diffuse mystification, irresponsible and instrumental, one which, as such, is utterly blameworthy.⁷

This article unleashed a bitter polemic. The Italian newspaper with the greatest circulation, *Corriere della Sera*, published a report on my article, accompanied by comments from the historian Giovanni Sabbatucci, and from one of the directors of the film, Lino Micciché.⁸ Sabbatucci spoke of an anti-Fascism that could be “identified with the left . . . and useful to the purposes of certain sections of the political world,” resulting in their “toning down many of their specific features. Such as, for example, racial persecution.” To the contrary, Micciché reacted in an extremely animated fashion, accusing me of implementing a logic worthy of someone who had flunked his exams, a logic that “I will not venture to define as Zionist; in fact I do not know what to call it.”

Micciché clinches his argument thus: “In the film, we make relatively passing allusions to the Holocaust precisely because we incorporate it into our treatment of the question of Hitler. And the Hitler question is not limited to the Holocaust: it involves a world war, a million opponents

7. Giorgio Israel, “Dall’antisemitismo mi guardo io,” in *Shalom*, Year XXVIII, May 31, 1994, pp. 14–15.

8. Paolo Conti, “All’armi, erano antisemiti?” in *Corriere della Sera*, June 22, 1994, p. 29.

slaughtered, bombardments.” And he then concludes by drawing attention to the Marxist origin of the assertion in question: “Fortini, rereading Engels’s essay on the Jewish question, affirms that class hatred sometimes wears the mask of race hatred. Israel says that such assertions have no basis in fact. I can well understand the spirit in which he says this, but as far as I am concerned, that is the question at the very heart of the matter.”

In my response, I drew attention to the manner in which Micciché had confirmed the reasons impelling me to criticize the movie, since “to consider Nazi anti-Semitism as a product of class hatred is without foundation, reductive, and grossly misleading,” whereas “anti-Semitism is a structural component of Fascism and a constitutive element of Nazism.”⁹ It may well seem surprising, although in fact it is highly significant, that, in his querulous counter-reply, Micciché responded by raising the topic of “the Redeemed.”¹⁰ Confessing [*excusatio non petita*] that the left had skeletons in the closet, insofar as racism was concerned, he immediately sought to minimize the affair by deflecting attention back to skeletons that the Jews might have housed in their own closets. He wrote as follows: “I can agree that, in the matter of racism, the left has many corpses in its closets. Just as, in the matter of Fascism, the Jews too have a few closets to reopen: in October 1938, the Fascist Grand Council, which was drawing up the hateful anti-Jewish laws against 44,000 Italian Jews, exempted from their applicability—for reasons of ‘exceptional merit’ in their attitudes toward Fascism and the nation—1,343, along with the members of their families, or a little over one-seventh of the complete number; all of which means that there were indeed Jewish compromises with the regime—and how!”

I will not dwell any further on Micciché’s response—in particular, on his harsh indictment of “Israel’s anti-Arab racism”—in order to concentrate on the question that is of most interest to us here. In my final response, I wrote as follows: “Micciché alleges that many Jews made their own accommodation with Fascism. That much is obvious: Jews were to be found among Fascists and anti-Fascists, just like other Italians. It is difficult to see why they should be expected to behave any better than anyone else. But the true skeletons in the closet are those of so many turncoats who became anti-Fascists after 1945 in order to retain the very appointments

9. Giorgio Israel, “L’odio di razza va oltre l’odio di classe,” in *Corriere della Sera*, June 26, 1994, p. 30.

10. Lino Micciché, “Il razzismo patrimonio esclusiva della destra,” in *Corriere della Sera*, June 29, 1994, p. 31

in which they had contributed to the drafting of the racial laws. Thus, to interpret the procedure of excluding some Jews from discrimination as analogous to a loophole once offered to converted Jews at the time of the Inquisition, as a favor granted by the regime to the ‘faithful,’ is a historical interpretation so lacking in foundation as to warrant no further commentary.”¹¹

To this, Micciché responded (and thus brought the polemic to an end) that he had never in the least sought to dispute the fact that “there might have been turncoats who became anti-Fascists after 1945 in order to retain the privileged positions they had earlier,” but that he did not know why “I should need to be reminded of the racial laws, since I, for my part, was traveling during the three or four years in question, and in 1945 I was still in elementary school!”¹² Of course, Micciché had every reason for refusing to be considered one of the “Redeemed,” since he was obviously too young to be one of them at the time. Even so, his confused—and thereby authentic—manner of reacting so clearly revealed not only the harmful characteristics of this view of the Jewish question, which had dominated the left since the years immediately after the war, but also how the theme of the “Redeemed” had touched a raw nerve even before the question had been raised in the full light of day.

We could sum up in the following manner. It was fully in keeping with Communist ideology to consider the Jewish problem as merely a collateral effect of class struggle: in the Marxist conception of reality, there was no place for superstructural questions (such as racism) considered independently and not reduced to the economico-materialist structure. Accordingly, the Jewish question could be settled only as a corollary of the dissolution of capitalist society into a classless Communist society. Furthermore, Zionism was nothing but a bourgeois nationalistic ideology. At this point, however, a further observation must be made, and a decisive one: that this particular vision of the Jewish problem and of Zionism—already in itself barely inclined to understand the Jewish problem, and thus ill-fitted to draw attention to the occurrence of racial persecution as such—was being transmitted not only by traditional Marxists, but also by a considerable number of personalities who had had their liaison with Fascism, and had seriously compromised themselves, often shamefully

11. Giorgio Israel, “Scheletri e mostri vivi,” in *Corriere della Sera*, July 2, 1994.

12. Lino Micciché, “Ciò che non ho detto e ciò che non penso,” in *Corriere della Sera*, July 6, 1994.

so, with Fascist racism. For such personalities, this ideological cover was no less than manna from heaven. It served as a theoretical justification for concealing, if not justifying, their pasts and their misdeeds under the pretext of denouncing the Zionist degradation of Jewishness, and—with an amazingly shameless degree of knavery—the accommodation some Jews had made with Fascism. What could be more convenient then to take shelter under the umbrella of an ideology according to which it was possible to reiterate the same things that had been said while wearing Fascist garb—such as the vehement condemnation of Zionism—with the incomparable satisfaction of seeing them now justified and dignified in the guise of democratic and progressive sentiments? If one considers that someone as capable of loathsome displays of anti-Semitism as the philosopher Galvano Della Volpe (well-documented in Serri’s book) was one of the great “*maîtres à penser*” of Italian Communism up until the 1970s, it is easy to understand the importance and the gravity of such a phenomenon.

On the other hand, the quantitative and qualitative consistency of the new initiates—guaranteed as it was by a Communist cultural hegemony—justified the erasure of their past, or at the very least its reconsideration with some form of absolution in mind. To that end, a fundamental instrument was provided by the rhetoric of Communist historiography (which predominated long after the war), according to which Fascism was a regime imposed by a tiny minority of criminals, who were grinding an entire population of anti-Fascists under the heels of the *Tribunali Speciali* [Special Tribunals] and of the political police. No one had been a Fascist, with the exception of Mussolini and his small bunch of acolytes. Thereafter, moreover, a “fascist” was anyone who dared accuse the new governing class of having compromised itself, along with the redeemed intellectuals who seemed to have issued forth, virginally, from nowhere. Viewed in this light, the question of racial policies needed to be covered up, or at least downplayed, at any cost.

Let us return for a moment to the hapless Lino Micciché, who, in this context, seems more like a victim than a protagonist. He began to understand with annoyed stupefaction the fact that the ideology to which he owed his training could now be considered dangerous. He was not one of the “Redeemed,” but was well enough aware that something of this sort had taken place, and that, when questioned on the general manner with which Jewish persecution had been treated, he himself had raised the question, defending and distancing himself as far as possible from it. He

orated in an almost mechanical fashion the slogans of a totalitarian and anti-Jewish ideology (the compromises with Fascism made by the Jews, the condemnation of Zionism, the accusation that Israel is a racist state), only to deny with stupefaction that he had ever pronounced such ideas, as if they had flown from his own mouth mechanically and unconsciously. It is easy to understand his confusion. What could be more distressing than to realize that the ideology within which he had taken refuge as a sure haven had been, in fact, a source of the very poisons it was meant to combat?

A Case Study

In his discussion of the affair of the “Manifesto of the Racist Scientists,” Renzo De Felice defines its signatories as second-rank personalities, with the exception of Nicola Pende and Sabato Visco. In fact, this comment demonstrates the superficiality with which, for many years now, the participation of intellectuals in the racial campaign has been regarded. His comment should really be turned completely around: with the exception of a small number of individuals, such as Guido Landra and Lino Businco, almost all of the signatories were among the first rank of the scientific and academic world. Undoubtedly, Nicola Pende and Sabato Visco were the most prominent, in the sense that the former had committed himself most directly to the scientific investigation of race, and the latter had held political appointments of the highest importance.

The name of Sabato Visco was especially familiar to me from my earliest days. My father, Saul Israel, had been the chief assistant of the famous physiologist Giulio Fano, and was destined to succeed Fano as holder of the chair of Natural Physiology at the University of Rome “La Sapienza.”¹³ For a number of years, Fano had entrusted my father completely with the direction of the Institute of Physiology, since he himself suffered from a cardiac condition. The untimely death of Fano prevented the implementation of the competitive procedures meant to designate a successor, and Sabato Visco was called on to occupy the now vacant chair. This individual’s arrival in Rome placed my father in an impossible position, all the more so on account of the drumbeat of anti-Semitism that

13. Author of a very well-known book at the time: Giulio Fano, *Brain and Heart: Lectures on Physiology* (London: Oxford UP, 1926). Fano was Jewish, but a completely “assimilated” Jew, as was the case with the majority of Italian Jews during that period. See in particular Giorgio Israel and Pietro Nastasi, *Scienza e razza nell’Italia fascista* (Bologna: Il Mulino, 1998).

punctuated his speeches, and my father was forced to resign from the University. I had heard tell, at length, in my family of the abysmal ignorance of Sabato Visco. The first meeting between my father and my mother can be ascribed to these very circumstances. My mother, a young assistant to the famous chemist Nicola Parravano (himself a professor at the University of Rome, and a fervent Fascist), had been dispatched by Parravano to become an assistant to Visco. She had a violent altercation with Visco over what she felt were the entirely inappropriate conditions under which laboratory experiments were being conducted. This, of course, was to create a harmonious understanding with my father, since he too did not appreciate the scientific qualities of the new boss, who had promptly dismantled the investigative programs set up by Fano, so as to orient the research more toward what suited his own interests: food science, understood as a fundamental instrument for the improvement of the Italic race.¹⁴ I must confess to having nourished certain doubts regarding Visco's actual scientific mediocrity, suspecting this allegation might have been occasioned by the personal hostility generated by his confrontations with my parents. Nevertheless, I have subsequently been able to ascertain that this opinion was widely shared. It further happens that an anecdote that had been reported to me by my father, and which had seemed totally implausible—that Visco had said, in the course of a lecture, that “methemoglobin” [*metemglobina*] was “half of the hemoglobin” [*metà dell'emoglobina*—was confirmed to me in identical form by Emilio Segré, the Nobel Prize laureate. The rumor also circulated—and also came to me from numerous sources—that his triumphant and rapid accession to the chair at the University of Rome was due to the fact that he had come into possession of some particularly compromising correspondence between Mussolini and Gabriele D'Annunzio, which had furnished him with a means of blackmail. There is nevertheless no means of verifying the veracity of such a rumor, mainly because the personal letters of Visco can no longer be found.

And this is an altogether important point: the fact that the documentation relating to Visco's activities, and especially that relating to racial policies, can no longer be found. Visco, in addition to accumulating a huge number of scientific and institutional positions—Dean of the Faculty of Mathematical, Physical, and Natural Sciences at the University of Rome; Secretary of the Biological Committee of the National Council

14. On this aspect of the question, details may also be found in Israel and Nastasi, *Scienza razza nell'Italia fascista*.

for Research; Director of the National Institute of Nutrition (initially founded by him in 1936 as the National Institute of Biology); member of the Chamber of Deputies; and so on—was certainly a front-rank figure in the regime’s racial policies. I am referring here not so much to his support for the Manifesto of Racist Scientists (something that was, to the contrary, forced upon him, and from which he was to disassociate himself, in order to express a non-biological racist point of view¹⁵), but rather to the high-ranking position of head of the Office for the Study and Propaganda of the Race, a section of the Ministry of Popular Culture (Minculpop), which he held from February 1939 to May 1941, and to the numerous related editorial undertakings that all of this involved. Visco was also a member of the Higher Council on Demography and the Race, vice-president of the Steering Committee and of the Museum of the Race under the aegis of the Universal Exhibition E42, and was a candidate for the editorship of the review *La difesa della razza* [The Defense of the Race].

Incredibly, from all of these activities there remains no extensive collection of documents. Visco had been extremely diligent when it came to wiping out as many of the traces of his activities as possible, once it had become clear that the regime was moving toward its final collapse. For example, in the archives of the office of il Duce’s Private Secretary (General Correspondence), a dossier can be found labeled “Visco, Prof. Sabato.”¹⁶ The dossier is empty, however, except for a slip of paper that notes the dates of his visits. The final visit dates back to September 1, 1942. The form carries the annotation “Passati gli atti al Ris. 1.9.42-XX” [Minutes transferred to the Confidential Files, September 1, 1942 (Year XX of the Fascist Era)], which tells us that the minutes had been forwarded to the Confidential Files the very day of his final visit. There is, however, not a single dossier labeled Visco to be found among the Confidential Files. . . . It is not difficult to imagine who might have requested their transmittal to the Confidential Files and, in the course of their transmission, who might have emptied the dossier.

Even more significant are the rare clues with respect to the destiny of what was surely the most interesting archive for the documentation of the regime’s racial program and of Visco’s role in that regard. There exists a

15. See in particular Israel and Nastasi, *Scienza e razza nell’Italia fascista*.

16. Fascicule n. 516670, Archivi Centrali dello Stato, Rome. Anyone who requested a contact with il Duce had a “sponsor.” Visco’s sponsor was the Minister of Popular Culture, Alessandro Pavolini, one of Fascism’s most influential hierarchs.

letter, dated September 7, 1943 (just over a month after the fall of Fascism), sent by the well-known anthropologist Sergio Sergi—Director of the Institute of Anthropology at the University of Rome and formerly a member of the Higher Council for Demography and Race—to the Minister of Popular Culture, in which Sergi requests that, following the dissolution of the Race Office, its anthropological material should be transferred to his Institute. This letter was accompanied by a missive from the Rector of the University of Rome, supporting the request, “in order to avoid the widespread dispersal” of this “extremely precious scientific material.”¹⁷ It is surely not mean-spirited of us to imagine that Sergi lent a helping hand to the Dean of his Faculty, by recuperating this material, truly precious from the standpoint of the historiography of racism, although hardly from a scientific point of view, material that has since disappeared as if swallowed up in a void.

No matter how little of it has survived, however, the available documentation suffices to demonstrate Visco’s activism in the racial field, his central role in every question pertaining to the theme of race, and the supreme arrogance with which he greeted the hunting down of Jewish university professors after the promulgation of the racial laws.¹⁸ But it is not our intention here to rehash these activities once again, referring the reader instead to the specific works in which we have dealt with them.¹⁹ It is as one of the “Redeemed” that Visco concerns us here.

On the other hand, his activities were in the end too obvious, given that, in the sessions that took place from November 5–7, 1943, the Commission charged with the reconstruction of the Accademia dei Lincei after the fall of Fascism discussed the possible dismissal of some of those who had been nominated “for political and party reasons, and not for scholarly reasons.” Three of those involved were among Fascism’s hierarchs of the very first rank: Luigi Federzoni, Cesare Maria De Vecchi, and Giuseppe Bottai; the fourth was Sabato Visco. The deliberations followed their tortuous course, following procedures for purging the membership, and it was a long time before they became operational. In a session dated August 3, 1945, the Commission on Expulsions moved the definitive striking from

17. Ministero della Cultura popolare, Cabinet b. 54, Archivi Centrali dello Stato, Rome.

18. In the course of a session in the lower house on May 20, 1939, he declared that the university world had greeted this persecution “with consummate indifference,” and that the university “had gained from it in terms of spiritual unity.”

19. See note 3.

the ranks of the Accademia of the following members: Silvestro Bagione, Francesco Pentimalli, Paolo Vinassa de Regny, Livio Cambi, Giuseppe Bottai, Sabato Visco, and Tullio Terni. The name of Terni deserves special attention.²⁰ Terni was a biologist (he had worked together with Giuseppe Levi, the mentor of Rita Levi Montalcini, Renato Dulbecco, and Salvador Luria), he was a Jew, and he had supported the regime with conviction. As a Jew, he had fallen victim to the racial laws, and he had been removed from his university position on October 16, 1938. Subsequently, he had been reinstated on April 12, 1945. After just four months, however, he found himself recommended for removal from the Accademia dei Lincei for the opposite reason, namely, his past sympathies for the Fascist regime. And—irony of ironies—his name was put on the same list of recommendations for dismissal along with that of one of the principal authors of the very racial policy of which he himself had been a victim. In a word, the persecutor and the persecuted ended up on the same list of proscribed names.

The recommendation was transmitted from the Commission on Expulsions to the Ministry of Public Education on October 27; it worked its way through the bureaucracy, and on January 4, 1946, Tullo Treni was permanently struck from the rolls of the Accademia dei Lincei, along with Sabato Visco. The affront and the humiliation were too much for him, and he painfully dragged through life for a few months. He attempted to secure his rehabilitation, requesting the restoration of his position at the University of Padua. Reinstatement to the teaching faculty was granted, but the Rector of the University wrote him a letter affirming, “As a Rector, I am telling you to come back, but as a man I am telling you not to.” In fact, at the University of Padua, there was a Communist cell that had been persecuting as painstakingly as possible all the personnel considered to have been even remotely involved with Fascism. It should not be forgotten that the Rector of the University was Concetto Marchesi, a militant Communist and a fervent Stalinist, who, moreover, was held morally responsible for the assassination of the philosopher Giovanni Gentile. This cell had expressed its lack of confidence in the ex-“Fascist director” (namely, Terni), were he to assume his old position once more. On April 25, 1946 (the first anniversary of the country’s liberation from Nazi-Fascism), Terni

20. For a detailed reconstruction of the Terni affair, see Paolo Simoncelli, “Il dramma di uno scienziato ebreo: Il suicidio di Tullio Terni e l’epurazione ai Lincei,” *Nuova Storia Contemporanea* 7:1 (2003): 101–20.

took his life with a vial of cyanide that he had carried with him for use in the event that he was captured by the Germans for deportation to an extermination camp.

No episode could better illustrate the moral imbalance with which those who were guilty of having adhered to Fascism were treated. Persons who had had no political role of importance under the Fascist regime, and who had limited themselves to a generic type of membership—and above all those who were later persecuted for being Jews!—found themselves mercilessly purged. On the other hand, hierarchs of every stripe who had played a leading role under Fascism, or who had acted in ways that made them downright guilty of atrocities, were “cleansed” because they could be useful, in the sense that they could contribute to a veritable politico-cultural hegemony. Sabato Visco, even though he was purged from the Accademia dei Lincei on January 6, 1946, was reinstated to his position as a university professor, benefiting from the amnesty sponsored by Palmiro Togliatti.²¹ There he found no Communist cell threatening him with the intention of making life difficult for him upon his return to the University. To the contrary, he found a cordial committee of welcome. Not a single one of the positions that he had formerly held was refused him. He again assumed his position as Dean of the Faculty of Mathematical, Physical, and Natural Sciences at the University of Rome, and retained it until his death in 1971. He reassumed the positions he had held on the National Council for Research, and once more took full control over his own creation, the National Institute of Nutrition. Once there, he extended his power to the point of creating a following that to this day holds him in great respect. In a recent lecture, dated November 7, 2003, Professor Tommaso Scarascia Mugnozza, president of the National Academy of Sciences (the so-called “XL”), inaugurated a conference with reference to “the norms for a healthy and appropriate diet, the problems of evaluating the nutritional value of foodstuffs and the need for them, [for] since the very earliest times mankind has been aware of the relationships between ‘eating habits and good health.’” He went on to remind the audience that “these are the benchmarks that continue, in our country, to govern the direction formerly adopted, and still being followed today, by the study of, and the research into, the field of nutrition and food science. The cornerstone of this research is the organization founded by Professor Sabato Visco of the University of Rome, in the fifties, which has now developed into that

21. See note 4.

magnificent and independent institute entitled INRAN.” INRAN (Istituto Nazionale di Ricerca per gli Alimenti e la Nutrizione [National Institute of Research on Food and Nutrition], founded in 1999) is the “central pillar” of such studies, and until a few years ago, was called the Istituto Nazionale della Nutrizione [National Institute of Nutrition]. The speaker went to great lengths to avoid saying that the Istituto Nazionale della Nutrizione was founded in 1936 (and not during the fifties), albeit under a different name,²² and that it had had as its primary purpose the promotion of a sort of “nutritional racism,” in other words, the development of standards for optimal nutritional norms for the enhancement of the Italic race.²³

The attitude of the academic and university worlds in their exchanges with Visco was a mixture of servility, embarrassment, and hypocrisy. When

22. For details, see Israel and Nastasi, *Scienza e razza nell'Italia fascista*. The historical marker to be found at the present location of INRAN reads as follows: “The Institute was founded in 1936 by the distinguished scholar Sabato Visco, as the National Institute of Biology, a section of the scientific Institutes of the National Council for Research.” Its purpose was to help improve the state of knowledge in a specifically biological perspective—a focus which at that time was defining the discipline of Food Science against the backdrop of international scientific inquiry. Food Science was studied for its interrelationship with agriculture—the source of food production—and the well-being and health of the population from a nutritional point of view. In 1958, the Institute became a corporation under public control, supervised by the Ministry of Agriculture and Forests, and its name was changed to the National Institute of Nutrition. Aside from the hypocritical allusion to Visco as a “distinguished scholar,” there is something slippery about the definition of the purposes of Visco’s Institute, insofar as the well-being and the health of the population were understood in terms of racial improvement.

23. It is worth remembering that the Seventh Volta Conference on Physical, Mathematical, and Natural Sciences, held in Rome from September 26 to October 2, 1937, had as its theme “The current state of knowledge concerning nutrition.” The opening plenary lecture was of course given by the eminent godfather of Food Science, Sabato Visco. Many of the speakers revealed in the course of their speeches the extent of the economic, administrative, and political implications underlying the studies on nutrition and human metabolism, which they explained according to an individual’s membership in a given “race.” As one of Visco’s closest friends, the physiologist Filippo Bottazzi, found it necessary to say, Food Science was essential to the “demographic increase of the population and the perfecting of the race.” Such a view was emphasized by Giuseppe Bottai, who underscored in his remarks the “overarching” interest the Government had in those topics that focussed on the relationships between consumption of foodstuffs and the metabolism of the race: “On the fruitfulness of the grain depends the fruitfulness of the race” (*Lo stato attuale delle conoscenze sulla nutrizione*, Reale Accademia d’Italia, Fondazione Alessandro Volta, Convegno di scienze fisiche, matematiche, e naturali, Rome, 1938). Notice that all this is still in 1937, one year before the racial laws, which tells us a great deal about the racist orientation of these “scientific” trends.

he died, so strongly was the memory of his contemptible past in the minds of his colleagues that no one even had the heart to undertake what was minimally customary in such cases, especially for someone who had been Dean of the Faculty for decades: an official commemoration. The Faculty marked his death with a minute of silence, and nothing more. Nor did it happen in the postwar years that any distinctions were conferred upon him.²⁴ But it is obvious in other ways that he maintained a great deal of power, resulting from a mutual pact with his new allies: he put to good use his indisputable political abilities and the network of his relationships, in exchange for being dipped into “the bath of purification,” and for the overlooking of his past misdeeds. His new allies now were on the left, and, in particular, in the Communist Party.

I have already had occasion to air some personal testimony regarding the various forms of support that Visco enjoyed among Communists.²⁵ In 1964, when I enrolled as a student in the Faculty of Science, I noticed in my documents the signature of Sabato Visco in his role as Dean. I subsequently went to see the well-known mathematician and Communist Party leader Lucio Lombardo Radice, whom I knew very well, asking him how on earth a Faculty so esteemed for its democratic and anti-Fascist leanings could tolerate having such an individual for its Dean. The answer was, “But he is so good at fund-raising!” I also asked myself how on earth one of the most illustrious teachers in the selfsame Faculty, Beniamino Segre, who was to become President of the Accademia dei Lincei, could bear to have such a close colleague. Even though Visco had not been reinstated into the Accademia, there were no lack of occasions when Segre was obliged to sit near him. Segre was Jewish, and had himself been a victim of the racial laws. I am convinced to this day that the explanation for such compliance had its roots in the same political soil: Segre was a militant member of the Communist Party, and in the course of the 1950s he had in fact been President of the Association for Friendship between Italy and the Soviet Union.

There exists in this regard a document that perhaps sheds more light than any other evidence on these political linkages. On October 17, 1957, there took place in the Chamber of Deputies a debate over the state of

24. We have, even so, come across evidence of the existence of a “Sabato Visco International Prize in Vitaminology,” awarded to Francesco Maria Chiancone in 1999.

25. Giorgio Israel, “If you want to walk arm in arm with Bottai, go right ahead: walk with an anti-Semite,” in *Il Foglio*, Year X, no. 88, December 6, 2005, p. v.

planning at the Ministry of Public Education, which led to a fiery discussion over the university policies of the Christian-Democrat government of the day, and in particular of the Minister of Public Education, Aldo Moro. The most inflammatory critic was Mario Alicata, a personality whom we all know well as one of the most illustrious of “the Redeemed,” and one of the most important Communist Party leaders. In the course of his extremely harsh indictment of the government’s university policies, Alicata referred to Sabato Visco as a supreme authority: “Let me quote directly from the statements made to *La Stampa* of Turin by an authoritative professor at the University of Rome, whom no one could ever suspect of being a subversive [*sic!*]—Sabato Visco: ‘The university professors deem that they would be guilty of the betrayal of their country, were they to fail to denounce, with a serious gesture of protestation, the dangerous decline in the preparation of technically-trained individuals and in scientific undertakings.’” And in another contribution, again from the Communist benches, Aldo Moro was confronted with the following remarks: “Mister Minister, I know that, a few days ago, you received the visit of Sabato Visco, dean of the Faculty of Science in Rome, and that he informed you in all honesty that the professors, who are tired of being vilified . . . have no intention of continuing to pretend to carry out in any serious manner a task that has become impossible; that they need more assistants in their lecture rooms; that, above all in the laboratories, there is a need to acquire the necessary instruments for study and for research, without which they cannot go forward.” And so on and so forth.

And thus it was that Visco—the very man who had been responsible for the expulsion of 7% of the university professors, those of “the Jewish race,” resulting in the dismantling of entire units of scientific research, thanks to which Italy had gained a leading position in the world; the very man who had greeted such expulsions “with supreme indifference,” proclaiming that the Italian university world had actually gained in “spiritual unity”—this very individual, with bottomless impudence and arrogance, took shelter behind the back of the Minister, in order to use the discontent of the professoriate as a means of creating an opening for the possibility of discussing his own official duties. Where did such certainty of impunity come from, and such awareness of his power, on the part of someone whose contemptible past was covered only by the flimsiest of veils? It came clearly from the support of those who aided and abetted him, and “redeemed” colleagues like Mario Alicata. Was it perhaps by chance that

this very individual had alluded to Visco as the supreme authority on the state of the universities, and had made reference to him in order to press his violent political attack against the government? Two ex-racists and ex-Fascists under the banner of Communism: this illustrates all too clearly the chasm in the ruling politico-intellectual class over which the anti-Fascist republic had been reconstructed.

In the meantime, while people like Visco had renewed and maintained their prominent positions in the political and academic worlds, the marginalization of the Jewish university professors was practically irreversible. The Terni case certainly represented the most extreme degree to which responsibility had been reversed, and how the reversal of responsibility, and of a “remuneration,” was turned on its head. Many other cases, less extreme although nevertheless dramatic, bore witness to this colossal injustice, thanks to which the victims continued to remain victims. Such was the case for those who, for one reason or another, gave up on the idea of returning to Italy, after having emigrated during the racial period.²⁶ Others died of heartbreak or of depression on account of the eight long years spent in humiliation. Those who were reinstated were granted personal chairs, which would disappear with their death: it was therefore not a matter of true reinstatement, in that the chairs they had formerly occupied remained in the hands of those who had usurped them, with all the related structures of power that had definitively changed hands.

But a greater question concerns the sensitivity and behavior of those “redeemed” intellectuals who had been successful in conserving their privileged positions and acquiring still new ones, those who became part of the country’s new “democratic” ruling class while having so many skeletons to conceal. Could they have been expected in any way to cultivate an honest historical reconstruction of the events in which they had been culpable protagonists? Could they have emerged from this experience with any sensitivity to the Jewish question and the issue of anti-Semitism? In answering these questions—in the negative, obviously—we need to seek an explanation for the historiographical silence that for so many decades has cloaked the racial policies of the Fascist regime. We need, at this point, to consider why the Communist left has been so deaf to this topic, and

26. See for example the case of the jurist Guido Tedeschi, forced to abandon his claim for the restoration of his chair, by a grotesque act of administrative chicanery: Nino Cordisco, “The University of Siena and the Racial Laws: The Expulsion of Professor Guido Tedeschi,” *Israel Law Review* 35:1 (2001): 24–45.

why it has displayed such a radical lack of sensitivity in its handling of the Jewish question.

A Poisoned Historiography

For many long years, then, the issue of Fascism's racial policies has remained a forgotten theme, cultivated only by a historian like Renzo De Felice, over whose head there weighed, and weighs to this day, the disgraceful accusation that he had justified Fascism. But not even De Felice—as we have already said—had completed the step of undertaking the excavation of the darkest recesses of the Italian intellectual class, or the backstage alcoves of the university and academic world, which had contributed so fervently, in both theoretical and practical ways, to anti-Semitic racism.

Something changed at the end of the 1980s. This is surely not the place to give a complete account of the extremely large body of literature that has come out, and which, in a certain sense, has turned the situation totally upside down: from a paucity of writings, we have passed to an abundance, if not to an over-abundance, which will soon reach the saturation point with the general public. Fascism's racial and anti-Semitic policies now seem to have become a veritable historiographical obsession. And not only that; the very foundations have now been turned on their head. We have gone from a posture of belittling the racial policies to one of passing judgments of an extremely radical nature: if at first—chiefly in keeping with De Felice's view—these policies were seen as a choice that grew out of the Pact of Steel between Hitler and Mussolini (and therefore had been seen purely and simply as a concession by the latter to the former),²⁷ nowadays the regime's racial policies are presented as something comparable, in their intensity and their barbarity, to those of Germany. In the face of all arguments to the contrary, Mussolini is not merely presented as a racist, but as a structurally-formed anti-Semite, comparable to Hitler.²⁸ According to Michele Sarfatti, Fascist racism was biological in its focus, like its German counterpart, and contained nothing specifically

27. It is almost redundant to say that reductivist positions such as these continue to abound. See for example Maurizio Cabona, "Mussolini and the Jews," *Telos* 133 (Winter 2005): 95–119. And it is easy to understand how the two opposite and extreme positions feed off one another, each in its turn, and that their extreme and ill-founded nature should induce reciprocal critical arguments.

28. Giorgio Fabre, *Mussolini razzista: Dal socialismo al fascismo: la formazione di un antisemita* (Milan: Garzanti, 2005).

“spiritual” or “national-racial” in its makeup—notwithstanding the fact that even the most superficial analysis of its genesis, of its development, and of its internal conflicts points to the opposite conclusion.²⁹ In some cases, matters have purely and simply fallen to the level of rhetorical posturing, identifying characters like Nicola Pende and Sabato Visco as the “Rosenbergs of Italy”—a characterization that lies beyond all acceptable levels of commentary.³⁰

In short, the literature has undergone something akin to the swinging of a pendulum: from one extreme, the minimization of the extent and meaning of Fascism’s racial policies, to the opposite extreme, with a bombastic emphasis that seems frankly excessive. How could all this have happened? In our opinion, the roots of this phenomenon are the same, and once again to be sought in the culture of the Communist left—or rather the post-Communist left—which continues to exercise hegemonic control over Italian culture. We need to turn our attention once again to that unresolved tangle of issues, in which the connection with Communist ideology bonds with a long tradition of deafness concerning the Jewish question, nurtured by the strategies of disengagement from Fascism, in which the phenomenon of the “Redeemed” was to root itself. The line of demarcation was established around the time of the fall of “real” Communism, circa 1989; it is not by chance that the new direction was born in that period.

When the real (Soviet-style) Communism was still on its feet, though reeling, with western Communist movements having distanced themselves from it, it nevertheless represented a concrete point of reference and a future possibility, even if with weighty revisions. The discussions centered on the type of Socialist society that could be constructed, albeit within a very different perspective from the Soviet model. “Socialist man” was still the hope for the future. Within this framework, the right to a Jewish identity was nonexistent, Zionism stood for an ideal that was in complete contradiction to the Socialist point of view, and the ideal of a “Zionist man” was of necessity in total contradiction to the ideal of the “Socialist man.” The solution to the Jewish problem could only be a corollary of the

29. Michele Sarfatti, *La Shoah in Italia: La persecuzione degli ebrei sotto il fascismo* (Turin: Einaudi, 2005). See also Giorgio Israel, “Non esiste il bello dell’eugenetica,” in *Il Foglio*, Year XI, no. 68, March 21, 2006, p. 11.

30. See Franco Cuomo, *I dieci: chi erano gli scienziati italiani che firmarono il Manifesto della razza* (Milan: Baldini Castoldi Dalai, 2005). This volume presents not a single historical detail that was hitherto unknown, and for the rest it is limited to ludicrous invective, for all its high-sounding tone.

solution of the social question, in the perspective of Communism, even indeed of a “liberal” Communism such as the Italian version aspired to be. All of this bonded together perfectly—as we have seen—with the feelings of a politico-intellectual class that, on account of the compromises it had made with Fascism and its racial policies, could not nurture any particular sensitivity toward the Jewish question, or more correctly put, was mainly concerned with relegating it to the status of something parenthetical.

The collapse of real Communism radically altered the terms of the situation. First and foremost, the demise of the ideal of a Communist society as a future prospect opened the door to other prospects, other experiments. It could lead to an alternative understanding of Zionism; it could lead to a comprehension of the dramas of the twentieth century not solely rooted in the clash between capitalism and Socialism, but also from the standpoint of the racial question. All this, in fact, did happen, but only partially and in a highly distorted manner.³¹ The *Shoah* has been freed from its disqualified status as a secondary event, subordinated to far more important events involving the structural conflict between classes, between Socialism and capitalism. What resulted was a truly paradoxical phenomenon: the *Shoah* now became literally sanctified and mythified as some sort of event outside of history, not comparable to any other “apparently” analogous cases. The consequences of this mythification are vast, and here is not the place to explore them in depth. Rather, what needs to be underscored is that it has been utilized by postcommunist historiography as a means to conceal or at least minimize the misdeeds of Communism. The reconstruction set forth by this historiography is that Nazism and Fascism stand for *absolute evil*. Nothing comparable to the *Shoah* has ever happened in the history of humanity; furthermore, the racial policies of Italian Fascism constituted a *Shoah* as well. Consequently, the Gulag represents a minor event when compared to the Nazi *Lager*, and—why not?—to Mussolini’s brand of racism. To sustain such a thesis, it is necessary to take a decisive step: affirming that Mussolini’s racism was identical to that of Hitler, and that anti-Semitism was a structural and constitutive component of Fascist ideology. This is precisely what is being advanced by a certain tendency of contemporary historiography, intoxicated by ideology.

Thus, at the very moment when we might find ourselves beguiled into thinking that the influence of the “Redeemed” over the vision of the

31. A more detailed analysis of these developments may be found in Giorgio Israel, *Liberarsi dei demoni: Odio di sé, scientismo, relativismo* (Milan: Marietti, 2006).

Fascist past had been quashed, and that there might now be the possibility of a truly liberated and un-preconditioned historiography, we have fallen prey to another type of conditioning and to the influence of a new group of “Redeemed,” namely those redeemed from Communism. In a sense, these individuals are not even “redeemed,” since they do not hide their persistent links with the roots of Communist ideology. When at their most consistent, they have broken with the past; but they have presented this rupture as the outcome of an evolutionary process, which reduces it to a rupture *sui generis*—a break in continuity—a kind of oxymoron. This evolutionary vision has allowed them to abstain from a serious, self-reflective, and critical inquiry, and to present the past as something from which we have been separated, but which nevertheless stood for a noble and productive experiment, something allowing for the retention of more or less hidden forms of nostalgia. This continuity of cultural hegemony thus tends to block, yet again, the genesis of a rational historiography of Fascism and of its racial policies, one not polluted by ideological prejudices.

*Jean Giono:
From Pacifism to Collaboration*

Richard J. Golsan

Of the many writers accused of supporting the Vichy regime and of collaborating with the Nazis during the Occupation, one of the most controversial and disturbing cases remains that of Jean Giono. A visionary writer whose originality and epic power as a novelist have long since established him as a “classic” of twentieth-century French literature, Giono is widely read inside and outside France. His work continues to generate a great deal of interest among academic critics on both sides of the Atlantic. For some at least, his denunciations of urban modernity and his celebrations of the virtues of a simple rural existence and of regional identities are very relevant today, offering a powerful antidote to the many ills of “globalization.” And in a time when unchecked genocides and “wars of choice” wrack the planet, break up traditional alliances, and make the future seem all the more uncertain, Giono’s message of a fierce and uncompromising pacifism is newly welcome and indeed bracing to many.

For all of these reasons, Giono’s admirers are loath to admit that the writer was favorable to a regime that is viewed as a blight not only on the French nation’s history but on its moral standing in the world. This is all the more the case where the writer’s apparent sympathy for the Nazi occupant is concerned. Under these circumstances, it is not surprising that Giono’s admirers downplay or largely ignore the writer’s politics during the “Dark Years,” or even insist that Giono did not collaborate—indeed, quite the reverse. In the *Dictionnaire des intellectuels français*, Giono’s biographer Pierre Citron states that “he did not write a single word in favor

of the Nazi occupant or of Vichy. . . . he helped resisters, Communists, and Jews.”¹

While Citron’s defense of a writer he admires is understandable enough, there is a great deal of evidence that not only contradicts the biographer’s claims, but also suggests that Giono’s political outlook during the war was very different from the one implied by Citron’s remarks. Giono wrote for Drieu la Rochelle’s *Nouvelle Revue Française*. He sold his novel *Les cavaliers de l’orage* to Alphonse de Châteaubriant for serialization in the latter’s arch-collaborationist political and cultural weekly newspaper, *La Gerbe*. *La Gerbe* was created with German money following France’s defeat in 1940, with the intention of demonstrating to the French that French culture continued “business as usual” under the Nazis. While neither Giono’s writing for the *nrf* nor *Les cavaliers de l’orage* (written largely before the war) was explicitly political or pro-collaborationist in content, agreeing to publish in these venues given the historical circumstances of the moment was not an innocent gesture. Moreover, other published assertions made in the press at the time were very much politically charged, as was the overall tenor of much of what Giono wrote during the Occupation. For example, interviewed in *La Gerbe* on March 19, 1942, following the publication of the essay *Triomphe de la vie*, Giono acknowledged that the work could not have been written before the war. He stated: “We could not have imagined yesterday that the destiny of France would be to move toward a peasant and patriarchal civilization. But recently we have lived through a great experience and we have learned more about ourselves in a few months of this experience than we have from years of errors. Our most basic characteristics, our essential virtues, have become clear to us.” Elsewhere in the same interview, Giono asserted that France “has rediscovered its true and pure face.” To the degree that Vichy and its National Revolution promoted and championed a France that was “peasant and artisanal”—thereby embracing a vision of the nation that Giono had been espousing for years—it made of him a successful prophet and cantor of the “new” France. As Jean Guéhenno bitterly observed in his *Journal des années noires*, “France’s defeat is Giono’s victory.”²

1. Pierre Citron, “Jean Giono,” in Jacques Julliard and Michel Winock, *Dictionnaire des intellectuels français: les personnes, les lieux, les moments* (Paris: Seuil, 1996), p. 539. All translations are my own.

2. Jean Guéhenno, *Journal des années noires* (Paris: Gallimard, 1973), p. 247.

If Giono's vision of the nation coincided nicely with the image of a "true France" that the Pétainist regime sought to impose on the defeated country, and earned him the praise of many in the collaborationist press (and in more "official" venues as well), it also made him a darling of the Nazis. Along with the likes of Montherlant, Drieu, Brasillach, and Jacques Chardonne, Giono's photograph was displayed in the catalogue of the German bookstore in Paris. In January 1943, the German propaganda magazine *Signal* ran a laudatory article on the writer, complete with photographs of him in his native Provence. On at least one occasion Giono was invited by Nazi authorities to participate in the conference of the Association of European Writers, held at Weimar. The purpose of these conferences was to celebrate Hitler's new Europe.

The Nazis' admiration for Giono met, apparently, with a warm response on the writer's part. When a certain Dr. Payr was sent by the Nazi ideologue Alfred Rosenberg's office to Paris in 1943 to gauge the intellectual climate and specifically to determine which writers were favorable to the Germans and which were not, Giono's figured prominently in the first category. On a trip to Paris from Manosque following the publication of *Triomphe de la vie*, Giono requested and received a meeting with German authorities. Following his meeting with the Nazi cultural emissary Gerhard Heller, Heller wrote that he found Giono "extremely well disposed" toward collaboration.³ Although Giono declined the German invitation to attend the Association of European Writers Conference in Weimar mentioned above because of the poor health of his mother, he wrote an obsequious letter of apology to the German consul in Marseille expressing his regrets as well as his pride in being chosen as a member of the Association: "I am truly sorry, but I hope that it will be possible to take part in a future trip, and participate in a future meeting of the Association of European Writers, a group I feel honored to have been chosen to belong to."⁴

How did Giono come to support the Vichy regime and adopt an attitude favorable to the Nazis? Where Vichy and Pétainism are concerned, the simplest and most obvious answer suggested earlier is of course that the regime's calls for a "retour à la terre" and its rejection of modernity coincided nicely with the writer's view of the nation. They also coincided

3. Philippe Burrin, *La France à l'heure allemande 1940–1944* (Paris: Seuil, 1995), p. 354.

4. *Ibid.*, pp. 354–55.

with Giono's reactionary aesthetic vision, displayed in the novels that made him famous in the inter-war years. Despite their undeniable power and beauty, works like *Regain*, *Un de Beaumugnes*, and *Le Grand Trou-peau* celebrate Nature over History and validate the eternal and timeless cycles of the former as opposed to the potential for progress and change associated with the latter.

But Giono's anti-modernist views and primitivist and reactionary aesthetics fill in only part of the puzzle of his complicity with Vichy—and with Nazism itself. At least equally decisive was the writer's long-standing and militant pacifism. Indeed, more than any other single factor, Giono's pacifism, with its attendant historical and political simplifications and distortions, blind spots, and prejudices, prepared the ground for compromising political attitudes and choices during the Occupation.

In establishing the linkage between pacifism and collaborationism in Giono's writings and outlook, it is necessary to examine briefly the evolution of the writer's pacifism in essays dating from the mid- to late-1930s before turning to the most intimate and revealing of his wartime writings, the recently published *Journal de l'Occupation*, which appeared in its integrity only in 1995. More than any other single work, the *Journal de l'Occupation* underscores the ways in which Giono's pacifism shaped views that were not only sympathetic to Vichy and occasionally the German occupant, but overtly hostile to the cause of the Resistance as well as the Allies.

In simplest terms, Jean Giono's future complicity with Vichy and Nazism began with his experience of World War I. Mobilized in early 1915, he remained behind the lines until late May 1916, when he was sent to the front at Verdun. Wounded in late June, Giono was hospitalized at the rear for two weeks. In August 1916, his regiment was decimated, largely as a result of a mistaken French bombardment.

In May and June and then again in October 1917, Giono participated in the battle of the *Chemin-des-Dames*. From April to June 1918, he fought at Mount Kemel. In May, he was gassed: his eyelids were burned, and he spent several weeks at the rear recovering. When the Armistice came, Giono was at home in Manosque on furlough.

According to Pierre Citron, Giono's initial attitudes toward the war were, surprisingly, not entirely in keeping with his later militant pacifism. As a soldier, he enjoyed the camaraderie of army life. On occasion, he

even voiced expressions of patriotism. But the experience of warfare itself was terrifying and even apocalyptic. Citron notes that Giono rarely if ever encountered German soldiers in face-to-face combat. Therefore his experience of the fighting was conceived less in terms of a human struggle than an “inhuman cataclysm” (the expression is Citron’s) that was all the more terrifying as a result.⁵

Following the war, Giono married, had children, and worked in a bank before giving up that job in 1929 to become a writer full-time. His success as a writer and novelist was almost immediate. In 1934, he published his first pacifist text in *Europe*. As a general war in Europe became increasingly likely in the second half of the decade, Giono became increasingly militant and outspoken as a pacifist, founding the Contadour movement and publishing works like *Refus d’obéissance* in 1937, *Lettre aux paysans sur la pauvreté et la paix* and *Précisions* in 1938, “Recherche de la pureté” in 1939, as well as other anti-war texts.

From the outset, Giono characterizes war in these texts as an integral part and direct consequence of industrial civilization, of capitalism, and, at least implicitly, of Western democracy itself. War is not a “catastrophe”; it is, as the writer affirms in the opening pages of *Refus d’obéissance*, “a means of governing.”⁶ It is necessary, indeed it is “the heart of the capitalist state,” which itself thrives only on “blood and gold.”⁷

If war is in essence “the law of the land,” as Giono asserts, then it follows that anyone who rejects war joins the fight against the capitalist state and government itself. Therefore “[anyone] who is against war is by virtue of this fact alone outside the law.”⁸ Moreover, if war is the “heart” of the capitalist state, then by definition that state is essentially murderous. To the state’s calls for its citizens to “sacrifice” themselves for the good of the state, the citizens must respond, as does the writer, “I prefer to live.”⁹

Already in *Refus d’obéissance* Giono reveals a dangerous tendency to simplify and to distort. In holding the so-called “capitalist state” *exclusively* responsible for war in Europe, Giono ignores the very real threat posed by fascism and the fascist dictatorships, and attributes no bellicose intentions to them. Moreover, he denies the “capitalist state” any legitimate

5. See Pierre Citron, *Giono, 1895–1970* (Paris: Seuil, 1970), especially pp. 60–80.

6. Jean Giono, *Récits et essais* (Paris: Gallimard, Éditions de la Pléiade, 1989), p. 267.

7. *Ibid.*, p. 269.

8. *Ibid.*, p. 266.

9. *Ibid.*, p. 268.

reasons for going to war in insisting that the sole motivation of the latter is bloodlust and greed. No wonder that, during the Occupation, the Germans admired Giono not only for his art and values but also as an opponent, and later victim, of France's "warmongers."

In the essays that follow *Refus d'obéissance*, Giono broadens and sharpens his attacks on the bourgeois "capitalist state." In the 1938 essay *Lettre aux paysans sur la pauvreté et la paix*, he casts the state, along with the "civilization" it embodies, as the implacable enemy of the "race" he most admires, the peasants themselves. For Giono, the peasants are quite literally the embodiment of purity, of authenticity. The fruits of a peasant's labor "go directly from the earth to his mouth. This is why he is normally attached to the earth as if it were a part of his body."¹⁰ Anything that ruptures the link between the peasant and the earth destroys the peasant, and the one thing capable of doing so is money. And because money is the tool and the *essence* of the state, it is the state that ultimately menaces the peasant's very existence.

In the *Lettre aux paysans*, Giono deliberately contrasts the salutary and authentic existence of the peasant with the sad plight of the factory worker. Irretrievably corrupted by contact with money, the worker is reduced to a state of inauthenticity, of artificiality. He is the victim of "capitalist vulgarity." In the long run, the only salvation for both the worker *and* the peasant is the overthrow of the system, the state that oppresses both. Indulging in a fantasy of violent revolution, Giono the *pacifist* affirms that if *all* peasants united and acted together, "in one fell swoop they would take control of their civilization: the puny ridiculous governments—those which are currently masters of everything—would finish their days together, parliaments, ministers, and heads of state included, in asylums labeled insane asylums."¹¹

If—at least rhetorically—Giono is willing to countenance a violent revolution in the *Lettre aux paysans* that will rid the world of its deluded rulers and establish a reign of peasant virtue, he is unwilling to imagine any such positive outcome for any *real war* currently underway. The fighting in Spain—the *Frente Popular's* resistance to a Francoist uprising supported by Mussolini's and Hitler's troops and weapons—is not even over and "one can already see its obvious futility."¹² What goes for Spain,

10. Ibid., p. 549.

11. Ibid., p. 539.

12. Ibid., p. 585.

moreover, goes for *all wars* or all potential wars in Europe, no matter what their stakes or outcome. They are simply not worth fighting, and anything is better than war. At a meeting at Contadour over Easter 1937, Giono was asked, point blank, “if Germany attacks us, what should we do?” Giono’s response, recorded in the *Cahiers du Contadour* in September 1937, was unequivocal: “Refuse to allow war to control us. What worse could happen to us if Germany invades France? For my part I prefer to be a living German than a dead Frenchman.” To those who claimed it is “better to live one day as a lion than one hundred days as a sheep,” Giono responded, “Better to live a hundred days as a sheep than a single day as a lion.”¹³

Not surprisingly, Giono’s stated indifference to a French defeat at the hands of Nazi Germany shocked many at the time. It constituted, moreover, an extreme expression of the writer’s pacifism, even by Giono’s own standards. Be that as it may, it also reflected, at least implicitly, a refusal on the writer’s part to acknowledge any substantial differences between the brutal and oppressive realities of the Nazi dictatorship and the more open and tolerant conditions of life under the Third Republic. Living under either system was apparently a matter of indifference to the writer. Giono would acknowledge elsewhere that his struggle against militarism had to begin in his own country. The problem, tragically, was that this never allowed him to recognize the true perpetrators of war *outside* his country.

When Munich came, Giono was among the first and most outspoken to salute it as a great victory in *Précisions*. But in this text, rather than recognize and acknowledge the real stakes involved, the real aggressors, and the real warmongers, Giono resorts to a scenario that reiterates the struggle of the virtuous peasant against the murderous bourgeois and capitalist state, only on a larger scale. Now it is the *people* of Europe who have imposed their will on *all* of their governments, *all* of whom wanted war. Addressing himself to Europe’s political leaders, Giono writes:

When you agreed to go to Munich, the cry of relief we voiced was also a cry of victory because we forced you to go to Munich. We made you give in. Don’t delude yourselves, you four who were at Munich, you were not there of your own volition but pressured and constrained by your four peoples, who did not wish to fight. If Mussolini accepted to be the voice of peace, it was because he was forced to by his own people. If Hitler

13. *Ibid.*, p. 1159.

accepted immediately Mussolini's suggestions, it was because he as well was forced to do so. By his people, who refuse to fight.¹⁴

Henceforth, Giono continues in *Précisions*, it will be easy to "love" Germans and Italians. And if Czechoslovakia has to be sacrificed, that is acceptable. The country's sovereignty is not worth the life of a single Czech, or Slovak, or Frenchman. Besides, ethnic Germans living in Czechoslovakia and wishing to become citizens of Hitler's Reich were absolutely within their rights.

In his *Journal des années noires*, in an entry dated March 27, 1942, Jean Guéhenno angrily criticizes Giono for his dishonesty as well as his refusal to see the truth: "The lie consists in this in that living outside our times (and knowing it full well), he pretends nevertheless to be a guide and therefore prophesies. He plunges into his own little world, thereby making life easy for himself. . . . he despises truth, which would put him at odds with himself. He remains voluntarily blind to it."¹⁵ Although these comments were made about Giono and his attitudes during the Occupation, they apply equally well to the writer's pre-war pacifism and political outlook as well. In works like *Refus d'obéissance*, *Lettre aux paysans*, and *Précisions*, Giono wilfully ignored the *real* and to many obvious political and historical realities of Europe in the 1930s, offering instead a fanciful vision of a heroic and virtuous peasantry, and later "people," struggling against corrupt and corrupting, and politically undifferentiated governments constantly in pursuit of war. To the degree, moreover, that he was willing to deal with the specific *realities* of the moment, he revealed a disturbing tendency to blame the western democracies *first* for war, rather than their fascist counterparts. Toward the latter—and especially their peoples—he showed a remarkable and misguided indulgence. As his remarks at the time of Munich reveal, Giono was willing to ignore the *primacy* of Hitler's and Mussolini's bellicose intentions in causing the crisis, as well as the fact that Hitler, especially, enjoyed the massive popular support of the German people in his remilitarization of Germany and in his expansionist ambitions and activities. To claim, as Giono did, that the German (or Italian) peoples forced their leaders to make peace at Munich was simply wishful thinking on the writer's part. Finally, where France and the democracies were concerned, in displaying as much contempt as

14. *Ibid.*, p. 610.

15. Guéhenno, *Journal des années noires*, p. 248.

he did for legitimately elected governments, Giono betrayed a complete lack of respect for the institution of democracy itself.

To a remarkable and indeed to an overwhelming extent, the troubling attitudes and beliefs that shaped Giono's pre-war pacifism came to shape and influence his wartime collaborationism. When war was declared in September 1939, Giono openly opposed it, but then he stunned admirers and friends by reporting for duty when called to service. Some accused him of cowardice and of abandoning his pacifist ideals. Nevertheless, shortly after reporting for duty, he was arrested for distributing anti-war tracts and leaflets and imprisoned for pacifist and "defeatist" activities. A two-month-long prison stay was followed by the writer's release and dismissal from the army. Giono returned to Manosque, resumed writing during the *drôle de guerre* and up through France's disastrous military defeat of May–June 1940. To his friend and fellow *Contadourien* Daniel May, he wrote that he was writing as if nothing had happened. And he affirmed, in fact, that despite the trauma visited on French soldiers and his fellow countrymen to the north, nothing *did* happen.¹⁶

In turning to Giono's *Journal de l'Occupation*, covering the period from late September 1943 to August 1944 (and, as noted, published in its entirety only in 1995), it is striking to observe, first, that the writer betrays the same fundamental self-centeredness and *indifference* to the harsh realities of the war, defeat, and occupation—and the suffering of his countrymen—that he had demonstrated earlier in writing to Daniel May that "nothing" happened in summer 1940. Interspersed with matter-of-fact descriptions of the destruction and killing going on around him, Giono affirms: "I have never been as happy as I am now. Never have books been so succulent. Never has love been so peaceful, so colorful, so fantastic. Never have the days been so admirably harmonious. . . . Never have I been so delightfully indulging in the richness of my life."¹⁷

When Giono chooses in the *Journal de l'Occupation* to reflect and comment on the events and politics of the war itself, his reflections are all the more disturbing. The *Journal* opens, in fact, with an assessment of the current global situation. Giono expresses only contempt for "our modern and mechanical world," characterized by its "wars of religion" and "knights errant," each pursuing broken fragments of the Holy Grail

16. Citron, *Giono*, p. 334.

17. Jean Giono, *Journal, poèmes, essais* (Paris: Gallimard, Éditions de la Pléiade, 1995), p. 319.

in order to give the impression that despite all the evidence to the contrary, they are “thinking creatures.”¹⁸ For his part, Giono considers that his primary obligation must be to avoid becoming a “dupe” of all this himself. He accords himself “the right to laugh,” and he comforts himself by indulging in “a exactly applied disdain.”¹⁹

Whatever one may think of Giono’s “exactly applied disdain,” which he claims as late as April 1944 made him a “stranger” to the Germans, the English, the Americans, and the Russians alike, it is hardly *apolitical* in nature. It does after all constitute a *political* judgment in that it affirms, at least implicitly, that all these conflicting ideologies or “religions” are all the same, are all *equivalent*. On this score, Giono’s views have hardly changed since the pre-war years, when, at the moment of Munich, he essentially accused *all* the governments of the nations involved of bellicosity, despite the wishes of their respective peoples. So now, several years later, the cause of the Allies is the same to Giono as that of Nazi Germany, and their crimes are identical: “I do not draw any distinction between the Germans and the Anglo-Americans, they are all the same. The Germans machine-gunned those fleeing during the exodus [of summer 1940]; the Anglo-Americans bomb [the town of] Fourcalquier for the pleasure of it.”²⁰

Despite Giono’s claims in this passage of the *Journal de l’Occupation* to being fundamentally impartial and to viewing all the warring factions in the same light—and with equal disdain—numerous other passages reflect a more biased perspective. This perspective is characterized by sympathy for Vichy’s *miliciens* and occasionally for German soldiers, on the one hand, and overt hostility toward the Resistance, on the other. Where the Germans are concerned, in a passage dated August 26, 1944, Giono chastises his neighbors for their lack of “nobility and dignity” in taunting *Wehrmacht* prisoners as they are driven through Manosque in trucks following the Liberation. The sensitivity he displays when faced with the plight of the defeated Germans is nowhere in evidence in his many references to the Resistance. Indeed, quite the reverse. In numerous passages in *Le Journal d’Occupation*, where the Resistance are pitted against the Germans and especially the *Milice*, it is the Resistance fighters who are scorned and criticized for their brutality, their lack of positive motives, and

18. *Ibid.*, p. 312.

19. *Ibid.*

20. *Ibid.*, p. 435.

their “crimes.” At the very outset of the *Journal*, Giono describes an assassination attempt against a local chief of the *Milice* by a Resistance fighter from out of town. The latter is shot dead, and as the writer affirms, he becomes as a result a local “hero and martyr.” For Giono, however—concerned above all else not to be a “dupe”—the dead Resistance fighter is no more than “a paid assassin.” Any higher motives for his gesture are dismissed out of hand.

Similarly, Giono expresses his disappointment in a former pacifist comrade from Contadour who had gone into the Resistance and apparently had distributed machine guns to young fighters in his *département*. Giono speculates that his friend had become lost in a crossfire of propaganda, and that he had joined the resistance to escape the “inconceivable misery of his life.” For his part, Giono would have wished that his friend had escaped instead “in the direction of a higher calling.”²¹ Here again, Giono refuses to allow that there are good or *noble* motives for joining the Resistance.

As the Liberation approached and the activities of the Resistance became bolder and more widespread, Giono’s attitude became increasingly hostile. He frequently condemned both the motives and actions of the Resistance fighters. In January 1944, Giono learned that the son of a former fellow pacifist had joined the Resistance in Grenoble, had been arrested by the Germans, and would in all likelihood be shot. As described in the *Journal*, the fate of the young *résistant*, Alain, arouses anything but sympathy in Giono. Alain is characterized as “the biggest imbecile I have ever met,” and his “patriotism” is simply the label that this “hoodlum” has found for his “misdeeds.” The entire episode is merely a “comedy,” and the Germans are certainly not to blame for arresting or killing Alain, since, Giono claims, *he*, Alain, took up arms against *them* in the first place. The fact that Germany invaded and occupied France in 1940, and invaded the Free Zone in November 1942 in violation of the terms of the Armistice, does not figure in Giono’s calculus of guilt and responsibility.

On May 8, Giono describes what he labels the “outrage of Voiron.” Of all of the passages in the *Journal* dealing with the Resistance, this is the most troubling for what it reveals about the writer’s attitudes:

An entire family shot to death from the grandmother down to a child of three murdered in his crib—*three* gunshots in the back of the neck, one in the gut. The assassins (what other word could one use?) are students

21. *Ibid.*, p. 311.

and teachers from the professional school in town! A group of Communist youth. These youths had prepared the crime well in first making close friends with the family. Having learned the password for opening their friends's door, they first came and spent several friendly evenings with them almost as family members. Then one evening the students came back, chatted nicely with the family, and then massacred everybody including the infant. The students are then arrested. They confess. They state that they were acting on orders. They are executed. This is the way things are these days. All the professors in the school were accomplices. Everybody in the school was an accomplice and kept their mouths shut.²²

Having painted a portrait of unparalleled horror, Giono does not even feel compelled to denounce explicitly the motives of the *résistants* who carried out the attack. The pretext of a feigned friendship on the part of the “assassins,” their apparent unquestioned willingness to obey orders to murder, and the unspeakable brutality of the killing of the child are sufficiently damning.

Conceding the terrible nature of the events described, the problem is that there is much more to what happened at Voiron than Giono describes in his *Journal*, and the details of his account are selective and often inaccurate. Moreover, Giono eliminates the larger context, thereby casting the entire episode in starkly Manichaeian terms: the victims are wholly innocent, and the perpetrators are purely and inhumanly malevolent. But the realities of the situation were in fact much more complex. The murdered family members all belonged to the Jourdan family. The father, a former member of *Action Française*, was head of the local *Milice* (details that Giono fails to mention) and is described by Jacques Delperrié de Bayac in his history of the *Milice* as “an unscrupulous person, a thief, and a stool pigeon,” and the individual responsible for the majority of the crimes committed by the *Milice* in the region.²³ The students who murdered the Jourdan family did not feign friendship with them but rather joined the *Milice* under false pretenses in order to gain access to the Jourdan house, which was itself guarded constantly by other *miliciens*. Having gained entry into the Jourdan house, the *résistants* killed the guards and then shot the family

22. *Ibid.*, p. 425–26.

23. Jacques Delperrié de Bayac, *Histoire de la Milice, 1918–1945* (Paris: Fayard, 1969), p. 266.

members. Giono's account is accurate in stating that when the *résistants* were captured they confessed to the killings and were shot. What he fails to mention is that they were shot in the back of the head in front of twenty of their classmates and professors, who, after witnessing the executions, were deported to Germany, where most of them died. Delperrié states that the Voiron episode was recounted widely at the time by those who wished to discredit the Resistance. Whether intentional or not, Giono's version of events clearly serves the same end.

There is one final—and very distasteful—aspect of the *Journal de l'Occupation*, and that is the attitudes Giono occasionally voices toward Jews. On more than one occasion, he indulges in anti-Jewish stereotypes. On November 12, 1943—some two years after the implementation of Vichy's anti-Semitic laws and a year and a half after the implementation of the Final Solution in France—Giono writes: "Jews are exactly that. Jews of the Ghetto," and he criticizes them for voluntarily isolating themselves throughout history.²⁴ In an entry dated January 2, 1944, Giono describes being asked by an acquaintance what he thinks of "the Jewish problem." He responds: "I tell him I don't give a damn, that I care about the Jews as much as I do about my first pair of drawers; there are better things to do on this earth than worry about the Jews."²⁵

Given the historical circumstances of the time, Giono's statement could hardly be more shocking and callous. And while nothing suggests that it implies an overtly sympathetic attitude toward the murderous aims of the Nazis and their Vichy counterparts, in its chilling indifference to the fate of the Jews, and its claim that there are "better things" to do on earth than to concern oneself with their plight, it borders on *complicity* in Nazi and Vichy crimes. Moreover, it should not be forgotten that Giono's visceral hatred of capitalism and money, expressed so often in his pre-war pacifist writings, is all too often associated with traditional anti-Semitic views.

But in the final analysis, Giono's dismissal of the fate of the Jews during the Occupation constitutes perhaps more than anything else a final *disavowal* of historical understanding and *responsibility*. Frustrated in his prophetic attempts to impose what was ultimately a tragically dangerous, naive, and self-defeating pacifism on Europe in the late 1930s, Giono

24. *Ibid.*, p. 354.

25. *Ibid.*, p. 389.

bitterly welcomed France's defeat and, at least early in the war (as his comments in *La Gerbe* indicate), the "return" under Vichy of the true France, a "pure" and "peasant" France, protected from all the horrors of modernity. In fact, it is impossible not to see in Giono's hostility for and disdain of the Resistance and the Allies in the *Journal de l'Occupation* an expression of his distaste for the *disruptions* they caused in the idyllic world in which he lived but, in their imminent victory, potential revolutionary changes that would wipe out that world altogether. It is not surprising, then, that after the Liberation, Giono turned largely away from the realities and dilemmas of the present and contented himself with writing historical fiction and essays. Perhaps History had taught Giono that, despite his enormous literary gifts, as a prophet he was a less than reliable guide and witness for his times.

On Avicenna

Aryeh Botwinick

Avicenna seems to converge with the negative theological understandings I have previously made central to my reading of Sura II.¹ He maps the dynamics of theological inquiry in such a way that negative theology appears as the most appropriate conclusion to be drawn from the argument. He says that “contingent beings end in a Necessary Being” and that “the Necessary Being does not resemble any other thing in any respect whatsoever.” He goes on to reject the imputation of literally conceived attributes to Necessary Being—i.e., to God: “If it were to be stated that His Attributes are not an augmentation of His Essence, but that they entered into the constitution of the Essence, and that the Essence cannot be conceived of as existing without these attributes, then the Essence would be compound, and the Oneness would be destroyed.”² Apparently, the God that Avicenna finds delineated in the Qu’ran is the God that on the surface brings the everlasting quest for reasons and causes to a halt—who is able to confine the endless proliferation of contingency by being an embodiment of necessity. In order for God to be the One Unifying Factor responsible for all of experience—to embody necessity in a complete and not in a partial sense—nothing about Him can derogate from His oneness. His being and His essence have to coincide—and the whole notion of attributes in a literal sense has to be banished from our vision of Him. Avicenna states

1. Aryeh Botwinick, “The Qu’ran as a Negative Theological Text: The Evidence of Sura II,” *Telos* 138 (Spring 2007): 69–96.

2. *Avicenna on Theology*, ed. and trans. Arthur J. Arberry (London: John Murray, 1951), pp. 25, 28, and 30. All my citations of Avicenna are from this translation.

that “A being which is necessary has no reason for its being.”³ Distinguishable attributes present in our notion of God would embed God in rational and causal networks of explanation stretching both before Him and after Him and would thus diminish from His character as God.

The rigor with which Avicenna wants to denude God of attributes also propels him to want to close as much as possible the gap that separates God from the objects of His creation, knowledge, and surveillance—namely, the world and the human beings that inhabit it. His formulation has distinctly pantheistic overtones—which suggests that pantheism in early medieval thought is not an independently wrought cosmological doctrine but rather a solution to a negative theological riddle, namely, How a God without humanly identifiable and cognizable attributes (whose points of intersection with other rational and causal networks has been obliterated, who represents necessity in the most complete sense imaginable) could yet be situated in the world. The solution to the riddle is to embed God in the world—to make the world the only locus that we need to talk about God. This is the way that Avicenna frames his solution: Speaking about God, he writes, “Intelligence, intelligible, and intelligent are one thing, or nearly so. That the object so apprehended is more perfect in itself is manifest at once; that the realization too is more intense is likewise immediately obvious, if the foregoing argument is kept at all in mind.”⁴ God’s being is thus “neither without the world nor within it”⁵—Avicenna’s gesturings toward pantheism having effaced the boundaries between “inner” and “outer.” Speaking about human beings, Avicenna says that “intellectual ends are more ennobling to the soul than other worthless things.”⁶ In relation to God, however, who represents Supreme Necessity and who therefore cannot be decoded into any humanly intelligible formulation, “intellectual ends,” too, need to be considered as “worthless things.”

Avicenna is unflinching in his willingness to embrace the implications that follow from his theological position. If God needs to be thoroughly de-literalized in order to sustain a sufficiently coherent notion of necessity, then what about morality? How is the idea of reward and punishment to be accommodated? Avicenna has a remarkably deflationary and humanly-centered notion of reward and punishment: “The continuance of the soul

3. *Ibid.*, p. 28.

4. *Ibid.*, p. 68.

5. *Ibid.*, p. 44.

6. *Ibid.*, p. 69.

in a state of imperfection is the state of remoteness from God: that is what is meant by being under a curse, suffering punishment, encountering Divine Wrath and Anger: the pain which the soul has to endure is a consequence of that imperfection. Similarly the perfection of the soul is what is meant by saying that God is pleased with it, that it is near and nigh unto God and close to God's Presence. Such then is the meaning of reward and punishment: this and nothing else."⁷ For Avicenna, action is its own reward—and punishment. "Reward and punishment" does not conjure up anything extraneous beyond what is engendered and experienced by engaging in the respective actions themselves. Avicenna's understanding of "reward and punishment" is prefigured in a famous statement of the Rabbis: "Ben Azzai said: The reward of a mitzvah [fulfillment of a Divine commandment; performance of a good deed] is a mitzvah [being given the opportunity to perform another mitzvah in the wake of the first one; and also the satisfaction enjoyed from performing the mitzvah itself], and the wages of a transgression are a transgression [the incitement to further transgressions that the first transgression triggers; the guilt and anxiety attendant to the first transgression itself]."⁸

In the light of our discussion so far, we can say that when Avicenna describes "the business of the soul" as being "to apprehend the very essence of perfection by attaining through knowledge the unknown," what he is suggesting is that the point of theoretical and theological engagement is to grapple with and attempt to delineate limits to knowledge. The attempt to achieve knowledge of the whole, so to speak, by moving beyond the realm of contingency altogether to conceive of God as Pure Necessity yields a correlative domain of ignorance that matches in scope and magnitude our claim to knowledge of God. To conceive of God as Pure Necessity, Avicenna argues, requires us to displace unto non-literal uses all of the material characteristics and linguistic formulations traditionally associated with God. God is no longer literally in the heavens and can no longer bear in a literal vein the attributes that Western theology traditionally ascribes to Him if He is viewed as constituting Pure Necessity. The most colossal and inclusive knowledge-datum that we can come up with turns out under Avicenna's analytical scrutiny to yield the most dense and impenetrable ignorance that we can imagine. We are able to sustain the knowledge-

7. *Ibid.*, p. 39.

8. Mishnah Avot 4:2.

claim only if we can simultaneously accommodate (somehow find ways of fitting-in) the correlatively huge area(s) of ignorance that it unleashes.

The fate of the God-concept is emblematic of the precariousness of all of our theoretical ascents in the course of inquiring into and investigating different sectors of reality. Avicenna makes clear that part of the reason why our postulation of God has such ambiguous explanatory results is that “God” is not just an explanans (a statement or category doing the explaining) accounting for an explanandum (a statement or category of what needs to be explained—in this case, the world at large)—but that for each one of the mediating factors and attendant circumstances linking the explanans to the explanandum (which includes all of the Divine Attributes that serve as the bridges between God and the world), we can raise on a more restrictive level the question of ultimacy. Are these (the Divine attributes as classically defined) the ultimate mediating links between human beings and the world and God—or are there others that are above them (say, special intervention by God or an angel)—or that can serve as an alternative to them? More than one of them is usually relevant on any given occasion—e.g., power, knowledge, and compassion are usually in play on most occasions when we invoke Divine intercession. How do we know which mix of these Divine attributes—and what particular configuration of them—are the ones that prevail (should prevail) on any given occasion? Even if one were to argue that with regard to the God-world relationship at least the list of classically received attributes is exhaustive (even if the potential for regrouping their mix and configuration is infinite), that would have import for the question of arbitrariness (we don’t have to worry about other than the traditional attributes serving as mediating links in the God-world relationship) but not for the issue of an infinite regress (even with regard to the canonical attributes, how do we know that we have an exhaustive account of what might precede them, succeed them, or accompany them in the routes that connect human beings and the world to God?). As a result of considerations of this sort, Avicenna theorizes that the notion of God as a Necessary Being signifies the complete divestiture of attributes—so that an infinite regress between the world and God is definitionally blocked. However, with regard to acts of theorizing (intellectual ascents) that take place in more restrictive worldly settings where there are no canonical lists of mediating factors between the objects and subjects of explanation, we need to be concerned not only with issues of infinite regress but also with factors pertaining to arbitrariness. We can never be sure that the features

we have singled out in our mapping of relationships between explananda and explanans are the most relevant ones—or that the linguistic terms we use to refer to them are the most perspicuous and acute.

With regard to the relationship between theory and fact—words and things—we thus have the confluence of three sets of considerations bringing about a result of underdetermination. These factors are the arbitrariness of the categories and descriptions chosen in the light of theoretically available alternatives; the presence of an infinite regress between a thing and a word in the sense that it remains meta-theoretically open where we begin and where we cut off the range of conceptualization to circumscribe a thing; and, finally, the rational irresolvability of the proper mix and configuration of relevant factors and terms that would keep the relationship between words and things underdetermined even if the other two factors could be satisfactorily addressed.

When Avicenna speaks about “attaining through knowledge the unknown,” one way of construing this is to say that just like in relation to God pushing rational analysis to its limits only helps to enlighten us concerning the limits to reason but does not enable us to transcend them, so, too, with regard to other domains of knowledge the upshot of knowing more is gaining a keener appreciation of our limits. Given the principle of underdetermination of words by things and the three levels upon which it operates, every knowledge-disclosure rests upon an ontologically insecure set of terms. We know how the world shapes up in relation to the terms we have chosen—but we don’t know how it would come out in relation to the terms not mobilized (but theoretically available). In addition, the terms that elucidate a particular sector of experience are also terms that engender perplexities precisely in relation to whatever is being occluded and distorted by this particular set of terms. These factors ensure that each advance in knowledge is correlated with the emergence of new areas of ignorance.

Avicenna’s description of the goal of intellectual exertion is also evocative of why a generalized agnosticism constitutes the most defensible epistemological position. A generalized agnosticism seeks to chart and codify how our knowledge breakthroughs remain susceptible to skeptical attack as a result partially of their theoretical categories being underdetermined by the facts they seek to describe and account for—and how skepticism itself remains defensible only when it includes itself within its ambit of questioning.

The role and goal of advancing knowledge from the perspectives that I have outlined is to herald the pervasiveness and depth of the unknown.

Concerning God, Avicenna writes about “how that Essence achieves cognition without any consequent multiplicity or change of any kind.”⁹ When you juxtapose this sentence to a sentence that precedes it in an earlier paragraph on the same page—“For the elements of the faculty of knowledge were only to be acquired through the body”—you notice the ways in which the first sentence limits and resituates the import of the second. “The elements of the faculty of knowledge” being “acquired only through the body” suggests that our conceptions of what is enduring and universal—what we would like to subsume under the rubric of “knowledge”—is only mediated to us through the “body”—which represents limits, an obduracy beyond our control, what defeats the unbounded aspirations of reason. Knowledge, therefore, is always mediated, limited, deflected knowledge. If this is the case, then the “Essence” (referring to God) that “achieves cognition without any consequent multiplicity or change of any kind” has to be regarded by us as a string of undecodable words—whose surface sense renders their referential inscrutability all the more poignant.

The “thatness” of Avicenna’s Essence needs to be distinguished from the “whatness.” The “thatness” refers to the ongoing operations of human reason—which includes reason’s ever-deepening implication in its own limitations (even skepticism needs to be counterbalanced by a skepticism of skepticism—a generalized agnosticism). This “thatness” needs to be seen as a placeholder for an ever-elusive and receding “whatness” attached to Avicenna’s Essence, which given skepticism’s calling itself into question alongside its other objects, we are not required to forfeit. Since protocols of consistency impel us to question our own questioning, it is legitimate for us to entertain the idea of an “Essence . . . without multiplicity.”

Applying Aristotle to theological speculation, Avicenna writes that “Always the Mean plucks the rational soul from the two extremes.”¹⁰ This is a deceptively straightforward formulation. What is the second extreme that Avicenna is referring to? The first extreme (the context of this passage makes clear) would be the one that inclines the rational soul too overwhelmingly “towards the body”¹¹—which would make reason too

9. *Avicenna on Theology*, p. 71.

10. *Ibid.*, p. 73.

11. *Ibid.*, p. 72.

subservient to the body. This is one extreme that Aristotle's Theory of the Mean is intended to help us avoid. But what is the other extreme? In the light of our discussion above, we could say that the other extreme consists in an overconfident investment in reason as being able to indubitably disclose to us the metaphysical landscape that lies beyond the constant to-and-fro tuggings and maneuverings of reason. Reason in Avicenna's gloss on Aristotle is a capacity and vocation of the middle that keeps us focused on the critical, mediating moves that lead to a prolongation and expansion of the middle itself—without drawing us any closer to what resides at the ends.

“The bond which unites body and soul . . . has its origin in the body.”¹² One way of making sense of Avicenna in the light of his interpretation of Aristotle and his previous implicit calling-into-question of the notion of “essence” is that the idea of “soul” itself has its origins in the ambiguities surrounding the apparently indubitably given and there—what is symbolized by the notion of “the body.” What is ostensibly brutally present in experience—our own bodies and the bodies that surround us—can only be engaged in a mediated fashion through language. Our words are underdetermined by experience. Other strings of words—resulting in alternative descriptions—can often capture the same “brutely given” entity that our first string of words was intended to designate. Since the nature of an entity is dependent upon the language used to pin down its identity, we cannot use the “brute item” in our experience itself to adjudicate between the competing claims of different descriptions without our argument becoming viciously circular. What are conventionally regarded as the intention-laden, consciousness-driven, self-evaluationally, and self-critically mindful aspects of bodily behavior give rise to the notion of “soul” to help accommodate what appear as the non-material dimensions of bodily behavior. But the idea of “soul” is a posit or conjecture that can be systematically precluded by a more determinedly materially oriented description (or set of descriptions) of what look like non-material manifestations of bodies. But there is nothing in the “facts” per se as they appear to us in experience that can preclude or validate either description or set of descriptions. As long as we remain systematically committed to sustaining either perspective on experience, we can manage to do so. Both the materialist and the anti-materialist visions of our experience go all the way down—i.e., encompass the very identity and nature of the objects

12. *Ibid.*, p. 73.

or entities in question—so that these “objects” or “entities” cannot be invoked in some pristine, untainted form to resolve the conflict between the competing versions of what they are. The most telling supplementary argument available to proponents of either vision is to try and make the case that the theoretical vision that they adhere to harbors the promise of being more coherently faithful to the complexities of the actual experience of the objects or entities in question than their rival’s vision. This move is clearly available to both (or all) sides of a theoretical dispute.

Based upon this reading of the relationship between the soul and the body in Avicenna—that what they have in common (insinuated by the way that the “body” vocabulary can ostensibly overtake the “soul” vocabulary) is their equal dependence on a not-fully-validated givenness—it is easy to project how other metaphysical or spiritual entities such as God, the after-life, reward and punishment, etc. get projected in a similar manner—and how their ontological status remains as questionable and contestable as the notion of “soul.” (“The bond which unites body and soul . . . has its origin in the body.”) By the same token, once the underdetermination of words by things legitimates by its very skepticism recourse to the soul, this sets in motion a dynamic that proliferates other non-material or spiritual entities such as God, the after-life, and reward and punishment, which buttress and reinforce our conception of soul. Once one member of a conceptual family is introduced as a skeptically-feasible posit, this sets the stage for including the others to engender a pattern of mutual reinforcement. The same logical and conceptual slack that allows for the postulation of the first entity allows for the postulation of all the other entities. There is no rigor attached to the order of generation of these entities. One can begin almost anywhere amongst the members of this conceptual family and then yield to a rhetorical dynamic to maximize persuasiveness by including all the others.

Avicenna’s understanding of the bond between body and soul having its origin in the body affects all the other members of the conceptual family to which the category of soul belongs—and not just the idea of the “soul.” God, the after-life, and reward and punishment also have their origin in the body. That is to say, these categories, too, are formulable in the light of common experiences of rootedness in the world, which come encumbered with customary usages but which otherwise in a more narrowly rational sense do not come pre-packaged or pre-labeled—and which in the light of the underdetermination of words by things create space for

us to invoke these categorial entities as the most appropriate conceptual clothing to disclose and denote the nature of our experiences.

The Active Intellect that the mind of the philosopher communes with—which conjures up an image of free-ranging, dynamic thought and its intersections with and repercussions for reality—vouchsafes for him a whole domain of interconnected theological and moral possibilities that his being grounded in the body renders for him near and familiar (ideas such as “soul,” which are the most usual and customary set of metaphors with which to “group” our experience) at the same time that these ideas remain irretrievably metaphysically distant (as the overshooting of the limits of the bodily and the concrete—which are not secure limits, in any event—by privileging a set of categories to organize some of its most recurring internal and external impressions).

Dante, Islam, and Edward Said

Elizabeth A. Coggeshall

“Maestro, già le sue meschite
là entro certe ne la valle cerno,
vermiglie come se di foco uscite
fossero.”

[“Master, already I distinctly discern its mosques there
within the valley, red as if they had come out of the fire.”]

Dante Alighieri, *Inferno* 8.70–73¹

After nearly seven hundred years of commentary on the poem, the nature of Dante’s relationship with Islam in the *Divine Comedy* continues to elude us. Scholarship on the subject tends to oversimplify Dante’s portrayal of Islam, maintaining a reading of the poet’s indisputable tendentiousness either for or against Islam.² In particular, Edward Said has suggested that Dante’s presentation of Islam is tainted with an Orientalism that positions Islam in the *Comedy* as a timeless exotic Other of Christianity, radically distinct so as to allow for a clearer self-definition: “*We are not them.*” Ambivalences in the text, however, challenge this viewpoint, contradicting the Orientalization of Dante’s Islam that such a reading of the *Comedy*

1. Texts and translations of the *Divine Comedy* are drawn from Dante Alighieri, *The Divine Comedy*, trans. Charles S. Singleton, Bollingen Series LXXX, 6 vols. (Princeton, NJ: Princeton UP, 1970–76).

2. See, for example, Miguel Asín Palacios’s *La Escatología Musulmana en la Divina Comedia* (Madrid: Impr. de E. Maestre, 1919), in which he holds that Dante venerates Islam, or Maria Rosa Menocal’s *The Arabic Role in Medieval Literary History: A Forgotten Heritage* (Philadelphia: Univ. of Pennsylvania Press, 1987), in which she claims that Dante despises and fears it.

suggests. Dante's Islam is not so timelessly foreign as is proposed; instead it is familiar and historical, closer to his Christian sphere in both geography and theology than such an Orientalized view would allow.

An analysis of Dante's Islam necessitates a close reading that does not consider both text and context according to a specific teleological trajectory that culminates in Orientalism. Rather, the *Comedy's* presentation of Islam should be read in terms of the poem's own internal poetic structure and the external historical moment in which it was produced. In order to present such a reading, the analysis must use a different historical model than the one that Said employs in *Orientalism*. Said "limits" his discussion of Orientalist discourse in the late eighteenth century, establishing the system essentially as a problem of modernity. He goes on, however, to examine earlier "articulations" of Orientalist discourse in Western literature, maintaining that among these examples Dante's *Comedy* represents most clearly "[h]ow strongly articulated were later representations building on the earlier ones, how inordinately careful their schematization, how dramatically effective their placing in Western imaginative geography."³

In his attempt to historicize the discourse, Said effectively pushes back the start date without accounting for the complications that arise from this rearrangement. In a critique of *Orientalism*, Aijaz Ahmad proposes that Said has attempted simultaneously to establish Orientalism as "an ideological corollary of colonialism" and to project its transhistorical and uninterrupted constitution from ancient Greece through the Middle Ages to post-Enlightenment colonialism.⁴ In his reading of Dante, Ahmad focuses on one disjuncture between pre- and post-Enlightenment Europe that disallows such a projected transhistoricism: the transfer of power from religious authorities to secular ones. The shift to secularity from religiosity had such a profound effect on discursive formations and their relationship to power that the two periods cannot simply be recast as a transhistorical unity. A reading of pre-Enlightenment and pre-colonial works must employ a different historical theorization.

Interestingly, it is useful to turn to postcolonialism, the school that claims its origin in *Orientalism* itself, to provide just such a new historical

3. Edward W. Said, *Orientalism* (New York: Vintage Books, 1994), p. 68.

4. Cf. Aijaz Ahmad, "Orientalism and After: Ambivalence and Metropolitan Location in the Work of Edward Said," in *In Theory: Classes, Nations, Literatures* (London: Verso, 1992), pp. 159–219. Ahmad discusses Dante specifically on pp. 187–90. I am presently citing from p. 181.

framework for reading Dante's relationship to Islam. Recent collections of essays have asked whether it is necessary to identify the "postcolonial" as a specifically temporal construction; that is, whether the "post" of "postcolonial" is necessarily tied to the historical period that occurs *after* the fall of the colonial empires of the modern period.⁵ In an attempt to rethink "postcolonialism" not according to temporal constraints, but as a period of instability markedly different from that of colonialism, these collections approach the study of the Middle Ages as an *extra*-colonial period with a similar decentralization of power as that in the period chronologically following colonialism. In his introduction to one of these volumes, Jeffrey Jerome Cohen suggests that a postcolonial approach allows scholarship on the Middle Ages to open up to new readings of both past and future on five fronts: rethinking periodization and terms regarding temporality, reformulating the understanding of the relationship between history and knowledge, destabilizing "hegemonic identities," displacing Christianity, and decentering Europe.⁶

It is from this perspective of instability and decentralization that we can approach the question of the representation of Islam in the *Comedy*. The precariousness of power in the Middle Ages is not to be overlooked. In fact, during this period we might consider the "West" a weaker power in geopolitical formations than was the "East," which in this period had been flourishing in the later stages of a golden age and then in the early stages of the Ottoman Empire. The "East" of the Middle Ages was more comparable to the current "West," and medieval Christian texts often express fear of and distaste for the religion and culture that they anxiously watch over their shoulders.⁷ Furthermore, Islam was not geographically tied to the "Orient": Spain and Sicily, to the west and south of Dante's Tuscany, had been under Muslim rule only a century earlier, and there remained a

5. Cf. Jeffrey Jerome Cohen, ed., *The Postcolonial Middle Ages* (New York: St. Martin's Press, 2000), and more recently Ananya Jahanara Kabir and Deanne Williams, eds., *Postcolonial Approaches to the Middle Ages* (Cambridge: Cambridge UP, 2005).

6. See Jeffrey Jerome Cohen, "Introduction: Midcolonial," in Cohen, ed., *The Postcolonial Middle Ages*, pp. 1–17, and particularly his section entitled "The Medieval Future," pp. 6–8.

7. I do not wish to suggest, as does Maria Rosa Menocal, that we can explicitly read fear in Dante's text (cf. her chapter "Italy, Dante, and the Anxieties of Influence," in *The Arabic Role*, pp. 115–36). One cannot presume to know so much about his psychic state. But I do find it key to the question of the *Comedy*'s historical context that one cannot assume that the relationship of power was always in favor of Western Christianity.

dominant Muslim presence in the courts.⁸ Islam does not hail from a distant Eastern land; rather it encircles and overlaps with Dante's own Christian sphere. Shifting the historical framework to a "postcolonial" one allows us to consider a context in which Europe was not necessarily the center of power, Christianity was not necessarily the dominant religion, and Islam and the "Orient" were not necessarily synonymous, as Said takes them.⁹

Using this framework, this analysis proceeds from the same foundation as Said's in *Orientalism*: the depictions of Muslim personae in *Inferno* IV and XXVIII. Said suggests that Dante's misrepresentations of Muslims in the *Comedy* constitute his Orientalist attitude. An analysis of the text challenges this perspective on two points: first, we will see that Dante does not conflate Islam and the Orient in the way that Said does, as mentioned above; and second, Dante's representations of Muslims are not products of a process of radical distinction and alien exoticism, but are connected to Christianity in such a way that they may be easily subsumed into a vision of the Christian otherworld. In what follows I analyze the representation of Islam in the *Comedy* in light of its "extra-colonial" context, and in so doing the nuances of Dante's ambivalent relationship to Islam emerge, as Islam in the *Comedy* reveals itself to be an object of a non-Orientalized radical un-Othering.

*I. "Vedi come storpiato è Mäometto"*¹⁰

Said positions Islam in the *Comedy* as a fixed entity, circumscribed by a "West" that dominates, fears, and desires it. Reading injustice into Dante's poetry, he writes:

The discriminations and refinements of Dante's poetic grasp of Islam are an instance of the schematic, almost cosmological inevitability with which Islam and its designated representatives are creatures of Western geographical, historical, and above all, moral apprehension. Empirical

8. There has been much influential scholarship produced on the Muslim presence in the medieval Western courts and the possibility of tracing its influence in various fields. Two prominent literary studies of the Arabic-Islamic influence on Christian troubadour poetry may be found in Menocal, *The Arabic Role*, and more recently in Karla Mallette, *The Kingdom of Sicily, 1100–1250* (Philadelphia: Univ. of Pennsylvania Press, 2005).

9. For an excellent study of Dante's relationship with the geographical "Orient" and the political, religious, mythological, and imaginary "matter of the East" that is linked to it, see Brenda Deen Schildgen, *Dante and the Orient* (Urbana: Univ. of Illinois Press, 2002).

10. *Inferno* 28.31. ["See how mangled is Muhammad!"]

data about the Orient or about any of its parts count for very little; what matters and is decisive is what I have been calling the Orientalist vision, a vision by no means confined to the professional scholar, but rather the common possession of all who have thought about the Orient in the West. Dante's powers as a poet intensify, make more rather than less representative, these perspectives on the Orient. Mohammed, Saladin, Averroës, and Avicenna are fixed in a visionary cosmology—fixed, laid out, boxed in, imprisoned, without much regard for anything except their “function” and the patterns they realize on the stage on which they appear.¹¹

Making it appear as though Dante has fixed *only* the Muslims in hell, Said overlooks the fixity of the entire *Inferno*, as well as the fluidity of the rest of Dante's “visionary cosmology.” Dante has indeed created a fixed—and absolutely Christian—otherworldly prison, but his judgments are no more discriminatory in the case of Muslims than they are for his neighbors, teachers, friends, and priests, all of whom are imprisoned in these same infernal circles.¹²

Singling out the five Muslims in the *Comedy*, the critique in *Orientalism* turns first to the representation of Muhammad. In the ninth pocket of the Malebolge—the eighth circle of Dante's nine—Muhammad is punished as a schismatic, a sower of scandal and discord. Said reads this low placement and the gruesome depiction that accompanies it as a particularly cruel gesture on Dante's part. Muhammad is cleft in two, from chin to anus, and a sword-bearing devil constantly and eternally slashes open his own wound as it heals itself. Muhammad's first words to the pilgrim point to the very physical nature of his suffering:

Mentre che tutto in lui veder m'attacco
guardommi e con le man s'asperse il petto,
dicendo: “Or vedi com' io mi dilacco!
vedi come storpiato è Mäometto!”
(*Inferno* 28.28–31)

11. Said, *Orientalism*, pp. 69–70.

12. Robert Irwin makes a similar point in his brief section on Dante in *Dangerous Knowledge: Orientalism and Its Discontents* (Woodstock, NY: Overlook Press, 2006). See especially p. 52, where he writes, “since Muhammad and his followers had given the true Christian Church a lot of trouble, it was inevitable that he should have been damned in Dante's eyes. But then Dante put quite a lot of Christian Italians, including one of his own relatives, in yet lower circles of Hell.”

[While I was all absorbed in gazing on him, he looked at me and with his hands pulled open his breast, saying, “Now see how I rend myself, see how mangled is Muhammad!”]

Said points out that Dante has spared Muhammad nothing: he is punished as the founder of the “schismatic” faith of Islam, and, in the reciprocally retributive *contrapasso* logic of the *Comedy*, he reenacts his sin in eternal gestures, tearing his own body in two, making of himself a schism. He rends his own flesh as he split the body politic. Said writes, “Mohammed’s punishment, which is also his eternal fate, is a peculiarly disgusting one. . . . Dante’s verse at this point spares the reader none of the eschatological [*sic*] detail that so vivid a punishment entails: Mohammed’s entrails and his excrement are described with unflinching accuracy.”¹³

Muhammad’s punishment is certainly grotesque, but not “peculiarly disgusting.” Bodies in Dante’s *Inferno* are frequently scorched, frozen, buried, drowning, morphed into plants or animals, twisted, torn, pricked, and gnawed on by devils, Harpies, other sinners, or oneself. While it is gruesome, Muhammad’s punishment is typical in Dante’s characterization of hellish torments. Consider, for example, the situation of the other sinners with whom Muhammad shares this circle. Christians many of them, these souls find themselves suffering similar physical schisms, and Dante subjects them to the same unforgiving sword. The devil deals his violent blows to Pier da Medicina, Mosca, Bertran de Born, Messer Guido and Angiolello—who, we are told, are not yet there but will be—and Curio, the only pagan listed among all those named, whose hacked-off hands, heads, and various other body parts spew forth the same bloody mess. Indeed, the extended simile that opens the canto gives the reader a glimpse of the impressive and excessive carnage that is displayed before the pilgrim:

S’el s’aunasse ancor tutta la gente
 che già, in su la fortunata terra
 di Puglia, fu del suo sangue dolente
 per li Troiani e per la lunga guerra
 che de l’anella fé sì alte spoglie,
 come Livio scrive, che non erra,
 con quella che sentio di colpi doglie
 per contrastare a Ruberto Guiscardo;

13. Said, *Orientalism*, p. 68.

e l'altra il cui ossame ancor s'accoglie
 a Ceperan, là dove fu bugiardo
 ciascun Pugliese, e là da Tagliacozzo,
 dove sanz'arme vinse il vecchio Alardo;
 e qual forato suo membro e qual mozzo
 mostrasse, d'aequar sarebbe nulla
 il modo de la nona bolgia sozzo.
 (*Inferno* 28.7–21)

[Were all the people assembled again who once in the fateful land of Apulia bewailed their blood shed by the Trojans, and those of the long war that made so vast a spoil of rings—as Livy writes, who does not err—together with those who felt the pain of blows in the struggle with Robert Guiscard, and those others whose bones are still heaped up at Ceperano, where every Apulian was false, and there by Tagliacozzo where old Alardo conquered without arms; and one should show his limb pierced through, and another his foot cut off, it would be nothing to equal the foul fashion of the ninth pouch.]¹⁴

Here, as the simile tells us, Dante's vision of the suffering and gore of the ninth pocket exceeds poetry. Furthermore, it shows the justice of the distribution of punishments: the violence of *Inferno* XXVIII is not one that is particularly geared toward the Muslims. Rather, the punishment doled out to Muhammad in the Malebolge is reflective of the same violence that all schismatics suffer, and is consistent with the depiction he offers throughout the whole *Inferno*.¹⁵

14. In his additional note on *Inferno* XXVIII, Ronald Martinez astutely observes that the wars of the simile that introduces this canto are all examples of "civil" wars within the history of Mediterranean culture, dividing the body and scattering its parts around the region. See Ronald L. Martinez, "Additional Note 12: The Poetry of Schism (Canto 28)," in *The Divine Comedy of Dante Alighieri*, vol. 1, *Inferno*, ed. and trans. Robert M. Durling (New York and Oxford: Oxford UP, 1996), pp. 573–76.

15. The idea of justice is of particular importance in this canto. It is precisely here that Dante names the law of the *contrapasso*, the law governing the just distribution of punishments in the entire scheme of the *Inferno*. Bertran de Born's disembodied head proclaims the just allocation of punishments that fit their crimes: "Perch'io parti' così giunte persone/partito porto il mio cerebro, lasso!/dal suo principio ch'è in questo troncone./Cosi s'osserva in me lo contrapasso" (*Inferno* 28.139–42) ["Because I parted persons thus united, I carry my brain parted from its source, alas! which is in this trunk. Thus is the retribution observed in me"]. Singleton translates *contrapasso* in this passage as "retribution," although it is more literally translated as "counter-suffering," in other words, a retribution that is reciprocally and justly executed. For an extended discussion of the retributive justice

Other critics who have considered Dante's representation of Islam interpret this passage concluding precisely the opposite of Said's reading. Miguel Asín Palacios, a Hispanist whose work on Dante and Islam incited much of the debate regarding the poet's relationship to Islamic textual precedents, reads in Muhammad a telling example of Dante's affinity for Islamic culture.¹⁶ In perfect opposition to Said, he writes, "even Mahomet is not punished as the founder of Islam, but as a sower of discord and an author of schism. . . . The *leniency* of this punishment is significant of Dante's sympathies for the Arabic culture."¹⁷ This is still an inaccurate account of Dante's placement of Muhammad in the *Inferno*. The "leniency" that Asín Palacios cites is slight: Muhammad is not in the lowest of the circles, nor is he partitioned off from his group for a particular perversion as regards his sin; rather, his position is deep in the infernal pit, in the second to last pocket of the second to lowest circle of hell. While it is certainly notable that he is positioned on equal footing with Christians in the circle, there is literally little space left in the *Inferno* for a harsher punishment of Muhammad. His punishment is not so cruel as to suggest a particular denigration of Islam or of its Prophet, but it is also not so lenient as to suggest a tribute to him or the faith and culture that he represents. In fact, Dante's treatment of Muhammad may best be characterized as ambivalent.

Asín Palacios's reading does point to a curiosity in the text, however. Why is Muhammad punished as a sower of schism? Of the many positions that Dante might have created for the Prophet of Islam, he chooses to assign to Muhammad the sin of dividing the Christian body politic by authoring a religious schism. In so doing, Dante effectively casts Islam as a sect of his own Christianity. Rather than a foreign post-Christian fallacy, born of misguided pagan beliefs, Islam is a sect born out of its Prophet's willing rejection of the truth of Christ's Resurrection. This reading of Muhammad as a sower of schism is of interest to the question of Dante's Orientalism in regards to Islam. Said claims that an Orientalized Islam is

of the *contrapasso*, see Giuseppe Mazzotta, "Metaphor and Justice," in *Dante's Vision and the Circle of Knowledge* (Princeton, NJ: Princeton UP, 1993), pp. 75–95.

16. See Asín Palacios, *La Escatología Musulmana*, which was translated into English and printed in an abridged version by Harold Sunderland under the title *Islam and the Divine Comedy* (London: Hazell Watson & Viney Ltd., 1926). I have used the abridged English edition here.

17. Asín Palacios, *Islam and the Divine Comedy*, p. 259 (my emphasis).

positioned as radically Other and differentially constitutive of Self, but Dante's Islam is not set apart in its foreignness, only in its founder's sinful fallaciousness. In fact, Muhammad's sect is radically un-Othered in one of several appropriating moves that gestures to genealogical connections between the religions. Early commentaries on the *Comedy* frequently mythologize Muhammad as a Christian prelate, a member of a Christian family, a "Westerner" hailing from Spain, and even a Christian cleric with aspirations to the papacy. Many commentaries take note of Muhammad's ambiguous biography in Dante's vision. The popular biography of the Prophet of Islam positions him as a lapsed Christian, and in his notes to the *Inferno*, Ronald Martinez plainly states that "Dante accepted the medieval Christian claim that Mohammed had originally been a Christian; he treats him as a schismatic."¹⁸ Dante's Muhammad is not the product of an Orientalized imaginary, but the object of a Christianizing appropriation.

II. "Dinanzi a me sen va piangendo Ali"¹⁹

The easy subsumption of Islam into Dante's Christian otherworld is further supported by the appearance of Ali as companion of Muhammad in the eighth bolgia. Muhammad announces his presence, "Dinanzi a me sen va piangendo Ali, / fesso nel volto dal mento al ciuffetto" (*Inferno* 28.32–33). ["In front of me goes Ali weeping, cleft in the face from chin to forelock."] Historically, Ali was Muhammad's cousin and son-in-law, married to his daughter Fatima, whose selection as the fourth caliph caused the Sunni-Shia schism that divided Islam. The curious presence of Ali as a schismatic in *Inferno* XXVIII has strangely *not* puzzled all of the commentators who have written glosses on it. Said, for one, is nearly silent on the subject, citing Ali's presence without further comment.

Twentieth-century Italian commentators on the *Comedy* give little biographical information on Ali, leaving the question of Dante's historical information on the matter open. Nearly all of these commentaries observe

18. See note 28.22–63 in Durling, ed., *Inferno*, p. 442. This notion is also addressed in Suzanne Conklin Akbari's entry entitled "Islam and Islamic Culture," in *The Dante Encyclopedia*, ed. Richard Lansing (New York: Garland Publishing, 2000), pp. 520–21, and it is mentioned in both Philip F. Kennedy, "The Muslim Sources of Dante?" in *The Arab Influence in Medieval Europe*, ed. Dionisius A. Agius and Richard Hitchcock (Reading: Ithaca Press, 1994), p. 74, and Charles Singleton's notes to his edition of the *Inferno*, vol. 2, *Commentary*, p. 503.

19. *Inferno* 28.32. ["In front of me goes Ali weeping"]

that Ali was a follower of Muhammad in some capacity, and most take note of their familial relationship as father- and son-in-law. Natalino Sapegno's gloss is typical of many commentaries, brief and nondescript, writing only that Ali is the "son-in-law of Muhammad and one of his first followers, later founder of a separate sect in the breast of Islamism."²⁰ By erring on the side of vagueness, the modern Italian commentators do not force interpretation. Indeed, several of the modern commentators simply construct their gloss as a question, as does Manfredi Porena who writes: "Some would have it that Ali was among the schismatics because effectively he separated himself in some points from the doctrine of Muhammad. But did Dante know that? And in any case would it not be strange that he considered the separation from an unholy religion a blameworthy schism?"²¹ In his 2003 commentary, Nicola Fosca simply cites Porena's questions. Tommaso di Salvo, taking up Porena's question, ventures an interpretation, noting the futility of the details: "It is useless to wonder if Ali, Muhammad's son-in-law, is among the schismatics because he separated himself from the Church or because he introduced schism within Islam by creating the Shiite sect. For Dante there exists only the schism of the Church of Christ and so Ali too, follower of Muhammad, ought to be considered like all the schismatics a rebel to the Christian unity, guaranteed by the Church."²² Di Salvo, conceding that we will never know Dante's mind on this point, suggests that one may only consider that all examples of schism fragment the unity of the Church and are thus condemnable.

By contrast, the American commentary tradition assumes Dante's historical knowledge and neglects to note its strangeness. In a recent edition, Robert Hollander gives a biographical gloss without interpretation: "Ali, disciple, cousin, and son-in-law of Mohammed, became the fourth leader of the Muslims. But the issues surrounding his succession in 656 divided them into two factions, Sunni and Shiite, that continue to this day."²³ Charles Singleton gives a brief history of Ali's schism, followed

20. See note to 28.32 in Dante Alighieri, *La Divina Commedia*, vol. 1, *Inferno*, ed. Natalino Sapegno (Firenze: La Nuova Italia, 1984), p. 311. All translations of commentaries are my own, and I would like to thank David Lummus for his assistance with them.

21. See note to 28.32 in *La Divina Commedia di Dante Alighierim*, vol. 1, *Inferno*, annot. Manfredi Porena (Bologna: Zanichelli, 1973), p. 255.

22. See note to 28.28–33 in Dante Alighieri, *La Divina Commedia: Inferno*, ed. Tommaso di Salvo (Bologna: Zanichelli, 1985), pp. 474–75.

23. See note to 28.32–33 in Dante Alighieri, *Inferno*, trans. Robert and Jean Hollander, intro. and annot. Robert Hollander (New York: Doubleday, 2000), p. 483.

by a word of comment: “It is to be noted that both Mohammed and Ali are described as split, the former—sower of discord among nations—from the chin down, the latter—sower of discord among the heads of the Mohammedan sect—from the chin up, this completing a total schism.”²⁴ According to this reading, Muhammad split the nation (the body politic); Ali split its leadership (the head). Ronald Martinez and Robert Durling follow Singleton, but they give an uncharacteristically short and indefinite gloss of Ali’s placement, only stating, “Ali was Mohammed’s cousin and son-in-law. His wound suggests completion of the splitting of the body begun with the vertical slash on Mohammed; it may conceivably refer to the splitting of Islam into Sunnites and Shiites.”²⁵ Singleton is convinced of Dante’s impressive knowledge of the intricacies of Islamic history; Durling and Martinez, following the contemporary Italian commentators, remain unconvinced and offer no better interpretation.

Suzanne Conklin Akbari, on the other hand, takes note of the strangeness of Dante’s seeming historical accuracy in her entry “Islam and Islamic culture” in *The Dante Encyclopedia*. Akbari reasons that Dante’s historically consistent condemnation of Ali as schismatic indicates his familiarity with Islamic culture. She concludes, “Dante’s own treatment of Ali, an enigma to the early commentators, illustrates the poet’s more subtle understanding of the theological relationship between Christianity and Islam.”²⁶ Presuming that Dante did indeed have historical knowledge of the schism within Islam, Ali’s position in the canto suggests that Dante extended his conviction about the “Christianness” of Muhammad’s schism to Ali’s later schism. Akbari writes:

It is striking that Dante’s identification of Ali as a schismatic implies that Islam itself is a form of Christianity, albeit a perverted version of it: only if Islam is, in some sense, still a form of Christianity can Ali’s transgression be seen as schism. The *contrapasso* (*Inf.* 28.142) experienced by Muhammad embodies the split in the Christian community caused by schism; the *contrapasso* experienced by Ali embodies the split in the caliphate, or headship of the Muslim community, which resulted from his rule.²⁷

24. See note 32 in Singleton, trans., *Inferno*, 2:503–504.

25. See notes 32–33 in Durling, ed., *Inferno*, p. 442.

26. Akbari, “Islam and Islamic Culture,” p. 521.

27. *Ibid.*

Akbari, following Singleton, suggests the body politic-leadership interpretation of the punishment. Furthermore, like Di Salvo, she deduces that for Ali's schism to be an offense punishable with Muhammad's, it is necessary that both sects are in some sense Christian; Ali fractures Dante's Church even more than it was previously fractured by Muhammad's schism. For Ali's schism to further fracture Dante's Church, Akbari reasons, it is necessary that Muhammad's schism remain under the domain of Christianity. If one presumes that Dante knew how historically fitting Ali's placement was within the scheme, one may view both schisms as divisions within a Christian community.

A look at the fourteenth-century glosses on Ali in the *Comedy* is even more revealing. Akbari refers to Ali's "enigmatic" status in the earliest commentaries, and the dispute seems to center around whether Ali was Muhammad's companion, disciple, or teacher. Nevertheless, the dispute itself is not recorded in many of these fourteenth-century expositions; rather, Ali is often explained with certainty, and the "enigma" of Ali is revealed in the corpus on the whole, not by one commentator or another. In the earliest extant commentary (1322), Dante's son Jacopo Alighieri describes Muhammad as a Christian prelate from Spain and calls Ali simply "alcuno suo compagno" ["one of his companions"].²⁸ The earliest commentary in Latin, the 1324 commentary of Graziolo Bambaglioli, places Muhammad and Ali in the same role as "two deceitful prophets of the pagans who in their time produced many heresies."²⁹ In the early fourteenth century, the anonymous author of the *Ottimo Commento* presents Ali as Muhammad's disciple and greatest student,³⁰ while Guido da Pisa inverts the relationship and claims that Ali instructed Muhammad in his errors.³¹ In the second half of the fourteenth century, Benvenuto da Imola suggests that Ali was Muhammad's paternal uncle and one of the principal founders of Islam.³² Francesco da Buti's late fourteenth-century reading

28. Jacopo Alighieri, *Chiose all' "Inferno"*, ed. Saverio Bellomo (Padova: Antenore, 1990), p. 197.

29. Graziolo Bambaglioli, *Commento all' "Inferno" di Dante*, ed. Luca Carlo Rossi (Pisa: Scuola Normale Superiore, 1998), p. 179.

30. *L'ottimo commento della Divina commedia; testo inedito d'un contemporaneo di Dante citato dagli accademici della Crusca* (Pisa: N. Capurro, 1827–29).

31. Guido da Pisa, *Expositiones et Glose super Comediam Dantis, or Commentary on Dante's Inferno*, ed. Vincenzo Cioffari (Albany: State Univ. of New York Press, 1974), p. 581.

32. Benvenuto da Imola, *Commento Latino sulla Divina Commedia di Dante Alighieri: volume primo* (Imola: Tipografia Galeati, 1855), p. 681.

is striking. Referencing the disputes over Ali's role he ventures his best guess and follows it with an apology:

This Ali, according to what I have found, was Muhammad's disciple; but as far as I am concerned, the one whom he called Ali was that cleric who instructed him, maybe because in that language that is how one calls the teacher; and this makes me believe the different punishment that the author invents for him, for he would not have given him a punishment different from Muhammad's if he had been his disciple. For these stories please excuse me, reader, as certain truth about it cannot be found.³³

In his stated uncertainty, Da Buti seems to prefigure the modern commentary tradition, and his interpretive analysis on the equal punishments of the figures is more sophisticated than that of his predecessors. In fact, Da Buti's reading may even be more consistent with the details of the text than Singleton's body politic-leadership interpretation. Here we have the body politic split by Muhammad, whose teacher Ali first placed the idea of schism in his head. Thus, Muhammad's words "*dinanzi a me sen va piangendo Ali*" [*in front of me goes Ali weeping*].

Ali was clearly an enigma to the early commentators as a group on the whole, but certain among them seem to have as precise an interpretation as some modern commentators. Nonetheless, the matter remains unsettled. Although it is remarkable, the historical suitability of Ali's judgment is not to be taken for granted, as many do. Regardless of Ali's role in the external schism of Christianity or in the internal Islamic schism, Dante positions Ali in a role particular to him among the founders and followers of Islam, and Ali comes to represent even further fragmentation of the Christian Church caused by the Islamic sect.

III. "*Averois che 'l gran comento feo*"³⁴

The question of Ali's particular participation in schism raises doubt over the status of other Muslims in Dante's Christian realm: where are all the other Muslims? The poet's development of the willing rejection of Christianity by both Muhammad and Ali underscores his concern with the will of individual sinners, a concern that we might extend to the general population—Muslim, Christian, and pagan alike. As we will see, personal will is

33. Francesco da Buti, *Commento di Francesco da Buti sopra La Divina Comedia di Dante Allighieri, tomo primo*, ed. Crescentino Giannini (Pisa: Fratelli Nistri, 1858), p. 21.

34. *Inferno* 4.144. [*"Averroës who made the great commentary"*]

one deciding factor in salvation, although some groups are culturally more predisposed to sin. Consider first the pagans. Despite being a pre-Christian people, those with foreknowledge of the Incarnation and Resurrection of Christ—such as the Old Testament fathers, prophets, kings, and their female counterparts, as well as a few select others (Cato in *Purgatorio* I, the poet Statius in *Purgatorio* XXI, and the Roman emperor Trajan and Virgil's minor character Ripheus in *Paradiso* XX are notable among these)—are offered salvation. It seems grace and personal will have saved these souls in spite of their pagan status, which predisposed them to a lack of belief, itself condemnable in Dante's scheme. The selection of saved pagans, particularly in the case of Ripheus, seems arbitrary, and Dante gives little indication of the motive behind his offers of salvation. Other pagans are scattered throughout the *Inferno*, with the highest named population in Limbo, whose condition will be addressed further below.

Using the pagans as a model, we may consider the status of the rest of the Muslim population in the afterlife. There are no stated exceptions to the rule of damnation, and Dante mentions no Muslims in either of the two realms of saved souls. Indeed, in the entire *Comedy* only three other Muslims are explicitly identified: the three great Muslims souls in Limbo. In *Inferno* IV Dante encounters Averroës (Ibn Rushd), an Andalusian philosopher whose Arabic commentaries on Aristotle's works are credited with the survival of Aristotelian philosophy in the West, Avicenna (Ibn Sina), another noted medieval Muslim Aristotelian who spent most of his life living and writing in Persia, and Saladin (Salah al-Din), the twelfth-century Kurdish sultan of Egypt, renowned in the Middle Ages for his magnanimity.³⁵ There is no indication as to why these three figures are assigned to this place, nor does Dante give any clue as to where other Muslims may be found. Are the Muslims interspersed throughout, or are they grouped together in one circle, with Averroës, Avicenna, and Saladin standing as exceptions to the rule? There is no conclusive evidence on the matter.

The different reactions to the placement of the three Muslim figures in Limbo highlight the opposing viewpoints to the general conception of Limbo itself. Is Dante's depiction of Limbo a gesture of sympathetic generosity or of harsh retribution? On one hand, Dante's Limbo becomes a

35. For further biographical information, see Singleton, trans., *Inferno*, 2:72, on Averroës and Avicenna, and 2:66–67, on Saladin.

place of high honor, bestowed by the poet on a group of non-Christians that he could not bear to damn to Hell. The Limbo that Dante composes is a complete restructuring of the Limbo in which Christians had believed. Like Purgatory, Limbo existed as a nebulous space until Dante poeticizes it. It was previously thought to be reserved for the unbaptized children of Christian families, and its location was debated. Would the merciful Christian God damn unbaptized children to hell? If not, where is it? The debates about Limbo were temporarily resolved in Dante's account: Limbo is within the gate of hell but outside the walled city of Dis, and it is the realm given not only to the unbaptized innocents, but also to the so-called "virtuous pagans," those non-Christians who so abided by the four classical virtues that despite their lack of faith, hope, and love, Dante cannot damn them outright. The only distress they face is, as Virgil tells the pilgrim, "senza speme vivemo in disio" (*Inferno* 4.42) ["without hope we live in longing"]. Their physical chastisement is nothing more than shudders and sighs of hopelessness. Living in desire without hope, in an eternity of sighs, is without question a privileged position when contrasted with the fate that they could have received, had Dante not rewritten Limbo to include them.

In this sense one can certainly consider the position of these three named Muslims, one a political leader and two philosophical luminaries, to be one of honor. In fact, Dante places many of his most dearly beloved predecessors in this circle: Aristotle, Homer, Ovid, and above all Virgil grace this circle, a company whose virtues are not to be overlooked. The poem belies the pilgrim's twinge of desire to remain in Limbo: he is eager to count himself "sesto tra cotanto senno" (*Inferno* 4.102) ["sixth amid so much wisdom"] in the company of five poets of the ancient world, and he struggles with his grief over the departure of Virgil at the end of the *Purgatorio*. Pilgrim and poet alike indicate an unwillingness to leave behind the circle of Limbo, glowing in the brilliance of its inhabitants: the pilgrim would like to remain and converse, while the poet hints at remorse for the supposed "necessity" of fixing their place here rather than granting them salvation.

On the other hand, Said and others who have written on the subject point out that these Muslims are nonetheless damned.³⁶ Even Virgil, whose

36. See, in particular, Menocal's chapter "Italy, Dante, and the Anxieties of Influence" in *The Arabic Role*, pp. 115–36.

damnation represents a struggle for the poet writing it, is not saved—a further indication of the poet’s harshness. Said writes:

Avicenna, Averroës, and Saladin are among those virtuous heathens who, along with Hector, Aeneas, Abraham, Socrates, Plato, and Aristotle, are confined to the first circle of the Inferno, there to suffer a minimal (and even honorable) punishment for not having had the benefit of Christian revelation. Dante, of course, admires their great virtues and accomplishments, but because they were not Christians he must condemn them, however lightly, to Hell.³⁷

He emphasizes that despite the honor Dante shows them for their bountiful virtue, these three are ultimately relegated to hell, however comfortable the situation and however good the company in which they find themselves.

Said’s point may be accurate, but it holds Dante to a standard of pluralism to which he makes no claim. Although these Muslims are damned to Limbo, they are situated there above the walls of Dis in spite of their religion, and not because of it. It is reasonable that the pre-Christian pagans would receive this “light” punishment, having had no access to Christian truth. For the Muslims, however, the mildness of the punishment runs counter to the harshness that Said projects onto the poem: Islam, a post-Christian religion, exists despite the light of revelation that Christ offers, and, as is the case with Muhammad and Ali, the willing rejection of that light is a grave offense. The elevation of the three virtuous Muslims into Limbo seems to be a result of individual will and personal commitment to virtue, although ultimately the reason is ambiguous, and Dante’s choice not to save them when he could have remains harsh.

Consider for example the most prominent of these three cases: Averroës. A committed devotee of Aristotelian philosophy, Dante recognizes that he owes much of his intellectual growth to Averroës, and gives him a well-respected position beside The Philosopher, Aristotle. Dante shows not only leniency to him, but even tribute: Virgil introduces him as “Averoïs che ’l gran comento feo” (*Inferno* 4.144) [“Averroës, who made the great commentary”]. Complementing Aristotle’s title of “Philosopher,” Averroës is “Commentator,” a title that for Dante and for many of the philosophers of the Middle Ages, would have been considered the highest honor. In granting him this title, Dante specifically writes Averroës into his own

37. Said, *Orientalism*, p. 69. It should be noted that Abraham, an Old Testament Father, is explicitly named as one of those saved in Christ’s Harrowing of Hell. Cf. *Inferno* 4.58.

philosophical genealogy. Averroës is not a foreign “heathen,” unknown and unknowable, but is one of Dante’s forefathers in philosophy, and is responsible for his scholarly development as an Aristotelian. Moreover, Averroës is not a figure of the Orient; he was born and spent most of his life in Spain. Averroës is thus not a target of an Orientalism that Said projects onto him, but is instead written into Dante’s personal Christian history.

Dante’s radical appropriation of Averroës and his companions gestures toward generosity, considering the humiliation of the founders of their religion and the use of Muslim architecture to model the city of Dis, as we see in the epigraph to this study. It would perhaps have been consistent with many other aspects of the poem to condemn these Muslims for their beliefs, but the poet expresses more interest in their personal will to virtue than in judging their religion on the whole. Said expresses displeasure at Dante’s chosen “ignorance” of the religious identification of these three virtuous Muslims. He writes:

Eternity is a great leveler of distinctions, it is true, but the special anachronisms and anomalies of putting pre-Christian luminaries in the same category of “heathen” damnation with post-Christian Muslims does not trouble Dante. Even though the Koran specifies Jesus as a prophet, Dante chooses to consider the great Muslim philosophers and king as having been fundamentally ignorant of Christianity. That they can also inhabit the same distinguished level as the heroes and sages of classical antiquity is an ahistorical vision. . . .³⁸

It is indeed a choice on the part of the poet to “excuse” these three post-Christian Muslims of their religion; as to whether this troubles him, we do not know. Moreover, we cannot presume that he regards them as “fundamentally ignorant” of Christianity, for, as we have seen above, he considered them in some way participants in a Christian sect, the sect founded by Muhammad. What is clear is that he ignores their religious association and its post-Christian chronology, favoring to honor them for their personal demonstration of virtue, but not going so far as to save them. The “ahistorical vision” that allows the poet to place these Muslims into Limbo is a gesture of leniency on Dante’s part, albeit one that would be unwelcome to a Muslim.

38. Said, *Orientalism*, p. 69.

IV. Conclusion

It is Said's own "ahistorical vision" of the *Comedy* that permits him to neglect the history of a "Christian West" that did not exhibit the hegemonic status necessary for the establishment of an Orientalist discourse as such. Reading the *Comedy* through its context of decentralized and unstable power, one sees an Islam emerge that is knowable, powerful, and immediately present. Although Said attempts to approach the establishment and development of the discourse with a mind to history, his historicism and periodization fail to account for his own *post facto* assumptions of power formations. He writes retrospectively, projecting balance and stability onto a precarious past. In his ignorance of context, Said overlooks the instability of Dante's own cultural and personal position: a Christian exile in a period of civil and religious insecurity. As Kathleen Biddick has argued, Said fixes both Dante and Europe in an imagined "past tense" of European Orientalism.³⁹ Proposing to answer the question "how can one historicize *Orientalism* in order to rehistoricize medieval Europe?" her study "takes the temporal form of *Orientalism* as its central problem and considers Said's melancholic attachment to the European Middle Ages as a form of his own Orientalism. Melancholy memorializes, and *Orientalism* never lets go."⁴⁰ In his memorialization of European history, Said mythologizes Islam as always subject to and outside of the sphere of power.

It is precisely in its ambivalences that one may read in the *Divine Comedy* an "extra-colonial" history of an un-"Othered" and non-"Orientalized" Islam. Dante does not try to set Islam apart in a contradistinction so harsh as to make it entirely foreign, separate, distant, and distinct. Instead, Islam is for Dante a geographically and theologically close culture, so close in fact as to allow for its complete subsumption into his worldview.

39. Two very similar versions of Kathleen Biddick's article were published in 2000. One, entitled "Coming Out of Exile: Dante on the Orient Express," appears in Cohen, ed., *The Postcolonial Middle Ages*, pp. 35–52. The other, entitled "Coming Out of Exile: Dante on the Orient(alism) Express," appears in *The American Historical Review* 105 (October 2000): 1234–49, and provides a more succinct formulation of the issue of temporality in Said's treatment of the Middle Ages. It is the latter version of Biddick's article that I cite here.

40. Biddick, "Coming Out of Exile," p. 1237. Biddick goes on to propose the figure of exile as one who is able to traverse the temporal constraint of "adolescence" that Said assigns to the Middle Ages. She uses Erich Auerbach and Orhan Pamuk as examples of exile connected to both the medieval and the (post)modern periods, but she does not dwell on Dante's or Said's own positions as exiles.

Viewed in such proximity to Dante's Christianizing project, Islam may be appropriated with relative ease. Islam, for Dante as for the Middle Ages on the whole, was not geographically bound to the "East" in such a way as to make it an object of Orientalism; rather, Islam is both a neighboring and an infiltrating presence, tied to the "Christian West" in a shifting contact zone that is only fixed in *post facto* memorializations of it.⁴¹

41. I would like to thank Robert Harrison for his invaluable comments on this essay.

*Dictatorship as the Empire's Mode of Governance?**

Jean-Claude Paye

War on terrorism feeds a paradoxical form of discourse: emergency demands urgent and compelling measures, yet these are part of a long-term, indeed endless, confrontation. The state of emergency becomes a lasting form of government. It comes to be seen as a new political regime that is called upon to stand firm for democracy and human rights. In other words, citizens must be ready to give up immediate rights and a well-defined freedom for the sake of an abstract and self-proclaimed democratic order, not only today and tomorrow, but for an indefinite period. As it suspends law and inscribes such suspension into a new legal order, war on terrorism gives legitimacy to a change in the political regime.

The atrocities of September 11, 2001, caused an unprecedented acceleration in the transformation of the corpus of criminal procedure laws in Western countries. In the months following the outrage, and sometimes within days, governments enacted measures curtailing public and private liberties. In our opinion, a real break is taking place, because it is the very existence of the rule of law as we know it that is at stake.

These laws fit very much within a tendency that privileges procedure above law and equity in the dispensation of justice. Here, we are particularly concerned about the precedence being taken by emergency procedures. This break is so profound as to cause an upheaval of the norm as it prevailed until now, causing the exception to become the rule. We conclude that emergency procedures are in the process of replacing the constitution as the ruling paradigm of politics.

* Translated by Patrice Riemens and Christine Pagnouille.

A Break in the Tradition of Criminal Law

Anti-terrorism legislation, whether ancient or modern, always aims to legitimize exceptional criminal procedures at all levels of the judiciary process, from the inquiry itself up to and including the final judgment. We are talking here about special methods of investigation, such as surveillance, mail interception, telephone taping, and electronic monitoring. These measures can nowadays be implemented even in the absence of an infraction. Suspicion of terrorist activities now also warrants exceptional preventive detention or administrative custody, even of simple witnesses, as in the United States. Anti-terrorism legislation also condones the curbing of communications between an accused person and her or his attorney, and, on a more general level, allows for the setting up of specific emergency jurisdictions.

In Spain, a person accused of terrorist activities does not have the right to a lawyer of her or his own choosing. In Germany, various derogations have been enacted to customary rules regarding searches, entering property, identity checks, and arrest and imprisonment. At the level of court procedure, rules have been set to alter the nature of competent jurisdictions and to curtail the rights of the defence. Defence attorneys can, for instance, be denied access to procedures in the event of “circumstances leading to the belief” that they may act in such a way as to thwart the instruction. The same rule allows for the lawful breach of the confidentiality of the correspondence between attorney and client.

As for its consequences for the criminal process, the new anti-terrorism laws are very much in conformity with more ancient jurisdictional tendencies. They do however vastly extend their scope. Indeed they aim not so much to restrict the fundamental liberties of certain segments of the population, but rather to encompass it as a whole. They establish a permanent and generalized surveillance and control of individuals and will preventively attack and arraign any process of class re-composition by criminalizing social movements beforehand.

A Manifestation of Imperial Power

An important feature of these recent anti-terrorist laws is that, contrary to previous legislations, they no longer stem from relatively autonomous national initiatives, but are instead being put forward by international

bodies, such as the G8, the European Council, or the European Union. This results in this type of legislation being implemented in a whole set of countries, including those that have never faced any sort of terrorist menace.

The more recent legal measures against terrorism anticipate rather than answer terrorist actions. They come in fulfilment by national states of their international obligations, and have been more specifically brought about by the demands of the United States. The place taken by the United States in the overall process is in fact very characteristic of the current situation, the fight against terrorism being very much constitutive of their imperial leadership.

Taking lawful interception of (electronic) communication as an example, it is the FBI that has to a very large extent set its specifications. Regarding computer criminality, the FBI also has a great deal of leverage in directing the police of most foreign states. The level of influence that the United States is able to exert in shaping the anti-terrorist legislation of other governments confirms their leading role in the process of the modernization of power on the global scale.

But anti-terrorist measures also expose another role played by the United States, i.e., their direct superpower domination over other states.

The first component of this relationship is the privilege that has *de jure* been granted to American citizenship, by attaching to it rights that are denied to other nationalities. This is particularly evident in case of the different legal treatment meted out to U.S. citizens and foreigners. In terrorism cases and those related to organized crime, American courts also claim universal jurisdiction and extra-territorial competence.

The extension outside U.S. territory of American judicial prerogatives is coupled with the possibility for the FBI to seize individuals wanted by the United States in foreign countries without authorization by local authorities.¹ The U.S. Supreme Court effectively decided, in an arrest of February 28, 1990, that American authorities had the right, in the absence of a legal warrant, to conduct searches of the homes of foreign citizens and to seize them outside the territory of the United States.²

1. See Charles Rousseau, "Pouvoirs exceptionnels accordés au FBI par le département américain de la Justice," "Chronique des faits internationaux," *Revue générale de droit international public* 94 (1990): 491-92

2. *U.S. v. Verdugo-Urquide*, 494 U.S. 259 (1990).

The USA Patriot Act as Suspension of Foreigners' Rights

The USA Patriot Act of October 26, 2001, empowers the Attorney General of the United States to order the arrest and imprisonment of any foreigner suspected of threatening national security.³ Such measures were further extended by the “Military Order” of November 13 of the same year, authorizing the charge of non-American terrorism suspects before special courts and the keeping of them in indefinite custody.

These two measures create zones of lawlessness. They suspend or even abolish the fundamental rights of suspects. Suspects are then totally in the hands of the executive, and no judicial control whatsoever applies to them. Thus, prisoners captured during the Afghan conflict are now held in Guantánamo Bay and do not qualify for prisoner-of-war status as defined by the Geneva Convention. This suspension of rights takes place within U.S. territory, but also abroad, since the capture itself took place in Afghanistan and was conducted as a police sweep rather than as a military operation, in the absence of a formal declaration of war.

Aiming at the total abolition of protection under due process of law for arrested foreigners, such measures result in pure lawlessness toward non-American citizens. At the same time, this discriminatory mechanism coincides with a suspension of international law for American citizens, who receive privileged treatment that immunizes them against arraignment before the International Penal Tribunal in The Hague when they are engaging in “international peace maintenance operations.”⁴

This suspension of the due process of law is emblematic of a pure relation of power. It constitutes the legal manifestation of the application of pure violence. But it is also paired—through its inclusion in domestic American law, through its acceptance by the United Nations, and through bilateral extradition agreements—with a hegemonic function and with the recognition by other states of the particular and dominant status that the United States claims for itself with regard to international law.

The USA Patriot Act II as a Generalized Suspension of the Rule of Law

Still unsatisfied with the exceptional legislation already in place, the Bush administration has drafted a new anti-terrorism law, the Domestic Security

3. *USA Patriot Act*, HR 3162, 107th Cong., 1st sess. (2001), available online at <http://thomas.loc.gov/cgi-bin/query/z?c107:H.R.3162.ENR:>.

4. Frabrice Rousselot, “Les États-Unis s'exemptent de justice,” *Liberation*, July 2, 2002.

Enhancement Act of 2003, which further magnifies the legal deviations of the USA Patriot Act.⁵ This new text is already known as “Patriot II.” Building upon the first Patriot Act, it extends existing discriminatory measures against non-citizens and further enhances the powers of the executive at the expense of the judiciary. This project is a big step forward toward the establishment of emergency rule. It generalizes the systematic suspension of the rights of American citizens who are suspected of collaboration with entities deemed to be terrorist organizations. Exceptional procedures thus become the norm.

The new act provides for an easier surveillance of American citizens by the government, and for the interception and monitoring of their communications, electronic or otherwise, without judicial review. Simply applying to citizens procedures designed to fight a foreign power will suffice. Such actions need only be deemed to have taken place within a vaguely phrased monitoring and intelligence acquisition drive directed against “agents of a foreign power.”

The originality of the new project as compared to its predecessor lies of course in the latitude given to the executive to subject American citizens to the kind of exceptional legislation henceforth restricted to foreigners, with the option of depriving them of their American citizenship as the ultimate step in this emergency procedure.

Indeed, the draft legislation provides for depriving American citizens of their nationality in the event that they aid or abet an organization branded as terrorist by the Attorney General of the United States. This provision represents a clear break with previous legislation, which made a sharp distinction between what applies to nationals and to non-citizens. It will result in Americans being henceforth subjected not to the law of the land, however restrictive it has become with respect to individual liberties, but to the sole whim of the executive.

Even if the draft still formally distinguishes between citizens and non-nationals, this distinction has become meaningless in practice, since the legal protection granted to U.S. citizens can be taken away by a mere administrative decision. For those advocating the new legislation, it would be the suspects themselves who would demonstrate the wish to lose their citizenship by supporting a group deemed to be terrorist. The idea here

5. The full text of the Domestic Security Enhancement Act can be found online at the Electronic Frontier Foundation website, at http://www.eff.org/Censorship/Terrorism_militias/patriot2draft.html.

is that “one can infer her or his intentions by her or his actions,” even if the person has never manifested such an intention, or sought to relinquish their American citizenship.

***The Patriot Act Reauthorization:
A Permanent State of Emergency***

While the Patriot Act includes emergency freedom-depriving measures for foreigners who are charged with terrorism, it also allows for the general monitoring of all citizens. Some of these measures were enacted for a four-year period. They were recorded in sixteen articles, the validity of which expired at the end of 2005.⁶ The U.S. administration's objective has always been to make them permanent. To a large extent this was achieved, since fourteen were given unrestrained validity and the other two were extended for another four years. Whereas the Patriot Act was fairly quickly ratified, the renewal of its temporary clauses took some time. It was not until March 9, 2006, that President Bush could sign the USA Patriot Improvement and Reauthorization Act, after the Patriot Act had been extended several times by Congress.⁷ If their debate was long, it was because the questions were important. The government could not increase the FBI's prerogatives, yet otherwise it got most of what it wanted: it prevented permanent measures from being challenged in the name of privacy and turned temporary measures enacted in a emergency context into permanent dispositions.

The Patriot Act extends to all penal matters intelligence provisions contained in the 1978 Foreign Intelligence Surveillance Act (FISA). This act already gives the executive branch exceptional powers that are not subject to any judicial accountability beyond the need to obtain a prior and sometimes secret authorization from emergency courts.

The Patriot Act reauthorization gives a long lease on life to measures that were adopted in an emergency context in 2001. As they are extended in time, the measures of intrusive surveillance become the basis for a new political order, which gives the executive power prerogatives that should by right belong to the judicial power.⁸

6. Electronic Privacy Information Center, “USA Patriot Act Sunset,” <http://www.epic.org/privacy/terrorism/usapatriot/sunset.html>.

7. *USA Patriot Improvement and Reauthorization Act of 2005*, Public Law 109–177, 109th Cong., March 9, 2006.

8. Jean-Claude Paye, “From the State of Emergency to the Permanent State of Exception,” *Telos* 136 (Fall 2006): 154–66.

“Enemy combatant” or Enemy of the Government?

On October 17, 2006, President Bush signed the Military Commissions Act, which makes military commissions legal.⁹ These commissions are the special tribunals that were created by executive order in the wake of the September 11 attacks. The emergency state was called upon to justify such jurisdictions, whose infringement of freedom is such that they even contravene the military code. These tribunals were created for the trials of foreigners who were suspected of being terrorists by the administration, and against whom no evidence can be produced that would be received by a civilian or military jurisdiction.

The military commissions can receive hearsay evidence and coerced confession. While torture is prohibited, some degree of coercion is authorized, with the president deciding on how interrogations should be conducted. Evidence based on confession obtained in countries where torture is lawful is also valid.

The military commission system reduces the right of the defendants to almost nothing. They cannot choose their defense counsels; these are appointed by the executive. They may not be allowed to attend some legal procedures and are not entitled to see the prosecution file in its entirety.

The law does not give detainees the right to be tried, even by a military commission. In this it perpetuates the right for the Secretary of Justice to keep any alien suspected of being a terrorist in indefinite administrative detention. While the November 2001 Executive Order¹⁰ that set up those tribunals limited their application to aliens arrested outside of U.S. territory, the Military Commissions Act extends its applicability to aliens residing in the United States.

The present act gives legal status to the notion of “unlawful enemy combatant.” It gives such indictment an openly political aspect in that it defines as an unlawful enemy combatant “a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents.” Such a definition is so loose that it can be applied to social movements or to civil disobedience actions. This is particularly significant since the notion of enemy combatant can also apply to U.S. citizens. Only alien unlawful enemy combatants

9. *Military Commissions Act of 2006*, §3930, 109th Cong., 2d sess. (2006).

10. White House, “President Issues Military Order,” news release, November 13, 2001, available online at <http://www.whitehouse.gov/news/releases/2001/11/20011113-27.html>.

can be tried by military commissions; U.S. enemy combatants can introduce a habeas corpus appeal in a civilian jurisdiction.

From the start, since it makes military commissions legal, the act was designed to be applicable to all U.S. residents, including U.S. citizens. Considering how quickly it was enacted, it still includes evidence of its initial objective. The notion of unlawful enemy combatant, which is the very basis upon which special tribunals were created, includes U.S. citizens. Moreover, among crimes that can be tried by a military commission, we find the crime committed by any person who, “in breach of an allegiance or duty to the United States,” intentionally supports hostile actions to the United States or its allies.¹¹ Now who if not a U.S. citizen can be in a position to breach their allegiance to the United States?

Inscribing anomy into the law means that it can no longer be accounted for by a state of emergency, as was the case in the November 2001 executive order. The 2006 Military Commissions Act turns exception into a long-term condition. It results in a deep-seated change in the legal and political order. It makes for a purely subjective law in the hands of the executive power. The latter can define almost any opponent as an enemy combatant, appoint military magistrates, and decide on the degree of coercion used in interrogations.

This process is still part of a double legal system: a limited state of law for U.S. citizens and unrestricted violence for aliens. While the government's first objective, namely suppressing *habeas corpus* for the whole population of the United States, has not been achieved, this is, as suggested by Republican senator Lindsey Graham, a “good start.”¹²

The State of Emergency, European Union Style

On December 6, 2001, the European justice and interior ministers convened and adopted a “framework declaration” in order to harmonize existing national legislation concerning terrorist activities.¹³ The nature of incriminating evidence in this regard is entirely political: it derives from the intentions of its author.

11. *Military Commissions Act of 2006*, article 950v., (b)26.

12. David S. Cloud and Sheryl Gay Stolberg, “White House Bill Proposes System to Try Detainees,” *New York Times*, July 26, 2006.

13. Proposal for a Council Framework Decision on Combating Terrorism, COM(2001) 521 final, 2001/0217(CNS), Brussels, September 19, 2001.

The crime of terrorism applies when the authors' actions "are deemed to have the destruction of the political, economic or social structures of a country as its aim," or when "its aim is to gravely destabilize a country." Concepts such as "destabilization or destruction of economic/social/political structures of a country" make it possible to mount a frontal attack on social movements. Similar arguments were used at the beginning of the 1980s by the government of Margaret Thatcher to apply the then existing anti-terrorist legislation to the miners' strike.

The accusation of terrorism also applies to activities "that intend to unduly force public bodies or an international organization to either act or refrain to act in a particular manner."¹⁴ Since every social movement tends to frighten some part of the public and to force authorities to act or not to act in a certain way, the interpretative scope of such legislation is extremely wide indeed. Such qualifiers as "unduly" and "gravely" do not provide for any kind of objective definition of the incriminated actions. It will be up to the authorities to judge whether they were subjected to intolerable pressure. More generally terrorism is defined in such a way as to leave it to governments to decide who and what falls into that category.¹⁵

Anticipating a New "Social War"

In such a context, it is easy to envision how rallies, strikes, squatting or "hijacking" public spaces, occupying infrastructure installations, or disrupting mass transit, all with the intention of putting pressure on the government to enact social policies or to stop the dismantling of the same, can be readily assimilated to terrorist acts.

Similar actions, aimed at the policies of international bodies or organizations, could receive the same treatment. The General Agreement on Trade in Services (GATS), whose objective is the complete removal of all rules that impede a total liberalization of services, is an example of the complete dismantling of state regulation. A spirited opposition movement fighting for the maintenance of public services, or for the regulation of certain sectors of the economy, could thus easily be branded as terrorist.

The new criminal legislation corresponds with the second phase of the establishment of an integrated structure of power at the global level: empire. The first phase consisted in the political organization of the global

14. Ibid., p. 8.

15. Jean-Claude Paye, "L'Union européenne, un espace de liberté, de sécurité et de justice?" *La Pensée* 334 (2003).

market, and the liberalization of the movements of goods and finance capital. Labor force management remained at this stage the resort of the national states. The negotiations about liberalizing investments, and about the GATS, are initiating a second phase of the process, that of the globalization of management of the workforce and of its reproduction parameters. The dismantling of the existing political arrangement is the precondition for the shift in its organic composition.

The End of Habeas Corpus in the United Kingdom

When the UK Prime Minister had a modification in part 4 of the 2001 Terrorism Act enacted by Parliament (a section that makes unlimited detention of foreigners possible without trial or evidence), he managed to extend to UK citizens a number of emergency measures that challenge the individual freedom of all UK citizens.¹⁶

The Prevention of Terrorism Act, which was finally voted on March 11, 2005, gives the Secretary of State power to make control orders, which may include a form of house arrest of an individual if he “has reasonable grounds for suspecting that the individual is or has been involved in terrorism-related activity.”¹⁷ He can also prohibit or restrict his or her use of a mobile phone, restrict access to the Internet, prevent contact with other individuals, require him to remain at or within a particular place or area at specific times, and require him or her to give access to his place of residence to police or special services at any time. He can further restrict access to employment or occupation.¹⁸

Such orders can be taken when the Secretary of State considers that an individual may be dangerous for national security while not being in a position to argue his case in front of a court. A control order does not derive from objective elements but from suspicions about a given individual and her or his alleged intentions.

The House of Lords obtained that control orders can only be taken with the sanction of a court. More important still, it required that the act

16. Anti-Terrorism, Crime and Security Act, 2001, available online at <http://www.opsi.gov.uk/acts/acts2001/20010024.htm>.

17. Prevention of Terrorism Act, 2005, available online at <http://www.opsi.gov.uk/ACTS/acts2005/20050002.htm>.

18. Tony Bunyan, “The exceptional and draconian become the norm,” Statewatch Report, p. 9, available online at <http://www.statewatch.org/news/2005/mar/exceptional-and-draconian.pdf>.

include a “sunset clause” that mandates a revision in one year’s time. The act was thus discussed again in July 2006.

If the Secretary of State makes his decision with the agreement of a court, such judiciary guarantee bears no resemblance to a classical legal process in which the rights of the defense are guaranteed. In the present case, the defense has no access to the file with the charges and consequently is in no position to question these unknown elements. Only the judge and special lawyers appointed by the Secretary of State will be granted access to this file. These lawyers must represent the side of the individual’s defense without their knowing about any evidence against the person whom they are to defend and consequently without any possibility of challenging it. Decisions are made without the incriminated person being present.

When it mandated a revision clause of the 2005 Prevention Security Act, which provides for an evaluation of the act after one year, the House of Lords maintained the act within the formal context of an emergency, since the act can then be abrogated. The government did not want any time limit, the war on terrorism being conceived of as a long-term war against a protean enemy. It has not given up on its initial intentions and wants to take advantage of the revision process in order to carry it out.

Yet the act is only formally part of an emergency state. In fact, it gives the Secretary of State the power of a magistrate. An individual is labelled as terrorist not as the result of a trial, but by some certificate drawn up by a representative of the executive power. The latter must no longer at any time account for a decision that is applied to a mere suspect. Objective elements to substantiate suspicions are not even necessary since they are to remain secret. The administrative authority can merely claim that they exist, and a court sanctions this claim. What kind of guarantee can a judiciary control offer that gives no possibility for the defense to exercise its rights, nor even to be informed of what the charge consists? What is the independence of the judiciary power in a decision process in which it cannot examine the information it receives or the evidence offered?

The End of the Separation of Powers

The USA Patriot Act is still based on a dual judicial system: on the one side, some legal protection for U.S. citizens, even if increasingly restricted; on the other, abolition of rights for non-nationals. This dual system disappears under the Patriot II draft, since it enables the executive to strip American

citizens of their nationality and to transfer them from a system of legal protection to an environment where the rule of law does not obtain.

The fight against terrorism thus marks a fundamental break in the Western political structure, which was traditionally based on a dual system: rule of law inside the national territory, and “pure violence” abroad.

Patriot II, if adopted, will mean the legal implementation of the state of emergency, i.e., the enshrinement of lawlessness within the law.

In an article in the French daily *Le Monde*, Giorgio Agamben argued that the exercise of political power in the Western world was predicated on the articulation of two relatively distinct systems, that of the juridical order and that of pure violence. “The Western political system appears to be a double mechanism, based on the dialectical workings of two heterogeneous and apparently antithetical components: law and pure violence. As long as both components remain separated, this dialectic can function, but as soon as the state of emergency becomes the rule, the political system itself becomes a system of death.”¹⁹ That is exactly what is happening right under our eyes, as emergency rule becomes imperial law.

There is clearly a double phenomenon at work: a suspension of the rule of law, and a shift within the law of criminal procedure. Even if the suspension of the rule of law is more apparent in the United States, a similar development is taking place in European countries, as emergency legislation is being implemented.

At this juncture, the consolidation of imperial rule demands that the restrictions on public liberties be enshrined in criminal law. Its current transformation shows that we are witnessing the end of the dual system of rule of law and pure violence.

But then, this double structure was closely related to the societal make-up of the nation-state, which applies the rule of law within what it considers to be its border, and abolishes it toward its exterior. Empire, as the new form of exercise of power at the global scale, has no exterior, and hence every movement, every political or military action takes place within its borders. The distinction between internal and external, and between rule of law and pure violence, typical of the nation-state, no longer makes any sense.

19. Giorgio Agamben, “L'état d'exception,” *Le Monde*, September 12, 2002. See also Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford, CA: Stanford UP, 1998).

The Specific Role of the United States of America

The United States takes a specific place within the imperial structure because their position of dominance also express itself in the ability to project their national power onto the rest of the world, which even though they may consider it as their backyard, is still an “abroad” for them. The difference in legal status between U.S. citizens and foreigners, and the suspension of the latter’s rights, bear witness to the singular position of the United States within the imperial constellation.

Just like any nation-state, the United States has implemented a dual judicial system, based on the rule of law for citizens and on a state of non-law for foreigners. Traditionally, as with other nation-states, such a distinction between two legal dispensations articulates itself around the concept of border.

However, to the American government, “border” does not mean a geographical feature. The primacy of American citizenship, the duality in the dispensation of justice, is not a matter of a given territory, but concerns the planet as a whole. At stake is not only the enforcement of the immunity of American citizens with regard to international tribunals, which are supposed to be common jurisdictions, but also the obligation of other states to allow American authorities the right to judge the citizens of these very countries through purpose-created emergency courts.

The most recent agreements signed between the United States and the European Union represent the recognition by the latter of the American privilege to legislate in the matter of the suspension of customary law and to build up a new judicial world order based on emergency legislation.²⁰ These agreements are the conclusive piece of a process whereby European jurisdictions are being materially incorporated into the system of suspension of rights devised by the United States. As a consequence, European countries have agreed, under conditions framed and imposed by the United States, to deliver their own citizens into the hands of American authorities when those authorities brand them as terrorists.²¹

The United States takes a leading role in the institution of this new judicial order. They decide what is a case of emergency, and in its wake, in which way the prevailing norm has to be altered, especially with regard

20. Council of the European Union, Draft Agreement on Extradition between the United States of America and the European Union, 8295/1/03, Rev. 1, 2, June 2003.

21. Jean-Claude Paye, “La coopération policière et judiciaire USA-UE, un rapport asymétrique,” *Les Temps Modernes* 626 (January 2004).

to criminal law and criminal procedure. This undoubtedly marks the reinsertion of pure violence within the international order, and represents a constitutive act of their imperial leadership.

The State of Emergency

The fight against terrorism causes a re-structuring of political power by way of a strengthening of the powers of the executive. Through the enactment of framework legislation, which is then being applied by way of decrees and administrative circulars or even by simple lists established by the justice ministry (such as lists of purported terrorist organizations), the executive fully functions as a legislative power and completely instrumentalizes the judicial apparatus.

Such arrangements are typical of a state of emergency. Since the state of emergency is usually considered a political phenomenon, defining the concept in precise legal terms it is not a simple matter. As described by Carl Schmitt, it “wavers in an uncertain and ambiguous fashion at the cross-road between the political and the legal.”²² Traditionally, declaring a state of emergency answers a necessity, as put forward by the actual power, to maintain public order in the face of extraordinary circumstances, usually within a context of civil strife. The fight against terrorism is routinely described in terms of a worldwide civil strife, a war on the long haul against an enemy who needs to be constantly redefined. This situation, however, differs from the usual state of affairs. The (global) power does not so much face actual disturbances, but strives to neutralize virtual threats.

Here, the discourse bandied about by the global power harbors a paradox: judicial reform is motivated by a sudden emergency, but the emergency itself is said to be of long duration. Hence the state of emergency becomes a permanent fixture. It comes to be considered as the new form of the political order, with the aim of defending democracy and human rights. Or, to put it differently, citizens must accept for a long time to come the curtailment of their concrete liberties in the defense of a self-proclaimed and entirely abstract democratic order.

The fact that most of these measures are enacted as laws also proves that the global power is going for the long haul. To achieve this, it is seek-

22. Alessandro Fontana, “Du droit de résistance au devoir d’insurrection,” in *Le droit de résistance: XIIIe—XXe siècle* (Paris: ENS-LSH Editions, 2002), p. 16.

ing a new legitimacy whereby the people must voluntarily abide by the dismantling of their constitutional safeguards.

The Relevance of Carl Schmitt

For Carl Schmitt, sovereignty does not lie in the ability to impose a norm, but in a decision-making potential that is free of any normative obligation. Rather than the legal norm, it is in extraordinary legislation, “where the decision making process leaves the juridical norm behind” that the authority of the state shines at its best. “The true sovereign,” writes Schmitt, “is he who is able to decide that a given situation is an extraordinary one.”²³

Contrary to Karl Weber, Schmitt does not locate the state’s sovereignty in its monopoly of domination of violence, but in its monopoly of decision-making. Whereas this definition appears to be somewhat reductive in the case of the nation-state, it does perfectly fit the imperial structure. Schmitt circumscribes the political process starting from the “friend or foe” concept. Such an approach tends to privilege external politics over internal governance. Such an interpretation fails to account for the organic character of sovereignty in the nation-state, for the interdependency between internal and external sovereignty, and for the interplay obtaining between various institutions and loci of power. But in the wake of the deconstruction of the nation-state and of the re-integration of its structure within a form of imperial power, Schmitt’s analyses are gaining a renewed interest.

For Schmitt, the decision to declare a state of emergency takes place within a judicial framework. The emergency situation is not one of chaos. When the state abolishes (constitutional) law, it does so allegedly in order to safeguard it. Seen in this light, the decision to declare an emergency is first and foremost a decision regarding the circumstances in which the norm applies: “A normal situation needs to be postulated, and then, the sovereign is he who is able to decide in the last resort whether a normal situation obtains or not.” With empire, the executive power of the United States plays the role of the sovereign as described by Schmitt. There is indeed an embedding of the emergency regulations within a juridical order, but it is an order devoid of concrete rights.

23. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Cambridge, MA: MIT Press, 1985), p. 13.

The issues that have been raised by Schmitt are becoming relevant again in the context of the current fight against terrorism. Here, too, this form of government is predicated on the long haul. These dispositions also generate a new juridical order, where extraordinary procedures occupy the center stage, and where the exception becomes the norm. Whereas the fight against terrorism leads to a suspension of rights and produces a new juridical order, it also and at the same time produces a new enemy, both in a formal and in a material sense. Unlike martial law, this transformation of the juridical order does not aim to combat something that is external to the system, but something that is inherent in it. Hence we witness an inversion of the relationship between means and aims. The designated enemy, the terrorist organization, becomes the very instrument of the transformation of the judicial system.

State of Emergency or Dictatorship?

Giorgio Agamben's enquiry into the Roman *justitium* enabled him to establish a distinction between dictatorship and state of emergency. The Roman dictator was a special magistrate, whose extensive powers were conferred by a specific piece of legislation, in conformity with the prevailing constitutional order. Within the Roman state of emergency, the extension of the powers conferred on magistrates was simply obtained by suspending those laws that limited them: "The state of emergency was therefore not a dictatorship . . . but a space void of laws, a zone of anomia, where all prevailing legal dispensations, and especially those regarding the distinction between what is public and what is private, have been suspended."

Agamben claims that the current forms of deviation from the rule of law indeed qualify as a state of emergency, but a closer look suggests that things are less firmly determined.

What we do see is a worldwide instrumentalization of the judiciary by the executive. The fight against terrorism allows for the prosecution of any person suspected to be member of an organization listed as terrorist by the ministry of justice or even by a simple police officer. The most advanced instance of such a conflation of powers happens in the United States, where the executive has claimed for itself the authority to nominate judges to sit in military emergency courts. The concentration of powers within the executive, as it also acquires those of the judiciary, transforms the president into a magistrate with very extended competencies bestowed upon him by all sorts of specific laws, acts, and decrees.

In France, the so-called Perben Act has extended the powers of the police and has altered the modalities of the inquiry by augmenting the allowable time of remand custody, and the possibilities of searches and of monitoring/surveillance in the case of “organized crime.” A structure of proactive investigations has been set up, whereby the police are allowed to make use of special techniques, without notification of the person suspected.

The law also provides for guilty pleading, with a procedure dubbed “arraignment under preliminary admittance of guilt.”²⁴ This system has become extremely common in the United States. Its principle is to achieve a reduction in the indictment through a restatement of the charges brought forward (for instance by re-qualifying murder as manslaughter) in exchange for an admission of guilt. The method considerably reinforces the supremacy of the procedure above that of the law. It formally enforces a contract of sorts between two highly unequal parties and establishes a deal-making procedure that is foreign to the principle of justice.

At the same time as “guilty pleading” is being advocated, another form of plea bargaining has been officially sanctioned in France since 1999. Called “composition pénale” (“accommodation in the matter of a criminal procedure”), it makes it possible for an accused to escape indictment. First restricted to offences carrying a prison sentence of less than three years, the limit has recently been pushed to five years. Consequently it has now been made to cover a wide range of white-collar crimes as well. Hence, offences connected with financial criminality may be dealt with through plea bargaining, and their authors can escape indictment.

And so we see the creation of a “modular justice”: on the one hand, guilt until proof to the contrary for those designed as such by the police apparatus, while on the other hand, authors of financial and economic crimes can escape scot-free. This privilege has now been formally recognized. It has become the law of the land.

Through this law, the justice ministry also introduces itself into the workings of the criminal procedure process by claiming a right to intervene in individual cases, further enshrining the end of the separation of powers. The minister of justice now appears as a magistrate with extraordinary powers conferred by statute law.

24. Pascal Riche, “Guilty Pleading: an American Model of Justice,” *Liberation*, November 27, 2003.

The enhancement of the powers of both police and prosecution, institutions that are closely linked to the executive, means a shift of competencies that used to belong to the exclusive domain of judges. These extraordinary measures clearly lead to an effective suspension of fundamental freedoms and alter the nature of the rule of law. Such dispositions, as put forward in acts and decrees championed by the executive, are part and parcel of a new juridical order, that of the “constitution-making dictatorship.”

These dispositions also represent the end stage of imperial politics, resulting in a form of governance that guarantees the political and military provisions of a global management of the workforce, as set up through the WTO negotiations regarding foreign investments and the privatizations of public services. Seen in this light, the state of emergency appears as a transitional phase in which the workforce is “liberated” from its social protection. To this end, the abolition of concrete political rights is a prerequisite. Once this process has been achieved, dictatorship will be the expression of a new juridical order, one of abstract rights, and of a universal workforce shorn of its historic and political particularities dating from the epoch of the nation-states.

The main objective of the current anti-terrorism legislation is not, as was the case with a previous legal framework, to exclude the social movements from the realm of politics and to subject them to criminal law. Rather, it is the political intention of their authors, i.e., the destabilization of the sitting government, that leads to their criminalization.

Such laws do not institute an order without laws. On the contrary criminal law itself becomes a constitutive feature, which divides the political into opposites: “good and evil.” The jumbling together of the domain of politics with that of criminal law enables the executive to exercise a magisterial function, and to punish any opposition that it does not wish to recognize.

The setting up of any particular form of government is therefore not dependent upon a formal coherence at the level of lawmaking, but upon the immediate relation of power, and upon the capacity of the people to resist such arrangements. Under the state of emergency, there is always a formal reference to the restoration of the rule of law. Such a future, however, is not on the agenda of the powers that be.

Katrina and the Future of New Orleans

Walter Block and Llewellyn H. Rockwell, Jr.

There are no controlled experiments in economics, or, indeed, in any of the other social sciences. Social economic reality is simply too complex. *Ceteris paribus* conditions never hold; there are always several phenomena that vary, not the single one necessary for controlled experiments of the sort enjoyed in the physical sciences, where everything else can be held equal. Every once in a while, however, we come close. In past decades there were East Germany and West Germany. North and South Korea serve similar functions at present. In each case, there was at least a rough approximation of the people, of the history, of the wealth, of the culture, even of the language. Then, for historical reasons, each of these common groups was broken into two, whereupon they followed very different political economic philosophies, with very different results for the participants. Yes, it is still possible for those with closed minds to deny that communism is an inferior system when compared to the moderate version of capitalism practiced in West Germany and South Korea. They can still maintain that “real” communism was not followed in East Germany and North Korea.¹ But for most people, these semi-controlled experiments furnish a stark example of the results of these two very different systems.

1. It is only praxeological reasoning that can establish apodictically that a system of private property rights and free enterprise is compatible with an economy based on rational principles, while one based on central control and central planning is not. On this, see Hans-Hermann Hoppe, “On Praxeology and the Praxeological Foundation of Epistemology and Ethics,” in *The Meaning of Ludwig von Mises*, ed. Jeffrey M. Herbener (Boston: Dordrecht, 1992); Ludwig von Mises, *Human Action: The Scholar’s Edition* (Auburn, AL: The Mises Institute, 1998); Murray N. Rothbard, “Praxeology: Reply to Mr. Schuller,” *American Economic Review* 41 (December 1951): 943–46.

Thanks to Hurricane Katrina and the failure of the socialist government levee system “protecting” New Orleans, we may now witness a different kind of semi-controlled experiment. This one will be a time series controlled experiment, where we can view the Big Easy before and after Katrina and her aftermath—that is, if the advice of the present paper is followed. To wit, in this paper we advocate a radical move toward private property, individual initiative, free markets, and laissez-faire capitalism. If these public policy recommendations are followed, we will then have a stark contrast between the aftermath of New Orleans under its present socialist control, compared with something very, very different.

We approach this topic from a libertarian perspective. This might be seen as “bipartisan,” as it renders us as critical of Democrats as of Republicans. But it is not. It is very partisan, in that it advocates a completely different and competing system of social organization than either of these almost indistinguishable alternatives. Libertarianism may be succinctly defined as being based on the motto “that government which governs least governs better, and that government that governs not at all is best of all.” Libertarianism is predicated on two pillars: private property based on homesteading, and the non-aggression axiom. This means that justice in property titles consists of those and only those acts that can be traced back to the voluntary economic interaction of the rightful owners. This political economic philosophy is neither of the right nor the left but is rather something unique. It favors personal liberties; laws prohibiting victimless crimes concerning addictive drugs (e.g., heroin) or sex (e.g., prostitution) would be repealed. Paradoxically to some, it also supports economic liberties; laws prohibiting economic freedom (including minimum wages, rent controls, tariffs, affirmative action, antitrust, price gouging) would similarly be eliminated.² Most importantly, the libertarian opposes foreign military adventurism; in this view, the United States would begin by confining its military to the fifty states and no longer serve as the policeman to the world.³

2. In the felicitous terminology of Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974), p. 163, all “capitalist acts between consenting adults” would also be legalized.

3. The best overall statements of libertarianism include Murray N. Rothbard, *For a New Liberty* (New York: Macmillan, 1978); Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands, NJ: Humanities Press, 1982); Hans-Hermann Hoppe, *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer, 1993); Hans-Hermann Hoppe, *Democracy—The God That Failed: The Economics*

Watching the Capitol Hill hearings on what went wrong after Hurricane Katrina provided a glimpse of what it must have been like in the Politburo in the 1950s. The Soviet bureaucrats would gather with the party officials and factory and farm managers to figure out why grain production was down or why shop shelves were empty or why the bread lines were ever longer and the quality ever worse.

They gathered under the conviction that they had a workable system that was being rendered unworkable because of the incompetence, shirking, or wrecking of certain key players in the chain of command. No one was permitted to say that the command system itself was the problem. Instead, they had to place blame on someone, as if all problems could be reduced to issues of obedience. It was always a scramble. Whoever was finally said to be at fault faced certain ruin.

To be sure, there was plenty of blame to go around. As with scapegoats the world over, there is a sense in which they are all responsible for not having found the exit. If any of those scapegoats could also organize into a hierarchy of control and hold trials, it would surely produce a great show and many victims. But they would be no closer to getting to the real source of their problems. And so it was in the U.S. Congress: the hearings produced a great show with no results that will make a difference for our future.

The Soviet system had to fully unravel before it became permissible to state what it used to be a crime even to think: an economy cannot be centrally commanded. The bureaucrat can make every demand, issue a million orders, exhaust every financial resource in the state's account, elevate some people and demote others, dress up in a military costume and make grand pronouncements from a glorified pedestal, and cut off fingers, toes, and heads. But in the end, he cannot make the economy perform in a way that serves the people unless market forces are allowed to work.

Not just the Soviets had to learn this.⁴ Authoritarian regimes from the beginning of time have attempted to defy the laws of economics, step

and Politics of Monarchy, Democracy, and Natural Order (New Brunswick, NJ: Transaction Publishers, 2001); and Llewellyn H. Rockwell, Jr., *Speaking of Liberty* (Auburn, AL: Mises Institute, 2003). For libertarian analyses of foreign policy, see Robert Higgs, *Crisis and Leviathan: Critical Episodes in the Growth of American Government* (New York: Oxford UP, 1987) and John V. Denson, ed., *The Costs of War* (New Brunswick, NJ: Transaction Publishers, 1998).

4. Ludwig von Mises, *Socialism: An Economic and Sociological Analysis*, trans. J. Kahane (Indianapolis, IN: LibertyClassics, 1981 [1969]).

on the interests of the merchant class, control and redirect the wishes of consumers and entrepreneurs, bend and kick prices and wages this way and that, and inhibit trade in every which way. But they cannot finally overpower the driving desire on the part of people to control their own fate and not to be subject to the slavery that is collectivism of all colors, whether red or brown.

Someday, the U.S. managers of crises will have to realize this same point. But for now, they are like Soviet bureaucrats, scrambling to make an unworkable system function, and creating a scene that is as farcical as it is tragic.

Consider first how the much-glorified Department of Homeland Security responded to the Katrina crisis. There is a mysterious missing day between the time when the hurricane hit and when the levees broke and flooded New Orleans. During this strange Monday, August 29, 2005, a day in which there was a window of opportunity to prevent the meltdown of civilization, why didn't federal officials respond or even pretend to do so?

The head of the Department of Homeland Security, Michael Chertoff, said that he read in the Tuesday morning newspaper that, according to the headline, "New Orleans Dodged the Bullet." So, to his mind, there was nothing to do. This was his testimony. This is not exactly an awe-inspiring admission, but it speaks to a truth that few are willing to admit: government officials live normal lives. They do not partake of the mind of God. They get their news the same way we all do. And they have far less information than the body of knowledge generated by the signaling process of the market economy and the private sector.

We might even say that they are, in effect, sub-normal in intelligence, because government officials stand outside of society, cut off from the normal channels of information that the rest of us take for granted.⁵ They are isolated from markets and the regular pressures of life. They are not owners of what they control, and they have no real stake in the value of their product. They are surrounded by some of the most peculiar people in the world, namely, lifetime bureaucrats, power-mad politicians, and lobbyists on the make. This is their world, and this is what they know.

5. F. A. Hayek, "The Use of Knowledge in Society," *American Economic Review* 35 (1945): 519–30; George J. Stigler, "The Economics of Information," *Journal of Political Economy* 69 (1961): 213–25.

They enjoy the illusion of being better informed than the rest of us, so it would never occur to a high official to surf Google News to find out what is really going on. Thus was it apparently beyond the capacity of the Federal Emergency Management Agency (FEMA) to find out that the National Weather Service (NWS) had issued a flood warning soon after the hurricane hit. The NWS in turn was only reporting what many private local media outlets were saying.

Certainly the municipal government of New Orleans got the message. It issued a warning to residents, and then all of the officials packed up and headed to Baton Rouge. We suppose that this was the plan that the bureaucrats came up with after having received a \$500,000 federal grant in 1997 to design a comprehensive plan for evacuation. Half a million dollars later, they agreed on what the plan should be. Two words: “let’s go!”

We can learn a great deal from observing all of this. It is always the case that the government’s first interest in a crisis is to protect itself. The “public interest” is way down the list. Its employees have no ancient code that requires them to go down with the ship. The seafaring captain might feel disgrace if he lost his crew and passengers but returned safely to shore.⁶ But the bureaucrat would see this as nothing but rational self-interest at work.⁷ From their point of view, public service is not a suicide pact.

If this is so, are we wise to expect government service at times of crisis? Well, here is where it gets complicated. They always promise that they will take care of us. On the day that the hurricane hit, for example, President Bush made the following announcement: “For those of you who are concerned about whether or not we’re prepared to help, don’t be. We are. We’re in place. We’ve got equipment in place, supplies in place. And once the—once we’re able to assess the damage, we’ll be able to move in and help those good folks in the affected areas.” Given the calamity that

6. The “women and children first” policy was followed during the sinking of the Titanic. For more information on the Titanic disaster and its casualties, see the Anesi website, <http://www.anesi.com/titanic.htm>.

7. The Public Choice School is associated with this position. See James M. Buchanan and Gordon Tullock, *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (Ann Arbor: Univ. of Michigan Press, 1962). See also the following Austrian critics of that perspective: Murray Rothbard, “Buchanan and Tullock’s ‘The Calculus of Consent,’” in *The Logic of Action*, vol. 2 (Cheltenham, UK: Edward Elgar Publishing Limited, 1997), pp. 269–74 ; Tom DiLorenzo and Walter Block, “Constitutional Economics and the Calculus of Consent,” *The Journal of Libertarian Studies* 15 (Summer 2001): 37–56.

followed, this statement by Bush might as well have been a Soviet propaganda poster about the glorious future of socialism. If the only response by government had been to turn and run, they could be accused of hypocrisy, but it would have been better than the alternative of bad government that stayed to ruin the work that markets and private individuals do.

As the hurricane approached, for example, Bush, along with nearly every office holder in the entire region, immediately announced that there would be no tolerance of so-called price gouging. What is and what is not gouging remain undefined by law, but there are still criminal penalties attached to doing it. If a merchant raises his prices to the point where he attracts a complaint, then there is a pretty good chance that he will be thrashed as a gouger.

And yet, we have to ask ourselves what the purpose of a price is. It is a signaling device that allows market players, including both producers and consumers, to adjust their economic behavior in light of supply and demand. If supply remains the same and demand rises, then the price too will have to rise so that the market can clear properly. Otherwise there will be shortages and surpluses that will prove to be a benefit to no one. Bill Anderson has called gouging rules a form of back-door price controls, and he is right.⁸ They create victims, encourage economic dislocations, and foster black markets.

One might think that a Republican administration would understand this, but reflect on the fact that Iraq still has very strict price controls on gasoline, controls that were instituted by the United States after Saddam was overthrown.⁹ Do not think for a minute that it is beyond the capacity of the Bush administration to do what the Nixon administration did, which was to believe that the laws of markets can be overridden by regulatory force.¹⁰ Anti-gouging laws, to the extent that they are obeyed, will create shortages. But in telling the sad tale of Katrina, we would like to begin not with a case of shortage, but with a strange case of surplus.

8. William L. Anderson, "The Dangers of Smart Growth," *The Free Market* 18, no. 2 (2000), <http://www.mises.org/fullstory.aspx?control=434&id=75>.

9. Robert Murphy, "The Gas-Line Quagmire in Iraq," February 6, 2006, the Mises Institute website, <http://www.mises.org/story/2026>; Christopher Westley, "The Right to Set Your Own Price," October 21, 2005, the Mises Institute website, <http://www.mises.org/story/1942>.

10. Murray N. Rothbard, "Nixonite Socialism," *The Libertarian Forum* 3 (1971): 1–2; available online at the Mises Institute website, <http://www.mises.org/story/1875>.

One week after the hurricane, FEMA ordered the Army Corps of Engineers to buy 211 million pounds of ice from IAP Worldwide Services of Florida. Trucking companies were notified of a grand opportunity, since the government was paying the bills for delivery, and the dispatchers sent out the word. There is no space to explore the workings of IAP Worldwide, but the company, which relies heavily on tax dollars as a federal contractor, has a new CEO who most recently held the position of Vice President of National Security Programs for the notorious Kellogg, Brown and Root. His name is David Swindle.

But back to the story of the ensuing chaos. One trucker picked up ice in Greenville, Pennsylvania, and was told to drive it to Carthage, Missouri. But when he arrived in Carthage, he was told by a FEMA official to go to Montgomery, Alabama. After a day and a half sitting in Montgomery, he was told to go to Camp Shelby, Mississippi, after which he was sent to Selma, Alabama, after which he was sent to Emporia, Virginia, where he stayed for a week, burning fuel, until he was sent to North Carolina, and finally to Nebraska, where he dropped the ice in a government storage unit. That's 4,000 miles over a period of two weeks. This was hardly the only case.

The news media chronicled the stories of these truckers. A truck full of ice was sent from Dubuque, Iowa, to Meridian, Mississippi, then to Barksdale Base in Louisiana, then to Columbia, South Carolina, and finally to Cumberland, Maryland, where it waited for six days before being sent to Bettendorf, Iowa, where the ice was unloaded. Another truck was sent from Wisconsin to Missouri to Selma to Memphis, Tennessee, before finally dropping off the ice in a storage unit. There were 4,000 drivers enlisted in this incredible charade. No one knows for sure how much ice ever got through or how much if any good it did.

In one of the first incidents reported of what was to be two weeks of catastrophe, a group of volunteer firefighters from Houston came to New Orleans wanting to help. They were told to wait. They waited 48 hours and were ordered to go back. A group of doctors from Maryland tried to get in, but FEMA sent them on to the Red Cross, which said that it could do nothing without the approval of federal health officials.

After the New Orleans mayor made a call for firefighters to come help, 1,000 volunteers were sent to Atlanta, where they were put in a conference room at the Sheraton hotel and subjected to seminars on sexual harassment and other bureaucratic matters. They were then told that their job would be

to distribute flyers with a message on it: call 1-800-621-FEMA. Many or even most of these well-trained people left town. Those who stuck it out and headed for Louisiana were aghast that their first assignment was not to fight fires, which had been raging for a week, but to escort President Bush on his widely televised tour of the area. All of the photos can be seen on the White House website, www.whitehouse.gov.

In fact, FEMA refused offers of help of all sorts, mainly because of issues of control. FEMA declined help from Amtrak in evacuating people from New Orleans. The Chicago municipal government wanted to send volunteers from the fire department, police department, and hospitals all over town, but FEMA said no. The same happened to New Mexico, whose governor volunteered equipment and personnel.

FEMA prevented Wal-Mart from delivering three tank trucks full of water, and the Coast Guard from delivering diesel fuel. As for the National Guard, for days it would not allow reporters into the Superdome where tens of thousands were trapped. People were hungry and thirsty, but the National Guard would not allow the Red Cross to deliver any food. Here is the astounding statement from the spokesperson of the Red Cross: “The Homeland Security Department has requested and continues to request that the American Red Cross not come back into New Orleans. . . . Right now access is controlled by the National Guard and local authorities. . . . We cannot get into New Orleans against their orders.”

The Salvation Army attempted to rescue two of its own officers who were trapped in a building and on dialysis. They rented three boats for a rescue, but they were not allowed through. To be fair, the Salvation Army did not specifically name the government as at fault. But it did point out that all private efforts were running into similar kinds of obstacles, so the message was clear. Meanwhile, the USS Bataan, a floating hospital for 600 patients, which happened to be at sea and rode out the storm, was still sitting empty by the third day, not permitted to do its job.

An astounding case of ineptness comes to us from the case of three Duke University students who drove to New Orleans to help but were turned away by the National Guard. They had seen the news, knew that they could help, and wondered why they should be pushed around by bureaucrats. Being college sophomores, they took a risk. They forged press credentials, with fake IDs and shirts and the works. They went back and adopted a haughty tone. The National Guard waved them through immediately. Then the students drove to the Convention Center. There,

they found thousands of sick, hungry, thirsty, and dying people in desperate need. They found a man who had welts all over his body. He was in a tree covered with fire ants as the flood waters rose, and there he had stayed, being bitten repeatedly for up to 24 hours.

The boys picked him up along with three others and drove them to a Baton Rouge hospital. They made another trip there and back with more people before they began to become frightened of what the government might do to them. On one return trip, they observed 150 empty buses driving the other way—and they have a video to prove it.

One can only express astonishment at how the government treated the tens of thousands of people it herded like cattle into large public spaces. For reasons still unclear, the government could not get its act together on transporting them out, even as the people themselves were forbidden to leave. Once the central planners decided to move all of these people from the Superdome to the Astrodome, no means of transport arrived, even as aerial photos showed miles and miles of public buses available.¹¹

Indeed, the first bus to reach Houston was not driven or approved by the government. It was commandeered by twenty-year-old Jabbar Gibson, who drove it from the floods, picked up as many people as he could, and then drove all the way to Houston—a thirteen hour drive! He beat the government's system by a day. Meanwhile, the tens of thousands of people who had been shoved into the Superdome on Sunday, before the floods came, were still suffering in that massive calamity by Friday and Saturday.

Perhaps the most astounding case of incompetence has received the least attention. It relates to a 500-boat flotilla, stretching over five miles, that left for New Orleans from Lafayette. It involved 1,000 people who had hoped to rescue hospital patients and take them to safety. It consisted of private boaters, fishermen, hunters, and others who had spent their entire lives navigating Louisiana waterways. Once this caravan arrived, they were turned away by the Department of Wildlife and Fisheries, which was now being run by FEMA. All five hundred boats were turned away and ordered out.

11. Pictures of the submerged school buses, located near the New Orleans "Sewer" Dome, have appeared on many websites, including: BillHobbs.com, <http://billhobbs.com/hobbsonline/007188.html>; Wikinews, http://en.wikinews.org/wiki/Controversy_over_whether_New_Orleans_Mayor_failed_to_follow_hurricane_plan; and Snopes.com, <http://www.snopes.com/katrina/photos/buses.asp>.

Now keep in mind that this was three days after the hurricane hit. There were hundreds of people inside the Charity Hospital in New Orleans alone. They had no supplies, and only three had been rescued. At this very time, the head of the FEMA-ized Wildlife and Fisheries Department announced to the world on television that it needed no help from anyone and that it had all matters under control.

Some White House staff members put together a DVD of the evening news coverage for President Bush to watch on Air Force One, which was the only way that they could get him to understand the depth of the crisis. The purpose of the action was not so much to help people, of course, but rather to stop the meltdown of his reputation. In fact, by the time he actually arrived in Louisiana, food and medicine deliveries, such as they were, were halted on orders of the White House, to make room for the presidential caravan.

In one particularly interesting detail, Katrina triggered the first use of the Department of Homeland Security's major accomplishment since it was created after September 11: the National Response Plan, a 426-page central plan for dealing with a crisis on the level of the post-Katrina floods. Here is how the government describes it:

The National Response Plan establishes a comprehensive all-hazards approach to enhance the ability of the United States to manage domestic incidents. The plan incorporates best practices and procedures from incident management disciplines—homeland security, emergency management, law enforcement, firefighting, public works, public health, responder and recovery worker health and safety, emergency medical services, and the private sector—and integrates them into a unified structure. It forms the basis of how the federal government coordinates with state, local, and tribal governments and the private sector during incidents.¹²

What happened to the National Response Plan after the floods? It remained what it always had been: a colorful PDF document, a thick book on the management shelves, an item in the Government Printing Office catalog, birdcage liner, and many other things. One thing it was not was a national response plan that did all those glorious things listed above. As with all such plans from time immemorial, it was a dead letter.

12. The National Response Plan, available online at the Department of Homeland Security website, http://www.dhs.gov/xprepresp/committees/editorial_0566.shtm.

As for the National Guard, when it arrived it did what a military does best: harass the residents. Working with the police, it began to enforce an order for everyone to evacuate. As the *New York Times* summarized the order: “[N]o civilians in New Orleans will be allowed to carry pistols, shotguns, or other firearms of any kind.”

The National Guard allowed themselves to be videotaped going from house to house, and mansion to mansion, knocking down doors, searching for weapons, and handcuffing and humiliating the owners. They called these people “holdouts,” a phrase right out of Baghdad. One National Guardsman was asked whether he would shoot residents if they resisted. Yes, he would, he said. He added, “It’s surreal. You never expect to do this in your own country.”

We have provided a look at some of the terrible failures by the government—not only failing to do what it claimed it would do, but actively working to prevent others from helping. The cost to human life and prosperity is incalculable. But, one might say, at least the government is generous now in preparing to spend perhaps \$250 billion to clean up and reconstruct what was destroyed.

But who will get this money and where will it go? Cynics could not be more correct: the first company to receive the money was our old friend Kellogg, Brown and Root, a current client of Bush’s former campaign manager and former head of FEMA. Kellogg, Brown and Root is a subsidiary of Halliburton, the company formerly headed by Dick Cheney. Another winner is Bechtel, whose former head is now in charge of Bush’s Overseas Private Investment Corp. The top rebuilding priority: repairing government military bases in Louisiana and Mississippi. Those who work for one of these companies will do very well by this aid. As for the victims, they can expect little from the monstrosity that taxes and controls them relentlessly on the pretext that it will protect them and care for them when no one else will.

Fortunately for the people who lived in flooded areas, they did not face the crisis alone. The private commercial sector, along with thousands of religious charities, was there to help. Indeed, John Tierney of the *New York Times* was one of the few mainstream journalists to notice that Wal-Mart improved its image after Katrina.¹³ Its stores in the disaster-stricken areas still carried generators. Wal-Mart trucks rode into areas immediately following the hurricane and gave away chain saws, boots, sheets, and clothes

13. John Tierney, “From FEMA to WEMA,” *New York Times*, September 20, 2005.

for shelters, plus water and ice. It alone had prepared for emergency with its own emergency operations center.

Christopher Westley noted that Wal-Mart gave \$20 million in cash donations, 1,500 truckloads of free merchandise, food for 100,000 meals, and the promise of a job for every one of its displaced workers.¹⁴ After comparing FEMA's failures with Wal-Mart's successes, he concluded that the former ought to be abolished. Tierney, in contrast, drew the wrong conclusion. He said that the Wal-Mart CEO "is the kind of leader we need to oversee the tens or hundreds of billions that Washington will be spending on the Gulf Coast. [President and CEO Lee] Scott could insist on low everyday prices while still leaving the area as well prepared for the next disaster as Wal-Mart was for Katrina."¹⁵

In fact, if Scott were given a government job, it would only be a matter of time before he became just another Michael Brown, the disgraced former FEMA head. This is not a matter of character. It is a matter of the maze in which people find themselves, with market-generated exit signs, or none at all, thanks to the government.

As Walter Block, Mark Thornton, and many others have shown, it was not the storm as such that did the damage, but the failure of the government at all levels, particularly with regard to levees.¹⁶ Combined with the levees-only river management strategy of the Army Corps of Engineers, the floods were a disaster waiting to happen. Just imagine if the entire Big Easy were private, like homes or cars. Insurance companies would have taken a huge role in risk assessment, not only charging more for higher risk but insisting on management strategies that reduced risk and rewarding those who adopted those strategies with better premiums. This works on the same principles as homeowners' insurance, which combines rules and incentives to reduce the likelihood of losses.

Government insurance, however, makes us less cautious and more willing to take risks. It prices coverage from losses far too low and creates an environment where disasters like flooding are waiting to happen. With

14. Christopher Westley, "FEMA Should Be Shut Down," September 12, 2005, the Mises Institute website, <http://www.mises.org/story/1908>.

15. Tierney, "From FEMA to WEMA."

16. Walter Block, "Katrina: Private Enterprise, the Dead Hand of the Past, and Weather Socialism: An Analysis in Economic Geography," *Ethics, Place and Environment: A Journal of Philosophy & Geography* 9 (June 2006): 231–41; Mark Thornton, "The Government's Great Flood," *The Free Market* 17, no. 9 (September 1999), http://www.mises.org/freemarket_detail.asp?control=8&sortorder=articledate.

programs like subsidized flood insurance, government is like a bad mother who pays her children to run around with scissors. Government ownership is even worse because there are no signaling systems in operation at all. It was also the government that created a false sense of security for people in New Orleans, who were led to believe that the levees would hold and that the pumps would work. And when the floods finally did come, they were told that the government would be there to manage the crisis.

But the government cannot manage crises, as the response to Katrina demonstrated. The local government fled. The state government dithered. And the federal government actively worked to prevent good things from happening. The thousands and millions of acts of private heroism that took place after Katrina occurred despite government and not because of it.

And yet what lessons does the political culture want us to take from this? They are the same lessons that we are instructed to learn after NASA spends and spends and still cannot seem to make a reliable space shuttle. We are told that NASA needs more money. The public schools absorb many times more—thousands of times more—in resources than private schools, and still cannot perform. So we are told that they need more money.

The federal government spends trillions to “protect” the country and cannot fend off a handful of malcontents with an agenda. And so we are told that the government needs to start several new wars and erect a massive new bureaucracy and put sections of the country under martial law at the slightest sign of trouble. And spend more money.

So, too, Congress can allocate a trillion dollars to fix every levee, fully preventing the last catastrophe, but not the next one. The real problem is the same in all of these cases: not insufficient resources but public ownership and management.

Public ownership has encouraged people to adopt a negligent attitude toward even such obvious risks. But private developers and owners, in contrast, demand to know every possible scenario as a way to protect their property. Public owners have no real stake in the outcome and lack the economic capacity to calibrate resource allocation to risk assessment. In other words, the government manages without responsibility or competence. Actually, it was President Bush who said one of the most sensible things, on September 2, 2005: “If you want to help, if you’re listening to this broadcast, contribute cash to the Salvation Army and the Red Cross. . . . They’re on the front lines providing help to the people who need help.”

But it was two weeks later when his more basic instincts kicked in, and he delivered a very different message, one that is deeply alarming. He said: “It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces—the institution of our government most capable of massive logistical operations on a moment’s notice.”

It is interesting that his beloved military was not there at a moment’s notice. The government now cites its own failures as the great excuse to expand its powers. So it will spend the next several years preparing for another Katrina that may never come, just as it spent the last several years preparing for another September 11 that may never come. The next crisis will be something completely unexpected, and once again it will fail. But we will be left with a government with some very bad habits, among which are declarations of martial law, mandatory evacuations, gun and price controls, and other totalitarian policies. And given that this is a Republican administration with its own internal culture and an attachment to military means, we get what can only be described as the continuation of the fascist track: the militarization of the country under its armed forces.

So far as we know, this passing remark by President Bush has provoked no commentary in the national press. Commentators in the organized conservative movement have displayed an appalling deference to the administration’s priorities, with *National Review* consistently arguing for more spending and militarization, Rush Limbaugh calling for price gougers to be strung up, and even some supposed free-market friends calling for billions to rebuild New Orleans as a way of showing terrorists that we will not let the weather get in the way of progress.

Conservatives have been especially bad on tolerating egregious uses of the military. We need to reflect on what it means to have the military take over in the event of crisis. What kind of ideology promotes such things, and looks the other way when it happens? This is clear, and it serves as a reminder that not all threats to freedom come from the left. A clue comes from the neo-Nazi novel *The Turner Diaries*, sometimes cited as the motivating force for the bombing of the Oklahoma Federal Building, which ends in what the author regards as the utopian political system. After a world war that exterminates all non-whites, a military regime takes over the United States and centrally plans the economy under martial law. All food and water are distributed on military trucks, all production takes

place on a planned basis, and the merchant class is required to obey or be shot. The state also places flower boxes under every window.

The author describes this race-based national socialism as if it were a system with an inherent appeal to the reader; and perhaps there are people economically ignorant enough and full of enough loathing for humanity and freedom to regard it as attractive. In our own times, there are people waiting in the wings who long for power and who are drawn to the ideal of a militarized society and a centrally managed economy. Some call themselves conservatives, and they are as much a threat to civilization as those with the same ideas who call themselves liberals.

Despite the foregoing, there is still room for some optimism. The government cannot actually do what it promises, and there is a way in which we can only be thankful for that. It cannot succeed in managing a central plan. Its plans will always fail. The government tries to use its failures as an excuse for more power, but with every failure comes a substantial degree of public humiliation for the public sector, and that humiliation can provide a basis for the undoing of government authority.

Some people say that a loss of government authority will mean the breakdown of civilization. Actually it will create the preconditions for the reestablishment of civilization, and in a state of freedom that can happen very quickly. The aftermath of Hurricane Katrina illustrated in a million individual acts of charity and enterprise that people can manage their affairs, even amidst the chaos. The calamity following Katrina was an egregious display, one that gave the federal government a black eye. The Democrats will continue to use this to harm the Republicans, which is fine; however, it is not just Bush who is suffering, but the whole apparatus of central planning by decree from above. A government that cannot manage a crisis should not be trusted to manage anything at all. Thanks to Katrina and its dreadful aftermath, it is fair to say that the age of not trusting government has returned, and with a vengeance.

It took decades for the rot to give way underneath the Soviet apparatus of central planning. But eventually the implausibility of the entire project was no longer possible to deny. It gave way under an intellectual reaction against the whole of socialism. We are seeing something like that take place today, as government fails in Iraq and New Orleans, and in every place around the country and the world where it causes problems and creates no solutions. The age of confident central planning is behind us. Right now, the state is just trying to keep its head above water. If freedom is to

have a future, the time will come when it will sink to an ignoble end, and we will wonder how we ever believed in this myth called government crisis management.

The advocates of freedom and the partisans of private enterprise will be there with the intellectual equivalent of flotillas, barges, buses, helicopters, and the whole apparatus necessary to rescue liberty from every attempt to kill it. And when our City on a Hill comes to be, it will be privately built to withstand any flood.¹⁷

17. Citations, particularly urls, have been severely truncated in order to fit the style of this journal. They are available from the corresponding author, Walter Block.