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# Orthodox Judaism's Concept of the Political

*Itamar Ben Ami*

**Abstract** Guided by concepts advanced in Carl Schmitt's *The Concept of the Political*, this article attempts to formulate Orthodox Judaism's concept of the political. While it is evident that different Orthodox groups hold different and sometimes opposing political views, the question remains whether Orthodoxy as such possesses a foundational conceptualization of the sphere of the political that might be also be framed as "Orthodox." The article presents three possible internal Orthodox conceptualizations of "the political," yet highlights each of these positions' failure to integrate Orthodox commitment to halakha within a truly political framework. The first conceptualization negates the political in a manner that subsumes this realm under the purview of halakha. The second acknowledges the political as a secular realm standing outside the boundaries of halakha. The third possesses a religious understanding of the political that is nonetheless non-halakhic. In order to present an *Orthodox* concept of the political, the article turns to two thinkers who offered a critique of the epistemological regime of modernity (which is responsible for the existence of the political as a distinct sphere) from an Orthodox stance: Isaac Breuer and the young Leo Strauss. Their reflection on the political as such led them to call for a politicization of Orthodoxy's very commitment to halakha. Retrieving Breuer's and Strauss's truly Orthodox concept of the political enables the formulation of a novel, hitherto underdeveloped Orthodox critique of Zionism. Whereas Zionist voices tend to comprehend the exilic stance of Orthodoxy as apolitical compared to their own attempt to politicize Jewish existence, Breuer and Strauss argue that it is precisely Zionism that fails to offer a concept of the political that is truly Jewish.

**Keywords** the political, Jewish Orthodoxy, halakha, Leo Strauss, Isaac Breuer

## INTRODUCTION: ORTHODOX JUDAISM AND THE MODERN DIFFERENTIATION

The goal of this essay is to formulate a distinct approach of Orthodox Judaism toward the concept of the political. The argument presented is that while being able to conceptualize the political in several different ways, some voices within Orthodox Judaism, which is characterized by the observance of halakha, have developed a unique approach to account for the connection between the obligation to observe halakha and the inherent politicization of Jewish life. The main argument is that, beyond the ideological controversies between Orthodox Judaism and Zionism, at least one wing of Orthodoxy held to a political epistemology whose rationality was distinctly *Orthodox*.<sup>1</sup> The Orthodox concept of the political inverts the prevalent understanding of the relations between Orthodox Judaism and Zionism. While in the common narrative Zionism is presented as the central political force to which formerly nonpolitical Orthodoxy is forced to respond, we shall see that Orthodox thinkers considered secular Zionism to be essentially nonpolitical, while insisting that only Orthodoxy could account for the inherently politicized nature of Judaism.

The attempt to articulate an Orthodox attitude toward the concept of the political pertains to a specific tradition of thought which dates back to Max Weber and Carl Schmitt.<sup>2</sup> This tradition attempts to conceptualize the unique rationality that organizes human activity in the sphere that is known as “political.” Weber was interested in this logic due to his perception that instrumental rationality (*Zweckrationalität*)—the mode of rationality that is most identified with modernity—tends to apply different logics of activity in different contexts, depending on the goals that one is attempting to achieve. Accordingly, Weber divides modern human activity into various “value-spheres,” such as economics, morality, religion, science, and more.<sup>3</sup>

Carl Schmitt continues this tradition while expressing discontent with Weberian typology. In trying to decipher the nature of uniquely political activity, he seems to make two simultaneous claims. On the one hand, Schmitt accepts the relative autonomy of the political sphere and its distinctness from other value-spheres (his main insistence, in line with Weber, is the strict separation between morality and politics).<sup>4</sup> Yet simultaneously, he seeks to argue that the political sphere has a more principled and privileged position than other spheres, and even argues that all other spheres of activity are conditioned on the political sphere.<sup>5</sup> Schmitt thus emphasizes that the political sphere is not limited to any activities of a specific nature, but rather belongs to a certain form of an existentialist mindset related to identity (in the form of the separation between enemy and friend), the development of which is a condition for the activities of all the other spheres.

Schmitt therefore exhibits the problematic positioning of the political sphere within the distinctively modern mode of rationality. As a matter of fact, it is not clear that the political is a “sphere” at all, and not a certain modality of identity that conditions all other spheres of human activity. A concomitant problematic issue concerns the ideological dimensions of the division or differentiation of reality itself into different domains.<sup>6</sup> This differentiation rests on a particular representation of reality, a representation that is not a natural product of the various value-spheres themselves but a condition for their very appearance. In this context, it is worthwhile to carefully take note of the role that religion (or its rejection, namely secularism) plays in shaping the contours of this differentiation. As Claude Lefort writes, politics and religion often compete with one another for control over the distribution of the sensible:

In short, both the political and the religious bring philosophical thought face to face with the symbolic, not in the sense in which the social sciences understand that term, but in the sense that, through their internal articulations, both the political and the religious govern access to the world.<sup>7</sup>

My intent, accordingly, is to define the world to which Orthodox Judaism governs access, and, most specifically, to delimit its sphere of the political. This latter question is all the more thorny, given the widespread assumption that Orthodox Judaism fails to distinguish between the political and the religious spheres. As Gil Anidjar demonstrated, the invention of the separation between these two spheres was not developed in a vacuum, but is rather itself a product of a specific system of thought—the Christian episteme. The very division between politics and religion produces an arrangement (*agencement*) whose logic must itself always remain invisible.<sup>8</sup>

The required critical work is thus to examine the invisible logic of Orthodoxy that enables the very differentiation of reality into distinct value-spheres. The effort to identify this logic provides the framework of this article. It reflects the remarkable “differentiation” by which Orthodox Judaism understands reality—a reality that can be separated, organized, and perceived in different ways. Specifically, it argues that the unique epistemology of Orthodox Judaism—a system that is inherently related to the concept of halakha—produces a peculiar understanding of the political, which is different from those epistemologies that are based either on a secular ideology, or on non-halakhic religious worldviews.

The formulation of Orthodoxy’s approach to the concept of the political relates to the effort of scholarly literature in recent years, which seeks to decipher the Orthodox worldview from a more fundamental, and not just ideological, angle. Several past explorations focused on the ideological positions of Orthodoxy, concentrating particularly on its approach toward Zionism.<sup>9</sup> The politics of Orthodoxy have accordingly

often been seen as a side effect of its position regarding the Zionist movement, which is frequently depicted as the true impetus behind twentieth-century Orthodox politics.<sup>10</sup> More contemporary narratives, in contrast, seek to understand the Orthodox worldview not only in light of its ideological stance on Zionism, but as an approach with independent foundations, which are also accountable to a unique conceptualization of the political.<sup>11</sup>

For example, Daniel Mahla recently described the distinctive modernization of Agudath Israel and Mizrachi, the two major Orthodox movements between the world wars, as an attempt to politicize the Jewish masses.<sup>12</sup> Alexander Kaye and Asaf Yedidya have detailed the changes that halakha underwent in the twentieth century so that it could serve as a basis for Jewish politics.<sup>13</sup> Naomi Seidman described the processes that led Orthodox Judaism to approach women—and the integration of women as public figures in the Orthodox public sphere.<sup>14</sup> Benjamin Brown described the complex attitude of Orthodoxy to democratic values, and the conservative-elitist characteristics of the critique that ultra-Orthodox leaders hurled toward democracy.<sup>15</sup> Shaul Magid has shown the influence of the New Left on contemporary forms of Orthodox political radicalism.<sup>16</sup> My own previous work has demonstrated how the critique of liberalism in the Weimar Republic decisively shaped the hostility that exists between ultra-Orthodox Judaism and liberalism.<sup>17</sup>

The current article seeks to deepen this scholarly effort by exposing the more principled epistemological positioning of Orthodoxy vis-à-vis the concept of the political. The discussion below attempts to locate the inherently *Orthodox* conceptualization in the thought of Isaac Breuer (1883–1946) and the young Leo Strauss (1899–1973), two thinkers who, on the one hand, were attuned to the cultural program of modernity that invites thoughts as to the nature of the concept of the political and, on the other hand, demanded Orthodoxy to posit its own formulation of the latter. Both thinkers labored to formulate a political reading of Orthodox Judaism, while perceiving the other variations of Judaism to be lacking a proper political approach.

The first thinker was Isaac Breuer (1883–1946), one of the main ideologues of the ultra-Orthodox *Agudath Israel* movement, who during the interwar years created an impressive corpus of ultra-Orthodox thought.<sup>18</sup> The second thinker examined in this article is Leo Strauss (1899–1973), focusing on his early work, in which he openly flirted with Orthodoxy.<sup>19</sup> This choice may be a little surprising for some. While Strauss was raised within Orthodox Judaism, he is not often understood to have remained within that tradition, and certainly not in his later work. However, my reading of Strauss's thought from the 1930s, and in particular his book *Philosophy and Law*, reveals a crucial Orthodox component in his thought. It is also relevant that Strauss himself explicitly formulated his early scholarly endeavors as an attempt to rescue the

possibility of Orthodoxy.<sup>20</sup> My remarks are congruent with Hannah Arendt's reading of Strauss, who defined the latter as an "a convinced Orthodox atheist."<sup>21</sup>

Textual ties existed between Strauss and Breuer. Although Strauss was sixteen years younger than Breuer, during the 1920s he became very interested in Breuer's writings, and discussed them in several of his articles.<sup>22</sup> Strauss's interest in Breuer was linked to his own attempts to foment a return from modernity to Orthodoxy, an experience conceptualized in his first book, *Spinoza's Critique of Religion*. We have no record of any reciprocal relationship between Breuer and Strauss, and it is difficult to know whether such a relationship did exist. Even so, the insistence of these two thinkers on the existence of an inherent connection between politics, halakha, and Judaism reveals a deep connection between their philosophies, the development of which will require future research.

The essay will be composed of four sections. The first part will present three models that have already been formulated in the scholarly literature regarding Orthodox Judaism's concept of the political, and will offer a fourth possibility, which I will examine in light of the oeuvre of Breuer and Strauss. The second section will investigate Breuer's theory that human sociality is essentially ethical and related to the concept of *Recht* (roughly translated as Law, but entailing an argument regarding the lawfulness of law). The third section delves into Strauss's attempt to establish law (*Gesetz*) as determining even the allegedly prepolitical existence of humans. The fourth section will summarize the discussion, and will iterate in a more analytical fashion Orthodox Judaism's concept of the political, and the challenge it posits to secular Zionism.

## FOUR ORTHODOX CONCEPTUALIZATIONS OF THE POLITICAL

There are three primary conceptualizations of Orthodox Judaism's understanding of the concept of the political. The first, and perhaps most common approach, is to assume that Orthodoxy has no conceptualization of the political whatsoever—and to attribute Orthodoxy itself to the sphere of religion, which is imagined as standing opposite to that of politics.<sup>23</sup> Thus, for example, the Orthodox insistence on halakhic observance can be perceived as inherently a religious stance: an obligation that, since emancipation transformed identification with the Jewish community into a voluntary act, has been privatized and become a nonpublic commitment of each and every individual.<sup>24</sup> In other words, the political, as a category, contains no relation to Orthodox Judaism; the Orthodox collective existence is not political but instead a coexisting combination of numerous persons, committed as individuals to the Jewish halakha.

This first approach can be termed a methodological-individualistic conceptualization of the political, since it does not assume that collective entities, such as the public, exist at all from a strictly Orthodox purview. This approach has an interesting parallel to political liberalism,<sup>25</sup> which also has difficulties in conceiving of the collective as anything but purely nominal, and is normally accompanied by a tendency to emphasize individuals as the atomistic cornerstone of the community. (Interestingly, scholars emphasizing the congruence of Orthodoxy with this view tend to also identify as liberals.<sup>26</sup>) This concept resembles R. Joseph B. Soloveitchik's remarks regarding his uncle, the important ultra-Orthodox figure, R. Isaac Z. Soloveitchik: that the latter had not so much resisted the State of Israel as deemed it halakhically irrelevant, since the State did not fit into any halakhic categories.<sup>27</sup> This methodological Orthodox individualism is incapable of conceiving of a *public* halakhic obligation that is not reductive to the duties of the separate individuals who comprise this community.

The second conceptualization represents an opposition to the individualistic reductionism of the first approach. It attempts to demonstrate how a halakhic acknowledgment of the political has developed—an acknowledgment that endows the political sphere with an autonomous status. The most sophisticated formulation of this position is presented by Menachem Lorberbaum's *Politics and the Limits of Law: Secularizing the Political in Medieval Jewish Thought*, which locates in the Jewish political philosophy of the Middle Ages a principled effort to carve out an independent rationale for the sphere of the political, separate from the rationale of halakha. For example, thinkers such as Solomon ibn Aderet and Nissim of Gerona, insisted that the public sphere is regulated by norms that differ from the strictly halakhic ones that are relevant to every single individual.<sup>28</sup>

This conceptualization usually appears in two variants: a stronger and a weaker version. While the weaker form acknowledges the existence of the political sphere, it tends to insist that the latter is not entirely independent and that halakha still pertains to it. For example, this position will claim that public peace or prosperity are themselves an internal halakhic value, and accordingly will attempt to design halakha for the public sphere. In several contemporary debates regarding the halakhic status of the State of Israel, for example, the state's authority is regarded, from a halakhic perspective, as a product of the halakhic obligation to ensure public peace.<sup>29</sup> The stronger version, in contrast, contends that the political sphere does not operate within the halakhic framework at all, but rather serves as the very prerequisite for the existence of halakha. The political sphere produces the necessary conditions which ensure that after a civilized human life has been created, and the depraved natural state of anarchy has been overcome, halakhic norms can subsequently be applied within the boundaries of this civilization.

This strong formulation brings Orthodox Judaism in closer proximity to a Schmittian position regarding the fundamental irreducibility and primacy of the political. While the first, methodological-individualistic, approach denies (or fails to comprehend) the existence of the political from an Orthodox perspective, the second approach argues that not only does halakha relate to the political (akin to the weaker version) but that in fact, the very existence of halakha is dependent on this connection: halakha can become the norm only after the creation of the political sphere. The stronger version, however, seems to pay a heavy price for its success in carving out a sphere of the political from within an Orthodox outlook; it is forced to admit that the political sphere itself eludes halakhic design. The political is transformed into merely an extrahalakhic condition for halakha, which henceforth must pay “the price of politics.”<sup>30</sup>

The third Orthodox conceptualization of the political is fundamentally nationalistic-romantic. Joseph Isaac Lifshitz presented a fascinating development of this approach in his attempt to posit Ashkenazi theology in the Middle Ages as an alternative political rationale to the fundamentally Sephardic approach, as interpreted by Lorberbaum. According to this rationale, identified with R. Meir (Maharam) of Rothenburg, the Jewish collective itself becomes the main agent approached and interpellated by the Torah. Halakha is not an instruction manual doled out to individuals who happen to find themselves sharing the same space (the first conceptualization); and, at the same time, is not a norm that applies only after the political relations have been shaped (the second conceptualization). Rather, Judaism designates the “Holy Community” (*Kehilat Ha-Kodesh*) as its basic structure and as the goal of all of its halakhic commandments.<sup>31</sup>

There are modern versions of this third conceptualization; for example, those emphasizing the commitment of Orthodox Judaism to larger goals rooted in an ideological worldview of the Jewish people’s destiny. The religious philosophy of Rabbis Abraham Isaac and Zvi Yehuda Kook is one such example.<sup>32</sup> A clear advantage of this approach is that it allows Orthodoxy to imagine a Jewish collective, and not just many separate individuals, since it postulates that this collective is the subject and object of the Torah. Yet this approach has been described here as nationalistic-romantic because it ultimately fails to comprehend the political collective in *halakhic* terms. The existence of the Jewish collective is regarded as a given fact and understood to exist in a quasi-metaphysical fashion, yet this reality is not directly related to any halakhic obligations. In other words, the Jewish collective is not constructed by means of its harkening to the demands of halakha; rather, its preexistence is presumed.<sup>33</sup>

We are thus left with three comprehensive orthodox conceptualizations regarding the concept of the political, each of which contains pros and cons. The first, which

understands the halakhic obligation as based on the obligation of the individual, has the advantage of weeding out from Orthodox Judaism any ideological component and remaining strictly halakhic. Yet, its drawback is in its inability to “Orthodoxically” come to terms with such concepts as politics, the public, and the collective. The second, Schmittian conceptualization of Orthodoxy, while guaranteeing independent status to the sphere of the political, pays a heavy price in the form of the removal of politics from the halakhic norm. Lastly, a romantic-nationalistic conceptualization of the Jewish collective, although it manages to provide a fundamentally Jewish account to the public character of Judaism, fails to formulate this dimension in normative-halakhic terms, and drifts instead to ideological abstractions.

The challenge facing this current study is to formulate a fourth Orthodox conceptualization, which seeks to hold the rope at both ends: on the one hand, to define the Jewish collective in the spirit of Orthodox Judaism—namely, as strictly defined by the dictates and demands of halakha—and on the other hand, to also demonstrate how the halakhic norm embodies a collective character. This essay will therefore seek to formulate a comprehensive Orthodox position that perceives the political as the main object of halakhic demands, so that the halakhic obligation will not be perceived as essentially individualistic, but rather as fundamentally collectivist.

In other words, this fourth approach will incorporate elements from all three previous approaches: similar to the first conceptualization, it will be formulated by purely halakhic terms—yet (unlike this position) it will also emphasize that the halakhic obligation is placed upon the collective, and not upon the individual. Similar to the second approach, it will demonstrate that halakha does recognize the existence of the political as the primary sphere—but at the same time will insist that this sphere is subject to the demands of halakha. Finally, similar to the third approach, it will recognize the Jewish collective as the main Jewish agent—but insist that this recognition is not of a romantic-nationalistic character, but rather is legalistic-halakhic, namely, *Orthodox*.<sup>34</sup>

In the next two sections, I will argue that Isaac Breuer and Leo Strauss, respectively, promulgated such a position. However, as will become clearer further on, this fourth approach is also encumbered by a significant drawback. The adoption of a pure halakhic position in relation to the concept of the political will lead to the destruction of the modern differentiation of the political into a distinct value-sphere and, accordingly, to the creation of a comprehensive, total, and all-encompassing Jewish sphere. More specifically, this Jewish sphere, against Weber and Schmitt, will not recognize a clear distinction between morality and politics, and will posit legitimacy claims that affect both private and public realms. In other words, the effort to account for the *Orthodox* concept of the political ultimately results in the abolition of the political sphere as an independent sphere. That, however, demonstrates what

Lefort and Anidjar emphasized, namely that the differentiation into value-spheres itself is a cultural variant that should be critically examined.

## ISAAC BREUER: POLITICS AS SOCIAL ETHICS

The following concise sketch will focus on Isaac Breuer's earliest works, written between the 1912 establishment of Agudath Israel and the start of the First World War. Breuer saw a direct connection between the founding of Agudath Israel and the secessionist ideology of his personal Orthodox community (that is, the withdrawal of the Orthodox from the general Jewish communities, and the establishment of a separate administrative and institutional system for their communities, as championed by Breuer's grandfather, R. Samson Raphael Hirsch). Breuer interpreted this secession as a political move, a protest against any representation of a Jewish collective that is not under the sovereignty of the Orthodox interpretation of Judaism. For him, this secession was not simply a requirement directed at the individual to refrain from being subjected to a community run by the non-Orthodox; rather, it was a demand that the Jewish collective would not be defined by antihalakhic definitions, but rather by halakha.<sup>35</sup>

This political interpretation of secession (which was not shared by the vast majority of Hirsch's followers) formed the background for Breuer's support for the establishment of Agudath Israel. Agudah, according to his reading, is not simply an attempt to organize the practical needs of Orthodox Judaism under the conditions of modern politics (as it was understood by other supporters of this movement), nor was its objective to organize a mass movement to secure religious interests. Instead, Breuer perceived Agudath Israel as a determination regarding the true *public* character of the Jewish collective: that at its core, Judaism is publicly defined by its halakhic observance. In other words, Agudath Israel was not only an attempt to ensure (narrow) religious interests, such as Kosher food and the observance of Shabbat; rather, it was an insistence on the collective nature, and therefore the political nature as well, of the Jewish commitment to Torah.<sup>36</sup>

The young Breuer did in fact believe that membership in Agudath Israel should be restricted to members of secessionist communities. This demand, which for a variety of reasons was not ultimately accepted, demonstrates that for Breuer, the goal of Agudath Israel was not simply to secure the interests of Orthodox Judaism, but rather to represent the collective nature of the Jewish commitment to Torah. On several occasions, Breuer defined his early thought as an attempt to "politicize Orthodoxy," and he contrasts his position to other interpretations within Agudath Israel, which emphasized issues solely belonging to the sphere of "religion."<sup>37</sup> Indeed,

Breuer's attempt to move from the seemingly religious sphere of halakha into the political sphere is precisely what this essay seeks to articulate—an *Orthodox* conceptualization of the political.

Agudath Israel for Breuer is then an attempt to politicize the Jewish commitment to halakha; yet we must first define the conception that allows Breuer to understand halakhic obligations in collective terms. The halakhic obligation, after all, is more easily understood as individualistic in nature, whereas the political collectivity might be perceived as a human endeavor to ensure interests that are detached from the halakhic obligation. Breuer devoted great effort to developing a conception of the political that is closely linked to legal obligations; and it is the *legal* dimension of halakha, according to him, which provides the basis for Jewish collectivity. This unique connection that Breuer makes between the political sphere and the legal obligation creates not only an *Orthodox* concept of the political, but at the same time invents a *public* commitment to halakha.<sup>38</sup> To understand from whence this perception comes, it is vital to understand the unique place from which Breuer wrote during this period.

In the last years of the *Kaiserreich*, Germany experienced a massive growth in politicization among the masses, who had hitherto been excluded from participation in political processes.<sup>39</sup> The clearest demonstration of the politicization of the masses was the expansion of the Social Democratic Party into the largest political party in the *Reichstag*.<sup>40</sup> The ever-increasing participation of different segments of the population in the political process (albeit with fundamental limitations; the *Kaiserreich* remained a nondemocratic system) led to growing societal tensions, whereby different social groups struggled to promote competing political positions. For many conservatives, this led to two problems: not only did the masses, whom they feared, begin to influence policy, but procedural arrangements such as majority rule, rather than moral judgments regarding the common good, begin to determine the path of the state.<sup>41</sup>

The early Breuer looked askance at the democratization process. Yet, he simultaneously understood that he was witnessing a major shift in political life that would dramatically change the face of politics. He therefore considered the ways by which this democratic process could be restrained. In his early essays, one can find a dichotomy between “Democracy” and “Rabbanism.”<sup>42</sup> For Breuer, this meant that Agudath Israel would be led not by the masses, but rather by a council of Torah scholars. This would prevent the unenlightened masses from turning politics into a chaotic mess. These antidemocratic formulations need to be understood against a very specific background, namely Breuer's neo-Kantianism, and his participation in the debate that took place in those years in Germany, known as the *Werturteilsstreit* (“value-judgment controversy”).<sup>43</sup>

In contemporary social science, it is accepted that a distinction must be made between factual or interpretive knowledge regarding society, which belongs to

the realm of science, and value judgments, which belong to the realm of politics or morality. The most developed version of the value/fact distinction is identified with Max Weber, who distinguished between scientific knowledge, which must remain within the strict boundaries of factuality, and moral preferences, which deal with values. A fact can never determine a choice regarding a given moral challenge, which always appears arbitrary to an outside observer. Weber's Nietzschean formulation was "follow thy demon"—since one's personal conscience, and not one's knowledge, guides action.<sup>44</sup> This distinction between facts and values assigns an *apolitical* role for political science. Science can never guide politics. While one might be able to demonstrate the means needed in order to attain a given end, this knowledge may not be translated into ethical decision-making. In Weber's view, science and politics refer to two fundamentally separate spheres and, thus, could never collide.<sup>45</sup>

However, in the eyes of many scholars during the imperial period—who could be called, in the terminology of Fritz Ringer, "Orthodox Mandarins"—Weber's position symbolized a disregard for science and a program of anarchy for politics. In their view, knowledge gained from the social, moral, and cultural sciences was supposed to provide guidance to properly navigate Germany's course.<sup>46</sup> Just as the natural sciences are able to provide objective answers regarding problems in the world of nature, so too, the social sciences are meant to provide objective answers regarding specific social issues. Neither democracy nor various ideologies should determine political policy. This is the vocation of social scientists.

The strongest formulation of that position was expounded by Rudolf Stammler, who argued that one can achieve scientific objectivity with regard to specific political debates.<sup>47</sup> Breuer was attracted to Stammler's theories and dedicated his doctoral dissertation to analyzing them. In his essay, *The Concept of Recht on the Foundation of Stammler's Social Philosophy*, published in the highly prestigious journal *Kant-Studien*, Breuer argued that the social sciences, contrary to Weber, are, in truth, an evaluative science.<sup>48</sup> Breuer's technical essay, lacking any reference to Jewish issues, formulates his legal conception of the political in the most theoretical and abstract fashion. My focus on Breuer's essay relates to the objective of this article, which is not to elaborate on the *ideological* position of Orthodox Judaism, but rather to understand the latter's fundamental positioning vis-à-vis the concept of the political.

What Breuer found in Stammler is a unique conception of society that relies on a combination of ethics and legality. Social life is anchored in the morality and expressed in the legal norms guiding it.<sup>49</sup> Society should not be understood as an empirical, nonethical entity, as the empirical coexistence of individuals or as class warfare. Rather, society is an ethical endeavor, and what we deem as the empirical society is in fact an embodiment of certain ethical assumptions concerning the management

of collective life.<sup>50</sup> Respectively, Stammler and Breuer rejected the Weberian division between facts and values and sought to extract the ethical foundations of society.<sup>51</sup>

*Recht*, according to Stammler, best describes the ethical essence of society. This concept, which cannot be easily translated into English, is broader than the concept of “law,” and refers to the logical and ethical principles that govern the law itself. Stammler argues that *Recht* should not be understood as an external factor to society, to the extent that one can imagine a human society without *Recht*. Quite the opposite: society emerges from the very existence of the concept of *Recht*, and it is thus an unequivocally ethical phenomenon.<sup>52</sup> Society is a normative community of free willing people, who gathered themselves together in order to fulfill different teleological purposes.<sup>53</sup> The concept of *Recht* in and of itself represents the social capacity of humans to live together ethically and to set and fulfill goals freely.

Breuer harbored a deep appreciation for Stammler’s social ethics. He supported his endeavor to develop an ethical conception of society—as opposed to a Weberian empirical-neutral model, where society is perceived as a mere fact. In Breuer’s view, to ground and sustain a society is indeed simply an attempt to actualize the concept of *Recht*.<sup>54</sup> Breuer, however, believed that Stammler did not go far enough, and failed to fully anchor society in ethics. Although Stammler proved that all societies, once existing, necessarily rely on the concept of *Recht*, he did not provide any ethical reasoning for the very existence of society. After all, it can be argued that society represents a moral compromise, compared to the ethical purity that can be attained in isolation from it.<sup>55</sup> The challenge facing Breuer is to find ethics that obligate the very establishment of a society.

Breuer’s doctoral thesis is therefore devoted to establishing the ethical obligation to form a society. Breuer identified this ethical obligation by criticizing the individualist basis for morality as offered in Kantian philosophy. According to Breuer, we must transform the ethical obligation from the individual to society. An individualistic anchoring of morality could not account for the concept of *Recht*, and is forced to understand the latter as a heteronomous intervention into the world of the autonomous individual, who remains the sacred basis of morality.<sup>56</sup> In order to avoid conceptualizing society as heteronomy, we must develop a morality where society itself—and not the individual—is bound to an ethical obligation.

Breuer manages to formulate such a social obligation as emerging from the same obligation that anchored for Kant the individualistic concept of morality. The legislator generalizes not only his or her own acts, but also generalizes from themselves to others, and formulates ethical obligations that are by nature social.<sup>57</sup> Consequently, the ethical obligation inherently involves the concept of *Recht*: the individual who has discovered the moral categorical imperative also has an ethical obligation to legislate for society as a whole. Breuer attempts to slay two birds with one stone. First, he proves that social

ethics take precedence over the ethical obligation of the individual, and second, he successfully defends the concept of *Recht* as the moral (rather than purely heteronomous) basis for society, thereby understanding society in moral-legalistic terms.<sup>58</sup>

Accordingly, Breuer's doctoral thesis enables us to conceptualize the Jewish collective as inherently related to the concept of *Recht*. Jewish sociality is not a purely empirical fact, but rather stems from an ethical-legal obligation.<sup>59</sup> In terms of our interest—the formulation of an Orthodox concept of the political—Breuer's stance posits *Recht* or halakha as the main basis of Jewish collectivity. Breuer thus proudly accepts Kant's negative conception of Judaism as legality:<sup>60</sup> while Kant was correct regarding the nature of Judaism, his individualistic morality failed to understand the importance of legalism, and as a result, had to remain with a heteronomous or empirical concept of the political. Only Judaism defends *Recht* as the moral basis of society.<sup>61</sup> In conclusion, Breuer's concept of the political relates in its essence to the concept of *Recht* or halakha.

## LEO STRAUSS: LAW AS A PRECONDITION FOR SOCIALITY

The previous section showed how Breuer conceptualized the political as essentially related to legal obligation, which itself is dependent on ethics. Breuer's efforts mark the aspiration, prevalent during the last years of the *Kaiserreich*, to discover ethical-legal principles capable of overcoming a democratic society otherwise administered by value anarchy. The discursive and conceptual context of the young philosopher Leo Strauss, whose first works were published in the Weimar Republic, was slightly different, but in the end, not so far off. The conservative-revolutionary intellectual critique of Weimar was directed not at democracy (as in Breuer's critique), but at liberalism.<sup>62</sup> This constellation included not only value-neutrality with regard to the administration of public life, but additionally a "depoliticization" of different registers of public life, which excluded various topics such as civil rights, economics, religion, and the like from political debate.<sup>63</sup> This depoliticization has been important for political liberalism, which maintains a sharp separation between private and public sphere and protects the former from the latter.

Breuer attempted to overcome the processes of democratization by discovering an undisputed foundation of social ethics, capable of proposing absolute values regarding political questions. Strauss, who operated in an environment that was more liberal than democratic, was mainly opposed to what he perceived as the depoliticization of public life. He aspired to overcome the "neutrality" of political liberalism in relation to a wide range of questions, both religious and social.<sup>64</sup> In other words, in

contrast to liberalism that continually excludes spheres from the political (and in a most paradigmatic fashion, declares that the private sphere is completely independent/autonomous from the political sphere), Strauss attempted to retain the primacy of the political—and, at the same time, to avoid the value-neutrality characterizing liberalism.<sup>65</sup>

To understand Strauss' unique demand for repoliticization, it is worthwhile to consider two of his works from the 1930s. First, his 1932 article on Carl Schmitt, in which Strauss attempted to differentiate himself from the secular critique of liberalism, represented by Schmitt's antiliberal philosophy. As will be illustrated, Strauss understood that Schmitt, despite his attempt to overcome liberalism, in fact harbored a liberal conceptualization precisely because he failed to give an account of the legal formation of the political sphere. Second, in his 1935 book *Philosophy and Law*, Strauss outlines a uniquely Orthodox critique of liberal depoliticization, and defends, as John McCormick recently emphasized, the possibility of a "platonian theocracy."<sup>66</sup> In this work, Strauss transforms Orthodoxy into a paradigmatic framework for a proper understanding of the political, while simultaneously demonstrating that secularism is deemed to remain inherently depoliticized.

Strauss's critique of Schmitt's concept of the political is complex and has been subject to several interpretations. Philipp von Wussow has recently offered a compelling reading, arguing that Strauss accuses Schmitt of being fettered to his early neo-Kantian upbringing, which he allegedly tried to overcome by presenting an existentialist understanding of the political. According to von Wussow, Strauss attacks the neo-Kantian differentiation of culture into different spheres, a differentiation that posits the political as only one of many independent spheres—a position that Strauss identifies with the liberal concept of culture, which views culture as a human endeavor contrasted to the state of nature.<sup>67</sup> Schmitt, who designed the political as an independent human endeavor, was already enthralled by the liberal concept of culture that he explicitly sought to reject.

Wussow's important analysis helps explain why Strauss was insistent that the political is not merely one among many of human spheres, albeit primary as Schmitt claimed. Strauss argues that Schmitt and liberalism share a fundamental postulation. Liberalism distinguishes between the state of nature and the civil condition. The latter is an artificial condition, and requires one to overcome nature.<sup>68</sup> Politics is a technological arrangement, invented by human beings to overcome the inherent shortcomings of nature and the horrific conditions identified with it. The political is thus presented as a second creation, following the creation of nature. Strauss views this reposition as the true core of liberalism, and attacks this on two levels.<sup>69</sup>

The first: the liberal understanding of the political must, paradoxically and against its own will, admit that the sphere of the political becomes dependent on moral

decisions. Liberalism assumes, due to its moral outlook, that politics is dangerous, and thus seeks to limit the scope of the political and to exclude from it ever-growing areas of human activity. Schmitt merely reverses this assumption; he insists, due to his moral insight regarding the importance of the political, on the importance of bringing the political back to its primacy. Thus, although Schmitt explicitly opposes morality to politics, he remains fettered to the very same logic he seeks to uproot. Schmitt's defense of the political is not related to any assumption regarding the *naturalness* of politics—after all, in his opinion, politics is indeed opposed to the “evil” of the state of nature. Schmitt, thus, merely insists on the importance of the artificial and technological sphere of the political for strictly moral reasons: in his opinion, a world without politics would be a bad world, with nothing to live or die for.<sup>70</sup> This “private” moral postulation caused Schmitt to elevate the sphere of the political within his essentially liberal conceptualization of culture.

According to Strauss, Schmitt merely developed an alternative morality to liberalism, an existentialist morality, which does not neutralize, but rather sanctifies, the political. However, Schmitt remained liberal by undermining the autonomy of the political—and discovered that the latter is dependent on arbitrary (existentialist) moral decisions and nothing more. Furthermore, Schmitt shares with liberalism not only the dependency of politics on morality, but also the essentially neutral design of the political. For Schmitt, the political remains, similarly to liberalism, entirely empty; what is essential is that there be a political struggle for life and death, no matter the content. In Schmitt's political philosophy, liberalism's neutralization of values is merely turned on its head: liberalism wishes that we sit out the fight, no matter how significant the value at stake; Schmitt wants to fight for every value, no matter how insignificant.<sup>71</sup>

For the purpose of this article, however, another dimension in Strauss's critique must be emphasized, and that is the *Orthodox* alternative that Strauss presents to the Schmittian conceptualization of the political. To unpack this step, we must examine Strauss's 1935 work, *Philosophy and Law*. In the first chapter of this work, Strauss argues that his teacher, the Jewish philosopher of religion Julius Guttman, author of the classic work *Die Philosophie des Judentums*, misrepresented medieval philosophy. In Guttman's view, medieval philosophers were troubled by the criticism that religion faced from philosophy, and accordingly attempted to carve out an independent sphere for religious consciousness. In other words, religion—similar to the concept of the political—has been invented, according to Guttman, as a distinct human activity, one of several registers in the activities of a cultured person that must be independent from the criticism of other spheres, such as science.<sup>72</sup>

Strauss strongly disagrees with the assumption that religion is merely one “value sphere” (to use again Weber's terminology) out of many, equivalent to and

independent from, for example, the economic, scientific, or moral sphere—that is, spheres that encompass a distinct area of human activity, and themselves depend on human activity that directs them. Strauss contrasts this constellation, which he calls “philosophy of culture,” to “the factuality of religion, which is proving to be a major difficulty for the philosophy of culture.” At this point, Strauss presents the following, fascinating, footnote:

The other crux of philosophy of culture is the fact of the political (cf. my “Anmerkungen zu Carl Schmitt, Der Begriff des Politischen,” *Arch. Für Sozialwissenschaft und Sozialpolitik*, Vol. 67, pp. 732 ff.). If “religion” and “politics” are *the* facts that transcend “culture,” or, to speak more precisely, the *original* facts, then the radical critique of the concept of “culture” is possible only in the form of a “theologico-political treatise”—which of course, if it is not to lead back again to the foundation of “culture,” must take exactly the opposite direction from the theologico-political treatises of the seventeenth century, especially those of Hobbes and Spinoza. The first condition for this would be, of course, that these seventeenth century works no longer be understood, as they almost always have been up to now, within the horizon of philosophy of culture.<sup>73</sup>

Strauss argues for a principal parallel between the political and the religious, which is evident precisely in the fact that these two areas—which the liberal philosophy of culture understands as merely “value-spaces”—are in fact primary and fundamental factualities. They are not merely spheres created by humans, but rather facts that themselves condition human activity in a manner that enables culture to exist in the first place. Following Claude Lefort (quoted above), we can say that both religion and politics allow and govern access to the world. Religion and politics are transcendental conditions of human existence, in the sense that culture is possible only after their interventions, which logically precedes culture. Politics and religion are given to the cultural person from the outside, and are not the effects of inner-worldly autonomous efforts; they are part of the situation into which cultural persons are born and sent out.

If we return to the Orthodox concept of the political, then Strauss’s argument can be interpreted as follows: there is a fundamental problem with Schmitt’s conceptualization of the political. Schmitt interprets it as an autonomous sphere of action, part of the human endeavor within culture that comes after the state of nature. But for Strauss, any conceptualization of the political that interprets the latter as an autonomous human act ignores the factual precondition from which this contemplation is taking place, and represents a mere fantasy of being independent of the political. This contemplation has already been shaped by the political, which remains inaccessible

to its gaze. For Strauss, any positivist conceptualization of the political that assumes a state of nature outside of it has already misunderstood the latter. A true conceptualization of both religion and politics would never allow itself to be contrasted to the state of nature. It will instead posit claims regarding the natural state as well. For Schmitt, the state of the political arrives only at the end, after the state of nature; for Strauss, it arrives in the beginning. The human is shaped by the political—and by religion as well.<sup>74</sup>

Strauss therefore opposes the understanding of the political as a distinct sphere of activity, and seeks instead to view it as given to humans. And it is in this context that he posits an Orthodox concept of the political. In his view, the political is related to the *lawful* existence of humans: “we have acquired a first indication of how the medieval philosophers understand religion: they understand it not as a “field of validity,” nor as a “turn of consciousness,” least of all as a “field of culture,” but as law.”<sup>75</sup> The only way religion and politics can produce collective human existence is through the perfect law, given over by a prophet:

The prophet is thus teacher and ruler, philosopher and legislator in one. And since he could not be a ruler without the capability of knowing the future and performing miracles, he is philosopher/legislator/seer/miracleworker in one.

Now it is clear why the philosopher, even if he can come to know on his own all the truths communicated by the prophets, is nonetheless dependent on revelation, has an interest in revelation. The philosopher is dependent on revelation as surely as he is a human being, for as a human being he is a political being and thus is in need of a law, and as a rational man he must be primarily concerned with living under a rational law, that is, a law directed to the perfection proper to man.<sup>76</sup>

In conclusion, Strauss presents the political not as a sphere of activity understood as being part of culture, but as a concept that shares a distinct formal characterization with religion(s): both constitute an extrahuman basis for the project of culture. The political sphere is bound in its essence with the concept of law, which has been transformed into a transcendental condition for the possibility of any culture.

## SUMMARY: THE ETHICAL-LEGAL CONCEPTUALIZATION OF THE POLITICAL

This essay provided an interpretation of Orthodox Judaism’s concept of the political as related to Orthodoxy’s central commitment: halakhic observance. Both Breuer and Strauss emphasize that the political is not simply an autonomous sphere, but

is rather a concept that embodies a connection between the human condition and the norms that appear in the perfect law. For Breuer, the human is a social animal by virtue of its ethical obligations—meaning, as a product of its obligation to live under *Recht*, which has primacy over the individualistic moral commitment. For Strauss, the political is revealed as a transcendental condition for culture. The political is not designed by an autonomous human endeavor, but rather through the given, revealed law, into which people have always been born. What is important for our sake is that both thinkers emphasize the connection between politics and law. (In this context, it is worth noting that Breuer applied the German term *Recht* (which in the German tradition, most notably in Hegel, relates to the lawfulness of the Law) while Strauss preferred the term *Gesetz* (which may be translated as law in the regular usage of this term.)

Both Breuer and Strauss criticize political Zionism for failing to lay the foundation for a true politicization of Judaism. Zionism, in their view, is shown to be a movement whose politicization is unrelated to Judaism. The true politicization of Judaism will only come forth through a conceptualization that recognizes the public validity of Jewish law—and as part of an effort to establish halakha as a basis for the existence of the Jewish collective. Orthodox Judaism, which structures a public Judaism centered on the commitment to Jewish law, is alone able to capture the essence of Jewish political essence. (Strauss's critique of Zionism, it should be added, is more complex; he was indeed willing to recognize Zionism as a secular movement, but rejected it as a *Jewish* movement.)

The polemic presented in the Orthodox concept of the political is directed not only against Zionism, which denies that the politicization of the Jewish collective is centered around Jewish law, but also against any nonpolitical conceptions of Orthodox Judaism. It is primarily a rejection of any interpretation of Jewish religious observance as an individualistic, rather than a public, obligation. According to both Strauss and Breuer, the commitment to Jewish religious observance is collective and public in nature, and accordingly, both insist that Jewish law contains political attributes. At the same time, they are polemicizing with other interpretations of allegedly Jewish politics, such as those of Martin Buber, which do not situate halakha as their main attribute and therefore fail to be properly *Jewish* and properly *politics*.

The political conceptualization of Orthodoxy has the advantage of taking seriously the possibility that halakha can serve as the basis for politics. Unlike the three other conceptualizations mentioned above, it is not, respectively, overly individualistic; it allows the disunion of the political from halakha; and it presents romantic-nationalistic abstractions. Orthodoxy is rather understood to simply be proper politics. Yet this conceptualization also comes with a heavy price, relating to the emergence of the Jewish totality. The insistence that politics is inherently related

to halakha ultimately denies that politics, law, and morality are independent spheres. Instead, the political becomes identical with the confines of the law, which itself is understood as being identical with both religion and morality. This conceptualization is accordingly incapable of recognizing the difference between private and public spheres, and is therefore designed in a distinctly antiliberal manner. The essence of the ideology that presupposes the totality of the Torah can therefore be seen in the thought of both Strauss and Breuer. This ideology is also responsible for the enmity between Orthodox Judaism and liberalism—an enmity whose genealogy is yet to be written.

## NOTES

1. My usage of the term “political epistemology” is based on the important analysis in Lapidot, “Schmitt’s Warring Wars.”
2. Kelly, *The State of the Political*. See also Ulmen, *Politischer Mehrwert*, 110–13. For the connection to religion—and the differences between Protestant (Weber) and Catholic (Schmitt) conceptualization of the political—see Ulmen’s introduction in Carl Schmitt, *Roman Catholicism and Political Form*.
3. Weber, “Religious Rejections of the World and Their Directions.”
4. Schmitt, *The Concept of the Political*, 27.
5. Schmitt, 37–38.
6. The genealogy of the perception of modernity as growing differentiation of activity into distinct modalities and types of rationalities is yet to be written. An important source is the Neo-Kantian version of the philosophy of values, which greatly influenced Max Weber. See Oakes, *Weber and Rickert*, chapter 3.
7. Lefort, “The Permanence of the Theologico-Political?,” 222.
8. Anidjar, “Secularism.”
9. See most recently, regarding the anti-Zionist flanks of Orthodoxy, Inbari, *Jewish Radical Ultra-Orthodoxy Confronts Modernity*.
10. A relevant example is the classic analysis of Ravitzky, *Messianism, Zionism, and Jewish Religious Radicalism*.
11. For a foundational study on the inherent relations between Orthodoxy and modernity, see the important work of Sorozkin, *Orthodoxy and Modern Discipline*.
12. Mahla, *Orthodox Judaism and the Politics of Religion*.
13. Kaye, *The Invention of Jewish Theocracy*; Yedidya, *Halakha and the Challenge of Israeli Sovereignty*.
14. Seidman, *Sarah Schenirer and the Bais Yaakov Movement*.
15. Brown, *Trembling at the Word of the People*.

16. Magid, *Meir Kahane*.
17. Ben Ami, "The Total State of the Torah."
18. On Breuer's history and biography, see Morgenstern, *From Frankfurt to Jerusalem*. On Breuer's philosophy, see Mittleman, *Between Kant and Kabbalah*.
19. On early Strauss, see Sheppard, *Leo Strauss and the Politics of Exile*.
20. See Strauss's words, written in retrospective: "Considerations like those sketched in the preceding paragraphs made one wonder whether an unqualified return to Jewish orthodoxy was not both possible and necessary—was not at the same time the solution to the problem of the Jew lost in the non-Jewish modern world and the only course compatible with sheer consistency or intellectual probity." Strauss, *Spinoza's Critique of Religion*, 15.
21. Karl Jaspers, probably acquainted only with Strauss's writings, naively assumed that Strauss is simply "an Orthodox Jew." See also Hannah Arendt's answer and the following remarks of Jaspers in Kohler and Saner, eds., *Hannah Arendt–Karl Jaspers: Correspondence*, 241, 244, 247.
22. See, for example, Strauss, "Ecclesia militans [1925]; Strauss, "Zionismus Und Orthodoxie [1924]."
23. See the important remarks in Batnitzky, "From Politics to Law," on the ways in which some versions of Orthodoxy itself have become grounded in the notion of "Religion."
24. On the rise of the modern state and the end of the Jewish autonomy, see Graff, *Separation of Church and State*.
25. See in this regard the Kelsenian approach of Englund, *Religious Law in the Israel Legal System*.
26. The reference here is mainly to authors who try to downgrade the importance of theocracy from a Jewish perspective. See the critical discussion in Ben Ami, "How Judaism Became a Statist Theocracy."
27. Soloveitchik, *Divrei Hagut VeHa'aracha*, 89.
28. Lorberbaum, *Politics and the Limits of Law*.
29. See the solutions from Halakhic perspective in Shochetman, "The Halakha's Recognition of the Laws."
30. See the important remarks in Lorberbaum, "The Price of Politics."
31. Lifshitz, *Rabbi Meir of Rothenburg*.
32. See the important dissertation of Fischer, "Self-Expression and Democracy in Radical Religious Zionist Ideology." Fisher emphasizes R. Kook's debt to romanticism.
33. See also the remarks, albeit written in another context, against the specific romantic nature of such religious endeavors disguised as traditionalism, in Asad, *Formations of the Secular*, 197–98.
34. A project which goes in this Orthodox direction and attempts to imagine halakha as a political basis is Avi-ram Tzoreff, "Torah and Commandments."
35. See the retrospective remarks in Breuer's autobiography, *Mein Weg*, chapter 2.

36. See especially Breuer's attack on the narrow understanding of Agudah in his pamphlet "Das jüdische Nationalheim [1925]."

37. The emphasis on the "Politisierung des Judentums" appears in Breuer's collection of essays *Programm oder Testament*, which includes Breuer's own version of political theology. See especially Breuer, "Fazit [1928]," 84; Breuer, "Die Mobilmachung des Judentums [1917-1918]," 43.

38. See especially the early distinction between the public element of *Gehorsam* (obedience) and the private conviction of *Lehre* (teaching) in the observance of halakha, in Breuer, "Lehre, Gesetz Und Nation."

39. See the recent remarks of Richter, *Aufbruch in die Moderne*, 9–16.

40. Breuer took great interest in the phenomenon of the SPD. See for example Breuer, "Die Neuorientierung Des Deutschen Judentums [1917]," 5.

41. This is the telling narrative of Ringer, *The Decline of the German Mandarins*.

42. See especially Breuer's essays in Pinchas Kohn's journal *Jüdische Monatshefte*: Breuer, "Agudaß Jißroel" (1); Breuer, "Agudaß Jisroel" (2).

43. For general introductions see Gert, "Der Werturteilsstreit"; Schluchter, "Polytheismus der Werte."

44. Weber, "Science as a Vocation."

45. See also Weber, "Politics as a Vocation," 79–84.

46. Ringer, *The Decline of the German Mandarin*, chapter 5.

47. Especially in his book *Wirtschaft und Recht nach der materialistischen Geschichtsauffassung*. I have analyzed this book elsewhere.

48. Breuer, "Der Rechtsbegriff auf Grundlage der Stammerschen Sozialphilosophie," 29.

49. In that regard, Stammmer was decisively influenced by Hermann Cohen, who had also attempted to anchor individualistic morality in social ethics, which finds its paradigmatic formulation in the concept of *Recht*. One might call it a "politicization" of Kant's moral theory. See Pascher, *Einführung in den Neukantianismus*, 180–85.

50. Stammmer, *Wirtschaft und Recht*, 77–81.

51. See, for example, Stammmer, *Wirtschaft und Recht*, 350.

52. Stammmer, *Wirtschaft und Recht*, 212–14.

53. Stammmer, *Wirtschaft und Recht*, 554–56.

54. Breuer, "Der Rechtsbegriff auf Grundlage," 52.

55. Breuer, "Der Rechtsbegriff auf Grundlage," 39–40.

56. See especially in an earlier essay of Breuer, "Frauenrecht, Sklavenrecht und Fremdenrecht [1910]," 169.

57. Breuer, "Der Rechtsbegriff auf Grundlage der Stammerschen Sozialphilosophie," 62–63.

58. Breuer, "Der Rechtsbegriff auf Grundlage," 64.

59. Breuer, "Der Rechtsbegriff auf Grundlage," 67.

60. Kant, *Religion within the Boundaries of Mere Reason*, 130–31.

61. The question regarding Kant's understanding of the political—and whether it was an empirical or moral register for him—is of course an important one. See Habermas, *The Structural Transformation of the Public Sphere*, 102–17, for his argument that that these two seemingly separate accounts are important for Kant.

62. The literature on the Weimar conservative-revolutionary critique is vast. For an initial reference, see Mohler and Weissman, *The Conservative Revolution in Germany*; Stefan Breuer, *Anatomie der konservativen Revolution*.

63. For critique of this “depoliticization” see, most paradigmatically, Schmitt, “The Age of Neutralizations and Depoliticizations (1929).”

64. For the changes in the contour of “neutrality” in this time see the entry of Schweitzer and Steiger, “Neutralität,” 315–70.

65. See especially Cerella, “Encounters at the End of the World”; Behnegar, “Leo Strauss's Confrontation with Max Weber.”

66. McCormick, “Platonic Theocracy, Liberalism, and Authoritarianism in Leo Strauss's Philosophy and Law.”

67. Von Wussow, *Leo Strauss and the Theopolitics of Culture*, throughout the first part.

68. See the important analysis of Blumenberg, “The Concept of Reality and the Theory of the State (1968/1969).”

69. Strauss, “Notes on Carl Schmitt,” 107. See also 102 and 119.

70. Strauss, “Notes on Carl Schmitt,” 113–16.

71. Strauss, “Notes on Carl Schmitt,” 116–18.

72. Strauss, *Philosophy and Law*, 41–43.

73. Strauss, *Philosophy and Law*, 138.

74. See again Strauss, “Notes on Carl Schmitt,” 119–20.

75. Strauss, *Philosophy and Law*, 60.

76. Strauss, 71.

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