Book Reviews


This rich and erudite work provides a valuable scholarly apparatus for understanding the writing and teaching of four important figures in international law and international relations. Three of them, Hans Kelsen, Hans Morgenthau and Hersch Lauterpacht, are well known; the fourth, Erich Kaufmann, much less so. The general thesis of the book is that to understand fully the personal and intellectual trajectories of all of these figures, one needs to appreciate the specific German–Jewish experience, from emancipation through the Shoah, the particular situation of the Jews in the legal profession and the academy in Germany, and the responses of these thinkers to experiences of persecution, discrimination and exile due to their Jewish family backgrounds as well as to the establishment of the State of Israel. In addition, Reut Paz makes more specific claims that one can see in the ideas and writings of these thinkers on certain specifically Jewish ‘motifs’ or themes or what she calls the ‘Jewish psyche’. In my view, Paz fully succeeds in vindicating the general thesis. Although I am long familiar with the work of Kelsen, Morgenthau and Lauterpacht, there was much in her book that stimulated new reflections on their sensibilities, intellectual and professional choices and normative stances. Alternatively, I have a considerable discomfort with Paz’s attempts to explain aspects of these thinkers in terms of a ‘Jewish psyche’ or, possibly, a German–Jewish one. Paz is not primarily a scholar of the sociology of religion or an ethnographer. Much less does she rely on traditional religious sources for her concept of Jewish ‘identity’ or ‘psyche’. Instead, she draws very selectively on Sigmund Freud, Slavoj Žižek and (most of all) critical theorists of international law, such as Martti Koskenniemi. This strikes me as a rather questionable intellectual basis for her rather strong claims about the thinkers presented.

An initial difficulty is that there is very limited explicit Jewish identification in the works of these thinkers or (with the exception of Lauterpacht) in their lives. Kaufmann gave no acknowledgement of his Jewish origins and lived the existence of a Protestant junker. Kelsen converted to Catholicism at the age of 25; he apparently had some involvement in the Jewish community of Vienna prior to this age. Morgenthau grew up in an assimilated family and appears never to have had any specifically Jewish education. There are interesting and illuminating episodes in the lives of these thinkers that do touch on Jewish matters: Kaufmann, while a conservative statist thinker and German nationalist, is at the same time critical of the anti-Semitic Carl Schmitt; Lauterpacht is behind a draft of Israel’s Declaration of Independence; Morgenthau defends Israel against its critics in the 1960s as a state without imperial ambitions that seeks only a stable power balance in the Middle East. In these episodes, Paz helps us to see how Jewish background – or even just being subject to persecution or the threat of persecution on account of this background – may have mattered. However, such episodes are relatively rare, and so most of the time Paz’s claims about the ‘Jewish psyche’ are based on a kind of excavation of a purported collective subconscious understanding of Jewish motifs, images and concepts that are at work in influencing these thinkers, but buried very deep, generally speaking.

There are a number of difficulties with such an exercise. One of them is that, as Paz indeed acknowledges, despite the significance of anti-Jewish and anti-Semitic thinking in modern German history, Judaism formed an essential part of German intellectual high culture and identity. One only needs to read Georg Hegel, Friedrich Nietzsche and Max Weber to see this and,
indeed, to see how each of these philosophers’ conceptions of European civilization, past and future was shaped by their deep reflection on Judaism. Thus, it is possible that Paz might be correct to identify Jewish elements in some of the concepts, styles of argument or motifs of the four thinkers she examines, but their presence might just as well be due to the general intellectual milieu and the education these scholars received in German-speaking Europe, rather than their possessing some kind of collective ‘Jewish psyche’ due to their family background.

It is in the first place a tricky business to fix the content of a ‘Jewish psyche’ without falling back, albeit unwittingly, on stereotypes and prejudices about Jews. In the case of the scholars in question, what Paz calls ‘Jewish cosmopolitanism’ or German–Jewish cosmopolitanism looms large in the characterization of the ‘Jewish psyche’. However, there is little clarity in Paz’s explanation of what constituted a specifically Jewish cosmopolitanism. It seems to have to do with associating Jews with global capitalism, on which Paz cites Karl Marx. Paz’s initial general definition of cosmopolitanism as ‘personal political commitment to serving justice and the good that may entail departing from the comfort of patriotism’ (at 23–24) seems to contrast with what she describes as the forced Jewish cosmopolitanism due to ‘marginalization from European nation-statism’ (at 27). Yet cosmopolitanism was not the only or natural response to this ‘marginalization’; so was the longing for a state of one’s own, as reflected in the various Zionist movements among German Jews in the first part of the 20th century — movements that became prominent in the formative years of the scholars under study.

Perhaps one of the greatest puzzles about Paz’s book is why there is no systematic discussion of Zionism and its intellectual and sociological roots in German Jewry. Another non-cosmopolitan response to ‘marginalization’ was assimilation and participation in German legal and political life — the precariousness of which was illustrated by the assassination of Walther Rathenau who had braved anti-Semitic attacks to become an influential politician in the early years of the Weimar Republic. When Paz refers to the ‘cosmopolitanism’ of Erich Kaufmann, this is in fact almost impossible to distinguish from patriotic German nationalism. Simply because he did not follow Carl Schmitt to the extreme edge does not really make Kaufmann a cosmopolitan. Indeed, towards the end of the book, Paz contrasts Lauterpacht, whose cosmopolitanism is balanced or qualified by his Zionism with Kaufmann’s view that a ‘universal Gateway to God emanates through the concrete spirituality of the sovereign state’ (at 349), which hardly sounds cosmopolitan at all. The interesting question is why Kaufmann chose the German state rather than Zionism as the gateway, while Lauterpacht was pulled somewhat away from cosmopolitanism by Zionism, but answering this question would require the kind of systematic treatment of Zionism and German Jewry through the historical period in question which, as I have already lamented, is absent from Paz’s book. As for Morgenthau as a cosmopolitan, his differences with Schmitt on the inevitability of life-threatening political conflict do not arise from ‘cosmopolitanism’ so much as a belief in the possibility of diplomacy and power balances (in fact, the latter is not that far removed from Schmitt’s own thought as is exhibited in his deployment of the *Grossraum* concept in his later writings.)

It is a great credit to Paz’s integrity as a scholar that, in fact, the evidence that challenges her generalization about ‘Jewish cosmopolitanism’ is to be found in her own fine-grained, subtle appreciation of the thinkers under study. She is at her best when she engages them directly, unmediated or unfiltered by the abstractions or dense jargon drawn from theorists such as Koskenniemi and Žižek. Paz speculates that these thinkers’ devotion to law in its universalism and aspiration to human order was a way of approaching a distant God — the hypothesis is as appealing to this reader as it is elusive of proof. I would say that Paz is able to bring across to the reader a strong sense of the unshaken scholarly and professional commitment of the four thinkers through the darkest times, and, in historical context, one could well see this commitment as an implicit affirmation of God. The belief in reason and law by Jewish minds could not be broken by the Holocaust — the *olam* remains an *olam*.

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