Neither/Nor: Moses Mendelssohn’s Political Theology

Abstract

The purpose of this essay is twofold. Firstly, it aims to illuminate key aspects of the work of Moses Mendelssohn (1729-1786), the “Father of the Jewish Enlightenment”—in particular, his theory of “religious power.” Secondly, it brings Mendelssohn’s ideas and insights to bear on the problem of Nihilism—a problem in the development of which Mendelssohn is usually considered to have played a merely incidental role. Mendelssohn’s analysis of the relation between ethical-religious and political powers as distinct yet inseparable helps bring into focus the elusive nature of the “unwritten law” of ethics.

Key Words: Nihilism, Normativity, Religion, Mendelssohn, Jacobi, Unwritten Law, Imperfect Right, Political theology.

Moses Mendelssohn enters our history books in two separate contexts which seem to have nothing in common. In the context of “Jewish Philosophy”[[1]](#footnote-1) Mendelssohn is best known for his idiosyncratic view of Judaism as a religion devoid of any principles of belief, and for his confidence in its compatibility with reason—positions developed in his *Jerusalem: Or, On Religious Power and Judaism* (1783). In the history of philosophy, however, Mendelssohn is known as the last representative of the dogmatic Leibniz-Wolff School, rendered obsolete by Kant’s critical, transcendental turn. In this broader context, Mendelssohn is also widely recognized to have played a role, if only contingently, in the emergence of the term *Nihilism*. This wasat a decisive moment in the historical development of the problem; namely, the so-called pantheism controversy, in the context of which he published his last work of philosophy: *Morning Hours: Lectures on God’s existence* (1785)*.*

Despite this, he has never been considered a part of the problem’s essential development. Central to its historical development, Nihilism has been addressed expansively by canonical figures of the continental philosophical tradition, although it begins with a much lesser-known figure today: Friedrich Jacobi, Moses Mendelssohn’s young interlocutor in the above-mentioned pantheism affair. In what follows, I aim to show that Moses Mendelssohn, if he seems like odd company for the likes of Nietzsche and Heidegger, far removed from their existential concerns, it is not because he failed to see the profound challenge posed by Jacobi,[[2]](#footnote-2) but because he believed he had already dealt with the core problem elsewhere: in his Jewish writings.[[3]](#footnote-3)

While it lies beyond the scope of this article to show in detail why Mendelssohn believed he had sufficiently addressed the challenge in his *Jerusalem*, it will be argued that his unique and under-appreciated theory of political-theological difference (developed in the first and lesser-known part of his *Jerusalem*)is a valuable contribution to the philosophical discussion of Nihilism. In bringing into focus the elusive notion of normative force as an ethical category distinct but inseparable from political power, his theory goes some way towards dissipating the Nihilistic double bind: the impossible choice between passive submission to, and active annihilation of, the law.

Nihilism’s Double Bind

*Nihilist: “We believe in nothing Lebowski. Nothing. And tomorrow we come back and we cut off your Johnson.” (The Big Lebowski)*

Nihilism is notoriously difficult to define. It is not only that there exists an immense literature on the topic; there seems to be something elusive to Nihilism, that “most uncanny of guests,” as Nietzsche described it.[[4]](#footnote-4) And while it is difficult to pinpoint philosophically, it has come to describe, even in popular culture, the modern crisis of values—a crisis of meaning in its comprehensive, ethical sense. In what follows we will work our way upwards towards Nihilism’s characteristic traits by setting aside, for now, the conceptual difficulties in approaching the problem, and attending first to its terminological emergence and trajectory, which are easier to determine.

The term first arises in relation to Kant’s transcendental philosophy. Then, after a brief yet stellar literary conveyance via the anti-nihilistic novels of Turgenev and Dostoyevsky, it makes its way to the center of Nietzsche’s anti-philosophical thought, where it receives some of its decisive formulations and associations.[[5]](#footnote-5)

Why was Kant’s legacy of transcendental idealism seen to be so disastrous? Astute contemporary critiques have found Kant’s turning of the philosophical gaze inward, so to speak—with the aim of establishing knowledge and morality on an understanding of our subjective constitution—a position which can only lead to catastrophic consequences for knowledge and morality alike. Nihilism in this context was intended to describe, indeed, to call out, extreme Kantians who considered the thing-in-itself as nothing for our cognition.[[6]](#footnote-6) Such a position could only give rise to disastrous cognitive and moral consequences, if all we could know were appearances and illusions, with no grasp on the real.

But it is Friedrich Jacobi who is credited—in a rare scholarly consensus on the topic—with first developing the term conceptually, in a letter to Fichte[[7]](#footnote-7) in 1799. More than a decade earlier, however, Jacobi had been involved in the infamous “pantheism controversy” with Moses Mendelssohn, where he argued that Spinozism amounted to atheism. The controversy had its origins in a private correspondence between Jacobi and Mendelssohn regarding Lessing’s alleged Spinozism, and is today considered, alongside Kant’s transcendental philosophy, the major intellectual event of the period, ushering in a series of important intellectual and cultural developments.[[8]](#footnote-8)

In Jacobi’s view, Spinoza’s admirably consistent application of rationality’s prime principle (the principle of sufficient reason) leads inevitably to a world with no room for spontaneity, creativity and freedom. For Jacobi, there was no point in offering a philosophical counter-argument, for it was rational philosophy itself that was the problem; it could not but lead to such a dim, unlivable view of reality. The only way out was a *salto mortale*, a leap of faith. Philosophy, in its unwitting path of despair, can only bring us to the brink of an existential choice.

It was the clash between theoretical and practical reason, between knowing and willing, that made Jacobi’s interpretation of Spinoza an emphatically modern one—more than merely rehashing the age-old faith/reason debate. This was not an argument for the supplementation of reason by faith, or even the rejection of reason in the name of faith. The claim was that the very systematic tendency of the modern outlook, the insistence on a unifying principle to account for all reality,[[9]](#footnote-9) cannot but drive out of said reality—i.e., turn into semblance—anything that did not fit its deterministic, mechanistic knowledge. Such an outlook left no room for human agency. It was a knowledge that turned against the knower, leaving no room for her as anything but an object of knowledge, or a passive spectator.

The argument was not that this view is mistaken, but that it was unlivable; and, therefore, it was unacceptable, to be resisted at all costs. Better a willed ignorance than this suffocating knowledge. In its irrationalityi.e., its lack of sufficient reason—the existential leap of faith was a performative proof of a kind of freedom that cannot be assimilated into thoroughgoing rationality; it was a gap in what has to be an unbroken chain of reasons. Jacobi’s act was a defiant refusal of the laws of reason. Agency is impossible within such a suffocating system—one can only act against it.

Jacobi’s argument against Fichte follows a similar path. As Jacobi saw it, Fichte’s post-Kantian Idealism recognizes no truth beyond consciousness or reason and therefore falls into an absolute subjectivism that is essentially an inverted Spinozism. It reduces everything to the activity of the I, and thus reduces God to a mere creation of the human imagination, just as Spinozism had reduced God to (a lifeless, mechanistic) nature. Jacobi concludes:

Man has this choice and this choice alone: nothing or God. Choosing nothing he makes himself God; that means he makes God an apparition, for it is impossible, if there is no God, for man and all that is around him to be more than an apparition. I repeat: God is and is outside me, a living essence that subsists for itself, or I am God. There is no third Possibility.[[10]](#footnote-10)

If Spinoza, in equating God with Nature, had offered a picture of reality leaving no room for human agency and subjectivity, the transcendental idealism of Fichte had imagined the human subject as the replacement of God[[11]](#footnote-11). In either case – subsumed into nature or excluded from it - human agency has lost its proper scope and measure, oscillating between impotence and omnipotence.

The trappings of a miserable, impossible, choice is arguably the single most salient feature of Nihilism, from Jacobi to Nietzsche and beyond. Alenka Zupančič notes how Nietzsche’s division of Nihilism into passive and active is not a division of one genus into two species, but rather, the very predicament of Nihilism as such. Oscillating between not willing (passive nihilism), and willing nothingness (active nihilism) *is* Nihilism.[[12]](#footnote-12) As we shall see in what follows, it is precisely in offering an opening towards the third possibility excluded by Jacobi, the possibility to avoid the choice altogether, that Mendelssohn’s thus far unrecognized contribution to the debate lies.

Nihilism’s “choice” is antinomic: since there can be no true willing, no freedom, under the yoke of the law, it is only outside and against the law that one can truly act. David Fincher’s *Fight Club[[13]](#footnote-13)* can help drive the point home. Edward’s Norton’s unnamed protagonist (and narrator) suffers throughout the film from a life of mediocracy, unable to feel truly passionate about anything. Norton, the quintessential exemplar of passive Nihilism, then meets Tyler Durden (Brad Pitt), who is his direct opposite: transgressive, uninhibited, liberatingly destructive, he is active Nihilism embodied. The famous twist of the movie (spoiler alrert) is that the two are one, split personality. The movie ends cathartically with one aspect (Norton) watching passively (chained to the chair) as the other (Pitt) actively destroys the capitalist system governing our lives, erasing debt by blowing up the buildings containing credit card records.

The Ambivalence of the Law

For Jacobi, there had to be a God, a being above and beyond the laws of nature, in order for true agency to be possible. It is only in submitting to a transcendent source of authority, that the space of freedom opens up. Nihilism can be seen a response to the profound ambivalence regarding the law in modern ethical and political thought, the antinomy at the heart of autonomy, so to speak. As self-legislation became the defining principle of modern freedom[[14]](#footnote-14), it had split subjectivity between an almighty, sovereign legislator, and his powerless subject.[[15]](#footnote-15) As self-legislators we find ourselves, at the same time, tyrannized by an incompetent master and unable to control an unruly simpleton. The identification of law and power makes power into a zero-sum game, but one that cuts through the very core of our subjectivity.[[16]](#footnote-16)

The discontent with autonomy amplifies an ambivalence inherent in the law, the problematic slippage between law as an ethical category, and as a political one. Is the law a political instrument of power, ultimately alien to ethics, internalized to the detriment of its subjects?[[17]](#footnote-17) Or does self-legislation put us finally on the right ethical footing, locating the source of normative power in the rational capacities of human individuals, rather than some mystical other, whether that be god or the ways of old? Does autonomy signal our liberation from power, or an unheard-of submission to it?

Let us consider two contemporary philosophers with seemingly opposing views of the problem, yet sharing a remarkably similar vocabulary: Giorgio Agamben and Robert Brandom. In his ‘Homo Sacer,’ Giorgio Agamben, [[18]](#footnote-18) has singled out as paradigmatically encapsulating the modern crisis of meaning, or Nihilism, an expression used by Gershom Scholem, the founder of the modern study of Jewish mysticism, to describe the law in Kafka’s universe in his correspondence on the topic with Walter Benjamin:

Being in force without significance: nothing better describes the ban that our age cannot master than Scholem’s formula for the status of law in Kafka’s novel… everywhere on earth men live today in the ban of a law and a tradition that are maintained solely as the “zero point” of their own content… All societies and all cultures today… have entered into a legitimation crisis in which law (we mean by this term the entire text of tradition in its regulative form, whether the Jewish Torah or the Islamic sharia, Christian dogma or the profane nomos) is in force as the pure “nothing of revelation.”[[19]](#footnote-19)

Validity without significance - the picture Agamben is painting is one of profound alienation from one’s own life form. We remain compelled to norms we do not understand, and therefore cannot endorse. We inherit a normative vocabulary that remains very much in effect on us, though it has long since lost its meaningful context[[20]](#footnote-20). Our past has become unreadable, opaque, yet we remain shackled to it.

If Agamben describes the modern crisis of meaning in terms of a tradition which remains in force, valid, but without meaning, Robert Brandom’s definition of the same problem seems, at first sight, to be its direct opposite. For Brandom, in Modernity there is significant content, but without the accompanying validity, or normative force.[[21]](#footnote-21) The moderns are perfectly capable of understanding the contents of their traditions, their life-forms, but no longer view them as authoritative in themselves. Normative force[[22]](#footnote-22) is now seen – rightly according to Brandom – to derive from the judgments of rational subjects, autonomous rather than heteronomous, subjective rather than objective. The story of modernity is, according to Brandom, the story of the transition from ethical substance to autonomous subjects.[[23]](#footnote-23) This is captured by the modern move to contractual theories of the social-political order: our normative reality has to be grounded in the rational – if implicit -consent of subjects, rather than in the substantive contents of a given tradition.[[24]](#footnote-24) While this is, to a large extent, an advancement, it comes at a considerable cost: norms lose their objectively compelling character. The paradigm example of this malaise of the modern attitude for Brandom is the ironic mode of the romantics, understood as the distance between the subject and any of his proclamations, the gap of intent, the creeping question - “You say this, but what do you really mean?” - threatening to undermine all propositional content.

Law, or it’s Other? No, Thanks!

It is possible to brings these, seemingly opposing views together; what both outlooks share is a view of modernity as the condition in which content and validity, or normative force, come apart.[[25]](#footnote-25) This may help explain the infamously elusive nature of the problem. The gap between content and validity or normative force can have a variety of different, even opposing manifestations. As Robert Pippin nicely puts it, it is “as if the most prominent and disturbing manifestation of Nihilism is the absence of any manifestation.”[[26]](#footnote-26) Nihilism, understood as the incapacity to fully believe, to truly commit, could appear in the guise of its opposite, of overzealous commitments, masking an underlying doubt as to their value.[[27]](#footnote-27) It is not only ironic distance, cynical wisdom or overbearing alienation[[28]](#footnote-28) from one’s life form, but also the overzealous endorsement of its core values, fundamentalism, that can attest to a certain loss of philosophical innocence, [[29]](#footnote-29)no longer feeling at home in ones inherited life forms, or traditions.

Underlying this prognosis of the modern predicament, is thus the phantasy of a lost ethical substance, a lived tradition that bears its normative force within, one in which norms are objective realities, rather than estranged duties. [[30]](#footnote-30) But what gets lost in the prognosis and its underlying phantasy, is the very ability to inquire after the nature of normative force, deemed to have come undone from the contents of the modern life form. Normative force, often identified with authority, and tradition, become trapped in a kind of hermeneutical circle: tradition is understood as that form of life in which authority is in full sway, and authority is the traditionally grounded power.[[31]](#footnote-31)

As we shall presently see, Mendelssohn’s’ ethical-political thought enables us to reframe the problem, by seeing the law itself as divided. This makes it possible to bring into view what makes normative force so elusive, standing at the edge, as it were, between the vocabularies of political philosophy and ethics, easily breaking apart in two, opposing directions. Thus, for Agamben, this is a problem of political philosophy, an issue of how to liberate ourselves from the yoke of a most uncanny source of power[[32]](#footnote-32) whereas for Brandom the issue appears as a problem in meta-ethics, an issue of how to make possible a remarriage between modern, subjectively grounded normativity and its traditions. The philosophical fight-club is split between a desire to be rid of the law and the somewhat tepid desire to rekindle the flair, to make the law seem compelling again, and be able to re-commit to it. The reason their discussions seem so wide apart lies in the difficulty to understand normative force as both normative – i.e, distinguished from political power - and a force. In the remaining part of the article, I will argue that is in fact in Moses Mendelssohn’s thinking about “religious power” and the relation of politics and religion, that important ground is broken on the path towards a much-needed ontology of normative force, one that renders the alternative: divorce or remarriage between law and ethics meaningless. In defining the relation between ethical-religious power and legal-political power as the relations between unwritten and written law, normative force turns out to be both distinct and inseparable from political power. At every turn, Mendelssohn denies what seem like inescapable choices. Indeed, it is precisely against this Nihilistic double bind, the oscillation between false alternatives, that his philosophical efforts are directed.

Out of Bounds: The Political-Theological difference

Mendelssohn takes up the relation between religion and politics in his *Jerusalem: Or, Religious Power and Judaism (1783).* While the division between politics and religion is for him fundamental, ethics and religion are all but identical for him, for reasons we shall come to appreciate as we follow his argument.[[33]](#footnote-33) He begins his treatment of the topic by noting that striking the right balance between politics and religion is one of the hardest tasks of politics, a task for which occasional practical solutions have been found, but no sound theoretical ones:

For centuries men have strived to solve it, and here and there enjoyed perhaps greater success in settling it practically than in resolving it in theory. Some thought it proper to separate these different relations of societal man into moral entities, and to assign to each a separate province… but the extent of these different provinces and the boundaries dividing them have not yet been accurately fixed.[[34]](#footnote-34)

Already here Mendelssohn is alluding to the conventional (“some thought it proper”), and thus, non-essential origin of thinking a difference in “relations” in terms of the difference between “entities” and “provinces.” Mendelssohn will offer an alternative vision of the distinction between the “two relations” further on, but he immediately points out the double bind of this type of struggle over boundaries. While border disputes between these two powers have proven violent and tragic, their concord and harmony seem only to come at the expense of what Mendelssohn calls “the noblest treasure of Human felicity”: “For they seldom agree but for the purpose of banishing from their realms a third moral entity, liberty of conscience, which knows how to derive some advantage from their disunity.”[[35]](#footnote-35)

Indeed, it is possible that this particular mode of distinction, aiming at an impenetrable boundary between two entities, is what causes the two domains to ‘bleed’ into each other, and in the process to shed blood.[[36]](#footnote-36) Even peaceful separation between them is a politics as a “continuation of war by other means,”[[37]](#footnote-37) to borrow Foucault’s famous reversal, a repressive order that exerts violence on the conscience of its subjects, demanding more than mere obedience to laws.[[38]](#footnote-38)

After a brief yet learned critical discussion of ecclesiastical law, Mendelssohn’s continues to criticize the political theories of Hobbes and Locke. Hobbes, he argues, in attempting to found all power in fear, had failed to distinguish might from right. Locke, in his turn is criticized for severing temporal happiness from eternal bliss, assigning one concern to the realm of politics and the other to private conscience. While both arguments are independent, together they form the core of Mendelssohn’s political-theological theory: a proper distinction between might and right will entail rethinking the relation between the temporal and the eternal. He then proceeds to criticize the standard understanding of the distinction between religion and politics as a distinction between two jurisdictions, one in charge of temporal happiness, the other of the eternal. “It is… neither in keeping with the truth nor advantageous to men’s welfare to sever the temporal so neatly form the eternal.”[[39]](#footnote-39) Mendelssohn’s point here is a subtle one, and it is easy to miss its full significance. It is a categorical mistake to treat the domain of time as if it was divisible in the same way space is, as if one could draw a clear-cut boarder between the present (and by extension, the temporal) and the future (and by extension eternity, the world to come). Mendelssohn makes the point by reference to rabbinic sources: “this life, say the rabbis, is a vestibule in which one must comport oneself in the manner in which one wishes to appear in the inner chamber.”[[40]](#footnote-40)

This world and the coming one are not separable in the same way one territory is separated from the next and cannot form two wholly independent jurisdictions. This world, the present, is a preparation for the next. To be invested in one is to be invested in the other. In replacing the image of the kingdom of God with the image of the world to come, Mendelssohn is relaying to his readers a sense of the divine, the transcendent, as operative in the here and now of our lives. It is coming, inescapable, but unknowable. Preparing for the future is a matter of our present comportment, operative in it, not a separate activity. Note also the image of eternity as an inner chamber. Not outside of temporal life, eternity, the world to come, is rather likened to a sealed off interior. Somewhat paradoxically, eternity appears not as what is outside time but as an imperceptible opening within the flow of time, the timeless break that separates the present moment from the next, opening up the possibility – perhaps never to be fulfilled – of a future worthy of its name, a future that is not the mere causal continuation of the present.[[41]](#footnote-41)

If religion and politics cannot be properly conceived as having separate jurisdictions, as two entities that are to be harmonized by setting boundaries and fixing their proper domains, and both need to be taken as invested in guiding human life towards happiness, there needs to be some other criteria to distinguish between them. What forms the distinction for Mendelssohn is power itself; not its unity, but its division. It is the division into two kinds of power, the coercive power of politics, the sovereign power of law, and the much more elusive power of religion.

The state gives orders and coerces, religion teaches and persuades. The state prescribes laws (*Gesetze*), religion commandments (*Gebote*). The state has physical power (*Gewalt*) and uses it when necessary, the power (*Macht*) of religion is love and beneficence. The one abandons the disobedient and expels him; the other receives him in its bosom and seeks to instruct, or at least to console him… in one-word, civil society, can have the right of coercion… has actually obtained this right through the social contract. Religious society lays no claim to the right of coercion, and cannot obtain it by any possible contract. The state possesses perfect, the church only imperfect rights.[[42]](#footnote-42)

Mendelssohn draws far reaching and highly controversial conclusions from his division of powers. He denies religion not only any form of coercive power, in the widest sense possible – religion is denied even the “softer” power of material reward and its denial (he calls it indirect bribe and indirect punishment, the awarding and withholding of any form of privilege)[[43]](#footnote-43) – but also the minimal element of sovereignty, the authority to define its own boundaries, to set limits to its scope. He denies this at both the immediate social-political level, by denying the right of excommunication,[[44]](#footnote-44) but also on a more structural level, by denying religion the prescription of principles of belief.

First principles, says Mendelssohn are like the rules of the game. If someone denies them, he continues, a judge would be justified in saying: “You deny the basic principles, lad! with you all dispute is at an end. But you will at least comprehend that we, too, are permitted… to rid the earth of such a monster… yet the priest… is obligated to engage him in discussion about the principles themselves.”[[45]](#footnote-45) Mendelssohn is fully aware what this position amounts to, and how odd it must strike his readers. [[46]](#footnote-46)

Some people still appeal to the law of nature. Every society, they say, has the right of exclusion. Why should not also a religious society have it? But I reply: this is precisely where a religious society constitutes an exception. By virtue of a higher law, no society can exercise a right which is diametrically opposed to the primary purpose of the society itself. To exclude a dissident... is like forbidding a sick person to enter a pharmacy...[[47]](#footnote-47)

There is a power – political power – that ultimately manifests itself in exclusion, that achieves its totality and articulation by means of its power to exclude, to self-constitute its boundaries, and enforce them. The other power – religious power – is one that knows of no exclusion, and is powerful to the extent that it resists self-enclosure. It is essentially incomplete, non-whole. We can now see why setting boundaries between these two powers is problematic: it would be applying the sovereign principle of political power on the relation with its other, effectively erasing its otherness, subsuming it under its sovereign logic.

Mendelssohn’s account of the division of power follows the early modern tradition of political theory in that it is set as a narrative of the transition from the state of nature to that of society. While it is supposedly meant to account for the political theological difference, his narrative is marked by a striking absence of any reference to the divine. The only implicit link between religion and his account of the transition from nature to society consists in his application in both contexts of the distinction between perfect and imperfect rights and duties. The latter, we have seen, pertain to religion and its commandments, but they also cover the entire field of the state of nature, out of which societal, political order is to emerge.

Mendelssohn sets the stage for his discussion by distinguishing between perfect (*vollkommene*) and imperfect (*unvollkommene*) rights and duties:

The first are called compulsory rights and compulsory duties; the others, however, are called claims (petitions) and duties of conscience. The first are external, the others only internal. Compulsory rights may be exacted by force, but petitions may be denied.[[48]](#footnote-48)

In the state of nature, all rights are imperfect, and the transition to the full-fledged political reality consists in making some rights perfect, that is, binding, enforceable. In light of this, it is not surprising that readers[[49]](#footnote-49) have taken Mendelssohn to be denying religion any real power. Mendelssohn seems to be allowing the state the full force of law, the right to coerce, while allowing religion only the “softer” powers of instruction, consultation, and petition. The state is allowed to use physical force, while religion is confined to a merely symbolic, linguistic efficacy. But, as we shall see, while elusive, it is power nonetheless.

Mendelssohn’s reception history suffers greatly from the growing difficulty to think of an unenforceable power[[50]](#footnote-50). The conundrum that has puzzled readers, from Mendelssohn’s own time to the present, is how can the two parts of the book - the first, in which he argues that religion has no power of coercion, and the second, where he explains the authority of the divine commandments on the Jews – come together? The full force and meaning of Mendelssohn distinction between politics and religion, in terms of a distinction between law and commandment, only comes into view when his book is taken in its totality, that is, when read together with the study of the commandment’s role in Judaism.[[51]](#footnote-51) But we can here mark the general orientation of this philosophical move. What are we to make of the distinction between Law and Commandment? The two, diametrically opposed interpretations of Mendelssohn attitude towards religion,[[52]](#footnote-52) can be easily matched with two opposing interpretations of the commandment in its relation to law. One either considers the commandment as analogous to Law, but of divine origin, and thus doubts Mendelssohn’s sincerity in his endorsement of the enlightenment principles that seem to characterize the first part of the book, particularly, denying religion any coercive power, or one conceives the Commandment as having a purely moral value, focusing on it being, in Mendelssohn’s view, non-enforceable.[[53]](#footnote-53)This latter interpretation naturally leads to a suspicion of Mendelssohn’s devotion to the religious law he espouses in the second part of the book. The key to avoiding this forced choice is to focus on the fact that Mendelssohn is speaking of a power of Commandment – of the imperative – irreducible (and prior) to enforceability.[[54]](#footnote-54)

As we shall presently see, Mendelssohn defines the realm of imperfect right, his “state of nature” in terms of “soft” imperatives – claims and petitions, as opposed to the enforceable duties of perfect right, thereby establishing a connection between the divine commandments and one’s fellow-men’s pleas. Both stand in opposition to law and its power of coercion.

What is the relation between the imperative in its “soft” and “strong”, compelling modes? We might suspect that behind every petition, request or advice – the soft or polite modes of the imperative – hides a command. We are offered a course of action, a choice, but it is always already forced.[[55]](#footnote-55) We may choose to deny a petition, a claim, but this is not without consequences.[[56]](#footnote-56) We operate within a field of unwritten laws, implicit duties and obligations. In this view, the petition or the claim only veils the command. But what if we turn this picture around? We might then say that behind any command lurks a petition, a claim, which, as Agamben notes, we could in principle disobey, without it seizing to be a command.[[57]](#footnote-57) Its force lies elsewhere. Not in forcing us, with hidden threats of violence, but by laying the choice of response at our feet. The anxiety provoked by being addressed, by being the subject of the other’s demand, horrifyingly free to respond with violence or kindness, should not be thought to be powerless. [[58]](#footnote-58)

The promise: Mendelssohn’s *Salto Mortale*

Mendelssohn’s state of nature is neither a Hobbesian war of all against all, nor the home for Rousseau’s noble savages. In Mendelssohn’s state of nature there are claims, petitions, without the force of law. Being a social animal, man must participate in the social give-and take, he must assume commitments, and it is up to him to choose what commitments to assume – not whether. Once he commits himself, however, he is obligated, it is no longer up to him whether or not to fulfill his duties, to live up to his promises. The imperfect duty he had towards his fellow man becomes perfect, i.e, public and enforceable, and his perfect right over his action, his free will, imperfect, truncated.

As is typical to theories of the social contract, for Mendelssohn too, political power is established in a performative[[59]](#footnote-59) moment of commitment. Unlike most contractual theories however, Mendelsohn’s foundational act of decision and transfer of power, standing at the basis of the political bond is one sided, defined by Mendelssohn as a promise[[60]](#footnote-60). There is no contract, no quid por quo exchange. If there is an exchange to be spoken of, it is the sacrifice of an unlimited, yet incapacitating formal freedom, for a limited, yet positive, concrete field of action. The choice to assume such an obligation, to give one’s word, is a radically free one, as free as can be. It is explicitly not self-interested, calculated and utilitarian. No one else can assume responsibility for it, it is a first personal, self-constituting gesture. In this, Mendelssohn’s mythical entrance into the public world of enforceable commitments resembles much more Jacobi’s *salto mortale* than standard contractual theories, only it is a leap towards the confines of rationality – of publicly codified and enforceable speech and action - and it never quite manages to leave its primordial past behind it.

While the moment of choice is important in Mendelssohn’s narrative, it is very much a forced choice. Humans for Mendelssohn’s are “condemned to choice and action”[[61]](#footnote-61) and his story of emergence from the state of nature can be read as an attempt to account for the very primordial nature of this power of choice, a sense of the primordial that is different from an absolute beginning or ground. It is not what one must think first, but what must come before the beginning. As Mladen Dolar puts it: “choice is a retroactive category; it is always in the past tense, but in a special kind of past that was never present. The moment of choice can never be pinpointed; it passes directly and immediately from a ‘not yet’ to an ‘always already.’ It is past by its very nature.”[[62]](#footnote-62) What for Jacobi was a thrilling, existential leap into a life of meaning beyond the confines of rationality, is for Mendelssohn forever pushed into the background, the ever-elusive leap implied by rationality itself.

Imperfect Right and the Ontology of Unwritten Law

Recall that what one encounters in this primal scene of society are claims and petitions, that is, the imperative without the backing of authority, without anything to ensure its enforcement. It is precisely here, in its “weak” sense, that one encounters the puzzling ontological status of the imperative, of the order. To paraphrase a German saying, order ought to be; which also means that order, strictly speaking, is not. There ought to be an ought, a standard, a measure, an order. Order is experienced in its real dimension not as a given, but as given in its absence, as a task to be accomplished, as something which ought to be. It makes the establishment of a social order both necessary and to an extent impossible, or at least, incomplete.[[63]](#footnote-63)

What are those strange, imperfect rights and duties? Whence do they come from? How can they refer both to the state of nature, and to the divine commandment? While the distinction between perfect and imperfect rights is derived from the legal theory of Grotius, Mendelssohn’s utilization of it belongs to a much older if subterranean and somewhat discontinuous tradition of thought on the “unwritten law”. The unwritten law, whether understood as ‘custom’ or as ‘natural law’, particular or universal in nature, can be most generally described as the ethical ground, or better, background, of positive, existing legal order. The notion of unwritten law is rarely dealt with directly, by name, but rather by a series of historically significant displacements, each highlighting a different, and often non-convergent aspect of the object in question. Divine law, for example, captures the sense of its transcendence over the existing order, natural law aims to capture its quasi universal character, and its accessibility by means of reason, and custom law highlights its immemorial character and its significance as a source of group identity. Much intellectual history is the outcome of unpacking aspects of the notion of unwritten law, in diverse semantic and cultural contexts, gaining much conceptual ‘weight’, and thereby ignoring its nature as unwritten. Mendelssohn belongs to a minor, discontinuous tradition, distinguished by its emphasis on the very unwritten nature of the unwritten law, its opaque density, and avoidance of explicit formulation. Already in its first appearance in a philosophical context, the unwritten law appears as a foundational social ’thing’, albeit one that doesn’t quite fit its own notion. Thus Plato, in his *laws* writes “although ‘laws’ is the wrong term for these things, we can’t afford to say *nothing* about them, because they are the bonds of the entire social framework, linking all written and established laws with those yet to be passed”. Not only such laws are foundational for the social framework, they also appear to be uniquely effective, and quasi-universal, as in the case of sexual taboos (Plato, *Laws*). Aristotle follows Plato in viewing unwritten law, sometimes identified with custom as having “more authority and concern more important matters than do written laws”. (*Politics*) Elsewhere, however Aristotle contrasts written and unwritten law not as statue and custom but as local and universal law. (*Rhetoric).*

This fundamental tension between the universal and the particular pertaining to unwritten laws partly accounts for the divergent paths of the term’s historical trajectories, and the difficulty in placing it conceptually. As an ethical category, the term is held in tension between conceptual opposites, the descriptive, ontological conceptions of ethics, such as Hegel’s ethical substance, that emphasizes the particular, historical grounding of ethical life, and the prescriptive(deontological), universal attitudes, that aim to transcend historical circumstances, from the ancient Natural Right[[64]](#footnote-64)and up to Kant’s moral imperatives.[[65]](#footnote-65) The unwritten law is split between the universal and the particular, the natural and the historical or cultural. In his rhetoric, reflecting on the superiority of unwritten over written laws, Aristotle offers a suggestion that might connect these disparate domains: “written laws depend on force while unwritten laws do not.” It is this insight that is further elaborated by Mendelssohn.

To appreciate Mendelssohn’s discussion of perfect and imperfect right as contributing to this tradition, we must hear the full resonance of the German *unvollkommen*: “imperfect” here is to be read as unarticulated, unclear, that which has not fully arrived, what is on its way. “Right” here is incomplete, but therein lies its power.

We can think of this realm of imperfect rights as one of unwritten laws, with emphasis placed on unwritten; there is already a field of normative pressure, claims and petitions, but there are no norms, no clear criterions and distinctions. A realm of normativity without norms. There is nothing to conjoin these claims with the coercive power of law. Mendelssohn’s account helps underscore the power normativity exerts at this “zero degree”. Unwritten law is unconstituted: it comes from nowhere, has no moment of inception, but also, is never fully in existence. In juxtaposition to statues that draw their authority from the constitutive act of ‘laying hem down’ by the legislator, unwritten laws derive their compelling character from the mystery surrounding their origins.[[66]](#footnote-66)

This vision of the primordial state of society is very close to the original sense of community as expounded by Roberto Esposito,[[67]](#footnote-67) of a *cum munus*, a common debt, gift or office, in which the very boundaries between the common and its members are not quite set, and what exerts its pressure is precisely this privation, this “nothing in common,” as Esposito puts it. The pure gift and the pure demand or duty truly coincide here – the given of community is its own lack, its duty to articulate itself by establishing rights and duties, by entering into a social give-and-take.

The great merit and power of Mendelssohn’s account lies in what is absent from it, indeed, in the role it assigns absence. Mendelssohn does not posit a positive order that precedes human sociability and lies outside it, always knocking on its borders, such as Hobbes’ war of all against all; a time before time, as it were. One is induced into sociality – into history – not by the pressure of nature, but by society appearing as an absence of, and thus a call for, its own principal of organization. This primordial scene is not a moment in the bygone past, but what every present, in being present, projects into its background, that is, what must lose its articulation in order for the contours of an object to appear.

Thus, what Mendelssohn dubs “Religious power” is not a mere presupposition of self-constituting political power, as it must appear from the perspective of modern, cynical, political theology, which views religion, and ideology more broadly, as the ultimately deceitful source of legitimation of the existing order. While it does not belong to the order of being, it is not external or independent of it, nor does it leave it intact.

Mendelssohn’s ethical-religious power stands in relation to political power, much like Hamacher’s affirmative stand in relation to the performative. In his seminal commentary on Benjamin’s critique of violence, Werner Hamacher coined the term ‘afformative’ to describe what Benjamin dubs divine violence, a power juxtaposed to the mythological power of law, caught in the dialectics of (self) constitution, between the constitutive and constituted. Afformatives are not a subcategory of performatives. Rather, afformative, or pure, violence, is a:

…condition for any instrumental, performative violence, and, at the same time, a condition which suspends their fulfillment in principle… while afformations do not belong to the class of acts – that is, to the class of positing or founding operations – they are, nevertheless, never simply outside the sphere of acts or without relation to that sphere. The fact that afformatives allow something to happen without making it happen has a dual significance: first, that they let this thing enter into the realm of positings, from which they themselves are excluded; and, second, that they are not what shows up in the realm of positings, so that the field of phenomenality, as the field of positive manifestation, can only indicate the effects of the afformative as ellipses, pauses, interruptions, displacements, etc., but can never contain or include them. The afformative is the ellipsis which silently accompanies any act and which may silently interrupt any speech act. What “is” afformative can therefore never be presented in the form of a rule or a law…. deposing is neither a historical, nor even a causal consequence, but rather the absolute precondition of every historical positing violence… afformative is not aformative; afformance ‘is’ the event of forming, itself formless, to which all forms and all performative acts remain exposed.[[68]](#footnote-68)

The an-archic nature of “religious power”[[69]](#footnote-69) conditions political power in a dual sense, making room for it, but also preventing political order from ever attaining full ontological stability, leaving it minimally open for transformation. This is why, from Mendelssohn’s perspective, Jacobi’s choice, and its heritage, it itself deposed, to borrow Hamacher’s term. Reason and unreason, order and anarchy, law and its unwritten, opaque background, are distinct, but bound up together.

The chief lesson to be drawn from Mendelssohn’s discussion of the division of power, is that there can be no principle or formula for the relation between politics and its ethical background, no boundary fixed once and for all. This does not mean that the relation is mystical or incomprehensible, only that it is principally unsettled and dynamic. The ethical and the political cannot be severed, nor should they be collapsed and unified; neither a happy marriage nor an amicable divorce will do. They are stuck together, as are we.

1. Willi Goetschel describes the disciplinary process as “the transformation through which philosophy changed from an enlightenment project of independent critique of independent intellectuals into a fully professionalized discipline in the modern university during the nineteenth and early twentieth century.” While philosophy became a stakeholder in the university, playing a central role in the formation of the modern academic curriculum, it also became professionalized and disciplined, a process accompanied by its differentiation and reconstitution in relation to the other disciplines that it was instrumental in engendering. The proliferation of distinction outside, with the constitution of new disciplines, was accompanied by an internal differentiation into subfields, which eventually gave rise to such categories as “Jewish Philosophy.” As Goetschel points out, this double process of differentiation, external and internal, “confronts philosophy, at the institutional level, with its inner tension between its universal claims and its modern form of professionalization, whose historically particular determinants are undeniable.” See W. Goetschel, *The Discipline of Philosophy and the Invention of Modern Jewish Thought* (Fordham University Press, 2013), 1-2. For more on the institutionalization and professionalization of modern, university philosophy, see also S. Weber, *Institution and Interpretation* (Stanford University Press, 2001), 18-32, and J. Derrida and P. Kamuf, *Without Alibi* (Stanford University Press, 2002), 202-37. [↑](#footnote-ref-1)
2. As Jacobi himself believed, and, subsequently, 20th century reception history maintains. [↑](#footnote-ref-2)
3. Mendelssohn writes Jacobi: “I shall not discuss the honest retreat to the flag of faith that you, on your part, propose. This proposal is entirely in the spirit of your religion, which imposes upon you the duty of suppressing doubts by faith. The Christian philosopher may amuse himself by teasing the naturalist and by raising knotty points that drive him from one corner into another and invariably elude his grasp when it seems surest. My religion knows of no duty to remove such doubts... it commands no faith in eternal truths.” Altmann, *Moses Mendelssohn: A Biographical Study*, 635. [↑](#footnote-ref-3)
4. [Citation?] [↑](#footnote-ref-4)
5. Or, as Weller puts it, its first ‘radical inflation.’ [Citation?] [↑](#footnote-ref-5)
6. The first use of the term in print was apparently by F.L Goetzius in his *De nonismo et nihilismo in theologia* (1733), which was, however, a relatively unknown work and seemed to have played no role in the later reappearance and development of the concept. In the late eighteenth century, it was employed by J.H. Obereit, and, more importantly, by D. Jenisch, who characterized transcendental idealism as Nihilism in his 1796 *On the Ground and Value of the Discoveries of Herr Professor Kant in Metaphysics, Morals, and Aesthetics*. [maybe move this part of footnote to when I say the same? ]He uses the term to describe the work, not of Kant, but of the extreme Kantians who teach that things-in-themselves are nothing for our cognition. See Gillespie, *Nihilism before Nietzsche*, 65. [↑](#footnote-ref-6)
7. Fichte was influenced by Jacobi, and had expected his support in the controversy over his own philosophy (known as the ‘atheism controversy’), which would ultimately cost him his position. Scholars today are baffled by this expectation, which was indeed disappointed, as Jacobi intervened in favor of Fichte’s accusers. See D. Henrich and D.S. Pacini, *Between Kant and Hegel: Lectures on German Idealism* (Harvard University Press, 2008), 84. [↑](#footnote-ref-7)
8. Beiser.... [↑](#footnote-ref-8)
9. Paul franks “All or Nothing” ... [↑](#footnote-ref-9)
10. Gillespie, *Nihilism Before Nietzsche*, 66*.* [↑](#footnote-ref-10)
11. The idea of a problematic replacement of God by man, evoked by Jacobi, prefigures Nietzsche’s proclamation of the death of God, and also reveals the continuity between the charges of “pantheism” and “nihilism”. The death of God arises as an epistemological and existential problem only under the assumption that it is impossible for God to die. That is, it is a problem that arises, as it were, with the ‘fall’ of what was held to be transcended. As Heidegger puts it in his analysis of Nietzsche:

    [The] “Christian God” also stands for the “transcended” [*Übersinnliche*] in general in its various meanings – for “ideals” and “norms,” “principles” and “rules,” “ends” and “values,” which are set “above” beings, in order to give being as a whole a purpose, an order, and – as it is succinctly expressed – “meaning” [*Sinn*]. Nihilism is that historical process whereby the dominance of the “transcended” becomes null and void, so that all being loses its worth and meaning. Nihilism is the history of beings [*die Geschichte des Seienden*], through which the death of the Christian God comes slowly but inexorably to light.

    In this key, Nihilism is understood as a problematic “fall” into immanence. Nihilism is often associated with ‘the death of God,’ or secularization, as its dark shadow, its monumental side effect. Secularization, in this problematic, diagnostic, sense, has been understood as the disenchantment of the world, the progressive disappearance of magic, of what cannot be accounted for scientifically, from the world (from Weber to Taylor, and the gradual replacement of God by Man. Alternatively, it has been described as a concealment of Modernity’s theological origins: secularization here means the process of disguising or forgetting the theological, an act of repression that only makes the hidden more potent and unruly. ‘Secularization’ in its negative, that is, nihilistic sense, thus oscillates between two, opposing meanings: it denotes either a world increasingly devoid of meaning and purpose, hollowed out like a lifeless shell, or a world laden with meanings that have been set free from their contextual and practical confinement, constantly overflowing and threatening to burst out of their secularized understanding, like the incredible Hulk bursting out of Bruce Banner’s ridiculously unsuitable clothes. [↑](#footnote-ref-11)
12. Alenka, Shortest Shadow. David Fincher’s *Fight Club* A movie that has become, along with *The Matrix* and *American Psycho* the bible of the alt-right online culture. See Angle Nagle, Kill All Normies.

    can help drive the point home. Edward’s Norton’s unnamed character suffers throughout the film from a life of mediocracy, unable to feel truly passionate about anything. Norton, the quintessential exemplar of passive Nihilism, then meets Tyler Durden (Brad Pitt), who is his direct opposite: transgressive, uninhibited, liberatingly destructive, he is active Nihilism embodied. The famous twist of the movie is that the two are one, split personality. The movie ends cathartically with one aspect (Norton) watching passively (chained to the chair) as the other (Pitt) actively destroys the capitalist system governing our lives, erasing debt by destroying the buildings containing credit card records. [↑](#footnote-ref-12)
13. A movie that has become, along with *The Matrix* and *American Psycho* the bible of the alt-right online culture. See Angle Nagle, Kill All Normies. [↑](#footnote-ref-13)
14. Fitzpatrick, Pippin, etc. Leo Strauss. [↑](#footnote-ref-14)
15. Balibar, Citizen-Subject [↑](#footnote-ref-15)
16. This is one of the main reasons Foucault struggled so much to get away from the “monopoly” of law over power. [↑](#footnote-ref-16)
17. From Nietzsche to Agamben. [↑](#footnote-ref-17)
18. On Agamben as a theorist of nihilism see S. Weller, *Literature, Philosophy, Nihilism: The Uncanniest of Guests* (Palgrave Macmillan, 2008), 137-62. [↑](#footnote-ref-18)
19. G. Agamben and D. Heller-Roazen, *Homo Sacer: Sovereign Power and Bare Life* (Stanford University Press, 1998), 51. [↑](#footnote-ref-19)
20. See Anscombe, Modern oral etc.. [↑](#footnote-ref-20)
21. Brandom... [↑](#footnote-ref-21)
22. Authority, from Arnedt to Agamebn, here.... [↑](#footnote-ref-22)
23. Which is why he phatasizes about a “post modernity” that would reconcile the two, blatantly disregarding the central role “ethical substance” plays in Hegel’s theory of Modernity. [↑](#footnote-ref-23)
24. Reference to spirit of trust and my comment: While positioning himself as an Hegelian, Brandom’s grand story of modernity is much better encapsulated by the ‘slogan’ of Henry Main’s historical sociology of law, as the difference, and transition from ancients to moderns consists in the transition “from status to contract”.[footnote Maine, and criticism] [↑](#footnote-ref-24)
25. Under the label of ‘shock experience, Walter Benjamin had analyzed modern experience as progressively isolating “lived experience” making their assimilation into a meaningful whole im... [↑](#footnote-ref-25)
26. Pippin, ‘Heidegger on Nietzsche on Nihilism,’ 175. [↑](#footnote-ref-26)
27. Pippin draws attention to this, easily overlooked remark Heidegger makes in his analysis of Nietzsche: “Nihilism is at work even – and especially – there were it is not advocated as doctrine or demand, there were ostensibly its opposite prevails.” See M. Heidegger, *Nietzsche: Volumes One and Two: Volumes One and Two* (HarperCollins, 1991), vol. 1, 26. [↑](#footnote-ref-27)
28. For a recent, comprehensive view of alienation see Rahel Jaeggi.... [↑](#footnote-ref-28)
29. They therefore share what Peter Sloterdyke deemed to be the repressed anxiety of cynical wisdom:

    “psychologically, present-day cynics can be understood as borderline melancholies, who can keep their symptoms of depression under control and can remain more or less able to work. Indeed, this is the essential point in modern cynicism: the ability of its bearers to work – in spite of anything that might happen, and especially, after anything that might happen...for cynics are not dumb, and every now and then they see the nothingness to which everything leads. Their psychic apparatus has become elastic enough to incorporate as a survival factor a permanent doubt about their own activities... behind the capable...collaborative, hard façade, it covers up a mass of offensive unhappiness and the need to cry. In this, there is something of the mourning for a “lost innocence”, of the mourning for better knowledge, against which all action and labor are directed”. Sloterdyke, p. 5 [↑](#footnote-ref-29)
30. [↑](#footnote-ref-30)
31. See H.J.S. Maine, *Ancient Law* (J. Murray, 1912). Maine was struck by the absence, in India, of the political machinery of the modern, sovereign state. This led him to develop the notion of customary law, which had tremendous intellectual, and more immediate, practical impact. See Alibis of Empire. Leo Strauss Philosophy and Law is a fascinating attempt to reconstruct the pre-modern relation between philosophy and law. Here it is not philosophy that has to ground the law, but rather, the legitimacy of philosophy is questioned from the perspective of the Law Is it permissible to philosophize? We remain wandering, however, what it is that makes the law so authoritative? Pointing to its divine origin does little to answer the question – for what is it that makes divine authority compelling? [↑](#footnote-ref-31)
32. Agamben, Opus Dei, Anarchy and Creation. [↑](#footnote-ref-32)
33. As Mendelssohn makes clear towards the end of the first part of his Jerusalem, there are no special religious duties, on top of the moral ones: “God is not a being who needs our benevolence, requires our assistance, or claims any of our rights for his own use, or whose rights can ever clash or be confused with ours… In the system of human duties, those towards god form, in reality, no special division. Rather, all of man’s duties are obligations towards god. Some of them concern ourselves, others our fellow men”. Jerusalem, the logical space Mendelssohn establishes for religion is thus not one that allows for a separate realm of duties, a distinct relation towards God. God is not a person with claims and needs that are to be settled with our own, an entity whose powers and claims can come into collision with our own. The transcendence of God is a transcendence of transcendence – it is not simply that God is beyond our reach, but that the relation to his being transcends the logic of boundaries and their beyond, surpasses the very logic of proper place. Thus, our duties to God are not a special set of duties, separable from our duties to ourselves and others. They are, in a sense, the pure form of duty, a mute obligation, the power of the imperative as such – a pure *ought,* without content and [↑](#footnote-ref-33)
34. Mendelssohn, *Jerusalem: Or on Religious Power and Judaism*, 33. [↑](#footnote-ref-34)
35. Ibid. [↑](#footnote-ref-35)
36. See Gil Anidjar Blood: A Critique of Christianity [↑](#footnote-ref-36)
37. See Michel Foucault et al., *Society Must Be Defended: Lectures at the Collège de France, 1975-76*, 1st ed. (New York: Picador, 2003), 15. [↑](#footnote-ref-37)
38. Eric Santner analyzes what he calls the “crisis of investiture,” indeed, a crisis in the institution of institution, or the efficacy of the symbolic, in the context of the dissemination of the king’s second body into the political body of the new sovereign, “the people,” in the aftermath of the French Revolution, as a problematic fall of the transcendent, second body of the king, invested by the church, leading not to immanence plain and simple but rather to an excess of immanence. See E.L. Santner, *The Royal Remains: The People's Two Bodies and the Endgames of Sovereignty* (University of Chicago Press, 2011). See also E.H. Kantorowicz, *The King's Two Bodies: A Study in Mediaeval Political Theology* (Princeton University Press, 1997). [↑](#footnote-ref-38)
39. Mendelssohn, *Jerusalem: Or on Religious Power and Judaism*, 39. [↑](#footnote-ref-39)
40. Ibid. [↑](#footnote-ref-40)
41. Footnotw to Derrida’s a-venir [↑](#footnote-ref-41)
42. Mendelssohn, *Jerusalem: Or on Religious Power and Judaism*, 45. [↑](#footnote-ref-42)
43. Mendelssohn, *Jerusalem: Or on Religious Power and Judaism*, 61. [↑](#footnote-ref-43)
44. Ibid., 73. [↑](#footnote-ref-44)
45. Ibid., 81. [↑](#footnote-ref-45)
46. In the second part of Jerusalem, Mendelssohn will be interested in a mode and medium of tradition in which “everything is fundamental”, allowing for complete devotion to the textual tradition without prescribing to any dogmatic belief. Compare with Benjamin on the “philological ideal” in elective affinities. [↑](#footnote-ref-46)
47. Ibid., 74. Interestingly, Mendelssohn then tells the story of an Epicurean – in the Jewish tradition, a synonym for a heretic – stumbling into a Stoic school, and being cured of his ailing skepticism. What Mendelssohn is after here is the power to create values, to make something valuable. [↑](#footnote-ref-47)
48. Mendelssohn, *Jerusalem: Or on Religious Power and Judaism*, 47. [↑](#footnote-ref-48)
49. Name a few: Sorkin, Funkenstein, Leo Strauss... [↑](#footnote-ref-49)
50. To the best of my knowledge, the fact that Mendelssohn is speaking here of a power has been noticed only once, and rather recently. See Benjamin Pollock.... [↑](#footnote-ref-50)
51. Reference to my manuscript, chapter... [↑](#footnote-ref-51)
52. See, for example A. Arkush, *Moses Mendelssohn and the Enlightenment* (State University of New York Press, 1994) and Sorkin, *Moses Mendelssohn and the Religious Enlightenment*. Arkush sees Mendelssohn as a deist who understands that enlightenment theism undermines the authority of traditional Judaism and seeks to reshape Judaism in a liberal mode. Sorkin sees Mendelssohn as a Jewish traditionalist who uses the language of German enlightenment to bolster his essentially premodern faith. Gottlieb has recently offered a middle position. See Gottlieb, *Faith and Freedom: Moses Mendelssohn's Theological-Political Thought*. Gideon Freudenthal has recently attempted to defend Mendelssohn’s consistency. See Gideon Freudenthal, *No Religion without Idolatry: Mendelssohn's Jewish Enlightenment* (Notre Dame, Ind.: University of Notre Dame Press, 2012). Freudenthal grounds his interpretation of Mendelssohn in a notion of semiotics borrowed from Pierce, and of common-sense pragmatism, that covers over the questions this interpretation seeks to unfold. [↑](#footnote-ref-52)
53. This was precisely the challnage Mendelssohn takes up explcitlly in the second part of Jerusalem... [↑](#footnote-ref-53)
54. For Kelsen, law is defined in reference to enforceability. See H. Kelsen, *Pure Theory of Law* (Lawbook Exchange, 2005). [↑](#footnote-ref-54)
55. Lacan’s canonical example of the forced choice is “Your money or your life.” It is clearly forced, in that choosing one item – money – means losing both. See Jacques Lacan, *The Four Fundamental Concepts of Psycho-Analysis* (Karnac Books, 2004), 212. As we shall see, the political-theological for Mendelssohn unfolds as the drama of the intersection of force and choice. [↑](#footnote-ref-55)
56. Interestingly, the lesser known finding of the famous Milgram experiment has shown that direct orders were overwhelmingly disobeyed. Obedience was achieved as long as there remained a space for justification. [↑](#footnote-ref-56)
57. Agamben deserves credit for pointing out the priority of the power of the imperative over its execution. However, it remains completely unclear (as far as I know) how such a power is to work. Agamben focuses on commands, prayers and oaths, and disregards the everyday, “polite” mode of the command, which is Mendelssohn’s focus. [also, reference here the lovely joke that opnes mladen’s book on the voice. [↑](#footnote-ref-57)
58. Levinas, Lacan, but also Althusser. [↑](#footnote-ref-58)
59. The literature on performative is vast. Foundations is Austin How to Things With Words. For a different take, see Cassin, how to really do things with words. [↑](#footnote-ref-59)
60. On it being unique, diffenrt from contract, and link to Nietzsche. [↑](#footnote-ref-60)
61. Korsgaard, wht the rest of the quote. [↑](#footnote-ref-61)
62. Dolar, 'Beyond Interpellation,' 83. [↑](#footnote-ref-62)
63. Compare with the role Kojin Karatani assigns religion in his recent formulation of world history, based on a reconceptualization of the material base as the mode of exchange rather than that of production. See Kojin Karatani, *The Structure of World History: From Modes of Production to Modes of Exchange*, trans. Michael.K. Bourdaghs (Duke University Press, 2014). Karatni posits mode of exchange x, that of the pure gift, as prehistorical hunter-gatherer communism, repressed from history, the primordial past the repression of which constitutes history, as well as the regulative idea of history, the perpetually deferred ethical horizon of history, what it ought to be, or should strive for. He views historical world religions as the return of the repressed, the symptomatic presence within history of its repressed past and future-oriented ethical pressure. [↑](#footnote-ref-63)
64. Leo Strauss, Ancient Natural Right and History. [↑](#footnote-ref-64)
65. [↑](#footnote-ref-65)
66. [For the Greeks, it was the unwritten character that endowed a divine origin to the laws, indicating a superhuman origin (Brague).] [↑](#footnote-ref-66)
67. Roberto Esposito, *Communitas: The Origin and Destiny of Community* (Stanford University Press, 2010), 1-19. [↑](#footnote-ref-67)
68. Hamacher, ‘Afformative, Strike,’ Benjamin and Osborne, *Walter Benjamin's Philosophy: Destruction and Experience*, 128. [↑](#footnote-ref-68)
69. Reiner Schurman, Agamben on the link between arche as beginning and as command. [↑](#footnote-ref-69)