



The Leibholz-Schmitt connection's formative influence on Bonhoeffer's 1932–33 entry into public theology

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Abstract

Dietrich Bonhoeffer's brother-in-law Gerhard Leibholz's insight into the Fascist theory of the state's messianic leadership and myth of creating communal life became a major source of information for Bonhoeffer. Leibholz had gained this knowledge in close jurisprudential cooperation with Carl Schmitt as is evidenced by Leibholz's 1929 *habilitation* thesis which at the same time intersected with Bonhoeffer's academic work. Their original political leanings towards authoritarianism, *Volk*, and Vitalism were revised by Bonhoeffer and Leibholz in November 1932 through stepping out into a coordinated public opposition to the approaching political changes. But both only recognized the populist xenophobic destructiveness of such a life, hidden beneath the myth of unity, once Schmitt turned to National Socialism in early 1933. Bonhoeffer's theology, built on the Leibholz-Schmitt discourse, remains a call for vigilance against the abuse of power, populism, and xenophobia, and continues to call for seeking God-revealed life.

Key words

Bonhoeffer, Leibholz, Schmitt, leadership, xenophobia

1. Introduction

The forewords to the jurist and Bonhoeffer's brother-in-law Gerhard Leibholz's 1929 first publication of his *habilitation* thesis and its 1960 second publication disclose a significant connection to and shift in Leibholz's relations to the jurist Carl Schmitt which impacted Bonhoeffer's theology,

opposition, and life. This essay¹ will begin with unveiling Carl Schmitt's connection to Leibholz's knowledge of the Fascist legal, political, and leadership system (2). Following this, it will be assessed how such insights impacted, due to the Leibholz-Bonhoeffer friendship, Bonhoeffer's entry into public theology² and their 1932–33 coordinated public opposition to the approaching myth-based centralization of power and its creative subsumption of life (3). Lastly, the consequences for Bonhoeffer and Leibholz will be outlined and, with a view to today's rising populism in many democratic states, the question will be raised whether the Leibholz–Bonhoeffer cooperation may yield significant insights (4).

2. Leibholz's connection to Schmitt

In 1960, 15 years after Dietrich Bonhoeffer's death his brother-in-law, the constitutional lawyer and theorist of state Gerhard Leibholz, published the second edition³ of his 1928/29 *habilitation* thesis, titled *The Essence of Representation*. In the reprint of the foreword to the first edition⁴ Leibholz omitted the paragraph in which he in 1929 had thanked Carl Schmitt for his “valuable” and “exceptional” presentation of the problems of representation

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- 1 This article is based on a presentation at the Annual Bonhoeffer Conference in Sydney, Australia in June 2018.
 - 2 The term “public theology” is often used synonymously with the term “political theology”. Because of Carl Schmitt's book *Political Theology (Political Theology: Four Chapters on the Concept of Sovereignty)*, trans. George Schwab, [Chicago: University of Chicago Press, 2005]) and his support of the National Socialist regime, post-war political theology received the prefix “new” in distinction to Schmittian “old” Political Theology. As Jürgen Moltmann explains, the new political theology focusses on the church as the subject with its face toward the world. It is about worldly Christianity and not about metaphysics of the state but political engagement of the church in the world of the poor and Christian commitment to justice, peace and the integrity of creation; Jürgen Moltmann, “Political theology in ecumenical contexts”, in *Political Theology: Contemporary Challenges and Future Directions*, eds. Francis Schüssler Fiorenza, Klaus Tanner, Michael Welker (Louisville: Westminster John Knox, 2013), 4. Public theology then denotes the infusion of theological, ethical perspectives into the public realm.
 - 3 Gerhard Leibholz, *Das Wesen der Repräsentation*, 2nd ext. ed. (Berlin: Walter de Gruyter, 1960). This edition is apart from the foreword to the 1st edition an exact reprint of the original publication; therefore page numbers refer in the following to both, the 1st and 2nd edition.
 - 4 Gerhard Leibholz, *Das Wesen der Repräsentation unter besonderer Berücksichtigung des Repräsentativsystems: Ein Beitrag zur allgemeinen Staats- und Verfassungslehre* (Berlin: de Gruyter, 1929).

in his recently published book *Constitutional Theory*.⁵ Leibholz had declared that Schmitt's treatment of representation "largely corresponds to my own fundamental statements"⁶ and had used a pre-publication review of his thesis specifically for including Schmitt's publication in his references.⁷ Previously, in 1926,⁸ Leibholz had contacted Schmitt in the hope of catching the attention of this well-recognized professor⁹ of constitutional law and state theory who shared Leibholz's anti-positivist perspectives and interest in the political aspects of law. Between 1926 and 1929 they had met frequently, especially after Schmitt and Leibholz both resided in Berlin.¹⁰ In the following years they celebrated together Leibholz's growing academic success.¹¹ Even after Leibholz became a professor himself, they maintained, until at least September 1932, a part-professional and part-private acquaintanceship which included Leibholz's wife, Bonhoeffer's twin-sister Sabine.¹² But when Schmitt began in April 1933 to align with the new political regime,¹³ the quality of the relationship changed.¹⁴

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- 5 Carl Schmitt, *Verfassungslehre*, 10th ed. (Berlin: Duncker & Humblot, 2010).
 - 6 Schmitt celebrated Leibholz's inaugural university lecture as an 'excellent' exposition on representation within the Italian Fascist system; Carl Schmitt, "Wesen und Werden des Faschistischen Staates (1929)", *Positionen und Begriffe*, 3rd ed. (Berlin: Duncker & Humblot: 1994), 125. Leibholz dedicated with 'sincere admiration' to Schmitt a copy of his 1928 inaugural lecture; Carl-Schmitt-Gesellschaft, accessed May 15, 2018, <http://www.carl-schmitt.de/download/biblio-cs.pdf>.
 - 7 Leibholz, *Wesen*, 8.
 - 8 Reinhard Mehring, *Carl Schmitt: Aufstieg und Fall* (Munich: C.H. Beck, 2009), 232.
 - 9 In the same interest of connecting to an established and esteemed professor Bonhoeffer contacted and met Karl Barth in 1931; DBWE 11:32–40. Schmitt himself had about a decade earlier contacted Max Weber (1864–1920).
 - 10 Both lived in Berlin since 1928; Mehring, *Schmitt*, 234, 241.
 - 11 Schmitt, *Tagebücher 1930 bis 1934*, ed. Wolfgang Schuller and Gerhard Giesler (Berlin: Akademie Verlag, 2010), 141.
 - 12 Sabine Bonhoeffer knew Schmitt personally at least since 31 May 1929; Carl Schmitt, *Tagebücher 1925 bis 1929*, ed. Martin Tielke and Gerd Giesler (Berlin: Duncker & Humblot, 2018), 301. The last recorded meeting of Leibholz and Sabine with Schmitt is 20 September 1932 at Schmitt's home at which Schmitt gave Leibholz a copy of his recently completed (10. July 1932) and published book *Legality and Legitimacy*, 8th cor. ed. (Berlin: Duncker & Humblot, 2012); Carl Schmitt, *Tagebücher 1930 bis 1934*, 217.
 - 13 Schmitt joined the National Socialist German Workers Party on 27 April 1933; Carl Schmitt, *Tagebücher 1930 bis 1934*, 287.
 - 14 In recent years a scholarly interest in Bonhoeffer's political theology has emerged. This is illustrated by the inclusion of a chapter on Bonhoeffer in Peter Scott and William T. Cavanaugh's (eds.) *The Blackwell Companion to Political Theology* (Malden: Blackwell

In the late 1920s Leibholz's and Schmitt's views on representational parliamentarism, plebiscitary legitimacy, and individual leadership corresponded in many ways. Schmitt had criticized parliamentary representation for undermining true democratic selection of the best leaders in open discussion, and the violation of the separation of powers due to representatives of the legislative organ partaking in the executive branch of government. He rejected the meddling compromises between party leaders and the executive in disrespect of parliamentary representatives and the people. And he uncovered an only fictional quality of the free individual of liberalism. He supported a state in the form of a strong figure that could correct the economic and intellectual ills of his time, based on a new myth for the nation.¹⁵ In developing the idea of creating life-with-meaning fitting to the constitutional reality of the modern era, Schmitt used secularized

Publishing, 2004). The same publication holds also a chapter on Schmitt. Schmitt's *Political Theory* has seen an increase in scholarly attention over the last decades as well. Examples are Heinrich Meier, *The Lesson of Carl Schmitt: Four Chapters on the Distinction between Political Theology and Political Philosophy* (Chicago: University of Chicago Press, 1998) and more recently Paul Kahn, *Political Theology: Four New Chapters on the Concept of Sovereignty* (New York: Columbia University Press, 2011). For a critical overview on Schmitt's theories, combined with a plea for an anthropology that includes an awareness of sin, concerns for others, and combined with a commitment to mutual respect, justice and its embodiment in law, see Francis Schüssler Fiorenza, "Prospects for Political Theology in the Face of Contemporary Challenges, in *Political Theology: Contemporary Challenges*, 56–7. An interest has also emerged in the theological realm for scholarship that sets Bonhoeffer and Schmitt into a discourse in regards to Schmitt's "state of exception" within his concept of the sovereign. See Petra Brown, "Bonhoeffer, Schmitt, and the state of exception" *Pacifica*, 26, no. 3 (2013): 246–264 and Matthew Puffer, "The 'Borderline Case' in Bonhoeffer's Political Theology", in *Dem Rad in die Speichen fallen: Das Politische in der Theologie Dietrich Bonhoeffers*, eds. K. Busch Nielson, R. Wüstenberg, J. Zimmermann (Gütersloh: Gütersloher Verlagshaus, 2013) , 257–269. For the only publication that includes Leibholz in a triangular relationship with Bonhoeffer and Schmitt see Karola Radler, "Theology as Politics versus 'Political Theology'", in *Dem Rad in die Speichen fallen*, 270–286; and regarding the cooperation between Leibholz and Bonhoeffer see "Equality and Human Dignity – substantive foci of enduring significance in

15 Ben Caffee Schmitt, *Theologico-Political Theory: A Study in the History of Ideas* (Chicago: University of Chicago Press, 1963); Heinrich Meier, *The Lesson of Carl Schmitt: Four Chapters on the Distinction between Political Theology and Political Philosophy* (Chicago: University of Chicago Press, 1998); Paul Kahn, *Political Theology: Four New Chapters on the Concept of Sovereignty* (New York: Columbia University Press, 2011); Francis Schüssler Fiorenza, "Prospects for Political Theology in the Face of Contemporary Challenges," in *Political Theology: Contemporary Challenges*, 56–7; Petra Brown, "Bonhoeffer, Schmitt, and the state of exception" *Pacifica*, 26, no. 3 (2013): 246–264; Matthew Puffer, "The 'Borderline Case' in Bonhoeffer's Political Theology", in *Dem Rad in die Speichen fallen: Das Politische in der Theologie Dietrich Bonhoeffers*, eds. K. Busch Nielson, R. Wüstenberg, J. Zimmermann (Gütersloh: Gütersloher Verlagshaus, 2013) , 257–269; Karola Radler, "Theology as Politics versus 'Political Theology'", in *Dem Rad in die Speichen fallen*, 270–286; and regarding the cooperation between Leibholz and Bonhoeffer see "Equality and Human Dignity – substantive foci of enduring significance in

heological concepts, such as miracles¹⁶ and *creatio ex nihilo*.¹⁷ His leadership concept drew on the jurisprudential quality of office within the Catholic Church's model of representing the idea of Christ on earth.¹⁸

In his 1928 inaugural university lecture¹⁹ Leibholz analysed in-depth political representation within the prototype of the Fascist system, as it was implemented in Italy since 1924. He delivered a blueprint for how to turn a representational system into a Fascist system. He described how Fascism permeates the whole being of the state with a new life of community and nation that leaves no independent areas such as economy, law, or religion, outside the sphere of the state.²⁰ Almost all features that would later underlay National Socialism were analysed, such as breathing new life and meaning into a supposedly liberated form of the constitution,²¹ strengthening the executive beyond the separation of powers and ruling by decree, personal decisions replacing state law,²² and retro-active legal sanctioning of already implemented political facts.²³ He went on detailing a unifying effect provided by combining party, state, and the plurality of

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- 16 Schmitt claimed that 'the exception in jurisprudence is analogous to the miracle in theology', because in both cases the sovereign directly intervenes into an order, into a valid legal order, or into the law of nature respectively. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago: University of Chicago Press, 2005), 36–37.
- 17 Because the Weimar Constitution came into being through a revolutionary cut from previous foundational documents for the organization of the German people, Schmitt related its legitimacy to the Christian *creatio ex nihilo* dogma. For Schmitt also, the extreme case outside the normal that reveals the sovereign and defines the normal is a moment of nihilism, a sovereign moment, which is open to original creation; Schmitt, *Political Theology*, 5, 66.
- 18 Carl Schmitt, *RömischerKatholizismus und politische Form*, 5th ed. (Stuttgart: Klett-Cotta, 2008), 23–24.
- 19 Gerhard Leibholz, *Zu den Problemen des fascistischen Verfassungsrechts: Akademische Antrittsvorlesung* (Berlin: Walter de Gruyter, 1928). Leibholz presented this lecture on 30 June 1928; Manfred Wiegandt, *Norm und Wirklichkeit: Gerhard Leibholz (1901 – 1982) – Leben, Werk und Richteramt*, (Baden-Baden: Nomos, 1995), 22.
- 20 'Die spezifische Besonderheit des fascistischem Integrationssystems liegt ... in der ... gesteigerten, intensiven und allseitigen Durchdringung des gesamten Seins mit dem eigenen Gesetzen unterworfenen Leben der Gemeinschaft. Wirtschaft, Recht, Religion, die als Träger selbständiger Werte außerhalb der staatlichen Sphäre nicht anerkannt werden, haben sich der Totalität der Nation, ihren Zielen und Aufgaben unterzuordnen'; Leibholz, *Zu den Problemen*, 14.
- 21 cf. Leibholz, *Zu den Problemen*, 20, 24, 29.
- 22 cf. Leibholz, *Zu den Problemen*, 22–24, 40.
- 23 cf. Leibholz, *Zu den Problemen*, 31–32.

wills into one political ideal unit (*ideele Einheit*) under the one activist decisionist person of the leader. This person supposedly creates dynamic vitality at any given moment and is legitimized with a national myth and his creative charismatic personality.²⁴ Individual freedom is in Fascism a state controlled concession demanding foremost service to the whole.²⁵ Creating and selecting an elite-leadership is based, apart from unconditional obedience, on a hierarchical scale of dignities that determines the political value of the individual.²⁶ This makes educating the youth a priority.²⁷

Leibholz explicitly referred only to Schmitt within the body of his text. He highlighted Schmitt as convincingly asserting that the concept of dictatorship necessitates identifying an enemy.²⁸ This connected to Schmitt's existential friend-enemy concept²⁹ which he had just recently developed as an anthropological foundation³⁰ for his theory of state. In closing, Leibholz stated in a somewhat enthusiastic fashion that the Fascist state liberates the individual of all generations into a life and meaning giving unified state-totality. This is because "Fascism wants to be life, wants to create life."³¹ Even though the publication of this lecture turned Leibholz into an internationally recognized specialist on the Italian Fascist theory of state,³² his closing argument triggered a social-democratic objection to his call as professor.³³

24 cf. Leibholz, *Zu den Problemen*, 22–23, 37–39.

25 Leibholz, *Zu den Problemen*, 18–19.

26 'Die zur Leitung des Staates Berufenen ... werden ... nach dem eine Stufenleiter der Würden darstellenden Gedanken der Hierarchie durch die jeweils oberen Instanzen bezeichnet, ...'; Leibholz, *Zu den Problemen*, 35.

27 'Vor allem aus diesem Grunde legt der Fascismus ... auf Erziehung und Bildung der Jugend so besonderes Gewicht.'; Leibholz, *Zu den Problemen*, 39–40.

28 '... ist die inhaltlich nähere Bestimmung des Gegners möglich, der in seiner Konkretheit nach der überzeugenden Darstellung von C. Schmitt zum Begriff der Diktatur gehört.'; Leibholz, *Zu den Problemen*, 24.

29 Schmitt, *Concept*, 26–27.

30 Ellen Kennedy argues that the friend-enemy distinction is not a substantive or qualitative factor of human life but a quantitative criterion measured in the intensity of association and dissociation; Ellen Kennedy, *Constitutional Failure: Carl Schmitt in Weimar* (Durham: Duke University Press, 2004), 106.

31 Own translation; 'Der Fascismus will Leben sein, will Leben spenden.'; Leibholz, *Zu den Problemen*, 41.

32 Wiegandt, *Norm*, 24.

33 Wiegandt, *Norm*, 23, 26.

3. Leibholz as source for Bonhoeffer's contribution to public theology

Bonhoeffer and Leibholz shared apart from a friendship and family ties also a common fascination with Italian culture and overlapping doctoral and *habilitation* theses. While Leibholz's jurisprudential interest was directed at representation as connected to constitutional and public law, Bonhoeffer utilized the private law equivalent to public representation, *Stellvertretung*,³⁴ in his doctoral thesis and beyond. In 1929 in Berlin, at the time when Leibholz and Schmitt met frequently, both, Bonhoeffer and Leibholz, worked in their respective *habilitation* theses on competing phenomenological inquiries into the "question of consciousness and conscience".³⁵ For Leibholz the "essence of representation presupposed the ability to know a priori, supra-temporal concepts of state theory" and thus the parliamentary representative and decision maker "bundled – so to speak – the spiritual essence in himself."³⁶ Bonhoeffer instead stated that the philosophical concepts of knowledge, of which jurisprudence arguably is one, close decision makers in on themselves which prevents access to divinely revealed knowledge.³⁷

Both Bonhoeffer's and Leibholz's political leanings were at that point still relatively naively directed towards authoritarianism, with sentiments of *Volk* and Vitalism, which was in line with the general trend within their social context. This is attested for Leibholz in his lecture on Fascism and

34 The term is translated in the Dietrich Bonhoeffer Works as 'vicarious representative action'; DBWE 1:120, n. 29.

35 DBWE 10:122. Leibholz began his work on the essence of representation already in 1926 while both, Bonhoeffer and Leibholz resided in Berlin. Leibholz completed the work on his *habilitation* thesis in 1928 and published it in mid/end-1929; Leibholz, *Wesen*, 8. Bonhoeffer mentioned an interest in "consciousness" for the first time on 14 June 1928 to Walter Dreß; DBWE 10:101–102. He discussed this topic with Professor Reinhold Seeberg on 20 July 1928; DBWE 10:119–122. He referred various times to conscience in his February 1929 presentation to the Barcelona congregation; DBWE 10:359–378, esp. 374, 377, 378.

36 Michael Stolleis, *A History of Public Law in Germany 1914–1945*, trans. Thomas Dunlap (Oxford: Oxford University Press, 2004), 194. Weimar Constitution demanded in article 21 a conscience of their parliamentary representatives: 'Die Abgeordneten ... sind nur ihrem Gewissen unterworfen und an Aufträge nicht gebunden'; Horst Hildebrandt, ed., *Die deutschen Verfassungen des 19. und 20. Jahrhunderts*, 11th enl. ed. (Paderborn: Ferdinand Schöningh, 1979), 75.

37 Bonhoeffer submitted his thesis *Act and Being* on March 14, 1930; DBWE 2; DBWE 17:68.

especially his closing words, and for Bonhoeffer in his 1929 Barcelona lecture on the *Basic Questions of a Christian Ethics*.³⁸ There he focused on “my own people”³⁹ and, comparing peoples (*Völker*) with individuals, he asserted that “Strength also comes from God, and power, and victory, for God creates youth in the individual as well as in nations”. He continued that “God loves youth, for God himself is eternally young and strong and victorious.” “In its own life, in its own youth, and its own strength”, Bonhoeffer affirmed, every peoples has “a call from God to create its history, to enter into the struggle that is the life of nations.” The moment of action will be determined by human beings who are “surrendering their own selfish will to the divine will that guides world history.”⁴⁰ However, for both these statements became in later years a source of embarrassment.

In November 1932 at the very moment of the transition from Republic to *Reich*, both corrected, in a coordinated public objection, their previous positions.⁴¹ Then Leibholz’s description of the disintegration of liberal democracy in Germany, which was written as discourse with Schmitt,⁴² almost climaxed in the revision of his previous positive assessment of the Fascist idea of creating new life. For his part, Bonhoeffer’s essay *Thy Kingdom Come*⁴³ connected to his Barcelona lecture by picking up its closing words of “your kingdom come”⁴⁴ and making this the first of a series of essays⁴⁵ and university lectures⁴⁶ that revised his previous position.

38 DBWE 10:359–378.

39 DBWE 10:370, 372.

40 DBWE 10:373.

41 The lecture ‘Thy Kingdom Come’ Bonhoeffer presented on 19 November 1932; DBWE 12: 285–97. The same month Leibholz presented *Die Auflösung der liberalen Demokratie in Deutschland und das autoritäre Staatsbild* (Munich: Duncker & Humblot, 1933), 5.

42 Leibholz quoted Schmitt almost four times as often as any of the other prominent constitutional lawyers (e.g. Schmitt 38 times, Leibholz 17 times, Huber 12 times, Adler 12 times, Smend 11 times, Thoma 10 times, Kelsen 10 times). Leibholz’s references to Schmitt are variably in support as well as in rejection of his own perspective.

43 DBWE 12:285–97.

44 DBWE 10:378.

45 Bonhoeffer, *What is Church?*, DBWE 12:262–266; Bonhoeffer, *The Younger Generation’s Altered View of the Concept of Führer*, DBWE 12:266–268; Bonhoeffer, *The Führer and the Individual in the Younger Generation*, DBWE 12:268–282.

46 Bonhoeffer’s book *Creation and Fall* is based on a lecture at the University of Berlin in the winter semester of 1932–33; DBWE 3.

Leibholz warned that the “new political faith movement”⁴⁷ is a danger to the Protestant Church. Expressed in the idea of a new *Reich*, this movement is a comprehensive totality of eternal, earthly, and religious life.⁴⁸ He criticized the attempt of implementing a “change of attitude in the young generation” that emphasizes a new human being who is willing to sacrifice the own life⁴⁹ based on faith in the “holy” authority of one representative, leading, and responsible personality.⁵⁰ In difference to natural authority through office in which the leader “has” authority this new principle of authority is legitimized through a principle of hierarchy between the leader and the led. With faith in a unitary meta-individual principle, the led accept obedience, devotion, and command and the free political personality of the leader who makes decisions and carries the responsibility for all.⁵¹ An immanent “correct faith” (*Rechtgläubigkeit*) gives access to the minority of the new ruling elite.⁵²

While Schmitt began contributing to the legislation that would later synchronize all state institutions,⁵³ Leibholz warned about exactly this collectivization under the leader principle. He warned the church of losing its spiritual and institutional independence to a state that absorbs spiritual content into its comprehensive mythical ideology⁵⁴ and remodels the

47 Leibholz, *Auflösung*, 56.

48 ‘Dieser religionsähnliche, sich in immer wiederkehrenden Bezugnahmen auf das Organische äußernde Mythos, ..., und der durch seine neue Substanz für das religiöse Dogma insbesondere der evangelischen Kirche nicht ohne Gefahr ist, findet bei uns seinen vielleicht sinnfälligsten Ausdruck in dem neuen Reichsgedanken, durch den ewiges und irdisches, religiöses und staatliches Leben zu einer einzigen, ... umfassenden Totalität zusammengeschlossen werden soll ...’; Leibholz, *Auflösung*, 56.

49 Leibholz, *Auflösung*, 57.

50 Leibholz, *Auflösung*, 66.

51 cf. Leibholz, *Auflösung*, 60–61, 64.

52 Leibholz, *Auflösung*, 57, 70.

53 Carl Schmitt, *Das Reichsstatthaltergesetz* (Berlin: Heymann, 1933); Weimar Republic, Reichstag, *Vorläufiges Gesetz zur Gleichschaltung der Länder mit dem Reich vom 31. März 1933* [Temporary act to synchronize the provinces and the Reich of 31 March 1933]; Weimar Republic, Reichstag, *Zweites Gesetz zur Gleichschaltung der Länder mit dem Reich: Reichsstatthaltergesetz vom 07. April 1933* [Second act to synchronize the provinces and the Reich of 7 April 1933], documentArchiv.de der historischen Dokumenten- und Quellensammlung zur deutschen Geschichte ab 1800 (2000–2004), accessed January 30, 2018, <http://www.documentarchiv.de/index.html>.

54 cf. Leibholz, *Auflösung*, 71.

church's constitutionally given form of a society of public law.⁵⁵ Because the state is “not the only ‘holy place’” the protestant state is conscious of boundaries, it limits the church just as it finds its own limits in the God-given church which teaches and proclaims God's revealed word. Therefore Leibholz demanded from the state respect for the naturally given orders (e.g. profession, estate, and family).⁵⁶ While rejecting the mythical imperialism he quoted Bonhoeffer's “Not creation of new life, but preservation of the given life' is the office of the state.”⁵⁷

Heading Leibholz's warning Bonhoeffer rejected synchronizing the church to the state by affirming congruently to Leibholz's statement that “the church limits the state, just as the state limits the church.”⁵⁸ For Bonhoeffer “the church is the limit of politics,” “points to the limited, to the law, to order, to the state”,⁵⁹ and witnesses to the transgression of the boundaries to human possibilities.⁶⁰ The church and the state, “*miracle* and *order* are the two forms in which God's kingdom on earth presents itself”.⁶¹ In this linked duality the kingdom of God exists in our world.⁶² The state has to use its authority to “recognize and maintain the order of preservation of life,” and “against the destruction of life.”⁶³ Similar to Leibholz this included also for Bonhoeffer the preservation of the order of existing communities (e.g. family, nation/*Volk*) and excluded creating new communities.⁶⁴ But it is God who is the creator and preserver of this

55 cf. Leibholz, *Auflösung*, 75; Article 137, para 5 and 6 Weimar Constitution; Hildebrandt, *Verfassungen*, 102. The constitutional status of a society of public law was meant to protect autonomous areas of life such as religion.

56 ‘Daher ist nach evangelischer Staatsgesinnung auch der Staat nicht der alleinige „Ort der Heiligkeit“. ... „Der protestantische Staat ist vielmehr der grenzbewußte Staat, der die Kirche ebenso begrenzt wie er selbst an der von Gott gestifteten, Gottes Wort lehrenden und verkündenden Kirche seine Grenze findet, und der darüber hinaus auch die natürlich gegebenen Ordnungen wie vor allem den geschichtlich gebundenen Beruf und Stand, die Familie ... respektiert.’; Leibholz, *Auflösung*, 74.

57 Own translation. “‘Nicht Schöpfung neuen Lebens, sondern Erhaltung gegebenen Lebens’ ist das Amt des Staates.’; Leibholz, *Auflösung*, 74–75. ‘Nicht Schöpfung neuen Lebens, sondern Erhaltung des gegebenen Lebens ist sein Amt.’; DBW 12:273.

58 DBWE 12: 294.

59 DBWE 12:265.

60 cf. DBWE 12:264–65.

61 DBWE 12:292.

62 DBWE 12:293.

63 DBWE 12:293.

64 DBWE 12:293–94.

world which cannot be escaped through otherworldly piety or human-made utopias.⁶⁵ And God's kingdom is not a new kind of "visible, powerful empire".⁶⁶ Rather, in this world the church witnesses to the miracle of Jesus Christ and overcomes "death, loneliness and desire" with resurrection, community and care for others.⁶⁷

Using at times very similar language to Leibholz's,⁶⁸ Bonhoeffer too noted a generation-based shift in the attitude of the youth towards leadership and leaders. Just as Leibholz, so also Bonhoeffer noted that those in office have authority *qua* office (e.g. father, teacher, statesman etc.). However, he contrasted this authority to that of a chosen leader who leads by dominance of person. This leader's authority is constantly at risk of losing the people's, the follower's, allegiance.⁶⁹ If the led see it as their duty to accept unconditional obedience and surrender to such one, great political leader they abdicate from their own rights and responsibility.⁷⁰ And with a stab at Schmitt he added, that for Catholics, "faith in their church includes belief in the justness of its commandments and its guarantee for my obedience."⁷¹ But this transforms the form of the one person of the leader into a collective extreme individualism.⁷² Instead, for Bonhoeffer, "it is to God that the individual is responsible"⁷³ and the people of God owe "obedience towards God in the church and in the state."⁷⁴ In distinction to Leibholz, for whom *Reich* denotes a comprehensive totality, the concept of *Reich* expresses for Bonhoeffer this lent authority of the leader from below that depends on the leader's personality.⁷⁵

65 cf. DBWE 12:290.

66 DBWE 12:295.

67 cf. DBWE 12:290, 293–294.

68 Their language intersects in regards to the generational attitude, authority, the leader and the led, and bound freedom.

69 cf. DBWE 12:274, 279.

70 cf. DBWE 12:277.

71 DBWE 12:277.

72 '... it is a form of collectivism that turns into an individualism of the nth degree.:' DBWE 12:277.

73 DBWE 12:281.

74 DBWE 12:295.

75 cf. DBWE 12:278.

Regarding Leibholz’s warning about authority that is based on a principle of hierarchy, Bonhoeffer clarified that political authority is transformed into a “political-messianic idea”⁷⁶ if a “leader is placed at enormous distance from the led”.⁷⁷ Similar to Leibholz, he stated that authority of office limits individual freedom with restrictions that call attention to others.⁷⁸ But this messiah figure, whose appearance is charged with heralding “the dawn of the fulfilment of ultimate hope” and with bringing closer the eternal kingdom,⁷⁹ “tries to become the idol the led are looking for”.⁸⁰ But seeing himself as ultimate authority he will ignore his penultimate responsibility before God and God’s ultimate authority⁸¹ and will not “lead the led into responsibility towards the social structures of life”.⁸² This leader will misappropriate the eternal limitation. And once his humanity becomes exposed this misleading unbound personality will fail for having taken on superhuman responsibility.⁸³ Unbound to true communal reciprocal responsibility he will not bring a true sense of community.⁸⁴ By demanding communal reciprocity, Bonhoeffer effectively engaged with a sense of fruitful togetherness in community with Schmitt’s idea of needing an existential enemy.

In his 1932–33 lecture series, Bonhoeffer fleshed out his theology on creation and preservation as two sides of the same activity of God.⁸⁵ This engaged with Schmitt’s theory that it is the state that knows justice and uses laws to mediate justice to the empirical world of the individual.⁸⁶ However, Bonhoeffer’s theology of orders of creation and preservation lost its impact once the state, party and person of the *Führer* were merged

76 DBWE 12:278.

77 DBWE 12:277.

78 cf. DBWE 12:279.

79 DBWE 12:278.

80 DBWE 12:280.

81 cf. DBWE 12:280–281.

82 DBWE 12:280.

83 cf. DBWE 12: 276, 280– 281.

84 ‘... the true sense of community, which is based on the responsibility of individuals to hold one another responsible, does not find fulfilment here.’; DBWE 12:277.

85 DBWE 3:45.

86 Carl Schmitt, *Der Wert des Staates und die Bedeutung des Einzelnen* (Berlin: Duncker & Humblot, 2015).

into one,⁸⁷ and the *Führer* was declared to be the highest judge in 1934.⁸⁸ Then Bonhoeffer's theology of his 1933 Christology lectures⁸⁹ on Christ as the normative person and mediator (*Mittler*)⁹⁰ became the more effective means for counteracting Schmitt's state as mediator (*Mittler*)⁹¹ in identical form with the *Führer*.

4. Insights from the Bonhoeffer-Leibholz cooperation

In courageously stepping out into public opposition in 1932–33 both, Bonhoeffer and Leibholz stringently discussed the central features of this new myth-filled totality of life. At this point also Schmitt was working on preventing a National Socialist government.⁹² And for Leibholz it was still improbable that a Fascist style radical collectivization of the individual and a mass-absorption of the intellect could happen within the German circumstances.⁹³ Also neither Leibholz nor Bonhoeffer addressed at that point the one specific innate danger that differentiated National Socialism from Fascism: the xenophobic, exclusionary, racial anti-Semitism. But in April 1933, three months after Hitler's appointment to Reich-chancellor, Schmitt changed his publisher because he no longer wanted his books to appear in the same series with those of the Jewish-born Leibholz.⁹⁴ In May Schmitt differentiated in an essay between Jewish scholars and German intellectuals and anticipated the former's punitive expatriation from Germany.⁹⁵ In June NS-Stormtroopers enforced a boycott of Leibholz's

87 Weimar Republic, Reichstag, *Gesetz zur Sicherung der Einheit von Partei und Staat vom 01.Dezember 1933* [Act to secure the identity of party and state], documentArchiv.de der historischen Dokumenten- und Quellensammlung zur deutschen Geschichte ab 1800 (2000–2004), accessed January 30, 2018, <http://www.documentarchiv.de/index.html>.

88 Carl Schmitt, "Der Führer schützt das Recht (1934)", in *Positionen und Begriffe im Kampf mit Weimar – Genf – Versailles 1923–1939*, 3rd ed. (Berlin: Duncker & Humblot, 1994), 228.

89 DBWE 12:299–360.

90 DBWE 12:324.

91 Schmitt, *Der Wert*, 101.

92 Kennedy, *Constitutional Failure*, 166, 168.

93 Leibholz, *Auflösung*, 72.

94 Schmitt wrote to his publisher on 12 April 1933; Carl Schmitt and Ludwig Feuchtwanger, *Briefwechsel 1918–1935*, ed. Rolf Rieß with a Foreword by Edgar J. Feuchtwanger (Berlin: Duncker & Humblot, 2007), 393.

95 Carl Schmitt, Die deutschen Intellektuellen, *Westdeutscher Beobachter* 9 (31. Mai 1933).

university lectures.⁹⁶ Only then did Bonhoeffer fully realize the dangers of the system-intrinsic xenophobia and published his essay on *The Church and the Jewish Question*⁹⁷ although he had completed it already two months earlier.⁹⁸ And he apologized⁹⁹ shortly after to Leibholz for his fears.¹⁰⁰ And after all that happened subsequently,¹⁰¹ Leibholz severed his last ties to Schmitt in 1960 by omitting him from the republication of his *habilitation* thesis.¹⁰²

Overall, Leibholz's insight into replacing the republican democratic-representational system with a mythical leader-centred Fascist theory of state and its messianic quality, gained in close jurisprudential cooperation with Schmitt, was for Bonhoeffer a major source of information. This background knowledge supported him in his pointed opposition to the abuse of the Christian faith for purposes of power, even before National Socialism was implemented. Starting in November 1932 Bonhoeffer risked stepping out from a private place into public theology to face the contingency of the "political" in coordination with Leibholz's jurisprudential opposition. But despite their knowledge both miscalculated the pervasiveness, extent, and dangers of the system's intrinsic populist anti-Semitic xenophobia that differentiated National Socialism from Fascism. It was obscured by being embedded in the call for a great personality who was veiled in divine-like myth and the promise for a new prosperous life. The prominence of the myth of unity had concealed the new system's foundation. It was built on

96 Wiegandt, *Norm*, 33.

97 DBWE 12:361–373.

98 DBWE 17:76.

99 DBWE 13:42.

100 The literary fragment that is attributed to around 1932 speaks of doubts and fear when the intention to study theology became public but also of the conviction to be triumphant in a way that will astonish enemies. This may have been an indirect reflection on his own fears and inner turmoil in regards to his beginning theological public opposition; DBWE 11:394–396.

101 Leibholz was forced into retirement in 1936 and the Leibholz family emigrated to England in 1938. Bonhoeffer and four other members of the Bonhoeffer family were imprisoned in 1943 and killed in April 1945.

102 Due to the grave changes in the Schmitt-Leibholz relationship, Leibholz's connection to Schmitt is neither mentioned in his wife Sabine's memoirs, Sabine Leibholz-Bonhoeffer, *The Bonhoeffers: Portrait of a Family* (London: Sidgwick & Jackson, 1971), nor in the biography of Leibholz, Wiegandt, *Norm*.

an anthropological contradiction, on an existential conflict with an enemy, on division, and not on a unity of life as it claimed.

Modern democracy functions only on the basis of an open society that tolerates and accepts others and acknowledges the dignity of all human beings. This ideal calls for continual re-evaluation, dynamic cooperation regarding arising problems, and for the involvement of all societal groups and individuals.¹⁰³ Bonhoeffer's theology of the late 1930s and early 1940s, built on Leibholz's jurisprudential discourse with Schmitt, is a call for early vigilance against abuses of power and any form or shape of underlying populist appeals to the negative sides of human nature. Bonhoeffer's theology is a warning against abdicating from God-given personal freedom, refusing accountability to others, and ignoring the responsibility that God has lovingly placed on human beings as a restriction to power. It calls for human beings to seek God-revealed life and justice, instead of creating them.

Bibliography

- Dietrich Bonhoeffer Werke 2015*. Edited by Eberhard Bethge, Ernst Feil, Christian Gremmels, Wolfgang Huber, Hans Pfeifer, Albrecht Schönherr, Heinz Eduard Tödt, and Ilse Tödt. 17 volumes. Gütersloh: Gütersloher Verlagshaus.
- DBW 12: *Berlin: 1932–1933*. Edited by Carsten Nicolaisen and Ernst-Albert Scharffenorth. 1997.
- Dietrich Bonhoeffer Works*. Edited by Victoria J. Barnett, Wayne Whitson Floyd Jr., Barbara Wojhoski. 17 volumes. Minneapolis: Fortress Press. 1996–2014.
- DBWE 1: *Sanctorum Communio: A Theological Study of the Sociology of the Church*. Edited by Clifford J. Green. Translated by Reinhard Krauss and Nancy Lukens. 1998, paperback 2009. First published in German in 1930.

103 Within the South African context John W. de Gruchy has repeatedly applied Bonhoeffer's theology in the fight against Apartheid and for democracy; John W. de Gruchy, "Democracy", in *The Blackwell Companion to Political Theology*, eds. Peter Scott and William T. Cavanaugh (Malden, MA: Blackwell Publishing, 2004), 439–454.

- DBWE 2: *Act and Being: Transcendental Philosophy and Ontology in Systematic Theology*. Edited, with new supplementary material, by Wayne Whitson Floyd, Jr. Translated by H. Marin Rumscheidt. 1996. First published in German in 1931.
- DBWE 3: *Creation and Fall: A Theological Exposition of Genesis 1–3*. Edited by John W. de Gruchy. Translated by Douglas Stephen Bax. 1997, paperback 2004. First published in German in 1937.
- DBWE 10: *Barcelona, Berlin, New York: 1928–1931*. Edited by Clifford J. Green. Translated by Douglas W. Stott. 2008
- DBWE 11: *Ecumenical, Academic, and Pastoral Work: 1931–1932*. Edited by Victoria J. Barnett, Mark S. Brocker and Michael B. Lukens. Translated by Anne Schmidt-Lange, with Isabel Best, Nicolas Humphrey and Marion Pauck. Supplementary material translated by Douglas W. Stott. 2012.
- DBWE 12: *Berlin: 1932–1933*. Edited by Larry L. Rasmussen. Translated by Isabel Best and David Higgins. Supplementary material translated by Douglas W. Stott. 2009.
- DBWE 13: *London: 1933–1935*. Edited by Keith Clements. Translated by Isabel Best. Supplementary material translated by Douglas W. Stott. 2007.
- DBWE 17: *Indexes and Supplementary Materials*. Edited by Victoria J. Barnett and Barbara Wojhoski with the assistance of Mark S. Brocker. With a retrospective on the English edition by Clifford J. Green. 2014.
- Brown, Petra. “Bonhoeffer, Schmitt, and the state of exception”. *Pacifica*. 2013 26(3):246–264.
- De Gruchy, John W 2004. Democracy. In *The Blackwell Companion to Political Theology*. Edited by Peter Scott and William T Cavanaugh. Malden, MA: Blackwell Publishing.
- Hildebrandt, Horst (ed) 1979. *Die deutschen Verfassungen des 19. und 20. Jahrhunderts* [The German constitutions of the 19th and 20th centuries]. 11th enl. ed. Paderborn: Ferdinand Schöningh.

- Kahn, Paul 2011. *Political Theology: Four New Chapters on the Concept of Sovereignty*. New York: Columbia University Press.
- Kennedy, Ellen 2004. *Constitutional Failure: Carl Schmitt in Weimar*. Durham: Duke University Press.
- Leibholz, Gerhard 1933. *Die Auflösung der liberalen Demokratie in Deutschland und das autoritäre Staatsbild* [The dissolution of the liberal democracy in Germany and the authoritarian theory of state]. Wissenschaftliche Abhandlungen und Reden zur Philosophie, Politik und Geistesgeschichte. Munich: Duncker & Humblot.
- 1929. *Das Wesen der Repräsentation unter besonderer Berücksichtigung des Repräsentativsystems: Ein Beitrag zur allgemeinen Staats- und Verfassungslehre* [The essence of representation under special consideration of the system of representation: A contribution to the general theory of state and constitution]. Beiträge zum ausländischen öffentlichen Recht und Völkerrecht, edited by Victor Bruns, vol. 13. Berlin: Walter de Gruyter.
- 1960. *Das Wesen der Repräsentation und der Gestaltungswandel der Demokratie im 20. Jahrhundert* [The essence of representation and the changes in the form of democracies in the 20th century], 2nd ext. ed. Berlin: Walter de Gruyter.
- 1928. *Zu den Problemen des fascistischen Verfassungsrechts. Akademische Antrittsvorlesung* [Problems of fascist constitutional law: academic inaugural lecture]. Beiträge zum ausländischen öffentlichen Recht und Völkerrecht, edited by Victor Bruns, vol. 11. Berlin: Walter de Gruyter.
- Leibholz-Bonhoeffer, Sabine 1971. *The Bonhoeffers: Portrait of a Family*. London: Sidgwick & Jackson.
- Mehring, Reinhard 2009. *Carl Schmitt: Aufstieg und Fall – Eine Biographie* [Carl Schmitt: Ascent and fall – A biography]. Munich: C.H. Beck.
- Meier, Heinrich 1998. *The Lesson of Carl Schmitt: Four Chapters on the Distinction between Political Theology and Political Philosophy*. Chicago: University of Chicago Press.

- Moltmann, Jürgen 2013. “Political theology in ecumenical contexts”. In *Political theology: contemporary challenges and future directions*. Edited by Francis Schüssler Fiorenza, Klaus Tanner and Michael Welker. Louisville: Westminster John Knox. 1–11.
- Puffer, Matthew. The “Borderline Case” in Bonhoeffer’s Political Theology. In *Dem Rad in die Speichen fallen*. 257–269.
- Radler, Karola 2013. Theology as Politics versus Political Theology. In *Dem Rad in die Speichen fallen: Das Politische in der Theologie Dietrich Bonhoeffers*. Edited by K Busch Nielson, R Wüstenberg, J Zimmermann. Gütersloh: Gütersloher Verlagshaus. 270–286.
- 2016. “Equality and Human Dignity – substantive foci of enduring significance in Bonhoeffer’s and Leibholz’ interdisciplinary discourse”. In *Christian Humanism and Moral Formation in “A World Come of Age”: An Interdisciplinary Look at the Works of Dietrich Bonhoeffer and Marilynne Robinson*. Edited by J. Zimmermann, Natalie Boldt. Cambridge: Cambridge Scholars Publishing.
- Schmitt, Carl 1995, 2007. *The Concept of the Political*. Translated, introduction and notes by George Schwab. Foreword by Tracy B Strong. 2nd expanded ed. Chicago: University of Chicago Press. This translation based on the 1932 ed. (Berlin: Duncker & Humblot), first published in 1927 as *Der Begriff des Politischen* by Duncker & Humblot (Munich).
- 1985. *The Crisis of Parliamentary Democracy*. Translated by Ellen Kennedy. Studies in contemporary German social thought, edited by Thomas McCarthy. Cambridge, Mass.: MIT Press, 1985; paperback 1988. First published in 1923 as *Die Geistesgeschichtliche Lage des heutigen Parlamentarismus* by Duncker & Humblot (Berlin).
- 1933. Die deutschen Intellektuellen [The German intellectuells]. *Westdeutscher Beobachter*. 9(31.Mai 1933)
- 1933. “Der Führer schützt das Recht (1934).“ [The Führer protects justice (1934)]. In *Positionen und Begriffe*. 227–232.
- 2004. *Legality and Legitimacy*. Edited and translated by Jeffrey Seitzer. Introduction by John P McCormick. Durham: Duke University Press. First published in 1932 as *Legalität und Legitimität* by Duncker & Humblot (Munich).

- 2005. *Political Theology: Four Chapters on the Concept of Sovereignty*. Translated by George Schwab, 1985. Foreword by Tracy B Strong, 2005. Chicago: University of Chicago Press. First published in 1922, revised 1934 as *Politische Theologie* by Duncker & Humblot (Berlin).
 - 1994. *Positionen und Begriffe im Kampf mit Weimar – Genf – Versailles 1923–1939* [Positions and concepts in the struggle with Weimar – Geneva – Versailles 1923–1939]. 3rd ed. Berlin: Duncker & Humblot.
 - 1933. *Das Reichsstatthaltergesetz* [The Reich-governor act]. Berlin: Heymann.
 - 2008. *Römischer Katholizismus und politische Form* [Roman Catholicism and political form]. 5th ed. Stuttgart: Klett-Cotta, 2008. First published in 1923 by Hellerau. This edition is based on the 2nd edition published in 1925 by Klett-Cotta (Stuttgart).
 - 2018. *Tagebücher 1925 bis 1929* [Diaries 1925 to 1929]. Edited by Martin Tielke and Gerd Giesler. Berlin: Duncker & Humblot.
 - 2010. *Tagebücher 1930 bis 1934*. [Diaries 1930 to 1934]. Edited by Wolfgang Schuller and Gerhard Giesler. Berlin: Akademie Verlag.
 - 2010. *Verfassungslehre*. [Constitutional theory]. 10th ed. Berlin: Duncker & Humblot. First published in 1928 by Duncker & Humblot (Berlin).
 - 2015. *Der Wert des Staates und die Bedeutung des Einzelnen* [The value of the state and the significance of the individual]. 3rd corrected ed. Berlin: Duncker & Humblot. First published in 1914 by J. C. B. Mohr (Tübingen).
 - 1929. “Wesen und Werden des Faschistischen Staates”. [Essence and development of the fascist state (1929)]. In *Positionen und Begriffe*. 124–30.
- Schmitt, Carl and Ludwig Feuchtwanger 2007. *Briefwechsel 1918–1935* [Exchange of letters 1918–1935]. Edited by Rolf Rieß. Foreword by Edgar J. Feuchtwanger. Berlin: Duncker & Humblot.
- Schüssler Fiorenza, Francis 2013. “Prospects for Political Theology in the Face of Contemporary Challenges. In *Political Theology: Contemporary Challenges and future directions*. Edited by Francis Schüssler Fiorenza, Klaus Tanner and Michael Welker. Louisville: Westminster John Knox. 37–59.

- Scott, Peter and William T Cavanaugh's, (eds) 2004. *The Blackwell Companion to Political Theology*. Malden: Blackwell Publishing.
- Stolleis, Michael 2004. *A History of Public Law in Germany 1914–1945*. Translated by Thomas Dunlap. Oxford: Oxford University Press. First published in 1999 as *Geschichte des öffentlichen Rechts in Deutschland, vol. 3: Staats- und Verwaltungswissenschaft in Republik und Diktatur* by CH Beck (Munich).
- Wiegandt, Manfred 1995. *Norm und Wirklichkeit: Gerhard Leibholz (1901 – 1982) – Leben, Werk und Richteramt* [Norm and reality: Gerhard Leibholz (1901–1982) – life, work and judicial office]. Baden-Baden: Nomos.