THE SIN OF SINGULARITY AND THE DIVINE ORIGINS OF HUMAN RIGHTS ADVOCACY

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INTRODUCTION

This Article is the final written piece of the Sovereignty, Humanity, and Law Symposium. As such, it references many of the Symposium’s contributing scholars. The fullness of Professors Bernadette Meyler, Richard Weisberg, Christopher Warren, and Michael Pantazakos’ work merits more processing and reflection than this Article can do justice. Though each scholar explores a different strand of our intellectual heritage, they share the common goal of better understanding our modern moment and finding new paths toward human flourishing. This Article briefly shares my thoughts and hopefully contributes to a richer understanding of sovereignty, humanity, and law—as is the intention of this Symposium. To borrow a phrase used by Ambassador Stuart E. Eizenstat in his Keynote Address, the objective of our work is to help us think about the “best means to achieve belated justice.”¹

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I. KING DAVID AS SOVEREIGN AND SUBJECT

As Professor Meyler persuasively demonstrates in her recent study *Theatres of Pardoning*, the “close connection between pardoning and sovereignty,” which can be traced back to the late-sixteenth century, “solidified through the contests over power between king and Parliament in seventeenth century England.”

In exploring the “dramatic manifestation[s]” of pardoning in the period, Meyler witnessed a novel shift and discovered “an alternative account of law and mercy as operating to the benefit of the state . . . rather than serving the primary purpose of glorifying the sovereign.”

Professor Meyler’s Article prompted me to revisit another public (biblical) figure with a reputation for spectacle and penchant for pardon. The Israelite King David captured the imagination of Tudor and Elizabethan monarchs, poets, artists, politicians, preachers, and playwrights. His life was represented in biblical plays, masques, and pageants and invoked in numerous staged representations of the divine right of kings. The figure of David appealed to the early modern audience’s proclivity for paradox through his reception as shepherd/slayer, poet/potentate, lover/womanizer, usurper/anointed, and sinner/saint.

Louis B. Wright, American scholar and former director of the Folger Shakespeare Library, suggests that David may have received theatrical treatment in the early modern era because “the nationalistic period of ancient Jewish history appealed to Elizabethan patriotism,” but concedes that it is “more likely David’s private life interested an audience which fed on Italian intrigues.” More works relating David to monarchy were published in the seventeenth century than in the

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3 Id. at 12.

4 In the sixteenth century, David’s life was dramatized in the neo-Latin tragedy *Absalom* (1540) by Thomas Watson, in the anonymous (and no longer extant) interlude *Two Sinnes of King Davyd* (1561), and ultimately finds its most poetic treatment in George Peele’s *The Love of King David and Fair Bethsabe* (1594). David Bevington, *Tudor Drama and Politics: A Critical Approach to Topical Meaning* 219–20 (1968) (discussing how Peele’s play offers its audience a sophisticated exposé on royal corruption).


previous centuries combined. Dryden’s watershed poem *Absalom and Achitophel* offers an especially cutting political satire figuring Charles II as the Hebrew king.  

During David’s reign, the Israelites experienced unprecedented military triumph and prosperity, but they also witnessed excessive bloodshed, tragedy, and scandal. In Solomon’s public eulogy for his father recorded in 1 Kings and 2 Chronicles, which Professor Meyler might grant a rather theatrical account/act, Solomon presents David as God’s “servant” who “didst well” everything that was asked of him. Although Solomon is the first to offer a redemptive reading of his father’s controversial life, he was by no means the last. Generations of Jewish and Christian thinkers have wrestled with David’s legacy, and perhaps the most astonishing scene of pardoning is the one staged on the pages of the Talmud.  

While the Hebrew Bible displays David’s religious devotion and keen leadership, it makes no attempt to hide his faults or justify his transgressions. However, an interpretive impulse to legitimize or excuse David’s indiscretions and elevate his status emerges in rabbinic discourse, exemplified in the Sages’ assertion that “whoever says that David sinned is surely in error.” But how can this be when “David said to the Lord, ‘I have sinned grievously in what I have done’” and repeatedly calls out to God for forgiveness in his Psalms? In a series of debates, the Talmudic Sages build their case that any apparent “sins” performed by David are merely the products of a misguided hermeneutical approach.

In relying on strict legalistic interpretations, the Sages argue that David did not commit adultery when he lay with Bathsheba because he did so while her husband Uriah was battling the Ammonites. At the time, it was customary for every soldier

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7 See *John Dryden, Absalom and Achitophel* (1681).
8 1 Kings 8:18–25 (Geneva Bible 1560). Solomon’s address is repeated almost verbatim in 2 Chronicles 6 (Geneva Bible 1560).
9 Babylonian Talmud, Shabbat 56a. As Jewish tradition maintains that the Messiah descends from David, the rabbis rally to show David’s solicitation of Bathsheba as a divinely inspired act: David was granted prophetic understanding that their union was preordained and would produce Solomon and so forth. Babylonian Talmud, Sanhedrin 107a.
10 2 Samuel 24:10 (Geneva Bible 1560).
11 To provide just one of many examples, “cleanse me thoroughly of my wrongdoing, and purify me of my sins.” Psalms 51:4 (Geneva Bible 1560).
12 See Babylonian Talmud, Shabbat 56a; Babylonian Talmud, Sanhedrin 107a–b, https://halakhah.com/sanhedrin/sanhedrin_107.html [https://perma.cc/YCH4-GDDP].
13 See 2 Samuel 11; Babylonian Talmud, Shabbat 56a.
to provide a bill of divorce to his wife before going to war; this practice was established to protect women in the event that their husbands went missing or their bodies were not recoverable since, according to rabbinic law, a Jewish woman can only remarry if her husband predeceases her or she is legally divorced. The Talmud also absolves David of any guilt for Bathsheba’s husband’s death—which follows after his order to send Uriah to the front lines—by claiming that Uriah warranted the death penalty for being “rebellious against royal authority” when he refused David’s command to return home.

The rabbis’ collective responses exonerate David of all his mistakes except one: the Sages concur there is fault to be found in the way David initiates his relationship with Bathsheba, though it has nothing to do with sexual desire. Rab Judah finds evidence of his culpability in a verse from Psalms in which David pleads, “examine me O God and prove me: trye out my reynes and my heart” and contextualizes it as follows:

[David] said unto Him, “Sovereign of the Universe! Why do we say [in prayer] ‘The God of Abraham, the God of Isaac, and the God of Jacob,’ but not the God of David?” God replied, “They were tried by me, but [you were] not.” Then, replied he, “Sovereign of the Universe, examine and try me”—as it is written in Psalms, Examine me, O Lord, and try me. G-d answered “I will test thee, and yet grant thee a special privilege; for I did not inform them [of the nature of their trial beforehand], yet, I inform thee that I will try thee in a matter of adultery.” Straightway, “And it came to pass in an eveningtide, that David arose from off his bed.”

From this episode, Rab Judah counsels that “one should never [intentionally] bring himself to the test, since David king of Israel did so, and fell.” Though Rab Judah confirms that David errs, he reconstructs the charge and the motive, replacing presumed licentiousness with an intense desire to reach the highest levels of spiritual

14 Id.
15 Id.
16 Babylonian Talmud, Sanhedrin 107a.
17 Psalms 26:2 (Geneva Bible 1560).
18 Babylonian Talmud, Sanhedrin 107a.
19 Id.
satisfaction and intimacy with God. But as is the case with rabbis and maybe a few lawyers, this provision is met with numerous demands for clarification by his colleagues. Why did God consent to the test if he knew David would fail? How did David fail when God expressly warned him against committing adultery?

Another exegetical act of pardoning claims that David was fully capable of resisting physical temptation, but intentionally yields and forfeits the “wager.” Why? Here is where I see Professor Warren’s conceptual model finding purchase in Talmudic discourse. The Sages claim that even though David had intimate knowledge of God’s designs, he also understood the importance of hierarchy—in this case—that the Israelite sovereign is first and foremost God’s servant (rather than worthy opponent).

Raba expounded: What is meant by the verse, “Against thee, thee only, have I sinned, and done this evil in thy sight: that thou mightest be justified when thou speakest, and be clear when thou judgest?” David pleaded before the Holy One, blessed be He: Thou knowest full well that had I wished to suppress my lust, I could have done so, but, thought I, let them [the people] not say, The servant triumphed against his Master.

Here the rabbis rest their case: David fails for God’s benefit, so the nation never doubts their true judge and “Master.” In Jewish exegetical tradition—although David merits knowledge of heavenly enterprises—he is still subject to the judgments of human beings.

Throughout Professor Meyler’s insightful work tracing the political development of pardoning reflected on the early English stage, she shows compassion enacting more than redemption of an individual or the glorification of the sovereign. Pardoning becomes a tool for social repair on a broader scale, “in which some form of mercy” (rather than strict application of the law) “prevents the overturn of the state itself.”

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21 Babylonian Talmud, Sanhedrin 107a.

22 MEYLER, supra note 2, at 12. Meyler’s investigation of individual acts of mercy that transform (and are secured by) the state is especially compelling in her third chapter, “Non-Sovereign Forgiveness: Mercy among Equals in The Laws of Candy,” which focuses on Beaumont and Fletcher’s Jacobean drama and similarly constructed plays like Measure for Measure and Merchant of Venice. Id. at 111. Meyler shows that “while the pardons ensure non-tragic endings, the plays leave their spectators thinking about these
It is tempting to turn to *The Merchant of Venice* when debating the potential for mercy to both strengthen and “impeach the justice of the state,” especially Professor Richard Weisberg’s extensive body of work on Shakespeare’s play. Yet, in considering the compatibility of pardoning and democracy as Meyler invites, David’s biblical drama makes a case for the dangers of mercy-metered law or, to use Weisberg’s term, “the perils of flexibility” taken from his book *In Praise of Intransigence*.

After David learns of his daughter Tamar’s rape by his son Ammon, a crime to which he was an unwitting party, Scripture says David “grew angry.” However, two years pass, and David still does nothing. A pattern emerges in 2 Samuel’s portrayal of Tamar’s assault, Ammon’s murder, and then Absalom’s rebellion.

pardons’ broader implications for the world of drama as well as for the audience members’ own spheres beyond the stage.” Id. at 171; see also Martha C. Nussbaum, *Equity and Mercy*, 22 PHIL. & PUB. AFF. 83 (1993) (discussing compassion in judgement).

25 *WILLIAM SHAKESPEARE, THE MERCHANT OF VENICE* act 3, sc. 4, l. 32.


26 *2 Samuel* 13:21–23 (Geneva Bible 1560). On David’s unknowing involvement: “Amnon lay down and pretended to be sick. The king came to see him, and Amnon said to the king, ‘Let my sister Tamar come and prepare a couple of cakes in front of me, and let her bring them to me.’ David sent a message to Tamar in the palace, ‘Please go to the house of your brother Amnon and prepare some food for him.’” *2 Samuel* 13:6–7 (Geneva Bible 1560).

27 Id.

28 See *2 Samuel* 13–19 (Geneva Bible 1560). Joab criticizes David’s stagnation in putting down Absalom’s rebellion and languishing over his riotous son as misplaced sentiment spurring national discord. After Absalom’s death, Joab tells David that his excessive grief jeopardizes political stability and civic order: “Today you have humiliated all your followers, who this day saved your life, and the lives of your sons and daughters . . . by showing love for those who hate you and hate for those who love you. For you have made clear today that the officers and men mean nothing to you. I am sure that if Absalom were alive today and the rest of us dead, you would have preferred it. Now arise, come out and placate your followers!
Whether King David exercises mercy in not seeking retribution for these transgressions or simply abstains from pursuing justice, the result is the same. As history has shown, no choice is still a choice, and in these instances, it leads to national crisis and the loss of innocent lives.

This Article does not aim to dispute the Talmud’s position that those who believe David sinned are in err but rather to take their declaration as a provocation to push further and question the parameters of “sin” itself. Is the standard of responsibility higher for sovereigns than citizens? What is the difference between transgression, omission, and injustice? When is an individual compelled to abstain or act when private desires conflict with public interest and obligations? Verbal echoes and narrative parallels between the life of David and Hamlet richly texture Shakespeare’s tragedy, and in Professor Weisberg’s reading, the prince of Denmark is faulted for being “less a procrastinator than a compromiser.” Although neither path is considered particularly heinous today, like David, Hamlet “insisted on delay when his fate and that of the world was ‘crying out.’” Such deliberation, as Weisberg argues, not only “makes for . . . poor leadership” but also demonstrates the lesson that “it is error to delay unduly . . . when everything within you knows what
As such, while David may “walk before [God] in wholehearted devotion,” he is no angel.

II. ADAM, ANGELS, AND EQUITY

Warren’s concentrated and compelling illustration of the interlinked “conceptual histories of early modern angels and diplomats” challenges us to reexamine the origins and affordances of human rights. The prevailing “story of rights and the human,” as Warren reminds us, has been centered around our shared “creaturely needs” from the Romans to the postmodern era. One might consider Lear’s lament of “unaccommodated man . . . a poor, bare, forked animal” as the very emblem of Agamben’s “bare life” upon which the state exerts its political power.

Warren draws our attention to the “great chain of being” and then asks us to raise our gaze because “the human had neighbors not on one but on two sides.” Positioned above animals and just below angels, he shows us how divine proximity and theological “legacy” were used to afford greater dignity, power, protection, and resources to diplomats in the early modern period. Acknowledging that while angels are “ontologically-suspect” and political theology outmoded, Warren

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31 WEISBERG, supra note 25, at 46. As I drafted these sentences in April 2021, President Biden was announcing a series of executive actions related to gun control and Vice President Kamala Harris urged the nation: “Time and again, as progress stalled, we’ve all asked, what are we waiting for? Because we aren’t waiting for a tragedy . . . we’ve had more than we can bear. We aren’t waiting for solutions either, because they already exist . . . people want action . . . so all that is left is the will and the courage to act.” Kamala Harris, U.S. Vice President, Remarks by Vice President Harris on Gun Violence Prevention (Apr. 8, 2021), https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/04/08/remarks-by-vice-president-harris-on-gun-violence-prevention/ [https://perma.cc/5NGE-42AE]. The pain and striking prescience of these words is profound as I proofread this Article in the days following the tragic school shooting at Robb Elementary in Uvalde, Texas on May 24, 2022.

32 1 Kings 8:23 (Geneva Bible 1560).

33 Warren, supra note 20, at 445.

34 Id. at 446.

35 WILLIAM SHAKESPEARE, KING LEAR act 3, sc. 4, l. 113–15.

36 See GIORGIO AGAMBEN, HOMO SACER: SOVEREIGN POWER AND BARE LIFE (Daniel Heller-Roazen trans., 1995); see also RICHARD ASHBY, KING LEAR ‘AFTER’ AUSCHWITZ (2020) (discussing Lear, bare life, and biopolitics).

37 Warren, supra note 20, at 447.

38 Id. at 448.
ventures that this pleromatic paradigm (perhaps a relic of Reformation thought) might be further mobilized to meaningfully expand such rights beyond a select few and achieve greater equality in our present moment.39

While the Judeo-Christian positioning of humankind is the predominant narrative in the West, how might Warren’s argument—and the Symposium’s aim—be bolstered by turning to Islamic wisdom and looking at the creation account in the Qur’an.40 After Allah makes Adam, He commands the angels in attendance to bow to him.41 The “halifā” referred to in the text is understood by some Muslim exegetes “as meaning that Adam (read: mankind) is the deputy of the angels: he replaces and succeeds them on earth, where he will act as they did before.”42

For Thomas Aquinas, as Professor Warren notes, “[f]ree will is part of man’s dignity . . . [b]ut the angels’ dignity surpasses that of men.”43 In Jewish and Christian tradition, humans may aspire to the summit of spiritual elevation, but even in his dreams, Jacob does not ascend the ladder to heaven with the angels.44 In Islamic scripture, however, the angels are envious of Adam—his superior knowledge makes him holy and tethers human dignity to intellectual striving.45 As such, the wisdom of Islamic exegetes and commentators might further support Warren’s argument that “access to knowledge” (read: education) is essential to the protection and extension of all people.

Making space for the sacred in the secular, Julia Lupton has considered elements of faith as constructive (rather than reductive) in the cause of human flourishing. She cautions against “identifying religion with tribalism—in order to critique it as a delusion, in the tradition of the Enlightenment, or to turn it into culture, in the manner of Romanticism—[since it] fails to recognize the contributions that religious discourse, especially that of the three monotheisms, have made to the

39 Id. at 461.
40 Qur’an 2, 4, 5, 7, 15, 20, 21, 38.
41 Id. at 2.
43 Warren, supra note 20, at 448 (quoting THOMAS AQUINAS, On the Angels, in SUMMA THEOLOGICA pt. 1, question 59, art. 3 (Fathers of the English Dominican Province trans., Christian Classics, complete English ed. 1981) (1947)).
44 Genesis 28:12 (Geneva Bible 1560).
universalist programs, including citizenship. This kind of interdisciplinary, inclusive thinking, present in the scholarship of our panelists, is essential for helping us confront past failures and exercise remedies.

**CONCLUSION**

Like our panelists, Hannah Arendt also looked back in order to move forward. In ancient Greece, she explains, life was divided into the private domestic realm preoccupied with biological necessity and the superior public realm in which one could live a “good” active life in word and deed. In this structural dichotomy, Arendt affirms, “a man who lived only a private life . . . was not fully human.” While today we associate privacy with privilege, what might we gain by rethinking private life—existing purely for oneself—not as the ultimate form of autonomy, but rather, as a form of deprivation, enslavement, or barbarism? Over the past decade, I have noticed an encouraging trend among my students in our discussions inside and outside the classroom—they solicit opportunities to engage with others and see public (social) contribution as the highest form of human fulfillment.

This notion—that “the sovereign individual ultimately bears the ‘privilege of responsibility’”—is insightfully presented in Professor Pantazakos’s article. Using Nietzsche as an intellectual fulcrum, Pantazakos argues that by abiding the covenant

48 Id. at 38. Leading Talmudist and 20th century Jewish thinker Rabbi Joseph B. Soloveitchik derives a similar standpoint from the story of Job in his seminal essay “Lonely Man of Faith” first published in Tradition in 1965. Joseph B. Soloveitchik, The Lonely Man of Faith, 7 TRADITION 5, 36–37 (1965). In the biblical account, Job is “blameless and upright” yet endures tremendous suffering when his faith is tested by God at Satan’s prompting. Id. (citing Job 1:1 (Geneva Bible 1560)). While Job prayed and offered sacrifices daily, Soloveitchik notes his actions were directed only toward his household and private existence. Id. at 38. As such, “Job failed to understand the covenantal nature of the prayer community in which destinies are dovetailed, suffering and joy is shared, and prayers merge into one petition on behalf of all. As we all know, Job’s sacrifices were not accepted, Job’s prayers remained unheard, and Job—pragmatic Adam the first—met with catastrophe.” Id.
49 My terms here are derived from Arendt’s formulation: “A man who lived only a private life, who like the slave was not permitted to enter the public realm, who like the barbarian had chosen not to establish such a realm, was not fully human. We no longer think primarily of deprivation when we use the word ‘privacy,’ and this is partly due to the enormous enrichment of the private sphere through modern individualism.” ARENDT, supra note 47, at 38.
and keeping promises, Abraham “rise[s] above himself” and seeks “unaccountable grace and mercy” for others.51

God’s command to Abraham, “Go forth (לְקָה / lekh le’kha),”52 as Pantazakos illustrates, is a weighty imperative: to take on the work of becoming in which the individual’s manner of living brings blessing to oneself and to others.53 Keenly showcased in his reading of Abraham’s trial with Sodom, Pantazakos shows us that in the Abrahamic paradigm of human rights advocacy, the individual must stop at nothing to protect human life, not even the judgement of God himself.54 That is righteousness.

Perhaps most encouraging and most practical about reading Abraham as a model for “individual sovereignty” is that there is no barrier to entry. Abraham, notably, was not a “sovereign” in the political sense. He did not head an extensive household like Jacob or a nascent nation like Moses. He was a person, a partner, a father, an educator, and a neighbor. Moreover, he was a traveler without land, status, or title—and none were necessary for his humanist project. Professor Pantazakos underscores a radical yet empowering idea that is perceptible in all of the panelists’ arguments: Sovereignty is not found in singularity but in service and the most divine undertaking is accountability—a practice available to all of us as professionals, educators, citizens, neighbors, and caregivers in our “overall project[ion] of natural human ascent.”55

51 Pantazakos, supra note 50, at 467.
52 Genesis 12:1 (Geneva Bible 1560).
53 See Pantazakos, supra note 50, at 472.
54 Id. at 469–70.
55 Id. at 463.