

BOOK REVIEWS

I Judge No One: A Political Life of Jesus.

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To judge, or not to judge, that is the question. In John 5:30, Jesus says “I judge.” But in John 8:15, he says “I judge no one.” So which is it? Does Jesus judge or does he not? The question of judgment, or the lack thereof, is David Lloyd Dusenbury’s theme in *I Judge No One: A Political Life of Jesus*. In this review, I present a broad outline of Dusenbury’s argument, while highlighting certain aspects that may be of particular interest to legal scholars.

With the title, Dusenbury tells the reader right away which side he is on: *I Judge No One*. Jesus combines the right to judge (“I judge”) with a refusal to judge (“I judge no one”). Therein lies the magnitude of his magnanimity. The refusal to judge would be meaningless if he does not have a right to judge. The right to judge would be unremarkable if he uses the right in order to judge. What is remarkable is that he uses the right to judge in order *not* to judge.

One of the biggest temptations that Jesus faced was the temptation to judge. The scribes and the Pharisees were constantly bringing legal questions to Jesus for his judgment: “Teacher, this woman has been caught in the act of adultery. Now in the law Moses commanded us to stone such. What do you say about her?” (John 8:4–5). In response, Jesus refused to judge. The role of the judge in law is to pass judgment. Law culminates in judgment, for there is no law without judgment. Jesus’s refusal to judge is a rejection of law. Jesus is a judge who does not judge.

While Dusenbury’s main title is *I Judge No One*, the subtitle is *A Political Life of Jesus*. However, readers who pick up the book to look for an ideal theory of politics will not find it, for Dusenbury’s argument is that Jesus is essentially anti-political. Imagine Friedrich Nietzsche titling his book *Beyond Good and Evil* as “A Book of Morality.” Nietzsche’s argument is essentially anti-moral. One can call an anti-moral position a *morality* only in an ironic sense, because if taken literally, it would distort the meaning of the term *morality* beyond all recognition. The same might be said of Dusenbury’s subtitle. On Dusenbury’s reading of the biblical texts, Jesus is essentially anti-political. Jesus can have a political life only in an ironic sense. Dusenbury’s point is that Jesus does not have a political philosophy—unless one is prepared to call an anti-political position itself a political philosophy. On Dusenbury’s reading, Jesus has an ethics, not a politics. This way of reading the Gospels cuts against the grain of, say, liberation theology, which tries to show the ethical potential of a political Christ, for whom the ethical is political. To a liberation theologian, Jesus had a



political life, but to Dusenbury, Jesus could have a political life only in the same ironic way that an anarchist may hold a passport or a communist may own capital.

Dusenbury borrows from Immanuel Kant the distinction between ethics and politics. Kant distinguishes between a juridico-civil state and an ethico-civil state: the former creates a *political* community based on positive law backed by coercion, while the latter creates an *ethical* community based on moral virtue without coercion. As Dusenbury describes it, “A juridico-civil state is one in which humans live together under a system of “juridical laws,” all of which are coercive. To belong to such a state is to belong to an ordered system of coercion. An ethico-civil state, however, is one in which humans are united by laws without being coerced, which is to say, “under laws of virtue alone” (8). Jesus’s mission is not to create a political state with its coercive apparatus. Instead, the kingdom of God that Jesus inaugurates is “an ethical community, a new form of order” that is distinct from the state, which Christians call “the church,” and which Kant calls the “invisible church” (8).

It is not only secularism that requires a separation between church and state, but the Gospels, properly understood, also require the same. “Render therefore to Caesar the things that are Caesar’s, and to God the things that are God’s” (Matthew 22:21). Give your coin to Caesar, but your soul to God. The coin can be coerced from you, but the soul must be given freely. Dusenbury’s Jesus draws a sharp distinction between the politics of this world and the kingdom of God that is *not of this world*. To this world belongs the realm of exchange (give your coin to Caesar), while in the other world lies the realm of the unexchangeable (give your soul to God). The former has a value, while the latter is invaluable. When Jesus overturned the tables of the money changers at the Temple, the objection of Jesus was that a house of prayer cannot simultaneously be a house of commerce, for one “cannot have a space of the unexchangeable that is a space of exchange” (144).

Dusenbury contrasts Kant’s theory of an ethical Jesus with Hermann Reimarus’s idea of a political Christ. Through an exegesis of the biblical texts, Dusenbury argues that Kant is right and Reimarus wrong. Dusenbury uses Reimarus, an eighteenth-century Enlightenment scholar, as his foil to show that it is exegetically mistaken and philosophically misguided to think of Jesus’s mission in political terms. Jesus was constantly tempted to act politically, but he consistently chose to act ethically. In the temptation in the desert, Satan dangled before Jesus the prospect of power, which is the currency of politics. “From the first days of his prophetic life, in the desert wilds encircling Galilee, to the last days of his natural life, in the gardens and Temple courts—and on the gibbet-hill—of Judaea, the Jesus of the canonical gospels resists this temptation. The whole of this drama could be called the political temptations of Christ” (102). Unlike Moses who created a theocratic state after leaving Egypt, and unlike Mohammad who founded the state of Medina after leaving Mecca, Jesus founded no state. Jesus founded no state because he gave no law. Moses and Mohammad were legislators for their people, whereas Jesus gave, not laws, but parables. Legal philosopher Lon Fuller famously said that laws must be general and coherent, public and prospective, comprehensible and compliant, consistent and congruent.¹ In contrast to law, parables are often more cryptic than comprehensible, more hidden than public, more paradoxical than consistent. Laws dictate, while parables educate.

Dusenbury presents different vignettes from the Gospels to prove his point. A particularly powerful pericope—especially for legal scholars—is the story of the stoning of the adulteress. In that encounter, Jesus in effect suspended the law by rendering it inoperative. The crowd wanted to stone the adulteress, as required under the law of Moses. Turning to the crowd baying for blood, Jesus said, “Let him who is without sin among you be the first to throw a stone at her” (John 8:7). With that, Jesus began writing with his finger on the ground.

¹ Lon Fuller, *The Morality of Law* (New Haven: Yale University Press, 1964), 39–43.

The crowd then slowly “went away, one by one, beginning with the eldest, and Jesus was left alone with the woman standing before him” (John 8:9). Jesus effectively added a condition for the enforcement of the law that could never be met. The condition is that the human enforcers of divine law must be wholly innocent. The only human who could conceivably meet this condition is Jesus himself; hence, he has the right to judge—but he refuses to judge. Other than him, no human is wholly innocent, and therefore no one else has the right to judge. Consequently, the law is rendered inoperative because unenforceable. Jesus did not abolish the law. Instead, he suspended its operation. William Blake expresses the sentiment of this episode beautifully in his poem *The Everlasting Gospel*:

Jesus was sitting in Moses' chair.
They brought the trembling woman there.
Moses commands she be ston'd to death.
What was the sound of Jesus' breath?
He laid His hand on Moses' law;
The ancient Heavens, in silent awe,
Writ with curses from pole to pole,
All away began to roll.²

In place of law, Jesus's mode of relation is love. At the Last Supper, Jesus told his disciples, “No longer do I call you servants ... but I have called you friends” (John 15:15). Master-servant is a legal relation, but friendship is a relation of love. The obligation of servitude is replaced with the intimacy of friendship. This is an intimate moment in an interpersonal movement. The Jesus movement is an ethical community of love among friends.

Another event in the life of Jesus that Dusenbury discusses and that would be of interest to legal scholars is his trial. Jesus had, by some counts, up to three trials before his crucifixion: he went before the Sanhedrin (a Jewish court), King Herod (a royal court), and Pontius Pilate (a Roman tribunal). Against a popular categorization that sees the transfer of Jesus from the Sanhedrin to Pilate as a transfer from the religious to the secular authorities, Dusenbury argues that the transfer was from one religio-political authority to another. Dusenbury calls them “temple-states” (181). Jesus was transferred from the Judean temple-state (with Caiaphas as its high priest) to the Roman temple-state (with the emperor as Pontifex Maximus; and Pilate as his representative). In the Judean temple-state, Jesus was charged with the offense of Judean blasphemy; in the Roman temple-state, he was charged with the offense against Roman majesty. Both were offenses against the prevailing religious and political order.

Significantly, Dusenbury points out that Jesus described both the Judean and Roman authorities as the work of human hands, despite both claiming divine mandate for their work. “The Son of Man will be delivered into the *hands of men*, and they will kill him” (Mark 9:31). All political orders, including political orders with divine pretensions, are merely human. Dusenbury explains that in reducing them to human scale, Jesus *demythifies* the political order, which debunks a widely held view that Christianity supports political orders by *mystifying* them. “This politically realist, de-mystifying Jesus can help to correct a modern historiography which sees Christianity as a supreme force of political mystification” (184). The law of Rome was just a cover for the politics of Pilate, and the law of Moses a cover for the politics of Judea. Both conspired to kill Jesus.

² William Blake, “The Everlasting Gospel,” in *Blake: The Complete Poems*, ed. W. H. Stevenson (London: Routledge, 2014), 895–909, at 900–01.

Dusenbury's view of Jesus's view of politics is negative. There is no redemption to be found in politics. All that one can do is to navigate it in a practical and pragmatic manner. His advice to his followers is to be wary: "I send you out as sheep in the midst of wolves ... beware of men" (Matthew 10:16–17). Realpolitik marks the kingdom of this world, while Jesus's transcendent kingdom is the reverse of realpolitik; it is one in which debts are forgiven and enemies are loved. The kingdom of God is the end of politics, just as "Christ is the end of law" (Romans 10:4). The biblical text speaks of the sword of secular power ("all who take the sword will perish by the sword"), alongside Jesus's rejection of the sword in the Garden of Gethsemane ("put your sword back into its place"). When Judas came with "a great crowd with swords and clubs, from the chief priests and the elders of the people" to arrest Jesus, and when "one of those who were with Jesus stretched out his hand and drew his sword, and struck the slave of the high priest, and cut off his ear," Jesus responded by saying: "Put your sword back into its place; for all who take the sword will perish by the sword" (Matthew 26:47–52). Jesus then added that "all this has taken place, that the scriptures of the prophets might be fulfilled" (Matthew 26:56).

Jesus was not a passive victim of hostile forces, but an active agent who set in motion the chain of events leading to his own death. Jesus contrived his crucifixion. However, he did so in a humanly intelligible way. The search for the historical Jesus should not, "in rushing to disavow his divinity, diminish his humanity" (54). What he did was an act of love, which humans are capable of. "Greater love has no man than this, that a man lay down his life for his friends" (John 15:13). Jesus transfigured death into love. "Death becomes, for Jesus, a cipher of supreme love" (61). Or as Paul says, "love is the fulfilling of the law" (Romans 13:10). Law crucified Jesus, but love transformed the execution into a sacrifice (literally, made it sacred).

There is, no doubt, a strand of biblical scholarship that emphasizes the anti-law aspect of Jesus's thought, an aspect that is even more pronounced in Paul's writings. I remember sitting through sermons on such anti-law themes. It is difficult not to feel uneasy when the preacher rails against the law. It is even more difficult not to take it personally. As a law professor, I profess the law. I am a teacher of the law! But I take consolation in the fact that there are some pro-law statements in Paul's letters too, such as: "the law is holy, and the commandment is holy and just and good" (Romans 7:12).

For Dusenbury, the ethical form of life is the highest mode of existence, and he ascribes this to Jesus. Contrast this elevated view of ethics with a different view held by theologian and philosopher Søren Kierkegaard, who argues that true religiosity lies beyond ethics and may require the suspension of the ethical. The move from the ethical to the religious requires a leap of faith, which is taken with fear and trembling, such as when Abraham was asked to kill his son Isaac.³ For Kierkegaard, ethics is not the highest mode of existence, however. Ethics is only an intermediate good. For the political theorist Hannah Arendt, the highest activity that a human is capable of is the life of action of the *zoon politikon*, which is manifested in the words and deeds in the public sphere of the polis.⁴ On this view, it is politics that makes us human. Politics give us the capacity, unique among all species, to govern ourselves and perform great acts that live on in the memory of the polis and thus give us a degree of immortality in a world where everything else perishes and passes away. For there to be politics, there must be law, which structures politics.⁵ I wonder what

³ Søren Kierkegaard, "Fear and Trembling" and "The Sickness unto Death," trans. Walter Lowrie (Princeton: Princeton University Press, 2013), 1–234, at 107–29.

⁴ Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958).

⁵ Jeremy Waldron, "Arendt's Constitutional Politics," in *The Cambridge Companion to Hannah Arendt*, ed. Dana Villa (Cambridge: Cambridge University Press, 2000), 201–19.

Dusenbury—or indeed Jesus—might say to this view of law and politics as that which makes us truly human.

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