

An inferred dialogue between Dietrich Bonhoeffer and Carl Schmitt with a reconsideration of *Stellvertretung* from the jurisprudential perspective

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Abstract

Recent studies have revealed that Dietrich Bonhoeffer's brother-in-law, Gerhard Leibholz, developed a close relationship with the Nazi jurist scholar Carl Schmitt. Moreover, traces of Schmitt's influence can be detected in Bonhoeffer's early writings. Concepts such as the "extraordinary" and Bonhoeffer's response in such situations display a structural similarity to Schmitt's ideas. This essay explores how this personal relationship and intellectual influence may have shaped Bonhoeffer's thought, drawing an inferred dialogue between Bonhoeffer and Schmitt, particularly through Bonhoeffer's *Ethics*. It also offers a reinterpretation of key theological ideas, including the crucial concept of *Stellvertretung*, as developed in *Ethics*. By doing so, this approach provides insights into Bonhoeffer's decision to join the conspiracy and his composition of *Ethics*.

Keywords

Dietrich Bonhoeffer; Carl Schmitt; Gerhard Leibholz; the state of exception; Stellvertretung

1. Introduction

The complex interplay between theology, jurisprudence, and political philosophy in 20th-century Germany presents a fertile ground for exploring the intellectual trajectories of key figures. Dietrich Bonhoeffer, a theologian and resistance figure against the Third Reich, and Carl Schmitt, a jurist whose ideas were co-opted by the Nazi regime, stand as emblematic

representatives of divergent responses to the crises of their time. Although there is no direct evidence of personal interaction between Bonhoeffer and Schmitt, the conceptual parallels and potential influences merit closer examination. This essay seeks to construct an inferred dialogue between the two, mediated through Gerhard Leibholz, Bonhoeffer's brother-in-law and a legal scholar influenced by Schmitt. By focusing on Bonhoeffer's use of the concept of *Stellvertretung* in his seminal work *Ethics*, the analysis situates Bonhoeffer's theological ethics within a broader jurisprudential and political context. This approach not only enriches our understanding of Bonhoeffer's intellectual development but also highlights the relevance of his thought for contemporary discussions on moral responsibility in extraordinary circumstances.

2. The relationship between Bonhoeffer and Schmitt through Leibholz

Although Dietrich Bonhoeffer was born nearly 20 years after Carl Schmitt, both were German intellectuals whose careers unfolded during the tumultuous interwar period. In 1929, Schmitt, then a 41-year-old legal scholar, delivered his lecture "The Age of Neutralisations and Depoliticisation" in Barcelona,¹ while the 23-year-old Bonhoeffer was serving a German congregation in the same city and drafting "The Basic Questions of a Christian Ethics."² There is no evidence of direct personal interaction between them, as they operated in distinct disciplines, yet their overlapping intellectual concerns suggest intriguing parallels worthy of exploration, especially since later Bonhoeffer also became a Privadozent in Berlin.

As a matter of fact, very few studies to date have compared their thought. Petra Brown's works, however, have provided a groundbreaking reference by pointing out that Schmitt's concept of (the state of) "exception" (*der Ausnahmezustand*) and Bonhoeffer's "extraordinary" (*das Außerordentliche*) can serve as a focus for comparison, linking the

1 Carl Schmitt, "The Age of Neutralizations and Depoliticization," *Telos*, 96 (June 1993), pp. 130–142.

2 DBWE 10, pp. 359–378.

discussion to Christology and ethics.³ For Schmitt, the state of exception refers to a situation where the normal legal order is suspended to address an existential crisis or emergency. The very first sentence of the main text of Schmitt's *Political Theology* reads: "Sovereign is he who decides on the exception" – highlighting the tension between law and power in such a state.⁴ As a theologian, Bonhoeffer did not discuss "exception" from a jurisprudential perspective. In *Ethics*, however, a work written during his resistance to National Socialism, he also mentioned that an "extraordinary" situation might emerge in history when the law would be suspended.⁵ For Bonhoeffer, the disciples should then make their decision in accordance with Christ. This does not refer to the "eternal law" but is a result of *free responsibility*, which is "contrary to all law but before God."⁶ The interpretation of this concept has been a controversial topic in Bonhoeffer studies, and we will further explore this pair of concepts later. Nevertheless, these attempts remain, in a sense, extended discussions based on their writings.⁷ While similarities can be identified in their thought structures and even intellectual concerns, whether either thinker intended to engage in dialogue with the other remains uncertain. Moreover, the concepts of "exception" and "extraordinary" are not on the same plane.⁸

Karola Radler's recent work addresses this research gap with a great insight, turning our attention to a figure neglected for more than 30

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- 3 Petra Brown, "Bonhoeffer, Schmitt, and the State of Exception", *Pacifica*, 26:3 (2013), pp. 246–264. Later on it developed into her doctoral thesis and was published as *Bonhoeffer: God's Conspirator in a State of Exception* (Cham: Palgrave Macmillan, 2019). Obviously "exception" (*Ausnahmezustand*) and "extraordinary" (*Außerordentliche*) are different terms, but they bear overlapping semantic contents as we shall see in what follows.
 - 4 Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, George Schwab trans. (Chicago: Univ. of Chicago Press, 2005), p. 5. See also Giorgio Agamben, *State of Exception*, Kevin Attell trans. (Chicago: University of Chicago Press, 2005).
 - 5 DBWE 6: 272–273. See also DBWE 4: 144–145. We will compare the pair of concepts in what follows.
 - 6 DBWE 6: 274.
 - 7 Jason Lam has previously paid attention to this pair of concepts and examined it in the context of Mainland China; "Bringing Bonhoeffer into Dialogue with Schmitt in Contemporary China," *International Journal of Public Theology*, 17 (2023), pp. 1–19.
 - 8 Matthew Puffer, "The 'Borderline Case' in Bonhoeffer's Political Theology," *Christ College Faculty Publications* 50 (2014), p.260; [Online]. Available: https://scholar.valpo.edu/cc_fac_pub/50 [Accessed: 12 September 2024]. While Schmitt is concerned with sovereign determination, Bonhoeffer discusses the conflict between ethical norms.

years – Gerhard Leibholz, a Jewish constitutional lawyer and theorist of state active in the same period.⁹ His expertise was in Italy's Fascist system in the 1920s. In his inaugural lecture in 1928 at the University of Berlin, some ideas of Schmitt were quoted, including the concept of dictatorship, the necessity of identifying an enemy, and the problems of representational parliamentarism.¹⁰ Although Leibholz, too, was significantly younger than Schmitt, they were working in the same area and shared similar ideas on certain issues. Moreover, as both lived in Berlin from 1926–29, they met and developed a friendship. This relationship was maintained until April 1933, when Schmitt allied himself with the Nazi regime.¹¹

What does this have to do with the young Bonhoeffer then? Hans von Dohnanyi, Bonhoeffer's brother-in-law, has long been studied in theological circles: it was due to his position in the Abwehr, Bonhoeffer and his other family members could participate in the conspiracy against the Third Reich and lost their lives. But Leibholz was also Bonhoeffer's brother-in-law, the husband of his twin-sister Sabine.¹² He and Bonhoeffer became close whilst pursuing their respective academic careers in Berlin. With the rise of National Socialism, the oppression and persecution of Jews intensified and were legalised, and the Leibholz family had to flee to London in 1939.¹³ Apart from keeping contact with Bishop George Bell, Leibholz did not produce too great an impact in either the academic or

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- 9 Karola Radler, "The Leibholz-Schmitt connection's Formative Influence on Bonhoeffer's 1932–33 Entry into Public Theology," *Stellenbosch Theological Journal*, 4:2 (2018), pp. 683–702; "Decision' in the thought of Dietrich Bonhoeffer and Carl Schmitt: A comparative study," PhD dissertation at the Faculty of Theology Stellenbosch University, 2019; the long footnotes on pp. 83 and 197 referring to Christoph Stroh, *Theologische Ethik im Kampf gegen den Nationalsozialismus: der Weg Dietrich Bonhoeffers mit den Juristen Hans von Dohnanyi und Gerhard Leibholz in den Widerstand* (München: Chr. Kaiser, 1989).
 - 10 Gerhard Leibholz, *Zu den Problemen des fascistischen Verfassungsrechts: Akademische Antrittsvorlesung* (Berlin: Walter de Gruyter, 1928); a summary can be found from Radler, "The Leibholz-Schmitt connection's formative influence," pp. 686–688.
 - 11 Radler, "The Leibholz-Schmitt connection's formative influence," p. 685; her evidence was taken from Reinhard Mehring, *Carl Schmitt: Aufstieg und Fall* (Munich: C. H. Beck, 2009).
 - 12 These family relationships are mentioned in most traditional biographies, like Renate Wind, *A Spoke in the Wheel*, John Bowden trans. (London: SCM, 1991), pp. 14, 98–106, 123.
 - 13 *Ibid.*, pp. 26, 86–88.

political sphere in Britain. The family returned to Germany after the war, and this could be a reason why he has long been neglected, especially in the English-speaking circle.

As mentioned above, Leibholz and Bonhoeffer were both working on their *Habilitation* theses in Berlin during this transitional period. Bonhoeffer's crucial concept of *Stellvertretung* in *Ethics* was already found in his early works, including his doctoral and *Habilitation* theses.¹⁴ The term is usually translated as “representation” or even “vicarious representative action”, which relates to the role of Jesus Christ in the work of salvation in theology. It was also used by Bonhoeffer to discuss the practice of the church-community and disciples in this world.¹⁵ Considering his biography, this concept is crucial in discussing the responsibility in ethical action, especially Bonhoeffer's involvement in the conspiracy to assassinate Hitler. Apart from articulating the interaction between Bonhoeffer and Leibholz, Radler explored the jurisprudential meaning of the term *Stellvertretung* at that time, underscoring the legal capacity and rationale to act on behalf of another.¹⁶ This analysis may also shed light on certain theological questions involving the term – particularly, Bonhoeffer's possible intention to discuss public issues during this transitional period in Germany. Did he also intend to respond to Schmitt's political theology and the Nazi agenda? Can we discern, on this basis, his rationale for tyrannicide – a topic that has sparked heated discussions?

14 E.g. DBWE 1: 120, n. 29.

15 But we must beware that the same term may carry different connotations or have a different focus at different stages of his life. Cf. Kevin O'Farrell, “A Severe Trial: Dietrich Bonhoeffer and a Theology of the Exception,” unpublished PhD dissertation, University of Aberdeen, 2021, pp. 138–140; he perceptively pointed out that the concept had shifted its focus from the earlier vicarious representative *action* to vicarious *representative* action.

16 Karola Radler, “The Tension between ‘Risk’ and ‘Guilt’ in the Theologian Dietrich Bonhoeffer's Exploration of Responsible Life,” *Stellenbosch Theological Journal*, 6 (2020), pp. 113–138.

3. The transformation of the political stances of Leibniz and Bonhoeffer

Leibholz's 1928 inaugural lecture, mentioned earlier, laid the foundation for his *Habilitation* thesis.¹⁷ In it, he provided an in-depth analysis of Italy's Fascist system as it developed in 1924, offering a blueprint for turning a representative system into a Fascist system. This blueprint foreshadowed key elements of the impending Nazi regime: the merging of party, state, and the plurality of wills into a single entity governed by a decisionist leader.¹⁸ This framework was not merely a political proposition but also a point of convergence with theological reflection, as we will explore later. Under this theme, the subordination of individual freedom to the collective became a central concern. Leibholz's primary focus at the time was on how to achieve consensus and representation within a pluralistic society. By the end, he even came to believe that the Fascist state could liberate individuals across generations by integrating them into a state-totality that provided life and meaning.¹⁹ That even a learned Jew like Leibholz could lean toward authoritarianism underscores the gravity of the political and ideological turmoil of the time.

What is more surprising is the resonance between Bonhoeffer's language in "The Basic Questions of a Christian Ethics" and Leibholz's writings, as interpreted by Radler. Bonhoeffer asserted that every person had "a call from God to create history, to enter into the struggle that is the life of nations."²⁰ When talking about war, he went as far as to write:

Now, should a people experiencing God's call in its own life, in its own youth, and in its own strength, should not such a people also be allowed to follow that call even if it disregards the lives of other peoples?²¹

17 Leibholz, *Zu den Problemen des fascistischen Verfassungsrechts*.

18 Ibid., pp. 18–19, 35–40; quoting from Radler, "The Tension between 'Risk' and 'Guilt,'" pp. 687–688.

19 Leibholz, *Zu den Problemen des fascistischen Verfassungsrechts*, p. 41; quoting from Radler, "The Tension between 'Risk' and 'Guilt,'" p. 688.

20 DBWE 10: 373; quoted by Radler, "The Leibholz-Schmitt Connection's Formative Influence," p. 690.

21 DBWE 10: 373.

Given the stark contrast in the attitudes the pair later adopted toward the Nazi regime, Bonhoeffer's early inclination toward authoritarianism is striking and unexpected.

After November 1932, when the Weimar Republic was replaced by the Third Reich, the two young scholars changed their stance. Leibholz warned the Protestant church that the new political movement posed a significant crisis, as it regarded itself as "a comprehensive totality of eternal, earthly, and religious life".²² He seems to have shared Bonhoeffer's perspective in "Thy Kingdom Come!", written in Berlin during the winter of 1932/33:

The kingdom of God exists in our world exclusively in the duality of church and state. Both are necessarily linked to each other. Every attempt to control the other ignores this relationship of God's kingdom on Earth.²³

Radler has highlighted significant parallels between the ideas of these two scholars, which we will not reiterate here. However, one point can hardly be overemphasised: both opposed Schmitt's principle that all state institutions should be subsumed under a single political leader. This, as noted earlier, is where theological reflection becomes especially relevant.

Leibholz argued that the church would lose both its spiritual and institutional independence if the state were regarded as the sole "holy place". Thus the church should be aware of the given boundaries while affirming its distinct office of proclaiming God's revealed word. In this way, the state should uphold naturally given orders, such as profession, estate and family. He even cited Bonhoeffer's assertion that the state's role was not to create new life but to preserve existing life.²⁴ Similarly, Bonhoeffer echoed Leibholz's views, stating, "The church limits the state, just as the state limits the church."²⁵ Furthermore, the state should "recognise and maintain the

22 Gerhard Leibholz, *Die Auflösung der liberalen Demokratie in Deutschland und das autoritäre Staatsbild* (Munich: Duncker & Humblot, 1933), p. 56; quoting Radler, "The Leibholz-Schmitt Connection's Formative Influence," p. 691.

23 DBWE 12: 293.

24 Leibholz, *Die Auflösung*, pp. 74–75; quoting DWB 12: 273; cf. Radler, "The Leibholz-Schmitt Connection's Formative Influence," p. 692.

25 DBWE 12: 294; quoting Radler, "The Leibholz-Schmitt Connection's Formative Influence," p. 692.

order of preservation of life” and take a stand “against the destruction of life.”²⁶ These ideas anticipate his later discussions on mandates and related topics in *Ethics*.

Thanks to Radler’s interpretive effort, we can clearly see how both young scholars transformed, standing firmly against subordinating the church to state leadership. In other words, they were acutely aware of the dangers posed by a state ruled by a charismatic leader. This was the period when Bonhoeffer was working at the University of Berlin. Viewed in this context, his works *Creation and Fall* and *Christology* are not only dogmatic writings but can also be read as public theology. This is particularly significant given Schmitt’s contemporaneous claim that the state and the *Führer* were also *Mittler*.²⁷ Thus, it is likely that Bonhoeffer sought to remind his people that Christ alone was the ultimate normative figure and mediator.²⁸ In this same vein, another representative work, *Discipleship*, written during the turbulent time of his rectorship of the seminary at Finkenwalde, was a natural development of his theological and political thought. Here, Bonhoeffer summoned people to follow the true mediator unreservedly. As we will see below, these themes are further incorporated into the framework of his discussion in *Ethics*.

4. Reasons for constructing an inferred response from Ethics

Based on the above findings, Brown’s discovery of the similarities between Bonhoeffer’s and Schmitt’s concepts of the extraordinary/exception can legitimately be regarded as a breakthrough. Although they used different terms, both addressed a crisis in which someone must decide (*Entscheidung*) above the law and respond with actions to repair the situation.²⁹ This sovereign position holds both political and theological significance, warranting further exploration. Radler developed

26 DBWE 12: 293; cf. Radler, “The Leibholz-Schmitt Connection’s Formative Influence,” p. 692.

27 Carl Schmitt, *Der Wert des Staates und die Bedeutung des Einzelnen* (Berlin: Duncker & Humblot, 2015), p. 101.

28 DBWE 12: 324; cf. Radler, “The Leibholz-Schmitt Connection’s Formative Influence,” p. 695.

29 Brown, “Bonhoeffer, Schmitt, and the State of Exception” and *Bonhoeffer: God’s Conspirator in a State of Exception*.

the theme of “decision” in her doctoral thesis, comparing the ideas of Bonhoeffer and Schmitt. She uncovered Bonhoeffer’s “hidden response” to Schmitt through his relationship with Leibholz and offered an initial jurisprudential interpretation of some of Bonhoeffer’s concepts, including *Stellvertretung*.³⁰ We are poised to follow this line of inquiry, particularly in exploring Bonhoeffer’s “hidden relationship” with Schmitt after the Berlin period. However, before proceeding, it must be stated that only from textual evidence alone, it is difficult to establish that Bonhoeffer consciously intended to engage in a dialogue with Schmitt in *Ethics* and his later writings. Even though Radler has unearthed his early engagement in Schmitt through Leibholz, and Brown has demonstrated the comparability of the concepts of the “exception” and “extraordinary”, delving into *Ethics* still amounts to an “inferred thought experiment”.³¹

Ethics is undoubtedly the key work of interest in this context, especially the academia, and scholars have long been interested in how Bonhoeffer “rationalised” his involvement in the conspiracy to assassinate Hitler. But this has sometimes led to the oversimplified understanding that Bonhoeffer affirmed any unlawful and violent action to be taken if a crisis had come, especially when it puts the vulnerable in danger. This has even been described by some as the “Bonhoeffer moment” and has raised some debate.³² We cannot explore this in detail; undoubtedly, however, “History and Good” in *Ethics* is the key text, as it is believed to have been written

30 Radler, “Decision’ in the thought of Dietrich Bonhoeffer and Carl Schmitt.”

31 Using “inferred thought experiment” is inspired by Matthew Puffer’s claim that “History and Good [2]” is a “short-lived thought experiment”; cf. his “Three Rival Versions of Moral Reasoning: Interpreting Bonhoeffer’s Ethics of Lying, Guilt, and Responsibility,” *Harvard Theological Review*, 112:2 (2019), p. 165.

32 Although there may have been some twisted interpretations, not all these discussions are shallow and lopsided. Some have produced impacts, especially in the context of the USA. For an overview see David P. Gushee, “Dietrich Bonhoeffer and the Evangelical Moment in American Public Life,” *Studies in Jewish-Christian Relations* 2:1 (2007), 1–5. [Online]. Available: <https://ejournals.bc.edu/index.php/scjr/article/view/1414/1304> [Accessed: 25 October 2021]; Lori Brandt Hale and Reggie L. Williams, “Is This a Bonhoeffer Moment? Lessons for American Christians from the Confessing Church in Germany?”, *Sojourners*, 47:2 (2018), pp. 16–20; Victoria Barnett, “There is no such Thing as a Bonhoeffer Moment,” *The Christian Century*, 24 November 2024. [Online]. Available: <https://www.christiancentury.org/features/there-s-no-such-thing-bonhoeffer-moment> [Accessed: 29 November 2024].

around the time when the plot to assassinate Hitler was put into action.³³ Therefore, an inferred dialogue from a jurisprudential perspective offers another view on how one might address the contextual issues of both Bonhoeffer's time and the present.

Ethics was compiled from unpublished manuscripts. The question of how to interpret these texts and arrange the fragments has long preoccupied scholars. Of particular interest are the two versions of "History and Good," whose exact relationship remains a subject of debate. Both versions, from our present understanding of the composition of *Ethics*, belong to phase 3. Why did Bonhoeffer rewrite the same section within such a short period? (They together make up a quarter of the main text.) Apart from his access to the unpublished part of Karl Barth's *Church Dogmatics* II/2,³⁴ it is possible that Bonhoeffer, as both pastor and theologian, was grappling with an inner struggle during this time. This period coincided with the looming opportunity for assassination (a plan that ultimately failed, leading to his arrest the following year). This struggle also relates to the ethical dilemma of lying to cover the truth from others, a theme often explored in traditional analyses of some paragraphs in *Ethics*. In this context, the notion of free responsibility under the extraordinary situation is undoubtedly a key and productive theme,³⁵ one that has inspired ongoing exploration of the so-called "Bonhoeffer moment".

The longer and later version introduces the concepts of *Schuld*, *Stellvertretung* and *Schuldübernahme*, which are closely tied to the concerns of this essay. Notably, only this version includes the famous paragraph referencing Machiavelli's concept of *necessità*:

There are occasions when, during historical life, the strict observance of the explicit law of a state, a corporation, a family, but also of a scientific discovery, entails a clash with the necessities of human life. In such cases, appropriate responsible action departs

33 I basically follow the time frame from the Appendix 2 of DBWE 6: 471–472.

34 See two essays by Puffer: "Three Rival Versions of Moral Reasoning"; "Election in Bonhoeffer's *Ethics*: Discerning a Late Revision," *International Journal of Systematic Theology* 14 (2012), pp. 255–276.

35 DBWE 6: 274. See also Brown, "Bonhoeffer, Schmitt, and the State of Exception", pp. 251–252.

from the domain governed by laws and principles, from the normal, and instead is confronted with the extraordinary situation (*außerordentliche Situation*) of ultimate necessities that are beyond any possible regulation by law. In his political theory, Machiavelli coined the term *necessità* for such a situation.³⁶

As Bonhoeffer used a term (extraordinary) different from Schmitt, he would not have defined (the state of) exception here from the jurisprudential perspective. Nevertheless, this paragraph is undoubtedly written for discussing *Staatskunst*. As noted above, we cannot assert that Schmitt is in the scope of Bonhoeffer's discussion here.³⁷ But since this is the most comparable aspect between the two thinkers, we will develop an inferred response from Bonhoeffer to Schmitt. How might Bonhoeffer have thought, based on the existing texts and subsequent actions, when considering the jurisprudential perspective?

Although violence, for Bonhoeffer, is the last “necessary” means for protecting the vulnerable, an approach which can bypass the law and even all ethical principles is tempting.³⁸ Schmitt's thought can be utilised by the Nazi regime in a similar way to legitimise the mutilation of the dissidents. It is even produced by a professional in jurisprudence. Exactly at this juncture, Bonhoeffer's discipleship approach manifests the key theological difference. He asserted clearly in *Ethics*:

Action in accord with Christ does not originate in some ethical principle, but in the very person of Jesus Christ. This is because everything real is summed up in Christ, who, by definition, is the origin of any and all action that is in accord with reality.³⁹

36 DBWE 6: 272–273.

37 The interest in Machiavelli and *necessità* is certainly a key focus of modern political thought. However, aside from Schmitt, many other thinkers, such as Gerhard Ritter and Friedrich Meinecke, have explored the concepts. Therefore, we cannot definitively assert that Schmitt is the one Bonhoeffer is referencing here. Cf. Kevin O'Farrell, *Dietrich Bonhoeffer and a Theology of the Exception* (London: T&T Clark, 2023), p. 89.

38 Larry Rasmussen, “The Ethics of Responsible Action,” in John W. de Gruchy ed., *The Cambridge Companion to Dietrich Bonhoeffer* (Cambridge: Cambridge University Press, 1999), p. 213.

39 DBWE 6: 231.

For Schmitt, the last resort must be enacted by the sovereign, who can decide on the state of exception. In contrast, Bonhoeffer maintained that this individual must not only embody a kind of *Miteinander Sein* but also reflect the *pro-me-Struktur* of a *Füreinander Sein*, demonstrated by Jesus Christ, the true mediator.⁴⁰ Schmitt, or those drawing on his framework, by contrast, advocated for a *deus mortal*, as suggested by Hobbes, to suppress the voices of dissent.⁴¹ Therefore, “all significant concepts of the modern theory of the state are secularised theological concepts”;⁴² and it clearly marked a deviation from the Christian tradition. Given this divergence, a closer examination of key terms from this part of *Ethics*, centred on *Stellvertretung*, is warranted. On this basis, an inferred response from Bonhoeffer can be constructed, addressing these ideas in their theological and contextual framework.

5. An inferred response: Reconsidering key concepts and questions

In this section, we aim to construct an inferred response from Bonhoeffer by reinterpreting some of his key concepts, considering the perspectives discussed above. The central question in this context is: how should the followers of the sovereign respond to the chaotic situation of their time? For Bonhoeffer, the most pressing issue is undoubtedly the plight of the Jews and his own role in addressing it. The short answer lies in active participation in the resistance movement, which implicitly includes agreement with tyrannicide. While certain frontier issues may find relevant answers when examined within their appropriate contexts, our focus here remains on how Bonhoeffer might address the ethical dilemma posed by the complicated political situation.

Firstly, Radler suggested a sound understanding of *Stellvertretung* from the perspective of the Civil Code during the Weimar period. It is related to the obligations of “taking on debt” (*Schuldübernahme*), which regulates the relation between the creditors and debtors and must be in “accordance with

40 DBWE 1: 178.

41 Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes*, George Schwab & Erna Hilfstein trans. (Chicago: Univ. of Chicago Press, 2008).

42 Schmitt, *Political Theology*, p. 36.

reality” (*wirklichkeitsgemäß*) – all parties exist. If a third party steps into the contractual relationship for the debtor and *Schuldübernahme*, it would completely take over the position of the original debtor. As the debtor is released from the contract, the new one would bear all the rights and responsibilities connected with the debt (*Schuld*). Nevertheless, this must be affirmed by the creditor, since she might face the risk of the new debtor’s insolvency. In addition, the concept of *Zurechnung* likewise concerns those who bear the responsibility for ensuing consequences from violation of the contract.⁴³

From the above interpretation, we can see why Bonhoeffer had to deal with the relation between Christ and reality before “History and Good” in *Ethics*.⁴⁴ If God and humans did not live in the same reality (Bonhoeffer often described this as “pseudo-Lutheranism” to label it as a misunderstanding of the doctrine of two kingdoms),⁴⁵ then it would not be possible to talk about Christ’s *Stellvertretung*. From the mainstream Latin view of atonement, crucifixion is clearly a jurisprudential action of *Schuldübernahme*. The relationship between God and the human is taken as that between creditor and debtor, but Christ, as the mediator, stepped in and took up the human *Schuld*. Thus, the human is released from the debt of guilt and sin. From this perspective, it is reasonable to find from the beginning of “The Structure of Responsible Life” that the father-son relation is taken as an illustration. It is because a parent or guardian taking the responsibility for his/her charge was recognised by the law and included in the Civil Code in Bonhoeffer’s time.⁴⁶ From the Latin view of atonement, God understood a risk might occur in this action of *Zurechnung*, but through faith, one hopes that God will justify Christ’s responsible action.⁴⁷

While interpreting the vicarious action of Christ on the cross with this concept fits within the Western theological usage, an issue arises when it is applied to Christ’s followers for a similar *Schuldübernahme* action. Christine Schließer’s analysis pointed out that, according to the Latin

43 Radler, “The Tension between ‘Risk’ and ‘Guilt,’” pp. 125–127.

44 Both Bethge’s version and DBWE got the same order.

45 DBWE 6: 56–60, 417–418.

46 DBWE 6: 257–258; cf. Radler, “The Tension between ‘Risk’ and ‘Guilt,’” p. 129.

47 Radler, “The Tension between ‘Risk’ and ‘Guilt,’” p. 128.

tradition, human original sin would make a big difference to the efficacy of the human action carried out compared with Christ's innocent condition. In addition, we may also differentiate the action of *Schuldübernahme* into active and passive. Although Jesus took the initiative to enter this world, his taking on sin was regarded as a passive act even in Bonhoeffer's description. These differences may threaten Bonhoeffer's intention to ground this discussion in his Christology.⁴⁸ Exactly at this junction, Puffer suggests reading "History and Good [2]", especially the concepts of *Stellvertretung* and *Schuldübernahme*, as part of a temporary thought experiment. In other words, this piece cannot pass serious examination because it would lead to the dilemma of God's law in conflict with his will.⁴⁹ Nevertheless, the above considerations are based on traditional dogmatic understanding. We may find a solution from the view of jurisprudence.

After discussing the issue of *Schuldübernahme* in the father-son relationship, Bonhoeffer turned his focus to how human action can be *sachgemäß*.⁵⁰ Before dealing with the issue in depth, he mentioned examples from Greek tragedy, such as Creon and Antigone, Jason and Medea, Agamemnon and Clytemnestra. In all these stories, the characters were subject to the claim of conflicting eternal laws that could hardly be reconciled.⁵¹ This eventually brought about the difficult situation that even the ultimate necessities came under threat, leading to the discussion of the "Bonhoeffer moment". Following the vein of the above-mentioned jurisprudential perspective, Bonhoeffer might want to discuss the "risk assessment" in the process of *Schuldübernahme*, especially when the followers of Christ might encounter concrete situations. If this is the case, Bonhoeffer did not intend to say that the human could take the role of Christ in the process of salvation or to start an abstract dogmatic discussion, but only to offer a risk assessment when an infringement of the contract was detected. Therefore, Puffer thought that Bonhoeffer could not offer any viable reasoning in discussing lying

48 Christine Schließer, *Everyone Who Acts Responsibly Becomes Guilty: The Concept of Accepting Guilt in Dietrich Bonhoeffer: Reconstruction and Critical Assessment* (Neukirchen-Vluyn: Neukirchener, 2006), pp. 170–171, 189–191.

49 Puffer "Three Rival Versions of Moral Reasoning," pp. 170–177.

50 DBWE 6: 270; it is a term that can hardly be translated appropriately, cf. Radler, "The Tension between 'Risk' and 'Guilt,'" p. 131.

51 DBWE 6: 264–265.

when a tension was found between God's law and God's will. It is exactly Bonhoeffer's intention to articulate that this may happen in a concrete situation (but we will find that from another perspective it may not look the same). The pressing issue for the disciples is how to respond to the situation such that the normal condition of the contract can be resumed quickly.

In light of this, it is reasonable that the four mandates were discussed after the section of "Christ, Reality, and Good". It is because they are the historical categories when God and the human are following the contract.⁵² The extraordinary situation or the state of exception raised here is meaningful because in this situation, the original contract can hardly be followed literally. When the mandates and the ultimate necessities are threatened or even interrupted, the disciples must follow their Lord to make a risk assessment. This is part of the action of *Schuldübernahme*. Thus, something which would violate ordinary regulations may be carried out. Nevertheless, this kind of action is not arbitrary; it should aim at repairing the extraordinary situation in view. From the angle of following the contract, it is not reasonable if the responsible person only wants to observe ordinary regulations and thus making the creditor bear a greater loss. In this extraordinary situation, the one "taking on responsibility/guilt (*Schuld*)" should carry out a risky action or venture rather than focus only on remaining innocent. Otherwise, he or she may incur more "responsibility/guilt".⁵³ Nonetheless, even if the debtors had made a risk assessment, ultimately only the (sovereign) creditor may "justify" the action involved.

Michael Hoelzl, the translator of Schmitt's *Die Diktatur*, was surprised not to have seen Schmitt producing an explication from the Catholic perspective on action violating the law.⁵⁴ St Thomas Aquinas followed Aristotle's concept of ἐπιείκεια to explicate his own understanding of *aequitas* as a virtue. Returning to the situation of the Weimar Republic in

52 Cf. Jason Lam, "Christonomy in a World Come of Age: The Vision and Actualisation of Bonhoeffer's Christian Ethics," *Phronema* 35:2 (2020), pp. 73–78.

53 Green's "Editor's Introduction" articulates the ambiguity of the term *Schuld* and suggests "culpability" as an alternative (DBWE 6:35). This is an issue worth delving into, but it will require a separate essay.

54 Michael Hoelzl, "Ethics of Decisionism: Carl Schmitt's Theological Blind Spot," *Journal for Cultural Research* 20:3 (2016), p. 235.

the 1920s, the issue encountered by the sovereign was that the sovereign had to solve the political crisis within a short time. The law was violated because the existing law was not perfect. Thus, violating it is for the sake of repairing the shortcomings to fulfil the original intention of the legislator.⁵⁵ In reality, the pressing issue is whether the violation was motivated by one's own political interest or a justifiable virtue. Schmitt maintained that theological concepts should not be conflated with the modern theory of the state, as Hoelzl pointed out.⁵⁶ Nevertheless, Schmitt developed his own political theology, which served to legitimise the state's oppressive actions.

Interpreted in this way, we may imagine that this represents Bonhoeffer's ultimate response to Schmitt in *Ethics*, as the assassination plot was nearing execution. But he was responding to a dilemma in the political situation from a theological perspective: when one is put in an extraordinary situation where even the ultimate necessities are removed, which is viewed by the sovereign in reality as justifiable, oppressing the Jews was legal at that time, while murdering the dictator was not. The question then arises: after assessing the risks, which course of action would be more effective in restoring the moral and social order and hence the divine mandates? Yet an even deeper question precedes it: Who is the true sovereign to whom unconditional loyalty must be given? For Bonhoeffer, therefore, the ultimate question remained theological: "Who is Jesus Christ, for us, today?"⁵⁷ For the followers in Christ reality, *Ethics* has transformed it to "How Christ takes form among us today and here, in other words, how we are conformed to Christ's form?" At its core, this centres on the pursuit of God's will.⁵⁸

For traditional scholars in dogmatics and ethics, the above may appear to bypass the ontological discussion on sin and guilt. This has long been the focus of Bonhoeffer studies, from early commentators such as Eberhard

55 Ibid., pp. 236, 239–240.

56 Ibid., p. 242.

57 DBWE 8: 279.

58 DBWE 6: 100.

Jüngel⁵⁹ and Larry L. Rasmussen⁶⁰ to recent inquirers like Schließer and Puffer. We should admit that this essay does not directly engage with that conventional line of discussion, but it has provided a crucial supplement, particularly regarding the dilemma of God's law in conflict with God's will, as highlighted by Puffer. When comparing *Ethics* with "The Basic Questions of a Christian Ethics," written in 1929 during his time in Barcelona alongside Schmitt, we can find that the dilemma had already been detected by Bonhoeffer.⁶¹ Notably, his early phrasing of "beyond good and evil,"⁶² reminiscent of Nietzsche, underscores that this was not a novel solution developed in *Ethics*. But a jurisprudential perspective may offer a fresh interpretation at this juncture. Simply put, the conflict between God's law and will is understood within the concrete historical situation or from a teleological perspective. Thus, it must await the sovereign/creditor's final justification. In this light, a section on the "Ultimate and Penultimate Things" is necessary after "Guilt, Justification, Renewal" for fulfilling the approach of justification.

From the perspective of eternity, the disciple, already elected by God before all ages and reconciled with Him, need not worry whether their actions align with norms. Instead, they discern God's will within their concrete "extraordinary" situation, aligning their actions with the reality (in Christ).⁶³ This explains why the concept of *Schuldübernahme*, which reaches its climax in phase 3, disappears in phase 4. The problem of responsibility/guilt (*Schuld*) was overcome, giving way to language related to election.⁶⁴ It is thus no accident that both Bethge and the editors of

59 Eberhard Jüngel, "The Mystery of Substitution: A Dogmatic Conversation with Heinrich Vogel," in John B. Webster ed., *Theological Essays II* (Edinburgh: T&T Clark, 1995), p. 155; cf. Puffer, "Three Rival Versions," pp. 177–178.

60 Larry Rasmussen, "A Question of Method," in William J. Peck ed., *New Studies in Bonhoeffer's Ethics* (Lewiston: Edwin Mellen, 1987), pp. 103–138.

61 DBWE 10: 368–372.

62 DBWE 10: 362–363; DBWE 6: 294–297.

63 The concept of discernment is so rich in Bonhoeffer's writing that a comprehensive study can hardly be offered here. See Joshua A. Kaiser, *Becoming Simple and Wise: Moral Discernment in Dietrich Bonhoeffer's Vision of Christian Ethics* (Eugene, OR: Pickwick, 2015).

64 Puffer, "Election in Bonhoeffer's Ethics," pp. 257–267; Puffer, "Three Rival Versions of Moral Reasoning," pp. 170–173.

DBW considered “God’s Love and the Disintegration of the World” to be Bonhoeffer’s intended introduction. Nevertheless, the exact arrangement of the fragments and approaches remains a mystery in the penultimate, although it is another intriguing inquiry.⁶⁵

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65 Puffer has also articulated a third ethical reasoning from “What does it mean to tell the truth?” (“Three Rival Versions of Moral Reasoning,” pp. 173–176), but we cannot explore it in this short piece.

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