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Published

2021

Journal Title

Pólemos

Version

Version of Record (VoR)

DOI

[10.1515/pol-2021-2002](https://doi.org/10.1515/pol-2021-2002)

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‘Behold, I tell you a mystery’: Tracing *Faust*’s Influences on Giorgio Agamben to and from International Law

<https://doi.org/10.1515/pol-2021-2002>

Abstract: It is a mystery as to why more is not made of the influence of Johann Wolfgang von Goethe’s *Faust* on Italian philosopher Giorgio Agamben’s body of work. After all, as a great philosophical poet, and tremendously concerned with language, Goethe’s work could not have failed to capture Agamben’s attention, especially given his early and sustained interest in poetry. Indeed, Agamben cites Goethe in at least 12 of his works including: *The Use of Bodies*, *Creation and Anarchy*, *Pilate and Jesus*, *The Kingdom and the Glory*, *Homo Sacer*, *The Signature of All Things*, *Stanzas*, *The End of the Poem*, *Potentialities*, *Karman*, *Adventure and Infancy* and *History*. Crucially, the last five reference Goethe’s *Faust* directly. Thus, this paper seeks to remedy the relative lack of explicit engagement and demonstrate the strong, clear and persistent influence of Goethe’s *Faust* that underpins Agamben’s signature philological and philosophical approach to literarily explicating law’s foundational riddles. Agamben’s *Homo Sacer*, project – it must be recalled – quite accidentally began in part as a direct response to the legalistic justifications for the 1990–91 Gulf War. The present discussion seeks to demonstrate that Goethean influence ironically enough through a close examination of both *Faust*’s and Agamben’s attempts at partially translating a biblical phrase: ‘in the beginning was the word’.

Keywords: Anarchy, Giorgio Agamben, *Faust*, Carl Schmitt, International Law, Mystery

Behold, I tell you a mystery;
we shall not all sleep,
but we shall all be changed in a moment,
in the twinkling of an eye, at the last trumpet.

George Frideric Handel: *Messiah* (HWV 56), 47. *Accompagnato Bass* (*I Corinthians* 15: 51–52)

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O death, where is thy sting? O grave, where is thy victory?
The sting of death is sin, and the strength of sin is the law.

George Frideric Handel: *Messiah* (HWV 56), 50. Duet Alto & tenor (I Corinthians 15: 55–56)

I've studied now, to my regret,
Philosophy, Law, Medicine,
and—what is worst—Theology

...

That is why I've turned to magic,
in hope that with the help of spirit-power
I might solve many mysteries,
so that I need no longer toil and sweat

Johann Wolfgang von Goethe: *Faust*, lines 354–356 and 277–380

1 Introduction

This paper makes the claim that Giorgio Agamben's *Homo Sacer*, project is suffused with explicit and implicit references to Johann Wolfgang von Goethe's *Faust*. It begins by locating Agamben's task within and from international law and then relates how the mysteries that he seeks to unravel therein are central to his concerns generally and not just specifically to *Homo Sacer*. It then proceeds to further demonstrate that by relating how both Faust and Agamben go about translating the same biblical passage beginning 'in the beginning' to relate origins to commandments. It then concludes that international law is central to Agamben and his approach to explaining it is profoundly marked by Goethe's *Faust*.

2 Unveiling International Law's Mysteries and 'the bloody mystification of a new planetary order'

In the beginning of his nine-book project, Italian philosopher of language Giorgio Agamben expands upon its protagonist of the same name as the title of the series and the first book in the series: *Homo Sacer*, the sacred man who may be killed but, paradoxically, may not be sacrificed.¹ The *Homo Sacer*, as a being who was outside all legal protections "so that killing him would not be a crime" appeared in Agamben's *Language and Death* dated as far back as "the winter of 1979 and the summer of 1980" also in the context of law, language, and violence.² Crucially,

¹ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), 8.

² Giorgio Agamben, *Language and Death: The Place of Negativity*, trans. Karen E Pinkus with Michael Hardt (Minneapolis: University of Minnesota Press, 1991), 105 and ix.

Agamben offers the paradigm of *Homo Sacer*, as “the key by which not only the sacred texts of sovereignty but also the very codes of political power will unveil their mysteries”.³ Moreover, Agamben introduces the origin of the book and hence of the project having been “originally conceived as a response to the bloody mystification of a new planetary order”.⁴ Eric Meyer’s reading substitutes “world” for “planetary”.⁵ Doing that places Agamben as responding to a very specific context – that of then US President George Bush’s speech at the beginning of the first Gulf War:⁶

Out of these troubled times, our fifth objective—a new world order—can emerge: A new era—freer from the threat of terror, stronger in the pursuit of justice and more secure in the quest for peace. An era in which the nations of the world, east and west, north and south, can prosper and live in harmony... Once again, Americans have stepped forward to share a tearful goodbye with their families before leaving for a strange and distant shore. At this very moment, they serve together with Arabs, Europeans, Asians and Africans in defense of principle and the dream of a new world order.

This “new world order” theme was important enough to merit returning to in a speech made following the war:⁷

Twice before in this century, an entire world was convulsed by war. Twice this century, out of the horrors of war hope emerged for enduring peace. Twice before, those hopes proved to be a distant dream, beyond the grasp of man.

Until now, the world we’ve known has been a world divided, a world of barbed wire and concrete block, conflict and cold war.

And now, we can see a new world coming into view. A world in which there is the very real prospect of a new world order. In the words of Winston Churchill, a “world order” in which “the principles of justice and fair play ... protect the weak against the strong.” A world where the United Nations, freed from cold war stalemate, is poised to fulfill the historic vision of its founders. A world in which freedom and respect for human rights find a home among all nations. ... It is a victory for the rule of law and for what is right.

3 Agamben, *Homo Sacer*, 8.

4 Agamben, *Homo Sacer*, 12.

5 Eric Meyer, “Philosophy in the Contemporary World: After September 11th, A Permanent State of Exception?” *The Blog of the American Philosophical Association (APA)* (February 1 2018) Philosophy in the Contemporary World Series. <<https://blog.apaonline.org/2018/02/01/philosophy-in-the-contemporary-world-after-september-11th-a-permanent-state-of-exception/>>.

6 George H. W. Bush, *Address Before a Joint Session of the Congress on the Persian Gulf Crisis and the Federal Budget Deficit* <<https://bush41library.tamu.edu/archives/public-papers/2217>>.

7 George H. W. Bush, *Public Papers of the Presidents of the United States: George H. W. Bush*, Book I U.S. Government Publishing Office (March 6, 1991): 22. <<https://www.govinfo.gov/content/pkg/PPP-1991-book1/html/PPP-1991-book1-doc-pg218-3.htm>>.

By the last book in the *Homo Sacer* series, the *Use of Bodies* Agamben can state that mystery spans not just metaphysics and law but also, politics, both practical and philosophical:

Just as the tradition of metaphysics has always thought the human being in the form of an articulation between two elements (nature and *logos*, body and soul, animality and humanity), so also has Western political philosophy always thought politics in the figure of the relation between two figures that it is a question of linking together: bare life and power, the household and the city, violence and institutional order, anomie (anarchy) and law, multitude and people. From the perspective of our study, we must instead attempt to think humanity and politics as what results from the disconnection of these elements and investigate not the metaphysical mystery of conjunction but the practical and political one of their disjunction.⁸

What is more to the point Agamben sees his task as enabling the disjunction between among others ‘violence and institutional order, anomie (anarchy) and law’.⁹ We can see clearly then in the background to *Homo Sacer*, a certain preoccupation with mystery and legal mystification encompassing the use of force or violence, human rights and the violent making and unmaking of universalising legal orders whether global or planetary. It therefore on the face of it should be, to say the least, rewarding to pay closer attention to the role of mystery and especially legal mystification in Agamben’s work.

3 Mystery in Agamben as Esoteric Doctrine, Drama, Practice or Form of Life

Unravelling mystery in one form or the other clearly is an abiding concern of Agamben’s work. He does this principally in engagement with Odo Casel but also touches on two other important interlocutors of his: Carl Schmitt and Ernst Kantorowicz, which link this ongoing engagement with mystery to his writings on law and to, as we shall see below, *Faust*. Agamben uses mystery in more than just the sense of something difficult or impossible to understand or explain, but also as secret rites of Greek and Roman religion to which only initiates were admitted, along with their practices, knowledge, or lore and additionally, the Christian Eucharist, and drama. This last sense of drama (and more besides that as we shall see below) as a mystery play links his oeuvre to Goethe’s *Faust* which was framed

⁸ Giorgio Agamben, *The Use of Bodies*, trans. Adam Kotsko (Stanford: Stanford University Press, 2015), 272.

⁹ Agamben, *The Use of Bodies*, 272.

as an ironic mystery play.¹⁰ The thing to note here though is that for Agamben the Christian liturgy contains all of these senses as simply different facets of the same phenomenon which has now been secularized into politics. Agamben makes the case for this in dialogue with Casel at numerous points including: "Christianity—such is the thesis that summarizes Casel's thought—is essentially "mystery," a liturgical action that each time renders present in ritual form the salvific praxis of Christ, and the worshipping community obtains salvation by entering into contact with this praxis".¹¹

For Agamben, as it is for Casel "Christianity is a historical religion, that the "mysteries" of which it speaks are also and above all historical facts, is taken for granted".¹² Also, "Mystery" originally does not mean "secret and ineffable doctrine" but "sacred drama".¹³ Agamben notes that, "the ancient world interprets this mystical infancy as a knowledge which cannot be spoken of, as a silence to be kept. So, as they appear in Gianblico's *De Mysteriis*, the mysteries are now a 'teurgia', essentially a skill, a 'technique' for influencing the gods. Here the *pathema* becomes *mathema*, the un-speakable of infancy, a secret doctrine weighed down by an oath of esoteric silence".¹⁴

When it comes to the law Agamben finds that: "The ultimate end of the juridical regulation is to produce judgment; but judgment aims neither to punish nor to extol, neither to establish justice nor to prove the truth. Judgment is in itself the end and this, it has been said, constitutes its mystery, the mystery of the trial".¹⁵ However by the end of the *Kingdom and the Glory* Agamben can confidently assert that: "What our investigation has shown is that the real problem, the central mystery of politics is not sovereignty, but government; it is not God, but the angel; it is not the king, but ministry; it is not the law but the police—that is to say, the governmental machine that they form and support".¹⁶ In coming to this conclusion Agamben in part draws from "The celebrated passage in I Corinthians 15:35-55-...in truth says nothing

10 Johannes Anderegg, "Unrecognized Modernity: Intertextuality and Irony in Goethe's 'Faust'", *Colloquia Germanica*, 39.1 (2006): 31–41, 32.

11 Giorgio Agamben, *Opus Dei: An Archaeology of Duty*, trans. Adam Kotsko (Stanford: Stanford University Press, 2013), 30.

12 Giorgio Agamben, *Pilate and Jesus*, trans. Adam Kotsko (Stanford: Stanford University Press, 2013), 2.

13 Agamben, *Pilate and Jesus*, 52.

14 Giorgio Agamben, *Infancy and History: Essays in the Destruction of Experience*, trans. Liz Heron (London: Verso, 1993), 60.

15 Giorgio Agamben, *Remnants of Auschwitz: The Witness and Archive*, trans. Daniel Heller-Roazen (New York: Zone Books, 1999), 19.

16 Giorgio Agamben, *The Kingdom and The Glory: For A Theological Genealogy of Economy and Government* (Homo Sacer, II, 2), trans. Lorenzo Chiesa (Stanford: Stanford University Press, 2011), 276.

more than this: that the bodies of the just will be resurrected in glory and will be transformed into glory and into the incorruptible spirit”.¹⁷ Part of that celebration of the passage, of course, includes George Frideric Handel’s oratorio *Messiah* partly reproduced in the epigraph above from which this paper partially draws its title.

In *The Mystery of Evil*: Agamben notes that: “The *mysterium iniquitatis* ... is a historical drama (*mystērion* in Greek means “dramatic action”), which is underway in every instant, so to speak, and in which the destiny of humanity, the salvation or the fall of human beings, is always at stake”.¹⁸ Agamben, points out that “Casel shows than in Greek *mystērion* does not designate a secret doctrine which could be formulated discursively but which it is prohibited to reveal. There the term *mystērion* indicates a praxis, an action or a drama in the theatrical sense of the term as well, that is, a set of gestures, acts, and words through which a divine action or passion is efficaciously actualized in the world and time for the salvation of those who participate in it”.¹⁹

In *Creation and Anarchy* Agamben works through the public function of liturgy in the following way which centralises the role of mystery:²⁰

At the basis of Casel’s doctrine in fact stands the idea that the liturgy (it is well known that the Greek term *leitourgia* means “public work or performance,” from *laos*, “people,” and *ergon*) is essentially a “mystery.” Yet mystery does not in any way signify, according to Casel, an unknown teaching or secret doctrine. Originally, as in the Eleusinian mysteries that were celebrated in classical Greece, mystery signified a practice, a sort of theatrical action, made up of gestures and words that are carried out in time and in the world, for the salvation of human beings. Christianity is not therefore a “religion” or a “confession” in the modern sense of the term, an ensemble of truths and dogmas that it is a question of recognizing and professing: it is rather a “mystery,” that is, a liturgical *actio*, a “performance,” whose actors are Christ and his mystical body, namely, the Church. And this action is, of course, a specific praxis, but at the same time, it defines the most universal and truest human activity, in which what is at stake is the salvation of those who carry it out and of those who participate in it.

In *Opus Dei* Agamben offers a more sustained engagement with Casel in explicating mystery in a way that leads us step by steady step inexorably towards the role of the devil in providence, including:²¹

¹⁷ Agamben, *The Kingdom and The Glory*, 249.

¹⁸ Giorgio Agamben, *The Mystery of Evil: Benedict XVI and the End of Days* trans. Adam Kotsko (Stanford: Stanford University Press, 2017), 14.

¹⁹ Agamben, *The Mystery of Evil*, 27–28.

²⁰ Giorgio Agamben, *Creation and Anarchy* trans. Adam Kotsko (Stanford: Stanford University Press, 2019), 9–10.

²¹ Agamben, *Opus Dei*, 32 Citation therein omitted.

...that the pagan mysteries (Eleusian, Orphic, and Hermetic) must not be seen as a secret doctrine, which one could pronounce in words but that one is prohibited to reveal. Such a meaning of the term *mystery*, according to Casel, is late and derives from the influence of the Neopythagorean and Neoplatonic schools. Originally, *mystery* designates a praxis, that of the *drömena*, the gestures and acts by means of which a divine action is accomplished in time and in the world for human salvation: *silentium mysticum non quaecumque theologiam, sed actiones ritusque sacros texisse* (mystical silence does not conceal any kind of theology, but sacred actions and rites).

Agamben again in *Opus Dei* relies on Casel to explain that mystery is a participatory cultic action uniting a community of believers:²²

For Casel, *mystery* means essentially "cultic action." Defining Christianity as a mystery is therefore equivalent for him first of all to affirming that the Church is not simply a community of believers, defined by sharing a doctrine crystallized in a set of dogmas. The Church is defined rather through participation in the mystery of the cultic action.

While still in engagement with Casel, Agamben elucidates the point that liturgy and mystery are two sides of the same coin linking the action of Christ to the action of the church:²³

Evoking the originary political meaning of the term *leitourgia*, Casel affirms that the two terms *mystery* and *liturgy* mean the same thing but from two different points of view: "*mystery* means the heart of the action, that is to say, the redeeming work of the risen Lord, through the sacred actions he has appointed; *liturgy*, corresponding to its original sense of 'people's work,' 'service,' means rather the action of the church in conjunction with this saving action of Christ's".

This unity of action of the church/action of Christ effectively creates a reality of the faithful participants being saved in Christ:²⁴

According to Casel, the term *effectus* names this effective unity of image and presence in the liturgical mystery, in which the presence is real in its operativity, that is, as *Heilstat*, salvific action: "mystery-presence means a real presence, but a reality of a special type. A reality, to the extent to which it corresponds solely to the goal of the sacrament, which is that of permitting the faithful to participate, for their salvation, in the life of Christ as savior".

As a consequence, mystery is the effectiveness of the cultic action whose public work makes Christ's action real: 'the mystery is the effect; what is mysterious is effectiveness, insofar as in it being is resolved into praxis and praxis is substantiated into being. *The mystery of the liturgy coincides totally with the mystery of*

²² Agamben, *Opus Dei*, 34 Citation therein omitted.

²³ Agamben, *Opus Dei*, 35 Citation therein omitted.

²⁴ Agamben, *Opus Dei*, 39 Citation therein omitted.

operativity'.²⁵ For Agamben, 'Magical and sacramental operations correspond to each other term for term'.²⁶

Carl Schmitt a key interlocutor of Agamben's elsewhere is in no way explicitly cited in *Opus Dei* however his famous notion that "All significant concepts of the modern theory of the state are secularized theological concepts"²⁷ was definitely the kind of thinking that Casel was writing against as Agamben documents:

Our time, writes Casel, is witnessing the decline of individualism and humanism, which by stripping nature and the world of the divine had believed themselves to have forever dispelled the obfuscation of mystery. In this way, by means of the collapse of rationalist humanism, our time has opened up "a new turning to the mystery" ... The world "becomes for him once more a stage on which God's drama is being carried out... God's mystery once again inspires dread, attracts and calls us" (ibid.). With a barely veiled allusion to ... the secular sphere and, in particular, to the rediscovery of ceremonials and liturgies in the political sphere, Casel can thus write "Today the world outside Christianity and the church is looking for mystery; it is building a new kind of rite in which man worships himself. But through all this the world will never reach God".²⁸

After all Schmitt did write of how a human sovereign became a god to humans, *homo homini deus*, as distinct from the state of nature where humans were wolves to human, *homo homini lupus*.²⁹ Montserrat Herrero points out that Schmitt "attests to the possibility of new forms of political theology emerging from the Trinitarian dogma, as can be perceived in Goethe's motto '*nemo contra deus nisi deus ipse*' or no one against God except God himself."³⁰ Furthermore Brian J Fox demonstrates that Schmitt's political theology was more political than theological – more the papal states than the papacy as the ideal political community: This approach to the Church is found as early as a 1912 diary entry where Schmitt reflects upon Faust's "solution" as referring "to the state, which is also an overcoming of temporality. The ideal is of the Papal States".³¹ Schmitt's allusion to Faust cannot be

25 Agamben, *Opus Dei*, 55 citation therein omitted.

26 Giorgio Agamben, *The Signature of All Things: On Method* trans. Luca D'Isanto with Kevin Attell (New York: Zone Books, 2009), 53-54.

27 Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* trans. George Schwab (Cambridge, Massachusetts: MIT Press, 1985), 36.

28 Agamben, *Opus Dei*, 31–32 citations therein omitted.

29 Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes: Meaning and Failure of a Political Symbol* trans. George Schwab and Erna Hilfstein (Westport Connecticut: Greenwood Press, 1996), 31.

30 Montserrat Herrero, "On Political Theology: The Hidden Dialogue between C. Schmitt and Ernst H. Kantorowicz in *The King's Two Bodies*," *History of European Ideas* 41.8, (2015): 1164–1177, 1169.

31 Brian J Fox, "Carl Schmitt and Political Catholicism: Friend or Foe?" (2015). CUNY Academic Works http://academicworks.cuny.edu/gc_etds/929 citing: "Entry of Thursday November 21, 1912", in: *Carl Schmitt, Tagebücher: Oktober 1912 bis Februar 1915*, 47.

coincidental given that for Schmitt, “Even Satan’s power is... as such from God and not evil”.³²

Ernst Kantorowicz another key interlocutor of Agamben’s speaks of jurists, lawyers and judges as engaged in a “ministry (mystery)” of “the Cult of Justice”:

The emperor’s [Frederick II] antiphrastic formula [“father and son of Justice”] belonged to a different world of thought. It fell in with the intellectual climate of the “Jurists’ Century” in general, and in particular with that of Frederick’s *Magna Curia* where the judges and lawyers were expected to administer Justice like priests; where the High Court sessions, staged with a punctilio comparable to Church ceremonial, were dubbed “a most holy ministry (mystery) of Justice” (*Iustitiae sacratissimum ministerium [mysterium]*); where the jurists and courtiers interpreted the “Cult of Justice” in terms of a *religio iuris* or of an *ecclesia imperialis* representing both a complement to and an antitype of the ecclesiastical order; where, so to speak, the robe of the law clerk was set over against the robe of the ordained cleric; and where the emperor himself, “whom the Great Artificer’s hand created man,” was spoken of as *Sol Iustitiae*, the “Sun of Justice,” which was the prophetic title of Christ.³³

Not only does Kantorowicz engage with Frederick II in all three of his monographs *Frederick the Second*, *The King’s Two Bodies*, and *Laudes Regiae* but he notes in passing Frederick II being associated with a ‘pact with the devil’.³⁴ Part of the reason why that monarch was such an object of fascination for Kantorowicz is that Frederick II was a banned and excommunicated emperor who crowned himself without a coronation mass in Jerusalem as King of Jerusalem precisely because he was banned and excommunicated and consequently had no need for the church as an intermediary between him and God.³⁵ He could consequently approach God directly “as a triumphant conqueror”.³⁶ Furthermore, “since as a priest he knew all mysteries no mystery was safe from his fearless mocking attack”.³⁷ Additionally, he was fairly Faustian in that: “The only limits he could recognise were those he set himself”.³⁸

Agamben points out that: “according to Christian theology there is only one legal institution which knows neither interruption nor end: hell. The model of contemporary politics-which pretends to an infinite economy of the world-is thus

³² Christian Linder, “Carl Schmitt in Plettenberg” in Jens Meierhenrich and Oliver Simons, *The Oxford Handbook of Carl Schmitt* (New York: Oxford University Press, 2016), 162.

³³ Ernst H. Kantorowicz, *The King’s Two Bodies: A Study in Mediaeval Political Theology*, (Princeton: Princeton University Press, 1957), 142.

³⁴ Ernst H. Kantorowicz, *Frederick the Second: 1194–1250*, trans. E.O. Lorimer (London: Head of Zeus, 2019), 813.

³⁵ Kantorowicz, *Frederick the Second*, 286–287.

³⁶ Kantorowicz, *Frederick the Second*, 287.

³⁷ Kantorowicz, *Frederick the Second*, 808.

³⁸ Kantorowicz, *Frederick the Second*, 810.

truly infernal”.³⁹ Furthermore, “The principle according to which the government of the world will cease with the Last Judgment has only one important exception in Christian theology. It is the case of hell”.⁴⁰ Agamben cites Hannah Arendt’s statement that: “The concentration camps are the laboratories in the experiment of total domination, for human nature being what it is, this goal can be achieved only under the extreme circumstances of human made hell”.⁴¹

Adam Kotsko translator of Agamben’s *The Sacrament of Language, The Highest Poverty, Opus Dei, The Use of Bodies* and *The Kingdom and the Garden* notes that:

Secular modernity has remained fascinated by the devil. Even as his theological role grew more and more marginal in mainstream churches, encounters with the devil proved formative for the modern world. This holds above all for the Romantics’ embrace of Milton’s Satan as the true hero of *Paradise Lost* and for the decisive influence that Goethe’s *Faust* would have on the milieu that produced German idealism. The devil has had a prolific career in literature, opera, and film, in addition to enjoying a theological resurgence among more marginal and populist religious groups in the late twentieth century.⁴²

Agamben relies on Warburg’s description of [t]he symbol and the image as “the crystallization of an energetic charge and an emotional experience that survive as an inheritance transmitted by social memory, for Warburg, this was true for artists, historians and scholars, who were akin to ‘necromancers’ who consciously evoke the spectres threatening them”.⁴³ In *The Signature of All Things* Agamben, makes the point that: “*conjurer*... encompasses two opposite meanings: “to evoke” and “to expel.” Or perhaps these two meanings are not opposites, for dispelling something—a specter, a demon, a danger—first requires conjuring it”.⁴⁴ The extensive footnote Agamben appends to that Warburgian analysis shows the analysis heavily relies on Faust: “Thus he conjured up spectres which quite seriously threatened him. He evaded them by erecting his observation tower. He is a seer such as Lynkeus (in Goethe’s *Faust*); he sits in his tower and speaks ... he was and remained a champion of enlightenment but one who never desired to be anything but a simple teacher”.⁴⁵ In *Infancy and History* Agamben reproduces a dialogue between Walter Benjamin and Theodor Adorno:

³⁹ Giorgio Agamben, *The Church and the Kingdom*, trans. Leland De La Durantaye (London: Seagull Books 2012), 40–41.

⁴⁰ Agamben, *The Kingdom and The Glory*, 163.

⁴¹ Agamben *Homo Sacer*, 120 reference omitted.

⁴² Adam Kotsko, *The Prince of This World* (Stanford: Stanford University Press), 195.

⁴³ Giorgio Agamben, *Potentialities Collected Essays in Philosophy*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 2000), 94.

⁴⁴ Agamben *The Signature of All Things*, 83–84.

⁴⁵ Agamben, *Potentialities*, 286.

Your idea of providing in the *Baudelaire* a model for the *Arcades* study was something I took very seriously, and I approached the satanic scene much as Faust approached the phantasmagoria of the Brocken mountain when he thought that many a riddle would now be solved. May I be excused for having had to give myself Mephistopheles' reply that many a riddle poses itself anew?⁴⁶

At least one English translation of *Faust* renders 'riddle' as 'mystery'.⁴⁷ Benjamin responds to Adorno with: "Philology is the examination of a text which proceeds by details and so magically fixates the reader on it. That which Faust took home in black and white".⁴⁸ Agamben states that "Adorno has approached his friend's text like Faust at the 'satanic scene' of the phantasmagoria on the Bracken Mountain. Benjamin is accused of allowing the pragmatic content of his topics to conspire 'in almost demonic fashion' against the possibility of its own interpretation, and of having obscured mediation by 'materialist-historiographic invocation'. This language reaches its culmination in the passage where Benjamin's method is described in terms of a spell: 'If one wished to put it very drastically, one could say that your study is located at the crossroads of magic and positivism. That spot is bewitched Only theory could break the spell ...'.⁴⁹

In *Karman* Agamben relies on a "Treatise on Satan" (the subtitle to *Karman* is 'A Brief Treatise on Action, Guilt and Gesture') analysing Satan's role as accuser: "In a midrash that bears the title '*Massekhta Satan*' ("Treatise on Satan"), God has Satan appear before him on the last day to judge him. The accusation that he directs at him is accusation itself: Satan is accused of having constantly accused humanity and, in this way, the works of creation".⁵⁰

This passage is so close to one in the opening scene of *Faust* 'The Prologue in Heaven' that it could not possibly be coincidence where the Lord speaks to Mephistopheles in what can only be a paraphrase of the midrash:⁵¹

LORD. Do you have nothing else to tell me?
Do you ever come except to criticize?
Is nothing ever right for you on earth?

⁴⁶ Agamben, *Infancy and History*, 109.

⁴⁷ Johann Wolfgang von Goethe, *Faust Part One* (Oxford: Oxford University Press, 2008), lines 4040–1.

⁴⁸ Agamben, *Infancy and History*, 114.

⁴⁹ Agamben, *Infancy and History*, 114.

⁵⁰ Giorgio Agamben, *Karman: A Brief Treatise on Action, Guilt and Gesture* trans. Adam Kotsko (Stanford: Stanford University Press, 2010), 7.

⁵¹ Johann Wolfgang von Goethe, (2014) *Faust I & II*, Volumes 1 and 2: Goethe's Collected Works - Updated Edition (Princeton: Princeton Classics Book 108, 2014) line 295.

God, for Agamben in dialogue with Casel, works in mysterious ways. What role then is detailed to the devil? As we have seen above ‘mystery’ links international law to *Homo Sacer*, to *Faust* and as we shall see below this is principally through the formula of *sacer esto* included in the people and in the law as a curse. The link to *Faust* is no accident but is actually important. Agamben notes that: ‘By itself *sacer* has its own proper value, one of mystery’.⁵² In the first section of the first chapter ‘*Homo Sacer*,’ of the second part of *Homo Sacer*, Agamben translates the phrase *sacer esto* as “May he be sacred”.⁵³ After extensive analysis he concludes that “*Sacer esto* is...the originary political formulation of the imposition of the sovereign bond”.⁵⁴ It is not: “to be treated as the production of a *taboo* but as the sanction that defines the very structure of law, its way of referring to reality”.⁵⁵ Agamben notes that: “The nature of office ... is strikingly illuminated if one puts it in relation with the ... the imperative defines the proper verbal mood of law ... *sacer esto*, ..., insofar as the decree of the norm, otherwise void in itself, always has as its object the behavior or action of an individual external to it”.⁵⁶ Furthermore: “The imperative defines the verbal mode proper to law and religion, which have a performative character. This is to say that words and phrases in those discourses do not refer to being but to having-to-be. Because their mere utterance actualizes their own meaning”.⁵⁷ So, for Agamben the declaration *sacer esto* unites mystery to *Homo Sacer*, to command, to office, to conjuration, to law’s linking of consequences to actions and in all those ways, as we saw above and shall see below, to *Faust*.

4 Faust and Agamben Translate the Bible: ‘in the beginning’

Jacques Derrida, to his eternal credit, said of Agamben that: “each time the author of *Homo Sacer*, is, apparently, the first to say who will have been first”.⁵⁸ As we shall see presently describing Agamben thus is apt given Agamben’s observation

⁵² Agamben, *Karman*, 16.

⁵³ Agamben, *Homo Sacer*, 72.

⁵⁴ Agamben, *Homo Sacer*, 85.

⁵⁵ Giorgio Agamben, *The Sacrament of Language: An Archaeology of the Oath*, trans. Adam Kotsko (Stanford: Stanford University Press, 2010), 38 Citation therein omitted.

⁵⁶ Agamben, *Opus Dei*, 84.

⁵⁷ Agamben, *Opus Dei*, 119.

⁵⁸ Jacques Derrida, *The Beast and the Sovereign*, Geoffrey Bennington and Peggy Kamuf eds., (Chicago: The University of Chicago Press, 2009), 92.

that: "The moment of arising, the arche of archaeology is what will take place, what will become accessible and present, only when archaeological inquiry has completed its operation. It therefore has the form of a past in the future, that is, a future anterior".⁵⁹ It was not only accurately diagnostic of Derrida but was also fairly prescient given that evidence for his claim is able to be found in Agamben's subsequent writings. In *Creation and Anarchy* for example we find Agamben linking origin and command to a play on words:⁶⁰

In our culture, the *archē*, the origin, is always already the command; the beginning is always also the principle that governs and commands. It is perhaps through an ironic awareness of this coincidence that the Greek term *archos* means both "commander" and "anus": the spirit of language, which loves to play, transforms into a play on words the theorem according to which the origin must also be "foundation" and principle of governance.

Indeed Agamben points out Plato punning.⁶¹ Kotsko too notes Agamben's 'un-translatable puns.'⁶² That link is per Agamben of biblical origin (pun unintended):⁶³

In the Greek translation made by the rabbis of Alexandria in the third century BC, the book of Genesis opens with the phrase "*en archē*, in the beginning God created the heavens and the earth"; but as we read immediately afterward, he created them by means of a command, which is to say an imperative: *genēthētō*, "And God said: let there be light." The same thing happens in the Gospel of John: "*en archē*, in the beginning was the logos, the word." But a word that is in the beginning, before everything, can only be a command. Thus I believe that perhaps the most correct translation of this famous *incipit* should be not "in the beginning was the word" but "in command—that is, in the form of a command—was the word." If this translation had prevailed, many things would be clearer, not only in theology, but also and above all in politics.

In *Karman* while analysing the link that law fashions between actions and consequences, Agamben notes that Goethe's *Faust* as "tragedy" resolutely assigns the primacy to "action and praxis" as opposed to "knowledge and contemplation":⁶⁴ 'it is significant that the "tragedy" of Faust resolutely assigns the primacy to action: '*Am Anfang war der Tat*' translated as 'In the beginning was the Act'.⁶⁵ Reading

⁵⁹ Giorgio Agamben, *The Signature of All Things: on Method*, 105–106.

⁶⁰ Agamben, *Creation and Anarchy*, 52.

⁶¹ Giorgio Agamben, *What is Philosophy?*, trans. Lorenzo Chiesa (Stanford: Stanford University Press, 2018), 73 and 95.

⁶² Agamben, *Karman*, xi.

⁶³ Agamben, *Creation and Anarchy*, 52.

⁶⁴ Agamben, *Karman*, 35.

⁶⁵ Johann Wolfgang von Goethe, *Faust I & II*, Volumes 1 and 2: Goethe's Collected Works - Updated Edition (Princeton: Princeton Classics Book 108, 2014), line 1237.

Karman and *Creation and Anarchy* side to side reveals that in setting out to translate the Gospel of John's 'in the beginning' Agamben is doing almost the exact same thing as Goethe's Faust does in his attempts at interpreting 'Logos' successively as 'Word', 'Mind', 'Power' and then 'Act' in the first Study Scene in Part I of the tragedy.⁶⁶

It is written, "In the beginning was the *Word*."
 How soon I'm stopped! Who'll help me to go on?
 I cannot concede that *words* have such high worth
 and must, if properly inspired,
 translate the term some other way.
 It is written: "In the beginning was the *Mind*."
 Reflect with care upon this first line,
 and do not let your pen be hasty!
 Can it be *mind* that makes all operate?
 I'd better write: "In the beginning was the *Power*!"
 Yet, even as I write this down,
 Something warns me not to keep it.
 My spirit prompts me, now I see a solution
 and boldly write: "In the beginning was the *Act*."

The key difference here is while Agamben focusses on "*en archē*" 'in the beginning' Faust restricts himself to reciting it four times like an incantation in attempting to translate 'Logos'. There is a further textual link here between Agamben and Faust as seen in the allusion to and reference to the Christian theological dispute over Arianism named after an Alexandrian priest named Arius (c.250-c. 336) that maintained the son of God was created by God the father and as a consequence was neither coeternal no consubstantial with the father. In *Faust* we see Mephistopheles disguised as Faust in dialogue with a fresh undergraduate student who is unsure of what exactly to study and insists that words must have a fixed meaning which is ironical not least because of the problems that Faust has just had in translating *Logos*:⁶⁷

STUDENT. But there must be ideas behind the words.
 MEPHISTOPHELES. That's true, but do not fret too much about it,
 since it's precisely when ideas are lacking
 that some word will appear to save the situation.
 Words are perfect for waging controversies,
 with words you can construct entire systems,
 in words you can place perfect faith,
 and from a word no jot or tittle may be taken.

⁶⁶ Goethe, *Faust*, lines 1224–1236.

⁶⁷ Goethe, *Faust*, lines 1993–2000.

The “jot or tittle” referencing the Greek letter *iota* is an allusion to the conflict between the Homoiouians and Arian Homoousians centring on the ‘i’.⁶⁸ This was resolved by declaring Arianism as a heresy given that it denied the divinity of Christ. Agamben traces this debate as it culminated “in the elaboration of the doctrine of the single substance in three different hypostases that was finally established at the Council of Constantinople in 381”.⁶⁹ Michael Hollerich, in his introduction to Erik Peterson’s *Theological Tractates* notes that “Arianism was a cipher for the political theology of Christians who had been bewitched by Hitler and his regime in its early days”.⁷⁰ Herrero for one concludes that Kantorowicz’s work was defending Schmitt’s political theology against Peterson⁷¹ Agamben sets out the stakes of this debate and how they relate beginning to anarchy:

It is only from the standpoint of this fracture between being and praxis that the sense of the controversy over Arianism, which deeply divided the Church between the fourth and the sixth centuries, becomes fully intelligible. The dispute often seems to revolve around differences that are so subtle and minimal that it is not easy for modern readers to appreciate what was really at stake in a conflict whose fierceness involved, together with the emperor, almost the entirety of Eastern Christianity. It is well known that the problem concerned the *archê* of the Son; but *archê* here does not have a merely chronological meaning; it does not simply stand for a “beginning.” As a matter of fact, both Arius and his adversaries agree in saying that the Son was generated by the Father, and that this generation took place “before eternal times” Arius is even careful to specify that the Son was generated *achronos*, outside of temporality. In other words, what is in question here is not really a chronological precedence (time does not exist yet), or just a problem of rank (many anti-Arians share the opinion that the Father is “greater” than the Son); it is rather a matter of deciding whether the Son—which is to say, the word and praxis of God—is founded in the Father or whether he is, like him, without principle, *anarchos*, that is, ungrounded.⁷²

In *The End of The Poem* too we find:

In the prologue to the Gospel of John, the interlacement of life (*zoê*) and speech (*logos*) is expressed in the following formula: “Everything was made by him [the Logos] and without him nothing of what was made was made. Life was in him, and life was the light of men.” But until the fourth century, when the text was altered to combat the Arian heresy, and in the commentaries of the first Church Fathers and the Latin version that precedes the Vulgate, the text appeared in a different form, one that noticeably changes its meaning: “Everything was made by him, and without him nothing was made, and what was made in him was life, and

68 Johann Wolfgang von Goethe, (2014) *Faust I & II*, Volumes 1 and 2: Goethe’s Collected Works - Updated Edition (Princeton: Princeton Classics Book 108, 2014), lines 1995–2000, p 344.

69 Agamben, *The Kingdom and The Glory*, 12.

70 Michael J. Hollerich, ‘Introduction’ in Erik Peterson, *Theological Tractates* (Stanford: Stanford University Press, 2011), xi–xxxii, xxv.

71 Herrero, *On Political Theology*, 1177.

72 Agamben, *The Kingdom and The Glory*, 57.

life was the light of men.” Commenting on these verses, the Gnostic Ptolomeus writes: “Everything was made by the Logos, but life was made *in* him. Life, which was made in him, is closer [*oikoiotera*] to him than what was made by him; life is one with him and bears fruit through him.” In the same sense, Origen writes: “Life itself is made in coming to pass to language [*epiginetai toi logoi*] and, once made, remains inseparable [*akhoristos*] from him.” Life is what is made in speech and what remains indistinguishable from it and close to it. This unquestioned bond of speech and life is the inheritance that Christian theology transmits to a literature that has not yet become fully profane.⁷³

For Agamben, if we do not understand the original “anarchic” vocation of Christology, it is not even possible to understand Christian theology, or even the history of Western philosophy:

The Nicene thesis, which was ultimately victorious, here shows its coherence with the doctrine of the *oikonomia*. Just as the latter is not founded on the nature and being of God, but in itself constitutes a “mystery,” so the Son—that is, the one who has assumed the economy of salvation—is unfounded in the Father, and is, like him, *anarchos*, without foundation or principle. *Oikonomia* and Christology are in agreement and inseparable, not only historically, but also genetically: as was the case with praxis in the economy, so in Christology the *Logos*, the word of God, is eradicated from being and made anarchic (from this derive the constant reservations of many supporters of the anti-Arian orthodoxy against the term *homousios*, imposed by Constantine). If we do not understand this original “anarchic” vocation of Christology, it is not even possible to understand the subsequent historical development of Christian theology, with its latent atheological tendency, or the history of Western philosophy, with its ethical caesura between ontology and praxis. The fact that Christ is “anarchic” means that, in the last instance, language and praxis do not have a foundation in being. The “gigantomachy” around being is also, first and foremost, a conflict between being and acting, ontology and economy, between a being that is in itself unable to act and an action without being: what is at stake between these two is the idea of freedom.⁷⁴

In *The End of the Poem*, Agamben references Faust’s descent “into the Reign of the Mothers, the goddesses who shelter “what has not existed for a long time” and in whom we must see a figure of mother tongues” which for Agamben makes it: “necessary also to pose a question that must remain provisionally unanswered here: can there be an experience of speech that is not an experience of the letter in the sense that we have seen? Can there be speech, poetry, and thought beyond the letter, beyond the death of the voice and the death of language?”⁷⁵

Law plays a key role here in the notion of legal personality: ‘*Persona* names not a physical subject, but the mask or pretense by means of which he becomes the

73 Giorgio Agamben, *The End of the Poem: Studies in Poetics* (Stanford, California: Stanford University Press, 1999), 56.

74 Agamben, *The Kingdom and The Glory*, 58–59.

75 Giorgio Agamben, *The End of the Poem: Studies in Poetics* (Stanford, California: Stanford University Press, 1999), 75.

subject of law, who can bring into being with his or her own will juridically valid actions and, consequently, be obligated to answer for them'.⁷⁶ The way to arrest this per Agamben is via inoperativity: 'inoperativity is ... the space... that is opened when the apparatuses that link human actions in the connection of means and ends, of imputation and fault of merit and demerit are rendered inoperative. It is, in this sense, a politics of pure means'.⁷⁷ Agamben describes law as a realm where words have a magico-juridical aspect where 'words and deeds, linguistic expression and real efficacy, coincide'.⁷⁸ Furthermore, this bears similarity to poetry in their shared dependence on language 'poetry lives only in the tension and difference (and hence also in the virtual interference) between sound and sense, between the semiotic sphere and the semantic sphere'.⁷⁹

Franz Kafka provides the epigraph for Giorgio Agamben's *Karman* and in many ways its central animating inquiry which is: "How can a human being be guilty".⁸⁰ Agamben goes on to observe: "But it is above all in the novel *The Trial* that Kafka reflected on the mystery of imputation, from which there seems to be no way out".⁸¹ In *The Coming Community* while exploring the "demonic element" in Kafka and Robert Walser cites Spinoza "the devil is only the weakest of creatures" who "is essentially impotent" and "nothing other than divine impotence".⁸² In this context even "[Adolf] Eichmann, an absolutely banal man who was tempted to evil precisely by the powers of right and law, is the terrible confirmation through which our era has revenged itself on their [Kafka and Walser] diagnosis".⁸³

It is another German intellectual however that Agamben seems to be in subterranean conversation with. Max Weber. Weber is nowhere mentioned in *Karman* however right from the title itself on down to determining how guilt is determinable there are certain intriguing allusions to Weber's *Politics as a Vocation* strewn through Agamben's text as is elaborated upon below.⁸⁴ Something about this period made Weber go on to twice quote the same passage of Goethe's *Faust*: "Reflect, the Devil is old, so become old if you would understand him" in *Politics as*

76 Agamben, *Karman*, 76–77 and 85.

77 Agamben, *Karman*, 85.

78 Giorgio Agamben, *State of Exception* (Chicago: Chicago University Press, 2005), 132.

79 Agamben, *The End of the Poem*, 77.

80 Agamben, *Karman*, 7.

81 Agamben, *Karman*, 6.

82 Giorgio Agamben, *The Coming Community* trans. Michael Hardt (Minneapolis: University of Minnesota Press, 2007), 31–32 also mentions the devil in five chapters of Giorgio Agamben, *Stanzas: Word and Phantasm in Western Culture* trans. Ronald S. Martinez (Minneapolis: University of Minnesota Press, 1993), 7, 10, 98, 113, 115, 143.

83 Agamben, *The Coming Community*, 31–32.

84 Agamben does reference 'Politics as a Vocation' elsewhere in his work, see Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2005).

a Vocation as well as in *Science as a Vocation*.⁸⁵ This reaching out for an at once religious and literary figure was no mere aberration given that Weber even too said that: “Anyone who wishes to engage in politics at all . . . is entering into relations with satanic powers that lurk in every act of violence”.⁸⁶

The opening chapter of *Karman*, *Causa* and *Culpa* opens with the observation that both *causa* as either cause or case or both and *culpa* as culpability or imputability “lack an etymology”.⁸⁷ It engages explicitly with among others Yan Thomas, Carl Schmitt and Hans Kelsen to uncover “the bond that ties agents to their action”⁸⁸ and in that way link choices to consequences. Agamben notes in this regard that “the law is defined as an articulation of violence and justice”.⁸⁹ Agamben positions this definitive aspect of the law as a political theodicy – a justification of evil - stating that “the law consists of essentially in the production of a permitted violence, which is to say in a justification of violence”.⁹⁰ He even references Kelsen’s referencing the Sermon on the Mount.⁹¹ Agamben notes that this link of the law and sanction was considered as “less than perfect” in Roman jurisprudence.⁹² This approach is comparable to Weber’s question: “Can the ethical demands made on politics really be quite indifferent to the fact that politics operates with a highly specific means, namely, power behind which *violence* lies concealed?”⁹³ Weber includes in this the startling observation that “the politician must abide by the opposite commandment [“resist not him that is evil with violence”]: “You shall use force to resist evil, for otherwise you will be *responsible* for its running amok”.⁹⁴ Weber arrives at this conclusion by identifying and distinguishing an ethic of responsibility versus an ethic of conviction. The former requires “a Christian does what is right and leaves the outcome to God” whereas the “latter you must answer for the (foreseeable) consequences of your actions”.⁹⁵

Agamben summarises this as “*karman* means *crimen*, which is to say that there is something like an imputable action that produces consequences”.⁹⁶ In this regard Agamben notes two paradigms in Western ethical and political thought a

⁸⁵ Ibid., at 27 note 27 and at 91 note 87.

⁸⁶ Max Weber, eds. David S. Owen, Tracy B. Strong, and Rodney Livingstone. *The Vocation Lectures* (Indianapolis: Hackett Pub, 2004), 90.

⁸⁷ Agamben, *Karman*, 1.

⁸⁸ Agamben, *Karman*, 9.

⁸⁹ Agamben, *Karman*, 20.

⁹⁰ Agamben, *Karman*, 22.

⁹¹ Agamben, *Karman*, 20.

⁹² Agamben, *Karman*, 23.

⁹³ Weber, *The Vocation Lectures*, 81.

⁹⁴ Weber, *The Vocation Lectures*, 83.

⁹⁵ Weber, *The Vocation Lectures*, 83.

⁹⁶ Agamben, *Karman*, 28.

tragic model based on action and an anti-tragic one founded on knowledge and contemplation. He notes that as tragedy Goethe's *Faust* resolutely assigns the primacy to action.⁹⁷ Weber makes the profoundly Mephistophelean observation that: "No ethic in the world can ignore the fact that in many cases the achievement of "good" ends is inseparable from the use of morally dubious or at least dangerous means and that we cannot escape the possibility or even probability of evil side effects".⁹⁸ Further, "the history of every religion on earth is based on the conviction that the reverse [of nothing but good can come from good and nothing but evil from evil] is true".⁹⁹ Weber would include even Agamben's *Karman* in this process saying: "the Indian doctrine of *Karma*" etc., grew "out of this experience."¹⁰⁰ Weber speaks in a register strongly grounded on theodicy: "The early Christians, too, were well aware that the world was governed by demons and that whoever becomes involved with politics, that is to say, with power and violence as a means, has made a pact with satanic powers".¹⁰¹ Weber doubles down on this: "I repeat, he is entering into relations with the satanic powers that lurk in every act of violence".¹⁰² He even goes to approvingly note: "Machiavelli makes one of his heroes praise those citizens who esteemed the greatness of their native city more than the salvation of their souls".¹⁰³ Furthermore, "These [satanic] powers are inexorable and create consequences for their actions and also subjectively for themselves, against which they are helpless if they fail to perceive them". For good measure he directly quotes *Faust* "The Devil is old" ... "to understand him, best grow older".¹⁰⁴

For Agamben Goethe "devoted his life" to "the cult of the demon".¹⁰⁵ Furthermore, "[t]he demon with whom Goethe made an informal deal, one that is yet no less firm than Faust's, is the ambiguous power that guarantees success to the individual on condition of renouncing every ethical decision".¹⁰⁶ For Schmitt, power as such is never evil but always good even when held by the devil.¹⁰⁷ Agamben coins a neologism 'kakokenodicy' to name how following the two World

97 Agamben, *Karman*, 35.

98 Weber, *The Vocation Lectures*, 84.

99 Weber, *The Vocation Lectures*, 86.

100 Weber, *The Vocation Lectures*, 86.

101 Weber, *The Vocation Lectures*, 86.

102 Weber, *The Vocation Lectures*, 90.

103 Weber, *The Vocation Lectures*, 91.

104 Weber, *The Vocation Lectures*, 91 citing Goethe's *Faust*, part 2 lines 6817-8.

105 Giorgio Agamben, *The Adventure* (Cambridge, Massachusetts: MIT Press, 2018), 5.

106 Agamben, *The Adventure*, 13–14.

107 Carl Schmitt, *Dialogues on Power and Space* eds. Federico Fichelstein and Andreas Kalyvas (Malden, MA: Polity Press, 2015), 41.

Wars philosophers and theologians have reached for “a justification of evil through *kenosis* which is to say based on an emptying out of the individual will”.¹⁰⁸ In *Karman*’s third chapter, ‘The Aporias of the Will’ Agamben traces how Christian theology developed the concept of will in order render human action imputable. It did this by replacing the ancient human subject who *can* to one who *wills*.¹⁰⁹ For Agamben free will read as freedom is equivocal because the context in which it is used is not political freedom but moral and juridical freedom regarding the imputability of actions.¹¹⁰ The Church Fathers used ‘it as a technical term to express the mastery of the will over actions in’ ‘the origin of evil and responsibility of sin’.¹¹¹ In that sense it was first found “referring significantly to the devil”.¹¹² What is more “will coincides with the creation of hell”.¹¹³

No wonder then that it has been justly noted that, “as long as our culture continues to struggle between religious and scientific conceptions of its own existence Faust will continue to represent our own modernity”.¹¹⁴ Faust’s continuing relevance is partly based on the fact that it “is a comprehensive synthesis of European culture and, as such, is largely responsible for the widespread perception that Germany in the 19th and early 20th centuries had reached the pinnacle of cultural development”.¹¹⁵ The unravelling of mystery reveals that political theodicy demonstrates that God works in mysterious ways and that an essential part of the mystery is that the devil is in the detail of that working.

5 Conclusion

This paper sought to demonstrate that Agamben’s *Homo Sacer*, project is suffused with explicit and implicit references to Johann Wolfgang von Goethe’s *Faust*. It begun by locating Agamben’s task within and from international law and then related how the mysteries that Agamben sought to unravel therein were central to his concerns generally and not just specifically to *Homo Sacer*. It then proceeded to further demonstrate that by relating how both Faust and Agamben go about

108 Agamben, *The Mystery of Evil*, 36–37.

109 Agamben, *Karman*, 44.

110 Agamben, *Karman*, 47.

111 Agamben, *Karman*, 47.

112 Agamben, *Karman*, 47.

113 Agamben, *Karman*, 59.

114 Brown, J. K. (2002), ‘Faust’, in L. Sharpe (ed.), *The Cambridge Companion to Goethe*, (Cambridge UK: Cambridge University Press), 84, 100.

115 Brown, ‘Faust’, 89, 100.

translating the same biblical passage beginning 'in the beginning' to relate origins to commandments. It is now clear therefore that international law is central to Agamben and his approach to explaining it is profoundly marked by Goethe's *Faust*.

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