

Unpublished conference paper

Cristaudo, Wayne 2010. 'The Redemptive Religions of Judaism and Christianity as Socialising and Globalising Powers', paper presented at the International Conference on Global Governance and International Rule of Law in the World Order, International Conference Hall, Qianjin Hotel, Jilin University, July 2010

‘The Redemptive Religions of Judaism and Christianity as Socialising and Globalising Powers’

Wayne Cristaudo

University of Hong Kong.

‘Why is it important’, asks Harold Berman, in his Preface to the second volume of his *Law and Revolution*, ‘to remember the influence of Roman Catholic and Protestant Christianity on the Western legal tradition in past centuries?’ His answer is as elegant as it is accurate: ‘First because we are the heirs of that tradition and our law is a product of those influences. We cannot understand what our legal institutions are if we do not know how they came to be what they are, just as we cannot know who we are if we do not know how we came to be who we are. Our history is our group memory, without which we as a group are lost. If we live only in the present we suffer from memory impairment, a kind of social amnesia, not knowing whence we came or whither we are going.’¹ That the West suffers from serious social amnesia is a major concern of Berman and one important reason why he believed it necessary to write his work. Moreover, for Berman, the condition is seriously aggravated by the increasingly deep cleavage in modern time between law and religion, itself a symptom of what he calls ‘a nervous breakdown’ stemming from an ‘integrity crisis.’²

Berman’s fears of the West’s ‘social amnesia’ and its ‘integrity crisis’ has a significant meaning for any role that the law might play in global governance. For just as law provides the

¹ Harold J. Berman *Law and revolution Vol. II: The Impact of the Protestant reformations on the Western legal Traditions*, (Cambridge, Massachusetts: Harvard University Press, 2003), p. x. His first volume subtitled *The Formation of the Western Legal Tradition*, (1987) focused on the catholic church, particularly in light of the Gregorian or Papal revolution (to students of the history of political theory usually called the investiture conflict) and its aftermath.

² *Faith and Order: The Reconciliation of Law and Religion*, (Scholars Press, 1993), 1-2

skeletal structure that channels and curbs the massive interplay of human energies domestically and in federated unions such as the EU, irrespective of what exactly a global order will look like, it will only be at all if it is lawful. For it is law – in cooperation with politics and justice – that is required to tend to the elements of discord which, left unattended, would bring the most essential pathways of the body politic into chaos.³ Law, however, does not establish order *ex nihilo*, as Iredell Jenkins has rightly observed in a sadly neglected work, it ‘*is always a supplementary principle of order*. It arises to strengthen and refine earlier principles of order, but it depends equally upon these, and it cannot supplant them.’⁴ The all too obvious limitations of international law stem from the fact that ‘the bodies’ subject to that law are still not sufficiently orderly in their interaction for a supplementary principle to have effect. International law is evolving all the time, but there is no political will to give international law the leverage that is necessary to give it a function analogous to laws which take place where there is a congealed political will. Yet, as Jenkins also points out the supplementary principle of order that takes the form of positive law ‘arises and develops in the human context when other agencies and forces become inadequate to the conditions and the challenges that man confronts.’⁵ Bearing in mind our previous point, the two citations from Jenkins point to an important fact about law, namely, that law establishes order where other alternatives are not thought to be available (though, of course, more legislatively enthusiastic governments may well introduce unnecessary laws) but it can only do so where this is sufficient order for law to be effective and taken seriously. Of course, states teetering on chaos or on the verge of civil war still have laws, but it is inevitable

³ Having said that, the corollary is that excessive legal insistence on limiting human randomness, and an excessive recourse to law is a real threat to social order, and a very serious problem in Western democracies where governments are continually elected with platforms to make new laws to serve different interest groups. The expansion of interest groups and the politicization of the law are in danger of generating widespread cynicism of the law.

⁴ Iredell Jenkins, *Social Order and the Limits of Law*, (Princeton NJ: Princeton University Press, 1980

⁵ Jenkins, 19.

that in such states that the legal order will be compromised by political intrigue, desperate acts of state survival, procedural violations and the like. Law is, to repeat, a supplement, or we might say a second order principle: it will not be effective in all environments.

Law is also the answer to a social need, and that need has to be adequately recognized before the solution to the need can be applied. The World Wars of the 20th century and the subsequent communications revolution certainly provided the need. But it seems that human beings are slow to recognize their needs. Whereas the French and Germans (and the Benelux nations) recognized the need for a greater system of order than could be supplied by nation states and an international legislative body (the UN) which was unable to provide order when it was intrinsically absent, they only did so after the mutual trauma of two World Wars. Eventually a significant number of other European nations would become part of that supranational body of law. The European Union was, of course, slower rather than quicker in coming because of the ideological polarization which hung over post-World War 2 Europe and was too great to be ameliorated by law. The reason that the EU is now able to exist is that a sense of common interests is adequately supported by an ideological consensus – and one of the most clever aspects of the EU has been its fusion of liberal/ free-market and socialistic/ welfarist policies. Much of the rest of the world which was not so devastated by the Second World War, however, does not have sufficient need to surrender national political sovereignty, nor are these nations convinced that the economic benefits of entering into a supranational order will benefit them.

The fact that it is Europe which is leading the way in the actualization of supra-national economic cooperation, governance and legislation is, as I have suggested, closely allied to its heavily traumatic past. One might well argue that the European Union has little to do with what lies outside of Europe. The reason I am not convinced of this is that the Union, for all its

paperwork, bureaucracy, seemingly chatter etc., is a model of economic, political and legal cooperation which manages to retain the nation state, yet assist in overcoming important obstacles that are caused by the nation state. That the nation state is ubiquitous in the international scheme of 'order' is indisputable today. In so far as the strengthening of the power of the state and its legislative scope was, in part, at least a solution to the problem of the religious wars that plagued Europe, and in so far as nationalism was a solution to potentially interminable European class conflicts, we can see that the dominant institution today that plays upon the political stage of the world was a European, more specifically, Western European artifice. The fact that the nation state was also a European solution to what was originally a European problem, but then later a world problem, suggests something that is at the basis of Berman's enterprise, and which was a central idea of the teacher who inspired Berman's work on law and revolutions, Eugen Rosenstock-Huessy.⁶

That idea is that the West has been shaped by a certain understanding of speech, time, and history. The fact that the West has largely forgotten how it arrived at where it is, was not only a major motivation behind Berman's work on law and revolution, but also behind his teacher's, Eugen Rosenstock-Huessy's two great studies of revolutions, *Out of Revolution* and *Die europäischen Revolutionen und de Charakter der Nationen*, which provided the original idea for Berman's own undertaking.⁷

Rosenstock-Huessy's own ideas had evolved to a large extent through his dialogue with his best friend, Franz Rosenzweig. Rosenzweig, was the most important Jewish German thinker between the two world wars – he would die in 1929 after having been bed ridden for the last

⁶ Berman himself says that he has applied Rosenstock-Huessy's method to the study of the history of Western law, *Law and Revolution, Vol. 2*, 21.

⁷ These were not his only studies, but they draw all his important ideas together. Also see chapter 1 of Eugen Rosenstock-Huessy, *Ja und Nein Auto-biographische Fragmente*, (Heidelberg: Lambert Schneider, 1968).

years of his life with the motor neuron disease, Amyotrophic Lateral Sclerosis. Together they both pushed and prodded each other, through often very acrimonious exchanges, to write their own respective systems based upon what both had called speech thinking or new thinking (Rosenzweig would even publish a small book called *The New Thinking* where he would call Rosenstock-Huessy his most important source of inspiration for this new thinking.)

Rosenzweig's system appeared first, when he was 35 years old, in 1921, in the form of the book the author of *The Star of Redemption*, Rosenstock-Huessy's system – his two volume work of Sociology (*Die Soziologie*), would not appear until he was seventy years old (his works on revolution are more detailed elaborations of parts of his system.)

The great source of their inventiveness and their creative antagonism came from the fact that they were both deeply attuned to the intellectual currents of the time, and were especially influenced by Nietzsche and Goethe, but they both agreed that it was impossible to understand the nature of the West without understanding its history, and that its history could not be grasped without understanding its religion. Indeed, by his own admission it had been Rosenstock-Huessy who first showed Rosenzweig (he had met Rosenstock-Huessy when he attended lectures of his own Medieval Law) the meaning of religion. For Rosenstock-Huessy, religion quite simply meant the means by which a people directs itself to its future. Thus – and this idea is also appropriated by Berman⁸ - Rosenstock-Huessy's understanding of religion bypasses the Enlightenment division between superstition and natural reasonableness, which invariably places religion under the rubric of superstition, by going back to a more ancient insight lost on the enlightened *philosophes*. The bypass is not a metaphysical decision – indeed Rosenstock-Huessy has little patience with any metaphysics. Rosenstock-Huessy trusts language far more than

⁸ 'Religion helps to give society the faith it needs to ace the future.' Berman, *Faith and Order: The Reconciliation of Law and Revolution*, 3.

metaphysics – the later being what Schelling had called a negative philosophy, the product of abstractions; while language merely points to a vast array of names and thus undeniable positivities, whose metaphysical, ontological or epistemological nature or characteristics is of, at best, secondary importance to the larger semantic field in which the name occurs. That is to say, Rosenstock-Huessy does not accept that some people are religious and others not – for him the question is simply ‘to which religion do people belong?’ And the answer to that question is not dictated by what they merely consciously say they are doing, but by what they are really doing, which is actually often most conspicuous in what they say unconsciously. The *philosophes*, for example, are servants of science and reason, and that is their religion. Of course, Robespierre did try to create a religion befitting the *philosophes*, with his Supreme Being of Reason before any such ritual was itself seen as an unnecessarily irrational act. A god, for Rosenstock-Huessy, was the name that ancient peoples traditionally gave to the powers of life they served, and the modern decision to dispense with the name of god, while ostensibly a metaphysical act, was far more importantly a philological act based on the fact that old names no longer made sense to them. Further, Rosenstock-Huessy does not find in the least convincing either the Enlightened metaphysical template erected by men like Bacon, Descartes, Spinoza, Locke, Diderot, Voltaire and Rousseau, or the metaphysical template such men thought they were largely rebelling against. But he does think that if their metaphysics were unreal, that does not mean they created a new semantic field, from which the moderns generally have retaken their orientation towards life. That semantic field at its origin was either ahistorical, as in Descartes, who, in the first of his *Discourses on Method*, see fables and histories as more or less the same, or Hobbes and Locke and Rousseau, whose social contract theories are all based upon atomistic self-consciousnesses deciding what they need from a society and thus building it from the ground up,

or essentially an exercise in rewriting history as in Spinoza who distinguishes between the wild (religious) imaginings of peoples and their actual history as grasped by the understanding. In Spinoza's case, his biblical criticism creates a cleavage between men and their beliefs which is still conspicuous in all sorts of historical writings. Norman Davies' large volume *Europe: A History*, for example, pays the scantiest attention to Christianity, as it focuses on far more contemporary interests of 'forgotten' peoples - as if these European peoples were not deeply immersed in the symbols and structures of their religion.

The methodological innovation of the speech thinking of Rosenstock-Huessy and Rosenzweig was named 'absolute empiricism' by Rosenzweig because it refused to make the Spinozian distinction between the pure understanding and the imagination, and instead insisted upon the relationship between the names people served, and their actions. This was why what and who we serve was for Rosenzweig and Rosenstock-Huessy a central question that every social body asks itself, and why the posing of such a question gives you a clue to the faith, hope, and loves that govern a society. That people in secular societies still create their future through their faith, hope and love showed both of them that modern people were not beyond religion, rather that many of them simply did not understand it because they had bought into the truncated vocabulary that accompanied the Enlightenment's binary of naturalism and moral freedom (Kant, of course, detected and expressed most systematically its metaphysical shape.) And that people, even those who could think of themselves as Christians - could serve Hitler was simply one more piece of evidence for Rosenstock-Huessy's idea that people are by nature *servi*ng creatures needing orientation into a future, which is to say human beings are religious, and their religion is (as the word itself indicates) is the binds via which they make their own future .⁹

⁹ Cf. Rosenstock-Huessy's *Hitler and Israel, or On Prayer*.

For Rosenstock-Huessy, if religion is what binds us to our future, the names we use are the means by which we ‘seal’ our understanding of the meaning of things, and events. Thus, for Rosenstock-Huessy, history and language form an integral relations with each other. As he wrote to his student Cynthia Harris: “Language is the vehicle on which history invades the animal life of man. And the study of history and the study of language are one and the same study.”¹⁰ This emphasis upon history being created by collective acts of faith – by religion – and embedded in the names and speech acts of a people was conspicuous even in Rosenstock-Huessy’s early writings on constitutional law. As Wolfgang Ullmann has noted his early writings had “generalized Savigny’s 1912 thoughts on a grammar of law, emphasizing the consciousness-forming power of law and speech.”¹¹

It was this linkage between social formation, language, and religion that had completely overpowered the young Franz Rosenzweig when he met Rosenstock-Huessy. In the case of Rosenstock-Huessy himself, his insights had been developing very early in his life, and they had led him to become a Christian – because, for him, Christianity was not simply or even primarily a matter of personal faith, but it was an assemblage of insights into the nature of speech, time and history, and the relationship between love, life and death. Briefly, Christianity had understood that: the word makes flesh, that is, that our speech is a way for making ourselves and our world, and not simply a means for describing things; the way to create a future is through creative, self-sacrificial loving acts; that creatures and their institutions are not cyclical as the Greeks believed, but through institutions is possible to unify peoples across the ages and build upon different

¹⁰ *The First Cycle of Letters to Cynthia (Harris): On Tribe, Egypt and Israel in order to find direction in our Era*, in *The Collected Works on Dvd* (Argo, 2005) (Microfilm 378, Reel 7, 173).

¹¹ Wolfgang Ullmann, “The Discovery of the New Thinking: The Leipzig Conversation on Religion and the Correspondence between Eugen Rosenstock and Franz Rosenzweig about Judaism and Christianity.” Translated by Roland Vogt, in *The Cross and The Star: Post-Nietzschean Revivals of Judaism and Christianity*, (eds.) Wayne Cristaudo and Frances Huessy, (Cambridge Scholars Press, 2009), 77.

bodies of time; that death is not the end but rather the beginning of something, thus the importance of being prepared to die into a new form of life (*metanoia*). These insights would run through the entire corpus of Rosenstock-Huessy, and it was such ideas that attracted Rosenzweig, who had been born a Jew, but, until meeting Rosenstock-Huessy, did not think it was possible to be a man of faith and a philosopher. So taken by Rosenstock-Huessy's understanding of the society around him – as a Christian creation that had lost its way through the failure of Christian peoples to understand their own heritage – that Rosenzweig was going to follow Rosenstock-Huessy into the Christian faith. But just prior to doing so he decided to visit Yom Kippur and have one last farewell to his Jewish heritage. It struck him during that service that he had to remain a Jew.

The central ideas that occurred to Rosenzweig and which would find expression in *The Star of Redemption* were that the Christian faith is completely dependent upon the Jewish faith – for it is that faith which first provides what Rosenzweig calls the revealed law – the commandment to love God and the neighbor, and it is that faith that first emphasizes that God, man and world form an intrinsic relationship so that the purpose of existence, or what he calls creation, which is disclosed through the revealed law of love, is to participate in redemption – that is to be part of a world and to have a self and a God which are all connected by love. According to Rosenzweig, Jewish ceremonies and rituals and feast-days are all testaments to the fact that the Jewish people have been elected by God to be the eternal people whose lives are devoted to being a constant reminder of God's eternal love. The Jews are, in Rosenzweig's terms, 'the coals in the fire.' That is to say, being God's elect is being forced to suffer with God in so far as the future state of redemption is not yet, and to dwell in the knowledge of the gap between the future redeemed time and the time that is now, the time of injustice, human cruelty

and suffering, a time not yet adequately infused by love. According to Rosenzweig, amongst all ancient peoples, the Jews were unique in holding this belief in their election and in the intrinsically loving relationship between God, man and world. But with the event of Christianity, the Jewish people had to accept the fact that essentially the same fundamental message about creation, revelation and redemption had been appropriated by Christianity. According to Rosenzweig, the fact that Jews and Christians share the same God (albeit, he also believes, that the Christians idolatry Him through their divinization of Jesus Christ), and the same faith in the end of days, or in the messianic age means that in spite of the 'eternal enmity' between these two 'peoples', they are both servants of the one God, who is God of the living and the dead. But their tasks are very different – unlike Jews who are born Jews, Christians must become Christians, and this becoming is intrinsic to the Christian attempt to universalize, i.e. to enfold all peoples within the one faith in the revelatory, redemptive, loving God. Thus whereas the Jews are Jews by blood, and have no need of 'recruiting' others into their eternal dwelling place, Christians are a people of history. They ever look to what they call the rays of the star of redemption (a star made up of six overlapping points – God, man, world, and creation, revelation, redemption), and in their striving Christians seek to ever build the kingdom that the Jews anticipate and celebrate in their annual cycle of rituals. He argued also that unlike Christianity, the fundamentals of Islam were so different from Judaism that it could not be convincingly argued that Allah and Yahweh were one and the same God, or even that Muslims and Jews meant the same thing by revelation.

Rosenzweig's book was a very strange and timely book – and its strangeness and timeliness come down to the fact that it was written just as anti-Semitism had started to become endemic in Germany, something he well knew. The purpose of the book had been twofold – first

to convince German liberal Jews to return to their heritage by showing them its profundity and truth, and second to have other Germans appreciate their own Christian history, and their dependency upon Judaism. Seen from the terrible events of Hitlerism, one can say the book was a gesture to try and remind Christian Germans of who they were, and not to succumb to the temptation of anti-Christian and anti-Jewish paganism, which is precisely what Nazism was.

Rosenzweig's book was to have a profound effect on Rosenstock-Huessy, who came to see that he and Rosenzweig had jointly created a new kind of dialogical philosophy, whereby difference and even enmity, did not discount forming a united front. Rosenstock-Huessy agreed with Rosenzweig that in comparison to Judaism, Christianity was above all a religion of time, a religion which used time in its redemptive mission. I should add here that neither Rosenzweig nor Rosenstock-Huessy were interested in faith as a means to an after-life, but rather to how love, life and death conspired in this world and this life – and to this extent they remained ever (post-)Nietzscheans. For both Rosenzweig and Rosenstock-Huessy, this use of time is very conspicuous in the different phases of the Church – and what interests them (an idea also anticipated by Schelling) is how the church can be seen as having three distinct ages – what they call the Petrine (Roman Church), Pauline (protestant), and Johannine Church. Whereas the distinction between the Petrine and Pauline Church revolves around the respective emphasis upon the visible role of the Church in terms of office, works, and its renunciation of worldly things by the Petrine church, and the spiritualization of the world through the adoption of the Church as an invisible power by the Protestant faith, the Johannine Church is one which

dispenses altogether with traditional Christian institutional props – it is a Church of hope, but one which still requires commitment to the spirit of the law of love.¹²

In the case of Rosenstock-Huessy, these ideas were developed in far greater depth, but the two which concern me here are his argument that the Petrine Church created unity within the peoples of Western and Central Europe, and secondly that it was in the territories that unity had been achieved, that the sequence of total revolutions – the Papal revolution, the Italian revolution or Renaissance, the German revolution or Reformation, the English revolution, the French revolution, and the Russian revolution - took place. With the exception of the French and Russian revolutions, all of these revolutions were explicitly formulated within the Christian framework. They were fuelled both by a deep faith that the end of times was near, and that all obstacles to a redeemed world had to be overthrown. It was because of the deep rooted belief in the power of love to redeem the world, that people were so fired up by the hatefulness of the social and politically and religiously entrenched forms of cruelty and domination. While the obstacles to the end of times keeps changing over time, and thus makes the focus of each revolution different, it is the same explosive hostility that is directed, in different revolutions, to the obstacles of the messianic age. Those obstacles have built up over protracted periods of failure to bring into alliance the neighbourly love demanded by God and the Christian Church (and of course, the Synagogue) and the institutions and social practices of the Christian nations. Thus for Rosenstock-Huessy, the sequence of revolutions has indeed supplied the sense of progress – something that made absolutely no sense in the pre-Christian age – that the Enlightenment took for granted. Except, for Rosenstock-Huessy this progress was not something

¹² Both Rosenzweig and Rosenstock-Huessy see the break away from Rome by the Eastern Orthodox Church as a decision to break away from the Church has a historical force. The consequence, of this decision, was that the Orthodox Church instead of remaining more pure, as its intention had been, was to make it ossify. Thus it was that the first atheistic revolution would take place where the Church had been most 'out of time.'

natural, nor, as Kant or Hegel would have it either a regulative idea of reason (Kant), or the unfolding of reason in history (Hegel). Rather, it was the result of each body of time of being radically reconfigured by a revolution, then the fruits of those revolutions spilling out and circulating through the Western Christian nations. That same reconfiguration and spill-over which accompanied the triumphs of each major European revolution did not cease with the last two great European revolutions which were, respectively, anti-Christian and atheistic. Moreover, it is a fact that neither the French nor the Russian revolutionaries noted how deeply implicated they were in the prior revolutions that took place within the Christian nations – the French having already rewritten history into its now familiar post-Enlightenment episodes, of dark ages, middle ages, renaissance, reformation etc., the Russians into their Marxian schema of feudal, bourgeois, socialist revolution. (Of course the Enlightenment distinction between the enlightened and superstitious becomes appropriated by the Marxist distinction between bourgeois and socialist social orders and revolutions.) But the eschatological nature of both revolutions, and the totalizing and universalizing ambitions of the revolution were still part of a deeply Christian heritage, a sense of the future calling to the present, and the past as shaped by the end of time, and not simply a mechanical random causality. That is to say, in so far as each revolution had built upon the inherited sense of time, embodied in the institutional and aspirational circulation throughout the European nations (and beyond), even their anti-Christian motivations counted for little in comparison with their Christian heritage. Furthermore, Rosenstock-Huessy's analysis of the French and Russian revolutions brilliantly shows how the local conditions of Christianity fueled their anti-Christian rhetoric and tactics, but it is their revolutionary ends that makes them part of a greater historical wave than they care to recognize.

In the case of France, for example, it was the failure to respond deeply enough to the Reformation, that left the French Catholic Church so deeply reactionary. Rosenstock-Huessy makes much of the University of Paris' complicity in the St. Bartholomew massacre, and the depth of that wound in the memory of the exiled Huguenots. His analysis of the French revolution is deeply sensitive to the long term effect of events. Thus he gives a great deal of importance to the attempt by the French crown to maneuver its way through the religious conflicts that were part of the fallout of the Reformation by bolstering its power through its deployment of the representatives of *les pays*, who would become the parasitical nobles. Likewise he notes the importance of the alienation between the crown and the people of Paris, the short term gains and long term disaster of the move to Versailles, and the role of the corruption of the Church in creating anti-Christian humanism. But in so far as the French revolutionary government insisted upon equal rights for Jews, and in so far as they sought an institutional basis for a more just and free society, they were, according to Rosenstock-Huessy, continuing in the vein precipitated by Gregory VII in the Papal revolution.

Rosenstock-Huessy's analysis of the Russian revolution, takes a similar kind of tack. He believes that the failure of Russia to have adequately reformed itself in the earlier revolutions – that is, the almost complete isolation of the Orthodox church from other religious events in Europe meant that the first revolution to have really impacted in Russia was the French revolution –and even the fall-out from that revolution had only limited effect in a society which had not adequately benefitted from the property rights that the English revolution had so valorized. Rosenstock-Huessy nicely picks up on how the Russian revolutionaries simultaneously wanted to depict themselves in terms of the French revolution, whilst negating the former's importance because it was merely bourgeois.

Now while most people are not familiar with the Papal revolution, and so have no idea of its logistical importance, for subsequent European events, everyone is aware of the importance of the other revolutions. And if one tried to imagine a world, without the effects of the great revolutions, one would simply be thrown back into a world before the World Wars, before the existence of nation states, before the great scientific and commercial revolutions – and this conference would not be taking place, and certainly not in a place called the People's Republic of China. The fall-outs of revolutions are not always easy to see, especially, as in the case of the Russian Revolution which many would argue was a total failure. Yet against this position Harold Berman has provided a nice summary of the global spillovers from the Russian revolution in terms of law.

the twin legal innovations introduced by the Russian revolution – the enormous enhancement of the social and economic role of the state and the parallel enhancement of the parental role of law – have survived and have had the repercussions throughout the West and the world.

In virtually all countries of the West, governmental bureaucracies in the twentieth and twenty-first centuries have come to control, directly and actively the economy, communications, education, health care, conditions of work, and other aspects of economic and social life. To a large extent these are governed by administrative regulations. By no means entirely, but nevertheless to a considerable extent, administrative regulation as a major source of law has invaded the civil code in France, common law precedents in England, and professorial concepts and principles in Germany. In the United States as well, though not to the same extent, both legislatures and courts have yielded to

government agencies much of their control over large parts of economic and social life. . . At the same time. American courts have themselves become to a certain extent agencies of active control of economic and social life, as so-called judicial activism has increasingly become openly accepted.

The use of law to implement direct state regulation of economic and social activities has been linked in our time with the use of law directly to influence people's belief and attitudes, to educate people to be socially responsible, and to treat one another equally, regardless of differences in race or gender or age or class. More and more we see the socializing functions of the family, the school, the church, the factory, the commercial enterprise, and other local associations subjected to direct legislative, administrative, and judicial controls.¹³

While the aim of the Christian Church was universal and while, as Rosenzweig rightly said, in spreading its teaching, even in spite of its frequent bouts of Jewish persecution it was teaching a message which meant that the society should be governed by the law of love first believed in by the Jews, it was the French and, finally the Russian revolutions which truly universalized that law. While the above citation from Berman emphasizes the enduring legal contribution made by the Russian revolution beyond Russia, the political contribution of that revolution was even greater. The Russian revolution, but that it fueled a number of revolutionary regimes, in nations which had failed to adequately materialize on the basis of the more bourgeois precepts and possibilities that evolved with the French revolution, and amongst them, of course was China. From Rosenstock-Huessy's point of view, it was the Russian revolution, far more than Christian

¹³ *Law and Revolution, Vol. II, 20-21.*

missionaries that brought Christianity into China, albeit a secularized Johannine form of Christianity.

I have mentioned earlier that for Rosenstock-Huessy the great European revolutions build upon each other, forming a sequence – a schematic expression of the sequence and the ends of each revolution is supplied in the following table from *Out of Revolution*:ⁱ

Russia: Every proletarian a capitalist.

France: Every man of talent an aristocrat.

England: Every gentleman a king.

Germany: Every Christian a priest.

Although he does not include it in the table, *Out of Revolution* also provides the material for the two earliest revolutionary slogans – every human creature a soul (Odilo of Cluny's original revolutionary programme), and every soul a member of the Church (The Gregorian revolution that spreads into the Franciscan revolt of the Italian revolution).

Before I conclude the essay, there is one more important point that needs to be made about Rosenstock-Huessy's analysis of how the European revolutions have shaped the planet we now are all conscious of sharing as neighbours, and I will just use the examples of the French and Russian (and the Chinese revolution which is, as I have implied throughout, an extension of the Russian revolution). The internal/ national obstacles to social transformation invariably are the very elements of decay which lead to a revolutionary explosion. In France, for example, as we suggested, the failure of the Church to adequately accommodate the legitimate grievances and cries to heaven from the protestants, the failure of the monarch and nobles to hear the cries

of the rising commercial classes and the poor, ultimately meant there was no way to change except by exploding the existing order. Russia's failure to spread the Enlightenment beyond its ruling class and a small group of intellectuals who found themselves persecuted because of their opposition to Russia's feudalism and general backwardness created a revolutionary elite determined to go beyond the bourgeois purview which had led to the First World War.

Rosenstock-Huessy had noted in his early work, written in the penumbra of the Great War, which can be translated as the *The Marriage of War and Revolution*, that it was the Bolshevik opposition to the War that had been the source of success, not the purity of its Marxism. But its Marxism provided a vantage point to view the limitations of the horizon of the French revolution. However, as he also grasped, because the European revolutions each solved a problem for the species, the fact that a revolution inevitably occurs in societies which have not been sufficiently transformed or reconfigured by earlier revolutions means that each revolutionary regime must ultimately serve to enable its peoples to accrue the benefits won by earlier revolutions. As we now the Russian revolutionary regimes dismantled itself in its attempt to accrue the benefits that had flown from the French and English revolutions. The Chinese government, on the other hand, rightly in my view, saw the potential chaos of such dismantling and thus has more cautiously sought internal economic change, based on the English and French revolutionary emphasis upon private property and the sovereignty of the nation. That is to say, China is now entering ever more deeply into the sequential revolutionary history of the West, which has spawned the global economic, financial, commercial, technological, administrative, legislative, and political systems. These systems were all the outcomes of specific historical, social and political struggles. They all originated in the West, on Christian soil, but now they are completely dislocated from any religious origins. The danger of this is not only, as Berman has

suggested, the social amnesia of people who fail to sense any continuity between origins and ends - a continuity which would at least have the benefit of emphasizing the deeply human creative and redemptive need of solidarity. The danger is that the hegemonic role that the West *must* play because it spawned the systems which engulf the world is not well understood by the West itself, which, to repeat Berman is having an 'integrity crisis.' That crisis comes from its deep sense of shame and guilt – one might say this is the Rousseauian legacy of the Enlightenment, a legacy which paradoxically has substituted original innocence for original sin whilst making us deeply regretful of our sinful history. An alternative theological reading of history is Augustine's and it is the reading of history which tended to dominate the European mind-set before the French revolution – viz, we are sinful but God is providential, thus our history may be purposeful and contribute to the end of times in spite of the need for us to acknowledge our past sins, in spite of our guilt and our shame.

If, then, as I am suggesting the West needs to accept its responsibility by also paying more attention to what it stands for, it is also the case – and both Rosenstock-Huessy and Berman make this very point – that the different histories and socio-cultural traditions of non Western peoples also now feeds into and plays an indispensable role in forming the one world we all inhabit. However, the various non-western traditions inevitably find themselves being radically reconstituted by the revolutionary systems within which they now operate. Revolutions are by their nature the result of great disorder which then gives birth to a new order.

The real event of the last century which, as Rosenstock-Huessy correctly grasped, which had forcefully brought together all the nations into one world, was the World Wars, which were themselves part of the overflow of Europe's history of revolutions. It is a shame that Berman never completed his intended analysis of the relationship of laws and revolutions, and that age

forced him to stop with the English revolution. His work, however, has performed the invaluable contribution of making people who are serious in understanding the world we have inherited conscious of the deep relationship between law and religion. And anyone in the West who does not want to be a social amnesiac, or anyone from non-Western countries wanting to understand the trajectory that the West has brought them into can learn from this.

ⁱ *Out*, p. 365.