

# Mea culpa: Kafka, Ewald, fault

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In Franz Kafka's short story "The Hunter Gracchus [*Die Jäger Gracchus*]" (1917), the long-dead protagonist Gracchus explains to the burgomaster of the Italian port at which his ship has docked how he came to be killed in what Carolin Duttlinger rightly calls a "workplace accident."<sup>1</sup> To recall his business-like account of his own demise, Gracchus explains that "I fell from a rock in the Black Forest – that is in Germany – when I was hunting a chamois. Since then I have been dead."<sup>2</sup> If the burgomaster suspects the hunter's accident must have been the result of some error on his part – "And you bear no blame for it?" he pointedly asks – Gracchus himself is adamant that he had no responsibility whatsoever for his death: "'None,' said the hunter, 'I was a hunter; am I to be blamed for that? I was assigned my place as a hunter in the Black Forest.'"<sup>3</sup> In Duttlinger's verdict, Gracchus sees his fatal accident as no-one's fault but simply the result of an occupational hazard or professional risk that he was happy to assume: "Everything happened in good order," the hunter concludes, "I gave chase, I fell, bled to death in a ravine, I was dead, and this bark was supposed to convey me to the next world."<sup>4</sup>

To reconcile what we might call the two Kafkas – the writer and the underwriter, the novelist and the insurer, the author of a series of (once obscure but now celebrated) philosophical fictions and the author of a (once influential but now forgotten) dossier of legal and technical documents on workplace accident insurance -- I want to focus on one massively overdetermined yet still curiously empty theme that runs through both his literary and professional writing: *Schuld* (guilt, fault, blame, debt, liability, culpability or responsibility). For Kafka, of course, what takes place in his fictional universe often seems to be a kind of impossible or unwinnable *Schuldspiel* (blame game): Gracchus, Josef K. and his other *dramatis personae* all try and fail to find who is responsible – liable, at fault, culpable --- for the otherwise inexplicable workplace accidents that have befallen them. If this futile pursuit has classically been narrated by Kafka scholarship as a metaphysical, theological or existential condition, I want to argue (and here we will not only be following recent scholars like Michael Löwy, Howard Caygill and Carolin Duttlinger but placing his work into a constellation with that of the contemporary philosopher of the welfare state François Ewald) that it is also a precise *historical* subject position which appears at a moment when the whole question of the relation between the citizen and the state and, particularly, of what liabilities they owe one another, is in flux. In Kafka's literary and professional writings, we can track not only an ontology of guilt – of being guilty or at fault – but what Werner Hamacher elsewhere calls a modern political *Schuldgeschichte* – a guilt or fault history.<sup>5</sup>

If Gracchus was happy to assume the professional risk intrinsic to his career as a hunter, after all, it is presumably because (as Duttlinger rightly observes)<sup>6</sup> he believed he was

metaphysically “insured” against that risk and would be reimbursed for any loss he incurred on earth in the afterlife: he sorrowfully informs Salvatore that “this bark was supposed to convey me to the next world,” recall, but the ship has evidently failed in its task. It gradually emerges that the metaphysical insurer of the hunter’s accident has *themselves* fallen victim to an accident -- leaving Gracchus fatally uninsured. As he goes on to describe, the pilot of the ship of death on which he is being carried has made a mistake: “My death boat went off course; a wrong turn of the wheel, a moment’s absence of mind on the part of the helmsman, the distraction of my lovely native country, I cannot tell what it was; I only know this, that I remained on earth.”<sup>7</sup> For the hunter, the ship pilot’s workplace accident cannot be attributed to an unavoidable occupational hazard (like his own) but is the result of a clear, if unprovable, professional fault: “But who, then, is to blame?” the burgomaster asks, to which the hunter categorically replies “The boatman.”<sup>8</sup> In the story’s conclusion, Gracchus finds himself stuck between life and death in a kind of metaphysical equivalent to a null and void insurance contract which leaves him *de facto* responsible for an accident he never caused without any possibility of legal compensation: “I am here, more than that I do not know, more than that I cannot do. My boat has no rudder, and it is driven by the wind that blows in the nethermost regions of death.”<sup>9</sup>

This essay explores the philosophical fate of workers’ accident insurance – which is to say not only the *insurance* of accidents but the *accidents* of insurance itself – in Kafka’s literary and professional work. It is my aim to situate that work within the *longue durée* of modern “fault” which stretches from nineteenth century liberalism, through twentieth century social democracy, up to twenty-first century neoliberalism. As Stanley Corngold, Jack Greenberg and Benno Wagner show in their groundbreaking collection of his *Office Writings* (2009), Kafka’s career in the new field of workplace accident insurance can be seen as his own small contribution towards the construction of a universal system of social or national insurance that would culminate in the post-1945 welfare state: what was once seen as the exclusive province of the autonomous, self-interested individual – fault, culpability, responsibility – would be progressively assumed by society as a whole in the form of pooled risk.<sup>10</sup> To introduce my own specific argument in what follows, though, I want to contend that Kafka’s literary and professional work also explores an occupational hazard that we might half-seriously call “Gracchus’s paradox”: who insures the *insurer* against their own professional faults, liabilities, accidents – or indeed the structural fault that just may be insurance itself? If anything is ultimately at fault in the unfortunate case of Gracchus the Hunter, after all, it is arguably the very institution of insurance itself working precisely as it is supposed to: Kafka’s story seems to imply that the invention of workplace accident insurance – the mythical vessel that will supposedly compensate all our worldly damages by conveying us safely into the “next world” of universal redemption --- also invents a whole new series of real or possible accidents which are uninsurable. In Kafka’s literary and professional universe, I will thus propose that insurance does not simply fail to protect or cover but ironically *produces* the very faults it is designed to indemnify: insurance fraud, a new kind of culpable worker called the “shirker” (*Tire-au-cul, Drückeberger*) and even a mysterious new and uninsurable form of archive fever called *Rentenneurose* (pension or compensation neurosis). Who, if anyone, then, confesses *mea máxima culpa* – through my most grievous fault -- in Kafka?

In his now classic book *L'Etat providence* [*The Welfare State*] (1986), which has recently been translated into English as *The Birth of Solidarity*, the French philosopher François Ewald offers a genealogy of the modern French welfare state.<sup>11</sup> To brutally condense the argument of this 600-page *magnum opus* – which was originally written as a PhD thesis under the supervision of Michel Foucault in the late 1970s – Ewald's genealogy focuses on one decisive legal event in the Third Republic: the National Assembly's ratification of the Workman's Compensation Act (*Loi sur l'indemnisation des accidents du travail*) of 1898 which, for the first time in French history, instituted a mandatory system of insurance against workplace accidents. It had become increasingly clear to the political class over the course of the industrial revolution that the workplace "accident" was in fact anything but a chance or random event. As the industrialization of labor grew apace, it spawned a whole range of regular, consistent and entirely predictable industrial injuries – cuts, burns, broken bones, loss of limbs and even deaths -- and so the question of who (if anyone) was legally responsible for these injuries began to be posed with increasing urgency. For Ewald, what this previously obscure 1898 Act bears witness to is nothing less than the philosophical passage from nineteenth century political liberalism (which still conceived of society as a collection of atomized individuals who were responsible for their own behavior) to twentieth century political *solidarisme* (which conceived of society as a network of collective obligations, dependencies and responsibilities) and, finally, to the modern welfare state. If earlier legal attempts to adjudicate upon workplace accidents had relied upon the 1804 Civil Code – which placed the burden of proof upon the worker to show that final responsibility for their injury lay with the employer by claiming civil damages to make good their loss – the growing mechanization of industry over the 19<sup>th</sup> century rendered the attempt to attribute fault to any single individual increasingly difficult and so a new system of recognizing damage and compensating loss was required: a worker who lost a finger in the course of operating a mechanical lathe would no longer be seen as the victim of a fault caused by an act or omission of their employer, which could be remedied by a court, and instead became the bearer of a professional risk intrinsic to work itself that had no determinate cause, but which could be covered by insurance. In Michael C. Behrent's verdict, the Workman's Compensation Act thus replaced the old juridical pursuit of personal responsibility or guilt for the accident after the event with the new actuarial and statistical science of calculating risk before the fact: "Instead of asking 'who is responsible for the damage?' one now asked 'how much must victims be compensated, given the degree of risk they took on?'"<sup>12</sup>

To preside over this paradigm-shift from liberalism to solidarity, tort to insurance and individual fault to pooled risk, Ewald argues that the Workman's Compensation Act produced a new philosophical anthropology of work: the worker was no longer conceived as liberalism's essentially free and individual actor, who could always be held responsible for their own behavior in the workplace, but as nothing more than the statistical bearer of a predictable professional risk, who was thus almost totally *de-responsibilized*. It is already possible to detect the beginning of this profound philosophical shift from responsibility to de-responsibilization in the political discourse that arose in the mid-nineteenth century concerning the new class of urban poor created by the industrial revolution: so-called "pauperism [*pauperisme*]." As Ewald observes, what distinguished the new figure of "the pauper" from prior liberal

archetypes of the poor was that their impoverishment was no longer deemed to be caused by some individual fault, which was classically taken under liberalism to be a lack of planning or foresight on their own part, but rather by the psychosocial conditions which *caused* this individual cause in the first place.<sup>13</sup> If the homeless or unemployed pauper could no longer be deemed individually responsible for their poverty, which instead became a strictly social question or problem, the 1898 Act merely extended this post-liberal philosophy of fault into the workplace: the worker and the employer were henceforth absolved of any legal responsibility for workplace accidents by attributing all injuries to the social risk inherent in work itself. By socializing risk in this way, the Act relieved the worker from the legal and financial burden of having to prove their employer's liability by suing them for damages in court: they now needed only to prove the bare fact of their own injury and claim a predetermined rate of compensation.

If the worker was really to be fully insured against whatever accidents happened to befall them, however, they also needed to be granted one final indemnity that had always been denied under the civil code and under tort law more generally. To guarantee that every worker is compensable for every workplace accident regardless of their cause, the Workman's Compensation Act extended this protection to a subset of workers who had historically been excluded from any legal redress, namely, those whose injuries demonstrably arose from their *own* misbehavior. It was around this apparently minor question of what, if any, legal indemnity was owed to a worker guilty of so-called "gross misconduct" – recklessness, negligence and so on -- that the final battle between liberalism and solidarism was waged, because gross misconduct cut to the heart of the larger philosophical problem of whether workers were really free, autonomous individuals or the product of larger social conditions. As Ewald observes, the 1898 Act apparently struck a "compromise" between these two positions by inventing a new category of behavior called "inexcusable fault [*faute inexcusable*]" which, if proved, could significantly reduce, if never totally nullify, the worker's compensation payment.<sup>14</sup> Yet, this compromise was, in reality, another victory for solidarism over a waning liberalism. For the French legislators, the worker's inexcusable fault was, like the pauper's poverty, a "caused cause [*cause causée*]"<sup>15</sup> resulting not from their own individual act or omission but from a set of psychosocial conditions that rendered them something less than a free, individual and self-responsible subject: workplace fatigue, stress, routine and the like. In finding a worker to be at "inexcusable fault," the 1898 Act was not thereby deeming them to be the individual cause of their own injury but the *effect* of a psychosocial cause which was itself regrettably uninsurable: "The inexcusable fault appears," Ewald concludes, "when, in attempts to explain workers' behavior, all excuses having been exhausted, there remains something that does not necessarily relate to a liberty but a cause that public order forbids covering."<sup>16</sup>

In its attempt to create a neutral zone or territory called professional risk where neither worker nor employer could accuse the other of blame or responsibility for accidents, the Workman's Compensation Act was seeking to mitigate the increasingly fractious relations between capital and labor in nineteenth century France, but, as we have already begun to see in the case of "The Hunter Gracchus," the modern invention of the fully insured worker also gave birth to a whole new species of unpredictable industrial accident. It is well-documented, for example, that the 1898 law (like all insurance law)

was widely seen as a machine for making criminals which incentivized widespread fraud by both parties to the contract as each sought to minimize or maximize the extent of fault, liability or injury for their own gain.<sup>17</sup> According to contemporary critics of the law amongst the business class, moreover, any attempt to absolve workers of responsibility for their actions would simply render them *irresponsible* – reckless, malingering and prone to dishonestly claim compensation for feigned or even self-inflicted injuries – and so the new category of the “shirker” (*Tire-au-cul, Drückeberger*) was born.<sup>18</sup> However, in another sense, de-responsibilization -- far from being an opportunity to work less hard or not work at all -- created a new kind of incessant work, a new government of the self. To put it in Ewald’s own (classically Foucauldian) terms, workers were transformed into “speculators of the self [*spéculateurs du soi*]” – investors in their own suffering -- who had a vested interest in presenting themselves as “the most gravely wounded, the most mutilated.”<sup>19</sup> By assuming the professional risk of entering their workplace, the insured worker became the entrepreneur of that literal form of human capital which was the predetermined rate of compensation for their possible injury. If the 1898 law presided over a total legal separation of human action and responsibility into two distinct realms, however, it may also be possible to take Ewald’s genealogy in a less Foucauldian direction and argue that the socialization of risk invented or discovered what we might half-seriously call an actuarial *unconscious*: the de-responsibilized worker became, just like the pauper, the “caused cause” of a larger structural or impersonal psychosocial causality that was working through them. For German medical practitioners in the pre-War period, revealingly, a controversial new pathology began to be diagnosed whose origins could be traced back to the institution of its own statutory accident insurance legislation under Otto von Bismarck in 1884: *Rentenneurose* (pension or compensation neurosis) was a – real, exaggerated or simulated -- psychological disturbance whose symptoms included “the continuous and persistent pursuit of actual or supposedly existing legal claims” and which frequently led to the accident victim permanently giving up work even when any physical injuries they had incurred had healed.<sup>20</sup> In *Rentenneurose* – a pathological condition directly caused by the collective consciousness of insurance cover itself – workplace accident insurance thus ironically created its very own (uninsurable) workplace injury.

## 2

In 1908, Franz Kafka began work at the Workmen’s Accident Insurance Institute for the Kingdom of Bohemia in Prague and rose through its ranks to become a Vice-Secretary in the Appeals Department before ill health forced him to take early retirement two years before his death in 1924.<sup>21</sup> It is possible to date the beginning of Kafka’s career in the insurance industry all the way back to the Emperor Franz Joseph I’s ratification of a Workmen’s Accident Insurance Law in 1887, which like its equivalents in France and Germany, instituted a compulsory scheme of workers’ accident insurance for the first time in Austria. Along with six other regional institutes established across the Austro-Hungarian Empire, the Prague Institute was tasked with administering this new law: Kafka’s job was to assign an often-bewildering array of different businesses (including farms, quarries, factories, hotels and even automobiles) into a set of predetermined risk classifications, to set and collect insurance premiums from their owners and, finally, to pay out fixed compensation payments to injured workers. To correct a few of the

(largely self-propagated) myths that have sprung up around his professional career, Kafka the underwriter was -- despite his protestations to intimates in the letters -- no mere pen-pusher stuck in a boring, establishment job that took him away from his true vocation as a writer but rather, as Corngold, Greenberg and Wagner abundantly show, a dedicated executive in a leadership position who was intellectually invested in the whole field of insurance and who, at least according to the available evidence, was ideologically committed to its political mission of ameliorating the class conflict between capital and labor by socializing risk.<sup>22</sup> If Kafka's Institute was charged with implementing the larger European paradigm-shift from liberalism to solidarism, tort to insurance, fault to risk described by Ewald on the ground one case at a time, however, it quickly found itself mired in controversy: what began as an attempt to pacify labor-capital relations by socializing all risk ended up falling victim to an explosion of bureaucratization, lobbying, fraud and debt. In Kafka's professional writings, he bears witness from the inside to what his literary work stages in stories like "The Hunter Gracchus": the becoming-accident of the workplace accident insurance industry itself.

To re-open the archive of legal briefs, technical risk assessments, newspaper articles and public speeches he prepared in his 14-year career at the Workmen's Accident Insurance Institute, we find a Kafka who is apparently a true believer in the new solidarist credo of professional risk in which the worker ceases to be one self-responsible individual amongst others and becomes nothing more than a statistical constant in an actuarial risk assessment. It is already possible to detect the political arithmetic that will guide all his work on accident insurance from his earliest professional writings after he joined the Institute in 1908. As his first legal article on "The Scope of Compulsory Insurance for the Building Trades" (1908) reveals, the Institute's larger goal is to put in place a system of universal coverage for all workers in businesses (including the owners themselves) which would be paid for, not on a pay-as-you-go basis, but by fixed premiums based on what we will see to be a controversial system of risk classifications for different branches of industry. If scholars seeking to reconcile the literary and professional Kafka often discover a cryptic political subtext to his apparently apolitical writing on insurance -- where he apparently wages a secret class war under the guise of pursuing bureaucratic peace -- I personally find little evidence of irony, satire or critique in a series of writings that remain scrupulously, almost perversely, professional even when dealing with extremely distressing cases of workplace injury. For the professional Kafka, the Institute's socialization of risk -- which was intended to transform employer and employee from potential combatants in a class war or litigants in a courtroom into mutual beneficiaries of a shared policy --- was apparently the optimal means by which to resolve the deep antagonisms between capital and labor that had plagued industry in the nineteenth century. In "On the Scope of Compulsory Insurance for the Building Trades," for example, Kafka explicitly rehearses what we have seen to be the classic solidarist case for worker accident insurance as a neutral zone in which the conflicting interests of employer, employee and insurer all peacefully converge ("only the broadest possible generalization of insurance can satisfy the intention of the legislator (to grant the benefit of insurance to as many segments of the working population as possible)," he writes, "and the interests of those most closely affected -- the workers, the employers and the Institute"<sup>23</sup>) but it is precisely this "generalization" of risk that will produce new forms of conflict.

If Kafka's Institute was intended to bring about class unity, it quickly descended into a familiar bureaucratic dysfunctionality -- and the officeholder we find at its center is one who does not seem to have read, let alone written, such celebrated fictions of bureaucracy as *The Castle* [*Das Schloss*] (1926). It is in his later work as Vice-Secretary of the Institute's Appeals Department that we encounter this most "Kafkaesque" of Kafkas. As Corngold et al recount, any employer who objected to their new insurance rating -- and did not resort to fraudulently evading premiums or cutting workers' wages to offset any rise in costs -- was entitled to make a formal appeal to Kafka's department. To judge by his responses to the legions of angry builders, hoteliers and even toymakers who besieged his office door (no fewer than 3000 appeals were lodged in 1910 alone), Vice-Secretary Kafka was a punctilious bureaucrat whose verdict was invariably "no," a guardian of the letter of a mysterious law, and a defender of the rule of rules even when they bear no relation to the facts on the ground. Yet, it would be a-historical to diagnose this dispute between insurer and insured as analogous to that between the man from the country and the gatekeeper in "Before the Law" [*Vor dem Gesetz*] (1915) -- which is to say that it is symptomatic of some primordial ontological guilt of either party -- because it is again a normal product of the new universe of insurance itself, which no longer finds empirical fault but calculates future risk. Perhaps we can best witness the birth of this new universe of risk in the case of Christian Geipel & Sohn, a weaving mill in Ach with a good safety record, which appealed to Kafka's department in 1910 against what it saw as an unfair rise of 40% in its insurance premium.<sup>24</sup> For both insurer and insured, this legal dispute becomes neither an instance of Derrida's inaccessible law nor Agamben's law that is in force without significance but (as Corngold et al observe) something close to a Lyotardian *différend* where two historically irreconcilable language regimes fail to encounter one another: Geipel & Sohn appeal from the "realism of industrial practice," where the insurance rating should be determined by the real empirical risk in its own workplace, whilst Kafka replies from the "nominalism of the bureaucratic classification system," where the insurance rating is determined by the risk category in which the work is placed.<sup>25</sup> Finally, Kafka the gatekeeper even provides a banal but historically precise answer to his own man from the country's question of why a law that should be accessible to everyone turns out to be intended "only for you"<sup>26</sup>: every individual workplace's insurance premium is predicated on a series of general risk classifications that are themselves determined by the statistical probability of future accidents across the entire industry. "In spite of the factors that increased and decreased risk," Kafka's department replies to Geipel & Sohn, "the firm was classified in accordance with the amount of accident expenses under Title 323 in risk category II."<sup>27</sup>

In his final years of employment at the Workmen's Accident Insurance Institute before he was forced to take early retirement, Kafka became increasingly involved in the collective effort to support the injured victims of a very different kind of industrialized work: warfare. To turn the Great War into what Paul Virilio will later call a "Great Accident,"<sup>28</sup> Kafka's professional writing once again socializes the soldier on the battlefield in the same way as he had the worker in the factory, cotton mill or quarry: all individual risk, damage and loss in warfare must once again be assumed by society as a whole in what is now more clearly than ever an embryonic system of social or national insurance.<sup>29</sup> It is remarkable just how little the outbreak of war in Europe seemed to affect the Institute's core business of actuarial risk assessment: everything -- even or especially the rampant fraud, corruption and lobbying -- carried on as "normal." As Kafka dryly observes in a technical report he prepared on "Risk Classification and

Accident Prevention in Wartime" (1915), "The current extraordinary conditions have had little effect on risk classification in general, in spite of the fact that many employers have mistakenly used the situation as an argument for changes in classification."<sup>30</sup> However, if war did not appear to significantly change the accident insurance industry, then the accident insurance industry certainly changed war. For Kafka, the Great War was not an unforeseeable state of exception that brought the solidarist dream of workplace insurance to an end, but instead just another predictable workplace risk which employers must diligently insure themselves against: any business suffering from a dearth of skilled labor during wartime may be forced to rely on unskilled or inexperienced workers who go on to injure themselves, for example, or on skilled but disabled veterans who may no longer be physically able to do their old work anymore, or even (as testified by one remarkable case from Germany) on prisoners of war who may engage in acts of sabotage by deliberately disabling workplace machinery -- and so workplace accident insurance becomes more important than ever.<sup>31</sup> If Kafka's description of this last act of political resistance as a simple "accident" that happened "for no good reason" may well seem *faux-naïf* to readers of the fiction -- Caygill goes so far as to call it a "breath-takingly sardonic" commentary upon the a-political conservatism of his own profession<sup>32</sup> -- I do not think there is necessarily any evidence of internal dissidence here: an act of industrial sabotage is indeed a workplace "accident" in this context because, of course, any individual cause or fault is immaterial according to the strict actuarial definition of the term. In many ways, Kafka's industrial saboteur is really just an extreme version of the dishonest, reckless or negligent worker whose inexcusable fault reduces but never wholly nullifies any claim for damage and he revealingly concludes his report with the mild recommendation that prisoners of war should not be "called upon to perform tasks upon which the welfare of the operation depends," as if they were just a particularly egregious example of a shirker or *Drückeberger*.<sup>33</sup>

### 3

In the 40 years since the publication of *L'Etat providence* (1986), François Ewald has led an almost Kafkaesque intellectual double life. To briefly re-trace his (now well-publicized) political itinerary, Ewald began his career as a post-Cultural Revolution Maoist in the early 1970s, converted into a disciple of the biopolitical Foucault in the later 70s and 1980s, before finally emerging in the 1990s as what Behrent calls "the house intellectual of the French insurance industry and ideological standard-bearer of the Medef [*Mouvement des Entreprises de France*], France's primary employers' organization."<sup>34</sup> For Ewald, this apparent journey from political left to right reached its conclusion in the early 2000s when, to the dismay of many former allies, he became a prominent spokesperson for the "*Refondation sociale*" movement, which opposed the Jospin government's introduction of a 35-hour working week and advocated the liberalization and privatization of the welfare state. If Ewald himself insists that his politics have remained more or less consistent, Melinda Cooper (amongst others) plausibly concludes that his later critique of the over-reach of the allegedly bloated welfare state and call for a return to individual responsibility represents "a 180-degree turn from his early critique of liberalism."<sup>35</sup> In a 2017 interview, Ewald can even be found issuing a *mea culpa* on behalf of the century-long providential project of the



French *État-providence*: “The welfare state had ceased to be an instrument for everybody to act as a responsible person, all the while sharing risks with others,” he laments, “Instead it had turned into a machine that fabricated rights without demanding any responsibility.”<sup>36</sup>

To reconcile these two Ewalds – writer and underwriter, philosopher and insurer, *assistant* of Collège de France-era Michel Foucault and advisor to Claude Bébéar, founder of the French insurance giant AXA – I want to propose that we may see his belated critique of the welfare state’s de-responsibilizing of the worker, less as a return to a liberal political ontology of individual responsibility, than as an affirmation of a neoliberal political technology of subjectivation: responsabilization. For the later Ewald, what may at first blush appear to be a pre-Foucauldian call to free the subject from the tutelage of the state so they can embrace their ontological condition as a risk-taking animal may thus be better described as a “right-Foucauldian”<sup>37</sup> governmental technology where the subject is subjectivated as a “responsible animal” – which is to say at fault, to blame, and so unworthy of state assistance – even or especially when subjected to socio-economic conditions (inequality, structural racism and sexism etc.) that are wholly beyond their control. By means of this new political anthropology, the injured worker becomes neither a liberal individual cause of their own accident, nor a solidarist psychosocial caused cause, but the neoliberal “cause” of the psychosocial causality that, in turn, causes them.

If what Ewald calls the nineteenth century “liberal diagram”<sup>38</sup> established a basic equation between individual fault and responsibility, and the twentieth century solidarist diagram broke that equation by inventing a form of social fault without individual responsibility, then what we might call the twenty-first century “neoliberal diagram” thus reverses the solidarist position by creating a – genuinely Kafkaesque -- species of individual *responsibility without fault or culpability*. To bring Kafka’s literary and professional *Schuldgeschichte* up to the present, I thus want to draw this essay to a close by hypothesizing that the Czech writer’s literary and professional work stages not only what Ewald calls the “birth of solidarity” out of the ruins of liberalism but perhaps also solidarity’s own slow death at the hands of neoliberalism: Kafka’s corpus describe the history of the passage from liberal responsibility, through the solidarist socialization of risk, to neoliberal responsabilization in which the subject assumes all the burden of social risk as their own “fault.” In the modern neoliberal workplace, which is apparently a world away from Kafka’s own sub-Weberian state bureaucracies, the subject is nonetheless placed in the essentially uninsurable subject position of a Gracchus, a Gregor Samsa or even the innocent Josef K. who dies, recall, feeling “as if the shame [*die Scham*] would outlive him”: <sup>39</sup> I (you, we) am held most grievously responsible or culpable --*mea máxima culpa* -- precisely for what we never do.

In conclusion, though, I want to return to the particular responsiblized worker with whom we began: Gracchus the Hunter finds himself held infinitely responsible for a workplace accident that was not his fault, recall, because the very system that was supposed to protect him – insurance – is itself, accidentally-on-purpose, at fault. To remember his abject fate at the end of the story, Gracchus finds himself abandoned in a spectral state between life and death because the boat that was supposed to carry him from this world to the next is eternally lost at sea: “I am here, more than that I do not know, more than that I cannot do. My boat has no rudder, and it is driven by the wind

that blows in the nethermost regions of death.”<sup>40</sup> It may be worth recalling that, as he was writing this fragment about a ghostly former warrior left to wander aimlessly, Kafka had also become a public advocate for another “strange apparition” that had begun to appear on the streets of Prague since the outbreak of the Great War. As he recounts in his newspaper article calling for “A Public Psychiatric Hospital for German-Bohemia” (1916), “a strange apparition, arousing fear and pity, appeared in the streets of our cities. He was a soldier returned from the front.”<sup>41</sup> For Kafka, the traumatized war veteran, just like the mythical hunter Gracchus before them, recognizably occupies the curious state of living death or death in life that Sigmund Freud will famously go on to describe in *Beyond the Pleasure Principle* (1920): “poor, pale, and gaunt,” Kafka observes, “they leaped as though a merciless hand held them by the neck, tossing them back and forth in their tormented movements.”<sup>42</sup> Yet, Kafka’s obscure article also anticipates Freud’s classic work in its desire to situate the apparently new psychological phenomenon of war neurosis within the much longer domestic context of pre-existing *industrial* neurotic conditions such as the much-disputed phenomenon of “railway spine,” a post-traumatic disorder that allegedly resulted from being involved in a train crash.<sup>43</sup> If Kafka anticipates Freud by arguing that war neurosis is the outworking of a latent industrial neurosis, however, it is revealing to note that the final example he gives to prove this claim is not railway spine at all but a very different form of workplace trauma, namely the curious meta-trauma that, as we have seen, arises from pursuing compensation claims for workplace trauma in the first place: “Even more urgent and inaccessible to the physicians,” he writes, “were adequate treatment for the wealth of traumatic neuroses caused by industrial accidents incurred by workers and accidents suffered by the general population especially in connection with the railroads, *that have been known to increase by all possible stages to the point of compensation hysteria* [*Rentenhysterie*] (emphasis mine – AB).”<sup>44</sup> In pension or compensation neurosis – a pathology created, recall, by the very consciousness of insurance cover itself -- we find the final clinical or symptomatic confirmation of Kafka’s suspicion that accident insurance causes the very faults it protect us against. What if Gracchus the Hunter – who quite literally engages in a continuous and persistent pursuit of his real or imagined legal claim for the rest of eternity -- is the mythological patient zero of *Rentenneurose*?

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<sup>1</sup> Franz Kafka, “The Hunter Gracchus,” in *Shorter Works*, vol. 1 trans. and ed. by Malcolm Pasley (London: Secker & Warburg, 1973), 52-60. In my reading of this story as an allegory of workplace accident insurance, I am reliant on Carolin Duttlinger’s excellent reading in her *Attention and Distraction in Modern German* (Oxford: Oxford University Press, 2022), 85-126.

<sup>2</sup> Franz Kafka, “The Hunter Gracchus,” 54.

<sup>3</sup> Kafka, “The Hunter Gracchus,” 55.

<sup>4</sup> Kafka, “The Hunter Gracchus,” 56. See Duttlinger, *Attention and Distraction in Modern German Literature, Thought, and Culture*, 85-126.

<sup>5</sup> Werner Hamacher, “Guilt History: Benjamin’s Sketch ‘Capitalism as Religion,’” *Diacritics* 32: 3-4 (Autumn - Winter, 2002): 81-106.

<sup>6</sup> See Duttlinger, *Attention and Distraction in Modern German Literature, Thought, and Culture*, 85-126.

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- <sup>7</sup> Kafka, "The Hunter Gracchus," 54.
- <sup>8</sup> Kafka, "The Hunter Gracchus," 55.
- <sup>9</sup> Kafka, "The Hunter Gracchus," 55.
- <sup>10</sup> Stanley Corngold, Jack Greenberg and Benno Wagner eds. *Franz Kafka: The Office Writings* trans. by Eric Patton with Ruth Hein (Princeton and Oxford: Princeton University Press, 2009).
- <sup>11</sup> François Ewald, *The Birth of Solidarity: The History of the French Welfare State*, ed. by Melinda Cooper and trans. by Timothy Scott Johnson (Durham, NC.: Duke University Press, 2020).
- <sup>12</sup> Michael C. Behrent, "Accidents Happen: François Ewald, the 'Antirevolutionary' Foucault, and the Intellectual Politics of the French Welfare State," *Journal of Modern History* 82: 3 (2010): 585-624, 609. In my account of Ewald, I am indebted to Behrent's excellent survey of Ewald's philosophical career.
- <sup>13</sup> Ewald, *The Birth of Solidarity*, 35-38.
- <sup>14</sup> Ewald, *The Birth of Solidarity*, 209.
- <sup>15</sup> Ewald, *The Birth of Solidarity*, 209.
- <sup>16</sup> Ewald, *The Birth of Solidarity*, 209-10.
- <sup>17</sup> Ewald, *The Birth of Solidarity*, 109.
- <sup>18</sup> Behrent, "Accidents Happen," 610.
- <sup>19</sup> Ewald, *The Birth of Solidarity*, 197.
- <sup>20</sup> See <https://dorsch.hogrefe.com/stichwort/rentenneurose>.
- <sup>21</sup> Benno Wagner, "Franz Kafka's Office Writings: Historical Background and Institutional Setting" in *Franz Kafka: The Office Writings* ed. by Stanley Corngold Jack Greenberg and Benno Wagner and trans. by Eric Patton with Ruth Hein (Princeton and Oxford: Princeton University Press, 2009), 19-49. In my account of the context of Kafka's work, I am indebted to Wagner's history of the Austrian insurance industry during the period of Kafka's employment.
- <sup>22</sup> Stanley Corngold, Jack Greenberg and Benno Wagner, "Preface," in *Franz Kafka: The Office Writings* ed. by Stanley Corngold, Jack Greenberg and Benno Wagner and trans. by Eric Patton with Ruth Hein (Princeton and Oxford: Princeton University Press, 2009), ix-xviii.
- <sup>23</sup> Franz Kafka, "The Scope of Compulsory Insurance for the Building Trades" (1908) in *Franz Kafka: The Office Writings* ed. by Stanley Corngold Jack Greenberg and Benno Wagner and trans. by Eric Patton with Ruth Hein (Princeton and Oxford: Princeton University Press, 2009), 54-69, 69.
- <sup>24</sup> Stanley Corngold, Jack Greenberg and Benno Wagner, "Commentary 5," in *Franz Kafka: The Office Writings* ed. by Stanley Corngold Jack Greenberg and Benno Wagner and trans. by Eric Patton with Ruth Hein (Princeton and Oxford: Princeton University Press, 2009), 105-108. In fact, the Institute's raise of Christian Geipel & Sohn's insurance rating was not due to any actual material change in the weaving mill's own circumstances (such as a rising number of accidents on site or the introduction of new plant or machinery) but simply an actuarial change in the former's underwriting policy: manufacturing cotton wool was rated as riskier than sheep wool and so the business, which manufactured a small amount of cotton, found itself placed in the higher category.
- <sup>25</sup> Corngold et al, "Commentary 5," 106.
- <sup>26</sup> Kafka, *The Trial*, trans. by Idris Parry (London: Penguin, 1994), 167.
- <sup>27</sup> Workman's Accident Insurance Institute to the Office of the Governor, "Statement on the Reclassification of the Company Geipel & Sohn (04/26/1910)" in *Franz Kafka: The*

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*Office Writings* ed. by Stanley Corngold Jack Greenberg and Benno Wagner and trans. by Eric Patton with Ruth Hein (Princeton and Oxford: Princeton University Press, 2009), 92-96, 96.

<sup>28</sup> Howard Caygill, *Kafka: In Light of the Accident* (London: Bloomsbury, 2017), 66.

<sup>29</sup> Franz Kafka, "Help Disabled Veterans! An Urgent Appeal to the Public (1916-17)" in *Franz Kafka: The Office Writings* ed. by Stanley Corngold Jack Greenberg and Benno Wagner and trans. by Eric Patton with Ruth Hein (Princeton and Oxford: Princeton University Press, 2009), 346-54, 347.

<sup>30</sup> Franz Kafka "Risk Classification and Accident Prevention in Wartime (1915)" in *Franz Kafka: The Office Writings* ed. by Stanley Corngold Jack Greenberg and Benno Wagner and trans. by Eric Patton with Ruth Hein (Princeton and Oxford: Princeton University Press, 2009), 322-333, 322.

<sup>31</sup> Kafka, "Risk Classification and Accident Prevention in Wartime (1915)," 333.

<sup>32</sup> Kafka, "Risk Classification and Accident Prevention in Wartime (1915)," 333.

<sup>33</sup> Kafka, "Risk Classification and Accident Prevention in Wartime (1915)," 333. In a revealing observation Corngold et al note that the same pejorative term was applied in both domestic and military contexts: a *Drückeberger* could be both a shirker in the workplace and a coward or deserter on the battlefield.

<sup>34</sup> Behrent, "Accidents Happen," 585.

<sup>35</sup> Melinda Cooper, "Foreword" to François Ewald, *The Birth of Solidarity: The History of the French Welfare State*, ed. by Melinda Cooper and trans. by Timothy Scott Johnson (Durham, NC.: Duke University Press, 2020), xxvii.

<sup>36</sup> Johannes Boehme, "'What Do You Want Me to Regret?': An Interview with François Ewald," LARB, November 3, 2017. /<https://lareviewofbooks.org/article/what-do-you-want-me-to-regret-an-interview-with-francois-ewald/>

<sup>37</sup> Behrent, "Accidents Happen," 618-24.

<sup>38</sup> Ewald, *The Birth of Solidarity*, 15-21.

<sup>39</sup> Kafka, *The Trial*, 178.

<sup>40</sup> Kafka, "The Hunter Gracchus," 55.

<sup>41</sup> Franz Kafka, "A Public Psychiatric Hospital for German-Bohemia (1916)," in *Franz Kafka: The Office Writings* ed. by Stanley Corngold Jack Greenberg and Benno Wagner and trans. by Eric Patton with Ruth Hein (Princeton and Oxford: Princeton University Press, 2009), 336-9, 336.

<sup>42</sup> Franz Kafka, "A Public Psychiatric Hospital for German-Bohemia (1916)," 336.

<sup>43</sup> Sigmund Freud, *Beyond the Pleasure Principle* in *The Standard Edition of the Complete Psychological Works, Volume 18 (1920-22)*. Translated from the German under the general editorship of James Strachey; in collaboration with Anna Freud; assisted by Alix Strachey and Alan Tyson (London: Hogarth Press, 1955), 12.

<sup>44</sup> Kafka, "A Public Psychiatric Hospital for German-Bohemia (1916)," 338.