

LEGAL, MYTHIC, AND DIVINE VIOLENCE: POST-SECULAR ENTANGLEMENTS IN WALTER BENJAMIN’S ‘TOWARD THE CRITIQUE OF VIOLENCE’

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Abstract

Walter Benjamin’s essay ‘Toward the Critique of Violence’ (1921) has in the past decades been central to important debates within post-secular philosophical thought. This article explores the intricate connections between legal, mythic, and divine violence in Benjamin’s essay, in light of some of his other theological, literary, and political works from the same period. It suggests that the idea of a ‘divine law–annihilating violence’ should be read in light of Benjamin’s claim that a ‘critique of violence is the philosophy of its history’. This implies amongst other things a critique of the dogma of the sanctity of mere life underlying both the Greek and the Christian tradition.

Keywords: Walter Benjamin, Toward the Critique of Violence, Political Theology, Post-Secular

I. THE ACTUALITY OF ‘TOWARD THE CRITIQUE OF VIOLENCE’

Walter Benjamin’s essay ‘Toward the Critique of Violence’ (‘Zur Kritik der Gewalt’) from 1921 has in the past decades been subject to a revival in contemporary philosophical debates, and has recently appeared in a new English translation.¹ The essay explores the possibility of a ‘divine law–annihilating violence’ and its intricate connections to the mythical violence that allegedly underpins the legal realm and disconnects it from justice. It not only poses questions concerning the legitimacy of law and politics, but also explores conditions for critique more in general, in a way that is highly relevant to fundamental discussions within literary studies and theology in a post-secular context.

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The essay was not widely noticed as it appeared and was later regarded with suspicion because of its presumed anti-democratic inclinations, not least due to the mutual closeness between Benjamin and the jurist and later National Socialist Carl Schmitt. Among the early critics was Jürgen Habermas, who claimed that both Schmitt and Benjamin championed 'the violent destruction of the normative as such'.² In the article 'Consciousness-Raising or Redemptive Criticism', Habermas defended Adorno's critique of ideology against Benjamin's 'redemptive criticism' and described Benjamin's project as 'conservative in an eminent sense'.³ In later years, however, Benjamin's text has gained renewed attention among a number of influential philosophers belonging to the political left, such as Jacques Derrida, Giorgio Agamben, Slavoj Žižek, Judith Butler, and Simon Critchley—but now its theological or esoteric elements are not seen as opposed to its political relevance, but rather as intertwined with it. These readings could be seen as expressions of a post-secular attention to the entanglement of theological and secular concerns, although one may argue that such an entanglement has been present in Benjamin's work from the start.⁴

It is not an easy task, however, to decide how the theological dimension is to be interpreted in relation to the political in Benjamin's essay, and in particular what he means by the notion of 'divine violence'. Whereas readers like Žižek have read the idea of divine violence in defence of a possible political revolution,⁵ readers like Butler and Critchley have claimed that Benjamin here is rather concerned with a certain non-violence.⁶ What is also disputed is what Benjamin means by claiming that divine violence is 'law-annihilating'. Derrida is critical to what he reads as a destructive potential in Benjamin's text, which he links to the strong anti-parliamentary and anti-Aufklärung movement of interwar Germany.⁷ Particularly problematic for him is the notion of divine violence at the same time as 'nihilating, expiatory and bloodless', and he suggests that it represents a perhaps intolerable temptation: 'to think the holocaust as an uninterpretable manifestation of divine violence'.⁸ Derrida nevertheless undertakes a deconstructive reading of the essay, in which a messianic critique of violence never completely breaks with the realm of law.⁹ Agamben, for his part, is critical to Derrida's deconstructive reading, and takes Derrida's approximation of the notion of divine violence to the Nazi 'Final Solution' to be a 'peculiar misunderstanding'. He agrees with Derrida that the notion of divine violence has 'capacity to lend itself to the most dangerous equivocation', and suggests that the ambiguity of the concept of divine violence may explain why Benjamin 'with a seemingly abrupt development, concentrates on the bearer of the link between violence and law, which he calls "bare life" (*blosses Leben*), instead of defining divine violence'.¹⁰ The readings of Derrida and Agamben both exemplify post-secular approaches in which a certain messianic force is more or less entangled in the structures of law, life, and language.¹¹

The aim of this article is to come closer to an answer to what Benjamin means by his notion of divine law-annihilating violence—and thus what kind of post-secular entanglement is at play in the essay—through a close reading of his analyses of legal, mythical, and divine violence. These different kinds of violence are all involved in the following passage, in which Benjamin contrasts divine violence as ‘law-annihilating’ with a ‘law-positing’ mythic violence:

Just as God is opposed to myth in all spheres, so divine violence runs counter to mythic violence. Indeed, divine violence designates in all respects an antithesis to mythic violence. If mythic violence is law-positing, divine violence is law-annihilating; if the former establishes boundaries, the latter boundlessly annihilates them; if mythic violence inculcates [*verschuldend*] and expiates [*sühnend*] at the same time, divine violence de-expiates [*entsühnend*]; if the former threatens, the latter strikes; if the former is bloody, the latter is lethal in a bloodless manner.¹²

This passage will be analysed in detail below, but what is striking at first is how Benjamin understands the fundamental conflict—the opposition ‘in all spheres’—not between the theological and the secular, but between the theological and the mythological-religious. This conflict may be interpreted in light of what has become a leitmotif in Modern Jewish Thought; the long tradition of opposition between Athens and Jerusalem, as an opposition between the sacral sensibilities of the Greco-mythological on the one hand and the Judeo-messianic on the other.¹³ Before we see how this conflict is present in Benjamin’s essay, however, we should try to understand what he means by ‘critique’ and ‘violence’ in light of the historical-philosophical framework of the essay.

II. CRITIQUE OF VIOLENCE AS THE PHILOSOPHY OF ITS HISTORY

Although *Kritik der Gewalt* is normally translated as *Critique of Violence*, we should bear in mind that the word *Gewalt* can mean both physical violence as well as more symbolic forms of power, force, and authority. Benjamin distinguishes in his essay between legal, mythic, and divine violence (or force), and starts out by addressing *legal violence* in its various forms, sorted under the categories of law-positing and law-preserving violence. What he aims to show is that the presumably rational realm of law is ultimately based on a power or violence that belongs to the fateful and ambiguous realm of *myth*. This fateful *mythic violence* is for Benjamin opposed to the decisiveness and truth of *divine violence*, but it is disputed to what degree the latter violence (or force) implies real infliction on the body or mind, or merely a sort of authority or power, perhaps even in the form of a non-violent dissolution of violence.

The concept of *Kritik* is not unambiguous either. As Derrida has called attention to, critique should here not simply be taken in its everyday meaning as rejecting violence, but rather as a critical examination in a certain Kantian sense, as a categorisation and distinction of the different kinds of violence, providing the means to judge:

In the title ‘*Zur Kritik der Gewalt*’, ‘critique’ doesn’t simply mean negative evaluation, legitimate rejection or condemnation of violence, but judgment, evaluation, examination that provides itself with the means to judge violence. The concept of ‘critique’, insofar as it implies decision in the form of judgment and question with regard to the right to judge, thus has an essential relation, in itself, to the sphere of law or right.¹⁴

The connection of critique to ‘the sphere of law or right’ is not only concerned with the legal realm in terms of *Recht*, however, but also with the more theologically charged notion of justice as *Gerechtigkeit*, as Benjamin makes clear in the very first sentence of the essay: ‘The task of a critique of violence may be described as the presentation of its relation to law and justice.’¹⁵ And precisely this connection to the notion of justice points to an historical-philosophical standpoint that goes beyond the Kantian, transcendental notion of critique. For Benjamin, such a standpoint is necessary in order to assess not only the *meaning* of violence, but also the *value* of its use, and this standpoint must be located outside the legal traditions of both positive law and natural law:

In a word: if the standard established by positive law to assess the legality of violence can be analyzed only according to its meaning, then the sphere of its use must be criticized with regard to its value. For this critique, it is a matter of finding a standpoint not only beyond the philosophy of legal positivism but also beyond natural law. The extent to which only a historical-philosophical reflection on law provides this standpoint will emerge in what follows.¹⁶

As we shall see, such an historical-philosophical reflection will not provide Benjamin with any *criteria* for judging the value of the use of violence in concrete situations. He nevertheless suggests that a certain historical-philosophical *idea* is implied in the critique of violence, when he suggests towards the end of the essay that the idea of an ‘ending of history’ is a presupposition for a critical approach to violence: ‘The critique of violence is the philosophy of its history. The “philosophy” of this history because only the idea of its ending [*Ausgang*] makes possible a critical, incisive, and decisive attitude toward its temporal data.’¹⁷

The passage resonates with ideas in the so-called ‘Theological-Political Fragment’, that many readers assume was written around the same time as ‘Toward the Critique of Violence’.¹⁸ Also here, Benjamin’s political views are strongly connected to a theological philosophy of history, implying a certain notion of an ‘ending of history’. In the opening passage of the fragment, Benjamin at first seems to suggest that we put our hopes in an apocalyptic messianic figure breaking in from the outside:

First [*Erst*] the Messiah completes all historical occurrence, whose relation to the messianic (in this sense) he himself redeems, completes and creates. Therefore, nothing historical can intend to refer to the messianic from itself out of itself. For this reason, the kingdom of God is not the telos of the historical dynamic; it can not be set towards a goal. Historically seen, it is not goal but end [*Ende*].¹⁹

Benjamin’s rejection of teleological notions of history which puts the Kingdom of God as its goal is here an important reminder that the idea of divine violence may not be used in support of theocratic political theologies. What is more, divine violence ‘breathes destruction’ whenever it ‘enters into the earthly world’, as Benjamin notes in another early fragment, which for him is why ‘in this world, nothing continuous and no shaping [*Gestaltung*] can be based on divine violence, to say nothing of dominion [*Herrschaft*] as its supreme principle’.²⁰

But who or what is then this Messiah that ‘completes [*vollendet*] all historical occurrence’? Eric L. Jacobson has argued that this conception belongs to the Lurianic Kabbalistic tradition in which redemption is understood in terms of the collection of divine sparks from broken vessels: humanity may prepare for this redemption ‘but only the Messiah can perform the final capturing of the last sparks which, when redeemed from their fallen state, bring on the *tikkun*, prepared for in every other way by human agency’.²¹ The human partaking in this redemption is crucial in order to understand the ending of history as more than apocalyptic destruction. Indeed, what is at stake for Benjamin in the fragment is precisely the possibilities for the profane order to relate to the messianic, which he designates as ‘one of the essential elements in the teachings of historical philosophy’.²² But how is this relation thought?

Benjamin’s answer is that the profane and the messianic orders move in opposite directions, but ‘just as a force is capable, through its direction, of promoting another in the opposite direction, so too the profane order of the profane in the coming of the messianic kingdom’.²³ The messianic is in other words *indirectly* furthered by the profane, which must be established on the idea of happiness (*Glück*), in which ‘everything earthly [*irdische*] strives for its decline [*Untergang*]’.²⁴ In the concluding words of the fragment, the striving for

transitory happiness is made into a political task: 'For messianic is nature from its eternal and total transience [*Vergängnis*]. To strive for this, even for those stages of humanity which are nature, is the task of world politics whose method is called nihilism.'²⁵ Can this fragment bring us closer to what Benjamin means when he suggests in the essay that the idea of an ending of history is a presupposition for a critique of violence in terms of seizing the value of its use? And may the notion of a nihilist world politics justify a destructive interpretation of divine violence? Although the notion of nihilism and striving for decline may here at first seem to justify a destructive political attitude, it is crucial to understand that Benjamin's philosophy of history here implies a decline of *world history*, not a decline of the *world*, as Werner Hamacher has put it.²⁶ The rejection of teleology and the emphasis on happiness would thus point to a more quietist approach to the messianic, in which the principle of dominion is replaced by the notion of the profane as a category of the 'most quiet nearing' (*leisesten Nahens*) of the kingdom.²⁷

There are reasons to believe, moreover, that the emphasis on the *idea* of happiness in the fragment, as well as the *idea* of the ending of history in the essay, points to an epistemological meaning of nihilism and destruction more than an apocalyptic one, more in line with what Habermas identified as Benjamin's 'redemptive criticism'.²⁸ It would be a mistake, however, to regard this merely as an expression of conservatism. Richard Wolin has asked why Benjamin at this point 'escaped politization', and suggested that a partial answer may be found in a feeling of disillusion due to his enforcement to the margins of society: 'As a Jewish intellectual, Benjamin understandably felt alienated from the destiny of the German nation, and thus his spiritual energies sought an outlet that was nonpolitical, one more in conformity with his literary inclinations.'²⁹ This does not mean that he did not believe his writing to have indirect political implications.³⁰ Some of these implications are visible in Benjamin's analyses of legal violence, which should be approached by attending to the concrete religious-political context in which they evolved.

III. LEGAL VIOLENCE

'Toward the Critique of Violence' was written in the aftermath of the First World War and in the unstable situation that characterised the Weimar republic at that time. Discussions centred on the questions of pacifism and militarism, the right to strike, and the question of whether some kinds of violence were allowed or even required. The political system was by many seen to be in crisis because of its weakness and inefficiency, and the experiences from revolutionary movements were close in time.³¹ Parliamentary democracy was accordingly questioned from both the left and the right, and thereby also the concept of law, as Jacques Derrida rightly calls attention to:

‘Benjamin’s analysis reflects the crisis in the European model of bourgeois, liberal, parliamentary democracy, and so the crisis in the concept of *droit* that is inseparable from it. Germany in defeat is at this time a place in which this crisis is extremely sharp.’³² This negative perception of the state of law is in Benjamin’s essay connected to a critique of the current condition of the parliaments as subject to decay (*Verfall*). According to Benjamin, the liberal parliaments have forgotten the violence from which they are born and are therefore not able to make the decisions worthy of the ‘law-positing’ violence that founded them:

If the consciousness of the latent presence of violence in a legal institution disappears, the institution falls into decay. In current times, parliaments constitute an example of this: they offer a well-known, woeful spectacle because they have not remained conscious of the revolutionary forces to which they owe their existence. ... no wonder they arrive at no resolutions that would be worthy of this violence but instead cultivate through compromise a supposedly nonviolent manner of handling political affairs.³³

Benjamin’s critique of a parliamentary system in decay, as well as his emphasis on the value of decision, bear clear affinities to Carl Schmitt’s political analyses in his 1922 book *Political Theology*.³⁴ What are we to make of these affinities? On the one hand, it is clear that both Benjamin and Schmitt are sceptical of the liberal tradition and have mutually influenced each other.³⁵ At the same time, their political affiliations would take quite different forms, something that Marc de Wilde attaches to their theological points of view: ‘whereas Schmitt starts from a Catholic perspective on the political, emphasising the necessity of the existing legal-political order, Benjamin takes a messianic perspective that regards the legal-political order as destined to wither away’. This will lead Schmitt to advocate the authoritarian state, he continues, ‘because he compares it with God’s omnipotence, [whereas] Benjamin sides with the revolutionaries in whose anarchistic violence he recognizes traces of a divine law-destroying violence’.³⁶

Despite these differences, both Schmitt and Benjamin will see a certain violence as more fundamental than law. Axel Honneth remarks that Benjamin thus changes the relative significance of violence (*Gewalt*) and law (*Recht*) so that it is no longer law, but violence, which forms the basis for politics.³⁷ But if this is true, what kind of politics may be defended on such a basis? Honneth notes that the important inspiration for Benjamin mainly comes from left-wing revolutionary thinkers like George Sorel—together with Ernst Unger and Charles Péguy—through their anti-utilitarian view of politics.³⁸

The influence of an anti-utilitarian view of politics is visible in Benjamin’s discussion of the revolutionary general strike. He points out that the right to

strike is sanctioned by the law itself, in order to prevent violent acts, but that a certain kind of strike may end up challenging the very law that sanctions it. Benjamin here relies on Sorel's distinction between the political and the proletarian general strike. Whereas political strikes have a political goal and are thus entangled in the violent structure of instrumentality, the proletarian general strike is seen as a mere refusal of the existing order (without clear political ends). And whereas the political strike does not alter the power of the state (only modifies it), the proletarian general strike 'sets itself the sole task of annihilating [*Vernichtung*] state power [*Staatsgewalt*]' . The latter is thus anarchistic, but as 'pure means' it is for Benjamin without violence.³⁹ The proletarian strike would, in other words, be far from any striving for revolutionary goals, and instead be an expression of a kind of politics that is released from instrumental frameworks: a politics of pure means.⁴⁰

Such a politics would also be critical to the legal realm, which, according to Benjamin, is pervaded by instrumentality. This is visible in the ways in which violence is legitimated in the traditions of both natural and positive law, as he conceives them. Whereas *natural law* presupposes (natural) just ends, by which it is possible to justify means, also violent ones, *positive law* asserts the historical relativity of law and thus rejects the notion of natural ends, but instead seeks to guarantee the justness of ends through the justification of means. Benjamin's main objection to both these legal traditions is that they tend to accept an instrumental legitimation of violence, as they share the *dogmatic* presupposition that violence could be legitimised in terms of means towards ends. Instead he wants to break with the instrumental legitimation of violence by insisting on the *antinomy* between justified means and just ends:

This antinomy would prove insoluble if their shared dogmatic premise were false, if justified means, on the one hand, and just ends on the other, were in irreconcilable conflict. No insight could be gained here, however, until the circle is abandoned, and the criteria for just ends and justified means are established independently from one another.⁴¹

Benjamin's argument resembles the famous Kantian antinomies in its form. Immanuel Kant also wanted to awaken the subject from a 'dogmatical slumber', and an essential claim in his critical philosophy is that reason has an antinomial structure, in the sense that it produces necessary but mutually excluding truths.⁴² In contrast to Benjamin's insistence on the antinomy between means and ends as *insoluble*, however, Kant would find a certain solution to the antinomies in the position of transcendental idealism, which allowed him to secure the co-existence of both the world of freedom and the principle of causality. In the realm of practical reason, the Kantian solution to the antinomy involves

the idea of the highest good, as a unity of morality and happiness.⁴³ Although Kant would not allow anything other than the moral law to *motivate* a morally good action, the idea of the highest good is nevertheless seen to contribute to the *realisation* of morality—within the framework of infinite progress.⁴⁴ Such a notion of infinite progress is precisely what Benjamin rejects in his ‘Theological-Political Fragment’.⁴⁵

In ‘Toward the Critique of Violence’, Benjamin also underlines that the antinomy between means and ends cannot be solved by reason. This is clear when he claims that there are *independent* criteria for justified means and just ends—and localises these criteria not in reason, but in fate and God respectively: ‘Reason, after all, never decides on the justification of means and the justice of ends; rather, fateful violence decides on the former, while God decides on the latter.’⁴⁶ But why is this antinomy—this *unvereinbare Widerstreit* between justified means and just ends—so important for Benjamin to maintain?

It turns out that Benjamin not only exceeds the Kantian transcendental position, but directly opposes its political implications. Peter Fenves has attended to some of Benjamin’s less known notes that were transcribed into Gershom Scholem’s diaries, termed ‘Notes Toward a Work on the Category of Justice’. Fenves suggests that Benjamin here proposes a revision of Kant’s *Metaphysics of Morals*, calling for ‘the replacement of a “doctrine of right” with the category of justice—which immediately prompts the question of whether there are any formal conditions under which coercive or “legal” force can be authorized’.⁴⁷ The questioning of legal authority has implications for the right to possession. Fenves remarks that whereas Kant’s defence of the right to possession could be seen as a liberation from the legal protection of the sacred (in the divine law of the Roman legal tradition),⁴⁸ this liberation should for Benjamin not allow things to be made into possession:

In very broad terms, the difference between Kant and Benjamin can be stated as follows: in a bewildering series of arguments, the *Doctrine of Right* claims that useful things—that is, ‘goods’ in the broadest sense of the term—are so susceptible to possession that they can be made into possessions even if there is no definitive ‘right’ to do so; Benjamin, by contrast, declines to take this step.⁴⁹

In Benjamin’s eyes, Kant ultimately fails in his attempt to secure this right to possession beyond the personal, ethical sphere—to deduce legality from morality—and thereby fails to provide a secure and timeless foundation for law. Instead, Kant postulates a ‘*lex permissiva*’ (meaning a ‘law that permits the “first taker” to make the things taken into his or her own possession’) to be right ‘for a time’, because he is convinced that within history the original injustice can be gradually alleviated.⁵⁰ In Benjamin’s eyes, however, the legal realm and the

right to possession can neither be founded in timeless reason nor in an historical philosophy premised on such a notion of progress; it rather originates in *myth*. What is this ‘mythical origin’ of law about?

In the essay ‘On Language as Such and on the Language of Man’ (1916), Benjamin presents the idea of a mythical origin of law by analysing the biblical myth of the Fall.⁵¹ This myth is here interpreted as a ‘Sündenfall des Sprachgeistes’, as a fall from a ‘pure language of names’ into a ‘fallen language’ characterised by judgement, abstraction, and mediation.⁵² Despite its pretensions to be able to discern between good and evil, the fallen language bears the characteristics of what Benjamin with reference to Kierkegaard calls ‘prattle’ (*Geschwätz*):

The knowledge of things resides in the name, whereas that of good and evil is, in the profound sense in which Kierkegaard uses the word, ‘prattle’, and knows only one purification end elevation, to which the prattling man, the sinner, was therefore submitted; judgment [Gericht].⁵³

Humankind’s arrogant belief in their own ability to judge between good and evil is here not only seen as sinful, but also as—ironically—itself submitted to judgement as the only form of purification: ‘The Tree of Knowledge stood in the garden of God not in order to dispense information on good and evil, but as an emblem of judgment [*Wahrzeichen des Gericht*] over the questioner. This immense irony marks the mythic origin of law.’⁵⁴

When Benjamin describes law as having a mythical origin, he also implies its lack of truth. In Goethe’s *Elective Affinities* (1923–5), Benjamin describes the relation between myth and truth as one of ‘mutual exclusion’: ‘And where the presence of truth should be possible, it can be possible solely under the condition of the recognition of myth—that is—the recognition of its crushing indifference to truth.’⁵⁵ Such a mutual exclusion is also emphasised in Benjamin’s distinction between mythic and divine violence. And although Benjamin ascertains that it is impossible to recognise with certainty when divine violence is realised,⁵⁶ he still approaches its truth indirectly, via the negative characteristic of mythic violence. What this implies becomes clearer if we return to the passage quoted in the introduction.

IV. MYTHIC AND DIVINE VIOLENCE

A. If Mythic Violence is Law-Positing, Divine Violence is Law-Annihilating

In order to grasp what law-annihilating violence actually annihilates, it is necessary to understand how law-positing mythic violence for Benjamin is a mere manifestation of *power* that is not able to bring about justice: ‘The positing of law is the positing of power, and, in this respect, an act [*Akt*] of an immediate

manifestation of violence. Justice is the principle of all divine end-positing, power the principle of all mythic law-positing.⁵⁷

This claim that law-positing violence is based on power and not justice is illustrated with reference to the mythical gods, who did not found their power in any existing law, but in the pure manifestation of their existence: 'In its archetypal [*urbildlichen*] form, mythic violence is a mere manifestation of the gods. Not a means to their ends, scarcely even a manifestation of their will, but in the first instance a manifestation of their existence.'⁵⁸ Interestingly, the notion of manifestation here signals a moment of non-instrumentality, something that appears to break with the instrumentality of legal violence. Benjamin exemplifies the notion of manifestation with the expression of rage, which 'leads to the most visible outbursts of a violence that is not related as a means to a predetermined end'.⁵⁹ But despite this non-instrumental manifestation, we have seen that Benjamin condemns myth for its 'crushing indifference to truth'.

This indifference is for Benjamin expressed in the conduct of the police force, in which he finds what he calls a 'spectral mixture' (*gespenstischen Vermischung*) of law-making and law-preserving violence.⁶⁰ Turbulent political times had taught Benjamin that the police had a tendency to go beyond their law-preserving function and take the law into their own hands. This would have the effect of weakening the law-positing violence to the point of its decay, thus preparing the grounds for a new law-positing violence. These movements happen according to what Benjamin calls a law of oscillation (*Schwankungsgesetz*) between law-positing and law-preserving violence: 'The law of its oscillation rests on this: all law-preserving violence, in its duration, indirectly, through its suppression of hostile counterforces [*Gegengewalten*], weakens law-positing violence, which is represented in it.'⁶¹

In Benjamin's eyes, only divine violence would be capable of breaking this oscillating cycle and thereby both the instrumental violence of the legal realm and the mythical violence of fate that governs it, something that makes possible a 'new historical era': 'A new historical era is founded on breaking through this cycle that spins under the spell of mythical forms of law, and on de-positing [*Entsetzung*] law altogether with all the forms of violence on which it depends, just as they depend on it, and finally, therefore, on de-positing state violence.'⁶² In describing the law-annihilating divine violence as an *Entsetzung* of law, it is clear that its meaning cannot be grasped without grasping the violence of the *Setzung* or establishment of law, which in the next line is described as an establishment of boundaries.

B. If the Former Establishes Boundaries, the Latter Boundlessly Annihilates Them

In the realm of constitutional law (*Staatsrecht*), the drawing of boundaries, typically taking place after wars, is seen as the '*Urphänomen*' of law-positing violence. The opponent is here not simply annihilated, but is awarded rights, even "equal" rights

in a demonic-ambiguous [*dämonisch-zweideutiger*] manner: it is the same line that may not be crossed for both parties to the treaty'.⁶³ But the equality of rights is no guarantee of justice. Benjamin addresses the structural violence of the legal drawing of boundaries by the satirical quote of Anatole France, who stated that 'poor and rich are equally forbidden to spend the night under the bridge'. He also evokes Sorel's claim that rights—*Recht*—are originally privileges of the powerful—*Vor-recht*.⁶⁴

When Benjamin addresses the 'demonic ambiguity' of the legal drawing of boundaries, he not only questions the justice of laws, but also seeks to demonstrate how these legal boundaries belong to the mythical orders of fate and guilt. In 'Fate and Character' (1919), Benjamin had characterised the order of law as 'merely a residue of the demonic stage of human existence', in which fate and guilt are intertwined: 'Fate shows itself, therefore, in the view of life, as condemned, as having essentially first been condemned and then become guilty ... Law condemns not to punishment but to guilt. Fate is the guilt context of the living.'⁶⁵ This demonic source of guilt is in 'Toward the Critique of Violence' illustrated with reference to prehistoric times, in which laws and boundaries were not always written, so that one could transgress the laws unawares. The consequences of transgressing would nevertheless be fatal, and not only demand punishment, but also expiation [*Sühne*].⁶⁶ The consequences of this transgression is in 'Fate and Character' paradigmatically expressed in the fate that befalls the tragic hero, manifesting a guilt that exceeds the wilful actions of the individual. When the tragic hero attempts to challenge the limits belonging to the demonic order of fate, this only bereaves him of language:

in tragedy pagan man becomes aware that he is better than his god [*Götter*], but the realization robs him of speech, remains unspoken. Without declaring itself, it seeks secretly to gather its forces [*Gewalt*]. Guilt [*Schuld*] and atonement [*Sühne*] it does not measure justly in the balance, but mixes indiscriminately.⁶⁷

As Benjamin will later emphasise, there might indeed be a redemptive force in this silence following the tragic challenge to the demonic.⁶⁸ But at this point, Benjamin seems to emphasise the tragic hero's tendency to return to the orders of fate. The indiscriminate mixing up of *Schuld* and *Sühne* in tragedy is here significant. When Benjamin claims that divine violence annihilates boundaries, it thus implies that it 'de-expiates' from the mixing up of *Schuld* and *Sühne* that these boundaries create, as the next line indicates.

C. If Mythic Violence Inculpates [*Verschuldend*] and Expiates [*Sühnend*] at the Same Time, Divine Violence De-Expiates [*Entsühnend*]

In the essay, Benjamin talks of an inculpating [*Verschuldung*] of mere natural life,⁶⁹ thus pointing to a sort of guilt that may not be attributed based on an

individual will or specific immoral actions, and which may thus not be overcome by means of the individual expiation of law. We saw that Benjamin in the early essay on language presented judgement and law as the only purification known to the sinner. Such a purification by means of law is here questioned, since it does not provide the sinner with the means of leaving fate, which he determines as the ‘guilt context of the living’. In the following passage, Benjamin leads the release of legal violence back to this more fundamental guilt of mere natural life:

Now, the release [*Auslösung*] of legal violence stems (as cannot be shown here in greater detail) from the inculcating [*Verschuldung*] of mere natural life, which delivers the living, innocent and unfortunate, into the hands of an expiation that ‘atones’ [*sühnt*] for this inculcation [*Verschuldung*]⁷⁰—and doubtless also de-expiates [*entsühnt*] the guilty, not of guilt, to be sure, but of law. For the domination of law over the living ceases with mere life.⁷⁰

As Peter Fenves points out, Adorno mis-transcribed ‘*Auslösung*’ (release, trigger) as ‘*Auflösung*’ (dissolution) in his collection of Benjamin’s writing.⁷¹ This mistake was later repeated in several other editions and translations, and also affects the reading of Agamben, who writes on the figure of ‘bare life’ that ‘[n]ot only does the rule of law over the living exist and cease to exist alongside bare life, but even the dissolution of juridical violence, which is in a certain sense the object of the essay, “stems from the guilt of bare natural life”’.⁷² Agamben thus attributes a redemptive function to guilty mere life itself, something that supports his own antinomian and immanent interpretation.⁷³ But although Benjamin indeed writes that the domination of law over the living ceases ‘with mere life’, only divine violence may for him put an end to the mixing up of guilt and expiation of mythic violence. Divine violence de-expiates not only from law but from the guilt of mere life itself.

It is important to note, however, that divine violence is here not opposed to natural life but is rather what redeems the natural by connecting it to a *higher* life. Natural life is guilty precisely insofar as it lacks this dimension and is reduced to mere life. ‘Under no condition,’ Benjamin states, ‘does the human being coincide with the mere life of a human being, just as little with the mere life in this being as with any of its states and qualities, indeed not even with the uniqueness of its bodily person.’⁷⁴ Sigrid Weigel has shown that Benjamin develops a similar argument in *Elective Affinities* (1924–5), where the guilt of mere life is connected to ‘a disregard of that which constitutes “the human” and which consists of the connection of a natural to a higher life, exceeding bare life’. She quotes Benjamin: ‘With the disappearance of supernatural life in man, his natural life turns into guilt, even without him committing an act contrary to ethics.’⁷⁵

How are we to understand this guilt that follows from the ‘disappearance of the supernatural’? Surely not as the disappearance of religion, but as a guilt that may be seen to belong to a certain *immanent* sacral sensibility, in which guilt and retribution are mixed up indiscriminately. Benjamin finds this mixing up present in what he calls the guilt context of modern capitalism. In the short unpublished fragment ‘Capitalism as Religion’ (1921), Benjamin defines capitalism as a ‘pure cult religion’, and notes that it is ‘presumably the first case of a cult that does not de-expiate [*nicht entsühnenden*] but rather inculcates’. This inculcation of humanity and even of God leads to despair rather than hope, which points to something ‘historically unprecedented about capitalism: religion is no longer the reform of Being but, rather, its shattering’.⁷⁶ What characterises this form of religion is both lack of mercy and ‘sacral pomp’: ‘Capitalism is the celebration of a cult *sans trêve et sans merci*. There is no “weekday”, no day that would not be a festival day in the dreadful sense of an unfolding of sacral pomp, of the most extreme exertion of the worshipper.’⁷⁷

This capitalist religious thought comes in Benjamin’s reading most notably to expression in Nietzsche’s philosophy: ‘The thought of the *Übermensch* locates the apocalyptic “leap” not in reversal, expiation [*Sühne*], purification, or penance, but rather in the apparently continuous, yet in the final analysis exploding, discontinuous elevation [*Steigerung*].’⁷⁸ Interestingly, Benjamin will in the same fragment also accuse Christian religion of expressing such a cultic religion when he claims that: ‘Christianity’s history is essentially that of its parasite: capitalism.’⁷⁹ In another unpublished fragment from the same period, ‘World and Time’, he similarly states that ‘[t]he problem of Catholicism is that of the (false, earthly) theocracy’. Benjamin here also directly opposes what he takes to be Nietzsche’s notion of elevated humanness (*Gesteigerte Menschhaftigkeit*)⁸⁰: ‘My definition of politics: the fulfillment of unelevated humanness [*die Erfüllung der ungesteigerten Menschhaftigkeit*].’⁸¹

This cult of capitalism—understood as a mythic violence bringing at once guilt and expiation—is opposed to divine violence which *only* de-expiates (*entsühnen*). The slight difference between the words *sühnen* and *entsühnen* should here be noticed: The prefix *ent-* implies that the *entsühnen* of divine violence invalidates the *sühnen* of mythic violence. This invalidation is in the next sentence described as a striking violence, as opposed to a threatening one.

D. If the Former Threatens, the Latter Strikes

The threatening character of mythic violence comes to expression in Benjamin’s description of law-preserving violence as ‘threatening, like fate’. This threatening fatefulness is not only present in the ambiguous power of the police force, but also in the practice of death penalty, whose aim is not to protect specific aims of law, but the law itself:

Its meaning is thus not to punish the infringement of law but to establish new law. For in the exercise of power [*Gewalt*] over life and death, law reinforces itself more than in any other form of law enforcement. In this event, however, something rotten in law also announces itself most perceptibly to finer feeling, which knows itself to be infinitely far removed from the circumstances in which fate in its own majesty would have shown itself through such law-enforcing acts.⁸²

In order to counter this decay of the order of law, Benjamin brings in the war-like metaphor of striking: divine violence is *schlagend*. At first sight, a striking violence seems to be more violent than a threatening one, but it is unclear what kind of violence this striking of the order of fate implies. Werner Hamacher has suggested that Benjamin's notion of a striking divine violence should be understood in light of his idea of a politics of pure means—as a theory of the *abstention* from action—and connects the notion to Benjamin's earlier mentioning of a 'striking critique (*durchschlagende Kritik*)'.⁸³ This would point to a philosophical act more than a physical one, but this does not mean that Benjamin excludes all kind of physical violence. Certainly, his mentioning of striking critique is directed against law-preserving violence in the form of compulsory military service, but this critique cannot be based on the arguments of the pacifists, which we shall see that Benjamin explicitly rejects.⁸⁴ Another possible problem with a merely non-violent interpretation of divine violence also comes in the next sentence, in which Benjamin claims that divine violence is *lethal*, though in a bloodless manner.

E. If the Former is Bloody, the Latter is Lethal in a Bloodless Manner

How are we grasp this notion of a bloodless but still lethal divine violence? And what does it mean that mythic violence is characterised as bloody? According to Derrida, precisely 'this allusion to blood spilled ... is here a discriminating index for identifying the mythical and violent foundation of *droit* in the Greek world and distinguishes it from the divine violence of Judaism'.⁸⁵ In Benjamin's essay, the bloody nature of mythical violence comes to expression in the Greek legend of Niobe, thematising the violent foundation of law, whereas the bloodless divine violence is illustrated by the biblical account of Korah's horde.

Niobe was according to the myth of demi-divine descent and was full of pride over her many children. After having mockingly compared herself with the fertility goddess Leto, who had only two children, Leto's children (Artemis and Apollon) took vengeance and killed all of Niobe's children. Niobe's guilt was not connected to any specific crime, but to her pride, which made her challenge the fateful order of the Gods. Her punishment is according to

Benjamin not really annihilating, but the spared life of Niobe is pervaded by guilt: 'Although it brings bloody death to Niobe's children, it stops short of taking the mother's life, which it leaves behind as an eternal, mute bearer of guilt and as a stone marking the border [*Grenze*] between human beings and gods, a life now, through the children's death, more inculcated [*verschuldeter*] than before.'⁸⁶

Whereas the legend of Niobe demonstrates the bloody nature of mythical violence, the account of Korah's horde tells of an annihilating but at the same time bloodless violence. Korah's horde was a group of Israelites who (according to Numbers 16:1–50) revolted against Moses and Aaron because they were denied access to the position as High Priest. They were subsequently annihilated by God as being swallowed by the earth. Benjamin makes a point of the unbloody character of this divine violence and claims that God's judgement over Korah's horde is precisely thereby de-expiating:

The judgment strikes privileged ones, Levites; it strikes them unannounced, without threat, and does not stop short of annihilation. At the same time, however, precisely in annihilating, it is also de-expiating, and one cannot fail to recognize a profound connection between the bloodless and the de-expiating character of this violence. For blood is the symbol of mere life.⁸⁷

This account of Korah's horde illustrates what Derrida finds most problematic in the text; to think of divine violence as at the same time 'nihilating, expiatory and bloodless'.⁸⁸ But what is really the connection between the annihilating, bloodless and de-expiating character of divine violence? At first sight, Benjamin seems to suggest that this violence presupposes annihilation of the privileged, the Levites. In this regard, it would seem fitting to interpret divine violence in light of his allusions to proletarian revolution and conclude that a certain sacrifice of the privileged may be justified in the name of revolution. But, according to Benjamin, divine violence cannot *demand* sacrifice, in contrast to mythic violence, only *assume* it: 'Mythic violence is blood violence over mere life for the sake of violence itself; divine violence is pure violence over all of life for the sake of the living. The former demands sacrifice; the latter assumes it.'⁸⁹ What is this difference between demanding and assuming sacrifice about?

The characterisation of mythic violence as blood violence (*Blutgewalt*) that demands sacrifice should be understood in light of the claim that 'blood is the symbol of mere life'. Gil Anidjar has argued that this latter claim—despite Benjamin's many references to Greek mythology—unequivocally alludes to the biblical interdiction to eat blood because it is identified with life: 'Only you shall not eat flesh with its life, that is, its blood' (Gen. 9:4). He further points out that

the Hebrew word *nefes*, that in most Christian translations has been rendered 'life', would otherwise be translated as 'soul'.⁹⁰ *Blutgewalt* over mere life would then be a violence that puts damage to the soul of the living, which may be understood as a crushing of the vitality of natural life through the mythic establishment of law. When Benjamin suggests that divine violence is annihilating, on the other hand, he points out that this is 'only in a relative sense, with regard to goods, right, life, and the like, never absolutely with regard to the soul of the living'.⁹¹

Divine violence is nonetheless determined as *lethal*. What does it mean that divine violence annihilates? Eli Friedlander has suggested to attend to the specificity of the story of Korah's horde, and the fact that Korah 'challenges the authority of Moses and Aaron in the name of equality. All are equally holy.' Instead of regarding the annihilation simply as a punishment for blasphemy or rebellion, he believes it should be regarded as an expression of 'what it means to realize equality of value in the world: it is to vanish as an individual who can retain within him- or herself power, without a trace'.⁹² The lethal violence could thus be seen as part of a redemptive critique made possible through the historical-philosophical idea of justice, displaying the violence inherent in the supposed 'equality of rights' in the legal traditions. This implies that life must be encompassed in a broader notion of history, as Benjamin expresses it in 'The Task of the Translator', also from 1921:

In the final analysis, the range of life must be determined by the standpoint of history rather than that of nature, least of all by such tenuous factors as sensation and soul. The philosopher's task consists in comprehending all of natural life through the more encompassing life of history.⁹³

The question that remains to be addressed, is whether and how the assuming of sacrifice described in 'Toward the Critique of Violence' may not only be conceived as the philosopher's task, but also can be made into a political task?

V. DIVINE VIOLENCE AS A POLITICAL TASK?

The question of whether Benjamin promotes a problematic political violence is actualised when he goes so far as to suggest the possibility of revolutionary violence as the highest manifestation of pure violence:

But if, with respect to violence, its standing resource [*Bestand*] as pure immediate violence is also secured beyond law, this proves that, and how, there is a possibility of revolutionary violence, which is the name reserved for the highest manifestation of pure violence through human beings.⁹⁴

This does not mean, however, that it is possible to decide with certainty when divine violence has been realised in the concrete: 'For only mythic violence, not divine violence, can be recognized as such with certainty, unless it be through incomparable effects, because the de-expiating force [*Kraft*] of violence is not disclosed to human beings.'⁹⁵ It is thus impossible for Benjamin to *legitimise* human manifestations of violence by calling upon divine powers. But is he not defending at least the *possibility* of a just political violence, even a lethal one?

In addressing the objection that he sees coming, that divine violence seems to open also for lethal violence against humans, Benjamin starts by referring to the fifth commandment: 'For the question "May I kill?" begets an unshakeable answer in the form of the commandment, "Thou shalt not kill".'⁹⁶ We may here discern the influence of a certain Jewish tradition in which the commandment functions as a source of responsibility, but not as a principle from which one can judge whether an action is lawful or not: Benjamin emphasises that the commandment cannot be used as a standard (*Maßstab*) of judgement, only as a guideline (*Richtschnur*) for action—a guideline 'for the agent or community that has to confront it in solitude and, in terrible cases, take on the responsibility of disregarding it. Thus too did Judaism, which expressly rejected the condemnation of a killing done in self-defence, understand the commandment.'⁹⁷

Benjamin here underlines the difficult task of responsibility; it is not possible to use the commandment in order to judge every killing, and the cases in which it might be just to disregard the commandment are not prescribed by the law. This not only implies a critique of the legal traditions, but also of any given ethical system or schema. It is here important to understand in what way the commandment is not the same as a law. As Eli Friedlander has put it, '[a] law is universal and requires ... a schematism or intuitive criteria to be applied to specific cases'. The commandment does not allow for such criteria, but rather demands that 'we must act here based wholly on the recognition of the circumstances' uniqueness, involving thereby a sense of the uniqueness of our own existence that is put on the line in the struggle to act decisively'.⁹⁸ The uniqueness of the situation thus requires a moment of solitude which in Friedlander's reading is crucial for the possibility of true *decisiveness*, in contrast to the ambiguities of the application of law.⁹⁹

Whereas the biblical commandment thus cannot be used to condemn killing in self-defence, what about more political forms of violence? Benjamin addresses the extreme case of the revolutionary killing of oppressors and although he does not offer a defence of such killing, he argues against those who refuse it based on the idea of the 'sanctity of life'. In presenting their argumentation, he quotes the pacifist Kurt Hiller, who claims that 'higher still than the happiness and justice of an existence—stands existence itself'.¹⁰⁰ In Benjamin's eyes, this latter claim is false:

As certainly as this last sentence is false, even ignoble, it uncovers with equal certainty an obligation to seek the basis of the commandment no longer in what the deed does to the murder victim, but in what the deed does to God and to the perpetrator himself. False and lowly is the proposition that existence is higher than a just existence, if existence [*Dasein*] is to mean nothing other than mere life—and this is the meaning of existence in the reflection above.¹⁰¹

The source of the commandment not to kill could in other words not be sought in the dogma of the sanctity of mere life or in any other given prescription or analysis of consequences. What does Benjamin mean by refusing the dogma of the sanctity of mere life? He does not go further into this dogma in the essay, only points out that it ‘would be worthwhile to track down the origin of the dogma of the sanctity of life’.¹⁰² This is precisely what Agamben aims to do in *Homo Sacer*, in which he leads the dogma back to the notion of the *homo sacer* in the Roman legal tradition. Gil Anidjar has for his part argued that Benjamin in the abovementioned quote indeed ‘offered a little-noticed answer to Agamben’s question’, but instead of linking the notion of mere life as sacred to the Roman legal tradition, he finds it paradigmatically expressed in what Elias Canetti has described as the *image of Christ* having ‘become part of the consciousness of mankind’: ‘It is the significance of the victim (Canetti calls him “the survivor”) [*“der Überlebende”*] over the doer of the deed—and even over God.’¹⁰³

Benjamin’s disqualification of the dogma of the sanctity of mere life would in this reading not only be directed against the legal tradition and its underlying Greco-mythological sacral sensibility, but also against the violence inherent in the Christian tradition, with its logic of guilt and sacrifice. We have already seen that Benjamin accuses Christianity’s history for being essentially that of its parasite, capitalism, which is seen as a mere cultic religion. The problem with both the Greek and the Christian conceptions of life thus seems to lie in its entanglement in mythic forces, in a way that risks losing sight of the unique responsibility and decisiveness of the subject.

When Benjamin localises the reason for the commandment ‘Thou shalt not kill’ in what it does to God and the perpetrator and not what it does to the victim, he recurs to a transcendent source of responsibility that is not based on the sanctity of mere life, but on a historical philosophy in which life is encompassed in a broader notion of history. This responsibility indeed contains a certain antinomianism, which might be seen as a replacement of accountability ‘under the law’ with what Derrida with reference to Franz Kafka determines as a responsibility ‘before the law’.¹⁰⁴ But the decisiveness of this responsibility is not indifferent: the ethical commandment that functions as a guideline for action springs out of a notion of divine justice belonging to the messianic order.

The question of how this messianic order might be a guideline not only for ethical acts, but also for acts of a more political sort, is less clear in Benjamin's essay. I nevertheless believe it might be fruitful to recall those two ideas that Benjamin accused Kurt Hiller of disregarding in subordinating them to mere life: *happiness* and *justice*. We have seen that Benjamin claims in the 'Theological-Political Fragment' that the profane order is established precisely on the idea of happiness, and that the striving for transitory happiness is implicit in his nihilist method of world politics. Justice, on the other hand, can be approached only indirectly, through a critique of its opposite, that is of the injustice or structural violence that makes possible the obstruction of happiness.

Such an indirect approach to justice is precisely what Benjamin aims at in the essay, when he analyses divine law-annihilating violence as a striking critique of the teleological justifications of violence and its mythical underpinnings. By understanding the critique of violence as the philosophy of its history, he returns to a messianic framework and a notion of divine justice in order to radically question the legitimacy of historical manifestations of power / violence. Benjamin's critique of violence would thus not only be a critique of a legal tradition that fails in providing a basis for justice. It also seeks to trace this failure back to a (both Greek and Christian) mythical history of violence—that with its teleological framework, cultic religion, and principle of dominion presumably legitimates both present and past violence.

REFERENCES

- 1 Walter Benjamin, 'Toward the Critique of Violence', in Peter Fenves and Julia Ng (eds), *Walter Benjamin: Toward the Critique of Violence. A Critical Edition* (Stanford, CA: Stanford University Press, 2021), pp. 39–61 / 'Zur Kritik der Gewalt', *Gesammelte Schriften Band II, 1* (Frankfurt am Main: Suhrkamp, 1977), pp. 179–203.
- 2 Jürgen Habermas, *The New Conservatism: Cultural Criticism and the Historians' Debate* (Cambridge, MA: MIT Press, 1988), p. 137.
- 3 Jürgen Habermas, 'Consciousness-Raising or Redemptive Criticism: The Contemporaneity of Walter Benjamin', *New German Critique* 17 (1979) 38.
- 4 A common tendency has been to emphasise *either* the theological *or* the Marxist dimensions of Benjamin's work, or to see them as formative for different parts of Benjamin's life: not only are his earliest as well as his latest writings marked

by a deeper interest in theological issues and seemingly a more esoteric approach than the writings from the more exoteric and Marxist-materialist approach from his middle period, but Benjamin also allegedly kept his theologically-oriented friends (like Gershom Scholem) at a distance from his Marxist friends (like Bertold Brecht). This interpretation is particularly formed by Theodor W. Adorno's later critical comment on the turns of Benjamin's authorship after his acquaintance with Brecht, which according to Adorno led Benjamin to reject his earlier metaphysical interest. Much of the later reception, however, has refused to acknowledge this sharp distinction between the theological and the materialist perspectives in Benjamin, claiming that the two are not incompatible, as e.g. Michael Löwy puts it: 'We should speak of an *elective affinity*

- or, in other words, of a mutual attraction and reciprocal reinforcement of the two approaches'. Michael Löwy, *Fire Alarm: Reading Walter Benjamin's 'On the Concept of History'* (New York: Verso, 2001), p. 20.
- ⁵ Slavoj Žižek, *Violence* (New York: Picador, 2008).
- ⁶ Judith Butler, 'Critique, Coercion and Sacred Life in Benjamin's "Critique of Violence"', in Hent De Vries and Lawrence E. Sullivan (eds), *Political Theologies: Public Religions in a Post-secular World* (New York: Fordham University Press, 2006), pp. 201–19; Simon Critchley, *The Faith of the Faithless* (New York: Verso, 2012).
- ⁷ Jacques Derrida, 'Force of Law: The Mystical Foundation of Authority', *Cardozo Law Review* 11.5–6 (1990) 975. *Ibid.*, p. 1044.
- ⁸ *Ibid.*, p. 997. Derrida thus admits that he goes beyond Benjamin's own analysis.
- ¹⁰ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford, CA: Stanford University Press, 1998), pp. 64–5.
- ¹¹ Their readings of Benjamin differ in particular with regard to how they approach messianic temporality. This may be illustrated in their interpretations of divine and secular law in Kafka's story 'Before the Law' (and Benjamin's reading thereof): whereas Derrida insists that being 'before the law' contains a Jewish-theological and transcendent moment of law as 'yet to come' (Derrida, 'Force of Law', p. 993), Agamben draws on a more radical antinomian tradition when he interprets the law not as 'yet to come', but rather as fulfilled in being invalidated (Agamben, *Homo Sacer*, pp. 54–7). For discussions of these differences, see e.g. Vivian Liska, 'The Legacy of Benjamin's messianism: Giorgio Agamben and Other Contenders', in Rolf Goebel (ed.), *Walter Benjamin Companion* (Rochester, NY: Camden House, 2009), pp. 195–216; Colby Dickinson, *Between the Canon and the Messiah: The Structure of Faith in Contemporary Continental Thought* (London and New York: Bloomsbury, 2013).
- ¹² Benjamin, 'Toward the Critique of Violence', p. 57 / 'Zur Kritik der Gewalt', p. 199. The German text reads: 'Wie in allen Bereichen dem Mythos Gott, so tritt der mythischen Gewalt die göttliche entgegen. Und zwar bezeichnet sie zu ihr der Gegensatz in allen Stücken. Ist die mythische Gewalt rechtsetzend, so ist die göttliche rechtsvernichtend, setzt jene Grenzen, so vernichtet diese grenzenlos, ist die mythische verschuldend und sühnend zugleich, so ist die göttliche entschuldigend, ist jene drohend, so diese schlagend, jene blutig, so diese auf unblutige Weise letal.'
- ¹³ Agata Bielik-Robson notes that even Karl Löwith—known for his thesis of the secularisation of modernity—recognised a nuanced view of modernity as a 'discursive battlefield where two opposite sacral sensibilities fight with one another, constantly producing hybrid results'. Agata Bielik-Robson, *Jewish Cryptotheologies of Late Modernity: Philosophical Marranos* (London and New York: Routledge, 2014), p. 293.
- ¹⁴ Derrida, 'Force of Law', p. 983.
- ¹⁵ Benjamin, 'Toward the Critique of Violence', p. 39 / 'Zur Kritik der Gewalt', p. 179.
- ¹⁶ *Ibid.*, p. 41 / pp. 181–2.
- ¹⁷ *Ibid.*, pp. 59–60 / p. 202.
- ¹⁸ Although the dating of the fragment has been disputed, the most common assumption is that it stems from the period around 1921 and not later, as Adorno originally assumed. See e.g. Eric L. Jacobson, *Metaphysics of the Profane: The Political Theology of Walter Benjamin and Gershom Scholem* (New York: Columbia University Press, 2003), pp. 25–9. Peter Fenves and Julia Ng, however, have recently argued that the fragment is to be dated circa 1937. Fenves and Ng (eds), *Walter Benjamin: Toward the Critique of Violence*, p. 301.
- ¹⁹ Walter Benjamin, 'Theological-Political Fragment', in Eric L. Jacobson, *Metaphysics of the Profane*, pp. 26–7 / 'Theologisch-politisches Fragment', *Gesammelte Schriften*,

- Band II, 1* (Frankfurt am Main: Suhrkamp, 1977), p. 203.
- ²⁰ Benjamin, 'World and Time', in Peter Fenves and Julia Ng (eds), *Walter Benjamin: Toward the Critique of Violence. A Critical Edition* (Stanford, CA: Stanford University Press, 2021), p. 83 / 'Welt und Zeit', *Gesammelte Schriften, Band VI* (Frankfurt am Main: Suhrkamp, 1985), p. 99.
- ²¹ Jacobson, *Metaphysics of the Profane*, p. 31.
- ²² Benjamin, 'Theological-Political Fragment', p. 27 / 'Theologisch-politisches Fragment', p. 203.
- ²³ *Ibid.*, p. 27 / pp. 203–4.
- ²⁴ *Ibid.*, p. 27 / p. 204.
- ²⁵ *Ibid.*
- ²⁶ Werner Hamacher, 'Das Theologisch-Politische Fragment', in Burkhardt Lindner (ed.), *Benjamin Handbuch: Leben—Werk—Wirkung* (Stuttgart: J.B. Metzler, 2011), p. 185.
- ²⁷ *Ibid.*, p. 27 / p. 204.
- ²⁸ Habermas notes that Benjamin's redemptive criticism of art aims at 'the mortification of the works', but critique commits such destruction only in order to transpose what is worth knowing from the medium of the beautiful into that of the truth—and thereby to *rescue* and *redeem* it' (Habermas, 'Consciousness-Raising or Redemptive Criticism', p. 37). This redemptive criticism becomes developed more fully a few years later in Benjamin's major work *Origin of the German Mourning Play*. Eli Friedlander has suggested that especially the 'Epistemo-Critical Prologue' of the latter work should be taken into consideration in the interpretation of Benjamin's essay on violence, which makes the latter's emphasis on the *philosophy* of history and the *idea* of an end of history become significant: 'the use of the term *idea*, which is to be taken in its Kantian as well as Platonic connotations, suggests a gulf between any given experiential unity and the presentation of the truth of the matter. Only in assuming the destruction of the lawful unities of experience can the idea be presented in history.' Eli Friedlander, 'On Vanishing and Fulfillment', in Colby Dickinson and Stéphane Symons (eds), *Walter Benjamin and Theology* (New York: Fordham University Press, 2016), pp. 245–6.
- ²⁹ He writes: 'Why is it that Benjamin escaped politicization at the seemingly most logical moment, i.e. at the time of the great shock-wave of workers' republics (in Hungary, Bavaria, and Russia) that swept Europe following the war (the time when Lukács underwent his great conversion), and arrived at a materialist perspective only some seven years later, when the revolutionary swell had all but evaporated?' Richard Wolin, *Walter Benjamin: An Aesthetic of Redemption* (Berkeley, CA and Los Angeles, CA: University of California Press, 1994), pp. 109–11.
- ³⁰ Peter Fenves has elaborated how 'Toward the Critique of Violence' for Benjamin was meant to be part of a larger project on politics. Peter Fenves, *The Messianic Reduction: Walter Benjamin and the Shape of Time* (Stanford, CA: Stanford University Press, 2011), p. 208. See also his introduction to the critical edition of Benjamin's essay for a more thorough review of the circumstances determining the destiny of these texts.
- ³¹ Catherine Kellogg has given a more detailed description of the historical context and of the political instability that came with the conflict between revolutionary communist groups on the one hand and the right-wing *Freikorps* militia on the other. Catherine Kellogg, 'Walter Benjamin and the Ethics of Violence', in *Law, Culture and the Humanities* 9.1 (2011) 74–5.
- ³² Derrida, 'Force of Law', p. 979.
- ³³ Benjamin, 'Toward the Critique of Violence', p. 49 / 'Zur Kritik der Gewalt', pp. 190–1.
- ³⁴ Schmitt here explores the concept of sovereignty, and famously states that 'sovereign is he who decides on the state of exception'. Carl Schmitt, *Political*

Theology: Four Chapters on the Concept of Sovereignty (Chicago, IL and London: University of Chicago Press, 2005), p. 5. Although Benjamin does not explicitly develop the concept of *Souverenität* in 'Toward the Critique of Violence', the figures of *Insignium* (sign) and *Siegel* (seal) in the concluding lines of the essay could nonetheless be read as symbols of a certain sovereignty, belonging to divine violence: 'Divine violence, which is the sign and seal but never the means of sacred dispatch [*Vollstreckung*], may be called pending [*waltende*] violence' (Benjamin, 'Toward the Critique of Violence', p. 60 / 'Zur Kritik der Gewalt', p. 201).

³⁵ Agamben has suggested reading Schmitt's *Political Theology* as a response to Benjamin's 'Toward the Critique of Violence' essay, thereby 'turning the scandal around'. Giorgio Agamben, *State of Exception* (Chicago, IL and London: University of Chicago Press, 2005), p. 53. The scandal—Schmitt's presumed influence on Benjamin—is particularly visible in a letter from 1930, in which Benjamin expresses his indebtedness to Schmitt for his presentation of the doctrine of sovereignty. This notion had become crucial for Benjamin in his book *The Origin of German Tragic Drama* (1925), which he enclosed with the letter to Schmitt. In Adorno's edition of Benjamin's collected letters, this letter was tactfully removed. There are different opinions, however, on how close this relation really was. Jacob Taubes—who later came across this letter—claimed that the correspondence between Benjamin and Schmitt displayed more substantial affinities than had hitherto been acknowledged. Jacob Taubes, *The Political Theology of Paul* (Stanford, CA: Stanford University Press, 2004), p. 98. Marc de Wilde, on the other hand, has argued that the dialogue between Schmitt and Benjamin was critical from the start. Marc De Wilde, 'Meeting Opposites: The Political Theologies of Walter Benjamin

and Carl Schmitt', *Philosophy and Rhetoric* 44.4 (2011) 378.

³⁶ De Wilde, 'Meeting Opposites', pp. 365–6.

³⁷ He writes: 'An der "Gewalt" findet, folgt man der neuzeitlichen Tradition, jede vernünftige Politik ihre Grenze, im "Recht" hingegen ihren legitimen Ausgangspunkt. In seinem Aufsatz versucht Benjamin nichts weniger zu leisten, als diese beiden Begriffe in ihrem Bedeutungsgehalt exakt umzupolen, so dass die "Gewalt" als Quelle und Fundament, das "Recht" demgegenüber als Endpunkt der Politik in Erscheinung tritt.' Axel Honneth, 'Zur Kritik der Gewalt', in Burkhardt Lindner (ed.) *Benjamin-Handbuch: Leben—Werk—Wirkung* (Stuttgart and Weimar: Metzler, 2011), p. 194.

³⁸ Honneth, 'Zur Kritik der Gewalt', p. 194.

³⁹ Benjamin, 'Toward the Critique of Violence', pp. 51–2 / 'Zur Kritik der Gewalt', pp. 193–4.

⁴⁰ An influential analysis of Benjamin's politics of pure means is offered by Werner Hamacher in his article 'Afformative, Strike', *Cardozo Law Review* 13.4 (1991) 1133–57.

⁴¹ Benjamin, 'Toward the Critique of Violence', p. 40 / 'Zur Kritik der Gewalt', pp. 180–1.

⁴² The most famous of these is the antinomy between freedom and causality in *Critique of Pure Reason*, Immanuel Kant, *Kritik der reinen Vernunft* (Hamburg: Felix Meiner, 1998), pp. A 444–51 / B 472–9. In addition, Kant speaks of an antinomy that appears in three forms corresponding to the three capacities of reason. Immanuel Kant, *Kritik der Urteilstkraft* (Stuttgart: Reclam, 1963), p. 243. All my references to Kant follow the original pagination.

⁴³ Immanuel Kant, *Kritik der praktischen Vernunft* (Hamburg: Felix Meiner, 1990), pp. 204–5. In the antinomy of practical reason, Kant contrasts a *thesis*, saying that happiness is a condition for morality, with an *antithesis*, saying that morality is a condition for happiness. The antinomy has been criticised for not being an

- antinomy in a strict sense, since the thesis is downright wrong according to Kant's absolute claim that nothing other than the moral law can be a motivating force for morality. See Lewis White Beck, *A Commentary on Kant's Critique of Practical Reason* (Chicago, IL: University of Chicago Press, 1960), pp. 245–8.
- ⁴⁴ Kant, *Kritik der praktischen Vernunft*, p. 220.
- ⁴⁵ Benjamin, 'Theological-Political Fragment', p. 27 / 'Theologisch-politisches Fragment', p. 204.
- ⁴⁶ Benjamin, 'Toward the Critique of Violence', p. 54 / 'Zur Kritik der Gewalt', p. 196.
- ⁴⁷ Fenves, *The Messianic Reduction*, p. 188. These notes did at first not appear in Scholem's edition of Benjamin's writings, for which the most plausible explanation for Fenves would be that the notes could be seen as a gesture in the direction of socialists and communists. The notes are also published in Fenves and Ngs critical edition of Benjamin's essay (pp. 65–6).
- ⁴⁸ Fenves, *The Messianic Reduction*, p. 193.
- ⁴⁹ *Ibid.*, p. 189.
- ⁵⁰ *Ibid.*, pp. 195–7.
- ⁵¹ The pervading force of myth is analysed in several of Benjamin's writings, and although Benjamin often resorts to biblical and classical myths in these accounts, it is important to note that he does not regard the mythical as an epoch overcome by logos: throughout his life, he rather attempted to show how modernity to the greatest extent is still pervaded by mythical thinking.
- ⁵² Walter Benjamin, 'On Language as Such and on the Language of Man', *Walter Benjamin: Selected Writings, Volume 1* (Cambridge and London: Belknap / Harvard University Press, 1996), pp. 71–2 / 'Über Sprache überhaupt und über die Sprache des Menschen', *Gesammelte Schriften Band II, 1* (Frankfurt am Main: Suhrkamp, 1977), pp. 153–4.
- ⁵³ Benjamin, 'On Language as Such', p. 71 / Benjamin, 'Über Sprache überhaupt', p. 53.
- ⁵⁴ *Ibid.*, p. 72 / p. 154.
- ⁵⁵ Walter Benjamin, 'Goethe's Elective Affinities', *Walter Benjamin: Selected Writings, Volume 1* (Cambridge and London: Belknap / Harvard University Press, 1996), p. 362 / *Goethes Wahlverwandtschaften, Gesammelte Schriften Band I, 1* (Frankfurt am Main: Suhrkamp, 1974), p. 162.
- ⁵⁶ Benjamin, 'Toward the Critique of Violence', p. 60 / 'Zur Kritik der Gewalt', pp. 202–3.
- ⁵⁷ *Ibid.*, p. 56 / p. 198.
- ⁵⁸ *Ibid.*, p. 55 / p. 197.
- ⁵⁹ *Ibid.*, p. 54 / p. 196.
- ⁶⁰ *Ibid.*, p. 47 / p. 189.
- ⁶¹ *Ibid.*, p. 60 / p. 202.
- ⁶² *Ibid.*
- ⁶³ *Ibid.*, p. 56 / p. 198.
- ⁶⁴ *Ibid.*
- ⁶⁵ Walter Benjamin, 'Fate and Character', *Walter Benjamin: Selected Writings, Volume 1* (Cambridge and London: Belknap / Harvard University Press, 1996), pp. 203–4 / Walter Benjamin, 'Schicksal und Charakter', *Gesammelte Schriften Band II, I* (Frankfurt am Main: Suhrkamp, 1977), pp. 174–5.
- ⁶⁶ Benjamin, 'Toward the Critique of Violence', p. 56 / 'Zur Kritik der Gewalt', pp. 198–9.
- ⁶⁷ Benjamin, 'Fate and Character', p. 203 / 'Schicksal und Charakter', p. 175.
- ⁶⁸ Agata Bielik-Robson has explored how Benjamin in other works offers a Gnostic reading of the Greek tragedy, of which the stake is 'to maintain the tragic element at the heights of the antinomian tension, i.e. to intensify the tragic paradox to the messianic extreme, where redemption can come only as the perverse, twisted or turned (*verkehrt*) result of the deepest fall: the most shattering trauma of absolute separation' (Bielik-Robson, *Jewish Cryptotheologies*, p. 94). Also Werner Hamacher observes that a critical and moral interruption—a caesura—is 'perceptible in the tragedy as the hero's falling-silent' (Hamacher, 'Affirmative, Strike', p. 125).
- ⁶⁹ Benjamin, 'Toward the Critique of Violence', p. 57 / 'Zur Kritik der Gewalt', p. 200.
- ⁷⁰ *Ibid.*, p. 57 / pp. 199–200.
- ⁷¹ Fenves and Ng (eds), *Walter Benjamin: Toward the Critique of Violence*, p. 292 (n. 54).
- ⁷² Agamben, *Homo Sacer*, p. 65.

- ⁷³ This may be contrasted to the reading of Derrida, see note 11.
- ⁷⁴ Benjamin, 'Toward the Critique of Violence', p. 59 / 'Zur Kritik der Gewalt', pp. 201–2. The quote continues: 'However sacred the human being is (or that life therein, which stays identical in earthly life, death, and living-on), its [physical] states are not sacred, nor its bodily life, which is vulnerable to injury by fellow human beings.'
- ⁷⁵ Sigrid Weigel, 'Fidelity, Live, Eros', in Colby Dickinson and Stéphane Symons (eds), *Walter Benjamin and Theology* (New York: Fordham University Press, 2016), p. 88. The quote is from Benjamin, *Goethe's Elective Affinities*, p. 308 / Benjamin, *Goethes Wahlverwandschaften*, p. 139.
- ⁷⁶ Walter Benjamin, 'Capitalism as Religion', in Peter Fenves and Julia Ng (eds), *Walter Benjamin: Toward the Critique of Violence. A Critical Edition* (Stanford, CA: Stanford University Press, 2021), pp. 90–1 / 'Kapitalismus als Religion', *Gesammelte Schriften Band IV, 1* (Frankfurt am Main: Suhrkamp, 1972), pp. 101–2.
- ⁷⁷ Benjamin, 'Capitalism as Religion', p. 90 / 'Kapitalismus als Religion', p. 101.
- ⁷⁸ Benjamin, 'Capitalism as Religion', p. 91 / 'Kapitalismus als Religion', pp. 101–2. In *Also Sprach Zarathustra*, Nietzsche had indeed presented a notion of redemption without conversion with his doctrine of the 'eternal return of the same', which allows one to embrace the past, thereby redeeming the subject from the burden of guilt—precisely through an aesthetical embracement of it. This redemption would happen when a 'creative will changes every 'it was' into 'I wanted it thus'. Friedrich Nietzsche, *Also Sprach Zarathustra: The Nietzsche Reader*, edited by Ansell-Pearson and Duncan Large (Malden: Blackwell, 2006), p. 275.
- ⁷⁹ Benjamin, 'Capitalism as Religion', p. 91. This claim belongs to the latter and more unfinished part of the fragment, which is not included in the German edition published by Suhrkamp.
- ⁸⁰ Benjamin writes in 'Capitalism as Religion': 'Nietzsche judged in advance [*präjudiziert*] this exploding of the heavens by elevated humanness [*gesteigerte Menschhaftigkeit*], an exploding that, religiously (also for Nietzsche), is and remains inculcation' (p. 91).
- ⁸¹ Benjamin, 'World and Time', p. 83.
- ⁸² Benjamin, 'Toward the Critique of Violence', p. 47 / 'Zur Kritik der Gewalt', p. 188.
- ⁸³ Hamacher, 'Afformative, Strike', p. 126.
- ⁸⁴ Benjamin, 'Toward the Critique of Violence', pp. 45–6 / 'Zur Kritik der Gewalt', p. 187.
- ⁸⁵ Derrida, 'Force of Law', pp. 1025–7.
- ⁸⁶ Benjamin, 'Toward the Critique of Violence', p. 55 / 'Zur Kritik der Gewalt', p. 197.
- ⁸⁷ *Ibid.*, p. 57 / p. 199.
- ⁸⁸ Derrida, 'Force of Law', p. 1044.
- ⁸⁹ Benjamin, 'Toward the Critique of Violence', pp. 57–8 / 'Zur Kritik der Gewalt', p. 200.
- ⁹⁰ Gil Anidjar, 'Blutgewalt', *Oxford Literary Review* 31.2 (2009) 160.
- ⁹¹ Benjamin, 'Toward the Critique of Violence', p. 58 / 'Zur Kritik der Gewalt', p. 200. Judith Butler has raised the question of whether Benjamin with this reference to the 'soul of the living' displays a tacit Platonism, but argues that 'there is no ideal meaning attached to this notion of the "soul", since it belongs precisely to those who are living'. Butler, 'Benjamin's "Critique of Violence"', pp. 211–12.
- ⁹² Eli Friedlander, 'Assuming Violence: A Commentary on Walter Benjamin's "Critique of Violence"', *Boundary 2* 42.4 (2015) 181.
- ⁹³ Walter Benjamin, 'The Task of the Translator', *Walter Benjamin: Selected Writings, Volume 1* (Cambridge and London: Belknap / Harvard University Press, 1996), p. 255 / 'Die Aufgabe des Übersetzers', *Gesammelte Schriften Band IV, 1* (Frankfurt am Main: Suhrkamp, 1972), p. 11.
- ⁹⁴ Benjamin, 'Toward the Critique of Violence', p. 60 / 'Zur Kritik der Gewalt', p. 202.
- ⁹⁵ *Ibid.*, p. 60 / p. 203.
- ⁹⁶ *Ibid.*, p. 58 / p. 200.
- ⁹⁷ *Ibid.*, p. 58 / pp. 200–1.
- ⁹⁸ Friedlander, 'Assuming Violence', p. 178.

⁹⁹ *Ibid.*, p. 179.

¹⁰⁰ Benjamin, 'Toward the Critique of Violence', pp. 58–9 / 'Zur Kritik der Gewalt', p. 201.

¹⁰¹ *Ibid.*, p. 59 / p. 201.

¹⁰² Benjamin, 'Toward the Critique of Violence', p. 59 / 'Zur Kritik der Gewalt', p. 202.

¹⁰³ Anidjar, 'Blutgewalt', p. 164.

¹⁰⁴ Derrida, *Force of Law*, p. 993. Derrida writes: 'And the being "before the law" that Kafka talks about resembles this situation,

both ordinary and terrible, of the man who cannot manage to see or above all to touch, to catch up to the law: because it is transcendent in the very measure that it is he who must found it, as yet to come, in violence. [... The law] appears infinitely transcendent and thus theological to the extent that, so near him, it depends only on him, on the performative act by which he institutes it.'