

Down by Law

A Critique for the 21st Century

ALEXANDER KARSCHNIA



Prologue

Actually, Hamlet's famous question "To be or not to be..." (*Hamlet*, III: I, 56) is misleading. To act or not to act – *that* is the question. Ordered by his father's ghost to take revenge against his uncle, Hamlet hesitates for five long acts, until he finally rushes to action to fulfil the command – to kill. But even the bloody end is not planned by him, but by his enemies. His uncle King Claudius, and Laertes, the son of Hamlet's first victim Polonius (a counsellor and also father of Laertes and Hamlet's forgotten love Ophelia) set up a trap and challenge Hamlet to a duel. But before Hamlet finally slays his uncle, others have to die. Laertes is killed in the duel by the poison-tipped rapier that was prepared by King Claudius; Hamlet's mother, like Queen Gertrude, dies after drinking poisoned wine. From this cast of characters, finally only Horatio, Hamlet's friend from Wittenberg, survives to tell the story: to us, the audience, but also to Fortinbras (lit. 'strong arm': the young king of Norway, who arrives as a *deus ex machina* sort of resolution following the play's climax) who now will take

over power in Denmark, the “rotten” state.

The critical issue of the ‘bare act’ is raised by Hamlet in his famous soliloquy. He asks why one should bear the hardships of life such as “the law’s delay” (III, I, 72), while he could easily end it with a “bare bodkin” (76). The bodkin – a stiletto or pocket-dagger – could end it all if put into his flesh or into the flesh of his uncle. *That* is the question, finally: suicide or regicide? Kill oneself or kill the king? Or follow Slayer and KILL ‘em ALL? (Slayer is a heavy metal band and *Kill ‘em All* is the name of an album by them).

Act I

In discussions with Gustav Janouch, Franz Kafka compared the tragedy of Prince Hamlet to a crime story, almost like a modern murder mystery, but maybe it was closer to his own thoughts than he knew. We could read Hamlet’s soliloquy as a form of prayer, a plea and an appeal for something to come, to finally arrive: justice. Justice should strike. Would it be a ‘bare act’ on Hamlet’s part to, without “the law’s delay”, overthrow the usurper, avenge his father and clear his mother of the guilt of having married her husband’s murderer?

In his “Critique of Violence” (the only surviving text of a series of three he wrote in the early 1920s about “true politics”, the crisis of democracy and the perspective of revolution), Walter Benjamin has added the concept of *göttliche Gewalt*: a “godly force”, maybe even a holy form of violence. The German word *Gewalt* has such a variety of meanings that it is very difficult to translate. Even the translation of the essay’s title “*Zur Kritik der Gewalt*” as “To the Critique of Violence” is reductive, because *Gewalt* means not only violence, brute force, in the sense of ‘violation’, but on the contrary, it also means the maintenance of rule, governance, power, control. A government has the governing *Gewalt*; the authority of office is the *Staatsgewalt*, the process of checks and balances in a parliamentary system is called *Gewaltenteilung* (division of powers), legislature is called *gesetzgebende Gewalt*, the church is a *geistliche Gewalt*, and the media is sometimes called the 4th *Gewalt*. A person who loses control over him- or herself is said not to have his or her own *Gewalt*, while at the same time one speaks of kidnappers having hostages in their *Gewalt*.

In the line of the famous German ‘Ge-’ words that Martin *Ge-stell* Heidegger was so fond of, *Gewalt* is the most ambivalent: *ambi-violence* is its nature.

Just like speech acts, any act of violence can be both performative as well as declarative at the same time, since *-walt* comes from the old and odd verb *walten*, which actually means to be at work. It is a form of acting, doing, making, mostly connected to an official position, meaning to rule or preside, to do one’s duty (*seines Amtes walten*). Also, you can let reason prevail (*Vernunft walten lassen*) or show mercy (*Gnade walten lassen*). The proverbial saying *schalten und walten* (*schalten* technically means to shift, for example a gear, but also implies to be quick in understanding and reacting) means to give somebody a free hand, a rule uninhibited by constraints, to be able to do things as one pleases. It is used in a rather anonymous sense, mostly as a verb turned into a subject: *das Walten*, for example, of the gods or of fate. It is rather uncanny, or Kafkaesque, that this word also appears in the German word for administration, *Verwaltung*, while *Vergewaltigung* means rape. While *gewaltsam* means violent, *gewaltig* means mighty, enormous, colossal. Maybe

the English 'whelm' can help out here, since being overwhelmed, for example by the sight of sublime beauty, translates as *überwältigt sein*, but at the same time one can be overwhelmed, *überwältigt werden*, by force, for example by the police.

'Force' v. 'Force': Benjamin plays with all of these meanings. They include his own first name – *Walter* – to walk; and work on the line of distinction between a force that keeps the law – a *rechtserhaltende* – and a *rechtsetzende Gewalt* – a force that sets or settles the Law, that makes a *Setzung*: the Law (*Gesetz*) is what is settled, it is the settled (*das Gesetzte*).

The collapsing of this distinction indicates a deep crisis: *Geschichte* – history – seems but a cycle of *Gewalt*, from a force that brings forth rights to a force that keeps those rights in effect. But by keeping the order it once brought into existence, force now has to hold down with force those forces that it once was carried by. Force has to repress force, it has to repress itself, and that is the vicious circle of violence. There is an inevitable decline, decay or even 'degeneration' of power that stems from this self-consuming structure – dissolving it by trying to conserve it. Law-keeping force is a representation of law-setting force; at the same time, it is also its repression. The failure to keep these spheres separated also marks the deep crisis of representation in modern democracies. The German word *Gewalt*, in which two meanings, 'ruling power' and 'use of force', are coalesced, helps to clarify what is at stake: state order is always state violence. While the modern legal state has monopolised violence in order to guarantee peaceful modes of solving conflicts, to gain one's rights (*Rechte*) without the use of violent means, to find justice (*Gerechtigkeit*) without personal revenge, violence prevails.

Benjamin unmasks the illusion that the system of contracts – a contract between two private persons or the social contract of a society, a *Gesellschaft* with itself – works without violence. It is the essence of contracts to threaten both parties with violence in case the contract is broken. The law-keeping force is by its nature a threatening force, it puts the members of a society – the subjects of law – under a threat as under a spell. That's why Benjamin describes both forms of force as *mythical*.

Act II

What Benjamin has to offer as radical critique of *Gewalt* is a new distinction: instead of law-making vs. law-keeping forces, he sets mythical force vs. godly force: *göttliche Gewalt*. It is not keeping the rule of law, but destroying it; it is immediate; not imposing guilt, but liberating from it; not threatening, but striking; not bloody, but lethal. Benjamin uses the example of God's wrath against the gang of Korah (a privileged group who, after challenging the leadership of Moses and Aaron were swallowed alive by the earth; described in the Book of Moses 4:16). Instead of making a *Setzung*, this force makes an *Ent-Setzung*: it is 'un-settling', but also terrifying. *Ent-setzen* used as a verb means literally to 'un-set' something, but normally it is used as a noun and means 'horror'.

In a postscript after a careful reading, Jacques Derrida shows himself horrified by the possible use of such a concept.¹ For him this includes the worst as possibility: the justification of mass murder, the industrial extermination of millions of people that started in Europe (shortly after Benjamin's suicide in 1940) that has been called the 'Final Solution'

by its Nazi perpetrators.² While Benjamin was far from anticipating anything like that, he did fear and foresee something else: a war with gas against the civilian population. The *Entsetzen* about the atrocity of Auschwitz – this singular crime against humanity – will haunt the reading of all texts, especially texts from this time, as well as texts from before and after this time. Moreover, all explicitly political texts have to be read against the fact of the Holocaust, since – as per Adorno’s formulation — the Shoah (the Holocaust) imposes a new kind of categorical imperative upon humanity: “To ensure that nothing like this can ever happen again”.

Today, when reading of *göttliche Gewalt*, another picture of destruction immediately comes to mind: 9/11. The attack on the Twin Towers in New York and on the Pentagon in Washington DC can be seen and interpreted by fundamentalists of all sorts as the wrath of God. The event can be read as an instance of a striking violence that, uncannily enough was lethal, but not bloody (as it appeared on TV screens worldwide, there was no blood to be seen: only explosions, smoke, falling bodies, ash, collapsing buildings). For some people it might seem like the punishment imposed upon a privileged group: a group of world bankers, part of the ruling elite of global capitalism. Some people might even think it did have an effect of liberation from guilt.³ The twofold reactions towards this event can be described by two German words that have entered the world’s vocabulary: *angst* and *schadenfreude*. It seems that many people in the world felt what Benjamin described as the ‘folk’ respect for the figure of the ‘Great Gangster’. Despite the atrocities, they admire the fact that he challenges the Law, destabilises the rule of order.

All of this is terribly wrong and dangerous: Osama bin Laden is no Robin Hood, not even some mighty mafia chief. To describe what bin Laden is, we have to turn to Bertolt Brecht’s comments in his play *The Resistible Rise of Arturo Ui*, a parodic parable on the rise of Adolf Hitler in Nazi Germany in the mafia milieu of the USA. After his return to (East) Germany, Brecht was terrified by the respect with which some simple people talk about Nazi mass murderers: “They were criminals – but they killed so many people!” This respect for murderers has to be taken away from the people, Brecht commented in relation to this play. Instead of “great gangsters” (*große Verbrecher*), for him the Nazi war criminals were just “doers of great crimes” (*Verüber großer Verbrechen*), of heinous, monstrous crimes.

It is obvious that the 9/11 attacks had by no means the effect of “unsettling” the rule of Law, but provoked a reaction of law-keeping forces that was devastating: a permanent military-cum-police operation. The mechanism triggered by the religious terrorists is best described by a term Derrida developed in the context of a ‘critique of religion’: “auto-immunisation”.⁴ It is the same self-destructive conflict of forces pointed at by Benjamin. The ‘war against terror’ is the moment when the forces of law-keeping and of law-setting become indistinguishable. And worse, those of war and terror, and in the long run, of war and peace.

War is peace, peace is war

(Orwell, 1984).



Act III

So instead of godly force, we've so far only seen ghostly forces. The uncanny figure that best represents this crisis is that of the police. The police is its 'shape without shape', shapeless form, its abstract spectre, its *Gestalt*. In the institution of the police, Benjamin writes, we can see a ghostly mixture of both kinds of *Gewalt*: to be a law enforcement agent, but at the same time to make the law, to 'be the law'. It's uncanny, *unheimlich*. A ghost, *Gespenst*, is haunting the text (*Heimsuchung*). The police (*Polizei*) is a force which ruins the division of powers, crosses the borders of checks and balances and contaminates one force with the other. While in absolute monarchies both forces – power and violence – were one, in modern democracies the separation tends to have dreadful consequences because secretly (*geheim* or *heimlich*), violence spreads: at all times and wherever, and everywhere, where 'security' is invoked, these police-ghosts appear. The historical *polis* is governed by the police, policy-making has turned into a police science, in the manner propagated by German Idealists like Fichte two centuries ago. On the other hand, has the *Geist* (spirit) of German Idealism given birth to a ghost (*Gespenst*) that since 1848 has haunted Europe: "A ghost goes around in Europe – the ghost of Communism...", as the first sentence of the Communist Manifesto says? It is, as Derrida pointed out in *Spectres of Marx*, a ghost hunted as well as haunted by ghosts. But maybe it is also the ghost of Europe that haunts the world of today:



Re-enter Europa.⁵

"The time is out of joint. O cursed spite,
That ever I was born to set it right".
(*Hamlet*, I: V, 196f.)

Capital punishment (*Todesstrafe*) is "out of joint", "rotten" or "unsettled" within the order of law, according to Benjamin. Those who oppose it the death penalty know that they are not only fighting a specific severe and absolute kind of punishment, but the rule of Law. Here it becomes obvious that the Law stems from the sphere of fate and that it emerges to govern the sphere of life. As long as state power exists on the basis of state violence, executed by a task force of ghost-cops, society remains in the dark realm of myth. It has not yet seen the light of enlightenment (*Aufklärung*), but is trapped in a world of imposed guilt (*Verschuldung*), just like Josef K. in Kafka's *The Trial*, who has only the choice between the endless delay of processes of Law or the rush to judgment with a deadly outcome. According to Derrida, Hamlet dreams of a world liberated from the Law (*Recht*), in which the individual can seek revenge (*Rache*) for perceived injustice. But maybe Derrida is also caught in the 200-year-old romantic misperception of Goethe who pictured Hamlet as the soft prince, a poet, too delicate for such a task. Instead, Börne and Brecht have portrayed Hamlet as a murderer, his deed (*Tat*), the final

massacre and grave full of bodies, as atrocity (*Untat*). So maybe his longing for a 'bare act' to end it all also is an "auto-immunisation": a *sui-homicide*.

Never has the German word for suicide, *Selbstmord* (self-murder) – instead of *Freitod* (free death) – had more meaning as in the age of 'martyrs' who have developed a new kind of weapon: the *Selbst-Mörder* really is the suicide-murderer. It is the highest, or better described, the lowest, form of mythical force.

As an antidote we should once more turn to the moment when *göttliche Gewalt* strikes; and indeed, Benjamin describes it as the moment when a (partial, political) *Streik* turns into the (proletarian) general **Strike!** It is no longer a means for an end, a means to use a sanctioned form of violence, even if it is the violence of non-acting, maybe even a non-violent violence, in order to achieve a purpose, goal or end – be it an improvement of working conditions or the seizure of state power. Instead, it is a means in itself, a pure immediate force that eventually leads to nothing less than the destruction of the entire state apparatus: Revolution!

For Benjamin, the revolution is not, as Marx has described it, the locomotive of world history, but its emergency brake: a caesura. That's where Derrida draws the line of distinction: 'revolution' for him always is progressive *and* regressive, even reactionary, because he *re-sets* as goal the return to a prior, purer state, an origin, 'archo-teleology'. In this respect, for Derrida every reference to 'revolution' is conservative, every revolution a 'conservative revolution'. He is concerned about this possible bridge to the historical discourse of the extreme political right of the Weimar Republic operating under this label. He is also concerned about the possible and real correspondences of his own thinking with the ideas of Carl Schmitt and Martin Heidegger; consonances which are extremely striking in this text.

The 'undecidability' that Benjamin locates in the heart of *Gerechtigkeit*, between *Recht* and *Gewalt*, also *Recht* and *Rache*, touches the point around which Derrida's thinking also revolves. From where does his reaction towards Benjamin's originate? It is directed against the idea of a force of destruction of rights – it seems to Derrida that, after Auschwitz, every abandonment of 'human rights' has become irresponsible. He is repelled by Schmittian 'decisionism' as well as Heideggerian 'destruction'. Deconstruction on the other side is simultaneously 'de-' and 'constructive'. So for Derrida, the experience of *aporia*, of impossibility (of Justice) as the supposition of possibility (of Justice). This is the point Derrida wanted to make in his reading of Benjamin's text, which took place in part before law scholars in a 1989 conference on the (ir)representability of the Shoah. While we strongly agree with Derrida's insisting on the absolute relevance of the memory of Auschwitz for every kind of contemporary political thinking, we want to question his reading of Benjamin by reconsidering the perspective of a revolution. But we will return to Derrida's warning when we look at interpretations of Benjamin today.

Act IV

What message does Benjamin's 1921 text give us for the 21st century? It is a call to destroy the fatal regime of the Law and to begin a 'new historical era'. Everything that has happened since 9/11/1989, especially since 9/11/2001, points in the other direction: the

enforcement of the Law has become the dominant ideology and legitimised every military/police action since then. There are many ghosts that haunt the world nowadays: globo-cops and terrorists. Instead of reading Benjamin as a 'destructive decisionist', it is well to realise that his texts open with a renunciation of terrorism. For Benjamin the school of 'natural rights' (*Naturrecht*) provided the base for the *terreur*, the 'terrorism of the French Revolution' (as he calls it), by viewing violence as a means that is justified by its ends. The use of violence to achieve a political aim was seen to be as natural as a body walking its way to its goal.

This is exactly what Benjamin puts in question – and this is where Derrida's reading of his 'revolutionary' passages does injustice to the text. The realm of these 'means without ends' is language, or more precisely, mediality. Language is not a neutral medium through which, but within which, we speak. Benjamin's early thoughts on the philosophy of language give us the direction. There we find a series of words that end with -ability (*-barkeit*): translatability, communicability, representability, etc. The *-bar-* of *-barkeit* corresponds with the English 'bare': it is not only missing it only by one single letter '-e-', but matches its meaning. One can say that somebody is *bar jeglicher Vernunft*, meaning he or she is free, empty or bare of any reason. Also, *Bargeld* is 'bare money', meaning coins and bills instead of virtual finances. The adjective *bar* is a more or less outdated word for *bloße* such as *bloßes Leben*: 'bare life'. This term appears at the end of Benjamin's essay when he explains why he opposes naïve pacifism and activism. It seems like a tragic irony of reception that this term has become so fashionable in current political debate through the writing of his Italian editor Giorgio Agamben that it has turned into "bare money" of a neo-humanist argumentation – and in this process a coin has become unreadable. Just as Benjamin turned against the so-called 'spiritual opposition' of the Weimar Republic, it is necessary today to criticise those activists who loosely use words with strong connotations to describe the status of refugees: I mean especially the usage in this connection of the expression 'bare life' to mean 'naked man' or 'pure human'.

The term 'bare life' in Benjamin's argument marks the carrier of the *Verschuldung* (indebtedness). It extradites human life to the rule of fate, the mythical rule of Law. To refer to stateless people in inhumane conditions – like the situation of most refugees in the world today – as 'bare life' is dangerous because of undiscovered religious connotations. "Blood", Benjamin writes, "is the symbol of bare life". One could assume that this alludes to the blood-bond of Christ that was based – quite in violation to the Mosaic Laws – on the (self-) sacrifice of the (divine) human. The discourse of 'bare life' is accompanied by this discourse of sacrifice. Now – once more – the German ambivalence of this term may be alarming: *Opfer* means 'sacrifice' as well as 'victim'. To refer to refugees as 'bare life' does not only mean to victimise suppressed people, but even worse, to treat them literally as 'sacrifice'. This discourse runs into the same trap that Benjamin and especially Brecht have warned against: empathy, or as Brecht called it, *Einführung* (emotional identification). This, as Benjamin writes, is not the method for historical materialists: it is the perspective of the perpetrator. The tradition of the suppressed teaches us something different.

The mis-reception of the notion of 'bare life' does not only stem from a superficial reading of Agamben's texts. Following Benjamin, Agamben searched for the origin of the

figure of 'bare life' and found it in ancient Roman law: *Homo Sacer* is exposed to sovereign power, it is life under the immediate threat of death, destined to die. In connecting Benjamin's insight on *Gewalt* with Foucault's analysis of the productive quality of 'Power', Agamben could apply the principle of bio-politics to a realm that Foucault has left out – the structure of the Nazi-KZ (concentration camp) in the process of the so-called 'Final Solution'. While Agamben grants useful insights in to the genocidal Nazi policy, the construction of a continuum between the first camps after World War I, Nazi concentration camps and detention centres for refugees today has established a link between the inmate of the camps and the modern detainee which is disturbing. It does injustice to the singularity of Auschwitz, as well as to the singularity of every atrocity in the world. Methodically it is problematic, because it is based in the terms of the perpetrators. It was Carl Schmitt who applied his theories of sovereignty and dictatorship to legitimise the Nazi-state: "*Der Führer schützt das Recht!*" ('The leader protects the Law!').

The references that have disturbed Derrida have attracted Agamben, whose work exploits the correspondence between Benjamin and Schmitt, an exchange of letters that had remained unknown for quite some time. To stress its significance is highly suggestive – and deceptive. It is worth remembering that Benjamin and his friend Bertolt Brecht were cracking jokes about this man whose name sounds like that of a slightly dim secret agent who checks into a hotel and chooses a name, 'Charles Smith', so common that it fails to be anything but inconspicuous. Incidentally, a 'Mr. Schmitt from Berlin' appears in different places in Brecht's plays, and especially in the short pedagogical play titled, most appropriately, *The Exception and the Rule*. Just as Kierkegaard used the concept of 'wonder' to talk about God, Schmitt used the 'exception' to talk about a mortal God: the state. With the concept of exception, Schmitt tried to explain the rule, the rules of the game, that is: the rule of Law, the functioning of state order. For the principle of state power, sovereignty, the rule of ruling, Schmitt's *Political Theology* (1922) came up with a decisive seven-word definition: "*Souverän ist wer über den Ausnahmezustand entscheidet* (Sovereign is the one who decides over the state of exception)".

The English language gives room here to play with the double-meaning of 'state' in order to cast some light on the consequences of Schmitt's thought: the order of a state depends on an instance that can decide about the 'state of exception' (*Ausnahmezustand*). This might be a revolution, but maybe also a restoration, a counter-revolution. For example, the state of exception that the Nazi government decided on 28 February 1933 (one day after the Reichstag fire gave the Nazi-state the chance to impose the state of emergency and to get rid of their internal enemies, mostly Communists and Socialists) lasted for over 12 years. In this respect the state, *der Staat*, state order, depends on a state – a *Zustand* – but an extraordinary *Zustand*, a state of disorder – a state out of order. This is the paradox of (state) power. The sovereign, the power that reigns, stands outside *and* inside the order that it rules, on behalf of which it makes decisions. But the decision – as we know since Kierkegaard, another crazy Danish thinker like Hamlet – is a moment of madness.

While a lot of so-called 'deconstructionists' respond to this figure of political paradox, it would be well to remember Derrida's revocation. Instead of reading Benjamin as a pupil of Schmitt we should turn to his philosophical-historical thesis, "The Tradition of the

Suppressed". In Thesis VIII (of the *Theses on the Philosophy of History*) Benjamin asserts that "the state of exception in which we live is the rule. We have to get to a concept of history that is in accordance with it. Then it is the task to bring about the true state of exception". Maybe this *true* exception really recalls the theological concept of 'wonder'. It would be the moment in which the messiah all of a sudden sneaks in (as Benjamin writes in the last sentence of his thesis): a moment that cannot be determined by oracles or prophecies, but can only be anticipated. With Prince Hamlet we can only say, "The readiness is all!" (V, II, 218).

Act V

Maybe. But maybe we also run into a trap, just like Hamlet. Maybe Agamben's embracing of Benjamin's so-called 'Marxian messianism' is another case in which we should pay attention to Derrida. He renounced his affinity to Benjamin in *Marx & Sons*, a résumé of the discussion about *Spectres of Marx*. Some critics have called Derrida's para-Heideggerian crypto-Marxism, his concept of 'messianicity', of openness for the other, the alien, the ghost, the event, or advent, a 'Jewish messianism' à la Benjamin. Derrida insisted strongly that this concept was 'messianism without messiahs', a religious concept, perhaps with good reason. Maybe this reception of Benjamin's theological ideas, its re-territorialisation within a religious context, is "out of joint" with Agamben's work. The advent of 'messianic time' – the end of time, the beginning of 'eternal peace' – too easily gets confused with the final arrival of the messiah as 'martyr'. Today 'martyr' implies murder. No other word has been more misused by theocratic politics of terror. It relates to the apocalypse rather than to 'heavenly peace': Christ as messiah *militans et triumphans* taking revenge, drowning the world in blood to bring forth the reign of God. Every fundamentalist theology is an 'archeo-teleology'.

Against this, Benjamin's strong renunciation of any form of theocracy is to be upheld. Then we might arrive at a truly Benjaminian-Derridian concept which, non-teleologically and anti-theoretically, signifies a mode of waiting without (a)waiting anything: Politics without program or project, because radically, politically, it consists only of the interruption of the Political: **Break - Strike!**

Instead, Agamben awaits the worst. His 'catastrophism' can only be labelled with German words like *Angst* or *Untergangslust*: 'joy of fear or of fall'. Agamben sees humanity on its way to annihilation and extermination camps opening in Europe again. Since 9/11 he has been read as the political prophet of the global *Ausnahmezustand*. But in the application of his analysis of the KZ-system to the current situation, a strange displacement occurs. He draws a parallel between Hitler and Bush, and extends the concept of 'bare life' from the 'Muselmann'⁶ of the KZ (those inmates who were like living dead) to the detainees at Guantanamo Bay.

Something is rotten in the United States, that's for sure, but how is it that a philosopher of the Shoah fails to address the vicious anti-Semitism of the 9/11 terrorists? Why is the resemblance of religious fundamentalism to political fascism overlooked? What is to be done if the enemy really is an enemy, which means somebody who wants to kill you? What is the alternative to the neo-Schmittian politics, à la Bush, in times of terror? *That is a*

question neither Agamben nor Derrida, neither European appeasement politics (Schröder, Chirac) nor the global peace movement has answered yet:⁷ how to interrupt the cycle of violence, of force vs. force?

To avoid the bloody end of Act V, let's return to Benjamin and the *göttliche Gewalt*. For Benjamin, the command not to murder prevails – but only as command prior to a deed, not as judgement after the act has been committed. It doesn't mean a surrender to violence, as was the case of Jewish communities that didn't defend themselves against pogroms. "Killing of a criminal can be moral (*sittlich*)—never its legitimation", Benjamin writes in "Einbahnstrasse (One-Way Street)". His argument is that while the deed (to kill a criminal) can on occasion be justified, the justification is always exigent on the situation; it is impossible to formulate a rule. He also suggests that the divine injunction to refrain from killing does not imply foregoing the necessity of resistance.

In his final three sentences, Benjamin calls reprehensible all law-making forces as *schaltend* (shifting), law-keeping force as *verwaltet* (administered); only divine force is called *waltend*. This may appear in 'true war', or in the godly trial of the multitude against the villain. It sounds like a final political tribunal: **WALTER BENJAMIN**, the youngest force.

"About the concept of 'multitude' and the relationship of 'crowd' (*menge*) and 'mass' (*masse*)".

- Walter Benjamin, "Central Park" (*Gesammelte Schriften* 1.2, p. 686)

Encore

It's irritating that while Agamben bases his whole work on his interpretation of the Shoah, the other contemporary Italian philosopher who influences contemporary global political discourse, Antonio Negri, seems not to pay any attention to it at all. While Agamben draws on the dreadful consequences of bio-politics, Negri bases all his hopes on them. Both thinkers form a Janus-like head, a manic-depressive philosophy of liberation that Derrida would have referred to as different phases of political *Trauerarbeit* ('labour of mourning'). While Negri/Hardt set the constitutive forces prior to the constituted forces, Agamben insists on the Schmittian paradox of power. Now, after having argued pro-Benjamin contra-Derrida and pro-Derrida contra-Agamben, let's not continue pro-Agamben contra-Negri, but instead look for a common ground. This ground has been prepared by Benjamin. The Italian language provides us with an understanding of his politics: *potenza*. It translates as 'power', but also encompasses 'potentiality', the possible.

The strongest argument against any politics of 'bare acts' that tend to end in barbarian acts could be condensed to an affirmation of 'means without ends', as constituting moments of a state of being located *vis-à-vis* (in)decisiveness, poised between action and mere potentiality; a gesture, a remaining rest which does not realise itself in any act.

This is our only hope. The only hope that 'another world is possible' is based on our recognition of the fact that peace is possible, because peace embodies possibility. Peace is Possible = Peace as the Possible = the Possible as Peace. What is common to all these fragments of *potenza* is the possible: the –ability, communicability: the *Mittelbarkeit*. It is possible only within a multitude.

We are also ghosts – millions of them. Our struggle shouldn't be based on life or death, but on Benjamin's idea of *Glück*, meaning 'luck' and also implying the pursuit of happiness. This shall be the direction for a new world politics, Benjamin said at the end of his last text, his testament, whose method might be called 'nihilism'. The force that brings about change works in two ways: it never goes directly towards salvation – towards 'God's Empire' – but like recoil also works the other way – towards profane joy. This might be the direction for a radical secular *jihad*, the oldest hedonist imperative and most trite advertisement: 'Enjoy your Life!' Against any politics of sacrifice, situate a politics of joy: **Lucky strike!**

Remember that peace is a twofold word, pointing not only to the opposite of war, but also to an idea of eternity: 'eternal peace'. Get ready, it can happen any second – but by *pure means only*.

NOTES

1. Derrida, Jacques. "Force de Loi : Le 'Fondement Mystique de l'Autorite' (Deconstruction and the Possibility of Justice)". In *The Cardozo Law Review* 11 (1990).
2. Werner Hamacher, "Affirmativ, Strike", in *Cardozo Law Review* 13, p. 1133-1158 (1991); Sam Weber, "In the Name of Law", in *Cardozo Law Review* 11, pp. 1515-1535 (1990); and Burkhardt Lindner, "Derrida. Benjamin. Holocaust: Zur Dekonstruktion der 'Kritik der Gewalt'", in (eds.) Garber, Klaus, and Ludger Rehm: *Global Benjamin* 3, pp. 1691-1723 (1999). These scholars have argued this rash conclusion supplementing Derrida's reading of Benjamin's text.
3. Just compare the picture of the collapsing Twin Towers with the last shot of the film *Fight Club*: in one immense blow all the skyscrapers fall, to end global debt. Indeed, in a fragment Benjamin also paid attention to the demonic double meaning of the German word *Schuld* (guilt) and *Schulden* (debts) to interpret the *Verschuldung* (indebtedness) as the ground of capitalism as religion which waits for God's wrath to destroy it.
4. At a meeting with Gianni Vattimo and others in Capri in 1994. In a lengthy interview that Derrida gave to Giovanna Borradori in New York shortly after the attacks, he uses the term "auto-immunisations, real and symbolical suicides" to describe the event. In *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida* (University of Chicago Press, 2003, Chicago).
5. German and French newspapers titled the initiative of the former arch-enemies Jürgen Habermas and Jacques Derrida for a united foreign policy shortly before the attack on Iraq: "Our Renewal. After the War: The Rebirth of Europa" (*Liberation* and *Frankfurter Allgemeine Zeitung*, 30 May/1 June 2003). It's the rebirth as 'peace-power': EUROPAX. The philosophers have only anticipated what the politicians are preparing: A united representation and a united army. Anyone who asked what a Habermasian 'constitutional patriotism' would look like on a European scale knows the simple answer by now: the commitment to a new arms race. Taking this into account, Benjamin's resolve against militarism in his "critique of violence" acquires a new sense of urgency.
6. The term 'Musselmann' refers to a word in concentration camp slang for the inmates who had 'submitted' to the regime of the camp, had lost all will, and were the most likely to accept death or whatever fate was meted out to them. The term 'Musselmann' here is seen as the Arabic gloss of the word *Muslim* (from *aslama/islam*), as denoting 'one who submits'. Primo Levi in *If This Be a Man: Survival in Auschwitz* (Abacus, 1991) and Robert J. Lifton in *Nazi Doctors: Medical Killing and the Psychology of Genocide* (Basic Books, 2000) refer to the usage of 'Musselmann' in camp slang.

7. This text is an intervention in the political discourse of global activism. The first such text of this sort was written as a critical commentary to the film *The Fourth World War*, shown during the Next5Minute4-Conference on tactical media. See also "Zum Zeitvertreib zwischen Krieg und Frieden". In A.K. et al; *Zum Zeitvertreib*, Bielefeld, 2005.

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