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GERMANY AFTER THE TOTALITARIANISMS
PART I

Introduction

With the collapse of the Soviet Union and the end of the Cold War, a widespread rethinking of political history and social theory commenced. Questions long frozen in the glacial stand-off between East and West began to thaw out, and the ideological mythologies of the twentieth century were subjected to new scrutiny. Why had the century of modernity been so centrally catastrophic? What was the nature of the worst offenders, the totalitarian regimes—especially in Germany, Italy, and Russia—that had generated so much violence? How could intellectuals and public opinion alike have facilely regarded Nazi Germany and fascist Italy as nearly identical formations (when they displayed so many differences)? And how could Stalinist Russia have been hailed as a positive alternative to Nazi Germany (when they displayed so many similarities)? With the disappearance of the Soviet Union, these interrogations could be pursued without the agenda, baggage, and defensiveness of the previous historical era. The question of the totalitarian state could finally be posed with the advantage of historical distance.

This return to the totalitarian question took place, however, within the specific intellectual context of the post-Cold War, marked by its own postmodern rejection of grand historical narratives and models of revolutionary innovation: while this late twentieth-century turn away from radical novelty did not necessarily imply conservatism, it certainly resonated with an underlying sense of caution and was, in any case, diametrically opposed to the enthusiastic aspirations and visions of the "new man" that had pervaded western thinking at the start of the century, on the right and the left. By the end of the century, utopias, of whatever flavor, had ceased to be compelling, in part because of the presumption that any utopian agenda would necessarily issue into compulsion and violence. Thus the end of Communism was read through postmodernity's ironic lenses.

Meanwhile, a second perspective also shaped the understanding of the end of an era. The failure of state socialism in Russia and Eastern Europe unfolded before the gaze of neo-liberalism, with its own interpretive framework and its deep suspicion of any state intrusion into the economy. While Communism was collapsing in its native country, the activist state was being rolled back in parts of Western Europe and the United States. By now, however, a decade and a half after the end of Communism in Europe, the neo-liberal fantasy of a world in which states are as small as possible may be running into its own limits. In Russia, when all is said and done, the strong state has not disappeared: this is the vexing question of the character of Putin's regime. In France, the efforts to liberalize the labor market

propaganda has found striking parallels in the stories told by the former Baathist regime in Iraq and in the continuing totalitarian narratives offered by radical Islamists and the terrorism that they inspire. Tragically, the concept of totalitarianism is again a category that describes ideas, movements, and regimes of contemporary history.

The Critique of Violence
*Or, The challenge to political theology of just wars and terrorism with a religious face**

Sigrid Weigel

I. The New World Order

The issue at the center of Giorgio Agamben's book *Homo Sacer: Sovereign Power and Bare Life* (1995), that of the relation of bare life to politics and the law, has, in the ten years since the book's appearance, been propelled so forcefully into the foreground by events on the world political stage that Agamben's central figure has taken on an uncanny actuality.[1] The images broadcast around the world of Guantánamo Bay appear like visualizations of the *homo sacer*, the definition of which is he who "may be killed and yet not sacrificed."[2] Even more so are the photographs from Abu Ghraib, in which the bodies of the prisoners seem like the resurrections of those living statues that Agamben compares with the *homo sacer*.[3] The Iraq policy of George W. Bush has provided a textbook example of Agamben's theory of the state of exception, which he develops from his reading of Carl Schmitt, and which describes the intimate relationship of sovereign power and bare life.[4] Indeed, Agamben has recently interpreted the American prison camp in the light of this thesis: the camp should be seen as "the 'Nomos' of the Modern," i.e., the *signum* of the new world order, for which he takes the extermination camps of the Nazis as the historical prototype.[5] His more recent statements, however, also reveal the

* Translated by Georgina Paul.

1. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford, CA: Stanford UP, 1998).
2. Ibid., p. 8.
3. Ibid., p. 99.
4. Ibid., p. 67.
5. Ibid., p. 166ff.

limits of this theoretical model, which, by extending Carl Schmitt's theory of sovereignty into the biopolitical sphere, has allowed Agamben to bring together geopolitics and biopolitics.[6] The limits of his theory become evident at the point where he describes "the new American world order" as a strategic "fusion of the two paradigms of the state of exception and the civil war"; he then concludes that "in this perspective, terrorism and the state ultimately form a single system with two faces, in which each of the elements not only serves to justify the actions of the other, but each even becomes indistinguishable from the other." If Agamben here—post-September 11 and the Iraq war—transposes what he describes in his book as the "symmetry . . . between the body of the sovereign and that of *homo sacer*" onto the relation between the state and terrorism, then not just the prisoners, but terrorism as well has taken the place of the *homo sacer* in his interpretation.[7]

What's especially problematic here is the claim that the state and terrorism become indistinguishable. This claim serves to focus our attention on a blind spot that is symptomatic of the intellectual discourse on September 11 and the Iraq war in general. Preoccupied by U.S. politics, the theoretical efforts toward generating a critique of violence or an application of political theology to contemporary events are, for the most part, blind to the new forms of terroristic violence and their analysis. It is obvious that these present a much more difficult challenge to the attempts to analyze the new world order. In this context the question posed in *Homo Sacer* concerning the relation between politics and bare life is a crucial one. It is a question that has, notably, taken on concrete form not only in the pictures of the prisoners but also in the figure of the suicide bomber, who has come more and more to occupy the scenes of international debate and military conflict. However, the suicide bomber who sacrifices his own life in the battle against the "enemy" or occupying forces and who defines himself as a martyr, or the terrorist who uses his own body as a weapon in order to destroy his opponent: this figure actually appears as the precise counter-image of the *homo sacer*. For while the latter represents bare life that may be killed but not sacrificed, the former embodies a life that sacrifices itself in order to kill.[8] Through this act, the life defines itself as more and other than bare life, since it posits itself as consecrated or sanctified, and is mediated by images that draw on the traditional iconography of passion and martyrdom. In this sense, the figure of the suicide bomber is not only a counter-image to the *homo sacer*; it also contradicts the close association of bare life and "sovereign power," which Agamben's "*nomos* of the modern" characterizes as the state of exception.

6. See Giorgio Agamben, "Der Gewahrsam: Ausnahmezustand als Weltordnung" ["The custody: The state of exception as world order"], *Frankfurter Allgemeine Zeitung*, April 19, 2003. See also Agamben, *The State of Exception*, trans. Kevin Attell (Chicago: Univ. of Chicago Press, 2005).

7. Agamben, *Homo sacer*, p. 102.

The figure of the martyr and terrorism with a religious face cannot, in my view, be grasped within the horizon of the theory of sovereignty, nor with the help of Schmitt's *Theory of the Partisan* [*Theorie des Partisanen*], although here Schmitt analyzes the tendency within twentieth-century history towards the dissolution of the rules for the conduct of war within the *jus publicum Europaeum,* which he identifies as the age of "contained wars." This ended when the conventional figure of the partisan, as the illegal complement to the army, had been substituted by the phenomena of "world-wide civil war" and the technologically equipped "industry-partisan," and when the concrete, declared enemy had been replaced by an absolute enemy. However, the *Theory of the Partisan*, published by this most prominent author of political theology in 1963, failed to take any account of religio-cultural issues and therefore cannot offer any assistance in the examination of the religious symbolism and cultural motivation of the current terrorist violence. Moreover, the question arises as to whether the political theology of the state of exception is necessarily blind to theological explanations of violence to the extent that these do not conform to the framework of sovereignty theory. This question points to the significance and place of religion(s) and to the relation between religious violence and state force in political theology. Since the martyr is a resurrection from the pre-secular age, there is also a question of secularization involved.

One might, vis-à-vis political theology in Schmitt's tradition, take the much-quoted formula from his *Concept of the Political*—"The enemy is our own question in material form" [*Der Feind ist unsere eigene Frage als Gestalt*]—and paraphrase it as follows: the figure of the suicide bomber is its own question in material form. In other words, the figure of the martyr embodies the very question that political theology has to address. Whether

8. For a more detailed examination of this constellation, see Sigrid Weigel, "The Martyr and the Sovereign: Scenes from a Contemporary Tragic Drama, Read through Walter Benjamin and Carl Schmitt," *CR: The New Centennial Review*, vol. 4, no. 3 (Winter 2004): 109–23.

it will prove to be also the enemy of political theology, i.e., to be epistemologically inimical to it, thus necessitating a completely different theoretical horizon, will be discussed in what follows. To this end, a number of Carl Schmitt's writings will be read in the light of current conflicts. And in conclusion, other contributions to the conceptualization of bare life in the context of political violence will be considered.

II. Schmitt's Sovereignty Theory and Secularization

What does Carl Schmitt's political theology have to offer in terms of the illumination of current conflicts? This question is of particular interest in the context of the present debate on the United States because on the one hand Carl Schmitt is being claimed by critics of American policy, while on the other it is assumed that Bush's closest advisors have been decisively shaped by the intellectual legacy of Leo Strauss and Carl Schmitt.[9] And in the latest development, Schmitt's *Großraumtheorie* (theory of greater space) has been invoked as a model for the projection of a European Empire.[10]

Insofar as the recent reception of Schmitt's works has reached beyond the strictly scholarly discussion of national and international law to touch upon his political theology, it is striking that it centers primarily on concepts addressed in two texts, both from the period before 1933: the concepts of sovereignty and the state of exception/emergency (*Ausnahmezustand*), from the small volume *Political Theology: Four Chapters on the Concept of Sovereignty* (1922); and Schmitt's friend-enemy theory, from the volume *The Concept of the Political* (1927; extended edition 1932). Yet, these concepts find nearly no echo in Schmitt's own publications after 1945. Whereas a certain continuity can be perceived in Schmitt's characteristic resentment, vis-à-vis concepts like the law, legality, the Jews, liberalism,

9. See Horst Bredekamp's reference, in an interview with Ulrich Raulff, to an "emphatically used and banalized Strauss": "For the third generation of Straussians, the issue is evidently to meet the metaphysically justified attacks of enemies on a level that in turn lies beyond the banality of, for example, the economic." In "Traumatisierung, Heroisierung und die Bildstrategien des Krieges: Ein Gespräch mit dem Kunsthistoriker Horst Bredekamp," interview by Ulrich Raulff, *Süddeutsche Zeitung*, April 7, 2003.

10. Carlo Masala, "Europa sollte ein Reich werden: Carl Schmitts Großraumtheorie könnte helfen, dem imperialen Universalismus der Vereinigten Staaten auf kluge Weise zu entkommen," ["Europe Should Become an Empire: Carl Schmitt's *Großraumtheorie* could help us cleverly to escape the imperial universalism of the United States"], *Frankfurter Allgemeine Zeitung*, October 10, 2004.

economics, and technology, he does not return after the Second World War to the specific relationship of the state of exception to the theory of sovereignty, i.e., the specific link with which his name has become most closely associated.[11]

It is notable that his most important work after 1945, *The* Nomos *of the Earth in the International Law of the* Jus Publicum Europaeum (1950), transposes the concepts of politics and sovereignty from the plane of national law to that of international law.[12] With this move, the conceptualization of sovereignty that still today counts as the pathos formula of the reception of Schmitt's writings—"Sovereign is he who decides on the exception"—has receded into the background. The focus of his 1950 work is European international law, the history of which is analyzed as an era of the successful "containment of wars," characterized by the overcoming of civil wars fueled by "confessional dogmatism" and by the transformation of the crusades, feuds, and "Holy wars" of the Middle Ages into wars between "equal sovereign states."[13] On the basis of the distinction between the *hostis* and the robber or criminal, introduced in Roman law, the enemy appears here as the opponent in war. The enemy, Schmitt argues, is no longer concerned with the evaluation of the enemy as *justus hostis* or *hostis injustus*, nor does it refer to any legitimization outside of politics. With the ideal of the sovereign state being embodied for Schmitt in the *Ancien Régime* and with France as the first consciously sovereign state, the *jus publicum Europaeum* is historically concerned with the inter-state wars within the European area in the eighteenth and nineteenth centuries, which are, as it were, complemented and completed through the colonization of non-European territories.[14]

The concept of the state of exception reappears only once, but at a significant and very interesting point in this book, namely, when Schmitt invokes it as an analogy to the legal institution of the *occupatio bellica*, that "complicated legal construction which steers a path through the two state sovereignties" in order to regulate the "military occupation of enemy

11. On the rejection of (political) economy in Schmitt's work, see Markus C. Kerber, "Antichrist oder Klassiker? Vom politischen Nutzen der andauernden Auseinandersetzung mit Carl Schmitt" ["Antichrist or Classic? On the Political Uses of the Continuing Debate on Carl Schmitt"] (unpublished manuscript).

12. Carl Schmitt, *The* Nomos *of the Earth in the International Law of the* Jus Publicum Europaeum, trans. G. L. Ulmen (New York: Telos Press, 2003).

13. Ibid., pp. 140–41, 157–58 (translation modified).

14. Ibid., pp. 126–27.

territory" without challenging the latter's continuing existence as a sovereign state.[15] Following from his discussion of the principles by which the *occupatio bellica* is legitimized, Schmitt speaks of a "curious elective affinity" between "the institution within international law of the militarily occupied territory and the state of siege or exception within the constitutional state."[16] The appearance of a metaphor—elective affinity—here is interesting enough since metaphors often signify an obscure or unsolved epistemological problem. In terms of the relationship between the state of exception as a concept from his 1922 theory of the state, and the occupation of enemy territory as defined in the context of international law in *The* Nomos *of the Earth* from 1950, this elective affinity, however, includes a decisive shift in the meaning of sovereignty. It is no longer he who decides on the exception who is sovereign. Rather: the occupier, or he who has claimed victory, is sovereign!

The question now arises as to what this elective affinity might mean for the role of secularization in Schmitt's political theology. If all of the concepts of the modern theory of the state are secularized theological concepts, as the second emblematic formula of his political theology puts it, then what role does secularization play in the *jus publicum Europaeum*? Schmitt's *Nomos* study, in which the history of secularization appears in the figures of overcoming and *Aufhebung*, gives an emphatic answer: "The new European international law began with Gentili's entreaty that theologians should remain silent with respect to the question of just war: *Silete Theologi in munere alieno!*"[17] And indeed, the more absolute version, the abbreviated "*Silete Theologi!*" runs throughout Schmitt's late work like a leitmotiv. The silencing of theology thus marks the beginning and the foundation of a political theology of modernity projected into space and historical time. Schmitt has consequently imposed this exhortation upon his own thinking. Thus, his *Theory of the Partisan* (1963), to which he gave the subtitle *Incidental Remarks on the Concept of the Political* [*Zwischenbemerkung zum Begriff des Politischen*], also adheres to the command. Therefore, by maintaining a strict silence vis-à-vis theology, Schmitt's concept of the political fails to take account of the question of the continuing life of religion(s) in a world of secularized concepts. The question of whether and how the theological legacy continues to have an

15. Ibid., p. 207 (translation modified).
16. Ibid., p. 209 (translation modified).
17. Ibid., p. 126.

effect in those "secularized theological concepts," and of whether and what traces of religious violence are operating within them is obscured. The absence of this question demonstrates that Schmitt is to be regarded as a representative of secularization, rather than as someone describing or analyzing phenomena of secularization. Indeed, he is a representative of that type of secularization that traces the genealogy of modernity from the earlier Christian tradition, until it ends in the *Aufhebung* of Christian concepts in secular terms. The result, however, is in effect a—more or less—unacknowledged theological charging of these terms. In this respect, political theology in Schmitt's sense amounts in the end to a theologization of the political.[18]

This explains why Schmitt reacted so polemically, if not with downright irritation, to Hans Blumenberg's *The Legitimacy of the Modern Age* (1966), which criticizes the concept of secularization as the last *theologomenum*.[19] It also suggests why he placed his counterargument—only—in the afterword to his *Political Theology II* [*Politische Theologie II*], published in 1970.[20] The subtitle of this work, *The Legend of the Demolition of Political Theology*, clearly signals Schmitt's intention to disprove this legend and to rescue or reinstate the claims of political theology. In the main part of this work, this intention is then enacted in the manner of a polemical philosophical treatise in which Schmitt debates Erik Peterson's "Monotheism as a Political Problem," a work published in 1935, i.e., three and a half decades before, as if it had only just appeared. Having concluded his critique of Peterson's arguments with a reference to the clarification of the "great Hobbes question" in his own work, the *Political Theology* of 1922, he turns in the afterword to confront another form of the demolition of political theology, which he evidently feels Blumenberg's book to have been.[21] Schmitt here concludes his argument with seven theses that present a picture of an utterly "de-theologized, modern-scientific demolition of all political theology," and he calls this picture the counter-image of

18. Raphael Gross comes to the same conclusion in *Carl Schmitt und die Juden* [*Carl Schmitt and the Jews*], (Frankfurt am Main: Suhrkamp, 2000), p. 167. Gross speaks of the fact that "Schmitt takes an *atheistic* political-theological tradition to its extreme." Ibid., p. 170.

19. Hans Blumenberg, *The Legitimacy of the Modern Age*, trans. Robert M. Wallace (Cambridge, MA: MIT Press, 1983).

20. Carl Schmitt, *Politische Theologie II: die Legende von der Erledigung jeder Politischen Theologie* (Berlin: Duncker & Humblot, 1970).

21. Ibid., pp. 109–10.

his own position, something that had become clearer to him through his reading of Blumenberg. His theses are like a caricature of a world purified of every connection to or mention of secularization, i.e., of a modernity utterly without genealogy. For example: "The Process-Progress produces not only itself and the New Man, but also the conditions of possibility for its own renewal of the New"; or "The New Man is aggressively committed to continual progress and the continual setting-up of new positions."[22] In other words, when every reference to theological origins becomes discredited, then the historical phenomena of the new can only be explained as generating themselves. In this sense, Schmitt's polemic reveals a problem inherent in Blumenberg's critique: the fact that, however carefully and differentiatedly one criticizes the concept and the rhetoric of secularization, one cannot do without reference to the paradigm of secularization.

This afterword, in which Schmitt reiterates central theses of his earlier theory, this time "within the horizon of the problem in its current situation," makes his own dilemma legible as well: it is the dilemma of a political theology under the sign of a self-imposed silence vis-à-vis theology.[23] It seems that where Schmitt finds himself explicitly confronted with the epistemological role of secularization, he can only formulate his own position as a counter-image to the discredited caricature, though not in a positive form. One of the central theses of *The* Nomos *of the Earth*, which he reiterates here, proposes that the state within the *jus publicum Europaeum* had attained the "hitherto greatest rational 'advance' of human history in the doctrine of war in relation to international law," namely the "differentiation between the enemy and the criminal."[24] In situating this advance on a threshold between epochs characterized by the clarion call of *Silete Theologi!* Schmitt finds himself faced with the following question: "The consideration of the fate of the concept of the enemy in a thoroughly de-theologized and now only human new world becomes for us unavoidable."[25] The afterword of *Political Theology II*, where Schmitt explicitly addresses the concept of secularization, is the very place in his work where the effects of secularization for political theology come to a head: "the concept of the enemy in a thoroughly de-theologized" world. The only answer in his own writings is the figure of the partisan. Where this figure

22. Ibid., pp. 125, 126.
23. Ibid., p. 109.
24. Ibid., pp. 110–11.
25. Ibid., p. 119.

"in a thoroughly de-theologized world" has in recent interpretations of the book been theologized again, the result is a theologization of Schmitt's writing—which sometimes tends to situate his own texts in the position of a "holy" text. But it has nothing to do with an analysis of the historical phenomena of interplays between religion and terrorism, which must be confronted in current policy.

III. The Return of Just War in the New Nomos *of the Earth*

Political Theology II marks Schmitt's attempt to actualize and rescue political theology or, in more general terms, an understanding of secularization, which takes as its starting point an overcoming and an *Aufhebung* of religious meanings in the secular concepts of the modern age. But this attempt is challenged by the reappearance or return within modernity of figures from pre-modern, pre-secular contexts. In terms of Schmitt's own writings, this applies to the *topos* of the "just war." It should be clear that this constellation is of particular relevance for today's situation, since the terminology of "rogue states," just as much as the images of the enemy in the propaganda of the other side, negates the distinction between criminal and *hostis*.

The reappearance of the figure of "just war" plays a significant role in the final chapter of *The* Nomos *of the Earth*. Here Schmitt discusses the dissolution of the *jus publicum Europaeum* and the question of a "new *nomos* of the earth." If the rhetoric of just war in the twentieth century is not simply to be regarded as a regression to a state prior to the *jus publicum Europaeum*, then another interpretation must be developed for it. On the manifest level of Schmitt's text, this is derived from America's role, in so far as the new spatial order laid claim to by the Monroe doctrine—"America for the Americans!"—marked an end of the spatial order of the *jus publicum Europaeum*. However, this book, published in 1950, is obviously influenced by impressions from the recent events of that period. These are expressed above all in his metaphorical language, for example in the images used to describe America.

The place of the United States and its role at the end of the *jus publicum Europaeum* is, for example, introduced at the beginning of this chapter with a poetic image: "The first long shadow that fell upon the *jus publicum Europaeum* came from the West."[26] It is not until sixty-two pages later

26. Schmitt, Nomos *of the Earth*, p. 227.

that the assessment of this image follows: "After this new *line* was drawn, what was the status of the Western Hemisphere from the standpoint of the European order of international law? It was completely extraordinary, even *predestined* [*Auserwähltes*]."[27]

If the breach of the *jus publicum Europaeum* through the decision of another sovereign power external to it—a kind of state of exception on the level of international law—evokes in Schmitt the image of chosen-ness, then his rhetoric here oversteps his self-imposed, consistently secular interpretive framework. Yet this occurs without any reflection upon the theoretical consequences. And further: "It would be, at any rate for an extremely logical position, an understatement to say that America was an asylum of justice and proficiency. The true sense of this line of chosen-ness is to be found, rather, in the fact that the conditions did not exist until they were given on American soil, which allow reasonable attitudes and 'habits,' justice, and peace, to attain the status of normality."[28] Formulated shortly after the end of the Third Reich and the Second World War, the anti-Semitic connotations of this passage cannot be overlooked. It is not my intention with this observation to raise once more the issue of Schmitt's anti-Semitism, though. The debate around this question has been sufficiently answered in Raphael Gross's substantial study. Rather, the issue is the rhetorical and epistemological role taken on here by the *topos* of "chosen-ness." Standing in for the Jews, the *topos* seals Schmitt's own theory off from an interrogation of religious interpretive frameworks, and as such is a symptom for the lack of reflection on religious traces in Christian secularization. Thus, metaphors from a religious tradition might be considered as the unconscious of political theology.

The dissolution of the European order of war—and with it the theoretical analogy between the friend-enemy constellation in Schmitt's concept of the political and the *jus publicum Europaeum*—is discussed in the final chapter of *The* Nomos *of the Earth*, primarily in relation to the debates on "war crimes" in the aftermath of the First and Second World Wars. Significant for Schmitt in the dissolution of the old order is, above all, the adoption of categories of crime into the discourse of international law. The end of the amnesty rule after declarations of peace, the "discrimination against the vanquished," and the "criminalization of aggressive war" lead him to express "the dilemma between a juridical and a political type of thinking."[29] From the Treaty of Versailles of 1919 to the Hague and Geneva Conventions to the London Agreement of 1945, he traces a line that ends in the fall of Europe: "For a moment, in the London Statute of August 8, 1945, East and West finally came together and agreed. Criminalization now took its course."[30]

27. Ibid., p. 289 (my emphasis). [The point is that, in describing America as "auserwählt," Schmitt's image invokes the German term for the Chosen People, *das Auserwählte Volk*.—Trans.]
28. Ibid. (translation modified).

The study concludes with a consideration of the "problem of just war." Here too the relationship between America and Europe, particularly America and Germany, plays an important role. However, already earlier, in the second chapter on the history of discoveries, which deals with the historical development of "contained war," there is a short passage that sets out its opposite, but not in the dominant narrative perspective of this chapter, i.e., a pre-history that has been overcome. Instead there occurs a sudden and unexpected intrusion of the present—albeit without explicit mention of Hitler or the Allies: "The present-day theory of just war, by contrast, is striving for the discrimination of the opponent who conducts war unjustly." In terms of the discussions about a new world order, it is entirely relevant that the *topos* of the just war arose in the twentieth century in the fight against Hitler, not least because the position of the United States as an imperial, sovereign power—beyond the conventions of the United Nations—is historically derived from it. And in this context, Germany is already always allocated an involuntary role in the present scenario: as the occasion for the legitimization of a state of exception in international law.

Yet Germany is not named here, neither at this juncture in Schmitt's argument nor in the section called "War with Modern Means of Destruction" [*Der Krieg der modernen Vernichtungsmittel*] at the end of his study, where Schmitt considers two phenomena that mark for him the culmination of the dissolution of the *jus publicum Europaeum*. The first is the essentially technological phenomenon of modern air war, which brings to an end the old spatial order of land war and sea war, ushering in a "disorientation" and demonstrating "the purely destructive character of modern air war."[31] The second is the problem of just war, in which the stronger party declares the enemy to be a criminal, in this way justifying

29. Ibid., pp. 262, 278.
30. Ibid., p. 280.
31. Ibid., p. 320.

the deployment of such means of destruction. At this point, too, the rhetoric displays what the argumentation conceals:

> Bombing pilots use their weapons against the population of an enemy country as vertically as *St. George used his lance against the dragon.* Given the fact that war has been transformed into a police action against troublemakers, criminals, and pests, justification of the methods of this "police bombing" must be intensified. Thus, one is compelled to push the discrimination of the opponent into the abyss. Only in one respect can the medieval doctrine of just war have any direct application today.[32]

This rhetoric could be explained in terms of a specific prejudice on the part of officials of the National Socialist state after 1945. This would mean that, in the thematization of a modern state of exception in international law, the Allies are associated with a medieval interpretive framework, consisting of the Christian iconography of the dragon slayer and the actualization of the *topos* of just war. At the same time, the slip of the tongue in the metaphor of the "pests" (*Schädlinge*) points towards that concealed, other war that actually was conducted with modern means of destruction by Hitler's Germany against the Jews. Concerning the term *Vernichtung* in Schmitt's discussion of the war of modern means of destruction, the air war obviously functions as a cover narrative for the destruction of the Jews.

Giorgio Agamben's emphasis on the camps touches upon a significant lacuna in political theology. However, if his book claims to be an account of a new world order, then crucial constellations relevant to this account have been left out, above all the dialectics of fundamentalism and secularization. In the context of an argument involving sovereignty theory, *Homo Sacer* also inherits the latter's theoretical limitations. With respect to the analysis of the current constellations of conflict, the theoretical limitations of political theology are more far-reaching than the prejudices of the founding father of its discourse.

IV. The Limitations of Political Theology: On the Critique of Violence

The failure of political theology vis-à-vis present phenomena applies in particular to the appearance of new actors upon the scenes of conflict and war, where international law, civil war, and religious war coincide. It

32. Ibid., 321 (my emphasis).

applies to the *topos* of just or even Holy War, to which both sides are laying claim. And it applies to the overlapping of the discourses of religion and criminalization in the images that both sides are producing of the enemy, as well as to the legitimization of action through recourse to universal concepts such as freedom, justice, human dignity, or human rights.

Carl Schmitt's concept of the political fails to recognize the continued operation of religious traditions and the phenomena of a re-theologization because he interprets the *topos* of just war only in terms of criminalization. Thus we gain a clear insight into the ways in which secularized concepts are able to immunize themselves against religio-cultural connections. This even applies to the figure of the martyr. The figure makes a brief appearance at the end of *Political Theology II*, but only as a transitional figure between the church and the state, in which the secularization of charisma appears as a form of transformation. The prototype for this is Tertullian, of whom it is said that he held to the charisma of the martyr and resisted the total transformation into the charisma of office.[33] Only at the end of *Political Theology II*, the unsolved problems of secularization become legible, particularly because the text remains caught in indecision, oscillating between images and counter-images, quotations and counter-quotations. For example, Schmitt on the one hand refutes the theological notion of the double being of mankind, but on the other reintroduces it with a question about "what is spiritual and what is worldly and what is at stake with the *res mixtae*, of which after all the entire earthly existence of this spiritual-worldly, spiritual-temporal double-being Man consists, in the interval between the coming and the second coming of the Lord."[34] This, says Schmitt, is the "great Thomas-Hobbes-question" of his *Political Theology* of 1922—a motif, in fact, not investigated there at all.

It is precisely this double reference in the conceptualization of the human being that forms a kind of leitmotiv in the writings of Walter Benjamin. In many of his works, he discusses concepts that have their roots in a religious order and which have entered into legal discourse or aesthetics, where aspects of religious force or their origin in a divine order continue to operate.[35] For example, this is apparent in the relationship between "bare life" and the concept of the human, as Benjamin describes it in the essay

33. See Schmitt, *Politische Theologie II*, p. 81.
34. Ibid., pp. 83, 84.
35. See Weigel, "The Martyr and the Sovereign."

"Critique of Violence" (1921).[36] Although Agamben derives his question concerning the "principle of the sacred character of life" from this essay, his approach to its origin and embodiment in the *homo sacer* takes a direction opposite that of Benjamin's concerns.[37] Benjamin argues—both here and in other texts, such as the essays on Franz Kafka, Karl Kraus, and Goethe's *Wahlverwandtschaften*—against the use of secularized concepts that are derived from biblical contexts or a divine order and then seamlessly transferred into forms of human practice.[38] This is particularly problematic in his view where the inescapable differences between the two systems of meaning are lost in the transfer. In the context of his essay, which is concerned with the discourse of revolutionary violence and the "revolutionary killing of the oppressor," Benjamin criticizes two types of absolute condemnation of the violent killing of one person by another: (1) a condemnation that is based on the commandment "thou shalt not kill," i.e., a Judeo-Christian justification; and (2) a condemnation made with reference to a "more distant theorem," the principle of the sanctity of life, i.e., a mythical justification.[39]

In the first case, Benjamin emphasizes the non-synchronicity between, on the one hand, the language of the commandment and, on the other, the criteria for judgment or the condemnation of persons by other persons, since the figure of the commandment refers to the agent or perpetrator, not the judgment. The commandment "exists not as a criterion of judgment, but as a guideline for the actions of persons or communities who have to wrestle with it in solitude and, *in terrific cases* [*in ungeheuren Fällen*], to take on themselves the responsibility of ignoring it."[40] Although the formulation "in ungeheuren Fällen" evokes an association with the "state of exception," what is at stake here is not a *state* of exception as an act of sovereignty, but an exceptional decision concerning the responsibility for

36. Walter Benjamin, "Critique of Violence," in *One-Way Street and Other Writings*, trans. Edmund Jephcott and Kingsley Shorter (London: Verso, 1985), pp. 132–54.

37. Agamben, *Homo Sacer*, p. 66.

38. Sigrid Weigel, "Walter Benjamin's Star of Hope. The Dialectics of Human and Divine Order in Goethe's *Wahlverwandtschaften*," in *Walter Benjamin and Romanticism*, ed. Beatrice Hanssen and Andrew Benjamin (New York: Continuum, 2002), pp. 197–207; and Weigel, "Eros and Language. Benjamin's Kraus Essay," in *Benjamin's Ghosts: Interventions in Contemporary Theory and Cultural Theory*, ed. Gerhard Richter (Stanford, CA: Stanford UP, 2002), pp. 278–95.

39. Benjamin, "Critique of Violence," p. 152.

40. Ibid., p. 152 (my emphasis).

ignoring the commandment—whereby the agent *remains subject to the commandment*, since this precedes law. With regard to the theory of exception, this means that Benjamin's "Critique of Violence" presents a case of an exceptional decision that does not change the divine law but through which the subject claims a godlike violence. And divine violence claimed by men is what he calls pure violence. Nearly twenty years later, after he had experienced a *concrete* political state of exception, i.e., the Nazi regime, he tried to differentiate, in "On the Concept of History," between this permanent state of exception and the "actual state of exception" (*wirklichen Ausnahmezustand*), which is a provisional circumscription of something else not precisely to be defined. However, within the context of his discourse on the critique of violence, where he was still occupied with analyzing revolutionary policy, Benjamin describes the act of killing as an exceptional decision "in terrific cases" and as a manifestation of pure violence, which—beyond all justification—as it were enters into proximity with divine violence. It does so because, by setting aside law, it lays the foundation for "a new historical epoch."[41] In this sense, Benjamin makes visible once again the claim to a divine violence that lies concealed in the revolutionary decision on the exception, i.e., pure violence as an adoption of divine violence into a human or worldly order.

In the second case, the "doctrine of the sanctity of life," Benjamin refutes the claim that bare life is higher than "the happiness and justice of existence," a claim that considers or declares creaturely, natural life, or its irreducible corporeal condition, to be sacred. He writes: "Man cannot, at any price, be said to coincide with the mere life in him . . . not even with the uniqueness of his bodily person."[42] For the notion that the human being is sacred cannot at all be derived from the natural life of a person, but only from his participation in a supranatural order. If life means the irreducible total condition of man in inverted commas, i.e., the concept "man," then "life" belongs to those words whose double meaning can be discerned from their relation to two different spheres. This means something quite different from the double-being in the mind-body paradigm. What is at issue, rather, is that the term originates in a double reference, i.e., the fact that the concept of a person that points beyond the purely creaturely is always indebted to the notion of a supranatural order. Taken to its logical conclusion, this means that every call made on inalienable rights or even

41. Ibid., p. 153.

42. Ibid.

on justice—even one made with entirely secular intent—is, in the final analysis, founded in a doctrine of the divine. It is only the loss of the saint that could produce the doctrine of the sacredness of life, according to Benjamin, who thus examines this doctrine as an effect of secularization and criticizes it as a retrospective transferal of lost moments of the sacred into natural law. "For blood is the symbol of mere life."[43] This primarily means that blood is a symbol for nothing else. It takes on a sacred significance only when it is subjected to cultic or theological interpretive frameworks. It is on this basis that Benjamin asserts that the doctrine of the sacredness of life is "the last mistaken attempt of the weakened Western tradition to seek the saint it has lost in cosmological impenetrability." And further: "Finally, this idea of man's sacredness gives grounds for reflection that what is here pronounced sacred was according to ancient mythical thought the marked bearer of guilt: bare life."[44] "Bare life" refers to a notion that is situated outside the sphere of law. "For with mere life the rule of law over the living ceases. Mythical violence is bloody power over mere life for its own sake, divine violence pure power over all life for the sake of the living. *The first demands sacrifice, the second receives it.*"[45] This difference is one of the most important arguments of a critique of violence, from which it follows that those who demand sacrifices act within a mythical order, i.e., bloody power *over* mere life, and those who claim to receive sacrifices take up a godlike position.

Here Benjamin points towards two concepts of sacrifice that have today reentered the sphere that is supposed to be regulated by international law. Where, in the scenes of today's conflicts, killing, sacrifice, and the sanctification of bare life take place with relentless regularity in the name of a just war, our reading of Benjamin allows us to describe these as a form of violence in which mythical and religious motivations are intermingled. I do not claim that Benjamin's "Critique of Violence" can explain the current situation in its entirety. But it is capable of penetrating a sphere against which political theology, with the assistance of secularized theological concepts, has sealed itself off.

43. Ibid., p. 151.
44. Ibid., p. 153 (translation modified).
45. Ibid., p. 151 (translation modified, my emphasis).

*Heidegger's Two Totalitarianisms**

Hans Ulrich Gumbrecht

In light of the detailed biographical studies of the past two decades, Martin Heidegger's active pursuit of ideological proximity to the National Socialist state should no longer elicit astonishment or intellectual revulsion. The language of facts speaks too clearly to allow room for euphemism, but too clearly as well on the other side to support demonizing speculations about Heidegger's absolute ideological orthodoxy or even a hypothetical powerful political influence, as recently attempted again by the French philosopher Emannuel Faye. From the early 1930s and probably until the end of the war, Heidegger wanted to prove himself a good National Socialist and, in this specific sense, "a good German," but to his lasting disappointment, he was ignored by the powers-that-be and their institutions with a consistency that today seems nearly grotesque.

The first question that deserves our attention today is no longer a factual one; it was however already posed by Jacques Derrida in 1988 during one of his first seminars in Germany. It is the question as to whether Heidegger could have become one of the great thinkers of the past century without his proximity to National Socialism. Richard Rorty has long ago answered in the positive (and urging for closure in this debate) with a text that fantasizes "another world," in which Heidegger is married to a Jewish woman and has to leave Germany as a political refugee. But what would be the consequences if, at the end of the discussion and despite Rorty, the opinion were to win out that Heidegger's proximity to National Socialism was in fact a decisive condition for the importance of his philosophy? Such a result would surely not diminish Heidegger's intellectual impor-

* Translated by Russell A. Berman.