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The Sovereign, the Martyr and 'Just War' beyond the *Jus Publicum Europaeum*: the Dilemma of Political Theology, Discussed via Carl Schmitt and Walter Benjamin

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Since September 11, 2001, the scenes of war and terror enacted on the international stage have been accompanied by the return of images and topoi which one would have assumed had long since been consigned to rhetorical and iconographic history. The talk of 'holy' or 'just' war and of 'rogue states', the phenomenon of suicide bombers who conceive of themselves as martyrs, together with the controversies over international law, sovereignty and human rights, have motivated numerous attempts at interpretation which go beyond the discourse of political theory as more narrowly defined in their recourse to the explanatory frameworks of political theology and in their examination both of the role of religious traditions and of models drawn from artistic–political avant-garde movements. Discussion has focused above all in this context on Carl Schmitt and Leo Strauss, but also on surrealism (Clair 2001), the situationism of Guy Debord (see, for example, Weber 2004), and repeatedly on Walter Benjamin's essay 'Critique of Violence', the origin of one of the central concepts of current debate, that of 'mere' or 'bare life' (*bloßen Lebens*) (Benjamin 1985: 151).

Suicide bombers: a blind spot of political theology

The issue of the relation of 'mere' or 'bare' life to politics and the law which Giorgio Agamben addressed in his book *Homo Sacer. Sovereign Power and Bare Life* (1998), has been propelled forcefully into the forefront of debate by

events on the world political stage in the period since the book's appearance. Above all, it is the figure of the *homo sacer*, in whom the issue appears in condensed form, which has taken on an uncanny actuality. The images of Guantánamo which have been broadcast around the world appear as visualizations of the *homo sacer*, who is defined by the fact that he 'may be killed and yet not sacrificed' (1998: 8). This applies all the more to the photographs from Abu Ghraib, in which the bodies of the prisoners seem like the resurrections of those living statues with which Agamben compares the *homo sacer* (1998: 99). Moreover, the Iraq policy of George W. Bush has provided what could be described as a textbook example for Agamben's theory of the state of exception, developed out of his reading of Carl Schmitt, in which sovereign power and bare life are intimately related (1998: 67). 'The State of Exception as World Order' (*Ausnahmezustand als Weltordnung*) duly appears as the subtitle of a newspaper article in which Agamben interpreted Guantánamo as the *signum* of the new world order – with reference to his thesis that the prison camp should be seen as 'the *nomos* of the modern' (1998: 166ff.), of which the extermination camps of the Nazis were the historical prototype. In the same article, however, the limits of his theoretical model are revealed as he undertakes a biopolitical extension of Carl Schmitt's theory of sovereignty and in this way seeks to bring together geopolitics and biopolitics. For here Agamben describes 'the new American world order' as a strategic 'fusion of the two paradigms of the state of exception and the civil war' and concludes: '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' (2003: 33).[1] In this context, the 'symmetry [...] between the body of the sovereign and that of the *homo sacer*' (1998: 102), as posited in the theory of the *homo sacer*, is transposed – post-September 11 and the Iraq war – onto the relation between the state and terrorism, with the effect that in the present scenario not only has the prisoner moved into the place occupied by the *homo sacer*, but terrorism in general.

Problematic in the cited statement is not only the thesis that the state and terrorism have become indistinguishable, but also the fact that this equation remains underilluminated as far as the aspect of terrorism is concerned. If this argumentative move serves to identify the US as terrorist, the equation in turn of terrorism with a state system nevertheless is not further explained or clarified. This lack focuses our attention on a blind spot which is symptomatic for the discourse on September 11 and the Iraq war in general. Preoccupied by US politics, the theoretical efforts towards generating a critique of violence or extension of political theology adequate to contemporary events are for the most part blind to the new forms which terrorist violence is taking. It is obvious that these present a far more difficult challenge to those attempting to analyse the new world order.

Yet the question posed in *Homo Sacer* concerning the relation between bare life and politics is a crucial one. It is a question which has not only taken on concrete form in the images of 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. 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 armed body as a bomb: this as a martyr, or the terrorist who uses his own armed body as a bomb: this figure appears as the precise counter-image of the *homo sacer*. For while the figure appears as the precise counter-image of the *homo sacer*. For while the latter represents bare life which may be killed but not sacrificed, the suicide bomber embodies a life which sacrifices itself *in order to kill*. Through this act, the attacker defines his/her life as more and other than bare life, since this life presents itself as consecrated or sanctified and in images which draw on the traditional iconography of passion and martyrdom, circulated in the media via videos, brochures and placards. In this sense, the figure of the suicide bomber is not only a counter-image of the *homo sacer*; it also contradicts the close association of bare life and 'sovereign power' which characterizes Agamben's '*nomos* of the modern'. The central role of the suicide bomber and the new terrorism with a religious face therefore require an investigation which can move beyond the horizon of sovereignty theory.

That the current European debate is focused so strongly on Carl Schmitt and the concept of the state of exception coincides with the fact that the present critique of violence is concentrated above all on US policy. Not only is Schmitt being claimed for a critique of American politics, but it is also presumed that President Bush's closest advisors have been shaped by the intellectual legacy of Leo Strauss and Carl Schmitt.[2] Moreover, Schmitt has also been invoked in the construction of a new opposition between the USA and Europe, for example where his *Großraumtheorie* (theory of greater space) has been used as a model for the projection of a European empire (Masala 2004: 15).

The reading of the aeroplane attack on the Twin Towers as an existential threat to the American state, in other words as creating a state of exception, and the immediate declaration that America was at war, together with all subsequent proclamations and undertakings, might indeed very well be placed under the heading of Schmitt's motto: 'Sovereign is he who decides on the exception' (1985: 5). This definition of sovereignty marked, according to Carl Schmitt, the borderline concept and borderline case of the theory of the state, since the suspension of fundamental rights *within* the state's legal framework is regulated by it. The politics recently pursued by the US represents a borderline case to the extent that the politics of intervention combine measures to counter terrorist activity with forms of waging war which in the course of the twentieth century were integrated into the conceptual norm of international politics through international treaties (such as the Geneva Conventions). In the run-up to the Iraq war, it was primarily the attempt to transfer the exercise of sovereignty under the conditions of the state of

exception from the national, state level onto the international plane which triggered the conflicts between the United Nations and the US. Already in his books *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (1950) and the *Theory of the Partisan* (1963), Schmitt had diagnosed a trend within the wars and conflicts of the twentieth century towards overstepping the limits of normality. He analysed this trend as one towards the dissolution of the rules for the conduct of war within the *jus publicum Europaeum* (JPE), which, as long as it remained valid, ensured an era of the successful 'containment of wars' (*gehegte Kriege*). In this era, the figure of the partisan had its place as the illegal complement to the army, on the basis of the phenomena of 'worldwide civil war' and the technologically equipped 'industry-partisan' and the replacement of the concrete, declared enemy with an absolute enemy. Against the horizon of the new terrorism, Schmitt's *Theory of the Partisan* has also enjoyed a renaissance.[3] However, since this text failed to take any account of religio-cultural issues, it is of little assistance in the examination of the current phenomena of terrorism in which religious motives play such a significant role.

In this context, the question then arises whether the political theology of the state of exception is necessarily blind to violence legitimated on religious grounds to the extent that this has no basis as a manifestation of sovereignty. 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, this is also a question of secularization. One might, vis-à-vis political theology in the Schmittian tradition, take the much-quoted formula from his *Concept of the Political* – 'The enemy is our own question in material form' – and paraphrase as follows: the figure of the suicide bomber is its own question in material form. In other words, the figure of the martyr embodies that which political theology must pose to itself as a question. Whether 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.

Scenes from a modern tragic drama

Unlike partisans and resistance fighters who, in targeted action, operate in secret and without recognition in order to strike the militarily superior enemy at a strategically sensitive spot, the underground fighters of today prefer their actions to be played out in the full glare of the spotlight. In the scene of a theatre auditorium chosen by Chechen terrorists as the location for a hostage-taking in Moscow, the significance of spectacular dramatization for the current politics of suicide attacks was symbolically condensed: here the politics of violence became bloody theatre. In their combination of theatricality and violence, the television images of suicide attacks in Israel

and Chechnya, and of the wars in the former Yugoslavia, in Afghanistan and in Iraq have long since outstripped the theatre of cruelty. However, what radically separates terrorist politics from theatre is that the actions of the former do not just take place in front of a large audience; rather, the audience itself becomes a target. This is the reason for the controversy which flared up concerning the possible proximity between avant-gardes and terrorism after September 11, sparked by Jean Clair's statement that surrealism (for example, André Breton's fantasy of shooting into the crowd of passers-by) was to be seen as a precursor of terrorism (2001; cf. di Basi 2003: 34).

For me, viewing the images of the attacks, other associations come to mind. The bloody acts of public violence, staged by preference in densely populated areas, the presentation of the victims and their dismembered bodies, the dramatization of the suicide attackers as martyrs, and the ritual display of the wounded and dead of military revenge attacks, borne through the streets by the combatants, all contribute to the impression that on the present political stage, the theatre of the baroque has taken over the direction. Reversing Walter Benjamin's observation of the 'radical adaptation of the theatrical to the historical scene' in the seventeenth century, at a time when the name 'tragic drama' (*Trauerspiel*) came to apply equally to historical events and to a dramatic form (1977: 64, translation modified), it seems that today politics is adapting to the media-fed craving for theatrical images.

Yet the contemporaneity of Benjamin's book *The Origin of German Tragic Drama* (1927) goes beyond such associations of today's scenes of violence with the display of dismembered bodies in the dramaturgy of the baroque. For in this book, Benjamin investigates baroque theatre as the drama of tyrant and martyr. It is already on account of its central figures – the sovereign, the and martyr – and the scenes in which they play – frequently in tyrant and the martyr – and the scenes in which they play – frequently in locations in the Orient, as the dramas of eastern rulers – that a reading of this book so urgently recommends itself in the present situation. More significant still, though, is Benjamin's discussion of the tragic drama in terms of a dialectic of secularization. In view of the political power of religion which has in recent times so forcefully reasserted itself, it is not very helpful to distinguish, as Jürgen Habermas did in his 1980 Paulskirche speech, between a 'secularization which is elsewhere running off the rails' and a supposedly 'post-secular' Western common-sense culture – to differentiate, in other words, between a bad and a good form of secularization (1981). Far more useful for an understanding of the influential force of religion is for Europeans to look at the long neglected traces left by the history of religion in their own culture. A number of Benjamin's writings offer interpretative models which have been as yet relatively underexplored in this context. Notable among them is his reading of the baroque tragic drama as, among other things, the search for a worldly answer to religious concerns in a period for which, despite the unabated influence of Christianity, religion no longer held out any solutions nor offered the promise of redemption (1977: 79). It is, moreover, this

dialectic of history, religion and theatre that distinguishes Benjamin's conceptualization of sovereignty from Carl Schmitt's sovereignty theory. For Carl Schmitt's concept of the political is founded in an analogy, rather than a dialectic, between theological and national–legal concepts. These differences can be seen more clearly if the comparison between Benjamin's and Schmitt's concept of political theology is not only discussed in terms of their conceptualization of the state of exception, sovereignty and decision, as is usual in the Benjamin–Schmitt debate, but is undertaken with the aim of shedding new light on the issue of sovereignty via its respective counterpart in the two theories: in Schmitt, the partisan, and in Benjamin, the martyr.

The scope of Carl Schmitt's political theology

In so far 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 interest has lighted above all on two texts, both from the period before 1933: on the concepts of sovereignty and the state of exception from the small volume *Political Theology. Four Chapters on the Concept of Sovereignty* (1922) and on Schmitt's friend–enemy theory from the volume *The Concept of the Political* (first published 1927, extended edition 1932). Remarkably little continuity can be identified in terms of an echo of these central concepts of political theology in Schmitt's own writings *after* 1945. Some degree of continuity is to be perceived in Schmitt's characteristic reservations vis-à-vis the law and legality, the Jews, liberalism, the economy and technology. However, after the Second World War he does not return to the specific issue of the relation between the state of exception and the theory of sovereignty with which his name has become most closely associated.

It is notable that his weightiest work, *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. With this move, the conceptualization of sovereignty which still today counts as the pathos formula of Schmitt reception – 'Sovereign is he who decides on the exception' (1985: 5) – recedes into the background. The focus of the 1950 work is rather European international law, the history of which is analysed as an era of the successful 'containment of wars' (1997: 180) characterized by the following elements: the overcoming of civil wars fuelled by 'confessional dogmatism' (1997: 113, 128) and the transformation of the crusades, feuds and 'holy wars' of the Middle Ages into wars between 'equal sovereign states' (1997: 128). On the basis of the distinction, introduced in Roman law, between the *hostis* and the robber or criminal, the enemy appears in the JPE as the opponent in war. This conceptualization is no longer concerned with the evaluation of the enemy as *justus hostis* or *hostis injustus*, nor does it have recourse to any form of legitimization outside

of politics. With the ideal of the sovereign state being for Schmitt embodied in the *ancien régime* and with France as the first sovereign state with a judicial consciousness of itself (1997: 97), the JPE thus essentially refers to the historical interstate 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.

The concept of the state of exception reappears at a significant point in this work 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 territory' without challenging the latter's continuing existence as a sovereign state (1997: 180). Following on from his discussion of the principles whereby the *occupatio bellica* is legitimized, Schmitt speaks of a 'curious affinity' between 'the institution within international law of the militarily occupied territory and the state of siege or exception within the constitutional state' (1997: 182). In terms of the relationship between Schmitt's state of exception as a concept from his theory of the state of 1922 and the occupation of enemy territory as defined in international law in *The Nomos of the Earth* of 1950, this affinity includes a decisive shift in the meaning of sovereignty. It is no longer the one who decides on the exception who is sovereign. Instead it is the occupier or the one who is victorious who is sovereign!

The question here presents itself as to what this elective affinity might mean for the role of secularization in Schmitt's political theology. If all the concepts of the modern theory of the state are secularized theological concepts, as the second emblematic formula of his political theology has it, then how is secularization represented in the JPE? Schmitt's *Nomos* study, in which the history of secularization appears in the figures of overcoming and *Aufhebung*, provides an emphatic answer: 'At the inception of the new European international law we find a call from Albertus Gentilis, exhorting the theologians to be silent on the matter of just war: *silete theologi in munere alieno!*' (1997: 96). And indeed, the more absolute version, the abbreviated '*silete theologi!*', runs throughout Schmitt's late work like a leitmotif. The silencing of theology thus marks the beginning and the foundation of a political theology of modernity projected into space and historical time.

Schmitt imposed this exhortation upon his own thinking with complete consistency. Thus his *Theory of the Partisan* (1963), to which he gave the subtitle *A Commentary/Remark on the Concept of the Political*, also adheres to the command. What is striking about this text from today's perspective is above all the contemporary relevance of the category of the 'absolute enemy'. For the trend towards overstepping the limits of 'normal warfare' is here linked primarily to the transformation of the actual enemy into an absolute enemy, whereby war becomes absolute war. This is the situation with which we are in fact confronted today. On the side of the US this is manifest in the image

of the 'axis of evil' and the declaration that 'whoever is not for us is against us'. On the other side, too, a war is being fought against an absolute enemy, whether under the name of the West, of Israel or of globalization. Under these circumstances, two complementary political concepts have become completely invalidated. On the one hand, the concept of war as understood in international law in the European tradition loses its validity. This was the form of law whose emergence is described in *The Nomos of the Earth* as being bound to the 'overcoming' of older, pre-modern wars fought on religious grounds (1997: 111ff.), to the limitation of the enemy to a concrete opponent, an 'actual enemy', and the adherence to certain rules, such as the declaration of war, for example. In the *Theory of the Partisan*, Schmitt notes: 'A declaration of war is always a declaration of enmity' (2004: 60). On the other hand, the partisan also disappears, as the figure who fights an illegal battle against a militarily superior power, usually an army of occupation. For Schmitt, four criteria define the partisan: irregularity, increased mobility, intensity of political commitment, and the tellurian [i.e. earth-bound] character (2004: 14).

Admittedly, the concept already begins to fracture where the interests of a third party come into play, where partisans are supported, for example, by the supply of arms from outside – which is the case for almost all 'freedom fighters' in the Middle and Far East. The concept of the partisan comes up against its limit, according to Schmitt, in ideologically motivated struggle, and even more so in the 'professional revolutionary of the world-wide civil war' (2004: 66), embodied for him in the person of Lenin. 'The partisan has then a real, but not an absolute enemy ... Another boundary of enmity follows from the telluric character of the partisan. He defends a patch of earth to which he has an autochthonic relation. His basic position remains defensive, despite his increasing mobility' (2004: 65–6). Schmitt finally saw a further infringement of the concept of the partisan in the latter's potential adaptation to technology, in the emergence of a new type, 'let's call him the industrial partisan' (2004: 56). With the aircraft attacks of September 11, this has also become a reality, so that the present battles are indeed taking place beyond the conventional conceptual limits of war and partisanship.

It is also the case, however, that with the suicide attackers who dramatize themselves as martyrs and refer to themselves as God's warriors, a figure has emerged to take the place of the partisan of old which did not and could not appear within the horizon of Schmitt's argumentation. For the scenes of today's warfare are not just dominated by the technologically better equipped successors of armies and partisans, but by the sovereign and the martyr. That Schmitt could not envisage such a development can be explained by the fact that all references to the history of religion in his political theology have disappeared from the *Theory of the Partisan* – and with them, the possibility of considering the topos of 'holy war'. This is all the more remarkable for the fact that his *Political Theology* is above all identified with the much-quoted

dictum according to which all significant concepts of the modern theory of the state are secularized theological concepts (1985: 36).

The dilemma of political theology vis-à-vis secularization

Schmitt concretized his thesis of secularized theological concepts in the example of sovereignty, the concept of which, he maintained, had not fundamentally changed since the seventeenth century. The basis for this claim was that in the seventeenth-century theory of the state, the monarch is identified with God, while the state occupies a position exactly analogous to that attributed to God vis-à-vis the world in the Cartesian system (1985: 46). Out of this connection, a double limitation arises as far as the phenomena of secularization are concerned. Methodologically, Schmitt's thinking becomes tied to the figures of analogy and transfer between theology and the law, while thematically it becomes tied to the field of state theory. If the thesis of a conceptual transfer adheres to a relatively mechanistic notion of secularization, the consequence is that *after* a transfer of theological concepts into other registers has taken place, religious aspects within the latter can no longer enter the consideration. If the legitimacy of sovereignty has in the modern age been entirely subsumed into the law of the state, then paradoxically religion is excluded from this kind of political theology. It also shuts out the possibility of conceiving of relationships between politics and theology in a different way, other than in the figure of transference.

Because Schmitt's concept of the political – notably also in his commentary or remark on the concept of the political in the *Theory of the Partisan* – remains de facto subjected to the commandment *silete theologi!*, the question of whether and how the traces of religious violence continue to operate within those 'secularized theological concepts' is obscured. This means that Schmitt is to be regarded as a representative, rather than as an analyst of secularization. Indeed, he is a representative of that type of secularization which 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.[4]

This explains why Schmitt reacted so polemically, if not with downright irritation, to Hans Blumenberg's *Legitimacy of the Modern Age* (1983), which criticizes the concept of secularization as the last *theologomenum*. It also suggests why he – only – placed his counterargument in the afterword to his *Political Theology II*, published in 1970. 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. This intention is then enacted in the main part of the work in the manner of a polemical philosophical treatise in which Schmitt debates Erik Peterson's

Monotheism as a Political Problem, a work published three and a half decades before, in 1935, 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 (1996: 84), he turns in the afterword to confront another form of the demolition of political theology, which he evidently felt Blumenberg's book to have been. He concludes his argument with seven theses which present a picture of an utterly 'de-theologized, modern-scientific demolition of all political theology' and calls this the counter-image of his own position, something which had become clearer to him through his reading of Blumenberg. His theses are like a caricature of a world purified of every connection to 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' (1996: 97). What this shows is that, when every reference to theological origins becomes discredited, the historical phenomena of the new can only be explained as generating themselves. In this sense, Schmitt's polemic reveals a problem in Blumenberg's critique: the fact that, however carefully one criticizes both the concept and the rhetorics of secularization, one cannot do without reference to the paradigm of secularization. This afterword, in which Schmitt in 1970 reiterates central theses of his earlier theory, this time 'within the horizon of the problem in its current situation' (1996: 85), makes his own dilemma legible: it is the dilemma of a political theology under the sign of a self-imposed silence vis-à-vis theology. 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, not, though, in positive form.

One of the central theses of *The Nomos of the Earth* which he reiterates in this afterword proposes that the state within the JPE 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' (1997: 86). In situating this advance on a threshold between epochs characterized by the clarion call of *silete theologi!*, Schmitt finds himself faced with the following problem: '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' (1997: 92).

Schmitt's attempt to actualize and therefore to rescue political theology – or more generally, an understanding of secularization which proceeds from the overcoming and *Aufhebung* of religious meanings in secular concepts – is put to the test 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 have become 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 negate the distinction between criminal and *hostis*.

Beyond the *Jus Publicum Europaeum* – on the return of 'just war' in the 'new *nomos* of the earth'

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 JPE 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 JPE, then another interpretative model must be developed for it. On the manifest level of the text, this is derived from America's role, in that the new spatial order laid claim to by the Monroe doctrine – 'America for the Americans!' (1823) – marked an end of the spatial order of the JPE. However, in this text published in 1950, impressions from the most recent past patently impinge on Schmitt's considerations. These are expressed above all in his metaphorical language, for example in the images with which America is described.

The place of the United States and its role in the end of the JPE is, for instance, introduced at the beginning of this chapter in a poetic image: 'The first long shadow had fallen from the West on the *jus publicum Europaeum*' (1997: 200). It is not until 65 pages later that the assessment of this image follows: 'What, then, is the status in international law, according to this new *line*, of the Western hemisphere vis-à-vis a European order of international law? It is something quite extraordinary, something *chosen [Auserwähltes]*' (1997: 265, emphasis S.W.).[5]

If the breach of the JPE 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 interpretative frame. 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. (1997: 265)

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. The debate around this question has

been sufficiently answered in Raphael Gross's substantial study. Rather, what is at issue is the rhetorical role taken on here by the topos of 'chosenness'. Standing in for the Jews, the topos seals Schmitt's own theory off from an interrogation of religious interpretative frameworks, and as such is a symptom for the lack of reflection on religious traces within Christian secularization.

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 JPE – 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. The signal for 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 of the defeated', and the criminalization of aggressive war (1997: 235) lead to 'the dilemma between a juridical and a political way of thinking', according to Schmitt (1997: 253). From the Treaty of Versailles of 1919 via the Hague and Geneva conventions to the London Agreement of 1945 a line is traced which ends in the 'fall of Europe'. 'East and West met finally in the London Agreement of 8 August, 1945, in order for a moment to blend into one. Criminalization took its course' (1997: 255).

The study concludes with a consideration of the 'problem of just war'. Here, too, the relationship between America and Europe, and more so, America and Germany, plays an important role. Already in the book's second chapter, on the age of discoveries, which deals with the historical development of 'contained war', a short passage describing this concept is interrupted, not by an account of its opposite located in a prehistory which has been overcome, as one might expect, but in the form of a sudden intrusion of the present: 'The present-day theory of just war, by contrast, is striving for the discrimination of the opponent who conducts war unjustly' (1997: 292). Admittedly neither Hitler nor the Allies are mentioned explicitly here. However, in terms of the discussions about a new world order, it is entirely relevant that the topos of 'just war' arose in the twentieth century in the fight against Hitler and that the position of the United States as an imperial, sovereign power – beyond the conventions of the United Nations – is historically derived from the war against the Third Reich. In this sense, Germany is allocated an involuntary role in the present scenario: as the occasion for the legitimization of a state of exception in international law.

Just as Germany is not named at this juncture in Schmitt's argument, so it does not get a mention when, in the section called 'The war of the modern means of destruction' at the end of his study, Schmitt considers two phenomena which mark for him the culmination of the dissolution of the JPE. The first is the in essence technological phenomenon of modern air war. This brings to an end the old spatial order of territorial land war and maritime sea war, ushering in a 'deterritorialization' which demonstrates 'the

purely destructive character of modern air war' (1997: 298). The second is the problem of just war, in which the stronger party declares the enemy to be a criminal, in this way justifying the deployment of such means of destruction. At this point, too, the rhetoric displays what the argumentation conceals:

> The bomber or jet pilot uses his weapon against the population of the enemy country vertically, *as St. George used his lance against the dragon*. In that war today is being transformed into a police action against disturbers of the peace, criminals and pests, the justification of the methods of this 'police bombing' must also be intensified. So one is forced to drive the discrimination of the opponent to abysmal depths. Only in one respect can the medieval theses of just war possess immediate actuality even today. (1997: 299, emphasis S.W.)

This rhetoric could be explained in terms of a specific prejudice on the part of the functionaries 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 attributed with operating within a medieval interpretative 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' points towards that concealed, other war which was conducted with modern means of destruction by Hitler's Germany against the Jews.

And so we see that Giorgio Agamben's book touches upon a significant lacuna in political theology. If it is claiming to be an account of a new world order, however, then crucial constellations relevant to this claim have been left out, above all within the horizons of geopolitics and international law. In arguing within the horizon of sovereignty theory, *Homo Sacer* also inherits the latter's theoretical limitations. And in respect of 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, Carl Schmitt.

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 applies to war with a religious face; it applies to the figure of the suicide bomber terrorism with a religious face; it applies to the topos of just or even holy war, to which both sides or martyr; it applies to the topos of just or even holy war, to which both sides are laying claim. And it applies, too, to the overlayering of the discourses of religion and criminalization in the images both sides are making of the enemy, as well as the legitimization of action through recourse to universal concepts such as freedom, justice, human dignity or human rights.

It may be the case that Carl Schmitt's concept of the political fails to recognize the continued operation of religious traditions because he interprets

the topos of 'just war' only in terms of criminalization. But as a result 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 fast to the *charisma of the martyr* while resisting the total transformation of charisma into the charisma of office (1996: 81). Here, 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, when Schmitt on the one hand refutes the theological notion of the double nature of mankind (1996: 83), 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' (1996: 84). This, says Schmitt, is the 'great Hobbes question' of his *Political Theology* of 1922 – a question which disappears almost completely in the 'secularized theological concepts' of that book.

The reappearance of the martyr in the battle scenes of the present

The appearance of the suicide bomber as martyr can be seen as one of the phenomena most acutely relevant to the present moment in terms of the aforementioned problem of the *res mixtae*. For it confronts the present critique of violence with a figure through whom scenes of battle become defined as the switching-points between a human and a divine dramaturgy. At the same time, the new martyrs present a challenge to European or, more precisely, Western culture, because in them, the West encounters a ghost from its own Christian prehistory. The figure of the martyr belongs to the legacy which Islam took over from Christianity at its foundation in the seventh century. It remains a legacy of considerable cultural–historical significance, even where the direct inheritance is disputed.[6] Even if the meaning of *shahid* as martyr cannot be traced back directly to the Koran – unlike the commandment to fight *jehad* or holy war – the formation of the cult of the martyr is a part of the early history of Islam, since this cult is derived from the death of Husain, a grandson of the Prophet Muhammad, in the battle of Kerbala in the year 680 (see Kermani 2002). This event functions to this day as the object of ritual veneration, in particular among Shiites who, on Ashura, one of their most important holy days, mark the anniversary of Husain's death with flagellation processions and passion plays.

The martyr in Islam is markedly different from his Christian predecessor, however, in that he appears from the outset as a warrior, whether as one who fights for the 'true faith' and against the falsifications of the idea of the one God of which Muhammad accused the Christians and the Jews, or as one who fights for the establishment and dissemination of the teachings of the Prophet. The Christian martyr, by contrast, appears, at least in his origins, as a figure of suffering. Derived from the Greek *martyr* = witness, the Christian martyr traces his roots back to his role as a witness of Christ's Passion and sacrifice. The martyr is the witness of Christ's life, death and resurrection who holds to his faith even at the cost of persecution, torture and death. In this, his martyrdom appears as a form of *imitatio Christi*. Because the blood of the martyr bears witness to the confession of his faith, the Enlightenment writer Gotthold Ephraim Lessing called it (in his text *The Saving of Cardanus*) 'a highly ambivalent thing' (1976: 20). It is ambivalent, because it has, apart from its physiological status, a second, transcendental meaning. It is a symbol of blood witness which raises the body of the martyr into an other, sacred sphere. And if blood marks out the martyr as a blood witness, it is also in blood that there is condensed an as it were sacred evidence: blood is the sign of witness of the Passion. In this respect blood distinguishes the martyr in a double sense: it both marks him out and ennobles him. And so it is that the Christian iconography of martyrdom appears as a both gruesome *and* sublime tableau of multifarious forms of torture. In the representative paintings from the fifteenth to the eighteenth centuries, from Cranach and Dürer via Altdorfer, van Dyck and de Ribera to Tiepolo, martyrs remaining steadfast under torture dominate the scene. Venerated in these images as saints, they have previously had to undergo every imaginable form of physical torment — and the repertoire of atrocities is not worlds apart from the reports of the massacres which took place during the Balkan wars of the 1990s. Benjamin's dictum that 'blood is the symbol of mere life' (1985: 151) is targeted precisely at this symbolism. This means that he denies blood any significance which is not physical, just as he more generally derives his critique of the violence of martyr and tyrant from their double referentiality both to a creaturely and to a sacred order, as will be demonstrated below.

In Christianity, the ambivalence of martyrdom has given rise to the dynamic of an affective economy in accordance with which passive suffering or *passio* could be transformed into an active passion or Passion (see Auerbach 1967: 161–75). The dramaturgy of the baroque tragic drama develops its dynamic from this transformation, for example when Gryphius's *Catharina von Georgien* resists not only the courtship of the Persian king who is keeping her prisoner, but also the ordeal of torture so that she 'completes her lamentable life full of joy-full patience at the stake' (1975: 7).

The arming of the Christian martyr to make of him a 'warrior of God' did not take place until the context of the Crusades. It was only in the battles for Jerusalem that the Christian martyr was transformed into an aggressor

(see Runciman 1988). It is quite different in the Islamic tradition, where the figure of the martyr originates in the scene of battle. His sacrificial death represents a privilege, in that he receives a place in paradise without having to undergo judgement. Even if the blood of the Muslim martyr does not bear witness,[7] he is nevertheless marked out by his blood. It is said, for instance, of the wounds of the *shahid* which he receives in the course of *jehad* that they will shine like blood and give off a scent as of musk on the Last Day (see Houtsma et al. 1934: 279; see also Khoury 1993). Also, there is a hierarchy among the martyrs which has always placed those who have lost their lives in battle (*shuhada al-ma'raka*) above those who have not died a bloody death (*shuhada al'akhira*) by giving to the former the entitlement to a particular burial rite. In order that their blood can bear witness to their heroic deaths at the Last Judgement, their corpses are not subject to the usual ritual washing (Kohlberg 1999). Their deaths are often interpreted as a *rite de passage* which is stylized in poetic images as a wedding (*'urs al shahid*). Following in this tradition, the bomb attacks by Palestinian agents today are metaphorically represented as a marriage with their native soil (Neuwirth 2004).

Unlike the retrospective transformation of victims (those fallen in war, in the resistance, or through persecution for their faith) into martyrs, through which an unbearable death is given meaning after the event by those who commemorate it, the current recourse to the concept of the martyr by suicide attackers transforms a religious concept into a programmatic political instrument. Here, the martyr becomes a deadly weapon. This dramatization creates a knot of political and religious aspects which is far from easy to untie. Read through Benjamin's book on tragic drama, these phenomena may be described as the radical adaptation of political to theological scenarios, as the recourse to religious solutions to political problems in a situation in which politics does not appear to offer any answers — in short, as a modern tragic drama. The seventeenth century's transition from Christian eschatology to the secularization of the historical, which in view of general hopelessness and despair redirected the baroque's flight from the world into an absolute immanence, is countered today by a reversed constellation of transition. Here the unkept promises of modernity are answered by the flight into religious fundamentalism, which holds out the promise of transcending battles to which there is no prospect of an outcome.

The sovereign as tyrant – the tyrant as martyr

Walter Benjamin's book on tragic drama provides useful interpretative models for the analysis of the present return of religious iconography and rhetorics into politics for the precise reason that he considers the figures of the martyr, the sovereign and the tyrant in the context of a theory of sovereignty which, unlike Carl Schmitt's political theology, does not work with secularized theological concepts, but rather focuses on the question of the *res mixtae*

which in Schmitt's work remained unresolved. Thus Benjamin describes the baroque tragic drama as a drama of tyrant *and* martyr, emphasizing the way in which the two meanings coincide or switch one between the other. For in the baroque *Trauerspiel*, the monarch, who stands for history, also embodies the sovereign's transformation into the tyrant, who brings destruction upon himself and his court or state:

> In the baroque the tyrant and the martyr are but the two faces of the monarch. They are the necessarily extreme incarnations of the princely essence. As far as the tyrant is concerned, this is clear enough. The theory of sovereignty which takes as its example the special case in which dictatorial powers are unfolded, positively demands the completion of the image of the sovereign, as tyrant. (1977: 69)

In the 'completion' of the sovereign *in* the tyrant, Benjamin reflects the double positioning of the baroque sovereign between theology and the theory of the state in its fatal consequences. For it is in the tyrannical figure that the exceptional status (*Ausnahmezustand*) is made manifest which is latently inscribed into the sovereign's godlike position in the sphere of worldly power, bringing to the surface its violent aspects. Benjamin here, in his *Trauerspiel* book (1927), takes up a teaching from his 'Critique of Violence' (1921), though it is applied now to the state rather than to revolutionary violence. It is concerned with the transformation of embodied violence – or force – into bodily, physical violence. If all concepts of modern state theory are secularized theological concepts, then it is only through examining their theological prehistory that the legacy which continues to operate within them can be recognized. In the baroque period, it was precisely *not* the case that the sovereign is the one who decides on the exception, but rather vice versa: the one who is the sovereign has the power to decide on the exception! This decisive reversal between the historical and the modern concept of sovereignty is concealed in Benjamin's text in a barely noticeable turn in the argument: 'Whereas the *modern* concept of sovereignty *amounts to* a supreme executive power on the part of the prince, the *Baroque* concept *emerges from* a discussion of the state of emergency, and makes it the most important function of the prince to avert this' (1977: 65, emphasis S.W.).[8] This means that, whereas the state of exception is the starting point and basis for sovereignty in the baroque period, it is, in a precise reversal, the effect of sovereignty in its modern form. At this point in Benjamin's text there follows a much-debated footnote reference to Schmitt, after which Benjamin, reversing Schmitt's dictum 'Sovereign is he who decides on the exception', continues: 'The ruler is designated from the outset as the holder of dictatorial power if war, revolt, or other catastrophes should lead to a state of emergency' (1977: 65).

In Benjamin's representation, the baroque and the modern concepts of sovereignty thus differ fundamentally. The theological foundation of

absolute authority in the person of the baroque sovereign forms the condition of possibility for his tyrannical transformation, and more than this, for his consummation *as* tyrant: 'the seventeenth century ruler, the summit of creation, erupting into madness like a volcano and destroying himself and his entire court' (1977: 70). The *Trauerspiel* is thus interpreted by Benjamin as the scene in which this consummation is dramatized. Its dynamic is founded in that contradiction which necessarily follows upon the idea of a 'mortal God', to the extent that the latter is caught between omnipotence and a life under creaturely conditions – between being 'the prince of the world' and a 'heavenly animal'. And it is precisely in this doubled form that he becomes a martyr, as 'he falls victim to the disproportion between the unlimited hierarchical dignity, with which he is divinely invested and the humble estate of his humanity' (1977: 70). The tyrant as martyr is, then, not the victim of his faith, but the victim of a theologically founded politics, which allows of no distinction between the person and his authority and therefore knows no limit. His tyranny is displayed not least in the form of a 'state of emergency in the soul', as the 'rule of the emotions' (1977: 74).

It is suggestive to think of Saddam Hussein in connection with such descriptions and to consider the tyranny and the fall of Saddam Hussein in terms of tragic drama. But then the question poses itself as to what role in his case religion played in legitimizing his sovereignty – the case of the dictator in the midst of a religiously defined culture. Unlike in the traditional conceptualization of the 'Islamic state', Saddam Hussein's dictatorship was not founded in the imperative of the unity of religion and politics. (Incidentally, the absence of such a unity was evaluated by some Muslim scholars as a danger which could lead the state to transform itself into a tyrannical organization.) And yet Saddam Hussein could, despite the different interpretations applied to the question of political rule and its legitimacy within Islam, rely on one of the ideas within Islamic cultures, namely that whoever rules, rules by God's will. And in so far as the Iraq war was in part represented as a war against the person of the ruler, or perhaps rather against his image, as the US soldiers destroyed the monumental statues, the larger-than-life-sized images of him and the insignia of his power in front of the running cameras, the tyrant seemed raised in the eyes of his supporters to the status of martyr in whose name the resistance against the occupying forces took flame. It is true that the image of the lone individual hunted by the world's greatest army who, just because he is the target of a superior military force, is transformed for his supporters into a hero, ultimately imploded at the sight of Saddam Hussein's wretched appearance when he was found in a hole in the ground. In the way the captured dictator was presented to the world's media, his weakness made him unsuited to appearing either as a heroic figure for his supporters or the figure of the dangerous enemy for the occupying forces. This implosion of the tyrant – in his double capacity as martyr and enemy – added a new act to the dramaturgy of the modern tragic drama.

The transformation of sovereign into tyrant and the discussion about tyrannicide formed, as Benjamin shows, in the early modern age already a difficult complex to which there could be no simple solutions.[9] Today it is no different. Every argument in support of tyrannicide requires legitimization by another order, which relativizes the concept of sovereignty. It is for this reason that the US government could not define the removal of Saddam Hussein as the goal of the war – for that would possibly have meant weakening or calling into question the political concept of sovereignty altogether. For in George W. Bush and Saddam Hussein, there stood opposed, from the US perspective, as it were an imperial and a tyrannical sovereign. For this reason, the USA took refuge in the argument that Iraq had failed to meet the terms of the international accord on the non-proliferation of nuclear weapons. With this argument, however, the US fell back on the significance of international agreements which bind the decision on the state of emergency to specific rules and so set a limit upon the American president's claim to sovereignty in the international arena.

Benjamin's work on the dialectic of secularization

Benjamin's reading of the *Trauerspiel* on the threshold between theology and politics integrates aspects of the thinking from his earlier 'Critique of Violence', the text from which the category of 'bare life' in Agamben's writing is derived. However, as with the concept of sovereignty, so also, following on from Agamben's work, the concept of 'bare life' has until now been employed primarily for the analysis of totalitarian politics and biopolitical developments. A reading of Benjamin in the context of a critique of religiously motivated terrorism has hitherto not been fully explored, despite the fact that Benjamin moves beyond the limitations, described above, of a form of political theology whose concept of secularization is founded on historico-philosophical figures such as overcoming and *Aufhebung*. Benjamin's reflections, by contrast, take as their starting point the problem of the derivation of political, legal and philosophical concepts from theological or biblical traditions, focusing on the issue of the double referentiality of human existence, between natural and supranatural life, in order to develop out of this a critique of the dialectic of secularization. Thus, his critique of violence – both in the essay of that title, which is discussed below, and in other writings by him – is targeted above all at the precarious intermingling of concepts of divine force with the concepts of the political. As such, it is directed against the requisitioning of theology as a *means* of achieving political or legal ends, as also against a pure translation of sacred concepts into profane ones in which aspects of religious violence continue to operate in concealed form. Benjamin differs from the trend he is criticizing in that he proceeds from the assumption of a radical incompatibility of human and divine order. It is only against this background that the specific forms of transferral and the

figurations through which traces of an earlier religious history live on – in transformed and displaced fashion – within secular concepts can be properly examined.

The trace of a critique of the use of secularized theological concepts forms a leitmotif through many of his writings, whereby the essay on the 'Critique of Violence' is most clearly linked to the essays on 'Goethe's Elective Affinities', 'Franz Kafka' and 'Karl Kraus'. From his early sketch of a theory of language written in 1916, in which 'the fall of language-mind' (*Sündenfall des Sprachgeistes*) (1985: 119) marks the watershed which separates the pure language of paradise from language in the history of human communication, via the essay on 'The Task of the Translator' (1921), which develops a theory of translation on the basis of the awareness that translation can be understood as a test of the distance of the many languages from the pure language of revelation, right up to the theses 'On the Concept of History' (1940), a continuous work of critique of the dialectic of secularization can be observed, thought through and elaborated, in each case in its own specific context, in the fields of language theory, aesthetics, political theology, and the theory of history. Throughout this work, Benjamin consistently rejects any concepts which display the unreflected appropriation of a 'divine mandate' in profane cultural contexts, albeit without arguing for an absolute purity. Rather, what is at issue for him is the illumination of threshold constellations, for example when he situates the figure of Karl Kraus on the threshold between the world of creation – and lament (*Klage*) – and the Last Judgement's language of accusation (*Anklage*) (1985: 290).[10] His critique targets all appropriation of biblical concepts such as justice or redemption into the fields of political philosophy or historiography. But it also targets the entire field of rhetoric and metaphor which profits from the continued use of biblical or sacred terminology, together with all practices in which theology is made into that wizened little hunchback who, as described in the first thesis 'On the Concept of History', is 'enlisted into the services' of other things (1992: 245), becoming invisible within the workings of a contrived apparatus. Opposing such strategies, whose answer to the dwindling legitimacy of theology after the death of God is an appropriation of or participation in its orphaned concepts, Benjamin's concerted theoretical work is to be understood as work on the constellations of a historical dialectic which can also be seen as a critique of political theology.

This work is formulated in condensed form, as an epistemological configuration, in his 'Theologico-Political Fragment', in a thought-image (*Denkbild*) which characterizes the relation of the order of the profane to the Messianic as 'one of the essential teachings of the philosophy of history' (1985: 155). In this 'lesson', Benjamin condemns the appropriation of 'theocracy' as a concept, and in particular its integration into a political philosophy. Instead, he stresses the fundamental non-synchronicity between, on the one hand, what happens in history and the orientation of the profane order towards a

notion of happiness, and, on the other, the Messianic, which coincides with the end of history. The specific way in which the search for happiness within the dynamic of the profane relates to the Messianic, namely in the rhythm of that Messianic intensity which bears the name of happiness, can only be discussed once the fundamental and structural difference between the two orders is grasped.

Benjamin's essay on 'Goethe's Elective Affinities' (1924/5) forms a kind of counter-text to the 'Critique of Violence' – for example, when Benjamin identifies a 'Nazarene misconception' in the way that Eduard praises Ottilie's death as an incomparable martyrdom, refers to the dead woman as a 'saint' and places her as it were in Christ's succession (1996: 355).[11] However, in this essay Benjamin's critique is aimed more at the contemporary cult of poetry of the kind cultivated by Stefan George's circle and the critic Friedrich Gundolf, where poetry was endowed with sacred attributes. Through the construction of poetry as quasi-religion, a remythologization was taking place which, Benjamin points out, went back beyond the separation of religion and philosophy at the time of myth's emergence in Greek antiquity. He opposes this remythologization of art as crypto-religion by proposing a strict demarcation between the discourse of art and 'speech before God', which he develops on the basis of a reading of Goethe's novel. In doing so, he sets out a strict division between the concepts of human and divine order, differentiating, for example, between an appointed task in the latter and a requirement in the former, between a human creation (*Gebilde*) and a divine creation (*Geschöpf*), between the kind of reconciliation which takes place between human beings (*Aussöhnung*), a superworldly atonement (*Versöhnung*), and the idea of the expiation of guilt by a divine authority (*Entsühnung*). In the form of its dialectic of 'natural' and 'supranatural' life, and the motif of the 'guilt context of natural life', the Goethe essay contains direct links to the 'Critique of Violence', the text in which Benjamin's work on this difference is focused on issues to do with the law (*Recht*) and justice (*Gerechtigkeit*).

The 'Critique of Violence' – ignoring the commandment in exceptional cases

The basis of Benjamin's 'Critique of Violence' is the demarcation of the law-preserving violence of human legal orders from their precursors and prerequisites in the history of religion: both from mythical lawmaking violence, whose archetype Benjamin identifies in the mere manifestation of the gods (i.e. the gods of antiquity), and also from the law-destroying divine violence (i.e. of monotheism), which is located beyond the sphere of bloody violence and bare, naked or natural life: 'Justice is the principle of all divine end-making, power the principle of all mythical law-making' (1985: 149). Benjamin's critique is targeted here not least at a politics which calls upon a higher legitimacy vis-à-vis its opponents, justifying its war or struggle as

having a basis in right and in so doing claiming a *divine mandate* – while failing to recognize that it, too, is caught up in the historical cycle of lawmaking and law preservation: 'The law governing their oscillation [i.e. that of the lawmaking and law-preserving formations of violence] rests on the circumstance that all law-preserving violence, in its duration, indirectly weakens the law-making violence represented by it, through the suppression of hostile counter-violence' (1985: 153). The term 'law of oscillation' (*Schwankungsgesetz*) here refers to that historical dialectic through which, in every violent act which successfully overthrows an existing power, the impetuses which signified the overthrow and the re-establishment of power in a new form tend to disappear at the very moment of their enactment. A legal–theoretical equivalent to this dialectic can be found in the principle of *damnatio memoriae*, which rules that all protocols of talks leading to the drawing-up of new constitutions or similar foundational discussions must be destroyed. This is in order to protect established legal titles from being weakened by subsequent hermeneutic controversies over their intentions.

On account of its divine origin, justice is fundamentally separate from the sphere of political violence, so that the latter can, in Benjamin's view, never be 'the means of sacred execution' (1985: 154). This background helps us to understand his critical discussion of the 'dogma of the sacredness of life', which he sees as a political pathos formula and qualifies as the 'last mistaken attempt of the weakened Western tradition to seek the saint it has lost in cosmological impenetrability' (1985: 153). For this formula responds to the loss of the sacrosanct by reverting to myth, notably the notion derived from myth of the incurring of guilt through the operation of fate. In the pathos of the sanctity of bare life, the latter is in the first instance reduced to sheer naked existence and robbed of the aspects which go beyond this – Benjamin speaks in this connection of happiness and justice – in order then to be declared sacrosanct as *mere* life. Benjamin, by contrast, proceeds from a concept of the human being which 'cannot, at any price' be equated with mere life. Blood, by contrast, is assigned to the sphere of naked life: 'For blood is the symbol of mere life' (1985: 151). Blood can only take on a sacred meaning when meanings derived from cultic or theological interpretative frameworks are imposed upon it – as in the case of the martyr. In this sense, the contemporary dramatization of suicide bombers as martyrs may also be examined within the framework of Benjamin's 'Critique of Violence'. The veneration of this kind of martyr has as its precondition the reduction of their lives to a – religiously occupied – mere, naked life. Only this can be transformed into a deathly weapon. But when this form of terrorism is legitimated by first depriving the agents of their human dignity and human rights, the political grounds come into conflict with the use of religious metaphors and the veneration and superelevation of the suicide attackers as martyrs. The modern myth of 'sacred human rights' – whose unguaranteed promise was analysed by Hannah Arendt in her book on totalitarianism in respect of the stateless

refugee as the person without citizenship rights (1958: 290–302) – is answered in the rhetoric of the suicide bombing with the sanctification of a politics in which human life itself becomes a weapon. So when Giorgio Agamben derives his question concerning the 'principle of the sanctity of human life' in *Homo Sacer* from Benjamin's essay, his pursuit of the origin and embodiment of this principle is in fact following the diametrically opposed direction to that of Benjamin's own argumentation.

In the context of the essay on the 'Critique of Violence', which is concerned with the question of revolutionary violence and the legitimacy of a 'revolutionary killing of the oppressor' (1985: 152), Benjamin criticizes two types of absolute condemnation of all violent killing of one person by another: (1) a condemnation which is based on the commandment 'thou shalt not kill', i.e. a Judaeo-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. In the first case, Benjamin emphasizes the non-synchronicity between the language of the commandment on the one hand and the criteria for judgement or the condemnation of persons by other persons on the other, since the figure of the commandment refers to the agent or perpetrator, not the judgement. The commandment 'exists not as a criterion of judgement, but as a guideline for the actions of persons or communities who have to wrestle with it in solitude and, *in exceptional cases*, to take on themselves the responsibility of ignoring it' (1985: 152, emphasis S.W.). While the formulation 'in exceptional cases' 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 the responsibility for *ignoring the commandment* – whereby the agent remains subject to the law, since this precedes right and the commandment does not thereby lose its validity. Benjamin describes this case as a manifestation of pure violence, which – beyond all justification – enters into proximity with divine violence. It does so because, by setting aside right, it lays the foundation for 'a new historical epoch' (1985: 153). In this sense, Benjamin's analysis makes visible again the claim to an as it were divine violence which lies concealed in the revolutionary decision on the exception. Nevertheless, the decision for this 'exceptional case' does not remotely turn the agent into a sovereign.

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 which considers or declares creaturely, natural life, or its irreducible corporeal condition, to be sacred. 'Man cannot, at any price, be said to coincide with the mere life in him [...], not even with the uniqueness of his bodily person' (1985: 153). 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 of man, then 'life' belongs among those words whose double meaning arises 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 is, rather, that the term originates in a double reference, i.e. the fact that the concept of a person which 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 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 sacred which could produce the doctrine of the sacredness of life, according to Benjamin, who thus analyses this doctrine as an effect of secularization and criticizes it as a retrospective transferral of lost moments of the sacred into natural law. 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' (1985: 153, translation modified). 'Bare life' refers to a notion which is situated outside the sphere of right. 'For with bare life the rule of law over the living ceases. Mythical violence is bloody power over bare life for its own sake, divine violence pure power over all life for the sake of the living. *The first demands sacrifice, the second accepts it*' (1985: 151, translation modified; emphasis S.W.).

Here Benjamin points towards two concepts of sacrifice which have today re-entered that sphere which in modernity is 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 or even a holy war, our reading of Benjamin allows us to describe these as a form of violence in which mythical and religious motivations are intermingled, while the mission to which the lives are sacrificed has become a mythical violence. 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.

Notes

1. While Agamben applies his theoretical reflections directly to the current situation in a range of newspaper articles and interviews, his theoretical framework itself is never updated. See also Agamben (2005).
2. See for example Horst Bredekamp's reference, in conversation with Ulrich Raulff on the 'image strategies of the war', 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 which in turn lies beyond the banality of, for example, the economic' (2003).

3. It has recently been translated into English for the first time. See the special number *Theory of the Partisan* of the journal *The New Centennial Review*, vol. 4, no. 3 (Winter 2004).
4. Raphael Gross comes to the same conclusion: see his *Carl Schmitt und die Juden* (2000: 167). Gross speaks of the fact that 'Schmitt takes an *atheistic* political–theological tradition to its extreme' (2000: 170).
5. The point is that, in describing America as *'auserwählt'*, Schmitt's image invokes the German term for the Chosen People: *das Auserwählte Volk* [Trans. note].
6. The question of the legacies of Christianity in Islam is a matter of some controversy and cannot be discussed here. On the significance of the martyr in the Jewish–Christian history of religion, see Boyarin (1999). On the ubiquity of the martyr and the multiple references between the different religions, see Pannewick (2004).
7. 'The fallen Muslims had nothing to testify' (Meier 1992: 713).
8. On this distinction, see also Weber (1992: 152).
9. On the cultural and religious history of the tyrant since classical antiquity, see Pircher and Treml (2000).
10. See also Chapter 7 of Weigel (1997).
11. Further on this point, see Weigel (2001: 165–72).

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Globalization, Political Violence and Translation

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