

Benjamin – Agamben  
Politik, Messianismus, Kabbala  
Politics, Messianism, Kabbalah

Herausgegeben von

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Bernd Witte

## Vorwort

Im Jahr 2005 wurde dem italienischen Philosophen Giorgio Agamben, Professor für Ästhetik an der Universität Venedig, auf Antrag der Düsseldorfer Professoren Vittoria Borsò, Dieter Birnbacher und Bernd Witte der Forschungspreis der Humboldt-Stiftung zuerkannt. Vom 25. Oktober bis 25. November 2005 lehrte und forschte Agamben an der Düsseldorfer Heinrich-Heine-Universität. In Vorlesungen und Graduiertenseminaren vermittelte er Studierenden und jungen Forschern, die von weit herkamen, um ihn zu hören, die Grundlagen seiner Auffassung von Biopolitik, vor allem aber das neu erarbeitete Paradigma des Zusammenhangs von Ökonomie und Theologie, das er zum ersten Mal auf der von der Internationalen Walter Benjamin Gesellschaft am 13. und 14. November 2003 in Rom veranstalteten Tagung zum Thema „Theologie und Politik“ unter dem Titel „Ökonomische Theologie. Genealogie eines Paradigmas“ öffentlich zur Diskussion gestellt hatte.<sup>1</sup> Inzwischen liegt die ausgearbeitete Fassung dessen, was Agamben in Rom und Düsseldorf vorgetragen hat, in italienischer Sprache als *Il Regno e la Gloria. Per una genealogia teologica dell' economia e del governo* in Buchform vor.<sup>2</sup>

Agambens intellektueller Biographie ist ein transdisziplinärer Zug eingeschrieben. Sein Werk ist in den Zwischenräumen zwischen Philosophie und Jurisprudenz, Philosophie und Politik, Philosophie und Geschichte; aber nicht zuletzt auch Philosophie und Literatur angesiedelt. Zwei ganz und gar gegensätzliche „Meisterdenker“ sind es, von denen es seinen Ausgang nimmt: Martin Heidegger, den Agamben auf dessen zusammen mit René Char abgehaltenen Seminaren in der Provence kennengelernt, und Walter Benjamin, dessen Teilnachlass er in der Pariser Bibliothèque Nationale entdeckt und dessen Werke er ins Italienische übertragen hat. Mit *Idee der Prosa*, einer Sammlung von kurzen Prosatexten im Geiste von Walter Benjamins *Einbahnstraße*, wurde 1987 ein Buch von Giorgio Agamben erstmalig ins Deutsche übersetzt<sup>3</sup>, doch kam seine Rezeption in Deutschland erst nach *Homo sacer I. Die souveräne Macht und das nackte Leben* (2002), dem ersten Band einer auf vier Bände angelegten Reihe, wirklich zum Durchbruch. Inzwischen liegen weitere Bände vor: *Was von Auschwitz bleibt. Das Archiv und der Zeuge* (2003) und *Ausnahmestand* (2004). In seiner radikalen Analyse findet Agamben die Grundlagen aller staatlichen Macht, auch der rechtsstaatlichen, in der unbeschränkten Herrschaft des Staates

<sup>1</sup> In: Bernd Witte, Mauro Ponzi (Hg.): Politik und Theologie. Walter Benjamin und ein Paradigma der Moderne, Berlin 2005, S. 20–31.

<sup>2</sup> Mailand 2007.

<sup>3</sup> München 1987. Neuauflage: Frankfurt/M. 2003.

„In ungeheuren Fällen“ – Benjamin’s *Critique of Violence*  
and Constitutional Law

Preliminary remarks

The difficulty of finding the appropriate start for a reflection on a single expression in Benjamin’s *Critique of Violence* can be measured by the struggle involved in trying to translate it for the title of this essay. Given that this article is an attempt to explain this single phrase, the importance of the accuracy of this translation becomes evident. Actually, it is not only a single phrase, because to read and comprehend the words ‚vom Gebot abzusehen‘ in Benjamin’s text implies a new reading of Benjamin’s *Critique of Violence*<sup>1</sup>. Here again, one hesitates because this title does not sound quite right: for some time now it has been clear that Benjamin’s article discusses the two-fold, or even polyvalent meaning of „Gewalt“, that beside violence also means „power“ or „authority“ as well as „force“. Moreover, Benjamin’s essay undertakes an analysis of the dialectics between violence and power, emphasizing the afterlife of divine acts in this historical dialectics. In doing so it develops a critique of violence/power „in the precise sense of the word“ on a more fundamental level: „For a cause, however effective, gets transformed into violence, in the precise sense of the word, only when intervening into moral conditions.“ (SW I, transl. modified)<sup>2</sup>

Writing on Benjamin in English means that each ‚translator’s commentary‘ has to refer to the entire argument, while the uneasy feeling one experiences when reading the existing translation can only be allayed after considering the whole article. Each of his thought images includes Benjamin in entirety, and vice versa; one has to study all of Benjamin to understand a single word. Indeed, it is often hard to get beyond the title, since one finds no „right“ solution for the translation. Therefore, writing on Benjamin in English means hesitating and doubting, changing and substituting the words a hundred times, giving up, and beginning instead to write a letter: „Dear Vivian, I apologize and I beg your pardon for not being able to send my article, but I have not been able to find the right words.“ Then breaking off the letter and trying again.

<sup>1</sup> Walter Benjamin: *Selected Writings I*, ed. by Marcus Bullock and Michael W. Jennings, Cambridge/Mass. 2003, p. 236–252, p. 250 (hereinafter SW I).

<sup>2</sup> The translation has been modified since Benjamin doesn’t talk about a cause becoming violent, but a cause getting turned into a force („wird zur Gewalt“) thus defining „Gewalt“ as a cause intervening („eingreifen“, not entering) moral conditions („sittliche Verhältnisse“). See GS II, p. 179.

Existing English editions of Benjamin's writings ignore the phrase „von ihm [dem Gebot „Du sollst nicht töten“] abzusehen“ (GS II, p. 201) by translating it with „ignoring it“ [the commandment not to kill]“. However, this rendition of „absehen“ does not do justice to the implications of this expression, which is part of the only passage in the entire *Critique of Violence* that includes Benjamin's own statement concerning the question „May I kill?“ There are worlds between „ignoring“, and what Benjamin expresses with his word „absehen“. With „absehen“ he suggests the conscious decision not to follow the commandment „not to kill“ in full awareness of its meaning and the significance of *not* following it *in a single case*. The way this single case is characterized by Benjamin again poses the problem of translation, but explaining this would require anticipating my whole argument.

All of these troubles are not a question of „wrong“ translations, although certainly one encounters many cases that might be considered inaccurate. More often, though, the English Benjamin is given leaves one with the impression of a different sound that does not fit Benjamin's mode of dealing with words. Even in the best editions, his voice gets lost in translation.<sup>3</sup> In the original, it derives its uniqueness from his rhetorical practice of taking the words literally, of going back to the primal scenes of metaphors and images. Accordingly, the loss of meaning occurs when translators do not follow Benjamin's notion that translations are contaminated by the foreign language from which they derive. Quoting Rudolf Pannwitz, Benjamin says in the *Task of the Translator* that a translation into German should not „verdeutschern“ or Germanize the Hindi, Greek or English language, „anstatt das deutsche zu verindischen vergriechischen verenglischen.“ (GS IV, p. 20) Although not „wrong“, most English translations tend to assimilate Benjamin's use of words, often unfamiliar even to contemporary German ears, to a modern discourse alienating their own language. Thus translations of Benjamin become a kind of revenant, returning from the other language as somehow secularized or mystified.

What counts for the difference of languages in translation is all the more relevant for various historical stages of one language, when one also has to consider the distance between outdated words and modern theoretical discourse or when addressing the distance between old and contemporary usages. This distance includes the difference between sacred terms or biblical language and a strictly secular discourse. These differences cannot be overestimated, especially in German, for which Luther's translation of the Bible was fundamental for the formation of the language.

For Benjamin, all translations are „a somewhat provisional way“ of dealing, reflecting and struggling with „the foreignness of languages“, which does not mean „coming to terms“ with it (SW I, p. 257) as the English edition translates „auseinanderzusetzen“ (GS IV, p. 14). Benjamin describes all translations as *proof*

<sup>3</sup> For a more detailed discussion see chapter seven in my book *Walter Benjamin. Die Kreatur, das Heilige, die Bilder*, Frankfurt/M. 2008, pp. 213–227.

of how far removed the hidden moment of a language is, how *present* – not how close – it may become as a result of the knowledge of this remoteness: the criterion of closeness ignores the interplay of time and space in Benjamin's assessment of the distance between languages. This dialectic of secularization in language and translation has always been inscribed in the problem of Messianism and the Law. When examining the relationship of Messianism and the Law in Benjamin's *Critique of Violence*, therefore, one has to be aware of the relationship between the biblical idiom and the law of modern language.

However, I am also compelled to mention yet another – very inspiring – aspect of writing on Benjamin in English, since struggling with the translation problem provokes a closer reading and careful attention to Benjamin's words. Fortunate to look back on a long cooperation with Georgina Paul, who produces extraordinarily sensitive translations of my articles, I have had the opportunity to develop a mode of writing that provokes constant rereading and rewriting. Confronted by quotations from published editions and negotiating with her about possibilities have helped focus my attention to the many decisive phrases, words, meanings and contexts that were not as clear before translating them. Returning from translations to Benjamin's own words can be tantamount to the famous principle: the closer one looks at a word, the more alien it looks back. This often provokes a supplementary attempt at a more precise understanding and explanation.

### Beyond the ‚state of exception‘

In view of current events on the international political stage, a critique of violence in terms of the relationship between justice and the law, as Walter Benjamin undertook in the essay he published in August 1921 in the *Archiv für Sozialwissenschaft und Sozialpolitik*, has become imperative. A critique of this nature has to touch upon the violence involved in the conflict between international law and the unilateral claims to sovereignty of the US Empire in Iraq, Guantanamo and elsewhere, as well as in the various manifestations of non-state violence that are legitimized by concepts of justice and human rights. It also has to examine the present forms of terrorist violence with their frequent appeals to the principles of a ‚just‘ or ‚holy‘ war, that is, to an authority higher than constitutional or international law. Benjamin's essay is of particular cogency for discussions centering on forms of non-state violence, since he pursues the question as to „whether violence, in a given case, is a means to a just or an unjust end.“ (SW I, p. 236; GS II, p. 179) Besides the right to strike and the question of military law he addresses the legitimacy of revolutionary violence, concluding his essay with a consideration of the „extreme case“, exemplified by the „revolutionary killing of the oppressor“. (SW I, p. 250; GS II, p. 201)

Benjamin's *Critique of Violence* is not least targeted at a politics that calls upon a higher legitimacy vis-à-vis its opponents by considering wars or struggles as justified by laying claim to their as it were divine mandate. Accordingly, they fail to recognize that such politics is also caught up in the historical cycle of law-making and law-preservation:

The law governing their oscillation [i.e. the vacillations of law-making and law-preserving formations of violence] rests on the circumstance that all law-preserving violence, in its duration, indirectly weakens the lawmaking violence it represents, by suppression hostile counterviolence. (SW I, p. 251; GS II, p. 202)

The term „law of oscillation“ (*Schwankungsgesetz*) refers to the historical dialectic, which stipulates that for every violent act that successfully overthrows an existing power the impetus signifying change and renewal of power disappears at the very moment of its establishment. It would perhaps be easier to understand the „law of oscillation“ when referring to legal-theoretical consequences arising from the acknowledgement of such a dialectic, i.e. the principle of *damnatio memoriae*. This principle specifies that all protocols of negotiations prior to the drawing-up of constitutions or similar foundational discussions must be destroyed. The order serves to protect legal titles from being weakened by subsequent hermeneutic controversies over their intentions. In Benjamin's essay, however, these problems are grounded in the more profound and problematic relation of justice to the law. Due to the biblical origin of the concept of ‚justice‘, any discourse on justice and ‚just reasons‘ has to be analyzed in its tension to the sphere of political violence or force. The primal image of justice is a divine force that is „never the means of sacred dispatch“, as the final sentence of Benjamin's essay states. (SW I, p. 252; GS II, p. 203)

Critical response to the *Critique of Violence* was long dominated by Benjamin's reference to Georges Sorel's *Reflexions sur la violence* of 1908. After Jacques Derrida's *Force of Law* (1991) most critics began to focus on the constellation Carl Schmitt and Walter Benjamin and, more recently, on the renaissance of political theology and the concept of the ‚state of exception‘. Admittedly, the letter Benjamin sent to Carl Schmitt, written when he sent him a copy of his book on German ‚Trauerspiel‘ in 1930, was considerably upgraded by Derrida's talk of a *correspondence* between Schmitt and Benjamin, suggesting an exchange of ideas and commentaries. This led to the construction of a link between the two thinkers that never existed in the manner suggested. Nevertheless, the fact that Benjamin's correspondence provides evidence of his reception of Schmitt, at least of his *Political Theology* (1922) and *Dictatorship* (in the second edition of 1928), and that he quotes Schmitt's sovereignty theory in his book on *Trauerspiel* as well as the concept of the state of exception both there and in his text *On the Concept of History* (1940), all of these clues served to link Benjamin so closely to Schmitt that one is obliged to refer to a Schmitt-Benjamin paradigm in the debate on political theology. Already in 1992 Sam Weber drew attention to

the fact that Benjamin's definition of sovereignty in the Baroque „diverges ever so slightly, but significantly“ from Schmitt's famous maxim „sovereign is he who decides on the state of exception“, although linking the two names in critical theory circles could not be undermined as a result. On the contrary, it was reinforced by Giorgio Agamben's argument in *State of Exception* (1993; English trans. 2005) that Carl Schmitt's *Political Theology*, which appeared one year after Benjamin's essay, was written in reaction to it, and that Schmitt's introduction of the concept of decision has to be seen as a „countermove to Benjamin's critique“. Benjamin's reference to Schmitt in the book on *Trauerspiel* is interpreted as a response to Schmitt's reaction to him, providing the basis for what Agamben describes as a „secret dossier“ between Benjamin and Schmitt. The assumption of this kind of ‚continuum in dialog‘ provided the impetus to include the essay on the *Critique of Violence* in the canon of texts on the states of exception.

It is not only the case that Benjamin does not use the term „state of exception“ in the entire essay. Rather, his references to the „extreme case“ and, shortly before this, to „in ungeheueren Fällen“ are also an important aspect and a symptom of a significant difference to the state of exception. The translations deflect from this difference to Schmitt because they turn Benjamin's „ungeheure Fälle“ into „exceptional cases“. (SW I, p. 250) Although the word „ungeheuer“ references a wide range of meanings (such as vast, immense, tremendous, terrible, enormous, extraordinary, and monstrous), it has to be seen within the context of a conscious decision to harm the commandment and to kill. For readers familiar with Benjamin's obsession with Hölderlin another association emerges, namely the verse „Ungeheuer ist der Mensch“ in Hölderlin's translation of *Antigone*. This association illuminates the origin of the adjective „ungeheuer“ from the noun monster, in German „das Ungeheuer“. Speaking of „ungeheure Fälle“, and not of an exception, emphasizes that the question of killing an oppressor leads the cultural agent back to a primal scene, when the God-given commandments created the bond between the deity and his people, removed human beings from nature or creaturely life and formed them in the image of God.

In contrast to Schmitt's political theology, Benjamin's discussion of the „extreme case“ is not a concept within constitutional law, but of the legitimacy of revolutionary violence, notably the justification of a *tyrannicide* or, more precisely, the question of whether the „revolutionary killing of the oppressor“ falls under the universal prohibition of murder. Given the consideration of this extreme case, the essay on the *Critique of Violence* strays from the terrain of constitutional law and legal order, which were the points of discussion in the preceding passages on the right to strike and on military law. In the final part of the text Benjamin moves from legal philosophy to the philosophy of history. Whereas the last paragraph concludes with a programmatic statement, „the critique of violence is the philosophy of its history“, the shift in perspective happens earlier, at precisely the moment where the concept of redemption (in Ger-

man *Erlösung*) is brought into play. Again, this is unclear in the English translation.

### Other sorts of violence

After having discussed more exceptional cases of political violence that are more familiar, such as strike and war, Benjamin's essay enters its main and most crucial concern with the statement that no form of 'Gewalt' exists that is free from the „problematic nature of all legal violence“, including all the forms of violence considered in, but not „permitted by“, the horizon of both natural law and positive law. (GS II, p. 195f.; SW I, p. 247) In so far it is true that Benjamin discusses phenomena, which must be regarded as boundary cases for the legal order like in Schmitt's *Political Theology*. However, while Schmitt personifies the boundary case of the legal order in the figure of the sovereign who decides on the exception, Benjamin considers epistemological boundary cases that are exemplary for the discussion of the fundamental problems of all legal violence, such as its reliance on concepts from outside the domain of the law, like justice. The boundary of legal-theoretical concepts is triggered in the essay by the concept of redemption, which sets the concept of justice in a new light:

Da dennoch jede Vorstellung einer irgendwie denkbaren *Lösung* menschlicher Aufgaben, ganz zu schweigen einer *Erlösung* aus dem *Bannkreis* aller bisherigen weltgeschichtlichen Daseinslagen unter völliger und prinzipieller Ausschaltung jedweder Gewalt unvollziehbar bleibt, so nötigt sich die Frage nach andern Arten der Gewalt auf, als alle Rechtslehre ins Auge faßt. (GS II, p. 196, emphasis S.W.)

Since, however, every notion of a conceivable solution to human problems, not to speak of a redemption from the confines of all hitherto existing world-historical conditions, remains impossible to perform if violence is totally excluded in principle, the necessarily the question arises for different kinds of violence other than all those envisaged by legal theory. (SW I, p. 247, transl. modified)

The turning point from a political to a fundamental discussion of „Gewalt“ is posed when Benjamin considers the purpose of *solving* human questions, or even the *redemption* from all the world-historical conditions of existence obtaining hitherto. This cannot be imagined without reference to violence. More precisely, the notion of solution (*Lösung*) or even redemption (*Erlösung*) cannot be achieved while totally or principally excluding similar references. The manner in which Benjamin combines two different modes of acting using the dialectics of *Lösung* and *Erlösung* is typical for his own position on the threshold of secularization, which pays attention to the messianic or religious version of action, i.e. *redemption* from a „weltgeschichtliche Daseinslage“, as the predecessor of the secular or political version of action, that is, *solving* human questions. This pertains to the threshold between justice and agency, in other words between Law

and Messianism. When the English editions translate „Erlösung“ as „deliverance“ (SW I, p. 247) this dialectics, as well as the shifting perspective in the original, becomes invisible. In the *Critique of Violence* the word redemption marks the boundary of legal-theoretical concepts. This is the precise moment when the question of other sorts of violence is brought up by Benjamin, of *sorts of violence* other „than all those envisaged by legal theory“ (SW I, p. 247), when Benjamin begins to consider the ‚Gewaltfrage‘ (‘the question of violence’) beyond constitutional law.

In order to bring the differences between Schmitt's and Benjamin's views into sharper focus and to elaborate the relevance of their concepts within the horizon of a critique of violence geared to today's exigencies, I have undertaken a comparative study of Schmitt's and Benjamin's theories of sovereignty – by reflecting on the concept from the perspective of their respective counter-figures to the sovereign. In Schmitt this is the partisan, and in Benjamin it is the martyr.<sup>4</sup> For Schmitt, the illegal partisan is an integral factor in European military and international law, a kind of counter-figure to the army. For Benjamin, the martyr is, by contrast, bound into the same structural ambivalence as the sovereign, since both rely upon an authority which is above the law for their self-definition, an authority that is, at the root, theological. Arguing from his standpoint as a legal theoretician, Schmitt defines all concepts of modern state theory as secularized theological concepts; as a result theology and moreover religion are subsumed into the legal theory of the state. By contrast, Benjamin is elaborating on a dialectics of secularization in his detailed discussion of the precarious relationship between law and justice, especially as it applies to a variety of cases and historical constellations.

This approach brings Benjamin to the frontier of legal-theoretical conceptualization and leads to his reflections on the philosophy of history. These center on what follows from the divine origin of such concepts as justice, concepts that resist the transformation into secular concepts. The basis of his *Critique of Violence* is the demarcation of the law-preserving violence of the human legal order from its precursors and its prerequisites in the history of religion; from mythical law-making violence, the archetype of which Benjamin situates in the mere manifestation of the gods (i.e. the gods of antiquity), and 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 [Zwecksetzung], power the principle of all mythical lawmaking [Rechtsetzung].“ (GS II, p. 198; SW I, p. 248)

The question concerning „other kinds of violence“, which is brought into play by the messianic perspective, not only goes beyond the conceptual boundary of legal theory but also beyond the founding dogma that grasps the question of violence in terms of a counterbalance between *just ends* (*gerechte Zwecke*) and

<sup>4</sup> See the second chapter in *ibid.*

*justified means (berechtigte Mittel)*. Conceptualizing these as objects of rational discourse, it is only outside the compass of this dogma that the „irreconcilable conflict“ between the concepts involved becomes cognizable. The other kind of violence, which opens up thinking beyond this dogma, is described by Benjamin at this point in the essay as a form of violence „not related to [just ends] as means at all“ [*überhaupt nicht als Mittel*] –, but, as he phrases it, „irgendwie anders“ (GS II, p. 196), „in some different way“ (SW I, p. 247). This refers to a violence or force that is *not* a means to an end, but rather to a manifestation Benjamin defines as pure violence or force.

The concept of justice plays a central role in this passage. It occupies the significant threshold between legal theory and the sphere Benjamin refers to in the *Theologico-Political Fragment*, a sort of offshoot of the *Critique of Violence*, with the phrase: „the essential teachings [*Lehrstück*] of the philosophy of history.“ (SW III, p. 305; GS II, p. 203) While justice, when referring to „just ends“ (*gerechte Zwecke*), made an attribute of ends so that they could be integrated into the legal-theoretical conceptual frame, Benjamin insists on the different origins of concepts that have been linked together in the legal-theoretical dogma cited. For Benjamin, it is not reason that decides on these two aspects; rather, it is the justification of means deriving from the notion of a „fate-imposed violence“ (*schicksalhafte Gewalt*) that decides on them, whereas the justice of ends can only be decided by God. (GS II, p. 196; SW I, p. 247)

At this point in his essay, the semantics of the concept of *Gewalt* plays a significant role, which disappears in the English translation, because it refers consistently to *violence*. The point is that Benjamin links a violence that is *enacted*, which is what permits conceptualizing violence in terms of means in the first place, back to the source of *Gewalt* as the force, authority, or power that *enacts it*. The primal notion of this enacting force is mythical power: „Mythical violence in its archetypal [*urbildliche*] form is a mere manifestation of the gods.“ (GS II, p. 197; SW I, p. 248) It is this concept of *Gewalt*, as the force or power that precedes legal theory, which, as Benjamin shows, lies at the basis of all legal concepts to the degree that law-making violence is modeled on the „Urbild“ of mythical force. „Lawmaking is powermaking, assumption of power [*Rechtsetzung ist Machtsetzung*]“ and thus „an immediate manifestation of violence.“ (GS II, p. 198; SW I, p. 248) This form of immediate violence, eternally pre-inscribed into law-making, turns the legal-theoretical discussion of violence as a means to an end into a discussion of the „gravely problematic nature [...] of all legal violence.“ (SW I, p. 247; GS II, p. 196) Yet, when the category of *justice*, as exemplified in the figure of „just ends“, is introduced into existing law in the interest of providing a counterbalance to violence, what it involves is taking recourse to a sphere prior to or outside the law. The concept of justice, meanwhile, originates from yet another sphere: not myth, but religion. This implies that the legal-theoretical dogma that serves to counterbalance the use of violence is reliant on concepts from outside the law: on the one hand on the mythical force of the

gods, on the other hand on divine justice, or, to put it differently, on Athens/Rome and Jerusalem.

These reflections provide the preconditions for the discussion of the question of „pure violence.“ The sphere beyond the legal-theoretical dogma leading to the question concerning other forms of violence is positioned within a double referentiality, to myth and to the Bible. This is what creates the complexity of the essay's concluding passages. If revolutionary violence appeals to the principle of justice, it legitimizes itself according to the model of divine purposiveness, while in its intention to establish a new form of right it imitates the principle of all mythical law-making. This is the meaning of the somewhat erratic block sentence with which Benjamin closes this section: „Justice is the principle of all divine endmaking [*Zwecksetzung*], power the principle of all mythical lawmaking [*Rechtsetzung*].“ (GS II, p. 198; SW I, p. 248)

### The double reference of bare life – Antiquity and the Bible

Benjamin had already reflected on the divine origin of justice in his *Notes for a work on the category of justice (Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit)*, which have come down to us in Gershom Scholem's transcription. They appear in an entry in Scholem's diary in 1916, which refers to an evening spent reading together:

Justice does not seem to relate to the good will of the subject, but constitutes a state of affairs in the world; justice refers to the ethical category of the existent, virtue to the ethical category of what is required of it. Virtue can be required, justice can, in the final analysis, only exist as a state of the world or as a state of God. In God all virtues have the form of justice, the prefix „all“ in „all-binding“ (*all-gültig*), „all-knowing“ (*all-wissend*) etc. is an indication of this.<sup>5</sup>

Having established the divine, as it were *a-human* character of justice, Benjamin is already attempting here to grasp its position vis-à-vis the law, speaking of „a vast gulf which yawns between the law and justice in terms of their very nature.“<sup>6</sup> He evidently thinks that this gulf is not clearly discernible from the etymologically closely related terms in German, since he notes that other languages indicate the gulf more clearly. As evidence, he cites the opposition between the Latin *ius* and *fas*, followed by their Greek and Hebrew equivalents: *ius*, *themis*, *mischpat*, *Recht/ fas*, *dike*, *zedek*, *Gerechtigkeit*.<sup>7</sup>

<sup>5</sup> In Gershom Scholem: *Tagebücher 1913–1917 nebst Aufsätzen und Entwürfen bis 1923*, I. Halbband 1913–1917, hg. v. Karlfried Gründer, Friedrich Niewöhner, Herbert Kopp-Oberstebrink, Frankfurt/M. 1995, p. 401.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*, p. 402.



As far as these etymological considerations are concerned, it is arguable whether the Latin *fas* would not be better translated into Greek as *hosie*, meaning sacred custom or divine right, rather than as *dike* as Benjamin does. In Roman Law, *fas* was the formula for an action that was not forbidden by any form of taboo, which was thus not regarded as *sacer* – i.e. not as „something which is imbued with a supernatural power and which is therefore taboo“<sup>8</sup>, but which could only be defined by reference to the sacred or taboo. *hosie* obviously gives more emphasis to the sacred character of the law than *dike* and would perhaps better correspond to the sense of justice. Quite aside from how this argument might be resolved among legal historians and historians of religion, what is remarkable about Benjamin’s note is the way his reference to language implicitly also cites different cultural contexts, and how the question of the relationship between the law and justice switches imperceptibly from the biblical, monotheistic context – the justice of divine violence – to the context of classical antiquity. In the concluding sections of his essay on the *Critique of Violence*, written five years later, Benjamin was about to take up this trace again, but this time more explicitly.

Having described the boundary of legal-theoretical concepts, the final part of the essay considers „the question of a pure immediate violence“. (SW I, p. 249; GS II, p. 199) Benjamin does not simply introduce a significant and multivalent opposition between two forces: (1) on the one hand, *mythical violence*, which he describes as a law-making violence, a violence that sets boundaries, that brings at once guilt and retribution, and that is threatening and bloody; (2) on the other hand, *divine law-destroying violence*, which he describes as perpetually destroying boundaries, as a violence that expiates, that strikes, and that is lethal without spilling blood. In this passage, which is among the most difficult of the entire text, he also introduces the concept of bare or mere life. At issue here is whether bare life can be an argument for or against revolutionary violence. Benjamin’s argumentation moves on a double track, constantly shifting between mythical and divine law, or, expressed differently, between Athens/Rome and Jerusalem.

Giorgio Agamben has chosen to adopt the Athens/Rome trajectory when discussing the „doctrine of the sanctity of life“ in this passage that became the point of departure for his book on the *Homo sacer*. It is, however, the other trace, the biblical one, that Benjamin takes leading him completely beyond the realm of the state of exception. From this perspective it is not a matter of the decision on the state of exception to which the sovereign owes his sovereignty. Rather, what is at issue here is the responsibility in „ungeheuren Fällen“, as Benjamin puts it, not to follow the commandment „thou shalt not kill“. Acting against the commandment, though, does not by any means place the person who does so in a position of sovereignty; nor does it diminish the continuing validity of the commandment. While the sovereign in the state of exception takes up a

<sup>8</sup> Kurt Latte: „Religiöser Begriff im frühromischen Recht“, in: Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanische Abteilung, Bd. 67, p. 50.

position that is god-like, the one who acts outrageously in contravention of the commandment remains immediately subject to divine force.

Dieses [das Gebot] steht nicht als Maßstab des Urteils, sondern als Richtschnur des Handelns für die handelnde Person oder Gemeinschaft, die mit ihm in ihrer Einsamkeit sich auseinanderzusetzen und in *ungeheuren Fällen* die Verantwortung von ihm *abzusehen* auf sich zu nehmen haben. So verstand es auch das Judentum, welches die Verurteilung der Tötung in der Notwehr abwies.“ (GS II, 200f., emphasis S.W.)

The English translation differs in several significant elements which are emphasised in the following quotation:

It 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 *exceptional cases*, to take upon themselves the responsibility of *ignoring* it. Thus it was understood by Judaism, which expressly rejected the condemnation of killing in self-defence. (SW I, p. 250)

In this way the translation not only substitutes „ungeheure Fälle“ by the Schmittian term „exceptional cases“ and „absehen von“ by „ignoring“; it also dramatises the description by translating „auseinandersetzen“ with „to wrestle“.

In Benjamin’s original discussion on this case not following the commandment provides a category of action that answers the question of revolutionary violence. With his reflections, he counters contemporary debate on the question of violence, since he claims that this refers to „a more distant theorem“ as he formulates it: „This is the doctrine of the sanctity of life.“ (SW I, p. 250; GS II, p. 201)

Let us trace the systematic argument in Benjamin’s article. In respect to the question of revolutionary violence, he enters into a discussion of two types of absolute negation of every form of violent killing: (1) a negation founded on the commandment „thou shalt not kill“, i.e. one with a Judeo-Christian foundation, and (2) a negation based on that „more distant theorem“, the doctrine of the sanctity of life, i.e. one with a mythical foundation. Benjamin connects these two theorems with his opposition of the two extra- and pre-legal archetypes of violence, the mythical and the divine, when discussing them in terms of their theorization of the victim:

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 accepts it.*“ (Die mythische Gewalt ist Blutgewalt über das bloße Leben um ihrer selbst, die göttliche reine Gewalt über alles Leben um des Lebendigen willen. *Die erste fordert Opfer, die zweite nimmt sie an.*) (GS II, p. 200; SW I, p. 250, emphasis S.W.)

Important in this context is the different positioning in time, the different historical character of the two extra-legal spheres of reference. Mythical violence has its basis in a pre-historical context that lives on in myths such as the fateful

„guilt of mere natural life“. The „Verschuldung des bloßen natürlichen Lebens“ is thus characterised as a sort of afterlife – or „Nachleben“ (as Aby Warburgs has put it) – of a mythical order. In the text *Fate and Character*, written two years previously, Benjamin notes: „Fate is the guilt context of the living [des Lebendigen].“ (SW I, p. 204; GS II, p. 175) This guilt has nothing to do with a religious context and does not provide a basis for legal condemnation. Rather, the condemnation precedes the guilt, or more precisely, the condemnation of the gods precedes the guilt of the human being. This text, too, was concerned with law and justice.

Mistakenly, through confusing itself with the realm of justice, the order of law – which is merely a residue of the demonic stage of human existence, when legal statutes determined not only men’s relationships but also their relation to the gods – has preserved itself long past the time of the victory over the demons.

(SW I, p. 203)

Mißverständlich, auf Grund ihrer Verwechslung mit dem Reiche der Gerechtigkeit, hat die Ordnung des Rechts, die nur ein Überrest der dämonischen Existenzstufe des Menschen ist, in der Rechtssatzungen nicht deren Beziehungen allein, sondern auch ihr Verhältnis zu den Göttern bestimmten, sich über die Zeit hinaus erhalten, welche den Sieg über die Dämonen inaugurierte. (GS II, p. 174)

This indicates Benjamin’s presumption that an archaic relationship of human beings to the gods lives on in the legal order. Derived from the archaic order the notion of fate is condensed into the concept of a person’s guilt.

### The commandment beyond judgment

Divine violence, by contrast, follows a different conception of time and history, and Benjamin characterizes this as *Gegenwärtigkeit* or existence in the present moment: „This divine power is not only attested by religious tradition but is also found in present-day life in at least one sanctioned manifestation.“ Thus the commandment stands before the deed, „wie Gott ‚davor sei‘, daß sie geschehe“ (GS II, p. 200) i.e. „just as God was ‚preventing‘ the deed“, (SW I, p. 250) or more literally just as God ‚was prior‘ or was standing in front of thus hindering that the deed happens. With reference to its existence in the present, however, there is no connection between the commandment and judgment in Benjamin’s estimation. Instead, he stresses the non-synchronicity between the language of commandment on the one hand and the criteria of legal judgments, i.e. the condemnation of human beings by human beings, on the other. The figure of the commandment applies to the one who acts, the actor of the deed, not to the judgment. What follows is the passage cited, concerning the commandment as a guideline for the responsibility that persons or communities have to take upon

themselves when, in „ungeheuren Fällen“, they decide in a single case not to follow the commandment.

Benjamin describes this case as a manifestation of pure violence, which beyond all rational foundation as it were, enters into an immediate relation to divine violence in that, by disregarding existing law it founds „a new historical epoch“ (SW I, p. 25; GS II, p. 202). In this sense, his analysis of what happens when one does not follow the commandment, as a different form of revolutionary decision in an extreme case, makes visible the quasi-divine violence that is concealed in the claim. In deciding to act in accordance with this unique case, however, the one who does so does not become sovereign – far from it. In contradistinction to the decision on the state of exception in Schmitt’s constitutional-theoretical concept of sovereignty, what is at issue in Benjamin is the responsibility for an act which does harm to the commandment in a single case without establishing a not law through this action.

As regard to the other theorem cited, the „doctrine of the sanctity of life“, Benjamin contradicts the view that mere life is placed higher than „happiness and justice of existence“, a view with which creaturely, natural existence or its aggregated bodily condition is declared to be sacrosanct. Benjamin counters: „Man cannot, at any price, be said to coincide with the mere life [...] not even with the uniqueness of his bodily person.“ (SW I, p. 251, transl. modified; GS II, p. 201) That the human being is sacred is, he suggests, a notion that cannot be derived from the natural life of the human being, but springs rather from the human being’s participation in a supernatural order. Benjamin pursues this double referentiality of the concept of life – its allusion to a natural and a supernatural life – at greater length in his essay on Goethe’s *Wahlverwandtschaften* (*Elective Affinities*), written a short time afterwards. In the *Critique of Violence*, within the context of his critique of the dogma of the sanctity of mere life, he counts the concept of ‚life‘ among those words whose dual meaning is illuminated by their relationship to two distinct spheres. For Benjamin, the concept of life refers to the unshakeable aggregate condition („unverrückbaren Aggregatzustand“) of the „human being“, set in inverted commas as an abstract concept, and in this sense it means much more and something quite different from a mere creaturely existence. (SW I, p. 251; GS II, p. 201) The double referentiality in the concepts of life and of the human broached in this context also means something quite different from the double nature of the human being in the body-soul paradigm. At issue here is the fact that the concept springs from a double reference, to the extent that what points beyond the creaturely is always indebted to the idea of a supernatural order which at first and foremost has been expressed in the biblical idea of men’s ‚likeness with God‘. Following the commandments is different from following legal principles and counts mainly for the actor because it guarantees him to enter and to belong to a realm which is more than mere life.

It is only the historical loss of the sacred that was able to produce the doctrine of the sanctity of life, Benjamin argues, thus evaluating the doctrine as an

effect of secularization and criticizing it as the re-transformation of lost sacred aspects into natural law and thus interpreting the natural law as a crypto-religious order: something that originated in a sacred order and has, after its loss, been reformulated as nature. In this sense, Benjamin evaluates the dogma as the „last mistaken attempt [letzte Verirrung] 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 mythic thought, the marked bearer of guilt: life itself“ [das bloße Leben]. (GS II, p. 202; SW I, p. 251)

It is no coincidence, then, that Benjamin’s text, which rejects the theorem of the „sanctity of mere life“ Agamben espouses in his study of the *Homo sacer*, also develops a *Critique of Violence* in which the notion of not following the commandment furnishes an answer to the dialectic of secularization; an answer that goes beyond the political theology of the state of exception in which the theological origin of secularized constitutional concepts has been subsumed.

(With translation by Georgina Paul)

Micha Brumlik

## Postmodern Views of the Founder of Christianity

### I. The Present of Readability

According to the Roman tradition of hermeneutics, the universality of a text specifically demonstrates itself in the fact that different epochs reveal different meanings, so that each era effects a new horizontal affiliation of text and time. By contrast, there is also a hermeneutic approach, which can no longer be considered historicist, but topical. It recognizes a „present of readability“, i.e. a partially ideal point in time when the full content of a text becomes understandable. According to Giorgio Agamben, who recently published a new comment on Paul’s letter to the Romans entitled *The time that remains*, the turn to the twenty-first century accomplishes this „present of readability“ (according to Agamben with Benjamin): the age of globalization.

Indeed, it is more than incidental that postmodern philosophy addresses a subject that has been neglected by academic philosophy in the 20<sup>th</sup> century, except for a few peripheral works and one very important example, Heidegger’s *Phenomenology of Religious Life* (1921). I am not referring to philosophy of religion in general, which is certainly not a focus of interest, but about the issue of a philosophic theology working closely with traditional texts. In my view, there are at least four reasons behind postmodern philosophy’s new interest in religion.

First, one cause of this attention, which we not only associate with the names of Emmanuel Lévinas, Jacques Derrida, and Gianni Vattimo, can be attributed to the fact that deconstructive philosophy in particular tried to prove the separation of belief and knowledge, always carefully adhered to by the classic philosophic tradition to be untenable. Therefore, it started to concentrate on what proved to be knowledge, thinking, and writing rich in content, although not accessible under the precondition of strict argumentation and verifiability. Though this was also true for aesthetics, at least in the wake of Kant’s *Criticism on the Power of Judgment* or Schleiermacher’s *Speeches*, the difference is that theological philosophy concerns itself from the outset with the idea of a thus far improvable but nevertheless massive and soteriological truth. In the philosophy of critical theory, especially subsequent to Walter Benjamin’s theses *On the Philosophy of History* or Theodor W. Adorno’s notes in *Minima Moralia* and *Negative Dialectics*, this soteriology emerges in an intrinsically retained manner and in shrunken forms as „messianism“. The term will be considered in more detail later in the article.

Second, it is quite conclusive that sooner or later this philosophic messianism would no longer be able to avoid addressing a subject which, at least within