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Walter Benjamin and the Architecture of Modernity



Andrew Benjamin & Charles Rice

Walter Benjamin and the Architecture of Modernity

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Anamnesis means remembrance or reminiscence, the collection and re-collection of what has been lost, forgotten, or effaced. It is therefore a matter of the very old, of what has made us who we are. But *anamnesis* is also a work that transforms its subject, always producing something new. To recollect the old, to produce the new: that is the task of *Anamnesis*.

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the Architecture of Modernity

Edited by Andrew Benjamin and Charles Rice

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Violence, Deconstruction, and Sovereignty: Derrida and Agamben on Benjamin's 'Critique of Violence'

Robert Sinnerbrink

Walter Benjamin's 1921 essay 'Zur Kritik der Gewalt' has been responsible for a subterranean tradition of critical thought, one that has only come to prominence in recent decades.¹ As Anselm Haverkamp points out, Herbert Marcuse, who published an introduction to the 1965 Suhrkamp paperback edition, 'was the first one ready to use this text'—some forty years after its initial publication (Haverkamp 140). More recently, Giorgio Agamben has argued that Benjamin's 'Critique of Violence' belongs to the debate between Benjamin and Carl Schmitt on the concept of the state of exception (*Ausnahmezustand*), and even that Schmitt's theory of sovereignty should be regarded as a cryptic response to Benjamin's 'Critique of Violence' (Agamben 'State' 288–9).² Agamben's work has contributed greatly to the renewed interest in this text, which plays an important role in Agamben's own project of theorising sovereign power and its violence against bare life.³ In the English-speaking world, however, it was Jacques Derrida's 1990 essay 'Force

1. 'Zur Kritik der Gewalt' (*GS* II:1: 179–203), 'Critique of Violence' (*SW* I: 236–52). Benjamin's essay was first published in issue 47 of the *Archiv für Sozialwissenschaft und Sozialpolitik* in 1921.

2. Haverkamp describes Agamben's *Homo Sacer* as 'the most important of all the books influenced by the "Critique of Violence" or produced in its wake' (*State* 137). See also Agamben's essays on Benjamin in *Potentialities*.

3. Andrew Norris has pointed out that Benjamin's 'Critique of Violence' essay introduces the concept of 'bare life' (*bloßes Leben*), which Agamben then develops in his own work. Unfortunately, as Norris goes on to remark, 'it is almost impossible to say what Benjamin means by this phrase' (Norris *Exemplary* 281).

of Law' that once again brought Benjamin's enigmatic text to the attention of cultural theorists and political philosophers. It seems timely then to ask how Derrida's famous reading of Benjamin's 'Critique of Violence' in 'Force of Law'—along with Agamben's recent reflections—both appear in light of this renewed critical attention brought to Benjamin's work.

As is well known, Derrida's prodigious body of work showed a marked shift during the 1990s toward increasingly explicit ethical and political themes. These included essays on the question of Europe, on apartheid, on the foundations of law, cosmopolitanism, the right to hospitality, and Derrida's long-awaited reading of Marx (via Shakespeare, Heidegger and Max Stirner).⁴ Much of this ethical sensitivity and political engagement is already apparent in Derrida's famous essay, 'Force of Law: The "Mystical Foundation of Authority"'⁵ delivered as two lectures in October 1989 and April 1990. This essay as a whole divides into two distinct parts: the first explores the paradoxes of 'enforcing the law', drawing on Pascal's *pensée* concerning the 'mystical foundation' of law, and developing the distinction between *deconstructible* law and *undeconstructible* justice; the second part presents a careful reading of Benjamin's essay 'Zur Kritik der Gewalt' ('Critique of Violence'), dissecting its complex layering of political, eschatological, and metaphysical themes, but also appropriating it within Derrida's project of deconstruction, indeed, within the movement of deconstruction *as* justice.

Since its publication 'Force of Law' has become a seminal text, so to speak, in critical legal studies and deconstructivist approaches to law.⁶ Derrida's double gesture of aligning deconstruction with Benjamin's project, while also deconstructing Benjamin's alleged complicity with metaphysically inflected discourses of violence, has also proven very significant for the 'post-structuralist' reception of Benjamin's work. This raises the question of the relationship between Benjamin's thought and deconstruction. In what follows, I shall examine Derrida's complex deconstructive reading of Benjamin's enigmatic critique of *Gewalt* (violence, force, power), foregrounding in particular the parallel Derrida draws between deconstructive reading and Benjamin's account of pure violence. My question, put simply, is whether Derrida's deconstructive reading does justice to Benjamin's enigmatic critique of violence. In pursuing this question I argue that Derrida blurs Benjamin's Sorelian distinction between the *political general strike* (which simply inverts state power relations) and the *proletarian general strike* (which non-violently disrupts such power relations). As a consequence, Derrida criticises

4. 'Force of Law' (hereinafter referred to as 'Law'), *Force de Loi*. See Derrida *Other, Specters, Politics, Monolingualism, Hospitality*.

5. An earlier version of this essay appeared in *Cardozo Law Review* 11 (1990): 919–1045.

6. See the essays in Cornell et. al and the special issue of *Cardozo Law Review* 13 (1991), especially the essays by Rodolphe Gasché and Adam Thurschwell which deal specifically with Derrida's reading of Benjamin.

Benjamin's metaphysical complicity with the violence that led to the Holocaust. Along with other readers of Benjamin, such as Werner Hamacher and Giorgio Agamben, I question Derrida's critique of Benjamin's alleged complicity with 'the worst'. Derrida's deconstructive reading of Benjamin, I conclude, underplays its Marxist dimensions, privileging the theological and textual dimensions of Benjamin's thought over the political and historical.

DECONSTRUCTING BENJAMIN'S 'CRITIQUE OF VIOLENCE'

It is not surprising that deconstruction should end up with a 'problematization of the foundations of law, morality, politics' (Derrida 'Law' 8), for deconstruction has always attempted to show the paradoxes structuring the philosophical discourse on the responsible moral subject. This problematization of law takes the form of the question: what allows us to distinguish between the legitimate force of law, the just use of force, and 'the violence that one always deems unjust?' ('Law' 6). Here Derrida's guide (above all in the second part of 'Force of Law') will be Benjamin's 'Critique of Violence', with its unstable combination, as Derrida phrases it, of 'neo-messianic Jewish mysticism grafted onto post-Sorelian neo-Marxism (or the reverse)' ('Law' 29).

Derrida's deconstructive reading of Benjamin's 'Critique of Violence' belongs to the historical, genealogical, textual version of deconstruction that Derrida outlines elsewhere in 'Force of Law' ('Law' 21). It was originally presented as part of a symposium on 'Nazism and the Final Solution', and in this respect emphasises the complicity between Benjamin's discourse on violence and other anti-*Aufklärung*, anti-democratic, critiques of liberal parliamentary democracy (especially in Carl Schmitt and Heidegger).⁷ It is a 'risky reading,' as Derrida admits, which raises the question of whether it is also a *just* reading, a case of deconstructive justice in action. Derrida attempts to justify this deconstructive approach by claiming that, with suitable work and precautions, 'lessons can still be drawn' from Benjamin's text for our context ('Law' 30), namely for Western liberal democracies post-1989, the epoch of triumphant global capitalism.

Derrida begins by drawing attention to the text's volatile context: the crisis of liberal parliamentary democracy in Weimar Germany but also across Europe, the failure of pacifist movements and anti-militarism, Communist agitation and the concept of a general strike, changes in the public sphere due to mass media communications, and general criticisms of jurid-

7. Derrida's text on Benjamin's 'Critique of Violence' was delivered as an opening address for the colloquium 'Nazism and the "Final Solution": Probing the Limits of Representation' at the University of California, Los Angeles, on April 26, 1990. The first part of 'Force of Law' (dealing with the aporias of justice) was presented in the colloquium on 'Deconstruction and the Possibility of Justice' held at the Cardozo Law School, Yeshiva University of New York, October 1989.

ico-police violence and the liberalist conception of right. Although attentive to this context, Derrida's deconstructive reading is more concerned to show how Benjamin's text undermines the very distinctions that it proposes in its own argumentative movement. Indeed, Benjamin's complex critique of the question of *droit*, *Recht*, right or law, invokes a philosophy of history that it at the same time destroys. It presents the ruins of a philosophy of right, a self-destructive or self-deconstructive text that reveals much about the fate of our own inherited conceptions of law, violence, and justice.

The essay is organised around a series of distinctions that Derrida will put into question. These include the distinction between two kinds of violence and their role in relation to law or right: the *law making* or *law-positing violence* (*rechtsetzende Gewalt*), which institutes law, and the *law-preserving* or *conserving violence* (*rechtserhaltende Gewalt*), which maintains and insures the 'permanence and enforceability of law' (Derrida 'Law' 31). This distinction is linked with another, though not by way of equivalence, between the 'mythic' founding violence of law (which Derrida reads as alluding to Greek law), and the 'divine' annihilating violence of destructive law (which Derrida reads as alluding to Jewish law). Finally, there is Benjamin's enigmatic distinction between *justice* (*Gerechtigkeit*) as the principle of the 'divine' positing of ends, and *power* (*Macht*) as the principle of the 'mythic' positing of law or right. Derrida will argue, however, that in attempting to maintain these distinctions as independent of each other, Benjamin will end up mirroring the very violence and injustice that he seeks to critique. Derrida even goes so far as to say that Benjamin's text, at certain points, evinces a vertiginous complicity with 'the worst' (the ideological discourses that culminated in the Holocaust) ('Law' 63). This claim has been challenged by other readers of Benjamin, and I shall make some brief remarks on this issue in concluding my reflections.

Benjamin's critique of violence attempts to prepare a 'critique', understood in a peculiarly post-Kantian (but also Marxist!) sense, that is, a reflective examination of the limits and legitimate use of *Gewalt* or violence as such (meaning also force and authority). It is not a condemnation of violence but rather a case of 'judgment, evaluation, examination that provides itself with the means to judge violence' (Derrida 'Law' 31). Rather than inquire into the exercise of violence, Benjamin asks the critical question concerning an 'evaluation and a justification of violence in itself' (Derrida 'Law' 32). For both natural law and positive law traditions remain bound to the model of accounting for violence in terms of means and ends: either the natural law justification of violence as a means to attain just ends (for example, the right to kill in self-defence), or the justification of violence as a means so long as it conforms to instituted law (for example, the right to use military force to repel an invader). For Benjamin, however, these two approaches remain within a 'circle of dogmatic presuppositions', which becomes evident when

a contradiction arises between just ends and justified means. Benjamin's critique of violence thus attempts to surpass both natural law and positive law traditions in favour of what he described as a weak messianic 'philosophy of history'—a revolutionary philosophy committed to the infinite task of redeeming past suffering.

Benjamin's critique of violence therefore examines whether *pure violence*—understood as *that which cannot be reduced to any instrumental relation between ends and means*—can legitimately establish a new order of law and right. From this perspective, the *right to strike* represents the most compelling example of a pure violence that strikes at the heart of the established legal, social, and political order. Here Benjamin refers to Georges Sorel's famous distinction, from his *Réflexions sur la violence* of 1919, between the *political* and the *proletarian general strike*. Indeed, Sorel was the first to distinguish between these two fundamentally different kinds of strike, which are 'antithetical in their relation to violence' (*GS II*: 193; *SW I*: 245). This is a decisive point: the general political strike simply inverts relations of social domination, while the proletarian general strike seeks to abolish this order of social and political domination itself. As Werner Hamacher remarks in his illuminating reading of Benjamin's essay,

for whereas the political general strike is only concerned with inverting the relation of domination, and is still based on the preservation and strengthening of state violence, the proletarian general strike aims at nothing less than the abolition of the state apparatus and the legal order maintained by it. (Hamacher 1994, 120)

The general political strike remains within the parameters of state violence, seeking to invert the relations of power; the proletarian general strike, by contrast, 'sets [*setzt*] itself the sole task [*Aufgabe*] of destroying state power' (*GS II*: 194; *SW I*: 246).⁸ In this respect, the proletarian general strike, as a general refusal of work, severs relations with the system of exploitation, and in doing so presents a 'non-violent means of annihilation of legal as well as state violence' (Hamacher 120). As Benjamin observes, following Sorel:

Whereas the first form of interruption of work [general political strike] is violent, since it causes only an external modification of labor conditions, the second [proletarian general strike], as pure means, is non-violent [*gewaltlos*]. For it takes place not in readiness to resume work following external concessions and this or that modification to working conditions, but in the determination to resume only a wholly transformed work, no longer enforced by the state, an upheaval [*Umsturz*] that this kind of strike not so much causes as consummates. For this reason, the first of these undertakings is lawmaking [*rechtsetzend*] but the second anarchistic. (*GS II*: 194; *SW I*: 246)

8. Quoted in Hamacher (120).

Here the distinction is made very clear. The general political strike is violent because it aims at altering labour conditions but remains within the legal and political order of the state, that is to say, the state's monopoly on the legitimate use of violence. The proletarian strike, by contrast, is pure political violence, understood as *pure means*; at the same time, however, it is *non-violent* in the sense that it refuses any complicity with state violence by suspending all forms of posited law. It eschews extortionate violence directed at effecting a change that can be integrated within the prevailing economic, legal, and political status quo. Instead, it advocates an anarchic suspension of state power—and the power of law—through the *refusal of work* in the name of social and political justice. It is oriented by the demand for a wholly transfigured work no longer grounded in the legal and political order of the state. In this respect, the strike does not bring about this anarchic dissolution of power but rather expresses its execution or consummation. At the same time, this refusal or withdrawal of work is a 'violent' counteraction to the injustice of state violence and its legitimization of social and economic exploitation. The pure violence of the proletarian general strike is, paradoxically, a *non-violent suspension* of the organised violence of the state and its underlying economic and social order. For Benjamin, this contrast can be understood as that between the *law-making or law-positing violence* [*rechtsetzende Gewalt*] that founds the legal and political order, and the anarchic 'pure violence' that fundamentally transforms the very nature of work and undermines the prevailing institutions of the social and political community.

At this point, however, Derrida parts company with Benjamin and proceeds to deconstruct the Benjaminian critique of violence. According to Derrida's reading, Benjamin's Sorelian-inspired endorsement of the proletarian general strike means embracing, precisely, *violence* as a legitimate means to overthrow the state. Indeed, Derrida claims that 'Benjamin clearly does not believe in the non-violence of the strike' ('Law' 34), a statement that is difficult to reconcile with Benjamin's clear separation of the *proletarian general strike*, with its pure violence that is a *non-violent violence*, a suspension of state violence, from the *general political strike*, which deploys state violence in order to invert the relations of power within the state. In class struggle, Derrida continues, the right to strike is guaranteed to workers, 'who are therefore, besides the state, the only legal subject (*Rechtssubjekt*) to find itself guaranteed a right to violence (*Recht auf Gewalt*) and so to share in the monopoly of the state in this respect' ('Law' 34). Indeed, the complete withdrawal of labour in the revolutionary *general strike* aims at the abolition of the unjust legal and political order as such.

This is the revolutionary form of pure violence that the state, as organised force of law, fears the most: it condemns as illegal the general strike that takes the conceded right to strike to the limit in order to undermine the established social-political order. As Derrida remarks, the political state fears

this 'fundamental, founding violence, that is, violence able to justify, to legitimate (*begründen*, ...), or to transform the relations of law (*Rechtsverhältnisse*, ...), and so to present itself as having a right to law' ('Law' 35). This is the instituting or founding violence that Benjamin seeks to examine in his critique of violence: not just the exercise of brute force but the violence that belongs in advance to an order of right that does not yet exist (Derrida 'Law' 35). According to Derrida, the general strike is thus an important example of this founding violence, since it 'exercises the conceded right to contest the order of existing law and to create a revolutionary situation in which the task will be to found a new *droit*' ('Law' 35). The aim of this revolutionary founding violence, in short, is to found a new order of law and right that will retrospectively justify it, however much the establishment of this order may offend our sense of justice at the time (Derrida 'Law' 35).

We should note, however, that Derrida's reading clearly clashes with the manner in which Benjamin interprets Sorel's distinction between the *political* general strike and the *proletarian* general strike, which Derrida frequently describes simply as a 'general strike,' dropping the Sorelian-Marxist reference to the proletariat. Benjamin's proletarian general strike is precisely what *suspends* the violence of the political state through the anarchist-revolutionary withdrawal of labour. It is the proponents of the *political general* strike who, in Benjamin's view, court the danger of reproducing the violence of the political state. As Hamacher points out, Benjamin cites Sorel, who claimed that the general political strike is based upon the 'strengthening of state violence', that it will prepare 'the ground for a strong centralized and disciplined power that will be impervious to criticism from the opposition, and capable of imposing silence'; moreover, that it 'demonstrates how the state will lose none of its strength, how power is transferred from the privileged to the privileged, how the mass of producers will change their masters' (*GS II:1*: 193–4; *SW I*: 246).⁹ Far from reproducing the dangers of political suppression, the proletarian general strike is, as Hamacher remarks, a 'non-violent means of annihilation of legal as well as of state violence,' one that aims, in Benjamin's words, 'to resume only a wholly transformed work, no longer enforced by the state' (*GS II:1*: 194; *SW I*: 246).¹⁰ In Hamacher's reading, then, Benjamin's pure violence of the proletarian general strike marks the possibility of an essentially *non-violent*, anarcho-revolutionary transformation of work and of society.

As remarked above, this is quite opposed to Derrida's reading, which is concerned to show that Benjamin's critique of violence risks lapsing into a vertiginous complicity with 'the worst'. And this is not only through a questionable endorsement of forms of political violence but via a quasi-the-

9. Quoting Georges Sorel, *Réflexions sur la Violence* (5th ed. 1919, p. 250). Passage quoted in Hamacher (120). Translations of the passages in question can be found in Sorel (162, 171).

10. Quoted in Hamacher (120).

ological 'justification' for what Derrida identifies as the 'bloodless' violence that the Nazis would perpetrate during the Holocaust ('Law' 62). It is true that Benjamin makes some very enigmatic references to the way divine violence, as law-destroying, as expiatory, is 'lethal without spilling blood'; that God's judgment 'strikes privileged Levites, strikes them without warning, without threat, and does not stop short of annihilation.' (*GS* II:1: 200; *SW* I: 250). Derrida famously takes these remarks to foreshadow a complicity with that which was to become 'the worst' a couple of decades after Benjamin penned his essay. Whatever the theological significance of Benjamin's enigmatic description of divine violence, however, we should recall that it is a violence that remains 'outside the law' (*GS* II:1: 202; *SW* I: 252); that its human and historical manifestations are to be found in 'the educative power' (*erzieherische Gewalt*) which 'in its perfected form also stands outside the law' (*GS* II:1: 200; *SW* I: 250), and also in the possibility of 'revolutionary violence, the highest manifestation of unalloyed violence by man' (*SW* I: 252). These manifestations of pure violence, in Benjamin's enigmatic sense, do not readily lend themselves to assimilation with the horrors of the 'Final Solution'. Nonetheless, as Haverkamp remarks, attempts such as Derrida's 'to declare Benjamin's "Critique of Violence" to be a prophecy of Auschwitz' continue to generate lingering 'annihilating oversimplifications', to which Agamben's work, among others, offers a pertinent response ('State' 140).

Whatever the case, Derrida's contentious claim clearly clashes with the distinctions I have outlined and discussed above. Indeed, I would suggest that Derrida can make this criticism of Benjamin only by conflating the (Sorelian) distinction Benjamin carefully maintains between the *political* and the *proletarian general strike*, a distinction that is precisely concerned with the problem of avoiding reproducing political and state violence in attempting to overthrow or annihilate this violence. Derrida, however, will argue that Benjamin *cannot* maintain this distinction: it is always already contaminated such that the political and proletarian general strikes merge into one another, hence are mutually implicated in political violence and the exercise of domination. In short, Derrida rejects Benjamin's claim that we can distinguish 'pure violence' as the suspension of state violence, maintaining instead that pure violence and political violence are always already mutually contaminating.

Derrida then attempts to envelop Benjamin's critique of violence within the movement of deconstruction, drawing out the relation between Benjamin's pure violence and 'juridico-symbolic violence, a performative violence at the heart of interpretative reading' ('Law' 37). In other words, having first destabilised the opposition between pure violence and political violence, Derrida draws a strong parallel between Benjamin's account of the revolutionary general strike and the interpretative violence of deconstruction:

We might say that there is a possibility of general strike, a right to general

strike in any interpretative reading, the right to contest established law in its strongest authority, the law of the state. One has the right to suspend legitimating authority and all its norms of reading ... for we shall see that Benjamin distinguishes between two sorts of general strikes, some destined to replace the order of one state with another (general political strike), the other to abolish the state (general proletarian strike). In short, the two temptations of deconstruction. (Derrida 'Law' 37)

Derrida thus attempts to reinscribe Benjamin's anarcho-Marxism within the project of deconstructive justice in action. Benjamin's appropriation of the Sorelian distinction between political and proletarian general strikes is transformed into the 'two temptations of deconstruction'. The revolutionary situation generated by the (proletarian) general strike becomes the revolutionary situation 'in every reading that founds something new and that remains unreadable in regard to established canons and norms of reading, that is to say the present state of reading or of what figures the State, with a capital S, in the state of possible reading' (Derrida 'Law' 37). Deconstructive reading as a strategy of rupture, however, is never pure but always mediated. From this irreducibly mediated situation Derrida draws the following conclusion: 'there is never a pure opposition between the general political strike looking to re-found another state and the general proletarian strike looking to destroy the state' ('Law' 38).

This rather hasty conclusion (which quickly assimilates Benjamin's highly ambivalent text on violence into the always doubled strategy of deconstruction) leads Derrida to question the organising oppositions of Benjamin's discourse on violence; to show how they deconstruct themselves in accordance with Derrida's (quasi-speculative) claim that deconstruction *is* justice. Indeed, Derrida proposes—in what we might call an act of deconstructive violence—that Benjamin's oppositions are caught up in a process of mutual contamination that renders untenable the fundamental distinction between *founding* or *positing violence* and *conserving* or *preserving violence*: 'I shall propose the interpretation according to which the very violence of the foundation or position of law (*Rechtsetzende Gewalt*) must envelop the violence of conservation (*Rechtserhaltende Gewalt*) and cannot break with it' ('Law' 38). Contra Benjamin, for Derrida there can be no rigorous opposition between positing and conservation, only a paradoxical '*différentielle contamination*' between the two ('Law' 38). Thus there can also be no rigorous distinction between a general strike and a partial strike (but do we ever observe a general strike?); for the attempt to separate revolutionary 'pure violence' from the violence of the state—encompassing both law-making and law-preserving violence—must always fail. Contra Benjamin, for Derrida there can be no pure violence 'outside the law'; rather, deconstruction shows that there can only be a *différentielle contamination* at the heart of the law that, in Benjamin's phrase, renders it 'rotten', decayed, from the start. Indeed, according to Derrida,

Benjamin ignores the fact that any originary structure involves the possibility of repetition or iteration, which renders any pure origin always already marked by the possibility of repetition. Hence it belongs to the very structure of founding or positing violence that it be iterable, repeatable, and so founds what ought to be conserved, what is promised to heritage and tradition. The distinction between positing and preserving violence therefore collapses into a *différentielle contamination* between the violence of law and the possibility of violence *beyond* the law.

In response to Derrida's reading, we should recall Benjamin's mention of the 'educative power' as a sphere in which pure violence, outside the law, can become manifest. Here I would point to an intriguing moment in Benjamin's text that suggests the possibility of an ethical mode of *communicative* non-violence exceeding the sphere of law or right. As Benjamin remarks, non-violent resolution of conflict is readily evident in the intersubjective relations between private persons:

Non-violent agreement is possible wherever a civilized outlook allows the use of unalloyed means of agreement. Legal and illegal means of every kind that are all the same violent may be confronted with nonviolent ones as unalloyed means. Courtesy, sympathy, peaceableness, trust, and whatever else might here be mentioned are their subjective preconditions. (*GS* II:1: 191; *SW* I: 244)

What to make of this moment? Derrida doesn't comment greatly upon it other than to indicate Benjamin's apparent adherence to a public/private opposition, itself in need of deconstruction ('Law' 49). It certainly represents a curious break with Benjamin's talk of law-positing and law-preserving violence. Its importance, however, lies in underlining the forms of intersubjective engagement 'outside the law' in which non-violent means are deployed between individuals. In doing so, Benjamin points, I want to suggest, to a model of *dialogical communication* with the power of suspending the violence of law or right. As Benjamin observes, it is possible to witness such non-violent suspending of conflict within the sphere of social relations over goods, in the cultural sphere of techniques, and in the hermeneutic sphere of language:

The sphere of non-violent means opens up in the realm of human conflicts relating to goods. For this reason, technique in the broadest sense of the word is their most particular area. Its profoundest example is perhaps the conference [*die Unterredung*], considered as a technique of civil agreement. For in it not only is nonviolent agreement possible, but also the exclusion of violence in principle is quite explicitly demonstrable by one significant factor: there is no sanction for lying. (*GS* II:1: 192 ; *SW* I: 244)

This moment of non-violent dialogical communication—beyond law and right—presents itself as one possibility, more ethical than political, for

the critique of violence. Techniques of civil agreement that are intersubjective and communicative already indicate a sphere ‘beyond the law’ where the use of unalloyed means is possible. In the case of the ‘conference’, a dialogical situation of unconstrained communication, the exclusion of violence is signalled by the lack of any punishment for deceptive or lying speech. And such a possibility in turn is opened up, Benjamin claims, by the hermeneutic dimension of language: ‘there is a sphere of human agreement that is non-violent to the extent that it is wholly inaccessible to violence: the proper sphere of ‘understanding’ (*Verständigung*), language’ (*GS II*:1: 192; *SW I*: 245). Benjamin, moreover, distinguishes this ethical moment of dialogical non-violence from the political moment of pure violence evinced in the proletarian general strike. Can these ethical and political forms of non-violence be brought together? While Benjamin gestures towards the analogy between pure means in politics and dialogical communication, he appears to reserve this dialogical non-violence for the interpersonal sphere of linguistic communication, related forms of social intercourse governing conflicts over goods, and the situation of unconstrained dialogue evinced in the ‘conference’ (*Unterredung*). Rather than development the implications of this insight, however, Benjamin does no more than point to the analogy between the spheres of politics and of social communication: ‘We can therefore point only to pure means in politics as analogous to those which govern peaceful intercourse between private persons’ (*GS II*:1: 193; *SW I*: 245).

Instead of exploring the possibility of introducing dialogical communication into the sphere of politics, Benjamin’s text, as Derrida observes, takes on a decidedly theologico-metaphysical tone. Pure revolutionary violence, according to Benjamin, does not lend itself to any human knowledge or certainty on our part (Derrida ‘Law’ 56). It finds its source in God, the wholly other, the ‘sovereign violence’ (*waltende Gewalt*) (*GS II*:1: 203; *SW I*: 252). For Derrida, Benjamin’s relapse here into a theologically inflected philosophy of history—the historical decline from a pure origin to a teleological conclusion through revolutionary repetition—signals his complicity with crypto-metaphysical thinkers such as Schmitt and Heidegger. But does this also signal, as Derrida claims, Benjamin’s complicity with ‘the worst’ (Nazism, the Holocaust)? As I noted above, the parallel Derrida draws between Benjamin’s conception of annihilating, sacrificial, ‘divine’ violence, and the ‘bloodless’ annihilation of the Holocaust, is controversial to say the least.¹¹ As Werner Hamacher remarks, it should be clear that:

Benjamin’s notions of annihilation and destruction ... have nothing to do with the corresponding propaganda terms of the so-called conserva-

11. As Agamben notes, the ambiguity of Benjamin’s ‘divine violence’ can prompt the most ‘dangerous equivocations’, including the ‘peculiar misunderstanding’ that prompts Derrida to approximate it to the Nazi ‘Final Solution’ (Agamben *Homo Sacer* 63–7). Quotation on p. 64.

tive revolution, or with the ‘revolution of nihilism’ (as the equation of radical democratic and totalitarian politics would have it, and as some critics by now do not hesitate to insinuate with explicit references to Benjamin) (Hamacher 134).

Derrida’s reading of Benjamin’s alleged complicity with ‘the worst’ is a striking instance of the interpretative violence to which Hamacher alludes. Moreover, the parallel Derrida draws between Benjamin’s messianic-revolutionary rhetoric and Carl Schmitt’s *explicit* complicity with ‘the worst’ overlooks Benjamin’s strongly critical attitude towards Schmitt’s ‘state of exception’ as merely preserving the violence of the political and economic *status quo*. Unlike Schmitt, Benjamin’s account of the strike, as Hamacher observes, does not represent the ‘exception’ [*Ausnahme*] to the rule of the state, to its monopoly over violence, but ‘the ‘exception’ of any system that can still operate with the political opposition of legal norm and state of emergency’ (134). Schmitt’s state of exception preserves the violence of state power, grounding it in the decisionistic power of sovereignty. Benjamin’s revolutionary state of exception, by contrast, would overturn this violence of the political order. As Benjamin remarks in section VIII of ‘Über den Begriff der Geschichte’ (translated as ‘On the Concept of History’):

The tradition of the oppressed teaches us that the ‘state of exception’ [*Ausnahmezustand*] in which we live is the rule. We must arrive at a concept of history in accord with this insight. Then we shall see clearly that our task is to bring about the actual state of exception, and thereby we will improve our position in the struggle against Fascism. (*GS* I:2: 697; *SW* 4: 392; *Illuminations* 248–9 [translation modified])

As Agamben has observed, this passage is probably the most important one in the limited dossier comprising the debate between Benjamin and Schmitt. Agamben’s reading of this passage is illuminating, however, more for what it tells us about Agamben’s project than Benjamin’s. According to Agamben, Benjamin’s eighth thesis must be understood as modifying Schmitt’s account of the state of exception presented in *Political Theology*: namely, that it defines the normal situation (‘State’ 293). The state of exception has now become the rule, which means that there has been an intensification of its undecidability (‘State’ 293). More precisely, the state of exception no longer confirms the rule; rather, it begins to coincide or blur with it (particularly if we understand Benjamin’s comment in the context of the Nazi normalisation of the state of exception during the Third Reich) (‘State’ 193). Agamben’s point here is to highlight the manner in which Benjamin and Schmitt are engaged in an esoteric debate over the relationship between pure violence and the state of exception; for Schmitt, the state of exception defines the power of sovereignty as a means of capturing ‘pure violence,’ while for Benjamin this ‘pure violence’ is always fundamentally excluded

from the law.

Benjamin's distinction between a real and a fictitious state of exception, moreover, is essential in this context, a distinction that Agamben claims Benjamin takes from Schmitt ('State' 193). According to Schmitt, the fictitious state of exception is that state of siege which nonetheless maintains individual rights and freedom through the law. For Benjamin, by contrast, according to Agamben, 'the real state of exception is now opposed to a 'state of exception' (between quotation marks) that is none other than the one that, according to Schmitt, defines the sovereign' ('State' 294). Benjamin takes the fictitious status of the (currently existing) state of emergency to be indicated by its claim to be simultaneously inside and outside the juridical order (Agamben 'State' 294). The real state of exception, however, is that produced by 'pure or revolutionary violence, which has broken every relation to the law and is purely factual' (Agamben 'State' 294). In other words, Benjamin's account of the state of exception is shifted entirely *outside* the juridical order: the real state of exception is equated with 'civil war, pure violence with no relation to the law' (Agamben 'State' 294). Benjamin thus takes Schmitt to be presenting a fictitious version of the state of exception that does not ultimately break with the violence of law and the state.

For Agamben, the dispute between Schmitt and Benjamin therefore ultimately concerns a 'zone of anomie'—that which breaks with the *nomos* or law—that either must be integrated within law at any cost, via the fiction of the state of exception (Schmitt's sovereignty), or else must be kept free from any entanglement with law, ensuring the existence of violence outside the law (Benjamin's 'pure violence') ('State' 294). There are weighty metaphysical questions looming here, as Agamben observes, notably the question concerning the very meaning of the political and its metaphysical foundations: 'Why does the Western juridico-political order constitute itself through a contention over a legal vacuum in exactly the same way as Western metaphysics presents itself as a struggle over pure being?' ('State' 294). Western metaphysics and politics are both defined by a struggle over a void, a struggle for *anomie*; this is the fundamental lesson of the Benjamin-Schmitt dispute, and the inspiration for Agamben's own philosophical reflections on sovereignty and bare life.

Agamben's complex reading of the relationship between Benjamin and Schmitt calls for at least a couple of critical remarks. In Agamben's reading, Benjamin's real state of exception does not really refer to the possibility of revolutionary transformation; rather it enters into a 'zone of indistinction' with Schmitt's account of sovereignty such that sovereign power, lawless violence, and revolutionary anarchism are rendered indistinguishable. What is striking here is Agamben's elision of Benjamin's explicit conclusion, namely that the real state of exception is concerned with the struggle of (Benjamin's messianically inflected) Marxism against really existing fascism. The impli-

cation of Agamben's reading of this passage is thus to assimilate—by way of the 'zone of indistinction' analysis—Benjamin's account of pure violence to the Schmittian account of sovereignty.

Leaving the validity of this gesture to one side, it is worth reiterating that Agamben's reading of the Benjamin-Schmitt dispute repeats, from a different perspective, Derrida's elision of the Marxist dimensions of Benjamin's thesis on the real versus the false state of exception. Whatever other ambiguities remain, Benjamin clearly alludes to a revolutionary response to the conservative revolutionaries: to communism—albeit in Benjamin's peculiarly Marxist-messianic-anarchistic sense—as the actual or authentic 'state of exception' that would redeem historical suffering, and thus transfigure the wreckage of historical 'progress'. Such a real state of exception would come into being, for example, during an actual instance of the proletarian general strike as distinct from the general political strike. Here we might reflect a little further on the relationship between law-positing and law-preserving violence; these may well be mutually contaminating, as Derrida suggests, but this does not mean that the distinction between general and proletarian political strikes therefore collapses, as Derrida concludes.¹² For the means by which both strikes proceed, as I discussed above, are profoundly at odds; the former unfolds by means of an extortionate demand within the prevailing framework of law and state, the latter manifests via suspending the violence of law and of the state in favour of an anarchic transformation of work 'beyond the law'. Benjamin's actual state of exception would be this 'impossible' suspension of law and the state, a moment of revolutionary 'pure violence' that would found a new form of community 'beyond the law'.

Both Agamben and Derrida, however, elide the anarcho-Marxist dimensions of Benjamin's response to Schmitt, either by assimilating Benjamin's idiosyncratic concept of revolutionary violence to the Schmittian concept of sovereignty, or else by enveloping the Benjamin critique of violence within the 'two temptations of deconstruction'. Derrida's haste to emphasise Benjamin's proximity to fascism rather than his intimation of communism suggests a kind of interpretative violence that is troubled by Benjamin's anarcho-revolutionary politics, however ambiguous and undecidable that politics may well be. Derrida's deconstructive reading of the differential contamination between law-making and law-preserving violence evacuates Benjamin's critique of violence of its Marxist dimensions in favour of emphasising its undecidable theological aspects (gesturing towards the aporia of 'divine' or sovereign violence). On the other hand, in Agamben's reading of the 'Critique of Violence' and the relevant theses in 'On the Concept of History,' Benjamin's critique of Schmitt is assimilated to a dispute that ultimately concerns the possibility and nature of sovereignty. Ben-

12. I owe this point to Jessica Whyte, personal email communication, September 7, 2006.

jamin's references to the actual state of exception, the revolutionary transformation of law and of the state, are thus elided in favour of a discourse on sovereignty and the violence it exerts over bare life; a move that effectively casts Benjaminian communism and really existing fascism into a pernicious 'zone of indistinction'. Both Derrida and Agamben can therefore be criticised for engaging in a certain interpretative violence towards the more enigmatic aspects of Benjamin's political thought in the 'Critique of Violence'—his revolutionary (messianic) utopianism.

By way of conclusion, we might recall Benjamin's famous parable, in 'On the Concept of History,' describing a chess automaton ('historical materialism') that can easily win the game of historical fate so long as it enlists the services of theology, a wizened hunchback, who is small and ugly and must be kept out of sight (*GS* I:2: 693; *Illuminations* 251). In different ways, Derrida and Agamben unjustly invert Benjamin's fascinating image of the relationship between Marxism and theology. It is the theology of the text and the undecidability of sovereignty that together play the winning game of chess, while 'historical materialism', having lost the game of historical fate, is now the wizened hunchback who must remain hidden out of sight.¹³

13. Benjamin's chess-playing automaton is mentioned briefly in a footnote in *Specters of Marx* (180–1). Although Derrida aligns the deconstruction of history and politics with Benjamin's 'weak messianic power' (*Specters* 181), he once again underplays the Marxist dimension of Benjamin's destructive appropriation of the past, the way that historical materialism should 'blast open the continuum of history'. See Benjamin (*GS* I:2: 701; *Illuminations* 254).