

PERNICIOUS BASTARDIZATIONS

Benjamin's Ethics of Pure Violence

Kraus accuses the law in its substance, not in its effect. His charge: high treason of the law against justice.... He has seen through law as have few others. If he nevertheless invokes it, he does so precisely because his own demon is drawn so powerfully by the abyss it represents.

—Walter Benjamin, “Karl Kraus”

The pronounced inauguration of “the task of a...presentation” (*Aufgabe einer...Darstellung*) in “Toward a Critique of Violence” (179) positions Walter Benjamin as an author engaged in the scholarly tradition of the philosophical treatise. While “presentation,” on the one hand, generates the transience of the present rather than re-presenting the pre-existing and pre-dictable, on the other hand, it carries the weight of a philosophical genre and the aura of a scholarly habitus that seems to foreclose the true possibility of *presenting*, that is, generating the new.

Among all the forms of violence permitted by both natural and positive law, not one is free of the gravely problematic nature, already indicated, of all legal violence. Since, however, every conceivable solution to human tasks [jede Vorstellung einer irgendwie denkbaren Lösung menschlicher Aufgaben], not to speak of deliverance [Erlösung] from the confines [aus dem Bannkreis] of all the world-historical conditions of existence obtaining hitherto, remains impossible if violence is totally excluded in

principle [unter völliger und prinzipieller Ausschaltung jedweder Gewalt], the question necessarily arises as to what kinds of violence exist other than all those envisaged by legal theory. (195–96)

It is in this context that we may want to ponder the ramifications of representation's (*Vorstellung*) (196) *narrative implementation as theatrical strategy*. While Benjamin is seeking to attain presentation (*Darstellung*), *Vorstellung*—be it translated as mental representation (i.e., imagination) or theatrical representation (i.e., performance)—will always at least imply a claim, more or less openly conveyed, that what is re-presented is in fact present. The duality of *Vorstellung* and *Darstellung* appears precarious in light of Benjamin's announced task to present his critique's "relation to law and justice": "The task [Aufgabe] of a critique of violence can be circumscribed as that of expounding [Darstellung] its relation to law and justice" (179). How could justice—metonymizing singularity and alterity and heterogeneity and otherness—possibly be done justice while dealt with in a philosophical treatise, which is still more a *doing* than a *happening*, more an *act* than an *event*? The question is whether Benjamin's narrative performance exacerbates or mitigates the conflict between *act* and *event*, whether he moves "toward a critique of violence," or whether he loses sight of it. Whatever rhetorical finesse will distinguish his performance in the face of the double bind of the law of genre and the specific economy of his text, it will no doubt fail to circumvent the possibly graver impasse of the idiosyncratic non-presentability (*Nicht-Darstellbarkeit*) and non-presentability (*Nicht-Vorstellbarkeit*) of justice.¹

Yet every claim of *Vorstellung* also entails a *promise*, the promise that perhaps a critique of violence qua *Vorstellung* may still allow for "deliverance" (*Erlösung*) from the dialectical dynamics of traditional violence and, as such, provide an arena for the solution of tasks, distinctively "human tasks." This epistemological bifurcation epitomizes the abyss across which Benjamin's hope for "human tasks" is built. And it precipitates corollaries of a paradoxical nature: on the one hand, Benjamin seems to situate the solution to such human tasks *outside* the human sphere by relating it to a "violence . . . other than" legal violence. This, however, is not a straightforward reference to the divine sphere, to "divine violence" (199), but leads back to the human sphere, where "divine violence" is enacted as "pure violence" (202, 203)—an a-nomic "violence . . . other than all those envisaged by legal theory." In the human

1. Even if in this text I translate *Vorstellung* as "representation," it goes without saying that *Vorstellung* can also present and *Darstellung* can also represent. The etymology of the two German words does not allow for a clear distinction. Both words connote a *moment of stability* as well as a *relation*, in which the *-stellen* is always already pre-determined by a contextual relatedness (*woher-stellen*, *wohin-stellen*, *wie-stellen*, *wann-stellen*, etc.). Thus Benjamin's notion of justice cannot be done justice to by either *Dar-stellung* or *Vor-stellung*, as both rely on a moment of *fixation* encapsulated in the prefix, a moment that freezes the *momentum* of *-stellen*. It is this moment of stability, this break or rupture, that is incommensurable with justice, for justice is pure mediacy.

sphere, divine violence finds its “*highest manifestation*” (202) as pure violence. Hence, what initially appeared to be an ineluctable discrepancy between human tasks and the divine *does* anticipate a “solution” qua “highest manifestation.”

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Benjamin’s verbatim reiteration of the basic dogma common to natural as well as legal law may well be read as a “revolutionary” beacon (202), a beacon proclaiming the third, most dramatic and most enigmatic act of his performance: “Just ends can be attained by justified means, justified means used for just ends” (196). Does this closure of the circle reconfirm Benjamin’s entanglement in the constrictive dynamics of “dispatch” and “exclusion” (*Aus-schalten*; e.g., 180, 181, 196), or does it announce a breaking out of the confines (*aus dem Bannkreis*) of all the world-historical conditions of existence, a redemption (*Erlösung*, 196) indeed?

How would it be...if all the violence imposed by fate, using justified means, were of itself in irreconcilable conflict with just ends, and if at the same time *a different kind of violence arose* [*eine Gewalt anderer Art absehbar werden sollte*] that certainly could be either the justified or the unjustified means to those ends but was *not related* to them as means at all *but in some different way* [*irgendwie anders*]? (196)

What if this other violence made all the difference regarding the proclaimed “task of a critique of violence”? What if it offered itself as an unthought-of, perhaps unthinkable (and thus unfalsifiable) possibility of writing, an unpredicted player in the arena of narratology? “This would throw light [*damit würde ein Licht fallen*],” Benjamin writes,

on the curious and at first discouraging discovery of the ultimate indistinguishability [*von der letzten Unentscheidbarkeit*] of all legal problems (which in its hopelessness [*Aussichtslosigkeit*] is perhaps comparable only to the possibility of conclusive decisions on “right” and “wrong” in evolving languages). For it is never reason that decides [*entscheidet*] on the justification of means and the justness of ends: fate-imposed violence decides [*entscheidet*] on the former, and God on the latter. (196)

Reason appears not to be a trustworthy point of reference for conducting a critique of violence. In spite of or perhaps because of all the descending light (“This would throw a light...”), one has to be dubious of one’s faculty of sight and perception. Indeed what at the outset still came along as a “*plan*” to investigate “a different kind of violence” (“violence...other than all those envisaged [*ins Auge faßt*] by legal theory”) is soon reduced to a mere hope for “conceivability” (“if a different kind of violence arose [*absehbar werden sollte*]”) and appears finally to be truly “unpromising,” beyond perception, view or vision (*Aussichtslosigkeit*) (196).

Manifestation, Bastardization

A long dash leads Benjamin from the realm of speculation into the discussion of that “different kind of violence” (196). Anger, an “example” of immediate violence from everyday experience, impels human beings to the most visible outbursts of a violence that is “not related as a means to a preconceived end. It is not a means but a manifestation” (196). The “objective manifestation” of divine violence is to be found in *myth*, and it is here, in the discussion of the “manifestation of the gods,” that a deep rupture pervading Benjamin’s “Critique” comes to the fore. For mythic violence is a “*mere* manifestation of the gods” (197), comparable to man’s “stepping outside the purer language of name,” making language “a *mere* sign” (153, Benjamin’s italics), comparable, finally, to “the living” (*das Lebendige*), that is, ethical life, as opposed to “*mere* life” (200).

Mythic violence “in its archetypal form” (*in ihrer urbildlichen Form*) is mere manifestation, “not a means to [the gods’] ends, scarcely a manifestation of their will, but primarily a manifestation of their existence” (197). There would be some benefit at this point in considering the role of the Jewish prohibition of the image—a commandment informing almost all areas of the Benjaminian oeuvre.² A recapitulation of Benjamin’s discussion of divine violence must suffice here, and it shows that Benjamin never discusses divine violence in its own right but only via examples of *manifestation*: as proletarian general strike, as anger, as language, as myth (in the case of the Niobe story), as education (194, 196, 197, 200). However, if pure mediacy generally occurs merely as *manifestation*, then it is not actually pure. It consequently “exists” solely in “bastardized,” hybrid form as both mythic and divine violence—not as pure existence, but manifested “existence,” not *Sein* (being), but *Da-sein* (existence) (203, 197). The only place in the essay where we may hope for pure mediacy is a place that does not draw on examples, one that is not manifested and is therefore unintelligible.

The Law of Justice

What has so far appeared nebulous in Benjamin’s description of pure violence and its manifestations results from Benjamin’s constant directional shifts, continuous positings and re-positings with regard to the (*un*)attainability of the critique of legal violence. It is in the same context that “further illumination” again allows for a “conclusion,” and it appears that the long-awaited presentation of nonviolent violence—that is, “immediate violence”—actually moves farther away with every sentence.

2. For an astute discussion of imagelessness in Benjamin’s thought, see Winfried Menninghaus, “Walter Benjamin’s Variations of Imagelessness,” in *Jewish Writers, German Literature: The Uneasy Examples of Nelly Sachs and Walter Benjamin*, ed. Timothy Bahti and Marilyn Sibley Fries (Ann Arbor: University of Michigan Press, 1995), 155–73.

Instead of investing much faith in the establishing and renouncing rhetoric of “higher orders” that prove too high, plans that appear to be “unpromising,” and “conclusions” that “lead too far,” Benjamin offers the decisive hint (with all the reservation a subjunctive allows) that pure violence “was *not related* to [just ends] as means at all [überhaupt nicht als Mittel zu (gerechten Zwecken)... sich verhalten würde]” (196). In the next sentence, Benjamin provides an indispensable link to his 1916 essay on language: he compares (*zu vergleichen*) the discouraging discovery of the indistinguishability of all legal problems with the impossibility of evolving languages to distinguish “right” and “wrong.” How does pure language compare to the immediacy of violence, and how are we to imagine the curious *relatedness of an immediacy*?

In his 1916 essay on language, Benjamin distinguishes between instrumental and pure language. While instrumental language is characterized as a mere sign that communicates some-*thing* other than itself (a means of a knowledge inappropriate to man), pure language “communicates itself *in* itself; it is in the purest sense the ‘medium’ of the communication” (142, Benjamin’s italics). After making the comparison encouraged by Benjamin, one may conclude: since pure language has no speaker, “if this means someone who communicates *through* these languages” (142, Benjamin’s italics), there is, similarly, in the case of pure mediacy, no means *through* which an end would be pursued, but only a “pure medium” *in* which “just ends” occur (148, 196).

If virtue is something that can be *demanded* and that can be *complied with*, then justice, ultimately, is solely a *condition* of the world, a *condition* of God. Benjamin suggests precisely this in a posthumous fragment:

Justice does not appear to correspond to the good will of a subject, but rather it is a condition of the world; justice describes the ethical category of the existing, and virtue is the ethical category of the demanded. Virtue can be demanded; justice can ultimately only be, as a condition of the world, or as the condition of God.³

Pure mediacy or justice is nothing that can be “enforced” or translated into legal language. The difference between law and justice is not embedded in the nomenclature of means and ends, which Benjamin retains even when speaking about justice. The difference hinges on the notion of *power*:

For the function of violence in lawmaking is twofold, in the sense that lawmaking pursues as its end, with violence as the means, *what* is to be established as law, but at the moment of instatement does not dismiss violence [die Gewalt nicht abdankt]; rather, at this very moment of lawmaking, it specifically establishes as law not an end

3. Walter Benjamin, “Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit,” *Frankfurter Adorno Blätter* 4 (1995): 41–51, here 41, my translation.

unalloyed by violence [einen von Gewalt freien und unabhängigen ... Zweck] but one necessarily and intimately bound to it, under the title of power. Lawmaking is powermaking, assumption of power, and to that extent an immediate manifestation of violence. Justice is the principle of all divine endmaking, power the principle of all mythic lawmaking. (198, Benjamin's italics)

The means of lawmaking are not pure precisely because at the moment of in-statement the lawmaking violence does not “abdicate” but rather establishes itself as power. Power is the ongoing predominance of means that do not allow for the *independence* of ends, as with pure means that by nature entertain solely relations to *free, singular* ends. If there is power, all ends remain tied to their law-positing violence, sustaining its constituting claim, its claim to power. It all hinges on the question of the *relatedness of means and ends* in conjunction with a *specific temporality*. On one occasion a means manifests itself and does so with (perhaps almighty) power, but *abdicates instantaneously*; the relation between this means and its ends remains pure, uncontaminated by any insistent claim for iteration. Another time, the initial manifestation posits itself in such a way that it claims its prevalence (i.e., the generalization of its law-positing violence); it does not allow for the singularity of the specific relation between means and ends but rather insists that from that point on all means serve the once-proclaimed end. While in the first scenario the relation between means and ends is immediately dissociated, in the second the law-positing violence insists, via (*mittels*) (increasingly weakened) law-preserving iteration, on its initial law-positing violence, its once-instituted relation, and this institutionalization is *power*.

“Pernicious” Identity

Because in the case of divine violence the singularity in the relatedness of means and ends (justice) distinguishes itself so clearly from mythic violence's claim to generalization (law), Benjamin devotes an unequivocal passage to the problem. He discovers

the stubborn prevailing habit of conceiving those just ends as ends of a possible law—that is, not only as generally valid [allgemeingültig] (which follows analytically from the nature of justice) but also as capable of generalizations [verallgemeinerungsfähig], which, as could be shown, contradicts the nature of justice. For ends that in one situation are just, universally acceptable [allgemein anzuerkennen], and valid [allgemeingültig] are so in no other situation, no matter how similar the situations may be in other respects. (196)

The impossible conciliation of law and justice is reflected in the irreconcilability of their attributes: while just ends are generally valid (*allgemeingültig*) (Benjamin

calls this an “*analytical*” characteristic of justice), the ends of legal violence are generalizable (*verallgemeinerungsfähig*). At the same time, just ends are not capable of generalization (*verallgemeinerungsfähig*), and the ends of legal violence are conversely not generally valid (*allgemeingültig*); the mediality of justice is incommensurable to the relatedness of means and ends of legal violence. Where, then, do we situate the structural difference? Justice is generally valid (*allgemeingültig*) in the sense of a multiple singularity—a singularity that constitutes itself anew each time, a singularity also that defies its deduction from any *prerogative*, any *preestablishment*, any *jurisdiction*. “In God,” Benjamin writes, “all virtues have the form of justice; the epithet ‘omni’ in omni-gracious, omniscient and others, testifies to this condition [das Beiwort all in all-gütig, allwissend u.a. deutet darauf hin].”⁴ The singularity of justice is *all-* (*omni-*); the law of human law, however, is *verall-*. It is within the *ver* that the instrumental force of every law-positing violence is located,⁵ a force that seeks to ensure the general validity of a specific law-positing moment for the most diverse situations and for all times, a force whose power is diametrically opposed to the ethics of the singular event. The generalizability (*Verallgemeinerungsfähigkeit*) of legitimate ends relies on an *abstraction* to which the *concretion* of justice does not succumb.⁶

The gap between law (*Recht*) and justice (*Ge-recht-igkeit*), which finds no support in the German etymology of the two words, is evoked by Latin, Greek, and Hebrew, which is why Benjamin writes: “The enormous abyss opening up between the essential composition of law and justice is signified by other languages.”

ius θέμις משפט⁷

fas Δίκη צדק⁸

The differentiation Benjamin *asserts* for law and justice is severely challenged in the context of his own speech act, which reflects the very ambiguity he attributes to mythic violence. The law of Benjamin’s narrative is, on one side, clearly attributed to a higher end, namely that of justice; the emerging insight, however, as to the unattainability of justice is met with ongoing iterations *asserting* its attainability and

4. Benjamin, “Notizen,” 41, my translation.

5. It is thus that—in contradistinction to *verwaltende Gewalt* (law-preserving, “administrative” violence)—a *waltende* (sovereign) violence signs the essay (203).

6. It is in this vein that, in his long 1916 essay on language, Benjamin juxtaposes the *concrete* with the *abstract*—as the third aspect of a threefold significance of the Fall for the essential composition of language: “For good and evil, being unnameable and nameless, stand outside the language of names. . . . Name, however, with regard to existing language, offers only the ground in which its *concrete* elements are rooted. But the *abstract* elements of language—we may perhaps surmise—are rooted in the word of judgment.” Judgment, or better “the magic of judgment” itself, Benjamin considered to have risen from the Fall in exchange for the immediacy of the name that was damaged by it” (153f.).

7. Greek: *themis*; Hebrew: *mischpat* (law [*Recht*]).

8. Greek: *dike*; Hebrew: *zedek* (justice); Benjamin, “Notizen zu einer Arbeit,” 42.

vindicating the initial claim of “Critique.” The ambiguity of “Critique” consists precisely of Benjamin’s awareness of the unintelligibility of justice. Yet instead of “abdication” its critical objective, he perpetuates it, transforming it into an *end in itself*, eventually instigating “Critique” as the self-sufficient dynamic of his (narratological) *power*. “Lawmaking is powermaking,” Benjamin writes, seemingly commenting on his own enactment. However, “lawmaking is powermaking, assumption of power, *and to that extent an act of immediate manifestation of violence*” (198). Is Benjamin’s performance an “*act of immediate manifestation*” or an “*act of immediate manifestation*” (198)? It is both, of course, because what was separate at the outset now is “identical”:

Far from inaugurating a purer sphere, the mythic manifestation of immediate violence [unmittelbare Gewalt] shows itself fundamentally *identical* with all legal violence, and turns suspicion concerning the latter into certainty of the perniciousness of its historical function, the destruction of which thus becomes obligatory [deren Vernichtung damit zur Aufgabe wird]. This very task [Aufgabe] of destruction poses again, ultimately, the question of a pure immediate violence that might be able to call a halt to mythic violence. (199)

Benjamin calls the indistinguishability of the manifestation of immediate violence and legal violence “pernicious” in regard to its “historical function.” It ruins all politics of pure means, compromises and bastardizes all revolution; it is a mournful compromise.⁹

On Mythic Constitutional Law, or the Contested Right to Sleep under Bridges

Of all the masterpieces...the *Antigone* seems to me to be the most magnificent and satisfying work of this kind.

—G. W. F. Hegel, *Aesthetics: Lectures on Fine Art*

Like Hegel, we have been fascinated by *Antigone*, by this unbelievable relationship, this powerful liaison without desire, this immense impossible desire that could not live, capable only of overturning, paralyzing, or exceeding any system and history, of interrupting the life of the concept, of cutting off its breath...of supporting it from outside or underneath a crypt.

—Jacques Derrida, *Glas*

9. “Mournful,” Benjamin writes, is the “‘over naming’ [Überbenennung]—the deepest linguistic reason for all melancholy and (from the point of view of the thing) for all deliberate muteness. Over naming as the linguistic being of melancholy points to another curious relation of language: the overprecision that obtains in the tragic relationship between the languages of human speakers [die im tragischen Verhältnis zwischen den Sprachen der sprechenden Menschen waltet]” (155–56).

Mythic violence finds an outstanding example in the legend of Niobe.¹⁰ While, Benjamin says, she may appear to be punished by Apollo and Artemis, their violence actually establishes a law rather than punishes the infringement of an already existing law. Niobe calls down fate upon herself, and the violence that arrives from the uncertain sphere of fate can only be *ambiguous* (*zwei-deutig*) because of the lack of a fixed juridical framework (197). The hybrid nature of myth, its position between divine laws and the human sphere, is reflected in the ambiguity of fate, which can be challenged with “dignified courage,” as in the case of Prometheus, or brought upon oneself through “arrogance,” as in Niobe’s case. Niobe, however—and this is the crux—*does not infringe any law* and hence is *not punished* by mythic violence. In a world where challenging of fate still corresponds to a certain hope of establishing a legal right, laws are still *unwritten*, and a law that cannot be violated does not result in punishment but “retribution”:

Laws and circumscribed frontiers remain, at least in primeval times, unwritten laws. A human being can unwittingly infringe upon them and thus incur retribution. For each intervention of law that is provoked by an offense against the unwritten and unknown law is called “retribution” (in contradistinction to “punishment”). But however unluckily it may befall its unsuspecting victim, its occurrence is, in the understanding of the law, not chance, but fate presenting itself once again in its deliberate ambiguity [das sich hier nochmals in seiner planvollen Zweideutigkeit darstellt]. (198–99)

The mythic violence that bursts upon Niobe from the uncertain sphere of fate is “not actually destructive.” It stops short of claiming the life of the mother, whom it leaves “only more guilty” than before, “both as an eternally mute bearer of guilt and as a boundary stone on the frontier between men and gods” (197).¹¹

An application of the “ambiguous” principle of all mythic lawmaking has immense consequences in constitutional law, which Benjamin similarly calls

10. Section epigraphs: Georg Wilhelm Friedrich Hegel, *Aesthetics: Lectures on Fine Art*, trans. Thomas Malcolm Knox (Oxford: Clarendon Press, 1975), 2:1218; and Jacques Derrida, *Glas*, trans. John P. Leavey and Richard Rand (Lincoln: University of Nebraska Press, 1986), 166.

11. Also in his “Storyteller” essay, Benjamin speaks of the “need [Not] created by the myth,” to then continue: “Whenever good counsel was at a premium, the fairy tale had it, and where the need was greatest, its aid was nearest. This need was the need created by the myth. The fairy tale tells us of the earliest arrangements that mankind made to shake off the nightmare which the myth had placed upon its chest. In the figure of the fool it shows us how mankind ‘acts dumb’ toward myth; in the figure of the youngest brother it shows us how one’s chances increase as the mythical primitive times are left behind; in the figure of the man who sets out to learn what fear is it shows us that the things we are afraid of can be seen through; in the figure of the wiseacre it shows us that the questions posed by the myth are simple-minded, like the riddle of the Sphinx; in the shape of the animals which come to the aid of the child in the fairy tale it shows that nature not only is subservient to the myth, but much prefers to be aligned with man. The wisest thing—so the fairy tale taught mankind in olden times, and teaches children to this day—is to meet the forces [*Gewalten*] of the mythical world with cunning and with high spirits” (Benjamin, *Gesammelte Schriften*, 2.2:457f., translated after Benjamin, *Illuminations*, ed. Hannah Arendt, trans. Harry Zohn [New York: Schocken Books], 102).

“demonically ambiguous” (198). In constitutional law the establishing of frontiers is the “primal phenomenon of all lawmaking violence”:

Where frontiers are decided, the adversary is not simply annihilated; indeed, he is accorded rights even when the victor’s superiority in power is complete. And these are, in a demonically ambiguous way, “equal” rights: for both parties to the treaty, it is the same line that may not be crossed. Here appears, in a terribly primitive form, the mythic ambiguity of laws that may not be “infringed”—the same ambiguity to which Anatole France refers satirically when he says, “Poor and rich are equally forbidden to spend the night under bridges.” (198)

It would be just if all people had a bed in which to sleep, but it seems that the law’s concerns lie elsewhere—that is its mythic ambiguity. Mythic violence is characteristic in regard to its establishing of frontiers, and the establishing of frontiers is a matter of power. The law is inevitably contaminated with power. It is entirely inconceivable, Benjamin suggests, that at any time in history, law and power could have been separate.

It also appears that Sorel touches not merely on a cultural-historical truth but also on a metaphysical truth when he surmises that in the beginning all right [*Recht*] was the prerogative [*Vor’recht*] of kings or nobles—in short, of the mighty; and that, *mutatis mutandis*, it will remain so as long as it exists. (198)

That all right (*Recht*) was the prerogative (*Vor’recht*) of the ones in power means no less than that all prerogative (*Vor’recht*) was power. Hence, all law (*Recht*) succeeding this prerogative (*Vor’recht*) will (whatever the ends) always be reducible to a smallest common denominator—that of power. The law (*Gesetz*) is the law (*Recht*) of the ones in power; and this, *mutatis mutandis*, will be so as long as the law exists.

It is this ambiguous interrelatedness of law, justice, and power that similarly takes center stage in Sophocles’ *Antigone*. Creon’s decree stands vis-à-vis Antigone’s unwritten laws. Creon questions Antigone about her knowledge of the royal decree that prohibits the burial of her brother Polyneices:

CREON (to Antigone): You knew the order not to do this thing?

ANTIGONE: I knew, of course I knew. The word was plain.

CREON: And still you dared to overstep these laws?

ANTIGONE: *For me* it was not Zeus who made that order.¹²

12. Hölderlin’s German translation of *Antigone* underscores my own reading of the contested unity of justice most appropriately, although it diverges from all standard English translations: “*Mein Zeus berichtete mirs nicht*” (*My Zeus did not report me*), Hölderlin’s italics. Friedrich Hölderlin, *Sämtliche*

Nor did that Justice who lives with the gods below
 Mark out such laws to hold among mankind.
 Nor did I think your orders were so strong
 That you, a mortal man, could over-run
 The gods' unwritten and unfailing laws.
 Not now, nor yesterday's, they always live . . .
 So not through fear of any man's proud spirit
 Would I be likely to neglect these laws . . .
 I knew that I must die; how could I not?
 Even without your warning. (Sophocles, *Antigone* 450–61)

Antigone is not the only one who legitimizes her actions by citing the gods of Hades; Creon also solidifies his disputed edicts with reference to justice, *dikē* (see line 746). And Creon is not alone in attributing the term *nomos* to his laws (e.g., lines 449, 663); Antigone in her famous speech also remarks on the unwritten *nomoi* to which she remains faithful. Why then must Antigone die? Mythic violence burst upon Niobe in response to her display of “arrogance”; is this not also the situation of Antigone? Is not her one-sided interpretation of divine law, her *hybris*, the actual crime?¹³ Not only does she dismiss the necessity of orderly life in the city, but she also stands against the family, since her self-sacrificial pathos renders the continuation of her father's lineage virtually impossible.

And does not Creon also call guilt upon himself, since though he acts in good faith as a state sovereign who must guarantee security through the enforcement of political laws, he nevertheless remains blind to the gravity of Antigone's situation? Her brothers had killed each other in battle, and not until the end—not until the moment blood stains his own family, not until Haemon (whose name seems to foreshadow his fate) dies by his own hand, not until the guilt of blood sin has come full circle—does Creon understand Antigone's actions. *Hybris* seduces Creon to infringe on the unwritten laws of the chthonic gods, thereby provoking a burst of mythic violence, which, as with Niobe, is “not actually destructive”—it leaves him alive and instead annihilates his family. Benjamin refers to the hybrid nature of

Werke: Historisch-kritische Ausgabe, ed. D. E. Sattler, vol. 17 (Frankfurt a.M.: Stroemfeld, 1991). This distinction between one justice next to a second and perhaps a third uncertain one corresponds to my understanding of the play in respect to both Antigone's and Creon's *possessive claims to justice*, claims dismissing any notion of justice's defiance of human attempts of instrumentalization. Also Vernant discusses the chasm inflicted on justice, *dikē*, thereby distinguishing Antigone's “*Dikē* infernale, différente de celle de Créon, des hommes, des cités, différente aussi peut-être de cette autre *Dikē* qui siège dans le ciel à côté de Zeus” (Jean-Pierre Vernant and Pierre Vidal-Naquet, *Mythe et tragédie en Grèce ancienne* [Paris: Maspero, 1972]). Cf. Hans-Thies Lehmann on the significance of the concept of *dikē* for the formation of a juridical discourse for the Greeks in Lehmann, *Theater und Mythos: Die Konstitution des Subjekts im Diskurs der antiken Tragödie* (Stuttgart: Metzlersche Verlagsbuchhandlung, 1991).

13. At the same time, of course, Antigone, in contrast to Niobe, *does* infract a given law, namely Creon's decree.

myth as “the spirit of law” (*Geist des Rechts*); from the moment of its birth, it haunts the discourse of jurisdiction (199).¹⁴

Das ‘Vor’recht der Bevorrechteten

Benjamin juxtaposes the legend of Niobe with the biblical account of the destruction of the group of Korah in Numbers to illustrate the divine violence of God. The latter strikes “privileged Levites [*Bevorrechtete, Leviten*],” that is, those powerful ones who possess the *Vor’recht* (prerogative) of establishing frontiers. Divine violence strikes the privileged “without warning, without threat” (198), and thus it strikes in a way that is different from yet reminiscent of Benjamin’s characterization of mythic violence. In both the mythic sphere as well as the divine sphere, we encounter a judgment without a fixed juridical catalog, the execution of a sentence without the pronouncing of a judgment, a violence incurred unwittingly.

If mythic violence is law-positing, divine violence is law-destroying; if mythic violence sets boundaries, the latter boundlessly destroys them; if the former brings at once guilt and retribution (*Sühne*), the latter only expiates (*entsühnend*); if mythic violence is threatening, divine violence is striking; if the former is bloody (*blutig*), the latter is lethal without spilling blood (*unblutig*) (see 199). But what can be said about this curious dichotomization of mythic and divine violence, Greek and Jewish violence under the seals of Niobe and Korah, in respect to the biblical text to which Benjamin merely alludes?

“You Levites have gone too far!”

How apt is Benjamin’s reference to Korah regarding “the *lack of bloodshed* and the *expiatory* [*entsühnenden*] character” of divine violence? How appositely does it elucidate the “*boundless*” divine violence that “*strikes...without warning*” (199)? To what degree can the account of Korah shed light on the so-far enigmatic rhetorical implementation of “divine violence”? Korah, who is followed by 250 “well-known community leaders who had been appointed members of the council,” is said to rebel against the leadership of Moses:

“*You have gone too far!* The whole community is holy, every one of them, and the Lord is with them. Why then do you set yourselves above the Lord’s assembly?” When Moses heard this, he fell facedown. Then he said to Korah and all his followers: “In the morning the Lord will show who belongs to him and who is holy, and he will have that person come near him.... You, Korah, and all your followers are

14. Already Hermann Cohen in *Ethik des reinen Willens* (*Ethics of the Pure Will*), Benjamin remarks, speaks of the “inescapable realization” that it is ‘fate’s orders themselves that seem to cause and bring about this infringement, this offense” (Cohen, quoted in “Critique,” 199).

to do this: Take censers and tomorrow put fire and incense in them before the Lord. The man the Lord chooses will be the one who is holy. *You Levites have gone too far!*" (Num. 16:2–3)¹⁵

While there is no explicit mention of annihilation here, Moses does insinuate that the Lord will choose with his almighty power. Moses reiterates Korah's reproach ("You have gone too far!"), and in the succeeding lines it will be said that Moses summons Dathan and Abiram, two of Korah's followers, who in turn refuse to appear before the Lord. "Will you gouge out the eyes of these men? No, we will not come!" What we are witnessing here is a climactic back and forth, a sequence in which the very *naming of a violent act* allows—not inadvertently—for its actualization to be feared. Korah's rebellion is contemptuous ("These men have treated the Lord with contempt," Num. 16:30) and as such is from the first moment doomed to fatal consequences. I recapitulate the communication in this passage in such detail because it seems to me that divine violence does not strike as surprisingly and "*without warning*" as Benjamin suggests.

The actual execution is carried out in multiple renderings. First "the ground . . . split apart and the earth opened its mouth and swallowed them, with their households and all Korah's men and all their possessions. They went down alive into the grave, with everything they owned; the earth closed over them, and they perished and were gone from the community." After the first killing, Korah and his followers are killed again: "And a fire came out from the Lord and consumed the 250 men who were offering the incense" (Num. 16:35). Of the grumbling Israelite community, which accuses Moses and Aaron of the murder of the Lord's people, another "14,700 died from a plague, in addition to those who had died because of Korah" (16:49). In contrast to Benjamin's brief allusion to this passage, there is virtually no evidence that would support the attribution of "without spilling blood" to an act of divine violence.

As a matter of fact, the crux of the story seems exemplary of what Benjamin termed "mythic violence." Benjamin said that divine violence destroys "*boundlessly*" (199). But is this, in view of the story of Korah, actually the case?

When Korah had gathered all his followers . . . at the entrance to the Tent of Meeting, the glory of the Lord appeared to the entire assembly. The Lord said to Moses and Aaron, "*Separate yourselves* from this assembly so I can put an end to them at once." (Num. 16:20–21)

I am additionally consulting the German translation by Luther, who translates "Separate yourselves from this assembly" as "Scheidet euch von dieser Gemeinde."

15. *The Holy Bible, Containing the Old Testament and the New Testament* (Colorado Springs: International Bible Society, 1983).

It is precisely the moment of dividing, *scheiden*, that Benjamin found characteristic of the mythic “act of establishing frontiers.” Yet another salient moment of establishing frontiers follows in anticipation of the destructive power of a plague that God sends to the grumbling people. The Lord commands Moses and Aaron: “Get away from this assembly so I can put an end to them at once” (Num. 16:45). Instead of destroying boundlessly, God distinguishes between the life he wants to preserve and the life he hands over to the swallowing earth, to the fire and to the plague. These moments of divine border establishment are followed by yet a third famous moment:

The next day the whole Israelite community grumbled against Moses and Aaron. “You have killed the Lord’s people,” they said.... Then Moses said to Aaron, “Take your censer and put incense in it, along with fire from the altar, and hurry to the assembly to make atonement for them. Wrath has come out from the Lord; the plague has started.” So Aaron did as Moses said, and ran into the midst of the assembly. The plague had already started among the people, but Aaron offered the incense and made atonement for them. *He stood between the living and the dead, and the plague stopped.* But 14,700 people died from the plague, in addition to those who had died because of Korah. (16:41–49)

Again divine violence is not borderless, but quite the contrary, as Aaron, by means of his *corporeal presence*, establishes a frontier “*between the living and the dead*,” a border that stops the plague. This passage is interesting in yet another respect, namely that of Aaron’s “atonement” for the people. The point of mythic violence for Benjamin was that one who unwittingly infringes on unwritten laws will incur “retribution” (*Sühne*). Yet if divine violence really “*expiates*” (*entsühnt*), as Benjamin asserts, could Aaron then, by making atonement for the people, really ward off divine violence and save the Israelites?¹⁶

16. While my reading of the Korah passages questions the distinguishability of Benjamin’s two categories of divine and mythic violence, the central thematic of the biblical passage, which is that of representation, does, as a matter of fact, inform our reading of Benjamin’s essay, in which the question of representation and representational language (cf. 192) is pivotal. The central question of the story—namely, “Why does a community in which each one is holy need a leader, a representative?”—is one that Benjamin does not ask. Korah and his followers raise this question at the time of their initial reproach against Moses and Aaron: “The whole community is holy, every one of them, and the Lord is with them. Why then do you set yourselves above the Lord’s assembly?” (Num. 16:3) The paradox is one between the assertion of the community’s holiness and the commandment that requires obedience to an even holier representative. Benjamin will problematize this contradiction, this double bind in his discussion of justice and its impossible representation through human laws. Why can the historical realization, the historicization of divine holiness, only exist, and that is, not exist, through representation? Why is the manifestation of holiness contingent on a rupture, thereby forfeiting its all-encompassing quality, its wholeness? It is this paradox that in his *Moses* Martin Buber (whom Benjamin held in limited esteem) analyzes as the impasse of Judaism, ultimately necessitating the normative framework of Jewish customs. The possibility of the divine lies buried in its manifestation, yet the aporia of divine manifestation alone seems to allow for religious rituals and practice.

It is perplexing that Benjamin should choose this biblical passage to elucidate his category of divine violence, as it leaves mythic and divine violence fraught with ambiguities and ultimately indistinguishable. Throughout “Critique” the antipodes of both violences remain unsettled, amounting to what may be called Benjamin’s felicitous speech act, in which the asserted ambiguities appear reenacted in the course of performance.

The Abyss

We encountered an “identity” of the mythic manifestation of immediate violence and legal violence—reverberating with the just-discussed indistinguishability of divine and mythic violence—but we have not yet asked how legal violence actually came into being. At a late point in his essay Benjamin addresses exactly this question of the “origin” of legal violence. “The triggering of legal violence,” he writes, “stems (as cannot be shown in detail here) from the guilt of *merely natural life*” (199–200). What “cannot be shown in detail here” is at least hinted at in the beginning of “Critique.” The triggering of legal violence, with all due ambiguity,

Yet there are further complexities underlying Korah’s accusation. For it is not only Moses who speaks *in the name* of the Lord, but also Korah and his 250 followers, who *represent* their—holy—communities. Moreover, there is a certain hypocrisy underlying Korah’s accusation, since Korah does not reject the legitimacy of Moses’ priesthood with respect to its representational dynamic but rather suggests himself as the righteous spokesman of the Lord. The theme of representation is even furthered when Korah and his 250 followers are told to appear equipped with censers, “and *present* it before the Lord” (Num. 16:17). After the annihilation of Korah and his followers, God instructs Moses: “Tell Eleazar son of Aaron, the priest, to take the censers out of the smoldering remains and scatter the coals some distance away, for the censers are holy—the censers of the men who sinned at the cost of their lives. Hammer the censers into sheets to overlay the altar, for they were *presented* before the Lord and have become holy. Let them be a *sign* to the Israelites” (Num. 16:36–38). Once the bodies of Dathan, Abiram, and the other leaders have vanished, their censers, as if delivered from their previous *representational* relationship, assume a new meaning, the meaning of a warning “sign to the Israelites.” They are “to remind the Israelites that no one except a descendant of Aaron should come to burn incense before the Lord, or he would become like Korah and his followers” (16:39–40).

Finally the Lord orders Moses to get twelve staffs from the Israelites, “one from the leader of each of their ancestral tribes.” The name of each man is written on his staff. On the staff of Levi, Moses is to write Aaron’s name. The staff belonging to the chosen man will sprout, and this will calm down the complaining Israelites (see Num. 17:1–4): “So Moses spoke to the Israelites, and their leaders gave him twelve staffs, one for the leader of each of their ancestral tribes, and Aaron’s staff was among them. Moses placed the staffs before the Lord in the Tent of the Testimony. The next day Moses entered the Tent of the Testimony and saw that Aaron’s staff, which *represented* the house of Levi, had not only sprouted but had budded, blossomed, and produced almonds. Then Moses brought out all the staffs from the Lord’s presence to all the Israelites. They looked at them, and each man took his own staff. The Lord said to Moses: ‘Put back Aaron’s staff in front of the Testimony, to be kept *as a sign* to the rebellious. This will put an end to their grumbling against me, so that they will not die.’ Moses did just as the Lord commanded him” (17:6–11). The sprouting and budding tree instigates yet another incidence of *representation*. I do not hope to engage in a detailed exegesis of this passage; the point is that Benjamin’s reference to Korah impedes rather than endorses its antithetical status to the story of Niobe. The passage is so imbued with a rhetoric of establishing borders—encompassing instances of *corporeal* as well as *semiotic* representation—that it appears to comment on “mythic violence,” all the while rendering Benjamin’s category of “divine violence” unintelligible.

is derived from a certain understanding of violence as natural product, as “raw material” (*Rohstoff*). Benjamin discusses natural violence, violence as a product of nature, by (following Spinoza’s *Tractatus Theologico-Politicus*) drawing on the natural-law theory that assumes that the individual, before the conclusion of a rational state contract, has *de jure* the right to use at will the violence that is *de facto* (i.e., *de natura*) at his disposal. The problem for Benjamin lies at the threshold, the transition, the short step from the dogma of natural history to the one of legal philosophy—and popular Darwinistic philosophy solidifies his concern. The rekindling of Darwin’s biology stimulated in a “thoroughly dogmatic manner” a view that “regards violence as the only original means, besides natural selection, appropriate to all the vital ends of nature” (180). Benjamin suggests that what may be appropriate to natural ends is not necessarily legitimate, let alone just. He refuses to acknowledge bare life as sacred per se, for he knows of the (biopolitical) complicity between bare life and legal violence; it is in this vein that he attacks promoters of the doctrine of the sanctity of life, “which they either apply to all animal and even vegetable life, or limit to human life” (201). Benjamin finds the “canonization” (*Heiligsprechung*) of bare life at its extreme in Kurt Hiller, whose argument runs as follows:

“If I do not kill, I shall never establish the world dominion of justice... that is the argument of the intelligent terrorist... We, however, profess that higher even than the happiness and justice of existence stands existence itself.” (Kurt Hiller, *Anti-Kain*, quoted in “Critique,” 201)

Benjamin refutes the dogma of the sanctity of life in its Hillerian version if existence means nothing other than bare life (“*Dasein nichts als bloßes Leben bedeuten soll*,” 201). However, Benjamin does find a mighty truth in Hiller’s sentence by attributing a second semantic layer to the word “existence” (*Dasein*):

It contains a mighty truth, however, if “existence”... means the irreducible, total condition that is “human being”; if the proposition is intended to mean that the non-existence of man is something more terrible than the (admittedly subordinate) *not-yet-attained condition of the just human beings*.... A human being cannot, at any price, be said to coincide with the mere life in him, any more than it can be said to coincide with any other of his conditions and qualities, including even the uniqueness of his bodily person. However sacred man is (or however sacred that life in him which is identically present in earthly life, death, and afterlife), there is no sacredness in his condition, in his bodily life vulnerable to injury by his fellow human beings. What, then, distinguishes it essentially from the life of animals and plants? (201–2)

The life of humans is different from that of animals and plants primarily in that it is ethical. Benjamin juxtaposes “bare life” (*bloßes Leben*) with the category of “the

living" (*Lebendigkeit*) (200).¹⁷ While "bare life" entails a *promise* for justice, "the living" is just.¹⁸

Benjamin not only characterizes divine violence as expiating, striking, and without bloodshed, but also "by the absence of all lawmaking": "To this extent it is justifiable to call this violence, too, annihilating; but it is so only relatively, with regard to goods, right, life [Leben], and suchlike, never absolutely, with regard to the soul of the living [die Seele des Lebendigen]" (200). Benjamin's aligning of the divine with "the living" (as opposed to mere "bodily life vulnerable to injury") feeds the predictable accusation that the premise of the extension of divine power, taken to its logical conclusion, "confers on men even lethal power against one another." However,

the question "May I kill?" meets its irreducible answer in the commandment "Thou shalt not kill." This commandment *precedes the deed*, just as God was "*standing before*" the deed. But just as it may not be fear of punishment that enforces obedience, the injunction becomes inapplicable, incommensurable, once the deed is accomplished. (200)

Precisely because the commandment *precedes the deed*, it does not lend itself to any form of instrumentalization "within" the legal sphere. The spheres of the commandment and law are as incommensurable as the spheres of law and justice:

Those who base a condemnation of all violent killing of one person by another on the commandment are therefore mistaken. 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 on themselves the *responsibility* of ignoring

17. The dichotomy of "bare" and "just" life is one Benjamin borrows from the Greek tradition, where the difference between human and animal life is not only demarcated by the possession of *logos* but also by the existence of an understanding of justice, *dike*. See Marcel Detienne, *Les maîtres de vérité dans la Grèce archaïque* (Paris: Maspero, 1967); Detienne, *Dionysos mis à mort* (Paris: Gallimard, 1977).

18. Benjamin's antithetical treatment of mythic and divine violence ends with this enigmatic conclusion: "Mythic violence is bloody power over bare life for its own sake; divine violence is pure power over all life for the sake of the living. The first demands sacrifice; the second accepts it" (200). Some elucidation is provided by the "Outline of the Psychophysical Problem" in volume 6 of *Gesammelte Schriften*, a series of fragments written around 1922/23 and much indebted to Husserl's phenomenology. The opposition of bare life and just "living" (*Lebendigkeit*) figures here as the antipodes of "body and corporeal substance" (*Leib und Körper*): "Man's *body* [*Leib*] and his *corporeal substance* [*Körper*] place him in universal contexts. But a different context for each: with his *body*, man belongs to mankind; with his *corporeal substance*, to God" (80). "This corporeal substance [*Körper*] is... a substance [*Substrat*] in contrast to our body, which is only a function [*Funktion*]. Our corporeal substance is objective in a higher sense" (79). "Objective" means: "The body... was created to fulfill the Commandments. It was fashioned at the Creation according to this purpose" (82).

Benjamin's peculiar remark, according to which mythic violence demands sacrifice, whereas divine violence accepts it, is now commented on, as it were, in a more intelligible fashion: "Bodily nature [i.e., bare life] advances toward its dissolution; that of corporeal substance [i.e., just life, the living], however, advances toward its resurrection" (80f.) (*Gesammelte Schriften*, 6:79–82; *Selected Writings*, 1913–1926, 1:394–96).

it. Thus it was understood by Judaism, which expressly rejected the condemnation of killing in self-defense. (200)

How does the Judaic rejection of the condemnation of killing in self-defense relate to justice? We should not, I think, interpret it as a *suspension of the commandment*. For what “stands before” can be considered only in its existence “outside the law” (200). In “exceptional cases” the killing of one person by another is left to one’s *responsibility*, an authority *beyond all legal right*, one that cannot be deduced from a logos, a jurisdiction, and for precisely this reason is difficult and exceptionally solitary. Because “the soul of the living” stands outside the law, it cannot be threatened by even the most powerful legal violence. “For with bare life, the rule of law over the living ceases” (200; Denn mit dem bloßen Leben hört die Herrschaft des Rechtes über den Lebendigen auf).

It is precisely this condition that both Creon and Antigone dismiss, thus calling guilt upon themselves. Antigone and Creon invoke justice (*dikē*) to justify their actions (256, 208); neither recognizes that the justness of Polyneices’ life is one that *pre-cedes all logification*, be it Antigone’s *theological* or Creon’s *politological* one. The blind prophet Teiresias prognosticates to Creon:

Know well, the sun will not have rolled its course
 Many more days, before you come to give
 Corpse for these corpses, child of your own loins.
 For you’ve confused the upper and lower worlds.
 You sent a life to settle in a tomb;
 You keep up here that which belongs below
 The corpse unburied, robbed of its release.
 Not you, nor any god that rules on high
 Can claim him now
 You rob the nether gods of what is theirs.
 So the pursuing horrors lie in wait
 To track you down. The Furies sent by Hades
 And by all gods will even you with your victims. (Sophocles, *Antigone* 1065–77)

Justice does not yield to human discourse, and he who does not recognize this (as does Creon, who seeks to deprive Polyneices the status of a just life, thereby infringing on the unwritten laws of the chthonic gods) incurs “retribution” (*Sühne*). Antigone as much as Creon seeks to appropriate justice (one of the state, the other of the chthonic gods; see lines 536, 737). But justice is essentially as ungraspable as God; justice is God or at least the principle of all divine making. Benjamin says precisely that: “Justice is the principle of all divine endmaking” (198). Does this mean that any striving for justice is doomed a priori? What results from the insight into the

unattainability of justice? “Unaged in time,” chants the Chorus in *Antigone*, “[Zeus] you rule of Olympus’ gleaming light. / Near time, far future, and the past, / One law controls them all: / Any greatness in human life brings doom” (Sophocles, *Antigone* 609–13). That greatness brings doom is essentially *tragic*. The tragic condition is one not precipitated by human *hybris* alone but rooted in the chasm, the abyss, at the bottom of judicial discourse. Prometheus’s greatness (“dignified courage”) is as tragic as the conflict between Antigone and Creon, a conflict not reducible to arrogance or blindness or a cursed ancestry beginning with Oedipus. The conflict *carried out* behind the shields of natural law (by Antigone) and positive law (by Creon) is *rooted* within the sphere of law; it can be traced to the *unrecognizability of justice*.

“Unless it be...”

Why, then, does Sophocles stage a play (written at a time when juridical thinking came into being) in mythic time; and, one consequently and finally may ask, what is the status of the theatrical in Benjamin’s critique of violence? In *Antigone* the mythic discourse seems to suspend the juridical “discourse,” thus allowing for it to be scrutinized, for an exploration of the interrelation of law and justice, dismantling and disclosing its aporetic link. Yet is this not much like what Benjamin achieves with the rhetorically staged distinction between an indistinguishable *within-the-circle* (*Bannkreis*, 195–96) (i.e., law) and a nonrecognizable *beyond-the-circle* (i.e., justice)? Nothing less than this refusal of philosophical systematization of the question of justice motivates those uncanny quotation marks around “philosophy”:

The critique of violence is the philosophy of its history—the “philosophy” of this history because only the idea of its development makes possible a critical, discriminating, and decisive approach to its temporal data. A gaze directed only at what is close at hand can at most perceive a dialectical rising and falling in the law-positing and law-preserving forms of violence.... This lasts until either new forces or those earlier suppressed triumph over the hitherto lawmaking violence and thus found a new law, destined in its turn to decay. On the breaking of this cycle maintained by mythic forms of law [Durchbrechung dieses Umlaufs im Banne der mythischen Rechtsformen], on the deposing of law [Entsetzung] with all the forces on which it depends as they depend on it, finally therefore on the abolition of state power, a new historical epoch is founded. (202)

To what degree does Benjamin’s performance generate a new historicity? How convincingly can a text, caught in the dialectics of law positing and law preserving, speak of *de-posing* (*Entsetzung*), how wide a hiatus can there be between the constative and the performative of a text for it to still function as speech act?

But if the existence of violence outside the law, as pure immediate violence, is assured [Ist aber der Gewalt auch jenseits des Rechtes ihr Bestand als reine unmittelbare gesichert], this furnishes proof that revolutionary violence, the *highest manifestation* of pure violence by human beings, is possible, and shows by what means. (202)

The “highest manifestation” of pure violence is possible also, one may add, within a critique of violence. Yet the conditionality (“But if...”) of highest manifestation in the human sphere also implies the possibility of its impossibility. Just how much Benjamin’s rhetoric is informed by prognosis and prophecy is indicated by the peculiar grammatical pace of the next sentence, a sentence that inflicts some strain on the German ear: “Less possible and also less urgent for humankind, however, is to decide when pure violence has been realized in particular cases” (202–3; Nicht gleich möglich noch auch gleich dringend ist aber für Menschen die Entscheidung, wann reine Gewalt in einem bestimmten Falle wirklich war). The grammatical category of an implicit future anterior forfeits the possibility of indicative assertions about the realizability of pure violence and resembles a language we encounter once more in the essay’s last sentence, where the mentioning of a “sovereign” (*waltende*) violence testifies to its existence—yet again only as manifestation. “Divine violence, which is the sign and seal [Insignium und Siegel] but never the means of a sacred execution [heiliger Vollstreckung], may be called ‘sovereign’ [waltende] violence” (203). “Sovereign” violence is immediate, but also this immediacy (*Unmittel-bar-keit*) is not entirely deprived of an “ethical anarchism”¹⁹—a directed immediacy, which, as such, contaminates all pure immediacy. “Less possible and also less urgent [Nicht gleich möglich noch auch gleich dringend] for humankind... is to decide [Entscheidung] *when pure violence has been realized in particular cases*” (202–3). For what is *scheidend und entscheidend* (discriminating, and decisive), such as the approach “Toward... Critique,” implies both, a perpetual law-positing, dividing (*scheidend*) movement, and also its undividing (*Ent-scheidung*), de-posing (*Ent-setzung*), the withdrawal from the dialectical rising and falling in the law-positing and law-preserving forms of violence and therefore the circularity of means and ends. This abyss in the juridical discourse Benjamin speaks *about*, as well as the abyss in the presentation (*Darstellung*) of “Critique,” could never be subject to *judgment* but only *negotiation*. As in *Antigone*, “Critique”’s narrative staging of indistinguishabilities would not merely be a form of *refusal* to explicate the unattainable—justice—but, in the form of a reenactment, the very center of performance. The impossibility of logification is performed as gestures of *abstention* (“omission,” 184).²⁰ One may say that Benjamin hovers in a

19. See Benjamin’s remarks on an “ethical anarchism” in *Gesammelte Schriften*, 6:107.

20. With regard to Benjamin’s “Goethe’s Elective Affinities,” one could say that “the expressionless” (*das Ausdruckslose*) is the “standstill” in the aesthetic realm; it falls into line with Benjamin’s example of the proletarian general strike, the standstill of all production (“omission of an action”) in the political sphere. Both are intricately related in their moral claim, a claim that finds expression precisely in the

dual state of refusal—a refusal as to “philosophy,”²¹ and a refusal in the sense of the Jewish prohibition of the image. And it is this gesture of refusal that puts us, the spectators of his spectacle, into a position of sitting-in-judgment without being able to judge, a negotiation of the undeterminable.

The not-possible *Ent-scheidung* (un-dividing/decision) suspends all certainty about the factuality of pure violence: “Once again all the eternal forms are open to pure divine violence, which myth bastardized with law” (203). “Once again” is to say “again and again”—like the “dialectical rising and falling.” Myth bastardizes all the eternal forms—again and again. This means nothing less than the continuous positing (*Setzung*) and de-posing (*Ent-setzung*) of divine violence followed by still another bastardization. No doubt, also the *waltende* (sovereign) violence is compromised by the dialectical rising and falling—as a result of its combination with a *schaltende* (executive) violence. For *schalten und walten* as an idiomatic phrase,²² of course, connotes the kind of indeterminacy, undecidability, we “at once” (*nicht gleich*) fail to unravel. “For only mythic violence, not divine, will be *recognizable* as such with certainty, unless it be in incomparable effects [es sei denn in unvergleichlichen Wirkungen]” (203). What defies recognizability forecloses presentation (*Darstellung*), remains dependent on imagination (*Vorstellung*), in spite of and precisely because “the coming age *is not so unimaginably remote* [jenes Neue nicht in so unvorstellbarer Fernflucht (liegt)]” (202). The critique of violence epitomizes the compromise of presentation (*Darstellung*) and representation (*Vorstellung*) on the one side, and their “beyond” on the other—a compromise between task (*Aufgabe*) and “resignation” (*Aufgabe*), a performatory speech act that perpetuates the aporia of an event we cannot witness. “Unless it be...” (203).

withdrawal of all state-ment and thus all discriminating violence. “The expressionless is the critical violence which, while unable to separate semblance from essence in art, prevents them from mingling. It possesses this violence as a moral dictum” (Benjamin, *Gesammelte Schriften*, 1:181).

21. “Joy, *jouissance*, to come,” Jean-Luc Nancy writes, “have the sense of birth: the sense of the inexhaustible imminence of sense.... It is a question of the pre-venience of the flower in the fruit.... It merely invites a simple thought, withdrawn and coming forth, careful, graceful, attentive: pre-venient. It is a question of preventing philosophies, of preventing appropriate thinking” (Nancy, *The Birth to Presence*, trans. Brian Holmes et al. [Stanford, CA: Stanford University Press, 1993], 5f.).

22. For a penetrating analysis of this idiomatic phrase, see Peter Fenves, *The Messianic Reduction: Walter Benjamin and the Shape of Time* (Stanford, CA: Stanford University Press, 2011), 222f.