Introduction: Violence and Critique

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1.

The questions of violence, justice and judgment define one of the most resonant and constant concerns of contemporary thought. In part, this is only a reflection of what are often called the ‘realities on the ground’ (the intonation is, of course, that to pursue these questions as questions is already to be ‘in the air’ or ‘in the clouds’). In the few years of this century the logic of violence, and even its aestheticisation – whether as terror or as ‘shock and awe,’ or in the citizen’s daily vocation to be ‘alert but not alarmed’ – have become the familiar data of current experience. They are a kind of weather, felt through the colour-coded threat scale of the Homeland Security Advisory System, or in the casual references to the ‘current climate.’ In view of these realities, and of an acclimatisation to them that informs general popular support for extensions of executive power and legislative activity, the urgency of the turn or return to questions of force and law is to be expected. In the fabric of recent debate, they are seams at which
confrontations are staged and positions defined; but also, where the thought that remains closest to the ‘realities on the ground’ is forced into juxtaposition with the mythological and theological schemes that violence, justice and judgment inevitably conjure. Thus, contributors to this issue of Colloquy were invited to consider whether it was possible to account for a difference between violence, terror and revolution, without simplification or banalisation of the relationship between law and force. On the one hand, the editors envisaged that this question would be a provocation to re-examine contemporary representations of sovereignty, jurisdiction and the ‘state of exception,’ in a global context dominated by issues of security and the justification of extra-legal and extra-judicial force – occupation, detention, torture. On the other hand, the reference to the mythological and the theological was inevitable, inasmuch as contributors were invited to organise their reflections around two of the most significant interventions in twentieth-century jurisprudence and political theory, Walter Benjamin’s “Critique of Violence” and Jacques Derrida’s “Force of Law.” For as is well-known, Benjamin and Derrida pursue their distinctive lines of questioning in the direction of a ‘divine violence’ or of a ‘mystical foundation of authority.’ The reception of the two texts suggests that these concepts remain, for many, difficult to the point of being indigestible; at least in the ‘current climate.’

2.

The history of the composition and publication of Benjamin’s “Critique of Violence” is well known, but it is worth reprising it here, in order to contextualise the many issues raised in this dense and troubling essay. This history must begin with a short sketch of the historical and cultural context from which the piece arose. In 1920, when Benjamin was working on the piece, Europe and Germany in particular were living through extreme and violent historical events: Germany had lost the war in 1918, a war that, with its 10 million casualties and the massive involvement, for the first time, of the civil population, had been the bloodiest and most destructive in history and thus marked the beginning of a “short century” of violence. The defeat had determined the end of the Second Reich in Germany and the proclamation of the Republic in Weimar: though between 1923 and 1929 this Republic experienced a period of relative calm, its first years were extremely troubled and violent. Physical confrontation became the ‘other means’ by which politics was continued, culminating in the bloodbath of the Spartacist
uprising of 1919. The Bolshevik Revolution in Russia, on the other hand, had constituted a new front in the political arena. Benjamin spent the war years in Switzerland, where he made the acquaintance, among others, of Hugo Ball and Ernst Bloch; the latter’s *Geist der Utopie* [The Spirit of Utopia], published in 1918, made a strong impression on Benjamin, who, at the request of the author, wrote a long review of it, now lost. As can be seen from his correspondence, this review was probably one of the main inputs which led Benjamin to write on politics. Other works fundamental to the development of his thought are Bloch’s *Thomas Müntzer als Theologe der Revolution* (Thomas Müntzer as Theologian of the Revolution), which was published in 1921 and touches many issues which are at the heart of Benjamin’s reflections, and George Sorel’s *Réflexions sur la violence* [Reflections on Violence, 1908], which he mentions for the first time in a letter to Bernd Kampfmeyer of September 1920, asking for “bibliographical information” for a “line of political studies” on which he was working at the time (cf. *GB* 2:101).¹ The influence of the neoKantian tradition remained strong during these years, as represented by Erich Unger’s *Politik und Metaphysik* [Politics and Metaphysics, 1921] and in particular Hermann Cohen’s *Ethik des reinen Willens* [Ethics of Pure Will, 1904]. We should remember that the troubled beginnings of the Weimar Republic also led Carl Schmitt to write *Die Diktatur: Von den Anfängen des modernen Souveränitätsge- dankens bis zum proletarischen Klassenkampf* [The Dictatorship: From the Beginning of the Modern Thought on Sovereignty to the Proletarian Class Struggle, 1921] and *Politische Theologie. Vier Kapitel zur Lehre von der Souveränität* [Political Theology: Four Chapters on the Concept of Sovereignty, 1922], whose influence on his work Benjamin was later to acknowledge (cf. *GB* 3:887). Not to be forgotten, finally, though Benjamin never mentions it, is the publication in 1919 of Max Weber’s *Politik als Beruf* [Politics as Profession].²

From his correspondence we know that Benjamin planned in these years a large study on politics. The already quoted letter to Bernd Kampfmeyer mentions for the first time a project on “Der Abbau der Gewalt” [The Decomposition of Violence] (*GB* 2:101); however, it is in several

¹ References to Benjamin’s correspondence are to *Gesammelte Briefe*, 6 vol., eds. Christoph Gödde and Henri Lonitz (Frankfurt am Main: Suhrkamp, 1995-2000), hereafter referred to parenthetically in the text as GB. The translations are our own.

² On the cultural background of Benjamin’s project see, among others, the excellent essay by Uwe Steiner “The True Politician: Walter Benjamin’s Concept of the Political,” *New German Critique* 83 (Spring-Summer 2001), pp. 43-88.
letters to Gershom Scholem where Benjamin describes the development of the project: on December 1, 1920, he mentions that the third part of his Politik would be constituted by a philosophical critique of Paul Scheerbart’s utopian novel Lesabéndio (1913), whereas the second part, on which he was working at the moment, would be called “Die wahre Politik” [The True Politics], to be divided into “Der Abbau der Gewalt” and “Teleologie ohne Endzweck” [Teleology without Final Purpose] (GB 2:109). On December 29 of the same year Benjamin writes that “Der wahre Politiker” [The True Politician] – perhaps the first part of the project – “has been completed” and that he hopes to see it soon in print; for the new year he intended to work on the other sections which would compose the Politik (GB 2:119). In January 1921 he mentions for the first time the “Kritik der Gewalt” (Critique of Violence), which he was asked to write by Emil Lederer for his journal Weißen Blätter (GB 2:130). In the following letter he says the piece has been finally written, though, “as far as violence is concerned, there are still questions that haven’t been touched in it”; he also says that Lederer has rejected “Der wahre Politiker” for his journal (GB 2:131). On February 14, 1921, he informs Scholem that Lederer thought the “Kritik der Gewalt” too long and too difficult for die Weißen Blätter, but accepted it for the Archiv für Sozialwissenschaft und Sozialpolitik, which he was also editing (GB 2:138), and where the essay finally appeared in issue 3 of August 1921. Benjamin sent “Der wahre Politiker” to Scholem on 26 March 1921, asking also for advice on where the piece could be published (GB 2:148), and in two letters of July 25 and August 4, 1921, said he had started again working on the Politik (GB 2:174). Benjamin could not find a way to publish “Der wahre Politiker” anywhere and the essay is to be considered lost; he finally abandoned the project and turned to other concerns, but he mentioned again “Der wahre Politiker” in some letters written in 1923 to Martin Buber (GB 2:360) and Gottfried Salomon-Delatour (GB 2:382, 385). To this latter he writes on 24 January 1926 that the “arsenal” of his “political works” consists only of “Der wahre Politiker” and “Zur Kritik der Gewalt” (GB 3:9).

The latter, the only surviving part of the major project on politics, did not make an impact upon publication (though Giorgio Agamben claims that it could be considered at the origin of Schmitt’s Politische Theologie, written perhaps as a response to Benjamin’s essay3). It opened the first two-volume edition of Benjamin’s Schriften [Writings], edited in 1955 by Theodor W. and Gretel Adorno,4 and appeared moreover in 1965 in a slim vol-


4 Walter Benjamin, Schriften, 2 vol., ed. Theodor W. Adorno and Gretel Adorno
ume of “political writings” under the title *Zur Kritik der Gewalt und andere Aufsätze* [For the Critique of Violence and other Essays], edited and with an afterword by Herbert Marcuse.\(^5\) If it can be said to have enjoyed some privileged reception within the German student movement of the 1960s and early 1970s, the essay was certainly not considered “central” within Benjamin’s *oeuvre* by the first and second waves of Benjamin scholars. Two factors brought it to the centre of contemporary debate and made it a fundamental reference for today’s analyses of violence, law and politics: the reading Jacques Derrida gave it in 1989 in *Force de loi* (“Force of Law”),\(^6\) and the central place Giorgio Agamben accorded to it in its groundbreaking 1995 *Homo Sacer*:\(^7\) In spite of its esoteric language, the essay’s concerns and terminology today inform much of the discussion on the relationships between politics, law and justice: unavoidable issues are the insufficiencies of both natural law’s and positive law’s descriptions of the relation between violence and law as “means to an end”; the simultaneous law-founding (*rechtsetzend*) and law-preserving (*rechtserhaltend*) character of violence-as-means; the “mythic” foundation of law, and most of all its positing at the centre of the constellation which embraces politics, law and justice; the issues of “mere life” (*bloßes Leben*) and the necessity of a “pure, immediate and divine violence” (*reine, unmittelbare, göttliche Gewalt*) which should dispel the mythic relation of politics and violence. The essay remains extremely ambiguous, and has so far produced many heterogeneous and discordant responses, but a continuously growing literature testifies to its importance and centrality.


3.

The situation of Jacques Derrida in the authorship of “Force of Law” is entirely dissimilar to that in which Benjamin composed the “Critique.” If, in the ferment of Weimar Germany, public intellectuals could and did aspire to the reverberation of their words in actual revolutionary violence, the anxiety experienced by their successors during the long fin-de-siècle after the fall of the Berlin Wall,⁸ was of a completely different order. This anxiety is informed on the one hand by the consolidation of the apparatus of governmental power in the Western democracies – the semantic shift from the volatility of Benjamin’s ‘violence’ to Derrida’s ‘force of law,’ a mere breath away from ‘law enforcement,’ signals the oblivion to which the “founding and justifying moment” of authority has been consigned, to the advantage of the imperatives of rechtserhaltend Gewalt. On the other hand, the anxiety is a product of the exclusion of public intellectuals from the operation of power – at least ‘non-specialists’ and those in the humanities, such as Derrida himself, for whom the current realities of the Cold War represented an acceleration of the shifts in Kant’s ‘contest of the faculties.’ All of this is brought to bear in the authorship of “Force of Law,” and in the gesture of address which is focal to it, and not marginal or occasional or a rhetorical flourish. For Derrida, the European philosopher in an American law school, what requires him to problematise the act or obligation (devoir) of address – and to avoid the temptation to adopt the parrhesiastic subject-position in the game of ‘speaking truth to power’⁹ – is the question of the competence that animates the legal, and presumptively just, decision. Not only the competence of an intellectual in the humanities to address an audience of specialists, of jurists and legal professionals; but more than this, the anxious deconstruction of competence, and of the subject of competence, that is enacted in every decision. For decision is never simply the act of a subject, let alone of a subject in its competence: “if there is a decision,” Derrida re-

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⁸ An event which, along with the (mainly non-violent) collapse of governments across Eastern Europe in the autumn of 1989, precisely describes the hiatus between the two parts of Derrida’s essay. The first was presented at a colloquium at the Cardozo Law School in October 1989, and the second (containing the “risky reading” of Benjamin) was presented in April 1990 at the University of California. But the interval and its momentous events pass sub silentio. ‘Part Two’ of “Force of Law” continues to refer to the lessons of Benjamin’s essay – ‘dated and signed’ to 1921 – for “the Western democracies of 1989.”

⁹ See Michel Foucault, Fearless Speech (Los Angeles: Semiotext(e)/Foreign Agents, 2001).
marks, “it presupposes that the subject of the decision does not yet exist and neither does the object,” the object of its special competence. This is why if there is a decision, it takes place in that dimension of ‘surprise’ or ‘madness’ whose coordinates are the three aporias elaborated in "Force of Law." In a 1984 essay on the Cold War arms race, Derrida had pointed out that it is precisely the experience of intellectuals in the humanities – the experience of a community that has no part in the exercise of power, in a strategic or technical or logistical or pragmatic politics: who are we to judge, who are we to decide – it is precisely this experience that makes it our responsibility to intervene in the political, “inasmuch as we are representatives of humanity and of the incompetent humanities which have to think through as rigorously as possible the problem of competence.” That is, this ‘we’ that does not know who it is to decide, or in what its competence to decide would consist, this suspended or inoperative (désoeuvré) ‘we’ is the most competent to address the problem of competence, responsibly. Here, rigour and what Derrida calls ‘absolute risk’ coincide in “incompetence as responsibility.”

In this connection, “Force of Law” is often cited as the occasion of deconstruction’s debut or coming-out as, in terms which Derrida uses but does not appropriate, a “discourse of consequence on justice” – an occasion of suspicion, and even probation or trial. In truth, his ‘turn’ to political and ethical themes was already underway in a series of essays published during the latter half of the 1980s, and it is certainly possible to see the tenets of “Force of Law” in preparation here. “Declarations of Independence” (1986) and “The Laws of Reflection: Nelson Mandela, in Admiration” (1987) had taken up the questions of constitution and community, developing a reflection on the performative coup de force that instates a new order – a reflection which is anticipated in the essay on Kafka’s title,

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“Devant la loi” (1985). In these texts, the performative force that authorises the founding act can only be exercised in a ‘fabulous retroactivity’ which presupposes the authority which it institutes and enforces. The reader of “Force of Law” will recognise this intrigue for the promissory structure of the founding act. Similarly, in “Call it a Day for Democracy” (“Democratie Ajournée,” 1989) Derrida insists that the idea of democracy, like the idea of justice – and every concept structured as a ‘promise’ – enjoins us to an experience of time as ‘out of joint’ inasmuch as the promised emancipation is always ‘to come,’ à venir. Again, the address to Law School reprises the point, and the distinction it implies between the à venir and that ‘future’ which pertains to a continuum or continuation of the present. The one is promised, the other imagined and projected upon reality as a normative or regulative model. In terms of the reception of Derrida’s intervention in legal discourse, it is important to note the impact of Robert Cover’s “Violence and the Word” (1986), which had argued against the prevailing concern of American jurisprudence with the hermeneutic problem, at the expense of an effort to interrogate the violence justified and imposed by the legal institution. Cover’s celebrated reminder that “legal interpretation takes place in a field of pain and death,” that it not only bestows meaning or builds future worlds but routinely occasions the application of force, is elaborated in a sustained reflection on those practices which Benjamin and Derrida would recognise as ‘law-preserving.’ Many of Derrida’s formulations in the first part of “Force of Law” are anticipated in Cover’s insistence that the interpretative practices of the law cannot be properly understood apart from their instantiation and institutionalisation as violence, and in particular, apart from their ability to achieve a “near perfect coordination of those whose role it is to inflict violence subject to the interpretive decisions of the judges.” These and similar intersections with legal discourse continue to be the subject of a diverse literature on Derrida’s essay.


4.

This special issue of *Colloquy* grew out of a graduate seminar led by Professor Andrew Benjamin in Spring 2007, in the Centre for Comparative Literature and Cultural Studies at Monash University. Several of the contributors participated in, and presented earlier versions of their papers to, the seminar. The editors wish to acknowledge their indebtedness to Professor Benjamin’s searching readings of “Critique of Violence” and “Force of Law,” and to recognise the impetus he gave to this project at its conception.

Carlo Salzani analyses how violence comes to be equated to pure praxis in Georges Sorel’s *Reflections on Violence* and Benjamin’s “Critique of Violence.” Sorel’s work exerted a strong influence on Benjamin’s thought and is a fundamental point of reference for the arguments put forward in the “Critique of Violence”; however, Salzani argues that the paths of the two authors diverge essentially in the understanding of what violence as pure praxis stands for. The essay relates the notion of strike (and its connection to violence) to those of myth and ethics in the two authors: for Benjamin, strike/violence is the caesura which breaks from the constrictions of myth, as the realm of necessity, and into the ethical sphere; for Sorel, strike as myth constitutes the only possible revolutionary rupture from capitalist and parliamentary political praxis. Benjamin’s and Sorel’s notions of myth are thus not really antithetic, but simply incommensurable. Where the two thinkers really diverge, though, is in the final, ethical connotation of the rupture that violence/strike represents: for Benjamin, it consists in the messianic, “afformative” (in Werner Hamacher’s terminology) standstill of praxis; for Sorel, to the contrary, strike as mythical praxis is informed by a strongly humanistic and highly performative “esprit dynamique.”

Stephanie Polsky examines the problem of the law in Benjamin’s thought. The analysis refers back to his youth, when, as early as the 1910s, Benjamin became interested in the issues arising from the empirical character of the law. As his thought matured in the 1920s, Benjamin constructed a representation of the law based on the correspondence of his thought with that of Franz Kafka. Polsky argues that Benjamin’s work locates a kind of methodology in Kafka’s parables, and, in addition, identifies Kafka’s world as a world-theatre, an alternate reality where certain virtualities can be actualised in ways not yet given over to the real world, but for which the *désœuvrée* condition of the ‘student’ or ‘assistant’ is a form of preparation. Benjamin offers this as an alternative model for a space of non-violence and justice, making the study of it a counterpoint to his ongo-
ing critique of violence in the real world, as exemplified in “Critique of Violence.” Benjamin credits Kafka for being in no way partisan to either political force: therefore he is able to use Kafka’s work as a new means with which to intervene in the questions of violence and law, and to seek an alternative reading of the significance of the destruction of Weimar Germany.

Mathew Abbott rehearses the argument and contentions of Benjamin’s “Critique of Violence” in order to argue for a philosophically sophisticated and politically interesting concept of the messianic in it. After analysing the critique of the legal system and of legal violence, the essay focuses on the notion of “mere life” and its connection to the “creaturely,” proposing a reading of Benjamin’s interpretation of Kafka’s animals. The argument to be extracted from this analysis is that the subjection of creaturely life to the obscenity and exceptionality of the law emerges out of the fundamental failure to think through the ontological relation between human and animal. From this discussion Abbott proposes a reading of the figure of “pure violence” as an intervention into the dimension of the “creaturely” which releases human life from the subjection to “mere life” and thus to law. What “pure violence” destroys is not therefore law as such, but the human creaturely attachment to it. As an ontological renegotiation of the relation between human and animal, “pure” or “divine violence” represents for Abbott not the arrival of the divine on earth, but rather the earth’s abandonment by the divine, not a redemption of the human from its animality but to its animality. As such, it represents a cut whereby the profane world separates from the transcendent.

Tim Finney analyses the notion of “progress,” and the possibility of its deployment, by drawing upon Theodore W. Adorno’s 1962 lecture “Progress” and Benjamin’s “Critique of Violence.” Comparing both the overlaps and distinctions between the two thinkers’ treatment of the possibility of social progress, the essay shows how both writers share a deep distrust of the false choice between believing that progress is inevitable and believing it is impossible. Finney argues that Adorno’s treatment of the notion of “progress” is a dialectical interpretation of Benjamin’s Messianic politics, an interpretation which seeks to tease out the interrelatedness of Benjamin’s opposed concepts of mythic and divine violence. For both Adorno and Benjamin, the historical failure of humanity to progress in a substantive (rather than merely technical) sense should not be treated as a sign of the impossibility of progress, but rather as an impetus to consider what real progress might be, and a basis upon which to challenge the apparent self-evidence of our current historical situation. In the end, Finney argues, Benjamin and Adorno’s separate projects converge in a concern about the possibility of emancipatory politics, with a shared pessimism regarding the capacity of
revolutionary political programmes to break out of a cycle of domination and oppression. Despite their pessimism, though, the two writers leave open the possibility of an emancipatory politics of potentiality, a politics that might do justice to the violence of its eruption.

Adam Lodders’ diverse paper centres on a reading of Kafka’s parable “Before the Law,” a point of reference common to both Benjamin and Derrida. The text at once temporalises and spatialises the relation of the subject to law, these two dimensions intersecting in the ageing body of Kafka’s countryman, a body shaped by the length of its wait outside the door of the law, but also by its unsatisfied desire to approach or access the interior. For Derrida, the topographical system of the parable figures a line of ‘inocclusion’ – a term he uses to denote the co-valence of two orders which resist equivalence – and Lodders argues that this structure is inscribed into the body as sexual difference. The conspicuous absence of the feminine from Kafka’s parable is a provocation to think through the escalating terror which the doorkeepers – and even the threshold itself, in its predestination to close on the singular individual for whose access it was intended – represent. The questions of gender and of the body become the point of (non-violent or non-penetrative, and even aporetic) access to the law, but this figuration of access requires a developed sense of place. To this end, Lodders takes up the classical notion of chōra, privileged by contemporary feminist thinkers as a means to conceptualise justice without or outside of the ordered, public space that is saturated by the ‘force of law.’

In an incisive response to Derrida’s text, Lara Shalson explicates an ambivalent relation not only to the proper name ‘Benjamin’ but to the other proper names – Schmitt, Heidegger – whose configuration around it complicates the signature of the “Critique of Violence.” Derrida’s fascination by these affinities is, as Shalson notes, not elaborated as anything more than an obvious or performative proof that Benjamin’s turn against law offers no brake against ‘the worst.’ The failure to sheet home the hypothesised “analogy with Schmittian or Heideggerian schemas” is representative of a number of blind-spots or misreadings, which the paper links together to argue that Derrida’s interpretation of Benjamin is structured by a complex of affects and motivations: by ‘not knowing how to feel,’ by a fear that grows in this not-knowing and not-feeling of an undecidable relation, and above all by a desire to interrupt the undecidable by judgment. Shalson not only queries the justice of the judgment passed on Benjamin’s critique, but explicates the significance of the act of decision, to which Derrida devotes the first part of “Force of Law” and which crystallises the ultimate point of difference between the two. While Derrida’s three aporias annex the undecidable to the decision, and non-law to law, Benjamin cautions against deci-
sion, seeing in it only one or other aspect of the legal violence from which he imagines an escape.

Elyse Rider approaches the two central texts with a view to the specific concerns, practical and ethical, of interfaith dialogue. Introducing these concerns and surveying current approaches to them, the article describes a rich empirical ground on which to articulate the fundamental distinction drawn by Benjamin and drawn over by Derrida: between mythic and divine violence. Here, the latter always stands at risk of appropriation, if only symbolically, to an extremist and totalitarian agenda. In the ‘pluralist-deconstructive’ programme which Rider pursues – one which maintains the justice of difference whilst insisting that difference does not preclude collaboration, and that faith communities have something to say to, and learn from, one another, universally – divine violence must be reclaimed from this radical refusal of alterity. Two figures perform this function in her text: translation and sacrifice, which must themselves be reclaimed from myth. The destruction-as-deconstruction of Babel is read as no less than a making-room for the unknown and the other, while Abraham’s binding of Isaac bears witness to a destitution of the self and the opening-up of a space of the divine internal to the individual, a space resistant to knowledge or identification, and which calls us out to genuine communicative engagement with others. These coordinates inform a social-psychological analysis of the origins of repression and violence.

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