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POLITICAL VIOLENCE: HISTORICAL, PHILOSOPHICAL AND THEOLOGICAL PERSPECTIVES

Edited by Panu-Matti Pöykkö, Pamela Slotte Russo and Viljami Salo

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Political Violence

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Panu-Matti Pöykkö and Pamela Slotte Russo
Introduction

One always hopes that the timely character of the topics that one chooses to examine would be revealed to oneself, to one's peers, and to the general audience at least at the end of the research. Occasionally, the timeliness of a topic is immediately clear from the very beginning of the journey. The importance of the questions that this edited volume aims to tackle and answer were clear from the outset, though somewhat unexpectedly in a most unfortunate manner.

This edited volume emerged from the conference *Historical, Philosophical and Theological Perspectives on Political Violence* held by the Center of Excellence of Law, Identity and the European Narratives at the University of Helsinki in spring 2022.[1] The volume delves deep into the complex and multifaceted topic of political violence. The timely nature of the chosen topic became immediately apparent, as the world witnessed the unfolding tragedy of Russia's war on Ukraine and the more recent robust and violent escalation of the war in Gaza. This grim contemporary manifestation of political violence served as a stark reminder of the enduring presence of violence in our world, both historically and in the present day.

The volume comprises thirteen chapters that originated from presentations at the conference, where scholars and experts from various academic fields came together to discuss the nature and aspects of political violence. In them, the authors aim to scrutinize and delineate the discussion on political violence by exploring its historical and contemporary forms, characteristics, and justifications within the context of the development of European identity and ideas of Europe. The fundamental questions of what constitutes political violence and aggression, when it can be deemed justified, who holds the right to exercise it, and against whom it can be directed, are explored from multiple perspectives.

Answers to these questions are complex and varied, influenced by factors such as ends, available resources, historical and socioeconomic context, and the ideological, political, and religio-theological backgrounds of the actors involved. The phenomenon of political violence can be approached from different disciplines such as political science, law, history of ideas, philosophy, and theology, each offering unique insights into the subject. In the volume, we seek to provide a

multidisciplinary examination and critical appraisal of central questions sur-rounding political violence. By incorporating various perspectives, our aim is to shed light on the complexities of the phenomenon and offer tools to understand the different aspects of political violence that may remain obscured when viewed from a single standpoint. The interplay between concepts, historical context, and moral ideas is crucial in understanding the complexities of political violence and its impact on European identity.

Rather than focusing solely on concrete instances of political violence (for example, war, civic strife, political repression, revolutionary actions) in this volume, we delve into how these questions have been addressed in European political, philosophical, and theological thought.[2] The authors explore the intellectual tools, forms of justification, and ideological currents that have shaped the idea and use of political violence throughout history. The aftermath of the two world wars in the twentieth century played a significant role in shaping contemporary European political identity and perceptions of political violence, leading to an ongoing dialogue between the practice of violence and a human rights-based morality.

The volume is divided into four sections, each of which gathers chapters by experts in various fields of inquiry and study – which highlights the importance of considering multiple perspectives to understand the complex nature of political violence. By examining its historical, philosophical, and theological dimensions, the authors offer a nuanced view into the evolving concept of political violence and its implications for European identity. The chapters contained within the volume serve as a witness to the significance of a multidisciplinary approach to political violence, emphasizing the need to consider diverse viewpoints to gain a comprehensive understanding of this pervasive and enduring issue.

The first three chapters (Section I) approach the question of political violence through intellectual historical lenses, concepts central to its analysis (enemy, human dignity, just war), and their emergence and development in Western thought. The nature of political violence is understood and its justification is developed within a complicated context of intersected conceptualities which provide the framework in and from which it is constituted.

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2 For illuminating studies which examine political violence from a historical, geographical, political, and empirical point of views see Donald Bloxham and Robert Gerwarth, eds., *Political Violence in Twentieth-century Europe* (Cambridge: Cambridge University Press, 2011); Jean Elizabeth Rosenfeld, ed., *Terrorism, Identity and Legitimacy: the Four Waves Theory and Political Violence* (Adingdon: Routledge, 2011); Marie Breen-Smyth, ed., *The Ashgate Research Companion to Political Violence* (London: Routledge, 2016). For a reflective ethical analysis of political violence, focusing especially on war and the problem of just war, see C.A.J. Coady, *Morality and Political Violence* (Cambridge: Cambridge University Press, 2008).

In Chapter 1, Martino Tognocchi explores the intricate concepts of *enemy* and *enmity*. While the idea of an enemy is crucial to understanding political violence, particularly in the case of war, its definition is not as clear-cut as it may initially seem. The enemy serves as a prerequisite in theories of war, aiding in the establishment of boundaries and criteria for the justified use of violence in pursuit of specific political goals. Tognocci explores the concept of the enemy within the framework of civil war, a topic that has not received as much attention in contemporary political theory compared to other types of violence. By referencing the theories of civil strife proposed by early modern thinkers Thomas Hobbes (1588–1679) and Hugo Grotius (1583–1645), Tognocci pushes back against any simple interpretation of enmity. He demonstrates that within the context of civil war, the concept of the enemy becomes entangled in a complex dichotomy between forms of political violence that are deemed both legitimate and illegitimate. This tension underscores the complicated nature of the enemy in the context of civil strife, revealing the challenges inherent in grappling with the complexities of enmity within the realm of political theory.

Several authors analyze totalitarian violence from both theoretical and historical perspectives. In Chapter 2, Kauis Tuori delves into the question whether totalitarian violence possesses unique qualities, and he explores the emergence of the concept of *human dignity* as a powerful response to the dehumanizing ideologies and practices of the totalitarian regimes in the twentieth century. These oppressive regimes were known for their brutal and indiscriminate use of violence, targeting individuals who they saw as devoid of any moral value. Tuori demonstrates how, amid the debates of the 1930s and 1940s, a new understanding of human dignity began to take shape. Drawing on established traditions to critique and restrain the excessive violence prevalent in society, a notion of human dignity emerged as a crucial counterforce to the oppressive ideologies of European totalitarianism. This concept of human dignity, coupled with the burgeoning discourse on human rights, served as a moral compass in the face of repressive and violent regimes. Through Tuori's exploration, we come to understand the significance of human dignity as a revolutionary idea that challenged the dehumanizing practices of totalitarian regimes. By highlighting the importance of respecting the inherent value and equality of all individuals, the concept of human dignity played a pivotal role in shaping the conceptualization of a more just and humane society in the aftermath of the atrocities of the twentieth century.

Examining European thought on political violence involves analyzing the secularization of political and legal language, as well as the enduring influence of theological perspectives in political theory. Tamas Nyirkos delves in Chapter 3 into the concept of *just war* within European Christian thought. Nyirkos examines how this concept is both contested and deemed relevant in modern times, includ-

ing its recent use by Pope Francis in his encyclical *Fratelli Tutti* (2020). Nyirkos charts the evolution of Christian just war theory from its roots in the thought of Saint Augustine (354–430) to its dismissal by Pope Francis. However, Nyirkos argues that just war theories are not simply outdated checklists used to justify acts of violence in politics. Instead, they may serve both as a means of conceptualizing reality and as resources to reflect on the justification for war and political violence based on principles of justice and nonviolence, while acknowledging the inevitability of conflict in human affairs. Nyirkos proposes that despite criticisms of its outdated nature, the language of just war theory can still be valuable in conveying moral arguments. It is not just a relic to be discarded, but a tool for contemplating the complexities of warfare and violence in a world striving for justice and peace. In a time when political violence continues to challenge ethical boundaries, the examination of historical frameworks like just war theory can offer insights into the ethical dilemmas contemporary societies face.

The authors in Section II consider the difficult issues of pacifism, its philosophical and moral grounds and its complicated relation to the question of political violence, and how to define when the use of violence for political ends becomes justified and where the limits lie, in cases where either the end could arguably be considered as morally legitimate (self-defense, societal change etc.) or this conceptual border is unclear and creates gray areas in practice. Few stances vis-à-vis political violence, are perhaps ascribed a more obvious moral character than civil disobedience. In Chapter 4, Willian E. Scheuerman takes a fresh look at the stance Dr. Martin Luther King (1929–1968) took on the right to self-defense. Scheuerman argues that King viewed violence as a moral evil and pushed back against the idea that violent self-defense against state violence could be legitimate under certain circumstances. While acknowledging that self-defense can be a legal and moral right for individuals, King believed that the ultimate goal and basis for any meaningful political endeavor should be commitment to nonviolence. In choosing nonviolence as a guiding principle, King believed that individuals and societies could break free from this destructive cycle and work toward genuine peace and justice. In this way, King's approach to political violence was not simply about legal or individual rights, but about the moral imperative to resist violence in all its forms. Scheuerman's analysis highlights the moral complexity of the issue of political violence, particularly in the context of civil disobedience. By examining King's views on self-defense and nonviolence, Scheuerman sheds light on the deeper ethical considerations at play when grappling with the use of violence to pursue political goals.

The conception that philosophical and theoretical analysis of political violence may be divorced from its practical forms is challenged by Przemyslaw Tacik. In Chapter 5, Tacik argues that theoretical reflection and practical realities

of political violence and its legal justification are mutually conditioning and inter-dependent. Tacik aims to demonstrate how the state of exception paradigm enriches our understanding of political violence. By focusing on self-determination conflicts, Tacik highlights a specific type of political violence at the intersection of international law and international relations. He suggests that these conflicts operate within a state of exception in international law, allowing for violence while also incorporating it into legal frameworks. This creates a complex dynamic where political violence exists in a gray area, not completely accepted, or rejected by legal systems. Tacik draws on the works of philosophers such as Hobbes, Carl Schmitt (1888–1985), Walter Benjamin (1892–1940) and Giorgio Agamben to support his analysis. These thinkers provide intellectual foundations for understanding the role of violence in political conflicts and the complex relationship between law and violence. Tacik emphasizes that both theoretical concepts and practical realities need to be considered when analyzing political violence. He explores the nuances of the state of exception paradigm to shed light on the complexities of violence in contemporary political contexts.

In his analysis in Chapter 6, Spartaco Pupo highlights the importance of understanding the intellectual and philosophical foundations of nonviolence. He delves into the works of Bertrand Russell (1872–1970), Karl Popper (1902–1994), and Michael Oakeshott (1901–1990) to uncover the skeptical and antidogmatic philosophies that underpin their thinking, suggesting that these can provide a solid theoretical basis for advocating peaceful political discourse and action. Pupo challenges us to move beyond a surface-level appreciation of nonviolence and consider the deeper philosophical grounds that support it. By investigating the ideas of these three prominent European thinkers, he encourages us to reflect on the need for a nuanced understanding of nonviolent political thought. Russell, Popper, and Oakeshott each offer unique perspectives on skepticism and anti-dogmatism, which Pupo suggests can inform our approach to nonviolence. By engaging with their ideas, we can enrich our understanding of the complexities of peaceful political action and discourse.

In Section III, the authors critically elucidate important intellectual, philosophical, and theological sources that have influenced contemporary European political thought and consequently our understanding the political, power, sovereignty, ideological thinking, and political violence. How are we to understand theological associations in thinking about political violence? Are they simply something to criticize, superfluous or even dangerous for the argument, or may they indeed at times be indispensable to the case made? The associations between theology and political violence is a complex and contentious issue that requires careful consideration. While some may view theology as unnecessary or even dangerous in discussions of political violence, it may be indispensable in certain

contexts. In Chapter 7, Aaron James Goldman challenges the interpretation of *Fear and Trembling* (1843) by Sören Kierkegaard (1813–1855), which has been used to justify various forms of violence. Especially, Goldman criticizes those readings of *Fear and Trembling* which take Kierkegaard's famous "teleological suspension of the ethical" as a tool for justifying political violence, while simultaneously providing grounds for rejecting any ethical consideration of the possible legitimacy of such violence. At the center of Goldman's analysis is Schmitt's reading of Kierkegaard. Goldman defends Kierkegaard against those who see his philosophical and theological thought, especially his account of faith, as an important precursor to Schmittian decisionism. However, Goldman stresses that this interpretation overlooks the importance of faith in Kierkegaard's philosophy. Goldman's analysis suggests that while there may be similarities between the Kierkegaardian tragic hero and the Schmittian notion of sovereignty, faith plays a crucial role in distinguishing between the two. The Kierkegaardian tragic hero may capture something essential of Schmittian sovereignty, but faith is critical, and its champion rises above the political to consider it critically. This nuanced understanding of theological thinking sheds light on the complexities of philosophical and ethical discussions about political violence and highlights the importance of considering faith. Moreover, Goldman's analysis challenges simplistic interpretations of Kierkegaard's work and emphasizes the need for a more nuanced understanding of the relationship between the theological and the political.

Ville Suuronen examines in Chapter 8 the intricate web woven between violence, death, sovereignty, and European political thought in Western philosophy. He argues that a critical examination of this connection not only provides crucial insight into the complicated phenomenon of political violence, but also presents new opportunities to rethink the dynamics of political interactions. Suuronen draws an interesting contrast between the favorable view of Hanna Arendt (1906–1975) and opposing stance of Schmitt on how Baruch Spinoza (1632–1677) scrutinizes the complex interplay between violence, death, and sovereignty in his political philosophy. Arendt saw in Spinoza a potential ally who offered a unique perspective on dismantling this intricate relationship, while Schmitt viewed him as an intellectual foe precisely because of this dismantlement. Arendt's embrace of Spinoza's ideas may be seen as suggesting a path toward transformation, while Schmitt's rejection could be taken as signifying a desire to uphold more traditional power structures. Suuronen invites us to consider how philosophical concepts can shape political ideologies and actions, to offer insight into the complex tapestry of European political thought. In unpacking these connections, Suuronen prompts us to reflect on how violence, death, and sovereignty have historically intersected in political discourse, and how these dynamics continue to inform contemporary debates. By exploring the intellectual legacies of thinkers like Spi-

noza, Arendt, and Schmitt, Suuronen encourages us to contemplate the enduring relevance of philosophical inquiry in shaping our understanding of violence, power, and governance. Moreover, Suuronen aims to provide a framework for understanding both progressive and conservative political movements in twentieth century Europe.

Such a framework needs to consider the materiality and compensating logic of the practices of border walling and their central link to political violence. Piotr Sawczyński's examination of material bordering practices in relation to political violence in Chapter 9 makes a significant contribution to understanding the complexities of European political violence. He draws on Wendy Brown's theories of border walling as a means for sovereign power to maintain control and Benjamin's critique of misguided assumptions regarding sovereign power and revisits the concept of Schmittian decisionism. Sawczyński argues that political leadership in practice does not align with notions of power in theory. Sawczyński's exploration of border walling and political violence sheds light on the nuanced relationship between sovereignty, power, and violence in European contexts. He examines the materiality and compensating logic of border walling practices to offer a fresh perspective on the role of violence in European politics. He thus raises an important question about the historical fetishization of political violence in Europe and its implications for the continent's identity. Has violence become an inherent part of European identity, either affirmed or legitimized through historical practices? Sawczyński challenges readers to reconsider the assumptions underlying sovereign power and its relationship to violence. His chapter serves as a timely reminder of the complex dynamics at play in contemporary European political violence, and the need to critically reexamine established theories of power and leadership.

Intellectual sincerity requires that such a critical endeavor, when need be, tackle and challenge intellectual leadership. In his analysis of Herbert Marcuse (1898–1979) in Chapter 10, Olli-Pekka Vainio challenges the widely celebrated image of the eminent leftist thinker as a champion of antifascist and antitotalitarian ideals. Vainio suggests that a closer examination of Marcuse's ideas reveals a troubling possibility: that his own thought may inadvertently mirror the very forms of thinking he opposes. This criticism echoes previous assessments by Alasdair Macintyre and Lezsek Kołakowski (1927–2009), who also identified problematic aspects of Marcuse's thought. Vainio draws parallels between Marcuse's political philosophy and certain Christian and Gnostic doctrines deemed heretical in Christian history to raise concern about the underlying assumptions of Marcuse's thought. Drawing on insights from contemporary social psychology and cognitive science, he aims to show that Marcuse may inadvertently reinforce the very structures of thought he seeks to dismantle and risks a distorted reflection of the ideologies he seeks to combat. This critical reevaluation of Marcuse's legacy

invites us to consider the complexities and potential contradictions within his influential body of work in light of their unintended consequences. Vainio's analysis invites us to consider the intricate relationship between political philosophy and the perpetuation of oppressive structures. His critique reminds us of the importance of critical engagement and reflection in thinking of the political, political violence, and the pursuit of social transformation and justice.

The chapters of section IV further explore the underlying assumptions and frameworks that influence the justification of repressive power structures and the use of violence for political ends, particularly in the context of revolutionary action. The relationship between religio-theological principles and political ideologies, specifically regarding the issue of violence, was introduced in section II. Building on this discussion, the section delves deeper into the concept of theodicist logic, highlighting the interconnected nature of moral, political, and theological perspectives and how they influence each other. The section illustrates how theodicist reasoning was used to rationalize the violent acts of the French Revolution, offering a way to not only comprehend these events but also to ethically (and theologically) justify them. This challenging topic of justifying revolutionary actions is also explored via a more secular approach to examining the conditions under which revolutions, including the French Revolution, can be deemed legitimate.

Aleksei Rakhmanin, in Chapter 11, challenges the idea that political violence as such could be justified. Drawing inspiration from Albert Camus (1913–1960), particularly his work *The Plague* (1947), Rakhmanin examines violence and explores the possibility of politics devoid of the rationalization of violence. The justification of political violence is closely tied to the moral aspect of politics and is rooted in theodicist reasoning prevalent in European metaphysical, moral, and political philosophy. Rakhmanin proposes the idea of stepping away from theodicy tendencies ingrained within modern European intellectual tapestry. By doing so, he suggests that violence, be it political or otherwise, can be viewed without any inherent (cosmic, moral, political, or other) value. This fresh perspective allows for a more honest and critical appraisal of the nature of violence and its implications. Through analyzing Camus' work, Rakhmanin aims to combine both philosophical and literary insight into violence that is not clouded by metaphysical, moral, or ideological preconceptions. By separating violence from such background assumptions, he sheds light on the futility of violence as a means of achieving any meaningful (political) ends. Drawing from the antitheodicy quarters of twentieth century thought, especially Camus, Rakhmanin calls for a reevaluation of how we perceive and confront violence, urging us to consider a more subtle approach that goes beyond traditional frameworks.

The theodicist logic and framework serves not only to justify certain courses of political action, but also, and perhaps most often, to understand violence and what the inquirer perceives as unjust, evil political events in history. In Chapter 12, Marianne Sandelin investigates the complex thought of Joseph de Maistre (1753–1821), a French conservative and counterrevolutionary thinker, as he grappled with the tumultuous events of the French Revolution. Sandelin highlights Maistre's unique perspective on the French Revolution, viewing it as a profoundly evil and unprecedented occurrence in history. As required by a theodicist stance, rather than dismissing the violence and chaos as useless and absurd, Maistre turns to his theological beliefs to provide a deeper understanding and justification for the events of the French Revolution. Moreover, Sandelin's analysis makes it clear that Maistre's theodicist thinking crucially shaped his political ideology. By interpreting the violence of the Revolution as a manifestation of divine providence, Maistre sought to reconcile the seemingly senseless brutality with his belief in a higher power governing the course of history. This blend of theological conviction with political analysis demonstrates how interconnected these two realms can be, and how a deeper understanding of one can shed light on the other. Sandelin thus offers an illuminating glimpse into how Maistre grapples with the complexities of political violence and divine intervention. Her analysis shows the intricate relationship between politics and theology and provides valuable insights into how theological beliefs can influence political thought and justification.

The French Revolution was a time of great upheaval and change, with many different perspectives on the role of violence in achieving revolutionary goals: not all theorists believed that violence was necessary or justified. Finally, in Chapter 13, Kontantinos Grigoriadis highlights the varying views on legitimate revolution, particularly in the aftermath of the French Revolution. Grigoriadis argues that Benjamin Constant (1767–1830) proposed a moderate perspective on the legitimacy of revolution. He believed that a revolution could only be considered justified, legitimate, and successful if it involved nonradical reform of society. Constant's view centered on the idea that revolution should be a peaceful and gradual transformation, rather than a violent and drastic upheaval. Grigoriadis shows how Constant's concept of nonradical reform involves replacing popular sovereignty with the notion of public opinion and establishing a "caste" of intellectuals. This reconfiguration of the idea of revolution, according to Grigoriadis, provides a way to avoid political violence in the name of the "people."

The overall aim of this volume is to provide a multifaceted and pluralist take on the question of political violence. Instead of focusing on the canvasing of different instances and types of political violence, we have emphasized systematic elucidation of its nature. We have sought to draw the ever-unclear conceptual borders and limits of its justification and legitimate use and explain the conceptual frameworks which

constitute and constantly shape our understanding of political violence, its justification, and limit. While our general focus is on the context of European thought, political space, and identity, we endeavor toward a critical enterprise that acknowledges both the strengths of the resources in the European intellectual tradition and, especially, its weaknesses and often myopic character.

Therefore, it is important to ask: whose perspective do we take on political violence? As said, it is important to contextualize theories, and the authors in this volume focus on contextualizing European thought about political violence as exactly that: European. The chapters paint a picture of European thought as to some extent perhaps even obsessed with political violence. This makes it important to ask, with Scheuerman, what focusing on questions of political violence help us see, and to what extent this may distract us from inquiring into (other) foundational political questions that should be approached in structural and systemic terms.

Political violence, of course, is not solely limited to more observable concrete instantiations of its often-brutal reality: war, strife, revolution, civic disobedience. Some of the authors (for example Vainio, Rakhmanin) emphasize that there are forms of political violence which work at deeper ideological, religious, and cultural levels. While these forms often go unnoticed, they draw ideological, moral boundaries and sow identitarian division, which creates enemies and violent oppressive power structures. So, whose perspective? Who do we need to listen to? Who are able to bring these violent tendencies into view? Many different human and disciplinary perspectives may be capable of doing so, from legal studies, intellectual history, and religious studies, to critical political philosophy. One important disciplinary perspective that continues to produce critical work is postcolonial and feminist thought. For instance, Laura Sjoberg has emphasized the importance of an informed feminist perspective on the question of political violence. This perspective emphasizes context, particularly in relation to Western values that may perpetuate violence and oppression in non-Western contexts. This approach recognizes the diversity of experiences and perspectives among women from different sociocultural backgrounds, and the need to address the complex intersections of race, class, gender, and other factors in understanding political violence. By doing so, it can uncover the gender bias in the conceptual frameworks within which international political discourse operates, and to provide tools and insight as to how one should proceed in reconfiguring these biased and violent conceptualities. Moreover, postcolonial feminism highlights the need for reflexivity in feminist analysis. By acknowledging how Western feminist perspectives may inadvertently reproduce colonialist attitudes and practices, postcolonial feminists seek to decolonize feminist theory and practice. Such an acknowledgement involves recognizing the power dynamics and

structures that shape feminist discourses, and actively working to center the voices and experiences of women from marginalized communities.[3]

The same task of identifying, recognizing, and ultimately questioning discourses of political violence has guided this volume. Despite the European approach, our aim has been to bring to the fore central conceptual, historical, theological, philosophical contexts and frameworks that have shaped understandings of political violence, its justification and limit. Better and clearer understanding of these contexts and frameworks, in turn, could serve as means of self-reflection and critique.

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3 See Laura Sjoberg, "Feminist Reflections on Political Violence," in *The Ashgate Research Companion to Political Violence*, ed. Marie Breen-Smyth (London and New York: Routledge, 2012), 263.

I

Martino Tognocchi

Between intimacy and abyss: Early modern European ideas on enmity in civil war

1 Introduction

In the introductory pages to his study on war and the law of nations, Stephen Neff states that the single most obvious feature of modern war throughout its history has been its collective character and the fact of "arraying a whole people against a foreign foe."[1] Neff expresses a conventional historical wisdom: enemies are those who stand outside a border, namely foreigners.

Yet, we know from a variety of different historical sources that in some cases, enemies can be insiders. One of the cases in which enemies can be found within the borders of one's own state is civil war, an elusive, though ever-present event of political history. Civil war is an apparently objective, but "deeply contentious" concept used to describe events which presuppose violent political actions taking place within an internal space.[2] Civil war is a violent struggle for authority between two parties belonging to the same political space.

Even though civil war has been amply treated by historiography and literature, it remains an enigmatic phenomenon for modern political and international theory, frequently downgraded to the status of a subordinate or partial event of larger political phenomena such as revolutions, regime transitions or wars between states. Civil war is left in oblivion by modern political and international theory for at least three reasons.

First, the notion of "civil" in civil war produces an internal inconsistency that affects the whole concept: it presupposes the existence of the *civitas*, but at the same time it implies the radical negation of it. Second, civil war as a "war" is something more than a sheer violent event. It is more complex and more institutionalized than pure violence, because war presupposes some fundamental forms of mediation to sheer violence as symbols, languages and norms.[3] Due to such

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1 Stephen C. Neff, *War and the Law of Nations: A General History* (Cambridge: Cambridge University Press, 2005), 13, https://doi.org/10.1017/CBO9780511494253.

2 David Armitage notes that "civil war" is a polemic concept because its meaning entails a radical polarization of political identities and therefore its use can be instrumental. "Its application can depend on whether you are a ruler or a rebel, the victor or the vanquished"; see David Armitage, "Ideas of Civil War in Seventeenth-Century England," *Annals of the Japanese Association for the Study of Puritanism*, no. 4 (2009): 4–18.

3 David Armitage, "Civil War and Revolution," *Agora* 44, no. 2 (2009): 18–22.

forms of mediation, civil war is never only a domestic affair; it transcends the enclosed space of the *civitas*: its seismic effects cannot but affect also international relations.[4] Third, civil war is enigmatic because during its unfolding political boundaries blur and are often barely recognizable: "the universal" (the state) and "the particular" (the individual) collapse into one another. The effect of this collapse is the radical reshaping of identities, in effect the most crucial feature of civil war. Therefore, in civil war it is hard to define who is an enemy and according to what criteria enmity can be defined. The concept of enemy cuts across civil war in deepest dimension – that of identities – but often remains nebulous and unstable, both in practice and theory. Given that war and enmity can be taken as co-constitutive,[5] what about enmity in civil war? Is civil war a way to define enmity or does a form of enmity exist that justifies civil war? If in other forms of internal violence, the enemy can be easily identified with a polemic noun, for example in the case of rebellion where the opponent is named a tyrant, or in revolution where the opponent is a social class, in civil war naming the opponent is way harder. Who is the opponent in a civil war? A citizen enemy? An evil peer? A traitor brother?

In this chapter, I try to answer these questions by looking at how intellectuals dealt with the concept of enemy in the history of political thought. I look at the European roots of modern political thinking by interrogating two key canonical figures[6] of modern political rationalism: Hugo Grotius (1583–1645) and Thomas Hobbes (1588–1679). The purpose of interrogating Grotius and Hobbes on civil war is, even though their silences and unspoken words, to sound out how the nexus between civil war, political order and the individual has been conceptualized in European political thought.[7] The concept of enemy allows us to question the constitutive process through which the individual becomes a legal, political and moral entity within the collective political order – the *civitas*. And in this respect, the rationalist thought of Grotius and Hobbes – strongly focused on the

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4 David Armitage, *Civil Wars: A History in Ideas* (New York: Alfred A. Knopf, 2017), 5.

5 This is claim follows, at least partly, Carl Schmitt's argument about the enemy expounded in the *Theory of Partisan* as "any declaration of enmity is a declaration of war"; reading the issue of war and enmity through and beyond Schmitt, here enmity and war are located in symmetrical and reciprocal position. See Carlo Galli, Amanda Minervini, and Adam Sitze, "On War and on the Enemy," *CR: The New Centennial Review* 9, no. 2 (2009): 195–219.

6 Here canonical is used to emphasize how the two thinkers are considered as noble fathers of the disciplines of International Relations and International Law; see Paolo Amorosa and Claire Vergerio, "Canon-Making in the History of International Legal and Political Thought," *Leiden Journal of International Law* 35, no. 3 (2022): 469–478, https://doi.org/10.1017/S0922156522000231.

7 Armitage, *Civil Wars*, 93–94; 104.

conceptualization of the individual as a political subject – may be a valid site of analysis and a starting point for further research.

The first section of this chapter, I provide a *longue-durée*[8] overview of how the concept of enemy has been dealt with in the theory of civil war. In the second section, I connect the issue of civil war with the two authors' biographies, trying to be attentive to their social and intellectual context by looking at how civil war shapes their intellectual horizons. Then, in the third section, I theoretically examine how they frame the concept of enemy in their theory of civil war.

The concept of enemy structures any theory of war, as it affects the ethical, legal and strategic forms that political violence can assume. Locating the enemy in civil war implies the possibility of drawing boundaries that identify spatiotemporal conditions of thinkable and legitimate violence. Civil war is still a concept of the political present[9] and, as Colombo notes, "it is the mirror in which the state and political orders of any sort are continuously forced to reflect."[10] Thus, looking at the concept of enemy in civil war means inquiring into the structure of modern political order, an order which still informs our political present.

2 The concept of enemy in classical, medieval and modern theory of civil war: Ideas and unanswered questions

The question of who the "other" is in internal conflicts seems at once tautological or too equivocal to be inquired. Yet, it is intimately linked with the definition of the conditions of possibility of civil war. As observed by Nicole Loraux, according to Greek political theory, during a civil war in ancient Greece – a period known as *stasis*[11] – the city becomes enemy to itself. Quoting Plato, Loraux explains that:

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8 David Armitage and Jo Guldi, "Le retour de la longue durée: une perspective anglo-américaine," trans. Jérôme Baudry, *Annales: Histoire, Sciences Sociales* 70, no. 2 (2015): 289–318.
9 Stathis N. Kalyvas, Ian Shapiro, and Tarek E. Masoud, eds., *Order, Conflict, and Violence* (Cambridge and New York: Cambridge University Press, 2008), 205–207.
10 Alessandro Colombo, *Guerra civile e ordine politico* (Bari: Editori Laterza, 2021), 4–5.
11 *Stasis* (or *stasis emphylos*) is the most ancient term in Greek language to define a war that takes place within a city. It describes a war that begins within the family and flows into the city, but also the way the family comes back together after a struggle. In Greek, from an etymological point of view, *stasis* has a double meaning: the first one is 'movement' or 'trouble', the second one 'steadiness' and 'stability.' See Ninon Grangé, *Oublier la guerre civile?: stasis, chronique d'une disparition* (Paris: École des hautes études en sciences sociales: Librairie philosophique J. Vrin,

> The city would therefore be a paradigm for understanding the individual. But above all, she is the model of the soul, a model for the soul. Plato gradually substituted the "soul" for the "individual," just as he willingly replaces "city" by "constitution" [. . .] However, at the end of the operation, it is the soul which has become a city: a city with parties, enemies within and without.[12]

Hostility's lines in *stasis* are not to be traced among individuals or groups as we are used to think, but through the unity of the city. Enmity is conceived as an intimate issue, which concerns personal, familiar and social identities all together. In the *stasis* exists an open-ended and transformative form of hostility which does not derive from individuals' will, but on the contrary operates on individuals and on their relations. Such an anthropomorphic image of the city as an enemy to itself identified by Loraux in the Greek *stasis*, is consistent with Thucydides' idea of the city's self-destructive force put forward in his description of Corcyra's *stasis*:

> *Corcyraeans* continued to murder those of their own people whom they considered enemies. Some were killed out of private others by their debtors who had taken loans and owed them money. Death took every imaginable form [. . .] With all life thrown into chaos at this time of crisis for the city, human nature triumphed over law: showing itself the slave of passion and the enemy of anything higher.[13]

The Greek concept of enemy in civil war is ample, as it transcends the individual or the groups of individuals, and is indeterminate, as it does not create a specific vector of legitimate political violence. Differently from the Greek's idea of *stasis* as a moment of city's hostility against itself, for the Romans the *bellum civile* – the Latin expression for internal war – is mostly a strife among ruling elites. And, even if the Romans have a term for the enemy in civil war – the *cives*[14] – the concept of enemy is highly variable in Latin jargon on civil war. Indeed, the acute

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2015); Nicole Loraux, "Oikeios Polemos: La Guerra Nella Famiglia," *Studi Storici* 28, no. 1 (1987): 5–35.

12 "La cité serait donc un paradigme pour comprendre l'individu. Mais surtout, elle est le modèle de l'âme, un modèle pour l'âme. Platon a peu à peu substitué l'"âme"à l'"individu", tout comme il remplace volontiers "cité" par "constitution" [. . .] Or, à l'issue de l'opération, c'est l'âme qui est devenue une cité: une cité avec des partis, des ennemis du dedans et du dehors." Nicole Loraux, *La Cité Divisée: L'oubli Dans La Mémoire d'Athènes* (Paris: Payot, 1997), 76–81.

13 Thucydides, Martin Hammond, and P. J. Rhodes, *The Peloponnesian War* (Oxford and New York: Oxford University Press, 2009), 170–173.

14 They have a term because, as explained by David Armitage, for the Romans "each type of war was defined by the nature of the enemy being fought." But the meaning(s) of the term may vary. See Armitage, "Ideas of Civil War in Seventeenth-Century England."

eye of Lucan sees that representing the citizen as an enemy is a *contradictio in terminis*. As a matter of fact, Lucan in the *Pharsalia* provocatively claims that the *bellum civile* is a "bellum sine hostes."[15] For the Romans rather than a simple enemy, the adversary in civil war is a member of a military political elite who abuses public institutions as if they were an actual external enemy. However, being a Roman citizen, this adversary cannot be designated simply as an external enemy, and this requires sophisticated linguistic machinations and thus linguistic variations.[16] Examples of these machinations appear in the civil war between Caesar and Pompey where different nouns are deployed to represent the attempt by the latter's clan at subverting Roman institutions (49-44 BC). Against Catiline and Antonius, Cicero uses *latro*, *hostis domesticus* or *hostis togatus*, thus, creating a rhetorical pathos that leads to the strongest variants, *hostis publicus* and *hostis republicae*.[17] While, Caesar in the *bellum civile* uses more frequently the term *inimicus* as to insist on the private nature of the issue, but also on the seriousness of the struggle, which cannot be counted as ordinary crime.[18] All these variants seem to converge toward the purpose of presenting civil war as a special struggle between adversary groups which ultimately can acquire the form of an actual, open and public war between legitimate enemies, as in the case of the Republic wars between Marius and Sulla.[19] The Roman ambiguities and varieties in the conceptualization of the enemy in civil war remain across the subsequent centuries both as a reference point and as a source of intellectual creativity and confusion.

In the European Middle Ages identifying internal hostility is a substantial part of the process of building enclosed political orders and fixing their boundaries: designating an internal enemy is a tool to distinguish order from disorder. There are two main patterns of internal hostility: that of the *pars* (the party) and that of radical otherness. Regarding the first one, in the Italian city-states, for instance, the other party is identified along the lines of group allegiance to certain ideas, most of the time of religious, political or economic character. Such a designation is a way to create an order in which competing groups can fight for power

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15 "A war without enemies," see Lucan, *Pharsalia*, trans. Jane Wilson Joyce (Ithaca, NY: Cornell University Press, 1993), 27.

16 Ninon Grangé, "Cicéron contre antoine: La désignation de l'ennemi dans la guerre civile," *Mots*, no. 73 (2003): 9–23, https://doi.org/10.4000/mots.15512.

17 Paul Jal, "'Hostis (publicus)' dans la littérature latine de la fin de la République," *Revue des Études Anciennes* 65, no. 1 (1963): 53–79, https://doi.org/10.3406/rea.1963.3689.

18 See Paul Jal, "Le 'soldat des guerres civiles' à Rome à la fin de la république et au début de l'empire," *Pallas: Revue d'études Antiques* 11 (1962): 7–27.

19 Armitage, *Civil Wars*, 52–53.

and set their own rules. Those who have other ideas and belong to a competing *pars* are generally labeled as traitors. A prominent example is the almost legendary rupture between the Guelf and Ghibelline parties.[20] The Guelf and Ghibelline case shows how the identification of the other group is a political tool to get rid of the traitor party. The other pattern of enmity, that of radical otherness, is instead defined by personal, psychological traits and takes the form of guilt and natural deviance. The most prominent forms of internal radical otherness are madness and heresy.[21] Religious beliefs deemed deviant and thus disruptive to political order are excluded from the city.[22] The sinner, traitor, beast, Satan, goat or witch are typical concept images used to identify enmity in medieval internal struggles.[23] However, the classical idea of civil war as a war against itself comes back. For instance, in the second half of the fourteenth century Baldus de Ubaldis, echoing Roman literature, defines "civil war (*bellum civile*)" as the war "which a people begins against itself" to decide its government.[24]

The two medieval patterns are the intellectual *substratum* of the modes of representing the enemy in the long religious strife that takes place in different European countries. In the early modern canon of European political thought, the enemy in civil war becomes the one who acts against the state, namely the rebel or the brigand. As the Dutch jurist Balthazar Ayala (1548–1584) asserts, recalling a well-established legal political tradition, "rebels ought not to be classed as enemies, the two being quite distinct, and so it is more correct to term the armed contention with rebel subjects execution of legal process, not war."[25] Again, the Roman *topos* of civil war as a war without enemies is not buried: the English Commander Sir William Waller (c. 1598–1668) defines civil war as "this warr without an enemie"[26] and almost

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20 Paolo Grillo, *La Falsa Inimicizia: Guelfi e Ghibellini Nell'Italia Del Duecento* (Roma: Salerno editrice, 2018), 38.

21 Andrea Moudarres, *The Enemy in Italian Renaissance Epic: Images of Hostility from Dante to Tasso* (Newark, NJ: The University of Delaware Press, 2019), 3–4.

22 Merio Scattola, ed., *Figure Della Guerra: La Riflessione Su Pace, Conflitto e Giustizia Tra Medioevo e Prima Età Moderna* (Milano: FrancoAngeli, 2003), 8–11; Otto Brunner, *Land and Lordship: Structures of Governance in Medieval Austria* (Philadelphia, PA: University of Pennsylvania Press, 1992), 29.

23 Andrea Zorzi, ed., *Tiranni e tirannide nel trecento italiano* (Roma: Viella, 2013), 13–16.

24 Dante Fedele, "Grotius and Late Medieval Ius Commune on Rebellion and Civil War," *Grotiana* 41, no. 2 (2020): 371–389, https://doi.org/10.1163/18760759–41020007.

25 Balthazar Ayala, *De jure et officiis bellicis et disciplina militari libri III*, trans. Carnegie Institution (Washington, DC: Carnegie Institution, 1912), 11; Tilman Rodenhäuser, "Of Rebels, Insurgents, and Belligerents: Non-State Parties in the History of Warfare," in *Organizing Rebellion: Non-State Armed Groups under International Humanitarian Law, Human Rights Law, and International Criminal Law* (Oxford: Oxford University Press, 2018), 19–20.

26 Armitage, "Ideas of Civil War in Seventeenth-Century England."

in parallel the humanist Justus Lipsius (1547–1606) writes "in the civil war the faces of the fathers were seen in the enemy's army, and the brothers armed one another."[27] The diagnosis of civil war as a war without enemies is probably one of the reasons behind Grotius's and Hobbes's interest in providing articulated insights on civil war.

The advent, during the eighteenth century, of the first modern criminal laws and the first ideas of retribution for criminal offenses, the internal enemy is represented not simply as guilty as in the Middle Ages, but more precisely as guilty and outlaw. At the same time, the term civil war is less employed and substituted by other concepts. Michel Foucault (1926–1984) sees the advent of criminal punishment as one of the manifestations of the karstic civil wars that underlie the modern state.[28] For Foucault, civil war is the modern *dispositive* through which identities are continuously shaped and subjects constituted, therefore enmity is simply a byproduct of the endless process of subjectivation of individuals.[29] The dynamic described by Foucault resonates the way Jean-Jacques Rousseau (1712–1778) sees enmity in civil war: "la guerre civile ils deviennent tous ennemis, alternativement persécutés et persécuteurs, chacun sur tous et tous sur chacun."[30]

With the advent of revolutions, the issue of internal hostility, as Reinhart Koselleck (1923–2006) claims, is falsely resolved through the contrasting of state and society, which puts segments of society – in other words social classes – against the unity of the state.[31] This is why, the most used qualification for the aristocracy in France is "enemy of the people"[32] And also this is why Catel in his *Dictionary of the revolutionary language* translates the word 'counterrevolutionary' as *Staatsfeind,* literally "enemy of the state."[33] In the concept of revolution the opponent is not only compared to a criminal through the specialistic language of criminal law, but is also morally disqualified and banned through a specific pro-

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27 Luca Scuccimarra, "Combattere con le parole: note sulla semantica della guerra civile nella prima età moderna," *Giornale di storia costituzionale* 26, no. 2 (2013), https://doi.org/10.1400/216260.

28 Ninon Grangé, *Oublier la guerre civile?,* 12.

29 Michel Foucault, "The Subject and Power," *Critical Inquiry* 8, no. 4 (1982): 777–795.

30 "In civil war they all become enemies, alternatively persecuted and persecutors, each on all and all on each," Reinhart Koselleck, *Critique and Crisis: Enlightenment and the Pathogenesis of Modern Society* (Cambridge, MA: The MIT Press, 2015), 28.

31 Koselleck, *Critique and Crisis,* 131–134.

32 Michel Senellart, "La Qualification de l'ennemi Chez Emer de Vattel," *Astérion,* no. 2 (2004), https://doi.org/10.4000/asterion.82.

33 Reinhart Koselleck, "Révolution: du concept à la Métaphore: contribution à la sémantique d'un terme autrefois emphatique," *Écrire l'histoire,* no. 18 (2018): 25–36, https://doi.org/10.4000/elh.1358.

gressive philosophy of history.[34] The revolutionary discourse finds a new momentum when, in the middle of the nineteenth century, the concept of revolution is supplanted by the ethno-nationalist discourse and its racializing logic. Based on naturalist assumptions springing from empirical sciences as geography, zoology and biology, the ethno-national representation of the internal enemy is a racialized version of the criminal and the "enemy of the people."

With the overlapping of criminalization, moral disqualification and racialization of the enemy, nonetheless, according to Carl Schmitt (1888–1984), the issue of enmity in civil war is still unresolved.[35] Indeed, Schmitt sees civil war as the foundational event of modern political identities, because it is a cruel, fraternal war in which "the two parties at once assert and reject the unity of the state" and, thus, enmity for Schmitt becomes the very, radical criterion of modern politics.[36] As a matter of fact, Schmitt locates the root of political order in the act of naming an enemy during a civil war.

Exactly in light of this radicality, Roman Schnur remarks that there is not simply an absence of theoretical analysis of civil war but also and above all "of the ways the enemy is persecuted" because Western political philosophy cannot think about forms of violence directed against political fellows.[37] Naming an enemy in civil war does not simply make clear who is inside and who is outside, but also amounts to yielding the enemy the legitimacy to fight.[38]

As noted by Alessandro Colombo, civil war is indissociable from this radical ambivalence – framed as a "dialectic between proximity and extraneity" – that produces at once a maximized common identity and several absolute, fragmented and partial identities. This dialectic finds a proper synthesis in the oxymoronic notion of a fratricidal war, a *topos* of violence and intimacy that transverses both antique and modern European political mythology of order.[39] As highlighted by David Armitage, to "call a war 'civil' is to acknowledge the familiarity of the enemies as members of the same community: not foreigners but fellow citizens."[40]

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34 Gabriele Ranzato and Alain Corbin, eds., *Guerre fratricide: le guerre civili in età contemporanea* (Torino: Bollati Boringhieri, 1994), 13–40.

35 Georg Schwab, "Enemy or Foe: A Conflict of Modern Politics," *Telos* 72 (1987): 194–201, https://doi.org/10.3817/0687072194.

36 Carl Schmitt, *Ex captivitate salus: esperienze degli anni 1945–47* (Milano: Adelphi, 2005), 58–59.

37 Roman Schnur and Pier Paolo Portinaro, *Rivoluzione e guerra civile* (Milano: Giuffrè, 1986), 122–128.

38 Walter Rech, *Enemies of Mankind: Vattel's Theory of Collective Security* (Leiden: Martinus Nijhoff Publishers, 2013), 224.

39 Colombo, *Guerra civile e ordine politico*, 205–208.

40 Armitage, *Civil Wars*, 12.

Such an ambiguity is noticed even by international law scholars, who acknowledge that ambiguities about the enemy in civil war have had a considerable impact on the functioning of the laws of armed conflict in relation to civil war. Around the eighteenth century, Vattel put forward a doctrine of civil war with a focus on the seditious side, observing that "a civil war [. . .] produces in the nation two independent parties who consider each other as enemies."[41] But, as Ville Kari remarks, the classical doctrine of the law of civil war was reinterpreted in the nineteenth and twentieth centuries in an opaque way, letting "civil war as a legal concept withered away from international law, and the classical doctrine was all but forsaken."[42] Even in the growing social science empirical literature on civil war emerged since the 1980s, the ambiguity about the status of the other party in civil war remains. Social and political scientists studying civil wars through positivist approaches have not reflected about the problem of hostility in theoretical terms, opting instead for a pragmatic definition of the parties involved, distinguishing simply between "rebels" and "officials" according to their institutional role.[43] The concept of enemy in civil war seems enigmatic as much as the concept of civil war itself and its theoretical ambiguity deserves certainly to be deepened and studied.

3 Grotius and Hobbes in civil war: Context and intellectual horizons

Comparing Grotius's and Hobbes's works runs the risk of artificially subsuming theoretical convergences that do not exist.[44] As a matter of fact, their respective starting points are radically opposed. Grotius's *appetitus societatis* differs from Hobbes's anti-organicist social theory. They are grounded in different ontological

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41 Emer de Vattel, *The Law of Nations, or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns, with Three Early Essays on the Origin and Nature of Natural Law and on Luxury*, ed. Bela Kapossy and Richard Whatmore (Indianapolis, IN: Liberty Fund, 2008), 645.

42 Ville Kari, "On the Classical Doctrine of Civil War in International Law" (Ph.D. Thesis, University of Helsinki, 2020).

43 See for instance James D. Fearon and David D. Laitin, "Ethnicity, Insurgency, and Civil War," *The American Political Science Review* 97, no. 1 (2003): 75–90; or more updated studies Barbara F. Walter, "The New New Civil Wars," *Annual Review of Political Science* 20, no. 1 (2017): 469–486, https://doi.org/10.1146/annurev-polisci-060415–093921.

44 Perez Zagorin, "Hobbes without Grotius," *History of Political Thought* 21, no. 1 (2000): 16–40.

perspectives, respectively an Arminian theology of Aristotelian derivations in Grotius and a negative anthropology in Hobbes.[45]

However, when we are faced with things that pertain to the origins of modern European political thought, in our case civil war, Grotius's and Hobbes's political theories cannot be thoroughly separated. Despite their differences, Grotius and Hobbes are woven into the same intellectual fabric and face the same set of challenges. As Todescan notes, they are both "thinkers of the transition" and precisely within the dynamic dimension of that transition in an apparent loyalty to the tradition, to solve new problems, their theories acquire a definite groundbreaking character.[46] In this sense, their political theories can be inscribed into that epoch, characterized by unsettled dilemmas and dramatic (often cruel) power shifts, that is the long European seventeenth century.[47] As authors of the "transition" they share at least four points of contact.

First, they both attempt a secularization[48] of political and legal vocabularies, which aims at the construction of a civil space endowed with political authority – the *civitas*.[49] Second, both authors reconnect to the tradition of natural law, while providing important revisions to the medieval accounts of natural law.[50] If they follow the second Scholastics in assuming as a starting point of natural law the preeminence of individual reason as opposed to faith (*ratio* against *fides*),[51] their natural law has a different endpoint than that of Scholastics.[52] Grotius's and Hobbes's natural law shifts its *telos* from supranatural to earthly matters: not justice, but survival, the good life and society are the very endpoints of their natural

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45 Janne E. Nijman, "Grotius' Imago Dei Anthropology: Grounding Ius Naturae et Gentium," in *International Law and Religion: Historical and Contemporary Perspectives*, ed. Martti Koskenniemi, Mónica García-Salmones Rovira, and Paolo Amorosa (Oxford: Oxford University Press, 2017), 99, https://doi.org/10.1093/oso/9780198805878.003.0005.

46 Franco Todescan, "Dalla 'persona ficta' alla 'persona moralis': Individualismo e matematismo nelle teorie della persona giuridica del secolo XVII," *Quaderni Fiorentini per la Storia del Pensiero Giuridico Moderno*, no. 11 (1982): 59–93.

47 Immanuel Wallerstein, "The West, Capitalism, and the Modern World-System," *Review (Fernand Braudel Center)* 15, no. 4 (1992): 561–619.

48 Mark Somos, *Secularisation and the Leiden Circle* (Leiden and Boston, MA: Brill, 2011), 389.

49 Diego Quaglioni, "Pour une histoire du droit de guerre au début de l'âge moderne. Bodin, Gentili, Grotius," *Laboratoire Italien* 10 (2010): 498, https://doi.org/10.4000/laboratoireitalien.

50 Lorraine Daston and Michael Stolleis, eds., *Natural Law and Laws of Nature in Early Modern Europe: Jurisprudence, Theology, Moral and Natural Philosophy* (Farnham and Burlington, VT: Ashgate Publishing, 2008), 47.

51 Franco Todescan, *Le radici teologiche del giusnaturalismo laico* (Milano: Giuffrè, 1983), 57; Michel Villey, Stéphane Rialls, and Éric Desmons, *La formation de la pensée juridique moderne*, 2nd ed. (Paris: PUF, 2013), 549–553.

52 Villey, Rialls, and Desmons, *La formation de la pensée juridique moderne*, 546.

law.[53] Third, Grotius and Hobbes are both men tied to the power structures of their time (such as private companies, governmental institutions and religious and political elites) and immersed in the transformative[54] socioeconomic and cultural fabric of their native countries and of the European context in general.[55]

Fourth and above all, as "thinkers of the transition," the two authors converge, and not completely by chance, on the question of civil war. Both Grotius and Hobbes witness long and bloody civil wars that tear apart the political landscape of their countries and, most importantly, shape the distribution of power in the whole European context. Civil war is both the biographical sign of their personal and professional destinies and the intellectual picklock they use to devise their political theory. In the following, I briefly sketch how Grotius and Hobbes share the issue of civil war as a crucial point of contact, to prove how the context of civil war plays a role in shaping their views on politics.

3.1 The united provinces revolt and English religious wars: Civil war as a biographical condition

The two thinkers are embedded in a social context in which civil war is a ubiquitous phenomenon, so repetitive and enchained to other dimensions of social life that ordinary people conceive civil war as natural calamity or a divine retribution.[56] At their time, civil war was a long-term condition raging not simply on single countries, but on the whole continent of Europe. In the sixteenth and seventeenth centuries, civil wars were fought on different scales and in different forms: periodically civil war manifested as peasants' revolts or ethnic conflicts, at other times as urban conspiracies or religious persecutions.

Grotius lived amid the upheavals that brought seven of Provinces of the Netherlands to become independent from the Spanish crown in the long struggle known as the Eighty Years War (c. 1568–1648). This long, layered conflict consisted at once of a war of independence, an imperial-colonial war diffused in a large part

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53 Nijman, "Grotius' Imago Dei Anthropology".

54 Todescan, *Le radici teologiche del giusnaturalismo laico*, 61.

55 Jean Lévesque de Burigny, *The Life of the Truly Eminent and Learned Hugo Grotius: Containing a Copious and Circumstantial History of the Several Important and Honourable Negotiations in Which He Was Employed: Together with a Critical Account of His Works* (Charleston, SC: Bibliobazaar, 2007), 17–38.

56 Andrew Cunningham and Ole Peter Grell, *The Four Horsemen of the Apocalypse: Religion, War, Famine, and Death in Reformation Europe* (Cambridge and New York: Cambridge University Press, 2000), 92–95; 152.

of Western Europe and a bloody intra-confessional civil war.[57] Dutch provinces' quest for independence aimed at eschewing Spanish taxation on trade, hierarchical government and Roman Catholic religious oppression against the Reformed.[58] The struggle between Spanish troops[59] and the Dutch population unleashed cruel policies of urban repression, punishment of civilians[60] and a cycle of anti-Spanish armed resistance led by the Sea Beggars.[61]

Grotius, born and raised in the town of Delft,[62] witnessed firsthand revolts, massacres, pillages, public executions, iconoclastic destructions and other forms of internecine violence. Belonging to a Protestant family of patrician burgomasters, Grotius had a privileged overview of the religious and political power struggles that tore Dutch society apart, causing refugees, hunger, death and destruction.[63]

After his studies at Leiden – a university founded to escape Dutch cultural isolation and host Protestant intellectual refugees[64] – Grotius wrote, on commission from the States General, a Tacitean-like chronicle of this long war to celebrate the birth of the nascent Republic.[65] He was urged to imbue the narration with propaganda against Spanish persecutions and to emphasize the foundational role that the war had played.[66] This and his close linkage with Oldenbarnevelt, a leading politician in the Arminian faction, granted him during the Twelve Years truce a rapid career, first as Advocate General and adviser, then as Advocate Fiscal in 1607 defending the Dutch against the Iberians, and finally as Pensionary in Rotterdam.[67]

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57 Anton van der Lem, *Revolt in the Netherlands: The Eighty Years War, 1568–1648* (London: Reaktion Books, 2018), 7–14.
58 Jonathan I. Israel, *The Dutch Republic: Its Rise, Greatness, and Fall 1477–1806* (Oxford: Clarendon Press, 1998), 4–9.
59 Henk F. K. van Nierop, *Treason in the Northern Quarter: War, Terror, and the Rule of Law in the Dutch Revolt*, English ed. (Princeton, NJ: Princeton University Press, 2009), 11.
60 Nierop, *Treason in the Northern Quarter,* 30.
61 Nierop, *Treason in the Northern Quarter,* 51–58.
62 Jesse S. Reeves, "The Life and Work of Hugo Grotius," *Proceedings of the American Society of International Law at Its Annual Meeting* 19 (1925): 48–58, https://doi.org/10.1017/S0272503700032985.
63 Henk J. M. Nellen and J. C. Grayson, *Hugo Grotius: A Lifelong Struggle for Peace in Church and State, 1583–1645* (Leiden and Boston, MA: Brill, 2014), 17.
64 Antonio Corsano, *Ugo Grozio: L'umanista, Il Teologo, Il Giurista* (Bari: Giuseppe Laterza & Figli, 1948), 11.
65 Jan Waszink, "Shifting Tacitisms: Style and Composition in Grotius's Annales," *Grotiana* 29, no. 1 (2008): 85–132, https://doi.org/10.1163/187607508X384715.
66 Lem, *Revolt in the Netherlands*, 46.
67 Nellen and Grayson, *Hugo Grotius*, 211.

However, his career ended as rapidly as it had begun when urban unrest grew and "Grotius tried to act as a mediator [placing] ethics above dogma and [standing] for tolerance, but repeatedly clashed with orthodox Calvinists."[68] A few years later, Grotius fell victim to the climate of suspicion that animated the new phase of the civil war between Monarchists, fellows of Gomarus, and the proponents of moderate aristocratic government, fellows of Arminius.[69] What followed were two crucial events in Grotius' life: his arrest following the accusation of treason by the States General and his exile in 1625.[70] In sum, Grotius was a prominent intellectual who experienced firsthand the troubled events that stand behind the genesis of a powerful political community – a *civitas* – from the ashes of a violent and lacerating civil war.

Hobbes's biography is not as adventurous as that of Grotius. Nonetheless, the English philosopher's life course was likewise shaped by war and its effects. Hobbes grew up and spent most of his life in times of intense political tumult: religious reform, political change, opposition to Spanish hegemony, and the famous cycle of English Civil Wars.

Coming from a non-distinguished family, he was educated at Oxford thanks to his uncle's funds. After completing a humanist and mathematics education, Hobbes made his entrée into the Cavendish family as a tutor and secretary.[71] Due to Cavendish's death, he moved to Paris around 1630 and traveled around Europe in the subsequent years, becoming acquainted with intellectuals such as Mersenne and Bacon. Upon his return to England, Hobbes found a country torn apart by the conflict between royalists supporting Charles I and the parliamentarians about taxation and religion. Considering his experience in Europe and facing the English political situation, Hobbes decided to devote his intellectual work to political matters and moved to Paris where he worked on *De Cive* (1642) and *Leviathan* (1651).[72] His political works, so much focused on peace and social security, are a manifesto against those Hobbes deemed England's internal enemies. It is not by chance that Hobbes, while severely ill, composed one of his last writings on civil war. His last political work, *Behemoth*, written in 1668 and published in 1681, deals with civil war in the form of a dialogue, with the intention to teach his fel-

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68 Nellen and Grayson, *Hugo Grotius,* 216.

69 Lévesque de Burigny, *Life of the Truly Eminent and Learned Hugo Grotius*, 44–56.

70 Nellen and Grayson, *Hugo Grotius*, 2.

71 Tom Sorell, ed., *The Cambridge Companion to Hobbes* (Cambridge: Cambridge University Press, 2010), 12–16.

72 Noel Malcolm, *Aspects of Hobbes* (Oxford: Oxford University Press, 2002), 62–65, https://doi.org/10.1093/0199247145.001.0001.

low citizens the disgraces associated with civil war.[73] It is worth mentioning that Hobbes's style is most likely the fruit of mediations on the tense climate of suspicion and censorship following the English Civil Wars. When he completed *Behemoth* "Civil War was over, the King restored, but Hobbes did not believe that the nation had learned its lesson."[74] This is why he was convinced that England needed a scientific, pedagogical teaching about the perils of religious fanaticism.

3.2 Civil war as a political and intellectual condition: influence and interpretations

Civil war does not simply have implications in material terms; it also shapes intellectual horizons. Civil war is one of the critical angles through which both Grotius and Hobbes think of the establishment of an independent political community, the *civitas* – the modern state. Civil war is an intellectual paradigm for thinking about politics, a cognitive cornerstone for understanding the dynamics of human social life; civil war for the two thinkers operates on three different intellectual levels.

The first level is that of vocabulary and concepts. As noted by Armitage, Grotius and Hobbes are uniquely familiar with the canon of civil war inherited through the study of classical sources.[75] Grotius's annotated edition of Lucan's *Pharsalia* in 1614 is more than an indication in this direction, since it proves that Grotius does not simply know what civil war is, but also that he assumes civil war as complex node for establishing a political order.[76] Similarly, Hobbes translated Thucydides in 1620 and seemed to pay special attention to the description of the Corcyra events, from which Hobbes apparently draws to portray his "state of nature."[77] It seems beyond question that "*The History of the Peloponnesian War* crystallized for Hobbes many of the ideas fundamental in his later political phi-

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73 Thomas Hobbes, *Behemoth: Or, the Long Parliament, Edited for the First Time from the Original Ms. by Ferdinand Tönnies*, ed. Ferdinand Tönnies (London: Simpkin & Marshall, 1889), vi.

74 Hobbes, *Behemoth,* vi.

75 Armitage, *Civil Wars*, 104.

76 Paula P. Witkam, "Hugo Grotius's Edition of Lucan," *Quaerendo* 12, no. 4 (1982): 263–280, https://doi.org/10.1163/157006982X00156.

77 Clifford Orwin, "Stasis and Plague: Thucydides on the Dissolution of Society," *The Journal of Politics* 50, no. 4 (1988): 831–847, https://doi.org/10.2307/2131381.

losophy"[78] making available a dynamic toolkit of concepts to think about politics as "fear, covetousness and glory."[79]

The second level is the immediate value of their political and legal theory for the current affairs of their time and the reception of Grotius by English political thinkers in terms of an available "language on absolutism and resistance."[80] Grotius's intellectual endeavor on civil war[81] is meaningful because he addresses a pressing question – who is a legitimate subject to use force? – and this has considerable influence on English thinkers, certainly including Hobbes.[82]

The third level of encounter is how civil war serves for both Grotius and Hobbes as a canon for imagining and crafting of political solutions. They share a comparable ability to produce political images through language. Hobbes's nominalism makes language foundational of his political theory. Language is the only way out from that meaningless condition – the state of nature – that underlies human existence. For Hobbes language is the communication means through which individuals escape the state of nature by contracting the establishment of a political order.[83] Similarly, Grotius considers language a gift that "God granted to man alone" and thinks that only through language are human beings able to keep good faith and pacts, which are the "foundation of justice" and thus the foundation of any political order.[84] Language is also and more practically a way to express ideas. The images that Grotius and Hobbes produce through a very effective writing style are efficient intellectual devices, destined to last for a long time.[85] In this respect the images of civil war and the dissolution of the *civitas* are the linguistic cornerstone of their civil theory.

78 Richard Schlatter, "Thomas Hobbes and Thucydides," *Journal of the History of Ideas* 6, no. 3 (1945): 350, https://doi.org/10.2307/2707297.

79 Gabriella Slomp, "Hobbes, Thucydides and the Three Greatest Things," *History of Political Thought* 11, no. 4 (1990): 565–586.

80 Marco Barducci, *Hugo Grotius and the Century of Revolution, 1613–1718: Transnational Reception in English Political Thought* (Oxford and New York: Oxford University Press, 2017), 46–49.

81 Thomas Hobbes and John Bramhall, *Hobbes and Bramhall: On Liberty and Necessity*, ed. Vere Chappell (Cambridge and New York: Cambridge University Press, 1999), 54.

82 Corsano, *Ugo Grozio*, 11–13.

83 Thomas Hobbes, *The Elements of Law: Natural and Politic*, 2nd ed. (Abingdon and New York: Routledge, 2018), 14.

84 Hugo Grotius, *Commentary on the Law of Prize and Booty*, ed. Martine Julia Van Ittersum (Indianapolis, IN: Liberty Fund, 2006), 34.

85 Martti Koskenniemi, "Imagining the Rule of Law: Rereading the Grotian 'Tradition'," *European Journal of International Law* 30, no. 1 (2019): 17–52, https://doi.org/10.1093/ejil/chz017.

4 Grotius on civil war

If civil war is a key concept in *Annales et Historiae de Rebus Belgicis* (1657), which Grotius wrote at the beginning of his career, civil war plays a minor role in theoretical terms in his famous treatise on war and peace. However, given the assumption that public wars are fought between sovereign states, Grotius is called to give a sharper idea of what states are, how they are formed and how they exist through time. This is something that Grotius does in a particular fashion.[86] In the economy of his first treatise, *De iure belli* (1625), Grotius sheds light on the process of state formation, the rules that govern its existence, and, obviously, the controversial issue of civil war. Civil war is treated under the category of "mixed war" as a way of clarifying the core issue of the treatise, namely the liceity of public war.[87] Grotius' ideas of civil war unfold from an open view in *De iure praedae* (1604) to a tighter view in the *De iure belli.*

4.1 Grotius's ideas on civil war: Mixed war and rebellion

In a first instance, in *De iure praedae*, Grotius thinks that the individual possesses the natural right to use violence when threatened or attacked, even within the civil state. This is most likely done for rhetorical and polemical purposes related to the legal *memoria* Grotius was called to write in relation to the Dutch East India Company (*Vereenigde Nederlandsche Geoctroyeerde Oostindische Compagnie* [VOC]) case.[88] He insists that individuals may have rights to use force even against public authority in the name of natural law's "utility–freedom" nexus.[89] Here, Grotius goes so far as to claim that there is little distinction between the right of resistance of individuals and an entire people. If a king acts against the people, single individuals or collective groups have a natural right to defend themselves. The fact that the king who sets out to destroy his people is called *hostis totius*

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86 Annabel Brett, "Natural Right and Civil Community: The Civil Philosophy of Hugo Grotius," *The Historical Journal* 45, no. 1 (2002): 31–51.

87 Fedele, "Grotius and Late Medieval Ius Commune on Rebellion and Civil War."

88 Grotius around the years 1604–1610 works as the legal advisor of the Dutch private commercial company. Martine Julia van Ittersum, "Hugo Grotius in Context: Van Heemskerck's Capture of the 'Santa Catarina' and Its Justification in 'De Jure Praedae' (1604–1606)," *Asian Journal of Social Science* 31, no. 3 (2003): 511–548.

89 Brett, "Natural Right and Civil Community."

populi seems to imply that for Grotius there is little difference between collective resistance and a state of external public war.[90]

This position is almost completely reversed in the *De iure belli*. Here Grotius claims that "in cases of civil warfare what the magistrate or the *civitas* has indicated" must be followed.[91] While expounding on "mixed war," Grotius confers preeminence to the authority of the state over the individual, justifying it by stating that "this is what Greek tragedy says, this is what Romans said, and above all this what the Gospel says."[92] Grotius claims that "a civil war is worse than the necessity of submitting to an unlawful government."[93] Unless in the case of manifest tyranny, public authority cannot be resisted. Grotius rhetorical brightness and pathos appear sharply when he quotes a Hebrew proverb to support this argument: "If there were no sovereign power, we should swallow up one another alive. To which agree that of Saint Chrysostom, Take Away the Governors of States, Men would be more savage than Brutes, not only by biting, but by devouring one another."[94]

4.2 The concept of enemy in Grotius theory of civil war: knitting *ius commune* and civil law

By observing how Grotius treats civil war first in *De iure praedae* and then in *De iure belli* it is possible to note that Grotius connects two traditions: that of *ius commune*, which recognizes the right of individuals to bear arms in self-defense, and the customs of the laws of nations, which attaches only to public authorities the right to make war. Consequently, the Dutch jurist oscillates between ideas of the subject as an independent political agent as constructed artificially within the fictitious space of the *civitas*.[95] Grotius is aware of the ineliminable tension that exists between individual liberty and political order. Thus, he opts for the *civitas* over the subject to solve the tension by proposing a minimum morality solution, namely that of security, utility and order over the right of self-defense and resistance.[96] There are legitimate subjects, as in the case of a collective entity opposing

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90 Fedele, "Grotius and Late Medieval Ius Commune on Rebellion and Civil War."

91 Grotius, *Commentary on the Law of Prize and Booty*, 143.

92 Hugo Grotius, *The Rights of War and Peace*, ed. Richard Tuck (Indianapolis, IN: Liberty Fund, 2005), 341–346.

93 Armitage, *Civil Wars*, 105.

94 Grotius, *Rights of War and Peace,* 345.

95 Grotius, *Rights of War and Peace,* 340.

96 Brett, "Natural Right and Civil Community."

a tyrant, and there are illegitimate subjects such as rebels, who, like pirates and robbers, cannot engage in public wars.[97] The private personal space of an individual is shrunk to a fictitious space. When Grotius says that even magistrates cannot resist the sovereign because "in Respect to their inferiors are public persons but in respect to their superiors are but private persons," he is implying that privacy is a domain that is politicized by the sovereign but which cannot be politicized by the subject. As Grotius states:

> But Civil society being instituted for the preservation of peace there immediately arises a superior right in the State over us and ours, so far is necessary for that end. For if the promiscuous Right of Resistance should be allowed there would be no longer a State, but a multitude without Union, such as the Cyclops were [. . .] Or the Aborigines.[98]

Rebels must be suppressed and cannot be counted as enemies. As Annabel Brett remarks, "[a]lthough Grotius's argument begins indeed from the individual governed by natural law, his focus is always on a humanly created order which transcends the individual: the *civitas* or *respublica*."[99]

5 Hobbes on civil war

Civil war in Hobbes's main works of political theory is rarely called civil war. Hobbes opts for terms like sedition, rebellion or more technical definitions as in the title of *De Cive*'s XII chapter "Of the inward causes which dissolve all civill government."[100] Technical definitions serve the rhetorical purpose of reinforcing the validity of Hobbes's political project: the construction of a stable sovereign state. Notwithstanding terminological issues, civil war is a cornerstone of Hobbes's political theory. As the title *Behemoth* explains better than anything else, civil war is the other side of *Leviathan*, namely the hidden front of the artificial political body.[101] Like a geometrical system, Hobbes's political theory is an enclosed, circular system. Civil war or the dissolution of the *civitas* is the starting point of political order and, if the political organization established through the contract proposed

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97 Grotius, *Rights of War and Peace*, 245.

98 Grotius, *Rights of War and Peace*, 339.

99 Brett, "Natural Right and Civil Community," 32.

100 Thomas Hobbes, *De Cive: The English Version Entitled, in the First Edition, Philosophical Rudiments Concerning Government and Society*, ed. Howard Warrender (Oxford: Clarendon Press, 1983), 40.

101 Royce MacGillivray, "Thomas Hobbes's History of the English Civil War A Study of Behemoth," *Journal of the History of Ideas* 31, no. 2 (1970): 179–198, https://doi.org/10.2307/2708544.

by Hobbes crumbles, civil war is also the potential endpoint of political order. The dissolution of the *civitas* is treated with different emphasis in all Hobbes's political works; he devotes a specific chapter in each of his three major works *De Cive, Leviathan* and *Behemoth*, where he scientifically puts forward the causes.

5.1 Hobbes ideas on civil war: Civil war as rebellion

Civil war is identified as the most political state of affairs, but also as the condition in which politics has no form yet. Civil war is the seed of politics, that condition from which individuals acquire the force to establish a political order. If the rules proposed by Hobbes to exit from the state of nature and establish an order out of a contract, are not applied and civil laws are not respected, then, coherently with a geometrical figure, the great artificial invention of *Leviathan* ceases to exist and reverts to the starting point, which is not the state of nature, but something more political, namely civil war.

Civil war, indeed, is not the state of nature, which is an imagined historical condition, but the end of the state. Civil war is both the reason to create a sovereign state and it is the event potentially looming on political order. Civil war is inextricable from the civility of the *civitas*. Constructing a civil space, establishing civil laws and civil institutions, and creating the *cives*, implies the possibility of civil war. This is what Hobbes explains in *Leviathan.* This theory is perfected in *Behemoth,* which "is more than a brief history of the Civil War [rather] an attempt to show how Hobbes's science explains the historical phenomena of the Great Rebellion."[102] Hobbes provides eight different causes of rebellion, grouped into causes of opinion and causes of gain and self-interest. An individual's opinion on morality, on political matters or on religious faith that differ from the sovereign's command, constitutes a cause for civil war.[103] For this reason Hobbes states peremptorily in *Behemoth*: "The core of rebellion, as you have seen by this, and read of other rebellions, are the Universities; which nevertheless are not to be cast away, but to be better disciplined."[104] The other order of reasons is economic, namely the misconceiving of property rights and the search for self-aggrandizement. Indeed, Hobbes explains that rebellion may be caused by economic grievances and greed:

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102 Hobbes, *Behemoth,* xiv.
103 Hobbes, *De Cive,* 244.
104 Hobbes, *Behemoth,* 58.

Nay more; those great capital cities, when rebellion is upon pretense of grievances, must needs be of the rebel party: because the grievances are but taxes, to which citizens, that is, merchants, whose profession is their private gain, are naturally mortal enemies; their only glory being to grow excessively rich by the wisdom of buying and selling.[105]

5.2 The concept of enemy in Hobbes civil war theorization: A territorial perspective

While presenting and explaining the causes of civil war, Hobbes devotes attention to the subjects involved in it. In this respect he draws an important distinction and makes vocabulary choices worthy of closer scrutiny. The other party in the civil war is nothing more than the "rebel" even for Hobbes. The rebel is neither a member of a *pars* as for medieval thinkers, nor a modern "revolutionary."[106] The rebel is an individual who is nothing but a function of state sovereignty. As Hobbes explains, the rebel cannot exist unless a *civitas* already exists. The rebel indeed must be punished as an enemy with whatsoever means, as Hobbes affirms in *Behemoth*, but his political status cannot be recognized as that of an enemy:

> For I think that general law of *salus populi*, and the right of defending himself against those that had taken from him the sovereign power, are sufficient to make legal whatsoever he should do in order to the recover' of his kingdom, or to the punishing of the rebels.[107]

Rebellion does not work as a productive political process, Hobbes remarks in the *Elements of Law* (1640); there is no possibility of reforming the *civitas* or revolutionizing it. In *De Cive*, quoting Ovid, Hobbes states that the *civitas* once dismembered can neither be reinstituted nor changed:

> In the same manner the mob [multitude] in their stupidity, like the daughters of *Pelias*, desiring to renew their old commonwealth and led by the eloquence of ambitious men as by the sorcery of *Medea*, more often split it into factions and waste it with fire than reform it.[108]

The rebel is not an enemy and cannot qualify his struggle as a war. The rebel has neither autonomy, nor dynamic, productive political force. The rebel is only a passive matter. As Hobbes in the *De Cive*, "the tongue of man is a trumpet of

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105 Hobbes, *Behemoth,* 126.
106 Mikko Jakonen, "Thomas Hobbes on Revolution," *La Révolution Française* 5 (2011), https://doi.org/10.4000/lrf.321.
107 Hobbes, *Behemoth*, 108.
108 Hobbes, *De Cive*, 255.

warre and sedition."[109] The rebel is just the "seditious opinion" of an individual because, as Hobbes claims in *Behemoth*, "a civil war never ends by treaty."[110]

6 Conclusion

Despite approaching the matter of the enemy from different perspectives, Grotius and Hobbes meet on the use of the concept of rebel to serve their polemical purposes. If Grotius yields still some room for maneuver to the subject, Hobbes crushes the rebel before he can become an enemy. From their use of the concept of rebel, it is possible to draw two conclusions.

First, the political subject is a construct that exists until he does not bring the war, the *bellum*, back into the *civitas*. The rebel, the one who carries once again the *bellum* in the *civitas,* has no rights, neither internal nor external. The rebel is not in relation with the *civitas*, and thus cannot acquire a political status. Of course, it is a form of enmity, but it is a closed enmity that has no possibility of political autonomy and legitimacy. It is an enmity that ceases to exist before it materializes; it stops at the fact of bringing the war back into the *civitas*. It is an obstruction that does not conceive of a mid-way between the intimacy of political fellowship and the abyss of death. An intimacy, once out of the enclosure provided for by the political order, is rightfully thrown into the abyss. All this is not only powerful from a theoretical point of view, but it is also absolutely in contrast with the historiographic representation we have of the European political world at the turn of the sixteenth and seventeenth centuries. This world is still strongly characterized by forms of feudal political loyalty, by minor and often contingent political ties, by a hierarchical structure of social relations and by forms of weak and changeable association. The rationalistic theories of Grotius and Hobbes draw the boundaries of the space of autonomy of the subject in a clear and definite way.

From this follows a second conclusion, namely that both Grotius and Hobbes consider that the *civitas* is precisely the result of a war and that it can survive only and exclusively by avoiding and suppressing the return – through the rebel intended as the one who brings the *bellum* back inside – of war to the *civitas*. This element is not accidental and confirms how civil war, even if concealed by political theory as an object of study, is artificially located by early modern Euro-

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109 Hobbes, *De Cive*, 87–88; William R. Lund, "Hobbes on Opinion, Private Judgment and Civil War," *History of Political Thought* 13, no. 1 (1992): 51–72.
110 Hobbes, *Behemoth*, 115.

pean political theory at the historical foundational myth of the *civitas*. It is through this very closed interpretation of internal enmity as unthinkable and un-representable that the mythological canon of civil war as foundational of the political order is formed.

All modern European political theories were necessarily called to cope with this conceptual nucleus, conceived by Grotius with tools that are not always coherent, then perfected by Hobbes. The *civitas* is constructed as "a place in which alterity is ultimately transcended in unity."[111] Around and within the notion of the ordered *civitas*, over the following centuries it became possible to conceive new forms of internal hostility and invent new processes for identifying the enemy within. From Enlightenment thought on criminal law, to French revolutionaries and socialists' ideologues, to nationalist and racist theories, all theory of civil war went on to deal with the idea theorized by Grotius and Hobbes that internal order does not admit and does not name forms of internal enmity.[112]

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111 Brett, "Natural Right and Civil Communitys."

Kaius Tuori

Totalitarian violence and the rise of human dignity after the Second World War: European legal history as a vision of dignity

1 Introduction

One of the hallmarks of twentieth century totalitarian regimes, from Nazi Germany to the Soviet Union, was the use of unconstrained violence toward real or perceived opponents. While some of that violence was strategic, historical accounts of totalitarian violence repeat the notion of bureaucratic or symbolic violence, where arrests, torture and death were motivated by little more than the need to fill quotas. Rather than being elevated as opponents, as individuals who needed to be targeted, victims were killed for the sake of killing, as a nameless mass who had no rights, at times not even to an identity. Disappearances, *Nacht und Nebel* (Night and Fog, see below) program, and other actions underlined the symbolic worthlessness and insignificance of the individual in the face of the totalitarian state and the movement behind it.

The purpose of this chapter is to discuss the rise of the legal historical concept of human dignity as a reaction against totalitarianism and violence before and after the Second World War. By drawing on contemporary debates from the 1930s to the late 1940s, the chapter will explore how human dignity was rediscovered as a counterpoint to totalitarian legal theoretical traditions that had sought to erase subjective rights and individual worth. While much of the scholarly attention thus far has been on the linkage of human dignity and the rise of human rights thought, here I turn to three legal historical authors to uncover a new strand of thought on human dignity. The three authors all experienced totalitarian violence in different ways: Arnaldo Momigliano (1908–1987) and Fritz Schulz (1879–1957) were both exiled in Britain, the first from Fascist Italy, the second from Nazi Germany, while Helmut Coing (1912–2000) was a frontline soldier in Hitler's army. In their writings before, during and after the war, they explored the legal and moral implications of human dignity. I argue that this new history of human dignity emerges as a counternarrative and a historical origin story of human worth in conjunction with the human rights language of the era.

The earlier scholarship of human dignity is considerable and opinion on it is deeply divided. I will not go into these divisions here. My aim is simply to explore

a particular moment in history that I believe is underappreciated and I hold no pretensions of contributing to the larger discussions in law, philosophy or political theory regarding human dignity. The previous work on human dignity agrees that there was what could be described as a big bang moment of dignity after the Second World War, but there is debate on its causes. Within the numerous debates on the history of dignity, the legal side has been monopolized by what could be described as the human rights historiography.[1]

The claim of novelty here is to illustrate a forgotten side of the legal debates over dignity, that is, the legal historical debates where dignity played a central role in the understanding of legal heritage.[2] I claim that while these debates were roughly concurrent with the others, they were mainly independent of it. However, much like the human rights discourse, the occurrence of totalitarian violence was a key component that changed the direction of the debates. Violence and the threat of violence undermined fundamental notions of humanity, justice and security and contributed to exile and the sense of loss of dignity.

In the following, I begin with the issue of whether and how ideas such as human dignity can be linked with concrete actions such as totalitarian violence and the problems of causality and correlation involved, continuing with a definition of totalitarian violence and a discussion on its particularity. From there, I move to the groundwork of the three discussions on dignity and how they contributed to the legal concept of human dignity. This builds upon the crux of the argument, the challenge of Nazi legal thought on the universalism of human dignity that was articulated by authors such as Carl Schmitt (1888–1985) in the 1930s and the response that followed. In that response, I follow the arguments of Momi-

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1 Ukri Soirila, "Concepts of Law of Humanity," in *Law of Humanity Project: A Story of International Law Reform and State-Making* (Oxford: Hart Publishing, 2021); Remy Debes, ed., *Dignity: A History* (New York: Oxford University Press, 2017); Jeremy Waldron, *Dignity, Rank, and Rights* (Oxford: Oxford University Press, 2015); Marcus Düwell et al., eds., *The Cambridge Handbook of Human Dignity: Interdisciplinary Perspectives* (Cambridge: Cambridge University Press, 2014); Christopher McCrudden, ed., *Understanding Human Dignity* (Oxford: Oxford University Press, 2013); Michael Rosen, *Dignity: Its History and Meaning* (Cambridge, MA: Harvard University Press, 2012); George Kateb, *Human Dignity* (Cambridge, MA: Harvard University Press, 2011); Christopher McCrudden, "Human Dignity and the Judicial Interpretation of Human Rights," *The European Journal of International Law* 19, no. 4 (2008); David Kretzmer and Eckart Klein, eds., *The Concept of Human Dignity in Human Rights Discourse* (The Hague: Kluwer Law International, 2002). On the textbook narrative of human dignity and human rights, see McCrudden, "Human Dignity."

2 There are studies that approach dignity from a legal angle beyond human rights, for instance James Q. Whitman, "The Two Western Cultures of Privacy: Dignity versus Liberty," *The Yale Law Journal* 113, no. 6 (2004).

gliano, Schulz and Coing on the inherent nature of human dignity in the European legal tradition. The chapter concludes with remarks on the explanatory models discussed in the beginning.

2 Linking the emergence of human dignity with totalitarian violence

The notion that the emergence of a certain understanding of human dignity was tied to totalitarian forms of violence must be tempered with discussion regarding causalities and correlations. Naturally, the fact that one thing happened concurrently with or after another in no way implies that they were causally connected, that one had any linkage with the other. Many examples of the causation correlation fallacy could be presented, but you may also create your own on many websites dedicated to the purpose.[3]

One of the particularities of intellectual history is the actor problem, i.e., who is the prime motivator in history? Do intellectuals who formulate theories and ideas act as independent agents or are they merely reacting to events and ideas as they come? In this case, do we see the unprecedented violence and the intellectual claims that were made to justify that violence as primary and the political reaction – for instance of human rights thought and the emergence of the human rights regime – as an inadvertent response to that? Or do we approach the issue as one of opposing streams of thought that gained political, social and military currency due to current events, leading to violence and the response "never again"?

In the following, I have attempted to present a procedural approach, where the intellectual and concrete actions are in a strange interaction where impulses were traveling in feedback loops between the different spheres. This is more or less a commonplace: people whose lives have been influenced by external events may start thinking and writing in a different manner, focusing on different things than before and in ways that they would perhaps not have imagined.[4]

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3 Tyler Vigen, "Spurious Correlations", accessed January 17, 2023, https://www.tylervigen.com/spurious-correlations. See for example how well the ups and downs of sociology doctorates in the United States correlate with non-commercial space launches globally.

4 On this phenomenon and its impact in thinking about law, history and Europe, see Kaius Tuori, *Empire of Law: Nazi Germany, Exile Scholars and the Battle for the Future of Europe* (Cambridge: Cambridge University Press, 2020).

3 What made totalitarian violence different?

Violence and its definitions have their share of controversies. One of the qualms is whether different forms of historical violence may or should be compared and whether this produces any real results with analytical clarity. Thus the ancient Roman practice of *vastatio*, of laying waste to enemy lands, was an established mode of warfare throughout history that in practice may have produced a result not dissimilar to totalitarian violence.[5] Burned villages, their inhabitants murdered or enslaved, are equally horrifying. There is no way to create gradations of tortured bodies to define violence without it turning into a cruel absurdity.

While totalitarian violence was not quantitatively something else than violence committed otherwise, there have been claims that the industrial scale of violence, the use of railways to transport victims to unprecedented killing machines, would make it qualitatively different. Most famously in the descriptions of the bureaucratic nature of the decisions relating to the Holocaust, meaning the impersonality and the lack of emotion, even that of hatred that spurred the perpetrators, it has been suggested that this form of violence was novel in its nature, prompting monikers such as Hannah Arendt's (1906–1975) phrase about the banality of evil.[6]

A similar impersonal and bureaucratic evil is evident in descriptions of Stalin's purges or the Soviet terror in general. Enemies and perceived enemies were rounded up, tortured, taken to camps or simply shot. Often the perceived enemies were not implicated in anything that they were accused of, and quite often the arrest had nothing to do with the accusation. Peter Englund recounts the experience of an elderly lady who was arrested in Ukraine as part of the purges, apparently by mistake. Her status would change sometimes weekly, from a resistor of collectivization to an English spy and something else, depending which quota needed filling. This meant that the rationale of the machinery of terror had become separated from the object or rationale of terror.[7]

Although the Holocaust had a clear aim, elimination of a group of people defined by ethnic origin, a similar absurdity reigned in the execution of the terror.

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5 Myles Lavan, "Devastation: The Destruction of Populations and Human Landscapes and the Roman Imperial Project," in *Reconsidering Roman Power: Roman, Greek, Jewish and Christian perceptions and Reactions*, ed. Katell Berthelot (Roma: Publications de l'École française de Rome, 2020), accessed December 19, 2023, http://books.openedition.org/efr/4875.
6 The controversy over Arendt's idea of the banality of evil in conjunction with the Eichmann trial has produced an enormous literature. Interestingly enough, in *Eichmann Before Jerusalem* (New York: Random House, 2014), Bettina Stangneth argues that the timid and colorless bureaucrat was simply a role that Eichmann played to hide his true monstrosity. Why the notion of radical evil is for some so hard to reconcile with the idea of banal evil is a discussion on its own.
7 Peter Englund, *Brev från nollpunkten: Historiska essäer* (Stockholm: Atlantis, 1996), 81–83.

In the occupied territories, a program called *Nacht und Nebel* targeted real or perceived opponents of the German occupation by simply taking them from the streets or their homes at night. They would vanish without a trace, the Germans denying that they would ever have taken them. The aim was to create terror through the very unpredictability of the actions and the unclarity that followed the fate of the victims.

The concept of totalitarian violence is thus justified by the very insignificance of the individual. A person was arrested, taken or executed, without any other reason than the internal logic of the bureaucracy of terror itself. Naturally it had an aim, to create terror and insecurity, but the victims themselves had done little or nothing to "deserve" it. In the normal situation, a person is identified as an enemy or a suspect and violence is used to deter and eliminate the real or potential threat they posed. For totalitarian violence, real or perceived guilt was secondary, as was the effect of terror produced.

The definitional issues of totalitarianism are numerous, as are debates on which regimes should count as totalitarian.[8] The totalitarian regimes referred to here are Nazi Germany and the Soviet Union, although other regimes such as Fascist Italy had totalitarian traits. Totalitarianism and the violence perpetrated in the name of totalitarian regimes was unconcerned with the individual and the worth of the individual. Totalitarianism was focused on mass movements, on large groups and categories. The individual was insignificant, even as a victim, to merit much concern. Of course, vast amounts of paper would be devoted to individual victims, but the logic was different. Much like in the mass attacks made by Soviet troops, the individual was worth nothing.

4 The legal genealogy of dignity

In the European legal tradition, the legal notion of dignity emerges in Roman law. There, the concept of *dignitas* and *existimatio* were used to denote an idea of an inherent worth of a human. Roman jurists imported the concept of dignity developed in Stoic philosophy to Roman law. Earlier works such as Jacob Giltaij on *ex-*

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8 The definitional discussions on totalitarianism have proceeded to the point where it is usual to discuss it as an empty signifier, used positionally with abandon to describe all manner of things unpleasant to the author, leading to a considerable dilution of the term. A further issue is the enormous influence of Arendt, whose conception of totalitarianism became increasingly strict over the years. On this, see Margaret Canovan, *Hannah Arendt: A Reinterpretation of Her Political Thought* (Cambridge: Cambridge University Press, 1992), 17–62.

istimatio and Debes on *dignitas* have discussed the intellectual origins of these notions in Roman law and Stoic philosophy and their reception.[9] In early modern legal scholarship, Hugo Grotius (1583–1645) resurrected the idea of human dignity as a legal concept. In European history, dignity was initially an aristocratic privilege reserved for the few, but in the Declaration of Rights of Man and of the Citizen (1789), this privilege was extended. Three years later (1792) Mary Wollstonecraft (1759–1797) famously argued that such dignity should extend to women, beyond property owning white men. This history of dignity, or its spread, culminated in the United Nations Charter (1945) and the Universal Declaration of Human Rights (1948) mention of "inherent dignity." Talk of dignity has then reached subsequent ubiquity. This legal narrative of dignity as a universal human trait, from which natural rights and human rights may be derived, has since become a contested yet universally accepted part of the doctrine of international law and human rights.[10] However, this human rights narrative of dignity as a foundational element of the universality of human rights is just a part of the larger picture. There are, to put it simply, three main traditions of dignity.

In Enlightenment thought, dignity played a key role. Immanuel Kant (1724–1804) described the human as an end in itself, underlining the notion of individual autonomy. While the interpretation of what Kant actually meant with dignity is heavily contested, Kantian theory developed an understanding that he would have suggested that humans have an inherent dignity unlike animals that would be the rationale behind the idea of human as an end in itself and not merely a means, as well as the categorical imperative and the notion of universalism derived from this. While the argument of human dignity had been used continuously in debates over slavery in the early nineteenth century, the philosophical criticism of human dignity suggested that it was a loose morality term without true content. In the Declaration of Rights of Man and of the Citizen (art. 6) dignities meant public office and status in general, but in the subsequent arguments authors like Wollstonecraft and Thomas Paine (1737–1809) advocated for the recognition of the natural dignity of woman and man as something inherent that should be recognized by the political system.[11]

A competing tradition of dignity was the socialist or labor tradition of dignity. It emphasized the dignity of labor, gained through work. Ferdinand Lassalle (1825–1864) argued that social causes and ultimately social justice meant extend-

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9 Jacob Giltaij, "Existimatio as 'Human Dignity' in Late-Classical Roman law," *Fundamina* 22, no. 2 (2016); Debes, *Dignity*.

10 McCrudden, "Human Dignity."

11 Mary Wollstonecraft, *Vindication of the Rights of Woman: With Strictures on Political and Moral Subjects* (Auckland: Floating Press, 2010); Thomas Paine, *Writings of Thomas Paine,* vol. 2 (Infomotions, Inc, 2000).

ing dignity to all and dignity primarily signified something that could now be understood as socioeconomic position, or freedom from want and starvation.[12]

A second competing tradition of dignity was produced by Catholic thinkers. In their tradition of social doctrine, human dignity played a key role. Jacques Maritain (1882–1973), a key Catholic thinker during and after the Second World War, raised human dignity as the foundation of morality and politics. This tradition followed an extensive discussion, extending to medieval attempts at combining classical thought and Christianity, where the central tenet was the creation of humans in the image of god as the fundamental source of human dignity. In this dignity may be found the essence of personhood, the capacity for self-reflection and connection with others. This was the quality that separated humans from animals. For Maritain, dignity was not purely a metaphysical quality but a foundation for how a community and its politics should operate. This was in part a logical continuation of the social doctrine of the modernization efforts of the Catholic Church and its embrace of solidarity and human rights.[13]

The legal definition of human dignity may be understood as an amalgamation of these three traditions, but the variations between authors on which is considered primary are considerable. Few scholars would question the primacy of the Enlightenment tradition of human dignity and its impact on human rights thought, but for the purposes of this chapter, recognizing the coexistence of the three remains vital. Instead of a single narrative, a multiplicity of arguments rely on various intellectual traditions.

5 A totalitarian understanding of human dignity?

Dignity gained such a key role in the post-war discussion as a concept that many authors sought to utilize for their purposes. In the following, I seek to illustrate this development by juxtaposing legal authors beyond the human rights genealogy who wrote during the 1930s and 1940s as a reaction to Nazi, Fascist and Stalinist regimes, and their attempts at monopolizing the concept.

The reason why many of these authors began to write about dignity was perhaps that especially Nazi and Fascist thought had formulated a very peculiar idea

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12 Lassalle outlined this most famously in his open letter on 1 March 1863. A translation may be found at https://ghdi.ghi-dc.org/sub_document.cfm?document_id=385, accessed December 19, 2023.
13 Jacques Maritain, *Man and the State* (Chicago: Chicago University Press, 1951); Pamela Slotte, "Christianity and Human Dignity," in *Oxford Handbook on Christianity and Law*, ed. John Witte Jr. and Rafael Domingo (Oxford: Oxford University Press, 2023).

of dignity. From socialist thought, they had taken the concept of the dignity of work, which for them meant that instead of universal rights, privileges deriving from dignity were reserved for productive members of the community, those who did and could work. The second notion was that of the dignity of the blood community, or sometimes the dignity of the German people. The communal nature of dignity meant that for an individual, dignity was possible only as a member of the ethnic community. The third notion prevalent in totalitarian thought was that dignity could only be derived from obedience to the state, i.e., from adoption of totalitarian values and modes of behavior. In all of these, an individual could attain dignity only as part of the community.[14]

One of the key early thinkers of Nazi legal thought, Schmitt, even posited that not every being with a human face should have human dignity.[15]

Dignity had become a legal term incorporated in constitutions around the world in the early twentieth century,[16] but the reasons for its inclusion varied between traditions, with some being influenced by socialist thinking and social justice demands, others by Catholic thought (for example, the 1937 Irish Constitution), with Enlightenment influences equally present.[17]

The Nazi notion of human dignity transformed it into something extremely particular. In practice, only by supporting the Nazi cause could one fully enjoy dignity. Instead of being universal, dignity was based on ethnicity and membership in a group. Instead of being founded on humanity and being human, dignity was to be attained by active participation, either as a member of a community of laborers through the act of work, or as a member of the political community supporting the movement and the state, or as a member of the military. Of course, the Nazi movement was by its very nature devoid of intellectual depth and convictions, its statements and doctrines being empty slogans. However, it was, or

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14 James Q. Whitman, "On Nazi Honor and the New European Dignity," in *Darker Legacies of Law in Europe: The Shadow of National Socialism and Fascism Over Europe and Its Legal Traditions,* ed. Christian Joerges and Navraj Singh Ghaleigh (Oxford: Hart Publishing, 2003); Oliver Lepsius, "The Problem of Perceptions of National Socialist Law Or: Was There a Constitutional Theory of National Socialism?," in Joerges and Singh Ghaleigh, *Darker Legacies of Law in Europe*; Claudia Koontz, *The Nazi Conscience* (London and Cambridge, MA: The Belknap Press, 2003); George L. Mosse, *The Fascist Revolution: Toward a General Theory of Fascism* (New York: H. Fertik, 1999).

15 Carl Schmitt, "Das gute Recht der deutschen Revolution," *Westdeutscher Beobachter* 9, no. 108, 12 May 1933.

16 For a list of early twentieth century constitutions mentioning dignity, see McCrudden, "Human Dignity," 664.

17 Samuel Moyn, "The Secret History of Constitutional Dignity," in McCrudden, *Understanding Human Dignity*.

rather authors within it were, very adept at taking concepts and words and redefining them, making them fit the Nazi ideology.

6 Legal historical authors on dignity and the law

In opposition to these Nazi and Fascist conceptions of dignity, there emerged a number of authors who sought to argue for the central role of dignity in law, but not in the way traditionally done by international law and human rights thinkers. Rather, they began to develop a notion of dignity anchored in the European legal traditions. I present three examples. The first, Schulz, was a Roman law scholar of Jewish heritage who was ousted from his professorship in Berlin and forced to flee to Britain and the comparable safety of Oxford. The second, Momigliano, was an Italian classical scholar who fled to Britain, also due to his Jewish heritage. The third, Coing, was a young German legal historian who joined the Nazi movement and served in frontline units throughout the war.

In his work *Principles of Roman Law* (1936), Schulz presented the principle of *humanitas* (humanity), that of safeguarding the individual, as the core of Roman law and subsequent legal tradition. Schulz considered the concept of humanity to be a Roman invention that had no corresponding words in Greek. It meant the "dignity and grandeur of man's personality, that which distinguishes him from all other beings on this earth." According to Schulz, the essence of humanity is to act in accordance with human dignity. He maintains that the rise of the inherent worth of human beings, even those of servile status, can be traced in the Roman legal texts. In the writings of Roman jurists, the humanity of slaves under natural law was first recognized (in Gaius, this was made explicit), and within Roman imperial legal practice their maltreatment began to be severely punished. Schulz draws the distinction between Stoic "philosophical commonplaces" beginning to appear in legal writings and the more significant fact that these ideas began to be seen in imperial judges' decisions, not only with regard to slaves but also with regard to children and women. This tradition of humanity distinguished Romans from the "airy and Utopian" speculations typical in Greek philosophy.[18]

While Schulz's description of the incorporation of humanity and by extension dignity into the practice of Roman law is in itself interesting, what makes it even more pertinent is the section where he describes the limits that the notion of humanity imposed on state power. The use of the death penalty was limited to extremely few instances in Roman law and legal practice, and thus these cases

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18 Fritz Schulz, *Principles of Roman Law* (Oxford: Clarendon Press, 1936), 189–222.

gained notoriety. A second limitation was that only the guilty should be punished, meaning that children or relatives were never held accountable for the crimes of others. The third limitation was that *humanitas* demanded the protection of the accused against the "all-powerful State," which included the prohibition of torture, competent and freely acting defenders and the use of a citizen jury.[19]

As with many of the other principles outlined by Schulz, their historical veracity is not exactly doubtful, but their idealistic interpretation is somewhat exaggerated. What is more pronounced is how well these various ideals, such as that of humanity, contrast with Nazi ideas, policies and practices on law. The use of death penalty became rampant in even minor cases, the defendant's rights were curtailed and, especially in dealing with extrajudicial repression, family members were targeted. Many of these practices were only beginning to be visible in 1934 when the first, German language edition of Schulz's book came out and became established much later, but one may argue that the signs were already evident. Soon thereafter, Schulz was ousted from his professorship in Berlin, where he was a colleague of Schmitt's and forced to flee to Britain. This is one of the reasons why his work, written before reaching safety in Britain, contains meanings concealed between the lines.[20]

Schulz's view was mirrored by others, such as fellow German refugee Fritz Pringsheim (1882–1967), who wrote a piece on Rome under Hadrian as a cosmopolitan empire, where peace, tolerance and the rule of law reigned.[21] This was a comparable narrative to Schulz's, one of an idealized past where human dignity was respected.

In contrast, Italian classical scholar Momigliano claimed in 1940, from his exile in Britain, that the ancient tradition derives freedom from rights and dignity. Momigliano had fled from Fascist Italy. His recurring interest was to trace how the European tradition of freedom emerged through debates involving ancient sources. As with many other exiles, his story has numerous quasi-mythical anecdotes, for example that when he was apprehended to be transported to the Isle of Man as an

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19 Schulz, *Principles of Roman Law*, 202–206.

20 On Schulz, see Wolfgang Ernst, "Fritz Schulz," in *Jurists Uprooted: German-Speaking Émigré Lawyers in Twentieth-Century Britain*, ed. Jack Beatson and Reinhard Zimmermann (Oxford: Oxford University Press, 2004), 106–204; Tuori, *Empire,* 40–86; Jacob Giltaij, "Reinventing the Principles of Roman Law," (April 24, 2019). Available at SSRN: http://dx.doi.org/10.2139/ssrn.

21 Fritz Pringsheim, "Legal Policy and Reforms of Hadrian," *Journal of Roman Studies* 24, no. 2 (1934).

enemy alien, he duly emptied his pockets at the police station at Oxford, laying a copy of John Stuart Mill's (1806–1873) *On Liberty* (1859) on the table.[22]

While he wrote extensively about the ancient traditions of freedom and liberty and their relationship with the modern world and the European tradition, Momigliano's idea of how dignity and freedom were interlinked was tied with the history of the Late Roman Republic in the first century BCE.[23] According to Momigliano, one needs to distinguish between political responsibility and political freedom, of which the first is the foundation of the Roman Republican constitution, while the latter contains the consciousness of human dignity. However, both emerged situationally, in a dramatic context: "The human dignity of freedom is the discovery of the men, who suffered the end of the Republic or the struggles of the senatorial and Stoic opposition against the triumphant monarchy."[24]

What this means is that the persons who wrote about liberty and dignity were persons who faced death. They were enmeshed with the power struggles of the Late Republic, where each side would at times bring death and destruction to their opponents, sometimes with restraint, sometimes without. For example, Cornelius Sulla massacred his opponents by the thousands, expropriating their property and giving it to his allies. While claiming to be the rescuer of the Republic, he was also the inventor of the proscriptions. Lists of enemies of the state were drawn up and published, declaring these persons to be outside the protection of the laws, liable to be killed by roving bands of brigands, or even their neighbors.[25]

The reference to the Late Republic and to the proscriptions as a subtle reference to totalitarian violence was not an isolated incident. For example, while thanking his wife, Schulz referred in his book to the *Laudatio Turiae*. This is an inscription where a Roman nobleman dedicates elaborate thanks to his late wife, Turia, who had struggled and succeeded to keep him safe and to protect their property from bandits eager for profit.[26]

Finally, German legal philosopher Coing wrote in 1947 that dignity is an integral part of the legal tradition itself. For Coing, the intertwining of freedom, moral-

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22 Oswyn Murray, "Arnaldo Momigliano on Peace and Liberty," in *Ark of Civilization: Refugee Scholars and Oxford University, 1930–1945*, ed. Sally Crawford, Catharina Ulmschneider, and Jas Elsner (Oxford: Oxford University Press, 2017), 204.

23 Arnaldo Momigliano, "Peace and Liberty in the Ancient World," in *Decimo contributo alla storia degli studi classici e del mondo antico*, ed. Riccardo Di Donato (Rome: Edizioni di Storia e Letteratura, 2012).

24 Momigliano, "Peace and Liberty," 27.

25 On proscriptions, see François Hinard, *Les proscriptions de la Rome républicaine* (Rome: École française de Rome, 1985).

26 Fritz Schulz, *Roman Legal Science* (Oxford: Oxford University Press, 1946), v; Josiah Osgood, *Turia: A Roman Woman's Civil War* (Oxford: Oxford University Press, 2014).

ity and dignity formed the core of the European legal tradition. One of Coing's recurring themes is the idea of the legality of terror and the need of something beyond the nation state and its positive law to curb excesses. The basic point with regards to totalitarianism is that the use of law to enforce a tyranny destroys law itself, becoming power and coercion. While human rights argumentation saw rights as inalienable, inherent in humanity, Coing sought to develop a new theory of natural law that was based on freedom, from which all legal principles could be drawn. Freedom itself was an expression of human value and dignity, its essence, the value that makes every person a person. Instead of seeing them as universal by themselves, Coing illustrates how from the Roman legal tradition onwards, law had been permeated by these moral principles that had a constitutive role in law. The Roman foundations of law, such as that of Ulpian's famous dictum (*Dig.* 1.1.10) on living honestly, not hurting others and giving everyone their due were in essence rules about preserving the dignity and humanity of oneself and others. Instead of being simply political or constitutional rights, these ideals were the cornerstone of the system of private law.[27]

In all three examples, these authors had not simply redefined the concept of dignity that had been hijacked and transformed by Nazi authors, but marshaled the tradition to their aid. Their intention was to demonstrate how key parts of the European intellectual tradition were diametrically opposed to the Nazi and Fascist movements, its intellectual justifications and practices.

One of the key traits of the Nazi mode of operation was redefinition. By using general principles to turn the meaning of norms on their head, they were able to exploit the legal system without a messy and time-consuming legislative effort. This relative ease of taking over a system by redefining its key principles was one of the main arguments against the so-called natural law renaissance after the Second World War. With a simple change of one fundamental principle for another (in practice the rule of law or the division of power to the rule of the Führer), all natural law protections become worthless.[28] This meant that the rule of law was

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27 Helmut Coing, *Die obersten Grundsätze des Rechts: ein Versuch zur Neugründung des Naturrechts* (Heidelberg: Schriften der Süddeutschen Juristen-Zeitung, 1947), 25, 41–42; Helmut Coing, *Grundzüge der Rechtsphilosophie* (Berlin: de Gruyter, 1950 [1933]), 175. On Coing, see Tuori, *Empire,* 221–262; Helmut Coing, *Für Wissenschaften und Künste: Lebensbericht eines europäischen Rechtsgelehrten,* hrsg., kommentiert und mit einem Nachwort von Michael F. Feldkamp (Berlin: Duncker and Humblot, 2014).

28 As was pointed out by Justus Wilhelm Hedemann, *Die Flucht in die Generalklauseln: eine Gefahr für Recht und Staat* (Tübingen: Mohr Siebeck, 1933). The fundamental difference of Nazi law and legal principles was pointed out by Heinz Hildebrandt, *Rechtsfindung im neuen deutschen Staaten: ein Beitrag zur Rezeption und den Rechtsquellen, zur Auslegung und Ergänzung des Gesetzes* (Berlin: W. de Gruyter, 1935) (trans. Carolyn Benson and Julian Fink, "New perspectives on

not able to protect the individual if the content and meaning of the law could be changed at will to serve the agenda of the authoritarian regime.

By utilizing ideas such as tradition and heritage, principles and virtues such as dignity could be anchored to long-term historical continuities. While they were not by any means immune to changes, historical accounts were more cumbersome to invent and falsify than abstract ideas.

Although their conceptions of tradition were different, all three authors shared the basic view that by acceptance and incorporation into norms and practices, ideas became part of a continuing tradition and thus were evidence of a deeply held conviction. All three skillfully utilized the legitimating effect of tradition to argue for the continuing validity of certain ideas. This was and has been the logic of conservatism, that implicit in the claims to the greatness and soundness of tradition are claims of its continuing validity to act as a guide to the future.

7 Explanatory models

How did the notion of human dignity ascend to such universal acclaim? I propose two competing reasons. First is the intellectual challenge from Nazi and Fascist law and totalitarian policies, which focused on the ethnic community and the primacy of the state. Second is the revulsion against the sheer extent of violence, especially when the horrors of the concentration camps were revealed.

Further factors were the work of refugee scholars and the development of transatlantic connections on various levels, leading to transmission of ideas. Equally important was the momentum that dignity gained as a shared catchword to demonstrate one's opposition to totalitarianism.

It is clear that totalitarian violence was a motivating factor; it dispelled earlier doubts and forced into action. This violence made it impossible to ignore the fundamental issues of law and forced authors to seek solutions. Elsewhere, I have discussed the impact of transatlantic movements in how new ideas were devel-

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Nazi law," *Jurisprudence* 3, no. 2 (2012): 341–346, 31–32: "The initial point of national socialism is neither the individual nor humanity, but the entire German people; its aim is the securing and promotion of the German blood community. [. . .] The outcome of this are certain principles of law: first, the unconditional alignment of the correctness of the law with the general good and the future of the German blood community; second, the constant evaluative primacy of the correctness of law over legal security; and third, the increased acceptance of legal flexibility over legal constancy!"

oped during and after the Second World War.[29] Scholars in exile not only came into contact with new strands of thought, but their lives and with them fundamental tenets of their thought had been upended. Totalitarian violence was one of the prime motivators for these processes.

The rise of dignity in the legal historical discussions was not as well known as the corresponding discourse in human rights thought, but it illustrates a similar trajectory of ideas, of seeking arguments to counter what was seen as evil masquerading as law.

8 Conclusions

Historical events and ideas that prompted them have multiple impacts, reactions and counterreactions, many of them unforeseen. One of the major consequences of the emergence of totalitarianism in 1920s and 1930s Europe and the violence that it unleashed was the rise of human rights and human dignity to central notions of European and even global understanding of humanity. Internal repression, the dehumanization of enemies and the twin horrors of totalitarian war and the Holocaust were, it is quite commonly understood, so extreme that they either prompted the emergence of new ideas about human dignity or gave an unprecedented momentum to existing ideas that had been formulated in philosophy, social theory and law. In any case, what followed was understood as a big bang moment that enabled the creation of a global human rights regime as well as regional ones such as the European Convention of Human Rights and the Council of Europe.

The aim of this chapter was to explore a little-known feature of this development, the emergence of human dignity as a feature of European legal history and a counterpoint to totalitarian theories and practices. Drawing from three examples of this wider phenomenon, I have sought to illuminate how Schulz, Momigliano and Coing – authors all personally impacted by totalitarianism, the two first as exiles and targets of repression, the last as a soldier in the German army during the war – saw things in a new light. They began to seek out notions of humanity, human dignity and value from the historical tradition and drew out their implications for the legal tradition. While the Nazi, Fascist (and Soviet) idea had been revolution and throwing out the vestiges of the Old World, these three authors turned to the past to illustrate how human dignity was not a simple invention of the Enlightenment, but a basic feature of human civilization.

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29 Tuori, *Empire.*

Tamas Nyirkos
Fratelli tutti and the Christian just war tradition

1 Introduction

In this chapter, I argue that contemporary revisions of the just war theory some-
times overlook the fact that in its historically significant, Augustinian form, the
theory is not just a list of criteria but a reflection on the complex ontological real-
ity of humanity. A striking example is the case of the Christian just war tradition
itself, where the transition from overarching theories to ever simplified lists
seems to have been a continuous process until the criteria are reduced to zero in
such documents as Pope Francis's encyclical *Fratelli tutti* in 2020. While more re-
cent events and declarations indicate that this is still not the final word, I suggest
that without a return to those elements of the tradition that treat the issue of just
war as part of a larger complexity, its vexing issues will necessarily remain
unsolved.

The argument starts with three presuppositions. The first is that – despite
more recent refinements and cultural differences – the core concept of just war
remains valid. This concept suggests that there is a middle ground between paci-
fism that morally opposes all forms of political violence and realism that rejects
any such moral reasoning in political matters. Contrary to both, the theories of
just war suggest that some wars are morally justifiable while others are not,
which is a common point of departure for all forms of the theory, regardless of
their otherwise significant differences.

The second presupposition is that a theory of just war is still relevant and
continues to play an important role in contemporary debates. Citing examples
from the past 20 years only, and only books that explicitly mention "just war" in
their title, the number of works devoted to the topic is not only impressive but
increasing. Beside historical accounts[1] and their modern applications,[2] there is a

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1 John Mark Mattox, *Saint Augustine and the Theory of Just War* (New York: Continuum, 2006);
David Whetham, *Just Wars and Moral Victories: Surprise, Deception and the Normative Frame-
work of European War in the Later Middle Ages* (Leiden: Brill, 2009); Daniel R. Brunstetter and
Cian O'Driscoll, eds., *Just War Thinkers from Cicero to the 21st Century* (New York: Routledge,
2018); Cian O'Driscoll, *Victory: The Triumph and Tragedy of Just War* (Oxford: Oxford University
Press, 2019).
2 Alex J. Bellamy, *Just Wars: from Cicero to Iraq* (Cambridge: Polity Press, 2006); Craig J. N. De
Paulo, Patrick A. Messina, and Daniel P. Tompkins, eds., *Augustinian Just War Theory and the*

growing body of theoretical literature[3] including textbooks, handbooks[4] and attempts to adjust the theory to contemporary challenges.[5] The number of volumes

Wars in Afghanistan and Iraq: Confessions, Contentions, and the Lust for Power (New York: Peter Lang, 2011).

3 Paul Robinson, ed., *Just War in Comparative Perspective* (New York: Routledge, 2003); Howard M. Hensel, ed., *The Prism of Just War: Asian and Western Perspectives on the Legitimate Use of Military Force* (Farnham: Ashgate, 2010); David D. Corey and J. Daryl Charles, *The Just War Tradition: An Introduction* (Wilmington, DE: ISI Books, 2011); Thom Brooks, ed., *Just War Theory* (Leiden: Brill, 2013); Jacob Neusner, Bruce D. Chilton, and R. E. Tully, eds., *Just War in Religion and Politics* (Lanham, MD: University Press of America, 2013); John W. Lango, *The Ethics of Armed Conflict: A Cosmopolitan Just War Theory* (Edinburgh: Edinburgh University Press, 2014); Kai Draper, *War and Individual Rights: The Foundations of Just War Theory* (Oxford: Oxford University Press, 2016); Todd Burkhardt, *Just Wars and Human Rights: Fighting with Right Intention* (Albany, NY: SUNY Press, 2017); Lisa Sowle Cahill, *Blessed Are the Peacemakers: Pacifism, Just War, and Peacemaking* (Minneapolis, MN: Fortress, 2019); Tamar Meisels, *Contemporary Just War: Theory and Practice* (New York: Routledge, 2018); Mark David Hall and J. Daryl Charles, eds., *America and the Just War Tradition: A History of US Conflicts* (Notre Dame, IN: University of Notre Dame Press, 2019); Luís Cordeiro-Rodrigues and Danny Singh, eds., *Comparative Just War Theory: An Introduction to International Perspectives* (Lanham, MD: Rowman and Littlefield, 2020); Uwe Steinhoff, *The Ethics of War and Force of Law: A Modern Just War Theory* (New York: Routledge, 2021).

4 Fritz Allhoff, Nicholas G. Evans, and Adam Henschke, eds., *Routledge Handbook of Ethic and War: Just War Theory in the 21ˢᵗ Century* (New York: Routledge, 2013); Larry May, ed., *Cambridge Handbook of the Just War* (Cambridge: Cambridge University Press, 2018).

5 Oliver O'Donovan, *The Just War Revisited* (Cambridge: Cambridge University Press, 2003); Michael W. Brough, John W. Lango, and Harry van der Linden, eds., *Rethinking the Just War Tradition* (Albany, NY: SUNY Press, 2007); Cian O'Driscoll, *The Renegotiation of the Just War Tradition and the Right to War in the Twenty-First Century* (New York: Palgrave Macmillan, 2008); Larry May, *Contingent Pacifism: Revisiting Just War Theory* (Cambridge University Press, 2015); Christopher Finlay, *Is Just War Possible?* (Cambridge: Polity Press, 2019); Valerie Morkevičius, *Realist Ethics: Just War Traditions as Power Politics* (Cambridge: Cambridge University Press, 2018); Allen E. Buchanan, *Institutionalizing the Just War* (Oxford: Oxford University Press, 2018); Neil C. Renic, *Asymmetric Killing: Risk Avoidance, Just War, and the Warrior Ethos* (Oxford: Oxford University Press, 2020); Graham Parsons and Mark A. Wilson, eds., *Walzer and War: Reading Just and Unjust Wars Today* (Cham: Palgrave Macmillan, 2020); Michael Skerker, *The Moral Status of Combatants: A New Theory of Just War* (New York: Routledge, 2020); Eric E. Smith, *Just War Theory and Non-State Actors: Using an Historical Body of Knowledge in Modern Circumstances* (New York: Routledge, 2020); Marc LiVecche, *The Good Kill: Just War and Moral Injury* (Oxford: Oxford University Press, 2021); Jordy Rocheleau, *New Interventionist Just War Theory: A Critique* (New York: Routledge, 2021); David Miller, *Just War and Ordered Liberty* (Cambridge: Cambridge University Press, 2021); Ty Hawkins and Andrew Kim, *Just War and Literary Studies: An Invitation to Dialogue* (Cham: Palgrave Macmillan, 2021); Steven C. Roach and Amy Eckert, *Moral Responsibility in Twenty-First-Century Warfare: Just War Theory and the Ethical Challenges of Autonomous Weapons Systems* (Albany, NY: SUNY Press 2021); Mark Douglas, *Modernity, the Environment, and the Christian Just War Tradition* (Cambridge: Cambridge University Press, 2022).

dealing with the "ethics of war" in a more general sense or academic papers devoted to the topic is beyond any reasonable calculation.

My third presupposition is that the Christian tradition of just war remains an important source for contemporary theories. Although certain precursory elements of this tradition had been present in antiquity (in the fetial laws of Rome or Marcus Tullius Cicero's [106–43 BCE] *De Re Publica* and *De Legibus*),[6] and a growing body of literature also calls attention to the historical presence of similar ideas in Africa, Asia or the Middle East,[7] it remains true that the global development of the theory was mostly influenced by its Western origins and a long line of Christian authors who maintained the tradition from Saint Augustine (354–430) to the early twenty-first century. The present criteria of just war do not accidentally use Latin words like *ius ad bellum*, *ius in bello* or *ius post bellum*; even less are these criteria accidentally connected to the medieval ideas of legitimate authority, just cause, right intention and several others elaborated in the context of Christian moral theology. If there is anything in Christian thought that keeps inspiring contemporary political thought, it is the theory of just war.

2 *Fratelli tutti*

Regarding the continuous presence of just war theory in Christian political thought since Saint Augustine and its ongoing relevance for present-day politics, it came as a surprise that Pope Francis's encyclical letter *Fratelli tutti* in 2020 seemed not only to criticize this (at least 1600-year-old) tradition[8] but to explicitly reject it:

> We can no longer think of war as a solution because its risks will probably always be greater than its supposed benefits. In view of this, it is very difficult nowadays to invoke the rational criteria elaborated in earlier centuries to speak of the possibility of a "just war." Never again war![9]

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6 Gavin Stewart, "Marcus Tullius Cicero (106 BCE–43 BCE)," in Brunstetter and O'Driscoll, *Just War Thinkers: From Cicero to the 21st Century*, 8–20.

7 Cordeiro-Rodrigues and Singh, *Comparative Just War Theory*.

8 Which is not to say that there had been no pacifist Christian tradition (see Tertullian or Origen in the third century), only that after Christianity became the established religion of the Roman Empire, just war theory became the official teaching of the Church.

9 Francis, *Fratelli tutti: On Fraternity and Social Friendship* (Vatican: Vatican Publishing House, 2020), 258, Accessed September 24, 2023, https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20201003_enciclica-fratelli-tutti.html.

To which a footnote added that:

> Saint Augustine, who forged a concept of "just war" that we no longer uphold in our own day, also said that "it is a higher glory still to stay war itself with a word, than to slay men with the sword, and to procure or maintain peace by peace, not by war" (*Epistola* 229, 2: PL 33, 1020).

This is certainly true, but the wording remains ambiguous. While the phrase "we can no longer" suggests a radical break with the tradition, even this break can be understood in different ways. It can either mean that just war thinkers had been wrong from the start, or that they might have been right in their own time, only some present – so far unspecified – circumstances make their ideas untenable.

The "no longer" clause also implies that it is henceforth impossible to think of "war as a solution" (regardless of what sorts of wars may appear in the future), while the argument for this radical claim only states that the risks of war will "probably" always be greater than its supposed benefits. A probabilistic argument can, of course, never prove a universal proposition (let alone one that concerns an indefinite future); what follows from the former is only that we can "probably" no longer think of war as a solution and not that we cannot do so under any circumstance.

The same ambiguity is enhanced by the phrase "very difficult." However difficult it is to invoke the criteria of just war, it is certainly not impossible, for Christians have done many difficult things in the past and are sometimes called to do the same today. Especially if their acts are supported by "rational" argument; this is another strange addition which seems to acknowledge that the traditional criteria of just war may have been reasonable while the present encyclical refrains from providing similar ones, relying on emotional exclamations like "Never again war!" instead.[10]

Such exclamations have nothing to do with just war as a theory. The most significant authors in the tradition did not claim that war was good, or that war was something to be glorified. The only thing they realized was that war was in some cases inevitable, and until wars could be eliminated from human life altogether, it was better to set their limits than to allow them to rage without constraint. This is exactly what Saint Augustine said in the note cited by the encyclical: "it is a higher glory still to stay war itself with a word;" where the "word" may just as well be understood as an argument against war, but also as an argument for limiting wars whenever it is possible.

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10 "Never again war!" was a phrase used by Pope Paul VI in his address to the United Nations in 1965. This did not mean the elimination of just war theory from the Catechism of the Catholic Church, in which it is still present.

The note on Saint Augustine is otherwise just as ambiguous and imprecise as the claims of the main text: it was not him who "forged" the concept of just war (as Frederick Russell's classic *Just War in the Middle Ages* remarked, it was Aristotle who coined the term[11]), and even less true is that his concept was the only one that informed the Christian just war tradition. But even if one points out Saint Augustine as a single emblematic just war thinker, it remains dubious whether his concept is the one to be rejected or all other similar concepts as well: in the first case, one might replace the Augustinian concept of just war with a better, more sophisticated one; while in the second, the whole theory of just war should be abandoned.

The encyclical makes no effort to eliminate such ambiguities, and it is perhaps a complete misunderstanding to treat it as a doctrinal statement. Pope Francis seems less keen on clarifying dogma (as was the original intention of encyclical letters since at least Pope Benedict XIV's [1675–1758] *Ubi Primum* in 1740), but on giving practical advice to believers regarding contemporary issues. The changing of the genre therefore invites another approach: a rhetorical analysis of a rhetorical text, and this is where its emotional impact becomes relevant. Any reader of *Fratelli tutti* who is not a philosopher or theologian will confirm that (regardless of its logical contradictions and theoretical ambiguities) the main message of the text is the condemnation of all forms of violence and the rejection of the very possibility of waging a just war.

3 The just war tradition

The problem with such a reading is that speaking of just wars has never been merely a matter of rhetoric. Originally, it has not even been a matter of precisely formulated criteria, either, but part of a larger ontological and theological context. Starting with Saint Augustine, it must be observed that for him "the issue of *bellum iustum* is first and foremost a theological issue; its material – despite its many practical aspects – is impossible to grasp as a material specifically related to war, for all its practical elements gravitate toward the theological center of sin and redemption."[12]

It also means that Saint Augustine's "theory" cannot be reshaped into a system of rules but must be viewed from the angle of his theology and its inherent

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11 Frederick H. Russell, *The Just War in the Middle Ages* (Cambridge: Cambridge University Press, 1975), 3.
12 Dániel Schmal, "Szent Ágoston az igazságos háborúról," *Magyar Filozófiai Szemle* 38 (1994): 12. [translation own]

tensions. The most significant tension is between the Gospel's call to nonviolence and the duty of Christians in an imperfect world, where the preservation of justice is sometimes impossible without the use of force. That is also why the criteria of just war cannot be pedantically listed: as Stanley Hauerwas once said, "just war is not a series of exceptions to non-violence, but rather assumes the priority of justice to non-violence."[13] For Saint Augustine, it is a requirement of justice that "soldiers should perform their military duties in behalf of the peace and safety of the community,"[14] thereby defending not just their own city or country but the natural order, the rule of justice in the created world. This "just cause" (as it would later be called) involves much more than self-defense: following Cicero, Saint Augustine adds that evil can be punished by an offensive war as well: "Just wars are usually defined as those which avenge injuries, when the nation or city, against which war is to be directed either neglects to claim what has been unjustly done by its own people, or to return what has been taken."[15] Offensive wars can also be justified by God's direct command: "And also that kind of war is undoubtedly just, which is commanded by God, with whom there is no iniquity and knows what should be done to each one. In which war the leader of the army or the people themselves are not to be judged as the authors of the war but as servants."[16]

As for other "criteria" (although Saint Augustine never calls them as such) it should be noted that all those – that wars should be waged under a legitimate authority, or that a certain disposition is required from those who wage war – are also connected to a broader theological context: for example, to Saint Paul's warning that "there is no authority except from God" (Rm 13:1) or to Saint Augustine's own moral theology in which evil never consists in an act or thing itself but in the unordered appetite of the soul, when someone neglects the natural of order of things and loses sight of the highest good (God) that should be the goal of human intentions. Since the morality of any action depends on the right relationship between the soul and its Creator, the issue of war is also not merely an ethical one, but part of a metaphysical doctrine:

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13 "Just War Tradition and the New War on Terrorism," *Pew Research Center*, October 5, 2001, accessed September 24, 2023, https://www.pewresearch.org/religion/2001/10/05/just-war-tradition-and-the-new-war-on-terrorism/

14 Augustine of Hippo, "Contra Faustum Manichæum," trans. Richard Stothert, in *Augustine: The Writings Against the Manichaeans and Against the Donatists*, ed. Philip Schaff, series 1, vol. 4 of *Nicene and Post-Nicene Fathers* (Grand Rapids, MI: Christian Classics Ethereal Library, 1887), 22, 75, accessed September 24, 2023, https://www.ccel.org/ccel/s/schaff/npnf104/cache/npnf104.pdf.

15 Augustine of Hippo, "Quaestiones in Heptateuchum," in *S. Aurelii Augustini Opera Omnia – Editio Latina*, PL 34, 6, 10, accessed September 24, 2023, https://www.augustinus.it/latino/questioni_etta teuco/index2.htm. [translation own.]

16 Augustine of Hippo, "Quaestiones in Heptateuchum," 6, 10.

> What is the evil in war? Is it the death of someone who will soon die in any case? [. . .] This is mere cowardly dislike, not any religious feeling. The real evils in war are cupidity for violence, revengeful cruelty, restless and implacable enmity, wild resistance, the lust of power, and such like.[17]

Expressions like cupidity, restlessness or lust clearly refer to the soul's disorders, and that is why and how the battlefields of actual wars gets mingled with the internal battlefields of the human soul and with the cosmic drama of the created world. As Frederick Russell puts it, "St. Augustine's just war like the rest of his thought was permeated with divine activity," making it a "much more comprehensive doctrine than it had been with Cicero and the Romans."[18]

All this considered, it should seem very difficult to reduce Saint Augustine's complex thought to a pedantic set of criteria, but the legalist and Scholastic approach of the Middle Ages did exactly that. The process started when canon lawyers collected and organized Augustine's texts into a separate corpus in the twelfth century, the most relevant being Gratian's *Decretum*, which was later commented on by decretists like Rufinus, who was the first to develop a general theory of just war.[19] From the thirteenth century, theologians like Alexander of Hales (1170/85–1245) and Thomas Aquinas (1225–1274) made the theory an integral part of moral theology – or perhaps moral philosophy, for the argument gradually began to adopt a more secular tone – and this tradition remained alive until the late Scholasticism of the sixteenth and seventeenth centuries.

The most striking feature of these attempts was the delicate classification of criteria. In Alexander of Hales, we find authority (*auctoritas*), state of mind (*affectus*), intention (*intentio*), condition (*condition*), desert (*meritum*) and cause (*causa*).[20] Authority, as we have seen, was also mentioned by Saint Augustine; it emphasized the public nature of war, distinguishing it from killing by the private individual. A right state of mind was required from the person who declared war, while right intention (also derived from Saint Augustine) and condition meant the proper attitude and standing of the individual who personally participated in the war: clerics, for example, were explicitly forbidden to take part in military activities. Desert, on the other hand, meant that those against whom war was declared should deserve

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17 Augustine of Hippo, "Contra Faustum," 22, 74.

18 Russell, *Just War*, 23.

19 Jonathan Barnes, "The Just War," in *The Cambridge History of Later Medieval Philosophy*, ed. Norman Kretzmann, Anthony Kenny, and Jan Pinborg (Cambridge: Cambridge University Press, 2008), 771.

20 Barnes, "Just War," 773.

their fate.[21] Just cause, finally, included the acceptable reasons for war, which had been meticulously compiled from Saint Augustine's scattered remarks and their later commentaries. Self-defense was only one of these reasons and not even the most important one, as it was thought to be so obvious that it did not require thorough discussion. Where justification did become an issue was offensive wars, for which several causes were given: defense of the innocent (even in foreign lands), giving aid to one's allies, the punishment of injustices or the right to free passage.[22]

This complex system of criteria – which more and more resembled a legal theory and not a theologically oriented metaphysics – was somewhat simplified by canon lawyers like Raymond of Penyafort (c. 1175–1275), who maintained *auctoritas* and *causa* but replaced *conditio* with *persona*, *meritum* with *res*, and *affectus* by *animus*, omitting *intentio* altogether.[23] The effort to make the list more compact is also observable in Aquinas' *Summa theologiae*, which referred to only three criteria – authority, cause and intention – reducing the cases of just cause to one: "namely that those who are attacked, should be attacked because they deserve it on account of some fault," by which he means Saint Augustine's (and Cicero's) *ulciscuntur iniurias* (avenging wrongs, or literally, injustices): "A just war is wont to be described as one that avenges wrongs, when a nation or state has to be punished, for refusing to make amends for the wrongs inflicted by its subjects, or to restore what it has seized unjustly."[24]

Although Aquinas was hardly as influential in his own time as he would later become, and the list would sometimes be extended again (especially in canon law, see John of Legnano's [c. 1320–1383] five conditions in the fifteenth century),[25] it remains true that the philosophical trend was to reduce the number of criteria to a minimum. It should also be mentioned that Aquinas and his followers in the Dominican and later in the Jesuit order did not simply "forget" about the possible theological justifications of holy wars like the Crusades but treated the latter – as Leroy B. Walters argued in his classic paper – as the analogies of just war, or rather, included them in the overall conceptual framework of just wars. The con-

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21 Alexander of Hales, *Doctoris irrefragabilis Alexandri de Hales Ordinis minorum Summa theologica*, ed. Bernard Klumper, vols. 4 (Quaracchi: Collegium S. Bonaventurae, 1924–1948), In3, Tr2, S1, Q2, Ti3, C1.
22 LeRoy B. Walters, "The Just War and the Crusade: Antitheses or Analogies?," *The Monist* 57, no. 4 (1973): 590.
23 Barnes, "Just War," 773.
24 Thomas Aquinas, *Summa theologiae*, 2a 2ae, q. 40, [translation own], accessed September 24, 2023, https://www.corpusthomisticum.org/sth3034.html.
25 Barnes, "Just War," 773.

cept of authority was perfectly applicable to the Church or the Pope; just cause could be extended to avenge injustices (*ulciscuntur iniurias*) committed against Christians; and right intention also included moderation in war, even when the war was waged against unbelievers.[26] Let us also add that the just cause criterion only involved an explicit "offense" like the persecution of Christians or denying missionaries the right to preach freely; the mere fact that unbelievers did not accept Christianity was no cause for a just war. During the conquest of America, the Dominican friar Francisco de Vitoria (c. 1483–1546) explicitly stated that difference in religion was not among the criteria: "If the barbarians have done no wrong, there is no just cause for war; this is the opinion shared by all the doctors, not only theologians but also jurists [. . .] I know of no author who opposes it."[27]

4 Popes in the twentieth century

The theory of just war experienced a decline from the seventeenth to the nineteenth century when realpolitik became the guiding principle of international relations. During that time, even Catholic authorities rarely invoked the (at this stage very limited set of) conditions presented by earlier just war thinkers. The twentieth century, with its two world wars, slowly initiated a renewed interest in the theory, even though explicit references remained rare. After Pope Benedict XV's (1854–1922) Peace Plan of 1917, which was more about a "just peace" than a just war, or Pope Pius XI's (1857–1939) *Mit brennender Sorge* (1937) on the dangers of Nazism but not of war specifically, it was only Pope Pius XII (1876–1958) who mentioned something like just war criteria in his 1944 Christmas message, and only in a negative sense, this time excluding all justifications of an offensive war:

> There is a duty, besides, imposed on all, a duty which brooks no delay, no procrastination, no hesitation, no subterfuge: it is the duty to do everything to ban once and for all wars of aggression as a legitimate solution of international disputes and as a means toward realizing national aspirations.[28]

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26 Walters, "Just War and the Crusade," 592.

27 Francisco de Vitoria, "On the American Indians (De indis)," in *Vitoria: Political Writings*, ed. Anthony Pagden and Jeremy Lawrance (Cambridge: Cambridge University Press, 1991), 270.

28 Pius XII, "Radio Message 'Benignitas et humanitas' for Christmas" (December 24, 1944), 58, accessed September 24, 2023, https://www.ewtn.com/catholicism/library/1944-christmas-message-8963.

This statement does not eliminate the possibility of waging a just defensive war (as it would have been senseless at the time): "If ever a generation has had to appreciate in the depths of its conscience the call: 'war on war,' it is certainly the present generation."[29] Whether the "war on war" is to be understood literally or in a more pacifistic, spiritual way is not further elaborated, but the intention to break with the just war tradition points to the latter direction: "the principle that the idea of war was an apt and proportionate means of solving international conflicts is now out of date."[30] It is only a slight irony that the end of the message talks of a "crusade of charity," using the word "crusade" in a positive sense, while the logic of the whole argument should exclude any such favorable, even if metaphorical, reference.

One aspect of Pope Pius XII's message nevertheless remained influential, and this was the hardly disputable mention of the extremely violent nature of modern wars. This may indeed render offensive wars (to avenge injustice, help allies or secure free passage) senseless but does not touch the legitimacy of defensive ones, either in the sense of defending one's homeland or defending the innocent against aggression. The problem with later papal declarations like Pope John XXIII's (1881–1963) *Pacem in terris* (1963) was that they were so concerned with emphasizing the dangers of total war (especially after the proliferation of nuclear weapons) that they failed to provide moral guidance for those who protected themselves against aggression: if war was evil in all its forms, no distinction could be made between victim and assailant. We have come a long way from Saint Augustine's theologically grounded principles of justice and order, but also from the delicately formulated criteria thereof in the Middle Ages, to an age when the transcendent point of reference became blurred, and the number of criteria started to oscillate between one and zero.

Since an explicit affirmation of the "zero option" would have meant a complete abandonment of just war theory, the official documents of the Catholic Church carefully chose another strategy. Even Pope Paul VI (1897–1978), who quoted – the otherwise hardly pacifist – American president John F. Kennedy (1917–1963) in his speech to the United Nations in 1965, saying the famous words "Never again war!"[31] left the passages regarding just war intact in the constitution of the Second Vatican Council, *Gaudium et spes*. "As long as the danger of war remains and there is no competent and sufficiently powerful authority at the in-

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29 Pius XII, "Radio Message," 60.
30 Pius XII, "Radio Message," 63.
31 Paul VI, "Address of the Holy Father Paul VI to the United Nations Organization" (October 4, 1965), accessed September 24, 2023, https://www.vatican.va/content/paul-vi/en/speeches/1965/documents/hf_p-vi_spe_19651004_united-nations.htm.

ternational level, governments cannot be denied the right to legitimate defense once every means of peaceful settlement has been exhausted."[32]

The same holds for John Paul II (1920–2005) and Benedict XVI (1927–2022), who repeatedly confirmed that war was "a defeat for humanity" and that the theory of just war should be "updated on the basis of new methods of destruction and of new dangers,"[33] but never thought that the Catechism of the Catholic Church should entirely dismiss the concept. Citing *Gaudium et spes*, the Catechism still confirms that there is one just cause of war, "the right of lawful self-defense." Although the wording thus changes to "legitimate defense by military force," the passage ultimately confirms that it remains within "what is called the 'just war' doctrine."[34]

5 Pope Francis revisited

Compared to the 1600-year history of just war doctrine and its officially endorsed status in the Catechism, it is worth noting how, from the beginning of his papacy, Pope Francis distanced himself from any justification of violence. In a 2014 interview, reflecting on the US bombing of Iraq (of course, a highly dubious act in terms of both international law and moral reasoning, despite reference to the "prevention of genocide" and the "protection of minorities"), he made the following comment:

> In these cases, where there is an unjust aggression, I can only say that it is licit to stop the unjust aggressor. I underscore the verb "stop." I don't say "to bomb" or "make war," (but) "stop it." The means with which it can be stopped should be evaluated. To stop the unjust aggressor is licit.[35]

Although the term "unjust aggression" at first seems to imply that non-aggressive acts of violence (like self-defense) may be just, the emphatic distinction between "stopping" the aggressor (which is licit) and "making war" against it (which is pre-

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32 Paul VI, *Pastoral Constitution on the Church in the modern world: Gaudium et spes*, (December 7, 1965), accessed September 24, 2023, https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html.

33 Pedro Erik Carneiro, "Just War Tradition and the Popes: From Pius X to Francis," *Revista Brasileira de Estudos de Defesa* 3, no. 1 (2016): 211–212.

34 John Paul II, *Catechism of the Catholic Church* (Vatican City: Libreria Editrice Vaticana, 2000), 556.

35 Alan Holdren and Andrea Gagliarducci, "Full Transcript of Pope's In-Flight Interview from Korea," *National Catholic Register*, August 18, 2014, accessed September 24, 2023, https://www.ncregister.com/news/full-transcript-of-pope-s-in-flight-interview-from-korea.

sumably not) seems to exclude the last remaining instance of just cause. This, however, only follows from the implicit logic of the argument and not from any overtly stated principles. It might even be argued that the Pope's remark still leaves open the possibility for other means of rightful self-defense than "making" war; at least if "making" war means something else than being involved in it. A clarification of how violent aggressors can be legitimately stopped – if not by violence – would certainly help to eliminate such difficulties, but this clarification is not made. The criterion of legitimate authority fares no better: not only nation-states are denied the right to wage wars or stop them, but also the United Nations, which is only allowed to "discuss" the more peaceful means of stopping the aggressor:

> One single nation cannot judge how you stop this, how you stop an unjust aggressor. After the Second World War, there was the idea of the United Nations. It must be discussed there, and [the UN] said, "There's an unjust aggressor; it seems so. How do we stop it?" Only that; nothing more.[36]

After which, it is no surprise that the Pope remains ambiguous when faced with the more direct question "Would you be ready to support a military intervention against the jihadists in Iraqi territory?" He repeats his earlier statement: "I am only in agreement in the fact that when there is an unjust aggressor that he is stopped."[37]

The effort to eliminate the just war theory from Catholic teaching became more emphatic at a 2016 conference co-hosted by the Pontifical Council for Justice and Peace and the Pax Christi movement, the final document of which bluntly stated that "There is no just war," and called on Pope Francis to consider writing an encyclical letter, or some other "major teaching document," reorienting the Church's teaching on violence.[38] Although it may be true that "Too often the 'just war theory' has been used to endorse rather than prevent or limit war," as the participants agreed, it still remained unclear whether it was the "powerful capabilities of modern weapons" that made the theory "outdated," or the whole concept had been mistaken from the very start in the light of "Gospel nonviolence."[39]

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36 Holdren and Gagliarducci, "Pope's In-Flight Interview."
37 Holdren and Gagliarducci, "Pope's In-Flight Interview."
38 Joshua J. McElwee, "Landmark Vatican Conference Rejects Just War Theory, Asks for Encyclical on Nonviolence," *National Catholic Reporter*, April 14, 2016, accessed September 24, 2023, https://www.ncronline.org/news/vatican/landmark-vatican-conference-rejects-just-war-theory-asks-encyclical-nonviolence.
39 McElwee, "Landmark Vatican Conference."

In any case, the document was a unique example of breaking with the just war tradition in all three senses outlined in the introduction. It suggested that the concept of "just war" was no longer tenable; in other words, that there was no acceptable middle way between pacifism and realism. Any reference to "just war" was only realism in disguise, a basically immoral position. Second, it implicitly condemned the just war theory in its secular forms as well, regardless of any possible refinements: what it declared was a universal ethical norm that applied not only to Christians but to humanity in general. As Archbishop Odama of Uganda said, "On the cross, [Jesus] said, 'Father forgive them because they don't know what they're doing' [. . .] In this statement, he united the whole of humanity under one father."[40] And third, the conference thereby neglected any Christian contribution to the just war theory, which at least tended to withdraw the Church from any involvement in contemporary discussions of when war could justly be pursued.

Compared to these radical claims, Pope Francis's *Fratelli tutti* now seems less outspoken than was suggested earlier. It was not an encyclical about war (the issue of just war only appeared among a variety of topics like social friendship, deconstruction, colonialism, labor costs, poverty, women's rights, technological development, globalization, pandemics, populism, liberalism, migration, human rights, nation-states and international organizations, political and effective love, peace and forgiveness); and it was also not an unambiguous condemnation of war in general, since it could not easily dismiss the Catechism's reference to "the possibility of legitimate defense by means of military force."[41] It rather chose the rhetorical strategy to undermine all such claims by stating that "it is easy to fall into an overly broad interpretation of this potential right," which is a truism, but from which it does not follow that the right to self-defense is completely groundless, only that it should be acted on more carefully. Yet the possibility of war (even a just war) is enthusiastically rejected in the name of "universal love;" as if the reality of sin was completely absent from the present world. The word "sin" (*peccato*) only appears three times in the encyclical,[42] which is not unusual in contemporary Catholic rhetoric but raises serious questions about the Church's ability to address the actual problems of human relations at a more realistic than abstract level.

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40 McElwee, "Landmark Vatican Conference."
41 Francis, *Fratelli tutti*, 258.
42 Francis, *Fratelli tutti*, 191, 244, 278.

6 The reality of the war in Ukraine

The most realistic fact that challenged the optimistic visions of a peaceful world was the February 2022 invasion of Ukraine by Russia. In one of his first comments – after a video conference with Patriarch Kirill, head of the Russian Orthodox Church on March 16 – the Pope nevertheless confirmed that there was no such thing as a "just war" anymore:

> At one time we also spoke in our churches of holy war and just war. Today we cannot speak like that. The Christian conscience has developed on the importance of peace. [. . .] Wars are always unjust, because the ones who pay are the people of God. [. . .] War is never the way.[43]

A few days later, however, in a message to a gathering of European Catholic representatives, the Pope called for aid to Ukrainians, who had been "attacked in their identity, history, and tradition" and were "defending their land" against foreign invasion, which was – as some observers noted – an implicit acknowledgment of the right to self-defense.[44] A more explicit one was provided by the Holy See's secretary of state, Pietro Parolin soon thereafter, who reiterated that Ukraine had a "legitimate right to defend itself."[45] A few weeks later, the Cardinal even cited the doctrine of just war as it is found in the Catechism, saying that "There is a right to armed defense in the case of aggression," provided that "the response does not produce greater damage than those caused by the aggression. This is in the context of 'just war.'"[46] After this, it becomes even more difficult to tell whether Pope Francis's earlier claims about the elimination of just war theory or the contradictory remarks in *Fratelli tutti* (some elements of which contradicted current Catholic teaching) should be taken at face value, or simply as rhe-

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43 Elise Ann Allen, "Pope Tells Russian Orthodox Leader There's no Such Thing as 'Just War.'" *The Tablet*, March 17, 2022, accessed September 24, 2023, https://thetablet.org/pope-francis-russian-orthodox-patriarch-kirill/.

44 "Pope Francis Denounces 'Abuse of Power' in Russia-Ukraine War," *The Guardian*, March 18, 2022, accessed September 24, 2023, https://www.theguardian.com/world/2022/mar/18/pope-francis-denounces-abuse-of-power-in-russia-ukraine-war. As the subtitle goes: "Pontiff asserts Ukraine's right to exist as a sovereign state and to defend itself against Russian invasion."

45 Andrea Gagliarducci, "Cardinal Parolin: Ukraine Has the Right to Defend Itself, but Arms Shipments Could Cause 'Terrible' Escalation," *Catholic News Agency*, April 7, 2022, accessed September 24, 2023, https://www.catholicnewsagency.com/news/250907/cardinal-parolin-ukraine-self-defense.

46 Philip Pullella, "Vatican Number Two Says Giving Ukraine Weapons Legitimate, With Conditions," *Reuters*, May 13, 2022, accessed September 24, 2023, https://www.reuters.com/world/europe/vatican-number-two-says-giving-ukraine-weapons-legitimate-with-conditions-2022-05-13/.

torical exhortations without any obligatory doctrinal consequence. The fact that neither the Pope nor the Cardinal could completely avoid reference to self-defense (the last remaining example of "just cause") or to "proportionality" (which had not even been part of the Augustinian or the medieval Christian theory but a later, secular addition)[47] when facing present-day political realities seemed to confirm that the doctrine of just war was still indispensable, at least until a better alternative would be elaborated.

Both the Pope's and the Cardinal's main worries concerned the escalation of war that could be the result of Western intervention (as in Iraq and Afghanistan, where the just cause of "self-defense" had indeed been questionable) or supplying weapons to Ukraine. In May, Pope Francis still suspected that NATO had provoked Vladimir Putin and carefully avoided any clear statement about the right to give military aid to Ukraine: "I can't answer that question. I live too far away. I don't know if it is the right thing to supply the Ukrainian fighters."[48] It was only in June that he not only confirmed Ukraine's right to self-defense but did so in the context of just war theory – "A war may be just; there is the right to defend oneself " – while still condemning the "entire structure for the sale of arms."[49] In September, he finally accepted that supplying weapons to Ukraine was morally acceptable for self-defense:

> This is a political decision which can be moral, morally acceptable, if it is done under conditions of morality. [. . .] Self-defense is not only licit but also an expression of love for the homeland. Someone who does not defend oneself, who does not defend something, does not love it.[50]

That Pope Francis this time discussed the question of just war in the context of "love" was another remarkable return to traditional Catholic thought. From Aquinas to Francisco Suárez (1548–1617), it had indeed been customary to discuss the issue of

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47 According to E. Thomas Sullivan, the criterion of proportionality was added by Hugo Grotius in the seventeenth century. E. Thomas Sullivan, "The Doctrine of Proportionality in a Time of War," *Minnesota Journal of International Law* 16, no. 2 (2007): 459, https://heinonline.org/HOL/P?h=hein.journals/mjgt16&i=469.

48 Luciano Fontana, "Pope Francis: 'I Am Ready to Meet Putin in Moscow'," *Corriere della Sera*, May 3, 2022, accessed September 24, 2023, https://www.corriere.it/cronache/22_maggio_03/pope-francis-putin-e713a1de-cad0-11ec-84d1-341c28840c78.shtml.

49 Inés San Martín, "Pope Francis Confirms Right to Defense, but Insists on 'Rethink' of Just War Doctrine," *Crux*, July 1, 2022, accessed September 24, 2023, https://cruxnow.com/vatican/2022/07/pope-francis-confirms-right-to-defense-but-insists-on-rethink-of-just-war-doctrine.

50 Philip Pullella, "Pope Says Supplying Weapons to Ukraine Is Morally Acceptable for Self Defence," *Reuters*, September 16, 2022, accessed September 24, 2023, https://www.reuters.com/world/europe/pope-says-supplying-weapons-ukraine-is-morally-acceptable-self-defence-2022-09-15/.

war in relation to the theological virtue of love,[51] trying to determine when the use of violence was not contrary to, but in agreement with the biblical commandment to love thy neighbor. Even more remarkably, after so many refutations of the very concept of just war and its reluctant acceptance as a lesser evil later, we are now faced with a positive affirmation. This does not mean, obviously, that this was the Pope's last statement on just war. It is impossible to tell how future events in Ukraine or elsewhere will once again change his position and that of the Church. But regardless of this – formerly unprecedented – wavering in Catholic doctrine, a few observations may be drawn from its longer history.

7 Conclusion

The first observation from the history of just war doctrine is that Saint Augustine, the precursor of what would later be called just war theory had a complex theological, metaphysical and moral vision about the essence of Christianity. He never discussed war for its own sake, only in its relationship with the drama of Christian existence in a world of sin and woe, expressed by the tension between the Earthly City and the City of God, something that was impossible to eliminate by human effort. He never said that "war was good," only that war was inevitable; it was not a "problem" that could be solved or a "social disease" that could be cured, but a tragedy that could be handled only within the context of divine grace and redemption.

Second, without suggesting that the history of Christian theology was one of continuous decline, it should be observed that the Scholastic and legalistic approaches of the Middle Ages both simplified and complicated the issue of just war. Simplification meant that the whole topic was handled within the well-defined category of theological virtues (most often, love), from which it nevertheless also often slipped over to the category of cardinal virtues (mostly to justice), which was a more secular one, devoid of the complexities of Saint Augustine. Complication meant that more and more casuistic criteria were invented, and in the Middle Ages this effort created a system of overlapping criteria that proved very difficult to apply in political practice.

Third, in part for this reason, more sober minds like Aquinas tried to reduce the number of criteria to a reasonable minimum. Following Aquinas, the late Scholastics of the Dominican and Jesuit tradition went as far as to establish a

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51 In Catholic teaching, the source and aim of the theological virtues of faith, hope, and charity (or "love") is God self.

fully secular framework that excluded all "religious" or "holy" wars from the theory of just war, which may have been a positive move (reducing the possible justifications of war) but tended to neglect the fact that for Christians, war and violence should always remain not just a matter of political wisdom, but of theological reflection.

Fourth, the continuous reduction of criteria naturally led to the waning of the theory itself. Having "self-defense" as the only just cause also meant that the problem of war was reduced to the maintenance of physical existence, or, with a touch of anachronism, to biopolitics in the Foucauldian sense of the term. If politics is indeed nothing more than the administration of human life and living bodies – not something that follows the evangelical teaching not to "fear those who kill the body but cannot kill the soul" (Mt 10:28) – it is perfectly logical to reject this form of politics and reduce the number of criteria to zero.

As the hesitation of Pope Francis and the contemporary Catholic Church shows, this position is unable to handle the fact that the Church is embedded in this world and is sometimes forced to give concrete answers to concrete questions. A fully transcendent, "angelic" view is just as unable to handle the tragic reality of war as a practical checklist of conditions. A workable theory requires something else: rejection of any radical division of the world into a religious and a secular sphere.

II

William E. Scheuerman
Political nonviolence and self-defense: Reconsidering Martin Luther King Jr.

1 Introduction

Incidents of violent, politically motivated self-defense have become increasingly commonplace within contemporary protests. The massive and – for the United States (US) – unprecedented 2020 upheavals in response to the racially motivated police killings of Ahmaud Arbery, George Floyd, Breonna Taylor and others remained overwhelmingly and, for the most part, strictly nonviolent. Yet some physical attacks on police and security officials were made in the name of self-defense. In the Hong Kong pro-democracy protests during 2019 and 2020, militants countered the increasingly repressive state crackdown against their initially peaceful protests by throwing rocks and Molotov cocktails. They also employed heat-resistant gloves to toss tear gas canisters back at security officials. Even if their acts at first represented more-or-less spontaneous personal responses to police violence, activists soon began planning to do battle with the police. Individual attempts to ward off state violence morphed into organized, collective self-defense. In Europe, anarchists and antifascists have long embraced violent self-defense when faced with police crackdowns. Some recent protests against coronavirus restrictions have erupted into violence: on January 23, 2022, for example, Belgian protestors hurled metal fences and burning dustbins at police officers, with both police officers and protestors requiring hospitalization.[1] Similarly violent acts have transpired at anti-lockdown protests in Austria, the Netherlands and elsewhere in Europe.

As recent European anti-lockdown protests effectively demonstrated, violent self-defense can be linked to a variety of political causes and ideological orientations; its justification can take right-wing or left-wing forms, and sometimes they will rest on a confused medley of political ideas.[2] The sources of this now global

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1 I am grateful to Alexander Livingston and the volume editors for helpful comments on an earlier version of this chapter. Pietro Lombardo, "Rioters Fight Brussels Police, Smash Headquarters of EU Foreign Service," *Politico,* January 23, 2022, accessed December 9, 2022, https://www.politico.eu/article/protest-against-covid-restriction-police-violent-brussels/.

2 A point, by the way, that sometimes gets downplayed in leftist apologies for violent self-defense, e.g., Elsa Dorlin, *Self-Defense: A Philosophy of Violence,* trans. Kieran Aarons (New York: Verso, 2022).

trend are complicated and multifaceted; I cannot explore them here.[3] Yet there is no question that many political militants are rejecting fidelity to political nonviolence when interpreted as categorically prohibiting *any* physical violence directed against other persons. Nonviolence, as Dr. Martin Luther King (1929–1968) insisted, requires that protestors "accept blows from the opponent without striking back," and thus refrain from acts of violent self-defense, now apparently seems naive to protestors and their sympathizers. Many of those engaging in violence do so as part of collective, organized efforts. At any rate, they evince little faith in King's Gandhian hope that accepting nonviolence in the context of protests, as a way of instantiating Christlike redemptive suffering, possesses "tremendous educational and transformational possibilities."[4]

Not surprisingly perhaps, philosophers and political theorists are following suit. Key contemporary thinkers view civil disobedience as congruent not only with property damage but also limited acts of violence against persons.[5] Even those seeking to preserve the old idea of civil disobedience as fundamentally nonviolent allow "some measure of self-defense in the face of assault by others, such as the police or security personnel."[6] Others aiming to ground what they call resistance or even "uncivil" disobedience go further. The philosopher Candice Delmas, for example, defends politically motivated organized, collective vigilantism, when justifiable as self-defense and meeting some reasonable normative standards.[7] For their part, anarchists and libertarians are eager to give a yet wider berth to violent self-defense as a potentially legitimate element of political protest.[8] The radical French philosopher Elsa Dorlin has recently penned a sustained, historically detailed defense of it.[9]

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3 Alain Bertho, *The Age of Violence: The Crisis of Political Action and the End of Utopia* (New York: Verso, 2018).

4 Martin Luther King, "An Experiment in Love" [1958], in *A Testament of Hope: The Essential Writings and Speeches of Martin Luther King, Jr.,* ed. James M. Washington (New York: Harper, 1986), 18.

5 Kimberlee Brownlee, *Conscience and Conviction: The Case for Civil Disobedience* (New York: Oxford University Press, 2012), 21–24, 198–199; Robin Celikates, "Rethinking civil disobedience as a practice of contestation: Beyond the liberal paradigm," *Constellations* 23, no. 1 (2016): 41–44, https://doi.org/10.1111/1467-8675.12216.

6 Tony Milligan, *Civil Disobedience: Protest, Justification, and the Law* (London: Bloomsbury, 2013), 14.

7 Candice Delmas, *A Duty to Resist: When Disobedience Should Be Uncivil* (New York: Oxford University Press, 2018), 95–98.

8 In this vein: Jason Brennan, *When All Else Fails: The Ethics of Resistance to State Injustice* (Princeton, NJ: Princeton University Press, 2019); A. John Simmons, "Disobedience and its Objects," *Boston University Law Review* 90 (2010): 1805–1831.

9 Elsa Dorlin, *Self-Defense: A Philosophy of Violence.* Dorlin's book has already been widely translated.

The long-standing marriage between strict nonviolence and politically motivated lawbreaking is on the rocks. Elsewhere I have argued that recent theoretical justifications for this political shift rely on excessively inclusive views of violence that obscure some tough questions. It does not make much sense conceptually or politically, for example, to conflate property damage with violence against persons.[10] Nonetheless, it remains true that the broad acceptance of sometimes violent self-defense by both activists and intellectuals poses challenges for defenders of principled political nonviolence. Self-defense has always represented a "hard case" for nonviolent activists. Why condemn largely peaceful protestors who fight back against militarized police and security forces? If acts of self-defense are necessary to ward off avoidable harms and can be viewed as proportionate to the threats at hand, why not permit them? Every legal system provides room for self-defense in the face of imminent threats to persons and their property. So why should the path of possibly violent self-defense be closed to political protestors?

Of course, strict, oftentimes spiritually-motivated pacifists will find it easy to condemn self-defense. Yet what about those of us unable or unwilling to follow in their footsteps?

These are hardly novel questions. As King observed in *Where Do We Go From Here?* (1967), in the US civil rights movement the first public expressions "of disenchantment with nonviolence arose around the question of 'self-defense.'"[11] King's principled nonviolent commitments were regularly challenged by militant political rivals (for example, Robert F. Williams [1925–1996], then Stokely Carmichael [1941–1998] and Malcolm X [1925–1965]) and movements (for example, the Deacons for Defense and Justice, the Black Panther Party) that broke with him precisely over the issue of self-defense. The debate between King and his critics was messy and tendentious. Yet one key difference is that influential critics envisaged a positive role for armed, politically motivated self-defense, interpreting it as essential to constructive social change, whereas King – a self-described "realistic pacifist" who synthesized Mohandas Gandhi (1869–1948) and Christianity – rejected it.[12] Much of the recent philosophical and political theoretical literature effectively sides with King's critics who viewed (possibly) violent self-defense as a necessary complement to (largely) nonviolent protest. Interestingly, recent historical literature on the civil rights movement suggests a complicated relationship between its violent and nonviolent activities, with the former often occupying a larger space in facilitating the latter's successes than the conventional narrative suggests. Against

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10 William E. Scheuerman, "Politically Motivated Property Damage," *Harvard Review of Philosophy* 28 (2021): 89–106, https://doi.org/10.5840/harvardreview20218337.

11 Martin Luther King, *Where Do We Go From Here?* (Boston, MA: Beacon Press, 2010 [1967]), 57.

12 Martin Luther King, "Pilgrimage to Nonviolence" [1960], in *Testament of Hope*, 39.

the tendency to cleanse King and his movement's history of its less tidy traits, scholars have explored the sometimes crucial role of armed self-defense in the US Black freedom struggles of the late 1950s and 1960s.[13] If they are right, the movement's successes relied, to a surprising degree, on occasionally violent self-defense among activists who aggressively rejected King's Gandhi-inflected ideas about nonviolence.

At the risk of being accused of revitalizing a vision of nonviolence that some will likely view as apolitical and morally sanctimonious, this chapter pushes back against the present well-nigh universal endorsement of violent self-defense. I do so by revisiting King's complex, yet easily misconstrued, reflections on the matter. I turn to King for two reasons. First, his example has long been central to systematic thinking about political disobedience and resistance; it is vital that we properly understand his position's nuances. Second, King's analysis of self-defense, though hardly flawless, has much to recommend it. Despite his apparent endorsement of an individual moral and legal right to self-defense, he in fact resisted any *principled* defense of such a right. Even when seemingly condoning individual self-defense, King hemmed it in with significant caveats. To his credit, he identified difficult questions that defenders of violent self-defense, as either an individual moral and legal or collective political right, would need to answer. For good reasons, he doubted that they would be able to do so successfully. Too often, King powerfully suggested, calls for self-defense obscure a range of difficulties that vitiate its alleged virtues. As I hope to show, his concerns remain politically and theoretically pertinent.

2 "A right guaranteed by the constitution and respected even in the worst areas of the South"

Scholarly literature on King claims that he "took the right of self-defense to be an accepted moral universal that did not require explicit elaboration or defending."[14] On this now commonplace view, King accepted both a moral and legal

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13 Charles E. Cobb, Jr., *This Nonviolent Stuff'll Get You Killed* (New York: Basic Books, 2014); Christopher B. Strain, *Pure Fire: Self-Defense as Activism in the Civil Rights Era* (Athens, GA: University of Georgia Press, 2005); Simon Wendt, *The Spirit and the Shotgun: Armed Resistance and the Struggle for Civil Rights* (Gainesville, FL: University Press of Florida, 2007).
14 Karuna Mantena, "Showdown for Nonviolence: The Theory and Practice of Nonviolent Politics," in *To Shape a New World: Essays on the Political Philosophy of Martin Luther King, Jr.*, ed. by Tommie Shelby and Brandon M. Terry (Cambridge: Harvard University Press, 2018), 84. In the same

right for persons to defend themselves, their families and their homes – if necessary, by violent means. The real issue for him was instead whether violent self-defense "could ever be a useful weapon for social change," something he emphatically denied on the basis of his deep skepticism that "a coherent, effective policy or strategy for change could ever emerge from the moral right of self-defense."[15] Violent, organized self-defense had no role to play in a political program for constructive social change.

In delineating self-defense as an individual personal right from a collective political right, King mirrored the official stance of the contemporary National Association for the Advancement of Colored People (NAACP), which similarly endorsed the idea of individual self-defense while rejecting calls for organized, collective violence against whites. Like the NAACP, King frequently distinguished between the (typically) individual's right to defend "one's home and person against lawless assaults" and the question of self-defense as part of (usually) collective political protests.[16] The former was respected in moral and legal codes around the world; the latter was a distinctly political and more controversial matter. In response to Williams, an early political ally whose advocacy of organized political violence ultimately led to their estrangement,[17] King described, in a 1959 *Liberation* article, "three different views of violence":

> One is the approach of pure nonviolence, which cannot readily or easily attract large masses, for it requires extraordinary discipline and courage. The second is violence exer-

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volume, Martha Nussbaum claims that King acknowledges "a morally legitimate role for nonviolence –self-defense being the general rubric he uses." Martha Nussbaum, "From Anger to Love: Self-Purification and Political Resistance," in Shelby and Terry, *To Shape a New World*, 118. Brandon M. Terry, in his insightful discussion of King, does so as well: King "never denied either the existence of a natural or civil right to self-defense." Brandon M. Terry, "Requiem for a Dream: The Problem–Space of Black Power," in Shelby and Terry, *To Shape a New World*, 296. Similarly: Daniel J. Ott, "Nonviolence and the Nightmare: King and Black Self-Defense," *American Journal of Theology and Philosophy* 39, no. 2 (2018): 64–73. Domenico Losurdo takes things further: he highlights King's apparent endorsement of violent self-defense in order to belittle King's overall nonviolent views. Domenico Losurdo, *Non-Violence: A History Beyond the Myth* (Lanham, MD: Lexington, 2015), 118–120. In what follows, I complicate this view of King's ideas of self-defense; it sidelines some important nuances. The literature on King is massive, but pertinent to my discussion here is Alexander Livingston's "Power for the Powerless: Martin Luther King, Jr.'s Late Theory of Civil Disobedience," *Journal of Politics* 82, no. 2 (2020): 700–713. https://doi.org/10.1086/706982.

15 Mantena, "Showdown for Nonviolence," 84.
16 Martin Luther King, "Nonviolence: The Only Road to Freedom" [1966], in *Testament of Hope*, 56.
17 Williams' championship, as a local NAACP chapter president in Monroe (North Carolina) of organized self-defense, led to his purge from the organization by its national leadership, a controversial move publicly defended by King. For Williams' version of the battle, see his *Negroes With Guns* (New York: Marzani & Munsell, 1962).

cised in self-defense, which all societies, from their most primitive to the most cultured and civilized, accept as moral and legal. The principle of self-defense, even involving weapons and bloodshed, has never been condemned, even by Gandhi, who sanctioned it for those unable to master pure nonviolence. The third is the advocacy of violence as a tool of advancement, organized as in warfare, deliberately and consciously.[18]

King rejected the third view, for a variety of reasons we will explore later in this chapter. But here, as in a number of related speeches and writings, he seems to have left room for self-defense as a way to preserve "one's home and person," including one's family. According to King, when Black Americans engaged in self-defense along these lines, they did "not forfeit support" – they "may even win it, by the courage and self-respect it reflects."[19] King, of course, was familiar not only with the terroristic white violence of "Dixie-land," but also with the fact that Black Americans had long fearlessly armed themselves to protect their homes and families. They did so to defend themselves and garner a measure of self-respect in a violent political culture in which gun ownership was – and remains – ubiquitous. As he pointed out, the individual's right to self-defense had long been "guaranteed by the Constitution and respected even in the worst areas of the South."[20]

At first glance, King's apparent endorsement of self-defense as a personal right is corroborated by some revealing biographical details. While a second-year student at Crozer Theological Seminary, he apparently clashed with the Gandhian pacifist A.J. Muste (1885–1967), in part because of what the young King diagnosed as a disconnect between Muste's vision and the political realities of everyday life in Black America: "[B]ack home every household that King knew had guns."[21] When the nonviolent activists Bayard Rustin (1912–87) and Glenn Smiley (1910–93) later encountered King in Montgomery (Alabama) in 1956,they described his home as an "arsenal" and worried that he and his allies possessed a badly confused grasp of basic nonviolent tactics. Faced with the specter of white violence, he had apparently applied for a gun permit from local authorities.[22] As King vividly recounted in *Stride Toward Freedom* (1958), he and his family had not only faced a barrage of

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18 Martin Luther King, "The Social Organization of Nonviolence" [1959], in *Testament of Hope*, 32.

19 King, "The Social Organization of Nonviolence," 33.

20 King, "Nonviolence," 56.

21 Garry Dorrien, *Breaking White Supremacy: Martin Luther King Jr. and the Black Social Gospel* (New Haven, CT: Yale University Press, 2018), 263.

22 The authorities rejected his request. The story has been frequently recounted, e.g., Jervis Anderson, *Bayard Rustin: Troubles I've Seen* (Berkeley, CA: University of California Press, 1998), 183–196; Thomas J. Jackson, *From Civil Rights to Human Rights: Martin Luther King, Jr. and the Struggle for Economic Justice* (Philadelphia, PA: University of Pennsylvania Press, 2007), 61–62. At a book signing at a Harlem department store in 1958, King was stabbed with a letter opener and badly wounded.

horrific threats, but a bomb set off at his home very nearly killed his wife, Coretta, and their first child. In *Stride Toward Freedom*, King described the raw emotions that might have driven him and others facing similar threats to "meet violence with violence": "While I lay in that quiet front bedroom [. . .] I began to think of the viciousness of people who would bomb my home. I could feel the anger rising when I realized that my wife and baby could have been killed."[23]

Those eager to document King's supposedly hard-headed, realistic views about self-defensive violence sometimes mention his gun ownership to make their case.[24] The problem with doing so is that King, at the prodding of Rustin and others, soon not only apparently got rid of his gun but urged his followers to do the same:

> How could I serve as one of the leaders of a nonviolent movement and at the same time use weapons of violence for my personal protection? Coretta and I talked the matter over for several days and finally agreed that arms were no solution. We decided then to get rid of the one weapon we owned.[25]

When angry supporters, including some who were armed, gathered outside his home after the bombing, he urged them to return home: "If you have weapons, take them home; if you do not have them, do not seek to get them. We cannot solve this problem through retaliatory violence. We must meet violence with non-violence."[26] Within a few months, King's residence was no longer the "arsenal" Rustin and Smiley initially found.

This autobiographical account is illuminating for a number of reasons. Most immediately, it problematizes the view that King unambiguously endorsed an individual right to (potentially) violent self-defense. Even when faced with terroristic attacks on his family and home, King chose to *disarm,* opting in favor of nonviolent protective measures: "We tried to satisfy our friends [and political allies] by having floodgates mounted around the house, and hiring unarmed watchmen around the clock. I also promised that I would not travel around the city alone."[27] King still wanted to see his loved ones and home protected. However, he hoped that this could be done successfully without deploying weapons and the specter of physical violence.

Those who ascribe to King a commitment to "*the* principle of self-defense" miss something crucial that he seems to have intuitively grasped: even when in-

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23 Martin Luther King, *Stride Toward Freedom: The Montgomery Story* (Boston, MA: Beacon, 2010 [1958]), 129. King's account here may have misrepresented some of the story's details, yet it remains basically accurate.

24 For example: Cobb, *This Nonviolent Stuff'll Get You Killed,* 71.

25 King, *Stride Toward Freedom,* 131.

26 King, *Stride Toward Freedom,* 128.

27 King, *Stride Toward Freedom,* 131.

terpreted as a limited individual personal right, self-defense's meaning and contours have always been deeply contested. In US law, for example, competing libertarian and nonviolent strands uneasily coexist, with the former providing significant leeway for the attacked to "stand their ground" and use force to protect their rights, while the latter instead favors minimizing physical violence, even amid dangerous attacks on their persons, and infers a "duty to retreat" as one way to do so.[28] King was no lawyer. But the account in *Stride Toward Freedom* suggests that he preferred an interpretation of self-defense that favored principled nonviolent over violent responses.

In a 1964 interview for the mass circulation *Redbook Magazine*, in which King was asked point blank if he could ever "personally fight in self-defense," he bluntly responded: "I don't think I would fight in self-defense. I don't think I would use violence in self-defense." Why not? He informed *Redbook*'s overwhelmingly female audience that he had come to embrace "non-violence absolutely, not merely as a technique or a passing strategy but as a way of life."[29] Recall that even when King earlier referenced Gandhi to describe self-defense as a moral and legal right, he accurately noted that Gandhi's endorsement only applied to "those unable to master pure nonviolence."[30] For Gandhi, as for King, pure or perfect nonviolence was aspirational in part because of its fundamentally divine character, and also in part since it was unlikely to "attract large masses, for it requires extraordinary discipline and courage."[31] Since pure or perfect nonviolence was likely unachievable for imperfect mortals, especially when lacking the proper spiritual orientation, the idea of a basic moral and legal right to self-defense, as found within the world's main moral and legal systems, made some sense. Nonetheless, nonviolence was by no means an altogether otherworldly ideal: self-defense clearly did *not* make sense for those pursuing additional moral and spiritual strides toward perfect or pure nonviolence – in other words, those struggling, however imperfectly, to accept nonviolence "absolutely" or completely. King, as the self-consciously spiritual leader of a nonviolent movement that practiced nonviolence as a political tactic but not a

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28 Victoria Nourse, "Self Defense," in *Oxford Handbook of Criminal Law,* ed. Markus D. Dubber and Tatjana Hörnle (New York: Oxford University Press, 2015), accessed July 19, 2022, www.oxfordhandbooks.com. Also, A.J. Ashworth, "Self-Defense and the Right to Life," *Cambridge Law Journal* 34 (1975): 282–307. https://doi.org/10.1017/S0008197300086128.
29 Martin Luther King, "The Greatest Hope for World Peace" (1964), in King, *In a Single Garment of Destiny: A Global Vision of Justice* (Boston, MA: Beacon, 2013), 148.
30 Mantena notes that for Gandhi it was "better to fight than to run, though disciplined sacrifice would be the preferred option above all others." Mantena, "Showdown for Nonviolence," 84.
31 King, "The Social Organization of Nonviolence," 32. On Gandhi's nonviolence, see Joan V. Bondurant, *Conquest of Violence: The Gandhian Philosophy of Conflict* (Berkeley, CA: University of California Press, 1965 [1958]).

complete "way of life," thought it was incumbent on him and others to try to do so, even if he recognized that many of his allies might prove unable to follow his example. At any rate, he and others so inclined spiritually should transcend standard notions of self-defense as found in conventional morality and existing legal systems. Others should be urged to do so as well, even if their efforts ultimately proved incomplete.

Despite his youthful skepticism about Gandhi, King by the late 1950s was "absolutely serious about embracing Gandhian nonviolence as a way of life, not merely a tactic."[32] During his 1959 pilgrimage to India, when asked by journalists whether his nonviolence was a creed or simply a political tactic, he revealingly answered, "I have come to believe in it as a way of life."[33] His associate and fellow activist, Andrew Young (1932), got it right when he observed that King "would never resort to violence, even in defense of his life, but he would not and could not demand that of others."[34] As a "realistic" pacifist, King grasped that doing so would place inordinate demands on many people who simply did not share his demanding spiritual – and especially Gandhian – preferences. Yet, as a defender of principled nonviolence King thought that he was morally obliged to renounce violent self-defense.

Not surprisingly, when King spoke of the right to self-defense, he often did so empirically, that is, he described matters of fact, for example, a right granted to individuals by the US Constitution, or what he viewed as typical human behavior: "It goes without saying that people will protect their homes."[35] Whether or not his remarks were intended to express his own normative commitments is perhaps less clear than many scholars acknowledge. We can now better understand the sources of this ambiguity: in the final analysis, he viewed nonviolence as a still-unrealized – and perhaps never fully realizable – "way of life" incongruent with violent self-defense. Those, like King, seeking to follow Gandhi in his "experiments with truth" by pushing the envelope of pure or perfect nonviolence should be expected to treat it skeptically. When faced with imminent existential threats, King apparently did just that.

King's autobiographical account is revealing in yet another way. Despite his efforts to delineate self-defense as an individual moral and legal from a collective, politically oriented right, his discussion in *Stride Toward Freedom* elides that distinction. In other words, King's discussion of his rejection of individual, poten-

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32 Dorrien, *Breaking White Supremacy*, 280.

33 Quoted in Dorrien, *Breaking White Supremacy*, 313.

34 Quoted in Akinyele Omowale Umoja, *We Will Shoot Back: Armed Resistance in the Mississippi Freedom Movement* (New York: New York University Press, 2013), 154.

35 King, "Nonviolence," 56.

tially violent self-defense fuses with his critique of collective political violence.[36] The obvious reason for the conflation is that King was the spiritual and symbolic leader of the Montgomery protests: attacks by white supremacists on the "individual" King were intended to send a broader political message. Yet even here we can begin to glimpse a thorny problem King, to his credit, recognized: in discussions of self-defense, who constitutes the "self" to be defended, and how can we neatly delineate him/her from other selves? In reality, calls for individual self-defense are often rapidly transformed into demands to defend some broader collectivity that transcends the individual self (for example, in King's account, his "family" and, as he feared, Black Americans as a group). Judith Butler has described the dilemma nicely: "Who is this 'self' defended in the name of self-defense? How is that self delineated from other selves, from history, land, or other defining relations and identities?"[37] Given the ways in which the "self" is always dependent on and intermeshed with others, what impedes calls for individual self-defense from quickly encompassing a defense of one's family, political allies or "own" people? "If one will kill for this or that person who is proximate and affiliated, what finally distinguishes the proximate from the non-proximate, and under what conditions could that distinction be regarded as ethically justifiable?"[38]

This slippery issue raises difficulties for the attempt to delineate cleanly individual from collective, (oftentimes) political self-defense. In light of the porous borders between the two, can we neatly segregate individual self-defense as a moral and legal right? If we worry, as King certainly did, about the perils of organized violence in collective political struggles, should we not also worry about individual self-defense, since it rarely in fact is "just" about the individual self?

In the final analysis, King ultimately undermined a *principled* defense of the individual right to self-defense, at least when potentially justifying violence. Given King's synthesis of Christianity and Gandhi, this should not surprise us: he deemed violence a moral evil. As he bluntly commented in a 1959 NAACP address in which he criticized Williams's advocacy of counterviolence against white terror, "there are some of us who still believe that violence is immoral."[39] The "non-violent affirmation of the sacredness of all human life" was always pivotal to his political and moral vision.[40] In *Where Do We Go From Here?* he argued that

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36 King, *Stride Toward Freedom,* 122–142.

37 Judith Butler, *The Force of Non-Violence* (New York: Verso, 2020), 8–9.

38 Butler, *The Force of Non-Violence,* 54.

39 Martin Luther King, "Address at the Fiftieth Annual NAACP Convention" (July 17, 1959), in *The Papers of Martin Luther King, Jr.,* ed. Clayborne Carson (Berkeley, CA: University of California Press, 2005), 248.

40 Martin Luther King, *The Trumpet of Conscience* (New York: Harper, 1987 [1968]), 72.

[f]rom time immemorial men have lived by the principle that "self-preservation is the first law of life." But this is a false assumption. I would say that other-preservation is the first law of life. It is the first law of life precisely because we cannot preserve self without being concerned about preserving other selves [. . .] The self cannot be self without other selves. Self-concern without other-concerns is like a tributary that has no outward flow to the oceans.[41]

The reality of social interdependency means that individual self-preservation or self-defense can never simply concern oneself, or even those most proximate to us (for example, one's family). For King, "[a]ll men [*sic*] are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."[42] Violence directed against other persons, too often, entails violence against oneself and those closest or most "proximate" to us. Even violence aimed at the agents of oppression can damage and impair those fighting oppression, oftentimes in crippling and self-destructive ways. The conventional idea of a right to individual self-defense obscures the fact every "self" is always intimately linked in such a "network" to countless others. It ignores the possibility that violence against others, even when done in the name of self-defense, can prove self-defeating. As Butler has again aptly queried, "[i]s the one to whom violence is done not also in some sense part of the 'self' who defends itself through an act of violence?"[43] Since those who threaten me nonetheless participate in the same "network of mutuality" on which I depend, by harming them I may, however indirectly, harm myself.

To be sure, from the perspective of the concrete individual "self" facing violent assault the immediate problem is not that some abstract "network of mutuality" is under attack: violence as an "unwanted physical interference" that generates bodily and psychological damage is a serious threat whose terrible contours should not be trivialized.[44] Nonetheless, King seems to have recognized that even when ignited by the specter or reality of severe violence, calls for self-defense raise complicated questions that too often tend to get brushed off in the heat of the moment.

Commentators who have tried to interpret King as a defender of violent self-defense tend to downplay his engagement with pacifist and nonviolent political thought. For example, King thought highly of Richard Gregg (1885–1974), an influential US-based labor and peace activist who had lived in India and played a major role in importing Gandhi's ideas into the midcentury US Black freedom struggle. Gregg's *The Power of Nonviolence* (1959), for which King wrote a short

41 King, *Where Do We Go From Here?*, 190.

42 Martin Luther King, "Letter from Birmingham City Jail" (1963), in *Civil Disobedience In Focus,* ed. Hugo Adam Bedau (New York: Routledge, 1991), 69.

43 Butler, *The Force of Non-Violence,* 8–9.

44 John Keane, *Reflections on Violence* (New York: Verso, 1996), 66–67.

preface,[45] clearly influenced him. As King wrote to Gregg, he admired the book's "idea of non-violence [as] a more realistic and depthful [*sic*] interpretation" than King had apparently found in other writers.[46] Tellingly, Gregg's hugely influential analysis of nonviolence as a form of "moral jiu-jitsu" ignored the boundaries between personal or individual and collective or political self-defense. Although intended as a political intervention, Gregg relied on an idealized account of an individual who had violently attacked a nonviolent "resister," who demonstrated his superior toughness and discipline precisely by refusing to meet violence with violence. By renouncing self-defensive violence, Gregg argued, those subjected to physical assaults could neutralize their attackers by throwing them off balance and gaining the sympathy of onlookers.[47]

I began this section by conceding that the now commonplace reading of King as defending an individual right to self-defense initially seems plausible. Hopefully, I have succeeded in raising critical questions about that interpretation. In fact, King sometimes challenged the delineation of self-defense as an individual moral and legal right from a collective, political right. We now need to explore more deeply his reasons for rejecting the latter.

3 "Through violence you may murder a murderer but you can't murder murder"

King claimed that in the context of political protests, "self-defense must be approached from quite another perspective" than either in conventional moral codes or existing legal systems.[48] For this reason, he could never abide calls for collective, armed self-defense emanating from Williams, Stokely Carmichael, Malcolm X and others whose hostility to his nonviolent proclivities gained political

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45 Martin Luther King, Foreword to *The Power of Nonviolence,* by Richard Gregg (Nyack, NY: Fellowship Publications, 1959), 9. Gregg's neglected volume has been reissued, with an excellent introduction by James Tully: Richard Gregg, *The Power of Nonviolence,* ed. James Tully (Cambridge: Cambridge University Press, 2018).

46 Cited in Joseph Kip Kosek, "Richard Gregg, Mohandas Gandhi, and the Strategy of nonviolence," *Journal of American History* 91, no. 4 (2005): 1344, https://doi.org/10.2307/3660175. Also, by the same author: *Acts of Conscience: Christian Nonviolence and Modern American Democracy* (New York: Columbia University Press, 2011).

47 To be sure, Gregg's volume ultimately pivots away from its (arguably) individualistic starting point.

48 King, "Nonviolence," 57.

traction in the mid-1960s. Most fundamentally, King believed that they moved too quickly from endorsing an individual moral and legal right to a collective political right to self-defense, despite the fact that these were two very different creatures. As I have tried to show, King ultimately challenged even the idea of individual self-defense, when conventionally interpreted as allowing for violence against persons. As a factual matter, however, he conceded that existing moral and legal systems surely provided such a right. Still, the individual's right to ward off assaults remained distinct from protest movements that armed and trained their followers, "as in warfare, deliberately and consciously," for violent self-defense.[49] Violence as part of a "collective struggle" had to be distinguished from individual violence aimed at protecting one's person or home.[50] Moreover, it was just wrong to hope that organized violence, undertaken by an outnumbered racial minority, might realistically advance social and political progress.

King's condemnation of violent political self-defense rested, not surprisingly, on Christian and Gandhian foundations. "This is the whole idea, that the individual who is engaged in a nonviolent struggle must never inflict injury upon another," even when subjected to physical abuse.[51] Doing so would violate the spirit of love or disinterested, universal *Agape* crucial to morally legitimate – and politically efficacious – protest: "To retaliate in kind would do nothing but intensify the existence of hate in the universe."[52] Violence humiliates political opponents and increases the overall proportion of hatred and resentment in a universe already overflowing with them. It makes it difficult if not impossible to win over opponents. Indeed, the "nonviolent resister not only refuses to shoot his opponent but he also refuses to hate him."[53] Protests should target injustice, not specific individuals. Activists must "attack the evil system rather than individuals who happen to be caught up in it."[54] In every unjust system, there are perpetrators and victims, oppressors and oppressed. Yet the fact of social interdependence, or social "network of mutuality," means that any given individual's precise role in such a system sometimes proves complex.

Inspired by Christ, activists should recognize that exemplars of unearned redemptive suffering speak directly to the conscience and can sway those otherwise indifferent or even hostile. When faced with police brutality or angry mobs, protestors ideally turn the other cheek. Nonviolent activists know that "suffering becomes

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49 King, "Social Organization of Nonviolence," 32.

50 King, "Social Organization of Nonviolence," 33.

51 King, "Love, Law, and Civil Disobedience" [1961], in *Testament of Hope,* 47.

52 King, *Stride Toward Freedom,* 92.

53 King, "An Experiment in Love", 19.

54 King, "The Power of Nonviolence" [1957], in *A Testament of Hope,* 12.

a powerful social force when you willingly accept that violence on yourself."[55] To be sure, if doing so means incurring unnecessary dangers, some protective measures could be appropriate. Describing the violent reprisals faced by peaceful activists on August 5, 1966 in Chicago's Marquette Park, King commented:

> These marchers endured not only the filthiest kind of verbal abuse, but also barrages of rocks and sticks and eggs and cherry bombs. They did not reply in words or violent deeds [. . .] [T]heir only weapon was their own bodies. I saw boys like Goat leap into the air to catch with their bare hands the bricks and bottles that were sailed toward us.[56]

Such acts were acceptable since bricks and bottles posed immediate and potentially life-threatening perils; snatching them out of the air generated no such perils. Measures of this type remained nonviolent because they did not involve harmful retaliation against violent wrongdoers. Catching a brick or bottle before it smashes your skull was different from aggressively throwing them back at counterdemonstrators.

It would be a mistake to downplay King's radicalism on this issue. Like Gandhi, King wanted a nonviolent *revolution* that aimed at a qualitative break with contemporary society. Thus, he asserted that militants who endorsed violence were, in fact, *less* authentically radical than he and his nonviolent comrades: the militants' soft spot for violence reproduced the violent logic at the heart of existing Western societies, which in King's view were plagued not only by racism but also materialism, militarism and unjust capitalism. Their seemingly radical yet, in reality, conventional ideas trivialized violence's dangers by falsely viewing it as a purifying force or, alternately, ignoring how its deployment unavoidably polluted political ends or outcomes. If anti-racist activists were to transform and not simply tweak contemporary society, they would have to break with Western modernity's preoccupation with political violence.

Remarking on Frantz Fanon (1925–1961) and his burgeoning influence among younger US militants, King accordingly criticized their *insufficient* political creativity and radicalism. King conceded that Fanon might be right to see political violence as having a "certain cleansing effect" in psychological terms.[57] He also agreed with Fanon and his disciples on the need to break dramatically with European political and intellectual traditions, and thus seek out "new concepts" in order to "set afoot a new man."[58] However,

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55 King, "Love, Law, and Civil Disobedience," 47.

56 King, "A Gift of Love" [1966], in *Testament of Hope*, 63.

57 King, "Testament of Hope" [1968], in *Testament of Hope,* 322.

58 Frantz Fanon, *The Wretched of the Earth,* trans. Constance Farrington (New York: Grove, 2004 [1961]), 316.

the problem is that Fanon and those who quote his words are seeking "to work out new concepts" and "set afoot a new man" with a willingness to imitate old concepts of violence. Is there not a basic contradiction here? Violence has been the inseparable twin of materialism, the hallmark of its grandeur and misery. This is the one thing about modern civilization that I do not care to imitate.[59]

For King, his own fusion of Gandhi with Christianity remained not only intellectually and morally superior but also more genuinely radical and indeed revolutionary.

The spiritual-religious footing of King's critique of political self-defense has always made it difficult for even many of his admirers to accept. It would be misleading to try to trivialize the centrality of his spiritual preferences or the problems they pose. Yet recall again that King, like Gandhi, recognized that pure or perfect nonviolence was aspirational. Consequently, his spiritual-religious critique of self-defense would have to be translated into more general and accessible terms. Thus, his "realistic" pacifism would necessarily have to outline plausible "realistic" grounds for rejecting politically motivated, violent self-defense. Not surprisingly, when responding to the Deacons for Justice and Defense, Black Power and others, King provided a series of identifiably *political* criticisms of organized self-defense as a strategy.

Some of King's comments in this vein have been confirmed by recent social science research. For example, he presciently observed that nonviolent movements are better at attracting a mass following; armed movements typically appeal only to small groups. A "huge, unarmed but resolute mass of people," organized nonviolently, is more likely to succeed in crippling an unjust system of power than tiny groups of armed militants.[60] Even though defenders of armed self-defense like to tout their radical credentials, they in fact are typically less likely to mobilize and sustain a popular movement capable of generating lasting social change, a goal impeded by violence's tendency to generate distrust and aggrandize existing tensions. If Black Americans succumb "to the temptations of using violence," King thus announced, "unborn generations will be the recipients of a long desolate night of bitterness" that will prevent durable progress.[61] Demands for armed self-defense get in the way of any attempt to escape the cycle of violence. Calls for violence aggrandize racist hatred: it makes the likely backlash morally and politically less costly for aggressors.[62] In the United States, they might entail massive casualties "to a minor-

59 King, *Where Do We Go From Here?,* 68.

60 King, "Social Organization of Nonviolence," 33. On large numbers and their key role in nonviolent movements: Erica Chenoweth, *Civil Resistance: What Everyone Needs to Know* (New York: Oxford University Press, 2021), esp. 93–94.

61 King, "Love, Law, and Civil Disobedience," 44–45.

62 I am grateful to Alex Livingston for this formulation.

ity population confronting a well-armed, wealthy majority with a fanatical right wing that is capable of exterminating the entire black population and would not hesitate such an attempt if the survival of white Western materialism were at stake."[63] The conditions for a violent overthrow of white privilege in the United States were nonexistent; superficial parallels being drawn to revolutionary conditions in colonial and developing countries were misleading. According to King, those advocating self-defense too often provided evasive and sometimes illogical answers when critics sought to pin them down on complicated questions of strategy and tactics.[64] Militants' frustrations with the slow pace of progress were understandable, yet they nonetheless lacked a coherent political vision.

A key reason "it is extremely dangerous to organize a movement around self-defense" is that doing so detracts from the core political issues at hand.[65] When an oppressed group opts for paramilitary tactics, the cause at hand – along with the exploitation and oppression that motivated protestors – tends to get sidelined in favor of an overheated, emotional debate about violence, its tactics, and those engaging in it. "The minute a program of violence is enunciated, even for self-defense, the atmosphere is filled with talk of violence, and the words falling on unsophisticated ears may be interpreted as an invitation to aggression."[66] Even limited calls for armed self-defense risk blurring the "line of demarcation between defensive violence and aggressive violence;" boundaries between self-defense and violent resistance soon vanish.[67] Calls for violence personalize political issues that are properly viewed in structural or systemic terms: "For through violence you may murder a murderer but you can't murder murder."[68] Organized self-defense potentially neutralizes a violent white supremacist, for example, but the broader political and social problem of structural racism typically remains. Activists should seek a revolution directed "not against the lives of the persons who are fellow citizens, but against the structures through which the society is refusing to take means which have been called for."[69] When political debate dwells on violent acts and their perpetrators, it clouds the very real problem of white violence while exaggerating threats posed by Black Americans – yet another reason why calls for violent self-defense are politically counterproductive.[70]

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63 King, "Nonviolence," 55.

64 King, *Where Do We Go From Here?,* 60–61.

65 King, "Nonviolence," 57.

66 King, *Where Do We Go From Here?,* 57–58.

67 King, *Where Do We Go From Here?,* 57.

68 King, "Where do we go from here?" (1972), in *Testament of Hope,* 249.

69 King, *Trumpet of Conscience,* 59–60.

70 King, *Trumpet of Conscience,* 53–64.

King's critical response to defenders of organized self-defense ultimately tapped a messy mix of religious and spiritual, principled as well as more tactical political, and highly contextual arguments. Always first a political activist, he did not seek a general philosophical or theoretical statement; King never aspired to become a general philosopher or theorist of political obligation.[71] Nonetheless, it is hard to deny that at least some elements of his critique of violent self-defense remain valuable. There are good reasons for believing, for example, that 1960s calls for self-defense among Black militants likely contributed, albeit in complex ways, to a white backlash and a counterproductive shift in political discourse.[72] Those calls were indeed not only widely misinterpreted but sometimes morphed into justifications for aggressive and retaliatory violence wrapped in pseudo-revolutionary jargon.[73] Even if King was probably too naive in his hope that redemptive unearned suffering might disable racists, he was still right to identify nonviolence's many political advantages. However incompletely, he intimated the possibility of nonviolent protective measures as a way to ward off violent reprisals. His worries about the vague and often irresponsibly amorphous contours of demands for political self-defense were also justified. Such calls indeed risk violating "the first law of life," that even in a racist society, "we cannot preserve self without being concerned about preserving other selves [. . .] The self cannot be self without other selves."[74] Violence, even in the context of an unjust political community, too often ricochets back against those committing it.

Writing about the violent racially motivated upheavals that shook US cities in the mid-1960s, King predicted that they "will strengthen the right wing of the country, and we'll end up with a kind of [. . .] Fascist development."[75] This observation hardly seems far-fetched in the contemporary US political context, where Donald Trump and an increasingly authoritarian Republican Party stoke irrational white fears of Black violence, real or fictional, to justify their ongoing, oftentimes violent clampdown on basic liberal and democratic rights.

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71 Erin R. Pineda, *Seeing Like an Activist: Civil Disobedience in the Age of the Civil Rights Movement* (New York: Oxford University Press, 2021).

72 Illuminating in this vein: Omar Wasow, "Agenda Seeding: How 1960s Black Protests Moved Elites, Public Opinion and Voting," *American Political Science Review* 114, no. 3 (2020): 638–659, https://doi.org/10.1017/S000305542000009X.

73 Curtis J. Austin, *Up Against the Wall: Violence in the Making and Unmaking of the Black Panther Party* (Fayetteville, AR: University of Arkansas Press, 2006). Williams fled to Castro's Cuba and then moved to Maoist China, where he was treated like a dignitary and identified with revolutionary communism, before ultimately returning to the US.

74 King, *Where Do We Go From Here?*, 190.

75 King, "Showdown for Nonviolence," 69.

My discussion raises the question of how far King ultimately took his critique of violent self-defense in related political contexts, for example, in international relations, or anticolonial strategies. A full exploration of those issues would take us beyond the limited contours of this chapter. King's views of them were similarly complex, in part for the simple reason that perfect or pure nonviolence, as noted, was for him always an ideal aspiration that one should strive, whenever possible, to realize, while recognizing that its full achievement was often unlikely. It is telling, however, that he was irked by critics who accused him of hypocrisy for condemning violent protest at home while defending US foreign policy. As early as 1959, he pointedly responded to Williams (who had attacked King along these lines),[76] by stating that he opposed war as the "most colossal of evils" and would continue to condemn "any organizer of war, regardless of his rank or nationality."[77] Notwithstanding intense political pressure from some of his own advisers and white liberal allies, King denounced US military intervention in Vietnam and spoke out eloquently against it, even when many others who knew better refused to do so. He regularly criticized the nuclear arms race and US militarism. Of course, he sympathized with anticolonial and revolutionary movements and generally was reluctant to criticize them publicly. Yet he never succumbed to their uncritical adulation, in striking contrast to many Black (and white) activists in the 1960s who considered King's nonviolence naive and politically obsolete.

4 Political self-defense today

I do not consider it useful to speculate about King's possible views about contemporary protest movements. He was murdered over fifty years ago; our political universe is very different from his. However, King's reflections do raise questions for contemporary philosophers, political theorists and social scientists who view violent self-defense as a potentially legitimate contribution to protest politics. Though many of them are rightly countering idealized interpretations of the US civil rights movement and King's role in it, they risk going too far in cleansing that history of King's strict nonviolence and skepticism about self-defense. In con-

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76 Williams, *Negroes with Guns*, 113–114. Timothy B. Tyson is wrong to claim that both King and Williams preferred nonviolence but endorsed "the principle of self-defense, even involving weapons and bloodshed." Timothy B. Tyson, *Radio Free Dixie: Robert F. Williams and the Roots of Black Power* (Chapel Hill, NC: University of North Carolina Press, 1999), 216.

77 King, "Social Organization of Nonviolence," 34. More generally, see the many speeches and writings collected in King, *In a Single Garment of Destiny.*

trast to King's complicated reflections on the topic, some writers now justify self-defense as little more than an afterthought; they do not spend much if any time dealing with its complexities and possible dangers.[78] Others make precisely the rapid-fire move from individual to collective self-defense King rejected: "The individual case for self-defensive violence can extend to the collective"[79] To be sure, those doing so often worry about retaliatory and aggressive violence: any harm inflicted by self-defensive political vigilantes "must be a proportional (necessary and fitting) response to an immediate threat."[80] Yet their otherwise impressive theoretical expositions remain insufficiently attuned to the dynamics of political violence. As King grasped, martial calls for self-defense tend to distort and poison political discourse. In deeply unjust societies in which dominant groups are always ready and eager to clamp down on dissenters and protestors, modest calls for self-defense too often invite repression and guarantee defeat: "The minute a program of violence enunciated, even for self-defense, the atmosphere is filled with talk of violence, and the words falling on unsophisticated ears" open the door to a terrible backlash.[81] Theorists now busily outlining abstract conditions (usually based on just war theory) for the possibly justified deployment of self-defensive violence ignore some hard-won political lessons. They do not pay enough attention, for example, to the likelihood that calls for organized self-defense simply invite privileged groups angered by protest violence, real or otherwise (for example, property destruction), to pursue supposedly self-defensive vigilante action *against* protestors, with potentially disastrous results.[82] The problem remains that self-defense, precisely because it is difficult to circumscribe the precise scope of the "self" to be defended, "has been defined so loosely as to allow all sorts of aggressive actions."[83]

I do not deny that some forms of political violence may be tragically unavoidable in the most extreme conditions of injustice.[84] But in the violent societies in which many of us reside, King's nonviolent vision of an alternative political

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78 E.g., Celikates, "Rethinking Civil Disobedience as a Practice of Contestation," 41; Milligan, *Civil Disobedience,* 14.

79 Delmas, *Duty to Resist,* 179.

80 Delmas, *Duty to Resist,* 96.

81 King, *Where Do We Go From Here?,* 57–58.

82 For example, amid antiracist protests in Kenosha (Wisconsin) on 22 August 2020, Kyle Rittenhouse shot three men, two of whom died, with an AR-15. He later claimed that he brought his weapon to the protests to protect local businesses from looters. During his trial, he claimed a right to self-defense and was acquitted. Rittenhouse is now a right-wing US media celebrity.

83 Howard Zinn, *Disobedience and Democracy: Nine Fallacies on Law and Order* (Cambridge, MA: South End, 2002 [1968]), 48.

84 Neera Chandhoke, *Democracy and Revolutionary Politics* (London: Bloomsbury, 2015).

world in which violence has been reduced to an absolute minimum remains appealing. In the United States, an extreme right-wing Supreme Court has tendentiously reinterpreted the Constitution so as to permit individual possession of weapons of mass destruction; gun ownership remains as patriotic as baseball and apple pie. King was right to insist that Americans needed a qualitative break with that violent "heritage" if we were to survive and thrive as a constitutional democracy. Calls for self-defense, he recognized, would almost always get in the way of Americans' unfinished struggle to do so. King's lesson is surely valid elsewhere – for example, in Europe, birthplace of fascism, Stalinism and so much of the world's most venomous colonial violence.

Przemyslaw Tacik

Violence in self-determination conflicts: Exploring the zone of exception in international law

1 Introduction

It would be a false presupposition to abstractly separate philosophical and practical considerations of the problem of political violence. Not only because the former can be used to legitimize actual violence, but also because of the role violence plays in political practice – together with its legal underpinning – is a vital source of reflection for theory. The present chapter delves into international law and international relations to enrich theoretical understanding of how a particular type of political violence – applied in self-determination conflicts. As I will demonstrate, self-determination conflicts are ruled by a particular type of the state of exception to international law. It not only allows violence, but assumes it as part and parcel of its machinery. It is violence neither excluded nor contained within the law, but preserved in a zone of withdrawal from the law. Such an account greatly complicates the usual understandings of violence as either abolished or monopolized by the law.

Philosophical pedigree of these explorations is to be found among key thinkers of the state of exception (and the element of violence that it contains): Carl Schmitt (1888–1985) and Giorgio Agamben. I will also make references to Thomas Hobbes's (1588–1679) and Walter Benjamin's (1892–1940) accounts of political violence to demonstrate in which respect the state of exception paradigm can enrich it.

The chapter is organized as follows. First, I discuss three main traditions of thinking about the relationship between violence and the law. Then I move to a theoretical account of the state of exception. With these considerations in mind I turn to the doctrine of international law to demonstrate how the right of peoples to self-determination is a unique form of the state of exception specific to international law. Finally, I explore the zone of exceptional violence at the heart of international law in order to draw conclusions on how the relationship between violence and the law can be reconsidered.

2 Law and violence: Three accounts

There seem to be at least three traditions of thinking about the relationship between the law and violence. The first one, which we may be tempted to label as the most traditional or intuitive – even if only due to the strength of the intrinsic ideology of the legal – assumes that the law pacifies, curbs and regulates violence. Whenever there is violence, there is no law proper; law appears in order to put an end to violence understood as extra-legal affliction.[1] This tradition is firmly rooted in a Hobbesian vision of the *natural right to use violence* which ceases when transferred to the sovereign and re-emerges if the sovereign's power fades:

> [T]he obligation of subjects to the sovereign is understood to last as long, and no longer, than the power lasteth by which he is able to protect them. For the right men have by nature to protect themselves, when none else can protect them, can by no covenant be relinquished. The sovereignty is the soul of the Commonwealth; which, once departed from the body, the members do no more receive their motion from it. The end of obedience is protection; which, wheresoever a man seeth it, either in his own or in another's sword, nature applieth his obedience to it, and his endeavour to maintain it.[2]

What separates the law and violence in this vision is the social contract. After it is concluded, natural violence gives way to the sovereign-based law which, in a general sense, still uses violence, but in a legitimate (or rather self-legitimized) way that is no longer natural. Therefore, the law is the eclipse of proper violence.

The second vision strives to identify violence within the law. Walter Benjamin stands perhaps for its most eminent theoretician: for him, the law is a system of a systemic, self-substantiated violence that attempts to get rid of this name. Whenever the law applies violence, it seems to do so in the name of justice and reason, just as if violence did not exist within it. Benjamin begins with criticizing the two sides of the same coin on which the previous theory is built. In natural law, ends are just and means contingent; positive law legitimizes means and channels violence into the force of the law by declaring them legal or illegal.[3] From the perspective of this vicious circle it is impossible to grasp the relationship between violence and justice of the entire construct. According to Benjamin, it can however be seen in confrontation with the type of violence that this system

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1 See Christoph Menke, *Law and Violence: Christoph Menke in Dialogue* (Manchester: Manchester University Press, 2018), 3.

2 Thomas Hobbes, *Leviathan: The Matter, Forme, & Power of a Common-wealth Ecclesiasticall and Civill* (London: Andrew Crooke, 1651), 136.

3 Walter Benjamin, "The Critique of Violence" in *Reflections: Essays, Aphorisms, Autobiographical Writings*, ed. Peter Demetz (New York: Schocken, 1986), 279.

fears the most: the one used in and by class struggle.[4] The law fears the type of violence which has in itself a law-making potential (embodied by "great criminals," as Benjamin claims).[5] It is so because the thetic moment of such violence – through which a violent act establishes a whole normative system that it begins to underpin – lays bare that the law itself is based on a similar gesture. Those who are violent by creating a new law and denying the existing one put themselves in a sovereign position that the law assaults ferociously. What they reveal is the law-preserving violence at the foundations of the legal system – in fact, the highest form of violence:

> [F]or if violence, violence crowned by fate, is the origin of law, then it may be readily supposed that where the highest violence, that over life and death, occurs in the legal system, the origins of law jut manifestly and fearsomely into existence. In agreement with this is the fact that the death penalty in primitive legal systems is imposed even for such crimes as offenses against property, to which it seems quite out of "proportion." Its purpose is not to punish the infringement of law but to establish new law. For in the exercise of violence over life and death more than in any other legal act, law reaffirms itself.[6]

As Karl Marx (1818–1883) repeated after Benjamin Constant (1767–1830), "rien n'est plus terrible que la logique dans l'absurdité" (nothing is more terrible than the logic in the absurd).[7] The law epitomizes such a logic: by elevating violence to the rank of the legal it does not eclipse, justify or rationalize it, but only elaborates it into a system of camouflaged absurdity.

The third theory does not understand the law and violence as antinomies; neither does it focus on the thetic moment in which violence establishes the law. It rather focuses on how the law withdraws itself – in order to be applicable – and, by that, creates a zone of violence. This paradigm, rooted in Schmitt's and Agamben's conceptualizations of the exception, treats seemingly extra-legal violence as part and parcel of the legal apparatus. What is striking in this conceptualization is the way in which it approaches pure violence, not veiled by the concepts of legitimacy, justice or legality, as a pre-conceived aspect of the law. This violence is neither within the law proper, nor at its foundations: it appears whenever the law commands its boundaries. Although neither Schmitt nor Agamben focuses explicitly on the relationship between the law and violence, the paradigm of exception that they elaborate allows a more nuanced theorization of it.

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4 Benjamin, "Critique of Violence," 281.
5 Benjamin, "Critique of Violence," 283–284.
6 Benjamin, "Critique of Violence," 286.
7 Karl Marx, "Debates on the Law on Thefts of Wood," Marxists.org, accessed September 25, 2022, http://hiaw.org/defcon6/works/1842/10/25.html.

In this chapter I extrapolate Schmitt's and Agamben's theorization of the exception in order to use the third theory for explanation of the zone of inherent violence at the heart of international law. As I will claim, people's right to self-determination (henceforth, RSD) in its most fundamental, external form – involving state-creation – represents a state of exception peculiar to international law. This zone is created by withdrawal of international law from deciding between the two sides – the secessionists and the existing government – and thus open a field of factual fight. Unless the government has the good will to grant secession (which historically happens extremely rarely), this open conflict involves a high level of violence, often a fully-fledged civil war with possible atrocities, bloodshed and ethnic cleansing. During this conflict, international law is present only in a very reduced form through some norms of international humanitarian law. Only after the conflict is decided through applying violence does international law return to the scene to add legal value to what has happened. Through the mechanism of state recognition, it allows existing states to decide on the status of the newly created entity. As a result, the RSD involves a specific state of exception[8] in which international law deliberately opens a space for violence only to return to the scene later in order to give it a proper legal sense. Throughout this chapter, we return to the recognition that the relation between violence and international law in this field is the one of *exclusion*: international law deliberately creates a zone in which violence is allowed to play its role.

3 Violence and the exception

The relationship between violence and its third theory is conditioned by its firm embedding in the Hegelian paradigm. Both Schmitt and Agamben operate within

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8 The bibliography for the state of exception is particularly rich. Key works on Schmitt's and Agamben's line of interpreting it are: Jacques Derrida, "Force of Law: The Mystical Foundation of Authority," in *Deconstruction and the Possibility of Justice,* ed. Drucilla Cornell and Michel Rosenfeld (New York: Routledge, 1992), 3–67; Gian Giacomo Fusco, *Form of Life: Agamben and the Destitution of Rules* (Edinburgh: Edinburgh University Press, 2022); Cosmin Cercel, Gian Giacomo Fusco, and Simon Lavis, eds., *States of Exception: Law, History, Theory* (Abingdon and New York: Routledge, 2021); Daniel McLaughlin, ed., *Agamben and Radical Politics* (Edinburgh: Edinburgh University Press, 2016); William Watkin, *Agamben and Indifference: A Critical Overview* (London: Rowman & Littlefield, 2014); Jens Meierhenrich and Oliver Simons, eds., *The Oxford Handbook of Carl Schmitt* (Oxford: Oxford University Press, 2016); John Ferejohn and Pasquale Pasquino, "The Law of the Exception: A Typology of Emergency Powers," *International Journal of Constitutional Law* 2, no. 2 (2004): 216; Mark Neocleous, "The Problem With Normality: Taking Exception to 'Permanent Emergency'," *Alternatives* 31, no. 2 (2006): 207.

the boundaries outlined by G. W. F. Hegel (1770–1831): just as in his thought every totality is dependent on the negative determination that underpins it,[9] so in Schmitt's and Agamben's approaches the law is an unstable totality which is upheld by the exception. Through this exception the law maintains its relationship to the political as its base. It is through these Hegelian roots that Schmitt and Agamben build a paradigm which enables grasping pure violence *within* the law.

Their approaches obviously differ. Famously, Schmitt understands the sovereign as the subject "who decides on the exception."[10] In other words, sovereignty – the key political concept – is understandable only through the concept of exception. Its meaning is to be sought not in what is central and normalized, but in margins and unique circumstances. Therefore sovereignty should be understood as involving Hegelian rather than Aristotelian logic:

> [C]ontrary to imprecise terminology that is found in popular literature, a borderline concept is not a vague concept, but one pertaining to the outermost sphere. This definition of sovereignty must therefore be associated with a borderline case and not with routine.[11]

Sovereignty is thus dependent on the exceptional supplement that organizes it. The paradoxical relationship between sovereignty and the exception is replayed in another: the one between the general rule and the act of its application. Contrary to positivist understanding of applying the rule through syllogism, the rule is not easily applied to the case, but linked with it through the category of *decision*:

> [T]he assertion that the exception is truly appropriate for the juristic definition of sovereignty has a systematic, legal-logical foundation. The decision on the exception is a decision in the true sense of the word. Because a general norm, as represented by an ordinary legal prescription, can never encompass a total exception, the decision that a real exception exists cannot therefore be entirely derived from this norm.[12]

It is this link between the couples sovereignty/exception and rule/application that Agamben addresses in his *Homo sacer* series in order to theorize the state of exception.[13] His theory is based on two crucial elements: identifying the state of ex-

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9 G. W. F. Hegel, *The Science of Logic*, trans. George di Giovanni (Cambridge: Cambridge University Press, 2010), 132–133.

10 Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Cambridge, MA, and London: MIT Press, 1985), 5.

11 Schmitt, *Political Theology*, 5.

12 Schmitt, *Political Theology*, 5–6.

13 Giorgio Agamben, *Homo sacer: Il potere sovrano e la nuda vita* (Torino: Einaudi, 1995); *Stato di Eccezione. Homo sacer II, 1* (Torino: Bollati Boringhieri, 2003); *Il regno e la gloria: Per una genealogia teologica dell'economia e del governo. Homo sacer II, 2* (Torino: Bollati Boringhieri, 2009); S*tasis: La guerra civile come paradigma politico. Homo sacer II, 2* (Torino: Bollati Boringhieri, 2015); *Il sacramento del linguaggio: Archeologia del giuramento. Homo sacer II, 3* (Bari: Lat-

ception with a Schmittian sovereign's decision of suspending the law[14] and the *Homo sacer*, a device that regulates life by its exclusion from the scope of the law.[15] But at the heart of both these theories is a specific Agambenian understanding of the exception itself. Exception, as portrayed in Agamben's thinking, is nothing but a constitutive part of the law which inevitably emerges from the law's linguistic stratum:

> [T]he exception is a kind of exclusion. What is excluded from the general rule is an individual case. But the most proper characteristic of the exception is that what is excluded in it is not, on account of being excluded, absolutely without relation to the rule. On the contrary, what is excluded in the exception maintains itself in relation to the rule in the form of the rule's suspension. The rule applies to the exception in no longer applying, in withdrawing from it. The state of exception is thus not the chaos that precedes order but rather the situation that results from its suspension. In this sense, the exception is truly, according to its etymological root, taken outside (*ex-capere*), and not simply excluded.[16]

Thus construed, exception is a crossing between generality and individuality. It is, however, not built upon the model of proportionality and commensurability between the two, but on their inherent interlinked discrepancy which emerges in *suspension* of the rule. The individual appears in the space of withdrawal of generality. What actually links them is the exception – a proper singularity within the law:

> [T]he situation created in the exception has the peculiar characteristic that it cannot be defined either as a situation of fact or as a situation of right, but instead *institutes a paradoxical threshold of indistinction between the two* [emphasis mine]. It is not a fact, since it is only created through the suspension of the rule [. . .] [T]he sovereign exception is the fundamental localization (*Ortung*), which does not limit itself to distinguishing what is inside from what is outside but instead *traces a threshold (the state of exception) between the two, on the basis of which outside and inside, the normal situation and chaos, enter into those complex topological relations that make the validity of the juridical order possible*.[17]

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erza, 2008); *Opus Dei: Archeologia dell'ufficio. Homo sacer II, 5* (Torino: Bollati Boringhieri, 2012); *Quel che resta di Auschwitz: L'archivio e il testimone. Homo sacer. III* (Torino: Bollati Boringhieri, 1998); *Altissima povertà: Regole monastiche e forma di vita. Homo sacer IV, 1* (Vicenza: Neri Pozza, 2011); *L'uso dei corpi. Homo sacer IV, 2* (Vicenza: Neri Pozza, 2014).

14 Schmitt, *Political Theology*, 5–7; Giorgio Agamben, *Homo sacer*, trans. Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1998), 15–19; *State of Exception (Homo sacer II, 1)*, trans. Kevin Attell (Chicago, IL: University of Chicago Press, 2005), 1–2.

15 Agamben, *Homo sacer*, 71–103.

16 Agamben, *Homo sacer*, 17–18.

17 Agamben, *Homo sacer*, 18–19. [emphasis added]

In this respect lies the crucial discrepancy between Schmitt and Agamben. The former theorizes the link between generality and exceptionality through the concept of decision which, in turn, represents the intervention of the political into the legal. It is mostly limited to the most general relationship between the entire legal system and its exception. In Agamben, however, this relationship is extended to all interactions between general rules and acts of its application. Moreover, instead of focusing on decision as a link, Agamben proposes a much more conceptual solution. The decision is rather an agent that operates within a special zone. This zone is characterized – and constructed – by the *threshold of indistinction.*

The move from Schmitt to Agamben is therefore defined by gradual evacuation of personal agency from the field of exceptionality. In Schmitt, the sovereign and its decision are still largely modeled on the constitutional devices of the state of exception, in which a concrete head of state takes the exceptional decision. In Agamben, it is a space that opens up through the work of language itself. Exceptionality, marked by the threshold of indistinction, appears wherever the relationship between the general rule and the particular application is at stake.

Thus construed, exception is first and foremost a particular *space*, in which some binary oppositions are not solved, but effectively suspended, as they conflate one with another. Therefore, it makes no sense to ask whether, for example, the state of exception belongs to the category of the law or of the fact: both categories lose their independent meaning once they enter the area of exception. It may be claimed that these oppositions owe their existence to having a particular foothold in the state of exception, even if the latter usually appears as an abnormality or borderline condition. As we will see, it is precisely this space that – when transplanted into international law – contains violence mandated by the law itself. Yet before we move to this, let us summarize the role of the state of exception in Agambenian thinking.

First of all, Agamben's theory assumes the existence of a special device, the state of exception, at the heart of the legal system. Just as in Schmitt, it is formulated with the system of domestic law in mind: hence the close link between the sovereign and the state of exception. The latter may have a concrete legal form, but it can be presumed in the legal order only implicitly. In either case, it remains an inevitable part of legality – one which can remain inconspicuous in "normal" times, but ready to flare up and poison the entire legal system under specific circumstances.[18] As I attempt to demonstrate, the focus on domestic law is not neces-

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[18] See Giorgio Agamben, "Il messia e il sovrano: Il problema della legge in W. Benjamin" in *La potenza del pensiero: Saggi e conferenze* (Vicenza: Neri Pozza, 2012), 270–271.

sary in this theory: it may be understood as part and parcel of the state of exception as pertaining to every form of the law, including international law.

Second, the state of exception is just a particular incarnation of a broader, theoretical concept of exception. The exception finds itself in a peculiar relation to the rule: seemingly it is outside of its scope, but it actively relates to it. Its inert component can be found in each act of applying the law, namely in the hiatus between the generality of a rule and the specific decision that comes from the outside to concretize and materialize it. Between the rule and its application – or, to use more general terms, between the law and the facts – there is an irremovable abyss: in Agamben's theory law is never applied as such, but rather undergoes a forced process in which it is externally linked with "facts." Therefore, the distinction between law and facts becomes undecidable: while the law just opens a virtual level of application, it is the real act of applying it that inextricably binds the rule with the fact. What we recognize as application of a norm is an *après coup* act, only retroactively dissolvable into norms and facts.

Third, the state of exception is a device through which the law attempts to regulate a particular domain by withdrawing from it. Just as the ancient Roman *Homo sacer* was banned from the law and could have been freely killed, no longer enjoying legal protection,[19] so is the state of exception a particular form of legal regulation of what cannot be legally regulated. In the state of exception *proprio sensu* the law attempts to regulate its own suspension, creating and struggling to control an allegedly alegal space. An empty legal space being circumscribed by the law which first posited it and later withdrew from it is one of the strongest and most refined forms of exercising power through the law. The state of exception would be a way in which the law uses exceptionality in order to reclaim the foreign territory and attempt to regulate matters that are outside of its scope because it left them so.

4 The right of peoples to self-determination as a zone of exception in international law

If the state of exception indeed conditions every form of legality, where can it be found in international law? As I claim in this chapter, this role is played precisely by the right of peoples to self-determination.

First, the RSD in its external version – understood as exercising the RSD by state-creation – is a mechanism through which international law regulates its own

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19 Agamben, *Homo sacer*, 71–86.

suspension. According to the majority of voices in the doctrine, state-creation through secession is a domain of a certain non-legality, often identified as factuality.[20] Yet this factuality is not extra-legal: it is created and maintained by international law as such. Given that states are primary subjects of international law and its main creators, the very act of state-creation belongs to the foundational zone of international law. This law does not regulate this zone, but rather carves out its boundaries and allows the thus produced factuality to operate.

The RSD is a right that covers this abyssal zone. In the current state of international law, the division of land into state territories and the division of humankind into these territories' respective populations remains formally a status quo which cannot be modified otherwise than through trade-offs between sovereign states. Major United Nations (UN) principles – equality of states, their territorial integrity and prohibition of unlawful use of force – seal off this construction against underground subversive movements. And yet there is a right[21] that makes it possible to temporarily suspend this ossified division and create a new entity without authorization from the sovereign on whose territory it is established.

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20 Ernest Duga Titanji, "The Right of Indigenous Peoples to Self-Determination Versus Secession: One Coin, Two Faces?," *African Human Rights Law Journal* 9, no. 1 (2009): 70; Christian Pippan, "The International Court of Justice's Advisory Opinion on Kosovo's Declaration of Independence: An Exercise in the Art of Silence," *Europäisches Journal für Minderheitenfragen* 3, no. 3–4 (2010): 162; Christian Schaller, "Die Sezession des Kosovo und der völkerrechtliche Status der internationalen Präsenz," *Archiv des Völkerrechts* 46, no. 2 (2008): 134. See also Clifton van der Linden, "Secession: Final Frontier for International Law or Site of Realpolitik Revival," *Journal of International Law and International Relations* 5, no. 2 (2009): 4–5; K. William Watson, "When in the Course of Human Events: Kosovo's Independence and the Law of Secession," *Tulane Journal of International and Comparative Law* 17, no. 1 (2008): 274; Antonello Tancredi, "A Normative 'Due Process' in the Creation of States Through Secession," in *Secession: International Law Perspectives,* ed. Marcelo G. Kohen (Cambridge: Cambridge University Press, 2006), 171–172; Alain Pellet, "Quel avenir pour le droit des peuples à disposer d'eux-mêmes," in *El derecho internacional en un mundo en transformación*: *Liber amicorum al Eduardo Jiménez de Aréchaga,* ed. Manuel Rama-Montaldo (Montevideo: Fundación de Cultura Universitaria 1994), 264; David Raič, *Statehood and the Law of Self-Determination* (Leiden: Kluwer, 2002), 3; Thomas D. Musgrave, *Self-Determination and National Minorities* (Oxford: Clarendon Press, 1997), 210–211; Theodore Christakis, *Le droit à l'autodétermination en dehors des situations de décolonisation* (Paris : La documentation française, 1999), 72. Nonetheless, there are also scholars arguing for unlawfulness of secession which is not execution of RSD: Marc Weller, "Why the Legal Rules on Self-Determination Do Not Resolve Self-Determination Disputes," in *Settling Self-determination Disputes: Complex Power-sharing in Theory and Practice,* ed. Marc Weller and Barbara Metzger (Boston, MA, and Leiden: Nijhoff, 2008), 23; Marcelo G. Kohen, "Introduction," in Kohen, *Secession*, 4
21 See Paul H. Brietzke, "Self-Determination, or Jurisprudential Confusion: Exacerbating Political Conflict," *Wisconsin International Law Journal* 14, no. 1 (1995): 85–96.

The RSD in its external form functions therefore analogously to the state of exception in domestic law: it allows its firm principles of state-centered international law to be suspended[22] in order for a new state to arise. The invoked extra-legal necessity concerns the act of an assumed agent, not yet legal, but entering the law: the people. This particular form of the state of exception is a gun pointed at the head of existing states, because – at least on the declaratory level – the same international law which protects their independence and territorial integrity may suspend itself. Once external self-determination is successfully executed, the state of exception is terminated. A new state arises which becomes a beneficiary of the re-established order: its boundaries are inviolable and it is formally equal with all other states.

Second, the Agambenian paradoxes apply to the applicability of the RSD. It is not an ordinary right that is exercised,[23] but rather a shadow-like entitlement guaranteed by particular acts of international and by customary law (uncodified norms corresponding to states' practice and recognized by states as binding). Its application, as the next section shows, relies on open conflict that is only later regulated by the institution of state recognition. If successful, such an act can be deemed an application of the RSD. Nonetheless, it happens only in *futur antérieur*: it will have been applied when the secessionists' victory has been recognized – at least partly – by sovereign states.[24] Yet before this act there is no practical applicability, let alone enforceability of the RSD. This right rather covers the zone of exception than is an entitlement that can be invoked.

Third, the RSD as the state of exception in international law is a device through which this law creates its outside – a subject – by withdrawing from its place.[25] The subject of the RSD, the people, is an artifact that will have existed when it exercises this right. Yet exercising the RSD is just engaging in a factual fight; if this succeeds, the right will have been exercised. If the secessionists fail,

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22 See Duncan French, introduction to *Statehood and Self-Determination: Reconciling Tradition and Modernity in International Law,* ed. Duncan French (Cambridge: Cambridge University Press, 2013), 1.

23 Cf. Urs Saxer, *Die internationale Steuerung der Selbstbestimmung und der Staatsentstehung: Selbstbestimmung, Konfliktmanagement, Anerkennung und Staatennachfolge in der neueren Völkerrechtspraxis* (Berlin: Springer, 2010), 968.

24 See Fernando R. Tesón, "Introduction: The Conundrum of Self-Determination," in *The Theory of Self-Determination*, ed. Fernando R. Tesón (Cambridge: Cambridge University Press, 2016), 8. Nonetheless, instead of speaking of "antilaw" it is more adequate to recognize its metalegal character as the state of exception.

25 Nathaniel Berman, "Sovereignty in Abeyance: Self-Determination and International Law," *Wisconsin International Law Journal* 7, no. 1 (1988): 68.

they also fail in the attempt to constitute themselves as the subject capable of practicing the RSD.[26]

Therefore, paradoxically, the existence of the subject of the RSD accompanies the shadow status of this right. The RSD does not await its subjects as one of the entitlements that they can easily invoke and enforce. They need to enter the law through open conflict, which almost necessarily involves violence. Success is sealed with a retroactive ascription of this right; a failure means it has never existed. Accordingly, the RSD is not attributable to a subject defined by any broadly recognized criteria (although they are formulated in the doctrine[27]). It only exists when it is already won. The path of a people to the law – and self-constitution as a state within its normative order – goes through necessary violence which the law creates as its antechamber.

The subject of the RSD does not exist before it is successfully won. As evidenced in the International Court of Justice's (ICJ) argumentation in the *Kosovo* case,[28] the act of exercising the external RSD does not involve the transformation of the same subject of this right. It is rather a genuinely original act that gives birth to a new entity – a state – and its respective subject of the RSD, the people. In this sense, the emergence of a state in execution of the RSD is more like *creatio ex nihilo* which wipes the slate clean, creates a new administration and cuts it from the past, which becomes retroactively established.[29] Consequently, there is no correspondence between the people before this act and the people-nation after it. This gap is variously covered up by legal scholarship: usually by invoking "politics" or "facts" that reputedly have nothing to do with law.[30]

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26 Musgrave, *Self-Determination*, 195–200.

27 This does not mean, however, that the characterization of the RSD as *lex imperfecta* is adequate. Cf. Brietzke, "Self-Determination," 85.

28 *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* [2010], ICJ Rep 403. See also Helen Quane, "Self-Determination and Minority Protection After Kosovo," in *Kosovo: A Precedent? The Declaration of Independence, the Advisory Opinion and Implications for Statehood, Self-Determination and Minority Rights*, ed. James Summers (Leiden: Nijhoff, 2011), 211–212.

29 Berman, "Sovereignty in Abeyance," 74.

30 James Crawford claimed that classic international law did not envisage the RSD because "it aspired to something which classical international law precisely did not try to achieve, that is to constitute or reconstitute states. Classical international law left that to power politics, and therefore, almost by definition, it left the question of self-determination to power politics as well. *Sauve qui peut.* Self-determine *qui peut*." James Crawford, "The Right of Self-Determination in International Law: Its Development and Future," in *Peoples' Rights,* ed. Philip Alston (Oxford: Oxford University Press, 2001), 12.

To sum up, the RSD represents an exceptional zone of international law. Its paradoxical nature and practical ineffectiveness pushes international law into the condition of permanent structural hypocrisy: it promises something that cannot be delivered just by claiming a right.[31] The RSD covers the abyss of what appears as the mere sphere of facts, but indeed is a space emerging from a withdrawal of the law. There are, of course, norms regulating recognition of a new state, or obligations of other states vis-à-vis a new entity (including non-recognition[32]), but the very state-creation is a self-eclipse of international law.[33] This eclipse is based on the creation of a zone of factuality that not only allows for, but almost mandates exercise of violence. As a consequence, the RSD should be seen in the light of the third theory of the relationship between violence and the law. It assumes violence as a necessary path to entering the law, gaining a right and self-constituting as a subject of this right.

5 Inside the exceptional zone

In order to better substantiate this link between the law and violence we need to delve into the complexity of how the RSD is practically invoked and fought for. What we first need to distinguish analytically is the position of secessionists and the government at various stages of executing the RSD. The first stage is when the secessionists oppose the government in the name of the RSD and engage in a political or military struggle. If the secessionists gain effective control over some territory that they claim, the second stage ensues. The new statal entity comes into existence – provided it has territory, population and effective government. What matters at the second stage is no longer the struggle (albeit this may continue with varying intensity), but the role of state recognition by existing sovereign states as a means of governing the state of exception. Here, I am interested primarily in the first stage. The second, although necessary in order to understand the RSD fully, is lesser relevant to the relationship between the law and violence.

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31 See Jean-François Guilhaudis, *Le droit des peuples à disposer d'eux-mêmes* (Grenoble: Presses Universitaires de Grenoble, 1976), 9–10.

32 Saxer, *Die internationale Steuerung*, 975–976; Sam Blay, "Self-Determination: A Reassessment in the Post-Communist Era," *Denver Journal of International Law and Politics* 22, no. 2–3 (1994): 294; Nina Caspersen, "Collective Non-Recognition of States Recognition," in *Routledge Handbook of State Recognition*, ed. Gezim Visoka, John Doyle, and Edward Newman (London and New York: Routledge, 2020), 232–239.

33 Berman, "Sovereignty in Abeyance," 58.

The first stage is in many respects akin to the state of nature. As noticed by Jean-François Guilhaudis, the RSD remains "a principle of fight, a principle of combat."[34] In domestic law norms reduce the use of violence either to the legal one, exercised by state organs, or to few remnants of natural violence in defense of necessity. In international law the use of force between states is generally prohibited apart from exceptions defined in Chapter VII of the UN Charter. Nonetheless, the RSD opens a breach in this system. Currently no norm of international law forbids resorting to force either by the secessionists[35] or the government acting against secessionists who do not invoke the RSD in a clear decolonization context—provided it does not cross the line of severe human rights violations and remains proportionate.[36] As a result, an exceptional zone opens up at the heart of international law.

It needs to be noted that the position of the government and of the secessionists is not symmetrical. First, the secessionists always hold a more uneasy position as those who contest an existing legal order and aim to found a new one. The government is ensconced in the legality of its own regime which it is deemed to rightly defend. Second, a significant difference exists between self-determination struggles in the main decolonization period and the ones that do not ensue due to decolonization. Under the corpus of UN decolonization law some preference seems to have been given to the secessionists. UN clearly referred to the possibility of the use of force by secessionists (as Michla Pomerance observed, thus reviving the doctrine of just war[37]); they could also request foreign aid, but not foreign intervention.[38] Art. 1 (4) of Protocol I to the 1949 Geneva Conventions extended the scope of application of international armed conflicts under international humanitarian law (henceforth:

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34 Guilhaudis, *Le droit des peuples*, 219.

35 Gérard Cahin, "Secession: le retour: Sur quelques tendances récentes de la pratique internationale," in *La France, l'Europe et le Monde: Mélanges en l'honneur de Jean Charpentier*, ed. Ivan Boev (Paris: Pedone, 2008), 43; M. Rafiqul Islam, "Use of Force in Self-Determination Claims," *Indian Journal of International Law* 25, no. 3–4 (1985): 437.

36 Anne-Marie Slaughter Burley, "Nationalism Versus Internationalism: Another Look," *New York University Journal of International Law and Politics* 26, no. 3 (1994): 94; Agata Kleczkowska, "The Use of Force in Case of Secession," in *The Use of Force in International Relations: Issues of International and European Law – L'usage de la force dans les relations internationales: aspects de droit international et de droit européen*, ed. Anne-Sophie Millet-Devalle (Napoli: Editoriale Scientifica, 2018), 17; Sean Shun Ming Yau, "The Legality of the Use of Force for Self-Determination," *The Palestine Yearbook of International Law* 21, no. 1 (2020): 49–71; Islam, "Use of Force," 432.

37 Michla Pomerance, *Self-Determination in Law and Practice: The New Doctrine in the United States* (Leiden: Nijhoff, 1982), 48.

38 The Friendly Relations Declaration states as follows: "Every State has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against,

IHL) to the three configurations of legitimate self-determination conflicts in the corpus of UN RSD law (colonial domination, alien occupation and resistance to racist regimes in the exercise of their right of self-determination).[39] In turn, the use of force by the government against legitimate decolonization claims was prohibited.[40] As noticed by Subrata Roy Chowdhury, "a State not possessed of a representative government or a State guilty of violating with impunity human rights, cannot claim immunity by relying on the principle of non-intervention."[41] Aiding such a state was equally prohibited by international law.[42] Both state and individual responsibility for thwarting self-determination claims (pertaining to the three cases recognized under UN law) has been claimed to exist.[43]

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and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter." UN GA Resolution 2625 (1970) A/RES/2625(XXV). See also Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge: Cambridge University Press, 1995), 153; Marcelo G. Kohen, "Self-Determination," in *The UN Friendly Relations Declaration at 50: An Assessment of the Fundamental Principles of International Law*, ed. Jorge E. Viñuales (Cambridge: Cambridge University Press, 2020), 147–149; Ming Yau, "The Legality of the Use of Force," 49–55; Alexis Heraclides, "Secession, Self-Determination and Nonintervention: In Quest of a Normative Symbiosis," *Journal of International Affairs* 45, no. 2 (1992): 402; Ved P. Nanda, "Self-Determination Under International Law: Validity of Claims to Secede," *Case Western Reserve Journal of International Law* 13, no. 2 (1981): 270; Malcolm Shaw, "The International Status of National Liberation Movements," *The Liverpool Law Review* 5, no. 1 (1983): 27–29; Hector Gros Espiell, *The Right to Self-Determination: Implementation of United Nations Resolutions*, UN 1980, ElCN.4/Sub.2/405/Rev.l, 14–15. Cf. Islam, "Use of Force," 441–445; Pomerance, *Self-Determination*, 46–61; Weller, "Why the Legal Rules," 29–30.

39 Matthias Vanhullebusch, "Fighting for Self-Determination: On Equality of Peoples and Belligerents," *Asian Yearbook of Human Rights and Humanitarian Law* 1 (2017): 140–141; Cassese, *Self-Determination*, 201; Jean Salmon, "Internal Aspects of the Right to Self-Determination: Towards a Democratic Legitimacy Principle?," in *Modern Law of Self-Determination*, ed. Christian Tomuschat (Dordrecht: Nijhoff, 1993), 256.

40 Cassese, *Self-Determination*, 154; Ming Yau, "Legality of the Use of Force," 61; Aureliu Cristescu, *The Right to Self-Determination: Historical and Current Development on the Basis of United Nations Instruments*, E/CN.4/Sub.2/404/Rev. 1 (1981), 26–30; Malcolm N. Shaw, "Self-Determination and the Use of Force," in *Minorities, Peoples and Self-Determination: Essays in Honour of Patrick Thornberry*, ed. Nazila Ghanea and Alexandra Xanthaki (Leiden and Boston: Nijhoff, 2005), 44–45; Antonello Tancredi, "Secession and Use of Force," in *Self-Determination and Secession in International Law*, ed. Christian Walter, Antje von Ungern-Sternberg, and Kavus Abushov (Oxford: Oxford University Press, 2014), 80; Giancarlo Guarino, *Autodeterminazione dei popoli e diritto internazionale* (Napoli: Jovene, 1984), 323–331.

41 Subrata Roy Chowdhury, "The Status and Norms of Self-Determination in Contemporary International Law," *Netherlands International Law Review* 24, no. 1–2 (1977): 84.

42 Cassese, *Self-Determination*, 199–200.

43 Cassese, *Self-Determination*, 180–188; Gros Espiell, *The Right to Self-Determination*, 65.

Yet after decolonization quashing an insurrection (within boundaries of proportionate actions and with respect of IHL such as common Article 3 to the Geneva Conventions or Protocol II, if applicable[44]) without much doubt[45] remains a domestic issue of the state.[46] International law does not prohibit secessionists from using violence either, provided it is used within humanitarian limits.[47] As a consequence, international law creates – through its withdrawal –a seemingly extra-legal zone (even if created by the law itself) in which the emergence of a new state becomes the matter of conflict.[48] Acts of international humanitarian law either condone the zone of withdrawal (through Art. 1 (2) and Art. 3 of Protocol II to the Geneva Conventions) or, at best, create a barrier around the conflict.[49]

Within the conflict, the secessionists' goal is reaching effectiveness: "[a] new state cannot therefore be born of a secession unless it manages to escape from the legal order of its predecessor state by imposing and maintaining exclusively its own authority over its territory,"[50] as noted by Theodore Christakis. Needless to say, the declaration of independence must be issued by the same government or governing group that effectively controls the territory;[51] otherwise it will be an *actus non existens*.[52] The claim to exercise external self-determination might compensate for lack of effective government (especially in the context of decoloniza-

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44 Vanhullebusch, "Fighting for Self-Determination," 140.

45 Nonetheless, there have been some attempts to limit the leeway of both state and secessionists through international law norms. See Tancredi, "Secession and Use of Force," 70–94.

46 Michael Bothe, "Kosovo – So What – The Holding of the International Court of Justice Is Not the Last Word on Kosovo's Independence," *German Law Journal* 11, no. 7–8 (2010): 837; Marc Weller, "Why the Legal Rules," 31; Georg Nolte, "Secession and External Intervention," in Kohen, *Secession*, 66–73; Peter Hilpold, "Das Kosovo-Problem – ein Testfall für das Völkerrecht," *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 68 (2008): 797; Christakis, *Le droit à l'autodétermination*, 254–255; Antonello Tancredi, *La secessione nel diritto internazionale* (Padova: CEDAM, 2001), 60–63. Cf. Milena Sterio, "On the Right to External Self-Determination: Selfistans, Secession, and the Great Powers' Rule," *Minnesota Journal of International Law* 19, no. 1 (2010): 146.

47 Jing Lu, *On State Secession from International Law Perspectives* (Cham: Springer, 2018), 160–161; Christian Tomuschat, "Secession and Self-Determination," in Kohen, *Secession*, 43–44.

48 Cassese, *Self-Determination*, 153. See also Marc Weller, *Escaping the Self-Determination Trap* (Leiden and Boston: Nijhoff, 2008), 17. On the possibility of UN intervention into such conflicts see Nolte, "Secession," 83–93.

49 See Vanhullebusch, "Fighting for Self-Determination," 150–152.

50 Theodore Christakis, "Self-Determination, Territorial Integrity and Fait Accompli in the Case of Crimea," *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 75, no. 1 (2015): 92.

51 Jure Vidmar, "Unilateral Declarations of Independence in International Law," in *Statehood and Self-Determination: Reconciling Tradition and Modernity in International Law*, ed. Duncan French (Cambridge: Cambridge University Press, 2013), 66.

52 Vidmar, "Unilateral Declarations," 64–65.

tion), but only temporarily.[53] When lasting effectiveness is reached,[54] the first stage is finished and the newly created entity is subjected to the gaze of the Big Other (to use a Lacanian term) of the international community which, through the institution of recognition, re-inscribes the new state into the world system.

Remarkably, third states are now shielded from intervention by norms of international law. Whereas it gives secessionists an indirect freedom to act, based on a lack of prohibition of secession (and thus leaving them in the "neutrality" zone),[55] international law in a clear way prohibits states to undertake interventions in domestic affairs of another state or to violate their territorial integrity – both directly (by using armed forces) or indirectly (by funding mercenaries).[56] The situation was not so clear during decolonization, when third-party help was generally believed to be acceptable, although not by a direct use of force.[57] Still, historical examples were scarce and hardly generalizable. The most conspicuous one was the help of India in the secession of East Pakistan, although secession in this case was not from the properly colonial state (even if Pakistan inherited the dominant position of the United Kingdom) and India used military force.[58] The acceptance of foreign aid for secessionists was more a tool to put pressure on the non-aligned countries in the UN General Assembly than a concrete legal right. After decolonization, however, prohibition on the use of force to intervene in self-determination conflicts became almost complete,[59] only with few isolated voices arguing that intervention on the side of secessionists might be legal if the host state previously received foreign aid.[60] The doctrine of humanitarian intervention, once claimed to overrule prohibitions stemming from Art. 2 (4) UN Charter,[61]

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53 Raič, *Statehood*, 100–109.

54 Christakis, "Self-Determination," 95; Christakis, *Le droit à l'autodétermination*, 258.

55 Shaw, "Self-Determination," 44. On the suspended status of secessionists see Olivier Corten, "Are There Gaps in the International Law of Secession?," in Kohen, *Secession*, 236.

56 Kleczkowska, "The Use of Force," 7–9; Musgrave, *Self-Determination*, 192–193.

57 Weller, "Why the Legal Rules," 29–30; Ioana Cismas, "Secession in Theory and Practice: The Case of Kosovo and Beyond," *Goettingen Journal of International Law* 2, no. 2 (2010): 551–552.

58 Joshua Castellino, *International Law and Self-Determination: The Interplay of the Politics of Territorial Possession with Formulations of Post-Colonial 'National' Identity* (Leiden and Boston, MA: Nijhoff, 2000), 152–153.

59 Weller, "Why the Legal Rules," 29–30.

60 Shaw, "Self-Determination," 50–51.

61 Andrew K. Coleman, *Resolving Claims to Self-Determination: Is There a Role for the International Court of Justice* (London and New York: Routledge, 2013), 109; Michael W. Doyle, "UN Intervention and National Sovereignty," in *The Self-Determination of Peoples: Community, Nation and State in an Interdependent World*, ed. Wolfgang Danspeckgruber (Boulder, CO: Lynne Rienner, 2002), 67–86; Juan Carlos de las Cuevas, "Exceptional Measures Call for Exceptional Times: The Permissibility Under International Law of Humanitarian Intervention to Protect a People's Right

seems no longer supported.[62] Despite arguments referring to the need for human rights protection in the context of self-determination (especially in cases of most abject human rights violations such as genocide),[63] international law still does not seem to have accepted the exception of humanitarian intervention to the rule guaranteeing territorial integrity. As a consequence, active involvement of third states in secession is prohibited. The only support they might give to secessionists must be peaceful and non-military.[64] This has significantly reinforced existing states and forced any future secessionists to rely on themselves rather than on foreign intervention.

To sum up, international law – especially after decolonization – produces an exceptional zone within which open conflict between the secessionists and the government is a pre-defined way of exercising the RSD. There is no court or arbitration mechanism that would assess self-determination claims. Even though such proposals were made,[65] they are to no avail in the current state of international law. What international norms do is to carve out the zone in which other states are prohibited from intervening and allow the two sides of the conflict to clash through violence.

6 Conclusions

The role played by the right of peoples to self-determination in international law after decolonization demonstrates that violence is to be found not only outside the law or at its foundations, in the law-establishing act, but also within zones

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to Self-Determination," *Houston Journal of International Law* 37, no. 2 (2015): 495–542; Vanhulle-busch, "Fighting for Self-Determination," 140–141.

62 Leonard Binder, "The Moral Foundation of International Intervention and the Limits of National Self-Determination," *Nationalism and Ethnic Politics* 2, no. 3 (1996): 329–336; Coleman, *Resolving Claims*, 110; Doyle, "UN Intervention," 74–75; Rodney Pails, "Self-Determination, the Use of Force and International Law: An Analytical Framework," *University of Tasmania Law Review* 20, no. 1 (2001): 96; de las Cuevas, "Exceptional Measures," 511; Peter Hilpold, "Self-Determination and Autonomy: Between Secession and Internal Self-Determination," in *Autonomy and Self-Determination: Between Legal Assertions and Utopian Aspirations*, ed. Peter Hilpold (Cheltenham and Northampton, MA: Edward Elgar, 2018), 42.

63 de las Cuevas, "Exceptional Measures," 542.

64 Kleczkowska, "The Use of Force," 12. Cf. Chowdhury, "The Status and Norms," 83.

65 Richard Falk and Andrew Strauss, "On the Creation of a Global Peoples Assembly: Legitimacy and the Power of Popular Sovereignty," *Stanford Journal of International Law* 36, no. 2 (2000): 191–218; Olivier P. Richmond, "States of Sovereignty, Sovereign States, and Ethnic Claims for International Status," *Review of International Studies* 28, no. 2 (2002): 399–400.

created by the law itself. What is so striking about this right that it does not correspond to any concrete entitlement that is invokable or enforceable within international law. It corresponds to a proper abyss: a politico-moral slogan that only when fought with and through violence materializes itself as a right that has been exercised. In this sense, the RSD exists only once exercised and thus covers up the exceptional zone of violence. During the conflict itself, it is nothing but a claim in the name of which the secessionists raise their arms.

Through the RSD international law attempts to cordon off and obfuscate something that it cannot properly grasp: the sphere of factual violence used to create a state through secession. This right is not created by violence, but exercised through its use. In this sense, the RSD neither bans violence nor is established by it: it exists only as a vague principle until violence brings it to the proper status of a right. Unlike typical rights, the RSD does not construct a simple tri-partite syllogism: (1) general norm, (2) factual situation and (3) concretization of a general norm. The form this right has before application is incommensurate with what it is transformed into after this act. Violence mediates between the principle and the right, allowing the latter to constitute itself retroactively as a seemingly exercisable norm.

In pragmatic terms, the violence that is required in order to apply the RSD is an efficient deferent from invoking it. The example of Catalonia demonstrates how difficult it is to start off a new legality: what is required is a fight for self-constitution. Whoever shuns violence in such a conflict will lose. The RSD is not a typical entitlement granted by a legal order to its subject: it contains within itself a violent struggle for self-constitution and recognition. Consequently, it is nothing but a firewall of violence barring entrance into international law and the global community of states. What it preserves is the violence of the struggle for self-constitution as a legal subject. International law is entered through violence.[66]

Spartaco Pupo

Nonviolent political skepticism in the first half of the European twentieth century: Bertrand Russell, Karl Popper and Michael Oakeshott

1 Introduction

This chapter is concerned with possible solutions to the problem of the links between certain ways of thinking about politics and the use of violence. It investigates the possibility of discovering them in the contemporary history of political skepticism, which has received little attention in recent political studies.

Several studies investigated the nature, genesis and major themes of philosophical skepticism. These are primarily philosophical works that encapsulated the fundamental themes of early modern skepticism and its relationships with scholarly libertarianism, with the hermeneutic need to shed light on "alternative" paradigms to a dogmatism that are analyzable simultaneously.[1] In recent decades, very few scholars have focused on the broad framework of connections between the epistemological underpinnings of the skeptical "challenge" and the social and political dimensions of human behavior. These are mostly intellectual operations that, while opening up new and worthwhile research avenues, have aimed to strengthen the theoretical reliability of paradigms other than skepticism, such as egalitarian radicalism[2] and neoliberal paradigm.[3] Few have addressed the politi-

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1 Pioneering works include Richard H. Popkin, *The History of Scepticism from Erasmus to Spinoza* (Berkeley, CA, Los Angeles, CA, and London: University of California Press, 1979) and *The History of Scepticism from Savonarola to Bayle* (Oxford: Oxford University Press, 2003). Important contributions to the knowledge of skepticism have also come from Myles Burnyeat, ed., *The Skeptical Tradition* (Berkeley, CA, and Los Angeles, CA: University of California Press, 1983); Jean-Paul Dumont, *Le scepticisme et le phénomène: Essai sur la signification et les origines du pyrrhonisme* (Paris: Vrin, 1985); Gianni Paganini, *Skepsis: Le Débat des modernes sur le scepticisme: Montaigne, Le Vayer, Campanella, Hobbes, Descartes, Bayle* (Paris: Vrin, 2008); Jose R. Maia Neto, Gianni Paganini, and John C. Laursen, eds., *Skepticism in the Modern Age: Building on the Work of Richard Popkin* (Leiden and Boston, MA: Brill, 2009).
2 Aryeh Botwinick, *Skepticism and Political Participation* (Philadelphia, PA: Temple University Press, 1990).
3 John C. Laursen, *The Politics of Skepticism in the Ancients, Montaigne, Hume, and Kant* (Leiden: Brill, 1992); Petr Lom, *The Limits of Doubt: The Moral and Political Implications of Skepticism* (Albany, GA: State University of New York Press, 2001).

cal implications of this philosophical school, particularly the political use of violence.

In my current research,[4] which is still in progress, I have discovered that many authors from the ancients to the present have eluded the canonical classifications of modern and contemporary historiography. From Pyrrho of Elis to Karl Popper, via Socrates, Carneades, Cicero, John of Salisbury, Guicciardini, Montaigne, Sorbière, Blaise Pascal, Pierre Bayle, David Hume, Bertrand Russell, Giuseppe Rensi and Michael Oakeshott, we can speak of a true history of political skepticism, represented by some of the most influential intellectual figures in Western thought. Each of these thinkers represents a different language, time and place, but they cover a relatively broad range of political thought when taken together. Skeptics of all times reject all propositions, principles and affirmations that are presumed questionable or that rise to the level of dogma.

What distinguishes the skeptic from the dogmatic are attitudes toward beliefs, not beliefs themselves. The skeptic considers the dogmatist's eagerness for certainty to be extremely harmful, because it sometimes involves the use of violence or other means of persuasion, in contrast to civil, free, open and calm discussion. The critical evaluation of ideologies and the viability of normative theories, as well as the corresponding proposals, are characterized by the questioning of dogmatic arrogance derived from the revival of skepticism.

In its moderate form, epistemological skepticism has almost always implied political skepticism, a result not found in other intellectual traditions. Although skeptics are frequently regarded as malicious geniuses, whose doubts are disturbing, shocking and terrifying, and which can do nothing more than encourage moral and political quietism[5] because it has no normative principles to enforce, they are true masters of tolerance. No one has delved into the strong connection that has been established between political skepticism and nonviolence, if we exclude the acknowledgment of those who said that the skeptic is such if even in politics, as well as in epistemology, is aware that things may, in fact, be very different from how they appear.[6]

Skepticism and violence have always been diametrically opposed. The skeptic's attitude, in its epistemological and philosophical forms before its political manifestation, is incompatible with the use of violence. The *epoché* (suspension of

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4 Spartaco Pupo, *Lo scetticismo politico: Storia di una dottrina dagli antichi ai giorni nostri* (Milan: Mimesis, 2020).

5 See David R. Hiley, *Philosophy in Question*: *Essays on a Pyrrhonian Theme* (Chicago, IL: University of Chicago Press, 1988).

6 See, on this point, Michael Frede, "The Skeptic's Beliefs," in *Essays in Ancient Philosophy* (Minneapolis, MN: University of Minnesota Press, 1987), 179–200.

judgment) advocated by the ancient skeptics was a distrust of imposed truths, particularly those accompanied by an attitude aimed at persuasion, at belief in the genuine truth. Dogmatic principles frequently foster fanaticism and fideist enthusiasm, which leads to violence. This is why a skeptical suspension of judgment invites us to question not only other people's beliefs but also our own dogmatic truths. Rather than imposing our own truths, skepticism introduces us to Socratic dialogue, moderation and calm. As long as truth can be contradicted by a favorable and an unfavorable judgment based on empirical evidence, judgment must be suspended. Suspending judgment entails refusing to give our consent to that specific truth, which does not imply denying it, but rather providing new impulses to continue the search.

2 The nonviolence doctrine of the twentieth century

The skeptic in politics does not have the truth in his pocket or dogma to preach in order to persuade others, but continues to seek probable solutions, answers and certainties. This person is wary of any violent imposition of truth, particularly truths that are not true because they are demonstrably false. Conversation, also known as dialogue or the exchange of arguments, is the nonviolent method shared by all skeptics. Because it places no limits on the complexity of experiences and the purposes of life, the conversation, as moderation in public life, facilitates the peaceful exchange of ideas by following a horizontal, non-hierarchical line, because it is neither a profit-making enterprise nor a prize-giving contest; it is an intellectual adventure, a place of learning and listening, rather than deliberations and final solutions.

Bertrand Russell (1872–1970), Karl R. Popper (1902–1994) and Michael Oakeshott (1901–1990), three influential European thinkers with a skeptical political orientation, offered some of the most illuminating solutions to the problem of violent imposition and the lack of communicability of opposing paradigms and truths in twentieth-century political thought.

These authors discuss the rational means of political argumentation and persuasion, considering the incidence of unavoidable elements of political "discourse," such as custom, conversational approach, and a plurality of ideas and paradigms, starting from different analyses but converging on the need for skeptical neutrality. Nonviolence, according to these authors, can only be the natural result of a critical-skeptical attitude, understood above all as political anti-dogmatism. On the contrary, dogmatists of all "faiths" use violence to impose their objective and infallible

truths, which are ephemeral and not demonstrable through empirical observation of facts.

In politics, the skeptic can be liberal (as in Popper's case), socialist (as in Russell's case), conservative (as in Oakeshott's case), or something else, depending on their personal feelings and the circumstances of the time, but they are always skeptic in a very special way. From an unmistakable skepticism standpoint, each of these authors prefers to look for good arguments to support at least two points of view on any given problem. While dogmatists insist on the existence of a single criterion for distinguishing between true and false beliefs about unobserved things and deriving normative principles from them, skeptics do not rely on any criterion, even if they generally tend to be true, as experience suggests. Politics, according to all three of these thinkers, is not a matter of truths, beliefs, irrefutable decisions or utopian planning, but of a simple way of life devoid of metaphysical or *idealistic* (in the Hegelian and post-Hegelian sense of the term) justifications.

What almost all of the authors discussed here have in common is a political way of thinking that favors the literary style of essays or aphoristic writing, however fragmentary, preferring the nomadic word to the dialectical and totalizing one, the experience to dogma, the occasional note, thought, aphorism or essay to the philosophical treatise, the maxim to systematic conceptualization, the hypothesis to infallible certainty, pluralism to monism, conversational truths to ultimate solutions.

3 Russell and the "cure" for a skeptical public opinion

Russell was a "passionate skeptic"[7] who was so willing to question his own positions that he proposed a new philosophical perspective every few years.

From a psychological standpoint, Russell's political writings contain an explicit condemnation of contemporary forms of social and political order. Russell opposes both classical liberalism, which he believes does not combat poverty and the suffering of the most vulnerable, and Marxism, which he believes suppresses individual privacy and non-economic motivations. Russell is willing to embrace a form of liberalism tempered by the demand for social equilibrium, as well as "be-

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7 Alan Wood, *Bertrand Russell: The Passionate Sceptic* (London: George Allen & Unwin, 1957). On Russell's skepticism see also Christopher Hookway, "Russell and the Possibility of Scepticism," *The Journal of Speculative Philosophy* 6, no. 2 (1992): 95–110.

nevolent" socialism. As Russell argues in *Proposed Roads to Freedom* (1918), capitalist society, on the one hand, perverts our best instincts and robs us of much of our security and freedom through subtle, if legal, violence associated with protecting ownership of land, capital and industrialization, which mechanizes work and distorts humanity. State socialism, on the other hand, is repugnant not only for its threat to human freedom and creativity, but also for its reliance on the figure of a leader, Lenin, who is a kind of personification of theory, and on a cruel and repressive bureaucracy. Furthermore, communism is inherently undemocratic in that it requires the destruction of capitalism to be carried out violently by a small group of people.[8]

Russell compares Bolshevism to Islam in *The Practice and Theory of Bolshevism* (1920). His interpretation of Bolshevism is similar to his interpretation of Islam because both are "practical, social, unspiritual, concerned to win the empire of this world."[9] Following this comparison, Russell focuses on the specificity of the Russian regime, claiming that the form of government imposed by the Bolsheviks during the 1917 Revolution contrasts with benevolent socialism. As he claims in *In Praise of Idleness* (1935), the latter is permeated by an enlightenment-liberal individualism that opposes class struggle, proletarian dictatorship and the use of "force":

> I deprecate the appeal to force, except in defence of what, through persuasion, has become legally established, because a) it is likely to fail, b) the struggle must be disastrously destructive, and c) the victors, after an obstinate fight, are likely to have forgotten their original objects, and to institute something quite different, probably a military tyranny. I presuppose therefore, as a condition for successful socialism, the peaceful persuasion of a majority to acceptance of its doctrines.[10]

Between these two dominant trends, Russell provides several options in favor of democracy, so long as it is kept as far away from productivism and anarchism as possible, and a minimum of state and federalism is guaranteed as a viable alternative to bureaucratic centralism.

In *Sceptical Essays* (1928), Russell discusses the main issues on which he believes the skeptical and anti-violence exercise in democracy should be trained. This entails constantly stimulating one's critical sense, challenging one's own and

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8 See Bertrand Russell, *Proposed Roads to Freedom: Socialism, Anarchism and Syndicalism* (Harcourt: New York: Holt, 1919). On Russell's equidistance to liberalism and Marxist socialism, see Amita Singh, *The Political Philosophy of Bertrand Russell* (New Delhi: Mittal, 1987), 78.

9 Bertrand Russell, *The Practice and Theory of Bolshevism* (London: George Allen & Unwin, 1920), 114.

10 Bertrand Russell, *In Praise of Idleness and Other Essays* (London and New York: Routledge, 2004), 84.

others' "beliefs" and convictions, and opposing totalitarianism and other forms of absolutism. The skeptic, who is constantly preoccupied with discrediting dogmatic truths and comparing opposing belief systems, is tempted to exclude "conventional morality,"[11] which tends to suppress love and art, from his practice of reflection and competition that incites the most heinous patriotism and war.

According to Russell, democracy is the site of a civil exchange of ideas, not of a few but of many parties, of pluralism rather than of a single party. It is a place for reform, not revolution and violence. The world we live in is consumed and divided by ideological dogmatism, which values its own narrow assumptions but is blind to the value of any other opinion. All governmental and institutional oppressions are based on this narrow form of prejudice. Even when ostensibly aimed at noble causes such as peace, violence must always be rejected.

An incident from Russell's life, rather than his writings, helps to clarify what he meant by political violence. Russell attended a secret meeting at Southgate Brotherhood Church in July 1917. The pacifist crowd, which had gathered to discuss whether the formation of a London Soviet was feasible, violently disrupted the meeting. Russell, who was rescued by a woman on that occasion, wrote when he returned home after that harrowing experience: "I realized vividly how ghastly the spirit of violence is, and how utterly I repudiate it, on whatever side it may be. The mob is a terrible thing when it wants blood."[12]

Russell believes that the true antidote to violence and bloodshed in democracy is the formation of a skeptical public opinion independent of sectarian groups. He stated this explicitly in several articles published in *The Tribunal* on the theme of the relationship between pacifism and revolution, as well as the need for the overthrow of both capitalist and statist dominance and the centralization of power on the communist model. In delving into the concept of violence, Russell argues that any revolution motivated by hatred and a desire for vengeance will only result in a new form of rule, a simple change of rulers, as has happened in Russia since time immemorial, led by a despotic family. Instead, in countries such as the United Kingdom, where the government "has acquired the habit of being responsive to public opinion," a movement that "achieves its ends through violence and civil war is extremely improbable."[13] Of course, we are talking about an empire that engages in colonialist violence elsewhere. However, Rus-

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11 Bertrand Russell, "Introduction: On the Value of Scepticism," in *Sceptical Essays* (London and New York: Routledge, 2004), 13.

12 Quoted in Jo Vellacott, *Bertrand Russell and the Pacifists in the First World War* (New York: St Martin's Press, 1980), 170.

13 Bertrand Russell, *The Collected Papers of Bertrand Russell*, vol. 14 (London: Routledge, 1988), 196.

sell's reflection on these issues does not help us understand what he thought of European dominance. When describing the colonial wars in *The Ethics of War* (1915), he uses a calm tone while making some controversial statements, such as the following:

> Such wars are totally devoid of technical justification and are apt to be more ruthless than any other war. Nevertheless, if we are to judge by results, we cannot regret that such wars have taken place. They have the merit, often quite fallaciously claimed for all wars, of leading in the main to the survival of the fittest, and it is chiefly through such wars that the civilized portion of the world has been extended from the neighborhood of the Mediterranean to the greater part of the earth's surface.[14]

This could appear to be a justification for the previous colonial war. He goes on to say that there should be a very great and undeniable difference between the civilization of the colonizers and that of the dispossessed natives as if war was necessary for human civilization in the past. This is not the place to discuss this specific subject. However, Russell does not appear to be a forerunner of Postcolonial Studies, lacking the Marxist approach that later defined that school of thought.

As regards the skeptical approach, Russell reviews the main issues on which, in his opinion, skeptical exercise in democracy should be trained. This entails, first and foremost, constant stimulation of one's critical sense, i.e., questioning one's own and others' "beliefs" and convictions, as well as rejection of totalitarianism and other forms of absolutism. Because they are constantly discrediting dogmatic truths and comparing rival belief systems, skeptics are prone to exclude morality, or at least "conventional morality," from their reflexive exercise, which tends to suppress the joy of life, love and art, as well as foment competition, the most heinous patriotism and war.

In contemporary democracies, conventional morality leads citizens to think abstractly, believing that acts motivated by hatred are motivated by a desire for justice. However, Russell warns that "only a large measure of skepticism can tear away the veils which hide this truth from us"; once the folly of hatred has been healed, "we could begin to build a new morality, not based on envy and restriction, but on the wish for a full life and the realization that other human beings are a help and not a hindrance."[15]

The life of political parties and the disproportionate trust that ordinary people have in them, according to Russell, is the main target of the skeptical exercise in

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14 Bertrand Russell, *Justice in War-time* (Manchester and London: National Labour Press, 1915), 24.
15 Russell, "Introduction," 13.

democracy, carried away by communicative strategies implemented through propaganda. Suspicion of party factionalism and fanaticism is one of the most serious flaws of skeptical democracies, one of the most visible and dangerous forms of political dogmatism asserted through increasingly intrusive propaganda. Russell observes in an essay titled *The Need for Political Skepticism* (1924) that a person who believes in one party after voting for it finds themselves more "miserable" than before and believes that in order to have "the golden age," must vote for another. In any case, people should never succumb to "faith" in a political party. This is not so much for selfish reasons of not being disappointed as it is for a sense of responsibility to Western civilization, which is in grave danger in Europe (including Russia) in the early twentieth century due to the rise of totalitarianism. "A well-intentioned person – Russell writes – who believes in any strong political movement is merely helping to prolong that organized strife which is destroying our civilisation,"[16] referring to Western civilization, of course.

It is, therefore, necessary, more than ever, to remain skeptical of any party that "has a policy (as most have) which must do much harm on the way to some ultimate good."[17] In such cases, the policy is pursued in response to a highly dubious calculation, and the ultimate good to be pursued is merely one component of a complex rationalization process. Russell sees our ability to exercise constant skepticism as our only hope in the face of such a pessimistic picture of democracy.

If only human beings could maintain at least a modicum of skepticism about these matters, nine-tenths of the world's wounds would be healed. Russell asserts in his essay *Free Thought and Official Propaganda* (1922):

> War would become impossible, because each side would realise that both sides must be in the wrong. Persecution would cease. Education would aim at expanding the mind, not at narrowing it. Men would be chosen for jobs on account of fitness to do the work, not because they followed the irrational dogmas of those in power. Thus rational doubt alone, if it could be generated, would suffice to introduce the millennium.[18]

In a world where much rational certainty is due to the innate credulity of average human nature, a state of doubt, not cynical but rational, is not only desirable but also required. Indeed, doubt is essential to the practice of tolerance, that is, to the habit that should be acquired in school if the state's pedagogical function is limited to weighing evidence and not giving uncritical assent to assertions that present no reason to believe them to be true. To a good citizen, skepticism would serve a lot better than the trite "moral maxims" with which some people think

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16 Russell, "The Need for Political Scepticism," in *Sceptical Essays*, 120.

17 Russell, "Political Scepticism," 120.

18 Russell, "Free Thought and Official Propaganda," in *Sceptical Essays*, 130.

civic duty can be instilled, certainly more than the hypocritical "sermons" and "exhortations," more than the unfounded and inaccurate news that power uses to feed the main impediment to intelligence: "credulity."[19] Russell believes that political skepticism will save the world. But the "cure" is not to be sought primarily in the laws of a democracy, but "in better education and a more skeptical public opinion."[20]

4 Popper: Violence as a result of utopianism

Popper had a similar experience as a student in Vienna following the end of the First World War. Popper championed the cause of leftist students during the tumultuous years of "the famine, the hunger riots in Vienna, and the runaway inflation."[21] As a young man, he became involved in student protests and clashes with police. That traumatic experience had an impact on his intellectual development. Witnessing the deaths of several young people during a demonstration organized by Viennese communist students in June 1919 threw Popper into an irreversible crisis, prompting him to reconsider the positions that had prompted him to espouse those ideas and question whether his trust in them had been repaid in some way. He gave himself a negative response. Popper admitted that he had found himself somewhat uncritically accepting a complex doctrine and realizing how much "wrong" there was in both the theory and the practice of communism, which he had made his own out of a purely moral and intellectual investment in a just cause but approached in the wrong way.[22] It is not impossible that the first draft critique of Karl Marx offered in *The Open Society and Its Enemies* (1945) was a practical result of those disappointments, as was perhaps the refutation of the inconsistencies revealed in *The Poverty of Historicism* (1954), which was a devastating criticism of the belief in the laws of history, social development or progress.

Popper also became a political skeptic around this time. In his autobiography, he stated that his intellectual compromise with Marxism felt like eagerly throwing good money after bad:

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19 See Russell, "Free Thought," 131–142.

20 Russell, "Free Thought," 138

21 Karl R. Popper, *Unended Quest: An Intellectual Autobiography* (London and New York: Routledge, 2005), 31.

22 See Malachi H. Hacohen, *Karl Popper: The Formative Years, 1902–1945* (Cambridge: Cambridge University Press, 2000).

> I saw how this mechanism had been working in my case, and I was horrified. I also saw it at work in others, especially in my communist friends. And the experience enabled me to understand later many things which otherwise I would not have understood. I had accepted a dangerous creed uncritically, dogmatically. The reaction made me first a sceptic; then it led me, though only for a very short time, to react against all rationalism. (As I found later, this is a typical reaction of a disappointed Marxist.) By the time I was seventeen I had become an anti-Marxist. I realized the dogmatic character of the creed, and its incredible intellectual arrogance. It was a terrible thing to arrogate to oneself a kind of knowledge which made it a duty to risk the lives of other people for an uncritically accepted dogma, or for a dream which might turn out not to be realizable. It was particularly bad for an intellectual, for one who could read and think. It was awfully depressing to have fallen into such a trap.[23]

The Popper of these lines is not dissimilar to the one who will be remembered as the philosopher who definitively demolished Marxism's claims to impose itself as scientific truth.[24]

Popper's skepticism is founded on epistemological premises. Scientific explanations, according to him, are always conditioned by both universal laws and the given initial conditions. If predictions are made based on initial conditions, the necessary knowledge, whether scientific or historical, is usually insufficient to guarantee long-term forecasts. Popper rejects the notion of applying a kind of "prophetic" knowledge to the social sciences, similar to how the course of the seasons or the movement of the solar system can be studied. The large-scale "regularities" that can be predicted in the natural sciences are dependent on the systems under consideration being relatively isolated and calculable using mathematical methods that frequently guarantee infallible certainty. The regularity is quite different in the social sciences, where individual and group tendencies cannot be compared to the movement of the stars.

From a skeptical standpoint, Popper contends that historicism, an "oracular philosophy" consisting of doctrines claiming that the task of the social sciences is to predict historical developments, is "untenable" because it relies on impractical analogies with natural sciences, which contain no laws of social development. The historicist doctrine is unsustainable because of the insurmountable distinction between "scientific prediction" and "historical prophecy." Popper acknowledges that in some cases, such as astronomy, scientists can predict the future with some certainty. However, successful prediction can occur only in physical systems that are "well-isolated, stationary and recurrent," such as the solar system.[25] Social systems, on the other hand, can never be isolated and stationary.

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23 Popper, *Unended Quest*, 34.

24 On this point see Bryan Magee, *Karl Popper* (New York: Viking Press, 1973).

25 Karl Popper, *Conjectures and Refutations* (London: Routledge and Kegan Paul, 1989), 339.

However, as the simple automatism of historicism would have it, the methods used to predict solar eclipse are not applicable to the long-term prediction of human history.

Popper's critique of historicism is accompanied by his account of the "closed society," which is the precursor to a totalitarian and violent society, and contrasts it with the "open society," which is the ideal framework for democracy. As Popper describes it in *The Open Society and Its Enemies*, the closed society is an idealistic model of a mythical and irrational attitude to the world, based on a "tribal" and "collectivist" organization with rigid, authority-imposed rules of conduct for its members. The open society, in contrast, is founded on a critical, rational mindset and is organized to protect the freedom of individual citizens who must make personal decisions: "Only democracy provides an institutional framework that permits reform without violence, and so the use of reason in political matter."[26]

The open society, according to Popper, opens up a doctrine of democracy as the most appropriate form of government for securing freedom because it is the preservation of an institutional structure that allows not only the implementation of reforms without violence but also the use of rational arguments in the political field. Popper defines democracy as "a set of institutions," the most important of which are elections, which give the people the right to evict the government in power, and through which public control of governors and their dismissal by the governed is exercised, and the governed are allowed to obtain reforms without resorting to violence and even against the will of the governed. He claims:

> By democracy I do not mean something as vague as "the rule of the people" or "the rule of the majority," but a set of institutions (among them especially general elections, i.e., the right of the people to dismiss their government) which permit public control of the rulers and their dismissal by the ruled, and which make it possible for the ruler to obtain reforms without using violence, even against the will of the rulers.[27]

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26 Karl Popper, *The Open Society and Its Enemies* (Princeton, NJ: Princeton University Press, 2020), xlvi.

27 Popper, *Open Society*, 360. As regards Popper's theory of democracy, as well as the connections between epistemology, metaphysics and politics, see Roberta Corvi, *An Introduction to the Thought of Karl Popper* (London: Routledge, 1997); Geoffrey Stokes, *Popper: Philosophy, Politics and Scientific Method* (Cambridge: Polity Press, 1998); Jeremy Shearmur, *The Political Thought of Karl Popper* (London: Routledge, 1995).

Popper's preference for democracy, which can produce a "good society" and encourage "creativity,"[28] is founded not only on the principle of majority rule but also on the guarantee of institutional control over the governed through nonviolent and time-tested systems of elections and representative government.

Popper refers to the violent method of the revolutionaries as "utopian social engineering," a set of practices whose purported justification he locates in the unlikely pair of Plato and Marx.[29] According to Popper, the utopian approach to politics holds that "we must determine our ultimate political aim, or the Ideal State, before taking any practical action," and this is based on a "blueprint."[30]

Popper's defense of democracy is accompanied by a sharp critique of the revolutionary attitude as the result of a kind of aestheticism, which accepts the use of violence as the primary tool of political persuasion. According to Popper, the notion that society must be as beautiful as a work of art leads all too easily to violent measures in which the politician-artist must uproot existing institutions and traditions: "This is the way in which the artist-politician must proceed. This is what canvas-cleaning means. He must eradicate the existing institutions and traditions. He must purify, purge, expel, banish and kill ('Liquidate' is the terrible modern term for it)."[31]

Popper is categorically opposed to the use of force in the sole purpose of overthrowing tyranny and establishing democracy. In *Utopia and Violence* (1948), he further stigmatizes violence as a manifestation not only of an irrational and intolerant attitude but also of utopianism, which is a false, distorted form of rationalism.

> I consider – Popper writes – what I call Utopianism an attractive and, indeed, an all too attractive theory; for I also consider it dangerous and pernicious. It is, I believe, self-defeating, and it leads to violence. [. . .] Some people, for example, love and venerate violence. For them a life without violence would be shallow and trivial. Many others, of whom I am one, hate violence. This is a quarrel about ends. It cannot be decided by science. This does not mean that the attempt to argue against violence is necessarily a waste of time. It only means that you may not be able to argue with the admirer of violence. He has a way of answering an argument with a bullet if he is not kept under control by the threat of counter-violence.[32]

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28 See Philip Ironside, *The Social and Political Thought of Bertrand Russell: The Development of an Aristocratic Liberalism* (New York: Cambridge University Press, 1996), 5.

29 See on this regard Renford Bambrough, ed., *Plato, Popper, and Politics: Some Contributions to a Modern Controversy* (New York: Barnes and Noble, 1967).

30 Popper, *Open Society*, 148.

31 Popper, *Open Society*, 156.

32 Karl Popper, "Utopia and Violence," *World Affairs* 149, no. 1 (1986): 5–6.

If the critical rationalist sees reason as a social process whose outcomes – "rational unity," "equality of humanity," "tolerance," and "rejection of authoritarianism" – turn out to be the foundations of a truly free society, the utopian acts as a "social engineer" by designing an ideal society and implementing a useful plan to realize it. After that, the utopian is unable to reach an agreement with other utopians on what the valid model should be, simply because there is no purely rational or scientific method for determining the ideal to be chosen. As a result, the utopian program is carried out by a tyrannical government. Since every utopian purpose presumes the attainment of a state of "happiness," forgetting that it is human misery that is "the most urgent problem of a rational public policy," not happiness, that is to be left to individual efforts, the only way to avoid unmanageable changes in the process of its realization is to "use violence, which includes propaganda, the suppression of criticism, and the annihilation of all opposition."[33] Whatever its ends may appear to be, utopianism only succeeds in bringing about the suffering that results from tyrannical constraint.

If Popper spoke of utopianism in *The Poverty of Historicism* only in terms of its "strange alliance"[34] with historicism based on the holistic attitude that unites and forces them to consider the evolution of "society as a whole"[35] rather than the evolution of specific aspects of it, in *Utopia and Violence* he emphasizes its totalitarian drift. Indeed, Popper charges utopianism with the desire to perfect society as the sole instrument of its social engineering, which is very different from the means appropriate to critical rationalism inspired by social reform. True rationalism, while sharing the use of rational methods with utopianism, is clearly distinguished from it by aiming to solve a specific and concrete problem. Utopianism, in contrast, is willing to disrupt the entire society in order to achieve the long-term and abstract goal of social perfection for the benefit of future generations.

Popper accepts rationalism as a critical philosophy when it is based on a rational argument and dialogue aimed at nonviolent outcomes. Rationalism is not accepted when it is used to legitimize utopianism, in which the seed of violence is hidden because utopianism is almost always imposed on a majority by a minority of people. Its result was revolution and subsequent dictatorship. This has hap-

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33 Popper, "Utopia and Violence," 7.

34 Karl Popper, *The Poverty of Historicism* (London and New York: Ark Paperbacks, 1961), 73.

35 Popper, *Poverty of Historicism*, 74. According to Popper, the historicist and the utopianist attempt to rationalize changes in the social environment, "the one by prophesying the course of social development, and the other by insisting that the change should be strictly and completely controlled," because the absence of "complete" control over social life "may lurk the dangerous forces that make for unforeseen changes." Popper, *Poverty of Historicism*, 74.

pened in every revolution, from the English Civil War (1642) to the French (1789) and Russian (1917) revolutions. The utopian program is carried out by a tyrannical government. Because every utopian intention presupposes the achievement of a current state, the only way to avoid uncontrollable changes in the process of realization is to resort to violence, including propaganda, the suppression of criticism, and the annihilation of all opposition.

5 Oakeshott and conversational politics as an antidote to violence

Popper, as a skeptic, confirmed that he shared several assumptions made by his contemporaries, including Oakeshott. Popper hired Oakeshott as a colleague. They both retired after teaching at the London School of Economics and Political Sciences and shared several philosophical and political assumptions, most notably the recognition that no political problem can be solved through violence.

Popper respected Oakeshott so much that he submitted to his critical judgment, sending him a copy of *Utopia and Violence*. After receiving and reading the text, Oakeshott wrote a letter to Popper, who promptly responded three days later. A very interesting exchange of views on the way politics is conceived emerges from their correspondence of 1948.[36] The mutual influence on the interpretation of the political concepts most characteristic of their thinking, combined with the mutual solicitation for the critical reworking of their theories, stands out with a certain immediacy from the letters. Indeed, the clarifications and mutual objections at the tip of the pen confirm the fundamental divergence of their visions, particularly with regard to the role of reason in its relationship to tradition in the political sphere: Popper remains a fervent supporter of political rationalism, characterized by "argumentation" as a rational means of nonviolent problem solving, whereas Oakeshott prefers traditionalism inspired by the method of "conversation" as a guarantee of openness to diversity of identities. There are strong affinities between the two authors' positions on the issue of the relationship between utopia and violence.

Oakeshott devotes much of his intellectual energy to rebuttal of the rationalist project, beginning by demonstrating the epistemological flimsiness of the rational-

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36 The texts of the letters reproduced in this first Italian edition were transcribed and annotated by Efraim Podoksik and published on the Michael Oakeshott Association website at http://www.michael-oakeshott-association.com/pdfs/mo_letters_popper.pdf, accessed December 19, 2023.

ist claim to justify the totality of experience on the basis of the supposed infallibility of human reason and to a priori reject recourse to tradition. Rationalism, whether critical or not, is so stigmatized by Oakeshott that he dedicates an entire collection of essays to combating it.[37] According to Oakeshott, political rationalism has its philosophical roots in the "technique" of investigation inaugurated by Francis Bacon (1561–1626) and carried out by René Descartes (1596–1650). The latter asserted that knowledge begins with the famous tabula rasa, which is an "intellectual purge"[38] and ends in definitions demonstrable only through certain "propositions," to the detriment of the investigator's own intelligence and habits, customs and traditions, which are ways of practical knowledge. Oakeshott completely rejected these deeming themes because they are imprecise, uncertain and ineffective. Oakeshott preferred praxis based on custom and tradition over rationalism.

In a 1939 essay, Oakeshott defined the rationalist in politics as someone who does not accept self-criticism, never changes his mind, and is convinced that he must carry out a program of "political engineering" based on the ideology of "altruism," of "social service," on the assumption that political activity must constantly verify institutions' compliance with the sacrosanct principle of rationality without regard for the social "continuity" guarantee.[39] The rationalist despises the world, but not his own conception of it, and believes he can change it through "self-consciousness." But, assailed as he is by the desire for control, reductionism, simplification, conceptualization, organization, abstraction and administration, the rationalist's most serious error consists in preferring "faith" in reason and technique to practical skill, formalization to informality, and theory to contingency.[40] The rationalist rejects politics as a form of practical knowledge, i.e., the *phronesis* Aristotle spoke of, namely the wisdom inherent in merely instrumental

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37 Michael Oakeshott, *Rationalism in Politics* (New York: Basic Books, 1962).

38 Oakeshott, "On Being Conservative," in *Rationalism in Politics*, 16.

39 There is now a substantial critical literature on Oakeshott's political thought, including the works: Paul Franco, *The Political Philosophy of Michael Oakeshott* (New Haven, CT, and London: Yale University Press, 1990); John H. Liddington, *The Achievement of Michael Oakeshott* (London: Gerald Duckworth, 1993); Steven A. Gerencser, *The Skeptic's Oakeshott* (New York: St. Martin's Press, 2000); Kenneth B. McIntyre, *The Limits of Political Theory: Oakeshott's Philosophy of Civil Association* (Exeter: Imprint Academic, 2004); Suvi Soininen, *From a "Necessary Evil" to an Art of Contingency: Michael Oakeshott's Conception of Political Activity* (Exeter: Imprint Academic, 2004); Corey Abel, ed., *The Meanings of Michael Oakeshott's Conservatism* (Exeter: Imprint Academic, 2010); Michael Henkel and Oliver Lembcke, eds., *Politik und Praxis: Michael Oakeshott im Dialog* (Tübingen: Mohr Siebeck, 2013); Eric S. Kos, ed., *Oakeshott's Skepticism, Politics, and Aesthetics* (London: Palgrave-Macmillan, 2021).

40 See Michael Oakeshott, "The Claims of Politics," in *Religion, Politics and the Moral Life*, ed. Timothy Fuller (New Haven, CT, and London: Yale University Press, 1993), 95–96.

human actions, viewing it as a "parasitic" activity in many ways, sealing changes in society by being content with the constraints imposed on it by law and custom.

Indeed, politics, according to Oakeshott, is about enjoying what is real and close at hand, rather than wishing for what has been or what might be. Politics is "to prefer the familiar to the unknown, to prefer the tried to the untried, fact to mystery, the actual to the possible, the limited to the unbounded, the near to the distant, the sufficient to the superabundant, the convenient to the perfect, present laughter to utopian bliss."[41]

Oakeshott does not intend to replace reason with tradition, as it may appear at first. He is only interested in combating those philosophies and ideologies that, by conceiving of reason as a completely autonomous entity from tradition, elevate the intellect of the individual agent to the status of a substitute for political custom, crushing without appeal the possibility of a rational–traditional alliance in the set of sources entrusted with the maintenance of social and institutional order.[42] Utopianism is unquestionably one of the highest forms of anti-traditionalist ideology.

Popper, Oakeshott admits, rightly condemns the large-scale social transformations produced by utopian thinking, but he underestimates how chimerical it is to intend to cause upheaval to the entire society in order to achieve the ultimate solution to even a single social problem. According to Oakeshott, no problem in politics is ever definitively solved, and no problem should be used as a pretext to take away politics' true function: the maintenance of society as a whole, that is, in all its current and progressive arrangements. When this prudential rule is broken for the sole purpose of attempting to solve a problem once and for all, the risk, even with the most reasonable of adoptable measures, is always that of upsetting the complex balance of social arrangements, which is the supreme task of political activity to preserve. What holds society together is something far more important and profound than human intellectual power: it is living by certain habits of behavior; it is being aware that what unites human beings is not so much the possession and use of reason as a set of "modes of con-

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41 Oakeshott, "On Being Conservative," 169.

42 Oakeshott's view of tradition has been interpreted as a compromise between Popper's rationalism and Friedrich von Hayek's anti-rationalism. Whereas Popper examines tradition in terms of its efficiency in promoting ends that are distinct from it, Hayek examines it in terms of its contribution to the survival of the culture in which it is rooted. Both of these approaches are flawed by Oakeshott's insistence that tradition is not oriented towards ends, which cannot be specified independently of agents' ways of life. See, on this point, Antony O'Hear, "Criticism and Tradition in Popper, Oakeshott and Hayek," *Journal of Applied Philosophy* 9, no. 1 (1992): 65–75, https://doi.org/10.1111/j.1468-5930.1992.tb00296.x.

duct" that have no rational origin and in regard to which politics can only ensure a certain degree of "conformity."

While lacking a rationalist matrix, Oakeshott strongly advocates a "political method" that is an equally viable alternative to violence: "conversation." It is the meeting place of various "voices," namely idioms, identities and thoughts, where no single truth or final conclusion is sought, no hierarchies of values are pretended to be constructed, or decisive resolutions are reached, but where, free from the threat of homogenization, we simply recognize each other in our respective diversities.

Conversation, according to Oakeshott, refers to the openness of political activity, the same openness advocated by Popper, from the standpoint of critical rationalism. While a thesis must be proven or a term must be considered in an argument-centered discussion, something else can always be said in a conversation without a necessary conclusion being drawn. In the conversation, the plurality of voices is translated into political terms that reflect the diversity of interests, values and goals that underpin civil society. Everyone is welcome to participate in the conversation as long as they respect the effort to keep the field of solutions open to all demands for clarity. Civil conversation, as opposed to evasive monism, is the privileged domain of tolerant political pluralism.

Ultimately, Oakeshott is an antirationalist and conservative thinker. The politician who acts free of any utopian claim, according to him, is not the rationalist who is used to hearing only himself speak and is little inclined to dialogical truth, but the wise and prudent traditionalist who is involved in practical political life, maintaining the peaceful social order, and practicing and spreading the spirit of conversation.

Given these premises, Oakeshott believes that a politician can only be a "man of conversation," who should avoid single-mindedness and conclusive arguments as much as possible in order to maintain social order. Open and plural conversation is the preferred approach of political skepticism. Oakeshott discusses two different answers that have dominated European thought since the fifteenth century in *Political Faith and Political Skepticism* (1996). The first was exemplified by Jean-Jacques Rousseau (1712–1778) and Karl Marx (1818–1883), who believed in the capacity of humans to control and design all aspects of social and political life. That belief has been fueled by the expansion of government power in modern times. The second is represented by authors such as Michel de Montaigne (1533–1592), Blaise Pascal (1623–1662), Thomas Hobbes (1588–1679) and David Hume (1711–1776),

who argued that government cannot produce perfection and that we should avoid power concentrations that can lead to tyranny and oppression of the human spirit.[43] Oakeshott prefers this second approach to politics because he sees it as an antidote to diatribe, agitation and violence.

Oakeshott's conservatism is skeptical. In *On Being Conservative*, the text of a lecture delivered in 1956, Oakeshott defends the skeptical view of politics as a "specific and limited activity; not the management of an enterprise, but the rule of those engaged in a great diversity of self-chosen enterprises."[44]

Politics, according to Oakeshott, is not a patchwork of fantasies and dreams to be realized, but a practical activity requiring the use of appropriate and familiar tools. Skeptical politics is legitimized as a special disposition toward small innovations arising from a community's needs, contingencies and the acceptance of the present as an interrelationship between tradition and practical action. Human activities represent the intelligible convergence of choices and actions that are neither accidental nor necessary and, above all, prevent adherence to absolute and dogmatic truths in this interrelation.

Oakeshott combines skepticism with conservatism. His conservatism differs from that of Edmund Burke's *Reflections on the Revolution in France* (1790) and his twentieth-century disciples. The latter is a conservative disposition in politics based on religious aestheticism, which often borders on external fanaticism, and metaphysical beliefs that are not required to defend the true conservative disposition. In the context of radical individualism, conservatism always requires a conception of government that is not the imposition of a given conception of the common good, but a limited and specific activity that safeguards "general rules of conduct, which are understood, not as plans for imposing substantive activities, but as instruments enabling people to pursue the activities of their own choice with the minimum frustration, and therefore something which it is appropriate to be conservative about."[45]

Hume, according to Oakeshott, offered a different way of conceiving conservatism than the traditionalist and "cosmic" one inaugurated by Burke.[46] In fact, the Scot represented a skeptical conservatism that opposed political dogmatism as the father of revolutionism, enthusiasm and political violence. For Hume and Oakeshott, the authentic conservative attitude toward government is not fideist adher-

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43 Michael Oakeshott, *The Politics of Faith and the Politics of Scepticism* (New Haven, CT: Yale University Press, 1996).

44 Oakeshott, "On Being Conservative," 189.

45 Oakeshott, "On Being Conservative," 184.

46 For connections between Hume's sceptical conservatism and Oakeshott's, see my recent work Spartaco Pupo, *David Hume: The Sceptical Conservative* (Milan: Mimesis International, 2020).

ence to a corpus of ideals, principles and ethical values constructed on the basis of uncritical adherence to a given theory or philosophical text, but something less intellectually demanding. The authentic conservative attitude is the tendency to make individual choices in the name of a diversity of beliefs, mutability of opinions, and a multiplicity of plans, projects, ideas, compromises and information.

Oakeshott expands on the role of politics as a "moderator of conversation." Poetry, rather than philosophy, brings humans into direct contact with reality. Poetry is an independent voice in the human conversation, unconcerned with the practical voice's concerns. The conversation does not encourage confrontation but rather allows for the peaceful exchange of ideas because politics does not limit the complexity of experiences and one's own life goals. It is an intellectual journey, a place for learning and listening rather than for coming up with final solutions. Conversation between people from different experiences, nationalities, identities and civilizations is a metaphor for life; it is a mode of thought, a disposition of the human soul, not a mode of communication. The world of political discussion is suitable for everyone because it is the only place where the fixed forms imposed by "virtual" people can be resolved.

In a pluralist society, the conversation that begins true education is conducive to resolving moral conflict and violence. Oakeshott claims in *The Voice of Poetry in the Conversation of Mankind* (1959):

> It is the ability to participate in this conversation, and not the ability to reason cogently, to make discoveries about the world, or to contrive a better world, which distinguishes the human being from the animal and the civilized man from the barbarian. Indeed, it seems not improbable that it was the engagement in this conversation (where talk is without a conclusion) that gave us our present appearance, man being descended from a race of apes who sat in talk so long and so late that they wore out their tails. Education, properly speaking, is an initiation into the skill and partnership of this conversation in which we learn to recognize the voices, to distinguish the proper occasions of utterance, and in which we acquire the intellectual and moral habits appropriate to conversation. And it is this conversation which, in the end, gives place and character to every human activity and utterance.[47]

Oakeshott's thinking here is not Eurocentric, assuming that there are different levels of "civilization," a scale based on specific prejudices. He simply hopes that through calm conversational encounter, common humanity will clear the field of ideological prejudices with dogmatic origin, which are frequently the source of violent conflict.

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47 Oakeshott, "The Voice of Poetry in the Conversation of Mankind," in *Rationalism in Politics*, 199.

6 Conclusion

Russell, Popper and Oakeshott are quite consistent in demonstrating the importance of civil discourse and nonviolence in language, thought and political action. Nonviolence, according to these eminent authors, can only be the natural result of a critical, skeptical attitude, defined primarily as political anti-dogmatism. Violence, instead, is the preferred method for dogmatists of all faiths to assert their objective and infallible truths, despite the fact that these are ephemeral and unprovable.

But what unites these three philosophers is their distinct way of living and thinking, which has frequently drawn the censorious invective of dogmatists of all stripes. Nonetheless, their political skepticism motivates them to adopt attitudes, mental habits, behaviors and public choices that are consistent with the ideal of a pluralistic, open and tolerant society. Their skepticism results in better citizens who are willing to question themselves and take thoughtful and common-sense political actions without succumbing to partisanship, shielded from the fallibility and one-sidedness of judgments that all too often lead to violence.

III

Aaron James Goldman

Exceptions (to exceptions) and decisions (about decisions) in Søren Kierkegaard's *Fear and Trembling* and Carl Schmitt's *Political Theology*

1 Introduction

Recent decades have seen Danish philosopher and theologian Søren Kierkegaard (1813–1855) consulted ever more frequently for insights related to social justice, politics and especially political theology.[1] This trend marks a departure from a reception history that often treated (indeed, criticized) Kierkegaard's thought as acosmic or apolitical,[2] or which attended to Kierkegaard's politics – including his commitment to the pre-1848 Danish absolute monarchy – primarily in connection to his biography and to his historical situatedness.[3] The prominence of political theology among recent critics of neoliberalism is itself linked to a revival of the thought of German jurist and political theorist Carl Schmitt (1888–1985),[4] who drew inspiration from Kierkegaard throughout his career.[5] This has led scholars

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1 See, e.g., Saitya Brata Das, *The Political Theology of Kierkegaard* (Edinburgh: Edinburgh University Press, 2020); Sylvia Walsh Perkins, ed., *Truth is Subjectivity: Kierkegaard and Political Theology* (Macon, GA: Mercer University Press, 2019); Mads Peter Karlsen, "Towards a Kierkegaardian Retreating of the Political," *Kierkegaard Studies Yearbook* 24 (2019): 375–392, https://doi.org/10.1515/kierke-2019-0015; Roberto Sirvent and Silas Morgan, eds., *Kierkegaard and Political Theology* (Eugene, OR: Pickwick, 2018); Michael O'Neill Burns, *Kierkegaard and the Matter of Philosophy: A Fractured Dialectic* (London and New York: Rowman and Littlefield, 2015); and Barry Stocker, *Kierkegaard on Politics* (Basingstoke: Palgrave Macmillan, 2014).
2 See, e.g., T. W. Adorno, "On Kierkegaard's Doctrine of Love," *Zeitschrift für Sozialforschung/ Studies in Philosophy and Social Science* 8 (1939–1940): 413–429; Martin Buber, *Between Man and Man*, trans. by Ronald Gregor-Smith (London and New York: Routledge, 2002 [1947]), 46–97, 253–254; Louis Mackey, "The Loss of the World in Kierkegaard's Ethics," *Review of Metaphysics* 15 (1962): 602–620; and Peter George, "Something Anti-social about *Works of Love*," in *Kierkegaard: The Self in Society*, ed. George Pattison and Steven Shakespeare (London: Macmillan, 1998), 70–81.
3 See, e.g., Bruce Kirmmse, "Kierkegaard and 1848," *History of European Ideas* 20, nos. 1–3 (1995): 167–175, https://doi.org/10.1016/0191-6599(95)92938-Q.
4 See, e.g., Chantal Mouffe, ed., *The Challenge of Carl Schmitt* (London and New York: Verso, 1999).
5 A number of texts by Kierkegaard are alluded to throughout Schmitt's unpublished writings, e.g., Carl Schmitt, *Der Schatten Gottes: Introspektionen, Tagebücher und Briefe 1921 bis 1924*, ed. Gerd Giesler, Ernst Hüsmert, and Wolfgang H. Spindler (Berlin: Duncker & Humblot, 2014); Carl

to interrogate the historical, theological and philosophical intersections between Kierkegaard and Schmitt, including by investigating which elements of Kierkegaard's thought might serve as antecedents to aspects of Schmitt's political theological project.[6]

One stimulus for attempting to recover a politics from figures such as Kierkegaard and Schmitt is an increasing skepticism about the capacity of liberal democracy – whether in essence or in its current manifestations – to respond adequately to the dominant moral and political challenges of the twenty-first century,[7] including ecological catastrophe, a resurgence of aggressive far-right nationalism in Europe and elsewhere, and so-called migration crises.[8] (Perhaps some of these issues are themselves byproducts of the organization of liberal democratic institutions.) Identified as critics of forms of liberalism, Kierkegaard and Schmitt may offer intellectual resources to respond to such challenges, challenges which often involve a degree of violence (either explicitly exerted by state power or permitted by way of negligence). But here, ambiguities between the descriptive and normative elements of Schmitt's thought bubble to the surface, not to mention lingering questions about the political applicability of Kierkegaard's Christian accounts of religious duty. Both authors attend to the significance of will or authority unchecked by public rationality, i.e., the *decision*. Both may also

Schmitt, *Tagebücher 1925 bis 1929*, ed. Martin Tielke and Gerd Giesler (Berlin: Duncker & Humblot, 2018); and Carl Schmitt, *Glossarium: Aufzeichnungen aus den Jahren 1947 bis 1958*, 2nd ed., ed. Gerd Giesler and Martin Tielke (Berlin: Duncker & Humblot, 2015 [1991]).

6 See, e.g., Birte Löschenkohl, "Occasional Decisiveness: Exception, Decision and Resistance in Kierkegaard and Schmitt," *European Journal of Political Theory* 18, no. 1 (2019): 89–107, https://doi.org/10.1177/147488511561930; Rebecca Gould, "Laws, Exceptions, Norms: Kierkegaard, Schmitt, and Benjamin on the Exception," *Telos* 162 (2013): 77–96, doi:10.3817/0313162077; Burkhard Conrad, "Kierkegaard's Moment: Carl Schmitt and His Rhetorical Concept of Decision," *Redescriptions: Yearbook of Political Thought, Conceptual History and Feminist Theory* 12, no. 1 (2008): 145–171, https://doi.org/10.7227/R.12.1.8; and Karl Löwith, "The Occasional Decisionism of Carl Schmitt," in *Martin Heidegger and European Nihilism*, trans. Gary Steiner, ed. Richard Wolin (New York: Columbia University Press, 1995), 137–169.

7 See, e.g., Chantal Mouffe, "Introduction: Schmitt's Challenge," in *The Challenge of Carl Schmitt*, ed. Chantal Mouffe (London and New York: Verso, 1999), 2.

8 For scholarship drawing from Kierkegaard as a resource to respond to these challenges, see, e.g., Thomas J. Millay, *Kierkegaard and the New Nationalism: A Contemporary Reinterpretation of the Attack upon Christendom* (Lanham, MD: Lexington, 2021); Isak Winkel Holm, *Kierkegaard and Climate Catastrophe: Learning to Live on a Damaged Planet* (Oxford: Oxford University Press, 2023), https://doi.org/10.1093/oso/9780192862518.001.0001; and Andrzej Słowikowski, "Can a Refugee be One's Neighbor in an Ethical Sense?: An Attempt to Transpose the Transcendent Category of Love for One's Neighbor from Kierkegaard's *Works of Love* into Immanent Ethical Practice with Reference to the Contemporary Migration Crisis," in *Kierkegaard and Issues in Contemporary Ethics*, ed. Mélissa Fox-Muraton (Berlin and Boston, MA: Walter De Gruyter, 2020), 147–167, https://doi.org/10.1515/9783110707137-009.

argue for positions that can offer no reliable check on the (potentially violent) decisions made by these wills or authorities that affect the welfare of others.

Consider, for instance, what has been labeled an ongoing migration crisis in Europe since 2015. Member states' policies are implicated in thousands of documented and presumed deaths related to continuing migrations to and within the EU.[9] The death and violence (whether understood as negligent, purposeful or some admixture of the two) is justified by a rhetoric that appeals to state security, a move that has been well-documented in connection to actions taken by Hungary and Poland.[10] This is an example of what Barry Buzan and Ole Wæver have called *securitization*, which they define as "the discursive process through which an inter-subjective understanding is constructed within a political community to treat something as an existential threat to a valued referent object, and to enable a call for urgent and exceptional measures to deal with the threat."[11] Though the dynamics of securitization are debated, Holger Stritzel has described the concept, as articulated by Buzan and Wæver, as a perduring decisionist speech act.[12] In effect, Schmitt's critique of liberal institutionalism shines a spotlight on these hypocritical elements of liberal states that callously or cruelly turn away those seeking refuge; at the same time, Schmitt's elevation of the maintenance of political order as the ultimate task of the sovereign seems to justify the use of securitizing technologies, which do violence to people under the banner of exceptional circumstances.

For Kierkegaard specialists, intersections with Schmitt are fraught. Such scholars often hope to defend the relevance of Kierkegaard's thought in an academic climate that reasonably expects some form of applicability to topics such as political resistance, social justice, economic disparities and environmental ethics. However, classic interpretations of Kierkegaard as an irrationalist or decisionist about whether (and how) to be ethically or politically committed – such as Alasdair MacIntyre's in *After Virtue* (1981)[13] – may caution against mobilization of

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9 See, e.g., Marie McAuliffe and Anna Triandafyllidou, eds., *World Migration Report 2022* (Geneva: International Organization for Migration, 2021); and Julia Black, *Annual Regional Overview: Europe (January – December 2021)* (Geneva: International Organization for Migration, 2022), 6, https://publications.iom.int/books/world-migration-report-2022.
10 Monika Kabata and An Jacobs, "The 'Migrant Other' as a Security Threat: The 'Migration Crisis' and the Securitising Move of the Polish Ruling Party in Response to the EU Relocation Scheme," *Journal of Contemporary European Studies* 31, no. 4 (2023): 1223–1239, https://doi.org/10.1080/14782804.2022.2146072.
11 Barry Buzan and Ole Wæver, *Regions and Powers: The Structure of International Security* (Cambridge: Cambridge University Press, 2003), 491.
12 Holger Stritzel, "Towards a Theory of Securitization: Copenhagen and Beyond," *European Journal of International Relations* 13, no. 3 (2007): 357–383, 363, https://doi.org/10.1177/1354066107080128.
13 Alasdair MacIntyre, *After Virtue: A Study in Moral Theory,* 3rd ed. (Notre Dame, IN: University of Notre Dame Press, 2007 [1981]), 39–43.

his philosophy or theology for such purposes. Kierkegaard's *Fear and Trembling* (1843) – with its praise of Abraham's willingness to sacrifice Isaac, characterized as a "teleological suspension of the ethical"[14] – is often specifically targeted by critics as a work that permits or even encourages amoral or unethical decision-making, including the decision to perform religiously inspired violence.[15] While Kierkegaard's attention to the particular subject may render his thought attractive as a way to empower resistance against forces that claim to carry the authority of universality, it simultaneously incites an anxiety among scholars that his focus on the individual will risk unhinging his politics from concern for justice altogether.

Anthony Rudd has connected such readings of *Fear and Trembling* – which he deems misreadings – to controversial figures who drew from Kierkegaard in their accounts of ethical and political decision, including György Lukács (1885–1971) and Schmitt.[16] Lukács seems to have understood Kierkegaard as significant in his decision to support terror to achieve Bolshevist political goals, despite himself acknowledging ethical prohibitions against violence[17]; Schmitt quotes Kierkegaard to support his account of sovereignty.[18] While, of course, Schmitt's explicit defense of invoking the Weimar constitution's Article 48 and support of the Nazi Party – neither of which was an accident[19] – makes his favorable references to

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14 Søren Kierkegaard, *Fear and Trembling*, in *Kierkegaard's Writings VI*, trans. Howard V. Hong and Edna H. Hong (Princeton, NJ: Princeton University Press, 1983 [1843]), 54. When I interpolate or otherwise consult the Danish text, I refer to Niels Jørgen Cappelørn et al., eds., *Søren Kierkegaards skrifter*, vol. 4 (Copenhagen: Gads Forlag, 1997–2013).

15 E.g., Troels Nørager, *Taking Leave of Abraham: An Essay on Religion and Democracy* (Aarhus: Aarhus University Press, 2008), 45–98; Emmanuel Levinas, *Proper Names*, trans. Michael B. Smith (Stanford, CA: Stanford University Press, 1996), 76.

16 Anthony Rudd, "Kierkegaard and the Critique of Political Theology," in *Kierkegaard and Political Theology*, 19–22.

17 See Arpad Kadarkay, *Georg Lukács: Life, Thought, and Politics* (Cambridge, MA, and Oxford: Basil Blackwell, 1991), 175–201, 203, 213.

18 Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago, IL: University of Chicago Press, 2005 [1922/1934]), 15. When I interpolate or otherwise consult the German text, I refer to *Politische Theologie: Vier Kapitel zur Lehre von der Souveränität*, 9th edition (Berlin: Duncker & Humboldt, 2009 [1922]).

19 The relationship between Schmitt's political thinking – which shifts throughout his authorship – and his support of Nazism is complex, but not to be minimized. For more on this topic, see Ville Suuronen, "Mobilizing the Western Tradition for Present Politics: Carl Schmitt's Polemical Uses of Roman Law, 1923–1945," *History of European Ideas* 47, no. 5 (2021): 748–772, https://doi.org/10.1080/01916599.2020.1818115; and Ville Suuronen, "Carl Schmitt as a Theorist of the 1933 Nazi Revolution: 'The Difficult Task of Rethinking and Recultivating Traditional Concepts,'" *Contemporary Political Theory* 20, no. 2 (2020): 341–363, https://doi.org/10.1057/s41296-020-00417-1.

Kierkegaard all the more uncomfortable, what is at stake for Rudd in both figures' reliance on Kierkegaard to articulate their decisions (or, in Schmitt's case, deci-sion*ism*) is a broader bramble: the possibility that Kierkegaard's thinking might justify the unchecked will of an individual or collective whose authority would extend beyond conventional modes of public, rational or ethical critique and de-liberation. Rudd's verdict is swift: "Decisionism is, I think, unacceptable, either in politics or outside it."[20]

But if not a pure decision, what constitutes Kierkegaard's (in)famous leap of faith? According to Rudd's reading, Kierkegaardian faith is always modulated by robust metaphysical or theological commitments: the decision of faith from the aesthetic to the ethical to the religious spheres of life is "not [. . .] a series of blind leaps," but instead "a version of the Platonic Ascent"[21]; an "objective Good (God)" ensures that the right decision is not without content.[22] When the Abraham de-picted in *Fear and Trembling* follows God's command to sacrifice Isaac, he does so, on Rudd's account, "because he trusts God. Since God has commanded this, it must be good—not because God decides what counts as 'good' but because he be-lieves that God will only command what is in fact good."[23] Other scholars have made parallel moves, highlighting that the claims in Kierkegaard's pseudonymous authorship about the leap of faith tell only half the story. Attributing a position to Kierkegaard requires, so they claim, attention to non-pseudonymous and explic-itly Christian works, such as *Works of Love* (1847).[24]

While Rudd's and other interpretations of Kierkegaard are right to remind readers of his robust Christian commitments, they too confidently presume to know the content and limits of Kierkegaard's account of Christian faith. For Kier-kegaard, does God's (presumptive) unwavering goodness really tie up the loose ends of a text like *Fear and Trembling*? Is Kierkegaard's supposed decisionism ac-ceptable only because he was coincidentally committed to a God that commands love for the neighbor? Can we really rest easy believing that (Abraham believed that) God would simply clean up the mess God seemed to create in the episode of

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20 Rudd, "Kierkegaard and the Critique," 23.

21 Rudd, "Kierkegaard and the Critique," 22.

22 Rudd, "Kierkegaard and the Critique," 22.

23 Rudd, "Kierkegaard and the Critique," 27.

24 E.g., M. Jamie Ferreira, *Love's Grateful Striving: A Commentary on Kierkegaard's* Works of Love (Oxford: Oxford University Press, 2001), 5, 40; and C. Stephen Evans, *Kierkegaard's Ethic of Love: Divine Commands and Moral Obligations* (Oxford: Oxford University Press, 2004), 19–20, 61–84. Though in a more prolonged treatment of *Fear and Trembling*, it would be necessary to defend an account of why Kierkegaard deployed the pseudonym Johannes de Silentio, I lack the space to do so in this short piece. In the pages that follow, I refer to the author of *Fear and Trembling* only as "Kierkegaard."

the Binding of Isaac?[25] Perhaps more importantly, such readings risk obscuring or disempowering what is politically most potent in Kierkegaard's early pseudonymous productions, or may even fundamentally conflate Schmitt's political juridical decisionism with the function and structure of an individual's decision in Kierkegaard's thought (two distinct concepts which are at best analogous or isomorphic).

In the pages that follow, I first argue that, in Kierkegaard's work, it is indeed *Fear and Trembling,* with its "teleological suspension of the ethical," and not *Repetition* (1843) – despite Schmitt's direct quotation of the latter – that inspires Schmitt's conceptions of sovereignty, decision and exception in *Political Theology* (1922). In other words, to understand Kierkegaard on the core issues that are also of interest to Schmitt (and to the loose-knit project of political theology in general), we must think *through* rather than *around* the account of faith's relationship to ethics proffered in *Fear and Trembling.*

Second, I argue that, even if I am correct that it is Schmitt's inspiration, he nonetheless attempts to argue a position that *Fear and Trembling* subtly positions itself against. Though a hero of faith such as Abraham may be excepted from the ethical (*det Ethiske*), it is *Fear and Trembling*'s tragic heroes – heroes of the ethical sphere, whom Kierkegaard criticizes by juxtaposing them with the knight of faith – who most precisely embody Schmitt's conception of the sovereign. *Fear and Trembling* thus issues a preemptive critique of this mode of Schmittian politics from the standpoint of faith; though the book's account of the Binding of Isaac seems to condone violence, Kierkegaardian faith ultimately refuses to accept that state violence is ever necessary to maintain order.

Third, in conjunction with my preceding interpretation of *Fear and Trembling*, I advance a preliminary account of Kierkegaard's decisionism, which I distinguish from Schmitt's. I characterize it as a form of optimistic meta-decision: to have faith is to decide that Schmitt's account of the exception – including its understanding that in exceptional circumstances, state violence may be required to preserve order – does not have the final word. By defending this interpretation, I make the provocative claim that, as long as we are willing to entertain a Kierkegaardian conception of paradox in our political thinking, we might recognize faith as a crucial basis for a form of liberalism that does not fall victim to

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25 Such readings of *Fear and Trembling*, which get a great deal correct, might be labeled 'eschatological trust' interpretations of the text, following John J. Davenport, "Faith as Eschatological Trust in *Fear and Trembling*," in *Ethics, Love, and Faith in Kierkegaard: Philosophical Engagements*, ed. Edward F. Mooney (Bloomington, IN: Indiana University Press, 2008), 196–233; and John Lippitt, *The Routledge Guidebook to Kierkegaard's* Fear and Trembling, 2nd ed. (London and New York: Routledge, 2016 [2003]), 175–195.

Schmitt's otherwise apt critique. Accordingly, decisionism – in a different form – can be untethered from the pessimism of Schmitt's critique of liberalism; most importantly, some version of liberal democracy might still have the hope of becoming unyoked from Schmitt's conclusions that exclusion, exceptions and violence are tragically necessary to preserve a social contract.

2 Schmitt's Kierkegaardian inspiration

Schmitt's *Political Theology* begins with a succinct definition: "*Sovereign* is the one who *decides* on the *exception*."[26] Already we have all our three central concepts. To paint Schmitt's argument in broad strokes, his claim is that liberal constitutionalist accounts of statehood fail to acknowledge that the supposedly universal application of legal norms requires an extra-legal sovereign authority to interpret and apply them. As Paul Hirst puts it, for Schmitt, "all legal orders have an 'outside'; they rest on a political condition which is prior to and not bound by law. A constitution can survive only if the constituting political act is upheld by some political power."[27] According to Schmitt, the state and its legal structures are not primary; no constitution or social contract is a fully closed system. Instead, political power (a sovereign will) preserves the system, maintains it and decides how rules are applied within it.

Critically, sovereign authority is also a precondition of any state of exception, that is, a situation in which the normal application of laws is suspended to respond to abnormal events that threaten the state. Even when the law prescribes conditions, procedures and limitations for states of exception, the very possibility of the exception – and the reality that someone must decide when circumstances are exceptional (versus normal) – exposes that at the foundation of the state (and every moment of its persistence) is an act of decision-making that the law itself cannot exhaustively determine. Hence, Schmitt writes, "The decision on the exception is a decision in the true sense of the word. Because a general norm, as represented by an ordinary legal prescription, can never encompass a total exception, the decision that a real exception exists cannot therefore be entirely derived from this norm."[28] A party tasked with deciding how to suspend law in order to preserve order and ultimately maintain the law inhabits a liminal position: "Al-

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26 Schmitt, *Political Theology*, 5. [translation slightly modified] [emphasis added]

27 Paul Hirst, "Carl Schmitt's Decisionism," in *The Challenge of Carl Schmitt*, ed. Chantal Mouffe (London and New York: Verso, 1999), 7–17, http://dx.doi.org/10.3817/0687072015.

28 Schmitt, *Political Theology*, 6.

though he stands outside the normally valid legal system, he nevertheless belongs to it, for it is he who must decide whether the constitution needs to be suspended in its entirety."[29] Even if, as described here, a party acts on behalf of the law or constitution – that is, as would a commissarial dictator, to call on a term Schmitt formally defines elsewhere[30] – the power to do so implies a pivot point outside legality that ultimately governs it.

Schmitt imagines this model of sovereignty by way of a theological analogy: The exception, like a "miracle" (*Wunder*), exposes the role of a sovereign who, like God, extends beyond the state (beyond nature) and maintains its order.[31] The exception thus demonstrates that the rule is relative; the rule of law holds only when the sovereign decides it does. In a central passage, Schmitt writes,

> The exception [*Ausnahme*] can be more important to it [a philosophy of concrete life] than the rule, not because of a romantic irony for the paradox [*Paradoxe*], but because the seriousness of an insight goes deeper than the clear generalizations inferred from what ordinarily repeats itself. The exception is more interesting than the rule. The rule proves nothing; the exception proves everything: It confirms not only the rule but also its existence, which derives only from the exception. In the exception the power of real life breaks through the crust of a mechanism that has become torpid by repetition [*Wiederholung*].[32]

The exception is not only "more interesting" and "more important" because it reveals the limits of legal norms in abnormal circumstances; it also reveals the contingency of civil law *as such.* The very "existence" of the rule derives from a sovereign decision-maker; the exception is baked into the system at and as its foundation.

In the above quotation, the terms "paradox" (*Paradoxe*) and "repetition" (*Wiederholung*) are clear allusions to Kierkegaard's thought. Indeed, in the very next paragraph, Schmitt excerpts passages from a German translation of Kierkegaard's *Repetition* (which he assembles into a single quotation without noting his elisions):

> A Protestant theologian who demonstrated the vital intensity possible in theological reflection in the nineteenth century stated: "The exception [*Die Ausnahme*; *Undtagelsen*] explains the general [*Allgemeine*; *Almene*] and itself. And if one wants to study the general correctly, one only needs to look around for a true exception. It reveals everything more clearly than

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29 Schmitt, *Political Theology*, 7.
30 Carl Schmitt, *Dictatorship: From the Origin of the Modern Concept of Sovereignty to Proletarian Class Struggle*, trans. Michael Hoelzl and Graham Ward (Cambridge and Malden, MA: Polity Press, 2014), 126–127.
31 Schmitt, *Political Theology*, 36.
32 Schmitt, *Political Theology*, 15.

does the general. Endless talk about the general becomes boring; there are exceptions. If they cannot be explained, then the general also cannot be explained. The difficulty is usually not noticed because the general is not thought about with passion but with a comfortable superficiality. The exception, on the other hand, thinks the general with intense passion."[33]

How important is Kierkegaard, and this passage in particular, for understanding Schmitt's decisionism?

Despite his quotation of *Repetition*, *Fear and Trembling* is (and I will suggest, correctly) more often associated with Schmitt's thinking.[34] Birte Löschenkohl has pushed against this trend, arguing that Schmitt's invocation of *Repetition* should occasion a reevaluation of Kierkegaard's view of exception: "Such a perspective shifts attention from thinking the exception as a *state of exception*, a concept that mostly concerns state politics, to thinking about an *exception from the state* that struggles with and resists hegemonic forces from below."[35] For Löschenkohl, excepting oneself from making decisions on the terms offered by the state constitutes a new form of agency, which can serve as the fulcrum for radical political

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33 Schmitt, *Political Theology*, 15. For the passages of *Repetition*, see Søren Kierkegaard, *Repetition*, in *Kierkegaard's Writings VI*, trans. Howard V. Hong and Edna H. Hong (Princeton, NJ: Princeton University Press, 1983 [1843]), 227. Bracketed interpolations in the above quotation are from the German of Schmitt's *Politische Theologie*, and Kierkegaard's Danish, respectively, from *Søren Kierkegaards Skrifter*, vol. 4. For the German translation Schmitt likely quoted here, see Søren Kierkegaard, *Furcht und Zittern/Wiederholung*, 3rd ed., trans. Heinrich Cornelius Ketels, Hermann Gottsched, and Christoph Schrempf, *Gesammelte Werke*, vol. 3 (Jena: E. Diederichs, 1923 [1843]), 203–204. The most updated register of Schmitt's library includes no copy of *Fear and Trembling/Repetition* in any language. See Carl Schmitt Gesellschaft, *Die Bibliothek Carl Schmitt*, last updated September 2021 (Carl-Schmitt-Gesellschaft e. V., 2022), accessed April 23, 2023, https://www.carl-schmitt.de/en/research-2/privatbibliothek-carl-schmitts/.

Though Schmitt's quotation seems to reflect the 1909 and 1923 Gottsched and Schrempf translations (which resemble one another quite closely), it is hard to say which he was examining, given Schmitt's unmarked elisions in the passage. Perhaps he was partially quoting from memory or inaccurate notes, or perhaps he was partially translating from some Danish version of the text.

34 See, e.g., Rudd, "Kierkegaard and the Critique," 19–20; Richard A. Cohen, "The Power of Carl Schmitt: Fascism, Dualism and Justice," *Religions* 10, no. 1 (2019): 7, https://doi.org/10.3390/rel10010007; Bartholomew Ryan, *Kierkegaard's Indirect Politics: Interludes with Lukács, Schmitt, Benjamin and Adorno* (Amsterdam and New York: Rodopi, 2014); and Bartholomew Ryan, "Carl Schmitt: Zones of Exception and Appropriation," in *Kierkegaard's Influence on Social-political Thought*, ed. Jon Stewart, vol. 14 of *Kierkegaard Research: Sources, Reception and Resources*, ed. Jon Stewart (Farnham: Ashgate, 2011), 177–207.

35 Löschenkohl, "Occasional Decisiveness," 90.

change. Though Löschenkohl's move is a clever one, and her reading of *Repetition* productive, I believe she may make too much of Schmitt's quotation of the book.

For several reasons, I defend the more traditional interpretation that *Fear and Trembling* is the better candidate to pursue the intersection between *Political Theology* and Kierkegaard's thinking. First, because the German versions of *Fear and Trembling* and *Repetition* comprised the same volume, it is entirely possible that Schmitt could have fluidly read both alongside one another, flipping between the pages and quoting from the latter while still considering the content of the former. Second, there is textual evidence from Schmitt's discussion of exception: the term "paradox" (*Paradoxe*) appears in *Fear and Trembling* but not in *Repetition*, flagging the relative importance, for Schmitt, of the former. Third, as is visible in the above quotation, the context of the passage Schmitt cites from *Repetition* about the concept of exception suggests that he does not rely on *Repetition* for the political or theological content of the concept, but rather as a hermeneutical guideline he finds noteworthy and cleverly framed in the work; in other words, in the passage that excerpts *Repetition*, Schmitt is less interested to identify substantive political theological overlap between himself and Kierkegaard than he is to share a historical precedent for examining a "borderline concept [*Grenzbegriff*]"[36] – the exception – in order to understand the norm.[37] Fourth, and crucially, *Fear and Trembling*'s extended discussion of faith as involving a "teleological suspension of the ethical" may, on a plain sense reading, seem to suggest that a connection to the divine (such as through faith) excepts one from general moral norms. This relationship between faith and the ethical is clearly parallel to the relationship between the sovereign and law that Schmitt famously frames with theological language: "All significant concepts of the modern theory of the state are secularized theological concepts [. . .] The exception in jurisprudence is analogous to the miracle [*Wunder*] in theology." Fifth, versions of a Danish cognate (*Vidunder*) of a German term for "miracle" Schmitt uses (*Wunder*) appear 21 times in *Fear and Trembling*, often in close con-

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36 Schmitt, *Political Theology*, 5.

37 Karl Löwith makes a similar case: "The exception, Schmitt says [. . .] does not simply confirm the rule, but instead it is only on the basis of the exception that the rule can live. And it is for this reason alone that he is interested in Kierkegaard, though Kierkegaard never meant to justify the exception *as such* when he says that it explains the universal as well as itself and that if one wants to study the universal then one need only look for a genuine exception". Löwith, "Occasional Decisionism," 142. Here, Löwith goes further than I do, suggesting that it is "for this reason *alone*" Schmitt is interested in Kierkegaard. I contend that Schmitt's decisionism was, crucially, also inspired by *Fear and Trembling*'s articulation of faith as involving a "teleological suspension of the ethical," even though *Fear and Trembling*, on my interpretation, presents a view that ultimately diverges from Schmitt's.

nection with Kierkegaard's central concept of faith (*Tro*),[38] but only twice – and comparatively inconspicuously – in *Repetition*. This suggests Schmitt's prolonged engagement with *Fear and Trembling* surrounding *Political Theology*'s central definitions, claims and arguments.

In short, the Kierkegaard of *Repetition* is not one of Schmitt's primary conversation partners in *Political Theology*. It is much more likely that the supposed analogy between *Fear and Trembling*'s teleological suspension of the ethical and Schmitt's conception of sovereignty is the key inspiration for some of Schmitt's claims about the concept of decision in *Political Theology*, even if – as I establish next – *Fear and Trembling*'s conception of faith is ultimately disanalogous with Schmitt's political theology.

3 Exceptions to exceptions

Interpreters of *Fear and Trembling* have, independently of Kierkegaard's connection to Schmitt, struggled with the implications of faith's "teleological suspension of the ethical," which seems to suggest that it is excusable to violate moral norms in rare cases, such as upon receiving a direct command from God. In short, we might worry that Kierkegaard is advocating, in the name of Christianity, making oneself an exception to morality. On this sort of reading, *Fear and Trembling* praises Abraham's faith precisely because he is willing to sacrifice Isaac when privately commanded by God. Emmanuel Levinas, for example, seems to read the book this way. He connects Kierkegaard's thought to Nazism, worrying about a "harshness" and a "violence" that can emerge when the subject, in faith, transcends the ethical.[39] Indeed, this "moral exception" method of reading *Fear and Trembling* is attractive, for it is otherwise challenging to make sense of the book's

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38 E.g., Kierkegaard, *Fear and Trembling*, 18. In the German translation of *Fear and Trembling* Schmitt quoted in *Political Theology*, the term is "das Wunderbare." See Kierkegaard, *Furcht und Zittern/Wiederholung*, 14. It should be noted, admittedly, that the term 'exception' (*Undtagelse*) appears frequently in *Repetition* but not in *Fear and Trembling*, except once (as *undtagen*), and then only innocuously. See Kierkegaard, *Fear and Trembling*, 56 / *Søren Kierkegaards Skrifter* Vol. 4, 150. On this point, Ryan makes a misleading remark in two pieces that implies the significance of the term *Undtagelse* in *Fear and Trembling*. See Ryan, "Carl Schmitt," 178; and Ryan, *Kierkegaard's Indirect Politics*, 90.

39 Levinas, *Proper Names*, 76. Gene Outka advances a similar position, treating the text as lauding a form of religious duty that may cut against otherwise universalistic morality: See Gene Outka, "Religious and Moral Duties: Notes on *Fear and Trembling*," in *Religion and Morality*, ed. Gene Outka and John P. Reeder, Jr. (Garden City, NY: Anchor, 1973), 204–254.

prolonged investigation of Abraham, who is praised as faithful *because of* the way he was prepared to sacrifice Isaac.

Though there are many passages worth examining, let us look at two in which Kierkegaard explains faith's "teleological suspension of the ethical":

> The ethical [*Ethiske*] as such is the universal [or, 'general'; *Almene*], and as the universal it applies to everyone, which from another angle means that it applies at all times. It rests immanent in itself, has nothing outside itself that is its τελοζ but is itself the τελοζ for everything outside itself, and when the ethical has absorbed this into itself, it goes not further. The single individual, sensately and psychically qualified in immediacy, is the individual who has his τελοζ in the universal, and it is his ethical task continually to express himself in this, to annul his singularity in order to become the universal.[40]

> Faith [*Troen*] is namely this paradox that the single individual is higher than the universal [*Almene*]—yet, please note, in such a way that the movement repeats itself, so that after having been in the universal he as the single individual isolates himself as higher than the universal. If this is not faith, then Abraham is lost, then faith has never existed in the world precisely because it has always existed. For if the ethical—that is, social morality [*det Sædelige*]—is the highest and if there is in a person no residual incommensurability in some way such that this incommensurability is not evil [. . .], then no categories are needed other than what Greek philosophy had or what can be deduced from them by consistent thought.[41]

If faith is possible – that is, if there is a "teleological suspension of the ethical," if there is an absolute duty to God, if religiosity cannot be reduced to the categories of Greek philosophy – then the ethical has already been cracked open, indeed cracked apart.

But what does it mean – in faith – to except oneself from the ethical, to have a motivation whose *telos* or end renders it "higher than the universal [or general]"? To answer such a question, it is essential to understand what is meant by "the ethical" (*det Ethiske*). It is tempting to treat Kierkegaard's concept of the ethical – characterized with language of universality and immanence – as suggestive of Immanuel Kant's (1724–1804) ethics, which considers all persons equally as moral agents and potential moral patients based on a self-legislating moral imperative.[42] On such a reading, faith's elevation of the single individual over the ethical qua universal generates tension with universalizable ethical or moral obligation as such.

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40 Kierkegaard, *Fear and Trembling*, 54.

41 Kierkegaard, *Fear and Trembling*, 55.

42 See Outka, "Religious and Moral Duties," 234–238.

But even though Kierkegaard's framing of the ethical might resonate rhetorically with Kantianism or similar moral theories, what is meant by "universal" here is subtly different. What the terms "ethical" and "universal" refer to, I contend, is actually the very sort of structural presupposition presumed by Schmitt in his account of sovereignty: an ethic or political arrangement anchored in a social contract.

On this point, Kierkegaard's usage of the term *Almene* is equivocal, for it can imply both (strong) universality and (weaker) generality. In these crucial passages, the term refers at once to the general welfare of a community (perhaps even the community of all human beings) and also to the universality or necessity with which an obligation holds. Accordingly, for Kierkegaard's conception of the ethical as such to be *det Almene* is to imply, first and foremost, that it necessarily or categorically obtains, but it does not specifically imply, for example, the content of the Kantian categorical imperative. This is not particularly surprising, for many conceptions of moral obligation (for example, utilitarian moral theories such as Henry Sidgwick's[43]) argue for the universality of a moral principle without requiring that all human beings be treated categorically as Kantian ends in themselves. In this way, we can begin to see overlap between *Fear and Trembling*'s account of the ethical and Schmitt's account of political order and the rule of law, especially insofar as a sovereign will may intervene in – indeed suspend – the law to preserve order.

This point can be clarified with reference to *Fear and Trembling*'s ethical hero figures, that is, the tragic heroes whom Kierkegaard contrasts with Abraham. The four, to whose stories Kierkegaard alludes, are Jephthah, one of Israel's judges from Judges 11; Lucius Junius Brutus, the semi-historical founder of the Roman republic, discussed at length in Livy's *Ab urbe condita*; Socrates, whom Kierkegaard labels an "intellectual tragic hero"[44] based on his refusal to escape execution, as depicted in the *Crito*; and Agamemnon, the Mycenaean king and leader of the military campaign against Troy, as portrayed in Euripides's *Iphigenia in Aulis*. "The tragic hero," remarks Kierkegaard, "gives up their desire to fulfill their duty."[45] In Jephthah's case, he swears that he will sacrifice whatever emerges from his house if God ensures Israel's success in battle against Ammon.

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43 Henry Sidgwick, *The Methods of Ethics*, 7th ed. (London and New York: Macmillan, 1907 [1874]), 23–38.

44 Kierkegaard, *Fear and Trembling*, 116.

45 Kierkegaard, *Fear and Trembling*, 78n. [translation modified]

Lamentably, it is his daughter, whom he sacrifices as promised.[46] Brutus, after vanquishing the Tarquin tyrants, gathers the people of Rome to swear an oath that they will never again permit a king; when his own sons participate in a conspiracy to reconstitute the monarchy, Brutus passes the sentence and watches his sons' execution.[47] Socrates, alluding to an Athenian loyalty contract, willingly submits to unjust execution rather than bribe his way out.[48] Agamemnon, as one among many participants in a pact of nonviolence among Helen's many suitors, sacrifices his daughter Iphigenia to ensure that favorable winds permit Helen's recovery from Troy, lest – in her absence – the confederation of Greek kingdoms collapse.[49]

Right away, we can see that two of the tragic heroes do not meet the demand of an all-encompassing moral principle like Kant's categorical imperative, for both Agamemnon and Jephthah sacrifice their daughters in the interest of military success; their daughters function as means, not ends in themselves, showing the tragic heroes to violate the categorical imperative's formula of humanity.[50] More importantly, the narratives alluded to in Kierkegaard's references to these tragic heroes reveal *Fear and Trembling*'s conception of the ethical to be at the same time a theory of statehood (or at least social contract), which, like Schmitt's, highlights the state's dependence on a sovereign authority to maintain order when it is threatened, and is grounded upon a politically primordial distinction between friend and enemy.[51] Except for Socrates, each tragic hero is called to manage a concrete crisis in which an incipient state – signified by or sealed with a pact, oath or promise – is threatened by an external force. Moreover, in each such situation, the crisis of the state's existence demands suspension of the normal obligations of filial piety, not to mention the personal desire of the tragic hero, to ensure the persistence of the state and the legitimacy of its founding oath.[52]

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46 Judg 11:34–40, in Michael D. Coogan et al., eds., *New Oxford Annotated Bible: New Revised Standard version*, 5th ed. [*NRSV*] (Oxford and New York: Oxford University Press, 2018), 382.

47 Livy, *The History of Rome*, trans. William Masfen Roberts, vol. 1 (London: J. M. Dent & Sons, 1912), 71 (2.1.8–10, 2.2.5).

48 Plato, *Crito*, trans. G. M. A. Grube, in *Plato: Complete Works*, ed. John M. Cooper (Indianapolis, IN and Cambridge: Hackett, 1997), 45–46 (51e–52a).

49 Euripides, *Iphigenia in Aulis*, trans. Charles R. Walker, in *Euripides V: The Complete Greek Tragedies*, 3rd ed., ed. David Grene et al. (Chicago, IL: University of Chicago Press, 2013).

50 Immanuel Kant, *Groundwork of the Metaphysics of Morals*, in *Practical Philosophy*, trans. and ed. Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 76 (4:425).

51 E.g., Carl Schmitt, *The Concept of the Political*, expanded edition, trans. George Schwab (Chicago, IL: University of Chicago Press, 2007 [1932]), 26.

52 In Socrates' dialogue with the personified laws of Athens, this crisis of legitimacy is merely hypothetical, which is one reason Kierkegaard qualifies him as an "intellectual" tragic hero.

The setting of Agamemnon's tragic heroism is particularly instructive because of how Helen, kidnapped by Paris, quite literally embodies the legal framework of the Greek confederation, namely the pact her father Tyndareus administered to her suitors.[53] Without the body of Helen physically present in Greece, the Greek men of standing become bloodthirsty, threatening to sunder the newborn state. Hence Agamemnon concludes that these are exceptional circumstances. He decides to do violence to his daughter – transcending the normal order of filial and house-hold obligations, not to mention paternal love – in order to begin reconstituting the state by conducting warfare against an enemy to retrieve Helen, Greece's keystone. This is much how Schmitt's commissarial dictator might temporarily suspend a constitution in accord with principles of that constitution, in order to preserve it.

It is perhaps surprising that when Kierkegaard narrates Agamemnon's sacri-fice of Iphigenia, he remarks that it is done by "the whole nation" and "for the welfare of all."[54] There is an irony in this remark, for "the welfare of all" excludes both the Trojans, who are to be attacked to preserve order in Greece, and Iphige-nia herself, the daughter of the Greek king, whose death is required to accomplish this task. This demonstrates that the ethical in *Fear and Trembling* – though it may indeed involve placing an obligation on all individuals – does not ultimately secure each individual's well-being and dignity. The will of the "whole nation" is focused into a single killing, in order to enable the later killing of Trojans, now the enemies of Greece. Although Kierkegaard's conception of the ethical qua uni-versal, as he defines it, "applies to everyone" and "applies at all times," this has the meaning that, at any time, *anyone can be the exception* and thus sacrificed in the interest of the general welfare. (Anyone can be an enemy, if a community of friends needs them to be.) Therefore, even if Schmitt finds inspiration in Kierke-gaard's *Fear and Trembling* for a certain type of exception to a form of normative ethics or legality, the decisionist logic he associates with religious language ("mir-acle") is represented by one of *Fear and Trembling*'s defective categories (the ethi-cal) that Kierkegaard critiques from the standpoint of faith.[55]

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53 This backstory is recounted in both today's English scholarly standard version of *Iphigenia in Aulis* and the Danish translation Kierkegaard consulted when authoring *Fear and Trembling*: Euripides, *Iphigeneia in Aulis*, in *Euripides*, trans. and ed. Christian Wilster (Copenhagen: C. A. Reitzel, 1840), 103 (lines 49–79).

54 Kierkegaard, *Fear and Trembling*, 57.

55 I have given an extended account of *Fear and Trembling*'s tragic heroes and their relationship to founding pacts of the state in Aaron J. Goldman, "On *Fear and Trembling*'s Motif of the Prom-ise: Faith, Ethics and the Politics of Tragedy," *Kierkegaard Studies Yearbook* 25, no. 1 (2020): 57–84, https://doi.org/10.1515/kierke-2020-0004.

As is clear from *Fear and Trembling*, the ethical is not the whole story. What does faith's teleological suspension of the ethical mean if the ethical refers to a limited, perhaps even flawed, universalism? To address this issue, we shall turn to Abraham, whose call to sacrifice Isaac occurs against a crucial backdrop: the covenant with God. As with the tragic heroes, God's promise to Abraham has a political dimension. In Genesis 17, God proclaims, "I have made you the father of nations [. . .] kings shall come from you."[56] Isaac is the vessel through which this promise is to be delivered. Yet God surprises Abraham by asking him to kill his son, thus appearing to annul the promise made with Abraham. Abraham remains faithful. On Kierkegaard's narration, this means that Abraham believes that Isaac will survive, which is to say, despite God appearing to violate the covenant, Abraham remains committed to the idea that God will uphold God's end of the promise. To become the father of nations turns out not to require violence. It requires a super-ethical commitment to nonviolence; it only requires faith.

Herein reside the diverging interpretations of faith by Kierkegaard and Schmitt: for Kierkegaard, the crux of faith is not that the faithful single individual is unbound by moral obligations in the same way the Schmittian sovereign transcends the legal norms of the state; faith does not permit one to transcend or hover over worldly concerns. Instead, faith is precisely the refusal to except oneself from the commitments involved in the covenant, oath or contract that determine one's obligations. Much as, for Kierkegaard, God's decision (*Beslutning*) to incarnate cannot be reversed,[57] there remains no space in faith to transcend, renegotiate or except oneself from a promise one has genuinely entered. History is a history of promises. And insofar as these promises are historical, they are material, concrete, finite. Even if flexibly interpretable, they thus resist the transcendent authority of a decisionist sovereign or even the will of God.

God's demand that Abraham sacrifice Isaac turns out to be significant to Kierkegaard's narration, not because it is the fulfillment of the covenant, but because it serves as a possible obstacle to Abraham's trust in God to uphold it – an obstacle that Abraham, in faith, deftly obviates.[58] Much like how, for Schmitt, a commissarial dictator may act on behalf of the sovereign will by suspending law (for

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56 Gen 17:5–6 (*NRSV*), 34. For other formulations of the covenant with Abraham, see Gen 12 and 15.
57 See, e.g., Søren Kierkegaard, *Philosophical Fragments*, in *Kierkegaard's Writings VII,* trans. Howard V. Hong and Edna H. Hong (Princeton, NJ: Princeton University Press, 1985), 24–25.
58 For an excellent discussion of the narrative structure of *Fear and Trembling*'s depiction of the *akedah*, see Davenport, "Eschatological Trust," 199–205.

some people, for some time) in order to preserve it, Kierkegaard's tragic heroes choose the welfare of the state over the welfare of all individuals so that security and legal order return. Abraham, instead, suspends the ethical. That is to say, in faith he annuls the tragic presumptions of the ethical when he chooses not to choose between two ethical concerns: the promised state ("the universal was [. . .] cryptically in Isaac, hidden, so to speak, in Isaac's loins"[59]) and the ethical duty of the father to love the son.[60] Kierkegaard's tragic heroes must compromise their responsibility to particular members of a community bound by a social contract to ensure that the whole order perseveres; in contrast, Abraham has faith that Isaac's life – despite being demanded by a command of God – will not be lost, and indeed that it is precisely through Isaac's particular life and descendants that a state will emerge and persevere. Kierkegaardian faith, then, ought to be understood as a religious critique of the pessimistic assumptions that ground a political theology like Schmitt's. Schmitt's world, like the world of the tragic heroes, is a tragic one in which having friends means also having enemies. Kierkegaardian faith – if it is possible – engenders another option; it constitutes an exception to a political reality that itself depends on and demands exceptions.

What the conversation between Schmitt and Kierkegaard illuminates is that Kierkegaard himself is ambivalent about the role of transcendence in securing a genuinely moral politics. Kierkegaard suggests – although quite subtly in *Fear and Trembling* – that a new vocabulary and logic are needed, which rely more on the metaphysics of incarnation than of transcendence.[61] Faith is, crucially, interested in

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59 Kierkegaard, *Fear and Trembling*, 59.

60 Kierkegaard, *Fear and Trembling*, 57. Löschenkohl writes of a "decision not to decide" made by *Repetition*'s young man but (presumably) not by *Fear and Trembling*'s Abraham (Löschenkohl, "Occasional Decisiveness," 97–98). I find this locution stirring, and I will unpack it – in my own terms – in the fourth section of this chapter. However, while I am agnostic about the young man's (in)decision in *Repetition*, I have made the case that *Fear and Trembling*'s Abraham excepts himself from exceptions, indeed decides not to decide on the exception.

61 One excellent interpretation of Kierkegaard that highlights this distinction is Steven Shakespeare, *Kierkegaard and the Refusal of Transcendence* (Basingstoke: Palgrave Macmillan, 2015). By "incarnation," I mean (broadly) the entry of perfection into the finite world from outside it. Though Kierkegaard was a Christian chauvinist and specifically a supercessionist interpreter of Judaism, I am utterly uncommitted to the notion that the New Testament and Christianity have exclusive ownership of an incarnational logic. For example: "[T]his command which I charge you today is not too wondrous for you nor is it distant. It is not in the heavens [. . .] And it is not beyond the sea [. . .] But the word is very close to you, in your mouth and in your heart, to do it". Deut 30:11–14; *Hebrew Bible*, trans. Robert Alter, vol. 1 (New York and London: Norton, 2019), 722.

the finite: "Temporality, finitude—it is this upon which everything turns."[62] To be sure, this does not mean that, for Kierkegaard, faith is reducible to the mechanism of nature or to mere power relations between creatures. But for faith to be faith – and not the decision of a tragic hero or a Schmittian sovereign – it must be utterly *in the world*; it does not exclude the possibility of actualized moral attention for others (which is indeed temporal, finite), and may indeed serve as the pivot point on which genuine morality and politics become possible.[63]

4 Decisions about decisions

I have just argued that *Fear and Trembling*'s conception of faith does not serve as an antecedent to Schmitt's political theology. It is *Fear and Trembling*'s (defective) category of the ethical which most closely captures Schmitt's conception of the political, while Kierkegaardian faith is precisely a refusal of the logic of exception on which Schmitt's politics depends. Does this mean that Kierkegaard is – *pace* MacIntyre, *pace* Schmitt – even a decisionist in the first place?

Yes and no. In *Fear and Trembling*, whether to be faithful – the ultimate decision for the individual – is not to decide upon ethical or political principles as though one were a transcendent, voluntaristic God. It is instead to make a meta-decision about whether the world is tragic, and so requires such lower-order decisions – or whether, in Kierkegaard's words, "a divine order prevails."[64] Kierkegaard structures this meta-decision (the decision to be faithful or not) upon an informal *modus tollens* deduction framed as a thought experiment.[65] Serving as the

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62 Kierkegaard, *Fear and Trembling*, 49. [translation slightly modified]

63 In contrast to the ethical, *Fear and Trembling* hints at the ripeness for recovering morality within the context of faithful finitude, writing, "[I]t does not follow that the ethical should be invalidated; rather, the ethical receives a completely different expression, a paradoxical expression, such as, for example, that love to God may bring the knight of faith to give his love to the neighbor—an expression opposite to that which, ethically speaking, is duty." Kierkegaard, *Fear and Trembling,* 70. How Kierkegaard understands this process to unfold is most fully unpacked in his non-pseudonymous *Works of Love*.

64 Kierkegaard, *Fear and Trembling*, 27.

65 Though the thought-experimental structure of *Philosophical Fragments* (1844) is obvious, it is rare for scholars to identify it in *Fear and Trembling*. For the only example I am aware of, see Ingrid Malm-Lindberg, "The Thought Experimenting Qualities of Kierkegaard's *Fear and Trembling*," *Religions* 10, no. 6 (2019): 391–407, https://doi.org/10.3390/rel10060391. Malm-Lindberg's piece, however, does not draw from the same passages I do to gesture to *Fear and Trembling*'s subtle use of thought-experimental framing in each Problema; instead, she (astutely) makes a

fulcrum for the decision, this thought-experiment structure is repeated throughout the text, including in each of the "Problemata":

> Faith is namely this paradox that the single individual is higher than the universal [. . .] If this is not faith, then Abraham is lost, then faith has never existed in the world precisely because it has always existed.[66] ("Problema I: Is There a Teleological Suspension of the Ethical?")

> Therefore, either there is an absolute duty to God—and if there is such a thing, it is the paradox just described, that the single individual as the single individual is higher than the universal and as the single individual stands in an absolute relation to the absolute—or else faith has never existed because it has always existed, or else Abraham is lost.[67] ("Problema II: Is There an Absolute Duty to God?")

> Once again we stand at the same point. If there is no hiddenness rooted in the fact that the single individual as the single individual is higher than the universal, then Abraham's conduct cannot be defended [. . .] But if there is such a hiddenness, then we face the paradox [. . .] Faith is not the first immediacy but a later immediacy. The first immediacy is the esthetic [. . .] But faith is not the esthetic, or else faith has never existed because it has always existed.[68] ("Problema III: Was It Ethically Defensible for Abraham to Conceal His Undertaking from Sarah, from Eliezer, and from Isaac?")

If Abraham is the father of faith, this means faith is possible in the world. If faith is possible, it involves a teleological suspension of the ethical (Problema I), entails an absolute duty to God (Problema II), and implies justification of Abraham's privacy in terms distinct from Kierkegaard's aesthetic sphere of existence (Problema III). If such conclusions do not obtain of the world, then faith is impossible: "faith has never existed in the world precisely because it has always existed." This is to say, if the activity of faith is reducible to the acts of *Fear and Trembling*'s tragic heroes or the exceptionalism of Schmitt's sovereign, then it is nothing special ("it has always existed"), and there is no exception to making exceptions in a Schmittian politics.[69] (Kierkegaard associates this subjective standpoint with the pessi-

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broader point about the text's deployment of thought experiments as a strategy to push the reader toward subjective engagement with the questions of Christian faith.

66 Kierkegaard, *Fear and Trembling*, 55.

67 Kierkegaard, *Fear and Trembling*, 81.

68 Kierkegaard, *Fear and Trembling*, 82. Another such instance occurs at Kierkegaard, *Fear and Trembling*, 112.

69 Kierkegaard takes this move to be important enough to instruct his reader to commit it to memory: "I bid the reader to bear these consequences *in mente* at every point, even though it would be too prolix for me to write them all down". Kierkegaard, *Fear and Trembling*, 56.

mistic category of resignation.[70]) But if such conclusions do pertain to the world, then faith is possible, and the world may be ripe for new forms of faithful politics, in which love for the neighbor may be a central element.[71]

In the passages excerpted above, Kierkegaard refuses to supply any reason to persuade us one way or the other. This is intentional, for *Fear and Trembling*'s presentation of Abraham's crisis serves as the pivot point on which the book's reader must make their own meta-decision. I, the single individual – based on no universally accessible rational grounds – must decide whether I am so constituted as to be capable of faith. If Abraham was faithful, then so could I be. But how convinced am I that Abraham was faithful, rather than a mere murderer? How is faith possible? On what basis can I decide?

Distinguishing between the task of faith and other efforts which fall short, Kierkegaard writes, "Here it does not help to have Abraham for a father [Mt 3:9] or seventeen ancestors; the one who wants not to work, him it fits what has been written about the Israel's virgins: he births wind [Isa 26:18]—but the one who wants to work, he births his own father."[72] The image of faith as the task of birthing one's own father suggests that faith is implicated in establishing the conditions of its own possibility. From this passage, it is clear that one cannot inherit faith by being a biological descendant of Abraham. Instead, one manifests faith in the decision to recognize faith as possible on earth (as incarnate). One births one's own father by having faith that faith became possible in the world. Faith thus involves a form of recursivity—it is a (meta-)decision about whether one can genuinely have faith, which is to say, whether one can genuinely refuse the worldview of Kierkegaard's tragic heroes, or of a Schmittian political theology.

In faith, the single individual decides whether faith is possible, or whether the tragic heroes exemplify the highest possible life. In this moment the individual commits themselves either (optimistically) to a world where they do not need to decide between the law and the lives of sons, between a war and the life of a daughter, and between friends and enemies; or (pessimistically) to a world in which such decisions must inevitably be made. In this tension, Kierkegaard is revealed to be a theorist of the conditions of a genuine liberalism. If faith is possible, a liberal order may exist, which would not require a Schmittian sovereign

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70 E.g., Kierkegaard, *Fear and Trembling*, 35.

71 See, e.g., Kierkegaard, *Fear and Trembling*, 70: "[I]f this duty [to love God] is absolute, then the ethical is reduced to the relative. From this it does not follow that the ethical should be invalidated; rather, the ethical receives a completely different expression, a paradoxical expression, such as, for example, that love to God may bring the knight of faith to give his love to the neighbor—an expression opposite to that which, ethically speaking, is duty."

72 Kierkegaard, *Fear and Trembling*, 27. [translation modified]

who stands transcendently outside it to support it.[73] Such a law – like the covenant with Abraham, on Kierkegaard's reading – may very well be sufficient to execute *itself* for faithful subjects, and to this extent bears closer similarity to the incarnate God than Schmitt's image, which more readily treats the sovereign as a transcendent Atlas, propping up the whole system from outside it.

But has faith entered the world? Has it never existed, or is it incarnated? Schmitt himself hints at this possibility: "But whether the extreme exception can be banished from the world is not a juristic question. Whether one has confidence and hope that it can be eliminated depends on philosophical, especially on philosophical-historical or metaphysical, convictions."[74] In this moment, a sliver of Kierkegaardian faith enters Schmitt's world, and Schmitt himself opens a space for religious critique of the exception.

I have suggested that there may be dangers involved in resigning ourselves to a Schmittian realism that accepts the tragedy of political decisions, a realism which Kierkegaardian faith refuses. But it is also necessary to inquire into the possible dangers of an undue optimism. Jayne Svenungsson, following thinkers such as Daniel Bensaïd and Daniel Boyarin, has criticized what she identifies as an undue optimism in left-wing decisionist political thought. In the case of Alain Badiou, the "voluntarist and decisionist elements of his thinking betray a disregard for the specific historical, social and cultural conditions that surround any emancipatory movement."[75] Put bluntly, according to Svenungsson, in Badiou's commitment to the openness of the event as a bearer of political truth, his interest in universalism discourages getting one's hands dirty in the particular sufferings and identity constellations that so often constitute bulwarks for resisting power.

Similar critiques could be leveled at *Fear and Trembling*'s optimism about faith. Indeed, Schmitt's deep-cutting claims about the pretensions of liberalism may be a necessary bitter pill. But as Kierkegaard fully understands, he can offer

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73 One recalls Kant's formula of the kingdom of ends. See Kant, *Groundwork*, 83–85 (4:433–4:436).

74 Schmitt, *Political Theology*, 7.

75 Jayne Svenungsson, "Radical Incarnation: The Dangers and Promises of Christian Universalism in the Wake of Badiou's *Saint Paul*," *Studia Theologica – Nordic Journal of Theology* 76, no. 1 (2022): 71–87, 77, https://doi.org/10.1080/0039338X.2021.1946421. See also Daniel Bensaïd, "Alain Badiou and the Miracle of the Event," in *Think Again: Alain Badiou and the Future of Philosophy*, ed. Peter Hallward (London and New York: Continuum, 2004), 98: "By refusing to venture into the dense thickets of real history, into the social and historical determination of events, Badiou's notion of the political tips over into a wholly imaginary dimension: this is politics made tantamount to an act of levitation, reduced to a series of unconditioned events and 'sequences' whose exhaustion or end remain [sic] forever mysterious."

no definitive defense of a faithful politics apart from challenging the individual to decide on the issue themselves. Here, I simply raise the question whether the meta-decisionism I have attributed to *Fear and Trembling*'s articulation of faith might provide a frame through which we keep in view the goods surrendered, should we resign ourselves to the inevitable tragedy of politics.[76]

Ville Suuronen

On the axiomatics of death, violence, and sovereignty: Baruch Spinoza's shadows in twentieth century political theory

1 Introduction: Spinoza as a metaphysical exception?

Since Plato defined, in *Phaedo*, philosophy as the art of "practicing for/of death" (*meletē thanatou*), as the art that aims to look for knowledge, particularly in contemplation, which would go beyond the deceitful senses, death and philosophy have shared an intimate, almost self-evident connection.[1] If philosophy begins from contemplation, as affirmed by both Plato and Aristotle, it is precisely the finite nature of human life, the very fact of mortality, which sparks the quest for the most fundamental questions concerning human life, as noted by Hannah Arendt (1906–1975).[2] Even if one agrees that philosophy "always reappropriates the discourse that delimits it,"[3] there is no doubt that in historical terms, this Platonic definition of philosophy has had an "immense echo within occidental philosophy," as the ancient historian Pierre Hadot argues.[4]

In terms of understanding and evaluating the role of death for human life, the Western tradition of philosophy indeed shows a remarkable consistency – whether one thinks of the Hellenic schools of philosophy or such modern thinkers as Martin Heidegger (1889–1976) and his description of *Dasein's* being-toward-death.[5] To take an almost random example, consider the following words from Early Modern writer Michel de Montaigne (1533–1592):

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1 Plato, "Phaedo 81a," in *Platonis Opera*, ed. John Burnet (Oxford University Press, 1903). For background, see Jacques Derrida, *The Gift of Death*, trans. David Wills (Chicago, IL: The University of Chicago Press, 1995), 12–16; Pierre Hadot, *La philosophie comme manière de vivre* (Paris: Albin Michel, 2001), 169–171.
2 Hannah Arendt, *Vita Activa: Oder vom tätigen Leben* (Munich: Piper, 2015), 18, 384–385.
3 Jacques Derrida, *Marges de la philosophie* (Paris: Les Éditions de Minuit, 1972), 211. All translations in this chapter are mine unless stated otherwise.
4 Pierre Hadot, *Exercices spirituels et philosophie antique* (Paris: Albin Michel, 2002), 50.
5 On this continuity, see Hadot, *Exercices spirituels*, 50–52. On the specifically modern nature of Heidegger's conception in distinction to the ancients, see Hadot, *Philosophie*, 171–172. For a broader historical presentation on the themes of death, self-mortification, and the reformulation of subjectivity in early Christian thought, see Michel Foucault, *On the Government of the Living: Lectures at the Collège de France 1979–1980,* trans. Graham Burchell (New York: Picador, 2016).

> It is not certain where Death awaits us, so let us await it everywhere. To think of death beforehand is to think of our liberty. Whoever learns how to die has learned how not to be a slave. Knowing how to die frees us from all subjection and constraint.[6]

Familiarity with one's death, the knowledge regarding one's proper ability to influence the facts of life, frees one from suffering; the peace of the soul, that curious ἀταραξία, the tranquility of the soul sought by both Stoics and Epicureans – which Heidegger will later attempt to reformulate as a phenomenon that goes beyond mere willing, in terms of *Gelassenheit*[7] – is itself equal with an acceptance of what takes place and one's mortality as a human being.

Even with Friedrich Nietzsche (1844–1900), whose whole philosophy is based on a radically uprooting, genealogical critique of the philosophical-theological tradition, the relationship with death and mortality remains obvious. As Nietzsche himself emphasizes: "Let us beware of saying that death is opposed to life. The living is merely a type of what is dead, and a very rare type."[8] Nietzsche's doctrine of the eternal return must not be understood simply as a validation of life against death as it happens, but rather as an affirmation of life as the right kind of death at the right moment that one chooses – as death as a force that has the power to make human life more than chaotic immanence.[9] Thus, even with Nietzsche's *amor fati*, philosophy still concerns itself with a certain knowledge of death, with knowing how to die at the right moment and the correct way.

But what is the reason for this curious centrality that death and mortality seem to have within Western philosophy? To what extent does our very philosophical language "announce death" in its Platonic wish of learning how to die, as Giorgio Agamben asks?[10] Jacques Derrida (1930–2004), who was of course more than well acquainted with the axiomatics of death in Western philosophy,[11] offers the following, almost uncannily Arendtian, reflections on the limits that this central feature of Western philosophy imposes on its undertakings:

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6 Michael de Montaigne, *Selected Essays*, trans. James B. Atkinson and David Sices (Indianapolis, IN: Hackett publishing Company, 2012), 17.

7 Martin Heidegger, *Gelassenheit* (Stuttgart: Neske, 1979).

8 Friedrich Nietzsche, *Die fröhliche Wissenschaft* (Leipzig: Verlag von E. W. Fritzsch, 1887), aphorism 109, accessed October 31, 2022, http://www.nietzschesource.org/#eKGWB/FW.

9 Friedrich Nietzsche, *Also Sprach Zarathustra: ein Buch für Alle und Keinen* (Chemnitz: Verlag von Ernst Schmeitzner, 1883), fragment "Vom Freien Tode," accessed October 31, 2022, http://www.nietzschesource.org/#eKGWB/Za-I-Tod.

10 Giorgio Agamben, *Idea of Prose,* trans. Michael Sullivan and Sam Whitsitt (Albanly, NY: State University of New York Press, 1995), 129.

11 Derrida, *Gift of Death*.

But what is it "to be born"? If we distinguish it rigorously from the origin, the beginning, provenance, etc., "birth" is perhaps a question of the future and of arrival, a newly arrived question. Philosophy is much more prepared to work on question of origin and the end, of life and death. But philosophy [. . .] has given little "thinking' attention to what, in birth, does not fall under these categories.[12]

If one is to believe Derrida, philosophy, at least in the West, seems to be a matter of origins and ends, of life and death, in precisely the axiomatic and deeply interconnected sense proposed by Nietzsche. Much less attention has been paid to what breaks this ontological duality of origins and ends – that which is novel and is born beyond the (in)finity of a temporal beginning and a corresponding end, and thus escapes such dichotomic frameworks.

In this chapter, the focus is on the work and reception of Baruch Spinoza (1632–1677) – one of the very few thinkers who refuses to give death and mortality a structurally meaningful place in his own system of thought. "A free man thinks of death least of all things, and his wisdom is a meditation of life, not of death."[13] This extraordinary idea stands at the very core of Spinoza's ethical and political thought.[14] There is perhaps no better way of grasping the revolutionary nature of this idea than by realizing how unthinkable this remarkable sentence remains to the Western tradition of thought – consciously or unconsciously, it no doubt contributed to Spinoza's name becoming a malediction to many of his contemporaries.[15] This is not to say that Spinoza had no predecessors or followers. One could mention Epicurus, who considered death as nothing,[16] or the widespread reception of Spinoza after roughly 1800 among the thinkers of Ger-

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12 Jacques Derrida and Elisabeth Roudinesco, *For What Tomorrow: A Dialogue* (Stanford, CA: Stanford University Press, 2004), 40.

13 Benedict de Spinoza, *The Ethics and Selected Letters*, Translated by Samuel Shirley (Indianapolis, IN: Hackett, 1982), 193.

14 On Spinoza as an original ethical thinker, who, like Nietzsche later, consciously resisted and attacked the moralistic nature of previous philosophies, see Gilles Deleuze, *Spinoza: Practical Philosophy,* trans. Robert Hurley (San Francisco, CA: City Lights Books, 1988), 17–29; Gilles Deleuze, *Pourparlers 1972–1990* (Paris: Les Editions de Minuit, 1990), 185–186.

15 As noted by Deleuze, *Spinoza*, 10. While Deleuze points to the accusations laid against Spinoza's supposed materialism, immoralism and atheism as crucial points of contention, see also the historically contextualized reflections on the way the label "atheism" was used polemically in this era; A. P. Martinich, *The Two Gods of Leviathan: Thomas Hobbes on Religion and Politics* (Cambridge: Cambridge University Press, 2002), 19–39.

16 See, Pamela Mensch, trans., *Diogenes Laertius: Lives of the Eminent Philosophers* (Oxford: Oxford University Press, 2018), 532–533. What makes Spinoza different from his ancient predecessors is his rejection of the idea that human beings would be able to solve the issue of mortality through mere will – that is, to control their wants, urges, and feelings at will.

man Idealism, although their ways of utilizing Spinoza would remain highly self-referential.[17]

Here, I argue that Spinoza's refusal to place mortality and death at the center of his ethical system has direct consequences for his political thought. Spinoza's *Ethics* begins with a section on the nature of God. His other definitions, "flowing like rivulets from the universal teaching," to paraphrase Spinoza's own critical method of reading the Bible,[18] including his understanding of politics, sovereignty and death, are precisely those "less universal things"[19] that flow from his philosophical conception of God.[20] It is the connection between life and freedom that Spinoza sets against the traditional axiomatics of death, mortality, fear, and sovereignty. I approach this topic by exploring two contradictory readings of Spinoza: those of Carl Schmitt (1888–1985) and Arendt, whose interpretations offer different ways of understanding Spinoza's exceptional nature within the Western canon.

Through this comparative approach, I investigate how our central political vocabulary and understanding of politics draws on an ontological connection between death/mortality and sovereignty/violence. Taking my cue from Spinoza's ethical and political thought, I ask: What implications does the traditional emphasis on mortality and death have for our understanding of politics? Does the axiomatic nature of death as a kind of a master signifier play a structural role in our very political language, and if it does, in what way? How are death and mortality connected with our vocabularies of violence and sovereignty – and how can Spinoza's thought and his reception help us to evaluate these connections? How is the notion of sovereignty and its nature as a "right of death"[21] grounded in a specific way of understanding metaphysical questions?

Schmitt's and Arendt's contrary readings of Spinoza's thought reflect diverging ways of understanding the structural connections between death, mortality, sovereignty, and violence in the realm of the political. While for Arendt, although she refuses to acknowledge this fully, Spinoza is one of the very few thinkers who has taken steps toward conceptualizing politics as natality, for Schmitt, in a pro-

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17 Birgit Sandkaulen, "'Der Himmel im Verstande': Spinoza und die Konsequenz des Denkens," *Zeitschrift für Ideengeschichte* V, no. 1 (2011): 15–28. On Hegel's reading of Spinoza, see Pierre Macherey, *Hegel ou Spinoza* (Paris: La Découverte, 2004).

18 Benedict de Spinoza, *Theological-Political Treatise,* ed. Jonathan Israel, trans. Michael Silverthorne and Jonathan Israel (Cambridge: Cambridge University Press, 2007), 102; cf., 170.

19 Spinoza, *Theological-Political Treatise*, 102.

20 Spinoza himself emphasizes the unity of his works in Benedict de Spinoza, *Political Treatise*, trans. Samuel Shirley (Indianapolis, IN: Hackett Publishing Company, 2000) 37.

21 Michel Foucault, *The History of Sexuality,* trans. Robert Hurley, vol. 1 (New York: Pantheon, 1978), 136.

foundly antisemitic sense, Spinoza appears as the theorist who prepared the way for dismantling the concept of modern state sovereignty.

By analyzing Spinoza and his dualistic reception in twentieth century political theory, in this chapter I illustrate two different traditions of political thought, as named by Gilles Deleuze (1925–1995)[22]: First, the "anti-juridical tradition" (of Spinoza and Arendt) that conceptualizes politics as the freedom of immanence and as the immanence of freedom – as the self-realization of individuals who act in concert toward common goals and ends. This tradition understands political power as the sharing of words and deeds, and thus, as the absence of violence. What both Spinoza and Arendt aim to destroy, although in diverging ways, is what Deleuze would describe as the second, "juridical tradition" (of Thomas Hobbes (1588–1679) and Schmitt) that understands politics as sovereignty and representation – as the self-evident relationship of those who rule and those who are ruled. Here politics may only operate through mediation and transmission, that is, subjection, and here violence is as much of a necessity as it is monopolized by those who rule and control the centralized apparatuses of power. I begin with the politics of death found in Hobbes and Schmitt, before moving to Spinoza and Arendt and their shared attempt to redeem life and natality – to undercut and rethink sovereignty through acting in concert with others.

2 Spinoza as an enemy: Schmitt on facing death as concrete life

Although Spinoza features at the margins of Schmitt's works as early as the Weimar era, Schmitt offers a more systematic interpretation of Spinoza only in his 1938 book on Hobbes. This work combines profoundly antisemitic arguments and narratives with a more serious confrontation. *The Leviathan in the State Theory of Thomas Hobbes – Meaning and Failure of a Political Symbol* aims to explain how Hobbes's political theory both grounds and reflects the birth of the modern state in the seventeenth century.[23] According to Schmitt, Hobbes's construction of the state was flawed from the very beginning. Although Hobbes managed to legit-

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22 Gilles Deleuze, preface to *L'anomalie sauvage,* by Antonio Negri, trans. François Matheron (Paris: P.U.F., 1982), 9–12.

23 In a post-war note to his *Denktagebuch*, Schmitt confesses the central influence of Leo Strauss's 1930 book on Spinoza to his study on Hobbes. Carl Schmitt, *Glossarium: Aufzeichnungen aus den Jahren 1947 bis 1958*, ed. Gerd Giesler and Martin Tielke (Berlin: Duncker & Humblot, 2015), 348–349.

imize sovereignty through the fictions of the state of nature and the social contract, Schmitt argues that by differentiating between the personal faith that cannot be controlled by state power and the public confession of faith that the sovereign is entitled to demand, Hobbes's construction of the state failed at the moment of its birth.[24]

Schmitt claims that Spinoza takes this distinction between the internal realm of religious freedom and the external realm of political obedience to its extreme. According to Schmitt, Spinoza, "the first liberal Jew," radicalizes the protoliberal ideas of Hobbes and in doing so becomes the first thinker to systematically conceptualize the political realm as a mere extension of individual freedom and power.[25] In Schmitt's antisemitic narrative, this flaw in the construction of the European nation-state, its inability to construct a total political entity, ultimately leads to its own destruction "from within."[26]

It is precisely in this sense that already Schmitt's earlier Nazi writings had argued for the existence of a "Jewishly-Freemasonically dominated liberalism"[27] and portrayed the Jews as emblematic figures who supposedly advocate liberal, universalistic norms and human rights only to conceal their true political motivations; it is in this sense that "the Jew" looks "where and how he can jump in or out" to replace the living law of an actual people with an empty, abstract norm.[28] The logic of the argument is as follows; unlike Hobbes, for whom the private sphere and society exist upon and are derived from the condition of the state, for Spinoza, the state is secondary and is itself derived from the inalienable nature of individual freedom. What, supposedly, exists in Hobbes as a grave mistake that did not make his Leviathan radical enough, appears in Spinoza as the very foundation of his liberal thinking.

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24 Carl Schmitt, *Der Leviathan in der Staatslehre des Thomas Hobbes: Sinn und Fehlschlag eines politischen Symbols* (Köln: Hohenheim Verlag, 1982). Although Schmitt described Hobbes as the most relevant precursor to his own decisionism during the Weimar era, his interpretation of Hobbes became much more critical after he joind the Nazi party in 1933. See Ville Suuronen, "Carl Schmitt as a Theorist of the 1933 Nazi Revolution: 'The Difficult Task of Rethinking and Recultivating Traditional Concepts,'" *Contemporary Political Theory* 20, no. 2 (2021): 341–363, https://doi.org/10.1057/s41296-020-00417-1.

25 Schmitt, *Der Leviathan*, 86–87.

26 Schmitt, *Der Leviathan*, 86. In his post-war notebooks, Schmitt radicalizes this racist argument by portraying an essential similarity between Spinoza and those emigrants forced to flee Nazi Germany. Schmitt, *Glossarium*, 220–221.

27 Carl Schmitt, "Die geschichtliche Lage der deutschen Rechtswissenschaft," *Deutsche Juristen-Zeitung* XLI, no. 1 (1936): 16.

28 Carl Schmitt "Nationalsozialistisches Rechtsdenken," *Deutsches Recht* IV, no. 10 (1934): 227. See also, Schmitt, *Glossarium*, 265–266.

Although Schmitt suggests a continuity between Hobbes and Spinoza, deeming the latter's thought as developing from the former, he realizes the differences between these two thinkers. Schmitt insists that if Hobbes's thought includes a structural weakness, this was an unconscious one, which Spinoza supposedly utilized in an opportunistic manner. In Schmitt's reading it was thus not so much Immanuel Kant (1724–1804) as Spinoza who laid the foundations for the simultaneous triumph of the Enlightenment, rationalism, and constitutionalism in nineteenth-century Europe.[29] Here one confronts Schmitt's deeply antisemitic logic. Although Jews are portrayed as being responsible for the worst aspects of the modern world (the destruction of the strong European nation-state and its replacement with liberal constitutionalism), they always remain profoundly unable to truly create something novel (thus Spinoza is portrayed simultaneously as a mere follower of Hobbes); their spirit by itself remains "sterile" and only demonstrates a "parasitic" relationship to the European way of thinking, to cite Schmitt's own antisemitic statements from the antisemitic conference he organized against "Jewishness in legal science" in 1936.[30]

However, Schmitt's resistance to Spinoza goes beyond antisemitic historical narratives and concerns central theoretical differences, especially Spinoza's equalization of God with nature. Because Spinoza's deterministic metaphysics radically excludes the possibility of non-natural interventions such as miracles,[31] Schmitt's definition of the sovereign as the one who decides on the exception is explicitly rejected by Spinoza's naturalism that asserts both that "nothing happens contrary to nature" and that "nature maintains an eternal, fixed and immutable order."[32] If God's "decrees and volitions are eternal truths and always involve necessity,"[33] then not only the Schmittian conception of the sovereign decision as born out of a normative nothingness, but also his whole conception of legal science as a secularized version of theology operating "structurally compatible concepts"[34] becomes a flagrant contradiction in terms. If there is no transcendent God capable of acting in this world, there can be no secularization that transforms the divine right of kings

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29 Cf., Carl Schmitt, *Politische Theologie: Vier Kapitel zur Lehre von der Souveränität* (Berlin: Duncker & Humblot, 2015), 43.

30 Carl Schmitt, Schlusswort to *Das Judentum in der Rechtswissenschaft*, vol. 1 (Berlin: Deutscher Rechts-Verlag, 1936), 32.

31 Spinoza, *Theological-Political Treatise*, 81–96.

32 Spinoza, *Theological-Political Treatise*, 82.

33 Spinoza, *Theological-Political Treatise*, 65.

34 Carl Schmitt, *Politische Theologie II: Die Legende von der Erledigung jeder Politischen Theologie* (Berlin: Duncker & Humblot, 1996), 77, 79n1.

into popular sovereignty, and consequently, there can also be no modern juridical science in the Schmittian sense.

The only way to legitimize power, as Schmitt asserted continuously in his Weimar-era writings, was through the fiction of sovereignty that was constituted through the social contract. Because Spinoza's naturalistic system excludes the whole idea of a transcendent god, it must exclude the very possibility of a state of nature in the specifically Hobbesian sense. For Spinoza, all human actions are determined by God and are therefore always natural. For Hobbes, the state makes the notions of the private realm and even human individuality meaningful as such, but Spinoza understands the state of nature as one in which human reason remains unable to grasp the true nature of God.[35] In other words, for Spinoza, individuals precede the state. The goal of the state is not simply security and obedience in facing violent death, as in Hobbes, but rather the cultivation of free individuality through security and the liberty to philosophize. The substance of politics and the meaning of the state, for Spinoza, does not lie in the existential power of enmity – a definition that presupposes the dynamics of inclusion and exclusion – but in freedom itself. For all these reasons, Spinoza's famous way of using the concepts of God and nature as synonyms[36] provoked Schmitt: "The most audacious insult that has ever been inflicted upon God and man, and which legitimizes all curses of the synagogue, lies in the '*sive*' of the formula: *Deus sive Natura.*"[37]

All of this is inextricably connected to the question of mortality and death. What Spinoza's equalization of nature and God undermines is precisely the Schmittian concept of sovereignty. If the fear of death as the foundational element of "the political" remains a mere externality, what happens to sovereignty itself? Schmitt's critique of Spinoza, as well as his antisemitic reading of European history, revolve around a certain metaphysical conception of mortality and death. Schmitt's portrayal of Spinoza as the very first radical and systematically liberal thinker, is based on the idea that Spinoza, the Jewish thinker par excellence, is unable to grasp the meaning of sovereignty precisely because his thought is devoid of any direct relationship with death as a political fact. "To look life straight in the face means to look death straight into the face."[38] For Schmitt, death plays a structural role within the realm of the political and does so in a plurality of interconnected ways.

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35 Cf., Spinoza, *Theological-Political Treatise*, 197, 205–206.

36 Cf., Spinoza, *Theological-Political Treatise*, 45, 59, 262.

37 Schmitt, *Glossarium*, 22.

38 Carl Schmitt, *Tagebücher 1925 bis 1929*, ed. Martin Tielke and Gerd Giesler (Berlin: Duncker & Humblot, 2018), 419.

First, death plays a structural role in legitimizing sovereign power – this historical fact establishes itself with the political theory of Hobbes that reflects and helps found the modern state as a sovereign political entity. The state of Hobbes is nothing but a "façade before death"; it provides protection from death by subjecting individuals in the overawing arms of a sovereign power, thus creating a *deus mortalis*, the Leviathan.[39]

Second, for Schmitt, it was self-evident that those extraordinary moments in which any given matter rises to the sphere of "the political" required that the sovereign demand that their subjects be ready to kill and be killed.[40] It is in this sense that Schmitt clearly identifies sovereignty as the power over life and death, as the "*ius vitae ac necis.*"[41] In Schmitt's reading, Spinoza exemplifies the failures of liberalism (as *the* typically Jewish way of thinking). Schmitt interprets Spinoza as a universalistic thinker, whose thought could not comprehend the necessity of friends and enemies in politics. As Schmitt notes in his diary: "The specific blandness and staleness of Jewish thought [. . .] explains itself through the fact that it has no relationship with death; not even fear of death. The this-worldliness of this people is atrocious."[42]

Third, Schmitt thought that to function, sovereignty, as the power over life and death, needs the fiction of the social contract and the monopolization of violence in the hands of the sovereign. By equating nature and God (just as Kelsen would equate law with the state), Spinoza is unable to think of exclusion and representation (within a political group) as political concepts; fear of death as the legitimizing metaphysical factor within the state of nature thus loses its Hobbesian significance. These differences are underpinned by two entirely different conceptions of what makes human life meaningful. For Schmitt, "the political" not only makes both killing and death sensible; the constant political possibility of killing and dying make life itself more meaningful and more intense.[43] For Spinoza, such divisions of inclusion and exclusion do not constitute the meaning of the state, not to speak of human life, but rather the minimal foundation for the individual striving for freedom through the security provided by the state. While in Schmitt's reading of Hobbes the metaphysical worldview represented by the sovereign constitutes nothing less than a life-defining "identity between those

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39 Schmitt, *Glossarium*, 30.

40 Carl Schmitt, *Der Begriff des Politischen: Text von 1932 mit einem Vorwort und drei Corollarien* (Berlin: Duncker & Humblot, 2009), 33–34.

41 Schmitt, *Der Begriff des Politischen*, 47–48.

42 Carl Schmitt, *Der Schatten Gottes: Introspektionen, Tagebücher und Briefe 1921 bis 1924*, ed. Gerd Giesler, Ernst Hüsmert, and Wolfgang H. Spindler (Berlin: Duncker & Humblot, 2014), 477.

43 Carl Schmitt, *Verfassungslehre* (Berlin: Duncker and Humblot, 2010), 210.

who rule and those who are ruled" in the democratic era,[44] Spinoza declares that "it is not the reason for being obedient that makes a subject, but obedience as such."[45]

Unlike Hobbes and Schmitt, Spinoza gives no existential meaning to the political representation of an idea beyond external obedience. In other words, conforming to the practices required by a sovereign must not necessarily reflect one's actual beliefs. In a Christian state, people do not actually need to believe that the king is the vicar of God, they must rather simply obey him, because he channels power and "accommodates piety and religion to the public interest."[46] And not only this. For Spinoza, in the most non-Hobbesian turn of phrase, the criterion for evaluating freedom always remains individual freedom and obedience at the face of death, not actual belief in the idea represented by the sovereign: "The less people are accorded liberty of judgment, consequently, the further they are from the most natural condition, and, hence, the more oppressive the regime."[47]

What in Schmitt's opinion constitutes the very core of Spinoza's relationship with death can be analyzed through Schmitt's comments on a well-known story told by Spinoza's biographer: "He [Spinoza] looked for some spiders, and made them fight together, or he threw some flies into a cobweb, and was so well pleased with that battle, that he would sometimes break into laughter."[48] Deleuze takes up this famous biographical passage and comments it as follows:

> This anecdote appears authentic because it has many Spinozan resonances. Spider fights, or spider–fly fights, could have fascinated Spinoza for several reasons: 1. from the standpoint of the exteriority of necessary death; 2. from the standpoint of the composition of relations in nature (how the web expresses a relationship of the spider with the world, one which appropriates, as such, relations peculiar to the fly); 3. from the standpoint of the relativity of perfections (how a state that marks an imperfection of man, e.g., warfare, can on the contrary testify to a perfection if it is related to a different essence such as that of insects: cf. Letter XIX to Blyenbergh).[49]

While all these readings suggested by Deleuze indeed seem plausible, Schmitt's reading of this passage, however, is entirely different. In his post-war notebook, the *Glossarium*, which Schmitt kept from 1947 to 1958, one finds interesting refer-

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44 Schmitt, *Politische Theologie*, 53

45 Spinoza, *Theological-Political Treatise*, 209.

46 Spinoza, *Theological-Political Treatise*, 243.

47 Spinoza, *Theological-Political Treatise*, 257.

48 Deleuze, *Spinoza*, 12. This story is cited in Jacob Freudenthal, *Das Leben Spinozas,* vol. 1 (Stuttgart: Fr. Frommanns Verlag, 1904), 186.

49 Deleuze, *Spinoza*, 12n9. See also Gilles Deleuze and Felix Guattari, *Qu'est-ce que la philosophie?* (Paris: Les éditions de minuit, 2005), 74–75.

ences to Spinoza and to the anecdote concerning spider fights. On one occasion, Schmitt offers the following comments: "In the seventeenth century Spinoza watched with great enjoyment the battle of destruction (*Vernichtungskampf*) between spiders and flies; this was his only recovery from his thinking [. . .] It makes me deeply melancholic, and I rather look away."[50]

Schmitt's negative comments on this anecdote may be read in the light of his 1938 book on Hobbes in which he not only accuses the Jews in general, and Spinoza in particular, for the inner destruction of the modern European nation-state, but makes even wider-reaching claims concerning European history. In Schmitt's curious reappropriation of the Marxian conception of history as class struggle, he claims that world history is a battle between land and sea powers and the two mythical monsters that represents these political entities – the Leviathans and the Behemoths – an argument that Schmitt will later expand on in his book *Land und Meer* (1942). In Schmitt's Nazi reading of history, the "incomparable position" of the Jewish people consists of their determination to stand outside this conflict and watch as these mythical beasts slaughter each other.[51] Influenced by well-known antisemitic works – he refers to Johann Andreas Eisenmenger's *Entdecktes Judentum* – Schmitt maintains that this Jewish feasting on the bodies of these mythical beasts (i.e., European empires and states), is "kosher."[52]

The implied imaginary is more than clear. For Spinoza, death is a game; for Schmitt, it is serious. Schmitt claims that Spinoza refuses to give death the metaphysical position it deserves in any consistent and truly political theory, thus portraying him hypocritical. By denying death in universalistic, metaphysical terms, in secret, in the realm of the personal, Schmitt claims, Spinoza enjoys the death of others, the Europeans, as a public spectacle, as an event that does not concern him in his abstract normativity. In what follows, I examine a counterexample to Schmitt's hostile interpretation of Spinoza, from the political theory of Hannah Arendt.

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50 Schmitt, *Glossarium*, 122. In a letter to Karl Jaspers, Arendt speculates that this anecdote represents Spinoza's attempt at creating a kind of "microcosmos." Hannah Arendt and Karl Jaspers, *Briefwechsel 1926–1969*, ed. Hans Saner (Munich: Piper, 1993), 177–178.

51 Schmitt, *Der Leviathan*, 16–17.

52 Schmitt, *Der Leviathan*, 18.

3 Spinoza as an (absent) ally? Arendt's decoupling of death and politics for the sake of natality

After finishing *The Origins of Totalitarianism (*1951), Arendt began reading the classics of Western political thought in a systematic manner to investigate their relationship with totalitarianism. By asking the question "What is politics?" in her thought-diary in 1950,[53] Arendt set out to read Western philosophy "from Plato to Nietzsche" to find out why it never had a "pure concept of the political"[54] and why it failed to develop a "proper (*ordentliche*) political philosophy."[55] As Arendt's notebooks, letters and publications demonstrate, she consulted Spinoza's main works: the *Ethics*, the *Theological-Political Treatise*, and the *Political Treatise*.[56]

In a 1952 letter to her teacher, Karl Jaspers (1883–1969), Arendt describes Spinoza as a "great philosopher and as such sui generis."[57] In Arendt's vocabulary, this was an extremely rare expression to describe some of her central influences, such as Walter Benjamin (1892–1940), Martin Heidegger and Rosa Luxemburg (1871–1919). Curiously, while Arendt would sometimes offer a fairly positive view of Spinoza in her private diaries and correspondence, in her many of her published works, Arendt would either ignore Spinoza fully or only treat him in passing, as in *The Origins* and *The Human Condition*.[58] Perhaps most conspicuous is the absence of Spinoza in Arendt's 1940s writings, in which she tried to sketch a cultural counter tradition of pariahdom to the more official strains of Judaism.[59] This is even more surprising, since Arendt notes Spinoza's role as a heretic to Orthodox Judaism and even informs us that she had tried to convince Shlomo Zalman Schocken to publish a collection of

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53 Hannah Arendt, *Denktagebuch 1950–1973*, ed. Ursula Ludz and Ingeborg Nordmann (Munich: Piper, 2002–2003), 15–18.

54 Arendt and Jaspers, *Briefwechsel 1926–1969*, 203.

55 Hannah Arendt and Kurt Blumenfeld, *Die Korrespondez: In keinem Besitz verwurzelt* (Hamburg: Rotbuch Verlag, 1995), 68; cf., Hannah Arendt and Martin Heidegger, *Briefe 1925 bis 1975 und andere Zeugnisse* (Frankfurt am Main: Klostermann, 1998), 145–146.

56 See Arendt, *Denktagebuch*, 113, 176, 464, 506–507, 510, 708, 733, 757–758, 784–785, 793; Hannah Arendt, *Kritische Gesamtausgabe*, ed. Barbara Hahn and James McFarland, vol. 6 (Göttingen: Wallstein, 2018), 67, 129, 294, 526–528, 533.

57 Arendt and Jaspers, *Briefwechsel 1926–1969*, 235.

58 Hannah Arendt, *The Origins of Totalitarianism* (New York: Schocken, 1994), 163; Hannah Arendt, *The Human Condition*, 2nd ed. (Chicago, IL: University of Chicago Press, 1998), 272.

59 See for instance, Hannah Arendt, *The Jewish Writings*, ed. Jerome Kohn and Ron H. Feldman (New York: Schocken, 2007), 275–302. For early mentions of Spinoza by Arendt, see Arendt, *Jewish Writings*, 49, 226, 229–230; Hannah Arendt and Hermann Broch, *Briefwechsel 1946 bis 1951*, ed. Paul Miachel Lützeler (Frankfurt am Main: Jüdischer Verlag, 1996), 182.

Spinoza's writings – a proposal that Schocken rejected on the grounds that Spinoza was not a real Jewish thinker.[60]

One of Arendt's 1940s letters to Jaspers elaborates on this relative absence of Spinoza in her works. In this letter, Arendt openly notes her disagreement with Spinoza's way of thinking, without explaining the matter in detail.[61] However, in 1965, she notes that after reading Jaspers's *Die großen Philosophen* (1957) Spinoza has come "closer to her" and that she is now "occasionally truly fascinated."[62] This closeness between her own thought and Spinoza's was predicted by Jaspers. After Arendt had noted that she would be giving a seminar on Kant's *Kritik der Urteilskraft* (1790) as well as on Spinoza,[63] Jaspers commented: "With Spinoza you will see, if you study him in all directions, that he does not share the hostility toward politics that you discover with all philosophers with the exception of Kant."[64] Based on this, Arendt's reading of Spinoza may have become less critical with time, especially after, as Arendt herself would put it, she had "returned to philosophy a little bit"[65] (after having insisted she was more of a political theorist).[66]

Spinoza's work comes much closer to Arendt's project of rethinking Western thought from the perspective of human plurality than Arendt herself would admit. I argue that this is especially true in understanding the nature of mortality, death, sovereignty, and violence in politics – all concepts that Arendt's political theory tried to rethink radically against the grain of tradition. This is not to deny the fact that from Arendt's perspective there are grounds for a critical reading of Spinoza. For instance, Spinoza's determinism[67] seems to leave very little room for

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60 Arendt and Jaspers, *Briefwechsel*, 235–236.

61 Arendt and Jaspers, *Briefwechsel*, 178.

62 Arendt and Jaspers, *Briefwechsel*, 629.

63 Arendt and Jaspers, *Briefwechsel*, 605.

64 Arendt and Jaspers, *Briefwechsel*, 608.

65 Hannah Arendt and Joachim Fest, *Eichmann war von empörender Dummheit: Gespräche und Briefe*, ed. Ursula Ludz and Thomas Wild (München: Piper, 2013), 94; cf., Margaret Canovan, *Hannah Arendt: A Reinterpretation of Her Political Thought* (Cambridge: Cambridge University Press, 1992), 253. In January 1972 Arendt even explicitly notes: "my field is rather something like political philosophy"; Arendt's own words, in Emilio Ambasz, ed., *The Universitas Project: Solutions for a Post-Technological Society* (New York: MoMA Publications, 2006), 373.

66 For context, see Elisabeth Young-Bruehl, *Hannah Arendt: For the Love of the World* (New Haven, CT: Yale University Press, 2004), 327.

67 Even if one understands Spinoza's statement that "nobody does anything except by the predetermined order of nature" in the light of his philosophical definition of God ("nothing can exist or be conceived without God"), and while this may empty out the traditional notion of God in favor of human reason, it also forces the latter to conceive of every deed as pre-ordained. Spinoza, *Theological-Political Treatise,* 45, 59. Yet, if everything is from God and is part of God, does this not, by its very definition, entail absolute, radical freedom and reduce the Divine into a

natality in the Arendtian sense of beginning something entirely new in the world,[68] or the fact that while Spinoza's thought is based on a philosophical definition of human nature,[69] Arendt's political theory focuses on the phenomenological analysis of the appearing "whoness" of human beings instead of their natural whatness.[70]

Despite these differences, I believe that Arendt's remarks on Spinoza are consistently misleading and lead her to ignore one of the few thinkers she could have used to reframe her own political theory of natality against the grain of the tradition. Reading Spinoza as a thinker who, like Hobbes, simply reduces politics and freedom to a matter of security,[71] Arendt subjugates Spinoza's thought to her own historical narrative in which the prejudices of philosophy have dominated politics ever since the death of Socrates and the rise of philosophy in Plato and Aristotle.[72] Thus, like Plato, also Spinoza shares the fundamental prejudice of the Western tradition according to which "the *libertas philosophandi* was the true end of government."[73]

While Spinoza notes this in his *Theological-Political Treatise*,[74] from his unique perspective this has nothing to do with the reduction of politics to philosophy that Arendt sought to undermine. Although Spinoza repeatedly states that the freedom

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mere (Kantian?) postulate of meaningfulness? For as Spinoza himself puts it, the "fundamental dogma of theology" is not a matter of reason and truth, but rather a "moral certainty". Spinoza, *Theological-Political Treatise*, 191.

68 Spinoza emphasizes, over and over again, that one should not "confuse freedom with contingency" and that action grows not from freedom but from necessity. Spinoza, *Political Treatise*, 40, 42.

69 Cf., Spinoza, *Political Treatise*, 35–36, 56, 61, 64, 77–78, 90, 101.

70 See especially Sophie Loidolt, *Phenomenology of Plurality: Hannah Arendt on Political Intersubjectivity* (London: Routledge, 2018).

71 Hannah Arendt, *Between Past and Future*, ed. Jerome Kohn (London: Penguin, 2006), 148, 224; Arendt, *Kritische Gesamtausgabe*, 533. Spinoza indeed notes that "people's safety is the supreme law". Spinoza, *Theological-Political Treatise*, 242. However, Arendt offers a very one sided reading of this argument.

72 On this narrative in Arendt, see Adriana Cavarero, "The Human Reconceived: Back to Socrates with Arendt," in *Antiquities Beyond Humanism*, ed. Emanuela Bianchi, Sara Brill, and Brooke Holmes (Oxford: Oxford University Press, 2019), 31–46; Ville Suuronen, "Hannah Arendt's Genealogy of Biopolitics: From Greek Materialism to Modern Human Superfluity," in *Biopolitics and Ancient Thought*, ed. Jussi Backman and Antonio Cimino (Oxford: Oxford University Press, 2022), 147–167.

73 Arendt, *Between Past and Future*, 290 endnote 2. It is clearly in the same vein when Arendt suggests that "Spinoza polishing lenses eventually could become the symbolic figure of the philosopher." Arendt, *The Promise of Politics*, 83; Arendt, *Kritische Gesamtausgabe*, 294.

74 Spinoza, *Theological-Political Treatise*, 254.

and virtue of the state lies in its security,[75] Arendt falsely presumes that Spinoza's ideal model of the state would be established solely for the security of the philosopher. In fact, coming surprisingly close to Arendt's distinction between "men of thought" and "men of action,"[76] Spinoza criticizes the Western philosophical and theological traditions for their attempts to impose abstract standards upon politics. Spinoza not only notes that "no men are regarded as less fit for governing a state than theoreticians or philosophers," but also notes that "statesmen" have written about matters political in a much more effective manner.[77] In this same sense, Spinoza notes that the central purpose of his critical method of reading the Bible is to free the minds of men from the prejudices of Western theological tradition,[78] which in Spinoza's reading is itself a readaptation of Platonic and Aristotelian teachings,[79] a kind of a fundamental perversion, something also noted by Arendt.[80]

In a critical gesture not unlike Kant's later notion of *Selbstdenken*, Spinoza claims that while "the virtue of a state is security," this corresponds with the fact that "freedom of spirit or strength of mind is the virtue of a private citizen."[81] Spinoza claims consistently that "no one can surrender his faculty of judgment."[82] He emphasizes the importance of deeds over thoughts, of worldly appearance over the solitude of contemplation, when he repeatedly notes that "we can know no one except from his works"[83]; that the core of one's personality is not some essential whatness, but rather a concrete whoness that appears and acts in this world; and that the only concrete meaning which piety and faith may take in this world are to be determined based on concrete actions.[84]

It is precisely in this connection between the freedom of individuals and the right form of the state that Spinoza undercuts the Hobbesian-Schmittian nexus between sovereignty and mortality, based on the mere *external* fear of death. If for Hobbes, whose Leviathan offers protection at the price of obedience, freedom is simply absence of (the fear of violent) death within a civil order, just as peace

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75 Spinoza, *Political Treatise*, 36; Spinoza, *Theological-Political Treatise*, 47

76 Arendt, *Human Condition*, 9, 17–18, 220.

77 Spinoza, *Political Treatise*, 33–34.

78 Spinoza, *Theological-Political Treatise*, 42, 61, 98, 108.

79 Spinoza, *Theological-Political Treatise*, 8, 173.

80 See the sources in footnote 72.

81 Spinoza, *Political Treatise*, 36.

82 Spinoza, *Political Treatise*, 51.

83 Spinoza, *Theological-Political Treatise*, 80. Arendt notes similarly that she has "always believed that 'one *is* one's life.'" Hannah Arendt and Mary McCarthy, *Between Friends: The Correspondence of Hannah Arendt and Mary McCarthy 1949–1975*, ed. Carl Brightman (New York: Harcourt, 1995), 375.

84 Spinoza, *Theological-Political Treatise*, 177, 179–181, 234.

is the absence of war,[85] for Spinoza these are mere *negative conditions* for free-dom, but not their substance: "peace is not just the absence of war, but a virtue which comes from strength of mind."[86] Defining this virtue, Spinoza writes that:

> a free people is led more by hope than by fear, while a subjugated people is led more by fear than by hope; the former seeks to engage in living, the latter simply to avoid death. The former, I say, seeks to live for itself, the latter is forced to belong to a conqueror; hence we say that the latter is a slave, the former is free.[87]

To understand sovereignty in terms of Hobbes means to understand individuals as "equal" before the threat of violent death; sovereignty is the power that "over-awes"[88] its subjects and equalizes them before death. It is precisely in this sense that Schmitt contrasts Hobbes's "clean" and "tactful" individualism with that of Spinoza's.[89] In Schmitt's reading, only for Hobbes is the sovereign state a "ba-roque façade" that produces *legitimate* rule (*Herrschaft*) and not mere *legalistic* power (*Macht*) as in Spinoza.[90] For Spinoza, this mere externality or legitimacy is not enough, since "truth of mind" can never be "instilled in men by the power of laws or by public authority."[91] Unlike the Hobbesian-Schmittian juridical focus on externality – on the representation of a shared existential idea – what connects Spinoza and Arendt is their emphasis on "one's own free judgment" and the no-tion that "no one can be compelled to be happy by force of law."[92]

In Arendt's reading, the Western philosophical tradition misconstructs equality as "equality before death," which, as Arendt puts it, is actually only a "marginal experience" in politics.[93] Here Spinoza would agree fully.[94] To understand sover-

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85 Thomas Hobbes, *Leviathan* (Oxford: Clarendon Press, 1929), 95.

86 Spinoza, *Political Treatise*, 62. Although Spinoza does describe the sovereign as the "mind of the state," within a democratic form of government, Spinoza's argument is necessarily individu-alistic as in a democracy the governing council is "composed of the people in general". Spinoza, *Political Treatise*, 44, 57.

87 Spinoza, *Political Treatise*, 62–63; Spinoza, *Theological-Political Treatise*, 73.

88 Hobbes, *Leviathan*, 95.

89 Schmitt, *Glossarium*, 78

90 Schmitt, *Glossarium*, 30–31. In Schmittian terminology, legitimacy refers to the power derived from its fundamental source (the god, the people, etc.), whereas legality describes the potential room for maneuver within a certain legal space.

91 Spinoza, *Theological-Political Treatise*, 116.

92 Spinoza, *Theological-Political Treatise*, 116.

93 Hannah Arendt, *Denktagebuch 1950–1973*, ed. Ursula Ludz and Ingeborg Nordmann (Munich: Piper, 2002–2003), 534. As Arendt notes elsewhere, in Hobbes the fear of violent death is only a synonym for political impotence of isolated individuals. Arendt, *Denktagebuch*, 510.

94 On the contrast between Spinoza and the Hobbesian tradition of sovereignty, see for instance, Antonio Negri, *The Savage Anomaly: The Power of Spinoza's Metaphysics and Politics*, trans.

eignty (*imperium*) with Spinoza means to conceive of the state as the form of civil order that enables individuals to pursue freedom; not the contemplative freedom of the philosophers, but rather a concrete practice of freedom in the Aristotelian sense of virtue. Here is the concrete difference between the "juridical" and "anti-juridical" traditions mentioned by Deleuze. Spinoza specifies the importance of (internal-individual) judgment above the (external representative) Hobbesian fear of death at the end of his *Theological-Political Treatise*:

> Those who know themselves to be honest, do not fear death as wrongdoers fear it and plead to escape punishment. Their minds are not tormented by remorse for shameful actions. On the contrary they consider it not a punishment but an honor to die in a good cause: they deem it glorious to die for freedom. And what an example to give! [. . .] freedom of judgment must necessarily be permitted and people must be governed in such a way that they can live in harmony, even though they openly hold different and contradictory opinions.[95]

Here one may perceive intimate connections with the political thought of Arendt; that to do politics means to set an example; that glory, honor, and power in the Machiavellian sense are profoundly public political categories, and that the very core and substance of politics has always been freedom and life, not death and mortality.

Yet, Arendt herself fails to make these connections in her own writings. Curiously, in her *Denktagebuch*, Arendt notes Spinoza's famous words from *Ethics*: "a free man thinks of death least of all things; and his wisdom is a meditation not of death but of life."[96] Citing these words, Arendt must have realized how this striking sentence, which condenses the core of Spinoza's metaphysical system, constitutes a major exception in the long tradition of Western political thought, especially since Arendt herself contends the following: "Since action is the political activity par excellence, natality, and not mortality, may be the central category of the political, as distinguished from metaphysical thought."[97] This is one of the most cited passages from *The Human Condition*, a sentence that not only contrasts the "mortality" of "metaphysical thought" with the "natality" of "the political," but in doing so discloses the basis for Arendt's central critique of the Western tradition of thought. For Arendt, the tradition has profoundly confused these two different points of departure, mortality and natality, by interpreting and even reducing the political realm to a matter of metaphysics, or death, instead of seeing it as a realm of new begin-

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Michael Hardt (Minneapolis, MN: University of Minnesota Press, 1991); Roberto Esposito, *Catégories de l'impolitique,* trans. Nadine Le Lirzin (Paris: Seuil, 2005), 7–8.

95 Spinoza, *Theological-Political Treatise*, 256–257.

96 Arendt, *Denktagebuch*, 507.

97 Arendt, *Human Condition*, 9.

nings, or natality. This condensed and very complex argument is expressed in more detail in the substantially diverging German version, *Vita Activa. Vom tätigen Leben* (1960):

> And since action is the political activity par excellence, it may very well be that natality (*Natalität*) is for political thought (*politisches Denken*) an equally decisive, category-building fact (*Faktum*), as mortality since times immemorial and in the West (*Abendland*) at least since Plato constituted the factual basis (*Tatbestand*), on which metaphysical philosophical thinking ignited itself (*an dem metaphysisch-philosophisches Denken sich entzündete*).[98]

That the philosophical discourse in Europe after World War I was defined by a "wave of death-philosophies,"[99] was thus, at least in Arendt's reading, no accident. This was one of the "subterranean" forces at the core of the Western philosophical tradition,[100] whose political relevance would become obvious only in the twentieth century.[101] As she notes in her *Denktagebuch*: "It is as if, ever since Plato, human beings have not been able to take the fact of being born (*Geborenseins*) seriously, but rather only [the fact] of dying (*Sterbens*)."[102] Despite noting Spinoza's words here, she never pursues this exception within the tradition any further.

Ignoring such fundamental similarities, Arendt also compares Spinoza negatively with Kant. Arendt maintains that only Kant recognizes the importance of communication for the use of reason, while Spinoza, like the Western philosophical tradition as such, supposedly remains solipsistic in this regard.[103] Although Spinoza is "often wrongly praised as a champion of free thought and speech," in reality, he "nowhere" demands such liberties, as unlike Kant, who believed in the public use of reason as a criterion for the use of reason as such, Spinoza still believed in the "infallibility of human reason" in its solipsistic purity.[104] The notion that Spinoza accords no importance to what Kant called public use of reason is highly problematic. Consider his words from the *Political Treatise*:

> [W]hen all decisions are made by a few men who have only themselves to please, freedom and the common good are lost. The fact is that men's wits are too obtuse to get straight to the heart of every question, but by discussing, listening to others, and debating, their wits are

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98 Arendt, *Vita Activa*, 18. On the differences between reading Arendt in English and German, see Marie-Luise Knott, *Unlearning with Hannah Arendt*, trans. David Dollenmayer (London: Granta, 2013).

99 Arendt, *Origins*, 173.

100 Cf., Arendt, *Origins*, ix, 45, 120, 333.

101 Cf., Arendt, *Denktagebuch*, 43.

102 Arendt, *Denktagebuch*, 463.

103 Arendt, *Between Past and Future*, 230.

104 Arendt, *Between Past and Future*, 230.

sharpened, and by exploring every avenue they eventually discover what they are seeking, something that meets with general approval and that no one had previously thought of.[105]

Does one not see here a Spinoza, who shares a profoundly Kantian path toward enlightenment (something that Schmitt also recognized, as we have seen above)? And yet, in Arendt's reading, Spinoza not only repeats the prejudices of the Western philosophical tradition initiated by the ancient Greek philosophers, but even represents an apex of this tradition in demonstrating a "secret love for benevolent tyrants" – in this regard, Arendt claims, Spinoza is not unlike Nietzsche.[106] Since, in reality, Spinoza can be defined as the first major political thinker since classical antiquity to defend democracy, or perhaps one could say, an original form of democratic republicanism[107] – a defense at the core of Arendt's political theory – Arendt's one-sided reading here seems out of place. For Spinoza that "best way of ruling" is *everything but* a tyranny; instead of equating nature with dominance, Spinoza claims that "the one [form of government] most in harmony with human nature," is, in fact, a "democratic state."[108]

Spinoza's criterion for assessing the superiority of forms of government was their "preservation of freedom,"[109] and consequently whether or not freedom is shared by "more of its members."[110] For Arendt, however, the experience of revolution and civil war evoked a yearning for peace at "almost any price" in both Spinoza and Hobbes, leading both to develop a political philosophy in which action, "more than ever before," was either trusted "only to the few" (Spinoza) or to the "one ruler" (Hobbes).[111] This is, quite simply, untrue. For if one thing penetrates Spinoza's thinking, it is indeed the idea of freedom. Much like Arendt, who always insisted that "the meaning (*Sinn*) of politics is freedom,"[112] Spinoza emphasized in his *Theological-Political Treatise* and other works that "the true purpose of the state is in fact freedom."[113]

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105 Spinoza, *Political Treatise*, 126; cf., Spinoza, *Theological-Political Treatise*, 11. In relation to this Spinoza states that: "it is no more in our power to have a sound mind than to have a sound body." Spinoza, *Political Treatise*, 39.

106 Arendt, *Kritische Gesamtausgabe*, 67, 129.

107 Spinoza, *Theological-Political Treatise*, 6, 202, 257.

108 Spinoza, *Theological-Political Treatise*, 257.

109 Spinoza, *Political Treatise*, 95.

110 Spinoza, *Political Treatise*, 127.

111 Arendt, *Kritische Gesamtausgabe*, 528.

112 Hannah Arendt, *Was ist Politik?,* ed. Ursula Ludz (München: Piper, 2010), 28.

113 Spinoza, *Theological-Political Treatise*, 252.

4 Conclusion: the juridical and anti-juridical traditions of political thought

At the beginning of this chapter, I suggested that Schmitt's and Arendt's readings of Spinoza would disclose two approaches to theorizing the political, and following Deleuze, I called these approaches anti-juridical and juridical. If it is true, as Schmitt once notes in a letter to his friend Ernst Jünger (1895–1998), that among thinkers "points of contact in the periphery" may "indicat[e] a closeness toward the center,"[114] the opposite may be equally true; differences at the peripheries of two different political theories may sometimes disclose differences at the center. I believe that the discourses on Spinoza from the margins of Arendt's and Schmitt's political thought reveals a crucial difference at the very center of their thought.[115] To conclude, I draw some general differences between the juridical tradition of Hobbes and Schmitt and the anti-juridical approach of Spinoza and Arendt.

Both Arendt and Schmitt agreed upon the fact that the notion of sovereignty has a systematic connection with death. While for Schmitt, the concept of sovereignty grounds the very existence of political freedom by creating the dichotomy of exclusion and inclusion – a differentiation that separates life from death – for Arendt, the notion of political freedom presupposes nothing less than getting rid of sovereignty as such, as she famously notes in relation to Schmitt's magnum opus *Verfassungslehre* (1928).[116] During the Weimar era, Schmitt saw it as his task to restore a clear juridical political concept of sovereignty, and as is well known, legal positivism, especially in Hans Kelsen (1881–1973), constituted Schmitt's key intellectual enemy in this debate.[117] As Miguel Vatter recently argued, the confrontation between Schmitt and Kelsen also operates on the historical level; in his critique of Schmitt's constitutional theory, Kelsen deploys Spinoza as a key ally. In this sense, the famous differences between Schmitt and Kelsen are themselves reflected and replicated in their diametrically opposed readings of Spi-

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114 Ernst Jünger and Carl Schmitt, *Briefwechsel: Briefe 1930–1983*, ed. Helmuth Kiesel (Stuttgart: Klett-Cotta, 2012), 422.

115 That Arendt's ideas come close to Spinoza's and Schmitt's are diametrically opposed to them can also be perceived in their diverging relationships with Nietzsche; Arendt's rather positive and Schmitt's hostile reaction, are, at least in part, based on what Deleuze calls the "great identity Spinoza-Nietzsche." Deleuze, *Pourparlers*, 185.

116 Arendt, *Between Past and Future*, 162–163, 289 endnote 21.

117 Michael Stolleis, *Geschichte des öffentlichen Rechts in Deutschland: Weimarer Republik und Nationalsozialismus* (München: C.H.Beck, 2002), 37–245; Stefan Breuer, *Carl Schmitt im Kontext: Intellektuellenpolitik in Der Weimarer Republik* (Berlin: Akademie Verlag, 2012).

noza.[118] As I have sought to demonstrate here, something curiously similar applies to the theoretical differences between Schmitt and Arendt.[119]

Both Arendt and Schmitt would also agree, although for almost opposite reasons, that Spinoza deviated from the conventional ways of understanding the role of death in politics; for Schmitt, Spinoza represented the birth of (inherently "Jewish") liberal democracy that would ultimately cause the destruction of the European nation-state and system of public law; for Arendt, Spinoza was one of the very few thinkers who had managed to think against the notion of politics as rule over the other and politics as sovereignty, even if Arendt did not recognize this fully in her works, as analyzed above.

These two traditions depend on contrary metaphysics, on two different estimations on what makes human life meaningful. In the juridical tradition of Hobbes and Schmitt, structures overawe and subdue individuals in a positive and affirmative sense; a meaning "from above" fulfills the people and their life with security *and* meaning. This way of thinking always starts from the people, not the individual; underlining it is the suspension of individuality in the name of a represented fiction. In the anti-juridical tradition, politics is understood starting from human singularity, from the uniqueness of human individuals, and thus from the notion that "nature certainly does not create peoples, individuals do."[120] For Hobbes and Schmitt, who share a certain anthropological pessimism, politics operates on the capacity to limit the power of individuals in the name of collectives, the people; for Spinoza and Arendt, despite of the differences in their philosophical anthropologies, the question becomes that of channeling power in the right manner. As Spinoza puts it: "To organize everything in such a way that each person, of whatever character, prefers public right to private advantage, this is the real task, this the arduous work."[121]

While the juridical tradition of Hobbes and Schmitt takes its bearings from the necessity of violence, Spinoza and Arendt see violence as kind of emergency

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118 Miguel Vatter, "Spinoza and the paradox of constitutionalism," *Crisis & Critique* 8, no. 1 (2021): 537–562.

119 On Schmitt's interpretation of Arendt, see Ville Suuronen, "Carl Schmitt's Confrontation with the Work of Hannah Arendt: A Debate on Totalitarianism, Power, and Banality of Evil," *Global Intellectual History* 8, no. 3 (2023): 270–305, https://doi.org/10.1080/23801883.2022.2074866.

120 Spinoza, *Theological-Political Treatise*, 225; cf., 164, 182.

121 Spinoza, *Theological-Political Treatise*, 211. Similarly, Arendt cites the American founding fathers to note that one should strive to make everyone feel "that he is a participator in the government of affairs, not merely at an election one day in the year, but every day; when there shall not be a man in the state who will not be a member of some one of its councils, great or small, he will let the heart be torn out of his body sooner than his power wrested from him by a Caesar or a Bonaparte." Hannah Arendt, *On Revolution* (New York: Penguin, 2006), 246.

measure that always risks mischannelling the political power of individuals.[122] This fundamental difference can be conceptualized through antonymic concepts: immobile/mobile, motionless/moving, static/motile. The juridical tradition always fantasizes about a state of permanence and stability in which power *is* violence that operates to kill and shut down movement within or to prevent foreign powers and movements from entering a certain static enclosure. Historically, this utopian ideal has its roots in Plato's *Republic*, where the perfect state is described as one of natural harmony between the soul, the social orders, and the cosmos itself – an image that mimics the cosmic order and aims to resist the degeneration of the state.[123]

On the contrary, the metaphysics of the anti-juridical tradition are, by definition, modern and revolutionary; they operate without such a static fantasy and recognize the permanence of motion. For Spinoza, in a perfect state (human) nature and God (would) operate as perfectly synonymous, not in their stillness (as political theorists have fantasized in various ways from Plato to Hobbes and Schmitt), but rather in a complexly ordered system of channels and flows, in which each person, by acting selfishly, would act for the common good. Spinoza's naturalistic deterministic conception of the good state overlaps curiously with a statement of Georges Clemenceau (1841–1929), which according to Arendt is the basic principle of every healthy political community: *"L'affaire d'un seul est l'affaire de tous."*[124] Speaking politically, the affairs of a single individual are the affairs of everyone.

In various ways, all the differences between the juridical and anti-juridical approaches to theorizing politics stem from two different metaphysics; in the juridical tradition of Hobbes and Schmitt, they stem from the economics of death/mortality/immobility/sovereignty/fear; in the anti-juridical tradition of Spinoza and Arendt, from the machinery of life/natality/motility/freedom/hope.

In decoupling sovereignty from politics, on the one hand, and by demonstrating the ontological connection between sovereignty and death, on the other, Arendt attempts to sketch out a new political language of natality and human plurality that utilizes the Western tradition against itself by systematically replacing death with action, plurality, and life. In this project, Spinoza is one of her unacknowledged allies. The only way to go beyond the tradition is to read through it,

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122 Cf., Spinoza, *Theological-Political Treatise*, 251–252.
123 Karl Popper, *The Open Society and Its Enemies*, vol. 1 (London: Routledge & Kegan Paul, 1974), 19–20, 31, 35–56.
124 Hannah Arendt, *Elemente und Ursprünge totaler Herrschaft* (München: Piper, 2016), 975.

to explode it from within, as Hélène Cixous points out.[125] This is precisely Arendt's aim: to replace the monolithic and phallogocentric language of sovereignty with the polyphonic language of human pluralities. Arendt's political thought is based on the conviction, to cite Cixous once again, that "wherever history still unfolds as the history of death, she does not tread." Refusing to narrate the history of politics as the history of death and sovereignty, she re-narrates "the history of life" starting from "somewhere else"[126] – from those rare moments in which politics was realized as speech, persuasion, and plurality.[127]

But is this retelling of history merely critical and negative, or does it include a positive momentum? Deleuze and Felix Guattari (1930–1992) have famously argued that Spinoza poses the most fundamental political question: "Why do human beings fight *for* their servitude as though it were their salvation?"[128] If there is a fundamental connection between Spinoza and Arendt, as I have argued here, perhaps one could also reformulate the accent of this question in positive-political terms to replace death with life/natality and refocus it on the relation between institutions and individuals. The plural political question of the anti-juridical tradition would then become something like this: How can one organize a political entity in a way that enables human beings to continuously fight for their liberty – to prefer freedom over tyranny, action over violence, and life over death?[129]

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125 Hélène Cixous, "The Laugh of the Medusa," trans. Keith Cohen and Paula Cohen, *Signs* 1, no. 4 (1976): 887.

126 Cixous, "The laugh of the medusa," 893.

127 Arendt, *Was ist Politik?*, 41–42; cf., Shmuel Lederman, *Hannah Arendt and Participatory Democracy: A People's Utopia* (London: Routledge, 2019).

128 Gilles Deleuze and Felix Guattari, *L'Anti-Oedipe: Capitalisme et schizophrénie* (Paris: Les éditions de minuit, 1973), 36–37.

Piotr Sawczyński

A sovereign illusion: On the political theology of border walling

1 Introduction

The chapter investigates the phenomenon of border walling as a peculiar yet oppressive – and increasingly widespread – form of political violence. As of early 2022, almost eighty countries across the globe were surrounded either by a wall or a fence, which means that more than a third of the world's nation-states are currently bordered with some sort of a barrier. Compared to less than a dozen walls at the time the Iron Curtain fell (1989), the number has multiplied over the last two or three decades on an unprecedented scale.[1] From just twenty kilometers of fortification between Malaysia and Brunei to more than three thousand at the border of India and Bangladesh; from the barely known buffer separating Zimbabwe and Botswana to the globally discussed and highly polarizing Israeli West Bank barrier or Mexico–United States (US) border wall, and from unsophisticated barbed wire fences to massive concrete blocks accompanied by a complex surveillance apparatus of cameras, sensors or drones, all these constructions mark the process of harsh reterritorialization at the very heart of the "global village." More and more barriers even arise on the territory of the European Union (EU) – reputedly a home to the idea of free, unrestricted flows – both at its external borders (for example fences on the Polish, Lithuanian and Latvian borders with Belarus) and within the EU (for example fences on the Croatian borders with Hungary and Slovenia). This increasing reinforcement and fortification of borders made some scholars and journalists announce the coming of "the age of walls"[2] or even "the second great age of walls,"[3] roughly seven hundred years after the end of the first one, which marked the twilight of the Middle Ages and the advent of Modernity.

One cannot help but ask if there is any rationale for erecting such untimely physical structures at the turn of the third millennium, an era of ultra-modern biopolitical technologies like spyware or biometric databases? Declaratively, bor-

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1 Élisabeth Vallet, "The World Is Witnessing a Rapid Proliferation of Border Walls," *Migration Policy Institute*, accessed August 27, 2022, https://www.migrationpolicy.org/article/rapid-prolifera tion-number-border-walls.

2 Tim Marshall, *The Age of Walls: How Barriers Between Nations Are Changing Our World* (New York: Scribner, 2018).

3 David Frye, *Walls: A History of Civilization in Blood and Brick* (New York: Scribner, 2018).

der walls are mainly aimed at preventing terrorist attacks, illegal immigration and trafficking, or even – most recently – the spread of a pandemic. Practically, they not only prove to be cost-ineffective but, as pointed out by a number of researchers,[4] produce even more instability, for example, by fostering a borderland black market and intensifying tensions between neighboring nations. Instead of solving the problems they were supposedly intended to address, they merely act as a manifestation of brutal political violence and oppression, grotesque in its spectacular excessiveness yet posing a real threat to both local communities and global individuals: desperate economic migrants, would-be asylum seekers or a growing number of "climate refugees."

This border walling paradox was extensively theorized by Wendy Brown whose *Walled States, Waning Sovereignty* offers a powerful argument that today's nation-state barriers are first and foremost "theater pieces for national populations [. . .] providing a visual emblem of power and protection that states increasingly cannot provide, and generating an imagery of stable and homogeneous nationhood concretely eroded by global flows."[5] As the function served by walls and fences is symbolic rather than actual, their manifest inefficacy is not an issue: "Walls constitute a spectacular screen for fantasies of restored sovereign potency and [. . .] function brilliantly as icons of such potency and protection, even when they fail."[6] With reference to both Freudian and post-Freudian psychoanalysis, Brown further interprets this paroxysm of enclosure as a captivating illusion of purity, impermeability and containment in the world of unbearable interdependence and vulnerability; a phantasmatic regress to the good old repressive power which "stand[s] as a kind of rebuke to every poststructuralist theorization of power as well as to every liberal hope for a global village."[7] The puzzling phenomenon of today's border walling is explained by her theory as a powerful compensation of declining sovereignty and

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4 David B. Carter and Paul Poast, "Barriers to Trade: How Border Walls Affect Trade Relations," *International Organization* 74, no. 1 (2009): 165–185; Anna Gemantsky, Guy Grossman, and Austin L. Wright, "Border Walls and Smuggling Spillovers," *Quarterly Journal of Political Science* 14, no. 3 (2019): 329–347, http://dx.doi.org/10.1561/100.00018094; Said Saddiki, *World of Walls: The Structure, Roles and Effectiveness of Separation Barriers* (Cambridge: Open Book Publishers, 2017).

5 Wendy Brown, *Walled States, Waning Sovereignty* (New York: Zone Books, 2017), 9.

6 Brown, *Walled States,* 9.

7 Brown, *Walled States,* 93. As far as poststructuralism, Brown argues that border walling mostly challenges Michel Foucault's thesis of the transformation of an early modern repressive power into a late modern biopower: "*Pace* Foucault's critique of the 'repressive hypothesis' and emphasis on the productive, rather than the repressive or censorious aspects of power, walls would seem to embody precisely the power of the 'no,' physically proclaiming and enforcing what is *interdit,*" Brown, *Walled States,* 93.

a defensive retreat to hyper-territorialism which poses a serious challenge to the progressivist imagery of a borderless, post-sovereign world.

In what might be the most original bit of the book, Brown also adopts the discourse of political theology to argue that walls constitute a theological remainder of diminishing sovereignty, "the power-form that works by overawing us."[8] The divine reverence these constructions claim to inspire is grotesquely excessive because they are a highly decadent embodiment of sovereign power and, as such, they cannot help but realize its godlike attributes (of the supreme protector and punisher) in a perverted, disproportionate manner. But the exposure of this theological background of today's border walling is not all: Brown further offers some powerful criticism of those theories of sovereignty which tend to overestimate its supposedly godlike nature and are thus partly responsible for its "sanctification," so illustratively represented by the phenomenon of walling. This accusation is directed not only against the prominent advocates of sovereignty from Thomas Hobbes (1588–1679) to Carl Schmitt (1888–1985), but also against their fierce liberal and leftist critics who, argues Brown, are so infected with the Schmittian over-appreciation of sovereign power that they end up falling into the trap of conservative political theology. Be it Michel Foucault (1926–1984), for whom sovereignty is "nearly impossible to escape," Michael Hardt and Antonio Negri, "for whom sovereignty only and always suppresses the multitude" or, last but not least, Giorgio Agamben's "formalistic account, in which sovereignty [. . .] [is] as timeless and eternal as the Latin Mass,"[9] Brown accuses all these (declaratively) anti-Schmittian thinkers of a morbid fascination with the supreme, ultimate power over human life; the fascination which ends up reinforcing the phantasmatic, godlike image of sovereign power as an overwhelming, invulnerable entity that might only be challenged by some intricate messianic operations.

What Brown's bold critique lacks is a philosophical counterpoint to these "religious modalities"[10] of conceiving sovereignty. Despite multiple references to such prominent critics of biopolitical violence as Hannah Arendt (1906–1975) and Jacques Derrida (1930–2004), Brown fails to offer a convincing illustration of the phantasmatic nature of sovereign potency. Such an illustration could be found, for example, in Walter Benjamin's (1892–1940) powerful refutation of Schmitt's political theology which is, however, not once mentioned in *Walled States, Waning Sovereignty*. This absence is surprising if we realize the importance of Benjamin's critical theory for poststructuralist thinkers (Foucault, Derrida), its noteworthy

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8 Brown, *Walled States,* 72.

9 Brown, *Walled States,* 73.

10 Brown, *Walled States,* 73.

application in Brown's other books and articles, and the Benjaminian lineage of Agamben's biopolitics, which are a major object of Brown's polemics.[11]

I argue that Benjamin's critique is a significant element missing from Brown's argumentation against the theological overtones of nation-state walling and offers a slight yet meaningful adjustment to her theory. Whereas Brown diagnoses the phenomenon of walling as a "fantasy of restored sovereign potency," Benjamin exposes the very idea of sovereign potency asa quasi-theological fantasy. To prove my argument, I first analyze the idealized image of sovereign potency found in Schmitt's theory of political decisionism, and confront it with Benjamin's deconstruction of the theological core of sovereignty. I then refer to Agamben's misreading of Benjamin's critique in order to illustrate Brown's thesis of the over-appreciation of sovereign power in contemporary political criticism. Last but not least, I use Benjamin's anti-Schmittian theory to expose the shortcomings of Brown's own interpretation of the wall as a symptom of "waning sovereignty."

2 Sovereign potency

Sovereignty is a concept that ranks prominently high on a scale of terminological ambiguity, but regardless of all its obscurity, it always expresses "the idea that there is a final and absolute authority in the political community."[12] That is why, ever since sovereign power emerged in modern political theory (if not earlier), it has been extensively conceptualized in the image and likeness of divine omnipotence. As Brown puts it:

> Ontologically, sovereignty is the unmoved mover. Epistemologically, it is a priori. As a power, it is supreme, unified, unaccountable, and generative. It is the source, condition, and protector of civic life and a unique form of power insofar as it brings a new entity into being and sustains control over its creation.[13]

A paradigmatic representation of these attributes in the modern theory of sovereignty is Hobbes' Leviathan, the monstrous being which embodies the supreme powers of the state. Although human-made and legitimized by the citizens, it is essentially meant to imitate God's potency and induce godly awe in subjects. Through this symbolic representation, argues Brown, "Hobbes reveals a funda-

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11 Wendy Brown, "Resisting Left Melancholy," *Boundary 2* 26, no. 3 (1999): 19–27.
12 F. H. Hinsley, *Sovereignty* (Cambridge: Cambridge University Press, 1986), 26.
13 Brown, *Walled States,* 70.

mental trick of sovereignty: We generate and authorize what then overawes us and is unaccountable to us because of its divine status."[14]

Yet the philosopher whom Brown makes primarily responsible for the sanctification of sovereign might is Schmitt, the icon of twentieth-century political theology and the author of the highly influential thesis that "all significant concepts of the modern theory of the state are secularized theological concepts."[15] For Schmitt, the supreme attribute of sovereign power is not so much its majesty but absolute, godlike potency: the only political leader that can be called sovereign has an autonomous will and actions unrestricted by legal norms or any other external regulations. In daily political practice, such voluntarism (especially in liberal democracies, which Schmitt famously despised) is obviously unattainable but, he argues, there is at least one sphere of the political where sovereign power materializes and bows to no-one: the state of exception, "analogous to the miracle in theology"[16] in its powerful suspension of the law by a single political decision. In this regard, Schmitt's theory of the sovereign exception articulates a certain political self-dependence, "both a cleansing or purification of the political and the supreme reign of the political,"[17] which unconditionally dominates other fields of life in a moment of higher necessity.

The autonomy of the state, its supreme status in international relations and political decisionism of state leaders are exactly those characteristics of sovereign power which seem to be abruptly shrinking in the times of unrestricted global flows. This cannot help but generate a nostalgic longing for political self-agency and effective decision-making, or at least for their evocative substitutes. One of them, claims Brown, is the border wall: the construction which acts as a "theological remainder" precisely because it offers a crude, material symbol (or imitation) of the uncompromising potency whose image was so successfully inseminated in our collective mind by Schmitt's theory of sovereignty. Following his definition of decisionism as "pure will that bows before no sovereign truth,"[18] the wall represents the ideal of supreme voluntarism as it embodies the one and only sovereign: a political decision, perfectly self-centered, "accountable to nothing else and derived from nothing else."[19]

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14 Brown, *Walled States,* 72.

15 Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty,* trans. George Schwab (Chicago, IL: The University of Chicago Press, 2005), 36.

16 Schmitt, *Political Theology,* 36.

17 Brown, *Walled States,* 68.

18 Brown, *Walled States,* 67.

19 Brown, *Walled States,* 67.

Once we are tempted to follow this idealized image of sovereign potency, Brown's thesis of the wall as a phantasmatic restoration of political sovereignty in a globalized world seems convincing. The wall would, then, be a symbol of the longing for the Westphalian era which evokes the image of solid nation-state supremacy and the political decision-making uncompromised by any contingent external factors. But what if it is precisely the idea of sovereign decision-making which is a prime fantasy here? What if the autonomy of the political has always been an illusion, even long before the "global village"? Brown implies this illusionary nature of sovereignty when she characterizes Schmitt's theory of decisionism as "extremely consequential, despite being aspirational, ideological, even mythical, rather than literal."[20] However, she fails to elaborate on this "mythical" core of sovereignty, as if assuming that its phantasmatic nature is self-evident. It is not, which Brown herself makes clear when she exposes the symptomatic over-appreciation of sovereign potency even in such harsh critics of political theology as Agamben or Negri.

3 Sovereign impotence

The lack of reference in *Walled States, Waning Sovereignty* to Benjamin's critique of Schmitt is so problematic because it is precisely the decisionist and voluntarist nature of sovereign power which he contests in the first place, thus offering both a powerful counterpoint to the religious representations of sovereignty and a thought-provoking supplement to Brown's own theory. Benjamin's critique is mostly to be found in *The Origin of German Trauerspiel,* his original and highly extravagant history of the baroque mourning play, finalized in 1925, at the epicenter of the Weimar Republic's political chaos and only three years after the publication of Schmitt's influential theory of sovereign exception. Although there is no straightforward reference to Schmitt's decisionism in Benjamin's book, and it remains unclear if his remarks on sovereignty were meant as a direct challenge to *Political Theology* (1922), from today's perspective the main object of Benjamin's criticism is not hard to identify.[21]

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20 Brown, *Walled States,* 68.

21 That Benjamin's theory of sovereignty is a camouflaged critique of Schmitt's political theology was first implied by Jacques Derrida in "Force of Law: The 'Mystical Foundation of Authority,'" in *Acts of Religion,* ed. and trans. Gil Anidjar (New York: Routledge, 2002), 228–298, and elaborated by Giorgio Agamben, *State of Exception (Homo sacer II, 1),* trans. Kevin Attell (Chicago, IL: University of Chicago Press, 2005) who argued that the intellectual entanglement of Benjamin and Schmitt is much greater than previously thought.

Benjamin follows Schmitt practically to the letter in emphasizing the state of exception as the core of sovereignty and scrutinizing the formation of its modern paradigm throughout the seventeenth century.[22] However, instead of reinforcing the image of the Westphalian times as the "golden age" of nation-state political decisionism, he unveils the unwanted consequences of the decisionist formula. To do so, Benjamin concentrates mainly on those plays which showed the functioning of the princely court in the face of political and military challenges. Paradoxically, he argues, although they were intended as loyalist appreciation of the monarch, the mediocre skills of German playwrights rather exposed the monarch's embarrassing ineptitude. The most fateful vice of the baroque sovereign as illustrated in *Trauerspiel* is his pathological indecisiveness, which discloses the puzzling gap between the absolute power of the prince and his absolute inability to enforce it: "The more power he has, the more he demonstrates his incapacity to arrive at an effective decision."[23] This gap is especially conspicuous in emergency situations, which call for extraordinary measures and efficient decision-making; although the baroque sovereign has the authority to suspend law and implement the state of exception, this radical perspective makes him so paralyzed that any binding decisions are practically frustrated. He is "a victim of a theologically founded politics, which allows for no distinction between the person and his authority and therefore knows no limit."[24]

It is worth noting here that Benjamin makes two modest but weighty adjustments to Schmitt's theory of sovereign exception. First, while Schmitt concentrated on the sovereign's formal *entitlement* to decision-making, for Benjamin it is only the very *act* of deciding on exception that matters. Second, whereas Schmitt argued that sovereign power is conditioned by the *implementation* of the state of exception, for Benjamin it is only the capability of its *exclusion* that decides on sovereignty. Suspension of the law, argues Benjamin, generates no less turmoil and unrest than an emergency situation, so only the successful termination of both may eventually harness the chaos and thus testify to sovereign power. Why are these adjustments so relevant? Because they expose a fundamental contradiction inscribed in Schmitt's formula of sovereignty: "The antithesis between the power of the ruler and his ability to rule."[25] Confronted with the realities of the seventeenth-century monarchy, claims Benjamin, the formula only highlights the

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22 Walter Benjamin, *Origin of the German Trauerspiel,* trans. Howard Eiland (Cambridge, MA: Harvard University Press, 2019), 48–52.

23 Samuel Weber, *Benjamin's abilities* (Cambridge, MA: Harvard University Press, 2008), 188.

24 Sigrid Weigel, *Walter Benjamin: Images, the Creaturely, and the Holy,* trans. Chadwick Truscott Smith (Stanford, CA: Stanford University Press, 2013), 55.

25 Benjamin, *Origin of the German Trauerspiel*, 56.

shameful fact that "the prince, with whom rests the decision concerning the state of exception, shows that, as soon as the situation arises, a decision is nearly impossible for him."[26]

If the actual decision-making process does not overlap with the formal decision-making authority of the sovereign, his supreme power fails to meet the demands of the decisionist ideal type. Thus, the "human, all too human" baroque monarch as illustrated by Benjamin unveils the phantasmatic nature of Schmitt's theory which overestimates the autonomy of the political and ignores such uncomfortable, upsetting factors as simple affectivity. Consequently, Benjamin's theory of "sovereign indecision"[27] dismantles the decisionist apparatus from the inside: instead of trying to systematically refute Schmitt's argumentation, Benjamin mischievously puts a wrench in its works to demonstrate that "between *Macht* and *Vermögen,* between power and its exercise, a gap opens which no decision is capable of filling."[28] The very notion of sovereignty itself is thus put radically into question.

The figure of the *Trauerspiel* monarch is also used by Benjamin to expose a tragic paradox of sovereign power founded upon the state of exception. The baroque ruler, he argues, seeks to protect their subjects from political and military unrest, but their pathological inertia only reinforces endless chaos.[29] If the sovereign is incapable of deciding on the exception in an emergency situation, the crisis obviously unfolds, and if they somehow manage to implement the state of exception but fail to further revoke it, they end up bringing about the state of endless legal anomy. As long as political sovereignty solely depends on effective decision-making, any stupor of volition raises the risk of a permanent, pathological state of exception which "no longer appears as the threshold that guarantees the articulation between an inside and an outside, or between anomie and the juridical context," but "is, rather, a zone of absolute indeterminacy between anomie and law, in which the sphere of creatures and the juridical order are caught up in a single catastrophe."[30] Benjamin's critique thus demonstrates that Schmitt's theory works only as long as there is a structural, decision-based distinction into a rule and exception. Once the decisionist aspect of sovereignty is thwarted, nothing can stop the state of exception from getting amorphic and sliding into permanence, thereby establishing a long-lasting zone of indistinction between "legal" and "illegal" violence. It is precisely this corrupted, never-ending exception that Benja-

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26 Benjamin, *Origin of the German Trauerspiel*, 56.

27 Agamben, *State of Exception*, 55.

28 Agamben, *State of Exception*, 56.

29 Benjamin, *Origin of the German Trauerspiel*, 57–58.

30 Agamben, *State of Exception*, 57.

min must have had in mind when he pointedly diagnosed elsewhere: "the 'state of emergency' in which we live is not the exception but the rule."[31]

4 Sovereign fallacy

By questioning the godlike potency of the supreme decision-maker, Benjamin powerfully challenges the theological structure and overtones of sovereignty as presupposed by Schmitt. As an aside, but no less importantly, he also demonstrates how the interconnectedness of decision-based sovereignty and the state of exception makes the latter degenerate into an ambiguous instrument of oppression. And although his analyses solely concentrate on personal, affective deficiencies of power, their conclusions may well be applied to the structural aspects of politics. One such application is found in Agamben's widely discussed theory of the state of exception, where exception (with a clear intellectual debt to Benjamin's thesis) is defined as a perverted paradigm of contemporary political power.[32] Although, argues Agamben, the state of exception was originally theorized as a temporary and incidental measure of restoring social order, it has been increasingly transgressing its episodic nature.[33] Consequently, in today's political regimes – authoritarian and liberal democratic alike –we can observe a growing tendency to normalize exception or make it into a rule, with the state of exception no longer meant to bring back a "normal" state of affairs but rather replace it for good. To give just a couple of examples in support of Agamben's bold thesis: the state of exception introduced in France after the Paris terrorist attacks of 2015 only came to an end two years later, despite no other incidents of a comparable scale, and the infamous Patriot Act, adopted by the American Congress in response to 9/11, which made it possible for the US President to suspend the applicable law in any case of a terrorist threat, was in force for almost 20 years.

Even more importantly, adds Agamben, there has been an increasing trend toward the de facto states of exception, i.e., proceeding as if they were in force

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31 Walter Benjamin, "On the Concept of History," trans. Harry Zohn, in *Selected Writings: Volume 4, 1938–1940,* ed. Howard Eiland and Michael W. Jennings (Cambridge, MA: Harvard University Press, 2006), 392. This famous thesis was formulated in 1938 and surely inspired by the state of emergency introduced in Germany by the Enabling Act of 1933 and never officially called off. However, Agamben (*State of Exception*) argues that Benjamin's thesis, although contextualized, aptly describes a universal tendency of sovereign politics to produce permanent emergency situations.

32 Agamben, *State of Exception*, 1–31.

33 Agamben, *State of Exception*, 3–4.

but without their formal implementation, obviously in order to bypass the obstructive parliamentary procedures in political decision-making.[34] Such quasi-states of exception have been widely produced, by the institutions of the EU as a response to the financial crisis of 2008 or, quite recently, by a number of Western countries in reaction to the COVID-19 pandemic, especially to bypass the applicable environmental protection regulations. Agamben concludes, then, that the permanent state of exception (both *de iure* and de facto) is nothing aberrational; quite the opposite, the tendency to gravitate toward permanence is inscribed in the very nature of sovereign exception.[35] Sovereign power just cannot help but *except*, both itself from legal regulations, and human bodies from each other. That is why, as a result of permanent exception, some groups and individuals (ethnic minorities, refugees, etc.) are permanently excluded from participation or belonging and placed outside, be it a nation-state border or political community.

A peculiar case of the permanent exception (as an emergency power and a mechanism of exclusion) is the border wall. From Agamben's perspective, a physical barrier between nation-states might even be more: the ultimate embodiment of sovereign exception, both in terms of a brutal division of the inside and outside, and an unceasing "legal anarchy" that it generates in borderlands. As Brown puts it, "walls respond to and extend a condition in which the nation ceases to correspond to the border between friend and enemy and sovereignty instead declares permanent emergency powers to suspend the law and face down enemies everywhere."[36] Following Agamben, an unprecedented paroxysm of border walling would be a logical consequence of the transformation of exception into a widespread technology of power: when permanent exception becomes a new model of sovereignty, its supreme representation must be a physical structure which takes it to the extreme. However, from Benjamin's perspective (although his theory of exception is a primary inspiration for Agamben), things look clearly different. The wall is, then, a logical but *unwanted* consequence of modeling sovereignty on the theological foundation of decisionist potency. Visually, the wall might appear as the ideal of supreme political voluntarism, but essentially it is a rather sad testament to the dysfunctionality of sovereign power and a monstrous side-effect of political inefficacy. Its grotesque body implies that in a world of complex interdependence sovereign decision-makers might find it easier to erect an oppressive, costly and porous fortification than to efficiently apply nonviolent measures of facing global challenges that do not originate at the border.

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34 Agamben, *State of Exception*, 4.
35 Agamben, *State of Exception*, 85–87.
36 Brown, *Walled States,* 98.

5 Conclusions

What lesson, then, is to be learned from Benjamin's critique of sovereignty and how does it contribute to Brown's theory of walling? First and foremost, Benjamin exposes that the modern theory of sovereignty, because of its theological legacy, is essentially incompatible with any political praxis. The ideal of sovereign potency is godlike and thus, literally, inhuman. To treat it as a supreme end or lost essence of politics, not as a theologically-motivated fantasy, means to fatally over-appreciate the potential of politics. So as to reach the unattainable goal of sovereign might and handle with their own fallibility, political decision-makers would go to extremes, for example, slide into dictatorship, like in the German mourning plays, or erect a massive border wall, like in recent political practice. Sovereignty as the ideal type, implies Benjamin, needs to be once and for all de-sanctified, profaned (in Agamben's meaning of the word), and stripped of its illu-sive majesty. Only then might the right proportions of conceiving political po-tency be eventually found.

That these proportions are needed is to be seen in Agamben's critique of sov-ereign exception, which seems so overpowered by the grandeur of the supreme power that it ends up gravely misreading Benjamin's theory of sovereignty from which it originates. As Brown notes, Agamben's biopolitics casts "the new walls as exercises of sovereign political power, rather than failures of it," which makes her seriously doubt if "it makes sense to call hyperbolic and extralegal expres-sions of state power 'sovereign.'"[37] Brown rejects, then, Agamben's thesis of the wall as a new face of sovereignty, and seeks to analyze border walling both as a hopeless longing for sovereign autonomy in the world of unprecedented global flows and a desperate reaction to the fear of shrinking decision-making potency. However, although hinting at the "mythical" core of sovereignty, she fails to elab-orate, as Benjamin does, on the fantasy of autonomous political volition originally inscribed in this notion, regardless of spatial and temporal circumstances. The ex-ternal, nation-state framework for sovereignty might indeed be falling apart be-fore our eyes, but, even in the idealized Westphalian era, sovereign power was never anywhere near as final and absolute as postulated by its theologically-inspired theories from *Leviathan* onwards; the theories that keep captivating even such radical critics of political theology as Agamben. That is why, while Brown concludes her book by characterizing nation-state walls as "modern-day

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37 Brown, *Walled States,* 98.

temples housing the *ghost* of political sovereignty,"[38] it would be far more appropriate to speak of housing its *illusion.* Godlike sovereignty is not a dead thing that used to be living and might somehow reappear if persistently conjured up; it is the thing that had never existed the way its followers would like it to, and so will never come to life, no matter how spectacular the temples erected in its name.

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38 Brown, *Walled States,* 145. [emphasis added]

Olli-Pekka Vainio

On (not) breaking the wheel of violence: A critique of Herbert Marcuse

1 Introduction

The twentieth century was perhaps the strangest and most violent century so far in human history. Two world wars, followed by the Cold War with its imminent threat of nuclear apocalypse, unimaginable technological progress, the birth of mass and social media and popular culture alone are enough to make our heads spin. All of this led to the rise of toxic social media platforms and surveillance states around the world, deadly viruses, impending ecological catastrophe, and the newly reintroduced threat of thermonuclear war.

It does not require much imagination to see the world as driving toward the cliff unless someone "breaks the wheel." I am borrowing this phrase from the queen Daenerys Targaryen of *Game of Thrones*, who said "I'm not going to stop the wheel, I'm going to break the wheel" referring to slavery and oppression she witnessed among the nations she ruled over. In a sudden twist in Season 8, Daenerys, who was supposed to be the heroine, turns into a genocidal maniac. Although Daenerys is a fictional character, and her change from good to evil was a source of deep displeasure for many fans of the show, the author G. R. R. Martin captures something sinister about human nature in his depictions of the "heroes" of Westeros.

A non-fictional attempt to break the wheel after the Second World War was initiated by the Frankfurt School of German philosophers who had escaped the national socialist regime, and then served in various academic and governmental positions in the United States (US). An intent of these men was to understand the origins of the catastrophe of the twentieth century and find ways of preventing it from happening again. During the 1960s, Herbert Marcuse (1898–1979), a prominent member of the Frankfurt School, was hailed as the intellectual hero of the New Left, and many of his writings dealt with the ways our societies could break the cycle of violence and oppression that had corrupted human societies. Several of his works were translated into different languages and for a time he basked in global fame as he was considered to be the light-bearer at this dark hour in human history. In my home country, the Finnish university student newspaper *Ylioppilaslehti* hailed him in 1968 as the world's leading humanist, alongside Mao

Zedong (1893–1976) and Ho Chi Minh (1890–1969), and several of his works were made available to Finnish readers.[1]

Marcuse wrote at a time when he knew that the Russian Revolution had failed. It is unsure how much he knew of what was happening in Cuba, Vietnam and China, all countries which he praises.[2] Marcuse's star, however, fell quite suddenly after the 1960s. Other Leftist philosophers offered harsh criticisms of his turn to identity politics and refusal of the original Marxist theory of economic renewal.[3] The former hero of the student revolution castigated his followers and students as anti-intellectuals, who unsurprisingly abandoned their old master.[4] Perhaps most importantly of all, his troubled relationship with liberal democracy was one factor that seriously affected the decline of his public influence.[5]

Looking back at Marcuse's philosophy, it is perhaps easy to shake one's head and let it pass. Leszek Kołakowski, however, offers an ominous remark, when he urges that while "Marcuse's importance has faded considerably [. . .] his philosophy is still worth discussing."[6] But why? Virtually no one reads Marcuse today and even fewer take him seriously.

In recent years, liberals and conservatives alike have pointed out how some of Marcuse's ideas seem to have received new life in societal upheavals linked with the many levels of dysfunction in current US politics.[7] As far as I can see,

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1 *Ylioppilaslehti,* December 6, 1968. In only a few years, Marcuse's major work, *One-Dimensional Man*, sold over 100,000 copies in the US and was translated into sixteen languages, including Finnish, which was a remarkable achievement for any philosophy book at that time.

2 E.g., Herbert Marcuse, *An Essay on Liberation* (Boston, MA: Beacon Press, 1969), 7, 57; Herbert Marcuse, *Soviet Marxism: A Critical Analysis* (New York: Columbia University Press, 1958). Marcuse thinks that Soviet Marxism failed because it was still hierarchical. On the contrary, Hannah Arendt thinks that the absence of hierarchies led to the rise of extremist thinking. See, e.g., Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt, Brace, Jovanovich, 1973), 113.

3 See, e.g., Leszek Kolakowski, *Main Currents of Marxism: The Founders – The Golden Age – The Breakdown* (London: W & W Norton, 2008); Alasdair MacIntyre, *Herbert Marcuse: An Exposition and Polemic* (New York: Viking Press, 1970). For a longer list of works that criticize Marcuse on these points, see Rodney Fopp, "'Repressive Tolerance': Herbert Marcuse's Exercise in Social Epistemology," *Social Epistemology* 24, no. 2 (2010): 106.

4 See, e.g., "Herbert Marcuse interview with Bryan Magee (1977)," interview by Bryan Magee, upload date September 18, 2017, https://www.youtube.com/watch?v=0KqC1lTAJx4.

5 Thus James Whitfield, "Refusing Marcuse: 50 Years after One-Dimensional Man," *Dissent,* Fall (2014), accessed January 31, 2023, https://www.dissentmagazine.org/article/refusing-marcuse-fifty-years-after-one-dimensional-man.

6 Kolakowski, *Main Currents of Marxism*, 1104.

7 For an account of recent reception of Marcuse and the Frankfurt School, see Martin Jay, *Splinters in Your Eye: Essays on the Frankfurt School* (New York: Verso, 2020), ch. 10 and 11.

there are very few direct links between Marcuse and politics today.[8] Yet I do not think that this search for direct genealogy would serve any other than a fringe academic interest. People do not behave in a certain way because someone tells them to do so. They believe what makes sense to them and act accordingly. Thus, I think it is more interesting to discuss why people adopt extreme philosophies in the first place. Laying my cards on the table, I intend to offer a critical reading of certain parts of Marcuse's philosophy. I approach Marcuse as a scholar of religion, and this is why I will be paying attention to the aspects of his thought that resemble some forms of religiosity. This is not done with a malicious intent but with a wish that when the next generation of revolutionaries arises, they will not reinvent the wheel.

2 Multidimensional Marcuse

In many of his writings, Marcuse struggles to answer the question of why socialism keeps failing even though it is, according to him, the best philosophy available. To understand Marcuse's struggle, we need to look at some tenets of his philosophy. Marcuse thinks that capitalism has created a "one-dimensional man," who is unable to overcome the material constraints he observes around him.[9] He lacks the imagination to envision how the world could be different and how it and its problems could be surpassed. In many ways, Marcuse's analysis seems quite correct.[10] We are living in a world where people are enslaved by technologies and ideologies that keep them chasing dreams that are not real and are ultimately harmful. In many ways, his analysis seems even more acute today than it did in the 1960s. Who in their right mind would disagree with observations like this?

> This society is obscene in producing and indecently exposing a stifling abundance of wares while depriving its victims abroad of the necessities of life; obscene in stuffing itself and its

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8 To be fair, there are some links on both opposing sides of the political spectrum. Marcuse was a teacher and mentor of the well-known Black activist Angela Davis, who often acknowledges his influence on her thinking. Richard Spencer, the leader of the contemporary alt-right movement in the US, expressed keen interest in the thought of the Frankfurt School and was supposed to write a dissertation on the topic at Duke University before abandoning academic aspirations for politics. Angela Nagle, *Kill All Normies: The Online Culture Wars from Tumblr and 4Chan to the Alt-Right and Trump* (London: Zero Books, 2017), 52.

9 Herbert Marcuse, *One-Dimensional Man* (London: Routledge, 2007).

10 Richard A. Box, "Marcuse Was Right: One-Dimensional Society in the Twenty-First Century," *Administrative Theory and Praxis* 33, no. 2 (2011).

garbage cans while poisoning and burning the scarce foodstuffs in the fields of its aggression; obscene in the words and smiles of its politicians and entertainers; in its prayers, in its ignorance, and in the wisdom of its kept intellectuals.[11]

However, this criticism was not original and criticizing the West for becoming internally corrupt was, and still is, like shooting fish in a barrel. There is not much difference between his criticisms and the criticism offered by Christian thinkers or by those who would have opposed Marcuse's revolutionary vision while agreeing with this fundamental critical analysis.[12] That there is something wrong with the world, and that humans seek what ultimately harms our communities, is not a novel observation.

In a surprise twist, Marcuse's plan to fight this one-dimensional view requires stifling the basic human rights of freedom of thought and expression; he flirted with ideas that were not far from outright totalitarianism. In attempting to break the wheel, Marcuse seems to have oriented his intellectual work in support of a (potential) perpetual motion machine of terror. Why?

According to my reading, Marcuse's thought rests on five basic quasi-religious commitments: Manicheanism, apocalypticism, fundamentalism, Gnosticism and authoritarianism. I call these commitments quasi-religious, because while they are sometimes manifested in religious contexts, they are not endemic to religious identity as such. These commitments are often associated with toxic forms of religiosity, which is typically (although not always) criticized by major religious traditions. Moreover, these commitments can, and they often do, manifest themselves in contexts that we naturally perceive as secular. Thus, I am not saying that Marcuse's thinking is inherently religious in the ordinary sense, but that it occasionally resembles some forms of toxic religiosity in its outward expression. While relying on these five concepts, I do not intend to say that this is all there is to Marcuse's thought. Contrariwise, he offers much to be learned and adapted. However, my task is to investigate merely one aspect of political polarization and the development of extremist thinking.

In 1950, Theodor Adorno (1903–1969) published a major work on extremism, *The Authoritarian Personality*, which set the course for authoritarianism studies for decades. As a result, for a long time, extremism was perceived as a right-wing phenomenon and Leftist political violence and extremism, while receiving public criticism when it seemed to overreach, was not paid much academic attention. In recent

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11 Marcuse, *Essay on Liberation*, 12.
12 See, e.g., Alexandr Solzhenitzyn's speech at Harvard in 1978: Ronald Berman, *Solzhenitsyn at Harvard: The Address, Twelve Early Responses, Six Later Reflections* (New York: University Press of America, 1980); Arendt, *Origins of Totalitarianism*, xxvi–xxvii.

years, there has been a growing acknowledgment in the social sciences that the opposite ends of the political spectrum in fact converge and resemble one another.[13]

I do not claim that Marcuse was a violent extremist, and I do not doubt the sincerity of his views. My chapter attempts to chart the thinking of one influential philosopher who curses extremism and oppression but remains in the sphere of influence of what he rails against.[14] This is, of course, a common phenomenon for those familiar with the history of theology or philosophy, or the students of history in general. One can, for example, mention the Swiss Reformed theologian Karl Barth (1886–1968) whose opposition to German liberal theology took place within these same constraints and his constructive view suffered to some extent from the same problems that he attributed to his theological opponents.[15] In his *Orientalism,* the author and cultural critic Edward Said (1935–2003) criticized the essentialist reading of oriental cultures, while at the same offering an essentialist interpretation of contemporary Western culture.[16] In the last stages of the Second World War, the Russian "liberators" of Eastern Europe unleashed terrors that paralleled the evils of Nazi regime, which Russians destroyed with the help of Western nations.[17] These examples are wildly different, but they reflect a basic feature of human existence: when we intend to fix something, we might end up recycling the models of thinking

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13 Sally Satel, "The Experts Somehow Overlooked Authoritarians on the Left," *The Atlantic,* September 25, 2021, accessed January 31, 2023, https://www.theatlantic.com/ideas/archive/2021/09/psychological-dimensions-left-wing-authoritarianism/620185/; Thomas Costello et al., "Clarifying the Structure and Nature of Left-Wing Authoritarianism," *Journal of Personality and Social Psychology* 122, no. 1 (2022); Jordan Moss and Peter J. O'Connor, "The Dark Triad Traits Predict Authoritarian Political Correctness and Alt-Right Attitudes," *Heliyon* 6, no. 7 (2020), https://doi.org/10.1016/j.heliyon.2020.e04453.

14 The extent to which specifically Marcuse's thought influenced the violence of student revolutions in the 1960s is a matter of debate. Nonetheless, no one would deny that Leftist ideas influenced the revolts. See, e.g., Hannah Arendt, *On Violence* (New York: Harcourt, Brace, Jovanovich, 1970). In his memoir, deradicalized Finnish Leftist Lauri Hokkanen points out how openly violent language was not foreign to the Leftist champions of his youth in the 1960s who were fighting for a good and just cause. Vladimir Lenin called his era the "time of bayonets" and praised the methods of terrorism used: "we must use of the power of terror"; "ruthless terror against kulaks, priests and white guards." Also, the more moderate members of the socialist revolution did not shy away from using extreme language. For example, Leon Trotsky said: "in order to grasp and maintain power one must be ready not only to die but also to kill – no true revolutionary can waver here." Quoted in Lauri Hokkanen, *Kenen joukoissa seisoin? Taistolaiset ja valtioterrorin perintö* (Helsinki: Docendo, 2021), 68–70.

15 Timothy Stanley, *Protestant Metaphysics after Karl Barth and Martin Heidegger* (Eugene, OR: Wipf and Stock, 2010).

16 Ibn Warraq, *Defending the West: A Critique of Edward Said's Orientalism* (London: Rowman & Littlefield, 2007).

17 Anne Appelbaum, *Red Famine: Stalin's War on Ukraine* (New York: Random House, 2018).

and behaving that we tried to fix. To summarize, I intend to ponder the question: How can something bad emerge from good intentions?

Let me once more underline the complexity of the topics Marcuse discusses. The recent societal upheavals, such as Brexit, Donald Trump, The Black Lives Matter movement, COVID-19, US elections, and Vladimir Putin's war against Ukraine, have raised the question how the public discourse and social media should or should not be controlled. Some commentators have suggested that, given the severity of the current situation, the authoritarian principles are not evil but paradoxically something that the survival of democracy requires. I will return to this suggestion at the end of this chapter. But now, let me say something more about Marcuse and the underlying commitments of his thinking.

3 A philosophy for the end of the world

Manicheanism

Manichean philosophy was common in the Mediterranean world during the first Christian centuries. Here, it is not essential to discuss the various versions of historical Manicheanism. Today, when the concept is used to denote an idea or movement, it refers to a dualistic way of thinking. In short, the Manichean world was a binary world divided into light and darkness.[18]

For Marcuse, this world consists of oppressors and oppressed, Left and Right, revolutionaries and conservatives, good and bad, allies and enemies, intelligent and stupid people.[19] Of course, he thinks that he is on the correct side of the divide. In this world, the line between the dark and light is clearly cut; those who are not with me, are against me.[20]

A central problem for Marcuse is the fence sitters, or the centrists, because they are the major obstacle that prevents the revolution from happening. The working class, that at the time Marcuse was writing had become the main beneficiary of global capitalism and who decades before was seen by Karl Marx (1818–1883) as the basis for the revolution, was now allied with capitalists. In effect, the foot soldiers of the revolution had joined the enemy. The denizens of the West

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18 See, e.g., Yuri Stoyanov, *The Other God: Dualist Religions from Antiquity to the Cathar Heresy* (New Haven, CT: Yale University Press, 2000).

19 Herbert Marcuse, "Repressive Tolerance," in *A Critique of Pure Tolerance*, by Robert Paul Wolff, Barrington Moore Jr., and Herbert Marcuse (Boston, MA: Beacon Press, 1970), 103–109.

20 MacIntyre, *Herbert Marcuse,* 102–103.

were living lives of slavery, which they did not realize. The easy life that capitalism has given to them was a lie, and it was the task of the critical theorists to make this known. Marcuse even went so far as to admit that Black populations rising out of poverty is a problem for his revolutionary thought.[21]

In order to find the critical mass for the revolution, Marcuse offers a form of therapy for the soul, where a person should become convinced that the easy middle-class life with a steady job and family is, in fact, bad. Thus, in his mind, the Western world does not think sufficiently in black and white categories. We need clearer and stronger societal divisions, and these can be brought forth through focusing on identity politics, that is, finding marginal groups that are set against the majority.[22]

Apocalypticism

Apocalypticism is a religious mode of being, which believes that the end is nigh. Soon, this *saeculum* will come to an end and in these final moments humanity will face terrors and cataclysms. The Greek word *apokalypsis* means revealing or exposing; finally, the true nature of things will be revealed. The revelation involves pain and discomfort (Mk 13:20), which is needed for the final turn of events for the good. People will be judged; both the good and the wicked will be sent to their ultimate destinies. Apocalypticism thus involves a strong sense of dualistic justice, which is brought forth by God's absolute power over the Creation. Apocalyptic texts are often pseudonymous and written in a way that is very hard to interpret; the true meaning of the words is revealed only to the chosen few. In the final days, there will arise both true and false prophets. The elect should not even listen to the false prophets, and they must be cast out. True prophets are messianic figures who demand unwavering loyalty to the cause.[23] It is well known that this apocalyptic mentality was carried over to the secular political philosophies of Hegel (1770–1831) and Marx without overtly religious elements.[24]

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21 Marcuse, *Essay on Liberation*, 17, 43, 45.

22 Marcuse, *One-Dimensional Man*, 229–250, 260–261.

23 David Aune, *Apocalypticism, Prophecy and Magic in Early Christianity: Collected Essays* (Tübingen: Mohr Siebeck, 2006); Morton Smith, "On the History of Αποκαλυπτω and Αποκαλυψις," in *Apocalypticism in the Mediterranean World and the Near East: Proceedings of the Colloquium on Apocalypticism,* ed. David Helleholm (Tübingen: Mohr Siebeck, 1983).

24 Thomas J. J. Altizer, "Apocalypticism and Modern Thinking," *Journal for Christian Theological Research* 2, no. 2 (1997), accessed December 20, 2023, http://digitalcommons.luthersem.edu/jctr/vol2/iss1997/3; Thomas Lynch, *Apocalyptic Political Theology: Hegel, Taubes and Malabou* (London: Bloomsbury, 2020).

In "Repressive Tolerance," Marcuse invokes several times the dictum of "clear and present danger."[25] This is a reference to a series of wartime events in US history, when it was considered possible to restrict the basic rights of citizens, such as freedom of speech.[26] Marcuse thought that the world was on the brink of destruction, and in this he was not totally wrong. The end of the world was avoided several times in the twentieth century by only a thin margin. Thus Marcuse thinks that because we are living in the End Times, the basic rules of civic engagement no longer apply. Only extreme measures can help us. An apocalyptic frame of mind helps to explain some perplexing features of Marcuse's thought. For example, he calls for "insanity" and "clownish" behavior, disorder, and disruption and destruction of democratic institutions.[27]

25 Marcuse, "Repressive Tolerance," 85, 88, 104, 108–110: "The whole post-fascist period is one of clear and present danger. Consequently, true pacification requires the withdrawal of tolerance before the deed, at the stage of communication in word, print, and picture. Such extreme suspension of the right of free speech and free assembly is indeed justified only if the whole of society is in extreme danger. I maintain that our society is in such an emergency situation, and that it has become the normal state of affairs. Different opinions and 'philosophies' can no longer compete peacefully for adherence and persuasion on rational grounds: the 'marketplace of ideas' is organized and delimited by those who determine the national and the individual interest."

26 Justice Oliver Wendell Holmes Jr. articulated this principle for restricting the First Amendment in *Schenk vs. United States* (1919) as follows: "The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree. When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight, and that no court could regard them as protected by any constitutional right." Kent Greenawalt, "'Clear and Present Danger' and Criminal Speech," in *Eternally Vigilant: Free Speech in the Modern Era*, ed. Lee C. Bollinger and Geoffrey R. Stone (Chicago, IL: University of Chicago Press, 2002).

27 Marcuse, *Essay on Liberation*, 46: "Thus, in some sectors of the opposition, the radical protest tends to become antinomian, anarchistic, and even nonpolitical. Here is another reason why the rebellion often takes on the weird and clownish forms which get on the nerves of the Establishment. In the face of the gruesomely serious totality of institutionalized politics, satire, irony, and laughing provocation become a necessary dimension of the new politics. The contempt for the deadly *esprit de serieux* which permeates the talkings and doings of the professional and semiprofessional politicians appears as contempt for the values which they profess while destroying them. The rebels revive the desperate laughter and the cynical defiance of the fool as means for demasking the deeds of the serious ones who govern the whole."

Fundamentalism

I follow Peter Berger and Anton Zijderveld in their definition of fundamentalism as a reactionary attitude, born out of dissatisfaction with the current state of affairs: "Fundamentalism, is an attempt to restore the taken-for grantedness of a tradition, typically understood as a return to a (real or imagined) pristine past of the tradition." Fundamentalists typically aim for societal change, and this is pursued through tight communities that are certain of their beliefs and averse to doubt.[28] Berger and Zijderveld concede that this way of behavior is not necessarily religious since secular communities can behave in a similar way. As identifying features of a fundamentalist group, they list the following three components:

(1) They have great difficulty listening to opposing opinions and ideas.
(2) They claim to possess an irrefutable truth (whether religious or secular).
(3) They claim that their truth is the only truth; in other words, they declare a monopoly on truth.[29]

Marcuse never seems to consider the possibility that he has not gotten things right.[30] Granted, he occasionally seems to acknowledge the problem of infallible election when he thinks aloud about why we should trust these people (that is, him and his followers) and not those others. Who gets to decide how we should run this place? But no systematic answer is given.[31] If there ever

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28 Peter Berger and Anton Zijderveld, *In Praise of Doubt: How to Have Convictions Without Becoming a Fanatic* (New York: HarperOne, 2010), 82–84.

29 Berger and Zijderveld, *In Praise of Doubt*, 97.

30 This is also repeatedly pointed out by MacIntyre when he deems Marcuse's philosophy as fundamentally irrational: "What is it to be rational? It is a necessary condition of rationality that a man shall formulate his beliefs in such a way that it is clear what evidence would be evidence against them and that he shall lay himself open to criticism and refutation in the light of any possible extreme. But to foreclose on tolerance is precisely to cut oneself off from such criticism and refutation. It is to gravely endanger one's own rationality by not admitting one's own fallibility." MacIntyre, *Marcuse*, 104.

31 Marcuse lists as positive criteria equity, fewer conflicts and more freedom: "By logical inference from the prevailing conditions and institutions, critical theory may also be able to determine the basic institutional changes which are the prerequisites for the transition to a higher stage of development: 'higher' in the sense of a more rational and equitable use of resources, minimization of destructive conflicts, and enlargement of the realm of freedom. But beyond these limits, critical theory did not venture for fear of losing its scientific character." Marcuse, *Essay on Liberation,* 9. This seems quite thin, especially when he admits in the same essay that achieving these will require creating conflicts and the whole process itself is tantamount to stripping certain people of their basic freedoms.

was a recipe for destruction, it is the unwavering belief in one's own superiority over others.[32]

To be fair, Marcuse does speak about allowing dissent and the need for adjudicating between right and wrong, which are not capacities that are readily available to us; instead, they must be discovered through critical inquiry. However, people are unable to do this because they have been indoctrinated by false consciousness.[33] It is hard to avoid the conclusion that Marcuse is not speaking about a genuinely open and critical process, but seeking to validate his own position.

As noted, fundamentalists stick to their understanding of things, and they are not very good at considering the alternative viewpoints. Marcuse often reads history selectively so that he reinforces the innocence of his own position, while discussing only the sins of his opponents. This is particularly visible when he claims that the only case when student revolution went off the rails was in Indonesia when communist students were persecuted and killed.[34] He constantly holds up cases of fascists and Nazis as warnings but fails to discuss unbiasedly the crimes of socialism. When he does, this is often linked with an explanation of how these crimes were due to outside influences or they resulted from failing to manifest socialist ideas in true form.[35]

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32 One is reminded of James Baldwin's famous quote: "Nobody is more dangerous than he who imagines himself pure in heart, for his purity, by definition, is unassailable." See also the description of totalitarian ideology in Arendt, *Origins of Totalitarianism*, 605–609.

33 Marcuse, "Repressive Tolerance," 103–104: "Tolerance of free speech is the way of improvement, of progress in liberation, *not* because there is no objective truth, and improvement must necessarily be a compromise between a variety of opinions, but because there *is* an objective truth which can be discovered, ascertained only in learning and comprehending that which is and that which can be and ought to be done for the sake of improving the lot of mankind. This common and historical 'ought' is not immediately evident, at hand: it has to be uncovered by 'cutting through', 'splitting', 'breaking asunder' *(dis-cutio)* the given material–separating right and wrong, good and bad, correct and incorrect. The subject whose 'improvement' depends on a progressive historical practice is each man as man, and this universality is reflected in that of the discussion, which a priori does not exclude any group or individual. But even the all-inclusive character of liberalist tolerance was, at least in theory, based on the proposition that men were (potential) *individuals* who could learn to hear and see and feel by themselves, to develop their own thoughts, to grasp their true interests and rights and capabilities, also against established authority and opinion. This was the rationale of free speech and assembly. Universal toleration becomes questionable when its rationale no longer prevails, when tolerance is administered to manipulated and indoctrinated individuals who parrot, as their own, the opinion of their masters, for whom heteronomy has become autonomy."

34 Marcuse, *Essay on Liberation*, 44.

35 Marcuse, *Essay on Liberation*, 40–41; MacIntyre points out this tendency in Marcuse's *Soviet Marxism* (1958). MacIntyre, *Marcuse*, 62–65.

Gnosticism

Ancient Gnosticism was not a uniform movement, and the word is often used in imprecise manner. Here, I use it to refer to the possession of secret knowledge concerning the nature of the world. This knowledge is not available through ordinary means but only through a special revelation or illumination that breaks through our current systems of thought.[36]

Marcuse's explanation for the abject failures of socialism is that we have not yet been able to achieve a "new sensibility" and even those who work for the revolution are not immune to the lures of capitalism.[37] In other words, socialism fails because of capitalism, which is so natural for humans that we need to find extraordinary means for changing the essence of human nature.[38]

His ideal society is something that cannot be conceived within the constraints of this world.[39] In fact, this paradise "is blocked from coming about by the power of the established societies." That is, the Western world is not actively in the business of making the world incrementally better, but instead it is actively hindering change for the better.[40]

In trying to find "a biological foundation" for socialism, Marcuse does not mean actual biology, but a kind of hermetic philosophy, which is a mixture of Hegelian and Marxist apocalypticism interpreted within an ambitious and original reading of Sigmund Freud (1856–1939).[41] This makes it hard to grasp what exactly he is saying and on what grounds. It is perhaps one of the ironies of history that while trying to avoid Nazism, Marcuse arrives at similar epistemic practices without recognizing them. While this sounds harsh, when Rudolf Hess says "Do not seek Adolf Hitler with your brains; all of you will find him with the strength of your hearts," it is hard not to see at least some resemblances in these two radical movements. They both ask their believers not to judge things with reason and evidence but through lived experience.[42]

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36 Karen L. King, *What is Gnosticism?* (Cambridge, MA: Belknap Press, 2005).

37 Marcuse, *Essay on Liberation*, 22–37.

38 Marcuse, *One-Dimensional Man*, 229–250.

39 Marcuse, "Repressive Tolerance," 93, 105.

40 Marcuse, *Essay on Liberation*, 9.

41 Brian O'Connor, "Marcuse and the Problem of Repression," in *The Routledge Companion to the Frankfurt School*, ed. Peter Gordon et al. (London: Routledge, 2019). See especially Herbert Marcuse, *Eros and Civilization* (Boston, MA: Beacon Press, 1966). Eric Voegelin has offered similar observations on Marx's thoughts, which are to some extent repeated in Marcuse's writings. See Eric Voegelin, *The New Science of Politics* (Chicago, IL: University of Chicago Press, 1987).

42 Quoted in Eric Hoffer, *The True Believer: Thoughts on the Nature of Mass Movements* (New York: Harper, 2010), 81. Original quote in Konrad Heiden, *Der Fuehrer* (Boston, MA:

Authoritarianism

Authoritarianism is an ideological commitment that excludes the plurality of viewpoints. While religious belief systems always have some form of authority as it is a sociological given that groups normally cannot exist without one, religions do not necessarily have to be authoritarian. Authoritarian rule relies on fear; self-appointed messianic leaders use various means of social control to promote their views and select their followers. In religious context, authoritarian belief systems are ordinarily called cults.[43]

Marcuse's imagined world is one of authoritarian totalitarianism, where only correct thoughts can be expressed.[44] False views can be censured or even pre-censured. The right to speak is limited only to those who think like him. As he puts it: "Suppression of the regressive ones is a prerequisite for the strengthening of the progressive ones."[45]

Bringing about the revolution requires some extraordinary means, Marcuse thinks. While he continuously disparages discrimination, violence, and oppression, he at the same time passes over these as positive actions when carried out in service of the right cause. He even gives an explicit justification for how ends

Houghton Mifflin Company, 1944), 758. See also Arendt's account of totalitarian propaganda and the need to reject common sense and reasonability in Arendt, *Origins of Totalitarianism*, 450–506.

43 Annabelle Mooney, *The Rhetoric of Religious Cults: Terms of Use and Abuse* (London: Palgrave Macmillan, 2005); Milan W. Svolik, *The Politics of Authoritarian Rule* (Cambridge: Cambridge University Press, 2012).

44 Marcuse, "Repressive Tolerance," 110–111: "Withdrawal of tolerance from regressive movements before they can become active; intolerance even toward thought, opinion, and word, and finally, intolerance in the opposite direction, that is, toward the self-styled conservatives, to the political Right–these anti-democratic notions respond to the actual development of the democratic society which has destroyed the basis for universal tolerance. The conditions under which tolerance can again become a liberating and humanizing force have still to be created. When tolerance mainly serves the protection and preservation of a repressive society, when it serves to neutralize opposition and to render men immune against other and better forms of life, then tolerance has been perverted."

45 Marcuse, "Repressive Tolerance," 119; *Essay on Liberation*, 50: "But who has the right to set himself up as judge of an established society, who other than the legally constituted agencies or agents, and the majority of the people? Other than these, it could only be a self-appointed elite, or leaders who would arrogate to themselves such judgment. Indeed, if the alternative were between democracy and dictatorship (no matter how 'benevolent'), the answer would be non-controversial: democracy is preferable. However, this democracy does not exist, and the government is factually exercised by a network of pressure groups and 'machines,' vested interests represented by and working on and through the democratic institutions. These are not derived from a sovereign people."

justify the means when the end is in line with his thought.[46] However, the chaotic phase should not last very long and paradise should emerge quickly from the ashes of the Old World.[47]

4 Biological foundation of old sensibility

What Marcuse does is to allow his primal instincts to roam free and unchecked.[48] Politely expressed, his philosophy is a construction of natural human desires and needs.[49] Critically expressed, quoting Kołakowski, "[Marcuse] seeks to provide a philosophical basis for a tendency already present in [Western] civilization, which aims at destroying that civilization from within for the sake of an apocalypse of the New World of Happiness of which, in the nature of things, no description can be given."[50]

Because Marcuse does not have a filter, he feels free to speak his mind. His problem may be that he mistakes this for critical thinking merely because it is something that conflicts with the world he observes and feels around him. By sur-

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46 Marcuse, *Essay on Liberation*, 51–52: "The proposition 'the end justifies the means' is indeed, as a general statement, intolerable – but so is, as a general statement, its negation. In radical political practice, the end belongs to a world different from and contrary to the established universe of discourse and behavior. But the means belong to the latter and are judged by the latter, on its own terms, the very terms which the end invalidates. For example, assuming an action aims at stopping crimes against humanity committed in the professed national interest; and the means to attain this goal are acts of organized civil disobedience. In accord with established law and order not the crimes but the attempt to stop them is condemned and punished as a crime; thus it is judged by the very standards which the action indicts." Rosen Zvi thinks that Marcuse fails to rein in his ideas of oppressing those who oppose his ideas. His ideas seem quite boundless, but here and there he appears to offer more detailed boundaries regarding the extent to which the revolution should apply violent means. According to Zvi, Marcuse is a representative of "good intentions ethics," who lacks "responsibility ethics." In other words, he has a highly idealistic view of the revolution, which does not relate to how people behave in real life. Rosen Zvi, "Herbert Marcuse's Conception of Tolerance and Violence," *Dialogue and Universalism* 9, no. 3 (1999).
47 Marcuse, *Essay on Liberation*, 62.
48 See, e.g., Marcuse, *Essay on Liberation*, 25, where he juxtaposes reason and imagination.
49 Arendt ponders this issue in *On Violence*, where she points out that in the 1960s student movements arose apparently independently all around the world. They promoted to some extent diametrically opposed ideas. For example, in the West students considered freedom of speech irrelevant, whereas in the East students rebelled in favor of freedom speech. These movements always teetered on the edge of violence, sometimes succumbing to its call.
50 Kolakowski, *Main Currents of Marxism*, 1119.

passing the world and our artificial civic manners and virtues, we will achieve something higher and better.

Ironically, this "critical thinking" leads Marcuse to become a slave of basic cognitive biases, such as group think, confirmation bias, the ostrich effect, and black and white thinking, to name just a few. Cognitive biases are not automatically bad or harmful.[51] All five quasi-religious elements that back his thinking are deeply natural for humans. In that sense, it is perhaps unfair to say that Marcusean thinking is outright religious if this is simply how humans tend to think.[52] In fact, cognitive science of religion proposes that religiosity is natural, that is, it comes easily to us.[53] In their ideal forms, the major religions typically try to avoid the aforementioned toxic mindset even if they sometimes may fall prey to those ideas. But if we let our desires run free, toxicity is what we get. I emphasize that toxic forms of believing and acting are tempting for both the religious and secular, on both the Left and Right.[54]

Ordinarily, the biases work for our benefit, but when they are triggered in a harmful context, our thinking is likely to go awry. Harmful contexts include situations when we think and act in a hurry.[55] Does Marcuse think in the harmful context, then? It seems so. He is writing in the End Times, when danger feels clear and present. Cognitive biases start to work against us when there is no time to consider checks and balances. This means cutting access to such dissenting voices that could challenge the foundations of one's own worldview.

In this chapter, I have framed quasi-religious commitments as something to be avoided. Yet, as I pointed out in the beginning, some authors have suggested that commitment like this may not be that bad if it is done for a good cause (as

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51 On the positive role of heuristics and biases, see, e.g., Gerd Gigerenzer, *Gut Feelings: The Intelligence of Unconscious* (London: Penguin, 2007); Gerd Gigerenzer, "Bounded and Rational," in *Contemporary Debates in Cognitive Science*, ed. Robert T. Stainton (Oxford: Wiley-Blackwell, 2006); Richard Samuels, Stephen Stich and Michael Bishop, "Ending the Rationality Wars: How to Make Disputes about Human Rationality Disappear," in *Common Sense, Reasoning, and Rationality*, ed. Renee Elio (Oxford: Oxford University Press, 2002); Keith Stanovich, *Rationality and Reflective Mind* (Oxford: Oxford University Press, 2011).

52 It has become common to label some forms of Leftist activism as forms of religion or cults. See, e.g., John McWhorter, *Woke Racism: How a New Religion Has Betrayed Black America* (New York: Portfolio, 2021). On why this charge is not necessarily well placed, see Patrick Casey, "Stop Calling 'wokeness' a Religion," October 20, 2021, https://heterodoxacademy.org/blog/stop-calling-wokeness-a-religion/.

53 Robert MacCauley, *Why Religion is Natural and Science is Not* (Oxford: Oxford University Press, 2013).

54 Jonathan Haidt, *The Righteous Mind: Why Good People Are Divided by Politics and Religion* (London: Allen Lane, 2012).

55 Daniel Kahneman, *Thinking, Fast and Slow* (London: Allen Lane, 2011).

Marcuse himself thought he was doing).[56] The question then is: should we censor the voices of those we do not like and whom we see spreading ideas and policies we detest? This problem is known as the paradox of tolerance, made famous by Karl Popper (1902–1994) in his work *Open Society and Its Enemies* (1945). Does the protection of intolerance in the name of tolerance lead to the victory of intolerance in the name of tolerance? In what conditions does the virtue of tolerance turn into a vice that threatens the civilized world?[57] Popper's account is worth quoting at length:

> Less well known [than other paradoxes] is the *paradox of tolerance*: Unlimited tolerance must lead to the disappearance of tolerance. If we extend unlimited tolerance even to those who are intolerant, if we are not prepared to defend a tolerant society against the onslaught of the intolerant, then the tolerant will be destroyed, and tolerance with them.—In this formulation, I do not imply, for instance, that we should always suppress the utterance of intolerant philosophies; as long as we can counter them by rational argument and keep them in check by public opinion, suppression would certainly be most unwise. But we should claim the *right* to suppress them if necessary even by force; for it may easily turn out that they are not prepared to meet us on the level of rational argument, but begin by denouncing all argument; they may forbid their followers to listen to rational argument, because it is deceptive, and teach them to answer arguments by the use of their fists or pistols. We should therefore claim, in the name of tolerance, the right not to tolerate the intolerant. We should claim that any movement preaching intolerance places itself outside the law and we should consider incitement to intolerance and persecution as criminal, in the same way as we should consider incitement to murder, or to kidnapping, or to the revival of the slave trade, as criminal.[58]

Popper's solution to the paradox is that we should be careful in drawing the distinction between something that we perceive as intolerant, but which is responsive to rational argumentation, and intolerance that denounces rational argumentation. I believe this distinction is vital and solves many of the problems entailed by the paradox.

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56 Jeffery L. Nicholas, "Macintyre and Frankfurt School of Critical Theory," in *Learning from MacIntyre*, ed. Ron Beadle and Geoff Moore (Eugene, OR: Pickwick Publications, 2020), 167. Nicholas notes MacIntyre's argument for open conversation as a way to attain the truth, while being critical of Marcuse's view of repressing views that are in his opinion indoctrinating. Nonetheless, Nicholas asks whether, after the rise of Trump and Boris Johnson, Marcuse and his kin were right after all?

57 I have discussed this problem at length in Olli-Pekka Vainio, *Disagreeing Virtuously: Religious Conflict in Interdisciplinary Perspective* (Grand Rapids, MI: Eerdmans, 2017).

58 Karl Popper, *Open Society and Its Enemies* (London: Routledge, 2012), 581.

But there is a further problem. Epistemologist Neil Levy discusses in *Bad Beliefs* the phenomenon he calls epistemic pollution.[59] This refers to the situation in which our epistemic environment is flooded with different views and opinions. This can be unintentional or intentional. An example of intentional epistemic pollution is when tobacco industries produced public statements that did not outright deny the negative health effects of smoking but merely suggested that the situation is more complex. Maybe your lung cancer was due to bad genes and not smoking as such? After shooting down a Malaysian airliner in Ukraine (2014), the Russian state press used the same tactic and flooded social media with several contradictory explanations of the event. The response to this kind of messaging is often inaction. People lose their agency and adopt the status quo because they feel that they cannot form informed opinions.

Levy is hard pressed with this problem. On the one hand, he recognizes the value of free expression, but on the other, he sees how epistemic pollution can wreak havoc on our cognitive systems. A benevolent tyrant could rule over our public space wisely (at least in theory), but how do we know that the tyrant will remain benevolent, or that the next tyrant in line will be benevolent too?

I hope this suffices to show how the questions that Marcuse's thinking raises are burning in society today. Unfortunately, there seem to be no easy answers. Levy suggests some revisionary practices for universities and the media regarding how they publicize new scientific discoveries, which might reduce epistemic pollution, but more large-scale societal practices are not discussed or proposed.

I share Levy's concerns about how malevolent or merely ignorant actors may terrorize our democratic processes. These same concerns are evidently behind Marcuse's political philosophy. Marcuse recognizes what follows from a relativistic stance, where everyone has equal access to the epistemic space:

> Within the affluent democracy, the affluent discussion prevails, and within the established framework, it is tolerant to a large extent. All points of view can be heard: [. . .] Moreover, in endlessly dragging debates over the media, the stupid opinion is treated with the same respect as the intelligent one, the misinformed may talk as long as the informed, and propaganda rides along with education, truth with falsehood. This pure toleration of sense and nonsense is justified by the democratic argument that nobody, neither group nor individual, is in possession of the truth and capable of defining what is right and wrong, good and bad. Therefore, all contesting opinions must be submitted to 'the people' for its deliberation and choice.[60]

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59 Neil Levy, *Bad Beliefs: Why They Happen to Good People?* (Oxford: Oxford University Press, 2022).

60 Marcuse, "Repressive Tolerance," 108.

Here, Marcuse provides a good definition of what Levy calls epistemic pollution.[61] Yet, recognizing the legitimacy of these concerns, I remain suspicious of the proposed course of action. Marcuse deconstructs contemporary society effectively, but he offers virtually nothing to replace it.[62]

Marcuse's vision of human cognition and reasoning has also aged poorly in the light of what we know about human thought processes. I offer just one brief example. Contemporary cognitive scientists Hugo Mercier and Dan Sperber describe how human reasoning did not evolve to be a solitary tool; instead, it is primarily a social search engine for the best possible outcome.[63] To perform effectively, reason requires genuine dissent concerning the means of reaching a shared goal. In contrast, reasoning according to quasi-religious commitments guarantees intellectual blindness and a sectarian mentality without any way out, which results in repeating the cycle of violence and oppression. In a way, Marcuse is right to point out how reasoning can fall prey to indoctrination and how it easily becomes a tool for oppression and maintaining the status quo. But he does not shed much light on the origins of various ways of thinking and how to adjudicate between different worldviews. In this regard, Alexandr Solzhenitzyn (1918–2008), Hannah Arendt (1906–1975), Kołakowski, and Eric Hoffer (1898–1983) offer more holistic accounts.[64]

It has not been my intention to disparage all the philosophy of Marcuse or the Frankfurt School. Their criticisms of the human condition remain very much legitimate and helpful. However, I have tried to point out the worrying tendencies that make Marcuse's thought susceptible to precisely what he is trying to criticize. These points of criticism are not unique to Marcuse or Leftist philosophy. Instead,

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61 One of the beneficial and constructive parts of Marcuse's account of tolerance is that he shows that society can fake neutrality or impartiality in order to enforce a status quo that effectively suppresses dissenting voices. See Fopp, "Repressive Tolerance."

62 An anonymous reviewer asked, "this seems to be meant as a critical comment. Yet, why should this be actually a problem?" Granted, if you have an abusive spouse, the first thing you need is to get out of that relationship without thinking about whom you should marry next. In analogous fashion, there is an inherent value in criticism of societal dysfunctions as such. The problem here is that when the criticism is linked with apocalyptic and gnostic intentions that intend to overturn the society and a baseless hope that what comes next is going to be a better state, we are not talking anymore merely about getting out of a bad deal. In fact, we do not even know what we are talking about, and that is a problem.

63 Hugo Mercier and Dan Sperber, *The Enigma of Reason* (Cambridge, MA: Harvard University Press, 2017); Hugo Mercier, *Not Born Yesterday: The Science of Who We Trust and What We Believe* (Princeton, NJ: Princeton University Press, 2020).

64 Alexander I. Solzhenitsyn, *The Gulag Archipelago* (New York: Harper & Row, 1973); Hoffer, *The True Believer*.

they are deeply human tendencies, which can be manifested in any ideological setting. To summarize my concerns: adopting the ways of monsters is not necessarily the best way to defeat those monsters. Before breaking the wheel of violence, the complex nature of the wheel must be understood correctly so that it does not roll back, crushing the revolutionaries and their good intentions.

IV

Aleksei Rakhmanin
Albert Camus's political antitheodicy

> Language without morality would be a wallpaper pattern
> or a formal habit (not even a ceremony).
> Rush Rhees[1]

> It is essential to consider as a constant point of reference
> in this essay the regular hiatus between what we fancy
> we know and what we really know, practical assent and
> *simulated ignorance which allows us to live with ideas*
> *which, if we truly put them to the test, ought to upset our whole life.*
> Albert Camus[2]

1 Introduction

This chapter interprets Albert Camus's (1913—1960) philosophy within the limits of antitheodicist discourse. I claim that Camus's philosophy is deeply rooted in antitheodicy attitude – which implies that the justification of evil is its multiplication – and that interpretation of Camus's thought through the lens of antitheodicy is not only consistent but also can contribute to today's discussions about violence. My argument is that Camus's antitheodicy lies at the core of his critique of political reasoning, grounded within the metaphysics of violence. In general, Camus holds that evil, especially in the form of violence, saturates the human condition, reasoning and language. However, the most radical and fatal form of violence originates from the attempts to justify it.

I am going to proceed as follows. First, I depict theodicy and antitheodicy as types of discourse to contextualize Camus's philosophy in relation to them. Second, I propose a reading of Camus's philosophy, focusing on those elements of his thought, which I take as the framings of antitheodicy. Based on Camus's essays I outline the moral grounds of his critique of political metaphysics established during European Modernity. Finally, I show how Camus's antitheodicist intuitions affect his language and narrative strategies embodied in *The Plague* (*La Peste*).

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1 Rush Rhees, *Wittgenstein and the Possibility of Discourse*, ed. D.Z. Phillips (Cambridge: Cambridge University Press, 1998), 176.
2 Albert Camus, *The Myth of Sisyphus and Other Essays*, trans. Justin O'Brien (New York: Vintage Books, 1955), 23 [emphasis added].

2 Theodicies and antitheodicies

Traditionally, theodicy refers to the idea of justifying evil. It is allegedly associated with theistic reasoning, represented by Saint Augustine (354–430) and Gottfried Leibniz (1646–1716), as the most influential thinkers, tried to reconcile belief in the Supreme God, who created this world, and the apparent evil, which overflows this world. The core of theodicy is the idea that evil and suffering can and should be explained or somehow justified for the belief in God to remain undamageable. The assumption that evil can be justified and thus explained away more or less rests on rationalistic and evidentialist grounds. This is why theodicy, despite its theological background, may be characterized as the specific type of discourse which transcends the limits of religious thinking. In this latter sense, theodicy eliminates evil as something which is not essential to the nature of being, no matter whether a Supreme All-Good God responsible for that being exists or not.

Theodicy within non-religious thinking is related to two sorts of assumptions. On the one hand, one has a traditional and well-established argument against theism, focusing on its apparent inconsistency – believers will never succeed in bringing together the Good God and evil. This "argument from evil" itself belongs to theodicist reasoning.[3] Indeed, while an atheist declares that the theistic justification of evil is insufficient, and this insufficiency demonstrates that God does not exist, the very craving for the justification of evil remains untouched. The idea here is that evil *should* be justified, and theism's failure to succeed in doing that demonstrates the falseness of the belief in God. The two positions still have in common the idea that evil *can* be justified while differing in techniques so to say. Whereas atheists hold that theists fail to provide a good argument, which could reconcile the sufferings of existence and the existence of God, theists claim that their arguments are sufficient, and atheists simply do not wish to accept them. The basic assumption that evil can – and, again, should – be justified remains the same.

On the other hand, a less traditional theodicy arises within atheistic or non-religious lines of thought. It results not only from the polemical thrust, i.e., the urge to demonstrate the inconsistency of theism. The demand to justify evil may

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3 In using the concept of antitheodicy, I follow Sami Pihlström's idea that theodicy is morally wrong in itself: "If we even ask the question of how to justify the suffering of, say, the victims of the Holocaust, we already fail to acknowledge those victims and their suffering in an adequate ethical sense. We are guilty of such non-acknowledgment by even entertaining the possibility that their suffering might conceivably be (theodicistically) justified". Sami Pihlström, "Theodicy by Other Means? Rethinking 'God after Auschwitz' through the Dialectics of Antitheodicism," *Cosmos and History: The Journal of Natural and Social Philosophy* 16, no. 2 (2020): 477.

also come from the atheistic attitude itself, as happens within Marxian thought. Suffering and evil of this world cannot be separated from human existence, but they will be eliminated when the ultimate end of this existence is gained. Here, one explains evil away with reference to a higher end of human existence, or to a higher order of things. Despite a nontheistic (whether areligious or anti-religious) thrust, such a way of reasoning still remains theodicist – evil can be justified with the help of reason. In fact, the only reasonable way of thought implies the proof that evil is secondary – rationality is true if it has a justification of evil as its necessary by-product.

Twentieth-century Western thinking saw a series of objections to theodicies. Largely, those objections can be united in a type of discourse in the same way in which theodicy can be characterized as a discourse. Antitheodicies are framed by the general claim that any attempt to justify evil is flawed. Toby Betenson divides all arguments for antitheodicy into two sets. First, there are moral objections, which follow from the alleged moral insensitivity, blindness and – most importantly for the present chapter – the fact that theodicy adds to evil and suffering. Second, there are philosophical and theological objections, which are less numerous in Betenson's survey and are mostly concerned with the inconsistencies in adopting the idea of a Supreme and omnipotent being.[4] Quite interestingly, antitheodicies mostly rest on religious thinking or at least represent the intellectual traditions that are not openly atheist. In fact, there are good reasons to declare that antitheodicy is very specific to religious – at least theistic – reasoning.[5]

While Betenson's division between moral and conceptual objections to theodicy itself works as a tool of mapping the opinions on what is wrong or suspicious in usual theodicist thinking, on a systematic level, it seems problematic to distinguish between them. At least, it is hard to help thinking that this division makes the core problem – the existence of evil and suffering – a peripheral one, by placing it somewhere in the byways of modern European reasoning. This makes the existence of evil a secondary problem as such. This is exactly what is wrong with theodicist reasoning according to antitheodicists, namely the very tendency to present evil as something trivial. Further, antitheodicists would consider the very division of conceptual and moral as deeply bound to theodicy and hence mistaken. In what follows, I am going to depict antitheodicy within a philosophical approach, for which the problem of evil was the central one.

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4 Toby Betenson, "Anti-Theodicies," *Philosophy Compass* 11, no. 1 (2016): 56–65. See important objections to that division in Lauri Snellman, "'Anti-theodicy' and Anti-theodicies," *European Journal for Philosophy of Religion* 11, no. 1 (2019): 201–211.

5 In the discussions on the topic, religion is generally taken to mean Christianity in a wider sense.

Camus's philosophy, while not being a conventional instance of it, looms large within the range of twentieth-century antitheodicies. First, Camus's antitheodicy belongs to the quite rare kind of anti-religious ones. It may not be an exaggeration to say that this is the most elaborated anti-religious antitheodicy in twentieth-century European thought.[6] Second, Camus's philosophy represents not only a unique way of reasoning but also a unique way of speaking of evil. The center of gravity in the former is the demonstration that thinking itself is rooted in both violence and its justification. In fact, the entire program of European Modernity can be encompassed as adding to evil through its justification. In Camus, thus, the critique of rationalizing violence is inevitably a critique of the established ways of reasoning. This, however, does not lead to anti-rationalism.[7] On the contrary, one of the truly deep aims of Camus can be seen in proposing a kind of rationalism that by nature would be antitheodicist. It is no coincidence that in dealing with the problem of violence as the ground of modern European reasoning Camus had to invent a new language to speak about evil. As a problem that is not theoretical, evil infects the language we use to speak of it, and a special effort is to be made to ensure that our language is not corrupted by evil. The problem is that evil and the evil of theodicy, in particular, are embedded in European conceptual means and narrative patterns. While in his essays Camus proposes a critique of reasoning grounded in justification of evil, in his prose – in *The Plague* in particular – he elaborates on the specific mode of language to preserve the antitheodicist attitude.

3 The absurd, revolt and violence

In this section, I aim both to recollect the fundamentals of Camus's thought as the building blocks of his philosophy of violence, and to present them as the frame for an antitheodicist way of thinking. Before embarking on this task, I need to make two methodological comments. First, I ignore the peculiarities of Camus's philosophical development and address his thought as a static whole. This violation of hermeneutical rule seems legitimate, as my task is not to trace the evolution of Camus's philosophy but to outline its structure. Nevertheless, one should keep in mind that *The Rebel* (*L'Homme révolté*, 1951) was written almost nine years after

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6 The fact that theodicy and evil were the major issues for Camus is well known. See Matthew Sharpe, *Camus, Philosophe: To Return to Our Beginnings* (Leiden: Brill, 2015): 104 *et passim*.
7 Matthew Sharpe, "Reading Camus 'With,' or After, Levinas: Rebellion and the Primacy of Ethics," *Philosophy Today* 55, no. 1 (2011): 86–87.

The Myth of Sisyphus had been published (*Le mythe de Sisyphe*, 1942), whereas *The Plague* (1947) belongs to the period between them.[8] Second, whereas Camus's essays can be read on various levels, I confine myself here to two of them: phenomenology and philosophy of history. In the former case, the issue under scrutiny is the human condition as presented within individual experience – the subject matter here is "logical suicide." In the latter case, the issue is modern humanity with its collective experience and the subject matter is "logical murder." What is important is that Camus uses the same conceptual means in speaking about both.

The unity of phenomenology and philosophy of history is clear in Camus's claim that the human condition is absurd. On the one hand, the absurd means that the world as distinct from humans has no meaning in itself, and hence individuals have no hope for themselves *within* the world. On the other hand, the human condition, of which Camus speaks, is that of Modernity. The modern human was born when God died, and with this death, all saving illusions disappeared. However, the absence of hope does not mean despair. As one has to live life despite the absence of meaning, or within this absence, the recognition of the absurd makes one truly free. In fact, the absurd is the only connection between a human and the world, and losing this connection means ceasing to exist.[9]

The experience of evil and suffering, encompassed by the concept *le mal*, is constitutional for human existence. The very first such experience is the recognition of death, which is both fundamental injustice and the "supreme abuse."[10] The unjustness of inevitable death lies in the very fact that humans recognize their mortality. The first genuine rebellion thus stems from the impossibility to reconcile with death – "evil and death [. . .] are precisely the problems that preoccupy the rebel."[11] This rejection to be oppressed by death is the attempt to preserve oneself within absurd existence, yet importantly, in Camus, rebellion cannot overcome the absurd, as that would mean overcoming existence. Somehow, humans have to exist in the absurd, or not exist at all. If the world has no meaning for humans, and hence has no meaning whatsoever, the meaning is to be found only in being human, that is in being with others. In Camus, "I rebel – therefore we exist."[12]

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8 Another intriguing issue is the continuity between *The Myth of Sisyphus* and *The Plague*, on the one hand, and *The Plague* and *The Rebel*, on the other. One may ask whether the narrating technique Camus adopted in the novel affected his general critique of historicism (see the section "Narrating *The Plague*").

9 Camus, *Myth of Sisyphus*, 19–20, 42–43.

10 Camus, *Myth of Sisyphus*, 84.

11 Albert Camus, *The Rebel: An Essay on Man in Revolt*, trans. Anthony Bower (New York: Vintage Books, 1991), 32.

12 Camus, *Rebel*, 22. Sharpe significantly completes the formula – "'I rebel' against all legitimations or rationalisations of evil, 'therefore we exist'". Sharpe, *Camus, Philosophe*, 124.

This motto is indeed the benchmark in Camus. However, it is no less problematic than its Cartesian counterpart is, as Camus's "we" seems corrupted with another type of evil. Within the human world, another supreme abuse exists – there are slaves and masters. To be with others – and that is, again, the only way to be – means to oppress and be oppressed. The rebel against the oppression of death thus has to turn into the rebel against human oppression. This rebel takes the form of revolt "for the sake of everyone in the world,"[13] or returning the right of being human, and it happens within human existence where, as Camus puts it in *The Plague*, there are only "pestilences and victims." Revolt in the name of being human is to be rebellion against violence and oppression:

> The first and only evidence that is supplied me, within the terms of the absurdist experience, is rebellion. Deprived of all knowledge, incited to murder or to consent to murder, all I have at my disposal is this single piece of evidence, which is only reaffirmed by the anguish I suffer. Rebellion is born of the spectacle of irrationality, confronted with an unjust and incomprehensible condition.[14]

The crucial aspect of Camus's philosophy is this dialectic of violence. There is the abuse of death, which strips humans of the dignity of being; and there is a fundamental propensity for violence within humans themselves, the natural abuse, which deprives them of the dignity of being human.[15] The revolt against human injustice is what Camus takes to be the origin of the craving for the highest human and humane order, which justifies the dissolution of slaves and masters for the sake of "we." The nature of "we" implies some kind of order, which is higher than anything open to individuals – it has to be justified with something which is outside of individuals to be independent of them: "The most elementary form of rebellion, paradoxically, expresses an aspiration to order."[16] This order, however, is simultaneously the tool of the most oppressive violence.

In his phenomenology, Camus parses the inevitable slip into order-making in detail. To find sense in existence, which would reconcile humans with their mortality, they justify it with the reference to high order, which promises eternity. Yet there can be no eternity. "The man of revolt," as Camus normatively states, has "to

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13 Camus, *Rebel*, 16; cf.: "[T]he individual is not, in himself alone, the embodiment of the values he wishes to defend. It needs all humanity, at least, to comprise them. When he rebels, a man identifies himself with other men and so surpasses himself, and from this point of view human solidarity *is metaphysical*". Camus, *Rebel*, 17 [emphasis added].

14 Camus, *Rebel*, 10.

15 Susan Neiman, *Evil in Modern Thought: An Alternative History of Philosophy* (Princeton, NJ: Princeton University Press, 2015), 294.

16 Camus, *Rebel*, 23.

remain on that dizzying crest" between the realization of the absurd and slipping into fictional eternity which would reconcile humans with the absurd.[17] In historical reality, however, they create the humane order, which would be the highest and hence the most just. Still, the highest order needs an ultimate justification.[18]

Indeed, the act of being human involves all humans – and revolt, therefore, inevitably takes the form of "all or nothing": either there will be no division between slaves and masters among humans, or there will be no humans. This demand needs an ultimate justification: to create the world based on human dignity means to find absolute ground for this world, which in turn means to raise the "walls" between humans and the world. Those walls conceal the absurdity of the world from humans, yet should rest in the outer world to be solid; the world, which was set as human, must be more than human and turn inhumane. Creating abstractions, which help humans to get used to the inhuman world, is what Camus – extending Friedrich Nietzsche's (1844–1900) notion – calls "nostalgia," i.e., the craving for the type of being, which was allegedly lost, while it never happened.

Abstract reasoning is essential for Camus's critique of the "betrayal of revolt." While being the true and indigenous demand for human dignity, revolt may go astray following the paths of human self-deception. After all, "[i]t is natural to give a clear view of the world after accepting the idea that it must be clear"[19]. In Camus, the entire process of reasoning is of two types. The one is the mode of unification, which inevitably results in constructing totality, in building the absolute walls. Those totalities can be religious, but when God died – more or less with the French Revolution – they turned non-religious or even nihilistic while remaining allegedly absolute. The opposite mode is that of "clear vision."[20] This latter is hard to grasp except for maybe two aspects of it. The first one is seeing individuals and not totalities: "clear" means for Camus being free of ultimate ideas and big words. The second aspect of a clear vision is seeing evil as evil, as opposed to "simulated ignorance which allows us to live with ideas which, if we truly put them to the test, ought to upset our whole life."[21]. In terms of Camus's phenomenology, betrayal of revolt is abandoning clear vision for the sake of ultimate reason. Nostalgic thinking is after all a false consciousness, which unifies humans by making sense out of nonsense. Though this sense is declared the most human, it is more than human and hence inhumane.

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17 Camus, *Myth of Sisyphus*, 50.

18 Camus, *Rebel*, 101–102. See also Sharpe, "Reading Camus," 84.

19 Camus, *Myth of Sisyphus*, 43–44.

20 Camus, *Myth of Sisyphus*, 27. Or "lucidity" – see on that Sharpe, *Camus, Philosophe*, 364, 370.

21 Camus, *Myth of Sisyphus*, 23.

As I noted earlier, for Camus, the existence of modern humans starts more or less with the French Revolution, which for the first time in Western history – in Camus's terms, in the history of rebellion or "European pride"[22] – produced the secular higher order, the "brotherhood of man."[23] Though the Christian frame of human existence is no longer meaningful, the existence of the modern human being remains rooted in the extra-human reality. In both History and Politics (both capitalized, as ideas and not empirical processes), the new totalities, human beings are doomed to gain their reason for existence. The problem is that those totalities, by being the frames which unify humans, are tools of great violence and injustice. For Camus, this injustice is even more unfair than death. Starting from a demand for universal human dignity, revolt goes astray by accepting inhuman means of getting it. The totality of politics implies that the final end of the individual existence is the state, which justifies all individual sufferings. The totality of history is expressed in eschatological language, through which the end of history evaporates all personal sufferings and rationalizes all common crimes. Both share the most inhuman idea that human nature should be transformed under more than human order.[24] Indeed, while there is no God, humans are still sinners, and "despite the fact that there is no God, at least a Church must be built."[25] The all-or-nothing discourse, which started as the demand for dignity, turns into the demand for "true" humanity, which reflects basic nostalgia. It demands humiliation for the greater end:

> Every act of rebellion expresses a nostalgia for innocence and an appeal to the essence of being. But one day nostalgia takes up arms and assumes the responsibility of total guilt; in other words, adopts murder and violence.[26]

It is here that the justification of violence comes into light fully. "All or nothing" justifies the largest-scale violence by concealing it under the mask of the highest justice. By justifying violence, all-or-nothing discourse rules out the possibility to acknowledge violence as a fact of being. By explaining it away with reference to a higher order, the justification makes violence inevitably superhuman and glorifies it. The totality of humans implies the total violence.[27] The all-or-nothing discourse, despite its origin in the craving for human dignity, actually launches the

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22 Camus, *Rebel*, 10–11.

23 Camus, *Rebel*, 170, see also 248.

24 Sharpe, "Reading Camus," 83.

25 Camus, *Rebel*, 147.

26 Camus, *Rebel*, 105.

27 Sharpe, *Camus, Philosophe*, 128–129.

nihilistic attitude that underlies the totalitarian modes – "all" and "nothing" here are not different at all. If evil can be justified, "everything is permitted." (Interestingly, along those lines nihilism can be understood as a failure to recognize evil without explaining it away.) The justification of violence by making murder "logical" (that is, the only justified mode of being) dooms pestilences to be pestilences and – what is more violent – strips victims of being victims.

Since the totalities that unify individuals under the rule of the highest order spring from metaphysical reasoning, i.e., the search for ultimate justification, one might say that this type of reasoning itself is infected with violence. Importantly, Camus's phenomenological critique of metaphysical thinking as creating violent illusions is reflected in his historical critique of political metaphysics as justifying the logical "murder" cloaked in ideologies, which are political prophecies or the pieces of "political messianism," as Matthew Sharpe calls them.[28] This critique is, however, normative, and the question of how to deal with this inner propensity to violence embodied in modern reasoning remains. Read in the light of antitheodicy, *The Plague* anticipates the answer to this question, as it shows how conceptual frameworks saturated with violence reveal themselves in language.

4 Narrating *The Plague*

It is quite an established opinion – confirmed by Camus himself[29] – that *The Plague* narrates resistance to Nazism. Yet, one of the central motifs in the novel is the immanence of the plague in humans, so the novel is not just the figurative representation of the resistance in Europe – in a sense, it is the narration of resistance as such. A much-debated problem arises in interpreting Camus's novel as a pamphlet against Nazism or totalitarianism in a broader sense. Camus's writing makes it seem as if evil is some natural defect and an unhuman force.[30] In this

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28 Sharpe, *Camus, Philosophe*, 113.

29 For instance, in his response to Roland Barthes – cited in: Neiman, *Evil in Modern Thought*, 293.

30 Neiman, *Evil in Modern Thought*, 293–294; Sharpe, *Camus, Philosophe*, 62–64. The problem is too large to be solved here, but I agree with Andrew Flescher's brief remark that for Camus the difference between moral and natural evil was not so great at all. Andrew Flescher, *Moral Evil* (Washington, DC: Georgetown University Press, 2013), 7–8. Moreover, both types of evil may be assessed as raised on the common ground that is metaphysical evil. See also Gisela Schlüter, "The Theodicy-Sequence in Albert Camus's La Peste," in *But Vindicate the Ways of God to Man: Theodicy and Literature*, ed. Rudolf Freiburg and Susanne Gruß (Tübingen: Stauffenburg, 2004), 418–420; Sharpe, *Camus, Philosophe*, 62 *et passim*.

picture, responsibility does not matter: people in the city of Oran, where the scene is set, are on their own as equal victims of the disease. As the metaphor of plague proliferates, it appears that everyone is vulnerable to it simply by being human. In this line of thought, every political development is evil. The case of totalitarianism, in which human being makes sense only as a part of a totality, just drives this evil to the extreme. *The Plague* can be read in this line as a critique of the nature of the state – all its kinds, since every state by being a state may be at risk of sliding into totalitarianism, pretty much as every human being has a germ of plague.[31]

The most significant aspect of *The Plague* read in the light of Camus's antitheodicist thinking is the narrative technique. The critique of political metaphysics outlined in the previous section may leave one in a quandary – is it even possible to speak without imposing violence? It seems that violence saturates every aspect of reasoning since it helps humans to hide themselves from the absurd and thus adds to oppression. I suggest that Camus's narrating technique confronts this very tendency to self-deception and that his elaboration of the notions of history and language, as well as the critique of religious and political theodicies, supports that reading.

The notion of history is embodied in the narrative techniques adopted in the novel, but also in the explicit remarks on how to write a history. Dr. Rieux and Tarrou are key characters and retrospectively it appears that the tension between them delineates the story of the plague. It is said that Rieux fulfills the task of a chronicler to depict everything as it was:

> His business is only to say: "This is what happened," when he knows that it actually did happen, that it closely affected the life of a whole populace, and that there are thousands of eyewitnesses who can appraise in their hearts the truth of what he writes.[32]

In the finale, this role is reaffirmed.[33] On the contrary, Tarrou is said to be diminishing all, as if he was trying to be a chronicler of

> an unusual type of chronicle, since the writer seems to make a point of understatement, and at first sight we might almost imagine that Tarrou had a habit of observing events and

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31 David Sherman, *Camus* (Malden, MA: Wiley-Blackwell, 2009), 121.

32 Albert Camus, *The Plague,* trans. Stuart Gilbert (New York: Random House, Inc., 1991), 7.

33 "Summoned to give evidence regarding what was a sort of crime, he has exercised the restraint that behooves a *conscientious witness*. All the same, following the dictates of his heart, he has deliberately taken the *victims' side* and tried to share with his fellow citizens the only certitudes they had in common – love, exile, and suffering". Camus, *The Plague*, 248 [emphasis added].

people through the wrong end of a telescope. In those chaotic times he set himself to record-ing the history of what the normal historian passes over.[34]

This can be understood in such a way that the story of the plague in Oran cannot be history, and so Tarrou is announced to be an author of the historiography of what compiles *no* "normal" history. In order to be a history, there should be events, actors, observers and – what is more important – the *telos* and the work of memory. The theme of memory is quite remarkable and recurrent throughout the novel, so I will have opportunities to return to it, yet the *telos* is less obvious. The question may be asked: if there is an end in history, what kind of *telos* should the plague embody? To write a *history* of the plague – even a fictional one – would mean that the plague served some mysterious aim, known to an abstract observer. Yet there are no observers in the novel, there are only participants. As there are no observers, there can be no *telos* and, in terms of Camus, it would be inhuman to seek for some. The *telos* would justify human sufferings by placing them within the eschatological final of history.[35] This is exactly the type of totality that dooms humans to violent existence. The only possible and human, true and just stance is that of a victim, of one who suffered as everyone else and died. The story of the plague thus makes no history, while being embodied in memory.[36]

Another point supports this reading. When Dr. Rieux encounters the possibility of plague for the first time, macabre pictures are passing before his eyes – Mar-seille, London, Milan, Athens and finally the total appears – a hundred million deaths. Rieux thinks "But what are a hundred million deaths? [. . .] [S]ince a dead man has no substance unless one has actually seen him dead, a hundred million corpses broadcast through history are no more than a puff of smoke in the imagi-nation"[37]. History is an impersonal narration of human deaths, and Dr. Rieux, who knows death, *cannot imagine* the plague. The observations that imagination is needed in order to think of the plague are everywhere in the text.[38]

In the narrative of the plague, a very specific language dominates, which may be characterized as the language of de-alienation. The alienation of the plague goes through several stages. In the first part, it manifests itself in paradox-ically human features – paradoxically, as within the trope it is external to hu-

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34 Camus, *The Plague*, 23.

35 See also Sharpe, "Reading Camus," 84.

36 See the excellent study of the tension between memory and history in Camus by William Du-vall, "Albert Camus Against History," *The European Legacy* 10, no. 2 (2005): 139–147.

37 Camus, *The Plague,* 35.

38 See the important section in Sherman, *Camus*, 119–123 on the "banality" of life and lack of imagination among people in Oran as well as on the parallels to Arendt.

mans. Camus depicts all the tricks to which people resort to deceive misfortune, but also demonstrates how hard it is for people to accept that "It's the plague." It appears that even if one takes evil to be of natural origin it is still a responsibility, which matters. In fact, all one can say about evil is how one as a human being confronts it – even if this evil originates in oneself. In short, what Camus does in using the language, which anthropomorphizes the plague, is that he returns evil to human beings.

This becomes evident in the second part, which almost entirely deals with acceptance of the plague, as it turns out to be an *inner* matter. Language becomes corrupted in the first place. As Camus points out, when the plague becomes common, people lose their feelings – there is nothing personal in common affairs. Language ceases to be alive – people start using dead words. The disease of language, which causes words to lose their power, makes the communication pointless: there is no common discourse (despite the recognition of the plague as a common issue), no "heart talks." Language itself becomes clichéd; it is more the jargon, the code of telegrams or newspapers.[39] This death of language as a common space of personal communication is accompanied by the death of memory – people are "to live with memory which is out of any use."[40]

All this, however, is what strengthens the plague. While people are immersed in the indifference of despair, they do not recognize the plague fully. It is not so much the catastrophe that is recognized, as the course of their lives, which is assessed as defected. Camus depicts two alternatives. One is acceptance of the plague as the form of existence, which demands that one forgets one's previous life. Rieux exemplifies this option. The other is finding high value in suffering, and that is the position Father Paneloux takes in his first sermon. It is the most obvious instance of religious theodicy in the novel so it is worth stopping here for a while.

One cannot help being suspicious that the only reason Camus introduces Father Paneloux's first sermon is to contrast it to his second one. Indeed, Paneloux's speech is quite traditional in terms of Christian theodicy.[41] Evil is not a self-sufficient and independent entity but rather the vehicle for God's wrath, and it is the wages of sin. However, it is the vehicle of God's mercy as well:

> For the time is past when a helping hand or mere words of good advice could set you on the right path. Today the truth is a command. It is a red spear sternly pointing to the narrow

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39 Albert Camus, *La Peste* (Gallimard, 1947), 74–75. [translation own]

40 Camus, *La Peste,* 72. [translation own]

41 On the biblical and novelistic background of the first sermon (and of the *The Plague* in general) see Schlüter, "Theodicy-Sequence," 407–410.

path, the one way of salvation. And thus, my brothers, at last it is revealed to you, the divine compassion which has ordained good and evil in everything; wrath and pity; the plague and your salvation (83–84).

In sum, a believer can find the balm and salvation in death.

As Camus notes, this sermon changed the city but not radically. More interestingly, it introduces another dimension of language, a rhetorical one, and the content of the sermon was confined to that rhetoric, at least by some listeners. As Tarrou told Rieux, at times of plague, it is natural to confront it with big words, "there's always a propensity for rhetoric." Moreover, Tarrou opposes the rhetorical dimension of language to another one, which has still remained obscure: "It is in the thick of a calamity that one gets hardened to the truth—in other words, to silence. So let's wait."[42]

However, this rhetorical dimension of language adds something new to how the plague is confronted. I have mentioned the stress on clichés and the mechanical nature of communication between people in the early stage of the disaster. Here the type of heroic speech emerges to counter the plague. Rhetorical language is natural yet dangerous as it disguises under the surface of big words referring to heroic acts the unintentional attempt to praise evil: "by attributing overimportance to praiseworthy actions one may, by implication, be paying indirect but potent homage to the worse side of human nature."[43] In a sense, it may result in the glorification of evil.[44]

Tarrou and Rieux refuse to think that the plague is the way to recognize suffering as good and justified by God's will. As a person is always alone in the presence of death, it is in a sense immoral to think of the plague as a sign of shared guilt.[45] It is human "suffering" that teaches humans to be compassionate.[46] In this view, there is no place for God who foredooms them to suffer: "since the order of the world is shaped by death, mightn't it be better for God if we refuse to believe in Him and struggle with all our might against death, without raising our eyes toward the heaven where He sits in silence."[47] In a human being exposed to evil,

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42 Camus, *The Plague,* 98.

43 Camus, *The Plague,* 112.

44 Cf. what Karl Jaspers wrote to Hannah Arendt: "the way you do express it [the evil of Nazism], you have almost taken the path of poetry," cited in Richard Bernstein, *The Radical Evil: A Philosophical Interrogation* (Cambridge: Polity Press, 2002), 214–215.

45 Rieux says: "And then I had to see people die. Do you know that there are some who refuse to die? Have you ever heard a woman scream 'Never!' with her last gasp? Well, I have. And then I saw that I could never get hardened to it". Camus, *The Plague,* 108.

46 Camus, *The Plague,* 108.

47 Camus, *The Plague,* 109.

God is excessive – the reference to God's will not only blurs the "clear vision" of individual suffering, but also adds to it by revoking its individual nature.

This conversation demonstrates the difference in positions taken by Rieux and Tarrou. Whereas Rieux experiences that compassion in dealing with human sufferings cannot capitulate to the plague, Tarrou proceeds from the "moral code of comprehension."[48] The difference is not radical, as the outcome is the same – the refusal to yield up, and that is the revolt against any theodicy whatsoever. This is crucial in Camus – the point is that a human being as mortal and vulnerable to suffering *has* to struggle against death and suffering while understanding that this struggle cannot be won. Yet the alternative to this is theodicy, which deprives humans of all their humanity.

Finally, in the second part, the nature of evil is revealed. Quite abruptly, ignorance is said to be the origin of all evil:

> The evil that is in the world always comes of ignorance, and good intentions may do as much harm as malevolence, if they lack understanding [. . .] the most incorrigible vice being that of an ignorance that fancies it knows everything and therefore claims for itself the right to kill. The soul of the murderer is blind; and there can be no true goodness nor true love without the utmost clear-sightedness.[49]

A little bit later, Tarrou says that honesty or decency (*honnêteté*) would be the only proper response to the plague: "It's not a matter of heroism [to confront the plague]; it's a matter of honesty [. . .] the only remedy against the plague is honesty."[50] The plague thus becomes obviously de-alienated.

The plague is anthropomorphized to its climax in the third part. The steps in Camus's portraying evil may be presented as reflections on the inquiry into its nature, revealed in the conversation between Rieux and Tarrou. Alongside the known and customary features of the plague, which make it all-human, there appear new ones, in a sense more than human. Indeed, the plague now is a mechanism, which embodies the macabre features of an administrative device, highly efficient and frigid. In fact, the plague becomes state-like: cold, haughty and disengaged.[51] It is said to have the Olympic point of view (*vue supérieure*), which equals all – it deprives humans of their individualities and makes their lives the same totality of "collective destiny." The paradox is that in equalizing people, the plague at the same time makes them lonely.

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48 Camus, *The Plague*, 111.
49 Camus, *The Plague*, 112.
50 Camus, *Le Peste*, 115. [translation own]
51 This style of narrating reflects the bureaucratic categorization of the plague by the political authorities in Oran – see Sharpe, *Camus, Philosophe*, 63–64.

The very death count becomes an administrative issue and success here is the sign of progress, testimony to the plague's triumph.[52] The rhythm of the plague is precise and monotone, its routine is daily and mundane. This absence of everything that is high and glorious, the very platitude of the catastrophe makes it most horrible – people have no strong feelings, no chances to say anything beyond a cliché.[53] Along with the loss of their memories and personalities, they forfeited their ability to make value judgments (*jugements de valeur*).[54] To the absence of memory, the absence of the future is added. Notably, this absence of time makes love and friendship impossible, raising the question whether there is any room for compassion. Can there be compassion without hope? What can be said for sure is that there is "the habit of despair."[55]

The fourth part contains the climactic events of the novel. It is here that the evil of the plague, suffering and deaths associated with it, are revealed most prominently, on three occasions – the death of a child, the second sermon of Father Paneloux and the story Tarrou tells about himself.

The story of a dying child opens something new in the concept of suffering. The agonizing scene of Jacques Othon's death becomes the center of confronting the plague: the child's scream was "so ill-human as if it was emitted by all humans at once"; it "belongs to all ages," it is a "nameless wail."[56] And the very observation of this suffering is for the first time called "shameful."[57] This feeling of shame, some sort of collective guilt or "the metaphysical scandal"[58] is raised – as it follows from the description – from the fact that the victim is an innocent child while others have no ability to alleviate his suffering. This inability to confront unjust and unnecessary suffering forces Rieux to accuse Paneloux, as if it is the priest who bears the responsibility for that. In quite a Dostoyevskian way (a child's tears), Rieux actually condemns Paneloux to reconcile God with the suffering of the innocent.

This attempt at reconciliation finds expression in Paneloux's second sermon. Instead of making sense of the plague and justifying it with the reference to a higher good, Paneloux takes the side of a victim, a child who suffers; in fact, he accuses his first sermon of being not compassionate enough. Yet, like the first, his second, too, is an all-or-nothing sermon – the plague maximizes everything so

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52 Camus, *The Plague,* 150.
53 Camus, *La Peste*, 167. [translation own]
54 Camus, *La Peste*, 169. [translation own]
55 Camus, *The Plague,* 154.
56 Camus, *La Peste*, 197. [translation own]
57 Camus, *La Peste*, 195. [translation own]
58 Schlüter, "Theodicy-Sequence", 411.

that everyone has to choose between loving and hating God. And as no one who believes in God dares to hate God, love must be absolute and merciful to nothing. Within such absolute compassion, the death of a child becomes everything; the other way around, it would be nothing. Yet death cannot – must not – be nothing; so a person has to embrace unconditional acceptance of God. Otherwise, there can be no reconciliation with the death of the innocent (one of the outcomes of that decision is the idea that a priest cannot resort to medicine).

In a way, Paneloux's second sermon is a gospel of antitheodicy. There is no attempt to take a stance of a higher being and relate God's ways and human knowledge. "Rieux gathered that, to the Father's thinking, there was really nothing to explain"[59] Yet the issue of how to relate to the plague remains – as one refuses to explain and justify the plague, one still has to accept it. Interestingly, according to Paneloux, one should accept the plague in all possible ways and senses – it cannot be accepted partially and prudently since this partiality will demand justification and calculation. The time of plague is the time of radical decisions. As one – radically and hence in a manner of true justice – either accepts God in totality, or denies God, so one has to accept the plague in totality.[60]

This all-or-nothing thrust of Paneloux's speech makes an uneasy impression. It is undoubtedly Christian to trust in God fully without hesitation, yet the impulse to employ this attitude comes not from love for God, but from compassion for one who suffers.[61] Indeed, it is the choice between relying on God fully and failing to find any meaningfulness in a child's death. Again, as this child's death *must not* be nothing, one – in order to make it everything – has no choice but to rely on God. Therefore, this allegedly antitheodicy remains a theodicy – it gives not intellectual, yet emotional reconciliation with evil. The price of that is the loss of human responsibility – one has to deny oneself in order to be with God.

At this point, Paneloux differs from Rieux and Tarrou. At face value, the priest's sermon fits their attitude toward fighting the plague. Paneloux himself coined the term "active fatalism" to refer to his position. However, does one really need God to be an active fatalist? Both Tarrou and Rieux are fatalists in the exact sense Paneloux gives to the notion, yet they do not need God to make sense of a

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59 Camus, *The Plague*, 186–187.

60 Gisela Schlüter suggests that the sequence of Paneloux's sermons "constitute[s] the literary-fictional link between [. . .] *Le Mythe de Sisyphe* and *L'Homme Révolté*" (Schlüter, "Theodicy-Sequence," 407–408). It is also the transition from biblical to existentialist theodicies. See also Sherman, *Camus*, 119–120.

61 Sessler calls this position "religious humanism" trying to connect it to Emmanuel Levinas' ideas. Tal Sessler, *Levinas and Camus: Humanism for the Twenty-First Century* (London: Bloomsbury Publishing, 2008), 63.

child's death, as they do not need to make sense of it at all. I guess Camus would say it is immoral to find meaning in anybody's death and even more so to rely on God in doing that – this will take away any responsibility from a subject. The paradox of Camus's moral philosophy is that a person is responsible for the other's suffering while being unable to prevent it. However, the reference to God is just dishonest here – one should not be making sense out of the Supreme Being.

The theme of honesty echoes in Tarrou's confessions to Rieux, which may be considered a gospel of political antitheodicy. Tarrou starts by admitting that he had been already infected with the plague, and here it becomes plain for the first time that the plague is not just a disease. Everybody has this infection in them, Tarrou continues, yet he is among those who while being conscious of the infection try to get rid of it.[62] The most terrifying symptom of this infection is the ability to take the life of others. Tarrou tried politics as a remedy against this inherently human defect, but it appeared to be infected as well. Tarrou realized that despite all his attempts he remained infected with the plague, unintentionally condemning people to death. Moreover, soon came the realization that no one can live without allowing or forcing others to die. The only way to keep oneself out of this circle of deaths and penalties to death is to keep "plain, clean-cut language" and a clear understanding that "there are pestilences and there are victims; no more than that."[63] This demands severe self-discipline, as trying not to have the plague is no less exhausting than having it.

Tarrou adds that along with victims and pestilences (carriers of the plague), there are therapists, the true healers. Still, there are few of them (Rieux maybe?), and hence all one can do is be a victim: "I try, in short, to be an innocent murderer." The only way to it is through compassion (*sympathie*). This way of confronting evil – that is to say, according to Tarrou, of living life – may be encompassed in the question "Can you be a saint without God?"[64] Ironically, Tarrou holds that to be a human is too ambitious if compared to being a saint. Rieux, in turn, admits that he prefers to be with "the defeated." This tint of paradox might make the entire idea pretentious if interpreted as some sort of metaphor. Yet it should be understood at face value – to be a human is harder than being a saint (as there is no God) and means to be defeated, that is to be exposed to evil, to suffer and to die without remedy and finding any meaning in all that.

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62 "[W]e must keep endless watch on ourselves lest in a careless moment we breathe in somebody's face and fasten the infection on him". Camus, *The Plague,* 210–211. See also Sherman, *Camus,* 121.

63 Camus, *The Plague,* 211.

64 Camus, *The Plague,* 212.

5 Concluding Remarks

The ending of the novel leaves no lesson to learn, no prophecy fulfilled and nothing justified. In the closing scenes and Rieux's final meditations, the plague is declared undefinable and the impossibility of ultimate victory over it follows from the absence of teleology. Here again, the tension between history and memory is evident: the plague has no ending and hence there can be no history of it to legitimize humans' responses to it. However, the eschatological reading is tempting, and the narrative fate of characters sometimes is referred to as a sort of imaginative justification. Is the death of Paneloux or Tarrou necessarily a symbol of their failures in positions?[65] That would mean that death can be meaningful – the death of a child included – and goes contrary to every line in Camus. The end of history would have been just an eschatological justification of suffering.

The absence of teleology is even more significant in regard to Camus's refusal to slide into any type of nostalgia. With all his love for the Greeks, he actually does not regard "meridional" thought as a remedy against the evils of European Modernity. The conceptual frame of Modernity is the only one available in Camus, as his words about one of its basic notions suggest – "[t]he *only* conception of freedom *I* can have is that of the prisoner or the individual in the midst of the State."[66] That implies that one cannot divorce the absurd from political being – the language to speak about personal existence is inevitably that of politics. The modern framework is not just the starting point to be overcome with the help of some justified totality, be it historical or political, or "purely moral" – in either case, that would be an embrace of nostalgia.

I think two outcomes of this line of thought are particularly important. The first one is the problematic yet necessary bond between political and moral reasoning. In Camus, they are necessarily the same. There is always a risk of moralism in this kind of attitude, yet in Camus, moralism seems impossible, as there is no innocent condition of pureness to appeal to. When commenting on Saint-Just's ideas, Camus seemingly approves of the general disposition of the inner connection between moral necessity and political logic – "every form of moral corruption is at the same time political corruption, and vice versa" – but adds, "[a] principle of infinite repression, derived from this very doctrine, is then established."[67] The invention of the moral order, which is higher than anything else – and which thus dominates over politics – would inevitably justify violence. Still, it would be nostal-

65 Schlüter, "Theodicy-Sequence", 416–417.
66 Camus, *Myth of Sisyphus*, 56 [emphasis added].
67 Camus, *Rebel*, 123.

gically naive to believe in morality outside politics. In the absurd world, the only solidarity to confront violence is "solidarity of chains"[68] and that is both a moral and political stance. The second outcome, which may be up to date today, is the inexpediency of optimistic vocabulary. In Camus, theodicy – be it Leibnizian or Marxian – appears as a violent way of reasoning precisely because the unity of morality and politics makes possible the reference to the ultimate good and thus makes political oppression absolute. The optimistic framework grounded within the presumption of the imminence of absolute reconciliation will always be a sign of political theodicy and thus a germ of absolute oppression.

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68 Camus, *Rebel*, 281.

Marianne Sandelin

A conservative justification for the political violence of the French Revolution?

1 Introduction

In this chapter, I explore Joseph de Maistre's (1753–1821) providential views on the violence and the Terror of the French Revolution[1]. Soon after the bloody culmination of the Revolution, many began to see the Enlightenment as the culprit behind the revolutionary violence and terror. Maistre was a Savoyard writer, philosopher, and diplomat, one of the forefathers of European conservatism and a fervent critic of both the Revolution and the Enlightenment. His account of the Revolution provides a very original and interesting aberration within the conservative tradition. Most conservative opponents of the Revolution rushed to declare that the recent, devastating events were the work of earthly criminals, the Enlightenment philosophes and their political disciples, the revolutionaries. Maistre, however, began to interpret them as a thoroughly planned, necessary and just interference of divine Providence. He claimed that the Revolution and its horrors were a divine punishment for the sins of the Enlightenment. Maistre sought to convince his readers that God was using the Revolution and its repugnant leaders as mere tools in the ultimate divine plan, which would pave the way for the purification of the human species and its morals. This purification he labeled as divine regeneration (*régénération*), by which he meant (and advocated) the restoration of tradition, the Catholic Church and monarchy, and the final victory of good over evil.

A lot has been written on the theological frame of reference of Maistre's theodicy and its extensive implications for the justification of violence, human misery, and suffering. Most of these examinations have focused on his theological description of the long history of sacrifice in different religions and cultures, and in particular, his notorious *Éclaircissement sur les sacrifices,* a 40-page appendix to his *Les Soirées de Saint-Pétersbourg* (1821). In *Éclaircissement sur les sacrifices,* Maistre presented a rather original but shocking theory: violence and suffering were an expiatory sacrifice for the culpability of humans – as an inevitable part of human condition.

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1 The French Revolution began in 1789 and lasted until 1799. The most notorious period of the Revolution, the Reign of Terror prevailed between 1793–1794.

My focus in this chapter is on Maistre's political intention and aspiration, when portraying the violence of the Revolution, its immediate causes and its broader meaning as a decisive necessity ordained by divine Providence. I argue that his providential account of the violent events of the French Revolution was no mere theological depiction, but intended to serve a normative, practical, and political purpose. That is, by trying to convince his readers that humans themselves have no role nor agency in great upheavals, that the restoration of monarchy was a deterministic inevitability, Maistre wished to persuade them to join the Counter-Revolution and to abandon their dangerous, Enlightenment-rooted liberal values.[2] The latter, he argued, had led both the revolutionary leaders and the entire French nation to face violent, yet deserved punishments, and other nations would face the same consequences if these sins were adopted and reproduced elsewhere.

Maistre has typically been seen as a grotesque admirer of excessive violence and social hierarchy, and as an uncompromising proponent of monarchy and the Catholic Church. One of the most notable views of him is presented by his nineteenth-century critic Émile Faguet (1847–1916), who described him as

> a fierce absolutist, a furious theocrat, an intransigent legitimist, apostle of a monstrous trinity composed of Pope, King and Hangman, always and everywhere the champion of the hardest, narrowest and most inflexible dogmatism, a dark figure out of the Middle Ages, part learned doctor, part inquisitor, part executioner.[3]

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2 Against this, one could of course argue, as for example Jean-Louis Darcel does in his article "Joseph de Maistre, New Mentor of the Prince: Unveiling the Mysteries of Political Science" (in *Joseph de Maistre's Life, Thought, and Influence*, ed. Richard A. Lebrun (Kingston & Montreal: McGill-Queen's University Press, 2014, 120–121) that since many of Maistre's works were not published by himself, but posthumously,they were not intended for a wider audience. However, this does not apply to for example *Considerations on France* (*Considérations sur la France*, 1796) and *Essay on the Generative Principle of Political Constitutions* (*Essai sur le principe générateur des constitutions politiques*, 1814), or *Du Pape* (1819), and *St. Petersburg dialogues, or, Conversations on the temporal government of Providence* (*Les Soirées de Saint-Pétersbourg ou Entretiens sur le gouvernement temporel de la Providence*, 1821) he was very close to publishing already before his death. Therefore, I would say that we can say something about the political intentions of his writings – even if *all* of them were not published by himself. Additionally, as Richard Lebrun remarks in a footnote to his introduction in his translation of Maistre's *Examen de la philosophie de Bacon* (1836), "Maistre was always ready to make a clear distinction between judgments he might make in his notebooks or in a letter to a trusted friend, and those he permitted himself to write and publish in his public persona. In a 1793 letter he freely acknowledged utilizing a distinctive style for public consumption." Richard A. Lebrun, introduction to *An Examination of the Philosophy of Bacon,* trans. Richard A. Lebrun (Montreal: McGill-Queens University Press, 1998), xxxv.

3 Èmile Faguet, *Politiques et moralistes du XIXe siècle* (Paris: Lecène, Oudin, 1891), 1.

Robert Triomphe, who published his doctoral thesis on Maistre in 1968, portrayed him in a very similar spirit, picturing him even as the intellectual source of the Vichy regime in France.[4] This view was shared by Isaiah Berlin (1909–1997), who, in his very influential interpretation, depicted him as a proto-Fascist[5] who not only anticipated but also embodied nationalism, imperialism and twentieth-century totalitarianism. In Berlin's portrayal, Maistre was a gloomy apostle praising the divinity of punishment and violence – someone, who "glorifies war, and declares it to be mysterious and divine."[6] Graeme Garrard believed that Berlin's reading of Maistre was "substantially correct,"[7] but that Maistre's fascination with war was more religious than morbid in its nature. According to Garrard, Maistre "did not explicitly glorify war as something *inherently* good," but rather stressed "its divine power and acknowledged both its beneficial effects and its moral function within a scheme of Christian providence."[8]

In some recent studies this picture has been questioned and more modern and unpredictable aspects of Maistre's thought have been stressed. For example, Owen Bradley, Carolina Armenteros and Douglas Hedley have all asserted that instead of providing a normative justification for violence and bloodshed – instead of being a violent political theorist – Maistre was a descriptive theorist *of* political violence.[9] Bradley, for instance, wrote that Maistre's "deep lifelong interest in violence and irrationality, which might indeed be called an obsession, does not at all necessarily imply he praised them."[10] According to Hedley, Maistre was merely describing the violence of the world and human nature as it appeared to him. In his view, Maistre's "perception may be false, but that is quite different

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4 See Robert Triomphe, *Joseph de Maistre: Étude sur la vie et sur la doctrine d'un matérialiste mystique* (Geneve: Drotz, 1968).

5 Isaiah Berlin, "Joseph de Maistre and the Origins of Fascism," in *The Crooked Timber of Humanity: Chapters in the History of Ideas*, 2nd ed. (Princeton, NJ: Princeton University Press, 2013), 95–177.

6 Isaiah Berlin, *The Hedgehog and the Fox: An Essay on Tolstoy's View of History* (London: Weidenfeld & Nicolson Ltd., 1953), 59–60.

7 Graeme Garrard, "Isaiah Berlin's Joseph de Maistre," in *Isaiah Berlin's Counter-Enlightenment*, ed. Joseph Mali and Robert Wokler (Philadelphia, PA: American Philosophical Society, 2003), 121–122.

8 Garrard, "Isaiah Berlin's," 121–122.

9 Owen Bradley, *A Modern Maistre: The Social and Political Thought of Joseph de Maistre* (Lincoln, NE, and London: University of Nebraska Press, 1999), 120.

10 Bradley, *Modern Maistre*, xvi. See also, Owen Bradley, "Maistre's Theory of Sacrifice" in Lebrun, *Joseph de Maistre's Life*. Bradley also writes, however, that "Nonetheless, the step from a theory of violence to an affirmation of violence was prepared by him, for which he must bear some responsibility (just as Nietzsche must bear some responsibility for the misappropriation of his thought by the Nazis). I am convinced and mean to show, however, that in no sense did he simply venerate violence." Bradley, *Modern Maistre*, x.

from advocating such suffering and violence."[11] Armenteros stated that Maistre's thought, his *Éclaircissement sur les sacrifices* in particular, marks one of the earliest contributions to the sociology of violence, which "revolutionized the European understanding of the relationship between society and violence."[12]

While I strongly agree that Maistre was an unpredictably moderate, multifaceted, even modern thinker in *some* domains of his thought, I nevertheless argue that this did not extend to his attitude toward violence – especially the violence of the French Revolution. Even if much of what he wrote concerning violence might indeed be called descriptive, occasionally he did go further than that. At least when it comes to the Revolution, Maistre was more than eager to feast on its violence and suffering, and by no means was this always *only* descriptive. Although he was deeply horrified by the violence of the Revolution and its Terror, through his gloomy account of theodicy – his response to the question of evil – Maistre came to provide even the revolutionary violence with a moral and therefore positive purpose. Thus, rather unexpectedly, Maistre's deterministic, providential interpretation of the violence and suffering caused by the revolutionary Terror ultimately led him to provide a type of justification for it.

Next, in the first section, I discuss Maistre's ideas of what he perceived as the primary perils and sins of the Enlightenment as well as his perceptions concerning the causes of the French Revolution. Furthermore, I explore how Maistre conceived the role that France plays in Europe and how that is linked to his views on the justice of punishment and revolutionary violence. In the second section, I explore Maistre's dichotomous reaction to the Revolution, namely, his rejection of it as the ultimate evil and moral corruption and his insistence on the central role and agency of divine Providence in its gruesome events – his idea that God is utilizing the Revolution and its ostensible leaders as mere pawns in his supreme, decisive plan. In the third section, I discuss Maistre's account of theodicy and its implications for the vindication of violence and suffering. Finally, in the concluding section of this chapter, I argue that Maistre's argumentation strongly points to a kind of remission for the revolutionary violence and horrors, but also that his reasoning on the matter serves a more practical and normative purpose. By utilizing strong doomsday scenarios and threatening descriptions of the atrocities in France, Maistre sought to convince his readers around Europe to turn their backs on the deceptive incitement of the philosophes and on the liberal and naive ideals of the Revolution. He sought to persuade them to join the restoration of monar-

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11 Douglas Hedley, "'The Monstrous Centaur'? Joseph de Maistre on Reason, Passion and Violence," *Faith and philosophy* 28, no. 1 (2011): 72.

12 Carolina Armenteros, *The French Idea of History: Joseph de Maistre and his Heirs 1794–1854* (Ithaca, NY, and London: Cornell University Press, 2011), 156.

chy, the supremacy of the Catholic Church and a worldview based on traditional hierarchies. In this way, Maistre's writings on the violence of the Revolution – particularly the images of violent threat and notion of self-induced punishment – can be seen as an early illustration of a rhetorical tool widely utilized by twenty-first century conservatives.

2 Joseph de Maistre, the Enlightenment, and the just punishment imposed upon the French nation

In his *Considérations sur la France* (1796), Maistre described the French Revolution with an undisguised aversion. He portrayed it as "radically bad" and as "the highest degree of corruption ever known."[13] The culprit for the Revolution, according to Maistre, was undoubtedly the Enlightenment and its philosophes, particularly Voltaire (1694–1778) and Jean-Jacques Rousseau (1712–1778).[14] He accused Voltaire of being even more responsible for the terror of the Revolution than Jean-Paul Marat (1743–1793), a revolutionary politician associated with the radical group, the Montagnards, and the advocacy of utilizing terror as means to advance the revolutionary cause. "Voltaire, whom blind enthusiasts have placed in the Panthéon, is perhaps more guilty of the judgement of Divinity than Marat, for he may have made Marat, and he certainly did more evil than Marat."[15] As for Rous-

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13 "Now what distinguishes the French Revolution and makes it an event unique in history is that it is radically bad. No element of good disturbs the eye of the observer; it is the highest degree of corruption ever known; it is pure impurity. On what page of history will you find such a great quantity of vices assembled at one time on the same stage? What a horrible assemblage of baseness and cruelty! What profound immorality!" Joseph de Maistre, *Considerations on France* (*Considérations sur la France*, 1797), trans. Richard A. Lebrun (Cambridge: Cambridge University Press, 2006), 38.

14 Joseph de Maistre, *On the Sovereignty of the People (De la souveraineté du peuple),* in *Against Rousseau: On the State of Nature and on the Sovereignty of the People*, trans. Richard A. Lebrun (Montreal and Buffalo: McGill-Queen's University Press, 1996), 106.

15 Maistre, *Considerations,* 10. Maistre describes Voltaire with undisguised aversion: "Look at this abject brow that never blushed from modesty, these two extinct craters where lust and hate still seem to boil. This mouth [. . .] this horrible *rictus* running from ear to ear, and these lips pinched by cruel malice like a spring ready to spout fourth blasphemy or sarcasm. Do not speak to me of this man, I cannot stand the idea. Ah! The harm he has done us." Joseph de Maistre, *St. Petersburg dialogues, or, Conversations on the temporal government of Providence*, trans. Richard A. Lebrun (Montreal: McGill-Queens University Press, 1993), 110.

seau, he was especially to blame for his anti-authoritarian attitude. Maistre wrote that "the sentiment that dominates all Rousseau's works is a certain plebeian anger that excites him against every kind of superiority."[16] However, in his view, "the whole philosophical sect"[17] was guilty of disobedience and shamelessness to oppose authorities – of denying religion and tradition and of questioning the social order, which had led to the crumbling of sovereignty, and thus to brutality, terror and chaos that in many ways resembled a Hobbesian state of nature. The most severe crime of the philosophes, according to Maistre, was not that they would have ever truly agitated or demanded Revolution. Instead, it was their blind glorification of reason and rationalism, which had opened everything to critique, doubt and insignificance. Maistre believed that this endless questioning of everything and denying authorities could not have led to anything other than the shattering of social peace and order – to destruction and barbarity.

Although Maistre accused thinkers such as Francis Bacon (1561–1626), John Locke (1632–1704) or David Hume (1711–1776), his fiercest critique was primarily targeted at what he perceived as the most radical and anticlerical strand of Enlightenment thought, the French philosophy of the second half of the eighteenth century and the moral degradation of the entire French nation. The latter, in his view, was caused by the fact that more than any other European nation, eighteenth-century France had fallen under the spell of the deceitful and dangerous incitement of the philosophes and adopted the ungodly conceptions put forward by the Enlightenment. According to Maistre, "the greatest efforts of the Goddess of Reason against Christianity" took place in France: "the enemy attacked the citadel."[18] By the Goddess of Reason he meant the atheistic, revolutionary state religion, "the Cult of Reason" (*Culte de la Raison*), established by the *hébertistes*. Jacques Hébert (1757–1794) and his followers were considered to be the most radical advocates of direct democracy and dechristianization (overthrowing the Catholic Church) within the revolutionaries.[19]

In the chapter in his *Considerations* entitled "Reflections on the Ways of Providence in the French Revolution," Maistre stated that "Every nation, like every in-

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16 Maistre, *On the Sovereignty*, 138.

17 Maistre, *On the Sovereignty*, 106.

18 Maistre, *Considerations,* 21. See also, the chapter "Dechristianization and Secularization" in Roger Chartier, *The Cultural Origins of the French Revolution* (Durham, NC: Duke University Press, 1991); and Charles Gliozzo, "The Philosophes and Religion: Intellectual Origins of the Dechristianization Movement in the French Revolution," *Church History* 40, no. 3 (1971): 273–283.

19 The Cult of Reason was enjoying its height of popularity between autumn 1793 and spring 1794, until Maximilien Robespierre (1758–1794) replaced it by promoting a rivaling, deistic alternative, The Cult of the Supreme Being, which was made the official state religion in May 1794.

dividual, has received a mission that it must fulfill."[20] According to him, the divine mission, which Providence had ordained for France, was to function as the cornerstone and emissary of the Catholic Church and all Christianity: "France exercises over Europe a veritable magistracy [. . .] she was the head of the religious system, and not without reason was her king called *most Christian.*"[21] Maistre stated that Providence had given France the necessary organs to accomplish its divine mission; the French language and the spirit of proselytism – the power to influence people and other nations. The latter was "as obvious as the sun; from the fashion designer to the philosopher, it is the salient trait of the national character."[22] However, because France had abandoned its divine mission under the guidance of the Enlightenment philosophes and abused her influence to contradict her vocation and to demoralize Europe, the nation would be brought back to her mission "by terrible means."[23]

Consequently, Maistre claimed that the French Revolution and its horrors were a divine punishment imposed upon France for the sins of the Enlightenment. In his view, the French had only themselves to blame for all the misfortunes they are experiencing. Because they had given in to the dangerous temptation of the God-forsaking Enlightenment philosophy and used their influence to corrupt the whole of Europe, they would be punished and restored to order with horrible means. "Every drop of Louis XVI's blood will cost torrents of French blood; four million Frenchmen perhaps will pay with their heads for this great national crime of an antireligious and antisocial insurrection crowned by a regicide."[24]

In his view, there were hardly any French people who could be called the "innocent victims of the Revolution" or such to whom their conscience could not say: "Now see the sad fruits your faults produced. Feel the blow you have yourself induced."[25] Therefore, by perceiving the Revolution and its atrocities as divine punishment, Maistre ended up interpreting them as just and necessary.

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20 Maistre, *Considerations*, 9.

21 Maistre, *Considerations*, 9.

22 Maistre, *Considerations,* 21.

23 Maistre, *Considerations*, 9.

24 Maistre, *Considerations,* 13.

25 Maistre, *Considerations,* 10. This passage is a quotation that Maistre has taken from Jean Racine's tragedy *Iphigénie*: "Alors de vos respects voyant les tristes fruits, Reconnaissez les coups, que vous aurez conduits." Jean Racine, *Iphigénie,* vol 2. (Paris: Claude Barbin, 1675).

3 Divine Providence and Maistre's twofold reaction to the French Revolution

Although Maistre did not mince his words on the criminality of the revolutionary leaders, he ended up providing a different kind of interpretation of the causes to the surrounding events than most other counterrevolutionary, conservative thinkers of the time, as Stephen Holmes, for instance, has remarked.[26] Edmund Burke (1729–1797), for example, to whom Maistre is often compared, believed that the Revolution was entirely the fault of "wicked men" – that is, the intellectuals who had sought to destroy religion and the prevailing societal order.[27] In Maistre's view, however, the Revolution and its bloody culmination were indeed the fault of these wicked men, but they also marked a divine regeneration (*régénération*). He frequently wrote of regeneration – a concept he referred to when prophesying a providentially ordained purgative revival of humanity, of religion and of nations, particularly France.[28]

Maistre is typically read as a hopeless pessimist – someone who complains about the decline of humanity and how everything has gone horribly wrong. Nevertheless, as Jean-Yves Pranchère and Graeme Garrard acutely note, all of his works entail a hopeful outline of an imminent decisive turn, which will bring about humanity's salvation.[29] As Pranchère remarks, whereas in *Considérations sur la France* Maistre prophesied the restoration of the Christian Bourbon monarchy, his *Du Pape* (1819) provided a vision of the reunification of divided and dispersed Christians under the Catholic Church.[30] When trying to understand and come to terms with the recent, shocking events, he began to interpret them as a thoroughly planned, necessary and just interference of divine Providence.[31]

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26 Stephen Holmes, *The Anatomy of Antiliberalism* (Cambridge, MA: Harvard University Press, 1993), 15.

27 Zeev Sternhell, *The Anti-Enlightenment Tradition* (New Haven, CT: Yale University Press, 2010), 61.

28 For example, he writes that "We have been witnesses, within the last twenty-five years, of a solemn attempt made for the regeneration of a great nation mortally sick". Joseph de Maistre, *Essay on the Generative Principle of Political Constitutions*, trans. Renata Czekalska (Boston, MA: Little and Brown, 1847), 63. See also, Maistre, *Considerations*, 8, 18, 73; Maistre, *On the Sovereignty*, 134, 190; Maistre, *St. Petersburg Dialogues*, 112, 269, 359.

29 Jean-Yves Pranchère, "The Negative of the Enlightenment, the Positive of Order, and the Impossible Positivity of History," in *Joseph de Maistre and the Legacy of Enlightenment*, ed. Carolina Armenteros and Richard A. Lebrun (Oxford: Voltaire Foundation, 2011), 45. Garrard, "Isaiah Berlin's," 115.

30 Pranchère, "Negative," 45.

31 Bradley, *Modern Maistre,* 208.

Maistre began to declare that there was an ongoing fight to the death between two opposing forces, good and bad – between Christianity and European Christian civilization on one hand, and on the other, Enlightenment philosophy with its destructive liberal values. The latter he also referred to as philosophism (*philosophisme*).[32] By philosophism he especially meant the repugnant aspiration of Enlightenment philosophers and scientists to meddle with things that he considered were none of their business – namely, organizing social and political life and institutions exclusively on the conditions of philosophy and rationalistic ideals and principles. "The present generation is witnessing one of the greatest spectacles ever beheld by human eyes; it is the fight to the death between Christianity and philosophism. The lists are open, the two enemies have come to grips, and the world looks on."[33]

Hence, Maistre did not see the Revolution merely as a horrible historical event, but as a manifestation of this broader cosmic combat. He was certain that Christianity would come out as a winner in this epic battle. According to him, besides being a divine punishment, the Revolution was also a providential and teleological regeneration and remedy for the revival of France as well as Christianity, monarchy, and morality. He wrote that the Divinity has never shown itself so clearly in any other human event than in the brutal and outrageous events of the Revolution.[34]

Maistre stated that it has been correctly pointed out that humans do not lead the Revolution, but rather the Revolution uses humans[35] – reiterating a similar view most notably associated with a friend of his, Jacques Mallet du Pan (1749–1800). Mallet du Pan had written in his *Considérations sur la nature de la révolution française* that "[l]ike Saturn, the revolution eats its children."[36] Maistre wrote that the more one examines the apparently most active persons in the Revolution, the more one finds in them something passive and mechanical. Even those who appeared to lead the Revolution were nothing but simple, passive instruments utilized in the divine, mysterious plan of Providence:

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32 See, e.g., Maistre, *Considerations*, 45, 48, 101; Maistre, *On the Sovereignty*, 96, 98; Maistre, *St. Petersburg Dialogues*, 60.

33 Maistre, *Considerations*, 45.

34 Maistre, *Considerations,* 7–8.

35 Maistre, *Considerations,* 5–8.

36 "A l'exemple de Saturne, la révolution dévore ses enfants." Jacques Mallet du Pan, *Considérations sur la nature de la révolution française* (London: Imprimeur-Libraire, 1793), 80. This quotation has become very much cited and lived by.

> The very rascals who appear to lead the Revolution are involved only as simple instruments, and as soon as they aspire to dominate it, they fall ignobly. Those who established the Republic did it without wanting to and without knowing what they were doing. They were led to it by events; a prior design would not have succeeded. Robespierre, Collot, or Barère never thought to establish the revolutionary government or the Reign of Terror, they were led to it imperceptibly by circumstances, and the like will never be seen again. These extremely mediocre men exercised over a guilty nation the most frightful despotism in history, and surely they were more surprised at their power than anyone else in the kingdom. But the very moment these detestable tyrants completed the measure of crime necessary to the phase of the Revolution, a breath overthrew them.[37]

The Revolution and its government were born without the active agency of humans and without the revolutionaries understanding what they were doing. They were led to it by circumstances, in the hand of a force much greater than themselves – a force that they could not understand nor control.[38] Maistre enumerated a long list of people to prove that the Revolution was led by Providence, not by these mediocre, revolutionary men:

> Where are the first national guardsmen, the first soldiers, the first generals who swore an oath to the nation? Where are the chiefs, the idols of that first guilty assembly for which the epithet of constituent will be an eternal epigram? Where is Mirabeau? Where is Bailly [. . .]? Where is Thouret, who invented the phrase "to expropriate"? Where is Osselin, who introduced the first law proscribing *émigres*? One could name by the thousands the active instruments of the Revolution who died a violent death.[39]

To this he added, "here again we may admire order in disorder,"[40] which does not exactly come across as merely descriptive.

Maistre portrayed the revolutionary leaders as repugnant criminals, whose wickedness was based on their free will. The notion of free will was essential for him, for how else could he have condemned the revolutionaries as criminals, France as guilty of denying religion and traditional social order (and therefore getting what it rightly deserved) or humans in general as sinners. He even started *Considerations on France*:

> We are all attached to the throne of the Supreme Being by a supple chain that restraints us without enslaving us. Nothing is more admirable in the universal order of things than the action of free beings under the divine hand. Freely slaves, they act voluntarily and

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37 Maistre, *Considerations,* 5–6.
38 Maistre, *Considerations,* 5–7.
39 Maistre, *Considerations,* 13.
40 Maistre, *Considerations,* 13.

necessarily at the same time; they really do what they will, but without being able to disturb the general plans.[41]

Therefore, according to Maistre, all evil stemmed from people's free will and free choices.[42] He argued that although humans possess free will, they are not consistent nor rational in their actions. On the contrary, a human being is a mystery full of contradictions.[43] In the spirit of Plato and the Neoplatonist early Christian church father Origen of Alexandria (c. 185–253), Maistre wrote of the endogenic instability and bifurcation of human nature – that there are opposing forces in humans that pull them in contrasting directions. "He wills the evil, but he would will the good. He acts against himself; he turns on himself; he grovels painfully like a reptile whose back has been broken."[44] Humans can simultaneously be good and bad, love and hate one and the same object or desire something that they do not want to desire. Therefore, humans are not rational nor autonomous agents, but instruments in the grand totality of divine Providence – a totality that they cannot understand nor control.

By underlining that the Revolution was part of a broader, divine plan of the Providence, and that the revolutionaries were mere pawns in it, Maistre paradoxically ended up granting them absolution for the revolutionary violence. Indeed, there is an enormous discrepancy in his arguing that on one hand God has molded some weak individuals as revolutionaries in order to utilize them as tools in a grand divine scheme – that the revolutionaries had no say on their fate themselves – and on the other, condemning them as detestable criminals and the vilest creatures on earth. How, then, should Maistre's providential determinism and its contradictions be interpreted?

For example, Holmes has argued that this large-scale determinism of Maistre's makes his thought in some sense incompatible with any kind of political tradition, whereas Garrard has written that Maistre's interpretation of the Revolution as a consequence of God's will actually makes him not very counterrevolutionary.[45] I do

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41 Maistre, *Considerations*, 3. In a similar passage, he writes: "Undoubtedly man is free; man can make mistakes, but not enough to disturb the general plans. We are all attached to the throne of the Eternal by a supple chain that reconciles the self-propulsion of free agents with divine supremacy." Maistre, *On the Sovereignty,* 151.

42 See Aimee Barbeau, "The Savoyard Philosopher: Deist or Neoplatonist?" in Armenteros and Lebrun, *Joseph de Maistre and the legacy of Enlightenment*, 173.

43 Joseph de Maistre, *On the State of Nature*, trans. Richard A. Lebrun (Montreal and Buffalo: McGill-Queen's University Press, 1996), 34.

44 Maistre, *On the State*, 35.

45 Holmes, *Anatomy of Antiliberalism,* 35. Garrard, "Isaiah Berlin's," 121. It has been relatively common to separate Maistre from conservatism and label him merely as a representative of re-

not agree with the notion that this element in his thought rules Maistre out of the conservative or the counterrevolutionary tradition, although discussing this further would require a separate article on definitions of conservatism.[46] (I myself am inclined to believe that political traditions as wide as that cannot have very clear-cut definitions or generally accepted sets of core beliefs).[47] Nevertheless, I do find that Maistre's providential determinism makes him stand out from the mainstream of European conservative political thinkers.

How earnest and unwavering was Maistre's personal belief in the nullity of human actions on one hand, and in the all-encompassing determinism of divine Providence on the other? Although surely his providential explanation also stemmed – to some extent – from a need to make sense of and come to terms with the surrounding turbulence, chaos and personal setbacks inflicted by the Revolution,[48] there is room to doubt that his providential interpretation was not – even for himself – merely a neutral, descriptive depiction. Rather, it entailed a normative, political intention.

I argue that the enormous tension between Maistre's providential determinism and his insistence on free will – a contradiction he does not properly address in his works – stemmed from the political motives of his writings. By portraying the cen-

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actionism or extreme traditionalism. Jan-Werner Müller writes that "a thinker like de Maistre – often elevated into the conservative pantheon – is not conservative, but reactionary. His commitment to hierarchy and inequality is obvious, but he cares neither how these values are implemented (in fact, he is almost a quietist at times, trusting in Providence and abjuring all forms of political action), nor does he preserve existing privileges. He really is an authoritarian and a reactionary." Jan-Werner Müller, "Comprehending Conservatism: A New Framework for Analysis," *Journal of Political Ideologies* 11, no. 3 (2006): 364.

46 For further reading on definitions of conservatism, see Jerry Muller, *Conservatism: An Anthology of Social and Political Thought from David Hume to the Present* (Princeton, NJ: Princeton University Press, 1997); Richard Bourke, "What is Conservatism? History, Ideology and Party," *European Journal of Political Theory* 17, no. 4 (2018); Edmund Fawcett, *Conservatism: The Fight for a Tradition* (Princeton, NJ: Princeton University Press, 2020); Michael Freeden, "The Adaptability of Conservatism," in *Ideologies and Political Theory: A Conceptual Approach* (Oxford: Clarendon Press, 1996); Karl Mannheim, *Conservatism: A Contribution to the Sociology of Knowledge* (London and New York: Routledge & Kegal Paul, 1986); Müller, "Comprehending Conservatism"; Kieron O'Hara, *Conservatism* (London: Reaktion Books, 2011); Corey Robin, *The Reactionary Mind: Conservatism from Edmund Burke to Donald Trump* (New York: Oxford University Press, 2018).

47 I do not mean to imply that we should give up concepts such as conservatism or liberalism altogether. Rather, when it comes to wide-ranging intellectual political traditions, they contain various family resemblances.

48 The Revolution created many devastating effects in his own life: being a nobleman and a political opponent of the Revolution, he fled into exile after the French revolutionary army conquered Savoy in 1792, leaving his family, possessions, and home for several years.

tral figures of the Revolution in providential terms, as mediocre, unimportant useful idiots lacking any kind of agency of their own, Maistre's aspiration was a wholesale annihilation of the amazement and influence they were enjoying amid the Revolution itself and then in the astoundingly victorious French Revolutionary Wars (from 1802, the Napoleonic Wars). At a time when the French army marched from victory to victory, from conquest to conquest, spreading revolutionary principles all over Europe and breeding both horror and admiration, Maistre sought to completely nullify the significance of the revolutionaries, who in the eyes of many appeared to be capable of anything. This kind of belittling strategy was very different from the likes of Burke or Louis de Bonald (1754–1840). Neither Burke nor Bonald shared Maistre's providential explanation of the revolutionary violence – let alone his almost Panglossian interpretation that all in all it was for the best.[49] For them, there was no positive side to the Revolution, and it was solely the work of earthly creatures, rebellious criminals. While admitting that the revolutionaries had agency, Burke and Bonald consequently came to affirm their capability of bringing about great and powerful actions, whereas Maistre wished to make people believe that behind their ostensible greatness and triumph, the revolutionaries were no more than miserable creatures doomed to a violent end.

No doubt, when Maistre was enumerating a long list of "the active instruments of the Revolution who died a violent death,"[50] his aim was also to assure his readers that the guilty, as he portrayed the revolutionaries, are punished in this life and not only in the next. He found it essential that the common people be taught to believe that the guilty suffer in this world and not merely after the Last Judgment – at least significantly more than the innocent. He perceived the idea that virtue should remain unrewarded and vice unpunished (before the Last Judgment) as not only harmful but also severely dangerous.[51]

> The wicked are happy in this world; but they will be chastised in the next; the just, on the other hand, suffer in this world, but will be happy in the next [. . .] If this proposition is not false, it at least appears to me extremely dangerous. There is great danger in allowing men to believe that virtue will be recompensed and vice punished only in the other life.[52]

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49 Although Maistre himself came to assign the Revolution a positive role in his providential explanation, he mocked the "best of all possible worlds" optimism of some eighteenth-century thinkers such as Gottfried Leibniz (1646–1716). "There is nothing but violence in the universe; but we are spoiled by a modern philosophy that tells us *all is good,* whereas evil has tainted everything, and in a very real sense, *all is evil*, since nothing is in its place." Maistre, *Considerations,* 31.
50 Maistre, *Considerations,* 13.
51 Maistre, *St. Petersburg dialogues*, 9. Holmes, *Anatomy of Antiliberalism*, 21.
52 Maistre, *St. Petersburg dialogues*, 8–9.

Maistre's insistence on providential justice, the idea that the invisible hand of Providence will ensure that people get what they deserve – that "in general, there is a secret force that carries each individual to his place"[53] served a very practical political purpose. He sought to appeal to people not to take matters in their own hands – not to try and change the societal reality or make their own position in it fairer, even when they might believe they were suffering unfair injustices. If people believed that they were incapable of making any difference in the grand scheme of things and that divine Providence would eventually secure everyone the place and position they deserved, they would have no incentive to rise up or shake the foundations of the traditional social order. Therefore, Maistre's providentialism also aimed to legitimatize the traditional hierarchical society that the French Revolution had sought to overturn. "Modern philosophy, which likes to talk so much of *chance,* speaks especially of the chance of *birth*; this is one of its favourite texts. But there is no more chance here than in other matters."[54] He insisted that whenever people were sorrowing over their misfortunes or senses of injustice, whether it be poverty, poor health or violent injury, luck or injustice had nothing to do with it. They were consequences of God's will and therefore just.

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53 "Although we recognize the hidden hand that directs everything, such is however the illusion that results from the activity of secondary causes, that we commonly reason as if this hand did not exist. When we contemplate the play of intrigue around thrones, words like accident, fortune, misfortune, and chance naturally present themselves, and we say them a little too quickly, without perceiving that they make no sense. Undoubtedly man is free; man can make mistakes, but not enough to disturb the general plans. We are all attached to the throne of the Eternal by a supple chain that reconciles the self-propulsion of free agents with divine supremacy. Without contradiction, a given king can for a time keep a real talent from the place it was destined for, and this unhappy faculty can be extended more or less; but, in general, there is a secret force that carries each individual to his place. Otherwise the state could not subsist. We recognize in a plant an unknown power, a form-giving force, essentially one, that creates and conserves, that always moves towards its goal, that appropriates what serves it, that rejects what hurts it, that carries to the last fibril of the last leaf the sap that it needs, and that fights with all its strength the diseases of the vegetable body. This force is still more visible and more admirable in the animal world! How blind we are! How could we believe that the political body does not also have its law, its soul, its form-giving force, and believe that everything is left to the whims of human ignorance? If the moral mechanisms of empires were made manifest to our eyes, we would be freed from a crowd of errors. We would see, for example, that a given man, who appears to us to have been made for a particular office, is a disease that the vital force pushes to the surface, while we deplore the misfortune that prevents him from insinuating himself in the sources of life. These words talent and genius deceive us every day; often these qualities are absent where we think we see them, and often as well they belong to dangerous men." Maistre, *On the Sovereignty,* 151.
54 Maistre, *Considerations*, 101.

4 Maistre's account of theodicy, violence and misfortune

How, then, in his providential interpretation of the Revolution, did Maistre conjoin the revolutionary terror and violence with a claim of an omnibenevolent and omnipotent God? At the heart of Maistre's theodicy was the idea that God occasionally produces *ostensible* evil, things that may *appear* evil, but which always serve a grander, benevolent purpose. With reference to the wickedness of the revolutionaries, he wrote: "If the vilest instruments are employed, punishment is for the sake of regeneration."[55] In the words of Garrard, Maistre was even willing to accept blatant injustice and horrors, since the triumph of wickedness is always transitory: evil is merely a trailblazer for the final salvation.[56] "There is no chastisement that does not purify; there is no disorder that ETERNAL LOVE does not turn against the principle of evil. It is gratifying amid the general upheaval to have a presentiment of the plans of Divinity."[57] For Maistre, injustice and suffering can only be understood in the wider context of providential totality – although this totality, for the most part, would always remain outside the reach of human understanding.[58]

Maistre declared that when a human soul, nation or civilization had degenerated due to vices, immorality, incredulity and overindulgence, both individuals and groups could be "retempered in blood."[59] Here, his target was self-evidently France and, as pointed out earlier, his insistence that in the horrors and excesses of the Revolution, France got what it deserved. Equally important was his attempt to warn that the same kind of chaos and bloodbath would surely face other nations if they were to follow the dangerous ideals that had led France down this violent chain of events.

To elaborate this further, Maistre drew an analogy between humanity and a tree. Like a good gardener, God sometimes has to prune the human tree by "an invisible hand," but in the long run, this is for the benefit of the tree itself: God is careful not to cut the best parts of the tree, but in order to cultivate the fruits of

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55 Maistre, *Considerations,* 7–8.
56 Garrard, "Isaiah Berlin's," 118. See also, Graeme Garrard, "Joseph de Maistre and Carl Schmitt", in *Joseph de Maistre's Life, Thought, and Influence: Selected Studies,* ed. Richard A. Lebrun (Kingston and Montreal: McGill-Queen's University Press, 2014), 224–228.
57 Maistre, *Considerations*, 31.
58 "We will never see the complete picture during our earthly sojourn." Maistre, *Considerations*, 31.
59 Maistre, *Considerations*, 28.

humanity he occasionally resorts to a bloody purge.[60] God possesses a wide selection of means: diseases and pandemics, war, revolution and bloodshed. In *Les Soirées de Saint-Pétersbourg*, Maistre writes that war, for instance, is a department, whose direction the Providence has reserved entirely for itself.[61] War is an instrument of the divine purification and therefore moral.

Maistre similarly argued that every physical evil is a well-deserved divine punishment. All scourges of heaven are necessarily "the result of a great national crime or the accumulation of individual crimes," and each one of these scourges could therefore have been prevented by leading a better life, and by prayer.[62] Therefore, even if Maistre did not grant humans any agency in transforming society substantially or swiftly, he did argue that it was at least partly in their hands to avoid large-scale misfortunes, individually and collectively.

As Roland Beiner has accurately remarked, Maistre rarely bored himself with rewards for virtue – rather his preferred theme was the justice of suffering and punishment for sin.[63] In his theodicy, there was always good reason behind human suffering. As mentioned earlier, in Maistre's view, all evil stemmed from people's free will. Humans alone were responsible for it. "Since every evil is a punishment, it follows that no evil should be considered necessary; and since no evil is necessary, it follows that all evil can be prevented, either by suppression of the crime that made it necessary, or by prayer, which has the power of preventing or mitigating it." The reason he gave for not distinguishing between, for example, hereditary illnesses and self-inflicted ones is because they are all punishments. "Original sin, which explains everything and without which nothing is explained, unfortunately repeats itself at every moment in time, although in a secondary way."[64]

At the heart of this ambiguous idea is Maistre's theory of sacrifice. He argued that the suffering of the so-called innocent is due to the providential system of sacrifice. In his idea of theodicy, the crimes of the guilty and the culpability of a tainted community is reconciled by the blood of the innocent. The redemption of

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60 Maistre, *Considerations,* 28–29.

61 "Moreover, if you take a more general look at the role that moral power plays in war, you will be convinced that nowhere does the divine hand make itself felt more vividly to man. One could say that this is a department, if you will allow me the term, whose direction Providence has reserved to itself, and in which man is only allowed to act in an almost mechanical way, since success here depends almost entirely on what he can least control. Never is he warned more often and more vividly of his own powerlessness and of the inexorable power ruling all things than in war." Maistre, *St. Petersburg dialogues*, 222–221.

62 Maistre, *St. Petersburg dialogues*, 124.

63 Ronald Beiner, *Civil Religion: A Dialogue in the History of Political Philosophy* (New York: Cambridge University Press, 2011), 316.

64 Maistre, *St. Petersburg dialogues*, 33.

a wicked community, such as a nation or even humanity in large can only happen through providential sacrifice, which aims at the restoration of the moral regeneration.[65] Maistre notoriously called the scaffold "the Altar." In what may well be the most violent passage in all of Maistre's writings, he talked about the fundamental violence of existence and wrote that:

> From the maggot up to man, the universal law of violent destruction of living things is unceasingly fulfilled. The entire earth, continually steeped in blood, is only an immense altar on which every living thing must be immolated without end, without restraint, without respite until the consummation of the world, until the extinction of evil, until the death of death.[66]

In a chapter of his *Considerations on France*, titled "On the Violent Destruction of the Human Species," Maistre wrote that history proves war is "the habitual state of mankind, which is to say that human blood must flow without interruption somewhere or other on the globe, and that for every nation, peace is only a respite."[67] He described with a lengthy list of examples that the entire human history is a long series of war, death and massacre.[68] Besides the French Revolution, he mentioned Charlemagne's reign, The Seven Years War, the Roman Empire, Genghis Khan, the Crusades, and the "Saracens" (a term that, up until the eighteenth century, Europeans used when referring to Islamic, Arabic and Middle Eastern peoples). After this he added, no longer in quite such a descriptive way, that "Yet there is room to doubt whether this violent destruction is, in general, such a great evil as is believed; at least, it is one of those evils that enters into an order of things where everything is violent and *against nature*, and that produces compensations."[69]

However, even if Maistre emphasized the moral necessity and justification of the suffering of the innocent, in his view, due to original sin,all humans are somewhat guilty – although some are more guilty than others. Therefore, no one is completely innocent, and no one can claim to suffer divine injustice.[70] In his famous poem on the Lisbon earthquake, Voltaire posed a question: why do humans suffer under just and benevolent God? Maistre had a simple answer that "the cat-

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65 See also Jean-Yves Pranchère, "The Persistence of Maistrian thought," in Lebrun, *Joseph de Maistre's Life,* 310–313; Owen Bradley, "Maistre's Theory", 79–81.

66 Maistre, *St. Petersburg dialogues*, 217.

67 Maistre, *Considerations*, 23.

68 Maistre, *Considerations,* 24.

69 Maistre, *Considerations,* 28.

70 Beiner, *Civil Religion*, 316.

echism and common sense reply in concert" – "BECAUSE WE DESERVE IT."[71] He quoted Voltaire's question: "On seeing this pile of victims, do you say: God is avenged; their death is the price of their crimes? What crime, what fault have these children committed Crushed and bloody on their mother's breast?"[72] and dismissed it as "bad reasoning, lacking attention and analysis!"[73] In Maistre's own, rather simplistic view, the city of Lisbon deserved punishment because it was guilty, and had it not been guilty, it would not have been punished. "When God punishes any society for the crimes it has committed, he exacts justice as we do ourselves in this sort of case, without anyone thinking of complaining."[74] Violent destruction, for him, was not only healthy, but also perfectly just.

5 Conclusions

Maistre's unexpected moderation and modernity in *some* matters has led some scholars to underline additionally that his account on violence and suffering was merely descriptive. Considering everything mentioned above, if that is indeed a merely *descriptive* account of violence and suffering, then one might ask, what is not such? There is always a risk that when a researcher is acquainted with this or that thinker in great detail – when they have gone through their notebooks, diaries and correspondence and come to really *know* what kind of humorous, affectionate, and witty individual the person behind the potentially scandalous works could also be – they may become overly apologetic and turn a blind eye to any disturbing element in that persons thought.

Although Maistre undoubtedly scorned everything that the French Revolution represented both politically and philosophically, he appears to have perceived its violence and concrete punishment as proof for how little role of humans played in great upheavals. The Revolution fulfilled a didactic function to show that whenever people flatter themselves by believing that they make things happen or are agents in something, God shows them just how nugatory they really are in the grand totality of existence. Therefore, the atrocities of the Revolutionserved as a necessary remedy for putting people in their place.

To conclude, Maistre's reputation as a brutal thinker, who admires violence, is mostly based upon his theodicy, and as a consequence of that, his insinuation

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71 Maistre, *St. Petersburg dialogues*, 118. See also, Beiner, *Civil Religion*, 322–323.

72 See Voltaire, *Poème sur le désastre de Lisbonne* (Geneve: Cramer, 1756).

73 Maistre, *St. Petersburg dialogues*, 118.

74 Maistre, *St. Petersburg dialogues*, 118.

of the divine justice of violence and human suffering. By explaining the violent circumstances of the 1790s in providential, regenerative terms, Maistre did not merely describe, but legitimized the Terror and bloodshed of the French Revolution. In his view, they were a heaven-ordained punishment for the sins of the Enlightenment. And as God's punishment could have no other aim than to eliminate evil, they were just and served a moral purpose – that is, the regeneration of Christianity, monarchy, and human morality. By emphasizing the inevitability of regeneration, Maistre also sought to release Christianity from the problem of evil.

Maistre's depiction of violence as punishment for the immorality and crimes of the Enlightenment and the Revolution also served a contemporary political purpose. It was a rhetorical attempt to appeal to his readers and warn all European people that if they do not abandon their wicked liberal values and undertakings to overthrow traditional values and hierarchies, monarchy, and the unquestioned status of the Catholic Church, they wouldface deadly consequences. (And have will no one but themselves to blame.) In his *Essay on the Generative Principle of Political Constitutions* (1814), he wrote: "Europe is guilty, for having closed her eyes against these great truths; and it is because she is guilty, that she suffers."[75] Essentially, this could be seen as an early manifestation of the powerful images of threat utilized by conservatives of all times.

Whereas for Maistre the severest existential threat to Christian European civilization wasthe dangerous ideals of the Enlightenment and the French Revolution, contemporary conservatives also incite fears of the potential violent decline of Western civilization. For the latter, this decline is typically marked by liberal multiculturalism,[76] immigration or what they call "the Great Replacement."[77] Although it

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75 Maistre, *Essay on the Generative*, 171.

76 On this matter, references to Sweden have been particularly common lately. The conservative Right has been eager to utilize the failures of Sweden's immigration policy and the country's substantially increased rate of gang violence as an example of the "inevitable outcome of naive multiculturalism."

77 The Great Replacement, coined by French white nationalist novelist Renaud Camus in *Abécédaire de l'in-nocence* (2010) and *Le Grand Remplacement* (2011), is a far-right conspiracy theory alleging that the "ethnic" French and European populations are being replaced with non-white, non-European peoples – particularly African and Middle Eastern Muslims. The theory claims that this "replacement" is not merely an unplanned outcome of migration and the higher birth rate among immigrants than among the autochthons, but rather a result of an intentionally orchestrated scheme of some globalist "elites". See, e.g., Steve Rose, "A Deadly Ideology: How the 'Great Replacement Theory' Went Mainstream," *The Guardian,* June 8, 2022, accessed February 28, 2023, https://www.theguardian.com/world/2022/jun/08/a-deadly-ideology-how-the-great-replacement-theory-went-mainstream?fbclid=IwAR2NFXufvZ7FDHWq4zmaHdIzGiCm32Dna-zvWPTJy0Pie2i3O5cdHxvSMSM. This "replacement" Camus has labelled "genocide by substitution." Similar claims have been presented since the turn of 1970s – by for example Jean Raspail (1925–2020), Alain de Benoist and Jean-Marie Le Pen. Especially

is possible that both Maistre and his modern conservative equivalents more or less genuinely believe in these violent threats to Western civilization, it seems likely that they also use these images as convenient means when trying to persuade the masses behind their political project. Threatening the breakdown of "the safety of our streets and suburbs" appears to be a perfect tool to get people to swallow the conservative worldview whole.

It could be said that Maistre was obsessed with the violence of the Revolution in a similar way as someone, who has a profound aversion to socialism, could have an obsessive fixation on the Soviet Union or its gulags. The gulags serve their political purposes, since they allow them to respond to their political opponents, "Look what happened in the Soviet Union, look where your dangerous ideals and illusions led to." Maistre wrote, with a reference to the violence of the Terror: "The weight of the usurping power must crush the people long enough to disgust them. They have only seen the Revolution; they must feel it; they must, so to speak, savour its bitter consequences. Perhaps, at the moment I am writing, they have not yet had enough."[78] If the punishment and suffering are not hard enough, in Maistre's view, people can keep crying forever about how they were deprived of their beautiful illusions.[79]

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during the last ten years, the central claims and rhetoric of the Great Replacement have been adopted by many rightwing extremists, but also by a growing number of other conservatives. During the previous French presidential elections in 2022, Valérie Pécresse, the candidate of the liberal conservative party The Republicans, referred to the Great Replacement in a speech at her first big campaign rally. See, e.g., Le Parisien avec AFP, "'Grand remplacement': Pécresse dénonce une 'polémique montée' sur une 'théorie de la haine,'" *Le Parisien*, February 15, 2022, accessed February 28, 2023, https://www.leparisien.fr/politique/grand-remplacement-valerie-pecresse-denonce-une-polemique-montee-sur-une-theorie-de-la-haine-15-02-2022-S5LFK37PRBHPPBM4CD7M3JHUOU.php; Norimitsu Onishi, "In France, a Racist Conspiracy Theory Edges Into the Mainstream," *The New York Times*, February 15, 2022, accessed February 28, 2023, https://www.nytimes.com/2022/02/15/world/europe/france-elections-pecresse-great-replacement.html?fbclid=IwAR05nccdJNCXt2L7OMlCLft9ZS2KMHpx9COeU5hpPOWPZlcwbDNHWLGitc0. Usually, this kind of rhetoric has been utilized by figures such as Steve Bannon, Viktor Orbán or Éric Zemmour, who even dedicated most of his presidential campaign video for threatening of the Great Replacement: "You haven't left, and yet you have the feeling of no longer being at home. You have not left your country. Your country left you. You feel like foreigners in your own country. You are internal exiles [. . .] France is no longer France, and everyone sees it."

78 Maistre, *Considerations*, 17–18.
79 Maistre, *Considerations*, 17.

Konstantinos Grigoriadis

Can a revolution be successful without political violence? Benjamin Constant's account of legitimacy in the beginning of nineteenth century

1 Introduction

The question whether revolutionary violence or a right to rebellion can be accepted as a means for the establishment of a new form of government occupies a significant part of the debates in the history of modern European ideas[1]. This discussion was renewed in the first decades after the French Revolution as its legacy created distinct political currents, which envisaged the political system of post–revolutionary France through either a radical neo–Jacobin or a reactionary lens (led by thinkers such as Joseph de Maistre [1753–1821]). However, a group of moderate thinkers[2] (such as Benjamin Constant [1767–1830] and Germaine de Staël [1766–1817]) prioritized a stable, but improved political environment that should be founded upon the initial principles of the Revolution. Investigating forms and modes of possible justification of political violence requires illuminating the post-revolutionary perspectives, because these affected the modern political culture of Europe and therefore the European identity. In this chapter, I explore the case of Constant and his claims as to whether and how institutional reforms are possible with simultaneous avoidance of political violence. His argumentation indicates that violence as a means of promoting radical political ideas should be replaced by reason for the pursuit of a political reform.

As I seek to show, Constant in his doctrine of legitimacy drew a basic distinction between unjustified and justified ways of demanding the improvement of political institutions. This distinction is the background of two different visions regarding the change of the status quo. On the one hand, he identified a radical

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1 This problem was central to the theories of social contract. For example, Locke engaged with this question defending the right to resistance in his *Second Treatise of Civil Government.* See John Locke, *Two Treatises of Government,* ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), chapter 18.

2 For the importance of moderation in Constant's thought, see Aurelian Craiutu, *A Virtue for Courageous Minds: Moderation in French Political Thought 1748–1830* (Princeton, NJ: Princeton University Press, 2012), 198–237; Arthur Ghins, "Moderation and Religion in France after the Revolution: Germaine de Staël and Benjamin Constant," in *The Politics of Moderation in Modern European History*, ed. Ido de Haan and Matthijs Lok (London: Palgrave Macmillan, 2019), 49–66.

revolutionary current, that consisted of fanatical groups and preferred violence instead over reason as a tool to overthrow a political order. That current utilized, according to Constant, the principle of popular sovereignty and promoted a vague notion of the people to usurp people's will and restore despotism in its name. On the other hand, Constant argued in favor of the reformist path, which could be represented only by public opinion as its main advocate. Instead of invocation of the notion of people, public opinion should demand political change, because the enlightened part of society could process political ideas through reason according to the equivalent circumstances. Thus, the reformist path could be successful because the adopted ideas reflected a consensus which could not allow the domination of violence as a main means of pursuing reforms.

The interpretation of Constant's approach to the problem of whether revolutionary violence can be accepted for reforming an institutional order will be based on his analysis in the important treatise *Principles of Politics* (1806) and will be structured as follows. First, I refer to Constant's analysis on the concepts of revolution and resistance, pointing out that he rejects the legitimacy of the former, because revolutions are initiated by radical minorities, although revolutions could be legitimate under the condition that they were accepted by the public or by what Constant called "universal sentiment." Second, I explain his criticism toward the principle of popular sovereignty and the reasons that led him to reject the principle as unsuitable for improving institutions. Criticizing Jean-Jacques Rousseau's (1712–1778) doctrine of sovereignty, Constant associated the demand for popular sovereignty with the danger of usurping the people's will by self-proclaimed representative fanatical groups, which preferred violence as a means of demanding political change. These fanatical groups rejected reason as a way of reaching an ideological agreement and thus adopted stagnant ideas only in the framework of a doctrine, which is not subjected to revision.

Members of the enlightened public could achieve the improvement of institutions using reason to avoid political violence. Constant believed that a revolution can be successful without the use of political violence only if fanatical groups are marginalized and public opinion prevails as the main agent of sovereignty. The reformist attempt to pursue institutional reforms requires the crucial intervention of enlightened individuals, who are considered as facilitators to the incorporation of public opinion to a new constitutional order. In the final section, I show that intellectuals as agents of reason are able to awaken public opinion's will and prevent fanatical groups from seizing power. Constant considers their role as vital for the success of political reforms and introduces their contribution in order to embrace the importance of reason as a tool for the pursuit of institutional reforms.

2 The rejection of revolutionary violence

Constant discusses revolutions as part of his doctrine of legitimacy in the last book of the *Principles of Politics* (1806) along with concepts, such as the obedience to law, civil disobedience, and resistance. Constant refers first to the notions of resistance and revolution noting that a common mistake in the use of these two concepts is related to a usual confusion of their meaning. He points out that these concepts differ regarding their purpose, since "resistance, properly called, tends simply to repulse oppression, while the purpose of the revolutions is to organize governments under new forms."[3] The difference in their purpose rests on the fact that while revolutions have a collective and radical aim regarding the way society is ruled, resistance is an individual oppositional action against the violation of rights by a government. This essential difference leads Constant to emphasize that someone is entitled to resistance, while people do not have a right to start a revolution, because making a revolution "is a power with which one is accidentally cloaked."[4]

Constant clarifies that recognition of the right to resistance does not entail recognition of the right to revolution. He is aware of the possibility that due to outrage, many acts of resistance might lead to revolutions, and he suggests that in such a case the oppressed either "tolerate the evil they suffer" or "do what they can do so that the resistance they put up does not entail excessively violent shocks and fatal upheavals."[5] Revolution must be avoided when a few citizens are the victims of oppression because the inevitable consequence is a violent outburst toward the established political order. Violence is identified as a natural tendency of revolutionary movements that must be marginalized, because it is used for the purpose of establishing a new model of government that represents only a few members of society. That is why he clarifies that "if a minority or even a single idea, however, has the right to resist, no minority of any sort has ever the right to stage a revolution."[6] The main reason for the non-acknowledgment of such a right is that no one is entitled to pursue a cause that is not desired by (at least) the majority of society.

Having admitted that revolutions affect the whole society because of their violent direction, Constant refers to an exceptional condition able to render them legitimate:

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3 Benjamin Constant, *Principles of Politics Applicable to All Governments,* trans. Dennis O' Keefe (Indianapolis, IN: Liberty Fund, 2003), 520–521.

4 Constant, *Principles,* 521.

5 Constant, *Principles,* 521.

6 Constant, *Principles,* 522.

> Resistance is legitimate anytime it is founded on justice, because justice is the same for everybody, for one person as for thirty million. A revolution is legitimate, however, just as it is useful, only when it is consistent with the universal sentiment. This is because new institutions can be salutary and stable, in a word, free, only when they are desired by the whole society in which they are being introduced [. . .] It is only ever tyranny which alienates the opinion of the majority; for the majority has nothing to gain from opposition to government. Therefore, the less tyranny we have, the less risk will there be of the alienation of the public opinion.[7]

Constant accepts the legitimacy of a revolution on the condition that its necessity is endorsed by what he calls "universal sentiment," that is associated with public opinion regarding the potential change of status quo.[8] Public opinion, being an agent viewed by Constant as "the very life of states,"[9] cannot be expressed reliably when the few intend to oppose a system using violence. In such a case, they would distort the will of the public in order to establish tyranny. Thus, the creation of a "universal sentiment" is a presupposition for the acceptance of a revolution and to attempt a safe transition to a reformed government.

Beginning this analysis, Constant essentially identifies two different visions on how the status quo could be changed. One is the revolutionary intention expressed by a minority that is often hostile to the "universal sentiment," and the other is the revolution conceived as a non-radical reform accepted by the public. Accordingly, Constant divides the opposers of the status quo into two groups: the first group prefers violence as a solution to the oppression and the second group remains moderate but is vulnerable to division.[10] These two groups utilize different strategies and envisage the promotion of political ideas and their subsequent incorporation to a reformed environment in incompatible ways. In order to understand how Constant ends up identifying public opinion as the proper agent of expressing the need for a non-radical reform, one needs to understand that, in his view, radical revolutions cannot set the foundations of a reformed political order and inevitably lead to the emergence of despotism.

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7 Constant, *Principles,* 522.

8 This observation of Constant indicates a flaw in interpretations that see him only as an advocate of passive resistance. See Iain McDaniel, "Representative Democracy and the Spirit of Resistance from Constant to Tocqueville," *History of European Ideas* 44, no. 4 (2018): 439. However, with the above statement Constant seems to accept revolutions only as non–radical political reforms.

9 Constant, *Principles*, 113.

10 Constant, *Principles*, 415.

3 Criticism of popular sovereignty and support of the reformist path

Associating revolutions with minority initiatives, Constant attempts to present the main means that their supporters utilize to pursue a change contrary to the will of the public. The first group of revolutionaries prefers violence because their choice is dictated by fanaticism.[11] Constant defines fanaticism as "the rule of a single idea which wishes to triumph at any price."[12] Fanaticism is an intellectual attitude that directs a person to adopt a specific idea and impose its application over others. As he points out, "fanaticism and freedom are incompatible. One is based on examination; the other forbids research and punishes doubt."[13] While individuals who think freely attempt to persuade others, fanatics do not question their own ideas or even doubt their validity as they intend to impose their worldview on others. Constant identifies an intellectual attitude that aids the attempt at violently overthrowing a political order without considering public opinion.

Additionally, the incompatibility between freedom and fanaticism is not clear in the minds of fanatics. As he claims, these people

> can receive ideas only in the word of others, more in the form of a mysterious revelation than as a sequence of principles and consequences. It is in the shape of a dogma that the nation of freedom dawns in unenlightened minds and its effect then is as with any other dogma, a kind of exaltation, of fury, impatience with contradiction, the inability to tolerate the slightest reservation, the slightest changes in the creed.[14]

Fanaticism prevents people from perceiving ideas as contributions to an intellectual process, since they reduce them to a doctrine, which must be followed without the slightest objection. The adopted political ideas do not result from a rational process combined with an estimation of other factors (such as their historical suitability, the broader socio-economic conditions and the attitude of the public). Instead, fanatics attribute a static meaning to political ideas without taking into account the framework in which they are going to be applied.

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11 Steven K. Vincent also notes the importance of fanaticism as a danger in Constant's thought. See Steven K. Vincent, *Benjamin Constant and the Birth of French Liberalism* (London: Palgrave Macmillan, 2011), 143–146, 192–194. Germaine de Staël also attacked philosophical fanaticism noting that it "was one of the evils of the Revolution." See Germaine de Staël, *Considerations on the Principal Events of the French Revolution,* ed. Craiutu Aurelian (Indianapolis, IN: Liberty Fund, 2008), 354–356.

12 Constant, *Principles,* 415.

13 Constant, *Principles,* 415.

14 Constant, *Principles,* 415.

Rejecting violence as a means of pursuing political change, Constant calls on the fanatical groups (like other minorities) not to proclaim themselves as leaders of the public. His concern is implied in the following statement:

> Individuals have the same duties to society as society to individuals. It has no right to stop the development of their intellectual faculties nor to put limits on their progress. They, however, have no right to stand in judgment on the progress society should make and drag it violently toward a purpose going beyond its present wishes.[15]

In this passage, Constant describes the proper relationship between individuals and society, stating that it is necessary for individuals to respect the pace or path, with which society wants to move forward. The fanatical groups violating this principle intend to overcome the "present wishes" and make changes that society is not ready to accept at an equivalent point of time, because its members are not ready to reach a consensus about reforms beyond a certain point.

Constant, identifying violence as an ineffective way of achieving institutional changes claims that the fanatics who attempt to impose reforms, which are not accepted by the public, promote rushed changes that "put force in the place of reason."[16] On the one hand, fanatics use force, and on the other, reason characterizes the intellectual attitude of the public toward the necessity of reforms. The contrast between reason and force indicates a basic dimension about the meaning of the former. Reason refers to the specific ideas that the members of the public have processed. The domination of reason indicates a certain time of preparation, during which certain ideas are formed and revised in public opinion without leaving the political field open for fanaticism. The preference of reason over force corresponds to Constant's claim that ideas applied through force, although they might be appropriate in the long-term future, are not suitable at a particular moment.

Having described the intellectual profile of fanatical groups, Constant notes that the defense of popular sovereignty forms a crucial ideological contributor to the pursuit of their goals. The historical implementation of the principle of popular sovereignty, according to Constant, jeopardized the intention of founding a reformed government by nonviolent means. The invocation of this principle by fanatical radical groups (for example, Jacobins) was very attractive and facilitated their effort to seize power. This was possible because the notion of "the people" is vague and does not refer to a specific political category of individuals. The consequences, according to Constant's explanation, could be seen in the historical ex-

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15 Constant, *Principles,* 409.
16 Constant, *Principles,* 409.

ample of the French Revolution since the results were exactly the opposite from those expected. He notes:

> this is the theory which seems to me false and dangerous. In my view, this is the theory we must hold responsible for most of the difficulties the establishment of freedom has encountered among various nations [. . .] and indeed for most of the crimes which civil strife and political upheaval drag in their wake. It was just this theory which inspired our revolution and those horrors for which liberty for all was at once the pretext and the victim.[17]

The discourse in favor of popular sovereignty facilitated fanatical groups' attempt to appear as representatives of the people, while their actual priority was to usurp that people's will in order to establish a despotic regime.

In his criticism of Rousseau's doctrine of sovereignty in the first chapters of the *Principles*, Constant points out the theoretical problems of the principle that aids fanatic defenders in their effort to seize power. Constant critically discusses Rousseau's principles of sovereignty, expressing his agreement with Rousseau's basic claim but modifying its meaning. As he points out, "Rousseau begins by establishing that any authority which governs a nation must come from the general will. This is not a principle I claim to challenge."[18] Agreeing with this initial principle, he presents a new definition of it:

> if you think that the power of a small group is sanctioned by the assent of all, that power then becomes the general will [. . .] Theocracy, royalty and aristocracy, when they command minds, are the general will. When they do not command minds, they cannot be anything else, but force. In sum, the world knows only two kinds of power. There is force, the illegitimate kind; and there is the legitimate kind, the general will.[19]

Constant attempts to redefine the concept of general will by clarifying that the existence of a form of government depends on the notion of "assent," which is a passive form of general consent. As Arthur Ghins has pointed out, Constant's claim indicates at this point how obedience was secured under different models of government[20] clarifying that a political system embodies the general will when it has secured the assent of its subjects.

Extending his argumentation, he seeks to disconnect the notion of general will from that of popular sovereignty, claiming that Rousseau's version of a gen-

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17 Constant, *Principles*, 13.

18 Constant, *Principles*, 6.

19 Constant, *Principles*, 6.

20 Arthur Ghins, "'The Popular Sovereignty that I Deny': Benjamin Constant on Public Opinion, Political Legitimacy and Constitution Making," *Modern Intellectual History*, 19, no.1 (2022): 140.

eral will with a supreme and absolute jurisdiction possessed by all does not have any boundaries. As he claims:

> the axiom of the people's sovereignty has been thought of as a principle of freedom. It is in fact a principle of constitutional guarantee [. . .] It determines nothing, however, about the nature of this authority itself. It in no way adds to the sum of individual liberties, therefore, and if we do not turn to other principles for determining the extent of this sovereignty, freedom could be lost, despite the principles of the sovereignty of the people, or even because of it.[21]

This principle represented for Constant the domination of general will upon the members of society, which could be extended to the sphere of individual freedom. His priority was to connect the notion of general will with a particular circumscribed notion of authority.

The main problem with the principle of popular sovereignty was that it was vague and lacked limits. This could enable fanatical groups to speak in favor of the people's interest without respecting the independence of individuals and their own choice to deviate from what was the people's will at a certain point of time. As Bryan Garsten has pointed out, Constant believed that the principle of popular sovereignty was beneficial only in its negative version (as a principle of constitutional guarantee). However, if it was conceived as a principle of government, then "it would be seized upon by all sorts of politicians ambitious for rule."[22] Garsten adds that, because of its general character, the principle could end up being a facilitator to the distortion of people's will. This was visible in the rule of Napoleon, who allowed plebiscites, but in a way that legitimized his own authority. In this case, "the voice of the people was conceived as an aggregate number of votes in support of a leader rather than more substantive expressions of policy by groups."[23] Thus, without knowing the precise content of people's views, the despot could construct the agreement of the public with his views declaring the "typical" existence of popular sovereignty.

Rejecting the people as the legitimate agent of sovereignty, Constant argues in favor of a reformist path to rescue revolution as nonviolent reform. This strategy requires the recognition of public opinion as the alternative proper agent.[24]

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21 Constant, *Principles,* 11.

22 Bryan Garsten, "From Popular Sovereignty to Civil Society in Post-Revolutionary France," in *Popular Sovereignty in Historical Perspective,* ed. Richard Bourke and Quentin Skinner (Cambridge: Cambridge University Press, 2016), 257.

23 Garsten, "From Popular Sovereignty," 259.

24 The view that Constant defended even an elementary notion of popular sovereignty has been challenged in recent publications. For example, Arthur Ghins has argued that Constant advocated

Why is public opinion the subject that should acknowledge the legitimacy of a reformed government? First, public opinion is not identified with the whole population but is the part of society that is interested in being enlightened. He notes that "the educated part of the nation interests itself in the administration of affairs, when it can express its opinion, if not directly on each particular issue, at least on the general principles of government."[25] Public opinion reflects the part of society which is interested in being constantly active in public affairs. This part of society exercises the most important influence on the adoption of policies. However, the other part of society, according to Constant, is ignorant: "there is a class, however, whose opinions can only be prejudices, a class with lacking time in reflection, can learn only what is taught, a class which has to believe what is told, a class, which, lastly, not being able to devote itself to analysis, has no interest in intellectual independence."[26] Constant makes clear that the opinion of the educated on public affairs can affect the opinions of the uneducated part of society. Thus, the educated public is the main factor that determines in a crucial extent the developments in public life.

The crucial difference between public opinion and fanatical groups is that the former perceives ideas rationally. While fanatics support political ideas without questioning their validity, public opinion adopts them after a long period of processing. For Constant, reason does not only refer to the process of a rational agreement with specific ideas.[27] Reason is also a way of approaching agreement between the members of the public. One of the basic freedoms that Constant defended in the *Principles* is that each citizen is free to search for the truth independently from the directives of government.[28] Government's intervention deprives

government by public opinion instead of sovereignty by the people. See Ghins, "Popular Sovereignty," 128–158.

25 Constant, *Principles*, 112.

26 Constant, *Principles*, 303.

27 In his important historical essay *De la perfectibilité de l'espèce humaine* Constant describes the rational process of adopting ideas by referring to the notion of self–development [*perfectionnement*]. For Constant, self–development is the fundamental process that is responsible for the progressive trajectory of human beings from antiquity to modernity. This capacity can lead humans to perfectibility, namely, the condition of moral perfection of individuals. See Benjamin Constant, *Écrits politiques* (Paris: Gallimard, 1997), 700–720.

28 Constant, *Principles*, 301–304. For the freedom of speech in Constant's thought, see Bryan Garsten, "'The Spirit of Independence' in Benjamin Constant's Thoughts on a Free Press," in *Censorship Moments: Reading Texts in the History of Censorship and Freedom of Expression*, ed. Geoff Kemp (London: Bloomsbury Academic, 2015), 117–124; Helena Rosenblatt, "Rousseau, Constant and the Emergence of the Modern Notion of Speech," in *Freedom of Speech: The History of an Idea,* ed. Elizabeth Powers (Plymouth: Bucknell University Press, 2011), 133–164.

citizens of the opportunity to be autonomous and to cultivate their own judgment on public affairs. Constant's concern on freedom of thought does not only result from the need of checks and balances on a government, but also from the fact that it enables citizens to exercise reason by involving themselves in public discussion.[29]

The expression of individual judgment[30] through speech is a presupposition for the formation of an enlightened public opinion. In this sense, opinions of individuals can interact and even end up forming an overall agreement. Constant claims that "if government stays neutral, however, letting people debate, opinions join combat and enlightenment is born of their clash. A national outlook forms, and the truth brings together such agreement that it is no longer possible to fail to recognize it."[31] Discussion as a process can lead to the emergence of a unified opinion because of the final agreement among separate perspectives. There is a combination of individuality in terms of searching the truth and a final hegemony of public reason, which is the sum of the distinct and aggregated seeds of truth. This is the way to create what Constant called "universal sentiment" as a main condition for the marginalization of revolutionary violence, which imposes changes not accepted by the public. Therefore, when individuals search for truth, this process will result to the emergence of the public as a unified subject with specific ideas.

The public's search for truth shows that its members constantly revise existing ideas. The development of public opinion toward a final agreement regarding specific ideas, that will be incorporated to a reformed government, leads Constant to introduce the concept of "public spirit." This notion refers to the final formation of a political subject with specific political ideas and not a multitude that has not reached a consensus. He points out that "the public spirit is the fruit of time. It forms through a long sequence of acquired ideas, sensations experienced, successive modifications, which are independent of men and are transmitted and modified again from one generation to another."[32] The public spirit is not static, as the fanatical groups, and transforms continuously with the aid of ideas that are modified and transferred to the next generation. This public spirit follows a path of progress and at a particular point, is ready to manifest a set of ideas that

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29 For this reason, referring to the value of freedom of the press, Constant claims that "the question of press freedom is therefore the general one about the development of the human mind." Constant, *Principles*, 112.

30 For Constant's approach to judgment, see Lucien Jaume, *L'Individu effacé: ou le paradoxe du libéralisme français*, (Paris: Fayard, 1997), 64–69.

31 Constant, *Principles*, 343.

32 Constant, *Principles*, 522.

has evolved in comparison to the previous conceptions and can be applicable considering the equivalent socioeconomic conditions.

While the public spirit (or public opinion) develops constantly, it does not always manifest immediately political ideas. However, this silence does not entail that the public opinion does not desire a political change. As Constant points out, "it is never right to claim that the people's wish is for despotism. They can be dropping with fatigue and want to rest awhile, just as the exhausted traveler can fall asleep in a wood although it is infested with brigands. This temporary stupor, however, cannot be taken for a stable condition."[33] People always have a "wish" regardless of whether it can be expressed explicitly or not. This is so even if the political system is despotic, and the despotic government is hostile to the public will and keeps its expression silent. That is why Constant points out that "to no avail do the weariness of nations, the anxiety of leaders, the servility of political instruments form an artificial "assent" which people call public opinion. It is absolutely not this. Men never cut themselves off freedom."[34] Public opinion is always a reformist subject that wishes to establish improved political conditions, but the degree of its preparation and awareness differs from time to time.

Acknowledging that the public always seeks the improvement of political conditions, Constant uses the term "wish" to refer to the existence of an inner desire within people that is not always expressed against the status quo. The manifestation of the wish of the people coincides with the manifestation of their will for institutional reforms. For this reason, Constant holds that:

> there is always a public spirit, a public will. Men can never be indifferent to their own fate nor lose interest in their futures. When governments do the opposite of what the people want, however, the latter grow weary of expressing it, and since a nation cannot, even through terror, be forced to tell itself lies, they say that the public spirit is asleep, holding themselves the while ready to choke it, if ever it should allow the suspicion that it is awake.[35]

The ideas of public opinion maintain the form of wishes until their decisive transformation to an organized will. Constant also admits that the establishment of despotism is successful because of the temporary "sleep" of the public spirit.

However, the public spirit is capable of awakening when the conditions have become mature. Constant confirms this observation referring to the historical rise of public opinion's will in 1789. He points out that people were ready for a significant political change after a long period, because they reached a consensus about

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33 Constant, *Principles,* 526.
34 Constant, *Principles,* 421.
35 Constant, *Principles,* 522–523.

the necessity of institutional reforms.[36] This public spirit was formed gradually and was influenced not only by the writings of progressive thinkers, but also by the oppression of the ancien régime, which forced the "deactivated" public opinion to express its will. Constant is aware of a historical example (French Revolution), which indicates that revolutions are legitimate as non-radical political reforms, when the previously silenced public opinion transforms into an active public spirit. The creation of this reformist subject was crucial for the constitution of an anti-hierarchical attitude against the absolute monarchy.

The capacity of public opinion to revise and end up adopting ideas and transform itself into a public spirit is the successful and justified way defended by Constant. This way being characterized by the rational agreement with political ideas and the marginalization of revolutionary minorities can lead to non–violent reform and the establishment of an improved political system. On the contrary, the "rushed" way that involves the aggressive and violent opposition against status quo, is not based on reason and will not be successful, as it will bring the opposite results leading a revolutionary movement to regression and despotism.

4 The contribution of enlightened individuals to the reformist strategy

The distinction between an enlightened and a violent way of pursuing institutional reforms is the background for the doctrine of legitimacy and leads Constant to consider safeguards that could prevent the development of the violent strategy. For the status quo to change in the enlightened way, the contribution of enlightened individuals (intellectuals) is crucial, and Constant discusses their role in the last book of the *Principles*. In this book, he distinguishes between two stages in revolutions driven by the two distinct groups of their supporters: in the first stage, there is "a unanimous feeling that overthrows what everybody finds intolerable," while in the second stage "there is an attempt to destroy everything contrary to the viewpoint of a few."[37] According to Constant, enlightened individuals have a duty to prevent a revolution from moving from the first to the second stage. With this intervention, the revolution remains devoted to the ideas of public opinion. Be-

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36 Constant points out that "the public spirit of 1789 was the result, not only of the writings of the eighteenth century, but of what our fathers have suffered, under Louis XIV, our ancestors under XIII. The public spirit is the heritage of the experiences of the nation, which adds to this heritage, the experiences of every day." See Constant, *Principles,* 522.

37 Constant, *Principles,* 408.

tween the first and the second stage, enlightened individuals should come forward and contribute to the control of any passions and maintain the whole intentions of the public in moderate terms. As Constant points out, "if the enlightened men can stop the revolution at this stage, the chances of success are good."[38]

When enlightened individuals intervene during revolutions, their primary obligation is to respect the public opinion. As Constant repeatedly states regarding the necessary presuppositions of a successful revolution, "an improvement, a reform, the abolition of an abusive practice, all these things are useful only when they follow what the nation wants."[39] Here Constant maintains that the will of the nation is related to the acceptance of a set of ideas that its members have already processed. This is a clear statement in which Constant uses the concept of nation[40] alternatively to the notions of public opinion (or the universal sentiment) to indicate that any important reforms require the agreement of this collective subject. Enlightened individuals should suggest reforms to the public without violating this initial premise.

In preventing revolutions from moving to the second stage, enlightened individuals must not act like the fanatical groups, which impose their own ideas even if the public disapproves them. Such action would have two main consequences. First, enlightened individuals would contradict themselves: they would promise to the current generations benefits in the new political reality but emphasize that the current generation needs to make sacrifices for the prosperity of the future ones.[41] Second, the intellectuals would promise a new political reality, which is going to secure the desired benefits, but this promise is problematic, because any system established after the revolution will need continuous improvement.[42] The few should be aware in that case that they demand from the majority (public opinion) sacrifices for a cause, which they cannot guarantee. The political environment created will not be stable, because it will not be universally accepted.

While intellectuals should maintain contact with public opinion, Constant adds that they have a duty to prepare members of the public for political change by offering the necessary guidance to save "the least bit of enlightenment, the

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38 Constant, *Principles,* 408.

39 Constant, *Principles,* 409.

40 For the role of nation within the discussion about sovereignty in the first half of the nineteenth century, see Lucia Rubinelli, "Taming Sovereignty: Constituent Power in Nineteenth Century French Political Thought," *History of European Ideas* 44, no. 1 (2018): 60–74.

41 Constant, *Principles,* 409.

42 Constant, *Principles,* 410.

least germ of thought, the least refined sentiments, the least mark of elegance."[43] This duty is crucial for the trajectory of a revolution because it makes the reform of political institutions possible. Considering the claim that the public does not remain always active regarding its will to overthrow despotism, Constant points to another aspect of the relationship between the public and the intellectuals. Communication from intellectuals to the public either through their writings or through their efforts to prevent violent tendencies in society is an important duty in historical terms and is not tied necessarily to specific historical events. Constant sees enlightened individuals as "agents of reason"[44] especially in the aftermath of violent revolutions. When violence has prevailed over the reasonable public opinion and probably has diminished the chances of a successful revolution, "enlightened men always retain a thousand ways of making themselves heard."[45] In a situation where violence has prevailed, the intellectuals cannot just abandon the hope of reawakening public opinion. Rather they should insist on the re-emergence of the general will even among the ruins of a failed revolution because they have the capacity to rescue the enlightened direction of a reformist movement. Constant notes that intellectual activity is "always independent whatever the circumstances. Its nature is to survey the objects it is evaluating and to generalize on what it observes,"[46] and clarifies that reason might be cultivated regardless of sociopolitical circumstances. Due to this quality of reason, intellectuals can actively serve their vocation at any time. Their role is not limited to the fulfillment of their basic duties during revolutions. Their influence is unrestricted by circumstances.

The victory of despotism over public opinion and the effort of intellectuals to bring the latter to the surface is only temporary and cannot be maintained for long. Despotism can delay the progress of reasonable ideas and prevent them from being applied institutionally, but "when reason gets on the march, however, it is invincible. Its supporters may perish, but it survives and triumphs."[47] The possibility of that reason may re-emerge through public opinion is facilitated by the intellectuals' commitment not to give up on their efforts to awaken the public in harsh times. This is why Constant addresses the enlightened individuals:

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43 Constant, *Principles,* 414.
44 Arthur Ghins uses the term "missionaries of truth" to describe the contribution of enlightened people. However, the term implies that their role is to indoctrinate the public or to impose a certain conception of truth and not to advise or coordinate. See Ghins, "Popular Sovereignty," 143.
45 Constant, *Principles,* 421.
46 Constant, *Principles,* 527.
47 Constant, *Principles,* 421–422.

> So, redouble your efforts, eloquent, brave writers. Study the old elements of which human nature is composed. You will find everywhere morality and freedom in everything which at all times produced true emotions, in the characters which have served as the model for heroes [. . .] you will find these principles everywhere, serving some people with an ideal model.[48]

This message to the intellectuals shows that Constant attributes to them a great degree of responsibility. They should not just prepare public opinion for a potential revolution, but they could bring to the surface the knowledge the educated public has accumulated and incorporate it into the task of enlightening the uneducated part of the people. This gradual progress in public opinion is owed in a significant extent to the involvement of enlightened individuals. Their intervention helps members of the public to accept truths, that exist independently of various circumstances, but have not yet been recognized universally. As Ghins points out, Constant sees enlightened writers not as individuals having the privilege to engage in intellectual activity, but as a caste that helps the public to process and accept universally recognized truths[49] and avoids the imposition of a particular doctrine. Thus, their role is considered as both guiding and "anti–systemic", since their independence from the directives of government is a presupposition for strengthening their own intellectual activity and the realization of their task. Constant confirms this "virtue" of intellectuals pointing out that "thought is strengthened when redundant activity is removed from government for a people to progress, it suffices that government does not shackle them."[50] Autonomous intellectual activity is a presupposition for intellectuals to fulfil their duties to public opinion.

Enlightened facilitators are not only agents of reason, but also opinion-makers, who can help make members of the public see the necessity of institutional changes.[51] This interaction is only effective, however, if public opinion is ready to demand the incorporation of ideas into a constitution as principles.[52] Even when there is a common agreement on the necessity of a revolution, enlightened individuals should be aware of the precise purposes that public opinion

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48 Constant, *Principles,* 422.

49 Arthur Ghins, "Benjamin Constant and Public Opinion in Post-Revolutionary France," *History of Political Thought* 40, no. 3 (2019): 499.

50 Constant, *Principles,* 343.

51 Ghins, "Popular Sovereignty," 144–145.

52 Ghins notes accurately that these principles are timeless and exist regardless of whether public opinion is ready to recognize them. However, with the aid of enlightened people, public opinion can express them as ideas until their enactment as principles. See Ghins, "Popular Sovereignty," 139.

wants a revolution to fulfill. Their effort consists in raising awareness and convincing the public that institutional reform or change is necessary at a specific point in time. As agents of reason and as opinion-makers, they shed light, namely, they can bring to the surface ideas that public opinion maintained in the form of wishes. The transformation of ideas into constitutional principles presupposes the active attempts of enlightened writers to remind the public that its duty is to struggle for the political recognition of these ideas[53] as a part of the pursuit of political reforms.

5 Conclusion

In this chapter, I attempted to show that Benjamin Constant was seeking to convincingly answer the question whether new governments could be established without the use of violence. His primary concern was to avoid two pitfalls: a) the rise of extreme fanatical groups as advocates of this cause, b) the restoration of despotism by these groups. His argumentation indicates that a revolution could be legitimate (and successful) only if the violent strategy was marginalized. In this sense, the legacy of French Revolution, and especially the Reign of Terror, influenced his choice to identify the non-radical reformist path as the proper one for implementing institutional changes under specific conditions.

As I demonstrated, Constant adopted a moderate attitude believing that a revolution can be successful only if it is conceived as non-radical reform subjected to certain conditions. In the first section on Constant's rejection of a right to revolutions, I clarified that they can be acceptable only if they are approved by public opinion. In the next section, I explored the main problems of the revolutionary current and presented the reasons that lead Constant to identify government by public opinion, rather than popular sovereignty, as the safest way of promoting reforms. The contrast between fanaticism and reason is crucial in his argumentation. He sees fanaticism as the intellectual background of violence, while defend-

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53 From these observations, it is visible that Constant adopts a historical perspective on the formation and the reform of political institutions. In the *Principles of Politics* of 1815, he points out in a footnote in the Foreword that "Constitutions are seldom made by the will of men. Time makes them. They are introduced almost gradually and in almost imperceptible ways. Yet there are circumstances in which it becomes indispensable to make a constitution." See Benjamin Constant, *Political Writings*, trans. Biancamaria Fontana (Cambridge: Cambridge University Press, 1988), 172. The will for political reform is not manifested randomly, but the content of constitutions is the result of a long process of the equivalent ideas. The success of reforms is owed in a significant extent to the contribution of enlightened individuals.

ing reason, because it fosters a developmental trajectory of ideas and transforms public opinion into "public spirit." Being based on reason, the reformist strategy reflects a widespread public consensus and can be successful because the upcoming reforms correspond to the ideas of the public and not to the doctrine of the few fanatics. On the contrary, through violence, fanatics invoke the vague notion of the people with the aim of establishing despotic rule and diminishing the chances of progressive reforms. However, the reformist strategy needs the aid of enlightened individuals, who can prevent violence, contribute to the re-emergence of the public spirit and awaken the general will for reforms. The above conditions are necessary for the marginalization of the radical strategy and can help to establish a reformed government that will be stable and founded upon universal approval.

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