

Prior to Law and Subsequent to Understanding:

Benjamin as a Student of the Law

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Entering Benjamin's Legal World

Over the course of his intellectual career, the cultural critic Walter Benjamin became preoccupied with analysing certain political and philosophical trends within German society that indicated a pending collapse of society itself and the eventual annihilation of its inhabitants. Through careful observation he concluded that the German people were subject to systematic violence brought on by collective forces in government and ideology. A conspicuous absence of esteem for individual agency, coupled with an unconditional adherence to the group mentality, signalled a decline in their social conscience. As a result of this individuals were left profoundly vulnerable within their communities. This collective character of acquiescence paved the way for their society to stagnate politically and ideologically, eventually resulting in the rise of German fascism.

Parliamentary democracy failed in Germany throughout the 1920s. The German legislature promised the German people a non-violent means of dealing with its political affairs, making every effort to reach its decisions through compromise. This approach, by the end of the 1920s, had proven to satisfy no one and left politics vulnerable to the influence of more outwardly violent forms of law making, included amongst them fascist dictator-

ship. This void in political satisfaction invited the worst aspects of German collectivity to come forth, elements of which came together to form a social catastrophe of unprecedented scope. The relentless distortion of the law would play a key role in the march toward catastrophe. Rather than proceeding toward democratic progress, the law served to increasingly limit the civil agency of German citizens and in so doing authorised the rise of autocratic rule.

By 1933 National Socialism had officially taken hold in Germany and a state of emergency had been declared such that the law was in a state of suspension, or more precisely, in a state of exception toward the rules which governed it. As National Socialism solidified its hold on power, it concurrently raised an assault on civil liberties and human rights in German society, such that the condition of life under the law became increasingly perilous for its people. The law became – for all intents and purposes – incomprehensible to the average German citizen. The fear that accompanied such change began to exert tremendous pressure on certain elements of German society, severely compromising their recognition as citizens with rights under the law. In such a state of affairs, those citizens classified as unworthy of life in the Reich continued to proliferate in their aberrant forms, most notably amongst the Jewish population of the state. Benjamin contended that the threat to these individuals could only disappear with the demise of the present distorted order and the restoration of the law.

Responding to such conditions, Benjamin made it his intellectual task to predict the contours of German society's coming annihilation and with it the divine redemption of the individuals who had been its victims. By the mid-1930s his task became focused on the works of one critical figure in particular, Franz Kafka. Even in his youth, Benjamin was taken with textual practices of counteractualisation such as diary writing and literary correspondence as a means with which to critically offset what he viewed as the modern failings of German society. Later on in life, he became fascinated with the letters Kafka wrote, which he believed provided insight into the divine power of the universe. The hope they portrayed was of another, better world to come, and of a future beyond annihilation. Benjamin hoped that these literary enterprises might outstrip the reach of oblivion and in so doing materialise an opening to a world to come.

The agent who would be charged with fulfilling this hope for both Benjamin and Kafka was the figure of the student. For Kafka, being a student holds a special and unique responsibility because for him it brings about the potential reversal of historical events and the advent of a new time. The student is the figure that has no chance of surviving humanity, and yet hopes to transmit something to the beyond that will aid future existence.

Benjamin and Kafka both believed that it was humanity's role in history to ultimately fail, so as to make way for other kinds of life to emerge in its place. It is for this reason that humanity is subject to recrimination by a mythic law based on a glorified human authority. Such a system of law, at least ostensibly, claims to adhere to a truth. Such a law moreover is one that they remain blissfully unaware of prior to the time of their apprehension by it. It is these victims of a distorted and corrupt mythic or state law who will preside alongside God on the day when the divine law, which is currently in suspension, is finally resumed. They perish because they look back to history as a continuum for answers to what amounts to a revolutionary break with traditional forms of existence, the collapse of mankind itself. In the wake of German fascism liberal society has lost its traditional supports and has become the subject for a law that exists merely as a hollow form of representation, where all of its subjects are potentially also its victims. Their recourse to historicism in tackling this precarious situation means that they can only look backward without any means of looking forward to what that condition must eventuate; the destruction or sacrifice of all humankind. Perhaps it is only a complacent fool or a lazy student who grasps history in such a way as to allow revolutionary happening to surpass his apprehension time and time again. Students of history who proceed in such a way accelerate the catastrophe. Benjamin's object in writing is not to forestall this catastrophe, but rather to signal other types of students to adhere to a different sense of justice, of timing and authority for this world and also its possible successors.

Collective Suffering

As early as 1925 Benjamin became preoccupied with a certain set of coordinates within European society that signalled a pending annihilation of its inhabitants. In his book *One Way Street* he speaks of "the quite remarkable stabilities of an entirely new kind that underlie the present situation."¹ These stabilities doubled as political and economic forces. They were silent and invisible, and operated within a zone of the law that was beyond negotiation. In the face of them there was no option but surrender, and the frozen expectation that a reckoning would soon follow. Benjamin believes that inflation is not the cause of this crisis in Germany society, nor the weight of war reparations. For him there is another source that needs to be exposed so as to "uncover the dark powers that hold his life in thrall."² The origin of these dark powers remains hard to get at because it is located at the very core of the German people themselves. They are an isolated people amongst the Central Europeans, and for this the reason, according to Ben-

jamin, they are victim to interiorised violence. This violence is “incomprehensible to outsiders and wholly imperceptible to those imprisoned by it, with which circumstances, squalor and stupidity here subjugated people entirely to collective forces, as the lives of savages alone are subjected to tribal laws.”³

What was conspicuously absent from this diagnosis was any concept of individual force exerted against the mass. Rather, Benjamin seems to be suggesting that this trait was forfeit in the Germans, and that their individual psyches have somehow submitted unconditionally to the group mentality, in a founding act of community that is totally obscured from their understanding. People were concerned much more about preserving their own dignity, than in facing the general failure of society to accommodate its people. Everyone reacted to this sight with a further inwardness, such that one’s standpoint became increasingly isolated from the context of civil life. Greatness thus diminished amongst a veil of mediocrity and wilful indifference. Humanity seemed to be dissipating within such individuals, as people continue to overcome “secret resistances,” accommodate further coldness and isolation they came into contact with, accept a “surliness” from civil servants which borders on abuse, and finally become hindered to such a degree, that their movement as people became imperceptible.⁴ They assume the static form of community. In this way they become victim to a “universal delusion,” standing in mass formation, they are subject to “mirages of a glorious cultural future breaking upon [them] overnight in spite of it all, for everyone was committing to the optical illusions of his isolated standpoint.”⁵

Benjamin sensed as early as 1926 that “for the suffering communities there is only one limit beyond which things cannot go: annihilation.”⁶ The question for Benjamin was therefore not whether humanity would breach that limit, but how and through what manner of agency. An increasingly volatile discernment of law certainly would play a key role in the proceedings. The dictates were all there in the form of signs and symbols, a veritable signature of those responsible, one only had to look to see them. But then that was the difficulty: so many had been made blind by the dazzling prospect of progress that most failed to see what was ahead of them.

The Character of the Law

Responding to such conditions, Benjamin made it his personal task to predict the contours of the coming annihilation. As such it became the key concern for Benjamin’s critical enterprise throughout the 1930s. By the mid-1930s this concern became focused more narrowly around the works of one critical figure in particular, Franz Kafka. There is a famous correspon-

dence between Walter Benjamin and Gershom Scholem that date from late 1934 and that centres on the significance of the law in Kafka's writings. It had been more than a year since National Socialism had officially taken hold in Germany and a state of emergency had been declared such that the law was in a state of suspension, or more precisely, in a state of exception toward the rules which governed it. In a series of letters, based loosely around Benjamin's ongoing work on Kafka, they discuss the character of law as it stands within the context of this period of ongoing crisis.

In a letter dated September 20, 1934, Scholem defines the relation of the law described in Kafka's *Trial* as the "Nothing of revelation," intending by this expression to name "a state of life in which revelation appears to be without meaning in which it still asserts itself, in which it has *validity* but *no* significance. A state in which the wealth of meaning is lost, and what is in process of appearing (for revelation is such a process) still does not disappear, even though it is reduced to the zero point of its own content, so to speak."⁷ According to Scholem, a law that finds itself in such a condition is not absent but rather appears in the form of its unrealisability. "The pupils of whom you speak at the end are not so much those who have lost the Scripture but rather those who cannot decipher it."⁸ Benjamin finds Scholem's understanding of a law being in force without significance objectionable based on his opinion that "a law that has lost its content ceases to exist and becomes indistinguishable from life."⁹ "Whether the pupils have lost it or whether they are unable to decipher it comes down to the same thing, because without the key that belongs to it, the Scripture is not Scripture but life, the life as it is lived in the village at the foot of the hill on which the castle is built."¹⁰

In reading Benjamin, Agamben contends: "Law that becomes indistinguishable from life in a real state of exception is confronted by life that, in a symmetrical but inverse gesture, is entirely transformed into law."¹¹ I would argue that it is on this point of subsistence versus absorption before the law that the virtual fate of the bare life meets with its real life consequence. It is here, in a real state of exception, that Benjamin's formulation of an assignifying law outstrips the virtual limitations of Scholem's configuration of that same principle and emerges as the real life threshold of this new era of biopolitics. For in a biopolitical era, bare life is compelled to fold back upon itself, to invert its liberties toward a proliferation of state orders, to offer the body itself as a foundation for the assertion of sovereign power, for the transference of an assignifying law.

Moreover, Benjamin grasps, better than most critics of his time, how this condition of life under a law that is for all intents and purposes assignifying, influences writers like Kafka to transform themselves and their char-

acters in response to tremendous pressures exerted on the organic body and “assume the form things assume in oblivion,” meaning that “they are distorted.”¹² Benjamin goes on to cite a litany of examples of this distortion: “The cares of the family man, which no one can identify, are distorted; the bug, of which we know all too well, which represents Gregor Samsa is distorted; the big animal, half lamb, half kitten, for which ‘the butcher’s knife’ might be ‘a release’ is distorted. These figures are connected by a long series of figures with the prototype of distortion, the hunchback.”¹³ These creatures occupy a corporeality that is composed solely out of writing, or more specifically a writing-as-witnessing, as such they could hold a place in a world so distorted that the virtual exception of the law now exists as a real state of exception. Under such a state of affairs these demonic creatures will continue to proliferate in their aberrant forms and can only disappear with the restoration of the law. This is interpreted by Agamben as an event wherein the law “being in force without significance has come to an end.”¹⁴ Persisting in this state of distortion helps these abysmal creatures to elude what Agamben calls “the absolute intelligibility of a life wholly resolved into writing” which “corresponds to the impenetrability of writing that, having become indecipherable now appears as life.”¹⁵ This is the condition a true-life figure like Benjamin faces, i.e., one who bears witness to the law in the states of exception. “Only at this juncture of reality do the terms distinguished and kept united by the relation of ... (bare life and the form of the law) abolish each other and enter into a new dimension.”¹⁶ Benjamin would argue that the cusp of this dimension had already emerged within proto-fascist Berlin prior to National Socialism’s official assumption of power in 1933, through an era in which, as Agamben would have it,

[the] state of exception turned into rule signals law’s fulfilment and it’s becoming indistinguishable from the life over which it ought to order. Confronted with this imperfect nihilism that would let nothing subsist indefinitely in the form of a being in force without significance, Benjamin proposes a messianic nihilism that nullifies even the Nothing and lets no law remain in force beyond its own content.¹⁷

Prior to the arrival of this nullification, the existence and body of Walter Benjamin are left to coincide with National Socialism, destined to contend with its influence, as the state of exception could not be separated out from the bare life of any individual residing in Berlin in the era National Socialism came to envelope. Under such an exceptional rule of law his existence, his very body coincided with National Socialism to such a profound extent it began not just to resemble, or imitate the affects of National Socialism on

his person, but to actually rhizomatically manifest them in such a way that it became impossible to distinguish a causal agent of mutual transformation going on between the comportment of body and the comportment of the law. His body, thus written over with a force of law that was at once assigning and profoundly consequential, meant that for Walter Benjamin one's only form of agency was to become a point of view on the events which followed in its immanent wake; to become National Socialism's witness and thus its reporter. Benjamin's outward strategy is to assume the role of a materialist historiographer, "a chronicler who recites events without distinguishing between the major and minor ones."¹⁸ On an interior track we find Benjamin's assuming that same strategy, rereading his own existence for markers of a coming oblivion. In doing so his mission adheres to "the following truth: nothing that has ever happened should be regarded as lost history."¹⁹ To recover that history is to redress the law itself and therein to draw out another territory in which justice might finally take place.

Reverse Sentencing

Benjamin's interest in pursuing such a mandate stems back to his earliest student writings, dating from the 1910s. In his aptly titled essay "The Metaphysics of Youth,"²⁰ Benjamin attempts to perform "dialectics at a standstill," by installing abrupt blockages into his own personal history and forcing out of them formerly obscured meanings. Should this experiment work it could be applied on a meta-level to world history, the history of civilization. Benjamin referred to the blockages he wished to conjure as "monads." These monads configure themselves according to a logic of forces: "When thinking suddenly stops in a configuration pregnant with tensions, it gives that configuration a shock, by which it crystallises into a monad."²¹ For Benjamin, thinking "involves not only the flow of thoughts, but their arrest as well."²² For Benjamin, monads, these blockages to thought, present us with a tremendous opportunity: "a revolutionary chance in the fight for an oppressed past."²³ What was needed still was to find the source of the shock that would allow crystallisation of a memory to take place. The diary was the device Benjamin experimented with in hopes of summoning a "shock," or sensational realisation into being, so as to study its essence more thoroughly. Wherein his study of the "The Metaphysics of Youth" commences with a section called "The Diary."

In it, Benjamin puts forth the idea that through the diary one is able to direct words as though they formed a ray of light. Later, through a course of translations, this ray of light might then come to articulate itself as a ray of time. Indeed, what can best be wished for in writing a diary over time, ac-

ording to Benjamin's guidelines, is the literal petrification of one's words, transforming what had initially been experienced in life as a series of hypersubjective flashes of recognition into something immortal, fossilised, and finally perfected through script. A youthful Benjamin believes that words recorded in his diary will have a momentous afterlife long after he has passed away. Whilst he is still alive each of the flashes of recognition he records in his diary further inform his experiences, which in turn spark the words to burn more brightly. The heat from these words spark still further, causing words to fuse the course of events into a constellation, which is then able to join up with an older, related configuration – the subject's own previously wished for outcomes.

It would seem that Benjamin's ultimate wish as a diarist is nothing short of human liberation from mortality, a victory of youthful energy over the ravages of time. He finds however, that it is not bodies, nor the self tyrannically encased in the "I," which get to mingle with immortality. Instead, he finds it is the word alone that has the privilege to glow of its own accord, and prosper beyond the realm of human dimension. For Benjamin, the word's glow possesses a quality similar to twilight, in that its radiance springs from an ambiguous origin. Indeed, the word's luminosity must be related to more prosaic phenomenon, namely the author's experience, in order to comprehend its nuance, its meaning, its placement within the order of things. Such associative thinking comes into play in Benjamin's description of twilight as a juncture "where ideas relate to things as constellations to stars."²⁴

Moreover it would seem that as we grow in experience, these associations align themselves with a constellation of previously held pleasures. These pleasures most often coincide with a "yearning for the self, a desire for youth, a lust for power, a desire to pass calmly through the days to come, and the pleasures of idleness,"²⁵ and make themselves known in momentary flashes when these desires would seem to be actualised. This actualisation however is illusory insofar as these flash-ups of desire take a parallel route to experience, rerouting themselves through the pages of the diary. How is this possible? Benjamin describes the diary as "the unfathomable document of a life never lived, the book of a life in whose time everything that we experienced inadequately is transformed into experience perfected."²⁶ By that same token we can assume that desire too is perfected in this act of documentation.

This begs the question of how Benjamin, "who will write in his diary only at intervals and will never complete it, because he will die,"²⁷ can expect to attain such perfection having left behind so many examples of incomplete documentation? A clue lies with Benjamin's phrase, "it is the

document of a life never lived.”²⁸ Indeed, it would seem Benjamin is arguing that the diary is in fact a document of counteractualisation. Its function is nothing short of the counteractualisation of a life and therein of desire itself if we understand desire to be a process of living and not life’s outcome, its lack, its blockage. Benjamin’s comments imply that the diary is a kind of rogue assemblage of desire which need not concern itself with the proclivities of “calendar time, clock time, and stocking exchange time” which send its author “trembling” on the brink of mortality.²⁹ By contrast the “I” of our diary plunges into this brink happily and with abandon. It, unlike its author, is free to make its own time, be its own agent; intimating all the while that it holds inside it, what Deleuze refers to as “the value of *what could have happened*.”³⁰ Its words “mime what effectively occurs” in the experience of the author, and therein in it works “to double the actualisation [of those events] with counter-actualisation,”³¹ creating a radical parabasis between the author and the diary itself. This margin allows the author to identify with the events that befall him, but with the added advantage of viewing them at a critical distance. Therein the diary would appear to double events in such a way as to “give the truth of the event the only chance of not being confused with their actualisation,” according to Deleuze’s logic.³²

This is not to say that events do not catch up with the author himself, but they do so along the lines of a fault of character as opposed to fate. In one of the last sentences of this section Benjamin writes: “we shall befall ourselves,”³³ meaning that it is none other than ourselves which we contend with in life. It is nowhere else than the dark recesses of our character, the folds of the self, that we confront our greatest challenge as individuals, as authors of the illusive “I.” Therein the diarist must always begin his account in the middle of the night, by describing the darkness that enfolds him, the circumstances that obscure his perception, his unique zone of expression.

By the same token if the author has lost his way, if his narrative drive forward has been dimmed by the forces beyond his true understanding, if his door has been darkened with “terrible bad luck,” then he must go by the way of light: he must look to the stars. He must write himself out of this dilemma. Moreover, he must chart a course parallel to the events that befall him, parallel with a course in which he befalls himself. He can only move events by starting his journey with a detour away from words, starting instead with a quest for personal enlightenment, for meaning within his own life. Benjamin writes in a letter of 1916 to Herbert Belmore:

We are in the middle of the night. I once tried to combat it with words [...] At the time I learned that whoever fights against the night must move its deepest darkness to deliver up its light and that words are

only a way station in this major life struggle: and they can be the final station only when they are never the first.³⁴

Even at this early stage Benjamin is aware that he must circumvent words in order to eventually, strategically direct them. Therein, Benjamin's long range thinking becomes preoccupied with the notion of delivering up the light of discourse. In the short term, and as a means of training himself toward this greater task, he occupies himself with the task of confronting the limits of his own character.

He commences this task in earnest in December of 1926, if somewhat haphazardly depositing himself into another politico-linguistic context altogether, that of Soviet Moscow in the early years of Communist Party rule. For Benjamin this is a place, at least potentially, where the illuminating device of discourse, in particular leftist discourse, might be directed *differently* than in Benjamin's local neighbourhood of West Berlin. The particular leftist discourse that guides Benjamin there emanates from the Bolshevik revolutionary theatre director Asja Lacis, his former intimate and the inspiration for his most recent piece of writing, *One Way Street*. It is she that convinced him of the value of keeping his ear attuned to the guttural noises emanating from the street, encouraging him to listen to the groan coming up from a corrupted political engine and to gauge the exhaust choked-up by the enervation of society. Through her coarse tutelage, Benjamin was able to become an engineer of sorts, mastering the tempo of a coming totalitarianism, through familiarising himself with its preliminary measures, volumes and intensities.

It was not just noise that concerned Benjamin, but speech in particular, and most especially, speech as it translated itself into writing. This preoccupation eventually took the form of transcribing earlier conversations into a diary, so as to be able to access them at a later time that would give further insight into the depth of their meaning. This lent them an attribute of contemplation formerly denied to them as speech acts. In the diary they functioned like a recording, available to endless playback and looping, in line with new material that was introduced later on. These conversations thus became indexical, historical and even archival, in the sense that they allowed the reader to concentrate on a particular exchange between two individuals as a minor conduit to world history itself. The resonance of these exchanges mapped out a trajectory that was not only personally instructive but also politically audible. By the time Benjamin reached Moscow in late 1926, the diary became a chief apparatus in his critical inventory. Moreover it became Benjamin's primary tool of political self-education. The path of enquiry utilising this form may have begun with Asja Lacis, but it soon transferred itself onto an array of figures, including perhaps the most

infamous of all, Bertolt Brecht. Within a single year of their meeting in 1929, Benjamin “had produced a folder of diaries about his conversations with Brecht and an historic, ten-year [political dialogue] was launched.”³⁵ It continued uninterrupted until the time of Benjamin’s death in 1940.

Note Correspondences: Benjamin

Benjamin maintained a second, parallel repository for political discussion in the form of lengthy correspondences. Those he remained most loyal to in letter writing were figures he was least likely to have dialogues with in person. This did not present a hindrance to Benjamin’s critical enterprise, but rather he viewed them as a more intimate, candid format in which to speak about his person in relation to his work. Benjamin was a fastidious, perhaps even compulsive correspondent. The letters, particularly with figures such as Gershom Scholem, functioned as a lifeline; a tie to the Berlin of his youth that was dissipating before his eyes. Without a scholar like Benjamin to record and appropriate them, they would surely be cast onto the scrap heap of history unnoticed and unvalued. Letter writing became the first port of their salvation. Once secured discursively, he could distil them into critical form at a more fortuitous stage of his understanding. These missives lingered for an indefinite period, to be picked up on by the addressee or not as the case may be. The ones that were picked up often made it into essay form, however the majority were not realised this way and thus their actualisation remained only at the level of the virtual, their potentiality still remaining to be tapped.

Note Correspondences: Kafka

Kafka shared a critical affinity with Benjamin in these years, concentrating on his own unique recording of language in his various short stories. Similar to Benjamin, two formats far surpassed Kafka’s experimentations with that literary form, the diary and the letter. Whereas story writing had proven itself to be an arduous, tortuous process of extraction for Kafka, diaries and letters simply flowed from him in an almost relentless torrent. It had been this way since his youth. What he also shared in common with a youthful Benjamin was the desire to become his writing and for writing to somehow counteractualise what he had up until then endured as life.

The letters Kafka wrote did not need to necessarily reach their addressee in time for a response, indeed Kafka would often write the next missive prior to receiving any word on the first one sent. This is evidenced by his letters to Felice, which often came in a series, offered at several

points in a given day. Indeed, on the other end she seemed superfluous, and often her comments did not in anyway correspond to what Kafka expressed concern about at a given moment. This rarely frustrated him, as the letters were perhaps only incidentally directed at her and on a more full scale were made as gestures to the universe to perhaps actualise another world of possibility beyond the one in which he now appeared to live. This would be a parallel world where another future beyond annihilation might exist and even flourish without humanity's knowing. Perhaps he hoped that the letters collected in total and mounted densely beyond even oblivion might materialise a bridge to such a world to come.

This made the writing of such letters a matter of utmost urgency, as they functioned as the only form of intervention left over for ordinary human beings, who no longer possessed any faith in understanding, but only a blind determination to follow along after the constant shifts in meaning holding them in sway. Kafka comported himself differently to others when hearing these commands. Out of them he made a kind of unintelligible music. Indeed he had done so since he was a boy. In their analysis, Deleuze and Guattari find it remarkable when "Kafka tells how he as a child, repeated one of his expressions in order to make it take flight on a line of non-sense: 'end of the month, end of the month.'"³⁶ Out of the diaries and letters, on the other hand, the goal was to compose "sonorous material," that is to say material "that connected with its own abolition [...] a sonority that ruptures in order to break away from a chain that is still all too signifying."³⁷ Benjamin devoted his research on Kafka to salvaging that sonorous material which teetered on the line of its abolition. His concerns for it extended well beyond just understanding the figure of Kafka himself. Benjamin was convinced that reality, as it appeared in Kafka's literary world, held great significance for the fate of mankind dwelling contemporaneously in this world. Benjamin writes in a letter to Gershom Scholem, dated 12 June 1938:

What I mean to say is that this reality could scarcely be experienced by than *individual*, and that Kafka's world frequently so serene and so dense with angels, is the exact compliment of his epoch, an epoch that is preparing to annihilate the inhabitants of this planet on a massive scale. The experience that corresponds to Kafka as a private individual will probably first become accessible to the masses at such time as they are about to be annihilated.'³⁸

The terrible secret of the pending annihilation of mankind had been accessible to Kafka since the time of his childhood and would continue to resonate within him for the rest of his life. The fact that he experienced a sense of it as a private individual has vast influence on the quality of his life in this

world. Experience became something that he dreaded, and indeed avoided with care, as evidenced by the lack of immediacy and intimacy in much his relations with others. Indeed, when these instances of closeness do occur they are always mediated through writing and through reference to a previous history. In this way Kafka allows consciousness of what is happening around to occur incrementally, allowing for time to spread itself out and take on a spatial characteristic through the build up of little works of correspondence all around him. This makes of his life something industrious, something worthy of effort, despite the temptation to succumb to nihilism in the face of imminent annihilation of the species of man. Kafka writes in a diary entry of 19 October 1921:

Anyone who cannot come to terms with his life while he is alive needs one hand to ward off a little his despair over his fate – he has little success in this – but with the other he can note down what he sees among the ruins for he sees different (and more) things than do the others; after all, dead as he is in his own lifetime, he is the real survivor. This assumes that he does not need both hands, or more hands than he has, in his struggle against despair.³⁹

This entry suggests an elaborate mechanism of self-defence is being deployed by Kafka at any time and that such an effort to record history cannot be the labour of a machine; rather, this is manual labour requiring the entity who carries it out not to be energised nor impassioned by what he plays witness to, but rather deadened by it. This deadening of the senses and moreover the concealment of passions, is the key to the survival or the operation as well as its bearer. It is the procedural deadening that becomes characteristic early on such that in a diary entry of a decade early the reader can already glimpse its development.

Kafka writes in his diary entry of 22 August 1911: “Without gaining a sense, the phrase ‘end of the month’ held a terrible secret for me.”⁴⁰ Deleuze and Guattari argue that this is especially true “since it was repeated every month. Kafka himself suggested that if this expression remained shorn of sense, this was due to laziness and ‘weakened curiosity.’ It is well known that Kafka made this sort of negative suggestion to present or to hide the objects of his passion.”⁴¹ Benjamin’s analysis concurs with this supposition when he comments that “there is nothing more memorable than the fervour with which Kafka emphasized his failure.”⁴² If he wishes to cover up “the last day,” as something to put without examination beside the rest of the incomprehensible, perhaps it is because Kafka’s very devotion to study is at the core of his wilful misapprehension of its secret meaning. For Kafka, being a student holds a special and unique responsibility, be-

cause for him it brings about the potential reversal of history and the advent of messianic time. If we look again at Kafka's diary entry he remarks that "sometimes, it passed with no special sign, indeed with no special attention [...] and when the first happy day arrived, one again began to speak of the last day."⁴³ Thus, judgment day seems to be a routine, cyclical occurrence, an eternal return of the same happening. It becomes something akin to ritual or tradition.

Learn Sound Gestures

As a boy Kafka asks his father on a number of occasions what the phrase "end of the month" means, but never actually understanding its meaning, he explains that "for a weakly stirring curiosity once risen to the surface is often already satisfied by a question and an answer without requiring that it understand as well."⁴⁴ Thus, Kafka as a pupil of his father, learns by rote through blind memorisation. Thus he is a poor student never affording the clarity of understanding. He never experiences the rewards nor the hardships tied to this phrase, instead he is left with only the residue of the anxiety it produces within him unknowingly to contemplate. In this way he surrenders to the ritual of it, and for Benjamin this is the source of his failure. In Kafka there was "no farsightedness or 'prophetic vision.' Kafka eavesdropped on tradition and one who listens hard does not see."⁴⁵ This does not mean that Kafka made no effort as a student of tradition. For Benjamin in fact the opposite was true, eavesdropping required a great deal of effort, because

only the most indistinct sounds reach the listener. There is no doctrine that one could learn and no knowledge that one could preserve. The things one wishes to catch as they rush by are not meant for anyone's ears. This implies a state of affairs that negatively characterises Kafka's works with great precision.⁴⁶

Benjamin's comments indicate a kind of methodology at work in Kafka's parables. If Kafka can be said to embody his parables, than he represents something of a new type of mankind, one who "sacrifices truth, for the sake of clinging to transmissibility."⁴⁷ Through making this his mode of comportment in life, as well as it being the basis of his writing, Kafka is able to become a kind of otherworldly figure insofar as he is utterly bereft of wisdom, and is rich in idiocy. In this way he becomes akin to the messenger whose dullness and stupidity, in only being able to convey the message but never to read or comprehend it, has the virtue in that it presumes nothing. This stance may be the only one of any use on the last day, because "someone

must be a fool if he is to help [...] and only a fool's help is real help."⁴⁸ Still we do not know that this will actually help the human being. It may be that there is no hope for him. Rather, the hope comes from those who will survive him, who will witness his demise, and learn something from it.

For Kafka, humanity's role in history was ultimately to fail, so as to make way for other kinds of existence. For now mankind stands as the pupils of tradition, who are "assistants" to those creatures for whom, in Kafka's words, there is "an infinite amount of hope."⁴⁹ Therefore we must proceed from Kafka's "categorical imperative: 'Act in such a way that the angels have something to do.'"⁵⁰ This acting Benjamin refers to is the sort described by Kafka in his description of "The Nature Theatre of Oklahoma," as a theatre of gestures where no system of meaning exists, and a sustained understanding of them is thwarted by "ever-changing contexts and experimental groupings."⁵¹ This experience mirrors Kafka's own attempts at learning, because

Kafka's world is a world theatre. For him man is on stage from the very beginning. The proof in the pudding is the fact that everyone is accepted by the Nature Theatre of Oklahoma. What the standards for admission are cannot be determined. Dramatic talent, the most obvious criteria, seems to be of no importance. But this can be expressed in another way: all this is expected in that the applicants play themselves. It is no longer within the realm of possibility that they could, if necessary, be what they claim to be.⁵²

In this way they are made out to be charlatans and fraudsters. Therein they are subject to recrimination by a law. A law that at least ostensibly claims to adhere to a truth, a law moreover they remain blissful unaware prior to the time of their apprehension.

In the meantime they fill their days with practice. Pretending to be angels, they pose in an ironic position to the law that would assure them of their guilt. They accept it without struggle. Therein they assume a pose of serenity before the law. "But for the fact that their wings are tied on, these angels might be real."⁵³ Still, for the majority of onlookers they continue to be recognised as merely students. These onlookers remain unaware of the fact that these youthful individuals are hoping to achieve redemption through close observation of the now-time and of history waiting in the wings. For that they are guilty. Their familiarity with this category makes it so that they often pass as descendants of "the augurs and the haruspices." As such they remain eager "to reveal guilt and to point out the guilty" before God when Judgment Day arrived.⁵⁴ It is they who prepare for the arrival of justice, Natural law, the law of God. It is they who will preside alongside

God on the day when the law, which is currently in suspension, is finally resumed. In the meantime, and prior to the law, “they study this role, and only a bad actor would forget a word or movement. For the members of the Oklahoma troupe, however, the role was their earlier life; hence the nature in this Nature Theatre.”⁵⁵ It is thus childhood, which holds the key to interpreting justice. It is youth that remains open to this possibility, before the truth of civic law reigns in.

It is not the apprehension of time, which is critical here, but rather the apprehension of space. Kafka’s boyhood wish to become a Red Indian is the dream of existing within an infinite amount of space. For Benjamin “a great deal is contained in this wish. Its fulfilment, which he finds in America, yield up its secret.”⁵⁶ It is *Amerika*, the complement to America, a locale where the cipher K acts as gesture of counteractualised space, a space made entirely of writing, a space where “he experiences a rebirth on a new continent with a new name.”⁵⁷ He has this experience moreover within the space of the Nature Theatre of Oklahoma; a place which no one and everyone can have experience at the same time, thus causing the experience to fissure, to fragment and to take on a spatial marking. It is the idle threat of the law that Karl Rossman must overcome to be admitted to this clan. The summons dictates that “at twelve o’clock the doors will shut and never be opened at again! A curse to those that do not believe us!”⁵⁸ This threat resonates with another one from K.’s childhood, “End of the month! End of the month!” Whilst he initially felt fear with the coming of this summons, eventually he worked out that it came again and again in about 30 day-long cycles, and thus the desire to make intelligible this curse subsided as it became something spatially tangible to him. However, the initial anxiety of the summons remained, signalling something premonitory or fateful was still within its makeup and thus its divulgence remained incomplete.

Just as an uncompleted lesson hangs over the heads of the students, so too did Kafka’s mind feel weighted to his task. Some gesture toward that end had to eventually be made. The problem was that Kafka seems to have forgotten which gesture to make, or perhaps he was too lazy at the time to make it. The consequence was that he had to study all the gestures, in hopes that he would hit upon the one he had forgotten to note in his childlike apprehension. In this sense he introduced the multitude of humanity into himself and his study. In that way he becomes of assistance to them. As an assistant he also assumes the appearance of a student. In assuming the appearance of the student he assumes the features of the fool. In this way he becomes part of the clan of the unexpected for whom fate hits the hardest, causing them to break away from the law and therefore to defect to another territory altogether, that of justice. This ambiguous privi-

lege comes to them by way of their studies, and ironically from their strict adherence to the law they are theoretically aware of but in reality are oblivious to. Thus their learning takes place apart from reality and in the context of a care-taking that can be said to lie elsewhere. Benjamin offers:

the law which is studied and not practiced any longer is the gate to justice. The gate to justice is learning. And yet Kafka does not dare attach to this learning the promises which tradition has attached to the study of the Torah. His assistants are sextons who have lost their house of prayer, his students are pupils who have lost their Holy Writ. Now there is nothing to support them on their, “untrammelled, happy journey.”⁵⁹

Thus they perish. They perish because their gesture of learning has lost its “traditional supports” and therein has become the subject for a “reflection without end.”⁶⁰ They look backward without any means of looking forward. Perhaps, it is “only a sedate fool and clumsy assistant” who clings onto history in such a way as to allow the future to surpass him time and time again. For Benjamin this is the very key to his success, as “the burden can only be removed from behind,” in terms of redeeming mankind’s legacy on this earth.⁶¹ Those who race to the future thus race to catastrophe.

“This much Kafka was absolutely sure of: first, that someone must be a fool if he is to help; second, that only a fool’s help is any help.”⁶² Still this help is bound to be of no use to humanity. It will only help the angels who surpass us in reality. But for those who are already dead to this world, this can be of some comfort still. For someone “whose everyday on earth brought him up against insoluble behaviour problems and undecipherable communications,” this foreknowledge that it would all pass perhaps provided him with some solace, some reassurance that he had survived, would survive, by keeping himself out of it, and by modestly offering his assistance he would be able to get by.⁶³

By declaring himself a survivor from the start, Kafka cheats the demon of finitude and is able to linger for a while longer in the space of tradition, attempting for the moment to negotiate some haphazard means of recollection. Here he proceeds with the serenity of a dreamer, despite the fact that its wisdom evades his grasp, and what surrounds him here is material that is at once “discredited and obsolete.”⁶⁴ Some may see this journey as an act of mere folly. There is something more to it though for in the moment he has established a temporary blockage, a stoppage in the follow of history, by creating an adjacency to it, that is to say having it double up on itself, to exist in parallel to itself, through the aparallel relationship of wisdom to rumour, from what is authorised to what is nonetheless transmissible without

authorisation. This creates a necessary tension within the space of the past, so as to affect a build up in the forces, which are meant to contain it. It is within this pregnant moment, that revelation and redemption mingle and the domain of the angels manifests itself briefly as a territory. This territory exists as a temporary rupture in the continuity. Viewed anteriorly it will have caused history to fragment, opening itself to the possibility of being read backward. It is within that sequencing of time that justice has the opportunity to emerge and divinity to exert itself.

We are still within the space of the law, but now it is in a position to offer itself up to destruction, so as to expiate the wrongs of the past. To be sure this cannot be accomplished without the aid of violence, but what form that violence takes will be the subject of a fitting ending to these fateful events. Understanding what type of violence is most germane to intervene must become an object of study and of discourses that appear at first strange to one's ear, as though they were formed in a different language of judgment to the one of our knowing. This is the task to which Kafka applied himself. It is also the one that is taken up by a still exuberant Benjamin in 1921 as one of his earliest scholarly writings, the "Critique of Violence."

Place Non-Violence

Commencing his study of violence requires Benjamin to make some challenging distinctions within that category from the outset of his argument. The fact that these distinctions eventually falter by the conclusion of the essay is to be expected, because their very apprehension comes as the result of temporary breaks in the flow of power as in the case of strike action, or criminal escape; they are inevitably subject to re-absorption by state mandate. Thus Benjamin must extract mere instants from these continuums of power in order to establish any sort of basis for his arguments.

To begin his essay "Critique of Violence" Benjamin makes a distinction between mythic violence and divine violence. Mythic violence adheres to secular law, where divine violence answers to God alone. Benjamin defines mythic violence as a law-making violence, and divine violence as a violence that destroys secular law. There is another type of violence whose role is to turn the penalty of mythic judgment into material punishment. Its role, whilst connected to mythic power, exudes another quality of relation to the law. Its remit is a law-preserving violence and thus adds a further permutation to Benjamin's description of the forms of violence. This violence is that of the police, whose function is to not to promulgate law, but rather to impose it. Here there remains no legal criteria for action, rather its decisions are based solely on the wilful use of force to carry out ends the law

alone cannot achieve.

It is not what they do, but their presence itself that is useful for the apprehension of violence as a kind of force. Benjamin describes the police presence as being “formless, like its nowhere tangible, all-pervasive, ghostly presence in the life of civilised states.”⁶⁵ Such ghostly presence resembles Benjamin’s description of the messengers in his essay on Kafka: they are “beings in an unfinished state. Kafka’s assistants are of that kind: neither members of, nor strangers to, any of the other groups of figures, but rather messengers from one to the other.”⁶⁶ They act then as a kind of relay between the guilty and the accuser, manifest only in the moment of passing on a decree through the force of their temporary appearance. What they deliver in their sway is a temporary glimpse into the dark powers that hold “life in thrall” which immanently appear, only to dissipate in the next instance, as we endeavour to expose them⁶⁷:

There is none that is not either rising or falling, none that is not trading qualities with its enemy or neighbour, none that has completed its period or time and yet is unripe, none that is not deeply exhausted and yet is only at the beginning of a long existence.⁶⁸

In this sense their presence is fundamentally indiscernible and therefore conviction in them has to do within adopting a negative theology. “(Here a negative characterisation probably is altogether more fruitful than a positive one.)”⁶⁹ This is because what is of value is not the discernment of their appearance necessarily, but rather the discernment of their activity. It is this activity that portends the subtle appearance of the law. Benjamin offers: “what may be discerned, subtly and informally, in the activities of these messengers is law in an oppressive and gloomy way for the whole group of these beings. None has a firm place in the world, firm, inalienable outlines.”⁷⁰ These figures too experience the force of law, but unlike humanity, the finished beings, they are the ones “who are promised redemption by the myth,” the myth in Kafka’s time being the supremacy of state power. In return for the conformity to the law’s mandate, they, unlike their finished counterparts, take up as little space as possible in the state’s punitive imagination. For the state they act as a standing reserve of force and little else. Whereas the finished ones constantly threaten to override their allotment of space feeling it their natural right under natural law “to move their bod[ies] in the direction of a desired goal.”⁷¹ Still, by doing so *physically* they are easily apprehended. What Kafka and Benjamin discerned is that if this action is applied to reading or study, another more fruitful outcome is possible by moving bodies of events, rather than one’s physical body, the law can somehow be temporarily evaded. In the sense the body itself be-

comes useless in getting out of predicaments with the law, only the reversal of *historical* bodies will amount to the true release of justice and of judgment toward a higher power.

The police for their part seem to be moving in the opposite direction. Whilst according to Benjamin's estimation, "police [...] everywhere appear the same," it is the spirit within which they comport themselves that makes a real difference in the quality of their violence. For him, "it cannot be denied that their spirit appears less devastating where they represent, in absolute monarchy, the power of a ruler in which legislative and executive supremacy are united than in democracies where their existence elevated to no such relation, bears witness to the greatest conceivable degeneration of violence."⁷² This begs the question of why on one hand the spirit of the police may be characterised as generative in what amounts to totalitarianism, and degenerative in the case of democracy? When parliamentary and representative democracy becomes "radically corrupted at the point where it is joined to a modern police force that is inseparable from it, and becomes the source of its true legislative power."⁷³ This situation reveals the fact that institutions such as the police force within parliamentary democracy in their origin and outcome are attended by violence. Moreover, the violence that attends them is a law-making violence, the same law-making violence that subtends all state function. When joined to parliamentary power this modern policing force lingers around parliamentary democracy as a "ghost" that "demands the totality of the political space."⁷⁴ This demand for total control of the political domain withers away the democratic impulse, but not necessarily the state itself, insofar as it is able to transform this political gesture of force which intertwines the action of the state with that of the police into a source of power not just over the political social life of its citizens, but ultimately of their organic lives.

In such a configuration of democratic power it quickly becomes impossible to pinpoint who is responsible for the decision to use force against civilians. Moreover, the police in this modern scenario of state sovereignty do not limit their function to securing the peace of the land, but in this new expanded incarnation administering all the functions of life for the state's constituency – including that of murder. When this function is adopted into systems of parliamentary democracy it becomes very difficult to distinguish their operation of sovereign authority from the executive or absolute forms of power which also take on mythical excess in terms of their law-making. Thus Benjamin is asserting there is very little material difference in the way laws are enforced between parliamentary and totalitarian regimes other than in the way the police are represented to the population. Whether positively or negatively portrayed, and in whatever function, they persist as the

nebulous figures of law enforcement. It is they who must preserve the state's monopoly on violence regardless of which authoritative body they serve.

What disturbs Jacques Derrida, in his critical interpretation of the "Critique of Violence" entitled "Force of Law," are the fine distinctions Benjamin draws between mythic violence and divine violence, which he finds logically and morally untenable. Benjamin argues that mythic violence, as perpetuated by the state, is a "mere manifestation of the existence of the gods," rather than an expression of their pure intention.⁷⁵ Mythic violence whilst purporting to represent the gods' intention, in reality enacts the state's will and at the same time, attempts to usurp the gods' power. Mythic violence is immediately provoked by an offence, to take recourse in retribution toward the guilty party, regardless of whether or not that party was aware of their infringement of the law. Its recourse to immediate retribution "establishes a law far more than it punishes an infringement of one already existing."⁷⁶ It is for this reason that mythic violence is so destructive when directed toward a given population; they remain largely ignorant of the law up until the very moment when they are apprehended by it and fall victim to its definitive form of judgment.

With divine violence, by contrast, "no judgment of the deed can be derived from the law [...] so neither divine judgment nor the grounds for this judgment can be known in advance"⁷⁷:

Those who base a condemnation on all violent killing of one person by another on the commandment, ["thou shall not kill"] are therefore mistaken. It exists not as a criterion for judgment, but as a guideline for actions for persons or communities that have to wrestle with it in solitude or in exceptional cases, to take on themselves the responsibility for ignoring it.⁷⁸

Mythic violence focuses its judgment on what the deed does to the victim, whereas divine violence concerns itself with what it does to God and the doer. Derrida criticises Benjamin's argument because "it provides no criteria for judgment, one could not find in it the authority to automatically condemn any putting to death."⁷⁹ Such condemnation to Benjamin's mind should never be automatic or universal, but rather any putting to death should be considered specifically on its own unique merits, "thus it was understood in Judaism, which expressly rejected the condemnation of killing in self-defence."⁸⁰ Derrida, in contrast to this, believes that all acts of murder must be universally condemned on the grounds that all life is sacred. This criticism fails to grasp the essence of Benjamin's argument that what is sacred in man's life is not his life, but the *justice* of his life, which is

housed within himself and in God. The location of justice is not in the body of the victim who is killed, but in the body of perpetrator who kills. It is through examining the complex issue of responsibility, that one is finally able to separate out mythic judgment from divine reckoning.

At the very moment when mythic violence emerges in its most immediate and pure form to threaten life, divine violence simultaneously arises to fatally counter it and advocate for justice. Benjamin explains: "just as in all spheres God opposes myth, mythical violence is confronted with the divine."⁸¹ It is at this crucial instant, when mythic violence confronts its rival in divine violence, that Derrida fundamentally misapprehends their differing appearance on the scene of potential human annihilation.

Benjamin turns to God's judgment on the company of Korah to illustrate the unique character of divine violence. In this event, divine violence "strikes privileged Levites, strikes them without warning, without threat and does not stop short of annihilation."⁸² Benjamin asserts that divine violence "in annihilating" the Levites, "also expiates, and a deep connection between the lack of bloodshed and the character of this violence is unmistakable."⁸³ Nonetheless, in reflecting on this description of divine violence, Derrida does mistake the character of divine violence for that of mythic violence, by equating the judgment of the Levites with the Nazi extermination of the Jews in the holocaust. Derrida interprets their function to be one and the same. As a result, he views Benjamin's interpretation of divine violence as "terrifying" insofar as it "would make the holocaust an expiation and undecipherable signature of the just and violent anger of God."⁸⁴ This terrifying misinterpretation of divine violence does not belong, however, to Benjamin, but to Derrida himself. The holocaust is not an act signed into law by God's divine writ, but rather by the hand of a sovereign leader. In other words, it is an act of mythic rather than divine violence. Derrida is mistaken to think that the Holocaust in all its bloodiness is divine violence, as according to Benjamin's criteria it is a classic example of mythic violence whose chosen symbol is wanton bloodshed, and of biopolitical retribution whose chosen focus is the cessation of organic life.

What underlines the holocaust further as an act mythic violence, is "the certainty of the perniciousness of historical function, the destruction of which thus become obligatory," for divine violence to oppose.⁸⁵ In contrast, divine violence is bloodless insofar as it acts as a corrective to history, as a counteractualisation of the worst transgressions of mythic forms of justice. Its violence is carried out in the name of the restoration of the law and of messianic time. Its judgment is based on the character of the people and is not rooted in any concept of fate. It relies on expression rather than the representation to dole out the shape of its justice. Finally, it does not resort to

retribution, but rather punishment because its level of moral authority profoundly exceeds that of the law.

The actions of divine violence run parallel to human time. Divine violence is somehow able to counteractualises what humanity up until now had to endure as mere or organic life. Moreover, it suggests something of a greater existential order coming out of the act of annihilation, a purification of

the guilty, not of guilt – but of the law [...]. Mythical violence is bloody power over mere life for its own sake, divine violence pure power over all life for the sake of the living. The first demands sacrifice, the other accepts it.⁸⁶

Divine violence is educative on the order of this acceptance. Its student is the human being who attempts to mirror the power of God insofar as his study attempts to bring about the reversal of historical time and the advent of messianic time. His role is that of assistant to God. Derrida criticises such mirroring of God's will as an act of mythic violence insofar as critique such as Benjamin's of the parliamentary democracy, the Enlightenment and humanism may be complicit with eschatological thinking insofar as that they work to aid, not hinder an ideology of the "final solution" for mankind. In this judgment Derrida fails to acknowledge the scholar who engages in such an educational task does not hope to survive annihilation, but rather to leave a record, a lesson to those who survive him and can learn from his folly. Unlike Derrida, Benjamin as this type of student, has no fear that his enterprise "resembles too closely, to the point of specular fascination and vertigo, the very thing against which one must act and think, do and speak."⁸⁷ He has no concern that it reflects and even incorporates the worst discourses of the twentieth century, nor that it includes the anti-parliamentary and anti-Enlightenment ideas of thinkers like Schmitt and Heidegger, figures closely aligned to the rise of Nazi power, if they aid him to expose the outlines of a coming era of judgment for mankind.

It is students such as Benjamin and Kafka who await such a "final" judgment with pure anticipation, aware that their guilt and failure as human beings pave the way for another kind of existence to emerge and flourish in place of this one. It is they who have accepted that we have to sacrifice mere life to save the concept of a just existence. Benjamin pointed out: "the proposition that existence stands higher than just existence is false and ignominious, if existence is to mean nothing other than mere life."⁸⁸ There is nothing to suggest however that a just existence coincides with the cessation of all life. On the day that the two are exchanged for one another the object of judgment will not fall on the state which will stand in ruins and in

abolition, but on the individuals embodying the very means of its sacred denigration.

In all of his indictment of mythic violence Derrida forgoes one major critical detail, the fact that Benjamin's object throughout his critique has not been the state, but the police. It is the appearance of the police that he takes issue with here, and more precisely it is the appearance of their "spirit" that occupies his thinking. Indeed, for Benjamin the appearance of the police was a harbinger of the coming oblivion, and to shun their appearance was equivalent of putting one's head in the sand. For the police to appear at all "all spirit must be concrete, particularized to have its place and *raison d'être*. The spiritual, if it plays any role at all, turns into spirits. The spirits become definite individuals, with names and a very special connection with the name of the worshipper."⁸⁹ The spirit of these individuals is thus concretised into sheer force. Moreover these persons are bestowed with a sense of dignity and of affiliation with not the *venerated*, but the *venerator*. It is not the Führer the police are aligned with, but rather those who regale him, the mass, the herd, the people. The police act as the force of the people who have become wary of their neighbour, and thus given their power over to the state to yield their protection. These are people in the Hobbesian state of nature, the state of exception and emergency which was to become normative in the critical years of the 1920s and earlier 1930s, not coincidentally, the years Derrida assigns as being those where Benjamin's thought drifts perilously close to National Socialism.

The question then is how do we distinguish his people from the people who would fall under the sway of the Nazi's revolutionary brand of violence? It is perhaps a matter of being able to detect violence even in its most latent forms. Benjamin makes his case against parliamentary democracy by accusing it of having obscured "the latent presence of violence in a legal institution."⁹⁰ Ironically, when consciousness of this violence comes to light democracy as a legitimate legal institution "falls into decay." It is this decay of parliaments that has alienated the people and soured them on "the idea of a non-violent resolution of political conflicts" and attracted them to war.⁹¹ This has further spawned the decline of the German parliament and the inauguration of a new era of mythic violence in the form of fascist dictatorship. Their campaign was fuelled by the promise to redeem politics from "compromise," and expose once more the violence at the core of law making. The very thing that Benjamin diagnosed as being the core of democracy's failure was its inability to acknowledge its founding and continued applications of violence. This inability would come back to haunt Germany's parliamentarians as they failed in their efforts to convince the people of their capacity to retain power. This failure was based on this very de-

nial of the source of their power. The people's response was to look for a scapegoat for their weakness with regard to the execution of law. As the political situation continued to deteriorate through this fundamental lack of acknowledgement, the people would start to clamour for the elimination of the cause of that weakness in political determination. In an echo of today's *realpolitik*, people would angrily cry out, "It's the economy stupid. And who is responsible for that." The indictment economy would shortly lead to the naming of a people responsible for it. That naming would point the way toward a particular group of people. And suddenly a cry would emerge from the crowd calling for a different kind of reparation than were simply brought upon the German people as a consequence of losing the war. Those targeted for this brand of recompense could merely mutter to themselves as they faced onslaughts of abuse, "Things can't go on like this."⁹² Of course they could and did. Soon the voices of these folk rose like Sirens howling for a judgment on the age. Perhaps this would be the beginning of the end.

This threat brings us back to Kafka and accounts for why he was such a significant figure for Benjamin in his critique of violence. This is for the very fact that "Kafka did not succumb to its temptation."⁹³ A latter day Ulysses, he let the Sirens go by: "his gaze was fixed on the distance, the Sirens disappeared, as it were, before his determination, and at the very moment when he was closest to them he was no longer aware of them."⁹⁴ "He who listens too hard, cannot see."⁹⁵ This was Kafka's mode of self-preservation. These Sirens represent "the Bolsheviks and the Syndicalists,"⁹⁶ proto-fascist powers crying out to the ordinary man. Benjamin credits Kafka for being in no way partisan to either political force. He remarks: "the not in-substantial importance to me of Kafka's work resides not least in the fact that he doesn't take up *any* of the positions communism is right to be fighting."⁹⁷ This comment would seem to covertly yoke Benjamin into that same gesture of non-partisanship.

As he tacitly rejects that political alignment, he also rejects another one through Kafka's aid, his Judaism. This happens when he reminds us that Kafka's tradition is a Jewish one, albeit one that is heavily influenced by the Greeks. This is the secret of his affinity with Ulysses, when push comes to shove and survival is at stake. He reminds us that Ulysses "stands as the dividing line between myth and fairy tale."⁹⁸ Could this not also be a description of Benjamin's position, as the dividing line between Jewish mysticism and Marxist materialism? This position caused Benjamin great anguish to uphold throughout his professional life. Perhaps there was something more at stake in Benjamin's choice of dual occupation than just commercial suicide. Rather it might be the case that this decision allows Benjamin to position himself at a certain juncture, a crossroads, where he

is able perform a feat of trickery: “dialectics at a standstill.” Still, before he can begin he must pause to acknowledge a certain history of violence that remains operative to the kind of performance he is attempting:

reason and cunning have inserted tricks into myths; their forces cease to be invincible. Fairy tales are the traditional stories about victories over these forces, and fairy tales for dialecticians are what Kafka wrote when he went to work on the legends. He inserted little tricks into them; then he used them as proof that inadequate, even childish measures may also serve to rescue one.⁹⁹

The rescue of mankind begins from where it started, from within our poor brief childhoods where the smallest happiness was able to sustain our imaginations. This is the element of distortion that temporarily breaks through the symmetry of adulthood and makes the smallest of adjustments to our path of remembering so as to alter our recall history itself. It is this recourse to the space of imagination, of counteractualisation, that is capable of silencing Kafka’s Sirens. In that virtual territory we are able to reacquaint ourselves briefly with the hope that has been lost for us, but available to others who might come to occupy existence once our world has dissipated. Perhaps we might imagine this sensation as “a token of hope which comes to us from that intermediate world – at once unfinished and commonplace, comforting and silly – in which the assistants are at home.”¹⁰⁰

Up until now we have understood that mythic violence has its place in modern times within the institution of the state and the police. Now we must come to appreciate where divine violence is found in the present day. Most obviously it exists in religious tradition. However, according to Benjamin, it has an even stronger appearance within the secular world, where “it dwells in at least one sanctioned manifestation; educative power. In its perfected form this power stands outside the law.”¹⁰¹ Its perfected body, that of the assistant, or the student, also assumes this position with regard to the law. The activity of studying occurs in the absence of all law making. Moreover, its activity takes place at the exclusion of violence. Therein a unique space of discourse opens up:

Its profoundest example is perhaps the conference, considered as a technique of civil agreement. For not only is non-violent agreement possible, but also the exclusion of violence in principle is quite explicitly demonstrated by one significant factor: that there is no sanction for lying. Probably no legislation on earth originally stipulated such a sanction. This makes clear that there is a sphere of human agreement that is non-violent to the extent that it is wholly inaccessi-

ble to violence: the proper sphere of understanding.¹⁰²

The pupils lost this sphere when they lost the key to their Scripture. With the advent of Kafka's minor literature in the form of the parable, they have a chance to recover it, as though they were recalling a fairytale to which they had long ago forgot the ending. The question is do they have enough time? It's not only mythical violence they have to corrupt; they also have to contend with the justice its removal from the path of judgment furnishes. This opens the way for divine violence to enter, a force that "strikes without warning, without threat, and does not stop short of annihilation. The former threatens, the latter strikes, if the former is bloody, the latter is lethal without spilling blood."¹⁰³ Mythical violence is visible, whereas divine violence is invisible. Its expiatory work remains unseen until it is too late. It's the choice then between two forms of annihilation, one opening onto mere survival, the other offering redemption.

Benjamin characterised Kafka as being "like the lad who set out to learn what fear was."¹⁰⁴ It is in this decisive moment that he would finally come face to face with an understanding of it. Fittingly its appearance coincides with the last of his diary entries of 12 June 1923:

more and more fearful as I write. It is understandable. Every word, twisted in the hands of the spirits – this twist of hand is their characteristic gesture – becomes a spear turned against the speaker. Most especially a remark like this. And so *ad infinitum*. The only consolation would be: it happens whether you like or no. And what you like is of infinitesimally little help. More than consolation is: You too have weapons.¹⁰⁵

These weapons exist outside of the bounds of the law, and are immediately available, at the same time they are invisible and exist in a space where revolution never starts nor ends, but rather is always already in the midst of happening – elsewhere. Unfortunately we stand in a time prior to the law, and thus there is little hope for us. Solving the dilemma of how to choose one's weapon is thus not a matter of looking for a future to open up, but rather in the sustaining belief in a space that one cannot see, but can faintly hear coming forth, if one listens hard enough. It comes to the listener as a murmur signalling to us the possibility that somehow we may still survive this catastrophe. Perhaps we might still manage to separate ourselves from it, by continuing to observe it at a distance, thus it may befall us as a dream, making of itself a bridge of transmissibility to a world to come, the complement of this one – lacking in nothing except our doleful tradition of the law.

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NOTES

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- ³ Benjamin, "One Way Street," 453.
- ⁴ Benjamin, "One Way Street," 453-4.
- ⁵ Benjamin, "One Way Street," 453.
- ⁶ Benjamin, "One Way Street," 451.
- ⁷ Walter Benjamin and Gershom Scholem, *Correspondence 1932-1940*, ed Gershom Scholem, trans Gary Smith and Andre Lefevere, intro Anson Rabinbach, (Cambridge, MA: Harvard University Press, 1992), 142.
- ⁸ Benjamin and Scholem, *Correspondence*, 127.
- ⁹ Giorgio Agamben, *Homo Sacer*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), 50.
- ¹⁰ Benjamin and Scholem, *Correspondence*, 135.
- ¹¹ Agamben, *Homo Sacer*, 55.
- ¹² Walter Benjamin, "Franz Kafka," *Selected Writings, Vol. 2 - 1931-1934*, eds Marcus Bullock and Michael W Jennings (Cambridge, MA: Harvard University Press, 1996), 811.
- ¹³ Benjamin, "Franz Kafka," 811.
- ¹⁴ Agamben, *Homo Sacer*, 57.
- ¹⁵ Agamben, *Homo Sacer*, 55.
- ¹⁶ Agamben, *Homo Sacer*, 55.
- ¹⁷ Agamben, *Homo Sacer*, 53.
- ¹⁸ Walter Benjamin, "On the Concept of History," *Selected Writings, Vo 4, 1938-1940*, eds Marcus Bullock and Michael W. Jennings (Cambridge, MA: Harvard University Press, 1996), 390.
- ¹⁹ Benjamin, "On the Concept of History," 390.
- ²⁰ Walter Benjamin, "Metaphysics of Youth," *Selected Writings, Vol. 1, 1913-1926*. Eds Marcus Bullock and Michael W Jennings (Cambridge, MA: Harvard University Press, 1996), 6-17.
- ²¹ Benjamin, "On the Concept of History," 396.
- ²² Benjamin, "On the Concept of History," 396.

- ²³ Benjamin, "On the Concept of History," 396.
- ²⁴ Benjamin quoted in Eduardo Cadava, *Words of Light: Theses on the Photography of History*, (Princeton, NJ: Princeton University Press, 1997), 28.
- ²⁵ Benjamin, "Metaphysics of Youth," 11.
- ²⁶ Benjamin, "Metaphysics of Youth," 11.
- ²⁷ Benjamin, "Metaphysics of Youth," 11.
- ²⁸ Benjamin, "Metaphysics of Youth," 11.
- ²⁹ Benjamin, "Metaphysics of Youth," 11.
- ³⁰ Gilles Deleuze, *The Logic of Sense*, (London: The Athlone Press, 1990), 161.
- ³¹ Deleuze, *The Logic of Sense*, 161.
- ³² Deleuze, *The Logic of Sense*, 161.
- ³³ Benjamin, "Metaphysics of Youth," 14.
- ³⁴ Walter Benjamin, *Correspondence 1910-1940*, trans Manfred R. Jacobs (Chicago: University of Chicago Press, 1994), 83.
- ³⁵ Walter Benjamin, *Moscow Diary*, ed Gary Smith, trans. Richard Sieburth, preface Gershom Scholem (Harvard University Press, 1986), 142.
- ³⁶ Gilles Deleuze and Felix Guattari, *Kafka: Toward a Minor Literature*, trans Dana Polan, Foreword by Reda Bensmaïa, (Minneapolis: University of Minnesota Press, 1986), 21.
- ³⁷ Deleuze and Guattari, *Kafka*, 6.
- ³⁸ Benjamin and Scholem, *Correspondence*, 224.
- ³⁹ Franz Kafka, *Diaries 1910-23*, ed Max Brod, (London: Peregrine Books, 1964), 394.
- ⁴⁰ Kafka's diary entry of 22 August 1911 quoted and analysed by Deleuze and Guattari, *Kafka*, 93n.
- ⁴¹ Deleuze and Guattari, *Kafka*, 93n.
- ⁴² Benjamin and Scholem, *Correspondence*, 226.
- ⁴³ Kafka, *Diaries*, 146.
- ⁴⁴ Kafka, *Diaries*, 146.
- ⁴⁵ Benjamin and Scholem, *Correspondence*, 224.
- ⁴⁶ Benjamin and Scholem, *Correspondence*, 224.
- ⁴⁷ Benjamin and Scholem, *Correspondence*, 225.
- ⁴⁸ Benjamin and Scholem, *Correspondence*, 225.
- ⁴⁹ Benjamin and Scholem, *Correspondence*, 135.
- ⁵⁰ Benjamin and Scholem, *Correspondence*, 216.
- ⁵¹ Benjamin, "Franz Kafka," 801
- ⁵² Benjamin, "Franz Kafka," 804.
- ⁵³ Benjamin, "Franz Kafka," 805.

- ⁵⁴ Benjamin, "Franz Kafka," 807.
- ⁵⁵ Benjamin, "Franz Kafka," 814.
- ⁵⁶ Benjamin, "Franz Kafka," 800.
- ⁵⁷ Benjamin, "Franz Kafka," 800.
- ⁵⁸ Benjamin, "Franz Kafka," 800.
- ⁵⁹ Benjamin, "Franz Kafka," 815.
- ⁶⁰ Benjamin, "Franz Kafka," 802.
- ⁶¹ Benjamin, "Franz Kafka," 816.
- ⁶² Benjamin and Scholem, *Correspondence*, 225.
- ⁶³ Benjamin, "Franz Kafka," 802.
- ⁶⁴ Benjamin and Scholem, *Correspondence*, 225.
- ⁶⁵ Walter Benjamin, "Critique of Violence," *Selected Writings, Vol. 1, 1913-1926*, eds Marcus Bullock and Michael W Jennings (Cambridge, MA: Harvard University Press, 1996), 243.
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- ⁶⁷ Benjamin, "One Way-Street," 452.
- ⁶⁸ Benjamin, "Franz Kafka," 799.
- ⁶⁹ Benjamin and Scholem, *Correspondence*, 225.
- ⁷⁰ Benjamin, "Franz Kafka," 799.
- ⁷¹ Benjamin, "Critique of Violence," 236.
- ⁷² Benjamin, "Critique of Violence," 243.
- ⁷³ Jacques Derrida, "Force of Law," *Acts of Religion*, Ed and intro Gil Anidjar, (London: Routledge, 2002), 295.
- ⁷⁴ Derrida, "Force of Law," 295.
- ⁷⁵ Benjamin, "Critique of Violence," 248.
- ⁷⁶ Benjamin, "Critique of Violence," 248.
- ⁷⁷ Benjamin, "Critique of Violence," 250.
- ⁷⁸ Benjamin, "Critique of Violence," 250.
- ⁷⁹ Derrida, "Force of Law," 298.
- ⁸⁰ Benjamin, "Critique of Violence," 249.
- ⁸¹ Benjamin, "Critique of Violence," 250.
- ⁸² Benjamin, "Critique of Violence," 250.
- ⁸³ Benjamin, "Critique of Violence," 250.
- ⁸⁴ Derrida, "Force of Law," 298.
- ⁸⁵ Benjamin, "Critique of Violence," 251.
- ⁸⁶ Benjamin, "Critique of Violence," 250.
- ⁸⁷ Derrida, "Force of Law," 298.

- ⁸⁸ Benjamin, "Critique of Violence," 251.
- ⁸⁹ Benjamin, "Franz Kafka," 810.
- ⁹⁰ Benjamin, "Critique of Violence," 244.
- ⁹¹ Benjamin, "Critique of Violence," 244.
- ⁹² Benjamin, "One Way Street," 453.
- ⁹³ Benjamin, "Franz Kafka," 799.
- ⁹⁴ Benjamin, "Franz Kafka," 799.
- ⁹⁵ Benjamin and Scholem, *Correspondence*, 224.
- ⁹⁶ Benjamin, "Critique of Violence," 244.
- ⁹⁷ Benjamin and Scholem, *Correspondence*, 111.
- ⁹⁸ Benjamin, "Franz Kafka," 799.
- ⁹⁹ Benjamin, "Franz Kafka," 799.
- ¹⁰⁰ Benjamin, "Franz Kafka," 799.
- ¹⁰¹ Benjamin, "Critique of Violence," 250.
- ¹⁰² Benjamin, "Critique of Violence," 244.
- ¹⁰³ Benjamin, "Critique of Violence," 250.
- ¹⁰⁴ Benjamin, "Franz Kafka," 799.
- ¹⁰⁵ Kafka, *Diaries*, 423.