

Benjamin and Brazil, a Final Interpretation: Forum on the Actuality of Benjamin's 'Critique of Violence' at Its Centenary, Part VI

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Abstract: Walter Benjamin published his influential essay 'Critique of Violence'/'Zur Kritik der Gewalt' in 1921, and the work has troubled and provoked thinkers across disciplines for over a century now. This Forum gathers a group of scholars in philosophy, political science, international relations and legal studies to reflect on the *actuality* of Benjamin's essay for contemporary critical theory. In Part VI of the Forum, Bethânia Assy, Rafael Felgueiras Rolo, and Jeanne Marie Gagnebin close the series with reflections on Benjamin and Brazil. In their essay, Assy and Rolo discuss Benjamin's work to assert which conception of history could render justice to actual needs in the struggle against contemporary forms of fascism, especially considering the reality of the urban movements such as MUST and MTST. For Rolo and Assy, the concept of divine violence needs to be reconsidered and dislocated from traditional understandings in contemporary literature on Benjamin, and the authors do so by developing an immanent notion of divine violence. They develop an analysis of Benjamin's eighth thesis to make sense of the so-called 'state of exception' regarding a *real* state of exception, which is the duty of critical thinking to instate. Assy and Rolo shed light on the social phenomenon of these urban occupations, so that a better positioning in the struggle against contemporary fascism is (if at all) possible in the light of Benjamin's texts. In the final reflection, Gagnebin draws on her vast expertise in contemporary philosophy to weave together conceptual and philological insights on Benjamin's Marxism in relation to his political and theological thought, on law and justice, and on myth and the mythical.

Keywords: housing struggles; law; Walter Benjamin; critique of violence; perspectivist difference; state of exception; divine justice; Marxism.

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Immanent Violence and Perspectivist Difference on Legal Order: Benjamin's Critique of Violence and Contemporary Brazil's Housing Struggles

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Wo Grenzen festgesetzt werden, da wird der Gegner nicht schlechterdings vernichtet, ja es werden ihm, auch wo beim Sieger die überlegenste Gewalt steht, Rechte zuerkannt
[Where borders are established, the enemy is not simply annihilated, for, even if the most prominent violence/force is reserved to the conqueror, rights are conceded to the former]

—Walter Benjamin (1965, 57).

On the morning of 22 January 2012, a violent police operation took place, which resulted in the calamitous incidents inside the so-called 'Pinheirinho' settlement. Pinheirinho was the name of a huge settlement located in the municipality of São José dos Campos, in the state of São Paulo, Brazil. From 2004 until early 2012, almost 6000-7000 people (nearly 1600 families) had settled and lived there.

Many relevant social actors tried to delay or stall the operation conducted on that January morning, but due to dubious legal technicalities and a conscious disregard (in fact, there is no other word for it) of a Federal Court order ruled only two days earlier (that is, on the 20th) in favour of the settlers, the State Court of São Paulo ruthlessly authorized the carrying out of the operation, which left dozens of people wounded, two women raped, the settlers' belongings all destroyed, and which resulted in the violent death of Ivo Teles dos Santos caused by a fractured skull after being beaten by the police (first degree manslaughter). The former 'police' operation turned out to be a *war* operation (Boulos 2014), and curiously enough (although not surprisingly), the colonel who carried out the operation was just a few months later awarded a medal of distinction for his actions during that January morning.

The land in which the settlement was installed was formally owned by 'Selecta,' a company which belonged to the controversial Naji Nahas. Even though it still is highly debatable if anyone can determine with enough certainty if its ownership was at all legitimate, since there are clear signs that the area was subject to land grabbing [*grilagem*] back in the late sixties/early seventies (Boulos 2014). Nevertheless, the fact of the matter was that the land in which the settlement was placed had been formerly left untouched by its formal owner due to a clear strategy of land speculation. Because the land had been left unused, it was occupied by those who had nowhere to live or lived precariously elsewhere.¹

Since its beginnings, the settlers faced brutal opposition from the municipality. But due to their organization, and especially, because of the involvement of the Roofless Urban Movement (MUST – *Movimento Urbano dos Sem Teto*), a dissidence (even though still an ally in many such events) of the bigger and more organized Workers Roofless Movement (MTST – *Movimento dos Trabalhadores Sem-Teto*) (Goulart 2011), the settlement resisted for almost eight years.

In 2012, Pinheirinho's area was three times bigger than the Vatican (Folha de São Paulo 2012). Most of its buildings were solid masonry houses and businesses. It had developed into a living and vital neighbourhood in less than a decade. Its only 'sin' was to be settled in the property of a renowned land speculator, incrusting in a region which land value had increased exponentially during the past few years before the violent police operation took place.

The discussion over the justification and legitimacy of occupations like Pinheirinho seems like a contemporary edition to the one which, in Walter Benjamin's time, was pursuit over the workers right to strike (Benjamin 1965: 37). Even though housing is constitutionally recognized as a 'fundamental' right in Brazil, a difference of interpretation [*Differenz der Interpretation*] is developed on how to understand this very prerogative. A juridical contradiction is instated between the factual and the logical, and the state usually asserts that the housing right is not to be understood in such a 'radical' sense (that is, in such an *active* sense, *i.e.*, to use an existing right recognized by the Legal Order to break the subjacent Social Order itself), but only according to a 'passive-conservative' logic (wherefore the housing right could be understood as a *negative* right against the state, that is, a right of the proprietor, the landlord, but not a right which the tenants and the poorest could actually bear any claim based on it).

The state imposes the ends which could agree to the maintenance and duration of *status quo* (the so-called 'conservative violence'). Every other teleology is to be deemed 'radical' and 'violent.' This difference in interpretation, which Walter Benjamin points out, is the incongruity between singular perspectives incommensurable to one another. While the oppressors tend to assimilate their interests to those of the state, they manage to protect themselves from violence while redirecting actual violence to the oppressed in the form of the 'rule of law.' The oppressed, on the other hand, pursue the borders of the law, its margins, seeking to find possible breaking points in favour of securing their modes of life and their productive activities. It is all about a difference of interpretation, a difference of perspective, and about the fact that the oppressors manage to successfully (that is, according to the criteria of the law that they themselves – that is, the oppressors – establish for everyone) assimilate their particularity with the universality.

If, according to Walter Benjamin in his eighth thesis on the 'Concept of History,' the actual struggle against fascism would be to reveal the 'real *state of exception*.' That is, not only to assume that the "*state of exception, in which we live, has become the rule*," but to try to achieve a concept of history which corresponds or envelops this impression. Then one must start to question which concept of history is espoused by a critical endeavour deserving of its name. Benjamin, in the same thesis, states that it cannot be a concept founded

on the notion of progress, for the representation of history which the notion of progress imbues is not to be kept.

In what follows, this brief essay will discuss at some length Benjamin's Critique of Violence and directly relatable texts from the same author to assert which conception of history could make justice to actual needs in the struggle against contemporary forms of fascisms, especially considering the reality of the urban movements such as MUST and MTST. First, the concept of divine violence needs to be reconsidered and dislocated from traditional understanding in contemporary literature on Benjamin, so that an immanent notion is developed in the section that follows immediately from the introduction. While establishing the notion of divine violence in its immanent dimension, Benjamin's eighth thesis will be further developed as to make sense of the so-called 'state of exception' regarding a *real* state of exception, which is the duty of critical thinking to instate. Lastly, some light will be shed on the social phenomenon of these occupations, so that a better positioning in the struggle against contemporary fascism is (if at all) possible in the light of Benjamin's texts.

Benjamin's 'Critique of Violence' is one of the most intriguing texts of the 20th century, starting with its title. In fact, the original title, '*Zur Kritik der Gewalt*' (Benjamin 1965: 29-64), could be better translated as 'for a critique of violence,' as well as 'for a critique of force.' Most of the times scholars have tried to give answers based on this most obscure text, the title itself is somewhat a major point of contention. It is usually pointed at the relevant fact that: (a) the word *Gewalt* is indeed a prolific word in German, and it is almost impossible to translate the effect it has on the text once one tries to understand it in terms of an alternative between either 'Violence' or 'Force.' The other intriguing aspect of the essay's title is that of the announcement of: (b) a 'critique.' While considering with due care these two elements together, what should be understood by this promised critique? And what about violence/force? Further still, which relation could be established between them?

In order to address these questions, it is necessary to consider the title at first more thoroughly. Instead of only analysing the two elements suggested above (critique and violence/force), one must consider the whole of the title itself, which could be broken in the following parts: (a) *Zur* (as in '*zu + der* [definite article dative feminine]'); (b) *Kritik* (critique); (c) *der* (definite article genitive feminine); (d) *Gewalt* (force/violence).

The title itself is mysterious, for it points in many directions. '*Zur Kritik der Gewalt*', while pointing at the direction/indication toward something (*Zur etwas*), indicates: (a) the establishment of an objective genitive relationship (such as meaning that '*Gewalt*' could be the object of a critique which is itself external to violence/force); (b) the establishment of a subjective genitive relationship (perhaps a *stricto sensu* 'critique of violence,' such as to consider the critical aspect itself through the exercise of any given form of *Gewalt*).

These alternatives are all possible. In fact, they are all inevitable. While stating at the very last paragraph of the essay that ‘*Die Kritik der Gewalt ist die Philosophie ihrer Geschichte*’ (‘the critique of violence is the philosophy of its history’ [Benjamin 1965: 63]), Benjamin mirrors the perplexity that gives the title its plain humour. This clause is simply baffling: ‘*Der Kritik der Gewalt*’ = ‘*die Philosophie ihrer Geschichte*.’ The Philosophy of its History... whose history? That of a transcendent critique that aims externally and objectively towards violence/force? Or that of a violence/force which is immanent to critique itself? A philosophy of ‘its’ history is no ordinary philosophy, one should grant. It is a philosophy, perhaps, of the political economy established between both poles. Between transcendence and immanence within the relationship between critique and violence. This in-between being the very ‘*Idea of its departing point*’ (‘*die Idee ihres Ausgangs*’² [Benjamin 1965: 63]), at the point of the deposition of any law, this point of indeterminacy which nevertheless makes possible the critical, divisive and decisive apprehension of its temporal data (‘*eine kritische, scheidende und entscheidende Einstellung auf ihre zeitlichen Data ermöglicht*’ [Benjamin 1965: 63]). Time and space (and consequently the law itself) are made possible by this critique of violence which shades light into the ‘*Idea of its departing point*.’ The point of indeterminacy, this itself immanent gathering of *Gewalten* is where/when the deposition of the law [*Entsetzung des Rechts*] takes place.

As an event of immanent gathering, this deposition is simply out of every timely order. Its temporality is out of joint. Therefore, it cannot be neither possible, nor urgent (both notions are derived from conceptions of duration and time) to decide whether ‘pure violence’ has actually taken place. Remember the last words of the essay (Benjamin 1965: 64), divine violence is not to be understood as a ‘means’ to celestial execution but shall be called the *reigning* itself (*die waltende*). It is not that which will reign eventually, if and once conditions are proper. Divine violence reigns beyond our understanding of its very duration (Benjamin 1965: 63-64).

The monotheistic God is not waiting for the proper conditions to rule. To assume his transcendency in these terms is to impose a mythic conditioning on the divine. It would mean to impose a border which shall not be crossed unless humans break path from what is considered holy and right (many readings of the *Rotte Korah* passage go in this direction in fact). The very definition of these categorical borders and frontiers, and ultimately, the very temptation to point out when divine violence has come to pass, and when not, is nothing short of a mythical apprehension of that which ‘lies closest.’ Such orientation can only understand the ups and downs of institutive and conservative violence/force, whose ‘*cyclical law consists of that conservative violence/force which, by the fact of its very duration, indirectly weakens the very institutive violence/force represented in it, while oppressing every inimical counter-violence*’ (Benjamin 1965: 63), thereby inscribing this duration in time itself, asserting the impending end of *status quo* and inevitably the eventful recrudescence of a certain violence/force which wants nothing else as to sustain this duration the most it can.

The critical philosopher needs to stop asking whether divine violence has come to pass³. Such a decision is neither equally/immediately possible, nor equally/immediately

urgent. For only the mythic violence lets itself be recognized. Divine violence escapes every endeavour for recognition. The negative conception of divine violence (which resumes the argument by simply considering divine violence as that which is the *opposite* of mythic violence) is insufficient, for it is still deeply incrustated in the perspective of the mythical. According to a transversal reading between Benjamin's essay on violence and his thesis on the concept of history, instead of deciding whether divine violence has come to pass, the critical philosopher needs to assume the task of instituting the *real* state of exception, and that is made possible by (even though one might argue if it should be deemed sufficient), a deeper consideration of the mythical aspect of violence, according to which it is possible to say, following the tradition of the oppressed, that the 'state of exception' has become the rule. That this so-called 'state of exception' has become the norm must not be confused with the meddlings of progress. To say that the amusement over the fact that certain things are *still* possible in the 20th century is not philosophical, and that this very amusement must not be placed 'at the beginning' of any knowledge regarding this phenomenon, should keep the philosopher in guard against the very narrative of progress. For the narrative of progress is still mythical in essence.

If that is the case, the philosophy of history should be radical about the '*Idea of its departing point*.' It should place itself in the perspective not of the transcendental god which might be capable of comprehending and embracing all of reality, but of that immanent perspective, which is best positioned to create new and anew, to produce a new reality, and, while creating, to continuously depose of the mythical. This perspective is philosophical in nature in the sense that it claims for itself a critical, divisive and decisive perspective. To be placed in the position to produce a new reality, to instate the *real* state of exception (*den wirklichen Ausnahmezustand herbeizuführen*). It is placed at the beginning, it aims at the 'Idea of its departing point,' but to the beginning from which it might be allowed to create anew. Benjamin's thinking does not worry too much about death, or the eclipsing of any philosophical tradition. Benjamin points to the need for a continuous beginning anew. If the philosopher is not God (and Benjamin would never assume such a thing), a critical philosophy of history is deemed as that which makes possible the access to the critical, divisive and decisive institution of the temporal data by the very 'Idea of its departing point' (i.e., of its beginnings). Such Benjaminian perspective does not simply recollects what is placed nearer, nor resumes every hope by simply assuming inevitability of the law of fluctuations (*Schwankungsgesetz*) between institutive and conservative violence.

Benjamin reminds its peers to aim at something new, something different. A different conception of history that might be deemed emancipatory – that is, the *real* state of exception. For emancipation is the exception in political history. No conception of progress deals with this fact with enough seriousness as to understand that emancipation is not a matter of progress. Liberation is not something '*au-delà*,' liberation means the institution of a starting point, a point of indeterminacy, after which the 'new' can take place. And, as long as progress remains attached with the idea of emancipation, there will be no emancipation possible, as much as no adequate conception of history, nor the institution of the

real state of exception. *Emancipation is the negation of progress.* Or, better still, it is the breaking of continuity, the interruption of so-called ‘progress.’

To understand that the critical philosopher has the task to institute the *real* state of exception means to be better positioned in the struggle against fascism, according to the eighth thesis. This understanding is no mere knowledge, though, but a militant stance. Instead of aiming at the fluctuation between institutive and conservative violence, the critical philosopher, whose conception of history considers the limitations of the idea of progress, can none other than to keep his senses keen to the breaking points, to the irruption of the new, to that which the notion of progress is manifestly opposed. This emancipatory conception of history is not linear. It is not ‘chronologic,’ but deeply entangled with the notion of *Kairos*. It is neither ‘circular’ in the sense of a pendular motion between institutive and conservative violence. It only seems as if it were ‘punctuated.’ These punctuations are nonetheless historical. The irruption of the new might only appear as irrespective to causality if one follows the conservative chronology of history, then in fact it is merely a question of adjusting the conception of history in order to make sense of these punctuations. The conservative conception of progress is despotic, making it the militant’s approach to reveal their inadequacy to understanding the emancipatory movement.

A more critical and radical approach would mean to consider the revolutionary aim of instituting the ‘real’ state of exception. But what should constitute this ‘real’ state of exception? It must be something which is not keen to the notion of mere ‘progress,’ that is, something which is not merely based on the promise of some future and uncertain emancipation but should be anchored on the understanding that the small door is always there, already available for the messiah to enter, no matter how tiny it is. The messianic in Benjamin is not simply a promise of a saviours’ ‘second coming’ in an indefinite future, but the awareness that salvation is at all times a possibility. If according to the ‘Theological-Political Fragment,’ only the actual coming of the messiah might resolve, finish, or consummate the messianic promise, Benjamin realizes nevertheless that ‘the profane order’ aims at nothing but the idea of happiness which is deeply related with the coming of the messianic Realm (Benjamin 1965: 95/96).

The status of this relationship is curiously materialistic in Benjamin’s terms. Benjamin uses an example from motion physics in order to better express this point. According to his ‘Theological-Political Fragment’ (Benjamin 1965: 95-96):

When an arrow is drawn directed to a target in which the profane *dynamis* effectuates, another draws the direction of the messianic intensity, so that the free humanity’s pursuit of happiness derives freely from that messianic direction, but in a manner such as a force needs the resistance of another opposite to it in order to carry away its effects, so also the profane order of the profane needs the coming of the messianic Realm.

That is, the messianic is nothing more than the very environment which permits the pursuit of happiness to thrive. The messianic direction, acting as an opposing force as

much as a *milieu*, ‘transports’ or ‘communicates’ [*befördert*] the free pursuit of happiness of the profane order, allowing it to effectuate. It should be interesting to consider some practical dimensions of the problem, looking at those settlements such as Pinheirinho

It has been more than a decade since the Pinheirinho settlement was brutally dissolved. But Pinheirinho might still be a good symbol for a struggle which persists in Brazil, unsolved for many, or that even has become all the more pressing after the political and economic crisis of recent years, followed up closely by the pandemic chaos which deepened social inequalities in a scale which not even the most pessimist was in the position to conceive. The erosion of social fundamental rights, such as the right to proper housing, has become a major cluster for social unrest, mainly considering Brazil’s appalling unemployment rate, uncontrolled inflation and the systemic underfinancing of basic services.

According to the dominant discourse – that is, following the perspective of the oppressors who tend to conform and influence not only the governmental, but also society’s intakes on like matters – similar settlements are grossly responsible for the urban chaos and the lack of urban planning. That is, according to the point of view of the oppressors, nothing good might come out from it. However, once the ‘perspective of the oppressed’ is taken into consideration, it becomes apparent what Benjamin said about us realizing that the ‘state of exception has become the rule,’ for the oppressed are not oblivious to the way that the mainstream discourse, reverberated *ad nauseam* by most media outlets, is built against their claim. Notwithstanding, this gained perspective, which departs from the point of view of the oppressed, does not represent the final point of Benjamin’s analysis, when he suggests the possibility of an improvement of our condition against contemporary fascism.

The development of similar urban areas such as occupations is indeed a marvellous social experiment. The mere analysis of the demographic flow does not draw the entire picture and Pinheirinho is telling on this particular, for the institution of a community as relevant as that certainly meant more than the mere joining up of more than a thousand plus families. With the demographic flow rushing into the occupation, starting in 2004, the whole urban dynamics of its surroundings were impressively altered. And, what is more, even besides the institution of a collective individuation of that occupation within the urban scenario, it represented a catalyst for political organization and action which should not be so easily forgotten.

According to Boulos (2014),

the collective living in such an organized settlement, the new ways in which the land can be appropriated, and the political engagement in community decision-making and mobilizing necessary to the achievement of proper housing conditions make such occupations a space in which standing up against the logics of the City of Capital becomes effective.

In this way, one can only perceive the demands for proper housing such as the ones carried out in Pinheirinho as a catalyst for a more fundamental claim in favour of a 'right to have rights' (Arendt 1973: 296; Lafer 1988: 146; Kowarick 2009: 92), expressed through the affirmation of those individuals that took stand to affirm their fundamental right to proper housing by the invention of new ways of promoting collective social and communal goals. Settlers were not merely asserting a right to 'just life' [*gerechtes Leben*], nor focusing solely on the securing of a right of 'mere life' [*bloßen Leben*], even though both dimensions were inextricably present in everything they did regarding the basic struggle for a minimally proper housing condition. In between these two dimensions, took place a form of political organization which enabled them to resist for nearly eight years. This form of organization aimed at challenging the accepted 'differences of interpretation' instituted a new and anarchical perspective, one which was capable of suggesting a different division of justified means [*berechtigte Mittel*] and just ends [*gerechte Zwecke*].

Following Kowarick's distinction between processes of marginalization and those of exclusion, it could be said that Pinheirinho's settlers were subject to a '*partial inclusion*', since despite being intermittent, secondary, occasional, marginal, they were nevertheless a part integrant of productive dynamics (Kowarick 2009: 73). To differentiate between marginalization and exclusion is not simply to introduce a 'hierarchy' between so many forms of oppression, for more importantly it allows a comprehension of a 'politically active' dimension of situations of vulnerability of these marginal forms of inclusion (albeit indecent and cynical these marginal forms of inclusion may be). To use Kowarick's concept of marginalization in Pinheirinho's case means to suggest the politically active endeavour of these vulnerable communities, it means to impose a new perspective, definitely deviant from those of the oppressors as well as from those of the 'merely' oppressed, in favour of the politization of the notion of human rights.

In an occupation, from the opening of the streets, through the organizing of trash collection, until the solving of daily problems, every little detail might indicate a process of political learning and collective engagement and decision (Boulos 2014). The creation of a communal kitchen, for instance, is a perfect example thereof. According to Boulos, MTST has a policy to secure at least one communal kitchen for every group of 100 to 200 families. Such kitchens are provided by donations from the settlers themselves and carry through their mission on the basis of voluntary work, established on scheduled relay shifts.

Such exercises on collective decision-making produces a lasting result, since it forms new militants for the cause of the workers struggle in Brazil. With the experience obtained by these communities, the participants in such experiments realize that they also may steer the society in which they live. (Boulos 2014)

Since the public and private forces opposing occupations like Pinheirinho are gargantuan, which is the origin as much as the consequence (in the manner of a vicious cycle) of their vulnerability and marginalization, their collective organization turns out

as their best chance of resistance in favour of their perceived rights (housing rights being the most prominent in these cases, but surely they imply much more). Such dynamics triggers a learning process which replicates far beyond the limits of that specific settlement, but properly institutes a 'pedagogy of the oppressed,' in Paulo Freire's (2005) terms. That is, a knowledge of the oppressed, by the oppressed in favour of the restoration of their common trait humanity, forfeiting any direct attempt of becoming 'oppressors' or 'sub-oppressors' (Freire 2005: 45). Such radical apprenticeship enables the use of important knowledge on collective organization whenever needed.

Boulos ends his account while pressing the following argument

By-products of the need and the lack of opportunities, an occupation may become a school for social action, a waking up call for those treated poorly in the periphery of capitalism. From a segregated periphery, many struggles might still blossom. (Boulos 2014)

Marginalized communities such as Pinheirinhos' are not only aware that the '*exception has become the rule*,' as the beginning of the eighth Thesis advances, but are actively trying to improve their stance against neoliberal fascism which promotes a notion of progress that tends to normalize the violence committed against them in favour of an exclusionary and unsustainable notion 'urban development.' While coming to terms with a concept of history that corresponds to their marginalization, the institution of the *real* state of exception might mean, in their case, the fostering of communal bonds between the occupants, between those vulnerable, showing that a different political organization is desired and possible. All against the brutal objectification of their beings either as mere victims or as criminals.

A loose notion of 'progress' is commonly deployed in order to describe Brazil's urban infrastructural development. In Brazil's recent history, progress usually comes with some clauses in fine print which are hard to understand at first, but which become all too clear after a certain point of no return (as an *après-coup* so to speak). The booming of metropolitan areas such as São Paulo, Rio de Janeiro, Belo Horizonte, Salvador, Recife, Manaus and Belém during the second half of the 20th century is often accompanied by the increase of social tension regarding urban matters. Progress does not come cheap for those that are made roughly invisible by the capitalistic system, whose logic favours the naturalization of *status quo*.

Capitalism rejects the poor as much as it necessitates the full integration of the oppressed to its project (Rolnik 1995: 50-51). Capitalism is totalitarian in this way, for it demands the full subjugation of its victims to its needs, and to its needs only. Every other form of participation by the lower strata of the class's struggles is deemed as outlaw. If the tradition of the oppressed informs us that the state of exception has become the rule, one must consider which traditions of the oppressed are there to be considered. There is no

disregarding the role of fetishism after which one might be, at least at first, insensible to the howls of the many different oppressed.

Contemporary cities are deeply segregated territories. Frontiers of the most different sort cohabit and superpose one another in the cityscape. Poor/rich, old/new, valued/undervalued, well-structured/precarious, etc. the contemporary city is not possible without its frontiers, visible or otherwise. This segregation is not paradoxical with the fact that more and more people are drawn to the promises of urban living every year. Acting as a 'magnet' for businesses, money, culture, opportunities, and, consequently, of people, metropolitan areas are notwithstanding asymmetrical to the bone (Rolnik 1995:13; 41). These frontiers are themselves subject of fetishism, such as that idea of progress which Benjamin makes reference to in his eighth Thesis.

While considering the housing issue, this phenomenon becomes uncomfortably apparent. This uncomfortableness is nonetheless a symptom of the fetishist conditions to which we individually are preys. Capital's fetishist character is spooky, in Marx's terms (2009: 83-84), for it resists being unveiled. Its mode of resisting effectuates by managing its victims' bodies and affections, that is by 'steering' (and one must remember that the government of the living is none other than a form of 'steering') their modes of existing, that is, the complexity of their exchanges with the outer world, so that a simplified and homogeneously undifferentiated *status quo* appears to be the only possible reality.

If it is correct to say that it is easier to imagine the apocalypse than to glimpse the end of capitalism, then the institution of the *real* state of exception should begin with the imagining of different horizons and frontiers to political engagement. The role of this type of active imagination, therefore, is not to be undermined. It must, instead, be understood as the key dimension of the emancipation process.

One of the most important projects of the urban movements such as MUST and MTST is the promotion of political pedagogy through the practices instituted in settlements similar to Pinheirinho. These occupations, which should not be understood as the act of '*divine violence*,' promote nevertheless the actual institution of the *real* state of exception, for they redesign frontiers. Settlers such as the people that resisted in Pinheirinho are unwelcome not mainly because they are termed the living signs of the unjustness of the capitalist system, but because they make brutally evident that alternatives to neoliberalist policies in fact do exist.

The amusement over the fact that similar forms of violence such as the one perpetrated in Pinheirinho on that January morning, could still be possible in the 21st century is not a philosophical one, according to Benjamin, who wrote his Thesis on the Concept of History more than 70 years ago. The properly philosophical amusement should be placed in its institution of a certain point of indeterminacy, that is, in the 'Idea of its departing point,' which is full of potentialities, which is pregnant of that (neg)entropic energy which could be actualised in the most divers manners, such as political philosophers and analysts can only dream of. If the revolution should be considered the historical '*taking control over the emergency break by those human beings travelling in that train [that is, the locomotive of world history]*' ('*der Griff des in diesem Zuge reisenden Menschengeschlechts nach*

der Notbremse' [Benjamin 1991: vol. I, 1232]) which slows down so-called 'progress' or the advancement of oppression, than occupations such as Pinheirinho are revolutionary in that they reveal the fallacy of the ordinary discourse on progress.

The idealized and ultimately utopian conception of revolution, as a fundamental and structural change of a given system, in the manner of a suspension (*Aufhebung*) of the dialectical contradictions into a state of a more considerable perfection, in the direction of the Absolute, should be changed in favour of the critical perspective Benjamin proposes. After all, the Revolution should not be considered after its effects, but according to its underlying potency, that is to the 'Idea of its departing point,' to its entropic dynamic. To institute the 'real' state of exception, to make it apparent, to present it for the eyes of each and every one to see, facing the violent *réfoulement* of *status quo*, shall be the 'ultimate' revolutionary task. Nevertheless, one should not overstate the 'ultimate' condition of the revolutionary task, for it must not be forgotten that the Revolution is the most fragile of political concepts. If the critical philosopher, as much as Benjamin's Jew, only manages a fleeting glimpse of that 'tiny door' [*kleine Pforte*], it is nonetheless a door through which the 'Messias' might arrive.

According to Raquel Rolnik (2019: 378):

We are therefore facing a 'war of spaces' or a war 'for spaces.' In this war, what is at stake are the collective processes of construction of 'counterspace:' by movements that resist the reduction of the spaces available to mere *loci* for the extraction of revenue and, simultaneously, experimentation movements for alternatives and possible futures. As much as in any other form of war, its is marked by confrontation and violence.

Occupants, as well as NGO's such as MTST, and MUST, are in the frontline of these struggles. Investing their militancy in (re)signifying the space available to them, breaking the fetishist frontier of property in favour of the notion of adequate housing as a fundamental human right. The critical philosopher cannot but recognize that their objective is not merely the bloodless deposition of law, but the production of new reality, a reality that is nevertheless made possible by their day-to-day activism. Their movement does not present itself as the sign and seal of the divine reigning decree, but, while assuming to be a human all too human endeavour, nevertheless, denies a short-sighted perspective (or a '*Ein nur aufs Nächste gerichteter Blick*' [Benjamin 1965: 63]) and favours militant resistance as a revolutionary practice.

On the 100 Years of 'Zur Kritik der Gewalt'

Jeanne Marie Gagnebin

I would like – in this short paper that takes up other texts⁴ – to clarify some concepts in a philological and philosophical way. I mean, I would like to help unravel some precise questions in order to help us read this enigmatic text. I do not intend, however, to clarify any single argument, but one that I consider to be the greatest enigma of this text: what Walter Benjamin calls divine justice and violence. Such an obscure concept led an experienced commentator such as Jacques Derrida (1994) to make Benjamin an – involuntary – precursor of a theoretical attempt to justify the Shoah as a manifestation of that kind of violence.

The **first question** concerns Benjamin's political thought before his stances were linked to Marxism. Interpreters often ignore this stage of Benjamin's thought, making it seem like everyone believed Gershom Scholem's statement that makes Asja Lacin responsible for Benjamin's 'communist' deviation,⁵ that is, his turning away from Judaism and mysticism (Kambas 1992).

Even during his doctoral studies, Benjamin was closely following political events, in particular the end of the First World War and, in Germany, the bloody crushing of the revolution attempts in 1918-1919 by the German republican government, and the murder of Rosa Luxemburg and Karl Liebknecht by the Berlin police on the orders of their social-democratic commander Noske.⁶

While concluding his doctorate in the quiet village of Muri (near Bern, Switzerland), Benjamin heard of the proclamation of the free Bavarian Republic on November 8, 1918, and, also, the general strike in Switzerland – an episode little known even by the Swiss citizens themselves. Besides being focused on his work on 'The Concept of Art Criticism in German Romanticism,' Benjamin pays precise – but discreet – attention to the political developments emerging from the end of the War and the Russian Revolution.

We can theorise that, since his youth and up to his theses 'On the Concept of History,' in Benjamin's reflections there is a *sui generis* imbrication between Jewish theology – no doubt linked to the numerous conversations with Scholem – and radical politics. The discovery of a small text fragment from 1916, written by Benjamin, that Scholem preserved and copied in his *Tagebücher* (Diaries), published only after Scholem's death, underlines this hypothesis and opens several instigating perspectives to better understand young Walter Benjamin's political writings.

This fragment, entitled 'Notizen zu einer Arbeit über die Kategorie der Gerechtigkeit' ('News for a Work on the Category of Justice'),⁷ is perhaps one of Benjamin's first drafts with political connotations. It is an introduction to two essential aspects of his thinking: justice (*Gerechtigkeit*) and the critique of any social order based on possession/property (*Besitz*). Not alluding either to Marx nor to any other theorist, Benjamin enunciates a theological-political conviction: political because it refers to a radical critique of the social order based on property, and theological because it alludes to a formulation of justice

that is not defined by the just distribution of goods. I quote the beginning and the final sentence of this fragment:

Jedem Gute, als in der Zeit- und Raumordnung eingeschränktem, kommt Besitzcharakter als Ausdruck seiner Vergänglichkeit zu. Der Besitz aber, als in der gleichen Endlichkeit befangen, ist immer ungerecht. Daher kann auch keine wie immer geartete Besitzordnung zur Gerechtigkeit führen.

(...)

Die ungeheuere Kluft, die zwischen Recht und Gerechtigkeit dem Wesen nach klafft, haben andere Sprachen bezeichnet. (Adorno and Tiedemann 1992: 41, 42)

A clumsy attempt at translation:

Each good [singular], enclosed in the order of time and space, is marked by the character of possession, that is expression of its transitoriness/caducity. Possession, however, imprisoned in the same finitude, is always unjust. Therefore, no order of possession/property, whatever it may be, can lead to justice.

(...)

The enormous abyss that, according to its essence, is carved between right and justice has been designated by other languages.

In the fragment found in Scholem's diaries, this enigmatic phrase is followed by Greek, Latin and Hebrew words, which allowed Hermann Schweppenhäuser, who edits and comments the text, to assume that these terms are spelled by Scholem, since Benjamin had no knowledge of Hebrew in 1916.

This young Benjamin's fragment is precious for two reasons: it shows the intimate relationship between political reflection and theological thought for him; and it opens fruitful perspectives for better understanding the famous essay '*Zur Kritik der Gewalt*.' We can, in effect, read these lines both as a political denunciation of property, which is never just, and as a theological speculation on radical 'dis-possession,' in the straight lineage of Master Eckhardt's *Abgeschiedenheit*. In Benjamin, this absence of social order founded on possession/property concerns the profane and earthly orders of a world that is finally just and happy, a world that would be the target of political action – and not a transcendent or religious utopia (Benjamin 1921). Hermann Schweppenhäuser sees in this image of a just world an echo of the doctrine of the 36 Righteous (Scholem 1981) who sustain the world without even knowing their role, a tradition of Jewish mysticism that Scholem studied, and that we can also recognize in the figure of the Benjaminian narrator.

My insistence on the imbrication of the political and the theological in Benjamin is intended to make us less helpless when we read the text published in 1920-1921 in the journal *Archiv für Sozialwissenschaft und Sozialpolitik*, '*Para uma crítica da violência*'

[For a Critique of Violence]⁸ (Benjamin 2011) or ‘*Crítica da violência - crítica do poder*’ [Critique of Violence – Critique of Power]⁹ (Benjamin 1986), an essential text for a reflection on State of Exception, both in its (supposed) dialogue with Carl Schmitt and in its more recent interpretation by Giorgio Agamben.

Two words about the political context of the writing of this essay: in a preliminary remark to his Moscow Diary, Benjamin defined himself as belonging to a generation of left intellectuals whose radicalisation was due much more to the failure of the German Revolution of 1918, than to the war itself, a failure caused by the ‘petit-bourgeois “*parvenu*” spirit of German social democracy.’¹⁰ This diagnosis is confirmed in a project he failed to complete, entitled ‘Politics’ (Kambas 1992: 265), divided in three parts: a critique of Kurt Hiller’s pacifism; the essay on the question of Violence/Power; and finally a ‘Teleology without an Ultimate End’ [‘*Teleologie ohne Endzweck*’], which was probably not written. At the origin of these texts, we have the merger of a criticism of a conception of political action with a conception of linear, continuous and empty time that should lead to an ‘ideology of progress,’ a subject that will return in the ‘Theses.’ We can also risk the hypothesis that the figures of the interruption of this empty linearity, to which we give the ambiguous name of ‘history’—even if they are designated by political terms such as ‘the proletarian general strike’ which ‘proposes, as its only task, to annihilate the state power,’¹¹ in the 1921 text, or, in the 1940 ‘Theses,’ the ‘dialectical leap,’ ‘which Marx understood revolution to be’ (Thesis XIV)—also always allude to a theological dimension, whether pure divine violence or the advent of the Messiah.

This entanglement of political and theological reflection goes back to the speculative core that the word *Gewalt* itself illustrates better than any other. The noun *Gewalt* comes from the archaic verb *walten*: to rule, to reign, to have power over, in particular – and today almost exclusively – employed in religious context. If the first use of *Gewalt* refers to *potestas*, to political power and domination – as in the compound noun *Staatsgewalt*, ‘authority or State power’ –, the use of the word to designate the excess of force (*vis*, in Latin) that always accompanies the exercise of power, i.e., *violence*, is established in everyday use from the 16th Century on (hence, for example, *Vergewaltigung*, ‘rape’). It should also be noted that, the plural, *Gewalten*, is usually translated as ‘forces.’¹²

The word itself contains both the intimate relationship that links the source of political power to a divine origin (a relationship that was vehemently questioned after the French Revolution), and the risk of excess, the dangerous and frequent slide of this power into violence. We can dare to draw a hypothesis of interpretation that Benjamin uses the religious resonance of the term to counterpose a ‘pure’ – and divine – violence to the excesses of state power, i.e., to its degeneration into violence.

The **second issue** concerns the opposition Benjamin constructs between the structure of Law (*Recht*) and a full concept of justice (*Gerechtigkeit*). Many readers deduce from this opposition a denial of the necessity and legitimacy of Law and Rights in Benjamin’s conception of political life. That is a harmful tendency not only towards anarchy, but towards the justification of a dictatorial seizure of power. I do not deny this risk, but I argue for a less pragmatic reading. Benjamin seems to insist much more on another danger: namely, mistaking the human legal construction with the only justice that would deserve that

name and that can only be divine, therefore, beyond our reach. We find an indicator of transcendence again in the famous figure of the Messiah in the thesis 'On the concept of history' and that prohibits making the communist revolution the equivalent of the messianic advent.

'The unreserved exposition of the irreducible link between violence and law makes Benjaminian Critique the necessary and still unsurpassed premise of any study of sovereignty.'¹³ This statement by Agamben targets the core of Benjamin's text: namely, a conception of law and the juridical as a territory closely linked to the exercise of violence, and not as an objective and neutral territory that would aim to punish and correct injustices. '*Recht*' and '*Gerechtigkeit*' relate in opposition, not in complementary relation, even if Benjamin's text seems

at first sight (...) not to escape the style of a small traditional essay on philosophy of law, mentioning that the task of a critique of *Gewalt* could be defined as the presentation of its relations with law and justice (Barbosa 2013: 153)

following a classic definition of the difference between natural law – which takes the application of violent means as a product of nature 'whose use is unproblematic unless violence is abused for unjust ends' (Benjamin 2011: 123) – and positive law, which 'in turn, can evaluate any nascent law only by criticising its means.'¹⁴

But Benjamin still states that violence is always inherent to law, whether to maintain the existing law or to establish a new one. Here we have a question that borders on the definition of the state of exception, when the State, feeling threatened, resorts to the establishment of a new form of violence. We quote Seligmann-Silva's comment¹⁵: the question of the state of exception

arises when he [Benjamin] discusses the limits that the state-power imposes on the right to strike. This is accepted as a manifestation of the worker as a legal subject who would obtain permission to exercise a limited power. This power is non-violent (in Benjamin's terms: a pure means), insofar as it implies a kind of non-action (...). But if the strike assumes the proportions of a revolutionary general strike, the state classifies it as an abuse (*Missbrauch*, i.e., as a threat to the rule of law) and will appeal to special decrees (*Sonderverfügungen*).¹⁶

It is clearly manifested here that there is within the so-called 'rule of law' a need, at the same time clear and secret, to maintain this 'law' at any price, be it the price of exception and violence: that is, the rule of law does not come from a substantial justice that would give it an essential and unbreakable foundation, but from an original violence that established it as a rule that comes from law.¹⁷

Benjamin quotes two examples of state violence to emphasise its arbitrary core, that is, a core founded on a first violence: the question of the death penalty, in particular its use as a punishment completely 'disproportionate' to the offence (theft or crime against property) and the police. It is worth quoting this excerpt:

In a combination even more contrary to nature than death penalty, in a kind of spectral mixture, these two types of violence [maintaining and instaurating] are found in another institution of the modern state: the police. (...) The infamy of such an institution (...) consists in the fact that in its structure the separation between the violence that maintains and the violence that establishes law is suspended. The claim that the ends of police violence are always identical, or at least related, to the ends of all the law is entirely false. On the contrary, police “law” marks the point at which the state, either through impotence or because of the connections immanent to any order that comes from law, can no longer guarantee, by means of that order, the empirical ends it wishes to achieve at any price. This is why the police intervene “for reasons of security” in an uncountable number of cases in which there is no clear situation related to law; not to mention the cases, not related to law ends, the police accompanies the citizen as a presence that brutally molests him throughout a life regulated by decrees, or purely and simply watches over that citizen.¹⁸

There is no need to lay emphasis on the force and accuracy of this highly up-to-date description. The argument of ‘security’ points to that configuration of the political that is not guided by the seeking of the just – as was theoretically the case in Plato’s or Aristotle’s attempts to define the just city – or the freedom of citizens, but that has its source and justification in fear: fear of the citizen-owners themselves, but also fear of the State that feels threatened in its sovereignty. This presence of fear, which many today see as the source of authoritarianism in its most varied forms (Safatle 2015), refers to that ‘something rotten in law’¹⁹ that Benjamin denounces and that marks the abyss that separates law from justice. Although he speaks several times of class struggles in the essay on violence, in particular when quoting Georges Sorel, Benjamin adopts neither the vocabulary nor the Marxist theory (which he knew little about at the time) to explain his concept of law. His analysis of law violence goes back to his very peculiar conception of mythical violence and myth, an essential concept to understanding his youthful writings.

And here is **the third question**: namely the specific formulation of myth and the mythical in Benjamin. The first observation consists in clarifying that the term ‘myth’ is generally charged with negativity in Benjamin’s philosophy, in direct opposition to ‘history,’ the domain of human freedom and transcendence. Benjamin inscribes himself (as do Adorno and Horkheimer, even if to a lesser extent) much more in the Jewish tradition of the destruction of idols than in the Greek tradition of opposition to the *logos*. Also, he did not acknowledge the anthropological research on the specific organisation of mythical thought. Then the critique of myth is not only a critique of a certain moment experienced by humanity, but it means the critique of a concept of life and destiny that always threatens to return in different forms and undermine human attempts to act historically and freely.²⁰

In the texts from his youth²¹ devoted to the question of tragedy (as opposed to *Trauerspiel* or Baroque drama), Benjamin takes up the link between myth and Greek poetry, in a quite

classical vein (Birnbaum 2009; Hartung 2000: 552). However, the concept quickly moves beyond describing the context of Greek antiquity. In two key essays, 'Fate and Character' (written in 1919) and 'Critique of Violence' (written in 1919-1920), Benjamin incorporates observations on tragedy into a much broader reflection that is both metaphysical and political. In these two texts, myth is placed as a conceptual foundation for understanding the notions of 'guilt' and 'punishment,' which in turn are analysed in relation to the idea of 'mere life' (*das blosse Leben*) – i.e., a life that is consumed in its immanent naturalness –, and in relation to the legal institutions that decreed guilt and are in charge of punishment. Therefore, in Benjamin's understanding, Law does not punish to correct a guilty person, but it needs to create the figure of the guilty in order to be able to punish them, ultimately, in order to be able to maintain itself as a system of guilt and punishment.

In the mythical order of fate, one is guilty by definition – and therefore punished by the gods or other forces; that is, by the mere fact of being alive, given over to a balance of powers of various natures that he can only recognize (like Oedipus at the end of the tragedy), but never freely choose. As long as human life in its mere naturalness is the master category of human existence, i.e., as long as the individual does not overcome this first datum by a free moral decision, and therefore risk putting it into question: as long as they don't risk themselves, abandoning the domain of their mere natural survival, the individual remains delivered over to the forces of myth and fate, two terms almost synonymous in the essay 'Fate and Character.' By the mere fact that they are alive – and not because they have left a primitive state of innocence (by having committed a crime or disobedience that would entail guilt and punishment) – they will be condemned by fate.

Mere life is never enough to justify human existence. In open opposition to the contemporary belief that human life ('organic,' so to speak) is the highest value that should guide human morality, Benjamin polemicalizes with Kurt Hiller in the essay on violence. He states, against the conceptions of one of the first 'human rights' theorists: "The proposition that sustains that existence would have a higher value than just existence, when existence means nothing more than mere life, is false and vile."²² On the same page he observes that 'it would be worth tracing the origin of the dogma of the sacredness of life,' that is, of mere life as a simple biological existence and not as an existence that signals a transcendence of this natural condition that consists in participating in the order of the ethical and the historical through decisions and actions.

For Benjamin, it is about strictly distinguishing the order of natural life – where the forces of nature and myth reign – and the order of historical life – where the decisions taken and assumed by humans to act morally and historically prevail, even if these decisions cost their lives. Benjamin subscribes in a classical way to the Kantian morality of autonomy; in a theological and Jewish way, he sustains that only human life can be defined as the subject's response to the supreme Subject – a life that implies, therefore, responsibility and transcendence. Human life constitutes, therefore, true life, as opposed to mere life and mere natural survival, condemned by their emptiness to be the plaything of fate or myth. This seems to me to be his definition of '*blosses Leben*,' '*mere life*,' which I would prefer not to translate by 'bare life' as Giorgio Agamben proposes in a context of biopolitical reflection.

The deduction of law (*Recht*) from privilege or prerogative law (*Vorrecht*), something that goes back to the order of fate and myth, shows how much young Benjamin's meta-physical thinking dwells on violence and misery – with an accuracy and indignation that will only increase when he meets Asja Lacis or Brecht, incarnations of communist engagement and courage.

We can better understand this relation of continuity between the order of myth and destiny, on the one hand, and the order of law, on the other, by the analogous relation that myth and law hold with guilt and punishment. Both need to establish guilt first, the transgression of a rule, natural or juridical, in order to be able to punish: i.e., to manifest the force of their power. Instead of thinking that law would have the task of punishing a guilt perpetrated by an unfortunate individual, Benjamin defends the idea that law creates guilt to be able to punish it and thus manifest its own strength (*Gewalt*). Hence the statement that precedes the already quoted definition of fate as 'the living being's nexus of guilt' – 'Law does not condemn to punishment, but to guilt.'²³

The indifference of law to the circumstances of the transgression of a specific rule would not be an indicator of the impartiality of a supposed justice, but would rather point to the unappealable violence of its power, as in the boutade of Anatole France, complaining that law forbids both the rich and the poor to spend the night under the bridges of Paris (Benjamin 2011: 149; 1991b: 198). In other words, for Benjamin, the establishment of law as a sphere of power does not redeem us from the myth, but, on the contrary, perpetuates its violence under the mantle of an agreement between humans. It does not establish justice, but disguises and, at the same time, confirms the violent genesis of the established power.

As Günter Hartung notes, Benjamin, even in his so-called materialist phase, did not abandon his conception of 'myth' and his opposition to a true human history – redeemed, *erlöst*, he will say in the 'theses' – in which the profane world would be just and happy, without fear nor legislation nor Law. 'As long as there is still a beggar, there will still be Myth'²⁴ writes Benjamin in his – unfinished – work *Passages*. And there will still be no justice.

Notes

- 1 [Note by Assy and Rolo] According to the most recent report from Fundação João Pinheiro (FJP) – a research and teaching institution linked to the Minas Gerais State Secretariat for Planning and Management, which releases annual reports on the housing deficit in Brazil – the estimated housing deficit for the year of 2019, was of roughly 5,876 million of homes, of which 5,044 million were located in urban areas and 832 thousand, in rural ones. Still according to FJP, in relative terms, the total number represents 8,0% of all the particular and improvised housing available in Brazil. Leaving at least 5,405 million uncovered and condemned to live precariously, which besides the actual lack of a roof over one's head, also means: (a) paying excessively high rent, which undermines a family's net income; (b) living in precarious housings, lacking basic services such as electricity, water supply, sewerage, as much as being adequately served by public services such as transportation, schools and hospitals; (c) living in co-habitation with other families in overcrowded homes. For more information, cfr. Fundação João Pinheiro's study on Brazil's housing deficits (2021), which is available in: <https://www.gov.br/mdr/pt-br/assuntos/habitacao/RelatorioDeficitHabitaionalnoBrasil20162019v1.0.pdf>.

- 2 [Note by Assy and Rolo] The translation of ‘*Ausgang*’ to ‘*departing point*’ needs some explaining: for it does not appear in most canonical translations of Benjamin’s essay on violence. ‘*Ausgang*’ is usually translated to ‘*ending*’ (Fenves and Ng 2021: 59). Although, it should be noticed that ‘*Ausgang*’ is an ambiguous word that points out in many directions, much like the Freudian use of the word ‘*Unheimlich*’ (‘*Unheimlich ist irgendwie eine Art von heimlich*’ [Freud 2019: 46/49]). The ‘*Ausgang*’ could either be translated to ‘*ending*’ or to make sense of a ‘*departure*’, to point out a ‘*starting something new*’. This last notion is the one privileged in this moment.
- 3 [Note by Assy and Rolo] This is the main reason why similar analyses such as Zizek’s account on the relationship between Benjamin’s divine violence and the latin motto ‘*vox populi, vox dei*’ epitomized by his most insensitive and crude analysis of ‘*the Panic in Rio de Janeiro when crowds descended from the favelas into the rich part of the city*’, are disregarded in this essay. *En summe*, to point out, as Zizek does ‘*[t]his was indeed divine violence*’ and that those crowds were ‘*like biblical locusts, the divine punishment for men’s sinful ways*’ (Zizek 2009: 171) is simply unsettling in so many levels, let alone in ‘*Benjaminian*’ terms. Zizek’s analysis, forfeiting a humbler take on the phenomena he is so eagerly assimilating to a biblical catastrophe, departs from what could be considered a serious and radical reading of Benjamin’s essay on violence, for it is simply ‘*neither possible, nor urgent*’ to tell whether such violence has taken place. Zizek uses Benjamin’s essay as a pretext for something else, as many others also do while trying to point out the phenomena of divine violence through ‘*concrete*’ examples. This tactical use of Benjamin’s ‘*Critique of Violence*’ is not *per se* ‘*wrong*’, it is simply not the type of analysis the authors are focusing on during their study of the matter.
- 4 [Note by Gagnebin] In particular, I refer to my paper published in the collection organized by Renato Franco, Miguel Vedda and Antônio A. S. Zuin (Gagnebin 2021).
- 5 [Note by Editors] It is possible that the author here refers to Scholem (2003: 159): ‘*The emergence of heavier Marxist accents from 1928 on evidently is connected with the influence of Asja Lacin and Brecht; Adorno and Horkheimer later led him to a further breakthrough in this direction at Königstein.*’
- 6 [Note by Gagnebin] This episode will be remembered until Benjamin’s last text, the theses ‘*On the Concept of History*.’
- 7 [Note by Gagnebin] Published in Adorno and Tiedemann (1992: 41, 42).
- 8 [Note by Gagnebin] Ernani Chaves’ translation.
- 9 [Note by Gagnebin] Willi Bolle’s translation.
- 10 [Note by Gagnebin] Our translation of ‘*daß die am kleinbürgerlichen parvenühaften Geiste der deutschen Sozialdemokratie gescheiterte Revolution von 1918*’ (Benjamin 1991: vol. VI, 781). This ‘*Vorbemerkung*’ was not published on the Diary.
- 11 [Note by Gagnebin] Our translation of ‘*a greve geral proletária*’ que ‘*se propõe, como única tarefa, aniquilar o poder de Estado*’ (Benjamin 2011: 142).
- 12 [Note by Gagnebin] This philological information was taken from *Deutsches Wörterbuch von Jakob und Wilhelm Grimm*. I confess that Derrida’s (1994) speculations about the kinship of Benjamin’s first name – Walter – and the radical of the verb *walten* did not convince me.
- 13 [Note by Gagnebin] Our translation of ‘*Haver exposto, sem reservas, o nexo irredutível que une violência e direito faz da Crítica benjaminiana a premissa necessária, e ainda hoje insuperada, de todo estudo sobre a soberania*’ (Agamben 2004: 71).
- 14 [Note by Gagnebin] Our translation of ‘*in turn, can evaluate any nascent law only by criticising its means*’ (Benjamin 2011: 124).
- 15 [Note by Gagnebin] Our translation of ‘*surge quando ele [Benjamin] discute os limites que o Estado-poder impõe ao direito de greve. Esta é aceita como uma manifestação do operariado como sujeito jurídico que obteria uma permissão para exercer um poder limitado. Este poder é não violento (nos termos de Benjamin: um meio puro), na medida em que implica uma espécie de não-ação. (...). Mas se a greve assume as proporções de uma greve geral revolucionária, o Estado a classifica como abuso (Missbrauch, ou seja, como uma ameaça ao estado de direito) e apelará para decretos especiais (Sonderverfügungen)*’ (Seligmann-Silva 2007: 216).
- 16 [Note by Gagnebin] In Brazil, this appeal quoted above would lead to a new AI5.

- 17 [Note by Gagnebin] It is interesting to note that Benjamin's argument reminds us very much of Nietzsche's, particularly in the *Genealogy of Morals* (Valadier 1998). We know that Benjamin was an intense reader of Nietzsche until his death. In this text, however, there is no explicit allusion to him.
- 18 [Note by Gagnebin] Our translation of 'Em uma combinação ainda mais contrária à natureza do que na pena de morte, numa espécie de mistura espectral, estes dois tipos de violência [mantenedora e instauradora] estão presentes em outra instituição do Estado moderno: a polícia. (...) O infame de uma tal instituição (...) reside no fato de que nela está suspensa a separação entre a violência que instaura o direito e a violência que o mantém. (...) A afirmação de que os fins da violência policial seriam sempre idênticos aos do resto do direito, ou pelo menos teriam relação com estes, é inteiramente falsa. Pelo contrário, o "direito" da polícia assinala o ponto em que o Estado, seja por impotência, seja devido às conexões imanentes a qualquer ordem do direito, não consegue mais garantir, por meio dessa ordem, os fins empíricos que ele deseja alcançar a qualquer preço. Por isso a polícia intervém "por razões de segurança" em um número incontável de casos nos quais não há nenhuma situação de direito clara; para não falar nos casos em que, sem qualquer relação com fins de direito, ela acompanha o cidadão como uma presença que molesta brutalmente ao longo de uma vida regulamentada por decretos, ou pura e simplesmente o vigia' (Benjamin 2011:136). After the murder of young people in Paraisópolis and in the favelas in Rio, after the assassinations in prisons, and the murder of indigenous chiefs... we can affirm that Brazil is the privileged example of this 'infamy'.
- 19 [Note by Gagnebin] Our translation of '*etwas Morsches im Recht*' (Benjamin 1977: 188).
- 20 [Note by Gagnebin] In this abyssal sense of constant threat, even the nickname 'mito' (myth), shouted out by the supporters of the former Brazilian president to greet him, has become oddly current!
- 21 [Note by Gagnebin] I take the liberty to return to some considerations already set out in my text (Gagnebin 2014).
- 22 [Note by Gagnebin] Our translation of: 'É falsa e vil a proposição de que a existência teria um valor mais alto do que a existência justa, quando existência significar nada mais do que a mera vida' (Benjamin 2011: 153-154).
- 23 Our translation on 'nexo de culpa do vivente' — 'O direito não condena ao castigo, mas à culpa.' (Benjamin 1991: 781), '*Das Recht verurteilt nicht zur Strafe, sondern zur Schuld*'; (Benjamin 1991: vol. IV-1, 94).
- 24 [Note by Gagnebin] Our translation on '*Solange es noch einen Bettler gibt, solange gibt es noch Mythos*' (Benjamin 1991: vol. VI, 208; vol. V-1, 505).

References

- Adorno, T W and R Tiedemann. 1992. Frankfurter Adorno Blätter, Number IV, Issue *Text und Kritik*.
- Agamben, G. 2004. *Homo sacer. O poder soberano e a vida nua I*. Belo Horizonte: Editora UFMG.
- Arendt, H. 1973. *The Origins of Totalitarianism*. San Diego: Harcourt Brace & Co.
- Barbosa, J. F. 2013. 'A crítica da violência de Walter Benjamin: implicações histórico-temporais do conceito de reine Gewalt'. *Aurora* 25(37).
- Benjamin, W. 1921. 'Theologico Political Fragment'. Available at: https://platypus1917.org/wp-content/uploads/2011/12/benjamin_theologicopolitical.pdf (Accessed: 18 May 2023)
- Benjamin, W. 1965. *Zur Kritik der Gewalt und andere Aufsätze*. Frankfurt a.M.: Suhrkamp.
- Benjamin, W. 1977. *Gesammelte Schriften II-1*, Berlin: Suhrkamp.
- Benjamin, W. 1986. *Documentos de Cultura, Documentos de Barbárie*, São Paulo: Cultrix/Edusp.
- Benjamin, W. 1991. *Gesammelte Schriften*. Erster Band, Erster Teil. Frankfurt a.M.: Suhrkamp.
- Benjamin, W. 2011. *Escritos sobre mito e linguagem*. São Paulo: Editora 34.
- Birnbaum, A. 2009. *Bonheur, justice. Walter Benjamin*. Payot.

- Boulos, G. 2014. *Por que Ocupamos? Uma Introdução à Luta dos Sem-Teto*. São Paulo: Autonomia Literária.
- Derrida, J. 1994. *Force de loi*. Paris: Editions Galilée.
- Fenves, P and Ng, J. (eds). 2021. *Walter Benjamin. Toward the Critique of Violence: A Critical Edition*. Stanford: Stanford University Press.
- Folha de São Paulo. 2012. 'Área reintegrada no interior de São Paulo é 3 vezes maior que o Vaticano' [online]. 24 January. At <https://www1.folha.uol.com.br/bbc/1038603-area-reintegrada-no-interior-de-sp-e-3-vezes-maior-que-o-vaticano.shtml> [Accessed on 7 December 2021].
- Freire, P. 2005. *Pedagogy of the Oppressed*. 30th Anniversary Edition. New York: Continuum.
- Freud, S. 2019. *Obras Incompletas: O Infamiliar/ Das Unheimliche*. Belo Horizonte: Autêntica.
- Fundação João Pinheiro [Brazil]. 2021. *Déficit Habitacional no Brasil. 2016-2019*. Belo Horizonte. At: <https://www.gov.br/mdr/pt-br/assuntos/habitacao/RelatorioDeficitHabitacionalnoBrasil20162019v1.0.pdf>.
- Gagnebin, J. 2014. 'Mito e culpa nos escritos de juventude de Walter Benjamin' In Gagnebin, J. *Limiar, Aura e Rememoração: Ensaio sobre Walter Benjamin*. São Paulo: Editora 34.
- Gagnebin, J. M. 2021. 'Estado de exceção: entre catástrofe e necropolítica.' In R. Franco, M. Vedda and A. A. S. Zuin (eds.), *Estado de exceção na Argentina e no Brasil*. São Paulo: Alameda-Nankin, 2021.
- Goulart, D. C. 2011. *O Anticapitalismo do Movimento dos Trabalhadores Sem-Teto – MTST*. PhD Thesis, UNESP, Brazil.
- Hamarcher, W. 2002. 'Affirmative, Strike, Benjamin's Critique of Violence.' In A. Benjamin and P. Osborne (eds), *Walter Benjamin's Philosophy: Destruction and Experience*. London: Routledge.
- Hartung, G. 2000. 'Mythos'. *Benjamins Begriffe*, Frankfurt/Main: Suhrkamp.
- Kambas, C. 1992. 'Walter Benjamin liest Georges Sorel: "Réflexions sur la violence"' In *Aber ein Sturm weht vom Paradiese her: Texte zu Walter Benjamin*. Leipzig: Reclam.
- Kowarick, L. 1979. *Espoliação Urbana*. 2nd ed. Rio de Janeiro: Paz e Terra.
- Kowarick, L. 2019. *Viver em risco: Sobre a vulnerabilidade socioeconômica e civil*. São Paulo: Editora 34.
- Lafer, C. 1988. *A reconstrução dos direitos humanos: um diálogo com o pensamento de Hannah Arendt*. São Paulo: Companhia das Letras.
- Marx, K. 2009. *Das Kapital*. Köln: Anaconda.
- Rolnik, R. 1995. *O que é Cidade*. 3rd ed. São Paulo: Brasiliense.
- Rolnik, R. 2019. *Guerra dos Lugares: A Colonização da Terra e da Moradia na Era das Finanças*. 2nd ed. São Paulo: Boitempo.
- Safatle, S. 2015. *O circuito dos afetos*. São Paulo: Autêntica.
- Scholem, G. 1981. 'Die 36 verborgenen Gerechten in der jüdischen Tradition' In *Judaica 1*, Suhrkamp.
- Scholem, G. 2003. *Walter Benjamin: The Story of a Friendship*. Translated by Harry Zohn. Philadelphia: The Jewish Publication Society of America
- Seligmann-Silva, M. 2007. 'Walter Benjamin: o Estado de Exceção entre o Político e o Estético' In M. Seligmann-Silva, et al (org.) *Leituras de Walter Benjamin*. São Paulo: Annablume.

Valadier, P. 1998. *Nietzsche: Cruauté et noblesse du droit*. Paris: Editions Michalon.

Zizek, S. 2009. *Violence*. London: Profile Books.

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Benjamin e o Brasil, uma interpretação final: Fórum sobre a atualidade da “Crítica da Violência” de Benjamin em seu centenário, Parte VI

Resumo: Walter Benjamin publicou seu influente ensaio “Critique of Violence”/”Zur Kritik der Gewalt” em 1921, e o trabalho tem incomodado e provocado pensadores de várias disciplinas há mais de um século. Este Fórum reúne um grupo de acadêmicos de filosofia, ciência política, relações internacionais e estudos jurídicos para refletir sobre a atualidade do ensaio de Benjamin para a teoria crítica contemporânea. Na Parte VI do Fórum, Bethânia Assy, Rafael Felgueiras Rolo e Jeanne Marie Gagnebin encerram a série com reflexões sobre Benjamin e o Brasil. Em seu ensaio, Assy e Rolo discutem o trabalho de Benjamin para afirmar qual concepção de história poderia fazer justiça às necessidades reais na luta contra as formas contemporâneas de fascismo, especialmente considerando a realidade dos movimentos urbanos como o MUST e o MTST. Para Rolo e Assy, o conceito de violência divina precisa ser reconsiderado e deslocado dos entendimentos tradicionais da literatura contemporânea sobre Benjamin, e os autores fazem isso desenvolvendo uma noção imanente de violência divina. Eles desenvolvem uma análise da oitava tese de Benjamin para dar sentido ao chamado “estado de exceção” em relação a um verdadeiro estado de exceção, que é o dever do pensamento crítico de instaurar. Assy e Rolo lançam luz sobre o fenômeno social dessas ocupações urbanas, de modo que um melhor posicionamento na luta contra o fascismo contemporâneo é (se é que é possível) à luz dos textos de Benjamin. Na reflexão final, Gagnebin recorre à sua vasta experiência em filosofia contemporânea para tecer percepções conceituais e filológicas sobre o marxismo de Benjamin em relação ao seu pensamento político e teológico, sobre o direito e a justiça, e sobre o mito e o mítico.

Palavras-chave: lutas por moradia; direito; Walter Benjamin; crítica da violência; diferença perspectivista; estado de exceção; justiça divina; marxismo.

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