HOMO SACER

Sovereign Power
and Bare Life

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neither the simple absence of work nor (as in Bataille) a sovereign and useless form of negativity. The only coherent way to understand inoperativeness is to think of it as a generic mode of potentiality that is not exhausted (like individual action or collective action understood as the sum of individual actions) in a *transitus de potentia ad actum*.

§ Threshold

In laying bare the irreducible link uniting violence and law, Benjamin’s “Critique of Violence” proves the necessary and, even today, indispensable premise of every inquiry into sovereignty. In Benjamin’s analysis, this link shows itself to be a dialectical oscillation between the violence that posits law and the violence that preserves it. Hence the necessity of a third figure to break the circular dialectic of these two forms of violence:

The law of this oscillation [between the violence that posits law and the violence that preserves it] rests on the fact that all law-preserving violence, in its duration, indirectly weakens the lawmaking violence represented by it, through the suppression of hostile counterviolence. . . . This lasts until either new forces or those earlier suppressed triumph over the violence that had posited law until now and thus found a new law destined to a new decay. In the interruption of this cycle, which is maintained by mythical forms of law, in the deposition of law and all the forces on which it depends (as they depend on it) and, therefore, finally in the deposition of State power, a new historical epoch is founded. (“Zur Kritik der Gewalt,” p. 202)

The definition of this third figure, which Benjamin calls “divine violence,” constitutes the central problem of every interpretation of the essay. Benjamin in fact offers no positive criterion for its identification and even denies the possibility of recognizing it in...
the concrete case. What is certain is only that it neither posits nor preserves law, but rather "de-poses" (entsetzen) it. Hence its capacity to lend itself to the most dangerous equivocations (which is proven by the scrutiny with which Derrida, in his interpretation of the essay, guards against it, approximating it—with a peculiar misunderstanding—to the Nazi “Final Solution” ["Force of Law," pp. 1044–45]).

It is likely that in 1920, at the time Benjamin was working on the "Critique," he had not yet read Schmitt’s Political Theology, whose definition of sovereignty he would cite five years later in his book on the Baroque mourning play. Sovereign violence and the state of exception, therefore, do not appear in the essay, and it is not easy to say where they would stand with respect to the violence that posits law and the violence that preserves it. The root of the ambiguity of divine violence is perhaps to be sought in precisely this absence. The violence exercised in the state of exception clearly neither preserves nor simply posits law, but rather conserves it in suspending it and posits it in excepting itself from it. In this sense, sovereign violence, like divine violence, cannot be wholly reduced to either one of the two forms of violence whose dialectic the essay undertook to define. This does not mean that sovereign violence can be confused with divine violence. The definition of divine violence becomes easier, in fact, precisely when it is put in relation with the state of exception. Sovereign violence opens a zone of indistinction between law and nature, outside and inside, violence and law. And yet the sovereign is precisely the one who maintains the possibility of deciding on the two to the very degree that he renders them indistinguishable from each other. As long as the state of exception is distinguished from the normal case, the dialectic between the violence that posits law and the violence that preserves it is not truly broken, and the sovereign decision even appears simply as the medium in which the passage from the one to the other takes place. (In this sense, it can be said both that sovereign violence posits law, since it affirms that an otherwise forbidden act is permitted, and that it conserves law, since the content of the new law is only the conservation of the old one.) In any case, the link between violence and law is maintained, even at the point of their indistinction.

The violence that Benjamin defines as divine is instead situated in a zone in which it is no longer possible to distinguish between exception and rule. It stands in the same relation to sovereign violence as the state of actual exception, in the eighth thesis, does to the state of virtual exception. This is why (that is, insofar as divine violence is not one kind of violence among others but only the dissolution of the link between violence and law) Benjamin can say that divine violence neither posits nor conserves violence, but deposes it. Divine violence shows the connection between the two violences—and, even more, between violence and law—to be the single real content of law. "The function of violence in juridical creation," Benjamin writes, at the only point in which the essay approaches something like a definition of sovereign violence, "is twofold, in the sense that lawmaking pursues as its end, with violence as the means, what is to be established as law, but at the moment of its instatement does not depose violence; rather, at this very moment of lawmaking and in the name of power, it specifically establishes as law not an end immune and independent from violence, but one necessarily and intimately bound up with it" ("Zur Kritik der Gewalt," pp. 197–98). This is why it is not by chance that Benjamin, with a seemingly abrupt development, concentrates on the bearer of the link between violence and law, which he calls "bare life" (bloßes Leben), instead of defining divine violence. The analysis of this figure—whose decisive function in the economy of the essay has until now remained unthought—establishes an essential link between bare life and juridical violence. Not only does the rule of law over the living exist and cease to exist alongside bare life, but even the dissolution of juridical violence, which is in a certain sense the object of the essay, "stems . . . from the guilt of bare natural life, which consigns the living, innocent and unhappy, to the punishment that 'expiates' the guilt of bare life—and doubtless also purifies [entsühnt] the guilty, not of guilt, however, but of law" (ibid., p. 200).

In the pages that follow, we will attempt to develop these sugges-
The Logic of Sovereignty

According to Benjamin, the principle of the sacred character of life, which our age assigns to human life and even to animal life, can be of no use either in clarifying this link or in calling into question the rule of law over the living. To Benjamin, it is suspicious that what is here proclaimed as sacred is precisely what, according to mythical thought, is "the bearer destined to guilt: bare life," almost as if there were a secret complicity between the sacredness of life and the power of law. "It might," he writes, "be well worth while to investigate the origin of the dogma of the sacredness of life. Perhaps, indeed probably, it is relatively recent, the last mistaken attempt of the weakened Western tradition to seek the saint it had lost in cosmological impenetrability" (ibid., p. 202).

We shall begin by investigating precisely this origin. The principle of the sacredness of life has become so familiar to us that we seem to forget that classical Greece, to which we owe most of our ethico-political concepts, not only ignored this principle but did not even possess a term to express the complex semantic sphere that we indicate with the single term "life." Decisive as it is for the origin of Western politics, the opposition between *zoe* and *bios*, between *zên* and *eu zên* (that is, between life in general and the qualified way of life proper to men), contains nothing to make one assign a privilege or a sacredness to life as such. Homeric Greek does not even know a term to designate the living body. The term *sôma*, which appears in later epochs as a good equivalent to our term "life," originally meant only "corpse," almost as if life in itself, which for the Greeks was broken down into a plurality of forms and elements, appeared only as a unity after death. Moreover, even in those societies that, like classical Greece, celebrated animal sacrifices and occasionally immolated human victims, life in itself was not considered sacred. Life became sacred only through a series of rituals whose aim was precisely to separate life from its profane context. In the words of Benveniste, to render the victim sacred, it is necessary to "separate it from the world of the living, it is necessary that it cross the threshold that separates the two universes: this is the aim of the killing" (*Le vocabulaire*, p. 188).

If this is true, then when and in what way did a human life first come to be considered sacred in itself? Until now we have been concerned with delineating the logical and topological structure of sovereignty. But what is excepted and captured in sovereignty, and who is the bearer of the sovereign ban? Both Benjamin and Schmitt, if differently, point to life ("bare life" in Benjamin and, in Schmitt, the "real life" that "breaks the crust of a mechanism rigidified through repetition") as the element that, in the exception, finds itself in the most intimate relation with sovereignty. It is this relation that we must now clarify.