

Benjamin on the Border

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ABSTRACT This essay offers a critique of contemporary regimes of migrant repression in light of Walter Benjamin's reflections on borders and their constitutive relation to legal violence. In paragraphs 15–17 of “Toward the Critique of Violence,” Benjamin evokes the legend of Niobe, who, in a fatal stroke of retaliation by the gods, is turned into stone—transformed at once into the grief-stricken precipitate of mythic violence and into an enduring marker of the boundary between two separate and unequal worlds. From this tale, Benjamin unfolds an understanding of the border, not as the mere backdrop for the use of force nor as a territorial demarcation that states may justifiably defend, but as the very instantiation of legal violence (in its originary form). He contends, further, that establishing borders is a technic of ambiguity, designed to represent inequality as a single line that may not be transgressed, and produces, too, a nexus of guilt in relation to which one who “steps over” becomes fated to illegality and to the violence that the latter ostensibly warrants. In drawing attention to the inextricability of borders and the violence that they instantiate, and in exposing the identity between mythic retribution and *Grenzsetzung* (border-positing), Benjamin offers insight into current practices of criminalizing border crossers and militarizing borderlands. Some promise for the negation of the order that secures those who traverse the border as fatalities of law is found in the essay's final moments, when Benjamin imagines extralegal justice, or divine violence, as a de-creative force that annihilates the borders that confer the sentence of life-destroying guilt.

KEYWORDS migration, border violence and policing, Walter Benjamin, illegal immigration, fate

To pass through, we pull off our limbs.

—Mahmoud Darwish, “Earth Presses Against Us”

This reading of “Toward the Critique of Violence” draws forth what Benjamin has to say about borders: what it means to establish them; what their relation is to state violence; and how the force of law constitutes the frontiers that it polices. Does the law legitimate the defense of the border? Or, alternatively, is it the border that secures the rule of law? Does a frontier mark the limit of legally sanctioned violence or, conversely, does it authorize the law's enforcement without bounds?

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As the commentary on Benjamin's essay shows, his reflections on the border are liable to be passed over, as they take place rather late in the essay and tend to be overshadowed by the notoriously difficult distinction between mythic and divine violence. This footpath in his thought is made no less obscure by the not unjustified supposition that the sphere of applicability of his critique is restricted to European parliamentary democracy and its subsequent variants in the history of Western governance. In a throwaway remark at the essay's beginning, Benjamin writes, "For the sake of simplicity, the following discussion will relate to contemporary European conditions."¹ Recalling *critique's* etymological roots in the Greek *krino*—to "divide, to judge"—one may discern, here, a demarcation being made that will govern the majority of Benjamin's investigation, not only in terms of the intellectual traditions from which it draws (Georges Sorel, Hermann Cohen, Marx, Spinoza, Kant, Erich Unger, Darwin), but also with respect to the geopolitical field over which it will pass judgment.

The critique of violence, it seems, will restrict itself to a space that is internal to the rule of law, or at least is capable of imagining itself to be. Such a critique presumes a minimal framework of social belonging—a notion of rights, if not citizenship, with reference to which violence can be made legible. Though, for instance, participants in a partial strike may express hostility toward the state, the state still begrudgingly acknowledges labor, even if it may not ultimately concede to the latter's demands. This is not so, however, for those who are unauthorized to pursue employment—clandestine laborers for whom making public their cessation of work may very often not appear as a meaningful withholding but rather as grounds for punishment.

Insofar as "Toward the Critique of Violence" restricts itself to the sphere of legally mediated violence, one may ask to what extent it forecloses acknowledgment of violence aimed at those who are not imagined to be addressed by the law even as they may be violated by it. An uncertainty arises and closes in on whether his *Kritik* can account for forms of violence—particularly those that are racialized—that do not operate by infringing upon rights-bearing subjects but instead are waged, in a redoubling of violence, against those whose entitlement to legal recognition and, by extension, protection, is called into question by the very violence to which they are subjected. What of *Gewalt* that is visited against those who are figured as external to the state, those who are either categorically excluded from the sphere of right or strategically granted partial personhood so that they can be criminalized, as Saidiya Hartman has shown of chattel slavery?² To what extent is the critique of violence—and the practice of critique more broadly—answerable to what lies outside the bounds that it declares for itself? And would it be beyond the jurisdiction established by this critique to inquire into those kinds of violence that are

not transacted by a violent interpellation by the law but rather through a (forcible) removal from the space of *Recht*?

I am thinking here of Sergio Adrian Hernandez Guereca—the unarmed fifteen-year-old who, while playing with his friends on the Mexican side of the Rio Grande, was shot in the face by a US Border Patrol officer, who stood across the invisible borderline on American ground. After Hernandez’s family sued the officer who murdered him, the US court system ruled that while the Border Patrol agent did use “excessive force” as was alleged, he would nevertheless be granted immunity because the victim had “no significant voluntary connection to the state” and so was not entitled to constitutional protection.³ The court proceedings appeal to a rather ghastly moment of “textual exegesis,” in which the opening line of the Constitution—“We the people”—is interpreted restrictively to refer to a “class of persons who are part of the national community.”⁴ As a Mexican national with neither a “sufficient” affiliation nor a line of kinship that would bind him in belonging to the United States, Hernandez, it was ruled, would not be “covered” by the Fourth Amendment.⁵

If this sanctioning of murder is considered an instance of legal violence, does its operation not differ from legally mediated forms of force that seek to subsume their targets to the order of law rather than to disavow and deport not-quite-admitted subjects-of-the-state—and here, such violence is brutally condensed in the form of a substantive—as “illegals” or *sans papiers*? What could critique say about state violence that not only kills but also, postmortem, persists in disposing the deceased from the circuits of legality? (*And a thick cloud of dust rose up from the man they dragged . . . before the city.*⁶) Does one meet the limits of Benjamin’s critique in asking after violence that takes place at the boundaries of Western nation-states—power that is not effected primarily through coercive subjection to law but rather through the work of extrojection, which ranges from physical repulsion, to systematic retaliation against those who have managed to find a way in, to the phantasmatic production of such bodies as existing outside legal bounds—by inflicting death or, discursively, by refusing recognition? How is one to understand the enforcement of law that does not conscript its addressee into its province of rule but instead intervenes, using violence as a means of carrying out the extradition of (racialized) bodies from the realm of rights? Can critique speak to violence that does not aim to bind subjects to law and hold them to it, but instead admits existence, only so as to mark it as an instance of unlawful trespass? What takes place when the state hails, not to constitute a *you* in a state of subjection but to make it disappear? *Hey you, you effectively do not exist, you are not of this state, you are not a rightful subject of the West.*

Benjamin’s essay, I will suggest, offers critical resources for imagining how to bring to a standstill the violence of the border, which, in our moment, appears to be not only ceaseless but also lethal and capital intensive in an unprecedented way. The bind, it seems, has become increasingly indistinguishable from a death

sentence that does not even pass through the deliberation of a penalty—as, for so many, to flee violence one is forced to confront the life-destroying violence of the border or the perilous journey to get there. Though oblique, Benjamin's remarks help to cut through the perception of border violence as an endless, ineradicable fact of our times, which persists despite the dialectical rise and fall of waves of tolerance and repression—bouts of amnesty followed by the construction of a militarized wall; higher asylum quotas followed by water cannons at the securitized fence; death by water followed by death in the desert.

Borderscapes have become zones of convergence for the various specters of violence that Benjamin examines independently in the course of his critique of *Rechtsgewalt*. As if in a hellish condensation of disparate moments of his essay, within today's borderlands, the police, the military, and the outlaw traffic among themselves in awful circulation. (When considering how the present organization of state violence diverges from the landscape that Benjamin brings into view, one might ask what is at work, for instance, when President Donald Trump issues an executive order to deploy the National Guard to “harden” the southern border.⁷) To this cast of characters we might add the vigilante, the settler, the privately funded warden at the migrant detention center, the smuggler as lawbreaker, and, as was historically new in Benjamin's time, the Border Patrol officer. (The first state Border Patrol was established in the United States in 1924, just three years after the publication of Benjamin's essay.⁸) If, according to Benjamin, the police are a contemptible mixture of lawmaking and law-preserving violence, one might ask if such an amalgamation is merely reprised or substantively adapted by agencies such as Frontex, Immigration and Customs Enforcement (ICE), or US Customs and Border Protection, which has recently surpassed the police as the largest federal law enforcement agency in the United States.⁹

But such a line of inquiry presumes that the border is a site, a galvanized backdrop for lethal contestation. Benjamin proposes differently that the border is not merely the setting of violence but its very instantiation. *Grenzsetzung*—that is, the establishment of borders or frontiers¹⁰—is not formalized to the same degree as his distinction between lawmaking (*rechtsetzend*) and law-preserving (*rechtserhaltend*) violence, but it plays a decisive role in showing how these two forms of violence coincide. The act of positing boundaries is also indispensable to Benjamin's elaboration of nonmediate violence, or force that is not captured by instrumental reason and so lies beyond the bounds of legal theory. In a word: the border, for Benjamin, is not a *there*; it is rather an enactment of violence, which in the same stroke is a deliberately equivocal form of political representation.

One of Benjamin's most instructive provocations for understanding the misfortune of the border, to which his own life was no stranger, lies in his insight that the idea of the frontier is not exhausted by a critique of legal violence and the sec-

ular institutions of state power that support it, but requires a coming to terms with the mythic undercurrent that vitalizes legal violence in being brought systematically into ambiguity with justice. Notably, Benjamin also gestures toward a critical approach to borders that neither accepts them as an instance of the sempiternal act of territorial delimitation nor sees them exclusively in terms of their regional particularity. He understands them, rather, as a necessary element of a critique of violence, which, according to paragraph 19, is one and the same as the “philosophy of its history.” The latter, as he describes it, entails extending the gaze beyond what is closest to hand in order to discern the idea of development, the principle that underlies temporally and geographically dispersed occurrences of violence. Though he does not presume a monolithic form of the nation-state, Benjamin does implicitly encourage us to conceptualize the violence of the border as part of a transnational process of wayward unfolding, which is liable to become locked into a pattern of decay in which lawmaking and law-preserving violence follow upon each other in fatal oscillation. Turning the allegation of Eurocentrism back on itself, one might suggest that Benjamin prompts us to recognize that borders—which, as they lie between, might otherwise appear culturally unmarked and without an origin in any single state—are very much a European conception.

Taking up such an investigation, in which frontiers are examined in terms of the philosophy of their history, entails the suspension of the perspective of practical management that tends to subsume the discourse of the border and, within that framework, can only appear as insoluble: How many immigrants and asylum seekers should a particular country admit? What is the threshold of “reasonable” force for securing the border? Should the European Union fund initiatives to deter migration at its source, even if those countries are known to enforce a shoot-to-kill policy against those who try to flee? From the standpoint of humanitarianism, what are the minimum conditions for refugee camps and “transit” facilities? How long can those seeking asylum be rightfully held within a migrant detention center? What is an acceptable length of time to afford the state for arranging family reunifications? All of these not insignificant questions frame the violence of the border in terms of degrees of necessary repression or acceptance—a paradigm from which the liberal discourse of hospitality, epitomized by the message *Refugees Welcome*, is not entirely free.

Rather than assume, and here I merely reprise the argument that lights up paragraph 14, that justice for migrants can be achieved through legal ends, one can instead begin by interrupting the nearly automatic chains of instrumental reason within which the stabilization of the border tends to be inscribed. Within such prevailing frameworks it is liable to appear either as a necessarily violent means to some greater end, such as peace or the preservation of a national economy or ethnic or religious identity; or, conversely, as a desirable end that in turn justifies the

manifold forms of violence directed against those who traverse the border without state authorization: sexual assault, Taser, shooting, starvation, indefinite detention, and, as was mandated by the Trump administration in 2018, the forcible separation of families.

If not as a fatal setting of violence and if not in the framework of legal instrumentality, how, then, does Benjamin understand the border? Benjamin's discourse on the frontier makes its first, rather subtle, appearance in his reading of the Greek legend of Niobe. His excursus on the mythic anger of the gods primes the perception of a resemblance between the modern and the primeval that flashes up but is not directly asserted until paragraph 17. Despite initially contrasting the nonmediate violence of myth with the instrumental character of *Rechtsgewalt*, Benjamin concludes that "the mythic manifestation of immediate violence reveals itself to be at the deepest level identical with all legal violence" (§17). The difference, it seems, is no difference. But passing through mythic violence allows for a recognition of the perniciousness of the historical function of *Rechtsgewalt*, which in turn allows us to grasp the necessity of the latter's destruction.

"Where borders are laid down," Benjamin writes, "the adversary is not totally annihilated" (§16). Turning the ear toward the echo that doubles over from his evocation of Niobe's tragic tale, one might recall how the gods shoot down all of her daughters and sons but stop short of terminating her. If not death, then what is her fate? Not to die but to continue on as what violence "leaves behind" (§15). Reduced to a precipitate of this mythic show of force, she is divested of her human form and made to persist in a thing-like state that is perhaps not biological death but a social one. She is dispossessed of relations of kinship, forcibly torn from her family through their execution, rendered immobile and unable to speak, and arrested in a state of perpetual grieving. What follows from this mythic violence is that she will always be found guilty. Judith Butler's reading of coercion in "Toward the Critique of Violence" helps one to recognize how Niobe is transformed into a legal subject through a manufactured causality that is complemented by a distorting and coerced narcissism—such that Niobe, despite raising no hand against them herself, is retrospectively made to bear sole responsibility as the cause of her children's death.¹¹ The mythic manifestation of violence engineers a link between two distinct occurrences: Niobe's improper speech and her children's targeted killing, which was dispatched by an executive order from Leto.

If violence coercively transfigures Niobe into a guilty subject of the law that it inaugurates, one might also note how she is objectified in the process. Her body turned to stone, she is divested of anthropic shape and is no longer within the temporality of human transience. She becomes an imperishable remnant of the violence that has come to pass—"an eternal, mute bearer of guilt" (§15). By force, Niobe is silenced, no longer able to represent herself in speech, while further being

made to testify—univocally yet without uttering a word—to the history of violence to which she has been subjected.

Though mute, tearful Niobe is not released from the economy of signification but is deposited fixedly within in it, to serve the double function of, first, bearing the burden of guilt in silence—a silence that is bound to the muteness of grief from which violence is inextricable—and second, serving as “a stone marking the border [*Markstein der Grenze*] between human beings and gods” (§15). Both descriptions index a condition of being made, peculiarly, into a speechless sign, whose meaning is not self-determined but is imposed corporeally from without.

Niobe’s body is not simply turned into any stone but becomes function-alized more precisely as an element of the landscape that is newly charged with meaning—a *Markstein der Grenze*—a stone, a monument, that is made to signify a division between hierarchically differentiated realms. Her fate mirrors and rebounds her offense. As the story goes, Niobe’s hubris is not only to boast—I’m so fertile, as it were—but also to challenge the privileged status of the gods: *Have I not done just as well as you?* Leto’s rage will land Niobe in a no-man’s-land, where she will be forced to indicate precisely what her speech attempted to contravene—namely, that the distinction between two separate and unequal worlds could rightfully be maintained. Rather than being wholly destroyed by mythic violence, she becomes the instantiation of it, the mark that force lays down in its enactment.

Niobe’s tale discloses how, in constituting itself as power, mythic violence leaves behind a residuum of what it destroys. The productive enterprise of law-making violence converts what is left over by its operation into a sign of its power and ensures its continuation by transforming the artifact of force’s exercise—the ruin—into a cautionary message against trespass. In its lawmaking form, violence conserves itself, not only in the sense of perpetuating its own continuation but also in instrumentalizing signification so as to make more efficient its own expenditure. Power need not manifest itself at every hour if the rubble, the landscape itself, is made to bespeak devastation—as if to say—as if, but not actually extradiscursively (boundaries say without seeming to say anything at all): “Cross and you, too, will be destroyed.”¹²

At the opening of paragraph 16, in which Benjamin engages most directly with the frontier, he leads us to believe that he will discuss a particular application of mythic violence—constitutional law—in whose province the act of establishing borders falls. As it is introduced, the settling of a frontier is bounded within the realm of state law (*Staatsrecht*); but interestingly, this claim is turned inside out by the sentence’s end in which *Grenzsetzung* is redefined as “the ur-phenomenon of law-positing violence in general [*das Urphänomen rechtsetzender Gewalt überhaupt*]” (§16).¹³ Benjamin draws attention to how positing a border is, at the same time and in an indeterminate way, both a specific application of legal violence (*Anwendung*)

and also the originary phenomenon of lawmaking violence as such. Looking upon the border, we are able not only to cognize but also to perceive—with the senses—the spirit of lawmaking violence in every one of its cases. Benjamin reprises this claim when he asserts: “Where borders are laid down, the adversary is not utterly annihilated; indeed, he is granted rights even when the victor possesses the most superior force. And these are ‘equal’ rights in a demonic-ambiguous manner: it is the same line that may not be crossed [*überschritten werden darf*] for both parties to the treaty. Here appears, in dreadful primordially [*furchtbarer Ursprünglichkeit*], the mythic ambiguity of laws that may not be ‘transgressed’” (§16). Quite early in his study of the *Trauerspiel*, Benjamin differentiates *Entstehung* from *Ursprung*—the former referring to genesis, or the empirical process by which something comes into existence, and the latter to “that which emerges from the process of becoming and disappearance.”¹⁴ His sense of origin (*Ursprung*), in other words, aims to trace the history of forgetting and remembrance, the eddy in which things come into and drift out of perceptibility.

When his remark about the ambiguity of law is rendered as an “infringement,” the translation into English fails to register the gesture that is evoked by *übertreten*—literally, to “step over.”¹⁵ Out of his attention to what language preserves as trace rises the vision of the foot of the border crosser who lies, nearly unremembered, within every transgressor of the law. Although, like Prometheus in the previous paragraph, the one who oversteps the frontier challenges mythic power, here she remains unidentified by proper name.

One may wonder about this anonymity, the way this shadowy presence remains formally unregistered by the text. That she does not consolidate into an archetypal figure like the outlaw is perhaps not happenstance because, as witnessed in Niobe’s affliction by an authoritative and coercive signification, mythic violence dispossesses its victim of the capacities for self-representation. This transgressive actor, this traverser of boundaries, does not, it seems, win the same popular admiration as the “great criminal” who awakens for modern times the heroic defiance of Prometheus, who in stealing fire from the gods and making it open source, as it were, promises to bring the light of a new law to humankind (§15). In her tenebrous appearance here, the one who crosses the border makes perceptible the dissolution of power’s instantiation but without the valiant aim of inaugurating a new order in its place.

Benjamin’s attention to language renders more audible that to posit law—*rechtsetzen*—is not only to issue a prohibition that, through violence, is made binding but is also to set and settle a border, which, if traversed, warrants aggression against anyone who “oversteps.” Conversely, to articulate a border is not simply to apply law but to lay it down, and in so doing, to make apparent lawmaking violence

in its originary nexus, as a groundless seizure of power that elects for structural division rather than the total negation of the other.

Benjamin's detour through myth denaturalizes the way the modern state will condense the unauthorized crossing of a border into a figure of illegality. At the moment of its articulation, the border not only circumscribes a territory, a space of the proper, but also criminalizes its crossing. When the Hungarian government detains Syrian and Afghani refugees in overcrowded jails, or when ICE orders hundreds of migrants to be held in federal prisons, with some being released from their cells for only one hour of the day—such enactments of force make explicit the mythic conflation of border crossing and criminal trespass, which have no inherent connection but are codified and drawn forcibly together under the title of power.¹⁶ With a clearer sense of how mythic violence enforces a guilt nexus that holds the border crosser captive, one can begin to understand, too, how forms of resistance such as those envisaged by the campaign “No One Is Illegal” may be for the moment practically unenforceable, but importantly seek to break the spell of law.

Following his reflections on the mythic manifestation of violence—refracted through Niobe and the biblical story of Korah's destruction—Benjamin goes on to elaborate his idea of the border in paragraph 16, which, though mightily compressed, presents several aspects of *Grenzsetzung* that can be distilled. In addition to identifying how establishing borders appears to fall within the jurisdiction of law but is at the same time the originary phenomenon of *Rechtsgewalt* itself, Benjamin makes a claim that parallels his earlier argument about legally binding agreements. Just as every contract is permeated by force, in that it either leads to the right to resort to violence if its terms are breached or points toward a violent origin (§15), every frontier can be traced to an assumption of power that was neither justified nor justifiable in relation to an existing juridical or moral framework. The stony image of Niobe's fate prepares us for this claim that every border is a commemoration of the mythic violence that guarantees law—a material remnant of power that has been seized without justification.

Border violence is not, then, properly understood as a specific class of violence. Rather, every act of lawmaking is an instance of a violent institution of a border; and violence at the border is not by any means the exception to but the essence of the rule. It would be mistaken, in other words, to think that demilitarization of the border would be sufficient for eradicating its violence. The cameras, dogs, the tear gas, and the barbed wire merely make hypervisible the mythic force that lies at the origin of every border's constitution.

Second, positing borders is understood less as a circumscription of property or territory than as an act of representation that subtends all lawmaking violence, such that a single signifier is designed to hold an ambiguity, which Benjamin describes at various points as both “methodical” (§16) and “demonic” (§15). Though

the border appears to speak univocally—issuing the incontrovertible message that it should not be crossed—the single line carries a double meaning (*Zweideutigkeit*) (§15). “Poor and rich,” as Benjamin cites Anatole France, “are equally forbidden to spend the night under the bridge” (§16); likewise, the border denies crossing to those on both sides, even if one has no access to the resources—potable water, infrastructure, employment, safety from war, an environment clear of lethal toxicity—that are necessary for a livable life.

Third, insofar as it names the project of stabilizing borders after war, “peace” is nothing more than the sanctioning of victory through the constitution of mythic power in the duplicitous form of putatively “equal” rights.

Fourth, Benjamin reveals, in his rhetorical movement across the antique and the modern, how *Grenzsetzung* produces the very transgressions against which force is punitively exercised. It does so, moreover, by recasting historical accident as fated retribution. Through a strike of fate, a contingent movement becomes a decisive misstep; and the border produces this misfortune.

In paragraph 17, Benjamin carries through a reading of law in terms of its inextricability from fate. Or, as he writes earlier, “violence crowned by fate . . . is the origin of law” (§15). Contrary to the view that violence is incurred by the actor who violates the law, Benjamin initiates a reversal by suggesting, with Hermann Cohen, that it is the orders of law themselves that induce their transgression (here *Heraus-treten*, literally a “stepping out”) and, further, make what has been ordained appear as an individual culpability. As fate, legal violence necessitates its own guilty infraction and produces the fall of its own offenders. This distortion survives in the colloquial expression *das Recht verletzen*, in that one cannot speak of “trespassing the law” without saying at the same time that one injures it (*verletzen*); the violence that the law carries out is thus represented in the guise of its being violated. As an instantiation of legal violence, the border frames what is extrinsic to it in terms of a problem of disposal by which those behind a compromised boundary are afflicted. This perverse logic manifests itself whenever migration is framed as a “crisis” of Europe, besieged and inundated.¹⁷ When Chicano activists insist that “no cruzamos la frontera, la frontera nos cruzó a nosotros” (we did not cross the border, the border crossed us), they attempt to rectify this displacement of guilt’s origin.

Lastly, though he does not name it as such, Benjamin potentially offers insight into colonial violence or, more broadly, violence beyond the bounds of Western legal accountability. In ages past, he mentions, frontiers and laws were not rendered transparent and remained largely unwritten. Those who unwittingly trespassed a boundary nevertheless incurred retribution. And to this day, he observes, one can be sentenced to punishment for infringing a legal boundary of which one (could have) had no prior knowledge (§16). Even if one is never educated into law or if the law remains opaque, one is still held accountable to it and subject to the violence that

alone guarantees its authority. In this light, Benjamin reinterprets ancient struggles over the written law as a rebellion against the “spirit” of “mythic statues” (§16). And in the persistence of this spirit within modern institutions of civil reason, “something rotten in the law is revealed” (§9).

In setting borders, lawmaking violence circumscribes a territory in which it declares itself effective but at the same time extends itself beyond the bounds of its own delimitation by making law binding, even for those who have not bound themselves to that order. The drawing of a frontier makes recognition of the law mandatory not just for internal subjects but also for those outside its sphere. The law of the border is not merely, then, an act of geospatial determination but also establishes an epistemic standpoint that recasts modes of thinking and living that are external to law as a potentially fatal lack of knowledge against which *Recht* assumes the right to retaliate. The border and the law from which it is inextricable produce variance from the law as ignorance, and “ignorance” as probable guilt. In this sense, the state not only holds a monopoly on the exercise of force but must also be understood as having a monopoly on accident (*Zufall*), which is eliminated by the institution of legal violence as fatal guilt. Only the police or the authorized agents of state violence are permitted to have “accidents” — “mistakenly” shooting a black or brown person who is without a weapon — that are not subject to legal accountability.

If we accept Benjamin’s account, we soon arrive at the disquieting realization that there is no such thing as nonviolence at the border, no promise of peaceful borders in times to come. The fantasy of “perpetual peace” deflates, when one recalls that Kant prescribes mandates for peace among *nations*, and as such calls for the normalization of border violence rather than its eradication.¹⁸

When the gaze turns toward the contemporary moment, one finds that the principle of the border that Benjamin’s philosophy of history brings to light has not fundamentally changed but has become more advanced in its expression, so much so that its convergence with mythic power is now and once again flagrant. This transformation, in the course of which *Grenzsetzung* can no longer maintain even the frailest semblance as reason, has spatiotemporal as well as technoscientific dimensions. To begin, in recent decades, legal violence has undergone prodigious technological supplementation in the process of securitizing border zones. The violence of the border has also been metonymically extended in two senses. First, it is not only crossing but also the very proximity to the border that warrants the destruction of (phenotypically) profiled bodies. Even if one has no intention of traversing the line — if one is wearing a medic’s jacket, playing with friends in the area, or merely

passing by—to be near the border is to be at risk of exposure to state violence that is classed as “lawful.” Second, the exercise of force is legitimated not only at *la frontera* but also deep within the territorial bounds of the state—in schools, churches, and in inland sanctuary cities—in the name of securing the border at a distance.

Particularly in the occupied territories of Palestine, one sees, as Eyal Weizman’s *Hollow Land* has shown, a destabilizing acceleration in the pace with which borders are drawn and redrawn, almost as a daily affair—at checkpoints, in the frequent rerouting of the separation wall, in the declaration of archaeologically protected zones, in the carving up airspace above and the aquifer below, or in the floating line of boats that mark the boundary at sea.¹⁹ The incessant rearticulation of these lines makes explicit how the border is not a fixed cartographic coordinate that frames political conflict but is itself a medium and enactment of “legal” violence.

Perhaps nowhere is the mythic dimension of legal violence more palpable than in the way the formulas of legal reasoning burst open with unreason whenever the border is invoked to justify the disproportional use of force: if they burn kites, we shoot to kill; if they throw stones, we bomb and bomb once more.

Benjamin is seldom prescriptive, but after passing through the collapse of the perniciousness of *Recht* into mythic violence, he qualifies a certain task as “obligatory”—namely, the “destruction” of all legal violence (§17). Amidst an essay in which the prognosis is rather dark, the quotient of hope reaches a crescendo in his elaboration of the following antithesis: “If mythic violence is law-positing, divine violence is law-annihilating; if the former establishes borders, the latter boundlessly annihilates them; if mythic violence inculcates [*verschuldend*] and expiates [*sühnend*] at the same time, divine violence only de-expiates [*entsühnend*];²⁰ if the former threatens, the latter strikes; if the former is bloody, the latter is lethal in a bloodless manner” (§17). What Benjamin calls “divine violence” would not merely transgress law but would destroy it, along with the violence that founds it. One might, then, speak of divine violence as a decreative force that does not make its order binding but offers release from the guilt and bloody punishment that constituted power make inextricable.

Though far more has been written about Benjamin’s views on the general strike, one can discern here something no less significant—not least because it does not presume inclusion in the sphere of labor—in imagining a force that would end mythic violence by boundlessly destroying the borders that the latter settles. Such a violence would not be bound to a justificatory schema that would determine first what would be economically feasible. It would instead destroy without measure—indeed would destroy the very measure (the quotas, the means-end apparatus)—in reference to which the politics of the border are decided.

In this view, the elimination of borders would not be recruited for a predetermined gain—as in neoliberal doctrines of the free market—but would

instead bring about the end to the violence of border-positing law. Similar to the way Benjamin distinguishes between the partial and the general strike, a contrast may be marked between, on the one hand, campaigns for refugee and immigrant rights—which advocate for greater legal protections and better living conditions—and, on the other, a different kind of action that would not cause a predetermined end so much as consummate. What is envisioned in these lines is not selective amnesty but full expiation from legal violence—not the calculated opening of borders but their total dissolution: a force that would bring down not only the wall but, along with the wall, the order that it manifests, an order that discriminates between legal and illegal and uses that distinction to administer the distribution of force unevenly.

Benjamin leaves us with the image of a dissolved horizon in which the border crosser would not be finally judged as admissible but would be liberated wholly and without reservation from the charge of life-destroying guilt.

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Notes

1. Benjamin, "Toward the Critique of Violence," §5; subsequent references are given parenthetically in the text.
2. Hartman, *Scenes of Subjection*, 24.
3. *Hernandez v. Mesa*, 582 U.S. (2017).
4. *Hernandez v. United States*, United States Court of Appeals, Fifth Circuit, Nos. 11–50792, 12–50217, 12–50301.
5. *Hernandez v. United States*, United States Court of Appeals, Fifth Circuit, Nos. 11–50792, 12–50217, 12–50301.
6. Homer, *The Iliad*, 472–73, 544.
7. Burns, Long, and Colvin, "Pentagon Sending 5,200 Troops to Border Week before Midterms."
8. Lytle Hernández, *Migra!*, 2.
9. Customs and Border Protection, Department of Homeland Security.
10. *Grenze* holds both "frontier" and "border" as possible renderings in English. Although Fenves and Ng favor "boundary" in their edition, my reading moves between *frontier* and *border*, as Jephcott does in his translation, to keep present to speech the resonances between the territorial demarcation of nation-states and the colonial violence that was ascendant during Benjamin's time.
11. Butler, "Critique, Coercion, and Sacred Life," 208.
12. "I have heard she turned into a wasteland [*Wüste*]: in Hölderlin's rendition of Sophocles, which remained close in the orbit of Benjamin's learning, Antigone, heroine of legal trespass, evokes the fate of Niobe—a "slow stone" in whom "winter abides [*bei ihr . . . bleibt der Winter*]"—in a moment of identification. Hölderlin, *Trauerspiele des Sophokles*, 2:55–56.

13. Translation modified.
14. Benjamin, *Origin of German Tragic Drama*, 45.
15. Alongside the forgotten step figured in the word *übertreten*, one may also consider the etymological origins of “transgression” in *transgradi*, “to step across.”
16. Adams, “Hundreds of Immigrant Detainees Held in Federal Prisons”; Thorpe, “Hungarian Jails Crowded by ‘Illegal’ Migrants.”
17. Elsewhere I have attempted to dissolve the catachresis of the “European refugee crisis,” as well as the logic of the overwhelmed affectability that subtends it. See Ty, “Myth of What We Can Take In.”
18. An intimation of this critique appears earlier in the essay when he writes: “Indeed, the word ‘peace,’ understood as a correlate to the word ‘war’ . . . really designates this a priori and necessary sanctioning of every victory” (§8).
19. See Chap. 1 of Weizman, *Hollow Land*.
20. On Benjamin’s transformation of *entsühnen*, see Peter Fenves’s “Intervention, Encroachment,” in this issue.

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