

Walter Benjamin, Reflections, ed. Peter Demetz (NY: Schocken, 1978).

Critique of Violence (1921)

The task of a critique of violence can be summarized as that of expounding its relation to law and justice. For a cause, however effective, becomes violent, in the precise sense of the word, only when it bears on moral issues. The sphere of these issues is defined by the concepts of law and justice. With regard to the first of these, it is clear that the most elementary relationship within any legal system is that of ends to means, and, further, that violence can first be sought only in the realm of means, not of ends. These observations provide a critique of violence with more—and certainly different—premises than perhaps appears. For if violence is a means, a criterion for criticizing it might seem immediately available. It imposes itself in the question whether violence, in a given case, is a means to a just or an unjust end. A critique of it would then be implied in a system of just ends. This, however, is not so. For what such a system, assuming it to be secure against all doubt, would contain is not a criterion for violence itself as a principle, but, rather, the criterion for cases of its use. The question would remain open whether violence, as a principle, could be a moral means even to just ends. To resolve this question a more exact criterion is needed, which would discriminate within the sphere of means themselves, without regard for the ends they serve.

The exclusion of this more precise critical approach is perhaps the predominant feature of a main current of legal philosophy: natural law. It perceives in the use of violent means to just ends no greater problem than a man sees in his "right" to move his body in the direction of a desired goal. According to this view (for which the terrorism in the French Revolu-

tion provided an ideological foundation), violence is a product of nature, as it were a raw material, the use of which is in no way problematical, unless force is misused for unjust ends. If, according to the theory of state of natural law, people give up all their violence for the sake of the state, this is done on the assumption (which Spinoza, for example, states explicitly in his *Tractatus Theologico-Politicus*) that the individual, before the conclusion of this rational contract, has *de jure* the right to use at will the violence that is *de facto* at his disposal. Perhaps these views have been recently rekindled by Darwin's biology, which, in a thoroughly dogmatic manner, regards violence as the only original means, besides natural selection, appropriate to all the vital ends of nature. Popular Darwinistic philosophy has often shown how short a step it is from this dogma of natural history to the still cruder one of legal philosophy, which holds that the violence that is, almost alone, appropriate to natural ends is thereby also legal.

This thesis of natural law that regards violence as a natural datum is diametrically opposed to that of positive law, which sees violence as a product of history. If natural law can judge all existing law only in criticizing its ends, so positive law can judge all evolving law only in criticizing its means. If justice is the criterion of ends, legality is that of means. Notwithstanding this antithesis, however, both schools meet in their common basic dogma: just ends can be attained by justified means, justified means used for just ends. Natural law attempts, by the justness of the ends, to "justify" the means, positive law to "guarantee" the justness of the ends through the justification of the means. This antinomy would prove insoluble if the common dogmatic assumption were false, if justified means on the one hand and just ends on the other were in irreconcilable conflict. No insight into this problem could be gained, however, until the circular argument had been broken, and mutually independent criteria both of just ends and of justified means were established.

The realm of ends, and therefore also the question of a

criterion of justness, is excluded for the time being from this study. Instead, the central place is given to the question of the justification of certain means that constitute violence. Principles of natural law cannot decide this question, but can only lead to bottomless casuistry. For if positive law is blind to the absoluteness of ends, natural law is equally so to the contingency of means. On the other hand, the positive theory of law is acceptable as a hypothetical basis at the outset of this study, because it undertakes a fundamental distinction between kinds of violence independently of cases of their application. This distinction is between historically acknowledged, so-called sanctioned violence, and unsanctioned violence. If the following considerations proceed from this it cannot, of course, mean that given forms of violence are classified in terms of whether they are sanctioned or not. For in a critique of violence, a criterion for the latter in positive law cannot concern its uses but only its evaluation. The question that concerns us is, what light is thrown on the nature of violence by the fact that such a criterion or distinction can be applied to it at all, or, in other words, what is the meaning of this distinction? That this distinction supplied by positive law is meaningful, based on the nature of violence, and irreplaceable by any other, will soon enough be shown, but at the same time light will be shed on the sphere in which alone such a distinction can be made. To sum up: if the criterion established by positive law to assess the legality of violence can be analyzed with regard to its meaning, then the sphere of its application must be criticized with regard to its value. For this critique a standpoint outside positive legal philosophy but also outside natural law must be found. The extent to which it can only be furnished by a historico-philosophical view of law will emerge.

The meaning of the distinction between legitimate and illegitimate violence is not immediately obvious. The misunderstanding in natural law by which a distinction is drawn between violence used for just and unjust ends must be emphatically rejected. Rather, it has already been indicated that

