



RICHARD J. BERNSTEIN
VIOLENCE
THINKING WITHOUT BANISTERS

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*For my colleagues and students
at the New School for Social Research*

Violence
Thinking without Banisters

Richard J. Bernstein

Polity

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First published in 2013 by Polity Press

Polity Press

65 Bridge Street

Cambridge CB2 1UR, UK

Polity Press

350 Main Street

Malden, MA 02148, USA

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ISBN-13: 978-0-7456-7063-8

ISBN-13: 978-0-7456-7064-5 (pb)

ISBN-13: 978-0-7456-7088-1 (epub)

ISBN-13: 978-0-7456-7089-8 (mobi)

A catalogue record for this book is available from the British Library.

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Acknowledgments

I am grateful for permission to use revised versions of my previously published work. "The Aporias of Carl Schmitt," *Constellations*, 18/3 (2011); "Hannah Arendt's Reflections on Power and Violence," *Iris: European Journal of Philosophy and Public Debate*, 3/5 (2011); "Jan Assmann: The Mosaic Distinction and Religious Violence," *Graduate Faculty Philosophy Journal*, 32/1 (2011).

I completed this manuscript during the summer of 2012 when I was a Fellow at the *Forschungskolleg Humanwissenschaften* (Institute for Advanced Studies) in Bad Homburg. I want to thank Professor Rainer Forst for inviting me to be a Fellow of the Institute and the Alfons & Gertrude Kassel-Stiftung for supporting my visit. The entire staff of the Institute helped to make my stay extremely pleasant and productive. I also want to express my gratitude to my research assistant Santiago Rey who helped to edit the manuscript. I want to thank Jean van Altena for her meticulous and judicious editing. John Thompson, as always, has enthusiastically encouraged me in writing this book. I have had the good fortune to teach for the past two decades at the New School for Social Research. This book is the result of the lively critical conversations with my colleagues and students. It is dedicated to them.

Preface

I have entitled this work *Violence: Thinking without Banisters*. “Thinking without banisters” (*Denken ohne Geländer*) was one of the favorite expressions of Hannah Arendt – and it has a special meaning for her. Arendt was convinced that the eruption of twentieth-century totalitarianism meant a radical break with tradition. No longer could we rely on traditional political and moral categories to help us comprehend our times. If we are to engage in the activity of thinking after the break in tradition, then we can’t rely on banisters or fixed points; we are compelled to forge new ways of thinking and new concepts. Thinking, which Arendt sharply distinguished from knowing, is primarily concerned with meaning – with making sense of the world in which we find ourselves. Thinking is not to be identified or confused with calculation, means-end rationality, or even scientific knowing. Thinking is an activity that must be *performed* over and over again in order to keep it alive. There is always a danger that thinking will disappear – to be replaced by some non-thinking substitute. For Arendt, keeping thinking alive has the utmost practical significance. In *The Life of the Mind* she raised the question: “Could the activity of thinking as such, the habit of examining whatever happens to come to pass or attract attention, regardless of results and specific content, could this activity be among the conditions that make men abstain from evil-doing or even ‘condition’ them against it?” (Arendt 1978: 5).

Although the experience that provoked her thinking was the horror of totalitarianism, her insights about thinking without banisters are part of a much larger sea change that has taken place. From a variety of philosophical orientations there has been a multifaceted critique of the appeal to any

fixed metaphysical, epistemological, political, or moral foundations. A dominant metaphor suggested by Descartes no longer seems appropriate for characterizing thinking – the metaphor of a solid foundation upon which our thinking can rest. One of the reasons why the appeal to banisters and/or foundations has been so seductive is because of the fear that the only other alternative is some form of radical skepticism, self-defeating relativism, or nihilism. I once labeled this the “Cartesian Anxiety,” and it has haunted us (and continues to do so) (see Bernstein 1983: 16–20). Thinking without banisters is the alternative to both foundationalism and nihilism. And this type of thinking is urgently needed to understand violence.

We live in a time when we are overwhelmed with talk, writing, and especially images of violence. Whether on television, the internet, smartphones, films, or the video screen, we can’t escape representations of actual or fictional violence – so much so that we easily become numb and indifferent to still another report or depiction of violence – another suicide bombing, another assassination or violent rebellion in some remote part of the world, another report of domestic violence, another action movie or video game filled with all sorts of violence. The media typically have a field day when some deranged person unexpectedly starts killing in a high school, university, or movie theater. But after a few days of 24/7 reporting, these incidents pass into oblivion. Even a momentous event like 9/11 does not provoke much public *thinking* about violence. Our age may well be called “The Age of Violence” because representations of real or imagined violence (sometimes blurred and fused together) are inescapable. But this surfeit of images and talk of violence dulls and even inhibits thinking. What do we mean by violence? How are we to characterize the different types of violence, and how are they related to each other? What can violence achieve? Is

there a type of creative violence that enhances life? What are the limits of violence? How is violence related to nonviolence? These are some of the questions that I will explore.

Philosophers have long been concerned with war. There isn't a major philosopher who hasn't directly or indirectly dealt with war. And insofar as war involves violent killing, it is, of course, closely associated with violence. But violence is a much broader category than war. Clearly, in the popular imagination, physical killing is still the paradigm of violence. But there can be all sorts of violence - legal violence, structural violence, linguistic violence, symbolic violence, even religious violence - that do not immediately involve physical killing. But what concerns me is how the different types of violence so easily turn into physical violence - bodily harm and ultimately physical killing.

Although there are many different ways of approaching violence, I focus on five thinkers who have engaged in a sustained reflection - thinking without banisters - about violence. And each of them has been extremely influential. They are Carl Schmitt, Walter Benjamin, Hannah Arendt, Frantz Fanon, and Jan Assmann. I approach them by asking what we can learn about violence from them. What are the strengths and weaknesses of their reflections on violence? In my concluding remarks I show how we can weave their contributions together into a nuanced dialectical understanding of the relationship of violence and nonviolence.

Introduction

There is a disturbing paradox about violence. We are overwhelmed by talk and images of violence, and there is now a vast literature on different types of violence, ranging from child abuse, domestic violence, rape, serial murder, and suicide bombing, to the new sophisticated robotic weapons of modern warfare. The issue of whether human beings in the course of history are becoming more or less violent (and by what criteria) is hotly debated. Different classifications of violence have been proposed, such as structural violence, symbolic violence, legal violence, etc. But there is no consensus about any classificatory schema or how different types of violence are related to each other. The paradox is that although (or perhaps because) there is so much discussion of violence, there is enormous confusion about what we even mean by violence. In the course of this study I will be dealing with different types of violence. I have decided to approach these issues by concentrating on the works of five thinkers who have thought deeply about the meaning of violence: Carl Schmitt, Walter Benjamin, Hannah Arendt, Frantz Fanon, and Jan Assmann. Each of them has been extremely controversial and provocative - and they have been immensely influential. I will also consider many other thinkers who have been influenced by them, including Jacques Derrida, Judith Butler, Simon Critchley, and Slavoj Žižek (among others). Of course, there are other important thinkers who have been concerned with violence, but I have three reasons for my selection. First, many more recent discussions of violence take their departure from the reflections of one or more of these five. Second, they represent widely different orientations and disciplinary approaches to the discussion of violence. Third, they deal with a great variety of different types of violence including

political violence, colonial violence, structural violence, symbolic violence, legal violence, and religious violence. Of the five thinkers that I examine, four were born in Germany. This is not completely accidental. If one believes, as I do, that thinking is ultimately grounded in personal experience, then from the time of the First World War to the defeat of Hitler and the Nazis, Germany has been one of the most violent and murderous societies in history. The reflections of these four thinkers are deeply rooted in their personal experiences in Germany. Their lives span the twentieth and the beginning of the twenty-first centuries. The fifth thinker, Frantz Fanon, was born in Martinique, studied in France, and moved to Algeria to become the director of a French psychiatric hospital. He resigned from his position in 1956 and was deeply involved in the Algerian armed struggle to overthrow the French colonial system. Fanon, unlike the other four, was not only a writer and theoretician of violence; he was an active participant in the Algerian fight for liberation. *The Wretched of the Earth*, written during the last year of his life when he was dying of leukemia, has become a modern classic – one that justifies the necessity of violence in order to overthrow colonialism. It continues to inspire those fighting colonialism, neo-colonialism, and oppression throughout the world.

Carl Schmitt is the most controversial German thinker of the twentieth century. Even his most severe critics acknowledge that he was a brilliant, original thinker of legal, jurisprudential, and constitutional issues. In 1933 he joined the Nazi party, and he helped to formulate some of the most nefarious Nazi legal policies. The posthumous publications of his diaries reveal the depth of his anti-Semitism. So it is all too easy to dismiss him. But Schmitt can not be so easily dismissed. Many of the most important thinkers of the twentieth century have critically engaged with his writings. Two of his most famous and discussed books, *Political*

Theology and *The Concept of the Political*, were written in the 1920s, before he had any association with the Nazis. In the past few decades there has been an enormous international renaissance of interest in Schmitt. Much of this new interest has been by thinkers and activists who think of themselves as on the political left. In my chapter on Schmitt I explore the reasons why Schmitt has been such an important and influential thinker. Let me indicate briefly some of the key reasons. Schmitt has been a relentless critic of what he takes to be the failures of modern liberalism in all its forms – political, legal, economic, and cultural. Even if one rejects some of his extreme criticisms, he has a knack for putting his finger on knotty problems that any defender of liberalism must face. He is remarkably perspicacious about the changes in warfare that have taken place in recent history – a change from a time when war between states involved *defeating an enemy* to total war that involves the complete *annihilation of a foe*. Many of his admirers are impressed by his “realistic” sense of politics and his definition of “the political” as involving the antithesis of public friends and enemies. And the friend/enemy distinction also involves the real *possibility* of physical killing. Schmitt places the emphasis on the role of decision in politics and is skeptical about norms. One of his enormous appeals is the apparent clarity, crispness, and polemical force of his prose. I approach Schmitt with a single question in mind. What does Schmitt teach us about violence? I carefully analyze his most famous early (pre-Nazi) monograph, *The Concept of the Political*. I argue that a close reading of this text reveals a whole series of aporias in his thinking. The most fundamental aporia concerns his implicit normative-moral stance – the orientation that is the basis for his sharp critical judgments. On the one hand, he ridicules and scorns the appeal to legal and other norms in understanding “the political.” “The political” has nothing to do with moral judgment or normative justification. But, on

the other hand, he makes strong normative-moral judgments when he condemns liberalism, the dehumanization of absolute enmity, and the depoliticization of the world. He claims to be a tough-minded realistic analyst and theoretician. But I argue that Schmitt's analyses and judgments presuppose a normative-moral orientation that he never justifies and never makes fully explicit. What is worse, he undermines the very possibility of such a justification. Paradoxically, although Schmitt develops a sophisticated and nuanced understanding of how unlimited absolute enmity and violence has come to dominate the twentieth century, he doesn't provide us with the conceptual resources for judging and condemning *any* sort of violence. His talk about "dehumanization" turns out to be empty rhetoric.

When the 28-year-old Walter Benjamin wrote his essay "On the Critique of Violence" (which appeared *before* Schmitt's *Political Theology* and *The Concept of the Political*), he dealt with many of the same issues as were fundamental for Schmitt. Both were seeking to come to grips with the fragility of the Weimar Republic, the failures of the parliamentary system, and the outbursts of violence on the right and the left that followed Germany's defeat and collapse after the First World War. Benjamin seeks to comprehend revolutionary violence and its opposition to legal violence. He was inspired by Sorel's *Reflections on Violence*. Like Sorel, he claims that the aim of revolutionary violence is to destroy existing state power. When Benjamin's essay was first published in 1922, it was almost totally ignored (a great exception was Schmitt), but since the 1960s, when his work became better known, it has been extensively - almost obsessively - interpreted. Virtually every thinker since that time who has dealt with the meaning of violence has felt the need to comment on and interpret anew what Benjamin was saying in his cryptic and

elusive essay. The most provocative notion in the essay is divine violence – and the contrast Benjamin draws between divine violence and mythic violence. The key to understanding what Benjamin is saying in his essay is crucially dependent on how one understands divine violence. In my chapter on Benjamin, I focus on what divine violence means and the role it plays in Benjamin’s critique of violence. And I pursue the ways in which commentators have interpreted divine violence – including Herbert Marcuse, Jacques Derrida, Gillian Rose, Judith Butler, Simon Critchley, and Slavoj Žižek (among others).

One of the most interesting interpretations of divine violence is elaborated by Butler and Critchley. Although I raise doubts about whether Benjamin’s text really warrants their interpretation of divine violence as a form of nonviolence, they nevertheless highlight something that is crucially important in Benjamin’s essay – and important for understanding violence. They stress the way in which Benjamin’s critique is played out against the background of his reflections on nonviolence. (Schmitt has very little to say about nonviolence; he was also completely scornful of pacifism.) Butler and Critchley emphasize that the commandment “Thou shalt not kill” is not to be read as a supreme categorial law that admits of no exceptions, but rather serves as a guideline for action (*Richtschnur des Handelns*). Benjamin, in a sentence that I will carefully analyze, writes: “[The commandment] exists not as a criterion of judgment, but as a guideline for the actions of persons or communities who have to wrestle with it in solitude and, in exceptional cases, to take on themselves the responsibility of ignoring it” (Benjamin 1996: 250). According to Butler and Critchley, the commandment not to kill is a guideline that allows for exceptions. In short, the commitment to nonviolence is compatible with the justification of violence in exceptional cases. Benjamin cites

the Jewish rejection of the condemnation of self-defense as an example of such an exceptional case. I critically examine interpretations of Benjamin's essay, ranging from Marcuse's claim that Benjamin shows the historical necessity of revolution, to Derrida's uneasiness that Benjamin's essay allows for an interpretation that makes the bloodless gas chambers of the Holocaust an expiation of God's anger. I argue that - for all its thought-provoking quality - Benjamin's remarks about divine violence and its opposition to mythic violence are too condensed and cryptic to resolve the issue of the conflict of interpretations. More important, his essay does not provide an adequate basis for an understanding of violence and its interplay with nonviolence. The power of the essay - the reason why it has attracted so much commentary and creative interpretation - is because of the *questions* it raises about violence and nonviolence, not because of the answers it provides.

Hannah Arendt, although a close personal friend of Benjamin and the person responsible for introducing Benjamin to an American public, never discusses or even mentions Benjamin's essay. Arendt, however, was concerned with violence and nonviolence throughout her life. She argued that totalitarianism introduced a form of violence and terror into the world that was completely novel. She sought to comprehend the radical evil of totalitarianism. Violence also plays a significant role in her discussion of fabrication and *homo faber* in *The Human Condition*. In *On Revolution* she argues that when we properly understand the meaning of revolution, then we will see that it has nothing to do with violence. The end of revolutions is the achievement of public freedom. Violence cannot create this freedom; violence is instrumental and only destroys.

In the 1970s Arendt turned to a full-scale discussion of the meaning of violence and its relation to nonviolent political

power. She was deeply disturbed by the rhetoric of violence, and occasional incidents of actual violence that were becoming increasingly manifest in the Black Power movement and in the more militant factions of the student movement. She was severely critical of those who “glorify” violence, who think that violence cleanses and transforms human beings. She condemns what she takes to be the irresponsible views of Sartre, who wrote an inflammatory preface to Fanon’s *The Wretched of the Earth*. And although she indicates that Fanon’s actual understanding of violence is more nuanced than Sartre’s, she criticizes the influence of his book for encouraging violence. I believe that the popular rhetoric of violence in the 1960s touched a deep emotional nerve that elicited memories of the Nazis.

Arendt criticizes a dominant way of thinking about power and violence that dates back to ancient times. This is the conception of power as “power over.” Power is conceived of as basically the rule of an individual or a group over other individuals or groups. If this is the way in which we conceive of power, then C. Wright Mills is correct when he declares: “All politics is a struggle for power: the ultimate kind of power is violence” (Mills 1956: 171). But against this dominant way of understanding the relation of power and violence, Arendt seeks to recover a conception of power as *empowerment*, which is achieved when human beings act in concert together. The emergence of this type of power involves acting together, persuasion, deliberation, and the sharing and testing of opinions – not violence. For Arendt, power and violence are *antithetical* concepts – even though she knows that in the “real world” they rarely ever appear as separate. I show that Arendt’s distinctive understanding of power is related to a network of concepts, including spontaneity, natality, action, public space, isonomy, and public tangible freedom. Together, these concepts articulate her vision of the meaning of politics.

I have characterized Arendt's thinking as an "exaggerated" thinking. She deliberately exaggerates the antithetical differences between power and violence because she wants to recover something that we are in danger of forgetting and losing - a sense of what political power can be and what it can achieve. Another way of putting this is to say that Arendt highlights those "privileged moments" in history when the political power of the people as empowerment flourished. Her analysis of power and politics provides a critical normative standard for judging and evaluating actual politics in the "real world." Against the criticism that Arendt is nostalgic about an idealized conception of the Greek polis that never really existed, I argue that her understanding of nonviolent power and politics helps to illuminate and understand the effectiveness of many modern progressive political movements, including the early civil rights movement in the United States and the essentially nonviolent uprisings that led to the overthrow of Communist regimes in Eastern Europe. Arendt's views concerning power and violence culminate in her concept of "the revolutionary spirit." She sees this emerging in the eighteenth century, especially in the American Revolution, which she contrasts to the French Revolution. She declares that the history of revolutions from the eighteenth century until the present "politically spells the innermost story of the modern age" (Arendt 1977: 3). She draws a sharp distinction between rebellion and revolution. The end of rebellion is liberation from oppression, but the "end of revolution is the foundation of freedom" (Arendt 1965: 140). Violence may be necessary and justified in the rebellion against oppression, but it never founds public freedom. Arendt, like Benjamin, realizes that there are exceptional, limited circumstances when violence can be justified, but she never completely analyzes this. Her remarks about when violence can be justified are all too brief and sketchy. This is a serious lacuna in her thinking. Her own analysis

demands that we face up to the issue of when and how violence can be justified. Just as she distinguishes between power and violence, revolution and rebellion, she also draws a sharp distinction between liberty and freedom. Liberty is always liberty *from* something – whether it is liberty *from* hunger and bodily needs or liberty *from* political oppression. Although liberty is not to be identified with freedom, it is a necessary condition for the realization of freedom. But liberation from oppressive rulers may require violent armed struggle. To make this point concrete, I refer to Arendt's favorite example of a revolution – the American Revolution. Employing her categories, the American Revolution was “preceded” by a war of liberation – an armed struggle that involved killing. The revolution itself, the creation of a *novus ordo saeculorum*, could only come into being after the success of the armed struggle against the British. Furthermore, at an earlier stage of her career, Arendt justified violence when she argued for the creation of an international Jewish army to fight Hitler and the Nazis.

When Arendt wrote her essay *On Violence*, she was reacting against the popularity of the rhetoric of violence that was, in part, attributed to Fanon's *The Wretched of the Earth*. Her essay has been read as an attack and refutation of Fanon – just as Fanon's book has been read as a celebration of violence. I argue that this is a profound (but all too common) misreading of Fanon. Fanon is engaged in a *critique* of violence. There are three aspects to this critique: (1) a deep understanding of the structure and dynamics of colonial violence, (2) a justification of the necessity of armed struggles to overthrow colonial violence, and (3) a critique that is intended to foster and orient revolutionary praxis – the achievement of what Fanon calls *libération*. The violence that is Fanon's primary concern is *the violence of the colonial system* instituted and cultivated by the colonists. He analyzes the political, economic, cultural, and

socio-psychological dimension of this system - a system that instigates murder, massacres, and torture. The colonized subject is *created* and constituted by the colonial system - a system instituted and reified by the colonizers. The rage and violence that spontaneously erupts among the colonized - especially the rural population - is a dialectical consequence of the violence of the colonists. If this spontaneous violence remains unchecked and unlimited, it will destroy the revolutionary movement. This spontaneous violence must be limited and channeled into a disciplined armed struggle by political leaders who are responsive to the needs and demands of the people. Fanon's dominant concern is *libération*, not *violence*. Or rather, by analyzing the structure and dynamics of colonial violence, he seeks to show why armed struggle is required to destroy the colonial system - including *both the colonists and the colonized* - in order to achieve *libération*. *Libération* is not to be identified with achieving national independence - although independence is a necessary condition for the realization of *libération*. Although Fanon barely indicates what he means by *libération*, his brief remarks about active participation of the people suggest that it is close to what Arendt means by public freedom. Most of *The Wretched of the Earth* is *not* about the violence of the colonized; it is about the obstacles that stand in the way of achieving *libération*. And the greatest obstacles are internal ones. Fanon fears that a "colonial mentality" will survive national independence and undermine the goal of the revolutionary struggle. He is critical of native bourgeoisies and political leaders who are out of touch with the people. He condemns anti-racist racism and gratuitous brutal violence. He fears that in many post-colonial societies, indigenous leaders will engage in the same colonist practices of violence in order to secure their own power.

The relationship between Arendt and Fanon turns out to be very different from how it initially appears. *The Wretched of the Earth* is an argument showing why armed struggle is necessary to overthrow the colonial system. Benjamin and Arendt both indicate that there are circumstances when violence can be justified. And I argue that Fanon's book should be read as a sustained argument showing why overthrowing the colonial system (especially in Africa) constitutes one of those "exceptional cases" in which violence - directed armed struggle - is justified. Consequently, there is a productive tension between the views of Arendt and Fanon, rather than a stark incompatibility. Arendt is rightly critical of some of the rhetorical excesses of Fanon when he speaks about the cleansing and transforming power of violence. She helps to underscore Fanon's own awareness of the limits of violence - and of the danger of perpetuating the cycle of violence and counter-violence. She is extremely wary of the abuse of alleged "justifications" of violence. And she has an acute sense of the limits of violence. Violence by itself can never achieve what she calls public freedom and what Fanon calls *libération*. But there is a way in which Fanon compels us to take seriously that there are concrete, historically specific circumstances where armed struggle can be justified. Appealing to Arendt's own categories, we can say that there are times and circumstances where violent struggle is justified in order to liberate a people from oppressive (or totalitarian) rulers.

There is another extremely important respect in which Arendt helps us to appreciate the delicate dialectical balance between violence and nonviolence. I do not think that there are any fixed (effective) criteria for determining when violence is and is not justified. I am also skeptical that there can even be effective guidelines. Even the appeal to self-defense is not innocent. For all too frequently - in both

individual cases and in the justification of military actions – the appeal to “self-defense” is used as a smokescreen to obscure nefarious motives and aims. We should always be skeptical about proposed justifications of violence – even claims of “self-defense.” But here, Arendt’s appeal to the creation of public spaces in which there is genuine debate and deliberation becomes vital and relevant. For it is only in such an open space of debate that there can be an assessment and check on the abuses of “justifications” of violence. I agree with Arendt that a persuasive argument can never be a definitive knock-down argument. There is no escape from risky political judgments. But with Benjamin, Arendt, and Fanon (as well as with Butler and Critchley), we can affirm that this doesn’t rule out the possibility of exceptional circumstances in which violence *is* justified. Or, if we use Benjamin’s phrasing, we have “to take on the responsibility for ignoring” the fundamental commitment to nonviolence. We cannot anticipate what will constitute “exceptional circumstances.” Because there are no fixed criteria or guidelines that are ever completely adequate to determine when violence is (and is not) justified, thorough public debate is essential.

Initially, Jan Assmann’s discourse seems quite different from that of Schmitt, Benjamin, Arendt, and Fanon. Each of these thinkers is directly concerned with the relation of violence and politics. But Assmann’s dominant concern is that of religion and cultural memory. His analysis of what he calls revolutionary monotheism and the Mosaic distinction – there is only one true God and only one true religion – contains *potential* violence. Throughout history such exclusive monotheism has been employed to “justify” violence against those who are judged to be infidels. When Assmann first introduced the Mosaic distinction, he spoke of it as a “murderous distinction” – no gods but God! He seeks to trace the historical deconstruction of the Mosaic

distinction. This is the significance of the idea of Moses the Egyptian. For in this Moses discourse, the stark opposition between Israel and Egypt (where Israel symbolizes the true religion and Egypt symbolizes false idolatry) is deconstructed. Assmann claims that the potential violence of the Mosaic distinction should not be confused with actual violence. When he analyzes key passages in the Hebrew Bible that deal with violence, he argues that these are intended to serve as a *symbolic* warning about slipping back into idolatry - slipping back into false religion. Although he insists that revolutionary monotheism introduces a new kind of religious violence, he wants to distinguish between religious violence and political violence. It is not monotheism, but the political abuse of monotheism, that leads to actual violence and physical killing in the name of the "true" God. But I argue that there is good reason to be skeptical about this distinction between religious and political violence, on both biblical textual and historical grounds.

There is another aspect of Assmann's reflections on cultural memory that has significant consequences for understanding the relation of violence to nonviolence. Given his understanding of cultural memory, we are always haunted by the past. There is also the possibility of a cultural return of the repressed after a period of latency. This means that we are always haunted by the potential violence of exclusive revolutionary monotheism. If we follow the logic of Assmann's reasoning, he challenges all those narratives of historical progress which suggest that with the "triumph" of reason and modernity we can finally overcome religious violence. This is a dangerous illusion because it underestimates the eruption of the severity of "monotheistic moments" that have occurred throughout history. And it is because of the potentiality of religious violence to take ever

new actual forms that it becomes so urgent to deconstruct the Mosaic distinction.

In my critical discussion of these five thinkers - focusing on their insights and weaknesses - I seek to bring out the limits of violence. There are powerful ethical and political reasons to commit ourselves to nonviolence. But we are always haunted by the breaking out of new and unexpected forms of violence. That is why the task (*Aufgabe*) of opposing violence is an ongoing vigilant task. At the same time, we have to acknowledge that there are exceptional circumstances in which violence can be justified. I have indicated my doubts about the possibility of determining abstract fixed criteria or even significant guidelines for judging when violence is (and is not) justified. There is no criterion or guideline that cannot be twisted and abused. The only way to prevent such abuse is by cultivating publics in which there is a free and open discussion of the pros and cons of proposed justifications for the use of violence; publics in which individuals are committed to listening to each other, to sharing and testing their opinions - publics committed to rational persuasion. When engaged public debate and judgment withers - or is cynically distorted and manipulated - then there is nothing to prevent the triumph of murderous violence.

Chapter 1

The Aporias of Carl Schmitt

The Ambiguous Legacy of Carl Schmitt

In his 1991 book review of Bernd Rüthers, *Carl Schmitt in Dritten Reich*, William Scheuerman asked the question, “Why should anyone really care about right-wing legal thinker Carl Schmitt’s activities during the dark days of Nazi dictatorship?” At the time, Schmitt was barely known in the United States, although there were signs of “the so-called Schmitt renaissance that has taken place both in North America and Western Europe during the last decade” (Scheuerman 1991: 71). Scheuerman was sharply critical of the new fascination with Schmitt and the “attempt to minimize Schmitt’s complicity in the horrors of Nazi barbarism.” He expressed the hope that Rüther’s “refreshingly straightforward and fair study” of this dark and ugly phase of Schmitt’s life would finally “discourage more scholars from rushing to hop on the Young Schmittian bandwagon” (Scheuerman 1991: 78).

But now, more than twenty years later, the “the so-called Schmitt renaissance” has turned into a veritable tsunami. Schmitt’s work is actively and passionately discussed throughout the world. He has been hailed as the most incisive, relevant, and controversial political and legal theorist of the twentieth century - and the enthusiasm for Schmitt is shared by thinkers across the political spectrum from the extreme left to the extreme right. At the same time, we now have much more detailed knowledge of how

quickly and actively Schmitt helped to implement Nazi policies, as well as the crudeness of his anti-Semitic slurs in both his public and his private writings.¹ How, then, are we to explain the current fascination with Schmitt? There are no simple explanations, but here are some of the strands that run through the current literature.

With the growing disillusionment with the varieties of “really existing” liberal and neo-liberal democracies, Schmitt’s early – and sustained – trenchant analysis of liberalism has been taken to be one of the most penetrating and devastating critiques of contemporary liberalism (in all its varieties). Even those who reject Schmitt’s extreme diagnosis of contemporary liberalism concede that he locates some of its most serious weaknesses and problems. Schmitt reveals the deep tensions between democracy and liberalism with a greater sharpness than any other twentieth-century political thinker. And although Schmitt’s early analysis of the crisis of parliamentary democracy was concerned primarily with the Weimar Republic, he had an insight into the problems that plague liberal democracies right up to the present. He exposed the hypocrisy of liberal humanism – a humanism that has become an ideological justification for a new, dangerous kind of war in which the aim is not simply to defeat, but totally to annihilate, the enemy. Those who approach Schmitt primarily as a legal and juridical thinker concede that he has revealed one of the most serious issues of legal jurisprudence – the “enigma of legal indeterminacy.” Schmitt argues that, regardless of professed liberal claims that legal decisions should be based *solely* on the rule of law, in fact all legal norms are unavoidably open-ended and indeterminate. This means, as Scheuerman tells us, that “Every legal decision is a *hard* case. Liberal demands to clarify and codify law are inherently flawed because no system of legal norms can hope to guarantee even a minimal degree of regularity and

determinacy within legal decision making” (Scheuerman 1999: 17). Even if one rejects Schmitt’s extreme views about the relation between legal norms and actual juridical decisions, he opens up what has been, and continues to be, the most controversial issue in all defenses of the “rule of law”: What are (and what ought to be) the limits of “discretion” in interpreting and applying the law?

Some political theorists find Schmitt’s entire approach to politics refreshing and realistic. Schmitt avoids the “rationalism,” “normativism,” and “moralism” that are presumed to plague so much of contemporary political theory. His famous (some would say infamous) pithy declarations that “the specific political distinction to which political actions and motives can be reduced is that between friend and enemy” and that “the distinction of friend and enemy denotes the utmost degree of intensity of a union or separation” have been interpreted as initiating a new, invigorating, realistic, and concrete approach to politics. Schmitt is the thinker who “tells it as it is” and doesn’t pull any punches. Part of the attraction of Schmitt to left thinkers is that he provides sharp weapons for criticizing and exposing the normativism and rationalism of thinkers such as John Rawls and Jürgen Habermas.² He is an antidote to the “suffocating” Kantianism that dominates so much political theory and philosophy today. He exposes the inadequacies of theories of deliberative democracy, which overemphasize the role of deliberation and the appeal to reasons in making political decisions. Schmitt’s defenders argue that the essence of real politics – even democratic politics – is not deliberation or seeking to achieve a “rational” consensus, but rather vigorous agonistic conflict and enmity. And Schmitt, so it is claimed, had the perspicacity to see that this is what is at the heart of “real politics.”