

The Right to Strike and Legal War in Walter Benjamin's "Toward the Critique of Violence"

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ABSTRACT The object of this article is to show how, at the beginning of his essay "Toward the Critique of Violence," Walter Benjamin uses the questions of the right to strike and law of war to exemplify the way in which the state monopoly has no other goal than to preserve the law itself. In so doing, the question of the boundary between violence and nonviolence is put into conversation with the distinction made by Georges Sorel between the political strike and the general revolutionary strike.

KEYWORDS Walter Benjamin, Georges Sorel, strike, military law

I

If we wish to understand how the question of the right to strike arises for Walter Benjamin in the seventh paragraph of his essay "Zur Kritik der Gewalt," it is important to first analyze the previous paragraph, which concerns the state's monopoly on violence. It is here that Benjamin questions the argument that such a monopoly derives from the impossibility of a system of legal ends to preserve itself as long as the pursuit of natural ends through violent means remains. Benjamin responds to this dogmatic thesis with the following hypothesis, arguably one of his most important reflections: "To counter it, one would perhaps have to consider the surprising possibility that law's interest in monopolizing violence vis-à-vis the individual is explained by the intention not of preserving legal ends, but rather of preserving law itself. [This is the possibility] that violence, when it does not lie in the hands of law, poses a danger to law, not by virtue of the ends that it may pursue but by virtue of its mere existence outside of law."¹

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In other words, nothing would endanger the law more than the possibility of its authority being contested by a violence over which it has no control. The function of the law would therefore be, first and foremost, to contain violence within its own boundaries. It is in this context that, to demonstrate this surprising hypothesis, Benjamin invokes two examples: the right to strike guaranteed by the state and the law of war.

Let us return to the place that the right to strike occupies within class struggle. To begin with, the very idea of such a struggle implies certain forms of violence. The strike could then be understood as one of the recognizable forms that this violence can take. However, this analytical framework is undermined as soon as this form of violence becomes regulated by a “right to strike,” such as the one recognized by law in France in 1864. What this recognition engages is, in fact, the will of the state to control the possible “violence” of the strike. Thus, the “right” of the right to strike appears as the best, if not the only, way for the state to circumscribe within (and via) the law the relative violence of class struggles. We might consider this to be the perfect illustration of the aforementioned hypothesis. Yet, there are two lines of questioning that destabilize this hypothesis that we would do well to consider.

First, is it legitimate to present the strike as a form of violence? Who has a vested interest in such a representation? In other words, how can we trace a clear and unequivocal demarcation between violence and nonviolence? Are we not always bound to find residues of violence, even in those actions that we would be tempted to consider nonviolent? The second line of questioning is just as important and is rooted in the distinction established by Georges Sorel, in his *Reflections on Violence*, between the “political strike” and the “proletarian general strike,” to which Benjamin dedicates a set of complementary analyses in §13 of his essay. Here, again, we are faced with a question of limits. What is at stake is the possibility for a certain type of strike (the proletarian general strike) to exceed the limits of the right to strike—turning, in other words, the right to strike against the law itself. The phenomenon is that of an autoimmune process, in which the right to strike that is meant to protect the law against the possible violence of class struggles is transformed into a means for the destruction of the law. The difference between the two types of strikes is nevertheless introduced with a condition: “The validity of this statement, however, is not unrestricted because it is not unconditional,” notes Benjamin in §7. We would be mistaken in believing that the right to strike is granted and guaranteed unconditionally. Rather, it is structurally subjected to a conflict of interpretations, those of the workers, on the one hand, and of the state on the other. From the point of view of the state, the partial strike cannot under any circumstance be understood as a right to exercise violence, but rather as the right to extract oneself from a preexisting (and verifiable) violence: that of the employer. In this sense, the partial strike should be considered a nonviolent action, what Benjamin named a “pure means.”

The interpretations diverge on two main points. The first clearly depends on the alleged “violence of the employer,” a predicate that begs the question: Who might have the authority to recognize such violence? Evidently it is not the employer. The danger is that the state would similarly lack the incentive to make such a judgment call. It is nearly impossible, in fact, to find a single instance of a strike in which this recognition of violence was not subject to considerable controversy. The political game is thus the following: the state legislated the right to strike in order to contain class struggles, with the condition that workers must have “good reason” to strike. However, it is unlikely that a state systematically allied with (and accomplice to) employers will ever recognize reasons as good, and, as a consequence, it will deem any invocation of the right to strike as illegitimate. Workers will therefore be seen as abusing a right granted by the state, and in so doing transforming it into a violent means. On this point, Benjamin’s analyses remain extremely pertinent and profoundly contemporary. They unveil the enduring strategy of governments confronted with a strike (in education, transportation, or healthcare, for example) who, after claiming to understand the reasons for the protest and the grievances of the workers, deny that the arguments constitute sufficient reason for a strike that will likely paralyze this or that sector of the economy. They deny, in other words, that the conditions denounced by the workers display an intrinsic violence that justifies the strike. Let us note here a point that Benjamin does not mention, but that is part of Sorel’s reflections: this denial inevitably contaminates the (socialist) left once it gains power. What might previously have seemed a good reason to strike when it was the opposition is deemed an insufficient one once it is the ruling party. In the face of popular protest, it always invokes a lack of sufficient rationale, allowing it to avoid recognizing the intrinsic violence of a given social or economic situation, or of a new policy. And it is because it refuses to see this violence and to take responsibility for it that the left regularly loses workers’ support.

The second conflict of interpretation concerns what is at stake in the strike. For the state, the strike implies a withdrawal or act of defiance vis-à-vis the employer, while for the workers it is a means of pressuring, if not of blackmail or even of “hostage taking.” The difference is thus between an act of suspension (which can be considered nonviolent) and one of extortion (which includes violence). Does this mean that “pure means” are not free of ambiguity, and that there can be no nonviolent action that does not include a residue of violence? It is not clear that Benjamin’s text allows us to go this far. Nevertheless, the problem of pure means, approached through the notion of the right to strike, raises the following question: Could it be that the text “Zur Kritik der Gewalt,” which we are accustomed to reading as a text on violence, deals in fact with the possibility and ambiguity of nonviolence?

The opposition between the aforementioned conflicts of interpretation manifests itself in Benjamin’s excursus on the revolutionary strike, and specifically

in the opposition between the political strike and the proletarian general strike, and in the meaning we should attribute to the latter. As previously discussed, the state will never admit that the right to strike is a right to violence. Its interpretative strategy consists in denying, as much as possible, the effective exercise of the right that it theoretically grants. Under these conditions, the function of the revolutionary strike is to return the strike to its true meaning; in other words, to return it to its own violence. In this context, the imperative is to move beyond idle words: a call to strike is a call to violence. This is the reason why such a call is regularly met with a violent reaction from the state, because trade unions force the state to recognize what it is trying to ignore, what it pretends to have solved by recognizing the right to strike: the irreducible violence of class struggles. This means that the previously discussed alternative between “suspension” and “extortion” is valid only for the political strike—in other words, for a strike whose primary vocation is not, contrary to that of the proletarian general strike, to revolt against the law itself. Essentially, the idea of a proletarian general strike, its myth (to borrow Sorel’s words), is to escape from this dichotomous alternative that inevitably reproduces and perpetuates the violence of domination.

Let us consider one final point in Benjamin’s reflection, which concerns the crucial problem of designation. The fundamental question is that of knowing what we can and should call violence:

For, however paradoxical it may seem on first glance, even conduct undertaken in the exercise of a right can be described under certain conditions as violence. And indeed such conduct, when it is active, can be called violence if it exercises a right that is vested in it by the power of the legal order in order to topple that very order. When passive, however, it is nonetheless to be described as violence if it constitutes extortion in the sense developed above. (§7)

Three questions emerge from the designation of an action as violent. The first is how to understand what is at stake. What forces are engaged when “we” (who, in fact?) describe an action as violent? The second asks what the idea of the proletarian general strike teaches us regarding the specific function of violence—“to found or transform legal relations.” Finally, the third problem requires us to examine what it means to recognize violence in an action that we would be tempted to consider nonviolent. These three questions remind us that naming violence is not only an exercise of power, but that it is always, in itself, the locus of a power struggle.

II

One would be hard pressed to find a writer who was more conscious of the power struggle at play in the act of naming violence than Georges Sorel. Let us briefly turn away from Benjamin and toward Sorel's *Reflections on Violence* (1907), which was a source of major inspiration for Benjamin's "Zur Kritik der Gewalt." For Sorel, socialism is meaningless unless it sets as its promise the emancipation of the working class from all situations of domination—in other words, unless its goal is one of creating a society freed from all relations between masters and slaves. Thus, the following question emerges: What needs must we satisfy such that socialist emancipation is not revealed to be a mere illusion? For Sorel, critiquing the masters of the day is not sufficient precaution. We must protect ourselves from the masters of the future. This is why, as we will see, the political strike—the strike understood as an extortion, whose aim is to compromise with the masters of the time—is situated in opposition to such a radical promise of liberation, and constitutes, as a consequence, a betrayal. Herein lies the difficulty of socialism: every time we think (or hope) to have gotten rid of the figure of the master, one way or another he or she finds his or her way back.

Accordingly, we come to understand the problem as the following: How can we safeguard the promise, inscribed within a project of radical elimination of masters that would ipso facto compromise it? For Sorel, this need could not be secured as long as the socialists aimed to conquer power through legal means (in other words, democratically and nonviolently). Their compromises with capitalism, their arrangements, and their weaknesses were nothing more than a way of making themselves acceptable to the masters of their time as possible masters of the future. Is it not in these terms that we should understand their fascination with state power and governmental institutions? With this analysis, Sorel approaches Friedrich Nietzsche's critique of the links between socialism and parliamentarism, formulated some twenty years earlier. They both condemn, for disparate reasons but with remarkably similar terminology, the illusory emancipatory character of such links. Far from trusting a project of emancipation through legal means, Sorel argues for the need to distinguish two radically different forms of political action. The first, parliamentary, one optimistically believes that a continuous path toward social progress can be traced through legal reforms. The second, on the other hand, might be understood as a "pessimistic path" leading toward a necessarily disastrous "deliverance." The former asserts that there is no means of emancipating the people other than the legal conquest of power through democratic elections, while the latter places all hope in the promises of a general revolutionary strike. Building on this basic distinction, Sorel's project consists of showing that the second way is not only credible, but also moral—sufficiently moral for him to define this pessimistic "march towards deliverance" as a "metaphysics of morals."²

This decisive distinction between optimism and pessimism, and between reform and revolution, demands two further considerations. First, the distinction rests on two different attitudes with regard to the state. The first (socialist) one might be called the “superstition of the state,” although Benjamin would undoubtedly speak of the “superstition of the law.” In this approach, having gained power through legal means, laws and state institutions are reinforced in order to justify and render acceptable reforms that contradict the initial promises of those who assumed power. It strives to reassure the masters (the dominant class) by showing them that they have nothing to fear for their interests, while asking the subaltern masses to wait. Consequently, the expounders of this superstition refuse all forms of violence that are not legitimized and organized by the state. The preservation of the state is thus favored over the emancipation of the working class, while the promise of a society liberated from master–slave relations is substituted by a desire for their mutual peace. Inversely, revolutionary syndicalism, far from wanting to seize the state and its means, wishes only to radically overthrow it.

The second consideration is that Sorel’s critique of the ideology of the preservation and conservation of the state confers a new meaning to the notion of class struggle. It constitutes precisely that which reformist socialism tries to avoid or move beyond. Under the pretext of social peace, this form of socialism seeks nothing more than a compromise, a pact with the bourgeoisie that will not change in the least the balance of power in society. Thus, social peace is suspect and untrustworthy, because for the sake of such a peace, bound by duty, discipline, and silence, the masters will always remain the same. In this sense, social peace is linked to an impounding of speech, a confiscation of the voice that corresponds to the confiscation of all hope for a future deliverance. Hence Sorel’s central question: Which voice, one shared rather than dominant, could carry such a hope? We must, in other words, find a word—or, more exactly, the true image of an action—capable of carrying the deliverance. If such an image were to exist, it would need to be resistant to appropriation by the dominant class, and it should have no other aim than to overthrow domination. Sorel calls it a “myth” to distinguish it from a utopia, a myth that can be criticized for offering the false and illusory image of an “enchanted” society to come.

Thus, we arrive at the core of the argument: for Sorel the revolutionary general strike is a myth, one that should be understood as the image of the action necessary to emancipate the working class. It is the image of a rupture with historic time, and it is this that marks its fundamental difference from a utopia. The latter, with its program of ridding society of all its ills, in fact enters into a contract with its own heritage in order to accommodate the pressures of its historical epoch. Conversely, the myth wants nothing to do with the past; marked by a radical discontinuity, it does not express any interest in economic, sociological, or historical data. The

myth fully identifies with the rupture that it imposes by fulfilling three main needs: (1) to find a word for the future, one whose eschatological dimension is not threatened by scientific discussions; (2) to invent a word whose consideration is not subjected to the condition of its feasibility, nor of its probable or possible effects; and (3) to present an image of a radical class struggle that would abolish all confusion between fields—in other words, an image that would erase all risk of a paradoxical reinforcement of domination and would, rather, precipitate its undoing.

This is, then, the function of the proletarian general strike: it is a myth whose strength lies in its dual character. On the one hand, the myth is meant to unite the working class, without requiring any submission in return. It imposes itself without taking the shape of a command uttered by an organization or a party. On the other hand, it immediately exposes the insufficiency of the reforms proposed by the system, unveiling the abyss that separates revolutionary hope from all forms of compromise. Such a myth cannot accommodate any preservation or conservation of the law. The result is the justification of violence that constitutes one of the most distinctive traits of Sorel's thought. Nothing can happen without violence, as a politics that tries to contain violence will be unable to respond to the *mythical* imperative of undoing all domination. This is, ultimately, the terrible (and terrifying) law of the myth: there can be no salvation without a violent overthrow of the current state of affairs.

III

Let us return to Benjamin and, specifically, to the second example he considers in the subsequent paragraph of his essay: the question of the law of war. Two aspects retain Benjamin's attention. The first one is the way in which the law of war consists in nothing other than the inscription of war's violence within the limits of the law. As a consequence, war becomes a form of violence capable of lawmaking. When entering into a war, people give themselves a new law to sanction natural ends. What matters, then, is the potential conflict or contradiction between these natural ends and other ends, either natural or legal, beginning with the prohibition of murder. War is first and foremost a permission to kill, and it is this same license that the law of war inscribes in the legal system. It is undoubtedly a conditional permission to kill, just as the right to strike was conditional, and the whole strategy of the government consists in rendering it acceptable, or even in portraying it as necessary.

Nevertheless, sanctioning war inevitably also means sanctioning the risk of losing one's life, or of seeing the people we love disappear. This is the reason that conflict does not merely oppose natural to legal ends, but also different natural ends to each other. No war can claim a universal finality. Its interests are always particular. And this is the reason why it is always natural ends that guide the decision to enter into a war, while other ends are weakened, beginning with the pro-

tection of human life, our own as well as that of our loved ones. Two examples will allow us to illustrate this point. They are not taken from Benjamin's essay but date back to the same historical period. The first one, a quote from Romain Rolland's novel *Clérambault* (1920), is a charge against war, written by the man who was soon to become the most eminent voice of European pacifism. He denounces war as the mechanism that transforms fathers into the murderers of their own sons. The conflict presented is one between protection from death—an assumed natural role of parents in regard to their children—and exposure to violent death, required by the war and its imperatives of patriotism, sacrifice, and so on. The second example concerns mourning. Although it is natural to mourn our loved ones, in times of war it is considered indecent to overtly express one's grief when a soldier is honorably killed on the battlefield. The only legitimate feeling is one of taking pride in his sacrifice. Let us read the words of Romain Rolland:

I had a son whom I loved, and sent to his death. You Fathers of mourning Europe, millions of fathers, widowed of your sons, enemies or friends, I do not speak for myself only, but for you who are stained with their blood even as I am. You all speak by the voice of one of you, — my unhappy voice full of sorrow and repentance.

My son died, for yours, by yours. — How can I tell? — like yours. I laid the blame on the enemy, and on the war, as you must also have done, but I see now that the chief criminal, the one whom I accuse, is myself. Yes, I am guilty; and that means you, and all of us. You must listen while I tell you what you know well enough, but do not want to hear.³

Benjamin's paragraph concerns not only the law of war but also of peace and, more precisely, the conditions of peace. First, it is useful to evoke the historical context of the passage, which is that of the Treaty of Versailles. Like many others (notably, Rolland), Benjamin entertained no illusions regarding this treaty. He knew that it was not founded upon a transcendent principle, as, for example, a principle of justice. Two further points deserve to be mentioned. First, the treaty belongs to the long tradition of rituals purporting to end the war. Second, every victory always implies that the losing party suffers a predatory violence. As a consequence, peace treaties have no other function than that of inscribing and legitimizing this violence within the boundaries of the law, just as the right to strike had the function of circumscribing the violence of class struggles. Treaties turn violence into law; their only function is to establish the law of the winners. One can only draw the terrible conclusion that peace treaties have no other vocation than that of inscribing the violence of the victory within the law. Thus, we arrive at the essential interest of Benjamin's paragraph: it consists, paradigmatically, of extending his conclusion to all violence perpetrated for the satisfaction of natural ends. Benjamin writes: "If

a conclusion may be drawn from considering military violence as an original and archetypal form of violence, it would be that there inheres by a law-positing [*rechtsetzender*] character in all violence used for natural ends" (§8).

To conclude, let us comment on the final lines of Benjamin's paragraph: "The state, however, fears this violence everywhere for its law-positing character, just as it must recognize violence as law-positing whenever foreign powers [*auswärtige Mächte*] compel it to concede the right to war, and classes the right to strike" (§8). First, the state is defined via its relationship to two hostile forces. Benjamin does not talk of enemies, as Carl Schmitt does during the same period, but we are not very far from a Schmittian conception of the state. Furthermore, what defines this enemy is its lawmaking ability. For the state, the enemy is the one who is willing to establish a new law. Finally, the state distinguishes itself by a certain passivity, if not an actual weakness. The state "fears" and is "forced" to concede. From this perspective it is difficult to ignore that this is precisely what Benjamin was reproached for by those gravedigger thinkers of the Weimar Republic. But that is a whole other story.

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Notes

1. Benjamin, "Toward the Critique of Violence," §6. Hereafter cited parenthetically.
2. Sorel, *Reflections on Violence*, 10.
3. Rolland, *Clerambault*, 111–12.

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