

**Benjamin, Walter. *Critique of Violence, in Reflections: Essays, Aphorisms, Autobiographical Writings*, translated by Edmund Jephcott. New York: Schocken Books, 1986.**

Walter Benjamin (1892-1940), a German Jew, worked as a literary critic, sociologist, philosopher, radio broadcaster, translator, and essayist. He made significant contributions to aesthetic theory and western Marxism. Benjamin wrote *Critique of Violence* in 1921. Benjamin died by suicide to avoid falling into Nazi hands after the Germans seized France in World War II. He fled as far south as Catalonia before being detained, where he ended his captivity with an overdose of morphine tablets.

### “Critique of Violence”

One needs a criterion by which to determine if violence can ever be a just means to good ends.

Natural law theory finds in violence a natural force, misused only when employed to achieve unjust purposes (ends). This view of natural violence is advocated by Spinoza’s social contract theory. Darwin’s natural selection theory provided a scientific context for the natural law view of violence. In natural law, violence is natural, and hence legal. In positive law (laws of human origin), violence emerges from history’s contingencies. One can criticize only means, of which violence is one. Still, as with natural law, so also for positive law, justice consists in a good end achieved by acceptable means. One seeks, with respect to both, criteria by which to evaluate just means and just ends. Benjamin sets aside the issue of just ends. He prefers to focus on analysis of violent means.

Positive law draws a line between planned and approved violence and violence that is ad hoc and lacking in societal acquiescence (sanctioned versus unsanctioned violence). Benjamin sets about to examine this distinction, whether it has a meaning. But he acknowledges that ultimately, he will need to evaluate the claims of both natural and positive law, and to achieve that result, he will require a viewpoint that stands independent of either. He thinks that this independent viewpoint resides in historical and philosophical analysis of the concept of law.

Positive law attempts to rule out certain uses of violence that, under merely natural circumstances, could be usefully employed. More, positive law insists that individual violence must conform to societal prescriptions as to both when violence may be employed at all, as well as the degree of violence that will be permitted. Positive law assesses individual violence as a threat to the legal system itself. Under positive law, only the state and organized labor are authorized to do violence. The violence of organized labor is inaction, the refusal to work, which becomes violent only in the sense that labor injures the system of law by declining to participate. In this sense, exercise of any right, over against state action, is “violent” in the sense that the exercise extorts the state, and most especially, when the goal of the extortion is overthrow of the legal system itself. Strikes can change or create novel legal conditions not previously existing.

Military law follows the same trajectory as strike law. Even when a goal is achieved by raw violence, there follows a peace ceremony by which the players acknowledge that the violence has created a new legal circumstance. Military violence mimics primordial violence in that it applies violence directly to achieve its ends. One sees in military violence that it has a law-creating aspect, that it creates a new set of rules that govern thereafter civil life. Military violence also contains a law-preserving action, in that militaries conscript people to do violence, and conscript legally. This means that the critique of violence must extend to a critique of all legal and administrative force of any sort. Kant’s categorical imperative (treat others always and only as ends, never means) cannot provide such a critique. Any telling critique of legal violence derives from ideas more potent than puerile anarchism or silly liberalism. The crucial intersection between violence and law occurs in capital punishment. Ancient jurisprudence assessed the death penalty for trivial crimes, not in order to punish, but rather in order to establish new laws. In this fact, the putrescence of law reveals itself.

Police enforcement suspends the difference between law enforcement and law preservation. Many argue that police enforce laws, but police interject themselves into a multitude of circumstances for which there is no legal warrant. Police presence reminds citizens that the supposedly-limitless power of the state is supervising them. Transgress, and violence awaits.

Therefore, violence creates or preserves law. If violence does neither, it is spurious action. But in its creative or preservative action, it is sucked into the problems of the idea of law itself. Non-violent

resolution of human conflicts never leads to contracts, because the bottom line in a contract is coercion consequent to breach. The origin of contracts is also violent; the power behind contracts came to power in violence. Ultimately, when citizen perception of coercion drains from a society's edicts, the society collapses.

Yet, nonviolent conflict resolution is possible. One sees nonviolence most clearly in individual human relations. There, civility, empathy, and trust may lead to resolution that do not involve the legal system, and so are not polluted by its systemic violence. The fundamental premise of nonviolent settlement of disputes is understanding, communicated by language. In nonviolence, no lying is anticipated, and so no sanction for lying exists. (Where law intrudes, one finds penalties for fraud.) The motive underlying all nonviolent resolutions is fear of the disastrous outcomes that attend violence resolutions. One can conceive a nonviolent theory in which all means are pure, unalloyed with violent underpinnings or sanctions for deviation.

Political nonviolence can be conceived only by analogy to interpersonal nonviolence. Strikes are of two sorts: 1) political strikes, aimed to increase power to its proponents, and 2) proletarian strikes, aimed to destroy state power. Benjamin argues that the proletarian strike is nonviolent, because it destroys the state, which is founded in violence. The proletarian revolution does not seek to replace one law with another. It simply revolts. As such it stands outside the framework for evaluating the violence of an action, and is in this sense "nonviolent," though the proletarian strike may well involve "violence." Diplomats reconcile states as private individuals find nonviolent resolutions: individually, case by case, without contracts. Benjamin argues that no nonviolence theory can wholly exclude violence in principle. What other sorts of violence may exist, outside legal theories? Justification of legal theories themselves proves impossible, as much as proving moral theories. Justice cannot be universalized. Justice speaks *ad hoc*.

Human violence, say in response to anger, is often-criticized in myth. Violence in myth exposes the existence of gods. Benjamin recounts the tale of Niobe (whose fourteen children were slain by the gods after she boasted of them, disparaging the gods), which he likens to law-making violence. Law makes power, which is violence itself. Justice is god defining proper ends. Myth details power making law. Constitutional law sorts out power, applying to all equally, in the sense that a law might prohibit all kings and paupers from sleeping under bridges. Mythic law is unwritten. One may transgress without knowing, and suffer retribution. This is fate's ambiguity. One may be doomed unawares. Divine violence opposes fate in that it destroys laws and their results. Divine commandments predate their transgression by men. A divine commandment is not a law; it guides thinking people in decision-making, challenging them whether they obey or ignore the commandment. One may argue the divine injunction to avoid murder derives from the sanctity of all life. But terrorists argue that they too obey the commandment, because justice shall never prevail later if they do not kill today. One must look to what deeds do to God and the doer, not to the victims. The divine prohibition on murder does not describe a sacral view of life. Man is more than his mere existence.

One critiques violence by philosophically analyzing its history. All violence is either law-making or law preserving. These interact until a new law supplants the old, and then the violent dialogue continues. If a Marxist revolution occurs, a new historical period ensues. This is the highest form of nonviolent "violence." Violence will be represented in myths. Mythic violence and positive law alike injure humanity. Divine violence breaks over all imperiously. It is sovereign violence, controlling all other forms of violence.