

Waiting for Justice: Benjamin and Derrida on Sovereignty and Immanence

James Martel

San Francisco State University

*Cursed I call those too who must always wait; they offend my taste: all the
publicans and shopkeepers and kings and other land- and storekeepers.
Verily, I too have learned to wait—thoroughly—but only to wait for myself.*

Nietzsche, Thus Spoke Zarathustra

WAITING BEFORE THE LAW

IN KAFKA'S PARABLE "BEFORE THE LAW" WE SEE, quite famously, that the story's protagonist (known only as "the man from the country") is forced to wait before the gate of law for his whole life. The gatekeeper, whose only purpose seems to be to bar the man's way, keeps him sitting on a stool just before the gate. As the man is dying from old age, he has this well-known exchange with the gatekeeper:

"Everyone strives to attain the Law," answers the man, "how does it come about, then, that in all these years no one has come seeking admittance but me?" The doorkeeper . . . bellows in his ear: "No one but you could gain admittance through this door, since this door was intended only for you. I am now going to shut it."¹

We see here a famous parable that epitomizes our relationship to the law and thereby to politics more generally. Although Kafka does not mention justice here, it seems to underlie the concept of law described here. Justice is what is promised by law; its possibility is what keeps us

¹ Franz Kafka, "Before the Law," in *Parables and Paradoxes* (New York: Schocken Books, 1961), 65.



obedient, patient, and hopeful. In the face of the law, the man from the country spends his life (just as we in turn spend our lives) waiting for a justice that never arrives. He is rendered an obedient subject, subordinate to and reflective of an absolute, sovereign authority in whose name he continues to wait.

Yet, while it never arrives, the idea of justice does not seem to leave the practice of law itself unaffected. Indeed, the law can itself be said to be a product of our expectation for justice. Although the man from the country never gets “access” to law in its perfect and fullest sense (a law infused with justice, we could call this Law, with a capital L), it permeates and regulates his life nonetheless. The gatekeeper is effectively a lawmaker to the man from the country; he does not allow him entry, and he exercises authority over him, even as the basis of his power lies in what happens beyond the gate. It is his own (purported) access to and relationship with Law that makes the gatekeeper a figure to be reckoned with. The respect and deference that the man from the country displays to him are due to this imagined connection.

As is his wont, Kafka’s parable about the law describes the way that we experience and understand law and justice even as it also playfully subverts our expectations. Insofar as the parable demonstrates both the immanence of Law and its nonarrival, it suggests that the nature of waiting in this case may not be what we think it is. Kafka’s parable invites us to think about what the law (in its ordinary “small l” sense) is when it is *not* connected to the Law, when it is experienced only in its banal ordinariness, its day-to-day mediocrity. What if, Kafka seems to be asking us, there were nothing behind that gate? Or perhaps more accurately, what if we knew that we were never going to get through it (something the man from the country finds out only at the very end of his life, when it is too late)? Would that change our relationship to law and to our idea of justice? Would it alter the quality of our political obedience? Would it change the nature or even the fact of our waiting?

In other works, such as *The Castle*, Kafka asks similar questions and suggests similar responses. Kafka’s texts depict a world (our world, in fact) in which complex and intense relationships are formed in the expectation of great deliveries, instances of Law, justice, and fulfillment. Like the man from the country, we, as subjects of law, are also kept obedient, patient, and dutiful in the face of our own expectation of justice; this is the basis for sovereignty, the source of political authority. But Kafka subverts the center of this process; he exposes or at least definitively fails to reveal the “truth” at the heart of these legal and political practices. In his tales, we never get to see or know the Law; we never really get to meet the denizens of the Castle (or, when we do, we do not recognize them as such, so fixated are we on the fleeting glimpses and symbolic signs that stand in for truth in our world).² Kafka scrupulously prevents us from learning anything about these mysteries, but he does very clearly demonstrate that such mysteries are not for us.

Such an insight does not, however, deny the reality of the political and affectional communities that we have formed while we wait for justice. In the face of the transcendent gate of Law we see actual lived experiences, a tangible reality, developing between the two characters who people this text; we see this reality in the stool the man from the country is permitted to sit on, in the gatekeeper’s fleas, in his “furred robe, with his huge pointed nose and long, thin, Tartar beard.”³ The question that I would like to explore further in this article is what happens when the central organizing narrative—of law, of justice, and of the sovereign authority that such concepts

² I describe this in detail in *Textual Conspiracies: Walter Benjamin, Idolatry, and Political Theory* (Ann Arbor: University of Michigan Press, forthcoming).

³ Kafka, “Before the Law,” 61.

delineate—is disrupted or decentered. What happens next? What kind of politics are we left with when such basic organizing principles are removed (however temporarily)?

Kafka's stories do not directly answer this question: as we have seen, the man from the country dies at the moment of this revelation. In fact, his death is the delivery of that message; while he is alive there is still hope that he can enter the gate of the Law. Similarly, K., the figure in *The Trial* who is told the parable of "Before the Law," is also killed at the end of that story; here too his death announces that justice in fact never does arrive and that the life he lived in expectation of it was not what he thought or hoped it would be. Although the main character in *The Castle*, also called K., does not actually die, it seems that Kafka intended to have him die as well, thoroughly frustrated and exhausted by his attempts to capture, know, or see the law. In the case of that book, Kafka preempted such an ending by dying himself, leaving the book unfinished. Yet in all three cases, while justice was never delivered, lives were lived, communities were formed, and politics was enacted in the expectation of its delivery.

Kafka's novels and parables put us in a strange stance vis-à-vis the law, justice, and sovereignty. By revealing the law as a kind of messiah (or, more accurately—as we will see below—by showing us that law's messianism saves us by denying us access to its fullest phantasmic expression), Kafka is ushering us into another reading, another form of waiting. In this version we come to know that we are not waiting for anything at all or, rather, that what we wait for has, in a sense, already arrived. We find that the life we are living, the justice that we seek, can be found only "here" in the world that we occupy (with a concomitant alternative political practice as well).

I will contend with this other reading by examining the works of Jacques Derrida and Walter Benjamin in conjunction (or "constellation," to use Benjamin's own term) with one another and with Kafka too. Derrida, I will argue, holds an ambivalent position as being partway between Benjamin's position and that of more conventional thinkers on the subject (i.e., those who wait in the expectation of redemption, of justice itself).⁴ At the end of this article I will consider how a justice that has been revealed as empty, as unavailable and unobtainable, can yet help to produce or reveal something like justice in our world, how even if—or especially when—the sovereign has been stripped of its function of producing and promising law and justice for us, we can produce these concepts for ourselves. More accurately, we find that justice and the democratic practices that we seek are in fact already here; our act of waiting is what has made those practices possible in the first place, but it is not until we realize that we wait in vain that they may finally become legible to us.

DERRIDA'S JUSTICE

To begin this inquiry, I will turn to Derrida's notion of justice and law, and in particular the way he treats these concepts in his well-known essay "Force of Law." I would like to trace both Derrida's debt to Benjamin and their differences to highlight the particularities of Benjamin's own position. In part, I will do this by looking at how both authors read and respond to Kafka (and, in particular, to the parable "Before the Law"). It must be said from the outset that the differences between Derrida and Benjamin are subtle. Derrida derives a great deal of his own philosophy from Benjamin or at least attributes quite a bit of it to him. The differences between these thinkers are therefore, I would argue, largely one of degree rather than kind, but there are still crucial dissimilarities. As I see it, Derrida's "partway position," his partial embrace of Benjamin's messianism with a concomitant

⁴ Although it is not itself necessarily all that conventional, the theme of waiting is explicit in Simone Weil, *Waiting for God* (New York: Harper, 1992).

retreat, his complex relationship to Judaism (not that Benjamin's is not equally complex), and his general ambivalence toward justice and sovereignty create difficulties for Derrida's notion of politics. I will argue that a fuller embrace of Benjamin's model—an embrace, that is to say, of a model Derrida already formally espouses to a great extent—would resolve some of that difficulty, relieving Derrida of some of his chronic ambivalence. At the same time, I will argue that Benjamin himself can benefit from some of Derrida's insights about the temptations and lures of sovereignty and “justice,” about the difficulties of engaging with a political practice that is so deeply buried in mythologies of power. Reading them in tandem therefore helps us to get a clearer idea of what kinds of justice are actually possible (or existent) in the world.

In terms of the concept of waiting for justice specifically, Derrida demonstrates a typically (for him) paradoxical position. On the one hand, in “Force of Law” he tells us that justice “doesn't wait. It is that which must not wait.”⁵ He goes on to say that “a just decision is always required *immediately*, ‘right away.’ It cannot furnish itself with infinite information and unlimited knowledge of conditions.” (26). Citing Kierkegaard, he calls this “instant of decision” a “madness” (26). And yet, in a way that Derrida acknowledges as paradoxical, justice, although it cannot wait, is also not quite here, not quite with us in our own time:

it is . . . because of this always excessive haste of interpretation getting ahead of itself, because of this structural urgency and precipitation of justice that the latter has no horizon of expectation (regulative or messianic). But for this very reason, it *may* have an *avenir*, a “to-come,” which I rigorously distinguish from the future that can always reproduce the present. Justice remains, is yet, to come, *à venir*, it has an, it is *à venir*, the very dimension of events irreducibly to come. . . . “Perhaps,” one must always say perhaps for justice. (27)

Derrida's point here is that justice is both that which “does not wait” and also that which exists only as potential, as *à-venir*. Several times in “Force of Law,” he mentions (as we have just seen) that such a justice is not messianic but at the same time its “presence” remains wholly (and only) immanent. Perhaps we could call it “not-not messianic.” For Derrida such a paradoxical status is not disabling; he tells us “incalculable justice *requires* us to calculate” (28). In fact, it is this very paradox that helps to generate the “force of law” itself; justice *must* be immediate, but it remains aloof, just out of reach, and (therefore) requires our own response in the process.

This paradoxical view of justice is reinforced by the rhythms of the essay itself; throughout “Force of Law,” Derrida both approaches (and appropriates) and distances himself from Benjamin. At moments of approach, he makes Benjamin a kind of early prophet of his own philosophy. Thus, he tells us, for example, that for Benjamin, “what makes for the worth of man, of his *Dasein* and his life, is that he contains the potential, the possibility of justice, the yet-to-come (*avenir*) of justice, the yet-to-come of his being-just, of his having-to-be just. What is sacred in his life is not his life but the justice of his life” (53–54). At other times—and especially in the coda to the essay—he retreats from a full embrace of Benjamin. He tells us at one point that Benjamin is “too Heideggerian, too messianico-marxist or archeo-eschatological” for him (62). He thus both depicts Benjamin as anticipating the idea of justice *à-venir* and somehow distorting this expectation with a kind of messianic recklessness or literalness that comes to “resemble too

⁵ Jacques Derrida, “Force of Law: The Mystical Foundation of Authority,” in *Deconstruction and the Possibility of Justice*, ed. Drucilla Cornell, Michel Rosenfeld, and David Gray Carlson (New York: Routledge, 1992), 26. Hereafter, page numbers to this source will be given in the text.

closely . . . the very thing against which one must act and think . . . that with which one must break (perhaps, perhaps)” (62).

In other words, even as he sets the ground for understanding the concept of a justice “to-come,” Derrida tells us that Benjamin offers insufficient ground to distinguish his messianic delivery from the evils that come from human actors. He says, for example, that Benjamin’s claim that divine punishment is “bloodless” (i.e., that it leaves no bloody sign in its wake) risks the determination that the Nazi death camps, which tended to kill by gas rather than by bullet, could be seen as “an expiation and an indecipherable signature of the just and violent anger of God” (62).⁶ How then, Derrida is asking, do we know true “justice” when it is manifested before us? Insofar as many brutal acts have and will continue to be attributed to divine justice, any notion of *actual* justice will always hold this danger (including Benjamin’s own position). For Derrida, we should rather hold to the immanence of justice, to its status as always being “perhaps” and “to-come.” In this way justice remains transcendent, able to “haunt” and trouble our practices rather than being hijacked for the purposes of retroactively justifying them.

Another version of Derrida’s concern about what could be called the danger of “false prophecy” (and hence messianism) in Benjamin can be glimpsed in his discussion of the tension between the decidability of justice and the undecidability of law. He labels the idea of mythical violence described in Benjamin’s “Critique of Violence” as being “Greek,” while divine violence is “Jewish.” It seems as if law—at least with a small *l*—lies on the Greek side and justice lies on the Jewish side in this schema. Derrida tells us further:

There are two violences, two competing *Gewalten*: on the one side, decision (just, historical, political, and so on), justice beyond *droit* and the state, but without decidable knowledge [i.e., the “Jewish” divine violence]; on the other, decidable knowledge and certainty in a realm that structurally remains that of the undecidable, of the mythic *droit* of the state [Greek, mythic]. On the one side [Jewish] the decision without undecidable certainty, on the other [Greek] the certainty of the undecidable but without decision. (56)

For Derrida, the violence of law comes from its undecidability, from “the fact that one could not distinguish between founding violence and conserving violence” (61). Without decidability—that is to say, without justice—one seems forced to accept the kind of decisionism that Carl Schmitt sees as the basis for politics in the first place. Decisions are of necessity arbitrary and random, only retroactively given meaning and a sense of purposefulness by sovereign fiat. For Derrida, as we have seen, Benjamin puts too much store in the possibility of divine justice acting in the world. Derrida reiterates that justice must remain as a “perhaps” to haunt and decenter the authority of just decisions, to remind us that they are not justice and that justice itself remains “to-come.”

Here again, we see how for Derrida any sense of actual, practicable justice carries grave dangers. Given that divine violence has no “decidable knowledge,” no concrete manifestation, it remains available mainly for being “bastardized” into law (a term Derrida takes from Benjamin). Sovereignty wraps itself, either directly or indirectly, in the mantle of divine justice; it defines and produces what is deemed “just” in our world. Insofar as it speaks for justice, it becomes impossible to distinguish sovereign practices from “real” justice, hence Derrida’s concern.

⁶ Derrida even goes a bit further than this when he suggests that the “Critique” “belongs . . . to the great anti-parliamentary and anti-‘Aufklärung’ wave on which Nazism so to speak surfaced and even surfed in the 1920s and the beginning of the 1930s” (ibid., 64n).

In the face of such dangers, Derrida's own answer is to retreat from Benjamin's messianism (as we have seen) to avoid providing the grounds for a mere repeat of such sovereign usurpations (or bastardizations). Derrida acknowledges the irony that an essay like "Critique of Violence"—which is explicitly set against such usurpations—might itself contribute to them (62). At the same time, his retreat is only partial; to move away from the messianic altogether is to give up on justice. This is something Derrida is not prepared to do. Here, Derrida is (we are?) left in the strange position of waiting for a justice while fearing the possibility of its arrival exactly because he cannot distinguish false prophets from divine acts. Does Benjamin himself have any recourse against such a state of affairs? Is his belief in the possibility of justice always going to risk such sovereign (and other) usurpations?

DIVINE VIOLENCE

If, for the time being, we stick only to the "Critique of Violence" itself, we already may begin to see why for Benjamin justice is already here (or at least why it is not only "to-come") and also how it does not serve as the potential basis for false prophecy that Derrida fears. If we return to the distinction between mythic and divine violence in that essay, we see that for Benjamin, the key difference is that mythological violence is a projection of fantasy by human beings while divine violence serves to undermine that fantasy. He tells us that divine violence "constitutes [mythical violence's] antithesis in all respects. If mythical violence is lawmaking, divine violence is law destroying; if the former sets boundaries, the latter boundlessly destroys them; if mythical violence brings at once guilt and retribution, divine power only expiates."⁷ We see here that mythical violence is very much connected with the human project; it creates laws and establishes boundaries—in other words, it is tied up with the business of sovereignty itself (human sovereignty, that is). Benjamin tells us that "power [is] the principle of all mythical lawmaking" (295). Faced with an abyss between the human and divine realms, mythical violence seeks to stand in for God, as it were; it seeks to produce a human version of what God wants—that is, what justice is and what the sovereign should do in God's name. In other words, mythical violence is idolatrous. This may be part of what Derrida is himself implying by calling mythical violence "Greek" as opposed to "Jewish" divine violence. The Jewish preoccupation with fetishism and idolatry is central to Benjamin's narrative.

Divine violence, on the other hand, is antifetishistic. It does not instantiate truth in the world. For Benjamin such truth can never be known by human beings. Instead, it removes the untruths that we ascribe to God. In other words, it removes myths. The kind of exchanges that constitute law and hence mythical violence are unmade through acts of divine violence. The prime example of divine violence that Benjamin offers in his "Critique of Violence" is that of Korah. Korah was an idolater who rebelled against the authority of Moses. God had the ground open up and swallow Korah and his followers, leaving no trace of him or them behind. Benjamin famously says of this act:

It strikes them without warning, without threat, and does not stop short of annihilation. But in annihilating it also expiates, and a deep connection between the lack of bloodshed and the expiatory character of this violence is unmistakable. For blood is the symbol of mere life. The dissolution of legal violence stems . . . from the guilt of more natural life, which con-

⁷ Walter Benjamin, "Critique of Violence," in *Reflections: Essays, Aphorisms, Autobiographical Writings*, ed. Peter Demetz (New York: Schocken Books, 1978), 297. Hereafter, page numbers to this source will be given in the text.

signs the living, innocent and unhappy, to a retribution that “expiates” the guilt of mere life—and doubtless also purifies the guilty, not of guilt, however, but of law. (297)

We see here the core of Benjamin’s argument about the nature of divine violence. Korah was attempting to engage in mythology, in a new form of lawmaking. God’s act of divine violence erases the guilt of idolatry (a guilt that for Benjamin is a central component of postlapsarian human life) and with it the law and political authority that such guilt produces.⁸ This act of divine violence thus cleanses away our sin of idolatry. Once again, it leaves behind not truth but rather the possibility of nonfetishism. It allows us to begin again, to re-see and re-read the world around us without the certainty of the sin of idolatry. With such acts we are “purifie[d] . . . of law.”

To ask Derrida’s question once again: why, then, is the Holocaust not a moment of divine punishment? How do we, fallen and fallible humans that we are, distinguish a divine act of violence from a mythical one? In response, I argue that perhaps in this case Derrida is making too much of the literalness of blood rather than its signification (a fairly ironic claim in Derrida’s case, to be sure). For Benjamin, blood is a sign; he calls it a “symbol of mere life” (297). Insofar as mythical violence traffics in idols, it requires the sign of life to demonstrate or produce its own power—or even its own existence. But divine violence unmakes signs; it creates spaces where signs cease to determine reality, cease to be idols altogether.

In this way the fact of blood is not in and of itself the key to mythical violence. The perpetrators of the Holocaust may not always have shed blood (although, of course, they shed copious, horrifying amounts of it), but their actions are in some ways the culmination—as Derrida himself suggests—of mythical violence, an ultimate expression of idolatry, of seeking to impose control over all life in the pursuit of some fantastic truth or order. One could say that the Nazi regime represents the sovereign impulse at its most unconstrained, its most mythical. As Benjamin famously goes on to say in his “Critique”: “Mythical violence is bloody power over mere life for its own sake, divine violence pure power over all life for the sake of the living. The first demands sacrifice, the second accepts it” (297).

Thus, Benjamin does offer a way to discern between acts of divine and mythical violence, namely in terms of the relationship of violence to the sign, to idolatry, and how we read and interpret the world. To put this in a nutshell: Benjamin’s messiah acts to erase and remove idols, not to replace one set of idols with another. It is not a question of “blood or no blood” but a question of “idol or no idol.” Just as with Kafka’s narratives (something Benjamin acknowledges in his own writings on Kafka), Benjamin’s messianic acts serve only to unmake and decenter; although Benjamin acknowledges, once again, that myth “bastardizes” divine violence into law, we see that he also supplies us with the means (the critique) by which to recognize and resist that bastardization. While Derrida clearly denotes the semiotic basis for Benjamin’s theory, he does not necessarily apply such insights to Benjamin’s brand of messianism. Accordingly, a closer examination of Benjamin’s notion of the messiah—and the ways it might differ from Derrida’s own—is in order.

⁸ For more on guilt and Benjamin, see Werner Hamacher, “Guilt History: Benjamin’s Sketch ‘Capitalism as Religion.’” *Diacritics*, Fall–Winter 2002, 81–106.

BENJAMIN'S MESSIAH

In *Specters of Marx*, Derrida tells us that Benjamin is “messianic without messianism.”⁹ Such a description, however, is probably a better fit for Derrida himself than for Benjamin (Derrida has been described as having a “religion without a religion”).¹⁰ I would say that Benjamin is just plain messianic, but his messianism has very little in common with an avenging Old Testament messiah. When Derrida calls him “messianic without messianism” he is reflecting Benjamin’s (and perhaps his own) simultaneous distance from and participation in a longstanding Jewish messianic tradition. He cites Benjamin’s messianism, his notion of divine violence as “Jewish,” even as he distances himself from Benjamin’s version of “Jewishness.” In “Force of Law,” Derrida says that he “leaves to [Benjamin] responsibility for [his interpretation] of Judaism,” leaving his own position rather unvoiced and, once again, ambivalent (53).

In terms of the distinctions between their own versions of “messianism,” it is crucial to note that Benjamin’s messiah is both *more* and *less* in the world than Derrida’s concept of justice “to-come.” For one thing, as Derrida himself suggests, Benjamin’s messiah is *always in the world* in some sense. The “*weak* messianic force” Derrida describes in *Specters of Marx* (citing Benjamin’s “Theses on the Philosophy of History”) is present with “every generation.”¹¹ Benjamin speaks further on in the “Theses” of “a Messianic cessation of happening, or, put differently, a revolutionary chance in the fight for the oppressed past.”¹² Here, we see the way that Benjamin’s messianism overlaps with his Marxist revolutionary views; the two events—that is, divine intervention and human action—are two sides of the same coin. The messiah’s function is to allow for a “cessation of happening,” hence a cessation of idolatry as well; human actors fill the breach of that cessation with revolutionary violence (Arendt would say with “power”).¹³

Because of divine violence, a form of human violence (i.e., revolutionary violence) is possible that does not merely replicate myth; with the disruption of guilt and of the Law, human actions become possible that are not merely iterations of existing strictures and beliefs (i.e., myths). We are therefore not condemned to idolatry. These two gestures, the divine and the human, are simultaneous and mutual. This is why Benjamin can speak of a “*weak* messianic force” that “every generation” has been endowed with. It is this intense connection between messianic disruption and human action that makes Benjamin’s messianism a force in the world that is not purely “to-come,” not just perhaps but one that continues to erupt in the world, in the here and in the now in a very tangible, actual way.

But at the same time, Benjamin’s messiah is *farther* away from the world than Derrida’s because we are unable to ever know if what we have done is divinely sanctioned or not (Derrida is

⁹ Jacques Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning, and the New International* (New York: Routledge, 1994), 181.

¹⁰ See John D. Caputo, *The Prayers and Tears of Jacques Derrida: Religion without Religion* (Bloomington: Indiana University Press, 1997).

¹¹ Derrida, *Specters of Marx*, 54, 181.

¹² Walter Benjamin, “Theses on the Philosophy of History,” in *Illuminations: Essays and Reflections*, ed. Hannah Arendt (New York: Schocken Books, 1968), 263.

¹³ We see the same possibility at the very end of the “Critique of Violence” when Benjamin writes somewhat optimistically: “If the rule of myth is broken occasionally in the present age, the coming age is not so unimaginably remote that an attack on law is altogether futile. But if the existence of violence outside the law, as pure immediate violence, is assured, this furnishes the proof that revolutionary violence, the highest manifestation of unalloyed violence by man, is possible and by what means” (300). It is true that this is in the future, but only the future as an extension of what already is.

not wrong about this danger in general). In the “Critique of Violence” Benjamin writes: “Less possible and also less urgent for humankind, however, is to decide when unalloyed violence has been realized in particular cases. For only mythical violence, not divine, will be recognizable as such with certainty, unless it be in incomparable effects, because the expiatory power of violence is not visible to men” (300).

This is the dilemma that Benjamin poses to us; we may well, at some point, approximate the kinds of truths that are held “under the eyes of heaven,”¹⁴ but we would not know it if it happened. We are condemned to untruth and mistaken knowledge, the very state of being that our idolatry strains to defy and overcome. We recognize mythical violence “with certainty” because, ultimately, it is of human origin. Being of our own making, we know it for what it is. But for this very reason, it does not allow us any view other than itself; it perpetuates its own mythology. Divine violence is transcendent, but being so, it has nothing to tell us. It cannot tell us how to lead our lives, how to engage in politics, or how to properly read the signs that constitute our reality. All it can do is to decenter and disrupt the misreadings of God—and, by extension, the rest of the world as well—that have been promulgated in its name. The rest is up to us.

Derrida’s “messiah” (if we are permitted to call it that) lies on the boundary between the divine and the human. It haunts the human; it “trembles” at the periphery of our lives but it does not enter directly into the world. Benjamin’s messiah sits, as it were, on both sides of this position: on the one hand, it is very much “in the world,” expressed and manifested as human action even as it is, on the other hand, absolutely behind a wall of unknowability, not immanent in any way. It is this simultaneity, I think, that Derrida misses; his own ambivalence reflects, perhaps, his straddling stance. While his justice “to-come” similarly reminds us that sovereign projections and myths are just that, he lacks a notion of a messianic figure that directly interferes in the world to rid us of idolatry, thus making an actual, tangible, and local human politics possible.

REVISITING “BEFORE THE LAW”

To better understand this point and to understand Derrida’s divergence from Benjamin more generally, it is helpful to directly compare their respective readings of the third figure in the constellation I have set out, namely Kafka. In his own analysis of “Before the Law” (entitled “Devant la loi”), Derrida shows, perhaps even more clearly than in “Force of Law,” the ways that he is both similar and dissimilar to Benjamin: once again, the difference between them is a matter of degree rather than kind, but the crucial distinction between them remains based in the question of idolatry.

In his analysis of Kafka’s text, Derrida shows how the law, like a text, consists of a set of “fictions” (he begins “Devant la loi” by citing Montaigne, who speaks of law’s “legitimate fictions on which it bases the truth of its justice”).¹⁵ Kafka’s text demonstrates how the law’s authority literally comes from “nowhere” (Derrida uses the term “atopy”) by allegorizing its absolute inaccessibility (in “Before the Law,” the gatekeeper informs the man from the country that the door he is poised before is just one of many; even if he could cross the threshold, he would not have access to the Law). As Derrida puts it, “this atopy annuls that which takes place, the event itself. This nullification gives birth to the law, before as before and before as behind.”¹⁶ The “nullifica-

¹⁴ Walter Benjamin, *The Origin of German Tragic Drama* (New York: Verso, 1998), 232.

¹⁵ Jacques Derrida, “Devant la loi,” in *Kafka and the Contemporary Critical Performance: Centenary Readings*, ed. Alan Udoff (Bloomington: Indiana University Press, 1987), 128.

¹⁶ *Ibid.*, 143.

tion” of its own possibility is the basis, Derrida argues, for law’s authority; law can neither reveal its secret nor let us think that there is no secret to reveal.

This reading replicates Derrida’s straddling sense; the law must be “visibly invisible.” It must lurk inaccessibly, just out of sight. We can see how readily this view shades into Derrida’s notion of a justice that is always “to-come”; if justice were to reveal itself, to be fully in the world, it seems that it would remove its own basis for authority. Law must remain immanent in order to avoid undoing itself. After all, Derrida reminds us, the doorkeeper does not tell the man from the country that he can never have access to the law, just that he cannot have access “yet” (although, as he points out, the man from the country does not in fact ever get access to law).¹⁷

And here too we can see a difference between Derrida’s reading of Kafka and Benjamin’s. Derrida’s reading, once again, leaves out what is the central component of Benjamin’s analysis, his focus on idolatry and the possibility of its removal. For Benjamin, as we have seen, law is produced, not by self-assertion, but by hubristic imitation (“bastardization”) of divine violence. Since the Fall, human beings seek to know, to have access to truth; we seek to mimic God’s power and, in so doing, produce a miasma of misrepresentation, the idolatrous pseudoreality that Benjamin calls “the phantasmagoria.” Like Derrida, Benjamin does not deny the power of this misrepresentation, its tangible effect on life, the way such aporias nevertheless produce responses. Whole lives are lived in its wake; entire political systems are affected. But Benjamin does not leave it at that. Kafka’s stories, in his view, do not only tell us how law is produced but themselves actually participate in the unmaking of those stories. In this way they can be said to model the possibility of human beings reflecting and acting in congress with divine violence, affording us an alternative to the false choice between “truth” (which for Benjamin, as for Derrida, can exist only as a phantasm) and the idolatry of the phantasmagoria.

In “Some Reflections on Kafka,” part of a 1938 letter that he wrote to Gershom Scholem, Benjamin distinguishes between Halakah (the true, divine Law) and Haggadah (its representation in the world). He tells us that “[Kafka] sacrificed truth for the sake of clinging to its transmissibility, its haggadic element.”¹⁸ Here the question of representation itself becomes paramount: how does one go about “representing” a truth that cannot itself be known? Although we normally think of representation as attempting as best as possible to stand in for the truth, Benjamin offers that, with Kafka, that relationship is radically altered: representation must learn to live without even a modicum of the truth. He goes on to write that Kafka’s parables “do not modestly lie at the feet of the doctrine, as the Haggadah lies at the feet of the Halakah. Though apparently reduced to submission, they unexpectedly raise a mighty paw against it.”¹⁹ Here, we begin to see more clearly how Benjamin conceives of a human action being coordinated with divine violence. The answer is not, as we might imagine, to seek to actually replicate the truth; that is the stance of idolatry and mythology. Instead, as Kafka shows, we see that it must allow the very idols that represent “truth” to turn against that portrayal (since such a portrayal will inevitably be idolatrous). We must align ourselves with such an uprising, recognizing it as a moment of divine violence. In this way, we clear mythical “certainties” from our sense of reality; we make a space for nonidolatrous forms of representation—that is to say, a representation that acknowledges the impossibility of its own function, one that points to the ruin of the reality that we currently and actually inhabit.

¹⁷ Ibid., 141.

¹⁸ Walter Benjamin, “Some Reflections on Kafka,” in *Illuminations*, 144.

¹⁹ Ibid. I discuss this at greater length in *Textual Conspiracies*.

In contrast to this radical possibility, we see in Derrida's analysis much less in the way of subversion. In his own essay on Kafka, Derrida speaks of the "limits of subversion."²⁰ Even when he seems to most closely approximate Benjamin, Derrida tends to hold back somewhat. He suggests that *The Trial*, the narrative that contains the parable "Before the Law," "produces a *mise en abîme* [a ruination] of everything you have just heard."²¹ Derrida ends "Devant la loi" by citing the priest who converses with K. (the hero of *The Trial*) about the meaning of the parable. The priest says, "The script is immutable and the commentaries often merely express the despair that this causes."²² Here, at the tail end of his discourse, Derrida suggests something far more radical going on in Kafka's parable, but it is only a suggestion. The bulk of the text, as we saw, focuses on the way Kafka describes the production and nature of law, its fiction and its self-assertion (in *The Beast and the Sovereign*, Derrida develops these ideas, speaking of the sovereign's "prosthesis").²³ Derrida fears that without these fictions, these distancing mechanisms, we could have no justice whatsoever. His analysis may "expose" the law in some sense, but it does not leave us any alternatives either. What for Derrida exists as hints and possibilities, something that is "perhaps" and "to-come," is for Benjamin actually happening on the physical pages of Kafka's texts.

The key point to note is that for Benjamin human beings are not fated to merely replicate mythical violence. They can coordinate their actions with acts of divine violence, voiding the site of idolatry, in this case with the collusion of the idols themselves. When their acts of subversion are oriented, not toward deciphering truth, but toward undoing the untruths that compose our reality, we are working with the "weak messianic force" that is present in "every generation." Kafka's parables, Benjamin tells us, serve to do this work. They disrupt the center of the very narrative of law—and, with it, notions of truth, justice, and sovereignty—even as they demonstrate how the law is produced, how it operates. Although they appear to be submissive (like any form of representation), Kafka's parables unexpectedly rebel against the very idolatry they would otherwise foment. In this way the text itself becomes an ally of the reader, a way to enact a moment of "divine violence"; it produces a disruption of meaning and representation that permits us to engage with the text—and the truths it promises—in a different way.

Why is this any different from Derrida's notion of deconstruction? Is it not also true that Derrida seeks to live in the "ruins" that follow our exposure of the myths that constitute our reality? Here we see once again that Derrida and Benjamin are not so much in opposition as going for similar goals but in different ways. I would offer that deconstruction, as Derrida describes it, reflects his straddling position. Here too he pulls back from a full embrace of Benjamin's messianism; suspicious as he is of the dangers of false messianism, Derrida ends up forced to live with—that is to say, wait for—the very mythology he seeks to expose and subvert. Yet Benjamin shows that there is an alternative to truth and fiction, a kind of "middle path," if you will, that allows for a space between idolatry and truth (since for both Benjamin and Derrida, these are effectively the same position). For Benjamin, God's acts of divine violence show us that we are not condemned to idolatry. God does not merely hover at the periphery of our world (as for Derrida) but interferes forcefully for the sake of creation. And, by turning toward the material forms that constitute our representative order, we see that we can access those nonidolatrous spaces ourselves, with crucial help from the very idols we would otherwise deliver ourselves to.

²⁰ Derrida, "Devant la loi," 149.

²¹ Ibid., 148.

²² Ibid., 149.

²³ Jacques Derrida, *The Beast and the Sovereign, Volume 1* (Chicago: University of Chicago Press, 2008), 46.

BACK TO WAITING

In the essay on Kafka cited above, Benjamin is not directly referencing “Before the Law,” although his analysis can readily be extended to that parable. In terms of “Before the Law” itself, we can say that the gatekeeper in some way fulfills the messianic function of that story in that he prevents the man from the country from having access to the Law. Derrida himself argues that the “I” of the gatekeeper (as when he says, “now I will go and shut [the gate]”) “is also that of the text or of the law.”²⁴ If we extend Benjamin’s analysis of Kafka more broadly to this parable, we can see that this “I” can be considered to act as a “mighty paw” that, even as it produces the authority of law and justice (in the way that Derrida delineates), also suspends and decenters that law (by showing that the man from the country was never meant to cross into it). In other words, in the very act of announcing the ultimate authority of the law and text (i.e., the pure immanence of justice), the gatekeeper also reveals the empty core of that concept. The authority it produces (in this case, the effects that it has had on the man from the country and his relationship to the gatekeeper) is not dispelled, yet the law itself becomes, as it were, almost irrelevant. We become “purified of law”; the secret that the law must keep is “ruined,” but justice may not itself be lost. In his last moments, in his internal thoughts (about which Kafka keeps a sphinxlike silence), the man from the country can perhaps begin to see what happens to his relationship to law and justice when the central concept has been decentered. What Derrida hints at—with seemingly equal measures of fear and hope—for Benjamin becomes a real possibility.

In “Franz Kafka: On the Tenth Anniversary of His Death,” where he does directly reference “Before the Law,” Benjamin writes: “The gate to justice is learning. And yet Kafka does not dare attach to this learning the promises which tradition has attached to the study of the Torah. His assistants are sextons who have lost their house of prayer, his students are pupils who have lost the Holy Writ.”²⁵ Here we see a way to be messianic, to be “Jewish,” without all the baggage that traditionally comes along with such a tradition. It is perhaps this baggage that Derrida seeks to avert when he partially distances himself from Benjamin, but I suggest that he has thrown out the baby with the bathwater to some extent insofar as he reduces the messiah to an immanence that denies (or at least impedes) access to its most subversive functions. With Benjamin we see that Kafka’s “pupils . . . have lost the Holy Writ.” But such a loss does not condemn them to mythology. On the contrary, it is the belief that the Holy Writ itself contains truth that renders the believer an idolater; “losing” such a belief is our salvation, our deliverance from idolatry. Since God and the truth are not knowable by us, we cannot directly approach God via the signs and symbols that convey divinity to us. Only by turning our back on God, on justice and truth, can we avoid the fate of being trapped by idolatry and mythology. For Benjamin, it is God who shows us how to avoid this fate: God comes into the world to erase all signs of divinity (or, if not God, then some agent of God; even the signs and symbols that form our world can raise “a mighty paw” in the service of divine violence, as we have seen). It is not that God wishes to be forgotten, but rather that from acts of divine violence it becomes possible for us to rethink our relationship to God, to justice, to law, and to sovereignty.

With Derrida’s partial Benjaminianism, we are part of the way to this possibility. Derrida clearly sees the emptiness of the law, its need for secrecy (albeit not to the point where we do not know that a secret is being guarded), but he does not see the alternative. His messiah cannot be

²⁴ Derrida, “Devant la loi,” 145.

²⁵ Walter Benjamin, “Franz Kafka: On the Tenth Anniversary of His Death,” in *Illuminations*, 139.

trusted to interfere in the world, because so many untruths have been attributed to God. Benjamin begins with the same presumption about untruth but shows how God can and does intrude, making a space for our own response, our own imitations of divine violence. As Benjamin tells us in his “Theologico-political Fragment”: “just as a force can, through acting, increase another that is acting in the opposite direction, so the order of the profane assists, through being profane, the coming of the Messianic kingdom.”²⁶ In other words, by turning in the opposite direction from God, we come back to God after all. Benjamin also tells us in that same fragment that “the Kingdom of God is not the *telos* of the historical dynamic.”²⁷ In saying this, he turns his back on the anticipation of justice as something that will be delivered from a transcendent place, and in this regard, he is in good company with Derrida himself. But Benjamin offers us something more; by turning away, by ceasing to wait for justice altogether—as Derrida does not quite bring himself to do and as the man from the country finally may have done at the last minute of his life—we can perhaps find justice in the world after all. This may not be the justice we expect, but it is the justice we can have, a practice that goes on even in the face of the obscuring and overwhelming promise of Law that animates so much of our political and personal life.

THE PROMISE OF SOVEREIGNTY

In moving toward a conclusion, let us focus on a key facet of the production of law and justice—namely the concept of sovereignty. In our expectation of a perfect and pure justice, what we get instead is sovereignty, a network of mythologies that has come to define politics in our own time. Consistent with his straddling stance, Derrida is ambivalent about sovereignty as well. On the one hand, in *Rogues* he famously tells us: “As soon as there is sovereignty, there is abuse of power and a rogue state. Abuse is the law of use; it is the law itself. . . . There are thus only rogue states. Potentially or actually.”²⁸ Sovereignty partakes of the same mythology, the “ipsocentricism” that Derrida assails in so much of his work. He tells us that it attacks democracy “from the very outset, in an autoimmune fashion.”²⁹ But at the same time, Derrida fears that sovereignty is necessary for any functioning of government, even (especially?) democracy: “For democracy to be effective, for it to give rise to a system of law that can carry the day, which is to say, for it to give rise to an effective power, the *cracy* of the *demos* . . . is required. What is required is thus a sovereignty, a force that is stronger than all the other forces in the world.”³⁰ Derrida’s work is marked by a wish for some other form of politics. He speaks in *Rogues* of the possibility of a “vulnerable non-sovereignty.”³¹ But such a wish is thwarted, limited by a fear that any effort to instantiate such a form of politics would be, once again, monstrous, unaccountable, and dangerous. In *Rogues*, Derrida considers the end of sovereignty—as with the question of the ruination of the law that it serves—with a combination of fear and hopefulness.

Are we thus forced to choose sovereignty despite its destructiveness, its elimination and replacement of democracy? Must we remain mired in mythology to avoid something that is poten-

²⁶ Walter Benjamin, “Theologico-political Fragment,” in *Reflections*, 312.

²⁷ I want to thank Catherine Kellogg for this insight. She makes this point in her as yet unpublished essay “Walter Benjamin and the Ethics of Violence.”

²⁸ Jacques Derrida, *Rogues: Two Essays on Reason* (Stanford: Stanford University Press, 2004), 102.

²⁹ *Ibid.*

³⁰ *Ibid.*, 100.

³¹ *Ibid.*, 157.

tially even worse? Surely this is not Derrida's choice, but his ambivalence does not seem to allow him to consider the possibility of a democracy that is already here. To be fair, his notion of "democracy to-come" is, in its own way, "already here," but it is not here in the same tangible sense as sovereignty and nondemocracy are; its "hereness" is not of that kind.³²

Once again we can see the political valence of Benjamin's insistence on an active, messianic force in the world. Benjamin's messiah does not undo sovereignty so much as it displaces sovereign power.³³ At the very end of the "Critique of Violence," Benjamin writes of an alternative to mythical violence that "may be called sovereign violence" (300). This is not a perfect translation from the German, which says "*mag die waltende heißen.*" *Waltende* does not mean exactly the same thing as "sovereign" (the German language, after all, possesses the Latinate cognate *souveränität* to express that concept). *Waltende* has connotations of ruling and order as well, but it also suggests—by virtue of the fact that it is *not* identical to "sovereignty"—a form of rule that is not exactly the same as the mythological structures that form our current conceptions of politics. The alternative thus may have some features in common with sovereignty as we understand it, but it is of a different order, a different form of representation.

If we take Benjamin's opposition to idolatry as a political question, we can see that we do have an alternative to sovereignty taken in the sense of a mythical system of rule. When an act of divine violence actively interferes with the would-be sovereigns (the Korahs) of our world, it becomes possible to think of politics differently. From this perspective, politics is what happens in the face of the spectacle of sovereignty; it can be found in the small niceties that pass between the man from the country and the gatekeeper, in the boiling of cabbages and typing that go on at all hours in the courts of law in *The Trial*, in the passions and rejections that take place in the face of the central mysteries of *The Castle*. To disrupt the central narrative of sovereign authority, even if temporarily, is to return our focus to this peripheral but vital form of mutual engagement.

Kafka teaches us (and, perhaps more to the point, teaches Benjamin) that the presence of mythology does not prevent us from forming alliances, connections, relationships with one another. It does, however, override and usurp these relationships, making them seem as if they can exist only through more idolatry. When such myths are disrupted, we find that our own political practices do not disappear but become increasingly legible to us. Imagine the moment just before his death when the man from the country finally realized that he would never have entry to the law, that the justice that he expected was not coming. Such a moment exposes not only the mythologies that organize life but also the life that was actually lived. What, Benjamin and Kafka seem to ask us, would we do if we knew such things not only at the moment of death (when it is too late) but all along? What kind of life, what kind of politics, would we pursue in the face of such a realization?

CONCLUSION: MUTUAL GADFLIES

This is also the kind of disruption that Derrida clearly longs for but hesitates to embrace because of his fears of false messiahs, more mythology in the guise of "reality" or truth. Benjamin may offer Derrida a way out of this hesitation; what Benjamin offers is not "actual truth" but simply the possibility of nonidolatry. Neither Derrida nor Benjamin is interested in reproducing traditional relig-

³² For more on this, see Simon Critchley, *Ethics-Politics-Subjectivity* (New York: Verso, 1999), 280.

³³ For more on the connection between messianism and sovereignty in Benjamin, see Giorgio Agamben, "The Messiah and the Sovereign," in *Potentialities: Collected Essays in Philosophy*, ed. Daniel Heller-Roazen (Stanford: Stanford University Press, 1999), 160–74.

ious messianism; Derrida's own version of "messianism without a messiah" could be said to simply be the idea that the world can be other than it is (or appears to be); that is the essence, perhaps, of deconstruction. Benjamin adds just one thing to this idea: the idea that this otherness—this zone or practice of nonidolatry—is an ongoing and present feature in the world. His messianic or revolutionary (in Benjamin's case, these moments are identical) goal is to acknowledge these nonidolatrous practices even in the face of the overwhelming mythologies that constitute sovereignty. Benjamin tells us (consistent with Jewish doctrine) that the messiah "would only make a slight adjustment in [the world]".³⁴ This "slight adjustment," which has already been made and which will be made again and again, is all that we need to avoid being utterly determined.

But here, let us not dismiss Derrida's own contribution to this question, what he offers to the "constellation" that he makes with Benjamin (and Kafka). In his hesitations, his ambivalences, Derrida attests to the difficulty of resisting the temptations of mythology, of the lure of sovereign authority, the urge to protect and replicate its secret. Benjamin himself offers that an author like Baudelaire was a most effective subverter of the phantasmagoria because he was so deep in its maw. In this way, Derrida too offers a closer view of what is to be struggled with because he seems to feel its lure more strongly than Benjamin himself (or at least he is more open about its pull than Benjamin is). Derrida serves to remind us that our responses to sovereignty will always be partial and imperfect. His warning about Benjaminian philosophy, its potential for becoming what it opposes, should not paralyze us, but it should make us proceed with caution. If we think of Benjamin and Derrida as one another's gadfly—the former goading the latter to action, the latter goading the former to avoid recklessness—we can envision a way to recognize how we are compromised and also a way to recognize that our compromises are not utter. From them we learn that there is still space in the world to recognize the justices that we do not have to wait for insofar as they are already here. A

³⁴ Benjamin, "Franz Kafka," 134.