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SOVEREIGNTY, IDENTITY, AND THE 'APPARATUS OF DEATH'

TAWIA ANSAH*

In February 2002, a new statute came into force in Rwanda. The statute embodied a new national unity doctrine essentially erasing ethnic division.¹ Under the new law, "[i]t is not just considered bad form to discuss ethnicity in the new Rwanda. It can land one in jail. Added to the penal code is the crime of 'divisionism,' a nebulous offense that includes speaking too provocatively about ethnicity."² In short, in the new Rwanda, by force of law,³ "[t]here is no ethnicity here. We are all Rwandan."⁴

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1. Law No. 47/2001 of 18/12/2001 Instituting Punishment for Offences of Discrimination [translation of the French "divisionnisme" or "amacakubiri" in Kinyarwanda] and Sectarianism. Article 8 reads: "any person who makes public any speech, writing, pictures, images or symbols over radio airwaves, television, in a meeting or public place, with the aim of discriminating people or sowing sectarianism among them is sentenced to between one year and five years of imprisonment [. . .]." Discrimination and sectarianism are defined in broad terms in Article 3:

The crime of discrimination occurs when the author makes use of any speech, written statement or action based on ethnicity, region or country of origin, color of the skin, physical features, sex, language, religion or ideas with the aim of denying one or a group of persons their human rights provided by Rwandan law and International Conventions to which Rwanda is party. The crime of sectarianism occurs when the author makes use of any speech, written statement or action that causes an uprising and that may degenerate into strife among people.

Id.

2. Marc Lacey, *A Decade After Massacres, Rwanda Outlaws Ethnicity*, N.Y. TIMES, Apr. 9, 2004, at A3.

3. See HUMAN RIGHTS WATCH, ESSENTIAL BACKGROUND: OVERVIEW OF HUMAN RIGHTS

Meanwhile, at around the same time, the Rwandan government's quarrel with its erstwhile revolutionary brothers-in-arms in neighboring Uganda boiled over into a cross-border war on the terrain of the Democratic Republic of Congo (DRC), and the conflict there grew to include several other nations in what some have described as the continent's first inter-African war.⁵ The justification for these wars was in part, as one nongovernmental organization (NGO) described it, "playing the ethnic card."⁶

ISSUES IN RWANDA, (Jan. 1, 2004), <http://hrw.org/english/docs/2003/12/31/rwanda7009.htm>. In the section entitled, "The 2003 Constitution Gives and Takes Away," Human Rights Watch (HRW) reports:

The June 2003 Constitution guarantees freedom of association, assembly, opinion, and press but also subjects these freedoms to ordinary legislation, making it possible for legislators to limit them and making it impossible for courts to defend them on constitutional grounds (article 34). Still suffering the consequences of the 1994 genocide, Rwandans understandably seek to end the ethnic hatreds and discriminatory behavior that preceded attempts to eliminate the Tutsi minority. But the Constitution goes too far in prohibiting 'divisionism' in overly broad and vague terms (article 33).

Id.

4. Lacey, *supra* note 2, at A3 (quoting Ernest Twahrwa reciting Rwanda's official view toward ethnicity); *see also* Michael C. Dorf, Can Ethnic Hatred be Eliminated by Eliminating Ethnicity? (Apr. 14, 2004), <http://writ.corporate.findlaw.com/dorf/20040414.html> (noting that the new law "aims to eliminate distinctions between the groups entirely"). Dorf adds: "Two key features of Rwanda's effort to stamp out ethnicity would be highly problematic in stable democracies: first, Rwanda is creating re-education camps where people are trained in the 'correct' way to think of their fellow citizens; second, Rwanda will prosecute those guilty of a vague crime called 'divisionism.'" *Id.*
5. *See* Gérard Prunier, *Congo-Kinshasa: The First Inter-African War*, AFR. GEOPOLITICS, Winter 2001, available at <http://www.african-geopolitics.org/show.aspx?ArticleId=3056>.

Since August 2, 1998 the Democratic Republic of the Congo (DRC) has been bogged down in a dispute in which the armies of Namibia, Angola and Zimbabwe, allies of the Kinshasa regime, have fought those of Rwanda, Burundi and Uganda which are against it. Other than these regular armies, a good dozen armed renegade factions have fought on one side or the other, with a great variety of political goals which gives the alliances an uncertain and fluctuating character. Not even regular armies always have a clear strategy. Although theoretical allies, Rwanda and Uganda have clashed three times in the Congo since August 1999.

Id.

6. Rwanda Monitoring Project, Opening Statement: Report 2003, (Feb. 2003), http://dusabane.org/Rwanda%20Report_Opening%20statement.pdf. In the section

There seems to be an evident paradox: the law is deployed to eradicate, i.e. violently erase, *ethnie* (ethnic identity) through training camps and self-censorship⁷, even as *ethnie* functions as a justification for violent conflict outside the borders, indeed, projecting military force as legal violence on the basis of humanitarian aims (a “just war”). But on closer examination, the paradox becomes more explicable. First, of course, the outlines of the story can be reduced and simplified to the paradoxical play of *ethnie* between inner and outer manifestations of sovereign violence, but any story is more complex than its outline, and Rwanda is no exception. For instance, at the moment of Rwanda’s independence from Belgium, and thus the accession to modern sovereignty, there was more going on than simply the violent overthrow of an old colonial power. The fury of independence was fueled as much by a hatred of the Belgians as of the Tutsi power elite; indeed, the Belgians were despised despite switching their allegiance, at the last minute, from the Tutsi leaders to the Hutu Power revolutionaries. The war of independence thus formed a nexus with a war of revolution (the triumph of the Hutu Power movement) and a war of extirpation, marked by the mass slaughter and cleansing of the Tutsi in 1959 and throughout the 1960s and 1970s.⁸

The 1994 genocide was thus the culmination of a long and complex history of rule, counter-rule, and revolution. No wonder the inheritor government, after the genocide, had to navigate a miasma of legal, political and moral quandaries, each decision freighted with memory. If anything, the paradoxical role of *ethnie*—its centrality as justificatory narrative

entitled, “Benchmark 1 Conflict Resolution.” “In 2003 Rwanda has delivered arms, training and other forms of military support to different militia and local players in the DRC, including in Ituri, North and South Kivu. . . . In North Kivu, Rwanda seems to be doing this by playing the ethnic card.” *Id.* The Project consists of several NGOs.

7. *Id.* (“The possible accusation of divisionism leads to self-censorship.”).
8. CBC News Online, *Indepth: Rwanda*, (Aug. 22, 2003), <http://www.cbc.ca/news/background/rwanda/history.html>.

Belgium ruled [from 1890] indirectly through the Rwandan king and, in 1935, introduced mandatory identification cards to Rwandans: those in possession of 10 or more cows were classified as Batutsi, or Tutsi; those with fewer were called Bahutu, or Hutu. The king and the Belgians favoured the more affluent Batutsi and installed them as vassals in charge of governing the regions of Rwanda. Unsatisfied with the balance of power, the Hutu called for more representation in government. When King Mutara III died in 1959 and his Tutsi successor, Kigeri V, was appointed, the Hutus revolted and violence erupted.

Id. For a general history, see also, GÉRARD PRUNIER, *THE RWANDA CRISIS: HISTORY OF A GENOCIDE* (1995); and PHILIP GOUREVITCH, *WE WISH TO INFORM YOU THAT TOMORROW WE WILL BE KILLED WITH OUR FAMILIES* (1998).

before and during the genocide, its fraught relation to justice and reconciliation afterwards (the attempt to eradicate it at least in part, or symbolic of, the attempt to erase the memory of Tutsi monarchical rulership)—highlights the inherent difficulty of relating the legitimacy⁹ of sovereign power to law, and furthermore, the relation between law and violence.

The question posed in this essay, then, is whether, using the Rwanda story in its outlines as an example, there is a relation between the legal elision of ethnic identity within, and the juridical deployment of ethnic identity to legitimize wars without. In short, what is the relationship, post-conflict, between law, sovereign legitimacy, and violence as refracted through the lens of identity?

One might begin with at least two premises regarding the relation between law and violence: first, that the relationship is aberrant, whereupon sovereignty is legitimized by the defeat, erasure, and absence of violence; and second, that the sovereign's legitimacy vests somehow within the enmeshment of law and violence. The first view is discussed by Paul Kahn as the law's self-identity, against which view he issues a caution: "Of course, from within the culture of law violence is labeled aberrational. But this self-characterization cannot be taken at face value . . ." ¹⁰ Indeed, under a cultural study of law, "the [individual] violent act does not appear 'senseless,' but filled with meaning. Violence is one point at which the body is forced to bear a meaning." ¹¹

Kahn's discussion of individual acts of violence that yield meaning within the law—indeed, give rise to law—makes intuitive sense, and can be extended to a discussion not only of individual but also of sovereign violence and the meanings created under, through or within law. One can, in other words, think of sovereign power as the (legitimate) exercise of the

9. For a critical view of the government, see Rwanda Monitoring Project *supra* note 6. "The consequences of this election year [2003] reach very far since the current government has lost, rather than won, legitimacy for many years to come." *Id.*

10. PAUL KAHN, THE CULTURAL STUDY OF LAW: RECONSTRUCTING LEGAL SCHOLARSHIP 93-94 (1999).

11. *Id.* at 95. Kahn goes on to describe this violence within the law as the violence directed by individuals inter se:

Violence under law is not the consequence of a physical object moving in space, with which we may accidentally collide. It is the physical presence of a subject coercing others for the sake of some idea of self and other; it is resisted through a counter-act of coercion that invests those same bodies with an alternative meaning. The cultural approach places violence under law within a structure of understanding that focuses on the intersection of the physical body and the abstract idea.

Id.

confluence, and the production of meaning, between violence and law, particularly within the context of a massively violent atrocity and the attempt to suture the wound of fractured identity through erasure/eradication.

In other words, what does it mean that sovereign power in Rwanda is "legitimized" by the erasure of *ethnie*, the alleged core of meaning borne by the body before and during the genocide? What is the link between dyadic or binary (Tutsi-Hutu) identity's self-negation (sovereign as I-am-not) and the violent pursuit of the enemy "out there," beyond the border?

In this brief essay I will outline a modern theory of sovereignty and relate it to the sovereign in Rwanda after the conflict in 1994. I wish to see how sovereign power plays out within the question of legal identity in the aftermath of violence and pursuant to the violence of the law as, so to speak, a test case for the modern theory on sovereignty. This is not to deny that a modern sovereign may wage wars for any number of political or moral reasons. Rather, I'm interested in looking specifically at the juridical dimension of sovereign power and its relation to identity and violence and to ask whether this relation is inevitable, or whether there are alternative ways of imagining the nexus.

I. BARE LIFE

In the Rwandan Constitution, self-identity is based on the elision of dyadic identity, that is, identity premised on the hierarchical, and therefore conflictual, bipolarity of self and other, Hutu and Tutsi.¹² The new model identifies a third way as the latency of each pole: Rwandan self as neutral and, although materially specific (geography, history, etc.) emptied of the kinds of identity markers or indexes that would create or perpetuate a hierarchy. But such a "presence" is dependent upon what is elided and absent; such ipseity is inevitably a suppression of alterity at a deep register. Nevertheless, its promise is one of stability and salvation, the salve that would quiet the tension within, and perhaps—it remains a question—would lend further validity to the projection of violence without: the enemy is he who perpetrates violence on the basis of identity, he who remains caught up in the dyad; he who is, in this sense, other.

Rwanda's external wars, however, are conducted not according to the new law, for the sovereign speaks *outside* the nation within the moment of the suspension of the law of *ethnie*-erasure; the sovereign speaks the language of *ethnie* for the protection and security of the self as post-

12. The Twa form a third (minority) ethnic group in Rwanda. The Twa tend to live apart, and are already elided from much of the discourse on *ethnie*. Thus, part of the success of the government's objective in eradicating *ethnie* altogether is to eradicate binarity, and to enclose all groups within the monolithic identity of "Rwandan."

identity, post-dyad. Without in any way wishing to suggest a moral equivalence, it may nonetheless be noted that the extension of this space within which the sovereign attacks the outside other (other sovereign states) within the void of law resembles, *qua* a state of emergency,¹³ the suspension of law that enabled the genocide within the borders by the precursor state, ten years before. The present government pursues its own claim to sovereign legitimacy on the basis of combating those forces of genocide that continue to threaten the state's security by, in effect, extending the state of emergency temporally and spatially (within and across the borders). Thus, the erasure of identity, or the construction of identity (albeit premised on a negation), is perhaps the supreme act of the sovereign as such. The act necessitates the state of exception for its exercise and its legitimacy.

But what is the state of exception, and how has it been theorized as the condition precedent to sovereign power's legitimacy? This leads to a brief discussion of the debate amongst the theorists, after which I will return to the story of Rwanda and ask whether, or how, the theory elucidates the Rwandan story, and the latter in turn critiques the theory, as both theory and story (experience) project a similar promise, beyond law's violence and beyond dyadic, hierarchical identity, for a respite from the burden of memory.

The short answer to the question on the meaning of "exception" is that it is within the state of exception that the sovereign "decides" what is law and what is not. It is also within the state of exception that sovereign power creates something called "bare life" (understood, at its simplest, as life stripped of all but the nakedness of existence¹⁴); that is, it is here that

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13. See, e.g., Giorgio Agamben, Professor of Philosophy at the University of Verona, Lecture at the Centre Roland-Barthes (Universite Paris VII, Denis-Diderot) on "The State of Emergency," <http://www.generation-online.org/p/fpagambenschmitt.htm> (last visited Nov. 26, 2005).

The state of emergency defines a regime of the law within which the norm is valid but cannot be applied (since it has no force), and where acts that do not have the value of law acquire the force of law. This means, ultimately, that the force of law fluctuates as an indeterminate element that can be claimed both by the authority of the State or by a revolutionary organization. The state of emergency is an anomic space in which what is at stake is a force of law without law. Such a force of law is indeed a mystical element, or rather a fiction by means of which the law attempts to make anomy a part of itself.

Id.

14. Bare life is situated at the border between humanity and non-humanity, however that border is conceived. For a literary representation of life stripped bare, one might consider King Lear's lines as he looks upon the wretched Edgar, hiding near a cave

the relation between sovereign power and real life becomes most evident, revealing how power shapes and moulds lives, or how human lives are the bearers of the meaning and consequences of power. The intriguing question will be whether, when the African sovereign strips identity of *ethnie*, this act is (a) part of a generalized or global extension of the state of emergency, whence the fusion of rule and exception; (b) specific to the sovereign as victim of atrocity in a justificatory deployment and legitimization of sovereign power and violence; or (c) an alternative model of sovereignty (sovereign as I-am-not) to that submitted by the legal theorists (sovereign hegemony as creating bare life), each seeking a different kind of salvation from memory. At stake is the potential for Rwanda to tell us something about the nature of modern sovereignty as such, something like a critique of the Western model through which the African sovereign has been conceptualized as having, always and already, been “transformed” by a Western politico-juridical gaze into bare life.¹⁵

II. THE EXCEPTION

The theoretical discussion around sovereignty begins with Walter Benjamin's famous essay, “Critique of Violence.”¹⁶ In this essay, Benjamin shows how there are two kinds of violence, or ways in which violence is related to law: one that is the source of law, the other that maintains it:

on the open heath; Lear might also be talking about himself:

Is man no more than this? Consider him well. Thou ow'st the worm no silk, the beast no hide, the sheep no wool, the cat no perfume. Ha! Here's three on's are sophisticated; thou art the thing itself. Unaccommodated man is no more but such a poor, bare, forked animal as thou art

WILLIAM SHAKESPEARE, KING LEAR act 3, sc. 4.

15. Cf. GIORGIO AGAMBEN, *HOMO SACER: SOVEREIGN POWER AND BARE LIFE*, 180 (Daniel Heller-Roazen trans., Stanford Univ. Press 1998) (1995).

And in a different yet analogous way [to that of Nazi Germany, which had to “infinitely purify” the population “through the elimination of the mentally ill and the bearers of hereditary diseases”], today's democratico-capitalist project of eliminating the poor classes through development not only reproduces within itself the people that is excluded but also transforms the entire population of the Third World into bare life.

Id. My point will be that this may be true in substance, but its articulation as “transformation” perpetuates an age-old attenuation of agency or subjectivity on the part of the Third World sovereign.

16. Walter Benjamin, *Critique of Violence in REFLECTIONS: ESSAYS, APHORISMS, AUTOBIOGRAPHICAL WRITINGS* 300 (Peter Demetz ed., Edmund Jephcott trans., Schocken Books 1978).

“The law of this oscillation [between the violence that posits law and the violence that preserves it] rests on the fact that all law-preserving violence, in its duration, indirectly weakens the lawmaking violence represented by it, through the suppression of hostile counterviolence.”¹⁷ This oscillation, Benjamin suggests, is all that would be evident of the relationship between violence and the law. He cautions, therefore, that “[a] gaze directed only at what is close at hand can at most perceive a dialectical rising and falling in the lawmaking and law-preserving formulations of violence.”¹⁸ What needs to happen, he suggests, is “the breaking of this cycle maintained by mythical forms of law,” whereupon “a new historical epoch is founded.”¹⁹

The break or interruptive force (violence) sits outside of law and is not implicated in the formation or preservation of law. However, as the Italian philosopher Giorgio Agamben notes of this passage, “[t]he definition of this third figure, which Benjamin calls ‘divine violence,’ constitutes the central problem of every interpretation of the essay.”²⁰ It has led to much confusion, some suggesting that Benjamin was predicting Auschwitz, *avant la lettre*, as an instance of divine or pure violence.²¹ Benjamin and Agamben are at pains to note that divine violence cannot be given content; on the contrary, such would no longer be able to break the cycle of sovereign violence. Divine violence, however, may be thought of as the perch from which to see how legal violence actually operates within the legitimization of sovereign power; divine violence is able to show how the object of sovereign power—bare life—is created by sovereign violence.

17. AGAMBEN, *supra* note 15, at 63 (alteration in original) (quoting from Walter Benjamin’s essay, the “Critique of Violence,” *supra* note 16).

18. Benjamin, *supra* note 16, at 300.

19. *Id.* Agamben quotes the same passage as follows: “In the interruption of this cycle, which is maintained by mythical forms of law, in the deposition of law and all the forces on which it depends (as they depend on it) and, therefore, finally in the deposition of State power, a new historical epoch is founded.” AGAMBEN, *supra* note 15, at 63.

20. AGAMBEN, *supra* note 15, at 63.

21. See, e.g., Anselm Haverkamp, *Anagrammatics of Violence: The Benjaminian Ground of Homo Sacer*, 26 CARDOZO L. REV. 995, 1000 (2005).

He [Agamben] identifies it [divine violence as a ‘deposition’ or *Entsetzung*] not as the the [sic] pre-performative, reflexively oriented, (de-) divination (*Ver-göttlichung*) of the transcendentalized or transcendentalizeable order of violence, but as the annunciation of ‘something new’ in this place—a place that has been the site of annihilating over-simplifications (enough of which are still hanging around, ever since the attempt was made to declare Benjamin’s ‘Critique’ to be a prophecy of Auschwitz).

Id.

As such, divine violence is disaggregated from sovereign power, and its sheer existence engenders “something new,” for bare life as the object and the objective of sovereign power within the exception is “laid bare.”²²

Agamben suggests that the most famous theory or articulation of sovereign power as inhering within the exception—that of Carl Schmitt—is in fact a response, or more exactly a rebuttal, to Benjamin’s posit of divine violence. Thus, by looking at how the two theories are interrelated—Schmitt and Benjamin—Agamben is able to show how each element—sovereign violence, divine violence, and bare life—relates to the other. First, Schmitt discounts the possibility of divine violence: all violence inheres within the law, either as law’s rule or as the suspension of law within the exception. Second, Schmitt’s definition of the sovereign as “he who decides on the exception”²³ means, according to Agamben, that even as “[s]overeign violence opens a zone of indistinction between law and nature, outside and inside, violence and law,”²⁴ nevertheless

the sovereign is precisely the one who maintains the possibility of deciding on the two to the very degree that he renders them indistinguishable from each other. As long as the state of exception is distinguished from the normal case, the dialectic between the violence that posits law and the violence that preserves it is not truly broken, and the sovereign decision even appears simply as the medium in which the passage from the one to the other takes place.²⁵

Thus, it is in fact sovereign violence that “posits law, since it affirms that an otherwise forbidden act is permitted, and . . . conserves law, since the content of the new law is only the conservation of the old one.”²⁶

Agamben then notes that, “[t]he violence that Benjamin defines as divine is instead situated in a zone in which it is no longer possible to distinguish between exception and rule. It stands in the same relation to sovereign violence as the state of actual exception . . . does to the state of virtual exception.”²⁷ Divine violence, so to speak, is necessitated by the zone of indistinction where, as Agamben notes elsewhere, *nomos* and *anomie* are fused, law disappears, and “there is only a zone of anomy dominated by pure violence with no legal cover.”²⁸ This is the logical

22. *Id.*

23. CARL SCHMITT, *POLITICAL THEOLOGY: FOUR CHAPTERS ON THE CONCEPT OF SOVEREIGNTY*, 5 (George Schwab trans., MIT Press 1985) (1922).

24. AGAMBEN, *supra* note 15, at 64.

25. *Id.*

26. *Id.*

27. *Id.* at 65.

28. Agamben, *supra* note 13.

consequence of Schmitt's collapse of all violence within the purview of law, and it is within this relation between violence and law that "the status of violence [is] a cipher for political action."²⁹ There is, when rule and exception are indistinguishable, no difference between violence and politics.

The point about naming this clarifying, exterior (to law) violence "pure" or "divine" is the attempt, at least in part, to strip it of mythological content and to distinguish it from violence that "generate[s] myths in its wake—which in the end 'bastardizes pure divine violence and law.'"³⁰ Pursuant to such legal violence, "[b]lood brings to expression the mythical compulsion toward the representation of violence's manifestation in law, a law in which 'the human being' is collapsed 'with bare human life'—something which is for Benjamin to be avoided 'at all costs.'"³¹ That is, where there is no difference between politics and violence, human life is increasingly diminished, engendering a politics of passivity and acquiescence.

Not only does divine violence disclose the effects of sovereign violence as productive of bare (reduced) life, whose figuration is essential for understanding the link between law and violence, but the posit of divine violence is an attempt to engender the "dissolution of juridical violence" by purifying "the guilty, not of guilt, however, but of law."³² In other words, the project of divine violence is one of purification—of myth, fiction, illusion—and a confrontation with the real: the *actual* exception rather than *virtual* exception (the latter being Schmitt's invention to cauterize the posit or threat of an exteriority to law's domain). The apprehension of an actual exception will engender a politics distinct from violence.

The virtual exception is marked by the conflation of rule and exception, wherein violence is the norm. If there is an actual exception, disaggregated from the possibility of sovereign decision, then there is the posit or possibility of an outside, a zone of adjudication, and an escape, from the oscillating, normative violence and the endless dying. But this very posit, i.e., divine violence that "'de-poses' (*entsetzt*)"³³ sovereign violence, is only possible within the *presence* of sovereign violence, and only possible as the projected *negation* of that sovereign violence and, by implication, the sovereign as he who decides on the exception, and can thus legitimately conflate or disaggregate *nomos* and anomie.

29. *Id.*

30. Haverkamp, *supra* note 21, at 1001 (quoting Jacques Derrida).

31. *Id.* at 1002-03 (quoting Walter Benjamin).

32. AGAMBEN, *supra* note 15, at 65 (quoting from Walter Benjamin's essay, "Critique of Violence," *supra* note 18).

33. *Id.* at 64.

The paradox deepens further. Divine violence is in fact an absence or a negation: it does not exist except, on the one hand, as the desacralized revelatory marks upon the bare, reduced human body, as testimony to the inhumanity of sovereign violence. And on the other hand, it is pure otherness, always and already conceived as pure futurity. In a sense—and this brings me back to Rwanda and the sovereign as I-am-not—divine violence, I would argue, especially in its denial and repudiation of sacrality, is a form of apophatic desire.³⁴ That is, the *eros* underwriting the posit (deposition) of divine violence, to the extent that it distinguishes between the divine other and the non-divine other, its ethical agency or project is disaggregative: despite the impossibility of giving content as such to this form of violence, its very existence as interventionist requires that it posit a limit case. Divine violence is pure, empty; sovereign violence and its limit case are immanent, perceptible only by this juxtaposition against purity: “The [concentration] camp, which is now securely lodged within the city’s interior, is the new biopolitical *nomos* of the planet.”³⁵

CONCLUSION

The elision of identity for the Rwandan sovereign is similarly marked by the spillage, across borders, of the *nomos* as excess, the eclipse of memory within the formality of a constitution, the I-am-not as the limit case and the anomie of the I-am. On the one hand, it is as if the sovereign played out the fate of the *Muselmann* in the camps: “Mute and absolutely alone, he has passed into another world without memory and without grief. For him, Hölderlin’s statement that ‘at the extreme limit of pain, nothing remains but the conditions of time and space’ holds to the letter.”³⁶ On the other hand, the sovereign’s I-am-not is the acclimation of a kind of divinity, the very opposite of, and the mirror to, the figuration of bare life. Here, too, memory is evaded, silenced, and lost.

In the result, it is as if the posit of *purity*—of the elision of law, of absence, or of violence extrinsic to sovereign legitimacy—as the redemptive promise of rupturing the oscillating forms of legal violence played out in the exception as a meld of *nomos* and anomy, brings with it not myth, fantasy or mysticism, but, more potently perhaps, desire (*eros*) for purity: from guilt and, as Benjamin notes, from the law itself.

What to make of this in the context of Rwanda’s apophatic sovereign?

34. See generally Owen Ware, *Impossible Passions: Derrida and Negative Theology*, PHIL. TODAY (Soc’y for Applied Phil., London, U.K.), Summer 2005, at 171. Apophatic is defined as “of knowledge of God: obtained through negation.” OXFORD ENGLISH DICTIONARY 95 (New Shorter Ed. 1993).

35. AGAMBEN, *supra* note 15, at 176.

36. *Id.* at 185.

Agamben might say that the mere reinsertion of a sacral element (apophasis) has already given content to divine violence and thus bastardized it; for divine violence must needs be void of content and pure, existing as such in dyadic relation both to sovereign violence and to law. Like the Sirens, the purity of divine violence tempts one, by its silence and indifference,³⁷ toward the mystical imaginary.³⁸

Nevertheless, I conclude with a question about the possibility that there may be a relationship, or an intimation (indeed, an intimacy), between the Rwandan negation of *ethnie* (purified “I,” like the desire for pure being) and the quest for pure violence as exterior to *nomos*, whether imagined or conceptualized as revolution (Marcuse³⁹), or love (Kahn⁴⁰), or as “the ultimate stake of the political” (Agamben⁴¹). If there is indeed an intimacy, then the question becomes whether the quest for purity, no less than its opposite, the fantasy of mystical fusion, will make good on its promise of an escape—into politics—from the oscillating indeterminacy of law and violence; an escape, ultimately, from the “apparatus of death.”⁴²

37. There is a story, or perhaps it is a joke or riddle, that the Sirens were silent as they watched Odysseus and his men sail by. They wondered idly, for a moment, why Odysseus, strapped to the mast of his ship, looked so agonized and rapturous. They thought him rather handsome, then turned and went about their business as the ship sailed on.

38. See AGAMBEN, *supra* note 15, at 63-64. “Benjamin in fact offers no positive criterion for its [i.e. divine violence’s] identification and even denies the possibility of recognizing it in the concrete case Hence its capacity to lend itself to the most dangerous equivocations” *Id.*

39. See, e.g., Haverkamp, *supra* note 21, at 1000.

40. KAHN, *supra* note 10, at 100.

41. Agamben, *supra* note 13.

To pure being as the ultimate stake of metaphysics, corresponds pure violence as the ultimate stake of the political; to the onto-theological strategy that wants pure being within the net of logos, corresponds the strategy of exception that has to secure the relation between violence and law. It is as if law and logos would need an anomic or “a-logic” zone of suspension in order to found their relation to life.

Id.

42. *Id.*