

Introduction

A new Fascism, with its trail of intolerance, of abuse, and of servitude, can be born outside our country and be imported into it, walking on tiptoe and calling itself by other names, or it can loose itself from within with such violence that it routs all defenses. At that point, wise counsel no longer serves, and one must find the strength to resist. Even in this contingency, the memory of what happened in the heart of Europe, not very long ago, can serve as support and warning.

*Primo Levi*¹

Since its invention democracy has imagined itself as the solution to the violence of tyranny and chaos. But democracy has from the beginning contained its own potential for violence, for instance the violence of capitalism. This is not only the violence of economic or imperial wars, but also the consequence of opening and penetrating both consumer and labor markets. More generally there is violent power involved in the fluidity of capital, which can enrich or impoverish one state or another with drastic results. Even on its own terms, democracy has reserved the right to resort to violent action and claimed a monopoly on the “legitimate” use of violent means. The legitimacy of this monopoly has always been dependent upon the assertion of just ends. Violent means were always relative to and justified on the grounds of democratic *ends*, even when democracy perpetrated deadly violence.

With the advent of the War on Terror comes a reorganization of these concepts, a shift away from democratic ends, and towards the *self-justification* of violent means. In the concept and reality of *terrorism* those states that refer to themselves as democracies are discovering a new potentiality for violence and are resolutely and

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confidently granting themselves a new right to act on it. Democratic states are re-assessing the situation of the world, with conclusions that affect democracy more profoundly than did the great wars of the twentieth century. Those earlier wars were grasped as aberrant conditions caused by a specific threat, requiring temporary sacrifices in order to defeat the enemy. Democratic sacrifices were thus only conditional, on the implicit promise that they would be reversed when the threat was overcome.

The War on Terror is formulated as a potentially endless struggle against an infinitely extended enemy, that permeates all borders, and that may inhabit any sphere. The new situation is essentially militarized, the sovereignty of individual states less important than a coordinated and integrated system of “security.” Such a system may be centralized in the United States, but nevertheless implies the creation of planetary security arrangements that transcend any particular state. The development of such a system of security produces its own means, logic and autonomy, unlimited by the concept of state sovereignty.

In such a situation democracy becomes merely one value among others, a *preference*, but potentially and perpetually deferrable. Thus the risk is that the violence in question will turn out to be against the very possibility of democracy, at least as it has been understood until now. In the *new* state of democracy, old authoritarian tendencies are transformed into new ways and means, new laws and powers, new techniques of surveillance and control, new spaces and forms of imprisonment or homicide, that redefine the essence of the state itself. The state ceases to be the form through which the citizenry freely and politically, singly and collectively, make their lives. It becomes, rather, one mechanism within the overall system dedicated to the security and survival of the populace.

These new forms of violence not only demonstrate the “reaction” to terror, but equally show a capacity *already* contained within “democracy” itself. Even if democracy is being transformed or undermined, this is occurring, significantly, in the context of a *continuation* of the “democratic system” itself. There is, therefore, a dual origin to these new forms of violence, an origin in the character of the present situation, and an origin in the political system itself. Understanding what is presently occurring, therefore, is not only a matter of following the latest developments, but of grasping the

essence of democracy in its foundations, even or especially where these foundations may be in the process of being undone.

Two thoughts underlie this book. The first is that the origin and heart of democracy is essentially violent. The second is that our present situation is revealing new forms of the violent potential of democracy, and that this is presently transforming the character of the “democracies” we inhabit. Each chapter follows a different way in which these two thoughts may be articulated together.

Violence

Any act of force or power can be described as violent. “Violence” means action forceful enough to produce an effect. A violent storm is one that leaves behind its marks. These marks are the disorder and destruction that wind and rain have the power to cause. Violence is thus something physical, something that affects things in the world.

When one imagines violence, however, what first springs to mind is not the *source* of violence, but that *against which* it acts. Before thinking of physical forces, one thinks of actions committed against *bodies*, living beings. Violence is first of all something done *to* bodies, human and animal. Violence against plant life is also certainly possible, yet it is unlikely that this is the kind of violence anyone first thinks of.

Violence is something done to bodies. Those actions are violent that leave *marks*. It is possible to commit violence that leaves no visible mark, but in this case the marks are internal. Or else what is marked is the *experience* of the person or animal that has suffered violence. Their experience is marked by the sensation of pain.

Perhaps there is no touching without some violence. Might all contact leave its mark on the body, or on the experience of the one whose body it is? Leaving a mark means having an effect, changing something. If this is not always a matter of damage or injury, it is nevertheless a power or force. All touch involves some kind of force, of one body upon another, of *something* that contacts some body.

Not all bodies are human or animal, or even vegetable. There are celestial bodies and bodies of water. Every thing that can be isolated from other things is susceptible to being described as a body. The idea of the body implies a *whole*, something whole within itself. A

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body is contained within its boundaries, its surface, or its skin. It occupies a certain space. That “violence” means to mark or affect a body, to damage or injure a body, suggests that the whole is affected by something outside it.

Violence usually implies a *rupturing* of the surface of a body, a wound. In requiring some kind of mark, even an internal or experiential mark, violence implies some kind of penetrative force, something that breaks through and inscribes an effect. Thus, even though the concept of a body implies a whole, the possibility of violence means that this whole must be *susceptible* to penetration. Violence means that what is supposedly closed within its boundaries, its surface or its skin, is able to be opened.

There are also political bodies, bodies of knowledge, and closed systems of thought. The concept of violence equally applies to these bodies. Violence in this sense means some kind of rupturing or breaking into. Again, the possibility of violence implies that what was grasped as a whole is *susceptible* to something else, to something *beyond* its bounds. In order for this to be possible, the whole must *already* exist in relation to what lies outside it. Otherwise it would be impervious to any force. So long as the possibility of violence remains, wholeness cannot be absolute.

Cancer might be understood as violence that does not require any penetration. But the wholeness of the body is still undermined by cancer. Instead of functioning as a closed system, as something self-contained, the body is rendered an improper whole. The whole fails to function as a whole, and the consequence is violence perpetrated against the body by itself. The body wounds and penetrates itself from inside. Political bodies and bodies of thought are susceptible to this kind of violence too.

Democracy

Democracy was discovered or invented by the Greeks. Its birth was both difficult and complex. Those who *rejected* democracy as the *poorest* form of governance, for example, may have coined the term. Democracy meant the rule of everybody and hence nobody, the abdication of the responsibility to place government in the hands of the best. No single great mind conceived democracy, nor was it the

outcome of one momentous decision of the Athenian body politic. Each of the uncertain steps toward democracy was a *response* to a period of disorder or tyranny. The most important of these intermediary steps were achieved by non-democratic decisions to *grant* one person – Solon, Cleisthenes – the power to implement reforms. These founding heroes of Greek democracy were able to implement those reforms the Athenian public recognized were beyond its ability.

The birth of *modern* democracy was equally complex. Like Greek democracy, modern democracy was born less in theory than in struggle. Or, rather, out of a complex interrelation of the two. Most importantly, the evolution of modern democracy coincided with the diminution of monarchical sovereignty grounded in divine right. The replacement of monarchical sovereignty with a sovereignty grounded in the people is usually understood as a radical political transformation. This is the fable modern democracy tells of its origins.

The fundamental continuity between these conceptions of sovereignty is less frequently attended to. But in many ways the transition from monarchy to democracy involved the reconfiguring of religious sovereignty on a secular basis, a translation rather than a transformation. The most succinct formulation of this thought was Carl Schmitt's statement that all significant concepts of the modern theory of the state are secularized theological concepts.²

The essence of modern democracy is the thought that the ground of sovereignty is the people themselves. That is, the only legitimate basis for instituting any system of political decision-making and any system of law is the will of the people to do so. This, it should be noted, is not only the ground of Western representative democracy. It is just as certainly the ground of Soviet, Chinese, or North Korean communism, and even of German National Socialism.

In all these cases the legitimacy of the politico-judicial system lies entirely with the will of the people, rather than any being that transcends the people. Even in Nazi Germany the rule of the Führer was based in the will of the people, in spite of the fact that this will was not determined through any political process, and that the voicing of dissent was prohibited. The will was transmitted, according to the Nazi mythology, *directly* from the people to the

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Führer and vice versa, yet the ground of sovereignty resided wholly with the *Volk*.

This exposes the breadth of democracy grasped as the sovereignty of the people. This definition is therefore usually further limited, requiring, say, freedom of speech, the separation of powers, or representative elections. Such definitional requirements make the concept of democracy more specific, and are the means by which democrats convince themselves that democracy is the antithesis of fascism and totalitarianism.

By restricting the definition of democracy, however, its proponents inhibit the exploration of its theoretical foundations. The price paid for this inhibition is an inability to address the strange impossibility of democracy, or to see where its foundations might overlap with the foundations of other political systems, or to pursue the relationship between its philosophical ground and the manner of its unfolding in practice.

“Democracy,” then, signifies a concept with several layers. *Firstly*, “democracy” signifies those states in which the citizenry elect some form of representative parliament, in which the separation of the executive, legislative, and judicial powers is embraced, and which on these grounds refer to themselves as “democracies.” *Secondly*, “democracy” refers to that fundamental concept of the sovereignty of the people. In this case the broadest possible conception of sovereign democracy is intended, excluding neither communism nor fascism. The context in each case hopefully reduces the risk of confusing these differing meanings.

But there is a *third* understanding of the meaning of “democracy” operating in the text. This third meaning only occasionally surfaces explicitly, but underlies much of the discussion. Both the first two meanings of democracy are grounded in the concept of sovereign rule. And this means, in an understanding that democracy is a *system*, a process or procedure or law, based in the will of the people, *organizing* that will and standing independently of it.

Politics always includes the possibility of disruption. Understanding democracy as a closed system eliminates what makes it political. It is to imagine the democracy of political philosophers, rather than the democracy of struggle. It is to see democracy as the system *already* instituted and implemented, rather than as a political *force*, a possibility still to come, *potentially threatening* whatever

currently is. If the will of the people is understood as always capable of new forms, then it can never be *finally and eternally* settled in any system or constitution. However successful they may be, institutions and constitutions always contain the possibility that it will be discovered they are utterly *wrong*. Democracy is, then, a constant possibility, directed toward the future, a potential threat to any political whole, and a kind of promise.³

Democracy has a violent heart

The first thought underlying this book is that the origin and heart of democracy is essentially violent. By “democracy” is meant any political system grounded in the idea that sovereignty lies with the people. By “violence” is meant, more than anything else, that which ruptures a body. Democracy is violent because in its origin it breaks into reality in a way that is beyond containment within any closed system of thought.

Founding democracy is always violent because it gives what it does not have. The decision that the people shall be the ground of a new sovereignty is never a decision the people can take themselves. If a declaration founds a new law, it cannot rely upon any previously established sovereignty on which to base an idea of the people. The declaration to found a democracy is always the pronouncement that “we, the people” *are*. Democracy is never the sovereignty of *all* people, but rather the sovereignty of the people of *this* democracy. And *these* people *are* a people only by way of the declaration itself. The declaration gives “a people” that it does not have.

The people are invented in the declaration that founds democracy. Or, to put it another way, the declaration of a democracy establishes a *border*, the border that divides those included and those excluded from what is founded. In short, the declaration can never itself be a democratic act. The declaration is a promise that the people will be, the border will be, and the democracy will be. Yet the declaration also *presupposes* that there is a people, that there is a legitimate border separating those within and those outside the democracy-to-be.

Thus, strictly speaking, the foundation of democracy is impossible. That acts of declaration have founded “democracies” can hardly be denied. But it is never certain, at the moment of foundation,

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that what has been founded is truly democratic. Perhaps nothing is ever really and truly democratic. Yet the concept of democracy demands that no sovereignty is legitimate if it is not the sovereignty of the people. Democracies, therefore, should never be able to rest comfortably in the thought that democracy never wholly exists.

The uncertainty of the act of foundation provokes the need for further confirmation of democracy's legitimacy. This need for further confirmation is itself marked in the forms and ways of existing democracies. That in many democratic states the head of state must sign each new government into existence is one of these marks. The head of state is that sovereign authority whose signature inscribes the legitimacy of each democratic decision. Yet the final confirmation of the legitimacy of democratic sovereignty is never forthcoming.

Democracy is violent, then, because it can never form a closed system. Founded on the violent claim that "here, now" democracy has begun, a "democracy" continues to carry this violence at its heart. But this lack of closure, this wound on the democratic body, is not easily tolerated. Democracy tells itself that of course it is indeed democratic, and is prepared to stake its existence on this fact. Democracy cannot *openly* "know" its originary violence, but this violence continues to determine the paths a democracy follows. This ongoing determination is on the one hand a matter of certain structural features of democratic systems. But it is not only a structural matter. That democracy cannot admit the violence at its origin also means that this origin continues to *haunt* everything that follows it.

The ongoing violence of democracy, then, is not just *any* violence, not just the fact that the police carry batons. Yet all enforcement of law is a manifestation of the need for law to *inscribe* itself on the political body. The violence of democracy is also that originary violence without which specific instances of democracy could not have been inaugurated. It is the massacre of indigenous populations, or the crushing of those who oppose a new foundation of the people's sovereignty. And it is the ongoing history of forgetting this original violence, not out of spite or indifference, but because the violence at the origin of democracy threatens democracy itself.

The new state of democracy

The second thought underlying this book is that the violence of democracy has changed, or is unfolding in a certain direction, across the twentieth and into the twenty-first centuries. Something is in the process of emerging, awaiting our understanding. It is not merely that violence is increasing. Of course, the wars of the twentieth century were the bloodiest in history, and throughout that century millions were slaughtered in the name of the people's will. Although the technological means for producing such slaughter continues inexorably to advance, *especially* in those countries that call themselves democracies, the violence of war ebbs and flows. Measured by the quantity of corpses, the Gulf Wars were placid affairs in comparison with the Vietnam War. And the most advanced weaponry is hardly necessary to achieve the most brutal results, as the Rwandan catastrophe so amply illustrated.

For most of its existence modern democracy has conceived itself as a stable system. In *earlier* centuries war and conquest formed part of the very *raison d'être* of a state, and peacetime was more akin to a re-gathering of strength in readiness for the next campaign. All modern democracies continue to prepare in case of war. But unlike earlier democracies, modern democracies have mostly regarded war as an occasionally necessary aberration, rather than something essential to the life of a democracy.

This detachment of the life of the modern state from its military capacity has determined the way in which democracy relates to law. The difference between military and police is the distinction between conceptions of law. Military rule implies that power emanates directly from the sovereign, a matter of might and fact. The power of a police force is only *indirectly* related to the sovereign. Law stands independently of that sovereignty, as shown by the legitimate *right* of the law or the police to act *even against* the sovereign. That the law is autonomous implies it is conceived as *transcendent*, as permanent and eternal. The *norms* of law, grounded in the sovereignty of the people and the dignity of humanity, are essentially inviolable.

The twentieth century is divided into two halves by the extermination of the Jews in Europe. This was not merely another wartime massacre on a larger scale, but the decision to systematically

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eradicate an entire population, with whatever industrial means best facilitated the outcome. Although the 1942 Wannsee conference took place in wartime the decision was not a military one, but rather partook of another, more enigmatic, logic. Yet although the decision was not military or strategic, this logic was unlike any normal peacetime legislation, founded as it was upon the designation of an absolute *enemy*.

The decision to implement the “Final Solution” was a singular event. But the entire apparatus by which from 1933 onward the Jews were transported and corralled, controlled, degraded, and finally killed, was equally singular. From the systematic way in which National Socialism stripped the Jews of all rights, to the complex and calculated arrangements through which it dehumanized and murdered them in the camps, it deployed a remarkable array of means with which to “treat” this “enemy.” Thereby National Socialism revealed a single-minded determination to carry out its will, exceeding all barriers of law or humanity.

Those victims of this will not only suffered violent treatment. They were thoroughly, gradually, and systematically divested of all those qualities with which humanity convinces itself of its dignity and the justness of its sovereignty. This scar on humanity, of course, left its imprint not only upon the victims, but equally upon those capable of devising and carrying out such acts.

The second half of the twentieth century was marked by the violence of the extermination. These marks were left, for instance, in the formation and political history of Israel. They were left in the collective psychology of the German people, as shame or the refusal of shame, as the ability or inability to mourn for the lost Germany. And they were left in the legal systems of various democracies and international juridical bodies. They were left, for instance, in the concept of “crimes against humanity.”

The name itself, “crime against humanity,” exposes that it is a reaction, a wish to *save* the transcendent concepts of law and humanity from this event. It is the very culmination and last resort of the idea of law grounded in the sovereignty of humanity. But if it is such, it is so out of desperation, out of the fear and perhaps the knowledge that what was fatally damaged by the extermination was the notion of transcendent law grounded in human dignity. Such is the conclusion of Giorgio Agamben: