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Regimes of Violence and the *Trias Violentiae*

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Abstract

In common-sense usage, violence is usually conceptualized as intentional physical harm. This makes violence identifiable, locatable, and it facilitates the governing of those identified as committing infractions upon the non-violent community. In this article it is illustrated how this conception of violence legitimates the state by blocking the state's own foundational violence from critical scrutiny. It argues that the liberal state rests on the differentiation between active and reactive violence, whereby the latter is seen as the legitimate violence of the people against violent infractions committed by private individuals. The concept of a 'regime of violence' describes the relation between various forms of violence, i.e. their selective and differential articulation and negation. Regimes of violence constitute a way of governing conduct in the medium of violence. The current regime of violence consists of what is called a *trias violentiae*, which is a specific conception of the relations and translations between private violence, state violence and structural violence.

Keywords

social theory, state, subject, *trias violentiae*, violence

Violence in social science

In this article, I critically discuss the most prevalent ways of conceptualizing and analyzing violence in social science. I argue that social science usually deploys a concept of violence adopted from common sense, which is highly influenced by the historical process of state formation. The definition of violence is of course a hotly debated topic. In

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the social science of violence, a long-standing discussion exists on the question how expansive such a definition should be. Usually, a 'restricted definition' or – as is often the case – implicit conception prevails over 'extended definitions' such as Galtung's definition of 'structural violence' (Galtung, 1968) or Bourdieu's concept of 'symbolic violence' (Bourdieu, 1994b, 1997). For many others, a social scientific definition of violence is an impossibility as the concept is deemed 'essentially contested'. Zygmunt Bauman has therefore remarked:

Virtually all writers attempting to come to grips with the phenomenon of violence find the concept either under-, or over-defined, or both. They also report in other writers (if they not display it themselves) an amazing reluctance, or ineptitude, to resolve the confusion and put things straight. Above all, they find in the texts they read plenty of understatements and half-truths, a lot of embarrassed silence, and other signs of shamefacedness. (Bauman, 1995: 139)

In social science and social theory, broadly four strategies of dealing with violence can be discerned (cf. Schinkel, 2010a). The first is not to define violence, but to silently presuppose some commonsensical conception of it. The second is to define it by way of enumerating a number of acts among which some form of family resemblance is found to exist that is then called 'violence'. This produces lists, which often amount to enumerations of forms of physical violence by individuals. The third is to stipulate a definition, which specifies, usually at an ontic and not an ontological level what counts as violence. But precisely because ontic or 'empirical' definitions tend to be one-sided and unable to account for empirical variations, such definitions are often contested. That is one reason for the popularity of a fourth strategy, which is to deem violence as an 'essentially contested' concept (cf. Scheper-Hughes and Bourgois, 2004). Such approaches prefer not to define violence, but to see what violence is as a contingent outcome of social struggles. Yet, for Scheper-Hughes and Bourgois, this leaves open the possibility of talking of what they call 'a continuum of violence', which may include 'structural violence', by which they denote 'the violence of poverty, hunger, social exclusion and humiliation' (2004: 1).

Most often, the first of these strategies is deployed, meaning that violence is not defined in research articles on the subject. Not defining the concept of violence is actually the dominant pattern in analyses of violence (Maguire et al., 1997: 859). However, even a cursory glance at what it is taken to mean makes clear that it is taken to mean intentional, usually interpersonal, physical harm. This is simply common practice in most criminological journals, especially in the specialized journals such as *Aggression and Violent Behavior*. Even a cursory inspection of such a journal illustrates that the conceptions of violence used there vary only in terms of their inclusiveness when different acts of harm are concerned. For instance, does one count kicking and hitting?; is spitting included?; is pushing part of the concept of violence? What actually counts as violence is often to be read in the measurement classification used.

But more fundamentally, both when violence is explicitly defined and when it is tacitly assumed or conceptualized by measurement scales, it is regarded in terms of (intentional) physical harm. In the literature on 'collective violence', Charles Tilly's

definition has been influential (cf. Martin, McPhail and McCarthy, 2009). Tilly (2003: 3) defined collective violence as: ‘physical damage on persons and/or objects’. As Mary Jackman has argued, dominant ways of researching violence in social science are underpinned by two assumptions: ‘First, violence is typically assumed to be motivated by hostility and the willful intent to cause harm. Second, it is usually assumed that violence is deviant – legally, socially, or morally – from the mainstream of human activity’ (Jackman, 2002: 388). The crucial point here is that most conceptions of violence in social science are very much rooted in common sense. They assume violence to be something consisting of harm, intentionally perpetrated by localizable individuals and/or groups, that is deviant and illegitimate (in the sense of unlawful). Thereby, they incorporate core commonsensical elements in their conception of violence, but they forego the fact that common-sense notions of violence are formed in relation to the state, which is based on the possibility of distinguishing between violence and non-violence, and between legitimate violence and illegitimate violence.

Consider as a further illustration of this point the way Randall Collins discusses violence in his interesting recent book, *Violence: A Micro-sociological Theory* (2008). He starts off by defining violence tautologically: ‘once we look, we find that violence is an array of processes that all follow from a common situational feature of violent confrontations’ (Collins, 2008: 8). Collins apparently already knows what ‘violent confrontations’ are, and indeed he defines violence as ‘a set of pathways around confrontational tension and fear’ (2008: 8). Yet clearly there are other such ‘pathways’, and in the end the identification of ‘violence’ is left to common sense – something one sees in situations, and will not fail to recognize. Yet if, as Collins says, ‘sociology is to a large extent the art of reframing other people’s observations’ (2008: 32), one might wonder whether this is achieved with a conception of violence that stays so close to common sense and, therefore, also to state definitions of violence. This article is concerned with the problems confronting social science when it tacitly accepts the basic tenets of a commonsensical concept of violence.

What is usually missing in conceptions of violence is a conceptual model of the link between the subject and the state in modernity, which is mediated through what I shall call a specific *regime of violence*. The absence of such a link becomes most pertinent in commonsensical definitions of violence, where violence is reduced to actions performed by subjects that are intentional and harmful to others. What such conceptions fail to incorporate is the constitutive role of the state in defining ‘violence’ in such a limited way. While there is a recognition of the existence of violence at the level of the subject and at the level of the state (given the definitions of the state, for instance, from Hobbes to Weber and Schmitt), the *relation* between these two forms of violence is usually obscure. This is in line with the way liberalism, usually in the form of some understanding of the ‘social contract’, has ignored the foundational violence that encompasses the inauguration of the state. Rousseau’s communitarian contractualism as an exception, it is in authors such as Walter Benjamin and Carl Schmitt that a recognition of this foundational violence, its continuation in the ‘actually existing’ state and its relation to other forms of violence, are analyzed. Not surprisingly, such authors have been pivotal to much recent (left) work on the theory of the state (cf. Agamben, 1998; Butler, 2010; Laclau and Mouffe, 2001; Neocleous, 2008; Žižek, 2009).

What I propose to do here is to offer a conceptualization that encompasses this relationship between the subject and the state, in which both state and subject are construed as effects of a relationship mediated by violence. This mediation is possible on the basis of a dominant *regime of violence* that today assumes the form of what I shall call the *trias violentiae*, which consists of a specific relation between private violence, state violence and structural violence, and the accompanying translations between these forms of violence (cf. Bourdieu, 1997: 275). I take this to be crucial in understanding the political dimension of the construction of the subject, but more importantly in understanding the ways in which the state rests on continuous form of governing through violence. First, I shall take a closer look at the violent constitution of the subject, taking Judith Butler's recent analysis in *Frames of War* (2010) as a starting point. I then introduce the relationship between the subject and the state to illustrate how both operate as each other's 'necessary supplement' in a relationship mediated by differential forms of violence. Then I introduce the idea of a 'regime of violence' and its contemporary shape, the *trias violentiae*, in which the state participates in the violent constitution of the subject by negating both its own foundational violence, 'lingering on', as Benjamin says, in its daily functioning, and the variety of forms of structural violence that the capitalist order of the economy entails. In the end, a regime of violence constitutes a way of governing a variety of forms of violence (private, state and structural) that involves their selective articulation and negation. It is, then, a way of governing conduct in the medium of violence.

The violent constitution of the subject

An intricate relationship exists between the subject and violence. First, the relation between the subject and that which does not comply with its structure is often characterized by violence. Second, the very formation of the subject can be considered a form of violence. As to the former, a long tradition exists in which subjecthood has been demarcated over against inferior forms of life. This harks back to distinctions between *humanus* and *inhumanus* or 'barbarian' and it has often been repeated, for instance, in imperial and (post)colonial constructions of the other (McCarthy, 2009; Said, 2003). Judith Butler, for instance, comments on 'the dehumanization' effected in Guantánamo Bay, which 'makes use of an ethnic frame for conceiving who will be human, and who will not' (Butler, 2004: xvi).

As to the second, more fundamental point, it has been argued that the very construction of a subject is a reductive process in which life is moulded by norms. Reductive forms of subjectification have been critiqued, for instance, by Eric Weil (1967) and Levinas (1974), and more fundamentally the very formation of the subject itself has been analyzed as violent. Such conceptions of the violent formation of the subject appear, for instance, in Heidegger's *Über den Humanismus* (1949) – where he discusses the reductive character of the humanist conception of the subject – and in Foucault's various discussions of subjectification (cf. Foucault, 1975: 172; 1982: 208). Both Heidegger and Foucault point out that the subject is an effect of a process of subjectification (cf. Heidegger, 1949: 41). And where Heidegger speaks of the violence that is inherent to ontology (Heidegger, 1993: 311), Foucault illustrates empirically how processes of subjectification take place, through discipline and, later, through governmental uses of

biopower. Both authors therefore turn a humanist and Marxist conception of violence on its head. Where violence has often been interpreted as part of a reduction of the subject to an object, in processes of reification, objectification of *Verdinglichung*, both Heidegger and Foucault depart from the Nietzschean idea that the subject is itself the consequence, or effect, of such a process of *Verdinglichung*. For Heidegger, the trouble starts with the shift from the Greek *hypokeimenon* to the Roman *subiectum* (Heidegger, 1950: 7–8).

To scrutinize the relation between the subject and violence, the recent work of Judith Butler provides valuable starting points. Butler has sought to (re-)conceptualize the notion and practice of non-violence. That, she argues, is inconceivable without a conceptualization of violence. Violence and non-violence, according to Butler, ‘are not only strategies or tactics, but form the subject and become its constitutive possibilities’ (Butler, 2010: 165). The formative power of violence for the subject not only problematizes and complicates non-violence (Butler seems to argue that the opposite holds as well), but it entails a social ontology that affords primacy to violence. For Butler, this has to do with the fact that the subject is constituted through norms which are productive (performative, for Butler), but which, in order to be productive, need to be iterative (Butler, 2010: 167–8). The iterability of norms also entails the possibility of non-violence emerging from violent norms, for iterability entails a constant break with established contexts (Butler, 2010: 168). Now, apart from the fact that such norm-induced, constant uprooting and breaking with the violent ‘aims’ or ‘origins’ of norms, as Butler has it, can in itself be seen as part of the violent effects of norms, the fundamental fact of violence in the constitution of the subject is nonetheless related to its being ‘performatively determined’ by norms:

We are at least partially formed through violence. We are given genders or social categories, against our will, and these categories confer intelligibility or recognizability, which means that they also communicate what the social risks of unintelligibility or partial intelligibility might be. (Butler, 2010: 167)

But perhaps more fundamentally, one could say that this does not take place ‘against our will’, but that the very constitution of ‘our will’ entails a certain productive violence. Butler’s discussion is concerned primarily with non-violence, which she nonetheless relates to violence since ‘one has to come up against violence to practice non-violence’ (Butler, 2010: 182). Violence is bound to non-violence because it reminds us of the injurability that non-violence presupposes and ethically advances.

In a complicated argument, Butler then establishes a link between the subject and state violence. One way in which state violence operates, she argues, is to posit the ‘sovereign subject’. She argues that precisely the sovereignty of the subject, i.e. its not being injurable, its immunity, operates as a way to legitimate the injurability of the other. The ‘truth’ of the other as injurable subject entails the uncovering of the other as a violent subject, for the very reason that it can be injured. Butler here operates with a specific kind of universalism, for she holds that the subject always and necessarily entails injurability (Butler, 2010: 178). In fact, this vulnerability or precariousness is, she argues elsewhere, ‘part of bodily life’ (Butler, 2004: 29). Butler’s argument explicitly focuses on the precariousness of the life of the individual in order to move away from the idea of

the precariousness of 'all peoples', and she argues for the idea of precariousness and injurability 'as a generalized condition, rather than as a way of marking a cultural identity' (Butler, 2010: 179, 178).

After universalizing injurability at the level of the life of the individual, Butler then reintroduces a variety of mediating contexts through which, in her discussion, non-violence is mediated. As she argues:

If the claim of the other upon me is to reach me, it must be mediated in some way, which means that our very capacity to respond with non-violence (to act against a certain violent act, or to defer to the 'non-act' in the face of violent provocation) depends upon the frames by which the world is given and by which the domain of appearance is circumscribed. (Butler, 2010: 180)

Butler's discussion has a value in understanding certain forms of violence and their relation to non-violence, but I believe there are two points where caveats must be observed.

The first is that the universality of precariousness and injurability is hard to take issue with when conceived on an ontological and/or ethical level. When it is considered at an empirical level, however, it becomes clear that universality is unevenly distributed. Precariousness in an empirical sense is unevenly distributed. In a sense, Butler's problems, discussed in *Precarious Life*, with the 'pure' character of Agamben's conception of the *homo sacer* is based on a similar argument. Against Agamben's pure opposition between *bios* and *zoè*, Butler argues that, 'Such general claims do not yet tell us how this power functions differentially, to target and manage certain populations . . . and they do not tell us how sovereignty . . . works by differentiating populations on the basis of ethnicity and race' (Butler, 2004: 68). I would argue that a similar argument needs to be made with respect to Butler's own conception of precariousness in the context of violence. The empirical occurrence of violence can be regarded by analogy to that which Butler, discussing Agamben's *bios/zoè* dichotomy, calls its 'differential functioning'. In that sense, precariousness and the violence that reminds us of it, are differentially distributed.

The second caveat here should be that just as non-violence is mediated by, in the last instance, certain social and political 'frames', so is violence. Perhaps due to the fact that her interest in the text I have mainly discussed here is in non-violence, Butler pays scant attention to the power to distribute and discern legitimate and illegitimate violence, and the power to define and recognize violence over against a variety of acts and processes is not recognized ('framed') as, or in terms of, violence. Yet any presupposition concerning violence not taking into account the larger frame within which recognition of violence is possible is necessarily bound to a specific context (for instance, that within which Butler wishes to discuss non-violence). However, if what one seeks is an understanding of violence that is either context-transcending or even explicitly universalist (in whichever sense of the term), then it is crucial to take into account the social relations, impregnated with violence, within which 'violence' is a legitimate attribution. For violence only ever emerges within a web of social relations that attributes the reference 'violence' to actions, and it only appears within a 'frame' that is to a large extent circumscribed by the state. That is to say that what counts as violence, and is recognized as such, and what

is not, are also dependent on mediation by a certain 'frame'. I shall call that frame a specific 'regime of violence'. Blindness to an existing regime of violence means an implicit acceptance of the prevalent ways of defining and recognizing violence.

Violence and the state I: Monopolies of mythical violence

States are commonly defined by violence. This is the case in Max Weber's well-known definition (Weber, 1956: 1043; 1988: 506–7), but it forms the crux of Hobbes's and Schmitt's conceptions of the state as well. While Hobbes and Schmitt tend to take the violent foundations of the state for granted as necessary elements, Weber discusses the 'legitimacy' of the state's monopoly of violence as something which is 'deemed legitimate', i.e. which requires belief. Nonetheless, the violence of the state, in Weber, amounts to the legitimate use of a potential of force in response to private digressions in case of war. That is a limited conception of the relation between violence and the state. For it is well known that states are defined by violence, but it is quite common to forego the power of the state to also frame, beyond the legitimacy of violence, the very meaning, recognition and attribution of violence. This occurs through acts of selective definition, attribution and sanctioning.

One way to extend the Weberian image of the state is to hold, as Bourdieu does, that the state relies also on the monopoly of 'symbolic violence' (Bourdieu, 1994a: 3). By 'symbolic violence', Bourdieu denotes a form of violence that is not recognized as such (Bourdieu, 1994b: 188; 1999: 126) and that hence takes place with the silent approval of those on whom it befalls (Bourdieu, 1997: 204). Symbolic violence is the violence of dominant classifications and (self-)classifying practices. But to say that the state holds the monopoly on the legitimate use of such symbolic violence would appear far too restricted. It in fact entails a much too unitary vision of 'the state'. If, for analytical purposes, it is useful to regard 'the state' as some form of unity, then that is the case mostly where issues of sovereignty (the exception) and hence legitimate physical violence are at stake (Schinkel, 2009; 2010b; Schinkel and Van den Berg, 2011). It is certainly one-sided to credit 'the state' with a 'monopoly' on legitimate forms of symbolic violence. A case could be made for such a monopoly if one expanded the concept of the state by including ideological state apparatuses (Althusser, 2008), but that is precisely what Bourdieu's field theory does not claim to do. Symbolic violence does emanate from state practices, but it does not (all) originate there. Next to the power of the state to classify, its power to sanction is crucial here.

A yet more fundamental conception of the relation between violence and the state that zooms in on the state's sanctioning of violence, has to do with the relation between the subject and the norm, as also discussed by Butler. Here, Walter Benjamin has provided an analysis that cuts to the heart of the matter. In *Zur Kritik der Gewalt*, Benjamin distinguishes a 'mythical violence' from a 'divine violence'. Mythical violence is the violence of the law, which is, in Benjamin's kabbala-inspired text, inaugurated with the Fall and the naming of things which brought about both the law and the demonic, instrumental use of language (cf. Benjamin, 1978: 127; Scholem, 1960). Mythical violence is caught in the circle (*Bannkreis*) of means and ends (Benjamin, 1965: 54). Divine violence is a violence that is indiscriminate and that destroys the state's

mythical violence, thus returning man to a state prior to the Fall. It is, as Derrida has remarked, a 'pure performative' (Derrida, 1994: 89). The longest part of Benjamin's discussion in *Zur Kritik der Gewalt* is devoted to mythical violence. He makes a distinction between law-establishing (*rechtssetzend*) and law-enforcing or law-preserving (*rechtserhaltend*) violence. This is not a pure distinction, Benjamin crucially argues, since the law-establishing violence (for instance, of a war) always entails a law-enforcing violence (for instance, in the subjection of individuals to military ends such as conscription). Moreover, law-establishing violence lingers on in the everyday violence of law enforcement. This is comparable to the way Butler discusses the need for the iterability of norms. Any enforcement is, for Benjamin, at the same time an establishment (*Setzung*) of the law. The two thus appear in a 'ghostly mix' (*einer gespenstischen Vermischung*), for instance, in the institution of the police (Benjamin, 1965: 43). The police are even, according to Benjamin, 'the most severe derangement of violence thinkable' (Benjamin, 1965: 45). For Benjamin, as noted, this is all related to Original Sin and the Fall, since that is where the knowledge of good and evil, and hence the law, originate. Hence Benjamin speaks, in *Schicksal und Charakter*, of law as a 'leftover of man's demonic stage of existence' (Benjamin, 1965: 71). For Benjamin, divine violence is a messianic promise to break the vicious circle of mythical violence. It is the promise of an unmediated justice. Benjamin regards conflict resolution under the law as necessarily violence (Benjamin, 1965: 45–6), because contracts exist only on the basis of the state's continuous threat of violence, and because each act of law enforcement entails a law-preserving violence. In a fundamental sense, then, the state cannot escape from the exertion of violence.

Violence and the state II: (Dis)avowing violence

I argue that the core of the state's violence lies in its very power to recognize and sanction violence. It is the (mis)recognition of violence that reproduces law-preserving violence with every act of law enforcement. The very act of law enforcement reproduces violence, albeit a violence of a different sort and in a different guise. This not only has to do with the 'mythical foundation of the law', but it appears less abstractly in the daily acts of sanctioning of and of the recognition of violence. The state's power to selectively sanction and recognize violence is crucial here. Benjamin mentions the example of the strike, to which workers have a right, which becomes defined as a form of violence when it concerns a general strike. But the permanent violence lingering in the state also occurs where the opposite is the case. Where no violence is recognized, for instance, as symbolic violence, and where nothing is sanctioned. In the end, the violence of the state originates from its power of differentiation between violence and non-violence. This is not a mere epistemic power, nor is it only juridical. It is a performative power that is laden with symbolic violence. This symbolic violence cannot be recognized as such because it emanates from the very distinction between violence and non-violence that the state enforces. In thus differentiating, the state's own violence becomes its blind spot, for in the distinction between violence and non-violence, *tertium non datur*. The power of defining and of (dis)avowing violence can then, paradoxically, be seen as the source of the state's violence. As Žižek argues:

When we perceive something as an act of violence, we measure it by a presupposed standard of what the 'normal' non-violent situation is – and the highest form of violence is the imposition of this standard with reference to which some events appear as 'violent'. This is why language itself, the very medium of non-violence, of mutual recognition, involves unconditional violence. (2009: 55)

Hence the law, mediated by language, necessarily entails violence. Most of all, this is enshrined in the state's possibility to sanction violence, which also entails the possibility to ignore possible forms of violence.

If we return now to the Weberian conception of the state, which without question largely conforms to self-representations of contemporary states, the distinction between legitimate and non-legitimate violence is crucial in this respect as well. Beyond the very recognition of some acts as violent and others as not, lies the distinction between the state's own violence, which it recognizes in a limited set of cases under the name of 'legitimate violence', and all violence taking place outside the state, which it recognizes either as 'illegitimate violence'. Crucially, the latter has connotations of being more 'violent' than 'legitimate violence'. Illegitimate violence is more readily equated with violence than legitimate violence. To understand this, one must consider the historical development of what can be called the contemporary regime of violence.

Regimes of violence

The historical genesis of the modern state is closely connected to the development of a plausible distinction between legitimate and illegitimate violence. It is well documented how this plausibility grew historically in a process of centralization of state power that went alongside a 'civilizing process' (Elias, 1980) or an increased disciplining of populations increasingly classified along 'national' lines (Foucault, 1975; Weber, 1956). Increasingly a state monopoly of the legitimate means of violence appeared, that entailed, as Bauman has remarked, not so much an uprooting as a 'redistribution of violence' (Bauman, 1995: 141). It is of course common to forget that, at least in recent history, states have been the most violent actors. It is also easy to forget that states rely on a certain amount of illegitimate violence to exist. The paradox of the necessity of illegitimate violence consists of the state's redundancy in the absence of violence outside the state. The state, based on legitimate violence, needs illegitimate violence for its reproduction.

But the difference between these two forms is a historical achievement that goes as far back as the Greek concept of *bia* (force, life-force, vehemence), which found a number of Latin translations in the Roman era. Among these were, for instance, *imperium*, *scep-trum*, *maiestas*, *tyrannis*, *auctoritas*, *vis*, *fortitudo* and *bracchium* (cf. Ritter, 1974: 569), but the main concepts that eventually grew dominant through scholastic thought and into the modern era were *violentia* and *potestas*. These two concepts, which initially were largely synonymous, gradually branched in opposite directions, forming a binary in which the one mirrored the other. In the process of the autonomization of the secular state, *violentia* gradually became private violence, while *potestas* was increasingly reserved for state violence. In scholastic thought, for instance, divine power was translated as both

Gottesgewalt and as *violentia spiritualis*, but the connotation of ‘power’ was gradually transferred to *potestas*. In medieval law from the twelfth century onward, *potesta* denoted magistrates to whom conflicting parties turned for mediation (Sprandel, 1975: 112 ff.). The Greek concept to which *violentia* is related, *bia*, is opposed to *dike*, which has been translated as ‘justice’ since Plato’s time, but which has also more neutral connotations of lawful settlement. It was the subject of debate among classicists in the 1970s as to whether it was a moral concept at all (cf. Gagarin, 1973, 1974; Dickie, 1978). The crucial difference between the oppositions between *bia* and *dike* and between *violentia* and *potestas* is that the latter differentiation concerns two forms of violence, classified along the lines of a measure of legitimacy. Gradually, therefore, just as Foucault (1997: 126) notes the appearance of ‘statist definitions’ of the nation in the *Encyclopédie*, violence gains ‘statist’ contours, is officially circumscribed, recognized and legitimated.

The legitimate/illegitimate binary is matched by a reactive/active binary. The state’s violence is usually cast as reactive. In line with liberal theories of the state as a ‘trustee’ or ‘arbiter’, state violence is deemed a necessary reaction to private violence. In fact, given the active violence Benjamin ascribes to the state, one may thus argue that the state rests on the negation of the difference between its own active and reactive violence. As Deleuze and Guattari state, ‘The State can in this way say that violence is “primal”, that it is simply a natural phenomenon, the responsibility for which does not lie with the State, which uses violence only against the violent, against “criminals” – against primitives, against nomads – in order that peace may reign’ (1987: 448). But an initial *activity* of the state establishes the legal limits of the legitimate, only after which the state is able to pose as merely reactive against forms of private violence. This activity is rooted, in the last instance, in the state of exception.

The possibility of distinguishing between legitimate and illegitimate violence, casting one as merely reactive and the other as active, rests in a specific *regime of violence*. The concept of ‘regime of violence’ is used by Deleuze and Guattari to discern struggle, war, crime and policing as separate regimes of violence (1987: 447). I use the concept here to more fundamentally denote the regime of regulation through which such different *forms of violence* become discernible in the first place. A regime of violence governs the differentiation between various forms of violence. Crucial to a regime of violence is therefore a *regulation of legitimate recognition*. A regime of violence involves a configuration of the relations between various forms of violence, for instance, along the lines of legitimate/illegitimate or reactive/active. That configuration gives a regime of violence certain autopoietic qualities, and hence the paradox of the necessity of illegitimate violence for the reproduction of the state is a typical element of the modern regime of violence. The regime of violence fosters a certain minimum of violence, if only because the state needs illegitimate violence in order to maintain legitimacy. In ‘regulation’ language, one might say that every ‘regime of accumulation’ entails a ‘regime of acculturation’, i.e. of subject-formation (Schinkel and Van Houdt, 2010), but that both operate, in the last instance, on the basis of a specific regime of violence.

A regime of violence is what makes certain forms of violence visible and others invisible. Both what is considered violent and what is not are thus governed through a hegemonic regime of violence. This does not entail the actual circumscription of violence, but

rather the *possibility* of differentially attributing violence and, in the second instance, its legitimacy. That possibility in the end equals what Schmitt describes as the sovereign decision/exception. A regime of violence is thus a logic of attributing and distributing violence and its legitimacy. It involves selective negations and articulations. Negations of violence can be legitimated by the non-reducibility of violent effects to localizable individual subjects. Articulation occurs where a work of individualization takes place, demarcating a selective scene of violence and blotting out the obscene that is the larger social context in which the scene is embedded (cf. Lefebvre, 1991: 36). Violence is then not only characteristic of the modern state, it is a crucial medium of governing conduct, precisely in the forms of violence recognized and unrecognized by a specific regime of violence. A regime of violence can thus be seen as a technique of social sorting, of governing in the medium of violence, by ascribing and disavowing each one's violence.

The contemporary regime of violence: the *trias violentiae*

The contemporary regime of violence consists of three ideal-typical forms of violence, only two of which are recognized. Private violence and state violence exist in the manner discussed above, and structural violence, as well as symbolic violence, is disavowed. All the *translations* between these forms of violence are blotted out from legitimate view, and the structural violence that, by way of the *law of the conservation of violence* (Bourdieu, 1997: 275), translates into private violence, is preserved through state violence which only recognizes private violence, but recognizes it as illegitimately 'active'. Structural violence is the violence immanent to the current regimes of accumulation and acculturation (cf. Bourdieu, 1998: 98). Since the state position on violence only recognizes (illegitimate) private violence and (legitimate) state violence, the source of violence is construed as private, and violence is naturalized as a sort of *generatio spontanea*.

The concept of structural violence, originally coined by Galtung (1968) but later reconceptualized by various others (cf. Barak, 2003), allows for a perspective of what can be called the *trias violentiae*. Next to private violence and state violence, structural violence, which is not legitimately recognized as violence in the contemporary regime of violence, plays a crucial role precisely in not being recognized (Schinkel, 2010a). It is an integral element of the contemporary regime of violence, since it recognizes that the opposition between private citizens and the state leaves most of the complexities of social life unarticulated. The everyday order of social life is, as Bourdieu has argued, invested with its own type of violence, which places its own restraints on subjects, and which operates on the basis of its disavowal by the contemporary regime of violence. This is another way of saying that there is a certain hypocrisy to 'those who, while combating *subjective violence*, commit *systemic violence* that generates the very phenomena they abhor' (Žižek, 2009: 174).

Symbolic violence can likewise be regarded as a form of structural violence. It involves the subject as willing executioner (in the last instance) of violence upon itself, without recognizing that it reduces itself in a relationship of symbolic power. Such symbolic violence is by no means restricted to the state, as Bourdieu's formulation of 'state monopoly of symbolic violence' would suggest. Rather, its efficacy is largely derived from its presence throughout the social. Each social system endowed with a hierarchical

ordering logic has its own type of symbolic violence, and the most prevalent form of symbolic violence is the one exerted by the contemporary regime of accumulation. The very fact that subjects are disciplined to current market standards, and that the market is the place to turn to for questions concerning the senselessness of their market-induced routines, testifies to the overwhelming presence of symbolic violence in the reproduction of social order. So the identification of 'the state' with a 'monopoly of legitimate symbolic violence' is characterized by a desire to *locate* violence and to trace it to demarcated origins that resemble the desire to individualize private violence.

Structural and symbolic violence are specifically pertinent in the contemporary regime of accumulation. As Lefebvre, for instance, argues, 'Before the advent of capitalism, the part played by violence was extra-economic; under the dominion of capitalism and of the world market, it assumed an economic role in the accumulation process; and in consequence the economic sphere became dominant' (1991: 276). Lefebvre hence speaks of a violence sometimes latent, sometimes unleashed, forming the 'lifeblood' of capitalist space (1991: 277).

Characteristic of the late capitalist regime of violence is the ensemble of practices, on the one hand, *problematizing* and socio-spatially relegating the poor and, on the other hand, *immunizing* the middle classes through the very opposite of practices of problematization, practices of socio-spatial negation and seclusion. On the one hand are *strategies of problematization*, on the other are *strategies of immunization*. The two go hand in hand, as the problematization of violent individuals entails the immunization of those reaping, whose reproductive work in a structurally violent order is unrecognized as violent.

As for the strategies of problematization, they take on widely different forms in the USA and in Western Europe. In Western Europe, discourses of 'social exclusion' exist that have the effect of symbolically ratifying violent differentiations. They give credibility to the concept that the structurally relegated position of the poor is at the same time an 'exclusion' from the symbolic domain of 'society'. With the best intentions of 'integrating' and 'activating' the excluded (the poor, the unemployed, the immigrants), an image is reinforced of capitalist society as 'the' one and only 'society', from which one is 'excluded' if one does not properly 'participate'. That is why Žižek, subversively defining 'violence' as 'a radical upheaval of the basic social relations' states:

The threat today is not passivity, but pseudo-activity, the urge to 'be active', to 'participate' . . . Those in power often prefer even a 'critical' participation, a dialogue, to silence – just to engage us in 'dialogue', to make sure our ominous passivity is broken. (Žižek, 2009: 183)

The 'exclusion from society' that a lack of such 'participation' constitutes is not characterized by objectivity but by performativity. And the very discourse of 'exclusion from society' in fact only has meaning because of a fundamental inclusion in a social relation mediated by violence. That social relation is a primary form of togetherness that institutes the very possibility of then separating what 'society' constitutes (ensemble of individuals engaging in the capitalist form of 'participation') and what is 'excluded' from it. US enthusiasts of such 'social exclusion' discourse, who see in it a way of overcoming the 'blaming the victim' mode of dealing with poverty dominant in the US (Somers,

2008), forget the fact that accepting the discourse of ‘social exclusion’ is to tacitly accept the image of ‘society’ that legitimates the existing regime of violence in the first place. Discourses of ‘social exclusion’ therefore constitute a ‘*guter Wille zur Macht*’.

Strategies of immunization, on the other hand, are devised to separate those who predominantly fare well in the contemporary regime of violence from those who mostly suffer from structural violence. The latter consist both of a new global class and of an anxious middle class. The new global class ‘are . . . creating a life-world of their own’ in which all activities are ‘private’. As Žižek remarks:

One cannot help but note that one feature basic to the attitude of these global superrich is *fear*: fear of external social life itself. The highest priorities of the ‘ultra-high-net-worth-individuals’ are thus how to minimize security risks – diseases, exposure to threats of violent crime, and so forth. (2009: 4)

In a similar way, the middle classes increasingly retreat to semi-gated communities (McKenzie, 1994), using private highways and thus travelling along immunized trajectories. In the US, some 16 million people currently live in some form of gated community (Low, 2010).

But both problematization and immunization reproduce forms of structural violence that are translated into private violence and, subsequently, in state violence that can pose as merely responding to illegitimate incursions by private individuals. The various *translations of violence* are crucial in understanding the relations of the *trias violentiae*. The translation of violence is also what Sartre spoke of in his much-critiqued introduction to Fanon’s *Les damnés de la terre*. Sartre speaks there of *le moment du boomerang* in which ‘our violence returns’ (Sartre, 1961: 27–8). The beginnings of a recognition of that boomerang effect is implicit in the drive towards immunization and the escape into privacy and middle-class seclusion.

Conclusion: (re-)cognizing violence in social theory and science

The concept of a regime of violence is meant to redraw relations between forms of violence that the dominant and legitimate perspective blots out. This has everything to do with the regulation of legitimate recognition that the regime of violence performs. To bring to light what it blots out is to seek recognition against the grain of common sense. As Butler argues, ‘One way a hegemonic understanding of politics is achieved is through circumscribing what will and will not be admissible as part of the public sphere itself’ (2004: Preface, p. xx). Because the recognition of forms of violence is at stake here, social science is implicated in the contemporary regime of violence. To conclude, I wish to point to some of the problems to be avoided in the social scientific conception of violence. Much of social science tacitly accepts state definitions of violence, focusing on ‘violence’ only as private violence, and often in a naturalizing manner by emphasizing ‘individual risks’ of ‘violent or aggressive behaviour’ (see, for a critique, Schinkel, 2010a).

In the zone of indistinction that characterizes the definition of violence, a regime of violence straightens and disciplines interpretation and recognition. A social science that

deploys a 'restricted' concept of violence fails to adequately account for the social production of its object, and it fails to depart from state definitions of violence. If violence becomes defined mostly in personal, intentional and physical terms, as most of social science presumes, then a state concept of violence, arising out of a historically grown regime of violence, is uncritically reproduced. Approaches intent on regarding violence as 'essentially contested' thereby lose the ability to contest such contingent outcomes, and in practice they will be led to observe violence only where private violence and state violence clash. The same goes for approaches that do not define violence, which are dominant in social science. Restricted concepts of violence have the same function as the 'risks' identified in the 'fear of crime discourse'. As Holloway and Jefferson (1997: 260) argue, such constructions 'tend to have individual identifiable victims and individual identifiable offenders'. They furthermore argue that such offenders are thereby rendered knowable, decisionable and controllable. The commonsensical definition which is part of the contemporary regime of violence functions as a way of *attributing violence*, of dispersing and allocating it, by differentiating between violence and non-violence, between legitimate and illegitimate violence. In other words, it facilitates both the selective problematization of violence as well as the immunization against its recognition.

In contrast to such statist definitions, in social science we need conceptions of violence that wrest it from the frames of common sense regulated by the dominant regime of violence. That does not mean going to the utopian extreme of positing a 'divine violence', such as Benjamin, or a violence that embodies a decided engagement towards Being, as in Heidegger. It does mean *a refusal to reify and ratify state conceptions of violence*, and to level the scales in focusing on translations of violence rather than having to resign oneself to the common sense view that the poor and the ethno-racially denegated are simply violent.

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