

The Romantic Development of Classical German Philosophy: From Post-Kantianism to Giorgio Agamben and Jacques Rancière

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ABSTRACT

Giorgio Agamben and Jacques Rancière belong to a number of philosophers who recently have tried to revive a radical, even revolutionary politics by following post-Kantians in re-conceiving Kant's idea of the aesthetic in a Romantic vein. This chapter argues that in the process they get us to understand classical German philosophy better through their exploitation of its trademark but crucially unstable construction of a potentially open-ended community of aesthetic judgements. Political reconsideration of the aesthetic is achieved not just through radicalizing Kant's idea of the "sublime", as Lyotard attempted some years ago, but by thinking 'dissensus' or 'bare life', apparently aesthetic categories facilitating a kind of suspension of ideas of law, supposedly essential to political theory, and modelling a new kind of political community. In the process, they define their position through disagreeing with the major critic of Romantic aesthetics and politics, Carl Schmitt.

KEYWORDS

Aesthetic, Romanticism, Community, Law, Politics

Friedrich Schlegel's endeavours in political philosophy are entirely lacking in political originality.¹

Carl Schmitt

1. *Introduction: the Kantian Shadow*

This paper looks briefly at the way two recent theorists, Giorgio Agamben and Jacques Rancière, try to conceive of a new politics. My argument is that they follow post-Kantians in re-conceiving Kant's idea of the aesthetic in a Romantic vein. In the process they get us to understand classical German philosophy better through its trademark construction of the aesthetic. This is achieved not just

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¹ C. Schmitt, *Political Romanticism*, trans. by G. Oakes, MIT Press, Cambridge (Mass.) 1986, p. 141.

through developing Kant's idea of the 'sublime', as the post-Kantians did, and Lyotard took up some years ago, but through the very idea of aesthetic difference. In the process, they define their position through disagreeing with the major critic of the Romantic aesthetic, Carl Schmitt.

The key questions raised by this discussion are as follows. Does the idea of the aesthetic originating in Kant constitute an alternative or exception to an otherwise law-bound conception of ourselves and the world? Or does it merely shadow and give us a unique feeling for these necessary constraints, and instead of escaping them only lets us experience them adjacently to being subject to them? If the former, does the aesthetic set standards of creativity calling for a transforming translation of its insights into non-aesthetic discourse? This last view would allow the aesthetic to develop another Kantian idea that it is characterised by a kind of genius whose artistic achievement is to be nature's mouthpiece. Extreme singularity is legitimised by having been a mask for life itself – whether as Marx's 'species-being' or Nietzsche's 'Dionysus' or later historicized representations of ourselves in timely shapes and ways – nature or 'mere life', but in the service of the living (*das bloße Leben... um des lebendigen willen*), Benjamin would later put it.² There is an inherently political charge to this notion of the disbursement of aesthetic privilege to other discourses as historical circumstances change: aesthetic sensibility metamorphoses into the discourses and practices which best represent distinctively human creativity at different times.

Let me run through this first premise again, revealing its political inflection more polemically. Aesthetic conceptions of the individual and society more generous than the prescriptions of the positive laws or constitution of the state imply that it is possible to construct another culture of self-understanding. We experience our own forms of experience in certain ways demanding an expressive vocabulary, one which 'symbolizes' morality or science. But we still demand agreement about the construction of this culture, its *Bildung*; it has to represent a 'common sense' formative of our understanding of what it is like to have the obligations and perceptions we have. While Kant originally confined this creativity to communicating reflections on typical human experience, subsequent Romantic thinkers were interested in creative departures from Kantian prescription this pleasurable experience might confirm.

² W. Benjamin, 'Critique of Violence', in *Selected Writings 1913-26* (hereafter, *SW*), ed. by M. Bullock and M.W. Jennings, Belknap Press, Cambridge (Mass.) 1997, 1. 250; *Gesammelte Schriften* (hereafter, *GW*), ed. by R. Tiedemann and H. Schweppenhäuser, 7 voll., Suhrkamp, Frankfurt 1974, 1. 200.

For those Romantics, then, aesthetic exception would turn out to be at the centre of ways of making credible new versions of our common interest; and aesthetic expression would initiate creative thinking outside that cognitive or ethical box whose coherence Kant held must be reflected in aesthetics in order to be communicable. The post-Kantian aesthetic becomes a search for the political implications of finding ‘common sense’ in activities which are far from being avowedly aesthetic contributions to traditional *Bildung*. Marx’s mythical (as opposed to his doctrinaire) effort is to relocate in labour the once exclusively aesthetic experience of ‘the laws of beauty’ by completely reconceiving the political order. Much more modest versions of this are alive now, and, from Habermas to Rancière, they to some degree revisit the Romantic beginnings of this aesthetic politics and try to understand its current attractiveness in relation to those origins.

This outcome of Kantian aesthetics needs refining on, though, if we are to understand its recent influence. Once the aesthetic example has been experienced, we have access to a model for the extra-legal, extra-conceptual production of what we have in common. Kant thought that this ‘common sense’ was a new universal, its plausibility founded on its communicability – its power to command consensus. For Hannah Arendt, this immediately turned aesthetic judgement into a kind of political judgement, something to be negotiated. Later twentieth-century theorists, following post-Kantians, question the Kantian assumption that ties aesthetic legitimacy to consensus or a quasi-legalistic thinking, conceptual, ethical or conventionally political. Kant seems to rule out of court any advantage which aesthetic diversity might have gained over legalism. Experience of the human originally outside concepts begins, as Kant saw, with the singular. Aesthetic and historical judgements cannot be generalised; they give us rationalizations after the fact, not predictions of what the facts will be. Each work of art and historical event is unique. We only get a sense of un-conceptualised nature through a sense of the contingency of our understanding of it. And that is given to us in aesthetic and teleological judgements. We can think the idea that nature might not have accommodated our understanding, although we are necessarily required to assume the opposite, judging nature to have bound itself together systematically as if in order to make possible our experience of it. We grasp the felicity of this accommodation through the aesthetic pleasure we enjoy in the collaboration of our faculties irrespective of the experience this collaboration makes possible. The pleasure is different each time.

But after Kant it has been argued that to make this singular experience plural, agreement – the establishing of consensus – may not be necessary. Indeed, if the defining difference between aesthetic reflection and scientific determinations or ethical imperatives is to be preserved, a disruptive pluralism must be sought.³ Kant's aesthetic shadows the epistemological and ethical status quo, the logically necessary universality of concept and the ethically obligatory universality of moral imperative. But post-Kantians from the young Schelling, Hölderlin, Kleist, Hegel and Novalis, through to Friedrich Schlegel concocting sketches of a German constitution for Metternich at the Congress of Vienna and Adam Müller's dialectics, use the aesthetic as a licence to re-imagine what makes up agreement. Aesthetic judgements are not themselves exemplary agreements; they are contested pictures of what such agreement might be. Post-Kantians and recent theory recover conflicted notions of unity and integrity within aesthetic works, models much more various and hybrid than are obviously given in the philosophical licence Kant issues to aesthetic judgement. The claim that we can translate these newly imagined integrities into new political solutions is the conclusion of the post-Kantian politicizing of the aesthetic.

How does the Romantic, post-Revolutionary adventure in political aesthetics look now? Carl Schmitt's attack on 'political romanticism' was embarrassingly in line with his later fascist sympathies. But near contemporary theorists are not bound by Schmitt's terms of reference. The effect of the return on politics of a politicized aesthetics has interested, among many, Habermas, Derrida, Lyotard, Nancy, Rancière, and Agamben. All casually but with striking consistency take their bearings from the post-Kantian speculative environment. I want to use the more recent figures of Agamben and Rancière to resume this movement.

2. *Walter Benjamin and Giorgio Agamben*

Agamben and others, following Adorno's and Horkheimer's claim that the Shoah discredited the enlightenment tradition out of which it arguably emerged, take their critique of 'reason' still further. Adorno and Horkheimer regarded the 'final solution' as confirming reason's primarily instrumental tendency. No justifica-

³ Rancière even develops post-Kantian "dissensus" into "confusion", integrating Baumgarten's own rehabilitation of "the sensible as 'confused idea'" into his own politicised understanding of the connection between aesthetics and what is not thought in *The Aesthetic Unconscious*, trans. by D. Keates and J. Swenson, Polity Press, Cambridge 2009, p. 6.

tion could any longer be found for extolling as paradigmatically human the activity of reason if it led to genocide. The enlightened domination of natural violence produced a matching violence confirming its dialectical implication in rather than separation from the brutish oppression it was intended to surpass. But Adorno continually sought out other forms of thinking which might not entail this dreadful convergence. His principal recourse was to the aesthetic, a negative thinking, the trademark non-identity of whose symbols with real things created a freedom in which we could at least think the absence of what our corrupted systems of ratiocination could not supply. For Agamben and Rancière, though, even that asymmetry must mime the totalitarianism to which it supposedly provided an exception. The exception appears still defined by the legitimacy of the system which excludes it. Even, thinks Rancière, if we rid ourselves of an instrumental ideal, Schiller's Kantian aesthetic education still perpetuates the "modern madness of the very idea of a self-emancipation of mankind's humanity and its inevitable and interminable termination in the death camps".⁴ An alternative must be conjured up in order to escape the terrifying complicity of law with its exceptions: not antinomianism *tout court* (that kind of nonsense of the 'sacred', at once totally powerful and totally vulnerable) but a law whose deference to equity lets it escape the violence of universalism. Comparably, Agamben thinks Kant's categorical imperative, or a theory of duty for duty's sake irrespective of particular content, is precisely what has to be given up in order to imagine a politics "freed from every ban". But a 'bare life' non-identical with any conceptualization of it, must surreptitiously support the totalitarianism Adorno wants it to resist if it remains merely the exception to juridical thinking and not something "in itself", something like Walter Benjamin's "*bloße Leben*".⁵

It was well before the Shoah, in 1921, that Benjamin interested himself in this problem and began to integrate it with the questions he was to ask consistently throughout his subsequent philosophy. It is Benjamin rather than Adorno who is most useful for Agamben and who makes Agamben's often condensed thinking more approachable. Benjamin's *Critique of Violence* (*Zur Kritik der Gewalt*) is quick to see the connection between the power which institutes law and the power which law administers. The largely mythic justification of legal violence "shows itself fundamentally identical with

⁴J. Rancière, *The Politics of Aesthetics*, with an afterword by S. Žižek, trans. with an introd. by G. Rockhill, Continuum, London 2004, p. 29.

⁵W. Benjamin, *SW* 1.251; *GW* II.1. 201-2; G. Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. by D. Heller-Roazen, Stanford University Press, Stanford (CA) 1998, pp. 59, 55.

all legal violence (*Rechtsgewalt*)”.⁶ Benjamin’s search for an escape from this conflation of the justifying ground and the application of *Gewalt* [*Gewalt*’s primary meaning is ‘power’, and in combination or compound nouns it has the meaning of ‘violent’]⁷ are driven by his desire to show the possibility of a revolutionary *Gewalt*. Both ‘natural’ and ‘positive’ law offer no way out, but stage the same collaboration between ends and means from different directions. Their “common basic dogma” reciprocates violence with violence in a circular logic Benjamin tries to break.⁸ To do this, to discover a *Gewalt* outside law as such, and so genuinely revolutionary, he must call on a theological language (as he so often does). ‘Mere life’ or ‘life itself’, the apparent exception to our legally bound existence but still a category we all share, is bloodied by myths instituting legality. By contrast, divine power (*die göttliche reine Gewalt über alles Leben*) rules this else diminishing and demeaning level of existence, “for the sake of the living”.⁹ As so often with Benjamin, a revolutionary re-thinking of what we are demands the theological imagining of “the abolition of state power”; but, tantalizingly, this is a speculation never allowed to fall in with an actual myth which would only establish ‘bastardized’ (*bastardierte*) legal versions of this ultimate authenticity. It always remains ‘sign’, ‘seal’ but never ‘means’ (*Mittel*).¹⁰

This messianic Benjamin, it should be remembered, though, co-exists elsewhere in later texts with the Benjamin who, like his friend Brecht, starts “not from the good old things but from the new bad ones”. This would be to seek in present interventions ways of alienating legal procedures of all kinds, to find practices that sorted out their own way of speaking against law, (*ein Wort gegen das Recht sich von selbst erledigt*¹¹) – jurisprudential, political, aesthetic – in order to set in motion new orders of democracy, a new division or distribution of sensitivity (*partage du sensible*) as Jacques Rancière would call it – one, that is, not in hock to traditional discursive privilege when speaking freedom or fulfilment. As in Benjamin’s doctorate on post-Kantian Jena poetology, published a year earlier, an originally aesthetic creative fiat finds its idea in subsequent prose extensions, very much in the manner of Friedrich Schlegel’s and

⁶ W. Benjamin, *SW* 1.249; *GW* II.1.199.

⁷ See A. Haverkamp, *How to Take it (and Do the Right Thing): Violence and the Mournful Mind in Benjamin’s Critique of Violence*, in “Cardozo Law Review”, 13, 1991-1992, p. 1159; Id., *Anagrammatics of Violence: The Benjaminian Ground of Homo Sacer*, in “Cardozo Law Review”, 26, 2004-2005, p. 995.

⁸ W. Benjamin, *SW* I. 137; *GS* II. 1. 180.

⁹ W. Benjamin, *SW* I. 250; *GS* II. 1. 200.

¹⁰ W. Benjamin, *SW* I. 252; *GS* II. 1. 202.

¹¹ W. Benjamin, *GW* II. 1. 202.

Novalis's expansions of Kant's aesthetic.¹² To produce the original example again in prosaic or secular discourse has a transgressive force which, paradoxically, is the way to re-experience the full creative force of the aesthetic or divine original. So the idea of *Gewalt* would perhaps be a similarly collaborative effort in which the divine (no more sacred than aesthetic) motivation continues to work outside 'mythic' versions of justice in the service of life itself? Aesthetic reproducibility, as we know from his later work, means for Benjamin not art's power to reproduce the world but art's power to reproduce itself in non-aesthetic discourses.

How do we de-legitimize systems in order to engage with values outside current ideas of law and justice? To want to do this presupposes to begin with the revolutionary confidence of a Benjamin. It's easy to see that the expansion of politics to include non-institutional life might easily cease to be what it usually claims to be – a way of resisting political institutions with a new agenda – and become instead a kind of totalitarianism. The relocation of the grounds or political legitimacy to the community, say, can produce either an increase in democracy through a kind of communitarianism or a police state: either its increased representation of constituencies and interests remedies deficiencies in the scope of existing political institutions, or else the sway of politics is inappropriately extended to aspects of life we prefer to escape political regulation. The provocation in Agamben and others is to keep these differences potentially indistinguishable. Provided communitarianism connects itself with a kind of politics or aspires to re-found political legitimacy, it becomes progressively more difficult to see what might be excluded from politics. And then the 'big brother' society looms, one in which everything is fair game for state surveillance and scrutiny, one where there is no political difference between public and private, and, as a result, we see what Agamben names "the curious contiguity between democracy and totalitarianism". Ethnicity, leisure activities, so-called spiritual life, what Agamben quotes Karl Löwith as calling "seemingly neutral domains of life", are all politicized.¹³

The young Marx used the Romantics principally to show that if the idea of the free individual was kept as abstract as Kant's, then a politics representing it would ignore people's interests. It would support a political economy which, by professedly dealing in abstract human rights, actually kept the material, lived life of the underclass off the political agenda. As an exception to matters

¹² W. Benjamin, *The Concept of Art Criticism in German Romanticism*, in SW 1. 116-201; GS 1.1 11-112.

¹³ Agamben, *Homo Sacer*, cit., pp. 120-121.

for political debate, the life of the individual as opposed to the political subject could be surreptitiously controlled. That life would be indirectly policed by the capitalist economy which ignored its claims. The draining of particular content required to produce the Kantian subject under the law, or what we universally shared, was thus, in Marx's view, a way of ensuring that the exception to this abstraction would be policed by other means, not that it would be accorded a contrasting freedom. All material resistance outside of that abstract jurisdiction would be controlled by a free market whose un-prescribed, anarchical force would be adequate to any aspect of private life. Anything, in other words, could be commodified and thus kept within the economy of capitalist law and its exception. The exception became the fetish of the law it notionally escaped. This logic worked in the reverse direction too. For Marx, aesthetic experience would only come into its own when embodied in social experience and scientific knowledge. Otherwise, emancipated from the division of labour, it ceased to play any part in human life at all. It is only "in speaking of labour, one is dealing immediately with man himself".¹⁴ But for Marx, of course, since the modern subject had become alienated from his or her labour under capitalism, things had to change for this to be true.

Like Hegel, the formative critic of Kantian abstraction for Marx, Agamben thinks that Kant's categorical imperative is empty of content by definition. That is the key to the universality of its application and produces, in Agamben's view, a Kafkaesque kind of world in which, because the law is devoid of specific content but remains binding in virtue of its form, no *particular* interest is ever legal and can be ruled against in virtue of just that particularity.¹⁵ Anything, any form of individuality, can be a reason for prosecution. After the trial the camps are waiting just round the corner, and there is one for each of us. Hegel in the section on "Absolute Freedom and Terror" in his *Phänomenologie*, calls this "the sheer terror of the negative that contains nothing positive, nothing that fills it with a content". Its executions are therefore of things of utter insignificance, and are like "cutting off a head of cabbage or swallowing a mouthful of water".¹⁶ Kant offered various reformulations of the categorical imperative, and some, like the "Kingdom of ends", seem to have a distinctive political content, a republican one. Much recent criticism of him has argued that his philosophy

¹⁴ K. Marx, *Economic and Philosophical Manuscripts* (1844), in *Early Writings*, intr. by L. Colletti, trans. by G. Benton and R. Livingstone Penguin, Harmondsworth 1974, p. 333.

¹⁵ Agamben, *Homo Sacer*, cit., pp. 52-53.

¹⁶ G.W.F. Hegel, *Phenomenology of Spirit*, trans. by A.V. Miller, analysis and foreword by J.N. Findlay Clarendon Press, Oxford 1977, secs. 594, 590.

is far more embedded in anthropological considerations than the interpretation of him as a pure formalist allows. At all events, my point is only that the antinomy of law that Kant isolated, whereby the law is as much defined by the (terroristic) way it can legislate for its exceptions as it is by compelling orthodox observance, provoked a strong reaction through to Marx. The Romanticism of post-Kantian philosophy had already questioned the sufficiency of this antinomy, and that helped Marx too. That is, the question was asked by Schelling, Friedrich Schlegel, Novalis and others: is the human being exhaustively defined by its rational observance of law and its irrational contravention of law? If the answer is no, then within Romanticism exists a prototype of that anxious resistance to the juridical model which has so exercised continental philosophers in the last and present century.

3. Carl Schmitt's Attack On 'Political Romanticism'

For Carl Schmitt, scourge of 'political romanticism', in place of a mature acceptance that the concept of law depended on the sovereignty which authorised the exception as much as the application of the law, arose a kind of decisionism. Romantics like Schlegel and Adam Müller indulged a self-congratulatory vacillation, flaunting a sense of existing in excess of subsumption under any law. Even when they acknowledged legislation or slipped obediently under a concept, this was an ironic gesture, a feigned observance whose conspicuous falsity testified to an opposing unmanageability. This recalcitrance indicated an inexhaustible Romantic subjectivity which rendered every application of any law, whether legal, conceptual or moral, simply an occasion for our ironic acceptance or non-acceptance of it. Like the God of Malebranche, the Romantics suffered laws to apply to their world rather than being bound by them. Laws reflected back to them their own powers of comprehension and legislation from a world which was their construction. Their veto, provided they were creative enough, was always there for them to exercise. But even their compliance with the law was in effect a fiat of its own.

The quasi-theological legitimizing of law Schmitt required was the opposite of the assumption of divine creative status he attributed to the hubristic Romantic. To decide what is to count as the exception to law, and so, Agamben would hasten to add, to continue the exercise of law by other means, is like a miracle. Since there is no God, it is the sovereign position that remains crucial. By linking

the legitimacy of law to the *power* to decide on what has to count as an exception, Schmitt leaves our existence entirely accounted for within the political state mapped out by the observance of law and its exceptions. The only way of thinking outside the law is the state of emergency, when the law is suspended in its own interests.

Agamben, though, is assiduous in trying to reawaken a sense of what has been lost by this conflation of the laws of the state and its justification. First of all, in *Homo Sacer*, he showed that the binding of the power to authorise law to its actual execution creates the paradox of the exceptional person caught up or living in this paradox. This would be the person who, embodying the life supposedly giving rise to the need for the law, is never subject to the law. The law is always posterior to the value they represent. Equally, this person, since their value is never different from the enforcement of law, is still subject to the force of law but without all the legal niceties, checks and balances. They are subject, paraphrasing Hegel, to force without understanding. This paradox becomes particularly obvious when a state of emergency is declared. The exception is then publicly avowed to be the rule. We have the spectacle of people who are outlawed being, for that reason, subject to the strictest jurisdiction, confined without trial or appeal, treated, Agamben argues, as if they were 'sacred', both legally untouchable and fair game for any penalty the law can devise.

The loss in this dilemma is, Agamben thinks, the loss of a 'politics'. With Guantanamo Bay in mind, he claims that "At the very moment when it would like to give lessons in democracy to different traditions and cultures, the political culture of the West does not realise that it has entirely lost its canon".¹⁷ This 'canon' arises, then, from the ability to maintain a separation between law or the State and its justification: to retain a sense of the value of life, its *zoe*, over and above its assimilation to a political or cultural system. This, in Kant's terms, would be the unthinkable nature contingently not necessarily related to our understanding – the nature of a Hölderlin or a Wordsworth. For the Guantanamo apologist, to treat someone as existing outside the law can only mean to treat them as an outlaw. By making them unaccountable to the law we license ourselves to inflict on this person all the penalties of the law without due legal process. The old logic of the *homo sacer* gets repeated. Both modes of thinking appear to require "the ruling out of a sphere of human action that is entirely removed from law".¹⁸ We

¹⁷ G. Agamben, *State of Exception*, translated by K. Attell, Chicago University Press, Chicago 2005, p. 18.

¹⁸ Agamben, *State of Exception*, cit., p. 11.

encounter the paradoxical outlawing of stances outside the law. No “political unconscious”, to appropriate Jameson’s term, is credible. Rancière, in Romantic idiom, will approach this political problem via “the aesthetic unconscious”.¹⁹

Schmitt thinks that the attempt to get out from under the paradigm of law and its sovereignty is to engage in a language-game which has nothing to do with politics. As Tracy B. Stroub puts it baldly, “Political romanticism is at the root of what Schmitt sees as the liberal tendency to substitute perpetual discussion for the political”.²⁰ He argues in exactly the opposite direction from Agamben and the Romantics who, as Habermas acknowledged later in his version of the give and take of communication, believed the play of inviolable reserve and what is contrastingly negotiable to be the very stuff of politics. This is Schlegel’s *Gespräch*, inadequately translated as “conversation”, which, expanding on Kant’s *sensus communis*, balances the powers of different discourses in an un-prescribed, un-hierarchical exchange of views. Schmitt calls it “the name for a special kind of romantic productivity that takes any occasion for a sociable ‘play with words’”.²¹ The conversational model, which Schmitt locates in Schlegel and Müller, actually goes back to Shaftesbury who, too, regarded our original constitution as dual, and our self-knowledge as a “gymnastic method of soliloquy”, a discipline of “self-study and inward converse”.²² Shaftesbury’s view is, in turn, a dramatically energised version of that “opinion” which empiricists from Locke to Hume thought the basis of political legitimacy. Schmitt, though, sees here only laziness and abdication of political responsibility. The idea that the notion of the “sociable” which politics should perpetuate is something learned and updated from extra-political authority which, if not acknowledged, might presume over politics would not make sense to him. A politics heeding the Romantic sirens would simply have ceded its identity. The idea that politics might be formed of a tense but productive interchange between a fixed state and a conversational society again is nothing but the solvent of politics, its dissolution. In *The Concept of the Political* he is quite clear that ‘the concept of the state presupposes the concept of the political’. Consequently,

¹⁹ See J. Rancière, *The Aesthetic Unconscious*, and also his remarks on Schelling in *Le partage du sensible: esthétique et politique*, La fabrique éditions, Paris 2000, p. 32.

²⁰ C. Schmitt, *The Concept of the Political*, trans., introd. and notes by G. Schwab, Chicago University Press, Chicago 2007, p. xiv.

²¹ Schmitt, *Political Romanticism*, cit., p. 139.

²² A.A. Cooper, *Third Earl of Shaftesbury*, in *Characteristics of Men, Manners, Opinions*, *Times*, ed. by L.E. Klein, Cambridge University Press, Cambridge 1999, pp. 84, 124.

The equation state=politics becomes erroneous and deceptive at exactly the moment when state and society penetrate each other [...] In such a state, therefore, everything is at least potentially political, and in referring to the state it is no longer possible to assert for it a specifically political characteristic.²³

But, after Agamben, it is easier to see that this anxiety that the specificity of the political will be erased if we extend its definition to sociability actually masks another fear – fear of a political totalitarianism equally destructive of political definition.

One feels that Schlegel's politics are not allowed to be political by Schmitt precisely because they are "original". It is this originality which attracts Rancière.

Schlegel's idea of "progressive universal poetry" [...] does not mean any straightforward idea of progress. On the contrary, 'romanticizing' the works of the past means taking them as metaphoric elements, sleeping and awakening, unsusceptible to different re-actualizations, according to new lines of temporality.²⁴

For anything else to qualify for political consideration it would have to attain the status of the "enemy" of politics, the *Gegner* against which a political system resolves to be itself. Anything else is "based on the practice of constantly escaping from one sphere into another".²⁵ But the sociable wit of the Romantics is, Schmitt perceives, intended to overcome such enmity, to demoralise or disqualify the position of the adversary, and in its dialectic to overcome or synthesize the antagonism Schmitt thinks essential to politics and which allows politics to visit still on those outside the law the full vengeance of the law, even if in this case that title is lacking. Only the sustaining of the dyad of "friend and enemy" is sufficient to establish "a decisive entity which transcends the mere societal-associational groupings".²⁶

I hope that it is now obvious that this re-works the Romantic difference from Kant, and is thus founded on a philosophical disagreement of profound consequences. Kant's turning of a contingent relationship between nature and understanding (or, alternatively, between things as they appear to us and as they are in themselves) into a necessary one was perceived as totalitarian. For

²³ Schmitt, *The Concept of the Political*, cit., pp. 19, 22.

²⁴ J. Rancière, *Dissensus: On Politics and Aesthetic* (hereafter D), ed. and trans. by S. Corcoran, Continuum, London 2010, p. 125.

²⁵ Schmitt, *Political Romanticism*, cit., p. 145.

²⁶ Schmitt, *Der Begriff des Politischen*, Text von 1932 mit einem und drei Corollarien, Duncker und Humblot, Berlin 1979, p. 65. "Die Schlimmste Verwirrung entsteht dann, wenn Begriffe wie Recht und Frieden in solcher Weise politische benutzt werden, um klares politische Denken zu verhindern, die eigenen Bestrebungen zu legitimieren und die Gegner zu disqualifizieren oder zu demoralisieren".

Kant, we could not be in the position to question the isomorphism of nature and understanding if they were not necessarily collaborative. We'd be sawing off the branch we were sitting on. Our feeling for a possible difference here, then, must be aesthetic, but an aesthetic experience / judgement that shadowed this necessary isomorphism rather than sensed alternatives to it. Post-Kantian philosophy and Romantic art begged to differ. Without espousing antinomianism, the writings of Novalis, Kleist, Hölderlin and others provide a language for our experience of a self and nature we cannot manage within our usual conceptual boundaries. As Rilke was later to put it, "we are not quite (*verlässlich*) at home in the interpreted world".²⁷ We can't *know* this – Rilke posits animal life as the repository of such possible knowledge – but we feel it; and we are persuaded by the poetic renderings of this feeling.

This critique of the necessary restriction of our faculties to law-governed conceptuality extends to ethical and political spheres. Hegel had as little time as Carl Schmitt for Romantic irony, or an inflection of the provisional in all our judgements. But he historicised Kantian ideas and showed the relativity of our grasp of apparently Absolute categories. Reason had its phenomenology. In the story I tell here here, this makes him post-Kantian, and explains the involvement of epistemology in questions of authority and the political. Every stage in Reason's progress deals in 'bare life' in its own way. Romantic writing deals with our sense of a 'bare life' we are obliged to clothe if we are to experience it.

Bare life is the space in which Carl Schmitt's sovereign exercises its self-defining decisions. In the life outside politics and society Schmitt sees a deregulated sphere in need of a sovereign – someone who can restore regulation. Agamben, much more like the Romantics, sees 'bare life' as something which could be 'sweet', something which could be enjoyed; not a Hobbesian state of war which we get out of through a sovereignty in line with laws of reason or nature. What about the ontology of Agamben's own idea of a bare life which will neither be the emergency licensing the dictatorial sovereign or a state of complete exigency? He gets at it through subtle and learned aporias which displace and postpone well-being, somewhat despairingly. In *The Open: Man and Animal*, he talks in Rilkean fashion about how animals are to us both simple and mysterious. They are inhibited in ways that make our powers of self-recognition look infinitely flexible and varied in comparison. Equally, the limitation of the animal describes an 'at-homeness' in

²⁷ R.M. Rilke, 'Duisener Elegien', in Id., *Gesammelte Werke*, ed. by A. Post-Martens and G. Martens, Reclam, Stuttgart 2015, p. 757.

the world which we will never have. To that extent, their rootedness in their kind and in their environment is not banal but mysterious to us. Agamben's ultimate example is the tic whose animation is so barely recognizable that its life is a parody of any attempt to denude a view of life of anthropomorphism. Perhaps understandably, then, Agamben is fascinated by the anthropological theory of the 'missing-link'. He wants us to be missing links, as it were, in order to preserve an openness to biological life rather than its "total management". If we can render it 'inoperative' to the biological managers then we enter "the Shabbat of both animal and man".²⁸

This day of rest, this Shabbat, is not simply a day for Agamben, it is a community. Hölderlin had written of *der kommende Gott*, the coming God, in his poem *Bread and Wine* not as a deity but as a kind of living poetic tradition in which the belatedness of mythic and theological ideas is part of our necessary phenomenology of the unconditioned. Just as the greeting of Shabbat both signals the day of the Sabbath and marks speaker and auditor as belonging to the community in which the greeting makes sense, so Agamben's desire for an "open" definition of bare life implies a community of such generosity of welcome that it needs a theological comparison to make sense. Agamben's presentation of a coming community uses postponement to preserve his idea of its freedom from contamination by coercive interests. In this community what we have in common are our differences from each other. Like Derrida and Nancy, he sees this happening in a community of friendship – "friendship as the consentment of the pure fact of being". What is denied the pasturing animals, is something identified as a community or politics whose purposiveness without a purpose comes down to a "sharing of the same sweetness of existing". For Kant, the enhanced sense of life we experience in aesthetic experience no longer shadows the construction of the subject's experience of nature, but can "bring to light the ungovernable", the category Schmitt thinks frivolous nonsense.²⁹ The Romantics tried to produce a human universal less coercive than that given by Kant's *sensus communis* in his aesthetics. The attempt to do this without imposing a hierarchy among the various strands of human variety we can recognize in ourselves and others, a *partage du sensible*, is, it seems to me, what Jacques Rancière is about.

²⁸ G. Agamben, *The Open: Man and Animal*, trans. by K. Attell, Stanford University Press, Stanford (CA) 2004, pp. 77, 92.

²⁹ G. Agamben, *What is an Apparatus, and other essays*, Stanford University Press, Stanford (CA) 2009, pp. 35, 36, 24.

4. Rancière and the 'Aesthetic Revolution'

Recent political philosophy in a line from Arendt to Agamben rules out of court a single subject of human rights who has to belong to a state to have rights. The subject must be stateless order to have bare, *human* rights, which must consequently be unenforceable. The conclusion that this discredits human rights extends from Hobbes, through Maistre and others to Schmitt. The imagining of the capacity to occupy two contradictory positions on rights is one way of understanding Kant's aesthetic, where the defining law applies and does not apply at the same time – purposiveness without a purpose. But to “stage the scene of dissensus” between two positions, and so remove the need for politics to strive for consensus, is Rancière's ambition. This was Friedrich Schlegel's emphasis when he wrote of “an absolute synthesis of absolute antitheses, the continual self-creating exchange of two conflicting thoughts”.³⁰ The resulting “open predicates” of politics, like the equality he envisaged for pedagogy, describe a process; one in which whatever defines the human appears at different levels of equal belonging or status (D68-9).³¹ Human rights, thinks Rancière, are accorded the disenfranchised by those whose States already enforce those rights. But the dispossessed can *originate* human rights, which differ from rights granted by those who already possess them. The franchise, for example, can be extended to people of colour who can still legitimately assert that black lives matter in a way that discovers other human rights. For Rancière, there is always Lyotard's “good” inhuman, the current “other”, to play against ideas both of normative prescriptions of the human and the inhumane. Justice, like Leibniz's monad, is infinite, and no one possesses the exclusive right to define the humanity revealed in the perpetual unfolding of what Rancière calls “infinite justice” (D73-4).³² Other ideas of his, such as “a-topic communism” (rather than Derrida's spectral version) follow. Again, Rancière takes his historical bearings for this ten-

³⁰ “[...] eine absolute Synthesis absoluter Antithesen, der stete sich elbst erzeugende Wechsel zwei streitender Gedanken” (*Athenäums-Fragmente* 121, in F. Schlegel, *Kritische Schriften und Fragmente [1798-1801]*, ed. by E. Behler and H. Eichner, Ferdinand Schöningh, Paderborn 1988, II.115).

³¹ For Rancière on post-Revolutionary pedagogy, see his *Le maître ignorant: cinq leçons sur l'émancipation intellectuelle*, Fayard, Paris 1987.

³² Rancière cites Lyotard's ‘The Other's Rights’ from S. Shute and S. Hurtey (eds.), *On Human Rights*, Basic Books, New York 1994. But the drive through the re-deployment of the Kantian sublime towards thinking an inoperative community (shared by Blanchot and Nancy), a humanism that will have been, rather than one that exists, runs right through Lyotard's work, with its characteristic “drift” (*derive*) from *discours* to *figure*.

dency from the aesthetic thinking of “a few German poets and philosophers” writing in “response to the failure of the French Revolution” (D80-1).

The metamorphosis or mobilization of the aesthetic anticipates the way that Marx, in Rancière’s view, turned the Romantic ‘aesthetic’ revolution into “the programme for a ‘human revolution’” (D82). In *Dissensus*, Rancière tracks this from Schiller’s post-Kantian moment in his *Letters on the aesthetic education of mankind*, when he joins “autonomy and heteronomy”, the autonomy of art and a heteronomous “art of living” (D 115-6). In *Le partage du sensible*, in Schiller’s aesthetic state his idea of art can only be understood if we accept that it “wants to ruin” the (Platonic) idea of a society founded on an opposition between those who think and decide and those assigned to material labour.³³ Again, though, echoing Agamben, there is the worry that because Schiller’s of art as play describes us at our most human, a heteronomous politics paralleling this art free of hierarchical constraint threatens to become totalitarian, legislating even for “bare life” (D 115). Accordingly, in his early book on pedagogy Rancière already sees the need for a crucial separation here. Aesthetic emancipation must lead to the Marxian vision of a fulfilling labour, one escaping the capitalist prescriptions for turning over the social machine and instead letting “circulate the electric energy of emancipation”. Then the person who works is one who makes a work (*qui fait l’oeuvre, de la plume, du burin ou de tout autre outil*), activating that species-defining human emancipation Marx wants to transfer from aesthetics to labour.³⁴

Rancière’s thought here builds on his early application of Joseph Jacotot’s *dérèglement* of educational hierarchy functions as follows. A society of contempt interprets difference as inequality. It therefore makes it impossible for its members to think equality other than as a levelling of the inequalities which actually should be understood as our distinguishing features. Kantian shadowing must be surpassed. A basis different from Kant’s *sensus communis* or consensus is required for one to think a justice whose equitable differentiations are not between equality and inequality, superiority and inferiority, which are all levels of contempt. To redress injuries within this society is already to subscribe to that systematic view of things which is at fault. The same is true of well-meaning Enlightenment progressives who again construe human variety as stages of human amelioration.³⁵ Rancière believes that an alternative

³³ Rancière, *Le partage du sensible*, cit., pp. 40, 70-71.

³⁴ Rancière, *Le maître ignorant*, cit., pp.179-180.

³⁵ Ivi, pp. 191-192.

pluralism has to be pushed or tested. In this he is confessedly close to the post-Kantian political translation of the *Mischgedicht* in the speculations of Friedrich Schlegel and, one might add, Novalis's famous call for everything to be "romanticised" (D125).³⁶ Equally, the political admixtures or hybrid constitutions imagined by Schlegel's essay on republicanism and Novalis's *Europaschrift* and *Glauben und Liebe* owe less to the classical pragmatism of Polybius (the *locus classicus* of ideas of mixed constitutions). Instead they aspire to justify the unprecedented political daring of representing individual variety in a political framework which has been reorganized so that what has always looked like hierarchy (monarchy, aristocracy, commoners and so on) is re-cast to reflect difference. In this they are illuminated more by the recent re-imaginings of the political I have been exploring.

Unignorably, though, the problem these re-castings of political theorising end up with is the problem of pluralism. Again, though, answers to difficulties here take us back to those of the "aesthetic revolution", as Rancière calls it. Pluralism points out the incompatibility, even incommensurability, of different human goods, and so the necessity of negotiating between conflictual notions of human flourishing and the good life. There is no unified human *telos*, in the way that Aristotle thought, and so the exemplary ethical disposition must be a tolerance in which it is accepted that while there is some common ground between different people, cultures and resulting value-systems, there are also vast differences. What can be shared is, firstly, the will to make the most of ethical overlaps and so to search out all the possibilities of commonality. And, secondly, what is needful is an openness to criticism or a continual willingness to look at ethical and political difference in a comparative spirit which could lead to revision and alteration of one's own position in the light of an appreciation of that of others. Incommensurability does not exclude the possibility of mutual criticism; all it can exclude is the idea that we might assimilate criticism in the same way.

This looks like a Habermasian position, and Habermas is usually dismissed out of hand by French theorists. The common ground which does, however, persist for the reader of both lies in the way in which, like Friedrich Schlegel, they view progressiveness in speculation neither as an aspiration towards magisterial pronouncement, a *prima philosophia*, nor as a continual surpassing of inferior versions on the path to perfection. Shared is the Romantic conviction that the arts are not progressive, a premise that replaced the

³⁶ Novalis, *Schriften: Die Werke Friedrich von Hardenbergs*, ed. by P. Kluckhohn and R. Samuel, 3 voll., Kohlhammer, Stuttgart 1968, II. 545.

quarrel between the Ancients and the Moderns with the quarrel between poetry and science. The even more ancient quarrel between philosophy and poetry was re-thought in the process. Now the arts are held up as providing a standard of inclusiveness which political representation ought to emulate, but in its own way: not the mapping of a Schillerian aesthetic state in which we are completely human on to a political state, but a figuring of Schiller's anti-hierarchical aesthetics on its own terms.

Rancière's "aesthetic politics" not only attempts to occlude totalitarianism. It also strenuously separates "its form of liberty from the freedom of commodities" (D111). It sees, that is, the threat of another damaging convergence of aesthetic freedom with an opposite free-market deregulation. Not every form of expression is another level of the human monad's unfolding. Genuine contenders have to provoke the aesthetic to self-revision, to a receptivity where the newcomer to the aesthetic or political system has the authority to renegotiate current entry qualifications. In the case of art, this leads to the disappearance of art, when the self-refutations of the avant-garde eventually replace the actual work of art with a philosophy of what it is. This is the kind of impasse or 'end' of art recurring in philosophy from Hegel to Peter Bürger. The alternative, parallel route is the aesthetic self-transformation into labour canvassed from Marx to Benjamin. In keeping with the latter, if we agree with Rancière that from the (Romantic) start art uses its autonomy to invoke heteronomy, that it begins by arguing for its democratic translation into other, more available forms of creativity, then we have an alternative to that self-defeating modernism which surely loses its way when caught in the repetitive, reflectively dead-end logic of the avant-garde (D116-7)? At the same time, this alternative dispenses with that logic of the exception to which the aesthetic critique of instrumental reason had seemed still to belong despite itself. Enlightenment reason appeared to distinguish the human from nature but turned out to be murderously complicit in the force it tried to understand. Kant's aesthetic, too, appeared to try to enforce a self-understanding that was non-identical with concept and legality, yet was also a kind of disinterested shadowing of those prescriptions. Even in this non-coercive paradise, aesthetic freedom from ideology still traces a kind of mastery subject to the old dialectical dangers. Yet, as Agamben shows, a bare life completely exterior to regulation is either unusable politically, or, if politically represented, threatens totalitarian surveillance. Rancière, like Marx and Benjamin, wants a heteronomous politics, one using art not to aestheticize politics but redeploying aesthetic autonomy so as to refigure political freedom.

In Romanticism as understood by Benjamin and his followers, the power of art is its power of dissemination; conversely, the creativity of other activities it inspires have their originality validated by being traced back to the aesthetic impulse they have successfully transformed for their own purposes. In legitimating them, though, the aesthetic abandons the idea of exceptional mastery and authority. Schlegel's "progressive, universal poetry" has indeed, Rancière argues, inspired a political philosophy consequent upon "the permeability of the boundaries of art [...] a kind of metamorphic status". Significantly, Rancière distinguishes his own "open concepts" from Derrida's Romantic-sounding "transcendental horizon" – in the spectral politics of *his* incorrigibly futuristic Marxism – by insisting on "democracy as a practice" (D 125, 59).³⁷ Derrida seems to share Lyotard's hesitancy before the consensus or *sensus communis* Kantian aesthetics establishes, and to make of dissensus sufficient intervention. He is not the "synthetic writer" (*synthetische Schriftsteller*) of the "universal progressive Poesie" championed by Schlegel, who "constructs and creates a new audience through that synthesis" (*konstruiert und schafft sich einen Leser*).³⁸ Rancière, more post-Kantian than Derrida and Lyotard, follows Benjamin in developing our understanding of an aesthetic activity through which art refigures itself in democratic material practice. To accredit these new metamorphoses of the aesthetic is a political act.

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³⁷ See J. Derrida, *Spectres of Marx: The State of the Debt, the Work of Mourning and the New International*, trans. by P. Kamuf, Routledge, New York and London 2006, pp. 81-2.

³⁸ F. Schlegel, *Kritische Fragmente*, 112, in Behler and Eichner, 1.248.

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