

Borders of Violence

'Exceptional Space' as the Temporalization of Organized Domination

By Jason Adams

I. Introduction: Exceptional Space in an Exceptional Time

In the contemporary epoch of global deterritorialization, defined most succinctly as the triumph of virtual time over actual space, the defining lines of the 'citizen', the 'immigrant' and the 'indigenous' have become increasingly indiscernible, and the experience of statelessness, described by Hannah Arendt in the aftermath of the Second World War as the harbinger of the totalitarian, has spread to worldwide dimensions. Today however, the status of the 'stateless person' is somewhat more ambiguous, in a manner that it is both similar and dissimilar to those categories of bare life that were stripped of their legal status within the 'exceptional space' of the Nazi *Lebensraum*. Specifically, in 2004, the comparatively rare encounter with border police and the spaces they patrol is not usually a life-threatening experience for persons traversing the member nations of the *Schengenland*, as it had been for exiles such as Walter Benjamin, in his fatal attempt at escaping Vichy France in 1940. Yet the figure of the stateless *Homo Sacer* persists nonetheless; and in the increasingly violent age of imperial sovereignty, it is a status that is becoming more widespread than ever, particularly with the passage of anti-terrorist laws worldwide that effectively strip formerly 'national bodies' of legal status as such. While this paradox has certainly not gone undiscussed, I argue here that much of what has been considered, especially in regard to spatial transformations of political territory, remains conceptually vague and theoretically inadequate. For instance, according to one popular theory advanced by Peter Andreas, today it is primarily along a post-national, macroregional border that the stateless persons of the world converge in the attempt to transgress the 'Wall Around the West'. While this concept correctly imagines the erection of a new partition, it does so as one that continues somehow to function in a binary manner, simply separating the 'rich areas' of the world from the 'poor areas', as though political territory could still be defined spatially, bound unambiguously by the eastern and southern borders of the European Union and the southern border of the United States. Yet as powerful as this mapping of the violent foundation of contemporary territoriality certainly is, the way in which it continues to think of borders as the 'edge' of an internally homogenous sovereign power is still rather misleading. This is because in our time the perimeter itself is being internalized, externalized and globalized, not so much in the actuality of space as such, but rather in the virtuality of time, so that 'borders' can now exist both inside *and* outside of the territory, as well as along the outer limits of its purported domain. We can recognize these temporal partitions as such because the figure of 'the border', much like that of the *Homo Sacer*, represents not only the official separation of national populations, but also the apotheosis of the organized domination of the State, that mystical 'zone of indiscernibility' in which the police function is somehow unrestrained by democratic mandate. Indeed, I argue here that the border is the most visible example of what I call (expanding on the writings of Giorgio Agamben), 'exceptional space', those primarily temporal zones that exist both inside and outside of the official territory simultaneously, within which sovereign power may reign totally, violently and without question. The primary concern for this presentation however, will be to trace the genealogy of the tradition within political theory that has proposed that the State be understood as an institution of 'organized domination' that illegitimately claims a monopoly of violence within a political territory, yet I will begin not with the classical sociologist Max Weber, as many would be tempted to do, but rather with the earlier writings of the Christian-anarchist and novelist Leo Tolstoy, which he greatly admired. Indeed, I will argue that it was the tremendous force of his work that would ultimately provide the political-theoretical backdrop from which all subsequent elaborations on the violent foundations of territoriality would proceed, from the interwar writings of Max Weber, Carl Schmitt and Walter Benjamin, which could still assume that the borders of the modern State were unproblematically 'reigned in' by the monopoly on violence it enforced, to the postwar reformulations of Jacques Derrida and Giorgio Agamben, for whom this sequestered spatialization of sovereign violence no longer spoke to the conditions of an increasingly temporal world, in which 'new borders' were emerging that would extend the territorial

state of exception to every corner of the globe. To sum up then, this presentation will seek to challenge some of the conceptual and theoretical vagaries that continue to impoverish our understanding of the police function of the border, considering particularly the multiple potentialities of 'statelessness' both in this world and the one to come, by bringing this early Christian-anarchist understanding of sovereign power as an apparatus of organized violence into dialogue with the many critical-theoretical and poststructuralist formulations that have followed in its wake, in the hopes of more comprehensively illuminating the transformation of the violent foundation of political territory from spatial exception to temporal norm.

II. Violence of the Spatial

The commonly debated conception that 'government is violence' is typically ascribed by political theorists rather univocally to the figure of Max Weber, as though the idea had never been thought before he so elegantly laid out his own formulation in the early 20th century essay *Politics as a Vocation*. However what such assumptions ignore is that this conception had actually emerged first in the late 19th century, in the writings of the distinguished novelist and anarchist political theorist Leo Tolstoy, who held that the authority of the state rested on the legalized violence of the military and its affiliated institutions. Tracing the history of this emergence, Tolstoy argued that;

The more complex and the larger societies become, and especially the more often conquest becomes the cause of the amalgamation of people into a state, the more often individuals strive to attain their own aims at the public expense, and the more often it becomes necessary to restrain these insubordinate individuals by recourse to authority, that is, to violence. The champions of the social conception of life usually try to connect the idea of authority, that is, of violence, with the idea of moral influence, but this connection is quite impossible. The effect of moral influence on a man is to change his desires and to bend them in the direction of the duty required of him. The man who is controlled by moral influence acts in accordance with his own desires. Authority, in the sense in which the word is ordinarily understood, is a means of forcing a man to act in opposition to his desires. The man who submits to authority does not do as he chooses but as he is obliged by authority. Nothing can oblige a man to do what he does not choose except physical force, or the threat of it, that is--deprivation of freedom, blows, imprisonment, or threats--easily carried out--of such punishments. This is what authority consists of and always has consisted of. In spite of the unceasing efforts of those who happen to be in authority to conceal this and attribute some other significance to it, authority has always meant for man the cord, the chain with which he is bound and fettered, or the knout with which he is to be flogged, or the ax with which he is to have hands, ears, nose, or head cut off, or at the very least, the threat of these terrors. So it was under Nero and Ghenghis Khan, and so it is today, even under the most liberal government in the Republics of the United States or of France. If men submit to authority, it is only because they are liable to these punishments in case of non- submission. All state obligations, payment of taxes, fulfillment of state duties, and submission to punishments, exile, fines, etc., to which people appear to submit voluntarily, are always based on bodily violence or the threat of it.¹

It was against this spatialized background that Tolstoy argued against patriotism as being essentially the ritualized legitimation of the organized violence of the State, whether this consisted of the 'good' patriotism, which was at least ostensibly more concerned with the benefit of one's own people as opposed to the suppression of the other, or the 'bad' variety which was described as being primarily engaged with the project of imperialism and much less with that of self-determination as such. As he saw it, what these approaches to patriotism ignored was not only the way in which the spirit of the 'people' became impoverished in the process, but also the possibility of 'the brotherly union of all the peoples', which could be used to level the 'peculiarities' of customs, creeds and languages through which the organized violence of the national State maintained its force. While he conceded that these had once been necessary to the functioning of human societies in the times in which rather simple organizational forms predominated, in our time of overwhelmingly violent nation-states, his position was that they had summarily lost their *raison d'être*. Indeed, for Tolstoy, it is first and foremost upon the patriotic idea that 'all arbitrary power is based' and therefore if the organized domination of the State was to be overcome, patriotism, or the reification of imaginary national space, would be the first thing that would need to be challenged. But as he also noted, with the increasing globalization of economy, science and technology, rather than patriotism being undermined and replaced with the 'brotherly union' of statelessness, "this harmful and antiquated feeling not only continues to exist, but burns more and more fiercely".² As a result, at the same time that the State began to engage in international warfare in order to extend the reach of its organized domination, the whole technoscientific communications apparatus was thrown into motion so as to micromanage the thoughts and perceptions of the 'citizens' of both nations and even entire regions, pushing them either in the direction of frenetic patriotism or xenophobic Occidentalism. This temporalization of sovereign violence is accomplished in such a way that "not only those who are obliged to kill or be killed desire slaughter and rejoice in murder, but all the people of Europe and America, living peaceably in their homes exposed to no danger, are, at each war thanks to easy means of communication and to the press – in the position of the spectators in a Roman circus, and, like them, delight in the slaughter and raise the bloodthirsty cry, '*police verso*'".³

¹ L. Tolstoy, "The Kingdom of God is Within You" available: <http://www.kingdomnow.org/w-inyou07.html>

² Tolstoy, "The Kingdom of God is Within You"

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Here we get a taste of the temporalization of borders in the space of modern technology, but for Tolstoy, the violent foundation of the spatialized State and its relationship to patriotism was made most clear in the practice of conscription, through which it could legitimately control the bodies of its citizens to such an extent that it could even require them to both end the lives of others and to end their own lives in the name of the country. Beginning in Germany at the end of the 19th century and quickly spreading throughout the rest of Europe, Tolstoy held that it was the deadly combination that allowed for the success of the various colonial adventures, leading to a society of states in which “all Governments stand with their claws out and showing their teeth, and only waiting for someone to be in trouble, or become weak, in order to tear him to pieces with as little risk as possible”.⁴ Tolstoy recognized however that the nation-state was not the only form of territoriality to be based upon the monopoly of violence, since even the celebrated multinational ‘peace’ conferences such as that at the Hague, could be finally observed as nothing less than state propaganda occasions through which populations could be convinced that an ‘end to violence’ really was the common goal sought by what were in fact instruments of organized domination. For Tolstoy, this could never be achieved so long as the State or any other form of violence-based territoriality continued to exist, because these could not make any truly legitimate claims to ‘peace’; as he put it, “governments, to have a reason for existing, must defend their peoples from other people’s attack. But not one people wishes to attack, or does attack, another. And therefore Governments, far from wishing for peace, excite the anger of other nations against themselves. And having excited other people’s anger against themselves, and stirred up the patriotism of their own people, each Government then assures its people that it is in danger and must be defended”.⁵ Thus in order to get beyond a world of ever-increasing violence, Tolstoy held that the first accomplishment of any serious movement toward a more peaceful world must necessarily be the ending of ‘those instruments of violence which are called Governments’, accomplished first through the raising of popular awareness of the means through which through which patriotic complicity is brought about and then by an active withdrawal of this support. In the place of the State, which he says arose in the first place through the attainment of a monopoly of violence over and above all other social groups, Tolstoy argues that the more peaceful forms of relating which predominated in the alternative ‘statelessness’ before this event would ‘reemerge’; “the abolition of Governments will merely rid us of all unnecessary organization which we have inherited from the past, all organization for the commission of violence and for its justification [such that] the absence of the brutal power of Government, which is needed only for its own support, will facilitate a juster and more reasonable social organization, needing no violence”.⁶

Not surprisingly, Max Weber’s arguments agree to a remarkable degree with Tolstoy’s critique, particularly his famous argument that the State can be defined most succinctly as a “human community that successfully claims the monopoly of the legitimate use of physical force within a given territory”.⁷ Yet unlike Tolstoy, who at least recognized the temporal and global potentialities of organized violence, Weber emphasized the spatiality of the State’s territorializations, since as he held, it was only within its patrolled borders that its monopolized, organized, legitimized violence could hold its full force, extending the ‘right’ to employ violent means to institutions and individuals only to the extent that it deemed permissible.⁸ Indeed it was for this reason that Weber described the concept of the political as being not so much about ‘freedom’, ‘democracy’ and ‘good government’, but rather about the instrumental drive for unparalleled access to the ‘organized domination’ of the national-territorial State. This process is never simply accepted *en total* by the ‘population’, but is willfully legitimized in three specific ways; first through the appeal to respect for tradition, then through the appeal to the rule of law and finally through the exaltation of the charismatic personality. While Weber concurred that the ‘space’ of the mass liberal democracies was united through newspapers, telegraph and other territorializing media, as well as through the ability of elected representative to stir up emotion through this apparatus in a kind of ‘dictatorship resting on the exploitation of mass emotionality’⁹, never spoke of the violence of the regional or the global as did Tolstoy. He did however emphasize that it was the Protestant creed that obedience to sovereign power was a matter to be held separate from and unaffected by one’s religious faith that lead to a situation in which rather than ethics being a purely modern political question, in fact “it is the specific means of legitimate violence as such in the hands of human associations which determines the peculiarity of all ethical problems of politics”.¹⁰

Though Weber initially wrote in the service of Weimar Republic, while Carl Schmitt wrote primarily in the service of National Socialist Germany, both proposed a largely spatialized model of territory, the latter of which

⁴ Tolstoy “Patriotism and Government” available:

http://dwardmac.pitzer.edu/Anarchist_Archives/bright/tolstoy/patriotismandgovt.html

⁵ Tolstoy “Patriotism and Government” This observation can be usefully compared to Agamben’s argument that the State today works to produce a permanent state of emergency in order to legitimate its continued existence as a police state while the ‘nation-state’ concept has disintegrated in the face of the neoliberal consensus.

⁶ Tolstoy, “Patriotism and Government”

⁷ M. Weber (1946) “Politics as a Vocation” in *From Max Weber: Essays in Sociology* (Oxford: Oxford University Press, 1958) , 78

⁸ M. Weber , 78 Here he states that the reader should “note that ‘territory’ is one of the given characteristics of the state”.

⁹ M. Weber , 107

¹⁰ M. Weber , 124 He goes on to state: “He who wants to establish absolute justice on earth by force requires a following, a human ‘machine’. He must hold out the necessary internal and external premiums, heavenly or worldly reward, to this ‘machine’ or else the machine will not function”.

insisted that the concept of the specifically *national* State always presupposes the concept of the political, which presupposes the distinction by violence of who is to be considered friend and who is to be considered enemy. In particular, Schmitt described liberal democracies as being marked by the fundamental contradiction that, since the State is so heavily interpolated with the national civil society it makes possible, what is considered 'political' is typically limited only to affairs of State as such, while what is considered 'civil' - in other words, the vast majority of phenomena in everyday life - is not. This results in a strange situation whereby the State is popularly understood as representing the 'national will' of the whole of national civil society, yet precisely for this reason is not allowed to take action on its own behalf, with the result that the State becomes that much more powerful, because it is forced to conceal the violent activities it takes on in order to ensure its own spatial continuity. Perhaps the most outstanding of these actions is the task of defining of who is to be considered the 'public enemy', who can then be 'legitimately' subjected to the organized violence of the State; as Schmitt explains, this is because "only the actual participants can correctly recognize, understand, and judge the concrete situation and settle the extreme case of conflict. Each participant is in a position to judge whether the adversary intends to negate his opponent's way of life and therefore must be repulsed or fought in order to preserve one's own form of existence".¹¹ This is why he emphasizes that violence is the primary foundation upon which spatialized sovereign power relies, since it is this constant potentiality, this possibility of the sudden and violent distinction of what is to be considered *bios* and what is to be considered *zoe*, that presupposes the concept of the political in the first place. Thus Schmitt proclaims, "the friend, enemy and combat concepts receive their real meaning precisely because they refer to the real possibility of physical killing. War follows from enmity. War is the existential negation of the enemy...[and] as an ever present possibility it is the leading presupposition which determines in a characteristic way human action and thinking and thereby creates a specifically political behavior".¹² It is thus from the question of violence and the political that Schmitt proceeds to define what he means by the 'state of exception', which is that what is most important to really understanding the character of the spatiality inscribed through State violence is to pay attention not so much to the *norm* but rather to the *exception*, which he says always threatens to replace the norm, given the necessary circumstances.¹³

The work of Walter Benjamin also suggest the primacy of violence in the constitution of political spatiality, that is to say, in the constitution of sovereign power as modern territorial State. In fact Weber, Schmitt and Benjamin all consider in some detail the arguments of Georges Sorel, who held that the decline of sovereign power, and thus of organized violence in general, was inevitable with the arrival of the weapon of the proletarian general strike; Benjamin pointed out however, that "labor will always appeal to its right to strike, and the State will call this appeal an abuse, since the right to strike was not 'so intended' and take emergency measures".¹⁴ His argument was that this reveals the instrumentality of the violence at the core of sovereign space as well as how this differs from the proletarian general strike, which Benjamin insists is not really violent in any meaningful sense, since not only is its method not within this horizon, but its purpose is no longer lawmaking or law-preserving but rather the abolition of sovereign power itself, in order to bring about a new statelessness. In the place of the violent authorization of the State then, Benjamin suggests that what would emerge instead would be new forms of 'nonviolent agreement' based upon the similar kinds found throughout everyday life - indeed one might say that this was the most important achievement of his 1921 essay 'Critique of Violence'. Thus we can see how Benjamin, while retaining his problematic spatiality, essentially inverts Schmitt's formulation - which as we saw above, holds that it is the exceptional case of war rather than the norm of peace that reveals the foundation of sovereign power - since for Benjamin it is the exceptional case of the proletarian general strike rather that reveals the foundation of capitalist modernity. Another Schmittian example of this instrumental violence that Benjamin gives is that of the constant possibility of martial law that is written into the authorization of the military as the instrument through which sovereign power compels its borders of friend/enemy and norm/exception. In this sense then, military law and strike law are mirror-opposite exceptions and as such should speak to us about the real character of the norm itself; as Benjamin emphasizes, they are each perceived as a threat from the differing points of view of differing parties because they both contain the potentiality of the foundation of a new authorization to supplant the one that made them possible in the first place. This is what is meant by the distinction that is made in his work between the 'founding violence' that creates the law of the spatial State and the 'preserving violence' that maintains it. Thus in opposition to the entirety of what he summarily described as 'mythical violence', Benjamin juxtaposes the alternative of what he calls 'divine violence', which is ostensibly on the temporal side of God: "if mythical violence is lawmaking, divine violence is law-destroying: if the former sets boundaries, the latter boundlessly destroys them".¹⁵

¹¹ C. Schmitt The Concept of the Political (Chicago: Chicago University Press, 1996)

¹² C. Schmitt , 34

¹³ C. Schmitt , 35 "What always matters is the possibility of the extreme case taking place, the real war, and the decision whether this situation has or has not arrived. That the extreme case appears to be the exception does not negate its decisive character but confirms it all the more. To the extent that wars today have decreased in number and frequency, they have proportionately increased in ferocity. War is still today the most extreme possibility. One can say that the exceptional case has an especially decisive meaning which exposes the core of the matter. For only in real combat is revealed the most extreme consequence of the political grouping of friend and enemy".

¹⁴ W. Benjamin "Critique of Violence" in Reflections: Essays, Aphorisms, Autobiographical Writings (New York: Harcourt, 1979)

¹⁵ W. Benjamin , 297

III. Violence of the Temporal

Partially because of the problematic spatialized elements within the Weberian, Schmittian and Benjaminian formulations of the constitution of the political in the founding and preserving acts of violence, and partially because of the increasing degree to which the welfare state has finally degraded to the level of a 'spectral' police state, these questions have recently returned to the forefront of critical political discussion in the work of theorists such as the recently deceased Jacques Derrida and the still living Giorgio Agamben, each of whom arrive at quite different conclusions about their relevance to our time, yet both of which share many of the most outstanding critical elements found originally in the work of Tolstoy. Derrida, for instance, argues in an almost unmistakably anarchist fashion that "the authority of laws rests only on the credit that is granted to them. One believes in it; that is their only foundation".¹⁶ This is what he insists is necessary for thinkers in our time to comprehend before trying to grasp the real meaning of Benjamin's *Critique of Violence*; once this has occurred, it becomes clear that "since the origin of authority, the founding or grounding, the positing of the law cannot by definition rest on anything but themselves, [that] they are themselves a violence without ground".¹⁷ Rather than understanding this discovery that even law is deconstructible as negative, he argues like Tolstoy that what this means is that its code is suddenly opened up to contestation from all sides, which it is to say that the law itself is opened up to justice, that is to say, to deconstruction.¹⁸ If there is a desire to advance politically in any meaningful sense, Derrida reminds us that we must not only embrace the primacy of justice over law, but we must also be willing to take a decisive political stance; indeed "nothing seems less outdated to me today than the emancipatory ideal. One cannot attempt to disqualify it today, whether crudely or with sophistication, without at least some thoughtlessness and without forming the worst complicities...it is also necessary to re-elaborate, without renouncing, the concept of emancipation, enfranchisement, or liberation while taking into account the strange structures we have been describing".¹⁹ But in his reading of Benjamin's spatialized text, Derrida argues that it is mistaken in its embrace of the supposedly divine project of annihilating not only the mythical violence of the law itself but also justice and human rights, which finally brings it uncomfortably close to the logic of the 'final solution'. Indeed, he argues that "this 'revolutionary' essay (revolutionary in a sense that is at once Marxist and messianic) belongs, in 1921, to the great antiparliamentary and anti-*Aufklärung*' wave upon which Nazism will have, as it were, surfaced and even 'surfaced' in the 1920s and the beginning of the 1930's".²⁰ Thus we could say that Benjamin's critique of State violence finally returns to precisely the same logic that he sought to undermine with his 'revolutionary' pontifications; for Derrida it does not 'annihilate the law' but merely creates a new one in the ashes of the old, it does not undermine the mystical foundation of authority, but only mystifies the authority of its own refoundation. Yet this is not an antirevolutionary argument that is being made, rather it is one also seeks to problematize the similarly 'pure' separation of founding violence and preserving violence that is the ongoing project of the modern territorial state, arguing that here too, we discover a 'differential contamination' through which law as such can be questioned from the foundation of justice. It is in this direction that he argues that just as the State permits the right to strike to organized labor, it also permits the right to war to the military, which can be seen as one example in which the separations of founding violence and preserving violence become blurred temporally, since the form that it takes 'within the law' is often indistinguishable from those forms of violence that are considered to be 'outside the law'. Derrida explains this 'double bind' as such:

on the one hand, it appears easier to criticize the violence that founds since it cannot be justified by any preexisting legality and so appears savage. But on the other hand, and this reversal makes the whole worth of this reflection, it is *more difficult*, more illegitimate to criticize this same founding violence since one cannot summon it to appear before the institution of any preexisting law: it does not recognize existing law in the moment that it founds another. Between the two limits of this contradiction, there is the question of this ungraspable revolutionary instant, of this exceptional decision which belongs to no historical, temporal continuum but in which the foundation of a new law nevertheless plays, if one can say so, on something from an anterior law that it extends, radicalizes, deforms, metaphorizes or metonymizes – this figure here taking the names of war or general strike.²¹

Thus he argues that Benjamin does not sufficiently recognize the double-bind's functioning as a 'spectral mixture' of founding violence and preserving violence as found in the figure of the police, whose technologies of surveillance come to haunt the whole of everyday life (both inside and outside of the territorial State), and whose

¹⁶ J. Derrida, "Force of Law: The Mystical Foundation of Authority" in D. Cornell, ed. *Deconstruction and the Possibility of Justice* (London: Routledge, 1992), 240

¹⁷ J. Derrida, 242

¹⁸ J. Derrida, 243 Derrida has often stated that the one thing that cannot be deconstructed is justice, precisely because justice is deconstruction and 'deconstruction is justice' – that is to say, "deconstruction takes place in the interval that separates the undeconstructibility of justice from deconstructibility of law".

¹⁹ J. Derrida, 258

²⁰ J. Derrida, 259 At this point Derrida asserts that because the fascist theorist Carl Schmitt congratulated him for this essay that we should regard it with some suspicion for that reason alone.

²¹ J. Derrida, 274

practice involves not only the enforcement of the law but its continual invention and reinvention as such. Bringing to mind Agamben's critique of the state of exception, to which we will turn shortly, Derrida argues that furthermore, they "intervene whenever the legal situation is unclear to guarantee security – which is to say, these days, nearly all the time. The police are the force of law, they have force of law, the power of the law...where there are police, which is to say everywhere and even here, one can no longer discern between two types of violence – preserving and founding".²² This is what he calls 'the paradox of iterability' that is not only found in the example of the police, but throughout the State as such, as we discovered above; it consists of the fact that the original event is never singularly contained within itself but must be repeated *ad infinitum* simply in order to count. Derrida points out particularly that in contrast to earlier monarchical forms of government, where they were kept within particular limits since the 'police essence' was not hidden, in modern liberal democracies where this is kept under wraps, the police tend to become ever more dominant as a result of the unrestrained violence which they employ through hypermodern technologies such as 'necessary electronic chips', 'installation of invisible microphones', 'intrusion into computer networks', etc. Thus "the police become hallucinatory and spectral because they haunt everything; they are everywhere, even there where they are not, in their *Fort-Dasein*, upon which one can always call"²³.

Yet even if it is true that Benjamin lacks ethical refinement in his conception of divine violence, it is also true that Derrida's qualified defense of 'law', at least to some extent, lacks the radical critique of State power found in the writings of the former. Agamben on the other hand, while taking note of Derrida's findings, particularly his case that founding violence and preserving violence cannot be separated in an increasingly temporalized world, still finds considerable cause for hope in Benjamin and even seeks to extend some of his best arguments into the new 'territory' of an era in which, after the events of September 11 in particular, the state of emergency has ceased to inhabit the status of the spatial exception and has become the temporal norm instead. According to Agamben, this shift was particularly clear in the way that 'security' so quickly overtook discipline and law (the other two major instruments of government) in the years that followed; as he observed shortly into the fray, "while disciplinary power isolates and closes off territories, measures of security lead to an opening and globalization; while the law wants to prevent and prescribe, security wants to intervene in ongoing processes to direct them. In a word, discipline wants to produce order, while security wants to guide disorder".²⁴ Agamben's point in this assertion is essentially that as the traditional function of the State has begun to fall away with the coalescence of a global 'neoliberal consensus', security has become its primary activity, its most outstanding basis of legitimation, and thus the most outstanding rationalization of the 'spectral mixture' of police violence, both founding and preserving. When security becomes the focus of the State, spectacular acts of terrorism become functional rather than dysfunctional, and 'worldwide civil war' becomes the violent dance of complicity within which we are all forced to move, as Tolstoy had warned also. This is of course, how the state of emergency moves from exception to norm, because once the complicit circle of security and terror has been set into motion, post-national constellations of violence then attain the authorization to 'secretly work towards the production of emergencies' so as to legitimate this increasingly mystical foundation.²⁵ Thus it was against this background of increasing control and securitization that Agamben cancelled a series of courses he was supposed to teach in the United States in early 2004, citing as his cause the birth of the US VISIT program, which would require the fingerprinting of all foreign visitors to 'The Homeland', a process he described succinctly as 'biopolitical tattooing'. In taking this action, he hoped to inspire a wave of refusals by other Europeans to these instrumental techniques through which the citizens of supposedly 'friendly' democratic states could be so easily transformed into enemies, and through which, in other words, the spatial exception could so effortlessly become the temporal norm. His earlier warning that the world was quickly moving toward a deadly complicity of security and terror was thus confirmed with the arrival of this "new biopolitical era" in which "electronic filing of finger and retina prints, subcutaneous tattooing, as well as other practices of the same type"²⁶ increasingly demonstrate Benjamin's insight that governmental practices reserved for the most oppressed are eventually generalized to the entire population. The new biopolitical era then, begins first with the suddenly changed relationship to the visiting citizens of friendly states, then extends to the degradation of the status of so-called 'citizens' themselves, in the form of biometric identification cards and other technological devices, such that politics "no longer has anything to do with free and active participation in the public sphere, but concerns the enrollment and the filing away of the most private and incommunicable aspect of subjectivity... the body's biological life".²⁷ Thus Agamben's observation over one

²² J. Derrida , 277

²³ J. Derrida , 281.

²⁴ G. Agamben 'Security and Terror' *Theory and Event* 5: 4 (2002) available: http://muse.jhu.edu/journals/theory_and_event/v005/5.4agamben.html

²⁵ As quoted by Tolstoy above, "Governments, far from wishing for peace, excite the anger of other nations against themselves. And having excited other people's anger against themselves, and stirred up the patriotism of their own people, each Government then assures its people that it is in danger and must be defended".

²⁶ G. Agamben 'No to Biopolitical Tattooing' available: <http://www.truthout.org/cgi-bin/artman/exec/view.cgi/5/3249>

²⁷ G. Agamben : "No to Biopolitical Tattooing" Emphasizing the technological infrastructure that makes the new biopolitical era possible, he argues that "these technological devices that register and identify naked life correspond to the media devices that control and manipulate public speech: between these two extremes of a body without words and words without a body, the space we once upon a time called politics is eved more scaled-down and tiny".

decade ago that the political paradigm of the West was no longer to be discovered in the city-state of Athens but was instead located in the concentration camp of Auschwitz, is confirmed in the parallelism that is emerging today between the political tattooing of ineligible bodies at Auschwitz and the 'biopolitical tattooing' now required by the US VISIT Program in order to enter the Homeland. Just as Nazi Germany employed the American IBM corporation's pre-computer 'Hollerith Machine' to quickly sort through millions of numbered punchcards, most of which eventually corresponded with the tattoos inscribed on the bodies of camp internees, in order to industrialize the bureaucratic production of millions of deaths, today these same computer corporations are working with the Department of Homeland Security and the European Union to digitize the life-signs of the entire world population through the creation of a universal passport standard, which as Agamben warns us, will then create the necessary conditions for any number of new totalitarian potentialities yet to come.

IV. Conclusion: Dialectic of Statelessness

This presentation began with the notion that it is within the exceptional space of the border that the violent foundation of the State is revealed most visibly and that it is with its reinscription in time, achieved through the perpetual acceleration of transportation and communication technologies, that this violence becomes generalized throughout the world, thus bringing forth a new form of territoriality. As we saw, this 'global territoriality' is one that paradoxically produces statelessness as extensively as possible, so as to render ever-increasingly numerous bodies ineligible for protection through so-called 'human rights' laws. However, I would like to contradict the notion that this necessarily means that this trajectory is the only one available in our time, especially since it is this very process that in turn often produces within the population the desire for a 'new statelessness' in which community would no longer depend upon identity and politics would no longer depend upon violence. The two thinkers who have thought through the implications of such processes the most productively are Leo Tolstoy and Giorgio Agamben, each of whom consider the condition of statelessness produced by the hyperinflation of xenophobia and securitization in a technological age, as well as the ensuing possibility of a more fully emancipated society capable of existing without the State that could issue out of it. As the former argued, such 'utopian ideals' were not mere fantasies, but were actually constant potentialities, since "the abolition of Governments will merely rid us of all unnecessary organization which we have inherited from the past, all organization for the commission of violence and for its justification [such that] the absence of the brutal power of Government, which is needed only for its own support, will facilitate a juster and more reasonable social organization". Yet one cannot ignore that in Tolstoy's vision, such a process of social transformation would always involve a return to a simpler, more homogenous, more small-scale type of society, which would then be loosely federated with others of equal simplicity, homogeneity and scale, as what he termed a 'brotherly union of all the peoples'. Strangely enough then, while he sought to undermine the territorial violence inspired by the massification of patriotism, Tolstoy's formula paradoxically relies upon the demand that society never become 'too complex', since this will 'inevitably' lead to the rise of the State once again. However, the question then arises, if it is complexity itself that is being rejected in the name of moving beyond the homogenizing tendencies of political identity, perhaps it is also *differences* that are being dismissed at one and the same time, for as he describes it, as mentioned earlier, the imagined 'brotherly union' will ultimately sweep away all the 'peculiarities' of customs, creeds and languages.

This is in rather stark contrast with Agamben's more recent work on the radical pluralism of the 'whatever-being' that will be the figure of the 'Coming Community', a statelessness which requires at its most fundamental point that form of being which cannot be reduced to either a universal or a particular, but is always understood as an ungeneralizable singularity that exists beyond the confines of identity, one "which is neither particular nor general, neither individual nor generic". The whatever-being is thus a hybrid-being that exists both between and outside of categorizations and thus escapes the coding processes in which identities are imposed on bodies as machines of control. Such a being is demonstrated most eloquently, according to Agamben, in the figure of the refugee, who is "perhaps the only thinkable figure for the people of our time...in which one may see...[both] the forms and limits of a coming political community." Agamben's vision is powerful and resonant in our time because even though the figure of the whatever-being is not currently dominant politically, it is certainly ascendant and will only become more so with the continuing extension of globalization and temporalization, which demands the denationalization of bodies. Herein lies the paradox then; that it is precisely in a world in which the general movement of societies is toward "a single planetary bourgeoisie...which is the form in which humanity is moving toward its own destruction," (as seen quite clearly in the post-9/11 securitization process noted above) that a form of community that does *not* create a 'population' out of its inhabitants becomes possible for the first time. According to Agamben this community of singularities will not likely emerge through an entirely peaceful evolution as envisioned by Tolstoy, but rather by "a struggle between the state and the non-state (humanity)" which will be "mediated not by any condition of belonging, nor by the simple absence of conditions, but by belonging itself." Taking the deterritorialization process well beyond its own intentions, Agamben argues that today, "what the state cannot tolerate in any way, is that the singularities form a community without affirming an identity...wherever these singularities demonstrate their being in common...sooner or later the tanks will appear."

Thus we can see that a stark contrast has emerged between two thinkers who at first glance might have appeared relatively similar; while Tolstoy imagines a 'return' to the homogeneity of the simple, Agamben embraces instead the multiplicity of the complex, in such a way that could, both locally and globally simultaneously, actually incorporate the former's critique of the violence of political territory as well as the incorporated hysteria of patriotism as such, without succumbing to the logic of identity. Tolstoy cannot fathom this because he assumes as pre-given that once society reached a certain level of complexity, the inevitable consequence is always 'the amalgamation of the people into a state'. While they would both certainly agree that 'even under the most liberal governments' authority inevitably rests on the monopoly of violence within a given territory, Agamben had the added advantage afforded to him by the passage of time; because of his singular location in time and space, he is able to see with clearer eyes what the passage of the last two centuries had resulted in, such that question of how to bring forth a 'brotherly union of all peoples' beyond the old parochialisms that always inscribe patriotism over and above every difference could never be asked without first considering the related predicate, 'what is a people?' beforehand. Once this question was considered, it would become clear why such conceptions would become problematic, since the term always denotes both the enfranchised and the disenfranchised simultaneously, with the implication that any attempt to use it as though it only contained a singular, undifferentiated meaning was bound to lead to political frustration. As Agamben explains, this is ultimately because "the constitution of the human species into a body politic comes into being through a fundamental split and that in the concept of *people* we can easily recognize the conceptual pair identified earlier as the defining category of the original political structure: naked life (*people*) and political existence (*People*), exclusion and inclusion, *zoe* and *bios*. Hence the contradictions and aporias that such a concept creates every time that it is invoked and brought into play on the political stage. It is what always already is, as well as what has yet to be realized; it is the pure source of identity and yet it has to redefine and purify itself continuously according to exclusion, language, blood, and territory."²⁸ This struggle that has been identified between the 'two peoples' then, is one that ultimately confounds Tolstoy's simplistic call for a 'brotherly union' at precisely the same time that it reinforces his early and critique of patriotism as an inherently limited horizon of political possibility.

Perhaps by returning in a critical manner to the work of Benjamin then, we can gain some currency on how a transformation of this sort might become possible without necessarily reinscribing the logic of identity in the process; it was in his *Critique of Violence* that the parallel between the exceptional case of military law and strike law was first identified in significant detail, and it was out of this identification that he argued that the 'divine violence' of the proletarian general strike would finally bring to an end the 'mythic violence' of the State and its appropriated war machine. Yet because this conception would summarily excuse whatever violence might emerge in the process of achieving the desired ends of this 'new statelessness', we cannot simply dismiss Tolstoy's critique of the use of violent means for non-violent ends, nor can we just toss aside Derrida's observation that much of what Benjamin argued in this regard could be seen as being of a piece with the wave which brought Nazism into power. While the powerful method of the 'strike' - which can be usefully defined as the deliberate and massive withdrawal of routinized participation in the reproduction of everyday life - should not be forgotten or cast off as outdated talk of 'emancipation' either, perhaps the main problem is the rather particular category of 'proletarian' employed as an adjective in Benjamin's conception, just as the 'people' became a problem for Tolstoy. Because in both Tolstoy's use of the term 'people' and Benjamin's use of the term 'proletarian', the common issue is that what is actually a particular group of people is described in such a way that it is ultimately made to stand in for a universal, which is then in turn reduced to the logic of identity, with the result that the success of the general strike will only mean the rule of this particular group over all the other singularities that they subsume in the process, as suggested by Derrida. But what if the general strike was not one of identity, but rather one of difference, of singularities, in other words, a generalized refusal of participation, launched by humanity as such, as suggested in Agamben's image of 'a struggle between the state and the non-state'? In that case, the new statelessness imagined by the *people* subsumed under the *People* for whom the new territoriality is being brought forth, might actually become thinkable for all.

²⁸ G. Agamben "What is a People?" available: <http://www.16beavergroup.org/mtarchive/archives/000939.php>