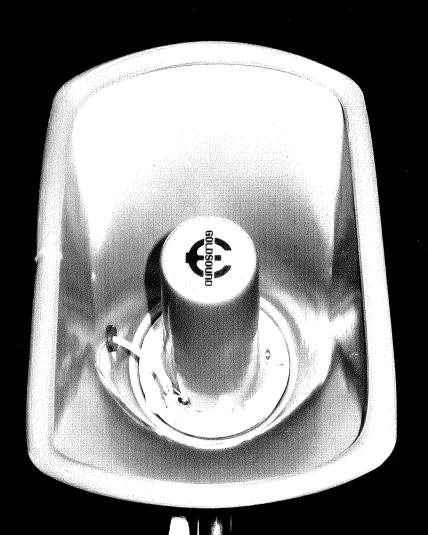# radical philosophy

Foucault   Agamben   Laruelle

Cannot one dream of a computer hypothesis?

RADICAL PHILOSOPHY
a journal of socialist and feminist philosophy

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SEPTEMBER/OCTOBER 2012

Intensified tenderness

Daniel Loick, *Kritik der Souveränität*, Campus Verlag, Frankfurt, 2012. 346 pp., €34.90 hb., 978 3 59339 514 2.

'Only when we lost control did we understand that we were succeeding.' With this remark, Ola Shahba concluded her fascinating account, at a conference earlier this year, of the preparations of multiple activist groups for the January 2011 demonstration on Egypt's Police Day. According to Daniel Loick, not only assessments of mass mobilization but also political philosophy in general would be well advised to embrace the logic of this not-at-all-ironical remark. Reserving the success of emancipatory politics for a moment when central control will fall into disuse and be surpassed, Loick firmly locates the actual irony elsewhere, at the heart of one of modern political theory's key categories: sovereignty. In *Kritik der Souveränität (Critique of Sovereignty)*, Loick pursues a suspicion which also drove the first generation of Critical Theorists: might not our seemingly most enlightened achievements turn out to prolong the violence they set out to abolish? Unlike Horkheimer and Adorno in *Dialectic of Enlightenment*, however, Loick is not faced with any singular or ultimate historical catastrophe that would underline his pessimistic diagnosis of reason's dialectical (non) success in history. His account therefore reverts to the concept of irony, understood as a situation in which the very means intended to prevent a certain mischief turn out to bring it about (not Alanis Morissette's 'black fly in your Chardonnay', but someone sinking with the ship they took out of fear of flying).

Loick uses the first section of his three-part book to examine four traditional theories of sovereignty. As the first to argue in favour of the monarch's right to override customary law, Jean Bodin established the conception of a sovereignty of the final appeal. However, this new flexibility of the social realm was secured by removing the position of the sovereign from contestation. Trying in turn to justify this status, Hobbes came up with a contractualism that rests on a notion of consent as being as voluntary as a signature at gunpoint. While Rousseau revolutionized the notion of sovereignty by placing the people in the position of the sovereign, the violent relation between ruler and subject recurs via the notion of the *volonté general* requiring absolute obedience. And although the priority of sovereignty is overcome in Kant's transcendental deduction of rights, which assumes the state as a subservient function to the sphere of law, Kant effectively eternalizes legal violence. By turning coercive power into an analytical feature of law, Kant closed the conceptual space Loick fervently attempts to reopen.

So, law, according to these analyses, proceeds like *Deadwood*'s Sheriff Bullock whom Loick portrays in the introduction to his book: Seth Bullock maintains legal sovereignty by quickly shooting the thief an enraged mob is about to lynch. This emblematic account nicely illustrates the argument and yet would need to be confronted with more twisted cases: don't we in modern civil societies cling to state, law and police precisely because we actually assume them, in most cases, to protect the life of someone about to be lynched by a mob? The central second part of the book thus works towards a much more detailed phenomenology of the downsides of the law. Entitled 'Critical Theory of Sovereignty', this section provides an impressive survey of a vast literature supporting Loick's project. Taking his cue from Benjamin's distinction between *rechtssetzende* and *rechtserhaltende Gewalt*, and weaving in the motifs of subsequent thinkers, Loick produces an elaborate taxonomy of the violences immanent to law. These accounts are brilliant contributions to exegetic discussions around a range of individual thinkers in their own right.

Loick's updated list of forms of legal violence contains five dimensions. First, he explores the question of 'law-founding violence' in a contrast between state-centred policies and the notions of emancipatory politics to be found in Marx and Arendt. The interesting rapprochement of those rather adversary thinkers traces how they both argue for a deposing of the sovereign hold over the sphere of politics – Marx in his critique of human rights as creating bourgeois atomistic individuals alienated from human species-being, and Arendt in her praise for non-instrumental, genuinely collective action which would be foreclosed by a division into sovereign rulers and obedient subjects. While Arendt and Marx point to problems with sovereign law as the medium of politics, Benjamin and Foucault are subsequently consulted to reveal the violence of the means needed to preserve and sustain the law. It is Benjamin's critique of the police which presses for a justification of the violence of means independent of the ends they serve – a perspective that informs the whole programme of *Kritik der Souveränität*. Foucault's analyses of govermentality, by contrast, are of ambivalent effect.

On the one hand, Foucault's concept of biopower, in its intertwinement with persisting structures of sovereign discipline, allows for an immense prolongation of the phenomenology of 'law-preserving' acts. Not only the penal code, or even the architecture of the prison, but also that of charitable housing project are aspects of the governing of a population. On the other hand, however, in proliferating sites of power Foucault also undermines any direct relinking of those aspects as functions of a sovereign centre. Foucault's historical analyses thus perform the task Loick aims to transport into political theory; namely, as Foucault himself put it, 'cutting off the head of the king'.

Giorgio Agamben, one of the most forceful contemporary critics of sovereignty, whom Loick reads in an agreeably measured way, provides the material for the third dimension: 'law-withholding violence' in the realms constitutively outside sovereign reach. Drawing upon Cover and Derrida, Loick then rehearses the argument that exposes the violence inherent in the interpretation of law: the procedural inevitability of a decision always forces the judge, at some point, to put an end to the process of reasoning which escapes any strict determination by the text of the law. Finally, Loick generalizes an argument made decisively by feminist thinkers like Wendy Brown and Catherine MacKinnon regarding the 'law-splitting violence' effected by abstract rules in different contexts of application – it is only (in the necessary scare quotes) 'equally' forbidden for men and women to have an abortion or for poor and rich people to sleep under bridges. Loick's insistence that a post-sovereign politics must also be post-masculinist is most promising. Nevertheless, feminist considerations might also highlight a certain source of discomfort here: how optimistic should we be that the undoing of law does not make room for a much vaster potential of violence, accumulated precisely within our non-codified norms, within language and relationality? *Kritik der Souveränität* nowhere claims that the end of legal violence would end all or at least most violence. But its overall appeal depends on the question of whether we can imagine a design of institutions for non-coercive mediation that do not automatically reproduce the victory of the pig-headed over the tender-hearted, or of the privileged over the precarious. Consequentially, then, the book inserts a short meditation on the 'problems of passage' – that is, the conundrum of a revolutionary struggle that creates the material conditions for a post-sovereign society without itself striving for sovereignty.

With all its constitutive violences in plain view, the deconstructed law still need not be rejected automatically. In Christoph Menke's recent book *Recht und Gewalt* (2011), for instance, Benjamin's critique is elaborated as revealing a necessary tension in our modern conception of law and his call to a de-posal of law is taken to suggest that we should, as such, henceforth use it with greater reluctance. Daniel Loick, to the contrary, proceeds to an idea of 'Critical Theory without Sovereignty' – the title of the last part of his book. It is via his reading of Cohen and Rosenzweig that Loick develops a tentative vision of the 'Before' and the 'Beyond' of sovereignty. Cohen already argued for the need to uncouple the Kantian notion of law from coercive power in order to make room for a truly universal conception of justice, unbound from any particular legal system and extrinsic motivations. In Rosenzweig's complementary proposal, the removal of legal coercion opens new sites for solidaric, life-worldly practices – or for what Loick calls an 'extremely intensified tenderness'.

Methodologically, Loick tries to root his project in the framework of his philosophical (or at least institutional) home: that of Critical Theory, defined by its adherence to the method of 'immanent critique'. The

assumption that we can, via rational reconstruction of their constitutive norms, deduce unfulfilled promises from the centre of our modern institutions seems to falter in this case despite Loick's best assertions. Did law ever promise a world without violence? Didn't it 'just' promise to replace random, uncontrolled violence with that of a legitimate sort? Has the utopian figure of Alexander the Great's battle horse Bucephalos, who found his new vocation in studying but never implementing the law – an allegory Loick receives via Benjamin from Kafka – not come from somewhere else? Loick's normative resources seem drawn rather from what Hannah Arendt called a 'hidden tradition', from the interstices of our theoretical heritage. It is the prospect of overcoming even the violence of means,

taken from Benjamin's 'Critique of Violence', which, opposed to traditional as well as critical accounts of sovereignty, opens up the space for a critique as radical as Loick's. This would make Loick even more Benjaminian than he admits, formulating a redemptive critique of the law (dissevering it from violence) by unearthing a strand of thinking precisely not of the historically victorious sort. Interestingly, Loick delineates this performative critical procedure very precisely in his exposition of Rosenzweig's *Star of Redemption*, where Rosenzweig confronts the Christian metaphysical heritage with an account of the 'heterotemporality' of Jewish life so as to shatter the former's presumed totality and make room for a renaissance of Jewish philosophy and practice.

The desideratum in the conclusion of *Kritik der Souveränität* is whether a law studied but not enforced could draw on any alternative force of bond. Loick touches on an intensified ethics (or rather *Sittlichkeit*) of care as well as on the illocutionary potential inherent to language use. Perhaps it is here that Loick would

be well served not to try and steer clear of genuinely anarchist thinkers. Elaborating on Kropotkin's notion of mutual agreement, for example, would tie the future to promises and yet is codified enough to still mark a distinction between post-sovereign law and morality. What Loick's own very tentative hints seem to point to can perhaps be illustrated by a return to Tahrir. The post-sovereign atmosphere during the occupation is described by the novelist and journalist Ahdaf Soueif as follows: 'Together, in the Midan, over the last four days, we have rediscovered how much we like ourselves and each other and, corny as it may sound, how "good" we are. I sneeze and someone passes me a tissue. And all the time the chants continue, the demands are articulated, opinions for the future discussed. It is not possible to say what will happen next.' It has been rather rare recently that books from within the tradition of the Frankfurt School have had a capacity to make us dream comparable to that of Loick's *Kritik der Souveränität*.

Eva von Redecker

Open country

At a time when ecologically related disasters continue to pervade the headlines, there has never been a greater demand for a comprehensive and sustained discourse on ecological ethics than today. While Mick Smith's *Against Ecological Sovereignty* does not make overarching claims to such comprehensiveness – indeed he would argue that such an attempt would be antithetical to his arguments – the book interacts extensively with the history of ethics and its contemporary ecological implications in productive ways. In doing so, it explicitly questions and tackles assumptions regarding the role of sovereignty in ecological ethics and politics, while simultaneously challenging broader, 'extra-ecological' conceptions of sovereignty. Ultimately, in fact, Smith's interactions with thinkers ranging from Plato to Giorgio Agamben lead him to formulate an ecological ethics that rejects *any* form of sovereignty – whether social, political or economic. For Smith, as long as the idea of sovereignty continues to dominate the political sphere through liberal policies and regulations – even if they 'benefit' such movements as the ecological movement in certain ways – a conception of

ethics and politics that strives to include a nonhuman nature can never be fully achieved.

Much of *Against Ecological Sovereignty* is centred on a critique of what Agamben terms the 'anthropological machine'. This, for Smith, is the foundational intellectual framework that provides the justification for human beings continuing to stratify and dominate what is deemed to be the non-human world; a mechanism of thought wherein 'the only feasible and rational approach towards valuing nonhuman nature is to espouse an enlightened self-interest'. Smith traces such a mechanism at work throughout the traditions of Western intellectual thought, suggesting, for example, that 'Plato's subtle admixture of myths and taxonomic exercises connect nature to politics and ethics even as they instantiate an early iteration of the anthropological machine'. Similarly, he notes the early connection established between nature politics and the anthropological machine. This critical connection between nature and politics is a necessary one for Smith's thought, in so far as he argues that all ethics and politics tend to become *ecological* ethics and