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Reinterpretations of St. Paul's Concept of Law

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Abstract

This article is at the intersection of law, philosophy, and theology. I examine the work of Giorgio Agamben and Alain Badiou on Paul’s Epistle to the Romans. Both approach Pauline law formalistically, but with very different ideas about what law is. Whereas Agamben sees continuities, Badiou sees breaks and ruptures, between law and ideas traditionally extrinsic to the realm of the juridical (grace, faith, love, etc.). But both apprehend a political significance of Paul to juridical thought within late modernity (postmodern and post-secular). I analyze their work, therefore, for its relevance to legal theory.

Introduction

The theme of this paper is the relationship between traditional discourses and new life, or new ways of being, in relation to them. Law and theology are, in a sense, two such “traditions,” and my paper will attempt to understand their interrelationship through the lens of two postmodern and “post-secular” philosophers. I am interested in how their philosophical responses to canonical theological texts – Paul’s letters – are both a reinterpretation of Pauline law and a method by which to extract a sense of law within the post-secular historical moment.

The philosophers’ interest in Paul might itself be characterized as a post-secular project. And legal theorists have also begun to ask: what has this conversation to do with us? If lawyers “do” law, and theorists think about the thought that is involved in practicing law, then the turn to theology (as with the turn to politics, society, culture, literature, or economics in previous moments of juridical self-reflection), is an attempt to

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understand both what the theological content of juridical thought is (or is not), and to
discover the juridical concept of law within theology as a means of discovering what law
is within the postsecular moment. Interdisciplinarity has helped law understand what, at
any point, is its content and its self-conception: law as politics, culture, economics; law as
law “all the way down”; etc. Thus, if we define postsecularism, rather broadly, as the
renewed interest in matters spiritual, law’s reflection on theology suggests an attempt to
think law both within and beyond these by-now “traditional” categories and disciplinary
axes. Thus, as a first posit, law’s conversation with theology is already an attempt to
wrest the new – indeed, a new concept of law – from the old.

Second, the postmodern turn to theology is evidence of a renewed interest, at the
global-political level, in the life of the spirit. Western philosophers have turned to an
older, pre-Enlightenment tradition as another stage in philosophical thought. For the
jurisprude, the question is whether, or to what extent, that stage is also a staging of the
juridical subject as a post-rationalist “life of the spirit” most evident within the discourses
on science and theology. That debate too is old, at least since the return of naturalism
with the Universal Declaration on Human Rights in 1948, but within the last decade or so
it has taken on a particular complexion.

As noted, I will examine two instances of this renewed interested in the
postsecular, each presenting a different view of the juridical subject as the repository of
certain ways of thinking about the capacity for political action within a world
characterized and ordered by legal, as opposed to some other (customary, economic, etc.)
relations. The two philosophers are Giorgio Agamben and Alain Badiou, each of whom
has written a book on the letters of St. Paul. I look at these philosophical works as they
look to theological texts in their quest for “the political.” Along the way, the philosophers characterize Paul’s relationship to law as integral to the development of a theory of the political actor. In each case, the political actor is a “juridical” subject, that is, a subject – like Paul himself – somehow defined, indeed determined, by law, whether in fidelity, opposition, or struggle.

My aim in this paper is to suggest that we, “within” law, can learn something from the philosophers and their grappling with these canonical theological texts, even as the philosophers elide the specifically religious content of the texts (or perhaps, more exactly, we can learn by this very exclusion of the religious from their philosophical projects). Just as we gained insights when theorists suggested that “law is economics,” or “law is politics,” so also we can gain a sense of what law is, within this current “post-secular” moment, as a kind of theology: the very struggle of the new, the political, is a deeply theological undertaking. Within the struggle, we may apprehend a fusion of law and faith and, with it, the risk of law itself as a postmodern and globalized project within the postsecular moment. Thus, despite the very different outcomes of the philosophers’ encounters with theology – for Badiou, law is traversed in order to yield the universal subject; for Agamben, law is fulfilled to yield the messianic subject – both underscore the need to look at thought, i.e. to look at tradition, as a necessary prerequisite for engagement in the political and juridical now.

Part I: Freud and Tradition

The first question, however, is: what is tradition? What makes Paul a traditional figure for the philosopher and, pari passu, for the legal theorist? What makes Paul the
“site” of struggle? For Agamben, Paul represents a tradition to be restored in order to create, or at least apprehend, the new. For Badiou, Paul represents the means by which one breaks from tradition in order to create, or at least enable, the new. Each will therefore see Paul and his own struggles with tradition through different lenses: did Paul break with Mosaic Law or did he fulfill it? What was Paul’s own relationship to tradition? Perspective becomes important in answering this question, and with it, investment. In short, Paul’s relationship to tradition is seen through the investments of the philosophers themselves. Thus, how the law – both Pauline and Mosaic – is apprehended may always be a function of utility. But this still begs the question: what is tradition?

One answer is provided by Freud in his latter work, *Moses and Monotheism*. In essence, Freud defines tradition as a creative and constructive project. It is borne of a past trauma, the memory of which is worked upon over time within the collective imagination, as in the following passage: “Incomplete and dim memories of the past, which we call tradition, are a great incentive to the artist, for he is free to fill in the gaps in the memories according to the behests of his imagination and to form after his own purpose the image of the time he has undertaken to reproduce.” Freud’s point here is that tradition, unlike history, is the return of latent and repressed memory. Thus, speaking of the reasons for the return, for the Jewish people, of the God of Moses after a long (thousand years) period of worshipping the local gods (the return of monotheism), he notes: “The Jewish people had abandoned the Aton religion which Moses had given

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3 Freud, Moses, 89-90.
them and had turned to the worship of another god who differed little from the Baalim of
the neighbouring tribes. All the efforts of later distorting influences failed to hide this
humiliating fact. Yet the religion of Moses did not disappear without leaving any trace; a
kind of memory of it had survived, a tradition perhaps obscured and distorted. It was this
tradition of a great past that continued to work in the background, until it slowly gained
more and more power over the mind of the people and at last succeeded in transforming
the God Jahve into the Mosaic God and in waking to a new life the religion which Moses
had instituted centuries before and which had later been forsaken.**4

The important (and latent) concepts embedded in this conception of tradition are
the central idea of form itself, and the “transformation” of one formal image into another
over time. The work of transformation, the act of the imagination, ensures that the
“return” of that which constitutes “tradition” – a new, formal image/\textit{imago} – will have a
powerful hold on the political being of a polity. The form it takes, its representability, is
juridical (Mosaic \textit{law} as and pursuant to the worship of God). Our job, then, will be to
see how a combination of trauma, repression, reaction-formation and powerful imagistic-
totemic resurgence leads to the formal conception of law \textit{as the representable}, and its
juridical subject as either universal or messianic. Even here, in Freud’s analysis of the
return of Mosaic Law, the return of repressed memory represents both a break from that
memory, on the one hand and, paradoxically or perversely, a continuity with it (the
murder of Moses\textsuperscript{5}; the distorted Egyptian origins of monotheism) on the other. And in

\textsuperscript{4} Freud, Moses, at 89-90. Freud adds: “That a dominant tradition should exert such a powerful influence on
the spiritual life of a people is not a familiar conception,” and so there is a need to locate the reasons for it,
which Freud proceeds to do by looking at the analogy in ancient Greece (the latent memory of ancient
Minoan-Mycenean civilizations, long since dead, that survive as “myth” within the epic poems of Homer et
al.)

\textsuperscript{5} Freud, Moses, at 53.
each case, memory’s resurgent form harbours a latent and inherent risk of the return of violence.\textsuperscript{6} We see this played out in the “conversion” narrative of Paul himself, at least to the extent that we agree with a Freudian reading of (and with it, an acknowledgement of our own investment in this perspective on) the nature and power of tradition.

\textbf{Part II: Paul and the Conversion}

In the Pauline conversion narrative, we see traditional tropes and elements: this may, following a Freudian reading, suggest the work of discordant and resurgent memory, its return as the conversion event creating the powerful conditions for an imaginative and transformational political enterprise, its impact resonating within the cultural-psychic memory (tradition) of the contemporary listener-readers. In this section, I want to look at a possible event that, at least within the formal schema of the biblical narrative, may have precipitated the later conversion event (or the call, as denoted – following Paul – by Agamben, but more on that later). In other words, the narrative within which the conversion is embedded identifies its symbolic or “traditional” status, its struggle ab initio with and within that tradition, i.e., its break/continuity with it. What happened on the road to Damascus, therefore, just as much as “what happened” in Canaan a thousand years after Moses’s death, has less to do with history per se and more to do with the power of tradition, conceptualized as resurgent memory, to found new life in the form of law (Pauline) and religion (Christianity).

\textsuperscript{6} Freud, Moses, at 52, on the textual transmission of history: “Two distinct forces, diametrically opposed to each other, have left their traces on it. On the one hand, certain transformations got to work on it falsifying the text in accord with secret tendencies, maiming and extending it until it was turned into its opposite. On the other hand, an indulgent piety reigned over it, anxious to keep everything as it stood, indifferent to whether the details fitted together or nullified one another. Thus almost everywhere there can be found striking omissions, disturbing repetitions, palpable contradictions, signs of things the communication of which was never intended. The distortion of a text is not unlike a murder. The difficulty lies not in the execution of the deed but in the doing away with the traces.”
The event or, more exactly, the narrative or situation, which precedes and perhaps precipitates the incident on the road to Damascus, is the stoning of St. Stephen at the gates of Jerusalem. This is described in The Acts, chapter 7. The story is well familiar. First, we find Stephen in chapter 6: “And Stephen, full of faith and power, did great wonders and miracles among the people” 6:8. Many wise men came to dispute with him, and the high priests “suborned men” who accused Stephen of speaking “blasphemous words against Moses, and against God” 6:11. A crisis ensued: “12 And they stirred up the people, and elders, and the scribes, and came upon him, and caught him, and brought him to the council, 13 And set up false witnesses, which said, This man ceaseth not to speak blasphemous words against this holy place, and the law: 14 For we have heard him say, that this Jesus of Nazareth shall destroy this place, and shall change the customs which Moses delivered us. 15 And all that sat in the council, looking steadfastly on him, saw his face as it had been the face of an angel.”

Stephen is asked to defend himself, 7:1 “Then said the high priest, Are these things so?” The next fifty-two or so versus are devoted to a long excursus into the history of the Israelites, from Abraham through to Moses, and then on to David and Solomon. Stephen ends with a stern rebuke: “51 Ye stiffnecked and uncircumcised in heart and ears, ye do always resist the Holy Ghost: as your fathers did, so do ye. 52 Which of the prophets have not your fathers persecuted? And they have slain them which shewed before of the coming of the Just One; of whom ye have been now the betrayers and murderers: 53 Who have received the law by the disposition of angels, and have not kept it.”

7 All biblical references, apart from those cited within other works, are taken from the King James Version.
Naturally, the people in council were incensed. “54 When they heard these things, they were cut to the heart, and they gnashed on him with their teeth.” Stephen, meanwhile, has a vision: “55 But he, being full of the Holy Ghost, looked up stedfastly [sic] into heaven, and saw the glory of God, and Jesus standing on the right hand of God, 56 And said, Behold, I see the heavens opened, and the Son of man standing on the right hand of God.” This was the sign for action: “57 Then they cried out with a loud voice, and stopped their ears, and ran upon him with one accord, 58 And cast him out of the city, and stoned him: and the witnesses laid down their clothes at a young man’s feet, whose name was Saul.” In my translation of the Bible, this brief verse has five cross-references. The ones for the casting out and the stoning are to Numbers 15:35 (a reference to Moses), to Matthew 21:39 (the parable of the wicked husbandmen), and to Leviticus 24:16 (ritual stoning for blasphemy). The reference for the “laying down of clothing” is to The Acts 8:1: “And Saul was consenting unto his death.” Later in the same chapter: “2 And devout men carried Stephen to his burial, and made great lamentation over him. 3 As for Saul, he made havoc [sic] of the church, entering into every house, and haling [sic] men and women committed them to prison.”

At face value, it would not seem as if the incident has had any ostensible effect upon Saul; he continues his depredations of the fledgling community unabated, acting in accordance with the law (Saul, by his own account, has been “taught according to the perfect manner of the law of the fathers, and was zealous toward God, as ye all are this day,” Acts 22:3. He adds, at 22: 4: “And I persecuted this way unto the death, binding and delivering into prisons both men and women”). But the point here is not to undertake a psychoanalysis of Saul/Paul, on the one hand, or biblical exegesis on the other, both of
which are beyond my competence and the scope of this inquiry. Instead, I want to point
to some literary and symbolic repetitions and resonances within the narrative in order to
highlight the formal framework at play, both for Paul himself and as such for what
becomes, of this experience on the road to Damascus, a “tradition” in its own right.

We skip, then, to chapter 9:1: “And Saul, yet breathing out threatenings and
slaughter against the disciples of the Lord, went unto the high priest, 2 desiring of him
letters to Damascus to the synagogues, that if he found any of this way, whether they
were men or women, he might bring them bound unto Jerusalem.” The rest is pretty well
known, but bears repeating: “3 And as he journeyed, he came near Damascus: and
suddenly there shined round about him a light from heaven: 4 And he fell to the earth,
and heard a voice saying unto him, Saul, Saul, why persecutest thou me? 5 And he said,
Who art thou, Lord? And the Lord said, I am Jesus whom though persecutest: it is hard
for thee to kick against the pricks.” After an exchange, Saul discovers that he is blind,
and is led by his men to a man named Ananias, who has already been instructed in a
vision to take Saul in despite the latter’s “evil” reputation. In that vision, God tells
Ananias why he must attend to Saul: the latter is the vessel to carry the message to the
Gentiles. There is an interesting aside to this encounter, recalling Freud’s suggestion of
the distortions inherent to de-repressed memory: in Paul’s later rendition of the event,
Paul fuses his encounter with Ananias’s vision: whereas in the version in Acts 9:10-16,
God tells Ananias his purposes for Saul, in Paul’s retelling in Acts 24:16-18, God tells all
of this to Saul himself.

The event on the road leads to a couple of symbolic resonances. First, Saul was
without sight, and fasting, for three days (9:9). This alludes to the death and resurrection
of Jesus himself. Second, when Ananias lays his hands upon him, the scene has allusions
to the original scene in the Garden of Eden, intimating again the monumentality of Saul’s
struggle and its significance: “17 And Ananias went his way, and entered into the house;
and putting his hands on him said, Brother Saul, the Lord, even Jesus, that appeared unto
thee in the way as thou camest, hath sent me, that thou mightest receive thy sight, and be
filled with the Holy Ghost. 18 And immediately there fell from his eyes as it had been
scales: and he received sight forthwith, and arose, and was baptized.” Third, the image
evoked by “kicking against the pricks”: this agrarian reference⁸ suggests that Saul’s
zealous defense of the law drives a wedge between himself and God, just as the ox’s
rebellion against the farmer causes the “prick” or goad to drive further into its flesh. In
other words, the image seems contradictory on its face. But this seems precisely the
point: Saul is not consciously rebelling, as the ox might be, but unconsciously. His very
obedience to law is causing a physical wedge, represented by the stoning of Stephen, as
well as a revolt within his own conscience which, unbeknownst to himself (denied,
repressed), causes him to suffer: “it is hard for you,” God says.

The meta-narrative references (to Mosaic Law, to the site of original sin) coupled
with this blind, embattled subconscious, suggest the construction of this narrative, i.e. as
the representation of a struggle taking place both elsewhere (within tradition) and within
the mind. As with the origins of Mosaic Law, this too is mytho-poiesis rather than
history. Paul himself seems to allude to this element of his story later when he speaks of
the “image” evoked through the contention between the “new” and the “old” law: he
notes, after speaking of his former obedience to (Mosaic) law as “veiled,” that under the

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⁸ For one interpretation of this farming reference, see, e.g.,
new dispensation (the gospel), that same law stands exposed and revealed, very much as he had stood on the road to Damascus: 2 Cor. 14: “But their minds were blinded: for unto this day remaineth the same vail [sic] untaken away in the reading of the old testament; which vail is done away in Christ. 15 But even unto this day, when Moses is read, the vail is upon their heart. Nevertheless when it shall turn to the Lord, the vail shall be taken away. 17 Now the Lord is that Spirit: and where the Spirit of the Lord is, there is liberty. 18 But we all, with open face beholding as in a glass the glory of the Lord, are changed into the same image from glory to glory, even as by the Spirit of the Lord.”

Here, the salient point is the transformative power of the image as that which represents, and frees us from, a veiled, blinded past. It has required the work of the imagination, a suffering subconscious that blindly “kicks against the pricks,” for the traditional law to be transformed and represented as an “open face.” Whether, however, that transformation is a break from the Mosaic tradition or its fulfillment within continuity, and what the politico-juridical consequences are for Pauline law under each interpretation, is the question that seems to animate the recent philosophical turn to Paul.

**Part III: Agamben: Law as Image**

Agamben’s enterprise in relation to Paul is restorative. He emphasizes continuities rather than breaks within that restored tradition. And the tradition is seen imagistically, as a question of formal structures. In the Acknowledgements, he notes that, “The ideas in this book,” his monograph on Paul, “developed over a series of seminars” at various European and US universities in the 1990s. “The form of the leading idea remained constant throughout each seminar: it always consisted in a
commentary *ad litteram*, in every sense of the word, on the first ten words of the first verse of the Letter to the Romans.” [ix] And at the beginning of the text, he states his purpose: “First and foremost, this seminar proposes to restore Paul’s Letters to the status of the fundamental messianic text for the Western tradition.” [1]. The question for us will be in how this view of tradition – as in need of restoration and onto-theological repair; as a formal, constant idea – will inform his interpretation of Pauline law and of law as such.

Although the work is structured around the first ten words within Paul’s letter to the Romans, Agamben makes much of another passage, 1 Cor 29, and the concept of “as not,” or “*hōs mē*,” in the Greek. This concept seems to encapsulate the relationship between Paul and Mosaic Law, on the one hand, and tradition and current practice, on the other. It defines the messianic, and thus its interpretation is the vehicle for Agamben’s restorative enterprise within the “incipit,” or preamble, to the Romans.

Agamben notes that, “Our hypothesis…presupposes that each word of the incipit contracts within itself the complete text of the Letter [to the Romans], in a vertiginous recapitulation. (*Recapitulation* is an essential term for the vocabulary of messianism, as we shall see later.) Understanding the incipit therefore entails an eventual understanding of the text as a whole.” [6, emphasis in original] He quotes the ten words, in Greek: “*Paulos doulos christou Iēsou, klētos apostolos aphōrismenos eis euaggelion theou*.”

Appearing to break with tradition, instead of translating “*doulos*” as “servant of Jesus Christ,” he opts for what he calls a “different scansion”: “Paul, called as slave of Jesus the Messiah, separated as apostle for the announcement of God.” [7]. This reinterpretation as an ex post recapitulation can be linked, analytically, to the *hōs mē* as
an a priori, or inherent (ontological), recapitulation of Paul’s interpretation of Mosaic law, and Agamben’s interpretation of Pauline law, as I hope to show in the following. The question will then become what significance this interpretive exercise seriatum may have for us here, as we consider the postsecular discourse on law (law and faith, law and theology, law and religion, etc.).

The immediate issue, within which the hōs mē passage is embedded, has to do with marriage: should one marry, or should one remain celibate?9 Paul seems to privilege one over the other (he ends up, in 1 Cor. 40, expressing an opinion favouring celibacy, but notes that it is only his “judgment,” adding coyly, “and I think also that I have the Spirit of God”); but in the end a hierarchy as such doesn’t really matter, or is rendered inoperative. The discourse on marriage follows a reflection on the nature of tradition and one’s duty to it, at 1 Cor. 18: “Is any man called being circumcised? Let him not become uncircumcised. Is any called in uncircumcision? Let him not be circumcised. 19 Circumcision is nothing, and uncircumcision is nothing, but the keeping of the commandments of God. 20 Let every man abide in the same calling [klēsis] wherein he was called. 21 Art thou called being a servant [doulos]? Care not for it: but if thouest mayest be made free, use it rather. 22 For he that is called in the Lord, being a servant, is the Lord’s freeman: likewise also he that is called being free, is Christ’s servant [doulos].” This discussion on tradition then ends with: “24 Brethren, let every man, wherein he is called, therein abide with God.” Paul then faces the fraught question of whether one should marry or remain a virgin (1 Cor. 25–40), at which point or rather within which he embeds the essence of the messianic turn, through the hōs mē, at 1 Cor. 29: “But this I say, brethren, the time is short: it remaineth, that both they that have wives

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9 1 Cor. 25 – 40.
be as though they had none; 30 And they that weep, as though they wept not; and they
that rejoice, as though they rejoiced not; and they that buy, as though they possessed not;
31 And they that use this world, as not abusing it: for the fashion of this world passeth
away.”

The restoration-recapitulation of the messianic as “fundamental” is thus
embedded within the everyday practice of worship, faith, custom, and fidelity to tradition.
It is rooted within a temporal view of that everyday-ness of fidelity as extremely
compressed. What is restored, then, is not conceptualized as something prior (i.e.
tradition) that “returns,” like a Freudian repressed memory of trauma, but something
immanent, recapitulative in both senses, i.e. “da capo,” from the top, as well as a re-
capping, a continual process of losing one’s head (acephalous) and regaining it, in the
instant. Messianic time is ad literatim truncated, suspended. It is an urgent time, a time
to be and to act in the now (“ho nyn kairos, the time of the now”\textsuperscript{10}).

In a sense, relating it to the previous discussion of Freudian memory, messianic
time is itself trauma time: being there, within it, and living out its urgency and its
distortions, its irreducibility to one or the other “thing” or state (circumcision or
uncircumcision; marriage or celibacy, Jew or Gentile). This “being there” forces the
subject to think through and by the trauma- (tradition-) time. Thus, tradition is not so
much an event that happened in the past, but that which constitutes and (re)iterates one’s
being in the now. Tradition does not give rise to the new; it is always and already the
new.

\textsuperscript{10} Giorgio Agamben, \textit{The Time That Remains: A Commentary of the Letter to the Romans}, trans. Patricia
Dailey (Stanford, 2005), at 2.
Inasmuch as the tradition here, as with Moses and with Paul in the previous discussion, is a series of legal injunctions and proscriptions, it seems clear that for Agamben, the messianic subject is onto-theologically a juridical being. The *hōs mē* – or living in the “as not” – seems to represent not a transcendence of law but its repair: “In the *as not*, in a characteristic gesture, Paul pushes an almost exclusively juridical regulation to its extreme, turning it against the law. What does it actually mean to remain a slave in the form of the *as not*? Here the juridical-factual condition invested by the messianic vocation is not negated with regard to juridical consequences that would in turn validate a different or even opposite legal effect in its place, as does the *fictio legis*. Rather, in the *as not*, the juridical-factual condition is taken up again and is transposed, while remaining juridically unchanged, to a zone that is neither factual nor juridical, but is subtracted from the law and remains as a place of pure praxis, of simple ‘use’ (‘use it rather!’)”\(^{11}\) Within that repair, which requires the law to be itself, unchanged, at once both excessive and inoperative,\(^{12}\) is an embedded vector of political potentiality – the form of a “messianic community,”\(^{13}\) as Agamben puts it – precisely within this restorative juridical-subjective project as a kind of overdetermined stasis.

I have suggested that this project is iconistic, that is, its central formalist abstraction seems to calibrate a certain iconography (literally, image-writing) and even to

\(^{11}\) Agamben, Time, 28 (italics in original).

\(^{12}\) Agamben, Time, 28-29: “Factual *klēsis*, set in relation to itself via the messianic vocatin, is not replaced by something else, but rendered inoperative….In this fashion, *klēsis* is laid open to its true use. This is the reason that the slave, as defined by Paul, is invested with a messianic vocation through the extraordinary hapax: *hyper doulos*, ‘super-slave, slave to the second power.’”

\(^{13}\) Agamben, Time, 2. This is not a utopic idea: “To be messianic, to live in the Messiah, signifies the expropriation of each and every juridical-factual property (circumcised/uncircumcised; free/slave; man/woman) under the form of the *as not*. This expropriation does not, however, found a new identity; the ‘new creature’ is none other than the use and messianic vocation of the old (2 Cor. 5:17: ‘So if anyone is in the Messiah, the new creature [*kainē ktisis*]: everything old has passed away; see, everything has become new’),” at 26-27.
hint at iconolatry. Agamben repudiates the new, and his conception of law is ontological, i.e., its trajectory is continuous, not in a linear but rather in a syncretistic-synchronic sense. It can be visualized as a fractal, endlessly dividing and reformulating.\textsuperscript{14} Indeed, it is less a division than a “cut” between Jew and non-Jew that leads to the formulation of the non-non-Jew, an endless “Apelles’ cut” that lends itself to the circularity of and within the \textit{as not}, leading inexorably to the “Just One” (just one) of Paul’s conversion-call (Acts, 22:14).

The theme of a visual articulation, so to speak, of the subject as a cut (one line) is carried over from his study of Paul to his analysis of “the open,” a Heideggerian concept that delineates the caesura between man and animal (what makes humans beings?), such as in the following passage: “…in our culture man has always been the result of a simultaneous division and articulation of the animal and the human, in which one of the two terms of the operation was also what was at stake in it. To render inoperative the machine that governs our conception of man will therefore mean no longer to seek new – more effective or more authentic – articulations, but rather to show the central emptiness, the hiatus that – within man – separates man and animal, and to risk ourselves in this emptiness: the suspension of the suspension, Shabbat of both animal and man.”\textsuperscript{15}

The emphasis here is on two themes: the not-new, and the emptiness/hiatus within which we “risk ourselves.” This is the not-new and the emptiness of a “letting be” of the subject, who “stands serenely in relation with its own concealedness; it lets it be outside

\textsuperscript{14} Giorgio Agamben, \textit{Time}, at 47 – 58 (on the “cut” of Apelles, and the concept of the messianic “remnant”).

\textsuperscript{15} Giorgio Agamben, \textit{The Open: Man and Animal}, trans. Kevin Attell (Stanford, 2004), at 92.
of being.”¹⁶ That is, the emptiness – and the subject in relation to it – is inherently dialectical and not transcendent-universal. We see the relationship between this passage and the messianic subject in the Pauline as not, the subject painted as a perfect line across an empty canvas: “…there is neither beginning nor end in Paul, only Apelles’ cut, the division of division, and then a remnant.”¹⁷

This messianic remnant as a dialectical and juridical subject (i.e. the interpretation of Pauline law as dialectical), is visualized or, more precisely, iconized, in two ways: according to a Christian iconography, and according to the abject figure of the Muselman (‘‘Muslim’’) of the camps.¹⁸ Thus, the iconization of the as not seems to relate back to Agamen’s so-called “homo sacer project,”¹⁹ and forward to the Christian (or more precisely Christological) iconography in his book The Open: Man and Animal.

¹⁶ Agamben, The Open, 91. Also note: “Thus, the supreme category of Heidegger’s ontology is stated: letting be. In this project, man makes himself free for the possible, and in delivering himself over to it, lets the world and beings be as such.”

¹⁷ Agamben, Time, 53. This passage is within the context of an argument between Agamben and Badiou on the latter’s “universalismo” and its intimations of transcendence: Agamben contests this with the concept of the “remnant,” the idea being that being is always dialectical, as evinced by the cut/division: “all that is left is a remnant and the impossibility of the Jew or the Greek to coincide with himself. The messianic vocation separates every klēsis from itself, engendering a tension within itself, without ever providing it with some other identity; hence, Jew as non-Jew, Greek as non-Greek,” at 53 (emphases in original).

¹⁸ Giorgio Agamben, Remnants of Auschwitz: The Witness and the Archive, trans. Daniel Heller-Roazen (Zone, 2002), at 47: “As suggested by [Primo Levi’s] ironically rhetorical Italian title Se questo è un uomo (literally ‘If This Is a Man,’ translated as Survival in Auschwitz in English), in Auschwitz ethics begins precisely at the point where the Muselmann, the ‘complete witness,’ makes it forever impossible to distinguish between man and non-man.”

¹⁹ The “homo sacer project” is comprised of three books: Homo Sacer: Sovereign Power and Bare Life (Stanford, 201); Remnants (op. cit.), and State of Exception, trans. Kevin Attell (Chicago, 2005). One author, Thomas Carl Wall, has described the project as follows: “The theses in Giorgio Agamben in his still expanding Homo Sacer project are, in part: (1) the original political ‘element’ is sacred life; (2) this sacred life, at one time defined as exceptional and excluded from public life, is now virtually coextensive with the political as a whole; (3) as such, as virtually coextensive with the entirety of the political, this sacred life is also virtually banalized (as in the banal expression “politics as usual”); and thus (4) it is the goal of sovereign power, in accord with the logic of the ban, to isolate and to actualize sacred life as banal in conformity to its classical definition as that life which can be killed but not sacrificed. Insofar as it is worthless, utterly banal, this life – nothing but bare life, or life purely insofar as it is political – falls outside any but legal language. There is nothing much to say about this bare life. (I am able-to-be-killed. So what?).” Thomas Carl Wall, “Au Hasard,” in Politics, Metaphysics, and Death: Essays on Giorgio Agamben’s Homo Sacer, ed. Andrew Norris (Duke, 2005), at 31 (emphasis in original).
The icon reiterates the sense of a fusion of elements and their constant division/cut; the effect is a conception of the law as (and as not) law “all the way down.”

It is a formalist idea and image of law. The formation is already evident in his discovery of Paul at the center of Walter Benjamin’s conception of messianism. Benjamin’s last works, which Agamben defines as “a kind of testamentary compendium of his messianic conception of history” are concerned with “one of the most enigmatic concepts in [his] later thought…the Bild, or image. It appears several times in the text of the Theses.” The image is “‘dialectical, in leaps and bounds.’”

Agamben continues: “Bild thus encompasses, for Benjamin, all things (meaning all objects, works of art, texts, records, documents) wherein an instant of the past and an instant of the present are united in a constellation where the present is able to recognize the meaning of the past and the present therein finds its meaning and fulfillment. We already found a similar constellation in Paul between past and future in terms of what we called a ‘typological relation.’” Thus, “in the Pauline letters the concepts of typos and anakephalaiosis, recapitulation, are tightly intertwined, together defining messianic time.”

The next move is to link, palimpsestically and dialectically, Agamben himself to Benjamin and then to Paul; this gesture, calibrated by the image, passes through a Christological/agnostic iconography, as in the following: first, Agamben reiterates both “a textual correspondence, and not merely conceptual correspondence, between the theses [of Benjamin] and the letters [of Paul].” Next, the link is salvific: “It will not come as a surprise then that the term redemption (Erlösung) – an absolutely critical concept in

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20 Agamben, Time, 141.
21 Agamben, Time, 141.
22 Agamben, 142.
23 Agamben, Time, 144.
Benjamin’s notion of historical knowledge – is the term that Luther uses to convey Pauline *apolytrōsis*, just as crucial to the Letters.”24 Third, the structure is juridical: “Whether this Pauline notion is Hellenistic in its origin (from the divine deliverance of the slaves, according to Deissmann), or strictly juridical, or the two together (which is most likely), in any case this orientation toward the past characteristic of Benjamin’s messianism finds its canonic moment in Paul.”25 It should be noted, of course, that the term “*apolytrōsis*” links the discussion of Benjamin here to Agamben’s discussion of Heidegger in *The Open*, where the invocation of the “*mandylion*”26 indirectly recalls the ritual of initiation into a Gnostic cult, reinforcing the view of redemption possible only in a state of “*agnoia*” (a kind of emptiness or openness)27

The main point here, though, is that an iconistic formulation of law has specific utility for Agamben, which is of a piece with his larger philosophical project; one could even say, therefore, that he literally adopts the Pauline injunction to “use it rather!” Thus, although Agamben takes extreme and detailed theological and philological care in his analysis of Paul’s letters, especially that to the Romans, Paul is fundamental to him as an articulation of a philosophical, rather than a theological or even juridical, problem.

Finally, then, the iconism links the Pauline interpretation to Agamben’s own *homo sacer* project which is nothing if not the global juridical subject in a state of crisis:

“Whatever the case may be, there is no reason to doubt that these two fundamental

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24 Agamben, Time, 144 (emphases in original).
25 Agamben, Time, 144.
26 Agamben, The Open, 92: “And if one day, according to a now-classic image, the ‘face in the sand’ that the sciences of man have formed on the shore of our history should finally be erased what will appear in its place will not be a new *mandylion* or ‘Veronica’ of a regained humanity or animality. The righteous with animal heads in the miniature in the Ambrosian do not represent a new declension of the man-animal relation so much as a figure of the ‘great ignorance’ [*agnoia*] which lets both of them be outside of being, saved precisely in their being unsavable” (italics in original).
27 Agamben, The Open, 91.
messianic texts of our tradition, separated by almost two thousand years, both written in a situation of radical crisis, form a constellation whose time of legibility has finally come today, for reasons that invite further reflection.”  

28 His reading of Benjamin, which is a restorative reading of Paul within Benjamin, and a restorative messianism within Paul as the “fundamental” text of Western thought, is the fulfillment of history even as his subject is the legibility of the icon within the now. Nothing new ensues, for, quoting Benjamin (and concluding therewith his discussion of Paul), he notes that, “‘image is that wherein what has been comes together in a flash with the now to form a constellation. In other words: image is dialectics at a standstill…The image that is read – which is to say, the image in the now of its recognizability – bears to the highest degree the imprint of the perilous critical moment on which all reading is founded.’ (Benjamin 1999a, 463).”

29 Agamben’s formalistic view of law is, at one level, similar to Badiou’s, that is, both of these late modernist or postmodernist philosophers see the legal category in relation to the subject in formal terms. But there the similarity ends. The iconism of Agamben’s form must then play a specific role beyond mere formalism. I suggest that the iconism enables Agamben to use Pauline law to apprehend modern law, in relation to tradition, in particular interested ways: law, seen as messianic, restores the tradition, rather as Mosaic Law was restored after thousands of years in the Baalimist desert. The juridical, restored ostensibly through an analysis of the Letters as the “fundamental messianic text for the Western tradition,” is also vindicated by that very restorative project. And vindication of the law is important for Agamben because of the capacity for

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28 Agamben, Time, 145.
29 Agamben, Time, 145.
redemption: an iconic, triumphant and perdurable “Veronica” can thereby, with all the weight of tradition behind it, be opposed to the ravaged and abject iconism of the Muselmann.

In short, Agamben uses Paul to oppose a “suspension of law” (state of exception) with a “suspension of the suspension.” The suspension of law is detailed within the homo sacer project (the exception produces the homo sacer, or “bare life”). The suspension of the suspension, or the as not, is represented by the “now-classic image, the ‘face in the sand’ that the sciences of man have formed on the shore of our history,” an image under erasure. Tradition as immanent within law puts its foot (or face) here in the now, in an attempt to staunch the increasing immanence of the camp as global nomos.

What is the risk of Agamben’s conception of law through this reinterpretation of Paul? What happens, in other words, when we take his advice and “risk ourselves in this emptiness” at the center of, or simply as, law? If a break with tradition/law is the evil to be prevented or warded against, then one risk is that continuity itself either elides or suppresses such a break. In other words, the emptiness of the as not risks occlusion: even as the as not permits us to see law as something other – faith, politics, grace, etc. – the as not also may occlude law itself, or may eradicate mediation. We risk the as not as a radical break from the as; the end of a dialectic may be the beginning of violence.

Finally, if the as not is the restoration of tradition, and if, following Freud, tradition is

30 Agamben, The Open, 92. The “Veronica” is the woman at the crucifixion who allegedly wiped Jesus’ face. The Latin meaning of the name is “true icon, bearer of victory.” Thus, as with much else, Agamben deploys a thick use of images and icons.
31 Examples of “bare life” in Homo Sacer: Sovereign Power and Bare Life and other of the books within the homo sacer project, include: refugees, internally displaced persons, detainees at Guantanamo Bay, overcomatose patients such as Kathleen Quinlan and Terry Schiavo, and passengers trapped within zones d’atteintes at airports. See also The Open, at 37-38.
32 Agamben, The Open, 92.
always a construct, an imaginative and invested distortion, of traumatic memory, then the risk of the *as not* may be the risk of a thin, painterly line between creativity and madness.

How does this conception, and this risk of law, differ from that offered by Badiou? Both, as noted, conceptualize law in formalistic terms, but where Agamben sees continuity, Badiou sees breaks and ruptures; where Agamben recuperates an ontology, Badiou imagines a miraculous new. And where Agamben conceptualizes the messianic and juridical subject, Badiou, as the following outlines, sees a subject that is universal and translegal. Agamben invites us to inhabit the “emptiness” of law; Badiou urges redemption ostensibly through political revolt, with all the risks of a recursive or discretionary violence that that may entail within the translegal state of grace.

**Part IV: Badiou: Law as Event**

Central to Badiou’s interpretation of Pauline law is his theory of the event. The event in question is Christ’s resurrection; what defines “law” for Paul is how Paul relates to that event. In general, the relationship between the event and tradition will be central to the conception of law. In the particular case, Badiou looks to Paul and his fidelity to the (or his, for it is immanently subjective) event as a paradigm of the production of the subject; that is, it is the event, the “it happened,” and not tradition, that produces a subject. Already, then, we see rupture with tradition, rather than the continuity with tradition that characterized Pauline law for Agamben.

One way of comparing Badiou’s conception of law with Agamben’s is to consider how the central trope in each is characterized: the *as not*, in Agamben’s interpretation, is represented as a line or cut that continuously divides to produce the subject as a remnant.
The event or “it happened” in Badiou can also be conceptualized as a line, but this one is transversal rather than interstitial (i.e., in the story of Apelles, the “cut” is an ever more perfectly drawn line in between other lines drawn by himself and the artist, Protogenes, in a competition\(^3\)). The event for Badiou cuts across other lines. It is a “son” in filial relation to traditional (patriarchal) lines. The conversion event is a break from the past, inasmuch as it traverses the two other knowledge-based trajectories: Greek philosophy (the logos), and Judaic law (the \textit{eidos}, or sign).

But the event imagined as a kind of line, then, is no more independent of the canvas (the “situation,” in Badiou’s term) upon which it is drawn than was Apelles’ cut in the previous discussion. It is, however, more abstractified, more scientific than iconistic, lending itself to a different conception of law. Here, rather than the cut representing the eternal consummation of law within its non-self-identity (i.e. as the \textit{as not}), the evental line represents the law’s temporal self-transcendence within the subjectivity of the event.

Paul is a representative figure for Badiou. Badiou does not set out to study his letters as a theologian. On the contrary, Badiou begins his analysis by setting out his secular bona fides: “For me, Paul is a poet-thinker of the event, as well as one who practices and states the invariant traits of what can be called the militant figure. He brings forth the entirely human connection, whose destiny fascinates me, between the general idea of a rupture, an overturning, and that of a thought-practice that is this rupture’s subjective materiality.”\(^3\)\(^4\) He also notes that “My intention, clearly, is neither historicizing nor exegetical. It is subjective through and through.”\(^3\)\(^5\) There is the question, nonetheless, whether a conception of law, taken through Paul and his fidelity to

\(^3\) See, e.g., \url{http://en.wikipedia.org/wiki/Apelles} for the story of the competition.
\(^5\) Badiou, Saint Paul, 2.
the framework of the “radically new” event, is not already contaminated, as it were, by theology and religion (tradition). How much, in short, is a formalist conception of the subject and, as such, the law, the achievement of a purely non-dialectical relationship to non-law (the latter characterized as “grace”)?

Badiou is not really interested in law, Pauline or otherwise, in his study of St. Paul. His questions are philosophical, and he sees Paul as a militant political figure whose fidelity to the event is paradigmatic of the revolutionary potential in any given moment in time. The event produces the subject as a political being; the event creates Paul. The event is through and through political, but only to the extent that it is nominated as an event and the group or the individual, like Paul, is utterly faithful to it, i.e. conversion as conviction.

Thus law *sensu stricto* as an institution and a discourse, along with all other substantive content within any historico-mythical occurrence or event, is largely irrelevant. Indeed, fidelity to the new, evental truth (of Christ’s resurrection, in Paul’s case) is demarcated as the repudiation of dialectical “truth” produced either by the logos (Greek) or the law (Judaic). In this very material sense, one can read Badiou’s Paul as antinomian. However, law as a structuration of thought, or law as formal framework and as the facilitator for the truth *procedure* that inheres in the event returns, as it were, as that traversing line, that displacement of thought from the normative political and juridical discourses. Law is the call to nomination and fidelity; without it, the call within the conversion event is meaningless. As Badiou notes elsewhere (in an essay comparing philosophy with psychoanalysis), “Political thinking always ruptures with the dominant state of things. In short, it ruptures with the State. And obviously, in order to do such
work, one must *enter into the situation*, one must meet people and enter into discussion with them; one must exit from one’s proper place. Political thinking demands a *displacement*, a journey which is always, dare I say, abnormal…Politics is disinterested, like science.”

Law, as such, is irrelevant to the acclimation of a political truth, but seems to operate as the *sub rosa* mediation between subject and situation such as to facilitate the nomination of the latter by the former as a truth-event.

The second thing to note is that Badiou’s enterprise, like Agamben’s, is restorative: “our project: to refound a theory of the Subject that subordinates its existence to the aleatory dimension of the event as well as to the pure contingency of multiple-being without sacrificing the theme of freedom…” But unlike Agamben, for whom time is compressed and collapsed, Badiou is sensitive to the temporal and historical gap between himself and Paul: “Paul is a distant figure in a threefold sense: his historical site; his role as Church founder; and his provocative centering of thought upon its fabulous element” (i.e. the resurrection, as Badiou puts it, is the “element of fabulation [*point de fable*]” to which Paul “reduces the Christian narrative, with the strength of one who knows that in holding fast to this point as real, one is unburdened of all the imaginary that surrounds it”).

As such, Paul becomes the vehicle, precisely through the distance – which seems to act as a purifying agent – as the mediation for restoring the universal subject: “We are duty-bound to explain why we are investing this distance with the weight of a philosophical proximity, why the fabulous forcing of the real provides us with mediation

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38 Badiou, *Saint Paul*, 4-5.
when it is a question of restoring the universal to its pure secularity, here and now.”

What gets produced by this process of “connection” is the disaggregation of each element within the process: “a subject without identity and a law without support.” Thus separated and abstractified, the process “provides the foundation for the possibility of a universal teaching without history itself.” Truth is this process of “subtracting” from every contingency: “the communitarian grasp, be it that of a people, a city, an empire, a territory, or a social class. What is true (or just; they are the same in this case) cannot be reduced to an objective aggregate, either by its cause or by its destination”

The event is this process of separation leading to truth, or justice. The theme of the event itself as a void, like the temporal distance or the gap between subject and identity (or law and institution), is reiterated in the conversion narrative as a caesura, necessary to “separate each truth procedure from the cultural ‘historicity’ wherein opinion presumes to dissolve it.” Hence, it is only through the singularity of the conversion event that Paul becomes a subject: “Whenever Paul addresses his writings, he always draws attention to the fact that he has been entitled to speak as a subject. And he became this subject. He became it suddenly, on the road to Damascus.”

The conversion itself is described as “a thunderbolt, a caesura, and not a dialectical reversal. It was a conscription instituting a new subject: ‘By the grace of God I am what I am [eimi hō eimi]’ (Cor 1.15.10). What this absolutely aleatory intervention on the road to Damascus summons is the ‘I am’ as such.” But there is an important limit to the aleatory nature of the event, as Badiou notes immediately following this

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39 Badiou, Saint Paul, 5.
40 Badiou, Saint Paul, 5.
41 Badiou, Saint Paul, 6.
42 Badiou, Saint Paul, 17 (emphasis in original).
description of the conversion: “Clearly, the encounter on the road mimics the founding event. Just as the Resurrection remains totally incalculable and it is from there that one must begin, Paul’s faith is that from which he begins as a subject, and nothing leads up to it. The event – ‘it happened,’ purely and simply, in the anonymity of a road – is the subjective sign of the event proper that is the Resurrection of Christ. Within Paul himself, it is the (re)surgence [(ré)surrection] of the subject. This is the exemplary matrix of the link between existence and doctrine, for Paul draws from the conditions of his ‘conversion’ the consequence that one can only begin from faith, from the declaration of faith. The sudden appearance of the Christian subject is unconditioned.” Furthermore, Paul “does not seek ‘confirmation’ for the event that appoints him in his own eyes as an apostle. He leaves this subjective upsurge outside every official seal.”⁴³

Three things are evident in these passages: first, that fidelity to the event as a process of subjectivation must be delinked from the law and other historicist and legitimizing official discourses. Second, the event is an echo, the mimic and restoration of an originary or pre-legal existence of the subject prior to subjectivation. Even as the event is an “upsurge,” it is not “ex nihilo” since it depends upon an historically specific context. To the question: what traces, then, are carried over within the evental process of subjectivation? The answer will be: purely formal elements. Thus, the third observation: despite the ostensible break or rupture with the law, and despite the insistently antinomian separation of law and grace – indeed, Badiou has a chapter entitled “Paul against the law” – the process of subjectivation through the resurgence of the subject within the void or distance of the event is itself a juridical, or juridico-formalistic, undertaking.

⁴³ Badiou, Saint Paul, 17-18.
Badiou makes this point clear in the aforementioned chapter. After delineating the “four concepts coordinating a subject’s fundamental choices: *pistis* (faith) and *ergon* (work); *kharis* (grace) and *nomos* (law),” he notes that “The subjective path of the flesh (*sarx*), whose real is death, coordinates the pairing of law and works. While the path of the spirit (*pneuma*), whose real is life, coordinates that of grace and faith. Between the two lies the new real object, the evental given, *traversing* [my emphasis] ‘the redemption which is in Christ Jesus,’ passing through *dia tēs apolutrōseōs tēs en Khrístōi Iēsou* (Rom. 3.24).” The choice of word, “apolytrosis” (redemption) highlights the ritualistic and formal nature of the procedure, corroborating Badiou’s basic quest for “A philosophy which is a rational intertwining of the event and of truth. A philosophy open to chance, but a chance submitted to the law of reason”; that is, “a philosophy maintaining unconditional principles, unconditional but submitted to a non-ideological law.”

In effect, it is law at the purest, formalist level, law as “the ideal of the matheme,” that governs the new coming into being of the subject. Thus, to the question: “But why is it necessary to reject law onto the side of death?” Badiou answers: “Because considered in its particularity, that of the works it prescribes, the law blocks the subjectivation of grace’s universal address as pure conviction, or faith. The law ‘objectifies’ salvation and forbids one from relating it to the gratuitousness of the Christ-event.” As such, the event is, by itself, an “illegal contingency, which causes a multiplicity in excess of itself to come forth and thus allows for the possibility of

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44 Badiou, Infinite, 42.
45 Badiou, Infinite, 67.
46 Badiou, Saint Paul, 75.
overstepping finitude."\textsuperscript{47} The evental situation, before subjectivation, is the site of “the excess of grace, thus, of a pure act,” i.e. the resurrection.

Although Badiou addresses a philosophical-political question in his analysis of Paul and the law, what comes through the apparent antinomianism of the message is, unexpectedly – as if to corroborate the very evental process he describes – the reanimation of law in a different guise. That is, in the truth-event, there is not a rejection or repudiation of law sensu stricto, but its realignment, rearrangement, to effectuate the resurgence (resurrection) of the subject. Hence, the coming into being of the subject depends upon a procedure, that is, a kind of formal law that is transversal, and that cuts across all historical and existential relations: law \textit{as}, or on the order of, the event rather than law on the order of being, the latter always and already in dialectical relation with desire and death.

This suggests both the newness and the fabulistic nature of the de-centered or transgressive subject tied to the event as the site of its production. That the subject is “resurrected” is an index of the non-dialectical nature of its subjective universal singularity (the One). “For Paul, the figure of the chiasmus death/life, coordinated by the law, can be raised up, which is to say, permutated once again, only through an implacable operation bearing on death and life, and this operation is resurrection. Only a resurrection redistributes death and life to their places, by showing that life does not

\textsuperscript{47} Badiou, Saint Paul, 81. For a sense of the meaning of “multiplicity” within this context see, e.g., Badiou, Infinite, “Introduction,” at 15, on the distinction between ontology, which is “the formal language f set theory,” and “the discourse on meta-ontology, that is, a translation of set theory’s axioms and theorems into philosophical terms. Thus for every set-theoretical term, there is an equivalent in the discourse of philosophy. For example, a set is spoken of in meta-ontology as a ‘multiplicity,’ a ‘situation’ or a ‘presentation.’”)
necessarily occupy the place of the dead.” Resurrection, the “point de fable,” is the re-
permutation of the chiasmus, raising it up to a new order.

Law thus conceived, i.e., as rigorously non-dialectical and transversal, enables the
truth through its purely formal-mediatory procedure. It operates rather like mathematics,
inasmuch as in the matter of life and death, or as a “resurrection,” it “obeys the ideal of
formalization.”

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There are several critiques of such a hieratic conception of law, of course, one of
which is that it holds the risk of a resurgence of the flesh (sarx), per Romans 7:7, i.e., that
within the immediation of the event, the field of the mediate (law, institution, church) that
is traversed shadows the subject thereby produced. The abnormality of the event must
needs “return” to normalcy, either by a counter-insurgency of the State (e.g. following the
Paris Commune), by cooptation and inner betrayal (the example Badiou provides is that
of the saintliness of Paul curdling into a priesthood49), or by relapsing into a previous
discourse.50 “That the event is new should never let us forget that it is such only with
respect to a determinate situation, wherein it mobilizes the elements of its site.”

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There are philosophical and ideological risks to a formalist conception of law that
essentially depends upon a philosophical quest for the “ideal of the matheme” involving,

48 Badiou, Infinite, 67.
49 Badiou, Saint Paul, 38-39 (describing Pasolini’s script for a never-made film of Saint Paul, based in New
York c.1960s): “The principal aspect in this trajectory gradually becomes that of betrayal, its wellspring
being that what Paul creates (the Church, the Organization, the Party) turns against his own inner
saintliness,” which begs the question: “How does genuine saintliness (which Pasolini unhesitatingly
recognizes in Paul) bear the ordeal of a History that is at once fleeting and monumental, one in which it
constitutes an exception rather than an operation? It can only do so by hardening itself, by becoming
authoritarian and organized. But that hardness, which is supposed to preserve it from all corruption by
History, reveals itself to be an essential corruption, that of the saint by the priest. It is the almost necessary
movement on an internal betrayal. And this internal betrayal is captured by an external betrayal, so that
Paul will be denounced.”
50 Badiou, Saint Paul, 53: “By granting to the fourth discourse (mysticism) no more than a marginal and
inactive position, Paul keeps the radical novelty of the Christian declaration from relapsing into the logic of
signs and proofs” (i.e. Judaic and Greek discourses of knowledge).
51 Badiou, Saint Paul, 25.
as it does, a traversal of knowledge on the order of being: the logos and the sign.

Agamben, for one, insistently ontological, suggests that Badiou entirely omits the messianic foundation of Paul’s message, and as such falls prey to the lure of the Statist discourses Badiou allegedly repudiates. 52 The risk there, then, is that one is faithful to an event that produces bad law, e.g., Nazism. 53  Zizek goes further, and asks: “what if what Badiou calls the Truth-Event is, at its most radical, a purely formal act of decision, not only not based on an actual truth, but ultimately indifferent to the precise status (actual or fictitious) of the Truth-Event it refers to? What if we are dealing here with an inherent key component of the Truth-Event – what if the true fidelity to the Event is ‘dogmatic’ in the precise sense of unconditional Faith, of an attitude which does not ask for good reasons and which, for that very reason, cannot be refuted by any ‘argumentation’?” 54

Badiou might respond that “not every ‘novelty’ is an event. It must further be the case that what the event calls forth and names is the central void of the situation for which this event is an event. This matter of nomination is essential,” he suggests, and as such, Nazism is in fact the opposite of an event: that so-called ‘‘event’ is supposed to bring into being, and name, not the void of the earlier situation, but its plenitude – not the universality of that which is sustained, precisely, by no particular characteristic (no particular multiple), but the absolute particularity of a community, itself rooted in

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52 Agamben, Time, 51-52: “This is how, in the book just referred to, Badiou is able to think about Paul’s universalism as ‘benevolence with regard to customs and opinions’ or as an ‘indifference that tolerates differences,’ which then becomes ‘that which must be traversed in order for universality itself to be constructed’ (Badiou, 98-99). Despite the legitimacy of concepts such as ‘tolerance’ or ‘benevolence,’ which in the end, pertain to the State’s attitude toward religious conflict (one can see here how those who declare their wanting to abolish the state are often unable to liberate themselves from a point of view of the stat), these concepts are certainly not messianic.”

53 Slavoj Zizek, The Ticklish Subject: the absent centre of political ontology (Verso, 2000), at 143: “From a Hegelian standpoint there is a deep necessity in [determining the question of what is a Truth-Event and what is its “mere semblance”], confirmed by the fact that in our century the philosopher who provided the definitive description of an authentic political act (Heidegger in Being and Time) was seduced by a political act that was undoubtedly a fake, not an actual Truth-Event (Nazism).”

54 Zizek, 144 (emphases in original)
characteristics of its soil, its blood, and its race.” As such, “When a radical break in a situation, under names borrowed from real truth-processes, convokes not the void but the ‘full’ particularity or presumed substance of that situation, we are dealing with a simulacrum of truth.”

If an event is a “totally disruptive occurrence which has no place in the scheme of things as they currently are,” then Law as we know it – as Paul knew it to be – is as such necessarily repudiated. But I have argued that Badiou goes further in his study of Paul; as he focuses his gaze on the conversion as an echo of a prior, sacred event as the site for working out a secular philosophical problem, he has seemed to intimate the very possibilities for law itself. With the nomination of the truth-event and the formalistic order of its juxtaposition against being, what ensues, I suggest, is the risk of the resurrection of the new within the “‘space of compossibility’ for all contemporary fidelities,” the risk that law is this compossibility, this amalgamation of faith and chance. And this mediation between spirit and flesh, whether Pauline or modern, happens pursuant to the event; it happens notwithstanding the postmodern dogma, or fear, that “nothing really happens.”

Part V: Law as Faith

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58 Zizek, at 135: “The fundamental lesson of postmodernist politics is that there is no Event, that ‘nothing really happens,’ that the Truth-Event is a passing, illusory short circuit, a false identification to be dispelled sooner or later by the reassertion of difference or, at best, the fleeting promise of the Redemption-to-come, towards which we have to maintain a proper distance in order to avoid catastrophic ‘totalitarian’ consequences; against this structural skepticism, Badiou is fully justified in insisting that – to use the term with its full theological weight – miracles do happen…”
Within the brief compass of this essay it has not been possible to do full justice to the dense complexity of thought of the philosophers themselves or their relationship to their subject, Paul. What has interested me is whether their secular address to a canonical religious text within the context of a post-secular historical moment has had anything to say to lawyers, or the law. I will end where I began: with the idea that since post-secularism is a historical moment marked at least in part by a (re)turn to the “ruins” of tradition (modernity’s grand narratives; religious belief and ritual; a sense of the sacred; etc.), the recuperative and restorative effort can be compared in some sense to a de-repression of post-modernity’s suppressed – and traumatic – memory. Thus, Agamben’s restoration of messianism, or Badiou’s “restoring the universal to its pure secularity, here and now,”59 can themselves, as with Moses and Paul within the previous discussions, be explained in psychoanalytical terms, which then begs the question how law is conceptualized pursuant to those analyses or de-repressions (law itself, within the narratives of Moses and Paul, being the “recovered” memory of trauma retranscribed as tradition/law).

But if we are not persuaded by a Freudian interpretation of the political and philosophical projects of Agamben and Badiou, it is still interesting to see what these thinkers do with the material that constitutes the “tradition” which, in its deeper meaning, is ancillary to memory, myth, and poiesis. Badiou himself seems to gesture, perhaps dismissively, in that direction when, faced with the question why he should be interested in Paul, he says, “the crucible in which what will become a work of art and thought burns is brimful with nameless impurities; it comprises obsessions, beliefs, infantile puzzles,

59 Badiou, Saint Paul, 5.
various perversions, undivulgeable memories, haphazard reading, and quite a few idiosyncrasies and chimeras. Analyzing this alchemy is of little use."\textsuperscript{60}

Both Agamben and Badiou nonetheless highlight the risk involved in a reinterpretation of Paul for a secular purpose; at this level, despite the ostensible exclusion of theology as itself the production of truth, they seem still to be haunted by it, and by the community of faith that is intimated within their formalist and universalist schemas. In a sense, this marks their projects, at least in relation to Paul, as both postmodern and post-secular. That is, if the postmodern is characterized as a critique and a refusal of law as “merely” institutional disciplinarity per the discourses of politics, morality, sociology, sexuality, and so on, then a similar refusal of the theological frame (as ultimately irrelevant to a larger secular project) through which the postsecular returns to formalism marks that project also as postmodern.

But the philosophers, within both their recuperations and their refusals, tell us something about the juridical discourse within the postsecular that adds to a postmodern critique. Badiou allows us to see law in two guises: first, as the institutional framework into which an evental truth has curdled in order to protect itself (its inner, and vulnerable, truth-justice that is ever elusive but always \textit{in potentia}). Second, the juridical is an idea (ideal) of law as the presentation or the real of justice (truth) through the intervention or nomination of the event; this too is vulnerable to the absolutely aleatory nature of the event as grace. The translegal subject is juridical by faith, as it were, rather than by works. Agamben’s messianic subject is also a juridical subject whose faith resides in a reconciliation between tradition and the now. That is, Agamben invites an apprehension of law (the \textit{as not} seeming to evolve into more, rather than less, law) as the necessary

\textsuperscript{60} Badiou, Saint Paul, 2.
bulwark against the sovereign decisional fusion of law and exception. Within the latter, the biopolitical sovereign produces bare life as the means of its own legitimacy.

In both instances, what seems ostensibly antinomian ends up being a defense of law as an idea through which to effect, paradoxically, both recuperation and revolt. These philosophers look to Paul, it seems to me, and invite us to discover a way to think through our own complex response to “tradition” as, on the one hand, that which has evolved and continues to manifest as the global institutions of power and domination that are legitimized by law, and on the other, that which intimates the felt need for law, and the subjects it produces, to be and become something more, and something else, than the sovereign decision, even if that sovereign is ourselves.

**Conclusion: Risk**

I conclude with a story that intimates the element of risk involved in this wrestling of tradition from the now, and the struggle between them. The protagonist of Chinua Achebe’s novel, *Things Fall Apart*\(^{61}\), seems to embody both of these strains in the postsecular address to law: the messianic and the evental. His ultimate act of violence is multifarious: it is nostalgic, as a final, doomed attempt to recapitulate a dying tradition; antinomian, as it violates the norms of that tradition and desecrates the land upon which the act takes place; evental, as the “undecidable,” impossible to have imagined within the context of that culture and unforeseeable within the situation from which that political act evolved; and messianic, as a war of redemption on behalf of his people that turns into self-sacrifice. Okonkwo, the protagonist, becomes a subject through the event and his

fidelity to its own evental truth, but his claim of subjectivity produces a law (colonial) that shapes a new community within which Okonkwo as subject could not have survived.

Okonkwo had rebelled against the new, colonial presence within the Umuofia, his village, installed there during his years in exile. He and five other rebels had been taken prisoner and whipped. After a fine was paid on their behalf by the villagers, the men are released. Okonkwo could barely contain his excitement about a meeting that would take place the following day, an opportunity for the village to discuss all the strange things that were happening. “‘The greatest obstacle in Umuofia,’ Okonkwo thought bitterly, ‘is that coward Egonwanne. His sweet tongue can change fire into cold ash. When he speaks he moves our men into impotence. If they had ignored his womanish wisdom five years ago, we would not have come to this.’ He ground his teeth. ‘Tomorrow he will tell them that our fathers never fought a ‘war of blame.’ If they listen to him I shall leave them and plan my own revenge.’” The stage was set, then, for Okonkwo’s singular destiny.

At the packed and excited meeting the next day, Okika, “a great man and an orator,” rallied the crowd and then offered a defense of war notwithstanding the lack of precedent: “‘All our gods are weeping. Idemili is weeping, Ogwugwu is weeping, Agbala is weeping, and all the others. Our dead fathers are weeping because of the shameful sacrilege they are suffering and the abomination we have all seen with our eyes.’” Okika urged revolt, even though it would involve violating custom: “‘But are we all here? I ask you: Are all the sons of Umuofia with us here?’ A deep murmur swept through the crowd. ‘They are not,’ he said. ‘They have broken the clan and gone their several ways. We who are here this morning have remained true to our fathers, but our

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62 Achebe, 200.
brothers have deserted us and joined a stranger to soil their fatherland. If we fight the stranger we shall hit our brothers and perhaps shed the blood of a clansman. But we must do it. Our fathers never dreamed of such a thing, they never killed their brothers. But a white man never came to them. So we must do what our fathers would never have done. Eneke the bird was asked why he was always on the wing and he replied: “Men have learned to shoot without missing their mark and I have learned to fly without perching on a twig.” We must root out this evil. And if our brothers take the side of evil we must root them out too. And we must do it now. We must bale this water now that it is only ankle-deep…”

Suddenly, the messengers of the commissioner show up to shut down the meeting. Okonkwo had been sitting at the edge of the crowd, nearest their entrance. “He sprang to his feet as soon as he saw who it was. He confronted the head messenger, trembling with hate, unable to utter a word. The man was fearless and stood his ground, his four men lined up behind him. In that brief moment the world seemed to stand still, waiting. There was utter silence. The men of Umuofia were merged into a mute backcloth of trees and giant creepers, waiting. The spell was broken by the head messenger. ‘Let me pass!’ he ordered. ‘What do you want here?’ ‘The white man whose power you know too well has ordered this meeting to stop.’ In a flash Okonkwo drew his machete. The messenger crouched to avoid the blow. It was useless. Okonkwo’s machete descended twice and the man’s head lay beside his uniform body. The waiting backcloth jumped into tumultuous life and the meeting was stopped.

“Okonkwo stood looking at the dead man. He knew that Umuofia would not go to war. He knew because they had let the other messengers escape. They had broken
into tumult instead of action. He discerned fright in that tumult. He heard voices asking: ‘Why did he do it?’ He wiped his machete on the sand and went away.”

The response from authority was quick but futile, since the “revolt” had ended as quickly as it had begun: “When the district commissioner arrived at Okonkwo’s compound at the head of an armed band of soldiers and court messengers he found a small crowd of men sitting wearily in the obi. He commanded them to come outside, and they obeyed without a murmur.” Okonkwo had already hanged himself behind his compound, in the bush. His friends, led by Obierika, took the commissioner to him.

“Then they came to the tree from which Okonkwo’s body was dangling, and they stopped dead. ‘Perhaps your men can help us bring him down and bury him,’ said Obierika. ‘We have sent for strangers from another village to do it for us, but they may be a long time coming.’ The District Commissioner changed instantaneously. The resolute administrator in him gave way to the student of primitive customs. ‘Why can’t you take him down yourselves?’ he asked. ‘It is against our custom,’ said one of the men. ‘It is an abomination for a man to take his own life. It is an offense against the Earth, and a man who commits it will not be buried by his clansmen. His body is evil, and only strangers may touch it. That is why we ask your people to bring him down, because you are strangers….When he has been buried we will then do our duty by him. We shall make sacrifices to cleanse the desecrated land’”

At one point, Okonkwo’s friend becomes enraged: “Obierika, who had been gazing steadily at his friend’s dangling body, turned suddenly to the District Commissioner and said ferociously: ‘That man was one of the greatest men in Umuofia.

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63 Achebe, 203-205.
64 Achebe, 206.
You drove him to kill himself, and now he will be buried like a dog…” He could not say any more. His voice trembled and choked his words.”

After giving instructions to the messengers, the Commissioner reflects upon what he has seen: “In the many years in which he had toiled to bring civilization to different parts of Africa he had learned a number of things. One of them was that a District Commissioner must never attend to such undignified details as cutting a hanged man from the tree. Such attention would give the natives a poor opinion of him. In the book which he planned to write he would stress that point. As he walked back to the court he thought about that book. Every day brought him some new material. The story of this man who had killed a messenger and hanged himself would make interesting reading. One could almost write a whole chapter on him. Perhaps not a whole chapter but a reasonable paragraph, at any rate. There was so much else to include, and one must be firm in cutting out details. He had already chosen the title of the book, after much thought: *The Pacification of the Primitive Tribes of the Lower Niger.*” [209]

Achebe skillfully blends a critique not only of the Commissioner, but also of Okonkwo himself. The production of law (norms of colonial practice; disciplinary procedures; etc.) from the commissioner’s gaze is the Restoration to Okonkwo’s Insurgency. That insurgency is “evental” to the extent that it resides within both the space (the sudden silence) of the trauma/tradition as return, and within the “interval” that permits for the evolution of the new truth (to the subject). The subject undertakes the risk of fidelity to that truth.

The revolt is an exercise in messianic nostalgia. The suicide is a futile attempt to preserve and extend a culture and a tradition through transgression and the desecration of

65 Achebe, 208.
that very culture. It is an act that is faithful to the murder of the messenger, which itself traverses the norms. The war cry of Okika seemed to articulate the eventality of the messenger’s death, with Okonkwo’s machete as the “actus” to the oratory’s “in potentia.” Okonkwo’s suicide therefore nominates that murder as a revolt, an event.

The very futility of the event as a political act seems to resonate, in the aftermath, with its capacity to engender a new truth: in the immediate context it permits the ocular genesis of law (suicidal body as juridical poiesis), the capitulation of the populace expressed in a ritual of purification, the martyrdom of the hero. But the death of Okonkwo is shameful, a disgrace. And like the murder of Moses (in Freud’s retelling, i.e. as the originary murder of the Father66), the act will return as the memory/tradition of an anti-colonial militant agency (the novel, published in 1959, was part of an anti-colonial project).

Okonkwo’s act both iterates and telescopes tradition as an imaginative project. Memory and custom, within the novel, make a torrid return as tradition in its most inflexible manifestation: Okonkwo cannot yield to the new order, and things fall apart. But it also holds the promise of subjectivation and freedom. The philosophers’ turn to Paul is a return to “tradition” within the theological canon, a return that promises to extract and separate the truth (justice, political action), an extraction that is itself juridical. Okonkwo’s story, I suggest, intimates within the colonialist-messianic context the risk, the promise and the limits of that return: the separation of truth from an act of sacrifice-desecration, and the extraction of law from the pacifying gaze.

66 Freud, Moses, 53.