

New Perspectives

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Intervention

When One Religious Extremism Unmasks Another: Reflections on Europe's States of Emergency as a Legacy of Ordo-Liberal De-hermeneuticisation

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INTRODUCTION

It is quite possible that many Europeans – government officials, citizens and other residents of Europe – assess the massacres committed in Paris in January and November 2015 as criminal incidents whose prevention could have been achieved, as far as such a prevention is humanly possible, by more adequate policing. There are no conclusive grounds available for dismissing this assessment as spurious. Moreover, the relatively unproblematic public acceptance of the discourse of the state of emergency that slipped into the breach opened up by these awful events would seem to indicate widespread support for this assessment. There are, nevertheless, many other citizens and residents, with perhaps also some government officials among them, who do not find this assessment convincing. There is another wide-spread view in Europe that considers the assessment of acts of jihadist terrorism as mere instances of criminality as a grave over-simplification of the matter that contributes nothing to a deeper understanding of the socio-political problem that one is facing here. According to this view, the assessment of these acts “as acts of war by an enemy of the people” also contributes no significant insight in this regard, unless one is prepared to accept that France has spiralled into a civil war in which (some of) the people have become an enemy of (the rest of) the people. This *Intervention* article gives a voice to this other view. As will become clear, it draws much support for the position it takes from Giorgio Agamben’s assessment of the politics of suppressing crime through adequate policing as a politics that reacts only to the consequences of a deeper malaise without endeavouring to identify and resolve the causes of this malaise.

The perspective that is offered in this article turns on the following key points. The first is the assertion that a widespread if not dominant feature of contemporary Islam

is the result of a long process of modernisation, the key thrust or ingredient of which was the ‘de-hermeneuticisation’ of a religious culture that used to be informed by highly sophisticated practices of textual and aesthetic interpretation. ‘De-hermeneuticisation’ is the term that will be used in this article to denote the “process of becoming more fundamentalist (increasingly claiming complete access to absolute truth) and less interpretive (decreasingly aware of the partiality and irreducibly provisional status of all textual interpretation).” One aspect of the tide of religious radicalisation among Muslims in Europe today can plausibly be attributed to this ‘de-hermeneuticisation.’ This, however, is indeed only one aspect. There are others, and any honest attempt to identify them will not be able to ignore the widespread observation that religious radicalisation in Europe takes place predominantly in urban areas that suffer from endemically high unemployment rates, poverty, social immobility, general criminality, and all the typical manifestations of the societal malaise associated with these conditions. The Belgian neighbourhood Molenbeek became the constant case in point in the press in the aftermath of the terror attacks in Paris in November 2015 and in Brussels in March 2016.¹ Hence the turn of the argument at this point toward a consideration of the factors that contribute to the conditions of urban malaise sketched here. One of these factors, it then contends, can plausibly be attributed to an inadequate constructive governmental intervention aimed at rehabilitating these socially dysfunctional areas and integrating them into the more functional strata of urban existence. “Whence this lack of a constructive or reconstructive governmental intervention?” is the question that comes up next. The standard answer to this question seeks to terminate further questioning by invoking a simple lack of resources, both human and financial. The problem with this response is its attempt to present a lack of resources as a naturally given phenomenon that no interventionist agenda can hope to avoid or overcome. The continuation of the argument turns on the insistence that economic scarcity is never a naturally given phenomenon in societies where vast pockets of surplus wealth remain exempted from the constructive redistribution of social resources. Under these circumstances, ‘economic scarcity’ is a socially constructed phenomenon that underpins and ‘justifies’ the exemption of vast concentrations of wealth from being considered a resource for social reconstruction. The argument then moves to identify the key elements of this particular construction of resource deficiencies in Europe today. It is for this purpose that it turns its focus to the school of economic thinking that is widely perceived as the key to economic and financial governance in Europe today, namely *ordo-liberalism*.

Ordo-liberalism is the name of a complex body of economic thinking that emanated from the writings of the so-called Freiburg school of economics in the time of the Weimar Republic. The argument presented here does not offer a comprehensive assessment of the work of the Freiburg economists. It engages only with

one salient feature of this school of economic thought, namely, its conspicuous disregard for the continuous or periodic reconstructive wealth re-distribution that one commonly associates with Keynesian economic thinking. Ordo-liberalism is not averse to state intervention in the market – this is the major point of difference between classical laissez-faire liberalism and ordo-liberalism – but its concern with state intervention is largely restricted to the role it attributes to the state as a guardian of an economic order of undistorted free competition.² Why might ordo-liberal thinking be so conspicuously unconcerned about the role of the state as the sovereign guardian of a broader social order with the prerogative and mandate to cure or at least keep in check the social ills that result from uneven distribution of economic resources? The response that is offered to this question is quasi-Weberian: at the root of ordo-liberal thinking is a Protestant ethic that turns on the conception of an order – willed by God, as Walter Eucken puts it³ – of fair economic competition between virtuous and self-reliant individuals.

The very idea that some or other economic order effectively instantiates God's will surely requires that one considers the broader social order that accompanies that economic order as part and parcel of God's will. In other words, the very idea that some economic order represents God's will suggests that the seemingly intractable social exclusions concomitant to that economic order also reflect His/Her will. Now, if all of this holds true for the ordo-liberal economic organisation of Europe, one not only finds oneself confronted with an economic order that turns on a Protestant morality, but also with an unstated but full-blown Calvinist predestination theology according to which the eschatological separation of the redeemed and the damned is already manifest in current social divisions and exclusions.⁴

The line of reasoning expounded above allows and prompts one to make the following crucial observation: any theological realism that takes a current social order with its contingent political and economic exclusions as a reflection of God's eternal will, evidently evinces a European, political-economic de-hermeneuticisation that effectively mirrors the de-hermeneuticisation that knowledgeable observers – such as Navid Kermani, to whose thoughts we turn below – attribute to contemporary Islam. And, when one clings to this de-hermeneuticised theology of ordo-liberalism in the face of significant risks of fatal bloodshed (reconciling oneself with this bloodshed, in other words, by seeing it as an inevitable result of how things are), then this theology also begins to evince elements of a suicidal extremism that parallels the bizarre convictions of jihadist terrorists and suicide bombers in many respects.

The perspective elaborated in this article certainly requires a willingness from readers and interlocutors to reconsider dominant views of looking at the problem or crisis that one is facing here. The suggestion that one of the roots of the current wave of jihad terror in Europe can be traced to a European fundamentalism that is as extreme as the Islamic fundamentalism behind the terrorism, may well come across as

counter-intuitive and even scandalous to some readers. For them, the easy assumption that jihad terror is essentially an instance of criminality that simply calls for more adequate policing may well have greater appeal, for it spares one the need to consider a certain embarrassing complicity with those who stand accused 'in the first place', so to speak. This perspective is nevertheless put forward here for the sake of opening up other ways of thinking about the crisis Europe is facing today. It should also be stressed that the endeavour to open up a different perspective here is not at all accompanied by the claim that it offers a comprehensive or conclusive solution to the crisis at hand. It is just a first step towards thinking differently about this crisis. No doubt, the policing of jihad extremism will continue, and the suggestion here is most certainly not that this must simply stop. The suggestion is only that one can and must do more than just gravitating complacently to a fatalist acceptance of jihadism as part and parcel of an 'inevitable' cycle of criminal violence and the police suppression of this violence.

REIMS, SATURDAY MORNING, 14 NOVEMBER

When I woke up on Saturday morning, 14 November 2015, in Reims, France, I found myself in the middle of a national state of emergency. It was the first time that I had been in one since the extended states of emergency called by the apartheid government in South Africa in the 1980s. Looking through a hotel dining room window at the eerily empty main street that leads from the station into the city, I commenced to unpack my thoughts so as to put some order into them and to stop them from circling mindlessly around emotions of shock, dismay, and, no doubt, cruel and vengeful anger. It was precisely to try to put a stop to the pointless and thoughtless emotions of anger and vengefulness to which horrifying bloodshed invariably moves people – as the great René Girard, who recently passed away, taught us so well – that I began to think more purposefully about the state of emergency to which the whole of France woke up that Saturday morning. What did this state of emergency mean, apart from that which it undoubtedly announced, namely, the suspension of civil liberties and the extension of police powers? France was ready for this curtailment of liberty for the sake of security, claimed *Le Figaro* confidently three days later (Tuesday, 17 November). On that same day, however, *Libération* evinced a clearer sense of what was dawning in France with the big black capital letters on its front page: L'ETAT D'URGENCE PERMANENT – A PERMANENT STATE OF EMERGENCY.

The immediate background that elicited the assessment of the state of affairs by *Libération* was, of course, François Hollande's extension of the two weeks of the state of emergency, called on Friday evening, to three months, which was done by Monday evening. The larger background was the general sense among more perceptive observers that this state of emergency was not going to end in any foreseeable future, even if it were to be recalled after three months, just like it had also not

begun on that Friday or Tuesday evening, but long before. It had in fact begun so long before that its commencement has become difficult to pinpoint. One would at least have to go back to the introduction of new security legislation in France after the *Charlie Hebdo* attack in January 2015, short on the heels of the substitution of the Patriot Act with the New Freedom Act, through which the unofficial but effective state of emergency was extended in the United States.

Let us take a closer look at the political imagination that informs the kind of legislation at issue here by recalling Giorgio Agamben's engagement with the attraction to states of exception in the Western political imagination. Agamben traces this political imagination to the unstable distinction between actuality and potentiality in the political metaphysics that the West inherited from Aristotle.⁵ The profound reflection on the institutions of *the tumult* and *the exception* in his analysis of the metaphysics of potentiality and actuality provides an incisive and penetrating perspective on the *tumultuous* times with which the 20th century ended and the 21st began. It is from this profound background perspective that one must also understand his comments on the Charlie Hebdo massacre in Paris in January 2015 during an interview that *Telerama* conducted with him earlier this year.⁶

Telerama observes in the interview that France has passed fifteen anti-terrorist acts since 1986, but all of this has not prevented the terror attacks in Paris in January. This observation has surely become exponentially more pertinent in the wake of the attacks of 13 November. How must one explain the evident failure and fallibility of these statutes? Agamben's response to this question is this: this type of security legislation only facilitates ways of reacting to acts of terror, but the statutes do not at all look into and address the causes of these acts. In fact, they create a governmental regime of reacting to consequences instead of governing causes: "La conséquence des politiques ultra-sécuritaires [est un] système qui abandonne toute volonté de gouverner les causes pour n'agir que sur les conséquences." One is surely justified in considering this kind of government desperate.⁷ Excessive governmental reliance on such laws surely tells the story of governments that have given up the hope that something more constructive and incisive can be done to govern and marginalise potential threats of terrorist attacks, instead of just reacting to them. Any governmental action that is informed by this despair – this lack of more fundamental transformative and therapeutic aspirations – would necessarily bear the mark of a permanent state of emergency, irrespective of whether and when a state of emergency is actually declared or recalled. Levels of alert may vary over time, but constant alert necessarily becomes the core characteristic of a government that has resigned itself to the containment of explosive situations.

Another core feature of such an incessantly desperate government is its diminishing capacity for historical self-understanding, that is, its increasing inability and unwillingness to reinterpret itself in view of newly emerging realities that evidently

render established codes of common understanding dysfunctional. This is the thought that I wish to elaborate further in what follows with reference to the ‘de-hermeneuticisation’ that is taking place in France and Europe today.

TOWARDS A CONCEPT OF ‘DE-HERMENEUTICISATION’

The term ‘de-hermeneuticisation’ is invoked in what follows to denote the increasing resort to technocratic *reactions* to destructive social developments in contemporary Europe at the expense of *responding* to them in ways that seek to understand *why* they arise. More generally speaking, however, it is also invoked here to denote the process through which a culture becomes increasingly fundamentalist. It may well come across as a rather clumsy term, but it is surely not more clumsy and may well be less clumsy than other available ways of denoting this process of ‘becoming increasingly fundamentalist.’ Moreover, it also helps one to understand this process for what it is long before one arrives at the stage of the process where fundamentalism has become an undeniable feature of some or other culture. For instance, it helps one to understand that all naturalist assumptions of ‘the way things are’ already reflect a significant degree of ‘de-hermeneuticisation’ without having become manifestly recognisable yet as instances of fundamentalism. Increasing recourse to technocratic modes of government likewise reflects an increasing ‘de-hermeneuticisation’ of a culture of government (or governance, rather) because of the way it quite naturalistically takes a certain reality as given (‘just the way things are’) and acts upon it with a means-ends logic. One can surely not consider all technocratic modes of government ‘fundamentalist,’ but the term ‘de-hermeneuticisation’ alerts one to the way in which increasing levels of technocratic government are moving up on a scale of naturalisation at the end of which waits full-blown fundamentalism.

The resort to the term ‘de-hermeneuticisation’ that follows takes its cue from the profound address given by Navid Kermani on the occasion of his acceptance of the *Friedenspreis des Deutschen Buchhandels* on 18 October 2015.⁸ In his address, Kermani describes the way in which Islamic cultures in many Arabic states have hardened into non-interpretative modernist fundamentalisms that break away from the interpretative traditions of cultural, aesthetic and textual engagement with the Koran that informed earlier Islamic cultures. Kermani stresses that this turn in the thinking of Islam is not restricted to the “sectarian” understanding of Islam that informs the ISIS movement. It is much more pervasive in the Arabic world than we might want to believe. His argument in this regard would seem to corroborate the point I make in “The Literary Exception” regarding the need in Islamic theology for something equivalent to the Pauline suspension of apocalyptic religious inclinations that threaten to derail constructive institutionalisations of forceful religious sentiments. The argument in “The Literary Exception” stresses the need to turn religious con-

cerns with ultimate truth into interpretative concerns with an indefinitely *postponed* truth or 'truth.' It is the indefinite postponement of the moment of 'truth' that allows, in the meantime (in the time that remains, as Agamben calls it so beautifully⁹), for the constructive enculturation of both religion and politics. It is this postponement that allows for interpretive religious traditions, on the one hand, and truly secular governments, on the other.

No doubt, religion often resists its own enculturation and the hermeneutic practices on which this enculturation turns, but as long as it remains sufficiently enlightened about its own contingent and historical textuality, and the inevitability of its *textual* status, religious resistance to enculturation – to its own enculturation, notably through various modes of mysticism and negative theology – can play a significant role in the absorption of unworldly yearnings that frustrate secularisation. An effective sublimation of these yearnings by vibrant and powerful religious cultures (and anti-cultures) can spare secular politics the yearning for ultimate moments of truth such as is evident in the bizarre fundamentalist conviction regarding a final battle between the army of Mohammed and the infidel armies of the rest of the world that is a core element of the ISIS movement.¹⁰

It is, however, not with the de-hermeneuticisation of Islamic cultures that I wish to take issue in what follows. I would like to look, instead, at the vast and increasing de-hermeneuticisation that has taken root in European societies. This de-hermeneuticisation of European societies, I will suggest, provides one with a key insight into the way in which de-hermeneuticised conceptions of Islam have found their way deep enough into the hearts and minds of startling numbers of European citizens to move them to jihadism. Let us begin the short journey into European de-hermeneuticisation with the disastrous and bloody confluence of the two de-hermeneuticisations at stake here, the European and the Arabic-Islamic, in Paris in January and November 2015.

THE ORDO-LIBERAL 'DE-HERMENEUTICISATION' OF EUROPE

François Hollande immediately ordered increased bombing of ISIS in Syria after the massacre in Paris on 13 November. This response evidently suggested the crisis that France is facing has its origins elsewhere. But Hollande himself could not ignore for long the reality that the problem is not a distant one, but one that comes from within France itself. He was candid enough to observe expressly that the massacres had been committed by French citizens in France: "Nous le savons et c'est cruel de le dire, ce sont des français qui ont tué des autres français."¹¹ And, as if this paradox was just too hard to stomach, he did not lose much time before turning to solutions that might make the situation less paradoxical and less contradictory, less indicative of the deep crack that is running through France, namely, the idea of withdrawing French citizenship from anyone with two passports who is convicted

of an act of terrorism, even from French citizens born in France.¹² This suggestion allowed him to find some comfort, it seems, in the idea that the problem is, after all, related to foreign elements in France that can feasibly be expelled so as to render France more adequately and univocally French again. The move was a symbolic one, but its desperation was glaringly evident for the world to see. The removal of second passports from a relatively small number of duly prosecuted and convicted terrorists was surely not going to make any significant dent on the reality of scores of young French citizens who get drawn into radical Islamic fundamentalism today.¹³

France has to square up to the reality of scores of young and no longer so young French citizens who do not feel French and never had a reason to feel French. It has to face the fact of hundreds and thousands or hundreds of thousands of young and old people who have in fact been expelled from France, not by forcing them *out* of the country, but by forcing them *into* ghetto communities that effectively constitute foreign countries in and around the major cities of France, from where they have no hope whatsoever of actually emerging again one day. It is in these communities that Islamic de-hermeneuticisation mostly takes root in France today (and in similar communities elsewhere in Europe, notably Belgium; do we not all know the name *Molenbeek* by now?). These communities happen to be *in* France and *in* Europe, but they are surely not *part of* France or Europe. The response of French politics to what we have come to know as the *banlieue*-problem from several notorious uprisings over the years has always been to simply contain the problem and prevent it from spreading further. The question of actually integrating these communities into France has often been mooted, also among political elites, but the discussion has never gone anywhere. It is with regard to the evident resignation of French politics in the face of the split between the *banlieue* and the rest of France that I wish to underline the twofold de-hermeneuticisation that ultimately explains the paradox of “des français qui [tuent] des autres français,” the paradox that Hollande believed might be addressed meaningfully by withdrawing a couple of passports.

One side of this twofold de-hermeneuticisation consists in the cynical acceptance of social splits such as the one that increasingly divides France into relatively affluent neighbourhoods, on the one hand, and dismally poor ones, on the other. Hermeneutics does not only concern the faculty of interpretation and re-interpretation, but also the faculty of reinterpretation that might overcome splits and bridge gaps.¹⁴ Societies that simply accept the kind of social disintegration that is conspicuous in so many cities of Europe today, have evidently given up on the imaginative faculty of reinterpreting themselves in the hope of overcoming at least some of their most destructive divisions.

The other side of this de-hermeneuticisation takes us to the root of the first. The inability of European societies to reinterpret themselves with the aspiration

to overcome their most destructive divisions (divisions that have now evidently become murderous: “ils sont des français qui [tuent] des autres français”) should prompt one to ask serious questions about the dominant mode of governmental thinking that has practically reduced European politics to the structural maintenance of a Europe-wide free market economy. Many observers attribute this dominant mode of governmental thinking to the widespread endorsement among European governmental elites of ordo-liberal economic principles.¹⁵ As already pointed out in the Introduction above, ordo-liberalism concerns a strand of economic philosophy that emerged in Weimar Germany and largely aimed at reducing the role of the state to the sustenance of fair competition in a free market economic order. One nevertheless fails to come to grips with this ordo-liberal thinking when one neglects to pay attention to the strict Protestant theological moralism on which it pivots. The ordo-liberal worldview understands free market competition as the testing ground on which moral integrity will become manifest and rewarded.¹⁶ This order of free competition between virtuous individuals is ordained by God, the ordo-liberals believe.¹⁷ They are not interested in the historical circumstances and structural conditions that exclude millions of people from ever entering this order. They are evidently also not bothered by the disastrous anti-social consequences of this exclusion. *That*, they would seem to think, is just a matter of a sinful and immoral reality for the police to contain as harshly as might be required.¹⁸

A crude religious fundamentalism would seem to be at work in this thinking, one that evinces the worst elements of the unforgiving and repressive predestination-doctrine that John Calvin introduced into Christian thinking.¹⁹ Of course, few political elites in Europe would be so tactless as to articulate their views expressly in these crude fundamentalist terms. The question nevertheless remains whether the undeniable concentration of all of one’s imaginative, political and economic resources on the sustenance of a fair competition system and the concomitant disregard for more vexing problems of social disintegration and exclusion, does not commit one by default to something all too close to the crude religious views invoked here. A certain naturalism is evidently at work in the assumption of a proper order of fair economic competition as an “obvious” panacea for all social ills, a panacea that spares one the trouble of paying proper attention to vexing social divisions and allows one to shrug off their anti-social consequences as something that must simply be contained. And it is this naturalism that betrays the process of de-hermeneuticisation that has already taken root here. The end of this process, were it allowed to continue to its end, will surely be indistinguishable from the crude fundamentalism invoked here.²⁰ Any political position or opinion that takes an existing social system as sound and fair enough to render the question of significant reconstruction redundant, evidently

considers those who make it in and into this system virtuous, and those who fail not so virtuous. And the latter then naturally deserve whatever discontent duly comes their way.

The rampant austerity demands that have been dominating European politics ever since the eruption of the financial crisis are considered by many social theorists as part and parcel of the ordo-liberal or quasi-ordo-liberal moralism that drives European politics.²¹ These austerity demands have come to require European governments to run their budgets like perfectly-sanitised businesses and to constrain their public expenses accordingly. This 'Protestant' approach to government appears to work, for the moment at least, for the northern European countries such as Germany that happen to be the most vociferous proponents of austerity politics in Europe. It is evidently highly debilitating, however, in the case of the predominantly Catholic countries of southern Europe. The latter countries have long traditions of relying on morally and politically quite acceptable combinations of state debt and inflationary measures to sustain socio-economic coherence and minimum levels of social equality.²² The functional synthesis of Protestant ordo-liberal concerns with fair and virtuous competition, on the one hand, and Catholic social welfare concerns, on the other, that gave rise to a highly efficient social market economy (*soziale Marktwirtschaft*)²³ in post-war Germany, never took root in these southern European countries; hence the disastrous impact of the EU and northern European imposition of hard Protestant austerity on peoples for whom austerity never constituted a significant virtue, and non-austerity (the willingness of the state to incur debt and take inflationary measures) remained a quite functional and morally less vindictive version of sustaining social cohesion.

This is the background of the woes that plagued the French economy in recent years. Against this background of imposed austerity on an economy not suited for it, the huge investments that would have to be made if France wanted to reinterpret itself so as to respond constructively and imaginatively to its festering exclusions, divisions and splits, are evidently unthinkable. But the dramatic events that came to mark 2015 have shown that this Protestant imposition of austerity on France may itself be beginning to crack up under the weight of its own extremism, for it has suddenly come to light that the raised policing levels required to contain and fence off the festering pits of God-ordained damnation around its major cities cannot be reconciled with the austerity demands that the EU and northern European countries are imposing on European Member States. The massacre in Paris on the evening of 13 November suddenly brought Hollande to confront the fact that his security forces are hopelessly understaffed, and he was quick to announce the appointment of almost 10 000 police and other security personnel.²⁴ Equally quick was Jean-Luc Mélenchon to observe astutely that it took a massacre to move

Hollande to admit to the mistake of the debilitating austerity demands imposed on France by Brussels.²⁵

Is it ironic or just to be expected that the extremism of one religious de-hermeneuticisation would finally begin to unmask the parallel signs of extremism of another? For it surely takes an *extremely* confident faith in the correctness of the free competition approach to all social ills for one not to want to reconsider this approach fundamentally when the social disintegration that is taking place right under one's nose explodes into bloodbaths and senseless loss of life. And just how far, may one ask then, need this extreme confidence regarding the self-evident rightness of your convictions – this extreme de-hermeneuticisation of one's beliefs – go still before it manifestly begins to mirror the extremism and fundamentalism that it claims to combat?²⁶

THE STATE OF EMERGENCY – FROM CHEAP POLICING TO A CALVINIST INVERSION OF PAULINE TEMPORALITY

We have reflected above on what appears to be a mutation of an express or default ordo-liberalism into a set of convictions that is becoming increasingly indistinguishable from the extremist and suicidal fundamentalism that it aims to curtail and eradicate. This mutation has now given rise to a convenient justification for cheap and expedient policing. Any suggestion that there was some design in this process would go too far. But the question of a grossly negligent or reckless complicity remains at large here. For if you allow things to deteriorate to the point where “des français [tuent] des autres français,” and can be expected to do so again, you have created a justification for the cheap method of policing that goes by the name of ‘state of emergency.’ And any justification for cheaper and more expedient policing surely resonates with the legitimacy demands of governmental programmes that understand legitimacy in terms of a demand to restrict public expenditure to the very minimum. Invocations and declarations of states of emergency surely offer such a justification, for this is what a state of emergency means after all, to return to the question that I asked myself in Reims on 14 November. It effectively licences a relatively small number of police officers to do quickly and cheaply what a much bigger police force would have had to do painstakingly and at a much higher cost, were they bound to the regular fundamental rights provisions of a constitutional state.²⁷ This is indeed why pacts between extreme forms of market liberalism and totalitarian political regimes are so common, as Agamben also notes well in the *Telerama* interview.²⁸ The temptation to finance and run a small and inexpensive police *force* that guards over and controls a society – instead of a more expensive extended police *service* with enough personnel to engage constructively in the sustenance of peace and order – is all too great when one cannot extract oneself from technocratic and economising

mentalities. Agamben duly alerts us to the slippery slope between these mentalities and totalitarian imaginations.

It is understandable and surely justifiable that Hollande called a state of emergency after the terrorist attacks in Paris on 13 November. It may even be justifiable to have extended this state of emergency from two weeks to three months (although some justifiable doubt already raises its head here). The question is only whether he is going to use this state of emergency as an exceptional measure that will allow him to commence with the process of rebuilding an adequate regular police force that can cope with the high policing demands of his socially-disintegrating cities under regular rule of law conditions, or whether this is indeed just the beginning of a permanent (non-exceptional) state of emergency and the end of constitutional democracy in France. Whether he might not only restore constitutional democracy but also use this break from the European 'stability pact' as the beginning of a more incisive reconstruction of social democracy in France is the bigger question that his own constituency and the rest of social democratic Europe are surely still pressing upon his administration today, albeit with scant hope.²⁹

But what if the state of emergency in France becomes permanent, as Liberation suggested it could immediately after Hollande declared it on 14 November 2016? The tendency of a state of exception to turn into a new state of normality was already observed by Walter Benjamin in the eighth thesis of his *Über den Begriff der Geschichte*.³⁰ Agamben provides one with a profound metaphysical explanation of the tendency of states of exception to turn into permanent states and thus become normal in his book *State of Exception*. He argues cogently with reference to Schmitt,³¹ on the one hand, and the linguist Emile Benveniste, on the other, that the state of exception could be regarded as the state of greatest tension between the validity of a norm and its actual application or force.³² This state of greatest tension between the norm and its application may even culminate in the suspension of the application (or force) of the norm, as long as the suspension is aimed at eventually restoring the norm. However, when the state of exception becomes permanent, the aspiration or prospect is evidently no longer to restore the regular application or force of the norm, and thus it mutates into something else. When the state of emergency or exception becomes permanent, it effects a total and indeed totalitarian collapse of the distinction between the potentiality and actuality of the norm, or simply reflects the reality that this collapse has already taken place. As we have seen above, Agamben traces the ever latent possibility of this collapse – at least in the Western political imagination – to Aristotle's unstable distinction between potentiality and actuality.³³ This collapse is the essence of the dehermeneuticisation invoked above. When the distinction and difference between the actuality and potentiality of a norm collapse, the scope and need for an interpretive application of the norm disappear with it. The need for an interpretive application of the norm is conditioned by the irreducible potentiality of the norm.

Any attempt to reverse processes of de-hermeneuticisation of the kind that we have outlined above would need to restore a hermeneutic regard for the irreducible gap between the potentiality and actuality of the norm, that is, between the norm and its application. Once one comprehends the need for *interpretive application* – the need for hermeneutics, in other words – in terms of the *irreducible potentiality* of the norm (that is, in terms of the fact that the norm can never be anything but the reflection of a potential that cannot be realised), it should be evident that it is a mistake or confusion (or worse, a usurpation of an apocalyptic theocratic sovereignty, as will soon become clear) to think of interpretation as the *actualisation* of the norm that terminates its potentiality. The application of the norm should, from this perspective, always be considered as a compromise with the norm that deviates from and even breaks with it to a greater or lesser extent, but always to some extent, though never completely. Considered from this perspective, a *temporary* state of exception is indeed the state of the greatest distance between the norm and its application, so much so that the emergency *application* of the norm can hardly be recognised as an application of the *norm*.

The fact that hermeneutics consists exactly in this recognition of the irreducible distance between the norm and its application – the fact that the application of the norm is never the realisation of the norm (hence the need for *inter-pretation*) – is ironically the one crucial point that Gadamer's epochal and magisterial study in hermeneutics missed completely. For Gadamer – very likely because of the Aristotelian and Hegelian foundations of his hermeneutics, in terms of which potentiality and actuality always morph into one another dialectically – the application of the norm constitutes the necessary concretisation and completion of the norm.³⁴ It is this unstable slippage between potentiality and actuality in the dialectics of Western metaphysics that Agamben seeks to sidestep with his remarkable reading of the Pauline (and Augustinian) insistence that only God's judgment (God's application of the norm) can erase the terrestrial divide and distance between potentiality and actuality. And hand in hand with this insistence goes the insight that this divine judgment will necessarily be the final judgment that terminates time. From this perspective, time as such and the fact that it still continues constitute empirical evidence for the plausibility and prudence of the axiomatic regard that potentiality and actuality should never be confused with one another. The absence of any significant reconciliation between actuality and potentiality is the condition for time, that is, for on-going time or time that 'remains.' And ongoing time is the sure sign of the unreconciled state of potentiality and actuality. No potential is ever actualised when and as long as time goes on.

The 'permanence' of the permanent state of exception signals, to the contrary, the sovereign assumption of the capacity to terminate time and to inaugurate 'the end of time.' In direct contrast with a temporary state of emergency, it also no longer

concerns the state of greatest tension between the norm and its application, but the complete erasure of this tension that allows for the direct assumption of circumstantial reality under the norm, or the direct *imposition* of the norm on circumstantial reality – an immediate *fusion* of norm and reality – that renders the *application* of the norm (and the traversal of distance that the notion of application presupposes) redundant. This redundancy invariably becomes manifest as brutality, for brutality is one of the key instruments or techniques with which the sovereign – by definition then a technocratic or instrumental sovereign – erases the divide and distance between the norm and circumstantial reality that evidently resists subjection to the norm. This brutality already becomes manifest during a temporary state of emergency, and its efficacy invariably lures sovereignty into the sheer expediency of an indefinite and ultimately permanent state of emergency. The crucial question that therefore arises during a temporary state of emergency is whether the sovereign can avoid the temptation to close the gap between the efficacy of temporary brutality and the expedience of permanent brutality.³⁵ This is the key question that now confronts not only Francois Hollande in France, but all political leaders faced with the task of curtailing and eradicating jihad terrorism elsewhere in Europe and the world.

Let us take a closer look at the ‘end of time’ or the ‘end time’ that ordo-liberalism, or something closely akin to it, risks inaugurating in Europe today. The story of Germany’s post-war social market economy reflects a phase of ordo-liberal thinking that was still capable of reinterpreting itself in view of pressing socio-historical exigencies. In this respect, German post-war ordo-liberalism certainly did not completely lose its hermeneutic capacity for understanding itself differently in the course of time (a core hermeneutic capacity, according to Gadamer, for whom human understanding always consists in understanding differently³⁶). The filtered or default ordo-liberalism that emerged from the politics of European market integration, however, has evidently lost this capacity for renewed contextual self-understanding; hence, for instance, its blind exportation of austerity demands to countries for which these demands are ill-suited. The result of this loss of hermeneutic capacity is a peculiar mutation of the Pauline message to the early Christian communities that salvation (the fusion of norm and reality) should not be sought in this world, and, consequently, of the Augustinian theology that postponed God’s final judgment and the ultimate separation of good and evil (the ultimate realisation of the norm) to the end of time. It effectively brought that judgment forward by endorsing a world in which the separate destinies of the redeemed and the damned have already become glaringly visible. Ordo-liberalism would seem to have taken a short cut to the end of time that bypassed “the time that remains.” It seems to have turned *divine destination* – incomprehensible and unknown to all mortals and for this reason the guarantee for an irreducible equality and horizontality among them (to invoke here Nancy’s beautiful phrase “l’horizontalité des morts”)³⁷ – into a hierarchical *pre-des-*

tionation. Thus could the early Christian ethic of living under the law *as if not* living under the law – the $\acute{\omega}\varsigma\ \mu\eta$ that Agamben explores so brilliantly in *The Time that Remains* – turn into an ethic according to which the law, understood as an already established system of vested patrimonial rights and entitlements, became the telling measure of salvation and damnation.³⁸

Ordo-liberalism can thus be said to constitute a Protestant reversal of the ‘time-line’ envisaged by Pauline theology. It consists in the investment of faith in an earthly order of patrimonial rights which takes this order as the realisation of God’s predestined design for the universe. Pauline theology taught the early Christians to live under the law *as if not* living under the law. This instruction was sustained by the conviction that earthly law should not be confused with God’s justice. In complete contrast, ordo-liberalism came to instruct twentieth and twenty-first century European Christians to live under the law because it is an *actualisation* of God’s justice. The first generation of Ordo-liberals were adamant that they were concerned with “realising the free and natural order willed by God” – “die freie, natürliche, gottgewollte Ordnung [zu] verwirklichen.”³⁹ Those who are so convinced that they actually know what God had in mind for the universe, and so confident of being chosen and able to already begin His work for Him, obviously have no reason to shy away from the authoritarianism and extremism that might be required for executing this divine command when reality would appear to resist the order ordained for it.

RE-HERMENEUTICISATION AND THE RETURN OF THE POLITICAL: SOME CONCLUDING REMARKS

My engagement with Agamben’s thought in “The Literary Exception” is guided by the concern with the possibility of *returning to the world* and the *return of the world* that his contemplation of Pauline theology in *The Time that Remains* offers us. Pauline theology may appear to have contemplated a religious withdrawal from the world, but Agamben’s reading of this theology shows that quite to the contrary – and perhaps quite paradoxically – it allowed for the sustenance of the world. As the interview with *Telerama* also shows clearly, Agamben evidently endorses this Pauline theology from the perspective of an Arendtian understanding of political liberty, that is, an understanding of political liberty as the fundamental human capacity to liberate oneself from the necessity of economic need for the sake of the freedom to invent and create new worlds.⁴⁰ The link between the Pauline concern with *the time that remains* and the Arendtian concern with political liberty in Agamben’s thought is cogent, for it is only by grace of significant political invention that time can be said *to go on*. It is significant political invention that *gives more time*, as Derrida may have put it,⁴¹ and thus allows for the plausibility of an invocation of *time that still remains for us*. Political liberty can, from this perspective, be regarded as a source and reservoir of time.

The reduction of politics to technocratic government, that is, to the governance of consequences and not of causes, as Agamben puts it, is the sure sign of an age that has lost its political liberty. It is the sure sign of the reduction of political imagination to the management of currently dominant conceptions of material need and necessity. The question that Agamben prompts us to ask is whether Europe can still step back from the age of technocracy that it appears to have entered, an age of technocracy that shows all the signs of becoming eschatological. The technocratic reduction of the political evidently considers existing socio-economic arrangements to be predestined realities that cannot be reinterpreted, re-imagined and changed. They can at best be managed, controlled and repressed until the end of time, if needs be, by resorting to and sustaining the notion of permanent emergency. Extended states of emergency are indeed the ultimate technocratic governmental response and the hallmark of de-hermeneuticised societies that no longer endeavour to understand, reinterpret and reinvent themselves. A future that might be significantly different is no longer possible under these conditions. That is why the technocratic management of things *until* the end of time *already* constitutes that end of time. And that is why one can plausibly talk about entering an age of *eschatological technocracy*. This invocation of an eschatological technocracy need not be accompanied by an apocalyptic vision. One can talk in this way without at all having to invoke the pending end of human life on planet earth. To the contrary, a not too distant century may well come to induce prayers that some turn of fate may still prevent humans from exporting this ugly brutality to all corners of the universe.

It is against this bleak background of a futureless society that the three phases of the demise of constitutional democracy in our time must be understood: the rise of explosive levels of democratic inequality that call for mass surveillance; the demise of privacy guarantees consequent to raised levels of surveillance; and the demise of civil liberty guarantees concomitant to the market demand for the cheapest possible policing. These are the extremes to which a religious conception of economic liberty has led Europe. This religious constellation of extreme economic libertarianism justifies itself today in view of the religious extremism that it has to combat. Let us nevertheless not remain oblivious to the way in which the extreme confidence of the former wittingly or unwittingly invited the latter and can now rely on it as its permanent justification. And let us spare a thought for the question of just how sick one might still get from, and of, the endless repetition of all of this.

ENDNOTES

* Professor of Philosophy of Law at the University of Luxembourg. I wish to thank Sibylle van der Walt, Clémentine Boulanger and Chris Doude van Troostwijk for, respectively, bringing to my attention the address of Navid Kermani, the *Telerama* interview with Agamben and Agamben's Intervention in *Le*

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Monde in December 2015, on which the arguments in this article rely heavily. Many thanks are also due to Benjamin Tallis, Mike Wilkinson, Josef Hien and Christian Joerges for their poignant comments on an early draft as well as exchanges of writings which prompted me to rewrite some parts incisively. I wish to also thank the peer reviewers of this intervention for *New Perspectives* for pointing out the need to reconsider and reformulate many parts of an earlier draft of this text. Thanks is also due to Richard Mailey for reading a penultimate draft of this text carefully and pointing out some last typographical and linguistic slips. The remaining failures of my understanding, reasoning and writing I, of course, take strict responsibility for.

¹ See, for instance, Guillaume Gendron, "A Molenbeek, les fantômes du jihad," *Libération*, 18 November 2015: 2–3. Articles like this about Molenbeek abounded in the press in the wake of the Paris and Brussels terrorist attacks in November 2015 and March 2016.

² The incisive interventionism of the state for purposes of sustaining a market economy based on free competition, which ordo-liberal thinking stressed, is one of the key points that Michel Foucault stressed in his discussion of the German social market economy in Foucault, Michel (2004), *Naissance de la Biopolitique*, Paris: Gallimard/Seuil: 105–125; hence also my description of ordo-liberalism elsewhere – also with reference to Foucault – in terms of a *deontological sovereignty* (in contrast to the *deistic* sovereignty that characterises laissez-faire conceptions of economic governance). See Van der Walt, Johan (2014), *The Horizontal Effect Revolution and the Question of Sovereignty*, Berlin/Boston: Walter de Gruyter: 246–251. For an inquiry into the biopolitics of some of the ordo-liberals, see Biebricher, Thomas (2011), 'The Biopolitics of Ordoliberalism', *Foucault Studies*, no. 12: 171–191. Most of the authors cited in fn. 15 below point out the position that ordo-liberalism takes between a fully state-managed economy, on the one hand, and classical laissez faire liberalism (which insisted that the state should not interfere with the market at all), on the other.

³ See note 40 below.

⁴ See notes 20 and 39 below.

⁵ See Agamben, Giorgio (1998), *Homo Sacer: Sovereign Power and Bare Life*, Stanford: Stanford UP: 44.

⁶ See <http://www.telarama.fr/medias/les-francais-doivent-se-battre-contre-le-projet-d-une-enieme-loi-contre-le-terrorisme-giorgio-agamben,121729.php#TbWTBwAgdr1RKbw.01>; see also Agamben's further elaboration of these thoughts in his more recent article, 'De L'Etat du droit à l'Etat de Sécurité', *Le Monde*, 23/12/2015, available at http://www.lemonde.fr/idees/article/2015/12/23/de-l-etat-de-droit-a-l-etat-de-securite_4836816_3232.html#7HlabzCfhFy5OzPh.99.

⁷ See Van der Walt, Johan (2015), 'The Literary Exception', *New Perspectives*, 23(1).

⁸ See <http://www.faz.net/aktuell/feuilleton/debatten/kermanis-friedenspreis-rede-jacques-mourad-und-die-liebe-in-syrien-13863150.html>. This peace prize is a high profile annual award given by the German Book Trade Association on the occasion of the Frankfurt Book Fair. The prize for Navid Kermani was presented by the German Federal Foreign Minister Frank-Walter Steinmeier.

⁹ Agamben, Giorgio (2005), *The Time that Remains*, Stanford: Stanford University Press.

¹⁰ See the observations in this regard of the French journalist Nicolas Hénin in 'I Was Held Hostage by Isis. They Fear Our Unity More than Our Airstrikes', *The Guardian*, 16/11/2015, available at <http://www.theguardian.com/commentisfree/2015/nov/16/isis-bombs-hostage-syria-islamic-state->

paris-attacks; <http://www.theguardian.com/commentisfree/2015/nov/16/isis-bombs-hostage-syria-islamic-state-paris-attacks>, as well as the poignant comment by Frankie Boyle 'Isis Wants an Insane, Medieval Race War – and We've Decided to Give Them One', *The Guardian*, 04/12/2015, available at <http://www.theguardian.com/commentisfree/2015/dec/04/isis-wants-an-insane-medieval-race-war-and-weve-decided-to-give-them-one>.

¹¹ See Bretton, Laure (2015), 'L'Ere de la Guerre', *Libération*, 17/11/2015: 2.

¹² See Mouillard, Sylvain (2015), 'Nationalité: les déçus de Hollande', *Libération*, 18/11/2015: 12–13. The proposal was fortunately rejected very soon by Hollande's own party and the French parliament.

¹³ As one may realistically have expected or at least earnestly hoped, this number would never have been considerable. The opposite scenario – hundreds of prosecutions and convictions of terrorism – would have implied the effective descent of France into a full scale civil war. It is fair to assume that this was not what Hollande had in mind.

¹⁴ The centrality of a Hegelian mediating dialectic between self and other in Gadamer's understanding of hermeneutic experience (Erfahrung) – see Gadamer, Hans-Georg (1975), *Wahrheit und Methode*, Tübingen: JCB Mohr (Paul Siebeck): 329–344 (published in English in 2013 as *Truth and Method*) – surely allows one to extend the faculty of hermeneutics to dialogical endeavours to overcome deep societal tensions and splits. The endeavour to overcome such splits must surely begin with an openness to interpretative engagements with others – the stranger, the excluded – that may precipitate reinterpretations of the self. Gadamer's understanding of such interpretive engagements is highly idealistic, notwithstanding his timely retreat from Hegel's absolute reconciliation between self and other. But one need not endorse all of this idealism to recognise that a basic willingness to engage with societal tensions and divisions in a way that may have significant implications for the way in which they have hitherto been understood – and significant implications for the way we have been understanding ourselves – is a precondition for any hope that at least some or some aspects of these tensions and divisions might be resolved one day.

¹⁵ See Blyth, Mark (2013), *Austerity: The History of a Dangerous Idea*, Oxford University Press; Hillebrand, Rainer (2015), 'Germany and Its Eurozone Crisis Policy: The Impact of the Country's Ordoliberal Heritage', *German Politics & Society*, 33(1–2): 6–24; Nedergaard, Peter and Holly Snaitch (2015), '“As I Drifted on a River I Could Not Control”: The Unintended Ordoliberal Consequences of the Eurozone Crisis', *Journal of Common Market Studies*, 53(5): 1094–1109; Bulmer, Simon (2014), 'Germany and the Eurozone Crisis: Between Hegemony and Domestic Politics', *West European Politics*, 37(6): 1244–1263; Dullien, Sebastian and Ulrike Guérot (2012), 'The Long Shadow of Ordoliberalism: Germany's Approach to the Euro Crisis', *European Council on Foreign Relations Policy Brief* 22, http://www.ecfr.eu/page/-/ECFR49_GERMANY_BRIEF.pdf; Berghahn, Volker and Brigitte Young (2013), 'Reflections on Werner Bonefeld's "Freedom and the Strong State: On German Ordoliberalism" and the Continuing Importance of the Ideas of Ordoliberalism to Understand Germany's (Contested) Role in Resolving the Eurozone Crisis', *New Political Economy*, 18(5): 768–778; Bulmer, Simon and William E. Paterson (2013), 'Germany as the EU's Reluctant Hegemon? Of Economic Strength and Political Constraints', *Journal of European Public Policy*, 20(10): 1387–1405; Dardot, Pierre and Christian Laval (2014), *The New Way of the World: On Neoliberal Society*, Verso Books;

Cesaratto, Sergio and Antonella Stirati (2010), 'Germany and the European and Global Crises', *International Journal of Political Economy*, 39(4): 56–86. I am indebted for these references to a recent paper by Josef Hien, 'The Religious Foundations of the European Crisis' (on file with the author). For an earlier version of the paper see Hien, Josef (2015), 'German Ordoliberalism and the Wrecking of Europe', UACES, http://www.uaces.org/events/conferences/bilbao/papers/abstract.php?paper_id=673#.V102S7t95D8. I am also much indebted to Hien for many insights from which my revision of this paper benefited immensely. See also Hien (2013), 'The Ordoliberalism That Never Was', *Contemporary Political Theory*, 12(4): 349–358. For another extensive inquiry into the impact of ordoliberalism on European economics and politics in recent literature, see Lechevalier, Arnaud (2015), 'Eucken under the Pillow: The Ordoliberal Imprint on Social Europe', in Arnaud Lechevalier and Jan Wielgohs (eds.) *Social Europe. A Dead End: What the Eurozone Crisis is Doing to Europe's Social Dimension*, Djof Publishing. I am also indebted to Christian Joerges for bringing Lechevalier's essay to my attention.

¹⁶ See Manow, Philip (2001), 'Ordoliberalismus als Ökonomische Ordnungstheologie', *Leviathan*, 29(2): 179–198; Andriychuk, Oles (2010), 'Rediscovering the Spirit of Competition – On the Normative Value of the Competitive Process', *European Competition Journal*, 6(3): 575–610.

¹⁷ See footnote 40 below.

¹⁸ These views are called and broadly considered 'Protestant' here because of the way they can be traced to ideas articulated by Protestant thinkers such as John Calvin, but they are surely no longer the exclusive domain of Protestant religious circles today.

¹⁹ See Calvin, John (2005), *Institutes of the Christian Religion*, Chapter 21. Available online at <http://www.ccel.org/ccel/calvin/institutes.v.xxii.html>.

²⁰ I insist on invoking here only a naturalistic and de-hermeneuticised frame of mind that finds itself on a scale at the top end of which one reaches a full-blown fundamentalism. It nevertheless warrants noting that the progression up this scale is already significant enough to have moved many observers to take recourse to the notion of 'market fundamentalism.' For a pioneering and notable example, see Soros, George (1998), *The Crisis of Global Capitalism: Open Society Endangered*, Public Affairs.

²¹ Several of the authors cited in footnote 15 make this point.

²² See in this regard Rosanvallon, Pierre (1987), 'Histoire des idées keynésiennes en France', *Revue française d'économie*, 2(4): 22–56. The slow reception of Keynesian thinking in France, argues Rosanvallon, was a result of its perception of a lack of novelty against a background of a long and well-established tradition of state entrepreneurialism aimed at sustaining adequate levels of employment. Further to the caveat already expressed in footnote 18 it must be noted here that the Protestant-Catholic distinction drawn above turns on generalisations that derive from evident historical differences between Protestant and Catholic ethics that most historians and social scientists would endorse. The distinction, nevertheless, does not suggest that all Protestants or all Catholics (individuals or groups) respectively endorse either an exclusively Protestant or an exclusively Catholic ethics. This was most likely never the case in the past and is surely not the case today. The distinction is also not invoked here to assert the 'greater merit' of the one or the other religious culture. At stake here is nothing but

a due regard for the way the functional coherence of one political-religious culture can be disrupted by exposure or subjection to elements of a religious culture foreign to it. This does not mean to suggest, on the other hand, that different political-religious cultures cannot learn from one another through dialogical exchanges. A significant subtext of this article is surely that Europe can benefit from a certain ‘Catholic’ socialism (perhaps in the same way, as one may want to argue, on another occasion, that it may benefit from principles of transparent decision-making that are often rather associated with Protestant than with Catholic institutions).

²³ See in this regard Joerges, Christian (2010), ‘Europa nach dem Ordoliberalismus: Eine Philippika’, *Post-neoliberale Rechtsordnung? Suchprozesse in der Krise*, 43(4): 394–406.

²⁴ See Albertini, Dominique et al. (2015), ‘Déméure d’urgence à Versailles’, *Libération*, 17/11/2015: 4–5.

²⁵ See Mélenchon, Jean-Luc (2015), ‘Reconstruire l’État’, 24/11/2015, <http://melenchon.fr/2015/11/24/reconstruire-letat/>.

²⁶ Consider again the phases on the scale of de-hermeneuticisation outlined above.

²⁷ For a sobering early record of the fundamental rights violations caused by highly ineffective but brutal police action in the wake of the relaxation of juridical constraints on police powers under the State of Emergency declared in France after the massacre of 13 November, see Gandini, Jean-Jacques (2016), ‘Vers un état d’exception permanent’, *Le Monde diplomatique*, January: 12–13. See also in this regard Agamben’s comments on the lack of proper juridical criteria in the emergency measures announced in “De L’Etat du droit à l’Etat de Sécurité” (fn. 6 above).

²⁸ See in this regard also Wilkinson, Michael (2015), ‘Authoritarian Liberalism in the European Constitutional Imagination: Second Time as Farce?’, *European Law Journal*, 21(3): 313–339 for a careful and detailed engagement with this combination of authoritarian politics and libertarian economics in Weimar Germany and the signs of its return in European Union governance.

²⁹ Nevertheless remarkable in this regard is Hollande’s announcement, very soon after 13 November 2015, of a two billion Euro re-employment scheme aimed at turning the exasperating unemployment trends in France around. And he would appear to have indeed come to the realisation that the cause of the state of emergency in France can be traced to the critical socio-economic conditions in France when on *France 2* on 19 January 2016 he explained the need for the massive employment scheme literally in terms of a “socio-economic state of emergency.” His statement in this regard was also well noted and quoted verbatim by *Le Monde* the next day. See Bissuel, Bertrand and David Revault D’Allonnes (2016), ‘Emploi: le plan de la dernière chance’, *Le Monde*, 19/01/2016: 8: “On est dans l’idée d’un état d’urgence économique et social.” This may be the sign of a late but significant reality check in French politics, but it can also be an indication of the way in which the very notion of a state of emergency seems to offer an irresistible and ultimately irreversible allure for politicians who begin to play with it. See also footnote 35 below. The coinage “economic state of emergency” forthwith found its way into the English language and media. See Chassany, Anne-Sylvaine (2016), ‘Hollande Tacks Left in Jobs “Emergency”’, *Financial Times*, 19/01/2016: 2.

³⁰ Benjamin, Walter (1974), *Über den Begriff der Geschichte* in *Gesammelte Schriften I.2*, Frankfurt a. M: Suhrkamp: 697: “Die Tradition der Unterdrückten belehrt uns darüber, daß der ‘Ausnahmestand’ in der wir leben, die Regel ist.”

- ³¹ Relying on a rather selective reading of Schmitt, one must add. See Van der Walt, Johan (2015), 'The Literary Exception', *New Perspectives*, 23(1): 18–20.
- ³² Agamben, Giorgio (2005), *State of Exception*, Chicago/London: University of Chicago Press: 32–40.
- ³³ See note 5 above.
- ³⁴ Gadamer (1975): 315: "Wir können somit als das Wahrhaft Gemeinsame aller Formen der Hermeneutik herausheben, daß sich in der Auslegung der zu verstehende Sinn erst konkretisiert und vollendet, da aber gleichwohl dieses auslegende Tun sich vollständig an den Sinn des Textes gebunden halt." The regard for the norm (and meaning as such!) as pure potential that cannot be actualised without contemplating a theocratic or divine reconciliation of the promise of the norm or the text with concrete or circumstantial reality, or some sovereign brutality that aspires to effect such a divine reconciliation, as I explain further in the text above, renders the conception of application as a "concretisation" and "completion" of the norm that remains completely bound to the norm (vollständig an den Sinn des Textes gebunden) irredeemably counter-intuitive. Agamben appears to endorse Gadamer's explication of application of meaning as part and parcel of the very understanding of meaning. See Agamben (2005: 40). This is surprising and puzzling in view of the position that he takes on pages 32–39 which precede this endorsement, and the express affirmation later (on p. 63) of Kafka's concern with law that is only studied but not practiced.
- ³⁵ Agamben now appears to have given up on the idea (according to him, a Schmittian idea!) that temporary states of exception can be the ultimate safeguard of the norm. See 'De L'Etat du droit à l'Etat de Sécurité' (fn. 6 above) for his contestation that history has shown us that temporary states of exception invariably lead to permanent states of exception and thus to the replacement of constitutional with dictatorial government.
- ³⁶ See Gadamer (1975: 280): "Es genügt zu sagen, dass man *anders* versteht, wenn man *überhaupt* versteht." In view of the consideration elaborated in footnote 18 and the accompanying text above, one would rather insist "da man [immer] *anders* [missversteht], wenn man *überhaupt* versteht," without denying, of course, that some misunderstandings are more felicitous than others.
- ³⁷ See Nancy, Jean-Luc (1992), *Corpus*, Paris: Editions Métailié: 49.
- ³⁸ Compare Weber, Max (1986), *Die protestantische Ethik und der Geist des Kapitalismus II.2*, available online at <http://www.zeno.org/Soziologie/M/Weber,+Max/Schriften+zur+Religionssoziologie/Die+protestantische+Ethik+und+der+Geist+des+Kapitalismus>. It is also available in English as *The Protestant Ethic and the Spirit of Capitalism* at <https://www.marxists.org/reference/archive/weber/protestant-ethic/ch05.htm>.
- ³⁹ Eucken, Walter (1952), *Grundsätze der Wirtschaftspolitik*, Tübingen: Mohr Siebeck: 176: "Die Wirtschaftspolitik aber soll die freie natürliche gottgewollte Ordnung verwirklichen." For an incisive discussion of this theological foundation of ordo-liberal thinking, see Manow (2001: 188).
- ⁴⁰ As he puts it: "Ce qu'il visent, peut-être sans en avoir conscience, car il s'agit là de transformations profondes qui touchent l'existence politique des hommes, est le passage des démocraties de masse modernes à ce que les politologues américains appellent le *Security State*, c'est-à-dire à une société où la vie politique devient de fait impossible et où il ne s'agit que de gérer l'économie de la vie reproductive." The Arendtian roots of this assessment of the security state, so evident in especially the last line

of this statement, become even more express later in the interview. The same applies to his emphasis on the depoliticisation of the citizen in the security state, which is central to his intervention in *Le Monde* in December 2015 (see note 6 above).

⁴¹ See Derrida, Jacques (1991) *Donner Le Temps 1. La Fausse Monnaie*, Paris: Galilee.

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