

## **Criminal and Enemy in the Political Imagination**

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The criminal is not the enemy; the enemy is not the criminal. The enemy can be killed but not punished. Because enemies are not criminals, they can become friends. Veterans often find they share something with their old enemies: they do not hold each other accountable. Indeed, they may feel as if they cannot even remember why they were enemies. Hatred of the enemy is more than a little like love: once it is past, it is hard to recall how it could ever have been so powerful. On the other hand, the criminal can be punished but, in most of the West, he cannot be killed. Punishment was once a display of sovereign power – the spectacle of the scaffold. That display cast the criminal as the enemy. The scaffold is long gone, replaced by the largely invisible, highly regulated space of the penitentiary. A bordered space of law has displaced a limitless assertion of sovereignty. Even released, the criminal has a “permanent record.” Marked by the law, he is simultaneously included and excluded.

Criminals and enemies may do the same violent acts, destroying property and persons. Nevertheless, the modern political imagination carefully maintained the distinction as a matter of both formal law and informal representation. Thus, the distinction of enemies from criminals is central to the international law of warfare. The Geneva Conventions identify those who may be killed, but not punished; they also delineate a form of detention that is not punishment. Conversely, the domestic law of due process protects alleged criminals from violence that is not punishment, while the 8<sup>th</sup> Amendment serves a roughly analogous function for those that have been convicted.

Informally, warfare is imagined as a sort of duel: a reciprocal relationship of threat, of killing and being killed. The reciprocity of threat, of course, says nothing about an equality of means. We don't handicap the enemy, even as we imagine that our threat of violence will be matched by a counter-threat. This is why every war is imagined as "self-defense" by both sides of the conflict. The confrontation with the criminal, on the other hand, is certainly not imagined as a duel. Criminals have no right of self-defense against the police. The force of law is asymmetrical. For this reason, we think of the violence of law – policing – as "depoliticized." There is a corresponding depoliticalization of the violence of crime: it is not political threat, but personal pathology. Law enforcement aims to prevent the violence of the criminal from becoming a source of collective self-expression. Were it to become so, we would confront an enemy.

Everything about the criminal is defined by law, from the elements of the crime, to the procedure of adjudication, to the character of punishment. His depoliticalization is accomplished through his complete juridification. The law, however, will not tell us who are our enemies. It will not define the conditions of victory or defeat. It will not tell us how seriously to take a threat or how devastating to make the response. The enemy, despite the efforts of international law, is not a juridical figure at all.

Much depends upon the maintenance of the distinction of criminals and enemies. Not just the humanitarian law of warfare, but also the elimination of practices of torture against criminals. Collapse of the distinction of criminals from enemies is always a sign of political crisis. This begins with treason: the formal point of intersection of criminal and enemy. The shock of treason was traditionally expressed in its punishment – horrific, including drawing and quartering. Occupying the intersection, the traitor had to be both punished and killed. The

distinction regularly collapses in moments of revolution: the American revolutionaries worried that they would be executed as traitors, rather than respected as enemies. The French Terror was an infamous moment of indistinction. The same was true of the American Civil War: were secessionists enemies or criminals? At the end of the war, they were defeated and pardoned.

Today, we are in a new era of indistinction. What was Saddam Hussein: criminal or enemy? More importantly: What is the terrorist? Are we confronting an enemy or a virulent form of criminality? Uncertain, we try to create a new category of “unlawful combatants.” Unlawful but not criminal. They might be tried, but they are not to be released. Enemies, but they are not prisoners of war. Are they punished or detained indefinitely? Can we maintain the distinction? Consider, too, the International Criminal Court’s indictment of President Bashir of the Sudan for crimes against humanity. If he is a criminal, is it because he is the enemy of mankind? But, then, is he actually anyone’s enemy?

In Bashir’s case, we have a surfeit of law but no body to which to attach it. Bashir remains head of state in the Sudan. Indeed, he was just reelected. At Guantanamo, we have had the opposite situation: possession of bodies but no law. A regime of human rights is matched to a regime of the disappeared. This seems an apt characterization of where we may increasingly find ourselves. There has been, in short, a serious disturbance in the categories of criminal and enemy. Whether or not these new regimes will prove to be effective, they present substantial challenges to the political imaginary. Those challenges are, in turn, producing new forms of anxiety. My ambition is first to locate the theoretical character of the challenge and then to turn to some contemporary, popular films to better understand the way in which this categorical disturbance is finding expression. At stake in the criminal/enemy distinction, I will argue, is the relationship of sovereignty to law. These are not just categories of theory, but the organizing

principles of political and personal narrative. When we lose control of the categories, we can lose the sense of who we are.

First, some theoretical navigation. The criminal/enemy distinction, of course, echos Carl Schmitt's friend/enemy distinction. He put this distinction at the foundation of an autonomous domain of the political. He too worried about the criminalization of the enemy: the Bashir problem. International law, he thought, was heading in a direction that would moralize political conflict. Wars fought for moral ends, he feared, would tend toward extreme conflict over good and evil. He was right to worry about the ideological conditions of absolute warfare, but wrong to think that the threat came from an emerging international, criminal law. International law has not entered into any national political project deeply enough to motivate war, much less a war without limits.

Schmitt worried about the enemy becoming a criminal, but he did not worry about the reciprocal problem of the criminal becoming the enemy. Rather, he saw that as an ordinary part of politics, even though it meant civil war. There was a fluidity in the categories for him precisely because the friend-enemy distinction was in itself empty. The content represented only an intensification – the utmost intensification – of a distinction that could come from anywhere. We can make enemies of competitors or of members of other faiths, parties, or nations. There is no reason why we cannot make enemies of criminals.

In imagining criminals becoming enemies, Schmitt is following Hobbes. Hobbes thought both that a citizen was obligated to obey the sovereign and that a citizen had a “natural” right to resist every threat to his own life. Since the creation of the sovereign depends upon the citizen's desire to avoid death, a logical contradiction emerges whenever the sovereign threatens a citizen's life. Thus, the sovereign either succeeds in securing a civil order of peace – the

condition of law – or he recreates the conditions of conflict to which he was to have been the answer. To Schmitt, this probably sounded like a characterization of Weimar, oscillating between the promise of law and the threat of civil war.

Hobbes found himself in this conundrum because he tried to generate an account of the political from a metaphysical and methodological individualism. If individuals create the sovereign in order to secure the conditions of their own well-being, how can they help but resist when their well-being is threatened by the product of their own creation? This conundrum marks the passage from criminal to enemy. Hobbes had no way to stop the movement, and neither does Schmitt, who sees the enemy as a figure at the end-point of a quantitative continuum of animosity. Criminals become enemies when they come to occupy that end-point.

Indeed, under some circumstances criminals do become enemies: the order of law becomes the disorder of civil war. The interesting point, however, is the resilience of the distinction. Civil war does not erupt whenever the state demands a life; punishment does not become warfare. This remains a deeply puzzling question: what is the character of self-understanding that prevents the slide from disagreement over law into the violence of war?

There are certainly other conceptual resources, apart from Hobbes' individualism and Schmitt's emotivism, to bring to this question. Think of Socrates' trial in Athens. Unjustly convicted of a crime, he is willing to suffer the death penalty rather than cast himself as an enemy of the state. Athens, he argues, has a claim on his body: he can be asked to kill and be killed for the state, not because its laws are just, but because he loves the polity. Consider the Old Testament Jews. They keep violating God's law, which leads Him to a quandary: Should he destroy them as enemies? With Noah's covenant, God decides that Jews can be criminals, but never enemies. God loves the Jews, just as the Jews love him. Both Athens and Jerusalem point

us toward the centrality of love to the constitution of the community. A political community founded on love will distinguish enemies from criminals. Think of the analogy to the family: a misbehaving child is metaphorically criminal, not enemy.

The love of Athens or of the Jews is a bounded love; boundaries are a necessary condition of a political community. Christian love, on the other hand, is unbounded. In place of the pluralism of friends and enemies, there is only the universal Church that is the body of Christ. In place of law, there is the immediacy of faith. Politics begins with the reciprocity of threat: the act of drawing a border. Christ draws no borders, absorbing all political distinctions into himself by allowing himself to be killed without threatening death in return.

The cooptation of an antipolitical faith into the foundation of political authority is too long a story to be told here, but by the early modern era, the mystical corpus of the universal Church yields space to the mystical bodies of multiple political sovereigns, now in the form of sacral monarchs. This remains an important source of our idea of the popular sovereign: a transtemporal, collective agent. “We the people” is not so much Hobbes’s mortal god as the thing itself: an appearance of the sacred that transcends finitude. The sacral monarch, however, could never quite achieve the separation of law from sovereignty. To violate the law was to cast oneself as an enemy of the sovereign. We were in the age of the spectacle of the scaffold, where sovereign power was at stake in the tortured execution of the criminal.

The great achievement of the modern nation state was not to kill the king, but to separate sovereignty from law. The modern political imaginary accomplished this through the ideas of revolution and constitution. Revolution marks the appearance of the popular sovereign, while constitution is a representation, and a remainder, of this original act of popular sovereignty. The nation must be – revolution – and it must be something – constitution. Sovereignty captures the

existential quality of the state; law captures its character as a distinct, normative project. The popular sovereign is the nation conceived as an active unity – as a transgenerational, collective subject asserting its will to be. The rule of law is the nation conceived as an order of representation structuring itself according to the demands of reason. Sovereignty and law are different ways of imagining the whole. They stand to each other as identity to representation. Seeing ourselves as members of the popular sovereign, we see law as the product of our own free act. Looking at the law, we see through it to our own identity. Violations of law – crime – do not threaten sovereign identity, because law only represents the absent sovereign. Enemies, on the other hand, threaten the sovereign, even as they might agree with the content of our law.

Before the state can take on the project of writing law, there must be a coming into being of the sovereign entity: the people. Revolution is that moment of sovereign presence. This moment always has about it the character of the sacred: being and meaning coincide. Sovereignty is, for this reason, an irreducibly theological concept. It cannot be quantified. To the outsider, only its effects appear. To the insider, sovereignty is grounded in an experience of ultimate meaning. Thus, there is no revolution without the expression of a willingness to sacrifice, for sacrifice expresses this transcendence of our own finite being. Even a nonviolent revolution must express a willingness to sacrifice. Think of the Civil Rights movement or the color revolutions in Europe.

Every revolution begins with a claim of injustice, but justice is not the meaning of revolution. Justice can be achieved by legal reform; it can be measured against other ends. Revolution works in a different normative dimension. Thus, the American Revolution is not less significant because it continued the injustice of slavery. All political value begins with this

singular event. It is the political equivalent of the cosmic “big bang:” the moment when the whole was present to itself as a singular identity. This is identity as the fullness of being.

Revolution is the politics of the sacred, but unless we pass from identity to representation, it will be as ephemeral as a sighting of Mary. The history of the nation is the working out in time of this limitless source of meaning. Identity must become representation. The moment of sovereign presence must become a narrative of legal accomplishment. A revolution that fails to create a constitution fails as a revolution. Just as God gives Moses the law to function as a trace of the sacred presence even after God withdraws, the people give themselves the law as a trace of sovereign presence. They speak the law into being. Revolution may begin with the “shout” of sovereign existence, but that shout must be transformed into a constitutional order that will endure well after the shouting ends.

Sovereignty and law together structure the state around competing, but linked concepts of identity and representation. Sovereign presence is never a matter of representation, but of identity. Finding ourselves, we acknowledge a value without measure, which supports a sacrificial dimension of political meaning. The coming into being of the sovereign is the violent act at the foundation of the state. That violent act establishes the boundary between self and other – in Schmitt’s terms between friend and enemy. Without enemies, no sacrifice; without sacrifice, no sovereign; and without sovereign, no identity. Every use of political violence in defense of the sovereign thereafter is an imaginative reiteration – a memory – of that revolutionary sacrifice. There is a sacrificial history of the nation that begins in Lexington and continues in the mountains of Afghanistan today. When politically exacted death cannot fit within this tradition, it is “senseless.”

Law points to the sovereign, but is never the thing itself. There is no sovereign presence in modern law. There is no moment at which law can command sacrifice. The police enforce the law, but they are not asked to sacrifice themselves. Their end, for themselves as well as for those whom they protect, is individual well-being. Law as an order of representation strives for justice. But it is not the justice of law that makes it ours. We want our law to be just precisely because it is ours. The same is true of those whom we love: we don't condition love of our children on justice, but because we love them, we want them to be just. We reform law to advance justice, without putting at issue sovereign identity. If we cannot see through law to the popular sovereign whose work it is, we face a crisis of identity, regardless of how just the law is.

Representation is bound to identity, law to sovereignty. For this reason, there is always more at stake in our law than the law itself can express. Interpretation of the constitution is a field of struggle over national identity, and national identity is a matter of ultimate meaning. This double relationship of sovereignty to law, and law to sovereignty structured the political imaginary of modernity. Is this ending? Many think that we can eliminate sovereignty, and retain law. We can, in that case, juridify the enemy: for example, the Bashir indictment. That which we cannot juridify, we will have to make disappear: for example, the Guantanamo detainees.

Regardless of whether one judges these contemporary developments to be good or bad, they are no doubt producing distinct forms of imaginative stress. These anxieties arise out of a failure in the mediating function of the imagination, which joined word and flesh – law to sacrifice – in the project of the modern state. If these are splitting apart, we will find new forms of anxiety over a violence that cannot ground law because it is no longer a sacrifice, and a representational order of law that can no longer make contact with identity. In response to these

disturbances of the symbolic order of the state, we will find a longing for an originary act of violence that once again links identity to representation.

Popular films offer multiple illustrations of these post-modern anxieties. In turning to film, my point is as much methodological as substantive. If the object of analysis is the political imaginary, then we need to investigate the framing of the political in a wide variety of creative acts. Film becomes as important a source of political inquiry as theoretical texts. Indeed, we may learn more from turning away from the well trod debates of liberal political theory, and examining instead the multiple products of the imagination.

Consider Quentin Tarentino's recent reimagining of World War II , *Inglorious Basterds*. The film takes as its theme the relationship between representation and violence. It asks whether there can be any sort of stable relationship between the two. Its answer is a resounding no – short of affixing a mark to the flesh itself.

This is a film of deliberately uncertain plot. Indeed there are two plot lines that intersect only accidentally in a final act of simultaneous destruction of a Parisian theater. The first plot begins with the vicious killing of a family of Jews hiding in a French farm house. Only the eldest daughter escapes. Under an assumed identity – a form of misrepresentation – she mysteriously becomes the owner of a theater in Paris. She arranges to host the opening night of a German propaganda film. The Nazi leadership attends and she burns down the theater on top of them. She too dies in a simultaneous, reciprocal exchange of violence with a romantically inclined German soldier who just happens to be the soldier /actor portraying himself as an expert killer in the propaganda film. Representation and identity – false identities, films, actors – are problematized at multiple levels in the film.

The second plot involves a group of mostly Jewish Americans, operating behind enemy lines, committing atrocities with the aim of terrorizing the Nazis. The Americans counter the German high tech genocide with the Native American practice of scalping their victims. We cannot quite place these combatants within any ordinary representation of the American: they are Jews acting like Indians, even at one point portraying themselves as mute Italians. They too hear of the opening night and come to Paris to blow up the theater. With some difficulty, they too succeed.

The first plot comes to violence from representation: film is the active agent. Indeed, the cinema owner creates her own film that reveals her identity as the theater burns. The second plot comes to representation from violence: the Bastards are killers struggling to give meaning to their violence. Fittingly, they are mute in their final act of destroying the theater. Only if these two lines can be brought into a stable relationship can identity and representation support each other.

The film is constantly taking up the problem of the representational character of film itself. To what does film refer? Where is its meaning? Overwhelmingly, the answer is that the film only has a meaning in relationship to other films. It is part of a conversation that has no necessary relationship to a truth outside of itself. The representations presented in the film are invariably false. Most obviously, Hitler does not die in a cinema fire. Even the soldier hero of the propaganda film cannot stand to watch himself on screen. When he walks out to pursue his romantic interest in the young woman owner – a relationship that he thinks can operate apart from whatever they may seem to be – the result is only the violent death of each at the hands of the other. No representations can be trusted in the film. Whenever the truth is spoken, it leads to a savage death, beginning with the opening scene of a farmer revealing the location of the hidden

Jews. Within the terms of the movie itself, when we ask what is the value of representation, we are told very precisely that the value of a film is its capacity to act as flammable agent. Film affects this world not by what it says, but by what it does: it burns.

If representation refers only to other representations, then violence refers only to other violence. Every violent act triggers a violent response. Political violence always occurs on a field of cause and effect. The Nazis unleash horrendous violence against the Jews, but become the victims of an equally primitive form of violence. They will be beaten to death with bats; they will be scalped. Whenever anyone threatens a particular act of violence, they end up killed in the exchange of violence. Violence for violence is the message. A politics that begins in violence can never have any meaning, for it resists representation.

Indeed, the double plot lines make it impossible to assign a narrative to the violence. We don't know which narration – which plot – is the one that controls the movement of violence. We don't know because neither does. Each story is complete in itself, but neither has any actual relationship to the other. We have, in contemporary language, multiple possible narratives. We are free to choose which ever we want. The history we tell is not itself determined by the violence it relates. Memorably, the Nazi villain of the film attempts to write himself – falsely – into the narrative of the killing of the German leadership. There is a virtually unbridgeable gap between violence and representation.

Virtually, but not quite complete. There is one point of contact, which seems the focal point of the film. That singular point is the swastika carved in the forehead. The hero – or is he an antihero? – explains that he does this because he cannot “abide” the idea that these Nazis will take off their uniforms, and no longer be seen for what they are. Clothing too is a form of representation and therefore has no stable relationship to identity. Only the figure carved in the

flesh overcomes this instability, bringing representation and identity into a fixed union. Literally fixing representation to identity, we can know the enemy.

Lincoln worried about this same problem when he spoke of the wounded bodies of the revolutionary war veterans as the visible foundation of the order of law. They were a living history. Movement from the presence of sovereign violence in the Revolution to a stable legal order required that the word show itself – be seen – in the flesh of the veteran. Law had to make contact with the original act of sacrifice. With the death of those bodies, Lincoln preached a new religion of law. He would put the Constitution in the place of the wounded body. But could he? Not without a new war. Law is refounded in the sacrificial bodies of the soldiers of the Civil War, and then ultimately in the sacrifice of Lincoln himself, who becomes the great martyr to law. His death simultaneously marks the presence of the enemy and the refoundation of law.

Tarentino's film denies us the possibility of such a world, for violence and representation seem to move in parallel universes. The only violent act that has any hope at all of founding the state is the swastika carved in the flesh, but we know that this will not be sufficient. Subjects kill and are killed, but no narrative can control this violence or endow it with a permanent meaning. Anything we might say would be false – a theme picked up internally in the movie by multiple failures of language. We might be persuaded, but we have no reason to believe.

Can we say who is enemy and who is criminal in such a world? The categories are completely confused. The figure of the Jew moves from criminal to enemy. But enemies too are unstable: some are in disguise, some would switch sides. Always there is just more violence for violence. Every narrative offered is false– from the largest narrative of the successful attack on Hitler, to false uniforms, to false eloquence. The only point of truth is the swastika in the

flesh. Cain is marked and goes on to found cities. Tarantino is not so sanguine. For him, it is a desperate move in the face of the inevitable misrepresentation of language.

It does not take much imagination to see in *Basterds* an approximation of the situation at Abu Grahیب or Guantanamo. At those places we learned again that confronting the inhuman, we ourselves become inhuman: not Indians, but torturers. Every representation offered turns out to be false. We are persuaded only until the moment that we see the lie. If representation – law – is not controlling violence, what is? Increasingly, the answer seems to be nothing: violence only brings on more violence. The Yoo memoranda are more acts of violence, than of law. We don't know what to do with the terrorist anymore than the film knows what to do with the Nazi. Our problem is literally that they are not dead. So, they must be disappeared: denied representation. They fall then into the zone of indistinction: neither criminals nor enemies. There is a desire to stabilize this: to affix a permanent representation that says this at least is true. So we find ourselves not just torturing, but photographing the abused body. We make symbols out of, if not upon, their bodies. We have no reason to think that law can stabilize this situation. Already after last year's Christmas day plot, we see the promise of bringing law to Guantanamo failing before the fact of violence. Our efforts at representation fail before the tragedy of violence.

*Basterds* focuses on the anxiety of indistinction that arises from the resistance of violence to narrative. If violence is a force of nature, it cannot be subordinated to law. The law it follows is that of cause and effect. Representations can lead us only to other representations, never to identity. If law leads only to more law, then, politics will no longer be a domain of freedom. The law may be fully rational on its own terms, but it will not be ours; it will make no compelling claim upon us. It will not be fixed. With nothing at stake, one narrative can displace another. Either way, violence will continue.

The citizen must see through the representational order of the state to the popular sovereign, for the law to be his. The task here is no different than the theological task of seeing through the rituals of the church to a sovereign God. Ritual without God is law without meaning. Closure of the system of representation would sever the link to popular sovereignty, and so to identity. It would undermine the claim that law is the product of freedom. Law would be only the product of law.

Here, we have the origin of the “democracy deficit” attributed to the regulatory output of the European Union. That code manages itself as if it were the product of a disembodied reason. Technicians of the law constantly adjust the elements of the law to each other through proportionality review. This law no longer creates history; instead, it manages the present. Interpretation is no longer a free act of rhetorical persuasion forming the connection between the transcendent value of sovereign presence and legal representation. A law that is pure representation actually represents no one at all. The more complete the code, the more we gaze upon it from the outside. A law that represents no one can be a global rule, at which point inside and outside would lose any sense. The law would apply to everyone but belong to no one. We would have criminals, but no longer enemies.

The anxiety of code is a reverse image of the anxiety of violence. It is the odd anxiety of perpetual peace. The fictional response to this displacement of identity from representation is to go to war with the code. This perfect system of representation tends toward a specific signature in film: representation becomes code, and code becomes machine. The dystopian vision matches man against machine. Violence becomes a performance of human freedom – just the opposite of Tarrantino’s worry that violence makes us a part of nature.

Contemporary films have deepened the anxiety over this dystopian vision as the net has increasingly become a part of our everyday life. Is the net a tool for realizing our freedom or is it creating a closed code? A perfectly ordered representational world is one in which machines govern. They do not govern through violence, but through controlling representation. We are in the dystopia of *The Matrix*. The machine no longer has just a “mind of its own” – like HAL in *2001* – rather, it makes our mind its own. We are caught within the web and cannot get out.

The matrix is a perfect system of representation, on the one hand, and a completely illusory world on the other. Representation is coherent (or nearly so). Every proposition is linked to every other. There is a logic – an artificial intelligence – that guarantees coherence. Nevertheless, there is nothing on the other side of the representational propositions. Not identity, but illusion. We might find ourselves arguing about events and their significance within the matrix, but we are arguing about nothing. At stake in this argument is never who we are, because we are not there at all.

To see the closed character of the code is to discover that the freedom one thought one had was only an illusion, for everything we have done was determined – a thought that already troubled Descartes. He, however, had to imagine the closed system of code as a sort of dream induced by an evil genius. We have the net. Genuine freedom of the will requires a violent act set against the code. Identity begins with the willingness to sacrifice – an act done always for love. Identity is reconnected to representation through the act that places the body, the real body, at risk. The body must take on a meaning to ground representation in identity. Thus, the point of connection between the representational world of the matrix and the reality of identity is death: to die in the matrix is really to die. The explanation offered Neo is: “the body cannot live without the mind.”

The deeper point is about the unity of body and mind in love. Love re-founds the world in an act of sacrifice. In the film, love not only supports sacrifice, it conquers death: Neo is brought back to life by Trinity. Within the matrix, identity and representation can never be brought together. Love, accordingly, will always fight code.

We might take *The Matrix* as a dramatization of Kant's transcendental philosophy. Kant argues that our experience is always phenomenal. We can speak of what must be true for us, but we are never in a position to speak of a truth beyond this experience. Of the thing-in-itself, we simply can say nothing. Experience is structured according to a set of categories. Most importantly, everything we experience is causally related to what preceded it. The phenomenal world, accordingly, is a complete system of representation that allows no space for freedom. Thus, Kant faces the problem of explaining the possibility of freedom. He must explain the relationship between identity and representation. We live, he argues, in an epistemic world of representation, but in a moral world of freely formed identities. We can no more give up our concept of ourselves as free than we can give up the concept of causation. We know ourselves in this double aspect, even if we cannot explain it.

In the cinematic version, the noumenal world is not just the unknowable other. That world – the “real world” – begins with humans as batteries to the machines. Man must first create himself in a free act of self-appropriation; he must disestablish his link to the machine. Only then can he attack the closed world of representation. What then would success look like? It would be a world in which identity and representation are held together, such that we see ourselves in and through the ordered system of representations. In Kant's terms, it would be a world in which we freely give the law to ourselves. In political terms, constitution follows revolution.

In the closed system of representation that is the dystopia of code, there are no enemies, only criminals. There cannot be enemies until there is a free man. Neo's birth into freedom is also his transition from criminal to enemy. He becomes "the One," proclaiming that truth is not of this world. Not code, but love. What seemed life had been death, while true life is found only through death. If the free man literally creates himself, we are left to puzzle about the world that the free man gives himself. How different would it be from the world of the matrix? Freedom for the political imagination always threatens to fall into a kind of apologetics.

The contemporary international law of human rights offers us a kind of image of the matrix. It too purports to be a perfectly ordered system of representation. It claims the completeness of every system of law, capable of pronouncing every act legal or illegal. Its home is in the net and in networks, from which it would order a political space that is now global. The completeness of this code, however, is quite independent of its capacity actually to order the world. It is representation turned in upon itself. We can talk endlessly about human rights; we can hold endless conferences and draft legal rights to respond to every need. We can do so because nothing happens beyond the talk itself. Representation leads only to more representation.

At the turn of the millennium, we had a complete system of representation – an international code – but we could not answer the question of identity: whose law is this? We could describe acts as unlawful, but we could not see what difference this made. We could not enforce this law of human rights because no political actor would claim possession of it as a matter of citizen identity. Purporting to be everyone's law, it was actually no one's law. We might be for justice and human rights, but we were not willing to sacrifice our selves – or ask

our fellow citizens to sacrifice themselves – to assure these rights to others. Freedom cannot be created through representation alone.

Alongside these cinematic representations of a complete code then, we should place the drama of the indictment of President Bashir. Once again we have the self-contained code – international criminal law – that constructs a world detached from identity. Despite its claim to omnipresence, we find ourselves outside of it. We cannot see through it to ourselves. The code would reconstruct in its own propositional logic the political acts of Bashir. He, however, has no reason to enter this matrix. To him, and to us, the code is a fiction. This will remain true until there is some political community that takes possession of the code as an expression of its own identity. A code that will not be defended is comedy. We speak a language, but we are not speaking about anything. Like Shakespeare's comic dramas, it as if the entire affair is a dream. Until we wake up, we think we are acting in the world, but we are not.

Bashir reminds us of something that is suppressed in the film versions of the anxiety of code. In film, the free act that stands opposed to code is always one motivated by love. Identity is found in and through love, which becomes the foundation of a new world. The free act of self-creation, however, can also be founded in evil. Hitler's word was law: identity and representation exactly coincided. Bashir is the evil counterpart to Neo. He too claims to be a free man able to found a world of representation on his act. No doubt evil has been as important as love in acts of political creation. To think that evil is defeated by code is comedy. Evil is defeated by love. The winner gets to write the code. Until there is a winner, it is all words.

This brings me to a final film, the theme of which is the originary act of violence that defeats evil and thereby refounds a world in which representation and identity are aligned: a world in which we can again distinguish criminals from enemies. The film is *Taken*, which like

*Basterds* is a kind of reimagining of the Second World War. France has again been invaded, has failed to defend itself, is troubled by collaborators, and requires rescue by the Americans. The questionable political morality of the Europeans results in a defeat that calls for a response from the morally virtuous Americans. Now, however, not the German military, but Albanian criminals are the enemy. And the Americans come in the form of single warrior motivated entirely by love.

The plot moves exactly along the line of the distinction of criminals and enemies. A teenage daughter on vacation in Paris is seized by the Albanian mafia, which traffics in innocent girls. The girls are drugged and sold into the sex-slave trade. Through this act of violence, she has become a mere body – an object of commerce – without national or familial identity. The victim's father is an ex-CIA operative, who has recently retired in order to reconnect with his daughter. He has, as he puts it, a “very particular set of skills,” learned through fighting the enemies of the state. Those skills are the administration of violent death, including torture.

Here we have all the basic elements that we need to construct and deconstruct the distinction of criminal and enemy. There has been an invasion by people – the Albanians – willing to deploy violence against the very heart of the domestic order – the virgin daughter. Their actions are formally criminal, but the instruments of ordinary law enforcement will not protect us. The criminals have already bought off the French police, but one suspects the problem is deeper. Policing is just another job, not a site of sacrifice. If society is to be defended, the Albanians must be seen for what they are: the enemy. We are beyond law. By the end of the movie, every person involved in the attack upon the daughter has been killed by her father. None are punished; all are killed. He sees the enemy, not the criminal.

In the prehistory of the film, the father had given up his relationship to his own family in order to kill the enemies of the state. He has been the modern sacrificial warrior, but the cost was separation from the love of family. There was no way to manage the relationship between the public and the private. He had chosen to defend the state, but now he has given up that public role in order to try to recapture his private life. His sense of displacement suggests a broader theme: mastery of violence is that upon which the state relies, but which it cannot admit. He cannot tell his family that he kills for the state. This silence – a lack of representation – makes him a stranger to their life. His wife leaves him; his daughter does not know him. Thus, he must choose between public warrior and private father. The failure of acknowledgment, however, threatens the entire political project.

The larger point is that contemporary states are turning from deployment of violence against their enemies to law enforcement against criminals. In the United States, where everything is privatized, the ex-warriors become private security guards; in France, the ex-warrior becomes a policeman. Neither will protect us from enemies. This turn from enemy to criminal corresponds to a change in the character of the private from the familial as a site of love to the familial as a site of material consumption. A world without enemies is strangely a world without love. The criminals in the film are always represented as acting for money alone. Doing so, they destroy love. The merchant of sex tells the father, right before he is killed, that “there was nothing personal” in his business of selling the daughter. The father replies, just as he kills him, that “it is all personal.” A system of representation – whether money or law – is never personal. If it is not personal, it will not recognize the enemy.

France twice represents the anxieties of what the United State might become. First, we see a private world given over to material values (the French policeman turns to corruption to

support his family's expensive tastes). Second, France no longer has enemies because, unlike the United States, it will not defend its borders. Paris is completely penetrated by others, from the Albanian mafia to Arab princes who purchase the enslaved children of the virtuous. The borderless character of Paris is symbolized by Rue de Paradise, where the Albanians process the captured young girls. It must become the place of battle, at which the American kills and tortures the enemy.

The narrative arc of the film is an effort to find a language for love that can manage the relationship of identity to representation – exactly what Tarantino cannot find. As the unrecognized warrior, the father performed that which could not be spoken: the killing and being killed that maintains the state. Coming back to his family, he is looking for a way to express his love. At the beginning of the film, he is failing: he can do no more than purchase a gift (interestingly a karaoke machine) for his daughter, which is immediately displaced by a larger gift from her stepfather (himself a vaguely corrupt business man). Only after the violent performance of killing all who threaten his family can the warrior's love be spoken. That which could not be said is now fully in view. A recognized sacrifice is violence given voice; it is identity founding representation. Not surprisingly, the final scene of the film has the father taking his daughter – now returned home – to a sort of audition for singing lessons. Voice and identity have been brought together through love.

A very old political drama is being recreated in a democratic form here. The family that is now at the center of the state is not that of the king, but that of everyman. The sovereign actor is now the people. Before they can represent themselves through law, they must take up the burden of sacrificial violence. Only for love will we risk our own lives and kill others. To the action of love, all opposition seems evil. Criminal collapses into enemy – that is, into a singular

evil – because we are beyond representation. We know just one thing: this must be destroyed. This is the originary act of violence: sacred violence. Only when love defeats evil, when the border is secured and the state of nature has been left behind, can we again have a world of representation. If we forget the moment of origin, representation will lead to corruption, and the whole process must begin again.

Stanley Fish recently described *Taken* as a “revenge” film. That is exactly wrong. *Basterds* is about revenge, but *Taken* is about the originary act of violence that creates and maintains the border. This original act of killing tells us who are the enemies: they are those who threaten the order of love. That act of violence creates the possibility of a new order of representation, which is the possibility of law.

I have tried to plot the political imaginary in some of its multiple forms. Politics is no less a product of the imagination than is aesthetic production; high theory is no more true than popular film. They are both the product and source of the social imaginary. Where theory expresses a good deal of confidence, however, popular representation is likely to express our anxieties and hesitations. Of course, film cannot displace theory, but neither can theory free itself of these anxieties. We have never lacked for theories of a cosmopolitan order of law, but these theories tend to be blind to the other elements of the political imaginary which invest law with meaning. Theory tends to think of violence as a failure of law, and of sacrifice as anachronism. Turning to film teaches us something of the complexity of political values. It reminds us that only when representation is linked to identity can politics bring us both order and meaning, justice and freedom. That world is one in which we have both criminals and enemies.