

The Exceptional Life of the State: Giorgio Agamben's State of Exception

Giorgio Agamben, *State of Exception*. Translated by Kevin Attell. Chicago: University of Chicago Press, 2005 / Giorgio Agamben, *Stato di eccezione: Homo sacer*, II, I. Turin: Bollati Boringhieri, 2003.

"The exception is more interesting than the regular case. The latter proves nothing, the exception proves everything." Carl Schmitt *Political Theology*

I.

Philosophers have often written of the nature of the state and of the state of nature. They have often written of the state of culture and the culture of the state. Rarely, however, have they written of a state of exception in which the state's habitual nature and culture is suspended. It is to just such a state of exception—and of the possibility that such states of exception lie at the heart of the functioning of modern states—that the Italian philosopher Giorgio Agamben has dedicated his most recent work, *State of Exception* [*Stato di eccezione*].

Like the larger project of which it is a part, *State of Exception* is a book about life. It is not about life in any banal or belletristic sense. It is an earnest and erudite analysis of the ethical, juridical and ontological coordinates through which Western culture has developed and defined a concept of *life*—of life's essence and its limits. The book's subtitle—which the English translation unaccountably fails to render—*Homo sacer*, II, 1, refers the reader to a project which Agamben inaugurated in 1995 with the publication of *Homo Sacer: Sovereign Power and Bare Life* (*Homo Sacer. Il potere sovrano e la nuda vita*).¹ This investigation of the life of power—profoundly influenced, as its subtitle reflects, by Michel Foucault's final works²—was continued in the next—and anachronistic—volume to

¹The hallmark concepts and themes of that work are also present in a collection of essays not contained within the *Homo sacer* series, *Means Without End: Notes on Politics*.

²One might note Foucault's contribution to Agamben's reflection is not limited to his reflection on biopolitics—which Agamben writes of in the opening pages of *Homo Sacer* (cf. HS 3-5; 5-8)—but also to the idea of sovereignty. If, for Foucault, the only real discursive recourse that was available to those who wished to resist the reigning disciplinary regime is a juridical discourse founded on a notion of sovereignty dating back to the rebirth of interest in Roman law in the Middle Ages, that option is not, for Foucault, a real or effective one. What remains to be done is then to think beyond the conception of sovereignty. As Foucault says, "it is not in a recourse to an idea of sovereignty as opposed to that of discipline that one will be able to limit the effects of disciplinary power [*ce n'est pas en recourant à la souveraineté contre la discipline que l'on pourra limiter les effets mêmes du pouvoir disciplinaire*]" (*Il faut défendre la société*, 35).

appear: *Homo sacer III, The Remnants of Auschwitz (Quel che resta di Auschwitz, 1998)*. This work pursued the investigation of life and its limits into the horrors of the Nazi concentration camps, and the prodigious difficulties testifying to those horrors present. *State of Exception. Homo sacer II,1* focuses its attention on the suspension of the rule of law which was the condition of possibility for the establishment of those camps—and for much more.³

The work of Agamben's that directly preceded *State of Exception* did not belong to the *Homo sacer* series. In that work, *The Open: Man and Animal (L'aperto. L'uomo e l'animale, 2002)*, Agamben investigated the conceptual history of the term *life* in light of what separated the life of man from the life of animals. *The Open* took its title from a singular term to which both Rilke and Heidegger had accorded special importance for man and animal alike. *State of Exception's* title is also a translation, and it is also a translation from the German. It directly alludes to the German jurist and legal scholar Carl Schmitt's laconic definition of sovereignty. Schmitt began his *Political Theology (Politische Theologie, 1922)* by defining the "Sovereign" as "he who can decide on the state of exception [*Ausnahmezustand*]" in which the rule of law is suspended—and it is this suspension which gives its name to the work.⁴

What does Agamben isolate in this phenomenon that Schmitt expertly identified and personally militated for?⁵ Does it interest him only as a fact of legal

³The *Homo sacer* project is to comport four parts. The fourth and final part is to concern itself with the concepts of "forms of life" and "styles of life" in a non-historical context (cf. Ulrich Raulff's interview with Agamben, "Das Leben, ein Kunstwerk ohne Autor. Der Ausnahmezustand, die Verwaltung der Unordnung und das private Leben. Ein Gespräch mit Giorgio Agamben" in the *Süddeutsche Zeitung*. April 6, 2004. 16).

⁴Carl Schmitt. *Political Theology: Four Chapters on the Concept of Sovereignty*. Trans. George Schwab (Cambridge, Mass.: MIT Press, 1985)/ *Politische Theologie. Vier Kapiteln zu Lehre von der Souveränität* (Munich: Duncker and Humboldt, 1922). Throughout his work Agamben translates Schmitt's formula as "state of exception" ("*stato di eccezione*"), though the less literal "state of emergency" ("*stato di emergenza*") might have also applied. The only exception to this is a passage noted later.

⁵Schmitt was not opposed to an effective declaration of such a state of exception, and, in 1934, vocally supported Hitler's mounting sovereignty. In 1936, he wrote of the need to purify German law of the "Jewish mentality" ("*jüdischem Geist*") which was then, in his view, corrupting it. A year later, he began to recede from the central role he had hitherto played in the National Socialist party, and their violent state of exception, later claiming that he had undergone at this time an "inner emigration." In 1945, Schmitt was arrested by the Allies for the role he had played in the Nazi party, and imprisoned. Upon his release in 1950 he was forbidden from playing any active role in the legal or academic institutions or debates of the day, and lived out the rest of his long life guarding a defiant silence on the question of his guilt or responsibility for the atrocities committed during the Second World War. Interest in Schmitt's work is far greater in Italy than it is in the English-speaking world—or even in his native Germany. As a recent bibliography of Schmitt's work notes, nowhere more than in Italy has Schmitt's work been translated and commented upon. Cf. de Benoist. In the preface to this work de Benoist notes that in Italy and Spain the interest in Schmitt's work has been the greatest, followed by Japan, South Korea and France.

history—one that paved the way for the denationalization and subsequent genocide of European Jewry? Agamben does indeed closely examine the regime that first called upon Schmitt's teachings and person—but his analysis of the phenomenon of a state of exception where a sovereign leader suspends the rule of law does not restrict itself to this instance. One of the first points which Agamben wishes, in fact, to make clear is that, in the life of the state, such exceptional instances are not so exceptional. To this end, he sketches a genealogy of states of exception from their origins in Roman law to more modern cases such as the states of exception declared by France's revolutionary governments, Abraham Lincoln's authorization in 1862 of the summary arrest and detention of persons suspected of "disloyal and treasonable practices," to instances such as the "unlimited" national emergency declared following the bombing of Pearl Harbor, and which led to the expulsion of 70,000 American citizens of Japanese origin (along with 40,000 Japanese citizens) (cf. SE, 20; 30 ff.). This historical background is in no way offered as a relativization of the long and deadly state of exception put into effect by Hitler's decrees. It is meant instead to alert the reader that the conditions which allowed for such a state of deadly exception had existed in the West for some time—and have not disappeared from it.

In Walter Benjamin's final works, he again and again attacked the reigning ideology of progress and the concomitant idea that states and societies grew with time more just and more wise. Benjamin wrote in 1940, in regard to the barbarities then underway, that, "the wonder occasioned by the fact that the things we are at present experiencing are 'still' possible in the twentieth century is no philosophical wonder" (I.2.697).⁶ As Agamben's work makes clear, he could not subscribe more fully to this view. He consequently isolates not only historic states of exception, but also contemporary ones. The most notorious of these is George Bush Jr.'s declaration in November 2001 providing for the "indefinite detention" of non-citizens suspected of terrorist activities. In a provocative analogy, Agamben claims that, "the only available comparison" to this legal no man's land into which the detainees in Guantanamo have been thrown, and in which so many still dwell, is, "the legal situation of Jews in the Nazi *Lager* [concentration camps]" (SE, 4; 12). It is important to pay careful attention to the terms

⁶This is a point to which Benjamin often returns in the writings of his last years. Cf., in particular, "Convolute N: On The Theory of Knowledge, Theory of Progress [*Konvolut N. Erkenntnistheoretisches, Theorie der Fortschritts*]" of his *Arcades Project* (cf. Benjamin 5.1.570 ff).

Agamben here employs: the analogy established between detainees in Guantanamo and imprisoned Jews in Nazi concentration camps is one of their “juridical situation”: the rights and recourses they have (not to the political intentions of the regimes in question, nor the physical treatment of those indefinitely imprisoned).⁷ For Agamben, the violence of states of exception is a problem more present and pressing now than ever before. “The state of exception,” he writes, “has now reached its maximal planetary expansion” (ibid., 111). “When the state of exception...becomes the rule,” he continues, “then the juridico-political system becomes a machine which may at any moment turn lethal” (ibid., 110). It is this lethal machine whose biopolitical motor is the state of exception that is, in Agamben’s analysis, “leading the West to a planetary civil war” (ibid., 111).

2.

Agamben examines this biopolitical machine not only as a historical, juridical and political phenomenon—but also as something more. The state of exception is what he calls an “original structure [*struttura originale*]” (ibid., 11). In this original structure, “the law includes in itself the living [*il vivente*] through its own suspension” (ibid.). This dense formulation refers to the central paradox of such states of exception: the state of exception is the point at which the law provides for its own suspension; it is the legal suspension of the distinction between legality and illegality. The profound interest of Schmitt’s idea of a “state of exception” is not as a key juridical term among others, but as a concept marking the limits of the law. For this reason, Agamben will speak, in regard to the state of exception, of a “no man’s land” [*terra di nessuno*] he sees lying between “civil law and political fact,” between “juridical order and life” (SE, 10). The state of exception is the political point at which the juridical stops, and a sovereign unaccountability begins; it is where the dam of individual liberties breaks and a society is flooded with the sovereign power of the state.

Isolating and expressing this “original structure” as such is, however, no easy task, lying as it does in such an “anomic space.” Agamben endeavors to delineate

⁷In a similar vein, it bears noting in this regard that Agamben publicly resigned from a post as visiting professor at New York University in January 2004 in protest to the revised Homeland Security Act which would have photographed and finger-printed him. Cf. Agamben’s article explaining the reasons for this decision in the Italian daily *La Repubblica*, “*Se lo stato sequestra il tuo corpo*” (January 8, 2004, pp. 42-43). Agamben’s article was reprinted by major newspapers in every European country, as well as being covered in America by, among other periodicals, *The New York Times*.

this space by directing his readers to Jacques Derrida's analysis of the force of law. Agamben traces the history of the French phrase that captivates Derrida, *force of law* (*force de loi*), and reformulates it in light of the state of exception he is illustrating. In the state of exception, the force of law is contracted. Force and law no longer stand in a relation of means to ends (*force* as the recourse *law* may employ to achieve certain ends), but are, so to speak, contracted into a single point or line. Agamben expresses this through the typographical recourse of hyphens, "*forza-di-legge*" ("force-of-law") (ibid., 52). And yet for this to be possible, law, as a separate entity limiting and controlling the force used in its exercise, is suspended, or even cancelled—which Agamben expresses through the typographical recourse of crossing out one of the contracted terms, "*forza-di-~~legge~~*" ("force-of-~~law~~") (ibid.). Such typographical recourses, employed by Agamben's teacher Heidegger—and which Derrida has also often employed—reflect the difficulty of finding an adequate expression for such an original structure and the "anomic space" it outlines.

The conclusion Agamben draws from this contraction and suspension of force and law is not limited to the exceptionality of state structures. Such a juridical form reveals a philosophical relation—one in which "potentiality and act" are "radically separated" (SE, 39; 52). The reader of Agamben's work may be surprised to find such terms as *potentiality* and *act* in such a context. He or she might be equally surprised at the idea suggested: that of an act or actuality separated from the *potentiality* that would precede it (in the philosophical sense that everything that is actual must have been possible beforehand, for if had not been possible, then it never could have become actual). How then is act divorced from potentiality? And what does this have to do with the dire political situation Agamben diagnoses—with the "planetary civil war" he sees us heading towards?

This inhabital reflection on the categories of potentiality and actuality is no new element in Agamben's speculations. Not only has the idea of potentiality (and its avatars "latency" and "infancy") lain at the center of Agamben's earlier investigations (something which can be best glimpsed in Agamben's collection of essays bearing that title, *Potentialities*⁸), it has also played a central, if somewhat mysterious, role in the Homo sacer project. In the passage of the opening volume that caused its readers the greatest surprise and confusion, Agamben declared that:

⁸Cf. on this question, my "Agamben's Potential".

...only an entirely new conjunction of possibility and reality, contingency and necessity...will make it possible to cut the knot that binds sovereignty to constituting power. And only if it is possible to think the relation between potentiality and actuality indifferently—and even to think beyond this relation—will it be possible to think a constituting power wholly released from the sovereign ban. Until a new and coherent ontology of potentiality...has replaced the ontology founded on the primacy of actuality and its relation to potentiality, a political theory freed from the aporias of sovereignty remains unthinkable (*Homo sacer*, 44; 51).

Though that work does not expand upon this point, or offer insight into the form a thinking which no longer related potentiality to actuality might take, the question remained at the exceptional heart of Agamben's project.⁹ In the state of exception Agamben isolates, potentiality and act are "radically separated." Is this then not, in

9 Despite the capital importance that Agamben accords to this conception of *potentiality*, the majority of those who have written on *Homo Sacer* have accorded little or no place to it in their analyses. The majority of treatments of the work thus far published largely concern themselves with the thesis of the third and final section of the book—what one reviewer called the "unheard-of provocation" of the work ("*ungeheure Provokation dieses Gedankens*")—that is, the contention that the concentration camp is the paradigm for modern politics (cf. Michael Mayer. "*Ein Ausnahmezustand auf Dauer. Giorgio Agamben über die Idee einer 'Biopolitik'*"). The author of the most astute account of Agamben's book, Luciano Ferrari Bravo, writes to this effect: "But we cannot conceal our perplexity at the central thesis [of the final section of the work]: to single out the camp as the specific figure for this inclusive exclusion [of which Agamben speaks] [*Ma non si possono sottacere le perplessità di fronte alla tesi centrale: costituire appunto il campo la figura specifica e tipica di quella esclusione inclusiva...*]" ("Giorgio Agamben. *Homo Sacer*," 169). (Ferrari Bravo eventually proposes Ellis Island as a more apt "paradigm" for the modern biopolitical nomos, citing Ellis Island's [or rather the institutional apparatus set up on the island] focus on the formation and preparation of masses of workers—a suggestion well in line with his upbraiding of Agamben in that article for his insufficient materialist approach to the question.) Somewhat more rarely, reviewers have taken up the question of Agamben's lineage of the idea of sacrality, as in Jean-Phillipe Guinle's review of *Homo Sacer* which claims that Agamben does not sufficiently emphasize the properly *Christian* sacralisation of life—particularly in the cases of the figures of Augustine and Paul (cf. "Homo sacer, le pouvoir souverain et la vie nue: Giorgio Agamben").

An important exception to this overlooking or occulting of the question of potentiality in *Homo Sacer* can be found in Carlo Sini's "*L'occultamento del politico e la crisi della democrazia*". In this article Sini summarizes the problem posed by Agamben's idea of potentiality and offers an essentially Heideggerian gloss of its import ("...the essential would be rather in the capacity to differently 'inhabit' the irrevocable gesture in which we are inscribed [*l'essenziale sta piuttosto nella capacità di 'abitare' altrimenti il gesto irrevocabile nel quale siamo iscritti*]" [493]). A less elaborated discussion of the question can be found in Elise Guidoni's article "*Sur Homo Sacer*," which talks of potentiality not in the terms stated in the book but in terms of a psychoanalytically inflected theory of language. In a not unrelated vein, Kalliopi Nikolopoulou's article on *Homo Sacer* strangely claims that, "Agamben wishes to terminate the dialectic of potentiality and actuality," but dedicates no space to what this might mean, and eventually decides, comparing Agamben to Freud, that, "despite Agamben's preference for a non-psychological description of the struggle of human life against external power, *Homo Sacer* too is haunted by its own oedipal confrontations—in this case, with the Western political tradition it wishes to overcome in order to generate a new politics" ("*Homo Sacer*," 131).

This has remained the case for reviews of the work, such as the admirable reviews of the German translation of *Homo Sacer* by Andreas Platthaus in the *Frankfurter Allgemeine Zeitung* ("*Im Bann des Suchscheinwerfers Philosophie*") and Thomas Assheuer in *Die Zeit* ("*Vor dem Gesetz*").

light of what the first volume of the series longs for (a “new and coherent ontology” which ceases to found itself on “the primacy of actuality”), to be desired? And yet is this not what is ushering in the “planetary civil war” Agamben warns against?

3.

Shortly after Walter Benjamin’s death, his final work—his “Theses on the Philosophy of History”—were sent to his friend Bertolt Brecht. Upon receiving them, the latter wrote in his journal that, “one thinks with horror [*schrecken*]¹⁰ of how tiny the number is of those even in a position today to misunderstand such a work.”¹¹ In a letter to Max Horkheimer about these same theses, Benjamin, writing in French, had stressed their radically “stripped-down character [*caractère dépouillé*]” (Benjamin 1.3.1225). To Gretel Adorno he had written that, “nothing lies further from my mind than the publication of these theses...they would only open the door to the most enthusiastic misunderstanding [*Sie würden dem enthusiastischen Mißverständnis Tor und Tür öffnen*]” (ibid., 1.3.1223).

Agamben is the Italian editor of a large section of Benjamin’s complete works in Italian (he interrupted this project when Berlusconi acquired the publishing house—Einaudi—he had been preparing the edition for), as well as one of his most knowledgeable and gifted commentators. This is amply clear in Agamben’s exoteric writings on Benjamin such as the essays “Walter Benjamin and the Demonic: Happiness and Historical Redemption” and “Language and History: Linguistic and Historical Categories in Benjamin’s Thought” (both collected in *Potentialities*). This is equally clear in Agamben’s more esoteric writings about Benjamin’s work, such as the collection of fragments *The Idea of Prose* (1985). One way of understanding Agamben’s remarkable work on St. Paul’s Letter to the Romans (*Il tempo che resta. Un commento alla Lettera ai Romani*, 2000) is as a long, patient and ingenious gloss of the first of Benjamin’s theses on the philosophy of history. *State of Exception* continues in this line.

The eighth of Benjamin’s theses reads as follows: “The tradition of the oppressed teaches us that the ‘state of exception’ [*Ausnahmezustand*] in which we live is the rule. We must arrive at a conception of history that corresponds to this fact. Then we would have before our eyes as our task the bringing about of a real state of exception [*wirklichen Ausnahmezustands*] which would better our

¹⁰Sic: As a rule, Brecht did not capitalize substantives (as German grammar dictates) in his *Arbeitsjournal*.

¹¹Cf. Benjamin 1.3.1228.

position in the struggle against fascism” (Benjamin 1.2.697). The word that Benjamin introduces first in quotation marks and then adopts as his own is one that he has quite consciously borrowed from Schmitt.¹² Just as *Il tempo che resta* might be seen as a gloss of the first of Benjamin’s theses, *State of Exception* might be seen as a gloss of the eighth.

Benjamin’s reference to Schmitt’s work in the eighth thesis is not the only one of its kind in his work. Benjamin had respectfully referred to Schmitt’s work as early as his *The Origin of German Tragic Drama* (1928),¹³ and followed that citation with an enthusiastic letter to Schmitt (in 1930). Benjamin’s admiration for the Third Reich’s most prominent jurist has often appeared to Benjamin’s commentators as something scandalous—and difficult to understand. No theorist of the twentieth century has so exhaustively and so tirelessly been commented and analyzed in recent years as Benjamin. And yet that attention has been unable to give a coherent account of this enigmatic passage. One of the goals of *State of Exception* is to remedy this lack.

To this end, Agamben examines not only the “exoteric dossier” concerning the relation between Schmitt and Benjamin consisting of the reference to Schmitt in Benjamin’s work on Baroque drama, his letter to Schmitt and a reference to Benjamin in Schmitt’s *Hamlet and Hecuba* years after Benjamin’s death, but also examines what he calls the “esoteric dossier” of the case (cf. SE, 52; 68). Agamben begins by turning the clock of the case back several years to an essay entitled “For a Critique of Violence” which Benjamin published in 1921 in a review which Schmitt was a regular reader of, and a contributor to. In this essay which Agamben persuasively argues that Schmitt was familiar with, Benjamin evokes a “pure violence [*reine Gewalt*]” with no connection to the law (2.1.183).

¹²Agamben makes a single exception to his practice of translating Schmitt’s *Ausnahmezustand* as “state of exception” [*stato di eccezione*]: where he cites—in his own translation—the above passage [SE, 57; 75]. Therein he translates the first occurrence of the term *Ausnahmezustand* as “state of emergency” [*stato di emergenza*], and the second as “state of exception” [*stato di eccezione*], thereby occulting Benjamin’s provocative repetition of the term. Agamben demonstrated this tendency years earlier, in an essay from 1992, “The Messiah and the Sovereign: The Problem of Law in Walter Benjamin,” where he says of this same eighth thesis: “Fifty years later, Benjamin’s diagnosis has...lost nothing of its currency. Since then, the *state of emergency* has become the rule in every part of our cultural tradition, from politics to philosophy and from ecology to literature” (*Potentialities*, 170; my italics).

The English translator renders both occurrences of the term as “state of exception” despite his noting in the brief “Translator’s Note” that as concerns Agamben’s sources, “in order to maintain consistency in terminology throughout the text, and to better reflect Agamben’s own translations of these sources, the published English versions have frequently been modified” (cf. SE, 57).

¹³Cf. Benjamin 1.1.245 ff.

The next step is Schmitt's response in his celebrated *Political Theology*. "Schmitt's doctrine of sovereignty pursued in his *Political Theology*," then argues Agamben, "can be read as a punctual response to Benjamin's essay" (SE, 54; 70; translation modified). "The state of exception," continues Agamben, is then, "the device [*dispositivo*] by means of which Schmitt responds to Benjamin's assertion of an integrally anomic human action" (SE, 54; 71; translation modified).

In this "esoteric" light, Benjamin's relation to Schmitt is suddenly less scandalous, and more comprehensible. If Agamben's claim is correct, then it was not Schmitt who was controlling the game as has hitherto been believed, but Benjamin. The decisive move in the esoteric contest between the two theorists—and it is clear that Agamben sees the two as playing a game, or locked in a struggle, with one another—is namely the enigmatic eighth thesis which Agamben had, as early as 1992, sought to gloss.¹⁴ The question which Agamben endeavors to answer is the question every one of the theses' many interpreters have endeavored to answer: what did Benjamin mean by calling for a "real state of exception"?¹⁵ It is difficult to imagine that Benjamin is here welcoming a state of legal exception or emergency like the one which, at the time of his writing, had already reigned in his homeland for seven years. His use of the simple adjective *real* implies, however, that a clear distinction is to be made, and that the state of exception in place—and which has become the rule—is in one manner or another a fictive one. This is of course not fictive in the sense of imaginary—that state of exception is real enough—but its recourse to law and justice, its all-encompassing suspension of individual rights and incorporation of the personal sphere of the state's citizens is based upon a *juridical* fiction which is nothing less than a fiction of justice. Benjamin's intention is then, it seems, to bring about a recognition of the falseness of that fiction through the concept of a "real" state of exception which would give the lie to the one which, for him, had become the rule. How precisely this is to be understood is a dilemma no commentator has yet succeeded in solving—and it is doubtless such passages in the theses which led Brecht to think with dismay of how few were in a position to even misunderstand them.

¹⁴Cf. "The Messiah and the Sovereign: The Problem of Law in Walter Benjamin."

¹⁵My emphasis—though in an earlier version of the theses Benjamin did himself underline the word *real* (*wirklichen*).

Agamben's attempt at understanding is based on the belief that in this thesis Benjamin succeeds in stressing an "undecidability between norm and exception," which Agamben sees as "puts Schmitt's theory into check [*mette in scacco la teoria schmittiana*]" (SE, 58; 76). This decisive move has several delicate ones which, however, precede it. The first is Benjamin's establishing of a sphere of "anomic human action": a sphere of action outside of the sphere of the law, and for which Benjamin chooses the term "violence" (*Gewalt*). Agamben reads Benjamin's reference to "violence" and to "pure violence" as denunciatory, strategic—and essentially esoteric. Benjamin is not referring to concrete acts of physical violence which he wishes to isolate, glorify or purify, but is playing a conceptual game with theorists of the state who instrumentalize the use of violence. His surprising recourse to the term violence is, for Agamben, a subtle and unexpected move which allows him to surprise—and to mate—his opponents.¹⁶

The real state of exception which Benjamin envisioned has, for Agamben, not only a strategic function, but also a positive content. Following Agamben's reading of the eighth thesis, this real state of exception is a revolutionary state—and one in which a totally different—and difficult to define—relation of law to

¹⁶Both in this work and in the earlier essay treating of the eighth thesis, Agamben underlines that this real state of exception is not to be taken for a "process of infinite deconstruction which maintains law in a spectral form of life" (SE, 64; 82; translation modified). Cf. also *Potentialites*, 170 ff where Agamben had, in his interpretation of the eighth thesis, opposed a messianic and revolutionary interruption to what he sees as the infinite process of deconstruction.

The question as to what precisely Agamben does see under the sign of such a "pure violence" remains open. In his review of Agamben's book, Johan Frederik Hartle offers a harsh judgment of Agamben's attempt to isolate such a "pure violence": "That sounds nice, but does not mean much, and means especially little when one sees it in relation with what Agamben sees under the sign of such a machine made of law and violence. Because this 'off' button of 'mystic' violence seems to lie beyond all real political conflicts (what messianic possibilities does Agamben see...in contemporary political praxis?) is he only poorly protected from right-wing conservative (mis-)interpretations and authoritarian self-accrediations in the name of messianic political subjectivity [*Das klingt schön, sagt aber auch nicht viel, und zwar selbst dann nicht, wenn man sich einigermaßen zu rekonstruieren in der Lage sieht, was Agamben als eine solche Maschine aus Recht und Gewalt bezeichnet. Weil jener 'Aus'-Knopf der 'mystischen' Gewalt nämlich jenseits aller realen politischen Auseinandersetzungen zu stehen scheint (welche messianische Möglichkeit steht Agamben in der gegenwärtigen politischen Praxis... vor Augen?) schützt er nur schlecht vor rechtskonservativen (Fehl-)Deutungen und autoritären Selbstermächtigungen vermeintlich messianischer, politischer Subjektivität*]" (*Das unbestimmte Dritte. Giorgio Agambens Messianismus des Rechts*).

Antonio Negri's analysis of Agamben's book sees this conceptual elaboration in a more positive light: "This is a book tiresome in its elaboration and its dualisms, but extraordinary in its realization. It clarifies a point around which post-structuralist and post-modern philosophy has up until now turned, making of the biopolitical horizon a verifiable and passable experience—a Copernican experience...[*Questo è un libro fastidioso nel suo sviluppo e nei suoi dualismi, ma straordinario nella sua realizzazione. Chiarisce un punto attorno al quale la filosofia post-strutturalista e postmoderna aveva fin qui girato a vuoto facendo - di contro - dell'orizzonte biopolitico un'esperienza verificabile e percorribile. Un'esperienza copernicana...*]" (*Il frutto maturo della redenzione*).

life would prevail. Schmitt wanted to retain for the Sovereign and the state the instrumental use of violence within the frame of law and justice. For Agamben, by showing the impossibility of such, Benjamin suggests a fully different conception of law—one with decidedly messianic and revolutionary traits where what is combated and overturned is an entire logic of punishment, discipline, attribution and possession. The relation of state to law, of law to violence, of individual to collective and of potentiality to actuality is all to be seen anew in this revolutionary light and messianic life.

Agamben is fond of citing Marx's declaration that "the absolutely desperate state of affairs in the society in which I live fills me with hope."¹⁷ This is not playful pessimism on his part, just as it was not for Marx, but something more rare. Agamben's political thought is dependent upon a faith in dynamic reversibility. "The closer we come to the danger," wrote the decidedly un-Marxist Heidegger, "the more brightly do the ways into the saving power begin to shine" (Heidegger, 341). This idea, which Heidegger found inspiration from in the poetry of Hölderlin¹⁸, is one which Agamben fully subscribes to. In *The Idea of Prose*, Agamben says of the modern age that its "capacity for dialectical reversal implicit in anxiety and desperation...which for Heidegger still represented [its] final hope, have lost their prestige" (*The Idea of Prose*, 90; 64; translation modified). This is, however, a prestige not lost in his own thought. In Agamben's first book, *The Man Without Content*, he wrote: "According to the principle by which it is only in the burning house that the fundamental architectural problem becomes visible for the first time, art, at the furthest point of its destiny, makes visible its original project." (*The Man Without Content*, 115). The political house in flames of today's "planetary state of exception" is one in which Agamben believes that the "original project" (or "original structure") can be

¹⁷Cf. "Une biopolitique mineure: un entretien avec Giorgio Agamben," 10.

¹⁸In particular, in Hölderlin's "Patmos":

"Nah ist

Und schwer zu fassen der Gott

Wo aber Gefahr ist, wächst

Das Rettende auch.

[Near and hard to grasp is the God

Yet where there is danger, also grows

that which saves]", Hölderlin, 177. This idea of dynamic reversibility is equally present in the

two political thinkers Agamben feels himself closest to: Benjamin and Guy Debord.

clearly glimpsed. And it is in these burning houses that the original problems of Western politics appear to him most clearly.

In a crucial passage in *Homo Sacer III, The Remnants of Auschwitz*, Agamben speaks of what is for him a singularly dangerous process: what he calls the contamination of ethical concepts by legal ones. “As jurists well know,” he remarks therein, “law is not directed toward the establishment of justice. Nor is it directed toward the verification of truth. Law is solely directed toward judgment, independent of truth and justice” (18; 16). At the end of *State of Exception*, Agamben states that, “politics has suffered a lasting eclipse because it has become so contaminated by law” (SE, 88; 112). For this reason, “to show law in its non-relation to life, and, consequently, life in its non-relation to law, means to open between the two terms a space for human action” (SE, 88; 112; translation modified). What Agamben is then striving for is the realization of another—a real—state of exception open enough for the potentiality to think, to act, and to live to be given free reign.

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