

INDIVIDUAL DENUDATION OR THE MODERN HOMO SACER

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Abstract

The essay deals with the concept of Homo Sacer in relation with the state of exception. Giorgio Agamben argues that the state of exception has become in the contemporary society a paradigmatic practice of the West, which transforms individuals into subjects prone to exclusion or extermination. The essay consists of two parts, on the one hand the part in which I question the concepts and on the other hand a section that analyze some contemporary cases.

Keywords: Homo Sacer/Homines Sacri, Zoe, Bios, Nomos, Bare life, Bio-Power, Bio-Politics, State of exception, Sovereignty

Giorgio Agamben's theory is dense and challenging, being the subject of an intense debate. The criticism that it brings, especially after the extraordinary work *Homo Sacer. Sovereign Power and Bare Life* (1995), opened the way to a succession of secondary theories from some authors as Žižek and Butler that borrows the conceptual framework for their own criticism against Western policies. (Frost, 2011, 1) Nevertheless, in this essay I will stop only on two Agamben's concepts, which are The State of Exception and Homo Sacer.

The essay thesis is that the sovereign power over time has shown that it manifested as a constituent form of the social. The state in its natural shape operates directly through power, without any superstructure, the sovereignty in this case it is direct, exceptional and exclusive. In this essay I will use the case study technique. On this base, I have selected some contemporary cases that can be framed in the theory. At the same time I will try to see if in these cases can be traced an outline of recurrence, in terms of praxis.

Agamben outlines sovereignty in a special bond with human biological life, namely dividing it in two ways, *bios* or ordinary physical life representing the naked life/bare life and *zoe*, in the form of upper and qualified recognition of the political life of individuals. (Robinson, 2011, 5) Theoretically speaking, modern individuals possess both forms of identity, but says Agamben, not all become *zoe*, because of the interference of sovereignty which by ways of exception remove some individuals apart, which are practically reduced to the form of *bios*, basal and brute.

The protagonist of this book is bare life, that is, the life of homo sacer (sacred man), who may be killed and yet not sacrificed, and whose essential function in modern politics we intend to assert. An obscure figure of archaic

Roman law, in which human life is included in the juridical order [ordinamento] solely in the form of its exclusion (that is, of its capacity to be killed), has thus offered the key by which not only the sacred tests of sovereignty but also the very codes of political power will unveil their mysteries. At the same time, however, this ancient meaning of the term sacer presents us with the enigma of a figure of the sacred that, before or beyond the religious, constitutes the first paradigm of the political realm of the West. (Agamben, 1998, 12).

The process by which they become bios takes place during the state of exception created by the sovereign. Zoe status is equivalent to what Agamben called Homo Sacer, a concept borrowed from Roman law. Homo Sacer is an individual that people judged in a capital trial, but cannot be killed (even though the name implies sacrifice), though who kills him do not become liable for murder. (Bennett, 1930, 10) It sounds paradoxical, but the explanation is as follows: Once the individual is taken off from his kind, he is marked to be a divine property, so the ritual cannot take place because the individual, spiritually speaking, do not belong anymore in this world, because he is being devoid of any sacred value, only his bare body can be killed. He who kills bears the same responsibility as if he is killing an animal.

Returning to the concept of sovereignty I will stop at several aspects. By sovereignty, in the classical sense, we understand the ability of the state to be sovereign. Further define it, we can understand sovereignty through words as supreme, independent or authority. In a state of law, sovereignty derives from citizens and the political leadership occurs after the power was delegated/ authorized by vote. For Carl Schmitt, the Sovereign is he who decides the state of exception. (Schmitt, 2005, 5-6) Even if he stands outside the normal legal order, the sovereign comes of it because he is responsible if the normal order should be suspended or not. The sovereign is the one that guarantees the validity of the law, even though he is above it. In other words constituting the law, the sovereign must remain outside it, as a watchman. In a State or any political construction there is one wire connection composed of authority (the rulers) X, the constituent law (Y), citizens (Z), and at the time when the connection is interrupted between X and Z the state of exception appears. More specifically, at the time when a strong conflict starts between the two parties the constituent law (Y) shall be suspended, since both X and Z no longer have control over it. The first question that occurs is who declares the exception from the rule? Therefore X, i.e. the rulers, can achieve what is called the exit of the law for the protection of the law because they are the ones who lay down the law. Yet, the citizens (Z) are those who delegate and justify the authority. For instance, let's take the case of the Syrian Civil War:

Bashar Al Assad, X in this case, set the state of exception to protect the regime and use any means necessary to save it. The citizens, Z, are those who want to change the political authority (X), because it is illegitimate. Thus, there is a question, that is what determines the state of exception? There are many answers and precedents: in general all revolutions/civil wars can be assigned to this

typology. For example, the Romanian Revolution of 1989 is very similar to some extent with the ongoing Syrian conflict, but the conflict ended in Romania more quickly and the casualties did not reach 140,000 people dead. Then, Ceausescu proceeded just as Assad. He sent the army to protect the state and the law available at that moment, but the outraged population was stronger and soon the regime clergy structures could not resist.

However, for Agamben, the paradox of sovereignty is that sovereignty is simultaneously inside and outside the legal system. Leader's sovereign power does not define primarily their ability to create the law, but rather their ability to suspend it. (Ek, 2006, 365) Further, in order to understand better the state of exception and the quality of *homines sacri* I need to stop briefly on the concept of Bio-Power. Michel Foucault is the one who theorized the concept for the first time in his *History of Sexuality* written in 1976. He said that for a long time, one of the privileges of sovereign power was to decide the life and death of an individual. This type of power has been used primarily, says Foucault, in the classical period by the Sovereign to protect itself from the enemies from outside and inside. The problem is that this practice did not disappear after the fall of the monarchy; the form remained intact but in other type of cloth. New mechanisms were created to generate, induce, control, monitor, and optimize the underlying forces (citizens). Modern sovereignty through the institutions they created from the decay of the Monarch controls the power, restraining and mobilizing the society against a single enemy, which they have to protect in the name of life necessity (see the World Wars, racial segregation, etc.). (Rainbow/Rose, 2003, 1-2)

For Agamben, continuing in the line of Foucault, power ultimately is based on one's ability to take another's life, or give him/her the right to live. (Foucault, 1979, 136)¹ This phenomenon is exemplified by Agamben's metaphor *Homines Sacri*, suggesting that the birth of Bio-Power marks a time when the biological life of subjects enters in the area of state politics. It does not deny that the sovereign state has not the right to determine the state of exception that ultimately guarantees the modern government, but says that the way the state of exception occurs in modernity is not only exceptional but tends to become now a rule. (Rainbow/Rose, 2003, 8) The materialization of this problem is shown by the case of the Holocaust and the example of the concentration camps that forms the Modernity *Nomos*, namely a fourth dimension that adds to the state, a nation and a land where people are naked like *Homo Sacer* from *Zoe*, keeping only what lies in the biological function that finally is fully in the hands of the Sovereign State. In the case of Jews, they are judged in a trial by the people, „*Sacer homo is est quem populus iudicavit*, by the racial laws of Nurrenberg from September 15, 1935, they became *Homines Sacri* and sent to death camps, their life, legally speaking, did not matter

¹ “In any case, in its modern form-relative and limited-as in its ancient and absolute form, the right of life and death is a dissymmetrical one. The sovereign exercised his right of life only by exercising his right to kill, or by refraining from killing; he evidenced his power over life only through the death he was capable of requiring. The right which was formulated as the “power of life and death” was in reality the right to take life or let live.”

for those who exterminate them. (Bennett, 1930, 17) Here, Agamben points out the tragedy of the state of exception through the most barbaric example, finally Homo Sacer is not just a metaphor but a recurrence materialized in time. Another example is that of the conquest of the New World: Europe characterized by law and The New World characterized by the absence of law. That made the New World to be prone to Europe conquest. As such, The New World was not nothing more, but the materialization of the state of exception as a rule, the people there (indigenous) being in the state space of exception (Nomos) where Homines Sacri by default. (Diken/Bagge, 2006, 445) Examples continues in the twentieth century and it doesn't stop only at the Holocaust, which can be completed by the Famine of 1933, Red Khmers Genocide in Cambodia from 1975 to 1979, the Soviet Gulag, Pitesti Experiment 1950-1953 and so on. However, Agamben suggests that tragedy comes not only from Totalitarianism and Authoritarianism but also from Western Democracy world, which by abuse of the state of exception creates confusion between Homo Sacer and citizens, eventually all the citizens can be predisposed to be Homo Sacer or subjects of Bio-power and Bio-Politics. With other words, the new Nomos through the concentration camp takes the place of the Polis/City.

We are Homines Sacri in the XXI century? In the next part, I will present some contemporary cases not far from our actuality and in the end, we will see if the Agamben's theory it is plausible. First, the maximum point of the theory and of the Bio-Power is marked by the 9/11 events and the beginning of the fight against terrorism in the Bush/Cheney administration that triggered a worldwide chain reaction. (Ek, 2006, 364)

Guantanamo and Abu Ghraib Case: Guantanamo situation is contradictory because it is a prison outside the U.S., which allows indefinite detention of captives, but it is also within the U.S. because it would not have allowed the query/interrogation according to the legislation. Exactly, it is the paradoxical state space of exception (the camp). Individuals who are held captive here have the same paradoxical status as the Auschwitz prisoners. They are prisoners of a war on terror, they have no legal status of prisoners of war but they are the objects of the raw power leadership, the place where the bare life/bios achieve the maximum indeterminacy. (Gregory, 2006, 407)

In the Abu Ghraib case, the appearing in the international press (May 2004) of images with prisoners that were supposed to withstand inhuman treatment are equivalent with the relation of an object acting in accordance with the principles of the state of exception and the subject, which is the Homo Sacer, degraded tot the status of the animal. The Author Matthew Hannah estimated in 2005 that the number of individuals detained since the start of the War on Terror is about 83.000. (Hannah, 2006, 622)

The case of the Brazilian electrician: on 7 July 2005, five suicide attacks has caused huge casualties in Central London Underground (44 dead and countless wounded). Two weeks after the attack, a terrorist suspect is shot in the head by the anti-terrorist police squad after being captured at London Underground. The terrorist suspect was actually just a Brazilian electrician who was killed because of

his unusual thick clothing for the high temperature recorded at that moment in London. The counterterrorism measures turned the electrician into a Homo Sacer, providing absolute sovereign power to the police. Following the Agamben's theory, the London Underground was the exceptional space, the police was the absolute power tool over who lives and who does not, and the electrician was the Homo Sacer, which therefore can be replaced by any other innocent citizen. (Minca, 2006, 387) In a regime of exception, there was no murder because the state acted preventively in order to protect the societal body to not be destroyed by external enemies of society. In this case, the London Underground is The Camp, that space that is opened when the state of exception starts to function and take the space form. The Camp as an exceptional space it is more exactly that portion of territory which is outside the legal system, but is not only just like that outside, it includes the legal principles of sovereignty, exclusion by inclusion. (Minca, 2006, 391)

CONCLUSION

The state of exception is the birth moment of sovereignty. We can say that the state of exception marks a continuum in which political power is manifested in its raw form. Depending on who has the power we can outline the shape of the state of exception. Rules and regulations that are deployed from the state of exception, ensure sovereignty as long as the sovereign is recognized by the ruled. Yet, the problem of the state of exception lies not in its legitimacy, but in the inability of the sovereign to maintain it into the barriers of moral principles. In other words, it is a double-edged sword that beneath the apparent legality may not necessarily generate correct solutions. Now, the state of exception becomes the dominant paradigm of the contemporary government style, an indecisive point between democracy and absolutism; a hybrid which generates a lawless space that unfortunately, as Agamben suggests, also Schmitt and Foucault before him, becomes permanent and it extends into a global space in which the territory is uncertain in size but in which exists a kind of dictated order.

I think that the argument of Agamben is plausible, at least in the examples in which social behavior was marked primarily by exceptionality, a phenomenon that has been established as a norm over time. If in totalitarian societies the state of exception represented, at least in the last century, the instrument through which the enemies were erased from the system, the mistake that liberal democracies did was that they have expanded the use of the state of exception, in the sense that they wanted to respond with the same coin, unfortunately falling at the end of the day into the trap of ridicule.

If the words of Agamben and other theorists of Bio-Power are true, would mean that we are living in a real Big Brother, a shameful paranoia in which we are all partakers, the citizens as subject likely to be any time Homo Sacer and the Overzealous Police State that establishes, with little judgment, exceptional conditions to control the social from the terrorists who are actually sometimes just ordinary electricians.

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