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BOOK REVIEW

The Killing Machine of Exception

Sovereignty, Law, and Play in Agamben's
State of Exception

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State of Exception. Giorgio Agamben. Translated by Kevin Attell. Chicago: University of Chicago Press, 2005.

GIORGIO AGAMBEN'S SLENDER BUT PROFOUND MONOGRAPH ON THE state of exception is an intervention into a world that is becoming more and more exceptionalist. The events of 9/11, the War on Terror, and the successive decrees and acts authorizing fingerprinting, interrogation, and indefinite detention of suspects in terrorist activities, all testify to Agamben's prophetic portrayal of contemporary politics in which the state of exception—normally a provisional attempt to deal with political exigencies—has become a permanent practice or paradigm of government. When the exception becomes the rule, it results, argues Agamben, not only in the appropriation of the legislative or judiciary power by the executive, the suspension of the constitution, and the extension and encroachment of the

military's wartime authority into the civic sphere, but also in a state of global civil war, which "allows for the physical elimination not only of political adversaries but of entire categories of citizens who for some reason cannot be integrated into the political system" (2005b, 2). In a way, therefore, the *State of Exception* is an exploration or analysis of the ways in which this killing machine of exceptionalism works.

Besides the scary and probably scandalous historical parallels drawn in this text, for instance, between Hitler's Decree for the Protection of the People and the State and the USA PATRIOT Act, Agamben is also interested in theoretically and generally exposing the growing transformation of the contemporary government into a killing machine through a fictitious production of the exception by the executive. The reference to the specific historical instances of the state of exception, therefore, occasions a sustained philosophical meditation on the fate of law and life after the suspension of the juridical order in the exception or after the application of law is withdrawn in order to expose life to the force of law without application. In other words, the state of exception unfolds as an emptiness of law that at once bans in order to abandon the living being to law.

Through the idea of the abandonment of life to law, Agamben succeeds in illustrating the biopolitical significance of the state of exception that culminates in "producing a legally unnamable and unclassifiable being"—bare life (or *la nuda vita*, as the original Italian text calls it). Along with undertaking the task to clarify the conceptual uncertainty around the syntagm, the state of exception—which, in its semantic as well as practical indeterminacy, has been conflated with the state of necessity, emergency, full powers, and martial law—Agamben, in the *State of Exception*, attempts to provide an answer to the question "that never ceases to reverberate in the history of Western politics: what does it mean to act politically" (2). That is to say, the retrieval of politics in the wake of the end of all politics by the exception is inextricably intertwined with the biopolitical nexus that binds life to law by means of exclusion. The biopolitical threshold of the exception is the extreme zone of intensity wherein law remains but its application is deactivated. Agamben characterizes this exceptional locus where law blurs with violence as a zone of anomie where law remains but

only as a pure force of violence. Agamben puts this anomic place of law as the “force of law.”

In this assessment of the proper locus of the exception, Agamben juxtaposes Carl Schmitt’s notion of dictatorship and Benjamin’s idea of pure violence. He also revisits ancient Roman institutions and practices of the *iustitium* and *auctoritas* only to find that the exception is a no man’s land, an absolute nonplace, an empty space in which is manifested a legal void (“vuoto” as the original text has it [15]) that runs, regardless of time and place, through the entire political life in the West.

Thus, for Agamben, the exception is neither a purely constitutional nor strictly a historical problem. It is not constitutionally determined because it does not strictly belong to totalitarian governments only; rather it constitutes a threshold of indeterminacy between democracy and absolutism, thereby giving way to what have come to be known as “protected democracies.” Furthermore, it is not a historical issue, not only because it is as much present in ancient Roman republic as it is in contemporary republics, but also because there is no time prior to the state of exception. Agamben categorically rules out the possibility of any simple outside to the state of exception: “There are not *first* life as a natural biological given and anomie as the state of nature, and *then* their implication in law through the state of exception” (2005b, 87). Intrinsic to exceptionalism causes, for Agamben, the same destabilization of the opposition between the inside and the outside. As he argued in *Means without End* (2000), etymologically, *exception* (*ex-capere*) suggests that what is being excluded in various structures of exception is “*captured outside*, that is, it is included by virtue of its very exclusion” (39). Since the exception is a kenomatic (empty or void) instead of a pleromatic state in which the sovereign assumes plenary powers, it is not a dictatorship either.

State of Exception is not only about what remains of law after its suspension, or the spectral effects of law; nor is it just a hunt for the principle of legitimacy of the violence wreaked in the absence of law or a norm. What interests Agamben most is that law and norm parasitically subsist on anomie and exception. That is the case not because the state of exception is a state of necessity, and, since necessity knows no law, exceptionalism is a

lacunae in law to be filled by the subjective decision of the sovereign. Rather, he explains, “everything happens as if both law and *logos* needed an anomic (or alogical) zone of suspension in order to ground their reference to the world of life. Law seems to subsist only by capturing anomie . . .” (2005b, 60). Exceptionalism, to put it differently, is a state in which law is suspended without ceasing to be in force. Precisely at the moment when the *nomos* completely blurs into the anomic force does the exception assume its most lethal form as an unstoppable killing machine that, in its limbo, captures life and makes it possible to exterminate life with impunity. Agamben, in *Homo Sacer*, already had extended Schmitt’s definition of the sovereign as one “Who decides on the exception”; the “production of the biopolitical body,” that can be killed with impunity, is “the original activity of sovereign power” (Agamben 1998, 6).

For Agamben, the legal void of the exception, revealed in the sovereign capture of life by means of the suspension of law, is the original and authentic political structure to be recovered from the meshes of the self-serving discourses (the examples Agamben provides of such a discourse in the *State of Exception* are Schmitt’s and Benjamin’s) surrounding the notion of sovereignty. He describes this move to restore the authentic (one cannot miss the Heideggerian echoes here) tradition of the exception (2005b, 48) in terms of ontology’s reclaiming of pure being from its inauthentic fall into metaphysics (59–60). That is why any depiction of this original violence as the “sovereign power [that] comes into being in an inverse relation to the suspension of law,” as in Judith Butler’s understanding of the relation (2004, 61), misses Agamben’s correlation, as Jacques Ranciere accurately clarifies, between “the exceptionality of sovereign power and the exception of life” that Foucault tried hard to separate (2004, 299). This is a “Copernican revolution,” as Antonio Negri in his review of the Italian edition of the *State of Exception* calls it, not only because it turns, in Negri’s words, “the biopolitical perspective into a verifiable and possible experience” (Negri 2003), but because by bringing Schmitt’s notion of the exception and Foucault’s insight on the control of life into one “biopolitical plane,” Agamben succeeds in conceptualizing the “original political structure” in which sovereignty and bare life interface. In the *State of Exception*,

Agamben thus characterizes sovereignty as an ecstasy-belonging of ontotheological tradition in which the topological structure of sovereignty is, in his own formulations, “*Being-outside, yet belonging*” (2005b, 35; emphasis in original).

But instead of critiquing this onto-theological ecstatic belonging of sovereignty for its monopolization of the power to exception and its power over life, Agamben not only tries to circumscribe sovereignty by proposing, like many liberals, another use of law without sovereignty, but he also imagines a state of pure play where one might study laws but never practice them; more surprisingly, he considers this play as the only way to sever the nexus between life and the violence of law. This life, severed from law and sovereignty and posited as the only antidote to the paradigm of the exception, thus ironically mirrors the ontological plane of sovereignty Agamben tries to expound on and expose.

In his essay “The ‘World’ of Enlightenment to Come (Exception, Calculation, Sovereignty),” first published in the *Research in Phenomenology* in 2003 and then included as the concluding section of his work *Rogues: Two Essays on Reason*, Jacques Derrida cautions exactly against this sort of uncritical gesture to abandon decisions and sovereignty. The critique of sovereignty, argues Derrida, “is not simply some formal and academic necessity for a kind of speculation in political philosophy [like study law, but don’t practice it] or else a form of genealogical, or perhaps even deconstructive, vigilance” (Derrida 2003, 48). While pointing out the unconditional necessity to bring into question the indivisible sovereignty and the so-called immunity of the sovereigns with their right to exception and the death penalty, Derrida, in very explicit terms, makes it clear that unconditionally opposing sovereignty is not only unreasonable, but it is also against “classical principles of freedom and self-determination,” which alone have the capability to form a bulwark against certain international, ideological, religious, capitalist, and linguistic hegemonies and to save “the world that would be little more than a market . . .” (Derrida 2003, 49). We need to extend Gayatri Spivak’s critique of *Homo Sacer* as “general pronouncements,” which can also be maintained about the *State of Exception* as both of the texts try to erase the singular and the exceptional, and *mutatis mutandis*,

the political, by relegating the problems of law, decision, and sovereignty into what Ranciere calls “an anthropological and ontological destiny”¹ (2000, 308).

In contrast to the decisionist determination of the exception in Schmitt, a departure that manifests itself interestingly even in the bowdlerized beginning of the French translation of the *State of Exception*,² Agamben argues that the exception has become the rule as it is the dominant paradigm or technique of government, “which instead of declaring the state of exception prefers to have exceptional laws issued” (Agamben 2005, 21). He proposes a theory of exception that conceptualizes the exception as the “no-man’s land between public law and political fact” (1), a “threshold of indeterminacy” (3), a suspension of the juridical order . . . [as it poses] law’s threshold or limit concept” (4). He continues:

In truth, the state of exception is neither external nor internal to the juridical order, and the problem of defining it concerns precisely a threshold, or a zone of indifference, where inside and outside do not exclude each other but rather blur with each other. (Agamben 2005b, 23)

With this aporetic zone of indistinction, Agamben indeed succeeds in overcoming what he calls the topographical model of the exception grounded in the false opposition regarding the place of the exception vis-à-vis juridical order. Instead, he proposes a topological relation that he attributes to Carl Schmitt, “in which the very limit of the juridical order is at issue” (2005b, 23). And with this topological, dynamic, and complex relation of exception to the juridical order, which is a nonrelational relation insofar as exception is the order in the wake of the suspension of the juridical order itself, Agamben, as Michaelsen and Shershow argue, seeks to interrogate the nature of sovereignty itself.³ But the interrogation restricts itself, to cite a climactic moment in the *State of Exception*, into a new law without force or application “that has been freed from all discipline and sovereignty” (63).

What follows attempts to elaborate some of the concerns raised so far in this essay. We need to credit Agamben for articulating and exposing the

central fiction of the nexus of law and life that connects, with the help of the device or technique of the exception, life and law through violence. Equally deft is his critique of modernity as he tries to establish a subtle nexus between the ancient Roman practice of *auctoritas* and contemporary governance in which the same principles of *sacer* and *mana* reemerge in the form of an executive who issues decrees, or more precisely, who has decrees emanate from him, that have the force of law. This return of the state of nature in its anomic form interrogates simplistic narratives of progress and enlightenment. Yet not only is Agamben's delineation of the paradigm of exception overly generalized, but his attempt to seek the politics of play beyond sovereignty is problematic, for his gestures towards play with law fail both to critique the sovereign monopoly over the exception and to grasp fully the stakes of playfully abandoning sovereignty tout court.

The reading of the *State of Exception* here is carried out in three parts: first, I will provide a short review of some other works by Agamben in which he referred to the state of exception; next, I will provide a discussion of the relation between theory, ontology, and the exception. The third part of the paper dwells on Agamben's use of example and paradigm in order to instantiate the exception. This will lead the discussion to the last part of the paper in which Agamben's proposition of the pure play after the deactivation of law is evaluated.

THE PROMISE OF TETRALOGY

Agamben, in an interview to the *German Law Journal*, confides that the *State of Exception* belongs to a series of genealogical essays with *Homo Sacer*, *The Remnants of Auschwitz*, and a book to come with the theme of the care of life (Agamben 2005a, 609). So a brief review of the other texts in the tetralogy, and even the ones before them, is relevant here as the notion of exceptionalism pervades almost all of his writing. Although *Infancy and History* (1993), for instance, does not directly address the problem of the exception, this early work by Agamben does contain several seminal concerns or preoccupations about the capture of life, especially with regard to the figure of infancy that would evolve in later works into more generalized figures like

the refugee, the Muselmann, the homo sacer, and the bare life. As early as *Means Without End* (2000), which carries his essays written in the early 1990s, Agamben ruminates over the persistence of the camp, which he describes as the “hidden matrix and the *nomos* of the political space in which we still live” (36). For him, the concentration camps are not just a historical fact or a political or legal anomaly; rather they present a structural problem of exceptionalism as they constitute the hidden matrix “*that opens up when the state of exception starts to become the rule*” (38; emphasis in original).

The discourse on the state of exception continues in *The Remnants of Auschwitz: The Witness and the Archive* (1999), where, especially in the second chapter of the book named after the figure of the concentration camp, the *Muselmann* (the Moslem), he tracks the figure of the Muselmann in anthropology, psychology, medicine, arts, and, most important, in the survivor’s narratives about the camps. Agamben reminds us that the Muselmann was the jargon in the camp for the camp prisoner—emaciated and tortured, more dead than alive. Agamben describes this figure at times as a “medical figure or an ethical category, at times a political limit or an anthropological concept” (1999, 48). The *Muselmann*, as he writes in *The Remnants of Auschwitz*, is an indefinite being in whom not only humanity and nonhumanity, but also vegetative existence and relation, physiology and ethics, medicine and politics, and life and death continuously pass through each other (48). The Muselmann, continues Agamben, belongs to the paradigm of the extreme or limit situation, which is analogous to the juristic concept of the state of exception (48). Auschwitz is not only the fabrication of the corpse—another term used in the camps to refer to the prisoners—but it is also a space in which the state of exception manifests itself materially.

If *Means Without End* characterizes the political space of modernity as the camp (Agamben 2000, 41), and if *The Remnants of Auschwitz* witnesses the naming of the inhabitants of that extreme zone, a similar sense of urgency and doom pervades *Homo Sacer*, where the state of exception is depicted as a new and stable spatial arrangement inhabited by the bare life. In fact, *Homo Sacer* defines the state of exception as the growing dissociation of birth (bare life) and the nation-state; in other words, it is the “hidden regulator of the inscription of life in the order” (Agamben 1998, 175).

The state of exception for Agamben here is “the system’s inability to function without being transformed into a lethal machine” (175).

The publication of *State of Exception* in the Italian, *Stato di eccezione*, in 2003, therefore, did not come as a surprise, given the normative or obsessive recurrence of exceptionalism in Agamben’s oeuvre in general. It is also not surprising that the Italian version claims itself to be the second part of *Homo Sacer*. In a way Agamben’s works chronicle the ever receding rule of law and its gradual but steady convergence into the administered political world of the West.

State of Exception in particular is, to echo one of its early readers, an annoying (*fastidioso*) text,⁴ as it radically tries to rethink the political-legal and philosophical traditions of the West. Even though Agamben seems to relish the monolithic evocation of the West, and the distinction Habermas and Derrida would like to maintain between the United States and a certain Europe⁵ in order to foreground the latter, for instance, is not at all deemed relevant in Agamben; yet the comprehensive scope of this monograph is evident from Agamben’s deft employment of various fields including philology, linguistics, history, culture or ethnology, philosophy, law, and political theory in the discussion of the state of the exception.

Agamben repeats some of the old themes and concerns like paradigm, zone of indistinction, bare life, biopolitics, and governmentality, partly to reaffirm his affinity to thinkers like Foucault, Arendt, Schmitt, Heidegger, and Benjamin. Nevertheless, *State of Exception* is also a point of departure from their works. Notably obvious is Agamben’s reassessment of Foucault’s notion of the surveillance society (which Agamben replaces with the society obsessed with security),⁶ the paradigm of the Panopticon,⁷ and governmentality, which constitutes the burden of the first chapter in the book, “The State of Exception as a Paradigm of Government.” Benjamin’s projection of the figure of the outlaw in his “Critique of Violence” and Schmitt’s secularized or juridicized theology of dictatorship and sovereignty get a thorough revision throughout the book, but especially in the chapter entitled “Gigantomachy Concerning a Void,” which is solely devoted to the Schmitt-Benjamin debate over the place of the exception in relation to law. There is also the unmistakable presence of some Arendtian

themes of the *heimatlosen* or stateless figures of the merely human, and a trace of the Heideggerian obsession with the ecstatic being or ontology.

Agamben's obsessive return to ancient Rome, which occurs in two chapters of the text, "*Iustitium*" and "*Auctoritas and Potestas*," mimics Heidegger's fascination with the Greek. This complicates Agamben's historicization of the state of exception, at least in its paradigmatic form of governance, which, in the manner of Foucault's historical epistemes as well as his own characterizing of the *nomos* of modern world as the camps, he depicts as inexorably modern. "The idea that a suspension of law," Agamben claims in *State of Exception*, "may be necessary for the common good is foreign to the medieval world" (26). On the one hand, the state of exception remains primarily a modern phenomenon—at least unknown to the medieval world—produced in the laboratories of the world wars and intensified by the contemporary biopolitical regimes masquerading as democracies. By citing the grand coalition of Christian Democrats and Social Democrats in 1968 and their endorsement of the constitutional amendment to reintroduce the state of exception in Germany after the World War II, Agamben points out the irony that the proclamation of the state of exception was provided not simply to safeguard public order and security but to defend the liberal-democratic constitution, which has, he argues, by now become the rule. By citing the Swiss Federal Assembly's bestowal of unlimited power to the Federal Council on 3 August 1914, Agamben concludes that "the theory of the state of exception is by no means the exclusive legacy of the anti-democratic tradition" (2005, 16).

In this context, particularly revealing are the instances Agamben cites about the Schmitt-Benjamin dossier of exchange and interaction. Even more scandalous is Agamben's reference to Arendt's essay on authority, wherein he spots uncanny echoes of Schmitt's nostalgia for the lost political tradition of authority, or at least Schmitt's unease about the modern tendency to confuse authority with totalitarianism (2005b, 74).

On the other hand, Agamben discovers the prototype of the state of exception in Roman *iustitium* and *auctoritas*, as if ancients and moderns, philosophers and political theorists, jurists and linguists, revolutionaries and reactionaries, Jews and gentiles, all were dictated and haunted by the

overarching paradigm of the state of exception, whose anomic core constitutes the very foundation or the grammar of the state, both political and the metaphysical. The fading of law into fact, or the foundational ground of the legal system itself, is located even in the folklorist and anthropological examples of Anthesteria, Saturnalia, or Carnival, during which men dress up and behave like animals, masters serve their slaves, males and females exchange roles, expulsion of the bandits takes place, and killing with impunity is made possible.

THEORY OF THE EXCEPTION: GIGANTOMACHY
OF METAPHYSICS AND ONTOLOGY

Some reflection on the notion of theory in general and the theory of the exception in particular is in order here because Agamben seems to imply that only theory can unveil the radical ambiguity surrounding the exception. At the beginning of the treatise, he points out the lack of a theory of the state of exception, even after the pioneering attempts by Carl Schmitt to establish the contiguity between the state of exception and sovereignty. He argues that it is difficult to even arrive at a plausible definition of the state of exception. Insofar as exceptional measures have to be understood on political rather than juridico-constitutional grounds, the state of exception belongs to the ambiguous and uncertain borderline marking the imbalance between public law and political fact.

This borderline or limit concept, which yields to no definition or theory, is the no-man's land between law and the fact. The law during the state of exception suspends itself in order to encompass life. Law's suspension is a reference to the originary capture of life. Therefore, argues Agamben, "a theory ("teoria" in the original text in Italian [9]) of the state of exception is the preliminary condition for any definition of the relation that binds, and at the same time, abandons the living being to law" (2005b, 1).

Even though Agamben does not refer to Hannah Arendt's *The Human Condition* in this regard, he nevertheless "politicizes" the very form of life Arendt thinks to be out of the pale of politics—namely, to quote her *On Revolution*, the natural man, "a human being or *homo* in the original

meaning of the word, indicating someone outside the range of the law and the body politic of the citizens, as for instance a slave—but certainly a politically irrelevant being” (103). Here too Agamben seems to radicalize the main categories of Arendt’s book. As we know, *The Human Condition* revolves around three major concepts: labor, work, and action, roughly associated with *animal laborans*, *homo faber*, and *vita activa*. Even though the idea of theory, often characterized as *vita contemplativa*, or the *bio theoretikos*—the “theoretical life” elevated by the ancient Greek philosophers—does not occupy as much space as do the other categories, clearly Arendt is wistfully recounting the gradual overcoming of the *bios theoretikos* by the victory of the *animal laborans* in modern times. The prologue claims that the book aims to “think what we are doing;” yet the loss of the *vita contemplativa*—in the sense of its Greek origin as *thaumazein*, or “the shocked wonder at the miracle of Being” (Arendt 1958, 302)—seems to be sorely missed by Arendt as she remarks that it is “far easier to act under conditions of tyranny than it is to think” (324).

By proposing a theory of the exception that ends up in a call for “human action,” Agamben in the *State of Exception*, on the one hand, seems to put Arendt’s disparity between the *bios theoretikos* and *vita activa* or even *animal laborans* into relief. In the state of exception, the binaries of *vita contemplativa* and *vita activa* have become more and more indistinguishable. On the other hand, he recommends a “truly political action” through the “word that does not bind, that neither commands nor prohibits anything, but says only itself” (2005b, 88). For him, that word would correspond to an action that is a pure means without any relation to an end. As a result, Agamben seems not only to echo the concluding voice in *The Human Condition*: “Never is he more active than when he does nothing . . .” (Arendt 1958, 325), but he also seems to long for the *bios theoretikos*, whose speechless wonder at the miracle of pure Being would be the only antidote to the perpetually laboring, naked life that Being is under the state of exception.

It is precisely this closure of theory, which in Agamben is a communication communicating nothing other than itself, that becomes the determining factor in Emmanuel Levinas’s critique of ontological imperialism in *Totality and Infinity*. In *Totality and Infinity*, Levinas argues that theory

without a relation with alterity, with exteriority, is ontology as it “designates comprehension—the logos of being—that is, a way of approaching the known being such that its alterity with regard to the knowing vanishes” (Levinas 1969, 42). In Agamben’s theory of the state of exception, that promises human praxis to retrieve politics, the closure is even more formidable since it posits a being without any representation or any relation to the other.

Even though Levinas tries to displace the ontology of theory with what he calls the “metaphysics of desire,” through which he wishes to reverse the terms by eliminating theory that presupposes “an exercise of freedom” (1969, 43); and though this simple reversal between ontology and metaphysics might not ensure what he calls “the obligation to the other for justice” (47); Levinas is right in proposing an escape from the onslaught of the freedom of theory through what he calls philosophy’s “ontic wisdom of perception” (1981, 206). What is important in juxtaposing Levinas against Agamben is not only the contrast between philosophy and theory, or in other words the ontical and the ontological, but also between Levinas’s opening of the structure of being to the other. Levinas is aware of philosophy’s desire to be ontological, but he claims that “philosophy has kept an ontic style” as it bears on entities, on something, “since one cannot say that it *is*” (1981, 206). He believes this subversion of the ontological—that says only itself—by the ontic, which is worldly, would lead us from the *thauma* of theory to the awakening trauma of the self to the other (214).

One can argue that for Levinas this traumatic opening of the self to the other would be a kind of exception; and this event of awakening to the other, this trauma of intersubjectivity that Levinas’s essay attributes to Husserl, is precisely what is missing in Agamben’s account of human praxis in the wake of the state of exception. In addition to this, the *thauma* of theory that Agamben distinguishes from “a process of infinite deconstruction” and also from justice (2005b, 64) functions as a mirror image of what the original Italian text calls “*la vita augusta*” (2003b, 106) embodied in the person of the *auctor*, who, in ancient Roman law, as opposed to the magistracy, is related to the extreme form of *auctoritas*. And as Agamben explains, *auctoritas*, like Weber’s charismatic power, springs from the person as

something that is constituted and contained in him and that disappears with him (2005b, 82).

Agamben's otherwise very intriguing and insightful reading of Carl Schmitt's *Political Theology* and Benjamin's "Critique of Violence" in the chapter entitled "Gigantomachy Concerning a Void" is tainted by the same proclivity for ontologizing. In this chapter, Agamben tries to stage the scandalous debate between Schmitt and Benjamin, in which Schmitt attempts to "reinscribe violence within a juridical concept, [while] Benjamin responds to this gesture by seeking every time to assure it—as pure violence—an existence outside of the law" (Agamben 2005b, 59). The latter tries to keep "divine violence" that lies beyond the cycle of law-making and law-preserving (Benjamin 1978, 297) clear from the juridical order. Benjamin tries to save the "real state of exception," as the eighth thesis from "On the Concept of History" has it (Benjamin 2003, 392), and use it against the degeneration of the exception into the rule. Schmitt, on the other hand, fears that once exception becomes the rule, the machine ceases to function. Therefore, he tries to keep sovereignty related to the juridical order. The dispute, continues Agamben, "takes place in a zone of anomie that, on the one hand, must be maintained in relation to the law at all cost, and, on the other, must be just as implacably released and freed from this relation" (2005b, 59). The battle concerning anomie and violence also concerns human actions, as Agamben adds, the real stake in the battle over anomie is about the "status of violence as a cipher for human action" (59).

At this point, Agamben seems to neutralize the difference between Schmitt's sovereign violence and Benjamin's revolutionary counter-violence, thereby securing a space for human action, or in other words, a space for being itself. This struggle for anomie, he says, is a decisive "*gigantomachia peri tes ousia*" [battle of giants concerning being] that defines Western metaphysics:

Here, pure violence as the extreme political object, as the "thing" of politics, is the counterpart to pure being, to pure existence as the ultimate metaphysical stakes; the strategy of exception, which must ensure the relation between

anomic violence and law, is the counterpart to the onto-theo-logical strategy aimed at capturing pure being in the meshes of the *logos*. (2005b, 59–60)

He elaborates the correspondence between “bare life” and “pure Being” in *Homo Sacer*, where he argues that the isolation of the sphere of pure Being, and by extension, that of bare life, “constitutes the fundamental activity of Western metaphysics” (1998, 182). He continues:

Yet precisely these two empty and indeterminate concepts seem to safeguard the keys to the historico-political destiny of the West. And it may be that only if we are able to master the bare life that expresses our subjection to political power, just as it may be, inversely, that only if we understand the theoretical implications of bare life will we be able to solve the enigma of ontology. Brought to the limit of pure Being, metaphysics (thought) passes over into politics (into reality), just as on the threshold of bare life, politics steps beyond itself into theory. (1998, 182)

In these extraordinary lines, Agamben moves back and forth between the gigantomachy of sovereignty and revolution, pure being and pure violence, and metaphysics and ontology. He tries to expose the fiction of the state of exception that creates the illusion of the nexus between violence and law just as metaphysics tries to create the illusion of being (*logos*) by capturing the ontologically pure Being in it. The task of theory, therefore, is not only to expose the fiction but, in a way, to displace politics itself, thereby overcoming metaphysics in order to retrieve pure Being shrouded in *logos* and reason.

PARADIGM, EXAMPLE, AND THE EXCEPTION

As we know, one of the tasks in the *State of Exception* is to answer the question, what does it mean to act politically? Yet unlike Carl Schmitt, who, in his book *The Concept of the Political* (1976), defined the inherently objective nature and autonomy of political action as its ability “to treat, distinguish, and comprehend the friend-enemy antithesis independently of

other antitheses” (27), the biopolitical plane is a perpetual conflict; it is the site of tensions in which the struggle traverses through the plane. To quote from Agamben’s 2002 lecture at the European Graduate School, “What is a Paradigm?”: “[The biopolitical plane is] depolar and not dichotomic, it is tensional, not oppositional, it produces a field of polar tensions which tends to form a zone of undecidability which neutralizes every rigid opposition.”

Thus, the tension in the biopolitical plane is paradigmatic inasmuch as a paradigm is a nondichotomic field of ceaseless tensions: “it is neither universal nor particular, neither general nor individual, it is a singularity, which showing itself as such, produces a new ontological context” (2002).

The singularity of the paradigm that produces the new ontological context is compared to the example in another very important work by Agamben, *The Coming Community* (1991). Like paradigm, an example is neither particular nor universal; it is a singular object that presents itself as such. The Greek *paradeigma*, like the German *Bei-spiel*—“which plays alongside”—is that which is shown alongside. “Hence the proper place of the example is always beside itself, in the empty space in which its indefinable and unforgettable life unfolds. This life is purely linguistic life” (1991, 9).

Early in the *State of Exception*, Agamben remarks that the state of exception tends to appear as the “dominant paradigm of government in contemporary politics” to the extent that this paradigm, which has transformed exceptional measures into a “technique of government” (2), has already threatened to dismantle traditional distinctions between constitutional forms, like democracy and absolutism, by introducing a zone of indeterminacy within them. His notion of the paradigm as a singular example can help us understand how he understands the problem of the constitutional difference. As an example, the paradigm is neither particular nor universal. In order to be an example, it has to be singular. Since it is singular, the example becomes the example of the rule that cannot be stated. In other words, the example functions as a paradigm to guide the investigation in the absence of rules. Thus, by wreathing together paradigm, example, and the exception, Agamben seems to suggest that we can investigate the

phenomenon of exceptionality only when we think about it at the level of singular examples within various constitutional forms.

Like *langue* without any real denotation, a paradigm is a singular example that has severed its ties from what it exemplifies. The disjunction between birth and nation-state, which constitutes the space of exception or the camp, therefore, is like grammar, which in producing a speech without denotation isolates language from discourse and law from concrete custom. The disjuncture between *langue* and *parole*, grammar and the concrete praxis, form an exemplary analogy with the state of exception in which—as in the passage from *langue* to *parole* where the individual enunciation has to create a fictional nexus between the signifier and the signified—“the norm is in force without any reference to reality” (Agamben 2005b, 36). Agamben tries to interpret the syntagm of the force of law in this sense, because “the state of exception is an anomic space in which what is at stake is a force of law (which should therefore be written: force of ~~law~~)” (2005, 39).

This is an interesting moment in the discussion, but not because by using the image of the floating signifier of the force of ~~law~~ that can be claimed both by the state authority and by any revolutionary organization Agamben again conflates the violence perpetuated by the state with the counter-violence mounted by the revolutionary forces lined up against the state. What makes Agamben’s use of paradigm and example interesting is the convergence between the paradigm of exception and the paradigmatic singularity of pure Being in play that he postulates against exceptionalism.

In order to follow this curious turn, we need again to hark back to the idea of paradigm and example in *The Coming Community*, where immediately after defining exemplary life as linguistic life, which is singular beside itself in its own empty space, he goes on to elaborate the nature of this being. This exemplary being, whose other name is “whatever being,” is not defined by any property, except by being called or being interpellated—not, however, by the ideological state apparatuses, as in Althusser, but by no one other than itself. For these “pure singularities communicate only in the empty space of the example, without being tied by any common property, by any identity” (Agamben 1991, 9–10). Thus disengaged from any ties and cut off from all communities, these whatever beings, like the floating

signifiers of the force of law, can only turn to themselves, as does Melville's Bartleby, who preferring not to, comes back to himself through a pure act of calling himself (1991, 36).

Thus Agamben envisions a space for thought to think itself as means without end. And this auto-reflection is possible only through the state of exception, because as he reminds us in the *State of Exception*, there is no return to classical politics from the death camps or the exception (87). *Political Theology* (Schmitt 1974) defined the exception as the suspension of the entire existing order. In such a situation, writes Schmitt, "it is clear that the state remains, whereas law recedes" (12). Contrary to this, Agamben proposes a human action that not only halts the state-machine but also succeeds in shutting the actor, or more accurately the patient, off from the machine, as if the disjunction between birth and nation-state created by the exception were the only political ground to intensify the disjunction between bare life and the state. As a result, bare life becomes a self-enclosed paradigm communicating to itself as pure means without end.

IN THE PLAY-LAND

This pure act of communication and Being, predicated upon the complete halting of the machine of the state, its sovereignty, and its rights, guides Agamben's notion of exposing and severing the fictional ties between birth and the nation. But seen from a different perspective, this biopolitical plane or politics transcending itself into theory—exemplified by thought thinking itself, language communicating itself, or pure means without end—is the cessation of all politics, too. This world of paradigmatic singularities without alliances or responsibility for the other, therefore, ironically resembles the world of the penniless lovers in Tieck's story titled "Life's Superfluity." The couple in the story, after renouncing all possessions and connections to the world outside, finally burn the wooden ladder that connected their room to the rest of the house so that, comments Agamben in *Infancy and History* (1993), "they are left in isolation from the outside world, owning nothing and alive to nothing but their love" (15). If the "I prefer not to" of Bartleby is the example or paradigm of Agamben's "politics," then

the whatever beings and their complete severance of ties with the state cannot be political because the very concept of the political, to invert Carl Schmitt's equation of the political and the state in *The Concept of the Political*, presupposes the state (Schmitt 1976, 19). Thus, the *State of Exception* that sets out to retrieve politics ironically ends with a call to end it for play. Agamben visualizes this phantasm of play—a Disneyland beyond law and violence—in very prophetic terms in the text:

One day humanity will play with law just as children play with disused objects, not in order to restore them to their canonical use but to free them from it for good. What is found after the law is not a more proper and original use value that precedes the law, but a new use that is born only after it. And use, which has been contaminated by law, must also be freed from its own value. This liberation is the task of study, or of play. And this studious play is the passage that allows us to arrive at . . . justice. (Agamben 2005, 64)

For the first time and perhaps the only time, Agamben refers to justice in this study, which is supposed to be a critique of the violence of the state of exception. As Benjamin's "Critique of Violence" cautions—significantly in its opening sentence—the "task of a critique of violence can be summarized as that of expounding its relation to law and justice" (Benjamin 1978, 277). Ironically, therefore, the *State of Exception* not only has justice as a marginal problem, but it has also been tethered to pure play. This text comes very close to putting law under the erasure—a literal reversal of the executive "force of ~~law~~"—but it also seeks to deactivate law, or worse, to play with law as children do with their old toys.

As Derrida, in the much-debated essay "Force of Law: The 'Mystical Foundation of Authority'" (1992), which Agamben in the *State of Exception* simply mistakes as a reading of Benjamin's essay "Critique of Violence" (37), remarks: "That justice exceeds law and calculation, that the unrepresentable exceeds the determinable cannot and should not serve as an alibi for staying out of juridical-political battles . . ." (Derrida, 1992, 28). The exceptionally brilliant inquiry into contemporary politics in the *State of Exception*, therefore, proves to be, at best, a pyrrhic triumph over the killing

machine of exceptionalism precisely because it fails to come squarely to terms with the machine as it uncritically tries to put sovereignty out of play by imagining a pure exemplary Being without politics.



NOTES

I would like to express my gratitude to my teacher Richard T. Peterson at the Department of Philosophy, Michigan State University, with whom I had the opportunity to first read this text.

1. Even Ranciere falls into the trap of the ethical as he argues that all legal distinctions and the politics of consensus should be erased for “the infinite conflict of Good and Evil,” which, according to him would form the state of exception. But he is right in his critique of Agamben’s endorsement of the anthropological and the ontological (Ranciere 2004, 308).
2. See the French translation of the text, *Etat D’Exception: Homo Sacer*, which opens only after Agamben finishes his reference to Carl Schmitt and his definition of sovereignty in the *Political Theology*.
3. See Michaelsen and Shershow’s 2004 essay “The Guantánamo ‘Black Hole’: The Law of War and the Sovereign Exception.”
4. Toni Negri concludes his review of *Stato di eccezione* with this remark: “This is an annoying book in its development and its dualisms, yet extraordinary in its realization. It clarifies an issue which post-structuralist and postmodern philosophy had so far only circumscribed to no avail—turning, on the contrary, the biopolitical perspective into a verifiable and possible experience. A Copernican experience” (Negri 2003).
5. See, for instance, *The Other Heading* by Jacques Derrida (1992) and the interviews with Jurgen Habermas and Derrida in *Philosophy in a Time of Terror* (2003).
6. In his essay “Security and Terror,” for instance, Agamben draws a distinction between Foucaultian disciplinary society and the society obsessed with security such as the one after 9/11. He writes: “While disciplinary power isolates and closes off territories, measures of security lead to an opening and globalization; while the law wants to prevent and prescribe, security wants to intervene in ongoing processes to direct them. In a word, discipline wants to produce order, while security wants to guide disorder. Since measures of security can only function within a context of freedom of traffic, trade, and individual initiative, Foucault can show that the development of security coincides with the development of liberal ideology” (Agamben 2001).
7. For instance, in the interview to *German Law Journal*, Agamben acknowledges that his notion of paradigm is analogous to Foucault’s notion of the Panopticon. He says: “But I am not an historian. I work with paradigms. A paradigm is something like an example, an exemplar, a historically singular phenomenon. As it was with the Panopticon for Foucault, so is the *Homo Sacer*, the Muselmann, or the state of exception for me” (610).

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