treatise *De intellectu et intellegibili* Dante could have read) to express the mode of being of prime matter, which can never be completely separate from some form and therefore stands *sub actu*. But while Dietrich explicitly opposes the possible intellect, which is wholly separate from the act, to prime matter, Dante sets up an analogy between the mode of being of the intellect in potentiality and that of matter. Though it can suffer "interpolations" with respect to thought in act, the potentiality of thought is not entirely separate from it, and the multitude is this existence of potentiality *sub actu*, that is, in proximity to the act.

Dante conceives a politics that corresponds to the inactivity of man, one which is determined, that is, not simply and absolutely beginning from the being-at-work of human rationality, but from a working that exposes and contains in itself the possibility of its own not existing, of its own inactivity. From this inactivity, Dante deduces the necessity of the multitude as the subject of politics that exceeds every particular community, and of the Monarchy or the Empire as the regulating principle corresponding to this excess. What other consequences thought can draw from the awareness of its own essential inactivity, and whether, in general, there is a politics possible today that is equal to the absence of a work of man, and will not simply fall back into the assumption of a biopolitical task—this must for now remain in suspense. What is certain, however, is that it will be necessary to put aside the emphasis on labor and production and to attempt to think of the multitude as a figure, if not of inaction, at least of a working that in every act realizes its own shabbat and in every work is capable of exposing its own inactivity and its own potentiality.

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**Bare Life or Social Indeterminacy?**

*Ernesto Laclau*

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I have great admiration for the work of Giorgio Agamben. I particularly appreciate his dazzling classical erudition, his skill—both intuitive and analytical—in dealing with theoretical categories, and his ability to relate systems of thought whose connections are not immediately obvious. This appreciation does not go, however, without some deep reservations concerning his theoretical conclusions, and these reservations are what I want to elaborate upon here. If I had to put them in a nutshell, I would assert that Agamben has—inverting the usual saying—the vices of his virtues. Reading his texts, one often has the feeling that he jumps too quickly from having established the *genealogy* of a term, a concept or an institution, to determine its actual working in a contemporary context, that in some sense the *origin* has a secret determining priority over what follows from it. I am not, of course, claiming that Agamben makes the naive mistake of assuming that ethimology provides the cipher or clue to what follows from it, but, I would argue, many times his discourse remains uneasily undecided between genealogical and structural explanation. Let us take an example from Saussurean linguistics: the Latin term *necare* (to kill) has become in modern French *noyer* (to drown), and we can examine as much as we want this diachronic change in the relation between signifier and
signified and we will still not find in it any explanation of the meaning resulting from their last articulation—signification depends entirely on a value context which is strictly singular and which no diachronic genealogy is able to capture. This is the perspective from which we want to question Agamben's theoretical approach: his genealogy is not sensitive enough to structural diversity and, in the end, it risks ending in sheer teleology.

Let us start by considering the three theses in which Agamben summarises his argument towards the end of *Homo Sacer*:

1. The original political relation is the ban (the state of exception as zone of indistinction between outside and inside, exclusion and inclusion).
2. The fundamental activity of sovereign power is the production of bare life as originary political element and as threshold of articulation between nature and culture, between *zoe* and *bios*.
3. Today it is not the city but rather the camp that is the fundamental biopolitical paradigm of the West. (*HS*, 181)

Let me start with the first thesis. According to Agamben—who is quoting Cavalca—"to ban' someone is to say that anybody may harm him" (*HS*, 104–5). That is why the "sacred man" can be killed but not sacrificed—the sacrifice is still a figure representable within the legal order of the city. The life of the bandit clearly shows the kind of exteriority belonging to the sacred man: "The life of the bandit, like that of the sacred man, is not a piece of animal nature without any relation to law and the city. It is, rather, a threshold of indistinction and of passage between animal and man, *physis* and *nomos*, exclusion and inclusion: the life of the bandit is the life of the *loup garou*, the werewolf, who is precisely neither *man nor beast*, and who dwells paradoxically within both while belonging to neither" (*HS*, 105).

Sovereignty is at the source of the ban, but it requires an extension of the territory within which the ban applies, for if we were only to deal with the exteriority to law of the *loup garou* we would still be able to establish a clear line of partage between the "inside" and the "outside" of the community. Agamben is very much aware of the complexity of the relation between outside and inside. For that reason, speaking about Hobbes's "state of nature," he indicates that it is not a primitive condition which has been eradicated once the covenant has transferred sovereignty to the Leviathan, but a constant possibility within the communitarian order, which arises whenever the city is seen as *tamquam dissoluta*. In that sense, we are not dealing with a pure, pre-social nature, but with a "naturalization" which keeps its reference to the social order as far as the latter ceases to work. This explains how the state of exception emerges. Carl Schmitt had asserted that there is no rule applicable to chaos, and that the state of exception is required whenever the agreement between the legal order and the wider communitarian order has been broken.

Far from being a prejuridical condition that is indifferent to the law of the city, the Hobbesian state of nature is the exception and the threshold that constitutes and dwells within it. It is not so much a war of all against all as, more precisely, a condition in which everyone is thus *wargus*, *gerit caput lupinum*. And this lupization of man and humanization of the wolf is at every moment possible in the *disolutio civitatis* inaugurated by the state of exception. This threshold alone, which is neither simple natural life nor social life but rather bare life or sacred life, is the always present and always operative presupposition of sovereignty. (*HS*, 106)

This explains why sovereign power cannot have a contractual origin: "This is why in Hobbes, the foundation of sovereign power is to be thought not in the subjects' free renunciation of their natural right but in the sovereign's preservation of his natural right to do anything to anyone, which now appears as the right to punish" (*HS*, 106). Thus, the ban holds together bare life and sovereignty. And it is important for Agamben to point out that the ban is not simply a sanction—which as such would still be representable within the order of the city—but that it involves abandonment: the *homo sacer* and the other figures that Agamben associates to him are simply left outside any communitarian order. That is why he can be killed but not sacrificed. In that sense the ban is non-relational: their victims are left to their own separatedness. This is for Agamben the originary political relation, linked to sovereignty. It is a more originary extraneousness than that of the foreigner, who still has an assigned place within the legal order. "We must learn to recognise this structure of the ban in the political relations and public spaces in which we will live. In the city the banishment of sacred life is more internal than every interiority and more external than every extraneousness" (*HS*, 111).

The ban has, thus, been at the source of sovereign power. The state of exception, which reduces the citizens to bare life (he has in mind Foucault's biopolitics), has determined modernity from its very beginning.

Agamben has, no doubt, touched with the category of the ban something crucially important concerning the political. There is certainly, within
the political, a moment of negativity that requires the construction of an inside/outside relation and requires that sovereignty is in an ambiguous position vis-à-vis the juridical order. The problem, however, is the following: does the articulation of dimensions through which Agamben thinks the structure of the ban exhaust the system of possibilities that such a structure opens? In other words: has not Agamben chosen just one of those possibilities and hyposratized it so that it assumes a unique character? Let us consider the matter carefully. The essence of a ban is given by its effects—that is, to put somebody outside the system of differences constituting the legal order. But in order to assimilate all situations of being outside the law to that of homo sacer, as described by Agamben, some extra presuppositions have to be added. In the first place, the sheer separatedness—absence of relation—of the outside involves that he/she is a naked individuality, dispossessed of any kind of collective identity. But, secondly, it also involves that the situation of the outsider is one of radical indefension, wholly exposed to the violence of those inside the city. Only at that price can sovereign power be absolute. Are, however, these two extra presuppositions justified? Do they logically emerge from the mere category of “being outside the law”? Obviously not. The outsider does not need to be outside any law. What is inherent to the category is only the fact of being outside the law of the city. Abandonment comes only from the latter. Let us consider the following passage from Franz Fanon, which I have discussed in another context:

The lumpenproletariat, once it is constituted, brings all its forces to endanger the “security” of the town, and is the sign of the irreversible decay, the gangrene ever present at the heart of colonial domination. So the pimps, the hooligans, the unemployed, and the petty criminals . . . throw themselves into the struggle like stout working men. These classless idlers will by militant and decisive action discover the path that leads to nationhood. . . . The prostitutes too, and the maids who are paid two pounds a month, all who turn in circles between suicide and madness, will recover their balance, once more go forward and march proudly in the great procession of the awakened nation.1

Here we have actors who are entirely outside the law of the city, who cannot be inscribed in any of the categories of the latter, but such an exteriorty is the starting point for a new collective identification opposed to the law of the city. We do not have lawlessness as against law, but two laws that do not recognise each other. In another work (SE), Agamben discusses the notion of “necessity” as elaborated by the Italian jurist Santi Romano and points out that, for Romano, revolutionary forces—strictly speaking, according to the State juridical order, outside the law—create their own new law. The passage from Romano quoted by Agamben is most revealing:

After having recognised the antijuridical nature of the revolutionary forces, he adds that this is only the case with respect to the positive law of the state against which it is directed, but that does not mean that, from the very different point of view from which it defines itself, it is not a movement ordered and regulated by its own law. This also means that it is an order that must be classified in the category of originary juridical orders, in the now well-known sense given to this expression. In this sense, and within the limits of the sphere we have indicated, we can thus speak of a law of revolution. (SE, 28–29)

So we have two incompatible laws. What remains as valid from the notion of law as defined by Agamben is the idea of an uninscribable exteriority, but the range of situations to which it applies is much wider than those subsumable under the category of homo sacer. I think that Agamben has not seen the problem of the inscribable/uninscribable, of inside/outside, in its true universality. In actual fact, what the mutual ban between opposed laws describes is the constitutive nature of any radical antagonism—radical in the sense that its two poles cannot be reduced to any super-game which would be recognised by them as an objective meaning to which both would be submitted.

Now, I would argue that only when the ban is mutual do we have, sensu stricto, a political relation, for it is only in that case that we have a radical opposition between social forces and, as a result, a constant renegotiation and re-grounding of the social bond. This can be seen most clearly if we go back for a moment to Agamben’s analysis of Hobbes. As we have seen, he asserts that contrary to the contractarian view, the sovereign is the only one that preserves his natural right to do anything to anybody—that is, the subjects become bare life. The opposition between these two dimensions, however, does not stand: in order for the sovereign to preserve his natural right, he needs such a right to be recognised by the rest of the subjects, and such a recognition, as Agamben himself points out, finds some limits.

Corresponding to this particular state of the “right of Punishing” which takes the form of a survival of the state of nature at the very heart of the state, is the subjects’ capacity not to disobey but to resist violence exercised on their own person, “for... no man is supposed bound by Covenant, not to resist violence; and consequently
Agamben draws from the minimal nature of the notion of a right to resist violence against one's person: a further proof of his argument concerning the interconnections between bare life, sovereignty, and the modern State. It is true that the Hobbesian view invites such a reading, but only if a conclusion is derived from it: that it amounts to a radical elimination of the political. When a supreme will within the community is not confronted by anything, politics necessarily disappears. From this viewpoint the Hobbesian project can be compared with another which is its opposite but, at the same time, identical in its anti-political effects: the Marxist notion of the withering away of the State. For Hobbes, society is incapable of giving itself its own law and, as a result, the total concentration of power in the hands of the sovereign is the prerequisite of any communitarian order. For Marx, a classless society has realised full universality and coherence between law and the wider communitarian order (one cannot apply law to chaos). If this is so, however, and if the plurality of demands requires a constant process of legal transformation and revision, the state of emergency ceases to be exceptional and becomes an integral part of the political construction of the social bond. According to Wittgenstein, to apply a rule requires a second rule specifying how the first one should be applied, a third one explaining how the second will be applied, and so on. From there he draws the conclusion that the instance of application is part of the rule itself. In Kantian terms—as Agamben points out—this means that in the construction of the social bond we are dealing with reflective rather than determinative judgements. Vico's remarks—also quoted by Agamben—about the superiority of the exception over the rule is also highly pertinent in this context. This explains why I see the history of the state of exception with different lenses than Agamben. While he draws a picture by which the becoming rule of the exception represents the unavoidable advance towards a totalitarian society, I try to determine, with the generalization of the "exceptional," also counter-tendencies that make it possible to think about the future in more optimistic terms. We discussed earlier what Santi Romano said concerning revolutionary laws. Now, that does not only apply to periods of radical revolutionary breaks—what Gramsci called "organic crises"—but also to a variety of situations in which social movements constitute particularistic political spaces and give themselves their own "law" (which is partially internal and partially external to the legal system of the State). There is a molecular process of partial transformations which is absolutely vital as an accumulation of forces whose potential becomes visible when a more radical transformation of a whole hegemonic formation becomes possible.

What we have so far, already pre-announced that in our view, the secondary thesis of Agamben concerning bare life as resulting from the activity of sovereign power, does not fare any better. To start with, the distinction between zöe and bios cannot play the central role in historical explanation to which Agamben assigns it. As he himself asserts at the beginning of Homo Sacer, the Greeks used two terms to refer to life: "zöe, which expressed the simple fact of living common to all living beings (animals, men or gods), and bios, which indicated the form or way of living proper to an individual or a group" (HS, 1). This means that living beings are not distributed between two categories—those who have exclusively bios and those who have exclusively zöe—for those who have bios obviously have zöe as well. So zöe is primarily an abstraction. Even the oikos, whose aim was merely concerned with reproductive life, has its own internal structure, based on a hierarchical distribution of functions, so that although its aims are not political, it is far from being bare life, for it has its own configuration and system of rules. Ergo, if Agamben's thesis is going to hold, he would have
to prove that, in some circumstances, bare life ceases to be an abstraction and becomes a concrete referent.

It is at this point that Agamben brings into the picture Foucault’s biopolitics. “According to Foucault, a society’s ‘threshold of biological modernity’ is situated at the point at which the species and the individual as a simple living body become what is at stake in a society’s political strategies” (HS, 3). It is most revealing that Agamben links Foucault’s biopolitical hypothesis to the earlier work of Hannah Arendt: “Hannah Arendt had already analyzed the process that brings Homo laboran—and, with it, biological life as such—gradually to occupy the very centre of the political scene of modernity. In The Human Condition, Arendt attributes the transformation and decindence of the political realm in modern societies to this primacy of natural life over political action” (HS, 4). Of course, to present the argument in these terms is grotesquely biased. One could more plausibly make the opposite argument, namely that in modernity there is no primacy of natural life over political action, but rather a politicization of a terrain previously occupied by “natural” life (and it is already to concede too much to assume that that life was merely “natural”). What is, anyway, wrong in the argument about a rigid opposition between political sovereignty and bare life is the assumption that it necessarily involves an increasing control by an over-powerful state. All that is involved in the notion of a politicization of “natural” life is that increasing areas of social life are submitted to processes of human control and regulation, but it is a non sequitur to assume that such a control has to crystallize around a tendentially totalitarian instance.

Given Agamben’s assertion of a strict correlation between ban and sovereignty, the postulation of an ad quem totalitarian trend was, of course, to be expected. The result is that he equates human situations whose nature is entirely dissimilar. In order to have a “bare life,” as we have seen, the receiving end of the ban has to be entirely without defense and fully submitted to the “abandonment” dictated by the sovereign power. Some of the situations that Agamben describes approach, actually, the state of a bare life which is the mere object of a political intervention. Thus he refers to the figure of the Muselmamn, an inhabitant of the concentration camps, “a being from whom humiliation, horror and fear had so taken away all consciousness and all personality as to make him absolutely apathetic” (HS, 189). Or to a biochemist suffering leukemia who decides to transform his body in a laboratory: “His body is no longer private, since it has been transformed into a laboratory; but neither is it public, since only insofar as it is his own body can he transgress the limits that morality and law put into experimentation. . . . It is a bios that has, in every particular sense, so concentrated itself in its own zoe as to become indistinguishable from it” (HS, 186). Or to the body of Karen Quinlan, an over-comatose person whose organs are going to be transplanted: “Here biological life—which the machines are keeping functional by artificial respiration, pumping blood into the arteries, and regulating the blood temperature—has been entirely separated from the form of life that bore the name Karen Quinlan: here life becomes (or at least seems to become) pure zoe (HS, 186).

Up to this point, Agamben’s argument concerning “bare life” would be just plausible, although one could wonder about its political relevance. But later on he tries to extend it to entirely different situations. From the comatose we move to the bandit:

His entire existence is reduced to a bare life stripped of every right by virtue of the fact that anyone can kill him without committing homicide; he can save himself only in perpetual flight or a foreign land. . . . He is pure zoe, but his zoe is as such caught in the sovereign ban and must reckon with it at every moment, finding the best way to elude or deceive it. In this sense, no life, as exiles and bandits know well, is more “political” than his. (HS, 183–84)

The life of the bandit or the exile can be entirely political, but they are so in an entirely other sense than that of Karen Quinlan, because they, on the difference with Quinlan, are capable of engaging in antagonistic social practices. They have, in that sense, their own law, and their conflict with the law of the city is a conflict between laws, not between law and bare life. Agamben is aware of a potential criticism to the extreme and marginal character of his examples of bare life, and he tries to answer in anticipation with examples that he calls “no less extreme and still more familiar”: “the Bosnian woman at Omarska, a perfect threshold of indistinction between biology and politics, or—in an apparently opposite, yet analogous, sense—military interventions on humanitarian grounds, in which war efforts are carried out for the sake of biological ends such as nutrition or the care of epidemics” (HS, 187). At this point, however, we no longer know what is the issue under discussion: the care for the biological survival of populations or the reduction of people to zoe, entirely stripped of any bios? Agamben, in his argument, constantly mixes both levels.

If the example of the bandit shows already a displacement of the logic of exclusion to something which clearly exceeds the notion of “bare
life," this excess is only more visible when Agamben tries to expand the logic of sovereignty/bare life into a general theory of modernity. He starts by pointing out an undeniable fact: in most languages the notion of "the people" is ambiguous: on the one side it refers to the community as a whole (populus); on the other to the underdog (plebs). His reading of this ambiguity, however, is that the community is sharply divided and that the totalitarian logic of modernity is an attempt to overcome that division.

In this sense, our age is nothing but the implacable and methodical attempt to overcome the division dividing the people, to eliminate radically the people that is excluded. This attempt brings together, according to different modalities and horizons, Right and Left, capitalist countries and socialist countries, which are united in the project—which is in the last analysis futile but which has been partially realized in all industrialized countries—of producing a single and undivided people. (HS, 179)

There is something basically wrong with this analysis. In the first place, division is perfectly compatible with the status quo, as far as the differences resulting from social diversity are not constructed in an antagonistic way. Hierarchy means, precisely, social differentiation, so that the elimination of division, conceived as multiplicity, is not something that the dominant groups are systematically aiming at. But, in the second place, if we are speaking about an antagonistic division, one which constructs "the people" as an underdog, the plebs that this division creates does not perpetuate but attempts to supersede the original division. We are dealing with a part that attempts to incarnate the whole, with a heterogeneity aspiring to be re-absorbed into a new homogeneity. So the dialectic between part and whole, between homogeneity and heterogeneity, is far more complex than Agamben's simplistic alternative of either "division" or "undivided people" allows us to think. The Gramscian distinction between "corporate" and "hegemonic" class allows for more complex strategic moves than Agamben's mechanical teleology. Differences can be partialities within a whole—as the plebs was for patrician eyes—or the names of alternative totalities (requiring the investment of the whole within the part, as in Lacan's object a). Homogenizing logics can be, reductio ad absurdum, thoroughly totalitarian, but they can equally be emancipatory, as when they link, in an equivalent chain, a plurality of unsatisfied demands. Sovereignty, finally, can also be totalitarian in the extreme case in which it involves a total concentration of power; but it can also be profoundly democratic, if it involves an articulating rather than a determining power—that is, when it "empowers" the underdog. In that case, as we have already pointed out, sovereignty should be conceived as hegemony.

Needless to say, we fully reject Agamben's third thesis, according to which the concentration camp is the nomos or fundamental biopolitical paradigm of the West. He asserts:

The birth of the camp in our time appears as an event that decisively signals the political space of modernity itself. It is produced at the point at which the political system of the modern nation-state, which was founded on the functional nexus between a determinate localization (land) and a determinate order (the State) and mediated by automatic rules for the inscription of life (birth or the nation), enters into a lasting crisis, and the State decides to assume directly the care of the nation's biological life as one of its proper tasks. . . . Something can no longer function within the traditional mechanisms that regulated this inscription, and the camp is the new, hidden regulator of the inscription of life in the order—or, rather, the sign of the system's inability to function without being transformed into a lethal machine. (HS, 174-75)

This series of wild statements would only hold if the following set of rather dubious premises were accepted:

1. That the crisis of the functional nexus between land, State, and the automatic rules for the inscription of life has freed an entity called "biological—or bare—life"
2. That the regulation of that freed entity has been assumed by a single and unified entity called the State
3. That the inner logic of that entity necessarily leads it to treat the freed entities as entirely malleable objects whose archetypical form would be the ban

Needless to say, none of these presuppositions can be accepted as they stand. Agamben, who has presented a rather compelling analysis of the way in which an ontology of potentiality should be structured, closes his argument, however, with a naïve teleologism, in which potentiality appears as entirely subordinated to a pre-given actuality. This teleologism is, as a matter of fact, the symmetrical {	extit{pendant}} of the "ethymologism" we have referred to at the beginning of this essay. Their combined effect is to divert Agamben's attention from the really relevant question, which is the system of structural possibilities that each new situation opens. The most
summary examination of that system would have revealed that: (1) the crisis of the "automatic rules for the inscription of life" has freed many more entities than "bare life," and that the reduction of the latter to the former takes place only in some extreme circumstances that cannot in the least be considered as a hidden pattern of modernity; (2) that the process of social regulation to which the dissolution of the "automatic rules of inscription" opens the way involved a plurality of instances that were far from unified in a single unity called "the State"; (3) that the process of State building in modernity has involved a far more complex dialectic between homogeneity and heterogeneity than the one that Agamben's "camp-based" paradigm reflects. By unifying the whole process of modern political construction around the extreme and absurd paradigm of the concentration camp, Agamben does more than present a distorted history: he blocks any possible exploration of the emancipatory possibilities opened by our modern heritage.

Let me conclude with a reference to the question of the future as it can be thought from Agamben's perspective. He asserts: "Only if it is possible to think the Being of abandonment beyond every idea of law (even that of the empty form of laws being in force without significance) will we have moved out of the paradox of sovereignty towards a politics freed from every ban. A pure form of law is only the empty form of relation. Yet the empty form of relation is no longer a law but a zone of indistinguishability between law and life, which is to say, a state of exception" (HS, 59). We are not told anything about what a movement out of the paradox of sovereignty and "towards a politics freed from every ban" would imply. But we do not need to be told: the formulation of the problem already involves its own answer. To be beyond any ban and any sovereignty means, simply, to be beyond politics. The myth of a fully reconciled society is what governs the (non-)political discourse of Agamben. And it is also what allows him to dismiss all political options in our societies and to unify them in the concentration camp as their secret destiny. Instead of deconstructing the logic of political institutions, showing areas in which forms of struggle and resistance are possible, he closes them beforehand through an essentialist unification. Political nihilism is his ultimate message.
GIORGIO AGAMBEN

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