

Anna Gąsior-Niemiec

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Anna Gašior-Niemiec

GIORGIO AGAMBEN'S POLITICAL PHILOSOPHY

Introduction

The paper aims at a succinct presentation of Giorgio Agamben, an Italian philosopher and a discussion of main currents found in his political philosophy. Agamben, a philosopher of law, politics and aesthetics, affiliated at the Italian University of Verona, seems one of the most significant contemporary political thinkers. In his *oeuvre*, he creatively interprets and develops ideas which emerge from both classical political texts, such as *Leviathan* by Thomas Hobbes and famous modern political manifestos authored for instance by Carl Schmitt, Walter Benjamin, Hannah Arendt and Michel Foucault.

The basic texts, used in the present paper to make an introduction to the political conceptions of Agamben, include one of his most known books, entitled *Homo sacer: il potere sovrano e la vita nuda* (translated into English in 1998 as *Homo sacer: sovereign power and bare life*), which was first published in Italy in 1995. The book – in light of some later statements by the author – constitutes a most comprehensive outline of the topics and ideas which would be elaborated by the Italian philosopher in his subsequent books and papers.

In his works, Agamben points out to an increasing tendency to politicization of each and every sphere of life in the modern world. He also notices the development of a concomitant process during which political violence becomes insidiously ever more institutionalized. The processes, according to Agamben, undermine *inter alia* the traditional distinction between democratic and totalitarian regimes. In the current period of triumphant constitutionalism and liberal democracy, a „state of exception”, which „locally” suspends individual rights and liberties, becomes, in the Italian political thinker's eyes, a permanent and omnipresent element of the late modern democracy as a *method to manage social crises politically*.

The concept of *homo sacer*

The concept of *homo sacer* constitutes a point of departure for brilliant considerations during which Agamben approaches the topics of the political, politics and political power. It provides, at the same time, a metaphor for a situation in which an individual finds her/himself ever more often in the contemporary world. The Italian philosopher retrieves the notion of *homo sacer* from the tradition of ancient Roman law. Within the tradition, the term seemed to denote a condition applying to an individual who had committed a wrong deed which exceeded the imagination of the community of which s/he was part. Such a deed, exceeding the communal (societal) imagination, by default exceeded also any possibility of conferring a punishment on its perpetrator in accordance with the community's (society's) binding law.

The term *homo sacer* refers then an individual who becomes excluded from an original community *by excepting her/him from the obtaining legal order*. In the condition of „being excepted from law” the life and death of such an individual ceases to be regulated by law. *Homo sacer* is then a wo/man who is reduced to a status of a „bare life” (*la vita nuda*), a life deprived of social bonds and political entitlements. Bare life is therefore a life without value, reducing a human being to pure biological existence (Agamben 1995: 3–5, 80–83). *Homo sacer* is part of the sphere of pure politics – the sphere where an arbitrary political decision by the sovereign, i.e. violence, takes precedence over law.

Homo sacer is, in Agamben's view, a political figure whose presence in the spheres of political theory and practice becomes more and more pronounced. The Italian political thinker traces the presence of the figure in key documents and political treatises of the modern era. He especially focuses on locating the figure in a classic work by Thomas Hobbes – *Leviathan* (2006). In Hobbes's treatise *homo sacer* is identified in an archetypal image of a pre-political man – an individual in the state of nature. The state of nature is a state of „indeterminacy”, in which it is not possible to distinguish between good and evil, between justice and wrong-doing or violence. The possibility of such a distinction arises only at the moment when a sovereign appears and after law is constituted by his/her will (Agamben 1999: 42–43). *Homo sacer* (representing *zoe*) only then may become a political man (representing *bios*) (cf. Arystoteles 2002).

Hobbes, however, endows the sovereign not only with a power to constitute law, but also – so to speak – with a power to suspend the

power of law. In other words, he confers on the sovereign an unceasing power to establish a line dividing *bios* from *zoe*, the state of the law from the state of an exception from law (Hobbes 2006). The suspension of the power of law by the sovereign not so much, however, brings the individual back to the state of nature as, rather, excepts her/him from the obtaining political order based on law and locates her/him „outside”, vis-à-vis pure potentiality of political violence. On the basis of this move, „a political subject” may thus be turned into „an exile”, „a citizen” into a „dissident”, „an oppositionist” into „a refugee”, „a freedom fighter” into „a terrorist” – according to a catalogue of figures excepted from law by the sovereign power at a given historical conjunction. In this state of exception, civil rights and personal liberties of individuals identified with the figures are suspended.

The conception of the state of exception¹

The exception from law is a symptom of a state of exception, i.e. a state in which – in contradistinction to the obtaining legal order – a temporary, local and *exceptional order* is instituted by a sovereign decision of a political authority (cf. Lazzarato 2005). The institution of the state of exception is tantamount to a *legal* suspension of the rule of law by force of an exception (*die Ausnahme*). Agamben draws here on a notorious interpretation by Carl Schmitt, who stipulates that a „state of exception is always different from a state of anarchy and chaos. In a legal sense, an order is still sustained in the state of exception even though the order is not an order which originates in law” (Agamben 1999: 39, 2003).

Considering the changes which have currently taken place in the sphere of the political practice, in particular in the dimension of mutual relationships between sovereignty, law and violence, Agamben notices that the „state of exception” is proliferating, is becoming systematically institutionalised and normalized. In the atmosphere of a (global) threat”, irrespective of the type of the political regime concerned, we are – as the Italian philosopher maintains – witnessing an increasing inclination of the political executive power to take advantage of the

¹ In the Italian original, Agamben uses a polyvalent term of „stato di eccezione”, which can mean both a „state of exception”, a „state in the state of exception”, and „a state which has been based on the paradigm of the state of exception”.

prerogative of „excepting” certain individuals and social groups from the obtaining rules of law and instituting in their stead instances of a local/temporary orders which are not orders rooted in and bound by the law (Agamben 2003).

Agamben documents his tenets with results of historical-legal analyses of the modern political practice. He indicates that the paradox of the „state of exception” was on a big scale realized fully for the first time in the eighteenth century, during the French Revolution. Political authorities were then granted the right allowing them to proclaim *état de siège* (a state of siege), in which – because of a supposed threat to the existence of the state – the laws which had been binding so far, could be suspended. Decrees issued by the executive authorities were in such a situation to take the role routinely played by laws. The state of siege signified then *de facto* an introduction of an order based on non-legal regulations which enjoyed the force of law (Agamben 2003).

Constitutionally admissible options to announce a state of exception in situations which had been diagnosed by the sovereign power as an internal crisis of the state and a threat to its existence, have become a permanent feature of not only the French political system. Such an option was also admitted for instance in the United States of America where the President has been endowed with a right to issue so called *executive orders*. Several presidents of the USA have indeed exercised the right, just to mention Lincoln in 1861, Wilson in the period of 1917–1918, and Roosevelt in 1933.

In 1914, for the first time in its history, such special prerogatives, known as *the emergency powers*, were granted to the British Parliament on the basis of a „Law on the Protection of the Kingdom”. The atmosphere of hostility towards „aliens” and „enemies of the state”, which had been intensifying over the early twentieth century, induced many other democratic governments to reach for some „special” powers, such as the right to denaturalise and/or denationalise some categories of citizens. Decrees of this type were issued in 1915 in France, in 1922 in Belgium, in 1926 in Italy, in 1933 in Austria. During the Second World War, practically all of the warring parties resorted, to a greater or lesser extent, to the possibility of introducing a state of exception as a method of local and/or temporary *extra-legal* resolution to existing social and political problems. In Italy, despite the fact that the political regime has been reformed, if not radically changed several times, practically as late as the 1990s so called *decreti di urgenza*

(decrees of necessity) were a *normal* instrument of government used by subsequent cabinets (cf. Virno 2005).

The case of the German political practice still remains, however, a model instance of the tendency, most vividly illustrating unsettling implications of the institution of the state of exception and the fluidity of the border which divides democracy from totalitarianism. It is known that the article 48 of the Weimar Constitution provided for a possibility to declare a state of exception followed by an ensuing suspension of part or the whole of the legal order existing so far. Almost immediately after he had been appointed Chancellor, Adolf Hitler took advantage of this very constitutional provision to introduce in Germany – beginning from the 28 of February 1933 – a permanent state of exception.

Announcing a decree on the protection of the state and the German nation, Hitler *suspended* and not abolished the civil rights and liberties which were inherent in the Weimar Constitution (cf. Agamben 2003; Virno 2005). The totalitarianism, which overwhelmed the Nazi Germany when Hitler came to power, may therefore be interpreted as, literally, a legally instituted state of a vacant legal order, i.e. a state of alternative order which is established by a decision of sovereign political authorities in the situation of a legal suspension of the law. The state of exception allowed then the political authorities to repress and annihilate political opposition, „asocial” categories of Germans as well as representatives of „biologically degenerated” races in a manner which was *legal* even so it was not bound by the existing/suspended law. The most practical-technocratic implications of the „rule of exception” emerged in the case of the Nazi model of a concentration camp.

According to Agamben, practices of this kind have become universal after the end of the Second World War, albeit they are less „spectacular” than the ones implemented in Hitler’s Germany. Actions taken on the basis of decrees issued by executive political authorities, which are only afterwards ratified by parliaments, are, currently a norm in the functioning of contemporary political systems. In this sense, contemporary liberal political systems – democracies and republics – are only by their name, as the Italian philosopher has it, representative, democratic and constitutional.

The process, which leads to a normalization of the state of exception is, in Agamben’s opinion, absolutely concordant with the logic of *biopolitics*². In the state of „exception from the law”,

² The concept of *biopolitics* was introduced to the discourse of social sciences by Michel Foucault. On the verge of the modern era, in the sixteenth century, according to

individuals (and whole social groups) – or, more precisely, their life/death – ultimately become an object of unlimited (pure) political power. They may either be subjected to some exceptional protection (for example: court witnesses, agents of secret services), become objects of various technologies implemented by power&knowledge assemblages (for example: eugenic programmes, genetic decoding, biotechnological modifications) or be subject to extermination (for example: transitory camps, detention areas and fields of death).

The concept of the camp³

The concept of the camp complements this stream of Agamben's analyses which is focused on issues of the political, biopolitics, sovereign power, state of exception, the role of the individual in political life, and on a more general note, on the transformations of modern political theory and practice. According to the Italian political thinker, the camp is a concept which best captures the paradigmatic model of governing deployed by sovereign power in a situation defined as a crisis and a political threat. The camp is a notion which denotes a space within which – in the framework of a state based on the rule of law – a political order is being instituted by the political power which is different from the one obtaining universally in a given country.

In the camp there become *concentrated* politically incorrect: Others who are „unable” to be normalized, Others who are „responsible” for any kind of social crisis and political threat. The camp is a space within which the state of excepting from the law is realized in its purest version. Not only civil law, but also penal law ceases to be binding within the camp. In the camp the execution of prison law, medical law, family law, labour law is suspended as well. The camp is, however, by no means, a space of disorder. On the contrary, it is the kind of space where political power – *by force of exception* – establishes a new, *more*

a diagnosis formulated by Foucault (1995), a momentous breakthrough occurred in the (European) political paradigm. The problematic of „population” entered then the sphere of interests and actions of the state and political power. *Biological* life of subjects/citizens and of the whole human species has become an object of constant intervention by the political power, supported by sciences, such especially as economics, demography and statistics, as well as by radically transformed medicine and... religion.

³ Italian *il campo* – A.G.-N.

exact political order. The camp does not get instituted illegally, either. Its creation is an effect of a legally taken decision by the sovereign power which in a triple sense takes advantage of the existing law: to define an „exception”, to except it from the law and to establish the camp as a local space of the state of exception (Agamben 1995, 1999; cf. also Diken, Bagge Laustsen 2005).

The concentration camps in Germany had thus been established on the basis of a Prussian *Schutzhaft* even before Hitler came to power, when the country was still governed by social democrats. The camps had been created then to deal with a communist opposition and immigrants who would flow in from the East. In the years between 1919 and 1924, subsequent Weimar cabinets frequently took advantage of *Schutzhaft* to declare temporary states of exception and embark on activities permissible only as an exception from a legal order. Communists, Jews, Gypsies and other enemies of the German state and the German nation, before they were put to death camps, had been themselves *turned into exceptions* by being subjected to denaturalization and denationalization in accordance with legally binding procedures (Agamben 1998: 132–167).

Nevertheless, the first known concentration camps, despite a widespread conviction, were not invented by the Germans. Already towards the end of the nineteenth century, during pacification of the indigenous population in Cuba, Spaniards built so called *campos de concentraciones* to isolate local „rebels”. In the same, more or less period, in Africa the British created similar camps to get rid of the Buers who took part in an anti-British uprising. The Nazi camps of death, symbolized by *Auschwitz*, were thus, according to Agamben's research, „only” a technologically more advanced version of a general model of governing the life and death of the population by the sovereign political power using the instrument of the state of exception (cf. Agamben 1998; Diken, Bagge Laustsen 2005).

After the Second World War, *Auschwitz* and the camps of death were officially condemned. In the political discourse a gesture was made to exclude the Nazi practices of instituting zones of extermination from the sphere of acceptable – civilized – politics. Later, communist gulags were condemned as well. However, a close inspection of the political practice in the Western democracies, induces Agamben to claim that a model of the camp has not only survived but is becoming almost omnipresent across the „civilised world” (cf. <http://www.filosofico.net/agamben.htm>). Democratic authorities, under the banner

of welfare and security of citizens, establish locally spaces governed by the „rule of exception”: they create ever more „camps” where order is to be (re)introduced by rules and measures not based on the universally binding law.

A special status prisoner, a terrorist, an illegal immigrant, a stateless person, a member of a (primitive) indigenous population, a refugee – are all placed in spaces which constitute spheres of „exception”. Institutions and rules of the democratic politics and constitutional procedures become there suspended indeterminately. In the spheres of exception, frequently localized in the very centres of the contemporary world, the line which divides democracy from totalitarianism is getting dangerously thin, as Agamben believes. Today’s camps – spheres of the state of exception – slowly become integral part of our normalcy. Whole districts of cities belong there, which are labelled as gettoes and *no-go areas*, alongside a variety of detention centres where, without a court warrant, both vagrants and supposed terrorists may be held. Another example includes so called *zones d’attente* which have become by now a standard „equipment” at airports, for instance in France (Agamben 1998: 20, 174–175; cf. Diken, Bagge Laustsen 2005).

Since it is no longer possible to differentiate clearly the inside from the outside of the camp, the city and the camp overlap and cease to be distinguishable to a degree. In this sense, each and every one of us, can, according to the Italian political thinker, suddenly find themselves in a space of the camp excepted from the law by an arbitrary decision of a sovereign power. According to Agamben, political practices introduced by the American authorities in the aftermath of the September 11th attack on the World Trade Center towers in New York provide a most glaring example of the tendency to suspend the law arbitrarily, to establish local states of exception and exercise the logic of the camp. He especially means the so called extra-ordinary powers which may now – without a court warrant and against the American Constitution – be implemented both against individuals and whole social groups in the USA. The extraordinary powers may be used by the American authorities both against the US citizens and citizens of other states, both within the territory of the USA and withal.

On the basis of the „U.S. Patriot Act of October 26, 2001” the American authorities gained for instance a right to arrest and detain any person for an indeterminate period of time without having to provide a reason and a legal basis for arrest and detention, to take persons

suspected of terrorism and anti-Americanist activities to a military tribunal and to deny them their right to defend, to control any professional and private telephone calls and correspondence etc. In addition, some of the directives prepared by the Bush administration physically „push” the suspected persons out of the space of the law. The suspects may be *localized* in places which have an extraterritorial status, such as the infamous Guantanamo base⁴, where – deprived of possibility to appeal to any type of the existing law – they literally face an absolute, pure sovereign power/violence. The persons are denied either the status of a „foreigner”, a „citizen” or a „prisoner of war”⁵. Kept outside of the American legal order, they are neither declared „the accused” nor „prisoners”. They have a status of „detainees”. They are, thus, as Giorgio Agamben insists, contemporary *homines sacri* (Agamben 1995; 2003; cf. also Diken, Bagge Laustsen 2005)⁶.

Conclusion

Throughout his *oeuvre*, Giorgio Agamben provides us with a novel, sharper insight into some of the ambivalent paradigmas and tendencies which are discernible in the contemporary political practice. Drawing on classical political philosophers, such as Aristotle and Hobbes, as well as on modern theoreticians, such as Carl Schmitt, Hannah Arendt and Michel Foucault, Agamben analyses the course and consequences of a process during which there spreads a biopolitical paradigm

⁴ In 1992, when for the first time a procedure of forced detention was deployed in Australia to deal with refugees and they were closed in camps to „wait until their status would be cleared”, Bernard Cohen made a remark which certainly confirms the abstract conclusions which follow from Giorgio Agamben's analyses of the paradigms of modern politics, „sovereign power”, „state of exception”, „camp” and the phenomenon of *homines sacri*. Cohen is quoted as saying: „There are in Australia...”.

⁵ They are namely „excepted” both from domestic and international law. In American „detention centers” ceases to be valid not only the American Constitution but also the most general and universally respected regulations of the international law, such as the Geneva Conventions of 1949 and 1951.

⁶ The American practices, although most often shown in the media, are by no means an exception. The „White Paper on citizenship” in Great Britain or the Australian „Border Protection Act” evidence this very clearly. The American camp at the Guantanamo Bay is by no means an only and most terrifying reality of the kind either. The Australian Woomera Detention Centre designed for illegal migrants is even more frightful (Perera 2005).

implemented by political power according to the rules which are produced by instrumental rationality. Taking advantage of the principle of exception, modern political authorities tiptoe ever more uneasily on a thin line dividing the sphere of the law from the sphere of pure political violence. Using the examples which flow from analyses guided by concepts, such as the *homo sacer* or the camp, the contemporary Italian political philosopher reveals totalitarian and tanatological tendencies which cunningly mushroom in the modern world. Putting forward statements whose main import is to accuse contemporary (democratic) politics of totalitarian practices, Agamben resumes thus and in a persuasive way develops the political diagnosis, which in general terms – „the Enlightenment is totalitarian” – was for the first time formulated in their *Dialectics of the Enlightenment* by Adorno and Horkheimer and then confirmed in more explicit terms by Michel Foucault in his *History of Sexuality*, when he wrote in a chapter, bearing a telling title „The right of death and power over life”, that the human being who for centuries had remained what (s)he was for Aristotle: an animal endowed with a life, capable also of political existence, now finds her/himself implicated in politics which has as its subject her/his bare life (cf. Foucault 1995: 125).

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