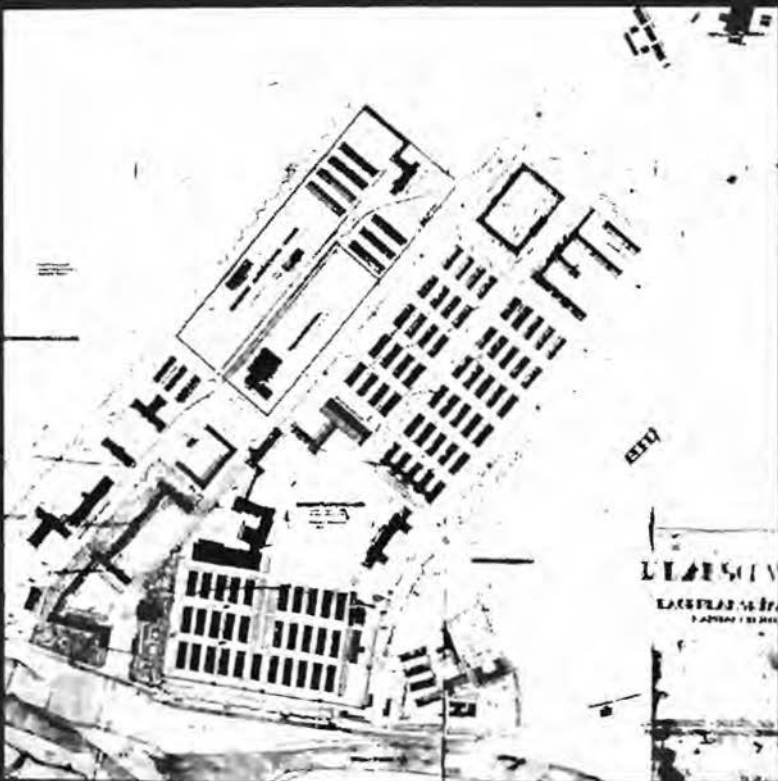


# HOMO SACER

*Sovereign Power and Bare Life*



*Giorgio Agamben*

TRANSLATED BY DANIEL HELLER-ROAZEN

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Agamben, Giorgio

[Homo sacer. English]

Homo sacer : sovereign power and bare life / Giorgio Agamben.

p. cm. — (Meridian)

Includes bibliographical references (p. ) and index.

ISBN 0-8047-3217-5 (cloth : alk. paper). — ISBN 0-8047-3218-3  
(paper : alk. paper)

1. Human rights. 2. State, The. 3. Sovereignty. 4. Religion and  
politics. 5. Right to life. 6. Concentration camps. I. Title.

II. Series: Meridian (Stanford, Calif.)

JC571.A16813 1998

320'.01'1—dc21

97-36621

Ⓢ This book is printed on acid-free, recycled paper.

Original printing 1998

Last figure below indicates year of this printing:

07

M E R I D I A N

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*Crossing Aesthetics*

Werner Hamacher  
& David E. Wellbery  
*Editors*

Translated by  
Daniel Heller-Roazen

*Stanford*  
*University*  
*Press*

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*Stanford*  
*California*

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*Sovereign Power  
and Bare Life*

Giorgio Agamben

*Homo Sacer: Sovereign Power and Bare Life*  
was originally published as *Homo sacer: Il potere sovrano e la  
nuda vita*, © 1995 Giulio Einaudi editore s.p.a.

Stanford University Press  
Stanford, California

© 1998 by the Board of Trustees of the  
Leland Stanford Junior University

Printed in the United States of America

CIP data appear at the end of the book

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Das Recht hat kein Dasein für sich, sein Wesen vielmehr ist das Leben der Menschen selbst, von einer Seite angesehen.

—Savigny

Law has no existence for itself; rather its essence lies, from a certain perspective, in the very life of men.

*Ita in iure civitatis, civiumque officiis investigandis opus est, non quidem ut dissolvatur civitas, sed tamen ut tanquam dissoluta consideretur, id est, ut qualis sit natura humana, quibus rebus ad civitatem compaginandam apta vel inepta sit, et quomodo homines inter se componi debeant, qui coalescere volunt, recte intelligatur.*

—Hobbes

To make a more curious search into the rights of States, and duties of Subjects, it is necessary, (I say not to take them in sunder, but yet that) they be so considered, as if they were dissolved, (i.e.) that wee rightly understand what the quality of humane nature is, in what matters it is, in what not fit to make up a civill government, and how men must be agreed among themselves, that intend to grow up into a well-grounded State.

Euretē moi hē entolē hē eis zōēn, autē eis thanaton.

—Saint Paul

And the commandment, which was ordained to life, I found to be unto death.

# HOMO SACER

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and Bare Life*

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PART THREE

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*The Camp as Biopolitical Paradigm  
of the Modern*

5.1. On May 15, 1941, Dr. Roscher, who for some time had been conducting experiments on rescue operations from high altitudes, wrote to Himmler. He asked whether, considering the importance of his research for the lives of German pilots, the mortal risk his experiments constituted for VPs (*Versuchspersonen*, human guinea pigs) and the fact that nothing of use could be gained from conducting experiments on animals, it might be possible to provide him with “two or three professional criminals” for his work. By this point the air war had already entered the stage of high-altitude flying, and the risk of death would be great if, under these conditions, the pressurized cabin were damaged or the pilot had to parachute from the plane. The final result of the exchange of letters between Roscher and Himmler (which is preserved in its entirety) was the installation at Dachau of a compression chamber to continue the experiments in a place in which VPs were particularly easy to find. We still possess the records (furnished with photographs) of the experiment conducted on a 37-year-old Jewish VP in good health who was subjected to the equivalent pressure of 12,000 meters of altitude. “After four minutes,” we read, “the VP began to sweat and to shake her head. After five minutes cramps were produced; between six and ten minutes breathing accelerated and the VP lost consciousness; between ten and thirty minutes breathing slowed down to three breaths a minute, and then ceased

altogether. At the same time skin color became strongly cyanotic and foam appeared around the lips.” Then follows the report of the dissection conducted to ascertain any possible organic lesions on the corpse.

At the Nuremberg trials, the experiments conducted by German physicians and scientists in the concentration camps were universally taken to be one of the most infamous chapters in the history of the National Socialist regime. In addition to experiments pertaining to high-altitude rescue operations, experiments were also conducted at Dachau on the possibility of survival in ice-cold water and on the potability of salt water (these experiments, too, were designed to facilitate the rescue of sailors and pilots who had fallen into the ocean). In the cold-water experiments, VPs were held under cold water until they lost consciousness, while researchers carefully analyzed the variations in body temperature and possibilities of reanimation. Particularly grotesque was the experiment on so-called animal heat reanimation, in which VPs were placed in a cot between two naked women who had also been taken from among the Jews detained in the camps; the documentation tells of a VP who was able to have sexual relations, which facilitated the recuperation process. The experiments on the potability of salt water were instead conducted on VPs chosen from among the prisoners bearing the black triangle (i.e., Gypsies; this symbol of the genocide of a defenseless population ought to be remembered alongside the yellow star). These VPs were divided into three groups: one that simply had to abstain from drinking altogether; one that drank only salt water; and one that drank salt water mixed with *Berkazusatz*, a chemical substance that, according to the researchers, lessened the harm of the salt water.

Another important area of experimentation involved inoculation with petechial fever bacteria and the *Hepatitis endemica* virus in the hope of producing vaccines against two infectious diseases that were especially threatening to the health of German soldiers on the battlefronts, where life was hardest. Experimentation on nonsurgical sterilization by means of chemical substances or radiation, which was to serve the Reich's eugenic politics, was, in

addition, particularly severe and painful for subjects. Less often, experiments were also conducted on limb transplants, cellular inflammations, and so on.

5.2. Reading the testimony of VPs who survived, in some cases the testimony of the very subjects described in the extant records, is such an atrocious experience that it is very tempting to consider the experiments as merely sadocriminal acts with no relation to scientific research. But unfortunately this cannot be done. To begin with, some (certainly not all) of the physicians who conducted the experiments were quite well respected by the scientific community for their research. Professor Clauberg, for example, who was responsible for the sterilization program, was the inventor of the "Clauberg test" on progesterone action, which was commonly used in gynecology until a few years ago. Professors Schröder, Becker-Freyting, and Bergblöck, who directed the experiments on the potability of salt water, enjoyed such a good scientific reputation that after they were convicted, a group of scientists from various countries submitted a petition to an international congress of medicine in 1948 so that these scientists "might not be confused with other criminal physicians sentenced in Nuremberg." And during their trial, Professor Vollardt, a professor of chemistry at the University of Frankfurt, who was not considered to have sympathies for the Nazi regime, testified before the court that "from the scientific point of view, the preparation of these experiments was splendid"—a curious adjective, if one considers that the VPs reached such a level of prostration in the course of the experiment that they twice tried to suck fresh water from a rag on the floor.

What is decisively more disquieting is the fact (which is unequivocally shown by the scientific literature put forward by the defense and confirmed by the expert witnesses appointed by the court) that experiments on prisoners and persons sentenced to death had been performed several times and on a large scale in our century, in particular in the United States (the very country from which most of the Nuremberg judges came). Thus in the 1920s, 800 people held in United States prisons were infected with malaria plasmodia in an

attempt to find an antidote to paludism. There were also the experiments—widely held to be exemplary in the scientific literature on pellagra—conducted by Goldberg on twelve prisoners sentenced to death, who were promised the remission of their penalty if they survived experimentation. Outside the United States, the first experiments with cultures of the beriberi bacillus were conducted by R. P. Strong in Manila on persons sentenced to death (the records of the experiment do not mention whether participation in the experiment was voluntary). In addition, the defense cited the case of Keanu (Hawaii), who was infected with leprosy in order to be promised pardon, and who died following the experiment.

Confronted with this documentation, the judges were forced to dedicate interminable discussions to the identification of criteria that might render scientific experiments on human guinea pigs admissible. The final criterion, which elicited general agreement, was the necessity of an explicit and voluntary consent on the part of the subject who was to be submitted to the experiment. The consistent practice in the United States was (as shown by a form in use in the state of Illinois which was displayed before the judges) to have the sentenced person sign a declaration in which the following, among other things, is stated:

I assume all the risks of this experiment and declare that I absolve the University of Chicago and all the technicians and researchers who take part in the experiment, as well as the government of Illinois, the directory of the State penitentiary and every other official, even as concerns my heirs and representatives, of any responsibility. I therefore renounce every claim to any damage or disease, even fatal, which may be caused by the experiment.

The obvious hypocrisy of such documents cannot fail to leave one perplexed. To speak of free will and consent in the case of a person sentenced to death or of a detained person who must pay serious penalties is, at the very least, questionable. And it is certain that even if similar declarations had been signed by the people detained in the camps, the experiments that took place would not have been considered ethically admissible. What the well-meaning

emphasis on the free will of the individual refuses to recognize here is that the concept of "voluntary consent" is simply meaningless for someone interned at Dachau, even if he or she is promised an improvement in living conditions. From this point of view, the inhumanity of the experiments in the United States and in the camps is, therefore, substantially equivalent.

Nor was it possible to invoke a difference of ends in order to evaluate the different and specific responsibilities in the cases at issue. An observation by Alexander Mitscherlich, the doctor who, together with F. Mielke, published the first account of the physicians' trials in Nuremberg in 1947, bears witness to the difficulty of admitting that the experiments in the camps were not without medico-scientific precedent. When Professor Rose was tried for experiments with vaccination against petechial fever (which had brought death to 97 of 392 VPs), he defended himself by citing the analogous experiments conducted by Strong in Manila on persons sentenced to death. Rose compared the German soldiers who died of petechial fever to the people with beriberi for whose benefit Strong's research was intended. At this point Mitscherlich, who otherwise distinguishes himself by the sobriety of his comments, objects: "While Strong was trying to fight against the misery and death caused by a scourge of the natural order, researchers like the accused Professor Rose worked, in the confusion of a dictatorship's inhuman methods, to maintain and justify cruelty" (Mitscherlich and Mielke, *Wissenschaft*, pp. 11–12). As a historico-political judgment, the observation is exact. It is clear, however, that the ethico-judicial admissibility of the experiments could not in any way depend on either the nationality of the people for whom the vaccine was destined or the circumstances in which they had contracted the disease.

The only ethically correct position would have been to recognize that the precedents cited by the defense were pertinent, but that they did not diminish the responsibility of the accused in the slightest. But this would have meant throwing a sinister shadow on common practices of the medical profession. (Since the time of the trial, even more sensational cases of mass experiments conducted



on citizens have come to light, for example, in the study of the effects of nuclear radiation.) If it was theoretically comprehensible that such experiments would not raise ethical problems for officials and researchers inside a totalitarian regime that moved in an openly biopolitical horizon, how could experiments that were, in a certain sense, analogous have been conducted in a democratic country?

The only possible answer is that in both contexts the particular status of the VPs was decisive; they were persons sentenced to death or detained in a camp, the entry into which meant the definitive exclusion from the political community. Precisely because they were lacking almost all the rights and expectations that we customarily attribute to human existence, and yet were still biologically alive, they came to be situated in a limit zone between life and death, inside and outside, in which they were no longer anything but bare life. Those who are sentenced to death and those who dwelt in the camps are thus in some way unconsciously assimilated to *homines sacres*, to a life that may be killed without the commission of homicide. Like the fence of the camp, the interval between death sentence and execution delimits an extratemporal and extraterritorial threshold in which the human body is separated from its normal political status and abandoned, in a state of exception, to the most extreme misfortunes. In such a space of exception, subjection to experimentation can, like an expiation rite, either return the human body to life (pardon and the remission of a penalty are, it is worth remembering, manifestations of the sovereign power over life and death) or definitively consign it to the death to which it already belongs. What concerns us most of all here, however, is that in the biopolitical horizon that characterizes modernity, the physician and the scientist move in the no-man's-land into which at one point the sovereign alone could penetrate.

## § 6 Politicizing Death

6.1. In 1959, P. Mollaret and M. Goulon, two French neurophysiologists, published a brief study in the *Revue neurologique* in which they added the new and extreme figure of what they called *coma dépassé* (“overcoma,” it could be rendered) to the known phenomenology of the coma. In addition to the classical coma, which is characterized by the loss of relational life functions (consciousness, mobility, sensibility, reflexes), the medical literature of the time also distinguished an alert coma, in which the loss of relational functions was not complete, and a *carus* coma, in which the preservation of vegetative life functions was seriously threatened. “To these three traditional degrees of coma,” Mollaret and Goulon provocatively wrote, “we would like to add a fourth degree, *coma dépassé* . . . , i.e., a coma in which the total abolition of relational life functions corresponds to an equally total abolition of vegetative life functions” (“Le coma dépassé,” p. 4).

The deliberately paradoxical formulation—a stage of life beyond the cessation of all vital functions—suggests that overcoma is the full fruit (the *rançon*, the authors call it, using the term that indicates the ransom or excessive price paid for something) of new life-support technology: artificial respiration, maintenance of cardiac circulation through intravenous perfusion of adrenaline, technologies of body temperature control, and so on. The survival of the overcomatose person automatically ended as soon as the life-

support system was interrupted: the complete absence of any reaction to stimuli characteristic of deep coma was followed by immediate cardiovascular collapse and the cessation of all respiratory movement. Yet if life support continued, survival could be prolonged to the point at which the myocardium, by now independent of all afferent nerves, was once again capable of contracting with a rhythm and an energy sufficient to assure the vascularization of the other visceral arteries (normally not for more than a few days). But was this really "survival"? What was the zone of life beyond coma? Who or what is the overcomatose person? "Confronted with the unfortunate people who embody the state we have defined with the term *coma dépassé*," the authors write, "when the heart continues to beat day after day without producing even the smallest revival of life functions, desperation finally wins out over pity, and the temptation to push the liberating interruption button grows piercing" ("Le coma dépassé," p. 14).

6.2. Mollaret and Goulon immediately realized that the significance of *coma dépassé* far exceeded the technico-scientific problem of resuscitation: at stake was nothing less than a redefinition of death. Until then, the task of determining death was given over to the physician, who made use of the traditional criteria that had remained substantially the same throughout the centuries: the stopping of the heartbeat and the cessation of breathing. Overcoma rendered obsolete precisely these two ancient categories for the assessment of death and, opening a no-man's-land between coma and death, made it necessary to identify new criteria and establish new definitions. As the two neurophysiologists wrote, the problem expands "to the point of putting the final borders of life in question, and even further, to the determination of a right to establish the hour of legal death" ("Le coma dépassé," p. 4).

The problem became even more urgent and complicated by virtue of a historical coincidence that was perhaps accidental: the progress of life-support technology that made the *coma dépassé* possible occurred at the very same time as the development and refinement of transplant technologies. The state of the overcoma-

rose person was the ideal condition for the removal of organs, but an exact definition of the moment of death was required in order for the surgeon responsible for the transplant not to be liable for homicide. In 1968, the report of a special Harvard University committee ("The *Ad Hoc* Committee of the Harvard Medical School") determined new criteria of death and inaugurated the concept of "brain death," which was to impress itself more and more (if not without lively opposition) upon the international scientific community, until it finally penetrated the legislation of many American and European states. The dark zone beyond coma, which Mollaret and Goulon had left wavering uncertainly between life and death, now furnishes precisely the new criterion of death. ("Our first objective," the Harvard report begins, "is to define irreversible coma as a new criterion of death.")<sup>1</sup> Once adequate medical tests had confirmed the death of the entire brain (not only of the neocortex but also of the brain stem), the patient was to be considered dead, even if, thanks to life-support technology, he continued breathing.

6.3. Obviously it is not our intention to enter into the scientific debate on whether brain death constitutes a necessary and sufficient criterion for the declaration of death or whether the final word must be left to traditional criteria. It is impossible, however, to avoid the impression that the entire discussion is wrapped up in inextricable logical contradictions, and that the concept "death," far from having become more exact, now oscillates from one pole to the other with the greatest indeterminacy, describing a vicious circle that is truly exemplary. On the one hand, brain death is taken to be the only rigorous criterion of death and is, accordingly, substituted for systematic or somatic death, which is now considered to be insufficient. But on the other hand, systematic or somatic death is still, with more or less self-consciousness, called in to furnish the decisive criterion. It is, in other words, surprising

1. Harvard University Medical School, "A Definition of Irreversible Coma." p. 85. Cited hereafter as Harvard report.

that the champions of brain death can candidly write that brain death “inevitably leads quite quickly to death” (Walton, *Brain Death*, p. 51), or, as in the report of the Finnish Department of Health, that “these patients [who had been diagnosed as brain dead and who were, therefore, already dead] died within a day” (quoted in Lamb, *Death*, p. 56). David Lamb, an advocate of the concept of brain death who has himself noted these contradictions, writes the following, after citing a series of studies that show that heart failure comes within a few days of the diagnosis of brain death: “In most of these studies there are minor variations in the clinical tests, but all nevertheless demonstrated the inevitability of somatic death following brain death” (ibid., p. 63). According to a clear logical inconsistency, heart failure—which was just rejected as a valid criterion of death—reappears to prove the exactness of the criterion that is to substitute for it.

This wavering of death in a shadowy zone beyond coma is also reflected in an analogous oscillation between medicine and law, medical decision and legal decision. In 1974, Andrew D. Lyons’s defense lawyer, whose client was accused before a California court of having killed a man with a gunshot, objected that the cause of the victim’s death was not the bullet shot by his client but rather the surgeon Norman Shumway’s removal of the brain-dead patient’s heart for the sake of performing a transplant. Dr. Shumway was not charged, but one can only read with unease the declaration with which he convinced the court of his own innocence: “I’m saying anyone whose brain is dead is dead. It is the one determinant that would be universally applicable, because the brain is the one organ that can’t be transplanted” (quoted in Lamb, *Death*, p. 75). According to any good logic, this would imply that just as heart failure no longer furnishes a valid criterion for death once life-support technology and transplantation are discovered, so brain death would, hypothetically speaking, cease to be death on the day on which the first brain transplant were performed. Death, in this way, becomes an epiphenomenon of transplant technology.

A perfect example of this wavering is the case of Karen Quinlan, the American girl who went into deep coma and was kept alive for

years by means of artificial respiration and nutrition. On the request of her parents, a court finally allowed her artificial respiration to be interrupted on the grounds that the girl was to be considered as already dead. At that point Karen, while remaining in coma, began to breath naturally and “survived” in a state of artificial nutrition until 1985, the year of her natural “death.” It is clear that Karen Quinlan’s body had, in fact, entered a zone of indetermination in which the words “life” and “death” had lost their meaning, and which, at least in this sense, is not unlike the space of exception inhabited by bare life.

6.4. This means that today—as is implicit in Peter Medawar’s observation that “in biology, discussions on the meaning of the words ‘life’ and ‘death’ are signs of a low level conversation”—life and death are not properly scientific concepts but rather political concepts, which as such acquire a political meaning precisely only through a decision. The “frightful and incessantly deferred borders” of which Mollaret and Goulon spoke are moving borders because they are *biopolitical* borders, and the fact that today a vast process is under way in which what is at stake is precisely the redefinition of these borders indicates that the exercise of sovereign power now passes through them more than ever and, once again, cuts across the medical and biological sciences.

In a brilliant article, W. Gaylin evokes the specter of bodies, which he calls “neomorts,” which would have the legal status of corpses but would maintain some of the characteristics of life for the sake of possible future transplants: “They would be warm, pulsating and urinating” (“Harvesting,” p. 30). In an opposite camp, the body kept alive by life-support systems has been defined by a supporter of brain death as a *faux vivant* on which it is permitted to intervene without any reservations (Dagognet, *La maîtrise*, p. 189).

The hospital room in which the neomort, the overcomatose person, and the *faux vivant* waver between life and death delimits a space of exception in which a purely bare life, entirely controlled by man and his technology, appears for the first time. And since it is

precisely a question not of a natural life but of an extreme embodiment of *homo sacer* (the comatose person has been defined as an intermediary being between man and an animal), what is at stake is, once again, the definition of a life that may be killed without the commission of homicide (and that is, like *homo sacer*, “unsacrificable,” in the sense that it obviously could not be put to death following a death sentence).

This is why it is not surprising that some of the most ardent partisans of brain death and modern biopolitics propose that the state should decide on the moment of death, removing all obstacles to intervention on the *faux vivant*.

We must therefore define the moment of the end and not rely on the rigidification of the corpse, as was done at one point, or, even less, on signs of putrefaction, but rather simply keep to brain death. . . . What follows from this is the possibility of intervening on the *faux vivant*. Only the State can do this and must do this. . . . Organisms belong to the public power: the body is nationalized [*les organismes appartiennent à la puissance publique: on nationalise le corps*]. (Dagognet, *La maîtrise*, p. 189).

Neither Reiter nor Verschuer had ever gone so far along the path of the politicization of bare life. But (and this is a clear sign that biopolitics has passed beyond a new threshold) in modern democracies it is possible to state in public what the Nazi biopoliticians did not dare to say.

## § 7 The Camp as the ‘Nomos’ of the Modern

7.1. What happened in the camps so exceeds the juridical concept of crime that the specific juridico-political structure in which those events took place is often simply omitted from consideration. The camp is merely the place in which the most absolute *conditio inhumana* that has ever existed on earth was realized: this is what counts in the last analysis, for the victims as for those who come after. Here we will deliberately follow an inverse line of inquiry. Instead of deducing the definition of the camp from the events that took place there, we will ask: What is a camp, what is its juridico-political structure, that such events could take place there? This will lead us to regard the camp not as a historical fact and an anomaly belonging to the past (even if still verifiable) but in some way as the hidden matrix and *nomos* of the political space in which we are still living.

Historians debate whether the first camps to appear were the *campos de concentraciones* created by the Spanish in Cuba in 1896 to suppress the popular insurrection of the colony, or the “concentration camps”<sup>1</sup> into which the English herded the Boers toward the start of the century. What matters here is that in both cases, a state of emergency linked to a colonial war is extended to an entire civil population. The camps are thus born not out of ordinary law (even

1. In English in the original.—Trans.



less, as one might have supposed, from a transformation and development of criminal law) but out of a state of exception and martial law. This is even clearer in the Nazi *Lager*, concerning whose origin and juridical regime we are well informed. It has been noted that the juridical basis for internment was not common law but *Schutzhaft* (literally, protective custody), a juridical institution of Prussian origin that the Nazi jurors sometimes classified as a preventative police measure insofar as it allowed individuals to be "taken into custody" independently of any criminal behavior, solely to avoid danger to the security of the state. The origin of *Schutzhaft* lies in the Prussian law of June 4, 1851, on the state of emergency, which was extended to all of Germany (with the exception of Bavaria) in 1871. An even earlier origin for *Schutzhaft* can be located in the Prussian laws on the "protection of personal liberty" (*Schutz der persönlichen Freiheit*) of February 12, 1850, which were widely applied during the First World War and during the disorder in Germany that followed the signing of the peace treaty. It is important not to forget that the first concentration camps in Germany were the work not of the Nazi regime but of the Social-Democratic governments, which interned thousands of communist militants in 1923 on the basis of *Schutzhaft* and also created the *Konzentrationslager für Ausländer* at Cottbus-Sielow, which housed mainly Eastern European refugees and which may, therefore, be considered the first camp for Jews in this century (even if it was, obviously, not an extermination camp).

The juridical foundation for *Schutzhaft* was the proclamation of the state of siege or of exception and the corresponding suspension of the articles of the German constitution that guaranteed personal liberties. Article 48 of the Weimar constitution read as follows: "The president of the Reich may, in the case of a grave disturbance or threat to public security and order, make the decisions necessary to reestablish public security, if necessary with the aid of the armed forces. To this end he may provisionally suspend [*ausser Kraft setzen*] the fundamental rights contained in articles 114, 115, 117, 118, 123, 124, and 153." From 1919 to 1924, the Weimar governments declared the state of exception many times, sometimes prolonging

it for up to five months (for example, from September 1923 to February 1924). In this sense, when the Nazis took power and proclaimed the “decree for the protection of the people and State” (*Verordnung zum Schutz von Volk und Staat*) on February 28, 1933, indefinitely suspending the articles of the constitution concerning personal liberty, the freedom of expression and of assembly, and the inviolability of the home and of postal and telephone privacy, they merely followed a practice consolidated by previous governments.

Yet there was an important novelty. No mention at all was made of the expression *Ausnahmezustand* (“state of exception”) in the text of the decree, which was, from the juridical point of view, implicitly grounded in article 48 of the constitution then in force, and which without a doubt amounted to a declaration of the state of exception (“articles 114, 115, 117, 118, 123, 124, and 153 of the constitution of the German Reich,” the first paragraph read, “are suspended until further notice”). The decree remained *de facto* in force until the end of the Third Reich, which has in this sense been aptly defined as a “Night of St. Bartholomew that lasted twelve years” (Drobisch and Wieland, *System*, p. 26). *The state of exception thus ceases to be referred to as an external and provisional state of factual danger and comes to be confused with juridical rule itself.* National Socialist jurists were so aware of the particularity of the situation that they defined it by the paradoxical expression “state of willed exception” (*einen gewollten Ausnahmezustand*). “Through the suspension of fundamental rights,” writes Werner Spohr, a jurist close to the regime, “the decree brings into being a state of willed exception for the sake of the establishment of the National Socialist State” (quoted *ibid.*, p. 28).

7.2. The importance of this constitutive nexus between the state of exception and the concentration camp cannot be overestimated for a correct understanding of the nature of the camp. The “protection” of freedom that is at issue in *Schutzhaft* is, ironically, protection against the suspension of law that characterizes the emergency. The novelty is that *Schutzhaft* is now separated from the state of exception on which it had been based and is left in force in the normal situation. *The camp is the space that is opened when the state*

of exception begins to become the rule. In the camp, the state of exception, which was essentially a temporary suspension of the rule of law on the basis of a factual state of danger, is now given a permanent spatial arrangement, which as such nevertheless remains outside the normal order. When Himmler decided to create a "concentration camp for political prisoners" in Dachau at the time of Hitler's election as chancellor of the Reich in March 1933, the camp was immediately entrusted to the SS and—thanks to *Schutzhaft*—placed outside the rules of penal and prison law, which then and subsequently had no bearing on it. Despite the multiplication of the often contradictory communiqués, instructions, and telegrams through which the authorities both of the Reich and of the individual *Länder* took care to keep the workings of *Schutzhaft* as vague as possible after the decree of February 28, the camp's absolute independence from every judicial control and every reference to the normal juridical order was constantly reaffirmed. According to the new notions of the National Socialist jurists (among whom Carl Schmitt was in the front lines), which located the primary and immediate source of law in the Führer's command, *Schutzhaft* had, moreover, no need whatsoever of a juridical foundation in existing institutions and laws, being "an immediate effect of the National Socialist revolution" (Drobisch and Wieland, *System*, p. 27). Because of this—that is, insofar as the camps were located in such a peculiar space of exception—Diels, the head of the Gestapo, could declare, "Neither an order nor an instruction exists for the origin of the camps: they were not instituted; one day they were there [*sie waren nicht gegründet, sie waren eines Tages da*]" (quoted *ibid.*, p. 30).

Dachau and the other camps that were immediately added to it (Sachsenhausen, Buchenwald, Lichtenberg) remained almost always in operation—what varied was the size of their population (which in certain periods, in particular between 1935 and 1937, before the Jews began to be deported, diminished to 7,500 people). But in Germany the camp as such had become a permanent reality.

7.3. The paradoxical status of the camp as a space of exception must be considered. The camp is a piece of land placed outside the

normal juridical order, but it is nevertheless not simply an external space. What is excluded in the camp is, according to the etymological sense of the term “exception” (*ex-capere*), *taken outside*, included through its own exclusion. But what is first of all taken into the juridical order is the state of exception itself. Insofar as the state of exception is “willed,” it inaugurates a new juridico-political paradigm in which the norm becomes indistinguishable from the exception. The camp is thus the structure in which the state of exception—the possibility of deciding on which founds sovereign power—is realized *normally*. The sovereign no longer limits himself, as he did in the spirit of the Weimar constitution, to deciding on the exception on the basis of recognizing a given factual situation (danger to public safety): laying bare the inner structure of the ban that characterizes his power, he now *de facto* produces the situation as a consequence of his decision on the exception. This is why in the camp the *quaestio iuris* is, if we look carefully, no longer strictly distinguishable from the *quaestio facti*, and in this sense every question concerning the legality or illegality of what happened there simply makes no sense. *The camp is a hybrid of law and fact in which the two terms have become indistinguishable.*

Hannah Arendt once observed that in the camps, the principle that supports totalitarian rule and that common sense obstinately refuses to admit comes fully to light: this is the principle according to which “everything is possible.” Only because the camps constitute a space of exception in the sense we have examined—in which not only is law completely suspended but fact and law are completely confused—is everything in the camps truly possible. If this particular juridico-political structure of the camps—the task of which is precisely to create a stable exception—is not understood, the incredible things that happened there remain completely unintelligible. Whoever entered the camp moved in a zone of indistinction between outside and inside, exception and rule, licit and illicit, in which the very concepts of subjective right and juridical protection no longer made any sense. What is more, if the person entering the camp was a Jew, he had already been deprived of his rights as a citizen by the Nuremberg laws and was subsequently

completely denationalized at the time of the Final Solution. Insofar as its inhabitants were stripped of every political status and wholly reduced to bare life, the camp was also the most absolute biopolitical space ever to have been realized, in which power confronts nothing but pure life, without any mediation. This is why the camp is the very paradigm of political space at the point at which politics becomes biopolitics and *homo sacer* is virtually confused with the citizen. The correct question to pose concerning the horrors committed in the camps is, therefore, not the hypocritical one of how crimes of such atrocity could be committed against human beings. It would be more honest and, above all, more useful to investigate carefully the juridical procedures and deployments of power by which human beings could be so completely deprived of their rights and prerogatives that no act committed against them could appear any longer as a crime. (At this point, in fact, everything had truly become possible.)

7.4. The bare life into which the camp's inhabitants were transformed is not, however, an extrapolitical, natural fact that law must limit itself to confirming or recognizing. It is, rather, a threshold in which law constantly passes over into fact and fact into law, and in which the two planes become indistinguishable. It is impossible to grasp the specificity of the National Socialist concept of race—and, with it, the peculiar vagueness and inconsistency that characterize it—if one forgets that the *biopolitical body* that constitutes the new fundamental political subject is neither a *quaestio facti* (for example, the identification of a certain biological body) nor a *quaestio iuris* (the identification of a certain juridical rule to be applied), but rather the site of a sovereign political decision that operates in the absolute indistinction of fact and law.

No one expressed this peculiar nature of the new fundamental biopolitical categories more clearly than Schmitt, who, in the essay "State, Movement, People," approximates the concept of race, without which "the National Socialist state could not exist, and without which its juridical life would not be possible," to the "general and indeterminate clauses" that had penetrated ever more

deeply into German and European legislation in the twentieth century. In penetrating invasively into the juridical rule, Schmitt observes, concepts such as “good morals,” “proper initiative,” “important motive,” “public security and order,” “state of danger,” and “case of necessity,” which refer not to a rule but to a situation, rendered obsolete the illusion of a law that would a priori be able to regulate all cases and all situations and that judges would have to limit themselves simply to applying. In moving certainty and calculability outside the juridical rule, these clauses render all juridical concepts indeterminate. “In this sense,” Schmitt writes, with unwittingly Kafkaesque accents,

today there are now only ‘indeterminate’ juridical concepts. . . . The entire application of law thus lies between Scylla and Charybdis. The way forward seems to condemn us to a shoreless sea and to move us ever farther from the firm ground of juridical certainty and adherence to the law, which at the same time is still the ground of the judges’ independence. Yet the way backward, which leads toward the formalistic superstition of law which was recognized as senseless and superseded long ago, is not worthy of consideration. (ibid., pp. 43–44)

A concept such as the National Socialist notion of race (or, in the words of Schmitt, of “equality of stock”) functions as a general clause (analogous to “state of danger” or to “good morals”) that does not refer to any situation of external fact but instead realizes an immediate coincidence of fact and law. The judge, the civil servant, or whoever else has to reckon with such a notion no longer orients himself according to a rule or a situation of fact. Binding himself solely to his own community of race with the German people and the Führer, such a person moves in a zone in which the distinction between life and politics, between questions of fact and questions of law, has literally no more meaning.

7.5. Only from this perspective does the National Socialist theory that posits the immediate and intrinsically perfect source of law in the word of the Führer acquire its full significance. Just as the word of the Führer is not a factual situation that is then trans-

formed into a rule, but is rather itself rule insofar as it is living voice, so the biopolitical body (in its twofold appearance as Jewish body and German body, as life unworthy of being lived and as full life) is not an inert biological presupposition to which the rule refers, but at once rule and criterion of its own application, *a juridical rule that decides the fact that decides on its application.*

The radical novelty implicit in this conception has not been sufficiently noticed by historians of law. Not only is the law issued by the Führer definable neither as rule nor as exception and neither as law nor as fact. There is more: in this law, the formation of a rule [*normazione*] and the execution of a rule—the production of law and its application—are no longer distinguishable moments. (Benjamin understood this when he projected the Schmittian theory of sovereignty onto the baroque monarch, in whom “the gesture of execution” becomes constitutive and who, having to decide on the exception, is caught in the impossibility of making a decision [*Ursprung*, pp. 249–50].) The Führer is truly, according to the Pythagorean definition of the sovereign, a *nomos empsuchon*, a living law (Svenbro, *Phrasikleia*, p. 149). (This is why the separation of powers that characterizes the liberal-democratic State loses its meaning here, even if it remains formally in effect. Hence the difficulty of judging according to normal juridical criteria when judging those officials who, like Adolf Eichmann, did nothing other than execute the word of the Führer as law.)

This is the ultimate meaning of the Schmittian thesis that the principle of *Führung* is “a concept of the immediate present and of real presence” (“Staat,” p. 42). And this is why Schmitt can affirm, without contradiction: “It is general knowledge among the contemporary German political generation that precisely the decision concerning whether a fact or a kind of thing is apolitical is a specifically political decision” (ibid., p. 17). Politics is now literally the decision concerning the unpolitical (that is, concerning bare life).

The camp is the space of this absolute impossibility of deciding between fact and law, rule and application, exception and rule, which nevertheless incessantly decides between them. What confronts the guard or the camp official is not an extrajudicial fact (an

individual biologically belonging to the Jewish race) to which he must apply the discrimination of the National Socialist rule. On the contrary, every gesture, every event in the camp, from the most ordinary to the most exceptional, enacts the decision on bare life by which the German biopolitical body is made actual. The separation of the Jewish body is the immediate production of the specifically German body, just as its production is the application of the rule.

7.6. If this is true, if the essence of the camp consists in the materialization of the state of exception and in the subsequent creation of a space in which bare life and the juridical rule enter into a threshold of indistinction, then we must admit that we find ourselves virtually in the presence of a camp every time such a structure is created, independent of the kinds of crime that are committed there and whatever its denomination and specific topography. The stadium in Bari into which the Italian police in 1991 provisionally herded all illegal Albanian immigrants before sending them back to their country, the winter cycle-racing track in which the Vichy authorities gathered the Jews before consigning them to the Germans, the *Konzentrationslager für Ausländer* in Cottbus-Sielow in which the Weimar government gathered Jewish refugees from the East, or the *zones d'attentes* in French international airports in which foreigners asking for refugee status are detained will then all equally be camps. In all these cases, an apparently innocuous space (for example, the Hôtel Arcades in Roissy) actually delimits a space in which the normal order is de facto suspended and in which whether or not atrocities are committed depends not on law but on the civility and ethical sense of the police who temporarily act as sovereign (for example, in the four days during which foreigners can be held in the *zone d'attente* before the intervention of the judicial authority).

7.7. In this light, 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. If the structure of the nation-state is, in other words, defined by the three elements *land, order, birth*, the rupture of the old *nomos* is produced not in the two aspects that constituted it according to Schmitt (localization, *Ortung*, and order, *Ordnung*), but rather at the point marking the inscription of bare life (the *birth* that thus becomes *nation*) within the two of them. 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. It is significant that the camps appear together with new laws on citizenship and the denationalization of citizens—not only the Nuremberg laws on citizenship in the Reich but also the laws on denationalization promulgated by almost all European states, including France, between 1915 and 1933. The state of exception, which was essentially a temporary suspension of the juridico-political order, now becomes a new and stable spatial arrangement inhabited by the bare life that more and more can no longer be inscribed in that order. The growing dissociation of birth (bare life) and the nation-state is the new fact of politics in our day, and what we call *camp* is this disjunction. To an order without localization (the state of exception, in which law is suspended) there now corresponds a localization without order (the camp as permanent space of exception). The political system no longer orders forms of life and juridical rules in a determinate space, but instead contains at its very center a *dislocating localization* that exceeds it and into which every form of life and every rule can be virtually taken. The camp as dislocating localization is the hidden matrix of the politics in which we are still living, and it is this structure of the camp that we must learn to recognize in all its metamorphoses into the *zones d'attentes* of our airports and certain outskirts of our cities. The camp is the fourth, inseparable element

that has now added itself to—and so broken—the old trinity composed of the state, the nation (birth), and land.

From this perspective, the camps have, in a certain sense, reappeared in an even more extreme form in the territories of the former Yugoslavia. What is happening there is by no means, as interested observers have been quick to declare, a redefinition of the old political system according to new ethnic and territorial arrangements, which is to say, a simple repetition of processes that led to the constitution of the European nation-states. At issue in the former Yugoslavia is, rather, an incurable rupture of the old *nomos* and a dislocation of populations and human lives along entirely new lines of flight. Hence the decisive importance of ethnic rape camps. If the Nazis never thought of effecting the Final Solution by making Jewish women pregnant, it is because the principle of birth that assured the inscription of life in the order of the nation-state was still—if in a profoundly transformed sense—in operation. This principle has now entered into a process of decay and dislocation. It is becoming increasingly impossible for it to function, and we must expect not only new camps but also always new and more lunatic regulative definitions of the inscription of life in the city. The camp, which is now securely lodged within the city's interior, is the new biopolitical *nomos* of the planet.

✂ Every interpretation of the political meaning of the term “people” must begin with the singular fact that in modern European languages, “people” also always indicates the poor, the disinherited, and the excluded. One term thus names both the constitutive political subject and the class that is, *de facto* if not *de jure*, excluded from politics.

In common speech as in political parlance, the Italian *popolo*, the French *peuple*, the Spanish *pueblo* (like the corresponding adjectives *popolare*, *populaire*, *popolar* and late Latin *populus* and *popularis*, from which they derive) designate both the complex of citizens as a unitary political body (as in “the Italian people” or “the people’s judge”) and the members of the lower classes (as in *homme du peuple*, *rione popolare*, *front populaire*). Even the English word “people,” which has a less differentiated meaning, still conserves the sense of “ordinary people” in contrast to

the rich and the nobility. In the American Constitution one thus reads, without any distinction, "We the people of the United States." Yet when Lincoln invokes a "Government of the people, by the people, for the people" in the Gettysburg Address, the repetition implicitly opposes the first "people" to another "people." Just how essential this ambiguity was even during the French Revolution (that is, at precisely the point at which claims were made for the principle of popular sovereignty) is shown by the decisive role played by compassion for the people understood as an excluded class. Arendt noted that "the very definition of the word was born out of compassion, and the term became the equivalent for misfortune and unhappiness—*le peuple, les malheureux m'applaudissent*, as Robespierre was wont to say; *le peuple toujours malheureux*, as even Sieyès, one of the least sentimental and most sober figures of the Revolution, would put it" (*On Revolution*, p. 70). But in the chapter of Bodin's *Republic* in which democracy or the *état populaire* is defined, the concept is already double: as the titular holder of sovereignty, the *peuple en corps* is contrasted with the *menu peuple*, whom wisdom counsels excluding from political power.

Such a diffuse and constant semantic ambiguity cannot be accidental: it must reflect an amphiboly inherent in the nature and function of the concept "people" in Western politics. It is as if what we call "people" were in reality not a unitary subject but a dialectical oscillation between two opposite poles: on the one hand, the set of the People as a whole political body, and on the other, the subset of the people as a fragmentary multiplicity of needy and excluded bodies; or again, on the one hand, an inclusion that claims to be total, and on the other, an exclusion that is clearly hopeless; at one extreme, the total state of integrated and sovereign citizens, and at the other, the preserve—court of miracles or camp—of the wretched, the oppressed, and the defeated. In this sense, a single and compact referent for the term "people" simply does not exist anywhere: like many fundamental political concepts (similar, in this respect, to the *Urworte* of Abel and Freud or to L. Dumont's hierarchical relations), "people" is a polar concept that indicates a double movement and a complex relation between two extremes. But this also means that the constitution of the human species in a political body passes through a fundamental division and that in the concept "people" we can easily recognize the categorial pairs that we have seen to define the original political structure: bare life (people) and political existence (People), exclusion and inclusion, *zōē* and *bios*. The "people" thus always already carries the

fundamental biopolitical fracture within itself. It is what cannot be included in the whole of which it is a part and what cannot belong to the set in which it is always already included. Hence the contradictions and aporias to which it gives rise every time that it is evoked and put into play on the political scene. It is what always already *is* and yet must, nevertheless, be realized; it is the pure source of every identity but must, however, continually be redefined and purified through exclusion, language, blood, and land. Or, at the opposite pole, the “people” is what is by essence lacking to itself and that whose realization therefore coincides with its own abolition; it is what must, together with its opposite, negate itself in order to be (hence the specific aporias of the workers’ movement, turned toward the people and, at the same time, toward its abolition). At times the bloody flag of reaction and the uncertain insignia of revolutions and popular fronts, the people always contains a division more originary than that of friend-enemy, an incessant civil war that divides it more radically than every conflict and, at the same time, keeps it united and constitutes it more securely than any identity. When one looks closely, even what Marx called “class conflict,” which occupies such a central place in his thought—though it remains substantially undefined—is nothing other than the civil war that divides every people and that will come to an end only when, in the classless society or the messianic kingdom, People and people will coincide and there will no longer be, strictly speaking, any people.

If this is true, if the people necessarily contains the fundamental biopolitical fracture within itself, then it will be possible to read certain decisive pages of the history of our century in a new way. For if the struggle between the two “peoples” was certainly always under way, in our time it has experienced a final, paroxysmal acceleration. In Rome, the internal division of the people was juridically sanctioned by the clear division between *populus* and *plebs*, each of which had its own institutions and magistrates, just as in the Middle Ages the distinction between the *popolo minuto* and the *popolo grasso*<sup>2</sup> corresponded to a precise ordering of various arts and trades. But starting with the French Revolution, when it becomes the sole depositary of sovereignty, the people is transformed into an embarrassing presence, and misery and exclusion

2. In thirteenth-century Florence, *popolo minuto* referred to the class of artisans and tradespeople and *popolo grasso* referred to the commercial classes and bourgeoisie.—Trans.

appear for the first time as an altogether intolerable scandal. In the modern era, misery and exclusion are not only economic or social concepts but eminently political categories (all the economism and "socialism" that seem to dominate modern politics actually have a political—and even a biopolitical—significance).

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. The obsession with development is as effective as it is in our time because it coincides with the biopolitical project to produce an undivided people.

The extermination of the Jews in Nazi Germany acquires a radically new significance in this light. As the people that refuses to be integrated into the national political body (it is assumed that every assimilation is actually only simulated), the Jews are the representatives par excellence and almost the living symbol of the people and of the bare life that modernity necessarily creates within itself, but whose presence it can no longer tolerate in any way. And we must see the extreme phase of the internal struggle that divides People and people in the lucid fury with which the German *Volk*—representative par excellence of the People as a whole political body—sought to eliminate the Jews forever. With the Final Solution (which did, not by chance, involve Gypsies and others who could not be integrated), Nazism darkly and futilely sought to liberate the political scene of the West from this intolerable shadow in order to produce the German *Volk* as the people that finally overcame the original biopolitical fracture. (This is why the Nazi leaders so obstinately repeated that in eliminating Jews and Gypsies, they were actually also working for the other European peoples.)

Paraphrasing the Freudian postulate on the relation between ego and id, one could say that modern biopolitics is supported by the principle according to which "Where there is bare life, there will have to be a People"—on condition that one immediately add that the principle also holds in its inverse formulation: "Where there is a People, there will be bare life." The fracture that was believed to have been overcome by eliminating the people (the Jews who are its symbol) thus reproduces

itself anew, transforming the entire German people into a sacred life consecrated to death, and a biological body that must be infinitely purified (through the elimination of the mentally ill and the bearers of hereditary diseases). And in a different yet analogous way, today's democratico-capitalist project of eliminating the poor classes through development not only reproduces within itself the people that is excluded but also transforms the entire population of the Third World into bare life. Only a politics that will have learned to take the fundamental biopolitical fracture of the West into account will be able to stop this oscillation and to put an end to the civil war that divides the peoples and the cities of the earth.

## § Threshold

Three theses have emerged as provisional conclusions in the course of this inquiry:

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, *zoē* and *bios*.
3. Today it is not the city but rather the camp that is the fundamental biopolitical paradigm of the West.

The first of these theses calls into question every theory of the contractual origin of state power and, along with it, every attempt to ground political communities in something like a “belonging,” whether it be founded on popular, national, religious, or any other identity. The second thesis implies that Western politics is a biopolitics from the very beginning, and that every attempt to found political liberties in the rights of the citizen is, therefore, in vain. The third thesis, finally, throws a sinister light on the models by which social sciences, sociology, urban studies, and architecture today are trying to conceive and organize the public space of the world’s cities without any clear awareness that at their very center lies the same bare life (even if it has been transformed and rendered

apparently more human) that defined the biopolitics of the great totalitarian states of the twentieth century.

In the syntagm “bare life,” “bare” corresponds to the Greek *haplōs*, the term by which first philosophy defines pure Being. The isolation of the sphere of pure Being, which constitutes the fundamental activity of Western metaphysics, is not without analogies with the isolation of bare life in the realm of Western politics. What constitutes man as a thinking animal has its exact counterpart in what constitutes him as a political animal. In the first case, the problem is to isolate pure Being (*on haplōs*) from the many meanings of the term “Being” (which, according to Aristotle, “is said in many ways”); in the second, what is at stake is the separation of bare life from the many forms of concrete life. Pure Being, bare life—what is contained in these two concepts, such that both the metaphysics and the politics of the West find their foundation and sense in them and in them alone? What is the link between the two constitutive processes by which metaphysics and politics seem, in isolating their proper element, simultaneously to run up against an unthinkable limit? For bare life is certainly as indeterminate and impenetrable as *haplōs* Being, and one could say that reason cannot think bare life except as it thinks pure Being, in stupor and in astonishment (*almost astonished*, Schelling).

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 decipher the political meaning of pure Being will we be 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.

Georges Dumézil and Károly Kerényi have described the life of the *Flamen Diale*, one of the greatest priests of classical Rome. His life is remarkable in that it is at every moment indistinguishable



from the cultic functions that the *Flamen* fulfills. This is why the Romans said that the *Flamen Diale* is *quotidie feriatuus* and *assiduus sacerdos*, that is, in an act of uninterrupted celebration at every instant. Accordingly, there is no gesture or detail of his life, the way he dresses or the way he walks, that does not have a precise meaning and is not caught in a series of functions and meticulously studied effects. As proof of this "assiduity," the *Flamen* is not allowed to take his emblems off completely even in sleep; the hair and nails that are cut from his body must be immediately buried under an *arbor felix* (that is, a tree that is not sacred to the gods of the underworld); in his clothes there can be neither knots nor closed rings, and he cannot swear oaths; if he meets a prisoner in fetters while on a stroll, the prisoner's bonds must be undone; he cannot enter into a bower in which vine shoots are hanging; he must abstain from raw meat and every kind of leavened flour and successfully avoid fava beans, dogs, she-goats, and ivy ...

In the life of the *Flamen Diale* it is not possible to isolate something like a bare life. All of the *Flamen's* *zoē* has become *bios*; private sphere and public function are now absolutely identical. This is why Plutarch (with a formula that recalls the Greek and medieval definition of the sovereign as *lex animata*) can say that he is *hōsper empsuchon kai hieron agalma*, a sacred living statue.

Let us now observe the life of *homo sacer*, or of the bandit, the *Friedlos*, the *aquae et igni interdictus*, which are in many ways similar. He has been excluded from the religious community and from all political life: he cannot participate in the rites of his *gens*, nor (if he has been declared *infamis et intestabilis*) can he perform any juridically valid act. What is more, 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. And yet he is in a continuous relationship with the power that banished him precisely insofar as he is at every instant exposed to an unconditioned threat of death. He is pure *zoē*, but his *zoē* 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.

Now consider the person of the Führer in the Third Reich. He represents the unity and equality of stock of the German people (Schmitt, "Staat," p. 42). His is not a despot's or a dictator's authority, which is imposed on the will and the persons of the subjects from outside (*ibid.*, pp. 41–42). His power is, rather, all the more unlimited insofar as he is identified with the very biological life of the German people. By virtue of this identity, his every word is immediately law (*Führerworte haben Gesetzkraft*, as Eichmann did not tire of repeating at his trial in Jerusalem), and he recognizes himself immediately in his own command (*zu seinem Befehl sich beknennenden* [Schmitt, "Führertum," p. 679]). He can certainly have a private life, but what defines him as Führer is that his existence as such has an immediately political character. Thus while the office of the chancellor of the Reich is a public *dignitas* received on the basis of procedures foreseen in the Weimar constitution, the office of the Führer is no longer an office in the sense of traditional public law, but rather something that springs forth without mediation from his person insofar as it coincides with the life of the German people. The Führer is the political form of this life: this is why his word is law and why he demands nothing of the German people except what it in truth already is.

Here the traditional distinction between the sovereign's political body and his physical body (whose genealogy Kantorowicz has patiently reconstructed) disappears, and the two bodies are drastically contracted into one. The Führer has, so to speak, a whole body that is neither private nor public and whose life is in itself supremely political. The Führer's body is, in other words, situated at the point of coincidence between *zoē* and *bios*, biological body and political body. In his person, *zoē* and *bios* incessantly pass over into each other.

Now imagine the most extreme figure of the camp inhabitant. Primo Levi has described the person who in camp jargon was called

“the Muslim,” *der Muselmann*—a being from whom humiliation, horror, and fear had so taken away all consciousness and all personality as to make him absolutely apathetic (hence the ironical name given to him). He was not only, like his companions, excluded from the political and social context to which he once belonged; he was not only, as Jewish life that does not deserve to live, destined to a future more or less close to death. He no longer belongs to the world of men in any way; he does not even belong to the threatened and precarious world of the camp inhabitants who have forgotten him from the very beginning. Mute and absolutely alone, he has passed into another world without memory and without grief. For him, Hölderlin’s statement that “at the extreme limit of pain, nothing remains but the conditions of time and space” holds to the letter.

What is the life of the *Muselmann*? Can one say that it is pure *zoë*? Nothing “natural” or “common,” however, is left in him; nothing animal or instinctual remains in his life. All his instincts are canceled along with his reason. Antelme tells us that the camp inhabitant was no longer capable of distinguishing between pangs of cold and the ferocity of the SS. If we apply this statement to the *Muselmann* quite literally (“the cold, SS”), then we can say that he moves in an absolute indistinction of fact and law, of life and juridical rule, and of nature and politics. Because of this, the guard suddenly seems powerless before him, as if struck by the thought that the *Muselmann*’s behavior—which does not register any difference between an order and the cold—might perhaps be a silent form of resistance. Here a law that seeks to transform itself entirely into life finds itself confronted with a life that is absolutely indistinguishable from law, and it is precisely this indiscernibility that threatens the *lex animata* of the camp.

Paul Rabinow refers to the case of Wilson, the biochemist who decided to make his own body and life into a research and experimentation laboratory upon discovering that he suffered from leukemia. Since he is accountable only to himself, the barriers between ethics and law disappear; scientific research can freely and fully

coincide with biography. 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 to experimentation. “Experimental life” is the term Rabinow uses to define Wilson’s life. It is easy to see that “experimental life” is a *bios* that has, in a very particular sense, so concentrated itself on its own *zoē* as to become indistinguishable from it.

We enter the hospital room where the body of Karen Quinlan or the overcomatose person is lying, or where the neomort is waiting for his organs 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 *zoē*. When physiology made its appearance in the history of medical science toward the middle of the seventeenth century, it was defined in relation to anatomy, which had dominated the birth and the development of modern medicine. And if anatomy (which was grounded in the dissection of the dead body) was the description of inert organs, physiology is “an anatomy in motion,” the explanation of the function of organs in the living body. Karen Quinlan’s body is really only anatomy in motion, a set of functions whose purpose is no longer the life of an organism. Her life is maintained only by means of life-support technology and by virtue of a legal decision. It is no longer life, but rather death in motion. And yet since life and death are now merely biopolitical concepts, as we have seen, Karen Quinlan’s body—which wavers between life and death according to the progress of medicine and the changes in legal decisions—is a legal being as much as it is a biological being. A law that seeks to decide on life is embodied in a life that coincides with death.

The choice of this brief series of “lives” may seem extreme, if not arbitrary. Yet the list could well have continued with cases 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 (which is just as clear an example of an undecidability between politics and biology).

It is on the basis of these uncertain and nameless terrains, these difficult zones of indistinction, that the ways and the forms of a new politics must be thought. At the end of the first volume of the *History of Sexuality*, having distanced himself from the sex and sexuality in which modernity, caught in nothing other than a deployment of power, believed it would find its own secret and liberation, Foucault alludes to a “different economy of bodies and pleasures” as a possible horizon for a different politics. The conclusions of our study force us to be more cautious. Like the concepts of sex and sexuality, the concept of the “body” too is always already caught in a deployment of power. The “body” is always already a biopolitical body and bare life, and nothing in it or the economy of its pleasure seems to allow us to find solid ground on which to oppose the demands of sovereign power. In its extreme form, the biopolitical body of the West (this last incarnation of *homo sacer*) appears as a threshold of absolute indistinction between law and fact, juridical rule and biological life. In the person of the Führer, bare life passes immediately into law, just as in the person of the camp inhabitant (or the neomort) law becomes indistinguishable from biological life. Today a law that seeks to transform itself wholly into life is more and more confronted with a life that has been deadened and mortified into juridical rule. Every attempt to rethink the political space of the West must begin with the clear awareness that we no longer know anything of the classical distinction between *zoē* and *bios*, between private life and political existence, between man as a simple living being at home in the house and man’s political existence in the city. This is why the restoration of classical political categories proposed by Leo Strauss and, in a different sense, by Hannah Arendt can have only a critical sense.

There is no return from the camps to classical politics. In the camps, city and house became indistinguishable, and the possibility of differentiating between our biological body and our political body—between what is incommunicable and mute and what is communicable and sayable—was taken from us forever. And we are not only, in Foucault's words, animals whose life as living beings is at issue in their politics, but also—inversely—citizens whose very politics is at issue in their natural body.

Just as the biopolitical body of the West cannot be simply given back to its natural life in the *oikos*, so it cannot be overcome in a passage to a new body—a technical body or a wholly political or glorious body—in which a different economy of pleasures and vital functions would once and for all resolve the interlacement of *zoē* and *bios* that seems to define the political destiny of the West. This biopolitical body that is bare life must itself instead be transformed into the site for the constitution and installation of a form of life that is wholly exhausted in bare life and a *bios* that is only its own *zoē*. Here attention will also have to be given to the analogies between politics and the epochal situation of metaphysics. Today *bios* lies in *zoē* exactly as essence, in the Heideggerian definition of *Dasein*, lies (*liegt*) in existence. Yet how can a *bios* be only its own *zoē*, how can a form of life seize hold of the very *haplōs* that constitutes both the task and the enigma of Western metaphysics? If we give the name form-of-life to this being that is only its own bare existence and to this life that, being its own form, remains inseparable from it, we will witness the emergence of a field of research beyond the terrain defined by the intersection of politics and philosophy, medico-biological sciences and jurisprudence. First, however, it will be necessary to examine how it was possible for something like a bare life to be conceived within these disciplines, and how the historical development of these very disciplines has brought them to a limit beyond which they cannot venture without risking an unprecedented biopolitical catastrophe.