Foucault Studies

ARTICLE

One Paradigm, Two Potentialities: Freedom, Sovereignty and Foucault in Agamben's Reading of Aristotle's 'δύναμις' *(dynamis)*

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ABSTRACT: This piece considers especially the concept of potentiality in Agamben, and how it is indebted to and present in Foucault's thought. It draws on Aristotle to highlight important aspects of potentiality and to consider Agamben's interpretation of it. The paper thus indicates some of the important ontological and methodological aspects of the relations between Foucault and Agamben.

Keywords: Agamben, *dynamis*, potentiality, Aristotle, Foucault, genealogy

English readers of Giorgio Agamben have an unusual opportunity compared to readers in other languages, including Agamben's native Italian. This opportunity consists in the possibility of reading the essay "On Potentiality" which to date has only been published in an English language collection of essays entitled *Potentialities*.[1] "On Potentiality" was presented as a public lecture, in Italian, at the University of Lisbon in 1986. The essay consists of a reading of Aristotle's conception of δύναμις (*dynamis*) or 'potentiality' and ultimately argues that this concept provided Western thinking the "originary paradigm" of human freedom.

Despite the absence of "On Potentiality" in languages other than English, readers will likely be familiar with the specifics of the essay's argumentation. This is because nine years after he first presented "On Potentiality," Agamben employs the same argumentation in the book *Homo sacer: Il potere sovrano e la nuda vita* (*Homo Sacer: Sovereign Power and Bare Life*).[2] But the conclusion that Agamben draws from this argumentation is quite different from that arrived at in "On Potentiality." Rather than providing the paradigm for human freedom, he concludes in *Homo Sacer* that δύναμις (*dynamis*) provides the paradigm for sovereignty. Sovereignty is what makes it possible for sovereign entities (nation-states for example) to lawfully do anything to people, citizens or otherwise. δύναμις, then, has provided the paradigm by which something like human freedom becomes extremely limited, if not impossible.

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[1] Giorgio Agamben, *Potentialities*, edited and translated by Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1999).

[2] Giorgio Agamben, *Homo sacer: Il potere sovrano e la nuda vita* (Torino: Giulio Einaudi, 1995). Translated by Danile Heller-Roazen as *Homo Sacer: Sovereign Power and Bare Life* (Stanford, CA: Stanford University Press, 1998).

It is tempting to think that providing any substantive explanation for the extreme difference between these conclusions would be largely speculative. Contrary to this temptation, I think that we have the means to provide a substantive, that is, non-speculative or at least minimally speculative, explanation for this difference. Specifically, I think that this difference is the result of Agamben's methodology, which he identifies as "archaeology." Indeed, he asserts, "To be sure, my investigations, like those of Foucault, have an archaeological character."[3] In what follows, then, I develop this explanation. To do this, I first detail the reading of δύναμις made both in "On Potentiality" and *Homo Sacer* and the conclusions drawn from this reading. I then turn my attention to Agamben's understanding of both his own and Foucault's archaeological methodology and show that this methodology leads to the variance in conclusion mentioned above.

Clearly, the argument that I am making requires a consideration of Agamben's reading of specific passages in Aristotle's corpus. Although the trajectory of this essay is not to evaluate Agamben's reading of Aristotle per se, I have included footnotes containing both the original Greek as well as the Loeb Classical Library translations, which are considered the canonical English translations. I have also included Joe Sach's excellent literal translations for all citations of Aristotle and have left Daniel Heller Roazen's fine translations of Agamben's renderings of Aristotle's Greek unchanged. This, I believe, provides readers interested in making such an evaluation the means to do so. Moreover, to prevent confusion, I cite and leave unaltered published English translations of Agamben's work.

"On Potentiality"

Agamben begins "On Potentiality" noting that "potentiality" has "at least since Aristotle" been located at the center of Western philosophical thought. One of Aristotle's important contributions, he argues, is to have introduced the distinction between 'potentiality' (δύναμις, *dynamis*) and 'actuality' (ἐνέργεια, *energeia*) to the tradition.[4] Agamben thus sets out to investigate this distinction. Animating his analysis is the contention "that the concept of potentiality has never ceased to function in the life and history of humanity, most notably in that part of humanity that has grown and developed its potency [*potenza*] to the point of imposing its power over the whole planet."[5] Potentiality, then, as passed down from Aristotle—and we will investigate how Agamben understands this passing down to take place shortly—has had an identifiable "function" since its introduction. Further, this function neither is nor has been merely theoretical, but it is and has been 'political' as well; indeed, the two conclusions that Agamben eventually draws from his argument differ precisely in what he thinks the juridical and political effects of 'potentiality' are. Thus, Agamben sets two tasks for himself in "On Potentiality." He must develop an understanding of 'potentiality', and then identify what its effects are and have been.

Agamben takes up these tasks by investigating the meaning of the verb "can" or "*potere*" which in its nominative form in Italian means "power." Indeed, he wants to under-

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[3] Giorgio Agamben, "What is a Paradigm?" in *The Signature of All Things: On Method*, translated by Luca Di Santo (New York: Zone Books, 2009), 31.

[4] Agamben, "On Potentiality," 177.

[5] Ibid.

stand what we mean when we say, "I can" (*posso*) or "I cannot" (*non posso*). Agamben's contention is that all of us arrive at a "moment" when we must, "utter this 'I can' which does not refer to any certainty or specific capacity but is nevertheless, absolutely demanding."[6] This is to say that we arrive at a point when we claim that we can do something that is "beyond all faculties" that we believe ourselves to possess. Still, we press forward and state that we *can* do this thing. Although this particular "I can" is meaningless with respect to that act that it purports to be able to undertake, Agamben argues that it "marks… the experience of potentiality" that each of us has. So, despite this meaninglessness, when we approach a limit of one of our faculties or powers (*potente*) in this manner, what is proposed to us, or perhaps better what we are confronted with, is the question: what exactly is this faculty or power by means of which I can or I cannot? And thus, Agamben argues, we are confronted with the "originary problem of potentiality" namely, "what does it mean 'to have a faculty'? In what way can something like a 'faculty' exist?"[7] The experience of potentiality, then, arrives at the moment when we wonder what a faculty is and how we can have such a thing.

Agamben's contention is not only that this question went unasked before Aristotle, but also that the issue of a faculty was absent from Greek thought. Aristotle, then, brought the problem of potentiality into Western thought and *De Anima* is one of the texts in which Agamben locates the emergence of the question of potentiality. In *De Anima*, Aristotle wonders why the senses lack a sensation of themselves. Otherwise stated, he asks: why is it that when no object is presented to the senses they provide nothing? Aristotle's answer is that sensibility is not actual but potential, meaning that sensibility is the potential that we posses to have an actual sensation when a sensory object is presented to us. Although thinking of sensibility as a faculty was alien to the Greeks, doing so is for us, Agamben argues, unproblematic. Indeed, because the "vocabulary of potentiality" is so common to and so ingrained in us, Agamben thinks that we fail to realize, "that what appears for the first time in these lines is a fundamental problem that has only rarely come to light as such in the course of Western thought."[8] These lines, then, are the originary moment of the problem of potentiality and as such they are a condition of the possibility for the thinking of a faculty.

The arguments under consideration indicate to Agamben that "potentiality is not simply non-being"; put in terms of the term with which he started his analysis, it is neither simply the absence of an ability to nor its negation.[9] Instead, potentiality is "the existence of non-Being" it is the "presence of an absence," the presence of the can that we cannot.[10] Thus, Agamben understands a 'faculty' or 'power' as this existent non-being. Having a power, then, is "*to have* a privation" and the problem that Aristotle is interested in, as Agamben understands it, is "how can an absence be present," or, in the actual terms Aristotle is concerned with in this passage from *De Anima*, how is it possible for sensation (*aisthesis*) to exist in its absence (*anesthesia*)?[11]

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[6] Ibid., 178.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] Ibid.

[11] Ibid.

To address this problem, Aristotle first distinguishes between generic and existing potentiality. "Generic potentiality" requires the subject to "suffer" an alteration for it to be actualized. Agamben employs Aristotle's example of this, namely a child knowing. Although a child has the potential to know, she must suffer the alteration "through" learning to become knowledgeable. Generic potentiality, though, is not what Aristotle is concerned with. Instead, his focus is on the potentiality of a subject who has a particular ability. A poet, for example, has the potential to write and does not need to suffer the alteration so as to be able to write because of this "existing potentiality." Aristotle, on Agamben's reading, is interested in this to the extent that the potentiality is not simply a potentiality to, a 'can', but also a potentiality not-to, a 'cannot'. Thus, potentiality can be said to have two "modes": to do and not to do, to be actual and "not to pass into actuality."[12]

"Book Theta" of the *Metaphysics*, Agamben argues, possesses the passages in which Aristotle labors most diligently to get a handle on what is at stake with the negative mode, the not to do or not passing into actuality, or as it is sometimes called, the privation of potentiality. Agamben highlights two passages that he believes to be critically important. The first (1046e 25-32) states:

> Impotentiality is a privation contrary to potentiality. Thus all potentiality is impotentiality of the same and with respect to the same.[13]

He understands this passage to articulate the *relation* that is the "essence of potentiality," namely the relation between potentiality (δύναμις) and its privation. The relation is one of a self-maintenance with respect to its "own non-Being." Thus, in Agamben's words, "To be potential means: To be one's own lack, *to be in relation to one's own incapacity*."[14] So, for something to exist in the "mode of potentiality" is for it to be "capable of" its own impotentiality, to be self-able (*posso*), to be impotential. The poet, for example, can only potentially write in virtue of, or in relation to, her ability not to write—the impotentiality of her writing. Only if something is impotential in this way, Agamben argues, can it become potential. Something can be (*posso essere*) only in virtue of its relation to its inability to be (*non posso essere*) or non-being. This relation Agamben believes is the "originary structure" of δύναμις.

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[12] Ibid., 179.

[13] Agamben, "On Potentiality," 182. Agamben cites the passage as 1046e 25-32, when in fact it takes place at 1046a 30. The Greek reads, "καὶ ἡ ἀδυναμία καὶ τὸ ἀδύνατον ἡ τῇ τοιαύτῃ δυνάμει ἐναντία στέρησίς ἐστιν, ὥστε τοῦ αὐτοῦ καὶ κατὰ τὸ αὐτὸ πᾶρα δύναμις ἀδυναμίᾳ" (all Greek citations of the *Metaphysics* are from the Aristotle, Metaphysics, Edited by Hugh Trednnick (Cambridge, MA, London, UK: Harvard University Press, 1989), 432). Hugh Tredennick, in the Loeb edition, translates this passage as, "'Incapacity' and 'the incapable' is the privation contrary to 'capacity' in this sense; so that every 'capacity' has a contrary incapacity for producing the same result in respect of the same subject" (Cambridge, MA, London, UK: Harvard University Press, 1989), 433. Joe Sachs translates it as, "And lack of capacity, or something incapable, is a deprivation opposite to this sort of potency, so that every potency is contrary to an incapacity in the same thing, for the same thing" (Santa Fe, NM: Green Lion Press, 2002), 168.

[14] Agamben, "On Potentiality," 182.

Agamben takes up the second passage because he believes it to explicitly exposit the "originary figure" of potentiality, namely "the potential not to be." This passage (1050b 10) reads:

> What is potential is capable of not being in actuality. What is potential can both be and not be, for the same is potential both to be and not to be.[15]

Something, then, is potential only if it *can*, that is, only if it has the capability to both be and not be. Agamben thinks of this in terms of a "welcoming," which means: "I welcome, receive, admit."[16] A potential thing admits non-being and this welcoming constitutes potentiality. Such potentiality is "passive" in that welcoming its non-being it "suffers" it. So, every potentiality is originarily impotentiality.

But this is rather odd: how can we think "the actuality of the potentiality to not-be?" Asking this question in terms of the poet example is to ask: if the actuality of the potentiality of the poet to write is the composition of a poem, what is the actuality of the (originary) potentiality not-to write? To answer this question Agamben turns to the *Metaphysics* (1047a 24-26) where Aristotle states that, "A thing is said to be potential if, when the act of which it is said to be potential is realized, there will be nothing impotential."[17] Aristotle, on Agamben's reading, is arguing that since a potentiality not-to-be "belongs" to potentiality, we can conclude that something is only potential to the extent that the potentiality not-to-be is fully welcomed into actuality or "passes fully into it as such." Agamben thinks of this as potentiality not-to-be preserving "itself as such in actuality." Writing the poem, then, the potentiality of the poet not-to write "passes fully" into the actuality of the writing of the poem and thereby preserves itself. This is to think of actuality as the impotentiality of impotentiality wherein impotentiality preserves itself as such, or as Agamben puts it, "What is truly potential is thus what has exhausted all its impotentiality in bringing it wholly into the act as such."[18]

To distinguish his conception of δύναμις from others, Agamben takes up a final passage from *De Anima* (417 b 2-16), which states:

> To suffer is not a simple term, but is in one sense a certain destruction thorough the opposite principle and, in another sense, the preservation[*sōtēria*, salvation] of what is in potentiality by what is in actuality and what is similar to it… For he who possesses science [in potentiality] becomes someone who contemplates in actuality, and either this is not an altera-

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[15] Ibid., 183. The Greek reads "τὸ ἄρα δυνατὸν εἶναι ἐνδέχεται καὶ εἶναι καὶ μὴ εἶναι· τὸ αὐτὸ ἄρα δυνατὸν καὶ εἶναι καὶ μὴ εἶναι." (462) Treddenick translates that passage: "Therefore that which is capable of being may both be and not be. Therefore the same thing is capable both of being and of not being." (463) Sachs renders it, "Therefore, what is capable of not being admits of not being, and so the same is capable of being and not being." (180)

[16] Ibid.

[17] Ibid. The Greek is: "ἔστι δὲ δυνατὸν τοῦτο ᾧ ἐὰν ὑπάρξῃ ἡ ἐνέργεια οὗ λέγεται ἔχειν τὴν δύναμιν, οὐθὲν ἔσται ἀδύνατον." (438) Treddenick's translation reads, "A thing is capable of doing something if there is nothing impossible in its having the actuality of that of which it is said to have the potentiality." (439) Sachs translates the passage as, "What is capable is that which would be in no way incapable if it so happened that the being-at-work [ἐνέργεια] of which it is said to have potency were present." (170)

[18] Agamben, "On Potentiality," 183.

tion—since here there is the gift of the self to itself and to actuality[*epidosis eis auto*]—or this alteration is of a different kind.[19]

This passage argues, on Agamben's reading, not, as is commonly held, that δύναμις is "annulled" in ἐνέργεια, rather that in actuality it "conserves" and "saves" itself. Potentiality "survives actuality" thus it "gives itself to itself."[20] Aristotle is interested in "existent potentiality" and Agamben points out that all of Aristotle's examples of this involve "the arts and human knowledge" which he regards as crucial insofar as it indicates that "human beings, insofar as they know and produce, are those beings who, more than any other, exist in the mode of potentiality."[21] Thus, he argues that every human power or faculty is an impotentiality and in this Agamben sees the political aspect of Aristotle's concept of potentiality mentioned at the outset of this essay. Indeed, his contention is that this relation of every human potentiality to its impotentiality is the, "origin of human power, which is so violent and limitless with respect to other living beings."[22] A claim, we will see shortly, that is congruent with the claims he makes in *Homo Sacer*.

Agamben, though, pushes his claim further, arguing that the "root of freedom" is found in potentiality. "To be free," he argues, "is, in the sense we have seen, *to be capable of one's own impotentiality*, to be in relation to one's own privation. This is why freedom is freedom for both good and evil."[23] Each of us, then, as human is free in the sense that we have the

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[19] Ibid., 184. The Greek of this passage reads, "οὐκ ἔστι δ' ἁπλοῦν οὐδὲ τὸ πάσχειν, ἀλλὰ τὸ μὲν φθορά τις ὑπὸ τοῦ ἐναντίου, τὸ δὲ σωτηρία μᾶλλον ὑπὸ τοῦ ἐντελεχείᾳ ὄντος τοῦ δυνάμει ὄντος καὶ ὁμοίου οὕτως ὡς δύναμις ἔχει πρὸς ἐντελέχειαν· θεωροῦν γὰρ γίνεται τὸ ἔχον τὴν ἐπιστήμην, ὅπερ ἢ οὐκ ἔστιν ἀλλοιοῦσθαι (εἰς αὐτὸ γὰρ ἡ ἐπίδοσις καὶ εἰς ἐντελέχειαν) ἢ ἕτερον γένος ἀλλοιώσεως. διὸ οὐ καλῶς ἔχει λέγειν τὸ φρονοῦν, ὅταν φρονῇ, ἀλλοιοῦσθαι, ὥσπερ οὐδὲ τὸν οἰκοδόμον ὅταν οἰκοδομῇ. τὸ μὲν οὖν εἰς ἐντελέχειαν ἄγειν ἐκ δυνάμει ὄντος κατὰ τὸ νοοῦν καὶ φρονοῦν οὐ διδασκαλίαν ἀλλ' ἑτέραν ἐπωνυμίαν ἔχειν δίκαιον· τὸ δ' ἐκ δυνάμει ὄντος μανθάνον καὶ λαμβάνον ἐπιστήμην ὑπὸ τοῦ ἐντελεχείᾳ ὄντος καὶ διδασκαλικοῦ ἤτοι οὐδὲ πάσχειν φατέον, ὥσπερ εἴρηται, ἢ δύο τρόπους εἶναι ἀλλοιώσεως, τήν τε ἐπὶ τὰς στερητικὰς διαθέσεις μεταβολὴν καὶ τὴν ἐπὶ τὰς ἕξεις καὶ τὴν φύσιν" (Aristotle, Περὶ Ψυχῆς, edited by W.S. Hett (Cambridge, Ma, London, UK: Harvard University Press, 1964), 98). Hett, in the volume from which the Greek is cited above renders the passage: "Even the term 'being acted upon' is not used in a single sense, but sometimes it means a form of destruction of something by its contrary, and sometimes rather a preservation of that which is potential by something actual which is like it, in accordance with the relation of potentiality to actuality; for that which merely possesses knowledge comes to exercise it by a process which either is not alteration at all (for the development is into its real self or actuality), or else it is a unique kind of alteration." (Ibid., 99) Joe Sachs translates the passage as: "But 'being acted upon' is not unambiguous either; in one sense it is a partial destruction of a thing by its contrary, but in another it is instead the preservation, by something that is at-work-staying-itself, of something that is in potency and is like it in the way that a potency is like its corresponding state of being-at-work-staying-itself. For the one who has knowledge comes to be contemplating, and this is either not a process of being altered (since it is a passing over into being oneself, namely into being-at-work-staying-oneself), or is a different class of alteration." (On the Soul (Santa Fe, NM: Green Lion Press, 2001), 98)

[20] Ibid.

[21] Ibid., 183.

[22] Ibid.

[23] Ibid.

potentiality, and hence the impotentiality, to act in certain ways. We can choose and not choose to do certain things. Human actions can thus be measured by inaction taking the form of not doing what we can, which Agamben expresses with the abstruse statement, "*The greatness of human potentiality is measured by the abyss of human impotentiality.*"[24]

So, implicit in free human action is an ethical metric enabling the evaluation of all of our actions. Agamben seems to be arguing that this is true on both the individual (to be free is "to be capable of one's own impotentiality") as well as collective level (we can measure collective "human potentiality" via "human impotentiality"). Although Agamben does not ostensibly engage political institutions in this essay, his argument suggests that we can evaluate our political institutions by means of the above stated measure. It seems to me that this further suggests that this freedom could be a kind of ground for "political" institutions, by which I mean that his argument implies that we could conjoin our individual freedoms to the end of insuring that they collectively are directed towards "good" actions. That is to say that his argument seems to gesture towards a kind of liberalism. But there are serious tensions between this and key conclusions that he draws from the exact same line of argumentation in *Homo Sacer*. Hence, it is to this argumentation that we must turn our attention.

Homo Sacer

The discussion of potentiality in *Homo Sacer* begins with Agamben stating that Aristotle is not interested merely in potentiality as "logical possibility" but in its "effective modes" by which I understand him to mean "effective potentiality." He then states that if we are to understand potentiality as not that which simply disappears into actuality, then we are necessarily admitting "that potentiality constitutively be the *potentiality not to* (do or be) [*la potenza di non (fare o essere)*], or, as Aristotle says, that potentiality be also impotentiality."[25] Agamben supports this contention with two citations from the *Metaphysics* discussed in "On Potentiality." The first (1046a 32) is, "Every potentiality is impotentiality of the same and with respect to the same;"[26] the second (1050b 10), "What is potential can both be and not be. For the same is potential as much with respect to being as to not being."[27] Thus far, Agamben has concisely re-stated a portion of the argument made in "On Potentiality."

Agamben's next move introduces language which though not present in "On Potentiality" does not change the argument per se, but enables him to alter its trajectory. Specifically, he argues that potentiality that "exists" is that which is capable of not passing over into actuality. The relation of this potentiality to actuality is, like in "On Potentiality," a kind of maintenance of impotentiality with respect to actuality. He characterizes this maintenance as taking "the form of its suspension." So, potentiality as impotentiality maintains itself by suspending itself in actuality. Agamben argues that—and this is important—"it [potentiality] is *sovereignly* capable of its own impotentiality [my emphasis]."[28] Potentiality is characterized not simply as an "I can" (*posso*) but as a sovereign capability. Agamben shifts the trajectory of

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[24] Ibid.
[25] Agamben, *Homo Sacer*, 32.
[26] Ibid.
[27] Ibid.
[28] Ibid.

the analysis away from freedom, and I would argue a liberal conception thereof, towards sovereignty. He further clarifies this move in the paragraphs that follow.

In these paragraphs, Agamben inserts "sovereignty" and "suspension" into the arguments made in "On Potentiality" regarding *Metaphysics* 1047a 24-26 and *De Anima* 417b 2-16. With these insertions in mind, he makes the following reading of those passages:

> In thus describing the most authentic nature of potentiality, Aristotle actually bequeathed the paradigm of sovereignty to Western philosophy… Potentiality (in its double appearance as potentiality to and as potentiality not to) is that through which Being founds itself *sovereignly*, which is to say, without anything preceding or determining it (*superiorem non recognoscens*) other than its own ability to be. And an act is sovereign when it realizes itself by simply taking away its own potentiality to not be, letting itself be, giving itself to itself.[29]

This conclusion shifts those made about human ability and freedom to the plane of ontology. Being is, on this account, sovereign in that it is self-founding and it would thus seem, as Daniel Heller-Roazen observes, that Agamben may have achieved Heidegger's project of establishing *die stille Kraft des Möglichen* (the quiet power of the possible).[30] His argument though, is not limited to ontology, insofar as ontology provides a "paradigm." The final portion of this essay considers what a paradigm is and how it operates on Agamben's reading, for political sovereignty. Concisely, Agamben contends "that a principle of potentiality is inherent in every definition of sovereignty,"[31] meaning that the ultimate trajectory of Aristotle's thinking about potentiality is simultaneously ontological and political. A consideration of Agamben's conception of sovereignty thus brings into focus what he thinks the long-term import of Aristotle's conception of potentiality is. Moreover, it elucidates the differences in the conclusions that he draws from essentially the same line of argumentation in "On Potentiality" and *Homo Sacer*.

Agamben borrows his concept of 'the sovereign' from Carl Schmitt. The sovereign is, according to Schmitt's definition, "(s)he who decides on the state of exception."[32] Because the defining quality of the sovereign is that she makes exceptions to the law, she places herself both inside of and outside of the juridical order. This is to say that the sovereign's implicit ability to suspend all or part of the juridical order from within, indeed from the very heart of it, simultaneously places it outside of the juridical order because what it means to be part of the juridical order is that one cannot violate the dictates, laws, thereof. So, Schmitt's definition is inherently paradoxical and Agamben offers two formulations of the paradox. The first is "the law is outside of itself" and the second is that the sovereign can state that "I, the sovereign, who am outside the law, declare that there is nothing outside the law."[33] These formulae exhibit a key facet of the paradox: while the first characterizes an exclusion: the law being

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[29] Ibid.

[30] Daniel Heller Roazen, "Editor's Introduction," in Giorgio Agamben, *Potentialities*, edited and translated by Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1999), 18.

[31] Agamben, *Homo Sacer*, 33.

[32] Carl Schmitt, *Political Theology*, edited by Tracy Strong, translated by George Schwab (Chicago: University of Chicago Press, 2006), 5.

[33] Agamben, *Homo Sacer*, 17.

outside of itself is excluded from itself, the second characterizes an inclusion: the law includes everything, so nothing is exterior to it. Agamben calls this simultaneous inclusion and exclusion the "topology" of sovereignty.[34] Key for us is that this topology exhibits the "principle of potentiality" functioning within it insofar as what is potential can both be and not be and in a parallel fashion what is sovereign is both included and excluded. The paradox of sovereignty, then, brings Agamben's argument that potentiality is the originary paradigm of sovereignty into relief.

What results from this decision about exception, as Schmitt's definition suggests, is the "state of exception," or the juridical situation resulting from this decision. From one perspective, the state of exception can be characterized by the suspension of a law, laws, or the entire juridical order. One function of the state of exception is to capture within the juridical order that which is outside of it—one point of his argument is to give meaning to the idiom "there is nothing outside of the law." This is to say that if the scope of the law is limited such that it cannot be applied to certain activities or people, the choice on exception offers the juridical order the means by which these people or activities can be brought into its purview.

Given the above, one might conclude that the sovereign exception primarily functions to reign in that which is beyond the juridical order. But, Agamben, following Schmitt, is clear that the exception is not deducted from the rule, but is, rather, constitutive of it. Indeed his claim is that the rule, or law, cannot exist without the exception, nor can the exception without the rule. This is to say that in its suspension the rule gives rise to the exception while simultaneously maintaining itself in relation thereto, thus marking its first constitution as a rule. So, the key element in making a law a law is that it is *potential* precisely in the sense that Agamben understands Aristotle. Law's unique "force," he thus argues, is precisely that it potently maintains itself in relation to something outside of itself, e.g., the exception. The exception, then, more than simply reigning in that which is beyond the juridical order, constitutes the possibility of the juridical order itself.

Agamben, though, understands the exception as doing more than just this. Indeed, it also operates to the end of "the creation and definition of the very space in which the juridico-politico order can have validity."[35] While what he means by this "space" will become clearer in a moment when we consider human life in relation to the exception, at this point we can say that Agamben understands the state of exception as the "threshold" at which opposites, we could say "potentialites," such as inside and outside, fact and law, normal situation and chaos, are related to each other in such a manner that the juridical order can actually be valid. In the state of exception, these opposite terms function according to the topology of sovereignty, thus their meanings are indeterminate: they are included in their exclusion, actualized in the suspension of the other and vice versa. The sovereign choice on exception is the "localization" of this threshold insofar as the choice on exception fixes these meanings within a certain sovereign space; it determines which of these terms will be brought to actuality and where this will take place. Thus, Agamben argues that what is at stake with the sovereign exception is not just social, juridical and territorial ordering, but the validity of the juridical order itself, as

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[34] Ibid.
[35] Ibid., 18-19.

without a sovereign decision the relation between these potentialities could not be determined, their meanings, which are employed to order society, could not be fixed and the law, which on one level operates via the determination of these meanings, could not be actualized.

But the actualization of law is more complicated than simply suspending its potentiality. In fact, Agamben's argument is that it requires a two-step process. This is because law's "application," on Agamben's understanding, is not contained in the concept of the rule, law or norm, nor is it possible to derive it therefrom. Law, and thus sovereignty, must therefore both presuppose and determine the field of objects to which it can be applied and this is also done by means of the sovereign exception. So, the determination of the space in which sovereignty operates can only occur once this first step, the determination of the field of objects to which law can be applied, is complete.

Agamben's accounts for this first step by claiming that by deciding on the exception the sovereign also decides upon, "the originary inclusion of the living in the sphere of law or, in the words of Schmitt, 'the normal structuring of life relations,' which law needs."[36] The term that Agamben uses for 'social order' is "structuring of life relations," a choice of terms which gestures towards his important contention that the object to which law is applied is human life. But, because human life is in no way implicitly included in law, he argues that the means by which life can be brought into the juridical order is the sovereign decision on exception, which functions to include it in its exclusion. So, sovereignty's "capture" of the object of its application, human life, occurs by means of its topology, and therefore follows the principal of potentiality.

Agamben identifies the paradigmatic form of this life caught in the sovereign exception as an arcane figure of the Roman social order: *homo sacer*. In *De verborum significatione*, Pompeius Festus identifies *homo sacer*[37] as a person whom having been found guilty of a crime can

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[36] Ibid, 22. It seems to me that Agamben's employment of the term "normal" here may suggest that there is a kind of normailzation that takes place by means of the choice on exception. This observation introduces a set of complicated issues revolving around the question of what Agamben means by the term 'biopolitics'. In the "Introduction" to *Homo Sacer*, Agamben argues that Foucault's thesis about biopolitics must be "corrected" in light of his claim that biopolitics emerged considerably earlier than Foucault hypothesized, specifically in ancient Rome. As suggested above, this argument raises a whole set of questions, not the least of which being: what then is biopolitics? Answering this question would involve tangling with whether or not this "normalization" has the same or similar characteristics as that Foucault argued emerged with the development of the concept of 'population' in the eighteenth and nineteenth centuries. This entire issue, though closely related to the topics taken up in this essay, is beyond its limited scope—which is to say that the sovereign excludes the actuality of this essay being sixty or seventy pages. Two essays that contend with this issue and that I strongly recommend looking at if these issues interest you are Mika Ojakangas' "Impossible Dialogue on Bio-power: Agamben and Foucault," *Foucault Studies*, 2, May, 2005 and Paul Patton's "Agamben and Foucault on Biopower and Biopolitics" in *Giorgio Agamben: Sovereignty and Life*, edited by Matthew Calcarco and Steven De Caroli (Stanford, CA: Stanford University Press, 2007).

[37] James Muir, in his *Historical Introduction to the Private Law of Rome* (Edinburgh: Adam and Charles Black, 1886), 18, asserts that, "The *homo sacer* was in every sense of the word an outcast—one with whom it was pollution to associate, who dared to take no part in any of the institutions of the state, civil or religious, whose life the gods would not accept as a sacrifice, but whom, nevertheless, any one might put to death with impunity as no longer god-protected."

be killed, with the killer not being guilty of murder despite a law prohibiting it, but not made sacred in a ritual sacrifice.[38] Thus, this *sacratio*—Agamben employs the Latin—has two defining characteristics: the unpunishability of its killing, despite a law forbidding homicide, and its exclusion from sacrifice or the victim being made sacred. Denying the sacralization of *homo sacer* excludes it from the realm of divine law, while the ability to be killed with impunity excludes it from the juridical order, the realm of civil law, as well. Agamben understands this double exception as definitive of *homo sacer*,[39] as it bears the "relation of exception" insofar as it is included in the juridical order by being excluded. With this established, Agamben argues that, "just as the law, in the sovereign exception, applies to the exceptional case in no longer applying and in withdrawing from it, so *homo sacer* belongs to God in the form of unsacrificeability and is included in the community in the form of being able to be killed. *Life that cannot be sacrificed and yet may be killed is sacred life*."[40] This "sacred life," Agamben argues, is the first content of sovereign power and producing this life is the object of sovereign activity.[41]

Following Walter Benjamin and Hannah Arendt, Agamben calls this sacred life "*nuda vita*" which is his translation into Italian of "*bloße Leben*" which is now commonly translated into English as "bare life." Because the definitive characteristic of sovereignty is its capacity to suspend all or part of the juridical order, including any legal protections of human life, bare life is life susceptible to all forms of violence; it is an object with respect to which sovereignty can fully suspend its potentiality and actualize its mortal force. Thus, rather than securing the rights and freedom of subjects, Agamben argues that sovereignty, even "popular sovereignty," produces them as bare life such that law can be applied to them. All human life, according to Agamben, is thus to some degree bare life.

Sovereignty produces the "space" in which law can be valid. This is actually the second step in the process of law's actualization, as law first must have an object to which it can be applied and then the space in which this application can take place will be determined. Given this, the juridical space opened by sovereignty is the space in which the juridical order can be applicable to human life. Because this life is captured by means of the topology of sovereignty it is bare life, life to which the sovereign can do anything. Thus, Agamben characterizes this space as one in which with respect to human life "anything is possible." This possibility, though, is not one paradigmatic of the expansion of human faculties, as we might

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[38] Ibid., 71. Plutarch attributes a law forbidding homicide to Numa Pompilius. Numa was the second king of Rome, the successor of Romulus. According to Plutarch he died while on the throne in 673 BCE, having ascended it at forty years of age (see Plutarch, *Parallel Lives, I, Theseus and Romulus. Lycurgus and Numa. Solon and Publicola*, Translated by Bernadotte Perrin (Cambridge, MA: Harvard University Press, 1914). Assuming the accuracy of the year of his death, we can surmise that his law forbidding homicide dates from between 713-673 BCE and predates the Twelve Tables, dating from 450 BCE, the eleventh of which states, "Putting to death of any man, whosoever he might be, unconvicted is forbidden" (regarding the Twelve Tables see George Long, "Lex Duodeim Tabularum," in *A Dictionary of Greek and Roman Antiquities*, edited by William Smith (London: John Murray, 1875).

[39] The Latin term "*sacer*" means both "sacred" and "damned."

[40] Agamben, *Homo Sacer*, 52.

[41] Ibid., 82, 83.

surmise from his arguments in "On Potentiality," but one in which anything can be done to living human bodies despite copious laws ostensibly enacted for their protection.

This space in which anything is possible has, Agamben argues, a contemporary "paradigm": the Nazi *Lager* or concentration camp. The *Lager* was indeed a space in which anything was possible with respect to the inhabitants, a space in which millions of lives were killed but not made sacred.[42] The actualization of this killing, and the *Lager* itself, Agamben argues, required remarkable juridical machinations such as, to cite the obvious, the suspension by sovereign decree of the Weimar Constitution and the denationalization of the Jews.[43] But the *Lager*, Agamben argues, has not been relegated to the past. Instead, it has become the paradigm for the poli-juridical spaces inhabited since its inception—indeed, it is Agamben's claim that the paradigm for the poli-juridical spaces we inhabit is the *Lager*.

Although Agamben's argument in *Homo Sacer* is that potentiality has resulted in our contemporary situation being one in which anything is possible, this possibility is not the ground of human freedom enabling each of us to act and/or not act as we please and, more-over, ethically evaluate both our own actions and those of others from the same very same ground, which is his argument in "On Potenitality." Instead, potentiality, as understood in *Homo Sacer*, has provided the paradigm for the "hidden" principal of a juridical order which, despite liberal claims about the universal rights of each person qua person and so on, can *only* function by producing and situating each person such that anything can legitimately be done to them. And, while the claim made in "On Potentiality" that potentiality is the "origin of human power, which is so violent and limitless with respect to other living beings" is certainly congruent with some key claims made in *Homo Sacer*, the "power" described in "On Poten-tiality," while "political," can be subjected to ethical scrutiny and seems limited thereby.

Sovereign power as described in *Homo Sacer*, on the other hand, while certainly sus-ceptible to ethical criticism—indeed we might even argue that Agamben's *Homo Sacer* project is subjecting sovereignty to ethical scrutiny—cannot be thereby limited insofar as the very principal of its application *is* its limitlessness with respect to human beings. To banally clarify my latter observation consider Agamben's remarkably insightful claim that "democracy [the power (*kratos*) of the people (*demos*)] and totalitarianism are two sides of the same coin," which I understand to mean that because both are forms of sovereignty they can only function by as-serting absolute power with respect to their citizen-subjects. Therefore, claims about the mo-ral superiority of democracy over totalitarianism based upon, for example, its respect for fun-damental human rights, merely mask the fact that democracy, no matter what is meant by this term, operates according to the same principal as totalitarianism, namely sovereignty, insofar as it produces social order juridically.

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[42] I understand this contention as the foundation for Agamben's famous claim that we should not refer to the mass killings that took place in the *Lager* as a "Holocaust" since they were not a sacrifice but murder. For the details of this argument see Giorgio Agamben, *Quel che resta di Auschwitz* (Torino: Bollati Boringhieri, 1999). Translated by Daniel Heller-Roazen as *Remnants of Auschwitz: The Witness and Archive* (New York: Zone Books, 1999).

[43] For a more developed discussion of Agamben's understanding of these machinations than those found in *Homo Sacer*, see his *Stato di eccezione* (Torino: Bollati Boringhieri, 2003). Translated by Kevin Attell as *State of Exception* (Chicago and London: University of Chicago Press, 2005).

All of this is simply to say that despite the fact that there are ways in which the two conclusions Agamben draws from the same argument are congruous, I think that they are more substantively not so. It seems to me that the 'politic' that one would likely develop from the conclusion drawn in "On Potentiality" is one in which this freedom of faculty that each of us has would ground a kind of political order which, while having the capability and perhaps even the propensity to violence, ethically limits that violence. I would go as far as saying, as I did above, that it would likely be some kind of liberalism in which freedom itself becomes a shared ground from which a polity could be formed to the end of quelling this capacity for violence. The conclusion drawn in *Homo Sacer* offers no possibility of such a 'politic.' All social order is produced by sovereignty and all sovereignty has as its object the production of bare life and politics is simply the management thereof: politics is violence.

It is no revelation to state that people—even philosophers—change their minds regularly. So, we might think that Agamben's change of position, though odd given that he employs the same argumentation to two very different ends, is ultimately not that interesting. It is, I believe quite interesting if explained in terms of his research methodology, specifically how he understands himself to be employing Foucault's research methodology. And this explanation, in turn, involves him tangling with the question "what is a paradigm?" which will further clarify many of the claims that we have been considering.

"What is a Paradigm?": Foucault's Influence on Agamben's Methodology

We have seen that in both "On Potentiality" and *Homo Sacer* Agamben liberally employs the concept of a "paradigm." Despite this, neither piece contains passages actually explaining what he understands a paradigm to be or how he understands it to function. Indeed, at the outset of a more recent essay, he states that,

> In the course of my research, I have written on certain figures such as *Homo sacer*... the state of exception, and the concentration camp. While these are actual historical phenomena, I nonetheless treated them as paradigms whose role was to constitute and make intelligible a broader historical-problematic context... this approach has generated a few misunderstandings.[44]

Given this, he then devotes the balance of the essay, aptly titled "What is a Paradigm?," to discussing his understanding of the paradigm and how paradigms are used in both philosophy and "the human sciences," as well as detailing how he understands himself to be carrying out an archaeological project methodologically based upon Foucault's. Exploring this dimension shows that the conclusions Agamben drew from his reading of δύναμις changed so dramatically as a direct result of the research method that he understands himself to employ, namely archaeology.

Agamben begins "reflecting" upon the paradigm by noting that, "Foucault frequently used the term 'paradigm' in his writings, even though he never defined it precisely."[45] Despite this absence, Agamben wonders whether the paradigm that he finds in Foucault's

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[44] Agamben, "What is a Paradigm?" in *The Signature of All Things*, 9.
[45] Ibid.

archaeology is not closely related to what Thomas Kuhn understands a paradigm to be, namely "that which... marks the emergence of scientific revolutions?" This question arises because Agamben regards both Foucault and Kuhn as conscientiously questioning and moving away from understandings based on the rule. In Kuhn's case, this means that rather than viewing changes in the governance of accepted scientific truth as a result of the discovery of new physical laws, they are understood as a "shift in paradigm." Agamben aptly characterizes Kuhn's definition of the paradigm as, "an example, a single case that by its repeatability acquires the capacity to model tacitly the behaviour and research practices of scientists."[46] So, on Kuhn's account the paradigm determines the rules by which science functions and thus changes in the conception scientific truth. What he calls "scientific revolutions," result not from the discovery of a new law, but from the replacement of one paradigm by a novel one which is partially or entirely incompatible with the previous.

Similarly, Foucault laboured to question rule-based understandings not only of science, but of the operation of "power" as well. Rather than employing models based on universal categories of law, state or sovereignty, Foucault was interested in "the concrete mechanisms through which power penetrates the very bodies of subjects and thereby governs their forms of life."[47] This is to say that Foucault interrogated the singular practice to see what it could tell us about the general character of a specific regime of truth, discipline and so on. And it is in this assignment of primacy to the singular, as opposed to the general or universal, that Agamben locates an "analogy" between Foucault's work and Kuhn's paradigms. Kuhn, on the one hand, moved away from looking at a rule-governed, "normal" science and instead considered the behaviour of scientists as determined by paradigms. Foucault, on the other hand, focused away from juridical models of power and investigated the ways in which disciplines and "political techniques" produced individual subjects such that they could be the objects of governance. Agamben interprets this analogy between Kuhn's paradigm and Foucault's work as indicative of the fact that, despite Foucault's silence on the paradigm, the paradigm is actually at the heart of his archaeological project.

Despite Agamben's assertion of the paradigm's centrality in Foucault's project, he contends that Foucault's conception of the paradigm differs significantly from Kuhn's. Indeed, he argues that though Foucault never named Kuhn, he labored to differentiate his work from Kuhn's in several places. The key difference, on Agamben's reading, that Foucault articulates between Kuhn's paradigm and what he was interested in—what Agamben will ultimately call Foucault's notion of the "paradigm"—is that while Kuhn's paradigm operates at the level of the "form" of epistemological statements, Foucault at the epistemological level was concerned with "the effects of power peculiar to the play of statements."[48] Foucault was interested in how power "circulated" within a group of scientific statements, what he called their "internal regime of power," and did so such that these statements govern one another and in so doing periodically become subject to radical change. Thus while Kuhn was interested in what we might call political changes in scientific fields, Foucault was interested in developing the

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[46] Ibid., 11.

[47] Ibid., 12.

[48] Ibid., 14.

methodological tools appropriate to the study of political power. A crucial dividing line between them, emphasized by Agamben, is Foucault's genealogical inquiry.

Recall that Agamben argues "that a principle of potentiality is inherent in every definition of sovereignty."[49] This principal of potentiality seems to be operative at every level of sovereign figuration. This is to say that the principal of sovereignty is also at work in every sovereign effect and thus in every effect of the juridical order including law, bare life, the sovereign space (the *Lager*) and so on. Although freedom surely is one of these effects, it can only be meaningful in relation to the sovereign decision on exception. We can think of this meaning from several perspectives. Two, though, seem to be germane. First, freedom only functions by its impotentiality suspending itself. Thus, freedom and unfreedom are simply two sides of the same coin. Therefore, second, freedom is an effect of the decision on exception and not power or faculty of human beings which Aristotle's concept of "potentiality" made it possible to think. The second point makes it clear that the conclusion Agamben draws from his interpretation of δύναμις in *Homo Sacer* is incompatible with that drawn in "On Potentiality." While indeed the argumentation in the former supports the claim that the "origin of human power, which is so violent and limitless with respect to other living beings"[50] is potentiality, it does not support the claim that being free is to be capable of one's, by which I understand 'an individual's', own impotentiality. This is to say that the argumentation in *Homo Sacer* does not support a liberal conception of freedom. Instead, that which is fully capable of its own impotentiality is the sovereignty to which all of us are subject. This sovereignty indeed is the origin of human freedom, but that freedom is a kind of sovereign bestowal and not that described by Locke, Rousseau, Berlin, Schlegel, Antonio Negri, Hegel or in "On Potentiality."

We cannot therefore say that Agamben understands the effect of Aristotle's genius to be nefarious. Bestowing the principal of potentiality to Western thought, Aristotle provided the means to think and understand sovereignty. We most prominently see sovereignty when it entirely suspends its potentiality not to be, such as in the body of Jean Charles de Menezes.[51] Only on the basis of potentiality is this even thinkable within a liberal polity.

One surely wonders whether understanding Aristotle in this way is productive. I think that it certainly can be, if we follow Foucault and suppose that universals do not exist. This is to say that there are not a set of trans-historical phenomena from which practices and the thinking emerge. How does it become possible for a practice, or practices, to be actualized at a given time and place? Moreover, how does it become possible to think or understand a given practice? What are the conditions of possibility of thinking such an act? Retrospectively constructing these conditions is what I consider genealogy. Genealogy is never neutral; it is always involved in agonistic relations with other genealogies, even the concept of History itself. Nor is genealogy concerned with causes; rather, it concerns conditions which make, or made, a given practice possible. But practices only become possible to the extent that they are in-

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[49] Ibid., 47.

[50] Agamben, "On Potentiality," 182.

[51] Menezes was summarily shot in the head by the London Metropolitan police after being mistaken for one of the tube/bus bomber plotters in summer 2005.

volved in what Foucault calls "a regime of truth" under which, "the articulation of a particular type of discourse and set of practices, a discourse that, on the one hand, constitutes these practices as a set bound together by an intelligible connection and, on the other hand, legislates and can legislate on these practices in terms of true and false."[52] Genealogy thus provides us a means of understanding how a particular practice came to be accepted and how it was related to others in respect to its truthfulness or rightness.

Thus, projects like Agamben's and Foucault's provide us a means of understanding that ideas, even very old ones, operate in a variety ways and are still involved in legislating truth and falsity, even if they mutate over time—something akin to Foucault's ongoing interest in veridiction. On this basis, one would not say that Aristotle's ideas in the *Physics* were simply wrong. Instead, we ask how they conditioned a series of other ideas that were (are) involved in various regimes of truth. From this perspective, thinking and Philosophy are not simply something done in windowless classrooms and dusty offices, they are active and engaged.

Considering an example of Foucault's research in this respect reveals the genealogical method and way of proceeding in his work. The noteworthy analysis he devoted to neo-liberalism, as an epiphenomenon or related development of biopolitics, shows the technique and the contours of his method. Foucault entitled his 1979 Colleège de France lecture course "The Birth of Biopolitics." His initial goal for the course was to consider the "conditions of the pos-sibility" leading to a significant shift in governmental technique which he had identified in his lecture courses of the previous two years and in the last chapter of his book *The History of Sexuality, Volume 1: An Introduction*.[53] This shift, Foucault argued, is characterized by a change in the primary focus or object of government from the protection of geographic territory and the production of docile bodies, to the maintenance of the health of the "population" inhabiting the bounded territory of the nation-state. It was, Foucault argued, a shift from the primacy of sovereign power, to what he called "biopower."

In the previous two courses, entitled *Society Must Be Defended* and *Security, Territory, Population*, Foucault detailed the novel practices, technologies, concepts and characteristics of biopower. *The Birth of Biopolitics* was thus intended to develop and explain the conditions under which these became possible. To accomplish this, Foucault decided that he needed to further consider the development of the statistical concept "population." Doing this, it turned out, required him to analyze the way that this concept emerged from and morphed in economic thought. As a result of this focus, *The Birth of Biopolitics* became a remarkably detailed and uncannily prescient reading of the emergence of European and North American neoliberalisms.

Throughout the analysis undertaken in *The Birth of Biopolitics*, Foucault reminds us that his goal is to get to and explain the conditions of possibility for the emergence of biopower and thereby further our understanding of biopolitics. This, though, never happens. Instead,

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[52] Michel Foucault, *Naissance de la Biopolitique: Cours au Collège de France, 1978-1979* (Paris: Éditions de Seuil, 2004), 41.

[53] Michel Foucault, *History of Sexuality Volume I: An Introduction*, translated by Robert Hurley (New York: Penguin, 1978).

he ends the course apologizing for not having arrived where he had hoped and stating that even thinking that he could have gotten there without working through neoliberalism was impossible. The following year Foucault drops his analysis of biopower and focuses his attention on what he eventually calls "technologies of the self." This serves as a significant instantiation of the premise that genealogy is not concerned with the search for origins, and that it cannot be predicted or laid out in advance in a linear fashion.

Thus, the question remains open: what is the connection between neoliberalism and biopower? This brief consideration provides an answer to this question. Specifically, that Foucault's analysis implies that the emergence of the concept of "population" out of developments in statistics made possible increasingly scientific techniques of management, particularly the management of commercial interests. Foucault argues that the intensification of such techniques, in turn, made possible the emergence of a scientific conception of "the market" differing from that of classical economists, such as Smith and Riccardo, which relied on non-scientific metaphor for explanation, "the invisible hand" for example. Neoliberalism, from the perspective of the argumentation provided in *The Birth of Biopolitics*, can be conceived as the mapping of these scientific techniques of commercial management onto government, the latter understood as—and this differs depending upon which neoliberalism is considered—being in the service of, enhancing, protecting and/or producing this market. Given this, Foucault's argument in the 1979 lecture course implies that biopolitics dramatically intensifies with the emergence of neoliberalism. This is to say that as sovereignty wanes (or modifies) and biopower waxes, so too classical economics and neoliberalism. Thus, advanced neoliberal governmentality, to use Foucault's now famous neologism, requires biopower and such power cannot intensify, at least in the manner that Foucault thinks that it has and likely will, without neoliberalism.

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