

ARTICLE

State Racism and the Paradox of Biopower*

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ABSTRACT: As it has often been emphasised, through the concept of biopower, Foucault attempts to move away from the problem of sovereign power. Yet, after exposing Foucault's conceptualisation of biopower, in this article I argue that he cannot simply leave this problem behind. In particular, reflections on Nazism and how the Nazi state uses racism to sustain itself force him to return to the problem of sovereign power to explain how state killing continues to be possible, and actually takes on new and extreme forms, in modern times. These same considerations further complicate the theoretical distinction between biopower and sovereign power put forward, albeit not without hesitations, by Foucault but contested by other authors such as Agamben, while offering an interesting standpoint from which to reconsider the question of sovereignty and its interrelationship to biopower.

Keywords: biopower, state racism, state killing, sovereignty

The term "biopower" was first used by Foucault in the last of his *Collège de France* lectures of 1975-6, *Society Must Be Defended*.¹ With this term, Foucault means governments' ability to regulate and control subjects – or to be more precise "populations" – by optimising the productivity of their lives in terms of improving their health, welfare and labour productivity through a number of technologies or mechanisms of power. Contrary to sovereign power, which is based on the sovereign's ability to kill, biopower is defined by Foucault as "the right to 'make' live and to 'let' die."²

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¹ In Britain, the major source for Foucault's notion of biopower before the publication of *Society Must Be Defended*, *Lectures at the Collège de France 1975-1976*, edited by Mauro Bertani and Alessandro Fontana and translated by David Macey (London: Penguin Books, 2003) and, more recently, *Security, Territory, Population. Lectures at the Collège de France, 1977-1978* (Basingstoke: Palgrave, 2008) and *The Birth of Biopolitics, Lectures at the Collège de France, 1978-1979* (Basingstoke: Palgrave, 2008), both edited by Michel Senellart and translated by Graham Burchell, had been *The Will To Knowledge* (1978) [1976], originally published as Michel Foucault, *The History of Sexuality: Volume 1, An Introduction* (Harmondsworth: Penguin Books, 1981).

² Foucault, *Society Must Be Defended*, 241.

Through a dissection of Foucault's understanding of biopower in this article I will bring into focus some of Foucault's own, as well as my own, perplexities in relation to his notion of biopower as substituting *versus* complementing sovereign power. More specifically, after dissecting Foucault's notion of biopolitics, I will focus on Foucault's latter work, *Society Must Be Defended*, which, I, in line with Montag, believe that as "a work in transition" allows a better understanding of the opposing interpretations of Foucault's notion of biopolitics.³ My aim here, however, is not to simply map out internal inconsistencies or what I prefer to define as moments of hesitation, in Foucault's work. Instead, the central goal of the article is to critically and productively engage Foucault's thinking on biopolitics and sovereign power, also drawing on other authors' insights, to help to clarify what is at stake in these debates: the place of sovereignty in the contemporary biopolitical context. The article consists of three main sections.

The first section will be mainly expository and will be dedicated to analysing Foucault's notion of biopower closely, explaining what Foucault means by the term and on what basis he differentiates it from sovereign power. In this section I will also go through the distinction that Foucault makes between biopower and biopolitics, also briefly focusing on how other theorists, in particular Hardt and Negri, have made this distinction central to their own work. This will make evident some of the different uses of the terms biopower and biopolitics, as well as highlight certain limitations related to a too broad use in the awareness, however, that broader questions cannot be completely evaded.

My own penchant for a use of biopolitics that, while being attentive to mechanisms of sub-power, also takes into account broader questions about how biopolitics and sovereign power are interrelated and draw on each other to sustain themselves will become evident in the third and final section. The state as understood in terms of ensemble of relations but also as driven by a decisionist logic remains central to my understanding.⁴ My argument is that, although Foucault is correct to suggest that power is not reducible to an idea of it as top-down domination, disciplinary apparatuses and biopolitical mechanisms do not "replace" sovereignist forms of power which, as Foucault himself notices, in actual fact continue and take on new forms in the contemporary context.

Faced with Nazism, Foucault is forced to return to the question of sovereignty and to recognise that far from being undoable; "the play between the sovereign right to kill and biopower" persists in contemporary societies and is in reality part of "the workings of all States."⁵ State racism is that which helps him to address the unresolved question of its persistence in societies dominated by biopolitical technologies. All of this will be discussed in section 2. In this section, Foucault's take on state racism will also be compared to Agamben's brief discussion of the same to highlight the originality and usefulness of Foucault's approach to an appraisal of contemporary forms of racism.

As previously mentioned, however, it is in the third and final section that my own interpretation of the relationship between biopower and sovereign power, which finds its

³ S. Montag, "Towards a Conception of Racism without Race: Foucault and Contemporary Bio-politics", *Pli: The Warwick Journal of Philosophy*, vol. 13 (2002).

⁴ Foucault's idea of the state as ensemble of relations is developed further by, for instance, Bob Jessop and Thomas Lemke.

⁵ Foucault, *Society Must Be Defended*, 261.

basis but is more complicated in Foucault's thinking than some readings allow, will be fully expanded. In this section, I will, further question whether Foucault provides a fully satisfactory answer to the problem of sovereign power by returning to certain Agambenian intuitions. These insights, although also not entirely satisfying, help to bridge the gap between an understanding of (bio)power as simply reducible to sovereign power and one which dismisses the question of (state) sovereignty altogether. Agamben is chosen as the author who has not only made biopolitics a central theme of his own work but, as we shall see, has done so in a way that challenges, while not necessarily contradicting, Foucault's formulation.⁶

The article will conclude by arguing about the necessity and importance of continuing to pose the question of the relation between biopower and sovereign power at any given time, including and especially, in the contemporary context.

Biopower

Foucault's genealogical critique does not attempt to deny the importance of sovereignty as "a problem." However, instead of treating the problem of sovereignty as "the central problem of right in Western societies," through his concepts of "disciplinary power" first and "biopower" later, Foucault attempts to move away from classical interpretations of power as top-down domination. According to Foucault, both "disciplinary power" and "biopower" are different types of power that cannot be explained in terms of sovereignty. The theory of sovereignty, he argues, dates back to the Middle Ages – from the reactivation of Roman law. However, whatever the reasons for utilising this theory in the past, in modern times, sovereignty, as a general category of the nation or of the people, is not sufficient to explain how technologies of power, which are no longer presented exclusively in terms of legality and sovereignty, function in modern societies.⁷ This is because, on the one hand, power works in different ways than it did before. For Foucault, biopower works by regulating and controlling populations that "may or may not be territorialised upon the nation, society or pre-given communities."⁸ On the other hand, Foucault suggests that the theory of sovereignty neglects to address how power is embodied in a number of "local, regional, and material institutions" rather than in a central figure such as the state. Specifically, Foucault argues that it fails to account for how modern mechanisms of power associated with systems of governance work at the local, micro and lowest level "to exclude the mad," "control infantile sexuality" and "control, punish and reform the delinquent," among other groups of people.⁹ He says,

[I]t is as though power, which used to have sovereignty as its modality or organising schema, found itself unable to govern the economic and political body of society that was

⁶ As Anke Snoek says "Agamben's contribution is not meant as criticism, although it sometimes radically changes Foucault's concepts" (Anke Snoek, "Agamben's Foucault: An overview", *Foucault Studies*, no.10 (2010), 44-67). Agamben himself talks about a line of thinking that "seems to be logically implicit in Foucault's work" (Giorgio Agamben, *Home Sacer: Sovereign Power and Bare life*, edited and translated by Daniel Heller-Roazen (Stanford: Stanford University Press, 1988)).

⁷ Foucault, *Society Must Be Defended*, 34, 26, 27.

⁸ Paul Rabinow and Nikolas Rose, "Biopower Today", *BioSocieties*, vol. 1 (2006), 197.

⁹ Foucault, *Society Must Be Defended*, 27, and 33.

undergoing both a demographic explosion and industrialisation. So much so that far too many things were escaping the old mechanism of the power of sovereignty.¹⁰

Foucault's questioning of sovereign power is both historical (based on the problematisation of its past uses) and methodological (based on a choice of how to investigate it) and based on his hostility toward state-centred analyses or fixations on the state as site of oppression and/or struggle and liberation. He argues that power is never simply a matter of intentions or decisions or "a phenomenon of mass and homogeneous domination," but it circulates in networks and individuals "are in a position to both submit and exercise this power."¹¹ As the editors of *Society Must Be Defended* say, it is difficult to know which works exactly Foucault is referring to here because no references are given in the book. However, given that Foucault criticises these elsewhere, I infer that Foucault's reference and opposition is probably some tenets of Marxism, especially Marxist-Leninist theories of the state as instrument of class domination.¹²

In *The History of Sexuality, Vol. 1*, Foucault further offers a bipolar diagram of power whereby "biopolitics"¹³ comes to be conceived as one of the poles of "biopower," the other being "discipline."¹⁴ More specifically, he distinguishes between two mechanisms of power. On the one hand, there is "disciplinary power" ("an *anatomo-politics of the human body*"), whose emergence he traces back to the seventeenth century and the beginning of the eighteenth, and whose primary application concerns the individual human body. On the other, there is "biopower" ("a *biopolitics of the population*"), which, in his words, "is not applied to man-as-body but to the living being; ultimately, if you like, to man-as-species."¹⁵ Biopower emerged during the second half of the eighteenth century in Europe at the same time as biology emerged as a discipline, which redefines the human in biological terms.¹⁶ It is at that time that biopower started to "dovetail into, integrate, modify to some extent, and above all, use by sort

¹⁰ Ibid., 249.

¹¹ Ibid., 28, and 29.

¹² For an understanding of the complicated relation of Foucault to Marxism, see, for example, Warren Montag, "The Soul is the Prison of the Body: Althusser and Foucault 1970-1975", *Yale French Studies*, (Fall, 1995); and Montag "Towards a Conception of Racism without Race"; Olssen, "Foucault and Marxism: Rewriting the theory of historical materialism", *Policy Futures in Education*, vol. 2 (2004), 454-482; Étienne Balibar, "Foucault and Marx: The question of nominalism", in Armstrong, Timothy J. (ed.), *Michel Foucault philosopher* (New York: Routledge, 1992), 38-56.

¹³ Foucault did not coin the term "biopolitics". As Esposito points out, the Swiss political scientist Rudolph Kjellen first introduced it in 1911. Roberto Esposito, *BIOS, Biopolitica e Filosofia* (Torino: Einaudi, 2004), 3-16.

¹⁴ Michel Foucault, *The History of Sexuality*. See also Paul Rabinow and Nikolas Rose, "Thoughts on the Concept of Biopower Today", *Conference paper, Vital Politics*, London 2 (5-7 September, 2003).

¹⁵ Foucault, *Society Must Be Defended*, 42.

¹⁶ The centrality of Europe to Foucault's notion of biopolitics is evident. However, some authors have criticised this centrality, as well as pointing out that colonial power tends to rely on its own forms of oppression and reproduction. See, for example, Ann Laura Stoler, *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things* (Durham: Duke University Press, 1995); John Solomon, "Saving 'Population' From Governmentality" in Allain Brossat, et.al. (eds), *Biopolitics, Ethics and Subjectivation* (Paris: L'Harmattan, 2011), 198. Partha Chatterjee, *The Nation and its Fragments: Colonial and Postcolonial Histories* (Princeton University Press, 1993). David Scott, "Colonial Governmentality", *Social Text*, vol. 43 (1995), 191-220.

of infiltrating, embedding itself in existing disciplinary techniques.”¹⁷ Put differently, according to Foucault, this new technology of power, centred on regulatory control, is superimposed onto disciplinary mechanisms to deal with populations as such and not just with individual bodies. It is interesting to note that at this point Foucault also appears to distinguish between “biopower” and “biopolitics,” wherein the former is a broader term that encompasses both biopolitics and discipline, whilst the latter term refers to “the constitution and incorporation of the population as a new subject of governance.”¹⁸ Some theorists, however, have suggested that this distinction is not of paramount importance for Foucault on the basis that at other times he uses the terms interchangeably.¹⁹ Others instead insist that this distinction is fundamental to understand the workings of power for Foucault.²⁰ While others still have taken it up and developed it in original, but not always faithful, ways.²¹

Hardt and Negri, for example, give biopower a negative connotation, whilst they employ the concept of biopolitics to demarcate a more generalised idea about contemporary capitalist societies today. Specifically, for them biopolitics delineates a new era of capitalist production, namely the era of Empire or of real subsumption, and assumes a more positive valance if considered in relation to the possibilities of resistance brought about by the interplay between biopower and capitalism. For Hardt and Negri, in fact, the relation between biopower and capitalism is paramount and one which, they argue, Foucault explicitly links “in several works,” but fails to develop systematically.²² The reasons why Foucault does not are in reality multiple and quite complex. In my opinion, one is surely linked to his belief that, although biopower is concerned with raising productivity, thus, “an indispensable element in the development of capitalism,” it is not reducible to it.²³ Furthermore, as Jessop notes, Foucault is fully aware that “capitalism has penetrated deeply into our existence”²⁴ but when he “introduces the logic of capitalism, he does not ground it in a detailed account of the social relations of production” because he is interested in exposing transferable techniques and/or technologies for the conduct of conduct.²⁵ His main focus is on governmentality, the history of

¹⁷ Foucault, *Society Must Be Defended*, 242.

¹⁸ Catherine Mills, “Biopolitics, Eugenics, and Nihilism”, in Matthew Calarco and Steven DeCaroli (eds. and trans.), *Giorgio Agamben: Sovereignty & Life* (Stanford University Press: California, 2007), 273n4.

¹⁹ Although this might seem as a simplistic reading, it is not uncommon. See, for instance, Clare O’Farell, *Michael Foucault* (London: Sage, 2005), 105; Kevin Stenson, “Surveillance and Sovereignty” in Mathieu Deflem (ed), *Surveillance and Governance* (UK: Emerald Group Publishing Limited, 2008), 289 among others. Mills herself maintains that even though Foucault makes this distinction, “he does not rigorously maintain it”

(Mills, Biopolitics, Eugenics, and Nihilism).

²⁰ Paul Rabinow and Nikolas Rose, “Thoughts on the concept of biopower today”; Timothy C. Campbell, *Improper Life: Technology and Biopolitics from Heidegger to Agamben* (Minneapolis: University of Minnesota Press, 2011).

²¹ See, for example, Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard, 2000); Maurizio Lazzarato, “From Biopower to Biopolitics”, *Pli: The Warwick Journal of Philosophy*, vol. 13 (2002), 100–112.

²² Hardt and Negri, *Empire*, 27.

²³ Foucault, *The History of Sexuality*, 141.

²⁴ Foucault, *The Birth of Biopolitics*, 32. Also quoted in Bob Jessop, *State Power* (Cambridge: Polity Press).

²⁵ Bob Jessop, “Constituting Another Foucault Effect. Foucault on States and Statecraft”, in Ulrich Bröckling, Susanne Krasmann & Thomas Lemke (eds.), *Governmentality: Current Issues and Future Challenges* (New York: Routledge, 2010), 70n6.

liberalism and neoliberalism. On the other hand, in a more Marxist vein, albeit one that attempts to go beyond classical Marxist theories of imperialism,²⁶ as well as Marxist emphasis on labour as a “form-giving activity,”²⁷ Hardt and Negri are very much concerned with capitalism and “the informational mode of production,” as they call it. They are concerned with the logic of capitalism as a globalising system of rule whose (bio)power extends to all of those who work under it.

In brief, they assert that the centre of production and privileged location for the extraction of surplus value is no longer the factory but society as a whole.²⁸ This has produced a situation of real (as opposed to formal) subsumption (or total domination of capital), which in turn, however, also means that life is not only the object of capitalist biopower but “comes to constitute the terrain where counter-powers and forms of resistance are formed and moulded.”²⁹ No longer based (solely) on traditional forms of struggle, namely working class struggle – for them it seems that these forms of struggle have become somewhat redundant – we have the emergence of new forms of resistance based on the power of what they call “the multitude.”³⁰ By multitude, they mean, in a very inclusive way, all of those who by working under the rule of capital have the potential of refusing its rules and resisting its domination.³¹ According to Hardt and Negri, “life” or “creativity” in the form of living labour is captured “in the mesh of capitalism valorisation,” becoming the object of expropriation and domination. But it is also that which can free itself or resist this mode of capture because it is irreducible to the control that tries to subdue³² and create the condition for a more positive outlook of biopolitics.³³ It is because of their trust in the autonomous, creative power of the multitude that Hardt and Negri are able to offer a periodisation which seeks to account for what the authors consider “a qualitative break with Marx’s time and ours,” while retaining some of the insights

²⁶ The literature on imperialism is unsurprisingly enormous. For a critical survey of Marxist theories of “imperialism”, see Anthony Brewer, *Marxist Theories of Imperialism, A Critical Survey* (London and New York: Routledge, 2001).

²⁷ This is Sean Sayer's term. See Sean Sayer, “The Concept of Labor: Marx and His Critics”, *Science & Society*, vol. 71, no. 4 (2007), 431–454.

²⁸ In particular, see Negri’s notion of the “diffuse factory” or the “factory without walls” (Antonio Negri, *The Politics of Subversion: A Manifest for the Twenty First Century* (Cambridge: Polity Press, 1997), 204). And here we understand exactly why for Negri (and Hardt) Foucault’s biopower becomes important. It brings attention to “life” as the new, privileged object of expropriation and exploitation (although how “new” this really is, is open to questions).

²⁹ Thomas Lemke, “Biopolitics and beyond. On the reception of a vital Foucauldian notion”, *Biopolitica.cl* (2011), 4. Online Article. Available at: http://www.biopolitica.cl/docs/Biopolitics_and_beyond.pdf

³⁰ The Spinozian concept of the multitude has been amply commented upon and criticised from many perspectives. For critical, more orthodox Marxist takes on this issue see, for example, Alex Callinicos, *The Resources of Critique* (Cambridge: Polity Press, 2006), 145-146; the essays by Leo Panitch and Sam Gindin, Ellen Meiksins Wood, and again Callinicos, in Gopal Balakrishnan and Stanley Aronowitz (eds) *Debating Empire*, (UK: Verso, 2003). See also Mike Davis, *Planet of Slums* (London: Verso, 2006) for a salutary reminder of the concrete difficulties facing the urban poor in their great diversity settings.

³¹ Hardt and Negri, *Empire*, 129.

³² Antonio Negri, “On Rem Koolhaas”, *Radical Philosophy* 154, and 49.

³³ Michel Hardt and Antonio Negri, *Multitude: War and Democracy in the Age of Empire* (New York: Penguin Press, 2004), 106.

provided by Foucault through his concept of biopower. In their account, biopolitical production or resistance *precedes* the (bio)power of capital to dominate and subjugate life.

However, how congruent their conceptualizations and specific periodisation are with that of Foucault (or incidentally with Marx) is, as some have indicated, an open question and one that ultimately exceeds the scope of this paper.³⁴ Suffice to say here that: 1) in Foucault's work there is no clear sense of biopower and biopolitics assuming a positive valence; even as we accept that for Foucault power is "positive" in the sense of productive. 2) For Foucault "[w]here there is power there is resistance,"³⁵ but whether this means that resistance precedes power as Hardt and Negri affirm is not so clear-cut,³⁶ and 3) the way Hardt and Negri use the term biopolitics is very broad and, as Toscano says, because of its all-encompassing dimension, Hardt and Negri's biopolitics risks ignoring the capillary and subjectifying mechanisms of biopolitical "sub-power."³⁷

For Foucault, biopower takes as its object "the entire domain of human life."³⁸ But it works in a capillary, preventive fashion, dealing with a multiplicity of aleatory and often unpredictable phenomena. Among these Foucault mentions: all phenomena related to "birth-control," "problems of morbidity," not so much epidemics but "endemics" or illnesses that are routinely prevalent in a particular population, "public hygiene," "problems of reproduction," the problems of "old age," "accidents" and "the effects of the environment."³⁹ Biopower is thus not just about disciplining individuals through regulative mechanisms as in disciplinary power. It is not only about turning men into subjects of labour – an idea which as Jason Read notes, Foucault sometimes develops as a critique and at other times attributes to Marx.⁴⁰ It is about using "overall [security] mechanisms and acting in such a way as to achieve an overall equilibrium or regularity."⁴¹ Biopower works at the level of generality (or at the level of populations) with the aim of identifying abnormalities, risk groups, and potential risk factors

³⁴ For a thoroughly negative answer, which rejects Hardt and Negri's notion of Empire *tout court*, see Rabinow and Rose, "Thoughts on the concept of biopower today". For more sympathetic, but no less effective critiques see Alberto Toscano, "Always Already Only Now: Negri and the Biopolitical" in Murphy, S. T. and Mustapha, A-K (eds.), *The Philosophy of Antonio Negri, vol. 2: Lessons in Constitutive Power* (London: Pluto Press, 2007); Brynna Nelson Swenson, *The Corporate Form: Capital*, Thesis (PhD), ProQuest LLC (2008), 115: Brynna also criticises Hardt and Negri's conceptualisation of real subsumption for contradicting "both Marx's writing and Negri's [own] earlier works". See also Jason Read, "Genealogy of Homo-Economicus: Neoliberalism and the Production of Subjectivity", *Foucault Studies*, no. 6, (2009), 25-36.

³⁵ Foucault, *The History of Sexuality*, 95.

³⁶ For a counter-view see Lee Quinby, "Taking the Millennialist Pulse of Empire's Multitude: A Genealogical Feminist Diagnosis", in Paul Andrew Passavant and Jody Dean (eds.), *The Empire new clothes: Reading of Hardt and Negri* (Great Britain: Routledge, 2007), 247.

³⁷ Alberto Toscano, "Always Already Only Now: Negri and the Biopolitical". Note, however, that this is a claim that can also be made against Agamben's use of the term. On this see again the aforementioned work by Toscano, but also Mathew Coleman and Kevin Grove, "Biopolitics, Biopower and the Return of Sovereignty", *Environment and Planning D: Society and Space*, no. 27 (2009), 489-507.

³⁸ Sergei Prozorov, "The Unrequited Love of Power: Biopolitical Investment and the Refusal of Care", *Foucault Studies*, no. 4 (2007), 53-77.

³⁹ Foucault, *Society Must Be Defended*, 243, 244, and 245.

⁴⁰ Read, "Genealogy of Homo-Economicus", 31, and n4.

⁴¹ Foucault, *Society Must Be Defended*, 246.

in order to prevent, contain, and manage them.⁴² Biopower, says Foucault, is “an explosion of numerous and diverse techniques for achieving the subjugations of bodies and the control of populations.”⁴³ In particular, Foucault discusses the use of statistics and probabilities. However, in line with Lemke we can add “indirect techniques for leading and controlling individuals without at the same time being responsible for them.”⁴⁴ Biopower relates to governments’ concern with fostering the life of the population by controlling all those factors that could put it at risk. It also works by trying to make individuals responsible for their own well-being. The aim of biopower increasingly becomes that of administering and mastering risk through preventive strategies of intervention, micro-mechanisms and tactics of power, which include “modes of subjectification through which individuals are brought to work on themselves.”⁴⁵ Unlike sovereignty’s old right (“to take life or to let live”), biopower’s aim is to preserve a healthy society through a multiplicity of technologies of power.

State Racism and the Unresolved Question of Sovereign Power

Nevertheless, despite Foucault wanting to move away from sovereign power, he is forced to return to it. He has to return to it in order to address the question – a question that happens to be not fully answerable within his own genealogical framework or at least to create problems for it – of how killing on a massive scale is still possible in a society dominated by technologies of biopower. Foucault is referring to 1930’s Germany specifically but, as we will see later, his argument is not simply reducible to it. He specifically asks,

How is it possible for a political power to kill, to call for deaths, to demand deaths, to give the order to kill, and to expose not only its enemies but its own citizens to the risk of death? Given that this power’s objective is to essentially make live, how can it let die.⁴⁶

His provocative answer is that *racism* makes sovereignty’s old right “to take life or let live” possible within the field of governmentality in contemporary societies. State racism is what makes killing on a massive scale possible today. According to him, racism is what provides the modern state, and in particular the Nazi state, with the “right” to kill with impunity by creating a caesura between what must live and what must die.

This is key, not only because racism provides an answer, however partial, to the problem of sovereign power, and more specifically to that of its persistence. Far from having been replaced, sovereign power persists and takes on new forms. But it is important because it alerts us to a fundamental dimension of power – what we could define as “the racial dimension” – which is left under-theorised by contemporary theorists, such as Giorgio

⁴² Nicholas Rose, *Powers of Freedom: Reframing Political Thought* (Cambridge University Press, 1999), 235.

⁴³ Foucault, *History of Sexuality*, 140; Foucault, *Society Must be Defended*, 242.

⁴⁴ Thomas Lemke, “The birth of bio-politics: Michel Foucault’s lecture at the College de France on neo-liberal Governmentality”, *Economy and Society*, vol. 30, no. 2 (2001), 201. Foucault later adds political economy to the list, which, in his words, constitutes a science that analyses “the production of collective interest through the play of desire” (Foucault, *Security, Territory, Population*, 72).

⁴⁵ This also relates to Foucault’s notion of “self-care” (Lemke, “The birth of bio-politics”). See Paul Rabinow and Nikolas Rose, “Biopower Today”, *BioSocieties*, vol. 1, no. 2 (2006), 197; 195- 218; and again Read, “Genealogy of Homo-Economicus”.

⁴⁶ Foucault, *Society Must be Defended*, 254.

Agamben, who through their work have produced a renewed interest “in Foucault’s work in the English-speaking world” and in the question of sovereignty itself. In particular, Golder attributes the renewed interests in Foucault to: 1) the translation into English of *Society Must Be Defended*; 2) “a confluence of certain political and historical events [such as proclamation of the war on terror];” 3) “the influence of contemporary philosophers who have continued, extended or adapted Foucault’s biopolitical analysis.”⁴⁷ Golder cites Giorgio Agamben as, perhaps, the most important. We will return to Agamben and in particular to his conceptualisation of sovereign power later in order to make evident some of the oscillations with Foucault’s own formulation. But let’s now briefly see how Agamben does discuss the issue of racism in an interesting short paper, titled “Movement,” where he directly tackles this question in relation to Schmitt’s articulation of the Nazis Reich as exposed in his 1933 essay “State, Movement, People,” albeit in a way that leaves many questions open.⁴⁸ In what follows, Agamben’s understanding of racism as put forward in this paper will be critically presented and questions will be raised about his dismissal of race as key concept. Later we will introduce Foucault’s more subtle, although again not exhaustive, discussion.

In brief, Agamben’s argument – an argument that attempts to address the question of what the term movement means and how best to define it – is that Schmitt’s understanding of movement alerts us to the perils of thinking the movement a-critically; as external or autonomous in relation to the people.⁴⁹ Agamben argues that for Schmitt, the movement is paramount. It is the truly autonomous, political element that “finds its specific form in the relation with the National Socialist Party and its direction.”⁵⁰ For Schmitt, the movement acts as the linking element between the people (i.e., the German people) and the State. According to Agamben, however, although Schmitt has ultimately the merits of bringing attention to the process of politicisation of the movement, what he does not say is that the movement is originally non-political. To politicize itself the movement needs “a People” with which to identify and “a people” from which to separate itself.⁵¹ In Agamben’s words, the movement “can only find its own being political by assigning to the un-political body of the people an internal caesura.”⁵² It is though this caesura – or by deciding what constitutes the friend and thus at the same time the enemy – that the movement can politicize itself or become political. In Schmitt, the internal caesura that allowed for the politicization of the movement took an obvious racist form. Schmitt’s equation of the sovereign with the Führer, and the friend with the race is notorious. Schmitt says that “‘friend’ is originally only the person to whom genealogical bounds unite,” implying that the enemy is always and necessarily foreign and

⁴⁷ Ben Golder, “Review of Biopolitics and Racism”, *Foucault Studies*, no. 3 (2005), 122.

⁴⁸ Giorgio Agamben, “Movement”, *Uni.Nomade*, Seminar War and Democracy (2005). Available at <http://www.egs.edu/faculty/giorgio-agamben/articles/movement/>; Carl Schmitt, *State, Movement, People: the triadic structure of the political unity, 1933; The question of legality, 1950*, edited and translated by Simona Draghici (US: Plutarch Press, 2001).

⁴⁹ In his usual, emphatic style, Agamben argues that despite many before and after him using the term, “the only person who tried to define this term was a Nazi jurist: Carl Schmitt” (Agamben, “Movement”).

⁵⁰ Ibid.

⁵¹ See also Agamben’s discussion of the term people in *Means Without Ends: Notes on Politics*, edited and translated by Vincenzo Binetti and Cesare Casarino (Minneapolis: University of Minnesota Press, 2000), 32 and of constituting *versus* constituted power in Agamben, *Homo Sacer*, 31.

⁵² Agamben, *Movement*.

other, even as its specific identification at any given time depends on an arbitrary sovereign decision.⁵³ To this extent, authors like Ojakangas are only partially correct to suggest that “there exists no a priori criteria” for deciding who the enemy is.⁵⁴ As Agamben says, in Schmitt it is the “equality of the lineage” that becomes “the [implicit] criterion that, in separating what is foreign from what is equal, decides at each turn who is friend and who is enemy.”⁵⁵ In other words, for Schmitt, the line separating friends and enemies is never “colour blind.” Schmitt talks about the Identity of the Race.⁵⁶

Today, however, Agamben argues, the caesura can be racial as well as “a function of the management or government of the un-political element which is the population, the biological body of the humankind and the peoples that need governing.”⁵⁷ But what does it mean to argue that today’s caesura can still take a racial form or the form of management or government? Is this development a consequence of the different characteristics/forms that the state takes in contemporary societies? Apart from thinking of it as an increasingly endemic principle of social organisation, how does Agamben understand management or government? These are questions that Agamben does not address here. It seems that in this article Agamben moves to another direction altogether, stressing the centrality and primacy of the movement itself. It is the movement in its relation to the sovereign in the figure of the state, where any forms of mediation between the two is displaced, that is the decisive element. In this analysis, the movement comes to coincide with the sovereign, that is to say, the movement is the one that decides.⁵⁸ This disquisition on the movement is continued in a threshold to his *The Reign and the Glory* where Agamben also explicitly tackles the question of management (*oikonomia*) and, in particular, of its (Christian) prehistory. In the book, Agamben explores how theological or trinitarian *oikonomia* is central to an understanding of both sovereign power and government; where however it is on the latter that Agamben focuses his attention this time. As we will see in a moment, his previous works instead centred on sovereign power and its relation to biopolitics. But in *The Reign and the Glory*, he says, “the foundation [l’origine] of politics is not sovereignty, but government, it is not the king, but the minister, it is not the law, but the police while ‘the modern state’ is that which takes upon itself this ‘double structure of the governmental machine.’”⁵⁹ In other words, the state remains important but in no longer central. However, this does not only seem to conflict with his previous formulation as indicating “a much more fundamental theoretical demonstration of the intimacy between each

⁵³ Schmitt, *Concept of the Political*, 104.

⁵⁴ Mika Ojakangas “A terrifying world without an exterior: Carl Schmitt and the metaphysics of international (dis)order”, in Louiza Odysseos and Fabio Petito (eds.), *The International Political Thought of Carl Schmitt: Terror, Liberal War and the crisis of global order* (New York: Routledge, 2007), 212.

⁵⁵ Agamben, *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government*, translated by L. Chiesa and M. Mandarini (Stanford: Stanford University Press, 2011), 76.

⁵⁶ Tellingly, Schmitt titled the fourth section of his “Movement, State People” essay, *The Principle of Leadership [Führerprinzip] and the Identity of the Race: Fundamental Concepts of National-Socialist Right*, Carl Smith, *State, Movement, People: The Triadic Structure of the Political Unity*, edited and translated by Simona Draghici (Plutarch Press, 2001).

⁵⁷ Agamben, *Movement*.

⁵⁸ However, as plausible as this seems to be in the Nazi case, it appears less persuasive as a generalisable principle.

⁵⁹ Agamben, *The Kingdom and the Glory*, 303, and 159.

side of the figure of power.”⁶⁰ But again, it does not really address the question of the relation between governmental practices and racism in contemporary societies and still leaves a question open as to why today’s caesura (can) take(s) a managerial form (as opposed to a racist one?). As authors such as Traverso and Bahuman have suggested, the Nazi regime was also not simply racist but already based on a specific form of governing in which impersonal bureaucratisation and managerial polices, as well as racism, played a cardinal role.⁶¹ According to Traverso, “Auschwitz was modelled throughout on the Taylorist principle of productive rationality, with death as the end product of a ‘rational’ processing of raw material – deported Jews.”⁶² From this it follows that these two forms – the Nazi’s form and today’s managerial form – have much more in common than generally thought and cannot be understood as neatly opposable (even though in my view it would be mistaken to simply superimpose them). As we will see later, this reading appears to find supporting evidences in both Foucault and Agamben. In particular, through his understanding of sovereignty as always and already biopolitical, Agamben implies that these two forms are compatible, if not exactly the same. However, precisely how today’s managerial caesura relates to racism is left unanswered in Agamben.

Even though Foucault does not answer this question directly, nor, as we shall see in more details later, does his account fully resolve the tensions that exist between sovereign power and biopower, his conceptualisation does provide a rather original and instructive understanding of racism, which can and has been extended to today’s state practices. In particular, Foucault starts from an analysis of “race war,” or war between what were regarded as irreducible distinct races in the seventeenth-century, as furnishing the model for the notion of “class war,” and moves toward an idea of modern racism as that which “makes killing acceptable”⁶³ He says that racism is “a way of introducing a break into the domain of life that is under power’s control: the break within what must live and what must die.”⁶⁴ By this, Foucault means two things. First, that it is through racism that ‘the hierarchy of races, the fact that certain races are described as good and that others, in contrast, are described as inferior’ is established; that the absolute worth of certain groups within a population and the complete insignificance of others is decided. Second, that racism renders killing, which for Foucault is sovereign power’s basic function, possible and acceptable because it works in a way that makes

⁶⁰ Dillon, Governmentality “Meets Theology: ‘The King Reigns, but He Does Not Govern,’” *Theory Culture and Society*, vol. 29, no. 3, (2012), 152. Although extremely interesting in terms of bringing new light into Agamben’s project, as Negri says, *The Kingdom and the Glory* moves away from the analysis of the nature of sovereignty (or political theology from which, according to Agamben, sovereignty derives), focusing instead on *oekonomia* or art of government (or economic theology) and on the spectacle of political glory (Antonio Negri, “Sovereignty: That Devine Ministry of the Affairs of Early Life”, *JCRT*, vol. 9.1, no 96 (2008)). In *The Kingdom and the Glory* what we are presented with is a different periodisation of biopolitics; one which is perhaps more in line with that of Foucault but seems to conflict with the one offered by Agamben in previous books.

⁶¹ The industrialisation and bureaucratisation of mass murder is discussed, for example, by Enzo Traverso in his book *The Origins of Nazi Violence*, edited and translated by Janet Lloyd (New York: New Press, 2003). See also Zygmunt Bahuman, *Modernity and The Holocaust* (Ithaca: Cornell University Press, 1989).

⁶² Enzo Traverso, “Production Line Murder”, *Le Monde Diplomatique* (Febrary, 2005). Available at: <http://mondediplo.com/2005/02/15civildiso>

⁶³ Foucault, *Society Must be Defended*, 254.

⁶⁴ *Ibid.* 254.

it compatible with the exercise of biopower or with a governmental way of administering things. By declaring “[i]f you want to live, the other must die,” racism transforms the relationship of war (i.e., a relationship based on the destruction or annihilation of enemies) into a “biological-type relationship,” which renders the death of certain groups acceptable to the extent that, in Foucault’s words, it “will make life in general healthier: healthier and purer.”⁶⁵ More specifically, for Foucault, what makes racism function in a way that differs from how the relationship of war does is its treatment of political adversaries. “In the biopower system” or “economy of biopower,” where racism becomes inscribed as one of the basic mechanisms of power in the modern state, Foucault argues that enemies are no longer treated as political adversaries but as *threats* (and here Schmitt is clearly a very significant point of reference for him).⁶⁶ This, says Foucault, is what justifies the murderous function of the state in modern times. The state is no longer an instrument of one race against another, as it was in the struggle of “peoples.” But “a discourse against power is transformed in a discourse of power.”⁶⁷ He adds, racism is, quite literally, revolutionary discourse in an inverted form.

Now whether “race war” can simply be equated to “class war”, even if only in an inverted form, is in my view doubtful for reasons that I cannot explore in great detail, as this subject would require a separate paper.⁶⁸ However, what I would like to point out is that there is an ambiguity in Foucault’s discourse which could lead to what in my view is a problematic conceptual equation of totalitarianism with both Nazism and Stalinism – and in fact although Foucault never explicitly mentions “totalitarianism” in his discussions, he too ends up conflating the two. Foucault is surely correct to advert of the risks of a re-appropriation and inversion of a discourse against power by the state – an inversion that certainly did to an extent take place even within the context of the Soviet order. It is now acknowledged by most that the biologisation and dehumanisation of adversaries were not exclusively part of the Nazis’ strategy. Nevertheless, there seems to be a substantial difference between the two regimes that is ignored in this discourse. It could be argued that what in reality distinguishes Leninism first but also to an extent Stalinism later from Nazism is exactly their different construction of the enemy. Whilst the Nazis aspired to create a state freed from unwanted enemies – a racial state – Russia, to put it in Arendt’s words, attempted to “*organiz[e]* different peoples on the basis of national equity,” where the adversaries were principally political.⁶⁹ It is not by chance that the

⁶⁵ Ibid., 255.

⁶⁶ Ibid., 256, 254, and, 255.

⁶⁷ Thomas Lemke, *Biopolitics: An Advanced Introduction* (New York: New York University Press, 2011), 44.

⁶⁸ (Mis)quoting Marx (see Ian Wood, “‘Adelchi’ and ‘Attila’: the barbarians and the Risorgimento”, online paper. Available at: <http://www.colbud.hu/medievalism/medievalism41papers/Wood4.pdf>), Foucault observes the importance that Marx placed in the role played by French historians of the eighteenth and early nineteenth centuries in the developing notion of class struggle. However, in our view, it is more important what Marx (and Engels) did with this idea – how Marx developed it to account for the specific antagonism between bourgeoisie and proletariats – than where the notion originates. The attempt to decontextualise the notion of class struggle – an attempt also present in Agamben (see his discussion of class struggle as the struggle between “the people” and “The People” in Giorgio Agamben, “What is a People?”, 2004, online article. Available at: <http://www.16beavergroup.org/mtarchive/archives/00939.php>) but also in Marx himself (see Karl Marx and Friedrich Engels, *The Communist Manifesto*, New York: Russell & Russel, 1963) – is problematic for it takes away from the specificity of capitalism.

⁶⁹ Hannah Arendt quoted in Domenico Losurdo, “Towards a Critique of the Category of Totalitarianism”, *Historical Materialism*, vol. 12, issue 2 (2004), 32. For a similar line of reasoning, see Enzo Traverso,

idea of *Herrenvolk* or “white supremacy” was attacked during the October Revolution by calling “the ‘slaves in the colonies’ to break their fetters.”⁷⁰ This does not deny that “terror, deportations and mass executions,” took place during the Soviet regime, but casts doubts on a too easy, although not particularly original, equation between Nazism and Stalinism or, according to some, fascism and communism, which as Kershaw suggests is surely “legitimate, but has limited potential.”⁷¹

Nevertheless, despite the limited usefulness of equating the Soviet and the Nazi regimes, Foucault is indeed correct to say that (all) states tend to seek legitimation for their murderous practices by using racist discourses. By dehumanising their adversaries, one has only to think of how today’s so-called terrorists are described, they create the conditions for policies that would otherwise be very difficult to accept. Racism serves the state a twofold purpose: affirming its sovereignty, whilst disabling that of those it perceives as threats. By acting as the protector of the “integrity, the superiority, and the purity of the race,” the state uses racism “to protect its sovereignty via medical normalization” and (in the case of the Nazi state) “via eugenics”⁷² and to extend the security discourse to everything that threatens society. To this extent, it is difficult to see how “the destruction of hierarchies and separations,” which Ojakangas identifies, in our view, simplistically with the aim of biopower, can be practically achieved in the present.⁷³ The construction of security threats, differentiated by their degree of dangerousness, is essential to the modern state. It is that which allows the state to present itself as capable of protecting populations both within and outside its borders, permitting in a sense its survival in an age where processes of globalisation have displaced, although by no means exhausted, many of the state’s primary functions. As argued elsewhere,⁷⁴ accounts that suggest that processes of globalisation, including securitisation processes and those related to neoliberal governmentality, undermine the capacity of states to decide are not completely misguided. But they certainly are deficient. They are unable to appreciate, on the one hand, the extremely potent functions of (some) states, which far from being passive have been shown to actively participate in these processes by, for instance, supporting financial institutions.⁷⁵ On the other hand, they miss that the state in effect never was all-powerful and all-encompassing.

Understanding The Nazi Genocide: Marxism After Auschwitz (London: Pluto Press, 1999). For a counter-Foucauldian view, see Prozorov, “The Unrequited Love of Power”.

⁷⁰ Losurdo, “Toward a Critique of the Category of Totalitarianism”, 50.

⁷¹ Ian Kershaw quoted in Enzo Traverso, *Understanding the Nazi Genocide: Marxism After Auschwitz* (London: Pluto Press, 1999), 69; see also Daniel Bensaïd, “On a Recent Book by John Holloway”, *Historical Materialism*, vol .13, no. 4 (2005). The equation between Nazism and Stalinism or fascism and communism under the auspices of totalitarianism has been made by many renewed authors among which is worth remembering Karl Popper, Hanna Arendt, François Furet and Ernst Nolte, and Jacop Talmon.

⁷² John Protevi, “‘War,’” in Leonard Lawlor and John Nale (eds.), *The Cambridge Foucault Lexicon* (Cambridge: Cambridge University Press, forthcoming).

⁷³ Mika Ojakangas, “Impossible Dialogue on Biopower: Agamben and Foucault”, *Foucault Studies*, no. 2 (2005), 5-28. Whether the elimination of not so much hierarchies but of all distinctions is to be welcomed is beside the point. Biopower also produces hierarchies and separations of its own.

⁷⁴ Elisa Fiaccadori, *Between the Exception and Biopolitical Security: A Critical Discourse Analysis of US and EU Securitization Strategies Post -9/11*, Thesis (PhD) (Goldsmiths University of London, 2012).

⁷⁵ David Harvey, *The New Imperialism* (Oxford: Oxford University Press, 2003); see also James Petras and Henry Veltmeyer, *Globalisation Unmasked: Imperialism in the 21st Century* (Nova Scotia: Fernwood Publishing Ltd, 2001).

As Thorup says, these claims often rely “on an exaggeration of the power of the modern state historically, where the [Weberian] theoretical definition as the legitimate and the effective monopoly of violence is taken to be an accurate description of its practices.”⁷⁶ This appears to both challenge Foucault’s idea of the state as losing control and confirm his view of it as one among other power relations; as a non-autonomous form of power.⁷⁷ As Foucault rightly suggests, the state is a complex form of power – Foucault refers to it as an effect (more on this below). But it is a form of power that nevertheless retains some very important functions. Protecting populations from external and internal threats has become one of the main functions of states today – or at least one of the main ways in which states try to legitimise themselves. As both Foucault and Agamben note, having lost (or delegated to others) many but crucially not all of their functions, states more and more make the controlling of population, together with the construction of security threats, their (main) paradigm of governing.⁷⁸ The war on terror, the modality with which it was/is thought and fought is testament of this.

This, that is to say the possibility of extending his discourse to contemporary warfare and securitisation of state practices, is in my opinion and as other others have suggested what makes Foucault’s understanding of state racism particularly appealing.⁷⁹ Foucault’s account of racism does not offer a clear specification of the meaning of “race.” Foucault suggests that “race is not pinned to a stable biological meaning,” implying that even as it is based on biologically defined traits or so-called genotypes-phenotypes race is ultimately a socially and historically constructed concept, thus, easily exploitable and amendable. His understanding can therefore help to elucidate some of the racialised dimensions of today’s warfare practices, especially with regard to how the “race” and/or the idea of *intrinsic* cultural differences might be used by powerful states to wage wars – from the war on terror to “humanitarian wars” – and “to make killing with impunity a customary practice of control.”⁸⁰ As authors such as Mark Kelly and Achille Mbembe suggest, Foucault’s conceptualization of “state racism” or “bio-racism” provides insights on how to comprehend the way in which states continue to use “race” as a technology; as a manner of deciding over the life and death of people. Both Kelly and Mbembe use Foucault’s notion of state racism to explain racialised aspects the war on terror. But Foucault’s take further helps explain state practices that exclude, criminalize, and dehumanize a set of people (e.g. terrorists, immigrants, refugees, Romani people etc.) because of their assumed cultural difference, at the same time as they create the myth of a complete

⁷⁶ Mikkel Thorup, *In Defence of Emnity – Critiques of Liberal Globalism*, Thesis (PhD) (University of Aarhus, 2006), 235.

⁷⁷ Foucault, *The Birth of Biopolitics*, 191-192; 77.

⁷⁸ See Agamben, “On security and Terror”, *Theory and Event*, vol. 5, no. 4, 2001. See also Foucault in *Security, Territory, Population*, 372-73, where he declares that while in the past “guaranteeing borders was the major function of the state”, today the “relationship of a state to the population is established essentially in the form of what could be called the ‘pact of security.’”

⁷⁹ See, for instance, Ben Golder, “Review of Eduardo Mendieta and Jeffrey Paris (eds.) ‘Biopolitics and Racism,’” *Foucault Studies*, no. 3 (2005), 121-126.

⁸⁰ Heike Härting, “Global Civil War and Post-colonial Studies”, (Institute on Globalisation and the Human Condition: Working Paper Series, 2006).

securitised or securitisable society.⁸¹ It is this same myth that helps the state to re-establish its authority and, as Luibhéid has argued in the context of Irish asylum seekers polices, remake racial and national boundaries that are no longer so secured and stable in the contemporary era.⁸² Of course, Foucault's notion of racism can also be extended to interpret and critique other (non)state discourses, such as the discourse on biotechnology for example; but it is really the question of state sovereignty that interests us here.

To this extent, it is crucial to note, that although Foucault does an excellent job in tracing the interaction between biopower and sovereignty in the twentieth century, as touched upon above, and as we will see in more details in a moment, his reflections on state racism open themselves up to some very thorny questions. These are questions that, I believe are crucial not so much for showing the limits of his theory but because they point to the difficulties of moving away from macro questions and in particular from the question of power as sovereign power. As Sheth says, no matter the nature of the division between what must be excluded and/or killed and what must be included, there must be some element that drives and initiates this division⁸³ In other words, according to Sheth, Schmitt's question of who decides remains central and Foucault's notion of state racism, it is fair to say, cannot be said to circumvent this question altogether. In fact, it indirectly answers it; even as the question itself is not posed. For Foucault, it appears that it is the state – as we have seen Foucault use the expression “state racism” – that decides the lines by which the division is made. Needless to say that for Foucault the state is not reducible to the figure of the sovereign. However, for Schmitt, “he who decides (on the state of exception)” is sovereign,⁸⁴ which brings us back exactly to where we started: the relation/tension between biopolitics and sovereign power on the one hand, and racism and biopolitics on the other. What does it mean to say that racism works in a way that is totally new and compatible with the exercise of biopower? What are the

⁸¹ Essential to the myth of a complete securitised or securitisable society is also the question of freedom; of “[h]ow should things circulate or not circulate?” (Michel Foucault, *The Birth of Biopolitics*, 64, and 63). There is no space to discuss this here. For an analysis see, for example, Didier Bigo, “Freedom and Speed in Enlarged Borderzones”, in Vicki Squire (ed.), *The Contested Politics of Mobility. Borderzones and Irregularity* (UK: Routledge, 2010), 31-50, and Claudia Aradau and Tobias Blanke, “Governing Circulation: a critique of the biopolitics of security” in Miguel de Larrinaga and Marc Doucet (eds.), *Security and Global Governmentality: Globalization, Power and the State* (Basingstoke: Palgrave, 2010), 44-58.

⁸² Eithne Luibhéid, “Childbearing against the state? Asylum seeker women in the Irish Republic”, *Women's Studies International Forum*, vol. 27, no. 4 (2004), 335-349.

⁸³ Sheth has a point when she suggests that neoracist strategies work less in terms of biological differences than by maintaining that cultural or religious differences are somehow “natural”. See Falguni, A. Sheth, *Toward a Political Philosophy of Race* (Albany: State University of New York Press, 2009). See also Étienne Balibar, “Is there a ‘Neo-Racism?’” in Étienne Balibar and Immanuel M. Wallerstein (eds.), and Chris Turner (trans.), *Race, Nation, Class: Ambiguous Identities* (London: Verso, 1991). However, in stressing other lines of separation than the biopolitical, Sheth risks conflating the biological with biopower when in reality biopower is “situated and exercised at the level of life” but always works on a clothed “life” or being; a “life” that is never pure zoë (or biological life) to use Agamben's terminology. An exception to this seems to be biotechnology; except that when it comes to its applications, biotechnological innovations too have to be applied on forms of life or species being.

⁸⁴ Carl Schmitt, *The Concept of the Political*, edited and translated by George Schwab (Chicago & London: The University of Chicago Press, 1996).

consequences of this conceptualization of racism for Foucault's understanding of the (non-) relation between biopower and sovereignty?

The Problem of Sovereign Power and of its Persistence

As previously outlined, the case that Foucault cites as an example of state racism – where we use “example” in the Agambenian sense of something that, because of its exemplarity, can teach us about the modern state in general is that of the Nazi regime. It was during the Nazi regime, Foucault argues, that state racism becomes first and foremost “biological racism,”⁸⁵ establishing an exact coincidence between the power to kill or sovereign power and biopower. He says:

The Nazi State makes the field of the life it manages, protects, guarantees, and cultivates in biological terms *absolutely coextensive* with sovereign right to kill anyone, but also its own people.⁸⁶

During the Nazi regime, race becomes the pivot around which the state came to exert its (bio-) power both in a sovereign and biopolitical (administrative, preventive) fashion. The Nazi State took up the theme of “State racism” and developed it “in the legend of warring races” for the biological protection of the German race⁸⁷ – what Schmitt calls “the identity of the species.” Here Foucault, therefore, acknowledges the persistence of old sovereign power “to take life or to let live.” He also provides an answer to the problem of how sovereign power is able to persist within contemporary societies. Through racism, Foucault investigates how the exercise of killing (“sovereignty's old right”) is possible within a “normalizing society” whose basic biopolitical function is to improve and prolong life.⁸⁸

However, is his response to the question of sovereignty entirely convincing? In my view, it is not. In particular, what is doubtful is not so much Foucault's specific interpretation of racism, which as I have tried to demonstrate above offers very important points of reflection that can and have indeed been used quite effectively by contemporary theorists to analyse the workings of power in contemporary societies. What is questionable is how Foucault can sustain the coextensivity between biopower and sovereign power within his system of thought which aims, as Foucault himself has often claimed, to move away from it. It could be argued that, for Foucault, this coextensivity is a historical singularity related to the Nazi regime rather than a generalizable position. That it does not create any problems for his assertion about his analytics of power as given above. This is the position of, for instance, Rabinow and Rose who in their article argue that “‘paroxysmal’ forms of biopower, linked to the formation of absolutist dictatorship and mobilization of technical resources,” which “have led to a murderous thanatopolitics” are exceptional, not to be linked to how biopower works in

⁸⁵ Foucault also and again refers to “Soviet State racism” (Foucault, *Society Must Be Defended*, 83).

⁸⁶ *Ibid.*, 260. Interesting to note that even though Foucault does not use Schmitt's terminology here, he recognises the proximity between sovereignty and enmity – something which Schmitt not only recognised but tried to establish over a number of works – in the ability of the state to kill “his own people” and “anyone” it regards as threat.

⁸⁷ *Ibid.*, 82.

⁸⁸ *Ibid.*, 254, and 60.

contemporary states.⁸⁹ This is arguably a plausible and a reasonable reading and, to the extent that it allows one to look at Nazism as historically specific, something that even the starkest of critics of Nazism as unique event would probably not hesitate to embrace; a reading that has certain strengths. Nevertheless, if our claim about Foucault employing the Nazi case as an example from which to draw lessons about the modern state in general is correct – a claim corroborated by Foucault’s suggestion that it is at the time when biopower emerges and inscribes racism in the state apparatus that racism becomes “the basic mechanism of power, as it is exercised in *modern States*”⁹⁰ – then we are forced to recognize that Foucault cannot completely circumvent the problem of sovereign power. In order to explain the exercise of killing in modern states, he is compelled to return to it. In this respect, is Genel’s assertion that there is no tension in Foucault’s idea about biopower and sovereign power being coextensive and at the same time heterogeneous satisfying?⁹¹ Or should we acknowledge, as Esposito suggests, that in reality we do not find in Foucault’s text, an absolute resolution to the problem of sovereignty, but a continuous oscillation between an interpretation of biopolitics as irreducible to sovereign power, and another for which biopolitics is part of the articulation of sovereignty?⁹²

Indeed, our claim is that in Foucault there does seem to be an unresolved tension between, on the one hand, an idea of biopolitics as representing a radical break with old forms of sovereign power and, on the other, an idea of it as coextensive to it; as constituting part of the articulation of sovereignty. This is clearly made evident by his discussion of Nazism but also, as Esposito rightly notes, by the fact that Foucault uses both the term “replace” and “complement” to explain the workings of biopower in relation to sovereignty, sometimes in the same sentence. Thus, for instance, Foucault says,

[...] one of the greatest transformations political right underwent in the nineteenth century was precisely that, I wouldn’t [sic] say exactly that sovereignty’s old right – to take life or let live – was *replaced*, but it came to be *complemented* by a new right [...]. This is the right, or rather precisely the opposite right. It is the power to ‘make’ live and ‘let’ die [or biopower].⁹³

What this shows is that Foucault’s analytics maintains a level of ambiguity with respect to the question of the relation between biopower and sovereign power. While providing vital theoretical tools to analyse contemporary securitisation and racialising practices and creating useful lines of enquiry, Foucault’s notion of state racism appears, if not exactly to contradict, to at least create problems for his understanding of biopower, while bringing attention to the difficulties of moving away from sovereignty’s old right. By bringing the question of sovereignty to the forefront, the example of Nazism implicitly challenges one of Foucault’s methodological starting points: the idea that there is no sovereign; thus, putting into question his (main) understanding of biopolitics as unrelated to sovereign power.

⁸⁹ Rabinow and Rose, “Thoughts on the concept of biopower today”.

⁹⁰ Foucault, *Society Must Be Defended*, 254, emphasis mine.

⁹¹ Katia Genel, “The Question of Biopower: Foucault and Agamben”, *Rethinking Marxism*, vol. 18, issue 1 (2006), 43-62.

⁹² Roberto Esposito, *BIOS, Biopolitica e Filosofia* (Torino: Einaudi, 2004), 49.

⁹³ Foucault, *Society Must Be Defended*, 241, emphasis mine; Esposito, *Biopolitica e Filosofia*, 34.

This is a point that Agamben makes explicit when he says that even though Foucault's analysis has shown how these two faces of power work, it has failed to elucidate the points at which sovereign power (political techniques) and modern techniques of power (technologies of self) converge.⁹⁴ Agamben's notion of sovereignty as biopolitical, whereby the decision on the exception is a decision about life and more precisely about the threshold between *life and death*, can be seen as an attempt to readdress the problem of sovereignty in terms of what is for him an implicit thought in Foucault. Through his notion of (bio)sovereignty, Agamben attempts to account for mechanisms of state power that, although arguably more prevalent in the sixteenth and seventeenth centuries, continue, in different forms, to permeate contemporary societies.⁹⁵ According to Agamben, the production of a specifically biopolitical body is ultimately dependent on the sovereign's capacity to exclude through inclusion what he calls "bare life" or politically unqualified "life" from the juridico-political order. From this perspective, biopolitics is not only absolutely coextensive with sovereign power but biopolitics is both historically and conceptually the original activity of sovereignty. In other words, according to Agamben, sovereignty is founded on biopolitics. Thus, from his perspective Foucault is right in arguing that "when life begins to be included in the mechanisms and calculations of State power, politics turns into biopolitics and that this signals the decisive event of modernity."⁹⁶ However, Agamben expresses puzzlement toward Foucault's suggestion that life only becomes a political object in early modern Europe and, consequently, to conceptualize biopolitics as an exclusively modern phenomenon. Instead, what Agamben intends to show is that from the earliest treaties of political theory, particularly in Aristotle's notion of man as "a political animal," a notion of sovereignty as power over life or biopower is implicit. To this extent, bare life is the condition of modern politics (i.e., essential to its constitution). In Agamben's words, "bare life is the original activity of sovereign power,"⁹⁷ even as it is a condition that is necessarily negative or negated; one that only appears as such when the topology (or the hidden logic/location) on which it is based (i.e., the topology of exception or "inclusive exclusion") is fully displaced.⁹⁸ Consequently, for Agamben, no notion of biopolitics or biopower⁹⁹ can do away with the question of sovereignty. Specifically, it cannot ignore what he calls 'the paradox of sovereignty', whose topology (or hidden logic), in line with Schmitt, he identifies in "the state of exception."¹⁰⁰ By deciding on the exception the

⁹⁴ Agamben, *Homo Sacer*, 5; See also and again Esposito, *Biopolitica e Filosofia*.

⁹⁵ Agamben, *Homo Sacer*, 7. For a differing view see Lazzarato, "From Biopower to Biopolitics", *Pli The Warwick Journal*, vol. 13 (2002), 100-112.

⁹⁶ Foucault quoted in Agamben, *Homo Sacer*, 3.

⁹⁷ *Ibid.*, 6.

⁹⁸ The word topology derives from the Greek τόπος, *topos* + λόγος, *logos*. The *Oxford English Dictionary* gives two definitions: 1) the study of geometrical properties and spatial relations unaffected by continuous change of shape or size of the figures involved 2) the branch of mathematics concerned with an abstract theory of continuity. In *Stanzas: Words and Phantasms in Western Culture*, Agamben defines philosophical topology as the search for *topos* or "place" but not as something simply spatial "but as something more original than place;" as analogous to "what in mathematics is defined as an *analysis situs* (analysis of site) as opposed to an *analysis magnitudinis* (analysis of magnitude)" (Agamben, *The Coming Community*, edited and translated by Michael Hardt (Minneapolis: University of Minnesota Press, 1993), xviii-xix).

⁹⁹ In Agamben, there is no clear distinction between biopower and biopolitics.

¹⁰⁰ Agamben, *Homo Sacer*, 15.

State, which is “thus granted autonomous – and hence decisive – status,”¹⁰¹ substantiates sovereignty and real as opposed to ideal law.¹⁰²

Agamben’s own conceptualisation has been much discussed¹⁰³ and is certainly not without its own problems and not just in terms of the question of racism, which, as we have discussed above, remains unspecified. According to Lazzarato, for example, it is Agamben’s notion of biopolitics that oscillates continuously between two alternatives. Lazzarato argues that for both Agamben and Foucault, the introduction of *zoê* into the sphere of the polis is the decisive event of modernity; it marks a radical transformation of the political and philosophical categories of classical thought. Yet, he suggests, Agamben is very ambiguous on whether the “impossibility of distinguishing between *zoê* and *bios*, between man as a living being and man as a political subject” is “the product of the action of sovereign power or the result of the action of new forces over which power has ‘no control.’”¹⁰⁴ This is interesting. The same charge made by Agamben toward Foucault is here repeated by Lazzarato against Agamben. It is as if almost, if not all, attempts to find a resolution to the problem of whether to consider biopower as substitutive for or a complement to sovereign power tend either to reproduce this same ambiguity or to underplay the theoretical difficulties that arise from keeping them separate. Lazzarato himself could be seen as underplaying Foucault’s own ambiguities as analysed here but there are other such examples. In “Impossible dialogue on bio-power,” Ojakangas argues against Agamben’s reading and suggests that “neither the modern state nor the Third Reich – in which the monstrosity of the modern state is crystallized – are the *syntheses* of the sovereign power and bio-power, but, rather, the institutional loci of their *irreconcilable tension*.”¹⁰⁵ But what does this mean? Does it mean that Foucault was mistaken when he himself referred to their absolute *coextensivity*? In a reply to his critics, Ojakangas acknowledges that they can be and have been “historically intermingled in many ways [...]”¹⁰⁶ However, this insight is played down in an attempt to smooth over real points of intersection between biopower and sovereign power and in so doing, render Foucault’s analytics of power more coherent. What this misses, however, is that the tensions in Foucault’s work are not necessarily ascribable to him as a writer. As Negri says, “Foucault’s attention focused are [*sic*] perfectly continuous and coherent – coherent in the sense that they form a unitary and continuous theoretical production.”¹⁰⁷ The tensions in his work in relation to his notion of biopower are not the result of a shift in focus but *real* – that is to say real in the sense of reflecting *real* conditions of history.

Returning to Agamben, moreover, it is fair to say that, in line with Schmitt, his own understanding tends to reflect a decisionist or essentialist model of the state that seems oblivious to its bureaucratic differentiation, group strategies, class fractions, political parties,

¹⁰¹ Sylvie Delacroix “Schmitt’s Critique of Kelsenian Normativism”, *Ratio Juris*, vol. 18, no. 1 (2005), 37.

¹⁰² The sovereign operates on behalf of the rule of law and the exception is codified in law. But, as Schmitt demonstrates, but according to Agamben fails to substantiate, the exception, on which sovereign power depends, is none other than the suspension of the law itself.

¹⁰³ I have discussed this more extensively elsewhere. Elisa Fiaccadori, *Between the Exception and Biopolitical Security: A Critical Discourse Analysis of US and EU Securitization Strategies Post -9/11*, Thesis (PhD) (Goldsmiths: University of London, 2011).

¹⁰⁴ Lazzarato, “From Biopower to Biopolitics”, 110.

¹⁰⁵ Ojakangas, “Impossible dialogue on bio-power”, 26.

¹⁰⁶ Mika Ojakangas, “The End of Bio-power”, *Foucault Studies*, no 2 (2005), 50.

¹⁰⁷ Antonio Negri, “Foucault Between Past and Future”, *Ephemera*, vol. 6, no 1 (2006), 75-82.

etc. and to how these might also rely on disciplinary, *bio-political and/or securitisation mechanisms*. Even his analysis of the movement as the truly political element is still within an essentialist framework where, as we have seen, in line with Schmitt, the state and the movement become one and the same. This is because what interests Agamben is not to provide a sociology or theory of the state as “a ‘transactional reality’ [réalité de transaction], that is to say a dynamic ensemble of relations and syntheses.”¹⁰⁸ His intention is rather to expose, and provide a critique of, the hidden logic governing the state (of exception) in its production of spaces of exception or camps.¹⁰⁹ By camp, Agamben means a space or anti-space of modernity – Agamben’s primary examples are yesterday’s Nazi camps and today’s refugee camps – in which people can be killed and inhumanely treated. The camp corresponds to the suspension of law where a zone of anomie is created, which Agamben claims not to be unrelated to the juridical order but where normal laws do not apply. However, in focusing on hidden logics, Agamben misses important aspects which from a Foucauldian perspective are not immaterial. For example, Foucault alerts us that the population “escapes the sovereign’s voluntarist and direct action in the form of the law” and is also “driven by its own specific phenomena and processes,” where the movement or movements could come to represent a more dynamic and autonomous force here.¹¹⁰ Furthermore, and contrary to both Schmitt and Agamben, for Foucault the state is not reducible to state sovereignty. Foucault understands the state as “the effect, the profile, the mobile shape of incessant transactions which modify, or move, or drastically change, or insidiously shift sources of finance, modes of investment, decision-making centres, forms and types of control, relationships between local powers, the central authority, and so on.”¹¹¹ In other words, Foucault sees the state not as an essence but as constructed through the interplay of “multiple governmentalities.”¹¹² Thus, a Foucauldian analysis must take this into account when exploring the power of the state. It must consider that there are different levels of decision making and legitimation and a “diversity of forces and groups,” which in turn have an impact on the specific configuration that a given state takes at a specific time. In this reading the state does not monopolize all decisions on the exception. As argued by Fleur Johns, proceeding from Schmitt’s open characterisation of the exception and in line with Foucault’s emphasis on the diffusion of power, “it is possible to conceive as both political and exceptional a much broader range of decisions, approached by or among a much broader range of agents, aggregations or arrogations, than those which Schmitt entertained as such.”¹¹³

Nevertheless, Agamben’s framing of the problem of sovereignty remains helpful. What is interesting is not so much Agamben’s Schmittian view of the state (although his powerful critique of it is). But that the question of sovereign power and of the persistence of its

¹⁰⁸ Jessop, “Constituting Another Foucault Effect”, 48; see also Thomas Lemke, “An indigestible meal? Foucault, governmentality and state theory”, *Distinktion: Scandinavian Journal of Social Theory*, vol. 15 (2007), 43-64.

¹⁰⁹ “Today it is not the city but rather the camp that is the fundamental bio-political paradigm of the West” (Agamben, *Homo Sacer*, 181).

¹¹⁰ Michel Foucault, *Security, Territory, Population*, 71. On this, see also and again Hardt and Negri, *Empire*.

¹¹¹ Foucault, *The Birth of Biopolitics*, 77.

¹¹² *Ibid.*

¹¹³ Fleur Johns, “Guantanamo Bay and the Annihilation of the Exception”, *The European Journal of International Law*, vol. 16, no. 4 (2005), 633.

decisionist logic through and, in line with Johns, we might even suggest beyond the state, are being posed and (re)addressed. In the context of what some see as a partial or limited resurgence, but which is in my view best considered as the persistence of sovereign power and of its logic, it is even more fundamental to analyse the problem of sovereign power; even as the current “sovereign debt” crisis is arguably putting further strain on (certain) states’ sovereignty.¹¹⁴ This is not to say that we should reduce the question of biopower to that of sovereign power. Nor that we should simply treat the state as equivalent to sovereignty. But, however limited, the attempt to explain the articulation between biopower and sovereign (state) power at any given time – something which, as I have tried to make evident, Foucault himself has tried to elucidate through his notion of “state racism” – is surely worth considering. It helps us to understand the dark underside of “a formally legitimate power,” to adopt Schmitt’s formulation of the state at one point. What is to be rejected and contested instead is the conceptualisation of problems and people as threats and the reduction of life to “bare life;” a “racialised” life for which the biopolitical caesura identified by Foucault in the separation of a population from a people always runs the risk of becoming “final.”

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¹¹⁴ Often now referred as a “sovereign debt” “crisis”, despite the fact that it clearly began as a banking “crisis” and that, as Agamben says following Marx, capitalist crises are “always in process [...]”, this crisis seems to be less about a reassertion of sovereignty than of capitalist dynamics. The fact that (certain) states find themselves unable (or unwilling?) to deal with it proves this. Greece is a fitting example. It is nevertheless important to point out that austerity measures are often passed as emergency measures, thus could also be seen as resembling a state of emergency, and that racialised and immigrant communities are amongst the hardest hit by these measures. Thus, even though perhaps not primarily, the logic of exception could still be seen as playing a part in the current state of affairs. This is one (but not the only) reason why I think that current problems cannot but be understood by taking into account the exploitative nature of capitalism, on the one hand, but also the nature and characteristics of (state) sovereignty as well as their complicated and sometimes contradictory relation, on the other.