

## To bring about the real state of exception

The power of exception in Agamben, the power of potentiality in Negri

*Translated by Benjamin Carter*

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### 1. Bartleby's legacy

In a tender essay on Bartleby from 1993, Giorgio Agamben introduces the law-copyist who prefers not to write as an angel and messenger of an ontology of potentiality. With his "I would prefer not to", this pale and exhausted employee, who doesn't intend to carry out anything more, announces that man, the community and the political exist in the mode of potentiality. Being is potential. Only as potential does it make community possible. If it were always already actualised, it would always already be this thing or that identity, there could only be "coincidences and factual partitions".<sup>1</sup> This is the first feature of Agamben's thought that I want to address: the ontologisation of the political in the figure of potentiality. Currently, it is possible to observe a strong return to ontology in parts of a political philosophy of the left, let's say one committed to the analytics and change of the societal – Nancy's ontology of being-with, Agamben's ontology of potentiality, Žižek's ontologising definition of capital as the real, Badiou's mathematical ontology of the event, Negri's ontology of a constituent power of the multitude etc.<sup>2</sup>

But even a weak ontological thinking that introduces paradoxical, empty, contingent or groundless foundations of being works with *a priori* and transhistorical determinations that transcend the strategic conflicts of the societal and are thereby logically and ethically purified. Accordingly, Derrida's call for de-ontologisation is pushed aside as much as the poststructuralist call to think in the interplay between practices, in the interaction between governmental, valorising and social practices. In poststructuralism, praxis is never seen as

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<sup>1</sup> Giorgio Agamben: Form-of-Life, in *Means Without End*, London and Minneapolis: University of Minnesota Press, 2000, p. 9, <http://roundtable.kein.org/node/620>.

<sup>2</sup> Cf. Carsten Strathausen: A Critique of Neo-Left Ontology, in *Postmodern Culture*, Vol. 16, No. 3, 2006, p. 1.

pure; it is relative. Just as it can represent an instrument of power or an effect of power, it can also become an obstacle for power, something that escapes it or pushes its effects in another direction, creates a point of resistance or the starting point for an alternative strategy. Here, power relations are never the effect of another instance that explains them.<sup>3</sup>

## 2. Redemption into inaction

What marks potentiality as a determinant of being? In “Bartleby, or On Contingency”, Agamben defines potential as that which is able not to be. Potential is that which is no longer subjected to the primacy of actuality, the work, the act, but prefers its own impotentiality and can abide in the abyss of inactivity. For Agamben, who understands the political as redemption, Bartleby becomes a new Messiah who will come to save not the actual but the possible, i.e. to redeem in the past what could have been but did not occur.<sup>4</sup> The second feature of Agamben’s thought is the announcement and the theorisation of salvation. In the *tiqqun*, in the state of redemption, the possible will not stand in any relation to the act. Accordingly, an inactivity will be allowed that cannot be reduced to exhaustion or idleness, but has its own weak activity. This activity of inactivity consists in opening up space and time to the mode of a self-withdrawing possible. Here, we hit upon a deconstructivist standard: the possible becomes, in terms of a theory of events, something thought which emerges from an impossibility and thereby steps out of the logic of the realisable. If possibility didn’t emerge from impossibility, it would be an anticipatable and calculable option within the present order. The weak activity of an impossible possible lies, for Agamben, in the de-activation of things and relationships. Accordingly, he introduces a paradoxical and mystical mode of the actual: something is actualised by being de-activated and given back to the ineffectiveness of potential.<sup>5</sup> Actualisation and potentiality thus tendentially have the same meaning. To

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<sup>3</sup> Cf. Michel Foucault: *The History of Sexuality. An Introduction*, London and New York: Penguin Books, 1990, pp. 94-95.

<sup>4</sup> Cf. Giorgio Agamben: *Bartleby, or On Contingency*, in *Potentialities. Collected Essays in Philosophy*, Stanford: Stanford University Press, 1999, p. 270.

<sup>5</sup> Cf. Giorgio Agamben: *The Time that Remains. A Commentary on the Letter to the Romans*, Stanford: Stanford University Press, 2005, pp. 97-101.

grasp the difference between Agamben and Negri's understanding of potentiality, it is interesting to compare Agamben's actualisation of things through their de-activation with the postoperaist restaging of an actualisation of class through its abolition, suggesting the political act of a self-generating mankind, and drawing on Marx's idea of a purely proletarian act of a "a class of civil society which is not a class of civil society"<sup>6</sup>, as he wrote in the introduction to the "Critique of Hegel's 'Philosophy of Right'"<sup>7</sup>.

### 3. The non-state of *whatever*-being

In its positive aspect, Agamben's political ontology of potentiality flows into the ethically conceived promise that one day the happiness of pure possibility will appear.<sup>8</sup> Life is thereby freed from the primacy of actualisation; it can proceed in an arbitrary and *whatever* manner. Social belonging is not measured according to any particular conditions. In this negative anthropology, in which mankind is defined through unconditional belonging, Agamben reveals the arbitrary being-*such-as-it-is* as the principle and most dangerous enemy of the state.<sup>9</sup> The third feature of his theory of potentiality is therefore an ethicalisation of the political, which is limited by the fact that the political is only conceptually posed. While he is silent about the material practices of the political, radicality is only determined notionally; in this case, as enmity between the state apparatus and a diametrically opposed and totally unconnected non-state of *whatever*-being.

### 4. A life in which one will have achieved nothing

Why talk about Agamben and Negri's, or postoperaist, thought of potentiality? What is the interesting deployment of a theory of potentiality? What is its political promise? On the one hand, a thinking of the possible, which eludes the primacy of the actual, is the starting point for a radical rejection of capitalist and biopolitical technologies of the self

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<sup>6</sup> Karl Marx: Critique of Hegel's 'Philosophy of Right', in *MECW*, Vol. 3, p. 182.

<sup>7</sup> Cf. Jacques Rancière's critique of Marx's concept of class as real movement in *Dis-agreement*, London and Minneapolis: University of Minnesota Pr, 1999, pp. 82-93.

<sup>8</sup> Cf. Giorgio Agamben: *Form-of-Life*, p. 4.

<sup>9</sup> Cf. Giorgio Agamben: *The Coming Community*, London and Minneapolis: University of Minnesota Press, 1993, p. 86.

and of government. To insist in one's life on not doing something and not being something, to belong without having achieved anything, not to obey a communitarian demand, is to distance oneself as far as possible from capitalist self-entrepreneurialisation. At present, doing-nothing can only be understood as a creative resource of doing, as workout or deviant detour to success. Outside of this, it is failure or punishment. Agamben's thought of the possible as "potential not to be (or do)"<sup>10</sup> provides a set of concepts to think a life that opposes valorisation and self-activation, and can even be deployed against calls for mobilisation from the left that extend from the tradition of the workers sports associations, via the cadre soldier, up to current postoperaist figures of the productive creativity of the multitude. He thus draws on what Nancy and Rancière have criticised in relation to the humanist strand of Marxism: man is not the producer of his own essence in the form of his labour and his works.<sup>11</sup> There is no proto-communist potentiality that is installed in man, which, through appropriating action, will develop and unfold on all sides, enabling an active as well as combatant man to develop and perfect his still latent humanity.<sup>12</sup> This breaks with the immanentism of the early Marxist concept of productive force, in which the positive actualisation of man, and the negative rupture with capitalist modes of production was thought together in one praxis, one act.

##### 5. Absolute potentiality, absolute happiness

The postoperaist discourse attests to how, drawing on Spinoza and Deleuze, another thinking of potentiality emerges. This thought similarly avoids the possibility/actuality opposition, though doesn't think potential as the double of "potential to" and "potential not to", but as a degree of intensity. For Spinoza, potentiality is effect. It is not the potentiality not to, but the potentiality of action, which grows or decreases to the extent that it affects or is affected, increasing pleasure or displeasure. Following Spinoza, a theory of potentiality doesn't lead to the weak activity of de-activating, to the eschatological figure of actualisation by a making-ineffective, but to an increase in the potentiality of activity and the pleasurable passions with which a community claims the

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<sup>10</sup> Giorgio Agamben: *Bartleby, or On Contingency*, p. 255.

<sup>11</sup> Jean-Luc Nancy: *The Inoperative Community*. London and Minneapolis: University of Minnesota Press, 1991, p. 2.

<sup>12</sup> Cf. p. 3.

intellectual ownership of its potential by creating an adequate idea of the assemblage of its affects and passions. The challenge of Deleuze's re-examination of Spinoza lies in a positive conception of the political as the strategic interaction of forces. Here, Deleuze draws on Marx as much as he radically breaks with him. In the analysis of the laws of working time, the factory acts, and the development of a complex system of machinery, the Marx of "Capital" had already developed a form of argumentation that abandons the dialectic circle whereby political subjectivity was projected onto the objective movement of advancing valorisation. Deleuze radicalises the elements in Marx in which the societal is described as the polyvalent antagonism of strategies of power and resistance that mutually displace one another by their effects; he defines these strategies as lines of different velocity and dimension. They create a social field that is not structured by a contradiction but by the line of strongest deterritorialisation. He thereby encounters the difficulty of postulating a constituent force of deterritorialisation, which he untiringly attempts to correct. Accordingly, deterritorialisation and reterritorialisation are equally original; desire never exists spontaneously or naturally; it is not a drive but an arrangement; it is historically determined and the effect of its own connections. At the same time, Deleuze gained the possibility of non-subjectively theorising the political within a relation of forces that is defined by the fact that something unaccountable escapes power. In the ninth chapter of "A Thousand Plateaus", "1933: Micropolitics and Segmentarity", Deleuze and Guattari don't localise the political in the line of flight, in the movement of absolute deterritorialisation, but in what they call the molecular, in the zone of translation that lies between flow and segmentation, i.e. institutionalising and socialising solidification. The effects that one names the political are revealed where societal divisions are displaced by the force of a movement of flight. These effects of dynamisation or solidification are, in themselves, neither good nor bad. A very fast flow in a societal field can yield fascistic or reactionary results. Postoperaism, which explicitly places itself in the tradition of this theoretical conception, subjectivises, productivises and positivises the basic assumptions of this thought, whereby it undergoes a strong transformation and remains limited to subjectivity and a change of productive force.

## 6. Naked life

The theoretical constellation of a politics of potentiality that I am dealing with here is illuminated by two polar stars: Agamben's negative theory of an autonomy of potentiality as impotentiality, a theory, which in "Homo Sacer", in a risky turn, is transformed into a theory of a state of exception; and Negri and Virno's positive theory of an autonomy of potentiality as a biopolitical productive force. A moment of tension is reached in the comparison of these two positions when one considers the concept of naked life. While, for Agamben, naked life represents potentially killable corporeal material that is exposed to the violence of the law, for Negri and Virno, it represents a constituent power, pure productive force<sup>13</sup>, flesh of life<sup>14</sup>, as Negri puts it by modifying a late term of Merleau-Ponty. Agamben's ethical position that bare life should never be detached from the form-of-life, opposes a vitalism that has made a life-without-form out of Marx's notion of living labour, a pure proletarian act, as can only be found in the thought of the early Marx. Both re-ontologising readings of the political as potentiality, as productless, inoperative being-possible without relation to the act, and as autonomous proto-communist creative being, are marked by theoretical reductionisms and, at the same time, by an opposing theoretical promise: on the one hand, rejection of capitalist self-entrepreneurialisation, the making-visible of sovereign politics of exception; on the other, the invocation of the positive force of minoritarian resistance in the middle of capitalist relations.

## 7. Aristotle's riddle

In a number of essays written in the 80s, Agamben develops out of a heretical reading of Aristotle's "Book Theta" of the "Metaphysics" and a passage from "De Anima" the figure of the "potentiality not to".<sup>15</sup> The fact that one implication of the possible is that it cannot occur because otherwise it would have always already passed into actuality and would be indistinguishable from the latter represents for Agamben the cardinal secret of Aristotle's doctrine. Remarkably, Agamben makes out of Aristotle, who in the "Book

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<sup>13</sup> Cf. Michael Hardt, Antonio Negri: *Empire*, Cambridge: Harvard University Press 2000, pp. 203-204.

<sup>14</sup> Cf. Antonio Negri: Towards an Ontological Definition of the Multitude, in *Multitude*, No. 9, May/ June 2002. <http://multitudes.samizdat.net/spip.php?article269>.

<sup>15</sup> Giorgio Agamben: *Bartleby, or On Contingency*, p. 245.

Theta” specifies the notional, essential and temporal primacy of actuality, a theoretician of an autonomous power of the potentiality-not-to. This non-canonical interpretation refers back to Kabbalistic and Sufi readings of the Middle Ages. What, Agamben asks, happens to the autonomous potentiality in the transition to the act? What happens with the potentiality of the poet not to write any poems when he or she actually writes? Inspired by two of Aristotle’s formulations, he develops the mystical figure of a salvation of potential in the act. Impotentiality is not destroyed by the actualisation, but fulfilled. It is exhausted by entering into the actualisation, to be maintained there, de-activated.<sup>16</sup> This is the gift of potential to itself, it turns back on itself, gives itself, to become actual. This self-suspension of potential in the act marks an extreme turning point or an extreme threshold in Agamben’s thought which leads to two different spaces: the negative space of exception and the positive space of the community of *whatever*-being and redemption.

#### 8. The force of law without law

A potential that retains a relation to the act through its ability-not-to-be corresponds in “Homo Sacer” to the structure of the sovereign ban, a term that Agamben adopts from Jean-Luc Nancy. The ban describes a space of exception. The law is turned to life by turning away from it, abandoning life. It reserves for itself the right not to apply, and to continue to be law, to remain in force. The law unhinges its force of law, and transfers it to administrative measures that do not have the status of law. The function of the ban is biopolitical. In it, something is separated that for Agamben is inseparable: life and form-of-life. At the same time, the distinguishable becomes indistinguishable: law and violence change places. Thus, Agamben turns his positive doctrine of the salvation of impotentiality into a negative doctrine of Western sovereignty. Through the ban-structure, which creates a relationship between the relationless, the law is given access to something that doesn’t belong to it: anomic violence. Agamben theorises biopolitics as the institutional death-politics of a humanitarian administration that operates in the name of life and establishes a politics of exception, of suspension of the law as law, to the

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<sup>16</sup> Cf. Giorgio Agamben: § 11 On Potentiality, in *Potentialities*, pp. 183-184; cf. Giorgio Agamben: *Homo Sacer: Sovereign Power and Bare Life*, Stanford: Stanford University Pr 1986, p. 46.

extent to which juridical procedures have increased in international politics. Accordingly, he diagnoses a further functional inversion of discipline. The first was dated by Foucault to the 18<sup>th</sup> century, when the disciplines switched from the hard mechanisms of quarantine, of anti-desertion, anti-vagabondage to the normalising mechanisms of the regimes of school, clinic, army and prison. According to Agamben, the second half of the 20<sup>th</sup> century saw the appearance of a further inflation in the discipline of exception that functions as a ban, as an excluding inclusion, and re-actualises the earliest mechanisms of modern disciplinarity: “to neutralize dangers, to fix useless or disturbed populations, to avoid inconveniences of over-large assemblies”.<sup>17</sup>

Politically, Agamben aims to keep life and law separate. He sees no substantial link between them. In a state of exception, they are linked fictitiously, and are thereby created for the first time in their form: “Life and law (...) result from the fracture of something to which we have no other access than through the fiction of their articulation”.<sup>18</sup> The question of politics is therefore, how law and violence can be separated again; social critique is the de-masking of their connection, which Agamben brings forward in the problematic form of unfolding and decay: the politics of exception reached their highest form of concentration during National Socialism; their greatest dispersal today. In the Roman Empire, the force of the state of exception was confined by the division of power between aristocratic and plebeian institutions; in the Middle Ages, through the separation of spiritual and worldly power. Today, however, the state of exception has been turned into a rule by the technocratic machines of executives.

The becoming rule of this exception of the self-suspension of law leads Agamben to make a single demand to a coming political ontology; namely, to think a potentiality without a relation to the act, including the extreme form of the ban-relationship, and to think an act without the relationship to potential, including the extreme form of the gift of potentiality to itself and its salvation in the act. The struggle between politics and the

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<sup>17</sup> Michel Foucault: *Discipline and Punish: The Birth of the Prison*, London and New York: Penguin Books, 1991, p. 210.

<sup>18</sup> Giorgio Agamben: *State of Exception*, Chicago: University of Chicago Press, 2005, p. 88.

sovereign for anomic violence is analogised by Agamben with the struggle for pure being in metaphysics.<sup>19</sup> Two great battles in politics and metaphysics in one single formation: onto-theology assigns pure being to the logos; the relationship of exception assigns violence to the law. This throws some light on the structure of Agamben's thought: the analogisation of ontology and politics, the prescriptive quality of all descriptive categories, work on a single transhistorical figure of power, the ban, reduction of political action to a single counter-figure: a violence that is able to interrupt the relationship of exception between law and violence. Which according to Benjamin – to whom Agamben refers in his thought on exception – would mean to bring about the real state of exception. However, Agamben must immediately disarm this figure again so that his own theory isn't also ruined by the figure of exception. Therefore, he attempts to correct Benjamin's concept of a divine violence and the pure revolutionary act following in its tracks, and to point out that a pure pre-legal violence doesn't exist but results from the political conflict over the state of exception and is thus only apparently prior to it.<sup>20</sup>

## 9. Life without form

The vitalistic reversal of the figure of naked life in Negri, Hardt, Virno and other postoperaist authors – the bare life as rich force of living labour – is likewise accompanied by an idea of the real state of exception. In “Labor of Dionysus”, Negri and Hardt attribute the constituent power of the multitude to the divine violence, in Benjamin's sense, which annihilates capitalism.<sup>21</sup> If Agamben's ban relationship represents a negative founding of the political based on the juridical fiction of a force of law without law, Negri, Hardt and Virno ground the political positively in the proletarian potentiality to generate itself and the world. This is subjected to a double theoretical operation: on the one hand, the grafting of Deleuze's notion of desire onto Marx's notion of living labour; on the other, the equivalating of Foucault's biopower conception and

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<sup>19</sup> Cf. pp. 59-60.

<sup>20</sup> Cf. Walter Benjamin: Critique of Violence, in *Reflections. Essays, Aphorisms, Autobiographical Writing*, New York: Schocken Books, 1986, pp. 297-299; cf. Giorgio Agamben: State of Exception, pp. 62-63.

<sup>21</sup> Michael Hardt/Antonio Negri: *Labor of Dionysus. A Critique of the State-Form*, London and Minneapolis: University of Minnesota Press, 1994, pp. 293-294.

Marx's thesis of the real subsumption of labour under capital. The postoperaist theory radicalises the Marxian thesis of real subsumption and assumes that in imperial capitalism, all areas of the social, of the corporeal and the affective come under the control of production. Marx's idealising prophecy of class relations that simplify themselves, and of increasing proletarianisation lead them to the conception of a universal biopolitical productive force, in which the qualitative differences within labour would become increasingly reduced and no substantial differences would split up the multitude.<sup>22</sup> In a biographical conversation with Anne Dufourmantelle, Negri turns – exactly as in “Empire” – against Agamben's Heideggerian and enigmatic theory of “nuda vita”, in which he calls for a potentiality without relation to the act, and finds it in the radicalisation of Heidegger's idea of the abandonment of being in which the being-together of being and beings does not have the form of a relationship.<sup>23</sup> As purely creative materiality, Negri thinks naked life positively as the last stage of the development of productive force, as “unformed life force”<sup>24</sup>, as life without form. In postoperaism, the naked man is the biopolitical entrepreneur who owns nothing apart from his embodied means of production, the knowledge and ability to cooperate. He has become a man without qualities, and embodies the new modes of subjectivity in capitalism, which at the same time represent the proto-communist conditions of its overcoming.<sup>25</sup> This postoperaist diagnosis annuls the whole content of Foucault's political anatomy of the body, and is grounded in the theory that the dialectics of the means of production have come to an end. With the hegemony of intellectual, linguistic and managerial activities, capital no longer provides the workers with access to their means of labour. These have come to be seated in the bodies of the workers themselves. According to Negri, the brain, the general intellect, language and affectivity have become the primary means of production which potentially exceed capitalism. Following the

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<sup>22</sup> Cf. Michael Hardt/Antonio Negri: *Multitude. War and Democracy in the Age of Empire*, New York: The Penguin Press, 2004, pp. 124-125.

<sup>23</sup> Cf. Antonio Negri: *Negri on Negri. Conversation with Anne Dufourmantelle*, London and New York: Routledge, 2004, pp. 79-84; cf. Giorgio Agamben: *Homo Sacer*, pp. 58-60.

<sup>24</sup> Antonio Negri: *Towards an ontological Definition of the Multitude*, <http://multitudes.samizdat.net/spip.php?article269>

<sup>25</sup> Cf. Michael Hardt/Antonio Negri: *Labor of Dionysus*, pp. 5-7.

defeats of 1848 and 1871, Marx himself gave up thinking the political as a purely proletarian act in which the dissolution of bourgeois society takes place through the liberation of the productive forces, but rather had begun to grasp it as a strategic process of the organisation and composition of forces.<sup>26</sup> Postoperaism, however, attaches itself to the earlier Marxian strand that evokes the naked man of labour *sans phrase*, a man, in the positive sense, robbed of all his abilities and qualities, a poor man who embodies nothing but labour power. His potentiality is expressed in reality as well as the change of reality. In this sense, naked life would generate Communism, a thesis that Jacques Rancière has described as an “onto-technological trick” and Balibar as the fiction of a “purely proletarian act”.<sup>27</sup> With this trick, the complex set of processes and contradictions which frame our historical world is identified with the fulfilment of an ontological determination, with the unfolding of a potentiality that is latently present in the history of being, and linked with the development of the production process. The political is understood as the actualisation of the human in the course of the socialisation of production, in which “the affirmation of labour is the affirmation of life itself”.<sup>28</sup> The multitude would become the class that isn’t one, which the young Marx spoke of: “the real movement which abolishes the present state of things”<sup>29</sup>, corresponding to a figure of actualisation and abolition. Therefore, just as in Agamben’s thought, postoperaism is also infused with an eschatological line: one day, history will not be able to do anything other than to recognise, in the first light of a new dawn, its own dissolution in the multitude’s potentiality to engender the world.

Both of these theoretical operations on the figure of potentiality, which Agamben and Negri have used in contrasting ways since the 90s to describe a new ontology of potentiality, block, through their reductionisms, a thinking of the political.

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<sup>26</sup> Cf. Etienne Balibar: Vacillation of Ideology in Marxism, in *Masses, Classes, Ideas*, London and New York: Routledge, 1993, pp 100-101.

<sup>27</sup> Cf. Etienne Balibar, p. 92; cf. Jacques Rancière: *From the actuality of communism to its inactuality*, unpublished English manuscript, p. 2, German translation published in *Indeterminate Kommunismus. Texte zu Ökonomie, Politik und Kultur*, Münster 2005.

<sup>28</sup> Michael Hardt, Antonio Negri: *Labor of Dionysus*, p. xiii.

<sup>29</sup> Friedrich Engels/ Karl Marx: German Ideology, in *MECW*, Vol. 5, New York: International Publishers, p. 49.

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