

“Giorgio Agamben’s *Homo Sacer III* and the Status of the other”

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“Evil is the will to name at any price” (Alain Badiou, 2001)

“No Difference without alterity, no alterity without singularity;  
no singularity without here now” (Jacques Derrida, 1994)

The philosopher of ethics Emmanuel Levinas argued that “To kill is not to dominate but to annihilate; it is to renounce comprehension absolutely”<sup>i</sup> In his books: *Homo Sacer: Sovereign Power and Bare Life* (1998); *Means Without Ends* (2000), and *Remnant's of Auschwitz : The Witness and the Archive, Homo Sacer III* (2002), Giorgio Agamben negotiates the notion of the problem of killing, annihilation, mass murder, death, evil, witnessing and ethics, from a somewhat different position, one in which the question, and indeed status, of the other is always a parenthetical [?], in the process of becoming, or as he would say echoing Heidegger's *dasein - in potentia* - as is the human subject him/herself. If you are familiar with Agamben's *Homo Sacer I* you will remember Agamben's discussion of that special obscurity embedded in early Roman law that declared the one who was condemned to death as sacred who could therefore be killed with impunity<sup>ii</sup>. In *Remnants of Auschwitz*<sup>iii</sup> Agamben provides a more contemporary model of *homo sacer* in his extensive discussion of the figure in Auschwitz “to which (sic) no one has borne witness but who has a name - *Muselmann*, literally “The Muslim” (41). In Auschwitz the *Muselmanner* were the incarnation of the living dead (*unter/unter mensch*) for whom no one felt compassion or sympathy; figures who no one acknowledged; that even “the other inmates did not even judge worthy of being looked at....and who to the SS Guards were (considered) merely useless garbage” (Agamben, 43, quoting Ryn and Klodzinski, 1987:127).

Given the title of today's session "Agamben, Biopolitics and Bare Life" it is perhaps necessary at this juncture to reiterate that a primary fulcrum of Agamben's view of modernity is his discursive negotiation of the camp; nominally the concentration camp, and the state of exception both physical and psychical, that the camp induces in its inmates and overseers, who become at times, perhaps ultimately, indistinguishable. He argues that the camp was/is the space where a state of exception occurs; where the exceptional could and indeed does take place. The camp is also the territory in which Agamben's theories of biopolitics come in to play; more specifically where the antagonism between naked life (*bios*) and *zoe* (political life) become evident. Under Agamben's "state of exception" the human subject is not only stripped of *zoe* (politically qualified life) but exposed as *bios* (bare life), such that anything, including the unspeakable can be done to the inmate - and here is the important qualifier - since nothing can be considered a *criminal act*. Moreover the Camp, according to Agamben, is "the space that opens up when the state of exception starts to become the rule." He argues that the camp is the new biopolitical *Nomos*<sup>iv</sup> of the world today, which arguably has its most contemporary manifestations in the detainment camps in Afghanistan, Iraq, and Guantanamo Bay, not to mention the Palestinian camps in Israel, those in Nigeria, the Sudan and elsewhere throughout the world. The relationship between what Agamben terms bare life and the *polis* is one of inclusive exclusion – ultimately a "such as it is" *a quodlibet en sets unum* (whatever entity in one) (1993:2.1). His important rumination on the state of exception enables us to understand the camp beyond its archetypes in refugee camps, prisons and gated communities; where the pursuit of the good (sovereign) life is compromised by the prospect of an ignoble death, to a imagine a permanent political ecology of the mind<sup>v</sup>.

In *Remnants of Auschwitz*, arguably one of his most challenging books, Agamben discusses these issues in intimate detail. He discusses the origin and definition(s) of the name *Muselmann* and explores the association of this figure with the Arab term Muslim/Moslem “the one who submits unconditionally to the will of God [Allah]”. In this naming, the typical repetitive movements of the Muselmanner, that is “the swaying motions of the upper part of the body” are associated with genuflected “Islamic prayer rituals” and yet not, interestingly enough, with similar prayer rituals of orthodox Jews or many other religious groups.

Agamben negotiates the representation of the “M” figure through a range of texts: Primo Levi (1989, 1986), Ryn and Klodzinski (1987), Bruno Bettelheim (1967, 1979), Sofsky (1997) among others, reinterpreting and affirming this figure in Auschwitz and other Nazi concentration camps as a modern(ist) variant of the *homo sacer*. The book’s appendix contains several extraordinary testimonies from survivor Muselmanner themselves; men (and women) who somehow managed to cheat the death for which they had been destined.

Agamben offers the “ferocious irony” that “in any case, it is certain that, the Jews knew that they would not die at Auschwitz *as Jews*” (45). But at no point in his text does he really attempt to negotiate – broach- what it means to nominate the Jew as Muslim! Nor obviously, does he invoke the common terminology of post-colonial discourse: alterity, subaltern, xenophobe, xenophobia, misanthropy, or the keyword “racism” from which they all derive. We must then pose the question: what is it to call a Jew a Muslim in that context (the Nazi concentration camps), or for that matter, any context?<sup>vi</sup>

Agamben’s friend and colleague, French philosopher Alain Badiou, I believe has an answer to this primary “othering” question which is invested in the identification, he would say

“production” of evil. But before I explore Badiou’s conception, or rather, *deconstruction* of the other, I wish to address this question from the position of post-colonial discourse with a brief discussion of the subaltern theorists’ concept of alterity in the work of Homi Bhabha. You will recognize that there is a whole literature that elaborates upon these issues.

Deriving his precepts on otherness from Franz Fanon, particularly this author’s *Black Skin, White Masks* (1952), and *The Wretched of the Earth* (1961), works that have made Fanon a prominent foundational contributor to postcolonial studies, Homi Bhabha has argued that one’s “otherness” is articulated *stereotypically* “at once (as) an object of desire and derision, an articulation of fantasy of origin and identity” (Bhabha 1994:67). The “other” stereotype, in other words (if you will excuse the pun), is a combination of both fear and fetish to which he gives a Lacanian twist which, as we will recognize later, is also Badiou’s foundation. There is says Bhabha, “both a structural and functional suggestion for reading the racial stereotype of colonial discourse in terms of fetishism. Fetishism, as the disavowal of difference, is that repetitious scene around the problem of castration. The recognition of difference - as the precondition for the circulation of the chain of absence and presence in the realm of the Symbolic - is disavowed by the fixation on an object that masks the difference and restores an original presence.” (67). A *functional* link between the fixation of the fetish and the stereotype (or the stereotype as fetish) is even more relevant. Bhabha posits that “fetishism is always a ‘play’ or vacillation between the archaic affirmations of wholeness/similarity, that is “All men have the same skin/race/culture”, and the anxiety associated with absence, lack and difference – that is “some men *do not* have the same skin/race/culture”. He goes on to explain another feature of othering and stereotyping that I would suggest may have relevance in this

context. “The scene of fetishism is [also] the scene of reactivation and repetition of the primal fantasy - *the subject’s desire for a pure origin* that is always threatened by its division, for the subject must be gendered to be engendered, to be spoken.” For both colonizer and colonized, the inmates and the overseers, the "stereotype is the "primary point of subjectification"(75).

Transposed to the concentration camp, in order to be rendered invisible and therefore fit for death, the Muselmanner had to be denied at the “primary point of their subjectification”; a xenophobic process of *negative* fetishization to turn them from human into less than human, from subjects into objects<sup>vii</sup>. The Muslim term for the Jew in this context becomes a predicate (a force) in the nominal logic of differentiation, oppression and separation. Given the generic subsets of stereotypical belief within Nazi (National Socialist) ideology, for example: the mythically superior Aryan origins of the pure German volk, the sacrificial importance of blood and soil; the reinforcement of the Jews as the killers of Christ and exploiters of the German working class; the miscegenation of German society through association and inter-marriage, this was easily accomplished. It was not simply a matter of Muselmanner demeanor, the repetitive rocking of the upper torso and subordinate genuflection that lead them to be associated and therefore identified with Muslims. The Muselmanner were doubly negated through a transgressive religious fetishization, the erasure of one hated name and the supplanting with another that is equally a product of xenophobic disavowal – a double condemnation - hence Agamben’s “ferocious ironisation of the name.” How can this be, and what implications does it have for the same/other binary? This is both a question of ethics and the problem of evil about which Badiou has written extensively. You

may recognize that an aspect of my agenda here is to reinforce the position that “The Italian Effect” is historically a subset of “The French Effect”; and it merely needs to be acknowledged that Agamben and Badiou are close colleagues<sup>viii</sup> who have mutually influenced each other’s work, as much as they have been students of many of the same philosophers, authors and artists.

Badiou<sup>ix</sup> declares in the preface to the Verso edition of his book, that *Ethics* was originally written as an introductory text for secondary and post-secondary students. He wrote it in the countryside in the space of two weeks in 1993. It has since enjoyed several editions and translations and has been widely read. Without the lengthy introduction by Peter Hallward, Badiou’s translator, and the lengthy interview between him and Hallward in the appendix, the book is a long essay less than 100 pages long, divided into five chapters, the first two posed as questions 1) Does Man exist?, and 2) Does the Other Exist? The remaining three chapters explore ethics, the truth process and the problem of Evil.

What does Badiou have to say about the Other and how does this intersect with Agamben’s position in *Homo Sacer III*? Badiou’s first two chapters are essentially a response to Levinas’ position on the other, upon which his own provocative position on ethics is based. He begins by critically analyzing that proposed by Levinas before presenting his own. Levinas argues that it is impossible to arrive at an ethics in relation to the other because of the “despotism of the same, which is an incapability of recognizing this other” (18). Same and other conceived ontologically under the dominance of self-identity ensures the absence of the other in effective thought which he (Levinas) argues suppresses all *genuine encounters* with the

other....thus barring an ethical opening to alterity itself! This he argues is the problem of western metaphysics, an undesirable remnant of its Greek origins. The antidote to this conundrum for Levinas, according to Badiou's reading, is to shift the implicit same/other dialectic to a different foundation or origin point, one not tainted by metaphysical thinking, particularly the subject/object, reality/appearance oppositions; and in doing so he "proposes a radical, primary opening to the other conceived as ontologically anterior to the construction of identity." For Levinas everything is grounded in the immediacy of an opening to the other which disarms the reflexive subject. The "thou" [*tu*] therefore as a result, prevails over the "I". This Badiou asserts, has the status of Law in Jewish thought. For Badiou, the ineffable authority of the altogether Other— that is God - implicit in Levinas' enterprise makes his ethics "essentially a category of pious discourse" (23), with its own rules and regulations, hence upholding and reproducing the omnipotence of religious dogma.

Moreover, with this parasitical or symbiotic attachment between religion and ethics, if we remove one from the Other, it would result, according to Badiou "in a dog's breakfast!" He writes, that "our suspicions are aroused when the self-declared apostles of ethics and of the right to difference are clearly horrified by a vigorously sustained difference... For them African customs are barbaric, Muslims are dreadful, the Chinese are totalitarian." In fact, he argues, "these others are only acceptable if they become *good* others, which is to say *they should be the same as us* which serve to evacuate the use value of difference and otherness as a political and/or ethical category (24).

I will draw your attention at this point to Badiou's useful interview with Peter Hallward who asks rhetorically "Where do you stand in relation to the contemporary obsession with the other, with the valorization of difference as such?" "How", Hallward asks, "do you avoid this question once it's been admitted that it is not a matter of claiming a particular essence (sexual, racial or religious), but of developing a critical position that takes account of the fact that where people are oppressed, they are oppressed as women, as black, as Jewish or Arab?" (107).

Badiou has characteristically interesting and provocative responses to these questions: when, he says I hear people say "we are oppressed as blacks, as women, I have only one problem: what exactly is meant by 'black' or 'women'?" He's not being facetious. He follows this with: "if this or that particular identity is put into play in the struggle against oppression, against the state, my only problem is with the *exact political meaning* of the identity being promoted. Can this identity, in itself, function in a progressive fashion – that is *other than a property invented by the oppressors themselves?*" With this kicker, Badiou goes on to discuss Jean Genet, an important writer for both post-colonial and queer studies. "In his preface to *Les negres* Jean Genet said that everything turns around the question: what/who are black people, and for starters, what colour are they?" You can then answer, says Badiou, "That black people are black. But what does black mean to those who in the name of the oppression they suffer, and make it a political category? I understand very well what black means for those who use the *predicate in a logic of differentiation, oppression and separation* (my emphasis). Just as I understand very well what French means when Le Pen (the extreme right

wing politician) uses the word. When Le Pen champions national preference, France for the French, [he means] the exclusion [of immigrants], the Arabs and so on” (108-9).

To cut to the quick here: Badiou suggests that in the context of (philosophical) thought that is “genuinely contemporary” and a-religious, the whole ethical predication based upon recognition of the other should be purely and simply abandoned (25)! It complicates not only political agency but also what he terms the truth process – “the production of truths”. Badiou’s philosophical propositions/ axioms are not only based upon Heidegger, Spinoza and others, but also mathematics, specifically set theory proposed in 1873 by Georg Cantor, with important subsequent developments by Godel and Cohen. Set theory proposes the multiple ‘without one’ – every multiple being in its turn nothing other than a multiple of multiples – which is the law of being, with the only stopping point infinity, that is the void. Thus *the infinite is the reality of every situation, not the predicate of transcendence*. For Cantor who invented set theory in the 1870’s the infinite is actually only the most general form of multiple being. With this as his foundation Badiou asserts that every situation in as much as it is, is a multiple.

To shift register here somewhat, I should briefly explore the history of set theory as it pertains to Badiou’s deconstruction of the other before I return to assign its relevance to Agamben’s work. In his 1874 paper the Russian born Cantor considered at least two different kinds of infinity. Before his intervention into classical mathematics, infinite collections of numbers were considered the same size; that is orders of infinity did not exist. The language of set theory is based upon the fundamental relation termed *membership*. A is a member of B

( $A \in B$ ) or that B contains A as its element. The understanding promoted here, is that each set is determined by its elements; it follows that two sets are equal if they have exactly the same element, sets of numbers, sets of points, sets of functions, sets of sets *etc.* In theory it is not necessary to distinguish between objects to distinguish between objects that are members and objects that contain members – the only objects one needs for the theory are sets.

Unambiguously, the object of study of set theory is sets, and as sets are fundamental objects that can be used to define all other concepts in mathematics, they are not defined reductively in terms of more fundamental or foundational concepts. Introduced informally they become self-evident (apodictic). After Cohen's work in the field, the study of the role of sets in mathematics is now understood axiomatically.

For Badiou and Agamben, the philosophical lessons of set theory are clear.<sup>x</sup> There is no God...meaning that the One is not. And if *infinite alterity is just (quite simply) what there is*, the question of other/ same does not therefore present a problem. The issue then is that any experience one has (as a Lacanian divided subject) *is the infinite deployment of infinite differences*. Even the self-reflexive term *myself*, which incidentally would have been considered solecistic in Locke's time, is not the intuition of a fundamental unity of the one but *a labyrinth of differentials* – a truly divided subject. Again Badiou's examples are clear: Rimbaud's "*I am another....*" as he writes, "the understanding that there are as many differences between a Chinese peasant and a young Norwegian professional and between himself (Badiou) and for that matter, anybody at all ...".and followed here, with a beautifully axiomatic phrase "[there are] as many differences but also neither more nor less (26). This is *differance!*

In other words through their deconstruction of the status of the other, Badiou and Agamben indict *both* objectivist and relativist conceptions of ethics. Badiou rejects both the implicit use of the altogether other implicit in Levinas' conception of the Other, and what he terms the vulgar sociology of culturalism, the "result of noble savagery directly inherited from the "astonishment of the colonial encounter with savages...as a foundation for contemporary ethics" Differences are what [that is all] there is! And with this in mind, the one/other; same/other dialectics don't have any explanatory and hence, we should add, ethical use value. The only genuine ethic is of truths in the plural, or better, the only ethics is of processes of truth. Badiou affirms that the thinking/labour that brings (his term *forces*) some truths into the world..... is worth pursuing. Badiou pits Lacan against Kant's ethics based upon a general morality....proposing that ethics (plural) do not exist; there is only an ethic-of (of politics, of love, of art, of science). Truths for Badiou are: political, scientific, artistic, amorous (love) and every human an animal is inscribed in these four subjective categories/ vehicles for (the construction/creation) procedures (processes) of truth(s) (in the making). For Badiou, the truth process induces a subject! "A Philosophy (not philosophy in general) sets out to construct a space of thought in which the different subjective types, expressed by the singular truths of its time, co-exist.... But this co-existence is not a unification – that is why it is impossible to speak of *one* ethics" (28). Badiou is rhetorically assertive when he contrasts the Evil considered as simply "lies, ignorance and deadly stupidity" But for him the condition of "EVIL (capitalized) is much rather "the process of a truth". "There is Evil only insofar as there is an axiom of truth at the point of the undecidable, a path of truth at the point of the

indiscernible, an anticipation of being for the generic, and the forcing of a nomination (a naming) at the point of the unnamable.”<sup>xi</sup> “EVIL is the will to name at any price.”

Badiou insists that a specific philosophy - not for him, Philosophy in general - sets out “to construct a space of thought in which the different subjective types, expressed by the singular truths of its time, co-exist.... But this co-existence is not a unification – that is why it is impossible to speak of *one* ethics (28). For Agamben, similarly Ethics has “no room for repentance; this is why the only ethical experience (which, as such, cannot be a task or a subjective decision) is the experience of (being one’s own) potentiality, of being (one’s own) possibility” (Agamben 1993:44.4). An ethics predicated simply upon recognition of the other cannot be sustained.

By way of a conclusion, I will offer the following reflections on the recent revelations in the international press about torture of Iraqi POW’s by US marines in Abu Ghraib prison in Baghdad. In a recent website news piece I receive daily from a U.S. List serve critical of government policy, Attorney General John Ashcroft was quoted as saying "I condemn torture. I don't think it's productive, let alone justified." However, it was pointed out in this item, that a 2002 Justice Department memo to the White House - described by Ashcroft as "information from [the President's] Attorney General that is confidential" - said that "necessity...may justify" interrogation methods that violate the federal anti-torture statute. The memo, which Ashcroft still refuses to release but which was leaked to the Washington Post, also took pains to note that "certain acts may be cruel, unusual or degrading, but still not produce pain and suffering of the requisite intensity" *to be considered torture.*" (Emphasis added). “To be considered torture, the physical pain must be equivalent to "organ

failure, impairment of bodily function or death." The Justice Department argued that for mental pain to count as torture it must result in significant psychological harm "lasting months or even years." Moreover to run afoul of anti-torture laws the individual ordering or administering the act must "specifically intend" to inflict long-lasting psychological harm. An alleged torturer could not be successfully prosecuted if he or she had a good faith belief - by "surveying professional literature" or another method - that the pain inflicted would not lead to extended psychological harm”<sup>xii</sup> And with recent revelations that U.S. army doctors have resuscitated POW torture victims *in order that they could be further tortured*, a claim which if confirmed, will be placed among the most egregious of recent violations of articles from The Geneva Convention,<sup>xiii</sup> The Camp, *Homo Sacer* and the State of Exception have no clearer representation in the contemporary world.

Thank you.

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<sup>i</sup> Levinas, Emmanuel, *Totality and Infinity* (translated by Alphonso Lingus) Duquesne University Press (1969:198)

<sup>ii</sup> This is also embedded within Islamic law (Sharia) and remains in use today. For example a recent edict reinforcing the fatwa against author Salman Rushdie by Ayatollah Khamenei: “They talk about respect towards all religions, but they support such a mahdour al-damm mortad as Salman Rushdie.” In Sharia, or Islamic law, mortad is a reference to someone who has committed apostasy by leaving Islam while mahdour al-damm is a term applying to someone whose blood may be shed with impunity. The fatwa, or religious edict, calling for Rushdie’s execution was issued because of alleged blasphemy and apostasy in his novel *The Satanic Verses*.

<sup>iii</sup> Throughout this paper I will use the primary title *Remnants of Auschwitz* or *Homo Sacer III*. In the Zone edition (2002) *HOMO SACER III* is printed in italics and capital letters on the verso of the inside cover.

<sup>iv</sup> *nomos*, pl. *nomoi* a norm, in the sense both of custom and of law. In 5<sup>th</sup> century Athenian thought *Nomos* is contrasted, with *phusis* (nature); the latter represents underlying reality and the former denotes the patterns by which men try to shape this. In this sense *nomos* is normally translated as convention. In Agamben’s sense this is also the new order, or the extant hegemony.

<sup>v</sup> The phrase “ecology of mind” derives from anthropologist Gregory Bateson’s book *Steps to an Ecology of the Mind* originally published in 1971. A new edition has recently been published by the Press of the University of Chicago (2000).

<sup>vi</sup> A related question concerns the animalization of humans which had its recent outrageous expression in images from a US controlled prison in Baghdad that revealed a female prison guard leading a naked and blindfolded prisoner around as a dog with collar and leash.

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<sup>vii</sup> The Muselmänner were also called *figuren*, the German word for doll.

<sup>viii</sup> Both Agamben and Badiou are esteemed faculty members at the European Graduate School in Saas-Fee, in the Canton of Wallis, Switzerland [www.EGS.com](http://www.EGS.com) where they both lecture and lead seminars each summer. This is also where I was privileged to meet them.

<sup>ix</sup> Badiou is chair of the philosophy department at the Ecole Normale Supérieure and teaches at the Collège International de Philosophie in Paris. It is not well known in North America or Australasia that he has also taught in marginal sites such as migrants' hostels and factories. He trained as a mathematician and philosopher and is a published playwright and novelist. He is arguably one of the most original French philosophers writing today. His major publications include: *Theory of the Subject*; *Being and Event*; *Deleuze: The Clamor of Being*; *Manifesto for Philosophy*; *Ethics: An Essay on the Understanding of Evil*. He is also a member of l'Organisation Politique ( a party without party), an organization of political militants who have been active since May 1968

<sup>x</sup> Agamben's discussion of Homonyms and non-predicative properties of objects in *The Coming Community* section XVII 72.1-7 is relevant in this context.

<sup>xi</sup> Notes taken by the author from a lecture presented by Badiou to EGS faculty and students in Saas-Fee, Switzerland, August 2003.

<sup>xii</sup> <http://www.americanprogress.org/site/pp.asp?c=biJRJ8OVF&b=6228#3>

<sup>xiii</sup> Geneva Convention relative to the Treatment of Prisoners of War Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949 (*entry into force* 21 October 1950).

### Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

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To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) Taking of hostages;
- (c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;
- (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

See <http://193.194.138.190/html/menu3/b/91.htm>