

METAPHYSICS, POLITICS, TRUTH: GENOCIDE PRACTICES AS A WAY OF DEPLOYING THE MODERN PARADIGM*

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In this Article, I will analyze genocide practices as a way of deploying the socio-political modern paradigm. In this sense, I will question the monopoly of meaning exercised by the definition of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, as well as the exception hypothesis and the positions holding genocide as an untouchable event. My argument will follow certain theoretical and philosophical lines elaborated by the Frankfurt School's criticism of modernity and Enlightenment, Arendt's comprehension of totalitarianism, Agamben's and Traverso's analysis of the Shoah and Foucault's ideas of "bio-power" and "governmentality." I will finally analyze certain operations which placed human life at the center of the Western cultural and universal horizon from the Second Postwar onwards and the derivations of such processes, fundamentally through the implications of the notions of "value" and "protection" of human life.

I. INTRODUCTION: THE IDEA OF GENOCIDE: A PARTIAL AND ALWAYS UNACHIEVED CONCEPT

In this Article, I intend to analyze some approaches to the concept of genocide from different fields (philosophical, historical, sociological, political, and juridical) that have been trying to define an object that has been strongly marked by the conceptualization coined at the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention).¹ This instrument has eclipsed, and still eclipses, the efforts to account for situations that go beyond it. Likewise, the definitions of genocide from the fields mentioned are, in general terms, partial and, in most cases, set aside

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1. Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 102 Stat. 3045, 78 U.N.T.S. 277 [hereinafter Genocide Convention].

the central operations through which certain configurations were produced in Western culture. These configurations led to the treatment of human life such that they created an idea of “value” and “protection” beyond the strong limits of modern sovereignty and religious discourses. Consequently, in order to conceptualize genocide practices, it is fundamental to consider these operations and their consequences as a central aspect. This is especially true when considering what is at stake in the notions of “value” and “protection” of human life, for their secret may certainly imply the opposite of their enunciated goals. These operations, in the consideration of life and the cultural configurations produced in the process of building the modern socio-political paradigm, allow us to understand genocide experiences better, such as the ones that took place in the Southern Cone of America between 1960 and 1990,² and to realize the potential of their present and future existence.

The *faulle* (flaw) in the definitions mentioned is still present as long as the implications and conditions of production and reproduction of what the twentieth century has called “genocide” have not yet been explored in depth. Genocide practices are a way of deploying the socio-political modern paradigm; that is, they do not constitute an exception to modern rationality, but a consequence of it.

Therefore, this Article shall focus on the analysis of the following problems in order to develop the idea that genocide practices are a constituent part of the foundations of our modern and present socio-political order. Part I discusses the monopoly of meaning of the definition of the 1948 Genocide Convention and Raphael Lemkin’s original effort to define genocide. Part II then explores the Frankfurt School’s critical view of modernity and of Enlightenment. Next, Part III examines Hannah Arendt’s vision of totalitarianism and her twofold notion of “evil” as a global attempt to think about genocide practices within the framework of modern politics. Part IV considers Giorgio Agamben’s criticism of the socio-political modern paradigm and Michel Foucault’s ideas of “bio-power” and “governmentality.” Part V discusses Enzo Traverso’s contributions to the analysis of Nazi violence. Finally, Part VI explores the operations of placing human life at the center of the Western cultural and universal horizon from World War II onward and the derivations of such processes, fundamentally through the implications of the notions of “value” and “protection” of human life.

Most of these conceptualizations take as a reference the founding

2. See NAOMI ROHT-ARRIAZA, *THE PINOCHET EFFECT: TRANSNATIONAL JUSTICE IN THE AGE OF HUMAN RIGHTS* vii-ix (2005).

event of the Shoah.³ This choice does not deny that previous experiences can also be conceptualized as genocide practices. The point here is that genocide practices constitute a cultural product of modern times, and in particular of the twentieth century, and that most of the experiences prior to this age did not have the implications connoted by the notion of genocide. The Shoah played a fundamental role in these operations.

II. THE DEFINITION OF THE 1948 GENOCIDE CONVENTION AND LEMKIN'S ORIGINAL EFFORT

The definition of genocide from the 1948 Genocide Convention is any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, (d) Imposing measures intended to prevent births within the group; [and] (e) Forcibly transferring children of the group to another group.⁴

This conceptualization clearly excludes from the genocide motives of a political or ideological character which, in many cases, have led to acts similar to those described in the definition.

This definition has exercised a monopoly of meaning in the genocide conceptualization. It hinders any attempt to enlarge the notion, in particular, for cases in which the motives of the acts are clearly political and ideological as, for example, the acts that constituted the repressive state policies of the Southern Cone dictatorships.⁵

In historical terms, the notion of genocide was coined by the Polish jurist Raphael Lemkin in his attempts to define an unknown crime which, taking into account the contemporary experience, needed urgently to be defined as such by law.⁶ Lemkin argued that this crime is "new in the civilized world as we have come to think of

3. "Shoah" is another term for the Holocaust—"the destruction of Europe's Jews." ENZO TRAVERSO, *THE ORIGINS OF NAZI VIOLENCE 2* (Janet Lloyd trans., The New Press 2003) (2002). Scholars argue that "Holocaust" has lost its particular Jewish connotation and thus use "Shoah," which, as a Jewish word, gives the event "its specifically Jewish dimensions." Gavriel D. Rosenfeld, *The Politics of Uniqueness: Reflections on the Recent Polemical Turn in Holocaust and Genocide Scholarship*, 13 *HOLOCAUST & GENOCIDE STUD.* 28, 48 (1999).

4. Genocide Convention, *supra* note 1, art. 2.

5. See ROHT-ARRIAZA, *supra* note 2, at vii-ix.

6. See RAPHAEL LEMKIN, *AXIS RULE IN OCCUPIED EUROPE* 79 (Howard Fertig, Inc. 1973) (1944).

it” and that it is so new and unknown that we lack a name for it.⁷

It is for this reason that I took the liberty of inventing the word, “genocide.” The term is from the Greek word *genes* meaning tribe or race and the Latin *cide* meaning killing. . . .

More often it refers to a coordinated plan aimed at destruction of the essential foundations of the life of national groups so that these groups wither and die like plants that have suffered a blight. The end may be accomplished by the forced disintegration of political and social institutions, of the culture of the people, of their language, their national feelings and their religion. It may be accomplished by wiping out all basis of personal security, liberty, health and dignity. When these means fail the machine gun can always be utilized as a last resort. Genocide is directed against a national group as an entity and the attack on individuals is only secondary to the annihilation of the national group to which they belong.

Such terms as “denationalization” or “Germanization” which have been used till now do not adequately convey the full force of the new phenomenon of genocide. They signify only the substitution of the national pattern of the oppressor for the original national pattern but not the destruction of the biological and physical structure of the oppressed group.⁸

Bearing the case of the Shoah in mind, Lemkin reinforces the aspect that genocide constitutes a eugenic state policy, that is, based on criteria of biological selection and discrimination.⁹

III. THE FRANKFURT SCHOOL’S CRITICAL VIEW OF MODERNITY AND ENLIGHTENMENT

One of the first important criticisms posed to the comprehension of the Shoah and the phenomenon of genocide is the very well-known position of the Frankfurt School, particularly the ideas exposed by Theodor Adorno and Max Horkheimer in *Dialectic of Enlightenment* and later in Adorno’s great work *Negative Dialectics*.

In *Dialectic of Enlightenment*, Adorno and Horkheimer make modern rationality responsible for the irrationality of Auschwitz.¹⁰

7. Raphael Lemkin, *Genocide – A Modern Crime*, FREE WORLD, Apr. 1945, at 39, <http://www.preventgenocide.org/lemkin/freeworld1945.htm>.

8. *Id.* This article summarizes for the public, in general, the concepts that Lemkin had originally presented in chapter nine of *Axis Rule in Occupied Europe*. See LEMKIN, *supra* note 6, at 79.

9. LEMKIN, *supra* note 6, at 81 (“[Hitler] believes that ‘Germanization can only be carried out with the soil and never with men.’”).

10. See MAX HORKHEIMER & THEODOR W. ADORNO, *DIALECTIC OF ENLIGHTENMENT* xvi-xvii (John Cumming trans., Herder & Herder 1972) (1944) (contesting the positivity of the Enlightenment and proposing that enlightenment ideals, such as rationality, have been employed by society to conquer the fear of the unknown through

The work opens with a question: "why mankind, instead of entering into a truly human condition, is sinking into a new kind of barbarism."¹¹ The philosophers answer:

The dilemma that faced us in our work proved to be the first phenomenon for investigation: the self-destruction of the Enlightenment. We are wholly convinced—and therein lies our *petitio principii*—that social freedom is inseparable from enlightened thought. Nevertheless, we believe that we have just as clearly recognized that the notion of this very way of thinking, no less than the actual historic forms—the social institutions—with which it is interwoven, already contains the seed of the reversal universally apparent today. If enlightenment does not accommodate reflection on this recidivist element, then it seals its own fate."¹²

But in the text titled *Elements of Anti-Semitism*, which is found in the same book, they conclude that "Enlightenment which is in possession of itself and coming to power can break the bounds of enlightenment."¹³ As regards the analysis of anti-Semitism in the text mentioned, the authors underline that the essence of the Jews' persecution is violence which reveals itself in genocide.¹⁴

In *After Auschwitz*, located in the third part of *Meditations on Metaphysics of Negative Dialectics*, Adorno asserts that "The administrative murder of millions made of death a thing one had never yet to fear in just this fashion."¹⁵ And even though he had argued at the end of the Second World War that to still write a poem after Auschwitz is "barbaric," now he states that

[p]erennial suffering has as much right to expression as a tortured man has to scream; hence it may have been wrong to say that after Auschwitz you could no longer write poems. But it is not wrong to raise the less cultural question whether after Auschwitz you can go on living—especially whether one who escaped by accident, one who by rights should have been killed, may go on living.¹⁶

We should also remember the strong criticism proposed by Walter Benjamin to modernity in most of his works, which was quite clearly summarized in his ninth thesis of the concept of history under the figure of the *Angelus Novus*, that is, the angel of history who is pulled backwards to paradise and who sees with terrified eyes the

the domination of nature).

11. *Id.* at xi.

12. *Id.* at xiii.

13. *Id.* at 208.

14. See generally *id.* at 168-208 (discussing anti-Semitism in Europe).

15. THEODOR W. ADORNO, *NEGATIVE DIALECTICS* 362 (E.B. Ashton trans., Seabury Press 1973) (1966).

16. *Id.* at 362-63.

spectacle of history: the ruins of modern civilization.¹⁷ In Benjamin's own words:

A Klee painting named 'Angelus Novus' shows an angel looking as though he is about to move away from something he is fixedly contemplating. His eyes are staring, his mouth is open, his wings are spread. This is how one pictures the angel of history. His face is turned toward the past. Where we perceive a chain of events, he sees one single catastrophe which keeps piling wreckage upon wreckage and hurls it in front of his feet. The angel would like to stay, awaken the dead, and make whole what has been smashed. But a storm is blowing from Paradise; it has got caught in his wings with such violence that the angel can no longer close them. This storm irresistibly propels him into the future to which his back is turned, while the pile of debris before him grows skyward. This storm is what we call progress.¹⁸

But Benjamin's general criticism of modernity has also been expressed in his category of *illumination* (illumination) or phantasmagory.¹⁹ Benjamin argues that modern civilization makes an exhaustive inventory of ways of life and creations of humanity where they are identified forever (what has been called the *Histoire de la civilisation*).²⁰ With his research of nineteenth-century Paris, Benjamin pretends to show how, as a consequence of the representation of civilization into things, the new forms of life and the new economic and technical creations of the nineteenth century entered the universe of phantasmagory.²¹ These creations suffer an *illumination*, not only in a theoretical way as a consequence of an ideological transposition, but especially in the immediateness of their sensible presence.²² The transformations effected by Haussmann to the city of Paris constitute the phantasmagory of civilization itself.²³ But the brilliance and splendor of the merchandise-producing society and the illusionary feeling of security, are not free from threats.²⁴ Benjamin warns us quite clearly that it was the French revolutionary Auguste Blanqui, the most feared enemy of Napoleon III's regime, who reveals the terrific characteristics of the phantasmagory of

17. WALTER BENJAMIN, *Theses on the Philosophy of History*, in ILLUMINATIONS 253, 257-58 (Hannah Arendt ed., Harry Zohn trans., Schocken Books 1969) (1955).

18. *Id.*

19. CULTURAL PARTICIPATION: TRENDS SINCE THE MIDDLE AGES 119-20 (Ann Rigney & Douwe Fokkema eds., 1993).

20. WALTER BENJAMIN, PARIS, CAPITALE DU XIX SIECLE [PARIS, CAPITAL OF THE NINETEENTH CENTURY] 58-59 (Rolf Tiedmann ed., Jean Lacoste trans., Les Editions du Cerf 1989) (1939).

21. See CULTURAL PARTICIPATION, *supra* note 19, at 120.

22. BENJAMIN, *supra* note 20, at 58-59.

23. See CULTURAL PARTICIPATION, *supra* note 19, at 120.

24. *Id.*

civilization in his book *Eternity Through the Stars* while imprisoned in the Taureau fortress.²⁵ All that modern society could await as new would reveal itself as an ever-present reality. What Blanqui intends to present—Benjamin finally says—is an image of progress which reveals itself as the last phantasmagory of history.²⁶ The nineteenth century could not respond to the new technical realities with a new social order. The world dominated by its phantasmagories—to use an expression by Baudelaire—is modernity.²⁷ Blanqui's vision makes the whole world enter modernity.

In the concept of *illumination*, Benjamin shows the connection between Marxism and Jewish mysticism which characterizes his criticism of modernity.

IV. HANNAH ARENDT'S VISION OF TOTALITARIANISM AND HER TWOFOLD NOTION OF "EVIL"

When Hannah Arendt had to face the challenge of thinking of the phenomenon of the Shoah, she proposed a conceptualization of that set of actions which she would develop at different moments of her production.²⁸ The Shoah includes genocide, but goes beyond it—though it could be taken as the central and hitherto unknown main line of the whole set of actions constituting it. Still, in these developments, we can identify two key theoretical moments: the concept of totalitarianism and the developments around the notion of what the ethical, theological, and juridical traditions of the West call "evil" with two complementary categories—radical (or absolute) evil and the banality of evil.

Arendt herself lived through the terrible experience of the Nazi policy of persecution and extermination.²⁹ As she would declare many years later, she was forced by the circumstances to engage in politics and think of genocide.³⁰ The first attempt was to place her great adventure of thinking in the monsters of modern politics: anti-Semitism, imperialism, and totalitarianism, where genocide would clearly appear as part of the latter. The monsters would make up her work *The Origins of Totalitarianism*.³¹

25. BENJAMIN, *supra* note 20, at 58-59.

26. *Id.* at 59.

27. CULTURAL PARTICIPATION, *supra* note 19, at 10.

28. HANNAH ARENDT, EICHMANN IN JERUSALEM: A REPORT ON THE BANALITY OF EVIL 254 (Penguin Books 1965) (1963).

29. See Jerome Kohn, The World of Hannah Arendt, <http://memory.loc.gov/ammem/arendthtml/essay1.html> (last visited Dec. 18, 2008).

30. *Id.*

31. See generally HANNAH ARENDT, THE ORIGINS OF TOTALITARIANISM (Harvest Books 1994) (1948) (giving a chronology of the rise of anti-Semitism in Central and Western Europe and examining the New Imperialism period that followed, ultimately

The meaning of totalitarianism could be summarized as “total domination,” and the concentration and extermination camps can be identified as the “true central institution of totalitarian organizational power.”³² She explains that

[t]he concentration and extermination camps of totalitarian regimes serve as the laboratories in which the fundamental belief of totalitarianism that everything is possible is being verified . . . Total domination, which strives to organize the infinite plurality and differentiation of human beings as if all of humanity were just one individual, is possible only if each and every person can be reduced to a never-changing identity of reactions, so that each of these bundles of reactions can be exchanged at random for any other . . . Totalitarian domination attempts to achieve this goal both through ideological indoctrination of the elite formations and through absolute terror in the camps; and the atrocities for which the elite formations are ruthlessly used become, as it were, the practical application of the ideological indoctrination—the testing ground in which the latter must prove itself—while the appalling spectacle of the camps themselves is supposed to furnish the “theoretical” verification of the ideology.

The camps are meant not only to exterminate people and degrade human beings, but also serve the ghastly experiment of eliminating, under scientifically controlled conditions, spontaneity itself as an expression of human behavior and of transforming the human personality into a mere thing, into something that even animals are not

Under normal circumstances this can never be accomplished, because spontaneity can never be entirely eliminated insofar as it is connected not only with human freedom but with life itself, in the sense of simply keeping alive. It is only in the concentration camps that such an experiment is at all possible, and therefore they are not only “*la société la plus totalitaire encore réalisée*” (David Rousset) but the guiding social ideal of total domination in general.³³

The second theoretical moment, closely linked to the notion of total domination and the concentration and extermination camps within the general framework of totalitarianism, is the twofold concept of “evil.” The first proposal she makes is to think of the actions that made up the Shoah as an “absolute” or “radical evil;” that is, a deep evil of an extraordinary character and for which we lack the theoretical (philosophical, juridical, or theological) tools to cope with it.³⁴ The main characteristic of radical evil is to render

leading to totalitarianism).

32. *Id.* at 438.

33. *Id.* at 437-38.

34. *Id.* at 459.

people superfluous, that is, to deprive people of all spontaneity or creativity.³⁵ The consequence of this operation is to render people completely predictable, to make them become objects, to render them something less than human.³⁶

Again in *The Origins of Totalitarianism*, Arendt explains that [i]t is chiefly for the sake of this supersense, for the sake of complete consistency, that it is necessary for totalitarianism to destroy every trace of what we commonly call human dignity. For respect for human dignity implies the recognition of my fellow-men or our fellow-nations as subjects, as builders of worlds or cobuilders of a common world. No ideology which aims at the explanation of all historical events of the past and at mapping out the course of all events of the future can bear the unpredictability which springs from the fact that men are creative, that they can bring forward something so new that nobody ever foresaw it

It is inherent in our entire philosophical tradition that we cannot conceive of a “radical evil,” and this is true both for Christian theology, which conceded even to the Devil himself a celestial origin, as well as for Kant, the only philosopher who, in the word he coined for it, at least must have suspected the existence of this evil even though he immediately rationalized it in the concept of a “perverted ill will” that could be explained by comprehensible motives. Therefore, we actually have nothing to fall back on in order to understand a phenomenon that nevertheless confronts us with its overpowering reality and breaks down all standards we know. There is only one thing that seems to be discernible: we may say that radical evil has emerged in connection with a system in which all men have become equally superfluous. The manipulators of this system believe in their own superfluousness as much as in that of all others, and the totalitarian murderers are all the more dangerous because they do not care if they themselves are alive or dead, if they ever lived or never were born.³⁷

As we can see—and we can also recall the letter that Arendt sent to Karl Jaspers on March 4, 1951³⁸—she identifies the phenomenon of radical evil with superfluousness, that is, human life deprived of its dignity and unpredictability.³⁹

But her decisive discovery is not only that radical evil takes place in the context of a system that is generally totalitarian, but

35. *Id.* at 457-59.

36. *Id.* at 455-56.

37. *Id.* at 458-59.

38. LETTER FROM HANNAH ARENDT TO KARL JASPERS (Mar. 4, 1951), in HANNAH ARENDT, KARL JASPERS CORRESPONDENCE 1926-1969, at 165-68 (Lotte Kohler & Hans Saner eds., Robert Kimber & Rita Kimber trans., Harcourt Brace Jovinvich 1992) (1985).

39. ARENDT, *supra* note 31, at 457-59.

also, and particularly, a democratic one.⁴⁰ Specifically, she writes that

[t]he danger of the corpse factories and holes of oblivion is that today, with populations and homelessness everywhere on the increase, masses of people are continuously rendered superfluous if we continue to think of our world in utilitarian terms. Political, social, and economic events everywhere are in a silent conspiracy with totalitarian instruments devised for making men superfluous. The implied temptation is well understood by the utilitarian common sense of the masses, who in most countries are too desperate to retain much fear of death. The Nazis and the Bolsheviks can be sure that their factories of annihilation which demonstrate the swiftest solution to the problem of overpopulation, of economically superfluous and socially rootless human masses, are as much of an attraction as a warning. Totalitarian solutions may well survive the fall of totalitarian regimes in the form of strong temptations which will come up whenever it seems impossible to alleviate political, social, or economic misery in a manner worthy of man.⁴¹

This form of radical evil is not consequently exclusive of totalitarian regimes, but it can also happen under democratic ones.

The second aspect of the concept of “evil”—to think of the actions that made up the Shoah—is constituted by the notions of banal evil and its consequence, the banality of evil. Banal evil is based on the impossibility or absence of reflexive judgment, that is, the incapacity of representing others as equal to oneself in the prediction of the consequences of actions. Reflexive judgment, Arendt asserts, is the product of the human faculty of judging and thinking (what Kant called *Urteilskraft*)—that silent dialogue with oneself.⁴² This kind of judgment implies taking into consideration the whole of humankind

40. *See id.* at 459.

41. *Id.*

42. *See* HANNAH ARENDT, *Personal Responsibility Under Dictatorship*, in RESPONSIBILITY AND JUDGMENT 17, 44-45 (Jerome Kohn ed., Schocken Books 2003) (1964) (“The precondition for this kind of judging is not a highly developed intelligence or sophistication in moral matters, but rather the disposition to live together explicitly with oneself . . . to be engaged in that silent dialogue between me and myself which, since Socrates and Plato, we usually call thinking.”). The concept of reflexive judgment is based on Kant’s notion of *sensus communis*, that is, a communitarian sense that implies a faculty of judgment which, when thinking, can make a representation of all the other human beings. *See* 42 IMMANUEL KANT, THE CRITIQUE OF JUDGMENT, in GREAT BOOKS OF THE WESTERN WORLD 459, 519 (Robert Maynard Hutchins ed., James Creed Meredith trans., Encyclopædia Britannica, Inc. 1952) (1790) (“[A] critical faculty which in its reflective act takes account (*a priori*) of the mode of representation of everyone else . . . to weigh its judgment with the collective reason of mankind This is accomplished by weighing . . . [possible] judgments of others, and by putting ourselves in the position of everyone else”).

in the prediction of the consequences of our actions and this happens when people just think.⁴³ Totalitarianism, by abandoning this operation, enables people to go beyond a certain threshold of inhumanity and so enables genocide.⁴⁴ When this happens, Arendt argues, the actions which constituted the Nazi persecution and extermination policy are not perceived as extremely bad, that is, they lose their extraordinary character as terribly bad actions and therefore become common garden variety, that is, banal.⁴⁵ Consequently, that extreme evil (which she previously called radical or absolute) is no longer perceived as something extraordinary and it becomes part of the order of things—normality.⁴⁶ This is how banal evil produces the banality of evil.⁴⁷ And this is the reason why it is explained as thoughtlessness or the absence of thinking “which is so ordinary an experience in our everyday life, where we have hardly the time, let alone the inclination, to *stop* and think.”⁴⁸

V. GIORGIO AGAMBEN’S CRITICISM OF THE SOCIO-POLITICAL MODERN PARADIGM AND MICHEL FOUCAULT’S CONCEPTS OF “BIO-POWER” AND “GOVERNMENTALITY”

Giorgio Agamben explains that genocide, under the figure of the Shoah, in the metaphor of Auschwitz, must not be understood in exceptional terms but should be comprehended in light of the particular way in which the sociopolitical modern matrix was formed.⁴⁹ Auschwitz cannot surprise us, for the operations that led to include *nuda vita* (naked or bare life)—biological life as the simple fact of living, developing as a vital cycle between life and death, life

43. See HANNAH ARENDT, *Some Questions of Moral Philosophy*, in RESPONSIBILITY AND JUDGMENT, *supra* note 42, at 141-42 (“If common sense, the sense through which we are members of a community, is the mother of judgment, then not even a painting or a poem, let alone a moral issue, can be judged without invoking and weighing silently the judgments of others . . .”).

44. See ARENDT, *supra* note 31, at 475 (“Totalitarian government . . . could not exist without destroying the public realm of life, that is, without destroying, by isolating men, their political capacities.”).

45. See ARENDT, *supra* note 43, at 146.

46. See ARENDT, *supra* note 31, at 457-58 (“Once [ideologies] claim to total validity is taken literally they become the nuclei of logical systems in which . . . everything follows comprehensibly and even compulsorily once the first premise is accepted.”).

47. ARENDT, *supra* note 28, at 252; HANNAH ARENDT, *THE LIFE OF THE MIND* 4 (Harvest/HBJ 1981) (1971) (“I was struck by a manifest shallowness in the doer [of evil] that made it impossible to trace the uncontestable evil of his deeds to any deeper level of roots or motives. The deeds were monstrous, but the doer . . . was quite ordinary, commonplace, and neither demonic nor monstrous.”).

48. ARENDT, *THE LIFE OF THE MIND*, *supra* note 47, at 4.

49. See GIORGIO AGAMBEN, *HOMO SACER: SOVEREIGN POWER AND BARE LIFE* 166 (Werner Hamacher & David E. Wellbery eds., Daniel Heller-Roazen trans., Stanford University Press 1998) (1995).

deprived of any value or attribute, as the center of modern politics—is what permits us to refute the Auschwitz exceptional thesis.⁵⁰ In opposition to the different discourses of modern politics stating the central place of qualified life, of the valuable life of the polis, Agamben argues that in the first centuries of modernity an inclusive exclusion has taken place (or also an exclusive inclusion).⁵¹ An *exceptio* (exception) of naked life places it at the center and enables us to explain the kind of actions that constituted the Shoah as well as other contemporary practices (like terrorism, imperialism, totalitarianism and the so called sociopolitical exclusion of democratic regimes).⁵²

Agamben explains these concepts in his last works, those he wrote between the mid-1990s and today.⁵³ I call this production “the *homo sacer* saga” bearing in mind the central figure, which summarizes the whole set. In *Homo Sacer: Sovereign Power and Bare Life*, Agamben introduces his proposals by recalling the distinction made by the Greeks concerning the notion of life.⁵⁴ He says that they did not have just one word for life, as we have nowadays—at least in most Western languages—but two: *zoē*, “the simple fact of living common to all living beings (animals, humans, or gods)” and *bios*, which meant the way of living specific “to an individual or a group.”⁵⁵ The first concept corresponds to life deprived of any kind of value or attribute (a sort of bare life), whereas the second notion is life qualified by culture (life in common with other people within the boundaries of the polis)—that is, political life.⁵⁶

Agamben holds that “the entry of *zoē* into the sphere of the polis—the politicization of bare life as such—constitutes the decisive event of modernity and signals a radical transformation of the political-philosophical categories of classical thought.”⁵⁷

Modern politics is founded on “an exclusion (which is simultaneously an inclusion) of bare life[.]”⁵⁸ or in other words, “an inclusive exclusion (an *exceptio*) of *zoē* in the polis, almost as if politics were the place in which life had to transform itself into good life, and in which what had to be politicized were always already bare life.”⁵⁹ “In Western politics, bare life has the peculiar privilege of

50. See *id.* at 171-75.

51. See *id.* at 6-8.

52. See, e.g., *id.* at 166, 171-76.

53. See, e.g., *id.*

54. *Id.* at 1.

55. *Id.*

56. See *id.* at 1-2.

57. *Id.* at 4.

58. *Id.* at 7.

59. *Id.*

being that whose exclusion founds the city of men.”⁶⁰ As we can see, Agamben conceives of bare life as the founding event of modernity, and exception (the inclusive exclusion), specifically the state of exception, as the matrix of modern politics.

Now, the figure that bare life is translated into is *homo sacer*, that is, life that can be killed but not sacrificed. This figure or institution, existing under archaic Roman law, consisted of life that was included in the juridical order only in the form of its exclusion, that is, in its ability to be killed without any sanction.⁶¹ This meaning of the word *sacer* presents the puzzle of a figure of the sacred, “before and beyond the religious, which constitutes the first paradigm of the [Western political space].”⁶² Agamben holds that Michel Foucault’s thesis about bio-politics should therefore

be corrected, or at least, completed, in the sense that what characterizes modern politics is not so much the inclusion of [the] *zoē* in the polis . . . nor simply the fact that life as such becomes a principal object of the projections and calculations of State power. Instead the decisive fact is that, together with the process by which the exception everywhere becomes the rule, the realm of bare life—which is originally situated at the margins of the political order—gradually begins to coincide with the political realm, and exclusion and inclusion, outside and inside, *bios* and *zoē*, right and fact, enter into a zone of irreducible indistinction. At once excluding bare life from and capturing it within the political order, the state of exception actually constituted, in its very separateness, the hidden foundation on which the entire political system rested. . . . When its borders blur, bare life frees itself in the city and becomes both the subject and the object of the conflicts of the political order, the one place for both the organization of state power and emancipation from it.⁶³

Therefore, Agamben argues that the aporia of modern democracy consists of placing the freedom and the happiness of men “in the very place—‘bare life’—that marked their subjection.”⁶⁴ By a secret complicity, this aporia links democracy to its fiercer enemy. In Agamben’s own words:

Behind the long, strife-ridden process that leads to the recognition of rights and formal liberties stands once again the body of the sacred man with his double sovereign, his life that cannot be sacrificed yet may, nevertheless be killed. To become conscious of this aporia is not to belittle the conquests and accomplishments of

60. *Id.*

61. *Id.* at 8.

62. *Id.* at 8-9.

63. *Id.* at 9.

64. *Id.* at 9-10.

democracy. It is, rather, to try to understand once and for all why democracy, at the very moment in which it seemed to have finally triumphed over its adversaries and reached its greatest height, proved itself incapable of saving *zōē* to whose happiness it had dedicated all its efforts, from unprecedented ruin. . . . Today politics knows no value (and, consequently, no nonvalue) other than life⁶⁵

Agamben warns us that as long as the contradictions resulting from this situation could not be solved, Nazism and Fascism, which had made the decision upon bare life the supreme political criterion, would remain dramatically present.⁶⁶

This is the reason why Agamben identifies concentration and extermination camps as the *nomos* of modernity, that is, the concentrationary matrix as the metaphor defining the contemporary socio-political order.⁶⁷

Specifically speaking of the Shoah in the metaphor of Auschwitz, he maintains that it constitutes an aporia that is the aporia of all historical knowledge: the noncoincidence of facts and truth.⁶⁸ Following this statement, he asserts that we can only make an “endless comment” on the ever-open gap represented by Auschwitz.⁶⁹

Agamben finally elaborates the category of economic theology to understand the modern sociopolitical matrix. He derives this notion from the way in which the Church Fathers understood the Aristotelian category of *oikonomia* as the administration and government of the celestial house on earth to conclude that our present “government of men” (or “governmentality” in Foucault’s terms) and “of things” is economy, that is, a certain form of *oikonomia*.⁷⁰ The government machine has a double structure: the state of exception and the articulation between reign and government (power as government and efficient administration) and *oikonomia* and glory (power as ceremonial and liturgical activity).⁷¹ The latter articulation constitutes the core structure of the government machine: as long as the center of that machine is empty, the glory comes to fulfill its acclamation of power.⁷²

It would be unfair not to mention that Agamben formulated

65. *Id.* at 10.

66. *Id.*

67. *Id.* at 166.

68. See generally GIORGIO AGAMBEN, *REMNANTS OF AUSCHWITZ; THE WITNESS AND THE ARCHIVE* (Daniel Heller-Roazen trans., Zone Books 1999).

69. *Id.*

70. *Id.*

71. *Id.*; see also AGAMBEN, *supra* note 49, at 19-20, 181.

72. See GIORGIO AGAMBEN, *Il Regno e la Gloria: Per una Genealogia Teologica dell'Economia e del Governo*, in 2 *HOMO SACER* (Neri Pozza 2007).

these ideas by taking into consideration, and sometimes reformulating, concepts and categories from other philosophers. His main sources of inspiration have been Michel Foucault, Hannah Arendt, Walter Benjamin, Carl Schmitt, and Martin Heidegger.⁷³ In particular, it is in following some of Foucault's developments that Agamben tried to propose a general diagnosis of our world, our time, and the special relationship of life and power.⁷⁴ It was especially Foucault's ideas of *biopouvoir* (bio-power) and *gouvernementalité* (governmentality) that Agamben elaborated on in his *homo sacer* saga.⁷⁵

Bio-power, in Foucault's thought, constitutes the second and integrating aspect of what we could call his theory of *pouvoir-savoir* (power-knowledge).⁷⁶ These notions not only converge with the visions that question the exceptional hypothesis vis-à-vis Auschwitz; they provide a solid foundation to this view. Taking into account the definition of man given by Aristotle in his *Politics*,⁷⁷ at the end of *History of Sexuality Volume One*, Foucault summarizes the process through which, in the beginning of modern times, natural life begins to be integrated in the mechanisms and calculations of state power and politics becomes *biopolitique* (bio-politics): "For millennia, man remained what he was for Aristotle: a living animal with the additional capacity for a political existence; modern man is an animal whose politics places his existence as a living being in question."⁷⁸

According to Foucault, society's "threshold of modernity" is situated where the species and the individual as a simple living body become the challenge of political strategies.⁷⁹ From 1977 onwards, in his courses in the Collège de France, Foucault begins to define the passage from the *État territorial* (territorial state) to the *État de population* (state of population) and the growing importance of biological life and the nation's health as a specific problem of political power that is progressively transformed into the *gouvernementalité* (government of men).⁸⁰ Foucault points out that this new kind of

73. See generally AGAMBEN, *supra* note 49 (building upon the ideas of these philosophers, among others, and exploring the relationships among these philosophers' ideas to explain the life of the *homo sacer*).

74. See *id.*, *supra* note 49, at 3-7, 187-88.

75. Cf. *id.* at 3-7, 111, 119.

76. See 1 MICHEL FOUCAULT, *THE HISTORY OF SEXUALITY* 139-43 (Robert Hurley trans., Pantheon Books 1978) (1976).

77. See ARISTOTLE, *ARISTOTLE'S POLITICS AND THE ATHENIAN CONSTITUTION* 7 (John Warrington ed. and trans., Dutton 1973) (1959) ("[M]an is by nature a political animal.").

78. See FOUCAULT, *supra* note 76, at 139-43.

79. See *id.* at 143.

80. See generally Michel Foucault, *Lecture Two: 14 January 1976*, in *CULTURE / POWER / HISTORY: A READER IN CONTEMPORARY SOCIAL THEORY* 210 (Nicolas B. Dirks,

government creates an animalisation of man affected by the most sophisticated political techniques.⁸¹ Bio-power adopts two basic forms: disciplines, the anatomo-politics of the human body, and regulatory controls, a bio-politics of the population.⁸² It is, therefore, the moment of appearance in history of not only the multiplication of the possibilities of the human and social sciences, but also of the simultaneous possibility of protecting life and authorizing its holocaust. It is the moment, as Foucault put it, of the entry of life into history with the knowledge-power system of bio-power.⁸³ Foucault says “[O]ne would have to speak of *bio-power* to designate what brought life and its mechanisms into the realm of explicit calculations and made knowledge-power an agent of transformation of human life.”⁸⁴ “[T]he development and triumph of capitalism would not have been possible, from this perspective, without the disciplinary control achieved by the new bio-power, which, through a series of appropriate technologies, so to speak created the ‘docile bodies’ that it needed.”⁸⁵

Now, in his last writings, such as *The Subject and Power*,⁸⁶ Foucault holds that the western modern state simultaneously integrated an unprecedented number of techniques of subjective individualization and procedures of objective totalization of the structures of modern power.⁸⁷ He calls this an actual “political ‘double bind.’”⁸⁸ According to Agamben, Foucault never made the junction between the components of the “double bind” explicit.⁸⁹ Agamben presents his research of the *homo sacer* saga as the hidden junction point between the juridical-institutional model and the bio-political model of power, as a genealogy of Foucault’s governmentality.⁹⁰

VI. ENZO TRAVERSO’S CONTRIBUTIONS TO THE ANALYSIS OF NAZI VIOLENCE

Enzo Traverso, taking the foundational experience of the Shoah

Geoff Eley & Sherry B. Ortner eds., 1993) (analyzing the mechanisms of power).

81. See FOUCAULT, *supra* note 76, at 137.

82. *Id.* at 139.

83. *Id.* at 143.

84. *Id.*

85. AGAMBEN, *supra* note 49, at 3.

86. 3 MICHEL FOUCAULT, *The Subject and Power*, in POWER: ESSENTIAL WORKS OF MICHEL FOUCAULT, 1954-1984, at 326 (James D. Faubion ed., Robert Hurley trans., The New Press 2000) (1994).

87. *Id.* at 332.

88. *Id.* at 336.

89. AGAMBEN, *supra* note 49, at 5-6.

90. *Id.* at 4-5, 71-74.

as a reference, also rejects the Auschwitz exceptional thesis in so far as its study requires a diachronic and compared perspective.⁹¹ Even though he gives weight to what he calls “judeocide,” he argues that there exists a terrible gap, or even more, a denial of the cultural origins of fascism and Nazism.⁹² Traverso relates the latter two ideologies to rationalism and the faith in science of Enlightenment, but mainly asserts that it is necessary to understand them in the framework of imperialist and colonialist policies within the European boundaries, in particular, in the “nationalization of the masses” and in the formation of a conquering, “aggressive, inegalitarian, and antidemocratic nationalism.”⁹³ Traverso maintains that Nazi violence was perpetrated in the framework of a conquest and extermination war between 1941 and 1945 “which was conceived as a colonial war within Europe.”⁹⁴ Traverso says:

Although the victims of the Final Solution may have embodied the image of otherness in the Western world, otherness that had been the object of religious persecution and racial discrimination ever since the Middle Ages, the historical circumstances of their destruction indicate that that ancient and particular kind of stigmatization had been rethought in the light of the colonial wars and genocides. Nazism brought together and fused two paradigmatic figures: the Jew, the “other” of the Western world, and the subhuman (*Untermensch*), the “other” of the colonized world.⁹⁵

We can also say that Zygmunt Bauman’s contributions go in the same direction as Traverso’s. Bauman asserts that “[t]he Holocaust was born and executed in our modern rational society, at the high stage of our civilization and at the peak of human cultural achievement, and for this reason it is a problem of that society, civilization and culture.”⁹⁶

Finally, in this same line, Daniel Feierstein insists on the need to conceptualize genocide as a social practice with all the implications that this notion has for sociological theory.⁹⁷ Feierstein argues that it is necessary to understand that

genocide is a social practice with its characteristics, its theoretical

91. TRAVERSO, *supra* note 3, at 6-7.

92. *Id.* at 16.

93. *Id.* at 19.

94. *Id.*

95. *Id.*

96. ZYGMUNT BAUMAN, *MODERNITY AND THE HOLOCAUST* x (1989).

97. DANIEL FEIERSTEIN, *SEIS ESTUDIOS SOBRE GENOCIDIO: ANÁLISIS DE LAS RELACIONES SOCIALES: OTREDAD, EXCLUSIÓN Y EXTERMINIO [SIX STUDIES ABOUT GENOCIDE: ANALYSIS OF THE SOCIAL RELATIONS: OTHERNESS, EXCLUSION, AND EXTERMINATION]* 13-14 (Eudeba 2000).

and practical instruments, its forms of training, its particular technology and its specific techniques, and that a great number of the members of our societies have been built with a certain genocide potentiality which only requires certain mechanisms to come out from its latency.⁹⁸

VII. THE TREATMENT OF LIFE AND THE IMPLICATIONS OF THE NOTIONS OF "VALUE" AND "PROTECTION"

Taking into account the aforementioned conceptualizations, from World War II onward, and in particular during the last decades, certain culture-level operations had planetary reach. However, these operations have occurred under the leadership of Western voices and, as a consequence, human life started to receive a certain consideration of "value" going beyond the differences proper to groups inside national states, to project in a notion of a universal character, but whose outlines are still difficult to grasp.⁹⁹ These operations of conferring a certain "value" upon human life resulted in placing it at the center of the Western and universal cultural horizon.¹⁰⁰ The operations somewhat coincided with the efforts, which at the heart of international forums, and especially, the United Nations Organization, led to the birth of the notions of human rights and genocide as measures of protection of human life against the horrors lived.¹⁰¹ It is necessary to pose strong questions about the notions of "value" and "protection" of human life since, most of the times, they have implied a deep control of the modalizations of life or the evidence that it could be freely disposed of and so showing exactly its opposite, that is, the lack of all value.

The redefinition of life and, in particular, of its "value" during the last half century, mainly constitutes a questioning of the approaches presented and analyzed as a definitive diagnosis about our time. It also pretends to warn us about the consequences of the undesirable fictions of the notions of "value" and "protection" of life. In this sense, I believe that we need to create tools of political fight vis-à-vis the irrationality of a mode of production of life, which

98. *Id.* at 17.

99. With this, I am maintaining an attribution of "value" which has been conferred upon life at this level. We could identify this level with what some thinkers call planetary or world society and whose scope and power regimes could be discussed and which does not refer to the ideas developed by Agamben about the administration of naked life or the mechanisms of control and domination or, as Antônio Augusto Cançado Trindade argues at the opposite extreme, to a new universal juridical conscience as a generalized conviction of the sacred value of mankind. 3 ANTÔNIO AUGUSTO CANÇADO TRINDADE, *TRATADO DE DIREITO INTERNACIONAL DOS DIREITOS HUMANOS* 407-08 (Sergio Antonio Fabris ed., 2003).

100. *Id.* at 409.

101. See Genocide Convention, *supra* note 1, pmbi.

confines us to the worst of the opposite to its enunciated goals, and which introduces itself as the best of all possible worlds.

VIII. CONCLUSION

If the thesis that an experience such as the Southern Cone dictatorships needs the building of a social order that implies a treatment of human life deprived of all value and freely disposed of; and if we can assess that the genocide practices were effected from the very foundations of the socio-cultural structure; and if we register the ambiguity of the notions of "value" and "protection" of human life in our present world; then we must be highly alert to the continuity of an order that did not end with the formal conclusion of the *de facto* regimes, and to the logic of the "protection" of life that informs the paradigms of security that are so urgently claimed today. The mechanisms through which genocide and terror were built in dictatorship societies still persist in more subtle ways in our everyday life. Life deprived of all value appears potentially as the counterface—the hidden and curled up face—of the protection and security paradigm. We should think how much of all that anesthetizes our resistances, convinces us with its strategies, renders us servile in our little everyday renunciations, makes us forget others, and prevents us from seeing to their necessities or considering them equal to ourselves.

Therefore, genocide, terror, and life deprived of any value have become a permanent possibility of our lives and our world. Taking Primo Levi's own words: "It happened, therefore it can happen again."¹⁰²

102. PRIMO LEVI, *THE DROWNED AND THE SAVED* 199 (Raymond Rosenthal trans., Summit Books 1988) (1986).
