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IMPERATIVES WITHOUT *IMPERATOR*

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ABSTRACT: Schmitt's theologisation of sovereignty has been subjected, fifty years later, to a 'quarter turn' by Foucault's move from issues of domination to issues of government. After a further thirty years, radicalising Foucault, Agamben's archaeology of economy adds another 'quarter turn': the structure that emerges once the old European conjugality of facticity and validity, of praxis and being, emptied of all bonds, links, and loops, gives way to the bare opposition 'bipolarity'. The new constellation provides the old legal-theoretical (kelsenian) problem of rules unsuspended from a ruler who would authoriee them, with a new, unexpected, political content and with a change of epistemic paradigm.

KEYWORDS: Agamben, Benjamin, Bipolarity, Foucault, Luhmann, oikonomia, performance, power, precariousness, Schmitt.

The suggestion that the human sciences are undergoing a paradigm change focuses, along foucaultian lines, on a shift of emphasis by which the 'groping' inquiry into documented data gives way to a measurable process of learning, performance and carrying out.[1] An attempt to gain insight into the effects of the archive (or 'arch-past') on the present is replaced by an effort to detect possibilities of control.

Agamben identifies the new a-historic paradigm with neuronal-system or genetic-code type objects. But are these objects more than mere show-cases of a more general trend? Once its distinctive move is identified (e.g. as the substitution of performance for experience) does the new paradigm, which Agamben traces to Chomsky's refoundation of linguistics,[2] not become recognisable as that of a whole galaxy of performance-related disciplines? In this galaxy, the Chomskyan constellation neighbours with socio-biology and other neo-post-neo-darwinist strands; yet we find also the economic analysis of law, a large gamut of current psychologies and, no doubt paradoxically, a methodologically ambitious enterprise such as Luhmann's theory of societal modernity. Is the distinctive feature, then, less the object at stake than the dynamics it triggers? The intriguing feature is, then, not multi-disciplinarity or cross-disciplinarity but a more specific pattern – a certain displacement or *metabasis eis allo genos* (shift to a different genre) – by dint of which the social sciences subscribe to a biological model, law to an economic model, and literary criticism or psychoanalysis to mediatised popular culture. Multiple processes of liquidation or 'boiling down' have in this way re-drawn the face of the *episteme* and

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[1] See Agamben (2008), pp. 82-111 (109ff.); in the present volume: 'Philosophical Archaeology', section 16.

[2] Ibid.

given rise to an emergent network of new dependencies and hierarchies. The excessive success of Chomsky's own discoveries has resulted in sidelining them by a process of colonisation and provoked incomparably more new work in the field of the neuro-sciences than within linguistics itself. In his case as in others, that which figured as knowledge on one level (here: the linguistic level), figures on another level (the neuro-linguistic, neuro-scientific level) as an opening to an indefinite potential for testing, performance, and self-re-enforcement.

The a-historic, performance-related paradigm which Agamben correctly identifies as (if prematurely limits to) neuronal and genetic research programmes, has its most important ramifications outside the academy, in that it gives rise to new forms of political subjection. The cybernetic term 'self-re-enforcement' designates, in application to knowledge about man, at once a *governmental* reality – not in the sense of 'executive branch', but of 'channelling conduct' – and refers to Foucault's analysis of arts of governing thirty years ago as much as to its supplementation by Agamben's genealogy of government today (Agamben 2008, pp. 82-111 (109ff.). It is interesting to observe that political subjection *itself* has become 'foucaultian' over the decades since his death.[3]

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[3] Or is it Foucault who has 'changed' – after his death? Certain new readings of his work approach it effectively as a pyramid in the midst of which the mummy of a Pharao of legal theory had been patiently awaiting its discovery, all along. Foucault made fun of marxists as 'traffic-wardens of the ideological traffic'; he marked his distance from the then 'society'-obsessed Left, in the (almost excessively ironical) title 'Society must be defended!' Yet, the possibility that he could be interpreted as a legal theorist had not even occurred to him. The suggestion would have provoked merriment – or one of the

Instead of a governmental structure, the exercise of power over society within the limits of the rule of law, ensuring the undisturbed subjection of its subjects (as a means for establishing their felicitous co-existence, Aristotle's *eu zēn*), governmental action is now understood as an effort to adapt to and cope with, urgencies, circumstances, 'stuff [that] happens'; it is no longer structuralist, it is situationist. Elaborate arts of how best or most legitimately to govern populations and subjects, concocted throughout centuries, are replaced by the requirement of quickly coping with precarious circumstances. This 'coping' replaces the templates of *ceteris paribus* conditions which have been the economists' favourite paraphernalia for decades.

Circumstances are not governable; this is how they differ from subjects. If 'health is the silence of the organs' (Canguilhem, 1966), a crisis is a noisy condition of the societal household. But a long-standing Western tradition has specialised in governing and in the creation of the subjectivity necessary to that effect; Foucault always made clear that his interest was in '*gouverner les hommes*' (governing humans) not in steering circumstances. But the West is so passionate about subjectivity and governing humans that it has extended this double ticket to circumstances, to states, and produced a subject, namely the state, as an instrument for governing these. Circumstances or states outside

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unstoppable homerical outbursts for which he was known in town. The point is that Foucault's decisive ability has much more to do with this joyful distance than with a hidden legal theory. Engaging with one's time, as Foucault understood it, did not mean subjecting oneself to its sovereign panacea and most cherished consensus. Throughout Foucault's days, in the wake of '68, this sovereignly cherished object was 'society'; this is no longer so; at the time at which I am writing, it is law.

the body do not even have pain as a means of making themselves known – they must rely on interpretation (guess whose). But they can play up; in which case an *über*-state or exceptional state, a new form of subjective encoding of states, becomes necessary in order to circumvent interpretation and deconstruction and to assert the imperative of 'coping' and attention (the most precious commodity, according to Luhmann) under the threat of doom. The current neo-subjection is a by-product of 'coping' with circumstances; it is a collateral effect of increasingly precarious governmental decision-making in increasingly exposed waters.

Traditional subjection had typically been predicated upon a power that sustained some obscure but efficient deal with transcendence, now obliterated. Current neo-subjection relies not on government's power, but on its powerlessness. What is at stake in this travesty, this carnevalesque return? Throughout a few centuries now, transcendency-signed power has proven amenable to domestication through checks and balances, charters, declarations, constitutions, etc. Their insufficiency used to be the main topic of politics. Now they are unaffordable. And the turn of instituted, categorical power into unadmitted, clandestine power is a reply to this situation. All power that acts, acts in the name of powerlessness. This means that it is straightforwardly not domesticable. This explains how it is possible that the new type of governmental subjection, which no longer flows from a transcendence-referred power but from a synapse within a network, an immanence, so spectacularly fails to free itself from what are, from a political or emancipatory view-point, power's least enviable features. The exercise of power over society has been replaced by an exercise of care and vigilance for the conditions of 'running' society, coping with its 'household' – *oikonomia* (not to be mixed up with post-

Adam Smith market-'economy') – maintaining its survival conditions. But what happens in the name of this 'care'? We have heard so much, so often, about the august and imposing, even 'unchallengeable' sovereign who 'decides about the state of exception'. Now, behind his back, uncannily, we see the rise of a new contender for his office, unspectacular and nonetheless superior, the household's manager, steward, or *oikonomos*, whose role is no longer one of authorising or authoring imperatives, but of internally discovering and communicating information in view of 'common survival'.

In comparison with the power-wielding instantiation of sovereignty that dominates Carl Schmitt's image-suffused and image-addicted interpretation of politics as a theatrical realm of essential visibility and manifestation, a secularised *autodafé* (act of faith), the new contender is not *real* - not a social reality in the way, say, in which, in the middle ages, a miracle-working ruler or saint was real. He is merely *effective*. Outlawed, invisible, anonymous, yet insuperably performing. Not a ruler or a saint, but a demon, or a dwarf. An often-commented page written by Walter Benjamin unfolds the image of a genius dwarf guiding, with the help of a complicated contraption of strings, the hands of a chess-playing puppet while hidden in a box below the chess-board. The delightfully dressed, hookah-puffing Turkish puppet stands, in Benjamin's work, for 'historical materialism', and the miserly, hunchbacked dwarf enlisted in the puppet's services, for theology (Benjamin 2003, p. 389; Benjamin 1978, p. 693). Revealing that the dwarf theology, small and ugly, 'has to keep out of sight' [*kann ... sich nirgendwo blicken lassen*], Benjamin also offers a reason why he accepts the inconvenience of letting himself be imprisoned and invisibilised: it is, evidently, some state of pogrom or public

vendetta (against what? theology? dwarfs? ugliness? we are not told) to which he would fall prey as soon as he put his nose out of hiding.

Between the unapparent-but-effective quality of Benjamin's dwarf and the unapparent-but-effective quality of the manager or *oikonomos* (as a holder of impolitical decision-power), the relationship is complicated. Both transcend the typological gamut of embodiments of sovereignty during the schmittian (or 'fascist', if one is not yet tired of the word) age – the age, that is, of the modern revival of pre-modern structures of power: visible, representational, identity-fostering. Benjamin's messianist take on history and revolution can be deciphered as an attempt to bring this age of sovereignty to an end while reconciling it with that end. Today, by means of a supplementary turn of the 'dialectic of the unforeseen', the dwarfish champion is effectively the winner of the game – not, admittedly, on behalf of historical materialism for which he had been invented but, surely and ironically, on behalf of the unseen, non-manifest, purely adaptive power of *oikonomia*. In the role of the loser we find the schmittian, spectacle-addicted sovereign, victim of the generalised reliance upon the unapparent (dwarfish) approach to invisible power. The impressive paradigm of Schmitt's political state-of-exception is replaced by the unapparent routine of continuing self-reproduction – concretely, by social autopoiesis as the supreme form of *oikonomia*.

Yet, while supposedly putting an end to the notorious despotism of traditional political subjection by replacing it with an impolitical mere default routine 'without qualities', post-sovereign governmentality cannot help revivifying, indeed exacerbating, half-furtively, half-comically, the same injustice and cruelty that have been, throughout the ages of history and the multiplicity of cultures, the company of inequalities,

exclusions and hierarchies. The concept of 'crisis' helps to make disaster ubiquitary and familiar. French legislation has made the fact of 'helping' illegal immigrants – inviting someone to stay over, serving him tea, etc. – liable to criminal prosecution (the so-called '*délit de solidarité*'). The crisis-paradigm makes enjoinable what would not be enjoinable otherwise. The 'crisis' replaces the 'catastrophe', which offered no argument for surplus subjection in a preventive, *ante eventum* way, as no governmental action can plausibly claim to prevent a catastrophe and mobilise in favour of such a meta-imperative. The substitution of the governable crisis for the ungovernable catastrophe, and the integration of disaster-avoidance to governmental action, impressively mark the turbulent growth of the range of government which has accompanied the past decades of economic growth.[4]

Agamben never refers to Luhmann, even if 'routine' and 'priority of the urgent' modes of dealing with decision-making are decisive for replacing politically represented

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[4] We 'crisis-mongers' – to use a term pioneered by 'The Times' in 1841 (according to the *Oxford English Dictionary*, Oxford 1987, Supplement/vol. III, p. 681) – should be informed about the rules of our favourite language game: a genealogical *catalogue raisonné* of the term becomes in itself an urgency. Its *topoi* would have to include the 1929 'krach' and post-1929 'big depression' (described in these two words by their contemporaries and victims), but also the Cuban Missiles Crisis of 1962 as well as, on the other hand, the history of the science of commercial cycles, and of course the principal philosophical Krisis-'monger', Edmund Husserl. A 1929-published French encyclopaedia reports *sub verbo* 'crisis': 'rapid change in the course of a disease, which is almost always a good omen and presages recovery' (*Le Larousse du XX*ᵉ *siècle*, vol.II, p. 582; [my trans.]).

subjection with bare *oikonomic* subjection. Yet it is precisely here where the common part of the thinking journeys of the sociologist, Niklas Luhmann and the philosopher, Giorgio Agamben, ends. Autopoietic social theory's undeniable advance over any competing model in today's social scientific horizon is predicated on its adamant anti-moralist and anti-normativist abstention. Luhmann's way of subscribing to Heidegger's injunction of '*Gelassenheit*' consists in the fact that all terms (operational closure, self-reference, autopoiesis itself) are less solutions than refusals of premature solutions. One might call this Luhmann's 'epistemethics'. But there is, on the other hand, Luhmann's 'bureaudicy':[5] autopoiesis-theory, as an unending 'homage to routine' (a self-description), offers a self-description of society under the law of 'coping', an analysis of society in terms of *oikonomia* and, therefore, neo-governmentality.

The 'routine' and 'priority of the urgent' styles of decision-making are instrumental for the bare *oikonomic* subjection that tends to replace politically represented subjection. Everything looks as if the task of autopoiesis-theory was integrally included within the field of this 'doing'. Even so, and whether or not it is judged methodologically

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[5] Even in the absence of justificatory intent, there is no doubt about Luhmann's inner-worldly continuation of Leibnizian theo-motives. Along with Leibniz' *Essais de théodicée* ('attempts of the justification of God'), 1710, see Jacques-Bénigne Bossuet's *Traité du libre arbitre*, 1677 (quoted after : *Oeuvres choisies*, vol.IV, Paris 1981, p. 64ff.), whose claim that God governs the world *as if it governed itself* provides Agamben (*Il Regno e la Gloria*, p. 313f), with his ultimate and key-stone reference. By claiming that creatures proceed, behave, act, govern themselves, etc., according to their own resolutions and rationalities, Bossuet offers a strictly autopoietic description.

worthwhile to limit one's outlook to action-events or *évènementalité* (Foucault 1990, pp. 35-63),[6] *being* is the white spot on the map of the new *societas faber*, which autopoiesis-theory substitutes for the ancient notion of a fabricating man, *homo faber*. There is no ideology-style denial to be found in Luhmann. The fact is nonetheless that *being* shows when and if they *do*, in connection with the epistemo-theology of the 15th century bishop Nicholas of Kues. The problem here is not 'man' – it is not luhmannism's anti-humanism that is problematic: it is subjection. Whereas adaptation, 'coping', decision-making, *do* (and therefore show on the autopoietic screen), subjection *is* – and remains invisible. Autopoiesis-theory has cut itself lose from *being*; a lot of oikonomic knowledge has thereby been gained; the price is that the bi-polar structure has fallen into foreclosure.

Let us recapitulate: the second pole of the bipolar structure which cannot be approached by social-scientific or systemic means can be denied. It can be externalised. Those thinkers who refuse to do either are, generally, the philosophers. Their message is not always good news. The first among them, Anaximander, has been adamant about the impossibility of a structural displacement, a definitive interruption of the circle of righting or revenge. Any evolution in these fields was deemed irredeemably precarious and condemned to be resolved by a counter-evolution, like the swing of a pre-existing pendulum. Agamben's study of *oikonomia*/government and Power/Glory focuses at both poles. Different from Anaximander, the second pole is no longer understood as 'revenge', but as Glory (or in Greek: *doxa*). Bi-polarity in Agamben's treatise relates to the coordination between the power-equipped but uselessly immobile 'glorious' instances of

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[6] Foucault's term, but one that fits Luhmann's characterisation of modern society as the momentary product of communications. Foucault (1990), pp. 35-63.

reign and power, and the powerless and faceless, yet irresistible operations of 'coping': long-term crisis management and emergency governance. It refrains from suggesting a reduction of the two poles to one.

The bi-polar conception both replaces and aggravates the traditional genteel tension between *pouvoir constitué* and *pouvoir constituant.* It introduces in its stead the irreconcilable split and consummate mutual exteriority of non-governing power and governing non-power. The longstanding and proverbially resilient figure of a social contract itself is dissolved or de-mediatised. The Greek noun *authentēs* designates a person who has committed (as opposed to have merely instigated) an action or a deed, e.g. perpetrated a murder or executed a death penalty (Liddell and Scott 1996). That politics can be authentic in this strict sense is evidenced by any actor, whether collective or individual, who holds power and endeavours to bring it to fruition in, first, making her or his choice, then sticking to it against whatever resistance it might encounter. Where the calculus of the optimising and/or maximising of mere means – or, in other words, the care for the household – has absorbed the margin of manoeuvre of political choice, and subordinated politics to its own adaptive strategies, politics has, if one looks below the mask of its semantic and mediatic flourishing, really disappeared or persists only in a transformed state, as mimicry-politics or inauthentic politics.

This inauthenticity is what is epitomised by the notion of a crisis. What creates an inauthentic totality is, technically speaking, the split of the nexus of action and being. Politics, under the take-over by *oikonomia*, changes radically: it is no longer in possession of the (in a sense) 'sovereign' and in any case incomparable rank it has been variously invested with throughout times ancient, medieval, early modern and modern.

What Agamben's review of the institutional archives shows is that the intimate bond between *monarchic oikonomia* and *polyarchic politics* (as Aristotle refers to them[7]) is not new but, on the contrary, immemorial. *Politics*, as upright and principled, the site of power, courage, challenge, commitment and generosity, had been at every point liable to a Moebius-like connection with its other side: adaptive and opportunistic, caring and coping *oikonomia* which was busily monitoring the continuation of conditions that allow the *polis* to flourish. Both poles always coexisted in such intimate entanglement that the very idea of an autonomous 'history of politics' seems radically less obvious than it is often assumed. Yet, Agamben claims, we are witnessing today an *oikonomia* that absorbs and overtakes its other political side, giving rise to an evolution through which the bi-polar map of government and power, exercise and possession and, ultimately, *praxis* and being, is abusively unified by the paradoxical *Machtergreifung* of powerless government.[8]

It is barely surprising, then, that the philosophical question of the human sciences today and their 'ultimate ontological anchoring'[9] that underlies the passing from the transformative grammar of the indo-europeanists of the 19th and 20th century (Saussure,

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[7] *Oikonomikos*, I,1 (1343a): 'Politics is of many masters (*hē … politikē ek pollōn archóntōn estín*), economics is of only one (*hē oikonomikē … monarchía*)'. Cf. Agamben (2007) p. 20ff., 57. The first book of the *Oikonomikos* is now considered as a genuine work of Aristotle by many authorities.

[8] Ibid.

[9] See Agamben 2008, pp. 82-111 (109ff.); in the present volume: 'Philosophical Archaeology' (section 16)

Benveniste, Jakobson, Lévi-Strauss, Foucault, Jonathan Z. Smith) to Chomsky's generative grammar,[10] acquires from this point of view a new and unique importance. Equally unsurprising is the performative model's seizure of power over the human sciences. After all, it needs to be acknowledged – admittedly, under the previous, historic paradigm, the human sciences have immensely advanced the knowledge of human cultures and institutions: legal, political, religious (as well as anti-legal, anti-political, anti-religious). Yet, they have proven remarkably unproductive as to generating more effective ways to programme, steer or govern the course of enterprises and households. Their prowesses have been strictly limited to matters of scholarship and knowledge.

That a rule supposes a ruler was obvious to John Austin. How should a command be formulated in the absence of an assignable command-giving authority? Hans Kelsen encounters the claim that a norm always and necessarily refers back to an identifiable author when he reads contemporary logician and philosopher of science Walter Dubislav.[11] Unsurprisingly, considering his neo-kantian interest in norms and their interpretation as 'abstract objects', Kelsen examines the question only from the vantage point of logical reconstruction of a legal order striving for self-consistency.[12] Seventy years later, another aspect emerges, beyond the subtlety of the logical issue. The discrepancy between the deficiency of legitimate power to issue imperatives, and the

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[10] Ibid.

[11] Kelsen (1991), p. 23ff. 'No imperative without imperator', Walter Dubislav's original claim, is in Dubislav (1937), pp. 330 ff.

[12] Michael Steven Green (2003), pp. 365-413, calls Kelsen, therefore, the 'Frege of law'.

overabundance of effective imperatives, constitutes the ultimately distinguishing fact and the intimately critical aspect of the Western-Christian history of institutional power.

Today, there is no legitimate power left anywhere on earth […] The integral legalisation and economisation of human relations and the confusion between what we can believe, hope, love, and that which we are required to do and not to do, to say and not to say, [convicts] all the powerful of the world themselves of illegitimacy (Agamben 2009).[13]

If this is so, what *are* governments, managements, managers – in short, decision-making agents? We know what they do. What does the proliferation of power-imposing, power-exercising agents, who fail to be legitimate holders of the powers they use, confront us with? The Latin word 'minister' (servant) is formed after the preposition *minus*. The history of executive power – the power whose secret is the disappearance of the question of its being behind its action – stands in the sign, 'less'. But 'less' with respect to what?

Agamben sees the place of this 'less', of this minus of ministry, of this 'comma' of the non-coincidence between sovereign power and ministerial care, already present in the tension between creation and redemption. This supposes that, on the one hand, notwithstanding all 'separation theses', law and religion are connected. They are one in the unstable and duplicitous nature of the Western-Christian borderline-version of monotheism. The poles at stake in the long history of this domesticated antagonism are the creator-God Christianism has inherited from its 'Old Testament', and its genuinely ecclesial contribution, the curator-God, caretaker-God, or trustee-God of the New Testament: the Son, born a man and carrying a human name and identity, Jesus, put to death as a hostage and host of human guilt and a victim of human power. 'Christ' is the

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[13] Translated from Agamben (2009), pp. 27-36 (35).

name or, to be precise, the official title (gr. '*Christos*' just translates the Hebrew word 'messiah', meaning 'the anointed'[14]) of the trustee in whose service and action (used in *another*'s name and power) the government of the world, the care for the world, and indeed the care for the care for the world, emerge within the history of God. Christ and the event of incarnation mark the point at which a new chapter of God's history starts, a chapter no longer written in the sign of the strict monotheism of a creator-God to which every life remains indebted, but in the sign of an agency that is in charge of an *existing* creation and its household. This agency or household is the God who, both in spite of and in virtue of the enigma this involves, is at once one and three.[15]

Since the advent of his second and third person, God himself has become an oikonomic entity and has taken up the duty of caring for and governing his creation. But the basic building blocks of the trinitarian creed have been laid in the life-time and, mostly, also the presence of Constantine the Great, the first Christian Roman Emperor, in the earlier 4th century. The history of the West and its (once-)celebrated 'take-off', is courtesy to the Christian God who has accepted to carry the cross once again, and to act, not according to the sovereign whim or privilege wielded by a master of the universe, but humbly in the sign of the *minus* of ministry, the limited means of government and governmental care. God cares for the world, as a supplement to creation, and as the model of human government that has been followed by governmental rationality during

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[14] Cf. the chapter entitled '*Proper name*', in Agamben (2005).

[15] This paragraph (as the next three, and large sections of many other paragraphs as well) offers little more than a short, tentative and schematic reading of the historical vision unfolded in Agamben's *Regno e la Gloria*.

the entire Western-Christian *cum* Western-postchristian episode. Meanwhile, the theology-born model of power under self-denial, or 'minus of ministry' – whose hidden centres today are crisis-management, acting under necessity, taking urgent measures, acquiescing to collateral damages, etc. – has become nameless, secular and globalised.[16]

Decisively, the Christian God's becoming-man entails the move of taking up the leading role within the servicing of the creation, and the charge of assuring its continuity in time. The argument that the Christian message and movement are of some uncanny importance for the unfolding of the structures (of power and law, for instance) generally known as 'Western', is widespread today. What is this argument about? Basically, the 'Christian thing' about Western history resides in the fact that God's governmental or managerial turn has no equivalent with the unique gods of the other religions even of the abrahamic family. These unique gods have in a sense neglected their administrative training. The Christological learning process of the God of the New Testament might well be understood, in this sense, as the paradigm of all 'progress'. It proceeds suspended upon an institutional reform of political power, which both determines and dwarfs later, including modern and current evolutions – evolutions which can now be deciphered as a sequence of re-makes, masks, aliases, transcriptions and other encryptions (or 'secularisations', if one has still not had enough of this word) – of the tension of the creating and the caring/managing God, of Theology and Christology.

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[16] See Agamben (2007), chs. 2 and 3 (pp. 31-82) on the oppositions and controversies which provoke, surround and follow the trinitarian re-foundation of the Christian God, in reply to the Arian sect, at the First Council of Nicaea (321).

Yet, the way that leads from the created creation to the manageable creation is (anything but unquestionable?) questionable. *Genesis* tells us that after accomplishing the creation, God, far from now managing it, *rests*. There is no question of an *oikonomos* responding to the requirements of its maintenance, servicing, and protection; no mention that the creation is a household with a future of exposure to dangers and risks on a permanent basis, thus in constant need of further attention and protection, government, control, providence. All that creation needs is its creatures to inhabit it. The household view is Christian only, and it is additionally linked to the increase of the Church's social responsibilities, when governmental care for appropriate ways of dealing with creation's precarious predicatedness upon an unstable and risk-suffused outside becomes the overriding preoccupation. Yet, all of this represents, once again, only one pole. If governing requires incomparably more power than any existing authority could possess, give or distribute; if, in other words, '*le roi règne, mais il ne gouverne pas*', then the real issue we are confronted with is clearly that of the *other side of government*. What becomes of creation power once creation has fallen into the caring and disposing hands of its 'management'?

Agamben, following the relationship of power and government throughout the European *longue durée* – carving, as it were, the secular cross of ministerial or governmental activism on the one hand, and of the projections of power and liturgies of glory, on the other hand – is not preoccupied by paradoxes but, rather, by *doxa* – that is to say, glory itself. His methodologically unshackled and historically overhauled version of Foucault's analysis of governmentality offers, in this sense, what might effectively be understood as a meta-theory of luhmannian autopoiesis: the autopoietic system, in the

light of this meta-theory, appears as the most advanced version of '*oikonomic*' action and rationality. The distance to Foucault is in the claim – one of the key arguments of *Il Regno e la Gloria* - that liturgical praises (doxologies) show one common model of *doxa*, glory and splendour, underlying their attribution to God on the one hand, and to the monarchic ruler on the other hand.[17]

The approximation of divine and mundane authorities covers an unending list of theologico-political implications. Yet, the decisive point lies neither on the side of glory and liturgical praises, nor on that of the ministerially well-adapted fashions of guiding a household through the pitfalls of its crisis – and 'crisis' should be taken, to some important extent, as an endemic, consubstantial or permanent condition. It lies in their mutual exposure and in the redrawing of their constant (if constantly suppressed or marginalised) co-ordination. The minimalist notion of a mere mutual exposure is of the essence: no positive bond or even relationship of the two poles can be indicated. Yet, the light their choreographic disposition throws at the older polito-logical and legal-theoretical riddle of the 'imperative without imperator' deserves attention. It brings up the notion of a power, that cannot be justified or defined (or even spotted), but that yet stands in effective use (that of crisis-management as ultimate government), and that coexists purely externally with its opposite; a power that appears (in the media as earlier in the churches) but that cannot be used. Beyond the paradoxical *pas de deux* of an *oikonomic* governance enforcing its decrees in the name of its power's deficiency, and a glorious sovereignty deprived of means of making any 'difference that would make a

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[17] Agamben (2007), chs. 7 and 8, pp. 187 ff., and 219 ff. On Habermas, consensus, government by consent, their analysis in liturgical terms, pp. 280-3.

difference' (information, according to Bateson's definition), the way is free to the *conditio post-politica* of a subjectivity without subject exposed to a power itself subjected to self-denial.

BIBLIOGRAPHY

Agamben, Giorgio. 2005. *The Time That Remains: A Commentary on the Epistle to the Romans*. Stanford: Stanford University Press.

Agamben, Giorgio. 2007. *Il Regno e la gloria: Per una genealogia teologica dell'economia e del governo*. Milano: Neri Pozza.

Agamben, Giorgio. 2008. Archeologia filosofica, in *Signatura rerum: sul metodo*, Torino: Bollati Boringhieri.

Agamben, Giorgio. 2009. L'Eglise et le Royaume, in *Saint-Paul: Juif et apôtre des nations*, ed. André Vingt-Trois. Paris: Paroles et Silence, 27-36 (35).

Benjamin, Walter. 1978. '*Über den Begriff der Geschichte*', 693-704, in *Gesammelte Schriften* I,2. Frankfurt am Main: Suhrkamp.

Benjamin, Walter. 2003. On the concept of history, in *Selected Writings*, vol. IV, (trans. Harry Zohn). New York: Harcourt Brace.

Canguilhem, G. 1966. *On the Normal and the Pathological*. (Trans 1989). New York: Zone.

Dubislav, Walter. 1937. Zur Unbegründbarkeit von Forderungssätzen, *Theoria*, 3: 330 ff

Foucault, Michel. 1990. Qu'est-ce que la critique? [Critique et Aufklärung], *Bulletin de la Société française de Philosophie*, 84 (2): 35-63.

Green, Michael Steven. 2003. Hans Kelsen and the logic of legal systems, *Alabama Law Review*, 53: 365-413.

Kelsen, Hans. 1991. *General Theory of Norms*, (trans. Michael Hartney). Oxford: Clarendon Press, 23ff.

Liddell, H.G. and Scott, R. 1996. *Greek Lexicon*. Oxford: Clarendon.