

# *Giorgio Agamben's Inclusive Exclusion of Étienne de La Boétie*

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This paper analyzes the significance of Étienne de La Boétie's appearance and subsequent disappearance in the introduction to Giorgio Agamben's *Homo Sacer: Sovereign Power and Bare Life*. The introduction to the first installment of the *Homo Sacer* series is a significant document that establishes the philosophical parameters of the entire project: the concepts and thinkers that his analysis revolves around are all presented in these few pages. Yet there is one strange anomaly: while almost all of the thinkers who figure in these pages (Plato, Aristotle, Michel Foucault, Hannah Arendt, Carl Schmitt, Walter Benjamin, et al.) are subsequently addressed at length, La Boétie is completely abandoned. It is the argument of this paper that this is a significant conceptual move, constituting an *inclusive exclusion* of La Boétie and his reflections on the subjective foundations of power, which reveals the underlying structure of Agamben's political thought to be that of the sovereign exception.

Agamben's employment of La Boétie initially appears entirely commonsensical, as their analyses converge on a number of points. Most notably, they both analyze sovereign power in terms of the assumption of tribunal sacrosanctity by Emperor Augustus. But whereas Agamben identifies this with the "birth of a new absolute power," which becomes the locus of the entire *Homo Sacer* series, La Boétie remains much more critical of this notion of power, remarking laconically that "fewer [emperors] escaped from danger by aid of their guards than were killed by their own archers," reminding us that power is never absolute or sovereign.<sup>1</sup>

1. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford, CA: Stanford UP, 1998 [1995]), p. 84; Étienne de La Boétie, *The*

### ***The Sovereign Exception***

Agamben develops the contours of this new absolute power via Carl Schmitt's conception of sovereign power. In Schmitt's *Political Theology*, he defined the sovereign as "he who decides on the exception."<sup>2</sup> According to Schmitt sovereign power is the foundation of any legal system and political community. He argues that all legal systems are based on a sovereign decision, from which the law is derived. Since this sovereign decision precedes and defines the law, it cannot itself take the form of law. It is the extra-legal and arbitrary foundation of any legal system; the exception that defines the rule. Sovereignty is not exhausted in this founding moment, but persists alongside the established legal system and may at any time reactivate and decide to suspend the law in favor of unrestrained sovereign power by declaring a state of exception. This sovereign decision cannot be legally limited, since it is the origin and guarantee of the legal system. It rests solely on its own authority—independently of law and/or popular legitimacy.

The sovereign decision founds and sustains not only the legal system but also the political community. The sovereign decision defines the political community by deciding who is a friend and who is an enemy. Here it is instructive to recall the etymology of the word decision (*Entscheidung*), which allows us to grasp the sovereign decision as a "cut" or a "scission" that separates members of a specific political community from enemies and/or other undesirable elements.<sup>3</sup> In the case of the latter, this is not a straightforward exception or exclusion, but what Agamben describes as an inclusive exclusion insofar as these individuals or groups are included in the legal order precisely through their exclusion; left within this system without any legal protection, completely at the mercy of the sovereign.<sup>4</sup>

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*Politics of Obedience: The Discourse of Voluntary Servitude*, trans. Henry Kurz (Auburn, AL: Ludwig Von Mises Institute, 2008 [1576]), pp. 66, 71. It should be noted that Agamben has since extended his genealogy of this "fundamental political structure" back to Ancient Greece. See Giorgio Agamben, "What is Destituent Power," trans. Stephanie Wakefield, *Environment and Planning D: Society and Space* 32 (2014): 66–67; Giorgio Agamben, *Stasis: Civil War as a Political Paradigm*, trans. Nicholas Heron (Stanford, CA: Stanford UP, 2015), pp. 1–24.

2. Agamben, *Homo Sacer*, p. 11; Carl Schmitt *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago: Univ. of Chicago Press, 2006 [1922]), p. 5.

3. Carl Schmitt, *The Concept of the Political*, exp. ed., trans. George Schwab (Chicago: Univ. of Chicago Press, 2007 [1932]), pp. 46–47.

4. Agamben, *Homo Sacer*, pp. 107, 88.

### ***The Subjective Aspects of Power***

At the junction in the introduction where La Boétie appears, Agamben has just commenced an extended discussion of Michel Foucault’s attempt to break free from “the theoretical privilege of sovereignty” in favor of an analysis of its political condition of possibility, i.e., the participation of the subjects analyzed in terms of the multiple, local power relations, which traverse the social body.<sup>5</sup> Immediately thereafter Agamben abandons this line of inquiry and proceeds in the completely opposite direction; elaborating the aforementioned theory of sovereign power that constitutes the foundation of the mainstay of the *Homo Sacer* series.<sup>6</sup> It is, in other words, a critical juncture in Agamben’s work, and it is precisely where La Boétie is introduced as the precursor of Foucault’s analysis of the subjective dimension of power:

That there is a subjective aspect in the genesis of power was already implicit in the concept of *servitude volontaire* in Étienne de La Boétie. But what is the point at which the voluntary servitude of individuals comes into contact with objective power?<sup>7</sup>

Agamben is here suggesting a historical and theoretical continuity between Foucault and La Boétie in terms of their emphasis on the subjective aspect in the genesis of power, that power rests on the participation of the subjects. The connection Agamben makes seems to originate in Foucault’s essay “Le sujet et la pouvoir,” which he cites on the preceding page of the introduction. The French text contains a reference to La Boétie’s *Politics of Obedience: The Discourse of Voluntary Servitude* five pages after the

5. Ibid., pp. 5–6; Michel Foucault, *The History of Sexuality*, vol. 1, *The Will to Knowledge*, trans. Robert Hurley (London: Penguin Books, 1998 [1976]), pp. 93–94; cf. Mikkel Flohr, “Regicide and Resistance: Foucault’s Reconceptualization of Power,” *Disstinktion: Journal of Social Theory* 17, no. 1 (2016): 38–56.

6. Leland Duantayye, *Giorgio Agamben: A Critical Introduction*, (Stanford, CA: Stanford UP, 2009), p. 209. *The Kingdom and the Glory* contains some evidence of an attempt to reorientate the *Homo Sacer* series from sovereign power toward governmentality. However, this endeavor was seemingly abandoned afterward and the structure of the sovereign exception reasserted. See Giorgio Agamben, *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government*, trans. Lorenzo Chiesa and Matteo Mandarini (Stanford, CA: Stanford UP, 2011 [2007]), pp. xi, 276; Agamben, “What is Destituent Power,” pp. 70; see also Giorgio Agamben, *The Use of Bodies*, trans. Adam Kotsko (Stanford, CA: Stanford UP, 2015 [2014]), pp. 263–79.

7. Agamben, *Homo Sacer*, p. 6.

passage cited by Agamben. However, the text in question was originally published in English, as an afterword to Paul Rabinow and Hubert Dreyfus's *Michel Foucault: Beyond Structuralism and Hermeneutics*, and here the phrase "voluntary servitude" is not italicized, suggesting that Foucault is not invoking the title of La Boétie's work but employing it as a regular turn of phrase.

Moreover, Foucault's employment of this phrase takes the form of an explicit rejection. In the passage in question he asserts, "the crucial problem of power is not that of voluntary servitude."<sup>8</sup> There is, in other words, no explicit connection between the two authors. This of course does not undermine Agamben's suggestion of a theoretical continuity between the two, but it is necessary to outline La Boétie's conception of voluntary servitude in order to evaluate this claim and its relation to Agamben's work.

### ***Voluntary Servitude and Sovereign Power***

Foucault's dismissal of "voluntary servitude" does not do justice to La Boétie's classical work, which, in spite of the title, does not suggest that people are naturally inclined to submit to authority. On the contrary, it expounds and explores the artificial nature of political power, i.e., how people came to submit in spite of themselves, and proceeds to outline how this might be changed. According to La Boétie, the question that frames the book is:

How it happens that so many men, so many villages, so many cities, so many nations, sometimes suffer under a single tyrant who has no other power than the power they give him; who is able to harm them only to the extent to which they have the willingness to bear with him.<sup>9</sup>

The answer is of course already implied in the question: sovereign power is constituted by, and depends on, our collective, subjective participation. It is in this sense that La Boétie equates sovereign power with voluntary servitude.

8. On the previous page Agamben refers to Michel Foucault, "Le sujet et la pouvoir," trans. Fabienne Durand-Bogaert, in *Dits et écrits (1954–1988)*, vol. 4, 1980–1988, ed. Daniel Defert and François Ewald (Paris: Gallimard, 1994), pp. 229–32. The reference to *servitude volontaire* occurs five pages later, on p. 237. The corresponding pages of the original text are Michel Foucault, "The Subject and Power," in Hubert Dreyfus and Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics* (Chicago: Univ. of Chicago Press, 1982), pp. 215–17, 221.

9. La Boétie, *Voluntary Servitude*, p. 42.

The concept of voluntary servitude is a contradiction in terms insofar as it simultaneously refers to both volition and subjection; and it is this contradiction at the heart of sovereign power that La Boétie sought to expose. The reason that individuals partake in the constitution and perpetuation of sovereign power is not that they support it. Rather, it is because they do not grasp that it is premised on their active participation; instead they perceive it as an objective and unchangeable condition with which they have to contend. Therefore they do not recognize their ability to change this state of affairs and submit to it, becoming part of the social dynamic that constitutes sovereign power.

Sovereign power must thus be understood as the illusion of an objective, absolute power, entirely divorced from its subjects, but an illusion that derives from precisely what it conceals, that is, our collective agency. Sovereign power can only maintain itself as long as it maintains this illusion. The theoretical privilege attributed to sovereign power thus contributes to the existing state of heteronomy, insofar as it conceals the subjective origins of sovereign power, and thereby contributes to its perpetuation. La Boétie's work is a conscious intervention to expose the fundamental powerlessness of sovereign power and reveal its subjective foundations, thereby facilitating the possibility of change—through collective, non-violent withdrawal from the institution of sovereign power. As such the book is a critique of the philosophical and practical privilege attributed to power, which, for La Boétie, is always premised upon the collective participation of the subjects and thus never sovereign—an analysis that is at odds with Agamben's account, wherein sovereign power appears almost entirely independent of its subjects.<sup>10</sup>

### *Agamben's Inclusive Exclusion*

Agamben is correct to note that La Boétie's *Voluntary Servitude* prefigures Foucault's subsequent critique of the sovereign model. Yet Agamben's suggestion of the theoretical continuity between La Boétie and Foucault is not wholly innocent, but involves a significant displacement that allows him to proceed to elaborate the account of sovereign power, which underpins his subsequent works. According to Agamben, La Boétie and Foucault do not coincide directly; the “subjective aspect” is only “implicit” in the former, suggesting that it does not become explicit until the latter.<sup>11</sup>

10. Ibid., pp. 40, 46–47.

11. Agamben, *Homo Sacer*, p. 6.

As we have shown La Boétie's *Voluntary Servitude* cannot be reduced to the claim that "there is a subjective aspect in the genesis of power"; rather, it amounts to the assertion that power is and remains wholly dependent on the active participation of the subjects. Agamben, however, almost seamlessly maneuvers to subsume this to Foucault's analysis of the subjective aspects of power, which is much more ambiguous in his presentation.

Foucault's insisted that the subjective aspects of power must be understood in terms of the polysemy of the term "subject." In modern philosophical use, the term subject refers to consciousness and agency, but it may conversely mean to be brought under the authority or control of a third party.<sup>12</sup> Foucault's analysis of the subjective aspects of power thus simultaneously refers to freedom and subjection to power, that is, the subjective and the objective aspect of power—an ambiguity Agamben exploits to pursue precisely the type of theory of sovereign power La Boétie warned against. Thus when Agamben subsequently revisits the subjective aspects of power, La Boétie not only remains absent, but Foucault's thinking on the matter has been reduced to a "process of subjectivation... binding [subjects] to a power of external control."<sup>13</sup>

Agamben thus subsumes La Boétie's critique of sovereignty to Foucault's and then renders this compatible with an account of sovereign power, where the subjective element is ultimately reduced to the figure of bare life—the passive "counterpart of a power threatening death."<sup>14</sup> La Boétie's critique of the theoretical privilege of sovereignty never reappears in the course of the *Homo Sacer* series. This poses the question of why it appears in the first place. It is evident that the appearance and subsequent disappearance of La Boétie assumes the form of an inclusive exclusion, the fundamental topological configuration of sovereign power. This suggests that Agamben's assumption of Schmitt's conception of power precedes the discussion of La Boétie in the introduction. The structure of *Homo Sacer* was always already that of the sovereign exception. There was never any real consideration of the critique of sovereign power or subjective accounts thereof. It was only introduced within the

12. Foucault, *The Will to Knowledge*, p. 60. It is worth noting that the etymology of these two uses of "subject" are distinct, the first deriving from Latin *subjectum* and the other from *subditus*. For a useful overview and discussion, see Étienne Balibar et al., "Vocabularies of European Philosophies Part 1: Subject," *Radical Philosophy* 138 (2006): 34–41.

13. Agamben, *Homo Sacer*, p. 119.

14. *Ibid.*, p. 87.

sovereign structure of Agamben's thought in the form of an inclusive exclusion, which served to delineate the positive contents of Agamben's political thought while subsuming and displacing undesirable elements and challenges.

This maneuver does not take the form of an argument. Agamben's account assumes the structure and logic of Schmitt's sovereign exception, which is self-grounding and does not admit any points of reference outside of its own authority.<sup>15</sup> La Boétie's political thought is only included on this premise; it is from the outset an inclusive exclusion. The presupposition of this sovereign structure furthermore entails that it becomes conceptually inescapable with severe implications for the political conclusions garnered. Although Agamben clearly aims to provide a critique of sovereign power,<sup>16</sup> his adherence to the logic of Schmitt's sovereign exception inevitably reproduces the illusion of sovereign power and thus ends up perpetuating it in precisely the manner La Boétie warned against, severely limiting the critical potential of his analysis.

Agamben's seemingly inconspicuous mention of La Boétie in the introduction to *Homo Sacer* thus reveals the work to be predetermined by the sovereign exception. It provides the fundamental architecture of the entire discussion, and La Boétie only appears in the form of an inclusive exclusion that serves to displace and subsume his critique of sovereign power, which not only remains the focal point of Agamben's analysis but also provides its underlying structure. Agamben's political thought thus invariably partakes in the concealment of the subjective foundation of sovereign power and thereby maintains the myth of sovereignty, which helps perpetuate sovereign power. This in turn suggests the necessity of revisiting La Boétie's *Voluntary Servitude* for a consistent critique of the theoretical privilege of sovereignty, by which Agamben remains enthralled.

15. Andrew Norris's analysis of the metaphysical foundation of Agamben's thought likewise indicates that it is based on an ungrounded sovereign decision, which precedes and defines his entire philosophy, thus rendering the exception fundamentally inescapable. See Andrew Norris, "The Exemplary Exception: Philosophical and Political Decisions in Giorgio Agamben's *Homo Sacer*," *Radical Philosophy* 119 (2003): 13–14.

16. Agamben, "What is Destituent Power," pp. 65–66; Agamben, *The Use of Bodies*, pp. 263–64, 268.