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Giorgio Agamben: Sovereignty, Forms of Life and Liminal Beings in South Africa

Stewart Motha

Giorgio Agamben has said little or nothing about colonialism *per se*. Nonetheless, this volume is dedicated to the possibility and potential of Agamben's thought contributing to thinking a range of problems, theoretical and practical, that might be encountered in the colonial context. Agamben is a philosopher known for elaborating transhistorical concepts and paradigm shifts, and is thought to be a theorist of a new, often ineffable, politics. His philosophical writings address sovereignty, biopolitics, transformations in the nature and character of the state, the 'camp' as paradigm of modernity, the fragility and contingency of the rule of law, and the exposure of various 'forms of life' to the vicissitudes of violence and power. These are all pertinent to the colonial and postcolonial context. Notwithstanding this potential, there is a strong conviction among many, including myself, that colonialism necessarily demands some close attention to history, to context, to the local and specific – elements that are conspicuously absent in scholarship inspired by Agamben.[i] This is not to say that I don't find Agamben's own writing evocative and stimulating, pushing me again and again to combine thinkers, genres, and materials – leading me to seek openings for thought when academic disciplines often want to close them down.

Nevertheless, I want to begin with this note of caution and surprise that European philosophers continue to make grand claims about the relationship between sovereignty and law, the camp, biopolitics, the human/animal distinction, the concept of 'the people', or declarations on the 'rights of man' without sustained reference to how Europeans learned to govern themselves by governing others during half a millennium of imperial expansion, violence and rule. This kind of European theory often attempts to insulate itself from the

criticism I have just made by prefixing its theories and claims as being specific to the 'West'.[ii] To claim that one speaks from or of the 'West' is no alibi (see Motha 2009). Imperialism and capitalism are the globalisation, or *mondialisation* as Jacques Derrida and Jean-Luc Nancy have insisted on putting it, of what is called the 'West' (Derrida 2002; and Nancy, 2007). There is then a process of having-become-world, of becoming-world, that goes hand-in-hand with imperialism and capitalism. It is precisely that co-emergence of the 'West', imperialism and the 'world' (and its sovereign biopolitical formations) that makes the paucity of reference by Agamben to colonialism so surprising, and the intervention made by the present volume so necessary.

More specific suspicions about Agamben's grandiose claims are tackled by Paul Patton (2007) in a thoughtful and critical treatment of the former's suggestion that he is 'correcting' and 'completing' Foucault's work on biopolitics (Agamben 1998: 9). As Patton suggests, in the end 'the difference between [Agamben's] approach and that of Foucault is not so much a matter of correction and completion as a choice between epochal concepts of biopolitics and bare life and a more fine-grained, contextual, and historical analysis intended to enable specific and local forms of escape from the past' (Patton 2007: 218).[iii] The concern of this volume is with the colonial past and present, and the possibilities of an anti-colonial and postcolonial future. This must necessarily entail attention to the specific context of colonialism and neo-colonial formations. But it must also involve the risk of thinking afresh, asking new questions, and deploying concepts where they are strange or estranged.

My focus in this chapter is on the potential significance of Agamben's thought in considering the colonial legacies and postcolonial possibilities in South Africa. South Africa is regarded by many as a paradigmatic instance of successful anti-colonial rebellion. Despite the terms of the post-apartheid settlement being disputed, and questions being asked about the persistence of white, colonial, and capitalist formations - South Africa is nonetheless emblematic of human struggle and resistance against unjust and undemocratic political and legal regimes. It is, moreover, a state that is now founded and

administered through an elaborate liberal, and some would suggest 'post-liberal' constitution (see Klare 1998). However, the transition from apartheid to 'post-apartheid' is not a linear movement. Many query how much of the colonial social and economic structures and formations have been undone by the move to 'post-apartheid' (Ramose 2008; Madlingozi 2007). That is, the apartheid state was only one juridical and political episode in a longer colonial usurpation and appropriation. It is thus possible to claim that while the apartheid legal order has been dismantled, a postcolonial social, economic, and political order is yet to be inaugurated, or else that postcolonial becoming is necessarily fluid, emergent, and incomplete.

Beginning in 1994, a new constitutional dispensation ushered in an era of representative democracy, juridical equality and constitutional supremacy in South Africa. The most obvious aspects of apartheid-era violence and excess, and emergency rule, have been highly circumscribed by the Constitution.[iv] All of this presents a paradox regarding the relevance of Agamben's thinking for South Africa as a colonial or postcolonial order. How readily can Agamben's thought on a variety of juridico-politcal formations - sovereignty, the 'camp' as paradigm of the modern, a 'form of life' liberated from its enfoldment in citizen/subject and accompanying categories of exclusion, the structure of the 'ban', bare life, or 'abandoned being' - be regarded as pertinent to South Africa? It would of course be trite and simplistic to think that the point of philosophical discourses, languages, or concepts is to find a place for their 'application'. The point, to put it bluntly, is not to find 'bare life' in South Africa as a precursor to considering the relevance of Agamben's thought for that setting.

In the discussion that follows I focus on the proliferation of 'forms of life' in philosophical discourses that tackle contemporary political and legal problems. I consider the political implications of Agamben's thinking in that wider context of reliance on the notion of a 'form of life' by many thinkers. A great deal of political thinking informed by continental philosophy has focused on forms of life such as *bare life* (Agamben, 1998), *precarious*, *vulnerable*, and *grievable life* (Butler 2004, 2009), and *creaturely life* (Santner, 2007). The

theologico-political phenomenon that spawns this thinking on various 'forms of life' is sovereignty. Sovereignty and its relationship to the political is a key progenitor of why various theorists have found it necessary to attend to ethical, political, and juridical problems through a 'form of life'. I will establish the connection between sovereignty, the political, and political discourses about a 'form of life' with particular reference to South Africa. I will then consider the wider implications of how and why Agamben and Butler tackle the juridico-political problem of sovereignty through 'forms of life'. I will close with a shift in genre to literature and the post-apartheid novel by discussing Marlene van Niekerk's *Agaat* (2006). The novel presents the possibility of attending to the singularity of being, and is a site for imagining life not within the constraints of juridical and political forms which might be relatively closed or open, but for attending to everyday existence. The character of being in the postcolonial setting, I suggest, is a *liminal* one. In *Agaat* we encounter the liminal existences of post-apartheid beings.

The Problem of Sovereignty and Colonialism in South Africa

Sovereignty presents a particular conundrum in the postcolony. The usurpation of territory, subordination of populations, degradation of all forms of life, and appropriation of land are among the key features of colonial sovereignty. The attempt to address and redress these imperial excesses – that is the attempt to depart from colonial sovereignty – often adopts the language, symbolism, and practices of sovereignty. Elsewhere I have identified this as the problem of *archiving* colonial sovereignty (Motha 2009; 2005; 2002). I use the term 'archive' after Jacques Derrida (1995). He emphasises how the archive resists conceptualisation. *Arkhē*, the root of archive, at once connotes a *commencement* and a *command*. As the place where things commence it is a 'physical, historical, or ontological principle' and it is the place from where social order, law, and authority might be given (Derrida 1995: 1). The archive, Derrida explains, is then potentially both an ontological and nomological principle. The archive is the privileged intersection of place and law – the topological and nomological. But the archive is a much more fraught concept, linked to the finitude of being, the limits of memory, and is not only about the past but also the future. Derrida

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emphasises that the archive is more of an 'impression' than a concept – it is *in-finite*, indefinite, at once closing down and opening to an outside (1995: 29).

The possibility of postcolonial sovereignty is homologous with the archive. Sovereignty is a problem of the 'limit' to the extent that courts or transitional political entities must articulate how a past 'event', such as the assertion of colonial sovereignty, can be delimited so that it can be grasped and disavowed. However, colonial sovereignty cannot be rendered entirely *finite* (closed down or bounded) in order for it to be fully departed from. The original colonial commandment has an *infinite* reach (always opening out) into a postcolonial juridico-political order. It is for this reason that postcolonial sovereignty needs to be regarded as *in-finite* (see Motha 2005). The notion of 'in-finite' sovereignty also neatly captures the spatial aspect of imperial sovereignty (the usurpation of territory and the creation of a delimited nation state), and the temporal aspect of inaugurating 'postcolonial' law by preserving and disavowing this sovereign 'event'.

This in-finite character of postcolonial sovereignty can be observed in South Africa. The 'new' South Africa is by now famous the world-over for a transformation from apartheid. But has the post-apartheid juridical order inaugurated a postcolony – that is, has South Africa been decolonised? In the South African setting there is a double-liberation at stake – from apartheid on the one hand, and from the cultural, social, and economic consequences of a longer colonial domination on the other. There is also the question of whether sovereignty has been, and needs to be, 'returned' to the indigenous conquered people of South Africa before decolonisation can be achieved.

Among the key proponents of the view that South Africa is yet to be decolonised is Professor Mogobe Ramose, a philosopher at the University of South Africa. The process of decolonisation, in Ramose's view, is not concluded, and was not achieved through the elimination of Apartheid and the guarantee of equality and civil rights in April 1994. While those who pushed a compromise in the early 1990s argued that they were averting civil war, Ramose's claim is that

since colonisation South Africa has been 'practically in a state of war' (2007: 319-20). In his view it was gullible and misleading to think that apartheid was the fundamental problem. Freedom was reduced to the guarantee of fundamental rights and this was a mistake. The morality and political legitimacy of the colonial 'right of conquest' was left untouched. Ramose thus challenges the reasoning that asserted, from the *Freedom Charter* 1955 onwards, that 'South Africa belonged to all who lived in it'.

A post-conquest or decolonised South Africa, Ramose argues, must attend to the failure to recognise that the sovereignty of indigenous communities has been deprived through illegitimate war and usurpation. Abiding by community in African culture involves an ethical concern and obligation in relation to the three dimensions of the living, the living dead, and the yet to be born. Thus the survival of customary kingship, and the memory of the heroes and heroines who fought against colonialism requires that parity – *horizontality* - be restored between the 'indigenous conquered peoples' and the coloniser.   The 'reaffirmation' of such 'horizontal reasoning' is a necessary condition for a genuinely autochthonous constitution (Ramose 2007: 326).

The epistemic, cultural, and philosophical manifestations of a lack of horizontality between coloniser and colonised are concrete. The lack of equilibrium and 'authentic liberation' is evidenced by the racial ideology that converted parliamentary supremacy to constitutional supremacy. Ramose (2007: 367) suggests that the move to constitutional supremacy rather than Parliamentary supremacy ushered in by the new Constitution of 1996 involved fear of a black constituency. Parliamentary sovereignty – and the consequent threat of majoritarianism – was dealt with by the introduction of constitutional supremacy. Equality and civil rights would be guaranteed by the constitution – as would the ill-gotten gains of several centuries of colonial violence and usurpation. There was a fear that the putative 'black race' would have unanimity on all matters and thus threaten all 'other' interests if they were granted legislative or Parliamentary supremacy. Rather than signalling the return of sovereignty to the colonised population, the terms of the transition from

apartheid to post-apartheid is viewed by Ramose as yet another inscription of a colonial racial logic.

The subordinate status accorded to Indigenous, Bantu, or customary law in the *Constitution of the Republic of South Africa* is another example of a lack of parity between coloniser and colonised. For Ramose, the treatment of the Bantu philosophy of ubuntu[v], and the failure to accord it juridical and political parity in the Constitution is a sign of the lack of equilibrium:

> Ubuntu … represents the epistemological paradigm that informs the cultural practices, including the law, of the Bantu-speaking peoples. Excluding it from the constitution is tantamount to denying the Bantu-speaking peoples a place in the constitutional dispensation of the country. The current Constitution is, therefore not the mirror of the legal ideas and institutions of the indigenous conquered peoples of South Africa. It follows then that a truly South African Constitution is yet to be born. On this reasoning, Act 108 of 1996 [the Constitution], has, perhaps inadvertently, set the stage for the struggle for a new constitutional order in South Africa. (Ramose 2006: 366).

Indeed, it seems clear from recent decisions of the Constitutional Court of South Africa that the early enthusiasm for drawing on ubuntu as a source of moral, ethical, and political values is waning with the appointment of a new generation of judges. Increasingly, it is conventional judicial discourses of statutory construction, or Anglo-American judicial discourses and techniques that dominate.[vi] This remains the case despite the fact that the subject-matter of certain decisions – the implications of amnesty once granted to a person convicted of murder (*McBride*), and the procedure for granting pardons (*Albutt*) - presented the Constitutional Court with an opportunity to develop a postcolonial jurisprudence that takes seriously the need to decolonise the ethical and political languages and discourses of the law. What decolonisation requires is not the retrieval of an 'authentic past', but parity between the various conceptions of law of the conquered and the conqueror.

Bare Life and the Problem of the Political in South Africa

It is amidst disputes just outlined concerning the new constitutional dispensation, the meaning and extent of postcolonial sovereignty, and tensions regarding the character of decolonisation that resort has been made to Agamben's notion of 'bare life' in South Africa. 'Bare life', as we will see shortly, has been deployed in the process of understanding and explaining tensions at the heart of sovereignty, law, and political community. Resort to a 'form of life' such as 'bare life' has been made in the context of confronting a *crisis of the political*. The crisis of the political arises out of addressing the fundamental plurality of being beyond an essential basis for representing commonality. According to Johan van der Walt 'apartheid was and is an exceptional example of representing the public instead of retrieving the public from its retreat from all representation' (2005: 10). That strained formulation expresses the conviction that plural existence should not be expressed through some essential basis of commonality. Apartheid, fascism of various kinds, or human existence reduced to labour are all ways of representing common existence through some essence. The task of a renewed politics is then to retrieve the public or community from this 'retreat of the political' (see Lacoue-Labarthe and Nancy 1997). This crisis of the political is a key aspect, I argue below, for the proliferation of 'forms of life' in philosophical and juridical thinking. Before we move to discuss that, it would be helpful to consider how 'bare life' was deployed in the process of attending to the crisis of the political in South Africa.

There is no shortage of accounts of how violent and disorderly the postcolony, and especially South Africa is. This excessive disorderliness is associated with kleptocratic and savage sovereignty throughout the global south (see Comaroff and Comaroff 2007). I have heard it remarked that it is because black South Africans exist in a condition of 'bare life' that crime is accompanied by extreme acts of violence in present day South Africa. The ANC led government is often accused of having a wrong-headed or incompetent approach to crime and violence.[vii] Has the country literally and metaphorically 'gone to the dogs'? Such criticisms of the post-apartheid state go to the heart of the problem of archiving colonial sovereignty that I invoked at the outset. Is contemporary violence and disorderliness contingent on the brutalisations of colonialism and

apartheid? Can such a question even be addressed in the register of tropes such as human/animal, political/bare life?   What such accounts of violence and disorderliness seem to suggest is that once de-humanised or degraded by colonialism and apartheid, black people are unable to depart from regimes of normalised violence.

Johan van der Walt characterises the lives of black South Africans during apartheid by deploying the notion of 'bare life' or *homo sacer*:

> they [the majority of South Africans] remained expelled even when they continued physically to live in white South Africa. They had no civil rights to speak of and no freedom of movement. There were strict rules as to where they could go and when they could go there. And when they failed to observe these rules, their last remnants of *bios* (political life) turned into a matter of mere *zoē* (bare life or life as such). As the Sharpeville massacre and many subsequent killings would make quite clear, they could be killed for not observing the rules of apartheid without this killing constituting a crime. Black people who lived in South Africa had the status of Agamben's *homo sacer*. (Van der Welt 2005: 124)

Can it really be said that black people were rendered *homo sacer* by the extreme violence and degradation imposed by the apartheid regime? Black people during apartheid could be killed with impunity, in accordance with Agamben's enigmatic formulation in *Homo Sacer* that bare life can 'be killed without being sacrificed'– that is, that bare life ceases to figure in either sacred or profane modes of valuing or mediating life. My concern is with van der Walt's characterisation of the majority of South Africans as 'bare life' during apartheid – a designation I regard as spurious.

Let us assume that van der Walt intends that having 'the status of bare life' in the eyes of the colonial or apartheid state is distinct from actually being 'bare life' or *homo sacer*. However, one wonders what is gained by drawing lines between political and bare life, between human and animal, *bios* and *zoē* in the context of apartheid. There is a sense that the recognition of expulsion from the political is a precursor to 're-treating the political' – to attending to the problem

of plurality in a post-apartheid order. But can the political or plurality be retrieved in this way? A host of other questions are also left unanswered. Have the majority of South Africans recovered their political life and agentive capacities? On what basis did this recovery take place? Was the abjectness of the status of bare life simply about formal rights of political citizenship or is much more at stake? If it is the case that humanity, equality, or political life is recovered through the adoption of a sophisticated constitution, then the political is once again reduced to orders of representation and commonality.

If forms of life such as 'bare life' are to be deployed in the process of generating a post-apartheid theory of law, then these questions need to be addressed. Characterising black South Africans during apartheid as 'bare life' is far from helpful. It has the potential to deface the revolutionary struggles many South Africans engaged in against apartheid. Apartheid was toppled with the force of an eloquent, strategic, organised, and sometimes violent will. This capacity to resist colonialism and apartheid goes to the heart of whether Europe's others are regarded as having the full capacity of selfhood – of being conscious beings of action, thought, and invention - whatever the status accorded to them by their masters.

There is a problem of politics and the political that is being posed when the notion of 'bare life' is deployed to characterise life during apartheid. 'Forms of life' are a trope for the intersection between sovereignty, life and law. Why, then, has the re-treatment of the political taken place in South Africa and elsewhere through the deployment of 'forms of life' such as *homo sacer* or bare life? In the following sections I take up that question through a wider discussion of conceptualisations of 'forms of life' now circulating in philosophical and political discourse.

Forms of Life and the Crisis of the Political

Conflict and antagonism in post-communist, post-colonial and post-conflict societies have come to be seen as a problem of the *political* as such. The intellectual currents that have informed attention on the political include:

Arendt's work on plurality and concern to distinguish various modes of productive and political life; the left's revival of Schmittian decisionism and the friend/enemy distinction as a useful critique of liberalism and deliberative democracy; and a largely poststructural tendency to imagine 'community' beyond communitarian essences after the totalitarian excesses of fascism and communism (Arendt 1958; Schmitt 1985; 1996; Mouffe 2000; Nancy 1991; Lacoue-Labarthe and Nancy 1997). The 'political' became a key focus of democratic theory at a moment when the autonomous liberal subject had been rendered illusory by social and political movements such as postcolonialism, feminism and critical race studies. Power also ceased to be treated as the over-determining action of a centralised sovereign or the state. Foucault explained how power was at once constituted and resisted within the body of the subject. The subject came to be regarded as individuated through biopolitical modes of power (see Foucault 2003; Butler 1997). The concept of the 'political' emerged in this context as the *space* in which a variety of sovereign antagonisms would play out.

Agamben's thought attempted to bring together Foucault's theorisation of subjection, Schmitt's thought on sovereignty, and Arendt's critique of rights and examination of the conditions of totalitarianism. According to Agamben, Foucault's attempts to de-emphasise the questions 'what legitimates power?' and 'what is the state?' removed the theoretical privileging of sovereignty but failed to explain the point of intersection between 'techniques of individualization' and 'totalizing procedures' (Agamben 1998: 6). Agamben's characterisation of the inclusive-exclusion of 'abandoned being' or 'bare life' from the political and juridical order did much to complicate the relationship between political-life (*bios*) and sovereignty. We were thus left with the concept of the 'political' as the central site where life was determined to be either mediated or unmediated by profane or divine law.

Political and ethical demands were made on the basis of a critical stance that tended to begin with charting the conditions of inclusion/exclusion from a realm of plural existence called the political. Cutting a long and interesting story

short, if all normative orders were created through an exclusion of X-life from the relevant political community, then the task of critique and politics was to identify and respond to this constitutive abandonment of being. While some contented themselves with arguments for the strategic use of rights or a demand for the relevant kind of enfranchisement or recognition – at the heart of the treatment of the political as an ontological problem was the realisation that 'abandonment' and not some utopian notion of plurality was its fundamental condition. And abandoned being as the originary act of sovereignty left very little by way of a political programme that could escape this fundamental condition of a juridical and political order. Famously, by way of a new political horizon, Giorgio Agamben left us waiting, at the end of *Homo Sacer*, for the beautiful day of *zoē* to arrive. That is to say, *zoē* would need to become a form of life 'wholly exhausted in bare life and a bios that is only its own *zoē*' (Agamben 1998: 188). This new politics would require a shift, for Agamben, from 'form of life' to 'form-of-life'. This warrants further explanation.

The distinction Agamben draws between 'form of life' and 'form-of-life' is key in his thinking about sovereignty, law and politics. The former denotes the ostensible *facts* of human life which are often expressed through the separation of 'naked life' ('*nuda vita*' or 'bare life') from the various forms in which it is represented or identified – usually citizen or subject (Agamben 2000: 4). This abstract re-codification of life is what we find in a litany of social and juridical categories such as 'voter, worker, journalist, student, HIV positive, transvestite, porn star, elderly, parent, woman' and so forth (Agamben 2000: 6-7). It is not that these categories are abstract as such. It is rather that political form and naked life are separated in the structure of representation of such categories. A 'form of life' is then a human life mediated by politics and political orders. Such a 'form of life' is politicised by submitting itself to a sovereign (as in the Hobbesian compact), or by being forcibly assimilated in states of exception or biopolitical modes of power. What Agamben is expressing through the notion 'form-of-life', on the other hand, is not simply facts of existence but the *possibilities* of life. With the aspiration of focusing on possibilities of life over facts, and gesturing towards

a 'nonstatist politics', 'form-of-life' is 'a life for which living itself would be at stake in its own living' (2000: 9). As Agamben goes onto explain:

> Only if I am not always already and solely enacted, but rather delivered to a possibility and a power, only if living and intending and apprehending themselves are at stake each time in what I live and intend and apprehend – only if, in other words, there is thought – only then can a form of life become, in its own factness and thingness, *form-of-life*, in which it is never possible to isolate something like naked life. (2000: 9, original emphasis)

'Form-of-life' and 'naked life' would not be distinguishable. This is what Agamben has in mind, when, at the closing stages of *Homo Sacer* he gestures towards a shift in conceptual paradigm which would lead to 'the constitution and installation of a form of life that is wholly exhausted in bare life and a *bios* that is only its own *zoē*' (Agamben 1998: 188).[viii]

In the passage cited above Agamben refers to a 'thought' that would be a precursor to a 'form-of-life'. In relation to 'thought', Agamben says:

> Thought is form-of-life, life that cannot be segregated from its form; and anywhere the intimacy of this inseparable life appears, in the materiality of corporeal processes and of habitual ways of life no less than in theory, there and only there is there thought. And it is this thought, this form-of-life, that abandoning naked life to 'Man' and to the 'Citizen', who clothe it temporarily and represent it with their 'rights', must become the guiding concept and the unitary centre of the coming politics. (2000: 11-12)

The kind of 'thought' that is at stake here is always a 'common' thought. Agamben does not intend this commonality in any communitarian way. Rather, it is the commonality that is inherent to the communicability of language: 'communication not of something in common but of communicability itself' (Agamben 2000: 10). The instance at which the potentiality of signification passes into the actuality of a signifier as the re-presentation of a 'thing itself' becomes an instance of the openness and possibility that only exists in and through *language*: 'The thing itself is not a thing; it is the very sayability, the very openness at issue in language, which in language, we always presuppose and forget, perhaps because it is at bottom its own oblivion and abandonment'

(Agamben 1999: 35). Language is the presupposition of all appearance, institution and tradition:

> The presuppositional structure of language is the very structure of tradition; we presuppose, pass on, and thereby – according to the double sense of the word *traditio* – betray the thing itself in language, so that language can speak about something (*kata tinos*). The effacement of the thing itself is the sole foundation on which it is possible for something like a tradition to be constituted. (Agamben 1999: 35).

The constitution of the political, 'people', 'we civilised people who respect human rights', is the becoming actual of a potentiality which at bottom presupposes language.

What is expressed about 'form-of-life' through commonality, thought, and communication, is potentiality. The Aristotelian conception of potentiality and actuality presents the aporia of 'the presence of absence' (Agamben 1999: 178-9). Aristotle articulated this problematic in *De anima* as the question of why there is no 'sensation of the senses themselves'; 'in the absence of external objects, the senses do not give any sensation, although they contain fire, earth, water, and the other elements of which there is sensation' (1986: 94; cited Agamben 1999: 178). Bearing in mind the unsustainable dichotomy between anima/animus[ix], what *animates* the 'potential' of the senses is the coming into contact with the principle of its own animation, its becoming or its passing into actuality. Although we know that sensation is the actualisation of the potential of the senses, the senses exist 'in the absence of sensation' (Agamben 1999: 178).

Agamben reposes this opposition of potentiality/actuality as the distinction between potentiality/impotentiality. 'Impotentiality' is 'potentiality' (the capacity to be something else) experienced as its own capacity to not be. Impotentiality is potentiality at the point of its privation. All potentiality must also be impotentiality. Potentiality must be experienced as the capacity to not be, to be its own lack. As Agamben puts it, the kind of potentiality that interests Aristotle is not the generic potential of a child to acquire knowledge. This is the potential to 'suffer an alteration' (1999: 179). The 'potential' that does interest

Aristotle, however, is the condition of already having something as a capacity, but then not bringing it to actuality. This is the capacity for a potentiality to maintain itself in its own privation (Agamben 1999: 179-80). The implications of this latter type of potentiality for a study of being, subject, or form of life are considerable.

There are multiple figures and visions of politics that Agamben invokes through the notion of impotentiality. 'Whatever being', a figure that is developed in *The Coming Community*, and Herman Melville's scrivener in 'Bartleby' are among the key ones. Distinguishing potentiality from 'will', and impotentiality from 'necessity', Agamben argues that Bartleby's response, 'I would prefer not to', to a request from the man of the law, leaves the former dwelling obstinately in the 'abyss of potentiality' (Agamben 1999: 254). This refusal or withdrawal is a repudiation of sovereignty and violence as a means. However, Agamben treats this refusal as a thought rather than action – and as we will see, it is one of the reasons he has been accused of being quietist, fatalistic, or utopian.

Amy Swiffen (2010: 174ff) compares Agamben and Zizek's approaches to the figure of Bartleby. Swiffen sums up a range of critiques levelled at Agamben well, and is thus worth quoting at length:

> Agamben's idea of a politics after sovereignty is premised on law freed from violence; however, when considered in light of the connection between law and language, the conclusion of his critique of sovereignty is that this nexus is immutable. There is no other form of law than sovereign law, which is always connected to violence. The concept of whatever being is generated through the abstract negation of this connection. […] If there is no form of law not connected to violence, it might be morally appealing to refuse political action that aims at creating a new law, but it might also be politically complacent, and even irresponsible. (Swiffen 2010: 177-8)

Agamben's thought on the conditions for the appearance of 'form-of-life' rests on a non-statist politics and a renunciation of violence as means. To the extent that law is inextricably tied to violence, it is renounced. That refusal of law is, as

Swiffen suggests, complacent at a time when sovereign emergencies are multiplying. But it is a refusal that gestures towards a political stance that should not be ignored.

In the last part of this essay I turn to consider whether *liminal beings* in the post-apartheid novel might provide another range of political possibilities, while preserving some of the qualities of impotentiality that Agamben has developed. Liminality is at once a strange and estranged concept. Many would dismiss it on the basis that its earlier iteration was in anthropological texts of an earlier time (see van Gennep 1960; and Turner 1967). I do not share this attitude. There is no need to confine the notion of liminality to the ethnographic setting of one of its earlier manifestations. I do not know of any 'pure' concepts, and when they are asserted the critic should be wary. Democracy, community, friendship, solidarity, love, rights, humanity, fraternity are just some of the regular political concepts that carry their own dangers and constitutive exclusions. It is precisely for that reason that existing concepts, including the ones just listed, need to be re-invigorated and given new content and possibilities. It is in that spirit that I seek to renew the notion of liminality (see also Motha, 2010). To the extent that liminality signifies a space in-between – at once a place of refuge, invention, fluidity and movement along with the danger of being fixed in limbo – the concept can be productively deployed in the postcolonial setting.

In-finite Sovereignty and Liminality

When forms of life and the crisis of the political were examined above I made the point that contemporary thinking, especially that charted by Agamben, had reached a point where the originary act of sovereignty left very little room to maneuver beyond the fundamental condition of juridical and political orders which are founded on the production of abandoned being. My contention here is that literature and other aesthetic forms can offer new insights in relation to this crisis of the political. Aspects of this crisis give rise to questions of commonality, the conditions of plurality, and communicability. It is in responding to those

challenges that I believe the post-apartheid novel, and especially van Niekerk's *Agaat*, can be instructive. There are possibilities (perhaps *thought* in Agamben's terms) specific to the form of the novel that enables the potentiality of its characters to at once manifest singularity and the problem of political representation. The novel expresses forms of life and being that cannot and should not be collapsed into any predetermined political programme or juridical model. The liminal beings encountered in *Agaat* expose a problem of communication, and of originating political subjectivity and sociality.

If the novel is going to present a mode of thinking new forms of life, what is the relationship between the imaginary and politics? There are two insights that drive my deployment of literary figures. One is the centrality of literature for imagining resistant beings, and their political possibilities. The second is the need to find concepts that are apposite for colonial and postcolonial settings, given how Agamben and other philosophers are seldom attentive to that task. If a coming politics is to be marked by a thought, communication, and 'form-of-life' encountered in intimacy, corporeality, and materiality, as Agamben has suggested – where will this politics, and this being be imagined? We have seen how productive Melville's *Bartleby* has been for Agamben's thought. The power of his refusal, the im-potentiality of his 'I would prefer not to' without recourse to rights, objectives, or legitimate ends shatters the instrumentality of a politics with essential agents and pre-determined programmes. This refusal expresses a form of resistance through a being, a liminal being, suspended between possibility and actuality.

For a range of reasons elaborated above, especially to do with the problem of archiving an in-finite colonial sovereignty, the notion of *liminality* may prove to be a productive concept. Liminality, as I have just suggested, bears the potential for holding in suspense, being in-between, while at the same time conveying the possibility of movement – gesturing toward an opening and a traversal to a place beyond. Colonial sovereignty is a command that must, at the same time, be preserved and be departed from (it is *in-finite* as I explained above). Liminality might then be the resistant or emancipatory flipside of in-

finite sovereignty. Liminality opens the possibility of a non-sovereign subjectivity beyond orders of rights, representation and associated forms of agency. Liminal beings evade sovereign claims. They neither make them, nor succumb to them. However, a liminal being would nonetheless sustain contact between past and future. Such liminal beings are to be found in South African post-apartheid literature.

In what follows I take up the potentiality of liminal beings through Marlene van Nieker's novel, *Agaat.* This is an epic novel traversing the era of apartheid from the early 1950s to the new constitutional dispensation in 1994. The narrative centres on two characters, Milla de Wet, a white woman who inherits a farm called *Grootmoedersdrift,* and her coloured servant, Agaat. Each chapter of the novel is structured like a triptych – moving the reader in time from the present to the past, and through several narrative voices. There is the first-person voice of Milla who initially presents as a sovereign 'I'. But this ipseity is shattered by the narrative voice that speaks of Milla in the second person, and the poetic inscriptions of Milla's diary.

Perhaps the most obvious liminal space in the novel is Milla's death chamber. We first encounter Milla as she lies paralysed from the motor neurone condition, Charcot's disease. It is the time of transition to the 'new South Africa'. It is also the time of transition in Milla's farm. Milla is being cared for by Agaat, and unable to communicate other than by the movement of her eyelids. Each chapter moves us between Milla's death chamber, and a narrative that stretches back to 1947 when Milla meets and marries Jak. The period covered by the novel is roughly that of the duration of apartheid. The narrative is then a co-emergence of Milla and Agaat as a product of colonialism and apartheid, but in the everyday intimacy of the home and the farm.

Milla's death chamber is also the space in which we encounter Agaat as the survivor and inheritor of the farm. We learn about Agaat's character, her unsurpassable skills as a farmer, as manager of labour and of the household, and as Milla's carer. Milla's and Agaat's fates have been intertwined, but with Milla's

death a new regime of life will commence – the farm and household with Agaat as head. The space of Milla's death chamber is then a liminal space in which two beings co-emerge, and a new order is inaugurated. It is this co-emergence of being, and the centrality of liminality for the process of decolonisation, that I wish to explore further.

There is of course the question of whose inner life the reader has access to in this novel – is it the white farmer Milla, or is it also her servant, Agaat? And why are we even bothering with this particular colonial setting – the 'not quite white' farm? What are the implications of these questions for the relationship between literature and politics? A question is often posed about what is imagined and disseminated in literature, and by whom, in the context of post-apartheid South Africa. The regular objections include: literature is an elite form of art and expression; the most celebrated South African writers are white; why discuss a farm novel rather than a township novel? Why focus on the being and becoming of white characters when so many black South Africans live in abject conditions and make little or no appearance in literature? How are these objections to be addressed?

In one sense *Agaat* might be regarded as yet another farm novel written by an Afrikaner author. The farm novel (*plaasroman*) was a genre in which the colonial and apartheid conquest of territory was imagined and mythologised. A key myth of Afrikaner nationalism was of the Boer farmer - masculine, hardworking, Calvinist - resisting British colonial expansion and rule by driving his cattle and people over forbidding mountain ranges and making an inhospitable land productive. The fact that this independence from the British, and conquest of territory was achieved through the dispossession and slaughter of the indigenous populations encountered by the Boers is seldom a feature of the archetypical farm novel.

It is in this respect that van Niekerk's *Agaat* is a profound reversal of the classic farm novel. One mundane but nonetheless significant feature of this is the close focus on farming techniques; on how the industrial and mechanised

farming methods of Milla's husband Jak are observed to denude and destroy the land. Despite Jak's ambitions and pretensions, his strength and athleticism, and despite his violence against Milla and hostility to Agaat, his will and vision are broken and flawed. The careful attention to farming techniques in the novel - those of Milla and Agaat contrasted with that of Jak, is a powerful metaphor that displaces one of the founding myths of Afrikaner nationalism and apartheid. It places women, gendered relationships, the strategies of agricultural mass production, and a diverse range of farming practices at the centre of tensions in the South African farm. Most significantly, it is Agaat, the coloured maid, servant, and worker who is at the heart of what unfolds between all other characters in the novel.

Agaat is found by Milla in 1953 as a neglected and sexually abused child who can barely speak. She has a malformed arm, possibly caused by an antenatal injury. She is first brought into Milla's home as a child – a substitute for the child that Milla and Jak have been unable to conceive. But when Milla later gives birth to her son Jakkie, Agaat is moved to the servant's room and is assiduously trained as a maid and farm worker.   But Agaat's potential and powers surpass all Milla's training and designs. Agaat becomes the friend and confidant of Jakkie – closer to him than his parents would ever be. She observes the truth behind Milla's marriage – Jak's violence, Milla's contrivance, and the suffering of beings without love.

The communication and communicability that Agamben sees as the key to a 'form-of-life' - 'communication not of something in common but of communicability itself' (Agamben 2000: 10) – is at the heart of Milla and Agaat *being-with* each other. The dying Milla can only communicate through blinking her eyelids to iterate the letters of the alphabet. Milla clings anxiously to language, to her mutual history with Agaat, and to the potentiality of memory. Agaat reads the code. As Milla says (but only through Agaat's reading):

> It's going too slowly. I think too fast. I only get the odd word out. W·H·Y A·R·E Y·O·U O·N T· S·C·E·N·E S·O S·O·O·N A·T E·V·E·R·Y D·I·S·A·S·T·E·R W·O·N·D·E·R A·B·O·U·T Y·O·U·R T·R·U·E C·O·L·O·U·R·S

S·I·C·K C·O·M·F·O·R·T·E·R   F·I·R·E E·X·T·I·N·G·U·I·S·H·E·R S·L·I·M·E

K·N·O·C·K·E·R D·I·S·T·R·U·S·T D·E·V·I·L (Niekerk, 2006: 402)

It is only possible for Milla to communicate because of Agaat's reading of the movement of her eyelids. But what is communicated is a questioning of Agaat's motives. What is at stake here is not commonality between Milla and Agaat, then, but the space of a traversal in which the past is re-inscribed and questioned. But this is also the space in which the present and future is invented through MIlla and Agaat being so intimately with each other. As Milla approaches death, her life is recounted, reassessed, re-lived. In the process of this re-treatment and retrieval another Agaat and another Milla emerge. They are not fully known or formed subjects. There are other stories to be written, other narratives to be told. For now what is crucial is that Milla and Agaat have shared, are sharing, a world. The co-inscription of communication is at the origin of this world.

And what is to come in the new order? What about Agaat's authoritarianism; what is the legacy of colonial discipline?

Conclusion

In the everyday recesses of farm, home, love, marriage, and parenthood, van Niekerk has opened the possibility of a deep reflection on the corporeal and material conditions that constituted the violence of the apartheid order. *Agaat* delves into the intimate crevices of an apartheid-era home, and charts the co-dependence and co-emergence of a white Afrikaner woman and her coloured servant. Despite the commanding ambitions of farm owners, agricultural production was only possible because of servants and workers. This is a trite observation in any colonial context. What is crucial, however, is that it is not only the production of vast material disparities through the extraction of the surplus value of labour that marked the apartheid-era farm. The farm was the site for the fashioning of forms of life. Humans, animals, soil, grasses, insects, crafts, furniture, music, language and writing were produced within the farm. There is no life fully graspable or sayable to be found in *Agaat*. There is no absolute abandonment, bare life, or a life that can be fully apprehended. In *Agaat*, in

writing, is a trace, a memory of co-origination. That co-origination of Milla and Agaat is a fundamental challenge for a nation-state, a 'people', that now grapple with what it means for coloniser and colonised to co-exist.

It is this problem of being-in-common that both Agamben and other theorists who think through various 'forms of life' grapple with. As we have observed in the discussion, considerable attention has been given to the persistence of sovereignty, and whether or not normative frameworks can expunge the violence at the heart of the production of forms of life. Through the notion of liminality I have attempted to counter-pose a subject without sovereign origin or destination. Liminal beings are unformed, unsayable, and defy regimes of recognition. While liminality is by no means the only way to re-imagine political subjectivity, it can be productive in the anti-colonial and postcolonial setting where in-finite sovereignty resists total closure of the past, and co-existing 'peoples' labour in the invention of a wholly new future.

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i Agamben himself has given close attention to time, especially messianic time, and the philosophy of history with reference to Walter Benjamin's and Michel Foucault's work. See generally Agamben (1993), (2005), and (2009).

ii Countless references can be supplied to illustrate this tendency within Agamben's work – these will do: 'The structure of the exception delineated in the fist part of this book appears from this perspective to be consubstantial with Western politics' (1998: 7), and later ' […] this ancient meaning of the term sacer presents us with the enigma of a figure of the sacred that, before or beyond the religious, constitutes the first paradigm of the political realm of the West' (1998: 9). While the grammarian focus on classical Greek and Roman sources might explain some of the desire to confine claims to something called the 'West', my suggestion is that Agamben gives no attention to the work done by his deployment of this trope.

iii Also see Derrida (2009) for an elaborate critique of Agamben's misreading of Foucault. I am grateful to Peter Fitzpatrick for this reference.

iv See s. 37 *Constitution of the Republic of South Africa* which puts in place elaborate safeguards regarding the declaration of states of emergency – the subject of so much attention when it comes to the political and juridical significance of Agamben's thought.

v Justice Mokgoro explained ubuntu in the following way in *The State v Makwanyane* (1994) CCT 3/94 which prohibited the application of the death penalty in South Africa: "Generally, *ubuntu* translates as *humaneness*. In its most fundamental sense, it translates as *personhood* and *morality*. Metaphorically, it expresses itself in *umuntu ngumuntu ngabantu*, describing the significance of group solidarity on survival issues so central to the survival of communities. While it envelops the key values of group solidarity, compassion, respect, human dignity, conformity to basic norms and collective unity, in its fundamental sense it denotes humanity and morality. Its spirit emphasises respect for human dignity, marking a shift from confrontation to conciliation. In South Africa *ubuntu* has become a notion with particular resonance in the building of a democracy", at para. 307-8.

vi See *The Citizen v McBride* (2011) CCT 23/10, Constitutional Court of South Africa, 8th April, 2011; and *Albutt v Centre for the Study of Violence and Reconciliation* (2010) CCT 54/09 Constitutional Court of South Africa, 23rd February, 2010. These recent cases might be compared to the early post-apartheid judgments such as *AZAPO v The President* (1996) CCT 17/96, Constitutional Court of South Africa; and *The State v Makwanyane* (1994) CCT 3/94, Constitutional Court of South Africa.

vii For instance this was the implication when President Mbeke was criticised by The Citizen newspaper for writing in support of a convicted murderer who had

been granted amnesty and had applied to be commissioner of police. See *The Citizen v McBride* (Constitutional Court of South Africa, 2011)

viii For a discussion and critique of this 'conceptual revolution', see Paul Patton (2007: 218).

ix 'anima' (air breath, life, mind, soul – associated with the feminine); 'animus' (actuating feeling, animating spirit, usually hostile and associated with the masculine), *The New Shorter Oxford English Dictionary*.