

An Agambenian Critique Of The Australian Immigration Detention Camps

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Despite all of its pretensions to the contrary, the famously cruel immigration policies pursued by the Australian government over the last decades have begun to mar its image as a human-rights-respecting liberal democracy, though, I would contend, not nearly enough, given that other countries (among them the UK) have started looking to it as an example. Despite the overall lack of scholarship critically engaging with the Australian detention camps, in part perhaps owing to the lack of available information thanks to the government's politics of secrecy, there has recently been a new rise in academic interest, due largely to the 2018 publication of a refugee's memoir detailing the horrors of immigration detention. Smuggled out in form of text messages on an illicit mobile phone, Behrouz Boochani's work (itself heavily influenced by European philosophy like that of Giorgio Agamben) is both the chronicle of a silenced narrative and an invitation to intellectual engagement with the *topos* of the camp and its historico-political role in Australia. In this essay, I will first give a brief overview of immigration detention in Australia and Agamben's biopolitical philosophy respectively in order to then analyse and critique the Australian camps on the basis of Agamben's theories, utilising mainly his concepts of the state of exception and the accompanying *homo sacer*. I will then consider Boochani's insights and his apparent hesitancy toward adopting the Agambenian notion of 'exception', outlining a possible critique of the term. Finally, I will argue that Agamben's conceptualisation can accommodate Boochani's concerns and that their respective theoretical narratives merge nicely to allow a more nuanced critique of the Australian policies and their effects.

A Historical Overview of Immigration Detention in Australia

Mandatory immigration detention was first introduced by the Keating government (with bi-partisan support) in 1992¹, but the project was taken to its extremes by the Howard

1 Phillips & Spinks, 2013, p. 1.

government following the 2001 *Tampa* affair, in which a Norwegian freighter carrying 433 rescued refugees was denied entry to Australian waters, an event that triggered a harsh new immigration policy known as the Pacific solution.² A number of offshore territories were excised from Australia to render them moot as potential migration zones, and ‘unauthorised boat people’ arriving at these places were removed to offshore processing centres in Nauru and Papua New Guinea (the latter of which is signatory to the *Refugee Convention* with significant reservations and the former not at all.) They were then detained in these camps indefinitely without any of the legal protections theoretically available to asylum seekers processed on Australian territory, as well as a marked lack of independent scrutiny

Several cases challenging the intolerable conditions of detention were brought before the High Court in 2004, to no avail. Despite a brief bid for a more compassionate policy in 2007, off-shore processing was soon resumed on both Nauru and Manus Island and brought to new heights with the 2013 Abbott government’s hard-line ‘stop the boats’ campaigning and ‘zero tolerance’ policy toward ‘illegal maritime arrivals’, with the declaration that no asylum would be granted to those arriving by boat no matter how legitimate the claim and launch of the military ‘Operation Sovereign Borders’.³ The 2015 change of government again saw little improvement, even following the 2016 document leak of the so-called ‘Nauru files’ detailing “the assaults, sexual abuse, self-harm attempts, child abuse and living conditions endured by asylum seekers”,⁴ which, thanks to the complete blocking of media access to the island and the criminalisation of whistleblowing under the Border Force Act 2015 (which led to the dismissals of several medical professionals who dared reveal the deliberate neglect of asylum seekers, at risk of a prison sentence) had previously gone largely unpublicised. Although the Morrison government in 2018 promised to ensure the removal of all children from Nauru by the end of the year following a number of reports of suicidal behaviour and resignation syndrome,⁵ the 2019 Medevac bill (which would have allowed sick refugees to be transported to the mainland for medical treatment), initially passed against

2 Phillips & Spinks, 2013, p. 9.

3 Martin & Tazreiter, 2017, pp. 102-104.

4 Farrell, Evershed & Davidson, 2016.

5 Pearson, 2018.

the government's will,⁶ was repealed soon after.⁷ Though the Manus Island Processing Centre has now been closed, the last detainees who didn't die from suicide or neglect⁸ currently being held in a Brisbane hotel during the pandemic,⁹ Nauru remains operational.

Agamben's Biopolitics and Philosophy of The Camp

Giorgio Agamben, an influential Italian philosopher, offers some of the more controversial critiques of modern politics (a matter that hasn't changed with the advent of the Covid-19 pandemic).¹⁰ The utility of his work for analysing the discourses of immigration and the concept of the refugee, both in general and in the specifically Australian context, has not gone unnoticed, with theorists repeatedly drawing on his ideas. In line with a range of thinkers, among them Derrida and Arendt (who both influenced him greatly), he asserts that there is a paradox at the heart of sovereignty by which the sovereign is simultaneously "outside and inside the juridical order as the entity that instituted the law and is thus capable of suspending its validity. As Agamben formulates it: "the law is outside itself."¹¹ In his philosophical complex, this dichotomy is intimately intertwined both with the notion of the 'state of exception' (in the sense of something *taken outside (ex-capere)*, rather than simply excluded)¹² that emerges from this limbo of juridical self-suspension, and the 'bare life' that inhabits this liminal space.

Let us consider this notion of 'bare life' first: taking his lead from the Greeks, Agamben draws a distinction between 'natural' life (*zoe*) and 'good' or 'qualified' life (*bios*), where *zoe* is located outside the sphere of the political and *bios* within it. Given this differentiation, he opines that in modernity's attempt to (bio-)politicise 'natural life' by presenting itself as a "vindication and liberation of *zoe*"¹³ that values life above all else with the declaration of human rights, the spheres of

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- 6 Murphy & Karp, 2019.
 7 Martin, 2019.
 8 Doherty, Evershed & Ball, 2018.
 9 Lynch, L. & Dennien, M., 2020.
 10 Caldwell, 2020.
 11 Ibid.
 12 Ibid., p. 18.
 13 Agamben, 1995/1998, p. 9.

the natural and the political, “outside and inside, *bios* and *zoe*, right and fact, enter into a zone of irreducible indistinction.”¹⁴ This zone, which constitutes a ‘state of exception’, is the space from which the marginalised figure of *homo sacer* or ‘bare life’ emerges, the “originary political element”¹⁵ that presents the basis of sovereign power.¹⁶ Agamben takes this concept of *homo sacer* (sacred man) from an “obscure figure of archaic Roman law”¹⁷ representing he “who *may be killed yet not sacrificed*”¹⁸ – occupying the sovereign sphere, i.e., the indistinct space of exception that is at once outside and inside the law, *homo sacer* is simultaneously subject to the law but not protected by it.

It is in this context of bare life that the central notion of the ‘state of exception’ – which Agamben associates also with the government increasing its powers in supposed times of crisis – takes on its full significance, a point he illustrates vividly with a discussion of the ‘camp as the nomos of the modern’ where he links modernity’s biopolitical tendencies with the historical rise of the concentration camp. “*The camp is the space that is opened when the state of exception begins to become the rule*”, the temporary suspension of law localised in a “permanent spatial arrangement.”¹⁹ The inhabitants of the camp are “wholly reduced to bare life”,²⁰ *homines sacri par excellence*, residing in a space that, characterised by the (self-)suspension of the law, allows for the realisation of “the most absolute *conditio inhumana* that has ever existed on earth.”²¹ An important point to note here, however, is that this space of exception is not

14 Ibid.

15 Ibid., p. 181.

16 It should be noted here that the distinction between *zoe* and bare life in the sense of sacred life, *homo sacer*, is not entirely clear, thanks to a certain inconsistency in Agamben’s discussion of the topic – sometimes he equates *zoe* with bare life, but in other places he distinguishes between “simple natural life” and “life exposed to death (bare life or sacred life)” (Ibid., p. 88) –, which has led to some confusion in critical readings of his texts. Despite the ambiguities, it becomes fairly clear however that *homo sacer* is distinct from *zoe*, or rather, living in the indistinction between *zoe* and *bios*; he is natural life exposed to the (bio)power of the sovereign.

17 Ibid., p. 8.

18 Ibid.

19 Ibid., pp. 168-169.

20 Ibid., p. 171.

21 Ibid., p. 166.

simply *outside* the normal order, but by being initiated at all has been taken *into* the order: “Insofar as the state of exception is ‘willed,’ it inaugurates a new juridico-political paradigm in which the norm becomes indistinguishable from the exception.”²² It is this spatial configuration of indistinction that Agamben (ominously) calls the “hidden matrix of the politics in which we are still living.”²³ In the modern move from politics to biopolitics, where life becomes more and more central to the State, “all citizens can be said, in a specific but extremely real sense, to appear virtually as *homines sacri*.”²⁴ Thus, as I will go on to show, Agamben argues that the camps with their ‘exceptional’ status (despite the ordinary associations with that term as something anomalous and separate) are becoming characteristic of our contemporary political condition.

Agamben in the Australian Context

The loquacious, mythologising sweep of Agamben’s analysis can make it difficult to see the immediacy of application, despite the number of practical examples he provides in the course of his historico-political investigations, but the relevance of his concepts to the discussion of both refugees in general and specifically Australian immigration politics is evident. The refugee becomes paradigmatic of bare life, stripped as he is of the rights of the citizen, breaking the link between “nativity and nationality”²⁵ and thus no longer represented by the sovereignty of a nation-state. According to Agamben, the refugee is “the central figure of our political history”, his rights no longer those of the citizen, thus making him “truly *sacred*, in the sense that this term used to have in the Roman law of the archaic period: doomed to death.”²⁶ Archetypal *homines sacri*, these are bereft figures who, following Arendt, “should have embodied rights of man par excellence [and] signal[...] instead the concept’s radical crisis.”²⁷ Despite having ostensibly the greatest claim on *human* rights, these are only bestowed upon the modern citizen, thus illuminating the centrality of citizenship, ‘qualified life’ – it is the human qua citizen, not the human qua human, to whom ‘human rights’

22 Ibid., p. 170.

23 Ibid., p. 175.

24 Ibid., p. 111.

25 Ibid., p. 131.

26 Agamben, 1993/2000, p. 93.

27 Agamben, 1995/1998, p. 126.

apply.²⁸

Turning now to the specifically Australian context, the analysis can begin with the state of exception – consider the process of excision, where the government deterritorialized swathes of Australian waters and islands in order to remove them from the ‘migration zone’. What was this, if not the literal creation of a space of exception in which the laws governing asylum and the rights of those seeking it are suspended? The *Minasa Bone*, landing on Melville Island on the 4th of November, 2003, had arrived on a territory that was *in* Australia – but not *of*. Towed back into international waters, the boat was pointed toward Indonesia, where the refuge-seeking Kurds onboard could expect to be returned to Turkey, their escaped point of origin. With this “marvelous [sic], brutal, incontrovertible logic of excision”²⁹ – yes, they claimed asylum, but *couldn’t*, since they never entered Australia in the first place – the Pacific Solution with its acts of deterritorialization and offshore detention arrangements becomes paradigmatic of the state of exception, creating spaces that are both inside and outside the law and often consolidating these absurd legislative manoeuvres by establishing a camp, a permanent exceptional order localised (both geographically and otherwise) on the margins of the state. In the “dislocating localization”³⁰ ‘*Not-Australia*’, the category of ‘national’ ceases to operate and life within this space is stripped bare, ‘human’ rights failing to find purchase without the necessary ‘citizen’-property to substantiate the claim. In removing the law from a certain space, the Australian state reveals precisely the paradox Agamben finds within sovereignty, legislating selectively for its own removal and thus extending beyond its own purported boundaries.

Thus, the birth of the Australian detention camp can be traced along the lines of Agamben’s biopolitical narrative, which he exemplifies with the establishment of the Nazi concentration camp. Seeds sown in an apparent crisis (in Agamben’s example, the 1933 Reichstagsbrand in Germany; in mine, the unchecked arrival of ‘illegal boat people’ in Australia) go on to trigger a (willed) state of exception (Agamben cites

28 In Australia, these dynamics can also be illustrated by an example that predates the refugee, namely the Indigenous peoples – they, also, were not considered citizens and not human as such, in a detrimental double-bind where it isn’t clear which qualifier was lacking first.

29 Perera, 2007, pp. 201-203.

30 Agamben, 1995/1998, p. 175.

the 'Decree for the protection of the people and State' based on *Schutzhaft* in Germany; I would indicate the Pacific Solution and its excision of offshore territories, in combination with increased powers for immigration officials in Australia) that then solidifies into a permanent arrangement (concentration camps in Germany, offshore detention facilities in Australia). Although some might balk at comparing the *Vernichtungslager* of the Third Reich to the Australian centres, human suffering can hardly be quantified, and the image of a child sewing its own lips or becoming catatonic from resignation syndrome holds no less horror than anything we might come across in regards to the Nazi camps.

Boochani's Manus Prison Theory

The work of Behrouz Boochani, Kurdish-Iranian journalist and author who was detained on Manus Island from 2013, provides an intellectually informed insight to the lived experience of asylum seekers in the Australian detention system, and his 'Manus Prison Theory' offers an interesting complement to Agamben's more detached ruminations. As I mentioned, Boochani's personal engagement with European thought is evident, and not just from his translator's remarks to that effect.³¹ However, despite the clear influence Agamben had on him, Boochani problematises the use of the term 'exception' as applied to the camps. Nevertheless, as I will argue, I think Agamben's concept doesn't just accommodate this criticism but also captures Boochani's central concerns.

During his six years of incarceration, Boochani wrote a number of articles detailing the human rights abuses he witnessed, sending information to news organisations and human rights advocacy groups via a secret mobile phone. Finally, despairing of the limits of journalistic language, he even typed out a memoir in text messages, which was translated and published in 2018 (a time to which he was still imprisoned) to a number of prizes and accolades. There, Boochani details the horrifying absurdities and bizarre Kafkaesque logic of the camp with its endless queues, random privileging and selective starvation, senseless orders (shrugged off with deference to 'The Boss'), intermittent withholding of supplies, and denial of even the most basic human requests (a man is desperate to call his dying father, but since it isn't his 'turn' he is not permitted to, despite the other prisoner's willingness to let him take their place.) Boochani's descriptions fit well into Agamben's

31 Boochani, 2018, p. 14. (Translator's introduction.)

theoretical frameworks, the prisoners conceived of as bare life within an unforgiving system ruled by the lack of law that is exception. They are dehumanised, at the mercy of guards who have through propaganda or personal experience come to alienate their charges entirely: “[...] a young guy has slit his wrists in the toilets. The guard turns to me and says, ‘Sorry – I can’t understand you and this petrified young guy. I’ve been a prison guard for most of my life . . . Sorry.’ This is the extent of his compassion.”³² The Kafkaesque elements recall Agamben’s analysis of *The Trial*, the laws of the system “in force without significance”,³³ the refugees under the heel of a bizarre system lacking all logic. Motifs of Agamben’s philosophy specifically come up in several interviews, if not always with explicit reference – his influence is undeniable in the statement “now we are living in the age of camps”,³⁴ as in Boochani’s talk of bare bodies and biopolitics, which is all very *Homo Sacer*. Boochani even refers explicitly to Agamben’s state of exception in his 2016 article “Australia, exceptional in its brutality”, which criticises the July 2013 ‘transfer arrangement’ and the exile of refugees to offshore camps in the light of Agamben’s theory: “Our legal status as individuals has been suspended and we become legally un-nameable beings, transformed into animals devoid of dignity.”³⁵

However, as noted, Boochani maintains a certain distance to Agamben’s philosophy and appears to take issue with the term ‘exception’. In *Manus Prison Theory* as developed by Boochani and his collaborators, the relationship between Australia and Manus Island is tropologically imagined as a ‘transposable synecdoche’, an interchangeable part/whole connection that exerts mutual influence. In a recent symposium by Western Sydney University on ‘The politicisation of seeking asylum’, his translator Omid Tofighian spoke about the obstacles faced in theorising the relationship between Manus Island and Australia: although “we often talk of Manus prison being (in) a state of exception [...] we also argue that Manus is part of Australia’s history, part of Australian society and politics, they’re both deeply embedded in the narrative and the psyche of Australia, a colonial state.”³⁶ As an

32 Ibid., p. 173.

33 Agamben, 1995/1998, p. 51.

34 Boochani, 2020.

35 Boochani, 2016.

36 Boochani & Tofighian, 2020.

interchangeable part-whole relationship where either site can act as the regulating whole, it can be considered as “sometimes exceptional, sometimes not, and this as being interchangeable and fluid and everchanging. This helps to understand how Manus Prison can be exceptional and unexceptional at the same time.”³⁷

I understand this as a reservation with regards to the concept of exception based on the quotidian idea of it being isolated, independent of the normal order that governs the unexceptional, whereas in the construct advanced by Boochani Australia is bound up in its immigration policy and cannot detach itself from the horrors practiced on its margins. Boochani is convinced that this semi-externalised torture damages the fundamental humanitarian principles Australia professes to hold, the immigration policy infecting the supposed liberal democracy and threatening the advent of totalitarian tendencies in all aspects of life: “You cannot treat refugees in this way and treat your people the right way.”³⁸ As an example, he draws a parallel between the system’s use of cigarettes as a means of control on Manus – “Sometimes they cut the cigarettes and said that you should do this [...] For example, we refused to give case [sic] to them, they cut the cigarettes. We refused to go out to the new camps, they cut the cigarettes”³⁹ – and the similar methods of resource-cutting employed to subdue environmental activists in Australia. He also cites the silencing of journalists and the bureaucratic hold on university research interests via selective allocation of funds, which he claims has led to the lack of serious scholarship on, for example, the detention system. These control mechanisms aren’t restricted to the camps but are replicated in Australia. For Boochani this is one of the most crucial aspects of the discourse: “if we only talk about the refugees and say they are victims under this, we cannot create change. People don’t care about the refugees. [...] This policy is becoming a model for the UK, and I am sure other countries are looking to it as an example. So, when you torture the refugees, you are not only torturing the refugees. You are damaging many things. And [...] now it’s a global matter.”⁴⁰ Thus, his emphasis is less on some isolated state of exception but rather the (moral and practical) implications these camps

37 Ibid.

38 Ibid.

39 Ibid.

40 Ibid.

have for Australia and the world as a whole.

(Un)exceptional States

Despite the concerns Boochani raises regarding the use of ‘exception’, I argue that it is possible to read Agamben’s concept of it in a manner that encompasses these ideas – in fact, I think these ambiguities of (un)exceptionality and the threat of totalitarianism are precisely what his ‘imperfectly nihilistic’⁴¹ biopolitical theorising strives to expose. Recall Agamben’s designation of the camp as the ‘nomos of the modern’, the ‘hidden matrix’ of our present condition, a provocative thesis that very much anticipates Boochani’s conviction that totalitarianism cannot be contained: “Sacredness is a line of flight still present in contemporary politics [...] to the point of ultimately coinciding with the biological life itself of citizens.”⁴² Despite the chagrin Agamben apparently felt at the appropriation of his *homo sacer* even by American neo-Republicans in their perceived marginalisation,⁴³ he does suggest that “if today there is no longer any one clear figure of the sacred man, it is perhaps because we are all virtually *homines sacri*.”⁴⁴ Also, although his messianic notion of a coming ‘new politics’ (no longer “founded on the *exceptio* of bare life”⁴⁵) currently remains very much undeveloped, his claim that today’s “politics knows no value (and, consequently, no nonvalue) other than life, and until the contradictions that this fact implies are dissolved, Nazism and fascism [...] will remain stubbornly with us”⁴⁶ can certainly be construed in line with Boochani. Thus, it would seem that the bias toward the state of exception as somehow truly exceptional in the sense that it presents an outlier to the norm is repealed rather than realised in Agamben’s work – he repeatedly points out the importance of learning to recognise “the structure of the camp [...] in all its metamorphoses into the *zones d’attentes* of our airports and certain outskirts of our cities,”⁴⁷ a sentiment that recalls Boochani’s examples of how the structures of the detention

41 Agamben, 1995/1998, p. 53.

42 Ibid., pp. 114-115.

43 Schuilenburg, 2008.

44 Agamben, 1995/1998, p. 115.

45 Ibid., p. 11.

46 Ibid., p. 10.

47 Ibid., p. 175.

centre's oppressive systems are echoed on the Australian mainland in all sorts of institutions. It appears that Agamben's theoretical frameworks continue to provide an effective basis from which to critique and challenge the political developments that are currently taking place both in Australia and, as other states like the UK increasingly look to it as an example, globally. Whatever a political future that transcends these aporias of bare life and the associated threat of totalitarianism may look like, a penetrating intellectual analysis of the dynamics of the camp and how these exceed the boundaries of the liminal spaces we pretend to relegate them to is crucial to exposing the dangerous trends that can be observed in our contemporary political culture. Although Agamben's biopolitical opus certainly does not present the only perspective from which to approach this topic, it provides an interesting theoretical lens, both in terms of tracing the evolution of the camp and analysing the juridical circumstances that allow for the creation of 'bare life' on its premises and beyond. Several moments of the Australian policy development become much clearer when regarded from this Agambenian perspective, as does the bizarre logic that governs the camp in Boochani's first-hand accounts. And although I do not know what other reservations Boochani may have toward Agamben's philosophy, despite his liberal use of the latter's ideas, the picture Agamben paints of contemporary politics with the camp as its hidden *nomos*, as well as the casting into question of human rights with the rise of the exception and *homo sacer* in all aspects of existence, merges nicely with Boochani's own warnings of dictatorial overflow from a policy that is not hermetically sealed on an island and cannot be practiced selectively. It is only by becoming aware of these trends through a critical examination of the camps and the structures they are manifestations of that we can hope to reverse them, both in Australia and on the global scale.

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