



# Kent Academic Repository

Frost, Tom (2011) *The Hyper-Hermeneutic Gesture of a Subtle Revolution*. .  
Critical Legal Thinking.

## Downloaded from

<https://kar.kent.ac.uk/102833/> The University of Kent's Academic Repository KAR

## The version of record is available from

<https://criticallegalthinking.com/2011/09/15/clc-2011-the-hyper-hermeneutic-gesture-of-a-subtle-revolution/>

## This document version

Author's Accepted Manuscript

## DOI for this version

## Licence for this version

UNSPECIFIED

## Additional information

## Versions of research works

### Versions of Record

If this version is the version of record, it is the same as the published version available on the publisher's web site.  
Cite as the published version.

### Author Accepted Manuscripts

If this document is identified as the Author Accepted Manuscript it is the version after peer review but before type setting, copy editing or publisher branding. Cite as Surname, Initial. (Year) 'Title of article'. To be published in **Title of Journal**, Volume and issue numbers [peer-reviewed accepted version]. Available at: DOI or URL (Accessed: date).

## Enquiries

If you have questions about this document contact [ResearchSupport@kent.ac.uk](mailto:ResearchSupport@kent.ac.uk). Please include the URL of the record in KAR. If you believe that your, or a third party's rights have been compromised through this document please see our [Take Down policy](https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies) (available from <https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies>).

## **The Hyper-Hermeneutic Gesture of a Subtle Revolution**

In May 1979, at the height of the Iranian revolution, Michel Foucault wrote a column in the French newspaper *Le Monde* titled ‘Useless to Revolt?’ In this piece, with his characteristic literary prose, Foucault meditates upon the very notion of ‘revolt’, or ‘resistance’. For Foucault:

Revolts belong to history. But, in a certain way, they escape from it. The impulse by which a single individual, a group, a minority, or an entire people says, “I will no longer obey”, and throws the risk of their life in the face of an authority they consider unjust seems to me to be something irreducible.<sup>1</sup>

No power is absolute; no authority is total. Irrespective of the regime, or the measures taken to stifle dissent, no exercise of power can make revolt utterly impossible:

All the forms of established or demanded freedom, all the rights that one asserts, even in regard to the seemingly least important things, no doubt have a last anchor point there, one more solid and closer to experience than “natural rights”. If societies persist and live, that is, if the powers that be are not “utterly absolute”, it is because, behind all the submissions and coercions, beyond the threats, the violence, and the intimidations, there is the possibility of that moment when life can no longer be bought, when the authorities can no longer do anything, and when, facing the gallows and the machine guns, people revolt.<sup>2</sup>

Foucault, in another characteristic move, avoids answering the question of whether such a revolution is a desirable thing. Is it right to revolt? Foucault leaves this question open. People *do* revolt, and it is through revolt that, in Foucault’s terms, “subjectivity ... is brought into history, breathing life into it”.<sup>3</sup>

How can this subjectivity breathe life into history? What does it mean to intervene to make the unthought possible? Specifically, how can we *avoid* programmatic theorisation of resistance, revolt and subjectivity – what Foucault termed ‘strategising’, the sublimation of the individual to the common good. This article interrogates one such response, based in Foucault’s ‘antistrategic’ approach:

It is “antistrategic”: to be respectful when a singularity revolts, intransigent as soon as power violates the universal. A simple choice, a difficult job: for one must at the same time look closely, a bit beneath history, at what cleaves it and stirs it, and keep watch, a bit behind politics, over what must unconditionally limit it.<sup>4</sup>

It is through the thought of Giorgio Agamben and Jean-Luc Nancy that this article suggests the possibility of a ‘subtle revolution’, grounding a groundless politics, not based in a

---

<sup>1</sup> Michel Foucault, “Useless to Revolt?” in *Essential Works of Foucault 1954-1984: Power*, ed. James D.

Faubion (London: Penguin Books, 2000), 449.

<sup>2</sup> Ibid, 449-450.

<sup>3</sup> Ibid, 452.

<sup>4</sup> Ibid, 453.

particular property or substance such as national identity, race or religion. This is the politics of singularity.

### *The Politics of Singularity*

Before any politics of singularity can be outlined at all, the necessity for such a move needs to be justified. Thinking of a politics of singularity does not preclude thinking of community. Singularity does not exclude community on a philosophical level in the sense that a political commitment to liberalism may exclude the holding of communitarian political positions, or vice versa. Rather, a politics of singularity must consider exactly what is meant by 'community'. This means that any politics of singularity must be opposed to the politics *of* community, and any politics which places 'community' as an essence which constitutes and orders human governance and social living.

We can place a politics of singularity as offering an alternative to what has been termed 'immanentism'. Immanentism aims to recast the social order, community, as a closed universal self-propelling system without an 'outside'. In a sense, it denies that there can be any human action 'outside' of the social order, as it denies that such an 'outside' exists.<sup>5</sup> Immanentism comprises the horizon of our attitudes towards identity and community, and in turn how we see what Nancy called "the political"; the place of community, of being-in-common.<sup>6</sup> It is this being-in-common that the politics of singularity seeks to focus upon as it is, and which immanentism seeks to recast with a *telos*. That this distinction is vital is crystallised with the knowledge that it is the place of community, of being-in-common, which gives rise to the existence of 'being-self'. The self is constructed through its being-in-common-with-others. Nancy constructs the self as the mode of an exposition in common and to the in-common:

The mode of existence and appropriation of a "self" ... is the mode of an exposition in common and to the in-common ... "To be exposed" means to be "posed" in exteriority, according to an exteriority, having to do with an outside *in the very intimacy* of an inside. Or again: having access to what is *proper* to existence, and therefore, of course, to the proper of *one's own* existence, only through an "expropriation" whose exemplary reality is that of "my" face always exposed to others.<sup>7</sup>

By contrast, immanentism approaches the political through uniting the common around a single closed identity. It is a politics *of* community. A community which is defined around a single identity loses the *in* of being-in-common;<sup>8</sup> a foundation is created which orders the

---

<sup>5</sup> Sergei Prozorov, *Foucault, Freedom and Sovereignty* (Abingdon: Ashgate Publishing, 2007), 83.

<sup>6</sup> Jean-Luc Nancy, *The Inoperative Community* (Minneapolis: University of Minnesota Press, 1991), xxxvii, xl.

<sup>7</sup> *Ibid*, xxxvii.

<sup>8</sup> *Ibid*, xxxix.

common and provides a myth which must be fulfilled to give community its meaning.<sup>9</sup> This myth effaces the political, the exposition of finite existence opposed to finite existence, replacing it with a transcendent ‘being-common’ of body politic, country, fatherland, Leader.<sup>10</sup> These myths say nothing – they are myths – but provide a foundation for a social order.

Nor does immanentism solely focus upon the *telos* of community. It also focuses upon the *telos* of ‘man’. As Nancy writes, when man is considered as the immanent being par excellence, this constitutes the ‘stumbling block’ to a thinking of community:

A community presupposed as having to be one *of human beings* presupposes that it effect, or that it must effect, as such and integrally, its own essence, which is itself the accomplishment of the essence of humanness.<sup>11</sup>

The stumbling block arises as there is no underlying ‘essence’ of man. Agamben reflects this when he states that the ancient Greeks had two terms, not one, to express what is meant by the word ‘life’. *Zoē* referred to the fact of living common to all living beings; *bios* signified political life, the manner of living peculiar to human beings.<sup>12</sup> Key here is the idea that political life, *bios*, is built on and above natural life, *zoē*. *Bios* is embodied in the great human rights declarations of the twentieth century which proclaim eternal metajuridical values which apply to all.<sup>13</sup> The concept of human rights is based upon the existence of a ‘human being’, but it is this very human being which is the always-already incomplete project of immanentism.

The essence of immanentism ultimately leads ‘man’, and indeed political existence, into being defined negatively through a lack. As Agamben writes in relation to the political meaning of the term ‘people’:

The same term names the constitutive political subject as well as the class that is excluded – de facto if not de jure – from politics.<sup>14</sup>

*Bios* is an incomplete immanent project. It is incomplete as the very rights and duties granted to *bios* gain their meaning through a negative functional relation – through *bios* being held in relation to *zoē*. In short, natural life needs to be maintained in the *polis* (in a structure

---

<sup>9</sup> Ibid, 52.

<sup>10</sup> Ibid, xxxix.

<sup>11</sup> Ibid, 3.

<sup>12</sup> Giorgio Agamben, *Means Without Ends: Notes on Politics*, trans. Vincenzo Binetti and Cesare Casarino (Minneapolis: University of Minnesota Press, 2000), 3.

<sup>13</sup> Ibid, 20.

<sup>14</sup> Ibid, 29.

Agamben terms ‘bare life’),<sup>15</sup> in order to ground and give content to political existence. It is this negative functional relation which leads Agamben to note that the immanentist concept of human rights proves to be untenable when it is faced with *zoē* – people who have lost everything except for the fact that they are alive.<sup>16</sup> The immanent project of *bios* actually masks the fact that there is:

[A]n ambiguity inherent in the nature and function of the concept of *people* in Western politics. It is as if, in other words, what we call people was actually not a unitary subject but rather a dialectical oscillation between two opposite poles: on the one hand, the *People* as a whole and as an integral body politic and, on the other hand, the *people* as a subset and as fragmentary multiplicity of needy and excluded bodies.<sup>17</sup>

The politics of singularity assaults such foundational, immanentist myths. This politics thinks of community and the existence of singular beings without such foundational myths.

The focus of this article, in looking at the politics of singularity, is the figure of ‘whatever-being’, a figure introduced by Agamben in *The Coming Community*. The word ‘whatever’ in ‘whatever-being’ should be understood in a particular way. The translation arises from the Italian word *qualunque*, a word that has many uses in Italian that are awkward in English. In respect of whatever-being, ‘whatever’ should be thought of as that which is neither particular nor general, individual nor generic.<sup>18</sup>

Whatever-being is ‘being such-as-it-is’, with all its properties. Whatever-being is a being freed from the dilemma of the universal and particular. It is freed from the control of immanentism, as essence is not set to work in whatever-being; essence is not the work of whatever-being.<sup>19</sup> This is because whatever-being (Agamben also uses the term ‘being-such’) “remains constantly hidden in the condition of belonging”.<sup>20</sup> Whatever-being does not belong to a class or set. Importantly, whatever-being does not ‘belong’ to anything. It can be said that the notion of belonging is irrelevant for whatever-being.<sup>21</sup> It is a singularity. Agamben sees an analogy to this existence in the form of love:

Love is never directed toward this or that property of the loved one (being blond, being small, being tender, being lame), but neither does it neglect the properties in

---

<sup>15</sup> Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), 4.

<sup>16</sup> Agamben, *Means Without Ends*, 19.

<sup>17</sup> *Ibid*, 31.

<sup>18</sup> Giorgio Agamben, *The Coming Community*, trans. Michael Hardt (Minneapolis: University of Minnesota Press, 2007), 107.

<sup>19</sup> *Ibid*, 3.

<sup>20</sup> Agamben, *The Coming Community*, 2.

<sup>21</sup> *Ibid*, 9.

favour of an insipid generality (universal love): The lover wants the loved one *with all of its predicates*, its being such as it is.<sup>22</sup>

Crucially, a focus upon the politics of singularity does not equate to a call for a new politics of the individual. The singular being does not equate to the individual. The idea of community cannot be thought through an ethics of the individual. The ethics of the individual leads us to the liberal/communitarian dichotomy, which again treats ‘man’ and ‘community’ as immanent projects always to be completed. As Nancy states:

The singular being is neither the common being nor the individual ... There is no singular *being*: there is, and this is different, an essential singularity *of being* itself (its finitude, in Heidegger’s language. That is to say, the “singular being” is not a kind of being among beings. In a sense, every being is absolutely singular: a stone never occupies the space of another stone. But the singularity of being ... is singular on the basis of the limit that exposes it ... which is itself diverse.<sup>23</sup>

To illustrate this, it is useful to turn to Nancy’s use of the *clinamen*, the name Lucretius gave to the unpredictable swerve of atoms. For Lucretius, defending Epicurus’s atomism, atoms, like any other entity, are never completely isolated. Every atom is inclined towards one another. There can never be an isolated existence – existence is characterised by being-with others.<sup>24</sup> The politics of the individual cannot adequately account for this being-with:

The individual is merely the residue of the experience of the dissolution of community. By its nature – as its name indicates, it is the atom, the indivisible – the individual reveals that it is the abstract result of a decomposition ... Still, one cannot make a world with simple atoms. There has to be a *clinamen*. There has to be an inclination or an inclining from one toward the other, of one by the other, or from one to the other. Community is at least the *clinamen* of the “individual”. Yet there is no theory, ethics, politics, or metaphysics of the individual that is capable of envisaging this *clinamen*, this declination or decline of the individual within community.<sup>25</sup>

When Agamben asks: “what could be the politics of whatever singularity?”,<sup>26</sup> implied within this is the knowledge that a politics of the individual can preclude thinking of community - individualism tends to forget that the atom is a world.<sup>27</sup> As Gilles Deleuze contended:

Ancient atomism not only multiplied Parmenidian being, it also conceived of Ideas as multiplicities of atoms, atoms being the objective elements of thought. Thereafter it

---

<sup>22</sup> Ibid.

<sup>23</sup> Nancy, *The Inoperative Community*, 77-78.

<sup>24</sup> Martin Heidegger, *Being and Time*, trans. John Macquarrie and Edward Robinson (New York: Harper and Row, 1962), 164.

<sup>25</sup> Nancy, *The Inoperative Community*, 3-4.

<sup>26</sup> Agamben, *The Coming Community*, 85.

<sup>27</sup> Nancy, *The Inoperative Community*, 4.

is indeed essential that atoms be related to other atoms at the heart of structures which are actualised in sensible composites. In this regard, the *clinamen* is by no means a change of direction in the movement of an atom, much less an indetermination testifying to the existence of political freedom. It is the original determination of the direction of movement, the synthesis of movement and its direction which relates one atom to another ... Nevertheless, the Epicurean atom still retains too much of the aspect of a spatio-temporal relation. The question whether modern atomism, by contrast, fulfils all the conditions of a structure must be posed in relation to the ... types of 'multiple and non-localisable connections' established between particles, and in relation to the character of the 'potentiality' expressly attributed to these particles.<sup>28</sup>

The *clinamen* is vital to understanding both singularity and a community based upon singularities. In many ways, community can be seen as the exposure of singularities to other singularities.<sup>29</sup> This 'being-with-others' is the condition of possibility of human existence; through the singular being being-with other singular beings the singular being constitutes itself. This is what Nancy calls 'compearance':

Singular beings compear: their compearance constitutes their being, puts them in communication with one another. But the interruption of community, the interruption of the totality that would fulfil it, is the very law of compearance. The singular being appears to other singular beings; it is communication to them in the singular. It is a contact, it is a contagion: a touching, the transmission of a trembling at the edge of being, the communication of a passion that makes us fellows, or the communication of the passion to be fellows, to be *in common*.<sup>30</sup>

This compearance with other singular beings is the *clinamen* of a community which is not based on any myth of presupposition. This community thus is opposed to immanent projects. It is the antithesis of an immanent conception of community, and indeed an immanent conception of man. Agamben's question as to what the politics of whatever-being could be can be answered by turning to 'messianic' thought.

### *The Messianic Politics of Singularity*

Agamben conceives of the politics of whatever-being as *messianic* in nature. Messianism is crucial for this politics of singularity. Messianism does not destroy, but fulfils.<sup>31</sup> It is in adopting Agamben's messianic move that I argue the politics of singularity can find its *clinamen*. In order to appreciate the importance of messianism for the construction of

---

<sup>28</sup> Gilles Deleuze, *Difference & Repetition*, trans. Paul Patton (New York: Columbia UP, 1994), 184.

<sup>29</sup> Nancy, *The Inoperative Community*, 60.

<sup>30</sup> *Ibid*, 60-61.

<sup>31</sup> Giorgio Agamben, 'The Messiah and the Sovereign' in *Potentialities: Collected Essays in Philosophy*, ed. and trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1999), 163.

whatever-being, it is necessary to provide some background as to exactly what this messianism entails.

Jessica Whyte reads Agamben's messianism as developing Paul's Epistle to the Romans and Walter Benjamin's *Theses on the Philosophy of History*.<sup>32</sup> Agamben reads Paul's letters as the "fundamental messianic text for the Western tradition".<sup>33</sup> Messianism in Paul focuses upon the state of the world after Christ's messianic return to Earth. With respect to Paul's Second Letter to the Corinthians, Agamben contends that Christian messianic time – the time after the coming of the Messiah – should be considered the paradigm of historical time, "the only real time".<sup>34</sup> Messianic time is not eschatological time: "it is not the end of time, but *the time of the end*".<sup>35</sup> The importance of this meditation upon the messianic time of the end can be more clearly seen as the time after messianism suspends the law from within the law and consequently fulfils it.<sup>36</sup> As Agamben writes:

This paradigm is the only way in which one can conceive something like an *eskhaton* – that is, something that belongs to historical time and its law and, at the same time, puts an end to it.<sup>37</sup>

The Messiah is "the figure through which religion confronts the problem of the Law, decisively reckoning with it".<sup>38</sup> Dealing with the law is already dealing with philosophy, as "philosophy is always already constitutively related to the law, and every philosophical work is always, quite literally, a *decision* on this relationship".<sup>39</sup> Messianism, in this *eskhaton*, effects the messianic kingdom.

Agamben's messianism can be read as an attempt to challenge the immanentist conception of politics and community which Nancy identified. Messianism does not seek to destroy immanent conceptions of man or politics, or replace one 'essence' with another groundless ground. Rather, messianism's 'fulfilment' of the law and philosophy involves taking up Benjamin's exhortation in the Eighth Thesis of the Philosophy of History:

---

<sup>32</sup> Jessica Whyte, "'I Would Prefer Not To': Giorgio Agamben, Bartleby and the Potentiality of Law," *Law and Critique* 20 (2009): 309, 311.

<sup>33</sup> Giorgio Agamben, *The Time That Remains: A Commentary on the Letter to the Romans*, trans. Patricia Dailey (Stanford: Stanford University Press, 2005), 1.

<sup>34</sup> Ibid 3, 6.

<sup>35</sup> Ibid 62.

<sup>36</sup> Lorenzo Chiesa, "Giorgio Agamben's Franciscan Ontology," *Cosmos and History: The Journal of Natural and Social Philosophy*, 5 (2009): 105, 111.

<sup>37</sup> Agamben, 'The Messiah and the Sovereign', 174.

<sup>38</sup> Ibid 163.

<sup>39</sup> Ibid 161.



The tradition of the oppressed teaches us that the ‘state of emergency’ in which we live is not the exception but the rule. We must attain to a conception of history that is in keeping with this insight. Then we shall clearly realise that it is our task to bring about a real state of emergency.<sup>40</sup>

Messianism brings about this state of exception or emergency which, until now, has merely been potential. This can be compared to the ‘fictitious’ state of exception which today has become the norm. The state of exception for Agamben is nothing less than the expression of the structure of modern politics – the division between *bios* and *zoē* and the creation of bare life. Western politics first constitutes itself through an exclusion (which is simultaneously an inclusion) of bare life.<sup>41</sup> The exception is the structure by which sovereign power decides “not the licit and illicit but the originary inclusion of the living in the sphere of law or, in the words of Schmitt, “the normal structuring of life relations”, which the law needs”.<sup>42</sup> The exception is the means by which bare life is created:

The exception is a kind of exclusion. It is an individual case that is excluded from the general rule. But what properly characterises the exception is that what is excluded in it is not, for this reason, simply without relation to the rule. On the contrary, the rule maintains itself in relation to the exception in the form of suspension. *The rule applies to the exception in no longer applying, in withdrawing from it.* The state of exception is therefore not the chaos that precedes legal order but the situation resulting from its suspension.<sup>43</sup>

Thus messianism can be read as ‘fulfilling’ the law, not overcoming or destroying the law. Messianism does not seek a revolution, or a profound change in the way we think about law and life. Crucially however, this fulfilment must not be misunderstood:

This first consequence [of messianism] is that the Law ... is fulfilled and consummated. But this fulfilment does not signify that the old law is simply replaced by a new law that is homogenous to the old but has different prescriptions and different prohibitions. ... From the juridico-political perspective, messianism is therefore a theory of the state of exception – except for the fact that in messianism there is no authority in force to proclaim the state of exception; instead, there is the Messiah to subvert its power.<sup>44</sup>

It is clear from a passage that Agamben cites from Ernst Bloch that the messianic kingdom is very similar to the current world, and requires only a slight shift in thinking:

The Hassidim tell a story about the world to come that says everything there will be just as it is here. Just as our room is now, so it will be in the world to come; where

---

<sup>40</sup> Walter Benjamin, ‘Theses on the Philosophy of History’ in *Illuminations*, trans. Harry Zorn (London: Pimlico, 1999), 248-249.

<sup>41</sup> Agamben, *Homo Sacer*, 7.

<sup>42</sup> Ibid, 26.

<sup>43</sup> Agamben, ‘The Messiah and the Sovereign’, 161-162.

<sup>44</sup> Agamben, *Homo Sacer*, 57-58.

our baby sleeps now, there too it will sleep in the other world. And the clothes we wear in this world, those too we will wear there. Everything will be as it is now, just a little different.<sup>45</sup>

Fulfilling the law is this small shift, but a small shift which renders the state of exception inoperative. Following Nancy, inoperativity can be read as a *clinamen* without presupposition, a baseless base, a groundless ground for a community. The messianic community is a community of being-*in*-common, and it requires only a small shift in thinking to realise this community, a small shift which encompasses thinking without foundation or through relation. As Agamben states:

Everything depends on what is meant by “inoperativeness” ... The only coherent way to understand inoperativeness is to think of it as a generic mode of potentiality that is not exhausted (like individual action or collective action understood as the sum of individual actions) in a *transitus de potential ad actum*.<sup>46</sup>

This new state of exception, one which is realised messianically, can be read *as* a politics of singularity. Most importantly, this messianic fulfilment, and the politics of singularity itself, can be properly understood as *profane*.

Agamben traces a particular use of the term *profanation* to ancient Rome. The profane can be placed in opposition to the sacred. Whereas to be sacred was to be in the thrall of the gods, to profane an object or custom was to return it to the free use of men.<sup>47</sup> What is profaned back to free use is free from all sacred names, such as foundational and sacred myths. To profane life is to open up life to its own potentiality and possibilities, returning to common use the spaces that power had seized.<sup>48</sup> Such a move renders the sacred hold over both inoperative.

Thus the figure of whatever-being renders bare life inoperative by being defined not through a negative ground, but rather through its own potentiality-to-be. Whatever-being is messianically freed unto a new use and new political possibilities. It is this ‘new use’ that can form the basis for new forms of political intervention. This is surely what Agamben conceives of when he spoke of “a politics no longer founded on the *exceptio* of bare life”.<sup>49</sup>

### *The Hermeneutic and Paradigmatic Circles*

The key to whatever-being’s ability to form the basis for a messianic politics relates to its construction. This construction is *hyper-hermeneutic*. This is a neologism coined deliberately to reflect the position of how messianism can offer a new form of political intervention. It

---

<sup>45</sup> Agamben, *The Coming Community*, 43.

<sup>46</sup> Agamben, *Homo Sacer*, 61-62.

<sup>47</sup> Giorgio Agamben, *Profanations*, trans. Jeff Fort (New York: Zone Books, 2007), 73.

<sup>48</sup> *ibid* 77.

<sup>49</sup> Agamben, *Homo Sacer*, 11.

refers to both the grounding of Agamben's thought as well as Agamben's messianic move with the exception and whatever-being.

In order to appreciate the potentiality of hyper-hermeneutics, it is necessary to conduct a hermeneutical inquiry into Agamben's treatment of hermeneutics. Agamben sees bare life as created through the operation of the state of exception, which is tied to hermeneutics:

Between the norm and its application there is no internal nexus that allows one to be derived immediately from the other ... the impossible task of welding norm and reality together, and thereby constituting the normal sphere, is carried out in the form of the exception, that is to say, by presupposing their nexus.<sup>50</sup>

It is through the creation of an exception that legal norms gain their meaning. Only by delimiting when the law does not apply is it possible to denote when the law does apply. However, the exception is a practical nexus; when it is created cannot be presupposed. In short, the hermeneutic exercise of legal reasoning presupposes an indeterminate law. Every legal decision would be indeterminate, as it would never be sure or clear when and where an exception would be created. This conclusion can be reached as Agamben claims that potentially any legal action taken in the exception can gain legal force.<sup>51</sup> This conclusion would render all legal norms indeterminate. Any interpretation of a legal norm could be rendered legal, and any interpretation of a legal norm can lead to the creation of bare life.<sup>52</sup>

Despite taking this radical position with respect to the consequence of hermeneutics, Agamben's thought remains within the hermeneutic tradition.<sup>53</sup> In *What is an Apparatus?* Agamben notes, with respect to reading the works of Foucault, that:

Whenever we interpret and develop the text of an author in this way, there comes a moment when we are aware of our inability to proceed any further without contravening the most elementary rules of hermeneutics.<sup>54</sup>

Hermeneutics is both responsible for the exception, and part of Agamben's thought. This 'double movement' can be traced to Agamben's reading of Heidegger's hermeneutic circle. Agamben, through his reading of Heidegger, sees the hermeneutic circle as fundamentally negative. However, Agamben's response to this negativity, namely his messianism and the figure of whatever-being, is constructed hermeneutically.

Hyper-hermeneutics also conveys Agamben's response to the hermeneutic circle. Agamben perceives of several *aporias* with Heidegger's hermeneutic circle. To counter these *aporias*, Agamben proposes a *paradigmatic circle*, which aims to messianically render

---

<sup>50</sup> Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago: University of Chicago Press, 2005), 40.

<sup>51</sup> Ibid, 23, 50.

<sup>52</sup> Ibid, 51.

<sup>53</sup> Giorgio Agamben, *What is an Apparatus?* trans. David Kishik and Stefan Pedatella (Stanford: Stanford University Press, 2009), 13.

<sup>54</sup> Ibid, 13.

inoperative the *aporias* within hermeneutics.<sup>55</sup> This paradigmatic method aims to deactivate the hermeneutic circle. The term ‘hyper’ in hyper-hermeneutics connotes Agamben’s attempt to escape the hermeneutic circle. In order to do so, Agamben has to use non-hermeneutic means, namely the paradigm. It is these non-hermeneutic means that ultimately lay the foundation for a new form of political possibility.

For Agamben, the hermeneutic circle only acquires its true meaning from within this paradigmatic method. In order to appreciate the implications of this move it is necessary to turn back to Heidegger and question the exact importance of the hermeneutic circle within his philosophy.

For Heidegger, the temporal structure of *Dasein*’s being-in-the-world is hermeneutic. *Dasein* interprets the world through its own understanding of the world. Understanding is an *existentiale*, a fundamental character of *Dasein*’s Being.<sup>56</sup> Understanding for Heidegger is tied up with *Dasein*’s own potentiality for being. In other words, understanding guides *Dasein* to know what it is capable of.<sup>57</sup> *Dasein* understands itself through projection, by being thrown before its own possibilities.<sup>58</sup> The projecting of *Dasein*’s understanding has its own possibility of developing itself, which Heidegger terms interpretation.<sup>59</sup>

It is through interpretation that understanding becomes itself, which allows *Dasein* to realise what its possibilities are. Interpretation allows *Dasein* to work out its own possibilities that are projected through understanding.<sup>60</sup> To understand is to give the structure of something ‘as’ something to a phenomenon. The ‘as’ of this construction relates to the purpose of the something in question, which involves interpreting the phenomenon and making an assertion that characterises it.<sup>61</sup> The interpretation that leads to a thematic assertion about something *as* something is itself grounded in fore-having, fore-sight and fore-conception. These are known as the ‘fore-structures’ of interpretation. The interpretation is grounded on things *Dasein* has in advance, sees in advance and grasps in advance respectively.<sup>62</sup>

Thus in order to approach the hermeneutic circle in the right way, the hermeneutic circle must be understood as the structure of *Dasein*’s understanding of the world that *Dasein* has in advance of any interpretation. Heidegger writes of the hermeneutic circle:

---

<sup>55</sup> Giorgio Agamben, *The Signature of all Things: On Method*, trans. Luca di Santo (New York: Zone Books, 2009), 27.

<sup>56</sup> Heidegger, *Being and Time*, 182.

<sup>57</sup> Ibid 184.

<sup>58</sup> Ibid 185.

<sup>59</sup> Ibid 188.

<sup>60</sup> Ibid 189.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid 190-1.

It is not to be reduced to the level of a vicious circle, or even of a circle which is merely tolerated. In the circle is hidden a positive possibility of the most primordial kind of knowing. To be sure, we genuinely take hold of this possibility only when, in our interpretation, we have understood that our first, last, and constant task is never to allow fore-having, fore-sight, and fore-conception to be presented to us by fancies and popular conceptions, but rather to make the scientific theme secure by working out these fore-structures in terms of the things themselves.<sup>63</sup>

It is vital to focus upon the fore-structures that make up the world into which *Dasein* is thrown. The reason for this is that the circle is the expression of the existential fore-structure of *Dasein* itself.<sup>64</sup> By approaching the circle in the right way *Dasein*'s own possibilities for Being can be understood as being structured by the world into which *Dasein* is thrown. *Dasein* has a circular structure. Heidegger warns against resting any interpretation on popular conceptions without first questioning those conceptions themselves.<sup>65</sup>

It is this process of understanding fore-structures that forms the basis for Agamben's critique of the hermeneutic circle. Agamben does acknowledge Heidegger's explanation as an attempt to reconcile the difficulties of hermeneutics:

Grounding this hermeneutical circle in *Being and Time* on pre-understanding as *Dasein*'s anticipatory existential structure, Martin Heidegger helped the human sciences out of this difficulty [caused by the hermeneutical circle] and indeed guaranteed the "more original" character of their knowledge.<sup>66</sup>

However Agamben challenges the very idea that *Dasein* can come to the circle in the right way. Specifically, Agamben challenges the idea that these fore-structures can be worked out:

[Heidegger's] guarantee was less reassuring than it at first appeared. If the activity of the interpreter is always already anticipated by a pre-understanding that is elusive, what does it mean "to come into [the circle] in the right way?"<sup>67</sup>

Agamben sees the pre-understanding of these fore-structures as elusive. As such, the hermeneutic circle appears defined by an ineffable foundation that can never be grasped – the hermeneutic circle repeats the empty foundationalism of immanentism. The circle transmits this mythic negativity that cannot be escaped from, an essence which will ultimately structure political possibilities. Agamben sees that any interpretative response to the hermeneutic circle is futile, as it is not possible to avoid its clutches:

---

<sup>63</sup> Ibid 195.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Agamben, *Signature of All Things*, 27.

<sup>67</sup> Ibid.

This can only mean – and the circle then seems to become even more “vicious” – that the inquirer must be able to recognise in phenomena the signature of a pre-understanding that depends on their own existential structure.<sup>68</sup>

An important and vital ambiguity arises in this statement. What does Agamben mean by “their”? It is unclear as to whether “their” refers to the existential structure of *Dasein* or the existential structure of the phenomena that form the fore-structures in question.

It is contended here that “their” refers to the existential structure of the phenomena in question. This implies that any pre-understanding of those fore-structures is impossible. The interpreter can never come to the circle in the right way as the interpreter will not have the pre-understanding of the world required to do so. This explains why Agamben feels it is necessary to move from hermeneutics to paradigms:

The aporia is resolved if we understand that the hermeneutic circle is actually a paradigmatic circle. There is no duality between “single phenomenon” and “the whole” ... the whole only results from the paradigmatic exposition of individual cases. And there is no circularity, as in Heidegger, between a “before” and an “after”, between pre-understanding and interpretation. In the paradigm, intelligibility does not precede the phenomenon; it stands, so to speak, beside it (*para*).<sup>69</sup>

Agamben thus maintains that the ‘things themselves’ (such as the singular being) cannot be reached through the hermeneutic circle, or even through a pre-understanding. We can read this as finding a parallel with Nancy’s caution against positing the essence of man or community. Rather, the paradigmatic circle allows for the phenomenon’s intelligibility to be understood through the paradigm itself. A singular paradigm can therefore allow for an understanding of a constellation of phenomena of which the paradigm stands as an example:

The paradigmatic gesture moves not from the particular to the whole and from the whole to the particular but from the singular to the singular. The phenomenon, exposed in the medium of its knowability, shows the whole of which it is the paradigm. With regard to phenomena, this is not a presupposition (a “hypothesis”): as a “non-presupposed principle”, it stands neither in the past nor in the present but in their exemplary constellation.<sup>70</sup>

It is this paradigmatic method that stands as being able to do the work of the hermeneutic circle. However, it does so not through any pre-understanding of the world, but rather it makes a phenomenon intelligible through the paradigm. It is this move that leads to the characterisation of Agamben’s paradigmatic method as hyper-hermeneutic.

Therefore there appears no need to undertake a detailed hermeneutic understanding of the world, or of the fore-structures of understanding. The paradigm does not need a fore, but rather will make those phenomena intelligible through its own operation. The paradigm, the

---

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid 27-28.

singular gesture akin to an example, can therefore break the circle of oppression tied through hermeneutics to current forms of political belonging.

### *The Hermeneutic Circle and whatever-being*

Agamben's interpretation of Heidegger and the shift to paradigms has huge consequences for an understanding of the figure of whatever-being, and indeed for the politics of singularity. The singular being cannot be based on the presupposition of the hermeneutic circle; as Nancy contended, such presuppositions are the basis for immanentism. Singular beings can be understood as singular beings paradigmatically.

The paradigm for Agamben is akin to an example. It stands neither clearly inside nor clearly outside of the group or set of phenomena that it identifies. A paradigm is the real particular case that is set apart from what it is meant to exemplify.<sup>71</sup> Agamben uses a number of different paradigms to represent whatever-being, the figure of this form-of-life. These paradigmatic figures are varied. They include the nude body,<sup>72</sup> an adult pornographic actress who remains expressionless in her films,<sup>73</sup> Herman Melville's 'Bartleby',<sup>74</sup> and the protesters in Tiananmen Square.<sup>75</sup> It is the protestors here whose paradigmatic gestures stood not for any simple political aim, but rather represented a declaration of political identity that the State could not accept, based as it was on the existence as-such of singularity, beyond political classification.

Thus all these figures stand as real particular cases, paradigmatic examples for singular being. Following Agamben's construction of the paradigmatic circle, each paradigmatic example shows the whole of which it is the paradigm. Therefore these figures are not to be understood as examples that form the precursor to a detailed study of whatever-being's existence. Following Agamben's start, they are the evidence for whatever-being's existence.

It is this paradigmatic gesture that also stands as evidence for the hyper-hermeneutic nature of the messianic figure of whatever-being. This move reflects Agamben's contention that there is no duality between the whole and the single phenomenon. As Paolo Bartoloni explains:

---

<sup>71</sup> Ulrich Raulff and Giorgio Agamben, "An Interview with Giorgio Agamben", *German Law Journal* 5 (2004): 609, 618; Leland de la Durantaye, *Giorgio Agamben: A Critical Introduction* (Stanford: Stanford University Press, 2009), 218-219.

<sup>72</sup> Giorgio Agamben, *Nudities*, trans. David Kishik and Stefan Pedatella (Stanford: Stanford University Press, 2010), 91-103.

<sup>73</sup> Agamben, *Profanations*, 90-1.

<sup>74</sup> Giorgio Agamben, 'Bartleby, Or On Contingency' in *Potentialities: Collected Essays in Philosophy*, ed. and trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1999), 243-71.

<sup>75</sup> Agamben, *The Coming Community*, 85-7.

Singularity is thus freed from the false dilemma that obliges knowledge to choose between the ineffability of the individual and the intelligibility of the universal.<sup>76</sup>

However the supposedly paradigmatic figure of whatever-being is itself still reliant upon a hermeneutic interpretation and application in order to be understood. Although it is justified paradigmatically, whatever-being is still beholden to hermeneutics.

Agamben's thought treats hermeneutics as crucial to whatever-being. Agamben ties the singularity of whatever-being to Plato's erotic *anamnesis*, which moves the individual towards their own taking-place, the now.<sup>77</sup> Whatever-being's singularity refers directly to the individual's taking-place, their concrete existence within the world. It is this concrete existence in the world that implies – by necessity – a hermeneutic influence. It is surely inconceivable that whatever-being's 'taking place' is somehow separate from hermeneutics.

In order to understand whatever-being's taking place, and its concrete existence in the world, it must be necessary to understand the world in which whatever-being exists. This hermeneutic existence is based upon no presupposition, but merely that the taking-place of the singular being must involve the world in which it exists. Moreover, this existence must be affected and conditioned by whatever-being's interpretation and pre-understanding of the world. Whatever-being's concrete existence is dependent upon its own understanding and interpretation of the phenomena in the world it interacts with, which must include other singular beings.

Thus the singular being's way of being is conditioned by the context of its existence in relation to the world and other singular beings. Following Nancy, our world is one which is shared by other singularities, and this being-with involves our being affected by the actions of those other singular beings. Hermeneutics and relationality are constituent of whatever-being's way of being. This way of being-with-others must be conditioned by a *clinamen* towards others; as Nancy states: "we cannot not compear".<sup>78</sup> Thus, whatever-being needs no radical revolution. Rather, it requires a subtle shift in the ways political belonging are conceived.

### *The political possibilities of whatever-being*

From this position, key features of the figure of whatever-being can be posited. The paradigmatic gesture of whatever-being, identifying a form of political belonging which is not reducible to either a universal or a particular, can be inspired by a single act. If Agamben's paradigm is to be understood as a singular example, then by definition a single act must be able to form the basis for rendering power's hold over life inoperative.

Thus if whatever-being is understood in this hyper-hermeneutic context the all important moment for whatever-being becomes the singular paradigmatic gesture. This paradigmatic gesture becomes a messianic 'slight shift', a messianic gesture which renders

---

<sup>76</sup> Paolo Bartoloni, "The Stanza of the Self: on Agamben's Potentiality", *Contretemps* 5 (2004): 8, 11.

<sup>77</sup> Agamben, *The Coming Community*, 2.

<sup>78</sup> Nancy, *The Inoperative Community*, 35.



inoperative existing forms of political belonging. This paradigmatic gesture founds the singular being of whatever-being as it is, without foundation. Hermeneutics can constitute whatever-being, but requires a paradigmatic gesture in order to render inoperative the self-referential nature of the hermeneutic circle. In effect, it appears that hermeneutics is freed unto a new use through a profane paradigmatic act.

The paradigmatic gesture is therefore crucial for the coming politics. What would such a paradigmatic gesture look like? Such an act would always be *subtle*, rather than decisive and revolutionary. Crucially, such an act cannot be prescribed. Nancy sums this up well when he tells the reader: “it is up to you to allow to be said what no one, no subject, can say, and what exposes us in common”.<sup>79</sup> Nancy’s point is clear – programmatic politics are the politics of immanentism. To proscribe the essence of community, or indeed the essence of the politics of singularity, is always-already to create a mythic immanent foundation.

These paradigmatic acts are truly political, in the sense that they cannot be reduced into a logic of political belonging the State can understand. This political act then is political not because it is a means to a revolutionary end, but because it exposes the way of being, *ēthos*, of the singular being. It is this modest, and very human politics that the paradigmatic gesture unconceals. It promises no more than to represent the very existence as such of the singular being. However, it is this very existence that modern immanent politics cannot comprehend, and which can ultimately render its grip over life inoperative.

Can we concretise such paradigmatic acts in any way? A possible hint can be found in the notion of ‘repetition’ in the thought of Søren Kierkegaard. In *Repetition*, Kierkegaard makes the point that repetition is not recollection.<sup>80</sup> What has been recollected has been, whereas genuine repetition is recollected forward:

That which has been repeated has been, otherwise it could not be repeated; but precisely this, that it has been, makes repetition something new.<sup>81</sup>

For Kierkegaard, repetition produces difference. Kierkegaard’s *Repetition* provides the tale of a narrator who moves back to Berlin to re-live the life he had there when younger. The narrator, Constantine Constantius, discovered that everything was the same on his return. However, Kierkegaard makes it clear that what Constantius experienced was not repetition but mere recollection. For Kierkegaard, “the only repetition was the impossibility of a repetition”.<sup>82</sup>

Repetition, as Kierkegaard maintains, is actuality, life itself that is lived in the moment itself. For Kierkegaard, the one that lives is the one that gives himself to the

---

<sup>79</sup> Ibid 81.

<sup>80</sup> Søren Kierkegaard, ‘Repetition: A Venture in Experimenting Psychology’ in *Fear and Trembling/Repetition*, trans. Howard V Hong and Edna H Hong (Princeton: Princeton University Press, 1983), 131.

<sup>81</sup> Ibid 149.

<sup>82</sup> Ibid 170.

repetition of life.<sup>83</sup> Life is a succession of repetitions, but such repetitions create something new. Such a position raises the possibility that the very act of repetition opens up to a new sphere of living, a sphere that for Kierkegaard must be embraced. In a similar vein, Agamben sees repetition as bringing novelty:

Repetition is not the return of the identical; it is not the same as such that returns. The force and the grace of repetition, the novelty it brings us, is the return as the possibility of what was. Repetition restores the possibility of what was, renders it possible anew; it's almost a paradox ... To repeat something is to make it possible anew.<sup>84</sup>

These developments of repetition can be read with the paradigmatic politics of gesture and Bloch's description of the messianic kingdom. The paradigmatic act which renders the negativity of the hermeneutic circle inoperative does not have to be 'original' or 'novel'. Instead, a gesture, which may be repeated, could provide the groundless foundation for the politics of singularity. Such a gesture serves to interrupt the myth of immanentism:

In the interruption of myth is heard the voice of the interrupted community, the voice of the incomplete, exposed community speaking as myth without being in any respect mythic speech.<sup>85</sup>

Thus the gesture is the true moment of community, exposing as it does the end of humanity. Rather, it is the *clinamen* for the interrupted community, which "does not belong to itself", but "communicates itself from one singular place to another".<sup>86</sup> The hyper-hermeneutic paradigmatic gesture is the *clinamen* of singular beings which constitute their being-with-others. It is in searching for such *clinamen* that the coming politics can be brought about. Such gestures can serve as paradigms to be repeated, opening up the possibilities of the political, of being-in-common.

---

<sup>83</sup> Ibid 132, 133.

<sup>84</sup> Giorgio Agamben, "Difference and repetition: on Guy Debord's film" in *Art and the Moving Image: A Critical Reader*, ed. Tanya Leighton (London: Tate Publishing, 2008) 328, 328.

<sup>85</sup> Nancy, *The Inoperative Community*, 62.

<sup>86</sup> Ibid 61.