

ABOUT HOMO SACER, BARE LIVES AND ABANDONMENT: THE CASE OF TRANSEXUALITY IN THANATOPOLITICS

DE HOMO SACER, NUDAS VITAS Y ABANDONOS: EL CASO DE LA TRANSEXUALIDAD EN LA TEORÍA TANATOPOLÍTICA

DE HOMO SACER, NUDAS VITAS E ABANDONOS: O CASO DA TRANSEXUALIDAD NA TEORIA TANATOPOLÍTICA

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DOI: <https://doi.org/10.22235/ech.v8i2.1843>

Received: 02/08/2018

Accepted: 04/12/2019

ABSTRACT:

The meaning of the postulates of Giorgio Agamben invites to discover a new sociological ontology that goes beyond the traditional definition of sovereign. Certainly, from the semantic conceptualizations of the figure of life and its relationship with the sovereign power in the current (bio-tanato) political society of normalization, we can analyze the different realities that surround us. Therefore, this study analyzes the conditions of enunciation and the existence/resistance of the person who self-identifies within the transgender spectrum, according to the thanatopolitics theory. The analogy made between the transsexual and the figure of the homo sacer, can clearly explain the reality experienced by this population. Life is included in the social and legal order only by their own exclusion, i.e. from its absolute invisibility, slaughter and extermination. Following the thanatopolitic postulates we could examine the fundamental space of abandonment, exile and violence present in all the post-colonial stories - mainly of those who are dissidents and unintelligible identities – it is necessary to understand the conditions under which it has gestated the current health policy.

Key Words: Transsexuality. Power. Philosophy. Public Health. Nursing Care.

RESUMEN:

El sentido de los postulados de Giorgio Agamben invita a conocer una nueva ontología sociocolectiva que más allá de la tradición soberana. A partir de las conceptualizaciones semánticas de la figura representativa “vida” y de su relación con el poder soberano en una sociedad (bio-tanato) política de normalización, se podría analizar las diferentes realidades que nos circundan. El objetivo de esta reflexión reposa en analizar las condiciones de enunciación y de existencia/resistencia de la persona que se auto-identifica dentro del spectrum transexual, de acuerdo con la teoría tanatopolítica, con el fin de promover prácticas de cuidado disciplinar inclusivas y libres de estigmas. La analogía realizada entre la persona transexual y la figura del homo sacer, permite explicar la realidad vivenciada por esta población, en la cual la vida es incluida en el ordenamiento sociojuridico únicamente bajo su propia exclusión, es decir, a partir de su absoluta invisibilidad, matabilidad y/o exterminio. Siguiendo los postulados tanatopolíticos, se podría examinar el espacio fundamental de abandono, exilio y violencia presente en todas las historias de vida post-coloniales - principalmente entre aquellas identidades disidentes e ininteligibles – que es necesario resaltar para comprender las condiciones en las cuales se han gestado las políticas de cuidado y salud actual.

Palabras claves: Transexualidad. Poder. Filosofía. Salud Colectiva. Cuidados de Enfermería.

RESUMO:

O sentido dos postulados de Giorgio Agambem convida a conhecer uma nova ontologia sócio-coletiva que vai além da tradição soberana. A partir das conceptualizações semânticas da figura representativa vida e de sua relação com o poder soberano em uma sociedade (bio-tanato)política de normalização, poder-se-ia analisar as diferentes realidades que nos circundam. O objetivo desta reflexão repousa em analisar as condições de enunciação e existência/resistência da pessoa auto-identificada dentro do espectro transexual de acordo com a teoria tanatopolítica. A analogia realizada entre a pessoa transexual e a figura do homo-sacer, permite explicar claramente a realidade vivenciada por essa população, na qual a vida é incluída no ordenamento sócio-jurídico unicamente sob sua própria exclusão, ou seja, a partir da sua absoluta invisibilidade, matanza e extermínio. Seguindo os postulados tanatopolíticos poder-se-ia examinar o espaço fundamental de abandono, exílio e violência presente em todas as historias de vida pós-coloniais – principalmente nas identidades dissidentes e ininteligíveis – que é necessário ressaltar para compreender as condições nas quais têm se gestado a politica de saúde atual.

Palavras chave: Transexualidade. Poder. Filosofia. Saúde Coletiva. Cuidados de Enfermagem.

INTRODUCTION

The complex philosophy of Giorgio Agamben, which could be considered an epistemological paradigm given its body of knowledge associated with the contemporary political-scientific field, invites to understand the (un)expected and the diversity of the current legal-political crisis and the prevailing logic of the reality experienced by most populations that share features of unintelligibility. The meaning of its postulates encourages knowing a new sociocollective ontology that goes beyond the sovereign tradition (1). From semantic conceptualizations of the representative figure of *life* and its relationship with the sovereign power, even in a (bio-necro) political society of normalization, the protagonist of the Agambian work emerges: *la nuda vita* (known in other languages as *vida desnuda*, *nackte leben*, *vie nue*, *bare life*, or *naked life*). This life is not the modern opening, but the genesis of the sovereign power; that is, he refers to a life that might be identified in the Roman *polis* through the figure of the *homo sacer* as well as in the current Latin American totalitarian and democratic¹ regimes.

In face of these determinations of the representative regime, the *homo sacer* embodies a vulnerable life (*killability*) and/or a life exposed to death that, in a –neglectful- relationship of inclusive-exclusion, reveals the real social bond in the present, mainly among the population that does not fit in the techno-biological canons prescribed by the system of sex-body-gender-sexuality. Precisely, this paradox, clearly expressed through the thanatopolitical concepts, will be analyzed in this paper through the case of a person that self-identifies within the transsexual spectrum; particularly, an identity reality where death and sovereignty become indiscernible, and *hominis sacri* becomes an inherent precept where traditional political distinctions such as left and right, or public and private lose their intelligibility.

There is an indiscernibility that might be materialized in the traditional discursive field; the transphobia scenario, homophobia, refugees, or proper of postmodernity, characterized for being an ineffable space, and consequently, hardly understood. Therefore, references are made to a community of singularities, with no identity, no features, and whose health care is erased by a set of segregational practices and (in) convenient laws –random and uncompromising.

In this regard, this paper refers to the Agambian principles that dictate what joins life, law, and violence to the rules, that is, a *State of exception*: fields where laws lose their prescriptive value and blur the big principles that inspired the Nation-States in terms of national policy (3). Therefore, to Agamben, the norm is applied in the exception by de-applying it. Thus, the strength of the law executed in a State of exception is not

¹ While referring to democracy, such term is addressed to as social relationship where people possess relatively the same rights within a specific context. The intention is not to attack the concept, but to reveal the paradox immerse within itself and consider the role that some social institutions play in the invisibilization of certain identity devices. Such facts demonstrate that in Costa Rican and Brazilian realities (and possibly most Latin American societies) those social institutions work more as ideological dictatorships than as democracies

implicitly executed or conserved in the current socio-healthcare policy; it is conserved by suspending it and executed through its de-execution.

Particularly, this paper revises the intersection that Giorgio Agamben presents in the form of a structure of exception, which, even though it has not been the object of a nursing or healthcare science theory, reveals itself as one of the possibilities to observe and provide care for the socially vulnerable populations. In this line, the *terra di nessuno* between the socio-healthcare order and life placed in the metaphorical limbo dictated by social policy, institutional right, and citizenship is analyzed. In other words, the hybrid set that is designed in the discursive aurora of the socio-citizenship health rights and the factum –where the law is related to life through its termination–, which is today's prevailing paradigm of the government, is reflected upon in this paper. It is necessary to clarify that even though there is a pretension of acknowledging these phenomena and analyzing part of the Agambian philosophy, it is not the intention, nor is it proper in this format, to examine all sources and discussions that pervade these phenomena exhaustively. Additionally, the objective of these reflections is not to stagnate on the evaluation of the thesis and postulates of Agamben as correct or true, but to try to understand them in the light of the condition of one of the broadest populations under vulnerability and social exclusion processes in the modern times –as called by French philosopher Jacques Ranciere.

It is important to mention, in particular, that for the elaboration of this reflection focused on the Agambian, bio-thanatopolitical analysis there were books, interviews, and scientific papers from Agamben. The scientific papers were recovered from *PubMed*, *CINAHL*, *Plus with Full Text*, *Web of Science*, *Scopus*, *PsycINFO* through descriptors such as transsexuality, biopolitics, thanatopolitics, health, and power (in Spanish *Transexualidad*, *Biopolítica*, *Tanatopolítica*, *Poder y Salud*) during the period from June 2017 to April 2018. Translation from Italian to Spanish, English, and Portuguese was preferred, and the sources were confronted to preserve the original meaning of the Agambian philosophy. Moreover, it should be noted that the selection, analysis, and critique of the main works of Agamben were intentional and quasi-comprehensive. This same process benefited from the profound reflection of the work of the philosopher in synch with the possibility of encouraging new ways of providing care to the population self-identified in the transsexual spectrum within the 2030 objectives of Sustainable Development and the objectives of the 2018-2030 Sustainable Health for the Americas' program.

Finally, it is important to remark that Agamben did not systematically develop his thought, and his work analyzed through this lens lacks a unitary sequential logic. Thus, the thoughts expressed here are not organized as successive parts of an argument, but rather as an attempt of interpretative exploration motivated by the interest of the author of this paper to reveal the doctrine of Agamben and to adapt this referent to Nursing and collective health studies. The latter links the care, guarantee, and effectiveness of the social right to health, and the ability to be and being transsexual within its organizational pleiad.

On Foucault in Agamben: The Paradoxes of Post-Structuralist Political Art

According to Agamben's diagnosis, Michel Foucault would have constantly resisted elaborating a unitary theory of power to extrapolate it to concentration camps and other

contexts of post-modern totalitarianism. The traditional approach to the phenomenon of power based on legal (what legitimizes the State) and institutional (what the State is) models has been abandoned in the direction of a liberalization of sovereignty – that is, the direction of the concrete ways in which biopower penetrates the bodies of its subjects and their ways of life – which has been found to be incomplete (1, 2).

As a consequence, of this exegesis in light of the limits between legal and biopolitical models, Agamben proposes the radical challenge of reinterpreting the fundamental statuses of traditional law and postmodern politics in the light of a new semantic and cognitive terrain in which these respective concepts were associated in the reality of individuals (4). He admits that only in a bio-thanatopolitical horizon it could be effectively decided whether the categories on which modern politics have been erected (right/left, absolutism/democracy, and private/public) and have progressively blurred to the point of entering today into a true zone of indiscernibility (indifference), will have to be abandoned or will have the opportunity to find, again, the meaning they had lost in that discursive horizon (1).

In the light of these registers and by mentioning bio-politics, Foucault argues that the political regime that emerged from the 17th century onwards contains a fundamental restoration of the principle of the operation of power that existed until then (5). In this sense, this philosopher understands that while the past vision of sovereign power operated on the principle of forcing its subject to death – power and ultimately the right to life and death –; modern biopolitics restore this premise through the concept of the administration of life (6, 7). In other words, Foucault abandons the legal-political theory of the State power that is focused mainly on the figure of the sovereign, intending to privilege the emergence of life management in the mechanisms of power. This transitional posture presupposes the main liminal of modernity for the French philosopher.

However, the field that occupies this work is precisely the alleged transition that substantiates the intention of Agamben's work. Different to Foucault's vision, Agamben seeks to correct and/or integrate the relationship between biopolitics and sovereign power to improve his theory about the State of exception (1). First, he sustains that the relationship biopolitics and sovereignty is not characteristic of the modern era, as believed by Foucault, but rather it is interwoven in a much more fundamental and original mechanism. Definitively, Agamben criticizes the interpretation of biopolitics elaborated by Foucault. The author acknowledges that, contrary to his French colleague, the production of a biopolitical body is the original contribution of the sovereign power (7-8). On the other hand, it must be admitted that the concept of biopolitics as an element of bio-power, together with the discipline, is not one of the main titles of Foucault's work. Some authors sustain that the bio-power appears for the first time in Foucaultian doctrine in a lecture given in March 1976, and subsequently in the pages of *Histoire de la sexualité I: La volonté de savoir* published in the same year (4, 9).

Afterwards, the specific analysis of the topic has been set aside to benefit other objects of study such as safety mechanisms, liberalism, neoliberalism, and *savoir/pouvoir* technologies, even when all these elements are intimately related to bio-power. Particularly, the best Foucaultian definition of biopolitics, from the author's point of view, derives from

a confrontation with the Aristotelic conception of men found in the first volume of the *Histoire de la sexualité* where “L’homme, pendant des millénaires, est resté ce qu’il était pour Aristote: un animal vivant et de plus capable d’une existence politique; l’homme moderne est un animal dans la politique duquel sa vie d’être vivant est en question” (For millennia, men has been what Aristotle considered according to its interpretation: a living animal *and* with the capability of having a political existence; modern men is an animal whose own politics questions his life as a living being) (10). Contrary to this, to Agamben, the Aristotelian statement of men as a “living animal, and, also, with the capacity of existing politically” would be complemented attending to the problem, which is precisely, the meaning of that “also” (1, 3). In other words, it is admitted that the frontier of Foucaultian modernity is the transformation of politics in biopolitics in the light of the mechanisms by which the State’s power came to be executed over human life.

In this direction, the idea that one of the most persistent figures in the work of this author is the search of a new theory centered on the *how* rather than the *why* of power is juxtaposed. In fact, in the intellectual domain, Foucault understood by biopolitics the way it was attempted to rationalize the problems exerted in the governmental praxis by the phenomena of a set of beings constituted by populations that included health determinants, hygiene, birth, longevity, and race in the XVII century (5). The sense of such postulates lies in the reference to a sovereign power that reveals the divergence between the execution of power in the past that intervened in life only to impose death; and another, valid in modernity, that, in agreement to Foucault, intervenes in the conditions that sustain life – biopolitics. Until the XVIII century, according to Foucault, sovereign power had the power over death; that is, the power to deny, prevent, destroy or eliminate (10). In general, while the previous form of power only deprived life or let (it) live – the right of causing death and / or let live – the biopolitics in modern days, to Foucault, can “make live or let die”: *to make live* and *let die* as opposed to *let live* and *make die*. Therefore, Foucault contrasts the new bio-power with the previous form of sovereign power that gives and deprives life. To the author, the historical appearance of bio-power leads directly to a transformation of rationalities characterized by the right over life and death to a power that is focused on the investment in life. Before such a description, Foucault sees a deficit in the old paradigm in the way the material life and death of the individual are multiplied in sovereign rights over life and death. In this sense, the traditional theory of sovereignty, life, and death of the individuals became rights just because of the will of the sovereign.

In general, the physical body of the individual is, hence, a duplicate in its relationship with the will of the sovereign by its legal *status*. This right of life and death would be philosophically incompatible because as long as the sovereign holds the power to decide over the life and death of the individuals, the subject would be suspended between both of them (1, 2). This critique takes its dimension within Agamben's work; if the idea that any subject could die or live whereas the sovereign decides or not is considered. In other words, in terms of the legal relationship with the sovereign, the individual is not dead or alive (11). Thus, the subject is neutral, and thanks to the sovereign, the individual does not have the right to be alive or, possibly, the right to be dead. However, in declaring this conception incompatible with modern times, Foucault's bio-power is conferred in the standardization

of life through some operations of *normalization* and control over the random elements of life, the body, and the population.

Consequently, Foucault seeks to improve life through the elimination of accidents of contingent elements and its deficiencies through a process of normalization. Therefore, bio-power is not a right over death for Foucault. The French philosopher suggests that, within the bio-power, death is relegated to the margins of political power: it is no more than the manifestation of the sovereign power, but it indicates the limits of power; the moment when life escapes the hands of governance (6). Before these claims, bio-power is comprehensively directed to sponsor life. When it fails, or the life form in play is considered inviable, it *is* left alone to die. In light of these registers, biopolitics cause life or simply returns death. In the modern sense, Foucault claims that death is incorporated in bio-power through racism. Without deepening the sustain given to this topic, racism, for him, is precisely the way to introduce a fracture in the domain of life (6, 12).

This means that, for the modern State, racism is an indispensable condition in the establishment of death in the spectrum of a power that sponsors life. In such descriptions, racism justifies and allows, hence, the paradoxical apparent establishment of death in the biopolitical regime, and this is obtained fairly through a regulated normalization that fragments the biological field, which at the same time is controlled by power (1). In other words, the latter occurs through the inauguration of a crack inside the continuity directed by bio-power. Here lies the statement that the normalization forces of racism – which authorize the biological fracture of a population – are the mechanisms by which the sovereign power can be exerted. Racism seems to be, thus, not only a bio-power technique but also a condition so that sovereign power exerts the instruments, mechanisms, and technologies of normalization.

To Foucault, this is precisely the articulation point between that which is sovereign and the (relatively) self-explanatory bio-power. Contrary to the clever systemic analysis of bio-power, racism is not the only link for bio-power to sovereignty for Agamben, but the object of study of the bio-political body between the two propositions becomes distinctive. From this paradigmatic position between Foucault and Agamben comes, among other things, the following paradox: in Agamben's vision, the key to the understanding of the modern political phenomenon equally lies, as understood by Foucault, in its political character as much as this time it is thanatopolitical. In other words, this understanding has a different apex –beyond – the one presented by the French philosopher.

Methodologically, Agamben presents his thesis concerned about the figure of *nuda vita* (naked life) (1). In particular, a new linguistic, semantic, experiential of life in the political debate figure is added, as a correction of some aspects oriented by Foucault, and at the same time, as the irrevocable complement of his thought. Certainly, Agamben's correction of Foucault consists precisely in the idea that the entrance of the *nuda vita* into the sphere of political mechanisms and the exercise of sovereign power did not mean a radical transformation of the political-philosophical categories. This entrance is independent of the emergence of biopolitics as an apex of development in the modern techniques of the State's power. In such a domain, Agamben argues that the inclusion of *nuda vita* in the political field is the primary core of sovereign power in a way that the production of a biopolitical

body is the very source of post-modern power. It follows that the bio-power does not produce life or death, but *nuda vita* is merely surviving exposed to death. Because of this, it is possible to admit, in the almost unanimous form, that bio-politics are as ancient as the sovereign exception and not a threshold of modernity.

The emergence of *nuda vita* would have been, not only intensified according to Andrew Neal –brought to light, but not created – in modernity so that those are the kill-able bodies of the subaltern, the ones who constitute the new biopolitical body (14). As Agamben acknowledges, the characteristic figure of modernity is not the emergence of biopolitics – a phenomenon that, to Foucault, was originally situated in the margins of political order, and that would coincide with the modern era politics – but the acknowledgment of biopolitics, in its original sense that precedes and identifies to modern politics through a process of exclusion and inclusion. (1, 15). Therefore, Agamben's conceptualization may design the most relevant point for those pretending to diagnose the contemporary biopolitical condition: the thanatopolitical theory (1). Precisely, Agamben's thesis concerning the biopolitical character of occidental politics, even from Foucault, lies in the argument that the fundamental practice of the sovereign power is the production of the *nuda vita*, as well as the cultivation of a human creature as the original political element and frontier of the articulation between nature and culture; that is, zoe and bios (16).

In general terms, in discussing the etymology of the word *life*, Agamben highlights exhaustively that the Greek had two terms cognitively and semantically different: zoe, that reveals the mere biological or natural existence that is common to all living beings – animals, men, or gods – that is designed exclusively as mere reproductive life in the field of the *oikos* (house-family). The second term is bios which indicated the qualified life form and the appropriate way of living as a being/individual –or group – that is; life in the sphere of the *polis* (1). With this distinction in mind, it could be concluded that Foucault's conception of biopolitics points truly, not to the entering of life to politics in general terms, but to the personalized integration by the most specific conceptual designation of zoe or natural life. Altogether, what is in play in modern politics, according to Foucault, is the mere reality of the living body of an individual; in other words, the insertion of natural life of the governed in the calculations of the State's power, turning itself into an object of specific governmental techniques (5, 6). It could be said that in Foucault's vision, the emergence of biopolitics refers to the entering of zoe as biological life to the *polis*. In other words, reference is made to the politicization of natural life (5, 10). Complementarily and following Agamben, the qualitative distinction made by Aristotle between biological life and political life effectively excluded natural life from the *polis* in the strictest term, and it relegated the private sphere effectively, as a basic life form destined only to the reproduction and administration of *oikos* (1).

In front of himself and Foucault, Agamben problematizes immediately the issue listing that the protagonist of his theory is not the natural life but the *nuda vita* (1). Certainly, to the philosopher, the *nuda vita* is the biopolitical body of modernity. Hence, to Agamben, the “simplicity” of natural life is not linked to the participation in the biopolitical sphere but to the life exposed to death –the *nuda vita* or the sacred life – from which meaning derives the most elemental politics. Such unfolding allows the assumption that the *nuda vita* is not the

simple natural life but the natural life of a determined individual captured in a particular relationship with the power that segregates it from the divine and the profane. It is not *bios* nor *zoe*, but the politicized form of natural life exposed in a sovereign form of death. All else, according to Agamben could not be explained more simply than the foundation of the political power is an exterminable life that is politicized through its *killability*. In this sense, the author refers to a politicized life that is simultaneously excluded from the polis through inclusive-exclusion (1, 17).

In general, *nuda vita* is the boundary between *polis* and *oikos*. Being captured in the *in bando* figure – that is, at the mercy of the sovereign - *nuda vita* indicates the exposition of natural life to the strength of the law through abandonment, which represents being the ultimate expression of sovereign power over the right to death. As mentioned before, it is not about *bios* or *zoe* because the *nuda vita* that emerges through an irreparable exposure of life to the death uprooting or sovereign exile, that is, infinitely exposed to the sovereign violence. It is, consequently, the exposure to this violence what marks the *nuda vita* as indistinctive between the inside or outside of the political order or as a structure out of the division of biological and political life (1, 2). Before such determination, the *nuda vita* appears as the biological existence subjected to a particular condition of inclusive-exclusion over the sovereign domain. Under this analytical lens, Agamben pretends to correct Foucault's thesis in the sense that *zoe* is always present in the *polis* through its inclusive exclusion. Definitively, that which characterizes modern politics is not the inclusion of *zoe* in the *polis*, which is, in fact, archaic, nor simply the fact of life as an imminent object of the calculations and manipulations of the State. Contrasting this equation, Agamben, revising the Foucaultian thought, insists that the *nuda vita* of the individual was always in the heart of the sovereign power.

In light of these records, Agamben considers that it is not about to make die and let live from the old sovereign power, nor the make live and let die of genealogical biopower of Foucaultian racism, but the logic lies in the make survive (1, 18). This definition presupposes polysemic relationships established and regulated between the ways *to make* and *to be* among the *hominis sacri* and the sovereign power, which will become much more evident while treating the analogy of the transsexual *homo sacer* in the contemporary semantic field.

Otherwise, Agamben is more concerned with the law and the conditions of its application and suspension, that is, with the exception of the sovereign logic that irretrievably linked the life to the law. As a consequence, the most obvious distinction between Foucault and Agamben seems to be the treatment of sovereignty: the bio-power is, thus, as ancient as the sovereign exception, and the production of a biopolitical body is the original activity of sovereign power. This means that the bio-power operated, and continues operating, together with the sovereign from the beginning and that modern politics are not determined by the emancipation of bio-power.

On that logic, the secret knot that links sovereignty with bio-power and the *nuda vita* is revealed. Such disclosure results precisely in the realization of the State of exception as a normal situation in current politics. It could be admitted, thus, that the inclusive-exclusion names the relationship between the political and the legal. What is this relationship also

denominated a-*bando*-ment? In this relation, the proposal of Agamben suggests that the most appropriate term to the potentization of the law that is applied by not applying it, is the *bando* (1, 18).

The relationship of exception is a relation of *bando*, in that it is excluded, not simply placed out of the law and converted into something irrelevant for itself but neglected by it. Following this logic, that which is labeled as *bando* is submitted to the self-division and, simultaneously, delivered to the mercy of who abandons it; that is, it is included, released and captured at the same time it is excluded; similarly to the State of exception where the *nuda vita* is, at the same time, excluded from the legal order and a captive of it. The banished subject is not simply excluded from the reaches of the law, set aside or untouchable for it, but given to the law through its removal. This correlation between exception and abandonment constitutes the guiding thread where the individual is placed in the margins of the law – as a foreigner – even when it is inside the territory of the State; that is, removed from the order and protection of the sovereign field, even when it is living in federal territory. In the Agambian sense, a reference to a life devoid of the simplest necessities and abandoned to the depths of the State is made. In this respect, it will be found, admittedly, that citizenship is removed from the individual, and, consequently, the rest of the person's life corresponds perfectly to the category of the Agambian *nuda vita*: a life banished and exiled. In the case of this banishment, liberty is preserved precisely because the law is not applied anymore (1).

As the author acknowledges, those are lives that subtract, overstock and are extirpated from the concrete concept of citizenship. At the same time, they are deprived of the most basic necessities, they are *abandoned* to strangeness even when they reside in the heart of the State (1, 18). It seems evident that banishment is primarily a response not to the legal action but to the threat of the establishment of a new law. Abdalla proposes that the *banishment* is a non-binding response to the violation of the law; even more to the threat of public order. In this sense, it could be understood that such banishment happens multiple times because of an arbitrary and partial (un)comprehension of the polysemic plurality of being simply human (4). Before such an assertion, the action of banishing does not respond to a crime, but to a persuasive influence. The condition of those who refuse to consent the sovereign power finds abandonment parallels of the *sacer* condition. Highlighting this cognitive perspective, Agamben evokes the figure of the homo sacer –the figure of the archaic Roman law – where human life is included in the ordering under the form of its exclusion (that is, from the absolute *killability* and/or extermination) (1).

Agamben explains that the double exclusion of the homo sacer points to the correlative double inclusion in the instances of the divine and the human, once the characterization of the homo sacer is plausible of murder and simultaneously not sacrificial. Before such condition, the homo sacer belongs to the gods in the form of insacrificability, and it is included in the human community from its plausibility of the impune death: the paradox of the impunity of its killing and the exclusion of its sacrifice. Agamben concludes before such an overly contradicting scenario, that life, sacred or *nuda* is the life that moves beyond the divine and the profane, and that, therefore, designs the simplicity of the life that is singularly exposed –or destined to death (1). First of all, the double exclusion and double

capture of the homo sacer means that the area where the *nuda vita* persists is not characterized by a space with no law, but rather reveals the inclusive-exclusion and the *abandonment* of the *nuda vita* related to the law. In the same way, it reveals a convergence between the homo sacer and the exception, since each is simultaneously included and excluded from the law in this way, subjugated to a sovereign decision. Here is where the connection between the structures of sovereignty and sacrifice or the exception of those who possess a *nuda vita* reside. In other words, those who are abandoned or removed from the jurisdiction of the law who are made homo sacers precisely because they are moved out of the law and its protection preserve an extra-legal relationship with this same law through the exclusion and sacredness of life.

Following this order of ideas, and because of Agamben's thesis, it should be clear that a bio-thanatopolitical overview would be able to explain the *spectrum* of the contemporary reality in different legal and collective health situations. Those situations are attached to a neoliberal and totalitarian (i)logic which plays a determinant role in the individuals marked metaphorically – in the Goffmanian and Butlerian sense – by unintelligibility characteristics as seen below (19, 20).

On transsexualities and the figurative concept of the *Novus Homo Sacer*

In the paradoxical current times, objectifying the linguistic figures noted by Giorgio Agamben in his philosophical paradigm, it might seem an easy work of elaboration, but of difficult abstraction. Particularly, it is mandatory to understand that his analysis links, with special attention, the determinability of a postmodern context and, consequently, it weaves an inner liaison that connects the homo sacer to a specific time and space.

In the current domain, the figure of the homo sacer can adopt the form of a person that self-identifies within the transsexual spectrum. Therefore, the homo sacer status of this trans person (macro logos that integrates different identities and gender expressions that include within its conception people that are transgender. Transsexual, transvestites, non-binary, gender fluid, and, in general, all of those people that question the dichotomy of the gender-generic system) has remain relatively unmovable from its first records in the XX century in spite of being possible to identify a (micro) evolution in some countries considered privileged in the sense of the intersectionality paradigm.

Supported in the philosophical postulates shown in the previous discussion, the fundamental space of *abandonment*, banishment, and violence present in all post-colonial stories of life can be examined –mainly in the dissident and unintelligible identities – and it is necessary to highlight so that the conditions in which current health policies have been developed can be understood. The exclusive-inclusion suffered by the trans population, whom through the fetishization and fragmentation of their bodies is penetrated by moral, political, and social statutes fundamentally inquisitors, juxtaposes the previous statements. Particularly, *nuda vitas* can be mentioned that are diagnosed by the psy sciences –psychology, psychiatry and psychoanalysis – and that are banished from within their communities and condemned as strange lives plausible to death (physical and symbolical). Most of the times, they are characterized by the impunity of their perpetrator. This idea has

been expressed much more evidently in Agamben's theory, which can be found in the effect of institutionalized transphobia and the generic terrorism suffered through diverse trickery of violence and *abandonment* in the trans population. In the secular domain – laikós – the trans body breaks the apparent normality – Goffmanian – and complementarity, it is deprived of any right and freedom. Through the logic of inclusive exclusion, the body presents itself as a threat to the principles that randomly rule the sex-generic behaviors, and its demotion to the abject sphere is (in) justified - on its conception and of others.

It should be noted that in the implantation of the naturalized bodily death ordained to itself lies –maybe – the most refined level of panopticon control and punishment of the *nuda vita* in current thanatopolitical times. In that comparative conceptualism, it is evinced that the sovereign power creates a physical and psychological control over the *nuda vitas*. Particularly, they are forced to self-control and inspect themselves to accomplish the will and ethic-moral, expressive-aesthetic and institutional expectations prescribed by a cis-hetero, dictatorial and phallogocentric patriarchal hegemonic society. Thus, and spite of the apparent disappearance of the psychiatrization of the trans condition in the International Classification of Disease Manual (ICDM) and the Diagnostic and Statistical Manual of Mental Disorders (DSM V) of the American Psychiatric Association, the thanatopolitical trans remains. This, insofar as the medicalizing practices of the transhuman condition continue to be present in nursing and health care; contrary to the vindictive cries of compulsive depathologization and recognition of trans-autonomy that invite to think the genders and sexes as volatile, unstable, incidental, and plural technologies. Therefore, the real posture of the trans-autonomy defends the legislation of health access promoting integral quality assistance, with no prejudice, discrimination, or negligence; and that promotes, additionally, a transformation in the optics of the process of access to social and sanitary recognition of unintelligible genders.

In view of the above, the complex social dichotomies of the sovereign State are evinced: repression vs inclusive exclusion, rights recognition vs death decree. Complementarily, it is highlighted how the technologies and social apparatuses reinforce the mechanisms of lack of recognition of citizenship, and, consequently, accelerate the decrees of premature death in populations where life expectancy does not exceed 35 years (21). In thanatopolitical times, speaking of death and transsexuality might seem redundant; however, there is an analogy that associates trans people to the Roman-Agambian figure of the homo sacer to represent that citizen with no citizenship who lacks rights and recognitions on behalf of the sovereign State and any other institution of spiritual or moral support. Hence, this idea expressed indirectly in Agambian essays, allows the self-identified trans person to be attached as a being who is doubly excluded: by the legal-legislative apparatus and by the socio-moral law, whose double exclusion exposes him to exile, abandonment, violence, and death. It follows that this death may be effective, and his oppressor has the possibility of going unpunished. In this sense, it will be found that the proper place of a person whose life is *naked* is beyond criminal law and sacrifice, in a zone of indiscernibility-indetermination to which it would have been irremediably confined by the sovereign mandate (21).

The sense that justifies the homo sacer could be one of the paradigms capable of explaining the essence and functioning of bio-power over trans-dissident people whose life is *naked* –

although in current paradoxical times speaking of essence might seem dangerous. Complementarily, following Agamben, it is not only valid, but also necessary, to make a comparison between the homo sacer and the trans person. Evidently, in the present contemporaneity these lives are not only reduced to its mere biological condition –zoe, but also, they represent the abstract nudity of being simply human in the cognitive-semantic register of the *nuda vita* (1).

This projects the idea that in a thanatopolitical regime all trans subjects are potentially *hominis sacri*: exiled and banished. In other words, all subjects have the possibility of being *abandoned* by the law and exposed to death – violence and invisibilization – as a constitutive condition of political existence mainly by the set of characteristics of unintelligibility. In the Agambian sense, it would mean being restituted to its place, beyond criminal law and closer to brutal sacrifice, since they represent the original figure of the naked life, subject to sovereign abandonment that conserves the memory of the original inclusive exclusion through which the contemporary political dimension is built. This issue would weave a guiding thread of the trans homo sacer with the thanatopolitical concepts of citizenship that are not acknowledged, *nuda vita*, exile, exclusion-inclusion and banishment, since currently the laws and attitudes of health disciplines and social institutions not only dislocate the trans populations to the point of dehumanizing them but to represent them – in the Moscovian sense – as disposable products.

Finally, it is easy to identify from such analogy, that the concrete manifestation of the exercise of this post-modern bio-thanato-power can be seen in the way certain minorities fall in areas of exclusion and abandonment because they represent the ethereal of the *nuda vita*. Consequently, the discrimination on behalf of the health professionals, Nursing as one of them, has been another relevant aspect of the lack of effective improvement to healthcare access. Therefore, it is necessary to guarantee the equity and materialization of the right of health from an integral perspective, prejudice-free, of good quality, and where gender identity is not a negative determinant of those guarantees. Additionally, it is imperative to include the thanatopolitical comprehension guidelines in the practices of disciplinary care and develop new capacities of comprehension, intervention, and effective implementation of transsexual individual and collective specific assistance in primary health care. Thus, it is necessary to think about practices of nursing care that are humanitarian and holistic where the objective is considered on its social, cultural, and political context, and not only biological. This translates to genuine and personalized care instead of generalized care towards the trans population.

FINAL CONSIDERATIONS

This epilogue can be thought of as an initial and basic text that discusses the most elemental postures of the Foucaultian and Agambian paradigm in the contemporaneity. One of the first points of convergence in the comprehension of both paradigms are the notions of disciplinary power, State of sovereignty, exile, *abandonment*, uprooting and superfluity as linked phenomena that pervade our realities.

Agamben, abandoning the traditional matter of legitimacy of power, bases his analysis of politics through an incisive critique of the capacity of sovereign power to produce – and

reproduce – subjects that consent and, ultimately, defend the sovereign conditions. As a consequence, the Italian author disserts that the logic binds sovereignty to the definition *sacri* and biopolitics directs us to a State where a supreme power can annihilate an entire minority in the name of national unity. This is the link between the paradox of sovereignty, the sacred, and the biopolitics that turns transsexuality as a postmodern political paradigm. Definitively, in this intersection of the model of power and the biopolitical model resides the relevance of Agamben's work. His project is vast, full of enigmas and, therefore, there are still many onto-philosophical gaps. Faced with this assertion, many more questions from the author might be revealed, particularly those related to the concept of democracy, sovereign will, citizenship, State, the meaning of rights even for the so-called homo sacers that were the focus and might be useful as analytical-theoretical base in the field of collective health and nursing.

Much of the discussion about bio(thanato)politics returns to the figure of the banished-abandoned individual that might be associated with the notion of the transsexual device. Faced with these determinations, in fact, a provocative line of research emerges in the discursive horizon, which reveals not only how sovereignty can manifest as a force that dictates life, death, and mere survival, at the same time it describes its ineffable effects on those who are exiled or excluded – that is, banished from the system.

Finally, it is important to remember this study as a possible answer to the request of the Pan American Health Organization that invites us to establish the local priorities of nursing research. The latter has the objective of promoting the access and universal right to health care since one of its fundamental axes is the training of human resources in nursing with equitable, free of stigma practices, in addition to social studies in the field of health.

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