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BIOPOLITICS BEYOND FOUCAULT. A CRITIC OF AGAMBEN'S ANALYSIS OF THE PANDEMIC¹

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Introduction: positionings, differences, actualité²

The outbreak of the Covid-19 pandemic has profoundly changed our image of the world and it is precisely with this new image that — regardless of our different political, legal, economic, social and, not least, health status or condition — we are all called to grapple. In other words, we cannot avoid to measure ourselves against this unprecedented event that has forced a radical reorganization of our lives. Yet, if it is true that such a condition leads us directly to experience the dramatic character of the present situation, it is equally certain that each of us — precisely in relation to its specificity — lives a particular drama in an absolutely unique way. Taking up — *mutatis mutandis* — a famous passage from Marx's *Introduction* to the *Grundrisse*, we could say that: «Hunger is hunger, but the hunger gratified by cooked meat eaten with

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a knife and fork is a different hunger from that which bolts down raw meat with the aid of hand, nail and tooth» (Marx, 1993, p. 92)³.

Hence, well before and well beyond the assumption of reflections — such as those of Jean-Luc Nancy — that, although presenting very interesting arguments, propose a universalizing reading of the pandemic effects⁴ — emphasizing how the virus «essentially puts us on a basis of equality» (Nancy 2020), it is necessary instead *to grasp the importance of differences*. It is a matter of recognizing the presence of lines of exclusion and marginalization, as well as measures of «differential inclusion» (Mezzadra and Neilson, 2014, p. 159) internal to society, which give rise «to varying degrees of subordination, rule, discrimination, and segmentation» (*ibidem*). In short, the aim here is to emphasize how such a diversification — linked to distinctions of class, gender, race, health status, and geographic origin — implies different social positions in relation to the pandemic experience and, consequently, can give rise to political *positionings* that are extremely distant from each other regarding the interpretation of the present situation. With respect to this second condition, it is precisely the recognition or, perhaps the opposite, a lack of recognition of the lines of demarcation within society (“differentiating readings” vs. “universalizing readings”) that marks a fundamental point of divergence between the observations of those authors who confront with the *eminently philosophical task of thinking the present*.

In relation to the assumption, therefore, that the practice of thinking means dealing with the present reality, it is not irrelevant to note that one of the most cited authors in the investigations of the theme of the Coronavirus pandemic is Michel Foucault⁵⁴. In fact, he is the thinker who, besides having developed a set of conceptual tools that are used to analyze aspects of the economic, political, social management of the health emergency, has also understood «philosophy as the surface of emergence of a present reality (*actualité*)» (Foucault, 2010, p. 13) and has proposed «an ontology» (*ivi*, p. 21)

3. With reference to the operation of law and right, see also Benjamin (1996, p. 249) which deals with «the mythic ambiguity of laws that may not be “infringed” – the same ambiguity to which Anatole France refers satirically when he says, “Poor and rich are equally forbidden to spend the night under the bridge”». With respect to the difficulties related to the lockdown and the penal and administrative measures issued (not only by the Italian government) to ensure the curfew and mobility ban, we can recall for example the emblematic (and paradoxical) cases of homeless people sanctioned during the pandemic.

4. Although it is not possible to restore here the complexity of the subject, by “universalizing reading” we refer here to Étienne Balibar’s analyses of the concept of “universal”, of the problem of its construction, as well as of the paradoxical character and ambiguity of universalist discourses. In fact, as the author notes, «the bearers of the universal [...] measure the existing community against the idea of universality» (Balibar 2020, p. viii), and it is for this reason that we can observe the institution of a «paradoxical association of universalist discourse and discriminatory practices» (*ivi*: 8), such as racism and sexism. Ultimately, Balibar argues that the enunciation of the universal unites only by dividing (see *ivi*: vii).

5. Just as an example, I would like to mention the cycle of meetings “*Pensar el presente*”: *Michel Foucault y la pandemia* — organized within the “Programa de Estudios Foucaultianos (PEF)” of the University of Buenos Aires (UBA) — to which I was invited to take part by the coordinators Gabriela Seghezzeo and Marcelo Raffin, whom I take the opportunity to thank.

of it. Such an ontology of *actualité* articulates a question about one's own positioning within a specific history and a given present, in order to define its limits and their surmountable character.

Yet, precisely with respect to our *actualité*, it is not possible to limit to only deal with Foucault. It is difficult to get around the comparison with another thinker, whose analysis of the Covid-19 pandemic, even if mainly referred to the Italian context, have been viewed as paradigmatic also at an international level, obtaining a strong media resonance and at the same time raising several doubts and criticisms (see Kotsko, 2022). As can be easily guessed, I am referring here to Giorgio Agamben who, also starting from a particular interpretation of some Foucauldian categories (which, moreover, constitute one of the main foundations of his rather influential theoretical approach), has intervened several times on the question concerning the political reaction to, and management of, the pandemic. His writings, first released on the website of the Italian publisher Quodlibet — within a personal column — have now been largely collected in a volume entitled *Where Are We Now? The Epidemic as Politics* (Agamben, 2021a).

Given the foregoing, the complex task proposed here is to recognize differences and to differentiate; it constitutes the effort to intervene philosophically in a debate and a set of events still ongoing, open-ended, constantly evolving and deeply uncertain. It is therefore in this perspective that we will examine, in a still preliminary way, on one hand what can be called the *paradoxical character of Agamben's ethical-political position* on the management of the pandemic, and on the other hand a *possible use of the concept of biopolitics*, developed from Foucault, beyond Foucault.

Agamben's ethical-political position

Agamben's is, without a doubt, one of the most radical positions regarding the measures taken in response to the spread of the Covid-19 epidemic. In fact, we can observe how, making use not only of Foucauldian but also of Schmittian and Benjaminian categories, he has developed what can be defined, with Panagiotis Sotiris, as «an exercise in the biopolitics of the “state of exception”» (Sotiris, 2020) — which, by the way, is in continuity with his analysis of the post-9/11 situation and his (certainly courageous) refusal to submit to biometric data checks upon entering the US, as a protest against the American policies (see Arenson, 2004).

Since his first speech on February 26, 2020 — at the dawn of the arrival of the epidemic in Europe and, specifically, in Italy —, Agamben spoke of «invention of an epidemic» (Agamben 2021a, p. 11). More precisely: on the basis of some early statements by the CNR (the National Research Council in Italy), he defined as «frenetic, irrational, and unprovoked» (*ibidem*), the first emergency measures adopted by the Italian government, since for him these were disproportionate to the number of contagions and to the risks of a disease that had to be considered as «a normal flu» (*ivi*, p. 13). In this regard, it should be recalled that the Italian government decreed: the application of isolation or quarantine in case of infection or contact with confirmed cases of SARS-CoV2; a series of limitations and prohibitions in terms of mobility between regions and municipalities; the suspension of educational services, demonstrations, attendance at school and training activities, cultural services, competition procedures.

Admittedly, in February 2020, the situation was unclear at global and local levels. Yet, in the following months, after his first statements, Agamben did not substantially revise his position. Quite to the contrary, he radicalized his arguments in support of it. Indeed, the Italian philosopher developed an understanding of the epidemic as «the ideal pretext» (*ibidem*) — employed by governments (with the complicity of the media, many jurists, and the Church) once the previous pretext of terrorism had been exhausted — to produce a real climate of insecurity and collective panic, on which to intervene through the expansion of exceptional emergency measures restrictive of freedom and harbingers of unprecedented social control. In his view, the epidemic would be «the battleground of a global civil war» (*ivi*: 60; Agamben, 2015, pp. 1-24), fought against an internal enemy, nested in the body of each of us.

From what has been said up to this point, we can understand how, according to the Italian philosopher, the pandemic emergency should be read in terms of *exception* (a philosophical-juridical category that, unlike the juridical formula “state of emergency”, is not employed in positive law, but which Agamben uses as a fundamental primary category of which emergency represents a sort of empirical variant). This state of exception — to which, for Agamben, we have actually been accustomed since a long time —, far from being temporary, «has finally become the norm» (*ivi*, p. 18): a paradigm of government based on the «ill-advised use of emergency decrees through which executive power effectively replaces legislative power» (*ivi*, p. 36)⁶.

6. Agamben further argues: «it seems that the words pronounced by the Prime Minister and by the head of the Civil Protection Department have the immediate validity of law (as was once said of the words of the Führer)» (Agamben, 2021a, pp. 36-37).

Moreover, on this very basis, for Agamben, politics has now become totalitarian. On the grounds of security reasons, it has eliminated the possibility of any political activity and has developed pervasive forms of control (see *ivi*, pp. 38-42). Indeed, the Italian philosopher deems emergency measures such limiting or banning mobility, imposing social distancing, and suspending religious services, especially funerals (see *ivi*, p. 38) to be the most pervasive in history, despite the fact that «more serious epidemics have happened in the past» (*ivi*, p. 18). More precisely, for him they are the unacceptable cause of the limitation of freedom and the violation of constitutional guarantees and rights that had never been questioned even during the two world wars and fascism (see *ivi*, p. 38). Not only that, such a political apparatus (*dispositif*) (Agamben, 2009; Antoniol, 2018, pp. 153-155) — giving rise to «a new paradigm for governing people and things» (Agamben, 2021a, p. 55) — would in fact be also responsible for «the deterioration of human relationship» (*ivi*, p. 15), by virtue of which «our neighbor has been abolished» (*ivi*, p. 16), considered as a potential danger «whom we must avoid at all costs» (*ivi*, p. 18). The latter, furthermore, being punishable by imprisonment⁷, for Agamben is comparable — by analogy — to the figure of the «potential terrorist» (*ivi*, p. 15) — hidden in every citizen —, whose need for detection had already constituted an essential instrument of government after the attacks of September 11, 2001 (cfr. Agamben, 2005, pp. 3-4, 22).

According to the Agambenian interpretation, therefore, there is «a massive campaign to falsify the truth» (Agamben, 2021a, p. 46), within which medicine itself (critically defined as «the religion of our time» [*ivi*, p. 24] that has undermined the other two religions «that seemed to hold the West together — Christianity and capitalism» [*ivi*, p. 29]) should be understood as a *technique and an instrument of biopower*, in a condition in which the *biosecurity paradigm* has taken hold. This paradigm — introduced as early as 2013 by Patrick Zylberman — would in fact have, as its distinguishing feature, that of *transforming the right to health into the obligation to health*, thus reducing — in the name of a proof of altruism — the population to biopolitical population (see Agamben, 2021a, pp. 29, 68). The conclusion, then, is that in the context of a more general conception of the functioning of modern politics as biopolitics we would have moved from the *security state*, established in response to terrorism, to *biosecurity*, based on health (see *ivi*, p. 60).

7. The reference, in particular, is to the crime of culpable epidemic introduced in Italy. According to Article 7 of Decree Law 19/2020, anyone who violates the isolation (in case of positivity from Covid-19) or quarantine (in case of established contact with positives) could be imprisoned from 3 to 18 months, in addition to a fine from 500 to 5000 euros.

Our interpretation is in line with that proposed by Francesco Zini, which underlines how Agamben describes the development of a «totalitarian biopolitical plan of normalization of the state of exception through the pandemic occasion» (Zini, 2020, p. 97). In other words, the state of exception enacted by our governments is, according to Agamben, «a kind of “health terror”» (Agamben, 2021a, p. 55) and hence harbinger of an unlimited securitarian biopolitics, implemented in the name of risks that cannot be effectively determined (see *ivi*: 34). In fact, with the pandemic, life would have been reduced to *bare life* (see *ivi*, pp. 17, 29, 38-41)⁸, to a «purely biological state» (*ivi*, p. 18), thus losing «not only its social and political dimensions, but also its human and affective ones» (*ibidem*). On the contrary, it would be necessary to recognize that human relationships, freedom and dignity are primary and more important than mere survival. In a nutshell, for Agamben it is a question of going beyond the bare life, which is the only thing that, according to him, our society still seems to believe in.

Finally, Agamben emphasizes how not only the rulers have imposed a series of unreasonable liberticidal *dispositifs*, but also the ruled themselves have introjected security measures — a kind of Laboétian *servitude volontaire* (see La Boétie, 2008; Agamben, 1998, p. 11). By virtue of the desire to protect bare life — which, however, «is not something that unites people: rather, it blinds and separates them» (Agamben, 2021a, p. 18) —, the people have become slaves of biopower.

A paradoxical reading

After analyzing the main aspects of the ethical-political position taken by Agamben in relation to the Covid-19 pandemic, it is particularly interesting to try to reflect now on the very structure of this philosophical perspective. Certainly, one cannot fail to recognize that, by emphasizing how the current health emergency represents a veritable

8. Using the concept of biopolitics, originally derived from the first volume of Foucault's *The History of Sexuality* (1978, pp. 132-159), already in *Homo sacer*, Agamben examines the relationship between life and politics, or rather between bare life — «that is, the life [...] *who may be killed and yet not sacrificed*» (Agamben, 2005, p. 12) — and sovereign power, starting from the moment when the former becomes the stake of the latter, that is, of political-legal-institutional processes. According to Agamben, in fact, the politicization of bare life «constitutes the decisive event of modernity» (*ivi*, p. 10), and it is precisely from the advent of the modern state that it is possible to observe the production of a biopolitical body — as activity of sovereign power (see *ivi*, p. 11) — and a growing tendency of the political space to coincide with the bare life (see *ivi*, p. 12) — whereas Foucault, as we will see, makes a much more circumscribed use — from a historical point of view — of the category of biopolitics. What we find in Agamben is actually a reworking of the concept of biopolitics that is far from the original Foucauldian formulation, which aimed precisely to abandon the centrality of the category of sovereignty. For an analysis of the concept of biopolitics in Agamben, and of the resemblances and differences with respect to Foucault's use of it, see Lemke (2011, pp. 53-64).

«laboratory in which the political and social orders that await humanity are being prepared» (*ivi*, p. 31), the Italian philosopher grasps — albeit in an apocalyptic tone — an important aspect of the issue. In fact, there is a well-founded concern that the operations connected to many emergency devices and safety technologies will continue even after the end of the pandemic⁹. However, despite this reasonable suspicion, the Agambenian reading presents a character that we might actually call paradoxical.

In attacking the unreasonableness of the suspension of «the normal functioning of life and work» (*ivi*, p. 11) — referring, therefore, also to the need to maintain the levels of production and consumption to normal standards —, Agamben refers to epidemiological statistics (from CNR, ISTAT, WHO). The aim of Agamben, on the one hand, is to affirm the low risk of mortality of the disease — «statistically not even that serious» (*ivi*, p. 18) —, which would affect *only* the most fragile individuals, i.e. those already subject to comorbidities; on the other hand, he aims to denounce the vagueness and non-scientific status of the figures of case counts and fatalities, provided by politicians and media (see *ivi*, pp. 40-43). First of all, it is therefore necessary to underline how ironic, to say the least, is the fact that, in an interview with Agamben on May 20, 2020, for the Greek journal *Babylonia*, the interviewer emphasizes — in consonance with the philosopher's position — how «the subordination of life to statistics inevitably leads to the logic of a life that is not worth living» (*ivi*, p. 62).

As a matter of fact, it is immediately clear the mocking character of this statement. Yet, in order to fully understand its paradoxicality, it is necessary to refer to the category of *biopolitics* in its original formulation, i.e., as it was elaborated by Foucault (2003, pp. 264-239; 1978, pp. 135-159)¹⁰. The latter argues that, if the classical theory of sovereignty recognized the right and power «to take life or let live» (Foucault 2003, p. 241), as the prerogative of the sovereign, from the nineteenth century onwards there has been instead a fundamental transformation. A new type of power develops, opposite to the previous one: «the right to make live and to let die» (*ibidem*). Not only, the French philosopher states that, in addition to the disciplinary technologies that had established since the end of the seventeenth century, which have as their main target the individual

9. In this regard, great importance in the public debate (not only in Italy) has been assumed, for example, by reflections on “distance learning” in schools and universities. This is a measure that presents obvious criticalities, but also indisputable positive aspects. Also in this case, Agamben's position, based on a sort of *reductio ad hitlerum*, is emblematic. As is now quite well known — given the stir caused by the statement —, he has argued indeed that «The teachers who agree [...] to subject themselves to the new online dictatorship and to hold all their classes remotely are the exact equivalent of those university professors who, in 1931, pledged allegiance to the Fascist regime» (Agamben 2021a, p. 74).

10. For a further analysis of the Foucauldian concept of biopolitics, and also a survey of its use by Agamben, Antonio Negri and Michael Hardt, Roberto Esposito, see Bazzicalupo (2010); Marzocca (2020, pp. 35-84, 143-197).

body, this new technology of power integrated it, although operating on a different scale. The goal of this (non-disciplinary) technique is no longer the detailed coordination of bodies, but of human beings: «a “biopolitics” of the human race» (*ivi*, p. 243) develops and life itself becomes the object of political strategies.

This means that biopower invests, controls and regulates all those phenomena and processes that concern the population — which becomes a *specific statistical parameter* and, at the same time, a political problem (see Revel 2003, p. 119) — and that are closely linked to the *economic functioning* of society. Among these phenomena and processes, what assumes a particularly important role is, of course, *health*. Beginning in the eighteenth century, medicine in fact becomes a governmental knowledge (see Napoli, 2021); diseases, endemics, epidemics are carefully studied, and are investigated not so much because of humanitarian feelings and concerns, but rather because they involve costs: they reduce *the processes of maximizing extraction of labour power from the collectivity*, and require large expenditures for care. It is, therefore, precisely with the aim of satisfying these needs, *mostly economic and responding to the interests of capitalism* (see *ivi*, p. xvi), that a combination of instruments and strategies — ranging from deepening of scientific research, disease prevention, general medicalization and, above all, *statistical investigation* — begin to be massively employed.

Health is therefore something concerning the whole population, something that every individual is called upon to care for (see Foucault, 1980, pp. 167-168). As Foucault states in a passage taken from his unpublished materials¹¹: with biopolitics we see the birth of the «obligation for the individual not only to respect the lives of others, but also to respect his own [...] duty of cleanliness, hygiene, medicalization» (Foucault, 1975-1976, unpublished materials)¹². In short: biopolitics gives rise to general mechanisms of security; more precisely, it is itself a technology of security. This is, in fact, the *power of make live* that characterizes its functioning.

From this short reconstruction of the concept of biopolitics, we can now highlight some elements that are also central for our critical analysis of the Agamben's reading of the current pandemic situation. First of all, it can be noted that — at least according to Foucault's historical investigation — the obligation of the individual in relation to his/her own health (and, more generally, the obligation to health) is neither an aspect that exclusively concerns our *actualité* — which, according to Agamben, is characterized

11. I was able to consult Foucault's unpublished manuscripts, kept at the Bibliothèque nationale de France, in 2017-2018.

12. The original text reads: «obligation par l'individu non seulement de respecter la vie des autres, mais aussi de respecter la sienne propre [...] devoir de propreté, d'hygiène, de médicalisation». On this point see also Foucault (2004, p. 6).

instead by a specific paradigm of government based on biosecurity —, nor a datum or a matter of fact that is linked to a state of exception or even to its permanence. On the contrary, what we can observe (and lament) today is, if anything, an entirely different phenomenon — merely anti-biopolitical — that has contributed to aggravating the effects of the current pandemic emergency: the diminishing equalization capacity of public health services. As noted by Pietro Sebastianelli, in recent years there has been in fact a decrease in the assumption, from an institutional-collective point of view, of the health of the population as a general goal to be achieved by democratic societies. Therefore, we can say that, if on the one hand this has led to a (positive) increase in making the individuals feel responsible in self-care and the care of others, on the other hand the same process has certainly had some negative repercussions, making evident a high degree of lack of responsibility in our governments and a depoliticization that collective health has been subjected to (see Sebastianelli, 2021)¹³.

However, with the aim of analyzing here the Agambenian perspective with respect to pandemic management, there are mainly two other elements — characterizing the functioning of biopolitics in the Foucauldian sense — that it is now necessary to focus our attention on. Firstly, as we have seen, Agamben makes use of *statistics* (in order to deny the dangerousness of the epidemic and to put into question the high number of data on deaths and contagions). Secondly, in denouncing the suspension of *working conditions* due to emergency measures, the Italian philosopher seems to perfectly respond to those same economic requirements that are aimed at ensuring the maximization of production and profits — in fact, as we know from Foucault's *The Birth of Biopolitics*, liberalism and its neoliberal developments constitute the very conditions of intelligibility of biopolitics (Foucault, 2008, p. 22). From what has just been said, we can therefore ask: is it possible that Agamben's reading itself, supposedly hostile to biopolitics, can be actually defined as biopolitics? Certainly, such a statement, in this form, would be incorrect. However, we should not forget that — as Foucault states and Agamben himself recognizes (see Agamben 2021a, p. 80) — *the power to make live* tends fatally to convert itself into the *power to let die*, and on this basis it can be affirmed — of course, in a quite provocative way — that Agamben's ethical-political position presents some fundamentally thanatopolitical traits. More specifically, I suggest that one can recognize how it is precisely a perspective à la Agamben that enables the exercise and functioning of thanatopolitics.

13. This is a phenomenon partly noted also by Agamben, who, however, gives absolutely no room for an evaluation of the positivity of the responsibility of individuals (see Agamben, 2021a, p. 29).

Again, a clear reference to Foucault can be helpful here. The term thanatopolitics is used for the first time by the French philosopher in 1982 (see Foucault, 1988, p. 160)¹⁴. However, during his lectures at the Collège de France from 1975-76, Foucault had already questioned the ways of exercising the power of death, when life becomes the object that is taken in charge to ensure the strengthening of collective force. What, then is, thanatopolitics? The latter can be described as that set of procedures that allow individuals to be put to death not only directly, but also indirectly, namely by *multiplying for some individuals the risk of death*. In fact, it is precisely thanatopolitics that makes it possible to introduce a «break between what must live and what must die» (Foucault, 2003, p. 254).

It is exactly on the basis of this definition that we can therefore interpret the Agambenian perspective and observe how it is not based on the power to make live but, rather, on the power to let die. More precisely, reading Agamben's interventions on the pandemic, one can understand that, according to the author, letting people die should not only be accepted, but actually applied (albeit indirectly), by virtue of a pre-eminence of living (i.e., exercising one's freedom and political functions) over surviving. «What is a society that values nothing more than survival?» (Agamben 2021a, p. 18), Agamben wonders indeed, troubled by the limitations imposed by the Italian government to deal with the emergency; or, again: «How did it happen that an entire country, without even realising (*sic.*) what was happening, collapsed both ethically and politically in the face of an illness?» (*ivi*, p. 34).

In this regard, it must be obviously acknowledged that, under non-emergency conditions, such a distinction might be entirely legitimate. However, in a pandemic context (whose specificity, in fact, was hardly recognized by Agamben¹⁵) this distinction cannot but lose its factuality and relevance, even from a logical point of view: to put it very simply, because in order to live it is indispensable to survive. Moreover, it is precisely the pandemic situation that makes the application of primacy to the exercise of one's freedom, with all the consequences that this entails, a choice (of obvious ethical

14. I would also like to remind the reader here of Achille Mbembe's use of the term "necropolitics" — which is close to, although not coincident with, the term thanatopolitics used by Foucault (Mbembe, 2019, pp. 66-92). For a Foucauldian analysis on necropolitics, with reference to the pandemic situation in Brazil under the government of Jair Bolsonaro's, see Duarte, 2020, pp. 96-103.

15. Agamben, in fact, not only underestimated the emergency, but also analyzed the pandemic by implementing a *reductio ad unum*, that is, comparing it to terrorism. Moreover, even when he had to — of necessity — moderate his positions on the gravity of the situation, he still preferred to argue that: «But it is not my intention to enter into the debate among scientists concerning the epidemic. I am only interested in the extremely serious ethical and political consequences that derive from it» (Agamben, 2021a, p. 26). It is evident that, by doing so, Agamben proposes a (rather problematic, to be true) analysis of the pandemic based on the recognition of the autonomy of ethics and politics.

-political character) that has various repercussions not only on oneself, but also on others, since this may affect everyone's health. One of the most trivial examples, but also among the most discussed in the current public debate, concerns the use of face masks, which — according to Agamben — would cancel the significance of the face as «the site of politics», as «the very condition of politics» (*ivi*, pp. 86- 87; see also Agamben, 2021b).¹⁶ Yet — unless one is a denier of the existence of the pandemic as such — it should be intuitive that deciding not to wear face masks may put at risk the health and life of both the person making this choice and of other people with whom the individual comes into contact. What we are confronted with here, therefore, is not only a decision about the preeminence of one's own freedom over one's own survival, but also a choice about the preeminence of one's own freedom over the survival of others. It is a sort of *micro-thanatopolitics* that multiplies the risk of death for some and, precisely because of this, determines a *break, a separation, between those who can live and those who can die*.

Ultimately, this enacts a politics that is itself a politics of survival (of the strongest, of the richest, of those who can afford better living conditions and health) based on a universalizing position — and, therefore, in the final analysis, on a discriminating and hierarchizing conception. In fact, the argumentation that has been critically analyzed before develops from a fallacious assumption that is merely theoretical and quite disconnected from the actual conditions of real life: that is, it takes it for granted that everyone enjoys equal health conditions and equal access to care.

Biopolitics beyond Foucault

Putting into question Agamben's position on the pandemic requires not only the assumption of a precise alternative ethical-political positioning in comparison to that of this author, but also the attempt — certainly still preliminary and not exhaustive — to formulate a different philosophical-political interpretation in relation to the *actualité*. It is precisely in this direction that it may be useful, once again, to return to the original Foucauldian concept of biopolitics. In this case, of course, it is necessary to go beyond the many critiques «of the regime of security, imposed in the pandemic conjuncture» (Napoli, 2021, p. xxvi), which — as Napoli pointed out — have «logically [found]

16. Equally paradigmatic, on this topic, are the recent controversies over vaccines and the introduction of the so-called “green pass” in Italy and other countries. On this point, see also Cacciari and Agamben (2021, <https://www.iisf.it/index.php/progetti/diario-della-crisi/massimo-cacciari-giorgio-agamben-a-proposito-del-decreto-sul-green-pass.html>).

reasons and tools to feed on in so many of Foucault's analyses » (*ibidem*). If anything, the goal is to avoid reducing such Foucauldian reflections to prognostications out of time and space (see *ivi*, p. xxi) and to see if there might be a different way of using them. My proposal, indeed, is to employ Foucault beyond Foucault.

To do this, it is useful to start from two considerations. The first concerns Foucault's own attitude towards biopolitics. As Daniele Lorenzini pointed out, the author «was not meant to show us just how *evil* this “modern” form of power is. Of course, it was not meant to praise it either» (Lorenzini, 2021), but rather to reveal and investigate the evolution of technologies of power and analyze their effects. A similar example to fully understand this relief can be found in *Discipline and Punish* from 1975. This well-known work starts, in fact, with the famous description of the violent torture of Damians — condemned for patricide and publicly quartered, on March 2, 1757, in the Place de Grève (now Hôtel de Ville) in Paris (see Foucault, 1995, pp. 3-7) — and then moves to a thorough investigation, certainly not without harsh criticism, of the transformations of the functioning of penal justice in the age of so-called «sobriety in punishment» (*ivi*, p. 14). Indeed, as Foucault shows, the disappearance of the spectacle of punishment was accompanied by the emergence of new procedural and administrative acts, resulting in a shift to a not unproblematically calculated delay of death — which was «multiplied by a series of successive attacks» (*ivi*: 12) —, and by an extension of the intervention space of control *dispositifs*. Yet, even in this case, although Foucault meticulously describes the danger that is inherent in the development of disciplinary power, and although he warns us against the calculatingly perverse mechanisms that mark the functioning of the prison, it would nevertheless be an incorrect inference to claim that the French philosopher meant to express a preference for the method of torture and public executions.

To return, then, to the initial crux, the point for us is to emphasize the need to get out of abstract dichotomous positions — to be “for” or “against” something — with respect to the biopolitical form of government. These positions, in fact, are not only unwise, but also unhelpful (see Lorenzini, 2021). On the contrary, it is necessary to confront ourselves with the specific historical and political context in which we are embedded and to *critically* evaluate the practical effects of the technologies of power to which we are inevitably subjected.

Having said this, I can thus arrive now to the second consideration. On the basis of the recognition of the exceptionality of the pandemic situation that characterizes our *actualité*, it may be appropriate to mark a double distinction and separation: firstly, between disciplinary and surveillance technologies, on the one hand, and biopolitics, on

the other hand; secondly, between biopolitics and thanatopolitics (see Prozoron, 2017, p. 331)¹⁷. In fact, it is only by virtue of this premise that one can legitimately argue today the need not to oppose biopolitical strategies, but, on the contrary, to enhance them, hence supporting their strengthening and wider application.

The assumption that underlies our proposal is that the pandemic conjuncture has given rise to a series of extraordinary conditions that exacerbated transformations concerning the exercise of disciplinary power, biopolitics, and thanatopolitics. With particular reference to the healthcare system, it can be observed indeed that, if since the beginning of the pandemic there has been an unfortunate increase in the use of disciplinary and surveillance technologies, this is not only due to the need to cope with the health emergency, but is also dictated, in large part, by the preponderance of the application, in recent years, of thanatopolitical technologies rather than biopolitical ones. The huge cuts to public healthcare, the monopolies and speculations of pharmaceutical companies, the wide recourse to insurance policies, the strengthening of private healthcare — just to mention some of the thanatopolitical maneuvers whose use has been motivated by priorities linked to the mere pursuit of profits — have not only created real lines of demarcation within society (between the privileged and the disadvantaged: that is, between those who have been able to benefit more from medical services and those who have been excluded from them, with obvious repercussions in terms of health), but have also caused enormous difficulties — if not the collapse — of many public health systems, unable to withstand the impact of the pandemic.

In a nutshell, the point is to recognize in the pandemic emergency the unthinkable historical condition that has decreed the need to correct the thanatopolitical dysfunctions and inequities that are currently present in our welfare systems, through a necessary recourse to biopolitics. An exemplary case in this regard concerns the free distribution of anti-Covid-19 vaccines in the United States, the homeland *par excellence* of private healthcare. The biopolitical measure implemented by the U.S. government was, in fact, a far-sighted one that serves precisely to counteract the shortcomings of the thanatopolitical mechanisms that, by excluding large segments of the population from access to care and welfare, could only create an increase in contagions and, consequently, a general worsening of the sanitary condition¹⁸.

17. It should be noted that, actually, for Foucault, these three technologies of power complement and refer to each other, without cancelling each other out.

18. Clearly, in this regard, it can be argued that the measure adopted by the United States was only made possible by a huge economic investment that (in reality) few governments can afford. This objection, evidently, is not only legitimate, but also goes in the right direction. If the pandemic is by definition global, we would indeed need equally global biopolitical measures.

Ultimately, what we can observe is that, as an alternative to paradoxically thanatopolitical positions, it is necessary to abandon many simplifications and ideological visions that are indiscriminately suspicious of any kind of government intervention, and it is rather important to recognize that biopolitical measures — even when they are linked to economic interests — can have ameliorative effects on living conditions and, consequently, also on conditions of freedom (see Sorrentino, 2012, pp. 66-67). In our view, it is thus in this direction that, starting from the identification of the centrality of the right to health, it becomes necessary to promote the claim of more biopolitics or, more precisely, of a *new form of biopolitics*, which is able to take charge of social, political, legal, economic and health differences, and is therefore based not on equality but on equity.

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