

# GENEOLOGY OF AUTHORITY AND THE PUZZLE OF SOVEREIGNTY

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## Abstract

In the following article on the basis of Agamben's and Arendt's philosophical tradition the idea of authority will be examined and interpreted in the light of the Agamben's most provocative and crucial concept-idea of Homo Sacer. Genuine understanding of the concept will be attempted by using genealogical and hermeneutical method. Despite the historical and philosophical richness and depth of material, Arendt's investigation lacks precise definition of the term and also nothing is said about the place and function of authority in modern social and political context. Arendt confines herself with historical elucidation and negative representation of authority. She tells more about what was not its meaning, rather defining it in positive terms. However, opposite can be said on Giorgio Agamben. Methodological resemblance of authors is evident, both chose archeological and historical form of inquiry, but as Agamben characterized his attitude, his aim was to develop the problematic thought and to say what remains unsaid and concealed in other's writings without any ambition of fulfilling it. Therefore, we can interpret the notions of authority and power, as they are mixed with each other in the sovereign's figure of indifference.

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**Keywords:** Agamben, Arendt, Authority, State of Exception, Homo Sacer

## Introduction

For the Greek mythological and philosophical tradition the rejection or killing of the father was not so strange and unconceivable theoretical event. It will be enough to recall Oedipus and Plato's "Sophist", in which Parmenides represents symbolic image of father, who then becomes the object of murder and overcoming. In political organizational structure and everyday life of Roman Empire metaphorical figure of father as legislator was founded by sacral perception of tradition and past. What links the concepts of domination and authority with the name of the father? Father was deemed as a head of household and a person who gave a command, also he is a subject who bears culturally accumulated form of oppressive power.

How is it possible and relevant to associate the pre-political domination and power of the father with the notion of “authority”, which according to Hannah Arendt is effaced from the modern political and social context? In the fundamental reflections on nature of political and on the forms of domination, Max Weber had already emphasized that without mutual expectations and recognition, power of the ruler would not have been a legitimate. Binary opposition of domination and obedience thus have some correlation with each other. This twofold structure reveals itself not only in the political modus of the human being, rather in the microstructure of family life, in which the recognition of “father“ returns us in the inauthentic infantilism of pre-enlightenment period. By this chronological and temporal threshold one can easily identify the Kantian definition of enlightenment, as man’s emergence from self-imposed immaturity, in which the subject is unable to use its own reason and understanding and is guided by external force.

The power of the father in family is not conditioned by the legal right, rather as one of the most politically organized people in history called it, by the “authority”. The “supreme” figure of the father is constructed and nourished by both, personal and impersonal aspects of authority. What differentiates authority and legal power from each other? Or both are incorporated and interconnected in sovereign’s figure, which can be described in terms of Carl Schmitt, as he who makes the decision on the state of exception (*Ausnahmestand*).<sup>57</sup> Concerning this first sentence from the “political theology” written by Carl Schmitt, one can say that both archeology and eschatology, or the beginning and the end, as an ultimate definition of sovereignty is already given in a very opening words. Sovereign at the same time is outside and inside of law. By declaring the state of exception, sovereign’s decision temporally suspends the legal order, which endows and provides the sovereign with such a right and instrument. Therefore legal order contains in itself self-destructive, or self-suspended possibility. Law can generate from itself its own double, or more precisely its own opposite. In this context, paradoxically sovereign’s figure is an embodiment of zero point of indifference, in which legal order or the system of norms and decision are mixed and linked together.

### **Hannah Arendt on authority**

Hannah Arendt’s text “What is authority” begins with preliminary consideration of what is not an authority and to which one should not identify it. “Since authority always demands obedience, it is commonly

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<sup>57</sup> See on this Schmitt Carl. *Politische Theologie: Vier kapitel zur Lehre von der Souveränität*. Berlin. Duncker & Humblot. 2009.

mistaken for some form of power or violence. Yet authority precludes the use of external means of coercion where force is used, authority itself has failed! Authority, on the other hand, is incompatible with persuasion, which presupposes equality and works through a process of argumentation. (Where arguments are used, authority is left in abeyance. Against the egalitarian order of persuasion stands the authoritarian order, which is always hierarchical”. [H. Arendt 2000: 463]. How is it possible and in what way should authority be defined, which is not characterized by using of physical force and also it is not based on the implicit desire of obedience by the construction of persuasive logical arguments. Hannah Arendt in her works also criticizes at that time relatively new functionalist approach. The specific sign of functionalist way of thinking is possibility of replacement of one element for another within the given system or structure. In this case we should recall Walter Benjamin’s essay “Capitalism as a new religion”, in which capitalistic economic and political system represents profaned or secularized version of religious belief. And Arendt’s own example, which is intended for refusing of functionalist understanding of authority; “The same argument is frequently used with respect to authority: if violence fulfills the same function as authority-namely, makes people obey-then violence is authority”. [H. Arendt 2000:471]. Following Arendt’s critical reception of functionalism, one can easily conclude, that equalization of communism or capitalism with worldly religious experience, is an instrument for the construction of surrogate forms of ritual and believe practices. Which by the force of analogue express the nature and necessity of religion itself, rather pointing out on its profane double. Beyond Arendtian critique of functionalism emerges the need of localization and desire of naming the all subjects. This theoretical gesture is opposed to poststructuralist interpretation of derivative, polyvalent and multiple sign. Fragmented and differentiated picture of social reality and being in general is constructed by the metaphor of itinerary tourist, who does not have any fixed ultimate dwelling place or living house.<sup>58</sup> In the postmodern condition according to Zygmunt Bauman nothing is solid and unchanged, moreover everything has fluctuating liquid feature, which can take any desired form and then deformed, transgressed itself.

Greeks had a rich political experience, but they did not have the notion and specific word describing what Romans understood by the term of authority. In ancient Greece sharp demarcation line was drawn between public and private spaces. The word οἰκονομία designated the private dimension of the household, which was ruled by δεσπότης. It is a very

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<sup>58</sup> See on this Zygmunt Bauman, *Globalization: The Human Consequences*. Columbia University Press, 1998.

similar to Hegelian master-slave dialectic, the master possessing coercive “power” on other family members and slaves could not be considered as free man. “And the master, according to Greek common opinion (which was still blissfully unaware of Hegelian dialectics), was not free when he moved among his slaves; his freedom consisted in his ability to leave the sphere of the household altogether and to move among his equals, freemen. Hence, neither the despot nor the tyrant, the one moving among slaves, the other among subjects, could be called a free man.” [H. Arendt 2000: 473-474]. Therefore according to Arendt one already knows that authority should not be compared to the forms of coercion and persuasion. Thus despot, who was a head of the family, did not possess an authority, which is still undefined and stays in obscurity.

### **Auctoritas and the state of exception**

Giorgio Agamben in his book “State of exception” making genealogical analysis of authority (*auctoritas*) and power (*potestas*) unequivocally refers to the Arendt’s above mentioned text. Both, in their writings cited the words of ancient Roman historian Dio Cassius<sup>59</sup>, who indicated on the impossibility of the simple translation of the Latin word *auctoritas* into Greek language.<sup>60</sup> According to Agamben’s interpretation, Dio did not intend to demonstrate specific Roman character and origin of *auctoritas*, rather its linguistic application and complexity of translation, impossibility of reduction on the one meaning.

Etymological and hermeneutical analysis of the concept will unfold new horizons of meaning and decipher original root of *auctoritas*. Both philosophers in their investigations stated that, *auctoritas* is derived from the Latin word “*augere*”, which means “to augment”, “to increase”. Agamben also cited the statement from Benveniste, to whom “*augeo*” also implies the creative act or production.<sup>61</sup> Presumably the words such as “author”, “actor”, “authorizations” have been derived from this common linguistic element. But, what connects genealogy of *auctoritas* with the state of exception and with the sovereign decision? In order to uncover the secret meaning of authority and its connection to the state of exception, some preliminary

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<sup>59</sup> It should be emphasized that Arendt quotes these words from Theodor Mommsen’s book “*Romisches Staatsrecht*”.

<sup>60</sup> “*Hellenisai auto kathapax adunaton esti*”. According to Agamben by these words Dio did not want to say that the word *auctoritas* could not be rendered in Greek at all. Agamben thinks that, *auctoritas* due the semantic richness should be translated differently, according to the context. See the page 75. Agamben G. *State of Exception*. Chicago. The University of Chicago Press. 2005.

<sup>61</sup> See on this Agamben G. *State of Exception*. Chicago. The University of Chicago Press. 2005.

historical remarks in needed. The remote structural analogue and prefiguration of the state of exception is Roman juridical and legal notion of “*iustitium*”. For the contemporary citizen of constitutional-legal state this word would not be the vague and obscure due to its direct connection to the modern notion of justice. However, initial meaning and usage of the concept would not be so usual and common. The notion of “*iustitium*” played a significant role and had a special function in the political life of Romans. Original denotation of “*iustitium*” was the temporal suspension of law and interruption of all legal procedures and social affairs. This extreme decision has been made by senate or magistrates on the basis of external threat or social disorder. Senate taking into account existed political and social constellation, declared the so called “*Senatus Consultum Ultimum*” or the final decree of the senate. This formula provided consuls with specific rights for the sake of the protection of the state. Senate’s announcement can be considered as transgression of the legal order, which creates extra juridical space. In this paradoxical situation Senate’s final decision can be counted as identical to law, or more precisely it has the same force of law without being legal element. However, following Agamben we also have to pose the questions on the source of the right of senate’s decision. Who or what bestowed senate with such a powerful weapon? Senates function and privilege position in Rome is not described in terms of *imperium* or *potestas*, rather they were called as “*auctoritas patrum*”. According to Agamben, in the Roman family structure *auctoritas* was counted as an exclusive right of the father of the family (*pater familias*). Asymmetrical and hierarchical attitude of family members towards the father indicated on their limited civil rights and dependence on the legally self-sufficient figure of the father. “In the sphere of private law, *auctoritas* is the property of the auctor, that is, the person *Sui iuris* (the *pater familias*) who intervenes—pronouncing the technical formula *auctor fio* [I am made auctor]—in order to confer legal validity on the act of a subject who cannot independently bring a legally valid act into being. Thus, the *auctoritas* of the tutor makes valid the act of one who lacks this capacity, and the *auctoritas* of the father “authorizes”—that is, makes valid—the marriage of the son in *potestate*.” [G. Agamben 2005: 76].

Genuine instrumental function of the state of exception is the construction of legal void and zero degree of order in general. In which meta-juridical status of the sovereign is revealed. Moreover, if one make the step further we will be able to conclude, that sovereign has an intention of producing docile bio-political bodies and as Michel Foucault would expressed it, decide on their live and death.

For Carl Schmitt, the source of legitimation of sovereign is the transcendent Christian God. In “Political Theology” paradox of sovereignty

will remain unresolved by using secular and legal categories, because founding and constituting power of sovereignty is metaphysical in itself. Sovereign at the same time is excluded from and included in the legal system. For Carl Schmitt “The rule proves nothing; the exception proves everything”,<sup>62</sup> [C. Schmitt. 2009: 21]. Or exception is a perfect example or model through which one can measure and examine the law. Exemplary character of the sovereign would be clearly seen if we recall another crucial text of Agamben, in which he wrote that, “One concept that escapes the antinomy of the universal and the particular has long been familiar to us: the example”. [G. Agamben 1993; 9].

Therefore, structural asymmetry and tension between *auctoritas* and *potestas* is clear. Senate possessed *auctoritas*, or something, which can be associated with virtue. By having at the disposal this status, one could without any impediment temporally suspend the functioning of legal power (*potestas*). As Theodor Mommsen described it, *auctoritas* is “less than an order and more than a counsel”. [G. Agamben 2005: 78].

However, this binary opposition is conflated in the figure of the sovereign, who creates the state of exception and cancels the deliberative and obligatory force of law. By declaring the state of exception, sovereign represents the zone of indifference, in which *auctoritas* and *potestas* are intertwined.

In this context we should introduce the concept of “*homo sacer*”, which was the obscure figure of archaic Roman law and was actualized and reinvented by Giorgio Agamben, according to whom, *homo sacer* was banned and excluded from the legal system, therefore his very existence have been reduced to bare life<sup>63</sup>. *Homo sacer* could be killed without punishment and his involvement in sacrificial rituals was also prohibited. This form of life is characterized as an absence of legal system and specific rights of human. However as Agamben stated, by exclusion from legal order, *homo sacer* is included in it. It is something like exclusive inclusion through which sovereign maintains the connection or control over him. Agamben cited the words of Pompeus Festus according to which “The sacred man is the one whom the people have judged on account of a crime. It is not permitted to sacrifice this man, yet he who kills him will not be condemned for homicide; in the first tribunitian law, in fact, it is noted that “if someone kills the one who is sacred according to the plebiscite, it will not be considered homicide.” This is why it is customary for a bad or impure man to be called

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<sup>62</sup> “Die Ausnahme ist interessanter als der Normalfall. Das Normale beweist nichts, die Ausnahme beweist alles.”

<sup>63</sup> Bare life is crucial concept for Agamben, which corresponds to Greek term of “*Zoe*” or common life for all in general and not to “*bios*” which means politically qualified life of human being. Agamben himself took the term from Walter Benjamin’s essay on violence.

sacred.“ [G. Agamben 1998: 47]. Homo sacer was a biopolitical body, whose life after excommunication was thrown into the state of exception, or in the dimension of indifference. Symbolic bodies of homo sacer and the sovereign structurally and functionally are very similar, if not identical at all. The figure of the sovereign is a substance representing the ultimate point of indifference. In its symbolical embodiment difference between legal power (potestas) and authority (auctoritas) disappears. As Agamben demonstrates it by recalling the case of Augustus<sup>64</sup>, who shared the power with other magistrates, but at the same time exceeded them due to the possession of auctoritas<sup>65</sup>. The bare life of homo sacer and the sovereign is paradoxically tied together. For the sovereign all human beings potentially are homo sacers and vice versa, for the later, all other humans are potential sovereigns, which can decide on their life and death. However, despite this analogue the question concerning the essence of authority remains unanswered and open for further interrogation and exploration. Therefore one should pose another problematic aspect about paradoxical similarity of these figures. If sovereign represents no difference between authority (auctoritas) and power (potestas), how potential enemies of homo sacer have to be treated and defined. Do they have at their disposal legal power as well as authority? The answer is negative due to the fact that it is very complicated to check and verify on whom we are speaking, who wants to harm or kill the homo sacer? Is he a person from acknowledged legal or social system or he is also an inhabitant of the space of indifference, of bare life, of the state of exception? Only after knowing this, one could guess, this potential sovereign for homo sacer has potestas or auctoritas, or has only bare need and desire of violence.

## Conclusion

Giorgio Agamben's diagnosis of modern political life is extremely radical, however it can be said that his reflections serves for unmasking and deciphering hidden foundations of modern political power. He claimed that we live under the undeclared but constant state of exception, which he is considering as ruling paradigm and as a new nomos of political life. Giorgio Agamben's critique of modernity stands very close to Arendt's own description of its crisis. Arendt's thesis concerning the disappearance of authority from modern world is linked to her another theoretical intuition, that the modern world is characterized by the "rise of the social" and declining of political sphere. From this perspective we can conclude that the

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<sup>64</sup> It can be clearly seen that Augustus and auctoritas, both are derived from same etymological root, "augere"

<sup>65</sup> See on this Agamben G. State of Exception. Chicago. The University of Chicago Press. 2005.

core idea of authority is possible and feasible only in the public political realm of intersubjective discursive practices. It would be clearer if we recall the distinction between household and public life in polis in which in contrast to former, freedom can be attained by the citizens. Giorgio Agamben did not suggest his own view on current position of authority. However, relying on his theoretical reflections, it will be legitimate to suppose that he shares Arendt's theory. In conclusion one remark should be made, that we are facing not a destruction but deconstruction of authority, which is reinvented and transformed again and again without completion.

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