



NONGOVERNMENTAL POLITICS

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with Gaëlle Krikorian and Yates McKee

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The Sovereign, the Humanitarian, and the Terrorist

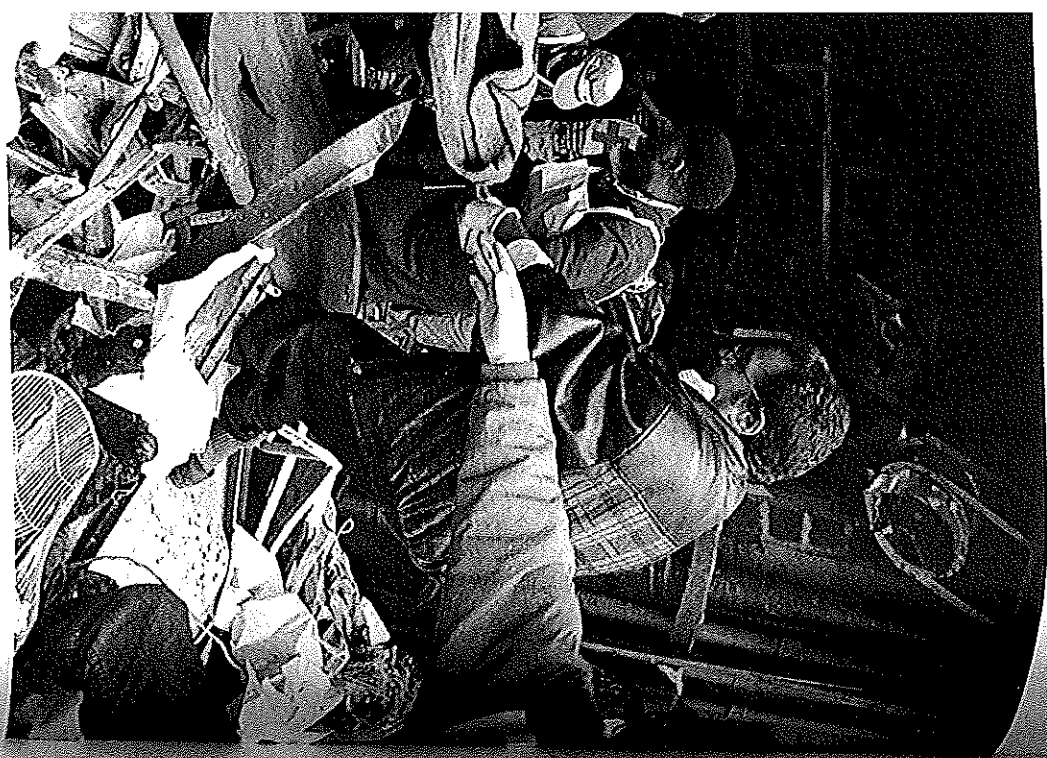
Adi Ophir

If sovereignty is the power granted by a juridical order proclaiming an exception to this order, as Carl Schmitt said, and if the state of exception proclaimed by a sovereign is a moment at which life is abandoned by the law, forsaken, and exposed to violence that the law does not punish, as Giorgio Agamben explains, then large-scale disasters challenge the very principle of sovereignty.¹ An emergency and a state of exception are created without being proclaimed by the sovereign, life is forsaken, and violent forces — natural as well as social — roam about, footloose, paying no heed to the sovereign's claim to have sole authority over life and death.

Contemporary humanitarianism is a more or less distinct formation of power and knowledge that specializes in lifesaving and relief technologies, which I would like to call "technologies of disaster" (henceforth TDs). The moral discourse and globalized practices embedded in these technologies present a different relationship to the exception and, hence, a different challenge to the political sovereign. In this paper, I propose an analysis of this challenge and some of its consequences. The agents of global humanitarianism are moral entrepreneurs whose discourse and practices propose — sometimes implicitly — a new model of relations between politics, law, and morality in which a certain form of biopolitics turns into a mode of resistance to state power.

MORAL TECHNOLOGIES

For centuries, the main task of political authorities in the West in times of calamity was to contain the disaster, to keep it from spreading into the safer areas, where the court and members of the elite took shelter. In the wake of a disaster, the forces of law and order would return to the scene, trying to restore their rule and sometimes taking advantage of new opportunities created by the disaster, enhancing their domination or transforming their power. This pattern existed in the West from the Middle Ages until at least the beginning of the eighteenth century. Then, gradually, with the expansion



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of the state, the emergence of the concepts of risk and probability, and the growth of new kinds of knowledge and the techniques associated with them, political authorities came to assume more and more active responsibilities for the direct management of large-scale disasters (natural as well as man-made). States developed and adopted new practices of preparation for expected disasters and new practices of control and relief when disasters did occur. Instead of containment, the task of political authorities and state apparatuses evolved into the efficient management of social space and the physical environment, the reduction of damage and injuries, and the political control and manipulation of the distribution of risks and losses. Disaster may still have been conceived as a natural event, and the state of emergency may have been imposed from the outside, but the sovereign insisted on controlling the exceptions created by the disaster and on making political use of its consequences. The modern state cannot tolerate no-man's-lands and hence mobilizes all its resources to prevent or eliminate them.

It was only around the turn of the twentieth century that modern states in the West assumed full responsibility for the way their societies cope with large-scale disasters, prepared for them before they happened, tried to limit the damage when they did happen, cared for the survivors, and rebuilt disaster zones. But as early as the end of the fourteenth century, in the wake of the Black Death, when the first technologies of spatial segregation appeared in Europe (the lazaretto, the quarantine, and the closure of houses, cities, and entire regions), political authorities recognized the importance of the TDs related to the plague, investing in and trying to gain control over them.² When both territoriality and the political problematization of life became essential components of the modern form of state power, TDs became political technologies, and their control and operation were at stake in political struggles. Plague regulations, issued and enforced by both local and central authorities, were widespread by the seventeenth century and served as one of the first and most important spheres for the development of the mechanism of biopower. Earthquakes called for building regulations and provided ample opportunity for rescue and restoration, as Sebastião de Carvalho, the marquis of Pombal, the virtual dictator of Portugal, demonstrated in an exemplary way in the aftermath of the 1755 earthquake in Lisbon.³ By the second half of the nineteenth century, after the Crimean War (1853–1856), the Battle of Solferino (1859), the American Civil War (1861–1865), and the establishment of the International Committee for the Relief of the Wounded, now the International Committee of the Red Cross (1863), Western states gradually recognized war as a disaster of sorts and adopted new technologies to save the lives and ease the suffering of its survivors.

However, alongside the political and governmental aspect of TDs, and sometime through it, TDs have always also been moral technologies. This is so for the same reason they are the business of the sovereign — because they involve life-and-death decisions. In another sense, these technologies were moral even before they became political, because they involved the care of the living before such care became the daily business of political authorities; they remain moral, even after being completely dissociated from any institutionalized religion, because they involve the concrete, technical, and mate-

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First aid on the front line during the First World War in Champagne,
France (Photothèque CCR(DR)).



rial embodiment of compassion, mercy, pity, and sacrifice for the sake of others. Indeed,
the care of the living and the special attention given to suffering and its reduction are
common to TDs and to some of the disciplinary technologies, insurance mechanisms,
and welfare institutions of the modern state. Like other mechanisms of biopower and
governmentality, of which they are certainly a part, TDs are at one and the same time
concerned with — and capable of dealing with — entire populations and specific indi-
viduals. The logic of their improvement and specialization means a growing capacity to
integrate individuals into specific populations that endow them with essential charac-
teristics while differentiating individuals according to characteristics that make them
singular. But there is a real difference that distinguishes TDs from other mechanisms of
biopower and governmentality. It is this difference that I would like to present now.

I am using the term *technology* in a wide sense, to designate a more or less structured
assemblage of power and knowledge that includes more or less coordinated physical
instruments, spatial arrangements, means of communication, means of data collecting
and processing, organizational procedures, and discursive practices. The entire instru-
mental apparatus is embedded in and activated through distinct discursive regimes that
direct the operation of instruments, determine these instruments' goals and set stan-
dards for their evaluation, educate skilled technicians, and maintain different kinds of
interfaces with other technical and discursive environments.

This technological assemblage has multiple origins, and its genealogy contains contingent circumstances, conflicting motivations, and unintended consequences. But to the extent that this assemblage has a certain structure, it already has a logic of its own that cannot be reduced to its multiple genealogies.⁴ This is the logic of the care for more or less anonymous others who are subject to severe hardship or threatened by imminent death. This type of care is made possible by the modern technological apparatus and is articulated through it; however, it is the care for others in distress that provides the technological apparatus with its direction, goals, and standards of operation. Care for others in distress is embedded in modern TDs and makes them a distinct part of the apparatuses of biopower. This distinction is most vividly realized today in nongovernmental humanitarian organizations, which are based in a globalized civil society and are relatively independent of both the state and its political interests and the global market and its economic interests.

This may seem like a naive presentation of contemporary humanitarianism, but I would like to insist on the following: notwithstanding everything we know about the more or less tact ways humanitarian organizations are manipulated by political powers and serve their interests despite the humanitarians' best intentions — despite their clear ideological role and the role they play in legitimating and stabilizing a new, immoral global economic and social order — the humanitarian organizations that operate TDs follow a clearly moral imperative: to save lives and to reduce suffering wherever possible.

Moreover, the moral interest has assumed here a distinct form — it is no longer an interest in the good or the just, or in moral law or duty, or even a more general interest in what ought to be done, but a specific interest in the misery of others — alongside a complex technological apparatus for pursuing this interest. Other interests and motivations — political, economic, libidinal, and so on — certainly play crucial roles in the ways humanitarian mechanisms are put to work. But in times of disaster, and the closer one gets to the disaster zone itself, the more all these “heteronomous” interests, as Kant would have called them, come to be articulated in the language of the ruling moral interest: interest in the misery of others. Everything must be justified in terms of the moral imperative — reduce suffering wherever possible — and whatever cannot be thus justified is open to criticism and sanction. As in the realms of science, art, and law, the question is not the purity of a seemingly autonomous judgment but the material existence of mechanisms — discursive, institutional, and technical — that serve to expose, separate, and exclude elements foreign to the judgment at stake. Such mechanisms have become an integral part of the contemporary apparatus of TDs due to the process of their specialization, which includes the education of experts, the emergence of a culture of expertise, and the institutionalization of a differentiated field (in Bourdieu's sense) of symbolic capital where these experts take positions.⁵

Contemporary TDs are moral before they are political and economic, and they may assume amoral meanings and be used toward political and economic goals only because and only insofar as they are directed by the logic of the care for life in distress. A recent, cynical example occurred during the U.S. wars in Afghanistan and Iraq, when some U.S.

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planes dropped humanitarian aid while others were dropping bombs. The American war machine mobilized TDs, just as it mobilized technologies of communication or computation, to prove to the Afghan and Iraqi people, and to the rest of the world, that the war was not directed against the people. Many critics were quick to note that the American aid operation was too little, too late and cynically used as American propaganda in order to justify reckless, futile wars. But in order to do precisely what the critics said they were doing, the Americans had at least to simulate actions driven by care for people in distress. In this they had to demonstrate neither moral sentiment nor moral virtue, but the measurable efficiency of their lifesaving operations. Had it been impossible to simulate rescue and relief, TDs would have been useless as a means of propaganda; had it been impossible to separate (if only in principle) proper from improper use of TDs, the critique of military humanitarianism would have been invalid to begin with.⁶

The management of disaster is a skillful, sophisticated operation of a variety of techniques of rescue, relief, spatial control, and distribution of aid and risk, good and evil. In any large-scale disaster, TDs are inevitably interwoven with the mechanisms, institutions, and rules of the state and the market. For this reason, the management of disaster provides a special opportunity for the "moralization" of the state apparatus and civil society and for the politicization of the morally motivated civil society. Facing a more or less imminent disaster, coping with one as it unfolds, or working in the wake of one that has already occurred, the state, the actors in the market, and every individual citizen are all "thrown" into the moral sphere and judged according to the way they put available TDs to work. Due to the very existence of a more or less sophisticated apparatus of TDs, just the possibility of a future disaster, let alone its actual occurrence, has a moralizing effect on the entire social system.

TDs are "in the moral" in the same way that scientists are "in the truth." To be "in the moral" does not necessarily mean to act morally (in the same way that a scientist may err and still be "in the truth"); it means that a certain attention to moral considerations becomes inevitable. And such attention becomes inevitable at the disaster site due to the mere fact that TDs are available and rescue and relief are possible. The very potential for rescue and relief turns disaster into a paradigm of a moral event and a unique place of morality. Disaster is always already a moral event and a moral place, but not because the duty to prevent it or to limit the damage it causes is placed over and above its political, economic, or religious meanings; on the contrary, disaster is a moral event due to the existence of TDs whose invention, maintenance, and operation are the business of the state, the market, and civil society at large. Disaster is a moral event precisely because (and to the extent that) all these agents have the means to intervene in its course or prevent its occurrence, and because its management is at stake in competitions and struggles among multiple social actors, who negotiate the proper criteria for the most efficient and hence worthiest ways to operate TDs—that is, to rescue and bring relief.

Here is a simple test for the morality of TDs: to avoid using them due to political or economic considerations is immoral. One may justify a failure to operate TDs or an improper use of them (in wartime, for example) with economic or political arguments,

but not with moral arguments—unless the rescue or relief operation itself endangers other people's lives. Political and economic reasons that put limits on the use of TDs are often disguised as moral arguments. In other words, the "regime of justification" in effect at the disaster site is moral, governed by the imperative to save lives and not to forsake them.⁷ Moreover, in and of themselves, when free of political manipulation, the instruments involved in TDs are color-blind. Differences of race, class, ethnicity, religion, language, gender, and so on cannot be articulated in the discourse of TDs. Such differences may be introduced only as exceptions to existing regulations or under some kind of disguise (for example, when regional boundaries overlap with ethnic or class differences). The imperative to care for life in distress sees no such differences. TDs care for life as such; they are concerned with what Agamben calls "bare life," life that exists prior to and outside of all political and cultural distinctions.⁸ Their first and most urgent objects of concern are the body and the conditions that strip it of its social, juridical, and cultural protection.

In fact, it is the concept of life itself that has become blind to political and cultural distinctions. There is no life that is not worth living, no life whose abandonment is morally acceptable.⁹ The universalization of the concept of life is an essential element in the ideology and technology of contemporary humanitarianism. This process is not self-evident and should be understood, at least in part, as a reaction to the hierarchical concepts of life proposed by various philosophical and political doctrines that emerged in the nineteenth century and were catastrophically implemented in the twentieth. Distinctions among different forms of life—based on biological, pseudobiological, anthropological, religious, or revolutionary principles—led to the disastrous distinction between life worth living and life whose abandonment and even elimination is permitted. Between universalist humanitarian ideology, which puts the rescue of human lives and the alleviation of human suffering first, and doctrines that accept the very possibility of a life not worth living, let alone explicitly advocate the abandonment of certain forms of life, there exists a clear *differend*.¹⁰ There can be no common ground between those who are preoccupied with superfluous, preventable human suffering and those who are preoccupied with superfluous human beings who, under certain circumstances, may be eliminated.¹¹ The biological or social differences between forms of life that make a difference to the latter cannot be articulated in the discourse of the former.

AGAMBEN'S CRITIQUE OF HUMANITARIANISM

This *differend* divides the sphere of biopower and splits the interest in bare life. It imposes two distinct courses of action that introduce life into the political and exclude it from the sphere of law. It is this *differend* that Agamben rejects in his discussion of bare life in *Homo Sacer*. His critique of humanitarianism and the implied dismissal of an autonomous moral relation to bare life that is not always already part of the inclusive exclusion of the sovereign deserves our close attention.

For Agamben, the "inclusive exclusion" of bare life makes possible at one and the same time relief operations in the name of human rights and policies of elimination of a kind of life that is not worth living. The camp is the common ground where these two seemingly contradictory courses of action meet. This site, which has become "the fundamental biopolitical paradigm of the West," is a perfect combination of the sovereign authority to exclude or to abandon and the sovereign power to intervene, take care, offer relief to, or destroy any single individual or entire group.¹² It is the place where life has lost its political existence and the law has turned into an endless series of regulations that may be invoked or revoked ad hoc. The state of exception, a temporary suspension of the rule of law as a response to danger or as an act of revenge, has now become the rule, and it takes place prior to any particular danger and beyond any moral sentiment, revenge included. The exception is embodied in a well-demarkated space, outside the everyday life-world of the "normal" citizen, but constantly intruding on its social spaces. The exception has assumed a life-world of its own in which it is at once the ruling norm and the means of ruling. The state of emergency has become permanent, or at least a lasting aspect of everyday life.

Our interest in disaster should direct our attention to two seemingly opposed aspects of the camp. On the one hand, some camps create (or are formed intentionally in order to create) a disaster zone for their inmates. This is clearly the case in most totalitarian camps, but it may also be true of more benign sites, such as a hospital struck by an epidemic.¹³ On the other hand, other types of camps open their gates to the survivors of disaster in order to provide relief and to help bring life "back to normal." Of the latter type, the refugee camp is the best example. In our contemporary world, refugees are often people who have been forsaken by the law in their countries of origin (either because the ruling power has failed to protect them or because it is seeking to destroy them). At the same time, they have usually not gained (and may never gain) such protection in the place where they are presently encamped. Refugees in a camp address a claim for protection to a sovereign of whom they have never been the subjects. They claim their human rights precisely because they have been deprived of their rights as citizens. The presence of millions of refugees at the gates of Western states, and sometimes in their midst, breaks "the continuity between man and citizen, *nativity* and *nationality*."¹⁴ They create the cracks through which bare life appears at the heart of the political sphere of liberal democracies and is exposed as that sphere's "secret pre-supposition," thus putting "the originary fiction of modern sovereignty in crisis."¹⁵

For Agamben, the refugee camp has a critical revelatory power. It demonstrates a secret truth of liberal democratic regimes, forcing their ruling powers to expose the direct relation to life that lies beyond their juridical and political appearances and to deal directly and openly with a mass of living bodies, which, despite being deprived of rights and foreign to the nation, still demands the protection of power. Agamben identifies weakened models of the refugee camps in many demarcated areas inside the nation-state, not just along its territorial borders, but in its airports and in the ghettos of its main cities: to this list we might add workplaces employing daily

immigrants who cross the border in the morning and return at night to their shanty towns on the other side.¹⁶ These are closed sites that serve as buffer zones for separating and mediating between the bare life within and the political life outside, where the intrusion of bare life into the civilized city is controlled and channeled.¹⁷

The refugee camp embodies and articulates the difference and accelerates the separation between human and civil rights. "The rights of man that once made sense as the presupposition of the rights of the citizen are now progressively separated from and used outside the context of citizenship, for the sake of the supposed representation and protection of bare life," but the demand for protection repeatedly fails because of the opposition of the nation-state. The latter's refusal to accept refugees as immigrants and gradually to absorb them and grant them citizenship not only separates civil from human rights, but also openly and explicitly links bare life to the latter and disguises the biopolitical origin of the former.¹⁸ In this state of affairs, humanitarian organizations that provide aid and relief to refugees, invoking the sanctity of their lives, act as a substitute for the political authorities and under their auspices, contributing to the reinstitutionalization of a false (ideological) distinction between the realm of bare life and the realm of politics. Humanitarian hyperactivity in the camps, where the law does not apply and aid is provided immediately and supererogatorily, regardless of nationality and particular interest, blurs — and thus helps reproduce — the biopolitical presupposition of political power, overshadowing the challenge to that power posed by the refugees and by the disaster that has forced them into exile.

Here Agamben adds significant weight and a new context to the arguments criticizing the contemporary humanitarian enterprise on the basis of the more or less tacit division of labor existing within the nation-state in the context of the ever-expanding neoliberal global economy.¹⁹ Humanitarian organizations, in Agamben's words, "maintain a secret solidarity with the powers they ought to fight."²⁰ Regardless of their intentions, humanitarians actually help to diffuse the challenge created by the masses of refugees and to restore the local and global order of the nation-states and the global market. They depoliticize the disaster, obstruct understanding of its local and global contexts, and tend to represent its victims as passive objects of care, devoid of political will and organizational capacities — if they do not actually make the victims so.²¹ Therefore, the problem with the contemporary, humanitarian form of TDs is not only that they may serve totalitarian and democratic regimes equally well; it is also that they directly contribute to the reproduction of the basic condition of political sovereignty: concealing the "originary" relation between the sovereign's violence and his subjects' bare lives; dissimulating the direct action of power over the subjects' bodies.

Following Agamben's line of critique, we must admit that TDs are moral technologies in precisely the same way that the disciplinary technologies described by Foucault are moral: although they lie "within the moral" according to contemporary conventions, from our critical point of view, they remain morally wrong. TDs may well be the locus of care for others in distress, but it is a kind of care that takes place only on the frontiers of the civilized world, in its "global borderlands," in the abandoned spaces where life is

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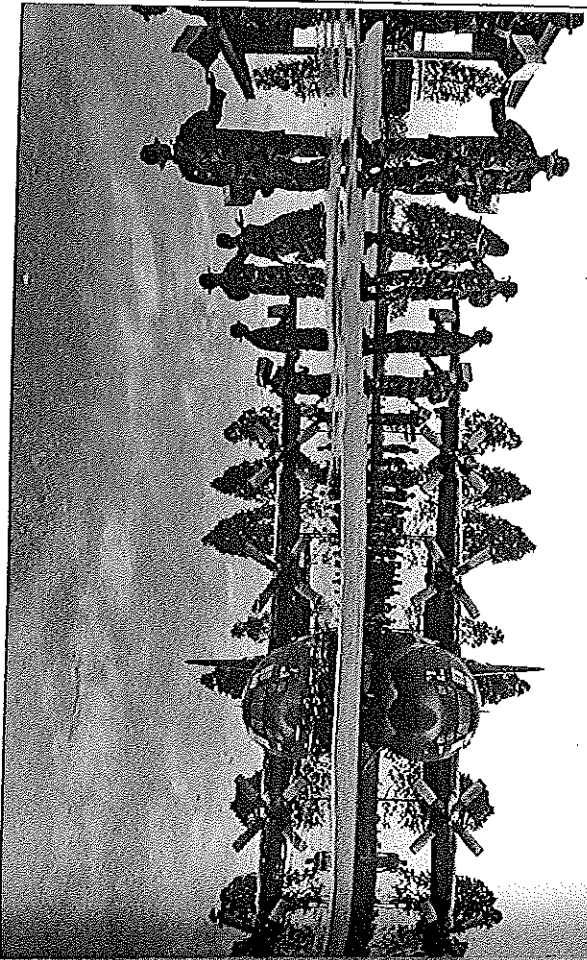
already forsaken, and the exercise of political sovereignty becomes ever more devastat-
ing.²² By depoliticizing and sacralizing abandoned life, contemporary humanitarianism,
according to Agamben, reaffirms the abandonment of life as the constitutive moment of
political sovereignty.

THE MORAL RESIDUE

Despite the depth of his insightful analysis, Agamben does not give good reasons to
drop the radical difference between the imperative to save and to provide relief and the
license to abandon and to forsake that splits bare life as an object of moral and politi-
cal interest. He fails to see the moral residue in the work of humanitarian organizations
that cannot be reduced to the role they play in the political sphere, in the consolidation
of a new world order, and in the reaffirmation of the basic principle of modern sover-
eignty. Like many other political theorists and sociologists, he fails to see this residue
because he does not consider moral interests and, more generally, "the moral factor" to
be real forces active in human reality.

Agamben can claim that contemporary humanitarianism merely reproduces the fun-
damental principles of the political — the sovereign exception that forsakes life, on the
one hand, and the politicization of bare life, on the other — only because he conceives
the extraordinary crises that call for exceptional humanitarian care as the other side of
the sovereign exception. But these crises, which are never "natural" — in fact, they are
always already politicized — are never a simple outcome of a sovereign decision on the
exception. They, too, contain a residue — of untamed events, underdefined interactions,
hybrid situations, and positions that evade the classifying power of the sovereign, or of
any other authority. Agamben is well aware of the subversive potential of some of the
crises that call for decisions on the exception, in particular the massive presence of
refugees and their challenge to the basic categories of the nation-state. But he under-
stands this challenge as a task to be undertaken, rather than as a part of an unfolding
reality: "The concept of the refugee must be resolutely separated from the concept of
the rights of man.... The refugee must be considered for what he is.... a limit concept
that calls into question the fundamental categories of the nation state... in order to clear
the way for an overdue renewal of categories."²³

The refugee is a limit concept indeed. This is not only because, like the sovereign,
he is set apart at the threshold of the law, but also because his very presence separates
the political from the moral. As a political noncitizen, he is outside the law; he does
not enjoy the status of a juridical subject endowed with political rights. But he is also
within the law to the extent that he becomes an object of concern for political authori-
ties, especially when he camps in territories under their jurisdiction and his exclusion
is legally authorized. At the same time, he is also an effect of a catastrophic event or of
disastrous conditions, which he actually extends and introduces into the daily life of
the civilized nation, being the embodiment and living presentation of the exceptional
breach of order that the catastrophe has been or has created.



Indonesian soldiers line up to unload relief supplies from a C-30 cargo plane at Banda Aceh airport six days after the devastating earthquake-triggered tsunami of December 26, 2005 (Bullit Marquez/AP Photo).

Usually the liberal sovereign (to whom I limit myself in this context) has no direct responsibility for this breach of order and for all the exceptions it entails. Even if the sovereign's policies generated the disaster, its coming into being could not be ascribed to or represented as the result of "a decision to make an exception" on the sovereign's part. The presence of refugees en masse means that an exception has been imposed on the sovereign or made for him. He is now called upon to make exceptions in response to an exceptional situation. He is required to make exceptional decisions relating to life that has been forsaken, decisions in which the further forsaking of life is always involved. But because humanitarians equipped with TDs are already present at the scene (if only as a mere potentiality, when they are denied access to it), exceptional response to the exceptional state of affairs has already been made, and it is made according to the moral imperative to save and to bring relief. Thus, thrown as they are at the threshold of the law and on the outskirts of the political order, refugees cast light on the sovereign's secret relation to bare life, as Agamben argues, but they also split this relation in two different, often opposing directions: a strictly moral one and a strictly political one. In our contemporary world, at least, the refugee is not just any other named and his existence cannot be reduced to that of a stateless person, as Arendt had it.²⁴ Rather, the refugee is always already a double subject: a noncitizen of the sovereign state on whose soil he resides and a potential or actual subject (subjectus) and object of the humanitarian regime of discourse and action that would keep him alive.

The sovereign exception is coupled with another exception, from which it cannot separate itself and with which it cannot be entirely reconciled: the humanitarian exception, which should be made not for the sake of sovereignty and its political order, but for the sake of those excepted by this sovereignty and excluded from that order.

In an age of globalization, this transformation of the exception that the refugee embodies is rearticulated in any large-scale disaster anywhere on the globe. Whether a calamity is defined as a "humanitarian crisis" or not, whether it is natural or man-made (and we know that such a distinction can no longer be maintained), it challenges sovereigns all over the world and forces them to make exceptions. In a globalized world, where images and information from faraway disaster zones reach every corner of the globe in no time at all and assistance may be transported within hours from anywhere on earth to stricken areas, there is hardly any large-scale disaster that is not also an event of deterritorialization. Postmodern catastrophes call for — and soon become scenes of — global intervention of all sorts: media coverage, humanitarian aid by governmental and nongovernmental agencies, pressure and assistance from neighboring countries, inspection by and assistance from bodies of international governance, and investigation and testimony collection by commissions of inquiry and interested members of the public worldwide. Most agents that respond to an emergency or try to take advantage of it interfere in the affairs of the sovereign in a limited and short-term way, but it is humanitarian intervention that calls into question the very foundation of political sovereignty. In a globalized world, no catastrophe is remote enough to be ignored, no refugee too much of a stranger to demand shelter and relief. From the humanitarian

point of view, which is already anticipated by and integrated into the state apparatus, the presence of bare life in the disaster zone (where local sovereignty has become null or is in ruins itself) or in the refugee camp (where local sovereignty is still oblivious to the new strangers) is not a license to exercise sovereign violence—rather, it is a call for sovereign protection. Catastrophes throw sovereignty into a space of exceptions; suspension—a suspension that, when taken to its limit, may jeopardize the existing political order.

The split described here is not simply a clash between the state and its sovereign, on the one hand, and the nongovernmental organization and its global citizens, on the other. The split inheres in the sophisticated apparatus of TDs of the modern state itself. This apparatus is put to work within the state and outside its borders as an exemplary expression of the sovereign's right to proclaim exceptions and to make decisions about life and death. But, although by the beginning of the twentieth century the modern nation-state had taken on responsibility for the administration of disaster relief and although many governments in the West have at their disposal an apparatus of TDs much more powerful than that controlled by NGOs, it is not a simple *raison d'état* that dictates the operation of these governmental TDs. The scale of its TDs notwithstanding, care inscribed in the TD apparatus and exemplified in the practice of humanitarian organizations. When governmental TDs differentiate among forms and kinds of lives, they put external limits on the humanitarian operation, abusing the instruments at their disposal and exposing themselves to criticism and indignation. Even if TDs are treated like any other apparatus of power and disasters are conceived as external events to be mastered and manipulated for someone's benefit, those benefits come, at least in part, by playing by the rules—in this case, the moral rules. When a government invests in the stock market, risk analysis becomes part of political reasoning; this is precisely what happens to humanitarian considerations when a government invests in the aid industry—these considerations become part of the *raison d'état*. Like economic or diplomatic considerations, moral considerations count in the rationality of the state because they are considered independent of the state.

In other words, the point is not to designate a pure moral actor, but to recognize the independence that moral considerations have gained within the state apparatus due to the mere availability of TDs and the presence of the professionals who operate them.

This is clearly the case when catastrophes take place in weak states. The question onstrate an important distinction between "strong" states that are capable of mobilizing a strong and sophisticated apparatus of TDs to handle their own disasters and to help other states, and "weak" states that lack the economic, technological, and organizational capacity to cope with large-scale disasters. In the contemporary, globalized world, these types of crises have become a chronic phenomenon in the weak states, and the intervention of humanitarian organizations, upon which those states are increas-

ingly dependent, has become an important force contributing to the disintegration of their sovereignty. It is the very presence of a powerful apparatus of TDs that embody a clear moral interest that makes possible the transformation of the moral claim into political power.

The question of who owns and is capable of operating TDs is often a crucial one within the state itself, as the failure of the American rescue and relief agencies after Hurricane Katrina struck the Gulf Coast in 2005 made clear. On the eve of the catastrophe and during its first days, governmental agencies acted according to patterns that were well established in the United States—they provided safety nets for the rich and forsook the poor. This kind of policy is acceptable in American political culture as long as success and failure are ascribed, on the one hand, to individuals' gifts and commitments and, on the other, to the blind forces of the market. But when it comes to the blind forces of nature, forsaking the weak seemed unacceptable, and criticism of the government mounted. Why? Because catastrophes, like wars, seem to transform the arena of governmental action and responsibility. They are the business of the political sovereign, his most significant sphere of action, and the realm where sovereignty is established, tested, and contested. And it has been contested, not by a claim for alternative sovereignty, but by claims for a different humanitarian concerns. In times of large-scale disasters, those claims that characterize humanitarian concerns. In times of large-scale disasters, it is neither the market's nor God's invisible hand, but the sovereign's that is expected (since the turn of the twentieth century, at least) to distribute risks, redistribute losses, and administer disaster relief. In times of disaster, the very existence of a sophisticated state rescue apparatus means that responsibility for the fate of the poor rests on neither the poor nor their God, but on the efficiency of this same apparatus. And this efficiency is always already a moral matter.

The existence of such an apparatus is the privilege and sign of strong states. It functions as an integral part of biopolitics in general, and the occurrence of disasters as events to be predicted, avoided, and, if they are unavoidable, alleviated, is not only the objective of biopolitical mechanisms, but also an opportunity for expanding them and for strengthening their grip on the governed population. In strong states, large-scale disasters inevitably lead to a rapid augmentation of the deployment, activity, visible presence, and latent capacities of biopolitical apparatuses, as the attack of September 11, 2001—and the more recent terror attacks in Madrid, in 2004, and in London, in 2005—clearly demonstrated. Moreover, in a globalized world, where the "rooms of evil" and agents of disaster cannot be contained within the boundaries of the nation-state, governmentally controlled TDs have been integrated into growing global biopolitical networks whose task is, on the one hand, the surveillance and capture of dangerous individuals—carriers of illegal drugs, bombs, or viruses—and, on the other hand, the monitoring of the condition of populations in danger. Of the many outcomes of these new biopolitical mechanisms, two should be singled out in the context of this discussion. First, strong states and international agencies can now mobilize an efficient rescue apparatus for the sake of endangered populations of weak states, which are usually

more exposed to natural and political catastrophes and much less equipped to cope with them. Second, strong states are more interested in, and more capable of, the surveillance of certain citizens of weak states and those who find shelter there, because they are conceived as dangerous individuals, in fact, as agents disseminating disaster terrorists.

Coming to the rescue of endangered populations before, during, and in the wake of large-scale disasters is a highly contested matter in the international arena. Even if no conscious political criticism were involved, the moral cause would be thoroughly politicized due to the very presence of governments as major players whose actions and inaction have great effect on the suffering of many. The tension between pragmatic, political, or economic reasoning and moral reasoning (which in times of disaster and when the sovereign acts within his own state must be concealed or overcome) becomes manifest and shameless. But this tension is not a matter of an impotent "beautiful soul" facing the cynicism of power; it is, rather, the expression of rivalry and competition between state power and empowered groups of citizens, which are quite well equipped for their task and act outside the realm and logic of the state. The very presence of a powerful apparatus of TDs that embodies a clear "moral interest" makes possible the transformation of a moral claim into political power. Whereas the presence of governments at the site of a disaster politicizes a moral cause, the presence of humanitarian organizations in the international arena moralizes a political cause. It is here that the difference between humanitarian and political considerations becomes an overt contradiction.

Nongovernmental humanitarian groups that think and act globally run a course that, sooner or later, will be obliged to oppose that of governmental rescue and aid apparatuses. The contradiction is structural and rests on two opposing claims to the state of emergency and the exception to the rule. For the sovereign, declaring an emergency and suspending the law is a moment of self-constitution for the humanitarian, it is a moment when the fate of the other becomes constitutive for the activity and attitude of the self.

THE TERRORIST AND THE HUMANITARIAN

In the background of this binary relation, the ghost of a third party is already hovering, waiting for our consideration. We have already encountered him in passing: the terrorist. He, too, takes a stand regarding the state of emergency—he seeks to bring it about or to force it on the sovereign. Whatever his political motives (and they may vary in ways that lead some people to make distinctions according to the nature of the terrorist's cause, but we must insist here on the similarities of tactics and practices), he is as indifferent to the law of the sovereign as he is to the moral concern of the humanitarian. When he acts, he is a rival to both. Indeed, in this triangle of relations to the state of emergency, each position, when thought of abstractly and according to its basic principles, negates the other two. Thus, for the humanitarian, it does not really matter what the political cause and origin of a state of emergency are. Whether the state of emergency has been declared by a disastrous sovereign or by a sovereign reacting to a

natural disaster or to acts of terror, the humanitarian is concerned with bringing rescue and relief to the survivors, regardless of the political considerations of both the sovereign and terrorists. Not surprisingly, from the sovereign's point of view, the challenge posed by foreign humanitarian activists is not altogether different from that posed by terrorists. And it is not unrelated, either. Facing the threat of terror (even if this threat is imaginary or exaggerated), the sovereign nation-state is ready to suspend the law, along with the humanitarian apparatus that works on its margins, and, at the same time, it provides this apparatus with ample new sites and reasons to redeploy itself (as is the case of the United States in Afghanistan and in Iraq, Russia in Chechnya, and Israel in the occupied Palestinian territories). Humanitarian organizations, in turn, are often ready to suspend their condemnation of terrorism, a gesture which has become a cliché in the public discourse of the liberal states: they are ready to extend their work to populations that support or at least tolerate the new form of terrorism as long as their own neutrality is recognized and their immunity respected.

However, these causal links are quite contingent; the true affinity, perhaps even the common ground between the terrorist and the humanitarian is not causal, but structural, at least where the new form of globalized, international terrorism is concerned. The structural similarities between these two phenomena are striking (and embarrassing). Let us mention them briefly: transnational networks lacking a center (or having a center that is contingent and temporary); exemplary models of voluntary, heroic action that are quickly reproduced and distributed across the globe, breeding imitators and enjoying the admiration of large audiences that are not directly involved in the context where the model of action originated; the sacrifice and expenditure of resources taken out of regular cycles of commercial and political exchange for the sake of a goal that is portrayed as higher than the usual goals of everyday political or economic action; nomad practices and mobility that make it possible to land and sojourn for both short and long periods anywhere on the globe, combined with an in-depth interest in a particular locality, carefully chosen and methodically studied; a special interest in bare life and a more or less systematic tendency to depoliticize the victims' bodies; a certain changing balance between spectacular and clandestine aspects of the operation; a certain indifference—in theory, if not always in practice—to the territorial and symbolic borders of the nation-state; and, finally, the use of religious discourse, which is not peculiar to terrorists, and even traditional philanthropic practices and organizations associated with religious institutions.

Let's take a closer look at these similarities and use them to understand better the place of global humanitarianism in the liberal nation-state and its relation to the political sovereign. Terrorists and humanitarian activists alike are interested in bare life, but in opposite ways. The humanitarian does not make explicit distinctions of skin color, race, ethnicity or religion in his rhetoric, and when critics point out such distinctions in practice, he tends to reform his language and practices, or at least to make excuses. On the other hand, the terrorist makes an explicit distinction between friend and enemy

In his rhetoric, but in practice, his enemy is analogous to the humanitarian's disaster: it designates an area, geographic and imaginary at the same time (America and its allies, Jews and their friends: the government and its collaborators) and targets anyone who happens to be within it. Attacks on tourist destinations (for example, Mombasa, Kenya, Kasabasi, Turkey, and Jaba and Sharm el-Sheikh on the Sinai peninsula) demonstrate this clearly. Once a disaster site is targeted, the humanitarian works to save life, no matter whose — the only question (in principle) is where life is being forsaken. Once the enemy is declared, the terrorist's aim is death: it matters little whose — the main question is where lives can be effectively and easily taken. This difference between killing or forsaking life and bringing succor to forsaken life cannot be gainsaid.

Between the terrorist and the sovereign is a gray area inhabited by terrorist organizations seeking to establish a sovereign state and state terrorism that seeks to suppress dissenting movements. Between the humanitarian and the sovereign is a gray area inhabited by governmental and semi-governmental humanitarian organizations using TDs under the auspices of the sovereign and alongside other state apparatuses. But between the terrorist and the humanitarian is a gap, a void, that, despite all structural analogies, no existing practice can fill. Of course, some terrorist or so-called terrorist organizations operate philanthropic institutions, but this is accidental to their terrorist tactics; they do so because they are also political organizations that care for particular populations. There may even be — although this is certainly rare — some humanitarians who have adopted terrorist practices or lent their support to terrorist activities; but, from the humanitarian point of view, such activity, if it exists at all, is entirely accidental.

A CHALLENGE TO SOVEREIGNTY

In the postmodern arenas of large-scale disasters, contemporary refugee camps, and the rapidly multiplying scenes of international terrorism, there appear to be three related processes by which sovereignty is deconstructed: the monolithic, unified, and coherent concept of sovereignty is undermined by the multiplicity of agents that negotiate, compete, and fight over different types of exception making; a lacuna erupts at the heart of the usually ubiquitous mechanisms of biopower, which seem helpless at precisely the moment when they are most needed; and the territorial boundaries that spatially delimit sovereignty are constantly transgressed by streams of people, goods, and information flowing into and out of the disaster zone. But these processes could not take place without both the discourse and practice of humanitarianism and the disarray, anxiety, and death spread by terrorism. Indeed, both terrorism and humanitarianism need the active cooperation and mediation of electronic and print media, but the dreadful images and horrific stories would not make any difference without the new possibilities of action that have opened in these two opposite directions.

The terrorist and the humanitarian face the sovereign from opposite positions. They resemble each other in certain crucial aspects of their activity; their difference lies in

the direction (and sense) of this activity, in its explicit goals and immediate effects. They both compete with the sovereign himself, never with each other, over the sovereign exception, the right and authority to forsake life, and the proper way of dealing with forsaken life. The two signify the opposite directions that the biopolitical apparatus of the modern state can take. On the one hand, there are moral technologies for the administration of disaster relief whose internal dynamic involves moving from the response to a catastrophic event and its consequences to an attempt to deal with the political conditions that make the catastrophe possible and that amplify its impact. On the other hand, there are disastrous technologies for the administration of life whose inner dynamic entails moving from response to disaster to the systematic production of disastrous conditions. Between the two, there are different areas of congruence and a considerable element of mutual imitation. In response to terrorist acts, the state imitates the terrorists, who, in turn, imitate the state; in response to large-scale disasters, the state imitates the humanitarians, who, in turn, often try to imitate and adopt the practices of a state apparatus.

Somewhere between the terrorist and the humanitarian, forsaken life imposes itself and demands a redefinition of the relationship between political rights and their exception and between the juridical order and its suspension or extension. It won't suffice to recognize the refugee as an abandoned body and forsaken life who "only as such is... made into the object of aid and protection." Nor will it suffice to recognize the citizen as a body and locus of life that should be administered well in order to be protected from the unbearable randomness and cruelty of terrorist violence. The state of total abandonment that accompanies large-scale disasters, like the state of emergency imposed by terrorist attacks, and the state of total security sought after such attacks provides ample opportunities for biopower to extend and deepen its infiltration and colonization of the life-world and give it new legitimacy.

These extreme situations, which can no longer be considered exceptional, also challenge the sovereign by undermining his monopoly over the authority and power to suspend the law, make exceptions, and forsake life. At the same time, the accelerated intrusion of power into the daily life-world of the governed, which is justified by the need to "fight terrorism," is not simply or merely the effect of sovereign decisions. It is also, at the same time, a reaffirmation of the threat to this sovereignty, which continues to crop up behind the backs of the policemen, security agents, guards, and gatekeepers. The reach of this threat is as wide as the entire security network: the threat is present whenever sovereign power is present. Not only are the nation-state's borders being called into question here, but also, and perhaps mainly, its totalizing claim to the administration of life. In other words, what is being called into question is the authority of the sovereign to be the sole legitimate source of the decision to declare who should be abandoned, whose life can be forsaken, and which exception is the proper one. New relations between power and life are currently inscribed at the two ends of the spectrum through the two major, opposing forms of sacrifice and transgression in contemporary culture. The question ultimately concerns the authority of the sovereign to bring

under his jurisdiction—precisely by suspending the juridical order—anything that lives or relates to the living, leaving no residue.

It should be noted that even when a functioning humanitarian nongovernmental apparatus is absent, the mere existence elsewhere—even the mere feasibility—of effective TDs (whose mobility now becomes crucial) turns life ruined by disaster or inside the refugee camp into a challenge to sovereign power. TDs' concrete embodiment of the moral imperative—to save as many lives as possible, to limit suffering and loss as much as possible—transforms every disaster, every refugee camp, anywhere on the globe, into a scene of confrontation and cooperation, and in any case into a zone of distinction, between the moral and the political. The same is true, in the opposite direction, for terrorism: even when an active terrorist infrastructure is lacking, the mere existence—even the mere feasibility—of disastrous terrorist activity turns "well-administered life" in the nation-state into life at imminent risk, to be forsaken at any moment, anywhere; this potential forsaking of life, which does not originate with the sovereign, is necessarily conceived as a threat to the sovereign nation-state, to any sovereign state around the globe. The moral, religious, or quasi-religious imperative embodied in the terrorists' deadly *mode of action* (for it is neither an apparatus nor a social institution) transforms any site within the social space into a possible scene of confrontation, tacit cooperation, and certainly differentiation between the anarchist element inherent in the ideology of terrorism and the *raison d'état*.

Humanitarian organizations widen the gap between the rights of man and the rights of the citizen, perhaps contributing to the exclusion of their clients from the public sphere of the liberal state and to the silencing of their voices.²⁶ But in doing so, they are not simply taking part in the depoliticization of disaster (as their critics rightly claim, although this is not always or necessarily the case); they are also placing the moral claim above and prior to the political or social bond and are ready to follow up on this claim, even when it transgresses the limits of the social bond. Terrorism, in turn, also widens the gap between man and citizen through the reaction it provokes from state power (Closer surveillance of suspected persons' rights; and so on). Whenever it is sensed as imminent, the threat of terror also tends to silence or at least flatten the political discourse. But it does something else, aside from contributing to the augmentation of the state and its biopolitical apparatus. Terrorism depoliticizes power by confronting us with an absolute enemy that is said to unite us all and that is portrayed as an extraterritorial element—a force that transcends the political sphere and that must be opposed, for its negation is a condition for the very existence of the social bond.

The depoliticization of the humanitarian claim, like the exclusion of the terrorist claim, may be in the short-term interest of both the sovereign and his two rivals. The humanitarians hope to gain better access to the places and victims of disaster by presenting the humanitarian space as apolitical; the terrorists seek to present a radical alternative to the political and avoid any kind of negotiation with the sovereign power. Power itself benefits from the depoliticization of disaster, for this enables it to deny its

responsibility for the conditions that make disaster possible. Power also benefits from the depoliticization of terrorism, for this enables it to avoid coming to terms with the terrorists' demands and claims, their motivations, and the conditions that sustain them. In both cases, the primacy of the apolitical principle guiding both humanitarianism and terrorism may serve as a means of depoliticization, which helps to conceal and reproduce the biopolitical foundation of modern sovereignty, strengthens state power, and diminishes the universalist dimension of citizenship. But in both cases, what's at stake is the inevitably temporary suspension of the imminent political challenge posed by the sovereign's two rivals.

The terrorist's act imparts the state's capacity to administer its citizens' lives, but this is often merely a means toward an ultimate goal: the destruction of the state and the establishment of a radically different political order in its place. The humanitarian seeks, in principle, if not always in practice, to subjugate biopolitical apparatuses to the imperative of caring for others in distress. Implied in this claim—in principle, even if the implication is often debated and sometimes rejected in humanitarian discourse—is a further demand for the inevitably political transformation of the disastrous conditions themselves. This includes the elimination of the permanent state of emergency and the restoration of a civic dimension to the life-world of the stricken population. International terrorism ends and forsakes life in order to undermine the very possibility of citizenship within the existing political order, holding life itself in suspense until the coming of a radically new form of political bond. Global humanitarianism, or at least certain voices within it, speaks in the name of the humanity of forsaken lives and puts forward moral demands with political implications that create new forms of solidarity and challenge the boundaries of the nation-state and the way it constrains and nationalizes the idea, rules, and practices of citizenship.

This, I believe, is the subtext of the 1999 Nobel Prize speech of James Oshinski, the former president of Médecins Sans Frontières (MSF):

Ours is an ethic of refusal. It will not allow any moral political failure or injustice to be sanitized or cleansed of its meaning. The 1992 crimes against humanity in Bosnia-Herzegovina. The 1994 genocide in Rwanda. The 1997 massacres in Zaire. The indiscriminate 1999 attacks on civilians in Chechnya. These cannot be masked by terms like "Complex Humanitarian Emergency," or "Internal Security Crisis." Or by any other such euphemism—as though they are some random, politically undetermined event. Language is determinant. It frames the problem and defines response. It defines, too, rights, and therefore responsibilities. It defines whether a medical or humanitarian response is adequate. And it defines whether a political response is inadequate.... For MSF, this is the humanitarian act: to seek to relieve suffering, to seek to restore autonomy to witnesses to the truth of injustice, and to insist on political responsibility.... Ours is not to displace the responsibility of the state. The final responsibility of the state is to include, not exclude, to balance public interests over private interests, and to ensure that a just social order exists. Ours is not to allow a humanitarian ally to mask the state responsibility to ensure justice and security.²⁷

Everything is presented here in a nutshell: the irreducibility of the moral concern; the necessity to politicize humanitarian action—that is, to understand it in its proper political context and to take account of its political implications—without, however, taking any position regarding the stakes of the political game, assuming and addressing the state's responsibility to ensure justice and security and to protect every one of its subjects, without, however, speaking from the point of view of the state or its people; taking the position of a universal addresser whose sole legitimacy comes from the unbounded solidarity with the victims of power it claims to embody (but not to represent); the readiness to turn this unbounded solidarity with the victims into a challenge to the sovereign power that generates and fosters their plight or that blocks those who come to their rescue.

That in practice humanitarian action often finds itself entangled with the power it should oppose or challenge is obviously true, and the critique that has exposed this is abundant. The point, as I said above, is not that humanitarian actors are morally right due to their concern with the suffering of others, but that they are "within the moral." Thus, critical reflection that insists on deciphering their collaboration with the powers that generate disasters is not external to their discourse, but is one of its constitutive elements, and its efficacy may be compared to that of refutation in the sciences. The humanitarian "regime of justification" means that reflection on any course of humanitarian action must frequently go through and overcome the suspicion of collaboration, a course of action that fails the critical test should be abandoned. This is as close as one gets today to the existence of morality as a sui generis domain or a social sphere, with stakes, concerns, and interests of its own.

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 - 5 On the humanitarian field, see, for example, Pascal Dauvin and Johanna Sliemers, *Le travail humanitaire: Les occurrences ONG du séisme au terrain* (Geneva: Presses de la Sorbonne, 2002).
 - 6 For the debate on humanitarian (military) intervention, see, for example, J.L. Holzgrefe and Robert O. Keohane (eds.), *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge: Cambridge University Press, 2003).
 - 7 I am borrowing the concept of the "regime of justification" from Luc Boltanski and Laurent Thévenot, *On Justification: Economy of Worth*, trans. Catherine Porter (Princeton, NJ: Princeton University Press, 2006).
 - 8 Agamben, *Homo Sacer*, pp. 4–9.
 - 9 It is worth noting that the distinction between human life and the life of other animals has been recently called into question, as well as the elimination of living species and the suffering of animals have become the object of much debate and political struggle.
 - 10 I am using the term in the sense given to it by Jean-François Lyotard in *The Differend: Phrases in Dispute*, trans. Georges Van Den Abbeele (Minneapolis: University of Minnesota Press, 1988).
 - 11 See Adi Ophir, *The Order of Evil: Toward an Ontology of Morals* (New York: Zone Books, 2005), pp. 552–79.
 - 12 Agamben, *Homo Sacer*, p. 18.
 - 13 Here is but one quick example: in his book on Florence Nightingale's work of relief and nursing in the Crimean War the historian Hugh Small writes, analyzing the causes for the high mortality rate in Nightingale's military hospital in Scutari, "In the five months before the Sanitary Commission arrived [in Scutari], between November 1854 and March 1855, Nightingale had not been running a hospital. She had been running a death camp." Hugh Small, *Florence Nightingale: Averaging Angels* (New York: St. Martin's Press, 1998), p. 88.
 - 14 Agamben, *Homo Sacer*, p. 13.
 - 15 *Ibid.*
 - 16 Weakened in the sense that the virus in a vaccine is weakened.
 - 17 Agamben, *Homo Sacer*, pp. 174–76.
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 - 19 See, for example, Alex de Waal and Rakya Omar, "Doing Harm by Doing Good? The International Relief Effort in Somalia," *Current History* 92 (1993), pp. 198–202, and *Humanitarianism Unbound? Current Dilemmas Facing Multinational Relief Operations in Political Emergencies* (London: African Rights, 1994); Joanna Marcuse and Anthony B. Zwi (eds.), *War and Hunger: Rethinking International Responses to Complex Emergencies* (London: Zed Books, 1994); Alex de Waal, *Famine Crimes: Politics and the Disaster Relief Industry in Africa* (London: African Rights and the International African Institute and Indiana University Press, 1997); Pierre de Senarctus, *L'humanitaire en catastrophe* (Paris: Presses de la Sorbonne, 1999).
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 - 23 Agamben, *Homo Sacer*, p. 134; emphases added.
 - 24 Hannah Arendt, *Imperialism: Part Two of The Origins of Totalitarianism* (New York: Harcourt, Brace and World, 1968), pp. 148–70.
 - 25 Agamben, *Homo Sacer*, p. 133.
 - 26 *Ibid.*, pp. 13–13.
 - 27 James Orlanski, "The Nobel Prize Acceptance Speech," Oslo, 1999, available online at www.doctorswithnobelorders.org/publications/speeches/1999/nobel.dfm.