

Chapter 5: Paradigms of Sovereignty

Formulating a general understanding of sovereignty is not an easy task, insofar as sovereignty appears paradoxical and is described through several apparently incompatible figures. It can be revealed through the act of making decisions on the state of exception as well as through the structure denoted by the existence of bare lives. It can be considered a principle of monarchy as well as an instrument of democracy. Sovereign power may be centralized in a single person as well as decentralized among many people. Sovereignty appears to be summoned exclusively in a state of emergency, whereas it also penetrates the state of normality and continuously denotes the border of normal order.

These varied understandings largely result from approaches that conceive sovereignty as a determined object, thereby making possible the description of its *marques* (marks) and *qualité* (quality). Since Jean Bodin (1993, p. 151) introduced the concept of »sovereignty« by placing the focal point on sovereign princes as a kind of person possessing features not shared by others, most investigations of sovereignty—including those of Hobbes (2021), Schmitt (2021), and Foucault (2003)—have concentrated on figures who exert power centralized in themselves.

Thematizing sovereignty through a determined object helps clarify its role in political phenomena. Nevertheless, this advantage is limited. On one hand, it is questionable whether the features, in terms of marks, exclusively possessed by determined figures are, to the extent of functions, not shared by others. On the other hand, sovereignty, in the sense of the attributes ascribed to a particular type of figure, is primarily an effect, so an understanding based solely on it is inevitably insufficient. As Spinoza

emphasizes in *Ethica I* ax. 4, »*Effectus cognitio a cognitione causæ dependet, et eandem involvit*« [knowledge of an effect depends on, and involves, knowledge of its cause].

By introducing the figures of the *homo sacer* and the concentration camp, Agamben addresses the first limitation: The properties of sovereignty, in terms of its function in the legal system, can also be exhibited by figures that do not wield centralized power. These figures, as historical phenomena, are treated by Agamben (2009, p. 9) »as paradigms whose role was to constitute and make intelligible a broader historical-problematic context.« Unlike Thomas Kuhn's (2012, p. 42) notion of scientific paradigm which denotes »the rules and standards for scientific practice« shared by certain scientists, the notion of paradigm here refers to a singular case that, in being exhibited, renders more intelligible what can be recognized in other cases standing »beside« it and belonging to the same group, a group that becomes visible through these cases. This is suggested by the Greek word παράδειγμα, from which the word »paradigm« derives: It is a compound of παρά (beside) and δειγμα (the exhibited thing), the latter deriving from the verb δείκνυμι (to exhibit).

Bodin's sovereign prince, Schmitt's decision-maker on the exception, and Agamben's *homo sacer* can all be conceived of as paradigms, insofar as each makes sovereignty partly intelligible. Sovereignty is first thematized by Bodin through the demonstration of the hierarchical role of the prince in the commonwealth. The old definition of sovereignty as »the highest, legally independent, underived power,« (Schmitt 2005, p. 17) however, implies further features that lead to extensively varied understandings. By placing the person who decides on the exception beside Bodin's prince, Schmitt exhibits sovereignty in its relationship to the state of exception. Agamben, in turn, exhibits the threshold structure of sovereignty as an indistinction between the inside and outside of the functioning legal system by placing further paradigms—namely, the *homo sacer* and the concentration camp—among the classical paradigms of sovereignty. The newly identified figures, together with the classical ones, reveal the configuration of sovereignty by highlighting its borderline character and weakening the emphasis on centralized power. Nevertheless, this understanding of sovereignty remains insufficient insofar as the cause of sovereignty has not yet been made intelligible.

The varied paradigms of sovereignty suggest the difficulty of tracing the cause of sovereignty back to determined elements. None of the paradigms can be considered the origin of the others or of the entire group, because »in the paradigm, there is no origin or *arche*; every phenomenon is the origin, every image archaic« (Agamben 2009, p. 31). Between effect and cause, however, there is a third term: generation. In this regard, political *techne* can be placed among the existing paradigms as a case through which the question of sovereignty's generation can be raised.

5.1 Political Techne: The Generation of Sovereignty

Placed among the paradigms discussed above, the configuration of political *techne* makes sovereignty intelligible from the side of generation, insofar as it shifts attention from the visible figures of sovereignty to the practical mechanism through which such figures are produced.

To sum up the foregoing chapters, it is appropriate to return to the ontological proposition in *Nomoi* 4.709 with which this thesis begins. In this picture, nothing in the world is outside the chain of causality governed by divine necessity: Everything is conceived of as an effect generated through certain causes. Accordingly, if someone operates within this picture and wishes to produce a specific effect, they must use something capable of causing it. In terms of human affairs, however, the presence of causal order is articulated with contingency insofar as every productive act must be undertaken in concrete circumstances that determine the available materials and instruments. Humans are unable to affect what circumstances they encounter.

At this point, *techne* appears to be the only possible mode of intervention: If practitioners wish to produce a specific effect without leaving the result entirely to fate, they must grasp the relevant etiology, assess the given circumstances, and select the things that can function as appropriate causes of the desired effect. In this context, *techne* is primarily a strategic act immanent to a field structured by necessity and contingency, rather than merely propositional knowledge concerning what should be done in general. If practitioners fail or refuse to choose the appropriate resources,

the result is left fully to fate; if they still wish to produce the desired effect, they are forced by their own *techné* to choose those resources. *Techné* thus reveals the power relationship between practitioners, their goals, and the things they use to achieve those goals: Practitioners do not simply apply knowledge–*epistémè* to passive objects. Their own action is constituted by the relation between what they want to produce and what their circumstances allow them to use. Like all humans, they are dominated either fully by fate or by the interplay of fate and their own *techné*.

This interplay reveals that *techné*, in real practice, does not follow any general principle independently of the situation: It is regulated exclusively by practitioners' goals and strategies. In other words, all normative principles of *techné* are situational; they are followed only insofar as following them is appropriate for achieving a specific goal in specific circumstances. Truth, for example, can function as a principle of *techné*, but it is not unconditionally binding upon *techné*. As section 4.2 shows, this principle may be suspended when doing so is more appropriate for achieving the goal. What matters for *techné* is not the unconditional validity of a normative proposition, but the appropriateness of a strategy within a concrete configuration of action.

This structure becomes especially significant when *techné* operates in political practice. For Plato, political *techné* is directed toward goals that ultimately serve the cultivation of virtue in citizens' souls. These goals, however, cannot be realized instantaneously but require a continuous process. To maintain this process, a stable order of the polis is necessary, insofar as an implemented *techné* must first preserve the order within which its production remains possible. At this point, a paradox becomes visible: A goal-directed practice may be forced, by its own strategy, to suspend its own goal in order to preserve the conditions of its realization.

This paradox is the point at which political *techné* becomes relevant to the problem of sovereignty as a borderline concept, although »sovereign power« appears here neither as a principle of the commonwealth, nor as a centralized will; it does not even possess a name within Plato's framework. It appears as a sub-*techné* of political *techné*, one whose function is to preserve local order at all costs, including the cost of the goal served by the political *techné* within which it operates. As an instrument, this sub-*techné* may render indistinct the distinction between itself and the

super-*techne* it serves, insofar as the preservation of order becomes the immediate condition of every further political production.

The ultimate goal of Plato's engagement in political theory is justice-*dikaiosyne*. In the real world, however, justice requires the *nomothetike*, a *techne* whose *ergon* is to produce an appropriate *nomos* for cultivating virtue in citizens' souls. Yet precisely because the cultivation of virtue requires a functioning *nomos*, and because this *nomos* must be preserved under contingent circumstances, the *nomothetike* generates figures, functions, or structures that may suspend the cultivation of virtue in order to protect the *nomos* within which virtue is to be cultivated.

This paradoxical mechanism can already be seen at the beginning of the *Nomoi*. After rejecting Clinias' view that the norms of the polis are primarily arranged toward war, the Athenian soon turns to claim that war is necessary (cf. Plato, *Laws* 1.628c–d). Although the goal of the *nomothetike* is not victory over enemies but the cultivation of citizens' virtue, warfare is not really eliminated from the operation of *nomos*. The real possibility of war is sublated into the *nomos* of the polis, insofar as the polis must still be organized in such a way that it can confront war when circumstances require it. Thus, an instrumental figure that Plato attempts to subordinate to the cultivation of virtue in citizens' souls remains one of the necessary conditions for preserving the order in which virtue can be cultivated. War, as a state of exception, is not allowed to become the highest principle of *nomos*, but neither is it removed from the operation of the *nomothetike*. The same can be said of the sovereign as decision-maker. By denying the power of a mortal person to pasture mortal people (cf. *Laws* 4.713c–d), Plato denies the legitimacy of a mortal prince's centralized power to decide on the exception concerning the *nomos* of the entire state. Yet the power to decide on the exception does not disappear. It is decentralized in the functions of *nomos*-guardians and ordinary citizens, whose duty to protect the borders of individual souls' *nomoi* may require the production of bare lives and the local suspension of laws. Although none of these figures is conceived of as a goal of the *nomothetike*, they are not attached to it from outside; they are generated within the *nomothetike* in operation, within the interplay between causality, chance, and *techne*, in which citizens' souls participate.

With respect to the *nomos* of the polis, citizens' souls are not merely the passive objects upon which political *technē* works. They form part of the ἀρχή (origin) from which the *nomothetike* of their polis proceeds and through which it is implemented, not as a unity without remainder, but as participants in the relations that sustain the *nomos*, including those in which exclusion itself becomes a mode of inclusion. The *nomothetike* seeks to produce just souls through education, persuasion, discipline, and supervision because the *nomos* of the polis functions only if its citizens' souls obey and continuously reproduce it. This means that citizens' souls are both products and producers of *nomoi*: They are materials of the craft of the soul, while also participating in the ἀρχή through which this craft continuously operates.

The dual figure of the soul makes political *technē* a paradigm in which the mechanism of sovereignty's generation becomes intelligible. Sovereignty, as a borderline phenomenon, is produced neither only by a personalized sovereign nor exclusively by an institutional center that suspends laws from above. It is generated through strategic practices operating in a concrete space of order, within which individual citizens occupy different roles and positions. The production of bare lives, the local suspension of laws, and the decentralized power of making decisions on the exception emerge within practices directed toward other goals. They are effects generated within strategically directed practices when the preservation of concrete order becomes the condition for achieving their actual goals.

The Platonic picture of political *technē* thus exposes the paradoxical mechanism of *poiesis*: Rational practices directed toward certain goals may require unwanted productions as part of »τῶν ἀναγκαίων« (Plato, *Laws* 1.628d; things necessary) for preserving the order that makes achieving those goals possible, even at the cost of suspending them. Its specific contribution lies in showing, among the existing paradigms, a configuration in which the mechanism of sovereignty's generation becomes intelligible.

5.2 Reason of State: Sovereignty Generated within Governmentality

In his investigation of political power, Foucault (2003) famously contrasts governmentality with sovereignty, highlighting the diverse practical forms involved and the different objectives of the two approaches. In Foucault's view, sovereignty is exercised in a centralized form and aims to enhance the bond between a personalized prince and his kingdom. In contrast, governmentality is deployed in decentralized forms and focuses mainly on individual lives. Sovereignty is a kind of power that functions primarily by producing death, whereas governmentality, especially in the form of biopolitics, operates mainly through producing lives in specific forms (pp. 239–56). This statement is only true, however, if sovereignty is strictly defined in the narrow sense, as power over life and death centralized in a personalized figure. This definition may render Foucauldian theories of power coherent, but it does not seem helpful for understanding the mechanisms of political phenomena. Conversely, if we understand sovereignty primarily as a borderline concept, as Schmitt and Agamben do, then Foucault's investigation of governmentality becomes more illuminating.

In Foucault's (2004) view, the opposition of Machiavelli's *The Prince* to theories of »reason of state (*raison d'État*)« and policing is a typical example of the opposition between sovereignty and governmentality, despite their apparent similarities (pp. 241–48). Placed beside the Platonic political *techné* reconstructed in the foregoing chapters, the early modern idea of »reason of state,« described by Foucault in *Security, Territory, Population: Lectures at the Collège de France 1977–1978*, becomes more intelligible as a paradigm. According to Foucault's account, reason is »a means of knowledge, but it is also something that allows the will to adjust itself to what it knows, that is to say to adjust itself to the very essence of things. So reason will be the essence of things, knowledge of the reason of things, and that kind of force that enables, and up to a point obliges [the will] to go to the very essence of things.« A state or, in Latin, *res publica* »is first of all a domain, a territory. It is then a milieu of jurisdiction, a set of laws, rules, and customs. If it is not one state, the republic is at least a set of states in the sense of individuals defined by their status. And finally

the republic is a certain stability of these three preceding things, domain, jurisdiction, and institution or the status of individuals.«

For theories concerning reason of state, the state constitutes a kind of stability necessary and sufficient for a political unity to preserve its integrity. Considering the subjective side of the word »reason,« reason of state can be understood as »a rule or an art (...) which makes known to us the means for obtaining the integrity, tranquility, or peace of the republic« (pp. 256–57).

The paradigmatic affinity between reason of state and political *techné* becomes especially clear in their relation to law, insofar as both do »not have to abide by the laws, and (...) in [their] basic functioning [are] always exceptional in relation to public, particular, and fundamental laws, [but] usually (...) respect the laws« (Foucault 2004, p. 262). Both reason of state and the *nomothetike* usually function in cooperation with laws, but they make use of laws precisely because they deem those laws necessary or useful. When circumstances have changed so that reason of state and the *nomothetike* »can no longer make use of these laws and due to a pressing and urgent event must of necessity free« themselves from them (p. 262), they simply do so. Both reason of state and the *nomothetike* thus count as »something that allows departure from all ›the public, particular, and fundamental laws of whatever kind they may be.« Reason of state, as well as the *nomothetike*, »must command, not by ›sticking to the laws,‹ but, if necessary, it must command ›the laws themselves, which must adapt to the present state of the republic.« This indicates that reason of state implies possible decisions on states of exception, most clearly in the form of the *coup d'État*, through which the legal order of the state is suspended. From this perspective, Foucault unconsciously points out that sovereignty, understood as a borderline concept, is paradoxically inseparable from governmentality when he claims that »the *coup d'État* does not break with *raison d'État*. It is an element, an event, a way of doing things that, as something that breaches the laws, or at any rate does not submit to the laws, falls entirely within the general horizon, the general form of *raison d'État*« (p. 262).

In this case, governmentality and sovereignty no longer appear as simply opposed forms of power. Read through the paradigm of political

techne, governmentality appears as a goal-directed practice regulated by its goal and strategy. Like the *nomothetike*, governmentality presumes a stable order in which achieving its goal is made possible. When changed circumstances threaten this order, governmentality, by its own rationality, may be deployed in a borderline form, insofar as it suspends its own goals for the sake of preserving this order. At this point, the distinction between governmentality and sovereignty becomes impossible.

Through their analysis of US government policy on Guantanamo Bay, Judith Butler (2004) accurately identifies the coexistence of sovereignty and governmentality in modern society, refuting the problematic idea that sovereignty has been replaced by governmentality or biopolitics. In Butler's view, sovereignty is exercised not only »in the acts that suspend and limit the jurisdiction of law itself« (p. 53) but also »in the self-allocation of legal prerogative« (p. 54). Because »the suspension of law can clearly be read as a tactic of governmentality,« it »has to be seen in this context as also making room for the resurgence of sovereignty« (pp. 54–55).

5.3 Guantanamo Bay: Sovereignty Generated through Citizens' Souls

The case of Guantanamo Bay can now be placed beside the Platonic account of souls in the generation of *nomos*. It makes clear why the most illuminating aspect of Plato's thought on political *techne* lies in the role of souls.

Nomos is a product of the *nomothetike techne*. By emphasizing the supervision of *nomos* by individual souls and the willing obedience of citizens, Plato suggests that a state's *nomos* is not produced through a *techne* exercised exclusively by a single *nomothetes* or a group of officials and intellectuals. Rather, the *nomothetike* is a *techne* that requires the majority of citizens to act as its *technitai*. In the same sense, within the framework of the *nomothetike*, sovereignty, which paradoxically suspends actual goals, is produced only insofar as a sufficient number of citizens obey and thereby enable the *nomothetike* to be exercised in the form of sovereignty.

In the case of Guantanamo Bay detention camp, it is etiologically incorrect to conceive of the US government's decision, based on legal author-

ization, as the ultimate origin of the decentralized sovereignties exerted by officials there. The detention camp would not have remained until now without sufficient people authorizing this decision through their obedience. While it is likely that none of them obeys consciously as part of the strategy of the *nomothetike*, they may be acting according to strategies directed toward various goals whose achievement is conditioned by a stable order. Due to its pure instrumentality, sovereignty can serve as a meeting point and a consensus point for practices directed toward different, and even opposed, goals, insofar as it is generated to preserve stable order.

This does not justify the detention camp's existence; rather, it clarifies the mechanism of sovereignty and the source of energy by which it is sustained. If the sovereignty embodied in the Guantanamo Bay detention camp is considered a humanitarian crisis that should be overcome, the generation of the sovereign structure embodied there must first be understood. Criticism that remains solely at the level of a normative principle or description of truth does not help resolve problems. It is probably true that defending public security through the detention camp is futile. As a product of strategic practices, however, sovereignty is primarily regulated by situational appropriateness and the power of its *technitai*, not by objective truth. Those who wish to abolish the detention camp must either find a more appropriate replacement or persuade those people whose obedience produces sovereignty.

Placed beside the paradigms discussed above, Guantanamo Bay becomes a case in which the mechanism of sovereignty's generation can be recognized more effectively. This may help those who wish to solve problems of sovereignty and realize good politics. Across history, intellectuals have imagined various visions of good politics. It seems very difficult, however, to imagine realizing such visions without relying on strategies directed toward their realization, since etiological necessity and chance are governed by »*deus sive natura*« [God, or Nature], not by humans. Nonetheless, the danger of sovereignty that suspends all concrete goals should not be overlooked. When chance provides the right circumstances, sovereignty may derive energy from practices that presume a stable order and are characterized by the combination of goal and strategy. There is no evidence that the known forms of implemented sovereignty, such as the

suspension of laws and the production of bare lives, have exhausted all possible forms. Generated through strategies in concrete circumstances, sovereignty does not follow any fixed rule. It may manifest in many different forms if the circumstances require it.

Whether sovereignty should be eliminated remains uncertain, because this appears to entail three options. The first requires giving up all goals whose achievement is conditioned by a process and stable order. The second requires abandoning strategy and trusting in luck. The third requires changing the circumstances in which we live so as ultimately to make sovereignty unnecessary. The first two options appear unacceptable if good politics are desired. The third is difficult but possible. Nevertheless, this appears impossible without the help of some strategic practice that presupposes the existence of stable order.

