

# Necrobiopower: Who can inhabit the Nation-State?\*

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## Abstract

In the studies on trans-people, transvestites, black population, women, among others, the state appears as a fundamental agent that distributes in a non-egalitarian way the recognition of humanity. There is a core bibliographical reference shared by this field of research. Michael Foucault's concept of biopower, as a government technique that aims to "to make live, to let die", is recurrent. When the research refers to state violence, it usually triggers the notion of "sovereignty", also by Foucault's, as opposed to governability (a set of techniques that are life-oriented). More recently Achille Mbembe's concept of necropower has become part of this conceptual corpus. This article suggests another concept: necrobiopower. Necropower and biopower are inseparable terms for one to think about the relation of the State with the human groups that inhabited and inhabit the marks of the Nation-State. Livable life and killable life, to use the terms of Giorgio Agamben, are forms of population management and cannot be put in a chronological perspective, where the necropower (or sovereign power) would have been surpassed by biopower.

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Caught up by the repercussions of Judith Butler's passage to Brazil, we appropriated that experience to think of our own dilemmas. In an article I wrote days before Judith Butler's arrival in Brazil, I said, "They say they will not let Judith Butler speak. What will we do? Let us, once again, potentialize this moment" (Bento, 2017:01).

Judith Butler has been a great inspiration to help me understand the world in which I live. There is something recurrent in her thinking: the sense-seeking that the West attributes to humanity. The politicization of mourning has in the question "for whom do we cry?" a synthesis that it is not enough to have a face (in the terms of Levinas, 2005) so that the warrant "thou shalt not kill" takes effect.

What causes the Other to not be recognized as human? More than trying to answer this question, I will present a concept that I have been working on in the last few months: that of the necrobiopolitics to understand the abysmal differences of State action in relation to certain groups and the differential distribution of the right to life. I say beforehand that research is underway both in the analytical construction and in the systematization of the data of the empirical chosen, namely: the study of the Law of the Free Womb, the situation of the prison population and the acts of resistance.

What can be observed in the studies on violence against the black population, in the data of femicide and transfemicide (Bento, 2016), of indigenous peoples, among others, is that the state appears as a fundamental agent in the differential distribution of recognition of humanity. In research on gender and sexuality, fields of study that I follow more closely, I notice that there is a nucleus of regular bibliographical reference. Michel Foucault's concept of biopower (1999), as a government technique that aims to "to make live, to let die", is recurrent.

More recently, the writings of Giorgio Agamben (*homo sacer* / *nude life*), of Achille Mbembe (*necro-power*), of Judith Butler (*precarious lives, abjection and vulnerability*) of Spivak's (*subalternity and discourse*) began to compose the general

principal of what can be called a social science of the abject identities, identities that are the soul of the state's necro-biopolitics. Terror and death are elements repeatedly analyzed by us as structurings of the Brazilian State. When the research refers to the violence of the State against the abject bodies, it usually triggers the notion of "sovereignty" as opposed to governability (a set of techniques aimed to care for the life of the population). I suggest another concept: necro-biopoder.

The focus of my reflections is on the State, in an effort to understand the relationship between biopolitics (giving life) and necropolitics (promoting death). I will not have as an object of analysis the effects of necrobiopower in acts of recognition in diffuse social relations. Attacks and deaths of transvestites; the act of tying a black man to a poster; a young man with his forehead tattooed with the phrase: "I am a thief and a bastard"; the murder of a homeless woman in Copacabana; a teenager raped by 33 men are facts that have some correspondence with the necrobiopolitical, but deserve unique analyzes. Certainly, diffuse violence reveals lines of continuity with what I am calling necrobiopower, a concept I propose for interpreting a set of governance techniques.

As I shall discuss, governability does not refer exclusively to the care of life, as proposed by Foucault (1999). My hypothesis is that governability, in order to exist, must produce interruptedly zones of death. In other words, governance and sovereign power are not distinct forms of power, but have, in the Brazilian context, a relationship of continuous dependence - whether in a synchronic or diachronic approach.

In the Brazilian history of the state, "giving life and giving death" cannot be thought of separately. When I say to give life and give death I distance myself from Foucault's position, according to which the modern state has as its foundation "to make live, to let die".

The verb "to let" suggests that the State will not develop death policies. On the contrary, I affirm that there is a repeated policy of making to die with planned and systematic techniques. At

the same time, I also distance myself from Agamben (2013) because not all lives are naked. Some are born to live, others become lives that can be killed by the state. The political tale “homo sacer” (Agamben, 2013) serves very little to interpret the Brazilian necro-biopolítica.

It was the necrobiopower that nurtured and fattened those who were called to be part of the “population.” A country that for 388 years has extracted its wealth from “personified shadows” (Mbembe, 2014) cannot displace “life” from “death.” Necropower and biopower (killable-life and livable-life) are inseparable terms for thinking about the relation of the State to the human groups that inhabited and inhabit the Nation-State.

### **Why necrobiopower and not bionecropower?**

The order of the terms is fundamental because I believe that it was plundering and genocide that preceded what may today be called, in my view, “biopower” - a concept that we have used in our studies on State violence without due caution with regards to the historical conditions that define a political culture based on the elimination of the Other. That is, the constitution of the subject is not exclusively effective in the relation master and slave, through acts of desire and recognition (Hegel, 1992). There is another social field populated by bodies that do not enter into the dialectical relation for the constitution of the self. On the contrary, the desire is for the systematic elimination of those bodies that pollute the purity of an imagined nation, a type of “transmission belt” of an also imagined Europe: white, rational, Christian, heterosexual.

The negation of the Other is not transfigured into an affirmation at any time, and it is therefore unthinkable to attribute to these bodies any quality that produces a field of intersection with the “self”.

The rituals and rites of elimination of the Other may change. The extermination of the indigenous population, for example, follows death rites different from those known by the prison population, which in turn differ from those committed against

trans-people. One may object that there is a kind of “exaggeration” in my argument when I identify the State as responsible, for example, for the deaths of trans-people, since it is known that the refusal to recognize them as human is not restricted to the State, since the crimes are not committed exclusively by members of the State. This argument is correct.

Although cops appear in the testimonies of trans and transvestite women as recurrent agents of violence, one cannot restrict it to this repressive body. The relationship between State-repressive apparatuses and the diffused spheres of civil life has multiple connections and disjunctions. However, as I have said, diffuse violence needs appropriate theoretical methodological instruments because, although one can think of fields of intersection in relation to those practiced by the State, they also have dynamic singularities.

I have not yet presented the theoretical foundations of what I am calling a necrobiopower. I will briefly introduce the concept of biopower by Michel Foucault (1999), and the necropower by Achille Mbembe (2011). Soon after, I will try to make the concept work by reading some empirical clippings: the Law of the Free Womb, the indefinite detentions in the Brazilian prison system and the acts of resistance. Finally, I will discuss the relationship between necrobiopower and fear.

### **Biopower and necropower**

Foucault (1999) argues that one of the central issues of the nineteenth century was a kind of possession of man as a living being by the State, a kind of “nationalization of the biological.” This power differs from the sovereign power it had in the prerogative of killing the very content of its command. Thus, “in last analysis, the right to kill is that it effectively holds in itself the very essence of this right of life and death: it is because the sovereign can kill that he exercises his right over life” (Foucault, 1999:294).

The power embodied in the modern State is of another order, inverse. It is a power that is based on the “making” of to live and “letting” of to die and that will act with singular techniques of those implemented by the disciplinary power. Like this,

hence, of the great absolute, dramatic, somber power that was the power of sovereignty, and which consisted in being able to make die, here it appears now, with this technology of biopower, with this technology of power over the “population” as such, over man as a living being, a continuous, scientific power, which is the power to “make live” (Foucault, 1999:294).

The new technology that sets in is directed at the multiplicity of men as a global mass and which regulates life, massifies the man-species through a set of regulation technologies by the state.

Almost at the end of the text, Foucault (1999:309) makes a statement that would merit further unfolding: “You then understand, under these conditions, how and why the most murderous states are at the same time necessarily the most racist”. It is here that the core of my question is located: the breaking of the biological continuum of this thing called “population” has concrete and fundamental political effects that have always been found in the Brazilian State. The direct relationship between the racist State and violence can be extended to other social contexts. I think, for example, of Israel and its necrobiotic politics in relation to the Palestinian people, a contemporary example of neocolonialism.

Israel's colonialism will be inspiring for Mbembe (2011). The author will state that the ultimate form of necropower, today, is the colonial occupation of Palestine. According to the philosopher, the colonial State bases its desire for sovereignty and legitimacy through the construction of a narrative proper to history and identity.

I agree with Mbembe's (2011) analysis of Israeli colonialism and the new techno bureaucratic ways of killing, but he did not turn the coin, pointing out that the State of Israel only exists, its

population only inhabits a territory because there was a previous and continuous moment of denial (through ethnic cleansing)<sup>1</sup>, of the existence of the native population. Thus, Mbembe, in analyzing the horrors of Israel's necropolitics, does not advance in the discussion that they are these same policies that underpin the Israeli State's biopolitics. Thus it is not possible to interpret Israel without Palestine and, neither, the tragic existential conditions of the Palestinian people without reference to Israel.

To conclude the first part, I would say that the necrobiopower unifies a field of studies that has pointed to continuous acts of the State against populations that are to disappear and, at the same time, policies of the care for life. In this way, I propose to name necrobiopower a set of techniques of the promotion of life and death from attributes that qualify and distribute the bodies in a hierarchy that removes the possibility of these being recognized as humans and that, therefore, they must be eliminated and others who are to live.

### **The Law of the Free Womb**

The research I am developing on necrobiopower is organized in a historical and conjunctural dimension. As far as the historical dimension is concerned, I have focused my studies on the changes of legislation of the second half of the nineteenth century that regulated "servile labor", a legal characterization at the time for slave labor. And why does this interest me? I believe that it is precisely in this discursive body (the parliamentarians' positions) that one can see the necropower and the biopower acting to operationalize the reading of the bodies that would emerge from a slave relationship to a status of legal equality.

My interest is in the study of the discursive strategies used by parliamentarians to position themselves in relation to the proposed law that made the children of enslaved women free. This debate

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<sup>1</sup> On Israel's ethnic cleansing of Palestine, see I. Pappé (2017).

took place between the months of May and September of 1861. If I am saying that the relationship which the State maintains with numerous populations is inserted in a line of historical continuity, rather than ruptures, there is no alternative but to make a historical approach of the State, with certain cuts.

No law brings with such dramaticity the conceptual crossroads that I propose as necrobiopower as the Law of the Free Womb. The child, born after the promulgation of the law, would be free. The mother would remain a slave. The child would enter the Brazilian population, should study, have a record. The mother would remain under the power of life and death of its owners and their owners. The fruit of this body-function comes to the world inserted in a pre-biopolitical logic. The law, in its article 1, states that “The children of slave women who were born in the Empire from the date of this law shall be considered of free status.”

The speeches of the parliamentarians can be systematized in some axes: 1) the danger of destabilization of the country that the proposal of law represented; 2) the government's incompetence in not having prepared the country for that moment; 3) the misconception of having a general law for the whole national territory. The best solution, some parliamentarians argued, would be to leave the task of liberation to each owner; 4) the impossibility of controlling birth registration, since, certainly, frauds would occur with owners adulterating the children's birth dates; 5) the nature of the private property of the bodies that were enslaved and of the fruits derived from them.

Through this law, the State attempted to make the transition from the enslaved population to the freed condition slowly, gradually and without tension. The slave trade had been interrupted in 1850, but black women continued to procreate and provide the meat necessary to feed the system. Senators questioned the integration of this free child.

(...) Another preparatory measure, which had to exist, was that of the schooling of the son of slaves, as practiced in the Antilles. Religious and moral teaching and the teaching of



the first letters. Did it ever occur to the Senate to advise provincial presidents to promote the establishment of schools for slaves' children? There is even legislation in some provinces that prohibits the children of slaves from learning to read in public schools. This preparatory measure was necessary, as well as religious education (Federal Senate, Senator Antão, 14/09/1871:132).

Other parliamentarians refused to accept any interference by the state in their property.

The constitution made no distinction between legal property and exceptional or fictitious property, as Mr. S. Vicente called it;

it secured property in all its amplitude, as the law had hitherto recognized. I go even further; our laws had recognized and still recognize not only the slave's dominion, but also that of the child she may have. The property of the offspring is an extension of the property right of the slave and of the same nature as the slave. If one could not be abolished, without indemnification, one could not abolish the other (Federal Senate, Senator Visconde de Itaboraahy, 09/14/1871:139).

The black woman's body was traversed by two distinct forms of power. Perhaps this body, under this law, is the best metaphor that expresses the necrobiopower that structures the Brazilian State. It is known that the scope of the Free Womb Law was minimal (Costa, 2008). The children of the enslaved women were not able to enter the Brazilian population, but it was in the clash of the positions expressed by the parliamentarians that one can notice the fear, besides the possible financial losses, of having in the Brazilian population people who should continue in their accounts as "pieces".

### **Indefinite detention**

Another point of my research is focused on a synchronic dimension and has tried to systematize the techniques of making die of the prison population. What Foucault calls 'letting die' I point to a set of systematic, rational techniques for bringing about the death of those who are under the care of the state. Spoiled food, no medical attention, overcrowding of cells, people arrested without charge and without sentence are some of these techniques. This is not a crisis of the prison population, or a lack of budget. These arguments only reach the more superficial level of what is put.

Butler (2006) analyzes the situation of Guantanamo Bay prisoners in a dialogue with Foucauldian conceptions of governance and sovereign power, to some extent a theoretical movement close to what I am developing here. Shortly after September 11, 2001, the Bush administration detained dozens of people without any form of indictment and without any prediction of release. What is the status of these prisoners? Were they terrorists? In order to affirm "they were arrested", a formal accusation would be necessary, with the due legal process of law guided by the international legislation that regulates prisoner of war cases, which did not happen. The Courts of Justice no longer have jurisdiction over Guantánamo.

To escape the pitfalls of legal definitions, the US authorities came to regard them as "detained", with the suspension of all rights. The State has thus declared the exceptionality and extra-judicial nature of the case. Butler will interpret this "exceptionality" by triggering Foucault's notions of sovereign power and governability. The suspension of the rule of law points to the capillarity of sovereign power, a mechanism that the State puts in action to reinstall its own forms of sovereignty.

It is as if the presence of sovereign power, in the bowels of governability, brought to its interior an exceptionality: the power of death. In the Brazilian State, "exceptionality" is the structuring of the State. Of the 726,000 people in prison in Brazil, 292,000 (about

40% of the total prison population) are provisional prisoners who have been jailed but are still awaiting trial (Ministry of Justice and Public Security, 2017). These data show us a paradox. A considerable portion of those held are still outlawed. They were arrested because they allegedly committed a crime. The State, however, by not guaranteeing them the legal conditions of a proceeding, makes them, once again, outlaws, even when they are imprisoned.

Butler will say that the Guantanamo detainees are in an undifferentiated zone. They are neither dead nor alive, because they are outside the constitutive conditions of the rule of law. Perhaps this image of “zone of indetermination”, referenced in the State as place of determination, seems to suggest an excessive belief in the State of Democratic Right. I suspect that this belief that runs through Butler's writings is motivated by the absence of the social class category in its analyzes. It seems to me difficult not to analyze the very close relationship between the State and the market, including with regard to the management of life and death. In times of neoliberal savagery, it is not possible to make an analysis of the State as an autonomous instance.

### **Acts of Resistance**

After briefly commenting on the Free Womb Law, on indefinite detentions in Brazil, I come to a third empirical cut: the acts of resistance. Here we are faced with another technique of dying, or practice of killing, which will follow other “routines” that differentiate it from what happens inside the penitentiary institution: acts of resistance. The resistance vehicle was an instrument created by the Military Dictatorship in 1969 to justify the murders of opponents. Police altered the scene of the executions and claimed that they had killed in a situation of armed resistance to prison.

*Human Rights Watch* (2009) analyzed part of the 11 thousand acts of resistance registered by the police of Rio de Janeiro and São Paulo between the years of 2003 and 2009. The

report concludes that a considerable part of these acts of resistance were executions. It is estimated that 80% of police bulletins on occurrences of resistance had strong indications of police abuse.

This police practice, in turn, is legitimized by the judiciary, through the filings of the documents of acts of resistance, which implies a systematic policy of the State. It is not a deviant behavior of some members of the corporation. Necrobiotic policies are tentacular and systematic. Nor can this repeated practice be explained because of impunity. The supposed “impunity” functions as a password for the repressive body: it continues its work of cleansing the Nation-State. Police officers justify their actions because they noticed “suspicious attitudes”. The expression “suspicious attitude” has become sufficient for police to arrest and kill. What is a suspicious attitude? It is not just an “attitude,” but a body, a skin, a region.

Nothing is further away than that “letting die” statement. If in relation to the prison population I said that there is a set of techniques to “make to die”, here, in the acts of resistance, the objective is to kill as fast as possible. The techniques used in the resistance act ritual are aimed at constructing a narrative about death. A narrative with place, characters and a plot with beginning, middle and end. In prisons, differently, “make to kill” does not refer to a single act. There is a production time of death.

### **The Policies of Fear**

What guarantees the effectiveness of necrobiopower? Why does the state continue with its techniques of making to die and to kill with so much ease and the resistances are not enough to make it stop? How to justify the indefinite detentions in Brazil, the acts of resistance, the slaughter, the massacres? Why has civil society not yet said enough is enough and demanded compliance with the law? I find no better answer than the use of fear, often potentialized, transformed into a panic as a structural rhetoric of the state. Fear is one of the central elements that will sustain the necro-biopic policies

What would be the affection, in the sense of Spinoza (2008), that gave the conditions for the foundation of the States? Fear. For Hobbes (2010), fear is at the origin of the creation and maintenance of the state. If the conatus, the permanent desire to persevere in existence, is the very definition of life and if life is threatened at all times, the effect is the reiterated demand for more protection. Voluntary servitude finds in fear the justification for its permanence.

“Persevering in existence”, conatus, does not depend on me, but on an external force: the repressive apparatuses of the State. Perhaps this is a possible key to reading a demand for the return of the Military Dictatorship. The defense for the return of the dictatorship I have heard so often, and in the most banal of places, does not take place because of a demand for economic justice. There is an image, however contradictory, of a time of peace, where one could walk quietly on the street because we were protected.

Butler (2006) will say that we must be attentive to the production of panic as a result of an object without content. The state will take care of filling this void. The state will permanently restructure fear in terms that historical interests demand. In reading the debates that took place in the House and Senate on the Law of Free Womb, the words that repeat themselves most are “danger” and “threat.” What did the military dictatorship do? It spread fear of the Communists.

The importance of fear to interpret the changes that happened in Brazil in the passage from the nineteenth century to the twentieth century is shared by Richard Miskolci (2012) in his book *Desire of the Nation*. In the review that Pedro Paulo Gomes Pereira (2014) wrote of the book, he pointed out: “Just to get an idea, in *The Desire of the Nation* the word fear appears 50 times; afraid 74; horror 6; terror 8; panic 23”.

Today, we are haunted by fuzzy specters. The suspect, the bad guy, can be any young man in an open shirt, wearing a cap, shorts, slippers, and especially black. But this is not the only spectral body. There are the troublemakers, the “land invaders,”

“invaders of public buildings,” “gender ideologists,” “pedophile artists,” street dwellers, transvestites. And, to contain this mob, surveillance techniques are implemented and desired. We became the actual characters of Orwell’s *1984* book.

## Conclusion

The reflections presented here are still in the initial phase and are part of a research agenda that aims to understand the policies of guaranteeing life and promoting death by the State. Hurriedly, I introduced the concept of necrobiopower. On another occasion, I intend to recover the criticisms made by Brazilian researchers on the concept of biopower, like Pereira (2015) and Miskolci (2017).

Perhaps the motivation in doing this research is an image that was tattooed in my memory when I read *The Heart of Darkness* (Conrad, 2008). The horror that Mashow felt as he watched the natives eye down the Congo River. He was terrified that there was anything in common between them. When a policeman looks into someone else’s eye, who begs not to die and hears, “Get ready to die, you bum”, I believe that, thinking of necrobiotics, I’m entering a zone of darkness whose heart I do not know where it is. This is my fright: the face, the body, the skin, the tongue, all human attributes, are not enough to ensure the right to life.

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