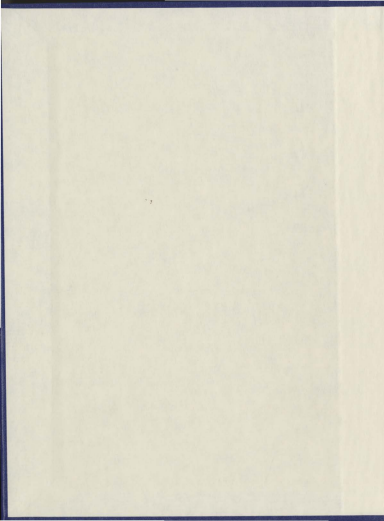# THE CREATIVE THRESHOLD:
FOUCAULT, AGAMBEN, AND REPRESENTATION

ROBERT LUZECKY

The Creative Threshold: Foucault, Agamben, and Representation

By:
Robert Luzecky

Advisor:
Dr. Peter Trnka

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Abstract

Michel Foucault's <u>The Order of Things</u> compliments Giorgio Agamben's <u>Homo Sacer: Sovereign Power and Bare Life</u> to show how the field of epistemic representation is generated. My theory begins with man at the threshold of epistemic representations. Through his analyses of *Las Meninas*, the cogito, and the possibility of discovering the origin of man's representation, Foucault shows that representations do not fully capture man and that the visibility of discourse connects man to representations. Agamben clarifies the actions within this visibility by showing the sovereign is the example that is the limit which is not figured in the law's representation. Counter to Antonio Negri, Agamben shows how the sovereign example manifesting constituent power is not fully contained in the representational field. Finally, the sovereign's killing of *homo sacer* at the law's threshold actualizes the representational set. In this thesis I have argued that the threshold generates the representational field.

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Illustration 1: *Las Meninas* by Diego Velázquez.

Chapter 1: Introduction

My argument is that if we draw together Michel Foucault's The Order of Things and Giorgio Agamben's Homo Sacer: Sovereign Power and Bare Life we can see how the field of epistemic representations is generated by the actions of the figures at threshold of representation. While Foucault's text addresses the human sciences and the representational field in general, Agamben deals with the specific representational field of the law. These two texts come together because the law constrains life and simultaneously conditions the unfolding of representations. The law is the subset of the representational field which has the power to condition the entirety of the representation. Foucault's primary insight is that man is not fully signified within the representational field; like the sovereign couple of Las Meninas, man is at the limits of any attempt to rigorously codify his being. This exclusion with Agamben's sovereign and homo sacer who occupy the threshold of the law's representational sphere.

In Foucault, the images of man in the representational field do not fully capture his being. Yet this does not imply that man is completely segregated from epistemic representation; that man is linked to representations through the 'visibility' of discourse and this linkage constitutes an inclusion. Agamben renders this visibility fully perspicuous with his argument that existence at the threshold of epistemic representations is specifically what generates the law's stipulations. The fundamental concept is two-fold; the epistemic representations are a delimited field that is ultimately defined by the law, and, second, the couplet of the sovereign and homo sacer create the law through

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embodying its affective limit. In the threshold of representation the sovereign inhabits a zone of indetermination where the distinctions between possible and impossible, life and death, and expression and representation bleed together. More specifically, the sovereign inhabits a realm where he can kill *homo sacer* without penalty, and it is this death which generates the law's (and representation's) formal limit while simultaneously preserving the capacity to codify any expression of life.

Before providing a map of the analytical progression of my argument it is first necessary to clarify how I use the term 'man' instead of 'human', 'he/she', or some other gender neutral variant. The most obvious explanation for this choice is fidelity to Foucault's text. When The Order of Things was first published in English in 1970, the distinction between gender neutral and gender specific language was present but not particularly prominent in philosophical discourse. As such, it is possible that Foucault was unaware of the importance of gendered language. But, more likely, there is another reason for the usage of the term 'man' in Foucault's work. There is the notion that gender distinctions are themselves representations within philosophical discourse. However, the figure Foucault is discussing exists at the threshold of these representations; a being who is not yet gendered. If this is the case, then the term 'man' is not to be read as a gender specific term; rather it should be treated as a specialized term within Foucault's *oeuvre* – much like Heidegger's *dasein* or Agamben's *homo sacer*. I proceed through my arguments on the belief that Foucault deploys the term 'man' as a specialized term that is not gender specific, and I see no substantive reason to deviate from the usage of this term in favour of some other term which might be in greater conformity with the prevailing stylistic tendencies of North American philosophical exposition.

With this clarification out of the way, I now turn to a description of the main arguments presented in this thesis. I begin my first chapter with an examination of Foucault's analysis of *Las Meninas*.[1] In order to understand why man is excluded from representation we need to first analyse what the signs of Velázquez's painting in fact represent and how they are linked to man. According to Foucault, the painting explores the act of representation itself. We are looking at a studio in the palace of King Philip IV of Spain. There is an entourage consisting of Princess Margarita, two ladies in waiting, two dwarfs, and a mastiff arrayed across the center of the painting. A chaperone and a body guard stand behind and to the right of the princess. Don Jose Nieto stands in a doorway in the distance. The figure of Velázquez the painter peeks out from behind the canvas that occupies the left quadrant of the painting.[2] The most interesting figure, however, is the one who is not there; specifically, the figure of the observer whose existence is only hinted at in the shadowy reflection of the mirror and the artist's gaze.

This shadowy figure of the observer is linked to the canvas of *Las Meninas* by a visibility that traverses the luminosity that bathes the signs presented on Velázquez's canvas and the darkness at the limit of painting's representational field.[3] This fact does not, however, imply that the signs arrayed on the painting lend themselves to a theory of signification which would specify what they designate. Foucault points out that the theorization comes from an external position; a theory of signification requires a piece of stable ground to launch itself from and this is specifically what is precluded by the notion

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[1] See illustration 1.
[2] For an identification of all the figures represented in *Las Meninas* see Jon Manship White's *Diego Velázquez: painter and courtier*, 143.
[3] See illustration 1.

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of visibility. In other words, the fact that the observer of the painting is linked to the representational field is what precludes this observer (man) from developing a theory of what is designated by the representations. In the absence of a theory of signification, *Las Meninas* presents the impossibility of displaying the action of representing. Foucault points out that the action of representation is, in fact, a three step process: first, the sign must be created; second, the sign must be witnessed; third, the sign must express itself as a sign. Each stage of this process is implied in Velázquez's painting, but not every stage is specified in the clarity of representation. The figure of the artist in the left quadrant signifies the creation of signs (on the obscured surface of the canvas), Nieto observes (with his gaze to the artist), and both these signs are represented outward to the observer of the painting who is caught in his visibility but not illuminated. It is with the third stage that things become problematic; the being to which signs are represented is itself undisclosed; the signs represent themselves to a person who is not represented because, according to Foucault, he cannot be completely represented.

Who is this being that is not fully disclosed by the things he fabricates, the body that he inhabits, or the language(s) he speaks, and second, in what way does he interact with these material and ideal representations? The beginning of the answer to both these questions is found in the notion of a circuit of duplications. Man perceives the representation and duplicates its significations on his mind (in the form of represented ideals) and then he duplicates these representations back upon the representational field through his (communicative) actions. Two important consequences flow from this notion of a circuit of duplications: First, it eliminates the possibility of man being a fully represented entity of the world; the ordered representations of the world are created

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through man's interaction with them from an external position. Second, man's exclusion from the world is not total; while he is not a member of the set of represented beings, he is included in this set as that which is external to it. Man is, in other words, located in the threshold that extends from the luminosity of represented being to the darkness that shrouds the margins of perception.

The threshold is the representational field's outer extremis, and situating man at this last bastion of representation indicates that man's representation is not the truth of his being. This is not to say that the representation of man is an irrelevant fiction. Rather, the representation of man is the effect of his being at the threshold and the various qualities we attribute to man are actually made to the representation of man. Foucault points out that man is defined by the objects he makes, the job he does, the language(s) he speaks, and the image of his body in the sense that these representations flow outward to man at the threshold unveiling to him the content of his own being. In other words, man becomes aware of his own being through reference to his own representation, and this indicates that the representations of man pre-exist his being. More specifically, in his relation to the representational field man becomes aware of his limitation (finitude). Once man becomes aware of his limitations, he re-inscribes himself on his own representation, and he is shown to be the shimmer that traverses along the circuit of expression and representation.

In dislodging man from the representational sphere Foucault frees him from the 'policing' effects of knowledge, but this does not imply an utter schism between man and representation; relation is an option other than imprisonment. Marking the shimmering horizon of representation, man reveals himself to be external to representation, yet man is

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more than this shimmer; the flash of his expression requires the formal content of the representational field. The fact that man makes reference to the representational field indicates that it indeed existed before him, as the limit which he reaches toward in the attempt to articulate his being. With this striving toward the representation(s) that never fully embrace him, he discovers his limit; finitude unveils itself to him. Specifically, man's relation with the representational sphere reveals that his being is constrained in the openness of the threshold and, second, that this separation from representation is inscribed upon man himself. In other words, finitude becomes not the limit which defines man, but the background situation which allows for his articulation and the condition which allows for his knowledge of himself and the world. That is, in the threshold man discovers his yearning for the objective stipulations of representation and his capacity to transcend them as their excluded term.

Foucault points out that this transcendental impetus is not the attempt to fabricate a world of perfected signs. This 'absolute' form of eschatology takes as its first premise the notion that there is something which exists underneath or beyond representation which both justifies its presentation and its incompleteness. The representational sphere presents a series of images which harken toward a perfected reality which is not disclosed but presupposed in its absence. The implication here is that the signs within the representational sphere are in fact, denotations which signify only their own displacement and bound to move beyond their presentation. It is only by following the signs in their decomposition, in overcoming their lack and always seeking more in a flow to the undisclosed, we come to the true canvas that allows the representational field. In opposition to this search for an ethereal anchor to representation, Foucault asserts the

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more modest goal of peace. As much as the stability of the representational field can be guaranteed by the notion of an immutable stratum of ideals, it can also be assured in "plurality maintained as plurality."[4] The relative or conditioned eschatology posits that the representational field is in reference to an idealized stratum that is accessible and formalized through discourse. The representational field is conditioned by the idealized realm and not strictly derivative of it. Specifically, discourse functions as that which discloses the limit of the idealized field that in turn reveals the potentials of the representational field; while the representational field still reaches beyond itself, its signs are actualizations of the fringes of the idealized realm. Instead of treating signs as the things to be overcome, relative eschatology treats signs as revelatory of the idealized realm. The becomings presented in the representational realm – the contradictions and connections among its disparate elements – are, in fact, disclosures and formal actualizations of the ideal sphere. Whereas the former type of eschatology operates on the notion that representations must be overcome, mastered, and cast aside as insufficient indicators of the ideal, the latter discerns an equivalence between the ideal and the representational. Whereas the absolute eschatology seeks to lay waste to representations, dispensing with them like so many flawed and inadequate attempts to specify the ideal, the latter recognizes signs as shimmering examples which stand beside and formalize the ethereal ideal.

But what occurs at the exact node of this connection between the two realms? Who occupies this darkness of the threshold where the two realms meet and bleed into each other? I answer these questions in my chapter on Agamben, but before we get to

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[4] Michel Foucault, Security, Territory, Population: Lectures at the Collège du France 1977-1978, 300.

this answer we must show that this connection is not man under the guise of the cogito and that it is futile to attempt to explain this connection as a simply a quest for the origin of man.

We cannot champion the cogito because the claim 'I think and therefore I exist insofar as I am a thinking being' does nothing to illuminate man. Foucault points out that the cogito is, in truth, the stumbling across a limit; specifically, the limit of man's own thought; the precarious place where man's knowledge of himself and his representation to the world flow into one another. That is, the cogito is the opening of thought to that which is foreign and external to it. In other words, to think is the movement into that which is unknown with the awareness that every progression along its path entails a modification of the being who thinks and the path itself. The impossibility of specifying the radical alterity that defines thought is specifically what precludes the cogito's 'I' from representing man.

The second option, of discovering man's origin, is equally futile. Man becomes aware of history in general and his own historicity through his relation to the representational field. That is, man becomes aware of a progression from one moment to the other in the job he does and the tasks he is assigned, in the pages he reads and the sentences and phrases he enunciates. The essential point is that man comes to all these representations in their unfolding; he encounters all representations not at their beginning, but in the midst of their rising or dissipation. This forces the question of where did the representations of him begin? What was their moment of birth, and what is the catalytic event which generated their possibilities to both represent themselves and stand forth as forces which partially define man insofar as he participates in their rituals? This origin is

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the irreducible element which generates the series and allows it to instantiate itself, and the attempt to discover this origin of the representational series already presupposes that man is a being with his own beginning.

This origin of man is something that itself stands apart from him, and it is something that he attempts to come to. As something which he moves toward, which he seeks to articulate and comprehend through his interactions with the representational field, this origin is not, then, man's beginning – it is not the base condition which he departs from in order to actualize himself in his being. Rather, it is the thing he reaches toward in the vain attempt to understand the representations which seem to capture a sliver of his being and yet stand apart from him as so many fragmented images in a shattered mirror. Moreover, Foucault shows that we cannot say the origin which man attempts to discern is older than him, nor can we assert that he is older than his origin because the attributions of older and younger are determinations that already presuppose the notion of a progression which is only encountered with man's entry into the representational field. In other words, because man is in the threshold of representations, he is cut off from discovering his origin, and while he brings to the representational field the awareness which allows for the playing out of its historicity, he does not discover his own beginning in representations.

Showing that man is both cut off from his origin and not fully specified in the cogito's 'I' presents him with an immense freedom; he is the being at the threshold and it is from this threshold that he manifests the power to constitute the representational field. Foucault shows why man is the shadowy figure that can never be captured by the representational field, but he does not show how this figure at the limit of Velázquez's

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painting creates the order of representations. In order to discover how this threshold generates representations we have to turn to Agamben's Homo Sacer: Sovereign Power and Bare Life. Using the lens of Agamben's thought to see that from the threshold man deploys the sovereign power that generates the field of representations.

Before we can understand the sovereign's creative capacities we must clarify the role of representations. Representation functions to constrain the radical power of becoming and allows being to be displayed as a particular thing. On one hand, if man is fully represented, then he loses his possibility of becoming. On the other hand, if man is completely without relation to the representation, then he is the pure expression that is meaningless insofar as it lacks any degree of formalization. In order to specify man we need to determine the particular connection to representations that preserves his capacity to engage in the radical becomings which are manifest in his being. Agamben specifies that this connection between the threshold and the representational field is man's capacity to decide upon his exclusion from the representational field. This decision is remarkable in two respects; first, because it is made in the threshold, the decision is absolute in the sense that it is not constrained by any norms or stipulations which are present within the representational field; second, the sovereign decision on his exception constitutes the limit of both his own being and the representational field. For a decision to be something other than absolute, it must be subject to a series of stipulations or conditions which limit it. These conditions arise within the 'normal situation' of the representational field. The sovereign's decision is absolute because it is the thing which constitutes the limit of the situation where the law represents itself. While the sovereign's decision is the construction of a barrier which limits the representational field, it is wrong to conceive of

this barrier as a projection from the sovereign; quite to the contrary, the sovereign is the embodiment of the limit as the representational field's outermost sphere. In other words, the sovereign's decision is the unconditioned action which creates the possibility for the law to order the representational field.

How then are we to describe the sovereign? He is not a member of the representational set of the law, but he is included in this set as its limit condition. That is, the sovereign is the example of the law's representation. Unlike normal elements of a set, the exemplary element stands outside of the set to signify all its members. The most fascinating aspect of the exemplary element is that it generates the set itself by constituting its limit. One of the fundamental tenets of modern set theory is that "the members of a set enjoy a kind of logical priority over the set itself. They exist first."[5] This raises the question of the formation of the representational set of the law; how is it that the group of elements gets arranged into a set? Agamben answers this question by pointing out that the limit of the representational set of the law example distances itself from the set and thus constitutes the set's limit which is included in but not entirely a member of the set. That is, by standing at the limit of the law the sovereign example constitutes the thing it exemplifies and is not contained within it.

Is this exemplary position, however, not defined by a remarkable instability? How can we be sure that in creating the law's possibility of formalization the sovereign does not get totally subsumed by the representational field as a monarch? The resolution of these questions hinges on the recognition that the sovereign is the law's potentiality. As the potentiality that allows for the law's actualization (by delimiting its set), the

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[5] A.W. Moore, <u>The Infinite</u>, 129.

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sovereign must be autonomous to the law. In other words, the sovereign (as the law's potential) has an identity unto himself, the sovereign's being is not a predicate of the law, and his death is something that is conditioned or brought about by formation of the law's limit or anything contained within this limit. In order to manifest the limit of the law's set, and thus actualize the possibility of the infinite reach of the law, the sovereign turns away from his own potential not to be. This turning away from im-potentiality happens specifically within the threshold and it has the effect of creating the limit of representational set. While this limit is included in the representational set, the sovereign's passive im-potentiality is set back from any possible relation with the law, and, for this reason, it is impossible for the entirety of the sovereign's being to be represented.

However, this recognition that the sovereign is not fully enveloped by the representational field does not fully stabilize the sovereign example. Why, once the law is created, does it not reach out and colonize the sovereign's remainder; what stops the law from over-running the barrier instantiated by the sovereign example? The answer to this question is found in the form of the law that is created by the sovereign example. Specifically, the law is the empty set of stipulations that can represent any expression by applying its force to every possible particular because it does not signify any one particular. In other words, law has the 'universal' power to legislate every action, and it only has this power because it does not present itself in coding any single action or being. The sovereign's im-potential remainder is just such a singular being, and, as such, the sovereign remains free from the law's capacity to represent him.

This sovereign im-potential is the other figure seen in the mirror of Velázquez's painting; *homo sacer* stands at the threshold alongside the sovereign. He is sacred because he can be killed without penalty but not sacrificed. The fact that *homo sacer* can be killed without legal consequence should be of no surprise. As a being outside of the field of legal representations, anything that happens to *homo sacer* would not run counter to the law; he is precisely in a position which is antecedent to the law. There is, however, the question of why there is a prohibition on the sacrifice of *homo sacer*. A sacrifice is not any kind of death whatsoever; it is the kind of death that has existential significance; the sacrifice *means* something more than simply the cessation of life, it is specifically giving up one's life for a reason that has existential value to either oneself or others. Simply, the sacrificial death is distinct from any death whatsoever specifically because it is governed by the rule which stipulates that the death has importance (within the representational sphere). This rule only applies to a specific situation, and the necessary condition of the rule's application is that it is limited. In his existence at the threshold *homo sacer* is specifically the being that constitutes the rule's exceptional limit. In constituting this limit *homo sacer* acts as the sovereign example's correlate; whereas the sovereign allows for the creation of the law's representational field through his decision to exclude himself from the plurality of elements, *homo sacer* engages in the passive comportment to his death at the hands of the sovereign and thereby generates the possibility of the meaningful death within the representational field.

With this coupling of the sovereign and *homo sacer* in the threshold of representations I complete the arguments of my thesis. By drawing together Foucault and Agamben we have arrived at a theory which explains the formation of the field of

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epistemic representations where the representational field is generated by the actions of beings at the threshold. Through an examination of Foucault's The Order of Things we see how man exists at the threshold of representations. Man is not simply his thinking 'I' because the notion of this 'I' demands a specification of its own non-thought. Moreover, the fleeting shimmer of man's being cannot be tied to an origin, because this origin can never be ascertained by man. Agamben shows that as a being relinquished to the threshold of representations, the sovereign figure of man functions as the limit which allows for the specification of the representational field. The limit is not outside of the field; rather, the sovereign man is the precise point of representation's terminus that stands for the totality of the field. In other words, the sovereign man is the example of the representational field which is included in the field as its limit and yet not a represented element. The remarkable aspect of this exemplary status is creative capacity. Agamben shows how the example creates the very thing it exemplifies. In order to be the constituent force which generates the representation of the law man turns away from its own potential not to be. In turning away from its own passive nature the sovereign leaves behind the figure of homo sacer who cannot be fully enveloped or colonized by the representational field. By coupling Foucault and Agamben we discover a theory whose fundamental point is that the shadowy threshold generates the luminosity of man's represented being.

Chapter 2: Foucault's notion that man cannot be fully represented

2.1 Neither inside nor outside

Everywhere we look on the painting we see signs; there is the mirror, the figure of the painter, the figure in the doorway in the back of the studio, and all of these elements fulfill a representational function. It is not an actual mirror we see on the canvas, it is not a man that we see poised on the step, it is not a living breathing painter we see beside his canvas. All of these elements stand for something else. They are representations of things that are not represented directly on the canvas itself. These elements are, in fact, signs which show the impossibility of representing the action of representation. In order to understand how man exists on the threshold of the painting it is necessary to discuss the elements of the painting as signs that are themselves signifiers of signs and that these signs are based on the anterior condition of visibility which encompasses both luminosity and darkness. Looking to the canvas of *Las Meninas* we ask how it is that the figure of man is seemingly neither inside nor outside the painting, how it is that this figure which is standing in the same location as the model is, like the model, not represented on the painting.[1] The answer to this question is, quite obviously, that the figure of man does not exist in the field of luminosity that is expressed on the canvas of *Las Meninas*; man is not represented on the canvas because man is in the darkness. But if man is in the darkness, and the painting is a series of figurations in luminosity, then how and in what way can it

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[1] See illustration 1.

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be said that man is in any sort of relationship at all with the canvas of *Las Meninas*? Is there a complete schism between light and dark; are these two categories which are mutually exclusive, and betraying no connection to the painting; or is there, in fact, some element which precedes the distinction between light and dark, between luminosity and shadow, which allows for the figure of man to exist in the darkness and yet still be in relation to the painting?

Foucault's answer to these questions is that yes there is something, namely, visibility which lays as the antecedent condition to hues of light and darkness represented in *Las Meninas* and this visibility is the specific thing that allows man to exist in the threshold of the painting's representations.

However, before we can discuss Foucault's notion of visibility, it is first necessary to investigate how exactly the Classical sign represents anything at all. Foucault points out that the sign itself "has no content, no function, and no determination other than what it represents: it is entirely ordered upon and transparent to it."[2] The sign has two features; first, the sign represents the idea which it signifies, and second, the sign's "content is indicated only in a representation that posits itself as such…"[3] The sign subsists from the idea which it represents, but in order to function as a sign it must also show that it is indeed a sign and that it is not to be confused with the idea that it represents. Thus in *Las Meninas* we have an array of signs that are 'doubled over' in their representation of things which exist off the picture and in their representation of themselves as signs. In other

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[2] Michel Foucault, The Order of Things, 64.
[3] Ibid.

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words, "the sign is the *representivity* of the representation in so far as it is *representable*."[4]

This means, in effect, that the "analysis of representation and the theory of signs interpenetrate one another absolutely..."[5] This can be seen in four ways. First, signs are linked together directly and represent themselves as signs. On the canvas of *Las Meninas*, for example, the figure of the mastiff is linked to the figure of the princess; both are signs which express the rules of proportion, and these rules of proportion are a sign of geometry, which is itself a sign which denotes Reason. Second, an idea which is the antecedent to one particular sign is itself another idea; the red crucifix on the painter's tunic is the sign of the Order of Santiago, and this order is itself the sign of Saint James the Greater who is himself the sign for something else. Third, the imagination that allows one to 'see' the relation between two perceived signs is itself a sign of these perceptions; the series of signs arrayed on the canvas do not, by nature, form a homogeneity – the canvas can be broken down into disparate parts – yet we perceive a unified canvas through the imaginary linking of these elements and the faculty which allows its is itself the sign. Finally, the signs themselves can be taken to be part of complex of signs given to our perceptions; the figures and the studio represented in *Las Meninas* were created by Velázquez, and Velázquez functions as a sign of the artist which is a sign of man. In every case we have a direct connection between the signs where there is no mediation between them. One sign is the sign of some other sign, and the series of signs extends outward infinitely.

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[4] Ibid., 65.
[5] Ibid.

Foucault points out that "this universal extension of the sign within the field of representation precludes even the possibility of a theory of signification."[6] This means, in effect, that we can no longer ask how we can know that a sign designates a particular thing. The very question of designation presupposes that there is something in addition to the sign and the signified which allows the sign to stand for an object. This mysterious bridge between sign and signified simply does not exist, or rather, the sign's representability is a power of the sign itself. In other words, resemblance is not some function which lays external to the sign and mediates the relation between the sign and the signified. There is no point of reference that determines the relation between a sign and the signified on the basis of their similarity to itself. The sign stands directly for that which it signifies and performs the second function of representing itself as a sign; the sign makes no secret of the fact that it represents something and that it is performing the function of representation, and, because of this, there is no need to raise the question of whether or not the sign signifies what it seems to; the notion that a sign's function is precisely representation eliminates the need for a piece of stable ground to justify the relation of the sign to that which it signifies. By getting rid of this anchor point, Foucault's analysis shows that the Classical sign specifically does not require a 'theory' of signification that would delineate how representation is a form of consciousness that needs a cause. There is "no meaning exterior or anterior to the sign; no previous discourse" that must be invoked to specify how signs represent.[7] By showing the sign represents itself, the Classical age asserts it is the sign and not representation that is an

6 Ibid.
7 Ibid., 66.

object of thought; representation itself is not an object and therefore in Classical thought representation is not represented.

This nonrepresentability of representation is specifically what is illustrated in *Las Meninas*. Representation is not an irreducible function; it is rather a process that is the relation of three distinct stages. First, there is the creation of the sign which is represented. Second, this sign must be witnessed. Finally, the sign must be seeable; it must express itself as a sign in the act of signifying. Each of these three stages of representation is implied in *Las Meninas* – in the self-portrait of the painter standing back from his canvas, in the mirror's reflection of the royal couple, and in the figure of the observer standing in the doorway at the back of the studio. The mirror reflects the object of the painter's gaze, but the mirror is behind the figure of the painter and outside the field of his gaze. The spectator stands opposite from the spectator of the painting. The mirror should reflect the royal couple, the painter (Velázquez) as he paints *Las Meninas* and we the spectators that view the canvas, but all it reflects are the shadowy figures of the royal couple. The painting does show all the stages of the process of representation and it shows each stage as a sign; each of these signs represents its role in representation. However, representation is rendered distinct from what it represents. *Las Meninas* shows a series of signs that are removed from the things which they represent; the signs manifest the stages of the representative function, but in every case the things which the signs represent are located nowhere on the canvas of *Las Meninas*; the signs of the mirror, the painter, and the spectator in the doorway represent figures that are found outside the canvas of the painting.

Along with the negative claim that the signs of *Las Meninas* signify the non-representation of the process of representation Foucault is also making the positive claim that the signs signify what he refers to as visibility. Foucault's terminology is a bit vexing, but previously, in *Death and the Labyrinth*, he describes a visibility as "a self-sufficient and enclosed sun."[8] All that is seen, the entirety of the canvas of *Las Meninas*, is a visible representation, but this representation does not constitute the entirety of visibility because all that is visible and all that is invisible "are of the same material and of the same indivisible substance. Light and shadow are from the same sun." The riddle of the nature of visibility is that it "cannot be discussed on its own terms, but [only] from a distance which prescribes or permits invisibility."[9] Visibility is not simply that which is seen on the canvas, it is neither the form nor sign of an object that can be illuminated. Visibility operates on a more primordial level, as that luminosity and darkness that is created by light itself and which allows at least to exist in the 'subtle system of feints' that constitutes the Classical system of signs. In other words, visibility is that which is created by light itself; it is the antecedent condition of both that which is illuminated and that which is obscured in shadow. It is this visibility both illumination and darkness which is the primary expression in *Las Meninas* and which allows for the canvas to show the impossibility of representing signs in their representational function.

Foucault points to the figure of the painter who both presides in this visibility and rules over it as the central figure which, more than any other on the canvas of *Las Meninas*, specifies the existence of man in the threshold of the painting. The most basic

[8] Michel Foucault, *Death and the Labyrinth*, 67.
[9] Ibid., 104-105.
[10] Ibid., 105.

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function of the painter is to link that which is shrouded in the darkness of the threshold to that which is revealed on the canvas of *Las Meninas*. The painter functions as the "neutral center of this oscillation" between what is revealed on the canvas and what is invisible.[11] His gaze reaches outward toward the threshold of the painting to the place occupied by man, and his gaze is precisely what allows the figure of man to participate in the painting. This participation is not, however, in the form of direct representation. Rather, man participates in *Las Meninas* through the visibility that is the light which both illuminates the canvas and spills off the canvas to the limit that is inhabited by man. What is most interesting about this 'visibility' is that it must reveal both the figure of the observer and the figures of King Philip and Mariana; the general figure of man (the observer of the painting) and the figures of the sovereign inhabit the threshold which is only allowed to exist because it is part of the threshold.

That is, Foucault's analysis of *Las Meninas* shows that man exists in the darkness. The light reveals not the figure of man, but the representation of man. The darkness and luminosity are manifestations of something that encompasses both light and shadow. In the preceding analysis of *Las Meninas* I showed how the signs are expressed within the field of luminosity are not signs which express themselves as signs. I showed how there must exist something 'underneath' the signs which allows them to represent that which they signify. Before the darkness and light, allowing for the shadow and luminosity, is something more primordial. Foucault gives a name to this primordial ether, and this name is 'visibility'. The positive aspect of this visibility is that it allows for the arrangement of signs in the Classical age, and it permits these signs to function as

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[11] Michel Foucault, The Order of Things, 3.

representations of things where the first order of representation is something other than representation itself. This eliminates the possibility of a universal formalization of all discourse which attempts a demystification of the figure of man. No longer can we aspire to a "transformation without residuum, of a total reabsorption of all the forms of discourse into a single word, of all books into a single page, of the whole world into one book."[72] By showing how the sign is decoupled from both itself as a sign and from the thing it signifies and then shuwing how the very thing that allows for the functioning of the system of signs encompasses both luminosity and darkness Foucault shows that it is impossible to ever fully disclose and formalize that which is represented. Far from allowing a unification of all discourse and the possible specification of both the signs and that which is signified, Foucault's postulate of visibility indicates that man, as one of the things that is represented on the canvas of *Las Meninas*, stands in darkness and can never be fully disclosed. The existence of the word, the existence of Foucault's visibility, does not allow for the illumination and specification of all words, and if we can still say that visibility clarifies, we must add that it only clarifies the claim that some things may not be fully illuminated in the representational field.

2.2 Two duplications

Foucault points out that in this impossibility of a total discourse which would specify the exact nature of man two questions come to the fore. First, there is the Nietzschean question of who, in fact, is speaking; what is the image in the darkness of the

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[72] Ibid., 305.

threshold of *Las Meninas*?[12] The answer to this question is that man is "the speaking and questioning subject" who is only revealed through the "enigmatic and precarious being" of language.[13] This immediately raises the question of language itself: "[w]hat is language, how can we find a way around it in order to make it appear in itself, in all its plentitude?"[14] With this latter question Foucault is not attempting to interrogate language in any of its particular manifestations. He is not asking about the function and deployment of one particular language such as English or French or German, nor is he seeking to specify a particular 'visual' language – Impressionism, Expressionism, Realism, etc. – manifested in a work of art, and nor is he seeking to explicate the sonorous language that allows the expressions contained within any particular musical piece. Rather, the aim is to get past language, to move under that most general series of signs and signifieds, that most general series of markings (visual, audible, or visceral) that allows the expression of anything whatsoever, and which facilitates communication in any of its myriad forms. If we are to begin an answer to the former of these questions, if we are to answer what resides in the threshold of *Las Meninas* we have to get beyond the specificity of a particular language, beyond its localized rules of grammar and its particular vocabulary, beyond the answers provided through the recourse to a lexicon, and we have to get deeper than language itself. Foucault does not seek to recognize how language makes things visible and speakable, but, rather, to penetrate to that core figure, that expression, which is taken up, conditioned, condemned, demarcated, and even allowed to flourish in all linguistic representations. Foucault's task, in other words, is the attempt to specify the

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[12] Ibid.
[13] Ibid., 305-306.
[14] Ibid., 306.

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figure of man existing antecedent to visibility and see if such a specification is at all possible.

The first step in getting beyond language and uncovering man is to render the distinction between 'nature' and 'human nature' in the Classical age. The difference is in function. In the Classical world, "nature, through the action of real and disordered juxtaposition, causes difference to appear in the ordered continuity of beings."[15] Human nature, by way of contrast, "causes the identical to appear in the disordered chain of representation, and does so by the action of a display of images."[16] Both nature and human nature function against an 'uninterrupted' background, and it is the relation to this background that allows for the formulation of man and nature as comprising a series of "isolable identities and visible differences over a tabulated space and in an ordered sequence."[17] The background is a canvas of possibility, an immanent plentitude, upon which human nature and nature articulate themselves. This articulation is not an inscription or a graphing of elements that are already created and simply awaiting a mode of expression; quite to the contrary, human nature and nature can only gain disclosure and being on this canvas. The canvas is the necessary condition which facilitates their being, and they "cannot succeed in doing this without each other."[18] Specifically, the background is the medium which allows for human nature and nature to represent themselves, and because this background is an uninterrupted continuum, an ever flowing

[15] Ibid., 309.
[16] Ibid.
[17] Ibid.
[18] Ibid.

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fabric, these representations are open to the possibility of repeating and duplicating themselves in their representations.

This duplication occurs in two ways. First, there is the duplication in memory; there is the formation of the image of that which is represented on the canvas in the mind of those who behold it, or who once cast their gaze upon it. Second, there is the duplication that happens as a result of "the act of speaking, or rather…, in the act of naming…"[20] The former of these actions (that of memory) does not perform its duplication on a series that is already ordered. Rather, what is duplicated in the memorized image is the chaotic display "of representations that capriciously present themselves to it" and it is the act of memory which organizes this dispersion into a coherent 'picture' of what is witnessed on the canvas of man's existence in the world.[21] The function of memory, in other words, is to reproduce the figurations displayed on the background; it takes the dissociated events of life, and arranges them in an ordered series of representations; it is specifically through this action that memory allows man to represent himself as the representation that orders the representations of the world. The second form of duplication compliments memory, and impacts the world of representations. Language folds representation back upon itself and "transforms the linear series of thoughts into a constant table of partially different beings…"[22] Whereas memory extracts images from the 'jumbled' expressions of life and orders them into a coherent picture of reality, discarding this coherency and 'writes' it back on the canvas of being; language "patterns, combines, and connects and disconnects things as it

[20] Ibid.
[21] Ibid.
[22] Ibid.

makes them visible in the transparency of words. In this role, language transforms the sequence into a table, and cuts up the continuum of beings into a pattern of characters."[23] What we have, then, is a double movement, a cycle of oscillation, a circuit; the disparate representations on the background canvas of the world are extracted and ordered by memory, and then language takes this ordered table and inscribes it on the canvas. The original representation is twice duplicated; first it is duplicated in the mind, and then the image of memory is duplicated and re-deployed on the canvas of being. Neither of these movements can take place in itself, in a vacuum; each of these actions works off the other. The two functions of memory and language compliment each other in the creation of the world and man.

Foucault points out that the most important consequence of this dual action is that it precludes the possibility of man being situated in the world: man is not on the canvas, nor is man within the ordered table of representations, which is created through his relation to the world; through his representation of the world to himself and the articulation of this order back on the representational field. In other words, man is created through the oscillation of memory and language; man exists in the lightening flash and the glimmer of the movement of this circuit. This is not to say that man is in any way necessarily tied to the canvas of being as it is represented in nature. Rather, Foucault claims that man is related to nature through the dual mechanisms of memory and language, and that it is specifically these two functions that allow man to express himself, not as a representation of nature, but as the "difficult object and sovereign subject of all

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[23] Ibid., 311.

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possible knowledge" that specifically has no place in the representations of nature, but is always a participant in the process of their formation.[24]

2.3 The transcendental-representational circuit

According to Foucault, distinguishing man as the 'shimmer' in the circuit and situating man in the movement at the threshold of representation "absolutely excludes anything that could be a 'science of man'."[25] To makes sense of this statement and properly situate Foucault's critique it is necessary to specify what Foucault conceives of as a science. In his lectures at the College de France during 1975-1976 Foucault defines science as "the disciplinary policing of knowledges."[26] The 'policing' of knowledge happens through the deployment of language, and it has the function of delimiting, defining, verifying, and falsifying various propositions within language; science is the action of language upon representations to order them. This action is impossible to apply to the subject of man because he occurs at a more primordial level that is antecedent to the function of science; man appears at the "nexus of representation and being."[27]

Foucault points out that situating man in the threshold means specifically that the representations of man cannot "have validity as the locus of origin of living beings, needs,

[24] Ibid., 310.

[25] Ibid., 311.

[26] Michel Foucault, Society Must be Defended: Lectures at the College de France 1975-1976, 182.

[27] Michel Foucault, The Order of Things, 311.

and words, or as the primitive seat of their truth …"[28] The representation of man is the effect. The various qualities that we assign to man – the job he does, the words he uses, the objects he manipulates – are in fact made to the representation of man. Man is 'compressed' within all qualities that are assigned to his representation in the world. What is key here is that man is not separated by a vast schism from his representations, but rather that man is in a relation to them. Conceiving man as the shimmer at the threshold is, in fact, to recognize him "to be the extremity of one long series" that progresses from the threshold to representation as a human being that is displayed along with everything else in the world.[29] Man is linked to his representations though a circuit; the question is whether or not this circuit is one of dual flows or whether the representation of man is simply and always an effect of man; the representation simply a flotsam and a surface effect, or is the representation capable of going backward along the circuit to effect changes on man in the threshold?

        Foucault's answer to this question begins with the recognition that in one sense man is governed by the representative functions of his labour, life, and language; "his concrete existence finds its determinations in them; it is possible to have access to him only through his words, his organism, the objects he makes – as though they possess the truth in the first place…"[30] Under this schema, the flow from threshold to representation is reversed, and the representation of man 'unveils' man to himself. That is, the threshold is the product of the representation that in turn allows the ordering of the representational field. If man were completely segregated from the representational field, if he were not in

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[28] Ibid., 313.
[29] Ibid.
[30] Ibid.

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some form of relation to the language(s) he speaks, the job(s) he does, and the body that he calls his own, then we could attribute nothing to him; he would, in the fullest sense, be a man without content; a being that is bereft of any of the qualities that go along with being. Rejecting this, Foucault posits that the representational field conditions the essence of man as he exists in the threshold. This means that all the representations of man exist before him, outside him, and that, in fact, these representations precede and limit man; in other words, the notion that man is product of his representation graphs onto man the notion of finitude.

Man becomes aware of his finitude through his representations, and this application of finitude occurs in two stages. First, man in the threshold must be brought into confrontation with the limitations which define his representation. Man is represented as being something and not another thing; the field of representations is that which inscribes upon man the notion of limitation and this limitation must be brought into relation to the being that presents his representation. This is a relation to that which is outside; man encounters the threshold of the finite through an awareness of that which is external to him. The primary representation of man is his body as it is conditioned by other representational forces—the job, the economic system, etc. These representational forces indicate to man his own finitude by conveying a limit that constrains his representation; the body is 'this' and not 'that', the body can do 'this' and not 'that', and because these constraints are dictated by the particular representational field that the body finds itself in, man at the threshold only encounters the notion of finitude through the representations which are outside and external to the threshold that he occupies. Once man recognizes his connection to his representation, then the second phase of his of

finitude takes place. The finitude of the representation is inscribed in man himself, and the notion of a horizon of his own possibility emerges. Finitude becomes not the limit of man's possibility, but "that basis upon which it is possible for positivity to arise."[31] With the inscription of finitude on man in the threshold the possibility of knowledge emerges. The threshold man becomes the site of connection between the objective constraints of the representational field and the transcendental possibility of exceeding these constraints; the threshold figure is shown to be neither separated from the empirical constraints dictated by the representational world nor the possibility of altering these constraints.

Foucault points out that this unification of the representational and transcendental brings up a fundamental problem with respect to the notion of truth itself. On one hand, for a statement to be true it must apply to its object, and this means that it must exist on the same plain as its object and the object itself must have access to its truth. This means that the truth of man must be "gradually outlined, formed, stabilized, and expressed through the body and the rudiments of perception..."[32] The truth of a man is a function of whatever representational field he is in relation with. A man is truly healthy, and his claim to health is not an illusion or a falsehood if and only if this claim is supported by his environment, through the form of medical documents and the evaluations of those in his representational field which are in a position of certain authority at a certain time. The truth is validated and secured by whatever representational field one is in.

In addition to this, a true claim must also be in "the order of discourse – a truth that makes it possible to employ, when dealing with the history of knowledge, a language

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[31] Ibid., 314.
[32] Ibid., 320.

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that will be true."[55] It is this second condition of truth where the problem arises; where does the validation of the discourse which allows for the expression of truth come from? Is the authority of medical documents and doctors simply a condition of the discursive field in which they function; does the discourse that allows the expression of truth derive from the representational field in which it functions; is discourse simply an addition to the representational field? Or is the (great) conversation actually grounded in a world outside of representations? Or is discourse ungrounded, existing in the threshold between representation and expression? If discourse is grounded within the world which it represents, then at some point in this discourse there would be nothing left to say; the discourse would denote all things that are represented, all possible relations between representations, and all possible derivations of these relations; becoming would be the specific thing that is precluded from this discourse and the discourse could only express what is already represented in the world or implicated in the representations of the world. If, on the other hand, discourse is grounded outside the world of representations, if the terms of discourse find their definition and proof in a world that is removed from representations, then we are faced with the problem of an unfulfilled promise. That is, discourse would be grounded in the thing that it can never disclose; it would be the formation of a truth it could never signify. In other words, the attempt to specify the truth of discourse in the representational field demands a reduction that eliminates becoming, and, the attempt to ground the discourse in a transcendental invokes a hypothesis of the truth that can never be specified. While these two attempts to ground discourse "do not need one another in any way" and while they can both claim to "rest entirely on

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[55] Ibid.

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themselves" and the world in which they function, it is not a question of choosing one over the other.[24]

Rather, the question is how we can get past the impetus to situate discourse in either expression or representation; to show that discourse is neither outside the representational field nor strictly an attribute of that which is presented on the canvas. We wish to show that discourse has no heart, no core, no center; it cannot be traced to one singular element. Neither are we trying to show that discourse is simply an effect, a consequence and that which is said about expression to formalize it. Discourse is not that which comes too late to expression as something which simply gives meaning to that which has already occurred. On the contrary, it is a product of the oscillation between expression and representation; it is reflection of the affective border or threshold which creates the representational sphere. Discourse is name given to the flow between the spheres of expression and representation and this flow creates the spheres; it infuses representation with the possibility of becoming and lends formalization to expression. The argument for this conclusion must face a few conceptual hurdles. Foremost, we must modify the notion of eschatology and show how discourse does not aim at a notion of an unchanging empire of perfected signs. Second, Foucault shows how the notion of the cogito does not suffice to illuminate the figure of man who participates in and creates discourse. Third, Foucault argues that man is the outsider to representations, and that it is specifically from the threshold that man creates representations. The remaining sections of this chapter will present the negative argument that man cannot be situated within the representational field, and the positive argument that the meaning of representational field

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[24] Ibid., 319.

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is created through an oscillation between expression and representation, will be established in my third chapter.

2.4 Two types of eschatology

The first step in showing that man is not utterly constrained by representation must address the notion of eschatology. We must banish ourselves from the desire to discover a perfected empire of signs, yet this does not necessitate making the idea of eschatology anathema. What is needed is a discourse that has its locus in that "which has been empirically acquired" and yet makes reference to the transcendental that "makes it possible…"[25] This middle path is found in a type conditioned eschatological thought. In one of his lectures after the publication of The Order of Things Foucault points out that eschatology has two forms. First, there is a "sort of absolute eschatology that posits an empire, a universal monarchy as the culminating point in history…"[26] Second, there is a "relative eschatology, a precarious and fragile eschatology, but towards which it really is necessary to strive, and this fragile eschatology is, in short, peace."[27] In its 'absolute' form eschatology posits the notion that there exists something underneath or beyond the representation which both justifies the surface of the representation and specifies its incompleteness; the representation is representative of a total picture which is not disclosed, and the representation itself asserts the need to go beyond itself to uncover the perfected 'empire' from which it subsists. Under this model, the sign is actually a sign of

[25] Ibid., 320.
[26] Michel Foucault, Security, Territory, Population: Lectures at the College de France 1977-1978, 300.
[27] Ibid.

displacement; the sign itself says that one must go beyond it, underneath it, past its limitation and the limitations of the canvas on which it is represented, and only through performing this movement will we discover the 'empire' that is constituted by the primordial signs and which allows the representations which avail themselves to our perceptions.

The second (relative) eschatology has a more modest goal. Whereas the absolute eschatology seeks the perfected sign which serves as the foundation to all representations but which is only obliquely represented in perceptions, relative eschatology seeks peace instead of perfection. This peace will not come from the discovery of the primordial sign which is not represented "but from non-unity, from plurality maintained as plurality."[38] Relative eschatology recognizes that the actual experience of the representation is both "directed to a specific yet ambiguous stratum, concrete enough for it to be possible to apply to it a meticulous and descriptive language, yet sufficiently removed from the positivity of things for it to be possible, from that starting-point, to escape from that naïveté, to contest it and seek foundation from it."[39] The plurality of relative eschatology is specifically a joining of the representation and that which is immediately beyond; it is an oscillation between the represented and that which is next to it. There are two realms at play here; namely the realm of representations that are sensible, and the realm of insensible ideas. These two realms come together in every instance of meaning. But what, exactly, is their point of connection? One way to attempt an answer to this question is to first posit the pure idea and then trace outward from this idea to the point where it

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[38] Ibid.
[39] Michel Foucault, The Order of Things, 321.

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joins with the representation. The other method is to start with the representation and seek out the point where it dissolves into and begins to merge with the realm of the ideal. The former begins with the unknown and tries to link it with the sensible. The latter method (of relative eschatology) begins with the representation and tests its limits to discover where it touches upon the unrepresented.

The benefit of Foucault's notion of relative eschatology is that it specifies how we get to a sense of the form of the representation by showing how we can specify its limit, and this allows us to speak of the representation of man, but it does not tell us how this representation can speak for itself. Man, even when we conceive of him at the threshold, is still a representation; he is specifically a representation in the threshold that is now able to speak of representations in the empirical world. Yet the question remains of how this threshold representation can speak of himself and in what sense he can achieve any self-consciousness and capacity to discern his own being. The question is no longer how man can conceive of that which lay outside him and nor is it how the representations that array themselves before his perception generate their limitation and allow for their discussion. Instead of extending outward to the things which are represented to him, the line of questioning now moves in the inverse direction and "extends from that pure apprehension to the empirical clutter, the chaotic accumulation of contents, the weight of experiences constantly eluding themselves, the whole silent horizon of what is posited in the sandy-stretches" of man's own non-thought.[80] The notion that man can engage in the relative eschatological enterprise and discern the limitations of a given representation or series of representations already presupposes that he exists as a self-conscious being that is capable

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[80] Ibid., 323.

of ordering and interrogating his own experiences and perceptions. Whereas the original question was 'who is speaking' and the answer was revealed through an analysis of what conditions allowed for the disclosure of the speaking being and its limits, this question now reverberates around to the representation of man in himself, and directs its interrogation toward the nature of man in his capacity to think at all.

2.5 Foucault's rejection of the cogito

Foucault points out that thought, however, is not a simple unity that can be revealed as the cogito's 'sovereign transparency'.[41] Rather, thought is the traversing to its own non-thought; like the representation that can only be established in reference to its exterior which defines its limit and allows for its isolation, thought is only rendered perspicuous in reference to the thing which it is not. The interrogation of thought begins with the question of "[h]ow can man think what he does not think, inhabit as though by mute occupation something that eludes him, animate with a kind of frozen movement that figure of himself that takes the form of stubborn exteriority?"[42] Thought is man's representation of the world to himself and of himself to the world, and for this representation to make any sense, for this representation to be an object of analysis, it must be constrained; it must be something other than a universal; it must, in other words, be something that is limited. This limit to thought is generated by recognizing thought to

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[41] Ibid., 322.
[42] Ibid., 323.

be a traversing of the space between "thought-conscious-of-itself and whatever, within thought, is rooted in non-thought."[42]

This relationship between thought and the unthinkable is, in fact, an opening of thought to that which is foreign to it, and it precludes the possibility of thought ever appearing as something that is isolated once and for all. The relationship is not between two clearly demarcated entities, and nor is it between the specific thing which is and that specific thing which it is not. The analytic of thought is not the serial movement from one term to the other, and to the next, like a progression along a chain of extrapolations whose first term is clearly defined. It is this first term (thought) which calls for definition, and this definition is produced through thought's constant positing itself in relation to the thing which it has not yet integrated with itself.

As such, thought does not present itself as the fundamental affirmation of 'I am' that is completely settled and nor does it present itself as a continual negation. The 'I am' of my thought is asserted against a vast density of the things that 'I am not', yet to make this claim of identity have any meaning, to treat it as something other than an empty proposition, it must relate itself to the unknown and unthought and this relation happens term by term. Foucault points out that this term by term movement of thought is not simply a repeating negation; thought is not that which repeats 'I am not this thing which is outside of me'. Negation is abandonment; it is a looking to the other, and a stepping away from it; it is the action which precludes any alteration of the term which is negated as the term which does the negating only isolates itself from that which would elicit any modification on its being. The turning away of negation is then, opposite of the

[42] ibid., 324

'essential' movement of thought which seeks to define itself by "a modification of what it knows" through a "transformation of the mode of being of that on which it reflects."[45] This modification of thought in order to establish itself and define its limits is in fact a movement which touches up against its own unknown, and it is this very movement that is precluded by the representation of a cogito as the thinking being which asserts itself without providing any account of how it generates the limits to its own contents.

2.6 The futility of the quest for origin

Both the empirico-transcendental circuit and the rejection of the cogito function against the background of history which calls for the awareness of an origin. In the establishing of the limits of his representation man looks outside, to the thing next to him, as a means of isolating himself as possible object of discourse. Similarly, in the attempt to define his thought and posit it as something that may be discussed, man references that which is external to thought itself. In both these attempts man positions himself "as near as possible" to the representation of the other or outside in the attempt to define the limits of his being.[47] As much as these limits are conceived of in terms as a series of representations extending along a spatial series, they are also part of a temporal progression; the drawing next to the other is a movement in space and this movement occurs over a duration of time, it has a certain velocity and this movement is assumed that this is measurable. This means that the ordering between representations is, in fact, a spatial-

[45] Ibid., 327.
[47] Ibid., 329.

temporal ordering where the representations are separated a distance that gains its meaning through reference to the duration that it takes to cross them. The presupposition of this duration is that it has a fundamental unit of measurement, an irreducible unit whose accrual constitutes the duration and which constitutes a 'foothold' from which to launch the extension of a temporal progression. Foucault points out that it does not matter if its origin of the temporal progression is "fictitious or real, whether it possesses the value of an explanatory hypothesis or a historical event;" [46] it is a moot point whether or not this original unit is, in fact, the beginning of the universe of representations, or if it is simply a proposition that allows for the functioning of a particular temporal progression; what is necessary is that it is accessible to us, and that it allows for the generation of a temporal series that can mark out the limits between representations.

The question is whether or not this origin of the temporal progression is accessible to us. Foucault argues that it is not. To understand Foucault's argument it is necessary to begin by investigating where the notion of historicity comes from; to understand how man cannot relate to the notion of the origin, we must understand how man comes to an awareness and experience of the historical flow in general, and second, how man comes to understand history in the particular case of his own being. From where does man get the notion that things are not an eternal now? What causes man to recognize that things change and that there is a duration of temporality which marks out this change? Foucault answers, perhaps quite obviously, that man becomes aware of historicity through his interactions with representations. For example, in the job which is assigned to him, the tasks he is assigned or which he takes on himself are ordered; there is a marked

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[46] Ibid.

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progression from one moment to another, and this ordering not only progresses toward some undisclosed future, but also is in reference to a past which states that which has already been done. The representation, as the thing before man and outside of him, reveals itself a something that is already imbued with a temporality. What is key here is that man encounters this temporality first; he comes to the representation in the midst of itself, and it is this temporal progression of the representation which leads to the positing of an origin; it is temporality of the representation "that, in its very fabric, makes possible the necessity of an origin."[47] In other words, the representation, as it is encountered by man, shows itself to be enmeshed in and manifesting historicity and the origin is discovered as something primordial to history which stands "both internal and foreign to it…"[48] On the one hand, the origin is the thing which is derived from the history of the representation, and which allows this history to function, yet, on the other hand, this origin is specifically the thing which is not expressed in the representation itself, and only exists as the thing which is removed from its history.

That is, the representation is bound up with its own history, and this history is revealed as part of the representation which gives it meaning. The question is how could man discover his own origin? Foucault points out that man "can uncover his own beginning against the background of a life which itself began long before him …" and it is "always against a background of already began [representations] that man is able to reflect on what may serve him as an origin."[49] External to the canvas of representation, in the threshold, man is quite literally a being without content, and it is only in his

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[47] Ibid.
[48] Ibid.
[49] Ibid., 330.

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entrance to the world of representations that man uncovers the possibility of a history and origin. In order for man's origin to exist for him, it must, for instance, be expressible in language, and this already presupposes that man has encountered and is immersed in the representational field of language. This indicates that, in fact, the origin of man is not his beginning; it is not something from which he departs or uses as a base from which to initiate the articulation of his being; it is not bound with him in immediate transparency in his posture at the threshold, rather, man's origin is the thing he comes to, the thing he discovers through his inter-relation with the representations of the world.

This idea that man is separated from his origin brings with it two rather counter intuitive points. First, to assert that man moves to his origin, and that it is a consequence which is unearthed with his entrance into the world of representations is to claim that man is neither older nor younger than his origin. Rather, man's movement toward his origin simply shows that the origin is something other than man that is separated from him, and that it is not that man is 'older' than his origin, but that the origin is something that is "as ageless as he himself" because it "belongs to a time that has neither the same standards of measurement nor the same foundations as him."[50] But – and this is the second point – because the origin is external to man and discovered when he makes his entry into the field of representations, it does not "herald the time of his birth" nor can it "reveal the most ancient kernel of his experience..."[51] Outside of representation man is divested from history; that is, history has no place except within representation, and external to representation the notion of the origin is not man's own. It is only when he enters into

[50] Ibid.
[51] Ibid., 331.

representation that he finds himself pinioned "at the center of the duration of things" and it is only as a representation that man finds any need for an origin by which to justify the history that encompasses him.[52] The origin is not, as I have stressed, something that is intrinsically tied to man or part of his essence, rather, it is something that comes to man like a shadow when he makes his emergence into the luminosity of representations. Man experiences through his representations and these have their own histories which lie external to him; their history and their origin is not man's own, and therefore whatever origin man encounters in the representational field does not apply to him, but to the representational field which requires it as a grounding.

Foucault points out that once man has departed the threshold and entered into the representational field he discovers that, in effect, he is still an outsider to it, but it is from this position of an outcast that man is able to create historicity. Surrounded by representations man is the being without origin, and all that the history of representations reveals to him is that he is "cut off from the origin that would make him contemporaneous with his own existence."[53] As I noted earlier, the origin of the representation is removed from that representation; it functions as the antecedent condition which allows the generation of the 'calendar' which marks out the representation's evolution, maturation, decline, and eventual cessation. While the representation of man plots out his course parallel to the progression of representations across this calendar, he is an additional element which came from the outside, whose existence may endure longer than them or dissipate before them. Insofar as he is an outsider to any particular representation or

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[52] Ibid.
[53] Ibid., 332.

group of representations, man is located in a position which is identical to the space of the origin of these representations; both man and the origin of representations are external to representations even though they are the marks which participate in the representational field and allows it to function. While two things which occupy the same space may in fact be different, Foucault's point is that the space itself delimits a certain function; the place one is in determines one's role and the effect one has. In other words, because man is an outsider to the representational field he occupies the same space as the origin, and because he occupies the same space as the origin he embodies the same function as the origin. Rather than constituting a breach in the historical progression of representations man "is the opening from which time in general can be reconstituted, duration can flow, and things, at the appropriate moment, can make their appearance."[54]

But the story is not completed. The recognition that the representation of man functions as an origin for representations still does not resolve the question of man's own origin. As the origin of representation "man finds himself unapprehendable at their zero point" and "set back in relation to that setting back of things" that are represented to him.[55] Specifically, the representation of man functions as the necessary condition which stands outside and anterior to the manifest progression of the representations all around him, but these representations do not provide him with his own origin, and he is, as it were, an ungrounded hypothesis; he is the figure which itself embodies a history that plays itself out through representations and requires a starting point to justify this

[54] Ibid.
[55] Ibid.

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unfolding. Unfortunately, because of his position in reference to representation man cannot seek his origin in them.

2.7 The connection between epistemology and concrete limitation

With this refutation of the idea that man can possibly uncover his origin, Foucault completes his analyses of the figure of man showing him to be the figure in the threshold of *Las Meninas* that is not fully captured in representations. By locating man in the threshold Foucault opens up the possibility of thinking of ourselves in ways other than simply as that which is represented; his thought opens up the possibility that man is not fully defined by his job, his language, and his body, and in this way man is freed from the 'tyranny' of his representations. However, the problem, as Gary Gutting points out, is that the 'concept of man, as it is articulated' in The Order of Things, is still just "an epistemological concept."[55] Gutting observes that Foucault "encapsulates a view of man as both a knower and an object of knowledge" where the figure of man is 'decentered' from his representation.[57] Showing that man simply is not his representation and that man is not fully reducible to the job he does, the language he speaks, or the figure of the body is a huge step that "will no doubt significantly alter our conception of knowledge" but is such a move really a revolution?[58] A revolution must always bring with it the "sort of figure of social and moral transformations relevant to human liberation."[59] Showing a

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[55] Gary Gutting, *Michel Foucault's Archaeology of Scientific Reason*, 224.
[57] Ibid.
[58] Ibid.
[59] Ibid.

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fissure between expression and representation is perhaps a beginning to this revolution, but, for Gutting, it does not necessarily constitute the sort of change that Foucault seems to indicate with his much celebrated 'death of man'.

Gutting's critique is not that Foucault is simply bracketing an analysis of the nondiscursive (concrete) apparatuses of constraint in favour of gaining a better understanding of the epistemological structures that limit the possibilities afforded by the concept of man. Foucault justifies this methodological segregation when he points out that discursive domains "didn't always obey the structures that had common practical domains and associated institutions; on the other hand, they obeyed structures common to other epistemological domains…."[60] The point is not that epistemology is somewhat distinct from the sphere of bodies localized, constrained, and sometimes allowed to flourish and that Foucault dedicates himself to the analysis of the former sphere. Rather, Gutting's concern is that Foucault does not explain how "the [epistemological] concept of man is tied to restrictions on human freedom or why its elimination would be a blow for human freedom."[61] According to Gutting, there is a gap in Foucault's reasoning; until there is some specification of the connection between the epistemological analyses contained in The Order of Things and the "social and political power that restricts freedom" Foucault's thesis that the representation of man is distinct from his actual being in expressions is incomplete.[62]

Gutting is wrong. Foucault does specify the connection between the concrete institutions and forces that limit the lived freedom of humans and his epistemological

[60] Michel Foucault, "The Discourse of History", in Foucault Live (Interviews, 1961-1984), 23.
[61] Gary Gutting, Michel Foucault's Archaeology of Scientific Reason, 225.
[62] Ibid.,

analyses. This link is discourse. "What existed in the place where we now discover man was the power special to discourse, to verbal order, to represent the order of things."[63] To ascertain the means by which man is tyrannized and has his freedom limited – or augmented – we go "through discourse."[64] The 'visibility' that connects epistemology to the site of morality is specifically the system of language and conversation within that language. The mutations, constraints, and freedoms of the socio-political 'real' are accessible to man through his conversing about them; these things certainly are felt by man, but this feeling is meaningless unless it figures in his language at some point. From the other side, the socio-political structures facilitate their own being and capacity for change by utilizing discourse – in the forms of the bills of sale, the orders of requisition, schedules of work, and the countless memos and statements of purpose written in the name of an institution, etc. At bottom, there is a continuum linking man to the physical forms of his restraint (or proliferation). Discourse is the medium which both enables an understanding of these physical forms of constraint and presents the opportunity of the revision of the limits of man's possibility; it is man's conversation with himself and others that both specifies the things which entrap him and the means by which he can possibly escape these traps.

Yet before this escape can be actualized we must come to terms with the concept of man as he is revealed in discourse and discover how his expression itself is not fully circumscribed by its representational forms. Foucault provides the beginnings of this awareness. The initial postulate is that man is located in the threshold that is linked to his

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[63] Michel Foucault, "The Order of Things," in Foucault Live (Interviews, 1961-1984), 15.
[64] Ibid.

representation through the visibility that encompasses both the representation and the obscured space not represented on the canvas of *Las Meninas*. Foucault's analysis of Velázquez's painting shows that the figure of man resides in a darkness and this engenders the question of what, if any, qualities we can definitively ascribe to him. Man's position at the threshold of the painting dictates that his being is, in fact, a circuit between his empirical representation and the transcendental space of the threshold. Then Foucault shows how the attempt to discern any of man's qualities requires the notion of a limit that is expressed through the injunction of man's finitude. This finitude reveals itself to be a floating horizon and it thus eliminates any possibility of man being defined within the completely settled idea of a cogito. However, this finite limit of man is only meaningful against a general historicity which itself has meaning if it has an origin. Showing that this origin is something that can never be reached and that it is a necessary concept that is necessarily empty calls the relevance of Foucault's analysis into question; if man is placed in a position where no limits applies to him or where any limit that is ascribed to him shows itself to be unjustifiable, then we have to ask the question of whether or not man is actually in the threshold, or if Foucault's analysis of *Las Meninas* is in fact a type of philosophical joke that reduces any discussion of man's being to nothing more than silence.

In my next chapter I will show that there is another line of analysis which adds to Foucault's initial postulate that man is in the threshold of his representations and functions to show that his analysis is not a joke. While Foucault offers an excellent argument of why man is distinct from the representational sphere, he does not really specify exactly what occurs in the field of visibility that links man's threshold expressions

to the illuminated representation. Representation and expression are illuminated by the same sun, but what actions transpire under this sun? Foucault does not fully address this question. He does not, for instance, specify the exact form of the representation which exists in relation to the threshold, and nor does he show how this representation is created in its particular form by expression. To fill this gap and complete Foucault's argument I will look to a representation of the law which is implied but not discussed in The Order of Things. The representation of the law touches upon and has the potential to define every aspect of man's life. The law delimits the hours man can work and the compensation he is paid; it designates the words he can use and the manner in which he can use them; it defines the medical treatments that he may be subject to and it specifies the sites where this treatment may take place – just to name a few examples. Yet, if Foucault is correct, the law's representational sphere could never fully 'capture' man.

To understand how man continually escapes the power of the law, I will turn to Giorgio Agamben's analysis of sovereign power in reference to the law. The figure of the sovereign stands outside the legal representation and gives it force specifically because he is removed from it. By making a choice of when to suspend and validate the law the sovereign himself constitutes the barrier between expression and representation. I will show that in constituting this barrier the figure of man stands apart from his representations and does not fall victim to being fully constituted by them. Agamben points out that the reason man is able to maintain his status in the threshold of the law's representation is because he is the potentiality that actualizes itself in creating the law's representation. I will further argue that the law's representation is precluded from annexing this threshold and conquering the figure of man because the representation is

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created as something which necessarily abandons any expression in its particularity. Finally, I will discuss why this figure of man in the threshold must not be alone, and why the figure of the sovereign needs somebody to sacrifice. These analyses will detail the mechanism of the movement from the threshold of expression to the formalization of representation and present a concept of man that is capable of creating the representational field while manifesting the constant ability to transgress its limitation.

Chapter 3: Agamben and the coupling of representation and expression in the law's abandonment

The point I isolated from Foucault's Order of Things was that the major philosophical attempts to represent man meet with failure. The question of 'who is speaking' sits at the core of Foucault's book. Who is this being that sits at the threshold between expression and representation that is designated by the term 'man'? The transcendental-representational circuit specifies that man is the oscillation between expression and representation and it is his encounter with representation that highlights the necessity of his limit; man's expression gets locked down in the representational field and it is man's entry into this field which generates the concept of the limit that is necessary for the specification of man. The cogito fails as a representation of man because it constantly presents man as in relation to the limit of his own thought but it does not allow for any means of accounting for this limit. Instead of resolving the paradox of how man can both express (without apparent limitation) and be represented (as limited), the cogito advances the notion that man utters 'I think' which necessitates that it is exposed to the limit of the unthought that never gets presentation. Finally, the attempt to discern the nature of man's limit as his origin meets with failure. Man is the expression that moves to the representational field where he encounters the notion of the origin, but the specific origins he encounters are those of the various representations around him, and he never, as it were, discovers his own original limit.

In this chapter I change the scope of my argument to political ontology, and join Foucault's notion that man is a coupling between expression and representation with Agamben's reading of Carl Schmitt theory of sovereignty. This shift allows me to complete the account of how man traverses the 'visibility' that links his sovereign expression to the formal limit of the law's representation. The sovereign and *homo sacer* exist as expressions that are abandoned to and by the law's representation and it is their interaction at the limit of representation – at the law's threshold – that generates representation. I showed that man produces the representational field by embodying its limit. Agamben focuses his analysis on political ontology. The law's representational field is indeed a subset of the representational field in general, but in the law's potential to codify any situation it maintains the ability to both constrain and allow the proliferations of the entire representational set. Moreover, at the threshold, man faces the unlimited vista and is excluded from the law which codes the representational field, man is the political sovereign who formalizes the limit of the law and the representational field in general. Yet, in itself, formalization is not enough; representations are not the flickering stabilities far off from expression, and meaning is not simply a consequent of formalization. Rather, meaning is both presented and experienced; it is the child of the two forces coming together in a fatal embrace. *Homo sacer* is the object of this embrace. Drawn next to the sovereign in the threshold, *homo sacer* experiences his own death and thus renders the law as something that is both formalized through representation and felt as the real and proper experience of being.

Agamben's fundamental point is that the sovereign is the man who grants the juridical order its force and this is only granted because he is removed from it. On the

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other hand, the sovereign is not totally removed from the juridical order; there is not a total schism between the representations of the juridical order and the sovereign; the very fact that the sovereign can dictate the terms of when and where and to what extent the law applies to him indicates that the sovereign is linked to the juridical order and is not something completely alien to him. Specifically, the sovereign determines how and when the constitution applies to him, and this means that he is in the paradoxical position that is both part of the juridical representations and, at the same time, excluded from this system of representations: "Although he stands outside the normally valid legal system, he nevertheless belongs to it, for it is he who must decide whether the constitution needs to be suspended in its entirety."[1] The sovereign's dual function presupposes that he has some power to move from life's expression to juridical representation. The question is what is this power and how does it affect the generation of the representational field?

3.1 The sovereign's decision and the law's limit

This power to move from expression to representation is found in the sovereign's capacity to decide on the extent to which the series of representations manifested in the juridical order apply to him. Simply, "[t]he sovereign is he who decides on the exception" and it is his specific capacity to make this decision that allows for the movement from his field of expression to the field of juridical representation.[2] To understand this decision is to come to terms with the motives behind the sovereign's choice and to see how the

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[1] Carl Schmitt, Political Theology, 7.
[2] Ibid.

choice creates the structure of the field of the law's representation. Schmitt points out that as an exception the sovereign is freed "from all normative ties and becomes in the true sense absolute."[3] In the field of its expression the sovereign is outside the constraint of the law and beyond the norms delineated in the law's representation. The idea here is that representations are unchanging, and their immutability specifically precludes any evolution or possibility of change. The penalty of moving into representation is the loss of one's ability to change, and as long as he remains removed from representation the sovereign retains the possibility of his becoming which constitutes the necessary condition of his life. Yet, on the other side, as long as the sovereign stays isolated within the field of expression, his becomings have no meaning and no force; in being the expression which is excluded from the law's representation the sovereign both sanctifies the possibility of his becoming and produces the limit which defines his being. In other words, the sovereign expression is excluded from the law's representation, and, in order to maintain his ability to change, the sovereign "suspends the law in the exception on the basis of its [the sovereign's] right to self-preservation, as one would say."[4] Being requires both expression and representation; to Be the sovereign must both act and have this action represented. The sovereign's choice to enter into the representational field is what acts as the (formal) proof of his being, but for this proof to be something more than simply a movement toward his own atrophy, the sovereign must retain his existence in the field of his expressions.

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[3] Ibid., 12.

[4] Ibid.

But how does the sovereign connect with the representational field of the law? What, specifically, is the tie between the sovereign expression and the law? Schmitt points out that the essential element which allows the linkage between the sovereign's expression and representation is "the decision in absolute purity" and this decision is what is represented in the legal order.[5] To join to separate spheres there must be an element that is common to both; specifically, there must be a node that connects the sphere of expression with the sphere of the law's representation. This common node is the decision. Expressions, as movements within a field of expression, already presuppose a decision to move in a given direction or act in a particular way as opposed to some other way.[6] The legal representation is specifically a set of rules which formalizes and embodies the possibility of decision. In one sphere the decision is the thing formalized, and in the other sphere it is the thing manifested. Because it exists in both spheres, the decision is the link between the two of them; it is the specific element that connects the sovereign expression to the law's representation.

Insofar as the sovereign makes his choice in the sphere of expression this decision is freed "from all normative ties" that are codified and enforced by the law.[7] In making his decision the sovereign is in the border of the law's representation, and this border is not overrun by the law. For something to be subsumed by the law's representation and rendered simply 'subject of the law' there must already be some sort of 'normal situation' for the law to preside over and constrain. "For a legal order to make any sense, a normal

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[5] Ibid.
[6] The decision can be 'either/or' or 'this/and' or the negative 'neither/nor' or 'not this/ and not that'; the form of the decision is not the issue here. The content and the direction of the decision are not of concern; rather, the point is that such a decision simply must exist.
[7] Carl Schmitt, Political Theology, 12.

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situation must exist, and he is sovereign who definitely decides whether this normal situation exists."[8] The law is that thing which limits, but before the legal representation can function it must first itself be constrained and differentiated from 'chaos'. In other words, for the law to exist it must have a limit; it must be already defined against something which it is not, and only after this limit has been established, then the law can rule over a subject. This limit is that is created by the sovereign decision; the sovereign decision assures that the law is something more than an empty universal. By making an 'absolutely pure' decision the sovereign "'creates and guarantees the situation' that the law needs for its own validity."[9] In other words, the sovereign decision allows the law to simultaneously have universal purview and the capacity to be in force in a particular case.

In opening the law as a universal that has particular application this decision is not the construction of a threshold which draws together the law's representation and the expression; the threshold is neither external to, nor a product of the sovereign decision. Rather, the sovereign is his decision and this is a manifestation of the threshold itself. In Schmitt's thought "any legal system rests upon a decision that cannot itself take the form of the law."[5] Any concept of the law as a self-contained representational field requires both an origin and beginning, and this is only found in the sovereign function which frames the law from a position that is external to the law. The 'normal situation' that is represented in the law relies on a distinction "between inside and outside that as such exceeds the limits of the set of norms and laws" and nothing within the representational

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[8] Ibid., 13.
[9] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, 17.
[5] Andrew Norris, "The Exemplary Exception; Philosophical and Political Decisions in Giorgio Agamben's *Homo Sacer*," in *Politics, Metaphysics, and Death; Essays on Giorgio Agamben's Homo Sacer*, 267.

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field of the law can generate this distinction.[11] Thus, in order for there to be a coherent system of legal representation populated by a series of stipulations, there must exist the figure of the sovereign in the threshold who decides upon the field's limitation. This ability to decide upon the limit from the limit's "outermost sphere" is the true nature of sovereign being.[12] In other words the sovereign decides upon its own limit and constitutes the ungrounded ground of the law's representation; he is the moving figure of the law's threshold that both stands "outside the normally valid legal system" and belongs to it because he "decides when the constitution needs to be suspended in its entirety."[13] This means that the sovereign decision constitutes a movement that generates the representational field and the possibility of its content, but this movement is not a flow of the sovereign from the outside to the inside of the representation; rather, the movement denoted by the sovereign is the expansion and retraction of the representational field in response to the sovereign decision. While it seems to make sense to refer to the sovereign as the figure which crosses borders and colonizes new realms (of representation), this is in fact a misnomer; there is no limit without the sovereign – it is the sovereign who is the limit and whose being defines the limit – and hence the sovereign "carries the limit with it in its movement as it carries itself."[14] The sovereign decision is neither a movement into the representational field nor an exodus from it; rather, the sovereign decision to validate or invalidate the representational field is

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[11] Ibid., 268.
[12] Carl Schmitt, Political Theology, 5.
[13] Ibid., 7.
[14] Andrew Norris, "The Exemplary Exception: Philosophical and Political Decisions in Giorgio Agamben's Homo Sacer," in Politics, Metaphysics, and Death: Essays on Giorgio Agamben's Homo Sacer, 268.

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precisely the movement which constitutes the flowing threshold between representation and expression.

3.2 The problematic example

As the threshold of expression and representation, the sovereign decision is the example that stands beside the class that it limits. "What the example shows is its belonging to a class, but for this very reason the example steps out of its class in the very moment it delimits it…"[15] Agamben defines the example as the particular element that stands for other particulars from which it is distinct. One of the key postulates of set theory is that at base an element of a set is fundamentally equivalent to and effectively indistinct from any and all other elements of the set. The elements of a set are distinguished by the rule(s) which govern the set. As the particular element that is taken outside the set of representation, the example is the singularity that denotes all possible significations within the representational field. Yet because it is taken outside of the representational set the example is not subject to the rule(s) which differentiate the elements of the set. On one hand, the example is not a universal which is indistinct from elements of the set. On the other hand, it is not a particular that is wholly differentiated from and without relation to the group of things that are represented. Rather, the example is the "singular object that *shows* its singularity" by being "always beside itself" in the realm of expressions where "its undeniable and unforgettable life unfolds."[16] In order to

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[15] Giorgio Agamben, Homo Sacer: Sovereign Power and Bare Life, 22.
[16] Giorgio Agamben, The Coming Community, 10.

represent the class the example is taken outside of it, as the margin – as the expressive representation that is its affective border – the example formalizes the set. This formalization of the limit is what specifically allows for the set to be classified as a set and thus the example both precedes the set of representations and embodies the rule(s) of the set.

In his exemplary/excluded function the sovereign is part of the situation of the law, but this inclusion does not amount to membership. An individual element is a member of a situation when its actions and life are determined by that situation. An element "is *included* in a situation if it is presented in the metastructure…in which the structure of the situation is counted as one term…"[17] Typically, the relation of an individual to a situation takes one of three forms; either the individual is both a member of the situation and included in it, or the individual is included but not a member of the situation, or the individual is a member of a situation but not included in it. The sovereign's relation to the law, however, does not fall into this schema. First, the sovereign is included in the situation of the law because he is represented as an example of it, but this does not entail that he is presented in it as a subject of its control. Second, the sovereign is not simply an 'excrescence' to the situation because he exists outside the law and is thereby precluded from participating directly in its application, even though his existence is what validates the law's functioning. Third, the sovereign is not a singularity that exists as a member of a situation that is "strangely out of place, as a violation of the way things should be…"[18] While it is true that the sovereign is dislocated from the law

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[17] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, 24.

[18] Peter Hallward, *Badiou: a Subject to Truth*, 99.

and that he "can no longer be organized as a proper part of the [law's] situation" this does not mean that he is simply outside of the law (insofar as he is defined in any number of its statutes).[19] Because he is present in the law's statutes but not represented as a subject of the law and, at the same time, represented to the law as an example but not present in the situation that is determined by the law, the sovereign is the threshold between the second and third forms of relationship between the individual and the situation. Neither totally included in the law which recognizes him as member which is not present in it, nor simply a member of the situation which regards him as its example, the sovereign occupies the center space between membership and inclusion, and this makes it impossible to ever fully distinguish "between what is outside and what is inside, between the exception and the rule."[20]

However, if there is no distinction between what is inside and outside, what are the two groups that are brought together in this 'zone of indistinction' and how does the sovereign's exception bring them together? On one hand we have the law as an isolated set of represented rules. On the other hand we have the series of expressions which constitute life. There is no necessary linkage between these two groups; it is possible to conceive of life as a series of expressions without order, as a combination of expressions that are utterly bereft of the law's designations and, similarly, one can conceive of the law's representation as a self-contained logic that finds its justification only through reference to its own stipulations. However, this model of two unrelated groups brings with it the penalty that the law ultimately sacrifices all powers of change and reduces

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[19] Ibid.

[20] Giorgio Agamben, Homo Sacer: Sovereign Power and Bare Life, 25.

itself to a dead set – a group of finite elements can only engage in a limited number of combinations. To avoid this atrophy where the law's representations become a 'dead letter', the sovereign element subtracts itself from the law and establishes a connection between the law's representations and life's experience. Agamben points out that initially this movement into the field of life's expression is not simple imposition of the categories of licit and illicit upon this field; the commands and prescriptions of the law can only happen after the passageway between the law and life has been opened. The law's determinations are, in fact, secondary functions that are based upon the "originary inclusion of the living in the sphere of the law..."[25] In other words, the law's regulative nature is the consequence of the creation of the sovereign zone of exception, and it is this zone of exception which allows for the law to levy its sanction on any event in life. The law only maintains itself by merging with the threshold of life's expression and this requires that the sovereign be excluded from the law in its purity; in leaving the law the sovereign allows the law to instantiate itself and this opens the possibility of the law continuing to generate new representations which function as sanctions and prohibitions to life's expression.

This looses a string of questions. First, how is it that expression which escapes all the rules of the representational net is not fully expended in the creation of the law? Second, why, once the set of legal representation is created does it not then set out to immediately capture that which created it? What is the form of the law that prohibits it from colonizing the exemplary figure of man that instantiates its limit? Third, given the hypothesis that the sovereign remains the affective border of the law (at the threshold of

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[25] Ibid., 26.

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representations) how does this limit allow for the becomings which are represented? I will address these questions in the following sections.

3.3 Constituent and constituted; sovereign potentiality

Conceiving of the sovereign decision as the exception/example that is included in but not a member of the law's representation allows us to understand how the law is created, but this schema does not explain why the sovereign does not expend itself in the creative act and simply become subsumed by the law's primary document (the constitution)…[22] On one hand, the constitution is a secondary effect that is separated from the sovereign's purview by the limit of the decision. On the other hand, the constitution is the product of a political impetus which manifests itself within the sphere of the law's representation, and that which drafts and ratifies the constitution is specifically its constituent power: In order to create and ratify the constitution, constituent power must be inside the limits of the very field it creates from the outside. Does this place the sovereign within the representational field?

A recent response to this question is Antonio Negri's position that constituent power cannot be reduced to constituted power, and that it is false to assert that constituent "power is reducible to the principle of sovereignty."[23] Negri argues "that the truth of constituent power is not what can be attributed to it, in any way whatsoever, by the power of sovereignty… because constituent power is not only, obviously, an emanation of

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[22] Ibid., 41.
[23] Ibid., 43.

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constituted, but it is not even the institution of constituted power."[24] Constituent power flows from constituted power, and cannot be reduced to a particular institution within the representational field. Negri correctly regards constituent power as the raw force of creativity whose aim is to "construct more being – ethical being, social being, community."[25] According to Negri, if we associate constituent power with the sovereign's representation we effectively limit and thereby negate constituent power. The representation of the sovereign does have a particular aim; namely the production of beings that would maintain or augment his power – such as a group of disciplined bodies that give tribute to their master. That is, in giving direction to the creative force the sovereign expression contradicts the unlimited capacity of the constituent force to create anything whatsoever. To maintain the radical productive capacity of constituent power, Negri places it in the hands of "the people in the context of representation."[26] The people manifest the free praxis to make a choice that is "the precise determination that opens up a horizon, the radical apparatus of something that does not yet exist…"[27] This choice to create something new unleashes the constituent power and grants meaning to material representations making then something more than dead forms.

The problem with Negri's theory, however, is that it does not really do anything to explain the formation of the representational field that contains the people. The representational field is itself an actualization of some potentiality; what is the constituent power which generates the representational field? Agamben's vision of the sovereign

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[24] Antonio Negri. Insurgencies: Constituent Power and the Modern State, 20-21.
[25] Ibid., 23.
[26] Ibid., 26.
[27] Ibid., 21.

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expression that is excluded from the representational set fills this gap in Negri's theory. That is, Agamben conceives of the sovereign as the first cause of the representational field that does not get fully presented. The fact that the constituent power is unlimited at the moment of its creativity just specifies that it is the antecedent condition of representation. This means that the excluded sovereign is the constituent power which allows for the representational field's actualization.[28] Agamben argues that the sovereign expression is the potentiality that allows for the formation of the representational field specifically because sovereign expression does "not pass over into actuality" completely.[29] That is, the excluded sovereign has its own consistency in the threshold of representations, and here it manifests "the *potentiality not to* (do or be)."[30] The sovereign threshold can only be the site of the constituent power because it is distinct from the sphere of the law's representation, and to be distinct it must not, under any circumstances, become totally subsumed by the law's representation. In other words, the sovereign retains its potentiality because it is suspended from the actuality of the representational field. To state it rather paradoxically, the sovereign sphere is only capable of actualizing the law's representation because it is capable of not realizing itself completely within it; the law is possible because the sovereign is "capable of its own impotentiality"[31] at representation's threshold. But why, once the representational field is

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[28] If we were to ascribe these powers to the 'people' I would still argue that the people must form a council of leaders, commission, congress, or governing body. Whatever its particular formation, this entity would be similarly excluded from the law's representational sphere and have the same function as the sovereign. Thus, I use the term 'sovereign' to refer to the entity which embodies the representational field's constituent power.

[29] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, 45.

[30] Ibid.

[31] Ibid.

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actualized, does the sovereign not move into it as a definitively constituted representation?

Agamben explains that the solution to this riddle hinges on the notion that there will be nothing im-potential in actualization: "What is potential can pass over into actuality only at the point at which it sets aside its own potentiality not to be…"[32] Setting aside is not equivalent to destruction and nor does it amount to the severing of a relation. Rather, setting aside is in the form of excluding the possibility of the im-potentiality being realized. One can only exclude oneself from something which first of all exists and one can only maintain this exclusion as long as the other thing exists in relation to oneself. In excluding itself from its own possibility of non-Being, the sovereign establishes its identity as something which exists in relation to its non-Being; specifically, as that which exists in the same threshold realm as its own non-Being. That is, in the threshold of representation, the sovereign "is always double because Being, as potentiality, suspends itself in order to realize itself…as absolute actuality" that is excluded from representation.[33] In other words, by divesting itself of its own non-Being the sovereign expression is the constituent power of pure potentiality that creates the law's representation.

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[32] Ibid. 46.
[33] Ibid., 47.

3.4 The abandonment by representation

Recognizing that the sovereign is the potentiality that allows for the actualization of the representational field of the law explains this field's formation; it does not, however, fully account for why the sovereign is not subsumed by the law after the moment of its creation. The sovereign's im-potential is left behind in the formation of the law, but why, after the law is formalized, could it not reach out and colonize the sovereign's im-potential remainder? The answer to this question is not found in some unique power that the sovereign possesses or a particular quality of the sovereign im-potentiality; rather, the solution is found in the form of the law and its relation to sovereign expression.

In its most basic form, the law is an empty set of rules and stipulations; specifically, the law is a series of codings that have the form of "being in force without significance."[58] The law's lack of significance means that it "prescribes nothing" and stands as just a series of bare codifications that can embrace any possible expression of life.[59] In order to stand ready to apply itself to any situation presented by life, and retain the capacity to formalize any possible expression, the law must be divested of any particular signification. The law's first articulation, in other words, must be completely open to any particular expression, and this is what allows the law to apply to any situation.

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[58] Ibid., 51.
[59] Ibid., 49.

Agamben points out that the consequence of the law's radical openness is that the sovereign is not captured by the law. Without limitation the law is totally expansive, and this means, specifically, that all which could putatively enter into the law is already present in the law; that which has no particular limitation or boundary condition cannot, as it were, reach out to code a new expression. The key here is that we cannot conceive of the sovereign expression "entering into that which is already open...."[20] The law's openness is an utter lack of limit, and that which is limitless already necessarily embraces everything. Agamben holds that the sovereign cannot enter into the law's stipulations because the law already applies to every situation, including the situation of the sovereign's exclusion. The sovereign cannot, in other words, be fully colonized by representation, because, in fact, the sovereign is already there, included in the representational field as the pre-condition of its openness. In retaining its own openness, the law demands nothing of the sovereign and applies to him in not applying to his particularity; holding him, as it were, outside the reach of its signifying power. Paradoxically, the law includes the sovereign by already excluding him from its particular stipulations, and excludes him specifically because he is already included in its openness.

Fundamentally, the sovereign is included in but not signified in the law's representation, because the system of the law is a 'pure form of relation' which presupposes itself in the figure of something that is excluded from it. Agamben points out that this situation is analogous to man's relation to language which "holds man in its ban insofar as man, as a speaking being, has always already entered into language without

[20] Ibid., 49.

noticing it."[37] The entrance into language carries with it the presupposition of an ineffable and nonlinguistic object to be spoken about and awaiting articulation. On one hand this waiting is interminable because the presupposition of the linguistic system is never fully confined within the system. On the other hand, this waiting is never in vain, for the presupposed limit of the system belongs to the 'form of the relation' as precisely the non-linguistic element which is already there as its limit. We cannot entirely dispense with this unspoken element because it is the thing which marks the boundary of the system and allows for its coherency – as that which can be analysed and utilized in the articulation of any given situation. And, moreover, this unarticulated element can only be represented in the language which carries with it the capacity to allude to that which is not contained within it.

Similarly, the sovereign is specifically the figure that is the 'ineffable and non-relational presupposition' of the law that is cut off from entering into its stipulations or escaping from them because it is what belongs to the form of the relation itself. The sovereign is not conditioned by the law's stipulations because it is outside of them and this exclusion from the relation is already presupposed and a consequence of the existence of the law. In other words, the sovereign exists as the 'unsayable' and non-representational element of the law that can only exist because the law already, in its attempts to codify any situation, is precluded from codifying any particular. According to Agamben, the fact that the sovereign is not represented within the law, however, does not imply that the law is absent to the sovereign. Rather, the sovereign's banishment from the law indicates that the law appears to the sovereign in the "form of its

[37] Ibid., 56.

unrealizability."[38] As an open system that can apply itself to any situation, the law must already embrace the sovereign element as something which is part of it, but, paradoxically, the sovereign is only part of the law's representation as the oblique figure that is hinted at in its shadows and not illuminated by its stipulations. In other words, the sovereign is the ineffable presupposition of the law specifically because it is excluded from the law's representational field, yet the sovereign's unrealizability within the law is an attribute of his specific role as the limit which maintains itself as part of the system. The key point is that the law is not that which is missing and never present and which therefore has no force. Quite to the contrary, the law has force specifically because it is the thing outside, the thing removed; it is the light which does not shine on the sovereign and whose specific power is to reveal his existence in the darkness bereft of its stipulations. In not revealing the sovereign, the law reveals itself to him specifically as the thing which he transgresses and the illumination from which he is banished.

The question is how does one exist as a shadowy reflection of the law's visibility? How does the sovereign maintain itself before the representational system which has banished the sovereign and included him specifically as that which is abandoned; what is the form of sovereign life at the threshold that corresponds to the form of the law that does not determine any particular content? Agamben points out that the law does not designate "what goals it is possible to have or reach by obeying it…."[39] That is, the law reveals itself to the sovereign as a 'nothingness' that is all the more present because it is not there as a particular signification that can be reacted against or accepted. It would,

[38] Ibid., 51.
[39] Ibid., 52.

however, be a mistake to characterize the sovereign's lack of determinate end as total freedom. The law's force is all the more pervasive specifically due to its lack of content. In other words, because the law does not demand or elicit any particular series of actions, the sovereign is condemned to exist in a state of interminable dread which is conditioned by the awareness that any of his actions or signifying gestures presents the law with the opportunity to close itself on his being. If we insist on characterizing the sovereign's life in the law's openness as a type of freedom, we must add the caveat that this freedom is specifically the freedom of the outcast under surveillance, who may say anything because he is unsure if his words will be heard or understood, who is completely unaware of the nature of any charges or responsibilities that may be leveled upon him. Confronted with the law's openness, the sovereign embodies the freedom of the walking condemned, who knows that whatever his actions, he is beyond reprieve because it is specifically his actions give content to the law's responsiveness.

By inciting the law's response, the sovereign does not condemn himself to a defeat at the hands of the law's force.[40] Yet neither does the sovereign present himself to the law as the one who attains mastery. The threshold is, in fact, the zone of a fatal contestation where the sovereign expression and the law's representation "abolish each other and move into a new dimension."[41] This 'new dimension' that emerges at the threshold is a consequence of both the sovereign and the law relinquishing their necessary qualities. In standing before the law as its included outcast, the sovereign is defined by his ability to be anything whatsoever. The moment the law codifies the sovereign is an

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[40] Ibid., 55.
[41] Ibid.

appropriation where the sovereign is rendered explicit in the law's representations. In placing himself before the law and represented as the sovereign of a state of affairs, the sovereign specifically gives up the indefinite nature which was the fundamental mark of his being. Similarly, the law, in formalizing the sovereign expression, divests itself of the ability to code any situation whatsoever. In deploying its force in the attempt to signify the sovereign potentiality the law immediately abandons its proteon ability to code any and all other situations. From both perspectives there is an appropriation and a negation; more specifically, there is an appropriation of that which has been abandoned, where what is negated is the precise quality of abandonment which formerly defined both the sovereign and the law.

Agamben points out this dual action does not assert itself as the founding event of a series of proliferations. The 'new' that is created at the threshold is absolute in the sense that it bears no remainder of that which came before. Specifically, the law's formalizing tendencies become intrinsically tied to the expression in a situation when it is "impossible to distinguish the transgression of the law from the execution of the law, such that what violates a rule and that which conforms to it to coincide without any remainder…" [42] In other words, the sovereign element that stands outside the law's rule meshes with the rule as its transgression. In order for the law to triumph over the sovereign there would have to be an aspect of the law which is left behind and not applied to the sovereign expression, but the sovereign expression is the exact element that allows for the possibility of the law's application. Inversely, the sovereign, in fulfilling the law by allowing for its application, "does not signify that the old law is simply replaced by a

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[42] Ibid., 57.

new law that is homologous to the old but has different prescriptions and different prohibitions."[43] Antecedent to the meeting of expression and the law's representation there is only a 'jumble' of formal stipulations that have no actual application. That is not to say that there was no previous nexus of sovereign expression and the law's formalizing force; rather, whatever actualization appeared 'before' a given threshold intersection derives its meaning from its own situation, and this situation does not set up a causal chain which conditions subsequent events within the threshold. In other words, the threshold is always the zero-point of the law's actualization. The law's *nomos* is re-invented at the threshold and the threshold does not function as a plateau that dissipates into and conditions future proliferations of the law or the sovereign. The threshold is the constantly new situation wherein all previous actualizations of the law are annihilated and the law itself is placed in a pure zone of 'indetermination' where both the force of representation and the power of expression "coincide without remainder…of law and destiny."[44]

Freed from the codifications of the representational order, the threshold is an 'absolute space' that bears a superficial similarity to Deleuze's and Guattari's notion of immanence. In their discussion of Kafka, Deleuze and Guattari define the zone of immanence before the law as free of the determinations of innocence, guilt, mastery, and subjugation.[45] Specifically, the zone of immanence before the law is marked by a postponement that is "finite, unlimited, and continuous."[46] The confrontation with the

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[43] Ibid.
[44] Ibid., 57-60.
[45] Gilles Deleuze and Felix Guattari, Kafka: Toward a Minor Literature, 52.
[46] Ibid.

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law is finite because it wrenches the law out of the realm of pure representation and demands its application on the specific site of the sovereign's being. This confrontation proceeds segment by segment, piece by piece, such that every instance of sovereign expression is an invitation to the law's formal codification. Deleuze and Guattari counsel that while immanence is limited, the actions within the threshold are unlimited specifically because each instance of the law's application can "push the limit back" and thereby serve as an invitation for a further codification of expression. Finally, "this whole operation is to be called a Process…that is precisely interminable."[48] According to Deleuze and Guattari, a hierarchical organization where either the law or the sovereign takes the place of superiority would interrupt the immanence of the threshold, but it is specifically the formation of such a hierarchy that is constantly interrupted by the sovereign's expression. In a situation of immanence the law does not stand above the sovereign as the superior term in a hierarchy; rather, it is the contact between the representational force of the law and the sovereign expression that defines the situation wherein a hierarchical organization is generated.

It is a mistake, however, to claim that Agamben's notion of the sovereign's threshold 'contact' with the law is identical to immanence. Deleuze and Guattari point out that "whenever immanence is immanent to Something, we can be sure that this Something reintroduces the transcendent."[49] Agamben views sovereignty as 'something' and the encounter with the sovereign does not lead to the final determination that is associated with a transcendental. Specifically, sovereign expression extends across the

[47] Ibid.
[48] Ibid., 48.
[49] Gilles Deleuze and Felix Guattari, What is Philosophy?, 45.

entirety of the threshold and manifests the qualities of a stable materialized structure that short circuits the movement toward any sort of final determination. The sovereign is the 'bare' expression of the threshold within the representational order of the polis by letting itself be abandoned by it. With the sovereign decision on the limit of the law's situation, the possibility of material application of the law emerges; the law, instead of being the set of empty stipulations, is now the limited group that applies to a particular in 'this' way, leveling 'these' punishments of material prohibitions. In deciding upon the law the sovereign becomes the limit of the law that maintains its identity at the threshold as the being that has turned away from its own non-Being. The sovereign then provokes the law to deploy its force on the specificity of his being; in its banishment from the law, the sovereign expression invites the law to actualize itself in the application of its stipulations upon sovereign being. Finally, this actualization of law upon the sovereign at the threshold does not result in the either the sovereign or the law attaining any sort of total determination. Rather, the threshold is the site of actualization through a dual evanescence where the power of sovereign expression and the force of the law disperse into each other in the production of the real which remains unstable because its basis is the 'original relation' of abandonment from the stability of representation.

3.5 *Homo sacer*; the affective death

The sovereign's instability is also a mark of his unlimited power. As that which is not wed to a particular mode of action, the sovereign is specifically that which can do anything. Specifically, sovereign power extends between the polarities of absolute

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passivity in provoking the law and absolute force in formalizing the law. Yet that which is formalized is also that which is applicable, and the sovereign's absolute ability to formalize the law entails that he manifests the unconstrained power to "make the validity of the juridical order possible" through deploying the law's force on another.[50] Borrowing from Savigny, Agamben notes that the law "has no existence in itself, but rather has its being in the very life of men."[51] This life that allows the actualization of the law "constitutes the first content of sovereign power" and the production of this life is "originary activity of sovereign power."[52] In this final section of the chapter I turn to this object of sovereign power, and show how *homo sacer's* death in the threshold allows for the formation of the political space of the West.

First, somewhat obviously, it must be noted that the object of sovereignty's active power is itself already at the threshold alongside the sovereign. As I mentioned in the first chapter, Velázquez's painting shows two shadowy figures seen at the threshold reflected by the mirror. These shadowy figures reveal two things. First, in tying the darkness of the threshold to the clarity of pictorial signification, the sovereign couple demonstrates the unity of expression and representation. Second, these figures are in shadow and the lines which demark the limits of their being are blurred; the threshold shows the couple's identities to be in question. It is from this position of indeterminacy that the couple gaze toward the representational space of the studio and from the sphere of the political. Agamben highlights that the figures of the threshold "have the same structure and are correlative;" they are "joined in the figure of an action, that

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[50] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, 19.
[51] Ibid., 27.
[52] Ibid., 83.

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excepting itself from both the human and divine law, from both *nomos* and *physis*, nevertheless delimits what it is, in a certain sense, the first properly political space of the West..."[52] The blurred lines between the sovereign and the other figure at the threshold denote an action. This is the specific action where one identity dissolves into another and one causes the other not to be; it is the killing of *homo sacer*. In order to understand how the 'wax imago' of the sovereign melts into and extinguishes the life of *homo sacer* and how this allows for the creation and maintenance of the sphere of the political we must first clarify the ambiguity surrounding the notion of the sacred and how this mirrors the sovereign ban.

Agamben draws from Festus's original definition of *homo sacer* as the being that can be killed but not sacrificed: *homo sacer* is excluded from the group of beings that may be subjected to ritual sacrifice, and included in the group of beings that can be killed without punishment. This definition is, to say the least, enigmatic because it concentrates on "traits that seem, at first glance, to be contradictory" and this contradiction is compounded by the interpretations which have emerged.[54] On one hand, the figure of *homo sacer* is a remnant of religious law which preceded penal law and by this logic the death penalty is a secularized representation of religious sacrifice. On the other hand, *homo sacer* has been seen as the embodiment of the taboo; a figure that is both "august and damned, worthy of veneration and provoking horror."[55] While the former accounts for *homo sacer*'s execution as a refinement of the preexisting religious tradition, it is deficient insofar as it presupposes a progression from the representations of religious law

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[53] Ibid., 84.

[54] Ibid., 71.

[55] Ibid., 73.

to juridical law, but does nothing to explain religious law's necessary exclusion of *homo sacer* from the sphere of the living. The latter justifies the ban on sacrifice by pointing out that the sacrificial act would be a redundancy – there is no point in sending to the gods that which has already been 'taken up' by divinity. However, if a being is already part of the sphere of the religious, then the claim that "anyone can kill *homo sacer* without being stained by sacrilege" becomes impossible to justify.[56]

These insufficient attempts to resolve the contradiction show *homo sacer* as "an excessive signifier with no other meaning than marking an excess of the signifying function over all signifieds."[57] The contradiction is not a problem to be resolved; rather, the contradiction indicates that *homo sacer* has simply escaped from representation. The implication of Festus's definition is that a killer could admit to his crime and still oppose the prosecution by claiming the victim was sacred. Similarly, the victim of a ritual killing is not technically executed; his defenestration was simply a consequence of the attempt to cleanse the being of the sacred man.[58] In other words, the permissibility of *homo sacer*'s killing excludes him from the law's protection, and because his sacrifice is actually a form of ritual purification he is also "decisively excluded... from the religious sphere in the strict sense."[59] The double pincers of *homo sacer*'s definition mark him as the being whose essence escapes the representational order and which exists alongside the sovereign at the threshold.

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[56] Ibid.
[57] Ibid., 80.
[58] Ibid., 81.
[59] Ibid.

Andrew Norris challenges this reading that *homo sacer* stands in excess of representation by arguing that Agamben "complicates his account unnecessarily" with the point that *homo sacer* cannot be sacrificed.[60] The fundamental claim is that sacrifice is a move in "a different and more fundamental economy, one that produces transcendence instead of observing one."[61] According to this line of argument, the sacrificial death and the awareness of the possibility of this death are what allow the individual to become more than a simple animal that is "lost in the sea of life."[62] Here animals are defined as those things that may be simply replaced by another of their kind when they die, and they remain in the 'eternal present' because they do not have access to a discourse that makes them aware of the possibility of their mortality. For a death to be true it must be figured in a language which can be understood and taken up by those beings which die. It is specifically because they possess a discourse which grants their death meaning (as a sacrifice) that humans are able to transcend mere animal existence. The 'bare' life of the being that cannot be sacrificed is "what is not political, what the political life exuviates: and yet for it to perform this function it must in some sense be political already…."[63] There are two criteria that must be met for the human to die; not only must the physical entity have its life extinguished, but this entity must also bear witness to its own death and have this death be meaningful. According to this logic, by taking away the possibility of *homo sacer's* sacrifice Agamben effectively removes it from the discourse and eliminates the possibility of distinguishing between animal and man, and, as final

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[60] Andrew Norris, "Introduction," in *Politics, Metaphysics, and Death: Essays on Giorgio Agamben's Homo Sacer*, cf. 39, 25-26.
[61] Ibid., cf. 39, 25.
[62] Ibid.
[63] Ibid., cf. 39, 26.

consequence, eliminates the possible emergence of the political sphere. The critique runs that to avoid this problem that it would have been best for Agamben to avoid discussion of *homo sacer* as the bare life which may be killed but not sacrificed.

This critique is wrong. By configuring *homo sacer* as "a person simply set outside human jurisdiction without being brought into the realm of divine law" Agamben allows for the formation of the political sphere.[64] On one hand *homo sacer* is not subject to human law, and, on the other, he is not divine or subject to the rituals that would codify his immolation. 'Human jurisdiction' refers to the realm which is governed by human law and it encompasses the entire group of beings whose actions are codified by this series of prohibitions and constraints. The rules of this realm are formalized by the sovereign exception, but the rule requires more than formalization; in order for a rule to exist it must be formalized and applied. *Homo sacer* is what guarantees the application of the rule by being the thing to which the rule does not apply. In and of itself the formalized "rule proves nothing; the exception proves everything; It confirms not only the rule but its existence, which derives only from the exception."[65] For a rule's application to mean anything it must be distinct; that is, at minimum, the rule must not apply to one thing. The one thing to which the rule of human law does not apply is *homo sacer* and specifically because it does not apply to him its application can define the realm denoted by 'human jurisdiction'. In other words, it is specifically because *homo sacer* cannot be sacrificed he can be taken up by sovereignty. With his exclusion from the religious, *homo sacer* excludes himself from 'every equivalence' with the 'consecrated victim' and

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[64] Giorgio Agamben, Homo Sacer: Sovereign Power and Bare Life, 82.
[65] Carl Schmitt, Political Theology, 15.

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strips bare the possibility of his death being codified as a sacrilege. *Homo sacer* cannot be sacrificed because he is outside the sphere of the religious, and as an anathema, without the aegis of the cross, he opens himself to the force of sovereign power.

By placing himself at the mercy of the sovereign, *homo sacer* gives himself over to his death, yet this death remains foreign to him. In Remnants of Auschwitz: the witness and the archive Agamben points out that *homo sacer's* departure from the field of representations is essentially a departure from the 'impropriety' of 'mindless chatter, ambiguities, and diversions' of signs linking up with other signs.[66] The presentations in the representational field are 'improper' specifically because *homo sacer* is 'thrown into them' and they appear to him as that which is necessarily foreign; as the strange and new representation that impinges on his being from the afar which is right next to and surrounding articulated being. That is, the representational field remains effectively mute to him. This is most perspicuous when one considers that the extremity of death, that final and decisive point that stands as the anchor by which life can be judged, is still a representation that appears to man as the eternally 'anonymous' event that "always concerns others and is never truly present" to man himself.[67] In other words, death comes to *homo sacer* as his "insuperable possibility" because it is improper specifically because it presents itself neither as something which he can be nor an experience he can realize.[68]

Agamben points out that this vacancy in the face of death is the experience of the threshold where all determinations are impossible and this generates the possibility of meaning within the representational sphere. In his being-toward-death, *homo sacer*

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[66] Giorgio Agamben, Remnants of Auschwitz: the witness and the archive, 74.

[67] Ibid.

[68] Ibid.

experiences death as "the simple *possibility of the impossibility of all comportment and all existence*."[69] Through experiencing the impossibility and emptiness of his anonymous death at the hands of sovereign expression, *homo sacer* fully appropriates its "own impropriety for the first time:"[70] Agamben's point is that *homo sacer's* experience of the "measureless impossibility of existing" is, in fact, the making proper of the notion of impropriety.[71] At the limit of representation, in the nexus, *homo sacer* opens himself; specifically, he is beyond the confines that render the becoming of death impossible, impermissible, or unintelligible. In the threshold, every "distinction between proper and improper, between possible and impossible, radically disappears."[72] The very intransigence and stability of representations – the frozen motion and stark figurations of *Las Meninas* – are justified only in reference to a place where these qualities are absent: The threshold where *homo sacer* and the sovereign combine together in the action that can only be signified by the ambiguous blur constrained within a reflection.

Thus, from the edge of the canvas, from the darkness at the limit of luminosity, the representational field is born. The threshold is the site of abandonment, where the figure of man is not constrained by the formal stability of representation, and maintains the freedom to play out his expressivity. In his sovereignty to express, the man of the threshold is functionally equivalent to the political sovereign who stands apart from the law and yet presides over its application. The sovereign's decision upon the law indicates that he is, in fact, the example that stands beside the law's representational field. Neither

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[69] Ibid., 74-75.
[70] Ibid., 75.
[71] Ibid.
[72] Ibid., 75-76.

fully inside the representation, nor fully excluded from the law, the sovereign embodies its formal limit. The sovereign does not rush into this newly formalized representational sphere because his expression is a potentiality which divests itself of its own impotentiality of non-being. While there is certainly a representation of sovereignty, the sovereign does not fully collapse into representation because his expression is also turning away which remains close to his own im-potential non-Being at the threshold. Inversely, the law does not reach out and overwhelm its threshold because the sovereign is already presented as the shadowy particular that is included in its openness to all possible expression. As the unconditioned element that is presented but not represented the sovereign manifests the unlimited power to passively incite the law and the active power to deploy its force on *homo sacer* who can be sacrificed but not killed. *Homo sacer*'s contradictory nature marks him as that which has escaped representation yet still inheres in its presentation as the human that can face death. This death that comes to *homo sacer* is in fact his proper death that comes to him not as something foreign and from afar; it is the impossibility of his existence which is presented to him as his immanent possibility. In facing his own death and bearing witness to its horror progressing over his body and dissolving his being, *homo sacer* actualizes the meaningful connection between expressivity and representation.

Chapter 4: Conclusion

In the preceding chapters I showed that the representational field is generated at its threshold. To make this argument I analysed Michel Foucault's The Order of Things and Giorgio Agamben's Homo Sacer: Sovereign Power and Bare Life. Starting from Foucault's text, I argued that man cannot be fully constrained by the representational field; man is at the threshold of the canvas, in the zone of indetermination at the fringe of Las Meninas. Neither inside nor outside the canvas, man was shown to be the shadow figure that could not be rendered perspicuous in the clarity of the cogito and who was condemned to being set back from any notion of his origin. Yet, this escape from the representational field was not a retreat into an impotent silence beyond discourse. Quite to the contrary, the threshold is a zone of indeterminations where creation unfolds. Using Agamben, I argued that the figure of the threshold is related to the representational field of the law as an example that stands beside the class it demarks and this element is also included in the class as its affective limit. Through reference to the political sovereign and homo sacer, I showed that the threshold is the site of radical contestation where expressivity invites the law's colonization and generates the representational field. The threshold is a zone of blurred lines which is linked to the canvas of representations; it is the place where the determinations between possible and impossible fall away and where the chaos of expression creates the representational field.

Taking my lead from Foucault's analysis of Velasquez's *Las Meninas* I argued that the signs arrayed before us in Velázquez's painting function to represent the impossibility of representing the action of representation. In each case, the elements of the painting signify something that is itself not contained within representation of the canvas; the signs point to the threshold which is the site of an action that is more primordial. The important consequence of driving a wedge between the thing and its representation is that it nullifies the possibility of a complete discourse that would convey all that is in the world and all that is represented in the world. More specifically, Foucault's analyses of *Las Meninas* demonstrated that man is never fully captured by his representation and that he exists apart from it, at the threshold realm of expressions.

I then argued that in the epistemological attempts to become aware of man we treat him as the subject of a discourse that flows between expression and representation, and man comes to recognize himself as that being that has limit due to the fact that he is represented. For this limit to be more than a fiction, it must be true in discourse in which man is both a figure and a participant. This discourse can be divided into representations of two different kinds of objects; namely, those which are the subjects of empirical investigations and those which are transcendental. For either of these types of discursive objects to have any real meaning they require the other. Foucault is well aware of this, and proposes a methodology that threads the needle between the two poles; specifically, he recommends a 'relative eschatology' which begins with the empirical object then tests its limits to discern where precisely it gives way to the transcendental. In sections 2.2 and 2.3 I showed that man does this testing of limits and discovers that he is in fact the being

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which traverses the gamut of the formalized empirical representations and transcendental expressions.

In section 2.4 I extend my analysis to show this movement across the entirety of the empirical-transcendental field precludes man from being identified with the cogito. Movement changes things; it alters the content of man's thought. By exposing himself to the limit of any particular sensory representation man encounters the limits of his own ability to conceive of what is presented to him. That is, man's attempts to grasp the limit of sensation shows him to be the oscillation between the polarities of what is presented to his sensations and the representation of that which is beyond perception. This oscillation utterly precludes the possibility of man being encapsulated by the singularity of an 'I' which thinks that it is because it simply thinks. The cogito attempts to prove the existence of man by specifying that he can think, but the encounter of the limit of sensory representation is also the demand that man think the very thing that is cut off from his thought. As such, the cogito was shown to be inadequate to the task of ever representing man.

Similarly, in section 2.5 I showed that man's representation cannot be grounded through the attempt to discern his origin. Foucault points out that the notion of the origin is itself a product of man's interaction with representations. The problem, Foucault points out, is that man comes to representations that are already in the midst of themselves; he is neither older nor younger than the representations because these representations exist on a 'calendar' of temporal progressions which he enters into.

Taken together, these two failures to represent man show that he is a threshold being, but they do not show how man creates the representational field from the

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threshold. Turning to Agamben, I showed that man produces the representational field by embodying its limit. Drawn next to the sovereign at the threshold, *homo sacer* experiences the 'impossibility' of his own death and thus renders the law as something that is both formalized through representation and felt as the real and proper experience of being. Agamben argued that the fundamental duty of the sovereign is to constitute the law. Standing outside the law as its limit, the sovereign's decision is absolute and not conditioned by the law in any respect. Yet how can that which is absolutely unconstrained be said to be in any relation whatsoever? Agamben answers this riddle by showing that the sovereign is the example of the law. The sovereign retains its relationship with the law but is not codified by it because he is the particular that is included in the class it represents but not a member of this class. In other words, the example is not a member of the law's representational field specifically because this field is constituted by its exemplary status; because the example is the antecedent condition that specifies the law's perimeter, it is possible for representations to code the space within the law. The example creates the thing it exemplifies.

In section 3.3 I showed that the sovereign example embodies the constituent power that allows for the law's actualization. The claim that the example is the potentiality which engenders the law is to assert that the example is fully autonomous and distinct from the law's stipulations. This means that the sovereign example has, within himself, his own capacity to be and his own non-being. In order to constitute the limit to the representation the sovereign turns away from his own im-potentiality; the active part of the sovereign's being constitutes the limit of the law specifically because he leaves behind his passive capacity not to be. Whatever force is expended in the sovereign's

creative act, it is specifically not the entirety of the sovereign's being that gets constituted within the law's limit.

The question then became one of colonization; why doesn't the law, as it were, reach out and over run the limit instantiated by the couplet of *homo sacer* and the sovereign? Strangely, it is the law's desire to have the ability to code any expression that precludes it from colonizing the threshold. Agamben showed that the law that is created is an empty set of rules and stipulations that has force without significance. That is, the law has the force to act as a universal legislator and apply to all of life because it does not signify any one particular expression. In other words, the law is able to maintain its functional ability to code any of life's expressions specifically because the particularity of the sovereign/ *homo sacer* couplet is exiled from its grasp. To state it rather paradoxically, as long as the sovereign sphere remains 'outside' the law's grasp – at the threshold of representations where an element of the sovereign couplet is not in relation to the law – then the law retains the ability to represent expression in its generality.

The specific aspect of the sovereign couplet that is in non-relation to the law's representation is *homo sacer* is the sovereign's correlate. As the piece that is left behind in the actualization of the law's limit, it is completely understandable why *homo sacer's* death is not deemed a crime. What is more ambiguous is why the *homo sacer* can be sacrificed. The notion here is that to validate his being at the limit the sovereign needs

something to act upon, and this object is his own passive being which he can kill without penalty. In specifying that *homo sacer* cannot be sacrificed Agamben shows him to be the exceptional limit that allows for a meaningful death may be attained within the representational sphere. In decoupling himself from both the sanctification of his life within the law and the possibility of dying for a 'greater' cause (in the form of a sacrifice) *homo sacer* stands as the being who is the purely passive object of sovereign power; specifically, *homo sacer* is the being whose existence is be terminated by the sovereign and whose personal experience of death is rendered proper because it is no longer a representation that is far off from him.

With his death represented to himself in the threshold, *homo sacer* completes my account of the representational sphere. The ability to experience representation is born through *homo sacer's* cessation at the hands of the sovereign. In being excluded from the law and included as its formal limit the sovereign has absolute power and this means specifically he has the power to kill. *Homo sacer* is that which is killed and who actualizes the connection between the representational sphere and expression.

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