

*coram nobis, apud Westminster, ad subjiciendum*, "We command that you have before us to show, at Westminster, that body X, by whatsoever name he may be called therein, which is held in your custody, as it is said, as well as the cause of the arrest and the detention." Nothing allows one to measure the difference between ancient and medieval freedom and the freedom at the basis of modern democracy better than this formula. It is not the free man and his statutes and prerogatives, nor even simply *homo*, but rather *corpus* that is the new subject of politics. And democracy is born precisely as the assertion and presentation of this "body": *habeas corpus ad subjiciendum*, "you will have to have a body to show."

The fact that, of all the various jurisdictional regulations concerned with the protection of individual freedom, it was *habeas corpus* that assumed the form of law and thus became inseparable from the history of Western democracy is surely due to mere circumstance. It is just as certain, however, that nascent European democracy thereby placed at the center of its battle against absolutism not *bios*, the qualified life of the citizen, but *zoē*—the bare, anonymous life that is as such taken into the sovereign ban ("the body of being taken . . .," as one still reads in one modern formulation of the writ, "by whatsoever name he may be called therein").

What comes to light in order to be exposed *apud Westminster* is, once again, the body of *homo sacer*, which is to say, bare life. This is modern democracy's strength and, at the same time, its inner contradiction: modern democracy does not abolish sacred life but rather shatters it and disseminates it into every individual body, making it into what is at stake in political conflict. And the root of modern democracy's secret biopolitical calling lies here: he who will appear later as the bearer of rights and, according to a curious oxymoron, as the new sovereign subject (*subiectus superaneus*, in other words, what is below and, at the same time, most elevated) can only be constituted as such through the repetition of the sovereign exception and the isolation of *corpus*, bare life, in himself. If it is true that law needs a body in order to be in force, and if one can speak, in this sense, of "law's desire to have a body," democracy responds to this desire by compelling law to assume the care of this

body. This ambiguous (or polar) character of democracy appears even more clearly in the *habeas corpus* if one considers the fact that the same legal procedure that was originally intended to assure the presence of the accused at the trial and, therefore, to keep the accused from avoiding judgment, turns—in its new and definitive form—into grounds for the sheriff to detain and exhibit the body of the accused. *Corpus is a two-faced being, the bearer both of subjection to sovereign power and of individual liberties.*

This new centrality of the "body" in the sphere of politico-juridical terminology thus coincides with the more general process by which *corpus* is given such a privileged position in the philosophy and science of the Baroque age, from Descartes to Newton, from Leibniz to Spinoza. And yet in political reflection *corpus* always maintains a close tie to bare life, even when it becomes the central metaphor of the political community, as in *Leviathan* or *The Social Contract*. Hobbes's use of the term is particularly instructive in this regard. If it is true that in *De homine* he distinguishes man's natural body from his political body (*homo enim non modo corpus naturale est, sed etiam civitatis, id est, ut ita loquar, corporis politici pars*, "Man is not only a natural body, but also a body of the city, that is, of the so-called political part" [*De homine*, p. 1]), in the *De cive* it is precisely the body's capacity to be killed that founds both the natural equality of men and the necessity of the "Commonwealth":

If we look at adult men and consider the fragility of the unity of the human body (whose ruin marks the end of every strength, vigor, and force) and the ease with which the weakest man can kill the strongest man, there is no reason for someone to trust in his strength and think himself superior to others by nature. Those who can do the same things to each other are equals. And those who can do the supreme thing—that is, kill—are by nature equal among themselves. (*De cive*, p. 93)

The great metaphor of the Leviathan, whose body is formed out of all the bodies of individuals, must be read in this light. The absolute capacity of the subjects' bodies to be killed forms the new political body of the West.