

(with the exception of the state of emergency), or must it be extended to the killing of third parties?" According to Binding, the solution depends on the answer to the following question: "Are there human lives that have so lost the quality of legal good that their very existence no longer has any value, either for the person leading such a life or for society?" Binding continues:

Whoever poses this question seriously must, with bitterness, notice the irresponsibility with which we usually treat the lives that are most full of value [*wertvollsten Leben*], as well as with what—often completely useless—care, patience, and energy we attempt, on the other hand, to keep in existence lives that are no longer worthy of being lived, to the point at which nature herself, often with cruel belatedness, takes away any possibility of their continuation. Imagine a battle camp covered with thousands of young bodies without life, or a mine where a catastrophe has killed hundreds of industrious workers, and at the same time picture our institutes for the mentally impaired [*Idioteninstitut*] and the treatments they lavish on their patients—for then one cannot help being shaken up by this sinister contrast between the sacrifice of the dearest human good and, on the other hand, the enormous care for existences that not only are devoid of value [*wertlosen*] but even ought to be valued negatively. (*Die Freigabe*, pp. 27–29)

The concept of "life devoid of value" (or "life unworthy of being lived") applies first of all to individuals who must be considered as "incurably lost" following an illness or an accident and who, fully conscious of their condition, desire "redemption" (Binding uses the term *Erlösung*, which belongs to religious language and signifies, among other things, redemption) and have somehow communicated this desire. More problematic is the condition of the second group, comprising "incurable idiots, either those born as such or those—for example, those who suffer from progressive paralysis—who have become such in the last phase of their life." "These men," Binding writes, "have neither the will to live nor the will to die. On the one hand, there is no ascertainable consent to die; on the other hand, their killing does not infringe upon any will to live that must be overcome. Their life is absolutely without pur-

pose, but they do not find it to be intolerable." Even in this case, Binding sees no reason, "be it juridical, social, or religious, not to authorize the killing of these men, who are nothing but the frightening reverse image [*Gegenbild*] of authentic humanity" (ibid., pp. 31–32). As to the problem of who is competent to authorize annihilation, Binding proposes that the request for the initiative be made by the ill person himself (when he is capable of it) or by a doctor or a close relative, and that the final decision fall to a state committee composed of a doctor, a psychiatrist, and a jurist.

3.3. It is not our intention here to take a position on the difficult ethical problem of euthanasia, which still today, in certain countries, occupies a substantial position in medical debates and provokes disagreement. Nor are we concerned with the radicality with which Binding declares himself in favor of the general admissibility of euthanasia. More interesting for our inquiry is the fact that the sovereignty of the living man over his own life has its immediate counterpart in the determination of a threshold beyond which life ceases to have any juridical value and can, therefore, be killed without the commission of a homicide. The new juridical category of "life devoid of value" (or "life unworthy of being lived") corresponds exactly—even if in an apparently different direction—to the bare life of *homo sacer* and can easily be extended beyond the limits imagined by Binding.

It is as if every valorization and every "politicization" of life (which, after all, is implicit in the sovereignty of the individual over his own existence) necessarily implies a new decision concerning the threshold beyond which life ceases to be politically relevant, becomes only "sacred life," and can as such be eliminated without punishment. Every society sets this limit; every society—even the most modern—decides who its "sacred men" will be. It is even possible that this limit, on which the politicization and the *exceptio* of natural life in the juridical order of the state depends, has done nothing but extend itself in the history of the West and has now—in the new biopolitical horizon of states with national sovereignty—