

The Graffiti Writer as Homo Sacer: Writing, Liminality, and Sovereign Power in the Neo-Liberal City

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Abstract

Graffiti artists are frequently regarded as “liminal” figures, or people who exist on the outskirts of society. This paper looks at one aspect of their marginal status: legal liminality. I argue, using the work of the Italian philosopher Giorgio Agamben, that writers, like the *homines sacri*, live in a state of legal exception. As a result, they face uncontrollable violence and are denied fundamental rights. Though writers are subjected to abuse and intimidation, their particular circumstances also position them to challenge sovereign power in neoliberal cities. They can join a community without establishing an identity because of their ambiguous situation. As a result, they undermine the inclusion/exclusion dichotomy at the heart of biopolitics.

Keywords

Graffiti, liminality, *homo sacer*, Agamben, sovereign power, resistance

1. Introduction

That evening began like many others in 1996 for Jon ZTK, Joe TRV, and One ZTK – three of Rome’s pioneers of graffiti writing. After attending a concert at a club, they proceeded to the Magliana subway yard, where they planned to bomb the local B-line. But their plan was foiled when security guards began chasing them as soon as they arrived at the deposit. While fleeing arrest, the writers became aware that the guards were shooting at them. “Bullets were ricocheting off the ground all around us,” Jon remembers vividly, “at a very close range as we fled desperately” (Jon ZTK, 2012). Using firearms against writers was not uncommon in the Rome subway in the mid 90ies, but such incidents, according to Jon, were becoming more common.

That night, however, would be different for the three young knights of the spray can: after finally escaping the guards, Joe understood that one of the bullets had struck him: he

“felt this strange warm feeling and lifting up his shirt [he] realized he had a hole in front and a hole behind. The bullet had gone right through his shoulder, and blood was pouring out” (Jon ZTK, 2012). Jon reveals that, prior to this incident, Roman writers were generally convinced that guards were only armed with rubber bullets. However, the truth was quite different. In order to prevent train bombings, subway securities in Rome were literally firing at crews.

The immediate aftermath of the bloody incident is as surprising as it is illuminating of writers’ exceptional legal standing. Going to the hospital is arguably the most obvious reaction to being shot. However, the three writers chose a do-it-yourself approach out of fear of being arrested: they believed they were in the wrong. Unsurprisingly, I should add, the aftershave lotion, toilet paper, and tape found at Jon’s house were insufficient to treat the severe wound. Joe needed to go to the ER because he was los-

ing so much blood. Of course, hospital personnel called the cops. When questioned about the incident, the three writers avoided telling the truth out of fear of legal repercussions, until Joe's mother tipped them off. Following the incident, the writers were the accusers in the guard's attempted murder trial.

The story, which reads like a movie script, exemplifies the liminal nature of graffiti and its practitioners. I argue in this paper that graffiti artists are legally liminal. This expression refers to the specific state of exceptionalism in front of the law that these creative vandals occupy. This is a position similar to that of *homines sacri*, as discussed in Giorgio Agamben's work (Agamben, 1998). In ancient Rome, these oath-breakers lost their rights as a result of failing to keep their word. They were then subjected to uncontrollable and unpunishable violence. Something similarly is at play in contemporary Rome as well as in many other cities across the globe. As Joe's case demonstrates, writers suffer from a similar lack of legal protection and appear to be subjected to forms of punishment that go beyond those applied to regular citizens.

Nonetheless, their legal liminality, while exposing writers to danger and violence, is also inextricably linked to the possibility of resistance to sovereign power. Graffiti artists, as we shall see, are among those errant and troublesome figures "who are not easily made objects of biopower" (Amoore & Hall, 2013, p. 95) (Amoore 2013, 95). They "make strange" (Foucault, 1988) our cities by standing at the edges of society, which suddenly appear to be possibly functioning in alternative ways that are more open to personal expression. As a result, our assumptions about inclusion and exclusion, authorized and unauthorized, legal and illegal, and decorum and decency are all challenged. Their claim to the city is a call for all political subjects to come together in a new way, one that is "an associative life of agile connections, lively gatherings, modulated action, and indefinite claims" (Amoore & Hall, 2013, p. 106).

Section 2 defines some key terms and introduces a first sense in which artists in general, and graffiti writers in particular, exist in a liminal state: economic exceptionalism. Section 3 demonstrates that writers are legally liminal as

well. Section 4 connects legal liminality of writers to matters of political resistance.

2. Liminality, art, and graffiti

Before delving into a discussion of writers' legal liminality and its political implications, a few key terms must be defined. Let's begin with some artistic notions. I refer to graffiti writing as a spontaneous form of writing on urban surfaces that emerged at the end of the 1960s in metropolises in the north-east of the United States, particularly Philadelphia and New York. Also known as style writing or subway graffiti, it is divided into three sub-genres: tags, throw-up, and pieces. Whereas tagging refers to the practice of creating monochrome signatures, doing a throw-up or a piece entails painting bubble letters with two colors for the former and crafting a more elaborate design with three or more colors for the latter.

Graffiti is typically done spontaneously, and this usually entails a violation of laws governing the use of public and private spaces in most major cities around the world (Sarmiento, 2020). These violations of current spatial regulations are not perfunctory. Quite the contrary, they are a critical source of graffiti's subversive nature, shaping the practice's meaning in significant ways. Graffiti is therefore recurrently and saliently illegal in this sense: its antagonistic relationship with the law is a constitutive aspect of this practice's nature (Baldini, 2018).

The relationship between graffiti and street art is notoriously contentious. Some people distinguish between the two for stylistic, sociological, or political reasons (Bacharach, 2015; Blanché, 2015; Kramer, 2019). Others argue that graffiti is a subgenre of street art, with some essential similarities to the former (Austin, 2010; Baldini, 2022b; Rivasi, 2017). I'm not interested in bringing this up here. I concentrate on graffiti because the legal liminality of writers is more radical and visible than that of street artists, particularly famous ones. However, it is entirely possible that what I propose here could be extended to at least some of them.

I turn now to the notion of liminality. In general, this term refers to the state of being on the verge of something. Of

course, being in a liminal state can be described from a variety of perspectives: spatial, physical, emotional, psychological, and so on (Thomassen, 2009). Arnold van Gennep, a Belgian folklorist, was the first to introduce the concept in academic literature (van Gennep, 1960). He used it to describe the middle stage in a rite of passage, when one's identity is still underdetermined. Victor Turner, an anthropologist, fully developed the concept in this technical sense (Turner, 1977). He broadened the concept's scope to include phenomena in "modern" societies, where we frequently encounter liminal experiences. Those are the moments "betwixt-and-between the normal, day-to-day cultural and social states of acquiring and spending" (Turner, 1977, p. 33). They are marked by great uncertainty, "where the answers to the challenges one must face are simply not offered by any predefined 'structure'" (Thomassen, 2009, p. 18) Subjects in a liminal state are thus in an exceptional situation that is not addressed by habitual social norms.

Turner and his students address the conditions of artists as a classic example of liminality because they exist outside of normalcy (Thomassen, 2009, p. 15). Conceptualizing the arts as liminal practices echoes traditional understandings found in western philosophical aesthetics and philosophy of art. This approach can be traced back to Plato, who writes in the *Ion* that poets are individuals who operate outside the boundaries of everyday life (Plato, 2013, vv. 534b4–6). They can create verses through divine inspiration rather than knowledge (*techne*), making them extraordinary individuals.

In the *Critique of Judgment*, Immanuel Kant reinforces and expands on the Platonic theme of the artist as a figure operating on the outskirts of society, acting in absolute freedom and independent of habitual constraints. The artist, according to Kant, is a "genius," an individual who is completely free and autonomous. Her activities are not influenced by economic or social forces. On the contrary, artistic creation only responds to the artist's needs and obeys her desires. As a result, her activity's product, the artwork, is autonomous and free of practical or utilitarian constraints (Kant, 1987).

The concept of artists' liminality has implications that go far beyond the abstract domain of philosophical speculation, and are critical to understanding the economic situation that we have historically found in the arts. Artistic work in modern societies appears to be fundamentally different from regular jobs, in part due to the conceptualization of artists' occupation as liminal (Baldini, 2022). The need for complete freedom in order to express one's creativity has inspired forms of employment among artists that are fundamentally unstable, unprotected, and structurally insecure.

According to Abbing (2008), the economic liminality that artists face is normative. In other words, the exceptional occupational conditions that artists experience are the result of a set of principles that govern how artistic work is managed institutionally, as well as internalized social norms that guide artists' behavior. Guilds, unions, and professional associations are virtually non-existent in modern societies, and artists are trained to act in anti-economic ways. Practitioners of various art forms, for example, frequently work second jobs to subsidize their artistic activities, and their production is guided by the author's aesthetic vision rather than consumer demand. From this point of view, the economic exceptionalism of artists is a self-fulfilling prophecy that contributes to the arts' liminality.

Beech (2015) challenges Abbing's idea, arguing that the uniqueness of the art economy is based on the nature of the occupation itself. In this sense, the liminality of artistic work is determined by systemic aspects of the creative process. Artists, for example, cannot be reduced to the traditional economic categories of salaried workers and entrepreneurs: unlike the former, they retain ownership of their means of production while not pursuing profit as the latter does. Furthermore, he believes that technological advancement cannot be applied to artistic production, rendering any desire to match offer and demand futile.

Dealing with the origin of artistic work exceptionalism would take us far from the paper's main goal, which is addressing graffiti's legal liminality and its political implications. It is enough to recognize that the arts are traditionally liminal in the sense explained above, that is, they

transcend the boundaries of habitual expectations and present challenges that are structurally ignored. One way in which this liminality translated into practice has to do with work. Artists are liminal workers, found at the margins of habitual economy. Graffiti writers are radical example of that insofar as profit and remuneration are not motivators nor goals of the knights of the spray-can (Baldini, 2019). Graffiti are, in effect, “gifts” to the city and not commodities (Irvine, 2012).

However, its economic exceptionalism is just one of the many ways in which graffiti writing can be considered as liminal. In the following section, I introduce the notion of legal liminality and how it applies to graffiti.

3. Legal liminality and the *homo sacer*

Historically, the liminality of artists has transcended issues concerning the nature of their occupation and their economic status. Artists have also experienced legal liminality. In such cases, laws do not apply to juridical subjects in the usual way: they live in a state of legal exceptionalism. For example, according to Theodore Bikel's account of actors' lives in nineteenth-century Britain,

when the great actor and entrepreneur Henry Irving was honored with a Knighthood, dubbing him Sir Henry Irving, he received the honor solely for his work in the theatre. However, an act of Parliament in Britain called the “Rogues and Vagabonds Act” held that actors could not be counted as proper members of society. Therefore Henry Irving was knighted not as an actor, God forbid, but as a “meritorious householder.” (Bikel, 1986, pp. 20–21)

In that historical context, one could argue that the extraordinary nature of artists' lives literally placed them in a state of legal exception, *de jure* deprived of the status – and rights – of citizens.

When we look at contemporary graffiti writers, one can acknowledge at least two senses in which they experience some form of legal exceptionalism. As mentioned above, specimen of graffiti writing are “recurrently and saliently” illegal. This in turn makes the practice as a whole constitutively and not contingently antagonistic to the law: its

violation of the law is an essential aspect of its nature and – if fully legally normalized – its overall significance and meaning would change. And in this sense, one may very well say that writing is legally liminal insofar as it operates at the threshold of what is legal and illegal.

In a second sense (related to the first but distinct from it), graffiti writers experience a form of legally liminality in that the law treats them differently than normal juridical subjects. In this sense, writers are similar to Victorian England actors in that they are not treated as proper members of society. The story of Joe, Jon, and One, in which three teenagers were shot for fleeing a subway yard, exemplifies that exceptionalism, making them similar to Agamben's *homo sacer*. As I will argue in remainder of the paper, this analogy is instructive in that it allows us to (i) make the concept of writers' legal liminality more explicit, and (ii) clarify its implications at the level of political resistance.

Among Giorgio Agamben's major contributions to contemporary political debates is his discussion of *homo sacer* in the context of an analysis of sovereign power. *Homo Sacer*, Agamben's most famous and controversial book, is the best-known discussion of these themes (Agamben, 1998). There, the Italian philosopher analyzes the current state of so-called “biopolitics,” which, in general, refers to the administration and regulation of human and nonhuman life at the population and individual body levels. Agamben's account of biopolitics responds to Michel Foucault's perspective expressed in the first volume of his *History of Sexuality* series. There, Foucault (1990) asserts that modernity begins with a shift from sovereign power to biopower. According to Foucault, the regime of power governs the political subject in the modern world by controlling biological life itself.

Agamben disagrees with Foucault and argues for a more integral link between sovereignty and biopower: Western politics, the Italian suggests, has always been biopolitical. To put it another way, he claims that “the production of a biopolitical body is the original activity of sovereign power” (Agamben, 1998, p. 6). In this sense, Agamben sees no fundamental difference between modern democracy and the Ancient polis: biological life management has always

been a feature of Western politics. Modernity differs in that it reveals the relationship between sovereignty and the biopolitical body in a novel way.

Agamben expands on his account of sovereignty and biopolitics by discussing Carl Schmitt, the German jurist who became one of the German Nazi Party's most ardent intellectual supporters. Schmidt (2006) presents a decisionistic account of sovereignty. For Schmitt, sovereignty is defined as the ability to determine whether a situation is normal or exceptional in terms of legal application. In other words, the sovereign's power is essentially the ability to determine whether a particular situation is an exception or a continuation of the normal order, whether the law applies or not to that specific case. As the one with the authority to make exceptions, the sovereign has the authority to suspend the law in any situation deemed exceptional.

Agamben discusses the figure of *homo sacer* ("the sacred man" or "the accursed man") to elaborate on the relationship between sovereignty and legal exception. According to Roman law, *homo sacer* was an oath-breaker. Oaths were taken when invoking the gods, and were thus forms of self-cursing. If the oath was not kept, the oath-breaker became a property of the gods she invoked. In this sense, the *homo sacer*, as divine property, no longer belongs to human society. Living in a constant state of legal exception, this oath-breaker is abandoned by the law and vulnerable to uncontrolled violence. As such, the *homo sacer's* life is a "life exposed to death" (Agamben, 1998, p. 88), which Agamben refers to as "bare-life." The bare life contrasts with the "good life" that proper members of society enjoy.

As anticipated, my suggestion is to consider graffiti writers as a modern-day version of *homines sacri*. These artists are arguably oath-breakers who violate some of the basic tenets of the social contract, including the sacrality of private propriety. By subverting social norms governing the use of private and public spaces, writers reject some of the foundational as well as implicit promises that bind modern societies together – for better or worse.¹ As a result, they

are de jure excluded from the community of proper members of society, living in a state of legal liminality in which the law has abandoned them.

Once we recognize writers' legal liminality, we can better explain and clarify some of the most perplexing ways in which the law treats these rogue creatives. This viewpoint opens up possibilities for explaining their exceptionality in ways that do not simply dismiss it as a fortuitous coincidence. The legal liminality of writers is systemic, perhaps, and theoretically more interesting.

Consider the arbitrariness that frequently characterizes how graffiti artists are treated by the law. One of the most eye-opening cases is the so-called "Banksy's law" (Baldini, 2017). Though not a positive norm, it informs and guides the day-to-day operations of London's anti-graffiti squads. While they are hostile to graffiti and its creators, these squads are much more accepting of Banksy-style street art. Creations done in the latter style are generally left in place, whereas works in the former style, that is, tags, throw-ups, and pieces, are whitewashed. Young (2014) also provides evidence supporting the disparity in treatment between lettering and representational street art.

The asymmetry of treatment that occurs when individuals perform an act that legally appears to be the same – vandalism – is a perfect example of the condition of exceptionalism that writers experience. As *homines sacri*, they are subjected to decisions and consequences that do not conform to judicial norms. Sovereign power will sometimes give them a pass if they use a more palatable style, for example. However, in others, their activities are repressed and punished in arbitrary and unpredictable ways: this is a classic example of legal liminality in the sense considered here.

When we examine the reactions of authorities to the activities of writers, it is clear that such responses are exceptional. Joe, Jon, and One's story is once again telling. Offenses that involve vandalizing with paint an urban sur-

1 I am not making any value judgment here. I am rather making explicit my view about what graffiti writers do.

face are unlikely to be treated with the same severity. Violence against writers (including beatings, shootings, and deaths) has instead been documented since the beginnings of modern graffiti. Michael Stewart's death in police custody in 1983 may have been the first high-profile case (Nielson, 2013). While acknowledging intersectionality (Stewart was African-American), it is telling that a graffiti artist was involved in one of the first reported cases of police brutality in the modern United States. A New York Times commentator backed up the idea of writers' legal exceptionalism, writing: "The Stewart case also provides a powerful argument for a renewed effort to limit the state's overly broad immunity law" ("How to Remember Michael Stewart," 1985).

The legal liminality of graffiti writers is highlighted further when law enforcement responds to graffiti writers by spray-painting on a public surface. This phenomenon, which has received little attention in the academic literature, deserves more research. I am unable to fully develop this theme here, though. To my knowledge, it has been documented in Rome, where security guards frequently crossed local writers' works with their own tags.² Those officers were never punished, and their works were displayed on subway carts for the public to see.

The legal liminality of writers is so pervasive that it is generally internalized by graffiti practitioners. Such a process explains why the Roman trio did not rush to the hospital to treat Joe's wound. These writers saw themselves as *hominines sacri*, subjects exposed to the uncontrolled violence of the authority, living in a state of bare life, to whom the law's protection does not apply. In modern cities, sovereign power is so effective that even the excluded tend to accept its exclusionary processes, albeit – in all likelihood – unconsciously. In the following section, I draw some significant implications of writers' legal liminality. I show that their condition can prove useful in resisting against sovereign power.

4. Challenging sovereign power

When we examine the circumstances of graffiti writers, we can see possibilities that emerge as a result of their exceptional status that are not immediately apparent. Let me return to Agamben's discussion of sovereignty, *homo sacer*, and bare-life in order to unearth that potential. Many consider his overall prognosis to be pessimistic. In his view, resistance and protest – if not political action tout court – appear impossible (Agamben, 1998, p. 4): current movements of dissent appear ineffective because they share the same logic that governs dominant forms of sovereignty. In other words, traditional activism seems concerned with promoting an expansion of the boundaries of the "good life" space by including, for example, the poor, LGBT people, and racial minorities. However, this strategy aims only at rearranging the scope of sovereignty, Agamben argues, rather than resolving the dichotomy of inclusion/exclusion that underpins it.

And yet, "the pessimistic conclusion overlooks a significant facet of Agamben's work, where he seeks to propose an alternative to, and indeed a contestation of, sovereign biopolitics" (Edkins, 2007, p. 70). Agamben, in effect, suggests a way out of the state of sovereignty and its violence. His solution is predicated on the concepts of *homo sacer* and bare-life. In effect, the individual leaving in a state of legal liminality, according to Agamben, is a being without a definitive identity or claim in the world: that is a being "over which power no longer seems to have any hold" (Agamben, 1998, p. 153). In effect, sovereign authority can cope with any claim to identity, but it cannot permit "that singularities form a community without affirming an identity" (Agamben, 1993, pp. 85–86). By shifting the binary of inclusion/exclusion that underpins sovereign power, bare-life can become indisputably political and revolutionary.

Amoore and Hall (2013) argue that it is critical to seek for forms of being that can operate as bare-life. What types of subjectivity question sovereign power without merely demanding to "draw lines differently" (Amoore & Hall, 2013, p. 97)? What are the ways of being that can challenge social norms of inclusion/exclusion while yet endorsing oth-

2 <http://xxroma20.blogspot.com/2012/09/il-contagio.html>

ers? These are critical problems that must be addressed if we are to reform the political hierarchies that produce sovereign power.

Amoore and Hall (2013) convincingly argue that individuals involved in what one might call as carnivalesque forms of protest can embody a kind of subjectivity that can effectively contest sovereign power. They discuss as an example the members of the Clandestine Insurgent Rebel Clown Army (CIRCA). Dressed up as clowns, members use laughter or absurdity as a way of subverting the expected, of introducing ridicule, mockery and chaos in detentions camps, where there is usually authority and order. They established themselves as legally liminal, literally playing on the fences of areas of exception. Clowns, the group argues, “embody life’s contradictions, they are both fearsome and innocent, wise and stupid, entertainers and dissenters, healers and laughing stocks, scapegoats and subversives” (Amoore & Hall, 2013, p. 99). Just like *hominines sacri*, clowns do not carry a fixed identity, but rather embodies a form of bare life, which challenges our common assumptions about political inclusion and exclusion: they are liminal figures.

I’d like to expand on Amoore and Hall’s exploration of the types of subjectivity that can threaten sovereign power by presenting graffiti artists as potential prospects. As I have stated previously, writers do not have a socially acknowledged identity. They are outsiders who are excluded from the protective confines of the good life. They, like the *hominines sacri*, are legally liminal, existing on the outskirts of society and exposed to uncontrolled violence. But their position of exception permits them to break the rules in ways that allow them to imagine alternate possible worlds. In this sense, writers can criticize political hierarchies without simply pushing for alternate criteria of inclusion.

As liminal figures, graffiti writers can look at an aspect of our societies – primarily, access to uses of public spaces – with different thoughts and feelings. And yet, while exposing the violence of sovereignty and bio-politics, they are not advocating for simply moving the boundaries of inclusion. Their interventions are not motivated by a different ideal of identity politics: one could suggest that what they are do-

ing is displacing identity tout court. In effect, writers have literally no identity in a traditional sense. Street pseudonyms are empty names that allow graffiti practitioners to embrace fictional identities transcending the boundaries of those socially recognized (Campos, 2013). And as MOSES & TAPS’s projects INTERNATIONAL TOPSPRAYER and SPLASH (Boris, 2015) show, graffiti writing can go a long way in dissolving recognizable subjectivities. Writers have the means to escape acceptable constraints of personal identification – beyond race, gender, and class.

The graffiti writer’s singularity as a creature with an uncertain identity consequently becomes a fresh source for a different form of community, one that is not founded on certain substantial shared attributes. Quite the contrary, theirs is a method of being together that is constantly negotiated and renegotiated – a potential community without exclusion. Graffiti artists are, in this sense, more than just rebels challenging authoritarian social norms of urban control; they are also individuals offering an alternative horizon for rethinking political bodies that do not fall into the dualism of inclusion/exclusion that underpins sovereign power and its biopolitics.

Graffiti and street art scholars have already linked these urban forms of artistic expression to community building (Mc Auliffe, 2012). Graffiti’s ability to positively respond to the sense of community loss that is usual in modern urban lives has received special attention. Here’s something else I’d like to suggest: graffiti’s potential may stem from writers’ legal exceptionalism and the peculiar identity that it imposes on them. The coming together of communities that include liminal subjects, just like graffiti artists, fosters a sense of radical inclusiveness that extends beyond standard identity politics. And that is perhaps the community model that might function when very different people join together in our global metropolises.

5. Conclusion

In this paper, I have examined a specific component of graffiti writers’ liminality: their legal liminality, and how it relates to issues of political resistance against sovereign power. Legal liminality refers to the condition of juridical exception that writers face. Graffiti artists, like the homo

sacer of classical antiquity, live a “bare life” in the face of uncontrollable violence and deprivation of fundamental rights. Nonetheless, the lack of a stable identity as a result of their liminal legal status equips the knights of the spray with the resources to dispense with the dichotomy inclusion/exclusion on which sovereign power is based. Writers, as radical singularities, bring up possibilities for a gathering of beings that is not based on substantial commonality, but on a radical sort of constantly negotiated association without exclusion: the coming community.

Conflict of Interests

The author declares no conflict of interests.

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