The Contemporary Legal Situation: Girgio Agamben's Criticism of the Study of Biopolitics

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Abstract

The discourse on the study of biopolitics is a relatively new study, because in this study for the first time the two methodologies of social science and science were brought together, for that political action in the concept of biopolitics is not only in the configuration of social behavior but can also be viewed objectively in science. This research by discussing the typography of the study of biopolitics from the anthropological perspective of Girgio Agamben. The research method used is normative research with an analytical description approach. Results and discussion that this study of biopolitics has an objective limit of study which is only limited to descriptive human biology and can be seen from a sociological point of view, that this biopolitical theory, according to Agamben, gives rise to a new hypothesis that human political behavior can be intertwined with the configuration of biological scientists. That this biopolitical study is often used in the study of legal science, especially during a virus outbreak situation, because a legal product that regulates the limits of human movement requires an epidemiological and virological approach.

Key words: biopolitical studies, biological objectives, social behavior

Introduction

The study of biopolitics is a scientific discourse that has penetrated into the methodology of legal science and other social sciences. Both biosocial and biopolitics require that political action must be viewed as strictly as the methodology of the sciences, for that biopolitics sees the typography of political and legal actions not in various intersubjective social communication systems, but seen from the structure of human biological or biocultural evolutionary change. Michel Foucault argues that the study of biopolitics is a form of resistance to sovereign power in which the status of a person’s life and death has been determined in the hands of that ruler, for that Foucault sees in this modern era biopolitics as a gateway to enter subjective actions that postulate freedom of the subject, According to Foucault, biopolitical discourse does not always log the human biological system through technology, but can also provide a space of joy and freedom as a form of resistance to bodily regulation carried out by the authorities. (Michel Foucault, 1975, 195)

The discourse on biopolitics appeared in the social sciences, especially political science and law, for the first time brought by Rudolf Kleijen who is an expert on Swedish legal politics. There is an idea that can be said to be unnatural in general, because he raised the concept of the state the same as the concept of the subject’s life, but
the difference is that the state according to a superindividual where in the state there are smaller elements, namely ethnicity, community groups, and political actions. The state is the same as the individual structure because the typography of the state is due to the existence of human social struggles to unite a common principle with each other within the scope of community groups (Lily Kay E, 1993, 35).

The opinion about the state as a superindividual is not only echoed by Kleijnen, many political experts, especially those who focus on the dimensions of health and biology, require the same thing, namely the state as a regulatory idea of all individual communication. Like politics, law, and economics, this is an initial component of individual action within the scope of society, or in other words, these three components are not produced by consensus and deliberation between communities but become an initial postulate that precedes the individual community for how society implement the collectivity principle. (Thomas Lemke, 2018, 13)

It seems that it is common to hear how the state is said to be before the individual community, if we read Aristotle we might be against the opinion of the state which precedes the individual because Aristotle said that it was the individual who made the concept of the policy or the state. (Werner Jaeger Paideia, 1993, 110). That this idea looks like something that sounds like Hitler’s German Nationalism concept of Socialist Nationalism, which says that the state is a racist bias, means that the state is an instrument that can examine human biological genetics to be then made hierarchically that there is a class that composes algorithms in society. which can be qualified by the genetics of the biological race of humans. (Paul Rabinow, 1992, 253)

The problem where individuals are always seen in biological genetics has received quite critical criticism from the contemporary Italian legal philosopher Giorgio Agamben, he sees that this kind of life sexily brings humans in actuality to a good level of life (EU zen). Agamben sees that this phenomenon often occurs in the configuration of contemporary democracy, but if we want to trace back, according to Agamben, this incident occurred during the ancient Greek democracy which did not have a singular vocabulary about life, because for Agamben it always created a distinction between natural life (Zoe) and life. political life (bios). Zoe or a natural life is always placed outside the state or policy qualifications, while bios are life that is already in state qualifications, Agamben sees that the phenomenon where natural life is included in a country or policy but at the same time is excluded by the policy because the data on his life cannot be verified by state law. For this reason, natural life is both included and excluded according to Agamben, he is radically forced to place a good life (EU zen) according to state regulations (Girgio Agamben, 1998, 9)

Thus, from the background that has been described by the author above, several points of problems have been found that are the problems of contemporary biopolitics today. The first problem is that the study of biopolitics requires a rigorous methodology to look at the legal and political social actions of society, which are always equated with objects of natural science. The two early biopolitical studies during the Nazi Socialist Nationalism period gave full authority to the state to qualify human biological genetics, which aimed to create a social hierarchy of society, and Third, From Agamben's point of view, this biopolitical action only creates typography of human life which has never happened in history, namely how natural life is included by state law and at the same time excluded by the state because it’s biological quality is haphazardly incompatible with state qualifications. For this reason, writing asks several questions to answer this problem as follows: How is the Record of Early Traces of Biopolitics Studies Included in the Legal Studies Discus? and How is Giorgio Agamben’s Critique of Contemporary Biopolitics Studies in the 20–21 Century? How is the Record of Early Biopolitics Studies Included in the Legal Studies Discourse? and How is Giorgio Agamben’s Critique of Contemporary Biopolitics Studies in the 20–21 Century? How is the Record of Early Biopolitics Studies Included in the Legal Studies Discourse? and How is Giorgio Agamben’s Critique of Contemporary Biopolitics Studies in the 20–21 Century?

Method

The research in this paper uses a juridical approach and applied philosophy. The point is that this research focuses more on literature studies and documentary studies. The specifications of this writing are analytical descriptions, where the nature of this analysis is carried out critically in using a theory to read changes in the structure of society in its actions or social behavior.

Results & Discussion

Record of Early Footsteps of Biopolitics Studies Entered in the Legal Science Discussion

This discussion was previously only known in the methodology of the biological sciences and was not found in social science discourses as in politics and law. But the study of biopolitics is very much needed in the scope of political science and legal science at this time because people are starting to get nervous about a health emergency situation, for example, a virus outbreak that spreads within a society. This phenomenon, it does not only require a legal regulatory component but also requires the opinion of epidemiologists and virologists to regulate community communication traffic and how reduce the spike in the spread of the virus. or in the study of political geography, for
example, the study of biopolitics can help in checking community demographic data where community data has been prioritized. (Julian Reid, 2006, 44)

In the mid-1960s the development of social and political science discourse began to develop rapidly, the inclusion of biological naturalist methodologies dismissed the issue that the study of biopolitics was not merely a concept of racist thought, because according to politicians such as Somit and Peterson, the study of biopolitics also looked at political behavior. Every human being is not only seen from one side such as the community communication system through inclusiveness and interpersonal but according to both political behavior can also be seen externally and objectively at the level of the human biological concept. (Nikolas Rose and Carlos Novas, 2005, 439–440)

The multidimensional typography of science does not contradict each other thematically but is thematically connected between social science studies (politics and law) and science studies (biology). To shorten the aspects that appear in the multidimensional, the author gives 3 main criteria which become the starting point. First, the investigation of political and legal behavior was observed strictly and objectively with a surplus of biological methodology. This aspect provides a starting point that the role of intersubjective communication in individual behavior does not always become a political baseline. Second, the purpose of this approach is to suspend the symbol of human culture with the postulate of the evolutionary change of political agents which is appropriate to be observed in the panorama of biological rational and objective politics. Third, Observation of the study requires a disparity between subjects and objects that are connected in the structure of observation. (Thomas Lemke, 2018, 21)

However, according to the author, this approach is quite problematic both at the epistemological and methodological levels. Thematically, it has a very broad scope of knowledge and can account for the hypotheses obtained rigors, but it will close the symbolic epistemic that exists in society, as according to Pierre Bourdieu, language in the concept of habitus is not only used as a means of communication but can also be used as an instrument of power if with the concept of In naturalist biopolitics like this, we will not be able to see the concept of language power according to Bourdieu, because the focus of the study only looks at the biocultural and psychopharmacological scope of society.

With this method, it seems that humans can quantify their social behavior in society. This is the uncertainty of the contemporary Italian legal philosopher Giorgio Agamben regarding the study of biopolitics, which is busy making humans look like animals because human biological data has been controlled by technology and legal regulations. For Agamben, this is a necessity for contemporary biopolitical typology which will automatically create a human concept that has never happened in history where the concept of life conflicts with the content of his life. (Giorgio Agamben, 2000, 11)

**Giorgio Agamben’s Critique of Contemporary Biopolitics Studies of the 20–21 Century**

The study of biopolitics has indeed become a discourse that suddenly became a study that was very enthusiastically welcomed by social scientists and legal thinkers. But for thinkers like Foucault or Agamben, the study of naturalist biopolitics has an analogous problem with it, because this study only takes into account individual actions as well as mathematical objects. In this section of writing, we will see how Agamben views the study of contemporary biopolitics. We already know how in the books written by Agamben he is very much against this biopolitical thought and he even sharply criticizes Foucault’s biopolitical thought and Aristotle’s concept of life.

Foucault says that sovereign power is as if the actions it takes to regulate someone's life and death are legitimately legitimate by law. Sovereign power with an iron fist not only robs a person of one's welfare on the pretext of being regulated by law, but emphasizes the social structure of a person who is considered a criminal when he is declared to have violated the law by the sovereign power. This for Foucault is a form in which sovereign power is not within the law and also not outside the law, but among the anomaly zones, the decision on a person's life is a legal product that has the backing of punitive sanctions against someone. (Michel Foucault, 1990, 141)

Individual discipline is a Foucault concept, there is a dichotomy between political techniques, namely self-technology. The political technique is the optimization of individuals through legal arrangements carried out by the police, while individual techniques are subjectivity techniques where in this technique individuals can manifest their freedom according to their consciousness but remain within the structure of legal institutions. (Giorgio Agamben, 1998, 13) With this, the thought of the power of the body for Foucault does not merely imprison the individual body in the strata of universal systems such as law and politics, the body for Foucault is also tame and anarchist which can manifest its freedom before the law and also the body has the potential to carry out resistance to the system of sovereign power. (Michel Foucault, 1980, 57).

From this brief description of Foucault’s thinking, we get a new panorama in viewing contemporary biopolitics studies today. Law as a universal structure is often described by Foucault as positivity or apparatus which is a technique for controlling and optimizing individual relationships and power relations as the epistemic basis in which the system functions as a starting point in dealing with emergencies. (Giorgio Agamben, 2009, 4) Foucault also holds the view that in the study of contemporary biopolitics, there is no longer any place for Zoe or natural life that is outside the political and legal system. Zoe as a natural life has been included in the policy or the state to get the protection of the status of the legal system. Thus, This is a new form of epistemology in contemporary biopolitics studies, according
to Foucault, biopolitics is no longer dealing with eugenics or an individual’s race, but biopolitics is a component of taming as well as the liberation of the individual body in legal and political structures. (Michel Foucault, 2008, 114)

Foucault’s biopolitical thinking, according to Agamben, addresses several problems in placing categories of individual life in individual political and technological techniques. The criticism was written by Agamben in a book entitled home Sacer. Sovereign Power and Bare Life in the prefix Agamben has given sanctions to Foucault’s thinking because Foucault believes that there is a historical fault between constitutional–juridical (political techniques) and individual freedom in its social structure (self-technology) and Foucault for Agamben is still not thorough in seeing the shift in sovereign power whose focal point is the life and death of individuals to biopolitical power that provides sanctions from the concept of sovereign power, where analogously individuals can suppress sovereign power and can make their own social choices. (Girgio Agamben, 1998, 4)

For Agamben Foucault has succeeded in saving the natural life or the Zoe from the starting point of the exclusion of state legal protection status, but Foucault forgets that there is a hidden background to the inclusion of the zoo. Natural life is indeed for Foucault included in the structuring of the state structure, but at the same time, it is also excluded by the legal regulations which supplement its protection. This is a form of politics that again deals with the state of nature whose hierarchy is more important than the political action for Agamben and the inclusion of Zoe is not a new form of contemporary biopolitical studies but is an interconnection between sovereign power and biopolitical power. (Girgio Agamben, 1998, 8)

The subject of homo sacer law was first born in the history of Ancient Roman law. In terminology, the word homo sacer can be translated as holy man, but it does not mean holy man as postulated by religions. This homo sacer in Agamben’s terminology experiences a paradox because it is said to be a holy human but has no legal protection at all and if the subject of this homo sacer gets violence or is killed, the person who commits the crime does not get any law because the life of a homo sacer is already included and excluded. In the legal protection of state funds, Homo sacer, or the sacred man by Agamben is said to be the living dead. (Girgio Agamben, 1999, 74).

In his latest article, entitled “Biosecurity and Politics,” Agamben briefly points out that the study of biopolitics works as an institutionalization of human character, the main thing is that humans are always analogously regulated through an algorithmic citizen database. Public communication: such as the imposition of a curfew, and in a closed room such as an office there must be only five people, this is due to reduce virus mutations. This is what makes Agamben pessimistic about the configuration of democracy and law that secretly makes public spaces like constellation camps and makes human subjects the object of their power during an emergency of a virus outbreak. The topology of human social behavior for Agamben can be quantified legally and biologically in the study of biopolitics. According to him, we in this epidemic emergency are homo saucers. (Girgio Agamben, 2022).

**Conclusion**

a. This biopolitical discourse is a study of science that has a heterogeneous methodological occupation. That the study of biopolitics began to be widely discussed during the virus outbreak situation and was also used in the political world of German Nazism in the early 20th century in its eugenics concept. Biopolitics which always uses an approach with a biological objective methodology which requires that political behavior must be objective rationality and close the possibility of deliberative communication of human subject agents.

b. Agamben’s thoughts are in stark contrast to the concept of biopolitics, which according to him only gives rise to the concept of biopower in the latest invariant. Agamben always landscapes that biopolitics is a naturalist concept of power that has always objectified every human subject in his experiments in the public sphere in other words for Agamben it is a concentration camp.

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